

ORIGINAL ARTICLE

# Wool Smuggling and the Royal Government in England, c.1337–63: Law Enforcement and the Moral Economy in the Late Middle Ages

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The enforcement of royal law in late medieval England is a subject of great importance for historians of law and society in the Middle Ages.<sup>1</sup> The king was invested with the responsibility to provide justice to his subjects.<sup>2</sup> The fact that the king's government exercised a great deal of influence on day-to-day life across large areas of England made the fulfilment of this responsibility a practical possibility as well as a theoretical prescription. Most obviously, the king presided over an extensive and unified legal system founded on the historical strength of English kingship. By the start of the fourteenth century, the royal common law was “a system of legal procedures, concepts and ideas, as well as legal rules . . . both in theory, and also largely in practice, of nationwide application,” which was administered by professional justices in the king's courts and directed by writs issued in his name.<sup>3</sup> And yet, in practice, the actual operation of the king's common law rested on the jury system, which made large numbers of ordinary people integral to its work, and on the more general support and participation of influential local

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<sup>1</sup> The spread of the extant sources, along with the need to impose parameters on my research, means that this article adopts an Anglocentric perspective. I do not wish to imply by doing so that the wider themes engaged here might not be relevant to the study of royal authority in other parts of the Plantagenet dominions, or that we do not need to integrate the histories of these dominions into our understanding of Plantagenet kingship.

<sup>2</sup> See, for instance, G. Dodd, *Justice and Grace: Private Petitioning and the English Parliament in the Late Middle Ages* (Oxford: Oxford University Press, 2007), 25–31, 232–36, 281–86.

<sup>3</sup> P. Brand, “The English Medieval Common Law (to c. 1307) as a System of National Institutions and Legal Rules: Creation and Functioning,” in *Legalism: Anthropology and History*, ed. P. Dresch and H. Skoda (Oxford: Oxford University Press, 2012), 173.

elites.<sup>4</sup> The enforcement of royal law was thus a process that shaped the relationship between the royal government and the society it was supposed to rule justly in this closely governed kingdom, and studying the processes of enforcement allows the history of this fundamental relationship to be explored.<sup>5</sup>

The regulation of commerce fell into the orbit of royal law. One area of international trade in particular drew governmental attention in the late medieval period. This was the export trade in wool, the taxation of which came to play a central role in English government finance in the late Middle Ages. This taxation took the form of customs duties, which were permanent, and subsidies, which were fixed sums payable to the crown for limited terms in addition to the usual customs. Naturally, the smuggling of wool overseas without payment of the applicable duties threatened to diminish this key source of revenue. This threat prompted a judicial reaction from the crown, which, like other areas of law enforcement, depended on the participation of wider society in the legal process and thus shaped the relationship between ruler and ruled.

The evidence of customs evasion in the fourteenth century has, however, in the main been neglected. It was dismissed by historians of commerce, who were concerned primarily with attempting to prove the reliability of the customs accounts recording legitimate trade, as a marginal activity of negligible commercial and economic significance.<sup>6</sup> Historians of the royal legal system, meanwhile, have concentrated on an important structural shift in the form of royal justice, which saw more traditional mediums of royal justice superseded in the 1340s, 1350s and 1360s by the justices of the peace (JPs), for whom smuggling was not a prominent item of business.<sup>7</sup> Neither legal nor

<sup>4</sup> As per J. Masschaele, *Jury, State, and Society in Medieval England* (New York: Palgrave Macmillan, 2008), 5: "One of the striking things about medieval English courts is the extent to which local people, other than those who were litigating or disputing, had to be involved in the process for it to work."

<sup>5</sup> C. Carpenter, "Law, Justice and Landowners in Late Medieval England," *Law and History Review* 1 (1983): 205–37; E. Powell, *Kingship, Law, and Society: Criminal Justice in the Reign of Henry V* (Oxford: Oxford University Press, 1989), esp. 6–7, 65–114; Masschaele, *Jury, State, and Society*; and K.F. Duggan, "The Limits of Strong Government: Attempts to Control Criminality in Thirteenth-Century England," *Historical Research* 93 (2020): 399–419. Recently, Tom Johnson has reminded us that the vast majority of legal engagements took place outside of the common law courts: T. Johnson, *Law in Common: Legal Cultures in Late-Medieval England* (Oxford: Oxford University Press, 2020), 14. This point is returned to in Section VI.

<sup>6</sup> Notably E.M. Carus-Wilson and O. Coleman, *England's Export Trade 1275–1547* (Oxford: Oxford University Press, 1963), 18–19, 21–32. See also R.L. Baker, "The English Customs Service, 1307–1343: A Study of Medieval Administration," *Transactions of the American Philosophical Society*, new ser., 51 (1961): 35–37.

<sup>7</sup> A bibliography of studies focusing on the 1340s is given in S.L. Waugh, "Success and Failure of the Medieval Constitution in 1341," in *Law, Governance, and Justice: New Views on Medieval Constitutionalism*, ed. R.W. Kaeuper (Leiden: Brill, 2013), 123 n. 4. For an exception that does focus on smuggling, see S. O'Connor, "A Nest of Smugglers? Customs Evasion in London at the Outbreak of the Hundred Years War," in *London and the Kingdom: Essays in Honour of Caroline M. Barron*, ed. M. Davies and A. Prescott (Donington: Shaun Tyas, 2008), 293–304, who used The National Archives UK, Kew, JUST 1/550. Most directly, Mark Ormrod noted a number of the enforcement measures explored here, although he suggested that they were an innovation of the early 1350s: W.M. Ormrod, "The English Crown and the Customs, 1349–63," *Economic History Review*, new ser., 40 (1987): 31–32. See also section II. All unpublished sources are held by The National Archives UK unless otherwise stated.

economic historians, therefore, have fully explored the efforts made to police the wool trade in their own right or placed them within wider judicial and fiscal contexts. This article takes the legal process underpinning the royal response to customs evasion as an important subject in its own right. Specifically, it examines anti-smuggling efforts between 1336 and 1363, a period of particularly heavy taxation and formative changes in the royal legal system, with an emphasis on the economic relationship between the king and his subjects prominent in contemporary political thinking.

Section I outlines the particular concept of the “moral economy,” which relates to the relationship the king ought to have had with his people and which accordingly frames this article. Section II then sketches the most relevant contexts by outlining some salient features of the wool trade and its regulation from this conceptual perspective, and noting some important changes within the royal legal system.

Section III traces the actual operation of a system of enforcement in the mid-fourteenth century using a variety of legal and administrative records. It demonstrates that this system was highly centralized in both personnel and judicial structure. Section IV notes some of the limitations inherent in this structure of regulation as it operated in practice, and suggests that these went beyond the necessity for the enforcement of royal justice to be worked through local interests and power structures common to other areas of criminal law.

The following sections explore the dynamics behind this contrast. Section V places the regulation of the export trade within a contentious debate that accompanied the imposition of particularly heavy wool subsidies to situate the practice of smuggling within England’s moral economy. Section VI highlights the significance of the prosecution of smuggling in the royal courts in particular. Wool smuggling was not policed in the same way as most other commercial offenses, and the centralized processes of law enforcement traced in Section III cut across the general contours of delegation to the JPs and the assize justices characterizing the prosecution of many criminal offenses under the common law during this period. It is argued here that the form of law enforcement used to prosecute smuggling itself shaped, and was shaped by, wider societal understandings of the role of the king in the moral economy. Building on this perspective, Section VII places juror attitudes into these wider contexts to suggest that the crown struggled to harness active support for its regulation of the export trade during a time of heavy taxation and economic hardship.

This article therefore examines the interface between the attempted judicial regulation of the wool trade and the reaction of local societies to this attempt in the context of far-reaching judicial and fiscal changes that provoked intense debate about their legitimacy. In turn, it is argued that the dynamics that shaped this process reveal much about the limits of state action at a crucial point in the history of the late medieval polity, which has drawn historiographical attention primarily as a phase of governmental growth based on cohesion between this government and influential sections of political society. These dynamics are thus significant for what they reveal about the relationship between royal authority, royal law, and wider society. They show how this

growth of government was very much something that could be negotiated and shaped by the governed. As with brandy smuggling in the eighteenth century, the smuggling of wool can be seen as part of an “ongoing process of implicit negotiation and legitimation” concerning “the limits of state authority.”<sup>8</sup>

### The “Moral Economy” and Fourteenth-Century England

The concept of a late medieval “moral economy” is a useful framing tool to apply here. The term “moral economy” has been in use since at least the eighteenth century.<sup>9</sup> As a modern historiographical concept, however, its *fons et origo* is a seminal article published by E.P. Thompson in 1971, which analyzed the behavior of English crowds in eighteenth-century food riots.<sup>10</sup> Thompson used this term to signify “a popular consensus as to what were legitimate and what were illegitimate practices in marketing, milling, baking, etc. . . . [which] in its turn was grounded upon a consistent traditional view of social norms and obligations, of the proper economic functions of several parties within the community. . . .”<sup>11</sup> For him, this paternalistic moral economy increasingly came into conflict with a newer free-market “political economy” exemplified by Adam Smith’s *Wealth of Nations*.<sup>12</sup>

Inevitably, the proliferation of work on moral economies across history, anthropology, and political science that followed Thompson’s article led to the term being invested with multiple meanings, some of which were far broader than the historically specific “moral economy of the English crowd” with which Thompson himself was primarily concerned.<sup>13</sup> A more expansive understanding of moral economy was adopted by J.C. Scott regarding what he saw as the “subsistence ethic” held by the peasantry of Southeast Asia. Scott used the “moral economy of the peasant” to encapsulate “their notion of economic justice and their working definition of exploitation—their view of which claims on their product were tolerable and which were intolerable.”<sup>14</sup>

For Scott, the timing and scale of exactions were crucial in determining the extent to which they were regarded as legitimate or excessively burdensome by those affected by them.<sup>15</sup> This article adopts a similar perspective in order to

<sup>8</sup> D. Chan Smith, “Fair Trade and the Political Economy of Brandy Smuggling in Early Eighteenth-Century Britain,” *Past & Present* 251 (2021): 81, 101, 108–9.

<sup>9</sup> N. Götz, “Moral Economy: Its Conceptual History and Analytical Prospects,” *Journal of Global Ethics* 11 (2015): 148–51.

<sup>10</sup> E.P. Thompson, “The Moral Economy of the English Crowd in the Eighteenth Century,” *Past & Present* 50 (1971): 76–136.

<sup>11</sup> *Ibid.*, 79.

<sup>12</sup> *Ibid.*; and E.P. Thompson, “The Moral Economy Reviewed,” in E.P. Thompson, *Customs in Common* (London: Merlin Press, 1991), 260–61. More broadly for this contrast, see M. Sayer, “Moral Economy and Political Economy,” *Studies in Political Economy* 61 (2000): 79–103.

<sup>13</sup> Thompson, “The Moral Economy Reviewed,” 259. Conceptual genealogies are numerous: for material recently published, see J.G. Carrier, “Moral Economy: What’s in a Name,” *Anthropological Theory* 18 (2018): 18–35.

<sup>14</sup> J.C. Scott, *The Moral Economy of the Peasant: Rebellion and Subsistence in Southeast Asia* (New Haven: Yale University Press, 1976), 3.

<sup>15</sup> *Ibid.*, 10, 29, 188–9.

focus on the politics of royal fiscality in the fourteenth century and situate the royal regulation of the export trade within a wider set of expectations on the role of the king as steward of the realm and its people.<sup>16</sup> This role was widely expected to be paternalistic, an expectation signified in political dialogue by the inextricable linkage of the phrases the “profit of the king” and the “profit of the kingdom.”<sup>17</sup> The accumulation of revenue and property at the expense of the king’s subjects, on the other hand, was seen as a violation of the very purpose of kingship itself.<sup>18</sup> Accordingly, the king ought to safeguard the prosperity of his subjects and draw on their property only in great need. This was why public taxation was generally justified by a claim to an exceptional necessity, irrespective of the fact that it came to be levied with increasing frequency from the last quarter of the thirteenth century.<sup>19</sup> Crucially, the taxation and regulation of commerce—both domestic and international—were seen as things that ought to be rooted in the provision of the common good, rather than being orientated toward solely fiscal ends.<sup>20</sup>

The political issue of the burden imposed on the populace by taxation—both direct and indirect—was particularly important and controversial from around 1290, when taxation was levied with increasing regularity despite a sharp downturn in economic conditions.<sup>21</sup> Most importantly for this article, in the mid-fourteenth century, Edward III followed the example of his grandfather, Edward I, by imposing heavy subsidies on wool exports to help finance warfare. Such subsidies were often resented by those affected by them. And, as will be outlined in detail in Section II, the form of consent required for these impositions remained uncertain well into Edward III’s reign. The imposition of additional, heavy duties on wool exports under Edward III was thus considered to be a moral, as well as fiscal, issue both economically and constitutionally. As will be explored in Section VI, so too were the judicial methods used to enforce the royal regulation of the export trade. Their purpose was the enforcement of heavy subsidies and their form was akin to a kind of unpopular judicial inquiry,

<sup>16</sup> For a recent perspective that draws on both Thompson and Scott and conceives of “moral economy” as “the structure of values and obligations which governed whether behaviour was judged right or wrong,” see R. Faith, *The Moral Economy of the Countryside: Anglo-Saxon to Anglo-Norman England* (Cambridge: Cambridge University Press, 2019), 2.

<sup>17</sup> See W.M. Ormrod, “‘Common Profit’ and ‘The Profit of the King and Kingdom’: Parliament and the Development of Political Language in England, 1250–1450,” *Viator* 46 (2015): 219–52. An important study based on the relevance of this sense of paternalism is B. Sharp, *Famine and Scarcity in Late Medieval and Early Modern England: The Regulation of Grain Marketing 1256–1631* (Cambridge: Cambridge University Press, 2016).

<sup>18</sup> C.J. Nederman, “Property and Protest: Political Theory and Subjective Rights in Fourteenth-Century England,” *Review of Politics* 58 (1996): 323–44.

<sup>19</sup> A central argument of G.L. Harriss, *King, Parliament, and Public Finance in Medieval England to 1369* (Oxford: Clarendon Press, 1975).

<sup>20</sup> See n. 197.

<sup>21</sup> See, for example, E. Miller, “War, Taxation and the English Economy in the Late Thirteenth and Early Fourteenth Centuries,” in *War and Economic Development*, ed. J.M. Winter (Cambridge: Cambridge University Press, 1975), 11–31; and J.R. Maddicott, “The English Peasantry and the Demands of the Crown, 1294–1341,” repr. in *Landlords, Peasants and Politics in Medieval England*, ed. T.H. Aston (Cambridge: Cambridge University Press for Past & Present Publications, 1987), 285–359.

which was being superseded in other areas of peacekeeping by more local, and more popular, commissions.

In sum, opinion on the scale and form of fiscal exactions and commercial regulation in fourteenth-century England was, to quote Scott, a subject governed by “a notion of economic justice.” Adopting this perspective on the moral economy of royal authority here has the heuristic benefit of focusing attention on the perceived legitimacy of taxation and contextualizing the practice of smuggling and the measures adopted to limit it. Both the activity and the governmental response to it should be viewed as operating within a web of shared values about what constituted just and unjust exactions.

### **The Governance of the Wool Trade and the Devolution of Royal Justice**

Royal regulation of trade, although far from a new development, intensified in the late Middle Ages.<sup>22</sup> It is helpful to view the governance of the wool trade in particular from a perspective within economic history that emphasizes conflict over the form and role of economic institutions as a central factor in explaining their development, with politically powerful groups shaping economic institutions to distribute resources to themselves rather than to maximize total growth.<sup>23</sup>

Three aspects of its governance are particularly important to my understanding of the wool trade as a commercial activity that developed in this manner. The first is the imposition of duties on wool exports, which added to the financial resources of the crown and supplemented the revenues of royal landholding, the proceeds of direct taxation, and loans raised from financiers. The taxation of the wool trade began in the last quarter of the thirteenth century. Henry III imposed a ban on wool exports in 1270 due to a diplomatic struggle with Margaret, countess of Flanders.<sup>24</sup> This remained in force for most of the next 5 years. It was repealed in 1275 after a concession was extracted from the

<sup>22</sup> R. Britnell, “Forstall, Forestalling and the Statute of Forestallers,” *English Historical Review* 102 (1987): 89–102; J. Davis, “Baking for the Common Good: A Reassessment of the Assize of Bread in Medieval England,” *Economic History Review*, new ser., 57 (2004): 465–502; J. Davis, *Medieval Market Morality: Life, Law and Ethics in the English Marketplace, 1200–1500* (Cambridge: Cambridge University Press, 2011), 173–273; G. Seabourne, *Royal Regulation of Loans and Sales in Medieval England: ‘Monkish Superstition and Civil Tyranny’* (Woodbridge: The Boydell Press, 2003); B. Sharp, “Royal Paternalism and the Moral Economy in the Reign of Edward II: The Response to the Great Famine,” *Economic History Review*, new ser., 66 (2013): 628–47; C. Briggs, “Peasants, Lords, and Commerce: Market Regulation at Balsham, Cambridgeshire, in the Early Fourteenth Century,” in *Peasants and Lords in the Medieval English Economy: Essays in Honour of Bruce M.S. Campbell*, ed. M. Kowaleski, J. Langdon, and P.R. Schofield (Turnhout: Brepols, 2015), 247–72; and N. Karn, “England’s Trade with the Continent in the Early Thirteenth Century: Customs and the Port of Dover,” *Journal of Medieval History* 46 (2020): 306–34.

<sup>23</sup> D. Acemoglu, S. Johnson, and J.A. Robinson, “Institutions as a Fundamental Cause of Long-Run Growth,” in *Handbook of Economic Growth*, vol. 1A, ed. P. Aghion and S. Durlauf (Amsterdam: Elsevier, 2005), esp. 390–93, 394–96, 427–28, 439; and S. Ogilvie and A.W. Carus, “Institutions and Growth in Historical Perspective,” in *Handbook of Economic Growth*, vol. 2A, ed. P. Aghion and S. Durlauf (Amsterdam: Elsevier, 2014), esp. 406–7, 417, 428, 429–36, 470.

<sup>24</sup> See T.H. Lloyd, *The English Wool Trade in the Middle Ages* (Cambridge: Cambridge University Press, 1977), 29–31, 36–37.

realm's merchants: henceforth, all merchants agreed to pay a custom of 6s 8d on each sack of wool that they exported.<sup>25</sup> Later, the rate payable by alien merchants in particular was increased by an additional "new" custom of 3s 4d per sack, which was levied between 1303 and 1311 and from 1322 onwards. These customs were considered part of the crown's ordinary revenue and did not have to be regranted to stay in force.

A new, additional and controversial levy on the wool trade beyond the original custom was imposed by Edward I in July 1294, as the king looked to the export trade to finance warfare on a hitherto unprecedented scale.<sup>26</sup> Edward imposed a heavy subsidy—soon settled at 40s—to be paid on each sack of wool taken overseas for sale.<sup>27</sup> While not strictly speaking illegal, it had not been granted with anything approaching a wide measure of consent, being agreed to only by a group of merchants, and was resented to the extent that it became known as a *maltolt* ("bad tax").<sup>28</sup> The cost of export itself was massively increased while the *maltolt* was in force, with the additional 40s charge per sack equivalent to a sixfold increase on the ancient custom (6s 8d). Resentment against Edward I's *maltolt* came to a head in 1297, when some of his barons presented the compilation of grievances known as the *Remonstrances*.<sup>29</sup> One of the barons' complaints decried the *maltolt* as a tax imposed to the harm of the whole community: they claimed that the "wool of England is worth nearly half of what the whole land is worth in a year," with the rate of taxation levied through the *maltolt* amounting in a year "to a fifth of what the whole land is worth."<sup>30</sup> In the *Confirmatio Cartarum* subsequently acknowledged by Edward I in November 1297, the king promised that subsidies would not be levied in future without wider consent; and the *maltolt* was abolished that month.<sup>31</sup>

Under Edward II, a forced loan on wool was levied at a lesser rate from July 1317 to September 1318, but a subsidy proper was not imposed again until 1322, when it was granted at a rate of 6s 8d for denizens and 13s 4d for aliens for 12 months (see Table 1).<sup>32</sup> A watershed moment in the history of the wool subsidies came during Edward III's reign (1327–77). Another forced loan was levied at a rate of 13s 4d per sack in the second half of 1327 in anticipation of war with Scotland. In 1333, a subsidy of 10s per sack was granted for 12 months

<sup>25</sup> *Ibid.*, 60–64.

<sup>26</sup> *Ibid.*, 76–80.

<sup>27</sup> The rates of customs and subsidies are tabulated in Carus-Wilson and Coleman, *England's Export Trade*, 196.

<sup>28</sup> Harriss, *King, Parliament, and Public Finance*, 423–24.

<sup>29</sup> For this and the following sentences, see M. Prestwich, *War, Politics and Finance under Edward I* (London: Faber and Faber, 1972), 252–55; Lloyd, *The English Wool Trade*, 76–82, 95–97; and Harriss, *King, Parliament, and Public Finance*, 422–25.

<sup>30</sup> M. Prestwich, ed., *Documents illustrating the Crisis of 1297–98*, Camden Society Fourth Series Volume 24 (London: Royal Historical Society, 1980), 117.

<sup>31</sup> For the cessation of the subsidy, see *Calendar of Close Rolls preserved in the Public Record Office, A.D. 1296–1302* (London: Her Majesty's Stationery Office, 1906), 187, 198.

<sup>32</sup> See also Harriss, *King, Parliament, and Public Finance*, 426.



**Table 1.** Wool Subsidy Rates, 1294–1379 (both Denizens and Aliens, Unless Stated)

Year(s)	Rate per Sack (Shillings & Pence)
November 1294–November 1297	40s
July 1317–September 1318 (forced loan)	6s 8d (denizens) & 10s (aliens)
June 1322–June 1323	6s 8d (denizens) & 13s 4d (aliens)
July 1327–December 1327 (forced loan)	13s 4d
May 1333–May 1334 <sup>a</sup>	10s
September 1336–March 1338	20s
March 1338–April 1340	33s 4d (denizens) & 53s 4d <sup>b</sup> (aliens)
April 1340–May 1341	33s 4d
July 1342–October 1362	40s
October 1362–September 1365	20s
September 1365–September 1368	40s
September 1368–September 1369	36s 8d
September 1369–September 1379	43s 4d

Sources: T.H. Lloyd, *The English Wool Trade in the Middle Ages* (Cambridge: Cambridge University Press, 1977), 76–78, 118–19; and W.M. Ormrod, *The Reign of Edward III: Crown and Political Society in England, 1327–77* (New Haven & London: Yale University Press, 1990), 206.

<sup>a</sup>Collected in some ports until September 1334.

<sup>b</sup>This was accidentally and wrongly rendered as “73s 4d” in M. Raven, “Wool Smuggling from England’s Eastern Seaboard, c.1337–43: An Illicit Economy in the Late Middle Ages,” *Economic History Review*, new ser., 75 (2022): Table 1.

to finance another campaign against the Scots.<sup>33</sup> A longstanding shift came from 1336 with the onset of sustained conflict between Edward III and Philip VI of France. Customs revenues were hugely increased by the perennial imposition of subsidies payable at various rates (Table 1) by both denizen and alien merchants.<sup>34</sup>

Under Edward III, subsidies proved far more durable than the *maltolt* imposed between 1294 and 1297 by Edward I.<sup>35</sup> Whereas the latter had been a 3-year exception to the general rule of the reign, under Edward III, years with subsidies were far more common than years without. Edward III’s reign covered 50 calendar years: the wool subsidy was levied, at varying rates, in all but 7 of these. The revenues raised from the combined proceeds of the

<sup>33</sup> *Calendar of Fine Rolls preserved in the Public Record Office, A.D. 1327–37* (London: Her Majesty’s Stationery Office, 1913), 342; and *Calendar of Close Rolls preserved in the Public Record Office, A.D. 1333–37* (London: Her Majesty’s Stationery Office, 1898), 60.

<sup>34</sup> Customs revenues are tabulated in W.M. Ormrod, “England in the Middle Ages,” in *The Rise of the Fiscal State in Europe, c. 1200–1815*, ed. R. Bonney (Oxford: Oxford University Press, 1999), 33 (fig. 1.11).

<sup>35</sup> A point made in Harriss, *King, Parliament, and Public Finance*, 428.



customs and the subsidies under Edward III were the most important aspect of a shift in royal finance toward greater dependence on indirect taxation: more than 50% of the crown's income from taxation between 1345 and 1354 came from the taxation of the wool trade, and this figure rose to more than 80% between 1355 and 1364.<sup>36</sup> This underpinned a move away from a domain model of royal finance to a "tax state" model characterized by grants of direct and indirect taxation

Furthermore, and significantly for contemporary views of the morality of the royal regulation of the wool trade, the composition of mercantile export changed. Under Edward I, alien merchants exported the bulk of the wool taken through the customs. They had often organized their business through the use of advance contracts, whereby they purchased set amounts of wool from domestic producers in advance, collected it from them at the designated time of delivery, and carried it through the customs system themselves.<sup>37</sup> By the second quarter of the fourteenth century, however, the need for this advance contract system had faded away, as denizen merchants became responsible for a large share of the export trade.<sup>38</sup> It was now the king's own subjects whose money provided the bulk of the customs revenues, and this directly exposed a larger number of them to the demands of the crown.

Nor was it just English export merchants who were affected by the weight of taxation on the wool trade, since the heavy subsidies drove down wool prices. These slumped in the middle of the fourteenth century.<sup>39</sup> The imposition of subsidies thus affected not just the denizen merchants who were coming to dominate the export trade but also the thousands of producers—ranging from great monastic houses with huge flocks to peasant smallholders—who were reliant on the wool trade to varying extents.<sup>40</sup> The relationship between

<sup>36</sup> Ormrod, "England in the Middle Ages," 42 (fig. 1.16). And note W.M. Ormrod, *The Reign of Edward III: Crown and Political Society in England, 1327-1377* (New Haven & London: Yale University Press, 1990), 182: "[Edward III's taxation of wool exports] made the customs and subsidies the single most important weapon in the financial armoury of the late medieval state."

<sup>37</sup> A.R. Bell, C. Brooks, and P. Dryburgh, *The English Wool Market, c. 1230-1327* (Cambridge: Cambridge University Press, 2007). The contracts underpinning this study are edited in A.R. Bell, C. Brooks, and P. Dryburgh, eds., *Advance Contracts for the Sale of Wool c. 1200-c. 1327*, List & Index Society Volume 315 (Kew: The National Archives, 2006).

<sup>38</sup> Lloyd, *The English Wool Trade*, 123-43; and T.H. Lloyd, *Alien Merchants in England in the High Middle Ages* (New York: St Martin's Press, 1982). Note the logic behind the terminal date for their study set out in Bell, Brooks, and Dryburgh, *The English Wool Market*, 12-13, 151.

<sup>39</sup> Wool prices are tabulated in T.H. Lloyd, *The Movement of Wool Prices in Medieval England* (Cambridge: Cambridge University Press, 1973), 40-41. These data are reproduced as a figure in M. Raven, "Wool Smuggling from England's Eastern Seaboard, c.1337-43: An Illicit Economy in the Late Middle Ages," *Economic History Review*, new ser., 75 (2022), Early View (<https://doi.org/10.1111/ehr.13141>): 15 (fig. 3).

<sup>40</sup> The interests of peasant producers were stressed in E. Power, *The Wool Trade in English Medieval History* (Oxford: Oxford University Press, 1941), 20-40. More recently, see J. Masschaele, *Peasants, Merchants, and Markets: Inland Trade in Medieval England, 1150-1350* (New York: St. Martin's Press, 1997), ch. 2, esp. 53-54; and P. Slavin, "Peasant Livestock Husbandry in Late-Thirteenth-Century Suffolk: Economy, Environment and Society," in *Peasants and Lords in the Medieval English Economy*, 9-11, 22.

subsidies and domestic prices was certainly not lost on the parliamentary Commons, who frequently protested that prices were being lowered by royal fiscal policies.<sup>41</sup>

It was under Edward III that these subsidies came to be granted with the consent of the Commons. Although Parliament had established its constitutional position regarding the granting of direct taxation on moveable goods by the start of Edward III's reign, no such right had been claimed regarding the subsidy on wool exports. Edward I had simply undertaken not to impose a subsidy without common assent, which was left vaguely defined. Initially, Edward III obtained such consent from extra-parliamentary bodies, such as assemblies of merchants and the royal council.<sup>42</sup> It was only in 1340 that a grant of the wool subsidy was made in Parliament.<sup>43</sup> As yet, however, Parliament had no accepted right to make such grants, and further subsidies were authorized by an assembly of merchants in 1342 and by the council in 1346.<sup>44</sup> It was not until 1362 that Parliament established its constitutional position as the proper venue for the negotiation of indirect taxation.<sup>45</sup>

In addition to the imposition of heavier duties on exports, the governance of the wool trade under Edward III was also characterized by the promulgation of restrictions on who could legally export wool and where wool could legally be exported from and to. Each of these restrictions are addressed in turn here, since they combined with the sheer weight of taxation to frame the crown's regulation of the wool trade as a moral issue.

A particularly notable manipulation of the wool trade for the sake of royal finance, which had no parallel under Edward I, took place at the start of warfare with Philip VI.<sup>46</sup> All wool exports were banned in August 1336.<sup>47</sup> Then, in July 1337, a company of English merchants was formally created and granted a monopoly on the wool trade, which they alone were allowed to resume.<sup>48</sup> The members of this monopoly were empowered to raise 30,000 sacks of wool from

<sup>41</sup> For contemporary recognition of the link between prices and the subsidies, see Harriss, *King, Parliament, and Public Finance*, 434–35.

<sup>42</sup> Harriss, *King, Parliament, and Public Finance*, 427–30, 444–47. Although his interpretation now seems dated, there is still much of value in G. Unwin, "The Estate of Merchants," in *Finance and Trade under Edward III*, ed. G. Unwin (Manchester: Manchester University Press, 1918), 179–255.

<sup>43</sup> Harriss, *King, Parliament, and Public Finance*, 429.

<sup>44</sup> *Ibid.*, 430–31.

<sup>45</sup> C. Given-Wilson, P. Brand, J.R.S. Phillips, W.M. Ormrod, G. Martin, A. Curry, and R. Horrox, eds., *The Parliament Rolls of Medieval England*, 16 vols. (Woodbridge: The Boydell Press, 2005) (hereafter *PROME*), V: 136–37, 148. See also Ormrod, *Reign of Edward III*, 188–90.

<sup>46</sup> For the scheme's novelty, see E.B. Fryde, *Studies in Medieval Trade and Finance* (London: The Hambleton Press, 1983), II:1180.

<sup>47</sup> T. Rymer, ed., *Foedera, Conventiones, Litterae et cuiuscunque Generis Acta Publica*, 4 vols. in 7 parts (London: Record Commission, 1819–69), II.ii:943–94.

<sup>48</sup> Fryde, *Studies*, VI, forms the basis for this paragraph. See also W.M. Ormrod, *Edward III* (New Haven & London: Yale University Press, 2011), 194, 197–98. For Edward III's finances at this stage of the war more generally, see the following by E.B. Fryde, "Materials for the Study of Edward III's Credit Operations, 1327–48," *Bulletin of the Institute of Historical Research* 22 (1949): 105–38; E.B. Fryde, "Materials for the Study of Edward III's Credit Operations, 1327–48," *Bulletin of the Institute of Historical Research* 23 (1950): 1–30; and Fryde, *Studies*, VII.

the English countryside. They would do this by purchasing wool compulsorily from producers on credit, according to a schedule of minimum prices corresponding to the regional quality of wool.<sup>49</sup> The idea was that the monopoly would sell the 30,000 sacks in the Low Countries at high prices thanks to the general embargo on export then in place. It was anticipated that this would yield an enormous sum (perhaps £300,000 or more), with the profit on each sack reckoned at some £2.<sup>50</sup> Half of the anticipated profits gained from these sales were to go to the king, and half to the merchants. In addition, the merchants would provide an interest-free loan of £200,000 to the king which, together with his half of the profits, would finance the costs of royal warfare.

In the end, this ambitious scheme was a catastrophic failure. Only the first shipment of wool departed England's shores and, in early 1338, this was seized at Dordrecht by the king's representatives in the Low Countries after their demand for a larger loan had been refused as impossible to meet. The entire scheme collapsed and the sale of wool by the king's representatives only raised around £68,000, nowhere near the level of funds needed to support his military and diplomatic expenses.<sup>51</sup> Furthermore, this monopoly scheme was extremely unpopular. It aimed to concentrate the proceeds of the wool trade into the hands of a small group of merchants high in royal favor. It thus conflicted with a tradition of social thought that decried avarice.<sup>52</sup> The minimum prices offered to producers by these merchants were almost certainly lower than those that the former could have received at market. And the scheme's failure meant that many producers were not paid even the compulsory purchase prices because the merchants who had bought their wool on credit had not sold it themselves but had instead received royal IOUs after the Dordrecht seizure, and so did not yet have funds to pay their suppliers.

The failure of the wool scheme in 1338 did not, however, herald a return to free export, for, in a resumption of bans imposed on occasion by Edward I in the 1290s, export without license was banned periodically for denizen merchants.<sup>53</sup> It was, indeed, very unusual for unlicensed export to be legal in the first years of the Hundred Years War. A generation of exporters who had hitherto been accustomed to departing after the shearing season now no longer had the right to take wool overseas without express, and costly, royal permission.

The geography of the legitimate export trade, too, was reshaped by royal decree. The customs system itself restricted the embarkation choice for

<sup>49</sup> This is discussed in J.H. Munro, "Wool-Price Schedules and the Qualities of English Wools in the Later Middle Ages c.1270-1499," *Textile History* 9 (1978): 135-37.

<sup>50</sup> Fryde, *Studies*, VI:12-13.

<sup>51</sup> *Ibid.*, 21-22.

<sup>52</sup> For thinking on mercantile avarice, see D.H. Sacks, "The Greed of Judas: Avarice, Monopoly, and the Moral Economy in England, ca. 1350-ca. 1600," *Journal of Medieval and Early Modern Studies* 28 (1998): 263-307; and R.A. Ladd, *Antimerchantism in Late Medieval English Literature* (Basingstoke: Palgrave Macmillan, 2010), 63-66.

<sup>53</sup> Lloyd, *The English Wool Trade*, 144-92. For bans imposed under Edward I, see *Calendar of Close Rolls Preserved in the Public Record Office, A.D. 1288-96* (London: Her Majesty's Stationery Office, 1904), 261, 264; and *Calendar of Close Rolls 1296-1302*, 266.

merchants who wanted to export wool legally, because they had to do so through a designated port town. This could increase their transport costs, which could be substantial, especially for heavy commodities such as wool, which needed to be taken long distances or overland.<sup>54</sup> In 1338, the sheriff of Herefordshire was allowed the substantial sum of £37 10s in his account, equivalent to 6s per sack, for the cost of transporting a load of royal wool from Hereford to London.<sup>55</sup> The sheriff of Surrey and Sussex was allowed the same rate per sack for his expenses in sending wool along the shorter—but overland—route between Chichester and London. Such problems may have been exacerbated by a decline in the navigability of some rivers, which offered the most efficient avenues for the transport of heavy cargoes at this time.<sup>56</sup> This lack of easy inland water transport was particularly notable in western and some central areas, including the prominent pastoral sheep-farming regions of Herefordshire, north western Derbyshire, Gloucestershire, western Oxfordshire, and central Wiltshire.<sup>57</sup>

Furthermore, the creation of wool staples by royal command restricted the geographical destination of legal sale. In Edward II's reign, a system of staple towns (both foreign and domestic) had been set up and then abandoned.<sup>58</sup> Edward III's government revived the staple system and designated Bruges as the sole location of the wool staple between 1340 and 1352, a decision that favored the crown and more substantial merchants working with royal favor at the expense of many others.<sup>59</sup> A wider desire for the Bruges staple to be replaced with a system of domestic staples was impressed on the king by the Commons in April 1343.<sup>60</sup> Such a system was not, however, enacted until 1353, when royal legislation banned denizen export completely and established domestic staples (initially in eight towns) where wool could legally be sold to

<sup>54</sup> D.L. Farmer, "Marketing the Produce of the Countryside, 1200–1500," in *The Agrarian History of England and Wales*, III: 1350–1500, ed. E. Miller (Cambridge: Cambridge University Press, 1991), 350–55; and J. Masschaele, "Transport Costs in Medieval England," *Economic History Review*, new ser., 46 (1993): 270–73.

<sup>55</sup> E 372/183, rot. 48d; and J.F. Willard, "Inland Transportation in England during the Fourteenth Century," *Speculum* 1 (1926): 367–68. For a later example, see A. Hanham, *The Celys and their World: An English Merchant Family of the Fifteenth Century* (Cambridge: Cambridge University Press, 1985), 119.

<sup>56</sup> J. Langdon, "Inland Water Transport in Medieval England," *Journal of Historical Geography* 19 (1993): 1–11; and E.T. Jones, "River Navigation in Medieval England," *Journal of Historical Geography* 26 (2000): 60–75.

<sup>57</sup> There is information on the geographical spread of sheep farming in H.E. Hallam, P.F. Brandon, J.A. Raftis, C. Dyer, J. Hatcher, E. Miller, and R.I. Jack, "Farming Techniques," in *The Agrarian History of England and Wales*, II: 1042–1350, ed. H.E. Hallam (Cambridge: Cambridge University Press, 1988), 272–496; J.A. Tuck, E. Miller, R. Britnell, E. King, C. Dyer, D.H. Owen, P.D.A. Harvey, M. Mate, and H.S.A. Fox, "Farming Practices and Techniques," in *Agrarian History of England and Wales*, III: 1350–1500, 175–323; and B.M.S. Campbell, *English Seigniorial Agriculture, 1250–1450* (Cambridge: Cambridge University Press, 2000), 156–57, 161–63.

<sup>58</sup> W. Childs, "Government and Market in the Early Fourteenth Century," in *Ruling Fourteenth-Century England: Essays in Honour of Christopher Given-Wilson*, ed. R. Ambühl, J. Bothwell, and L. Tompkins (Woodbridge: The Boydell Press, 2019), 48–50.

<sup>59</sup> Lloyd, *The English Wool Trade*, 171–72.

<sup>60</sup> PROME, IV:347–49.

alien exporters by denizen merchants.<sup>61</sup> English merchants were thus still restricted, and those based in regions relatively far away from the nearest designated staple faced additional transport costs if they wished to sell their wool legally.<sup>62</sup>

In the mid-fourteenth century, then, the “free” overseas trade of England’s most valuable exported product became something consigned to the past rather than practiced in the present as it was subjected to heavy taxation and numerous regulations.

As well as being significant in terms of fiscal and commercial structure, the middle of the fourteenth century also saw a distinct shift in the ways in which royal law was conveyed into the localities, as the prosecution of crimes through common law institutions became increasingly devolved to local society. Itinerant eyres, the great juggernaut form of local royal justice in the thirteenth century, began to be held less regularly after 1294.<sup>63</sup> A preference for other large commissions issued on an ad hoc basis, known as general *oyer* and *terminer* commissions, remained into Edward III’s reign. However, although a series of centralized commissions in the traditional manner was issued in 1341 and remained active until 1344, judicial experimentation from this time resulted in a delegated system characterized by the centrality of the JPs and the assize circuits to royal governance in the shires.<sup>64</sup> This more localized mode of legal engagement, which included local landowners as well as professional royal justices, remained intact in its essentials for centuries.<sup>65</sup>

Within this wider institutional framework of royal justice, a concerted and sustained judicial effort was made in the middle of the fourteenth century to enforce the regulation of the export trade and thus to secure revenue from the customs and subsidies. This was not wholly unprecedented. The integrity of the bans on export imposed in the early 1270s had been investigated as part of the extensive Hundred Roll inquiries of 1274–75.<sup>66</sup> Edward I was clearly concerned

<sup>61</sup> A. Luders, T.E. Tomlins, W.E. Taunton, and J. Raithby, eds., *Statutes of the Realm*, 11 vols. (London: Record Commission, 1810–28), 1:332–43.

<sup>62</sup> For a complaint by the commonalties of Huntingdonshire, Cambridgeshire, and parts of Suffolk, Northamptonshire, Bedfordshire, and Leicestershire on travel distance to the nearest staple port and a request for a new staple to be established at Lynn because of this, see Special Collections 8/16/751; *PROME*, V:282.

<sup>63</sup> D. Crook, “The Later Eyres,” *English Historical Review* 97 (1982): 241–68; and C. Burt, “The Demise of the General Eyre in the Reign of Edward I,” *English Historical Review* 120 (2005): 1–14.

<sup>64</sup> The classic work is that of Bertha Haven Putnam: see “The Transformation of the Keepers of the Peace into the Justices of the Peace 1327–1380,” *Transactions of the Royal Historical Society*, 4th ser., 12 (1929): 19–48; and B.H. Putnam, ed., *Proceedings before the Justices of the Peace in the Fourteenth and Fifteenth Centuries* (Cambridge, MA: Ames Foundation, 1938). For a synthesis of post-Putnam work and its implications, see C. Carpenter, “War, Government and Governance in England in the Later Middle Ages,” in *Conflict, Consequences and the Crown in the Late Middle Ages*, ed. L. Clark (Woodbridge: The Boydell Press, 2007), 16–21.

<sup>65</sup> See M. Braddick, *State Formation in Early Modern England, c.1550–1700* (Cambridge: Cambridge University Press, 2000), 30–8.

<sup>66</sup> H. Cam, “Studies in the Hundred Rolls: Some Aspects of Thirteenth-Century Administration,” in *Oxford Studies in Social and Legal History VI*, ed. P. Vinogradoff (Oxford: Clarendon Press, 1921), 34–5 (noting the temporary and specific character of this article). For an example of an inquiry at this

with illegal export at this time.<sup>67</sup> This concern seems, however, to have faded after the creation of the customs service in 1275 which was, in theory, equipped to combat evasion.<sup>68</sup> Notably, it seems that the article regarding illegal export that had featured in the judicial inquiries of the early 1270s was omitted from the questions asked of local juries in later Hundred Roll inquiries.<sup>69</sup>

Renewed efforts to enforce the regulation of the wool trade were made again in 1320, when the government tried to crack down on trade conducted outside the designated staple at St Omer.<sup>70</sup> From 1336, however, there was an increase in intensity in the fight against smuggling, which is suggestive of the importance attached by the royal government to the issue of customs evasion at this time. This intensity is the subject of the following section.

### The Structure of Enforcement: Commissions, Personnel, and Institutions

This study is based on a corpus of administrative and legal government records. Primarily, these comprise appointments to and proceedings of judicial commissions, the plea rolls of the court of King's Bench, and the records of the Exchequer.<sup>71</sup> While this evidence, of course, illuminates only a portion—and

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time, see *Calendar of Inquisitions Miscellaneous, 1307–77*, 2 vols. (London: Her Majesty's Stationery Office, 1916–37), I, no. 964.

<sup>67</sup> R.W. Kaeuper, *Bankers to the Crown: The Riccardi of Lucca and Edward I* (Princeton: Princeton University Press, 1973), 142–46.

<sup>68</sup> Perhaps in part because the customs revenues were often assigned to Italian banking houses in return for credit advanced to the king, rather than accruing to him directly: Kaeuper, *Bankers to the Crown*, 105, 135–71; M. Prestwich, "Italian Merchants in Late Thirteenth and Early Fourteenth-Century England," in *The Dawn of Modern Banking*, ed. F. Chiapelli (New Haven: Yale University Press, 1977), 77–104; A.R. Bell, C. Brooks, and T.K. Moore, "Credit Finance in Thirteenth-Century England: The Ricciardi of Lucca and Edward I, 1272–1294," in *Thirteenth Century England XIII*, ed. J. Burton, F. Lachaud, P. Schofield, K. Stöber, and Björn Weiler (Woodbridge: The Boydell Press, 2011), 101–16. This practice continued until the collapse of the Bardi and Peruzzi in the early years of Edward III's reign: Fryde, *Studies*, IV:207–8.

<sup>69</sup> S. Raban, *A Second Domesday? The Hundred Rolls of 1279–80* (Oxford: Oxford University Press, 2004), 192–203 (appendix 3); and Cam, "Studies in the Hundred Rolls," 91–101. The chancery rolls of the 1290s do not contain the numerous orders for inquiry seen under Edward III. The records of crown pleas heard in the London eyre of 1276 do not show a drive to prosecute evasion: Martin Weinbaum, ed., *The London Eyre of 1276*, London Record Society Volume 12 (London: London Record Society, 1976), nor do the records of the 1293 Northumberland eyre: C.M. Fraser, ed., *The Northumberland Eyre Roll for 1293*, Surtees Society Volume 211 (Woodbridge: The Boydell Press for the Surtees Society, 2007), nor, seemingly, did the large-scale trailbaston inquiries of 1304–5 and 1306–7, the Kent eyre of 1312–13, or the Kent keepers of the peace in 1316–17 target customs evasion: Cam, "Studies in the Hundred Rolls," 75 n. 3, 76–7; A. Musson and E. Powell, eds. and trans., *Crime, Law and Society in the Later Middle Ages* (Manchester: Manchester University Press, 2009), 114–17; F.W. Maitland, L.W.V. Harcourt, and W.C. Bolland, eds., *The Eyre of Kent, 6 & 7 Edward II*, Selden Society Volume 24 (London: Selden Society, 1910), 28–45; and B.H. Putnam, ed., *Kent Keepers of the Peace, 1316–17*, Kent Records Volume 13 (Canterbury: Kent Archaeology Society, 1933), xxii–iii.

<sup>70</sup> Lloyd, *The English Wool Trade*, 111–12.

<sup>71</sup> The National Archives UK, Kew: KB 9/1/1; KB 9/1/3; KB 9/2; KB 9/22/1; KB 9/22/2; KB 9/54A; KB 9/90; KB 9/114; KB 9/117; KB 9/163/1; KB 9/163/2; KB 9/163/3; KB 9/163/4; JUST 1/31; JUST 1/74; JUST 1/258; JUST 1/259; JUST 1/264; JUST 1/337; JUST 1/399; JUST 1/443; JUST 1/444;



probably a small portion—of the customs evasion that actually took place, enough remains for the contours of the anti-smuggling enforcement effort under Edward III to be traced. Evasion of the customs was a crime justiciable as a trespass committed in contempt of the king and to his damage, and punishable in practice by a fine. Commissions and inquiries that either heard or heard and determined presentments from local jurors formed the backbone of the measures put in place to police illegal export. No fewer than 189 commissions or appointments (whether commissions of inquiry, special or general commissions of *oyer* and *terminer*, or specific appointments or orders) relating to wool smuggling were enrolled on the patent rolls covering 1336–58 compiled in the Chancery.<sup>72</sup> The number issued peaked in 1343 and generally falls away from the mid-1340s, although there were spikes in 1350, 1353, and 1357.

At their most systematic and ambitious, the commissions tasked with the local enforcement of the royal statutes and proclamations prohibiting the export of uncustomed wool ranged across much of England. In November 1342, a series of *oyer* and *terminer* commissions covering twenty counties was empowered to investigate illegal export and coinage offenses.<sup>73</sup> After the Parliament of April 1343, a new series of commissions empowered royal justices to hear smuggling charges in ten counties.<sup>74</sup> In 1352, as the crown re-established direct control over the customs system, inquiries were commissioned to investigate trading offenses in Yorkshire, Essex, Surrey, Sussex, and Kent; in July 1353, general inquiries were initiated in seven coastal counties and the liberties of the Cinque Ports; and in 1354, six counties along the eastern seaboard were investigated by special commissions.<sup>75</sup>

Sometimes, however, a specific commission was issued in response to the receipt of more local information. In 1356, letters warranted by the royal privy seal and dated at Newcastle-upon-Tyne ordered a commission of *oyer* and *terminer* into smuggling offenses in Northumberland, presumably after

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JUST 1/521 (B.W. McLane, ed., *The 1341 Royal Inquest in Lincolnshire*, Lincoln Record Society Volume 78 [Woodbridge: The Boydell Press, 1988]); JUST 1/549; JUST 1/550; JUST 1/552; JUST 1/691; JUST 1/715; JUST 1/716; JUST 1/770; JUST 1/771; JUST 1/858; JUST 1/859; JUST 1/1128; JUST 1/1141; JUST 1/1436; JUST 1/1548; JUST 1/1565; KB 27/307–401, *Rex* sides (covering Hilary term 1337 to Trinity term 1360); E 159/114–136, *Recorda* sections (covering Michaelmas term 1337 to Trinity term 1360) with inaccessible rolls supplemented by E 368/121 and E 368/122. The Exchequer plea rolls covering 1336–60 (E 13/64–E 13/82B) are of more limited use since cases where the king appeared as plaintiff were generally enrolled in the memoranda rolls (E 159; E 368). All are accessible on the Anglo-American Legal Tradition Web site created by R.C. Palmer, E.K. Palmer, and S. Jenks: <http://aalt.law.uh.edu/AALT.html>. Three of these rolls are noted in W.R. Jones, “Keeping the Peace: English Society, Local Government, and the Commissions of 1341–44,” *American Journal of Legal History* 18 (1974): 309 n. 7.

<sup>72</sup> *Calendar of Patent Rolls preserved in the Public Record Office: Edward III (1327–1377)*, 16 vols. (London: Her Majesty’s Stationery Office, 1898–1913) (hereafter *CPR*, with dates): *CPR 1334–38*; *CPR 1338–40*; *CPR 1340–43*; *CPR 1343–45*; *CPR 1345–48*; *CPR 1348–50*; *CPR 1350–54*; *CPR 1354–58*. See also Powell, *Kingship, Law, and Society*, 62–63.

<sup>73</sup> *CPR 1340–43*, 585–86.

<sup>74</sup> *PROME*, IV: 333; *CPR 1343–45*, 97–98.

<sup>75</sup> *CPR 1350–54*, 275, 289, 334, 514; *CPR 1354–58*, 125, 162, 163.



information had been received by the royal household in its travels.<sup>76</sup> Sometimes a particular complaint prompted an inquiry. Robert Denton, customs collector at Hull, was investigated in 1341 and imprisoned in the Tower of London following a petition submitted to the king and his council regarding his conduct in office.<sup>77</sup> Similarly, in 1344, the London merchant John Malwain was successful in petitioning for a commission inquiring into uncustomed wool he claimed had been wrongfully arrested.<sup>78</sup>

Commissions that had the power to determine cases were headed by royal justices. These included some of the most prominent legal experts of the day: William Shareshull (d. 1370), justice of Common Pleas from 1334 and chief justice of the King's Bench 1350–61, was named on nine smuggling commissions; Robert Parving (d. 1343), chief justice of the King's Bench from July 1340 to January 1341, was named on eleven; and Roger Hillary (d. 1356), chief justice of Common Pleas from January 1341 to May 1342 and from February 1354, was named on four commissions through 1342–43.<sup>79</sup> Together, the careers of these justices spanned the King's Bench, Common Pleas, peace commissions, and assize circuits. Service on smuggling commissions was thus integrated into the working lives of a prominent group of royal justices active across a wide variety of judicial fora. This continued through the 1350s: Hillary continued to be named on smuggling inquiries, and he was joined as a regular appointee by Robert Thorpe (d. 1372), king's serjeant and chief justice of Common Pleas from June 1356, William Skipwith (d. c.1398), royal serjeant-at-law from 1354, and Henry Green (d. 1369), king's serjeant from 1345 and justice of Common Pleas from 1354.<sup>80</sup>

Recently, Matthew Hefferan has noted that some of Edward III's household knights were featured on anti-smuggling commissions.<sup>81</sup> He demonstrates how they, as some of the king's most trusted servants with careers spanning the administrative and military spheres, were well placed to spearhead the effort against smuggling.<sup>82</sup> A centralized connection between the royal household

<sup>76</sup> CPR 1354–58, 332. For Edward III's movements, see Ormrod, *Reign of Edward III*, 624; and for this point more generally, see W.M. Ormrod, "Law in the Landscape: Criminality, Outlawry and Regional Identity in Late Medieval England," in *Boundaries of the Law: Geography, Gender and Jurisdiction in Medieval and Early Modern Europe*, ed. A. Musson (London: Routledge, 2005), 9–10.

<sup>77</sup> KB 27/323, Rex side, rot. 16; and KB 27/324, Rex side, rot. 10d.

<sup>78</sup> SC 8/245/12207; CPR 1343–45, 574.

<sup>79</sup> Shareshull: CPR 1340–43, 452–53, 585–86; CPR 1343–45, 97–98, 190, 281–82, 286, 430; CPR 1345–48, 390; CPR 1348–50, 518. Parving: CPR 1340–43, 89, 94, 317, 318, 373, 485, 544, 585–86; CPR 1343–45, 97–98. Hillary: CPR 1340–43, 373, 585–86; CPR 1343–45, 97–98. For Shareshull's career, see B.H. Putnam, *The Place in Legal History of Sir William Shareshull, Chief Justice of the King's Bench, 1350–1361* (Cambridge: Cambridge University Press, 1950); for Parving and Hillary, see C. Kingsford and W.M. Ormrod, "Parning, Sir Robert (d. 1343), justice and administrator," and J. Bothwell, "Hillary, Sir Roger (d. 1356), justice," in *Oxford Dictionary of National Biography* (hereafter ODNB) (Oxford: Oxford University Press, 2004).

<sup>80</sup> For instance, CPR 1350–54, 514, 515, 523. For their careers, see H. Summerson, "Green, Sir Henry," M. Jurkowski, "Skipwith, Sir William," and W.M. Ormrod, "Thorpe, Sir Robert," in ODNB.

<sup>81</sup> M. Hefferan, *The Household Knights of Edward III: Warfare, Politics and Kingship in Fourteenth-Century England* (Woodbridge: The Boydell Press, 2021), 86–87.

<sup>82</sup> A detailed account of the range of their activities and their important role in Edward III's kingship is provided in Hefferan, *The Household Knights of Edward III*.

and the policing of the wool trade was maintained by the service of “king’s clerks,” a group recently described as constituting one of “the essential tools of government.”<sup>83</sup> Several of these clerks were prominent appointees to commissions. In 1338, Stephen Blount was ordered to investigate the boat of James Bollard, suspected of harboring uncustomed wool in the port of Sandwich (Kent).<sup>84</sup> At around the same time, Blount seized wool belonging to William Mordon, a London merchant who had attempted to smuggle wool overseas by hiding it in casks aboard a boat skippered by Peter Bokkele of Flanders.<sup>85</sup> John Langtoft, another royal clerk, helped to confiscate eight sacks of uncustomed wool at the port of Boston in March 1338 and was appointed to inquire into the boat of another suspect in the port of Faversham in Kent in December.<sup>86</sup> Royal clerks were also given more general commissions to inquire into all smuggling in a particular region. John Marton and Thomas Windsor, for instance, were appointed to make inquisition along the coasts of Kent and Essex in 1339, and John Watenhull was given a similar role in the port of London later that year.<sup>87</sup> Nor was the role of the king’s clerks confined to the southeast of England. In 1347, William Kelsey, king’s clerk and chamberlain of Berwick-upon-Tweed, was one of four men appointed to inquire into English wool taken through the custom at Berwick against the king’s prohibition.<sup>88</sup>

Among the assorted ranks of those attached to the royal household, however, the king’s serjeants-at-arms perhaps played the most prominent role in the enforcement of law and order. There were typically around twenty serjeants-at-arms at any one time, although there were more than sixty attached to the royal household in 1341.<sup>89</sup> They were often handpicked for their toughness, competence, and ability to execute their king’s orders which, as Richard Partington showed, enabled them to act as Edward III’s enforcers in the localities.<sup>90</sup> They were regularly directed toward disturbances in maritime regions. In 1345, for example, two serjeants-at-arms, Robert Saint Owen and John Sweyn, were sent to Winchester to arrest two shipmasters suspected of a serious incidence of piracy.<sup>91</sup>

It is, therefore, telling that serjeants-at-arms were regularly named on smuggling inquisitions through the 1340s and 1350s, the period in which they became more active in policing the shires generally.<sup>92</sup> The legal records

<sup>83</sup> A.K. McHardy, “King’s Clerks: The Essential Tools of Government,” in *Ruling Fourteenth-Century England*, 59–76.

<sup>84</sup> CPR 1338–40, 180.

<sup>85</sup> JUST 1/550, rot. 1; CPR 1338–40, 175.

<sup>86</sup> McLane, ed., *The 1341 Royal Inquest in Lincolnshire*, no. 936; CPR 1338–40, 187.

<sup>87</sup> CPR 1338–40, 357, 368.

<sup>88</sup> CPR 1345–48, 462–63. For Kelsey’s wider career, see McHardy, “King’s Clerks,” 61–62.

<sup>89</sup> For the numbers of serjeants-at-arms, see C. Given-Wilson, *The Royal Household and the King’s Affinity: Service, Politics, and Finance in England, 1360–1413* (New Haven & London: Yale University Press, 1986), 22, 54; and R. Partington, “Edward III’s Enforcers: The King’s Sergeants-at-Arms in the Localities,” in *The Age of Edward III*, ed. J. Bothwell (York: York Medieval Press, 2001), 90–91.

<sup>90</sup> Partington, “Edward III’s Enforcers,” esp. 100–101, 105–6.

<sup>91</sup> KB 27/342, Rex side, rot. 46.

<sup>92</sup> Partington, “Edward III’s Enforcers,” 99–104.

reveal something of their impact. On May 3, 1340, the Exchequer found that 105 wool-fells belonging to the merchant John of London and two others had been seized by William Derlaston on the Thames near Gravesend.<sup>93</sup> In 1343, Nicholas Findham was fined £91 6s 8d before itinerant justices of oyer and terminer after eight sarplars (c. sixteen sacks) of uncustomed wool had been arrested at Hormouth in Sussex (near Chichester) by Walter Harwell, who remained involved in anti-smuggling efforts into the 1350s.<sup>94</sup> One of the sergeants given a particular responsibility for enforcing trading regulations was Roger Power, who received three commissions across Kent, Essex, and Sussex in 1341.<sup>95</sup> The records of proceedings before royal justices who toured Essex later in 1341 show that local presentment juries charged numerous people whose goods had been arrested by Power or by his deputy.<sup>96</sup> Power was also active in policing the Thames, and was probably the unnamed serjeant-at-arms who arrested eight sarplars of wool at Faversham (Kent) in 1341.<sup>97</sup> Sometimes he was misguided in his efforts: Hugh Nauton of Sussex had to petition the king to have legal proceedings against him halted after Power had wrongly assumed Nauton was trying to smuggle wool overseas.<sup>98</sup>

Routine tasks in the battle against customs evasion were performed by local officials, who were often promised a portion of forfeited goods as a reward. As noted by R.L. Baker, Sayer Lorimer was particularly active as a “searcher” appointed to inspect vessels and cargoes along the eastern and southern coastlines of England.<sup>99</sup> He was appointed as Power’s deputy along the River Colne in Essex in 1341 and received frequent commissions from this date, remaining active as a searcher until at least 1349.<sup>100</sup> When the King’s Bench sat at Ipswich in Michaelmas term 1344 and Hilary term 1345, the justices heard jury presentments resulting from Lorimer’s arrest of boats carrying uncustomed cargoes through the town.<sup>101</sup> By 1347, he had seized boats in the waters around Colchester (a hotbed of wool smuggling) and Northfleet in Kent and, like Roger Power, had been found excessively zealous in one instance, falsely confiscating legitimate coin he suspected was counterfeited.<sup>102</sup>

And Lorimer was, of course, just one of many searchers active. In 1342, for instance, the King’s Bench heard the case of John Athelardson, a Zeelander whose crew had concealed sixteen stones of wool in barrels aboard his boat as found by Thomas Melchebourn and Geoffrey Drieu, searchers in Boston (Lincolnshire).<sup>103</sup> Nor were searchers the only officials who helped to enforce

<sup>93</sup> E 159/116, rot. 189d.

<sup>94</sup> E 159/122, rot. 134; *CPR 1343–45*, 161; *CPR 1350–54*, 275.

<sup>95</sup> *CPR 1340–43*, 210–11, 213, 216.

<sup>96</sup> KB 9/22/1, nos. 6, 7, 10; JUST 1/259, rot. 3; JUST 1/264, rot. 4.

<sup>97</sup> JUST 1/550, rots. 1, 6d; *CPR 1340–43*, 213, 216.

<sup>98</sup> JUST 1/859, rot. 2, 2d; *CPR 1340–43*, 296, 317–18; *Calendar of Close Rolls preserved in the Public Record Office, A.D. 1341–43* (London: Her Majesty’s Stationery Office, 1902), 205.

<sup>99</sup> Baker, “The English Customs Service,” 37 n. 29.

<sup>100</sup> *CPR 1340–43*, 256–57; *CPR 1348–50*, 260; E 368/119, rot. 32, 32d.

<sup>101</sup> KB 27/338, Rex side, rot. 63d; KB 27/339, Rex side, rots. 3, 34.

<sup>102</sup> E 159/132, *Recorda*, Easter term, rot. 13; E 372/191, rot. 47; KB 27/347, Rex side, rot. 29, 29d.

<sup>103</sup> KB 27/328, Rex side, rot. 21d; *Calendar of Close Rolls 1341–43*, 415.

the regulation of the wool trade. The collectors of the customs were, of course, key to the integrity of the customs system and, while their failures have been explored elsewhere, there are also numerous instances of successful enforcement against illegal export.<sup>104</sup> Sheriffs—the “pivots” of much interaction between royal government and wider society—arrested uncustomed wool through the 1340s and 1350s, as did manorial officials.<sup>105</sup>

The enforcement of smuggling regulations, then, involved a range of people who between them identified instances of illegal export, arrested cargoes, and heard and determined cases. These were efforts to an extent embedded within specific localities, sometimes prompted by local needs and information. But, notably, many of these elements were strongly and directly linked to the royal government. Indeed, the presence of a dispersed web of enforcement at a local level was complemented and directed by three particularly important central institutions: the court of King’s Bench, the Exchequer, and the royal council.

The King’s Bench was the major common law court most closely associated with the king himself.<sup>106</sup> It exercised error jurisdiction over lesser courts and assumed the responsibility to hear and determine cases of illegal export by writ of *supersedeas*, *certiorari*, or *terminari*.<sup>107</sup> On October 7, 1343, for instance, the proceedings of an important inquiry into trading offenses headed by William Scot, which had opened at York on March 3, were halted by letters that called their records and undetermined cases into the King’s Bench, of which—conveniently—Scot was chief justice.<sup>108</sup> The following year, the business of a commission to hear and determine illegal export cases in Sussex and Hampshire was called into the King’s Bench by *supersedeas*.<sup>109</sup> Numerous pleas originally presented before Thomas Surtees and his fellow justices in Northumberland in 1341 were heard by the King’s Bench in 1344, 1345, 1346, 1347, and 1353.<sup>110</sup>

<sup>104</sup> Baker, “The English Customs Service,” 33–50; for instance, KB 27/341, Rex side, rot. 25.

<sup>105</sup> JUST 1/550, rot. 3d; CPR 1354–58, 66; KB 27/338, Rex side, rot. 63 (the bailiff and warrener of the manor of Hollesley in Suffolk); J.B. Blake, “Medieval Smuggling in the North-East: Some Fourteenth-Century Evidence,” *Archaeologia Aeliana*, 4th ser., 43 (1965): 248–49, 256–57; and Ormrod, “The English Crown and the Customs,” 31. For the sheriff as “pivot,” see R. Gorski, *The Fourteenth-Century Sheriff: English Local Administration in the Late Middle Ages* (Woodbridge: The Boydell Press, 2003), 160.

<sup>106</sup> See the introductions to G.O. Sayles, ed., *Select Cases in the Court of King’s Bench*, 7 vols., Selden Society Volumes 55, 57, 58, 74, 76, 82, and 88 (London: Selden Society, 1936–71) (hereafter SCCKB). For insightful syntheses, see Powell, *Kingship, Law, and Society*, 54–56; and A. Musson and W.M. Ormrod, *The Evolution of English Justice: Law, Politics and Society in the Fourteenth Century* (Basingstoke: Macmillan, 1999), 17–20.

<sup>107</sup> For its jurisdictional development in English criminal matters, see SCCKB, II: xxxv–vii, xliv–li, lxiii–lxxi; IV: xxxv–lxxxvi; and Putnam, ed., *Proceedings*, lxiii–lxxii.

<sup>108</sup> CPR 1340–43, 585–86; CPR 1343–45, 97–98; JUST 1/1141, rot. 19. For Scott’s career, see H. Summerson, “Scott, Sir William (d. 1352x6),” in ODNB.

<sup>109</sup> CPR 1343–45, 273–74, 421; KB 9/163, nos. 1, 2, 3, 4; JUST 1/1436; KB 27/341, Rex side, rots. 25, 37d.

<sup>110</sup> CPR 1340–43, 320–21; KB 27/338, Rex side, rots. 1, 9, 9d, 34, 57d, 64; KB 27/340, Rex side, rot. 40, 40d; KB 27/342, Rex side, rot. 31d; KB 27/344, Rex side, rot. 30; KB 27/349, Rex side, rot. 22d; KB 27/372, Rex side, rot. 10. The last of these is noted in Ormrod, “The English Crown and the Customs,” 31.

Perhaps the most important part played by the King's Bench in the attempts to enforce the regulation of the wool trade was its role as an itinerant court. By this point in time it had ceased to be attached to the king's household, which was served by the Court of the Verge.<sup>111</sup> It was, however, still mobile and itinerated away from Westminster in twenty-one of the fifty law terms from Hilary 1337 to Trinity 1349 (when the Black Death temporarily halted business) and fifteen of the forty-five law terms from Michaelmas 1349 (when business resumed) to Michaelmas 1360.<sup>112</sup> These itinerations were the subject of disagreement by two great historians of the legal system, Bertha Putnam and G.O. Sayles, who disputed whether or not the court's movements rendered it comparable to the general eyres of the thirteenth century.<sup>113</sup> What is certain, however, is that the King's Bench's travels away from Westminster allowed it to receive presentments from local juries and bills from counties other than Middlesex, and to subsume business from the local courts of whatever county it found itself in.<sup>114</sup> Several of the court's journeys allowed it to enforce the prohibitions against export of uncustomed wool. At York in Michaelmas term 1340, the King's Bench heard presentments against thirty-four men, including some prominent local merchants such as Thomas Graa, John Goldbeter, and William Acastre.<sup>115</sup> The following Michaelmas, it heard presentments from jurors at Colchester.<sup>116</sup> When it returned to York in Michaelmas term 1343 and Hilary term 1344, the King's Bench heard numerous new charges from presentment juries and no fewer than 104 people made fines with the court for the illegal export of wool in Michaelmas 1343.<sup>117</sup> In Michaelmas term 1344, the King's Bench heard a clutch of smuggling cases when it sat at Ipswich.<sup>118</sup>

The court of the Exchequer was less prominent in the general landscape of royal courts and less modern work has explored its activities up to 1377.<sup>119</sup> But, since evasion of the customs was so strongly linked to the king's financial interests, the Exchequer court played an important role in the policing of

<sup>111</sup> W.R. Jones, "The Court of the Verge: The Jurisdiction of the Steward and Marshal of the Household in Later Medieval England," *Journal of British Studies* 10 (1970): 1–29.

<sup>112</sup> Musson and Ormrod, *Evolution of English Justice*, 199–201; and *SCCKB*, IV: xcvi–cv.

<sup>113</sup> Putnam, *Place in Legal History*, 80, 134, 155; and *SCCKB*, IV: xxxviii–xli, lvii–lxi, lxxi–lxxxvi; VI: ix–xii.

<sup>114</sup> Musson and Ormrod, *Evolution of English Justice*, 18–19.

<sup>115</sup> KB 27/322, Rex side, rots. 33, 33d, 39, 39d, 41, 41d, 42, 44, 44d. For the merchants, see Fryde, *Studies*, XI.

<sup>116</sup> KB 27/326, Rex side, rot. 44.

<sup>117</sup> KB 27/334, fines; KB 27/334, Rex side, rots. 53d, 54, 60d, 62, 70, 71, 72 (the last three rots. are unnumbered: I have given them in sequence from the numeration up to that point in the roll); KB 27/335, fines; KB 27/335, Rex side, rots. 15d, 18d, 26.

<sup>118</sup> KB 27/338, fines; KB 27/338, Rex side, rots. 52, 63, 63d, 64, 68, 68d.

<sup>119</sup> The most detailed modern published account is H. Jenkinson and B.E.R. Formoy, eds., *Select Cases in the Exchequer of Pleas*, Selden Society Volume 48 (London: Selden Society, 1932), xi–cxxxvii, which covers the court up to 1307. An overview of the court's records and procedure is provided in R.M. Ball, "Exchequer of Pleas, Bills and Writs," *Journal of Legal History* 9 (1998): 308–23. See also J.F. Trumbour, "Litigation in the Court of Exchequer, 1307–1377" (PhD diss., University of Cambridge, 1996).

the wool trade. The customs collectors and controllers tasked with the collection of duties on exports had their accounts audited annually at the Upper Exchequer to guard against malpractice.<sup>120</sup> Naturally, the Exchequer also held an interest in the fines due from those found guilty of defrauding the king, and assumed direct responsibility for levying fines of particular interest. Thomas Brown, for example, who had been charged with a number of offenses by a commission of inquiry sitting in London across 1342–43, was arrested and imprisoned in the Fleet after investigations before the Exchequer, eventually paying £224 8s 4d for his release.<sup>121</sup> Justices were ordered to account at the Exchequer for fines levied in the course of judicial proceedings, and searchers were required to account for goods forfeited in the king's name.<sup>122</sup>

The Exchequer sometimes took an interest in cases involving particularly prominent defendants. In Hilary term 1344, the treasurer and barons of the Exchequer considered the responses of the mayor and bailiffs of the port of Southampton to nine charges, which included facilitating the export of uncustomed wool through the town's customs house, drawn up by their staff.<sup>123</sup> In September 1344, the treasurer and barons were ordered to call John Lisle, lately mayor of Bordeaux, before them to answer for six sacks of uncustomed wool which had been arrested in the town.<sup>124</sup> Lisle appeared in the Exchequer court in Easter term 1346 and convinced a trial jury that he was not accountable for the wool.<sup>125</sup> In 1354 and 1355, the Exchequer dealt with cases referred to it by William Sharesull and his fellow justices in Southants, and by Alex Turk and his fellows in Sussex.<sup>126</sup>

Most notably, the Exchequer hosted a series of particularly important smuggling trials. In 1341, it carried out large scale investigations into the accounts of William de la Pole and Reginald Conduit, who had headed the monopoly scheme of 1337.<sup>127</sup> On the basis of information given by a specially selected trial jury of mariners and merchants, Exchequer officials concluded that no fewer than 2,500 additional sacks of wool had been smuggled to Dordrecht in this monopoly's wool fleet.<sup>128</sup> Thomas Graa and other prominent Yorkshire wool merchants were also subject to similar Exchequer investigations.<sup>129</sup> In fact, the Exchequer continued to investigate smuggling in the Dordrecht wool fleet through the 1340s and 1350s and found numerous

<sup>120</sup> Baker, "The English Customs Service," 31.

<sup>121</sup> JUST 1/550, rots. 9, 11, 11d; *Calendar of Close Rolls 1343–46*, 125; E 159/119, rot. 231.

<sup>122</sup> E 159/119, rot. 191d; E 159/120, rot. 216; E 159/121, rot. 171; E 159/124, rot. 271d.

<sup>123</sup> E 159/120, rot. 195, 195d.

<sup>124</sup> *Calendar of Close Rolls preserved in the Public Record Office, A.D. 1343–46* (London: Her Majesty's Stationery Office, 1904), 411; pursuant to C 61/49, m. 11. [www.gasconrolls.org](http://www.gasconrolls.org) (accessed July 20, 2020).

<sup>125</sup> E 159/122, rot. 146.

<sup>126</sup> E 159/130, *Recorda*, Easter term, rot. 3; E 159/131, *Recorda*, Easter term, rots. 3d, 7.

<sup>127</sup> E.B. Fryde, *William de la Pole: Merchant and King's Banker* (London: The Hambledon Press, 1988), 79–82.

<sup>128</sup> E 159/117, rots. 184–89.

<sup>129</sup> E 159/120, rots. 224, 225; E 159/124, rot. 183d.

instances of evasion.<sup>130</sup> After the collapse of Walter Chiriton's customs farming syndicate in 1349, meanwhile, allegations that the merchants most closely involved in the syndicate had fraudulently exported wool were heard in the Exchequer.<sup>131</sup> In 1353, William de la Pole was again prosecuted in the Exchequer as the charges levelled against him in 1341 were resumed.<sup>132</sup> Further trials against merchants accused of large scale smuggling continued through the mid- to late- 1350s.<sup>133</sup> In 1354, merchants of Boston were accused of taking 326 sacks of uncustomed wool overseas in 1349.<sup>134</sup> In 1358, Thomas Rightways was accused of taking twenty-eight sacks and nine bags of wool and 900 wool-fells from Hunstanton in Norfolk to Scotland.<sup>135</sup> In 1359, merchants of Boston were charged with taking 253 uncustomed sacks overseas in 1347.<sup>136</sup>

Adjacent to the court of the Exchequer was the royal council, which received its own chamber for business in 1343. The core membership of the council included the chancellor, the treasurer, senior officials in the royal household, and the senior royal justices.<sup>137</sup> The council in large part directed the centralized efforts to enforce the regulations on export. As Mark Ormrod noted, the council could direct the enforcement of the common law, and the movements of the King's Bench described previously were probably coordinated by the council.<sup>138</sup> Furthermore, no fewer than seventy-five of the commissions appointed to combat wool smuggling in the period were ordered by letters warranted "by the council," while the majority of the remainder were warranted "by the king and his council" or "by the keeper and the council" if the king was absent overseas.<sup>139</sup> Sometimes the orders concerning the enforcement of the prohibitions against smuggling that flooded out of the Chancery allow glimpses of the involvement of the council in gathering and acting on local information. In 1343, for instance, William Scot and his fellow justices inquiring into smuggling were ordered "to retain secretly in their possession all indictments or presentations upon certain persons . . . and to supersede

<sup>130</sup> E 159/129, *Recorda*, Trinity term, rots. 11d, 12; E 159/132, *Recorda*, Trinity term, passim; and Fryde, *Studies*, VI:16.

<sup>131</sup> E 13/76–79; E 159/132, *Recorda*, Michaelmas term (unnumbered membranes); and Trumpbour, "Litigation in the Court of Exchequer," 79–81.

<sup>132</sup> E 13/79, rots. 122–6; Fryde, *Studies*, XII; and Fryde, *William de la Pole*, 215–26.

<sup>133</sup> Ormrod, "The English Crown and the Customs," 32.

<sup>134</sup> E 13/79, rot. 107d.

<sup>135</sup> E 159/134, *Recorda*, Easter term, rot. 3d.

<sup>136</sup> E 13/82B, rot. 32.

<sup>137</sup> Key works include: J.F. Baldwin, *The King's Council in England during the Middle Ages* (Oxford: Oxford University Press, 1913); I.S. Leadam and J.F. Baldwin, eds., *Select Cases before the King's Council, 1243–1482*, Selden Society Volume 35 (London: Selden Society, 1918); W.M. Ormrod, "The Origins of the *Sub Pena* Writ," *Bulletin of the Institute of Historical Research* 61 (1988): 11–20; and Ormrod, *Reign of Edward III*, 74–7.

<sup>138</sup> Ormrod, *Reign of Edward III*, 76–7.

<sup>139</sup> For notes of warranty, see B. Wilkinson, "The Authorisation of Chancery Writs under Edward III," *Bulletin of the John Rylands Library* 8 (1924): 107–39, esp. 117, 124–25; and A.L. Brown, "The Authorisation of Letters under the Great Seal," *Bulletin of the Institute of Historical Research* 37 (1964): 149–51.



the taking of such indictments and presentations until they are further informed by the king and his council, on account of certain causes whereof they are not informed by the king and council.”<sup>140</sup>

Significantly, as well as directing the judicial institutions that travelled into the localities, the council became directly involved in enforcement. A clutch of fines imposed on those found guilty of illegal export in Northumberland in 1341 were specified as being made in the presence of William Kilsby, keeper of the privy seal, who was sometimes accompanied on these occasions by William Edington, chief clerk of the royal wardrobe, both of whom were important members of the council.<sup>141</sup> Some particularly prominent merchants—such as Thomas Graa and Thomas Lindsey—made fines for their smuggling offenses directly with the council.<sup>142</sup> After justices inquiring into smuggling through the port of London heard that William Cusance, the treasurer, had sent uncustomed wool overseas, the council ordered the justices to send the record of the case into the Chancery, where they subsequently examined it.<sup>143</sup>

Although in the 1340s the council had not yet developed the *sub pena* procedure that later enabled it to acquire a more direct role in the enforcement of the common law, it did order defendants to appear before it.<sup>144</sup> On January 8, 1341, the sheriff of Essex was ordered to issue writs of *venire facias* to compel six men charged with wool smuggling to appear before the council in Chancery.<sup>145</sup> Perhaps because of this case, Kilsby himself headed an inquiry into trading offenses, which toured Essex in August 1341.<sup>146</sup> Seven defendants charged in the course of this inquiry—including Adam Colne, one of those summoned to appear before the council in January—were then subsequently fined by the royal justices after “discussion and diligent deliberation with the council” (*tractatu et diligente deliberacione cum consilio domini regis*).<sup>147</sup> In the early 1350s, first as treasurer (April 1344 to November 1346) and then as chancellor (November 1356 to February 1363), Edington ensured that direct conciliar involvement in the prosecution of smuggling was maintained. He inspected the accounts of the customs collectors of Berwick in the Exchequer and afterwards ordered inquiries into their conduct, personally viewed forfeited wool in the great hall of Westminster Palace, and ordered investigations into the value of forfeited goods and vessels.<sup>148</sup>

<sup>140</sup> *Calendar of Close Rolls 1343–46*, 231.

<sup>141</sup> A great deal of information on Kilsby and Edington at this time can be found in T.F. Tout, *Chapters in the Administrative History of Medieval England*, 6 vols. (Manchester: Manchester University Press, 1920–33), III.

<sup>142</sup> JUST 1/1141, rots. 11d, 18d.

<sup>143</sup> *Calendar of Close Rolls 1343–46*, 382, 459; KB 27/336, Rex side, rot. 21. He was later pardoned for the export of uncustomed wool, among other offenses, by the king: *CPR 1343–45*, 257.

<sup>144</sup> Ormrod, “Origins of the *Sub Pena*,” 15.

<sup>145</sup> KB 27/323, Rex side, rot. 25. For the inter-relationship between the council and Chancery at this time, see Baldwin, *The King’s Council*, 239–46; and B. Wilkinson, *The Chancery under Edward III* (Manchester: Manchester University Press, 1929), 41–47.

<sup>146</sup> JUST 1/259, rot. 1; *CPR 1340–43*, 317.

<sup>147</sup> JUST 1/259, rot. 2d.

<sup>148</sup> Ormrod, “The English Crown and the Customs,” 32; E 368/125, rots. 35–43; E 13/81, rot. 41; E 13/82B, rot. 81; C 255/4/13, nos. 7, 8.

## The Challenge of Enforcement

There was, then, a sustained effort to enforce the anti-smuggling regulations imposed on England's export trade through the late 1330s, 1340s, and 1350s. A general pattern of enforcement supplemented searchers, other royal officials, and ad hoc judicial commissions with the central courts of the King's Bench, the Exchequer, and the council. This effort was heavily centralized in terms of personnel as well as judicial structure and involved not just local officials but also important royal justices and groups closely connected with the king, such as the king's clerks and the serjeants-at-arms. And yet, a substantial gap can be detected between the aspirations represented by this intensive judicial effort and its actual impact on the regulation of crime at a local level. Now that the outline of the judicial enforcement process has been established, the following sections turn from the methods of enforcement to the challenge of enforcement. It was, it will be argued, a challenge related to legitimacy and a sense of economic justice held by wider society, as well as to the limits of law enforcement in an age preceding modern communications, a professional police force, and a standing army familiar from other studies of the medieval legal system.<sup>149</sup>

The late medieval system of law enforcement relied to a large extent—in both its administration and in reaching verdicts through the use of trial juries—on private individuals to function, rather than on professional lawyers and salaried officials in royal service. It worked, therefore, through people occupied primarily with their own concerns, conflicts, and disputes, and the potential for this system to be directed by these private concerns was significant.<sup>150</sup> The influence of members of the landed aristocracy, for example, in shaping and sometimes appropriating the delegative nature of royal law in the localities for their own ends has long drawn historiographical attention.<sup>151</sup>

In terms of the regulation of the export trade in particular, the royal council considered the customs service, staffed with officials who were supposed to

<sup>149</sup> Generally on this premodern system, see C. Carpenter, "Political and Geographical Space: The Geopolitics of Medieval England," in *Political Space in Pre-Industrial Europe*, ed. B. Kühn (Farnham: Ashgate, 2009), 117–34.

<sup>150</sup> A. Vitória, "Late Medieval Polities and the Problem of Corruption: France, England and Portugal, 1250–1500," and J. Watts, "The Problem of the Personal: Tackling Corruption in Later Medieval England, 1250–1550," in *Anticorruption in History: From Antiquity to the Modern Era*, ed. R. Kroeze, A. Vitória, and G. Geltner (Oxford: Oxford University Press, 2017), 77–90, 91–102.

<sup>151</sup> Compare B.A. Hanawalt, "Fur-Collar Crime: The Pattern of Crime among the Fourteenth-Century English Nobility," *Journal of Social History* 8 (1975): 1–17; R.W. Kaeuper, "Law and Order in Fourteenth-Century England: The Evidence of Special Commissions of Oyer and Terminer," *Speculum* 54 (1979): 734–84; J.G. Bellamy, *Crime and Public Order in England in the Later Middle Ages* (Toronto: University of Toronto Press, 1973); J.G. Bellamy, *Criminal Law and Society in Late Medieval and Tudor England* (Gloucester: Alan Sutton, 1984); J.G. Bellamy, *Bastard Feudalism and the Law* (London: Routledge, 1989); M. Hicks, *Bastard Feudalism* (London: Longman, 1995), esp. 155–84; and C. Carpenter, "Bastard Feudalism in England in the Fourteenth Century," in *Kings, Lords and Men in Scotland and Britain, 1300–1625: Essays in Honour of Jenny Wormald*, ed. S. Boardman and J. Goodare (Edinburgh: Edinburgh University Press, 2014), 63–64, 66–69, 76–86, 87–89.

hold property locally, to be permeated with corruption.<sup>152</sup> The council did not find it easy to limit malpractice in the customs houses, even when it took direct measures to do so. In 1342, Nicholas Carlisle was appointed as supervisor of the weighing of wool in Hull specifically to combat fraud, but when royal justices toured Yorkshire the following year, three juries alleged that as inspector (*scrutatorum*), Carlisle had taken gifts (including one payment of £20) from merchants in return for allowing c.100 sacks of uncustomed wool to be exported.<sup>153</sup>

More broadly, some select examples can illustrate the ways in which the enforcers of the law could double as the criminals they were supposed to pursue. In 1342, a commission was empowered to hear and determine all indictments on trading offenses in the capital recently presented before John of Oxford, a vintner and mayor of London from 1341 until his death in June 1342.<sup>154</sup> These proceedings, which have been examined by Stephen O'Connor, reveal a local anatomy of illegal export in the city.<sup>155</sup> John Brown was implicated in the smuggling of a large number of wool sacks down the Thames in August 1341.<sup>156</sup> Significantly, Brown was probably acting with the approval of Roger Power, the serjeant-at-arms whose anti-smuggling responsibilities have been explored earlier in this article, who used the authority inherent in his commission to operate a "successful protection racket."<sup>157</sup> Furthermore, the thoroughness of Oxford's inquiry itself must be questioned on the basis of an Exchequer investigation carried out in 1352, which found that the former mayor had illegally exported thirty-two sacks, twelve stones, and four-and-a-half pounds of wool through the London customs in 1337.<sup>158</sup> Nor was Oxford the only mayor of a customs port found to have smuggled wool. In 1342, John Denton, merchant and sometime mayor of Newcastle-upon-Tyne, was found guilty of exporting four sacks without custom or subsidy.<sup>159</sup>

The prolific searcher Sayer Lorimer was particularly associated with Colchester. He served as sub-bailiff of the town in 1340 and was indicted for illegal prises (seizures of goods) in this role before a trailbaston commission that toured Essex in 1341.<sup>160</sup> Lorimer conducted several credit transactions with Colchester figures, and with a citizen of London, which suggests that he engaged in small-scale mercantile activity in Essex.<sup>161</sup> During his period as a

<sup>152</sup> Baker, "The English Customs Service," 36–38, 42–43.

<sup>153</sup> *CPR 1340–43*, 556; JUST 1/1141, rot. 1d. For the weighing process, see Baker, "The English Customs Service," 7–8.

<sup>154</sup> JUST 1/550, rot. 1; *Calendar of Close Rolls 1341–43*, 484; *CPR 1340–43*, 485, 544; and R.R. Sharpe, ed., *Calendar of Letter-Books of the City of London: F, 1337–1352* (London: Her Majesty's Stationery Office, 1904), 76. Both inquisitions were distinct from the short-lived London eyre of March 1341: JUST 1/549; JUST 1/552; Jones, "Keeping the Peace," 309 n. 6.

<sup>155</sup> O'Connor, "A Nest of Smugglers."

<sup>156</sup> JUST 1/550, rot. 1d.

<sup>157</sup> O'Connor, "A Nest of Smugglers," 302–3.

<sup>158</sup> E 159/128, *Recorda*, Hilary term, rot. 8, 8d.

<sup>159</sup> E 159/119, rot. 191d.

<sup>160</sup> I.H. Jeayes and W.G. Benham, eds., *Court Rolls of the Borough of Colchester*, 3 vols. (Colchester: Town Council of the Borough of Colchester, 1921–41), I:89, 133, 172; and JUST 1/258, rots. 11, 13.

<sup>161</sup> Jeayes and Benham, eds., *Court Rolls of the Borough of Colchester*, I:125, 133, 139, 144, 145, 147, 150, 156, 159, 163; and C 241/123/48.

searcher for uncustomed cargoes, Lorimer was charged with several (non-trading) offenses before the royal courts, which culminated in a period of imprisonment in the Marshalsea in 1342, and an order that various indictments of felony against him received by coroners and bailiffs should be moved to the King's Bench.<sup>162</sup> He subsequently received royal respites from prosecution, probably because he was acting as a searcher.<sup>163</sup>

Like Power, Lorimer was himself accused of smuggling. In 1341, a Colchester jury told justices that he had taken 150 wool-fells overseas without custom or subsidy.<sup>164</sup> Moreover, Lorimer was connected to Adam Colne, John Lucas, and John atte Hyde, who acted as pledges for him before Colchester's borough court.<sup>165</sup> All three men were found guilty of smuggling wool from the coast of Essex, the area supposedly policed by Lorimer.<sup>166</sup> Lorimer was seemingly, therefore, embedded in a local occupational network that incentivized him to turn a blind eye to illegal export carried out by local merchants well known to him. He received favors in return: when Lorimer and his wife were indicted in the county court, the bailiffs of Colchester, William Buck and John Fordham, failed to arrest them despite repeated orders to do so.<sup>167</sup> Like Colne, Lucas and atte Hyde, Buck and Fordham were local merchants involved in smuggling.<sup>168</sup>

Such examples could be multiplied but the extent of corruption cannot, of course, be quantified accurately. Nevertheless, the general impression left by the legal evidence suggests that there were distinct problems in the enforcement processes against smuggling. The following section argues that these related to something more than just the problem of enforcing royal law over a diverse geopolitical terrain in the premodern era. The limits of enforcement hinted at in the cases of Carlisle, Power, Oxford, Denton, and Lorimer can also be situated in England's moral economy of royal paternalism and its legal geography of commercial regulation. In turn, this helps to explain and contextualize the shape of the law enforcement measures outlined in Section III and allows the relationship between royal regulations and wider society to be interrogated.

## Wool and the Moral Economy

The royal justifications for economic regulation made in statutory proclamations and royal letters often emphasized the paternalistic place of the king within the moral economy.<sup>169</sup> Governmental interventions in the grain market

<sup>162</sup> KB 27/327, Rex side, rot. 25d; KB 27/328, Rex side, rot. 25.

<sup>163</sup> KB 27/328, Rex side, rot. 29; KB 27/338, Rex side, rot. 50d.

<sup>164</sup> KB 9/22/1, no. 11; KB 9/22/2, no. 10; JUST 1/259, rot. 3d. He was subsequently found not guilty.

<sup>165</sup> Jeayes and Benham, eds., *Court Rolls of the Borough of Colchester*, I:133, 139, 147, 156.

<sup>166</sup> KB 9/22/1, nos. 10, 11, 12; JUST 1/258, rots. 8, 11; JUST 1/259, rots. 1d, 2d, 3d; KB 27/323, Rex side, rot. 25.

<sup>167</sup> KB 27/328, Rex side, rot. 24; KB 27/337, Rex side, rot. 13.

<sup>168</sup> KB 9/22/1, no. 12; KB 9/22/2, nos. 89, 90; JUST 1/258, rots. 8d, 11; JUST 1/259, rots. 1d, 2, 3, 4d, 7d.

<sup>169</sup> Davis, "Baking for the Common Good," 467, 477–85, 495; and Seabourne, *Royal Regulation*, 20–23, 117–21.

in response to the threat of famine, for example, were justified by the language of the “common good.”<sup>170</sup> In this vein, the intensive regulation of the wool trade was couched in terms of the common profit and the maintenance of the state of the realm.<sup>171</sup> Wool subsidies were granted in consideration of the king’s “great business,” to aid his efforts in “maintaining his wars and securing his rights and the good will he has to strive for the safety of the realm.”<sup>172</sup>

Consent of some kind was required for the direct and indirect taxes justified by such claims to necessity, and Parliament came to play a key role here. It is the chronology and nature of assembly consent to the wool subsidies that has drawn the majority of scholarly attention.<sup>173</sup> However, the crown’s impositions resulted in conflict as well as managed consensus, as its fiscal policies led to accusations of avarice, a vice thought to subvert the moral order of society by encouraging the excessive accumulation of property for its own sake.<sup>174</sup> The importance of wool both to government finance and the wider economy focused the materiality of a debate over these fiscal policies on wool as the “thing” representing most concisely the wealth of a realm, as conveniently illustrated by the styling of the Lord Chancellor’s seat in Parliament as a woolsack.<sup>175</sup>

The imposition of a custom on wool exports had always been contentious.<sup>176</sup> As we have seen, the *maltolt* imposed by Edward I was criticized in 1297 for its harmful nature. The subsidy of 10s levied in 1333, meanwhile, prompted refusals to export at all.<sup>177</sup> The debate on the legitimacy of taxation reached a fever pitch in the mid-fourteenth century, which was characterized by heavy and sustained taxation in and on wool.<sup>178</sup> It is significant from the perspective of the moral economy that this bout of taxation was levied at a time of growing economic hardship. Mark Ormrod suggested that the burden of government finance increased markedly in real terms from c.1340.<sup>179</sup> This has recently

<sup>170</sup> Sharp, *Famine and Scarcity*, 2, 3, 45–46, 77–85, 103–4, 120–21, 127–29, 144–45, 189–95.

<sup>171</sup> See, for example, J. Ferguson, ed., *Treaty Rolls preserved in the Public Record Office, 1337–1339* (London: Her Majesty’s Stationery Office, 1972), 46–47.

<sup>172</sup> Luders et al., eds., *Statutes of the Realm*, I:288, 289.

<sup>173</sup> See, for example, Harriss, *King, Parliament, and Public Finance*, 420–49; G.L. Harriss, *Shaping the Nation: England 1360–1461* (Oxford: Oxford University Press, 2005), 59–60. This process is outlined in Section II.

<sup>174</sup> For comment, see L.K. Little, “Pride goes before Avarice: Social Change and the Vices in Latin Christendom,” *American Historical Review* 76 (1971): 16–59; Davis, *Medieval Market Morality*, 49–64, 83–95; and J. Hole, *Economic Ethics in Late Medieval England, 1300–1500* (London: Palgrave Macmillan, 2016), 62–9.

<sup>175</sup> Reproduced in S. Rose, *The Wealth of England: The Medieval Wool Trade and its Political Importance, 1100–1600* (Oxford: Oxbow Books, 2018), fig. 28.

<sup>176</sup> See SCCKB, I:29 (KB 27/26, rot. 11d) for an attack on a collector of the new custom of 1275.

<sup>177</sup> *Calendar of Fine Rolls 1327–37*, 404, 414. This is pointed out in F. Barnes, “The Taxation of Wool, 1327–1348,” in *Finance and Trade under Edward III*, 141.

<sup>178</sup> Maddicott, “English Peasantry,” 329–36.

<sup>179</sup> W.M. Ormrod, “Government Records: Fiscal Policy, Archives and the Economic Historian,” in *Dove Va la Storia Economica? Metodi e Prospettive, Secc. XII–XVIII*, ed. F. Ammannati (Florence: Firenze University Press, 2011), 217–18.

been confirmed using refined estimates for population size and gross domestic product (GDP), which show that per capita taxation as a percentage of per capita GDP was unusually high in the middle of the fourteenth century, and that it rose sharply even before the demographic disaster of the Black Death.<sup>180</sup> In the first half of the fourteenth century, the subsidies thus contributed significantly to an era of heavy per capita taxation. When combined with a series of exogenous climatic, biological, and demographic factors, including disastrous weather conditions, harvest failures, livestock murrains, and a falling population, this burden helped to cause economic hardship and a drop in living standards for many of the king's subjects.<sup>181</sup> In turn, this economic environment lent weight to the idea that the king should safeguard the economic security of his subjects, rather than subject them to onerous taxes.

Given the huge weight of taxation placed on the wool trade at this time, royal attempts at justification on the grounds of the common profit must have rung hollow for many.<sup>182</sup> This taxation was so heavy that the costs associated with it could combine with falling prices to limit capital investment and discourage economic diversification, even for great landowning institutions such as Canterbury Cathedral Priory.<sup>183</sup> Notably, the burden of royal taxation

<sup>180</sup> D. Boucoyannis, *Kings as Judges: Power, Justice, and the Origins of Parliaments* (Cambridge: Cambridge University Press, 2021), 95, 144–47. This makes use of estimates for population size and GDP in S. Broadberry, B.M.S. Campbell, A. Klein, M. Overton, and B. van Leeuwen, *British Economic Growth, 1270–1870* (Cambridge: Cambridge University Press, 2015).

<sup>181</sup> A magisterial synthesis of these factors is provided in B.M.S. Campbell, *The Great Transition: Climate, Disease and Society in the Late-Medieval World* (Cambridge: Cambridge University Press, 2016), 160–98. Notably, numerous studies utilizing a range of methodologies and metrics identify this period as one of relative hardship: C. Dyer, *Standards of Living in the Later Middle Ages: Social Change in England, c. 1200–1520* (Cambridge: Cambridge University Press, 1989), 118–29; M. Bailey, “Peasant Welfare in England, 1290–1348,” *Economic History Review*, new ser., 51 (1998): 239–42, 247; H. Kitsikopoulos, “Standards of Living and Capital Formation in Pre-Plague England: A Peasant Budget Model,” *Economic History Review*, new ser., 53 (2000): 237–61; Broadberry et al., *British Economic Growth, 1270–1870*, 251–52, 258, 273–74, 290–91, 312–13, 330–31, 402–3, 420–22; A.R. Bell, C. Brooks, and H. Killick, “A Reappraisal of the Freehold Property Market in Late Medieval England,” *Continuity and Change* 34 (2019): 293–98; P. Slavin, *Experiencing Famine in Fourteenth-Century Britain* (Turnhout: Brepols, 2019); J. Humphries and J. Weisdorf, “Unreal Wages? Real Income and Economic Growth in England, 1260–1850,” *Economic Journal* 129 (2019): 2873–74, 2877, 2879–80, 2884; S. Horrell, J. Humphries, and J. Weisdorf, “Family Standards of Living over the Long Run, England 1280–1850,” *Past & Present* 250 (2021): 97, 101–7, 117–18, 127, 131; and S. Horrell, J. Humphries, and J. Weisdorf, “Beyond the Male Breadwinner: Life-cycle Living Standards of Intact and Disrupted English Working Families, 1260–1850,” *Economic History Review*, new ser., 75 (2022): 530–60.

<sup>182</sup> The limits of the effectiveness of the justifications of taxation imposed on the wool trade in particular are suggested in A. Ruddick, *English Identity and Political Culture in the Fourteenth Century* (Cambridge: Cambridge University Press, 2013), 205–6.

<sup>183</sup> E. Miller and J. Hatcher, *Medieval England: Rural Society and Economic Change, 1086–1348* (London: Longman, 1978), 282; M. Mate, “The Impact of War on the Economy of Canterbury Cathedral Priory, 1294–1340,” *Speculum* 57 (1982): 766, 776; D. Stone, *Decision-Making in Medieval Agriculture* (Oxford: Oxford University Press, 2005), 76–77, 235–40; J. Langdon and J. Masschaele, “Commercial Activity and Population Growth in Medieval England,” *Past & Present* 190 (2006): 74–75; M.J. Stephenson, “Risk and Capital Formation: Seigneurial Investment in an Age of Adversity,” in *Town and Countryside in the Age of the Black Death: Essays in Honour of John Hatcher*, ed. M. Bailey



and the imposition of the wool subsidy was a prominent theme in Parliament in February 1339, October 1339, January 1340, and July 1340.<sup>184</sup> The request that the wool subsidy should be permanently abolished because it depressed prices and thus impoverished the king's subjects, first made in 1297, was made again in 1339, 1343, 1346, and 1348.<sup>185</sup> The idea that royal demands were running counter to notions of economic justice is detectable outside of Parliament too. Royal requests for loans from the abbot of Peterborough in the 1340s were met with the response that the abbey was so impoverished by direct taxation and wool subsidies that it could not afford to lend money to the king.<sup>186</sup> The chronicler Adam Murimuth (d. 1347), meanwhile, noted that the king took all the realm's wool into his hands in 1337 in return for low prices as part of the monopoly scheme, and described a direct tax in wool granted by an assembly at Northampton in 1338 as being made to the grievous burden of the people.<sup>187</sup>

Resentment was doubtless fueled by the fact that royal wool was exempted from payment of the custom and subsidy, and huge amounts of wool were exported in the king's name after being purchased at minimum prices from producers, usually with only the promise of payment far in the future.<sup>188</sup> The financial benefits of taxation on wool exports were perceived as being restricted to the king and a small group of merchants and alien financiers, rather than being spread across a wider section of the population.<sup>189</sup> The constitutional issue of consent combined with the economic issue of impoverishment. In the Parliament of April 1343, after a renewal of the subsidy had been

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and S.H. Rigby (Turnhout: Brepols, 2012), 180–81. Compare, however, M. Kowaleski, "Warfare, Shipping, and Crown Patronage: The Economic Impact of the Hundred Years War on the English Port Towns," in *Money, Markets and Trade in Medieval Europe: Essays in Honor of John H.A. Munro*, ed. L. Armstrong, I. Elbl, and M.M. Elbl (Leiden: Brill, 2007), 248–49, noting that sustained naval conflict stimulated investment in shipbuilding.

<sup>184</sup> E.B. Fryde, "Parliament and the French War, 1336–40," repr. in *Historical Studies of the English Parliament*, ed. E.B. Fryde and E. Miller, 2 vols. (Cambridge: Cambridge University Press, 1970), I:242–61.

<sup>185</sup> Harriss, *King, Parliament, and Public Finance*, 420.

<sup>186</sup> R. Mccallum, "The Crown's Ecclesiastical Creditors: Loans from the English Church to Edward II and Edward III, 1307–1377," *English Historical Review* 137 (2021): 1399, citing SC 1/55/120; SC 1/38/124.

<sup>187</sup> Adam Murimuth, *Continuatio Chronicarum*, ed. E.M. Thompson (London: Adam Murimuth, Continuatio Chronicarum, 1889), 80: "For this reason, the king caused all the wools of his kingdom, of any quantity, to be taken into his hand from the unwilling populace in return for a low price, in accordance with a certain plan agreed between the merchants" (*Propter quod ipse rex fecit capere ad manum suam omnes lanas regni sui, alicujus quantitatis, sub certa forma inter mercatores conventa, pro modico pretio, ab invitis*). *Ibid.*, 85: ". . . wool was granted to the lord king by those who were present [at this assembly], to the great burden of the people" (. . . *concessa fuit lana domino regi per eos qui fuerunt praesentes, ad gravissimum onus populi*).

<sup>188</sup> T.H. Lloyd, "Overseas Trade and the English Money Supply in the Fourteenth Century," in *Edwardian Monetary Affairs (1279–1344)*, ed. N.J. Mayhew, *British Archaeological Reports* 36 (Oxford: British Archaeological Reports Publishing, 1977), 109. For examples of this practice, see SC 8/80/3977; SC 8/40/1957.

<sup>189</sup> See P. Nightingale, "Knights and Merchants: Trade, Politics and the Gentry in Late Medieval England," *Past & Present* 169 (2000): 50–51.



granted by an extra-parliamentary mercantile gathering, the Commons protested that it was “unreasonable for the commonalty to be taxed on their goods by these merchants.”<sup>190</sup> There is copious evidence of the criticism of taxation in this vein in contemporary complaint literature.<sup>191</sup> An insightful competing view of the taxation of the wool trade to that projected by the king’s government is given in the poem known to historians as the “Song against the King’s Taxes,” which was composed in Anglo-Norman French and Latin c.1339 and survives in two manuscripts (British Library MS Harley 2253 and MS Additional 10374).<sup>192</sup> The author criticized royal taxation generally but identified Edward III’s wool schemes as a subject of particular grievance: they crushed the poor, and “The law that makes my wool the king’s is no just law” (*Non est lex sana quod regi sit mea lana*).<sup>193</sup> The perceived architects of royal policy were resented. As K. B. McFarlane suggested, the evil counsellor (*mavais consiler*) referenced in the “Song against the King’s Taxes” as responsible for the burden of taxation may have been Kilsby himself.<sup>194</sup>

As both Murimuth and the anonymous author of the “Song against the King’s Taxes” noted, the implementation of the monopoly scheme requiring compulsory purchase meant that the king was constructing the realm’s wool as something owned ultimately by him. This fed into the wider concern that the wealth of England’s wool trade was accruing to the king, not his people, and that this conflicted with the idea of economic justice underpinning the moral economy of royal paternalism. Clearly, the imposition of subsidies was considered by some as deeply unjust and the “Song against the King’s Taxes” shows that the king’s plea of necessity was disputed by some of those faced with his demands even after it had been accepted by mercantile assemblies or in Parliament. When set within the contentious nature of the state’s shift toward a taxation model, the shape of the law enforcement process outlined in Section III suggests that it was molded by this moral economy even as it sought to dictate the pattern of trade.

## Venues of Law and the Prosecution of Smuggling

Tom Johnson has recently emphasized the vast complexity of legal pluralism in late medieval England and located the royal courts as only one venue within a

<sup>190</sup> *PROME*, IV:327, 339–40.

<sup>191</sup> J.R. Maddicott, “Poems of Social Protest in Early Fourteenth-Century England,” in *England in the Fourteenth Century*, ed. W.M. Ormrod (Woodbridge: The Boydell Press, 1986), 330–44; and C. Revard, “Political Poems in MS Harley 2253 and the English National Crisis of 1339–41,” *Chaucer Review* 53 (2018): 60–81. More broadly, see W. Scase, *Literature and Complaint in England, 1272–1553* (Oxford: Oxford University Press, 2007).

<sup>192</sup> I.T. Aspin, ed., *Anglo-Norman Political Songs*, Anglo-Norman Text Society Volume 11 (Oxford: Basil Blackwell for the Anglo-Norman Text Society, 1953), 110–15; and D.B. Tyson, “Against the King’s Taxes: The Second Manuscript,” *Nottingham Medieval Studies* 54 (2010): 73–92.

<sup>193</sup> Aspin, ed., *Anglo-Norman Political Songs*, 112–13. In British Library MS Additional 10374, “*Non leges sanas teneo regi dare lanas*,” with essentially the same meaning; Tyson, “Against the King’s Taxes,” 80–81.

<sup>194</sup> N. Ker, ed., *Facsimile of British Museum MS. Harley 2253*, Early English Text Society Volume 225 (Oxford: Oxford University Press for the Early English Text Society, 1965), xxi n. 6.

much broader legal geography of local legal regimes embedded in social relations and the physical environment.<sup>195</sup> Different court venues can therefore be seen not just as forums that exercised different jurisdictions but also as institutions that were socially and spatially embedded in localities in different ways and to different extents. This article does not seek to resurrect a conflict between center and locality over control of royal law enforcement as a paradigm for interpretation, as it was in Putnam's work. It does, however, locate the enforcement of trading regulations within an understanding of England's legal pluralism in which "central" and "local" can be useful heuristic tools for thinking about societal perceptions of appropriate governance and the morality of royal law enforcement in specific circumstances.<sup>196</sup>

Royal law often built upon existing customs and moral attitudes. In the commercial sphere, royal prohibitions concerning usury, forestalling, and price regulation were informed by existing social theories and often subsumed pre-existing local bylaws and customs into the work of the royal courts.<sup>197</sup> Significantly, statutory provisions on forestalling, regrating, engrossing, and price regulation were not only based on local customs and grounded in a shared sense of economic justice but were also generally enforced in locally situated courts, such as manor courts, leet courts, and urban courts.<sup>198</sup> As James Davis pointed out with regard to the assize of bread, "What needs to be borne in mind is that the right to enforce the assizes was devolved upon local authorities, whether this was in a borough court, leet court, or even occasionally in a manorial court. If royal statutes standardized practices, the actual exercise and discretion of enforcement was still very much in local hands."<sup>199</sup> This was a

<sup>195</sup> Johnson, *Law in Common*. See also R. Houston, "People, Space, and Law in Late Medieval and Early Modern Britain and Ireland," *Past & Present* 230 (2016): 47–89; and, for an important "bottom-up" study of the legal system, P.R. Hyams, "What did Edwardian Villagers understand by 'Law'?" in *Medieval Society and the Manor Court*, ed. Z. Razi and R. Smith (Oxford: Oxford University Press, 1996), 69–102.

<sup>196</sup> See Seabourne, *Royal Regulation*, 7, 166–67, for an incisive discussion of "central" and "local" that draws attention to the importance of the enforcement process in this context. See also A. Taylor, *The Shape of the State in Medieval Scotland, 1124–1290* (Oxford: Oxford University Press, 2016), 20, for an argument "that the fundamental comparative dynamic to be used when analysing the various forms of medieval state is not that between public power and private power but between centrally based institutions and locally based ones."

<sup>197</sup> Britnell, "Forestalling"; Davis, "Baking for the Common Good," esp. 480–85; Seabourne, *Royal Regulation*, 23–24, 80–81, 123, 126; and Davis, *Medieval Market Morality*, 143–44.

<sup>198</sup> J.T. Rosenthal, "The Assizes of Weights and Measures in Medieval England," *Western Political Quarterly* 17 (1964): 415–21; Britnell, "Forestalling," 101–2; R.H. Hilton, "Lords, Burgesses and Hucksters," *Past & Present* 97 (1982): 8–9; R. Britnell, "Price-Setting in English Borough Markets, 1349–1500," *Canadian Journal of History* 31 (1996): 1–15; Seabourne, *Royal Regulation*, 140–4, 147–9; G. Seabourne, "Assize Matters: Regulation of the Price of Bread in Medieval London," *Journal of Legal History* 27 (2006): 38–43; Davis, *Medieval Market Morality*, 147–50, 176, 193–94, 233, 237, 244–48, 251–53, 256, 297–303, 274–407; Briggs, "Peasants, Lords, and Commerce," 251, 259–67; and Slavin, *Experiencing Famine in Fourteenth-Century Britain*, 134–46. Although note Seabourne, *Royal Regulation*, 89–91, 95–97, 162–63.

<sup>199</sup> Davis, "Baking for the Common Good," 488.

state of affairs actively encouraged by the crown on occasion.<sup>200</sup> This general tendency towards localized enforcement accelerated in the 1350s and 1360s, as the enforcement of new price- and profit-setting legislation was extended first to the justices of labourers and then to the JPs.<sup>201</sup> Most trading regulations were, therefore, locally rooted and enjoyed a substantial measure of support from elements of local populations as they were enforced (although this was of course variable).

The local application of royal legislation which characterized much commercial regulation paralleled a growing pressure for trespasses and felonies more broadly to be heard and determined in a decentralized form. The desire of the commonalty for cases to be determined in the counties rather than before the King's Bench so "the well-respected men of the county are able to be present" is well attested in the early 1340s.<sup>202</sup> In 1346 and 1348, the Commons again petitioned for the appointment of local men—"the most sufficient men of the counties"—as JPs.<sup>203</sup> Significantly, this pressure was expressed in moralistic terms. In the 1340s, increasingly loud criticism was levelled at the traditional, centralized commissions of *oyer* and *terminer* on the grounds that they were more fiscal than judicial. In particular, large judicial commissions had often been halted in return for large communal payments.<sup>204</sup> The *oyer* and *terminer* commission issued to Norfolk in 1341, for example, ended prematurely when the commonalty of the county agreed to pay the huge sum of 5000 marks (£3333 6s 8d) to stop proceedings.<sup>205</sup> Such instances cemented the impression that these commissions were aimed less at providing justice and more at filling the king's coffers. The scale of the fines imposed by royal justices at this time was certainly a prominent issue of contention. Adam Murimuth noted as much.<sup>206</sup> In Suffolk in 1344, resentment against the nature

<sup>200</sup> For the direction of complaints against forestallers to the relevant local sheriffs and bailiffs, see W.M. Ormrod, H. Killick, and P. Bradford, eds., *Early Common Petitions in the English Parliament, c.1290–c.1420*, Camden Society Fifth Series Volume 52 (Cambridge: Cambridge University Press, 2017), no. 74 (133–35). This petition is ascribed to the reign of Edward II by the editors, primarily on the basis of the hand.

<sup>201</sup> M. Bailey, *After the Black Death: Economy, Society, and the Law in Fourteenth-Century England* (Oxford: Oxford University Press, 2021), 81.

<sup>202</sup> Ormrod, Killick, and Bradford, eds., *Early Common Petitions*, no. 62 (111–13): "Wherefore the said good people pray to our said lord the king, if it pleases him, that delivery of the aforesaid indicted people might be made in the county in which the indictment is made, for the relief of the county, and so that the good people and the well-respected men of the county are able to present for the said delivery" (*Par quey priount les ditz bones gentz a nostre dit seignur le Roi si luy plect qe la deliverance des avantditz endites puisse estre fait en pays la ou l'enditement se firent pur esement du pays et qe les bones gentz du pays et les muth vanes puissent estre la dite deliverance . . .*).

<sup>203</sup> PROME, V:396, 434. See also Sharp, *Famine and Scarcity*, 99–101.

<sup>204</sup> This subject is discussed with reference to the early 1340s in Waugh, "Success and Failure of the Medieval Constitution," with previous studies cited, and common fines tabulated at 160 (Table 1.2).

<sup>205</sup> *Calendar of Close Rolls 1341–43*, 346. Sources for other fines are given in Waugh, "Success and Failure of the Medieval Constitution," 143 n. 108.

<sup>206</sup> Murimuth, *Continuatio Chronicarum*, 118. See also J.G. Aungier, ed., *Chroniques de London*, Camden Society, First Series Volume 28 (London: John Bowyer Nichols and Son for the Camden Society, 1844), 89.

of these inquiries resulted in the violent death of a particularly enthusiastic participant in judicial proceedings and a mock trial, whereby William Shareshull and other royal justices were issued with imitation financial penalties to compel them to appear before the people of Ipswich for judgement.<sup>207</sup> When the Commons petitioned for the appointment of JPs in 1348, they did so because “common trailbastons should not be current . . . since this was entirely to the destruction and ruin of the people, and to very little or no amendment of the law or the peace.”<sup>208</sup>

In both structure and personnel, the efforts to police customs evasion were closely linked to the centralized judicial efforts of the early 1340s. They were, in fact, more long-standing. When the issue of new general trailbaston commissions was halted after the Commons petitioned against them in April 1341 and June 1344, inquiries into evasion of the customs were specifically exempted from this cessation and continued into the 1350s.<sup>209</sup> The structures of enforcement outlined in Section III were, therefore, more closely related to the older, more centralized tradition of eyres and trailbastons than they were to the prosecution of forestalling or breaches of the assize of bread and ale.<sup>210</sup>

Central to the prosecution of smuggling in this manner was a jurisdictional claim. Jurisdictionally, wool smuggling was constructed as an action liable to trespass litigation in the royal courts rather than in a local court, even though it did not involve the accusation that the trespass had been committed in “breach of the peace” (“*contra pacem*”) or “with force and arms” (“*vi et armis*”). In this, smuggling charges differed from most trespass cases heard in the central courts at this time. These usually alleged that a serious disturbance of the peace, which affected not just the interests of the king but also the welfare of his people and which thus fell under one or both of these formulas, had occurred. A comparison can illustrate this point. The prosecution of people involved in disturbances relating to the grain trade at Lynn and Boston in 1347 also took place before royal commissioners of *oyer* and *terminer* and before the King’s Bench, the same venues which often prosecuted smuggling.<sup>211</sup> This was not, however, because those accused had committed a commercial offense by breaking a royal prohibition on the export of grain. Rather, it was because they were said to have rioted “with armed force” and in “a warlike manner.”<sup>212</sup> Evasion of the wool customs, in contrast, was a contempt of the king, rather than an act committed with violence or force against his subjects. Smuggling cases were therefore unusual compared with most other trespasses heard by royal justices. This is readily apparent from the physical recording of smuggling cases in the plea rolls of the King’s Bench. They were always enrolled

<sup>207</sup> SCCKB, VI:37–38. For comment, see D. Rollison, *A Commonwealth of People: Popular Politics and England’s Long Social Revolution, 1066–1649* (Cambridge: Cambridge University Press, 2010), 211–14.

<sup>208</sup> PROME, IV:434. See also Waugh, “Success and Failure of the Medieval Constitution,” 137–40.

<sup>209</sup> PROME, IV:311–12, 316–17, 323, 364, 366; Luders et al., eds., *Statutes of the Realm*, I:300–1; Waugh, “Success and Failure of the Medieval Constitution,” 139.

<sup>210</sup> Compare the novelty of the enforcement of a new statute concerning weights and measures in the King’s Bench in 1352: Putnam, *Place in Legal History*, 72–73.

<sup>211</sup> Sharp, *Famine and Scarcity*, 57.

<sup>212</sup> JUST 1/612/5; and Sharp, *Famine and Scarcity*, 57–58, 60, 62–63, 64–65, 74, 77–78.

on the *Rex* side of the plea roll rather than on the “plea” side recording more routine litigation, and subsequently appear incongruous in their placement in a section of the roll usually more concerned with felonies, particularly egregious breaches of the king’s peace and treason cases.<sup>213</sup>

Litigants were keenly aware of how to get their own trespass cases into the royal courts by use of the *vi et armis* formula if they so wished.<sup>214</sup> The unusual nature of customs evasion cases in omitting such ideas was doubtless obvious to those who associated the business of the higher royal courts with violent breaches of the peace and were adept at using this to their advantage when it suited them. This raises the issue of legitimacy and how the hearing of such cases in the royal courts was perceived. It is relevant here that jurisdiction in medieval England has recently been considered to be an ongoing communicative and interpretive process connecting territories and communities with legal authority.<sup>215</sup> Jurisdiction was thus a medium, rather than a static entity, and a claim to jurisdiction was something that was negotiated between governors and governed. Judicial authority was most convincing when, whatever the disputed facts of the case, the claim to jurisdiction itself was widely accepted as legitimate. The words that usually made a wider societal grievance essential for a trespass to be heard in the jurisdictional space of the king’s court were lacking from the prosecution of smuggling cases. They were nonetheless being prosecuted in this space, rather than in the more ordinary court venues for commercial offenses. The legitimacy of the jurisdictional placement of smuggling cases would have been contentious, as this placement meant that a wrong that lacked harmful consequences for wider society was being prosecuted in venues of royal law associated with unjust fiscal extraction, especially when purely royal rights rather than communal grievances were being prosecuted.

That the prosecution of smuggling in the space of the royal courts was more a result of direction from above than negotiation from below and thus lacked a broader base of support is further suggested by procedure. Procedurally, smuggling cases were brought by the crown alone and were not prosecuted by private litigants in the king’s courts. They should therefore be differentiated from a later, litigant-powered rise in trespass-on-the-case and *assumpsit*, which brought trespass actions that excluded the allegation that the offense had been committed *vi et armis* and/or *contra pacem* before the royal courts from c. 1360 as pleas prosecuted between private parties.<sup>216</sup> The fact that cases of

<sup>213</sup> For the *rex* side, see SCCKB, IV:xlvi–li, cvii, cix–x; and J.H. Baker, *Introduction to English Legal History*, 5th ed. (Oxford: Oxford University Press, 2019), 45–46; and compare the overview of cases given in M.S. Arnold, ed., *Select Cases of Trespass from the King’s Courts, 1307–1399*, 2 vols., Selden Society Volumes 100 and 103 (London: Selden Society, 1984–87), I:xxxii–lxxxv.

<sup>214</sup> The classic example of this is the case of *Rattlesdene v. Grunestone* (1317), which is translated in J.H. Baker, ed., *Baker and Milsom. Sources of English Legal History: Private Law to 1750* (Oxford: Oxford University Press, 2010), 341.

<sup>215</sup> T. Johnson, “The Tree and the Rod: Jurisdiction in Late Medieval England,” *Past & Present* 237 (2017): 13–51.

<sup>216</sup> For trespass and trespass-on-the-case, see S.F.C. Milsom, “Trespass from Henry III to Edward III – Part III: More Special Writs and Conclusions,” *Law Quarterly Review* 74 (1958): 583–90; S.F.C. Milsom, *Historical Foundations of the Common Law*, 2nd ed. (London: Butterworths, 1981), 283–313;

customs evasion were uniformly brought by the crown also differentiates them from forestalling and usury, which could be prosecuted by private parties (in the king's courts, in the case of usury).<sup>217</sup> As such, the submission of the private bills of complaint that powered criminal trial procedure more broadly was absent from the prosecution of smuggling.<sup>218</sup> And, since smuggling cases were brought between the king and a private defendant, the key dispute resolution mechanism of formal arbitration had no place in the prosecution of smuggling because the allegation was made between prince and subject rather than between two private parties who recognized a higher arbitrating authority.

Smuggling cases were therefore distinguished from other non-violent commercial cases by centrally directed jurisdictional claims and procedures that drew them into the central courts rather than manor, leet, or borough courts. They were therefore heard in court venues where both pleading and legal argument in the royal courts were conducted in specialized Law French before royal justices who were equipped with a distinctive legal education.<sup>219</sup> Visibly, the justices and serjeants-at-law who staffed the royal courts were marked out within the legal profession by their wearing of a distinctive legal costume.<sup>220</sup> This meant that smuggling cases were being prosecuted in judicial spaces that were visibly, intellectually, and linguistically different from the local and customary court venues that usually dealt with commercial offenses, which must have added to the sense that this drive to prosecute them in centralized royal venues of law was a novel and unsettling imposition.<sup>221</sup>

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R.C. Palmer, *English Law in the Age of the Black Death, 1348-1381* (Chapel Hill & London: University of North Carolina Press, 1993), 217-93, 295-96, 303; and C. Archan, "L'apparition de trespass on the case: l'état de l'historiographie," in *La culture judiciaire anglaise au Moyen Âge*, ed. Y. Mausem (Paris: Mare et Martin, 2017), 155-66.

<sup>217</sup> For usury and forestalling, see Seabourne, *Royal Regulation of Loans and Sales*, 44-55, 145, 185-89.

<sup>218</sup> For the importance of private bills, see Powell, *Kingship, Law, and Society*, 67-68; and A. Musson, "Twelve Good Men and True? The Character of Early Fourteenth-Century Juries," *Law and History Review* 15 (1997): 120-21.

<sup>219</sup> P. Brand, "Courtroom and Schoolroom: The Education of Lawyers in England prior to 1400," *Historical Research* 60 (1987): 147-65; P. Brand, "Inside the Courtroom: Lawyers, Litigants and Justices in England in the Later Middle Ages," in *The Moral World of the Law*, ed. P. Coss (Cambridge: Cambridge University Press for Past & Present Publications, 2000), 107-11; W.M. Ormrod, "The Use of English: Language, Law, and Political Culture in Fourteenth-Century England," *Speculum* 78 (2003): 75-87; P. Brand, ed., *The Earliest English Law Reports*, 4 vols., Selden Society Volumes 111, 112, 122, and 123 (London: Selden Society, 1996-2006), IV:xxxii-xxxviii; and J.H. Baker, "The Three Languages of the Common Law," in J.H. Baker, *Collected Papers on English Legal History*, 3 vols. (Cambridge: Cambridge University Press, 2013), II:525-46.

<sup>220</sup> J.H. Baker, "English Judges' Robes 1350-2008," in Baker, *Collected Papers*, II:822-41; and A. Musson, "Visualising Legal History: The Courts and Legal Profession in Image," in *English Legal History and its Sources: Essays in Honour of Sir John Baker*, ed. D. Ibbetson, N. Jones, and N. Ramsay (Cambridge: Cambridge University Press, 2019), 203-22.

<sup>221</sup> A. Musson, *Medieval Law in Context: The Growth of Legal Consciousness from Magna Carta to the Peasants' Revolt* (Manchester: Manchester University Press, 2001), 36-83. This differentiation of legal professionalism was far from an isolated phenomenon, of course: N. Luhmann, *A Sociological Theory of Law*, 2nd ed., trans. E. King-Utz and M. Albrow (Abingdon: Routledge, 2014), 139-41; and S. Reynolds, "The Emergence of Professional Law in the Long Twelfth Century," *Law and History Review* 21 (2003): 347-66.



Associated with this understanding is the concept of the *nomosphere*, introduced by the legal geographer David Delaney to emphasize the mutual constitution of law, space, and materiality and the cultural-material environment of specific legal settings.<sup>222</sup> The distinctive characteristics of the royal courts can be understood in this manner as “nomic settings.”<sup>223</sup> This allows us to understand the process by which smuggling was prosecuted using the jurisdictional spaces of the king’s courts as a contentious one, which took place in a distinctive legal space that was generally used to prosecute other types of crime. Jurisdictionally, procedurally, and physically (in terms of the court venues used), the prosecution of smuggling was differentiated from other commercial offenses and other trespasses heard in the royal courts. The methods employed for the regulation of the wool trade thus conflicted with the desire for royal justice to be mediated to a greater extent through local society, contrasted with a wider legal geography of commercial regulation that catered to local interests and consumer protection and was enforced in local courts, and was associated with centralized mediums of royal law enforcement.

Crucially, and unfortunately for the royal government, this meant that customs evasion was prosecuted in a “nomic setting” associated at this time more with revenue gathering than with the dispensation of justice to the king’s subjects, and so the enforcement process brought to bear against smuggling was itself subsumed into the wider moral debate that surrounded the institutional form of royal law in the 1340s and 1350s. Its resulting unpopularity is directly suggested by a petition presented by the commonalty of Newcastle, which prayed for relief against the judicial fines imposed on them by William Kilsby and Thomas Surtees, who, as we have seen, played prominent parts in the battle against wool smuggling in Northumberland.<sup>224</sup> As such, the enforcement process did not adhere to the moral economy of royal paternalism that positioned the king as protector of his people and steward of their prosperity. Accordingly, the regulation of the wool trade lacked the broader support base that underpinned other areas of economic regulation.<sup>225</sup> The implications of this are explored in the following section.

### Juror Attitudes toward Smuggling

It is, of course, difficult to establish precisely how the regulation of the wool trade and the distinctive way it was enforced was received by the individual merchants and producers whose private thoughts have become part of the

<sup>222</sup> D. Delaney, “Tracing Displacements: or Evictions in the Nomosphere,” *Environment and Planning D: Society and Space* 22 (2004): 847–60, esp. 851–52, 859; D. Delaney, *The Spatial, the Legal and the Pragmatics of World-Making: Nomospheric Investigations* (New York: Routledge, 2010); and A. Jeffrey, “Legal Geography I: Court Materiality,” *Progress in Human Geography* 43 (2019): 568.

<sup>223</sup> See also T. Johnson, “Legal History and the Material Turn,” in *The Oxford Handbook of Legal History*, ed. M.D. Dubber and C. Tomlins (Oxford: Oxford University Press, 2018), 498–513.

<sup>224</sup> SC 8/261/13003; SC 8/65/3209. The former is printed in C.M. Fraser, ed., *Ancient Petitions relating to Northumberland*, Surtees Society Volume 176 (London: Bernard Quaritch, 1966), 218–19.

<sup>225</sup> W.M. Ormrod, “Parliament, Political Economy and State Formation in Later Medieval England,” in *Power and Persuasion: Essays on the Art of State Building in Honour of W.P. Blockmans*, ed. P. Hoppenbrouwers, A. Janse, and R. Stein (Turnhout: Brepols, 2010), 132–33.



world we have lost. We may suspect that John Potter, William Blacklamb, and the other men charged with smuggling in Northumberland and then forced to appear before the King's Bench at Ipswich in 1344 privately contested the legitimacy of the policies that required them to travel across the realm and defend themselves before royal justices in the king's own court.<sup>226</sup> Nonetheless, their individual views cannot be recovered.

The actual workings of the system of enforcement are, however, suggestive of a wider attitude of ambivalence that bordered on a tacit lack of engagement with the aims of the royal government. Section III demonstrated how a combination of *oyer* and *terminer* commissions staffed by royal justices and itinerations of the King's Bench formed the principal method of determining smuggling cases. At times, this effort effectively drew in a substantial number of presentments. More than two hundred people were accused of smuggling offenses by Yorkshire juries in the mid-fourteenth century. The concerted drive to detect smuggling headed by Surtees and Kilsby resulted in at least forty-seven presentments from juries in sparsely populated Northumberland.<sup>227</sup>

However, it is notable that juries did not present smuggling charges on numerous occasions when they had the chance to do so. Somerset was visited by two general commissions of *oyer* and *terminer* as part of the general inquiries of 1341–44, both of which were authorized to hear cases of illegal export.<sup>228</sup> The *verdicta* of the jurors gathered before the first inquiry (held in 1342–43) included no presentments for illegal export, with cases concerning wool focused on illegal seizures perpetrated by royal officials.<sup>229</sup> Nor did the second major commission, which toured in 1344, hear presentments alleging the illegal export of wool.<sup>230</sup>

Of course, the primary markets for wool were in the Low Countries, and wool smuggling was doubtless more common on the Eastern Seaboard, so the lack of Somerset cases may reflect the county's geographical position. The same cannot be said for the inquiry in Kent undertaken through 1343–44 or the concurrent inquiry in Suffolk, neither of which heard presentments for wool smuggling despite ostensibly being concerned primarily with trading offenses.<sup>231</sup> Similarly, when the King's Bench itinerated through Norfolk in Hilary term 1342 it heard cases from local juries regarding extortion by tax collectors—a grievance of the community—but no smuggling presentments, which

<sup>226</sup> KB 27/338, Rex side, rots. 9, 9d, 34, 57d, 64. For practical complaints regarding the accessibility of royal court venues, see P. Brand, "The Travails of Travel: The Difficulties of Getting to Court in Later Medieval England," in *Freedom of Movement in the Middle Ages*, ed. P. Horden (Donington: Shaun Tyas, 2007), 215–28; and A. Musson, "Court Venues and the Politics of Justice," in *Fourteenth Century England V*, ed. N. Saul (Woodbridge: The Boydell Press, 2008), 170–73.

<sup>227</sup> For relative population densities by county, see B.M.S. Campbell and K. Bartley, *England on the Eve of the Black Death: An Atlas of Lay Lordship, Land and Wealth, 1300–49* (Manchester: Manchester University Press, 2006), 330–31 (Table 18.3).

<sup>228</sup> JUST 1/770, rot. 1 (pursuant to CPR 1340–43, 106); JUST 1/771, rots. 1, 9 (pursuant to CPR 1343–45, 281–82).

<sup>229</sup> For instance, JUST 1/770, rots. 9d, 11, 12, 13.

<sup>230</sup> JUST 1/771.

<sup>231</sup> JUST 1/399; JUST 1/1565.

affected only the king.<sup>232</sup> Again, when the King's Bench toured Suffolk in Hilary term 1345 it received numerous presentments and bills alleging other trespasses, but heard no new cases of illegal export from the wealthy coastal county.<sup>233</sup> The jurors of Essex included no charges of wool smuggling in the numerous presentments heard by the King's Bench when it sat at Chelmsford in Hilary term 1352, and neither did juries in Norfolk or Suffolk when the court sat at Norwich and Ipswich in Michaelmas 1352.<sup>234</sup> On other occasions, the number of presentments seems low. Only fifteen presentments on illegal export were made before the great *oyer* and *terminer* commission that toured Suffolk in 1341 before it was called off in return for a communal fine of 4,000 marks (£2,666 13s 4d).<sup>235</sup> Only 13 of the 959 presentments alleging trespass submitted to the justices touring Lincolnshire—another important county in England's wool trade—in 1341 concerned illegal export.<sup>236</sup>

Local dynamics must have contributed to this geographical and temporal clustering of presentments.<sup>237</sup> In London in 1342–43, the rivals of the Fishmongers' Company may have taken the opportunity to use an accusation of smuggling by a favorable presentment jury to strike a blow against them.<sup>238</sup> The relatively high numbers of presentments at York in the early 1340s may relate not only to Yorkshire's prominence in the wool trade but also to particular tensions stemming from the contentious civic position of the city's wool merchants, and to regional mercantile rivalries.<sup>239</sup> Similarly, a battle for influence on the town council of Newcastle-upon-Tyne between mercantile factions all involved in the export trade may account for some of the charges heard in Northumberland.<sup>240</sup> Notably, these included charges levelled at John Denton and William Acton, two of the main protagonists, and Richard Galway, later accused of acting as an accomplice to Denton's murder.<sup>241</sup>

Nonetheless, frequent instances of jury silence, along with the limited numbers of presentments made on other occasions, reveal local reluctance to see customs evasion prosecuted before the king's justices. We have already seen

<sup>232</sup> For instance, KB 27/327, Rex side, rot. 38.

<sup>233</sup> KB 27/339, Rex side.

<sup>234</sup> KB 27/366, fines; KB 27/366, Rex side; KB 27/369, fines; KB 27/269, Rex side.

<sup>235</sup> JUST 1/858, rots. 3d, 5, 10d, 29; and Waugh, "Success and Failure of the Medieval Constitution," 140.

<sup>236</sup> McLane, ed., *The 1341 Royal Inquest in Lincolnshire*, xxv, xxix.

<sup>237</sup> See also the suggestion that cases of fraud may only have come to light when local social and/or commercial relations had broken down, made in C. Tazzara, "Against the Fisc and Justice: State Formation, Market Development, and Customs Fraud in Seventeenth-Century Liguria," in *The Routledge History of the Renaissance*, ed. William Caferro (Routledge: New York, 2017), 358–72.

<sup>238</sup> O'Connor, "A Nest of Smugglers," 299.

<sup>239</sup> For York's merchants at this time, see C.D. Liddy, *War, Politics and Finance in Late Medieval English Towns: Bristol, York and the Crown, 1350–1400* (Woodbridge: The Boydell Press for the Royal Historical Society, 2005), 120–23; and P. Nightingale, "The Rise and Decline of Medieval York: A Reassessment," *Past & Present* 206 (2010): 14–18.

<sup>240</sup> T. Hodgkin, "Municipal Contests in Newcastle, 1342–1345," *Archaeologia Aeliana*, 3rd ser., 5 (1909): 1–15; and C.M. Fraser, "The Life and Death of John Denton," *Archaeologia Aeliana*, 4th ser., 37 (1959): 303–25.

<sup>241</sup> CPR 1343–45, 44; E 159/119, rot. 191d.

that private parties did not bring smuggling cases on their own behalf. Given the disputed legitimacy of the taxation of the wool trade and the resentment caused by the forms of enforcement themselves, presentment juries may have been inclined to focus their indictments on crimes that affected them and their communities directly. Indeed, jurors must have been cognizant that the increase in export duties confronting merchants was being passed on to wool producers in the form of lower prices, especially as jurors were usually drawn from the “very local elites” often involved in the economy of sheep farming themselves.<sup>242</sup> Jurors may thus actually have been incentivized to turn a blind eye to smuggling as an activity that they might view as being much more legitimate than did the king’s government, like the Devon juries who proffered a wall of silence to royal inquiries into piracy in 1414.<sup>243</sup> Furthermore, attempts to gain a more accurate picture of maritime trade by assembling juries of mariners and merchants, as in the process of the Exchequer’s inquiry into the Dordrecht wool fleet among other instances, must have increased the possibility that such juries sympathized with customs evasion.<sup>244</sup> The rarity of lists of either presentment or trial jurors means that prosopographical reconstruction cannot be pursued.<sup>245</sup> It is, however, indicative that one of the twelve presentment jurors from the Sussex Hundred of Horsham called to appear before royal justices inquiring into trading offenses in 1344, Henry Arundel, was subsequently found guilty of wool smuggling by a separate inquisition.<sup>246</sup>

Another way of glimpsing juror attitudes is to examine the conviction rate of cases brought to trial, as insightfully practiced by Bernard McLane in his study of Lincolnshire juries in 1328.<sup>247</sup> Trial juries exercised a substantial measure of control over the outcome of trials for illegal export, as they did in criminal cases more generally.<sup>248</sup> More work has been done on conviction rates for

<sup>242</sup> See I. Forrest, *Trustworthy Men: How Inequality and Faith Made the Medieval Church* (Princeton: Princeton University Press, 2018) for such “very local elites”; along with Masschaele, *Jury, State, and Society*, 123–97; P. Larson, “Village Voice or Village Oligarchy? The Jurors of the Durham Halmote Court, 1349 to 1424,” *Law and History Review* 28 (2010): 675–709; and Musson, “Twelve Good Men and True?” 126–29.

<sup>243</sup> For this instance in 1414, see Powell, *Kingship, Law, and Society*, 201–8.

<sup>244</sup> E 159/117, rot. 187; *CPR 1343–45*, 273–74; *CPR 1345–48*, 455, 462–63; JUST 1/1548, nos. 2d, 3 (calendars of presentment jurors with mariners demarcated by marginal annotations).

<sup>245</sup> Musson, “Twelve Good Men and True?” 116.

<sup>246</sup> JUST 1/1548, no. 2; E 159/121, rot. 171. For the commissions to the justices, see *CPR 1343–45*, 273–74, 294. For overlap between presentment juries and trial juries in the early to mid-fourteenth century, see Musson, “Twelve Good Men and True?” 135–41.

<sup>247</sup> B.W. McLane, “Juror Attitudes toward Local Disorder: The Evidence of the 1328 Lincolnshire Trailbaston Proceedings,” in *Twelve Good Men and True*, ed. J.S. Cockburn and T.A. Green (Princeton: Princeton University Press, 1988), 36–64. This built on important work into jury nullification in homicide cases by T.A. Green, *Verdict According to Conscience: Perspectives on the Criminal Trial Jury 1200–1800* (Chicago: University of Chicago Press, 1985), 28–64. See also Baker, *Introduction to English Legal History*, 558–60.

<sup>248</sup> For the position of juries, see Arnold, ed., *Select Cases of Trespass*, I: xxix–xxxii; E. Papp Kamali, *Felony and the Guilty Mind in Medieval England* (Cambridge: Cambridge University Press, 2019), 259–62; and, most recently, H. Summerson, “Hanging Matters: Petty Theft, Sentence of Death, and a Lost

felonies and the dynamics underpinning these decisions, but the conviction rate for smuggling appears low compared with some other trespasses. I have found 576 presentments wholly or partly concerned with illegal export of wool. Many were terminated before reaching a formal verdict by payment of a fine, but 288 reached judgment. Trial juries gave a guilty verdict in 183 of these cases and acquitted the defendant in 105 cases. This means that no recorded judgment has been found for 50% of all presentments, while 18% resulted in a not guilty verdict and 32% resulted in a guilty verdict. This sample reinforces Stephen O'Connor's findings that 29 of the 115 people (25%) accused of smuggling in London in 1342–43 were found guilty in whole or in part while 19 (16.5%) were acquitted. By way of contrast, McLane found that 56% of all ordinary trespass charges (i.e. excluding those presented against royal officials) presented by Lincolnshire juries in 1328 resulted in a guilty verdict.<sup>249</sup> The conviction rate in cases of illegal export thus appears to have been relatively low, which probably reflected sympathy with those accused of customs evasion or, at least, the belief that “the likely punishment was disproportionate to the [defendant’s] moral or social guilt, whatever the indictments might allege.”<sup>250</sup>

## Conclusion

In the mid-fourteenth century, the burden of taxation and the fiscal exactions imposed by judicial commissions prompted protest from those who disputed the morality of England’s changing fiscal system and the centralized form of royal law enforcement that regulated it. The very act of smuggling itself was part of this fractious debate. As well as being seen as the reaction of merchants keen to lower their costs, smuggling and the passive reaction of localities to the efforts made to police it should also be seen as the tangible outcome of a “hidden transcript” of resistance generally obscured by the weighting of the evidence toward that produced by the king’s government and preserved in the royal archives.<sup>251</sup>

This reaction was informed by the “moral economy” of royal paternalism. In turn, it shaped the processes of enforcement intended to regulate the wool trade, and obliged them to be heavily centralized both in terms of personnel and structure. This too is revealing of wider attitudes. This centralized structure of enforcement remained in place through the middle decades of the fourteenth century, the key period for the increasing involvement of local

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Statute of Edward I,” *Law and History Review* 40 (2022): 149–64. This has been contrasted to civil litigation: P. Brand, “Judges and Juries in Civil Litigation in Later Medieval England: The Millon Thesis Reconsidered,” *Journal of Legal History* 37 (2016): esp. 39–40.

<sup>249</sup> McLane, “Juror Attitudes,” 55.

<sup>250</sup> J.B. Post, “Crime in Later Medieval England: Some Historiographical Limitations,” *Continuity and Change* 2 (1987): 214.

<sup>251</sup> Drawing on the classic work of J.C. Scott, *Domination and the Arts of Resistance: Hidden Transcripts* (New Haven: Yale University Press, 1990). See also S.H. Rigby, “History, Discourse, and the Postsocial Paradigm: A Revolution in Historiography?” *History and Theory* 45 (2006): 120. The desire to lower transaction costs is emphasized in Raven, “Wool Smuggling from England’s Eastern Seaboard.”

aristocracies in other processes of royal law enforcement.<sup>252</sup> The distinction here between royal justices and local elites should not be overplayed, as many professional lawyers in royal employment were also important landowners in their own right.<sup>253</sup> But the higher nobility and gentry figures, whose presence and interests characterized the commissions of the peace and of laborers after the Ordinance of Laborers (1349) and the Statute of Laborers (1351), are conspicuous by their absence from the enforcement of the regulation of the export trade.

This cannot have been insignificant in light of the importance of private power in underpinning the workings of royal law in the localities. Simon Walker perceptively drew attention to possible divergences between local and royal expectations of good order and suggested that royal law might prove effective “as long as royal and communal attitudes towards public order issues remained approximately consonant.”<sup>254</sup> Or, as Mark Ormrod put it, “It was the regions, rather than the center, that ultimately determined the reach of the king’s justice.”<sup>255</sup> The crown struggled to align its criminalization of smuggling with the wider attitudes of a polity facing massively increased fiscal demands and that was accustomed to regulating commerce with legislation grounded in local interests and enforced through local courts. Despite the intensive efforts of the crown, smuggling was an aspect of commerce that it struggled to regulate because of its ambivalent place within the moral economy and because local elites lacked a direct incentive to see it prosecuted. The state’s struggle to police the illicit economy of wool smuggling therefore holds significant lessons as historians of medieval England continue to turn toward a processual understanding of state formation in which “government was molded more by pressures from within political society than by the efforts of kings or officials to direct it from above.”<sup>256</sup>

Indeed, it is probable that the efforts to enforce the burdensome restrictions placed on the wool trade only became somewhat more effective after a series of administrative changes had been implemented in 1390, and after the Company of the Staple (first established at Calais in 1363) consolidated its position in the export trade.<sup>257</sup> This incentivized the company to act directly against smuggling in order to secure an advantageous trading position for its members,

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<sup>252</sup> Compare the analysis of other local commissions in Powell, *Kingship, Law, and Society*, 16–17, 19–20; A. Musson, *Public Order and Law Enforcement: The Local Administration of Criminal Justice, 1294–1350* (Woodbridge: The Boydell Press, 1996), 49–82, 225–56; Waugh, “Success and Failure of the Medieval Constitution,” 130–1; and Carpenter, “Bastard Feudalism in England,” 83–86.

<sup>253</sup> As emphasized in A. Musson, “Centre and Locality: Perceptions of the Assize Justices in Late Medieval England,” in *Law, Governance, and Justice*, 224–37.

<sup>254</sup> S. Walker, “Order and Law,” in *A Social History of England, 1200–1500*, ed. R. Horrox and W.M. Ormrod (Cambridge: Cambridge University Press, 2006), 109–10. See also Musson, “Twelve Good Men and True?” 141–42.

<sup>255</sup> Ormrod, “Law in the Landscape,” 16.

<sup>256</sup> G.L. Harriss, “Political Society and the Growth of Government in Late Medieval England,” *Past & Present* 138 (1993): 33.

<sup>257</sup> S.H. Rigby, “The Customs Administration at Boston in the Reign of Richard II,” *Historical Research* 58 (1985): 12–24; and Lloyd, *Medieval English Wool Trade*, 210–24.

and its interest in preventing smuggling was further increased from 1407 onwards, when it began to make loans on the security of the customs revenues.<sup>258</sup> Only then, as the trade in raw wool declined in fiscal importance, did the crown manage to move toward the creation of a durable community of interest between itself and important local elites over the prosecution of smuggling akin to that it had managed to achieve with aristocratic society in other areas of law enforcement in the form of the JPs. And even then, of course, juror attitudes could negate attempts to prosecute smuggling if it was perceived to be a morally legitimate act rather than a crime truly worthy of punishment, and work on the smugglers' trade from the sixteenth century to the eighteenth suggests that this was often the case.<sup>259</sup>

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<sup>258</sup> S.H. Rigby, ed., *The Overseas Trade of Boston in the Reign of Richard II*, Lincoln Record Society Volume 93 (Woodbridge: The Boydell Press, 2005), xxxv–vi; S. Rose, *Calais: An English Town in France, 1347–1558* (Woodbridge: The Boydell Press, 2008), 40–53. For the financial relationship between the Company of the Staple and the crown, see E. Power, "The Wool Trade in the Fifteenth Century," in *Studies in English Trade in the 15th Century*, ed. E. Power and M.M. Postan (London: Routledge & Kegan Paul, 1933), 74; A. Steel, *The Receipt of the Exchequer, 1377–1485* (Cambridge: Cambridge University Press, 1954), 197 n. 1, 208–9, 211, 214, 219, 225, 230, 235, 237, 264–6; D. Grummitt, "The Financial Administration of Calais during the Reign of Henry IV, 1399–1413," *English Historical Review* 113 (1998): 277–99.

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