

GOD'S GRACE:  
ENGLISH MARITIME SALVAGE 1600-1800

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The purpose of this thesis is to investigate a little understood and largely ignored area of maritime history. Because of the vulnerability of wooden ships and increases in shipping in the seventeenth and eighteenth centuries, shipwrecks were common. The salvage of these shipwrecks was an activity which took many forms, and involved people from every socio-economic group.

In order to understand salvage activities and their consequences, the legal history of shipwrecks in England is investigated beginning in the medieval period. This is followed by a survey of the types of salvage activities which occurred throughout the country. A case study of Devon County is then presented.

A survey of laws reveals that the ancient belief that shipwrecked property belonged to its finder was maintained for centuries. This reasoning was reinforced not only by poor plunderers but also by the actions of state officials, entrepreneurs, inventors, and wealthy landowners who had legal means of profiting from shipwrecks.

The example of Devonshire shows what plunderers and the landed gentry gained from shipwrecks usually consisted of ship pieces such as rope and timber. These items were heartily welcomed by the poor and their ownership was

fiercely guarded as an aspect of property by the rich. A class of professional, full-time salvors also evolved to represent the claims of merchants and shipowners, and to oversee the salvage of ships and goods which were to be returned to their rightful owners.

In conclusion, this study reveals that all social orders had a means of taking advantage of the inevitability of shipwreck. The various regimes in place between 1600 and 1800 failed to formulate a comprehensive policy condemning plunder and the abuse of wrecks. Through plunder, the poor also had a relatively safe means of demonstrating against a system which increasingly constrained their social and economic mobility. These themes are relevant today, as historic shipwrecks are plundered by treasure hunters. The durable, centuries old "finder keepers" attitude persists, as does the notion that stealing from historic wrecks is a safe means of protesting against a legal system which attempts to limit the activities of treasure hunters.

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## INTRODUCTION

The word "wreck" is derived from the Norman word "Varech," which referred to the sea-weed growing or cast upon the shore between high and low water mark.

--The Black Booke of the Admiralty

A large part of the tragic and perhaps romantic tradition of the human relationship with the sea is the occurrence of shipwrecks. Shipping ventures are always shadowed by the possibility of disaster, and accounts of such disasters are treasured by novelists, historians, and the general public. What is rarely mentioned, however, is that when a vessel wrecked, it often was not the end of the voyage. When ships went down or broke up, new players were introduced to the drama: land owners, local courts, local people, and opportunistic adventurers. Some of those on board were doomed to disaster like the vessels that carried them. But the remaining sailors, captains, merchants, investors, and owners of cargo took on new roles dictated by tradition, ethics, and law. The action changed from

commerce and its protection to salvage and recovery. This area of maritime activity is as old as any other.

This thesis seeks to define and explain the legal and traditional framework within which maritime salvage in England operated from the Middle Ages throughout the beginning of the industrial age. An overview of salvage activities throughout Britain between 1600 and 1800 follows. Finally, one English county, Devon, will then be examined to understand the logistical problems, economic impact, and actual workings (versus the written standards) of the activity.

Devon is a county with an extensive coastline and a long, rich maritime tradition. In addition, a number of records from this county exist concerning wrecks and salvage. The study of Devon may therefore provide examples of many of the salvage activities that were common in England. The county most often associated with salvage activities is Cornwall, where wrecks and plundering are legendary. It is often difficult to separate fact from fantasy when studying plunder in Cornwall, as the activity has been mythologized as part of what defines the history of the county. Writing in the seventeenth and eighteenth centuries, many commentators declared that the Cornish were prone to plunder, as it seemed a part of their nature. But it is difficult to say whether these sources are accurate or



if such authors were merely reiterating a stereotype created centuries ago. The basis for this stereotype may lie in the fact that Cornwall witnessed a disproportionately large number of shipwrecks compared with other sea-shires. Consequently, it is likely that more plunder and salvage of different kinds occurred. The frequency of plunder may have led contemporaries to assume it was a characteristic of Cornish nature, and not due to a statistical imbalance.

Salvage falls into that unique and stirring category of maritime activity that includes piracy, privateering, and smuggling. Piracy exists today, as does smuggling. Certainly, salvage lives on. In these areas, lawlessness has often been accepted and even glorified. This attitude stems from three themes. One is the chance of quick financial gain. Another theme is the inherently difficult nature of enforcing laws on the high seas and in distant lands. The third theme concerns the nature of the human relationship with the sea. Here, the sea has always been looked upon as the dominant figure: always an unpredictable challenger, and often the sudden destroyer of men. Any gains taken in dealing with the sea were and are often looked upon as naturally justified, given the danger and difficulties implied.

Economically, salvage was largely a "fringe" activity in the seventeenth and eighteenth centuries. Still, the

importance of shipwrecks to local economies and enterprising individuals, if not the economy of the Britain as a whole, cannot be discounted. Ships and their cargoes were valuable items, well worth salvaging in broadly poor, pre-industrial economies. The importance of salvage is witnessed by efforts at regulating the activity. Like many other maritime endeavors, it was governed by a loose intertwining of law and custom. Law itself relied upon its own ancient traditions to settle maritime disputes in early modern Britain. In addition, salvage presented problems for which there were no counterparts in laws dealing with land or at sea; only aged precedents were available to guide authorities. The term best describing past legislation dealing with the recovery of shipwrecks and their goods is sui generis.

Throughout the seventeenth and eighteenth centuries, the term "salvage" applied to civil and military actions. Military salvage concerned the rescue of property from an enemy in a time of war, whereby one might expect a reward in prize court. This type of salvage is not discussed here, rather this thesis is concerned with civil salvage. Civil salvage involves the preservation of property and life from danger in times of peace or war. While studies of military salvage emphasize international relations, this study focuses on the relationship of English people with

themselves. Civil salvage concerns ships lost to and reclaimed from an impartial participant--the sea. Legal and social difficulties stemming from shipwrecks, and attempts to overcome them, reveal the relationship between mariners and land-based people, landed rich and laboring poor, and between the English people in general and the sea. Civil salvage exposes a slice of the English social structure of the time. Between 1600 and 1800, the English nation struggled to deal with questions of property arising from the incidence of shipwreck. The struggle continues today, as civil salvage is the ancestor of salvage of historic shipwrecks in modern times.

In the eighteenth century, merchants, seamen, beach-combers, lords of manors, among others, relied upon a tradition relating to salvage of shipwrecks that was already several centuries old. One glance at the modern world suggests that the attempts to regulate formally and govern salvage activities have struggled to overcome this legacy. This phenomenon is easily observed in the formation of a recent concept, the protection of submerged cultural resources. Legislation has repeatedly confronted ideas of property and ownership--often a "finders keepers" attitude--that have been hundreds of years in the building. It is hoped that by looking at the historical antecedents of the conflict between nautical archaeologists and salvors, or

"treasure hunters," insight into the problem will be gained.

While tales of shipping disasters are cherished and told repeatedly, the processes and circumstances that made shipwreck common are usually ignored and are largely misunderstood. They deserve greater attention, however, as they initiated new sets of maritime activity.

Of all the factors that contributed to shipwrecks, none were as powerful or as unpredictable as the weather. Storms and gales could blow ships over, drive them on rocks, or wash away their crews. The hazards were particularly acute on a lee shore. In addition, ships in harbors were not necessarily safer than those at sea. Strong winds could lead to collisions with other vessels, cause a ship to drag its anchors so that it ran aground, or snap its anchor cables with the same effects. Fog also took its toll on ships, especially as there were few lighthouses in England until the nineteenth century.

Ships occasionally came apart on their own. Old ships or ships that had been at sea without proper cleaning and inspection of the hull were subject to rotting. Besides leaking, the rapid fouling of ship's hulls lessened control, and increased the chances of disaster.<sup>1</sup>

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<sup>1</sup>G. V. Scammel, "Shipwrecking in Early Modern England," Historical Journal, 15 (1972), pp. 403-404.

The structural characteristics of a vessel naturally contributed to its seaworthiness. Specifically, the relationship between the hull form and the height of the rig, and the length to beam ratio have great influence on a ship's initial stability. To add stability, most ocean-going sailing vessels had to be ballasted, and this had to be done correctly. A vessel with cargo stored heavily at the top of the hold, or on deck, would raise the center of gravity of the vessel, increasing the likelihood of its being blown over. The carriage of very light cargo or no cargo could also lead to instability if insufficient ballast was carried.<sup>2</sup>

A frequently misunderstood but often encountered occurrence in maritime history is the dismasting (the loss of a ship's mast due to stress on the vessel) of ships. "Stiff" vessels are those that carry a great deal of sail without laying over on their sides. The result of stiffness can be a short, sharp roll leading to dismasting due to the violent motion in a heavy swell with no wind. Vessels carrying heavy cargoes such as iron or copper low in the hold were prone to stiffness and occasionally dismasting.<sup>3</sup>

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<sup>2</sup>Peter Allington, "Handling the Fully-Rigged Ship" in David Starkey, ed., Devon's Coastline and Coastal Waters: Aspects of Man's Relationship with the Sea, (Exeter: Exeter University Publications, 1988), pp. 64-65.

<sup>3</sup>Ibid.

Masters of sailing ships had to consider the build of a ship, the way the ship was ballasted, the way its cargo was stored, its maintenance, and the amount of sail it carried in different winds and currents. If an improper balance was struck between these factors, a vessel could heel over in rough or even calm weather. Sailing vessels could also meet cruel fates if they had defective equipment such as bilge pumps. Rudders torn from crude or rusted fittings could also lead to destruction.<sup>4</sup>

The outbreak of fire was a most feared and deadly possibility for mariners in the age of sail. Fire could rapidly destroy or disable a vessel, as most materials aboard were inflammable--wood, canvas, hemp, etc. Naval stores, such as pitch and tar, could also be ignited. Fires started in many ways, such as outbreaks from breaming, or the cleaning of the hull exterior with torches. Explosions also claimed many ships throughout history, often occurring on warships carrying large amounts of gunpowder. Mishandling of powder often led to ignition, particularly during frenzied engagements with the enemy. The results of explosions aboard ships were dramatic, with great loss of life and limb.

Sea battles were, of course, responsible for a great

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<sup>4</sup>Scammel, "Shipowning", The Historical Journal, 15, (1972) pp. 403-404.

many shipwrecks. The navies of many nations invested in various types of weaponry intended to destroy an enemy ship's rigging or to blast through its hull. Despite the array of guns and shot, however, naval battles through the end of the eighteenth century were mostly indecisive. Though naval officers placed much emphasis on the time it took to reload and re-fire ships' guns, it seems unlikely that better rates of fire gave one side a substantial advantage over another. It was simply very difficult to move into position at the start, and very difficult to hit a moving target from a ship that was pitching and rolling. Fire ships could be potentially lethal as well, but they relied on the weather and the attentiveness of the enemy in noticing and warding them off. Wooden ships heavily damaged in battle were still very buoyant, and unlikely to sink. This was acceptable to the naval powers of the time as it was more profitable to capture than to sink an enemy ship.

Busy ports, such as Plymouth, were the scene of numerous and inevitable collisions. Sailing from an anchorage, changing direction, and stopping were (and are) difficult maneuvers for sailing ships. Problems were easily exacerbated by a confined area or a crowded roadstead.

Ships were also wrecked intentionally. Often, warships and merchant ships that found themselves pursued by ships of a rival nation would be run ashore rather than submit to the

enemy. In addition, masters occasionally drove their ships ashore to avoid paying customs duties.

Due to inexperience, poor knowledge of a coastline, inaccurate charts, bad navigation in general, or a combination of these factors, ships often ran ashore, foundered on sandbars, or ran into rocky outcroppings. Ships stranded in this way could occasionally be freed to continue their voyage with light repairs. Many ships were even designed to be beached for unloading. Not all ships, however, were so designed or lucky.

While a mariner's worst enemy was the weather, over which seamen had limited control, the weather could be the salver's best friend. The weather could cause a wreck to sink, but vessels that crashed ashore could easily be of unexpected benefit to those on land. Sometimes a vessel did not have to sink or come ashore to be of value to salvors. When a ship began taking on water due to damage from collision, running aground, storms, or from simple wear and tear, goods were often jettisoned.<sup>5</sup>

Another important consideration concerning shipwrecks and salvage was the famous inability of seventeenth- and

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<sup>5</sup>Ancient custom, dating from Rhodian law, dictated that in these instances a merchant or master of a vessel would cast something over first, to be followed by the other seamen. Alexander Justice, A General Treatise of the Dominion of the Sea and a Compleat Body of the Sea Laws, 3rd ed. (London: J. Nicholson, 1710?), p. 109.



eighteenth-century seamen to swim. The ability of a sailor to get to shore influenced the legal definition of wrecked goods, and who could claim them. A sailor's ability to swim, however, was no guarantee he would survive the ordeal of a shipwreck even if he made it to shore.

In the Age of Sail, shipwrecks were a common occurrence. Shipwrecks set the stage for competition for quick gain among people of all social orders. The struggles of these people, against the elements and against each other, reveal the nature of a little studied aspect of maritime history. Salvage also reveals how people operated within the social and legal structures of early modern England to insure a profit for themselves. Salvage also reveals how the social and legal structures were circumvented for the same purpose. In short, the study of salvage shows how misfortune is turned to fortune, and how one person's doom is another's godsend. Salvage also stands as the predecessor to modern treasure hunting. With this study, we can see how tradition reinforces attitudes toward an unusual activity, and how the strength of these attitudes can have negative consequences generations later. Analysis of historic salvage, however, can provide insight into modern problems associated with the plunder of historic resources.

## CHAPTER I

### MEDIEVAL LAWS AND CUSTOMS OF SALVAGE

...he ought to be bounde to a stake in the middle of his house, and then fire ought to be set to the four corners of the house, and it shulde all be burnt, and the stones of the walls cast down to the ground, and the place made a market to sell swine for ever perpetually.<sup>1</sup>

This twelfth-century passage from the *Rolle of Oleron* details the penalty for a lord convicted of working with malicious pilots to cause a shipwreck on his land. A lord might have been tempted to take this action to claim wrecked ships and goods. But while this excerpt reveals the zeal of medieval lawmakers in attempting to regulate incidents of shipwreck, it stands as only a small part of a larger effort to control maritime activities in general.

Maritime law was first written down in the late medieval period, and these writings became the source for later judgments. The timing of these laws has been

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<sup>1</sup>Travers Twiss, ed., Rerum Britiannicarum Medii Aevi Scriptores or Chronicles and Memorials of Great Britian and Ireland during the Middle Ages, 4 vols. (London: 1871; London: Kraw Reprint LTD., 1965), 2, p. 462. According to the editors of Chronicles and Memorials, there is no record of any such penalty being inflicted on a lord. Ibid., p. 469 n.

explained by the fact that learned men and scribes, who were largely made up of the clergy, only became familiar with the practices of seafaring men during the Crusades. They then endeavored to record previous judgments for a reference for later authorities to make legal decisions. Before the late medieval period, maritime cases were decided by tribunals of learned men relying on oral tradition.<sup>2</sup>

By looking at the medieval codes in detail, we see the traditions in place during the centuries before the promulgation of the Rolle of Oleron. The recognition of the Rolle marked the true beginning of the protection of shipwrecked property. After the Rolle, the stage was set for conflict between early traditions of plunder and new standards of guardianship.

Medieval codes also reveal the unique nature of salvage law. Such law called on people for unsolicited, just action. Immoral behavior was discouraged, but the law always allowed for profit to be made from shipwreck. The laws permitted powerful landowners, government officials, and naval officers to enjoy separate privileges. These privileges allowed powerful citizens, such as the Lord High Admiral and manorial lords, to exploit shipwrecks. Loopholes such as these were left in the law, undermining any effort to construct a meaningful and complete public policy

<sup>2</sup>Ibid., 2, p. xxxix-xl.

concerning wrecks. The inheritors of this legacy found the potential for gain from unbidden sources irresistible. Thus lawmakers and coastal inhabitants of later periods were prevented from making further and more realistic attempts at stamping out unjust exploitation of objects found in contact with the sea. Social and legal customs served to justify and perpetuate the lack of positive change.

Medieval English salvage law has been collected and published in the Black Book of the Admiralty, which is an assemblage of "most ancient texts of all the more important collections of medieval Sea Laws."<sup>3</sup> The Black Book was compiled in England for the use of the Lord High Admiral or his lieutenant, who sat as his judge in the High Court of Admiralty.<sup>4</sup> Though somewhat ironic, salvage disputes concerning goods on land came to be settled in common law courts and not in admiralty courts.<sup>5</sup> It is in the admiralty court, however, that the rules governing and defining the rights of salvors are found, based upon the principles of maritime law as understood and adopted within the

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<sup>3</sup>Ibid., vol. 4, vii.

<sup>4</sup>Ibid., vol. 3, p. lxxix.

<sup>5</sup>By an Act of 15 Richard II (1391) c. 3 s. 1, all contracts, pleas, and complaints relating to salvage were tried by the common law courts, and not the court of the admiralty. This did not include cases dealing with the droits of admiralty, namely wrecks or goods from wrecks found on the sea with no survivors.

admiralty.<sup>6</sup>

There is a common thread running through salvage custom and law in medieval European coastal areas, because most of these areas built upon the legal foundations left by the Romans. In the case of salvage, the Romans adopted most of their beliefs from those expounded in Rhodes. Lawmakers also shared more current ideas, so that the Rolle of Oleron, the Town-Law of Wisby, the Maritime Ordinances of Trani, and the Customs of the Sea formed a continuous chain of maritime law that connected Mediterranean, Baltic, and other European societies. While the lawmakers of Wisby were inspired by the Rolle of Oleron, the two sets of laws formed the basis of sea laws promulgated by the Hanse towns in 1597.<sup>7</sup> All of these codes are vital to the history of English maritime law. As noted English historian W. S. Holdsworth has observed,

Neither the laws of the Rhodians, nor of Oleron, nor of Wisby, nor of the Hanse towns are of themselves any part of the Admiralty law of England...But they contain many principles and statements of marine practice, which, together with...other ordinances, were used by the judges of the English court of Admiralty, when they were molding and reducing to form the

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<sup>6</sup>David W. Steel and Francis D. Rose, eds., Kennedy's Law of Salvage, fifth ed. (London: Stevens and Sons, 1985), pp. 61-62.

<sup>7</sup>Alexander Justice, A General Treatise of the Dominion of the Sea and a Compleat Body of the Sea Laws, third ed. (London: J. Nicholson, 1710?), p. 190..

principles and practice of their court.<sup>8</sup>

It was not until the nineteenth century that serious changes were made. In fact, Holdsworth also noted that "the law of Oleron, and other maritime codes, may still be usefully cited in English courts."<sup>9</sup>

The English used the Rolle of Oleron as their primary source of maritime law during and after the medieval period. The Rolle was a collection of ordinances propounded by King Richard I. Legend held that Richard stopped at the island of Oleron while returning to England from the Holy Wars.<sup>10</sup> In salvage law, the Rolle represented a crucial break with past laws and traditions, to the extent that it actually changed the definition of a shipwreck. An earlier tradition of "finders keepers" existed in law, and was legally ended. Thus wrecked ships or wrecked goods no longer became the property of their finder, but were to be preserved for their owners. This was intended to discourage the practice of "wrecking," which was the intentional guiding of a ship onto

<sup>8</sup>W.S. Holdsworth, A History of English Law, 9 vols. (London, Methuen and Co., 1925), 1, 559.

<sup>9</sup>Ibid.

<sup>10</sup>Charles Molloy, De Jure Maritimo et Navali: or A Treatise of Affairs Maritime and of Commerce. Third ed. (London: Printed for John Bellinger and George Daws, 1682), p. 239. In fact, Richard did not stop at Oleron, but did sanction the judgments previously published there after his return from the Holy War. Twiss, Black Book, vol. 1, p. lviii.

rocks. Wreckers achieved this by placing misleading lights along the coastline at night in remote areas.

Familiarity with certain terms is necessary to understand legislation and tradition concerning salvage. The definitions below are taken from a work of Charles Molloy published in 1682. Molloy was an expert on maritime affairs whose Treatise of Affairs Maritime was considered a standard text for well over one hundred years. These terms could not be more clearly defined.

*Wreccum Maris*, are such Goods only as are cast and left upon the land by the Sea.

*Flotsam*, is when a Ship is sunk or otherwise perished, and the Goods float upon the Sea.

*Jetsam*, is when the Ship is in danger to be sunk, and for lightening the Ship, the Goods are cast into the Sea, notwithstanding which the Ship perisheth.

*Lagan vel Ligan*, is when the Goods being heavy, are cast into the Sea before the ship perishes, which by the prudence of the Master or Mariners, who have an intent to save them so sunk, as that they may come at them again, in order to which they fasten a Buoy or other light matter that may signifie to them where they lye, if Providence should bring them in a condition to retake them.<sup>11</sup>

In addition, the term "moiety" generally refers to half

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<sup>11</sup>Molloy, Treatise, p. 240.

of goods found or salvaged, which commonly was the share apportioned to a finder or salver. Also encountered in medieval law is "prud'homme," which referred to men of discretion, usually knights or freeholders, who were summoned to decide legal cases.

# I.

The foundation for many later maritime codes of law, and the source of some of the earliest maritime law, was Rhodian law. The laws of this island naturally did not fail to touch upon the issue of salvage. By Rhodian Law, any person saving anything from a shipwreck received one-fifth of what he saved. This must have meant goods found floating out at sea, because submerged goods and those on land were treated separately. A salver was awarded one-third of goods found submerged under eight cubits of water, and one-half if the water was fifteen cubits deep. The finder of anything found cast upon the shore received one-tenth of the effects.<sup>12</sup>

Punishment for robbing or oppressing wreck victims was as severe as awards to salvors were generous. If someone

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<sup>12</sup>Justice, Dominion of the Sea, pp. 112-113. A cubit was a measurement derived from the forearm, ususally about 18-22 inches. Therefore 8 cubits equalled around 13 feet, and 15 cubits equalled around 25 feet.



took advantage of a wreck survivor, payment of fourfold the value of what was taken was required. If a freeman, the offender was to suffer three years' banishment. A "Man of Low Degree" would be sentenced to three years in the service of public works. If the oppressor was a slave, the penalty was to be "put to the most severe and hardest Labour." In general, anyone taking anything from a wreck by violence would also pay fourfold.<sup>13</sup>

These edicts set precedents for future laws. In the Rhodian ordinances, profit was insured for salvors, and the danger in salvaging goods was taken into measured consideration. Wreck victims were likewise protected. These themes reappeared in later laws of diverse places, with changes made to control the extent to which people could take advantage of others' misfortunes.

Wisby, an independent, walled city on the island of Gottland in the Baltic Sea was one of the places influenced by Rhodian law. During its heyday in the thirteenth century, it was a powerful trading entrepot for the region. Maritime ordinances promulgated there "passed for just on all coasts of Europe, from Muscovy to the Mediterranean."<sup>14</sup> The Wisby Town-Law on Shipping, however, was very brief concerning salving goods. Simply stated, anyone who helped

<sup>13</sup>Ibid., p. 115.

<sup>14</sup>Justice, Dominion of the Sea, pp. 174-175.

save goods from a vessel wrecked within the limits of the town's jurisdiction was entitled to salvage remuneration, "according to what prudhommes should approve." Any dissatisfaction in the settlement was referred to the court.<sup>15</sup> This ruling was rather informal, but its main objective was clear: guaranteeing profit for finders of a wreck's goods.

Equally short are the records from twelfth-century Jerusalem that stated that the finder of flotsam deserved a moiety (half) of the goods found. Lagan was treated differently, as the finder was entitled only to a third part as "...property which is at the bottom awaits its owner." If the owner of the property did not appear, the finder split the goods with the owner of the nearest land instead.<sup>16</sup>

More generous to the salver were the Maritime Ordinances of Trani, in the Adriatic Sea. The Ordinances reiterated Roman law by stating that the finder of any goods floating on the sea was entitled to half if their owner was found. The finder was commanded to list the goods and deliver them to the court within three days of their discovery. If after thirty days, however, the owner or a representative of the owner did not appear, all the goods

<sup>15</sup>Twiss, ed., Black Book, vol. 4, p. 393.

<sup>16</sup>Ibid., vol. 4, p. 517.

belonged to the finder.<sup>17</sup> The finder was here again favored heavily, as it was likely very difficult for a ship owner to discover the whereabouts of his wrecked vessel and arrive in Trani to represent his claim within thirty days, especially if the vessel was from a distant port.

As in other codes, the finders of goods found underwater were treated differently. If the goods were unmarked, the finder was accorded two-thirds and the owner one-third. Yet the Ordinances warned that marked goods on or under the water were to be left alone. The punishment for meddling with such goods was a fine of treble the value at which the merchandise was estimated.<sup>18</sup> Thus, the owner of the goods was thoroughly protected if he marked his property, and the finder of unmarked goods was well compensated for his opportunism. The owner of adjacent land was completely cut out, however. This is close to a "finders keepers" idea and shows that laws buttressing such an idea date from at least Roman times.

The Customs of the Sea represent a more formal and detailed account of maritime law than the edicts of Wisby and Trani. These judgments were later affirmed in the Rolle of Oleron. According to this code, the finder of goods "found in a roadsted or in a port or on a beach, which are

<sup>17</sup>Ibid., vol. 4, p. 537.

<sup>18</sup>Ibid.

floating on the water or which the sea has cast up on the land" was entitled to half of the goods, which were to be delivered within ten days to the authorities who would keep them for a year and a day. Any goods that were liable to spoil would be sold and the proceeds reserved for the owner. If the goods were not claimed after a year and a day, the finder received a moiety. The authorities split the remaining moiety into two parts: one for themselves, and one to be given away "for the love of God in that quarter where it shall seem best to them, for the soul of him to whom they belonged." In addition, the finder of goods from a wreck was entitled to a reward, to be determined by the prud'hommes of the place.<sup>19</sup>

Submerged goods were once again looked at as "awaiting their owner," and were therefore not to be sold. Like other goods, they were to be kept open for inspection. But unlike other goods, the period they were held was not standard, and the authorities determined the period each time. A public proclamation would be made for thirty days if no one claimed the goods within the original period. Clearly, the authorities anticipated the arrival of the original owners to claim their goods. If this did not occur, the goods were divided as were goods found floating on the sea.<sup>20</sup>

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<sup>19</sup>Ibid., vol. 3, pp. 439-441.

<sup>20</sup>Ibid., p. 441.

The finder of goods lost for a year and a day was quite lucky, as he claimed complete ownership of those goods. "And the reason is because there are no goods in the world which have remained a year under water, or near water, or upon water, which he to whom they belonged can recognize by any mark, so as to say that the goods are his own, unless he has them examined by experts, save iron or steel or other metal..."<sup>21</sup> In fact, these goods still could be claimed, but this required detailed proof of ownership, and the payment to the finder a sum "for all losses and all prejudices and interests which he can verify, that by fault of the said goods they happened to him...."<sup>22</sup>

The Customs of the Sea also dealt with goods found away from land. Mariners were allowed a share in merchandise found by a ship at sea. The managing owner was entitled to a larger share, however, "since the mariners are fed by him and receive wages."<sup>23</sup>

## II.

The most comprehensive and fundamental change to English salvage law came with the acceptance of the Rolle of

<sup>21</sup>Ibid., p. 445.

<sup>22</sup>Ibid.

<sup>23</sup>Ibid.

Oleron. Here are revealed attitudes toward property, and toward lost property. The Rolle had some formal recognition in England during the reign of Richard I, and parts were put into law during the reigns of Richard I, Edward I, and Edward II.<sup>24</sup> The Rolle in conjunction with Edward III was referred to throughout the eighteenth century in relation to salvage law. These ordinances are the most detailed on the topic of marine salvage in the Black Book of the Admiralty, and they are also noticeably distinct from those previously mentioned.

In the Rolle, a very simple logic is applied that affects all situations, at sea or on land. In the section titled "when a man finds his property upon another," it is clear that the rightful owner should get his property back. After proving that the item in question is his, and that the person holding it has come by it legally and honestly, the original owner was obligated to find out the price paid for the good by the second person. After paying that price, the original owner regained his property.<sup>25</sup>

Similarly, the rightful owner of anything found on the

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<sup>24</sup>Ibid., vol. 1, p. lxi. According to Travers Twiss, editor of the Black Book of the Admiralty, the Rolle of Oleron was received as law after 12 Edward III. Ibid. While parts of the Rolle were put into law during and before the reign of Edward III, the Rolle itself does not appear to have become law.

<sup>25</sup>Ibid., vol. 2, p. 393.

sea was entitled to his property, if for a price. In the case of maritime salvage, payment to salvors for their labor in saving wrecked goods was required. Remuneration was formally put into law with the Act of 27 Edward III (1353), cap. 13, sta. 2.<sup>26</sup> Once more, the owner of a vessel or goods had a year and a day to claim them, a characteristic dating from Rhodian law.<sup>27</sup> The owner's marks, the Book of Customs, or "the testimony of honest men" established proof of ownership of wrecked goods.<sup>28</sup> Proof was also available in the form of a merchant's cocket, which in later times meant an exporter's general entry outwards endorsed by the exporter and certified by an export officer.<sup>29</sup> The owner was doing comparatively well, though, because the salvors and the local lord were not entitled to a moiety or percentage of the goods.

<sup>26</sup>A Collection in English of the Statutes now in force, continued from the beginning of the Magna Charta, made in the ninth yeere of the reigne of King Henry III until the ende of the Session of Parlaiment holden in the twenty eighth yeere of the reigne of our gracious Queene Elizabeth, under titles placed by order of Alphabet. (London: Deputies of Christopher Barker, 1588).

<sup>27</sup>Molloy, Treatise, p. 238.

<sup>28</sup>Molloy, Treatise, p. 241. "Every merchant had his own mark, which he placed on his bales and casks, and often on his seal and in other places where the gentry used armorial bearings. Merchants Staplers generally included a figure like a reversed 4 in their sign." C.F. Salzman, English Trade in the Middle Ages, (Oxford: Clarendon Press, 1931), p. 253n.

<sup>29</sup>Steel and Rose, Kennedy's Law, p. 42n.



Thirteenth century representation of a ship's crew jettisoning goods. After C.F. Salzman, English Trade in the Middle Ages. (Oxford: Clarendon Press, 1931), p. 249.

A large number of cases in medieval records exist relating to this law, such as the the experience of merchant Ralph de Imovill. When the ship belonging to de Imovill wrecked near Bamborough in 1230, one Brian fitzAlan was ordered to return ten casks of wine he had taken since the crew had made it safely to shore. When Genoese merchants tried to claim the goods of their wrecked carrack on the lands of Furness Abbey in 1483, the restitution of their property was ordered. Another example comes from 1465, when a ship from Zeeland wrecked off the isle of Sheppey, and the merchants arrived and established their claim to the goods



marked "with certain signs." <sup>30</sup>

This change in rationale in salvage law (retaining goods for their owners), resulted from a new definition of wreck, attributed to King Richard himself. After acceptance of the Rolle, "wreck" meant a ship disaster that had no survivors--neither human being, "dogg," or "catt." This became law with the Act of 3 Edward I (also known as the Statute of Westminster I, 1275), c. 4 s. 2, and the Act of 4 Edward I (1276), c. 6 s. 1.<sup>31</sup> The Act of 4 Edward I specified that anyone taking from a wreck with survivors was to be "attatched with sufficient pledges, and the price of the wrecke shal be valued and delivered to the Townes." <sup>32</sup> The new definition was intended to insure that the rightful owner of property--if he survived and could be found--retained it after it had been lost.<sup>33</sup> A strict reading of the law might lead one to conclude that the owner of a wreck who was not on board would not be entitled to his goods unless someone on board survived. The inclusion of the issue of survival appears to have been an illustration of

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<sup>30</sup>Salzman, English Trade, p. 254.

<sup>31</sup>A Collection in English.

<sup>32</sup>Ibid.

<sup>33</sup>Salzman, English Trade, p. 253; Molloy, Treatise, p. 239.

how the ownership might be ascertained.<sup>34</sup> Therefore a wreck with survivors, or whose owners could be located, was not to be a gift to its finders and others who would previously have laid claim. Efforts were to be redirected towards restoring an individual's rightful belongings, and salvors were not to take anything except remuneration for salvage, unless otherwise promised.<sup>35</sup> Legally limiting profit for salvors and redefining wreck had some unfortunate consequences, however, as the law now served to encourage ruthless and/or poverty-stricken locals to ignore their moral obligations to their fellow men in the case of shipwreck.

In addition to property owners, the composers of the code pitied wreck victims, "lost, and ruined against theyre desire and wyll." Crimes against such pathetic characters were therefore judged sternly, if not violently. Anyone who took any goods from shipwrecked persons was excommunicated from the church, and punished as a thief. Likewise, if a ship was wrecked, and the seamen escaped and found their way ashore "halfe drowned, thinking that someone wyll ayde them" they were not to be taken advantage of. In cases where such desperate seamen were murdered for their money, clothes, or

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<sup>34</sup>T. G. Carver, Carraige by Sea, 2 vols. (London: Stevens and Sons, Ltd., 1982), 2, p. 1335.

<sup>35</sup>Twiss, ed. Black Book, p. 462.

goods, the offenders were to be "caste into the sea and plunged into it, until they are halfe dead, and then dragged out, stoned and massacred, as would be done to a dog or a wolfe."<sup>36</sup>

If there were no survivors from a wreck, the duties of the lord of the manor where the wreck or its goods washed ashore were manifold. In particular, the Rolle specified that the "lord of the place" where a wreck occurred was to "succour and aid, by hymself and his vassals,...poore maryners and merchauntes to save theyre goodes." The lord was also to pay the salvors' remuneration from the the goods saved. The goods were to be secured, and attempts made to contact relations of the dead. After a year or more--if the lord chose to wait longer--the lord was to sell the goods. With this money "he ought to have prayer made to God for the dead, or to marry poor maydes, or to do other workes of mercy after reason and conscience." This is in accordance with the Customs of the Sea. Here, the lord of the manor was not to have any share in the goods. "And yf the said lorde taketh of the thyges a fourth or other part, he shall incur the malediction of our mother Holy Church" and be punished as a thief.<sup>37</sup> Where possible, shipwrecked goods

<sup>36</sup>Ibid., p. 463.

<sup>37</sup>A fourth was allowed the authority, who took cognizance of the salvage by another set of maritime judgments, the Consolat de Mar. Ibid., vol. 2, p. 465.

were to be secured by the sheriff, coroners, or king's bailiffs.<sup>38</sup> Thus local people, including manorial lords, stood to gain more from a wreck with no survivors, as it was left largely up to them to dispose of salvaged goods in a just and lawful way.<sup>39</sup> Naturally, immoral coastal inhabitants could change the status of a wrecked vessel by insuring that it had no survivors.

Though this reasoning may have had negative consequences for seamen, it was intended to end other customs that encouraged unjust actions. The practice of giving the lord a fourth and the salvers a third of recovered goods, common elsewhere, was looked upon as an "accursed and damnable custom" that "runs without reason." One of the results of this practice was that local pilots would purposely wreck ships to partake of the goods and find favor with a nearby manorial lord. Lords and salvers who took goods under such circumstances were to be excommunicated and punished as thieves. Pilots found guilty of intentionally wrecking ships were "to suffer martyrdom cruelly; and there ought to be made gibbets very high upon the very spot where they set the said shyp, or well near it, and thereon the accursed pilotes ought to finish shamefully thyr dayes, and the said gibbets oughte to be left on the

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<sup>38</sup>Molloy, Treatise, p. 239.

<sup>39</sup>Ibid., p. 463.

said spot in perpetual memorie..."<sup>40</sup>

Other intentional actions taken by individuals to enrich themselves at the potential loss of others were similarly discouraged. "Likewise, yf any one goes searching along the coast of the seas to fynde gold or silver, and fyndes some, he ought to render it all without takynge anythyng." Yet if someone found gold or silver by accident, the individual could use it to pay "for his journey." The remainder was to be returned to the original owner. Thus one's journey would have been looked upon as a salvage effort, albeit unintentional.<sup>41</sup> Nonetheless an exception was made to this rule in awareness of the realities of such a situation. Upon the accidental discovery of gold or silver, a poor person might still be allowed to retain some or all of it for himself, according to "God and his conscience."<sup>42</sup>

Remuneration paid for salvage to locals was also a moral obligation of the ship owners, ship's company, and the country. Merchants and masters might make a deal with local people, granting them a third or a half of the goods recovered for "the peryll" they experienced during salvage. Apart from this compensation, the "folke" or locals were due

<sup>40</sup>Ibid., p. 469.

<sup>41</sup>Ibid., p. 477.

<sup>42</sup>Ibid.

an additional reward for their "payne" and "labour" to be made by the justice of the country.<sup>43</sup>

The Rolle of Oleron may have checked the amount of profit available to finders of wrecks, but the code did not exclude the potential for spectacular gains. If goods were jettisoned from a ship in distress, to make it lighter, the finder of those goods became their owner. In this case, it had to be ascertained whether the original owners ever intended to recover the goods. This was assumed to be true if no search was made for the merchandise. Perishable goods found in protective coverings, however, such as books sealed in chests, were to be returned to their owner. It was assumed that the owner of such items wanted to protect and therefore recover them. If the owner of covered goods could not be found, the finders were "to make almes of them to God after the counsel of a wise and discrete man, and after theyr conscience."<sup>44</sup> The Rolle indicates one further method for making unlimited profit from salvage: "For in that case yf they [the wrecked ship and crew] be pirates, pillagers, or sea-rovers, or Turks, or others opposed to and enemies of our Holy Catholic Faith, every one may take from suche manner of men as from dogs, and may strip them and despoil

<sup>43</sup>Ibid., p. 437.

<sup>44</sup>Ibid., pp. 469-471 Roman Law recognized this distinction of derelict goods--those the owner thought to recover later, and those simply discarded. Ibid., p. 469 n.

of theyr goodes without any punishment." <sup>45</sup>

The Rolle attempted to outline the legal and moral obligations of those who chanced to find something on or near the sea. The importance of custom, however, is an additional factor, and one always to be weighed:

Likewise, yf anyone fynde in the sea, or on the sande or bank of the sea, or of an estuary, or of a river, any thyng the whiche never belonged to any person, that is to wyte as prescious stones, fysshe, and marine herbs, that are called Gaismon, this belongs to hym who fyrste fyndes and carries it off. This is the judgement.

Likewise, touching great fysshe having fat, that comme and are founde dead on the bank of the sea, regard must be had to the custume of the contre ; for the lorde oughte to have parte as his desire by the custume...

Likewise, in all other thynges found on the coasts of the sea, the whiche have been formerly possessed by creatures, suche as wyne, oyl, and other merchaundises, and notwithstanding they shuld have been cast over and abandoned by the merchaunts, and they ought to belong to the fyrste occupant, yet the custume of the contre ought to be observed as in the case of fysshe.<sup>46</sup>

Although many of the doctrines included in this discussion treated goods found underwater as property of the original owner, the composers of the Rolle of Oleyron looked

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<sup>45</sup>Ibid., p. 481.

<sup>46</sup>Ibid., pp. 471-475.

upon most all property found near the sea as "awaiting its owner." The medieval lawmakers also demonstrated a concern for morality in maritime affairs. These ideas were shown in the case of anchors and cables cut to save a vessel from the weather. If these items were marked, they were to be saved for the owner, while salvors could expect remuneration for their toil. To simplify matters, the Rolle advised that ship owners engrave the name of their vessels and home ports on their buoys and floats. This provision was added as salvors often did not know to whom to return these items, and so shared the findings with the lord without causing to be said "a Pater Noster nor an Ave Maria as they ought." Marking goods would "prevent many souls being damned, and will be a great gayn to several, for a person leves his ankre in the morning, who wyll be able to recover it at night. And those who shall retayn them shall be robbers and pirates."<sup>47</sup>

The writers of the Rolle attempted to resolve complex questions of property with simple logic and scruples. While custom was afforded respect, it could not always be followed if it conflicted with ethics. The timbers of ships broken up at sea serve as an example. Like other goods, timbers were to be returned to the previous owners, "notwithstanding any custume to the contrarie." This section of the Rolle

<sup>47</sup>Ibid., p. 479.



reveals that timbers from shipwrecks were very often kept by those who found them, and that this activity was often condoned by church and civil officials. This can be seen in the detail of punishments allotted for those who broke the ordinance: "And all persons partaking in seizing and consenting to the said shipwreck, yf they are bishopes or prelates, or clerks, they ought to be deposed from theyr offices and deprived of theyr benefices ; and yf they are lay persons, they incur the penalties aforesaid [to be treated as robbers and pirates]." <sup>48</sup>

### III.

Until the reign of Richard I (1189-1199), wrecks were automatically reserved for the king in England. By redefining "wreck," Richard gave up the royal claim. Legend held that when on the long voyage to fight the Holy War, Richard acquired great sympathy for mariners who lived precarious lives. Also, Richard was probably aware that it was largely impossible to claim goods in distant areas for the crown, so he was apt to lose little by the change.

It would seem that after the Rolle of Oleron was promulgated, salvers and finders of goods could only legally

<sup>48</sup>Ibid., p. 479.

profit from salvage remuneration. To this rule there was an exception, however. The king's right to wrecks of the sea, whales, and "great sturgeons" was codified with the Act of 17 Edward II, c. 11.<sup>49</sup> Grants of wreck, however, could be given that entitled one to flotsam, jetsam, and lagan from wrecks without survivors when they were cast on land (though it would seem unlikely for lagan to be washed ashore).<sup>50</sup> These grants usually were given to lords of manors in the sea-shires, who then held private admiralty jurisdiction within their lands. Corporations could also get private admiralty jurisdiction, as did Plymouth and Dartmouth in Devon County. The right of wreck in towns was sometimes granted by or rented from the king. Thus in 1571 the Corporation of Plymouth fined a messenger a shilling and sent him to prison for four days for serving an admiralty court warrant "contrary to the ancient liberty and custom of the same burgh."<sup>51</sup>

In fact, the king only stood to gain from shipwrecks that were found on land, had no survivors, and did not interfere with a grant or charter to a manorial lord. The

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<sup>49</sup>A Collection in English

<sup>50</sup>Molloy, Treatise, pp. 240-241. This differed in places, such as the Scilly Isles, where during the middle ages the right of wreck passed to the prior of the islands. Devon County Record Office, W1258/M/E34.

<sup>51</sup>M.M. Oppenheim, The Maritime History of Devon (Torquay: The Devonshire Press, 1968), pp. 27-28.

Lord High Admiral had been granted wrecks of the sea--those with no survivors and found at sea--since at least the time of Henry III. In the eighth year of his reign (1224), Richard de Lucy received the office of Lord High Admiral and the above perquisite. Again, this included only wrecks or goods found at sea.<sup>52</sup> There were exceptions to this rule, as when Edward II granted wreccum maris to his son Edward and heirs in 1307.<sup>53</sup> For a time in the sixteenth century the Lord Warden of the Cinque Ports, and not the Lord High Admiral, gained one-third of wrecks that occurred within this area. These ports originally consisted of Hastings, Sandwich, Dover, Romney, and Hythe, but Rye and Winchelsea were added later. The Cinque Ports traditionally were exempt from the Admiralty of England, a right that they enjoyed because they had furnished most of the ships and men in the Navy in ancient times.<sup>54</sup>

In the fifteenth century, the droits or perquisites of Lord High Admiral Sir Thomas Beaufort, duke of Exeter, included a moiety of all ships found "waifs" (derelicts), a moiety of all flotsam, and a moiety of lagan of all types:

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<sup>52</sup>Justice, Dominion of the Sea, p. 53, 237. Molloy, Treatise, p. 240.

<sup>53</sup>Molloy, Treatise, p. 244.

<sup>54</sup>Felix Hill, ed., A Calendar of the White and Black Books of the Cinque Ports 1432-1955 (London: Her Majesty's Stationery Office, 1966), p. 194.

anchors, cables, chests, etc. All of the goods and vessels claimed had to be found at sea as goods on land passed to those with grants of wreck or to the king. The other moiety belonged to the "finders and seisors" of the goods or ships. By virtue of his office, the admiral also had the right to "all manner of deodands escheating [changing ownership] on the sea." Deodands were objects instrumental to the death of a man on shipboard, or goods found on a dead body cast ashore. The seizors of the goods in this case were simply compensated for their labor.<sup>55</sup>

Because the king or the admiralty stood to gain from shipwrecks, there were laws protecting their droits. Anyone who concealed flotsam, waifs, lagan, or deodands from the admiral forfeited his or her part and owed a fine to the king.<sup>56</sup> Those who claimed wrecks but held no charter or prescription for them were to be investigated. Anyone convicted of such an offense was to pay the king double what "he shall have gott by such wrecks."<sup>57</sup> Likewise, inquiry was to be made concerning cases where anyone claiming goods or a wrecked vessel within the allotted time was refused restitution.<sup>58</sup>

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<sup>55</sup>Ibid., vol. 4, p. 397.

<sup>56</sup>Ibid., p. 399.

<sup>57</sup>Ibid., vol. 1, p. 81.

<sup>58</sup>Ibid., vol. 1, p. 159.

In the early sixteenth century, the position of Vice-Admiral was created to regulate more effectively the maritime affairs of the sea-shires. The Vice-Admirals were often nobles or country squires, and one of the chief benefits they gained from their office was the produce of wrecks that were usually shared with the Lord High Admiral.<sup>59</sup>

#### IV.

By late medieval times, the property rights of the owners of ships and goods were to some degree safeguarded. The finders of goods always received compensation for labor in saving goods, and were guaranteed a profit. In addition, the public was frequently encouraged to help save goods from a wrecked vessel, since such action would be rewarded with a percentage of those goods. Helping mariners save their goods was also looked upon as a moral obligation.

Here we can see the unique nature of salvage law: "It is a principle of the general law of restitution that a person should not normally be obliged to pay for a benefit which he has neither requested nor freely accepted with the knowledge that it is to be paid for..."<sup>60</sup> The need to

<sup>59</sup>Oppenheim, Maritime, pp. 30-31.

<sup>60</sup>Steel and Rose, Kennedy's Law, p. 26.

encourage people to assist unfortunate merchants and the subsequent appeals to reason led to a legal contradiction with common law. The singularity of salvage law and the logic behind the principle of salvage was explained by J. Bowen:

The maritime law, for the purposes of public policy and for the advantages of trade, imposes in these cases a liability upon the thing saved, a liability which is a special consequence arising out of the character of mercantile enterprises, the nature of sea perils, and the fact that the thing saved was saved under great stress and exceptional circumstances. No similar doctrine applies to things lost upon land, nor to anything except ships or goods in peril at sea.<sup>61</sup>

Moralists and lawmakers had a tremendous task in trying to enliven this doctrine. Their difficulties were most extreme after promulgation of the Rolle of Oleron, a code that contained the most detailed and strict rules as well as a considerable break with tradition. With the redefinition of shipwreck in the Rolle, a fundamental change was sought. Before this time, the owner of wrecked goods forfeited his goods to finders, the king, or to a manorial lord. The reasoning for this was that the owner had lost the goods when he lost his ship. Thus before King Richard, a "finders

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<sup>61</sup>L. J. Bowen in *ibid.*, p. 17. This idea was upheld in the case of Hartford v. Jones in 1698, when a salvor was allowed to retain goods saved from a flaming ship as the owner refused to pay salvage. *Ibid.*, p. 53.

keepers" attitude was written into law. By qualifying the definition of wreck to exclude wrecks that had survivors, this attitude was legally declared inhumane and unreasonable. The inhabitants of coastal areas did not always respond to this declaration.

The laws required enforcement, but this was not a simple task. Logistical problems such as the remoteness of shipwreck scenes made compliance almost voluntary. The great difficulty of actualizing maritime laws in the medieval period is evident in the consistent use of the words "ought" and "shuld" when referring to the actions of all concerned with maritime salvage, in the frequent use of religious references, and in the threat of strange and harsh penalties for crimes. All of these characteristics are common in the wording of the Rolle of Oleron.

Mariners could not rely entirely on the strength of the law alone to protect them. If a mariner sought the return of jettisoned goods, he was probably better off sinking heavy items--if he had a choice. Despite the logistical and technical problems of finding the goods and raising them, and the fact that most things would deteriorate when submerged, mariners were often not protected if their goods were cast ashore. Only in the Rolle of Oleron are flotsam, jetsam, and lagan all treated as goods still owned by mariners or those they represent. Still a salver or a

finder of shipwrecked goods could legally profit from his or her luck and effort. The sea in effect redistributed goods in its own random way.

Even though the Rolle of Oleron broke with the past in some instances, it allowed some ancient customs to continue. The admiralty and privileged lords played by separate rules. The Rolle symbolized the first step towards a policy that limited exploitation of wrecks, but tradition, coupled with weak enforcement, reduced its meaningfulness. Inadequate support also allowed many coastal people to continue their own tradition of plunder. As the source of power for common law, custom continued to influence, and perhaps overwhelm, legislation.



## CHAPTER II

### ENGLISH SALVAGE LAW AND CUSTOM, 1600-1800

Most happy would our Mariners think themselves, if such wholesome Constitutions could take place all over her Majesty's Dominions, in some parts whereof they are extremely wanted, and particularly upon the coast of Cornwall, and Wales, where, if an unfortunate Ship does happen to run ashore upon the Sands or Rocks, the Inhumane and Incivilliz'd Inhabitants, far from tendering and freindly succour to the Persons Distress, most barborously deprive them of the Miserable Remains of their Shipwrack'd fortunes; Stripping them even of their wearing clothes, and sometimes cruelly Murdering those unhappy People, who would have met with a milder Fate amidst the waves of the Ocean, than in the unmerciful Hands of those Barbarous Coasters.<sup>1</sup>

These words of eighteenth-century commentator Alexander Justice reveal much about salvage at the beginning of the eighteenth century. Other nations had formulated new maritime law codes, and Justice called for England to do the same. Current English law seemed ineffective; plunder was common, and coastal people ignored their moral and legal obligations to distressed merchants

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<sup>1</sup>Alexander Justice, A General Treatise of the Dominion of the Sea and a Compleat Body of the Sea Laws, 3d ed. (London: J. Nicholson, 1710?), p. 115-116. The French model was an example of civil law, a combination of Roman, Germanic, ecclesiastical, feudal, commercial, and customary law.

and mariners as outlined in the Rolle of Oleron.

What was wrong with the existing law? The answer is that the world had changed drastically since medieval times, but law had not changed with it. The discovery of a New World had set off innovation in technology, government, and commerce. Civil law, based on Roman law, came to influence English legal thinking by the sixteenth and seventeenth centuries. Still it was common law, based on past judicial decisions and embodied in reports of decided cases, that dominated until the beginning of the nineteenth century.<sup>2</sup> Common law was not the actual incidents referred to for deciding cases; rather it was based on principles running through these cases. Naturally, these principles were not always easy to discern.

Medieval laws represented an attempt at governing through reference to natural laws. A belief in a basic definition of right and wrong was imbedded in natural laws. By the late seventeenth century, however, commerce and international relations had grown dramatically. More nations with disparate maritime traditions were in contact, and contact was much more frequent. Charles Molloy described the world of the late seventeenth century as a

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<sup>2</sup>David Lieberman, The Province of Legislation Determined: Legal Theory in Eighteenth Century Britain (Cambridge: Cambridge University Press, 1989), p. 126.

"Gigantick kind of life."<sup>3</sup> As a result of the changes in the scale and complexity of commerce, justice was not as easily defined. Maritime law could not always draw on natural laws, as they differed from place to place and over time as circumstances dictated.<sup>4</sup>

There were two courses of action for the English legal authorities after the medieval period. First, they could systematically write a new code of laws concerning salvage and other maritime affairs by referring to ancient laws and customs, deciding what was most appropriate, and amending them to suit current needs. France and other European nations adopted this method, which underlined the importance of statutes rather than courts or precedents.<sup>5</sup> The second option was to rely on common law by continuing to refer to a collection of ancient laws and codes while making occasional additions. Whoever was in a position of authority could choose the most appropriate course of action. The English chose the latter course, thus prolonging the use of the Black Book of the Admiralty. In fact, the English did not create a systematic, detailed salvage law or change the

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<sup>3</sup>Charles Molloy, De Jure Maritimo et Navali or A Treatise of Affairs Maritime and of Commerce, third ed. (London: Printed for John Bellinger and George Dawes, 1682), p. 2.

<sup>4</sup>Ibid., introduction.

<sup>5</sup>Justice, Dominion of the Sea, pp. 349-356.

practices in place from medieval times until the nineteenth century.

This chapter asks why little change was made to the old law in Britain despite the great passage of time. Contemporary opinions suggested that custom was the bedrock on which law was built, and it seems custom was so thoroughly woven into law that change was greatly retarded, even as some observers favored more orderly and consistent codes. After discussing the force of custom, the additions to salvage law are detailed, and a comparison is made to French salvage law. The causes and effects of English salvage law will then be considered. Parliamentary acts passed in these two hundred years were approved at the behest of London merchants, a pressure group steadily rising in influence. The acts did not represent attempts at a new public policy dealing with shipwrecks; rather they were a narrow and reactionary effort to placate a certain group (merchants) while not offending the desires of others (the gentry and the state). The emergence of a bill in the late eighteenth century showed that laws safeguarding wrecks were still incomplete, as was the enforcement of existing laws.

A comparison of British and French salvage law through 1800 is instructive. France was not hindered from creating a comprehensive policy concerning salvage. By the late seventeenth century, the French had limited the availability

of separate or private admiralty jurisdiction. France had also taken steps to raise the standard of accountability for those involved in salvage operations.<sup>6</sup>

Weaknesses in salvage law allowed the continuance of ancient legal customs. In this way, salvage law also perpetuated the customs of coastal inhabitants. These customs--namely wrecking and plunder--were the focus of two acts of Parliament in the eighteenth century. These acts revealed the variety of ways plunder was attempted, and called for increased official power to thwart such thefts. But many aspects of salvage, such as the rights of manorial lords, were left untouched by English lawmakers in this period. The reluctance of those in power to establish a policy towards salvage and local customs of plunder exacerbated the already daunting difficulties associated with law enforcement. These problems included the lack of a rural police force and the unpredictability of where and when a shipwreck might occur.

#### I.

Charles Molloy explained the use of old and ancient laws and customs and detailed maritime law and the nature of its evolution in his 1682 Treatise of Affairs Maritime and

<sup>6</sup>Alexander Justice, A General Treatise of the Dominion of the Sea and a Compleat Body of the Sea Laws, 3d ed. (London: J. Nicholson, 1710?), p. 391-397.

of Commerce. Molloy's work became the standard collection of maritime law for over one hundred years.<sup>7</sup> Here, a distinction between laws of nature and the laws of nations is drawn. Laws of nature were looked at as immutable, certain, and undeniable. Laws of nations were those that could not be deduced out of pure principles. After appealing to the laws of nature in a legal matter, one might turn to laws of nations.<sup>8</sup> Statute law was the second choice. Molloy's views were not unusual (as evidenced by the continuance of ancient law into his lifetime). The laws of nature were commonly seen as the foundation for common law by eighteenth-century scholars.<sup>9</sup>

Molloy discussed the importance of custom (including medieval laws) in the formation of laws in England, from which we can see the rationale for the use of precedent selection instead of the formulation of a strict code. According to Molloy, custom induced and strengthened laws: "Where no such settled custom hath made it Law, there it

<sup>7</sup>Charles Abbot noted in 1802 that "very little of useful addition has been made to the collection of Molloy." Charles Tenterdon, ed., A Treatise of the Law Relative to Merchant Ships and Seamen, 13th ed., edited by Thomas Bucknill and Joel Langley (London: Shaw and Sons, 1892), preface.

<sup>8</sup>Charles Molloy, De Jure Maritimo et Navali or A Treatise of Affairs Maritime and of Commerce, third ed. (London: Printed for John Bellinger and George Dawes, 1682), introduction.

<sup>9</sup>Lieberman, Province, pp. 37-38.

hath force only according to the strength of reason and circumstance joyned with it, or as it shews the Opinion and Judgement of those that made it; but not at all as if it had any commanding power of obedience." Molloy's work was thus concerned with matters that "are either constituted by the supreme Authority of the Three Estates, or that which hath in some measure obtained by continued custom the force of Law in reference to matters Maritime and of Commerce." <sup>10</sup>

Custom made up a great deal of medieval law, propounding upright behavior and the priority of the common good over individual gain. Law, growing out of and strenghtened by custom, safeguarded ethical behavior. "Hence it is in Navigation, if at any time Victuals fail, what everyone hath, ought to be brought forth for the common use."<sup>11</sup> This was "introduced neither by the Civil Law nor the Municipal Laws of Countries, but are expounded by them with their proper diversities."<sup>12</sup> As for property, God granted men the right over "things of an inferior nature," and "what any one had, another could not without injury take away from him."<sup>13</sup> Hence law would draw on custom to insure that one's property--on land or at sea--was protected.

<sup>10</sup>Molloy, Treatise, introduction.

<sup>11</sup>Ibid., p. 3.

<sup>12</sup>Ibid.

<sup>13</sup>Ibid., pp. 1-2.

Current laws therefore had to draw on custom for reasons of force and justice. The basic framework of custom found in ancient texts could be added to if necessary.

Molloy's ideas agree with those of commentator Charles Calthrope, who in 1635 wrote: "Custom and Law are to discuss and discern every man's true right, and to give to every man that which is his own. For although Custome in some cases differ from Law...the end effect of Custome is to maintain the like reason that law doth, and to avoyd the like inconveniences." Calthrope believed that custom had to be compulsory, if it was to have any force.<sup>14</sup>

Natural law and reason are the foundations for the principles underlying salvage law, and are still referred to in courts of law. "Resort has been made to the equitable principles underlying salvage not only as providing a general justification for, or approach to, the application of the law of salvage in general but also for moral support in the solution of particular problems."<sup>15</sup> These equitable principles concern the just rewarding of spontaneous

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<sup>14</sup>Charles Calthrope, The Relation Betweene the Lord of a Manor and the Coppy-Holder His Tenant, (London, 1635; reprint ed., London: The Manorial Society, 1917), p. 23.

<sup>15</sup>David W. Steel and Francis D. Rose, eds., Kennedy's Law of Salvage, fifth ed. (London: Stevens and Sons, 1985), p. 10.



services, an idea that has its root in Roman law.<sup>16</sup>

Molloy was not interested in questioning current practice. In fact, he tried to avoid such a confrontation. In the introduction to the Treatise, Molloy stated that he was not concerned with admiralty jurisdiction in his work, as this tended to question the government. Questioning the government might "trip up" the power of those "worthy and learned men."<sup>17</sup> Alexander Justice, writing soon after Molloy (c. 1705), was quite the opposite, and his work represents the scientific and orderly emphasis beginning to blossom in his age.

Justice's work calls for the evolution of order out of long-held notions of simple right and wrong embodied in custom. "We have no certain Method of Proceeding here, and scarce any Deed can be so valid for transferring the Property of a Ship, or any Part of a Ship, but it may afterwards be call'd in Question, and occasion more Trouble and Charge than the thing is worth...upon the whole matter, a Merchant in this Country has little to depend upon but the Honesty and Integrity of the People he deals withal."<sup>18</sup> The English were not the only ones to rely on ancient customs in his era. Justice asserts that Germans, Swedes, Danes,

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<sup>16</sup>Ibid., p. 8.

<sup>17</sup>Molloy, Treatise, pp. 1-2.

<sup>18</sup>Justice, Dominion of the Sea, pp. 441-2.

Flemings, and "all the people of the North" observed the Wisby sea ordinances in his day.<sup>19</sup>

Justice was at once forward and backward looking when seeking to encourage the formation of a new code of maritime law in England. He believed that the best laws of previous times should be incorporated in a new code, as in French law. This was particularly true of his opinion in the case of salvage, where he harkened back as far as Rhodian Law with its harsh penalties for violent and ruthless salvors.

Justice also believed one year was too short a period for a merchant or vessel owner to hear of his wreck, locate it, and provide proof of ownership. This view was taken from Bracton, a well known commentator on law. Justice also believed the methods employed to spread the word of a shipwreck were inadequate.<sup>20</sup> Here we see a way in which a lord or other coastal people could profit from an unclaimed wreck and stay within the law: by doing nothing or very little to locate the owner of shipwrecked vessels and goods. Justice suggested that a period of three years replace the standard one year waiting period, to give merchants a fair chance to claim their property. It would be interesting to

<sup>19</sup>Ibid., p. 175.

<sup>20</sup>Alexander Justice, A General Treatise of the Dominion of the Sea and a Compleat Body of the Sea Laws, first ed. (London: J. Nicholson, 1705) Appendix p. 24. Note that this comment comes from the first edition of Justice's work.

know how drastically this measure would have reduced the number of unclaimed wrecks had it been implemented, but Justice's suggestion was ignored. The one year waiting period was a carry-over from medieval times that lasted until the end of the eighteenth century; it also exemplified the conservative nature of law-making in the period.<sup>21</sup>

Justice proceeded to state what he considered the best parts of Treatise of Affairs Maritime. He cautioned the reader of Molloy's work: "'Tis far from being a positive and unalterable Law, by which all Cases of that Nature are absolutely to be decided: For that is a thing almost unknown in England in Cases of that Nature, there being little other Rules to be observed, but former Precedents in Superior Courts, and these too are sometimes laid aside."<sup>22</sup>

Custom was also perpetuated by the use of grants of the right to unclaimed wreck given to manorial lords. These grants gave the lords private admiralty jurisdiction. Thus the lords held courts and decided all maritime related cases within the boundaries of their grants. They also had complete freedom in choosing the punishment for crimes, and they could even utilize capital punishment.

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<sup>21</sup>In fact, the one year waiting period still exists. After one year, an unclaimed wreck goes to the crown or those with grants of wreck. Steel and Rose, Kennedy's Law, p. 561. Perhaps this is a more reasonable term in the modern day, however.

<sup>22</sup>Justice, Dominion of the Sea, third ed., p. 442.

Grantees could also choose the amount of remuneration to be paid to salvors who worked on unclaimed wrecks. It is most likely that salvors were paid the customary amount for their work, or the amount commonly paid for the salvage of all shipwrecks before the Rolle of Oleron was promulgated. This was one-third of the goods saved, and according to the composers of the Rolle this tradition represented a despicable custom that encouraged locals to wreck ships or let those in distress go to pieces.

The composers of the Rolle in the thirteenth century meant to outlaw this custom, but it continued in the form of grants of unclaimed wreck through the eighteenth century. Salvage remuneration paid for work done on a vessel claimed by its owners, and that paid for work not on the property of a landowner with a grant was changed by the Rolle. But the cohesiveness of a policy against plunder and the responsiveness of individuals in emergency situations must have been severely undermined by this gaping loophole. It seems likely that many people in rural areas would only be aware of the ancient customs relating to salvage as still practiced on nearby estates. In this way, traditional attitudes concerning goods found in relation to the sea were further strengthened.

## II.

By 1601, the definition of wreck was firmly established. Also by this time, the right of proper remuneration for saving and storing wrecked goods was well known. The right of salvors to a possessory lien--the keeping of salved goods until payment was made--was also well established, and the authorities for settling disputes were well known. The latter were either justices of the peace, coroners, or local courts according to the circumstances and depending on who claimed to be entitled to the goods. This could be the original owner, the crown, a grantee such as a manorial lord on whose land a wreck occurred, or a coastal town with a local franchise court.<sup>23</sup>

No further laws were approved during the seventeenth century relating to salvage, and only two acts were passed in the eighteenth century. This was the general state of maritime law. Thus in his classic work on maritime law in 1802, Charles Abbot noted the "absence of a general and established Code of Maritime Law, which almost every other European nation possesses"--thereby reiterating the complaint of Alexander Justice made ninety years earlier.<sup>24</sup>

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<sup>23</sup>Steel and Rose, Kennedy's Law, p. 43. 1601 marks the year of a well documented case, *Constable v. Gamble* or *Sir Henry Constable's Case*.

<sup>24</sup>Tenterdon, ed., Merchant Ships and Seaman, preface.

Like the Acts of Edward I, the acts of the eighteenth century sought to suppress plundering. The first of these acts was passed in August 1714 in Queen Anne's reign, and George I made the act perpetual. This act was for the "...preserving of all such ships and goods thereof, which shall happen to be forced on shore, or stranded, upon the coasts of this Kingdom, or any other of her Majesty's dominions." Customs officials were obliged to assist vessels in distress, with the help of other town officials and local mariners. If a master of a vessel refused to help, he would pay £100 to the master of the distressed vessel.<sup>25</sup>

Here salvage law focused on the prevention of disaster, rather than the ensuing issues. Before this act, it was entirely to the benefit of coastal people if a ship was wrecked, and they were therefore indisposed to offer aid to distressed vessels. This addition resembles modern conceptions of salvage, where efforts are concentrated on keeping endangered ships from being destroyed.<sup>26</sup>

Masters of local vessels were encouraged to help by a reward for their work, to be paid within thirty days. If there were disagreements about salvage money, three

<sup>25</sup>A Collection of all the Statutes Now in Force, relating to the Revenue and Officers of the Customs in Great Britian and the Plantations, 2 vols. (London: Charles Eyre and William Strahan, 1780), vol. 1, pp. 479-480.

<sup>26</sup>Steel and Rose, Kennedy's Law, p. 44.

neighboring judges would be nominated to adjust the quantum. Thus we see a survival of the medieval tribunal. The act broke with medieval judgments, however, as it was decided that a merchant could recover the value of his goods after a year. The goods would be sold, and the sums held by the Exchequer.<sup>27</sup>

Anyone hindering the salvage of a ship, or who boarded a distressed vessel without permission, or who defaced a merchant's marks on goods had to pay double the value of goods taken or suffer twelve months of hard labor. Such persons could be repelled by the customs officials or master by force. If someone did make off with goods, he or she had to return them immediately or pay treble their value. Likewise, if anyone was found making holes in the side or bottom of a distressed ship, or tried to steal a pump from such a ship, or even helped someone to steal a pump, he or she would be convicted of a felony "...without the benefit of his, her, or their clergy."<sup>28</sup> A felony conviction meant death.<sup>29</sup>

If a customs official was found abusing his trust in case of a distressed ship, he was required to pay treble the

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<sup>27</sup>A Collection, vol 1, pp. 480-481.

<sup>28</sup>*Ibid.*, vol. 1, pp. 481-482.

<sup>29</sup>*Ibid.*, vol. 2, p. 1039.

damages to the agrieved party and was fired.<sup>30</sup> This provision may indicate that it was not uncommon before this act for figures of authority to take advantage of their positions when a chance for easy gain presented itself.

To promulgate this law, the government had it communicated in the most effective way of the time: it was read in church. This was to occur in port towns four times a year, when most people would be reached and would listen. These times included the Sundays before "Michaelmas, Christmas, Lady-day, and Midsummer-day, in the morning, immediately after prayers, and before the sermon."<sup>31</sup>

In this act, one can see the benefit that might accrue to local people from shipwrecks reflected in their resourcefulness in bringing a vessel to despair. The determination of these people is also evident in the force required to protect vulnerable ships. Clearly shipwrecks were a highly valued occurrence to coastal people.

The second act relating to salvage was passed during the reign of George II in 1753. This was "An act for enforcing the laws against persons who shall steal or detain shipwrecked goods; and for the relief of persons suffering losses thereby." In the act, persons found plundering or destroying shipwrecked goods, as well as beating, wounding,

<sup>30</sup>Ibid., vol. 1, p. 482.

<sup>31</sup>Ibid., vol. 1, p. 482.



or obstructing the escape of anyone from a distressed ship, would be convicted of felony. An example of such a conviction comes from the Hereford assizes of 1775. In that year, a "farmer of considerable property" named Williams was found guilty of plundering a wreck on the Glamorganshire coast and received the sentence of death.<sup>32</sup> The same punishment awaited those who put out false light to endanger ships. Goods of small value, taken without circumstances of cruelty, however, resulted only in charges of petit larceny.<sup>33</sup>

If someone was convicted of assaulting a magistrate or other authorized salvage officer, he or she was to be transported for seven years to the colonies in America.<sup>34</sup> The severity of this punishment should not be underestimated, as it meant separation from family, a harsh journey, and a period of servitude.

As goods plundered from wrecks were usually hidden, the 1753 act enabled justices of the peace to issue warrants for their recovery. Those who concealed such goods had to restore them and pay treble their value to their owner, or suffer six months in jail. The same penalty applied for

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<sup>32</sup>The Gentlemen's Magazine and Historical Chronicle, vol. 45. Tuesday, August 15, 1775.

<sup>33</sup>A Collection, vol. 2, p. 1039.

<sup>34</sup>Ibid., vol. 2, p. 1042.

those attempting to sell such goods.<sup>35</sup>

The act of 1753 also stipulated a lawful person's obligations when he or she discovered a wreck with no one around. The goods found were to be carried to the customs house, and a customs officer, a justice of the peace, magistrate, or an excise officer was to be notified. The salver was naturally due a reward for his work. Likewise, the above officials were to be told where any wreck goods were concealed, bought, or sold.<sup>36</sup> Any clerk of the peace who neglected to prosecute a known offender was to pay £100.<sup>37</sup>

Town authorities were to be paid 4s a day for work in adjusting salvage dues, and this money was to come from salvaged goods. If a merchant did not pay salvage within forty days, the customs officers were to draw up bills of sale on the vessel and cargo to pay the salvors. This was redeemable after the payment of the principal sum to be borrowed, plus interest at the rate of 4 percent per annum.<sup>38</sup> Thus the power of customs officers was extended from the simple power to detain goods.

The act also indicates the proper authorities for its

<sup>35</sup>Ibid., vol. 2, p. 1040.

<sup>36</sup>Ibid.

<sup>37</sup>Ibid., vol. 2, p. 1041.

<sup>38</sup>Ibid.

enforcement, and enforcement of the earlier act of 1714: the commissioners of the land-tax, the deputy sheriff, the coroner, and the officers of excise in each county, riding, and division. When a ship was wrecked, orders were first to be taken from the master, officers, or owner of the vessel. After these individuals, there was a hierarchy of officials beginning with customs officers, followed by excise officers, sheriffs or deputies, justices of the peace, mayors or chief magistrates of any corporation, coroner, commissioners of land-tax, chief constables, and finally petty constables or other peace officers. Anyone acting contrary to orders was to pay no more than £5 or serve up to three months in jail.<sup>39</sup>

Finally, the act stipulated that examinations of all persons involved with the ship were to be made, and the ship's name, cargo, owners, ports of call, and occasion of distress were to be given by the customs officer to the secretary of the Admiralty and subsequently published in the London Gazette.<sup>40</sup> This represented a realistic approach for extending justice to distant merchants and ship owners.

Again we see the lengths people would go for opportunities of potential plunder. The government answered

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<sup>39</sup>Ibid., vol. 2, pp. 1042-1043.

<sup>40</sup>It should be noted that this act was not intended for Scotland. Ibid., p. 1043.

with a cleverness and brutality of its own. And while the laws existed to safeguard merchants and investors, they also had duties that they could not ignore. While attempts at plunder may have been common, salvors who risked their lives to save goods were due a just reward, not to be affected by a merchant or master trying to cut his losses.

An increased amount of investigation and legislation governing these matters in the nineteenth century suggests that the above acts were ineffective. This had already been recognized by 1775, when a bill was introduced to suppress plunder, following petitions from the merchants of Poole and Bristol. In the bill, sums of money were to be offered both as incentives and punishments to coastal people. First, persons in the hundred where a ship was wrecked were to pay up to £1000 for goods plundered. A £40 reward was also offered to persons apprehending those wanted for felonies as described by the two earlier acts. Another felony offense was defined, with the punishment of transportation: the removal of buoys on anchors, cables, and other property. Finally, the order of persons in charge of the salvage of a wrecked ship was to be reorganized.<sup>41</sup> This bill did not become law because legislators felt that the existing law was adequate and that it was enforcement that needed

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<sup>41</sup>Sheila Lambert, ed., House of Commons Sessional Papers of the Eighteenth Century, vol. 27. (Wilmington, Delaware: Scholarly Resources Inc.) p. 107-111.

strengthening.<sup>42</sup> Support for the laws was certainly poor, but without the availability of a rural police force it is hard to imagine the existing salvage legislation functioning effectively. The creation of such a force was, however, a highly unpopular idea and did not occur until well into the nineteenth century. It seems reasonable that since plunder was based in large part on want and greed, a reward system might help to apprehend offenders. With a whole community liable if plunder occurred within its boundaries, there would have been more incentive to turn over criminals to authorities. Thus a blow (however slight) against plunder may have been struck by circumventing the need for manpower with a system of rewards. In light of increases in shipping, and presumably in shipwrecks, confidence in previous laws seems a weak justification for not passing this bill. Reliance on old statutes, however, was a strong characteristic of the English legal system. Here we see the ability of legislators to turn away from a problem in the face of increased pressure.

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<sup>42</sup>John G. Rule, "Wrecking and Coastal Plunder", in Albion's Fatal Tree, Crime and Society in Eighteenth-Century England, ed. by Douglas Hay, et al. (Bristol: Western Printing Services Ltd., 1975) p. 168. The inhabitants of the coastal district of Carmarthen formed a petition to oppose the bill. Living in an area that would have suffered financially had the bill been enacted, the locals' motives for opposition were suspect. Ibid.

## III.

French salvage law was established relatively early and strongly contrasts the English example. In August 1681, Louis XIV established a new code of maritime law for France. The preamble stated that this was done "...to settle the Law of Mercantile Contracts, which have hitherto been uncertain...and to establish a good Policy in the Ports, Coasts, and Roads, that or within the Extent of our Dominions." The aim was to convenience trade, which the French king realized had grown considerably. The French believed three things were needed to accomplish this goal: good laws, good ports, and force of arms.

Title IX of the code was "Of Wrecks and Ships run Aground."<sup>43</sup> This section was strikingly detailed and comprehensive compared to the English laws. Although there were some similarities, there were a few very important differences. As in English law, the king's subjects and gentlemen were to aid shipwrecked persons. Attempts made on the lives of wrecked mariners were punished with death. Anyone convicted of hauling off, breaking into, or concealing goods paid fourfold damages and suffered corporal punishment. Anyone finding flotsam or jetsam had twenty-four hours to report the find to the Office of the

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<sup>43</sup>Justice, Dominion of the Sea, 3d ed, pp. 391-397. The French law was an example of civil law, a combination of Roman, Germanic, ecclesiastical, fuedal, commercial, and customary law.

Admiralty. Local mariners and carriers were to help a salvage effort when asked or pay twenty-five livre fine. Likewise, governors and commanders of maritime garrisons were to assist the owners of wrecks and officers of the admiralty if asked.

Gentlemen were not favored in France as they were in England. Instead, they were given many responsibilities. First, gentlemen were to inform the admiralty of any wrecks. They were also required to appoint one or more persons a year to care for wrecks and be answerable for any robberies that might happen.

Gentlemen were further obligated to do the utmost to save and protect wrecked goods until the arrival of admiralty officers. If they failed in this task, the gentlemen were answerable for all losses and damages owing to plunder. They would not be absolved of payment unless they produced the criminal parties with evidence of the latters' guilt.

Salvage operations functioned according to a well conceived plan of checks and balances. If the owners of the goods or their factors arrived and presented bills of lading as proof of ownership, officers of the admiralty were to withdraw. The officers were still required to conduct investigations to ensure that the goods were not contraband and that the vessel had not been voluntarily run aground.

If no owners appeared, officers conducted the salvage effort assisted by workmen who were hired by the tide or by the day. A list was kept of the workmen, and was read every morning and evening. No one was to pretend to be a workman, "under pain of being whipt by the hand of the Hangman" (why a hangman was required for a mere whipping is not clear; presumably whipping was one of their many duties).

Officers made a list of effects carried to magazines for safekeeping. The carriers of the goods also kept a list, as did the guardian of the magazine. After these were compared, a report was made and signed by the principal officer of the ship's company. If the owner of the goods did not claim them within one month, the perishable items were sold to pay the workmen. If the goods were found spoiled in storage, experts were to be employed to put the goods in better condition, and ruined goods were sold.

The quality of effects and the time and place they were found were announced in church. The curates were obliged to make publication of the same, and owners had one year and a day to claim their goods. Owners could prove title by invoices, bills of lading, and deeds. Bills of lading and other writings in foreign languages were communicated by the court of admiralty's attorneys to foreign consuls and interpreters. If wrecked goods were not claimed within the allotted time, they were divided



between the king and his court and the admiral after charges were paid.

The finders of effects on the high seas or fished up from the bottom were allowed a generous one-third. The remaining two-thirds went to the owner. If no claim was made on the goods, the two-thirds reserved for the owner went to the king and the admiral. Anchors were an exception; they passed to the finder if still unclaimed after two months. Finders also gained all of things growing in the sea, such as amber, coral, and lard-fish (whales). The reasoning behind this judgment was that these things had never belonged to anyone. If such things were found on the sand, however, the finder received only one-third, the admiral two-thirds.

Title IX was written with such attention to detail that it even contained elaborate regulations governing the discovery of corpses. Naturally, bodies were to be reported. If they were found stripped or hidden, the guilty would suffer corporal punishment. Finders were required to move bodies out of reach of the tide. Officers of the admiralty were to investigate and deaths and draw up a report. Curates were to bury corpses, if they were thought to be Roman Catholic. Finders were to receive clothes found about bodies and take them to the burying place. This section stated that money, rings, or other valuables found

about the bodies were held for their owner, and otherwise divided between the king, the admiralty, and the finder (it seems probable that such goods were usually divided, as it is unlikely that a dead sailor would claim his personal effects).

Perhaps the most striking variance between French salvage law and that of the English is that few people could claim private admiralty jurisdiction, and thus few could take advantage of unclaimed wreck. In Louis XIV's code, private gentlemen and civil and military officers were forbidden to take wrecked goods or "to assume any Priviledges because of their Lands, Offices, or Commisions." If such men tried to take advantage of a wreck or hindered officers of the admiralty they paid with "Depravation of their fiefs (or Mannors, Offices, and Imployments." Soldiers were bluntly instructed to stay away from wrecks, or pay with death.

There was an exception to this rule. Lords in Normandy appear to have been allowed a separate custom, similar to the Cinque Ports in England. In Normandy, lords could take unclaimed wrecked goods, but only after they were inventoried by admiralty officers. If lords did not allow the goods to be inventoried, they forfeited their right to wrecked goods forever. Salvage payments were also not to be made to these lords. If a lord tried to claim salvage, he

was to pay fourfold, plus a fine of fifteen hundred livres, and he forfeited his right forever. Lords in Normandy were also not to hinder a mariner lightening ship, or to make mariners use the lord's servants. Again the punishment was fifteen hundred livres and forfeiture of the right of wreck. It seems that while French lawmakers were willing to acknowledge ancient custom in Normandy, they added conditions, perhaps with the hope of extinguishing such traditions.

There is greater evidence still that the French were interested in a regular and unified policy towards salvage. After the new maritime ordinances were published, manorial lords were given six months to establish limits between their lands. If they failed to do so, lords were responsible for any costs and damages that might ensue. The English did not make a similar effort to reign in lords of manors for another 173 years.

French law differed from English law on a fundamental level. The adherence of continental powers to civil law, and of the English to common law, certainly goes a long way towards explaining why the nations' methods of handling a problem contrasted so sharply. Nevertheless, French law reveals that the need and the means were available successfully to impact plunder in early modern Europe. The French, however, had the advantage of a strong leader who

provided the manpower and centralized authority for the enforcement of his statutes. The English, though, were still provided with an example of an effective system for handling salvage cases just on the other side of the English Channel. Awareness of French law may have inspired English lawmakers to initiate at least modest change.

The comparison between English salvage law and that of the French is still more striking when one considers that the maritime commerce of France was far less extensive than that of England, and yet the French sought to regulate entirely an inevitable part of trade (shipwreck) at a much earlier date. A much greater degree of stress on the system (an increased numbers of shipwrecks with complaints of shipowners and merchant's as well as an increase in the frequency of public disturbances) was needed before the means of control were implemented in England and before English culture could be adjusted to accommodate the change. In the meantime, English law provided the threat of capital punishment as its main deterrent to plunder, instead of detailed and frequently reviewed statutes, and instead of adequate provisions for enforcement. Where it was not desirable to bite, a loud bark was sounded.

The assertion that those in power in England between 1600 and 1800 were slow to come to the cause of justice in the case of plunder, or that the authorities purposely

neglected this area of law because existing law suited their own desires, needs to be kept in perspective. Salvage was perhaps not looked upon as a matter affecting trade, as evidenced by the placement of salvage proceedings under the jurisdiction of the common law courts and not the admiralty courts in medieval times. Certainly, the status of English maritime enterprise in the seventeenth and eighteenth centuries was little diminished due to poor salvage legislation. The tolerance of plunder may in part be explained by the crime's overall lack of impact on the wealth of England.

#### IV.

Scholars such as Douglass Hay, E.P. Thompson, and others have noted the trend of eighteenth-century legislators to enact statutes to protect specific, propertied interests at the behest of small groups. Capital statutes were not passed as a part of a conscious, general public policy. "[A] plan for a criminal code that was precise, consistent, and wholly enforced was alien to the thought of most eighteenth century Englishmen. They tended to think of justice in personal terms, and were more struck by an understanding of individual cases than by the delights of abstract schemes."<sup>44</sup> The creation of a rational criminal

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<sup>44</sup>Douglas Hay, "Property, Authority, and the

law was seen as a threat to the established power structure, a structure that kept order by use of pardons for felonious acts and the upkeep of deference to the propertied wealthy.<sup>45</sup> Thus lawmakers were prevented from taking a true stand against the exploitation of wrecks. This point is further substantiated by the fact that no provision for the salvage of life from a distressed vessel was made until the passing of the Wreck and Salvage Act of 1846. Before this time, remuneration could only be gained by salvors who saved property.<sup>46</sup>

E.P. Thompson has shown that law in eighteenth-century England was not a simple thing, existing only for the manipulation of the ruling classes. Thompson was impressed by the law as an attempt at governing all classes, upper and lower. Thus the gentry was subject to its own rules (those they put into law), otherwise the law would be transparent,

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Criminal Law," in Albion's Fatal Tree, Crime and Society in Eighteenth-Century England, ed. by Douglas Hay, et al. (Bristol: Western Printing Services Ltd., 1975), p. 39.

<sup>45</sup>Ibid., p. 57-58.

<sup>46</sup>Steel and Rose, Kennedy's Law, pp. 99-106. Part of the difficulty lay in the existing legal tradition of salvage, which allowed a salvor a lien on property saved to insure his or her payment. It was from salvaged goods that a fund would be established for salvage remuneration. It was customary, however, for salvors to be rewarded an extra amount if a life or lives was saved. The legal emphasis, however, was strictly related to property.

an obvious sham used by the ruling class for its own self-interests. The gentry could and did bend the law, but they could not openly break it.<sup>47</sup> This is true in the case of salvage, but a complete view of the subject reveals that there was another way of skirting the law: one simply made it incomplete. The laws passed in the eighteenth century did affect the upper classes--they could not damage or plunder a distressed vessel on the coast. But clearly these laws were aimed at the people on the lowest rung of the social ladder--poor coastal inhabitants. The law did not apply to the gentry on their own property, however, or in distant waters where they might invest in salvage operations. Thus the ruling class had a means of taking advantage of wrecked ships, while appearing to be subject to the law like everyone else. Written law was universal, and in that respect commendable. But laws that were not created (and perhaps should have been created) were also significant. The French law is a step closer to a universal one, particularly in that the landed gentry were for the most part not afforded private admiralty jurisdiction.

While the French system of maritime law was imperfect, it offered a model for England. Some commentators, such as Alexander Justice, noticed the French example. The French system, however, was largely ignored before 1800.

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<sup>47</sup>E.P. Thompson, Whigs and Hunters. The Origin of the Black Act (New York: Penguin Books, 1977), pp. 258-269.

Eventually England would have to make changes, clarifying its laws and regulating the actions of lords, but these changes were delayed.

In Britain, coastal people were discouraged from plunder and other barbarous acts by legal as well as moral appeals. While the laws in force between 1600-1800 gave evidence of a long legal tradition, relying on old attitudes towards justice, they also revealed the strong customs of illegal activity. Legislators had traditions to rely on when deciding cases or considering bills, but coastal people certainly had their own traditions in cases of shipwreck. These traditions persisted well past the end of the eighteenth century. In 1839, a Parliamentary committee met to consider the implementation of a rural police force. The testimony of witnesses of wrecking in various regions showed that wreckers often felt themselves justified in appropriating wreck goods and passed this belief on to their children.<sup>48</sup> This belief was built on a centuries-old foundation. It was also not uncommon for tales of plunder to involve hundreds of local inhabitants, and in Cornwall, thousands. Commentators such as Alexander Justice and Daniel Defoe noted this trend, and indicated a widespread belief in the legitimacy of wrecking (see appendix). "What

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<sup>48</sup>Rule, "Wrecking," p. 176-177.



was often at issue was not property, supported by law, against no-property, it was alternative definitions of property rights."<sup>49</sup>

As noted above, the Act of 1714 was to be read in church, which no doubt offered the most effective means of communication but also the reinforcement of just principles. Yet a characteristic of wrecking lore involves clergymen. Hence the story of a clergyman who implored his congregation to slow down when they heard of a wreck during service, to give him an equal chance at plunder: "Stop! Stop! cried he, at least one prayer, Let me get down, and all start faire."<sup>50</sup> While it may not have been common for church officials to participate in plunder, historian Douglas Hay believes "there is little evidence of positive action against wrecking on the part of the Church."<sup>51</sup> It is possible that in the countryside, custom outweighed law, and it was occasionally reinforced by these authority figures.

Thus attempts at controlling plunder were limited by four things. First were logistical problems, such as the occasional and haphazard nature of where and when wrecks occurred. Another problem was the lack of an effective police force in remote areas. No police existed in the

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<sup>49</sup>Thompson, Whigs, p. 261.

<sup>50</sup>Hay, Albion's, p. 184.

<sup>51</sup>Ibid., p. 185.

countryside after the rule of Oliver Cromwell, and notions about establishing a force were highly unpopular.

A third limiting factor was Parliament's unwillingness to create a meaningful public policy. The resistance was in part because ancient attitudes were preserved in the form of grants that allowed private Admiralty jurisdiction. Here, individuals could enforce laws that were different from, or even contrary to, those of the state. These grants represent overzealousness in the protection of the property of the wealthy landowners. By allowing such powerful and encompassng grants to be given and perpetuated, the few attempts at a full policy against plunder and wrecking that were made were undermined. The efforts that were made represented only the reaction of politicians to the exertions of pressure groups, namely the landed gentry and merchants. The laws passed between 1600 and 1800 were few and far between, and hardly represent the recognition of a widespread problem and a sustained effort at its regulation. Omissions in the law reveal areas where the wealthy could gain from salvage. The general reliance on ancient codes and precedents shows a reluctance to face the problem, a problem that had surely grown more severe in the seventeenth and eighteenth centuries due to the tremendous growth in shipping.

The persistence of non-legal or public customs formed

the fourth hindrance. These were the public traditions of wrecking and plunder in rural areas. Any law attempting to stem plunder would certainly have been imperfect due to the will of coastal inhabitants. These four themes strengthened each other in turn.

### CHAPTER III.

#### THE RANGE OF SALVAGE ACTIVITIES

IN ENGLAND, 1600-1800

So much treasure has been recovered of late years from the Wrecks of Ships in Divers Parts, that the Curious have applied themselves to the study improving machines for that Use; and we see one newly invented, which is said to exceed any yet made publick, being so contrived as to carry a Number of Persons, and will descend and ascend, and move from Place to Place under Water, at the Pleasure of those within it.<sup>1</sup>

Curious inventors were only one type of person interested in profiting from shipwreck in the seventeenth and eighteenth centuries. The rich and the poor, the weak and the powerful, the conservative and the adventurous, and of course the greedy all applied themselves to different forms of salvage. They did so in increasing numbers and in an expanding variety of ways. The powerless made deals with the powerful to further their aims, while the authorities were otherwise avoided

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<sup>1</sup>Brice's Weekly Journal (Exon), Friday, Sept. 30, 1726, p. 3.

or attacked. Some salvagers warily watched the coastline for disasters, while others preyed on those that had already occurred in distant waters.

Growth and increased sophistication in salvage during this period can be explained in part by increases in shipping. Expansion of the English merchant shipping industry continued with only brief checks from the middle years of Elizabeth I's reign until the beginning of the wars with Louis XIV's France in 1689. The seventeenth century saw the total tonnage of merchant shipping increase between six- and seven-fold, and the number of ships of 200 tons or more grew from half a dozen to several hundred.

Growth was particularly strong after the accession of Charles II. In fact, the English shipping industry "nearly doubled in size between 1660 and 1689."<sup>2</sup> At this time, English colonies in North America and the West Indies matured as markets for home manufactured goods while exporting commodities such as tobacco and sugar, which English merchants re-exported to the continent for large profits. Colonial trades, almost negligible in the 1630s, employed nearly a quarter of English shipping tonnage fifty years later. The trade with Africa for

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<sup>2</sup>Ralph Davis, The Rise of the English Shipping Industry in the Seventeenth and Eighteenth Centuries (London: Macmillan and Co., 1962), p. 2.

slaves and to the Baltic for iron and other goods also expanded during this period, while Mediterranean and Iberian trades flourished as well.<sup>3</sup>

Increased trade through the Atlantic region to these areas and the East Indies brought about a series of wars as the balance of power in Europe was continually upset. War brought with it increased shipbuilding, and an increase in the number of wrecks.

This chapter will show that wrecks brought on by war or increases in trade were exploited in a variety of ways, directly and indirectly. These can be arranged into two categories. The first is the chance employment of wrecks on the British coast for gain. This entails the discovery of a wreck or goods by the inhabitants of a coastal area, and consequent plunder or legal salvage operation. While local people had a variety of methods for profiting from wrecks, masters had a legal means of cutting their losses through legal salvage. Ship masters could also profit by intentionally wrecking their ships to avoid customs duties.

The second category of salvage involves attempts at capitalizing on the inevitability of shipwreck in foreign and domestic waters. This involves organized and officially approved salvage expeditions and efforts to

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<sup>3</sup>Ibid.

utilize the profits from salvage for business ventures and other projects. As this period of growth coincided with one of technical innovation, clever minds were diverted into making machines to work on submerged wrecks for profit--a profit that was shared by the king, the lord high admiral, and the inventors themselves. Salvage of this type was how businesses were built around the inevitability of shipwreck in the age of sail, and out of such businesses evolved the professional salver. Unlike plunder, which relied on vigilant observance of the coast and fast action when wrecks occurred, salvage as a business relied on the store of wrecks already in the sea and on those bound to come.

After discussing the two categories of salvage, this chapter will focus on attempts to enforce salvage law. These efforts were handicapped by the lack of a police force in rural areas, logistical problems, and official apathy towards the problem.

The wide range of legal and illegal activities aimed at capitalizing on shipwreck reveals the insouciant attitude of contemporaries towards justice in these incidents. This attitude encouraged the abuse of shipwrecks for profit, and was shared by many figures of authority, coastal inhabitants, and even shippers themselves. A weak system of enforcement of salvage laws

resulted in brutal and sometimes farcical confrontations rather than a meaningful deterrent to plunder.

Because of ancient traditions, legal forms of shipwreck exploitation, and poor law enforcement, a substantial public policy against taking advantage of maritime misfortune was avoided. The rule of the day was clear--shipwrecks were good, and they represented opportunities for enrichment that could be used in many ways and were not to be missed. These feelings still exist, as treasure hunters and others place the potential for profit above the gain of knowledge from historic shipwrecks.

#### I.

Local people were referred to in records relating to salvage as "Country People" and "Folk." These terms denoted ordinary people in coastal areas: farmers, miners, innkeepers, craftsmen, and peasants. They held no official office and were often very poor. The poverty of such people was often cited as the explanation for their enthusiasm for salvage, but as mentioned in the Rolle of Oleron, people of all classes took part in plunder even through the cruelest means.

The prospect of plunder was truly exciting, as one could never tell what might be gained. Though gold and



silver coins were occasionally found, furniture, personal items, clothes, bales of wool, casks of wine and brandy were enthusiastically accepted. The ship itself also offered ropes and cables, iron fittings, and timber. As plunder went on largely uninhibited by the authorities, "wreckers" were limited only by their imaginations and how much they could carry.

Most records do not record the profit to plunderers of a shipwreck; rather they show the amount lost to merchant shippers. An example would be the loss of over 600 out of 1000 bags of wool by a ship captain who "would have endeavored to save the cargo, but was persuaded to the contrary by the inhabitants."<sup>4</sup> The means of persuasion can be easily imagined. An estimate of the per capita gain to plunderers from a shipwreck comes from 1669, following the wreck of the Phoenix near Woolwich. A local told the clerk of the ropeyard that the seven or eight men looting the wreck "would make this tide worth 4s a man, aye, twice 4."<sup>5</sup> This is well over the average daily wages for both carpenters and laborers during the period.<sup>6</sup> Again, these are isolated incidents, and the

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<sup>4</sup>State Papers, Domestic. 1702, p. 493.

<sup>5</sup>Ibid., 1669, p. 292.

range of profit was very wide and often difficult to assign monetary value.



Aftermath of a sixteenth century shipwreck. Note the variety of floating goods. After C.F. Salzman, English Trade in the Middle Ages (Oxford: Clarendon Press, 1931), p. 251.

Perhaps the value of wrecks to coastal people can be seen in the difficulty encountered by Sir John Killigrew in 1619. While attempting to build a lighthouse on the Lizard in Cornwall, Killigrew reported that "the inhabitants complain that it will take away God's Grace

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<sup>6</sup>E.H. Phelps Brown and Shiela V. Hopkins, "Seven Centuries of Building Wages" in Essays in Economic History, vol. 2, E.M. Carus-Wilson, ed. (London: Edward Arnold, 1962), p. 178.

from them, as they will have no more benefit from shipwrecks. They have so long lived on the calamities of others, that they are idle."<sup>7</sup> Killigrew also asserted that "most of the houses about the Lizard are built with ruined ships."<sup>8</sup> Timber from wrecked ships was a highly valued commodity. While traveling north from Yarmouth, Daniel Defoe noted the extent of timber usage:

...the farmers and country people had scarce a barn, or a shed, or a stable; nay not the pales of their yards, and gardens, not a hogstye, not a necessary-house, but what was built of old planks, beams, wales, and timbers etc. the wrecks of ships and ruins of mariners' and merchants' fortunes; and in some places whole yards fill'd up and piled up very high with the same stuff laid up, as I suppos'd to sell for the like building purposes.<sup>9</sup>

The cost of timber must have risen during this period, when access to woods and common land was becoming more and more restricted.<sup>10</sup>

Wrecks were common because of the vulnerability of wooden ships. Between 1625 and 1628, for instance, an

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<sup>7</sup>State Papers, Domestic. 1619, p. 61.

<sup>8</sup>State Papers, Domestic. 1620. p. 3.

<sup>9</sup>Defoe quoted in John G. Rule, "Wrecking and Coastal Plunder," in Douglas Hay, et al., eds., Albion's Fatal Tree. Crime and Society in Eighteenth-Century England (Bristol: Western Printing Services Ltd., 1975), p. 171.

<sup>10</sup>Ibid., p. 186.

average of 130 English vessels were lost each year. This figure represents roughly one-third of the ships over 100 tons that England possessed. During the eighteenth century, 10 percent of the East India trade's tonnage was lost annually.<sup>11</sup> Where these wrecks could be located and approached, in the open ocean or more frequently along the coast, salvage was common. Figures detailing the incidence of shipwreck add up to great opportunities for salvage, and the random redistribution of wealth in the form of goods and the ships that carried them. It seems likely, however, that historical records preserve only a fraction of the times plunderers were successful. It is easy to imagine wrecks taking place in distant and secluded areas where no authority would learn of the wreck. Plunder could also occur in populated areas before any official action could be taken.

Occasionally, however, local people attempting to steal wrecked goods were caught. When a Wallasey man removed some bales of linen cloth from the wreck of a Hamburg ship in 1706, he was committed to jail. There he was allowed a penny a day from the prison in addition to the charity of local people, leaving his wife and five children nothing to

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<sup>11</sup>Scammel, "Shipowning," Historical Journal, 15 (1972), pp. 403-404.

live on.<sup>12</sup> But there were ways within the law that local people could make a profit from shipwreck. Collecting salvage fees was one way, and a method often cited by wreck victims who asserted that they were charged exorbitant rates for the service. This stems from the influence of ancient customs and the varied nature of the work, which led to a vague treatment in the law. To reiterate the law, "The proportion that the salvage dues bear to the value of cargoes is not fixed, but the law of the Admiralty (which is the general maritime law of all Europe) rates it according to the circumstances of distress and danger attending the saving."<sup>13</sup> Many records illuminate the difficulty of quantifying danger and the perseverance of custom. One example comes from 1706, when the inhabitants of the island of Portland "got up" 150 blocks of tin from a wreck that had no survivors. Although they voluntarily turned in the tin, "alleging that it was Her Majesty's," they went on to ask for "one third part for their trouble which they say is customary."<sup>14</sup> Another instance involved a Mr. Budd, who made a similar claim. After the wreck of a Dunkirk ship called Mary Joseph, Budd claimed one-third of goods salvaged for his

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<sup>12</sup>Treasury Papers, 1705-6, p. 596.

<sup>13</sup>This is a quotation from Advocate General Marriot. Home Office Papers. 1767, p. 185.

<sup>14</sup>Treasury Papers. 1706, p. 730.

salvage Mary commission, while insisting on a further 5 percent for commission for selling the goods. Consequently, there came a flurry of paperwork concerning Budd's claim, which resulted in his receiving the 5 percent commission. He and the other salvors, however, did not receive one-third of the cargo, but were paid by the day according to the risk they had run, and the time they had worked.<sup>15</sup> As no rates were created for salvage fees, they were constantly a matter of debate. Paying salvors by the day, thereby adding something quantifiable to the equation (time), must have made it easier to figure out reasonable rewards.

There were still other ways for local people to gain from a shipwreck. An example was the profit made by Thomas Handfield. After the loss of the Perseverance transport ship, the surviving crew was "entertained" at Handfield's house. Though they were "lodged on bare boards" and given no provisions, Handfield demanded £4 from the crew, and eventually settled for £3 4s.<sup>16</sup>

Throughout much of the seventeenth and eighteenth centuries, wine, brandy, and other beverages that were shipwrecked were not subject to customs duties.<sup>17</sup> This is

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<sup>15</sup>Home Office Papers. 1767, p. 183.

<sup>16</sup>State Papers, Domestic. 1698, p. 16.

<sup>17</sup>Treasury Papers, 1690, p. 841., Ibid., 1696, p. 172, Justice, Dominion of the Sea, first ed., Appendix p. 24.

presumably because casks of wine that were in contact with the sea often became contaminated with salt water.<sup>18</sup> As a result, masters of vessels sometimes pretended their ships were in danger and ran them ashore. The money saved on customs duties would then be quite sufficient to cover pretended salvage costs.<sup>19</sup> Naturally, masters worked in collusion with merchants who owned the vessels, and each understood the potential loss of ship and life involved in such an operation.

Shipowners and masters also sought to lessen customs duties by pleading to customs commissioners that the wreck and consequent salvage costs had left them poor. To avoid this loss of revenue, the king declared between 1685 and 1686 that wreck victims had to pay customs with no deduction for salvage.<sup>20</sup>

Masters and owners were hard hit when their vessels

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<sup>18</sup>Records of such instances abound. It has also been noted that a resident of the Scilly Islands endeavored to invent a way of making rum and seawater palatable. The result was shrub, a distillation of herbs strong enough to disguise the salty taste. Rum and shrub can still be drunk in some Cornish and Scillonian pubs. Though not fit for sale, tainted liquor does not seem to have offended plunderers, as there are many records from the eighteenth century and after of locals imbibing wrecked rum and brandy. One man is even said to have died from drinking a great quantity of salty rum. Derek Parker, The West Country and the Sea (London: Longman, 1980), pp. 188-189.

<sup>19</sup>Treasury Papers, 1685-6, p.544, Ibid., 1716 p. 423.

<sup>20</sup>Ibid., 1685-6, p. 530.

were lost, but they were not without some recourse. In many instances, officials found ways to work around the law. Such was the case in 1698, when a French ship heading for Amsterdam with white wine wrecked on the Goodwin Sands. Though the vessel and goods were restored to the master, he opted to make a deal with the customs commissioners. Since the wine had been "damnified", the merchant felt that he could not bear the cost of salvage and refitting his vessel. He therefore consented to a condemnation of the wine for sale. The king would receive one-half of the proceeds and the proprietors the other half.<sup>21</sup>

## II.

While the local people took advantage ad hoc of shipwrecks, many landowners, speculators, adventurers, and entrepreneurs attempted to exploit wrecks in a systematic and legal way (many very likely tried to exploit them in illegal, secretive ways also, but they rarely left records). Usually, one of the above figures would petition the king for a grant to salvage wrecks in a particular area for a particular number of years. Grants were also given to individuals or companies to salvage one particular wreck. In either case, the monarchy received a share of goods salved, and the admiralty was due a moiety as well. Profits

<sup>21</sup>Ibid., 1698, p. 347.



could be very high, and as a result the years between 1600 and 1800 saw the emergence of the full-time, professional salver. As shipping increased and became more technically and organizationally advanced, so did salvage activity.

One can gain an understanding of the scale of legal salvage operations by looking at the collection of Treasury Papers, where petitions for wreck fishing grants and notice of approved grants were recorded (the Domestic State Papers also contain notices relating to grants in these years). The papers available for this study covered the years between 1660-1745, many of which were war years. Times of war not only increased the number of wrecks available, they also increased the need for revenue to finance war. Also, the Navy would have been interested in recovering as many guns as possible. There is, however, no record of grants asked for or granted between 1660 and 1686, nor are there any recorded between 1729 and 1745. These periods consist of forty-two years when added together.

Between 1660-1745, there was a total of twenty-seven grants either applied for or granted.<sup>22</sup> The shortest length of a grant was 1 year, while the longest period allowed was 20 years. It was not unusual for a grant to be extended

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<sup>22</sup> While both applications and approvals indicate the perceived value of salvage grants, and since it is not possible to discover the outcome of each application, they are considered together.

after it had expired, however. The average length of a grant was 7.6 years, while the mode was 7 years. Perhaps a period between 7 and 8 years was most manageable for the crown: if an unproductive salver was working in an area believed to be lucrative, the crown could soon appoint another salver to work there. The crown could also award another salver a grant to work in the same area or part of the same area. This might serve to increase the amount of revenue coming to England through the crown's share, as did a fee occasionally charged for grants.

It is interesting to note the general regions where salvers chose to look for wrecks. There was an equal amount of interest in Ireland, England, America, and the West Indies.

TABLE 3.1. REGIONS OF WRECK FISHING GRANTS\*

Scotland	Ireland	England	America	West Indies	Bermuda
2	6	6	5	7	3

\*Grants occasionally specified a salver's right to work in more than one place. Thus, twenty-seven grants were awarded, but twenty-nine regions were named in the grants.

Some grants simply allowed the grantee to take whatever he happened to notice lying on the shore. Other grants, however, involved considerable logistical and financial

problems. People committed to the latter type of salvage operation undertook them under similar circumstances as other irregular and unpredictable maritime activities, such as privateering and piracy. The privateer, the pirate, and the open-ocean salver counted on the general availability of ships to exploit. All three types of mariner relied on their own wariness and speed of action, and to some degree they depended on chance in finding and exploiting their prey.

For overseas "wreck fishing" large amounts of capital were required for a ship or ships, provisions, arms, and men. Occasionally, the crown might supply some of these resources to the salver, but this was not without considerable loss in potential profit to the salver in the form of increased royal shares. Such was the case in 1698 with Richard Long, for whom the king supplied and fitted out a sixth-rate frigate.

Long met other problems in interesting ways. In his orders for his mission, he was instructed to take along five barrels of powder to give to the Indians in America, "in order to induce them to assist you in your undertaking."<sup>23</sup> This assistance might include pilotage and information concerning the location of wrecks. William Phips of

<sup>23</sup>State Papers, Domestic. 1698, p. 251.

Massachusetts also employed Indians in his efforts to salvage treasure from wrecks near Hispaniola in the 1680s. The Indians were brought along mainly as divers, as the water was too shallow to use diving bells. Phips was a highly prosperous salvor, and was not only knighted for his service to the king of England but eventually became governor of Massachusetts. After returning to England following a successful salvage operation, Phips was presented with a medallion struck in his honor by the Gentlemen Adventurers group, who had backed the expedition. The medallion features the inscriptions Semper tibi pendeat hamus (May your hook always be ready) and Naufrage reparta (Wrecks rediscovered).<sup>24</sup>

To supply men, a salver had to compete with the Navy and merchant ships. Competition must have been most intense in times of war, when salvors also had to compete with letter-of-marque ships and privateers. One way to solve the manning problem was to ask the Navy Commissioners for permission to press seamen for the venture. Sir Robert Holmes did just that, and was allowed to have men pressed for the smack Blessing, a ship employed in wreck fishing.<sup>25</sup>

When a salver had the appropriate equipment and men, he still faced the possibility that he would come up empty.

<sup>24</sup>Pierre de Latil and Jean Rivoire, Sunken Treasure (New York: Hill and Wang, 1962), pp. 33-61.

<sup>25</sup>State Paper, Domestic. 1672, p. 94.

One might assume that a salvage operation that sought only to exploit a known wreck, and not an area which had probable wrecks, would surely succeed. There was no guarantee that the wreck would be found, however. Finding shipwrecks is still today a difficult operation, with modern equipment such as global positioning systems, sonar, magnetometers, SCUBA, underwater video equipment, and other submersibles. Naturally, it was more troublesome in the seventeenth and eighteenth centuries. There was the added danger of armed conflict, as a salver might encounter other salvors, rival nations, privateers, or pirates. Finally, weather could easily be a hindrance, and a salver's ship could well end up in the same position as vessels to be salvaged.

When wrecks were located, different services were required of salvors. Treasure in the form of silver, gold bullion, and guns was the primary objective in salvage operations in distant waters and in the open ocean. Ships lost in rivers and shallow areas, however, were often weighed and refloated. These were either stripped of their materials and other valuables, or actually sold by the Navy as second-hand vessels. Weighing wrecks was "troublesome and dirty" work according to salver Edward Moorcock. Moorcock complained to the Navy Commissioners in 1668 that the seven pounds a month he was being paid to raise Marmeduke at Chatham was far too little. Moorcock noted he

had to victual 251 men for a day before stores arrived and that his clothes would need replacing.<sup>26</sup>

Nevertheless, others were enthusiastic to gain contacts from the Navy to weigh or clear wrecks. John Gibbs proposed in 1668 to weigh and remove three wrecks below Woolwich for £3,500, or for nothing if the Navy would let him keep the wrecks and all goods within them (except the guns).<sup>27</sup> Gibbs found competition as Thomas Gould proposed to clear the wrecks for £1,600 and ownership of the wrecks. If the king supplied the ships for the venture, Gould would do the work for only £600.<sup>28</sup>

Ambitious businessmen also found uses for shipwrecks and the income made from salvage. In 1691, Craven Howard, governor of the corporation of the linen manufacture, petitioned the monarchy for a grant for the benefit of the corporation. This grant would give him and his successors the crown's share (1/5) of a salvage grant given to Philip Ford. Ford's grant included all wrecks between the North Foreland to the westward of the Lizard, including the Scilly Islands. Howard proposed to pay twenty nobles per year for this privilege, which was to last ninety-nine years. In addition, for the rent of five nobles per year, Howard

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<sup>26</sup>Ibid., 1668, p. 569.

<sup>27</sup>Ibid.

<sup>28</sup>Ibid

requested all wrecks on the north coast of Cornwall for ninety-nine years. Howard argued that growth in linen manufacture would lessen the power of France, advance the fallen rates of land in England, and give employment to thousands of families and "most of the poor of this kingdom."<sup>29</sup> It is reasonable to assume that the crown might be willing to give up its share of wrecked goods to encourage an industry, particularly one that would potentially hurt the commerce of a national rival. Such was the case in 1708, when the crown gave up the right to a tenth of the value of prizes taken by privateers.<sup>30</sup>

There were many uses to which "extra" money from wreck fishing was put. In 1662, the gentlemen of Kent, inhabitants of Sandwich, and mayor and aldermen of Canterbury requested a fourth part of prizes, wrecks at sea, and unspecified other goods discovered by them. When their finds had reached a total value of £10,000, the grant would cease. The money gained was earmarked for the construction of a harbor between Sandwich and Canterbury, which was much needed and estimated to cost £10,000.<sup>31</sup>

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<sup>29</sup>Ibid., 1691, p. 424.

<sup>30</sup>David J. Starkey, British Privateering Enterprise in the Eighteenth Century (Exeter: University of Exeter Press, 1990), pp. 26-27.

<sup>31</sup>State Papers, Domestic. 1662, p. 583.

Another perhaps more obtuse way of acquiring wealth from the incidence of shipwreck can be seen in the grants given James, duke of Monmouth, in 1663. Early in the reign of Charles II, an act had been passed for the prosecution of persons holding sums due the king for prizes, prize goods, wreck goods, and wreck money since 1642 (this was an attempt to regain revenue lost during the years of civil war and the rule of Oliver Cromwell). The duke obtained a commission with admiralty powers to recover these sums, and a grant allowing him to keep them.<sup>32</sup>

It is clear that during the period in question salvage became an occupation; it was an activity that someone could devote himself to full time, or make money on the side for savings or business ventures. Salvors used a wide range of technology, from simple carts for carrying something away on the beach to investments in ships, guns, and other gear. Like any other field that showed potential profit, salvage also encouraged technical innovation. In particular, there seems to have been a spate of inventing activity in the latter half of the seventeenth century. This can be explained in large part by the wars of this period that resulted in the loss of many warships, as well as the increasing emphasis on technological advances in the seventeenth century. Inventors perceived the value to the

<sup>32</sup>Ibid., 1663? p. 401.



crown of efficient recovery of English and foreign goods, most particularly guns.

The inventions were of two different kinds: those that retrieved goods, wreckage, ships' guns, and whatever else they could from the surface, and those that allowed a person to be submerged. Of the latter type there were many. The creation of Stephen Evans, Francis Tyssen, John Holland, and Edmund Harley in 1691 involved the conveyance of air into a diving vessel, where several persons could be maintained to live and work at any depth, and for several hours.<sup>33</sup> Dr. Edmund Halley also invented a diving bell that included a tap at the top to let stale air out and one at the bottom through which fresh air was pumped. Halley reasoned that the air already breathed by the divers would be hotter than the surrounding air and would rise, escaping through the top. The bell also had a glass window, and divers communicated with the surface by scratching on a lead plate lowered alongside the bell. The slate was repeatedly raised and lowered from the surface until communication was complete.<sup>34</sup> In 1692, Francis Smartfoot invented "a pair of lungs to be fixed to a man's back for his breathing

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<sup>33</sup>Ibid., 1691, p. 505.

<sup>34</sup>Alison Mcleay, The Tobermory Treasure: The True Story of a Fabulous Armada Galleon (London: Conway Maritime Press, 1986) p. 49.

underwater as he swims."<sup>35</sup> A notice of 1726 made a similar claim, but added that the air compressed into the diving vessel was also circulated, "by which means a person may respire as freely as tho' he was in the Open Air, and if needful, continue under the Water for Days together."<sup>36</sup>

There were also several inventions of the first kind for fishing up wreck goods, which were commonly referred to as "sea crabs" or "sea crab engines." The previously mentioned Francis Smartfoot invented versions of these as well as a means for human submersion.<sup>37</sup> A group called Wynne, Houblon, and Company also offered their "sea crab engine" for service to the crown in 1702, particularly for the salvage of guns and goods remaining at Vigo after the English Navy's recent victory.<sup>38</sup>

Inventors also obtained grants to use their machines. The innovators did not always specify places for working when applying for grants, and the rewards of the inventors' work also varied. Of nine such grants applied for between 1660 and 1693, two requested the crown's share as payment.<sup>39</sup>

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<sup>35</sup>Treasury Papers. 1692, p. 1840.

<sup>36</sup>Brice's Weekly Journal, Friday Sept. 30, 1726. p. 3.

<sup>37</sup>Ibid.

<sup>38</sup>State Papers, Domestic. 1702, p. 445.

<sup>39</sup>Treasury Papers. 1689, p. 213. State Papers, Domestic. 1682, p. 52.

The others varied: one request was for one-half the value of guns recovered, another simply asked for a salary for the inventor and payment of charges, and the requests of four were unspecified.<sup>40</sup> The grants of Francis Smartfoot, however, are quite detailed. Between one and ten fathoms, Smartfoot kept all but one-fifth, which went to the crown. The grant was for use in all the seas of England, except the area between the North Foreland and the Lizard, including the Scilly Isles. Smartfoot was given a moiety of the crown's fifth in the latter areas in a later grant. In that grant, he also received (one-tenth) for goods recovered below ten fathoms.<sup>41</sup>

Of the nine grants, seven were for a term of fourteen years. Another grant was for one year, which was the length of an expedition to the West Indies.<sup>42</sup> The last was requested to be thirty-one years in length--an unusual and perhaps unlikely length of time to be awarded.<sup>43</sup>

Jacob Rowe was one salver who used a wide range of inventive technology and obtained crown grants. In fact,

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<sup>40</sup>State Papers, Domestic. 1693, p. 361. State Papers, Domestic. 1660, p. 320.

<sup>41</sup>Treasury Papers. 1692, p. 1840.

<sup>42</sup>State Papers, Domestic. 1687, p. 1447.

<sup>43</sup>Ibid., 1660, p. 320.

Rowe worked on inventions other than those applicable to salvage, such as a "frictionless cart." Rowe was more successful when working around the sea, however, and established his reputation in 1728 by salvaging the majority of the treasure aboard the Adelaar, a Dutch East Indiaman lost in a storm off of the Outer Hebrides. Rowe also composed a pamphlet entitled A Demonstration of the Diving Engine--Its Invention and Various Uses, which detailed his own innovations and commented on the actions of contemporary salvagers. Rowe contended that other divers made mistakes by attempting to walk upright across the seabed wearing helmets fitted with a hose for air. A truly successful diving engine would allow the diver to remain horizontal like a fish to avoid being swept off one's feet by currents. Rowe also believed that divers should be raised and lowered slowly in the water, otherwise "the Veins might be in danger of hurting, or the Blood cease to circulate." Here Rowe sought to avoid the dangers of decompression sickness or the "bends," a threat to divers caused by nitrogen bubbles in the bloodstream. Although he could not have understood the causes of the bends, Rowe probably observed the pain of other divers and proscribed at least this one useful safety measure.<sup>44</sup>

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Rowe's diving machine was intended primarily as a tool

<sup>44</sup>Mcleay, Tobermory, p. 50.

for salvaging treasure, an activity prominent in his technical drawings. But it could also be used to find lost wrecks by being towed behind a ship in an organized pattern. (Today, the diving machine has largely been replaced by instruments such as magnetometers and sonar, which are also towed systematically through an area. Divers, however, are still towed through the water on occasion for this purpose.) Rowe's diving barrel was shaped like a horn and was constructed of copper or brass. A diver would insert himself into the tube feet first, and would be lowered into the water so that his head faced downwards to the seafloor, while his feet were suspended above and behind him. Watertight leather sleeves were provided with holes for the diver's arms. The diver looked out at the seafloor through a glass lens, and wiped any condensation from it with the only available appendage--his nose. Communication was through a line dropped alongside the diver and a series of practiced tug signals. In deep water, the diver was braced inside the machine with a "saddle" that insured his arms would protrude through their holes despite high outside pressures. Rowe limited the working depth of his invention to sixty feet, realizing the great discomfort of the diver past that depth. To work on wrecks at night (an activity presumably necessitated either by lack of time, fishing illegally for wrecks, potential conflict with other salvors,

or some of these factors combined), Rowe invented a "Lamp for Burning Underwater" that had two pipes attached on the top and bottom. The pipe on top was to serve as a chimney, through which smoke was pushed by fresh air coming in through the bottom.<sup>45</sup>

When coming upon a wreck, Rowe's first cleared it of silt and other debris using dredges. After divers attached iron hooks to wreckage, pulleys hauled it away. If this failed, a floating platform was constructed of wooden beams and empty casks. Ropes from the raft were attached to the wreckage at low tide, and the raft and wreckage would be raised by high tide. In this way, whole vessels could be raised. Rowe also invented a means of using explosives underwater, which included a cask lined with leather and a specially designed clock (of the kind any clockmaker could construct) to allow the salvage crew time to depart before the explosion. This invention and a "dart" fired from a gun were used to break up concretions growing over wreck sites. One consequence of Rowe's methods was that wrecks were largely destroyed or turned into tangled heaps, making future investigations and salvage attempts difficult.<sup>46</sup>

In 1729, Rowe was given a three year license to work on the site of the Florencia, a Spanish Armada Galleon said to

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<sup>45</sup>Ibid., pp. 50-53.

<sup>46</sup>Ibid., pp. 55-60.

be laden with treasure. The ship was located in Tobermory Bay on the west coast of Scotland. The backers of the project included Alexander Mackenzie, who also supported the salvage work on the Adelaar; John Campbell, the second duke of Argyll; and Duncan Forbes, the Lord Advocate of Scotland. Repeated attempts at salvaging the rumored treasure had been made by various licensees in the 1660s, 1670s, and 1680s, but they yielded only guns, anchors, and other less spectacular goods. Rowe was hired because of his previous experience and success, and the fact that he did not use a diving bell as had all previous divers on the site. Since the wreck occurred over a century before the arrival of Rowe and his crew, it had been overtaken with coral and silt. Divers in bells could only reach out and grab exposed items; they could not destroy and clear obstacles that barred entry into areas concealing treasure.

Despite Rowe's superior technique, no sign of the treasure could be found. After carrying on optimistically for three years, Rowe eventually left a small crew at the site and went to work on another wreck, rumored to be another Armada galleon loaded with treasure. The crew left behind went unpaid, and was forced to sue one of the operation's backers, Alexander Mackenzie. Mackenzie was broke, however, having lost money on this operation and that

of the Adelaar.<sup>47</sup>

This salvage case reveals the difficulties of salvaging treasure, even when a wreck was located. But despite the events at Tobermory, Rowe's story is one of success: he made a living as a salver, and was sometimes fantastically fortunate. In some ways, Rowe was better off than investors in salvage operations, because if one failed he could move on to the next having lost only time. Damage to his reputation could be restored by another successful venture, provided he could find supporters. It is easy to believe that were Rowe alive today, he would be gainfully employed.

### III.

The crown's share of salvaged goods in grants represented a substantial and useful source of income. In the sample examined above, royal shares varied between grants from 20 to 90 percent of goods salvaged. Out of the twenty-seven grants considered, twenty-one have the crown's share recorded. Most (twelve, or 56 percent) stipulate that one-tenth of goods salvaged belonged to the crown. Another 28 percent stipulated one-fifth. Two grants reserved one-eighth to the crown. As mentioned above, the king fitted out a

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<sup>47</sup>Ibid., pp. 63-64.



sixth-rate frigate for Richard Long's treasure hunt to America, and consequently the sovereign demanded more of the spoils. The king received everything until a total of £10,000 had been gained. For seven years thereafter, Long would receive one-tenth and the crown nine-tenths.<sup>48</sup>

The money gained by the royal salvage shares was used in different ways. With other funds, wreck money was sometimes recorded in treasury rolls as paying the salaries of government officials.<sup>49</sup> In 1688, Sir Edmund Andros requested the use of the crown's share of silver from a wrecked treasure ship in Hispaniola, which amounted to 4,971.75 ounces. Andros asked that the silver, which was stored in New England, be used for new fortifications there.<sup>50</sup> Likewise in 1688, no less than £5,642 6s 8d of salvage money from the same Hispaniola wreck went to improving fortifications at Hull.<sup>51</sup>

The crown was also due a share of unclaimed goods not found on private property, or where no grant had been given to the landowner. This could be a considerable source of income. "During the last French war the sums raised by droits were very large. Sums of £100,000, £190,000, and

<sup>48</sup>State Paper, Domestic. 1698, p. 167.

<sup>49</sup>Treasury Papers. 1692, p. 1839.

<sup>50</sup>Treasury Papers. 1688, p. 1927.

<sup>51</sup>Treasury Paper. 1688, pp. 2039, 2098.

£58,360 are mentioned as having been paid to members of the royal family; the last sum is stated to have been paid out on account of the building, etc., of the Pavilion at Brighton."<sup>52</sup>

By ancient custom the Admiralty was also due a moiety of all wrecks and riches taken up from the sea. From the fourteenth century on, the Admiralty had jurisdiction in all port towns in England. This jurisdiction was not complete, however, as boroughs, corporations, and manorial lords claimed maritime jurisdiction in various areas by grant (actual or implied). This meant that the local powers exercising jurisdiction gained healthy incomes from what were elsewhere droits of the Admiralty. But for the Admiralty or other authorities, "the most profitable part of the jurisdiction was the sale of wrecks and flotsam found on the shore or floating within the jurisdiction. This could range from ships and boats down to short lengths of cable and the money in a drowned man's purse."<sup>53</sup> Sometimes the Lord Admiral sold his office.<sup>54</sup> George, prince of Denmark,

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<sup>52</sup>From Select Pleas in the Court of Admiralty, in W.S. Holdsworth, A History of English Law, (London: Methuen and Co. Ltd.: 1925), I, p. 561n.

<sup>53</sup>Edwin Welch, ed. The Admiralty Court Book of Southampton, 1566-1585 (London: Camelot Press, 1968), pp. xi-xxxii.

<sup>54</sup>Dorothy Burwash, English Merchant Shipping 1460-1540 (Toronto: University of Toronto Press, 1947), p. 737.

and Lord High Admiral during Queen Anne's reign, actually surrendered his droit for a fixed annual sum.<sup>55</sup> In the case of the Hispaniola treasure ship, the Admiralty's share amounted to tens of thousands of livres. In another example, it was rumored that Jacob Rowe had saved as much as £23,000 from wrecks on the north coast of Scotland.<sup>56</sup> By his grant, the crown was due £2,300 (a tenth), the Admiralty £11,500 (a moiety), and the remaining £9,200 belonged to Rowe. The rumors were true, as the wreck referred to was the previously mentioned Adelaar.

In addition, salvage dues were often allowed to the Vice Admirals of the Coast as a reward for taking possession of and looking after wrecked property.<sup>57</sup> The Navy in general also gained by the sale of wrecks which it had weighed.

Manorial lords who had grants allowing them admiralty jurisdiction became "Receivers of Wreck" and paid no customs duties on goods found. The reasoning for this was that the goods originally belonged to the king, who could pay no customs duties on something he already owned.

Apparently, there was a further exception to admiralty jurisdiction. Molloy states "a man may have Flotsam within the high and low water-mark by prescription, as it appears

<sup>55</sup> Holdsworth, History, I, p. 560.

<sup>56</sup> Treasury Papers, 1728-9, p. 25.

<sup>57</sup> Holdsworth, History, I, p. 561.

by those of the West Countries, who prescribe to have Wreck in the Sea, so far as they may see a Humber Barrel [this last part meant the distance at which a person looking out to sea from shore could detect a barrel floating in the water]."<sup>58</sup> Thus there could be several conflicting claims to salvaged goods. Because of the value of salvage to such a wide range of people in numerous places, a considerable effort on the part of the various governments of England had to be made to preserve the crown's share, the droits of the Admiralty, and the rights of shipowners and investors.

To begin with, the crown reserved the right to appoint officials to inspect the work of salvage grantees. This was often complicated by long distances in the case of salvage expeditions.<sup>59</sup> As Receivers of Wreck, customs officials certainly had unenviable duties. First, it is unlikely that they would arrive at the scene of wreck before it had been plundered. By 1780, customs officers in London were required to attend the customs house between the hours of nine and twelve in the morning, and at appointed times in the afternoon "for the better deciding of controversies that may happen."<sup>60</sup> In out-ports, customs officers also were supposed to be present at the customs house between nine and

<sup>58</sup>Molloy, Treatise, pp. 240-241.

<sup>59</sup>State Papers, Domestic. 1697, p. 159.

<sup>60</sup>Molloy, Treatise, p. 342.

twelve, and between two and four in the afternoon.<sup>61</sup> Obviously, ships wreck at all hours, and at places other than port towns.

When approaching a wreck or goods cast ashore from a vessel, customs men were likely to be confronted by any number of locals. Accounts of local abuse of customs officials and of the powerlessness of their position when outnumbered are the stuff of legend and lore. But there are some records suggesting a measure of truth in these matters. Commissioner William Noye reported in 1672 that he attempted to bring men accused of plundering the ship Speedwell in Penzance to court for an investigation. As a result, three or four of these "resolute rustic fellows" jumped on him on his way home at night. The attackers beat him, tried to throw him off a cliff, threatened to hang him (they had a noose ready), and tore his clothes. "I am black at present" Noye summed up.<sup>62</sup>

A further problem concerned international relations. Repeated plundering of a allied nation's vessels would certainly produce diplomatic tensions. The dearth of records relating to this, however, suggests that seafaring

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<sup>61</sup>Ibid. These hours are likely the most stringent of any enforced during the period, existing late in the period when shipping had been steadily increasing. And they were still inadequate to stem plunder.

<sup>62</sup>State Papers, Domestic. 1672, p. 141.

nations regarded plunder as a natural consequence of wreck, and not worth causing difficulties. Foreign shippers probably expected to lose everything or nearly all when a ship they owned wrecked, because of the ability of the sea and shore to destroy a wooden ship and because of plunder. There is some evidence of cooperation between nations, however. In 1686, the James II ordered the admirals, vice admirals, commanders, and other officers of the Navy to aid the proprietors of a Dutch East Indiaman in salvaging a vessel and goods wrecked in the Scilly Islands. In this case, the High Court of Admiralty gave up its right to related perquisites.<sup>63</sup> Surely this was a political ploy, and one wonders what the consequences would have been if a small Dutch trader had wrecked instead of an East Indiaman.

A final point here is the great deal of time it took to settle disputes relating to wrecks, especially where outside authorities had to be consulted. A wreck that occurred on the coast of Suffolk in 1690 serves as an example. The deputy-governor of Languard Fort seized and broke up the vessel, then carried its cargo into the fort. A month after the wreck, it was decided that the lord of the manor of Walton-cum-Trimley was entitled to the goods. A month later, the deputy-governor of the fort was again instructed

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<sup>63</sup>State Papers, Domestic. 1686, p. 179.

to turn the goods over to the lord.<sup>64</sup> Three months had passed since the vessel wrecked, and it is unclear when (and if) the goods were finally turned over. The dispute over a vessel wrecked near Wexford in 1697 is another example. The Admiralty received a letter on 23 June asking for an opinion, but it was not reviewed until September. In November, the Admiralty still had made no judgment.<sup>65</sup> Though the long amounts of time taken may not have seemed unusual to those involved, they still made it easier for plunderers to sell or conceal stolen goods, and for suspected seamen and locals to relocate.

#### IV

It is obvious that the wrecking of a ship did not mean that its voyage ended. People with various backgrounds and levels of wealth and status contrived to secure some wreckage for themselves. Not content with the advantages of an occasional wreck on a nearby stretch of coast, many people formulated ways to utilize the ever-growing store of wrecks in the sea.

In the eighteenth century, Parliament enacted two laws intended to limit plunder. These laws were to be read in

<sup>64</sup>State Papers, Domestic. 1690, pp. 467, 515-516.

<sup>65</sup>State Papers, Domestic. 1697, p. 459.

church, so that they were well-communicated to the masses. The actions of the British government may have sent out a different message, however. Salvage of shipwrecks was not only allowed but encouraged, through the use of grants for wreck fishing and contrivances for using salvage profits. It must have seemed odd to coastal inhabitants that they were not to take anything from wrecks which came to a nearby shore, while the government supported and benefited from expeditions in local and far off waters to exploit wrecks. In short, the government set a bad example. Clearly, it was felt that a shipwreck was only unfortunate if one was on it or failed to take advantage of it. Thus there was no complete policy concerning goods found in the sea.

Plundering was also free to continue as long as enforcement of salvage law was ineffective. While the difficulties in learning of and arriving at the scene of a wreck were large, the authorities did not approach the problem realistically. Customs men were too few to do the job and had to rely heavily on the cooperation of local shipowners and inhabitants. Change would only come in the nineteenth century with the establishment of rural constabularies. One of the chief arguments for this new force was the frequency of plunder. Shipowners and masters, faced with charges for salvage remuneration and forced to wait months for salvage conflicts to be resolved,



manipulated and broke the law to further themselves or cut their losses.

Some salvagers' actions in the seventeenth and eighteenth centuries may be regarded as common and altogether practical. This included the work of inventors and others involved in weighing vessels. It is only reasonable that the Navy should be allowed to regain as much as possible from one of its own sunken or disabled vessels. The same period, however, saw the efforts of many individuals directed toward profiting from wrecks owned by other individuals, and much of this activity was legal. This is significant because it not only led to the survival of plundering, but also because ancient ideas about exploiting wrecks were allowed to survive. Such actions supported the "finder keepers" mentality. In modern times, these same ideas have hindered the progress of individuals interested in preserving shipwrecks and artifacts from maritime sites for historical, not financial, benefit. Competition for wrecks is no longer between wreck fishers. Rather, archaeologists and other conscientious individuals who visit historic sites must struggle against treasure hunters, who are no more than modern day plunderers.

## CHAPTER IV

### DEVON SALVAGE, 1600-1800

It is doubtful if any county in the British Isles can claim a closer hereditary connection with the sea than Devon. Described appropriately as "the cradle of British seafarers", there was once a time when every leading town was a seaport of considerable standing, many of whom had intimate connections with some of the most famous seamen in history. Drake, Hawkins, Raleigh, Frobisher and Gilbert; Grenville, Cavendish, Cook, the Earl of Cumberland, among others, are but some of the many adventurers who left Devon on voyages of discovery or to fight for England...Devon can equally well boast of her thousands, if not tens of thousands, of ordinary, anonymous seamen.<sup>1</sup>

While Devon has employed a large number of adventurers and seamen, it has also seen many shipwrecks. Like the seamen of Devon, shipwrecks were often surrounded by fantastic tales involving treasure and loss of life. There were also ordinary wrecks involving small craft and local fishing boats. Certainly many wrecks were anonymous and were recorded in slight detail, if at all. Devon seamen were adventurous and worthy of boasting because they faced the

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<sup>1</sup>Richard Larn, Devon Shipwrecks (London: David and Charles, 1974), p. 15.

possibility of shipwreck nearly every day of their working lives.

This chapter examines where and why wrecks occurred in Devon. A close examination of what followed the event of shipwreck will show how wrecks were exploited in different ways, and how wrecks contributed to local economies. Salvage in this county can reveal some of the most common salvage activities and the attitudes that fueled them across England. It is necessary to look at salvage on a local level to understand what usually happened when a ship came to shore, and to assess the position taken by contemporaries on the issue.

Shipwrecks were valuable to manorial lords, whose rights to unclaimed wreck covered much of Devon's coastline. Because of their right, lords occasionally gained practical items such as rope and timber. Once in a while, lords obtained luxury goods, but not as often as ship components. The right of wreck was nevertheless fiercely defended by lords as a property asset. The lords' energetic exertions and legal safeguards continued an ancient tradition. The custom of allowing lords unclaimed wrecks hindered the creation of a complete public policy against the exploitation of maritime ill-fortune.

The most practical and just form of salvage was legal salvage. People worked for an honest wage and for the good

of others. As with all other aspects of salvage, however, shipwrecks still represented unforeseen opportunities for enrichment. Shipwrecks meant good fortune to most of those involved in salvage. While intended to cut the losses of ship owners and merchants, legal salvage offered a stimulus to local economies. Shopkeepers and laborers were paid fairly for their goods and services, while ship parts and other goods arrived on the local market for sale. Those working to save a wreck or cargo were well rewarded for their work. Merchants naturally gained from salvage operations, but they depended on the unsolicited exertions of local gentlemen and others. Merchants also faced a variety of legal fees and costs associated with saving, preserving, advertising, and selling their salvaged goods and vessel parts.

Plundering is the aspect of salvage that has usually drawn the most attention. Traditions of theft from shipwreck drew strength from contemporaries' ambivalent attitude, an attitude that viewed a wreck at once as an object of pity and a free lunch, so to speak. An examination of inquiries into plunder reveals that not all wrecks were ravaged, but most wrecks drew crowds of potential thieves. Some areas were worse than others, and in Devon the Dartmouth vicinity attracted the most plunderers. Like the lords, plunderers usually gained

objects of practical value, such as rope and timber. Occasionally, casks of brandy or other drink floated ashore. While these gains may seem small, they were held as a right by the plunderers. These "country people" were also motivated by poverty, since they mostly consisted of laborers and agricultural workers.

Everyone recognized the potential for gain from shipwreck, and that potential was exploited and well-defended. The likelihood of profit also inspired at least one mechanically inclined Devon entrepreneur, who grew rich from his inventions used for salvaging submerged wrecks.

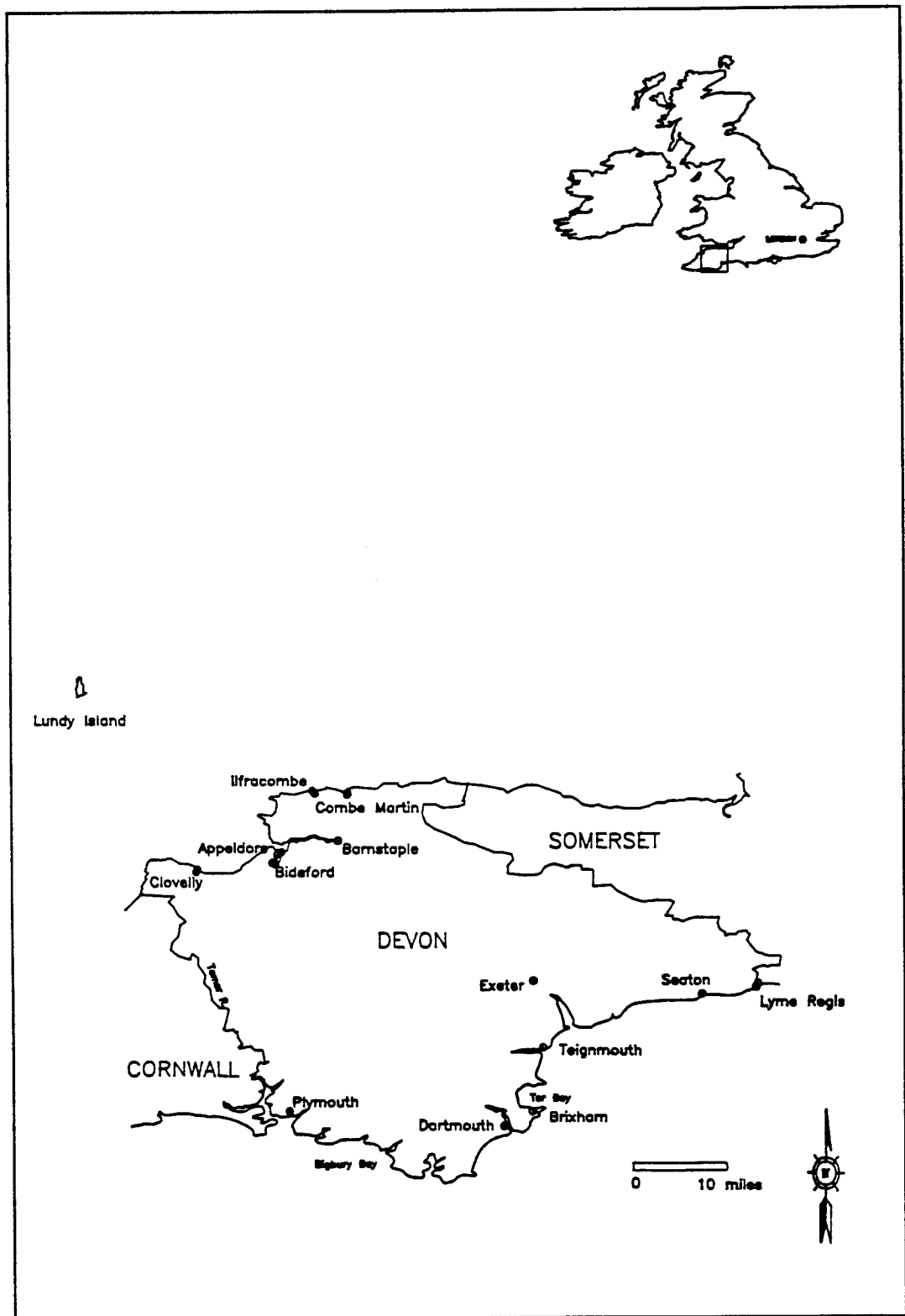
#### I.

The maritime heritage of Devon is certainly rich, and like other areas that fit this description, it owes much to the shape and placement of its coastline. It has been said that "the dominant factor in the maritime history of Devon has been the existence of Plymouth Sound" with its huge natural harbor.<sup>2</sup> Plymouth was also the scene of many wrecks, and was often the destination or starting point for vessels whose journeys ended violently in Devon waters.

Plymouth has provided Devon and England with a focal

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<sup>2</sup>M.M. Oppenheim, The Maritime History of Devon (Torquay: Devonshire Press, 1968), p. 1.



Map of Devon.

point for naval lore, but Devon also had several other ports suitable for commerce. To the east is Dartmouth, a port with a longer naval history than Plymouth's. Between these two ports is Salcombe, a fine but barred harbor. Past Dartmouth to the east is the mouth of the River Exe, also a good, though barred harbor. These ports, along with several others such as Axmouth, Teignmouth, Yealm, Erme, Seaton, and Budleigh, all had naval and commercial significance before the centralization of commercial distribution, the increase in ship tonnage, and the consequent rise of other ports.

Generally, the southern coast is hazardous from Stoke Point to the Start, as Bigbury Bay acts as a trap for ships running before a westerly gale and becoming embayed there. Many sheltered anchorages such as Torbay, however, can be found east of the Start.<sup>3</sup> It is important to note that Plymouth Sound offered shelter only at great risk before the building of the breakwater in the nineteenth century.<sup>4</sup>

On the north coast of Devon are the ports of Barnstaple Bay, which contain a perilous bar, and are dangerous in winds from west-north-west and north-east. Other ports such as Ilfracombe and Combe Martin offered limited shelter. The maritime commercial centers of Barnstaple, Bideford,

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<sup>3</sup>Ibid., pp. 1-2.

<sup>4</sup>Ibid., p. 1; Derek Parker, The West Country and the Sea (London: Longman, 1980), p. 204.

Appeldore, Northam, and Clovelly served this coast.

These ports experienced marked "boom and bust" cycles during the seventeenth and eighteenth centuries. At the beginning of the seventeenth century, trade in Devon was depressed. The period before the Civil War was one of constant battles with London merchants who attempted to exclude the outports from trade with the Mediterranean and the New World. Devon merchants fought London monopolists with some success, and an expansion in the Iberian trade resulted. Here, cloth was traded for raisins, wine, dyewoods, and other New World products. The chief market for Devon merchants, however, was France. Cloth was traded for French canvas, coarse linen, and salt.<sup>5</sup>

Devon mariners gained useful ocean-going experience for later ventures in Africa and the West Indies by participating in the Newfoundland fisheries. The number of ships traveling between Devon and Newfoundland increased between the mid-sixteenth century and the English Civil War. This trade peaked in the 1630s and dwindled at the end of the seventeenth century.<sup>6</sup>

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<sup>5</sup>Alison Grant, "Devon Trade, 1600-1688," in Michael Duffy, Stephen Fisher et al., eds., The New Maritime History of Devon, from Early Times untill 1800 (Exeter: Exeter University Press, 1993), pp. 131-132.

<sup>6</sup>Ralph Davis, The Rise of the English Shipping Industry in the Seventeenth and Eighteenth Centuries (London: Macmillan and Co., 1962), pp. 3-4, 37.



Devon merchants also traded with New England, Virginia, Bermuda, and the West Indies. Barnstaple and Bideford participated with south coast ports such as Plymouth and Exeter in the re-export tobacco trade. In keeping with the Navigation Acts, ships laden with tobacco made a formal entry at one of these ports before sailing to the continent. This trade was short-lived, though, and faded in the early eighteenth century.<sup>7</sup> There was also trade with Ireland, where colonial goods were exchanged for wool, hides, barrel staves, and farm produce, much of the last going to Plymouth for naval provisions.<sup>8</sup>

The coastal trade early in the seventeenth century was largely import led. It consisted of coal being carried between Devon and South Wales, and to some extent Newcastle. The North Devon ports also traded with Bristol, exchanging Irish produce and imports for metals, glassware, groceries, and other items. In South Devon, ships traded with London and towns along the southern English coast such as Portsmouth and Southampton. South Devon merchants largely avoided the risky voyage around Land's End to go to and from Bristol.<sup>9</sup>

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The chaos of the Civil War limited the growth in trades

<sup>7</sup>Ibid., p. 270.

<sup>8</sup>Grant, "Devon Trade," p. 133.

<sup>9</sup>Ibid.

founded earlier in the century. Angry over the issue of ship money, the ports of Devon declared for Parliament. Royalists captured many ports, excluding Plymouth, and an ensuing Parliamentary blockade damaged trade. Fighting, protectionism, and piracy checked a brief recovery made possible with the use of large, well-armed vessels.<sup>10</sup>

Growth returned with encouragement of the Navigation Acts after the ascension of Charles II in 1660. An ensuing tariff war led to decline in trade with Holland, France, and Iberia, but the colonial and Irish trades grew. North Devon pottery featured in the coastal trade, while Exeter's cloth business became very lucrative. Expansion was once again curbed when the Nine Years' War brought about a check to prosperity at the end of the seventeenth century.<sup>11</sup>

The seventeenth century witnessed a growth in Devon's population, with more workers and seaman available for trade. Mostly small vessels were utilized, with frequent returns so capital was tied up only for short periods (the exception being the long Atlantic voyages). Individual merchants from small ports were active, and had not yet been squeezed out by large companies.<sup>12</sup>

With the end of the Civil War, Devon investors began to

<sup>10</sup>Ibid., p. 136.

<sup>11</sup>Ibid., pp. 136-137.

<sup>12</sup>Ibid., p. 137.

capitalize on markets previously opened. Rapid growth ensued, so that in the period between 1680 and 1720 Devon's economy was among the most thriving and advanced in the nation. Exeter's cloth trade continued to expand in this period, and the Royal Navy Dockyard established at Plymouth in 1690 encouraged commerce with its demand for supplies. Fishing off of the North and South Devon coasts for pilchards and herrings also grew.<sup>13</sup> In addition, Devon had a share in developing corn exports.<sup>14</sup> The decline of the Devonshire cloth industry in the second quarter of the eighteenth century, however, took employment away from the many small craft that carried Irish wool to Ilfracombe, Minehead, Barnstaple, and other North Devon harbors.<sup>15</sup> While Exeter remained one of England's principal cities of the eighteenth century, and while Devon experienced a period of overall growth, the county declined relative to other ports after 1730.<sup>16</sup>

Devon's coastline and commerce set the stage for shipwrecks. But exactly how many occurred, and why? It has

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<sup>13</sup>Fisher, "Devon Trade," in Michael Duffy, Stephen Fisher et al., eds., The New Maritime History of Devon, from Early Times untill 1800 (Exeter: Exeter University Press, 1993), pp. 232-237.

<sup>14</sup>Ibid., pp. 230-233, 248.

<sup>15</sup>Davis, Rise, p. 270.

<sup>16</sup>Fisher, "Devon Trade," p. 240.

been noted that "Over 1,250 wrecks are known to have taken place off the Devon coast in the past 300 years."<sup>17</sup> Richard Larn made a valiant attempt at compiling a list of all shipwrecks known to have occurred in Devon. At least 136 occurred between 1573 and 1800, and there were almost certainly many more for which no records survived or for which records are still to be found.<sup>18</sup>

A certain cause of wrecks was the lack of navigational aids for mariners. Despite the frequency of Atlantic storms and the treacherousness of Devon's coast, the first proposal for a lighthouse was not made until 1691. Early proposals centered on the Eddystone reef, where untold numbers of ships had been lost. Attempts at building a lighthouse on the reef have become a part of maritime lore. The first light there was completed in 1698, but was destroyed--along with its builder and companions--by a storm only five years later. Despite various calamities and interruptions, a lighthouse functioned at the Eddystone reef throughout the eighteenth century.<sup>19</sup>

The relatively unsophisticated nature of cartography was another cause of shipwrecks in the Southwest. The first systematic survey of England's coastal waters was not

<sup>17</sup>Parker, West Country, p. 201.

<sup>18</sup>Larn, Shipwrecks, pp. 246-270.

<sup>19</sup>Parker, West Country, pp. 224-227.

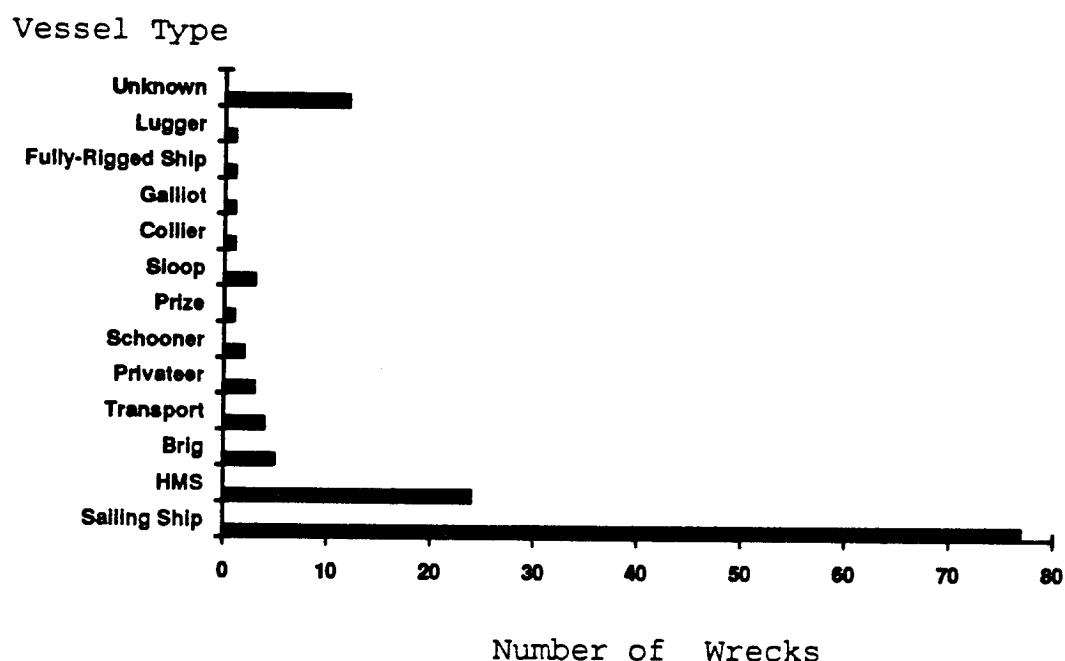
published until Great Britain's Coasting Pilot, in 1693. These charts were not completely accurate, however, and the eighteenth century witnessed controversy and contradiction surrounding marine charts and surveys.<sup>20</sup> Still, it is perhaps a testament to the difficulty of sailing ship navigation and Devon's coastline that throughout the nineteenth century and even into the twentieth, wrecks still occurred in great numbers. Ships wrecked despite the fact that new navigational techniques, charts, lighthouses, and instruments had been created and old ones had become more sophisticated.

While the coast allowed the establishment of a great royal port as well as coastal and overseas trade, it exacted a price from mariners. By analyzing Larn's list of known wrecks, we can gain understanding of shipwrecks in Devon. Figures 4.1, 4.2, and 4.3 detail wrecks in Devon, from 1573-1800, showing the vessel types, the months in which the wrecks occurred, and a comparison of the number of wrecks on the north versus the south coast. Figure 4.1 shows that most vessels for which there is some record were listed as ships of some kind. This likely denoted large vessels with square sails, as opposed to sloops or galliots (transports,

<sup>20</sup>William Ravenhill, "The Marine Cartography of Devon in the Context of South-West England," in David Starkey, ed., Devon's Coastline and Coastal Waters, Aspects of Man's Relationship with the Sea (Exeter: Exeter University Publications, 1988), pp. 13-20.

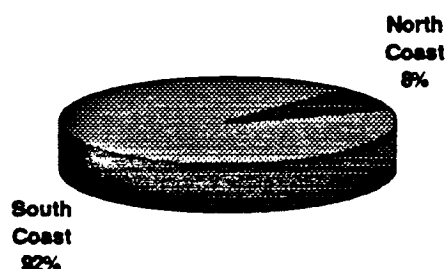
prizes, privateers, and colliers could be many different types of vessel).

Figure 4.1. Devon wreck vessel types, 1573-1800 (List of ships found in Larn, Devon Shipwrecks)



There are many Navy vessels listed, no doubt due to the existence of the Plymouth dockyard. The scene of much traffic, Plymouth witnessed many wrecks, as shown in figure 4.2. Eight percent of wrecks in Devon occurred at Plymouth, a figure equal for the whole of the north coast.

Figure 4.2. Devon wrecks by area (Source: Larn, *Devon Shipwrecks*)



Historians David Murch and Tom Griffiths have compiled a sample of eighteen wrecks that happened in the eighteenth century on the south Devon coast. Most of these wrecks--fifteen of eighteen--occurred between Bigbury Bay and Bolt Head. The remaining three were between Bolt Head and Start Bay. This sample also shows that most wrecks occurred during the winter months, a trend that is quite clear from the diagram of a much larger sample in figure 4.3.<sup>21</sup> From this we can surmise that the cold winter months were not so harsh for the lucky few who capitalized on the event of a wreck.

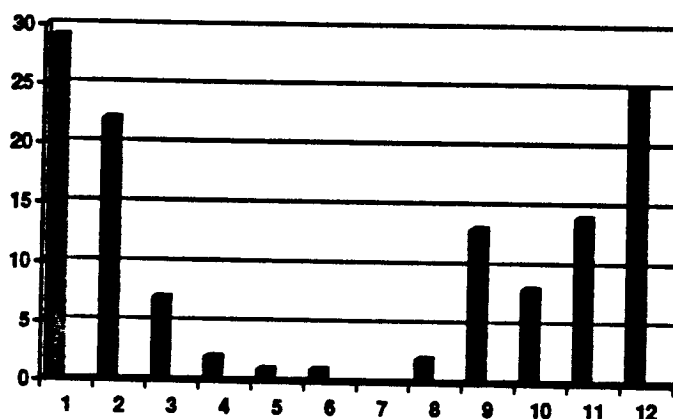
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<sup>21</sup>David Murch and Tom Griffiths, "Wrecks on the South Devon Coast," *Devon Historian*, 6 (April 1973), pp. 10-11.



Figure 4.3. Devon wrecks by month (Source: Larn, Devon Shipwrecks)

Number of wrecks



Month of the Year

What caused the wrecks of Devon? Given the number of wrecks that occurred between 1600 and 1800 it seems likely that nearly every cause imaginable was at some time responsible. In a sample of seventy-seven wrecks occurring between 1700-1972 on Devon's south coast, forty were caused by gales--twenty-four south-westerly, eight easterly, and eight unspecified. Fourteen ships wrecked during war and thirteen in fog. Of the rest, three resulted from navigational errors, two from drunken crews, two others from defective vessels, and two more drifted ashore. Therefore southwesterly gales were the greatest danger to ships travelling along the south Devon coast.<sup>22</sup>

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<sup>22</sup>Ibid., p. 11.

Most wrecks in Devon appear to have been sailing ships, and from the above sample we see the preponderance of ships wrecked by gales. This combination is natural, and clearly reveals the danger of a lee shore such as the south Devon coast. Square-rigged sailing ships were less able to sail to windward than small, fore-and-aft rigged vessels. Thus if a sailing ship was close to shore and a sudden gale came up, it was forced to find shelter quickly. If this was not possible, it would be very difficult for the ship to get out to sea to avoid being blown ashore. The vessel's last hope would be to throw its anchors, but these could drag in a strong gale.

## II.

What happened to wrecked ships in Devon? Unclaimed wreck, flotsam, lagan, and jetsam belonged to the king. Lords of coastal manors, however, often possessed grants that allowed them exclusive admiralty jurisdiction on their lands. This permitted what would otherwise be the king's property from wrecks to pass into their hands. Many grants date to medieval times and include other rights such as that to waifs and strays, referring to farm animals that wandered onto a grantee's property. It is possible that "wrecks of the sea," as they were referred to, were to some degree

regarded as "waifs" (as ships with no crew were in fact referred to when found on the open sea). This would reinforce the idea that individuals had a right to wrecked goods if they made an effort to save them.

The first record of a lord exercising the right of wreck in Devon comes from 1253 in Slapton Beach. In that year, Sir Guy de Brian, lord of Slapton Manor, seized the goods from the wreck of a Portuguese vessel. Eventually, the Courtenay family claimed the right to wreckage from the east side of the River Avon to the west side of the River Dart. The record of the Courtenays' right goes back at least as far as 1340, when Edward III approved a grant to the family.<sup>23</sup> The first instance of the Courtenays' use of the right occurred in 1362, when Hugo de Courtenay and others determined a case relating to the seizure of a wreck. It is interesting to note an exception to the Courtenays' rights. In 1588, a Spanish hospital ship returning to Spain came ashore within the Courtenays' jurisdiction. Instead of the family, deputy lieutenant of the county George Cary, along with several constables, claimed the ship's goods and imprisoned its crew.<sup>24</sup>

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<sup>23</sup>Devon County Record Office, Exeter, no. 286.

<sup>24</sup>Murch, "Wrecks," p. 4. The Admiralty jurisdiction of the Courtenay family, which existed past the end of the eighteenth century, included all matters relating to wreck, as well as the illegal matters of dumping of ballast in the port of Salcombe, working on the Sabbath, throwing fish guts

An inquiry held by the Board of Trade between 1855 and 1872 revealed how many people enjoyed rights to unclaimed wreck in Devon.<sup>25</sup> While this investigation took place well outside of the period concerned, it dealt with rights that were often ancient. A landowner usually claimed right of wreck in one of two ways, by crown grant or by prescription. Grants were often originally given in medieval times--in fact none were granted in Devon after the reign of Queen Elizabeth. Prescription simply meant that a lord and his ancestors had enjoyed the right from time immemorial without expressed permission.

The Board of Trade inquiry followed the passing of the Merchant Shipping Act of 1854 and was carried out in every sea-shire to determine who claimed right of wreck. To diminish controversy, a circular was passed throughout the coast asking for lords to supply short abstracts of the particulars of their titles to prove their right.<sup>26</sup> After the act passed, lords were required to give a description of any wrecks or goods found on their land to the local Receiver of Wreck within forty-eight hours. The Receiver

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into the salt water while salting pilchards, launching any boat on Sunday before midnight, and the taking of another's haul. A.W. Hurrell, "Wrecking" and Lord Devon's Rights to the Same, on the South Devon Coast," in Transactions of the Devonshire Association, 10 (1878), p. 395.

<sup>25</sup>PRO, BT 212/26, BT 297/77-94.

<sup>26</sup>PRO, BT 212/1.

would then check whether they were entitled to the remains.

In the first part of the inquiry in 1855, Receivers from four districts received forms to fill in with the names of lords who claimed the right to unclaimed wreck, along with the limits of their manors and the nature of their claim to the right.<sup>27</sup> Two jurisdictions from Devon were questioned: Teignmouth and Exeter. The Receivers of these districts replied with the word "nil" written on the forms. This is quite surprising, indicating at first glance that no lords in these areas claimed the right to wreck. It must be kept in mind, however, that this part of the inquiry took place exactly one year after the original notice was given. In that short time, many lords may have been unable to find the appropriate records.

As the investigation continued, several claims were made. Landowners supplied abstracts of legal documents as well as letters from laborers, neighbors, and sometimes old men who recalled past shipwrecks and the claimant's use of the remains. Often local customs officials wrote and signed notes stating that the landowner in question had enjoyed right of wreck in his particular jurisdiction.

At the end of the inquiry, a detailed list of all those in Devon who were entitled to unclaimed wreck was compiled. Thirty-eight manors were named, usually the property of a

<sup>27</sup>PRO, BT 212/26.

single lord, but occasionally in the hands of a number of trustees of an estate. Thirty-four of the manors were broken down by districts. Sixteen of these came from the Bideford District on the north coast. The Barnstaple District, also on the north coast, included eight claims. Two south coast districts, Plymouth and Dartmouth, had five claims each. Including the four manors not in any district, the north coast had twenty-seven manors with right of wreck, while the south coast had eleven. The result is that while more wrecks occurred on the south coast, which also had a longer coastline, more manors on the north coast held right of wreck. One reason for this is that the south coast had more port and coastal towns. In contrast, the north coast shoreline was predominantly private property. Thus a wreck on the north coast was likely to occur within the boundaries of a manor, while a wreck on the south coast could more easily happen near a town.

This is not to say the right of wreck on the south coast was not valuable. Eleven is still a sizable number of manors, and their right extended over a great deal of coastline. Another significant point is that each lord possessed different lengths of coastline where his claims were valid. Some manors could only claim wreck within their own boundaries, while others had a right to wrecks that occurred on another's property.

Most lords who benefited from wreck were so entitled by crown grant. Of the thirty-eight entitled manors, fourteen had crown grants. Nine made use of wrecks by prescription. The rights of six manors were secured by conveyance, one by indenture of lease and release, and one by act of Parliament. One person enjoyed a moiety of another landowner's right, and there is no information for six of the manors. What these records show is that the right to unclaimed wreck was not only inherited, but also bought and sold. A landowner who purchased land in 1850, for instance, might also get rights attached that were several centuries old.

The crown grants to Devon manors all occurred in either the reign of Queen Elizabeth or Henry VIII. Unfortunately, the date of only five grants were specified in the Board of Trade lists. Three of these came from Elizabeth and two from Henry VIII.

As shipping increased and shipwrecks grew more numerous in England during the seventeenth and eighteenth centuries, these grants could only become more valuable. But what could grantees expect to find along the coast? There is some reference to treasure from shipwreck being found in Devon (it seems likely that many such instances went unrecorded), demonstrating the possibility that fired the imaginations of lords and other locals. In 1637, five bags of Spanish money

and some loose coinage totaling £216 4s 6d were discovered. Since it was unclaimed, the money was deemed to belong to Francis Courtenay as "Lord of the wrake." This instance reveals the consequences of private Admiralty jurisdiction, where the finders of this money received a moiety of the sum.<sup>28</sup> Here we have a clear example of the continuance of ancient customs even after the Rolle of Oleron had declared these practices dangerous. An exceptional case nevertheless survives from 1764, when the large sum of £793 2s 3d was discovered in a portmanteau. The currency belonged to the vessel Bulah, which became stranded on Saunton Sands. All the money was collected, kept in separate bags by separate people, and returned to its owners.<sup>29</sup> The circumstances around this instance were not recorded; presumably the treasure did not come ashore on the property of a lord with a grant to wreck. It is likely that it was found soon after the wreck by customs officials or other authorities. Overall, it appears that treasure was rarely found. When discovered, treasure was most likely divided between finders or between finders and privileged gentlemen.

If it was uncommon to find treasure, what items were usually found? Some answers are available from the manor of

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<sup>28</sup>Devon County Record Office, L1508M / SS/  
Harbours/1/1.

<sup>29</sup>North Devon Record Office, 3704 M/ 111-12.



Croyde in north Devon.<sup>30</sup> The coastline of this manor was the scene of many shipwrecks, and a great deal of sundry ship pieces came ashore here. The records of this manor also provide us an immediate idea of both the real and perceived value of the right to unclaimed wreck. Controversies between the lord of the manor and the lords of adjacent manors over wrecks have left us detailed accounts of court cases. This demonstrates the belief that the value of the things that commonly came to shore was worth fighting for, as was the potential windfall should a large amount of treasure or other valuable goods someday arrive. Apart from financial gain, legal battles over right of wreck also represent the increased protection of property in the eighteenth century, and a subsequent demand for proper recognition of ownership.

The court records include details of incidents of wreck on this manor recovered from old manor court rolls. The records also include the accounts of witnesses used to prove lord Webber's right to wrecked goods. Here we see how often the lords of the manor of Croyde profited from shipwreck. The first recorded incident occurred in 1666 when a parcel of tallow came ashore and was taken up by another lord. The next occurrence was in 1688 and involved several hogsheads of brandy and other unspecified goods. These were also

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<sup>30</sup>North Devon Record Office, 3704 M/111-12.

recovered by another lord and his servants, who eventually paid £12 for damages and costs.

The first record of the eighteenth century was in 1701, when the lord of the manor of Croyde hired people to land a cargo of 340 bags of Spanish wool from a stranded vessel, spread it out in an open field, and finally deliver it to the several proprietors. Five years later, during Queen Anne's War, a French privateer washed ashore and was seized. In 1725, a vessel laden with beef and pork was salved, as was part of a vessel in 1731. A profit of £80 was made on the sale of a Dutch vessel that hit the rocks in 1735, and a boat was driven ashore in 1739. Two years later, a mast of fifty-two feet, another of forty-two feet, a yard of eighteen feet, and part of a vessel's rigging were taken up. Some time afterwards, an amount of timber was found.

In this period, a vessel laden with wine was stranded and salved. In 1758, the lord gained a cask of red wine, and two years later a cask of white wine and a large block of mahogany. In 1761 a yard and beam of a vessel came ashore, and in 1764 a yard and some cordage were found. Two witnesses testified to finds in recent memory of loose timber, masts, yards, ropes, pumps, cordage, butter, and plank beams. In 1764, Philip Rogers Webber brought a case was against nine men, including one Harris, lord of a neighboring estate. The other eight men were husbandmen who

had carried goods from a wreck to what Webber believed was the wrong home. Webber claimed these goods were worth £200. The goods included two masts, ten yards, quantities of rigging, shrouds and sails, cartloads of timber and wood, ship blocks, ropes, a quantity of iron, and iron chains. While not glamorous, these goods represent valuable commodities, many of which could be brought to market and others suitable for use around Webber's estate.

The case was heard at the summer assizes in 1765. Harris pleaded that he held one-seventh of the lands in question and therefore was the rightful owner of one-seventh of the unclaimed wreck. He was evidently mistaken, and the court awarded Webber £81 6s 8d plus the costs of bringing the suit. The latter were substantial, as the costs of Webber's attorney was £85 6s 8d. To sum up the record, the Manor of Croyde gained from salvage seventeen times in ninety-nine years and guarded the right to wreck fiercely.

Most salvaged goods were quite ordinary. Parts of ships and their rigging, as well as other things that could float, such as wine casks, were by far the most common goods. Of the seventeen cases, eight dealt with ship parts, four with goods or cargo, and five with both ship parts and goods. But there is no mention in nearly one hundred years of specie or other high-value goods washing up. Still, the value of ship parts should not be underestimated, as they

could naturally be recycled in a coastal community. Vessel components were of particular worth in this period as ships' stores were growing more expensive because of the increasing cost in procuring them (such as journeys to Baltic or North American ports).

The records from the Manor of Putsborough tell a similar tale to that of Croyde.<sup>31</sup> A Bristol ship wrecked there in 1645, and a quantity of cordage was stolen but later restored to the manor. In about 1665, several sails of canvas, a quantity of brandy, and a parcel of tallow came ashore. In 1670, timber washed ashore on separate occasions. Around 1685, several casks of brandy washed up; later a considerable quantity of brandy and a mast, and around that same year another mast was found. A mast came ashore once again in 1690.

Here we have many of the same articles, with a particularly large number of masts, an especially valuable item. In a period of sixty years during the seventeenth century, this manor benefited at least ten times from shipwreck. Six cases saw only ship parts coming to shore, three concerned goods or cargo, and four dealt with both goods and ship parts. Once again no treasure was found. Overall, it appears that ship components were the most common benefit to coastal people.

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<sup>31</sup>North Devon Record Office, 3704 M/ 111-12.

In light of these records, the private admiralty court session held in 1737 for Sir William Courtenay seems to describe an unusually varied and valuable benefit to a landowner from a wreck. In the record, seven men were charged with taking up goods belonging to the lord from the wreck of the Dagger, which was cast away at Bantham harbor. The goods taken included a graper of about fifty weight, a tierce of wine, a forty foot long mast, a copper teapot, one pewter dish, and a small cannon.<sup>32</sup> Finds of this kind were the exception to the rule, but very likely motivated lords to defend their right to wreck all the more resolutely.

Again, lords were concerned with defending their property rights, in this case the right to a potential windfall. And while these records confirm the value of rope, timber, and other ship pieces to land-based people, lords gained from wreck only occasionally, and the goods they took were usually of middling value. These cases therefore suggest that the right of wreck was important to lords as a facet of property, which they felt obliged to preserve. Though we have viewed the connection with shipwreck and lords individually, it cannot be forgotten that the right of wreck was bound with many other property rights of the gentry, related to the ownership of land. These rights included ownership of waif and stray animals.

<sup>32</sup>Hurrell, "Wrecking," p. 396.

Also, a lord's livestock was protected in a way similar to that of wrecks. Strict laws protecting the right of wreck mirror those that guarded against poaching.

As with poaching (and smuggling), the penalties for plunder were harsh. The reaction of plunderers to a shipwreck was probably similar to the reaction of a poacher watching a deer bound across an open stretch of a royal forest; there would be excitement at the potential for personal gain as well as an opportunity anonymously to strike back at a system that increasingly restricted the domain of the lower orders in the name of the landed gentry. Feelings of discontent among the poor were exacerbated by similar exceptions in both poaching and plunder laws. In the case of poaching, special licenses were granted to individuals allowing them to fell timber and chase game (except deer) in royal forests.<sup>33</sup> The granting of licenses in the face of restrictive poaching laws prompted one farmer to note: "If one has a license to kill and destroy, and I...am scarce suffer'd to keep a gun in my house...I know both how to resent and how to revenge it, which every farmer knows too, as well as I; and this is the true reason why some resolute people take an insufferable liberty to kill the deer, which are the King's property, and therefore on no

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<sup>33</sup>E.P. Thompson, Whigs and Hunters, The Origin of the Black Act (New York: Penguin Books, 1977), pp. 38-39.

account to be molested."<sup>34</sup> Coastal people were restricted from shipwrecks while lords of manors were granted private admiralty jurisdiction, and wreck fishers received grants to capitalize on wrecks. The revenge of plunderers was to loot shipwrecks.

The primary difference between poaching laws and those concerning plunder was that the former laws were enforced. These acts not only carried the threat of capital punishment, they were supported by zealous forest keepers and authorities. It was much easier to enforce these laws, as the forests were a smaller area to be patrolled by lawmen. To control plunder, a police force would have had to monitor the entire coast of England.

There are other reasons why laws against plunder were not aggressively enforced. Tampering with the legal system would likely have upset the landed gentry (many of whom made the laws). Any realistic attempt at regulating salvage would necessarily have involved limiting or even eliminating private admiralty jurisdiction. This was realized by the French in the late seventeenth century, and this goal was eventually adopted by the English in the nineteenth century. In the seventeenth and eighteenth centuries, however, the right to admiralty jurisdiction and the right of wreck were intimately linked with other property rights. An attack on

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<sup>34</sup>Ibid., pp. 99-100.

the right of wreck would be seen as an attack on all property rights and may have given rise to suspicion and unrest. It is even possible that strict enforcement of anti-plunder laws would have caused some members of the upper classes, as well as members of the lower classes, to engage in militant actions of protest. This reaction would be the equivalent to that of the Blacks, the organized poachers of the early eighteenth century. Blacking arose among small gentry, yeomen, artists, and laborers as a reaction to strengthened forest authority.<sup>35</sup> As it stood, the laws concerning salvage benefited the gentry and saw little change between 1600 and 1800.

The similarities between these laws were not coincidental. They were both attempts at protecting property by the wealthy, and they also offered severe penalties (death, transportation) for offenses. In addition, one set of codes probably influenced the other. The act of 1714 intending to limit plunder is noteworthy for its lack of practical support. This act would have rested easily in the minds of legislators, since it protected property to some degree while not interfering with the customary rights of the wealthy. Despite the warning of harsh penalties, the act did not result in large numbers of hangings and transportations (without a genuine effort at

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<sup>35</sup>Ibid., p. 64.



enforcement, convictions were unlikely). Comfortable with the use of a statute that contained capital punishment, legislators may have felt more at ease in passing the Black Act of 1723. Unlike the act of 1714, however, punishments threatened in the Black Act could be, and were, implemented. The results of enforcement of the Black Act were organized breeches of the law, anonymous protest, and the implementation of severe punishments.

### III.

Legal salvage, or the salvage of wrecks that have been claimed by their owners, was perhaps the most upright form of salvage. It was nevertheless a tricky business and did not always go smoothly. A complicated tale involved the wreck of the Dutch vessel Jonge Hendrik in 1756. This reveals in detail how complex legal salvage could be. The ship was stranded near Salcombe on the South Devon coast while on a voyage from Leghorn to Cadiz and Amsterdam. Once again the name Courtenay appears as the wreck happened within that family's jurisdiction.<sup>36</sup>

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<sup>36</sup>Devon County Record Office, D1508/SS/Harbours/23

After the vessel's cargo was salvaged, the goods were not sold. Instead, various owners of cargo attempted to claim their property, which consisted of many unique luxury items such as works of art. This was a difficult process, requiring the claimants to supply adequate descriptions of their commodities as well as bills of lading for proof of ownership.

The Courtenays put Arthur Holdsworth in charge of the salvage operation. The merchants who owned the Jonge Hendrik were pleased with Holdsworth's service, who was instructed by them to return the goods to those who supplied adequate proof, deducting the salvage costs and "the moiety of the Freight ment'd in the f'd [aforesaid] Bills of lading, which is due according to the Custom of the Sea." This instance informs us of a further practice associated with shipwrecks and their management. Apparently, if someone wanted to regain a piece of property that they were having shipped, he or she not only had to pay for the cost of its recovery but one-half of the charges originally agreed for shipment. The passage also suggests that this was not necessarily a legal requirement but a customary one. Shipping customers in this case still received what they had ordered, albeit after more time and personal effort (and the fact that their goods might have been damaged in the

wreck).

The fact that several of the claimants were overseas complicated the process of returning the goods. As a result, one person heard about the wreck five months after it occurred. One letter was sent two years after the wreck. Also, an additional expense was added to the cost of salvage as many letters asserting ownership had to be translated. Of the twelve letters that survive, eight were in English, three were in Dutch, and one each was in Italian and French.

A variety of correspondence was received. The Amsterdam merchants AB Van Notten and Son described part of a painting of "The Emperor, Empress, and their whole family," which they heard had survived the wreck in good condition. They instructed Holdsworth to draw a draft upon their agents in London to pay for the painting's return.

Other correspondence revealed more difficult aspects. The Dutch merchants Muilman and Son threatened legal action after Courtenay rejected the affidavits they sent to prove the validity of their letters and bills of lading. In response to Courtnenay's demand for new documentation the merchants remarked, "We are Surprised concerning how hard the Misfortune falls on the concerned and how little value the Things are that are Saved Any

Gentleman Should be so hard on the concerned and that they don't deale with others as they wish to be dealt by." Perhaps this exposes the greed of the lord, who possibly coveted the parcel of aloe the merchants claimed. It also shows the difficulty of Courtenay's position, as he could be brought to court if the goods were given to the wrong people.

Often, the nature of a wreck determined how the salvage would proceed. In this case, the wreck occurred on the land of a wealthy landowner and gentleman. Had the wreck occurred in a different place, the goods on board likely would have been lost to their owners and gained by plunderers. The wreck also contained unique and valuable goods belonging to several people, and therefore the cargo was more likely to be claimed. These items included a painting, a case of aloe, and several pieces of marble including floor stones, statues, and chimney pieces. In addition, the wreck's goods also included ship materials such as anchors, guns, cable, rope, a pump, a tiller, a handscrew, the ship's bell, and a pewter tea kettle. The clothes of the seamen on board also remained, including waistcoats, wigs, and rugs.

To investigate legal salvage further, four accounts of the charges incurred during such operations are examined below. This provides us with an idea of the

activities involved, how much they cost, and how much ship owners and merchants benefited. The accounts come from North Devon and detail events of the eighteenth century. Though there was a vast number of wrecks in Devon between 1600 and 1800, accounts of legal salvage are scarce. This perhaps indicates that legal salvage itself was rare compared with plunder. The cases discussed here offer the most detail of those that survive.

Different types of salvage operation are represented below: salvage of both a vessel and its cargo, and the salvage of goods and wreck pieces from a destroyed vessel. Three of the accounts are legal documents, which feature sums claimed by those who labored on a salvage project and the amounts allowed after being adjusted by three local justices of the peace. Only the amounts actually paid will be discussed, except when the two sums--claimed and allowed--are compared. In these cases, the masters of the wrecked ships appointed salvors to "save, preserve and dispose" of what was left. Another account features a Royal Navy ship, which only details the amount paid to workers. This last account also reveals the sum made by the sale of goods from the wreck.

The first account is dated 1701, and deals with the

brig Two Brothers.<sup>37</sup> The wreck occurred on 7 November, when the vessel was stranded on Putsborough Sands in the port of Barnstaple. The ship's master, Hans Kruise, appointed John Robbins as agent and salver. Robbins was in charge of several activities and drew up the account. His fee as salver had not been settled when the rest of the account was finished, and the surviving account deals only with salvage of the wreck and not the cargo.

Thirty-six laborers were hired for general purposes, at a cost of £5 1s. (Their activities were probably many, but are unspecified in the account.) There were, however, other kinds of labor. Four people were hired for specialized labor, including three carpenters and one blacksmith. Their services cost a total of £1 8s 10d. In addition, four people were paid for labor as well as watching, or guarding, the wreck and salvaged goods from plunderers. Ten people were also hired for labor but brought various combinations of horses, carts, men, and boys along with them. Naturally they were paid more, and their total cost was £4 16s 3d. The total for all labor was £13 11s 1d.

Laborers were paid relatively well for their work in

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<sup>37</sup>North Devon Record Office, 3704M/ ss/ w1-12. An account of fees needed for salvage could not be found.

this instance. While it has been estimated that building laborers in the west of England during this period made between 1s 2d--1s 3d per day, most workers on this wreck received 1s 6d.<sup>38</sup> Unfortunately, it is impossible to compute the wages of the carpenters and the blacksmith for comparison, as the number of days they worked is not indicated.

Besides labor, salvage operations required goods from the local community. In the case of the Two Brothers, horses and carts were needed and were provided by laborers for additional fees. Other commodities were also needed, such as meat, bread, and ale. Workers during this period often expected ale or cider as part of their wage. The cost for these provisions came to £2 6s 8d.

The remainder of the salvage expenses are miscellaneous in nature. Although the activities represented here are varied, they are significant, as these actions offer the clearest insight into the needs and actual processes of legal salvage. Table 4.4 indicates that they also comprised a large proportion of the total cost.

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<sup>38</sup>E.H. Phelps Brown and Shiela V. Hopkins, "Seven Centuries of Building Wages," Essays in Economic History vol. 2, E.M. Carus-Wilson, ed. (London: Edward Arnold, 1962), p. 178.

Table 4.4. Miscellaneous Expenses for salvage of  
the Two Brothers

	f	s	d
Constables (3)	--	20	--
Watching the wreck	--	12	--
Saving the wreck	--	3	--
Superintending saving of wreck	3	3	--
Money paid to captain and mate	19	11	--
Taking examinations of captain and mate, swearing constables, making warrants, and etc.	1	1	--
Attending and selling material of the ship	10	10	6
Attending and keeping accounts of the sale	--	15	6
Expenses of saving a cable	3	13	6
Board for captain and son	6	--	--
Clothes for the captain	4	3	--
Maintenance of the captain and men belong to the ship until discharged	10	15	10
Drawing and preparing of the account	1	1	--
Numbering and filing up the vouchers relating to the same	1	1	--
Drawing up two fair copies	--	10	--
Hire of a skiff to send the ship's men to Bristol	1	1	--
Saving the wreck, and carrying the chests home from the sands, etc.	--	7	6



Trespass on the manor on which the ship was wrecked	1	1	--
Trespass where the wreck was removed and sold	1	1	--
Clerks of the justices for making three copies, attending two days, and examining and settling account	1	11	6
Total	£58	2s	4d

Here we see the myriad expenses and duties required, involving various specialized people and a great deal of organization. Saving the wreck was only the first, most basic part of the operation. In fact, the smallest single expense in the account was 1s 6d paid as the wage to several laborers. In addition to labor, goods saved had to be guarded, the goods and wreck saved had to be sold at a reasonable price, and accounts had to be kept, totaled, copied, and approved. The captain and crew of the vessel also had to be cared for (clothed, fed, and transported). One aspect of this requirement made up the largest single expense to the owners of the vessel: £19 11s for money advanced to the captain and mate. Payment to local landowners for trespass signifies an act of deference, and played a part in insuring cooperation. The total cost of the operation, including labor, goods, and miscellaneous expenses was £74 0s 1d, again not including payment to John Robbins for managing the process. One final consideration of this event is the length of time it took, which was approximately two months. The vessel was wrecked on 7 November, and the account was finished and signed by the justices on 4 January. The intervening two months may or may not have seemed a painful waiting period to shipping investors used to making transactions which took several months to

complete. Local laborers and merchants, however, would have been thankful for the additional source of income attending a wrecked ship in their vicinity, especially during the winter.

Salvage could also be quite beneficial to shippers, however. Seventy-two years after the wreck of the Two Brothers, a series of events occurred that revealed the way a legal salvage operation could be most advantageous to ship owners--and to local gentry. Included with the account for the saving of the Jonge Daniel and its cargo of salt was a dramatic retelling of the circumstances of the salvage. This narrative was probably written to justify the payment to a local gentleman who insured the preservation of the vessel. Perhaps the chronicle was also intended to give an example of what should happen when a vessel wrecked.

While en route to Amsterdam on 28 January 1773, the *Jonge Daniel* was stranded on Saunton Sands in the port of Barnstaple. The initiative of one P. Grenfell saved the vessel, when he happened on the wreck and went about the business of saving it through night and day in a strong gale. Grenfell immediately employed nearby ship masters and others to strike the yards and topmasts and lighten the ship. He also fought against the opinion of the others present who felt that the cargo should simply be

cast overboard because the effort to save it would not be worth the requisite salvage money. Many also felt it was impracticable to save the ship and remove it from the sand, and some suggested they scuttle it. The account's authors felt Grenfell's good judgment prevented the vessel from being broken up by the sea and also saved a great deal of salt that would otherwise have been lost or ruined. Grenfell ordered a watch on the vessel, managed the lightening of it, obtained proper permission to sell the cargo, and had it sold at a good price. The gentleman also paid salvage charges--regarded as a "critical matter" by the vessel's owners. Grenfell received £420 for these actions. The sum was also intended as a reward for fatigue, the overall risk to Grenfell's health, and for an extraordinary effort in the "intricate and delicate business" in general.

Grenfell had nevertheless hired Richard Budd as salver, and Budd provided several laborers, horses, and carts. It appears that Budd paid several laborers and seamen for their work, as well as skiff and boat owners, a pilot, customs officers, constables, and a shipwright. Overall, Budd was responsible for assistance in lightening and weighing the vessel and transporting it to Ilfracombe, removing, guarding, and selling the cargo. Budd received £152 1s 5d for his work, payments, and

administration.

The total paid for the work of seventeen general laborers was only three pence greater than that paid for Budd alone.<sup>39</sup> A sum of £117 These costs were not the highest for the vessel owners, however. 6s 4d was spent on goods, and these included horses, beer, liquor, cheese and other victuals, and other stores not named. Table 4.5 shows that once again miscellaneous services and expenses were many and varied.

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<sup>39</sup>The average amount gained by each worker can be figured at around £9. This figure however, is not exact as each worker made different amounts, likely due to working for different lengths of time.

Table 4.5 Miscellaneous expenses for the salvage of  
the Jonge Daniel

	£	s	d
Trespass	5	5	--
Bringing cables, anchors, etc.	5	5	--
Surveying vessel	--	6	8
Notary Public for drawing affidavits and attendances	8	9	9
Surveying salt and estimate	1	1	--
Lodging and board for three men	--	3	--
Sundry expenses	3	4	9
Keeping accounts of salt, drawing instruments, etc.	7	10	--
Attendance on vessel night of the wreck	8	8	--
For Sherborn Mercury [newspaper] sale of salt	--	8	3
Comptroller	3	3	--
Searcher of salt	21	5	--
Postage, petty charges	2	12	9
Attendance on sale and delivery of salt	2	--	--
Further attendance	2	12	6
Auctioneer	1	16	3
Sundry disbursements	6	6	6
Sundry officers	14	8	--
Sundry constables	13	6	8
Charges for fourteen customs officers	74	18	--
Total	£189	0s	1d

Again we have protection and sale of the salvaged goods listed, and the sum for advertising the sale in the local press. These costs are in addition to the actual saving of the vessel and cargo. The biggest single expense of the whole operation (ignoring the sums paid to Budd and Grenfell) was £74 18s for customs officers. The smallest single expense was 3s, for the lodging and board of three men. The wage of one Thomas Sanders could be figured at 2s, but it is impossible to determine if this was representative of the laborers' wages. If it is, it was well above the average for building laborers in the west during that period, which was between 1s 4d and 1s 6d.<sup>40</sup>

The cost of the operation before Grenfell's charge came to £610 9s 6d. (This figure is my own calculation, as the figure in the account is 8s short--£610 1s 6s.) When combined with the £420 for Grenfell, the total cost of salvage was put down as £1030. Clearly, the owners of the vessel and cargo were impressed and grateful for Grenfell's action in saving their ship and cargo. The owners were very likely aware of what could easily have happened if not for Grenfell's interference.

The actions of the two salvors of the snow Wollie Commissie were perhaps less heroic than those of

<sup>40</sup>Ibid., 172-173.

Grenfell, but the accounts reveal a businesslike manner in salvage operations in Devon. In November 1781, the vessel became stranded on Pickwell Sands in the port of Barnstaple. The master, Carolus Donse, appointed Philip Rogers Webber, and James Lee as agents and salvors (this James Lee is likely the same as that involved in the salvage of the General Suwano in 1807). The Wollie Commissie's owners were forced to sell the remains of their vessel and were therefore less fortunate than the Jonge Daniel's owners. The Wollie Commissie's cargo was saved, however, and its sale must have largely mitigated the loss and inconvenience of the wreck. One half of the account deals with saving the remains of the vessel, while the other addresses the preservation of the cargo of Spanish wool (this was "medley," and would be mixed with Devon wool and then sold.)<sup>41</sup>

While working to save the wreck, a sum of £4 18s was spent on victuals, ale, and brandy. A total of £5 9s 9d was spent on labor for saving the vessel alone: £5 0s 9d for general help and 9s for the assistance of one carpenter and one shipwright.<sup>42</sup> The fee for the salvors,

<sup>41</sup>Grant, "Devon Trade," p. 132.

<sup>42</sup>One sailor, George Howard, was not paid the promised wage for his work. In fact, he was not paid one full day's wage, according to the account. Howard was to receive a wage of 2s 6d, and he worked four tides. He was put down



Webber and Lee, was £6 6s. Table 4.6 details the miscellaneous expenses.

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for 8s total, when the sum should have been 10s.

Table 4.6. Miscellaneous Expenses for the wreck of the Wollie Commissie

	f	s	d
Going to Lundy for an anchor	2	12	6
Lodging for the men	--	5	--
Carrying the men's clothes to Ilfracombe	--	4	--
Postage for letters	--	2	8
Hire of a skiff to carry the ship's men from Ilfracombe to Bristol	1	1	--
Cash advanced by James Lee to Carolus Donse to pay the shipmen's wages	38	--	--
Carraige of sails and yards to Ilfracombe for sale	--	12	6
Journeys and attendance of four ship masters to survey the ship	3	8	8
Printing and advertising sale	--	7	6
Salesman's attendance at the sale of the ship	--	10	6
Attendance, keeping account, and collecting the cash	1	1	--
Expenses at a sale at Ilfracombe of the remaining part of the ship	1	2	--
Cash advanced to Carolus Donse for making protest	1	1	--

Writing notices of sale and crying them at Bideford and Appeldore	--	3	--
Dividing and separating the parcels of the wreck for sale	--	7	6
Capt. Donse's board, lodging, and horsehire	3	8	4
Expenses at Ilfracombe by captain, mate, and others at sale of remaining part of wreck	1	6	9
Drawing and preparing this account, numbering and filing vouchers relating to the same	--	5	--
Meat, drink, and lodging for the captain, mate, and men	6	7	8
Salvage of wreck and materials on Pickwell Sands	1	1	--
Clerks of justices for attending, examining, and settling the account, and making three fair copies	1	11	6
Total	£66	0s	1d

Many of the same expenses are here as in the earlier accounts, plus a sum for transporting parts of the wreck to the location of the sale, and a reimbursement for a cash advance for paying wages. The largest single expense for this part of the salvage was £38 for cash advanced to pay the shipmen's wages, while the smallest individual expense was 2s for labor.

The salvage of the cargo was a much larger and more expensive operation because the owners felt they could gain more from the sale of rescued wool than from the sale of pieces of a wrecked ship. Labor performed to save the cargo can again be divided into four different categories. General labor required £46 14s 10d. Labor combined with watching duties was worth £14 13s 6d, and labor done by those who brought horses, carts, men, or boys along equaled £45 16s. Six shipwrights and one carpenter performed specialized labor for a total fee of £4 17s. The total paid for all labor was £112 1s 4d.

General laborers were paid 18d or 1s 6d per tide, while the average for building laborers in the west between 1776 and 1791 was 19d. The laborers on the Wollie Commissie were therefore making close to the usual wage. Shipwrights received a wage of 2s 6d, while carpenters made 2s. This was a very good wage for the carpenters, as the average during the period for

carpenters in the west was 1s 9d.<sup>43</sup>

For meat, bread, ale, and the hiring of horses £4 7s 4d was paid. Most of this expense was ale, one cask of which cost £2 7s 4d. Webber and Lee's fee as salvors was £54 12s, giving them a total of £60 18s (£30 9s if divided equally) for the whole operation. The remaining costs are displayed in Table 4.7. In addition to the usual expenses, there was the need for a safe and dry place to store the saved cargo. The largest single expense incurred by saving the cargo was £5 8s 7d for the services of a superintendent, while the smallest was 3s for labor.

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<sup>43</sup>Brown, "Seven Centuries," p. 178.

Table 4.7 Miscellaneous expenses for the cargo of the Wollie Commissie

	£	s	d
Constables (3)	--	18	--
Superintendents (4)	9	15	10
A bill	7	16	4
Superintending horses, carts, laborers, discharging wool out of the ship and landing the same in the fields	1	18	--
Captain Donse for assistance in saving wool	9	9	--
Drawing and preparing the account, numbering and filing up the vouchers relating to the same	3	3	--
Two fair copies of the account	1	1	--
Surveying the wool after it was salved	1	1	--
Journeys and expenses in surveying the wool at Putsborough	1	1	--
Salvage of the cargo on Pickwell Sands	2	2	--
Use of a cellar for the wool	2	2	--
Clerks of the justices for examining, reading, and settling the account, and making three fair copies	3	3	--
Expenses of the house on adjusting and settling this account	4	7	8
Charges for fifteen customs officers	13	8	--
Total	£61	10s	7d

The total number of laborers employed in both parts of the salvage operation was 179. A total of £117 11s 1d was paid for labor, £9 5s 4d for goods, and £127 10s 8d for miscellaneous. When added to the £60 18s for fees of Webber and Lee, the result is £315 5s 1d for the whole project. This expense was very likely reduced a great deal by the sale of the salvaged cargo, which equaled 339 packs of wool.

It is interesting to compare the amount paid for goods and miscellaneous services in both halves of the operation. In each case, they are very similar: a difference of £5 9s 6d for miscellaneous, 10s 8d for goods. Because far more labor was required to salvage the cargo, we can see that no matter what the value of goods salvaged was, or the difference in the size of salvage project, a number of the same expenses were incurred at nearly the same cost. The profitability of operations of all sizes hinged on the amount and value of recoverable ship and cargo to mitigate not only the initial losses but the cost of salvage efforts.

The wrecks already discussed were not mentioned in contemporary Devon newspapers. This is perhaps due to the ordinary and businesslike nature of their occurrence: there was apparently no great loss of life, and no

plundering or confrontations between customs officials and the "country people." This strongly suggests that wrecks were very frequent in Devon, and that they often involved large, organized, and profitable salvage projects.

One wreck for which much was written and a great deal of information survives is that of HM Sloop-of-War Weazle, which wrecked in a gale on 11 February 1799 on Cride Sands in Barnstaple Bay. The vessel went to pieces after vain attempts to get out to sea and away from the rocks, with the loss of 105 men and 1 woman. The story of Weazle's salvage involves familiar names, as the wreck occurred on the land of Philip Rogers Webber. Richard Budd again offered his assistance as laborer and auctioneer. He also weighed the copper, iron, and other stores at the sale of salvaged goods.

Seventeen people were hired to do general labor, and a sum of £13 9s 6d was paid for this work. Workers were employed for an average of 4.5 days and 1.9 nights for an average wage of 2s, but some made as much as 2s 6d. The former figure represents normal earnings, but the latter was good pay indeed, as the average wage at that time in the region was between 1s 11d and 2s 1d.<sup>44</sup>

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Nineteen people were hired to do "carpenter's work,"

<sup>44</sup>Ibid., p. 178.



making an average wage of 2s but as much as 3s. Two shillings was a low wage compared with the overall average for carpenters in the West of 3s.<sup>45</sup> It is likely, however, that not all of those doing "carpenter's work" were in fact carpenters, and many did more than one kind of work. This type of employment lasted for an average of 2.8 days and no nights. The total paid for carpenter's work was £7 8s 6d, making the total for all labor £20 18s. The average length of employment for all laborers was 5.5 days and 1.4 nights.

In this operation, most workers did more than one type of work. For instance, some who did carpenter's work also saved the anchor. Of a total of twenty-four workers overall, sixteen or 66.6 percent were paid for more than one kind of work. Eleven of these were paid for two jobs, and five were paid for three jobs.

The sum paid for goods totaled £1 3s 6d, with 2s 6d paid for a horse and cart and £1 1s paid for ale. The miscellaneous expenses are in Table 4.8.

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<sup>45</sup>Ibid.

Table 4.8 Miscellaneous expenses for the salvage of  
HM Sloop Weazle

	•	s	d
Two men to look after dead bodies and other wreck	1	12	--
Housing stores	1	1	--
Trespass on Cride Hoe	--	5	--
Auctioneer	1	1	--
Weighing copper, iron, and other stores at sale	--	2	6
Trespass on Malteborough	1	1	--
Get scales and weights to Buckland and return	--	2	--
Digging wreck out of the sand for sale	--	2	4
Keeping account and drawing of three copies	1	11	6
Journey to Appeldore with salvage account	--	5	--
Total	£9	0s	4d

Many of these expenses, such as those for the sale of the salvaged goods and wreck pieces, and the need for equipment to be brought in, are evident in the earlier accounts. But here there is also the need for a watch to guard the corpses along with the wreck. The above records dealt mostly with goods and usable items coming to shore as a result of shipwreck. It was not uncommon, though, for the bodies of shipwrecked seamen and passengers to wash up. These were sometimes valuable to plunderers, who were known to rifle the pockets and take the clothes of the dead (such goods were called deodands). But each county was responsible for the care of shipwrecked bodies, if they were found. The local churchwarden was in charge of burying the bodies, and the expenses incurred were to be borne by the whole county rather than just the parish in which a body was discovered. This was to save coastal areas from paying a constant high expense, while the inland parishes paid nothing. This arrangement, however, was only enforced after 1808, with the passage of the Grylles Act.<sup>46</sup>

<sup>46</sup>Documents of Local History: A Selection of Facsimile Papers on Devon's Past (Exeter: County Hall, 1969), p. 5. The Grylles Act provided a 5s reward for anyone reporting the discovery of a corpse, as well as a £5 fine for failing to do so. If a body was decayed to the point that it made transporting the body unpleasant for the finder, he or she was given an extra shilling. If the corpse was decayed to an even greater extent, the finder was given an extra payment of "beer money" on completion of transporting the

The largest individual expense for salvage of Weazle was that of £3 12s 6d, paid to Richard Budd for labor and use of his horse for fifteen days and fourteen nights. Several laborers made 2s, the smallest single expense. At the conclusion of the operation, £86 12s 13d was made on the sale of stores from the vessel. The cost of marketing those stores was £31 1s 10d, leaving a "profit" of £55 0s 3d. This was in conjunction with the other goals met by the salvors, such as finding the bodies of the ship's crew, their personal effects, and recovering the ship's guns. In fact, the job was left incomplete as it was not until 1860 that seven of the ship's brass cannon were salvaged.<sup>47</sup>

The list of objects sold from the wreck of Weazle reveals the marketability of shipwrecked goods, which sheds light on the value locals may have assigned to the body. Richard Larn and Clive Carter, Cornish Shipwrecks: The South Coast (Newton Abbot: David and Charles, 1969), p. 12.

An account of the burial expenses of six drowned men in the Parish of Combemartin on the north Devon coast shows that when done properly this could be an expensive business. The men came from the brig Alice, which wrecked in October 1823. The account includes a reward of £1 10s to six different people for finding the bodies, a cost of £2 8s for transporting them, £3 3s for six coffins, 12s for a watch placed over the corpses for three nights, coroner's expenses amounting to £1 5s, and miscellaneous burial charges of £1 11d. At the risk of sounding macabre, one might point out these further potential profits, and a total expense to the county of £10 10s 11d, resulting from the frequent though unpredictable event of shipwreck. Documents of Local History, p. 19.

<sup>47</sup>Larn, Devon Shipwrecks, p. 202.

chance occurrence of a wreck or bits and pieces of a ship coming to shore. Fifteen people bought what is described as "Wrack" and which probably signifies various pieces of timber. In addition, sheet copper, bolts, iron, lead, deadeyes, chains, staves, casks, blocks, sails, cables, hammocks, rope, a tarpaulin, and the anchor, were all sold. Particularly valuable were the copper (£15 15s), a part of the foremast (£3 5s), and the mainmast (£6 6s).

The cases above reveal the working of only four salvage projects on a coastline that must have seen many more. But from them we have gleaned an understanding of the workings of such operations, and other points can be made by comparing the four accounts. To begin with, all four wrecks occurred in winter, which as shown before was the most dangerous time of year for shipping. Wrecks occurring in winter were likely of great value to local workers as jobs became more scarce than during the summer months. Also, two of the salvage proceedings lasted three months, while the other two lasted two months. Thus many individuals could benefit from a salvage operation, and many would benefit for significant lengths of time. In this way, wrecks could help carry locals through a large portion of the winter.

It is evident that a wide range of goods and

services were required when a ship wrecked. This included care of the ship's crew, legal proceedings to insure proper payment for labor, protection of the wreck--a virtual warehouse of goods for coastal inhabitants, and the payment of trespass to landowners. Thus a great deal of basic labor as well as a number of efficient, organized professionals were required at short notice.

The community also benefited from legal salvage. Locals who did not gain from plunder had the chance to gain by extra days labor, and while wages were not spectacularly high, they were not low. In some ways, legal salvage afforded opportunities for gain not possible with plunder. Workers were employed on a consistent basis, and were paid in cash (as well as ale). A plunderer might come away from a wreck with only a few ship pieces, or with a quantity of alcohol or food which would be consumed in a short span of time. Cargo looted by locals might have been valuable, but trading it for money or other goods would have put the plunderer in danger of apprehension by the authorities. Workers on legal salvage sites could also multiply their earnings by working at more than one job or by supplying necessities such as horses and carts. And as Table 4.9 shows, people working on a salvage operations were paid very nearly what they asked.

Table 4.9 Claimant's Demands Versus Sums Allowed

<u>VESSEL</u>	<u>CLAIMANTS' DEMANDS</u>			<u>SUMS ALLOWED</u>		
	£	s	d	£	s	d
<u>Jonge Daniel</u>	624	9	--	610	1	6
<u>Wollie</u>						
<u>Commissie</u>						
--wreck	87	17	2	82	13	10
--cargo	255	2	3	232	11	3
--combined	342	19	5	315	5	1
<u>Two Brothers</u>	71	1	1	67	6	7
<u>HM Sloop Weazle</u>	--no information--			30	16	10

Shopkeepers also gained an outlet for food, clothes, and other stores. The local community also had an opportunity to buy goods from the wrecks. (It is likely that locals could get such goods at low prices due to the need of ship owners and their agents to sell as much as possible to mitigate their loss. This cannot be seen in these records, however.) An example comes from another record from 1640-1641. At this time, the churchwardens of Stoke Church in Hartland on the north coast bought

2,800 staves or wooden roofing tiles from a wreck, and employed watchmen for five days and nights until they gained full possession of their purchase.<sup>48</sup>

For the merchants and owners of vessels, salvage provided an opportunity, along with insurance, to cut their losses. This could at times be particularly handy if opportunistic locals at the scene of a wreck took it upon themselves to save the vessel in hopes of salvage remuneration. In the case of the Jonge Daniel, things worked as they were supposed to according to the law.

While remuneration for salvage was frequently mentioned in the law to advance just behavior, merchants should have been aware that remuneration and labor in general often made up a smaller proportion of their salvage bill than the several miscellaneous activities. A reading of the law would certainly give one the impression that labor made up the largest expense in such a situation, and that the other aspects were negligible. Figure 4.10 shows that the various expenses that do not immediately come to mind in the situation of salvage were the most costly.

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<sup>48</sup>Michael Nix, The Cruel Coast of North Devon (Bideford: Badger Books, 1982), p. 49.



Figure 4.10. Expense percentages for four salvage operations\*

	<u>Labor</u>	<u>Goods</u>	<u>Misc.</u>	<u>Salvor</u>
<u>HM Sloop Weazle</u>	69	3	28	--
<u>Two Brothers</u>	18	3	79	--
<u>Jonge Daniel</u>	25	19	31	25
--without salvor fee	33	26	41	--
<u>Wollie Commissie</u>				
--wreck	7	6	80	7
--cargo	48	2	27	23
--combined	37	3	40	20
--combined, without salver fee	46	4	50	--
Average (without salvor fees), using combined accounts from the <u>Wollie Commissie</u>	----- 41.5	----- 9	----- 49.5	----- --

\*The above figures were rounded to the nearest pound before calculations were made.

Miscellaneous expenses perhaps did not overshadow labor in the case of HM Sloop Weazle. Here the legal fees, journeys, and other expenses were handled as duties

within the navy. The sheer amount of cargo aboard the Wollie Commissie (no pun intended) accounted for much of the labor required and its corresponding expense.

While the case of the Jonge Daniel is a shining example of upright behavior with a resulting benefit to all concerned, it should not escape notice that the same wreck was very nearly a typical case of plunder or complete loss. Many wanted to let the ship and cargo go to ruin. It seems obvious that Mr. Grenfell acted in an unusually valiant way, and that it served his best interests. Could most coastal people have done the same? It seems unlikely that most coastal inhabitants would have had the means--horses, carts, boats, and connections in the community with other people who had such equipment. It is also most likely that Grenfell's standing in the community allowed him authority when organizing and ordering salvage activities.

Clearly, the vessel's owners were lucky that their ship wrecked in a place where it could be noticed. A great storm causing a shipwreck could also motivate coastal inhabitants to stay indoors. What is most significant, however, is who noticed the wreck--a member of the local gentry. Grenfell was rewarded well for his service, but this reward could only have served as encouragement for similar actions to people of equal

social standing.

#### IV.

The previous examples of salvage give some indication of the goods normally available to beachcombers and plunderers. Plundering, like the right of wreck, was potentially very lucrative. But it is much more likely that the gain was in building materials and firewood, or the odd sale of a piece of rigging on the local market.

It is impossible to calculate how often plunder occurred on the coastlines of Devon, but given the amount of poverty in the area and the frequency of shipwrecks, it was probably common. Newspapers and other records from the era only detail the most fantastic cases, and it is likely that the newspapers never learned of some instances.

On the fantastic side, we have record of a deadly conflict between the authorities and wreckers. At Dartmouth in 1721, soldiers protecting a stranded East Indiaman from a crowd shot several would-be plunderers.<sup>49</sup> Two wrecks that occurred on Thurlestone Sands, on the South Devon coast, were also the scene of outrageous events. In 1753, a 100

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<sup>49</sup>John G. Rule, "Wrecking and Coastal Plunder," in Douglas Hay, et al., eds., Albion's Fatal Tree. Crime and Society in Eighteenth-Century England (Bristol: Western Printing Services Ltd., 1975), p. 175.

ton Dutch galliot came ashore. Traveling between Nantes and Hamburg, the vessel had a cargo of wine, brandy, coffee, and indigo worth £3000. Sir William Courtenay hired George Taylor as salver, and with the assistance of the customs officers from Dartmouth, Plymouth, and Salcombe, they saved most of the cargo. But on the third day after the wreck numerous inhabitants showed up to plunder the remaining cargo. Only the arrival of soldiers from Plymouth discouraged the potential plunderers. The drunken ringleader of the mob, however, died after he fell on the bayonet of one of the soldiers. It was said the presence of the soldiers saved more goods from this vessel than from all of the ships that had been wrecked on the Sands in the previous fifty years.<sup>50</sup>

The second incident in the Dartmouth area which gained fame occurred in 1772, when the Chantilope was driven ashore after returning from the West Indies. A wealthy lady aboard the ship apparently donned her best clothes and expensive jewelry in the hope that someone would save her in expectation of a large reward. Only she and one seaman made it to shore alive, however, and the plunderers on the coast were attracted by her display of wealth. After fighting one another over her jewelry, the lady's ear-rings were pulled from her ears and her fingers were cut off for her rings.

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<sup>50</sup>Murch, "Wrecks," p. 7.

Her body was buried in the sand, only to be uncovered afterwards by a dog.<sup>51</sup>

In February 1750, the 20-gun ship La Carpe was lost near Abbotsham Cliffs in North Devon. Over 2,000 people were said to have gathered and boarded the ship

...with hooks, hatchets, and other instruments and immediately began to plunder and cut down all the rigging, sails, masts, and yards; the cabbins they broke up, and carried off all the Captain's boxes, chests, lac'd cloaths, hats, swords, with some silk and linen, 1400 quintels of cod, many barrels of herring and in short everything they could lay their hands on. The cables and rigging they cut into junk, and carried it off in waggons & horses. They also drank out all the wine on board, being five hogshead (c. 260 gallons).<sup>52</sup>

The official report of the incident went on to say that the customs men there were put in danger of their lives, particularly one who was surrounded by twenty plunderers when he tried to save a box from the ship. The intervention of a country gentleman saved the officer.<sup>53</sup> This record is interesting, as it detailsthe enthusiasm the plunderers had for the commonplace parts of a ship (rigging, etc.). It also reveals the authority of the country gentlemen,

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<sup>51</sup>Ibid.

<sup>52</sup>Nix, Cruel, p. 50.

<sup>53</sup>Ibid.

although as shown below this was not always recognized.

Other records of plunder in Devon survive in the Treasury Papers. In 1738, another Dutch ship called the Anna and Helena was stranded in Bigbury Bay near Kingsbridge. The "country people" then violently overcame the country gentlemen and customs house officers rescuing the cargo. The subsequent investigation led one Dartmouth customs officer to state that the people in the area of Bigbury Bay were so used to plundering and getting away with it that all ships coming ashore there in future would be pillaged.<sup>54</sup>

Perhaps a realistic idea of the frequency and nature of plunder in Devon can be gained by looking at an inquiry concerning crime held in 1837.<sup>55</sup> The Constabulary Commissioners carried out the investigation to determine the need for establishing police forces in rural districts and to find the best way of doing so. While this took place outside the period, the examination most likely reveals circumstances much as they were in previous times. Wooden vessels predominated in shipping, while steam technology was nascent. Importantly, there are a great number of records from throughout the nineteenth century that bear witness to the persistence of coastal plunder.

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<sup>54</sup>Calendar of Treasury Papers, 1738, pp. 475-476.

<sup>55</sup>PRO, HO 73/3.

To explore the crime of wrecking and plunder in Devon, the commissioners sent out questionnaires to officials of five coast guard stations. Among other things, the officials were asked to relate information concerning any vessels wrecked within the last three years, discussing whether there had been any assemblages of people on the coast for the purpose of plunder, and what losses and injuries the mariners had suffered as a result.

There was no record whatsoever of plunder, and consequently no undue loss to mariners, near the Coast Guard station at Exmouth. The jurisdiction of the Exmouth station extended from Shaldon, one mile west of Teignmouth, to Werton, two miles east of Sidmouth. There was, however, only one vessel lost within this station within the past three years, and it was a complete loss. The story was the similar at the Barnstaple station, which extended eighty miles between Bude and Porlock. While more wrecks had occurred (8), there were no assemblages of people for plunder.

The Dartmouth coast guard official had quite a lot to report, however. This station's jurisdiction covered the area from Marden Combe east to Seatscombe and from Marden Combe west seventy-three miles. The latter area included all of Torbay, the Start and Prawl Points, and Bolt Head and Tail. The official's response had an exasperated tone,

writing that there had been assemblages of "Country people" on all occasions of wreck for the purpose of plunder. The situation at the wreck of the Brig Anchor in 1835 was particularly noteworthy, as between five and six hundred people came from great distances and stole much of the cargo. In this case and others, the threat of coast guard intervention had negligible effects, as the locals evidently believed that the guard was there to protect revenue, not property. Eleven wrecks are listed on the form, six of which lost nothing to plunderers, while three lost "considerable" amounts of their cargoes. One wrecked vessel lost a small chest of tea, and for one there was no information. The responding coast guard official felt strongly that the area needed a constabulary.

The coast guard station at Devonport encompassed a jurisdiction of over fifty miles of coast. The district commander reported that there had been two cases of assemblage in the previous three years, and that the people had been large in numbers. In one instance, about thirty people came together and boarded a stranded vessel. Of the four wrecks occurring within the period, one was plundered with the loss equaling a value of several pounds, while another lost its mainsail and a quantity of plank and timbers to locals.

The last station questioned was the Lyme district,



which centered on Lyme Regis and concerned the area around the border between Devon and Dorset. Out of five wrecks, there was one instance of assemblage. There were, however, two instances of plunder. In one case, a few planks were taken, while about £5 worth of timber were stolen from another wreck.

The 1837 inquiry may not have covered the whole coastline, and the coast guard was probably unaware of every wreck and instance of plunder. But from it we can see that while plunder was common, it did not always occur. Certainly the records of vast numbers of plunderers and violent clashes detail unusual cases. Shipwrecks did cause a stir in south Devon communities, however. In the 1837 records twenty-nine wrecks were mentioned, around fourteen of which plunderers gathered. Taking out the eight wrecks of the north coast (represented by the Barnstaple station, for which there was no assemblage) fourteen of twenty-one or two-thirds of the wrecks along the south coast saw assemblages.

The area around Dartmouth seems by far the worst for plunder. This impression is reinforced by letters from the Dartmouth customs house, which also supplied evidence to the Constabulary Commissioners of the need for assistance.<sup>56</sup> The letters, dated 1838, detail one instance in which three

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<sup>56</sup>PRO, HO 73/3.

wrecks occurred at once. While the coast guard was busy saving the lives of the crew of one ship, the vessel was plundered. Afterwards, the homes of the most notorious locals were searched. Timber, planking, casks, a tarpaulin or hatch cover, a piece of iron, and part of a runner and hook were discovered. Five of these people were arrested, but only one was convicted due to a lack of connecting evidence. The guilty plunderer paid a fine of £11 10s 6d and was freed. To sum up the occasion, one customs official wrote "...nothing could exceed the barbarity and rapacity of the People on the Coast, notwithstanding the greater assertions of the Coast Guard and the very liberal offers of Salvage nothing that came ashore that was all portable could be saved."<sup>57</sup> Bigbury Bay was again mentioned as a particularly notorious area for wrecking.

Who were the plunderers? It seems that the common description of "country people" is accurate. Eyewitnesses identified eighteen persons after an incident in Dartmouth in 1738. Two were shopkeepers, two were sailors, two were artisans, six were laborers, two were yeoman, and four were husbandmen. Five yeoman, a husbandman, and a carpenter were charged with wrecking at the Devonshire summer assizes of 1762.<sup>58</sup> These people were mostly poor and could well have

<sup>57</sup>Ibid.

<sup>58</sup>Hay, Albion's, p. 182.

used shipwrecked items for trade or for use at home. All sectors of society, however, were liable to plunder during this period. In Cornwall, there are legends of a clergyman pleading to his congregation to give him a fair chance in the race from the church to the scene of a wreck. Similar events occurred in Devon. In 1690, the Treasury issued a number of letters to the bishop of Exeter to force him into giving up a quantity of silver and other goods taken up from the sea. In this case, the goods and silver belonged to the salvage grantee, Philip Ford. The bishop evidently misinterpreted his right to review and obtain treasure belonging to the king or lord high admiral.<sup>59</sup>

#### V.

Every class of person, from lord to merchant to peasant, profited from shipwrecks. Coastal manors gained timber, rope, and sometimes luxury items from unclaimed wrecks within the area of their grants. If they aided the execution of salvage for a vessel's rightful owner, lords were well compensated. The actions of the lords furthered the tradition of allowing these individuals unclaimed wreck. Lords protected their ancient privileges through litigation, and thus kept the system of deference to property owners intact. The guarding of one aspect of property, be it small

<sup>59</sup>Calendar of Treasury Papers, 1690, p. 680.

or only occasional, reinforced the protection of all other assets associated with ownership. This aspect of unclaimed wreck salvage was at least as valuable as the occasional gain of used ship parts. Gentlemen also claimed sizable rewards for their participation in legal salvage operations.

Lower down on the social scale, local shopkeepers and merchants profited from the sale of goods needed to salvage a wreck. Ship owners, builders, and others could obtain second hand ship parts and other useful items. In addition, carpenters and shipwrights found employment around legal salvage operations.

On the lowest rung of ladder, peasants gained from shipwreck through plunder, also taking in firewood and other ship parts to be re-used or sold. Naturally, farmers and laborers sometimes found high-value items, or a cask of ale to be consumed in haste before the arrival of customs men. Laborers and farmers with a horse or a cart also made extra profits from legal salvage operations.

Thus rural people of all social orders viewed a shipwreck as a godsend, as it meant either work, goods, or financial rewards. This attitude is rather clearly revealed in the contemporary exposition on the salvage of the Jonge Daniel. Though a case of legal salvage intended to aid a shipowner in distress, this instance exposes the feelings of those involved towards wrecks. While Mr. Grenfell worked

tirelessly to save the wreck, he likely believed that the more he saved, the more he would receive as a reward. This conflicted with the views of the other workers, who felt that the cargo should be cast overboard as their pay for saving it would not be worth the effort. Their aim was to receive as much money as possible, regardless of the loss of the vessel's owner. The system worked differently for the gentleman, and his authority prevailed.

Coastal inhabitants could also profit from wrecks with pure ingenuity. Early in the eighteenth century, poverty and the needs of a large family drove John Lethbridge of Newton Abbot to consider ways of making a fortune. He decided this could be done if he invented a diving machine, enabling divers to recover goods from shipwrecks. His first experiments in 1715 were very crude--he crawled into a hogshead made airtight. He remained in the hogshead, on land, for half an hour. He then tried it underwater, and remained there for a longer period. Thus encouraged, Lethbridge built his first diving machine aided by a London cooper. It was built of wainscot and iron hoops, had holes for the arms, a window of glass four inches in diameter, and required a 500 pound weight to sink it. The machine returned to the surface with the removal of fifteen pounds of weight. Lethbridge stated that he had gone down ten fathoms hundreds of times, where he could move around in an

area about twelve feet square and remain thirty-four minutes.<sup>60</sup>

Incredibly, Lethbridge and his machine caught on after investors were convinced of its capability. Lethbridge eventually dived on the wrecks of four English men-of-war, one English East Indiaman, two Dutch men-of-war, five Dutch East Indiamen, two Spanish Galleons, and two London galleys. All of these wrecks occurred within a span of twenty years, and in that time the inventor traveled the world to use his "engine." It appears that Lethbridge's ingenuity served him well, simply by the fact that he survived. He came very near to drowning in the machine five times, but he eventually raised enough money to keep his family and to purchase the estate of Odicknoll, near Newton Abbot.<sup>61</sup>

All of these means of taking advantage of wrecks added up to the idea that it was acceptable to exploit goods found in the sea. The law permitted this idea, which only half-heartedly tried to stem plunder, and allowed other ancient forms of salvage for profit to proceed. Shipwrecks were a resource to be exploited with opportunism and whatever legal or mechanical ingenuity individuals could muster.

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<sup>60</sup>Jack Simmons, A Devon Anthology (London: Lowe and Brydone Ltd., 1971), pp. 118-119.

<sup>61</sup>Ibid.

## CONCLUSION

[Salvage] combines with a private merit and individual sacrifices larger considerations of the public good, of commercial liberality, and of international justice. It offers a premium by way of honorary reward, for prompt and ready assistance to human sufferings; for a bold and fearless intrepidity; and for that affecting chivalry, which forgets itself in an anxiety to save property, as well as life.<sup>1</sup>

The main object of the law of salvage is, by the incentive of monetary gain, to encourage seafarers to render assistance to vessels in danger and the fact that their response is, to a greater or lesser extent, the product of that incentive cannot adversely reflect upon them.<sup>2</sup>

The sanction of custom can be resilient enough to permit the survival of forms of action which<sup>3</sup> are in direct conflict with the existing law...

In the days of sail, legal salvage was done mostly without contracts or agreements and relied largely on the initiative of individuals. The laws of the time reflected

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<sup>1</sup>David W. Steel and Francis D. Rose, eds., Kennedy's Law of Salvage, fifth ed. (London: Stevens and Sons, 1985), p. 13.

<sup>2</sup>Ibid., p. 27.

<sup>3</sup>John G. Rule, "Wrecking and Coastal Plunder," in Douglas Hay, et al., eds., Albion's Fatal Tree, Crime and Society in Eighteenth-Century England (Bristol: Western Printing Services Ltd., 1975), p. 185.

the need to encourage such individuals. The courts also tried to discourage misconduct in salvage related incidents. Again, this was difficult to do without contracts binding individuals to just behavior. There were people who were very familiar with the needs--legal and logistical--of an effort to save a vessel or its cargo, or both. Yet Richard Budd and others like him, however professional their organization and actions, could not make a living full-time from distressed ships. In most areas wrecks occurred only occasionally and varied in value. Another type of salver could do his work full-time: the wreck fisher. The Jacob Rowses, Philip Fords, and those like them capitalized not only on the inevitability of shipwrecks to come, but on the sea as a vast storehouse of ships already wrecked, waiting on the bottom. The wreck fishers went where the wrecks were, or where they were expected to occur. They took advantage of known wrecks, and searched others out.

The development of steam power and motorized vehicles in the nineteenth century allowed shipowners to make their own arrangements for salvage, and so came the rise of a new breed of professional salver. Steam allowed vessels to assist ships in danger and wrecked vessels almost at will and in many conditions. Salvage came to mean the preservation of ships in distress, rather than the actions of individuals to cut the losses of shipowners and merchants



after a loss. This transition was not a smooth one. An illuminating situation arose in 1850, when beachmen from Liverpool fought a fierce battle with the crew of a steam tug that was attempting to assist a stranded vessel. The beachmen accused the tug's crew of taking bread out of their mouths, saying they felt they were allowed such vessels as a matter of custom.<sup>4</sup>

In the nineteenth and twentieth centuries professional salvors traditionally received more generous rewards for their work than others who got involved with a distressed vessel by chance. One reason for this was state encouragement for salvage businesses, as it was recognized that full-time salvors depended on healthy remuneration for their services. To professional salvors, shipwrecks and potential disasters were bread and butter; to opportunistic coastal people and seamen, they were jam.<sup>5</sup>

Wrecks in Britain today are dealt with a similar way as in the past. Receivers of Wreck are stationed throughout the country, and are usually customs officers. They may

<sup>4</sup>Ibid., p. 173.

<sup>5</sup>Steel and Rose, Kennedy's Law, pp. 22-25. One authority placed the date of the first modern professional salvors in the 1890s. Ibid., p. 23. It seems likely, however, that given the vast increases in shipping and shipwrecks in Britain during the nineteenth century and the fact that steam vessels had by then been available for some time this date could be pushed back further.

take command of operations to save lives and vessels in danger, and it is an offense to hinder or disobey a Receiver. Anyone finding a wreck is bound to report it to a Receiver, who will take possession and advertise the discovery. Owners of wrecked vessels must pay expenses and salvage fees before they can claim a wreck. After one year, unclaimed wreck in possession of the Receiver belongs to the crown. Because of improved technology such as steam power and communications, however, unclaimed wreck today brings in only a few thousand pounds a year. The cost of the services of the Receiver exceed this by far.<sup>6</sup>

Certainly, instances of salvage in the past were a forum for the most commendable--and the most base--of human instincts and actions. While the motivations for legal salvage are clear (remuneration, ethics), the meaning behind illegal salvage is less obvious. While it was inspired by want and greed, it is apparent that it was condoned by regional custom and tradition. Why was this so?

The law attempted to put wrecks in the category of ownership--that of the state, the landed gentry, and merchants. But the state's actions were inconsistent. While discouraging coastal plunder, other wrecks were made

<sup>6</sup>N.J.J. Gaskell, C. Debattista, and R.J. Swantton, Chorley and Giles' Shipping Law, eight ed. (London: Pitman Publishing, 1987), pp. 466-469.

legally available for plunder. Wreck fishing grantees worked these wrecks, to their benefit and that of the state. The difference between those wrecks that the state gained from--unclaimed--and those plundered was clear. Yet it may have struck people as odd that what on one hand was a crime was on the other acceptable. There seem to be few parallels for this in the law. One wonders if there would have been more theft if certain forms benefiting the state were approved, and individuals could receive grants to roam the countryside and steal.

Attempts to create an attitude among the public that disapproved of plunder required a break with the past. This came with the Rolle of Oleron, and it was eventually established that not all shipwrecks could be exploited. Yet the law allowed the survival of ancient customs--such as the payment of one-third of goods saved to the salver--in a vast area of the nation's coastline with grants of private admiralty jurisdiction. Because so many lords held these grants--thirty-eight in Devon alone--old attitudes concerning shipwrecks died hard. The granting of the right to unclaimed wreck therefore undermined attempts to limit plunder and create a complete and serious policy about objects found in the sea.

It is clear that government only acted to satisfy needs, whims, and desires of the moment. These mostly

concerned placating the grumbling merchant class, which gained vastly in influence between 1600 and 1800, by passing a pair of laws in the eighteenth century and mollifying the landed gentry by affording them private legal systems and autonomy. In addition, the government took advantage of occasional opportunities to gain extra revenue through wreck fishing grants. With proper enforcement, the laws created would have been important factors in limiting coastal plunder. These laws were detailed, lucid, and aimed at all levels of society. Laws keeping the actions of manorial lords and professional salvors in check were not written, however. This helped to limit the effectiveness of those that had been created. The government maintained an ambivalent attitude toward salvage, at once taking advantage of shipwrecks while opposing rural plunder and appearing as vulnerable to written law as the "country folke." Law in early modern England was a malleable force and did not exist independent of society. Laws were created--or not created--to suit the desires of a segment of English society. Law had to live up to the expectations of society, and not vice versa.

And what of the plunderers themselves? It has been argued that "law [in general] was a cultural and ideological force so widely diffused in England as to inform the notions

and actions of the population at large." <sup>7</sup> Knowledge of the law, and the cruel penalties within it, did not discourage plunder. It is imaginable that poor rural inhabitants thought very little about the lives of merchants, especially those in far away London or overseas. Stealing from a stranded ship might seem more acceptable if it is difficult to imagine the individuals who are suffering as a result. Plunder thus sometimes offered the opportunity to steal without the danger of being directly disrespectful and insulting the landed gentry, unlike other crimes such as poaching. It may also have been easier on landed people's conscience to take unjustly from the alien culture of seafarers. Thus it would appear that plunder was a loophole in the law. If viewed as theft, it was stealing from very different people, seamen and merchants. The usual authority figures were not directly involved. This loophole could be exploited as a means of mild rebellion. Here, poor coastal people had a way of protesting against the system, in an age of enclosure and ever-tightening controls on and protection of property, of which the poor had little. If the state sanctioned types of salvage, coastal people could also--through the force of custom.

Plunder was often a difficult and dangerous operation, as evidenced by the stress on proper remuneration in salvage

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<sup>7</sup>Ibid., p. 143.

law, which is included in the ancient Rhodian law. This was a tricky decision: too much remuneration (one-third of goods saved, for instance) made shipowners unhappy, sometimes unwilling to pay. It also encouraged individuals to let wrecks happen, or even make them happen. Too little remuneration, and the salver was encouraged to plunder. In an age when few could swim, people went on the sands or even out in skiffs to sink ships and steal from distressed vessels. Perhaps the idea of risking one's life to save goods for a relatively small remuneration seemed outrageous. Even for those who could swim, the dangers were many. The same unpredictable winds and currents that wrecked a ship could wreck a salver's boat or knock him off his feet near the shore. Commentators noted the extreme rapidity with which sand could be carried away from beneath a salver's feet. Those who had little contact with the beach and the sea were naturally more likely to be taken by surprise and be swept out to sea: "Hence it is that so many persons...get drowned or have the most hairbreadth escapes when in the course of goin' a-wrecking'." <sup>8</sup> Given the hazardous nature of the work, it is likely that plunderers felt that any gains made came from the sea. Where someone else's battle with the sea had failed, plunderers took up

<sup>8</sup>A.K.H. Jenkin, Cornish Seafarers: The Smuggling, Wrecking and Fishing Life of Cornwall (London: J. M. Dent and Sons, Ltd., 1932), p. 102.

the fight.

The above ideas would constitute the legitimizing notions behind a social crime, a crime where there were conflicting sets of interpretations of the legal system. "...Poachers, wreckers, coiners, rioters, and smugglers are all shown to be operating within a system of popular ideas on legality," and thus they did not regard their illegal behavior as criminal.<sup>9</sup> Crimes of this nature, which present a challenge to the prevailing social and political order and its values, rely on strong communal support. In the case of coastal plunder, this was not lacking. It is not unusual for reports of plunder all around England to mention numbers of locals in the hundreds, and in Cornwall the number of plunderers assailing wrecks was often said to be in the thousands.<sup>10</sup> In an investigation of the plunder of deer from royal forests, historian E.P. Thompson has written, "this was a place, not of consensus, but of conflict...the norms of foresters might reveal themselves as passionately supported values, impelling them upon a course of action which would lead them into bitter conflict--with 'the

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<sup>9</sup>John G. Rule, "Wrecking and Coastal Plunder," in Douglas Hay, et al., eds., Albion's Fatal Tree, Crime and Society in Eighteenth-Century England (Bristol: Western Printing Services Ltd., 1975), p. 173.

<sup>10</sup>This discussion owes much to the work of J.A. Sharpe, in Crime in Early Modern England 1550-1750 (London: Longman, 1984).

law.'<sup>11</sup> The term "foresters" could easily be replaced by "wreckers" or "country folke."

A strong tradition of wrecking already existed. Law enforcement was poor, in part because of logistical and social problems. In addition, the lack of a conscious and complete public policy against the exploitation of wrecks allowed the practice of plunder to grow unhindered and its tradition to strengthen.

Steam power and increased emphasis on the matter of wrecked vessels (witnessed in the nineteenth century by the Constabulary Commissioners' inquiry into right of wreck and the Merchant Shipping Act 1854) changed the nature of salvage for most people. Yet plundering of the historic kind still occurs in Devon: a compressor and a prop were taken from the wreck of the 114 ton cruiser Rossekop II in 1972--a haul worth approximately £700. In 1981 the Cypriot motor vessel Eva V was pillaged.<sup>12</sup>

Instances such as these are admittedly rare. While old doors were narrowed and closed, however, new ones were opening. There may be fewer wrecks occurring on the coast at present, but there are untold numbers from centuries past already there. And these in large part are the focus of

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<sup>11</sup>E.P. Thompson, Whigs and Hunters: The Origin of the Black Act (New York: Penguin Books, 1977), p. 261.

<sup>12</sup>Nix, Cruel, p. 48.



plunder today.

The difference between most plundering today and that of centuries past is that it is now the wreck fishers who are on the other side of the law. Coastal plunder is no longer as profitable as it once was; there are fewer shipwrecks, and those that occur normally have survivors and are easily located. But an activity condoned in the past, the searching out of wrecks for profit, is today illegal when it interferes with a site of historical interest.

Is modern treasure hunting the continuation of the social crime discussed above? There is some evidence to say this is so. The rise in the protection of submerged cultural resources in the twentieth century, and the parallel rise in the proliferation of means and technology for underwater work and play have brought about a conflict. Shipwreck sites are protected, but many feel that it is their right--as it seems to have been for so long--to have access to such sites.<sup>13</sup> Certainly, there is the legitimizing notion that any effort to locate a wreck--usually a long, expensive, and dangerous process--should be

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<sup>13</sup>In Britain, wrecks of historic, archaeological, or artistic importance are protected by the Protection of Wrecks Act of 1973. This Act designates areas with such wrecks, and restricts access to them by the general public. Licenses are granted to individuals who want to carry out salvage operations on them or do historical research.

rewarded with the freedom to take from the site whatever one desires. This is certainly the attitude of Mel Fisher, a leading treasure hunter:

We go through all kinds of hell out on that rough ocean. We're risking our lives and doing alot of dangerous things. The state officials would not do that. The people they hire don't have the incentive, the will; they don't have the feeling for the hunt.<sup>14</sup>

Archaeologists are the merchants and seafarers of today, their activities are not well known and understood, and they are few and distant. In addition, their business is protected in writing by the state. Many feel that taking from a wreck is only taking from an archaeologist, or the state. It is not uncommon for popular diving publications to glorify what constitutes modern wrecking, and to caricature archaeologists as government bureaucrats.

Again, the state dictates that plunder is illegal, and the public is well aware of these laws. A great deal of the population, however, feels that the law is wrong, as they have not been given any idea as to why it is right. Again, we have an activity that is difficult, if not impossible, to regulate. Increasingly, the state creates tough penalties for lawbreaking, as was done in eighteenth-century England.

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<sup>14</sup>Mel Fisher, quoted in R. Duncan Mathewson III, Treasure of the Atocha (New York: Pisces Books, 1986), p. 120.

Still, as more people gain access to the sea, there is more plunder. Greed and curiosity are surely responsible for a great deal of stealing from wrecks, but the situation also creates a relatively safe and popularly condoned form of protest against the rules of the state.

In this light, passing new laws can be regarded as a knee-jerk reaction to a problem that has grown severe through neglect. A recently published guide for searching for shipwrecks and taking artifacts from them sums this up with nonchalance:

Wreck diving has many appealing features...but two in particular stand out as the prime reasons for hunting wrecks: underwater photography and artifact retrieval. As the amount of shipwreck legislation increases (for the protection of historical underwater sites) the interest in underwater photography increases proportionally but the thrill of recovering a ship's bell or wheel always stays in the mind as the most pleasurable of the two aspects of wreck diving.<sup>15</sup>

Thus legislation is seen as a small hindrance to taking artifacts from historic sites, and there is no mention of the motivation behind the laws.

Again what is needed is a strong principle to support legislation: the spread of the idea that what lies underwater is owned, and not by a distant state official or

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<sup>15</sup>Jim Jenney, In Search of Shipwrecks (New York: A.S. Barnes and Co., 1980), p. 46.

an academic, but by everyone. We need to establish that shipwrecks and other historic items (described by archaeologists in their own private jargon as *cultural resources*) are valuable to the public. Archaeologists sorely need to play a larger role in the development of these ideas. More laws, without more understanding, will have the same result as that of the seventeenth- and eighteenth-century England. This imbalance will breed contempt, self-justification, and unofficial protest, which exacerbates the problem. More specifically, it has been said that

Prohibitions rarely work. If recreational divers want to find historic shipwrecks, they will find them. If government policy is to keep sport divers off of wrecks, when the divers find wrecks, they'll keep the locations secret and salvage them slowly and incompletely, destroying the sites in the process.<sup>16</sup>

Salvage activities in the period between 1600 and 1800 affected a very small percentage of the English population. They may be the root, however, of a modern problem. And while currently a very small percentage of the population is directly involved in this controversy over maritime sites, the problem of access to and care of historic knowledge affects everyone.

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<sup>16</sup> Mathewson, Atocha, p. 122.

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## APPENDIX A

Below are examples of poetry, prayers and sayings that relate to wrecking and plunder. Most of the surviving lore of this type comes from Cornwall and dates from the nineteenth century. They are a testament to the way in which wrecking was imbedded in coastal culture.

"God bless Vawther 'n' Mawther, 'n' zend a ship t'shore vore mornin'."

--Cornish children's prayer, from Parker, Southwest, p. 184.

Save a stranger from the sea,  
And he'll prove your enemy

--Cornish saying, from Parker, Southwest, p. 187.

"Dear God, we pray not that wrecks should happen, but that if it be Thy will they do, we pray Thee let them be to the benefit of Thy poor people of Scilly."

--Supposed to have been said by Parson Troutbeck, Ibid.

Then full against his Cornish lands they [winds] roar,  
And two rich shipwrecks bless the lucky shore

--Alexander Pope, 1732 from Hay, Albion's, p. 169.

The Good Samaritan came ashore  
To feed the hungry and cloathe the poor,  
Barrels of beef and bales of linen,  
No poor man shall want a shillin'.

--a verse about a Cornish wreck of 1846. Ibid., p. 170.

From Wicked Rocks and Shelving Sands,  
 From Breague and Germoe men's hands,  
 Dear Lord deliver Us.

--Seaman's prayer. The area between Breague and Germoe was notorious for wrecking. Found in Larn and Carter, Cornish, p. 164.

Thus said the rushing raven,  
     Unto his hungry mate:  
 "Ho, gossip! for Bude Haven:  
     There be corpses six or eight.  
 Cawk! Cawk! the crew and skipper  
     Are wallowing in the sea:  
 So there's a savory supper  
     For my old dame and me"

"Cawk! gaffer! thou art dreaming,  
     The shore hath wreckers bold  
 Would rend the yelling seamen  
     From the billows' hold.  
 Cawk! Cawk! they'd bound for booty  
     Into the dragon's den:  
 And shout for "death or duty"  
     If the prey were drowning men..."

"Cawk! Cawk!" then said the raven  
     "I am fourscore years and ten:  
 Yet never in Bude Haven  
     Did I croak for rescued men--  
 They will save the captain's girdle  
     And shirt, if shirt there be:  
 But leave their blood to curdle  
     For my old dame and me."

--written by Parson Hawker, reacting in horror to wreckers on the north coast of Cornwall after the wreck of the Bencoolen in 1813. Ibid.