

Marine Insurance in Philadelphia during the Quasi-War with France, 1795-1801

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Abstract

Until 1792, marine insurance in America was entirely in the hands of private underwriters (although American merchants also obtained some insurance in London). By 1810, the business had shifted into the hands of joint-stock corporations (and much less was being done in London). This paper investigates this rapid transition between institutional forms, focusing on a pivotal period when newly-formed corporations existed side-by-side with private underwriters, and when the risks to American shipping increased substantially as a result of French privateering during the Quasi-War between the US and France. I use data from a private underwriter and a marine insurance corporation to examine the Quasi-War's effect on insurance rates, the volume of business, and the institutional structure of the marine insurance industry. I also contrast the American experience with that of Britain, where a similar transition to corporate underwriting did not occur at this time despite the stimulus of the Napoleonic wars, and with France and Holland, where a more gradual transition occurred.

1 Introduction

Around 20 June 1797, the prominent Philadelphia merchant George Latimer insured \$400 worth of goods from Philadelphia to the island of Hispaniola in the West Indies on board the snow *Boston*. He obtained his insurance through the brokerage firm of Wharton & Lewis, following a long-established practice familiar to merchants everywhere. In consultation with the broker, a policy was drawn up specifying the details of the risk; the rate of premium was set; and the policy then lay in the broker's office for several days, during which time, wealthy private individuals (often merchants themselves) stopped by and, if they considered the premium acceptable, wrote their names on the policy (hence becoming "underwriters") along with the amount of the risk they were willing to cover. A typical policy was subscribed by several private underwriters. For the *Boston's* voyage to Hispaniola, the

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rate of premium was set at 15%, reflecting the danger of capture by French privateers then active in the Caribbean.

Several other merchants were also shipping goods on the *Boston*. On June 26, William and Samuel Keith insured \$480 worth of goods from Philadelphia to Port au Prince (in Hispaniola) at 15%; and the next day, Boys & McCallmont insured goods worth \$800 to Cape Nichola Mole and one other port in Hispaniola, also at 15% (though if the risk ended at Cape Nichola Mole, $2\frac{1}{2}\%$ of the premium was to be returned). But instead of visiting a private brokerage, these merchants obtained their insurance from the Insurance Company of North America, the first joint-stock marine insurance corporation in America, which by this time was nearly five years old.

At this time, France and Britain were at war. Therefore, as was usual, the assured in all cases warranted that the vessel carried the documents required to establish that the goods were neutral under US law. Nevertheless, the *Boston* never made it to Hispaniola. On 25 July 1797, it was captured by the French privateer *Fine*, and later condemned at a French prize court in the French port of Jean-Rabel in Hispaniola. This was unfortunate, but not unusual; during the 1790s and early 1800s, hundreds of American merchant vessels suffered similar fates.

2 Marine insurance in eighteenth-century Philadelphia

In a marine insurance contract, a merchant pays a premium to an underwriter in exchange for a promise that the underwriter will reimburse the merchant for losses incurred at sea (and sometimes also in port). By the eighteenth century, contractual forms were fairly standardized, though the exact contractual details might still vary; in particular, the voyages insured ranged from simple one-way trips between two ports to more complicated voyages allowing for flexibility as to route and cargo depending on circumstances. The risks covered also varied from “sea risk” only (dangers of wind and weather) to (more usually) broader coverage including the possibility of enemy capture.

During the colonial period, many American merchants obtained insurance through their correspondents in London.¹ But insuring in London created considerable inconvenience. American underwriters had better information on local risks, and their proximity enabled quick payment in case of loss, facilitated resolution of disputes, and avoided the necessity for merchants to rely on foreign agents to make insurance on their behalf and represent their interests when making claims. They also had greater experience, and more up-to-date information, on the important West Indian routes, enabling them to cover these risks at considerably lower premia than Lloyd’s. This informational advantage was particularly important in wartime, when premia could change rapidly. For example, in December 1775, the *Minerva* was insured from Jamaica to Philadelphia at 3% by private underwriters in Philadelphia; but three months later, with the threat of war with Britain looming, a similar voyage from St. Eustatius was insured at 40% (Fowler 1888: 28-9).

3 The Quasi-War between America and France

In the eighteenth century, many private vessels were suitable for conversion to military use - indeed, many merchant vessels were armed as a matter of course. During wartime, it was common for belligerent nations to commission private vessels as privateers to prey on enemy commerce. Privateering provided a free, straightforward and incentive-compatible way for the state to increase its naval strength and harass enemy commerce, and should not be confused with piracy. At least in theory, privateers were subject to strict rules governing the treatment of both enemy and neutral vessels. If the vessels or goods they captured were legally condemned in prize courts, they became property of the captor (sometimes, the state also took a cut of the profits). If, on the other hand, the privateers were unable to show that the vessel or goods were legitimate captures ("good prize"), they were released, sometimes with payment of compensation. In practice, however, nations differed over the conditions governing the neutrality of vessels and cargoes, and inevitably, because a lot of money was at stake, the system was sometimes abused.

The maritime risks on most voyages were by and large moderate and knowable to those involved in trade. Peacetime rates on one-way voyages from America to either the West Indies to Europe were usually on the order of $2\frac{1}{2}$ - 3%, with some variations depending on the vessel, captain, time of year, destination, details of the voyage, and so forth. Because of the risk of capture, however, war could lead to substantial increases in premia, often to 20 - 30% or more. Furthermore, the uncertainty associated with the risks also increased, leading to large and sometimes sudden fluctuations in premia on particular routes, as news of political developments or enemy naval movements arrived.

Britain and France were at war from February 1793 until March 1802. Throughout this period, the United States remained officially neutral. In fact, however, the US almost went to war on several occasions. In the Spring of 1794, war with Britain for a time seemed imminent as a result of a British Order in Council issued on 6 November 1793, which amounted to a total blockade of the French West Indies (to coincide with a military campaign to conquer French colonies). By the time news of the order reached the US, the British had already captured over 250 American vessels in the Caribbean. The British, however, revoked the Order in January 1794, and in November 1794, the two countries signed a treaty. The objective of Jay's treaty, from the American point of view, was to avoid war with Britain, and to put an end to British captures of American merchant vessels. In addition, American merchant vessels obtained limited access to the British West Indies. In return, however, Jay (the American negotiator) made several concessions to Britain which were unfavorable to France and which violated the spirit of treaties which had been made between the US and France in 1778 and 1788. Among these, the treaty adopted a broad definition of contraband (goods which neutrals could not legally trade with belligerents), by including provisions; accepted

the British right to seize non-contraband goods as long as they were paid for; and accepted the “Rule of 1756”, whereby neutral vessels could not in wartime enter into a trade which had been closed to them in peacetime. These provisions were injurious to the French, who hoped to use the Americans as neutral carriers to obtain provisions, and to carry on trade with their colonies in the West Indies. Indeed, it was to preserve American neutrality for this purpose that the French had not insisted on enforcing the provisions of their earlier treaties, which in theory obligated the Americans to defend French colonies in the West Indies from the British (Allen 1909: 18).

The French were naturally unhappy with Jay’s treaty, and its final implementation was delayed until April 1796 by pro-French opposition in the House of Representatives. Once it became known that these efforts to derail the treaty had failed, France retaliated by issuing a series of increasingly restrictive decrees which led to captures of American shipping by French privateers. The first, dated 2 July 1796, was vague as to the terms under which American vessels would be “good prize” (that is, subject to seizure by privateers and condemnation in prize courts), but nevertheless served as a pretext for over 300 French captures in less than a year. A second French proclamation on 2 March 1797 stated that American ships without a properly printed *rôle d’équipage* (crew list) would be good prize, a requirement which had no basis in international law, but served as a pretext for further French captures of vessels which had had no warning of the new requirement.⁴ A third decree on 18 January 1798 provided that all neutral vessels which carried any item of British manufacture would be good prize (Allen 1909: 298-9). Since it was virtually impossible to ensure that no item of British manufacture would be found on a ship, this amounted to virtually open season on American shipping. President Adams called it “an unequivocal act of war on the commerce of the nations it attacks.”⁵

The tensions with France were exacerbated by the European wars, the distance, and the political instability in France, all of which impeded diplomatic efforts at finding a solution, and by the political chaos in the West Indies, which made it difficult for the French government to control the actions of their agents there. Some of the judges who condemned American vessels

⁴For example, the sloop *Townsend* left Massachusetts on August 28 1798, and in October was captured by a French privateer en route to the British port of Antigua, and condemned in Guadeloupe for not having a *rôle d’équipage* and invoice of cargo, though all her documents were in proper order to prove the neutrality of the cargo under U.S. and international law. The case became one of the many involved in the “French Spoliations” claims, and it was more than a century before compensation was received by the owners’ heirs (US Court of Claims, 1908).

⁵Second Annual message of John Adams, 8 Dec 1798. Accessed via the Avalon project.

in French colonial prize courts were at the same time shareholders in the privateers making the captures. Even a Frenchman described the situation in the West Indies in 1798 as “A system of piracy almost general, sustained by a commercial tribunal which condemns without reserve and without exception neutral and allied ships on the most frivolous pretexts” (Palmer p.78).

Meanwhile, an American diplomatic mission in 1797 not only failed to produce peace, but gave rise to the “XYZ” scandal which moved American opinion sharply in favor of war, so that during 1798, there was constant uncertainty about whether war would be declared. Because war constantly threatened to erupt during this period, but was never officially declared or fully engaged, the conflict “placed the Adams administration and the American people in a state of almost perpetual crisis” (DeConde 1966: 328) and is referred to as a “Quasi-War”. The French were unwilling to formally declare war - in fact, ostensibly, France’s goal was to force the United States away from an alignment with Britain and back into an alignment with France (though the effect of her actions was exactly the opposite). However, the American administration would have preferred a French declaration of war, which would have united America behind the war effort, to an American declaration of war, to which many Americans were opposed.

In the summer of 1798, the US took steps to build an army and navy in preparation for a war. By late 1798, the newly-created American navy had become active, capturing their first French privateer in July 1798. By winter 1798, the coast of the American mainland had been largely cleared of privateers, and the French had fallen back to the West Indies, where hostilities continued. The war was limited, in the sense that American vessels were not authorized to attack unarmed French vessels or to attack the French on land, but only to attack vessels which posed a threat to American shipping; but already by December 1798, President Adams could claim that “Perhaps no country ever experienced more sudden and remarkable advantages from any measure of policy than we have derived from the arming for our maritime protection and defense.”⁶ Most notably, in February 1799, the French frigate *Insurgente* was captured by the US frigate *Constellation*. In all, the American navy captured three vessels in 1798, 27 in 1799, and 59 in 1800.

These events led to sharp fluctuations in insurance rates as rumors of war waxed and waned (Figure 1). There was some uncertainty about French intentions as early as October of 1795. By early 1796, the French had begun to capture American vessels, and by late 1796, lists of captured

⁶Second Annual Message of John Adams. Accessed via the Avalon project.

vessels were appearing in American newspapers, and the usual rate of a premium on a one-way voyage to the West Indies was 5 – 6%, already well above the usual peacetime rate of 2 – 3%. By early 1797, it had risen to 10-15%, and 25% was paid in January 1798. These averages disguise considerable variation across ships, depending on the details of the policy, the character of the captain and crew, the sailing qualities of the vessel, and so on, as well as fluctuations over time in response to news of political developments. The secretary of one of the corporations remarked in 1797 that “Circumstances varying as they do We are obliged to vary premiums very often.”⁷

In 1799, France experienced two coups d’etat (the second by Napoleon Bonaparte), and through various channels it became clear that the new French government wanted peace. Accordingly, a second American diplomatic mission left for France in November 1799. After protracted negotiations, a peace agreement (the Mortefontaine Convention) was finally signed on 3 October 1800, the first news of which reached the US the following month. Although this agreement was not widely popular, it was very favorable to US shipping: “all the great points concerning navigation are settled to our advantage; they are extremely liberal and contain all we could require” (quoted by DeConde 1966: 288), and pressure from merchants helped to ensure its approval in the senate in February 1801 (DeConde 1966, ch.8).⁸

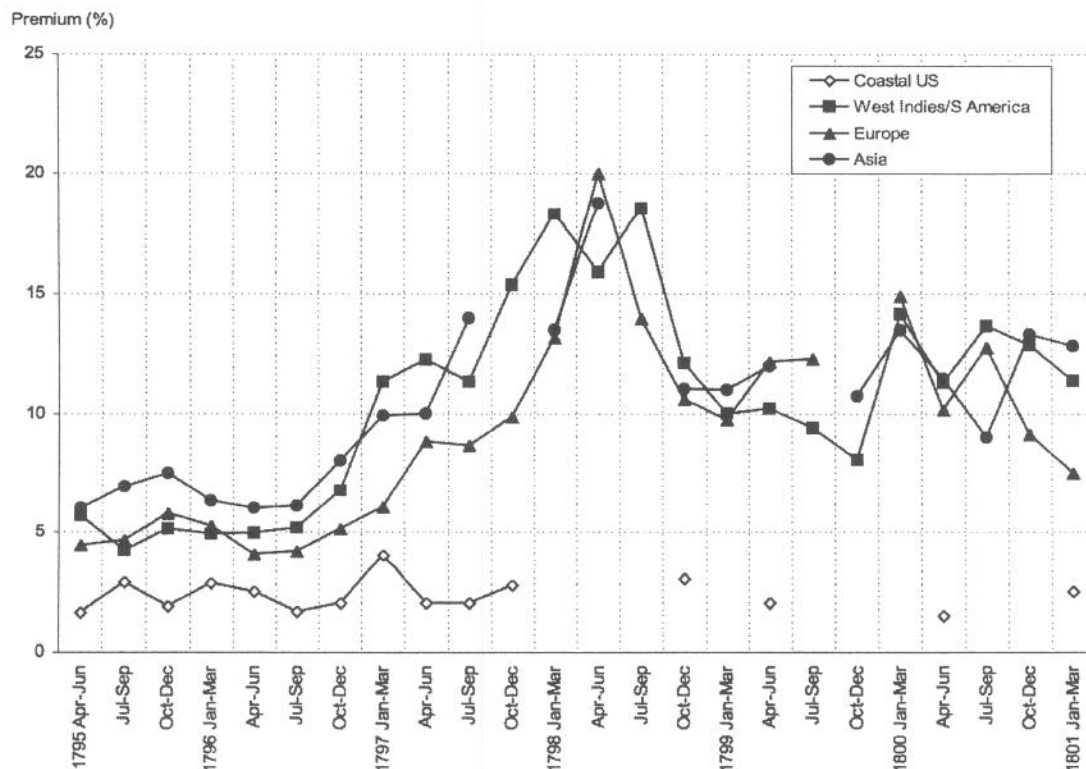


Figure 1: 3-month averages of premia for one-way voyages on different routes insured through Wharton & Lewis, April 1795 - March 1801. Source: Historical Society of Pennsylvania, MS AMB 95591.