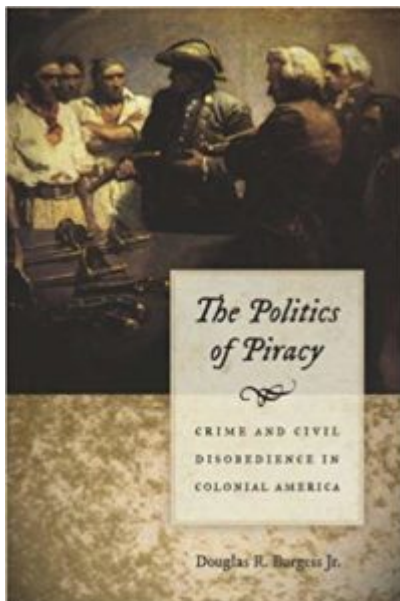
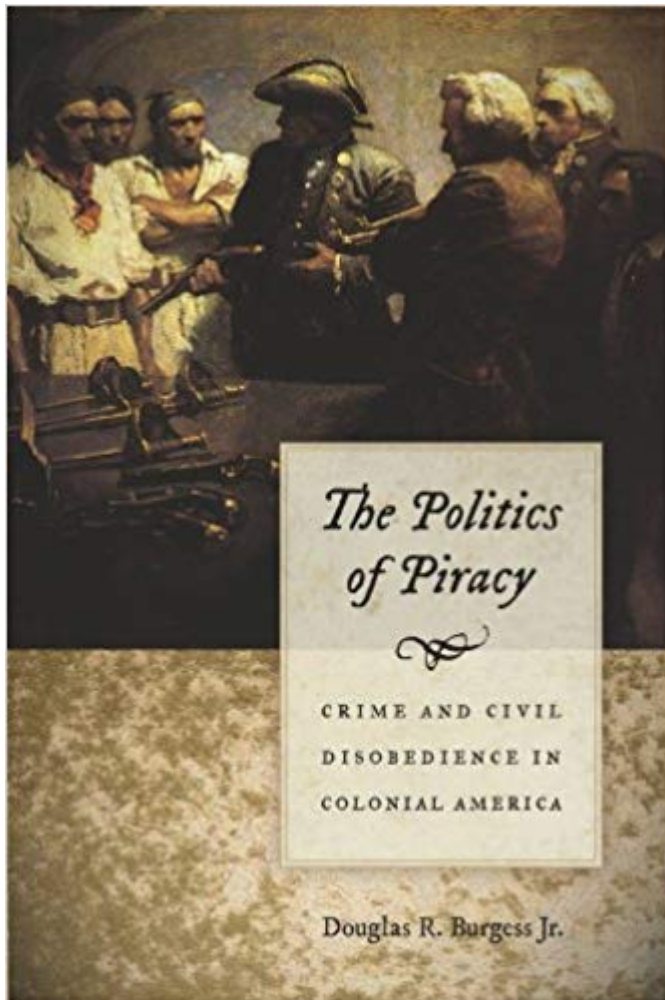


Pirates and Governors



Douglas R. Burgess Jr., *The Politics of Piracy: Crime and Civil Disobedience in Colonial America*. ForEdge Press, 2014. 308 pp., \$35.

Swashbucklers, rogues, and scoundrels—the legacy of early modern sea rovers in popular culture has made piracy basically synonymous with villainy. Historian Douglas R. Burgess Jr., however, dusts off pirates' tarnished reputations to make a much larger point about the nature of colonial legalities and imperial criminality in his new book. Spanning the end of the seventeenth century to the middle of the eighteenth, *The Politics of Piracy* argues that American governors' collusion with pirates represented a rupture in the legal and political relationship between England and its colonies. Pirates actively participated in the negotiation of Crown law and influenced the development of an American legal system distinct from that of England. By examining the reception of anti-piracy legislation in the colonies, Burgess reveals an English state too weak to stamp out piracy and a colonial system profiting heavily from the illicit activities of those same mariners. In fact, in Burgess's telling, it was not until the popular perception of pirates in the colonies changed—due to the closing of the Red Sea as a hunting ground and their depredations occurring much closer to home—that the “war against pirates” experienced any success. This is Atlantic world history at its best and in the end, Burgess assembles an innovative and provocative take on the economic, political, social, and legal formation of England's American colonies.

If England defined pirates as outside of the law, but colonial administrators refused to see them as such, what did that mean for the creation of an English state that spanned the Atlantic?

First and foremost Burgess's monograph uses piracy as a lens into the ways in which England and the colonies understood and enacted notions of law and authority. Nearly forty years ago, historian Charles Tilly argued that the act of defining criminal behavior served as a cornerstone in the construction of states. Taken further, Michel Foucault presented the destabilizing theory that states functioned more as fluctuating relationships of power than as things in and of themselves. Applying this theoretical framework for understanding the formation of states, Burgess argues that, “in a very real way, the creation of piracy law in the early modern period was an expression of state formation” (4). In a sense pirates—as much as any other type of criminal—served as vectors for the creation of law and therefore for the extension of a state apparatus. This argument is key for Burgess's narrative because England's efforts to root out piracy in the colonies failed so miserably. If England defined pirates as outside of the law, but colonial administrators refused to see them as such, what did that mean for the creation of an English state that spanned the Atlantic? For Burgess, the inability of officials at Whitehall to enforce their will regarding piracy led to colonial subjects themselves creating their own definitions of legality and illegality—definitions often at odds with their metropolitan counterparts.

The center of Burgess's book revolves around the sensationalized act of piracy of Captain Henry Every and his crew. Unlike the trial and execution of William

Kidd, Burgess focuses on the Every scandal because it was such a spectacular fiasco for the English state. As Burgess explains, Henry Every and the piratical voyage of the *Fancy* in 1696 precipitated a diplomatic crisis of unprecedented proportions. Every and his crew sailed into the Red Sea and seized one of Emperor Aurangzeb's ships on its way to Mecca. The seizure and abuse of passengers on the ship led to rioting in port cities of the Mughal Empire and the near-destruction of several trading outpost of the English East India Company. In order to keep their outposts safe and continue trading, East India Company representatives assured the great mughal that Every and his crew would be captured and executed for their crimes. What those representatives could not have realized was how difficult such a proposition would be for a jurisdictionally complex English state with a popular affinity for glamorizing acts of piracy.

Despite the assurances of East India Company officials, the majority of Every's crew found refuge in the colonies from American governors, who looked the other way in return for a share of the mughal's wealth. In the end, the English state apprehended only six of Every's crew, who would serve as proxies in an act of political theater meant to demonstrate to the world that England was not a nation of pirates. However, when put in front of a jury of twelve of their peers at the Old Bailey, all six men were acquitted. Worse, during the course of the pirates' testimonies, it became clear how deeply entrenched colonial officials' complicity with piracy ran—so much so that Captain Every himself was sheltered by a colonial official charged with rooting out piracy, Governor Nicholas Trott of the Bahamas. In a hasty attempt to repair the damage done by the failed trial, the English state tried the six men for the original mutiny on the Red Sea. Although the second trial ended in a conviction, Burgess explains that it “also came up short in providing the proper ‘story’ of piracy” that English officials wanted (77).

Anglo-America felt the reverberations of the Every scandal almost immediately. The Board of Trade established Vice Admiralty Courts in the colonies, encouraged colonial governors to renounce pirates sheltered in their territories, and considered a Resumption Bill that would have revoked colonial charters and redrawn the administrative maps of the colonies. This narrative of a reinvigorated English state exerting administrative authority over wayward colonies, however, should not come as a surprise to students of early American history. And yet, the Resumption Bill failed to pass, trials of pirates in the Vice Admiralty Courts remained few and far between, and Every's Red Sea exploits sparked a frenzy of American pirates trying to repeat his success—many of them financed by colonial governors. By examining the repercussions of the Every scandal in the colonies, Burgess argues that by the early decades of the eighteenth century, two distinct legal systems had emerged between Crown and colonies, systems that would continually clash over the issue of piracy. In fact, Burgess argues that England's “war on pirates” succeeded only in securing Red Sea ships from attack, leading many Anglo-America sea rovers to seek out colonial shipping in Atlantic waters. It was, for Burgess, the Atlantic depredations of previously protected pirates that moved colonial governors to

get on board with England's anti-piracy measures by the 1730s.

What makes *The Politics of Piracy* so interesting is the way in which Burgess counters older treatments of the "war on pirates," which tended to see the turn of the eighteenth century as a moment of English state power being used to rein in illicit maritime exploits. Unlike previous histories of this moment, Burgess looks not just at imperial policy but also at the reception of those policies across the Atlantic, thereby exposing what he sees as the weakness of the English state. In this way Burgess uses many of the same colonial office and public record papers as the books he argues against in order to tell a dramatically different story. However, while he aptly demonstrates that colonial governors largely ignored the anti-piracy measures of the English state, Burgess's treatment of the Anglo-American colonies could have benefitted from a more hemispheric perspective. By focusing on their responses to the policies of the English state, Burgess produced a static and one-sided account of colonial governors in a period when trade relations throughout the Americas put many of England's colonies on the wrong side of the law. Burgess's narrative covers an era in which many Anglo-American smugglers and pirates developed illicit commercial relationships with Spain's colonial possessions—dealings that irked the newly founded South Sea Company as much as Spanish officials in Madrid. Spanish and English officials alike labeled many of these smugglers pirates despite being respected merchants in their ports of call. In a way, the development of inter-imperial smuggling in this period meshes remarkably well with Burgess's overall argument regarding the development of two distinct legal systems, yet Spanish American trade receives no attention and Burgess conflates acts of inter-imperial smuggling with his loosely defined concept of piracy.

As with many books worth reading, *The Politics of Piracy* raises some fundamental questions that are not all answered within its pages. Perhaps the one worth chewing on is the question of the word "piracy" itself. While Burgess explains the creation of a distinct colonial legal system, his use of "piracy" seems to privilege the metropolitan definition of legality and illegality. If colonial governors understood acts of maritime violence abroad as legally acceptable, does calling them "pirates" contradict the notion of a legitimate and distinct colonial understanding of legality? What else could they be called? It is a tribute to Burgess's provocative work that such questions can be asked and, hopefully, answered in future scholarship.

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