The American Revolution and the Habsburg Monarchy

Singerton, Jonathan

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On January 19, 1776, three Tuscan sailors awoke to gunpoint. Under the impression they were helping to transport hundreds of smuggled guns across the Mediterranean to the Egyptian port of Alexandria, they probably never thought such weapons would be used on them in the dead of night. But on this occasion, Captain Eastman of the American ship Betsy had ordered a clear out. The three Tuscans, as subjects of the Habsburg emperor’s brother, were not part of the plan to haul the Betsy from Livorno, where they had collected wines and spices along with the smuggled weaponry, to Philadelphia rather than Alexandria. Although they spared them an execution, the crew set the Tuscan trio adrift in a small boat. After several days, they reached the port of Oran on the African coast, exhausted, parched, and barely alive. From there, they managed to cross the straits to Alicante and send word home. News of their forced abandonment travelled back to Livorno and later to Florence and London. From the Habsburg perspective, this was the latest in a series of unfortunate embroilments consequent of the War of American Independence. The three Tuscan sailors, for their part, realised that the American Revolution had a very real impact—with almost fatal consequences—on their lives.¹

A subject in the Habsburg lands did not have to be directly involved in the American Revolution in order to feel the risks. In the port of Lisbon, a few years later, the family of an imperial ambassador huddled for safety after British ships attempted to capture an American prize in the harbour near their home. They witnessed the terrifying engagement across the bay before cannon balls came screeching through the air seconds later, shattering the walls, destroying the interior but sparing them from an untimely, gruesome death.² In the port of Ostend in the Austrian Netherlands, two years after that encounter, residents
awoke to the bewildering sight of a capsizing ship lodged upon the shallows of their coastline. Soon British warships descended like hawks to guard the floundered American vessel; it was an unusual sight, which became ever more tinged with tension. Magistrates and merchants fretted over what came next in the courts and in the customs houses.3

For those who did share the risks of war—the soldiers, the deserters, the smugglers—their risks became the state’s as well. Disputes between merchants over illicit cargoes or the legalities of a deserter who enlisted in a regiment bound for North America marred the delicate diplomatic balancing game which every neutral power strove to maintain during wartime, including the Habsburg realms. Habsburg interests operated in a tangled web of international trade which brought them into disrepute with one or another of the belligerent powers. This is not to say that the Habsburg Monarchy was unique regarding the difficulties associated with neutrality—far from it. Other major European neutrals such as Denmark, Russia, and Sweden were all exposed to the uncertainties of the Revolution. Swedish merchants, for example, prospered from increased trade to the West Indies with exports skyrocketing by a factor of twenty-five between 1777 and 1783.4 During the same period, however, Swedish merchants endured confiscation and legal disputes with the British admiralty. By 1779, no less than thirty-two Swedish merchant vessels had been tried in the admiralty courts and found guilty of smuggling.5 The Habsburg experience was by no means exceptional in comparison. It does, however, serve to illustrate the complexity of neutrality in the American Revolution. Habsburg officials and mariners encountered a variety of vicissitudes in attempting to navigate the unsteady world created in the wake of the Revolution.

This chapter brings to light these challenges of neutrality for the Habsburgs. Two sites were of prime contention: the ports of Livorno in Tuscany and Ostend in the Austrian Netherlands. The former, though not a direct appendage of the emperor but instead ruled by his brother, became a litmus test for British officials for the overall temperament of the Habsburg dynasty towards the American revolutionaries. Ostenders, for their part, frequently witnessed the most difficult contestations of neutrality in the Habsburg lands. Both British and American commanders chafed at the neutral principles enacted by regional officials whilst merchants there took full advantage of their lucrative position, much to the chagrin of both sides. Joining these two ports were the hundreds of ships which served as mobile micro-legalities provoking further contestations at sea and in far-flung foreign ports. The Habsburg Monarchy may be underestimated as a maritime power throughout its history, but its mercantile web
in the eighteenth century extended well into the Atlantic, Indian, and Pacific oceans. It was this web that expanded and contracted in the turbulent wake of the American Revolution.

**Tuscan Terror**

Incidents such as the abandonment of the three Tuscans were treated as serious infractions by the British ministry since they viewed the ship, its crew, and captain as British subjects. Thomas Thynne, the third Viscount Weymouth, the British foreign secretary responsible, wasted no time in informing the British Admiralty and ordering a hunt for the *Betsy*. It was his express wish that this “piratical conduct” be curbed and Captain Eastman be brought to justice for such “infamous and wicked proceedings.” Sir John Dick, the British consul at Livorno, maintained a vigilant lookout and informed the city’s governor to obtain the “piratical master.” But the ship proved impossible to track down and with the lag of eighteenth-century communications, any alerts were too late. Fortunately for the British and Habsburgs, a number of the ship’s crew mutinied while anchored in Tenerife and piloted the ship back to Cadiz, presumably leaving Captain Eastman to a similar fate as the Tuscans. Once the ship had returned to Livorno a year later, the British ministers decided to reward the sailors and compensate the local Tuscan merchants who had suffered huge losses to their investments. As the British envoy in Florence noted, the whole affair had brought “the honour of the British colours” into question by “an Englishman unworthy of the name,” and warned that British trade in the Mediterranean would suffer if generosity to sailors and local merchants was not given. King George agreed and felt the need to apologise personally to the Grand Duke Pietro Leopoldo.

A few months after the *Betsy* incident in 1776, Sir John Dick reported further disturbances in Livorno. He had noticed that a Dutch ship, the *Johanna van Vriesbergh*, had arrived from Rotterdam back in January and loaded up a cargo consisting of 142 cannons, 1,463 cannon balls, 360 barrels of gunpowder, and eighty-four chests of small firearms. What could the Dutch be doing with so many munitions? At the time he did not think much about it. In the intervening months, however, Dick came to realise that the ship’s Dutch owners, Otto Frank & Co., were in league with Thomas Morris, a member of the Philadelphia firm Willing & Morris and brother of the prominent Pennsylvanian financier Robert Morris. Dick was certain that the weapons were “destined to be reship’d for America.” It appeared the *Betsy* had not been an isolated case. And yet the situation deteriorated still further. In the same report, Dick recalled how
he had also learned that *Otto Frank & Co.* had ordered an additional 500 barrels of gunpowder via another ship from the Habsburg port of Trieste, where an unfamiliar “Englishman”—implying an American—had procured enough firearms for 17,000 men. The bad news did not stop there. A French ship also embarked from Trieste with equally suspicious cargo and, curiously, transported twenty-six imperial soldiers but with enough military supplies for four regiments. The very next day after he had sent his report, even more alarming news came to him. Another ship, this time Danish, had left Trieste with over 2,100 muskets and other munitions. The whole situation seemed to suggest that the Habsburgs were in cahoots with traders to supply the Americans with munitions. “Yet,” Dick wondered aloud in his report, “it is scarce possible to believe that the Emperor [Joseph II] and the Great Duke [Pietro Leopoldo] would have anything to do in such a Business.”

Scarce possible, but certainly plausible. Otto Frank himself had met privately with Pietro Leopoldo to talk about these ships during a visit to Livorno, and his nephew had followed up these conversations with another private audience in Florence around the time of the French ship’s arrival. Such circumstances suggested Dick’s growing concerns were not without some truth to them. The difficulty for the British, however, was that they could not force a halt to these conversations, nor could they direct the trade of an independent state. Dick proffered one solution to his superiors, however: they could procure an edict from Pietro Leopoldo which would limit the export and reshipping of munitions from Tuscan ports so that “no Part of them be landed in America.” Politicking and intervention in Florence seemed the best solution.

Dick’s mind must have been full of conspiratorial musings during his wait for further instructions but before news from London arrived, he had ascertained the simple truth of the matter. The munitions were not destined for the thirteen colonies at all. Rather they formed part of the Habsburg trade mission to Asia. The initiative had started with Willem Bolts, “the Englishman” who was in fact Dutch and had worked for the British East India Company before he had become disillusioned and published inflammatory pamphlets denouncing the British colonial activities in India. His subsequent exile had forced him to seek protection from the Habsburgs and, in return, he ventured the scheme to begin trade between the Habsburg lands and the Far East. The plan had originated two years prior with Bolts’s interview with the Habsburg ambassador in London and had been a plan of considerable preoccupation among bureaucrats in Vienna since then. Bolts’s project had involved a great number of merchants from all over the Habsburg lands, including Otto Frank and his company.
Habsburg administrators had taken great pains to maintain secrecy around the project—even going as far as having Bolts disguised as a Portuguese trader when travelling from London to Vienna. The level of secrecy was so great that it had successfully dumbfounded Sir John Dick in Livorno and, for a time, the British envoy in Florence, Sir Horace Mann. Unbeknownst to them both, Bolts had also been meeting with the Grand Duke under their noses.

Yet something positive arose out of the scare over Bolts’s mission. Mann managed to extract promises from Pietro Leopoldo that “proper security would be given” so that arms and ammunition did not fall into the hands of the Americans. Vindication came in July of 1776 when he received a copy of the octroi explicitly outlawing any handover of weapons to the Americans. Yet British suspicions lingered. Weymouth’s next instructions commended Dick’s attentiveness and confirmed the intelligence about the East Indies mission, but he also informed Mann of credible links between Americans and Livornese merchants. It was now their task to find out more about these new suspects.

Dick had other plans in mind, though. He spoke frequently of retirement and in July 1776, as the thirteen colonies declared independence, Weymouth granted his wish. The British hunt in Livorno failed before it even began. Before his departure, however, Dick left a parting blow which foreshadowed the difficulties that his successor, Sir John Undy, would face amid rising rumours of Habsburg neutrality being betrayed in Livorno. In May, Dick had read a letter by an Irish captain printed in the London Chronicle which reported that he had seen “four large American vessels” fully laden in Livorno’s harbour and claimed the Livornese and Americans had “carried on a considerable Trade” for the last ten months. Dick described the account as “a fiction and a downright lye [sic]” in a rebuttal addressed to the editors of the Chronicle. The spread of disinformation harmed both the British and Habsburgs, whose relations naturally strained as a result of such rumours and hearsay. Undy did not arrive in his new post until November, meaning the British had no certain ways to verify what was exactly occurring in Livorno throughout the summer of 1776.

It was just as well since the British had very little idea indeed about what was happening. In early 1776, Weymouth had informed Mann of rumours that a Livornese merchant by the name of Guiseppe Bettoia was in correspondence with some Americans and tasked him to find out more. By May, Mann had deduced that the person was “an Italian named Mazei [sic]” who had transported two ships full of corn and cargo of little consequence from America through Bettoia’s trading house in Livorno. Nothing more came of the rumour. The British did not realise the significance of this connection. Filippo Mazzei—often
Philip Mazzei—was a Tuscan by birth but had spent a great period of his life as a merchant in London where the Habsburg ambassador described him as a “cunning” but “supremely active man.” In London, conversations with Benjamin Franklin convinced Mazzei to carry out a plan to cultivate Tuscan wines in Virginia. In late 1772, Mazzei shuttered his business in London and returned briefly to Tuscany where he unsuccessfully tried to obtain official support for his venture before he set off for Virginia, arriving there in December 1773 on the suitably named Triumph. Mazzei’s connection with Bettoia and his father’s firm Stefano Bettoia e Figlio began during this period and led to many successful shipments. The disruptions brought about by the situation in North America slowly ruined the firm, however, and hampered the return of their latest venture back to Virginia. Thomas Woodford, captain of the Norfolk which carried the sundry goods for Mazzei and Bettoia, failed to reach the American coastline. Instead, Bettoia sent him to the safer but less profitable Newfoundland region and re-registered the ship in Ireland. It was from there in 1776 that Woodford published his letter in the London Chronicle in a likely attempt to drum up trade—the same article that Dick had refused to believe was true.

Woodford’s next American trading venture fell under the direction of a new company in Livorno, Antonio Salucci e Figlio, run by Sebastiano V. Salucci. It did not end well. Salucci disregarded the original plan laid out by Mazzei (who knew nothing of the changeover and thought Bettoia to be “a Jesuit thief” because of his silence) forcing Woodford to travel to Paris in order to obtain corrected passports from Franklin. All went awry when Woodford’s newly renamed ship, La Prosperità, ran into the British blockade off the North American coastline. The ship was captured and taken to New York, where the court case rumbled on without success for Salucci. It became the first embroilment between the British legal system and Tuscan traders. Salucci wished to recoup his losses but did not gain enough support until the end of the war. In 1780, another Tuscan ship met the same fate and was captured by the British.

The worsening commercial situation in the Atlantic and the Mediterranean negatively affected British enterprise at Livorno and subsequently undercut the maritime commerce of Tuscany. After the French entry into the war in March 1778, British ships became prey for French privateers based along the Marseilles coastline. Whilst war with the French was long expected in London, it took the British representatives in Florence and Livorno by almost complete surprise. Indeed, the first news they heard of it came from a rumour that Raimondo Niccoli and the Tuscan delegation at Paris had had received advanced word from the Americans. British merchants in Livorno were left drastically
unprepared as a result. Before long, their businesses dried up as each ship fell foul to French attack, and—as Spain looked to enter the war against the British—prospects of safe passage to British destinations seemed at best precarious as well.

“Hardly a day passes without some French Cruiser appearing off this Port, and if some Frigates are not sent to Protect the Trade to and from this Place, no Vessel can escape them,” Undy warned in late summer 1778. This dilemma came at a time when British traders were already “greatly alarmed” after months of frequent sightings of American pirates. The situation intensified when the French moved decisively to crush British trade in the Mediterranean in the summer of 1778. The importance of Livorno to British trade was well-known. As Mann reported with great trepidation, if Menorca and Gibraltar were to fall then the British would have “no other Port in the Mediterranean to resort to, but that of Leghorne [Livorno].” The French knew this and demanded British exclusion from trading in Livorno or else a French fleet would “block up” the port. The French ultimatum sent shockwaves through the Florentine court. Pietro Leopoldo expressed “great surprise and indignation” at the startling request.

The Habsburgs faced two major difficulties arising from the War of American Independence. The first was an obvious threat to the economic vitality of their region in Tuscany brought about by disruptions to maritime trade. For decades, Florentine administrators had acknowledged the important commercial contribution of Livorno to the overall economy of Tuscany. The same was the case in Vienna, where “one did not speak of Tuscany except in relation to Livorno.” The second difficulty arose out of the new geopolitical question which confronted Pietro Leopoldo and his ministers in Florence: how could they rehabilitate trade without showing partiality? The question came at a particularly inopportune moment as Joseph II requested the Grand Duke’s presence in Vienna to aid the War of the Bavarian Succession, and as his sister in Naples, Queen Maria Carolina, had been pushing him to “loan” his most effective naval administrator for Neapolitan service. Any response therefore became rushed, more ad hoc, and relied upon older Tuscan debates over neutrality.

When the Corsican Republic had fallen to French invasion in 1768, the Livornese governor had received instructions to draft neutral contingency measures to prevent loss of trade for Livorno’s merchants. Giuseppe Francesco Pieralini, one of the governor’s subordinates, compiled the first draft which displeased Florentine ministers. Debates over specific aspects stymied its adoption until the necessity for such legislation diminished following the end of the Corsican crisis. In 1771, the Grand Duke raised the prospect of introducing such a law again before technicalities once more dragged discussion into an inescapable
quagmire. Seven years later and faced with the more urgent exigencies of the American Revolution, these theoretical debates were of little importance as the older designs for a neutral policy were literally “dusted off” and quickly implemented. Pietro Leopoldo issued an edict on August 1, 1778, which declared a “strict neutrality” in the port of Livorno. The new edict adhered to the long-standing international precedent of Tuscany observing such neutrality throughout the centuries, but for the first time this principle became law. It demarcated all coastal waters around Tuscany as neutral, disallowed the exchange of fire within its shores, and, to ensure Livornese merchants could thrive, all ships were welcome within the harbour.

Neutrality, however, proved a difficult position to maintain. Aside from the continued skirmishes with rogue privateers and smugglers who shirked the edict, the declaration put the Tuscans at odds with their own commercial aims and with foreign powers. The British were suspect of Article VII within in the edict, which they saw as a total inhibitor to their trade in the port. The article forbade any subjects living in Tuscany to partake in any activity which supported the cause of a foreign war. As Mann pointed out to his superiors, the article’s terminology was so loosely defined that it could be construed that this included all foreign subjects living in Tuscany; in effect, prohibiting British merchants from outfitting their ships. Silence from the Tuscan court meant British traders struggled under this cloud of uncertainty for the remainder of the war.

At the same time, strict neutrality was not a convenient situation for Tuscan traders. When Mazzei returned from Virginia in 1779, his audiences with the Grand Duke had to be conducted with the utmost secrecy. Whereas Pietro Leopoldo had openly supported Mazzei and his ideas earlier in the 1770s, amid a European-wide war over American independence, he could not do anything to disturb Tuscan neutrality. The pair exchanged a series of discursive letters, but ultimately Mazzei’s arguments found only “deaf ears and a gaping waste-basket” in Florence. Pietro Leopoldo simply could not countenance any official commerce with the Americans—despite the significant advantages such transatlantic trade had to offer—for fear of reprisal from foreign powers. Mazzei became embittered against him for this inactivity and his unrelenting indolence for American prospects.

It was not only Mazzei who Pietro Leopoldo shunned on account of neutrality. In May 1777, Congress designated the South Carolinian planter Ralph Izard as the official envoy to Tuscany. Izard was an ideal candidate. He had already visited Tuscany in 1774. In Paris, Niccoli became his great friend but sought to dissuade him of any notions about venturing to Florence. The ruse worked as
Izard informed Congress of the fruitlessness of such an undertaking. He argued instead that his friendship with Niccoli, “a man of ability and very friendly to our cause,” enabled him to “do my business more effectually than if I had been at Florence.” In June 1779, congressional members revoked Izard’s commission and ceased any intentions to establish relations with Tuscany. Talk of supporting the transatlantic trade between Livorno and the United States did not occur until after the conclusion of the War of American Independence. Meanwhile, the codification of neutrality during the American Revolution allowed Tuscan legal scholars such as Giovanni Maria Lampredi to develop further the concept for the foundation of future neutral positioning in the French Revolutionary and Napoleonic Wars. In the short term, however, the attempted preservation of the port of Livorno between 1776 and 1783 had come at the cost of postponing Tuscan relations with the United States of America. Moreover, in trying to ensure neutrality between all sides, Tuscan officials had staved off an open attack by the French but at the further cost of British commerce in Livorno. 

Disaster at Nieuwpoort

Within the Habsburg family, Pietro Leopoldo was not alone in facing the burdens and predicaments of neutrality in the War of American Independence. By tradition, and since the reincorporation of the Burgundian Inheritance by the Habsburgs following the War of Spanish Succession in 1714, a member of the imperial family ruled as viceroy over the Austrian Netherlands. In the late eighteenth century, the honour had first fallen to Prince Charles Alexander of Lorraine, the double brother-in-law of Maria Theresa, until his death in 1780 meant Maria Theresa’s son-in-law Albert Casimir and daughter Maria Christina, the Duke and Duchess of Teschen, acceded to the position. They exercised nominal power as governors-general of the Austrian Netherlands on behalf of the Habsburgs. Below them existed a minister plenipotentiary who headed a regional government composed of several councillors of state who supervised various administrative councils. On the eve of Revolution, Prince Georg Adam von Starhemberg occupied the post of minister plenipotentiary and along with the Prince of Lorraine, the Teschens, and state bureaucracies in Brussels and Vienna, he too faced the onslaught of difficulties arising from the American Revolution.

The first test of neutrality appeared as soon as April 1776. Captain Gustavus Conyngham was a man with a certain sense of daring about him. He was the
first in a string of captains in support of the American cause who blurred the line between naval officer and pirate as they stalked the seas and plundered enemy ships for prizes. Conyngham “terrorised” British commerce in particular, becoming one of the most successful (and notorious) commanders of the Continental Navy—in 1778, he captured twenty-four British vessels alone. Before he began oceanic raiding, Conyngham had focused on supplying the American colonies with war materials. In September 1775, he sailed out of Philadelphia on the Charming Peggy at the behest of the Maryland Council of Safety in search of military provisions. His mission led him first to Londonderry where he concealed his ship’s true origin before sailing to mainland Europe.

In late December 1775, the Peggy arrived at Dunkirk where the usual loading and unloading of goods attracted the scrutiny of the local British consul, Andrew Frazer. The Peggy caught his attention when he sensed that barrels of gunpowder had been loaded up in the dead of night—Frazer’s keen eyes had noticed how the ship sat lower in the water the next morning. However, Conyngham unexpectedly had the supplies unloaded and the vessel laid up weeks later. Unbeknownst to Frazer, there was a snag. Conyngham had ordered further barrels of gunpowder but the Dutch shipments had not yet arrived. He despatched an agent to Amsterdam to sort out the delay, but weeks passed by until word came back that a consignment from the island of Texel was on its way. Conyngham prepared his ship to sail and Frazer pounced. He had the local commissioner search the ship for “warlike stores” to prevent illegal transport back to America. Instead, they found the Peggy was full of various articles but no weaponry save for a few cannons serving as ballast. Frazer was out of luck until three of the crewmen fought with Conyngham about carrying on under his command. As Irish subjects, they applied to Frazer for protection and in doing so handed him proof that the vessel was bound for Philadelphia as well as revealing the true purpose of the voyage. Determined to give Frazer the slip, Conyngham sailed away shortly before midnight on April 2 and brought the Revolution to the doorstep of the Habsburg Monarchy.

Conyngham arrived at the port of Nieuwpoort in the Austrian Netherlands, twenty miles along the coast from Dunkirk, before dawn on April 4. They halted in the main canal just outside the town. The supercargo of the ship, Jonathan Nesbitt, had seen to it that a small Dutch barge, the Eendragt, waited for them there with nearly six hundred barrels of gunpowder. Over two days, the vessels transhipped their cargoes, flaxseed for firearms; and on April 6, Conyngham notified the port authorities of the new cargo. The Eendragt’s crew raised suspicions for Habsburg officials by requesting that the authorities keep
the cargo secret but Louis Loot, the local customs officer, had no problem with
the operation since the Peggy’s goods were destined for St. Eustatius according
to Conyngham’s paperwork. All seemed well until another crewman, William
Bracken, decided to bolt in the dead of night. He walked the twenty-two miles
along the coast back to Dunkirk to tell Frazer of the clandestine activity going
on at Nieuwpoort.

The game was up. Frazer immediately informed the British representatives in
the Austrian Netherlands and wrote back to London about the confirmation of
his suspicions about the Peggy. If Conyngham had one saving grace, it was that
the British officials in the Austrian Netherlands were not so well organised. The
British representative William Gordon was a Jamaican-born Scot who, up to
then, had been notably absent from his post. In the years leading up to 1776,
Gordon had been away on leave for half of 1774 and, in 1775, he was active in
Brussels for only two months. His inactivity turned into complete incapacity
following a hunting accident in September 1775 at Enghien, where Gordon had
accidentally discharged his rifle and wounded Count Louis Engelbert d’Aren-
berg. The incident left Gordon traumatised and d’Arenberg blind. For months,
Gordon could not fulfil his duties as he shut himself away from court and gradu-
ally lost his mind. His secretary took over affairs since Gordon could not even
“sett [sic] pen to paper” and was confined to bed. Gordon’s personal misery
combined with a relatively inexperienced British consul in Ostend, John Peter,
who had arrived in 1774, meant that any effective action was farfetched.

When Frazer’s alarm reached Peter in Ostend, he shared the sense of panic.
Peter despatched his deputy, Vice-Consul Patricius Hennessy, to Nieuwpoort
to detain the ship if it tried to leave; meanwhile, knowing Gordon’s difficulties,
Peter personally headed to Brussels at the same time. Gordon, meanwhile, had
gotten up the courage to seek out Prince Starhemberg as soon as he had received
word on April 9, but the meeting was fruitless. Starhemberg knew nothing of
the Peggy and defended the actions of the Nieuwpoort authorities; if Conyn-
gham’s papers stated St. Eustatius, then who were the Habsburgs to question
him. Gordon, Starhemberg insisted, would need to prove otherwise. As much
as the meeting proved cordial as it did pointless, Starhemberg thought even less
of the man who had disgraced himself at court only a short time ago. In his first
report to State Chancellor Prince von Kaunitz on the matter, he explained how
Gordon had acted “indecently” by coming to him in such an urgent manner
without any discernible issue.

Gordon’s subsequent actions further inflamed the situation. The next day, he
requested in writing that the Brussels government act to detain the ship since he
had proof that Conyngham’s ship held munitions destined “for the Rebel subjects of His Majesty.”\textsuperscript{86} This demand greatly dissatisfied the Habsburg ministers in Brussels. Starhemberg felt insulted and one of his subordinate councillors later described the report as uncalled for and “overly passionate in tone.”\textsuperscript{87} The Habsburgs resented the presumptive questioning of their local officers and their prejudices. When no official answer was forthcoming, Gordon decided to force matters along. As Gordon entered his carriage to see Starhemberg once again, John Peter arrived just in time. The two men moved together to press the Habsburg government into action. This meeting went worse than the previous one. Starhemberg described it as “tempestuous” in his account to Count Belgiojoso in London, whom he wished to make a complaint on his behalf to King George about the conduct of the British representatives.\textsuperscript{88} The reason for the turbulent atmosphere was Starhemberg’s refusal to act since he had received no word from Nieuwpoort and insisted that Gordon and Peter submit a written memorandum to lay out their concerns and evidence. Much to Starhemberg’s dismay, Gordon and Peter produced the memorandum a few hours later.\textsuperscript{89}

Faced with the pressure to act, officials in Brussels chose to delay yet again. From their perspective, the facts were not so clear-cut. The local magistrate, they decided, would have to ascertain the situation proper and charged him to investigate matters.\textsuperscript{90} This decision was also a careful ploy to deflect the situation back to the local authorities and to absolve the regional and imperial governments in Brussels and Vienna of the consequences. Gordon saw through the ruse. He raged to his superiors in London over the government’s lethargic response, deriding the “silly, weak, timid, ignorant Minister” in the process.\textsuperscript{91} John Peter, again full of distrust, left for Nieuwpoort to ensure the magistrate would act without bias. Frans de Brauwere, the mayor of Nieuwpoort and the magistrate charged with running the investigation, knew the stakes at hand and acted impartially. He ordered interviews of everyone in question and a thorough review of all the ship’s papers.\textsuperscript{92} The papers saved Conyngham. De Brauwere believed that the Peggy had arrived from Londonderry via Dunkirk and was indeed destined only for St. Eustatius. In conclusion, he found no grounds to detain the ship.\textsuperscript{93}

However, Peter had already seen to it to have guards quartered aboard during the investigation and nowprocured a civil writ for the local bailiff to confiscate the vessel in spite of De Brauwere’s findings.\textsuperscript{94} Effectively detained, and unlawfully in their eyes, Conyngham and Nesbitt staged a breakout in the wee hours of April 15. They imprisoned the guards, threatening to kill them, and made for the open sea under an almost moonless night. Disaster struck—perhaps predictably—when the Peggy ran aground on the sandbanks of the Nieuwpoort
shallows. She was lodged tight. Conyngham and his remaining crew—by that time consisting of four seamen and two “negroes”—made a desperate dash for the shoreline in rowboats. They escaped with their belongings, a few guns from the hold, and “a small cask of strong liquor” for their nerves. Incredibly, they came full circle, making their way back to Dunkirk and crossing over to New England on the *Industry*, an American vessel with Spanish papers. The flight precipitated an unimaginable diplomatic fallout for Brussels; Conyngham had left a piece of the American Revolution foundering on the doorstep of the Habsburg Monarchy.

The situation deteriorated rapidly. The *Peggy* began to list and started taking on water. The authorities in Nieuwpoort rescued the vessel over the next six days but goods below the waterline suffered irreparable damage from flooding. For John Peter, the escape and dereliction by Conyngham had devastating personal consequences since he held the civil writ for the vessel that now lay semi-submerged offshore. Nesbitt, who had refused to leave the *Peggy* when the others abandoned her, had chosen to stay in order to reclaim the cargo still technically under his purview. He now brought a lawsuit against the British consul. Peter faced financial ruin if the Nieuwpoort magistrates found him guilty of damages. They declared the first hearing in the civil case to begin at the end of April. A few days before the scheduled trial, Gordon intervened at Brussels. He put it to Starhemberg that such a case was invalid as it was between two British subjects. At the same time, he revived the original argument that the *Peggy* had obviously been destined for the colonies given the vast stores of arms in the hold. All to no avail. He found Starhemberg impervious to any reasoning that would release the case to the British judiciary where, in all likelihood, Nesbitt would be the one fined for his actions, not Peter.

Gordon’s strained relationship with Starhemberg over this issue exacerbated the diplomatic tensions between the Habsburgs and the British. In his reports to his superiors, Gordon began openly questioning Starhemberg’s behaviour and voiced his concern that Starhemberg held sympathies for the Americans. “I wish very sincerely,” he confided to Lord Suffolk, “that the Minister who presides so very ably of the affairs of this country was at the American Congress. His conduct on the affairs of America proves him to be their well-wisher.” Such critique, though privately held between ambassador and minister, was a damning indictment of the early Habsburg attempt at neutrality.

On the day of the trial between Nesbitt and Peter, Starhemberg received reassurances from Kaunitz in Vienna that his judgement on the matter was well placed. Kaunitz confirmed that it was indeed to be a matter for the local courts
and required no interference or oversight from Brussels. This was a curious but evidently calculated move by both Kaunitz and Starhemberg, who, despite the international gravity of the situation, both wished to leave it up to local officials. This was all the more surprising given Kaunitz’s private admission to Starhemberg that Conyngham’s actions had clearly demonstrated his allegiance to the American colonies. Yet they had good reason for their willingness to let matters rumble on below the regional and imperial levels. On the one hand, this allowed for distance once the foreseeable anti-British outcome had been reached, but on the other hand it also abjured their direction of foreign policy to the verdict of a local magistrate. If De Brauwere ruled against Peter, then relations with Great Britain would suffer. In the end, the safeguard of being able to scapegoat a local official won out in both Kaunitz’s and Starhemberg’s minds.

Using the deferral to local authorities to shy away from international disputes would become a hallmark of the Habsburg approach to the dilemmas thrown up by the War of American Independence, and this strategy was first enacted in the case over the *Charming Peggy*. For John Peter, the effects of this Habsburg policy
were personally devastating. After another month of protracted legal debates, he lost and received a “compromise deal” whereby he had to shoulder the full costs of the damaged cargo, the costs associated with the rescue of the vessel, and, finally, the costs of the entire lawsuit which amounted to £72,000. He might have been thankful that he was not charged an even higher sum as the “compromise” spared him responsibility for paying the damage to the ship itself. Conyngham, by contrast, went on to begin an illustrious career in the Continental Navy. In his memoirs about the events at Nieuwpoort, he simply mentioned that his detention there had been caused by poor winds and “other difficulties.”

The difficulties induced by the War of American Independence for the Habsburg government in Brussels continued long after the Charming Peggy affair. Indeed, complications arising from the fiasco became immediately apparent. On April 20, a British warship arrived in Ostend as part of British efforts to secure the abandoned Peggy in nearby Nieuwpoort. Zealous customs officers wished to inspect the ship as they did with every arriving vessel but the vice-consul protested that British warships were exempt from such scrutiny. Bemused, the officers sent off for clarification to councillors in Brussels. Gordon, who by this point held nothing but bile and contempt for Starhemberg, festered in Brussels and used this latest incident as a test of loyalty. Eager to avoid a new political storm with Britain, Starhemberg struck down the customs request and argued for British exemption. The prospect of a rupture with Britain had forced the government of the Austrian Netherlands into appeasement.

The Charming Peggy affair is one example of the intense difficulties over the construction of neutrality in the Austrian Netherlands. Throughout the War of American Independence further disturbances occurred between an increasing array of belligerent actors. In this case, an American privateer caused the conflagration but in subsequent years naval encounters between French, Dutch, and Spanish ships with the British admiralty occurred on the Habsburg coastline on the North Sea. Firefights, raids, depositions, and hearings became part of the residential experience in places like Nieuwpoort and Ostend. Appeasement by ministers in Brussels followed a purely legalistic line. Regular ordinances forbade the transportation of munitions to the American colonies in name only from 1776 until 1778 when the French recognition of the United States prompted more muted responses from Starhemberg’s officials to British demands for continued restrictions on the exportation of arms. By then it mattered for little. Infractions continued throughout the period as American merchants continued to arrive and merchants in the Austrian Netherlands awoke to the possibilities across the Atlantic.
The Limits of the Law

Times of political turbulence are always good for lawyers. The American Revolution was no different. One of the central tenants of patriot resistance was to question the legality of the political order they sought to overturn. “No taxation without representation” was as much a condensed legal argument as it was a rallying call. But the Revolutionary pursuit threw up legal questions beyond the thirteen colonies. The patriot need for arms and the British demand for soldiers provoked challenges to the authority of European states supplying these men and goods. Across the world’s oceans and seas, captured ships—known as prizes—led to contested claims between captors and captured that demanded legal intervention and arbitration. Their mobility as transoceanic “legal spaces in motion” created collisions between imperial powers who sought to either use the law to their advantage or their defence. Though static, neutral ports also became contested spaces as these ships entered them with their own conflicting legal traditions, priorities, and baggage. The Habsburg Monarchy, with its neutral ports on the North Sea and in the Mediterranean, with its pool of military manpower, and its opportunities for trade, was deeply embroiled in these legal altercations. The proximity of Liège to its neutral ports made the Habsburg ports some of the most important entrepôts for sustaining the patriot war effort in the American Revolution. Without these shipments throughout the war, the conflict may have never resulted in a patriot victory. Even though the Charming Peggy caused a difficult legal and diplomatic dissensus to erupt in the Austrian Netherlands, it was a relatively simple case compared to the more protracted cases that emerged between the Habsburgs and belligerent powers as a result of the American Revolution.

Legal imbroglios affected the lives of ordinary people in the Habsburg Monarchy, not just the statesmen and bureaucrats in the corridors of power. When the inhabitants of Ostend stood along the shoreline to witness the dramatic fiery encounter between HMS Kite and Le Cornichon in 1778, they unwittingly became part of the legal process determined to settle the damage done to the town from the exchange of cannon fire. The British Admiralty as well as the Ostend Admiralty took depositions from the townspeople in the days afterwards in order to ascertain what had transpired exactly. The same act of witness conscription occurred for the hundreds of Habsburg-born sailors aboard ships either seized or interrogated by British vessels during the War of American Independence. At least 132 subjects working on those vessels faced detention or interrogation by the British over fears of aiding the rebel and enemy economies.
These fears were sometimes justified as many Habsburg subjects did work on ships either belonging to or transporting goods to belligerent ports in France, the West Indies, or the Dutch Republic. Yet guilty crews impelled innocent ones along with them. Even Habsburg trade between its ports suffered as the belligerent powers raided foreign ships without much regard. Such was the case for the ill-fated Dutch ship *De Goede Hoop* which sought to carry goods between two Habsburg ports, from Ostend to Trieste. Spanish ships captured the vessel and detained the crew in Cadiz for five months before they were again captured by a British warship off the Sicilian coast. The ship was impounded at Portsmouth and its cargo undelivered; the Habsburg stakeholders subsequently lost their investments.

As a neutral power in the War of American Independence, the Habsburg authorities had recourse to seek justice, though this did not ensure either justice or compensation. Throughout the War of American Independence, the Habsburg consul in London, the Milanese-born merchant Antonio Songa, petitioned claims to British courts on behalf of merchants from across the Habsburg Monarchy. In fact, Songa’s position had been created specifically for this reason. Habsburg men and women lost vast sums from the misadventures incurred by the war. When the British captured St. Eustatius in 1781, Songa and his brother Bartolommeo Songa represented twenty-six disgruntled Habsburg investors, including three women, who lost goods stockpiled on the island. The case lasted beyond the war itself and resulted in no compensation. The same occurred with the Habsburg consul in Cadiz, Paolo Greppi, who unsuccessfully protested the loss of one of his own ships in 1779. Likewise, merchants at the Trieste Sugar Company lost several consignments of raw sugar to British warships in a single year without recompense. The losses suffered by his subjects at the hands of the British navy infuriated Joseph II as he complained of the “incredible and unbearable” burden placed on his merchants by the British “despotism at sea.”

Joseph’s frustration reflected the broader impact of the War of American Independence. It affected all maritime commerce with the Habsburg lands, not just the consignments destined for the Americas. Intra-European trade also suffered from the reverberations of the American Revolution. In May 1779, for example, the British captured a Dutch ship, the *Zeepart*, off the coast of Falmouth on its way to the Habsburg port of Fiume. As a Dutch ship, several goods belonged to Dutch citizens but the Viennese merchant Johann Adam Bienefeld had the lion’s share of the cargo with over a thousand drums of saltpetre. Bienefeld’s cargo was worth a tremendous sum, which he sourced on behalf of the Habsburg military for the war over Bavaria. Concerned that such a
considerable consignment had been confiscated, Bienenfeld himself employed a representative to attest his case as a neutral subject and Belgiojoso, as ambassador, intervened to reclaim the costs. Failing to disprove the innocence of the captain, they resorted to the next best alternative and offered to sell the valuable cargo of saltpetre to the British Board of Ordinance for a reasonable sum. The offer turned sour as the British captured a second ship, carrying yet more saltpetre in Bienenfeld’s name. Suspicions arose over whether this ship, l’Union, had intended to sail for France. Unwilling to trade with a smuggler, the British coyly frustrated the offer and the case dragged out between the two sides until the following year. By then, however, the War of the Bavarian Succession had ended and Bienenfeld gained only a fraction of the cargo’s original worth. In the context of his fellow compatriots, it was better than nothing at all.

The British threat was not the only danger for Habsburg traders. The War of American Independence generated greater possibilities for Habsburg merchants to trade within the Atlantic. For the first time, Ostend traders had extensive commerce with the Caribbean islands such as St. Eustatius and Dominica. Yet these new avenues also exposed them to American privateers who preyed on vessels suspected of carrying enemy goods. One particular encounter between an American privateer and a Habsburg vessel led to a court case where the Habsburg subjects and their backers were defenceless. They had reached the limit of the law.

Troubles began on August 20, 1781, in the mid-Atlantic when the American ship The Hope seized the Ostend ship Den Eersten. The captain of The Hope, Daniel Darby, trawled the vessel along with its captain, Peter Thompson, and his sixteen-member crew back to Boston as a prize. Upon arrival, the Admiralty Court of Massachusetts convened a hearing on September 6 to decide whether the capture was lawful. Both men procured lawyers to make their case before a jury of twelve American peers. Darby claimed that the ship carried cargo belonging to English merchants destined for French-occupied Dominica that had originated in London and therefore, as property of the enemy, he was entitled to seize the goods. He further alleged that Thompson knew this fact and discarded the ship’s papers by throwing them overboard during the capture. Conversely, Thompson argued these claims were “false and groundless” and that Darby had forced him under duress to sign an English affidavit stating the goods had come from London. The surviving documents found aboard Den Eersten proved incriminating, however. True, the ship belonged to the Ostend firm, Liebaert, Baes, Derdeyn & Co. but there were dozens of letters between English merchants and Dominican planters who sought to undermine the French blockade.
ship’s Ostend owners charged a hefty premium for transporting building materials to plantations which had suffered damage from the French invasion in return for usual Caribbean goods of rum, indigo, and sugar for London’s mercantile houses. In his cross-examination, the ship’s supercargo, Johann Baptiste Pol, denied these claims and supported Thompson’s defence that he “could not read two English words” and Darby had sought to trick them. On November 24, both the jury and the presiding judge, Nathaniel Cushing, declared the ship’s cargo to be a legal prize on the basis of the English letters. Cushing deemed the ship itself to be a neutral vessel and therefore not a legal prize. Though mixed, the verdict meant another group of Habsburg merchants and sailors had lost out as a result of the Revolution but this time, and for the first time, in an American court.

The case did not stop in Massachusetts, however. Matters grew more contentious when Darby protested the judgement that the ship was neutral property and won the right to appeal in early 1782. Cushing passed the case to the newly created Court of Appeals in Cases of Capture, the first federal court in the United States, established two years earlier. By the time of the Eersten appeal in January 1782, the court had only heard one previous case, meaning this Habsburg case was the second federal court case in American history. Over three days in Philadelphia, Darby and his lawyers set against Thompson and Pol who acted as the attorneys for Liebaert, Baes, Derdeyn & Co. The case revolved around whether or not the ship could be considered as a fair prize since, as Darby argued, they had breached the terms of the Dominican capitulation and, by transporting supplies to the English inhabitants, Thompson had not acted in a neutral way. Pol found it difficult to deny this claim since there had been plenty of evidence in the previous trial showing the consignments of British goods destined for the planters on Dominica. His only defence lay on the grounds that the ship had not reached Dominica before Darby had captured them and therefore had not broken any capitulation. In short, he conceded there may have been intent, but no law had been broken and the ship had still acted in a neutral manner. After a short recess, the presiding judges, Cyrus Griffin and William Paca, reached their verdict in early February 1782. The news was not good for Thompson, Pol, the Ostend firm, or the Habsburgs in general. Griffin and Paca found the Eersten fair game and therefore not a neutral vessel. They found Thompson and Pol had done “more than a mere intentional offence with regard to the capitulation.” In their eyes, the undertaking with British merchants had violated their neutrality in the first place before the ship had left Ostend. As Paca wrote in the final opinion,
The subjects of a neutral nation, cannot, consistently with neutrality, combine with British subjects, to wrest out of the hands of the United States and of France, the advantages they have acquired over Great Britain by the rights of war; for, this would be taking a decided part with the enemy.\textsuperscript{133}

The result could not have been more damning for the merchants of the Habsburg Monarchy. The ruling of Griffin and Paca entailed that all Habsburg ships violated their neutrality which protected them against capture by American and allied vessels if they acted in league with British subjects. As Paca put it, such “fraud and stratagem” only resulted in the “garb of neutrality” rather than lawful neutrality.\textsuperscript{134} Whereas Habsburg merchants had enjoyed neutral protection up until that point (because of the longstanding international observance that “neutral ships made neutral goods”) this new precedent endangered their position.\textsuperscript{135} It is not surprising that this verdict came months after the British envoy in Brussels made a similar charge against Habsburg neutrality:

The fact indeed is that the Imperial flag is become [sic] almost as suspicious (not to use a stronger word), both in these seas and in those of America, as that of the Dutch was at the beginning of the war, the merchants of this country [are] treading very fast in the steps of their neighbours the Dutch, both in supplying the French West-India Islands with provisions and bringing home their produce.\textsuperscript{136}

The news of American condemnation proved unsettling to the Habsburgs across the Atlantic. News quickly reached Vienna via the ambassador in Paris and ministers in Brussels.\textsuperscript{137} The three owners at Ostend, Jean Baptiste Liebaert, Lieven Baes, and Alexandre Derdeyn launched a petition against the court’s ruling with support from Brussels.\textsuperscript{138} Their petition claimed Darby had captured the ship under false pretences and therefore this “direct act of piracy” ought to have precluded any jurisprudential process.\textsuperscript{139} Franklin warned chances of overturning the decision were low, especially since the firm lacked the financial resources in Philadelphia and Boston and had no means of proper representation.\textsuperscript{140} Franklin’s blunt warning ignited questions of whether the Habsburgs should establish a representative in the United States, and it certainly rang true for the trio in Ostend. In the following year, they submitted another petition and empowered an agent as their legal representative in anticipation of a rehearing.\textsuperscript{141}
In the meantime, Thompson lost his own petition to reopen the case in May 1784. The agent sent by the firm, Mark Prager, did not arrive until 1785 but he was immediately successful in urging Congress to allow the Court of Appeals the right to decide whether to retry the case. The move backfired. During the hearing in November 1786, the opposing side mustered a lethal witness: John Baes, the nephew of Lieven Baes, who had left the company in 1783 and moved to Philadelphia. Baes testified that the company’s directors knowingly entered into agreements with the British merchants and had set up further expeditions. Indeed, the ship’s name, *Den Eersten* (*The First*), implied it was one of many more to come. Alexandre Derdeyn, according to young Baes, had himself gone to London in order to procure cheap ex-British ships and fill them with British cargo before he sailed to Ostend to reship the goods and obtain clean papers for the vessel’s voyage across the Atlantic. “Founded upon a culpable reliance,” the judges of the Court of Appeals found no issue in denying any rehearing and effectively upholding their original verdict.

The *Eersten* case was the most high-profile court case between the Habsburg Monarchy and the United States during this period. It resulted from the lure of commercial opportunity offered to merchants in the Austrian Netherlands by the upheavals of American Revolution and their willingness to act as surrogates within imperial economies even if it meant supplying resources for plantation owners in the Caribbean. Jean Baptiste Liebaert, Lieven Baes, and Alexandre Derdeyn, of course, were not alone in acquiescing to this temptation. The trade in munitions and colonial goods skyrocketed in the ports of the Austrian Netherlands during the American Revolution, facilitating surrogate trading lines from there to the Caribbean, Africa, and the United States. Hundreds of firms, business owners, and investors like *Liebaert, Baes, Derdeyn & Co.* participated in this Habsburg interjection into the colonial maritime world of the Atlantic during the American Revolution and its immediate aftermath. Not all endeavours lasted but historians who have recently pointed to the complicity of Habsburg merchants, industrialists, and officials partaking in colonial economies of the nineteenth century may do well to dwell upon the eighteenth-century precedents of such actions and connivances.

Conclusions

The War of American Independence embroiled many Habsburg subjects into difficult, often lethal situations. British “despotism at sea,” as Joseph II called it, and the audacity of American privateers to supply the patriot struggle brought
these subjects into the disruptive arena of international conflict. To be certain, Habsburg smugglers were aware of the risks and chose to compete within a contested imperial commercial world.

For officials in the Austrian Netherlands and in the Grand Duchy of Tuscany, the complexities of international commerce and the legal entanglements arising from it were a treacherous political minefield. The American Revolution produced domestic changes in the ways these regions operated. The Grand Duke of Tuscany declared a strict neutrality in the port of Livorno which reconfigured the prior trading relationships of the merchants there. In the Austrian Netherlands, officials found it difficult to appease both sides. Prince Starhemberg, as head of the regional government, exacerbated the situation by inflaming British suspicions of his pro-American bias. Accusations of bias also occurred in the opposite direction as American admiralty and appellate courts ruled against Habsburg merchants as agents of British aid and called into question the sincerity of Habsburg neutrality.

Throughout the War of American Independence, officials in the Habsburg Monarchy encountered challenges arising from the conflict; it was not a war they could easily disentangle themselves from, nor was it a war confined solely to the Atlantic powers. The American Revolution took place in the Mediterranean and the North Sea. It was a war in Europe as well as North America, the Caribbean, India, and further afield. It was, as a result, an inescapable challenge for the Habsburg Monarchy.