Cultural and Religious Studies, December 2022, Vol. 10, No. 12, 702-714
doi: 10.17265/2328-2177/2022.12.004

DAVID PUBLISHING

On the Power Attribute of the Court of Admiralty of England in the Tudor Dynasty

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Why the court of admiralty of England reached its peak during the Tudor period is a long-standing issue in academic circles, and it is necessary to clarify the attribute of the Court of Admiralty before answering this question. A comprehensive inspection of the admirals, judges of admiralty courts' patents, and statutes of the realm during the Tudor period reveals that, on the one hand, the court of admiralty passed the substantive admirals' judicial privileges, the typification of court of admiralty orders, and the autonomy of trial and enforcement privileges. On the other hand, on the basic of maritime upstarts, the court of admiralty, got rid of the control of the royal power and became an independent force in the English judicial system. The substantively operating independently court of admiralty may be the first comprehensive national judicial institution established in England in the early modern period.

Keywords: Tudor Dynasty, Court of Admiralty, power attributes

Introduction

The Court of Admiralty was a court in England that applied Imperial Law roughly in 1360 and reached its peak around the 16th century, the Tudor dynasty. At one time it could compete with common law courts. However, it was attacked by other courts in the 17th century and was eventually revoked in the 19th century English judicial reform and became part of the Supreme Court of Judicature.

Holdsworth (1924, p. 546) argues that the court of admiralty were able to reach their peak during the Tudor period largely thanks to the efficient government established by the Tudor dynasty, which cleared the way for the court of admiralty to develop before the Tudor period. Indeed, the Tudor government did many well-known and strategically important things in the maritime, admiralty, and naval sectors, including the establishment of the Trinity House and the opening of the Deptford Dockyard during Henry VIII, forming a navy to defeat the Spanish "Armada" during Elizabeth I, etc. These events not only raised the status of admirals and courts of admiralty to an unprecedented level, but also laid a solid foundation for Britain to finally establish the "Sun-Never-Set Empire". However, a political or military perspective can neither explain how the court of admiralty broke through the obstacles that made it difficult for them to develop in the Middle Ages, nor can they explain the superiority of the court of admiralty over other courts during the Tudor period, let alone the relationship between the improvement of the political and military status of admirals and the expansion of maritime justice.

To answer these questions, it is necessary to first understand the attribute of admiralty courts. At present, scholars do not have a unified understanding of the attribute of the court of admiralty. Most scholars consider the

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admiralty court to be a commercial court, such as Holdsworth, because the court of admiralty applies the Law Merchant, which was the same as the market court, the courts of fairs or borough, and the court of staple. Both are a type of courts which administered the Law Merchant (Holdsworth, 1924, pp. 27-28); Sanborn (1930, p. 10) agreed with Holdsworth that although British maritime trade was arose at 16th century, yet at that time the commercial center of Europe was on the continent, so England needed a commercial court applying Imperial Law to deal with international trade matters, that is, the court of admiralty. Chinese scholars also have similar views, such as He Qinhua and Wei Qiong (2007, p. 367) who believe that the court of admiralty has played a decisive role in the development of British commercial law. Cheng Handa and Li Peifeng (2007, p. 81) believe that the court of admiralty is an independent court under the jurisdiction of the Council, and it has gained living space in commercial cases that cannot be governed by common law. But there are also scholars who believe that the court of admiralty is a type of court of the Conciliar Courts, such as John Baker, who believes that the Admiralty Court is a way for the Court to fill the jurisdictional gap in the common law courts' inability to hear cases involving foreigners. It is only because it is distinguished in the Court of Parliament, as has the Imperial Law for a long time, as has the Courts of the Judiciary and Marshal (Baker, 2005, p. 131). Some scholars believe that the court of admiralty is the capture court, for example, Blackstone believes that because the capture was a dispute that needed to be resolved throughout Europe in the 16th century, each country negotiated to establish a court in its own country to resolve the dispute, and in the United Kingdom, it was the court of admiralty (Blackstone & Chase, pp. 659-660). Other scholars believe that the court of admiralty is a type of royal court (John, 1771, p. 221).

Most scholars interpret the attribute of the court of admiralty in terms of the types of disputes resolved by the court of admiralty, the applicable laws, or the relationship between admirals and councilors. But it is the patents of admirals, judges of admiralty courts, and statutes of the realm are the basic documents for clarifying the attribute and positioning of the court of admiralty. Only by clarifying the attribute of the court of admiralty's power on this basis can we understand the source of the motive force behind the court of admiralty's peak during the Tudor period. Therefore, this article will explore the characterization and positioning of the court of admiralty by the Tudor government from the perspective of judicial system design from these materials.

Materialization as a Judicial Organ

Before the Tudors, the court of admiralty did not seem to be recognized as judicial organs by other courts, not only rarely sending injunctions to each other, but also often snatching each other's jurisdiction by preempting trials or complaining to the king, etc., which means that the judicial prerogatives of the court of admiralty before Tudor were virtual and became a fundamental obstacle to their development. Therefore, the court of admiralty first needs to make itself a truly independent judicial body, gradually get rid of its dependence on admirals and even the king, and try and execute as an independent court. The court of admiralty has indeed achieved this, mainly in three aspects, namely, the materialization, the materialization, the typology of the judicial court writ, and the autonomy of the judicial, and enforcement privileges (Marsden, 1894).[1]

The Materialization of the Judicial Prerogative of the Admiral

During the Tudor period, the court of admiralty was still called the "The court of admiralty", as was the high

[1] The main manifestations can be seen in Reginald Godfrey Marsden (ed.), *Select Pleas in the Court of Admiralty*, vol 1, London: Bernard Quaritch, 1894, pp. 1-172.

court of admiralty. So, the judicial prerogative of the admiral was still the source of power of the court of admiralty, and the materialization of the court of admiralty as a privileged court was first manifested in the materialization of the judicial prerogative of the admiral.

The so-called materialization of judicial privilege means that admirals no longer use political, administrative, and other means to maintain their jurisdiction as before the Tudor period, but use judicial means on the basic of their own patents, and many detailed descriptions of the judicial privileges of admirals appear in both the admirals' patents and the laws of the kingdom. In terms of the types of cases, the 16th century admiral's patent and the royal decree both stipulated the detailed types of cases that the admiral could hear, including royal fish, shipwrecks, and their wreckage cases, drifting objects, freight and cargo damage, etc. (Marsden, 2018, pp. 58-66);[2] In the application of law, it is stipulated that admirals can apply independent laws, prohibitions (Marsden, 2018, p. 25), and even Ordinance and Statues to manage fleets and armies (Seton, 1924-1929, pp. 12-13); In terms of jurisdiction, beginning with Thomas Seymour's patent in 1547, the jurisdiction of all high admirals extended from the first bridge within the country to the sea (Seton, 1924-1929, p. 181). The patents granted to John the Earl of Warwick and the Duke of Birmingham in 1549 and 1618 included a Non Obstante clause to ensure that the Admiral fulfilled his judicial prerogatives (Marsden, 2018, p. 58).

These representations allowed the admirals to assert their judicial prerogatives according to the detailed judicial path conferred by the patent, rather than being ambiguous as they had been before the Tudor period, and could only assert their prerogatives by non-judicial means such as forcible seizure of goods or waiting for royal intervention. This situation did not happen overnight, but was a chain reaction of its increased political status, military strength, and expanded sources of income.

First, the political status of England's admirals during the Tudor period was unprecedentedly enhanced. On 5 April 1493, Henry VII appointed the young Henry VIII as consul of the Cinque Ports, seemingly for the first time appointing a prince as an admiral (Hutchinson, 2020, p. 10). In 1525, Henry VIII conferred the title of "High Admiral" on his illegitimate son, Henry Fitzroy, with the title of Viscount Lisle and Thomas, Duke of Norfolk as vice-admirals (Marsden, 2018, p. 57). Considering that Fitzroy had been granted two Dukeal titles at this time, and had two great nobles as deputies, although Fitzroy was only eight years old at this time, he should have real power of politics and military. After Fitzroy's early death until the end of the Tudor dynasty, the title of "High Admiral" was no longer granted to the king's children. But throughout the Tudor dynasty, the people who held this title were powerful nobles and had the Order of Garter, such as William Fitzwilliam, appointed admiral in 1536, Earl of Southampton, and Minister of Lands of the Duchy of Lancaster (Marsden, 2018, p. 206); John Russell, appointed in 1540, was Captain of the Royal Voyage, Knight of the Garter, and guardian of the Stannary and the general manager (Marsden, 2018, p. 224); Edward Clinton, appointed in 1558, and Charles Howard, appointed in 1585. They did not have a knighthood at first, but later separated in 1572 and 1597 he became Earl of Lincoln and Earl of Nottingham, equally prominent.[3]

The peak of the political status of the admirals was under Edward VI. From a judgment of 1548, we can see that the high admiral Thomas Seymour was at first and Edward VI was at behind in introducing the judge. And that the king was merely the governor of "all the vice-admirals and judges of the fleet of England and Ireland", excluding admirals as well as the high admiral (Marsden, 2018, p. 1).

[2] *Statutes of the Realm*, 32 Hen. VIII. C. 14.
[3] *Principal Officers of Crown and State*. https://lst.gale.com/mss/researchTools.do?userGroupName=fudanu&prodId=SPOL#. Last visit: 2021.6.4.

With the blessing of political status, the military power of admirals was greatly improved during the Tudor period. Henry VIII established the Deptford naval shipyard and built huge and well-equipped warships, including the Great Harry and the Monarch. Admirals were even more courageous in subsequent naval battles, such as the defeat of Andrew Baton by Edward Howard in the Battle of England and Scotland in 1512, so that the main battleship of the Scottish Navy, the Lion, was forced to sell to the Royal French Navy. Later, war broke out between England and Scotland, and King James IV of Scotland died in Thomas Howard, the third Duke of Norfolk and aa admiral's hand (Mobley, 2020, pp. 191-194). The same is true in the late Tudor period. In addition to the well-known example of defeating the Spanish "Armada", the English Navy also escorted its economic development, as some scholars pointed out, in the 70 years from 1569 to 1639, European wars were frequent, but British industry was quite prosperous. And English mercantilism in the 16th and 17th centuries could develop rapidly because of the creating by peace, merchants, and navies (Lai, 2015, p. 71).

The rise in political status and military power expanded the sources of income for admirals, including the admiral's share of capture, ownership of pirate cargo, and "maritime tithe". With the increase in the value of maritime cargo and the development of navigation technology, capture has become a lucrative business, and admirals have long been the decisive link in the legality of capture. In 1589, the English decree stipulates that one of the elements of a lawful capture is the absence of damage to the entire consignment, further resulting in the fact that the capture can only be certified and guaranteed by the admiral that the capture is lawful, and the catcher is either voluntarily or passively required to pay the admiral a certain share of the catch. Queen Elizabeth I confirmed in 1557 that admirals could own a share of the capture, and in 1560 decreed that one-third of the capture should be owned by the admiral (Marsden, 2018, p. 18), and in 1586 she decreed that it was changed to one-ten (Marsden, 2018, p. 72).

Unlike participating in the distribution of catch, the admiral's ownership of the pirate cargo is absolute. Regardless of who previously belonged to the cargo, it immediately belongs to the admiral as soon as it becomes pirate cargo. In Officium Domini c. Bona Piratarum in 1553, the Court of Maritime Affairs ruled that the pirate goods should be confiscated by the Admiral, and although the original owner claimed ownership of the goods, the court of admiralty held that

> the pirates robbed the ships and cargo of England, and the arrest was carried out by the King and the Admiral. According to statute, law and custom, these goods shall belong to the king and may also be awarded to the king or the admiral. (Marsden, 2018, pp. 84-86)

In the case of the Diana in 1585, the French pirate ship Diana and its cargo were unilaterally ruled to belong to the high admiral without the original defendant (Marsden, 2018, p. 161).

In addition, it is worth mentioning the "maritime tithe". In 1560, Queen Elizabeth decreed that "maritime tithe, i.e., all shipowners must pay one-tenth of the income of admirals". If implemented, then admirals will become "maritime bishops" and this tax will also become the most stable and huge source of income for admirals. On the one hand, in Trewynerd v. Trewynerd in 1560, the court of admiralty did estimate the Tenths of the Fish, it is indeed possible that there has been a "maritime tithe" (Marsden, 2018, pp. 15-18); On the other hand, neither the admiral's patent nor the statute of realm mentioned this tax. And there is only a confirmation that the admiral owns one-tenth of the capture, rather than the income of all shipowners. So, there is a real possibility that the "maritime tithe" was not implemented under the opposition of the Church and even more, but only the tenth of capture. The latter possibility is supported by another aspect in the admiral's dispute over the ownership of the

atonement offering. In 1570, a man in London committed suicide by jumping off a building. The court of admiralty called his estate an offering of atonement and confiscated it in its entirety (Marsden, 2018, p. 70). Coincidentally, in Fisher c. Redhead in 1600, the court of admiralty awarded three-quarters of the ship Chancewell in question as an offering of atonement to York's admiral and in the absence of a claim by the original defendant and only gave the reason that a seafarer named Robert Birder fell off the ship while the ship was mooring. The verdict was protested by many parties and appealed by the original defendants, which was later reversed by the high court of admiralty (Marsden, 2018, pp. 200-201).

Despite the doubts about the existence of "maritime tithes", admirals have established various ways to seize the wealth of the sea. And even the king sometimes agrees to share his share. The judicial means, that is, the court of admiralty, has become an important way for him to obtain maritime wealth peacefully and legally. His judicial prerogatives are no longer superficial, but specify in the patent and royal decree the specific types of cases he can govern, the territorial scope, and the applicable law.

Typology of the Writs of the Court of Admiralty

The typology of the admiralty court writs is another manifestation of the admiralty court materialization. The writ is an English judicial tradition, and the writs used by the court of admiralty before the Tudor period are quite single, with only two types of writs, Supersedeas and Certiorari. And due to the blurring of court privileges, other courts often issue these two writs to the court of admiralty to stay the proceedings, suspense execution, or transfer of cases. With the materialization of the judicial prerogative of admirals, this passive situation was reversed, and not only the general application included Habeas Corpus, Consultation, Prohibition. And maritime writs issued in the name of admirals interact with writs issued by other courts, especially injunctions, and often prevail in jurisdictional disputes.

The admiralty court writs can be divided into general writs which may appear in all courts and maritime characteristic writs which appear basically only in maritime jurisdiction.

A general writ in the admiralty court is a writ issued in the same way as other courts such as arrest warrants, certiorari orders, advisory orders, etc., which was not different in content and form as those found in common law courts, such as the warrant for arrest in the case of In Re Gurney in 1560, where Gurney appeared the warrant issued by the court of admiralty for the arrest of John Aylworthe was not executed. The court of admiralty found Gurney contempt of court (Marsden, 2018, pp. 113-116). Another example is the decree of certiorari in the Gryflyng case in 1535, in which the court of admiralty issued a writ to the Bristol court to request the transfer of the case to the high court of admiralty because it involved ships (Marsden, 2018, p. 147). The certiorari also appeared in Coip c. Wytzbargh in 1572, in which the Secretariat issued a writ against the Mayor and Magistrate's Court of London because the case was a debt dispute between foreign merchants transfer of cases to the Secretariat.[4] In the late Tudor period, due to the two decrees issued under Elizabeth I restricting the judicial prerogative of admirals, the court of admiralty issued many advisory writs in the 16th century and 80s to clarify whether it had jurisdiction over a case (Marsden, 2018, p. 44).

Maritime characteristic writs refer to characteristic writs used almost exclusively in the court of admiralty based on maritime trade disputes, which are aimed at improving judicial efficiency and reducing the economic burden of the parties. They can be divided into two categories: characteristic writs for litigation cases and characteristic writs for non-litigation cases.

[4] *Statutes of the Realm*, 5 Eliz. I. c. 5; 27 Eliz. I. c. 11.

In litigation cases, following the trial process, there are many maritime characteristic writs in the arrest, announcement, trial, and other links. In the arrest link, due to the particularity of maritime litigation, not only ships, cargo, and drifting objects can be arrested, but also for goods that are difficult to arrest, such as pirate cargo and foreign cargo. A joint arrest warrant can be issued by the admiral and the maritime judge, requiring the nearby admiral or magistrate to do everything possible to assist in the arrest. In the Long Marke case of 1569, for example, the court of admiralty issued a warrant for assistance in arresting Danzig's executive officer for the arrest of a German ship and its cargo brought to England by French pirates (Marsden, 2018, p. 37). In the announcement stage, if the case involves a large amount of pirate cargo, or if it is necessary to arrest people and objects at the same time, it is necessary not only to draw up a list of items and sort out the claims, but also to inform the claimants of the date of the lawsuit so that they can concentrate on the litigation, such as a warrant for the arrest of pirates and their cargo in 1548, which states:

> Regardless of the condition of the goods, whether they are being bought or sold at sea or otherwise, If anyone claims rights to the arrest, he is told that he can go to any nearest public court house within 15 days (or one day if it is a Court Day) or accustomed place of justice plead. After arrest, a roster is made to tell the judge, from whom the general was seized, and to make a clear list of pirates.

such announcements often require the joint sign attribute of the high admiral and the chairman of the maritime judge (Marsden, 2018, pp. 1-5). For example, when the carrier is unable to deliver or the goods are totally damaged due to maritime risks, the master can apply for a Negotium Probationis (Marsden, 2018, p. 81). And if the court issues it successfully, then the merchant can apply for insurance with this writ before the court judgment. For another example, if someone forges a bill of lading and takes away the goods, the real cargo owner can apply for an injunction and declare ownership of the goods without waiting for a court decision, thereby taking possession of the goods (Marsden, 2018, p. 81).

Non-litigation cases also include maritime writs, namely Warrant to Appraise Wreck in the limitation acquisition of ownership of shipwreck items. Due to the instability of prices during the Tudor period, in all cases it was only for the judges of the court of admiralty to estimate the price, value, quality, etc. of the items involved. Since the statute of limitations to obtain ownership of shipwrecked articles is a non-litigation case, when the period expired, the applicant can obtain the ownership of the goods without any investigation or defense of the parties. The price of the goods is only the standard for determining the corresponding taxes and fees charged by the court of admiralty. So, the court of admiralty outsourced the privilege of estimating the value of shipwrecked items to a third party in the form of a writ, which greatly improves judicial efficiency (Marsden, 2018, pp. 128-129).

The typed writ effectively eliminated the separation between the judicial prerogative of admirals and the court of admiralty in the Middle Ages. Through writs, especially maritime characteristic writs, admirals can fully support the participation of the court of admiralty in the jurisdictional competition between courts and ensure that the judicial prerogative of admirals is consistent with the scope of cases accepted by the court of admiralty.

It is worth mentioning that maritime characteristic writs reflect the basic orientation of the court of admiralty in serving international trade and show great advantages over other courts in quickly resolving large and complex disputes involving ships, cargo, and wages. For example, although the court of admiralty and the imperial council are also influenced by Roman law, with important official positions (chancellor or admiral) as the head, the latter, as the predecessor of the Star Court, the main purpose of not applying writs is to break through the rigidity of the

common law court and the authority of the chancellor is the source of trust of the parties. The former, on the other hand, fully integrates England's domestic judicial system, European international commercial customs and the judicial privileges of admirals have maritime characteristic writs so that the parties can obtain the best relief without breaking through the English judicial system, thereby winning the favor of domestic and foreign businessmen (Ma, 1992, p. 277).

Autonomy of Adjudication and Enforcement of the Court of Admiralty

The autonomy of the trial and enforcement of the court of admiralty is the third manifestation of the materialization of the admiralty court privileges. Before the 16th century, although the trial process of the court of admiralty was clear and unambiguous, the trial process which simply mixed common law and continental law was lack of spontaneity. The legal documents did not have a unified format. The judgment did not have a consistent logic of writing. And the scope of the case was ambiguous, domestic and foreign parties often did not know that they could seek relief from the court of admiralty. Even if they did, they did not know how to participate in the litigation, let alone some parties who violated the order of the court of admiralty, if they sued in other courts. You can get protection without consequences.

In general, the autonomy of the court of admiralty of the Tudor period was manifested in three aspects: fixed-format legal documents, self-contained judgments, and punishment for disobeying court orders.

First, it is fixed-format legal documents. The most representative of them are the indictments in maritime litigation. In Fuller v. Thorne in 1533, a complete complaint appeared for the first time and the format of the complaint in the court of admiralty was basically fixed. The main content of the pleadings is:

> The contract and the creditor-debt relationship it establishes have been proven. Since the defendant has not paid the money and the debt, the plaintiff has no other way but to obtain compensation through the goods. So, it is customary for the plaintiff to bring A Cause Civil and Maritime in the court of admiralty within a suitable time. The above facts are true and known to all. The plaintiff has sworn an oath to warrant that the statement is true. According to the current maritime laws and customs, the plaintiff should receive full compensation, and the defendant should make up the deficiency. The goods concerned should be valued. The case should be tried in accordance with justice and fairness, while achieving what the plaintiff proposed. (Marsden, 2018, pp. 38-41)

Under the requirements of the common law for strict pleadings, the court of admiralty has made a lot of optimizations. For example, when proving the relationship between claims and debts, due to the lack of documentary evidence in maritime transport, in addition to contracts, bills of lading can also be used as proof of the legal relationship of transportation. Another example is at the time of filing a lawsuit. Since the length of the carriage of the sea cannot be determined, it is valid if the lawsuit is instituted within the time consistent with maritime customs. For more example, for the subject matter of the lawsuit, due to the high value of the sea cargo and the complex ownership of the ownership, the plaintiff can take the initiative to apply for valuation otherwise the judge will value it himself. While retaining only some fixed sentences of the common law, the court of admiralty further allowed general claims, such as in the case of Masson in 1538, because the defendant in the case had been arrested before the commencement of the proceedings. The plaintiff Mason sent a summary claim for compensation to the admiral himself, i.e. to compensate the defendant's property for the amount he requested, regardless of the punishment the defendant ultimately suffered (Marsden, 2018, p. 64).

Second, it is self-contained judgments. In 1527, after the court of admiralty had official records, the decisions of the court of admiralty were presented to scholars in a more complete and clear manner. From the content point of view, the judgment of the court of admiralty is very brief. In sharp contrast to modern times, not only does it

not have the parties' opinions to answer, but even does not sort out the facts of the case, only includes the title of the king, admiral, maritime judge, etc., the identity information of the parties, the key facts of the case confirmed by the judge, the judgment result, and the seal. From a logical point of view the idea of its judgment is very clear, that is, to determine the most critical facts of the case around the focus of the dispute between the parties and then clarify the responsibilities of both parties and make a judgment. For example, Cocke v. Camp in 1544, in which the Olycant and Anthony were present into collision. The two parties argued over each other's responsibilities and the judge deduced the voyage and collision of the two ships by himself in the judgment, then determined the liability and loss of the two parties and finally clarified the payment obligation between the original defendants. The judges of admiralty courts did not use the syllogism, that is, taking the legal provisions as the main premise and the facts of the case as the minor premise and finally reached the judgment result. Nor did they not investigate the facts of the case like common law judges, but were only responsible for the legality of the procedure. But after investigating the results on their own, they took the facts of the case as their own standards to restore the balance between the original defendants by adjudicating the creditor-debt relationship between the original defendants (Marsden, 2018, pp. 133-135).

Thirdly, it is to punish the independent means of disobeying court orders, i.e. contempt of court rules by the court of admiralty. In the case Legge v. More in 1539, the rules of contempt of the court of the admiralty court first appeared. In this case, the plaintiff sued a maritime case in the London City Court. After the court of admiralty found it, to regain jurisdiction, the maritime judge ordered the seizure of the parties' property and issued an injunction to the London consul. The basic content of it is:

> The court of admiralty confirms the ownership relationship between the parties and the ship, but since the captain, patenter, sailor, seafarer, voyage are under the jurisdiction of the admiral, the voyage involved in the case is mainly on the high seas, and the merchant, ship owner, operator and all other persons related to the voyage or expedition, contract, Letters and the like came under the jurisdiction of the Admiralty Court, and the judges John Moore and Thomas Moore of the City Court of London were deceived by their parties, who were not in London at the time of the crime and could not enter into a land agreement with another party, and the London authorities were tempted to believe that they were to be taken for granted. The Admiralty Court therefore objected to the jurisdiction of the London courts. All of these facts have been confirmed. The Admiralty Court again objected to the jurisdiction of the City Court of London and the plaintiff's actions amounted to contempt of court. (Marsden, 2018, pp. 83-88)

Although it is not the exclusive means of the court of admiralty to punish a party for violating a court order by contempt of judgment, it has undoubtedly acquired the means to protect its judicial authority at this time. Compared with the situation before the Tudor period, when a party could almost arbitrarily violate the admiralty court order. For example, in Swell v. Norman in 1538, the parties were now litigated in the court of admiralty, then in the City Court of London and after the Admiralty Court, found the client contempt of court and the person did not correct his conduct, the Admiralty Court forfeited the bail of the client (Marsden, 2018, pp. 75-77). In the case of In Re Gurney in 1560, the Admiralty Court fined Gurney £5 for failing to execute the court of admiralty's writ for the arrest of another defendant, John Aylworthe, which constituted contempt of court (Marsden, 2018, pp. 113-116).

The impact of the Admiralty's autonomy is far-reaching. As in addition to providing the basis for the court of admiralty's frequent victories in court jurisdictional battles, it also supports the Admiral's overall control of the navigable waters in England, managing all port administrative matters including cargo passage, waterway management, operation, and capture permits. As these controls matured, many port administrative permits

appeared in the late Tudor period, such as the 1595 Burrough c. Butler case against a permit for a passage called Wear (Marsden, 2018, pp. 177-178); The station license appeared in the case of Off. Dom. c. Stoweleye in 1591 (Marsden, 2018, p. 72); In 1591, Government v. Domini c. Dulinge saw the appearance of permits for the construction of the façade of the pier (Marsden, 2018, p. 174). These permits not only indicate that the admiral's jurisdiction extends beyond the traditionally considered main rivers to all navigable waters, but also gives the admiral a virtual monopoly on the port public service market. For example, in Vander v. Cockerey in 1590, the plaintiff was commissioned by an admiral to load port sand and gravel. But the defendant did not give it because he loaded it himself without permission the plaintiff was found guilty of monetary damages. Or Officium Domini v. Nicholls in 1589, the defendant probed for coal resources in the harbor without obtaining permission from an admiral after the warning (Marsden, 2018, pp. 173-174). The admiral not only made a bad statement, but also resisted arrest, continued to measure, and was finally found in contempt of court, and compensated for all the damage it caused to the admiral (Marsden, 2018, pp. 168-170). In these judgments, the judges repeatedly emphasized that the king has ownership and is the operator of the sea. To protect the king's maritime interests, the admiral has the right to control marine resources such as water, salt, and fish, to manage all fishing and construction activities at sea or on the coast, and to monopolize the public service business of the port.

Unification of Maritime Justice Under the Upstart of the Navy

The materialization of the court of admiralty should have brought it recognition of the identity of the judiciary. However, due to the adjustment of its jurisdiction and application of law from time to time by the Kingdom decrees, the judges of the court of admiralty were still unable to accurately grasp the position and attribute of the court of admiralty. They not only issued many advisory orders confirming their jurisdiction, but even in the case of Combes c. Wyntropp in 1558, the maritime judge was arrested for inappropriate conduct due to unclear scope and positioning of his jurisdiction. In this case, the plaintiff first sued the defendant in the London court, alleging that the price of the goods purchased from the defendant was excessive. The court of admiralty later arrested the plaintiff for contempt of court when it found that the plaintiff should litigate in the court of admiralty. The London court was so dissatisfied that it entered into a jurisdictional dispute with the Admiralty Court. In order to reconcile the conflict, the Court ordered both the Admiralty Court and the London Court to cease litigation in the case. The plaintiff did not allow the case to stall and filed another case in the court of admiralty, which arrested the defendant. The Court was so dissatisfied that the Court of Queen's Bench issued a writ arresting the judges of the court of admiralty, and at the same time ordered the Chief Justice of the high court of admiralty and the judges of the court of admiralty in question to be questioned in London (Marsden, 2018, p. 22-23).

But it is not difficult to realize that maritime justice has become an independent force in the English judicial system from this case, which changed the decentralized character of the court of admiralty in the Middle Ages. And the Court of High Admiralty is the symbol of England's unified maritime justice.

The Unified Admiralty Courts of England Under the Maritime Upstart System

The admiralty court is a privileged court based on the patent of admirals, which seems to have been the consensus of kings, admirals, and judges of admiralty courts. In 1585, lord high admiral Lincoln died. Since 1525, the establishment of the High admiral and his tribunal last year, for the first time there has been no high admiral in the high court of admiralty. The judges in the courtroom were panicked and did not dare to hear the case again.

They wrote to Elizabeth I to ask whether the high court of admiralty could continue to operate or not. The Queen replied that the admiral himself did not have the power to appoint judges of the admiralty court. He became a judge of the admiralty court only under the authorization of the patent and could appoint judges. So, the King's authority in the patent was also the reason of the existence of the court of admiralty and all cases in the high court of admiralty should be transferred to the King (Marsden, 2018, p. 12).

In fact, however, the Queen did not abolish the high court of admiralty, which continued to operate without the high admiral. Immediately after her reply, the Queen appointed Dr. Dale and Caesar as judges of the high admiralty court to handle all cases until 15 February 1585. It was only after the appointment of Earl Howard of Effingham as the high admiral that the high court of admiralty regained the possession of the admiral. Thus, while the judicial prerogative of admirals provides the basic legitimacy support for the court of admiralty, it has long since grown into a fixed and indispensable state organ that can continue to operate if there are judges in the absence of admirals. Therefore, the Queen's reply is only to appoint judges of admiralty courts in her own rightful name and the trial work of the high court of admiralty cannot be stopped (Marsden, 2018, p. 12).

In fact, this has long been the case at the local level where full-time judges gradually replaced the admiral as the main judicial force of the court of admiralty. And, the admiral only intervened in the judiciary in the shadows when necessary. In the middle and late Tudor dynasties, judges of admiralty courts became the main judges and admirals were less and less directly involved in trials. Even the chief judge of the high court of admiralty was a full-time doctor of Imperial Law, not a high admiral. Similarly, in the localities, the vice-admirals were the main judicial force and they were mostly lawyers hired by the admirals who specialized in trials and were well versed in Roman law (Senior, 1922, p. 25). Even in 1575, Queen Elizabeth gave Dr. Lewes a separate patent allowing him to hear freight and other maritime cases while giving him the power of final first instance and not allowing clients to appeal. However, the admiral did not completely detach himself from maritime justice. On the contrary, the court of admiralty was basically oriented to the interests of the admiral and he would actively intervene in the administration of justice when he felt that the case affected his own, the king, or other Englishmen's interests (Marsden, 2018, p. 13). In the Shenu case in 1538, a British captured a French ship. The court of admiralty would normally rule in favor of the people, that is, the capture was legal, but the ship was accidentally blown into British port. The British used force to seize the ship and for diplomatic reasons, the admiral wrote to the judge of the court of admiralty to ask the capture to be invalid (Marsden, 2018, p. 73).

In general, the top-level design of maritime justice in England is to form a three-tier structure of "the high court of admiralty-the admiralty court-vice admiralty court" under the basic authorization of maritime upstarts. The maritime upstart refers to the new and formed a certain scale of aristocracy in the maritime field during the Tudor period, including newly established high admirals and newly added ordinary admirals, lawyers, merchants, etc. (Lambert, 2021, p. 273). The Wars of the Roses drastically reduced the number of nobles in England and the Tudors were not restored. For example, two thirds of the 18 nobles of the Elizabethan period were deposed (Wang, 1997, p. 192). But Elizabeth I canonized many outstanding navy figures, such as in 1581 and 1588, Queen Elizabeth I got into Edward Howard and Darke's ships and awarded them Knight. These two men were the pirate general Drake and the admiral Edward who later led the LinkedIn navy to defeat the Spanish Armada. Together with high admirals and other local admirals, they constitute a maritime upstart system. It took the judicial power granted in admirals' patents as the source. Vice-admiralty court, the court of admiralty and the high court of admiralty respectively established through the three identities of vice-admirals, admirals, and high admirals. It

made them national judicial organs by appointing full-time judges, broke them away from the dependence on the admirals' patents through a series of substantive means and formed a stable three-tier structure.

The maritime upstart is crucial to the unification of England's maritime justice, especially the foundational role of a three-tiered stable structure. Customarily, the court of admiralty is born out of admirals' patents. Without high admirals, there would be no high court of admiralty and without the authorization of the admirals to appoint agents to try in the patents, there would be no court of vice-admiralty. There would be no unified maritime justice system and a three-tier structure, too. From Henry VIII to Elizabeth I, if successive kings continued to reduce the ranks of the nobility and did not add new nouveau riche to the maritime sector, the maritime justice system would lose its source of power. However, the role of maritime nouveau riche in maritime justice was limited to this. No matter how the king adjusted the scope of the admiral's jurisdiction, it could not change the attribute of the national judiciary of the court of admiralty.

The Special Setting of the Court of Admiralty of the Cinque Ports

Before the Tudors, the court of admiralty of the Cinque Ports was a relatively special presence in England's maritime judicial environment, independent of other the court of admiralty and enjoying many privileges, which continued until the Tudor period. On the one hand, based on the status of an independent government, the patent of the Cinque Ports provided for many maritime judicial privileges that lasted from the Middle Ages until the 19th century, such as the right to build embankments on its beaches regardless of who the landowner was. Another example is the right to divert for its own use of those drifting objects at sea that have been abandoned by storms and are not shipwrecked (Russell, 1809, pp. 50-52). On the other hand, in the Tudor king's adjustment of the judicial power of the admirals, the special circumstances of the Cinque Ports were specifically provided, such as the Act on Piracy and Bandits at Sea in 28 Hen. VIII. c. 15, which required that all cases of piracy or robbery at sea should be jury on land. But Article 5 provides that in the case of cases within the Cinque Ports, the consuls of the Cinque Ports shall exercise special appointment rights and form a jury.[5] For example, in 1562, Article 20 of 5 Eliz. c. 5. provided that all disputes relating to the sea should be referred to the Admiral. But Article 28 emphasized that the Cinque Ports could have reservations to this. The autonomy enjoyed by Yarmouth was not interfered with by the provisions of this chapter.[6]

Why should the Cinque Ports be granted these privileges? Before Tudor, before the unification of England's maritime judiciary. The Cinque Ports, as a strategic military location in England, enjoyed a high degree of autonomy. Based on this, the judiciary naturally enjoyed a high degree of autonomy. But by the Tudor period, although the Cinque Ports still assumed the role of providing warships and recruiting crews for the royalty, the royalty itself had a certain fleet of ships and the king's large number of maritime capture patents made the English people engage in many privateer businesses. Seafarers were no longer scarce. However, on the one hand, local towns, especially ports already had autonomy. The Cinque Ports has been established for a long time and the degree of autonomy is high. In addition to maritime justice, the consuls of the Cinque Ports also enjoy other very extensive judicial privileges. The trend of unification of maritime justice cannot be shaken. On the other hand, from the perspective of maritime justice during the Tudor period, whether it was the substantive or unified court, it was eventually realized in the Cinque Ports. For example, the consuls of the Cinque Ports had the power to issue warrants. Although there were no high admirals or their courts within the Cinque Ports, the consuls of the

[5] *Statues of the Realm*, 28 Hin. VIII. c. 15.
[6] *Statues of the Realm*, 5 Eliz. c. 5.

Cinque Ports had always been regarded as the highest-ranking admirals. The unification of maritime justice pursued by the Tudor maritime judicial trend in the Cinque Ports has been achieved. So, there is no need to change it. But it should continue to respect its privileges and realize judicial requirements on specific cases based on its customs.

However, despite so many privileges, it cannot be considered that the maritime justice of the Cinque Ports is independent of the unified judicial system of England and the court of admiralty of the Cinque Ports has the same source of power as the other court of admiralty. Although they were not subject to the jurisdiction of the high court of admiralty, they were still in the unified maritime justice system of England under the unified adjustment of the King. First, all admiralty courts have the same source of power, namely patents issued by the King. All the court of admiralty in England was based on the patent of the admiral and so the Cinque Ports was. Although the consul of the Cinque Ports is not nominally an admiral, he has the authority of an admiral and his admiralty court can also hear maritime cases. So, the admiralty court of Cinque Ports and other court of admiralty were not fundamentally different. They both assumed maritime justice functions. Second, although maritime justice within the Cinque Ports is not regulated by the high court of admiralty, it is still subject to the King's adjustment in maritime justice. The consuls of the Cinque Ports could issue their own writs and were therefore not subject to the High Admiralty Court and therefore did not appeal like other the court of admiralty. However, this does not mean that the court of admiralty of the Cinque Ports is not subject to any management. In the successive adjustments of the court of admiralty by the king during the Tudor period, although many privileges were granted to the Cinque Ports, they were all changes in the way of implementation and the Cinque Ports still had to strictly abide by the provisions of the law. Finally, in terms of the relationship between the high court of admiralty and the admiralty court of Cinque Ports, just like the current relationship between China's Supreme People's Court and the Court of Final Appeal of Hong Kong, the Cinque Ports, as a special administrative region, enjoys the right of final adjudication but still occupies the maritime justice system of the whole country. The high court of admiralty is a symbol of this system. Although the admiralty court of Cinque Ports is not subject to its jurisdiction, it is still in England's unified maritime justice system.

Continuing to observe the Cinque Ports and its maritime justice by analogy, we will find that the admiralty court of Cinque Ports has a certain degree of self-attribute. The autologous attribute of the court of admiralty or the autologous attribute of maritime law means that the court of admiralty or maritime laws have as complete judicial connotations as a country's judicial system, such as China's current the court of admiralty can hear various types of maritime-related cases such as civil and commercial, criminal, administrative, intellectual property, etc., which covers almost all types of cases in China at present. It can be said to have a certain degree of autonomy. The court of admiralty of Cinque Ports has similar characteristics. Under the basic positioning of the independent government, it has the broadest maritime jurisdiction, where "maritime" is not a departmental law concept juxtaposed with civil, criminal, administrative laws, etc., but a spatial concept relative to land, which means that all countries on land have their own judicial system. The Cinque Ports is a special zone established under maritime space, has its own judicial system and handles a series of civil, criminal, and other cases, collectively known as maritime jurisdiction. If custom on land is the source of English common law, then custom relating to the sea within Cinque Ports is the source of the court of admiralty, which are also the common law courts within Cinque Ports.

This self-attribute may be the root cause of the fact that the court of admiralty of the Cinque Ports was not included in the jurisdiction of the high court of admiralty. It can explain why at the time of the British judicial

reform in 1835, the military strategic position of the Cinque Ports was clearly no longer important. Its independent government status had been abolished, but it still retained independent judicial power. Of course, self-attribute is not independence, it is still part of England's unified maritime justice (Marsden, 2018, p. 21).

Conclusion

Although the court of admiralty used the patent of the admiral as the source of power, its survival does not depend on the admiral. Although commercial laws and customs such as Imperial Law and international maritime customs applied in the court, there were self-attribute rules in the Cinque Ports. Most importantly, in addition to commercial cases, it also handled a wide range of criminal, administrative, land, matrimonial, inheritance, and other cases. The court of admiralty may be the first comprehensive national judicial organ established by England in modern history and the extensive jurisdiction, unified system, and special setting of the Cinque Ports were all intentional settings of England.

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