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The Shipmaster and the Rise and Fall of the Admirals' Courts

Background

Merchants, shipmasters and shipowners who were involved in overseas trade all wished for protection from piracy and spoilage, for rules for the conduct of maritime business and for assurance that action would be taken against those who did not operate within the law. As discussed in the previous chapter, there were available to them many local courts administering justice in commercial and maritime matters. In Bristol, for example, the city custumal specified that actions 'between merchants and ships, or between merchants and merchants, or between ships and ships, on land or sea, whether between denizens or aliens … could be heard following the laws and decisions of the town.'[1]

By the end of the thirteenth century, however, the increasing amount of business arising from maritime litigation, its technical difficulties and the nomadic life of the appellants, began to prove too much for the non-specialised courts. A good example of the complications which could arise from the lack of a specialised court may be seen in a 1293 *placita in Parliamento* concerning the case of *Helemes* v. *Opright* in which Jacob Helemes and others claimed that a failure to deliver wine was in breach of the terms of a charter-party made under seal. Walter Opright, master of the ship *All Saints*, said in his dramatic defence that, having been driven by storm onto the coast near Helford, his ship was looted by men of the sea and all 36 tuns of wine aboard had been taken. In the course of the proceedings the Warden of the Cinque Ports was instructed to bring the spoilers *Coram Rege*, whence they were passed to the justices assigned to hear cases of spoil. The primary case concerning the breach of the charter-party (in reality a service contract, as yet unrecognised by common law) was heard in Chancery. What had started as a relatively straightforward suit had spread over several judicial authorities. In contrast,

[1] 'inter mercatores et nautas, sive inter mercatores et mercatores, sive inter nautas et nautas, sive per terram sive … mare, utrum fuerint burgenses vel extranei', could be heard 'secundum leges et consuetidines ville': Bateson, *Borough Customs*, 2, p. 193. *CCR, 1354–60*, pp. 441–2.

in the following year, a case of piracy, *Mulard* v. *Hobbe*, was tried before the King's Bench, perhaps because Walter Hobbe, a shipmaster and alleged pirate, proved to be an extremely elusive witness. Courts, run by judges skilled in merchant and maritime law and appointed by admirals, situated in seaports, working with the alacrity of market courts and with the authority to oblige witnesses to attend and to accept their judgments, were clearly necessary.[2]

The inception of the admirals' courts

The title of 'admiral' is not to be found in the records of English-controlled regions before 1295 when, in Gascony, Barrau de Sescas was appointed 'Admiral of maritime Bayonne and captain of our ships and sailors in that town'. Sescas' title was not confirmed the following year; he was described then as 'captain of the Bayonne fleet' under Sir William Leyburn (probably a Gascon) and John Botetourte, both of whom were described in a royal writ as 'admirals of our English navy'. Despite these Gascon titles, the word 'admiral' appears not to have been used in England until 1300 when Gervase Alard was appointed 'Admiral of the fleet of the Cinque Ports', a responsibility confirmed in 1303 and extended to 'all other ports from the port of Dover by the sea coast westward as far as Cornwall etc.'. Because the title of admiral was not in general use in England before 1300, there could have been no earlier eponymous court.[3]

Further, even after the appointment of the first admiral, there appears to have been no judicial role for him as work which should have been within his scope was directed to officials with no maritime experience. In 1304, a professor of civil law, the Constable of Dover Castle and two representatives of the French king were sent to Calais to inquire into the recurrent reciprocal depradations at sea by men of Calais and of the Cinque Ports. Part of the French defence to charges of piracy was that the spoilers were acting under the orders of Reyner Grimaud, a Genoese who, 'calling himself Admiral of the sea', was exercising the French king's prerogative of defending the ships of his nationals. The inquisition was similar in constitution to an earlier deputation which had included the bishop of London and a professor of civil law and had been sent to France in 1293 to negotiate a settlement over French piracy claims. It is interesting that the 1304 inquisition was apparently not seen as an admiralty responsibility, nor was an admiral appointed to take part even for such an obviously maritime problem.[4]

[2] *Rot. Parl.*, I, 21 Edward II, p. 125 and 128.

[3] *Gascon Rolls*, PRO C61, 3, p. 290, no. 3883 and pp. 322–3, no. 4134. Marsden, *Select Pleas*, p. xii. *Brit. Chron.*, pp. 134–5. *CPR, 1301–7*, p. 111. *Brit. Chron.* p. 136.

[4] 'Admirallum maritime Baionensis et capitaneum nautarum et marinariorum nostrorum in ejusdem [*sic*] ville': *Gascon Rolls*, 3, p. 290, no. 3883.3 and pp. 322–3, no. 4134. For admirals' dates,

An apparent attempt to remove a maritime case from the Court of Common Pleas in 1296–97 may be less of a signpost to an admiralty court than has been suggested. In *de Beuso* v. *Crake*, which concerned piracy, counsel for the defence objected to the jurisdiction because no certain venue had been assigned. Further, interestingly, because an admiral had been nominated by the king specifically 'to hear and conclude the pleas of anything done at sea', the counsel wanted none other. Although this implies the existence of an admiral's court, the Justice's reply was 'We have general jurisdiction throughout England but of the Admirals' jurisdiction of which you speak, we know nothing', which either denies the existence of such courts or indicates that Crake and his counsel had run into non-cooperative judicial jealousy. The original manuscript is now lost and the case has to be seen through secondary sources which do not agree amongst themselves about the implication of the Justice's remark, or even on the date of the case. In the absence of any other evidence, it is safer to conclude that there was neither an admiral nor an admiral's court in 1296 and that the plea of the defence counsel has been misunderstood.[5]

During the first 40 years of the fourteenth century, however, courts were certainly held by admirals. The surviving records indicate that their duties were largely, probably wholly, administrative or military rather than legal; admirals were responsible for a wide range of administrative duties ranging from overseeing the navy and maintenance of the Statute of the Staple, to the conservation of oyster beds. From about 1340 admirals appointed by the king were authorised to hear in their own courts at maritime law, cases involving piracy, the retention and distribution of prizes and disputes over wrecks and reprisals. The decision to extend the authority of the admiralty courts to hold judicial inquiries may have arisen from two factors other than the problems of overworked local courts. The first of those factors was the king's growing confidence in English mastery of the seas. In 1321 Edward II had written to the king of France demanding restitution of goods pillaged from an English merchant freighting on a Genoese ship off Sandwich. The merchant was described by Edward as merely 'under assurance of our protection and safe conduct' with no hint of a royal claim to sovereignty of the sea. In the following year Edward appears to have claimed *superioritas maris* because the king of France, in a letter to Edward, reported that English sailors who had assaulted French ships 'described themselves to be custodians of the sea on your behalf'. The concept, or perhaps the rhetoric, of English naval supremacy may thus have begun rather hesitantly in the early 1320s, but it was certainly more apparent after the decisive battle of Sluys in 1340. By 1372, in a petition to Parliament to

see *Brit. Chron.*; *CPR, 1301–7*, p. 111; *Foedera*, I, part 2, p. 961, 28 Jan. 1304: *Ad Regem Franciae*; and *CPR*, 1301–07, p. 208; Marsden, *Select Pleas*, I, pp. xxxi; xxxii and xvii.

5 'Nous avons poer general per my tut Engleterre mes del poer des Admirals dont vous parles ne savons rien': Marsden, *Select Pleas*, I, p. xvii.

reduce the duration of impressments, Edward III was described as 'le Roi de la Mier' not only to his own subjects but also to those of other countries, marking a substantial expansion of his claim. The rather laconic *Responsio* to that petition about impressments was that it was the king's pleasure that the navy should be maintained and protected to increase the ease and profit within its power.[6]

The second factor in Edward III's decision to give his admirals authority to hold judicial inquiries arose from the painful results of his subjects' piracy. He had felt obliged to pay, from his own purse, large amounts of compensation to Genoese and Venetian merchants and shipowners, for losses at the hands of English pirates during the 1330s and was anxious to curb these instincts for pillage. The control of his subjects' piratical tendencies was urgent also for political reasons and Edward's immediate solution was to pass the problem of control to his admirals. A commission was appointed in 1339 to consider, *inter alia*, the settlement of outstanding Flemish, French, Spanish and Portuguese claims, the preservation of peace and the maintenance of the king's sovereignty of the sea. Although the appointment of the commission and its remit are recorded, no record has survived of any initial directive to the commission nor of its deliberations and final conclusions. It is probable that, by the use of specialised courts presided over by admirals, a tightening of the control of denizen and alien pirates roaming the trading routes was recommended. The subsequent expansion of the authority of the admirals' courts reflects the commission's contribution to the debate on maritime lawlessness. The three members of the commission who were to advise on the enforcement of the fittest laws to control piracy and on the consequent claims following piracy were ecclesiastics, who brought to the meetings knowledge of the canon and civil codes but not necessarily of common or maritime law. Also in 1339, Edward claimed both a criminal and a civil jurisdiction 'over all people of whatever nationality passing through the English sea', not only to keep the peace but to administer justice according to the *Lex d'Oleron*, the laws and statutes ordained by his forbears. Whatever the situation before the battle at Sluys, there can be no doubt that the claim of jurisdiction *inter omnes gentes* carried more weight abroad after that victory.[7]

The maritime legal situation and the work of courts in which admirals were involved before Edward's claim in 1339, can be discerned faintly from contemporary references in port books, Chancery and Parliamentary records and other archives. For example, in 1323, an admiral was ordered to hold an inquisition on

6 Twiss, *Black Book*, I, pp. 2–87: 'Rules for the Lord Admiral'; 'Instructions what the Lord Admiral is to doe, at sea and land in tyme of war'; and 'Rules or Orders about Matters Belonging to the Admiralty', all transcribed from MS V. *Foedera*, 2, part 1, pp. 455–6, 25 Aug. 1321: *Ad Regem Franciae*, and p. 475, 17 Feb. 1322: *Littera Regis Franciae*. *Rot. Parl.*, 2, part 1, 46 Edward III, p. 311, n. 6.

7 'inter omnes gentes naciones cujuscumque per Mare Angliae transeuntes': Marsden, *Select Pleas*, 1, pp. xxxv–xxxvi, xxx–xxxiii and lxi–lxii.

alleged pillage at sea and to seize and restore to the owners the captured alien ship and her cargo, if spoil was established. The inquisition found that there had indeed been pillage and the king issued a writ to the sheriff of Gloucestershire to arrest the spoilers and their ship for trial in the Bristol local court before a jury of merchants and mariners. The admiral's powers at that time appear to have been restricted to holding inquisitions ordered by king's writ and to arrest ships as necessary.

Admirals, however, did not necessarily deal with all cases of piracy. In 1325, Thomas Rente of Pontise alleged in a petition to the King's Council that his ship and cargo of wheat en route to Newcastle had been pillaged by men of Yarmouth, who had justified themselves by claiming that there was a state of war between the kings of England and France. Rente demanded the return of his ship and cargo which was then being held under guard. The *Responsio* was that the petition should be passed to the chancellor for him to inquire into the matter, including the cause of the incident, the value of the spoil and every other circumstance felt to be necessary, and then for him to certify thereon to the king by the third day of Christmas. The outcome of the inquiry and the fate of the petition are not known but, significantly, no admiral was involved. Rente may have hoped to improve his chances in an English court by playing the 'export card' as he claimed that he had intended to load his ship with sea coal for his return passage.[8]

Rente's status as an alien was not a likely reason for bypassing the admiral, for there were other similar cases involving denizens. An Englishman, Hugh Sampson, owner of the ship *Portpays* which had been taken off Brest with 140 tuns of Bordeaux wine, by Frenchmen who had killed her crew, petitioned the Council for restitution in 1327. The Council's response was to deliver the petition into Chancery and there to let 'right be done according to the Law used in the case of arrest'. There were two similar pleas at the same time, a petition by Francis Maffe (or Maffy) and another by Henry (later Geffrey) le Lacer, both London merchants who had been robbed while abroad (although perhaps not at sea) and for whom the Council offered the same redress: that 'justice bee done, according to the Law in such case used', to wit, that the foreigners responsible should have their goods in England impounded. The similarities between the case of Sampson, which had already been resolved, and the others may have persuaded the Council and Chancery not to pass the suits to a lower common law court or to an admiral's court; in the first case perhaps because the question was one of diplomacy, and in the others because to obtain redress from defendants who were abroad was difficult. The conclusion has to be that, at least until 1327, cases of piracy

[8] Marsden, *Select Pleas*, I, p. xxiv: *Coram Rege*, Trinity, 18 Edward II, rot. 18, Rex. Appendix 2, *Queenborough*, articles 19, 20 and 70 for the later codification of an admiral's duties. *Rot. Parl.*, I, 19 Edward II, p. 433, no. 9.

involving denizens or aliens, whether as plaintiffs or defendants, were heard before the King's Council or in Chancery.[9]

In 1327 an admiral was called upon to perform a legal if not a judicial duty in a criminal matter. The Admiral of the North was directed by writ to act as one of two commissioners to inquire, by jury drawn from Great Yarmouth, into a case of piracy and murder on the ship *La Pelarym* of Flanders at Whitby, the master, Walter called Fose of Lescluse (Sluys), being one of those killed. The inquisition was required to certify to the crown that justice could be done 'following the law and customs of our king'; the return of the inquisition appears to have been made to Chancery and the indicted were later tried at common law. Later in the century the position of the ship at the time of the murder would have been decisive; at sea, off Whitby, the admiral would have claimed jurisdiction whereas, in Whitby harbour, the regional criminal court would have been paramount. By 1338 the admirals' interest in matters of piracy was increasing, particularly when the malefactors were English, although they still lacked judicial authority. That year, the two Admirals of the Northern and Western fleets and five others were directed by writ to inquire into the pillage of Flemish ships. They were to identify and arrest those responsible by taking evidence on oath from merchants and mariners and other honest and lawful men of Southampton, and to certify the result to the king. The king added a note to the writ that the spoilage was 'to the grave damage and manifest dishonour of us' and that he was concerned that he might have to make good the claims himself.[10]

The result of cases being passed to the chancellor, to the Council or, significantly, for an admirals' inquiry, was that the use of common law courts for allegations of piracy declined. One of the last cases in which piracy was tried as a common law criminal charge was in 1343. Following an inquisition by the Admiral of the Northern fleet concerning the spoil of the ship *Tarryce* of Flanders in the previous year, Sir John Beauchamp, then Constable of the Tower (and to be appointed Admiral of all the fleets in 1360) was ordered to deliver the pirates, whom he had in custody, to the justices in Norfolk. The result of the hearing was that some of the accused were hanged and others, for a variety of reasons, were pardoned. One alibi certified by the admiral was that four of them had equipped ships and served the king on an expedition to Brittany.[11]

Even after admirals' courts had been authorised to hear cases of piracy, there is evidence that at least some still appeared before the Council or the chancellor

9 *Rot. Parl.*, 2, 1 Edward III, p. 435, no. 57; p. 437, no. 66 (Maffy); and no. 67 (le Lacer).

10 *CPR, 1324–7*, p. 354 (1327). Appendix 2, *Queenborough*, articles 29–34 for the later clarification of an admiral's duties in cases of alleged murder, mayhem, etc. *Foedera*, 2, part 2, pp. 1055–6, 28 Aug. 1338.

11 Marsden, *Select Pleas*, 1, pp. xxxvii–xxxviii. *Coram Rege*: 16 Edward III, Trinity, rot. 25; 17 Edward III, Trinity, rot. 14; same year, Easter, rot. 5; same term, rot. 28; and same term, rot. 36. In these the legal processes are set out as if there had been two incidents rather than one.

without any admiral's presence. In a letter to the king of Aragon in 1343, Edward III wrote that, in complaints of piracy, the chancellor and Council were to call the parties together and that, in a particular case current at the time in which two Bayonese *naves armatae* had spoiled two Aragonese *cochae*, judgment had been made that the attack was covered by maritime law. A few years later, in 1347, a mandate from Chancery to the sheriff of Devonshire and others ordered them to restore certain wines to Spanish merchants who had had them taken at sea. The wines had been hidden at Dartmouth by John Gordon and others who were required to make full restitution or be taken to the Tower and have their property impounded. In that case there was also a political motive: Edward was anxious not to be seen to violate the treaty with Spain.[12]

An early record of judicial proceedings before an admiral acting alone is of a 1347 certification by the *locum tenens* of the Admiral of the West, Richard, earl of Arundel. A ship, *Le Michel* of Fowey, had been forfeited to the king for robbery at sea by her owner and she was to be given as a gift to Peter Foulk of Winchelsea whose own ship had been sunk, apparently deliberately, in Calais harbour while on the king's business. In the account of the proceedings it certainly appears that Arundel had acted alone in a judicial capacity in what was, in effect, an admiral's court. The year 1347, therefore, might be taken as the year of the conception, if not the birth, of admiralty courts. However, very shortly afterwards, in 1349–51, the Bristol tolsey court heard the case of *Pilk* v. *Vener(e)*, the somewhat perplexing case discussed in chapter 1, concerning a shipmaster's responsibility for theft by two of his crew. Another example of a maritime case heard in a local court at about the same time concerned a claim for compensation for cargo taken from a captured ship.[13]

At about this time the problem of ownership of goods taken at sea became an issue; the principle in merchant and maritime laws frequently differing from that in common law. In 1349 a common law court decided that the original owners of goods taken at sea retained ownership, a clear enough statement of the position in common law, unfortunately somewhat clouded by a condition in the last sentence which declared that it would be an offence to recover one's goods by force. Four years later, in 1353, it was decided, in a case heard before the Council with the admiral present, that ownership was not lost in maritime law unless the goods remained in the possession of the spoilers for 24 hours. It might be thought, however, that the chances of an owner recovering his pillaged goods from pirates within 24 hours must have been slim. The 1353 decision is known because of a surviving order to Robert de Herle, captain of Calais, to arrest all the wool in a certain ship and to deliver it to a number of London merchants who claimed that the wool was theirs, taken by the king's enemies and then cast up in

[12] *Foedera*, 2, part 2, p. 1229, 19 July 1343. *CCR*, *1346–9*, pp. 10–11 (1346).
[13] *CPR*, *1345–48*, p. 260 (1347). PRO C 47/59/2/48 mm. 1, 2 and 5–7.

a storm. In their plea, which had been accepted, the merchants claimed that their serjeants, who had guarded the wool since the wreck, had never been driven off and had asserted the merchants' right of ownership; in short, the wool had not been abandoned.[14]

In 1357, the king of Portugal claimed from Edward III the restitution of goods which had been taken at sea by a French ship and then later by Englishmen. Edward replied that the decision, made by the admiral before whom the Portuguese owner had sued for restitution, was 'rightfully constituted', and that the goods were a good prize and therefore belonged to the Englishmen. It is possible that the plea was merely a summary decision by a local admiral and had not been heard in an admiral's court, but an admiral acting alone, perhaps without writ, appears to have made a legal decision. Strangely, although there was perhaps an argument at merchant law for returning the goods to the owners on payment, that does not seem to have been discussed. The decision would have done nothing to encourage alien merchants.[15]

Other cases heard at this time, in courts presided over by admirals apparently acting in a judicial capacity, include a 1358 case relating to average. In that, as a result of a decision by an admiral sitting alone, the sheriffs of London were ordered to hold under arrest certain merchants until they had each paid Saier Scoef a share of £100, in proportion to the value of their cargo in a total of more than £1,000 freighted on a ship which had been attacked. The £100 was the value of food belonging to Scoef, who was a merchant of London, which had been given by the shipmaster in an attempt to buy off the men who had attacked the ship. The original decision was made by Guy Lord Brian, the Admiral of the West, acting 'in accordance with maritime law' in what appears to have been the earliest case of average to be heard by an admiral.[16]

When the Council or other courts, with an admiral present, could reach the decision that in several areas of complaint the principles of maritime law should be followed, the stage had been set for the appearance of a specialised admiral's court with, perhaps limited, judicial authority. In 1360, John de Pavely was appointed admiral with express powers to hear maritime plaints and punish those found guilty, according to maritime law. Later that year, Sir John Beauchamp, the first High Admiral of all the fleets with deputies responsible for each fleet, had the authority to appoint a further deputy, probably to act as judge in the new admiralty court working in maritime law. That court, it should be noted, was not the somewhat later High Court of the Admiralty.[17]

[14] *Law Reports*, 22 Edward III, Mich., pp. 16–17, n. 63; and *CCR, 1349–54*, pp. 424–5.
[15] *Foedera*, 3, part 1, p. 354, 29 April 1357: *Ad Regem Portugalliae etc.*
[16] *CCR 1354–1360*, pp. 441–2.
[17] *Foedera*, 3, part 1, p. 479, 26 March 1360: J. de Pavely 'admirallus constituitur': his remit is interesting: 'querelas omnium et singulorum armatae praedictae audiendi et delinquentes incarcerandi castiganti et puniendi et plenam justitiam ac omnia alia et singula quae ad hujusmodi

Despite the Scoef case of 1358, disputed maritime 'business' matters such as average and wages were not included in the remit of the new admirals' courts but remained under the jurisdiction of the existing courts. This may have been because of the expense to which litigants were put in preparing even a relatively small claim, for example for unpaid wages or for a small salvage find, for presentation to an admiral's court and for the principals and witnesses travelling to it. The problem of the expense involved in having recourse to an admiral's court appears to have been perennial; later, complaints of the costs were made to the king and Parliament, particularly when a case was moved up to London from the provinces. Other maritime commercial matters which appear not to have been taken to admiralty courts include disputed contracts, partnership agreements and financial instruments, perhaps because such litigation was reserved by their nature for the courts practising merchant law.[18]

As a further complication to the question of maritime jurisdiction, by the middle of the fourteenth century the court of the Constable and Marshal (the 'Court of Chivalry') had also evolved. Even after the authorisation of the admiralty courts' judicial functions, the Court of Chivalry too was concerned in maritime misdeeds; the case of *Roches* v. *Hawley*, which dragged on from 1386 to 1402 (with an apparent lull between 1388 and 1393), is an example. John de Roches, who had been engaged by Richard II to guard Brest, attempted to recover from John Hawley of Dartmouth three ships and a quantity of wine and other goods taken from Breton merchants off Pontcroix. This was within Roches' area and the ships had been attacked despite safe-conducts and without the justification of warfare. Hawley was of the family identified as supplying the model for Chaucer's Shipman who 'of nyce conscience took no keep'. Statements were obtained from witnesses in Brittany, London and the West Country but the hearings were disrupted by the deposition of Richard II, and by the disappearance or death of several of the participants. *Roches* v. *Hawley* may have been sent originally to the Court of Chivalry because it involved aliens and had political undertones, but Richard's use of civil law in that court instead of common law in a common law court, gave rise to fears of absolutism. These fears led, in 1385, to parliamentary complaints that the practice was to the great damage and disquiet of the people. Hawley's lawyer declared in his plea in 1399, before new court officers, that the case should have been heard before an admiral's court, a suggestion which, despite the removal of Richard, was rejected. The visible trail of the case ends in 1402 with an agreement by all parties to take the case to the king and to accept his decision. The

capitaneum et ductorem pertinent … secundum legem maritimam fuerit faciendum.' *Foedera*, 3, part 1, p. 505, 18 July 1360: J. de Bello Campo, comes Warrewici 'admirallus omnium flotarum constituitur'.

[18] *Rot. Parl.*, 3, 17 Richard II, p. 322, no. 49; 4 Henry IV, p. 498, no. 47; 11 Henry IV, p. 642, no. 61.

evolution of the admiralty courts was thus a gradual affair with several judicial processes operating in parallel for some time.[19]

The flourishing of the admirals' courts

The jurisdiction offered by the admirals' courts amounted to discretionary and flexible equity, and something of that and of the working of their courts is visible in the surviving records of two early cases. In *Smale et al.* v. *Houeel et al.*, heard in the admiral's court at the Wool Quay in London in 1361, the French defendants pleaded that their capture of an English ship was an act of war; if there had been a truce in operation they were unaware of it and anyway the recent treaty (of Brétigny, in 1360) precluded any claims made for wartime capture. The English plaintiffs objected that the defendants had given three responses of which each one would have been sufficient, in other words, multiplicity.

The admiral's court was not impressed by that objection and, importantly, claimed 'this court, which is the office of the admiral, will not be governed as narrowly as other courts of the kingdom which follow the common law of the country, but decides by equity and maritime law'. This statement demonstrates remarkable independence and confidence and makes clear how an early admiral's court saw its duty. Further, that it overruled a denizen's plea in favour of an alien must have further enhanced its reputation abroad. After a postponement, the plaintiffs produced evidence of a truce at the time of the incident and were awarded damages. The defendants, who did not dispute the award, had to remain in custody until they had paid but no action was taken against them for the act of piracy or for the deaths of the crew of the captured ship.[20]

An example of the flexibility of an admiral's court may be seen in the 1369 order to the earl of Devon and others, to set free and to make restitution to Hugh Peyntor, a merchant of Vannes, who had been cleared of allegations of adherence to the king's French enemies. The case was transferred on the king's instructions to the jurisdiction of the Admiral of the North from that of the Admiral of the West, in whose bailiwick the arrest had been made but who was engaged elsewhere on the king's business. The Admiral of the North was commanded to call before him the merchant and anyone else he required, and to deal with the former, his ship, goods and seamen, according to maritime law. With him he had three common

[19] Michael Jones, '*Roches contre Hawley*: la cour anglaise de chevalerie et un cas de piraterie à Brest, 1386–1402', *Mémoires de la société d'histoire et d'archéologie de Bretagne*, LXIV (1987), citing PRO C47/6/4 rolls 1–9 and C47/6/6 rolls 8–9.

[20] 'pur ceo qe ceste court qest office dadmiralle ne serra pas rulle si estroit come serront les autres courtz du roialme qe sont rullez par comune ley de la terre, mes est reullable par equite et ley marine': Charles Johnson, ed., *An Early Admiralty Case*, Camden Miscellany, 3rd series XV (1929).

law lawyers and the constable of the Tower of London. During his examination (in the port of London), the defendant claimed he was in no wise guilty and put himself upon the country; the sworn jury found him and his crew not guilty. The willingness of the king to move the hearing from one admiral's area to another so that the merchant should not be detained longer in prison was perhaps a reflection of the merchant's influence in high circles, but it also demonstrates the flexibility of working of the admirals' courts. The use of a sworn jury and of legally qualified assistants in an admiral's court is also of interest; it must be presumed that the lawyers and jurors had experience of maritime affairs even if not qualified in maritime law.[21]

Once established, the admirals' courts did their best, despite competition from merchant and common law courts, to attract all the business they could within their 'Rules or Orders about Matters belonging to the Admiralty' of *c.*1340, and later confirmed at the end of the fourteenth or very early in the fifteenth century in the second section of the *Inquisition of Queenborough*, both of which have been discussed above. The scope of the admiralty courts was summarised in the sentence 'Every contract made between merchant and merchant, or merchant and mariner, overseas or within the tide mark, will be tried before the admiral and no-one else, by order of king Edward and his lords'. Further, 'divers lords' were forbidden from trying pleas in ports if they concerned merchants or mariners, including cases concerning charter-parties, obligations and other matters of fact. An inquiry was to be held into anyone who sued at common law, a merchant, mariner or any other person in a matter belonging to the *marine auncien droit*. If they were indicted and convicted by a jury of twelve men, they were to be fined and have to withdraw their suit from common law and bring it into an admiralty court if they wished to proceed further. An example of the esteem in which an admiral's court was held at that time was an order by the king in 1371 to John Lord Nevill, Admiral of the North, and Guy Lord Brian, Admiral of the West to resolve by inquiry the tangle of complaints from Flemish merchants who had been spoiled at sea.[22]

The High Court of Admiralty was probably formally constituted during the sitting of the Inquisition of Queenborough, but unfortunately cases heard before the High Court were recorded only from about 1524, despite an express instruction to keep a record 'according to maritime law and the ancient customs of the sea'. The admirals' courts did not get off to a flying start and, indeed, there were many missed opportunities in maritime legal affairs when admirals could have

[21] *CCR, 1369–74*, pp. 369–370.

[22] 'Chascun contract fait entre marchant et marchant ou marchant ou mariner outre la mer ou dedens le flodemark sera trie devant ladmiral et nenient ailleurs par lordonnance du dit Roy Edward et ses seigneurs.' For the constitution of the Inquisition of Queenborough, see p. 23; Appendix 2, *Queenborough*, articles 18–80 and especially 51 and 52. *Foedera*, 3, part 2, p. 907, 1 Jan. 1371: 'Pro mercatoribus Januae, etc.', and p. 917, 24 and 25 May 1371, 'Pro mercatoribus de Bruges, etc.'.

been called to assist. Commissions of *oyer et terminer* were appointed on two separate occasions without admirals in 1376 to examine petitions for the restitution of losses to English pirates in English waters, although in both cases Guy Lord Brian, by then no longer the Admiral of the West, was a member, either as a quondam admiral or as a reliable committee member. Significantly, one of the commissions was instructed 'to determine the premises according to law and the customs of the realm and [specifically] maritime law but our [the king's] intention is that the office of the Admiral shall be in no way prejudiced under colour of these presents'. In the following year there were two more commissions of *oyer et terminer* to examine maritime incidents on neither of which was there an admiral, current or former. Both of those cases concerned Hansa ships wrecked by storm on the coasts of Lincolnshire, Norfolk, Kent and Essex and afterwards pillaged; the king had already decided to pay compensation, no doubt under the pressure which alien merchants could exert.[23]

There were other cases which unexpectedly did not go before an admiral's court and are worth considering in some detail because of that and because of their content. In 1381, in the case of *Hamely* v. *Alveston* heard in the 'maritime court' of Padstow, John Alveston was found guilty of pillaging Osbert Hamely's ship in Plymouth harbour when she was fitted out and ready to sail to Bordeaux for the wine harvest. John failed to pay the 200 marks awarded to Osbert and because the former did not have anything within the bailiwick of Padstow which could be arrested, the latter appealed to the king for an order against him. For this petition to be heard, a full account of the trial in Padstow had to be sent up to London and this has most usefully survived in the *Coram Rege* Roll. The case was not heard in an admiral's court at the first instance, although tried according to maritime law, but before a 'maritime court' with a jury of merchants, the justification for the hearing in that court being that the assault took place 'in Plymouth harbour where the tide ebbs and flows'. Compurgation (see p. 13) was used by the plaintiff with six trustworthy men to substantiate his plea; and the appeal for execution of the judgment was heard before the King's Bench, the complaint having mutated into one of trespass for non-compliance with a court order.

The Padstow hearing reveals the workings of a port town's maritime court; it first sat on a Friday at the first hour of the flood tide and was postponed until the following day at the same tide-time in accordance with maritime law and custom (in other words, 48 minutes later). The petitioner duly appeared at the third hour of flood-tide on the Saturday but the defendant sent along his shipmaster who asked for a further postponement until Tuesday. Having missed Tuesday's scheduled appearance, Alveston finally turned up on the Wednesday at the first hour of the flood-tide; the court's tolerance of the accused's failures to appear is remark-

[23] *CPR, 1374–1377*, pp. 408, 410 and 417.

able. In the subsequent litigation before the King's Bench, Alveston claimed that the local court had no jurisdiction, that Padstow was not an ancient borough, the mayor and burgesses had no authority to hear pleas and they had not been deputed by the admiral to try such cases. Hamely disputed all those criticisms of the Padstow court and maintained his claim. The case ended with something of a whimper when the King's Bench reserved judgment followed by a *sine die* postponement while Alveston served under the command of Sir John de Roches, captain of the castle of Brest.[24]

The case of *Hamely* v. *Alveston* may have been one of those, together with the cases of *Gernesey* v. *Henton* and *Sampson* v. *Curteys*, both of which are discussed below, to which reference was made in the petitions to king and to Parliament and which led to the statutes defining and restraining the admirals' jurisdiction. Other piracy cases which were not heard by an admiral include the 1383 trial of William Wilton and John Gloucester before the King's Council on a charge of contempt arising from piracy against a merchant of Lombardy, and a 1384 complaint by Gunsales, a Portuguese merchant, of spoilage in Southampton, aggravated by the subsequent loss of the ship at sea to pirates. The latter case was referred from Chancery to the King's Bench in 1384 where the jury was half alien and half denizen and the plaintiff, perhaps somewhat unfairly, lost the case.[25]

While it is possible to find examples of maritime cases which did not go before an admiral, there remains considerable uncertainty about the unrecorded activities of the admiralty courts from their beginnings in the mid-fourteenth century until about 1524 when the High Court of Admiralty records began. By the chance recording in the Patent and Close Rolls and elsewhere of actions resulting from the courts' decisions, something of the early operation of admirals' courts can be seen. The surviving evidence confirms that most of the cases heard concerned piracy, prize or reprisal, with very little mercantile work. It is not known if the commercial business was truly small, and if so by chance or by deliberate exclusion, or was in fact larger but has left no trace. Examples of the few commercial cases which were heard in admirals' courts in the period 1350–1450 are discussed below.

A number of cases brought before the courts of the Admiral of the West, John Holland, earl of Huntingdon, appointed In 1389, have been recorded because they were passed *a certiorari* or for other reasons to Chancery. One, in 1390, was *Sampson* v. *Curteys* in which John Sampson accused Curteys of stealing goods from his ship in Lostwithiel while she was on passage from Plymouth to London. The king, in his writ to Huntingdon, referred to the court as 'coram vobis in curia Admiralitatis vestre' which indicates that the admiral had a court of independent jurisdiction

[24] Marsden, *Select Pleas*, 1, pp. xvii and xlix: *Coram Rege*, 7 Richard II, Hil., rot. 51.
[25] *Foedera*, 4, p. 168, 8 April 1383: 'De venire faciendo certas personas *coram* concilio.' Marsden, *Select Pleas*, 1, p. xlviii: *Coram Rege*, 8 Richard II, Hil., rot., 18.

within his admiralty and that it sat in Lostwithiel and in Fowey, sittings timed, no doubt as usual for maritime courts, by the tide. The return of the commission to take evidence, however, was made to the 'subadmirallus nobis et curie nostre … apud le Wolkey, London', a move which would have added considerably to the expenses of the litigants and was to become one of the complaints against the admirals' jurisdiction. The case was not entirely straightforward; the defendant was the seneschal of the Lostwithiel court and his defence was that he was acting in an official capacity in taking some of the goods and that he knew nothing about anything else that was missing. The judgment has not survived.[26]

Another recorded case, *Gernesey* v. *Henton*, was an extraordinarily long-drawn-out and complex affair stretching from *c*.1389 until 1404. It was initially a commercial matter, an attempt by Gernesey to recover money from Henton for freight and for salt and herrings which Gernesey had bought. It was heard before William Thomer the *soi-disant* deputy admiral at Bridgewater but it spawned another case, *Henton* v. *Kedewelly*, the latter being Thomer's bailiff. In that case Henton sued Kedewelly for breaking into his house to recover goods to the value of the debt. From then the complications multiplied until, by Marsden's count, there were 29 separate legal steps including appeals to the Admiral, to the Privy Council and five to the king, and five different commissions had been appointed. Curiously, the chancellor himself does not appear to have become involved at any point in this arachnoid web of litigation. The case is interesting because it illustrates a challenge to an admiral's authority, albeit an admiral's pretended deputy who was probably acting *ultra vires*.[27]

The decline of the admirals' courts

Sampson v. *Curteys*, *Gernesey* v. *Henton* and the consequent case of *Henton* v. *Kendewelly* were all before the courts while the earl of Huntingdon was the Admiral of the West, and all demonstrate unsatisfactory legal practices. These and other irregularities committed by judges in admiralty courts during Huntingdon's tenure, led to a general dissatisfaction with the judicial role of the admirals. In addition to the improprieties of the courts, there was also still doubt about the range of authority allowed to the admirals. Further, there is indirect evidence of dissatisfaction in the records of appointments of judges to hear appeals against the courts' judgments. Cases considered to have been handled unsatisfactorily include

[26] Marsden, *Select Pleas*, I, p. 54: the court 'apud Orton's Quay juxta pontem Londinensem loco vid' dicte curie solito'; the wolkey ('wool quay') was usually on the north bank of the Thames, but Horton's Quay was in Southwark.

[27] Marsden, *Select Pleas*, I, pp. 1–27 and pp. 149–72: Chancery Rolls, Misc., bundle 18, nos 10 and 11; also *CPR, 1391–6*, p. 339, etc.

Beche v. *Nyweman*, a case of debt in 1391; *Nocolt* v. *Appe Hacche*, a question of part-ownership of a ship also in 1391; and *Draper* v. *Stillard*, concerning a freight contract in 1394 in which it was complained that two of the lawyers involved had been suborned. None of those three was a straightforward maritime law case, although indirectly involving ships or freight, but all were heard during the period of admiralty of the earl of Huntingdon. The judge in the first case was Nicholas Maclefeld who, like Thomas Thomer in *Gernesey* v. *Henton*, appears to have been a *soi-disant* lieutenant 'claiming to supply the place of the admiral'.[28]

The case of *Yter et al.* v. *Haule* [*Hawley*], was heard in an admiral's court by Sir Nicholas Clifton in 1389. Although Hawley was alleged to have taken a hulk and a cog laden with wine, iron and other merchandise belonging to Frenchmen and Flemings, interestingly, the competence of the court to hear a case of piracy was not questioned. The confusion surrounding the admiralty courts' responsibilities is epitomised in the 1393 case of *Copyn* v. *Snoke and Saxlyngham* in which John Copyn, master of the ship *Gabriel*, sued the two merchants for the payment due on the freight of a cargo of wine carried from Bordeaux to Essex. Copyn began his suit in a common law court, then in the court of the Admiral of the North, both without remedy, and finally before the court of Constable and Marshal with whose decision he did not agree. In the common law court the judges had declared that they had no jurisdiction (perhaps because Copyn had no written proof of agreement?) but it is not known why the admiral's court could not offer remedy. It may be that by 1393 the admiralty courts were too demoralised to hear cases with a commercial element.[29]

Port town courts resented the loss of commercial business and no doubt resisted attempts to take such cases to an admiral's court. Further, litigants were unsure of the outcome of their pleas before an admiral's court, at least during the tenure of the earl of Huntingdon, and were unhappy about the expense of moving their cases to London. There had been complaints from the city of London in 1345 about the jurisdiction of the Admirals of the North and of the West but more general unrest grew towards the end of the century with repeated petitions to the king and to Parliament from towns in the west of England from 1391 to 1410. The burden of the complaints was that the admirals' courts were encroaching on the franchises of the towns, that the expense of litigation before an admiral was too great, and that wrong judgments were being given. Following what appears to have been a pre-emptive strike by Huntingdon, an inquiry was ordered to be made by John, duke of Lancaster in 1391

> to hear and examine complaints by the earl of Huntingdon, Admiral of the West, that the mayor and sheriffs of London and others had done divers

[28] *CPR*, *1388–92*, pp. 412, 425, 459, 473 and 491 (all 1391); and 1391–96, p. 388 (1394).
[29] *CPR*, *1388–92*, p. 159 (1389). *CPR*, *1391–96*, pp. 340 and 378 (1393–4). See also chapter 3.

duresses, grievances, disobediences or rebellions and prejudices to the officers and courts of the admiral and to certify to the king and council.[30]

The result of the dissatisfaction with the admiral's courts was that two statutes were passed which drastically restricted their judicial powers to hear pleas, quarrels or anything else under the laws of the country. The remit of the courts was limited specifically to inquiries concerning deaths and mayhem in ships at sea, or in the main stream of great rivers below the bridges. The admirals were, however, empowered to arrest ships for the king's use, provided that all forfeitures and profits arising there from went to the king, and to exercise jurisdiction on those impressed fleets during their voyages, subject to the franchises and liberties of the lords, cities and boroughs. They were also authorised, when the evidence was too technical for non-seafaring lawyers and they had secured pledges from both parties, to pass a dispute to arbitration by nominated experts or *aimables compositeurs*. An example of such arbitration, from the papers of John Holland (earl of Huntingdon, later duke of Exeter), is a case which ended in 'coram vobis pendente indecisa' – a telling phrase. Such use of *aimables compositeurs* in arbitration is discussed by Marsden, who gives as an example a rare hearing of a case of collision at sea, and by Rawcliffe in connection with non-maritime commercial disputes.[31]

The statutory restriction of the admirals' powers was seriously at odds with the admirals' own view of their responsibilities as set out in *Queenborough* less than 25 years earlier. There the admirals were charged with responsibility for inquiries into death and mayhem on ships, for false weights and measures within their jurisdiction, for wrecks and, most relevantly, to have sanction over those who sued at common law when 'by ancient right' the case should have been tried by maritime law, and over any judge who heard a plea belonging to an admiralty court. The admirals' status had been secured, they felt, by the *Queenborough* authority to punish any who should oppose the office of admiral. The 1390 and 1392 statutes proved inadequate and had to be followed by a further statute in 1400 which confirmed the restriction of the admirals' jurisdiction and threatened the admirals and their lieutenants with the sanctions of statute and common law. That statute also offered anyone who felt aggrieved, the possibility of action by writ grounded on the case heard against them in an admiral's court, with double

[30] *Rot. Parl.*, 3, 17 Richard II, p. 322, no. 49; 4 Henry IV, p. 498, no. 47 and 11 Henry IV, p. 642, no. 61.

[31] *Statutes*, 13 Richard II, st. 1, c. 5; and 15 Richard II, c. 3. Twiss, *Black Book*, I, p. 246–80: 'Documents Connected with the Admiralty of John Holland, Duke of Exeter, 1443–1446'; Holland died in 1447. Marsden, *Select Pleas*, pp. lxix and 90–1. Carole Rawcliffe '"That Kindliness Should Be Cherished More, and Discord Driven Out": The Settlement of Commercial Disputes by Arbitration in Later Medieval England', in *Enterprise and Individuals in Fifteenth Century England*, ed. Jennifer Kermode (Stroud, 1991), pp. 99–117.

damages from the pursuant, the latter also paying £10 to the king if attainted. As late as 1409–10 there were two more petitions to Parliament complaining that the admirals' courts, coupled, in the first petition, with the court of the Constable and Marshal, were still hearing cases which should have been heard at common law. In the second petition there were also much broader based complaints of all sorts of dishonesty in the collection of customs, in false weights and measures, over-payment of employees, bad judgments, deliberate delays and 'of all other things by which they can illegally gain some money'. The second petition went on to say that none of this happened before Huntingdon was appointed admiral, and that an inquiry should be held. To all of which the king replied 'Soient l'Estatutz ent faitz tenuz & gardez'.[32]

During their short life in the late fourteenth and early fifteenth centuries, the admirals' courts had stirred up sufficient enmity to be reduced to handling little more than violence at sea. This may well be attributed to the laxity or dishonesty of Huntingdon as Admiral of the Western Fleet over a period of 12 years (from 1389 to 1401) but, whatever the reasons, the results were clear. The admirals' judicial powers were rendered inadequate for maritime commercial litigation; and, more often than not, merchants and mariners had to go elsewhere for justice.

As the spirit of the 1360 treaty of Brétigny evaporated, and Edward III reclaimed the title of king of France in 1369, the sea became increasingly dangerous until the beginning of the next century. The mayor of Sandwich confiscated a ship of La Rochelle which had been driven in by bad weather in 1396 and many vessels were taken by both sides over the next three years, 1399 being a particularly hazardous year for English seafarers. By 1402 losses at sea, through direct action and reprisals, were so heavy that maritime trade was crippled, but neither Paris nor London did anything much to calm the situation and probably encouraged the attacks under the guise of reprisals. During this period the ambassadors of both sides evaded and postponed the restitution of captured ships and cargoes and anarchy spread at sea. By the second half of 1403 hostile marine activity appears to have become less intense, although until 1406, there was a series of raids on the south coast of England by French, Breton and Castilian fleets, followed inevitably by English retaliatory raids. In that year, at their despairing request, the merchants were themselves entrusted with the custody of the sea for which they nominated two admirals to be responsible for the North and the West. Nothing is known of this experiment except that it was of brief duration and it has to be assumed that for whatever reason the merchants' control of admiralty failed and John Beaufort, earl of Somerset, was appointed admiral by the king later in the same year. In 1407, without admitting that the 1396 truce of Paris had failed, a new tripartite truce

[32] Appendix 2, *Queensborough* articles 29 (death), 30 (mayhem), 51 (suing at common law), 52 (judges wrongly hearing pleas), 54 (weights and measures) and 72 (opposers of admiralty), etc. *Statutes*, 2 Henry IV, c.11. *Rot. Parl.*, 3, 11 Henry IV, p. 625, no. 24 and p. 642, no. 61.

was agreed at Gloucester. The fullest part of the truce, which held until 1412 and during which the admirals were able to deal with infractions, was that which had the express purpose of protecting maritime trade.[33]

Little is known of the work of the regional admiralty courts after their statutory emasculation in the 1390s; that they did continue to hear some commercial suits may be conjectured from the appointments of commissions to investigate appeals. As early as 1390 the *Sampson* v. *Curteys* appeal, discussed above, had been moved to Southwark and there was certainly a *curia principalis* in Southwark from 1408 when Thomas Beaufort, earl of Dorset, was appointed Admiral of England, Ireland and Aquitaine. The Southwark court may have had a chequered career for while, in 1410, there was a complaint in Parliament that (*inter alia*) witnesses were summoned 'a Loundres a le key de William Horton, Southwerke', in 1422 there is mention of courts held in turn in Dartmouth, Plymouth and Kingsbridge.[34]

During Beaufort's admiralty, the amount of work coming before admiralty courts appears to have increased despite the statutory restrictions, confirmed, ironically, by the number of appeals against the decisions of his lieutenants. Beaufort himself did not escape complaint; in 1409 John Byrkyn and three others alleged that after a judgment against them by the admiral's lieutenant, Beaufort exacted excessive fees for himself and the office of admiralty. In December 1409 (too late to have been one of the subjects of the 1409–10 petitions to Parliament), a commission was appointed to hear an appeal in the case *Watertoft* v. *Jonesson* which concerned a debt arising from a freight agreement. The original plea had been heard by Henry Bole, a lieutenant general of the court of Admiralty, and should have been held on the quayside at Boston with a jury of 12 merchants, shipmasters and mariners. Watertoft's appeal was on the grounds that it was held in the town (outside the admiral's jurisdiction), that the jury were not merchants, shipmasters or mariners, and that he and his counsellors had been too intimidated to complain at the time. Other appeals against admirals' courts' decisions in commercial disputes were heard in the same period: concerning freight payments in 1412 and in 1414; the withholding of a ransom payment in 1415; the management accounts of a ship in 1418; and money due on the sale of a ship in 1422.[35]

At this time, cases of piracy were the occasional subject of petitions to Parliament. There were, for example, two in 1410; that of John Trebeel who had captured a ship out of St Malo loaded by merchants who had a safe conduct from Richard of York – 'which they had forgotten'(!) – and that of John Kedwelly who, during a truce between France and England, had lost his ship and cargo to pirates from

[33] *CCR, 1396–9*, pp. 113, 165; *1399–1402*, pp. 119, 319, 395; *1402–5*, p. 48. *CPR, 1399–1401*, p. 164 etc. *Rot. Parl.*, 3, 7–8 Henry IV, p. 571, no. 26. *Foedera*, 8, pp. 507–9.

[34] *Rot. Parl.*, 11 Henry IV, p. 642, no. 6. *CPR*, 1416–22, p. 427.

[35] *CPR, 1408–13*, pp. 139, 154 and 422; *1413–16*, p. 204; *1408–13*, p. 407; *1416–22*, pp. 174 and 427.

Harfleur and St Malo, and had been imprisoned. In 1414 a statute was passed authorising the admiral to appoint conservators of truces in various seaport towns. Their duties included inquiry into, and determination of, piracy cases, an area which had, in any case, escaped the statutory restrictions on the jurisdiction of the admirals. There had always to be present at the inquiries men learned in law, and that obligation may mark the end of lay judges in the admiralty courts; it is curious, however, that the type of law in which they were to be learned was not specified. The conservators were able to appoint ships and crews, operating with 'letters of marque', to assist them but, perhaps inevitably, this led to such gross exploitation that the statute had to be reduced by partial repeal, suspended for seven year after that, and finally abandoned in 1435. A further blow to the admirals' authority was struck in 1450 when the 1414 statute was revived but with the chancellor and chief justices being given the powers of the conservators. Throughout the remainder of the fifteenth century conservators, or envoys with similar powers, appear to have been the usual judges of cases of piracy, perhaps further confirmation that the admiralty courts had not worked satisfactorily.[36]

In 1426 the restriction of the admirals' legal franchise was repeated in the Letter Patent appointing John, duke of Bedford, as Admiral of England, Ireland and Guienne, but despite that, commercial suits continued to be heard. Four appeals against decisions by the admiral's lieutenants between 1428 and 1442 confirm that such cases were still being taken to an admiralty court.[37]

Sometime before 1429, qualified lawyers began to be appointed to sit judicially in the admirals' courts, which therefore became somewhat more reputable resorts for litigants to receive as fair a hearing as they might reasonably expect in common or merchant law courts. The rehabilitation of the admirals' jurisdiction had begun, but there was a problem in that professional counsel was in short supply in the more remote districts. In 1429, after John Kelke complained that he could not find counsel in Norfolk or Suffolk to defend him against a charge of wrongful arrest, the admiral's lieutenant decided that the case should be heard in 'his principal court at Southwark' where, presumably, counsel were available in plenty. In the interim, a *soi-disant* deputy awarded Kelke's goods to the other party involved and Kelke had to make an appeal for help.[38]

With the courts of the conservators, and occasionally the admiralty courts, hearing cases of piracy, the criminal jurisdiction of common law felt the lack of such business. That may have been the subtext in a petition to Parliament in 1429,

[36] *Rot. Parl.*, 3, 11 Henry IV, pp. 628–9, no. 35 and pp. 643–4, no. 66. *Rot. Parl.*, 4, 2 Henry V, pp. 22–4, no. 2. *Statutes*, 2 Henry V, st. 1, c. 6. *Rot. Parl.*, 4, 2 Henry V, pp. 22–4, no. 23. *Statutes*, 2 Henry V, st. 1, c. 6; 4 Henry V, c. 7; 14 Henry VI, c. 8; and 14 Henry VI, c. 8; 29 Henry VI, c. 2.

[37] *CPR*, *1422–29*, pp. 349–50.

[38] *CPR*, *1422–29*, p. 470; *1436–41*, p. 203; *1441–46*, p. 133; *1429–36*, pp. 32–2 and 37; *1436–41*, p. 203; *1441–46*, p. 133; *1429–36*, pp. 32–3.

in which the commons asked that piracy be made a felony and that justices of the peace of the county in which the 'Roveres sur le Mere' were taken could enquire into their aiders and abettors with a view to *oyer et terminer*. The king was not immediately disposed to help, his *Responsio* being 'Le Roi s'advisera'. The intention of the petition seems to have been to curb once again the admirals' courts' powers, and it was no doubt encouraging to the admiral and his staff that Henry VI's council in 1429 was less disposed against them than Richard II and Henry IV had been in 1391 and 1410. The rehabilitation of the court of admiralty continued.

Throughout the first half of the fifteenth century the admirals' courts' work was largely maritime, concerned with discipline and seamanship, and with an occasional commercial suit. At least one case combined both commercial and maritime interests: in 1437 an appeal was made for the restoration of wrongly sequestered goods which had been sold following a decision by an admiral's court on a (rare) collision dispute involving *le Antony* of London, freighted with merchandise from Prussia. Meanwhile, the port town courts, for example that at Ipswich, in competition with the admiralty courts, continued to be available for hearings of marine issues under maritime law: 'The pleas yoven to the lawe maryne, that is to wyte, for straunge marynerys passaunt and for them that abyden not but her tyde, shuldene ben pleted from tyde to tyde.' Sometime in the fifteenth century, the Fordwich and Sandwich custumals made it clear that whenever a denizen or alien came to the mayor's court asking for settlement at maritime law of a dispute concerning damage at sea 'the mayor shall give him two jurats who know such like law, and two shipmasters of the vill who … shall allot to each what by law he ought to have … provided that both parties submit to his judgement'. If one of the parties did not agree with the judgment, then he could plead in the hundred or the mayor's court but, if the decision went against him, it would go badly for him – a blatant threat![39]

Aftermath

After half a century of active and successful jurisdiction over matters maritimo-commercial, the admiralty courts in the late fourteenth and the first half of the fifteenth centuries, despite their professional judges and recent record of equitable decisions, gradually ceased to be of much use to denizen or alien shipmasters and merchants. Haunted by the malpractices of Huntingdon's deputies, hounded by the port towns guarding the franchises of their own courts and harried by common law jurists looking for business, they were unable to extend their jurisdiction or even to exercise their own franchise as set out in the articles of *Queenborough*. The

[39] *CPR, 1436–41*, p. 94. Twiss, *Black Book*, I, pp. 16–209: the *Domesday of Gippewyz* [Ipswich]; Bateson, *Borough Customs*, 2, pp. 193–4.

admiralty courts continued to hear technical cases in maritime law concerned with discipline, collisions, seamanship, pilots, jettison and so on, but maritime commercial suits were generally taken to common or merchant law courts.

To the hardy and practical shipmaster, the rise and fall of the admiralty courts together with the jealousies and intrigues of the practitioners of the several codes of law, must have been a source of considerable frustration and bemusement.