English Privateering Voyages to the West Indies, 1588–1595

Kenneth R. Andrews

THE HAKLUYT SOCIETY

English Privateering Voyages to the West Indies, 1588–1595

Documents relating to English voyages to the West Indies, from the defeat of the Armada to the last voyage of Sir Francis Drake, including Spanish documents contributed by Irene A. Wright

Edited by
KENNETH R. ANDREWS

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S70

ENGLISH PRIVATEERING VOYAGES TO THE WEST INDIES

1588-1595

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PREFACE

It was originally intended that the present volume should comprise a number of High Court of Admiralty documents relating to English privateering in the West Indies in the period 1585–1603, together with the relevant narratives from Hakluyt and Purchas. Before much progress had been made with the editing, however, the Hakluyt Society received from Miss I. A. Wright a bulky parcel of translations of documents in the Archivo de Indias, chiefly relating to English West Indies voyages in the years 1593–5. These were the materials for an intended sequel to her three volumes on English West Indies voyages already published by the Society, and it was with the utmost regret that we learned that Miss Wright would be unable to complete a fourth. All students of the period acknowledge the very great debt they owe to one who opened up and worked with unflagging zeal that rich quarry of information in Seville, hardly touched until then by writers on English maritime history. This debt is now to be increased, since much of Miss Wright's remaining material, which with great generosity she placed at my disposal, is incorporated in the present work. Most of all is this editor indebted, since the direct co-ordination of English and Spanish source material, though it necessitated ending this collection at the year 1595, enhances its interest and significance in no small degree. A few documents which are considered important and directly relevant have been added from other sources. For the checking, editing and annotation of all the documents herein the present editor takes full responsibility.

I wish to express my thanks to Dr José de la Peña, Director of the Archivo de Indias, for his co-operation in supplying microfilms of the Spanish documents, and to Mr G. P. B. Naish of the National Maritime Museum and Dr A. K. R. Kiralfy, reader in Law at King's College, London University, for reading the introduction before publication and offering some helpful suggestions. Above all I am indebted to Professor D. B. Quinn for his tactful encouragement and advice and to Mr R. A. Skelton,

the Honorary Secretary of the Hakluyt Society, whose practical help and encouragement at every stage in the preparation of the book have been invaluable.

My thanks are also due to Lord Hothfield, for permission to copy and publish the MS account of the seventh voyage of the Earl of Cumberland; to Sir John Lawes, Bart., for permission to reproduce the portrait of Sir Thomas Myddelton at Rothamsted; to Captain R. G. W. Berkeley for permission to reproduce the miniature of the second Lord Hunsdon at Berkeley Castle; to the Ashmolean Museum for permission to reproduce the portrait of Sir Julius Caesar; and to the British Museum for permission to reproduce a part of the Crace impression of Visscher's Long View of London. The sketch maps were drawn by Mrs Huhtala and Miss Moore of the Royal Geographical Society.

November 1958 K. R. A.

CONTENTS

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ILLUSTRATIONS AND MAPS

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LIST OF SOURCES CITED

showing abbreviations used in the footnotes

A. CONTEMPORARY MANUSCRIPTS

A. de I.—Archivo General de Indias, Seville:
42–1–9/4, Contratación 5109.
42–1–10/5, Contratación 5110.
53–1–15, Santo Domingo 15.
53–4–11, Santo Domingo 51.
53–6–7, Santo Domingo 73.
53–6–8, Santo Domingo 74.
53–6–15, Santo Domingo 81.
54–2–5, Santo Domingo 127.
54–2–6, Santo Domingo 128.
54–4–6, Santo Domingo 184.
54–4–8, Santo Domingo 186.
63–6–10, Guatemala 10.
63–6–39, Guatemala 39.
64–1–1, Guatemala 44.
73–1–32, Santa Fé 190.
147–5–15, Indiferente General 1866.
740–7–36, Indiferente General 742.

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'A Brief Relation of the severall voyages undertaken and performed by the right honorable George Earle of Cumberland'.

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Additional MSS 11405, 12506, 12507, 36316, 36317.
Harleian MS 598.
Lansdowne MSS 67, 69, 70, 115, 130, 133, 134, 142, 143, 144, 145, 157, 158.
Sloane MS 2292.

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H.C.A. 1: High Court of Admiralty, Oyer et Terminer, 42, 43, 46.

H.C.A. 13: High Court of Admiralty, Examinations, 19, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 34, 35, 37, 101, 102, 143.

H.C.A. 14: High Court of Admiralty, Exemplifications, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35.

H.C.A. 23: High Court of Admiralty, Interrogatories, 4.

H.C.A. 24: High Court of Admiralty, Libels, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65.

H.C.A. 25: High Court of Admiralty, Letters of Marque, etc., 1 (packet 4), 2 (packet 5), 3 (packet 9).

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NOTE ON EDITING

The nature of the High Court of Admiralty material has made it necessary to summarize certain documents and portions of others. Where this has been done it is indicated by the use of square brackets. The spelling has been left as in the original MSS, except for the modernization of the use of *i*, *j*, *u* and *v*, and the expansion of abbreviated words, with expansions shown in italics. Punctuation has been amended as little as possible, and only in the interests of clarity of meaning. In the translations from the Spanish, accents have not been added to the names of persons and places, since they are not used in the originals. Accents have been used, however, in the commentary. Dates are given in Old Style (the English usage), except in the Spanish documents, and elsewhere as indicated in the footnotes.

INTRODUCTION

I. THE MATERIALS

ENGLISH voyages to the West Indies in the period 1588 to 1595, between the defeat of the Armada and the last voyage of Sir Francis Drake, were, as far as is known, all privateering ventures. Twenty-five of them are dealt with here, and though there were undoubtedly others, very little is known about them, with two important exceptions.[1]

Three main sources provide almost all the documents presented: contemporary printed narratives from Hakluyt; the Archivo General de Indias in Seville; and the records of the High Court of Admiralty in the Public Record Office, London. The Hakluyt narratives were all first published in 1600 in the third volume of the second edition of the *Principal Navigations*. Hakluyt in the dedication of this volume claimed to be revealing the 'secrets of the West Indies' fallen into English hands as a result of the wars with Spain; and such secrets he did reveal, not only in the Spanish rutters describing the West Indies proper, but in many reports relating to the 'West Indies' in the larger sense of the New World. In general, however, the privateering expeditions with which we are concerned were not of much geographical significance; Hakluyt included them rather to illustrate the valour of Englishmen and the glory of their exploits. Such patriotic inclinations did in one instance lead him to accept a somewhat tendentious version of one episode—the fight of the *Black Dog* and its ugly sequel—but as a rule his judgement was sound and the reports he published are strikingly corroborated by the other evidence.

[1] The two exceptions are the 1594 voyage of Sir Robert Dudley and the expedition promoted by John Watts in 1590, both of which have been fully described and documented in earlier volumes of the Hakluyt Society (G. F. Warner, *The Voyage of Robert Dudley into the West Indies, 1594–5* (Hakluyt Society, 2nd Series, III, 1899); D. B. Quinn, *The Roanoke Voyages 1584–1590* (Hakluyt Society, 2nd Series, CIV, CV, 1955), pp. 579–716).

The Spanish documents, twenty-eight in number, are, with two exceptions,[1] selected from translations made by Miss I. A. Wright. All but one are from the Archivo General de Indias in Seville, and all relate to the last three years of the period, 1593 to 1595. The last of Miss Wright's Hakluyt Society volumes[2] included a number of Spanish documents relating to English West Indian voyages from 1588 to 1592—complementary to the English material in the first nine chapters of this present volume and frequently referred to herein. This Spanish evidence is not merely useful corroborative or additional information, but gives to the whole picture, as well as to individual voyages, something like an extra dimension. Official reports and investigations, as well as private letters, give us a measure of the impact, psychological and economic, naval and military, of ventures which, in the laconic accounts of English seamen, seem almost routine. The English may give more of the matter-of-fact details, and give them more accurately, but the Spanish provide more of the colour, the excitement and the heat of battle—more, too, of the parleys, illicit trading and intrigue. They tend to exaggerate the scale of the attack and enemy casualties, but rarely to such an extent as to discredit the substance of the story; only once or twice are panicky rumours repeated; far more often the authorities somehow obtained and forwarded valuable intelligence about the corsairs' strength and movements. Above all, the Spanish reports enable us, as no English material can, to weigh the significance of these depredations in the general struggle between Spain and England in the nineties and in the longer-term struggle for supremacy in the Caribbean.

The vast majority of the documents below, however, are drawn from the records of the High Court of Admiralty, and require for their understanding and interpretation some account of the court itself.

In the later sixteenth century the High Court of Admiralty had an extremely wide jurisdiction, and though the boundaries of its power were constantly being challenged by other courts, it dealt in practice with a great variety of business. As its name suggests,

[1] Documents 165 and 166 below.

[2] *Further English Voyages to Spanish America, 1583–1594* (Hakluyt Society, 2nd Series, XCIX, 1951).

it was the court of the Lord Admiral, through which he exercised the authority granted to him by the crown, and essentially the broad and varied character of Admiralty Court business reflected the breadth and variety of the powers and functions of the Lord Admiral. Thus it was not merely a court of law, but an administrative instrument with a considerable executive apparatus. This was the machinery used by the Lord Admiral to exert his control in matters of prize, spoil and piracy and to implement his droits in cases of wreck, deodand, etc. The proper execution of these functions was a source of profit to the Lord Admiral. Nor was the court's connection with a great officer a purely formal matter. The judge was the Lord Admiral's deputy and received instructions from him in matters particular and general. Even in the time of Dr Julius Caesar and Charles, Lord Howard of Effingham,[1] the court still bore the character of a great feudal franchise, a sphere of patronage and personal profit to the great nobleman, managed on his behalf by his servant, the eminent and learned judge.[2] The distinction between the judicial and administrative powers of the Lord Admiral is, however, largely theoretical; in practice they were connected in many ways, and in each particular sphere of the court's business the administrative and judicial functions are to be found side by side, or actually merging to become virtually indistinguishable. Many of the peculiarities of the court—and consequently of its records—have their origin in this characteristic duality.

The interest of the Lord Admiral in the court was also political. The prize jurisdiction of the court made it the arena of many a dispute between English and foreign merchants, behind whom stood their respective governments. Many a problem concerning the law of prize, the law of neutrality, the rights of belligerents and the freedom of the seas was involved in the deliberations of the court, and in all such matters the Privy Council (of which the Lord Admiral was a member) took a deep interest, repeatedly infringing the province of the court. In fact the decision in all such questions, whether concerned with general policy or individual

[1] Caesar was judge of the High Court of Admiralty from 1584 to 1636 and Howard was Lord High Admiral from 1585 to 1618.

[2] The correspondence between them vividly illustrates this (e.g. Lansdowne MS. 157, *passim*).

cases, rested in the last resort with the political authorities.[1]

We may now proceed to examine more closely the types of business dealt with by the court, before describing in detail the records thereby deposited.[2] An important source of revenue for the Lord Admiral were his droits, which were chiefly asserted by the vice-admirals and their deputies—officers appointed by the Lord Admiral for the maritime counties.[3] The Lord Admiral was entitled to unclaimed wrecks, flotsam, derelict property, deodand, whales and other royal fish and various other types of goods, including a share of goods legitimately captured from enemies. In the securing of these droits, however, the Lord Admiral met with many difficulties. The goods in question usually fell into other hands in the first place and the possessors were not easily persuaded to yield up their gains, however come by. As for the vice-admiralty officials, they had neither the resources nor, in many cases, the inclination, to apply the strict letter of the law. They were, of course, entitled to a share of the droits, but it often paid them better to come to terms with the possessors and forget the claims of the Lord Admiral. In the last resort, therefore, the Lord Admiral relied for the assertion of his droits upon the High Court of Admiralty. Where evasion of his jurisdiction was suspected the court instituted *ex officio* proceedings analogous to the inquisitions of office concerning the droits of the crown. Such proceedings are of particular interest to us when they concern the securing of the Lord Admiral's tenths of prizes.

[1] The interest of the Privy Council may be seen, for example, in chs. III and XVII below.

[2] The best account of the court is to be found in the introductions to the two volumes of R. G. Marsden, *Select Pleas in the Court of Admiralty* (Selden Society, VI and XI, 1894 and 1897). See also R. G. Marsden, *Documents relating to the Law and Custom of the Sea* (Navy Records Society, XLIX and L, 1915–16); R. G. Marsden, 'Early Prize Jurisdiction and Prize Law', *English Historical Review*, XXIV (1909), 675–97; XXV (1910), 243–63; XXVI (1911), 34–56; A. Ruddock, 'The Earliest Records of the High Court of Admiralty, 1515-1558', *Bulletin of the Institute of Historical Research*, XXIII (1950), 139–51.

[3] The vice-admirals were usually men of some importance and their work was normally carried out by deputies. These saw to arrests of ships and individuals, bound individuals to appear in court, made inventories of ships and cargoes, collected the Lord Admiral's tenths, examined witnesses by commission of the court, executed the sentences of the court, took bonds from privateers for good behaviour at sea, etc. Apart from such manifold activities, the vice-admiralties were chiefly concerned with the Lord Admiral's droits. See R. G. Marsden, 'The Vice-admirals of the Coast,' *English Historical Review*, XXII (1907), 468–77.

By long established custom the Lord Admiral had the right to a share of all prizes and during the war with Spain this share was fixed at one tenth. Although the details of how the tenths were levied and disposed remain in some respects obscure, it is quite certain that they were collected in our period.[1] Some of the proceeds, at any rate, came to the Lord Admiral, as is shown by a surviving account of the tenths received between 1587 and 1598.[2] However, there was a great deal of evasion of payment—the prize goods were sometimes sold abroad, but more often smuggled into the country.

In such circumstances the Lord Admiral would have great difficulty in recovering his droits, but his hand was strengthened to some extent in this particular context by the connection between the tenths and his general jurisdiction in matters of prize. For captains and masters were obliged to bind themselves, before departing on a privateering cruise, to render up a tenth of their prizes on returning to port. If they were suspected of evading this payment, the Lord Admiral could and often did institute proceedings against them. Essentially and in form the Lord Admiral in such proceedings was pursuing his droits, but the case involved the implication that the seaman concerned had violated the conditions laid down in his bond and would be liable to pay the value of the bond in penalty. The offender would be cited to appear before the judge and answer articles drawn up on behalf of the Lord Admiral. Statements might also be taken from those suspected of having received the 'embezzled' goods. Drafts and

[1] It was one of the tasks of the vice-admiralty officials to collect the tenths in their respective jurisdictions, but the job was sometimes taken over by other individuals. Sir John Hawkins, for example, collected the tenths for the Devon area for a time (Lansdowne MS 144, f. 36 and 157, ff. 430, 434).

[2] Harleian MS 598. This volume was evidently compiled by a personal secretary to Lord Howard and lay for some years at his home in Reigate, Surrey. It is an account of the goods received on behalf of the Lord Admiral as tenths. For each prize a separate entry is made, usually identifying the privateer, its owners, the captain and master, indicating the nature of the prize-goods and giving a more detailed inventory of that portion of the cargo allocated as the tenth. Some account of the sale and disposal of the tenth is included and the price for which it was sold. Alongside the price the following items for deduction are sometimes entered: the expenses of cartage, storage, etc., involved in dealing with the tenth; the amount of customs paid on the tenth; and the sum due to the author of the account for his twentieth share of the tenth. The account is not complete and the author is not known, but the manuscript is of great importance for the study of privateering.

copies of the articles for such examinations survive in the court records, as well as the related depositions, which are marginally marked 'Officium domini contra . . .' (giving the name of the offender). This kind of *ex officio* process was employed also in prosecuting individuals for contempt, often consisting in the denial of the court's jurisdiction.[1]

We have already alluded to the Lord Admiral's jurisdiction in matters of prize. This jurisdiction, which developed greatly in importance in the sixteenth century, originated in the disciplinary powers of the admiral over his fleet, which had been extended in various ways in the course of time, so that from 1589 the powers of the Lord Admiral included the right to issue letters of reprisal, to regulate the conduct of ships of reprisal and to adjudicate the prizes captured by them. These functions formed an important part of the work of the Admiralty Court during the war with Spain. General rules for their exercise were laid down by the Privy Council in 1585 and modified thereafter.[2]

Private citizens who wished to engage the enemy on their own account, by sending out what later came to be called 'privateers', were normally, from 1585 to 1603, entitled to do so only in redress of private wrongs suffered at the hands of Spain or Spanish subjects. A minority of privileged persons like the Earl of Cumberland and John Chidley were able to obtain special commissions from the Queen, issued as letters patent, but the majority had to obtain letters of reprisal from the Lord Admiral. The full procedure for obtaining letters of reprisal required the prospective grantee to submit to the court a *querela*, or complaint, in the form of a pleading, and to bring forward witnesses to support it.[3] The object of the *querela* proceeding was to prove that losses had been sustained at the hands of Spain or Spanish subjects and that the plaintiff was consequently entitled to letters of reprisal which would license him to recoup his losses upon Spanish shipping and

[1] Cp. the articles of contempt brought against Richard Lewes (ch. III below); also Marsden, *Select Pleas*, I, 83–8 and 206–10.

[2] For the 1585 regulations, see Corbett, *Spanish War*, pp. 36–8.

[3] In *querela* cases the process was *pro testibus ad perpetuam rei memoriam* and there was no defence. The aim of the process was to establish by witnesses a right or claim of some sort. The form of the pleading is indicated in document 25 below. In most instances we have no formal statement of the plaintiff's case, but frequently the articles, drawn up in the form of questions, upon which witnesses were examined, have survived, together with the depositions.

goods. In such suits there was, of course, no defence. But it is difficult to say how far this procedure was actually observed. That merchants did in fact appear before the court and make proof of losses is certain: a number of them had to enter into bonds in £100 to make proof of losses[1] and there exists a list, dated 1590, of 'men warned to make proofe of theare losses had in Spaine'; there are depositions in connection with such proceedings and sentences of the court in favour of the plaintiffs;[2] indeed, the warrants of the Lord Admiral authorizing the issue of letters of reprisal were often endorsed with a statement of the amount of losses sustained. But it is known that in some cases the obligation to prove losses was expressly waived; written pleadings in connection with such proceedings are very hard to find; and there is a great disparity between the number of sentences traceable and the number of grants of letters of reprisal. By and large it is evident that the obligation to prove losses became less serious soon after 1585 and that formal pleadings and sentences were increasingly dispensed with. In the circumstances of the time the laxity of the court in this respect is hardly surprising. There is no indication that anyone who applied for letters of reprisal was ever refused[3] and there is only one known case of the withdrawal of letters of reprisal on the grounds that the grantee had recovered more than he had lost.[4] Many of the merchant promoters of privateering must have recovered far more than their losses and yet apparently found no difficulty in getting their letters renewed.

When these preliminary formalities had been discharged, the Lord Admiral sent a warrant to the judge, requesting him to make out letters of reprisal in favour of the person or persons concerned. These warrants were usually endorsed with some particulars concerning the proposed expedition; items frequently mentioned were: the names and tonnages of the vessels, the number of their crews, the number of pieces of ordnance, the period for which they were victualled and the amount of the losses

[1] For such a bond see Marsden, *Law and Custom*, I, 251–2.

[2] A sentence in such a case is given in Marsden, *Select Pleas*, II, 165–7.

[3] Perhaps the judge's attitude was influenced by the fee of 13/4d. which he received for every grant. The grants were usually made for six months, so that the court derived a regular income from this aspect of its activities.

[4] Marsden, *Law and Custom*, I, 289. In this instance it is clear that the privateer was abusing his grant and becoming a nuisance.

claimed by the promoters. The warrants are not always endorsed, however, and those that are endorsed do not often give all this information.

Having acquired, in letters of reprisal, licence to set forth a vessel or vessels, those responsible for the venture, or simply the captains and masters, had to enter into bonds, in the form of recognizances, to pay to the Lord Admiral a specified sum (in our period usually £3000 for each ship) unless they adhered to certain rules. These obliged them to repair with all possible speed, after putting to sea, to the coasts of Spain and Portugal, the Azores and other remote places where Spanish and Portuguese subjects most frequently traded; not to attempt anything against her majesty's subjects or the subjects of princes in league and amity with her; to bring their prizes into such port of her majesty's realm as should be most convenient for them; not to break bulk before the vice-admiralty or other authorized officials had inventoried and appraised the prize goods; and to surrender a tenth of the prize goods to the Lord Admiral's officers. From 1589 the recognizances contained the additional proviso that the prize goods should be adjudicated and from 1591 a further emendation obliged captors to bring home with the prize goods members of the crew of each prize. Such a bond would be made out by the court and submitted by an officer of the court or vice-admiralty to the captain and master of the ship concerned, to be signed by them.[1] If there were several ships in an expedition there would be an equivalent number of bonds. These bonds were not very effective in regulating the conduct of expeditions. Seamen who risked their lives for booty were not as a rule scrupulous about leaving it intact until it had been taxed and pilfered by admiralty men. However, the machinery was not entirely futile: inventories and appraisements were made and tenths were in many, if not all cases paid.

In 1589 the Privy Council's regulations for the control of privateering were modified, provision being made for the adjudication of prizes. The full procedure, which took the form of a *querela*, required the claimant to appear personally before the judge, to make a statement and to produce witnesses to prove that the ship and goods taken belonged to the king of Spain or

[1] The full text of a recognizance is given below, pp. 178–9.

Spanish subjects, were captured by virtue of letters of reprisal and were therefore lawful prize. The witnesses were frequently Spanish seamen captured with the prize and their depositions would be duly recorded. In the statements of plaintiff and witnesses a brief description of the prize and its contents would be given. The judge, having duly considered these statements, would promulgate his interlocutory decree condemning the ship and goods as lawful prize.[1] This sentence was provisional, but if not challenged within a year would have the force of a final decree. The court would then issue instructions to the vice-admiralty or other local officials concerned, who were supposed in the meantime to have inventoried and appraised the prize, to deliver the same to the captors. Interlocutory sentences adjudicating prizes become quite frequent from 1589, but the perfunctory character of the proceedings prior to sentence is indicated by the poverty of the material relating to them, either in the form of summary reports of proceedings or in the form of depositions.[2] There survive a few depositions made before local officials and sent up to the court, these depositions being accompanied in the court records by a copy of the sentence, but how widely this procedure was employed it is impossible to say. The records of inventories and appraisements of prizes made by local officials are also rather thin and it seems likely that the indentures were frequently not (as it was stipulated they should be in the Privy Council regulations) returned to the court.

A large part of the business of the court consisted of spoil and piracy cases, concerned with attacks by English seamen upon foreign or English shipping. Usually the matter came to the notice of the court through the Privy Council or the Lord Admiral, to whom the plaintiff first submitted a petition. The plaintiff would then be granted a warrant for the arrest of the goods as his own, citing the detainers to appear and answer him in civil and maritime cause. The goods would be arrested on the authorization of the court and if the detainers failed to appear to defend the case, the goods would eventually be adjudged to the plaintiff. If the case was defended, the goods might be seques-

[1] The full text of an interlocutory sentence of a prize is given below, pp. 221–2.

[2] Depositions of this kind are not uncommon, but there are many sentences for which we have no related depositions.

trated by the court, appraised and, if perishable, sold. The case would continue as a civil action between the plaintiff and the defendant, and the goods, or their proceeds, would be adjudged to the successful party. All spoil cases, once the action was joined, were governed by the rules of practice obtaining in other civil suits, described below.

Independently of such civil proceedings, there might be a criminal prosecution of the spoilers for piracy, beginning with their arrest and imprisonment. The criminal jurisdiction of the court was, however, distinct from the civil, and most of the records relating to criminal cases were kept in a separate series.[1]

We have now broached a distinct and very important part of the court's business, a part less directly connected with the functions and rights of the Lord Admiral as an officer of state: civil suits in all kinds of mercantile and maritime affairs, including disputes relating to shipping, insurance, freight, bills of lading, seamen's wages and many other matters, some of them connected with privateering ventures. In these suits the High Court of Admiralty developed and administered its peculiar blend of civil and customary law, but the procedure and practice were chiefly characteristic of the civil law and closely resembled those of the ecclesiastical courts. The lawyers—judge, deputy judges and proctors—were civilians, the deputy judges being appointed from the doctors of Doctors' Commons.

The plaintiff initiated a civil action by securing the judge's warrant for the arrest of the defendant, who had to produce sureties to give bonds for his appearance before the judge at a time specified. If the defendant could not be found, goods of his within the court's jurisdiction might be arrested and the defendant cited to appear. If he failed to appear after the third proclamation, the arrested goods would be adjudged to the plaintiff. If he appeared, he could then produce sureties to give bonds for his appearance and would regain possession of the goods, the case proceeding normally. Both plaintiff and defendant had to produce sureties to enter into bonds that they would prosecute or defend the suit, appear as required in court, ratify the acts of their respec-

[1] As these records (H.C.A. 1) have yielded nothing of significance in connection with this particular period of privateering, there is little point in discussing them here. They are of course useful for other periods.

tive proctors and abide by the sentence of the court. These preliminaries were duly summarized, as they occurred, in the current Act Book, the detailed record of the business of the court.

The next stage was the submission of the *libel* by the plaintiff's proctor.[1] The libel, the plaintiff's pleading, began with a formal statement of the identity of the parties and of the nature of the pleading. A series of *articles*[2] followed, stating the case in detail, item by item; and at some stage, usually towards the end, the relief which the plaintiff sought was specified. Attached to the libel there might be one or more documents, such as schedules of goods, or other written evidence mentioned in the libel. The aim of the plaintiff was to prove the truth of the libel; the defendant's aim was to demonstrate its falsity. The libel would first be put to the defendant, who would have to admit or deny the truth of each article in turn, and might do so with comments, giving his reasons for denying this or that article. These *responsa personalia* of the defendant would be taken down in writing and signed by him.

It now rested with the plaintiff to prove the truth of the articles denied by the defendant,[3] and this he would attempt by producing witnesses, who would be examined on oath as to the truth of each article of the libel in turn.[4] The *depositions* thus made were recorded by a clerk of the court and signed by the *deponents*. The witnesses also had to answer any questions (called *interrogatories*) put to them on behalf of the defendant, such interrogatories being submitted to the court by the defendant's proctor and put

[1] The full text of a libel is given below, pp. 345–52.

[2] These were sometimes called 'positions', but never consistently. For example, the defendant's reply to the libel might be headed 'responsa personalia . . . facta posicionibus libelli', or 'posicionibus et articulis libelli', and in the course of the replies phrases such as 'non credit articulum esse verum' would be used. The reason for this inconsistency was that originally the libel had contained both positions and articles, the former stating the case and the latter being designed as a basis for the examination of witnesses. In the course of time the positions and articles of the libel became confused and in our period each paragraph of the libel, after the formal pleading, was usually called an article.

[3] If the defendant admitted the truth of any articles in the libel, the plaintiff would not need witnesses to prove them. In practice, of course, the defendant normally denied everything conceivably deniable.

[4] This was the normal procedure. Sometimes, however, articles in the form of questions based upon the libel would be drawn up and used for the examination of witnesses. For example, in Watts *contra* Morgan plaintiff's witnesses deposed, not on the libel, but on special articles. See below, pp. 306–7.

to the witnesses (now called *respondents*) by a clerk. The replies were likewise recorded and signed.

However, the defendant usually wished to bring forward witnesses of his own, and in order to do so he might submit a pleading of his own, called a *materia*, similar in form to the libel, which, without denying the contents of the libel, aimed to destroy its force, usually by showing that the libel was legally inapplicable. The procedure following the submission of the libel would now be repeated for the materia: the plaintiff had to reply personally to the articles of the materia, witnesses were examined on the truth of the articles and the plaintiff could have the defendant's witnesses cross-examined. A materia was a form of *allegation*—the term applied to all pleadings subsequent to the libel. A simpler type of allegation was a series of articles stating the defendant's case and implicitly denying the truth of the libel. The same procedure would be followed here. Further pleadings might follow, but there was rarely more than one after the libel. On the other hand either party might desire to bring forward fresh witnesses to make additional points during the course of an action, and they could evidently do this simply by submitting to the court a series of articles in the form of questions, in answer to which the witnesses made depositions.

After all this documentation had been completed, the case was heard before the judge on an appointed day, and later a day was appointed for the hearing of the sentence. This rehearsed briefly what had been proved and in due form promulgated the judge's decision, being signed by the judge.[1]

Such were the main types of business with which the court dealt, and we may now consider more closely the character and value of the records arising. The material itself, which is kept in the Public Record Office in London, is voluminous. The very nature of the proceedings, in which the court itself assumed direct control, required that the clerical record of a cause should make available to the judge a detailed knowledge of all its circumstances and judicial stages. Thus the court itself should have had at its disposal a full written record of every cause when it came up for

[1] The full text of a sentence is given below, pp. 373–6. It was apparently the practice for each party to submit the decree it desired, and for the judge to sign the one submitted by the successful party.

decision. A large bulk of material consequently accumulated, but unfortunately it was not carefully or systematically preserved and has come down to us in an incomplete, ill-sorted and unkempt state. No attempt seems to have been made at the time to sort or index the material and little has been done in these respects since.

Although there is some confusion and overlapping between the various classes of Admiralty Court records, the material did fall, like a kind of deposit, into certain main groups, as follows: the Act Books (the day to day record of all judicial business done in the court);[1] the Libels (pleadings, articles, sentences and a variety of other documents);[2] the Examinations (a continuous record of depositions of witnesses);[3] the Answers (personal replies of the parties);[4] the Interrogatories (questions for the cross-examination of the witnesses);[5] the Exemplifications (miscellaneous, often copies or drafts);[6] the Letters of Marque, Bonds, etc. (warrants, bonds and other material relating to letters of reprisal).[7]

The Act Books are the most complete and the best preserved of all the series. In these stout volumes was entered, in Latin, a day to day summary of every judicial act of the court: the appearance of parties before the judge, the swearing of witnesses, the appointment of days for hearing cases, the submission of pleadings—all stages up to the delivery of sentence were noted. These volumes therefore provide the best guide to the progress of any suit and can be of considerable help in tracing the relevant material in other series.

The Libels are large files of documents which were evidently, when no longer required, placed face upwards, in no particular order, on a steadily accumulating pile, tied together at the end of a year and numbered consecutively. The main documents in these files are pleadings, with attached schedules or other written evidence, and sentences. They are usually of parchment and vary in size, the pleadings in particular often being so large that they

[1] H.C.A. 3. [2] H.C.A. 24. [3] H.C.A. 13. [4] H.C.A. 13.

[5] H.C.A. 23. Interrogatories and special articles.

[6] H.C.A. 14.

[7] H.C.A. 25. The series known as *Miscellanea* (H.C.A. 30) does not contain anything of interest for this study; there are several other series containing matter relating to this period, but of little historical value, except perhaps to the legal historian.

have either been folded to fit the file (with consequent damage) or blackened at the edges and bottom to the point of illegibility. Sometimes the articles presenting the substance of a case would be in English, as the attached documents often were, but normally pleadings and sentences were written in Latin. A pleading would often be endorsed with the title of the case (x *contra* y), the name of the proctor submitting it and the date of submission. Sentences were also endorsed as having been passed and read on a certain date. Interrogatories, articles for the examination of witnesses, appraisements of ships, interlocutory sentences of prizes, depositions forwarded to the court by local officials, and many other documents connected with the suits before the court are also to be found in the files. For the study of any particular civil suit a close search of these files is therefore necessary; but it will probably not yield all the connected documents, since the files are by no means complete; and the search may be tedious, because the documents relating to a particular case may be scattered throughout several files.

The volumes of Examinations were presumably compiled by a clerk, who appears to have written the depositions and replies one after another into the same volume in the order in which the witnesses were actually examined, noting (or forgetting to note) in the margin the suit to which each statement referred. Each deposition would be signed by the witness (and, if the witness could not speak English, by the interpreter). The importance of the depositions hardly needs stressing: in every type of admiralty cause the sworn testimony played a vital part. Although the record is not complete, as may be seen from a comparison of the entries in the Act Books with those in the Examinations, these volumes provide the historian with a wealth of fascinating detail concerning all kinds of maritime affairs. Deponents of course contradict each other as to the matters at issue, but there is always much that is incidental, assumed, agreed, or established beyond reasonable doubt.

The Answers are also volumes of signed statements—the personal replies of the parties to the pleadings of adverse parties. Again these are incomplete and the total bulk is very much smaller than that of the Examinations. Nor are the statements so interesting, for they are usually little more than denials with comments.

Very occasionally, however, a personal reply may be of great historical interest.[1] The Interrogatories are files of the lists of questions submitted for the cross-examination of witnesses. They are incomplete, partly because many such lists have migrated to the Libels files.

The Exemplifications are smaller and neater files than the Libels, being compiled by much the same method, but containing only paper documents—often copies or drafts. Much of the material consists of correspondence: instructions to the vice-admiralty and other local officials concerning the arrest, inventory and appraisement of ships and cargoes, the delivery of goods as adjudged by the court, the arrest of pirates; letters from the Lord Admiral and the Privy Council concerning all manner of affairs, general and particular, within the scope of the court; but there are also interlocutory sentences of prizes, articles for the examination of witnesses and other miscellaneous documents. The majority of the documents in the files for our period are connected with matters of prize, and the series is of considerable value to the historian, though the state of preservation of the documents varies considerably and some, especially at the top and bottom of each file, have partly or wholly crumbled away.

The Letters of Marque, Bonds, etc., are large bundles containing warrants of the Lord Admiral for the grant of letters of reprisal, bonds of individuals to make proof of losses, bonds for the good behaviour of ships of reprisal, letters connected with such warrants and bonds, and various other documents relating to administrative matters.[2] Only one of these bundles[3] concerns our period, and some of the material in it could not be used, owing to its state of disrepair. The rest covers the period from March 1590 to February 1593. Similar material for the following years does not appear to exist. The available documents, however, are of great interest. They enable us to identify ships, promoters, captains and masters engaged in privateering ventures and often give definite information about the tonnage, armament and crew.

The importance of the records of the High Court of Admiralty for the study of maritime history, and more particularly of priva-

[1] For example, the personal replies of Martin Pring (H.C.A. 13/104, 8 July 1602).
[2] Appointments of vice-admiralty officers, for example.
[3] H.C.A. 25/3.

teering, is not widely realised, even today. This is partly due to the difficulty of the material, for although a number of scholars have used the simplest and most rewarding series, the Examinations, few have penetrated the Libels files. Nevertheless it is worth the effort to draw together the material from each of the main series, for the result often provides an illuminating picture of the background of a venture and sometimes of the voyage itself. As the documents printed below demonstrate, it is frequently possible to reconstruct, from High Court of Admiralty sources, the course of a voyage about which little or nothing was previously known.

II. PRIVATEERING DURING THE SPANISH WAR

'For they [the Spanish] have good cause to remember, how they were baited in the Queenes time: there being never lesse then 200 sayle of voluntaries and others, upon their coastes.' So wrote John Hagthorpe in 1625,[1] and this was no great exaggeration. In the years 1589 to 1591, for example, at least 235 English vessels made privateering voyages, ranging all the seas southward from the Channel to Cape Verde and westward to the Americas.[2] The majority haunted the coasts of Spain and Portugal, but there were usually some in the region of the Azores and a few cruising the Caribbean. They sailed most often singly or in twos, though consortships made at sea might bring together half a dozen or more and a large expedition would normally attract to itself a number of fellow-travellers. On the longer voyages, of course, particularly on West Indies voyages, the single ship rarely went without a pinnace, and expeditions of three or four ships were the rule rather than the exception.

The most common type of English privateer in the Spanish war was the ordinary merchantman of some fifty to a hundred tons burden, commonly referred to as a 'bark', strengthened in striking power by the addition of guns and men, but not converted by rebuilding or any major alterations. Such were the

[1] John Hagthorpe, *England's Exchequer, or a Discourse of the Sea and Navigation* (1625), p. 25.

[2] 'Elizabethan Privateering', pp. 39–43. The Ph.D. thesis here cited has been drawn upon to a considerable extent for this part of the introduction.

majority of the Bristol privateers, which seem to have been turned over to privateering mainly because the war itself frustrated their normal employment. Privateers of this sort could be and were put back to merchant service when trade revived or seemed to offer a better profit than prize-hunting. Similarly from Plymouth, Weymouth, Southampton and lesser centres of privateering this was the typical 'ship of reprisal', and this term itself, which had not yet begun to yield to the modern 'privateer', expresses much better the nature of much of the activity—a private war of merchants and merchantmen. Ships of this kind did not often leave European waters and consequently do not figure so largely in our West Indies ventures. They were well represented, however, and the appraisement of the sixty or seventy ton *Black Dog*, built about 1572, gives us a closer view of one of them.[1] This, like the two rather similar appraisements printed in the *Mariner's Mirror*,[2] mentions the usual three masts, a foresail and foretopsail, mainsail and maintopsail, and a lateen mizensail. An interesting feature of all these appraisements is the absence of any mention of a spritsail. A minion and three falcons, firing 4 lb. and 2 lb. shot respectively, made up the sum of her artillery, and though this was undoubtedly weak for a vessel which had to fend for itself in the Caribbean, it was not significantly weaker than the armament of comparable privateers. In fact ships of this size did not carry anything that can be classed as a heavy battery gun. On the other hand the *Black Dog* probably carried more calivers, muskets and pikes than are mentioned in the appraisement, for we know that she set forth with forty men. This high proportion of men to tons burden—more than one to two—was normal for a privateer, for prizes had to be manned home.

Much more powerful and effective as privateers were the merchantmen normally employed in dangerous and long-distance trading to the Mediterranean and as far south as the Guinea coast. These were distinctly larger ships of over a hundred tons burden —some of them over three hundred. About one in four of the privateers fell into this class in 1590, but their numbers were

[1] Document 12 below.

[2] K. R. Andrews, 'Appraisements of Elizabethan Privateersmen', *The Mariner's Mirror*, XXXVII (1951), 76–9.

growing during the war and the proportion of really large vessels also grew. The *Merchant Royal* (350 tons) and the *Edward Bonaventure*, both Levant Company ships and Londoners, were typical of the largest, the *Golden Dragon* (150–180 tons) and the *Salomon* (200 tons) of the intermediate class. They might be employed in trade or in privateering or even in major naval expeditions, such as Drake's raid on Cadiz in 1587. Several of them did valuable service in the Armada campaign. Sometimes they would be sent on a trading voyage with instructions to spend a part of the time cruising for prizes.

In fighting power they were probably little inferior to the Queen's ships of their size, and they certainly gave a good account of themselves in more than one encounter with Spanish galleys. The frequent references to such vessels as 'tall ships' and such pictorial evidence as is available suggest that they were high-charged, built up with high fore and aftercastles. The rig seems to have been of the conventional kind, with six sails—spritsail, foresail, foretopsail, mainsail, maintopsail and mizensail, as shown in the inventories of the *Golden Dragon* and the *White Lion*.[1] They carried substantial armament, occasionally including culverins (18 pounders), but usually headed by demi-culverins (10 pounders), backed by sakers (5½ pounders) and lesser guns, with numerous muskets, calivers, harquebuses, pikes, bills, swords and pistols. Thus they were equipped with some heavy battery guns, and the *Edward Bonaventure*, with her thirty-one pieces, six of them brass, must have been a formidable ship. Nevertheless the main reliance was usually placed upon lighter pieces and small arms. As might be expected, ships of this class played a major part in West Indies privateering.

There were also a number of private men-of-war, usually belonging to important individuals such as the Earl of Cumberland (the *Anthony* and the *Pilgrim*), Sir Walter Raleigh (the *Roebuck*), and Lord Thomas Howard (the *Challenger* and the *Mineral*). Precise information about these is lacking, but in some cases at least they were probably in the style of the Queen's own ships. The Lord Admiral's private ships, indeed, were occasionally included in Royal Navy lists; the *Ark Raleigh* became the *Ark Royal*, and the Queen had no better ship. Raleigh's *Roebuck*

[1] Documents 107 and 19 below.