

# The *Burgh of Stade* and the Maryland ‘Court of Admiralty’ of 1672

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Records of Swedish interaction with the British colonies in North America in the later seventeenth century are quite spartan when compared to other trading nations who operated around them. However, in 1672 a Swedish ship, the *Burgh of Stade*, fell foul of the English Navigation Acts and was tried at a Court of Admiralty in Maryland.<sup>2</sup> This event has been overlooked by both scholars of maritime history in the Americas and Swedish historians due to the fact that the documents themselves have been preserved in a file reserved for Swedish shipping taken as prize by the English during the third Anglo-Dutch War (1672-1674). Thus the name of the ship the *Burgh of Stade* is missing from the most complete work on the subject of the Maryland ‘Courts of Admiralty’ published in 1995.<sup>3</sup> The question of what the ship was doing in British colonial waters is not directly answered by the documents, though trade in an unusual commodity is at the heart of the matter. The *Burgh* carried a cargo of 50,000 bricks. By c.1674 brick buildings were unusual in Maryland, with the chapel in the capital being one of the few examples.<sup>4</sup> The opportunity to rectify this by bringing in a

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<sup>2</sup> The National Archives of Sweden (Riksarkivet), Stockholm. Anglica, VII, 543: Handlingar ang. Kaperier 1670-1691. Throughout the documents *Stade* is called variously in this document *Stane*, *Stoade* and *Stade*. The town lies on the south side of the River Elbe opposite Hamburg and lay in the secularized Bishopric of Bremen, which became a Swedish possession as part of the Treaty of Westphalia in 1648 at the end of the Thirty Years’ War. It remained so until 1715. For more on Swedish-Germany after Westphalia see Ulf Pauli, *Det Svenska Tyskland: Sveriges tyska besittningar 1648-1815* (Stockholm, 1989); Beate-Christine Fiedler, *Die Verwaltung der Herzogtümer Bremen und Verden in der Schwedenzeit 1652 – 1712: Organisation und Wesen der Verwaltung* (Stade, 1987); Beate-Christine Fiedler, ‘Schwedisch oder Deutsch? Die Herzogtümer Bremen und Verden in der Schwedenzeit 1645 – 1712’, *Niedersächsisches Jahrbuch für Landesgeschichte*, 67 (1995), pp.43-57.

<sup>3</sup> David R. Owen and Michael C. Tolley, *Courts of Admiralty in Colonial America: The Maryland Experience 1634-1776* (Durham, North Carolina, 1995).

<sup>4</sup> Although brick could be made readily and was more cost effective than the common wooden construction, the lack of bricklayers led to a scarcity of brick buildings until after 1700. A one-storey house measuring twenty by

consignment of bricks was taken by some ‘opportunistic’ Swedish citizens, though their action eventually cost them their ship and the profits from their consignment.

Naturally, as an overseas colony, trade played a critical role in the economic and demographic health of Maryland. Dozens of inbound ships brought settlers, slaves, manufactured and luxury goods; outbound ships carried some furs, but chiefly tobacco.<sup>5</sup> Until 1664 the colony, or more correctly ‘proprietary province’ stood on the southern border of the Dutch continental North American possessions.<sup>6</sup> Largely inspired by European demands for tobacco, commerce conducted with ships of the Dutch Republic continued even after the English conquered the Dutch colonies.<sup>7</sup> The Swedish physical presence in the area had ended in 1655 when their former colony on the Delaware came under Dutch authority. Still, as a player in the mercantilist game, its merchants continued to send ships across the Atlantic to their former colonists when and where the opportunity allowed.<sup>8</sup> Though the Swedish ‘colony’ had ended, a Swedish community continued on the Delaware for a much longer period. When the colony transferred to Dutch control in 1655, many of the Swedish colonists remained taking an oath of loyalty to the Dutch Republic. This facilitated continued trade between the colony, the Dutch Republic *and* Sweden (including Swedish Germany).<sup>9</sup> However, the transition period had not been easy for the communities concerned. While the Swedes and Finns had accepted Dutch rule without any significant problems, only a few years after the subsequent transfer to the Stuart Crown seditious plans arose among the Swedish-Finnish population. On 13 December 1669 it was reported that there had been a ‘silly intention of an insurrection amongst the Finns at Delaware, but the ringleaders being surprised, their design was broken. They pretended an expectation of some Swedish ships to

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sixteen feet and nine feet tall required 4,656 bricks. See *Proceedings of the Council 1667-1687/8* (Baltimore, Maryland: Maryland Historical Society, 1887), V, pp.363-64; Gloria L. Main, *Tobacco Colony: Life in early Maryland, 1650-1720* (Princeton, 1982), pp.147, 149-151, 157. In 1674 Charles Calvert offered the seat of government to either St Mary’s or Anne Arundel counties if one of them built him a *brick* governor’s mansion, though neither accepted his challenge.

<sup>5</sup> Margaret Morriss, *Colonial Trade of Maryland, 1689-1715* (Baltimore, 1914), pp.21-52, 59-60, 80-1, 85, 132.

<sup>6</sup> The province had a proprietor who, at this time, was Cecelius Calvert, 2<sup>nd</sup> Lord Baltimore. Maryland did not become a ‘royal colony’ until 1691. See Owen and Tolley, *Courts of Admiralty in Colonial America*, p.23.

<sup>7</sup> Charles Calvert said that the colonists could export tobacco using Dutch ships, if the colony collected and remitted the duty to be levied on tobacco sent to England or Ireland. See John T. Scharf, *History of Maryland from the Earliest Times to the Present Day* (3 vols., Pennsylvania, 1879 - 1967 reprint edn.), II, pp.518-19.

<sup>8</sup> For instance in 1669 the Lords Committee on Foreign Affairs objected, ‘That they conceive it contrary to law and very prejudicial to trade for leave to be granted to three Swedish ships to trade at Plymouth [colony].’ *Calendar of State Papers, Colonial Series America and West Indies 1669-1674*, ed. W.N. Sainsbury (London, 1889), p.21.

<sup>9</sup> For more on this colony see J. Blees, *Svenska kolonien vid Delaware 1638-1655* (Stockholm, 1937); N. Jacobsson, *Svenska öden vid Delaware 1638-1831* (Stockholm, 1938).

reduce the place'.<sup>10</sup> Not only were there problems over the new English colonial regime, but there was also encroachment into Delaware from Maryland colonists. Mr Whyte, surveyor-general of Maryland laid claim to the west side of the Delaware River as did Sir William Penn.<sup>11</sup> Cecilius Calvert, 2<sup>nd</sup> Lord Baltimore, escalated the dispute with Penn over the 'Three Lower Counties' or 'The Territories' as part of Delaware was known. From 1670, Lord Baltimore started to make land grants in the region called the Whorekill - from Bombay Hook to Cape Henlopen. It is estimated that between 1670 and 1682 he laid out 47 allotments there to 45 persons, consisting of about 19,000 acres in all, erected eventually into the county of Durham. Since the fall of New Amsterdam in 1666 to the British, the New York governors Nicolls, Lovelace and Andros issued land grants there as well, claiming the territory for James Duke of York as part of the Dutch conquest.<sup>12</sup> This finally came to a head in 1682 when the Duke found in favour of Penn over Baltimore, but in the meantime it must have awoken suspicions among the Maryland community against their Swedish *and* Dutch neighbours, particularly after the 3<sup>rd</sup> Anglo-Dutch war was declared in 1672, albeit skirmishing had commenced before that date.<sup>13</sup> This then was the brief background behind any Swedish interests along this particular coast. Swedes resident within the British colonies undoubtedly played a part in informing their 'countrymen' about trading opportunities and some may have ordered the consignment of bricks. Certainly the ships' crew of the *Burgh of Stade* had been able to unload their cargo before being arrested at sea by the *Hopewell of London*. The *Burgh*, not being English built and the crew being over three quarters 'non-English', had little chance of escaping the attention of the colonial authorities. Thus, in 1672, a 'Court of Admiralty' assembled to hear the case brought against her.

Although the Provincial Court sometimes called itself a 'Court of Admiralty', it was not really such. As a proprietary colony, the charter granting it to Cecilius Calvert gave him absolute ownership of the land and total authority to govern the province, which he usually did via the Provincial Court.<sup>14</sup> It was nowhere stipulated that he could call Courts of Admiralty, but nor was it stipulated that he could not. The Court of Admiralty was therefore simply an alternative incarnation of the Provincial Court convened under the gubernatorial

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<sup>10</sup> *Calendar of State Papers Colonial: America and W. Indies 1669-1674*, p.47. This reference is interesting in that it picks out the Finns and not the Swedes as the insurgents.

<sup>11</sup> *Calendar of State Papers Colonial: America and W. Indies 1669-1674*, p.47.

<sup>12</sup> C. M. Andrews, *The Colonial Period of American History* (4 vols., New Haven, 1934-1938), II, pp.361-362.

<sup>13</sup> Calvert had the colonial militia cavalry plunder and burn settlements in Delaware between 1671-73, a year before the Anglo-Dutch War broke out. It remains to be established if it was Swedes, Dutch or fellow 'English' colonists who bore the brunt of these attacks. See Stephen S. Webb, *1676: The End of American Independence* (New York, 1984), p.72.

<sup>14</sup> Owen and Tolley, *Courts of Admiralty in Colonial America*, pp.46 and 60.

powers that granted the Maryland governor full powers as ‘chief justice’ and ‘admiral’ of his province.<sup>15</sup> The governor served as ‘presiding justice’ while the ‘associate justices’ were made up of the colony’s council members.<sup>16</sup> A wide range of maritime causes were entertained by the Provincial Court exercising its ‘Admiralty’ jurisdiction: e.g., disputes arising from charter-parties, seamen’s wages, carriage of goods, etc. Violations of the Navigation Acts figure prominently in these causes.<sup>17</sup> The Navigation Acts were protectionist in nature, aimed to concentrate trade with the colonies in the hands of English shipping by ensuring all ships trading were either English or colonial with at least three quarters of the crew being subjects of the king of England.<sup>18</sup> The case of the *Burgh of Stade* apparently shows an example of enforcement of the Navigation Acts by obedient colonial Englishmen convening to condemn opportunistic Swedish interlopers in the closed English overseas market. An examination of the Marylanders themselves reveals a far more complex situation, in which the colonists seemingly colluded for their own benefit and the discomfort of the Swedes.

The convening of the Court of Admiralty to try the *Burgh of Stade* had its roots in both proprietary and royal actions as well, perhaps, as in the game of territorial expansion. Charles Calvert, heir of the proprietor Cecilius Calvert 2<sup>nd</sup> Lord Baltimore, served as governor of Maryland between 1661 and 1675 with only a brief interlude of a few months in 1669-1670. He further received an appointment from his father as admiral of the colony on 14 September 1661.<sup>19</sup> Lord Baltimore revoked the commission as ‘Admiral’ on 16 February

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<sup>15</sup> Owen and Tolley, *Courts of Admiralty in Colonial America*, p.79.

<sup>16</sup> Most recently this subject has been discussed in Owen and Tolley, *Courts of Admiralty in Colonial America*, p.79 and passim. See also C.M. Andrews who notes that ‘probably no colonial governor, proprietary or royal, ever exercised plenary jurisdiction in vice-admiralty matters, certainly not before 1692, up to which time no governor was legally authorized to appoint single judge, register or marshal, or after 1697, there were no courts of vice-admiralty, properly so called, erected under commission from the High Court of Admiralty in England, authorized by warrants from the Admiralty, which alone could convey full admiralty powers. After the middle of the century, in one or two of the West India islands and possibly though not certainly in one or two of the continental colonies, cases of prize, which normally should have been sent to the High Court, were locally handled, under authority from the governors in their capacity as vice-admirals as well as governors, when authorized to do so by commissions issued at the beginning of a war. In the main, however, particularly along the coast from Massachusetts to Virginia, where an expanding commerce demanded the settlement of many disputes of a maritime character, ordinary admiralty business was dealt with in the existing common law courts, such as the county courts, inferior courts of common pleas, specially erected courts of oyer and terminer, the provincial court of Maryland, and the mayor’s court of New York City’. See Andrews, *The Colonial Period of American History*, IV, large footnote, pp.222-224. In this section he further references his own article ‘vice-admiralty courts in the colonies’ as an introduction to volume III of *American Legal Records* (1937) and an attack on this piece by Mr Goebel of the Columbia Law School in *American Historical Review* (January 1937).

<sup>17</sup> Owen and Tolley, *Courts of Admiralty in Colonial America*, pp.60-61 and 79-80.

<sup>18</sup> See L. Harper, *The English Navigation Acts* (New York, 1939); Owen and Tolley, *Courts of Admiralty in Colonial America*, p.102.

<sup>19</sup> Calvert had an exalted perspective of his authority. In November 1670 he ordered the colonial sheriffs to exclude freemen with less than fifty acres of land or forty pounds sterling personal property from voting,

1666, but renewed it the same day and repeated it again on 8 December 1671.<sup>20</sup> Soon after his appointment, the Provincial Court, sitting as the Court of Admiralty, presided over a number of maritime cases; *Richard Collett, Collector v Content of Boston* (1663); *Charles Calvert, Governor v Red Sterne* and *Jacob Backer* (1664) and *William Calvert, Attorney General v The Hopewell* (1666).<sup>21</sup> Although these cases resulted in the forfeiture of ships and cargo, Calvert was one of the colonial governors who received Charles II's letter of 20 January 1669 reminding them to enforce the Navigation Acts despite, or perhaps because of, his own resistance to them.<sup>22</sup> On 24 December 1670 his father ordered that ships appear only at designated ports in obedience to the royal demand. Subsequently, Maryland's Court of Admiralty dealt with a number of other ships violating the Acts.<sup>23</sup> The initial cases are interesting as they alert us to the consequences of losing to the Court of Admiralty. In the case of *William Calvert v The Hopewell*, the Court of Admiralty found that the master was in contravention of the 1663 Navigation Act. The cargo, ship and her furniture were therefore forfeited.<sup>24</sup> The proceeds were divided up with a third each going to the Lord Proprietor (Cecilius Calvert), the Governor (Charles Calvert) and the Attorney General (William Calvert). True, the fact that 'one third' had to be paid to the informer who sued the vessel was provided for in the 1663 Act, but it cannot be denied that prosecution of the *Hopewell* turned out to be a good day's work for the Calvert family.<sup>25</sup> This case, coupled with repeated assertions that neither Lord Proprietor nor Governor had any faith in the Navigation Acts, hints that there may have been other motives influencing their decisions in particular cases. One cannot help but think that personal profit may have been one of them with patronage among the other legal representatives ensuring the 'correct' outcome in some cases. A perusal of who these people were and what their relationship was to the Calvert family is most revealing.

Thomas Notley, the attorney for Swedes, had acted previously for the defendants in two cases in the colony's admiralty court involving violation of the Navigation Acts in 1664-

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although they (except for the clergy) continued to pay taxes. Six years later he arbitrarily reduced county representation in the assembly's lower house from four to two members. Andrews, *The Colonial Period of American History*, II, pp.339-40; Owen and Tolley, *Courts of Admiralty in Colonial America*, p.60,

<sup>20</sup> Archives of Maryland, *Proceedings of the Council 1633-1667* (Baltimore, 1885), III, p.439 for the first court. Archives of Maryland, *Proceedings of the Council of Maryland, 1636-1770* (Baltimore, 1896), XV, pp.3-6 for the 1671 appointment as admiral. Calvert also levied anchorage duties on all ships entering the Potomac River, even when Virginian ports were their destinations. See Scharf, *History of Maryland*, I, p.284.

<sup>21</sup> Owen and Tolley, *Courts of Admiralty in Colonial America*, pp.253-254, 258-260 and 263.

<sup>22</sup> Owen and Tolley, *Courts of Admiralty in Colonial America*, pp.86 and 111-12.

<sup>23</sup> Owen and Tolley, *Courts of Admiralty in Colonial America*, pp.253-271.

<sup>24</sup> Owen and Tolley, *Courts of Admiralty in Colonial America*, p.263.

<sup>25</sup> For the 'one third' distribution in the 1663 Act see Owen and Tolley, *Courts of Admiralty in Colonial America*, p.104.

66.<sup>26</sup> More remarkable was Notley's involvement with three Dutch-built ships (*Winsor*, *Senceree*, and *Croscombe*), which were carrying Dutch goods, and seized by Maryland-based royal customs agents in 1672, almost certainly as part of the ongoing third Anglo-Dutch war. Calvert told his father that the ships should have been cleared at trial and that the seizure arose from 'jealousy' and suborning of customs agents, and not through Notley's conduct. He expanded, 'for Mr. Notleys pt I am Confident he neither is nor would be Concerned in anything that should be prjudiciall to yor. Lopp or the Governmt here'.<sup>27</sup> This may simply have reflected Notley's station as a good citizen of Maryland.<sup>28</sup> But there are more connections to make one suspect the actions of the admiralty court in the case of the *Burgh of Stade*, not least the fact that Notley had been the recipient of the 50,000 Swedish bricks from Sanders Sanderson, master and commander of the *Burgh of Stade*.

The composition of the Court of Admiralty and its chosen site to convene are hardly accidental. Jesse Henry Wharton (d. 1676), the court's president and the only member Calvert mandated as essential to the quorum, was a Roman Catholic linked directly to the governor. He had married Elizabeth Sewall daughter of Jane Lowe and her first husband Henry Sewall. Elizabeth was the stepdaughter of the Governor, who had taken her mother Jane as his second wife in 1666. Calvert described Wharton to his father in April 1672 as 'a good understandinge Man', whom he had appointed to the governor's council and as a justice on the provincial court.<sup>29</sup> The following year Calvert noted that Wharton enjoyed the favour of Lord Baltimore, the colony's proprietor.<sup>30</sup> Robert Ridgely (d. 1681), the court's secretary, was a colonial civil servant and thus an employee of the governor. He held the following positions: clerk of the governor's council, 1664-69 and 1670-74, clerk of lower house of the assembly, 1671-81, clerk of secretary's office and provincial court, 1671-74, and deputy secretary of the colony, 1671-73. William Boarman, who was named to the court

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<sup>26</sup> In particular the case of the English frigate *Expedition* in 1664 is interesting. During this time Notley acted as defense 'attorney' yet had no legal training. Indeed before the formal admissions to the Provincial Court in 1666, attorneys were simple men with 'some' education. See Owen and Tolley, *Courts of Admiralty in Colonial America*, p.177.

<sup>27</sup> *The Calvert Papers* (Baltimore, 1889), p.288. He elaborated his view of customs collectors in 1681 when he wrote, they are 'as great knaves to the king, disturbers of the trade and peace of this province.' Scharf, *History of Maryland*, I, p.289.

<sup>28</sup> Thomas Notley (1634-April 1679) immigrated from Barbados to Maryland, where he started out as a merchant. He was one of the two most dominant figures in the colony between 1650 and 1680, amassing his wealth by diversifying into tobacco planting, real estate deals and practicing as an attorney. His religious affiliation is open to question. In the 1670s he was a Roman Catholic, but considered a poor one by one of the priests. Andrews, *The Colonial Period of American History*, II, p.377. In a declaration justifying his government on 13 May 1682, Calvert called him a Protestant which would support Andrews' contention regarding the strength of his religious conviction. See Scharf, *History of Maryland*, I, p.288.

<sup>29</sup> Scharf, *History of Maryland*, I, p.264.

<sup>30</sup> Scharf, *History of Maryland*, I, p.284.

but failed to serve, was a prominent planter in St. Mary's County.<sup>31</sup> John Jordein was a middling tobacco planter in the same county who served as a county appraiser between 1669 and 1671.<sup>32</sup> William Rosewell (1637-1695) hailed from the same level of colonial society, and owned land in both Charles and St. Mary's Counties. By 1673 he had served as a county juror (1661), county appraiser (1663, 1669), justice of peace (1664-66, 1668-1679), and provincial court juror (1665).<sup>33</sup> Benjamin Solley (d. 1674) also belonged to the same social stratum and served as a St. Mary County justice of the peace (1670-74), and a supervisor of highways (1670). As for the setting of court - Manahowick Neck on the Wicomico River in St. Mary's County - it was the principal residence of Thomas Notley, attorney for the Swedes and recipient of the cargo!

The connections between five individuals - the presiding officer, the recorder, the informer, the attorney and the governor - make this a most interesting case. Wharton, the presiding officer, has already been discussed; one should recall he formed part of the governor's inner circle. The recorder, like wise, was a dependent of the governor. The informer Benjamin Rozer (d. 1681), a protestant, resided in Charles County and served as a colonel of the county militia.<sup>34</sup> With Notley he shared the position of being a dominant Protestant figure in Maryland between 1650 and 1680. Rozer had started his career as a merchant, but diversified into landowning, tobacco planting and acting as an attorney-at-law

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<sup>31</sup> William Boarman/Boreman (1630-16 May 1709), was a fervent Roman Catholic, who claimed he 'was borne and bred So.' See Raphael Semmes, *Captains and Mariners of Early Maryland* (Baltimore: The Johns Hopkins Press, 1937), p.345. He was born in England and arrived in Maryland in 1645. By November 1652 he was a landowner in St. Mary's County, and branched into land speculation. He served with the Roman Catholic proprietary forces that met defeat at the hands of the Puritans at the battle of the Severn in 1655. He served as a county appraiser in 1659. By 12 October 1661 he had risen to captain in the St. Mary's County militia. In 1663-68 he acted as a justice of the peace for the county, and was the coroner in 1671. He received 3,000 pounds of tobacco for building a bridge between Charles and St. Mary's counties in 1669. He served as county delegate to the lower house of the Maryland assembly in March 1671, and was subsequently re-elected. During the summer of 1672 he was involved in a business transaction with Thomas Notley. Boarman represented the county in the assemblies convened until 1675. He was a county justice in 1676-79, and then served as sheriff until 1683. Boarman/Boreman continued to gain prominence. In August 1674 he was named to a commission dealing with the Zachia Swamp Bridge between St. Mary's and Charles counties that included Jurdaine, Rosewell, and Solley. His commission as a JP was renewed in 1675. By 1678 he had been promoted to a major in the militia; in 1678-79 he served as High Sheriff. The governor's council appointed his home as the place for unlicensed trade with the natives. In summer 1678 Governor Notley appointed him to negotiate with the Piscataway and Choptico tribes. That year he became the county's presiding justice. In 1681 he was High Sheriff of St. Mary's County, when he was falsely implicated in a Seneca-Roman Catholic conspiracy against Protestant colonists - backwash of the Popish Plot.

<sup>32</sup> Jordein (aka Jordaine, Jourdaine, Jurdaine) later served as a justice of peace (1676-78), and county coroner (1676).

<sup>33</sup> Rosewell (aka Rossewell, Roswell) would act as a St. Mary's County appraiser again (1675, 1676, 1682, 1683, 1685, 1687, 1692, 1694), and also as a provincial court juror (1679, 1680). At his death he owned over 1,165 acres.

<sup>34</sup> His name is also variously spelt Roser, Rozier and Rosier.

(the last from 1662). He was first appointed sheriff of Charles County on 15 April 1667 and re-appointed on 1 April 1668, and continued acting in that capacity until June 1672. In payment for the use of his home as the courthouse he received tobacco from the county, which further enhanced his income. In 1672 he received the grant of St. Thomas' Manor, which became known as Rozer's Refuge. That year Charles Calvert helped him to acquire a 'moiety' of 2,000 acres, for which Rozer offered to buy the reversion. So, what of Notley, the Swedes' attorney and recipient of their cargo of bricks? He resided in St. Mary's County, which often elected him to the lower house of the assembly (1662-64, 1666, and 1669). He served as its speaker in 1666, and 1671, or for two of the four sessions held between 1666 and 1671. In that same year he served as alderman of St. Mary's City. By 14 January 1667 he had become the legal advisor of the governor, Charles Calvert. Indeed, Notley's connections to the governor were closer than those one might expect from an attorney - particularly one defending on a case in which the governor had a strong interest in a successful prosecution. By the assembly meeting of 1669 he had become a vocal Calvert partisan and held the colonial office of deputy receiver general. His allegiance to the proprietary interest led the governor to an extraordinary act when Notley was not returned for St. Mary's County in 1671. Calvert created two seats for the colonial capital, St. Mary's City, in order to provide Notley and another of the proprietary party with seats. Calvert wrote his father Lord Baltimore, 'And now I have Mr. Nottly (sic) into the Chaire [of the assembly's lower house], I have Assured him, That with yor. Lordships Leave, I am Resolved to Keepe him there as longe as he and I live together...'. Later in the same letter, Calvert stated Notley was to assist him drawing up his accounts for 'Severall years past'.<sup>35</sup> Notley's close ties with the governor and the latter's low opinion of customs agents explain why Charles Calvert excused his ally's connections to the previously noted Dutch violations of the Navigation Acts in 1672. Notley and Rozer were also allies and most certainly supported each other's actions for the simple reason, that Notley's daughter Mary (d. 3 April 1679) was Rozer's first wife. During the case against the *Burgh of Stade* she was pregnant. Following the child's birth on 1 July 1673, Notley acted as godfather to his grandson named Notley-Rozer. Thus, we have a court created by Charles Calvert presided over by one Calvert client, with the informer being one of the colony's leaders, his father-in-law (another Calvert client) serving as the Swedes' attorney at his principal residence, and one of the colony's chief civil servants (a colleague of the presiding judge and attorney) recording the legality of the case. The Swedes appear to

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<sup>35</sup> *Calvert Papers*, pp.265, 274-75.



have had little chance of a fair trial and the relationships outlined above do suggest that one should be suspicious of the court's integrity.

### *Conclusion*

The relations of the principals involved in the case support the contention that collusion, not fairness, led to the judgment against the Swedes. All were subsequently rewarded for their continued support of the Calvert family. Wharton served in the assembly's upper house in 1674-75 and 1676, and received a colonelcy in the militia in 1676. More impressively Calvert appointed him his deputy lieutenant governor, then deputy governor in 1676. Of greater interest some of the colonists viewed him and Calvert as forming an arbitrary, oppressive government.<sup>36</sup> Notley, too, cultivated his connection with Charles Calvert. In 1674 he served as alderman of St. Mary's City. As per Calvert's promise, he acted as speaker of the lower house of the assembly (1674-76), before being elevated to the upper house in 1678. In 1676 Calvert appointed him to the governor's council, as justice on the provincial court, and joint agent and receiver general of the colony.<sup>37</sup> Again, thanks to Calvert, he became deputy lieutenant governor in 1676, succeeding to the deputy governorship (and *de facto* governorship) that October. He held the latter position until his death in April 1679. Charles Calvert (now 3<sup>rd</sup> Lord Baltimore) and Rozer served as executors of his will. Rozer was reappointed High Sheriff of Charles County on 8 September 1674 and 3 November 1675. He served as agent and receiver general of the colony from 1676-79, and was on the governor's council in 1677. In 1679 he married Anne Sewall (daughter of Henry Sewall, secretary of Maryland after 1661, and Jane Lowe, and therefore step son-in-law of Charles, 3<sup>rd</sup> Lord Baltimore). Ridgely, who recorded the court's proceedings, continued to prosper under Calvert's patronage too. Following the revocation of Sir William Talbott's commissions, Calvert appointed Ridgely clerk of the provincial court and register of the court of chancery on 25 April 1673. In September 1674 he was acting attorney general of the colony. At his death he was owed 500 pounds and owned 5,094 acres of land. Adding further support to the idea of illicit collusion, petitioners to the king in September 1676 accused the governor and his favourites of appropriating internal taxes, fees, escheats, quit rents, port duties and licenses to their own use and not for the good of the colony. Thus incidents such as the condemnation of the *Hopewell* or the *Burgh of Stade* added to the grievances of the colony's

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<sup>36</sup> *Proceedings of the Council of Maryland, 1636-1770*, pp.246-49.

<sup>37</sup> Owen and Tolley, *Courts of Admiralty in Colonial America*, pp.60 and 176-77.

anti-proprietary group.<sup>38</sup> Even Charles Calvert's own subsequent career indicates little by way of strict compliance with the Navigation Acts. In 1681 responding to a query from the Board of Trade, Calvert answered that the Navigation Acts formed the largest barrier to commerce in the colonies. His negative attitude and failure to enforce the acts led the Lords of Trade to make the singular action of fining him £2,500 sterling in 1681.<sup>39</sup> That dispute, as well as his truculent attitude to the commissioners of customs and the English Privy Council over enforcing the Navigation Acts and customs regulations, led the king to rebuke him in 1682.<sup>40</sup>

The seizure of the *Burgh of Stade* appears on one level to simply demonstrate the Maryland colonists' obedience to the royal letter of 20 January 1669 which would show that Lord Baltimore's order of December 1670 was being enforced. Colonial attention to the royal requirement would result in maintaining the proprietor's independence from royal interference. However, land disputes with Swedes coupled with the threat of insurrection by the Swedish-Finnish community in an ex-Dutch colony might offer deeper insights behind the seizure of a Swedish ship rather than simply a breach of the Navigation Acts. Moreover, Notley apparently personally retained the bricks while the ship and furniture made a fine addition to Maryland's growing mercantile fleet. Whatever the exact motivations behind the action, they carry some broad implications. This case illustrates some of the dynamics of American politics, such as the development of local institutions, and their manipulation for the advantage of the privileged elites. More importantly, it foreshadows eighteenth century American colonial antipathy to the Navigation Acts and sympathy for smuggling, which formed one of the critical areas of disagreement between the motherland and the colonies. Yet, in a fascinating twist, the anti-proprietary interest in Maryland would include in its petition to the English government in 1689 a criticism of Charles 3<sup>rd</sup> Lord Baltimore for his failure to enforce the Navigation Acts. This would have seemed ludicrous to the owners and master of the *Burgh of Stade*. They were clearly victims of the Acts, enforced vigorously and followed by a mock-trial in a very partisan court.

But perhaps of equal value to the understanding of this specific case is that the existence of these documents in their Swedish context may point to possible sources for American colonial history awaiting discovery in other European archives.

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<sup>38</sup> Webb, 1676, pp.70-9.

<sup>39</sup> Owen and Tolley, *Courts of Admiralty in Colonial America*, pp.86-97 and 112.

<sup>40</sup> *Calendar of State Papers Colonial Series, America and West Indies 1681-1685*, ed. J.W. Fortescue (London, 1898), pp.95-6.

## MARYLAND DOCUMENTS FOUND IN THE NATIONAL ARCHIVES OF SWEDEN<sup>41</sup>

### Document 1

1. Maryland is At a Court of Admiralty held
2. at Mannahowicks-neck in the county of St Maryes
3. within the said province before the commissirs: thereunto
4. appointed the Eightenth day of Feb: in the 41<sup>th</sup> yeare
5. of the Dominion of the Right honor:ble Cacilius
6. Anno domini one thousand six hundred seaventy and two:
  
7. Present the honor:ble Jesse Wharton Esq presid:t of the
8. Same Court:
9. William Rosewell and
10. Benjamin Solley                    gentl:n assistants
  
11. The Court being called then did the comissioners command
12. the commission (by virtu of which they sate) to be read
13. by the Clerke, which was accordingly done and followeth
14. In these words (wit)
15. Charles Calvert Cap:t General Cheif
16. Gouvernour and cheif admiral of this province of
17. Maryland under the Right hono:ble Calius absolute Lord
18. and proprietary of the Provinces of Maryland and
19. Avalon Lord Baron of Baltamore Etc: to Jesse
20. Wharton Esq William Rosewell William Boarman
21. Benjamin Solley and John Jordenie gentl: Greeting
22. Whereas we have bjn informed by Benjamin Rozer of
23. Charles County gentl:n who as wel on the behalfe of
24. our Soueraigne Lord the King, as on his owne proper
25. part followeth that their is arrived in this province
26. a shipp called the Burgh of Stane alias: Stoade within
27. the Dominion of his Majesty of Sweden whereof
28. Sander Sanders is comm:r and also that the said commander
29. and seamen and all subjects of his Said Majesty of Sweden
30. and also that the said shipp hath broke bulke by landing

page 2

31. in this province some briques contrary to the act of

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<sup>41</sup> The National Archives of Sweden (Riksarkivet), Stockholm. Anglica, VII, 543: Handlingar ang. Kaperier 1670-1691. Please note, the scribe uses a hand where it is sometimes difficult to tell when a letter is capitalized, especially the letters g, m and s at the start of a word. We have therefore standardized the capitalization of personal names and months to avoid confusion.

32. parliament in that case made and provided, She not being  
33. duly navigated, upon which information : of the said  
34. Rozer I by a special order under my hand and seale,  
35. did commaunde and require William Sanders commander  
36. of the good shipp the Hopewel of London to arrest  
37. and seize the said shipp called the Burgh of Stane  
38. als: Stoade to gether with all her gunns tackle furniture  
39. amunition and apparrell and her in safe custody to  
40. keepe untill she should be brought to a legal tryal  
41. upon the information aforesaid and whereas their can  
42. be nothing more advantagious to the trade of this  
43. Province then to make a quick dispaeth in the proceedings  
44. in marratime affaires, whereby they may not ly long in  
45. suspence and put the pirties to unnecessary charges by  
46. dilatory proceedings and being very well assured of your  
47. Judgem:ts abillityes honnestyes and understandings in such  
48. like affayres Have deputed Empoured Constituted and ordained  
49. you or any three or more of you (whereof I will that the  
50. said Jesse Wharton be one) to be judges of a Court of  
51. Admiralty for this time, for the tryal and condemnation  
52. or acquittall of the shipp burgh of Stane als: Stoade  
53. aforesaid Together with her gunns tackle furniture  
54. ammuniton and apparrell and also to call and command  
55. before you as wel the said Benjamin Roser who as  
56. well on the behalfe of our souereigne Lord the King  
57. as on his owne p:t followeth as also the said Sander Sanders  
58. commander of the said shipp and to view peruse and  
59. looke into all papers passes passeports bills of lading  
60. letters credentialls or other scripts whatsoever that  
61. shall anyway relate to or concerne the said shipp and  
62. haveing fully heard the allegations proofes Evidences and  
63. testimonies of both sides then to give your full and finall  
page 3.

64. Doome Sentence and determination Either for the acquittall  
65. or condemnation of the said shipp together with her gunns  
66. tackle furniture ammuniton and apparrell and if it shall  
67. so happen that the said information shall be affirmed –  
68. and the said shipp be condemed for breach of the acts  
69. of parliament aforesaid then that you appoint two honest  
70. and discreete men such as you to you shall [...] meete

71. to appraise the said shipp together with her guns tackle
72. furniture ammunition and apparrell upon their oathes –
73. which I doe hereby empower you or any three of you
74. as aforesaid to administer unto them and I doe hereby
75. authorise ordr. And empower Robert Ridgely to be
76. clercke of the said court of admiralty for the more
77. full doing? manageing and transacting the premisses
78. hereby commanding you or any three of you where-
79. of I will that the said Jesse Wharton to be one to send
80. me a copy of all Singular your proceedings
81. of and upon the premisses together with the said
82. appraysemt. under the hands and sealls of the said
83. appraysers, attested under the hand of your said clerke
84. and for your proceedings herein this shall be your
85. warrant given under my hand and seale of armes this
86. one and thirtieth day of January in the one and
87. fortieth yeare of the Dominion of the Said Lord
88. proprietary over of the said province of Maryland annoque
89. dominio one thousand six hundred and seventy two
  - a. Which said commission being read and Benjamin
  - b. Roser the informer being called and also the said
  - c. Sander Sanders who both appearing the said
  - d. Benjamin Roser exhibited the information following (wit)

**Document 2**<sup>42</sup>

1. Maryland ff. To the honourable the Judges of the Court
2. of Admiralty of the Right honourable Cacilius absolute
3. Lord and proprietary of the Provinces of Maryland and
4. Avalon Lord Benson of Baltamore etc within this
5. Province of Maryland.
6. Memorandum that the eighteenth in the 41th yeare of his
7. said Lords[ships] dominion over Maryland aforesaid annoq
8. Domini 1672 came here into this court Benjamin
9. Roser in his proper person and exhibited to the judges
10. of this Court a certaine information against Sander
11. Sanders marriner master and commander of the ship
12. Burgh of Stane als Stoade in the Kingdome of Sweadland
13. now rideing at anchor in Wiccocomico River in the
14. county of Maryes within this province of Maryland and
15. within the jurisdiction of this court, and the said Benjamin
16. Rozer giveth this court to understand and be informed that
17. the said sander sanders the twinty fourth day of January
18. last past arrived with his said shipp in Wiccocomico River
19. aforesaid in the county of Maryes within this province
20. and within the jurisdiction of this court and did since the
21. said twenty fourth of January last past and before the
22. eighteenth day of February there at the plantation of
23. one Thomas Notley unlade and deliver fifty thousand
24. of Swedish bricques by him the said Sander Sanders
25. transported brought from Stane alias Stoade in the
26. kingdome of Sweadland in the said shipp into this province
27. of Mary ~~person~~ land without delivery by him made of any
28. inventory or envoyce of the lading of the said ship by
29. him the said Sander Sanders made to the gouvernour of
30. this province ~~otherwise~~ to any person or persons within this
31. province authorised and appointed to receive the same to
32. gether with the place or pleaces where the said goods were
33. laden or taken into the said shipp.
34. And further the said Benjamin Rozer giveth this court
35. to understand and be informed that the aforesaid shipp burgh
36. of Stane als Stoade in the Kingdom of Sweadland not bona
37. fide and without fraude and English built shipp neither are

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<sup>42</sup> Note that the first paragraph (lines 1-5) of the second document begins at the bottom of the last page of document one.

38. the said Sander Sanders master of the said shipp with three  
39. fourth parts of her marriners English but the said master

page 2

40. and marriners are all subjects of his majesty of Sweadland  
41. all which promisses are contrary to the forme and intent  
42. of an act of parliament made in the fyffteenth yeare of  
43. the reigne of king Charles the Seconde that now is  
44. and entituled an act for encouragem:t of trade and  
45. in such cases made and provided  
46. Whereupon the said Benjamin Rozer prayeth  
47. the advise the advice [sic] of this court and that the shipp  
48. all her gunns amunition tackle furniture and apparrell  
49. with the goods therein may be forfeited and adjdged  
50. according to the forme of the statute that is to say one  
51. third pr:t to his majestie Charles the Second, that now is  
52. King of England etc and one third part to his Excellency  
53. Charles Calvert Esq:re Capt:n general & cheif gouvernour  
54. of this province and the remaining third part to the  
55. Said Benjamin Roser as informer due to him for  
56. informing & sueing for the same and that the said  
57. Sander Sanders come into court and answer the promisses  
58. and the said Sander Sanders by Thomas Notley his  
59. atturey [sic] especially admitted by the favour of the court  
60. hereunto cometh and prayeth the hearing of the said  
61. informacon and it is read into him which being read and  
62. by him understood the said Sander Sanders complayneth him  
63. to be by colour of the promisses in the information  
64. specefyed to be greviously troubled and unquieted and not  
65. justly and yet for plea to the said information and as  
66. to the supposed breaches of the act of parliam:t in the  
67. said information mentioned he the said Sandra [sic] Sanders  
68. sayeth he is nothing thereof nor of any of them  
69. guilty and of this he prayeth the judgem:t of the court and  
70. the said Benjamin Roser who as well & likewise  
71. whereupon the court commands the said informant  
72. Rozer to proceed to the prooffe of his informacion afore  
73. said who producing one Wilham Sanders master of the shipp  
74. Hopewell of London who being sworne made oath that the

page 3

75. bricks in the information mentioned were landed before

76. he seized the shipp and the court pu:sing the dispatches and  
77. testimonies of the said shipp under the seale of his  
78. Majesty of Sweden and the twone [sic] of Stane alias Stoade  
79. are all clearly satisfyed that the said Sander Sanders and  
80. all the seamen belonging to the said shipp are natural  
81. borne subjects of his majesty of Sweadland and the  
82. said Sander Sanders in open court confesed that the  
83. said briques wer made at Stand als Stoade aforesaid and  
84. there by him taken in and loaden on board the said shipp  
85. and the said Sander Sanders nor his attorney Thomas  
86. Notley aforesaid haveing nothing to alledge in justifica-  
87. tion of the said shipp but the masters ignorance against  
88. the act of parliament aforesaid in the said information  
89. mentioned this Court is all clearly satisfyed that the said  
90. ship is forfeited together with all her Gunns tackle  
91. furniture ammuniton and apparrell and do adjudge that  
92. the said shipp called the Burgh of Stane als Stoade  
93. to geather with all her gunns tackle furniture amuniton  
94. and apparrell be forfeited for the breach of the act  
95. of parliament aforesaid according to the tenour and  
96. forme in the said act of parliam:t set forth and provided  
97. that is to say one third part to his majesty Charles the Second  
98. that now is King of England & one other third part  
99. to his Excellency Charles Calvert Esq:re Capt:n general  
100. and Cheif governour of this Province and the  
101. Remaining third part to the said Benjamin Roser  
102. as informer due to him for informing and sueing  
103. for the same as aforesaid.

Page 4

104. And the court being commanded by their commissioners  
105. if the said ship should be condemned to order and appointe  
106. two honest understanding men to apprayse the said shipp  
107. to geather with all their gunns tackle furniture amuniton  
108. and apparel: upon their oathes the court did appointe  
109. George Edger mate of the ship Hopewel of London and  
110. Richard Burniston carpenter of the same shipp to apprayse  
111. the said shipp Burgh of Stane als Stoade together with all  
112. her gunns tackle furniture amuniton and apparrell,  
113. and to go on board the said shipp and on inventory of  
114. apprizem:t of the same to returne to the clercke of this



115.court under their hands and seales with all convenient  
116.speed and that they might do and performe the same  
117.honestly and justly and according to the best of their full  
118.judgem:ts and Knowledges the said appraysers were swore herd  
119.in open Court to do and performe the same  
120.And the same day the said appraysers to with George Edger  
121.and Richard Burniston returned to Robert Ridgely clercke  
122.of the said court the apprizem:t of the said shipp under  
123.their hands and seales which followeth in these words (wit)  
124.Maryland the 18<sup>th</sup> of February 1672 an inventory of  
125.the materialls of the schipp Burgh of Stade now riding  
126.in Wiccocomico River as they were survoyd by us underwrite:s  
127.the day and yeare abovesaid, imprimis for the shipp hull  
128.twenty five or thirty yeares ould vallued at one hundred and  
129.foure pounds     maine mast foremast bowsprit foretop  
130.mast old , mainetopmast , missenmast broaken and yards  
131.vallued at eight pounds standing rigging halfe worren  
132.Running rigging for the general part very old twelve  
133.pounds two cables halfe worne one five inch hawser halfe  
134.worne one new warpe two peeces of old junke vallued  
135.at fifteen pounds tenne gunns small and great weighing  
136.one with the other eight hundred pound a piece two hundred  
137.pound of powder eleven old muskets six ordinary pistols  
138.seaven old swords vallued at thirty pounds foure anchors  
139.weighing one with the other six hundred pounds a piece  
140.vallued at eight pounds three small bottles with the cookes  
141.other materialls vallued at one pound two payer of  
142.handskrewes vallued at one pound tenn shillings one suite  
143.of sayles more then halfe worne withsome ould spare  
144.sayles vallued at twelve pounds ten shillings one old lang  
145.boate and one very ould yauld vallued at seaven pounds  
146.tenn shililngs Summe totall one hundred ninety nine pounds

Page 5

147.and tenn shillings George Edger sealed Richard Burniston sealed  
148.Maryland

- i. This is a true coppie of all and singular the
- ii. proceedings in and about the tryal and
- iii. condemnation of the shipp Burgh of Stane
- iv. als Stoade within the Dominions of his
- v. majesty of Sweadland as also of the inventory

- vi. of appraisement of her with her tackle
- vii. furniture amunition and apparel under
- viii. the hands and seales of the appraisers

149.Examined by me in testimony whereof I have hereunto set  
150.my hand and affixed the seale of my office this first  
151.day of March in the 41<sup>th</sup> yeare of the Dominion of the  
152.Right hono:ble cacilius &c over Maryland aforesaid and in the  
153.yeare of our Lord god one thousand six hundred seaventy  
154.and two

a. was subscribed

1. Robert Ridgely Cler: Cust: Admira:

- b. This present writting was after E[x]amination with
- c. the authentyck cobby thereof found to be a true
- d. cobby by me the subscribed Pub: notary residing
- e. at London the 28<sup>th</sup> of March a:o d:o 1674

1. Abraham R Smith (nots.publ.)

2. 1674

### DOCUMENT 3

By his Excellency The Cap:t Generall

1. Maryland
2. Whereas Sander Sanders John Cornelissan Claus Jacobson Jacob:
3. Peterson Lawrence Johnson Juran Clausson Swann And:son Peter Helder Alexand:r
4. Mannies Sandr Sandeson Jacob Keelson Claus Peterson George Rolloston Christian
5. Hanson (being subjects of the King of Sweden) arrived here in this Province of Maryland the
6. twenty fourth day of January in the yeare of our Lord God one thousand six hundred and
7. seventy two in the shipp called the Burgh of Stane als Stoade in the Dominion of his
8. Majesty of the King of Sweaden which said shipp was afterwards to with the eighteenth day of
9. February in the said yeare one thousand six hundred and seaventy two and now last past
10. by a Court of admiralty held at Mannahowikes neck Within the said Province before the
11. president of the said court of admiralty and his assistants adjudged and Condemned to be
12. forfeited for breach of the act of parliam:t made at Wesminster in the fyffteenth yeare
13. of his majesties Reigne Charles the Second King of England Scotland France and Ireland defender
14. of the faith etc and by the said Court of Amiralty lawfully condemned, and forfeited according
15. to the said act of Parliament and they the said Sander Sanders John Cornelisson Claus Jacobsson
16. Jacob Peiterson Lawrence Johnson Juran Clawson Swann Anderson Pieter Helder Alexander
17. Mannies Sander Sanderson Jacob Keelson Claus Peterson George Rollaston Christian
18. Hanson being mariners and sailors belonging to and sailing the said shipp and now being desirous
19. to returne to their owne country by way of England herebeing in these parts noe p:ability
20. of obtaineing any other passage then that way, and haveing gotten passage in the good ship
21. called the Goldensson of Maryland now Rideing at anchor in Wiccocomico River within
22. this province of Maryland whereof George Edger is command:r and bound for Newcastle in the
23. Kingdome of England and having desired from me lycence and paspoort to depart from
24. Hence in the said shipp to the said port of Newcastle for the intent and purpose abovesaid
25. I do hereby give lycence to the said George Edgar to transport and carry them the said
26. Sander Sanders John Corenlisson Claus Jacobson Jacob Peterson Laurence Johnson Juran
27. Clawson Swann Anderson Claus Peterson George Rollerton Pieter Helder Alexander Mannyes
28. Sander Sanderson Jacob Kelso and Christian Hanson in the said ship Called the Golden -
29. sson of Maryland to the said Port of Newcastle as passengers in the said shipp and not
30. otherwise given und:r my hand lesser seale of this province the ninth day of May
31. in the yeare of our Lord 1673

- a. These presents were after Examination hereof found to be a
- b. True coppie by me the subscribed notarie residing at London
- c. The 28<sup>th</sup> of March a:o D:o 1674

1. Abraham R Smit (nots.Pub).

