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The English Search for a Northeast Passage to Asia Reconsidered: How ‘Flemish’ fishermen put the *Edward Bonaventure* in jeopardy on its return journey in 1554

Louis Sicking and C. H. (Remco) van Rhee

In 1553 the *Edward Bonaventure* set sail from England with two other ships to search for a Northeast Passage to Asia. Eventually the ship made it to the White Sea and the captain of the ship, Richard Chancellor, reached Moscow where he met Tsar Ivan IV, ‘the Terrible’, at the Kremlin. In 1554 the ship returned to England but was ‘robbed by Flemings’, according to Richard Hakluyt. The discovery of a case file in the archives of the Great Council of Malines, the supreme court of the Netherlands in the sixteenth century, concerning the robbing of the *Edward Bonaventure* on its return voyage offers a new perspective on the spectacular first English expedition which resulted in the discovery of the North Cape and Anglo-Russian trade connections and diplomatic relations. Besides offering new knowledge on England’s pioneering voyage of 1553, this article explores possibilities and limitations of case files for historical research and offers a revealing example of political pressure on legal decision-making and shows that legal institutions were not necessarily the puppets of their rulers.

Key words: Northeast Passage, discoveries, prize law, Anglo-Netherlandish relations, Russia, Arctic, Richard Chancellor, *Edward Bonaventure*

In the summer of 1554 the North Sea witnessed a violent encounter between 40 or 50 herring busses from the Low Countries and the English ship *Edward Bonaventure*.¹ Although violent encounters occurred on a regular basis in the busy North Sea, this case is unusual as the *Bonaventure* was not an ordinary ship. It belonged to a group of three ships that had left England in 1553 in order to find a north-eastern sea route to Asia. The three ships got into trouble along the northern coast of the scarcely populated Kola peninsula, part of Russia. The crew of two of the three ships, the *Bona Esperanza* and the *Bona Confidentia*, tried to spend the winter at Kola, but perished from cold and exhaustion. The pilot major of the expedition,

1 Research by Louis Sicking within the context of the international research project *Maritime Conflict Management in Atlantic Europe, 1200–1600*, financed by NWO (Netherlands Organisation for Scientific Research) and the partner universities of Cantabrië (Santander), La Laguna, La Rochelle and Nova Lissabon. See <https://www.universiteitleiden.nl/en/research/research-projects/humanities/maritime-conflict-management-in-atlantic-europe>. Research by C. H. van Rhee within the context of the research programme Principles and Foundations of Civil Procedure of the Ius Commune Research School.

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Richard Chancellor, had more luck since he reached the White Sea with the third ship of the fleet, the *Bonaventure*, the largest of the three ships.² By accident, he reached the estuary of the Northern Dvina River, and from there Chancellor and his crew travelled to Moscow. There he was received by Tsar Ivan IV, 'the Terrible', (1530–84). The passage via the North Cape and through the White Sea to Russia, discovered incidentally by Chancellor, would allow the tsar to trade directly with western Europe without the intervention of others. Chancellor was well aware of the opportunities that establishing direct trading contacts with Russia offered for his principals. Therefore, the expedition of 1553, although it was a failure from the perspective of its original goal, offered unexpected possibilities for commercial success. Chancellor contributed to making Russia, via the northern sea-route, a regular commercial destination. The expedition of 1553 was the first long-distance voyage in which the city of London took part and which was run by a joint-stock company. It was, moreover, a first breakthrough which had great consequences for English overseas enterprise: endowed with a monopoly the Muscovy Company that was founded after the 1553 expedition became the leading English supporter of geographical enterprise and science for the next few decades.³

Until now, nothing has been known about the return journey of the *Bonaventure* from Russia, apart from this statement by Hakluyt,

Anno 1554. the sayd shippe Edward Bonadventure (although robbed homewarades by Flemings) returned with her company to London . . .⁴

The reason why the crews of the herring busses were identified as 'Flemings' in this quotation is easy to answer. In the sixteenth century the indication 'Flemings' was used as *pars pro toto* for all inhabitants of the Low Countries.⁵ Fishermen attacking a vessel may seem quite unusual but it must be realized that pre-modern fishermen were tough men used to violence at sea in a period when the distinction between peaceful seafarers and violent robbers did not exist except in contemporary writing.⁶ Even though it is true that fishing boats were vulnerable to attack while fishing, in periods of war they went fishing either accompanied by convoy vessels or were armed themselves.⁷ What is more relevant for this article is that fishermen themselves easily turned into pirates or privateers if circumstances forced them to or offered a chance to make a profit. The Netherlands were no exception to this reality in the North Sea, even though before the Dutch Revolt privateering was essentially a secondary activity, taking place in conjunction with or as a corollary of fishing and trading. It is no coincidence that the fishing towns of Dunkirk in Flanders and Flushing in Zeeland produced privateers in periods of war. As is well known, privateers easily overstepped the mark by attacking vessels which did not belong

2 Evans, *Tudor Adventurers*, 82; Andrews, *Trade, Plunder and Settlement*, 64–75.

3 Alford, *London's Triumph*, 74, 76; Andrews, *Trade*, 68–9.

4 Hakluyt, *The Principal Navigations*, vol. 2, 265.

5 On the manner in which the Low Countries were referred to in the early modern period, see Duke, 'The Elusive Netherlands', 10–38.

6 Pye, *The Edge of the World*, 189–90; Heebøll-Holm, et al., 'Introduction', 9–30.

7 For an iconographic example of fishermen defending themselves while under attack, see the *Panorama van Walcheren* by Antoon van den Wijngaerde, about 1550. For an image of the relevant detail see Sicking, *La naissance d'une thalassocratie*, 180.

to the official enemy. For the Netherlands, ruled by the Habsburgs in the sixteenth century, the main enemy was Valois France.⁸

The quotation comes from a letter incorporated in Richard Hakluyt's *Principal Navigations*, a letter dating from more than 30 years after the expedition took place. In the letter, written by the English merchant Henry Lane and addressed to William Sanderson, it is explained that the *Bonaventure* had navigated safely to 'St. Nicholas' (today's Severodvinsk in the Russian Federation, where the St Nicholas monastery was situated) on the coast of the White Sea. The letter then continues with the quotation just mentioned. Henry Lane wrote his letter because of Sanderson's intention to write a book on the English discovery of the Northeast Passage to Russia. Lane had not participated in the first expedition of 1553, but he joined the second expedition which set sail in 1555. He acted as an agent and, as a result, met Richard Chancellor, who was the leader of the second expedition.

The letter is of importance as thus far it was the only known, but very short report of the return journey of the *Bonaventure*.⁹ As Felipe Fernandez-Armesto has emphasized, it was as important for explorers to find their way home as to discover something new.¹⁰ This justifies attention on the capture of the *Bonaventure* on its homeward journey, about which new information has been found in hitherto unknown sources.

The aim of this article is twofold. First, it answers the question to which extent the file from the Great Council can supplement our knowledge of the first English expedition to find a Northeast Passage to Asia. Second, it demonstrates the possibilities and limitations offered by judicial records to historians. In his recent monograph on the first English expedition aimed at finding the Northeast Passage, James Evans suggests that the *Bonaventure* may have been captured by using general information on privateering and piracy in the North Sea in the sixteenth century.¹¹ In this contribution the author's views will be amended and supplemented with the information on the actual capture in a case file in the archives of the Great Council of Malines, which was the supreme court of the Netherlands at the time. The file contains important information on the *Bonaventure*, on those having an interest in the ship and the goods carried by it, as well as on the violent encounter on the North Sea. The central research question is to which extent the file can supplement our knowledge of the first English expedition to find a Northeast Passage, which resulted in the visit of Richard Chancellor to the Russian tsar.

The case file in the archives of the Great Council of Malines provides new information on the 'pioneering voyage of 1553', which has been considered 'a staple of British imperial history' and 'one of the boldest in English history'.¹² It contains further details about the capture of the *Bonaventure* by 'Flemish' fishermen.¹³ The

8 Sicking, 'State and Non-state Violence at Sea', 31-43, 34, 43; van Vliet, *Vissers en kapers*; Sicking and van Vliet, 'Our Triumph of Holland', 337-64.

9 Evans, *Tudor Adventurers*, 225.

10 Fernandez-Armesto, *Pathfinders*, 44.

11 Evans, *Tudor Adventurers*, 226-7.

12 *Ibid.*, 7.

13 The case file used for the present contribution is file 922 of the series Appeals from Holland (BH) in the archives of the Great Council of Malines (GRM), currently in the General State Archives of Belgium in Brussels (ARA). Most of the documents in this file are in Dutch and few in

file also contains information on subsequent litigation before the Admiralty court in the town of Veere in Zeeland, and proceedings on appeal before the Great Council of Malines. This information has previously escaped the attention of researchers.

The second aim of this contribution is to use the case to show the research opportunities and limitations offered by judicial records to historians. Obviously, the 'prize papers' in the archives of the High Court of Admiralty in The National Archives, Kew, have triggered more interest in the use of judicial archives as historical sources in recent years.¹⁴ These prize papers not only provide information on the way prize cases were handled by the Admiralty Court, but they are also relevant for further historical research, especially due to the correspondence and other documents from the ships taken as a prize by the English. For those interested in prize cases, obviously the archives of the admiralty courts will be the focus of attention. It should be remembered, however, that other courts were also competent to hear such cases. An example of such a court in the Low Countries is the Great Council of Malines, which was competent for several Netherlandish provinces. The Great Council served as a court of final appeal in prize cases submitted to the Admiralty Court in the first instance.¹⁵

Several aspects of the taking of the *Bonaventure* will be discussed. First, the violent encounter near Scarborough on the North Sea will be studied. Subsequently, the diplomatic context of the taking of the *Bonaventure* will be sketched, focusing on the marriage of Philip of Habsburg (later King Philip II of Spain) and Mary Tudor. Third, the court cases before the Admiralty Court and the Great Council will be described as well as the legal arguments exchanged in these cases. Next the focus will be on courtesy at sea and the views of the litigating parties concerning the flag of the *Bonaventure*, especially the question of whether the flag could be recognized as an English flag. Finally, the goods stolen from the *Bonaventure* and their appraisal will be discussed. However, first some additional information on the *Bonaventure* and those having a direct interest in it will be provided.

The 'Edward Bonaventure' and its stakeholders

Bonaventure was a popular name for ships in the sixteenth century.¹⁶ Nevertheless, that our case file concerns the *Bonaventure* that set sail in 1553, arriving eventually in Russia, appears unmistakably from references in the case file to a letter from the tsar addressed to the king of England that was handed over to Richard Chancellor after his visit to the Kremlin. This letter served as the basis for later diplomatic and trade relations between the two countries. The parties that are mentioned in the case file also leave no doubt concerning this matter. Parties are the stakeholders in the expedition of 1553, i.e. London merchants and administrators.¹⁷ In the court records,

French. We follow the way the individual documents in the case file are identified in the relevant calendar. The case file itself is referred to as BH 922.

14 Especially due to projects like 'Dutch Prize Papers' in the Netherlands, <https://www.huygens.knaw.nl/dutch-prize-papers/> and, more recently, the larger 'Prize Papers Project' of the university of Oldenburg in Germany, <https://www.prizepapers.de/>

15 Sicking, *Neptune and the Netherlands*, 124, 441; Sicking and van Rhee, 'Prijs, procedure en proceskosten', 337–57.

16 See for instance Sicking and Van Rhee, 'Prijs, procedure en proceskosten'.

17 Alford, *London's Triumph*, passim; Evans, *Tudor Adventurers*, passim.

the names of these parties are not rendered in English but in a Dutch variant as was common in the sixteenth century, but they are easily recognizable.¹⁸

The representative of the stakeholders in the *Bonaventure* before the courts in the Low Countries was the London merchant Thomas Francis, who acted in the name of 'knights' Sebastian Cabot, Sir George Barne, Sir Andrew Judde, the London aldermen David Woodroffe and William Chester, the pilot major Richard Chancellor, the skipper or shipmaster Stephen Borough, and the ship owners and crew members.¹⁹ Unfortunately, we have not been able to identify Thomas Francis,²⁰ but the litigants represented by him are well-known. Sebastian Cabot was the son of John Cabot or Giovanni Caboto who with a commission of King Henry VII had discovered the coast of North America, from Bristol, in his quest to find a north-west route to Asia in 1497. Sebastian, who had accompanied his father in 1497, returned to the American coast twice, in 1504 and in 1508–9, unlike his father realizing that he had *not* discovered a new passage to Asia but a new landmass, i.e. America.²¹ According to James Evans, Sebastian Cabot acted as the source of inspiration for the expedition of 1553 to find a Northeast Passage to Asia.²² Together with Cabot, Sir George Barne belonged to the committee that had set up the expedition to the Arctic. In 1552–3 he was lord mayor of London and in 1555 he acted as one of the two aldermen-consuls of the Muscovy Company.²³ Sir Andrew Judde was very influential in the Skinners' Company, and like other fur traders he was a founding member of the Muscovy Company. In 1550–1 he was lord mayor of London.²⁴ David Woodroffe was a haberdasher originating from Devon. William Chester was a draper, and David Woodroffe and William Chester were aldermen of the city of London in 1554.²⁵

Richard Chancellor acted as captain of the *Bonaventure* and as pilot general of the fleet which was commanded by Sir Hugh Willoughby as captain general.²⁶ Chancellor was born in Bristol and thus grew up in a seafaring environment. He belonged to a small group of Englishmen that combined practical maritime with mathematical and astronomical skills, and was the first Englishman to master the techniques of ocean-going navigation. Sebastian Cabot may have possessed such skills as well, since he

18 The same is true for geographical names in the court records.

19 BH 922, c. 3.

20 We were unable to find a Thomas Francis in the Calendar of State Papers which can be identified with the Thomas Francis in this article. Nor did we find a Thomas Francis in Dietz, *The Port and Trade*, nor in the source publications on the Anglo-Dutch trade: Smit (ed.), *Bronnen tot de geschiedenis*, vol. 2. There was a Dr Thomas Francis, physician, who was an Oxford scholar in the 1560s and who lived in London, but we do not think he can be identified as the Thomas Francis in the case file.

21 Evans, *Tudor Adventurers*, 13–20.

22 *Ibid.*, 242.

23 *Ibid.*, 61, 242, 255; Alford, *England's Triumph*, 77–8, 236. <https://www.british-history.ac.uk/no-series/london-aldermen/hen3-1912/pp168-195>

24 Evans, *Tudor Adventurers*, 242; Alford, *England's Triumph*, 236. <https://www.british-history.ac.uk/no-series/london-aldermen/hen3-1912/pp168-195>

25 Evans, *Tudor Adventurers* and Alford, *England's Triumph*, do not mention Woodroffe and Chester in connection with the 1553 expedition. Beaven, *The Aldermen of the City of London*, 22–44. <http://www.british-history.ac.uk/no-series/london-aldermen/hen3-1912>. See also Westell, *The Inside Story*, 18; Alford, *England's Triumph*, 88.

26 Alford, *England's Triumph*, 71. Evans, *Tudor Adventurers*, 73.

had lived and worked for most of his career in Spain, where he could have been instructed in these matters. They both embraced the belief that personal experience was more important than accepted knowledge.²⁷

Stephen Borough from Devon was 27 years old at the beginning of the expedition. He had been sailing for more than a decade at the time. Like Chancellor, he took an interest in the intellectual side of seafaring and acted as Chancellor's master, i.e. the second in command. Borough's younger brother, William, was only 16 years old and joined as a regular mariner to gain experience.²⁸ On the second voyage to Russia Stephen Borough, passing the North Cape, commented that he had named that Cape 'North Cape' on his earlier voyage.²⁹ Stephen and William Borough would become the most important pilots of the Muscovy Company after Chancellor's death in 1556. They profited from the lessons of John Dee, who collaborated closely with Chancellor after the latter's return from Russia in 1554.³⁰ The case file has thus allowed us to formally determine the stakeholders of the *Bonaventure*.

A violent encounter

The violent encounter between the *Bonaventure* and the herring busses took place in the North Sea off Scarborough on 4 August 1554.³¹ The steersmen of the busses originated mainly from the town of Flushing and the village of Zoutelande on the island of Walcheren in Zeeland.³² At the moment of the encounter, there were not only a large number of Netherlandish herring busses present, but according to the Netherlandish fishermen also an unknown number of English fishing vessels.³³ The fishermen claimed in court that the *Bonaventure* was riding at anchor with dropped sails at a distance of one or two miles from their vessels.³⁴ How this situation culminated in a violent encounter does not become clear from the records. Both the fishermen and the crew of the *Bonaventure* claimed that the opponent party had initiated the attack. The fishermen succeeded in taking the English ship, after several herring busses – about eight on each side – had navigated next to the *Bonaventure*.³⁵ A total of around 40 fishermen,³⁶ jumped aboard the ship and overpowered the English crew of about 35 souls,³⁷ took the ship's flag from its standard, tearing it to pieces and tramping on it – something that was later denied by the fishermen – while uttering all kinds of abusive language.³⁸ The English crew was taken from the ship and distributed among the herring busses, three or four per buss. They were threatened to be put overboard.³⁹ The fishermen started plundering the *Bonaventure*, which was carrying

27 Evans, *Tudor Adventurers*, 50–1, 74–6, 125, 326.

28 *Ibid.*, 82, 90, 326; Andrews, *Trade, Plunder and Settlement*, 69.

29 Evans, *Tudor Adventures*, 132.

30 Alford, *England's Triumph*, 131; Andrews, *Trade, Plunder and Settlement*, 69–72.

31 BH 922, c, 3, 15. Cf. Evans, *Tudor Adventurers*, 226–8, who presumes that a pirate vessel or privateer attacked the *Bonaventure*.

32 BH 922, i, 5, 9.

33 BH 922, i, 8; BH 922, l, 3; BH 922, F, 17.

34 BH 922, c, 6.

35 BH 922, c, 4.

36 BH 922, F, 30.

37 Evans, *Tudor Adventurers*, 85, mentions 37 crew members. BH 922, F, 10 mentions 50 crew.

38 BH 922, c, 4, 12.

39 BH 922, c, 4.

luxurious clothing, other merchandise, money, and victuals such as meat, fish and (Spanish) wines.⁴⁰ However, when the fishermen discovered the *Bonaventure* was English, and when they were informed that the captain and senior merchants had left the ship in Newcastle with a letter from the tsar addressed to the English king, they changed their mind. The crew of the *Bonaventure* were released, taken back to their ship and allowed to depart. However, the merchandise and other goods that had been stolen was not returned.⁴¹ According to the steersmen of the herring busses, they had not been able to prevent their crew going aboard the *Bonaventure*, because they were occupied with navigating their ships, as the encounter took place at dusk.⁴²

After the encounter, the fishermen continued to catch herring. Some of the goods that was stolen from the *Bonaventure* was sold in Holland, Zeeland, Brabant and in Scarborough,⁴³ for a price that was according to Francis 'much too low',⁴⁴ without contacting the Admiralty Court in Veere, something the fishermen were obliged to do according to the relevant Admiralty Ordinance.⁴⁵ According to the English merchants and ship owners, a representative of the Veere Admiralty, the bailiff of Flushing, was only informed of the events in the North Sea when it became clear that a lawsuit would be started by Thomas Francis as representative of the English ship owners, merchants and other stakeholders.⁴⁶

Diplomatic context: a Habsburg family party

When Thomas Francis initiated the lawsuit before the Admiralty Court of the Low Countries in the autumn of 1554,⁴⁷ relationships between England and the Netherlands were dominated by the marriage of Mary Tudor and Philip, son of emperor Charles V, on 25 July 1554.⁴⁸ Emperor Charles V was lord of the various provinces of the Low Countries, and as a result of the marriage he achieved his political goal of encircling France, with England and the Low Countries in the north, Burgundy and the German empire in the east, and Spain, Lombardy and Sardinia in the south.⁴⁹

40 BH 922, c, 4–5, 21; BH 922, F, 29–30. The value of the merchandise was according to Francis more than 851 pounds sterling, whereas the victuals valued according to him 99 pounds sterling. The merchandise the *Bonaventure* was carrying can only be reconstructed partly, since the inventory of these goods submitted in court is missing. We find, among other things, the following items mentioned: a silk steersman's robe, most likely with fur lining, valued at 14 Flemish pounds *groot* according to Francis, a second silk one most likely with fur lining valued at 10 Flemish pounds *groot*, a male skirt with fur lining ('rok') valued at 4 Flemish pounds *groot*, 'jewelery' and white cloth ('laken') (BH 922, c, 21, 26, 28).

41 BH 922, c, 5. Evans, *Tudor Adventurers*, 228, presumed 'a deal was done', as substantial losses of goods or men are not mentioned in the surviving records.

42 BH 922, c, 8, 12, 20; BH 922, F, 12, 21–22.

43 BH 922, c, 16, 26. Due to adverse wind some fishermen had to enter the port of Scarborough.

44 BH 922, c, 17.

45 BH 922, c, 5, 16. On the 1488 and 1540 Netherlandish Admiralty Ordonnances, see Sicking, *Neptune and the Netherlands*, 63–88, 122–31.

46 BH 922, c, 6, 13, 16.

47 BH 922, b.

48 On this marriage, see e.g. Samson, 'A Fine Romance'; Rodriguez Salgado, *The Changing Face of Empire*, 79–85; Postma, *Viglius van Aytta*, 72–3.

49 Parker, *The Grand Strategy of Philip II*, 147.

The encounter of the fishermen from Zeeland and the *Bonaventure* took place during the fifth Franco-Habsburg War (1551–6), one of a series of six wars between the house of Habsburg and the Valois, the French royal family. These wars had been fought mainly in Italy – that is why they are also known as the Italian Wars – but in 1547 the emphasis shifted to north-western Europe.⁵⁰ Even though the political situation between France and England was unstable in 1554, the two countries were not at war at that time.⁵¹

Legal historians from various parts of Europe have claimed that in late medieval and early modern Europe, diplomatic and political considerations played a major role in deciding prize cases.⁵² Although direct evidence is often lacking, indirect indications are abundant when specific prize cases are studied in their political and diplomatic context.⁵³ In the case of the *Bonaventure*, we have uncovered a document demonstrating how contemporary monarchs and other authorities interfered in the decision of such cases. The relevant document is a letter written by Mary of Hungary, the regent of the Low Countries and sister of Charles V, dated 20 November 1554, and addressed to the admiral in Zeeland. In the letter Mary explains that the English king, her nephew Philip of Habsburg, had informed her in a letter dated 26 October 1554 about the taking of the *Bonaventure* by Netherlandish subjects.⁵⁴ Philip asked his aunt for the return of the ship and its cargo. Philip may have been informed about the return of the *Bonaventure* by those who had disembarked at Newcastle, and he may even have received the letter from the tsar that was in their possession. Some of the goods carried by the *Bonaventure* were most likely meant to be delivered to Philip and therefore he would have had a direct interest in the case. Mary asked her admiral, Maximilian of Burgundy, for restitution of ship and cargo, as well as for a suitable punishment of those who had taken the *Bonaventure*. She also demanded the arrest of the most prominent fishermen who had been involved in the attack, one of them being Cornelis Eeuwoutsz from Flushing.⁵⁵ The admiral would have to question those who could be arrested in such a manner that they would reveal the names of their accomplices. He would have to determine as well what had happened with the goods that had been taken from the *Bonaventure*. According to rumours, the largest part of these goods had been transported to Flushing. The admiral would have to bring the responsible fishermen before the law and the English had to be indemnified for their damages in order to make sure that King Philip had not further reasons to complain. Mary also asked her admiral to provide her with information

50 Shaw, *Italian Wars*.

51 Loades, *The Tudor Navy*, 159.

52 See e.g. Roelofsen, *Studies*, 7–8; Sicking and van Rhee, 'Prijs, procedure en proceskosten'; Wijffels, *Alberico Gentili and Thomas Crompton*, 15; Wubs-Mrozewicz and Wijffels, 'Diplomacy and Advocacy', 1–53; van Nieuwenhuize, 'Prize Law', 142–61 and Allain, 'International treaties', 162–76.

53 See e.g. Sicking and van Rhee, 'Prijs, procedure en proceskosten', and Sicking and van Rhee, 'Prize law, procedure and politics', 302–22.

54 Although the name *Bonaventure* was popular, the identity of the ship the letter is referring to cannot be mistaken since Cornelis Eeuwoutsz is mentioned in it. He is one of the fishermen from Zeeland. ARA Brussels, Aud 1659/2 fos 328–329. GRM BH 922.

55 Two skippers are called 'Cornelis Eeuwoutsz', i.e. Cornelis Eeuwoutsz Slobbe and Cornelis Eeuwoutsz Harderloot; here and below it is unclear which is referred to unless their last name is mentioned specifically.

on the steps that would be taken and this would enable her to inform Philip on the matter.⁵⁶

This Habsburg family party, about which further details are lacking, shows that a court in the country of origin of the privateers or other sea robbers – here the Admiralty Court in Veere represented by the admiral – was pressured by the regent to bring her subjects before the law, to punish them and to indemnify those who had been damaged. Since the Admiralty Court issued a positive judgement for the English on 31 August 1555,⁵⁷ one may ask whether this judgement can be viewed as the execution of the orders of the central government of the Low Countries in Brussels. Whatever the answer may be, it is obvious that Philip of Habsburg interfered, most likely due to the special importance of the *Bonaventure* and its cargo.

Litigation

On 31 August 1555 the Admiralty Court in Veere ruled that the fishermen should return the goods that had been taken from the *Bonaventure*. If these goods could not be recovered, the fishermen had to indemnify the English. They were declared severally liable but were allowed to take recourse against each other afterwards. The English, in their turn, needed to swear that the goods they were claiming had indeed been taken from the *Bonaventure* and that the value of these goods as specified by them was correct. The fishermen were ordered to pay the costs of the lawsuit. Their counterclaim for damages was denied.⁵⁸ The procurator general was ordered to start proceedings to safeguard the interests of the sovereign.⁵⁹ The specific reasons for the judgement cannot be reconstructed, since as a rule judgements on the European continent did not contain reasons during the early modern period.⁶⁰

The lawsuit at the Admiralty Court did not take long. The English submitted their claim in Veere on 7 December 1554,⁶¹ and the judgement followed nearly nine months later on 31 August 1555. This time period could have been shorter if the Admiralty Court had not needed more than five months to issue a judgement after the parties had concluded their case in court and submitted it for judgement.⁶² Here it should be mentioned that the length of proceedings before the Admiralty Court varied considerably. In a case started in 1535 judgement was rendered six years later in 1540.⁶³ In 1547, on the contrary, two prize cases and a case concerning the appraisal of goods were each terminated within a few weeks.⁶⁴ Cases that were brought before the Great Council of Malines lasted on average two to three years. Obviously, there

56 Mary of Hungary to Maximilian of Burgundy (Brussels 20 Nov. 1554), ARA Brussels, Aud. 1659/2, fos 328–329: '*faisant administrer aux Anglois endommaigés si bonne et briefve justice que ledit sr Roy en puist avoir contentement*'. Summarized in Tyler (ed.), *Calendar of Letters*, 100, document no. 107.

57 BH 922, c, 34.

58 The counterclaim was for an amount of 124 Flemish pounds *groot* and the revenue of the herring that they had not been able to catch due to the encounter at sea. BH 922, c, 14.

59 BH 922, c, 33–34.

60 Wielant, *Practijke civile*; Wielant, *Briève Instruction en causes civiles*; van Rhee, 'The Role of European Superior Courts', 373–85.

61 BH 922, b.

62 BH 922, c, 31–33.

63 Roelofsen, *Studies in the History of International Law*, xix–xxiii.

64 Sicking and van Rhee, 'Prijis, procedure en proceskosten'.

were cases which differed: some only took one month, whereas others could last as long as 20 years.⁶⁵ The Admiralty Court, therefore, seems to have provided justice much more quickly than the Great Council, although it should be mentioned that the number of court cases that have been preserved from the Great Council is much higher than the few cases that have been preserved from the Admiralty Court in Veere.⁶⁶

The letter from Mary of Hungary does not seem to have increased the speed of litigation, nor resulted in the court disregarding its usual way of dealing with prize cases. This may have been due to the fact that the admiral himself also had an interest in the case and, therefore, in a proper procedure since the fishermen had disregarded the Netherlandish Admiralty Ordinance which stated that the taking of a ship should be reported in order to allow the Admiralty to determine whether it was to be classified as a just prize. After all, ten per cent of the prize had to be paid to the Admiralty. Furthermore, the admiral was also lord of Flushing and had to take care that cases involving his subjects were carefully investigated. The latter was relevant since the lawsuit involving the *Bonaventure* concerned at least two of the admiral's subjects, the namesakes Cornelis Eeuwoutsz Slobbe and Cornelis Eeuwoutsz Harderloote. These fishermen were suspected of playing a major role in the taking of the *Bonaventure*.

On 10 December 1554 the Admiralty Court ordered that during the lawsuit the fishermen should remain in the town of Veere. This would obviously have caused them great losses and therefore they asked for bail, which was set at 1,500 Flemish pounds *groot*.⁶⁷ They were, however, forbidden to leave the island of Walcheren since the court stated that this island would serve them as their prison.⁶⁸

As soon as the Admiralty Court issued its judgement, the fishermen announced that they would file an appeal against it at the Great Council of Malines.⁶⁹ We have not been able to uncover a final judgement of the Great Council. The last known document relating to the case is dated 4 February 1559. Before that date the fishermen had delayed the proceedings by submitting two petitions, asking the Great Council to deviate from the ordinary procedural rules. Whether the delay was also due to the changing political and diplomatic circumstances cannot be proven, even though these changing circumstances were favourable to the fishermen. After Mary Tudor died on 17 November 1558, the Habsburg family relations that linked England to Spain and the Low Countries came to an end. Philip was crowned king of Spain and succeeded his father as lord of the Netherlands, but his kingship in England ended with the death of Mary. The resulting enthronement of the protestant Elizabeth I in 1558 resulted in worsening relationships between the Habsburgs and Albion.⁷⁰

65 van Rhee, *Litigation and Legislation*, 342.

66 Much of the archives of this court have disappeared. Sicking, *Neptune and the Netherlands*, 437.

67 'ponden groten Vlaems'. There are 240 groten to the Flemish pound.

68 BH 922, b, 1.

69 BH 922, c, 34; BH 922, d.

70 Things also worked the other way around, when the Great Council requested the monarch for guidance. In an example from 1557 the council asked Philip II if cargo transported on neutral ships from the Low Countries to France could be considered a just prize. ARA Brussels, GRM Registers inv. no. 148, fos 87v–88v.

Who was responsible for the violence at sea?

The major legal argument in the case file, which does not contain many such arguments, is that both according to the *ius commune* and according to natural law, he who is subject to an attack may rightfully defend himself.⁷¹ Much time was, consequently, spent on the question of who had initiated the hostilities. Thomas Francis claimed that the fishermen had launched the attack even though such hostilities were legally not allowed due to the good alliance, confederation and friendship between the Emperor and the king of England.⁷² He also stated that it was unlikely that a single ship as the *Bonaventure* would attempt to attack between 40 and 50 herring busses since such an imbalance of power could not be overcome.⁷³ The fishermen, however, argued that the *Bonaventure* was a warship and stated that around eight years previously (this must have been in or around 1546) a ship of war had successfully attacked 200 fishing vessels.⁷⁴ Nevertheless, according to Thomas Francis the *Bonaventure* had been fired at by the herring busses first and as a result two English crewmen had died and one crewman was severely injured.⁷⁵ After the shooting, the *Bonaventure* was approached by eight herring busses on each side. Francis stated that the fishermen jumped aboard the English ship and started to plunder. He held that after the crew of the *Bonaventure* had been distributed among the herring busses, they were robbed of their clothes as if they had been enemies.

The steersmen of the herring busses denied that they were the first to attack.⁷⁶ They stated that the *Bonaventure* could not be regarded as a merchant ship, since it was heavily armed and carried little merchandise, and a considerable number of the crew consisted of French, German, Scottish, English and other sailors, something that Francis denied.⁷⁷ They claimed that they were afraid that the *Bonaventure* was an enemy vessel from France, a country that was at war with the Low Countries. They also held that the ship was accompanied by one or two smaller boats and, therefore, they feared it was a ship of war. After all, ships of war were usually accompanied by a sloop that could be used in an attack.⁷⁸ A witness stated that there were no convoy ships in the neighbourhood in order to protect the fishermen, which was an extra reason for concern.⁷⁹

According to the fishermen, the situation was threatening since a ramp (*schans*) had been erected on the upper deck (*coebrughe*) of the *Bonaventure*. Additionally, the crew's nests had been furnished with lances, stones and other weaponry, and

71 BH 922, c, 6, 11.

72 BH 922, c, 3.

73 BH 922, c, 15, 18, 25. A witness stated that he was present when the skipper (*overste*) of the *Bonaventure* was questioned in the herring buss of Cornelis Eeuwoutsz about the violence committed by his ship against the large number of herring busses. The skipper declared that he would have 'played another game' with the fishermen if the number of herring busses had been seven or eight (BH 922, k, 1; BH 922, F, 26).

74 BH 922, c, 19; BH 922, j, 1; BH 922, F, 23–24.

75 BH 922, c, 15. BH 922, c, at 4, mentions that three English crew members died.

76 BH 922, l, 7.

77 BH 922, c, 11, 18.

78 BH 922, i, 18. See also BH 922, c, 15; Knighton and Loades (eds), *The Anthony Roll*, 82, 84, 86, 90.

79 BH 922, i, 9; BH 922, F, 18.

the foresail had been raised. The fishermen claimed that the *Bonaventure* was thus equipped as a ship of war or as a privateer. It was heading for the fishing vessels together with its sloop. The captain or the pilot (Richard Chancellor or Stephan Borough) was standing on deck with an iron ring collar around his neck and a broadsword in his hand, while at the back of the ship a flag with fleurs-de-lis had been raised. The *Bonaventure* subsequently started its attack, its crew members behaving like ‘roaring lions’,⁸⁰ and fired with heavy arms in the direction of the herring busses, hitting and damaging several busses, their masts, sails and cables, as well as injuring crew members; Cornelis Eeuwoutsz, steersman, and some of his crew are specifically mentioned. According to the fishermen, the crew of the *Bonaventure* also threatened that they would come aboard the fishing vessels.⁸¹

Later, in the lawsuit before the Great Council, the fishermen provided an additional reason why they were afraid and should not be considered as the initiators of the attack. If they had the intention to plunder, they could have attacked the large number of unarmed English fishing vessels that were in the neighbourhood and not the *Bonaventure*.⁸² They added that their response to the apparent threat of the *Bonaventure* was understandable, taking into consideration information that they had acquired about the situation at sea. They were informed by a Flemish fishing vessel, most likely *after* the encounter with the *Bonaventure*, which does not make the argument very convincing, that it had been followed by two French enemy ships.⁸³ Furthermore, after entering the port of Scarborough, also *after* the encounter with the *Bonaventure*, one of the fishermen was informed by a skipper from the Baltic that he had been attacked by the *Bonaventure*, loosing 50 bales of flax.⁸⁴

It is interesting that the steersmen of the herring busses tried to distance themselves from their crew, and this gave rise to another legal argument. They claimed to have been occupied in navigating their vessels and to have been unable to prevent their crew from boarding the *Bonaventure* since the encounter between the English and the fishermen took place at dusk, and lasted up to three hours. When fighting was over, the steersmen felt unable to force their crew to return the spoils of the encounter to their rightful owners, but obviously, they stated, they had not wanted their crew to plunder the *Bonaventure*.

According to Thomas Francis, however, the fishermen had acted as one group (*cum multitudinem*). They claimed that the steersmen were severally liable (*insolidum*)⁸⁵ since sailors have to follow the orders of their masters.⁸⁶ This was denied by the steersmen, who stated that they were not responsible for the acts of their crew. They held that if the court would decide that the fishermen were liable, each would only be liable for the damage caused by himself (*pro rata*).⁸⁷

80 BH 922, c, 30.

81 BH 922, c, 7–8, 11; BH 922, i, 6; BH 922, A, 2, 4; BH 922, F, 6–7, 12–13.

82 BH 922, i, 8; BH 922, F, 17.

83 BH 922, i, 9; BH 922, F, 18.

84 BH 922, A, 6.

85 BH 922, c, 5.

86 BH 922, c, 15–17, 27. The 1551 Maritime Ordinance, repealed in 1563, emphasizes that the crew should follow the orders of the skipper. The ordinance does not state explicitly that this results in his liability for the acts of his crew members, even though this may have been true by implication; Lameere (ed.), *Recueil des ordonnances*, 163–77, especially 171–5.

87 BH 922, c, 10.

The Englishmen also held that the group of fishermen could be defined as sea robbers (*spoliateur ende zeerover*). This argument centred on the fact that instead of sailing the *Bonaventure* to Zeeland and notifying the Admiralty in Veere, they remained at sea with the spoils of the ship. The English rightfully maintained that this was against the provisions of the Netherlandish Admiralty Ordinance of 1540, and especially its article 6. This article provided that goods taken at sea should be reported to the admiral, allowing the admiral to decide whether or not these goods could be defined as a good prize. Those who did not act in the prescribed manner would be guilty of theft and would be punished accordingly.⁸⁸

The English claimed that the goods taken from the *Bonaventure* should be restituted. If these goods could not be recovered, the fishermen were liable to indemnify the English according to the value indicated by them in a document submitted to the court, a document that is unfortunately missing in the case file. The English also requested that the representative of the sovereign (i.e. the procurator-fiscal) would join them,⁸⁹ most likely since the interests of the sovereign had been injured by not reporting to the admiral.

The fishermen denied the statements of the English and even claimed that the contested goods should be used to indemnify them for the damage incurred during the encounter.⁹⁰ In their view, not only physical damage to the fishing vessels needed to be compensated, but also damage caused by the fact that they had not been able to catch herring during part of their time at sea. They claimed that, consequently, each ship had caught five lasts less than usual.⁹¹ After the encounter the herring had disappeared. As with the English, the fishermen requested a representative of the sovereign to join them, apparently because they also felt that the sovereign's interests had been harmed, but this time by the English. They claimed that the goods taken from the *Bonaventure* belonged to the treasury (*fiscus*) since the English were responsible for breaking the peace.⁹²

It should be emphasized here that obviously the real circumstances cannot be uncovered. It is, however, certain that the *Bonaventure* was a heavily armed merchant ship, much better equipped with artillery and weapons than most other merchant ships would have been.⁹³ Therefore it may have been true that the fishermen considered it a ship of war, although it should be remembered that it was in their interest to put an emphasis on this in their pending lawsuit. Under ordinary circumstances, such a ship would have been the first to attack, which may have caused the fishermen to be nervous since they suffered more often from privateers and pirates.⁹⁴ However, it seems unlikely that the *Bonaventure* on its return journey from Russia would act in the manner described by the fishermen, since its safe return must have been top priority, never mind the hardships the crew of the *Bonaventure* would have been subject to at that stage in their voyage. Whatever may be true, however, this case

88 BH 922, c, 16–18.

89 BH 922, c, 6.

90 BH 922, c, 9.

91 BH 922, c, 10, 14.

92 BH 922, c, 11.

93 On the arms carried by the *Bonaventure*: Evans, *Tudor Adventurers*, 86–8, 228.

94 Sicking, *Neptune and the Netherlands*, 132–204; van Vliet, *Vissers en kapers*; Sicking and van Vliet, 'Our triumph of Holland', 337–64.

demonstrates that cooperation between fishermen could result in the capture of a large ship like the *Bonaventure*. This was facilitated by the fact that the herring busses were armed. According to the fishermen they had been ordered by their sovereign to carry arms, armed herring busses being no exception in Holland and Zeeland.⁹⁵

Courtesy at sea and showing the flag

The fishermen stated that the *Bonaventure* refused to lower its sails in honour of the Emperor when requested to do so. Lowering sails was, again according to the fishermen, the usual method of showing that a ship originated from a friendly power and not from enemies of the Emperor.⁹⁶ The skipper of the *Bonaventure*, Stephen Borough, stated, however, that before setting sail he had been ordered never to lower his sails as a mark of courtesy.⁹⁷

Another problem was the fact that according to the fishermen the *Bonaventure* carried a flag with fleurs-de-lis. The fishermen stated that they were ordinary fishermen and that they could hardly distinguish between a French and an English flag.⁹⁸ The fleurs-de-lis and the aggressive behaviour of the *Bonaventure* had frightened them. The English, however, claimed that their flag, also described in the records as the flag of the king of England (although it is unclear if the same flag was meant) was large and contained a red cross that was clearly visible.⁹⁹ In addition they argued that it was unlikely that fishermen, who do their business at sea every day, would be unfamiliar with the English flag.¹⁰⁰ The fishermen replied that even if this might be the case, flags could not be trusted since ships of war and privateers often carried flags that were not their own in order to use them as bait.¹⁰¹

This not only demonstrates that paying courtesy at sea and showing the flag was considered to be important in the sixteenth century, but also that privateers and enemy ships used it as a manner to cheat their victims.¹⁰² Interestingly, the Netherlandish Ordinance on Navigation of 1550 mentions the abuse of flags as well and forbade ships to carry two sets of flags if the monarchs of the individual sets were at war with each other. This was different if the flags ended up on a particular ship as war booty and if they were not used as a means to cheat other sailors.¹⁰³

The spoils of the 'Bonaventure' and their appraisal

When on board the *Bonaventure*, the fishermen started plundering the ship. As stated above, money, luxurious clothing, further merchandise and other goods were stolen, among which were four guns. Food as well as Spanish wines with a value of 99 pounds sterling are also mentioned. The wine was consumed on the spot, and the fishermen stated in their defence that the amount of wine that went missing

95 BH 922, c, 6. Flemish fishermen, whose ships were smaller than those from Holland and Zeeland, preferred being protected by convoy ships. Sicking, *Neptune and the Netherlands*, 197.

96 BH 922, c, 8; BH 922, i, 7; BH 922, A, 3; BH 922, F, 9.

97 BH 922, l, 2; BH 922, F, 26.

98 BH 922, c, 20.

99 BH 922, c, 15.

100 BH 922, c, 27.

101 BH 922, c, 30; BH 922, F, 22–23.

102 See also Evans, *Tudor Adventurers*, 226–7.

103 Art. 28 of the 1550 Ordinance. Lameere (ed.), *Recueil des ordonnances*, 11.

according to Francis was too high when taking into consideration the number of fishermen that had boarded the *Bonaventure* – claimed to be between 36 and 40 men – and the time they spent on the ship, i.e. one night only.¹⁰⁴

The fishermen also contested the value of the other goods carried by the *Bonaventure* and taken away by them, especially the value of the clothing.¹⁰⁵ They claimed that sailors like the men on the *Bonaventure* did not use expensive clothes. According to them, this was especially true for seamen sailing for Russia, since these sailors were usually poor men who could only care for their families with difficulty.¹⁰⁶ Apparently, already at this stage the fishermen or their counsel had become knowledgeable about details of trade with Russia.¹⁰⁷

The restitution of some of the missing goods was not realized without much effort. Some fishermen who refused to comply were arrested by the bailiff of Flushing.¹⁰⁸ A bailiff of the Admiralty was sent to the most important towns and villages of the isle of Walcheren, including Middelburg, Veere, Flushing, Westkapelle and Zoutelande, where he officially announced that within a period of one week all goods from the *Bonaventure* had to be deposited with the Admiralty, i.e. with the vice-admiral, Philip of Beveren, lord of Fontes.¹⁰⁹ There, an inventory would be drawn up. Unfortunately, the goods that were ultimately deposited with the Admiralty – fur, clothing, cloth, flag standards, sails and weapons¹¹⁰ – were considerably damaged and they were consequently valued less than they would have done in their original state.¹¹¹ It was sheer luck that Chancellor's *astrolabe*, which was also recovered, was still in its original state.¹¹²

The Englishmen contested that some of the goods that were deposited with the Admiralty had been taken from the *Bonaventure*.¹¹³ This was, for example, true for a recovered lodestone, a magnetic stone that was used to magnetize early compasses; the second one that was deposited with the Admiralty was an ordinary stone and of much lower value than the one stolen from the *Bonaventure*.¹¹⁴ The captain, alias pilot, who according to the case file was also a compass maker – definitely Richard Chancellor himself – would never make a journey such as the one to Russia with useless lodestones since 'the whole ship and its cargo are dependent on a good compass and this requires high quality lodestone'. The English held that the stone had been deposited secretly with the Admiralty in order to hide the true value of the missing lodestone.

104 BH 922, F, 29–30.

105 BH 922, c, 10.

106 BH 922, F, 31.

107 Trade between the Low Countries and Russia has been the subject of many studies, for example, Wijnroks, *Handel tussen Rusland en de Nederlanden*; Wijnroks, 'Anglo-Dutch Rivalry in Russian Trade', 413–32; Veluwenkamp, *Archangel. Nederlandse ondernemers in Rusland* (Amsterdam, 2000).

108 BH 922, c, 13.

109 BH 922, c, 21–22. The vice-admiral was a half-brother of Maximilian of Burgundy, i.e. the admiral. Sicking, *Neptune and the Netherlands*, 103.

110 BH 922, c, 22.

111 BH 922, c, 22, 28.

112 BH 922, c, 28.

113 BH 922, c, 23.

114 BH 922, c, 29. The lodestone that was missing was according to Francis and his compatriots very valuable, '*was van zulcken valeur dat die opheffen zoude twee onchen yzers*' (BH 922, c, 28).

The goods were valued on 2 March 1555 in the vice-admiral's house in Veere. Present were two judges of the Admiralty Court, a court clerk, Thomas Francis and his assistant Robert Masse, their lawyer Albert Slock, several steersmen of the herring busses and their lawyers Anthonis Trabel en Appollonius Lievensz. The appraisers were Jan Constant, auctioneer of household effects; Mayken Dierixdochter, a female sworn appraiser and clothes merchant; Jan Wellfartsz, sworn city messenger and appraiser; Elais Jacobsz, hawker; Matheus van Roye, fur worker; Willem Dierixz, cabinet maker; and Adriaen Willemsz, silversmith. This variety of appraisers further informs us about the cargo of the *Bonaventure*. During the meeting the parties agreed on the appraisal to take place, the results of which had to be validated by themselves later. On the same day, the appraisers completed their task.¹¹⁵ Unfortunately, the case file does not contain an inventory of the goods nor the appraisal.

Conclusion

For a long time, little was known about the return journey of the *Bonaventure* after the failed first English attempt to find a Northeast Passage to Asia. After centuries of silence, documents preserved in the archives of the Great Council of Malines, the highest court of the Low Countries, helped us to uncover detailed information on the *Bonaventure*, its stakeholders – among whom Sebastian Cabot and Richard Chancellor – and cargo. It also informs us about what happened when the ship was nearly back at its home port of London in August 1554. After the captain and senior merchants had left the ship in Newcastle to inform the English king, both about its return and the visit to the tsar in Moscow, the *Bonaventure* was taken by fishermen from the Netherlands off the coast of Scarborough.

The information derived from the documents in the archives of the Great Council needs a critical evaluation. Obviously, the documents were used in a prize case, first before the Admiralty Court in Veere and on appeal at the Great Council. The information provided is meant to strengthen the case of the party by whom the documents were submitted, so in that sense it is 'coloured'. In the present case this is especially problematic since the documents that have been preserved all belong to the case file of the fishermen; the file of Thomas Francis is missing and may have been collected by the lawyer when the lawsuit came to an end. Nevertheless, important new information has been retrieved which provides a clear picture of what happened in the North Sea and afterwards when the English started litigation in the Low Countries to recover the goods taken by the fishermen. The reader is informed about the stakeholders and the equipment of the *Bonaventure* and about its cargo. The fact that part of the crew had left the ship in Newcastle before it got into trouble most likely means that the royal court was informed about the return of the ship before it finally reached London. The significance of the expedition of the *Bonaventure* is emphasized by the English king, Philip of Habsburg, contacting the regent of the Low Countries, Mary of Hungary, in order to have the fishermen made responsible for their acts at sea.

It may be surprising that a merchant ship was attacked by fishermen. Usually, fishermen themselves were the victims of privateering and piracy. What is worse, the fishermen ignored the Netherlandish Admiralty Ordinance which stated that the

115 BH 922, c, 23–25.

taking of a ship had to be reported to the Admiralty Court in Veere. Initially, the central government in Brussels put pressure on the admiral to give the English their due as soon as possible. Emperor Charles V and regent Mary of Hungary were keen on preserving good relationships with England, i.e. with their son and nephew King Philip and Queen Mary. The judgement of the Admiralty Court was indeed positive for the English, but not only for them. Such a positive judgement was also in the interest of the admiral himself since it was against the rules that the taking of ships remained unreported. Such behaviour would undermine the authority of the admiral and would prevent him imposing a ten per cent tax on prizes that were declared good prizes by him.

The judgement of the Admiralty Court was immediately appealed by the fishermen at the Great Council of Malines. This shows that the political circumstances, which were originally more positive for the English than for the fishermen, did not deter them, or their lawyer, from bringing a costly lawsuit at the summit of the judicial hierarchy in the Netherlands. On appeal, the fishermen seem to have aimed at delaying the procedure, since they submitted two petitions in order not to be bound by specific procedural rules aiming at expedient litigation. The delay may have been beneficial for their case since the political circumstances changed during litigation. The death of Mary Tudor in 1558 meant that Philip of Habsburg lost the shared English crown, and that the protestant Elizabeth I succeeded to the throne. The Habsburg relationship with the English deteriorated, whereas the Habsburgs and France concluded the Peace of Cateau-Cambrésis in April 1559. These developments may have benefitted the fishermen, although much remains unclear since we have not been able to identify a final judgement from the Malines court in this case.

In sum, the case file studied provides interesting additional information about the first English expedition to find a Northeast Passage to Asia. The seamanship and interest of Richard Chancellor in nautical instruments, including the astrolabe that was stolen, is strongly expressed. Moreover, the study of the case file has made it clear that judicial institutions such as the Admiralty and the Great Council were not merely puppets of politics and diplomacy. The technical procedural rules allowed them to operate to a certain extent independently of the monarch, and it is crystal clear in the above case that they made use of this possibility.

And what happened to the *Bonaventure*? In 1555 it left London again and set sail for Russia, now as part of the Muscovy Company chartered by King Philip and Queen Mary. Richard Chancellor was again in command of the ship, which now formed part of a fleet of four ships. The return journey in 1556 was disastrous for Chancellor: he and part of the crew, among whom his eldest son, lost their lives when the ship foundered on the Scottish coast. The Russian ambassador, Osip Nepea, who was travelling aboard the *Bonaventure*, survived narrowly, but the goods carried by the ship ended up with the coastal population.¹¹⁶ Nevertheless, the basis was laid for diplomatic and trade relations between England and Russia.

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¹¹⁶ Alford, *England's Triumph*, 82–3. Evans, *Tudor Adventurers*, 282–7.

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References

- Alford, S., *London's Triumph. Merchant Adventurers and the Tudor City* (London and New York, 2017)
- Allain, T., 'International treaties versus *'bonne prise'*: the case of the Dutch merchant ship *De Vriendschap* in the Mediterranean in 1745', *Comparative Legal History*, 5:1 (2017) 162–76
- Andrews, K. R., *Trade, Plunder and Settlement: Maritime enterprise and the genesis of the British Empire, 1480–1630* (Cambridge, 1984)
- Beaven, A. P., *The Aldermen of the City of London Temp. Henry III–1912* (London, 1908)
- Dietz, B., *The Port and Trade of Early Elizabethan London: Documents* (London, 1972)
- Duke, A. C., 'The Elusive Netherlands: The question of national identity in the early modern Low Countries on the eve of the revolt', *Bijdragen en mededelingen betreffende de geschiedenis der Nederlanden*, no. 119 (2004) 10–38
- Evans, J., *Tudor Adventurers: An arctic voyage of discovery: the hunt for the Northeastern Passage* (New York, 2014)
- Fernandez-Armesto, F., *Pathfinders: A global history of exploration* (New York and London, 2007)
- Hakluyt, R., *The Principal Navigations, Voyages, Traffiques & Discoveries of the English Nation Made by Sea or Overland to the Remote and Farthest Distant Quarters of the Earth at Any Time Within the Compass of These 1600 Years*, vol. 2 (London, Toronto and New York, 1927)
- Heebøll-Holm, T., P. Höhn and G. Rohmann, 'Introduction' in Heebøll-Holm et al. (eds), *Merchants, Pirates and Smugglers: Criminalization, economics and the transformation of the maritime world* (Frankfurt and New York, 2019)
- Knighton, C. S., and D. M. Loades (eds), *The Anthony Roll of Henry VIII's Navy: Pepys Library 2991 and British Library Additional MS 22047 with related documents* (Aldershot, Burlington and Cambridge, 2000)
- Lameere, M. J. (ed.), *Recueil des ordonnances des Pays-Bas*, 2nd series, vol. 6, 1506–1700, (Brussels, 1922)
- Loades, D., *The Tudor Navy: An administrative, political and military history* (Aldershot, 1992)
- Nieuwenhuize, H. van, 'Prize law, international diplomacy and the treatment of foreign prizes in the seventeenth century: a case study', *Comparative Legal History*, 5:1 (2017) 142–61
- Parker, G., *The Grand Strategy of Philip II* (New Haven and London, 1998)
- Postma, F., *Viglius van Aytta: De jaren met Granvelle, 1549–1564* (Zutphen, 2000)
- Pye, M., *The Edge of the World: How the North Sea made us who we are* (London, 2014)
- Samson, A., 'A Fine Romance: Anglo-Spanish relations in the sixteenth century', *Journal of Medieval and Early Modern Studies*, 39:1 (2009) 65–94 and 86–90
- Rhee, C. H. van, *Litigation and Legislation: Civil procedure at first instance in the Great Council for the Netherlands in Malines, 1522–1559* (Brussels, 1997)
- , 'The Role of European Superiour Courts in Shaping the Law in the Early-Modern Period', in G. R. de Groot et al. (eds), *Kritiek op recht: Liber amicorum Gerrit van Maanen* (Deventer, 2014) 373–85
- Roeliguez Salgado, M. J., *The Changing Face of Empire: Charles V, Philip II and Habsburg authority, 1551–1559* (Cambridge, 1988)
- Roelofsens, C. G., *Studies in the History of International Law: Practice and doctrine in particular*

- with regard to the law of naval warfare in the Low Countries from circa 1450 until the early 17th century* (Utrecht, 1991)
- Shaw, C., *Italian Wars, 1494–1559: War, state and society in early modern Europe* (London, 2019)
- Sicking, L., *Neptune and the Netherlands. State, Economy, and War at Sea in the Renaissance* (Leiden and Boston, 2004)
- , ‘State and Non-state Violence at Sea: Privateering in the Habsburg Netherlands’ in D. J. Starkey and M. Hahn-Pedersen (eds), *Bridging Troubled Waters: Conflict and co-operation in the North Sea region since 1550* (Esbjerg, 2005)
- , *La naissance d’une thalassocratie. Les Pays-Bas et la mer à l’aube du Siècle d’or* (Paris, 2015)
- , and A. P. van Vliet, ‘“Our Triumph of Holland”: War, violence, and the herring fishery of the Low Countries, c. 1400–1650’ in L. Sicking and D. Abreu-Ferreira (eds), *Beyond the Catch: Fisheries of the North Atlantic, the North Sea and the Baltic, 900–1850* (Leiden and Boston, 2009), 337–64
- , and C. H. van Rhee, ‘Prijs, procedure en proceskosten: De afhandeling van een prijszaak volgens de Romano-canonieke procedure voor de Admiraliteit en de Grote Raad van Mechelen tijdens de Engels-Schotse oorlog van 1547’, *Tijdschrift voor rechtsgeschiedenis*, LXXI (2003) 337–57
- , and C. H. van Rhee, ‘Prize Law, Procedure and Politics: The settlement of a prize case before the Admiralty Court and the Great Council of the Netherlands (1554–1555)’, in H. Dondorp et al. (eds), *De rebus divinis et humanis: Essays in honour of Jan Hallebeek* (Göttingen, 2019) 302–22
- Smit, H. J. (ed.), *Bronnen tot de geschiedenis van den handel met Engeland, Schotland en Ierland 1150–1585* (The Hague, 1942–1950)
- Tyler R. (ed.), *Calendar of Letters, Despatches and State Papers relating to the Negotiations between England and Spain* vol. 13, Philip and Mary July 1554–November 1558 (London, 1954)
- Veluwenkamp, J. W., *Archangel: Nederlandse ondernemers in Rusland 1550–1785* (Amsterdam, 2000)
- Vliet, A. P. van, *Vissers en kapers. De zeevisserij vanuit het Maasmondgebied en de Duinkerker kapers (ca. 1580–1640)* (The Hague, 1994)
- Westell, A., *The Inside Story: A life in journalism* (Toronto and Oxford, 2002)
- Wielant, F., *Briève instruction en causes civiles*, L. Sicking and C. H. van Rhee (eds) (Brussels, 2009)
- Wielant, P., *Practijke civile* (ed.) E. I. Strubbe (Amsterdam, 1968)
- Wijffels, A., *Alberico Gentili and Thomas Crompton* (Leiden, 1992)
- Wijnroks, E. H., ‘Anglo-Dutch Rivalry in Russian Trade in the Latter Half of the 16th Century: A historiographical essay’ in J. P. S. Lemmink and J. S. A. M. van Koningsbrugge (eds), *Baltic Affairs, Relations Between the Netherlands and the North-Eastern Europe, 1500–1800: Essays* *Baltic Studies* 1 (Nijmegen, 1990) 413–32
- , *Handel tussen Rusland en de Nederlanden, 1560–1640: een netwerkanalyse van de Antwerpse en Amsterdamse kooplieden, handelend op Rusland* (Hilversum, 2003)
- Wubs-Mrozewicz, J., and A. Wijffels, ‘Diplomacy and Advocacy: The case of the king of Denmark v. Dutch skippers before the Danzig City Council (1564–1567)’, *Tijdschrift voor rechtsgeschiedenis*, 84 (2016) 1–53