The Elizabethan Justice of the Peace: An Image Inspected, 1558-1603

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THE ELIZABETHAN JUSTICE OF THE PEACE: AN IMAGE INSPECTED

1558-1603

A Thesis
Submitted to the Department of History
In partial fulfillment of the requirement
for the Degree of Master of Arts

by
George Stephen Sipek

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INTRODUCTION

The deposition of Edward II, the Hundred Years' War, and the Black Death all contributed to the unsettled state of English society in the mid fourteenth-century, but the monarchy found a partial solution to this chaotic situation in the justice of the peace. Adopting the form of the custos pacis, keeper of the peace, Edward III began to construct a new type of governmental office which would conserve the peace, judge any minor disputes, and administer the law. The old Norman police system headed by the sheriff declined as the justice of the peace stepped into the resulting power vacuum. Although originally charged with preserving the King's peace within the county, the justice of the peace soon found himself responsible for the enforcement of the repressive Statute of Laborers (1351), a function resurrected later with the passage of the famed Statute of Artificers (1563). When the Revolt of 1381 is recalled, the connection between preserving order and the labor problem becomes apparent. During the turbulent reign of Richard II, the commission of the peace was

\(^1\) 34 Edw. III. c. 1.

expanded, and then the Lancastrian Parliaments continued to increase the powers of the justices. In the fifteenth-century borough officers like the mayor and alderman were also made justices by royal charter as in the case of those of Nottingham, Hull, Canterbury, Leicester, and London. However, the county justice remains the subject of this study. In him one can observe how the Tudors adopted the institution to the needs of the major part of the country throughout the sixteenth-century.

In his comprehensive handbook for the justices, William Lambarde (1536-1601) defined the justice of the peace as:

Judge of Record appointed by the Queen to be Justice within certain limits for the Conservation of the Peace, and for the execution of sundrie things comprehended in their Commission and in divers laws committed unto them.

As representative of the Crown the justice of the peace "recorded" the testimony given by both sides in scrinio pectoris, in the

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3 12 Ric. II. c. 10; 14 Ric. II. c. 11.
5 William Lambarde was trained at Lincoln's Inn, and later he wrote the Perambulation of Kent (1576), the earliest county history. Lambarde was appointed a justice of the peace for Kent in 1579 and continued in the commission of the peace until his death. However, in his later years he held several public offices in London--master of Chancery in 1592, keeper of the records at the Rolls Chapel in 1597, and keeper of the records in the Tower in 1601. Written to serve as a convenient guide for the county justice, his Eirenarchia remained the standard authority for the office, and even Blackstone recommended its study. Cf. D.N.B., Vol. XI, pp. 438-39.
6 William Lambarde, Eirenarchia; or of the Office of the Justices of the Peace, in four Books First gathered 1579, published 1581, and now fourthly revised, corrected, and enlarged in this fortie and one years of the peaceable raigne of our most gracious Queene Elizabeth (London: Printed by Thomas Wight and Bonham Norton, 1599), p. 3. Hereafter cited Eirenarchia, 1599.
shrine of his heart, the court roll being but a memory device. Lambarde's analysis of the definition quoted Glanvil's phrase, "quod sit coram me, vel Iustitiis meis", that it may be before me or my justices, to indicate that the justice administered the law in the name of the King as the justice of assize did on his circuit. By 1607 John Cowell in The Interpreter substituted "appointed by the Kinges commission" for Lambarde's "appointed by the Queene", an important change. The commission, containing the names of all the justices in a county, was drawn up by the chief justices and approved by the Lord Keeper, not by the monarch in whose name it was issued. Thus the personal relationship evoked in the phraseology of the twelfth-century became a formality by the close of the Tudor period.

What kind of a man was Lambarde's justice of the peace? Since the justice linked the Privy Council with the local gentry, a certain degree of prominence was required of those chosen for the commission. Wealth has often been fairly indicative of local prominence and some insurance against corruption in office. Although the income requirement of £20. per annum from land or business remained standard after 18 Hen. VI. c. 11, an early handbook mentioned a possible but temporary exception to be made at

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7 Eirenarchia, 1599, pp. 70-72.
8 Eirenarchia, 1599, pp. 3-4.
9 John Cowell, The Interpreter; or Booke Containing the Signification of Words; Wherein is set forth the True meaning of all, or the most part of such Words and Termes, as are mentioned in the Lawe Writers, or Statutes of this victorious and renowned Kingdome, requiring any Exposition or Interpretation (At Cambridge Printed by John Legate), 1607, n. p.
the discretion of the Lord Chancellor. Many of the justices who were assigned to towns, cities, and boroughs did not have to possess this income because of a royal privilege that dispensed from the law. With these two exceptions, a man who sat as a justice without the required income could be fined £20 and removed. Although Lambarde advocated increasing the legal income requirement to enhance the dignity of the office in the face of inflation, nothing ever came of the proposal. However, a solid reputation for observing the law continued to be required for the office.

As far as professional education went, the justices were to be learned in the law, but formal study was not required. Some justices attended the Inns of Court in London for a few terms while others relied on the handbooks, the advice of their equals, and common sense. The handbooks indicate that the justice of the peace did know some Latin and French. However most of these county magistrates only had a parish education.

The noble or knight headed the list of justices in a


given county and thus provided the new gentry with an opportunity to meet their social betters under government auspices. The social change taking place is noticeable in the contrast between the definitions given by Lambarde and Sir Thomas Smith. Smith wrote that the justices of the peace were "men elected out of the nobility, higher and lower, ... and learned in the laws." In contrast, Lambarde gave a functional rather than a social definition, "Justices of the Peace, bee Judges of Record appointed by the Queene..." Both definitions were true for the England of Elizabeth, but Smith's looked to the past while Lambarde's represented future development.

The ideal justice of the peace ought to combine title, wealth, and legal training, elements seldom found in one man at a time when numbers were needed. Justice, wisdom, and fortitude also were qualities to be sought in a man of the bench. But above all other virtues, Lambarde believed that a firm love and fear of God were necessary for a good judge. God, Himself, was present

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15 Sir Thomas Smith (1513-1577) a brilliant lawyer who had a distinguished career at Cambridge where he held a chair in civil law. In 1565 Smith wrote De Republica Anglorum: A Discourse on the Commonwealth of England in which the English court system and Parliamentary procedure were described in detail. Much of our information on how Tudor government functioned comes from this work. In contrast to the handbooks of Lambarde, he emphasized the legal structure rather than powers as such. Cf. Mary Dewar, Sir Thomas Smith: A Tudor Intellectual in Office (London: The Althone Press, 1964).

16 Sir Thomas Smith, De Republica Anglorum in J. H. Tanner's Tudor Constitutional Documents A. D. 1485-1603; With an Historical Commentary (Cambridge: At the University Press, 1945), p. 120.

17 Rirenarchia, 1582, p. 3. 18 Rirenarchia, 1582, p. 35.
on the bench with the justice. As a faithful member of the English Church and a fine public servant, Lambarde inserted the oath of supremacy to abolish the "usurped authoritie of the Romish Pharoa." He suggestively noted that many justices had never taken it.

Earlier handbooks such as Fitzherbert's only contained the standard oath pertaining to the faithful execution of office, and Lambarde repeated it verbatim. Essentially it required equal treatment of all before the law, impartiality in handling cases, and honesty in submitting any fines or fees to the Exchequer. With this image in mind, we shall examine the justices of the peace at work to determine their effectiveness.

Black, Fitzroy, and Williamson have perpetuated the image of the justice as a docile beast of burden, the diligent civil servant at best. Rowse qualified their remarks by pointing to the recalcitrant justices of Yorkshire who cooperated with the weavers against new governmental regulation. Does this indicate

19 Eirenarchia, 1582, pp. 61-62.
20 Eirenarchia, 1582, p. 62.
22 Eirenarchia, 1582, p. 61.
that there is another facet to the character of the justice?

Beard's portrayal of the justice as a Prussian bureaucrat who appears ever enthusiastic and obedient must be questioned. If an accurate estimation of the justice is to be achieved, Beard's exempla must be supplemented by a fuller study of individual cases. Since little is known of the lives of the justices, the historian must turn to the county records, Privy Council acts, and handbooks to fill in the gap collectively. So before considering the justice at work in the varied spheres of his jurisdiction, we must inspect the handbooks which he consulted.
CHAPTER I

THE USE OF THE HANDBOOKS AT QUARTER SESSIONS

Legal experts composed several handbooks for the reference of the justices of the peace who may or may not have had the opportunity to obtain formal training at the Inns of Court in London. Although the justices were under no compulsion whatsoever to use these aids, the numerous editions and surviving copies testify to their widespread popularity.

The early handbooks of the reign have much in common; physically those of 1559 and 1560 appear quite similar in size and format. The former was written anonymously, but the latter was a reprinted translation of Fitzherbert's 1538 manual. Both have elements that continued to appear in subsequent handbooks. First, the commission of the peace is fully explained at the beginning. Secondly, Latin writs can be found in both, and finally some notice of the minor county officials concludes the work.

The core of the handbook dealt with various violations of the law; the statutory penalty concluded most entries. A major problem such as forcible entry merited a page or two while keeping a market required a brief entry of a few lines.¹ Although a recognized problem predating Elizabeth's reign, the licensing of

¹Fyrste Book, pp. 4r, 5v.
alehouses was not treated in the 1559 handbook; but Lambarde dwelt on it extensively forty years later. A kidnapping entry directed to Welsh counties occurred only in the 1559 book, although each of the others contained a general reference to it. Fitzherbert's orientation towards medieval law can be observed in his detailed analysis of the statutes while the anonymous writer handled them with greater brevity and less erudition.

Fitzherbert, author of an abridgment of yearbooks, La Graunde Abridgement (1514), temporally linked Marowe with Lambarde, who drew on both men's knowledge. In their choice of language—Latin, law French, and finally English, each marked a stage in the dissemination of English legal knowledge.

The 1582 edition of Eirenarchia, Lambarde's comprehensive handbook, revealed a new emphasis on order by containing the first detailed index which would be refined in succeeding editions. The requirements of a justice were also more clearly

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3 Fyrste Book, p. 7r.

5 Thomas Marowe (1461/64?–1505) was a lawyer of Inner Temple, under-sheriff of London, a counsel in the Court of King's Bench, and a member of various commissions. He was named a justice of the peace for Middlesex in 1501. In Lent, 1503, Marowe delivered his reading De pace terre et ecclesie et conservacione eiusdem, Westminster primer, capitulo primo that Lambarde and Fitzherbert both use. Shortly afterward Marowe was appointed serjeant-at-law, but he died soon after this. Cf. B. H. Putnam, Early Treatises on the Practice of the Justices of the Peace in the Fifteenth and Sixteenth Centuries.
presented. Instead of quoting a document as Fitzherbert had done, Lambarde attempted to narrate the historical development of the office. The handbooks of 1587 and 1599 disclosed a fuller interest in conducting a quarter session than their predecessors, the respective editions of 1560 and 1582. A particular case like the famous Lichfield riot sometimes served Fitzherbert as an illustration of legal application. Lambarde also made use of these examples by frequent reference to Kent, where he served as a justice. The confusing organization and language of 1587 gave way to the logical, clear work of Lambarde over a decade later. Lambarde constructed a table of felonies that divided crime into public and private categories. The further division of the public category into crimes concerning the Queen like treason and those concerning the commonwealth, such as the laws against vagabonds, demonstrates this fine organization. However, Lambarde showed his true genius in the tangled sphere of private crime. By adopting the Roman law division of crime, he distinguished between the crimes pertaining to the body alone, to the body and goods together, to goods alone. With this brief survey of the handbooks in mind, we now pass to a consideration of what they reveal concerning the quarter session.

6 Eirenarchia, 1582, p. 32. 7 Eirenarchia, 1582, p. 145.


9 Eirenarchia, 1599, pp. 220-21.
Having read the required statutes to the assembled jurors, the justices proceeded to hear the presentments followed by the indictments. In the indictment Marowe considered five elements necessary: the full name and rank of the party indicted, the exact date and place of the crime, the name of the injured person, the name and value of the object involved, and lastly the precise nature of the offense. One of these reads:


Lambarde warned that extreme accuracy must be taken in procuring and recording the indictment, for it was the basis of the trial. During this procedure the justices of the peace had to protect the rights of both parties.

The hearing followed. If the accused confessed, the matter ended with the determination of the justice. However, a denial of the charge required an examination of both parties and

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10 These legal terms are defined by Lambarde in his 1582 edition of *Eirenarchia*, pp. 383-84:

- presentment—"the meere denuntiation of the Iurors themselves or some Officer"
- indictment—"finding of a Bill of accusation to bee True"

11 *Eirenarchia*, 1582, p. 386.


13 *Eirenarchia*, 1582, p. 402.

14 *Eirenarchia*, 1582, p. 415.
witnesses by the justice, the submission of certificates contain-
ing the sworn testimony of those not present, and in most cases the use of arraignment. In the last two steps the jury examined the testimony and concluded with a section (verdict). The justice then pronounced sentence and arranged for its execution. 15

Instead of prosecuting at quarter sessions in the normal manner, the grieved party could, especially if he were influential, petition the Privy Council for redress. Although this course was followed in complicated cases that involved powers not given to the justices, it sometimes treated a rather petty matter. Local governmental bodies also had recourse to the Council. For example, the parishes of St. Leonard's Shoreditch and Haxton in Middlesex petitioned that the highway from the church to Ware be cleared by Anthony Richardson, the parish guardian, because of the "noysome and unholesome saviurs and smelles". 16 The Council directed the Middlesex justices to examine the complaint and order some action. If Richardson still refused, he would have to appear before the Privy Council.

Occasionally the justice of the peace might have to assist a messenger of the Queen's Chamber in summoning some one to London. In 1596 the justices of Kent received a reprimand for

15 Eirenarchia, 1582, p. 453.

failing to obtain post horses as ordered over a week before. Since the Crown provisioned the horses and only permitted each one to run a single stage, there was less reason for refusal.

The justices were told to forward the names of the uncooperative for future action. In 1590 Edward Leigh, a Staffordshire justice of the peace, submitted information against John Stone, a lawyer of Middle Temple, who was accused of aiding the Spanish fleet.

Once again administration superseded the judicial aspect of the office. Whether initiated from above or below, the justices became involved.

In an effort to further regularize the judicial process, the Privy Council issued detailed instructions on judicial procedure to all justices in November, 1566. First, the county custos rotulorum, preserver of the rolls, was to send a certified enumeration of all shire officials and their respective divisions, parishes, and limits to London. Second, the Privy Council chose two or three justices in each division together with the coroner and the clerk of the peace. Third, these designated justices would summon five men in every hundred, including constables and great landowners. Upon their appearance, the justices would charge these citizens to inquire into various articles deemed violated. While the five were given one copy of the articles,

another went to each parish where a certificate was to be made and forwarded to the justices. Within three or four weeks the entire process was to be finished. This information of violation was then added to the personal knowledge of the justices of the peace and the collective return of the five, and a day for presentments was then appointed.

Upon submitting a presentment, any two inhabitants also had to give evidence at a later session or assize, but their expenses were paid by the fines resulting from the case. The justice then ordered all offenders to appear at the quarter session when the indictments were made. A special jury could replace the ordinary one in cases where the judges observed some defect in evidence or decision. Those who concealed or gave faulty evidence were then put under bond to appear at a later session and offer evidence under oath. At this point the indictments were sent to the proper higher courts such as King's Bench or Exchequer.

The quarter sessions clerk drew up a double roll of all persons convicted or indicted as well as the fines and punishments. One roll was forwarded to the Privy Council at the beginning of the next term, so that the execution of the law could be supervised effectively; the other remained with the custos rotulorum. The Exchequer also received a roll upon which the fines were recorded while its duplicate remained in the county. As for the fines, the Queen's Exchequer received half while half, minus allowances to presenters of evidence or informers, was divided equally among the parish poor.
Since sessions were usually held four times a year at Michaelmas, Epiphany, Easter, and Midsummer, the completion of work within the prescribed day or two necessitated the issuing of writs and other orders beforehand. Because the Statute 2 Ric. II. c. 3. set the maximum duration of a quarter session at three days, more and more business was done by justices at a discretionary session or by a single justice living in the neighborhood. 21 In such circumstances the handbook proved of inestimable value. Here he could quickly find the form of a writ, the answer to a technicality of procedure, or excerpts from the statutes. As the body of Tudor legislation and conciliar order expanded, revised editions of these legal handbooks appeared, some fifty-seven in all for the century. 22

Where the justices obtained their information is not always known, but several sources were available. The constable, parish warden, overseer, or even a private citizen could have submitted the information. A Council order of 1566 required all constables, appointees of the justices, to report on the condition of their parishes at each quarter session. 23 Lambarde,


recognizing the need for a clear explanation of the duties of a constable, wrote a short treatise on the subject. \(^{24}\) Since informers were sometimes intimidated by an irritated public, a Council proclamation of 1566 provided three months in prison and a whipping for those mistreating informers. \(^{25}\)

The task of taking sureties for those indicted to appear or from those suspected of future disorder and crime was another duty of the justice of the peace. For instance, Thomas Byrd of Wanborough in Wiltshire was put under bond for ten marks at Michaelmas session, 1575, and his two relatives, Anthony and Owen Brynd, for £20, each to keep the peace toward Roger Colly. All three had to appear before the next general sessions. \(^{26}\) This sort of pro pance entry frequently occurred in the records of the quarter sessions. In a rare case bond was taken for good behavior over a longer period as evinced by the case of Edmund Plowden of Shiplake in Berkshire who had to appear before the Privy Council within a year upon summons. \(^{27}\)


Although the justice of the peace exercised wide jurisdiction, a wider variety of cases might be expected in the quarter session records. Assaults, robberies, trespass violations fill the records with occasional entries concerning taxation, property ownership, sanitation, and poor relief. The major cases like treason were handled by other courts, but the justice of the peace procured much of the information necessary for a judgment by a superior court. Sometimes the Privy Council requested a recommendation, too, while in other instances it disposed of the case after the local authorities had made the arrest. The latter method used was in the case of a man named Blount, who traveled from place to place with a falsified commission designating him as an executor of the statute concerning the wearing of wool caps. 28

Since the justice of the peace was committed to preserving public law and order, one of the main topics treated in the handbooks is "riotous assemblie." According to the 1559 book, such disturbances required the services of two or three justices as well as the sheriff. If the rioters fled before the appearance of the proper authorities, the people in the neighborhood had to examine the affair and return a verdict within a month. A certificate of the findings was then forwarded to the Privy Council, and anyone who obstructed the course of inquiry was susceptible to trial in the Court of King's Bench. 29 The handbook of 1560

29 Fyrste Book, p. 5r.
defined a riot, as opposed to an assembly. If any illegal action were taken by the assembled persons, the assembly legally became a riot. However, any unauthorized assembly remained undesirable.\(^{30}\) The 1582 edition of Lambarde attempted a finer definition of "riotous assemble" by indicating that three or more persons had to be involved. It was further considered in reference to entering the property of another or to participating in quarrels. An assembled group numbering above two but under seven constituted a rebellious assembly if any attempt was made to murder one of the Queen's subjects, to destroy inclosures, or to cut conduit or water pipes. Those inciting such assemblies could be prosecuted without having actually participated in the action.\(^{31}\)

Under the common law riotous assembly had the same punishment as trespass, fine in minor cases and imprisonment according to the statute in the serious ones.\(^{32}\) In all the handbooks examined, the entry was made after trespassing due to the close relationship involved. Unlike the others, the 1560 edition of Fitzherbert considered a more specialized case of illegal assembly, the annual congregations or confederacies of masons.\(^{33}\) These meetings violated the Statute of Laborers, so the justice of the peace was instructed to consider the leaders guilty of a felony while those who only attended a meeting could be fined or imprisoned.

A riotous assembly often resulted in forcible entry, as

\(^{30}\) Newe boke, p. 118 v. \(^{31}\) Eirenarchia, 1582, p. 346.

\(^{32}\) L'office, p. 54 v. \(^{33}\) Newe boke, p. 116 v.
Fitzherbert recognized. The 1559 handbook noted that the justice of the peace, accompanied by a sheriff or constable, went to the place upon the lodging of a complaint. Those seized were jailed until the next quarter session. A further clarification was made in the case of tenements taken in a peaceful manner and then retained by force. The trespassers were handled in the ordinary manner. Neighbors of sufficient wealth were then impanelled before the justices, and the sheriff returned issues upon any who refused to appear. Consequently these people were liable to fine. Another provision gave the justice of the peace the power to hear and determine cases of neglect on the part of bailiffs and sheriffs. The 1560 handbook exempted the landlord who received power to compel payment of rent by the use of force. The same distraint is also mentioned by Fitzherbert. After 1382 the justices had full authority over cases of forcible entry. Earlier books such as the editions of 1559 and 1560, more often merely concerned with the statement of the violation and meting out punishment, failed to state why the matter was treated in this particular way. The citations and numerous exceptions in Lambarde's 1582 edition marked the development of definition that reached its apogee in the edition of 1599. Lambarde disliked the practice of having untrained justices examine property titles since few of them had any legal training in that complex area.

The handbooks contained some religious entries which have

34 *Fyrste Book*, p. 45v. 35 *Newe boke*, p. 118v.
36 *Eirenarchia*, 1582, p. 151.
seldom received adequate notice. The 1559 edition reflected the conditions of the 1530's by including an entry against heretics and Lollards, a throwback to the late medieval period. This handbook directed the justice to be the secular force in eliminating Lollardy. The bishop conducted the trial prior to the Reformation, but the justice of the peace held the accused in confinement or placed him under bond to appear for trial. The bishop could advise against bail if the case appeared to warrant it.

The three books printed in 1582, 1587, and 1599 deal with recusancy, each with increasing efficiency. Lambarde's edition of 1582 devoted six pages to ecclesiastical affairs. The Queen's jurisdiction had to be upheld in all religious activity, and the justices of the peace took a compulsory oath recognizing her supremacy. Any one guilty of defending the Pope committed treason. Participation at mass and possession of a papal bull or religious tract constituted a violation of the law. In these cases the justices had to inform the Privy Council. If a Jesuit or seminary priest entered the country, a subject had to inform the authorities or face possible fine and imprisonment. Furthermore, the justice of the peace was obliged to inform the Council of such men of a religious calling under pain of heavy fine. The clerk of the peace recorded the name and address of

37 Fyrste Book, p. 8r. 38 Eirenarchia, 1582, p. 199.
recusants in the rolls of the session from a certificate made out by the parish priest and constable. The clerk had to read the act against usurping the Queen's power at each quarter session. The justice of the peace heard all recusancy cases except those directly concerning treason, and he was to collect the prescribed fines. After 1581 the justice of the peace was empowered to deal with recusancy cases just as a royal judge, and this change terminated a long period of probation. At the end of the reign the failure of those over sixteen to attend church for a year resulted in the justice's submitting a certificate to the Court of King's Bench and his taking bond to insure good behavior.

In the economic area the justice exercised wide powers, for he could prohibit engrossing, forestalling, or regrating of grain. A conviction for forestalling, cornering the market before the official opening of business by contract or outright purchase, resulted in two months in jail. A second offense resulted in double loss of goods and six months in prison; the third by loss of goods and confinement in the pillory. In a similar manner, dealing in fraudulent weights resulted in the loss of a noble, then a mark, and on the third offense 20s. plus a trip to the pillory. The later handbooks are more complete in their assessment of fines than the ones for the first years of the reign.

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because of the increased supervision of the Council.

A social as well as an economic problem of the justices was the regulation of apprentices. If the apprentice disliked his master or the trade, he might run away. The justice of the peace then intervened by issuing a writ to all sheriffs for his apprehension. The 1560 handbook considered the issue in more detail. If the Elizabethan fugitive laborer sought freedom in the city, the mayor and bailiff had to surrender him on the request of the master. Refusal resulted in a heavy fine that was divided between Crown and master. By 1587 specific mention was made of those laborers in husbandry who fled the land. Lambard recognized that the justice of the peace was needed as an arbitrator between master and apprentice. The change of view involved in the recognition of this primitive arbitration as a charge of the office demonstrated a decided advance over the 1560 handbook which merely expressed a desire to apprehend and punish. However, it must have seemed otherwise to a laborer who was fined a penny for each hour's absence from work, and £5 for uncompleted work. However, these repressive measures were seldom enforced.

Among the military obligations of the justice concern for property outbalanced consideration for human life and welfare.

45 Eirenarchia, 1582, pp. 432, 441.
46 Newe boke, p. 36v; also Fyrste Book, p. 5r.
47 L'office, pp. 174-75. 48 Eirenarchia, 1582, p. 191.
49 Eirenarchia, 1599, pp. 454-55.
It was illegal for the veteran to sell his mount and gear. If the lord lieutenant or one of his deputies was not available, the justice of the peace could handle these cases. Upon being apprehended, the guilty soldier was imprisoned until the owner was compensated. However, the written testimony of the lord lieutenant that the horse in question had been lost in war freed the soldier from any responsibility. Another regulation noted that any recruited soldier or mariner, paid by the justices, had the legal obligation of immediately reporting to his assigned captain. If any order was issued to the justices to muster or levy men for war, the captain was forbidden to take a bribe for discharging anyone or to withhold wages. The local justices were obliged to report these irregularities to the Privy Council.

The edition of 1599 repeated the earlier military duties of the justice but added a new one, assessing the local parish for the relief of disabled veterans. Since all discharged soldiers were required to possess papers signed by the captain, the justices inspected them to determine how long it would take the veteran to reach his former home. Then the justice licensed him to take a specific route. Two justices could obtain work for veterans who had any difficulty in resuming their former employment. The idle soldier who had not returned to his place of

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50 Eirenarchia, 1582, pp. 195-96.
51 Eirenarchia, 1582, p. 331.
52 Eirenarchia, 1582, pp. 380-81.
53 Eirenarchia, 1599, p. 297.
54 Eirenarchia, 1599, p. 298.
55 Eirenarchia, 1599, p. 348.
birth or former residence sometimes carried a counterfeit testimonial. By 39 Eliz. c. 17. this act deprived him of the convenience of the benefit of clergy. Horse selling resulted in the loss of the mount and a £40. fine. The justice could also regulate the pensions of disabled veterans, and he annually appointed a treasurer to collect and disburse the pensions.

After discharge the veteran could return home, idle in an alehouse jeopardizing public order, or set out for London to make his fortune in a widening world of opportunity. Whether in town or countryside, regulation by the justice remained. Perhaps the veteran was fortunate enough to apprentice himself to a trade and eventually acquire his own business. Even then dreaded regulation followed him. The searcher of the justice might inspect the tilemaker's product. The chandler who sold tapers for more than 4d. per pound suffered a fine equal to the proffered price as well as confiscation of the article. For the unincorporated town the justice annually appointed overseers of cloth; the stretcher had to cease his illegal activity or lose his goods. The jurors of Muching reported "omnia bene" to the justices of Essex at Barnstable in 1566, but added that the Widow Cockman had

56 Eirenarchia, 1599, p. 412. 57 Eirenarchia, 1599, p. 465.
58 Eirenarchia, 1599, p. 547.
59 Eirenarchia, 1599, pp. 590-91.
60 Eirenarchia, 1599, p. 197. 61 Eirenarchia, 1599, p. 201.
62 Eirenarchia, 1599, p. 327. 63 Eirenarchia, 1599, p. 349.
bought and sold butter, eggs, and chickens without a license. 64

The society of 1590 was saddled with an increasing amount of regulation by the central government that had found an instrument with which to effect it in the justice of the peace. Although often a source of irritation due to the increased duties falling to the justices, new legislation occasionally benefited the lower classes as in the case of the Poor Law of 1597. Nevertheless, to the yeoman home from France or Ireland the times seemed sadly out of joint. Patent, monopoly, enclosure added to the traditional medieval privilege oppressed him. Some fortunate men had risen in the world, but many more had fallen to a lower level than their grandfathers' status at the beginning of the century.

The indigent found that the government was reconstructing its policy towards beggars, and the handbooks reflected the change. In 1559 account was taken of religious and hermits who carried letters from their ordinaries. 65 Those who begged without license from the Crown would be ordered whipped by the justices as unauthorized laborers and servants. No able worker could beg, but impotent persons could beg within the limits of the town. Allowance was made for limited mobility if the community proved incapable of supporting them by alms. The justices met periodically to search for the poor and impotent and then

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65 Fyrste Book, p. 16v.
license them to beg within a certain district. A roll that con­tained the names and limits of such persons was then given to the custos rotulorum.

Oddly enough, the handbook of 1560 does not treat the problem of beggars at all. Fitzherbert stressed the duty of a justice to apprentice the children of beggars according to 14 Eliz. c. 5. and warned them against neglect of the law. Lambarde stated that neglect, sworn to by two witnesses, resulted in the justice's appearance at the assize to answer the charge. A constable or collector of money for the poor rendered an accounting of his office to two justices semi-annually, for the parish rate had become the law. By 1599 anyone who refused to contribute or who discouraged others from doing so was to be imprisoned. Lambarde also recommended that all beggars or vagabonds over fourteen were to be imprisoned until the next quarter session, when they would have their choice of working for a local tradesman or being committed to the workhouse.

The change from private to public charity took place in the reign of Elizabeth. The central government made a beginning in the national regulation of an obligation that had belonged to the Church before the Reformation. The justice of the peace became its administrator and the parish its unit of collection and distribution. Although much of the actual work of poor relief fell to the constable or churchwarden, the justice assured the

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66 Eirenarchia, 1582, p. 279. 67 Eirenarchia, 1599, p. 269. 68 Eirenarchia, 1599, p. 192.
operation of the system by his power over beggar, petty official, and parishioner.

To conclude, the handbooks provide us with a wealth of material concerning law enforcement. They announce in a more compact form than the statutes the varied obligations of a justice of the peace and thus provide a convenient and fairly accurate measure to gage particular cases. The pages of Fitzherbert and Lambarde include the prosaic more often than the extraordinary and therein lies their utility. Only by examining commonplace happenings in the light of the rules made to cope with them can we hope to know this age.
TOWARD CONFORMITY IN RELIGION

If the reign of Elizabeth ended with much needed welfare legislation, it began with the victory of the Reformation in Parliament's passage of the Acts of Uniformity and Supremacy. The Queen had to have the loyalty of the justice of the peace in matters of religion, or the office would cease to serve the ends of effective government and perhaps even work against it. Therefore in 1564 the English bishops were ordered to take a census of the religious affiliation of the justices. From a third to nearly a half were suspected of favoring recusants. In a recent analysis of the problem, some 293 of the justices viewed the Established Church unfavorably while more than 438 of the 941+ of the justices adhered to it. A justice of the peace might take the oath of supremacy and communicate in the Anglican Church while still remaining Catholic in belief. The higher authorities seldom questioned outward conformity. After the papal bull of 1570, Regnans in Excelsis, and the growing Spanish menace, one could not be a completely 'loyal Catholic Englishman'; the term had become a contradiction.

What do the records reveal about religious conformity? The Earl of Arundel assembled the justices in Sussex and Surrey to instruct them to enforce the Act of Uniformity.2 During the episcopal census of 1564 one bishop suggested that the justice of the peace be obliged to read aloud the "Articles for Uniformity in Religion" and subscribe to them.3 However, nothing more seems to have been heard of this idea. The Privy Council reprimanded the justices of Surrey in 1569 for failing to use the Book of Common Prayer at divine service and not receiving the sacraments according to the new prescription. All the justices of Surrey and the wealthy men of the shire were to sign enclosed letters to demonstrate conformity or appear before the Council.4 While on a progress in 1578, Queen Elizabeth noted with dismay that many justices of the peace within the diocese of London had not attended church for years. The bishop was asked to compile and submit a list of these negligent judges.5

During the next decade a few names were struck from the commission rolls because of nonconformity. In 1579 all the

5 Cal. S.P. Dom. 1547-80., p. 582.
justices of the peace had to take an oath to the Church of England before a justice of assize or be dismissed from office. The next step was to give the remaining justices of the peace equal power with the royal courts in handling recusancy cases. Lord Burghley's *The Execution of Justice in England* (1583) treated loyalty to the Crown in a very learned and spirited manner. He asked all the "governors and magistrates of Justice" to preserve the peace and "avoid the floods of blood" of civil war by all possible means.

In 1587 the Privy Council decided to send a secret letter to the bishops concerning the justices of the peace. This letter stated that some innocent men had been removed from commission while guilty ones remained, especially in remote counties. The bishops were charged with secretly obtaining the following information:

I. Who were the former justices of the peace?

II. A certificate was to be obtained in secret from the custos rotulorum that clearly stated the reason any deposed justice was restored to office.

III. The present justices were to be dismissed if they fell into any of the following categories:

A. Those recusants not attending the Church

B. Those who hinder the cause of religion, aid recusants or seminaries and Jesuits, or have relatives who do not attend the Established Church on Sunday

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6 Osborne, op. cit., p. 41.

C. Those who have children in commission in the same county and the number and location of their homes

D. Those who were more concerned with promoting disputes than solving them

E. Those who were not of gentle birth or possessing an income of less than £20. a year.\(^8\)

The authorities showed more concern for religious conformity in the first half of the 1590's, when Catholics were completely dropped from the commission.\(^9\) The Puritan problem had also reached a climax with Cartwright's trial in the Star Chamber (1591), and with Richard Bancroft and Thomas Hooker aiding Archbishop John Whitgift the Church of England took distinctive shape on the intellectual plane.

The Court of High Commission functioned well under Richard Bancroft, but Lancashire and Cheshire were far from London. The Privy Council received information to the effect that some of the justices of those two counties had not received communion since 1558.\(^10\) Assize justices were instructed by the Council to order the justices of these backward counties to punish recusants.\(^11\) Any justice of the peace who seemed to favor recusants was to be reported to the Privy Council for prosecution.

Lord North received a letter to investigate Keeper Gray of Wisbech


\(^10\)*Cal. S. P. Dom.*, 1591-1594, p. 158.

Castle on charges of harboring recusants. The justice who neglected to aid a royal officer had to explain his reason before the Council. Lord Burghley's spies or local informers might alert the Council to violations of the law. Thus Shropshire justices were reproved for not noticing those "seditious persons" in their county.

The pattern of the religious outlook of the justices becomes apparent from certain cases. The Essex justices were charged with the apprehension of two unlicensed preachers, Pulleyn and Dodman, shortly after a proclamation of 1559 on the subject. In Sussex, Sir Nicholas Pelham and Sir Edward Gage, both justices of the peace, had to locate and punish the nonconformist leaders of a group of citizens who attended the parish church of Hailsham. The Council at York ordered the justices to receive itinerant preachers to compensate for the lack of parish clergymen. Furthermore, the justices were to enforce attendance at Sunday services. Lord Burghley's letter to all the justices of the peace and of the assize in 1573 indicated a continuing Puritan problem. Many preachers had made alterations in the Sunday service that disturbed the ecclesiastical authorities.

The sects continued to prosper in spite of orders to the justices

to abolish secret religious assemblies. The Privy Council informed the bishop of Peterborough of "certaine disorders in matters ecclesiasticall" at Northampton and asked him to seek the assistance of the local justices. The bishop of Exeater required the aid of surrounding justices against the Family of Love while Norwich justices also were troubled by their meetings.

While evidence can be found to demonstrate some lack of uniformity within the Church of England, some cases came to the attention of the justice of the peace and found a place in the records of his court. Parson Christopher Dearling of Upton Lovell (Wiltshire) incurred the displeasure of the Privy Council by maintaining the existence of purgatory and falsifying Scripture by using it to support heresy. Vicar Robert Moore of Rushall (Stafford) administered the sacrament to sitting and standing communicants and would not permit them to kneel in reverence to it like an idol. In 1585 George Barghe of Yoxall altered the form of baptism as found in the Book of Common Prayer in favor of using "thou" instead of "you" and omitted the sign of the cross.

22 Johnson, op. cit., p. 103.
upon administering the sacrament to Robert Budworth.  

None of the records indicate punishment of the clergy.

Recusancy provided the justices with much more work. Among Nathaniel Bacon's papers, a commission for the examination of recusants exists. Proof was required before committal to prison, but aiding recusants with food, drink, and shelter also violated the law. A commission of three justices examined the suspects. The justice who received the shire's commission informed his associates, and together they set a convenient time and place to meet. Thereupon a messenger was dispatched to the local ordinary to request a list of all known recusants. However, since only church attendance and visible indications of Catholic belief were sought in the subsequent interrogation, matters of dogma and conscience remained concealed. Under oath the accused was asked whether he had aided the forces of the Pope or the King of Spain. Without taking an oath, suspected persons were to reveal whether they had spent any time in Rome or Spain during the last three years. In 1581 sixteen general letters, together with schedules that contained the names and addresses of recusants, were dispatched by the Privy Council to the justices who had to

24 Ibid., pp. 148-49.

set bond for their appearance in court. In one instance a Stafford grand jury carelessly dismissed dangerous recusants, so the Council directed the justices to recall the jury and take bond for the appearance of four notorious recusants at the next assize. If the four refused to cooperate, the threat of Star Chamber would be made. Due to the numerous recusancy cases in Wales, the lord president was instructed to delegate some of the cases on the assize docket to justices of the peace who were faithful Anglicans. A general order went to all justices in the realm to indict all principal recusants for appearance at the next assize. Such orders were bound to create some judicial confusion, and conflict between courts did result.

The Privy Council was sensible enough to consider reasons other than piety in accounting for the denunciations of a neighbor. Sometimes the most remote evidence was used against a suspect. One example involved a sacrilegious justice of the peace, Joseph Leeke of Edmonton. In addition to sheltering Richard Pooley, a seminary priest, Leeke celebrated a mock communion.


service in a barn at Winchmore Hall on the "marriage" of a poor
couple and sang the popular song, "The Dogges of Tottenham," in
lieu of a psalm. To make matters worse, he had a relative who
had aided a priest, and he himself had burdened the parish with
two unsupported bastards. 32 A curious mixture of piety and sin!

Suppression of the old religion continued. The justices
of Wiltshire endeavored to enforce the recusancy laws by having
churchwardens report absences from services and by summoning
anyone possessing religious articles used in the mass. 33 For
concealing letters concerning the Pope and Roman cardinals, John
Rowse, a justice of the peace, went to the gallows. 34 In 1588
Father William Hartley was executed, for a justice had sentenced
him in the wake of the fear of the Armada after learning that the
former Middlesex clerk had been ordained at Rheims soon after the
accession of Elizabeth. Hartley had returned recently to England
with full knowledge of the severe punishment for his illegal
action. 35

During the closing years of the reign more information,
involving the justices, continued to reach the London authorities
concerning local religious conditions, for recusancy remained a

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33 M. M. C. Calthrop (ed.), Catholic Record Society:
Recusant Roll No. I, 1592-93, Exchequer Lord Treasurer's
Remembrancer, Pipe Office Series (London: Strowger and Son,


frequent topic of conciliar curiosity as uniformity remained the paramount goal of the Crown. Lord Keeper Puckering received a report on a hotbed of popery at Widow Wiseman's house in Essex. Two justices related that on a visit to the widow, they found a priest preparing to celebrate mass, but that he had escaped. The two visitors enclosed a list of all prominent persons present. George Wiseman of Upminster was the most embarrassed, for he was on the commission of the peace. Upon a subsequent investigation, the informers learned of seven recusant servants who refused to take the oath. To complete the picture, the senior Mr. Wiseman had former connections with seminarians and Jesuits. Thus it appears that the Lord Keeper's reformation of the commission was not nearly as complete as he had imagined. However, the cruel wheel of fortune was to crush Sir John Puckering's efficient fingers when implication in a simony case resulted in disgrace and dismissal. His friend, the historian William Camden, maintained the Lord Keeper's innocence, but Puckering was held responsible for a subordinate's action. Queen Elizabeth would not tolerate corruption in any public official.

The safety of the country was the obvious policy of the

Council, and the justices had to maintain it by hunting out Catholics. In one case the justices were negligent, for the Council obtained information about recusants in the northwestern counties from Anthony Atkinson. The usual accusations of mass celebration and harboring of priests were included. Special mention was made of Richard Tailler of Linsdale, who transported hunted priests and recusants by boat to the Isle of Man or Scotland. Atkinson also reported caves and hill country hideouts that might be more carefully inspected in future searches. It appears in the same letter that Robert Eyre, a justice of Derbyshire, was reported as a kinsman of and protector of Catholics. Eyre warned them of impending searches, so they could "fly into the mountains," where shepherds would harbor them until the danger had passed. Writing to Puckering some months later, Benjamin Beard was even more explicit in his information, for he disclosed the location of "ingenious receptacles" for priests—a false cupboard and a vault under a table.

Sometimes the Privy Council congratulated itself on the steady progress of conformity. William Goldsmith of Suffolk, a gentleman of means, had taken the oath of supremacy from Sir Robert Cecil himself. In the same measure, the economic decline of a Catholic gentry family like that of Humphrey Bedingfield could be taken indirectly as a token of a successful

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religious policy. Bedingfield was relieved of furnishing a horse and a number of foot soldiers on economic grounds.\(^\text{43}\)

A continual governmental policy of repression resulted in the gradual elimination of Catholics from public life. The justices were committed to the difficult task of achieving external religious uniformity in their own homes as well as in those of their neighbors. Although the justices were successful to some degree in stemming recusancy, they met with scant success in discouraging the Puritan sects. In both cases the Privy Council had to prod them frequently.
CHAPTER III

THE NATION AT WAR

Although the reign of Elizabeth has often been designated a peaceful one, no decade was free from military problems for the local justice of the peace. Shortly after her accession Elizabeth ordered a military census of both householders and their servants aged sixteen to sixty.\(^1\) Furthermore, promise of future instructions concerning armor, training, and prices of military provisions was made. All resident justices of the peace were included in the commission of musters that the Lord Keeper issued, and an inner circle of justices in each shire existed for "more special charge.\(^2\) Those names had already been selected in the Privy Council, but Lord Keeper Bacon had the option of omitting a name for good reason.

In 1562 Sir Ralph Sadler and his fellow justices of Hertford mustered two hundred men for the defense of the northern borders.\(^3\) Later Sir Thomas Golding, the sheriff of Essex, informed the justices of the peace of arms delivery for their recruits.\(^4\) However the town of Newhaven still lacked sufficient

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\(^1\) Cal. S. P. Dom., 1601-1603 Addenda, p. 110.

\(^2\) Ibid., p. 130.

\(^3\) A.P.C., Vol. VII, p. 120.

armor for the six hundred men gathered there, so the justices were obliged to collect money throughout the shire. This pattern would be repeated often in the course of the reign.

Three years later another series of orders concerned with the northern borders emerged from the Privy Council. The Archbishop of York as President of the Council of the North was ordered to assist Valentine Browne in the provisioning of Berwick. The justices of the peace in the northern counties had to fix reasonable prices for food and arrange for its transportation. In October more detailed instructions were issued to the justices in the southern counties in pursuit of the same end. As conditions became tense on the Scottish border in 1569, the justices of the peace were pressed to locate arquebusiers in each parish. Those not chargeable by reason of the value of lands and goods had to obtain a firearm for the army or relinquish their places on the commission. Furthermore, an artillery house was to be managed by a loyal person, designated by the nearest two justices. Holding office for a year, the manager maintained the arms of the locale in return for a small stipend. To insure his honesty the justices audited his account book containing the number and owners of the

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\[5\text{A.P.C., Vol. VIII, p. 133.} \quad 6\text{A.P.C., Vol. VII, p. 247.} \]

\[7\text{A.P.C., Vol. VII, pp. 273-74.} \]

\[8\text{Cal. S. P. Dom., 1547-80, p. 78.} \]
arms. Lastly, the justice of the peace had to be present to main-
tain order during all military drills on the village green. 9

The Earl of Essex had some hard words for the north's
defenses when he wrote to Sir William Cecil. First, the gun-
powder from most of the southern shires was "ill-furnished" except
for that from London, Hertford, and Middlesex. Newcastle had few
arms, so that it would have been wiser to rely on good archers.
The justices of the peace proved equally corrupt as the captains
in levying £6. for a foot soldier instead of 40s. 10 Then, too,
the justices in commission did not send the required horses. 11
The usual stream of certificates for the collection and disburse-
ment of military equipment flowed from the Council to the jus-
tices. 12 The hundred of Neasborough had some uneasy days, for
Northamptonshire justices, headed by Bishop Edmund Scambler of
Peterborough and Thomas Cecil, investigated its expenditures for
arms. 13 Nottingham had a similar experience. 14

Ireland proved a great military liability throughout the
reign. In 1574 the justices received notice to hold levies for
soldiers to be transported as reinforcements to Ireland. 15 Each
hundred or division in England and Wales was to contribute a num-
ber of men according to the May schedule. 16 Five years later

9 Ibid., p. 79. 10 Ibid., p. 268.
11 Ibid., pp. 111-12 12 Ibid., p. 373.
16 Ibid., p. 478.
another Irish rebellion, Gregory XIII's holy war, called for troops from Dorset and Somerset in addition to those from Cornwall and Devon. 17 The Earl of Bedford transmitted the Council's order that the justices set a bounty upon a western town for maintaining a post for dispatching messages to Ireland. 18 Sir Peter Carew, a justice and commissioner for piracy, was commanded to lead a hundred Devonshire men into Ireland. 19 Once again deputies were sent into the counties for military provisions, but John Blande reported that some "ill disposed people" had raised the prices in Monmouth despite the abundance of the last two harvests. The justices of the peace were ordered to see that the constables and other minor officials provided Blande with reasonably priced grain 20 and transportation for it. 21 The counties of Gloucester, Worcester, Hereford, and Salop failed to send their allotted quantities of soldiers, and Walsingham wrote that he had a list of justices who had been guilty of irregularities in obtaining recruits. 22 Shortly afterward, Sir Edward Horsey was ordered to fortify the Isle of Wight and confer with the justices of Southampton concerning aid. 23

The next fall seven hundred men embarked at Bristol and three hundred at Chester according to the detailed allotment sent

to the justices in the western counties.\textsuperscript{24} The regular communication also was issued for supplies.\textsuperscript{25} In order to insure an adequate arms supply, the sale of weapons by the soldiers merited death while the buyer was imprisoned.\textsuperscript{26} Even the gunfounders of Sussex had to be watched by a monthly inspection of the arms produced, none of which could be exported without a license.\textsuperscript{27}

Due to the danger of a Spanish attack, the Council decided to assign a specific financial task to particular counties in 1588. For instance, Sussex justices were required to levy and collect funds to maintain the bark Younge for three months.\textsuperscript{28} Norfolk and Suffolk paid the costs involved in the fortification of Yarmouth.\textsuperscript{29} The Council advised the justices of Devon to assemble in order to work out an equitable arrangement for levying L719. in the towns of Lyme, Chard, Exminster, and Taunton. Anyone who refused to bear his share of the burden was to be put under bond for appearance before the Council.\textsuperscript{30}

How were these collections accomplished? Justice Nathaniel Bacon raised a loan ordered in January, 1588, in this way. The lord lieutenant of the county received orders under the privy seal and then sent for the most active justices of the

\begin{itemize}
  \item \textsuperscript{24} A.P.C., Vol. XII, p. 226
  \item \textsuperscript{25} A.P.C., Vol. XIII, p. 46.
  \item \textsuperscript{26} Steele, \textit{op. cit.}, p. 88.
  \item \textsuperscript{27} A.P.C., Vol. XVIII, pp. 7-8.
  \item \textsuperscript{28} A.P.C., Vol. XV, pp. 343-44.
  \item \textsuperscript{29} A.P.C., Vol. XVI, pp. 118-19.
  \item \textsuperscript{30} A.P.C., Vol. XVI, pp. 281-82.
\end{itemize}
peace who attended the quarter sessions regularly to inform them of the tax required. The justices then informed the citizens under their immediate jurisdiction. If any refused to contribute the required sum, the justice put him under bond to appear before the deputy lieutenant. If he still refused, an inquiry was made by commission and jury of the true value of his lands and goods; and this information was forwarded to the Privy Council and the Exchequer, where it was recorded. In any future ratings for subsidies and musters these new figures were used to compute his tax rather than the lower rates of the previous levy.\textsuperscript{31}

In 1588 the justices were ordered to disarm all recusants who might aid the Spaniards. If necessary, the sequestered arms could be sold to those who remained unarmed.\textsuperscript{32} The lord mayor of London and the justices in the surrounding counties had to assist Sir Francis Drake and Sir John Norris in impressing armorers, surgeons, fifers, drummers, and trumpeters.\textsuperscript{33} At the same time corruption in collecting money for equipment continued as evidenced by the investigation of the justices of Devon by Sir John Gilbert.\textsuperscript{34} In some parishes of Devon large sums had been collected, but no soldiers had been recruited according to the Earl of Bath, the chief military official of the county. In contrast, the justices of Somerset were thanked by the Privy Council for

\textsuperscript{31}Bacon, \textit{op. cit.}, pp. 95-96.
\textsuperscript{32}A.P.C., Vol. XVI, p. 38.
\textsuperscript{34}A.P.C., Vol. XVI, p. 352.
choosing fine leaders during the crisis.\textsuperscript{35} It has been said that the justices were "at the height of their importance" at this critical time.\textsuperscript{36} Undoubtedly, the justices were a vital link in the defense and security of the realm, but communications throughout the 1590's indicate that this high importance cannot be assigned exclusively to one emergency. The prosaic duties of the depressed 1590's are less glorious and thus have been overlooked or slighted. One of these duties was the payment of pensions to veterans. It must be admitted that Henry Lange's 16d. per week as awarded by the justices and paid by the parish of Leed in Yorkshire does not compete very well with the excitement engendered by the Elizabethan sea dogs.\textsuperscript{37} Yet the pension itself reveals the high sense of responsibility that the government assumed in its actions and their consequences in peace as well as in war time.

In spite of the glory of the victory over the Armada, England continued to be occupied with military enterprises in northern France, the United Provinces, and Ireland. The Privy Council periodically ordered the lord lieutenant of a county to convokse his deputies and the local justices of the peace, so that his sector of the realm might be fortified and manned. When a

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\textsuperscript{35} \textit{A.P.C.}, Vol. XV, p. 232. \textsuperscript{36} Williamson, \textit{op. cit.}, p. 440. \\
\end{flushright}
Spanish fleet was sighted off the French coast at the mouth of the River Nantes in 1590, the English feared an attack on Plymouth. The Spanish purpose was to aid the League in France, but the Privy Council did not exclude the possibility of a raid. Thus the Earl of Bath received a communication from the Council dated October 25, 1590, and immediately put Devonshire on the alert while Sir Francis Drake saw to the fortifications at Plymouth itself. The coastal watchmen, inspected by the justices, knew their task; the experience of 1588 had proved useful. However, Spain was not concerned with England for the moment.

Defense continued to occupy the justices for the remainder of the reign. Under threat of punishment, the justices impressed masons, carpenters, and bricklayers for work on the fortifications on the Isle of Wight. In spite of the assignment of "convenient wages," the craftsmen involved must have cringed at the thought of spending their busiest season on a government project, a rather un lucrative task in 1597. Further preparations were made by the Council in Sussex, where the marshalship was revived to meet the immediate Spanish threat. The justices were to divide the shire into two in order to preserve the geographical

38 A.P.C., Vol. XX, p. 54
40 The siege of Rouen the next summer involved English troops on the side of Henry of Navarre, who was fighting for control of the French Crown. Queen Elizabeth sent her "Protestant cousin" ample financial aid as well as a small army.
divisions of the assigned hundreds as well as the financial balance. This action resulted from the reports received in London.

The justices found the recruitment of troops increasingly difficult. The 1590's were beset by domestic hardships in the form of high prices, unemployment, plague, and shortages, and levies for the Irish wars sometimes proved too much for the economy. Deserters increased, especially in troublesome Bristol, the usual port of departure for Ireland. The Council ordered Edward Gorges and Samuel Norton, justices in the neighborhood, to apprehend these "runn-awaies." The justices were rebuked for neglect and admonished to probe the countryside for ringleaders who were to be made examples of the rigor of the law. Chester had a similar, but less serious, experience in 1600. The stern methods of the justices of Middlesex met with hearty approval. Perhaps fear of the effect of the unruly on men already in the field or the frequent lack of supplies prompted the Privy Council to order the justices of Pembroke to discharge one hundred recruits after the other half of the shipwrecked company had deserted near Milford Haven. With the order went a request to the

neighboring justices in Brecknock and Carmarthen to aid in the capture and punishment of the deserters. In any event, the one hundred disbanded soldiers were to receive licenses to return to their respective counties. However Pembroke was not to get off so easily, for a few days later the Council asked that the payment of £47. 10s. be made by the justices to Devereux Barrett, who was to divide the money among the creditors who had lodged and fed this company.47 The Council's request for immediate payment could not be ignored by the justices who were already in disfavor; on the contrary, it provided them with the opportunity to rectify their recent negligence.

Taxes to support the army proved difficult to collect, so the Council referred delinquent collections to the justices.48 Even a wealthy county like Surrey or Middlesex would need a prodding letter from the Council before any action was taken.49 When the English army prepared to cross the Channel in 1591, the justices of Southampton received a note from the Council asking them to set an example by contributing money and supplies, but the results were poor.50 The Privy Council directed the Norfolk authorities to inquire of the constables and justices why only part of the assessed ship money had been collected and to ask them

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to submit the names of nonconformers and the reason for their lack of cooperation.\textsuperscript{51} Somerset was slow in paying as well, but the Council realized that in this case the hardship was legitimate. Still, it requested the local justices to obtain as much of the tax as possible in order to aid Bristol.\textsuperscript{52} On occasion the Privy Council sent a sharp letter of reproof to those in arrears. Sir Edward Wingfield received one in 1595 for refusing to contribute to the pay of Captain Thomas Lovel.\textsuperscript{53} Perhaps Wingfield refused to pay because he had observed some irregularities connected with local levies, a matter which was investigated shortly after.\textsuperscript{54}

The justice of the peace administered the modest pension of veterans who had been wounded and disabled by the loss of a limb. According to 35 Eliz. c. 4, 39 Eliz. c. 21, and especially 43 Eliz. c. 3,\textsuperscript{55} the local parish was responsible for providing pensions for maimed soldiers which had been levied from the same parish. The justices not only supervised the collection and distribution of the money but also received frequent notice from the Council to care for some particular man who had been neglected. The overseers of the parishes in Lancaster were charged with the

\begin{footnotesize}
\begin{enumerate}
\item A.P.C., Vol. XXVII, pp. 285-86.
\item A.P.C., Vol. XXVII, p. 192.
\item A.P.C., Vol. XXV, p. 191.
\item A.P.C., Vol. XXVII, p. 198.
\end{enumerate}
\end{footnotesize}
collection of an assessed 6d. per parish in 1595. This amount proved insufficient during the Irish wars, when the Council received a constant barrage of petitions from disabled veterans who complained of non-payment. The Council could only ask the local justices of the peace to explain and then lament the inefficiency of the relief or pension collection.

The military duties of the justices consisted of levying men and furnishing supplies to cope with dangers from Scotland, Ireland, and Spain. In some cases the justices failed to cooperate or compel others to do so. The defense of the realm involved impressing skilled laborers for work on fortifications, seeking out deserters from the army, and collecting further taxes to pay both the army and navy. Later the justice was also made responsible for the collection of pension money for disabled veterans who had fought for Queen and country.


CHAPTER IV

THE PROBLEM OF SUSTENANCE

By 13 Eliz. c. 13 the justices of the peace were able to set the export quota on a county's grain. However, only the central government could issue licenses for grain export. When the Privy Council learned of imminent exportation without license, an inquiry was ordered. One such letter to the Bishop of Peterborough requested information concerning the origin, destination, and carrier. In another case the justices of Sussex received notification that one Marshall of London was guilty of engrossing; he was to be apprehended and punished. Sir George Goringe as a justice of Sussex received an order from London to enlist the aid of the local justices to enforce an embargo on grain export. If any had been exported recently, the Council wished to know of it. A fortnight later another Goringe, perhaps

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a relative of Sir George, and the other justices near Arundel were authorized to exempt wheat and barley from the embargo for the relief of Rye. If the grain were sent, we have no record of it; but Rye still needed grain on May 9, 1573. Further exception to the general order was made later. The ship Mary Catherine, owned by Thomas Smith, was licensed to export a set amount of malt and wheat to Ireland. Justices Lloyd and Snedall were instructed to insure that the grain was only used for relief. If the area could not spare the grain for Ireland, these justices were to refuse Smith the grain which was demanded.

The market towns of the shire often proved a headache to the justices. In Hertford they were to guard against the raising of prices. No brewers or badgers (corn dealers) were allowed to purchase grain under pain of punishment at the next quarter session. Occasionally the justices proved too zealous. A French merchant lodged a complaint with the Council against the mayor and justices of Winchelsea, for they had sold his grain at a low price when the supply of the county did not warrant it. The Privy Council ordered them to pay the merchant a just price

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and allow him to transport any of the remaining cargo to a more advantageous market. 8 In 1575 the Council requested Lord Keeper Bacon to renew the commission for the restraint of grain. The renewal was granted upon information of engrossing in Sussex sent by the Bishop of Chichester and various other justices. 9 Since the grain supply was seriously low in 1576, all London brewers were prohibited from using any wheat or meal except "beere borne," wheat already mixed with oats. 10

Reference was made again in 1579 to the statute on grain export when the justices of assize were ordered to confer with the justices of the peace in Southampton, Devon, and Cornwall. However, a new reason was added, "for the better maintenance of tillage." 11 Often an informer was rewarded by a special export license from the Privy Council. For instance, Hinder of Cornwall received the right to export eight hundred quarters of grain if it would benefit the county and if local markets were already adequately supplied and prices remained reasonable. Since the harvest of 1579 proved bountiful, the Council approved export of surplus grain by Kent and Sussex as well. 12

Conditions were reversed the next year when the justices of Huntington were forbidden to allow grain to be shipped down the Owse River from adjacent counties to Lynn. 13

Sometimes scarcity would call for more drastic action. In 1586 ships laden with grain were unloaded at Plymouth, and the cargo was sold under the supervision of the justices in the town market at reasonable prices to prevent famine. 14 The farmers of Gloucestershire who hoarded and hid grain to await better prices were foiled when the justices carried out a barn inspection and ordered the grain to be sold at current prices. At the same time an order was issued by the Privy Council to the justices for the weekly delivery of grain to market, and bonds were taken to assure the obedience of the farmers. 15 Comparable orders were issued for other areas, 16 but collectively they worked against the welfare of London. One solution was to rate each county on a weekly basis and send the resulting grain to London. 17 The restraint issued through the justices also prevented a prosperous town in a neighboring shire from attracting grain needed within the county of its origin. Walden in Essex complained to the Privy Council on this score against

Cambridge, and the Council relayed the complaint to the justices of Cambridge.

Due to the meager harvest of 1586, the £400. collected for the erection of a house of correction was spent for grain to feed the poor of Hereford. The situation was no better in the hundred of Wisbech in Huntington, where no surplus grain existed to be marketed in dependant communities. By December the justices of the London area prohibited the converting of grain into starch and required accurate accounts of the annual consumption of wheat within their jurisdictions. Reports of widespread hardship also came from other parts of the country, for in January a new order directed all justices in the realm to see that the markets were furnished, the poor set to work, and relief administered. Even in such hard times special privilege continued, for the justices near Oxford and Cambridge had no right to regulate the towns' markets since the universities had this right themselves by ancient privilege.

William Paulet, the Marquess of Winchester, received a brisk note from the Privy Council that demanded that Surrey be supplied with grain and a poor man compensated for grain that Paulet had

Furthermore, he was told to deal with the "disorderlie and sediciously behaved persons" in the town of Andover. 25

Perhaps the trouble in Andover was similar to that encountered by Sir Anthony Tharold on the Brudnells' lands from which grain had been stolen. With the aid of another justice of the peace, Tharold was to seek out and punish the persons who had caused the riot during which the grain was stolen. 26

Another show of force occurred on the River Severn in 1586; a band of people stopped a craft carrying malt and carried the cargo away. The justices of the peace in Gloucester had to apprehend the ringleaders and call a special session to deal with them. 27 James Bowyer, the owner of the malt, received due compensation for his loss. 28

An instance of urban relief occurred in 1600, when the Sussex justices allowed John Storer, a London baker, to convey two hundred and fifty quarters of wheat from the towns of Chichester and Arundel to the capital. As a concession to local needs, Storer was permitted to sell twenty-five quarters at 3s. a bushel at each of the supplying towns. 29 Orders against engrossing, high prices, and unsupplied markets continued to be

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Justice Robert Sachvill of Sussex informed the Council of the disorder that famine had produced. The Council advised him to note possible inciters of disorder and to make arrests at the first evidence of agitation. Care was also taken to mention that poor relief was a princely office dear to the Queen. 31

Two weeks later a similar set of instructions was sent to Norfolk. Once again, ringleaders were to be committed until the next assize, but the justices also had to appoint watchers for the markets and other places of concourse. The Council promised the appointment of a marshal to control any remaining disorder. 32

Although prices were set by an annual conference of justices, Parliament placed a ceiling on grain prices. As might be expected, the statutory price tended to lag behind actual market prices, especially in the 1590's when the scale of 20s. a quarter of 1593-1604 was countered by a market price of 34s. 10-1/4d. 33 The difficulty of the situation can be further seen by examining Brenner's price calculations. Using the year 1550=100, the index of food prices increased to 244 by 1600 while the wages of craftsmen rose to only 160 and those of laborers

32 A.P.C., Vol. XXVII, p. 84.
The justice of the peace could do something to control the local market, but stabilization had to be formulated for the entire county in order to produce significant results.

Next to grain control, illegal meat consumption during Lent proved a problem for the justices. The killing, dressing, selling, or eating of meat on fast days and during Lent was prohibited by proclamation. However, an exception was made for the sick and for the influential people who purchased licenses. The local authorities, including the justices, were to imprison violators who did not pay the fine. A proclamation of 1559 provides us with more detailed information. Animals could be butchered only after the Tuesday following Palm Sunday, while the dressing could not be performed before noon on Holy Saturday, and any person violating the law suffered a £20. fine and loss of citizenship. If the culprit defaulted in paying the fine, he suffered six hours in the pillory on the next market day; and if the offender were not a citizen, ten days in jail replaced disfranchisement. The presentments were to be made by a petty jury on the Monday after the third Sunday of Lent or in the week preceding Easter. The houses of butchers were searched

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every fortnight. A justice who failed to report violations to Chancery could be fined £100. Finally all dispensations had to be reported to the alderman and the curate. This procedure remained valid for the entire reign on annual renewal.

The justices of Middlesex reported to the Council at the conclusion of Lent, 1572, that they had strictly enforced the orders concerning meat consumption. The Council instructed the justices in Essex to permit Thomas Adams, a butcher at Stratford Langthorne, to slaughter and sell meat to the household of the French ambassador. In 1573 Henry Morris of High Holborn in Middlesex was caught dining on a leg of mutton, and nine butchers of the same county were found guilty of slaughtering, dressing, and selling meat. In 1587 the London area justices permitted one butcher in Westminster, another in the "Duchie," and one in each liberty to remain open to serve the sick during Lent. Others operated illegally, for the Council had to issue a restraint through the justices in 1590. The particularly flourishing trade of the butchers in Southwark resulted in renewed vigilance.

The final area to be considered in this chapter is the

37 Ibid., p. 55.
38 Cal. S. P. Dom., 1547-80, p. 442.
39 Jeaffreson (ed.), op. cit., p. 79
42 A.P.C., Vol. XX, p. 323.
role of the justices in securing provisions for royal estates. In 1565 the justices of Northumberland requested Sir William Cecil and Sir Walter Mildmay to issue a warrant compelling the inhabitants of Neasabrough to supply needed provisions. In a Wiltshire case some thirty years later, the Council diplomatically issued an order for provisions to the justices rather than to the customary purveyor, for the military needs after 1588 bred wholesale corruption among officials. As in levying taxes for the maintenance of soldiers, the justices in some cases failed to satisfy the Council. A circular letter to the justices in Norfolk sarcastically commented that the men who had complained in Parliament of corruption in supplying the army now failed in their own charge. In order to remedy the situation the justices swore in four to six members of each parish to examine the quality and quantity of supplies that had been provided for the royal household during the last two years. Every effort was made to fix the responsibility for discrepancies.

The regulation of food consumption, so common to modern times in war, had its counterpart in the reign of Elizabeth. Although the regulations concerning the royal household and Lent can be dismissed as minor in comparison to national consumption, the same cannot be said of those pertaining to grain. Many

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43 Cal. S. P. Dom., 1547-80, p. 327.


45 Bacon, op. cit., pp. 64-65.
orders of the Council were concerned with its supply and marketing, but one should not necessarily conclude from this that the justices were negligent. Shortages due to poor harvests were quite common and required special measures. Either the justices performed their charge fairly well, or the Privy Council did not; for few complaints and reprimands appeared in the records.
CHAPTER V

WORK, POVERTY AND THE STATE

Although the late medieval justice had been charged with wage regulation, the function was not fulfilled on the national scale until after the passage of the Statute of Laborers in 1563. Individual cases best illustrate the administrative problems facing the justices in the labor regulation. Thomas Burche of Chelmsford in Essex hired Charles Brown to work in his tailor shop for a week, thus violating the law.\(^1\) The justices could not achieve the stabilization of society if such short term laboring were allowed. Another violation was committed by John Clarke, a Mulseham butcher, who overpaid his servant, Richard Dale, £5. 4s. per annum.\(^2\) Such benevolence could negate the official rates that the justices established annually for the county and thus encourage unrest.

After a reminder from the Privy Council concerning abuse in rating, the justices of Lancashire assembled in the Chapter House at Manchester on April 10, 1594, to decide upon a new

\(^1\)Emmison (ed.), Essex Quarter Sessions and Other Official Records, p. 99.

\(^2\)Ibid., p. 100.
schedule of rates. In this rating the miller ranked very high on the economic ladder with an income of £53. 4d. in addition to livery or its cash equivalent. The common agricultural worker, sixteen to twenty years of age, received 30s. while those older could count on 10s. more. Room and board augmented this wage. Female servants under fourteen received maintenance only, and those up to age eighteen could be paid anything up to 12s., those above that age 16s. 8d. A woman working in the fields earned 2d. a day plus board, and this increased at harvest time but decreased during the winter. Task laborers could bargain for wages individually, but tradesmen like masons, carpenters, and plumbers could not charge above 6d. a day plus meals. The apprentice usually received his room, board, and clothing while learning his craft and performing other tasks pertaining to the trade "according to his power, wit, and ability." 4

Within six weeks after Easter the justices of the county had to assemble to set wages. A justice could be fined £10. for neglect of duty if he failed to appear at the county meeting. Their rating was then forwarded to the central government in London which usually approved the schedules and returned them in the form of a proclamation by early September. If a man paid higher wages than those set by law, he was subject to a £5. fine.


4 Cowell, op. cit., n.p.
and ten days in jail; the laborer received a three week sentence for accepting additional pay. During harvest time the justices could conscript town laborers to work in the fields. Refusal to work at harvest time resulted in two days and a night in stocks. Room existed for abuse of workers—an unmarried woman under forty could be put to work at any wage the justice decided. Children of the poor might be apprenticed for as long as fourteen years without the permission of their parents. All handbooks discussed the fugitive laborer; the justice could issue a writ for the apprehension of a runaway and send it to authorities in any part of the realm.

Local labor problems were often solved by the justices working under the direction of the Privy Council. When John Sharpe of Robertsbridge assaulted and insulted several Dutch steel workers in Sussex, two justices were charged with apprehending, interrogating, and punishing him. From time to time when the government needed skilled and unskilled workers to fortify a site against the threat of invasion, the local justices impressed these workers. For example, the justices of Salop and Lancaster received an order to provide masons, carpenters, and other laborers for defense work in Ireland.

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5 Osborne, op. cit., p. 13.
7 Fyrste Book., p. 5r.
case concerned the alum workers of Dorset. They petitioned the Privy Council for an investigation of the dispossessing action that two servants of Lord Mountjoy had taken against some of them. 10 Although the evicted were ordered to be restored 11 to their former condition, Lord Mountjoy sent the Council more information that resulted in an order to the justices to quell riots and forcible entries made on the Manor of Camford by a band of dispossessed titleholders who had been discharged. 12

When Bath suffered from unemployment in 1586, the Privy Council ordered the justices to redress the matter by calling a meeting of the clothiers and tradesmen in the impoverished area and commanding them to employ the needy. If "frivolous" excuses were offered instead of cooperation, those who refused to cooperate were to be reported to the Council. 13 Some justices were ordered to hear the grievance of the London leather curriers against resident foreigners who had made serious inroads into their market by the use of a special privilege, but the Council reserved the decision for itself. 14 Abuses in the marketing of wool in the towns of Reading and Newberry caused the Privy Council to request the justices to prevent middlemen from monopolizing the trade to the detriment of the poor clothier who depended upon

him for raw material. The Council feared that continued exploitation would eventually eliminate the cottage laborers and thus upset the social balance. In all three instances the Council used the justices in some capacity to protect the welfare of the laborer.

Inclosures, war, and depression increased the mobile population, especially among the unemployed. Local and later central authorities viewed this change with dismay and sought to provide for the poor. In 1556 Cambridge provided parochial assessments for the relief of the poor, an example gradually followed by other prosperous communities. At Norwich, Norman Spital in St. Paul's parish was converted into a poorhouse in 1565. Norwich needed another such house in 1574 to accommodate some of its 2,300 poor in a population of 15,000. Nathaniel Bacon petitioned for the housing of the poor of Aylsham in an empty building that had been a haunt for gamblers and a dump for rubbish. Upon receiving permission from the Council, Bacon moved the building to a more suitable site and placed a keeper in charge. The Privy Council asked the justices of Southampton

19 Bacon, op. cit., pp. 60-61.
to provide materials for the poor in the house of correction at
Winchester; £500. was collected by appointees who asked for vol-
untary contributions from people of means. At Faversham, a
town extremely efficient in its relief of the poor, the 1595-96
roll of those on partial or total relief reveals several instances
of an elderly woman caring for children of the town. Mother
Joyner received lg. a week for such a child while Mother Wyles
raised three children at the same rate. For a population of
1500 there were six overseers of the poor in the town.

To meet the increased expense of public charity, local
authorities had to expand their collections to include more of
the population. In 1577 the churchwardens in every large parish
collected 2d. per week, and smaller congregations paid half that
rate. A tax of 4d. per pound sterling was levied on all having
an income above £5. a year in goods or 40s. from land. The
Privy Council wrote the Earl of Derby and the other justices of
Chester and Lancaster concerning the feasibility of collecting
8d. a week in each parish for relief.

Individuals and parishes sometimes resisted collecting

21J. M. Cowper, "Notes from the Records of Faversham,
Charles Rogers (London: Printed for the Historical Society,
22Ibid., p. 325.
23Historical Manuscripts Commission; Reports on Manu-
the rate for the poor. A justice committed John Stiles of Gedgrave in Suffolk to prison for refusing to pay 16d. for the poor of Orford. Stiles claimed that Gedgrave was a separate parish and that the lord of the manor had forbidden him to pay. However, on the following Thursday Stiles paid up, so the justice released him, but Gedgrave was also united to Orford. \(^{25}\) We do not know how the justices handled Thomas Harmen of Weston in Hertford who boldly erased his name from the parish list for the collection of the rate. \(^{26}\) In Yorkshire the citizens of Staincross refused to contribute toward the relief of Barnsley, so the justices ordered the assessment to stand until the next regular session when the whole bench could adequately consider the dispute. \(^{27}\) In 1599 three parishes appealed to the justices at the sessions in Devonshire. The justices should not force them to contribute to the relief of the poor of Holsworthy, for the town could support itself. The justices denied the appeal, but the original three parishes were assisted by six others, each paying 4d. to 16d. a week to impoverished Holsworthy. \(^{28}\) Not only had Parliament profited from the experiments of progressive towns by adopting many of their methods and enacting them into law \(^{29}\) but now an attempt was made to have the wealthier parishes assist the


\(^{26}\) Hardy (ed.), op. cit., p. 18.


\(^{28}\) Hamilton (ed.), op. cit., p. 18.

\(^{29}\) Black, op. cit., p. 266.
The justices regulated local wages through the annual rating which the Privy Council had to approve. Occasionally the Council requested the justices to settle or at least investigate labor disputes. Furthermore, the justices had to help work out a local solution for the care of the poor. Such experimentation resulted in the adoption of a parish rate on a national scale.
CHAPTER VI

THE JUSTICES AT WORK IN THE COMMUNITY

1. Property Litigation

Trespass, eviction, rightful possession and ownership comprise the main categories of property disputation that the justices were called upon to solve. Riot and assault often complicated the issue. In one case James Peryman and his wife drove their cattle over the property of John Ford on the grounds that a right of way existed, but Ford maintained that there was only a footpath. After an exchange of blows, Peryman complained to the justices that Ford had beaten his wife while Ford told his landlord that Peryman had diverted a stream toward the Ford home.¹

In 1577 a riot occurred at Brentwood in Essex over the possession of a chapel. Sheriff Weston Brown claimed the building as part of his inheritance and carried off the pews. However some women of Brentwood decided to hold the structure by force. The justices had the women committed to jail, but the Council ordered them to be released on bail. Further instructions called for light fines to be imposed on the women, but Sheriff Brown retained his chapel.² A more complicated conflict concerning

ecclesiastical property arose between two individuals, Busefield and Pratt, for the possession of the title to Cuxham parsonage in Oxfordshire. Pratt had been dispossessed by a false pursuivant. Since Sir Francis Knollys, the Queen's treasurer, knew both parties and was in the area, he had received a command from the Council to consult with the vice chancellor of Oxford University and settle the dispute. Secondly, the justices had to apprehend the pursuivant and punish him. The Council ordered the justices of Staffordshire to examine another case in which forcible entry was made upon the parsonage of Eaton by Thomas Austen.

The justices received instructions to refer a property case under consideration to the next assize of the county. In other instances the Council had to remind the negligent justice of his duty. Such was the case when Asheworth Manor in Gloucester was forcibly entered into and held. In one case the justices merely executed a decision of the Council. Henry Shelly was to be placed in possession of the house that his uncle forcibly held with the approval of the Court of King's Bench. Nathaniel Bacon received a letter from Edward Clere, a fellow justice of the peace, that further illustrates property litigation. Clere's cousin assembled a band to hold Saxlingham House

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5 A.P.C., Vol. XII, p. 36.
in Norfolk. The possessors did not hesitate to defend the house by throwing stones at the servants of the opposition or ambushing them with pikes, swords, and sticks. Clare wished to have the property restored to him on the claim of his wife that had been approved in the Court of Chancery. A similar case required the justices to prevent the Countess of Leicester from invading Kenilworth Castle, which was rightfully held by Robert Dudley.

In a letter to Lord Burghley, it was mentioned that the justices of the peace had aided the legal owner who requested their help after receiving a writ of restoration from the assize.

In 1593 Lady Russell petitioned the Council to punish her neighbor, Justice Lovelace, who had come to her manor with a band of armed men to release two servants she had placed in stocks. In fact, by this act Lovelace had broken his oath as a justice. A week later Lovelace sent one of his men to her to demand the key to Windsor Tower, but Lady Russell refused to be evicted from the manor which she rented upon such sudden notice. Lovelace refused her offer of rent, and his men removed her and her possessions from the tower. Lady Russell then asked for satisfaction and the removal of such a "mean" justice from the commission.

Charles Brydman also complained that the justices did nothing to restore his property that had been forcibly held, so the Council

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8 Bacon, op. cit., pp. 8-9.
9 A.P.C., Vol. XIX, pp. 82-83.
requested the sheriff to remove the trespasser. 12

If there were a claim against an estate or an unoccupied one while the case awaited a judgment, the justices had to see that it remained intact. The justices of Lincoln failed to do so for the Belfield estate, so the two creditors obtained letters of administration to seize, inventory, and secure the goods against relatives who were stealing. 13 Anyone who trespassed upon the house of an imprisoned man would receive notice from the justices to appear in the Star Chamber at the order of the Council. 14 If a title of an estate were disputed in Chancery, the local justices had to prevent neighbors and tenants from deforesting 15 or stealing grain or fruit. 16

2. Regulation of the Physical Community

Although most Elizabethans regarded the plague as a curse or God's chastising his sinful people, its communicability was well known. In times of plague all public meetings except church services were suspended by law so as to decrease the frequency of human contact. 17 The justices not only enforced these orders against assembly but also recruited additional help in doing so from citizens. The justices maintained closer guard of strangers who might be infected. If one sheltered a stranger

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during a plague, imprisonment could result. In each case the local justice of the peace enforced the few health measures, but the hungry mouths of London's graves were not to be denied. Over 2000 died in the course of the epidemic of 1603.

Periodic watches against vagabonds and rogues were ordered by the Council, and even some effort at coordinating them was made in the early 1570's. The Council asked the justices of Surrey and Middlesex to confer with the lord mayor of London in order to apprehend "idle and loytering people" for forced labor crews. The less able only received the statutory punishment, a whipping and a burning through the right ear with a hot iron.

Although unpaid in most instances, the constable reported the state of his parish to the justices at each quarter session. Annual rotation in parish offices, the responsibility of a parishioner complaining at session time, and the inevitable town busy-body, all proved safeguards against his abusing the office.

For instance, Constable William Ramscarr of Wentbridge in


22 Osborne, op. cit., p. 20.
Yorkshire failed to apprehend "bad and notorious personnes" or present William Dickenson as a receiver of rogues because of his friendship for the wanted man. On a warrant of Mrs. Wilcocke and her neighbors, both men were arrested and ordered by the justices to find sureties to guarantee their appearance at the next quarter session. 23

On June 24, 1565, the Council notified the justices of Herts of arson within the shire and ordered more careful watches. 24 The justices of Middlesex received a letter of complaint concerning the burning of Sir Thomas Gresham's park at Osterley. The local authorities were told to inquire into the case at the next session. 25 When East Dereham in Norfolk burned in 1581, Queen Elizabeth asked the Lord Chancellor to issue licenses for building materials and order the justices to collect relief funds. 26 Six counties under the supervision of the justices were obliged to contribute to the rebuilding of Fordham in Cambridgeshire after fire destroyed it at the end of the reign. 27 However, sometimes even an emergency did not open a money pouch; after a year the people of Lincolnshire had not contributed to the relief fund of the justices for East Retford in Nottingham. 28

Although the Privy Council occasionally concerned itself with bridge repair, most cases were handled independently by the justices. According to 24 Hen. VIII c. 5. four justices of the peace in each shire, including one of the quorum, i.e., one with formal legal training, had the power to inquire, hear, and determine at quarter sessions cases of unrepaired bridges. The handbook of 1582 repeated the law but exempted the Cinque Ports from local jurisdiction. In 1565 the Bishop of Durham and the other justices in his diocese were reprimanded for their laxness in the repair of Newcastle Bridge. The justices of Berkshire received a reminder that the responsible town officials had not repaired Wallingford Bridge although they had continued to collect tolls. And the town of Upton petitioned the Council to order the justices of neighboring counties to issue an order for a collection to defray repair expenses.

Without the complaints from the communities the Privy Council would have been rather unaware of the need to supervise the justices. In one instance the Council acted as an arbitrator between two communities in a dispute over bridge repair. The poor of Oxford and Berks complained of the difficulty of repairing bridges near Oxford, so the Council ordered Sir Francis Knolles to summon three to five justices from each county to decide the issue. In another case the citizens complained that a bridge had not been repaired although three counties were responsible

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for it. In Yorkshire a jury declared Turnebridge in a state of "great ruine and decay" and blamed the inhabitants of the town of Snaith. Two justices were ordered to estimate the sum needed for the repair work and to certify it in court. Thus, the justices did not diligently perform the task they had inherited from the Church.

Since the last two decades of the sixteenth-century witnessed a surge in construction of dwellings, especially in the growing centers of commerce and their environs, The Statute 31 Eliz. c. 7. attempted to prevent population mobility by requiring the justices to license cottages in their respective counties. In the next Parliament the passage of 35 Eliz. c. 6. placed further restrictions on construction in towns. Previously, the master of the rolls with the assistance of some justices had made an inquest in Middlesex to discover any new buildings erected since the proclamation which prohibited construction without license. Upon finding a guilty party, presentments were made by oath and a certificate so stating was forwarded to the Council. The guilty party then posted bond to insure his appearance in the Court of Star Chamber. This building prohibition was not enforced in


Lister (ed.), op. cit., p. 74.


the country; perhaps the failure accounts for the passage of 35 Eliz. c. 6. two years later. However, the Council still re-
buked the justices of Middlesex for laxness as late as 1598.\textsuperscript{39} Some people were committed to the Fleet and fined in Surrey and 
Middlesex, but the Privy Council, not the local justices, initi-
ated the action.\textsuperscript{40}

In less populated areas the statute concerning the erec-
tion of cottages was enforced by the justices. Anthony Wynes of 
Crudwell in Wiltshire was granted a license by the justices to 
erect a cottage in 1590.\textsuperscript{41} In Lancashire the justices allowed 
Christopher Crooke of Haslingden to build a cottage because the 
community needed his services.\textsuperscript{42} The justices of Oldham, real-
izing the parish needed a tailor, permitted John Bromet of 
Chadderton to build a cottage.\textsuperscript{43} Lastly the citizens of Bradley 
in Stafford petitioned the Council for a cottage license so that 
Sibyl and Elizabeth Alsoppe could have a home for life, and one 
was granted by the justices at the order of the Council.\textsuperscript{44} It 
is doubtful whether the building problem elsewhere ever became 
as acute as in London, where traffic was hampered considerably,

\textsuperscript{39} A.P.C., Vol. XXIX, pp. 5-6.
\textsuperscript{40} A.P.C., Vol. XX, p. 326.
\textsuperscript{41} Johnson (ed.), op. cit., p. 130.
\textsuperscript{42} James Tait (ed.), Lancashire Quarter Session Records, 
Vol. I Quarter Sessions Rolls 1590-1606 in Remains Historical and 
Literary Connected with the Palatine Counties of Lancaster and 
Chester Vol. LXXVII, New Series (Manchester: Printed for the 
\textsuperscript{43} Ibid., p. 62.
\textsuperscript{44} Burne (ed.), op. cit., Vol. II, p. 315.
and laws and proclamations regulating new building remained unheeded. 45

A number of town and county building projects required the approval of the Privy Council, but no set principle existed to determine this. In 1580 Middlesex erected the Sessions House at Barres on ground leased by Christopher Saxton from the Crown, but he had to obtain a permit that exempted the proposed structure from the recent proclamation forbidding further construction within the metropolitan area of London. 46 When Wiltshire needed a jail in 1592, the justices drew up a weekly tax levy based on the various divisions. 47 The Privy Council requested that the wealthier citizens or those deriving the greatest benefit from the ramshackled toll house in East Dereham contribute proportionally to its repair. 48 The justices collected this money. By requiring permission for financing local public projects, the Council assured itself some control over building, and the justices seem to have handled the financial angles.

Meanwhile villagers continued their petty disputes that the justices had to resolve. Thomas Crawley encroached upon the highway in the process of enclosing a common pond at King's Walden, 49 Ralph Houghton complained about Samuel Leese's

46 A.P.C., Vol. XII, p. 94.
49 Hardy (ed.), op. cit., p. 34.
troublesome dunghill to the justices of Manchester, and owners of market stalls failed to clean the street where they conducted business. Fines were threatened and collected. Clearly Manchester must have been either one of the dirtiest or one of the cleanest places in the realm, for no other court record consulted contains so many sanitation cases.

3. Crime on Land and Sea

Problems arising from robbery often fell to the justice, but the assize usually tried the cases. The justices of Bucks were ordered to examine armed riders after robberies at Bradley and Agmondeham in May, 1559. In June, 1576, a similar order went to the justices of Northampton in an effort to aid the Leicester authorities in capturing two men who robbed Mary Queen of Scots at Geddington. Sometimes a circular placard would go out to the justices such as the one of June, 1579, concerning Christopher Ellet, who had robbed William Johnson of Naworth in Cumberland of goods worth £420. In 1587 the justices were told to pursue a band of outlaws who had robbed a poor market man in Sherwood Forest; these robbers also had plundered graves to give to the poor. One justice in Oxford imprisoned a witness to a

50 The Court Leet Records of the Manor of Manchester, p. 46.
51 Ibid., p. 53. 52 Ibid., pp. 71, 79.
robbery in May, 1580, and then permitted the man to be bailed without having been examined, much to the consternation of the Council. Lord Norris was then asked to obtain the assistance of other justices in investigating the bailing and the robbery and to submit the case to the next assize. 57 One case that was tried by the justices of Hertford concerned John Clarke's burglary of a manor at Waltham Cross. Clarke was hanged for taking two cloaks, one capon, and a sack of grain, worth a total of 2l. 6d. 58

In an age of wholesale petty theft the justices decided frequent cases of irregularity in weights and measures. For example, two bakers of Middlesex were fined for selling underweight loaves in 1576, 59 and Nicholas Pulton was fined for fraudulently selling forty strikes of lime, using a strike that was only half the standard one. 60 Weights unmarked as "certified" could cost their owners 6s. 8d. for the first offense and a progressively higher fine for the next two violations. A trip to the pillory resulted on the fourth offense. A customer who had been cheated was entitled to quadrupled damages plus forfeith of the material measured, and the merchant could be jailed for two years. 61 A proclamation of 1587 stressed the need for standard

57 A.P.C., Vol. XII, pp. 31-32.
58 Hardy (ed.), op. cit., p. 17.
61 Newe boke., p. 123r.
weights and measures. The Exchequer at Westminster possessed the official weights of the realm, and duplicates were distributed to municipal authorities. Against these weights the merchant could test his own set. The Council ordered the justice of assize in Wiltshire to summon the justices of the peace and publicly condemn the heavy weights that had been used at Salisbury. In Manchester weights were made available to the public so that purchases could be reweighed by the customer. Lambarde mentioned a semi-annual inspection of markets for the examination of weights; the faulty ones were confiscated, broken, and burned.

Closely related to illegal weights was debased or counterfeit coinage. The Privy Council issued a proclamation that enumerated the justices of the peace as fit persons to answer questions about coins and to determine the equivalence between a worn coin and one in fine condition. In 1576 a gang of Essex counterfeiters were confined on the evidence of the justices of Berkshire. In another case the mayor of Leicester found himself in prison on a charge of counterfeiting, and a special commission of three justices had to investigate. Unfortunately, we

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62 Steele, op. cit., pp. 86-87.
63 A.P.C., Vol. XX, p. 316.
64 The Court Leet Records of the Manor of Manchester, Vol. II: From the Year 1586 to 1618, p. 154.
65 Eirenarchia, 1599, pp. 357-58, 368.
66 Steele, op. cit., p. 56.
Another crime that seldom bothered the justices was
witchcraft. One notable exception involved Joan Ellyse, the wife
of a Middlesex brewer, who had bewitched four horses worth £8.
and thus killed them. The owner, Edward Williamson, had been
bewitched by Joan two years before, shortly after he had informed
the law that she had hexed a cow worth 40s. To complete the
record, Joan Ellyse had also bewitched a laborer, William Crowche,
so that he wasted away at the brink of death for four months.
After such an unsuccessful career, Joan was hanged by order of
the justice of the peace. In two other cases of suspected
witchcraft the Council asked the local justices to investigate the
charges.

Seditious or lewd words were not tolerated in the Tudor
state. Verbally abusing a justice of the peace resulted in dire
consequences even for a knight. The justices themselves were
sometimes asked to forward depositions to the Privy Council.
Nicholas Haselwood of Islington in Middlesex expressed a wish to
see the Queen dead and his enemies burned in Smithfield before
Michaelmas; he was sentenced to the pillory. In 1596 George

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69 Jeaffreson (ed.), op. cit., p. 84.
Vol. II, p. 79.
72 Cal. S. P. Dom. 1547-80, p. 624.
Clerk alias Andrews used "slanderous speeches" against the Earl of Shrewsbury, so the Council ordered the justices of Nottingham to punish him at Easter session. The Lord Admiral Howard was slandered by Edward Bull of Cottered in Hertford, but the record again fails to reveal the punishment. A fourth case involved James Doggett of Clerkenwell who uttered a comprehensive condemnation of public officials by wishing "a pox and a vengeance of all those whatsoever that made this statute for the poore and punishment to Rogues and a pox on all those that woulde followe her Majestie any more."

Piracy also fell within the jurisdiction of the justices and provided them with more business than witchcraft and slander combined. The justices were required to assist in the capture of pirates by furnishing supplies to pursuing ships at reasonable rates. Foreign complaints to the Privy Council were often referred to local justices for fuller investigation. In 1565 the bishop of Winchester was instructed to call some of the justices of Hampshire to his aid in an examination of Sir Adrian Poyninges and two others. The French ambassador was convinced that they were implicated in the pirating of wines from French merchantmen. The Admiralty Court issued a warrant requiring the aid of

74 A.P.C., Vol. XXV, p. 112.
the justices in the seizure of the spoils of the *Pellican*, a French ship which had been taken on returning from the Newfoundland Banks with a cargo of fish.\(^79\) John Weekes of Exeter found his ship detained because he refused to carry the goods of two merchants. The mayor summoned two justices to consider whether Weekes should be arrested to prevent his sailing.\(^80\) Justices of the peace in Cornwall and Devon were charged with protecting merchandise ships detained in port\(^81\) and preventing the smuggling of goods out of the country.\(^82\) In another instance, the justices of Norfolk fulfilled their obligation by obtaining a confession from William Peerson, a man who had done business with pirates.\(^83\)

In 1564 Queen Elizabeth ordered Sir Peter Carew, a justice of the peace, to outfit two vessels that would clear the coast of pirates.\(^84\) The commissioners for the restraint of provisions in Suffolk had orders to require the help of the gentlemen near Lothingland in capturing pirates.\(^85\) Sometimes the justices were not successful in this charge. In 1577 John Davids, a justice of Haverfordwest, had to excuse himself for not


\(^{83}\) *Cal. S. P. Dom. 1547-80*, p. 618.


\(^{85}\) *A.P.C.*, Vol. VIII, p. 150.
apprehending the notorious Callice, who operated around Cardiff.

Another lawbreaker by the name of Philpott proved so successful in piracy that an open commission for his capture (one directed to all counties) was issued to all justices. 87

The machinery of justice did not always run smoothly. The Marquess of Winchester complained in the name of the commission for piracy in Dorset that Justice Christopher Amptill had countermanded the orders of the commission by releasing some pirates from Weymouth prison on bail. Amptill had to appear before the Council to explain. 88 A week later another case of piracy on the Thames elicited an open letter to all justices. Julian Borraci of Genoa had transported a cargo from Crete to London, where he sold it and acquired another of lead, tin, and caraway. Captain Derick van Bleke then sailed a Dutch ship up the Thames to Goring where he pirated Borraci's cargo. To further complicate matters, the Dutch ship carried an Englishman, Captain Brodbank. Since a rumor circulated that the merchandise would be sold at some English port, Captain Brodbank might have been the liaison man between the pirates and the prospective English purchasers. If any justice apprehended these pirates, he was to confiscate the merchandise and incarcerate the pirates.

86 Cal. S. P. Dom. 1547-80, p. 537.
88 A.P.C., Vol. XII, p. 27.
pending directions from the Admiralty.\textsuperscript{89} We do not know whether Borraci ever received his cargo, but other merchants did recover stolen goods. The Danish merchant, Harman van Oldensey, recovered his goods through searches made by the justices of Middlesex.\textsuperscript{90}

Once a band of pirates had been captured, the maintenance of them in the local jail made an additional demand on the taxpayers of the community. The Council had to instruct Nathaniel Bacon and other justices of Norfolk to collect money for the maintenance of thirty pirate prisoners in the custody of John Ule of Kingston, the undermarshal of the Admiralty. Ule had spent some one hundred marks of his own on prison provisions and consequently found himself in debt. The taxpayers of Norfolk did not cooperate in paying the debt, and the best the Council could do was to prevent John Ule from being arrested and thrown into prison for debt.\textsuperscript{91}

4. Illegal Diversions

Since the Statute 13 Richard II. c. 13. required an income of 40s. from land in order to hunt, most people who shot a rabbit to supplement a frugal diet broke the law in the process. The only hunting legislation passed during Elizabeth's reign forbade hunters to pursue their prey over fields in which grain

\textsuperscript{89} A.P.C., Vol. XII, pp. 39-40.

\textsuperscript{90} A.P.C., Vol. XIV, p. 82.

\textsuperscript{91} A.P.C., Vol. XVII, p. 292.
Sufficient legislation already existed; the problem remained in enforcement of it. Near the end of the reign a proclamation against poaching was issued to all justices. It noted that the gaming laws had not been enforced sufficiently and then forbade the use of nets in the hunting of pheasants, partridges, and waterfowl. Occasionally an order to suppress poaching also reached the justices from the Privy Council.

Few cases of breaking the gaming laws appear in the records of the quarter sessions prior to about 1590, when the conciliar order and the proclamation were issued. Even in the last decade of the century they are not too abundant. John Hidden of Soly in Wiltshire pleaded not guilty to the charge of hunting in the fields, but he was convicted and fined 3s. 4d. in 1590. Four men of Stafford paid fines at one hearing in 1592. In Lancaster two yeomen and a laborer were presented for chasing and killing two hares with greyhounds in 1600, but the punishment went unrecorded. Even the upper classes had their hunting problems; the servants of Sir John Foster killed one of the gamekeepers of the earl of Northumberland. Due to the importance of the two masters, the Privy Council directed the justices to hand

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92 23 Eliz. c. 10.
93 Steele, op. cit., p. 106.
95 Johnson (ed.), op. cit., p. 132.
over the case to the next assize. 98

While the country gentleman hunted, his counterpart in London attended the theater. Although the prohibitions against plays in and about London indicated the growing Puritan influence in Elizabethan society as well as the strict censorship of the Tudors, avoiding the plague was the primary explanation for the periodic orders against their performance issued to the justices by the Privy Council. The justices also had to enforce the prohibitions at other times in the year. A proclamation of May, 1559, forbade unlicensed plays alluding to religion or government and indicated that interludes could not be performed until November. 99 In Lent, 1574 the Council notified the sheriffs and justices of Middlesex, Essex, and Surrey that all unnecessary assemblies, especially plays, were forbidden within ten miles of London until Easter. 100 Although plays were forbidden until Michaelmas, 1580, due to the plague, violations occurred at Newington Bulles in Surrey. 100

In spite of an order to suppress these performances, Surrey proved troublesome again in 1587, when the inhabitants of Southwark complained to the Council that plays at two local theaters profaned the Sabbath. 102 Obviously the justices had not

99 Steele, op. cit., p. 53.
100 A.P.C., Vol. VIII, p. 313.
101 A.P.C., Vol. XII, p. 15.
done their duty, and the Council so informed them. The justices of Middlesex also received a reprimand because of the disorders in the playhouses within their county. Some "lewd" matters had been presented on the stage to an audience containing "bad" people. As a result two particularly odious establishments were torn down. The justices of Surrey sent for the owners of another theater in Blackside to order its demolition. In 1600 further complaints from the citizens of Middlesex and Surrey concerning "licentious people" resulted in an order suppressing more performances. Thus not only were players restricted, as Chambers has demonstrated, but the playhouses also received effective supervision toward the close of the reign.

Gambling in alehouses was common in both town and country. When Robert Leonarde of Mulseham, a brewer, was presented to a jury of Essex for keeping a gambling house known as the Shovyll, the authorities treated the matter as a routine occurrence. At Easter session, 1592, Robert Pope obtained a license to keep a tippling house, but he and Harvard of North Bradley were prohibited from keeping an alehouse. While the justices of Middlesex were instructed to supervise alehouses and victualing

houses near London, the justices of York took a census of existing drinking establishments in order to limit further licensing. Each year the register was to be inspected with a view to renewing the licenses. Twenty years later the justices of Middlesex received a stern warning. After noting an annual order to suppress the numerous disorderly alehouses in the suburbs of London, the Council observed that as quickly as one house was pulled down another sprang up. In fact, instead of decreasing they increased with the growth of the city. The justices had to summon all keepers of alehouses within three miles of London for license inspection and keep a tally of the number of licenses issued and the fees collected. Many violations appear in the quarter session record; for instance, John Snelgar of Downton in Wiltshire was fined 5s. for keeping an unlicensed alehouse. In an alehouse at Wetherby in Yorkshire some persons gambled throughout the night and slept during the day; consequently Margaret Addingham, the proprietress, paid a heavy fine in addition to having her license suspended. Justice Nathaniel Bacon found it necessary to write the town of Cromer in his county about one alehouse. The local constables

112 Lister (ed.), op. cit., p. 59.
were making a tidy profit by charging three or four times the regular rent of 20s. for an unlicensed shack where ale was sold. Bacon ordered the constables to appear at the next assize to answer the accusation. 113

Drinking a tankard of ale was but one of many pleasures enjoyed by Elizabethans, for a wide range of miscellaneous amusements can be found in the extant records of the justices. Seven men of Staffordshire broke into an enclosed field at Clayton Magna in order to gain access to a stream teeming with trout. The justices estimated that the group caught 2s. worth of fish, so that was the amount of the fine. 114 The illegal anglers near Penkeridge seem to have had much better luck, for their nets contained four pickerels valued at 4s., three "chevyns" at 16d., and ten "corotches" at 12d. 115

In town a fine levied by the justice proved rather easy to come by. Manchester justices levied 2s. against a man who disturbed his neighbors by playing his musical instrument early in the morning and late at night. 116 Throwing bowls within the same town resulted in a fine of 6s. 8d. 117 John Brand of Buntingford in Hertford was presented at sessions for leading a

113 Bacon, op. cit., pp. 52-53.
115 Ibid., p. 58.
117 Ibid., p. 79
mob that cut down the Maypole at Yardley. Although Brand may have been a Puritan, he was probably only having a good time with his companions at the expense of the citizens of Yardley. After having imbibed beyond their capacity, Roger Hilton and two cronies created an ungodly disturbance in a street of a Lancashire town on Easter Sunday, 1591 according to a court record of the justices. What is more serious was an incident that happened in Middlesex. Humfrey Perwige, alias Peroge, of Hogsdon, entered the Shoreditch parish church at eight in the morning of a Sunday and called the Reverend Nicholas Dangell a "vyle knave, turd in the tethe knave" before the entire congregation. Again, the incident is recorded in the quarter session records, but no punishment is prescribed.

Helen Norris of St. John's Shete in Middlesex entertained persons of ill fame at her disorderly house according to the sessions records for 1571, and the guests of Ingram Jakson were not in the least respectable. Justice Ryth put Robert Wyne of Isleworth in recognizances to appear at the next general session, for he had set an evil example by keeping a "lewde strumpett of incontynent lief" to the scandal of the

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118 Hardy (ed.), op. cit., p. 34.
120 Jeaffreson (ed.), op. cit., p. 53.
121 Ibid., p. 69.
122 Ibid., pp. 70-71.
However, William Blunt was quite content with dice, cards, and bowling, John Clayton appeared fond of shovegate, and an illegal football match between Wexbridge and Ruislip, both in Middlesex, resulted in a free-for-all of players and spectators.

Hunting in the country, producing a play in London, or gambling in unlicensed alehouses, all increased the work of the justices. A multitude of other minor offenses further added to it. The conciliar requests for closer supervision demonstrate the difficulties inherent in the office as well as the scope of Privy Council Government.

123 Ibid., p. 166.
124 Ibid., p. 71.
125 Ibid., p. 76.
126 Ibid., p. 97.
CHAPTER VII

THE QUALITY AND EFFICIENCY OF THE JUSTICES

The quality of the local justice of the peace is a difficult matter to assess. In the first place, many important Elizabethan politicians and courtiers were included in the commission, but few of them contributed any service due to the tasks assigned to them in London. For instance, Sir William Petre took part in a special session at Chelmsford in 1569, the first time in twenty-five years that he had attended; there is no record of his subsequent attendance.¹ This is particularly unfortunate since most of the extant biographical information concerns the great figures of the reign rather than ordinary people. Since the ideal justice has been described in the Introduction, it now remains to piece together fleeting glimpses of the actual men who sat at the quarter sessions.

Shortly after the accession of Elizabeth I, the Privy Council sent a letter of thanks to Sir Ambrose Jermyn for his detection and treatment of John Shepard, who had extorted money from the county under the pretense of possessing a special commission.² In another instance, Thomas Hanmer, a Welsh justice.

²A.P.C., Vol. VII, p. 9
was exonerated from a charge of corruption, and the informer found himself in prison.\(^3\) Due to the bishops' census of 1564, some justices were dropped from the commission on account of recusancy. Twelve years later another notice was given by the Council to omit still others.\(^4\) Lord Keeper Nicholas Bacon received a list of Welsh recusant justices from the Council of the Marches of Wales\(^5\) at about the same time as the Council issued the order for omissions. In 1579, as a conclusion to a long period of scrutiny, the justices of assize administered the oath of supremacy to all the justices in their respective circuits.\(^6\)

Although it became the practice of the Court of Star Chamber to summon negligent justices annually for an admonishment in respect to their execution of the laws, Nicholas Bacon continued to be so dissatisfied with the state of the local bench that he contemplated the replacement of the justices by paid civil servants in 1575.\(^7\) Such a threat did not prevent Sir Walter Waller of Kent from harboring criminals according to Lord Abergavenny, the Lord Lieutenant of the county.\(^8\)

During the next decade little is heard of the efficiency of the justices, but in 1586 the first of several periodic

\(^7\) Osborne, op. cit., p. 36.
\(^8\) Ibid., pp. 39-40.
orders went out from the Council to the lord mayor of London to command the numerous justices residing in and about the city to return to their home counties. The suggestion was also made that the justices relieve their poor neighbors out of their own supplies during times of scarcity. Those resisting the order were to have their names forwarded to the Council. The same order in one form or another continued to be issued at the more frequent meetings in the Star Chamber during the 1590’s. Usually it was adequate to ask them "to repayre to their Country dwellings." However, even at home few justices attended the quarter sessions. Of fifty-seven in the West Riding of Yorkshire during the period 1597-1600, only six to eight were active at a session. By 1603 the number had increased to ten or eleven with twenty-two appearing once.

Some justices did not permit their work at the sessions to interfere with banqueting and gaming, for a conciliar order had to be issued against excessive indulging in these pleasures. The sheriff, charged with keeping a table for the justices who had to appear at the assize, collected a contribution of 12s. 6d. for the justice’s dinner and 8d. for that of each of his servants. Perhaps an uneasy citizen whose case was on the docket contributed

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9 A.P.C., Vol. XIV, p. 120.
11 Cheyney, op. cit., p. 325.
a chicken or two to the spread—even Francis Bacon accepted a small gift before rendering judgment.

In the Parliament of 1601 Mr. Glasscock inveighed against the "basket Justice," who would dispense with a dozen penal statutes for half that number of chickens. Justices were accused of doubling the required levy of soldiers in order to make a profit on the excess. Even a warrant for a felony carried a 2s. fee for the justice. Fines derived from the prosecution of drunkenness, the unlicensed keeping of alehouses, and absence from church were compared to a subsidy of two-fifteenths by the speaker. John Bond, a classicist and physician, denounced the wide power of the justices, but the comptroller and Sir Robert Wroth, a justice himself, defended them. The former stated that if the justices were criticized as servants of the Queen, ultimately the seat of justice itself would suffer the same treatment. Under the Stuarts that seat was criticized to the point of executing the king. Sir Robert Wroth expressed doubt that Glasscock would even be considered worthy of being named a justice and then pressed him for names of unworthy judges, so the whole commission would not be slandered. Another critic claimed that the justices were like "dogs in the capitol," for instead of barking at rebels, they annoyed the people with

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14 Ibid., pp. 235-36.
insatiable greed. Finally, the Lord Keeper expressed the hope that the justices would not deserve the evil reputation that some had. Cautioning them against illicit accumulation of wealth and provocation of local quarrels, the Lord Keeper again advised the justices to spend more time at home attending to the duties of their office.

The Star Chamber reports contain special reminders for the justices at the annual conferences during the 1590's. First, the grain shortage of 1595 resulted in an order that the justices meet weekly at the local market to inspect the supply offered for sale and to prohibit the rich from buying too much. Secondly, the general inefficiency, neglect, and ignorance of many justices received a sound condemnation. To drive the point home, Queen Elizabeth dismissed some justices who were unacceptable on these counts. The Star Chamber session of July 1, 1596, concentrated on apprehending vagabonds and deciding slander cases. Many earlier observations were repeated in 1598, but special mention was made of the need for justly assessing the poor for the new subsidies. Some justices tried to evade their own taxes by dual residence, against the repeated order to remain on their

18 Ibid., p. 21.
19 Ibid., pp. 56-57.
20 Ibid., p. 102.
estates within the county. 21

Justice Richard Hurlestone, a Cheshire Puritan, who served as a feodary in the Court of Wards, personally raised funds to bring qualified preachers to the county. Perhaps such Christian solicitude influenced the Court of Star Chamber to acquit him of the charge of corruption in office. 22 Meanwhile, the Queen's attorney fought against disorderly justices who led bands of armed men to the sessions held in various Welsh counties. The Council asked the circuit judges to correct the same disorder. 23 Richard Gwyn, a justice of Caernavon, was accused of several crimes that warranted his removal from office. According to the accusation, Gwyn had used the office for personal enrichment, falsely imprisoned honest citizens, consorted in the attempted murder of a sergeant, enticed young gentlemen to his house to gamble, led an armed riot, and committed perjury in the Court of the Marches. 24 He was removed from the commission. Sir Richard Trevor was also deposed from the commission for Denbigh in 1601 on nine counts of war profiteering. 25 Shakespeare also


25 Ibid., p. 54.
alluded to the dishonesty of the justices in a conversation between Gloucester and King Lear:

See how yond justice rails upon yond simple thief. Hark, in thine ear: change places; and nond-dandy, which is the justice, which is the thief.26

To remedy the deplorable state of justice in Wales, the justices of Staffordshire complained to the Council of the Welsh outlaws who lived at Areley, a place the Welsh justices conveniently found too distant. Severe steps were taken for rectification: calling a special meeting with the sheriff, requesting every county to punish any and all outlaws, and delegating neighboring counties to proceed in the same way.27 The justices at Dertford were rebuked for unspecified irregularities in the trial of Alexander Newly for the murder of Thomas Duncre. Although convicted, Newly was reprieved by the Queen until further notice from the Council.28

Local neglect could also result in an unpleasant visit to the Star Chamber as was threatened to the justices of Staffordshire, due to their prolonged mishandling of the Drayton Bassett riot case.29 The justices of Middlesex received notice from the Council to free an acquitted Netherlander, Clayes Cornelius, who had remained in prison six months after his trial.30 In Brecknock

26 King Lear, IV, VI, 153-55.
29 A.P.C., Vol. XII, pp. 245-46.
the Council ordered the justices to postpone the election of a coroner, but three justices caused a riot by disobeying.31 Riots at Shelford in Nottingham resulted in Sir Thomas Stanhop's being accused of neglect; the Council sternly warned him to repress all future unlawful assemblies.32 When John Cade of Maldon in Essex complained of the abuses of justices Gawdy and Kingsmyth, an investigation was ordered.33 All in all, the justices sometimes merited correction, but it is impossible to reduce the cases of neglect or corruption to a percentage of the whole since many records remain in manuscript, and the total number of justices at a particular moment varied widely.34

34 Osborne, op. cit., pp. 29-30.
CHAPTER VIII

CONCLUSION

Originating in the late Middle Ages, the office of the justice of the peace demonstrated the ability of the Tudors to adapt past institutions to the needs of the sixteenth-century English state. Certainly the duties of the justice increased steadily throughout the reign of Elizabeth, but this fact alone does not warrant casting him in the mold of the docile bureaucrat, as he has been cast in the recent past. The dissatisfaction of the Privy Council with the lack of local law enforcement occurred too often, and repeated warnings did not always remedy neglect.

Religious conformity received an impetus from a few justices, but most hesitated to inquire too closely into the consciences of their neighbors or into their own for that matter. Even more difficulty occurred when the Privy Council issued specific orders to apprehend recusants or to eradicate the varied sects that prevented the religious unity of the realm. Although the justices were somewhat successful in stemming the growth of recusancy, they met with little success in dealing with Protestants who remained outside of the Anglican fold. Many more orders were concerned with Catholics than with Protestant dissenters, who were rarely mentioned.
In an irregular fashion the justices levied troops, raised and transported supplies of all kinds, and handled the problems of the demobilization and the pensioning of disabled veterans. The conscientious justice could devote a good deal of time to inspecting passports, watching for the enemy, providing horses for government messengers, and impressing skilled labor for work on fortifications, but it is impossible to say how many performed their duty faithfully. The justice often received a conciliatory rebuke for reticence or outright neglect. Soldiers and mariners often lacked supplies while in service and complained of non-payment of pensions later.

The regulation of the grain trade proved a constant headache for the justices. Supply and price had to be supervised, for brewers, bakers, and wholesale dealers did their best to corner as much of the market as possible. Harvests were seldom abundant due to poor farming methods, and the numerous dearths caused widespread hardship which was seldom alleviated by imports or shipment of grain from one area to another. Annual price control by the justices did little to regulate the local market because the statutory ceilings lagged, and poor control in one area might cancel the efforts made in another. The prohibition of meat consumption during Lent and the provisioning of royal estates were of minor importance but elicited occasional violation.

Within the community, property disputes often resulted in the justice and his subordinates stepping in to settle matters. The justices aided the Privy Council or the assize in an important
case by gathering evidence, insuring the appearance of the parties, or by quelling riots with the aid of the sheriff. Minor encroachments and fines due to the lack of sanitary maintenance could be handled at the quarter session. The justices assessed taxes within the county, raised loans and subsidies, and advised the Privy Council on the feasibility of a particular tax or the inability of some to pay one already levied.

The justice enforced building regulations, licensed alehouses, and ordered the repair of bridges. Building legislation was often ignored by the justices in the highly populated areas, but the statute requiring a license for the erecting of a cottage was enforced in small towns. Only those with a trade from which the community could benefit were able to secure licenses, for no parish welcomed an additional family that might prove a financial liability. The licensing of alehouses met with great success because the owners were known to all and better records appeared at the end of the reign. The justices ordered bridges to be repaired by those who stood most to benefit from them, but numerous cases of neglect prove their failure in this aspect of local regulation.

By modern standards the punishment for theft was excessively severe. Abductions and murder as felonies never directly fell within the province of the justice. Although the law was very detailed concerning faulty weights and counterfeiting, few cases appear in the extant printed records. Witchcraft and sedition are rarities, too, but the punishment of the few convicted
was usually death.

Piracy frequently involved the justice, for he provided supplies for pursuing ships, examined suspects, confiscated the spoils, and imprisoned pirates until he could hand them over to the Admiralty. The poacher often appeared at the sessions. Since hunting was reserved for the aristocracy, a poor man in search of supplementary food or amusement suffered a fine. Theaters and gambling often proved beyond the abilities of the justices. As soon as one place closed another opened. The fine remedied numerous offenses ranging from illegal fishing to cutting down a Maypole.

Wage regulation of agricultural workers and men engaged in the trades proved another important point of the justice's jurisdiction. Small business, both shopkeepers and clothiers, underwent minute regulation. The most difficult abuses to control were those of the middlemen who traded in wool. Labor problems were few, but there are isolated instances of resentment of foreign workers, forced impressment, a mining riot, and abuse of apprentices. Stability was the ideal, and the justices almost always did what they could to make it a reality. Judging from the paucity of incidents, they succeeded admirably.

The increased mobility of the population due to enclosure, war, and depression made the control of vagabonds and beggars difficult. Watches, searches, and licenses did little to improve the situation as the frequent proclamations and orders to the justices attest. A whipping for vagabondage replaced jailing,
boring a hot iron through the ear, and even death. The Parliament realized by its provisions for the poor and disabled that these problems of charity had to be solved in a new way, and the justices were assigned much of the task. The justice sometimes arrived at equitable solutions for the support of illegitimate children. Arising from the example of town provision for the poor, the parish rate had become the national solution of Parliament. Justices also settled local jurisdictional disputes over ratings and their collection.

Neglect more often than outright corruption existed among the justices. Few justices were as conscientious as Nathaniel Bacon or William Lambarde, but then one had to search to find a "basket justice" in spite of the criticism in Parliament. The Privy Council carefully watched the justices and their efficiency in and out of quarter sessions, and sharp letters of reproof found their way into the most obscure hamlets. Efficiency varied widely; a Welsh justice might belong in the county jail while one in Middlesex generally held himself to a high standard of conduct. If the justice of Norfolk proved capable of providing for the poor, one in Yorkshire neglected the cloth regulations. Varied duties of the justice extending into many sectors of Elizabethan life challenged his resourcefulness and energy, but the justice usually acquitted himself fairly well in keeping the Queen's peace.

The image of the justice as a completely "docile beast of burden" does not hold up well under a close examination of the
Beard's work is less valuable for the reign of Elizabeth than for the history of the justice's office under the earlier Tudors; in fact, it gives the reader a false impression of the operation of the office by citing a few well chosen examples. Rowse pointed to a more balanced assessment, although he never concentrated on the justices themselves. This study has attempted to begin righting the balance by extensively examining the justices at work through the records and handbooks. Many orders from the Privy Council indicate that the law was not being enforced. Only when all the extant evidence has been placed in Clio's scales, can the historian estimate how well the sixteenth-century Elizabethan justice of the peace performed his charge.

Kitty
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**Article**

Approval Sheet

The thesis submitted by Mr. George Sipek has been read and approved by three members of the Department of History.

The final copies have been examined by the director of the thesis and the signature which appears below verifies the fact that any necessary changes have been incorporated, and that the thesis is now given final approval with reference to content, form, and mechanical accuracy.

The thesis is therefore accepted in partial fulfillment of the requirements for the degree of Master of Arts.

Date ___________________  Signature of Adviser ___________________