

## Chapter 6

### Edward Northey and News of Catholic Estate Forfeitures in the Leeward Islands, 1700-1723

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Catholics living and working in the Leeward Islands is still a novel area in the history of early modern British and Irish Catholicism, and indeed in the history of the Atlantic world. The situation for British and Irish Catholics in the early modern period was a complicated one. Since the Reformation in the sixteenth century, Catholics in England and Wales faced penalties and persecution for their nonconformity by refusing to attend services in accordance with the Church of England, including fines, imprisonment, prosecution for refusing to swear proscribed oaths of allegiance – which denounced transubstantiation and papal authority – as well as the forfeiture of their real and personal estates.<sup>1</sup> Irish Catholics faced a far graver situation. Various acts of settlements in the seventeenth century saw Irish Catholics lose their land, while the Cromwellian conquest in the 1650s forced thousands to leave Irish shores to migrate - or be forcibly transported – to the islands of Montserrat, Antigua, Nevis, and St. Kitts (St. Christophers), or to scatter across Europe.<sup>2</sup> By the early-eighteenth century, British

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<sup>1</sup> Works that have looked at early modern Catholic communities include: John Bossy, *The English Catholic Community 1570-1850* (London: Darton, Longman & Todd, 1975); Michael C. Questier, *Catholicism and Community in Early Modern England: Politics, Aristocratic Patronage and Religion, c. 1550-1640* (Cambridge: Cambridge University Press, 2006); Peter Lake, 'Anti-popery: the Structure of a Prejudice', in Richard Cust and Ann Hughes (eds.), *Conflict in Early Modern England: Studies in Religion and Politics 1603-1642*, (Harlow: Longman Group UK Limited, 1989), pp. 72-106; Alexandra Walsham, *Charitable hatred: tolerance and intolerance in England, 1500-1700* (Manchester: Manchester University Press, 2006); Gabriel Glickman, *The English Catholic Community, 1688-1745: Politics, Culture and Ideology* (Woodbridge: Boydell Press, 2009); Eilish Gregory, *Catholics during the English Revolution, 1642-1660: Politics, Sequestration and Loyalty* (Woodbridge: Boydell Press, 2021).

<sup>2</sup> Patrick Little (ed.), *Ireland in Crisis: War, Politics, and Religion, 1641-50* (Manchester: Manchester University Press, 2020); Sean O'Callaghan, *To Hell or Barbados: The Ethnic Cleansing of Ireland* (Dingle: Brandon, 2000); Coleman Dennehy (ed.), *Law and Revolution in Seventeenth-Century Ireland* (Dublin: Four Courts, 2020); Jane H. Ohlmeyer and Micheál Ó Siochrú, (eds.), *Ireland 1641: Contexts and Reactions* (Manchester: Manchester University Press, 2013); Micheál Ó Siochrú, *God's Executioner: Oliver Cromwell and the Conquest of Ireland* (London: Faber, 2008); Allan I. Macinnes and Jane Ohlmeyer (eds.), *The Stuart Kingdoms in the Seventeenth Century: Awkward Neighbours* (Dublin: Four Courts, 2002); Nicholas Canny,

and Irish Catholics who had settled in the Leeward Islands, including St. Kitts, Nevis, Antigua, and Montserrat, provided dissenters and Catholics with a refuge from religious persecution in their homelands, as well as the opportunity to set up and establish businesses, trade, and purchase plantations and land.<sup>3</sup>

This chapter assesses how information and news regarding the confiscation of Catholic estates in the Leeward Islands was transmitted across the Atlantic in the early-eighteenth century, as well as how colonial affairs regarding religion, business, and trade were communicated between Britain and the islands. As a case study, I examine the role of barrister Sir Edward Northey in safeguarding Catholic estates from being forfeited in the early-eighteenth century Leeward Islands after his appointment as Attorney General for England and Wales in 1701 until his death in 1723.<sup>4</sup> In that role, Northey's legal opinion was sought from various groups in Britain and those with interests in the Atlantic colonies regarding a broad range of topics, including fishing and trade, legal disputes, and litigation.<sup>5</sup>

[INSERT FIG. 6.1 HERE]

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*Making Ireland English: the Irish Aristocracy in the Seventeenth Century* (New Haven (CT): Yale University Press, 2012).

<sup>3</sup> This includes: K. R. Andrews, N. P. Canny and P. E. H. Hair (eds.), *The Westward Enterprise: English Activities in Ireland, the Atlantic and America, 1480-1650: Essays for D. B. Quinn* (Liverpool: Liverpool University Press, 1978); Kenneth Mills, 'Religion in the Atlantic World', in Nicholas Canny and Philip Morgan (eds.), *The Oxford Handbook of the Atlantic World, 1450-1850* (Oxford: Oxford University Press, 2011), pp. 443-48; Jason K. Duncan, *Citizens or Papists?: The Politics of Anti-Catholicism in New York, 1685-1821* (New York: Fordham University Press, 2005); Robert E. Curran, *Papist Devils: Catholics in British America, 1574-1783* (Washington, D.C.: Catholic University America Press, 2014); Nuala Zahediah, *The Capital and the Colonies: London and the Atlantic Economy, 1660-1700* (Cambridge: Cambridge University Press, 2010); Nuala Zahediah, 'Making Mercantilism Work: London Merchants and Atlantic Trade in the Late Seventeenth Century', *Transactions of the Royal Historical Society*, 9 (1999), pp. 143-58; Crawford Gribben and Scott Spurlock (eds.), *Puritans and Catholics in the Trans-Atlantic World, 1600-1800* (Basingstoke: Palgrave Macmillan, 2016); John D. Krugler, *English and Catholic: The Lords Baltimore in the Seventeenth Century* (Baltimore and London: John Hopkins Press, 2004).

<sup>4</sup> Stuart Handley, 'Northey, Sir Edward (1652-1723)', in *ODNB*.

<sup>5</sup> BL, Hargrave MS 231, 'Petitions, Memorials, &c. referred to Attorney-General Northey, with his Opinions upon the same. A. D. 1701.' (1701); Hargrave MS 275, 'Cases and Opinions relating to the Customs. Many of the Opinions are by Sir Edward Northey' (late 17<sup>th</sup> century/early 18<sup>th</sup> century); Hargrave MS 293, 'Cases and Opinions, principally relating to the Customs, by Sir Edward Northey, from 1701 to 1704' (1701-1704).

Evidence of Northey's opinions comes primarily from material in the Journals of the Board of Trade and Plantations, Colonial Office Papers, and State Papers. These official records would have shaped the way in which Northey presented his legal opinions to the various committees and boards requesting his advice within Britain and across the world. The legal language Northey used was neutral in tone, and yet reflects the complex political and religious cases he had to grapple with from petitioners requesting his opinion from thousands of miles away in the Leeward Islands. As such, these documents uncover how Northey was sought for legal advice from various petitioners and the Board of Trade and Plantations over the implementation of anti-Catholic penal laws, the rights for Catholics to possess land and estates in these territories, and whether Catholics could operate or even maintain their own businesses in the Leeward Islands and other British Atlantic colonies. This chapter first deals with the legal and political situation for Catholic settlers in the Leeward Islands in the seventeenth and early-eighteenth centuries. It then focuses on how Northey helped to shape colonial policies for Catholics residing there during his time as Attorney General based on his legal opinion from news, petitions, and requests received by him from the Board of Trade and Plantations during the reigns of William III, Anne, and George I. Northey's legal opinions occurred during times of heightened religious and political hostilities, both at home in Britain, and driven by Spanish and Dutch colonists in the Caribbean, particularly during the War of the Spanish Succession, which greatly affected trade.<sup>6</sup> Therefore, by examining the role that Sir Edward Northey played in the intervention and provision of legal opinion

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<sup>6</sup> Siobhan Talbott's work has demonstrated that trade between Scotland, Ireland and France continued to flourish despite the war on both sides of the Atlantic, as well as raising questions about the extent of Scottish and Irish diaspora: Siobhan Talbott, *Conflict, Commerce and Franco-Scottish Relations, 1560-1713* (London: Pickering & Chatto, 2014), esp. chap. 6; Siobhan Talbott, "'Such unjustifiable practises?': Irish trade, settlement and society in France, 1688-1715", *Economic History Review*, 67.2 (2014), pp. 556-77; and Siobhan Talbott, 'British and Commercial Interests on the French Atlantic Coast, c. 1560-1713', *Historical Research*, 85.229 (2012), pp. 394-409. See also Steve Pincus, 'Rethinking Mercantilism: Political Economy, the British Empire, and the Atlantic World in the Seventeenth and Eighteenth Centuries', *William and Mary Quarterly*, 69.1 (2012), pp. 3-34; Giada Pizzoni, *British Catholic Merchants in the Commercial Age, 1670-1714* (Woodbridge: Boydell Press, 2020), chap. 4.

regarding Catholic estates and business operations in the Leeward Islands, I uncover how business news was communicated, and how Northey based his decisions on the news that reached him back home in Britain from the packets of correspondence sent to the Board of Trade and Plantations.

### **Catholics in the Seventeenth Century Atlantic World**

Since the sixteenth century, British and Irish Catholics faced sequestration of their personal and real estates for religious nonconformity. Compounding fines, based on the value of the estates, were levied upon those sequestered, with the estates only discharged once payment had been received by officials. As the sequestration and compounding process was regularly augmented during the late-sixteenth and seventeenth centuries, Catholics developed different mechanisms to try and protect the long-term interests of their estates, which included the employment of agents, counsels, and lawyers.<sup>7</sup> This was not just to protect their estates at home across Britain and Ireland, but also across the Atlantic on the east coast of North America and in the Caribbean. After the restoration of the Stuarts in 1660, anti-recusancy laws were revived, including bills to suppress the growth of popery in March 1663, which reconfirmed recusancy laws that had been previously sanctioned during Elizabeth I's and James I's reigns. This was despite Charles II originally advocating for liberty of conscience for his Catholic and dissenting subjects.<sup>8</sup>

Yet, despite the enforcement of anti-Catholic penal laws across Britain and Ireland, Catholics were not locked out from business enterprises in the British Atlantic colonies.

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<sup>7</sup> Gregory, *Catholics during the English Revolution*, esp. chaps. 4-5. See also: J. R. Tanner (ed.), *Tudor Constitutional Documents, 1485-1603* (Cambridge: Cambridge University Press, 1922), pp. 159-63; J. R. Tanner (ed.), *Constitutional Documents of the Reign of James I, 1603-1625*, (Cambridge: Cambridge University Press, 1930), pp. 86-94; Keith Lindley, 'The Part Played by Catholics', in Brian Manning (ed.), *Politics, Religion and the English Civil War* (London: Edward Arnold (Publishers) Ltd, 1973), pp. 126-76.

<sup>8</sup> D. T. Witcombe, *Charles II and the Cavalier House of Commons 1663-1674* (Manchester: Manchester University Press, 1966), pp. 8-9.

Catholics in Britain and Ireland were barred from public officeholding roles which required them to swear proscribed oaths, including the Oaths of Allegiance and Supremacy, as well as the 1673 Test Act. These oaths expected swearers to denounce transubstantiation, and to concede that the pope had no power or authority to depose monarchs.<sup>9</sup> However, Catholics were not barred from becoming enterprising business owners or merchants, and Catholic men and women were able to enjoy more religious freedoms in the Leeward Islands and on the east coast of North America in religiously and socially diverse environments, than they did back home in Britain and Ireland.<sup>10</sup> In Maryland and the Leeward Islands, Catholic governors introduced alternative oaths of allegiances for Catholics to swear, which enabled Catholics to hold political offices.<sup>11</sup> For example, the Irish Catholic landowner William Stapleton settled in the Caribbean during this period and quickly gained the governorship of Montserrat in 1668, a few years later obtaining governing powers for the whole of the Leeward Islands.<sup>12</sup> The large Catholic presence in the Leeward Islands did, however, pose some serious problems in the 1660s, not least because of the French invasions of the islands of Montserrat, St. Kitts, Antigua, and Tobago when the French decided to side with the Netherlands in the Anglo-Dutch wars.<sup>13</sup> Nevertheless, while Catholics on these islands often faced ‘various civic disabilities’, their personal beliefs could be accommodated, especially if they outwardly conformed to Anglicanism.<sup>14</sup> What is more, Catholics could obtain positions of prestige and

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<sup>9</sup> John Miller, *Popery and Politics in England, 1660-1688* (Cambridge: Cambridge University Press, 1973), pp. 55-6.

<sup>10</sup> Natalie A. Zacek, *Settler Society in the English Leeward Islands, 1670-1776* (Cambridge: Cambridge University Press, 2010), chap. 3; Richard Grassby, *The Business Community of Seventeenth-Century England* (Cambridge: Cambridge University Press, 1995), pp. 271-2; J. P. Green, *Pursuits of Happiness: The Social Development of Early Modern British Colonies and the Formation of American Culture* (North Carolina: University of North Carolina Press, 1988) might be a helpful for North America, as might Ned Landsman, ‘The Episcopate, the British Union, and the Failure of Religious Settlement in Colonial British America’, in C. Beneke and C. S. Grenda (eds), *the First Prejudice: Tolerance and Intolerance in Early America* (Philadelphia: University of Pennsylvania Press, 2010), pp. 75-97.

<sup>11</sup> Gabriel Glickman, ‘Catholic Interests and the Politics of English Overseas Expansion 1660-1689’, *Journal of British Studies*, 55.4 (2016), pp. 693-4.

<sup>12</sup> Glickman, ‘Catholic Interests and the Politics of English Overseas Expansion’, p. 691.

<sup>13</sup> Glickman, ‘Catholic Interests and the Politics of English Overseas Expansion’; Zacek, *Settler Society*, pp. 43-5.

<sup>14</sup> Zacek, *Settler Society*, p. 71.

power within communities if they owned property. Montserrat therefore became a popular destination for Catholics seeking to obtain public offices and property that were not restricted to them for confessional reasons.<sup>15</sup>

While Catholics in Britain and Ireland faced the full brunt of anti-Catholic penal laws and the forfeiture of their estates, it was not so clear-cut for Catholics living in the Leeward Islands, where there was some level of autonomy over the enforcement of anti-Catholic legislation. The forfeiture of estates would have affected Catholic families greatly, as it would have not just been their homes, but also their businesses and plantations that were at risk. Catholic merchants were integral to overseas trade in this period, and any threat towards their ability to work and live in the Caribbean was likely to be injurious to the Atlantic economy. Gabriel Glickman and Giada Pizzoni have demonstrated how Catholic merchants played a major part in global and colonial expansionism in this period.<sup>16</sup> Pizzoni has uncovered how Catholic merchants were at a greater advantage when compared to their British Protestant counterparts. She has revealed that that the British Catholic Aylward family were enterprising business owners, who carefully weighed up potential risks and opportunities regarding their business operations across Europe and the Americas, based on domestic and international news, which could jeopardise or prosper their businesses.<sup>17</sup> Additionally, their faith enabled Anglo-Catholic merchants to broker trade deals in collaboration with Anglo-Protestant merchants, who wanted to utilise trade connections with Catholic states.<sup>18</sup> At the turn of the eighteenth-century, Catholics and Protestants continued to

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<sup>15</sup> Zacek, *Settler Society*, pp. 73-4.

<sup>16</sup> See particularly Glickman, 'Catholic Interests', pp. 680-708; Gabriel Glickman, 'Protestantism, Colonization, and the New England Company in Restoration Politics', *Historical Journal*, 59.2 (2016), pp. 365-91; Gabriel Glickman, 'Empire, "Popery," and the Fall of English Tangier, 1662-1684', *Journal of Modern History*, 87.2 (2015), pp. 247-80; Pizzoni, *British Catholic Merchants*; Giada Pizzoni, "'A Pass...Is Not Denied to Any Romanist': Strategies of the Catholic Merchant Community in the Early Atlantic World', *Cultural and Social History*, 11.3 (2014), pp. 349-65; Giada Pizzoni, 'British Catholics' commercial strategies in times of international warfare (1688-1705)', *Seventeenth Century*, 32.1 (2017), pp. 81-102.

<sup>17</sup> Pizzoni, *British Catholic Merchants*, see especially pp. 79-107.

<sup>18</sup> Pizzoni, *British Catholic Merchants*, pp. 13-14. See also, Pizzoni, "'A Pass...Is Not Denied to Any Romanist', pp. 349-65; Pizzoni, 'British Catholics' commercial strategies', pp. 81-102.

work and trade together during the Glorious Revolution and the Nine Years' War, revealing that business opportunities transcended religious considerations.<sup>19</sup> Likewise, it has been persuasively shown by Glickman that, under the later Stuarts, colonial expansion helped to advance the interests of Catholic subjects. Many Catholics, including Thomas Dongan, William Stapleton, and Henry Hawley, held prominent high-ranking roles in New York, the Leeward Islands, and Tangier.<sup>20</sup> Moreover, Irish Catholic mercantile and plantation-owning families – such as the Talbots, Blakes, and Lynches – kept an ongoing presence in London which benefitted their own interests on the island of Montserrat. For instance, these Irish Catholic representatives utilised their positions to lobby successfully in 1731 to permit non-enumerated colonial goods to pass through Ireland from the British Atlantic territories that were normally restricted by the Navigation Acts.<sup>21</sup>

Since the early-seventeenth century, Catholics had been active participants in colonial enterprises, with large numbers of English and Irish Catholics settling in the Chesapeake in Maryland from the 1630s, under the protection and encouragement of the Catholic Lords Baltimore.<sup>22</sup> By the late-seventeenth century, colonists across the Leeward Islands, including the islands of St. Kitts, Antigua, and Nevis, allied with colonists in Barbados for more independent freedom to trade on conditions that suited the environment they were in. This included freedom to trade and cross-collaborate with Dutch traders based on their adaptation to the volatile conditions of the Caribbean climate. It has been shown by Glickman that in most of its colonies in the late-seventeenth century, a 'tripartite structure' existed of governor, council, and assembly, and that English court rulings 'could be applied only at the

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<sup>19</sup> See Talbott, "Such unjustifiable practices?", pp. 556-77. For a specifically Jacobite view, see also Siobhan Talbott, 'Commerce and the Jacobite Court: Scottish Migrants in France, 1688-1718', in Allan I. Macinnes, Kieran German and Lesley Graham (eds.), *Living with Jacobitism, 1690-1788: The Three Kingdoms and Beyond* (London: Pickering and Chatto, 2014), pp. 99-110.

<sup>20</sup> Glickman, 'Catholic Interests', p. 681.

<sup>21</sup> *Ibid.*, p. 707.

<sup>22</sup> Krugler, *English and Catholic*, chaps. 4-6; Glickman, 'Catholic Interests', pp. 683-4.

discretion of the Crown'.<sup>23</sup> At times, colonial governors' decisions were frustrated by efforts from London politicians and trading companies who wanted to create a universal colonial policy on Caribbean and Atlantic world enterprises, which threatened to stunt growth in these economic relationships.<sup>24</sup> However, the discrepancy in the Atlantic colonies following laws passed in Britain confirmed to some critics that overseas dominions needed to be appropriated so that they could be regulated and controlled from London and cease to operate autonomously.<sup>25</sup>

Royal governors appointed to the islands, as well as colonial agents, were at the forefront of communications and news that were sent from the Caribbean to their correspondents, companies, and business contacts back home in London. While this placed these men into important political positions by connecting Britain to the Leeward Islands, the increased improvements in communications across the Atlantic also meant that this 'undercut both governors and agents by allowing opposing interests and alternative versions of events to be heard', and they did not possess a monopoly over the news sent to Britain.<sup>26</sup> The lack of influential intermediaries who could lobby on the behalf of various interest groups in London which benefitted the interests of the colonies – coupled with the potential risk of appealing against the local governor backfiring on the complainant, and the financial costs to send over an appeal – caused governors and communities on the islands to independently sort out matters and disputes between themselves. This included dealing with religious tensions and passing local acts which advanced the interests of the colonies, rather than those in London.<sup>27</sup>

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<sup>23</sup> Gabriel Glickman, *Making the Imperial Nation: Colonization, Politics, and English Identity, 1660-1700* (New Haven and London: Yale University Press, 2023), p. 126.

<sup>24</sup> Christian J. Koot, 'A "Dangerous Principle": Free Trade Discourses in Barbados and the English Leeward Islands, 1650-1689', *Early American Studies: An Interdisciplinary Journal*, 5.1 (2007), pp. 134-5.

<sup>25</sup> Glickman, *Making the Imperial Nations*, p. 219.

<sup>26</sup> Ian K. Steele, *The English Atlantic, 1675-1740: An Exploration of Communication and Community* (New York: Oxford University Press, 1986), pp. 229-30.

<sup>27</sup> Alison Gilbert Olson, *Making the Empire Work: London and American Interest Groups, 1690-1790* (Cambridge (MA): Harvard University Press, 1992), p. 40.



For decades, business news was integral for communication and for maintaining trading links between Britain and its Atlantic colonies. England's successful conquest of Jamaica from Spain in 1655, as well as the reports about rebellion in Barbados between 1650 and 1652, sparked interest in how news was circulated and reported back in Britain, influencing how merchants, businessmen, and institutions used news to shape their own political, imperial, and military objectives.<sup>28</sup> However, these relative freedoms, which permitted Catholics to conduct business enterprises in the Caribbean, meant that they were equally at risk of their estates and livelihoods being forfeited from them at times of heightened political tensions, particularly if Britain was at war with, or hostile towards, Catholic states across both sides of the Atlantic. This was not helped by the time it took for petitions, news, and pieces of legislation to reach the hands of the Board of Trade and Plantations, with Catholics and other petitioners at the mercy of communication channels reaching British shores in good time. For instance, Northey's report regarding several acts passed in the General Assembly for all Leeward Islands, held at Nevis in December 1701, which concerned laws passed during Charles II's reign to prevent Catholics from settling in the islands was only received on 15 June 1702 before later being read on 8 September that year.<sup>29</sup> Likewise, Northey's report about a Jamaican act passed on 31 July 1711 entitled the 'Act for the further quieting possessions, & preventing Vexatious Suits at Law', was addressed on 17 July 1713, almost two years since the laws had been in operation. In this case, he believed that the law was 'not proper to be approv'd of', but he did concede that 'there may be Opportunity of passing & transmitting a Law or Laws for quieting Possessions not liable to these Objections'.<sup>30</sup> Such hold-ups, therefore, not only delayed any grievances

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<sup>28</sup> Nicole Greenspan, 'Barbados, Jamaica and the development of news culture in the mid seventeenth century', *Historical Research*, 94.264 (2021), pp. 324-50.

<sup>29</sup> TNA, CO 152/4, no. 103, ff. 287-8, 'Attorney General's Report upon the Acts of the General Assembly of all the Leeward Islands held at Nevis in December 1701', 8 September 1702.

<sup>30</sup> TNA, CO 138/13, ff. 434-40, 'Attorney General Sir Edward Northey's Report to the Committee for Trade and Plantations', 14 and 17 July 1713.

from being dealt with for Catholics who sought help in the Leeward Islands, but on the other side of the coin, it also meant that those in Westminster were unable to stop any laws being passed with immediate effect, enabling the assemblies and governors in these islands to carry out their own operations independently.

Catholic businessmen and plantation owners thus relied on channels of communication from Britain to know what legislation was being read, debated, or passed that could affect their businesses, as well as who could lobby for them on their behalf in London to protect their commercial interests. David Hancock has examined how influential merchants were in promoting colonial interests through the case of the Protestant St. Kitts-raised merchant William Freeman, who later settled in England after the French attacks on the island. From the 1680s, Freeman was invited on a regular basis by the Board of Trade and Plantations to offer his views about any new statutes passed in Nevis and St. Kitts, as well as to comment upon matters relating to the Leeward Islands and which could potentially disturb its overseas trade. <sup>31</sup>

Consequently, this meant that interested businesses, parties, or mercantile groups in London – as well as Parliament and the Board of Trade and Plantations – often reacted to news, events, and acts that had already been passed or discussed in the Leeward Islands. The Board of Trade and Plantations was founded by William III in 1696 with a board of seven men appointed by the Secretary of State for the Southern Department, which meant that ‘appointments were both subject to and reflected party divisions’ between Tory and Whig factions.<sup>32</sup> The Board was principally responsible for the gathering of information on the colonies, sifting through letters which were to be forwarded to the Privy Council, reporting any matters to the Secretary of State for the Southern Department, and counselling the

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<sup>31</sup> David Hancock, “‘A World of Business to Do’: William Freeman and the Foundations of England’s Commercial Empire, 1645-1707”, *William and Mary Quarterly*, 57.1 (2000), pp. 3-34.

<sup>32</sup> David Parrish, *Jacobitism and Anti-Jacobitism in the British Atlantic World, 1688-1727* (Woodbridge: Royal Historical Society, Boydell, 2017), p. 24.

government on colonial affairs.<sup>33</sup> The Board was born as a compromise between William III and Parliament, after a clash between both parties in 1695 and 1696 over the control of trade and colonial affairs. Thus, the king preserved his royal prerogative, and the committee on the Board was made up of former merchants and economists that was tasked to advise the Privy Council over any matters that affected trade and colonial activities, although the Board regularly faced opposition both within and outside government.<sup>34</sup>

From London, business and trading operations took place which connected the capital to European and American ports.<sup>35</sup> Different religious and mercantile interest groups became skilled at lobbying Parliament and the Board of Trade and Plantations. Quakers, Baptists, Lutherans, Anglicans, Presbyterians, Congregationalists, and Sephardic Jews regularly met in various meeting houses across London with specially designated committees, as well as in coffee houses.<sup>36</sup> Olson has revealed that Virginian merchants appointed committees, who among other duties collected dues, drafted petitions, hired legal counsel, and organised meetings with the Board of Trade and Plantations to persuade them to pass or delay legislation that affected certain British Atlantic colonies.<sup>37</sup> The coffee houses in Exchange Alley, near Lombard Street in central London, saw much of the exchange of trade and information, including shares that were bought and sold, and commercial information was published in the newspapers and through a financial press.<sup>38</sup> Groups known as ‘jobbers’ and ‘brokers’ operated within the coffee houses, and traders – working on behalf of the Bank and the East India Company – did business. That the Board of Trade and Plantations met and

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<sup>33</sup> Parrish, *Jacobitism and Anti-Jacobitism in the British Atlantic World*, pp. 23-4.

<sup>34</sup> I. K. Steele, *Politics of Colonial Policy: The Board of Trade in Colonial Administration, 1696-1720* (Oxford: Clarendon Press, 1968), pp. 17-18.

<sup>35</sup> William Pettigrew and David Veivers (eds.), *The Corporation as a Protagonist in Global History, c. 1550-1750* (Leiden: Brill, 2019), pp. 165-6.

<sup>36</sup> Olson, *Making the Empire Work*, pp. 54-5.

<sup>37</sup> Olson, *Making the Empire Work*.

<sup>38</sup> Bruce G. Carruthers, *City of Capital: Politics and Markets in the English Financial Revolution* (Princeton: Princeton University Press, 1996), pp. 5, 13.

carried out their trade dealings here emphasises the important location of Exchange Alley in obtaining news and conveying business matters.<sup>39</sup>

The Royal Exchange was an active hub where merchants, visitors, and captains who had recently arrived from the Americas and the Caribbean could meet with others to discuss the latest news and colonial developments. This focal point was especially important as merchants and interested parties could listen and respond to the latest business news before the Board of Trade and Plantations learned of and acted upon the news that reached their shores through formal channels.<sup>40</sup> Aside from the Exchange and the coffee houses, merchants learned about forthcoming meetings, agendas, and measures due to be presented before the Board of Trade and Plantations through a published weekly schedule. This gave merchants and interested parties enough notice to plan ahead and turn up on the day in question to lobby their case or opinions before the Board, as well as to draw up petitions to circulate before they were presented before the Board and also Parliament. In turn, the Board of Trade and Plantations occasionally solicited opinions from merchants before they approved or passed any measures that affected colonial enterprises in the Atlantic, including from the aforementioned William Freeman.<sup>41</sup>

[INSERT FIG. 6.2 HERE]

It has been shown that lobbying in the early-eighteenth century was a long – and sometimes unrewarding – mission among those seeking to petition for conditions that worked in the favour of colonists, proprietors, and businessmen. Lobbying took careful organisation, with success determined by whether lobbyists had the ability to successfully adapt their

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<sup>39</sup> Carruthers, *City of Capital*, pp. 169, 178.

<sup>40</sup> Alison Gilbert Olson, 'Coffee House Lobbying', *History Today*, 41.1 (1991), p. 38.

<sup>41</sup> Olson, 'Coffee House Lobbying', p. 39; Hancock, "'A World of Business to Do'", pp. 3-34.

activities to British political etiquette.<sup>42</sup> Lobbying was not an easy venture for those whose task it was to persuade the Board of Trade and Plantations to approve certain petitions and pieces of legislation from the Leeward Islands. While the Board initially met several times a week at the end of the seventeenth century, with meetings held on Monday afternoons and Wednesday and Friday mornings, meetings became less regular and sporadic after the Whig takeover in 1707. By 1714, the Board only dedicated one meeting a week solely to colonial affairs, which meant that there was large backlog of unanswered letters regarding news, business, and colonial matters sent by governors. Moreover, the minimum of a quorum to meet was often not met from 1707 onwards, which added to this backlog.<sup>43</sup> By the beginning of the eighteenth-century, therefore, the role of advisers, legal counsels, and businessmen had become integral to the protection of business enterprises and interests, as well as for Catholics who were keen to protect their livelihoods in the Leeward Islands. Sir Edward Northey was one such legal counsel who was instrumental in offering legal opinion which not only helped to protect Catholics when the legality of their estates was threatened in the Leeward Islands, but also influenced the legal parameters of governors' treatment of Catholics on the other side of the Atlantic.

### **The Legal Career of Sir Edward Northey**

Sir Edward Northey had a long-established legal career which spanned more than half a century. Northey was born in 1652 to Sir William Northey, a barrister of the Middle Temple, and his wife Elizabeth Garrett, in the early years of the Commonwealth regime.<sup>44</sup> Following in his father's footsteps, after Northey was educated at St Paul's School and matriculated at Queen's College, Oxford, he entered the Middle Temple in 1668, and was called to the bar in

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<sup>42</sup> Aaron Graham, 'The British financial revolution and the empire of credit in St. Kitts and Nevis, 1706-21', *Historical Research*, 91.254 (2018), p. 690.

<sup>43</sup> Steele, *Politics of Colonial Policy*, pp. 27, 114, 142.

<sup>44</sup> Handley, 'Northey, Sir Edward', pp. 150-1.

1674. Over the years, Northey developed a well-respected reputation as a barrister. Within a few years after being called to the bar, Northey became a counsel to the House of Lords, and was called upon to represent some of the most religiously and politically contentious cases in later seventeenth century England.<sup>45</sup> In 1686, Northey defended Edward Godden in the high-profile and infamous *Godden vs. Hales* trial, in which Godden, a footman to Sir Edward Hales, had informed the authorities about Hales's Catholicism that should have disbarred him from the office of colonel in an infantry in accordance with the 1673 Test Act.<sup>46</sup> It has been suggested that Northey was appointed to represent Godden in order to present a deliberately weak defence for Parliament, as the Catholic king, James II, had granted Hales a dispensation from swearing the Oaths of Supremacy and Allegiance.<sup>47</sup>

While Northey's legal opinions occasionally proved controversial, he continued to advance up the legal professional ladder. In 1697, Northey became a bencher in the Middle Temple, before he was appointed as Attorney General in June 1701 by William III, who was keen to have moderates in the legal profession. He was re-appointed by Queen Anne upon her accession the following year, and he continued in the role until 1707 when he was replaced by Sir Simon Harcourt. He was reappointed to the post in 1710.<sup>48</sup> It was at this time that the Board of Trade and Plantations became increasingly involved in politics, particularly aligned with the Whigs, in part due to the War of the Spanish Succession, which affected the Board's administrative responsibilities.<sup>49</sup> Allegedly, Northey declined to defend Dr Henry Sacheverell during his trial in 1710, after his 5 November 1709 Gunpowder Plot anniversary sermon caused controversy for denouncing the 1689 Toleration Act, which permitted dissenters to

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<sup>45</sup> Handley, 'Northey, Sir Edward'.

<sup>46</sup> Miller, *Popery and Politics*, pp. 55-6.

<sup>47</sup> Dennis Dixon, 'Godden v Hales revisited – James II and the dispensing power', *Journal of Legal History*, 27.2 (2006), pp. 137-8; Handley, 'Northey, Sir Edward', p. 150.

<sup>48</sup> Handley, 'Northey, Sir Edward'.

<sup>49</sup> Steele, *Politics of Colonial Policy*, p. 109.

worship in conventicles and meeting houses.<sup>50</sup> In 1710, Northey was also elected as an MP for the Tiverton constituency in Devon, and he was re-elected as its MP in the 1713 and 1715 general elections.<sup>51</sup> Northey continued in the role of Attorney General until he was pensioned off in 1718 during George I's reign, around the time that he suffered from what appears to have been a stroke before dying in 1723.<sup>52</sup>

As Attorney General, Northey was often called upon to give his legal opinion concerning colonial affairs, business dealings, and plantations, as well as matters which concerned Catholic estates and Catholic legal rights in Britain's expanding colonies. Northey's interest in colonial affairs was probably not solely due to his legal career and role as Attorney General: in 1687, Northey had married Anne Joliffe, the daughter of John Joliffe who was a merchant for the East India Company, and who also served as an MP after the Restoration.<sup>53</sup> Although not a merchant himself, Northey's marriage to the Joliffe family would have undoubtedly given him a window and understanding about how the Atlantic and American colonies operated. In June 1698, Northey was appointed by Parliament as one of four counsels in the impeachment trials of the French merchants John Goudet, David Barrau, Nicholas Santiny, Stephen Seignoret, Peter Diharce, and Reney Baudowyn, who stood accused by the Lustring Company of carrying out an illegal 'traffic with France during the late war', giving intelligence to that nation, and illegally importing goods from France to the realm.<sup>54</sup> As Attorney General, Northey also worked with the East India Company, writing in July 1711 to Secretary of State, Henry St. John, 1<sup>st</sup> Viscount Bolingbroke, that he had passed

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<sup>50</sup> For more information, see Geoffrey Holmes, 'The Sacheverell Riots: The Crowd and the Church in Early Eighteenth-Century London', *Past & Present*, 72 (1976), pp. 55-85; Jennifer Farooq, *Preaching in Eighteenth-Century London* (Woodbridge: Boydell Press, 2013), esp. chaps. 4 and 7.

<sup>51</sup> Handley, 'Northey, Sir Edward', p. 151.

<sup>52</sup> *Ibid.*

<sup>53</sup> Robert Brenner, *Merchants and Revolution: Commercial Change, Political Conflict, and London's Overseas Traders, 1550-1653* (London and New York: Verso, 2003), p. 138. Joliffe was also spelled 'Jolliffe'.

<sup>54</sup> *LJ*, xvi, pp. 289-90, 310; *CJ*, xii, pp. 208-35.

on the Queen's commands regarding a memorial of the ships *Duke* and *Duchess* to the East India Company's secretary, and that the directors were due to meet soon.<sup>55</sup>

What is more, Northey's role as Attorney General, as well as working in collaboration with the Board of Trade and Plantations, gave him a good insight into western colonial trade and business matters. Originally, the Board consisted of the peers John Egerton, 3<sup>rd</sup> Earl of Bridgewater, and Forde Grey, Earl of Tankerville, who also served as privy councillors along with William Blathwayt, John Pollexfen, John Locke, Sir Philip Meadows, and Abraham Hill, who undertook more of the colonial administration.<sup>56</sup> After 1707, the Board of Trade and Plantations became increasingly involved in political affairs, reflected by Whig appointments to the Board, including Charles Spencer, 3<sup>rd</sup> Earl of Sunderland; Thomas Grey, 2<sup>nd</sup> Earl of Stamford; Henry Herbert, 1<sup>st</sup> Baron Herbert of Cherbury; Sir Philip Meadows; John Pulteney, Lord Dartmouth; and Sir Charles Turner.<sup>57</sup>

The Board of Trade and Plantation's main role was to advise merchants about the appointments of colonial governors and routine mercantile business, as well as reviewing colonial laws for allowance and disallowance, which is when merchants lobbied or applied pressure to the Board over certain topics.<sup>58</sup> When the Board of Trade and Plantations was founded in 1696, the committee members initially attempted to deal with heavy administrative duties, including reading all correspondence, comprising of petitions, speeches, laws, proclamations, and journals of governors, among other documents.<sup>59</sup> Due to the capacious amount of paperwork, the Board decided swiftly that a lawyer was needed and soon afterwards all laws were forwarded to both the Attorney General and Solicitor-General, with most colonial acts before 1700 going through these two officeholders before the laws

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<sup>55</sup> TNA, SP 34/37/61, Attorney General Sir Edward Northey to Secretary of State, Henry St. John, 1<sup>st</sup> Viscount Bolingbroke, 21 July 1711.

<sup>56</sup> Steele, *Politics of Colonial Policy*, pp. 19-23.

<sup>57</sup> Steele, *Politics of Colonial Policy*, pp. 112-14.

<sup>58</sup> Olson, 'Coffee House Lobbying', p. 40.

<sup>59</sup> Steele, *Politics of Colonial Policy*, p. 27.



were passed or vetoed by William III.<sup>60</sup> This meant that these men were in a valuable and powerful position to act as mediators between the Caribbean islands and London.

Therefore, as Attorney General, Northey had a good comprehension about how business transactions operated in the mercantile world, not only concerning trade in the Americas, but also regarding companies which traded in the east. For instance, in 1715, the East India Company asked Northey for his legal opinion about whether Malagasy slaves from Madagascar were exempted from the East India Act (1698) which restricted commodities, merchandise, and goods on vessels from breaking bulk between the Cape of Good Hope and England.<sup>61</sup> In this case, Northey acknowledged that while licences could be granted to trade in Madagascar of specific goods, his opinion was that slaves did not count as goods and merchandise as outlined in the 1698 act.<sup>62</sup> Therefore, Northey possessed some personal, as well as legal, understanding of how colonial trade companies operated in the early-eighteenth century, as well as how various businesses and trades were managed from Britain across the Atlantic, based on news that was received back home in London.

### **Northey and Catholic Estate Forfeitures in the Leeward Islands**

After he was appointed Attorney General in 1701, Northey's professional portfolio became vastly diverse, dealing with complicated cases for Parliament, as well as offering legal opinions on colonial and domestic affairs. As a barrister and Attorney General, Northey often dealt with Catholic forfeited estates and individual cases which concerned the enforcement of anti-Catholic penal laws across Britain, Ireland, and the Atlantic world. For instance, in May 1703, Northey offered his legal opinion on an act passed in the first year of Queen Anne's

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<sup>60</sup> Steele, *Politics of Colonial Policy*, p. 27.

<sup>61</sup> 9 William III, c. 44: see Virginia Bever Platt, 'The East India Company and the Madagascar Slave Trade', *William and Mary Quarterly*, 26.4 (1969), p. 553.

<sup>62</sup> Platt, 'The East India Company and the Madagascar Slave Trade', pp. 555, 575. For more evidence of Northey's opinion, see TNA, CO 388/23, R. 53, as cited by Platt, p. 575.

reign about using forfeited estates in Ireland to pay off soldiers' arrears and to help fund the Chelsea hospital in London.<sup>63</sup> Later that same year, Northey cautioned to one Richard Warre that a bill to prevent the growth of popery in Ireland could not be sent until the Queen had given her approval once she returned from her trip to Bath.<sup>64</sup> In January 1703, Northey was asked by the secretary of the Board of Trade and Plantations, William Popple senior, for his opinion 'in point of Law', about the 'Act for quieting mens Estates and for avoiding litigious Law Suits for Lands and Plantations' that was passed in Montserrat on 13 June 1702.<sup>65</sup> The act centred on quieting the 'present possessors of Plantations in Mountserratt' with claims to land to be made by petitioners within three years, which differed from the timeline of seven years in Jamaica and two years in Barbados. In May that year, Northey gave a report regarding the estates. In his judgement, Northey believed that the act was 'not well penned', and considered it to be advisable for a new act to be passed 'which may not be liable to such Objections as are to this And which may limit the time of Suite and Entryes by future as well as present Titles' on Montserrat.<sup>66</sup> Several years later in 1713, Northey gave a report to the commissioners at the Board of Trade and Plantations concerning an act passed in Jamaica for the further quieting of possessions and preventing vexatious suits at law, which gives a sense of how valuable Northey's opinion was for interpreting information about acts passed in the Caribbean that conflicted with British interests, and which potentially affected Britain's trade and colonial interests.<sup>67</sup>

Northey's legal opinion was also consulted over whether Catholics had the right to purchase land and estates across the Atlantic. In the aftermath of the Glorious Revolution in

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<sup>63</sup> SHL, MS 73, 'Legal Opinions of Sir Edward Northey (1701-1704)', ff. 45-6.

<sup>64</sup> TCD, MS 9932/58, Edward Northey to Richard Warre, 5 October 1703.

<sup>65</sup> TNA, CO 153/8, ff. 136-7, William Popple Senior to Attorney General Sir Edward Northey, 4 February 1703.

<sup>66</sup> TNA, CO 153/8, ff. 169-72, 'Attorney General Sir Edward Northey's Report to the Committee for Trade and Plantations', 4 May 1703; CO 152/5, no. 19, ff. 71-2, 'Attorney General Sir Edward Northey's Report to the Committee for Trade and Plantations', 4 May 1703.

<sup>67</sup> TNA, CO 138/13, ff. 434-40, 'Attorney General Sir Edward Northey's Report to the Committee for Trade and Plantations', 14 and 17 July 1713.

1688 and the passing of the Toleration Act in 1689, Catholics continued to face civil restrictions across Britain and Ireland.<sup>68</sup> In particular, moves were made in Parliament to prevent Catholics from inheriting or purchasing real and personal estates because of their religious nonconformity, especially during the rise of Jacobitism in support of James II. In January and April 1690, bills were read in the House of Commons which voided settlements made by Catholics – deemed ‘papists’ – from disinheriting Protestant heirs; a bill approved in March 1699 further extended such powers.<sup>69</sup> The rise of Jacobitism in the early-eighteenth century caused Catholic estates and anti-Catholic penal laws to be enforced more stringently across Britain and Ireland at its most heated times, including the Lancashire Plot in 1694, the 1696 assassination plot against William III, as well as the famous Jacobite Rebellion in 1715, a year after the accession of the Hanoverian monarch George I.<sup>70</sup>

Edward Northey regularly offered his legal opinion as Attorney General when dealing with the aftermath of various French raids in the Leeward Islands, as Britain became entangled with European instabilities caused by the War of the Spanish Succession.<sup>71</sup> The Leeward Islands were not only vulnerable to plunder from French Catholics: on 3 May 1699, gentleman usher to William III, Jeremiah Chaplain, successfully petitioned the King that, during the ‘late Warr’, several small plantations on the island of St. Kitts had been ‘forfeited by y<sup>e</sup> Irish Papists’. Reportedly, 610 acres of land had been seized, though all of ‘small value’. Chaplain hoped that a ‘Grant of all the Fines & forfeitures’ would be made upon the island, as well as an escheator and receiver to collect these revenues for the king.<sup>72</sup>

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<sup>68</sup> Krugler, *English and Catholic*, p. 235.

<sup>69</sup> *CJ*, x, pp. 340, 383; xii, p. 610.

<sup>70</sup> For further information on Jacobitism in this period, see Daniel Szechi, *The Jacobites: Britain and Europe, 1688-1788* (Manchester: Manchester University Press, 1994); Paul Monod, Murray Pittock and Daniel Szechi (eds.), *Loyalty and Identity: Jacobites at Home and Abroad* (Basingstoke: Palgrave Macmillan, 2010); Eveline Cruickshanks and Howard Erskine-Hill, *The Atterbury Plot* (Basingstoke: Palgrave Macmillan, 2004); and Kieran German, Lesley Graham and Allan I. Macinnes (eds.), *Living with Jacobitism, 1690-1788* (London: Pickering and Chatto, 2014).

<sup>71</sup> Zacek, *Settler Society*, p. 89.

<sup>72</sup> TNA, SP 44/238/321.

Throughout this period, the Board of Trade and Plantations attempted to take action against Catholics as a repercussion of war and tensions in the Leeward Islands, and as part of their foreign policies. On 8 February 1717, the commissioners considered a letter sent to them from General Walter Hamilton, Governor of the Leeward Islands, that had been sent to them the previous April, concerning the case of one Mrs Renoult, who had recently ‘obtained grants of the late French lands in St. Christophers’. It was suggested by one Mr Nevin that Renoult was ‘reputed a papist, and never had a right to 500 acres’ of land, with Nevin alleging that ‘she pretended to much more’ land. Fellow reporter Mr Duport told the Board that he believed it could be easily proven that Renoult ‘frequented mass, and that her character was not the best’, but he conceded that, despite Renoult’s Catholicism, her four daughters were Protestant and ‘of good reputation’. Therefore, he believed that the ‘solicitation of that grant to their mother was chiefly in view of the daughters interest, who were very deserving’.<sup>73</sup> At the time, Britain had recently experienced a Jacobite Rebellion in 1715, in which rebels had failed to supplant the recently-ascended George I in favour of the Catholic son of the late King James II, James Francis Edward Stuart. Consequently, the Jacobite Rebellion led to the rigorous enforcement of some of the anti-Catholic penal laws, including pressuring Catholics to take an oath of allegiance to George I, which many refused to take on grounds of conscience. This meant that Catholics and those reputed to be ‘papists’ who refused to take the oath had to register any property they owned in accordance with the ‘Act to oblige Papists to register their Names and real estates’. The act was originally printed and published in 1716 for wider circulation detailing what Catholics were required to do as a consequence of their ‘horrid Designs’, plotting the ‘Destruction of this Kingdom’ and the ‘Extirpation of the Protestant Religion’.<sup>74</sup> As a result, Catholic estates were often registered

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<sup>73</sup> *JBTP*, iii, pp. 207-14.

<sup>74</sup> 1 Geo. I. c. 55 (1715), ‘Papists Act’: An Act to Oblige Papists to Register their Names and Real Estates.

or left to Protestant relatives or friends who could inherit the estates instead.<sup>75</sup> Renoult's case in St. Kitts, therefore, shows how Catholics living as far away as the Leeward Islands attempted to circumvent this new anti-Catholic penal law to protect the long-term interests of their family estates and inheritances for their children, although the Board of Trade and Plantations and Northey were sought for their advice over such matters.

In June 1702, Northey wrote to the Lord Commissioners for the Board of Trade and Plantations concerning an act passed in St. Kitts. This act, passed in 1701, entitled an 'Act for the settling & strengthening his Majestyes part of this Island', had stipulated that attainted persons, who had joined the French in the late wars, could be executed without a trial, and that patents belonging to 'papists' could be voided by the governors on the island. Northey declared that not only was the law to execute people without a trial 'of ill consequence', but that he thought that it 'unreasonable to destroy all Titles in the Crowne or their Grantees of above twelve yeares standing it not being Restrained to such who had not had possession or Commenced their suites within that time'. Furthermore, Northey stated that it was 'unreasonable to make Patents void that were passed by the Governours without y<sup>e</sup> Content of the Councell unless the Law there be soe'. He believed that this was unreasonable because patentees did not have enough time to make the improvements, only being granted three years to do so, and that the patentees had not by any law 'oblidged them within that time or within any other Lymitted time to Improve them'. Northey added that because 'it is unreasonable to Declare all Patents made to papists since the beginning of the late Warrs to bee void', this would make assignments by Protestants 'for valuable Consideracion' also void. He concluded, therefore, that he was of the humble opinion that the law was 'not fitt to bee Approved' on the island.<sup>76</sup>

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<sup>75</sup> Colin Haydon, *Anti-Catholicism in eighteenth-century England, c. 1714-80: A political and social study* (Manchester and New York: Manchester University Press, 1993), pp. 103-14.

<sup>76</sup> TNA, CO 152/5, no. 1, ff. 1-1v, 'Attorney [sic] General's Report upon the Act of St Christophers for settling and strengthening [sic] his Majesty's part of that island', 22 October 1702.

In this context, this meant that Sir Edward Northey's role as Attorney General enabled him to act as the legal mediator between the Board of Trade and Plantations and interested parties in the Leeward Islands, while also checking the legality of any orders or acts passed against Catholics, their estates, and business enterprises. Northey offered his legal opinion several times on the Calvert family's right to nominate governors in Maryland. Since the 1630s, successive Calverts, under their titles of Lord Baltimore, had owned the right by royal charter to nominate governors in Maryland which, because of their Catholicism, left the Calverts open to suspicion that their appointments were inclined to those who were known Catholics or sympathetic towards Catholicism.<sup>77</sup> After the Glorious Revolution, the right for the Calverts to nominate successors was revoked on the basis of their religion, although Charles Calvert still tried to influence nominations for the governorship of Maryland.<sup>78</sup> Consequently, the Baltimore's right to nominate successive Maryland governors was in dispute among many interested factions.<sup>79</sup> The Exeter MP Colonel Edward Seymour sent Northey a letter in July 1706 concerning the validity over English laws in Maryland. Northey claimed that he could not make a decision until he had read Baltimore's original charter over the province, a copy of which he believed was in the possession of the Council of the Board of Trade and Plantations. However, Northey told Seymour that the plantations were 'governed by their own Laws' and that an act made in England 'doth not Extend to the Plantations', although governors were supposed to ensure that any laws passed locally in the islands followed laws passed in England.<sup>80</sup> Northey conceded that although colonists in Maryland were technically 'the Subjects of the Crown of England, if the same [laws of

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<sup>77</sup> Krugler, *English and Catholic*, chap. 9.

<sup>78</sup> Krugler, *English and Catholic*.

<sup>79</sup> TNA, CO 5/717, nos. 42 and 42 (i), ff. 114-122, 'Letter from Attny [sic] General, upon the Petition of the Lord Baltemore, [sic] relating to the Nominating of a Governor for Maryland, &c', 24 July 1711.

<sup>80</sup> Owing to the practicalities associated with maintaining a transatlantic empire, laws were first passed locally by colonial assemblies and governors, before being approved by Parliament. See Mary Lou Lustig, *Privilege and Prerogative: New York's Provincial Elite, 1710-1776* (Cranberry, NJ: Associated University Presses, 1995), p. 17.

England] were received by the Inhabitants and putt in practice there', by a virtue of general consent 'they shall be altered by some Act of the Assembly there'.<sup>81</sup> Parliament had previously considered an 'Act for re-uniting to the Crown the Government of several Colonies and Plantations in America' in 1701 to unite the colonies and plantations across the Atlantic, although Baltimore, Sir Henry Ashurst, and William Penn junior successfully presented counsel against the bill during readings of the act in Parliament. No doubt they did this because the bill potentially threatened to reduce the power of local legislatures, infringe on their independence to govern their respective provinces the way they felt best, and bring them directly under the rule of Parliament.<sup>82</sup>

Northey frequently corresponded with William Popple senior, as well as Popple's son, William Popple junior, on news relating to colonial affairs in the latter years of Anne's reign. This was at a time when news about the Leeward Islands was critical due to the War of the Spanish Succession (1701-1713) - caused by fighting between European states about whether a Bourbon or Habsburg heir should succeed the Catholic throne in Spain – which affected trade and business affairs in the Leeward Islands. In the Caribbean, the Leeward Islands were repeatedly raided and attacked by the French from their islands during this period, including St. Kitts and Nevis.<sup>83</sup> Consequently, communication on acts being passed was key, especially when approving or disapproving acts in quick succession. In June 1703, for example, William Popple senior wrote to Northey requesting his opinion on a collection of acts that had arrived from New Hampshire, which included an act to prevent estates from being concealed from assessors.<sup>84</sup> Similarly, in October 1705, Popple wrote to Northey regarding a letter sent by Colonel John Seymour and 'to Desire Your Opinion [about] whether the laws of England against Romish Priests, are in force in the Plantations; And whether her Majesty may not

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<sup>81</sup> TNA, CO 5/721, ff. 34-5, Sir Edward Northey to Sir Charles Hedges, 27 July 1706.

<sup>82</sup> *LJ*, xvi, pp. 666, 670, 680, 688.

<sup>83</sup> Zacek, *Settler Society*, pp. 42, 89, 117.

<sup>84</sup> TNA, CO 5/911, ff. 97-103, William Popple senior to Attorney General Sir Edward Northey, 23 June 1703.

Direct Jesuits (as Romish Priests) to be turned out of Maryland'.<sup>85</sup> Throughout July 1713, William Popple junior, on behalf of the Lords of the Board of Trade and Plantations, asked Northey for his legal judgement on a recent parcel of acts that were originally passed in Jamaica in 1711 and 1712. These comprised of acts such as the act 'to prevent any One Person from holding two or more Offices of Profit in this Island', and the act to disable any member of the Jamaican council or assembly 'from acting as Commissioner for receiving any Public Mony raised or to be raised by the Governor Council & Assembly of this Island'. This included the provision to disable 'any such Commissioner to be a Member of the Council or of the present or any future Assembly of this Island'.<sup>86</sup> This correspondence reflects just how much the Popples and the Board of Trade and Plantations relied upon Northey's legal counsel before they made any decisions, especially as whatever ruling was made on acts and colonial affairs could have lasting ramifications, particularly when concerning religion.

In his capacity as Attorney General, Northey offered his legal advice on petitions and news relating to religious acts passed under William III's and Anne's reigns, including laws which affected Catholics and dissenters. On confessionality, Northey confirmed some legal rights of Catholics and dissenters living and operating on the islands. On 11 June 1702, Northey affirmed in his report to the Lord Commissioners for the Board of Trade and Plantations that the act to prevent papists settling in the Leeward Islands was problematic. The act required all persons who came to reside in the islands to take the Oaths of Allegiance and Supremacy as passed in the reign of Charles II. Northey believed that the Oath of Allegiance was 'an unlawfull Oath and imposed upon the Subjects of this Realme against the known Laws and Libertyes of this Kingdom'. Consequently, he rendered the act as

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<sup>85</sup> TNA, CO 5/726, f. 318, William Popple senior to Attorney General Sir Edward Northey, 17 October 1705.

<sup>86</sup> TNA, CO 138/14, ff. 13-15, William Popple junior to Attorney General Sir Edward Northey, 18 July 1713; CO 138/14, ff. 26-27, William Popple junior to Attorney General Sir Edward Northey, 31 July 1713.



‘useless’.<sup>87</sup> What is more, Northey pointed out that the wording of the act was ambiguous as ‘it is not certain what Declaration is meant by this Act, there being Two several Declaracions in Two Acts made in the Thirteenth Yeare of the Reigne of King Charles the Second’, the first regarding governing and regulating corporations, while the second was the Act of Uniformity. He judged that the wording of the Act of Uniformity meant that not only were papists to be expelled from the Leeward Islands, but that the act ‘expels aswell Nonconformists as Papists, which is contrary to the Act of Toleration’. Although he believed that the act made in the thirtieth, ‘and not the 13<sup>th</sup>’ of Charles II’s reign was ‘a Test against Papists only’, for the reasons outlined above, he was of the opinion that the act was ‘not fitt to be Approved’ as it stood.<sup>88</sup>

Likewise, in October 1702, Northey responded to a report about an act passed in St. Kitts in June earlier that year, ‘for the settling & strengthning his Majestys part of this Island’, based on counsel heard in support of the act, as well as from William Freeman and other unnamed petitioners against it. In his report, Northey agreed that the act was both ‘unreasonable & unjust’ on the grounds that it was ‘unreasonable to make Patents void that were passed by the Governours without the Consent of the Councell unless the Law there be so’, especially as patentees ‘had not within three Years after the making of them Improved what was granted, there not being as appears any Law that obliged them within that time or within any other limited time to Improve them’. Furthermore, he added that it was ‘unreasonable to declare all Patents made to Papists since the beginning [sic] of the late Warrs to be void; For That thereby their Assignments even to Protestants for Valluable Considerations will be made void also’.<sup>89</sup> Admittedly, Northey reported that the act was ‘not

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<sup>87</sup> TNA, CO 152/4, no. 103, ff. 287-8, ‘Attorney General’s Report upon the Acts of the General Assembly of all the Leeward Islands held at Nevis in December 1701’, 8 September 1702.

<sup>88</sup> TNA, CO 152/4, no. 103, ff. 287-8, ‘Attorney General’s Report upon ye Acts of ye General Assembly of all the Leeward Islands held at Nevis in December 1701’, 8 September 1702.

<sup>89</sup> TNA, CO 153/8, ff. 116-18, ‘Attorney General’s Report upon the Act of St Christophers for settling and strengthning [sic] his Majesty’s part of that Island’, 22 October 1702.

fitt to be approved' because the legislation voiding patents granted to Catholics also affected dissenting Protestants. Nevertheless, the fact that Northey did not propose that the law be circumvented so that Catholics were still penalised indicates that his previous experience of offering legal opinions on Catholic cases enabled him to have a legal and pragmatic view on how to deal with Catholics living in the Leeward Islands.<sup>90</sup>

In another case, in 1703, Northey intervened in the case of Protestant Daniel MacKenin of Antigua, who was at risk of losing the lease of a plantation called Goldengrove on that island because two of the attorneys who indentured the plantation to him in June 1702 – Thomas Frant and David Rice, both from Montserrat – were papists. MacKenin claimed that he was unaware of the attorneys' Catholicism, and that by an act passed by the Assembly at Nevis in April 1702, entitled the 'Act to prevent Papists, & reputed Papists, from settling in any of his Maj<sup>ties</sup> Carribee Leward Islands in America', all those known papists, or those reputed to be papists, were disabled to act as attorneys, agents, or overseers in any of the Leeward Islands. Consequently, the confederates on the island, including the governor of Antigua, Colonel Christopher Codrington, 'all unanimously, & dayly, threaten to turne the said Lessee [MacKenin] out of his possession by force of the said Act'. Northey moved that, bearing in mind the 'hardship & surprize' of the case and situation for MacKenin, as well as the fact that he was a Protestant, the act would be repealed and would prevent the 'great hindrance of Trade'.<sup>91</sup> Considering the time limit for acts from the Leeward Islands to be approved or voided back in Britain, Northey's advice to repeal this act over Catholic attorneys working on the island suggests that he saw the act as hindering the business and trading prospects for MacKenin and for Antigua, and that, while probably inconvenient,

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<sup>90</sup> TNA, CO 153/8, f. 118, 'Attorney General's Report upon the Act of St Christophers'.

<sup>91</sup> TNA, CO 152/5, nos. 20-20 (i), ff. 73-75, 'The Case of Daniel Mackenin a Protestant Inhabitant of the Island of Antigua in America', 16 March 1703.

Catholics acting as attorneys, agents, or overseers were probably the least of the problems that they were having to face in the Caribbean at this time.

What is interesting in the early-eighteenth century is that, while Catholics faced the brunt of anti-Catholic penal laws across Britain and Ireland, the right for Catholics to own land and businesses seemed much more ambiguous in the Atlantic colonies and in the Caribbean. For instance, on 21 June 1704, Northey gave his legal opinion about whether Catholics were barred from purchasing crown and plantation lands in New England, as stipulated by legislation passed by the Westminster Parliament in the eleventh and twelfth years of William III's reign, which prevented Catholics from purchasing lands in England, the dominion of Wales, and the town of Berwick-upon-Tweed. In Northey's view, he believed that Catholics were not disabled from purchasing lands in the Queen's plantations, as he was of the opinion that the acts applied only to aforementioned locations, and therefore that 'the Plantations are not affected by that Act'.<sup>92</sup> This suggests that while Catholics were prevented from purchasing lands and maintaining businesses in Britain and Ireland, this was not the case in the Leeward Islands or in the North American colonies, thus supporting Pizzoni's premise that Catholics were allowed to operate in the Atlantic world due to their advantage of being Catholic to trade and carry out their businesses.

## **Conclusion**

Disseminating business news in the Leeward Islands in the opening decades of the early-eighteenth century took place at a time of great political and religious change. The assemblies on the various islands sought to legislate and pass acts away from the powers back in London which would benefit the island communities, while dealing with a vastly diverse religious

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<sup>92</sup> TNA, CO 5/863, no. 103, ff. 96-7, 'Mr Attorney [sic] Gen:lls Opinon, [sic] about Roman Catholicks being capable of receiving Grants of Lands in the Plantations', 21 June 1704; CO 5/911, f. 343, 'Mr Attorney General's Opinion about Roman Catholicks being capable of Receiving Grants of Lands in the Plantations', 21 June 1704.

culture made up of Anglicans, Catholics, dissenters, and many other faiths. Although a religious minority in some parts of the Leeward Islands, this chapter has shown that Catholics were able to thrive in these islands, play an active part in colonial life, and perform roles that were restricted for their counterparts in Britain and Ireland, including conducting legal affairs and business transactions. The British Atlantic offered godly members of society, as well as Catholics, a confessional haven, and Catholics were able to practice their religion in relative ease when compared to their counterparts in Britain and Ireland.

This chapter has also raised questions about how religious confessionalism was dealt with in the early-eighteenth century, and the extent to which Catholics living on the islands held the right to possess lands and operate businesses despite their religious nonconformity. Sir Edward Northey's role in advising on the position of Catholics, Catholic landowners, and other petitioners in the Leeward Islands has demonstrated the importance of transatlantic networks for disseminating news regarding anti-Catholic penal laws, the speed with which business news was dealt with, and how legislative powers were implemented in the islands from Britain. His opinions mattered so much that, even after his death, his original decisions were re-consulted in 1731 regarding his opinion against acts passed in St. Kitts in 1712 and 1719 for settling estates, as well as in 1737 over his original 1717 legal opinion regarding land boundary disputes between Pennsylvania and Maryland.<sup>93</sup> The turn of the eighteenth century witnessed the development of interests between London and its colonial enterprises, with London one of the key urban centres in western Europe, a place where corporations and mercantile businesses could thrive and exchange news. What has been presented, therefore, is the extent to which anti-Catholic penal laws passed in Britain had any jurisdictional control over Catholic business affairs in the Leeward Islands, and has in turn, disclosed how pivotal

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<sup>93</sup> TNA, CO 153/5, ff. 114-15, Letters from 'A.P.' to John Sharpe and Francis Vane, 1 and 2 December 1731; CO 5/1294, ff. 105-11, 'Report to the Lords of the Com. of Council in relation to the appointing a Deputy Governor of Pennsylvania & the three low Counties', 3 June 1737.

figures like Northey were for Catholics when trying to protect their estates and businesses on the other side of the Atlantic.

This chapter has charted the diverse international relationships between nation states and their Catholic populations, as well reconstructing longstanding networks between Britain and the Leeward Islands. These transatlantic business networks not only relied on the knowledge of figures such as Northey, Popple senior and junior, and other commissioners: they enabled the dissemination of news through communications networks between petitioners and colonial governors who wrote back home to Britain to report events that had recently occurred to interested parties, including the Board of Trade and Plantations, and to try and maintain their autonomy and control over matters which affected trade, business, and religious affairs in these dominions. By the early-eighteenth century, the Leeward Islands was vastly expanding as a colonial enterprise within the emerging British Empire, and Catholics were a vital part of the story.



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