Sixteenth-Century Justices of the Peace:
Tudor Despotism on the County Level

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Historians of Tudor England have for years acknowledged the importance of the office of justice of the peace in the sixteenth century. The five Tudor monarchs of the sixteenth century found the justices of the peace, men appointed from the gentry class to ensure the peacefulness of the counties and to see that parliamentary and crown statutes were carried out on a local level, to be a most useful tool of local government. Although the office had existed virtually unchanged since the fourteenth century, the Tudors added so many duties to its responsibilities, and entrusted so many statutes to its keeping, that it was completely transformed by the end of the sixteenth century. <1> Prior to the sixteenth century, and during the reign of the earliest Tudor, Henry VII, justices numbered a mere seventeen to eighteen per county. <2> By the end of the Tudor period, the number of justices per county had increased substantially, by thirty to forty men per commission. <3> A wealth of statutes had increased the justices' powers till by the Stuart era in the seventeenth century, they had truly become what a later historian would describe as the "key figures in local administration" and in justice. <4>

Why did the office of justice become such a primary institution in the Tudor system of local government (centered around the county), and how did that inflation of importance affect the class of men who mostly comprised the commissions of the peace? The answer to this question is found in the need of the Tudor monarchs to have an effective local official it could rely upon for honest judicial and administrative service. It is also found in the desires of the rising county gentry to control local government and to participate in its national counterpart from a more influential stance than they had been allowed in previous centuries. The rise of the gentry, and the maturation of the office of justice of the peace, were simultaneous and directly connected events. In pursuit of these answers, this study will attempt to examine the characteristics of appointment, organization, jurisdiction, and class background which were endemic to the office of justice of the peace in sixteenth century England. Given the great variety (and vast number) of statutes which were applied to the justices, no attempt has been made here to catalogue their specific powers in their entirety.

The origins of the justices of the peace, as with so many of the "modern" institutions of government utilized by the Tudors, lay in the recent medieval past. The central and local governments were composed of a variety of offices and institutions; on the national level there were the monarchy, the two houses of parliament, and the national law courts housed at Westminster, and on the local level in the counties there were various church courts, sheriffs, and coroners courts. Compared to the Tudor period, the institutions of

central government were relatively weak and powerless in controlling local matters or in enforcing national statutes therein. The local barons and high ranking gentlemen had a great deal of power and influence in the individual shires which was more direct than what was available to parliament and monarch at Westminster. <5> The justice of the peace arose from this system as an office able to provide needed administrative and judicial services, the nature of which was determined by the local peculiarities of each county. The justices throughout the medieval and Tudor periods served to continuously keep the monarchs aware of the local concerns of the counties; particularly in the face of the growing centralization favored by the Tudor monarchs. Under the Tudors, the various administrative offices throughout the local and national governments were directly controlled by the monarch and royal advisors.

Generally, the medieval offices of local government suffered from problems of local factionalism and corruption from local influences. The offices of sheriff and coroner, who were intended to represent the monarch directly in the county, was considered by the central government at Westminster to be too susceptible to local feudal concerns and to the whims of the great noble families. Finally, in the twelfth and early thirteenth centuries, the central government turned to local knights who were appointed during times of crises to special commissions to keep the peace, and were known as the *custodes pacis*. <6> In the mid-thirteenth century the English barons appointed an official keeper of the peace for each county; he was to prevent men from going about armed, to arrest marauders, and to supervise the elections of knights for parliament. <7> At this time the keepers were merely auxiliaries of the existing offices of sheriff and constable, appointed for an extra-ordinary need; their position was essentially a form of military police and it was not until 1263-67 that these proto-justices were first authorized to hold inquests into breaches of the peace. <8> By 1327, when a statute officially sanctioned the office of keepers of the peace was passed, the office was essentially equitable to that of justices of the Tudor period, although with far fewer duties. <9> By 1361 the keepers were officially entitled "justices of the peace." <10> The succession of the justices to position of primary local officer, once held by the sheriffs and coroners, was henceforth ensured, as the office was designated to prosecute felonies and trespasses. <11>

The central administration was itself unable to effectively deal with crime and feuding in the localities. The feudal lords and barons who were to supervise the counties were generally ineffective in maintaining peace; often they were involved with, if not responsible for, much of the feuding themselves. Throughout the period of the fourteenth and fifteenth centuries, and later in the Tudor period, England found the need in times of crises or warfare to depend upon increased participation of these local gentry officers, and to increase the powers and the width of their jurisdiction to maintain peace and lawful order in the counties. <12> The importance of their position increased as well, as the monarchy delegated to them more administrative tasks, such as enforcing social and economic oriented statutes. The history of the justices is one of their ever increasing powers, both by number and by degree, which effectively raised the social and the (perhaps most significantly) political standing of the gentry. By the sixteenth century, the gentry had assumed the position of greatest power in the arena of local administration, mostly via the vehicle of the office of justice of the peace.

The designation of the duties of the justices, and the taking of the oaths of office, took place under the procedure of "commissioning the peace"; the commission" of the justices from the fourteenth century onward, sought the maintenance of the law" and "the preservation of social order in a society where violence was not far beneath the surface," through the officers of local government. <13> The Lord Chancellor, leader of the house of Lords, announced appointments to the office of justice via these commissions of the peace; gentlemen appointed to the commissions generally held the office for life, although no length of time was specified and they could be removed at the next re-issue of the commissions. <14> In appointing the justices, the Lord Chancellor was to find those who were "good men and laufull, that ben no maynteiners of yuell," to "determyne felonies and trespasses committed and done agaynste the peace, and doo reasonable punyshement, accordying to lawe and reason." <15> Once appointed to the commission, justices were asked to take the oath of office, which began thusly:

Ye shall swear that as Justices of the Peace ... in all articles in the King's Commission to you directed, ye shall do equal right to the poor and to the rich after your cunning wit, and power, and after the laws and customs of the realm and statutes thereof made. <16>

The authority of the commissions, and necessarily of the individual justices as well, rested with the "charges" of statutes presented by the justices at each quarter session, outlining existing and new duties to which the justices were to attend. <17> The charges derived from a combination of common law, local custom, and central governmental needs. Given the increases in kind and number of statutes presented to the justices by the Tudors, the commission of the peace in general was completely revised in 1590 by Elizabeth, to fully incorporate the new tasks and redefine the old ones. <18>

The majority of justices in the sixteenth century were of the gentry, landed gentlemen, such as knights and squires, who owned substantial amounts of property in the countryside of England. Accounting for the social background of all justices from the end of the reign of Henry VII reveals that there were 128 ecclesiastics, 121 peers, 80 legal officials, and 1,922 members of gentry, and the two royal sons collectively. <19> Generally, therefore, the commissions of the peace remained predominantly gentry in character and thus its interests tended to be prejudiced toward the concerns of that class. Justices were required by law to have a minimal income from their lands, set at twenty pounds, to prevent men "whose povertie made them both covetous and contempible and who sought the office for profit." <20> Justices could act as an intermediary between the shires and Westminster. The gentry themselves were convinced that their locality made them the only effective choice for local government, to prevent what they considered to be the frequent tendencies of the central government to exploit and oppress the shires. <21> Another advantage in empowering the gentry was to the financial resources of the monarchy, or rather to the lack of those resources. <22> The gentry went virtually unpaid, as they were only guaranteed the minimal payment of four shillings per day, and only for the brief duration of the quarter sessions. <23> This could be turned against the government, obviously, who could not rely on the ability to buy the loyalty of a paid bureaucracy, as occurred on the continent during the same period. Furthermore, the sessions of the commissions provided an ideal opportunity for gentry and local leaders to

meet and discuss matters of national significance; those justices that were also in the House of Commons could take the opinions and ideas they gathered from these local debates to the parliamentary leaders of the country as a whole. <24> The local populace also profited from the participation of their local leaders in those areas of government which affected them. Participants in local disputes often turned to justices in the hope of winning support for their particular side from within the local community; or if necessary, from the justices' connections with the agencies of central government or with other justices. <25> This was an advantage for the locals who were not particularly powerful, or who were not allowed by law to take part in government, such as those who owned no land; in addition to the advantages for the national government of having justices intercede for local concerns, counties themselves found the justices to be as useful an institution as did Westminster.

There were many reasons why the gentry sought positions on the commission of the peace. Socially, the commissions brought to the gentry a method of class identification, and a source of social standing. As more of the gentry bought land and estates, becoming members of a county-based society larger in scope than they had previously known, the more their standing as county justices and administrators meant in regard to status. Concillary presences on the commissions, through the appointments therein by Henry VII of members of the Privy Council, his select group of advisors, further increased the standing of the office of justice in the opinion of the gentry. <26> As more nationally important and royally supported men were placed upon the commissions, the more it became sought after by those with advancement and status in mind. Although appointments to the commissions were made for a specific individual only, fathers often passed the position onto sons, thus keeping the commissions in the hands of a particular group of leading gentry families. <27> Of the commission of Kent in 1543, fifty-six percent of the justices were from families that had placed members on the commission in previous generations. <28> This inheritory nature of the office has been compared to the inheritance of titles by the nobility and baronets; the office of justice of the peace for the Tudor gentry was equitable to the titles of the aristocracy in that both represented public indications of prestige and power, as well as avenues to more status. <29>

Most of the attraction of the gentry to the office of justice can be located in the desires of the gentry to participate in the most powerful institution in local government, and to gather from that center stage as many of the fruits of office as were possible. The justice could interact with the important officials of the central government without the need of an intermediary and thus avoid dependence upon other gentry or even nobility. <30> Many justices, as prominent members of the gentry, were also members of the House of Commons; as such they were able to dictate the very statutes they, as justices, were required to enforce. Thus the gentry held the power to set the wages they paid to their employees and the allocation of county funds for road maintenance on or near their residences; they also held the means on the commissions to see that their administrative wishes were legally carried through. <31> justices also participated in the assessment and collection of taxes, which often also worked to their favor. <32> It was common during the Tudor period as a whole for public officials, from the Principal Secretary and other privy council members, to the justices of the peace and the sheriffs, to supplement their

absurdly low salaries with the financial rewards of their offices: fees, sale of licenses, and of offices. <33>

The gentry also found in the office of justice the perfect forum in which to carry out or to settle local disputes amongst themselves. The conflict between Robert Horne, Protestant bishop of Winchester and the Paulet family of Hampshire, from 1558-70, derived from a dispute over supremacy in the local government. <34> Home wanted control of the Hampshire commission of the peace to promote Protestant concerns over the Catholic minority in the county; whilst the efforts of the Paulet family centered around their desires for private control of the machinery of county government, to create a form of family oligarchy. <35> When Elizabeth I assumed the throne, she removed the Catholic Bishop John White, who had been appointed by Mary Tudor, and his Catholic justices; William Paulet, the family patriarch, took advantage of this upheaval to pack the commission with his own supporters. <36> Paulet was successful until the 1560 appointment of Home, who sought to fill the Hampshire commission with loyal Protestants supporters of the Queen's religious settlement. <37> It is important to recognize from this dispute the importance of the commission; to control the county, either on a personal basis or for religious reasons, one was required to first control the county commission.

The Tudor judicial system of the sixteenth century, in which the justices were to play such a pivotal role, was comprised of a number of courts, each with specific areas of legal jurisdiction. There were four national court systems which met at Westminster, in addition to the variety of Tudor royal courts. Twice a year, at the courts of assize, judges of these national courts left London to travel in pairs about the English countryside, divided into six districts, to hear cases of local significance in the county seats. <38> When the courts of assize were not in session, most of their duties fell to the more frequent sessions of the justices of the peace. Therefore, the justices were doing on a local level what the courts of Westminster attempted to do more generally on a national level. The cases which came before both systems encompass all civil and criminal matters, excepting perhaps state treason, which was always referred directly to the judges of the courts of assize. As one study has proven, justices of the peace toward the end of Elizabeth's reign began to hold special sessions at the courts of assize, thus increasing and solidifying their own position as the local dispensers of justice, to whom most of the populace turned. <39>

Although the popularity of the inns of the court, the English equivalent of law schools, as educational centers for the gentry had increased throughout the sixteenth century, many members of the commissions were still considered legal amateurs. To ensure the efficiency and legality of commission activities, gentry "chosen specifically for the[irl knowledge in the Lawes of the Land" were placed in a special group, called the "quorum." <40> William Lambarde's 1582 handbook for justices described the men of the quorum as those "wont (and that not without just cause) to be chosen specially for their knowledge in the laws of the land." <41> Tudor statutes generally specified when members of the quorum were necessary for the execution by the commissions of their duties, and their presence was required at all formal meetings. The Elizabethan poor law

of 1598 was one such statute; it stated that four men would be elected as "overseers" of the poor of a parish, and that the selection was to come "under the hand and seal of two or more justices of the peace in the same county, whereof one to be of the quorum." <42> Furthermore, when two or more justices wished to call a petty, or ad hoc session, it was required that "one of them be of the Quorum." <43>

As the sixteenth century progressed the number of members on individual quorums increased along with the increase in the numbers of justices as a whole. For instance, the Kent commission of 1532 designated forty-five percent of its justices as members of the quorum, representing a steady increase in numbers since the beginning of the century. <44> Appointment to the quorum was second in prestige only to the original appointment to the commission, as it designated its members as not only "good men and laufull," but also as men who were especially learned or experienced. <45> The quorum became the elite branch of the already exclusive commission, where the most notable and powerful gentry were to be appointed. In addition to the quorum, the commissions had another significant office to which the leading gentry could aspire. Each commission designated one particular justice to lead the others and to keep the county records; he was known as the *custos rotulorum* and later in the Tudor period the office was frequently given to the county Lord Lieutenant, originally the military leader of the county, but eventually the administrative leader as well. <46> As the Lord Lieutenant was usually a member of the commission, even its supreme head, his position as administrative leader effectively solidifies the justices' positions as the center of local government and justice. The *custos rotulorum* also appointed the clerk of the peace, who advised the justices on legal matters beyond the scope of the quorum. <47>

All justices, even the "learned" quorum, were hampered by the lack of exact knowledge of the statutes which applied to their commissions and which were only printed for the first time during the reign of Richard III, in the late fifteenth century. <48> Custom more often than not decided the acceptability and jurisdiction of the actions of local justices. Manuals and handbooks for justices of the peace abounded in the sixteenth century, with the most popular being reprinted frequently throughout the period; however, they were rarely updated and were frequently out of date with the then current statutory practice. One of the first, the *Boke of Justyces of Peas*, which included a fairly substantial if not exhaustive, list of statutes concerning the justices, was printed in 1506 and reprinted continuously till 1599 without updating. <49> The essential handbook for justices was *Eirenarcha* written by William Lambarde in 1582. Lambarde was a member of a commission himself, from Kent; he dedicated his work to the task of accounting for the "amount of change in the 16th century in the office -- the growth of duties" which had taken place since the Tudor period began. <50> Lambarde's work provided a rare opportunity to gauge the growth of the office from its humble medieval origins to its more significant position in the sixteenth century. Eirenarcha provided a detailed list of how many justices were required by law to be present during a particular transaction.

The number of justices appointed varied from county to county, from sixteen justices for Hunts county in 1561 to sixty-two for Essex for the same year. <51> One of the earliest handbooks for justices states that "In every countye shall be assygned viii [eight] Justyces

of peas," although that estimation fell far short of practice even when that work was first published in 1506. <52> The number of justices per county depended upon the political and judicial needs of the particular area, as well as the desire on the part of the powerful gentry to join the commission; the more influential gentry who sought positions, the more positions the monarch and the Lord Chancellor would add to pacify these desires. <53> Although the Lord Chancellor was to have made his nominations to the commission based on suggestions from the judges of assize, the appointments actually received most of their impetus from within the counties themselves, leaving the office open to local interests, fractionalism, bribery. <54> The justices was carried out most of their work on an individual or small group basis. The most important meetings of the commissions at large occurred (were indeed required by statute to do so) at four times during the year, roughly once per season although the various handbooks each list different feast days they are to follow; these meetings were known as the quarter sessions due to their timing. Generally, quarter sessions lasted only one to three days per session, and were the occasion for the presentment of formal and routine business, particularly presentment of statutes concerning the justices' jurisdictions. <55> Attendance by individual justices was irregular; the few of the justices who frequented all or most quarter sessions did much of the actual work for the many justices who were willing to accept the title and the status, but not the burdens of the office. <56> Quarter sessions were generally held in the county town, although they could travel to other places, to large towns or market areas, even during a session. <57> Justices of the peace were not the only local officials present; sheriffs (or their deputies), constables, coroners, and officially appointed juries would also attend, making the session into the center of county judiciary for its duration, and naturally with the justices as its foci. <58>

However, the duties of the justices had become so numerous by the end of the sixteenth century that justices began meeting informally yet frequently for special, or "petty" sessions, which met approximately every three weeks or once a month. <59> They were not generally meetings of the entire commission of a county; usually justices met in pairs or small groups, to deal with licensing or disputes within a given town or parish. <60> According to Lambarde, a "Session of the peace" may be called by any two justices and the place of the meeting was to be determined by the justices themselves, at their own discretion. <61> In fact, as early as 1509, Henry VIII had granted justices the right to "assemble themself together in some convenient place or places as often and when it shall be thought good to devise, treat, commune, and conclude for the better performance and execution" of the statutes over which they had jurisdiction. <62> Allowing justices to call together their own meetings granted them further privileges of power with the scope of county government; they could personally determine when matters of public or common law were to be considered.

As the Tudor period progressed, petty sessions were more frequently proscribed by both the justices and by the offices of central government. In 1572 a parliamentary act was passed which required justices to divide themselves into small groups, to find the needy poor within a specified division of the county and to find a collector to gather for their relief. <63> The *Book of Orders*, a collection of privy council regulations published in 1587, authorized justices of the peace to act in divisional groups to punish offenders,

rather than waiting for the regular quarter sessions to begin and a larger group of justices gathered. <64> By the time of Elizabeth I, Tudor justices had reached a new pinnacle in their powers, enabling them to act individually and without direct supervision on important matters of local concern or justice. The justices had gained so much independent power that they could execute these statutes on more personal levels than they had ever been enabled to do so before, placing them both above and beyond the general realm of government experience in which others participated.

Justices gained their powers and responsibilities at the expense of many other instruments of local government. Justices of the peace gained from the old courts of hundreds, of shires, and the feudal and franchise courts, all of which lost popularity and support from the central government during the Tudor period <65> Prior to the sixteenth century, central government depended upon the sheriff of the county. The office of sheriff had lost most of its administrative or judicial powers by the sixteenth century, due to feudal corruption by particularly local interests. Although it remained popular because of its antique prestige, its naturally succeeded in effective power by the justice of the peace, whom the Tudor monarchs felt they could control directly through the commissions of the peace and the centralized offices which dictated their powers. In fact, Henry VII in 1495 placed the sheriffs under the direct jurisdiction of the Justices, who were then responsible for investigating and prosecuting those sheriffs who overstepped the bounds of the law. <66> The 1534 *Boke for a Justyce of Peace* declares that justices "shal enquere of mayres, Stewardes," and "constables," and "shal punyshe the punysshable" with a fine of one hundred shillings. <67> Thus the gentry, as justices, surpassed the other local offices of government in two ways; first by assuming their duties into the commission for the peace, and secondly, by being placed in direct supervision over these other offices.

The first major statutory increase of the obligations of the Tudor justices came with the parliament of Henry VII in 1495. <68> In it, the commissions of the peace were granted the right to "hear and determine without indictment [the accusation of a jury] all statutory offenses short of felony." <69> Since their official inception, justices have held "double power, the one jurisdiction [i.e. investigation], and the [i.e. punishment] other of coertion," with "ample authoritie, not only to convent ["convict" or accuse] the persons, but also after the cause heard and adiudged to constraine [punish] them to the obdience" of the justices' decrees. <70> With the sheriffs and constables, justices of the Tudor period performed all of the peacekeeping functions of a professional police force which was to arise centuries later. <71> Justices issued warrants of arrest, but could not make the arrests without first completing the procedure for indictment, which hampered their ability to effectively control the peace by letting alerted criminals escape during the delay of the indictment period. <72> However, it is clear that the judicial limitations on the justices were scant, far out weighed by the administrative advances which they made under the Tudors.

Once indictment and arrest were made, justices had a variety of punishments and sentences available to them, all of which also provided the justices with another opportunity to display their judicial superiority over their fellow gentry or county

population. Justices most commonly sought to "bind" persons who were alleged of having broken the peace; whereby the individuals were issued a "warrant of surety" requiring them to appear before the justices and account for their peacefulness. <73> Justices were also to see that "houses of correction" were set up in their counties, and that "stocks and store and implements be provided for setting on work and punishing" those that they convicted of crimes. <74> Given the endemic violence of the period, a holdover from the middle ages, justices also had a variety of corporal punishment which they could also sentence, such as flogging, branding, or hanging. <75> The judicial authority of the justices, as their options of punishment, were vast. When Sir Thomas Smith published his account of Tudor government, *De Republica Anglorum*, in 1565, he described the "authority" of the justices in the "repressing of robbers, thieves, and vagabond, of privy complots and conspiracies, of riots and violences, and all other misdemeanours" as well as the crimes of "manslaughter" and "murder." <76> Justices in Kent were also required to defend the Channel coast from the threat of invasion, a particularly sensitive issue in the time of Elizabeth and the Armada. <77> A partial list of the crimes which justices were supposed to investigate from 1580 contains some interesting, as well as depressingly violent, possible accusations: from homosexuality, to "them that cut out the tonges, or put out the eies or' others, to counterfeiting, to poaching. <78>

In addition to dealing with violent crime and property infringement, the commissions also had the power to enforce moral and religious behavior within their localities. From murder, to war, to dress styles, to recusancy; justices covered it all. In 1624 justices were asked by the town of Fittleton to bind a woman because she was of "very evil life and conversation, raising of false rumours and fames of the parishioners." <79> Although this event occurred during the Stuart period rather that the Tudor, it is indicative of the types of social and moral responsibilities justices were in both periods asked to bear. Cases of adultery or sexual license, increasingly important due to the sixteenth century rise of Puritanism with its strict moral codes, were also brought before the justices, particularly if it involved the searching of a house or property. <80> A statute enacted in 1576 granted justices powers to investigate the births of illegitimate children, often when the financial support of the parish or county for the child was required. <81> Justices were to seek out those responsible for the conception of the child, for punishment and to demand their financial support of their child. <82> Justices, on behalf of unmarried pregnant women, sometimes approached the men responsible and asked them to legitimize their offspring by marrying the mother. <83> The social duties of the justices therefore had interesting implications for the family structures of Tudor society. Quarter session records also show indictments for drunkenness, which is potentially a disturbance of the peace but which is more often a moral offence, and unlicensed aleselling, a form of property infringement as licenses were the property of and sold by the justices themselves on behalf of the government. <84>

Justices were also responsible for prosecuting excesses in dress. <85> The Elizabethan proclamation of 1588, "Enforcing Statutes and Orders for Apparel," lists the types of apparel that may be worn by individuals of particular class degrees, such as the prohibition of "any cloth of gold, or silver, or tinsel, satin, or any other silk or cloth mixed or embroidered with gold or silver" for estates under earl. <86> Women whom

justices found to have violated the 1555 statute against wearing silk headdresses could be imprisoned for three months. <87> Justices dining the Elizabethan period were also given recusancy lists, to indict recalcitrant Catholics. <88> Robert Godfrey was also accused of not keeping up with his religious obligations by not attending church at regular intervals. <89> Justices of the peace were further empowered to, "within the limits of their several [particular] commissions," and with the "sheriff,," "mayor, baliff or other head officer of any city," meet to "appoint the wages" of any "labourers, artificers" and services, "as they shall think meet to be rated. <90> This allowed the justices to control the labor market within their respective counties in a twofold manner. As members of the gentry, they could determine the kind and amount of available employment through the industries and trades they owned or operated; with their further powers as justices, the gentry could also legally control the wages they were required to pay to those they employed.

The Tudor monarchs as a whole doubled the responsibilities of justices; of the 306 statutes which required the attention of justices by 1600, only 133 had existed prior to the Tudor period. <91> Henry VII and Henry VIII were jointly responsible for the addition of 60 statutes, Edward VI and Mary Tudor of 38, and Elizabeth (until 1597) passed 75 statutes. <92> Increasing amounts of legislation dealing with the justices in the Tudor period sought not only to increase their powers but also to institute a few protective measures for the shires which would see to it that the justices kept to their duties and away from corruption. <93> To prevent future corruption (and to punish that corruption which already existed), statutes were passed to punish the transgressing justices, such as the ones passed in 1487 and again in 1554-55 to impose fines upon justices found to have wrongfully bailed suspected felons for personal gain or partisanship. <94> An act passed in 1489 required that justices devote part of every quarter session to acknowledgment of the areas in which they themselves are particularly weak. The same act provided the general populace with the right to complain about the actions of justices directly to the monarch or his council. <95> The appointment of the justices by the Lord Chancellor at irregular annual intervals allowed for the possible removal of uncooperative gentlemen at the next annual re-issue of the commissions. <96> The increasing popularity of the office led many of the gentry to a more supportive position, in fear of losing their commission and a great deal of their social standing. <97> A major drawback to the effectiveness of the office of justice in the eyes of Westminster was the conflict of interest often provoked by the incompatibility of certain types of central legislation with the personal, class based, interests of the gentry, who were the men empowered to enforce that very same legislation. <98> Examples of this type of conflict abound, from the unwillingness of the justices to enforce the enclosure and recusancy laws, to the maintenance of houses and farm equipment on gentry owned property. <99> Yet the justices were fairly successful in implementing the national poor laws for the assistance of the needy lower classes, regardless of the disadvantages this may have had for the middle or upper classes, to which they themselves belonged. <100>

In effect, the central government lacked efficient methods of inspection and punishment of errant justices. Although the justices could be sued, bonded to the peace, or imprisoned by the central government, the government was limited by a lack of effective financial punishment and by the lack of alternative candidates for the commissions, or even of

alternatives to the commission system as a whole. <101> One Tudor innovation which greatly helped to ensure the honesty of the commissions was the office of Lord Lieutenancy. The office of Lord Lieutenant was endowed with various powers of administration, including supervision of justices, the right to suggest potential members to the commissions, and the ability to assemble special sessions of justices to instruct them. <102> There are dangerous possibilities of corruption, however, in a system wherein the origin of appointment (via suggestion) was also sometimes the leading member of the commissions (where the Lord Lieutenant was also the *custos rotulorum*). The chance to fill the commissions with members of the gentry especially supportive of the Lord Lieutenant and his interests offered unfortunate opportunities for infractions of justices' responsibility. Making the Lord Lieutenant a member of the commissions, in however exalted a position, would seem to have compromised his position as a preventive check over the justices; although it may (however doubtfully) have facilitated this task by giving him direct knowledge of the commission's activities.

The relationship between the central government and its local officials varied. Justices of the peace have been often accused of being overly independent of central supervision and of being overly biased towards local and personal concerns, to the detriment of national legislation. Although every county or even town had certain local peculiarities of custom; for the most part, all of England was united by its support of the common law, which was part of the monarch's law and the instrument of unification of local and central interests by the Tudor monarchs. <103> Support for English common law by individual localities, and the continuance of this largely unwritten law code, came from the activities of the professional lawyers, who through the Inns of Court educated others in the law; amendations of law by parliamentary statute were also passed. <104> Thus the common law was carried down from monarch and parliament to the populace, particularly to the gentry who studied at the Inns and later joined the commissions of the peace to practice law in their own amateur manner. The participation of the same members of the gentry in local and in central government offices, such as that of justice of the peace and the House of Commons, provided yet another link between the counties and Westminster. Any parliamentary amendations to the common law were from the same sources by which they were later conveyed to the population at large.

Justices could use their power and status as members of the commissions as well as of other national offices, to support regional interests when the counties found themselves in conflict with the central government. A common source of contention arose out of the central government's demands for money, in the forms of county levies and fees. When Elizabeth demanded the monetary equivalent of ten ships from London in December of 1596, in addition to the normal levy of ship money, it caused such an outcry amongst the justices that she dropped her demands. <105> Other counties similarly protested what they viewed as exorbitant naval levies. When the counties had complaints, they first turned naturally to their justices, demanding that they bring the local concerns to the attention of the monarch and parliament. Although the justice of the peace remained the most prominent voice heard by the central government from the shires, it became necessary for the monarch and parliament to install certain safeguards to protect the commissions from being overly sectional. Henry VII sought to prevent this occurrence

somewhat when he placed on the commissions of the peace members of his privy council, already ensured for their loyalty and sup-port of his policies. <106> Henry VII also appointed trusted and loyal peers, judges, clerics, and even royal household officials to the commissions to ensure the promulgation of monarchial wants. <107> The office of justice grew so independently powerful in the Tudor period that it was a potential threat to the supremacy of the central government.

Ironically, although the gentry who were members of the commissions were "local" officials in comparison to the officials of Westminster, their locality was limited to the specific townships from which they were appointed. Yet they were charged with jurisdiction over a much larger county area than their township. Justices themselves had to turn to more "local" officials in some instances. However, the final decision in important matters of county administration or justice, however distant from the residence of a particular justice, still rested in the hands of the commissioners. In the prosecution of Elizabethan recusancy laws, for example, parochial church courts, based on the smaller unit of the parish, reported to justices at quarter sessions with information about "local" recusants. <108> Justices commonly only attended

quarter sessions which were nearest their actual residence; the rotation of quarter sessions to as many as four towns a year provided most of the justices for a county with a conveniently located session to which they could attend, which also limited the extent of their participation. <109> Daily activities in the towns and parishes were reported to the county justices be the constables, who were to make their presentments at the quarter sessions. <110> There was also some conflict between commissions for counties and the justices of certain boroughs within that county. Boroughs were urban communities which were physically part of a county yet were judicially independent of it. Boroughs sent their own electives to the House of Commons to represent borough interests; they also sought to hold independent quarter sessions. <111> Sometimes the boroughs were only partially successful, in which case the borough quarter session was carried on as part of the county session; where the borough was unsuccessfully independent, it found itself subject to the dictates of the county quarter sessions. <112>

Opinions on the effectiveness of the justices were not unanimous in the Tudor period, nor are they so amongst historians today. Lack of confidence in the office or in particular members threatened to undermine the monopoly the justices held over local government. Many in the sixteenth century would have agreed with historian G. R. Elton's claim that justices of the peace were the "mainstay of the Tudor system of law enforcement" and further applauded the increase in their administrative duties. <113> However, another historian has described them as "unsatisfactory servants," and has even claimed that "the Tudor justice was not only, very often, stupid; he was frequently venal, quarrelsome, and disloyal," a criticism which would have also found support in the Tudor period. <114> In 1607, based on negative experiences with the commissions in the late sixteenth century, Sir Edward Coke published his Speech *and Charge with a Discoverie of the Abuses and Corruption of Officers*, in which he describes "justice" as the "neerest" representation of "Heavens eternall Deitie" and entreats all justices of the peace to remember this and to treat "justice and mercie" as "inseparable vertues." <115> That Coke felt the need to

publish such a work, and its popularity, reveals the less satisfied opinion about the Tudor commissions that can also be found from its contemporaries.

The parliament of 1485 requested from members of both houses, and the members of the royal household, to swear an oath that they would not "receive or maintain murderers, felons, and outlaws," emphasizing this oath for those who were also members of the commissions. <116> In 1489 Henry VII issued an "Enforcing Statute Requiring Justices of Peace to Execute all Statutes" which he had authorized them to do so, upon threat of being "put out of the commission." <117> Such proclamations and enforcements were repeated by each successive Tudor monarch; obviously, the commission of the peace was not a thoroughly successful system or at least the central government felt a constant need to remind justices of their primary obligations to the carrying out of statutes. In 1575, Elizabeth's council became so concerned with what it described as the growth of "enormities, absurdities, and mischiefs," which it blamed on irresponsible justices and ineffectual supervision of local policing, that it threatened to dismiss the commissions altogether. <118> However, no subsequent action was taken in that direction; the issue of the new commissions of the peace in 1590 signified the full support of the central government of the local offices of justice, succinctly granting them the substantial powers "to hear and determine the felonies, poisonings, enchantments, arts magic, forestalling, and regratings" of their county, and to punish those who endangered the peace of others. <119> Negative opinions about the justices are on the whole in the minority. Generally, historians and the justices' contemporaries considered the Tudor justices to be a successful instrument of local administration and judiciary, regardless of their suppression of other local institutions of government. Part of the problem with justices in the late Tudor period was the large increase in their numbers. Justices were added to counties not only to deal with the increase in workload, but also to pacify the growing number of gentry that wanted to gain the office as a sign of prestige. <120> Such gentry lacked the true civic spirit which would ensure their capabilities and dedication to the duties laid upon by statute.

By this point it should be obvious that the gentry were increasingly becoming the ruling class of the shires, to the exclusion of other classes and most other offices of the gentry. This landed, minor class of knights populated not only the commissions of the peace and the offices of local government, but also became members of the House of Commons far more frequently than did the burgesses or urban citizens without the gentry vast possessions of land. <121> The Wars of the Roses in the fifteenth century had significantly decreased the numbers and powers of the medieval noble families; the descent of the fortunes of the great families was facilitated by the "despotism" of the Tudor monarchy as established by Henry VII, which attempted to avoid the presence of overmighty subjects within the realm. <122> The winners in this game were the gentry, who were able to assume many of the powers formerly held by the nobility, as well as occasionally their titles. By 1560, thirty-seven of the sixty-two peers had been created since 1509, thus socially promoting gentry families. <123> The financial resources of the gentry were further increased by the reformation, which put into their hands much of the land formerly held by the church and sold to increase the revenue of the government. <124> The loss of prominence by the nobility, and the increase in gentry wealth, helped

to make the gentry powerful politically and financially, as well as to increase their social standing as a class. For their favored office, the justice of the peace, it meant that the Tudor gentry were truly in the supreme position of power and influence, throughout the counties. The meetings of the justices at quarterly intervals of the year, together with the sessions at the meetings of the judges of assize, the special sessions, and the petty sessions, provided the local shires with a venue of administrative, judicial, social, and even political expression and control, on a county and even town level. <125> This helped to integrate national and local concerns. More importantly for the gentry, it provided them with a venue through which they could protect their own interests and control the sundry devices of local rule, such as administration and justice. The Tudor gentry have been described as having a "persistant tendency ... to give only half its allegiance to public affairs, and the other half to its private profit." <126> The office of justice of the peace offered the gentry the opportunity to pursue both halves of its allegiance, whilst at the same time solidify its position as a social and economic class of power and supremacy, particularly although not exclusively, on the local level.

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