

THE WINE TRADE, PIRACY AND
MARITIME CONTRACT LAW IN
LATE MEDIEVAL SOUTHAMPTON

A Master's Thesis

By

FATİH PAMUK

Department of History
İhsan Doğramacı Bilkent University
Ankara

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**THE WINE TRADE, PIRACY AND MARITIME
CONTRACT LAW IN LATE MEDIEVAL SOUTHAMPTON**

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FATİH PAMUK

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ANKARA

June 2014

I certify that I have read this thesis and have found that it is fully adequate, in scope and in quality, as a thesis for the degree of Master of Arts in History.

Asst. Prof. Dr. David Thornton
Supervisor

I certify that I have read this thesis and have found that it is fully adequate, in scope and in quality, as a thesis for the degree of Master of Arts in History.

Asst. Prof. Dr. Paul Latimer
Examining Committee Member

I certify that I have read this thesis and have found that it is fully adequate, in scope and in quality, as a thesis for the degree of Master of Arts in History.

Asst. Prof. Dr. Julian Bennett
Examining Committee Member

Approval of the Graduate School of Economics and Social Sciences

Prof. Dr. Erdal Erel
Director

ABSTRACT

THE WINE TRADE, PIRACY AND MARITIME CONTRACT LAW IN LATE MEDIEVAL SOUTHAMPTON

Pamuk, Fatih
MA, Department of History
Supervisor: Assistant Professor Dr. David Thornton
June, 2014

In late medieval Southampton, wine was a commodity, which was extensively traded, and quite precious to the pirates of the English Channel because it was easy to sell and the vessels loaded with wine had less protection than the ships of precious metals. Therefore, increase of wine trade in the late medieval Southampton made piracy of the time more frequent. For the wine merchants of both Southampton and England, it was a natural reaction to try to avoid piratical attacks by taking legal measures against them. This would make piracy, as one of the biggest threats to commercial maritime activities, one of the factors that causes the development of anti-piracy legal regulations. The purpose of this thesis is verifying this correlation between wine trade, piracy and the maritime contract law by especially focusing on fifteenth century Southampton. As the title mentions, this work takes three sets of source as the backbones of this research to determine the links between the commercial, criminal and legal spheres: The port books of Southampton were used as the basic sources for the late medieval wine trade section of the thesis. A database of over one thousand items was prepared and examined to reach two conclusions,

one relating to the nature of the wine trade and the other relating to the Southampton merchant-elites. To reach correlation centered conclusions in the sections on piracy and maritime contract law, singular accounts and the maritime codes of late medieval England were used, as well as secondary sources. The results of this research shows the dominance of bureaucrats over the fifteenth century Southampton wine trade, their dual identity as privateers, the continuous existence of pirates in the English Channel and the improvement of general maritime law (admiralty law), is demonstrably related to piracy, rather than maritime *contract* law specifically.

Keywords: Southampton, Wine trade, Piracy, Privateering, Maritime contract law, Admiralty law, The Port Book of Southampton, The Black Book of the Admiralty, The Rolls of Oléron.

ÖZET

GEÇ ORTAÇAĞ SOUTHAMPTON'UNDA ŞARAP TİCARETİ, DENİZ HAYDUTLUĞU VE DENİZ KONTRAT HUKUKU

Pamuk, Fatih
Yüksek Lisans, Tarih Bölümü
Tez Yöneticisi: Yardımcı Doçent Dr. David Thornton
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Geç Ortaçağ Southampton'unda şarap, ticareti sıklıkla yapılan ve Manş Denizi deniz haydutları tarafından kolay satılabildiği için ve taşıyan teknelerin kıymetli metalleri taşıyanlara göreli olarak daha az koruma sahibi oldukları için değerli olan bir ticari maldır. Yani geç Ortaçağ Southampton'unda şarap ticaretindeki artış deniz haydutluğunun sıklaşmasına sebep olmuştur. Southampton'lu ve İngiliz şarap tüccarları bakımından deniz haydutluğu saldırılarına karşı hukuki önlemler geliştirmek doğal bir korunma reaksiyonu haline gelmiştir. Bu durum, ticari deniz aktiviteleri için en büyük tehlike olan deniz haydutluğunu, bu suç karşısı hukukun gelişme nedenlerinden biri haline getirmiştir. Bu tezin amacı, şarap ticareti, deniz haydutluğu ve deniz kontrat hukuku arasındaki bağlantıyı geç Ortaçağ Southampton'una odaklı olarak ortaya koymaktır. Ticari, suç tabanlı ve hukuki olmak kaydı ile üç alanı bağlamak için, üç ayrı birincil kaynaklar bütünü bu tezin omurgası görevini görmüştür; İlk olarak Southampton liman kayıtları, tezin şarap ticareti bölümü için ana kaynak olarak kullanılmıştır. Biri şarap ticaretinin doğası ile, diğeri ise Southampton'daki elit tüccarlar ile ilgili olmak üzere iki sonuca ulaşmak

için bin verinin üzerinde bilgi içeren bir veritabanı hazırlanmış ve incelenmiştir. Deniz haydutluğu ve deniz ticaret hukukuna ait kısımlarda ise, bağlantı kurma merkezli olarak, tekil tutanaklar ve deniz hukuku yasaları da ikincil kaynakların yanı sıra kullanılmıştır. Bürokratların on beşinci yüzyıl Southampton şarap ticaretindeki hakimiyeti, bu bürokratların korsanlığı da içeren çoklu kimlikleri, Manş Denizi'ndeki deniz haydutluğunda olan süreklilik, ve bu suçun spesifik olarak deniz kontrat hukukunu olmasa da genel olarak deniz hukukunu gösterilebilir şekilde geliştirdiği, bu tezin ulaştığı sonuçlar arasında sayılabilir.

Anahtar Kelimeler: Southampton, Şarap ticareti, Deniz haydutluğu, Korsanlık, Deniz kontrat hukuku, Denizler hukuku, Southampton liman kayıtları, Deniz Hukuku Kara Kitabı, Oléron Yasaları

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TABLE OF CONTENTS

ABSTRACT	iii
ÖZET.....	v
ACKNOWLEDGEMENTS.....	vii
TABLE OF CONTENTS.....	viii
LIST OF TABLES	x
LIST OF FIGURES	xi
CHAPTER I: INTRODUCTION	1
CHAPTER II: THE <i>VINARII</i>.....	22
1.1 The Wine Trade in Late Medieval Southampton	22
1.2 Changes in the Second Half of the Fifteenth Century	41
CHAPTER III: BANDITS OF THE SEA.....	49
2.1 Hostes Humani Generis	49
2.2 Men of the King.....	53
2.3 Piracy in the Fifteenth Century	56
2.4 The Records	61
CHAPTER IV: COMMERCIAL MARITIME LAW	73
3.1 Late Medieval Contracts	74
3.2 Maritime Codes	80
3.3 Effect of Legal Branches.....	89
CHAPTER V: CONCLUSION.....	97

BIBLIOGRAPHY	102
APPENDIX A	106
APPENDIX B	107

LIST OF TABLES

Table 1	14
Table 2	31

LIST OF FIGURES

Figure 1	59
Figure 2	60

CHAPTER I

INTRODUCTION

Commercial, criminal and legal spheres are not local today. International organizations determine sets of rules to standardize the trade regulations for the entire world and states establish their own criminal laws and a fixed frame of contracts which does not change from one part of this state to another. However, in the late Middle Ages, all these three aspects could exist locally, although there were also general rules for them. This created the idea of finding the roots of relationships between commercial threats and the legal measures against them by focusing on a local administration. Southampton was an appropriate option for this analysis because it was focused mainly on trade, it was continuously under the threat of piracy because of its geographical position and it started to create its own legal maritime regulations with the contributions of trading bureaucrats and the considerable influence of powerful alien merchants predominantly from Gascony. This thesis will be based on how the correlation between the wine trade, piracy and maritime contract law can be established in late medieval Southampton.

Southampton is a town located on the southern coast of England, within the county of Hampshire. Because of two rivers (Test and Itchen) that pass from inside

the town to the English Channel, it forms a natural port with very appropriate geographical features for all kinds of maritime commercial activities and also for a base location for naval recruitment of vessels, as was widely done by late medieval kings of England. So these characteristics made Southampton a center of trade and military forces. Like all other towns in England, Southampton has had its own peculiarities throughout its history. It was not used only as one of the most appropriate points for trade with Gascony or Calais in late medieval times, but for all other kinds of trade with all possible locations internationally.¹ The practicality behind the town was its function as a distributor. When commodities came to Southampton, either using sea routes or land routes, these were sent to other port cities or internal parts of England. Therefore, along with the satisfaction of Southampton citizens' own demands, other towns' needs to these particular commodities could be provided through using the southern gate of commerce.

It was not surprising that the period of the Black Death was not more merciful to Southampton than to the other parts of England. The population of Southampton decreased visibly, but after an immediate decline, Southampton recuperated from the effects of Black Death to maintain its role as the principal southern port city.² Wool, cloth and wine carried by English, Gascon, Genoese, Portuguese, Castilian and Flemish merchants brought economic welfare to Southampton. In the middle of the fifteenth century, when all aspects of commerce, administration and finance were progressing in Southampton, the two most powerful (after the administrators of Southampton) powers of the second half of fifteenth century, in terms of the wine trade, namely the Londoners and the various Aliens,

¹ M. H. Keen, *England in the Later Middle Ages: A Political History*, (London: Methuen&Co., 1973), 185

² *Ibid.*, 184-185

divided the town bureaucracy into two politically.³ However, after this local unrest in the bureaucracy, Southampton was able to sustain its welfare by using its commercial power until the end of the century.

Like all the port cities in England, the trade activities in Southampton brought a very serious income to the royal government and this increased its importance and made the town somewhere to be well protected. However, since it was open to the sea and its trade dynamics were directly related with the happenings on the English Channel, it was hard to protect Southampton fully from all possible threats. All kinds of piratical attempts, the continuing warfare of Hundred Years War and the clash of commercial interests between maritime countries created a permanent zone of insecurity for both Southampton and other port cities in the same situation. Therefore, when the trade activities of Southampton are scrutinized, its relation with these complex maritime balances should also be considered.

Following these commercial events and threats at sea, it should also be noted what occurred in order to avert any danger on the sea in the law of England and more specifically in Southampton. In terms of legal background, England could deal with this through a few different branches of laws, like admiralty law, merchant law and common law. Unfortunately, cases of admiralty law were not well recorded in the late medieval period so these cases cannot be traced in order to make an interpretation about these anti-piracy maritime case decisions or unsatisfactory maritime contract cases because of threats at sea.⁴ When the issue comes to common law and merchant law, it should be noted that these two legal branches have interrelated natures. At least for a while, maritime contract law stood somewhere between these three legal spheres so it was hard to be sure under whose

³ Ibid.,187

⁴ Timothy J. Runyan, "The Rolls of Oleron and the Admiralty Court in Fourteenth Century England", *The American Journal of Legal History* 19 (1975), 98.

jurisprudence maritime contract law fell. In the last chapter of thesis, different kinds of written contracts will be explained and the connection between piracy and contractual agreements examined.

Because Southampton had little local authority until 1401 with Henry IV's charter of rights, it would not make sense to look what Southampton could do in legal or commercial sphere.⁵ The real important factor was what general English law determined and applied on Southampton before then. In the fifteenth century, Southampton created its own bureaucracy and administrative elite who had political and commercial status at the same time.

“The officials of the gild, in many cases, had certainly functions which were beyond those of the original gild merchant, and nothing remained to show the distinction between gild and borough, so completely had the gild dominated over the old borough idea.”⁶ In other words, the authority behind the regulation of the town of Southampton was owned by the officials of the guild. This intersection between the political elite of the borough and the officials of the guild highlights the reason of the direct involvement of the political elite of the town to the fifteenth century wine trade. This aspect of Southampton elite made them a political and commercial elite rather than only an administratively active class.

The local authority of the town, apart from the royal authority of England, started to be granted in the early fifteenth century. It was not in the form of an autonomy, which is entirely separate from the rule of England but it was the beginning stages of construction of a new county administration that has its own

⁵ Colin Platt, *Medieval Southampton: The port and trading community, A.D. 1000-1600* (London: Routledge & Kegan Paul, 1973), 12

⁶ William Page (ed.), "The borough of Southampton: General historical account." *A History of the County of Hampshire: Volume 3* (1908): 490-524. British History Online. Web. 07 August 2014. <http://www.british-history.ac.uk/report.aspx?compid=42036>

flexibility of conducting political and commercial affairs. It is stated that “From the reign of Henry III to Henry VI various charters of inspection and confirmation were given, that of 1401 granting further to the mayor and bailiffs cognizance of all pleas of whatever kind to be held in the gildhall ('guyhalda') and there finally determined, the right of holding court leet and practically self-government.”⁷ Therefore, the borough administration and officials at the guildhall (some people existed in both of these groups) were granted to conduct the administrative (including some legal branches) and trade spheres of the borough in parallel which enables a coordination to these two areas.

At the middle of the fifteenth century, the beginning stages of the self-government of Southampton passed and turned out to be a semi-dependence in some aspects and this can be observed from the words

Further, the town and the port of Portsmouth, 'which port is within the liberty of the said town of Southampton,' were exempted for ever from obedience to the constable marshal or admiral of England, or the steward, and marshal or clerk of the market, who should not enter the town to hold pleas, or hold pleas out of the town concerning matters within the same. The mayor was to be clerk of the market, and strangers were prohibited from buying of, or selling to, strangers.⁸

The administrative or political offices of the town of Southampton was not tied to the same political offices of overall England, but starting from 1445, it was gifted with a domination over pleas or the settlement of other commercial or legal disputes within the boundaries of Southampton. Therefore, political elite of the second half of the fifteenth century should have more administrative power than their counterparts in the first half. However, according to the port records of Southampton, it will be seen that the political elite of the first half stood as better representatives for the

⁷ Ibid.

⁸ Ibid.

relationship between the commercial and political local administrations that was caused by the interconnectedness between the borough administration and the guild than the second half of the century.

In 1447, Southampton became a county by the charter of Henry VI with the word of called "the town of Suthampton and its precincts, shall be one entire county, incorporated in word and deed, separate and distinct from the county of Southampton for ever, and shall be called our county of the town of Suthampton."⁹ This means the power of the local political elite reached its peak with this charter. From this time on, the elite merchants of Southampton, who were the holders of highest offices of guild, became the administrators of county. This means that they enjoyed the position of the county offices within the royal administration of England along with their other exceptional local governing rights that were granted to them before.

Taking these Southampton elites as the starting point, the wine trade will be examined in the first chapter. In the second chapter, piracy will be analyzed and the state of piracy and privateering observed. As an additional consequence, it was seen that the bureaucratic elite in wine trade part also took part in the chapter related to piracy not as the ones who were affected or intimidated by the piracy, most but also as the pirates who worked on behalf of the king or royal administration to seek the maximum benefit for the king on the sea and minimum benefit for his enemies.

In the first chapter, a quantitative analysis will be done by using mainly the Port Books of Southampton. The aim of this research will not be to establish the total contribution of Southampton to the general wine trade of England but to show the particularities of the town by looking to the wine merchants and their backgrounds.

⁹ Ibid.

The final aim of this chapter will be to demonstrate the processes of the fifteenth-century wine trade and connecting this to piracy and the legal sphere. In the second chapter, firstly a narrative of fifteenth century piracy will be constructed to identify the position of fifteenth-century piracy, its relationship with royal and local administration and its effect on commerce. The continuity of the fifteenth-century piracy will be analyzed by consulting the Patent Rolls and will be illustrated as graphs. Following this, anti-piracy legal measures will be analyzed by looking to the singular accounts. In the third chapter, conclusions on maritime and contract law will be reached with reference to their relationship with wine piracy along the fifteenth-century Southampton coasts. This involves an in-depth retrieval of information from various primary sources, including the Rolls of Oléron, Inquisition of Queenborough and Oak Book of Southampton and in order to assess change over time, the Patent Rolls. By this way, proofs of the relationship between contract law and increasing piratical attempts will be examined in order to determine whether the development in contract law and the increase in piracy were merely events in parallel or whether they were related facts that fed on one another. Naturally why this entire examination is important and undiscovered before could be seen through the primary and secondary literatures that were used to show what these covered and what was deficient in them.

When the issue comes to the wine trade in the medieval period, there are two books whose absence could not be imagined for this research. Susan Rose's *The Wine Trade in Medieval Europe 1000-1500* should be mentioned first because of putting a broad range of wine trade topics together in a very clear and vivid

manner.¹⁰ In her book, Rose provides a clear introduction to the medieval wine trade, tracing its origins and development in detail. For example, it starts with the Roman wine trade, how they made and conserved wines and in what way these wines were carried. She then gives the primitive or ancient approaches to wine production and trading, before passing to the medieval wine trade. In addition, its way of narration is very organized and controlled in two ways; firstly, it separates the wine trade specifically from the basic principles of others and contains everything related with the process of wine producing and trading including different taxation systems, which were implemented separately in England and France, areas of wine production with special reference to why these areas were preferred by wine trade partners at the domestic or international level and the risks of wine production and trade because of conditions existing in the medieval English Channel. Secondly, its organization does always cover frequent reference to the general historical narrative such as the history of Hundred Years War. In this way, *The Wine Trade in Medieval Europe 1000-1500* does not lose its feature of being a fragment of late medieval English history and because the book has such a coordinated nature, the reader always finds a chance to evaluate the importance of wine production and its position in commerce within the general structure of war or interwar economies.

In this research, to comprehend the details of the medieval wine trade in Southampton, *The Wine Trade in Medieval Europe 1000-1500* of Susan Rose was used generally for the basics. Constructing these basics could not be an easy job for this or any other research since their nature is very suitable to be ignored, perfunctory and -because generally the author wants to underline the advanced parts of his/her research- shrouded. In this thesis, at least for the first chapter, which

¹⁰ Susan Rose, *The Wine Trade in Medieval Europe 1000-1500* (London: Continuum International Publishing Group, 2011)

covers the medieval wine trade of Southampton, the basics of wine production, taxation and trade have been elaborated to make this information very clear, so as to design a step by step organization that could be avoid ambiguity. The information given by Susan Rose in a well determined order helps to a great extent in achieving this aim by filling the gaps that were naturally left by the primary sources used, like the port books and brokage books of Southampton.

On the other hand, for any advanced research on the history of the wine trade in the Middle Ages, the works of Margery Kirkbride James stand out in the current literature. She has published various articles on the wine trade of England especially the trade between England and France.¹¹ She made research port by port about the share in the overall wine trade of England to assess which town traded how much wine, particularly with Gascon regions. These separate articles were collected in one single work under the title of *Studies in the Medieval Wine Trade* in 1971 and became one of the important sources for medieval commercial history.¹² Unlike Susan Rose's work, James's articles ignore the elementary information needed for the wine trade and goes on with detailed analysis, for example the development of the Anglo-Gascon wine trade in the fourteenth and fifteenth centuries. With these kinds of publications, she became the most famous expert in the area of the history of the wine trade in northern Europe. Additionally, this important secondary literature has an appendix that provides statistical analysis for each port. Although the data for Southampton does not exactly match with that which is extracted from the port books of Southampton in this thesis, these appendix sections were crucial in order to trace the effects of piracy or the Hundred Years War on the wine trade in particular years. The appendices could be easily categorized as important contributions to the

¹¹ Margery Kirkbride James, *The Non-sweet Wine Trade of England During the Fourteenth and Fifteenth Centuries*. (Oxford: Oxford University Press, 1952).

¹² Margery Kirkbride James, *Studies in the Medieval Wine Trade* (Oxford: Clarendon Press, 1971)

commercial literature of the history of the wine trade in addition to the other contributions that were made with these collections of James's articles. On the other hand, Margery Kirkbride James concentrates on commercial or economic history rather than analyzing the broader effects on, or of, this trade. She does not explain how this commercial process was affected by late medieval piracy and privateering, nor does she cover their probable legal consequences. Furthermore, she also does not examine the domestic affairs of the wine trade in particular ports. For example, although by only looking at James's collection one could interpret what happened to wine commerce in Southampton relating to England and the Gascon region, the domestic mechanisms of Southampton (or any other port) are not indicated as a separate section or article, such as what was the position of the bureaucracy of Southampton within the wine trade.

Specifically with reference to the port of Southampton, Colin Platt's study, *Medieval Southampton: The port and trading community, A.D. 1000-1600* has been very useful for this thesis.¹³ The first and most important aspect of this book is its analysis of the administrators of Southampton, their position in trade and finance and the importance of Southampton as an international commercial gateway that stood as the first point to stop by. In addition to an historical narrative of the town, the development of bureaucratic positions and family lineages could be found in the appendix sections of this work and this enabled me to create ties with administrative positions and merchant identity. Although *Medieval Southampton: The port and trading community, A.D. 1000-1600* is an extraordinary piece for understanding all the details of Southampton trade, by focusing on the wine trade and specifying the topic even further, this thesis reaches conclusions that were not mentioned in Platt's

¹³ Colin Platt, *Medieval Southampton: The port and trading community, A.D. 1000-1600* (London: Routledge & Kegan Paul, 1973)

work. These conclusions extend to areas that are beyond the scope of Platt's book, such as Southampton wine trade's relations with piracy and legal sphere and the attempt to scrutinize this branch of commerce in a more unusual triangular relationship.

Related with the medieval structure of piracy, the most appropriate source was Jill Eddison's *Medieval Pirates: Pirates, Raiders and Privateers 1204-1453*, which is a recent publication and serves as a good introduction to piratical history that also makes reference to anti-piracy laws.¹⁴ Eddison analyzes the position of piracy within the general framework of maritime affairs during the Hundred Years War, which allowing one to understand the relationship between war and piracy. She tries to analyze sea banditry as an occupation in the medieval period and to determine whether it was a tool of the administrations of France and England (in the form of privateering) or rather something to be terrified of and to take legal measures against. This was used as a starting point for piratical history, its effects on the general progress of trade and the kings' attitude towards pirates, but because of very useful details in this work it also lies as a complementary source for the advanced analysis in the second chapter of the thesis. Unfortunately in some parts of the piece, the track of progress of medieval piracy was abandoned and a narrative of Hundred Years War started to be constructed which reduces the efficiency of its organization, giving relatively introductory information in the middle of more advanced research. However, from all aspects, it was very beneficial to use this work, because it tries to show how piracy affected commerce and what the legal measures taken against it were. Generally, as a topic, it was very close to what this thesis will try to show, but

¹⁴ Jill Eddison, *Medieval Pirates: Pirates, Raiders and Privateers 1204-1453*. (Stroud: The History Press, 2013)

here this is at a much more micro level (scale of Southampton) than Jill Eddison has attempted.

Robin Ward's *The World of the Medieval Shipmaster: Law, Business and the Sea, c.1350-1450* is another very important source to understand the liabilities and legal background of late medieval maritime trade.¹⁵ This source is not necessarily related with Southampton's legal situation in respect of its maritime ventures but it is a general one that includes information for the whole of England. By using different sources from late medieval English maritime law, Ward tried to evaluate how the legal procedures evolved, starting with very early legal maritime documents until the late middle ages. Although Ward does not cover the wine trade and mentions very little about piracy, it gives a solid understanding on two aspects: it constructs a good chronological account on how these documents changed practicalities in the legal world. The responsibilities of the shipmasters ashore and onboard are touched upon in different chapters with reference to legal primary sources that help us understand the scale of effects of these documents. Secondly, in the introduction and appendix of his book, Robin Ward shows versions of these primary documents and gives a good translation of the Rolls of Oléron and some parts of the Inquisition of Queenborough with his own comments and background information to clarify each article further. Although these translations and commentaries stand as fruitful sources, these translations of primary sources were not taken as the only reference point. Travers Twiss's, Robin Ward's and original versions were used for both the Rolls of Oléron and Inquisition of Queenborough to avoid any subjectivity or error that might be caused from using one single version. As a result, *The World of the Medieval Shipmaster* served as a vital secondary source which enabled me to

¹⁵ Robin Ward, *The World of the Medieval Shipmaster: Law, Business and the Sea, c.1350-1450*. (Woodbridge: The Boydell Press, 2009)

understand all the possible details related with legal world of the late medieval maritime arena and helped the construction of the third chapter (which is related with maritime contract law) to a considerable extent.

While Susan Rose and Margery Kirkbride James contributed to this thesis with their pieces, the most important sources for the late medieval Southampton wine trade part of this thesis are the Port Books of Southampton.¹⁶ From the four published port books of different terms, different analyses have been reached. Naturally these port books do not only cover the wine trade but all trades with their taxes and other fees. Generally, before mentioning name of each merchant and each merchandise that was loaded to or unshipped from the vessel, the information about the vessel was given. In a usual record, this information includes the name of the vessel, its master and (in some cases) its owner, along with its port of origin. Opposite each merchant's name, the kind and amount of merchandise, the custom and crantage data were given in a row. The Port Books of Southampton were designed as port records of local administrators to keep the track of the custom and crantage fees that had already been taken or that were to be taken. It can be imagined as the record book of a company auditor to calculate taxes and other expenditures out of regular profits. In the late Middle Ages, these Port Books were kept either in Latin or old French but different editors have translated them into modern or middle English and added their interpretations in the introductions to these books.

The Port Books of Southampton were used to reconstruct the patterns of the wine trade in fifteenth-century Southampton. Table 1 (below) gives a summary of the data taken from the port books. In Table 1, the first column indicates the source

¹⁶ Henry S. Cobb, ed. *The local port book of Southampton for 1439-40*. (The University, 1961); Brian Foster, ed. *The Local Port Book of Southampton for 1435-36*. (The University Press, 1963); Paul Studer, *Accounts of Robert Florys, Water-Bailiff and Receiver of Petty-Customs, A.D. 1427-1430* (Southampton Record Society, 1913)

and the fifth column the date to make it easy to find the relevant shipment later from that particular port book. In addition, knowing the dates of the shipments makes it relatively easy to comprehend when these merchants were involved in the wine trade or their yearly success. The columns of “Merchant”, “Vessel” and “Master” are designed as separate ones to analyze how frequent by a particular merchant or master completed a transaction and what was his total share in the annual wine trade in Southampton. As very important items, custom, crantage and anchorage information in this database serves to indicate what was the total cost (excluding the payment for the shipment) to these merchants and what were the earnings of both local and royal authorities from the shipments. Naturally, the “Amount” column shows the merchants’ efficiency and share from this shipment of wines (in one shipment, different merchants transacted different amount of wines to Southampton depending on the load limit of this single vessel).

Table 1

Source	Merchant	Vessel	Master	Date	Custom	Cranage	Anchorage	Amount
1469- 1470 Common Book	Roo, Thomas, of Havant	Boat of William Short of Langstone	-	10 October 1469	0	2d	-	1 butt

In the final version of this database, 1170 wine records were extracted from these port books that stand as the representative periods in the fifteenth century. In this thesis, the names of merchants, vessels and masters have been kept as were written in the port books without modernizing them. Although this modernization could be possible by looking to English family names dictionaries, this would take a

huge amount of time and effort which was instead spent to construct the models and to get a result for fifteenth-century Southampton wine trade. Because of the vital place of this database for the first chapter of this thesis and the unsurprising usefulness of the port books of Southampton, it becomes one of the vital sources for the commercial history of Southampton, and consequently, results that were undiscovered before have been obtained.

As the second step concerning the sources, the working principle in the way of researching on piracy and maritime contract law should be explained. In the piracy section, the Patent Rolls were used primarily, together with other primary and secondary sources. Six samples of Patent Rolls from different periods of fifteenth century were chosen to observe the increases or decreases of piratical attempts. When it was relevant to research Southampton piracy, the records related with Southampton piracy on the wine trade were chosen exclusively, for presentation and interpretation. On the other hand, to show the general trends in English piracy, all the piratical attempts in these volumes of the Patent Rolls were used, rather than just the ones related with Southampton, to comprehend the frequency of sea banditry on the English Channel. These primary and secondary sources enable this thesis to draw a consistent trend for both England generally and for Southampton.

My analysis in Chapter 3 will be based largely on a variety of legal sources. The development of medieval maritime law is an interesting topic especially as the determinants of this particular law (maritime or admiralty law in our case) are not discovered entirely yet. The Black Book of the Admiralty is a compilation of various maritime legal sources.¹⁷ It covers a broad range of topics from general rules and regulations of maritime affairs and cases to other different legal maritime codes from

¹⁷ Travers Twiss (ed.), *The Black Book of the Admiralty*. (New Jersey: The Lawbook Exchange, Ltd., Vol. I-IV, 1871)

different periods in history. The origins of the Black Book are not clear but it was stated more than once that the original version was written in old French from an ancient hand.¹⁸ It appears that the editors of later, translated versions of the Black Book were capable to find the original version but the reference points of experts like Twiss and Pardessus were merely these edited versions rather than the original one. Still, the Black Book of the Admiralty stands as one of the most important maritime legal history documents that provides the general knowledge on late medieval maritime law, although its usage was much later, around the seventeenth and eighteenth centuries.¹⁹ Starting from the twelfth century, there was a strong absence of codified maritime regulations determined by relevant legal codes. Instead, there were only the Roman maritime codes, which survived in an individual article in the Codex Justinianus. In later periods, these articles were collectively known as the Rhodian Sea Laws, but this was controversial because, although there was the mention of Rhodian Sea Laws in the Codex Justinian, no one knew from where these laws came originally or by whom they were recorded. Still, for a long time, the only legal guide of maritime affairs was mentioned with this name and the Rhodian Sea Laws were thought to be the basis of all their successors throughout Europe despite the critiques that were made by George S. Potter, who tried to prove the absence of Rhodian Sea Law as a separate set of laws.²⁰ In the form of a code, it was followed by the Italians' Amalfi Laws, which is also covered by the appendix volume of *the Black Book of the Admiralty*.²¹ This legal source was designed to regulate international trade and to organize maritime affairs within the port by determining rules to obey. With the Italian dominance in especially Mediterranean maritime

¹⁸ Twiss, *The Black Book of the Admiralty*, Vol. I, ix-x

¹⁹ *Ibid.*, x-xi

²⁰ George S. Potter, "The Sources, Growth and Development of Law Maritime". (The Yale Law Journal, 1901) pp. 143-152

²¹ Twiss, *The Black Book of the Admiralty*, Vol. IV, 3-55

trade, it is not surprising to see that this very first initiative was taken by them. Because, where the greatest need is, would be the most courageous to make prime attempt to satisfy this need like it will be seen later for the need of a regulating maritime law in fourteenth and fifteenth centuries. After the Amalfi laws, as the second biggest trader in the Mediterranean region (sometimes first), Spain made the second attempt and designed its own maritime code named the Barcelona Maritime Code of 1258, and more or less concurrently, France tried to form its own document with the Rolls of Oléron.²² Although this statement does not necessarily show the direct relationship or correlation between the Barcelona Maritime Code and Rolls of Oléron, the possibility of the positive effect of international trade on the legal sphere should not be completely ignored.

The Rolls of Oléron, as one of the primary units in the compilation of the Black Book, eventually became the most prominent and most effective document in Europe since for the first time maritime regulations were collected together in the form of a code and again, for the first time, the liabilities of a shipmaster, both onboard and ashore, were arranged. It also covered the ship owners' responsibilities to each other, to the master and to the entire crew. The Rolls of Oléron includes 35 articles in Travers Twiss's translation but it should not be seen as a standard number because there are a few manuscripts of the Rolls of Oléron and each has distinct features. Whereas Twiss used the *Vespasian* manuscript in Sir Robert Cotton's collection, the *Additional* manuscript in the Library of Royal Academy of Sciences in Bordeaux, the *Liber Horn* manuscript in the archive of Guildhall of the city of London, the *Bodley* manuscript and *Selden* manuscript in Oxford, another very important man of law, Pardessus, who researched the standing of Rolls of Oléron in

²² Roy C. Cave and Herbert H. Coulson (eds.), *A Source Book for Medieval Economic History*. (Milwaukee: The Bruce Publishing, 1936), 160-168

detail, used the *Nero, Bodley and Selden* manuscripts. The reason why these different sources are important is each version of the Rolls gave them how the Rolls was used in different sections of the medieval times. Twiss and Pardessus helps us to understand the role of Rolls of Oléron and how it affected their successors that emerged later from the further needs of later periods.

The Rolls brought clarity for the time that laws of other nations in northern Europe, primarily it was embraced by England. It is known clearly from the introduction to the original Rolls of Oléron that it came from French territories at the time of Eleanor of Aquitaine and Richard I. According to theories there were two main original versions, one in French and the other that was embraced by England. However, the oldest manuscripts of the Rolls of Oléron disappeared in some way or another.²³ Currently, the Rolls of Oléron can be seen in the form of different manuscripts that include various numbers of articles. There were manuscripts like Liber Horn, Selden, Vespasian, Nero and others, which were used by different legal historians in order to analyze the stance of these Rolls in the entire legal background of England and also in continental Europe, but the essence of these versions did not change at all. Thanks to the efforts of Pardessus and Twiss, some of these manuscripts were published as separate documents or a few of them were used to form one single modern version, such as the one in the Black Book of the Admiralty. The idea of *The Black Book of the Admiralty* came with this document to gather all code-like documents in one single compilation to name it as the new code whose rules were to be valid statewide.

Like the Rolls of Oléron, *the Black Book of the Admiralty* also covered Inquisition of Queenborough, Rules or Orders about Matters which Belong to the

²³ Paul Studer (ed.), *The Oak Book of Southampton*. (Southampton: Cox & Sharland, Vol. II, 1911), xxxv-xliii

Admiralty and other code-like maritime documents that stood as progressive documentations of maritime juridification attempts. In addition, in the modern edition of *The Black Book of the Admiralty*, in which most of the documents were translated by Travers Twiss, there are appendix volumes that mainly cover peripheral sources of the main documents of the Black Book. This four-volume edition of *The Black Book of the Admiralty* lies as a vital source for this piece, since it helps us to understand the chronological progress of maritime legal documents and it also shows predecessors, successors codes and counterparts in other geographies of English documents. In this thesis, it is used to enlighten us how maritime law developed and how the anti-piratical measures took place. It gave mainly two consequences to us: one is related with the power of piracy and privateering on English Channel and its reflection on the legal sphere, in other words the correlation between the frequency of piratical attempts to the existing primary literature on maritime law. Second one is to seek a direct, provable relation between piracy and maritime contract law in order to understand whether the fear of piratical captures made the merchants of the time more eager to construct more secure contractual documents or not.

The Oak Book of Southampton (edited by Paul Studer) is another primary backbone source for the maritime law section of this thesis since it enables us to assess the level of maritime law from generally England to Southampton. Its structure resembles that of the Rolls of Oléron and it was designed to regulate maritime affairs related with Southampton. The records in the Oak Book started to be kept about A.D. 1300 with a primary intention of keeping track of the regulations of the Guild Merchant.²⁴ It was a system designed by the alien merchants in Southampton, who started to establish a unity in the town as an association and then

²⁴ Studer, *Oak Book of Southampton*, v-vi

turned out to a force within the local bureaucracy. Therefore, their intention of organizing alien trade was a reason for systematical integration in the commercial elite of Southampton. While the first volume of Southampton covers all the details of the Guild Merchant, the second volume relates to customs, external politics and Rolls of Oléron. It was quite useful for seeing what were the similarities between the maritime law of Southampton and the maritime codes that were used by the whole of England in order to assess if there were any further development in Southampton maritime law relative to general ones.

The conclusion of this thesis will benefit from the argumentation of Michel Foucault, not by showing this argumentation as a historical evidence but a theoretical framework. Michel Foucault tried to clarify varieties of branches of politics in his *Birth of Biopolitics* and one of the most important aspects related to the politics of a state is its inextricable relationship with the economy.²⁵ The situation of the economy and how the state takes its own share from the existing order of economy stand as important matters for a country to sustain its existence. The importance of economy was always there and it starts with the Hobbesian concept of *scarce resources* in a state of nature. Thus if one has all, the others would have none. In other words, in both Hobbes's state of nature and in modern history, what two people (or two states) could have should be thought of as a balance. From the pre-medieval times on, states or political actors did not tend to share resources or markets equally but tried to extend their area to become greater. As the most basic principles of political or economic scales, if one state improves itself ten percent, it means the other state's lack of ten percent. For Foucault, this is the essence of mercantilism, at least when we talk about conditions up to the nineteenth century. Economy would thus be a case

²⁵ Michel Foucault, *The Birth of Biopolitics: Lectures at the Collège de France 1978-79*. (New York: Palgrave Macmillan, 2008), 52-53

of stealing the other's share or trying to keep your share permanent. In the light of the abovementioned framework, the correlation between the commercial and political-legal spheres will be concluded by utilizing the results of the quantitative (from the wine trade database) and qualitative (legal sources and singular accounts) researches in this thesis.

CHAPTER II

THE *VINARII*

1.1 The Wine Trade in Late Medieval Southampton

Wine culture and its consumption started very early in history. Probably, no other liquor was so widely consumed and no other drink had such symbolic connotations with fine dining or religion. In all kinds of history-based literature, wine has always been widely referred to, which can be seen both in academic research on trade or celebrations and even in most theatrical antiquity illustrations. By the late middle ages, the wine trade developed extensively and its consumption reached phenomenal levels especially in northwestern Europe and the Mediterranean region. One of the most effective ports of English Channel, which stands as the southern gate of England, is Southampton. Because this coastal town was involved in the wine trade to a great extent in late medieval times, the aim of this chapter is to explain the place of Southampton in the late medieval wine trade and to indicate the peculiarities of the mechanisms of the Southampton wine trade by using port records.

Before passing through the details of the medieval wine trade, we should know the characteristics of the wine trade in general. First of all, it is necessary to

note that in the case of the English wine trade with the rest of the world, most of the wine, which passed through the port of Southampton, came from the French territories that were controlled by England, predominantly from Gascony and named as Gascon wines. These wines were of various qualities, but after all, the Gascon wines were non-sweet wines which means less rare and less valuable. Naturally, because of their value and prevalence, the customs of these wines are easier to identify, evaluate and very appropriate for constructing wine trade patterns, because of continuous and widespread character of this branch of late medieval trade. The sweet wines are rare, expensive, and they generally brought the scent of Mediterranean pleasing blithe to England, so because of the appeal of sweet wines, the demand could be felt by looking at the reflection in customs and difference of transaction amounts. Sweet wines of this period can even be thought of as a different segment of liquor, because of different price ranges and custom rates than non-sweet wines. After we differentiate sweet and non-sweet wines, it is better to focus on with the non-sweet Gascon wines. Gascon wines were the dominant product of the general English wine trade in the fourteenth and fifteenth centuries and of course as a result of the Hundred Years War period and its outcomes in French territories, wine trade gained further prestige and frequency. It is critical to see that the Hundred Years War, with the perpetual shift in the domination of territories between English and French hands, and with the traditional but large scale damage of the war to the region, affected the late medieval English wine trade profoundly.

The question of who was consuming wine in late medieval England can be answered quickly and easily as it was everyone above a certain level of income.²⁶ Wine was not a drink for special occasions nor it was a liquor that was addressed to

²⁶ Susan Rose, *The Wine Trade in Medieval Europe 1000-1500* (London: Continuum International Publishing Group, 2011), 38-40

the taste of a particular class of English society. In fact, the behavioral circumstances related to the wine trade was directly the opposite of this; wine was demanded and consumed by everyone without requiring a serious amount of wealth or membership of a distinguished segment of the society. Thus, it could be said that wine did not carry any connotation or symbolization like it does today as the symbol of fine dining. However, even though wine was consumed by everyone who had sufficient amount of income, it is better to stress that it has always been under the category of a luxury good. It was not a liquor that could be produced at home by anyone in English society, on the contrary it should be produced -with the exception of very limited number of English producers- and brought by someone from abroad. Despite in some periods of fourteenth and fifteenth centuries wine was plenty, it had never been unlimited or free of charge. So it seems understandable to put wine under the category of luxury goods because it is generally imported and this process of import did not go on without a hitch.²⁷

Aged wine was not common in late medieval wine consumption so wine has not extended its place to where it is today with aging rare wines and even wine museums. Ordinarily, late medieval wine was consumed fresh (at least without any process of aging).

Wine was used as a general drink and it was a requirement for hospitality of people and even for institutions. As the most simple examples monasteries were generally ordering or trading in wine.²⁸ Naturally, because of their distinguished circumstances, customs and the crantage fees of these wines were not applied to members of some monasteries as they were for other merchants, but the case of customs will be analyzed later in detail. Almost the same circumstances were valid

²⁷ If so, the aim of this thesis would only be a narration of English medieval wine trade and it would not be more than a desperate monotony.

²⁸ Rose, *The Wine Trade in Medieval Europe*, 39

for the members of the clergy. Wine was (and is) a requirement for the Church to use in Communion so it was seen as a necessary commodity. Moreover, wine was used by the royal household itself with different ways of obtaining it like prisage which will be seen in later parts of this chapter. Therefore, marketability of the “wine” (as a general term that covers all kinds of wines) was very broad in late medieval England. Southampton, specifically, is one of the best places to serve as a microeconomic form that contains similar features with the general frame of England in terms of consumption trends and markets.

Commonly, vineyards become ready to harvest in August and September depending upon the kind of the grapes. So with the production and transportation of wines from Gascon regions to England, we may start to expect entry records of fresh wine in late November and December. But where were these wines coming from within French regions other than Gascony? This is not a question that can be answered by mentioning one single territory but at least one primary place should be noted in the Anglo-Gascon wine trade and also in the rest of Europe: Bordeaux. Bordeaux can be seen, very simply, as one of the centers of the wine trade in continental Europe. Obviously, Bordeaux wine production did not start in late medieval times but much earlier. Apart from convenient agricultural and weather conditions of the territory, it was easy to access to rest of Europe by sea or by land, so this place was able to create a market after it produced commodities for its own market. This southwestern Gascon city has also peripheral regions which were full of vineyards and named *Bordelais*. Certainly, Bordeaux or Bordelais was not the only source of Anglo-Gascon wine trade in late medieval period. In every part of France one can see vineyards and extensive production of wine but Bordeaux was, for sure, the main continental ally of England.

Because most of the wine, which came to the port of Southampton, was coming from France, it will be a beneficial to examine briefly the production and trade of wine within France. In other words, what was the story of Gascon wines before they came to Southampton? Bordeaux's periphery was very appropriate for vineyards, and wine production was embraced as an occupation even by burgesses and administrators of these regions. It increases the prestige of wine producing and trading occupation and, since the royalty itself had involved this production and trade, wine supply was plentiful and continuous.²⁹ It was a beneficial production and trade for French seigneurs and in later periods of English lords in Gascony when it was under English domination, and generally for all the royalty because they had some advantages that come from being having ties with the royal administration like being primary in the access of winepress and less production and trade expenditures with less customs and taxes (or none at all).

Most importantly, as Dr. Susan Rose has wisely repeated in her book, French seigneurs or burgesses had advantages beyond that of any merchant to reach a distinguished situation in the wine market than any other merchant even if this merchant was experienced or wealthy: Firstly, they had the right to declare *banvin*.³⁰ This application means that at a particular time of year only one wine could be sold in whole market. This means creating a firm monopolization of the market that could not be shaken by any potential domestic or international competitors. In addition, this also means making the best possible profit because of the utility theory in basic economics. Royalty could sell their production when the demand was at the peak level both within Gascony and in the British islands. This incredible function of *banvin* was also called *ban des vendanges*. The French burgesses' and seigneurs'

²⁹ The effects of Hundred Years War and Black Death in fourteenth century Anglo-Gascon wine trade were the reason of the phrase "nearly incessant"

³⁰ Rose, *The Wine Trade in Medieval Europe*. 41-42

second great advantage was keeping the right to retail sale of wine. None of the merchants had the right to make the retail sale of their production unless they paid a toll known as *pougèzes*. Additionally, taking this right by paying the toll was not open to all merchants but only for nobles and foreigners. This seems a perfect way to adjust the domestic wine market according to the burgesses' desires and royalty's benefits and it became very useful for Southampton wine merchants in the first half of fifteenth century, because in this period, there was English dominance in Bordeaux and English lords were arranging the trade in favor of themselves and their merchants.

Another thing to know at the beginning of research into the wine trade concern the units of measurement used in the fifteenth century. Units of measurement for the wine trade were various: pipe, barrel, hogshead, tun and butt are all examples in the records of the port of Southampton.³¹ None of these units of trade were internationally standardized. Barrel and butt could be found with different capacities so the only thing that can be done for a good analysis is determining the approximate capacity of each unit of trade, or at least a range for each. Two hogsheads are equal to one pipe and two pipes are equal to the amount of one tun. According to Susan Rose's assessment, one hogshead is about 238.5 liters, one pipe is 478 liters and one tun is 954 liters.³² However, these exact amounts of these medieval volume measurement units can hardly be flawless. Although we have enough data including coming from the port books of Southampton, covering the transactions, customs and details like crantage, we can hardly determine the exact value of these volumes. None of these volumes were fixed to a standard amount (not

³¹ Henry S. Cobb, ed. *The Local Port Book of Southampton for 1439-40*. (Southampton: The University Press, 1961); Brian Foster, ed. *The Local Port Book of Southampton for 1435-36*. (Southampton: The University Press, 1963); Paul Studer, *Accounts of Robert Florys, Water-Bailiff and Receiver of Petty-Customs, A.D. 1427-1430* (Southampton: Southampton Record Society, 1913)

³² Rose, *The Wine Trade in Medieval Europe*. xvi

legally at least) for the sake of the principle of honest trade like they are today in the international trade arena to be within the standards of international organizations that are keeping an eye on trade efficiency.³³ For instance, according to Dr. Margery Kirkbride James's work, a tun was approximately 900 liters, but on the other hand, Professor Renouard states one Gascon tun was between 750-900 liters. Therefore, it can be understood that the volumes of these measurements are blurred and also relative. This relativity comes from the regional differences between the trading countries.

Furthermore, abovementioned measures were not the only ones. The barrel, for example, could be easily found in the records and the volume of the barrel is quite controversial, since there were different kinds of barrels with different capacities. Even though it is a relatively rare unit in the records of Southampton, a butt was another unit used, generally for wines from the Mediterranean region.³⁴ Its capacity is very close to one pipe, so about 250 liters. By knowing the information of Mediterranean origin (from Italian *botte*) of this measurement unit, when "butt" was seen in any record, the wine could be thought or assumed to be of Mediterranean origin and possibly a sweet, more expensive kind.

On the other hand, information related with customs is important as much as units of measurement and character of production places. Local custom accounts are vital data sets to examine concerning the wine trade in late medieval England. There were various kinds of customs in the medieval wine trade that starts with the oldest system, namely the prise of wines or prisage. Before 1302, the only taxation or

³³ Commission of European Communities. *Contributing to Sustainable Development: The Role of Fair Trade and Non-Governmental Trade Related Sustainability Assurance Schemes*. Brussels: The European Parliament and the European Economic and Social Committee, 2009.

³⁴ *Ibid.*, xvii

custom system of king was prisage for the international wine trade.³⁵ In most basic words, prisage is the right of the king to take some of the wine that was imported. A vessel carrying less than twenty tuns of wine was required to give one tun to the royal butler. If it was more than twenty, the king's confiscation was two tuns (one from in front of the mast and one from behind). Instead of taking customs in cash, the king was lawfully seizing some amount of wine and since it was one of the regular consumptions among the royal households, the benefit stayed as a commodity-based one. On the other hand, at the beginning of fourteenth century this system changed with the introduction of "New Customs".

The change of customs in 1302 was made with the motivation of the royal administration to profit mere from the wine trade. With the old system of prisage, the highest level of efficiency was making incoming wine and consumed wine even. It was part of Edward I's series of tax raising policies and law making efforts. Neither the legal place of the prisage system nor its profit was enough for Edward I's perception. Most probably Edward I had seen the popularity of wine trade and its firm position as an opportunity to raise funds for his considerable military expenditure in the military arena. It would be hard to say that he was unsuccessful in this financial maneuver, because with this move the yearly profit of the royal household multiplied by twenty.³⁶

After the 1302 change of customs, the tunnage and poundage system was embraced in the trade arena of England. Luckily, Edward III inherited his administrative and financial abilities from his grandfather rather than from his father so he could manage to develop trade regulations (actually the whole legislation and governing process) and introduce the tunnage system for the wine trade.

³⁵ Ibid., 51

³⁶ Ibid., 52-53

By 1401, the fee to be paid as tunnage was 2s. per tun. This custom increased up to 3s. per tun for both sweet and non-sweet wines. However, neither the pre-1302 prisage nor the “new custom” until the reign of Edward III nor tunnage in later periods prevented wine merchants from paying more to trade and sell their goods in England. When a vessel comes to any English port, the relevant quality and amount checks should have been done by the administration for the sake of sustaining fair trade. At this level of wine trade, the fee called gauger’s penny emerges. The gauger was an administrative officer who checked each tun in the barrels (at this context, this should not necessarily be a barrel but all of the containers like pipe, butt, hogshead etc. must be checked). After this stage, wines could be carried into taverns.

On the other hand, the abovementioned processes were only the general custom processes that were applied in all ports of England. There were also some regional requirements in particular ports of England, especially in Exeter and Southampton.³⁷ It should be seen that these additional local customs were not so high as to create an unbearable burden on the merchants’ shoulders. Especially in the case of Southampton, these local customs were more likely the results of the financial wit of local administrators applied with the intention of exploiting the popularity of wine and most of the time these amounts were just drops in the bucket relative to the overall payment that was to be made by wine merchants. In Southampton, by the fifteenth century, this additional tax was 4d. per tun for each wine that was traded.³⁸ Additionally, if wines were traded within the town and then sent to another place by sea to be sold, another 4d. would come up. Furthermore, if the same process happened but the exportation of the wines realized through land, its local custom would become even higher as 8d.

³⁷ Ibid., 53

³⁸ Cobb, *The Local Port Book of Southampton for 1439-40*, xii-xix

Right along with these costs, there were crantage fees whose purpose was to cover the unloading wines from the vessel. When the whole these small customs and other additional costs are summed up, the minimum sale price for break-even point can be found.

Table 2

Denizens³⁹

Tunnage	3s. per tun
Cranage	4d. per tun
Gauger's penny	½ d. (½ from buyer ½ from seller)
Local Customs	4d. per tun
Total	3s. 8 ½ d. per tun

However, it should be noted that 3s. 8 ½ d. per tun for all the costs of bringing wine to England and making it ready for sale was only valid for denizens and even among denizens this value could both increase and decrease according to the position of the denizen and over time. In this assumption, the hypothetical merchant was an Englishman, or a naturalized alien, who did not have any right to cancel these administrative costs and had not previously taken any exemptions from them. The conditions of alien customs and situation of exempted denizens were different and should be analyzed separately. According to Margery Kirkbride James's assessment of wine prices, between 1427 and 1449, one gallon of wine could be sold for 6d. Our medieval tun is equal to 200 gallons approximately. If we assume it was exactly two hundred gallons, 1 tun of wine could be sold for 1200d.

³⁹ Customs and costs of the first half of fifteenth century

which means £5. This was a huge amount of money and reflects the reason of the popularity of wine trade even there are various kinds of additional costs existed between the productions of wine and putting the barrels ready for sale into the tavern. Although neither the wine came free nor its transport was costless, wine, as a continuously demanding good, was a highly profitable good.

The profit that was coming from wine trade does not mean that most of the denizens became rich but it can be seen that wine trade business could be financially beneficial in direct proportion to merchants' existing wealth. As it is in modern economics, if you invest more, your possible income would be more (at the same time, one can also decrease the risk by investing more with a well distributed capital investment). Not surprisingly, the bulk of late medieval wine trade by denizens was gathered in the hands of a powerful minority. Colin Platt has described this as the "rivalry of John Payne and Walter Fetplace Junior",⁴⁰ but the situation was a lot more than that and the aforesaid minority was slightly larger and the competition between Fetplace and Payne varied in different years of the first half of fifteenth century. From November 1435 to September 1436, John Payne traded 24.5 tuns of wine. On the other hand, Walter Fetplace who was indicated as his rival, traded 10 tuns of wine in the same period.⁴¹ In 1436, instead of Walter Fetplace, John Emery would be a better choice as a rival with a trade of 28 tuns of wine and he gave at least 8 tuns of prisage to the king. Among the leading minority, John Wodcok (24 tuns), William Nicol (17 tuns), Robert Eylward (14,5 tuns) and William Laurens of Patching (21 tuns), who was a tenant of bishop of Canterbury, could also be counted.

Between 1435 and 1436 the champion of the wine trade was certainly Peter James for sure among all of his contemporaries. He had made transactions

⁴⁰ Platt, *Medieval Southampton*, 92

⁴¹ Foster, *The Local Port Book of Southampton for 1435-36*

concerning 56 tuns which means £280⁴² if we assume all of the wines he had traded were non-sweet wines. When we count the fact that his trade relations with Italians were quite good and a percentage of this load of wine consisted of sweet wines, the total amount might be more than £280.

Nevertheless, it was a fact of the late medieval wine trade that successors did not always sustain the success of their predecessors. It was hard to maintain the trade web even for the most experienced traders, because there was always a rival that may sail faster than you or a piracy attack may turn all the progress upside down. Because of this continuous change of balance, even for the families that dominated the wine trade, generally this dominance did not last long and usually the fame of a particular family was tied to the success of one member rather than the success of the entire family. For example, Roger Norman, Thomas de Byndon, Hugh Sampson, Henry de Lym, John le Fleming and Nicholas de Moundenard were notables of the wine trade and they brought fame and wealth to their families in the fourteenth century.⁴³ In the whole Port Book of Southampton of 1435-36, their families are not mentioned at all and they were mentioned (some of them) only a few times in Port Books of 1439-40 and 1427-30. These families could not maintain their power in the wine trade because of emergence of other prominent commercial elites.

A better question, therefore, is how were these trade elites able to remain on the scene for a long time? Or what was the mechanism that caused the change of these merchant elites in the wine trade in fifteenth century Southampton? To answer this question, an analytical approach should be embraced.

In the first half of the fifteenth century, there was a group which retained the wine trade in its hands. By following a reverse methodological path, it may be better

⁴² £280 is gross income without calculating the reduction of taxes.

⁴³ Platt, *Medieval Southampton*, 92

to underline what “retaining the wine trade in its hands” *does not* indicate here rather than what it covers. Firstly, the abovementioned prominence does not mean this favored group of merchants monopolized the wine market in the first half of fifteenth century. As you can clearly see from the information above, the wine trade of the fifteenth century was in such a developed and expanded form that nobody could impose any control over it for a long time. In addition, the wine market of that time could hardly be seen as the scene of a mature capitalism in the modern sense, thus it would not be appropriate to focus on themes such as the competencies of relative gains of each merchant who involved in wine trade. These kinds of relative gain competencies bring a definite hunger for monopolization along with extracting the small competitors one by one. Elite merchants of the fifteenth century wine trade tended to use their opportunities and positions as much as they could to achieve the maximum benefit out of their privileges. Secondly, it does not mean that this group of merchants engaged only in wine trade and no other product. Being major players in wine trade is not enough to label them as “wine merchants”, which would be a quite limited definition for the aforesaid group of merchant unlike their limitless positions (both in economy and bureaucracy) in Southampton. These people participated in transactions of different products in different roles.⁴⁴ These same people could also be seen as the prominent merchants of cotton, wool or salt in Southampton, as the same cadre.

On the other hand, “retaining in its hands” does mean an undeniable and a distinguishable position for these merchants like Peter James or Walter Fetplace. They enjoyed standing on a firm ground even when everywhere else was shaking in the wine market. The ones who could stand still on firm ground were the merchants

⁴⁴ The structure of contracts (as commenda or compagna) puts the participators of a particular transaction in certain positions according to their financial or service contribution.

who also enjoyed an administrative office in Southampton. They were not exempt from every cost in the wine business, but absence of some of these costs, like local taxes, reduced the financial burden and made the wine trade a more appealing occupation (along with other trades and bureaucratic office).

In the Port Book of Southampton for 1427-30, the phrase “with the command of William Nicole, mayor” is used to show the source of the order to pay rent for a farm to the Queen.⁴⁵ The title of mayor is also used for Walter Fetplace, surprisingly (and confusingly) for the same term as it was used for William Nicole. In fact, in the same part of the 1427-30 Port Books of Southampton, the French word “mayre” was used to describe two separate people. This could be thought as an indication that “mayre” was a high-ranking bureaucratic position rather than necessarily the mayor of the town. Apart from the confusing situation about the office of mayor (and this does not happen just once), it is clear that these people should be thought of as political notables in Southampton between 1427 and 1430. Thus, as a first step, positions of William Nicole and William Fetplace in wine trade may give some idea about the political-merchant elite. Only in the year 1427-28, William Nicole traded 35.5 tuns of wine in eight transactions that were done in different times of the year. He paid local custom for only three of them but paid crantage for almost all of his transactions. He stands as 4% of yearly wine trade in 1428 all by himself. When it is considered that for the whole of 1428, approximately 350 transactions were made by over one hundred different merchants, it might be easier to appreciate the importance of a 4% share in a year. In 1435-36, a total of 415 tuns of wine were traded⁴⁶ and from the port records it can be seen that William Nicole protects his 4% share even though the wine he transported decreased to 17

⁴⁵ Studer, *The Port Books of Southampton 1427-30*, 86

⁴⁶ James, *Studies in the Medieval Wine Trade*, 110

tuns in that year. In addition, he was in an even more advantageous position than in 1428 because he did not pay any local custom at all in 1436. In 1440 he proceeds not to pay any local custom but the volume that he traded decreased to 10 tuns. His share was only reduced about one percent and continued to be noticeable among the other merchants who were taking very small bites from the whole.

Walter Fetplace is another distinct case which is worth examining to determine what a political position could provide. First of all, in our three port books, which represent three different points in the first half of fifteenth century, he never paid any local custom. When we look to the total volume for the three years, he should have paid 1£ 4s only as local custom of Southampton. In 1428, 65 tuns were traded by Walter Fetplace which means a share between 6-7%. His position provides him 12 tuns transaction (3.5 % share) in 1436 and just 2 tuns (0.5% share) in 1440 that makes him a member of champions' league in the fifteenth century wine trade in Southampton.

Before going on with other examples, which will show the dominance of administrators and political elite over the wine trade, an indication of the difference between regular merchants and political merchants should be given. It would not be wrong to think rest of wine-trading activities as individual attempts at trade with a serious lack of frequency or even repetition. On the other side, the political-merchants, who actually form a business for themselves by using wine, seem like trading wine is what they do to live. To put it another way, when political-merchants are professionals, who were not doing wine trade under conditions of necessity for an additional income but as a permanent secondary occupation, the rest of wine-trading merchants is basically sporadic.

In the Port Book of Southampton for 1435-36, the same term of “mayor” is being used for Peter James⁴⁷ who stands as the main figure in the first half of fifteenth century. Peter James was responsible of 38.5 tuns of wine transactions (approx. 4% share) in 1428, not paying any local customs. Again by not paying any local custom, interestingly he increased his volume to 53 tuns, which means his share was around 12%. In 1440, he traded 9 tuns himself and had taken 36 tuns in return for Diego of Femado’s debts, assumedly because of his administrative responsibilities.⁴⁸ In the same account of 1435-36, Walter Fetplace was recorded as the deputy of Peter James so either Walter Fetplace was a mayor before the term of Peter James around 1428, or multiplicity of “mayors” gives us the right to interpret the word “mayor” as an high-rank official.

Robert Eylward is the fourth mayor in total and second mayor of the 1435-36 term. In an indenture, he is clearly termed as mayor of Southampton which makes him worth examining. In the years of 1428,1436 and 1440, he traded 7,14 and 15 tuns respectively, which makes him the second political-merchant who did not decrease the volume regularly. Like other members of the political elite, he was paying almost nothing as petty custom (he did pay 2d twice) accordingly with the privileges like this, or with his volume, share and frequency of transaction, it can be understood that he cannot be thought as one of the *rest* in wine trade business but one of the big names.

Although Robert Eylward was named as “mayor” in an indenture that was recorded in the Port Book of 1439-40, John Emery is also indicated as “mayor” in the same year.⁴⁹ This should not be surprising for the readers of these records since all Southampton port records of the first half of fifteenth century underline at least

⁴⁷ Foster, *The Local Port Book of Southampton for 1435-36*, 121

⁴⁸ Cobb, *The Local Port Book of Southampton 1439-40*, 22

⁴⁹ *Ibid.*,102

two names with the title of “mayor”. If John Emery was not specified as mayor of the town, anyone who read all of the port books could easily say that he had a bureaucratic position in Southampton in some period because of the frequency of his name in these records and his exemption from taxation and additional fees. In addition, the eminence of John Emery did not emerge with the year that he was shown as mayor but much before. Throughout the year of 1428, he traded 16.5 tuns of wine (of course without paying any local customs) which is a smaller amount than other political elite but still a sufficient volume to distinguish him from the rest without knowing about his bureaucratic position. In 1436, he increased his volume and share tremendously by trading 27.5 tuns of wine (approx. 6.5%) and he only gave 4d local custom once on 1 May 1436. In this year, the transactions of John Emery and Peter James alone constituted about 20% of entire wine trade of Southampton which helps to explain why political-merchants are better to be distinguished from sporadic traders. Surprisingly, in 1440 (which is a year of his mayoral term) Emery traded only 2 tuns of wine and paid 8d customs for them which is the amount he had to pay exactly, therefore the last year of John Emery does not show the abovementioned administrator privileges to us and anyone who only looks to port book of 1440 might assume him as another sporadic trader of wine.

Another notable of Southampton who engaged in the wine trade (and also a serious buyer of iron) was John Payne, as you would guess the “mayor”. He was not terribly important in the port books of 1427-28 and 1439-40 but he had a transaction of 24.5 tuns in 1435-36. Was this enough to see him among prominent political elite of wine trade? The answer to this question triggers a series of other answers, which are slightly blurred (for example the concept of “mayor”) until now, and requires reversing the entire narrative upside down.

John Payne did not become mayor of Southampton in the first half of fifteenth century.⁵⁰ But in 1435-36 he became a parliamentary burgess from Southampton, which is the fact behind his title of “mayor” in the port books of Southampton. Owing to this bureaucratic position, his 1436 transaction skyrocketed compared to the years without an administrative office.⁵¹ John Emery was a bailiff in 1428-9, 1430-31 and 1431-32 and additionally mayor of Southampton in 1433-34 and 1440-41.⁵² This explains the reason for his great participation in the wine trade in 1429 and 1436 port books. His passiveness in 1440 despite of his mayoral office is an exception and could easily be rationalized by the possibility of trading other products in this year by using his office advantages. Robert Eylward (or Aylward with modernized version) was, on the other hand, steward in 1430-31, bailiff in 1433, mayor in 1436, 1441 and 1449. Therefore it sheds some light on Robert’s relative backwardness in 1428-29 years, with only 7 tuns traded, and also on the reason for his serious share in 1436 and 1440 which is easy to tie in with his administrative advantages.

Furthermore, Peter James, as the pivotal name for our period, was a very high-profile administrator in the first half of fifteenth century: steward in 1413, bailiff in 1416-17, mayor in 1428, 1434, 1435, 1442, 1447 and parliamentary burgess in 1427.⁵³ When his bureaucratic prominence and success are seen, it is not odd to establish the necessary relation between this administrative position and his prominence in the wine trade. In direct proportion to the number of his administration offices, he never traded a relatively small amount and was always among the top three traders (generally the leading one) in our three sample years of

⁵⁰ Platt, *Medieval Southampton*, 254

⁵¹ See, Appendix A

⁵² *Ibid.*, 238

⁵³ *Ibid.*, 246

first half of fifteenth century. Even tough years for the wine trade or bitter competitions with their peer elites did not change anything in Peter James's share in overall wine trade and most probably he was the one who used his administrator seat most efficiently to make some (the word "some" may be a little bit underestimating for the amount of cash being mentioned) cash out of it. In addition, in the first half of fifteenth century, we are talking about Walter Fetplace Senior (in second half, the name will be Walter Fetplace Junior) who was steward in 1412, bailiff in 1414, and mayor in 1419, 1426, 1432, 1439 and 1444.⁵⁴ The reason for his importance, especially in the middle of first half of the century, was because of this gradually rising administrative career and efficient usage of it. Lastly, William Nicole enjoyed the same prestigious position by being mayor in 1411, 1417, 1422 and 1427 and because of this, he seems very successful in wine trade of 1429 (as our first sample year) but then, a declining trend became observable in volumes of his transactions.

The abovementioned political positions make the word "mayor", which is being used by all port books, clearer by showing us mayor was a term which was used for different high administrative office holders like parliamentary burgesses and mayors (in the modern sense). Moreover, proportional ups and downs reflect that the correlation between administration and trade is a logical and rational one with some exceptions and proves that there was political-merchant elite group which held the greatest share among denizens.

However, this proportionality was not the only aspect that made this political elite a trade elite at the same time. In the fifteenth century, we should not ignore the importance of the foreign contribution to Southampton's wine trade. The bulk of the wine trade was at the hands of foreigners like Gascons and Italians. Southampton's

⁵⁴ Ibid., 238

political elites frequently invited these foreigners to work with them cooperatively.⁵⁵ Colin Platt stated that “In 1402, to avoid the payment of the due known as *scavage* at the capital, they [Italians] successfully petitioned the king for permission to unship at Southampton, bringing their goods by road to London”⁵⁶ which was basically playing into our political-merchants hands, because it meant more to trade, more to invite and persuade and more to earn with local dues from foreigners. Events like this, expanded the existing importance of these elites even more, and enabled them to be the ones who always have a say in wine trade of Southampton.

1.2 Changes in the Second Half of the Fifteenth Century

In the second half of the fifteenth century, a noticeable change in port records can be easily observed. These records become well-ordered enough for a systematic research unlike their early century counterparts. For any goods coming to or shipping from Southampton, it is easy to see by whom it was traded, in which ship, who was the master of this ship and the exact date of unloading. In addition, customs, crantage fees and poundage or tunnage expenses are indicated in different columns which makes it easier to see exceptions. Lastly as the last advantage of the records from second half of fifteenth century, the political title of “burgess” exists in them to distinguish some of wine merchants from others. This last feature of these port books is quite important for the argument of this chapter. If the ones who were labeled as burgess traded more frequently and more in volume and if the other ones (non-burgess) remained as sporadic players in wine trade, then these port records will lie as this argument’s crosscheck by itself.

⁵⁵ They were also working cooperatively with each other as partners which will be seen in contracts chapter later.

⁵⁶ Ibid., 153

Thomas Avanne is only one of these burgesses in the records for 1469-70 and 1470-71 but he is the most influential one when we look to the volume of wine he traded in these two years. In 1469-70, he traded approximately 50 tuns which is a serious amount considering that the maximum volume it could be seen was 53 tuns by another local notable, Peter James, in 1435-36. One year later, he reduced his trade volume to approximately 26 tuns but stood at the first place among the burgesses both in terms of volume and number of shipments. Furthermore, he is one of a few local burgesses who used his own ship and by this way was involved in each phase of transaction. By all measures, having a ship of one's own was a good investment in the fifteenth century. Even there was always a risk of losing the ship because of unstable weather conditions, piracy or privateering or misconducting, generally accumulated total profit was bigger than the cost of loss. Moreover, if the ownership of this ship was split among a few merchants, the risk would also be smaller and the one time lost cost would inflict less damage to a single merchant. But this implementation of dividing the risk into a few pieces was primitive in our period, yet still applied by some of the merchants.

Although Thomas Avanne occurs as the major actor in the port records, he was not the only *burgess* who made serious contributions to the wine industry (and to his own wealth as well). John Walker stands as another example of a big political elite exclusively when his performance of approximately 52 tuns of trade in 1469-70 is considered. It is even more than what Thomas Avanne had transacted in terms of volume but not in terms of quantity of shipment. However, John Walker makes his presence known only in 1469-70 but in 1470-71. Between these two years, there was a perceivable decline of wine trade and it can be traced by especially the

performances of political-merchants. John Walker traded only 8 tuns wine in this year and Thomas Avanne lost half of the volume of last year.

Considering the port records of both the first and second half of the fifteenth century, it can be said that general declines or increases in wine trade are observable from trade frequencies and volumes of elite merchants (or burgesses in very general port record terminology). Philip Tregas is another member of the political elite involving in trade, who neglects this parallelism between trend of wine trade and efficiency of these merchant elites. In 1469-70, he had approx. 30 tuns which can be seen as an immense amount for a sporadic English merchant,⁵⁷ however, his name does not occur in the 1470-71 records at all (in terms of wine trade). Naturally, this might mean two things: if an elite merchant had difficulties with the wine trade market in a particular year he may choose something else to trade so there might be a capital shift from one product to another or he might have given up trading entirely for a while because of an inefficient expenditure-profit balance.

Another who focuses on the 1469-70 season is Richard Asshe who traded around 26 tuns of wine in this year. Like Thomas Avanne, Richard Asshe both used his own ships and was the master of these ships. This maximizes his responsibilities because he tried to carry the burden of investing the capital, shipowning expenditures and liabilities of a shipmaster which will be seen under piracy and contract chapters in detail with different aspects. However, apart from gathering all the possible risks in one single body, a successful shipment would mean a good amount of unshared cash for Richard Asshe most of the time.

In Southampton, we have a very strong political-merchant domination in wine trade market but, unlike what was going on in the first half of the fifteenth

⁵⁷ Denizen merchants (Englishmen and allied merchants like the ones from Hanse towns) rarely traded these amounts in one single year if they are sporadic and non-political. On the other hand, merchants from abroad (especially from France, Italy and Spain) could trade vast amount in one single shipment.

century, there were two merchant groups who undermined their dominance: citizens of London and “aliens” (foreigners). Alien merchants were always a threat to the Southampton elites and the reaction against them can be easily traced back in the first half of the century. In fact, the Southampton elites of the first half were hosting the foreign merchants to expand their area of influence at the beginning but when their dominance was threatened by foreign influence they started an economic alienation movement against foreigners to keep them out of their profit.

It is best to start with the question of the Londoners in order to explain the competition for dominance. In fact, citizens of London did not compete with anybody in Southampton. They were only looking for good profit and they have vast amounts of capital to invest. This capital was much larger than the political-merchants in Southampton could possibly cope with. For example, John Stokker unloaded approximately 50 tuns of wine on 7-8 June 1471 which was almost equal to the largest total of a Southampton bureaucratic elite’s entire year transactions. Another citizen of London, John Fawn, brought approx. 73 tuns wine in three shipments which was beyond the imagination of any Southampton merchant, including those who had administrative positions. These amounts were not only for selling in Southampton naturally. Londoners could resell as big amounts of wholesale within Southampton or, most of the time, these could be sent to another town by using the land route to sell at there. For Londoners and most probably for every other merchant, sending their wine outside by land could be profitable since, when supply in Southampton was well-sustained and nearly unlimited, supply in inner parts of the country was less and their only gate to the sea was Southampton. Therefore, the merchant could easily sell the wine at a good price because of the high demand outside. Sending a product via land was not only profitable because of

higher demand there but also because of taxes. Southampton applied additional taxes when the wine changes hand within the boundaries of the city.

However, although the Londoners could bring big quantities of wine and although they generally followed the most profitable ways of selling this wine, it should be remembered that they were playing at another team's stadium. All the citizens of London, who traded wines in the years of 1469-70 and 1470-71, transacted approximately 260 tuns of wine. Whereas the people who are indicated as burgesses traded 316 tuns, so our merchant-elites seem as they are still a dominant force. However, rough volumes cannot give the entire comparison and should be well analyzed by looking wine trade per merchant. 11 people were indicated as "citizen of London" and 20 names were shown as burgesses in the port records of two years. When Londoners had traded approximately 23 tuns of wine per merchant in these two years, our burgesses performance was approximately 16 tuns. Hence, Londoners exceeded the amount traded by Southampton merchant-elites in the second half of the fifteenth century. So, individual London merchants traded, on average, in bigger quantities than individual Southampton burgesses.

As the second aspect of rivalry, there were aliens whose positions are changing throughout the fifteenth century. It is known from Platt's research that aliens were hosted well in the first half of the fifteenth century by the merchant-elites themselves, although the second half is slightly blurred. It is observable from the records that in the second half of the fifteenth century that neither the aliens nor the merchant-elites had the same performance as they had in the first half of the century.⁵⁸ Aliens experienced a significant decline which, as in the case of burgesses, was parallel with the general decline of wine trade market. On the other hand, when

⁵⁸ Platt, *Medieval Southampton*, 166-7

we compare the merchant elites of 1469-70 and 1470-71 with all other sporadic traders including aliens (and including abbots but excluding lords, seigneurs and knights), merchant-elites dominate the market. 135 sporadic trader completed approximately 1468 tuns of wine transaction whereas burgesses done 316. When these numbers are estimated per trader, merchant-elites had done 16 when sporadics could not exceed 11. However, these 11 tuns per trader is this much high only because of aliens and Londoners.

In consequence, while administratively positioned merchants were observably dominant in the second half of the century, they did not have the same colossal difference with the sporadics as the merchant-elites of the first half had. In first half, Londoners performed better than them, aliens were closer and the rest of the sporadics were not that pale in comparison. Then the question that comes to mind is why did the performance of these political-merchants decrease if this dominance is related with bureaucratic position in the Southampton?

In the second half of the century, privileged political-merchants are separated into two groups. The first group was actively trading administrators or political elite who can be seen in the sample port books and who also took action in transporting and taxing the product. For example, Thomas Avanne or Philip Tregas are the most well-known members of this group. The second group, on the other hand, cannot be observed in port books and cannot be traced by exchequer reports or brokage books. They were passive in the wine trade and they do deal with any burden related with wine trading but they consist of the uppermost point of the bureaucracy of Southampton. These names are not unfamiliar for someone who knows something about the fifteenth century Southampton administration or wine trade because these names were the entire group of political-merchants or merchant elites or “burgesses”

of the first half of the century. Walter Fetplace, Peter James, William Nicole, Robert Eylward and John Pain did not want to give up their precious administrative offices and continued to rule Southampton with a confidence even higher than ever because, in 1445, King Henry VI's charter gave authority over Southampton to its local administrators by separating it from county administrators and then, in 1447, it becomes a county itself.⁵⁹ Therefore, political elite of the first half of the century could not leave the kingdom they had built. As a matter of fact, the 1460 mayoral riot lies as a serious indicator that shows who are the leaders or at least who are the elites. The riot itself was to break the legacy of this small political group in mayoral office and related administrative positions but nothing changed substantially.

When we get back to the wine trade and to conclude the entire position of political-merchants in Southampton, the dominance of these elite men was both observable and solid in the first half of fifteenth century while this dominance did not pass through to the second half in the same way. Even an elite group of administrators can still be indicated who also involved in trade, they were not controlling both entire borough and market. Based on the sample port books of Southampton, even the reign of political-merchants was temporary and was not inherited by the political elite of the second half. Even the burgesses of the second group took parts as serious players. However, a feature, which started with the first half elites, had been inherited by political elite in the second half and even later. At the beginning of the century, Henry IV stated that

It was to be open to the mayor and bailiffs to take cognizance of 'all pleas, real, personal and mixed, both those held by Assizes and certifications and of all others whatsoever concerning all tenements and tenures existing within the town and liberty, also of all manner of offences, debts, accounts, conventions, and all contracts whatsoever arising or done within the same town and liberty on both land and sea, namely, to be held before them in the Guildhall of the

⁵⁹ Ibid., 166

town aforesaid, and there to be full determined by the same mayor and bailiffs',⁶⁰

Thus, even the continuance of political-merchants' solid dominance did not last long, their effects on legal basis of the trade continues after Southampton became a county and this legal basis –from now on it will be termed as *maritime contract law* as a sub-branch of maritime law – was determined according to both their desires as bureaucrats and their needs –*like investment security on the sea and on land-* as maritime traders.

⁶⁰ Ibid., 165

CHAPTER III

BANDITS OF THE SEA

2.1 Hostes Humani Generis

The question related with wine piracy and how it affected the Southampton wine trade is a tough one to respond in every aspect because of the nature of piracy. For various reasons, to start with late medieval wine piracy of Southampton would be inefficient in terms of relating it with a legal framework. So it is better to begin with a definition of very early piracy to trace back the legal groundings of the piratical actions. Pirate comes from the Greek word *peirates* that passed to Latin as *pirata* whose roots come from Latin and Greek words mean “to attack” or “to attempt”.⁶¹ There are different references to early piratical attacks and pillages that are coming from the primary sources of Roman Empire that enable us to understand traditional the Roman narrative on piracy in a subjective manner that was shaped according to opinions and biases of the authors of these primary sources. Plutarch made references on piratical attempts of classical times in numerous ways. However, distinguishing piracy has been difficult since there was no strict definition of piracy

⁶¹ Alfred P. Rubin, *The Law of Piracy*. (Rhode Island: Naval War College Press, 1988), 1

in a legal sense. Interpretations on piracy were all historical descriptions in these ancient documents rather than a judicially confirmed definition by any body of any state formation. Though, this difficulty of labeling some of the sea robbers as pirates should be seen as natural since *pirata* was used to describe an occupation, a way of life, a sporadic, individual attempt of sea robbery and an entire question of legal stance, all at the same time. Therefore, the standard interpretation of pirates as thieves at sea or the standard Hollywood image of “Black Beard” does not work well to explain every single aspect of pre-medieval and medieval pirates.

As a first step, for the sake of a good starting point through the legal understanding of piracy and how these piratical attacks focused on wine trade in the late medieval times, a comprehension of how pre-medieval pirates were described is essential. For the piracy of Roman times, the assessments of Plutarch may be sufficiently descriptive by actually using the word pirate as

The power of the pirates [peiratiki] had its seat in Cilicia ...until they no longer attacked navigators only, but also laid waste islands and maritime cities. And presently men whose wealth gave them power, and whose lineage was illustrious, and those who laid claim to superior intelligence, began to embark on piratical craft and share their enterprises, feeling that the occupation brought them a certain reputation and distinction... Their flutes and stringed instruments and drinking bouts along every coast, their seizures of persons in high command, and their ransoming of captured cities, were a disgrace to the Roman supremacy.⁶²

Despite the usage of the word “pirate” in this piece and telling what the pirates were doing in the meantime, this does not show the reader what pirates are in today’s understanding. In other words, pirates could not be defined via these words above. They could be pirates, privateers, a culture or racial background which had the general tendency of pillaging in order to sustain the basic needs (or wealth accumulation) or this can be a interpretive approach to general Cilician culture of the

⁶² Ibid., 6

meantime. Even the stance of piratical communities cannot be understood entirely from what Plutarch wrote, it might be analyzed via passing through the legal measures against pirates in Roman times, particularly with the Pompey's actions against piracy and entire piratical communities. The Roman Senate ratified this war against pirates and this, in fact, started to shape the legal framework of piratical communities. Following this, about five centuries later, Justinian's Digest writes, which was put in the context pretty well by Rubin, as "persons who have been captured by pirates or robbers remain [legally] free"⁶³ This statement is pretty important in terms of the beginning steps of what this chapters will be covering since it was the first instance of legal indication that shows what will judicially happen after the piratical attack. After this point, as Cicero summed up as *hostes humani generis*, stance of pirates in front of law started to clarify gradually.⁶⁴

Pirates were interpreted as international enemies because they did not only harm the political or military wellbeing of state but also the economy. It could be even said that their damage to the trade and financial well-being of both local and large scale territories was immense and sustainable. This damage is quite observable when one thinks the basic steps of trade, in our conditions wine trade. In medieval times, before the development of contract law, wine merchants were not secure and their shipment was not guaranteed legally, so most of the time, any loss, which was the result of piracy pillages, finalized as irreversible losses to merchants. This means that merchants could not get the income they expected as the first, micro perspective damage. Then, they could not supply the wine that was being demanded, hence, sources became scarcer which is the local scale damage. Following this, because of scarcer products, fewer sales and less consumption, state level taxes are naturally

⁶³ Ibid., 11

⁶⁴ "Common enemy of mankind"

expected to be lower. Even this basic example from wine trade can explain how piracy might affect finance in three different scales.

Examples from ancient and medieval times give sufficient information to J. L. Anderson who properly allegorizes pirates as “a form of maritime macroparasites”⁶⁵. In fact, this was an interpretation which could be applied to the piracies of all time zones and regardless of geography, because although Vikings existed as the greatest piratical culture of the middle ages, it cannot be counted in the traditional definition of piracy in medieval times. Vikings used their racial maritime culture to trace other ships and pillage all the products. Even, their economies and life styles were constructed on this behavior. However, interpretation of Viking standing is not the topic of this paper and should be argued in a broader context. On the other side, pirates chose to be parasitical although not their culture but their occupational position required to be.

It should be noted that after the Roman Empire neither the European states nor the British Isles succeeded in developing a law of piracy. For sure, this backwardness of piracy law seems odd when piracy is thought as one of the most prominent economic problems for these geographies. However, even though these economic problems have always occurred, an efficient maritime law could only be seen after the twelfth century with the Amalfi Laws and Rolls of Oléron. The Amalfi Laws are generally related with logistics and settlement of disputes whereas, as their counterpart, the Rolls of Oléron are related to the responsibilities of the shipmaster and standing of crew before law. On the other hand, it should also be seen that there were no general laws in the meantime for maritime transactions. In other words, piratical attempt cases were judged according to *ad hoc* measures, which means there

⁶⁵ J. L. Anderson, “Piracy and World History: An Economic Perspective on Maritime Predation”, (The Journal of World History, Vol. 6, No. 2, 1995), 175

was no “code” of maritime law or maritime economic law. Before the end of first quarter of fifteenth century, pirates were maritime mavericks that could not be controlled by anybody and their arrest was possible on a case-based decision. When a pirate had administrative position at the same time or if he was a part of some local elite, it was always a tough situation for court to decide the fate of the defendant.

2.2 Men of the King

Before passing through piracy during the Hundred Years War, there is an important factor that has always been a controversial topic within the field of sea banditry, namely the distinction between piracy and privateering. Doubtless, it is difficult, or nearly impossible, to say which of them started first but it is for sure that pirates were used by nations frequently since the beginning of piracy. Privateers were not soldiers; at least they were not seen by rulers as soldiers but as half tool, half partner maritime mercenaries. They were tools because they were easy to use for the ruler’s own benefit in return for cash or privileges like not being arrested. Even if officials of the king like bailiffs or knights arrested them, the privilege could still be used in the form of a quick release in return for helping the king with the pirate’s ship in the time of warfare. At the same time, they were seen as partners because they were not doing business only to order. They were self-ordained and they are profit-focused. Their life style pushed them to be self-motivated, trespasser and ready to spontaneous captures. The king could cope with this only if he gave a further incentive (like money, privilege, etc.) to these pirates, who then became privateers by being semi-dependent on the king. Accounts of medieval piracy are generally complex and confusing because of these two terms since privateer is not a

word that was used widely in fifteenth-century accounts. The boundary between piracy and privateering is not a concrete, solid one in terms of usage. If there is a privateering attempt, which takes place in the accounts, it should be interpreted or speculated on by looking to the general flow of the narrative.

A fairly good example of privateering could be seen through the correspondence between Admiral Robert de Morley and the king in 1346. It clearly shows the situation before the first quarter of fifteenth century in terms of being in need of services of privateers. In this petition, Admiral de Morley asked the king whether they can pardon William Hefoul, the pirate, in return for his future services.⁶⁶ In a very similar manner, half a century before, pirates like Nicholas of Orford and Richard son of Eustach had not been imprisoned but released. Again, their release covered a strict condition of serving the king when he is sailing to Gascony by protecting him (or at least being a part of the fleet).⁶⁷ In fifteenth century, nothing changed radically. Most fifteenth-century kings tried to take measures against pirates on different scales but one can hardly take measures against men who are secured by the king himself at the same time. Therefore, the formula for piracy in the English Channel was determined a long time earlier: pirates were privateers at the same time. They regularly captured merchant ships of all nations and, in return, the king's appointed knights or admirals were regularly arresting them. However, the consequence of arrest was not death or lifetime imprisonment or not even a long-term imprisonment. Because of the urgent need for sailors, captains and more vitally vessels, mavericks of the sea were seen as substitutes and additions for naval fleets.

⁶⁶ R. G. Marsden (ed.), *Documents Relating to Law and Custom of the Sea*. (New Jersey: The Lawbook Exchange Ltd., 1999), 74

⁶⁷ *Ibid.*, 31

When we continue with the fifteenth century, it is not difficult to see that this abovementioned position of pirates gave them a distinct confidence and their future flexible way of life in front of English legal structure. Pirates like John Hawley, Robert Bolt, John Corp, Edmund Arnold, Henry Pay of Poole and Richard Spicer of Portsmouth governing an irredentist, hostile and surprisingly privileged policy on the waters of the English Channel after seeing that kings by the end of first quarter of fifteenth century had no choice other than using them.⁶⁸

Another problem with the kings' maritime mercenaries was that they were not loyal, at least not all of them. The Hundred Years War was a very suitable condition to be a man of both sides or to change sides to have better benefits, so pirates and privateers of the fifteenth century tended to "change [their] allegiance".⁶⁹ Despite their blurred loyalty, the English government continued to utilize their services until Henry V reduced this dependency on pirates or privateers appreciably. However, *men of the king* returned to their special position right after his term.

Even in the reign of Henry V, pirates and would-be- pirates were involved in the maritime affairs of the English government. In the Hundred Years War, during the engagements between England and France, pirates contributed to the defense of Southampton and the protection of merchant ships between the two states. What was special in Henry's reign is most of the non-naval contributors to maritime defense were would-be-pirates rather than present ones. For example, in 1418-9, one of the most effective maritime defenders of the king was Richard Spicer, who was a potential pirate, but at the same time an efficient coast guard.⁷⁰ Henry V succeeded in keeping them passive and used them as tools for homeland protection despite their potential to be harmful.

⁶⁸ Eddison, *Medieval Pirates*, 131

⁶⁹ *Ibid.*, 135

⁷⁰ *Ibid.*, 152

The two aspects of fifteenth-century pirates were coincidentally interpreted best by Nietzsche, effectively explaining the *men of the king*: “Merchant and pirate were for a long period one and the same person”⁷¹. The occupations of merchant, pirate, privateer and naval officer were not clear cut but obscure and interchangeable.

2.3 Piracy in the Fifteenth Century

Before giving a case-by-case analysis of Southampton wine piracy, it will be beneficial to examine the general position of piracy in England by constructing a political-economic narrative for this. The first character was John Hawley(s) whose effects on maritime trade started in the late fourteenth century. He interfered with Flemish, Spanish and especially French trade with England. He, his son and his grandson were not specifically focused on the wine trade or any other particular product because the most important thing was stealing a product which could be resold easily. It is stated that “For theft to be profitable, ‘stolen’ goods must have a market. Where the market is in the control of a ‘government’, a person or body to whom is conceded the legal power to change title to property, and a ‘taking’ is authorized by the proprietor of that market, it is difficult to conceive of ‘stealing’ as distinct from ‘lawful capture’ or ‘taxation’.”⁷² While this goes much to the theoretical, legal aspect of piracy rather than its practicality, the quotation can be interpreted that as long as a pirate has a market for the product, the right to acquire the product and the technique for doing so did not matter.

This was the situation before Henry V who did his best to prevent piracy. Before Henry V, during the reign of his father there were serious attempts to stop

⁷¹ Quoted in *ibid.*, frontispiece

⁷² Rubin, *The Law of Piracy*, 14

piracy but because of one serious reason they were never realized. This difficulty that was experienced in the reign of Henry IV can hardly be put better than Jill Eddison who puts it:

...The greatest, and continuous, challenge which Henry faced was on his southern flank, where renewed and increasing violence was seriously threatening the trade which was vital to his interests. As ever, a large proportion of the English national income came from taxes on imports and exports, especially on wine and wool, which were essential to maintain both economic and social stability at home. This was threatened by political repercussions of the activities of English pirates interfering with the ships of [England's trade partners]... If diplomatic relations with those countries became soured by the depredations of those English pirates, southern galleys could easily bypass Southampton...⁷³

To interpret what Jill Eddison has said, Henry IV had to solve the problem of piracy on English waters in order to sustain England's political, social and especially economic well-being. However, he could not because he had little choice other than maintaining these pirates as privateers.⁷⁴ With all the inner and international hostilities of the time, he had to secure the English coasts and sustain his southernmost trade through Southampton and elsewhere. On the other hand, this required an immense amount of naval power which England did only relatively have at the time. In place of this requisite naval force, Henry IV gathered privateers as hired mercenaries on sea both to protect coasts and to guarantee the safe passage of the wine and wool trade. To put it another way, in the reign of Henry IV, pirates were both the police force and symbols of maritime banditry at the same time, which tells us so much about the deadlock in maritime affairs during the reign of Henry IV.

In fact, the situation of pirates did not consist of two opposite identities, but at the same time being more and more maverick in maritime affairs. Henry IV made the mistake of sharing his authority with the pirates in maritime affairs, but the pirates

⁷³ Eddison, *Medieval Pirates*, p.128

⁷⁴ *Ibid.*, 129

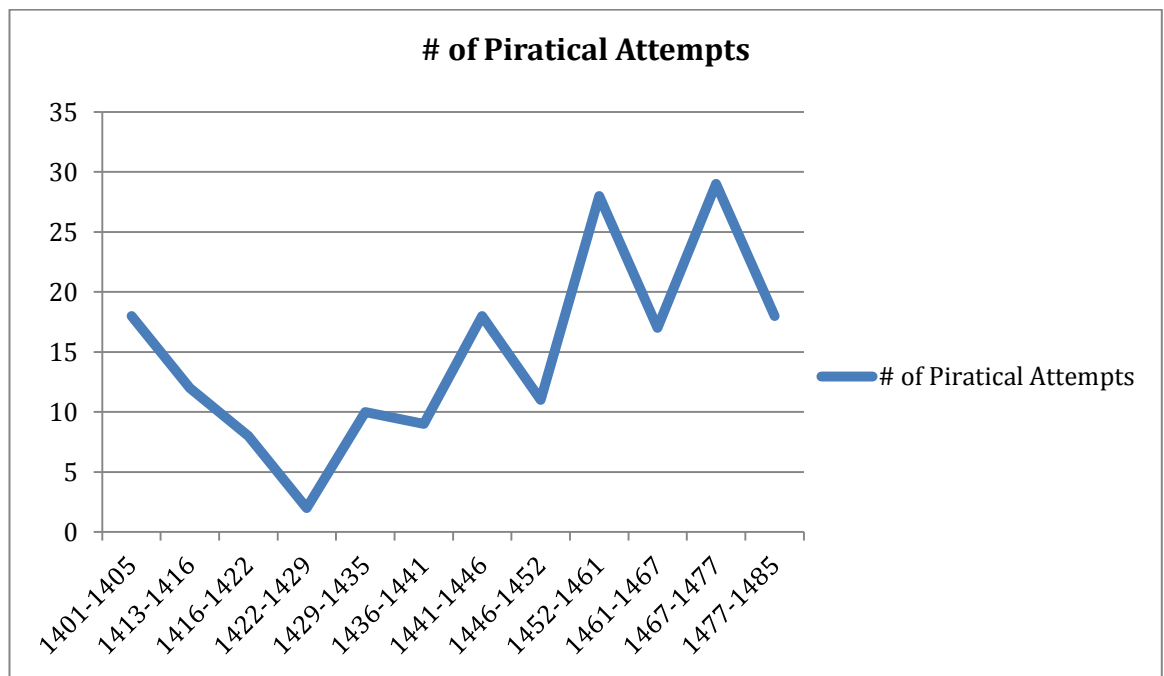
did not want to be tied to the king but rather to manage the entire trade. This quenchless point of view became a reality in later terms of Henry IV and privateering became unmanageable that symbiotically placed within military and economic units of England.

This corruption and unwieldiness lasted until the reign of Henry V. Henry realized the actual effects of piracy as an intense and increasing one. He inherited a very difficult condition of maritime affairs from his father and the position of pirates was always blurred: they could be mercenaries or they could be a burden. Henry V saw them all as a burden and the logic behind this is understandable. Although some of the pirates were usable by extending them privileges and money, Henry had sufficient financial demands to cope with in his reign. The Hundred Years War was continuing and Henry had done quite a good job of obtaining the support of nobility after a couple of notable victories. But war expenditures had always been more than expected and this was not different in the Hundred Years War. Henry V did not have a flexible budget that could freely sustain money to hire pirates as mercenaries. Another reason for Henry to see pirates as solely trouble was the fact that they were not trustworthy and they never would be. They could change sides, their affiliations were tied to money or a saleable commodity, and they generally acted like children of maritime trade whose desires never end. So the decision was made to try to prevent piracy totally by taking overall political measures.

The first legal-political action of Henry V was the Statute of Truce in 1414. This statute stated that any piratical actions, which were against the law and against the well being of the trade between nations, would result in the death penalty. Before the reign of Henry V, most penalties against piratical actions took the form of imprisonment. This imprisonment was a semi-permanent one, because if a particular

pirate had the duty of maritime mercenary at the same time, in other words, if the pirate was also a privateer, then the king could release him to make him pay his debt with good service, as can be seen in the examples of William Hefoul and Nicholas of Orford. The Statute, in fact, worked positively and enabled a peaceful, undisturbed international trade for a while. From any record or narrative, it can be seen that there were a few court petitions concerning piratical attempts.⁷⁵ With the death of Henry V, pirates emerged again to go on from where they had left off with the Statute of Truce and the legal stance of Henry V, because there was lack of a political and legal order against sea banditry of all kinds after Henry's reign.

Figure 1

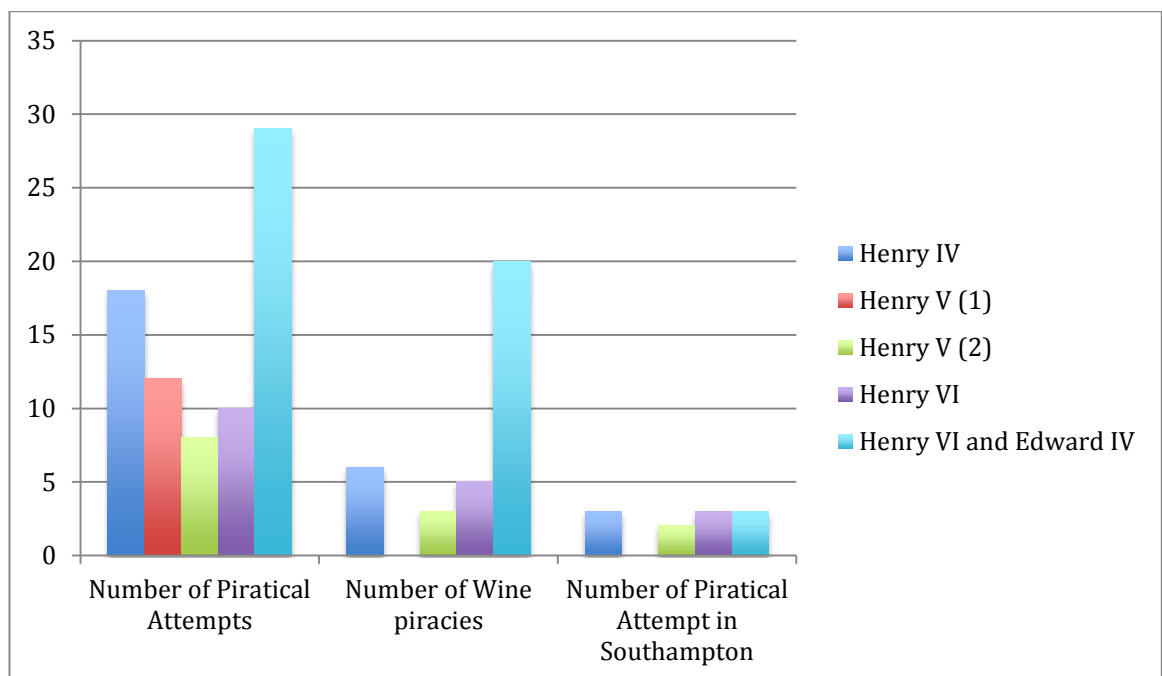


By looking to the records of the Patent Rolls (of different periods), a clearer analysis of the situation of fifteenth-century piracy can be reached. Graph 1 shows the number of piracy cases recorded in the Patent Rolls for various periods during the fifteenth century. At the beginning of the century, piratical attempts were frequent

⁷⁵ Ibid., 144-5

and were not countered by legal measures yet. When we come to the reign of Henry V, a serious decline can be observed: from 18 piracy records in total, it decreased to 12 in 1413-16 and decreased even more in the second half as 8. A few years after Henry V's reign, his legal control efforts could still be seen as effective because there was only a slight increase in the total number of piracies, to 10. However, this was the starting point of rise in number of piracies and after two or three decades, his measures had lost their practicality and efficiency, which could be seen from the numeric data. It rose to 28 between 1452-1461 and then peaked in 1467-77 with 29 piratical attempts. So it could be seen from the Patent Rolls that total number of piratical attacks, like the records of these terms and secondary literature shows, started as a prominent threat against trade at the beginning of the century, followed by a sharp decrease by courtesy of Henry V and finally rose up to a number which means a fluctuating but solid existence of fifteenth-century piracy in English Channel.

Figure 2



When the information of the number of wine piracy attempts and piratical attacks in Southampton are obtained, it gives a more dramatic change to us in order to see what was the effect of Henry V's reign and with what kind of a scale piracy reemerged after his reign. Whereas wine piracy could not be seen at all in the first volume of the patent rolls of Henry V's reign, it could be seen in a very small number in the second volume. On the other hand, following his reign, there was a slight increase which brought the numbers of wine piracy to pre-Henry V level. After a few decades, wine piracy doubled the early fifteenth century records and the 1430s (In the graph above, wine piracy in the Henry VI and Edward IV's reigns is four times greater than Henry IV's or earlier parts of Henry VI reign. However, the last data of Henry VI and Edward IV's reigns covered about ten years, whereas Henry IV's patent rolls covered only four and a half years. So it would be better to see this increase as a double). By looking to data on both of the tables above, it could be easily seen that the endeavor of Henry V worked only temporarily. Piracy stood as the dominant threat on the seas for the wine trade in the fifteenth century and by looking to the records, it could also be mentioned that this threat did not affect only the English administration but also of that France, Brittany, Castile and the Italian states. By the middle of fifteenth century, the only option to avoid piracy was wine fleets for wine merchants; on the other hand, the fear of piratical attempts did not decrease until the end of the century.

2.4 The Records

In the fifteenth century, throughout England, records contain great numbers of piratical attacks despite of different interventions of the kings of England against piracy. For example, on 5 May 1403, there is a record of Norman piracy. It seems

that the ship named “la Katherina”, which was owned by Andrew Dymanges, John Englisse and Petraus, who is a merchant of Lisbon, was captured by Norman pirates. However, since this chapter also argues the position of piracy before the law, unless the record does not use the word pirate, it might only be a speculative interpretation to name them as pirates. The record uses the phrase as “captured by Normans”⁷⁶ without indicating their occupation. Hence, two options, namely piracy or privateering, could be thought. This ship was carrying 74 tuns of wine along with other merchandise to bring to England until the unnamed Normans captured it. By forces from Greenwich, Shrewsbury and Southampton, these Normans were duly captured and taken to Southampton. It is not indicated what happened after the trial of these pirates or privateers but it is known that the normal procedure in the fifteenth century was the return of the aforesaid merchandise to the owners and the arrest of these pirates. This penalty could also be a death penalty depending on whose reign it was but since it was the reign of Henry IV, imprisonment could be assumed to be the final decision.

In another record of same year 18 July, king ordained one of his men to investigate an unlawful capture of the ship *Saint Marie*.⁷⁷ The portuguese merchant Laurence de Seosa owned this Portuguese ship and its master was Dominic Gunsaldus. The ship’s cargo was 42 tuns of Gascon wine to be taken them to London from Southampton but it was stopped and captured by four balingers of *English people*. Apparently, according to the French authorities, Roderick Aves was seen as responsible for this capture along with his crew and was duly imprisoned. Henry IV, on the other hand, regarded this imprisonment as contrary to the treaty between England and France and demanded restitution. Most probably, the treaty in question

⁷⁶ P.R.O. Calendar of the Patent Rolls: Preserved in the Public Record Office, Part 13, &NBSP: Volume 2, p.277

⁷⁷ Ibid., 281

was the Truce of Leulinghem which was signed in 1389. It had resulted in a short break in the Hundred Years War and in the meantime, the king of England had saved some time to cope with domestic affairs. Eventually in September 1403, this truce came to an end and hostilities between two countries resumed.⁷⁸ This information gives us the chance to tie the record of Southampton wine piracy and the end of the truce, only by looking at the timing and indication of “contrary to the form of the treaty between the king and French”. This disagreement over the treaty was caused by a piratical attempt that happened on 18 July, whereas the end of truce was in September. The assumption of the events of 18 July as one of the catalysts that brought the short period of truce to an end, would not be overly creative but making an inductive estimation.

As a second interpretation of the piratical attack that was recorded on 18 July 1403, the position of Roderick Aves seems slightly blurred. Considering the pirates of Hawley family, it should be always kept in mind that pirates might have different kinds of relationship with the king or more generally with the administration. As the English authorities investigated the fate of Roderick Aves and his men and demanded restitution, he *may have been* more than a regular pirate, perhaps a privateer. Unfortunately, we have no documents to support this assumption. Even for pirates from the Hawley family, there are a few documents that help estimate their position as privateers. Therefore, along with avoiding any certain conclusions, it should be seen that some certain pirates had more than one identity as pirates, privateers, mercenaries for hire or even saboteurs of enemy trade.

Piracy was so intense and frequent that in the first decade of the fifteenth century, there might be seen various kinds of piratical attempts. Although most of

⁷⁸ Desmond Seward, *The Hundred Years War: The English in France 1337-1453*, (London: Constable, 1978), 138-145

these records involved wine, non-wine captures could be seen as well. Because of this repetition, since these were inflicting a serious damage to trade, on 21 July, just three days after the abovementioned piratical attempt, the government decided to declare a general commission. This commission demanded the arrest of “all banished persons, sea-robbers and evildoers”⁷⁹ with reference to the Truce of Leulinghem. This general decree can show how widespread these piratical attempts were and how alarmed the government had become because of these chaotic circumstances on sea.

Naturally, the efforts of Henry V did not mean that there were no piracy at all during his reign. There were pirates and privateers who attacked the ships of both sides during the Hundred Years War. After all, one cannot assume the threat of many centuries would disappear at once just with the good performance of one single monarch, so expecting a complete elimination does not seem very rational. In a state of war, pirates emerge faster than clover in shade. This chaotic situation can be seen as their habit, because they are the masters of exploiting weaknesses. Furthermore, war was, in the meantime, such a condition that there was very little law in it and if there has always been one general requirement to gather pirates in one point, it is “lawlessness [as] a requisite of piracy”⁸⁰ Hence, in Henry V’s reign, as well, pirates could be seen in the records, but these records are much rarer than before and after Henry V, perhaps thanks to the king’s policies.

Although Henry V made substantial efforts to eliminate the effects of piracy, nothing really changed in the long-term. Neither legal nor practical measures against piracy allowed maritime affairs to evolve into a perpetually secure space. As explained above, the king and his privateer allies, the maritime mavericks, kept the maritime trade in a cooperative manner. With Henry V, privateer influence on

⁷⁹ Ibid., 283

⁸⁰ Tom Bowling, *Pirates and Privateers*. (Harpenden: Pocket Essentials, 2008), p. 13

maritime trade decreased, especially in Southampton, and their political position was reduced to the level of sea banditry again. Unfortunately, this consolidation in the political immune system of England was limited to the reign of Henry V and, although pirates or privateers failed to achieve legitimization as much as they did in Henry IV's period, their effects on maritime trade remained prominent throughout the fifteenth century.

In a record from Henry V's reign, after his victory at Agincourt, a wine fleet is mentioned carrying an immense amount of wine and by a ship called *Christopher* of Hull.⁸¹ Suitable to the logic of wine fleets, their duty was to stick together in front of any dangerous situation regardless of the kind or size of the threat. As long as everybody obeyed this one single rule, they could survive. However, all of the other ships fled after they saw attacking pirates and *Christopher* stayed alone. It is stated that the owner of *Christopher* petitioned the others to pay for his loss for not fulfilling what they needed to do.

Thus, there was piracy and piratical attempts, provably through primary sources, even when Henry V was on the throne, but the frequency of the records of piratical attacks reflects the fact that a severe decline of piracy had been achieved by Henry V, despite the existence of different kinds of exceptions as in this wine fleet case. Another thing that should be interpreted by looking to the situation of the *Christopher* of Hull is that even in Henry V's reign, there was no legal infrastructure to sustain any automatic decision making in events like this particular one. The owner of the *Christopher* had to send a petition and explicitly demand the creation of a law for this single case rather than the application or implementation of existing laws. This gap has always been there and lies as a problem that makes legal and

⁸¹ N.H. Nicholas, *A History of Royal Navy from the Earliest Times to 1422*, (Cranbury: The Scholars' Bookshelf, 1847, vol. 2), p.415 cited in Jill Eddison. *Medieval Pirates: Pirates, Raiders and Privateers 1204-1453*. (Stroud: The History Press, 2013), p.147

political tools cumbersome but the position of contract law will be explained in detail in the next chapter to tie together the wine trade, piracy and how they affected legal entity in Southampton.

To go on with the records of later terms in order to see how they return to the pre-Henry V level after his reign, on the day of 8 April 1435, another record that is generally based on Southampton wines took its place in books. Record says that wines that were coming to Southampton by a few ships (it is not indicated that these wines were whether for the consumption of Southampton or coming for the distribution via the routes of Southampton). These ships were lost around the coast of Southampton and the rest of the record is related with what to do with the wines that were found later on and who were the owners to give them back. However, there is an interesting phrase within the record associated with how these ships got lost. The text states “ships were lost through the violence of the sea”.⁸² Naturally, this does not necessarily make this case a piratical case. This could only be an interpretation to define weather situations and the only intention by saying violence of the sea might be defining a storm or a changing stream. On the other hand, rest of the record continues as “part [of wine] thereof has been restored to merchants of Bruges and Dam” and it gives the idea that this commission was to ordain people in order to find or rescue some of the wines to return those to their owners. As it is stated previously, after the reign of king Henry V, piracy did not remain at the low levels of second half of first quarter of fifteenth century. Especially wine piracy showed a rising trend so, because of the general frequency of piratical attacks, this record has the flavor of sea-robbery and rescue mission in order to protect the rights of international merchants and domestic consumers.

⁸² P.R.O. Calendar of the Patent Rolls: Preserved in the Public Record Office, Issues 1429-1436, p.472

Another thing that should be understood from this record is that the owners of these wines could prove their ownership of the merchandise by going to the court or pledging directly to the men of the king in different bureaucratic levels. It is an important detail to be focused on because when the issue comes to the maritime contract law of late medieval Southampton, it will be important to spot the rights of proprietors of commodities and how they tried to split their risks up for the sake of protecting themselves from piracy.

Following this record, on 18 November of same year, another commission comes that lies as the continuation of the one above. This time, the king ordained his men to sell these wines that continued to be unclaimed by the merchants of Flanders by getting permission from the lords in whose territory these wines cast ashore.⁸³ As it can be seen, in piratical threats or others that make the merchants lose their capital are not tied to one solid, existing law, but these cases are issued to *ad hoc*, case-by-case decisions of the administration. Even though there was a merchant law in the implementation of the trade and there was a strong precedence that people get used to do in a particular way, maritime issues were flexible and because of this constant state of flux, both administration and merchants have to cope with bureaucratic clumsiness in smallest situations both in Southampton and generally in England.

Despite the variation of piratical cases related with both wine and Southampton, the most concrete case was experienced in 8 September 1435. This time the recorder used the word “robbery” for the entire occasion.⁸⁴ A carrack was loaded to convey goods from Southampton to Genoa. Genoese merchants who were living in London owned this unnamed Genoese vessel. At this moment, a few details should be noted: in the trade between Southampton and Genoa, a broad range of

⁸³ Patent Rolls, 1429-1436, p.525

⁸⁴ *Ibid.*, 518

products being transacted, including wine. As can be seen in *alien book* parts of different port records, carracks were loaded much more than any other denizen ship both because of the loading capacity and because these international merchants wanted to send as much as possible in each single shipment to save time and money (Shipment fee, anchorage fee and other possible local taxes were implemented per shipment).⁸⁵ Furthermore, again according to port records, it is evident that both merchants from London and international merchants were richer than domestic sporadic traders⁸⁶. So, they would not avoid from investing capital, which they already had, to earn more. By considering these facts, one can assume this carrack was a heavily loaded one. The record of 8 September 1435 gives other rare details: for example, it states that because of heavy weather conditions, this carrack lost its way and was dragged along the waves to the Plymouth coast, which is close to Southampton and was known to be the place of robbery. Unfortunately, this commission did not mention the nationalities of these pirates but at least we can assume that the pirates should be populated in a large vessel or should be acting as team that consists of more than one ship to rob the carrack since even these were only merchant carracks, their endurance and defense mechanisms were usually proportional with their loads.

To make an assessment for the entire century, records from second half of fifteenth century should also be scrutinized. Much later in the century, in 1469, a significantly salient record could be easily spotted which enlightens the situation of the period. In this record, an incredible range of piratical attacks were named and commissions or appointments related with these attacks were indicated. The date 27

⁸⁵ Henry S. Cobb, ed. *The Local Port Book of Southampton for 1439-40*. (Southampton: The University Press, 1961); Brian Foster, ed. *The Local Port Book of Southampton for 1435-36*. (Southampton: The University Press, 1963); Paul Studer, *Accounts of Robert Florys, Water-Bailiff and Receiver of Petty-Customs, A.D. 1427-1430* (Southampton: Southampton Record Society, 1913)

⁸⁶ See Chapter I

July 1469 is recorded but, within the record, different dates of the abovementioned attacks were given as well. As the first instance a vessel *le Barbara* of Fowy owned by various merchants of Brittany was captured by pirates along with its merchandise.⁸⁷ It was mentioned separately that this capture was contrary to the treaty between Brittany and England. A ship called *la Kateryne of Crauzon* was captured near Belle Isle with 37 tuns of wines and other merchandise on the day of 17 May whereas a couple days later other vessels named *Nostre Dame de Seynt Michell* and *Saint Julian de Benaudet* were captured that were carrying 23 and 27 tuns of wines respectively. In another section of the same record, Spanish ships were captured, again near Belle Isle, with a broad range of products on board including 23 tuns of wine, around February. As the most serious victim, “a ship of Ivo Guillo laden with 52 tuns of wine of Ivo Guillo, a carvel laden with 63 tuns of wine of Ivo Guillo” was captured along with other Spanish ships. In addition, tuns of Gascon wines had been captured, 44 tuns of wine of John Gullebot and James Locabellok and lots of other goods such as linen, iron and coins of different currencies were added to the loss list of these merchants in the record.

Related with this vital record, the first thing to be said is the popularity of wine. This record can be seen as a micro sample of overall piratical attacks and the frequency of wine trade, relative to other products, could easily be observed. In most of the Patent Rolls records, more than half of piratical cases involve wine. In this record, this percentage is much greater than this. Moreover, these piratical attacks are samples that are taken from the events of one single year (or even a shorter time period) in a single record. When it is considered that there are various piratical records in one year, the frequency of piracies should be multiplied. Another thing to

⁸⁷ P.R.O. Calendar of the Patent Rolls: Preserved in the Public Record Office, Part 1, &NBSP: Volume 6, p.197

show attention is the nationality of the merchants. Pirates of the second half of fifteenth century did not aim to cut a single trade route that was used by a particular nationality, or they did not target one single product (even they have some favored merchandises) but they had the tendency to capture as much as valuable and easy-to-sell cargo as possible in a single strike. Because alien merchants tended to carry and sell more, the potential targets selected were alien merchants and carracks.

In 1474, another distinctive record appears that shows the consequences of a long-distance piratical attack between England and Castile.⁸⁸ This time the case is related with one single piratical attempt, insofar as it concerned one single merchant, namely Peter Neto from Castile. He was trading with the English ports of Bristol, Sandwich and Southampton and at a time he came to the English coasts, pirates of Fowey captured his ship. This record is an indication of the grant to compensate Neto's losses according to the treaty between England and Castile.

There are three important factors, which distinguish this particular record from other attempts of piracy or privateering, that are to be examined in depth. First of all, apparently, there was a treaty between England and Castile that indicates counter measures against piratical attacks. In the meantime, as it was mentioned previously, there were no legal measures against piracy at a trade law level. On the other hand, this was a time of fragile relations between nations, so, in order to sustain the balance and the peace between these nations, these two countries established a tie in the form of treaty to estimate what to do after a piratical attempt between the members of these nations. Secondly, this record was written as "despoiled on the high seas by certain pirates of Fowey [in Cornwall]" by using the word pirate and by

⁸⁸ Patent Rolls, Part 1, Volume 6, 474

mentioning where they are from.⁸⁹ This terminology is rare at the time because sea bandits, evildoers and variations of these were widely used, but piracy as a term was not. The terminology shows how piratical attempts infused maritime affairs of the fifteenth century and put a different terminology in the literature. From these times onwards, *pirata* will be used more often to indicate a very specific occupation. Thirdly and lastly, an unnamed ship was mentioned as “with a ship laden with wines, goods and other merchandise”. Wines are identified separately whether because most of the goods in the vessel were wines or because wines are the most precious ones that were worth naming. In both cases, this makes the case a wine piracy case, but naturally, the question of whether the pirates knew about the merchandise of ship and attacked with its nature in mind, cannot be answered due to lack of sources.

Pirates of Fowey became a noteworthy trouble following this event. On 28 November 1474, king of England proved this by forming an entire commission targeting their illegal actions. This commission was against “all masters, mariners and pirates, possessors and victuallers of any ships and vessels of the towns and ports of Fowey, Bodennek and Polruen, as they have committed *great depredations* on goods and merchandise...”⁹⁰ and does not only give us the chance to see where piratical attacks were coming from, but also, helps us see the desperate situation of state organs in coping with piracy by looking to the words of “great depredations”.

According to findings that are shown in this chapter, piracy did not start in fifteenth century for sure, but both piracy and privateering were on the rise during fifteenth century despite the efforts of Henry V to reduce it. Like every symbiotic/parasitic phenomenon, it remains in a dark place which English political-legal mechanisms could not reach by the end of first quarter and then return to the

⁸⁹ Ibid.

⁹⁰ Patent Rolls, Part 1, Volume 6, 492

life with the first weakness (which is the end of Henry V's reign in this case) it can use for its growth. The abovementioned records of Southampton wine piracy (or generally wine piracy) are shown in order to illustrate both position of piracy and the chart of its intensity because it is important to understand how piracy was positioned in Hundred Years War in southernmost England to see incessant corroding effect, rather than a harsh, solid and observable damage like the war itself . Administrative sphere of England could not find a permanent solution for piracy but how legal procedure evolved contract law to protect the wine merchants' investment remains another distinct issue to focus on.

CHAPTER IV

COMMERCIAL MARITIME LAW

After explaining the late medieval wine trade in the port of Southampton and the existing situation of piracy in the English Channel in the same period, their relation to the maritime contract law can be constructed. According to the simple logic of this thesis, like the link between the increasing popularity of the wine trade and the increasing frequency of piracy, there might be a link between the late medieval piratical attempts and the development in contractual measures. To examine this link and show whether this link can be demonstrable or not, the situation of the late medieval contracts and their regular processes will be the first step. Following this, a primary source analysis will be made to seek any indication of the effect of piratical attempts on contractual measures within the maritime codes of England and Southampton. Finally, clashing jurisdictions of different legal branches will be examined because whereas piratical cases were under the jurisdiction of admiralty law, the law of contracts was under the jurisdiction of common law or merchant law. This divergence of legal branches affected the link of interrelatedness between these two phenomena (contract law and piracy).

3.1 Late Medieval Contracts

As one of the most widespread hands of trade merchandise, wine was a vital element of the late medieval English economy with the income that came from both taxes from its retail sale within the country and its international trade taxes.

However, wine was as appealing to pirates as it was for the state administration. It was easy to sell, demand never ended for it, and it was relatively easy to capture compared with well-guarded vessels that were carrying more valuable goods like precious metals. Thus, on the coasts of Southampton and generally on the waters of the English Channel, piratical attempts went on incessantly and with a gradual increase from the end of Henry V's reign. It meant that there was an increasing risk of and fear of piracy that pushed people to take any measure they could. Purpose of this final chapter is to establish a link between the previous chapters and medieval maritime contract law of Southampton in order to see whether piracy unintentionally helped develop this judicial branch or not. By looking the general sources of legal aspect of maritime trade and local Southampton sources related with it, we can hope to determine whether piracy can be *shown* as one of the effects or might be *considered* as one of the factors.

The legal framework of medieval English towns or more generally of England as a whole was not clear-cut. It was very open to interpretation because there is a limited amount of written sources left from that period.⁹¹ There were different kinds of legal constructions and judicial branches for all areas in which law can be implemented. Royal courts and local courts acted in different spheres and could be both completely independent and interdependent according to the nature of a case or plea. Naturally, this does not mean that medieval English law was to be

⁹¹ J.H. Baker, *An Introduction to English Legal History*. (Oxford: Oxford University Press, 2007), 318

interpreted as vague in all its aspects, but it should be still seen that it consisted of singular particles in micro-perspective which were tied to one another when we look to the general picture. For example, a case might be under the jurisdiction of a local court related with the area of contract law; however, from a general point of view, contract law was under merchant law or common law, and the position that determines this merchant or common law was royal authorities rather than the local authorities.⁹² Thus, one should imagine a flow diagram of English legal structure as both interrelated and multi-layered.

Before considering contract law and what features it had in late medieval Southampton and generally in England, the term contract should be understood. In the modern sense, the word contract refers to a written agreement that protects the right of signatories before the law against the other parties and against certain predetermined kinds of external damages. To put it another way, a contract is a tool to legitimize what one is going to do and sets out how it will be so, legally. However, contract could not be defined in the same way in medieval times.

First of all, it may not be written, but could be oral (like a promise or an oath) as well. In fact, it was generally oral until the fourteenth century, because of which it was no more than a mutual oath.⁹³ Thus, the role of “consent” takes a substantial place in medieval contractual actions. People transacted with each other if they had a certain amount of trust in one another and this was a much stricter determinant of trade than it is today when people live under the secure roof of a modernized legal system. Secondly, medieval contracts did not cover a standard number of simple information and articles in it. For example, in contracts related with maritime trade, there were some charter-parties that covered only the names of merchants, ships,

⁹² Ward, *The World of the Medieval Shipmaster*, 18

⁹³ Baker, *An Introduction to English Legal History*, 318

what will be carried and what are the conditions, whereas there were others which covered every single detail even information like a full crew list, due dates and route. So, standardization was not a characteristic of late medieval contracts.

Lastly, the medieval contract had a vague identity about its enforcements in case of breaching it. It was hard to say which court will be interested in these particular cases, such as maritime transactions, because, for instance, in the case of a plea to inform the court about the loss caused by a piratical attack, it would include more than one layer and one legal discipline. A plea like this addressed at least merchant law and admiralty law (as the responsible legal branch for maritime affairs in England), which were judged by different courts and created a clash of judicial powers. When the possible jurisdictional dispute of a local court and royal court was added to this formula, the judicial process related with breach of any contract could come to a deadlock and because of this, maritime trade and contracts that includes anti-piratical measures and the authority of judgment of them changed hands in medieval history more than one time. This clash of jurisdictions will be seen below in detail since it was more harmful for the aim of constructing a relation between piracy and commercial law.

Contract law, as a single body of law, was not new at all. As it can be briefly summarized, its origins came from ancient Roman law as well as most of the legal framework of Europe. The Roman Empire had reached wide borders throughout the Europe, Africa and even the Middle East. Even though the Empire had continuously changing modes and efficiencies of production and temporary problems with liquidity of money, they structured a good organization on long-distance trade for the time. Insomuch that, some of the towns were completely dependent to long-distance luxury trade rather than agrarian production, which was the mainstay for the most.

Although trade was widely practiced, the Romans did not come up with the idea of a contract law immediately. Yet, it was in the form of structured promises that were given beforehand.

This unstructured body of contract law lasted approximately until the Italians established *commenda* contracts during the Renaissance.⁹⁴ This contractual framework consists of three different contract types, which in fact, were implemented in Roman times, the Middle Ages and post renaissance times in a gradually increasing manner.⁹⁵ The *Commenda* is the first type, which generally means that the labor and capital for a particular transaction were added by different bodies.⁹⁶ In other words, when one merchant was investing capital but not contributing to the labor, the shipmaster functions only as the labor branch of this transaction rather than adding any money. This could be seen as the most basic and regular type of contract and was generally used when the labor did not have anything to contribute and would take part only as the functioning side in this specific transaction.

On the other hand, one different type of contract, the *collegantia*, was designed to satisfy another need in possible forms of transaction. This contract was used when there was more than one investor for a particular transaction and if the one responsible for the labor branch contributed to the capital as well. This was common and was quite beneficial, especially for shipmasters since they generally wanted to utilize what was to be sold at the destination point as a shareholder along with the payment they would be taking (in advance or after accomplishment) as labor force that carried the merchandises that will be benefited from. When we examine the port books of Southampton, it is not hard to understand how frequent this type of

⁹⁴ At least, frequent and widespread implementation of commenda contracts started with this period.

⁹⁵ Postan, *Medieval Trade and Finance*, 65-75

⁹⁶ *Ibid.*, 68

contract was. In the port books from the first quarter, middle and late fifteenth century, there were so many merchants who acted as the master of a ship as well which means that these shipmasters were joining or contributing to the entire investment in order to benefit from the total profit as well from his normal payment as a shipmaster. This situation can be clearly observed through the port books of Southampton when the names of merchant and shipmaster are same. This lies as a strong indication of *collegantia* contract that also shows the general contractual tendency of the period, of course along with the most regular type, *commenda*.

As the last branch, a rarer type of contract should be mentioned in order to complete the three-branched contractual system that was used for a very long time with different names and geographical nuances. The *Compagna* contract was designed to leave no sleeping partners in a transaction.⁹⁷ All the investors should contribute to the labor and all members of labor should be shareholders at the same time. It was not a frequently implemented system, but more likely designed as an ideal one. When all of the investors of capital contributed to the labor, the job to be done would be easier and faster, whereas, in the case of contribution of labor to capital, the transaction became more affordable for all of the merchants and the risk became smaller. Hence this aspect of *compagna* contracts will bring up the issue of risk management in late medieval trade.

Although not the reason for existence of contracts, if there was one single problem that medieval merchants had always to deal with, it was the substantial amount of risk in a single transaction. Thus, the first thing to explain is what were the possible risks in the fifteenth century wine trade of Southampton. In fact, very few of these risks were unique to Southampton. These were general risks that

⁹⁷ Ibid., 70

inflicted an overall damage to the economy of England because wine was one of the most important commodities in late medieval England and was a very vital part of the overall English economy. The first and most common risk was the weather. Even during clement periods for trade and suitable times for ships to sail on international waters, weather was not always predictable. Tides could be higher than expected and storms or high winds were not uncommon. These kinds of weather conditions might cause light losses of commodities with which the ship was laden, but could also cause very serious damage like the loss of the entire ship with all its goods.

Another risk was the breaking of a verbal agreement. One of the sides of this agreement, for example the seller of the merchandise, could retract from his promise or could easily demand more for the same amount of product than he previously did. Or in another similar form, the seller might give products with defects in different scales which would eventually cause loss for the buyer since this product was generally bought wholesale from another country to England in order to sell these products retail for bigger profits. Defective products would affect both the demand and possible maximum price for these products negatively, so fraudulent behavior of one of the sides of an agreement (most probably verbal) was a great risk to avoid.

Finally, piracy was always a risk, especially in long distance, international trade. As demonstrated above, pirates aimed to attack any trade in the Channel that could be financially beneficial for them and one of their most favored products was wine because it was easy to sell. Southampton took its place at the records of piracy in various times and Southampton waters became one of the pirates' favorite places to lie in an ambush. In addition, while the other risks of transactions could be limited and rare in records, piracy was both frequent and caused a loss which can be summed

up as everything (including merchandise, ship and crew).⁹⁸ Therefore, at least for the late medieval Southampton wine trade, piratical attempts were the most dangerous, most fearful, but at the same time one of the most common risks to be protected against with any measure that could be taken, including legal ones.

For Southampton, it was not radically different from what happened elsewhere in England because, for a long time, it was completely depended on the English legal structure with the identity of an English town rather than a separate county. After it became a county in 1446, it gathered more legal authority into the hands of local courts than previously.⁹⁹ Verbal-oral contracts started to be dealt with by local courts in Southampton and it started to construct its own legal identity along with general developments in the legal sphere in England. In order to comprehend the position of Southampton in maritime contract law and what was the difference or particularity of this area, the general maritime records of England, maritime law “codes” like the ones that are included by Black Book of Admiralty and specifically the Southampton books and records should be scrutinized. Only such a broad scale search can enable one to see whether wine, piracy and contract law could be tied together with a triangular link in late medieval Southampton.

3.2 Maritime Codes

In the first instance, the Rolls of Oléron can be stated as one of the oldest documents for maritime affairs which aimed to bring a certain amount of order to maritime trade and organization.¹⁰⁰ Even though it was seen as the backbone of maritime and admiralty law in England for a long period, it is hard to see this as a

⁹⁸ See Chapter II, p.55-56

⁹⁹ Platt, *Medieval Southampton*, 166-167

¹⁰⁰ Twiss, *The Black Book of the Admiralty*, Vol. I, 89

maritime law code in today's terms. But, one can hardly be doubtful that this document was the starting point for a period seeking maritime law, and because of this, later documents were more likely to be interpreted as law articles or generally maritime law codes. Before the Rolls of Oléron, there were only regional customary regulations that differed from one region to another and these "earlier maritime laws than those of Oleron grew out of the custom of local port towns and generally had no greater regional appeal. The laws of Oleron, on the other hand, commanded a very widespread audience and in time became the canon for Europe's northern seas. The earlier form of the Rolls consisted of twenty-four or twenty-six articles".¹⁰¹

Topics in these documents vary over a small range, but in general they tried to regulate the legal relations between shipmaster, merchant and crew. Liabilities of captain to crew, shipmaster to ship-owner and issues like this mentioned maybe not in detail but with a clarity that people, who were involved to maritime transactions, did not have before. All these articles were only in the form of written versions of maritime customs that were found appropriate by royal authorities before the fourteenth century. In 1351, in a case, which was tried in Bristol, the legal position of the Rolls of Oléron was ratified as law for the first time.¹⁰² On the other hand, this cornerstone document (any of the abovementioned versions) does not give any evidence about the origins of maritime contract law. In addition to the absence of contractual regulations, the document did not contain any article related with piracy and how shipmaster or crew should act after a piratical attempt. But still, it is understandable for a document like the Rolls of Oléron to cover the performers' relations and liabilities to each other since these are the most basic issues of maritime trade and when the time of this document is considered, the ordinary way to go step

¹⁰¹ Runyan, "The Rolls of Oleron and the Admiralty Court in Fourteenth Century England", 98

¹⁰² The case of *Pilk vs. Venore*, printed in H. Hall, ed., *Select Cases Concerning the Law Merchant, A.D. 1239-1633*, (1930)

by step is starting from these basic points. Yet, in the form of liabilities, Rolls of Oléron includes what to do by shipowners in case of a threat at sea that gives damage to the vessel and causes the loss of vessel entirely or loss of merchandise. As one of the first and trend setting experts in the area, Timothy Runyan has interpreted this share of loss by shipowners or the link between master and crew as a contractual one¹⁰³ but, this contractual relationship, although this was affected by piratical attempts demonstrably, was not the one which was made between two parties as buyer and seller for a secure commerce, but the one related with wages and labor responsibilities. However, this kind of contractual tie proves that piracy had an effect on the development of maritime law (in general not in terms of contracts in particular) in a way that can be seen through the code of Oléron.

In addition, when organizing maritime activities in late medieval England, the Rolls of Oléron picked a sample commercial branch, namely the wine trade predominantly with Gascony.¹⁰⁴ Most of the articles in the code used the wine trade to show instances of what should be done and this gave the chance to comprehend the importance of the wine trade even for the legal authority. This brought the idea of a relationship between the Southampton political elite and maritime law to mind. As explained before in other two sections, Southampton had such administrator-merchants that their variety in terms of sub-identities never ended. In the first chapter, they were seen as the most prominent units of the fifteenth-century Southampton wine trade and in the second chapter, it was seen that they could also be thought of as parts of naval units or privateers because of their multi-identity. However, the maritime contract law that was used in Southampton in the fifteenth century could not be thought as directly related with them because of two main

¹⁰³ Runyan, "The Rolls of Oleron and the Admiralty Court in Fourteenth Century England", 99 and

103

¹⁰⁴ Ibid.,99

reasons: firstly, both the Rolls of Oléron and the unwritten customs of maritime affairs were accepted and started to be used before the period of the fifteenth century political elite. Furthermore, when a dispute arose, the cases of these laws were tried by either admiralty law or common law (or according to principals of merchant law). Both of these legal branches were not directly open to external interference that might come up from a local authority (like the Southampton elite) which could be used before in merchant law. So, in the fifteenth century, maritime law (and naturally maritime contract law) was beyond the point these elites could reach with their political power. Secondly, it cannot be said so clearly that if they had the power to affect maritime law positively, they had any reasons to do so. Because they were bureaucrats, merchants and sometimes even privateers, it was hard to speculate about their desire for legal development. Since they were the biggest wine trade investors in Southampton, they might want a more protected and regulated trade, or they could prefer a more flexible legal authority for maritime affairs if they had privateer identities at the same time, because realization of the orders of the king would bring even more political power and influence after all. Consequently, the position or preference of the biggest wine traders of Southampton for maritime law was obscure. Until now, although the wine trade, piracy and maritime law correlation started to be visible with the Rolls of Oléron, there was not sufficient information to verify the same correlation with maritime contract law specifically.

To continue with source analysis to search for a contract law-piracy tie, under the heading “Rules or Orders about Matters which Belong to the Admiralty” in the Black Book of Admiralty (of Twiss), there are parts which had not been covered by previous documents. This early but noteworthy record stated that “those who are indicated that the hold plea of hue and cry or bloodshed committed on salt water

within the flood mark, if they are thereof convicted, they shall be imprisoned for two years, and then shall be fined according to the pleasure of the king or the admiral”.¹⁰⁵ It was not an intersection point between records of piratical attempts and contract law again, but it stands as a useful account of a legal anti-piracy measure which was one of the earliest in the form of a collection of laws or namely a maritime code.

During the fourteenth century, the inefficiency and insufficiency of Rolls of Oléron started to be more apparent. By defining it as a “code of law” Robin Ward states “Oléron became inadequate when confronted with the increasing complexity of fourteenth century commercial shipping. To cope with that, the Inquisition of Queenborough was set up by Edward III in 1375.”¹⁰⁶ Therefore, it can be seen that Edward III, his admirals and other officers realized there was a gap. Since the fourteenth century was the time of Hundred Years War and Black Death, it is not very difficult to understand why Edward III wanted to regulate his maritime trade by taking judicial measures. To finance its needs in these hard times of war, the administration had to use international trade in order to continue to earn from taxes, and to sustain this, in the absence of the necessary jurisdictional framework, created the Inquisition.

The Inquisition of Queenborough covered a very broad range of topics related with almost all aspects of maritime affairs including the jettison of cargo, the rate of crew wages and felonies at sea. Unlike the Rolls of Oléron, this document referred to piracy in a very general manner by stating

Item, let inquiry be made concerning all thieves (or pirates) who rob at sea any of the subjects of our lord the king or any person of his allies, or in amity with him, or any being under his protection, the names of the pirates and of the owners of ships of the pirates, and of the masters thereof, and what goods they

¹⁰⁵ Twiss, *The Black Book of the Admiralty*. Vol. I, 69

¹⁰⁶ Ward, *The World of the Medieval Shipmaster*, 23

have stolen, and of what value, and in whose hands they are come, and of all their maintainers, receivers, and comforters.¹⁰⁷

Although the Inquisition of Queenborough also covered articles relating to the law of contracts, it is mainly concerned with charter-parties rather than two-sided transaction contracts. In other words, the contractual content of this document was designed to protect capital investors of the same side between each other rather than organizing the liabilities and risk share of labor and investor from outside effects like piracy. Hence, although this document, which aimed to meet the requirements of the time, included both general statements on piracy and law of contracts, it does not give any evidence to support the relationship between piracy and contract law, but only indicates the first step of gradually increasing legal measures against piracy noticeably.

These two documents, the Rolls of Oléron and the Inquisition of Queenborough, were both applied to England generally; however, in the context of Southampton in the late middle ages there were also local legal written proofs of progress that look like at first sight only like fine-tunings, but when one considers the geographical and economic needs of Southampton, these documents were precisely to the point. One and most important of these documents is the Oak Book of Southampton, which had at least the same value with the previous documents. Moreover, it was more functional than the Rolls and the Inquisition because of being specific to the area.

The Oak Book of Southampton was a local maritime law code that covers

¹⁰⁷ Twiss, *The Black Book of the Admiralty*. Vol. I, 148

Twiss translation is as follows: Soit enquis de tous larrons qui robbent sur la mer aucuns lieges de nostre signeur le roy ou aucuns de sonne alliance ou de sonne amistee, ou aucuns estants desoubz de treves ou de soubz sa protection, les noms de robbeurs et des signeurs de nefes des robbeurs et des maistre dicelles, et queux biens ilz ont robbez, et de quelle value et aux queux mains ilz sont devenuz et de tou leurs mainteneurs, recepueurs, et conforteurs

different branches that was needed in Southampton. An increase of frequency in mentioning contract law can be observed in the Oak Book. However, these instances concerning contracts were not clear (in terms of the type of contract) and should be interpreted like the ones at the footnotes of Oak Book which were written by Twiss.¹⁰⁸ On a controversial usage of contract, he added an explanation for the time as “The origin of this phrase ' a charter-party ' is derived from the practice of writing out contracts on a paper or charter, and then cutting or otherwise dividing the paper into two part, so that either party to the contract should hold a moiety, 'una carta partida'.”¹⁰⁹ Records and footnotes on these records, like this one, could be found several times in the Oak Book and even though there can be no separate regulation against piracy in local regulations over contracts or charter-parties, a visible amount of establishment in usage of contractual documents and development of contractual legal regulations both in the form of contract and charter-party could be easily realized.

In another part of the Oak Book, there is an important part which is granted by royal administration after Southampton was attacked by foreign pirates.¹¹⁰ At the time, they had to cope with all the burden of the Hundred Years War both in terms of military severity and effort for economic sustainability. This short part in the Oak Book of Southampton covered a grant from the king (Edward III) to the local administration of Southampton in order to enable them to finish the construction of town walls. Like other maritime code-like (not in form but in practice) documents of late medieval era, there was the same absence (not generally in the Oak Book but in this small part of it) of proof between contract law and piracy but another solid instance of legal awareness of sea banditry.

¹⁰⁸ Studer, *The Oak Book of Southampton*, lxviii

¹⁰⁹ *Ibid.*, 77

¹¹⁰ *Ibid.*, 119

In consequence, after the research through the maritime codes of late medieval England like the Black Book of the Admiralty (in general), Rolls of Oléron, Inquisition of Queenborough and Oak Book of Southampton, it would be difficult to prove the direct relation between piracy and contract law. These collective documents could only work as tools to mention two separate things: firstly, starting from the fourteenth century and continuing into the fifteenth century, maritime law codes of the period included a variety of references to contractual processes. These processes, which were organized in these documents, did not contain only buyer-seller type agreements, but also in detail contractual guidelines for the onboard responsibilities of all labor, and the onboard responsibilities of shipmaster and owner, how the investors share the risk with other charter-parties and how to handle the losses caused by inevitable damages (both for vessel and for merchandise). So, the first thing to say is that in late Middle Ages a more regular or organized contractual process came into maritime merchants' (and related occupations') lives to a degree that can be traced via maritime codes.

Secondly, these documents shows that piracy started to take part from the legal literature of the time. Maritime codes of the time indicated piracy as something to be well protected from and stipulated that pirates were to be caught and arrested. Before this era, or before the existence of these legal documents now seen as maritime codes, kings took individual measures against pirates that were all decided after specific cases of piratical attacks as was shown above in Chapter III. In separate accounts (the ones which are not included by any code or other collected documents that have common point of having same theme), like these in the Patent Rolls or in records of pleas, pirates, their exact crimes, victims and dates were indicated, but not because procedures required so (because there was no existing procedure), even

though they occur frequently. On the other hand, in the late medieval era, maritime law codes of all kinds covered the generalized, ready-to-use maritime law packages along with the singular documents that were still taking sporadic measures against piratical attempts.

However, the fact is, even though these legal documents give certain indications of the development of general contract law (mostly in the form of charter-parties) and to the development of a legal awareness of piracy, maritime codes cannot provide proofs of a close relationship between piracy and contract law and cannot be evidence of a full correlation. On the other side, the absence of this evidence in “codes” may not be the last hope of relating these two phenomena. Like the times before these codes, singular records might be relevant in order to show any direct tie between contractual processes and sea banditry.

A case where trade contracts and piracy intersected had been first experienced internationally approximately one century before fifteenth century, in 1293. Two men, called William de Sant and Andrew Barranté attacked Portuguese and Spanish merchants while they are sailing from Castile to Flemish waters.¹¹¹ These merchants had been caught in unfortunate weather and eventually found themselves off the coast of Portsmouth. The two pirates attacked them there, took all of their merchandise and even persuaded the Sheriff of Southampton to arrest these merchants. Before the king in the court, the Portuguese and Spanish merchants tried to explain they had never been enemies of the king and they were just merchants of the *company* of Ricardi of Lucca. The reason why they tried to vindicate themselves from being enemies of the king was that the pleas of the two pirates or privateers (William and Andrew) tried to legitimize their action by labeling it as taking from

¹¹¹ Chancery Miscellanea, Bundle 13, File 1, No. 16. cited in R. G. Marsden (ed.). *Documents Relating to Law and Custom of the Sea*. (New Jersey: The Lawbook Exchange Ltd., 1999), p. 12

the king's enemies. Eventually, the king accepted the pirates' claim and allowed them to keep all the merchandise that they had stolen from the Iberian merchants on the condition of compensating the losses of the Duke of Bayonne who had also suffered damage from the actions of these pirates. In this case, there are a couple of things to interpret. As the first step, being members or employees of a company could be enough to see them as merchants who were working with contracts and charter-parties; however, the terms of these contracts and how these losses should be shared in case of a piratical attack were not mentioned. Hence, the contractual nature of this case was not clear, and because of this, the contracts cannot be related to the piratical attacks. On the other hand, as a second aspect, 1293 was a date that is too early for step-by-step reforms against anti-piratical legal measures. The consequence of the case (decision of the king) is sufficient to see primitiveness towards the exterritoriality of contracted international trade and rawness of anti-piratical legal procedures, still not as two correlated facts but two distinct fragment of economic-legal area.

3.3 Effect of Legal Branches

To illuminate the place of maritime law and contract law, it is better to understand their position in late medieval era and which branches of law they were in relation with. First place to start is better to be common law as one of the backbone legal branches in England. Common law was covering trade affairs or disputes, debts-loans and, as the most important aspect for us, contracts.¹¹² As explained above in the section on contracts, all kinds of common law cases might be caused by verbal agreement disputes as well as written ones if the contract was important. These

¹¹² Ward, *The World of the Medieval Shipmaster*, 12

written agreements in medieval common law were rare and expensive, and they were also called sealed agreements. Naturally, with the passing of time, common law and its relationship to oral and written agreements changed. It became more flexible in some respects but less tolerant in others. For example, it was hard to break any sealed document and there was nothing to do if a party of agreement would lose half of his sealed document.¹¹³ He would remain a debtor even if he had previously paid. These kinds of new approaches started to emerge in late medieval times when the common law became preferred place of jurisdiction for these contractual matters; until that time it was the merchant law (or *Lex Mercatoria*) as a messy legal structure in an strange unity.

Merchant law has always been quite complex. It was quite suitable for England's legal tradition because it relied on customs and precedents as was usual in the legal background of the country. The reign of merchant law was most glorious before it was swallowed by common law. The principles of merchant law came from the origin of the *Lex Mercatoria* a compilation of commercial traditions. This branch of the English legal structure did not work as a criminal investigation and punishment authority in the commercial field. It focused on how it could protect merchants and how it could sustain the existing trade so the basic element was the ownership of merchants of their commodity and protecting these merchants and their commodities from existing external dangers.¹¹⁴ The Statute of Staple, which will be described further below, was covered by merchant law and this was a fourteenth-century tool in order to create a certain amount of regularity both in all kinds of commercial affairs and more specifically to contracts. After the fourteenth century, it was replaced by the common law, as what is described as developments in contract

¹¹³ Ibid., 14-5

¹¹⁴ Ibid., 17

law in this peace, which resulted in the replacement of local courts by more general, state-level common law court. The *Lex Mercatoria* still existed in the fifteenth century, but now under the heading of common law.

Maritime law or admiralty law, on the other hand, changes the dimension of the issue concerning late medieval maritime contract law. For a long time, the basis of English maritime law was the Rolls of Oléron. After England embraced these articles as appropriate maritime procedures, new legal documents like Inquisition of Queenborough were introduced. Indeed, all of these newly introduced documents were created because of one single, main reason: need. The Black Book of the Admiralty covers various different documents that were used by English maritime regulations and all of these important instances of maritime law came with absence of organizational body or theoretical framework like a legal basis and certain need of these for the sake of protecting maritime commerce, as the most profitable aspect of English economy from a very tempestuous international political arena. When the issue comes to the jurisdiction of admiralty law, it tended to construct its own area of influence by taking all maritime matters from other disciplines. However, since other disciplines were much more grounded than admiralty law, a clash occurred between common law and admiralty law for maritime trade, at least for maritime contract, even admiralty law succeeded to take other maritime branches from other legal disciplines like piracy from criminal law. Therefore, contract law (maritime contract law) was at the middle of these three abovementioned law branches and its belonging or impendence shifted with time to one another because of internal changes within the branches of these three law disciplines. This vague nature could be both traced from the maritime codes and singular records and lies as the reason why the

correlation between piracy and contract law of the term cannot be shown with a clear manner.

Before the fifteenth century, in 1361, a Flanders vessel was recorded carrying merchandise worth 20,000 l. (presumably French livre)¹¹⁵ Pirates spotted her existence and captured this ship. After king heard about this occasion he ordained his men for the establishment of a commission whose duty was to find the pirates and arrest them. However, this commission was established according to the common law of the time. Following this, in the same year, an order of cancellation came from the royal office. This cancellation stated that this case could not be undertaken by English common law because it was a maritime affair and it should be investigated according to maritime law by admirals.

Later, in 1476, the king appointed his men “to enquire into divers, spoliations, robberies and breaches of safe-conducts and truces between the king and foreign princes committed at sea by James Hayne and his accomplices, now on prison in Newcastle on Tyne, and to chastise and punish them according to *maritime law and custom, at a court of Admiralty*”.¹¹⁶ (my italics) This is a very strong instance of the development of maritime law in general. Contract was not indicated in this record at all, yet it should be mentioned under this heading. Because, apart from a certain provable improvement in anti-piracy law, this account indicated another important point in order to assess where the problem is in relating the piracy and contract law. The answer is hidden in the phrase of *court of Admiralty* in this record, in another words, difference in area of jurisdiction of branches of legal offices.

¹¹⁵ Marsden, *Documents Relating to Law and Custom of the Sea*, 84

¹¹⁶ Patent Rolls, Part 1, Vol. 6, 605

Therefore, during late medieval English legal history (and Southampton in particular) it was not very clear where to send which case, and jurisdictions of common law and maritime law were two distinct entities.¹¹⁷ When the issue comes to the disputes related with maritime trade contracts, there comes the clash of the jurisdictions and Lex Mercatoria became a special sphere that is worth mentioning as another smaller but more international category. If the relation between piracy and contract law is interpreted in the light of these jurisdictional clashes, it might be natural for one to be unable to indicate any solid proof of this relation because of being cases of separate courts.

Lex Mercatoria and its blurred nature about the jurisdictional processes enable kings and their offices to create some written documents to obey which explain the contractual processes and also could be implemented by maritime affairs. The earliest is the Statute of Merchants in 1283 which did not last long (its efficiency was questionable as well) and was followed by the Statute of Staple in 1353.¹¹⁸ The Statute of Staple was a regulation attempt of merchant law. It was one of the last attempts related with contractual matters because common law took over where merchant law left around fourteenth century. However, related with contractual organization and ownership matters (which were to be used in pleas to the court in order to demand return of the commodities in case of robbery on sea), the Statute of Staple remained as a key source for a long time. It had the features of a legal reform in merchant law and Ward sums that up as

The new courts' procedure, the law to be applied and the control by the merchants themselves, reflected the procedures that prevailed all over the continent... however, there was a further innovation...after the Statute of the Staple, English merchant law was prepared to accept the concept of good faith, including unsealed letters recognizing debt. This adaptability of merchant law

¹¹⁷ Ward, *The World of the Medieval Shipmaster*, 11-20

¹¹⁸ *Ibid.*, 19

was especially important in the development of acceptance of negotiable instruments.¹¹⁹

Although this shows the importance of the Statute theoretically for its time, it is better to see the practical function and where it stands in the relation between piracy and commercial legal structure.

In a record of 1371, a commission of the king was recorded which helps one to understand the regularity of fifteenth-century contractual cases in piracy and this record also lies as one of the best points of intersection between piracy and contract law.¹²⁰ In this record, a bailiff of Shoreham found a vessel, which was previously captured by pirates, and arrested these pirates. When it came to the question of what to do with the merchandise, which had been stolen by the pirates, the king explained what was to be done by saying that if the ownership of the merchants could be proven by “producing marks, charter-party or cocket, or the word of good and lawful merchant” then these goods would be returned to these merchants immediately. These ownership-proving techniques were all taken from the Statute of Staples and regularities, which ought to be, and enlighten how the Lex Mercatoria would react to secure a contractor against a piratical case. At the same time, this Close Rolls record mentioned explicitly the requirement to obey the rules and customs that were previously determined by the Statute of Staple. Although the Statute of Staple showed the legal aftermath of a piratical attack for contractors before contract law, it could not be thought of as a development that might be seen in every single contract between two merchants. It was a general improvement not only in contract law but also generally in commercial law, with the name of the period Lex Mercatoria.

¹¹⁹ Ibid.

¹²⁰ Close Rolls, 45 Ed. III, m.17 d. cited in R. G. Marsden (ed.). *Documents Relating to Law and Custom of the Sea*. (New Jersey: The Lawbook Exchange Ltd., 1999), p. 89

At the end of this chapter, a number of conclusions can be proposed: firstly, piracy cannot be said to be one of the factors in the improvement of late medieval contract law, neither in England overall nor in Southampton specifically. At least, this causal relationship cannot be *proved*. The only thing that might be said relating to piracy is that it is *possible to speculate* that it was one of the contributing factors to the regularization of contract law because of its significance and frequency. Starting from the thirteenth century onwards, wine piracy existed on English Channel in all its intensity and frequency as can be traced from singular records such as the ones in Patent Rolls and Close Rolls. It went on similarly throughout the fifteenth century with the exception of the reign of Henry V. Concurrently, starting from thirteenth century as well, maritime law (or admiralty law), common law and Lex Mercatoria developed substantially and continued to do so in the fifteenth century which can be observed by looking Rolls of Oléron or Inquisition of Queenborough for England and Oak Book of Southampton for the southern gate. With the parallel development of these two existing spheres, and by considering the common ground of maritime wine trade, piracy could be *assumed* to be one of the stepping stones for general development of contract and more generally commercial law, because of the need of taking measures in order to avoid from it. On the other hand, this assumption can hardly be more than an (well-founded) interpretation, because of the lack of direct accounts that link the development of contract law to piracy.

Secondly, during the search for a relationship between contract law and piracy, it has been revealed that the frequency of piracy until and during fifteenth century helped developed legal anti-piracy measures both in England and in Southampton. General maritime codes, the Oak Book of Southampton and all singular accounts related with Southampton and England as a whole, include

frequent piratical attempts in different damage scales and aiming different trades, especially wine trade and eventually it demonstrably caused the development of anti-piracy since pirates started to give harm to wine trade more than an average war. Like anxiety of global warming caused more sensible filtration policies in industries in all countries or like positive effect of new illnesses on medical technology and inventions compulsorily, practical instances of piracy enable a bureaucratic and jurisdictional development in theory level.

As one of the most important philosophers and theorists Michel Foucault constructed a theory in his piece of *The Birth of Biopolitics* with various well-organized and fascinating ideas related with European economic settlement and how that started to evolve. Naturally, none of these ideas are related with late medieval English economic standing, wine trade or piracy but related with the creation of a new political-economic structure in Europe starting with eighteenth century. He supports his argument with maritime law and effect of piracy examples from modern era, in order to explain how “overall European economy” should be seen. In the conclusion part, it should be observed that how his ideas work for medieval economic structure of wine trade, piracy and legal organization triangle, by not presenting an entirely new idea but making last remarks by using tools of Foucault in order to explain whole aim of this medieval relation-building.

CHAPTER V

CONCLUSION

In the medieval period, during the times of the Hundred Years War, the phenomenon of the economy's effect on political sustainability were not very different than how it was constructed by Foucault in his theories. As the two main belligerents, England and France tried to prepare themselves for the next battle and tried to avoid war exhaustion both in terms of sociopolitical and economic aspects.¹²¹ The northwest of the continental Europe and the islands above it were too small for these two geographic allies to share the power. War broke out because of the claim of the throne and continued with an immense clash of military and economic power. It should also be noted that military power has always been somewhat based on economic capacity. Therefore, wars were evolving from ones that were tied to the courage of soldiers into the ones that were financed, waged and bought. To put it another way, the only way to win a war was not the glory of battle. There have been alternative ways, which were solidly known by England and France, like attacking to the conditions that gave the chance to continue to this war to the king, namely economic wellbeing. In Foucault's identification of mercantilism and international

¹²¹ Seward, *The Hundred Years War*, 16-17

commerce balances, this would not only give the damage to others' fundamental sustainer but also provide utilization from absent part of market for the attacker state. This was the beginning of our story.

Since in the meantime, an important source of income was trade for England, it was very natural to think of trade as the first target in case of a war scenario such as the Hundred Years War. Within the trade, wine was a vital commodity because of high demand and availability for most of the society. Southampton was the southern gate of this wine trade for England because it was the key point to send this wine both by sea or land. Through the fifteenth-century port records of Southampton, it can be seen that most of the abovementioned wine trade was in the hands of a local elite who held political positions and worked as merchants as well. Regardless of highness of this administrative positions, they enjoyed the advantage of having connections and all kinds of administrative links that could be used. Eventually, they became the primary wine traders of Southampton in the fifteenth century both in local wine trade and internationally.

After seeing this great source of tax income for England in Southampton, it would not be hard to appreciate that the first income to cut off was the trade income for international bodies who were enemies of England, like France. This followed the reign of piracy in late medieval English Channel. As stated above, piracy was the prominent cause of the state of terror on the seas in the fourteenth century during the war. Because, piracy, by its nature, is a product of crisis. In addition, as Foucault said¹²², to cut the financier of military costs, both of the belligerents used privateers whose harm to international trade added to the one by pirates and created an even more dramatic scenario of commerce on sea. In the second chapter, it is argued that

¹²² Foucault, *The Birth of Biopolitics*, 52-53

piracy and privateering continued during the fifteenth century and rose proportionally with the developing wine trade in the English Channel until and after the reign of Henry V. Even Henry's efforts reduced the frequency and damage of sea-banditry, it returned and continued with all its malevolence as can be seen in the records of Southampton and generally in England.

The legal situation, more specifically contract law, was the last chapter relating to the piracy and indirectly wine trade. In order to prove this relation, which indicates that piracy was one of the causes of the development of contract law in Southampton and England, both contemporary maritime codes and individual records related with maritime affairs and its legal reflections were scrutinized. However, it was seen that none of these records could prove this causality or correlation between sea-banditry and contract law. The only fact we can see clearly, in the fourteenth and fifteenth centuries, when piracy became deeper and started to be more and more influential, contract law was in a development phase in a parallel to this deepening of piracy. On the other hand, records could not serve us in order to discover any intersection points of these two parallel lines.

On the other hand, two other relevant and useful consequences can be reached within from the information that is given by these records. Firstly, although this relation between piracy and contract law cannot be proven, because of the existing parallelism between these two phenomena, piracy can be interpreted as one of the determinants that had a positive effect on the development of contract law. It is, in fact, a very straight logic: when piratical attempts caused great loss to merchants' capitals, there should be a solution for merchants to avoid such losses in some way. Contracts were accomplished verbally before improvements of contract law. However, after the effects of piracy, the need to prove ownership of

commodities and the right to demand compensation for losses according to articles of this contract, directed people to pass to written agreements for a more legally regulated trade. Hence, to *certify* these legal rights, mostly designed as measures against piracies, contract law was developed to a more organized level.

Secondly, from the maritime records of Southampton and England, the direct effect of piracy on maritime law emerged as a consequence that could be proven. While only the Statute of Staple shows evidence about the relation between contract law and piracy relation, nearly all of maritime codes of England, Oak Book of Southampton and most of the singular maritime records indicate that sea-banditry created an improvement because of the depth of negative effects of piratical attempts. Therefore, piracy was the determinant of the improvement of general maritime law, whereas its effect on contract law can only be an assumption.

To see the triangular relationship of wine trade, piracy and law (not necessarily commercial but maritime law), the exemplification of Foucault stands as the best (despite the fault that it is actually related with eighteenth century circumstances) by putting this as

Take, for example, the history of maritime law in the eighteenth century, and the way in which, in terms of international law, there was an attempt to think of the world, or at least the sea, as the space of free competition, of free maritime circulation, and consequently as one of the necessary conditions for the organization of a world market. The history of piracy –the way in which it was at once used, encouraged, combated, and suppressed, etcetera- could also figure as one of the aspects of this elaboration of a worldwide space in terms of a number of legal principles. We can say that there was a juridification of the world which should be thought of in terms of the organization of a market.¹²³

To put it in different words, Foucault underlines the relation between piracy and the legal sphere by also mentioning their relevance with international maritime trade and

¹²³ Ibid., 56

putting a theoretical-political correlation between those if not a historically tractable or provable one. The bureaucratic elite of the Southampton wine trade, their multiple identities as administrators, merchants and time-to-time privateers, the increase in piracy in the English Channel and its benefitting from the chaos of Hundred Years War and finally the development of maritime law (if maritime law of commerce it is assumable, if generally maritime law it is observable), were all interrelated and stood as an important ring of the chain between the political, economic and military arenas.

BIBLIOGRAPHY

- Anderson, John L. "Piracy and World History: An Economic Perspective on Maritime Predation." *Journal of World History*. Vol 6. (1995): 175-99. Print.
- Baker, John Hamilton. *An Introduction to English Legal History*. 2 Vols. London: Butterworths, 1979. Print.
- Bowling, Tom. *Pirates and Privateers*. Harpenden: Pocket Essentials, 2008. Print.
- Brown, John R. "Admiralty Judges: Flotsam on the Sea of Maritime Law." *Journal of Maritime Law & Commerce*. 24 (1993): 249-285. Print.
- Calendar of Patent Rolls Preserved in the Public Record Office*. 53 Vols. London: National Archive, 1891-1916. Print.
- Cave, Roy C. and Herbert H. Coulson (eds.). *A Source Book for Medieval Economic History*. Milwaukee: The Bruce Publishing, 1936. Web.
- Chapman, Annie Beatrice Wallis (ed.). *The Black Book of Southampton*. Southampton: Cox & Sharland, 1912. Print.
- Cobb, Henry S. (ed.). *The Local Port Book of Southampton for 1439-40*. Southampton: The University Press, 1961. Print.
- Commission of European Communities. *Contributing to Sustainable Development: The Role of Fair Trade and Non-Governmental Trade Related Sustainability Assurance Schemes*. Brussels: The European Parliament and the European Economic and Social Committee, 2009. Print.
- Davies, John Silvester. *A History of Southampton: Partly from the Manuscript of Dr. Speed, in the Southampton Archives*. Southampton: Hampshire Books, 1989. Print.
- Eddison, Jill. *Medieval Pirates: Pirates, Raiders and Privateers 1204-1453*. Stroud: The History Press, 2013. Print.

- Foster, Brian, ed. *The Local Port Book of Southampton for 1435-36*. Southampton: The University Press, 1963. Print.
- Foucault, Michel. *The Birth of Biopolitics*, trans. Graham Burchell. Basingstoke: Palgrave Macmillan, 2008. Print.
- Gidden, Harry William. *The Charters of the Borough of Southampton: John-Edward IV.(AD 1199-1480)*. Southampton: Cox & Sharland, 1909. Print.
- Gorski, Richard. *Roles of the Sea in Medieval England*. Woodbridge: Boydell Press, 2012. Print.
- Gross, Charles and Hall, Hubert (eds.). *Select Cases Concerning the Law Merchant*. Publications of the Selden Society, 23, 46, 49. London: B.Quaritch, 1908-1932. Print.
- Hattendorf, John B. (ed.). *British Naval Documents, 1204-1960*. Aldershot: Scolar Press for the Navy Records Society, Ashgate, 1993. Print.
- Heller-Roazen, Daniel. *The Enemy of all : Piracy and the Law of Nations*. New York: Zone Books and MIT Press, 2009. Print.
- James, Margery Kirkbride, and Elspeth M. Veale. *Studies in the Medieval Wine Trade*. Oxford: Clarendon Press, 1971. Print.
- Justice, Alexander. *A General Treatise of the Dominion and Laws of the Sea: Containing what is most Valuable upon that Subject ... Together with several Discourses about the Jurisdiction and Manner of Proceeding in the Admiralty of England ...* London: T. Page, W. and F. Mount, 1724. Print.
- Keen, M. H.. *England in the Later Middle Ages: A Political History*, London: Methuen&Co., 1973. Print.
- Lambert, Craig L. *Shipping the Medieval Military: English Maritime Logistics in the Fourteenth Century*. Woodbridge: Boydell Press, 2011. Print.
- Lavery, Brian. *Royal Tars : The Lower Deck of the Royal Navy, 857-1850*. Annapolis: Naval Institute Press, 2011. Print.
- Marsden, Reginald G.. *Documents Relating to Law and Custom of the Sea*. Clark: Lawbook Exchange, 2003. Print.
- William Page (editor). "The borough of Southampton: General historical account." A History of the County of Hampshire: Volume 3 (1908): 490-524. British History Online. Web. 07 August 2014. <http://www.british-history.ac.uk/report.aspx?compid=42036>
- Platt, Colin. *Medieval Southampton: The Port and Trading Community, A.D. 1000-1600*. London: Routledge & K. Paul, 1973. Print.

- Postan, Michael M.. *Mediaeval Trade and Finance*. Cambridge: Cambridge University Press, 2002. Print.
- Potter, George S. "The Sources, Growth and Development of Law Maritime." *The Yale Law Journal* 11.3 (1902): 143-152. Print.
- Quinn, D. B. and A. A. Ruddock. *The Port Books Or Local Customs Accounts of Southampton for the Reign of Edward IV*, 2 Vols. Southampton: Southampton Record Society, 1937. Print.
- Rodger, N. A. M.. *The Safeguard of the Sea : A Naval History of Britain, 660-1649*. London: Penguin Books, 2004. Print.
- Roscoe, ES. "Mediaeval Piracy and the Lords High Admiral of England." *Law Magazine and Review: A Quarterly Review of Jurisprudence*. 24 (1898): 144-155. Print.
- Rose, Susan. *Medieval Naval Warfare: 1000-1500*. London: Routledge, 2002. Print.
- . *The Wine Trade in Medieval Europe 1000-1500*. London: Bloomsbury Publishing, 2011. Print.
- Rubin, Alfred P. *The Law of Piracy*. New York: Transnational Publishers, 1998. Print.
- Runyan, Timothy J. "The Rolls of Oleron and the Admiralty Court in Fourteenth Century England." *American Journal of Legal History*. 19 (1975): 95-111. Print.
- Sandahl, Bertil. "Names in English Naval Documents, 1280-1380." in *Medieval Ships and the Birth of Technological Societies* (ed.), 1989, pp.175-92. Print.
- Seward, Desmond. *The Hundred Years War: The English in France 1337-1453*, London: Constable, 1978. Print.
- Studer, P. (ed.). *The Oak Book of Southampton*, 2 Vols. Southampton: Southampton Record Society, 1911. Print.
- . *The Port Books of Southampton 1427–1430*. Southampton: Southampton Record Society, 1913. Print.
- Sylvester, David G. "Communal Piracy in Medieval England's Cinque Ports." in *Noble Ideals and Bloody Realities: Warfare in the Middle Ages* (ed.), 2006, pp. 163-76. Print.
- Tai, Emily Sohmer. "The Legal Status of Piracy in Medieval Europe." *History Compass* 10.11 (2012): 838-51. Print.
- Twiss, Travers (ed.). *The Black Book of the Admiralty : With an Appendix*, 4 Vols. Clark: The Lawbook Exchange, 2011. Print.

Vitkus, Daniel J. and N. I. Matar. *Piracy, Slavery, and Redemption: Barbary Captivity Narratives from Early Modern England*. New York: Columbia University Press, 2001. Print.

Ward, Robin. *The World of the Medieval Shipmaster: Law, Business and the Sea c.1350-c.1450*. Woodbridge: Boydell Press, 2009. Print.

Welch, Edwin. *The Admiralty Court Book of Southampton, 1566-1585*. Southampton: University of Southampton Press, 1968. Print.

APPENDIX A

Trade Volumes of Political-Merchants in Late Medieval Southampton

Year*	Peter James	Walter Fetplace	John Emery	John Pain	Robert Eylward	William Nicole
1427-28	38.5*	65	16.5	4	7	35.5
1435-36	53	12	27.5	24.5	14.5	17
1439-40	45	2	2	4.5	15	10

*Amounts above are in medieval unit of volume “tun” which is close to modern ton.

*Years of available port books of Southampton which were chosen as three sample years to reflect first half of fifteenth century.

APPENDIX B

A List of Administrator-Merchants Transactions from the Port Records of 1469-71

<i>MERCHANT</i>	<i>VESSEL</i>	<i>MASTER</i>	<i>DATE</i>	<i>CU*</i>	<i>CR*</i>	<i>AN*</i>	<i>AMOUNT</i>
Avanne, Thomas, burgess	Boat of Thomas Shelow	-	12 October 1469	0	2d	-	1 butt
Avanne, Thomas, burgess	Boat of Thomas Avanne	-	17 October 1469	0	1s 8d	-	5 tuns
Tregas, Phelyph	Boat of Thomas Benyth	Thomas Benyth	25 October 1469	0	0	-	7 barrels of sweet wine
William, Walter, burgess	Boat of John Shepard	-	7 November 1469	0	1s 3d	-	3 tuns and 3 hogsheads
Blewet, Robert	Boat of William Eylys	-	9 November 1469	0	4d	-	1 tun
Avanne, Thomas, burgess	Boat of William Eylys	-	9 November 1469	0	4d	-	1 tun
Avanne, Thomas, burgess	Boat of William Short	-	17 November 1469	0	1s 5d	-	4 tuns and 1 hogshead
Walker, John, burgess	Boat of John Walker, burgess	-	19 November 1469	0	2s 4d	-	7 tuns
Asse, Richard	Boat of John Fryday	-	19 November 1469	0	2s	-	7 tuns

Asse, Richard	Boat of John Fryday	-	19 November 1469	0	0	-	5 barrels
Asse, Richard	Boat of John Fryday	-	19 November 1469	0	3d	-	3 hogsheads
Avanne, Thomas, burgess	Boat of Thomas Shelow	-	20 November 1469	0	1s 7d	-	4 tuns and 3 hogsheads
Avanne, Thomas, burgess	Boat of Thomas Shelow	-	20 November 1469	0	-	-	2 barrels
Asshe, Richard and Saunders, William (burgess)	Lodwyco de Lapaley	Richard Asshe and William Saunders (burgess)	28 November 1469	0	5s	4d	15 tuns
Tregas, Phelyph (burgess)	Lodwyco de Lapaley	Richard Asshe and William Saunders (burgess)	28 November 1469	0	3s 4d	4d	10 tuns
James, Walter (burgess)	Lodwyco de Lapaley	Richard Asshe and William Saunders (burgess)	28 November 1469	0	1 s 2d	4d	7 pipes
Raynold, Thomas (burgess)	Lodwyco de Lapaley	Richard Asshe and William Saunders (burgess)	28 November 1469	0	4s	4d	12 tuns
Tregas, Phelyph (burgess)	Ship of Richard Asshe	Gerard Baker	28 November 1469	0	5s	0	15 tuns
Walker, John, burgess	Ship of Richard Asshe	Gerard Baker	28 November 1469	0	5s	0	15 tuns
Raynold, Thomas (burgess)	Ship of Richard Asshe	Gerard Baker	28 November 1469	0	5s	0	15 tuns
Blewet, Robert (burgess)	Ship of Richard Asshe	Gerard Baker	28 November 1469	0	3s 4d	0	10 tuns

Saunders, William (burgess)	Ship of Richard Asshe	Gerard Baker	28 November 1469	0	1s	0	3 tuns
William, Walter, burgess	Boat of John Shepard	-	2 December 1469	0	2d	-	1 pipe
Tregas, Phelyph (burgess)	Boat of John Whale of Hasting	-	5 December 1469	0	5d	-	1 tun and 1 hogshead
Avanne, Thomas, burgess	Boat of T. A Vanne (burgess)	-	10 December 1469	0	2d	0	1 pipe
Walker, John, burgess	Boat of Henry Shipman	-	15 December 1469	0	10d	-	5 pipes
Avanne, Thomas, burgess	Boat of Henry Shipman	-	15 December 1469	0	2d	-	1 pipe
Avanne, Thomas, burgess	Ship of Thomas A Vanne	William Harre	3 January 1470	0	4s	0	12 tuns
Eynys, Lodwyco (burgess)	Ship of Thomas A Vanne	William Harre	3 January 1470	0	2s 4d	0	7 tuns
William, Walter, burgess	Boat of Richard Sprynge	-	21 January 1470	0	2d	-	1 pipe
Avanne, Thomas, burgess	Boat of T. A Vanne (burgess)	-	25 January 1470	0	2s 1d	-	6 tuns and 1 hogshead
Avanne, Thomas, burgess	Boat of T. A Vanne (burgess)	-	25 January 1470	0	0	-	3 barrels
Asshe, Richard (burgess)	Boat of John Shepard	-	1 February 1470	0	2d	-	1 pipe
Pain, Thomas (burgess)	A ship	Roger Phelyp	4 February 1470	0	1s 9d	4d	5 tuns and 1 hogshead
Walker, John, burgess	Boat of Richard Middleton	Richard Middleton	6 February 1470	0	1d	-	1 hogshead

Asshe, Richard (burgess)	Boat of Richard Luffe	-	8 February 1470	0	2d	-	1 pipe
Walker, John, burgess	A ship	Alyn Asshe	13 February 1470	0	4d	-	2 butts and 1 barrel
Eyermys, Lodwyco (burgess)	A ship	Bernardo Dyssysworthe	20 February 1470	0	2s 4d	-	7 tuns
Avanne, Thomas, burgess	A ship	Bernardo Dyssysworthe	20 February 1470	0	2s	-	6 tuns
Gerard, Robert	A ship	Bernardo Dyssysworthe	20 February 1470	0	5s	-	15 tuns
Walker, John, burgess	Ship of Richard Eyls	John Rately	12 March 1470	0	4s 2d	0	25 butts
Tehy, Vincent	Boat of John Shepard	-	12 March 1470	0	4d	-	1 tun
Asshe, Richard (burgess)	Boat of Peryn of Hythe	-	26 March 1470	0	4d	-	1 tun
Walker, John, burgess	Boat of Alyn Asshe	Alyn Asshe	26 March 1470	0	2d	-	1 butt
Walker, John, burgess	Boat of William Short	-	11 April 1470	0	1d	-	1 hogshead
Clementes, Antonie (burgess)	Boat of John Shepard	-	16 April 1470	0	1d	-	1 hogshead
Asshe, Richard (burgess)	Boat of Peryn of Hythe	-	19 April 1470	0	2d	-	1 pipe
Walker, John, burgess	A ship	John Rately of Lemyngton	7 May 1470	0	2s 4d	0	14 butts
Avanne, Thomas, burgess	Boat of Tomas Benyth	-	8 May 1470	0	4d	-	1 tun

Avanne, Thomas, burgess	Boat of John Woderove	-	12 May 1470	0	3d	-	2 hogsheads and 1 barrel
Raynold, Thomas (burgess)	Boat of John Mathew of Fyssheborn	-	15 May 1470	0	1d	-	1 hogshead
Shropshire, John (burgess)	Boat of John Baker	-	5 June 1470	0	1d	-	1 hogshead
Avanne, Thomas, burgess	Boat of John Fryday	-	6 June 1470	0	1s 6d	-	4 tuns and 1 pipe
Gerard, Robert (burgess)	Boat of John Shepard	-	8 June 1470	0	2d	-	1 barrel and 1 pipe
Pain, Thomas (burgess)	A boat	Richard Regeler	9 July 1470	0	4d	2d	1 tun
Avanne, Thomas, burgess	Boat of Alyn Emery	-	18 July 1470	0	2d	-	1 pipe
Walker, John, burgess	Boat of John Walker, burgess	-	20 July 1470	0	10d	-	5 butts of sweet wine
Saunders, William (burgess)	Boat of John Walker, burgess	-	20 July 1470	0	2d	-	1 butt
Tehy, Vincent	Boat of John Shepard	-	20 July 1470	0	2d	-	1 pipe
Walker, John, burgess	Boat of John Fryday	-	1 August 1470	0	1s	-	3 tuns
William, Walter, burgess	Boat of John Shepard	-	6 August 1470	4d	4d	-	1 tun
Avanne, Thomas, burgess	Boat of John Mathew	-	17 September 1470	0	4d	-	1 tun
Compayn, Victor (burgess)	A Galley	Francesco de San Matheo		0	4d	0	2 butts of sweet wine

Walker, John, burgess	A ship	William Cokhes of Fowy	9,10,11 April 1471	0	1s 4d	-	8 butts of sweet wine
Avanne, Thomas, burgess	Boat of Henry Smith of Kingston	-	25 April 1471	0	4d	-	2 butts
Avanne, Thomas, burgess	Boat of Tomas Benyth	-	11,12 May 1471	0	2s	-	6 tuns
Pain, Thomas (burgess)	Boat of Henry Amlyn of Chichester	-	18 May 1471	0	2d	-	1 pipe
Avanne, Thomas, burgess	Boat of Henry Amlyn of Chichester	-	18 May 1471	0	1s	-	3 tuns
Pain, Thomas (burgess)	Boat of John Mathew of Fyssheborn	-	21,22 May 1471	0	1s 6d	-	4 tuns and 1 pipe
Avanne, Thomas, burgess	Boat of Davy Whyte	-	8 June 1471	0	4d	-	2 butts of sweet wine
Walker, John, burgess	Boat of Thomas Benyth	-	11 June 1471	0	2d	-	1 butt
Eynes, Laurens (burgess)	Boat of Laurens Eynes	-	11 June 1471	0	1s 2d	-	3 tuns and 1 pipe
Leuerzege, Thomas (burgess)	Ship of Philip Bylote	John Retirle	18,19 June 1471	0	2d	-	1 pipe
Avanne, Thomas, burgess	Boat of Henry Amlyn of Chichester	-	22 June 1471	0	1d	-	1 hogshead
Clement, Antony (burgess)	Boat of John Sprynge	-	28 June 1471	0	2d	-	1 pipe
Pedelden, Vincent (burgess)	A ship of Portsmouth	Wat' Gibson	1 July 1471	0	2s 4d	0	7 tuns
Blewet, Robert (burgess)	A ship of Portsmouth	Wat' Gibson	1 July 1471	0	2s 2d	0	6 tuns and 1 pipe

Avanne, Thomas, burgess	A ship of Portsmouth	Wat' Gibson	1 July 1471	0	6d	0	3 pipes
They, Vincent (burgess)	A ship of Portsmouth	Wat' Gibson	1 July 1471	0	2s 2d	0	6 tuns and 1 pipe
Eynes, Laurens (burgess)	Boat of Laurens Eynes	-	4 July 1471	0	5d	-	1 tun and 1 hogshead
Jonson, William (burgess)	Boat of Dauy Whyte	-	8 July 1471	0	8d	-	2 tuns
Avanne, Thomas, burgess	Boat of Henry Amlyn of Chichester	-	9 July 1471	0	2d	-	1 butt
Avanne, Thomas, burgess	Boat of Henry Amlyn of Chichester	-	9 July 1471	0	3d	-	1 pipe and 1 hogshead
Avanne, Thomas, burgess	Boat of Richard Periss of Bosam	-	13 July 1471	0	2d	-	1 butt
Walter, John (burgess)	Boat of John Luffe of Heth	-	19 July 1471	0	2d	-	1 pipe
Avanne, Thomas, burgess	Boat of William Schorte of Lankeston	-	1,2 August 1471	0	11d	-	5 pipes and 1 hogshead
Walter, John (burgess)	Boat of John Walker, burgess	-	9 August 1471	0	1s	-	3 tuns
Saunders, William (burgess)	Boat of Wat' James	-	10 August 1471	0	4d	-	2 butts of sweet wine
Avanne, Thomas, burgess	Boat of Henry Amlyn of Chichester	-	14 August 1471	0	1s	-	3 tuns
Avanne, Thomas, burgess	Boat of John Vyncorte of Heth	-	2 September 1471	0	8d	-	2 tuns
Avanne, Thomas, burgess	Boat of Henry Amlyn of Chichester	-	5 September 1471	0	10d	-	2 tuns and 1 pipe

Avanne, Thomas, burgess	Boat of Henry Amlyn of Chichester	-	5 September 1471	0	-	-	4 barrels
Avanne, Thomas, burgess	Boat of William Smith	-	7 September 1471	0	2d	2d	1 butt of sweet wine
Eynes, Laurens (burgess)	Boat of Peter de Caleysse	-	8 September 1471	0	4d	-	2 pipes
Avanne, Thomas, burgess	Boat of John Shepard of Newporte	-	15 September 1471	0	2d	-	1 pipe
Tehy, Vincent (burgess)	A carrack	Baltizar Scorcifficus	2 December 1470	0	4d	3s 4d	2 butts

*CU stands for the local customs that were taken for the amount of wine that was transacted and CR symbolizes the cranage fee to unload same amount. AN, on the other side, is the anchorage fee that should be paid once for the ship.