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The implementation of national labour legislation in England after the Black Death, 1349–1400

Mark Bailey

School of History, University of East Anglia

Correspondence
Mark Bailey
Email: mark.bailey@uea.ac.uk

Abstract

The responses of labour markets to global pandemics are attracting renewed interest, although the English labour laws in response to the Black Death of 1348/9 – capping wages, imposing annual contracts, and restricting mobility – have a long and established scholarship. The conventional wisdom is that the legislation represented an extension of existing local practices and created common cause among all categories of employer. Yet this view is hard to reconcile with the fact that, despite subsequent revisions, the legislation soon failed. These arguments are tested through original research into how the legislation was actually enforced in a variety of legal tribunals (manorial, borough, and royal). A clear distinction is maintained between public presentments and private litigation, and a robust methodology is pursued to record their absence as well as quantifying their presence. This casts new light on the novelty of the labour laws, the reasons for their failure, and their influence on contract law. The analysis exemplifies the potential for short-term legal responses to infectious diseases to have unintended and unanticipated long-term consequences.

KEYWORDS
Black Death, England, labour laws, statute of labourers

In 1348–9, the Black Death swept through England and killed around half its population. It returned in 1361–2, when the estimated mortality rate was closer to 15 per cent, and again in 1369, 1375, and the early 1390s, although in these later outbreaks death rates were lower and the geographical spread was less complete.[1] There was no coordinated public health response to the initial epidemics in England, not even basic restrictions on the movement of people or the isolation of the sick, because at this time the responsibilities of the national government and urban authorities were focused primarily on public order rather than public health.[2] The first pandemic presented a profound challenge to the social order across the whole of Europe, because at a stroke it halved the supply of workers and tenants on whom the small elite of landlords depended. Yet in its wake, the restructuring of economies in general and labour markets in particular varied considerably across the continent, with significant long-term consequences: there began a major 'divergence' in economic performance and income per head between the North Sea region and the rest of Europe, which for some historians created the foundations on which liberal modernity was eventually built.[3]

The ruling elite's notion of 'good governance' focused initially on maintaining the existing social order, which was also a moral duty since hierarchies were deemed to be divinely ordained.[4] As the first outbreak of the Black Death delivered a seismic shock to established patterns of demand and supply, the primary objective of contemporary governments was to address the rapid inflation of wages and of the prices of essential foodstuffs.[5] Although the precise nature of such legislative responses varied markedly across the continent, they shared the fundamental belief that the mass of the workforce should be regulated and that labour relations should be organized for the benefit of employers, whose interests were equated with the common good of society.[6] The English government introduced wide-ranging and ambitious national legislation in the form of the Ordinance of Labourers, which was issued in June 1349 even as plague was raging through the country. At the first post-plague session of parliament in February 1351 it was reinforced by the Statute of Labourers.[7]

The purpose of this article is to review the nature and the impact of the English government's legislative response to the labour shortages during the second half of the fourteenth century by focusing on two main issues. The first is its novelty. No one doubts that the statute represented a major and unprecedented intrusion of public policy into the national labour market, or that the newly created Justices of Labourers (JLs) meeting four times annually in each county constituted a new category and framework of royal justice. There is, however, debate over the novelty of its other features and, by extension, the role of the Black Death in driving substantial legal change. Most scholars have contended that the statute's central provisions, such as restricting the remuneration and mobility of labour and enforcing employment contracts, had been widely enforced in most local courts for decades, and so they represented merely a repackaging of pre-existing arrangements on a national scale rather than anything fundamentally new: in this perspective, the Black Death was just one strand of a complex amalgam of factors contributing to evolutionary

[1] For a recent summary, Bailey, *After the Black Death*, pp. 4, 136–7; Slavin, 'Out of the west'.

[2] For developments in public health, especially after 1388, see Rawcliffe, *Urban bodies*.

[3] Alfani and Murphy, 'Plague and lethal epidemics', pp. 330–6.

[4] Rigby, *English society*, pp. 306–10; idem, 'Justifying inequality'.

[5] Cohn, 'After the Black Death'.

[6] Lambrecht and Whittle, 'Introduction', pp. 3–4, 13–4.

[7] *Statutes of the Realm*, Vol. 1, pp. 307–8, 311–3.

legal change.[8] A recent article has argued, however, that there is little hard evidence to support the commonly held view that the central provisions of the Statute of Labourers were already in existence in many rural communities long before the advent of plague.[9] This might offer support to the alternative perspectives of Bennett and Palmer, who have independently emphasized the novelty of the common law and statutory processes introduced in direct response to the Black Death, driven by the ruling elite's determination to force the lower orders to stand to their social obligations.[10] Here, we contribute to the debate by reviewing the arguments for the novelty of the legislation's key provisions.

The second issue is to address a contradiction at the heart of the existing scholarship on the English labour legislation. On the one hand, the received wisdom is that the Statute of Labourers united all categories of employer, creating common cause between aristocratic landowners, 'smaller men and leaseholders directly cultivating their own farms', urban merchants, and artisans, which had the effect of closing the ranks of the establishment against workers.[11] On the other hand, the historical consensus is that after some early successes in the 1350s, and despite subsequent revisions, the enforcement of the legislation failed to achieve its ambitious aims. These two arguments are difficult to reconcile: if this social alliance really had been so unified and cogent, then the legislation should have been an enduring success. To what, then, should we attribute its failure? We address this question with original research to assess the extent to which the laws were enforced through public presentments – that is, juries of local people presenting offenders under oath – in different legal tribunals within the localities, in particular contrasting the frequency of such cases in the lower, private courts of lords and boroughs with those in the royal, public courts.

In addressing both the novelty and the failure of the legislation, we maintain a clear distinction throughout the analysis between public presentments and private litigation on employment issues. A quantitative approach is adopted, which explicitly seeks to capture nil returns. A common methodological trait in many studies of the economic and social history of medieval England is to support key arguments with a handful of ostensibly telling examples from the primary sources, without enumerating their frequency, without precision about the size of the sample, and without documenting explicitly the absence of any similar examples within the sample. Yet the significance of a handful of positive examples can only be properly established by understanding the size of the sample and by applying equal weight to their absence. When nil returns are properly considered, the widespread absence of public presentments of the labour legislation from the lower courts of medieval England becomes strikingly apparent. These findings cast new light on the reasons for its ultimate failure.

Finally, we conclude by exploring briefly how the novel elements of the labour legislation had unintended and enduring long-term consequences, even though it was unsuccessful in achieving its specific aims. It established the government's authority to intervene in moments of national crisis, it changed the legal means for regulating employment contracts between individuals, and it created a new legislative framework which was eventually adapted to deal with the poor. In doing so, this article offers broader insights into the legal responses to a major pandemic, and the relationship between pandemics and adjustments to the labour market, by exemplifying the

[8] Clark, 'Medieval labour law'; Musson and Ormrod, *Evolution of English justice*, pp. 3–7, 112–23, 158–60; Musson, 'New labour laws'; idem, 'Reconstructing', pp. 114–7.

[9] Bailey, 'Regulation'.

[10] Bennett, 'Impact of the Black Death'; Palmer, *English law*, pp. 4–27, 296–306.

[11] Captured in Clark, 'Medieval labour law', pp. 332–3; Bennett, 'Impact of the Black Death', pp. 200–1; and represented in the historiography in fn. 17 below.

potential for short-term legal responses to infectious diseases to have unanticipated long-term consequences.

I | HISTORICAL BACKGROUND

Although exact figures are impossible to obtain, it is likely that the population of England fell from an estimated 5.5 million people in the mid-1340s to around 2.5 million in the mid-1370s.[12] The Black Death of 1348/9 had suddenly transformed the economy from a position of chronic over-supply of labour – characterized by widespread under-employment, low nominal and real wages, and sporadic earnings – to one where labour was scarce, employment opportunities abounded, and workers could demand higher wages. By contemporary standards, government in England was relatively centralized through a network of royal courts and administration, and was led by a monarch – Edward III – at the height of his considerable powers and who was supported by an exceptionally able group of ministers.[13] Their response to the Black Death was to introduce wide-ranging and ambitious national legislation.[14] The Ordinance of Labourers was issued on 18 June 1349 when the pandemic was still raging throughout most of eastern, midland, and northern England, so it was intended initially as crisis legislation drawn up hurriedly under difficult circumstances to address the immediate shortages of labour as the vital grain harvest loomed. It was further refined as the Statute of Labourers at the first post-plague meeting of Parliament in February 1351.[15] Together, these dual legislative measures sought to fix wages at rates prevailing before the arrival of the plague (the wage clause); to prioritize annual contracts in preference to day wages and to promote hiring in public rather than in private (the contract clause); to put the able-bodied unemployed to work (compulsory service clause); and to prevent workers leaving their place of residence if work was available there, especially during the harvest (the mobility clause). Those who broke the terms of this legislation could be punished with fines, the stocks, or imprisonment, with the money raised from fines being used to offset the tax liability for local communities and a new category of royal judicial commission being created to enforce the legislation. As was made explicit in the introduction to the statute, rising wages were seen as a consequence of the malice, idleness, and greed of workers, who were unwilling to work unless they were paid twice or three times the level of wages before the pestilence. Hence, the ruling elite were re-casting the labour shortage as a moral problem requiring a coercive solution.

Certain aspects of this legislation were unquestionably novel. The creation of JLs sitting quarterly in each county, whose responsibilities were transferred in the 1360s to the Justices of the Peace (JPs) with a remit for keeping the peace in the shires, was a new initiative with far reaching consequences (see section V). The compulsory service clause and the criminalization of breaches of employment contract were also entirely novel.[16] However, the received wisdom is that the legislation's central components – the fixing of maximum wages, the tightening of labour contracts, the restrictions on worker movement, and the enforcement of private employment contracts – were not new, because all these forms of labour control had been in place for decades in local

[12] Bailey, *After the Black Death*, p. 4.

[13] Ormrod, 'Edward III', pp. 4–19; idem, 'The English government', pp. 175–8.

[14] Putnam, *Enforcement*. See Eldridge, 'Centralisation', for more detailed discussion of the Statute.

[15] For a discussion of its likely origins, and the wider context of European legislation, see Braid, 'Behind the Ordinance', pp. 17–24; Cohn, 'After the Black Death', pp. 475–82.

[16] Bennett, 'Compulsory service'; Lambrecht and Whittle, 'Introduction', pp. 19–20.

communities and had been implemented routinely and extensively in local manor and borough courts throughout England.[17] This 'orthodoxy' drew substantially from the early work of Ault, but a recent reappraisal of Ault's original research, coupled with a detailed analysis of the business of a large sample of local courts in the pre-Black Death era, has challenged such claims, because on closer analysis local by-laws to fix wages and to restrict mobility were very rare, and private contractual disputes over employment were highly unusual.[18] If this revisionist view is correct, then most of the government's labour legislation was a novel alteration of existing norms, one which involved a range of new initiatives, and not merely an extension of commonplace local regulations into national legislation.

II | THE INEFFECTIVENESS OF THE LABOUR LEGISLATION

The far-reaching intention of the Statute of Labourers was to turn back the clock to the 1340s, when the labour market was well supplied with workers and when wages were low. Its primary objective was to increase the supply of workers – and especially annual servants – available to employers, so its focus was on the behaviour of workers more than employers, and in this sense was discriminatory and potentially divisive. Steinfeld regarded its imposition as 'an oppressive regime of legal regulation', and van Bavel suggested it amounted to the 'intensive prosecution' of 'very strict' labour legislation.[19] The traditional narrative of the immediate post-Black Death era contends that the ruling elite attempted to reimpose the existing structures of serfdom to counter the shortage of workers and tenants through a combination of the new labour laws and harsh manorial policies.[20] As Dimmock states, 'lords went on the offensive to maintain earlier levels of rent and serfdom dues, and restrict the market in labour; and they were provided with royal statutes to that effect. For a while they succeeded'.[21] The legislation certainly enjoyed a short period of success in the first half of the 1350s, due in part to the zeal of the early JLs but mainly to the introduction of tax breaks in 1349, whereby some of the judicial profits from its implementation could be diverted to offset the tax liability of local communities.[22] This initiative was notably successful in aiding the collection of the Lay Subsidy between 1352 and 1354, although the incentive was withdrawn in the late 1350s along with the standing commissions of JLs.[23] The effectiveness of the legislation diminished around the same time, and it was doomed once plague returned again in 1361/2.[24] Its failure can be illustrated by a variety of quantitative and qualitative evidence. For example, nominal wage rates rose by over half between the early 1340s and

[17] Clark, 'Medieval labour law', pp. 334–5; Musson, 'New labour laws', pp. 76–8; Dyer, 'Work ethics', p. 33; Musson, 'Reconstructing', pp. 114, 117; Poos, *A rural society*, pp. 199–202.

[18] Braid, 'Behind the Ordinance', pp. 17–24; Bailey, *After the Black Death*, pp. 35–8; Bailey, 'Regulation'.

[19] Steinfeld, *The invention of free labor*, pp. 8–9; van Bavel, *Invisible hand*, p. 211.

[20] For a summary and critique of this traditional narrative, see Bailey, 'The myth of the seigniorial reaction' and fn. 39 below.

[21] Dimmock, *The origin of capitalism*, p. 76.

[22] Poos, 'The social context', and Putnam, *Enforcement*, pp. 99–131.

[23] Putnam, *Enforcement*, pp. 99–131; Bland et al., eds., *English economic history*, pp. 168–72; Musson, 'Reconstructing', pp. 116–7; Musson and Ormrod, *Evolution of English justice*, pp. 94–5.

[24] For a summary of the scholarship on the declining effectiveness, see Bailey, *After the Black Death*, pp. 79–80.

the early 1370s.[25] In 1350 the Archbishop of Canterbury had issued an order capping the wages of priests in line with the Ordinance of Labourers, but in 1362 reissued it as a token gesture because of its ineffectiveness.[26] In the 1360s and 1370s contemporaries bemoaned the ineffectiveness of the legislation in petitions from the Commons to Parliament, and in the 1370s John Gower was still writing disparagingly about the unwillingness of workers to work and their feebleness when they did.[27]

The ineffectiveness of the labour legislation did not resolve the underlying problem of labour for the ruling elite, which continued to be the social issue of the age: one-third of all parliaments held between 1351 and 1400 discussed the labour laws.[28] In the longer term, the practical solution was to narrow the legislation and target the areas of greatest concern. In 1388 Parliament issued a revision of the legislation through the Statute of Cambridge, which, while repeating many aspects of the 1351 statute and stipulating explicitly national maximum wage rates for the first time, now focused on the more pressing practical issues, namely the mobility of rural workers and those able-bodied people who chose to be under-employed.[29] Successive revisions and reissues of the statute in the later fourteenth and fifteenth centuries were increasingly detailed and complex, but did not usually trigger renewed enforcement waves from royal justices.[30]

Why did the legislation fail in its principal aims of holding wages at pre-plague maxima and preventing workers from moving in search of better pay? Four obvious reasons present themselves. First, the legislation's intention was to regulate the severe and immediate crisis following the Black Death, which was characterized by high prices of essential foodstuffs, a succession of poor harvests, and anxieties about securing labour during the harvest.[31] This was crisis legislation aimed at reducing the sudden disruption to the labour market and deterring those workers hoping to take advantage, and therefore its chances of sustained success were slim. Second, even as crisis legislation it was far too ambitious in attempting to fix wages in the wake of what was the greatest supply side shock to the labour market in recorded history: there is a Canute-like element to the government's response. Third, controlling the hired labour market was a formidable task, because it was already sizeable and largely unregulated when plague struck, absorbing around one-third of productive labour: if it had been smaller, and if those seeking paid work had few options for employment, then this segment of the workforce could have been easier to coerce.[32] Finally, the government's standing bureaucracy was tiny and so the enforcement of the statute relied on the disposition and willingness of unpaid jurors and officials in local communities to bring alleged

[25] A carpenter's day rate rose from 3 d. to 4.3 d., and a thatcher and mate from 3.5 d. to 5.7 d., Monro, 'Late medieval decline', p. 314; Bailey, 'The peasants', p. 178.

[26] Horrox, ed., *The Black Death*, pp. 306–7.

[27] Hatcher, 'England in the aftermath of the Black Death', pp. 13–19; Bailey, 'The peasants', pp. 173–80; Rigby, 'Justifying inequality', p. 191.

[28] Whittle, 'Attitudes to wage labour', p. 39.

[29] *Statutes of the Realm*, vol. 2, pp. 56–8; Bailey, *After the Black Death*, pp. 266–8.

[30] The best introductions to the statute and its successive revisions are Given-Wilson, 'Service, serfdom'; and Whittle, *The development of agrarian capitalism*, pp. 275–300. For an excellent recent update, Whittle, 'Attitudes to wage labour'. The statutes are placed in the contemporary debates about labour in Bailey, 'The ploughman'; Bailey, 'The peasants', 177–80. For a calendar of the successive changes, see Clark, 'Medieval labour law', app. B.

[31] Bailey, *After the Black Death*, pp. 70–83.

[32] Bailey, 'Regulation', p. 4.

breaches of the statute to the attention of the royal justices.[33] To confuse matters further, the legislation failed to articulate explicitly the role of other legal tribunals in its implementation.

The latter point cuts to the heart of the issue. The effectiveness of the legislation depended on volunteers – local employers, constables, and presentment jurors – to make it work, and to exercise their discretion about whether to prosecute offenders, and if so, in which tribunal: so its *in*effectiveness might also raise doubts about the overall strength of their commitment to the cause. After all, as Musson points out, we cannot presume that all JLs would have enforced it enthusiastically in their own or class interests.[34] Furthermore, contrary to the received wisdom that the labour laws created an alliance among employers from aristocrat to artisan, it is entirely plausible that the statute was a divisive issue and that support for the statute where it mattered – in the towns and countryside of England – was patchy. Indeed, there is clear evidence that contemporaries were divided over how far the government ought to intrude into the lives of ordinary people.

Polarized opinion among the ruling elite is illustrated by Parliament's contradictory handling of new sumptuary legislation between 1363 and 1365, which was designed to control the dress and consumption habits of the mass of populace. In 1363 Parliament passed a highly prescriptive statute targeting 'the outrageous and excessive apparel of various people contrary to what they should be wearing according to their estate and their degree', specifying the type and cost of clothes to be worn by the likes of 'carters, ploughmen, cowherds, shepherds and all manner of people working in agriculture and all those whose assets are worth less than 40s.', and directing these people to 'eat and drink in the manner appropriate to their estate'.[35] This signalled the determination among sections of the ruling elite to deploy statute law to hold the lower orders to the condition of their estate. Yet the statute provided no hint about how it was to be policed, there is no evidence that any of its provisions were ever enforced in any legal forum, and in 1365 the Commons successfully petitioned that it should be repealed, with the king affirming in reply that 'all people shall be as free as they were at all times before the said ordinance'.[36] Ormrod has argued convincingly that this very curious episode reflected the swings in a lively public debate between traditionalists within the ruling elite who favoured a state-led clamp down on the lower orders and others who believed the state should not dictate what people wore.[37] The abject failure of the statute indicates a groundswell of public opinion against further government legislation attempting to regulate the lives of ordinary people. It also mirrors the emerging debate over the wider problem of labour, where conservative hard liners were advocating a more coercive approach and pragmatists recognized the new reality and sought to target the labour laws more narrowly on to the issues of vagrancy and the able-bodied poor.[38] The most direct way to investigate these possibilities further is to analyse how far the legislation was actually enforced on the ground.

[33] Musson, 'Reconstructing', pp. 120–1; Bailey, *After the Black Death*, pp. 77–80.

[34] Musson, 'Reconstructing', pp. 118–9.

[35] *Statutes of the Realm*, vol. I, pp. 378–83.

[36] Brown, ed., *Companion*, p. 34.

[37] Bailey, *After the Black Death*, pp. 82–3; Ormrod, *Winner and waster*, pp. 61–82.

[38] Bailey, 'The peasants', pp. 177–82.

III | PUBLIC PRESENTMENTS IN VARIOUS COURTS

This section explores the possibility that grassroot reservations about implementing the full force of the Statute of Labourers contributed to its ineffectiveness by testing the extent to which it was adopted in different law courts within the localities. If, as some historians have claimed, wage and mobility restrictions over workers were already being widely enforced before the Black Death in local courts, then we would expect the landlords and urban elites who ran them, who after all were themselves major employers of hired labour, to seize the opportunity to intensify existing practices now that these had been codified in the new labour legislation. Similarly, if the labour legislation really did make common cause among the nobility, the lesser lords (the gentry, who were also Members of Parliament), and the mercantile elite against those workers who were now demanding higher wages and more perks, as has been widely argued,[39] then employers would have used all means at their disposal to hold employees to their social duty.

If these two key assumptions are correct, there will be clear evidence of the enthusiastic adaptation and implementation of the national legislation in manorial and borough courts – especially in the third quarter of the fourteenth century – to reinforce the efforts of the royal justices.[40] Putnam initially questioned whether the statute was adopted in local courts, without finding sufficient evidence to offer a confident answer, although subsequently Clark expressed confidence that it was.[41] The principal legal forum for the public implementation of the labour legislation was the JL/JP sessions, supplemented by the (often itinerant) court of the King's Bench: lesser royal tribunals, such as county and even hundred courts, were also capable of implementing the legislation, as in the case of Cheshire (table A1). Most cases in these courts were brought by presentment juries representing local communities, where the accused were deemed guilty unless they chose to dispute the charge and seek a trial jury to consider their case. Manorial and borough courts, including the leet, were not under royal control, but, as we shall see, were capable of presenting breaches of the statute. The issue is to what extent they chose to do so.

These public presentments must be distinguished from private pleas, whereby one individual sued another in a dispute over a work agreement. This might be a plea for debt, for example, when the dispute was over unpaid wages, but during the course of the fourteenth century breach of contract began to feature more frequently as a form of action. These types of private pleas were not heard in JP courts, although they were prominent in the royal Court of Common Pleas (CCP) and in local manorial and borough courts. After 1349 some private contract pleas stated explicitly that the breach was 'against the form of the ordinance' or 'against the statute', without necessarily stating specifically which provision.[42] Contract cases in the CCP were much more likely than those in private courts to cite a breach of the national labour legislation. These private pleas are considered in section IV.

To what extent did public presentments relating to the Statute of Labourers feature in different legal tribunals? Ault showed long ago that there were some public presentments of offenders in

[39] See, for example, Hilton, *Bond men made free*, pp. 154–5; Palmer, *English law*, pp. 23–4, 294–5; Harriss, *Shaping the nation*, pp. 435–6; Whittle, 'Attitudes to wage labour', pp. 37–8. For a local study of the background of JPs in the fourteenth century, Amor, *Keeping the peace*, pp. 75–101.

[40] Estate stewards, who ran manorial courts on behalf of major landlords, were often royal justices as well, such as William Newhouse in the 1370s, who was both a JP and a steward of estates for the bishopric of Ely (Arnold, ed., *Select cases of trespass*, pp. 71–2).

[41] Putnam, *Enforcement*, pp. 160–6; Clark, 'Medieval labour law'.

[42] For examples, see Putnam, *Enforcement*, pp. 394–7.

manorial courts, and implied the practice was commonplace, without paying close attention to the frequency, typicality, or chronology of the cases he had discovered. For example, he provided specific examples from three different post-1350 manorial courts of presentment juries taking action against individuals who had left their vill of residence during the harvest for higher wages (one in 1375, one in 1379, and another in 1392), and also cited another three manors recording by-laws forbidding workers to leave in the harvest, all from the fifteenth century.[43] Similarly, he implied that capping wages in accordance with the statute was common, but provided no concrete examples from post-plague manor court rolls.[44] In a similar vein, Franklin has shown how in July 1351 the manor court of Thornbury (Gloucs.), held by the earls of Stafford, elected eight men as 'arrayers of any workers taking or detaining against the form of the statute' [*arraiatores operariorum ne aliquis capient ne detinent*]: the eight were a mixture of villeins and freemen with large landholdings and so were likely to be employers of labour themselves. By the end of the year this body had made six presentments, three for men taking excessive wages and three for leaving during the harvest to reap elsewhere.[45]

The creation of a new category of jurors at Thornbury to enforce the statute is exceptional, and a powerful example of local initiative in support of the national legislation, although Franklin's research did not extend beyond 1352 so it is uncertain how active this dedicated jury continued to be after that first summer. It confirms, along with Ault's handful of examples, that local private courts could and did implement elements of the statute, with an emphasis on the mobility clause and some attention to wage-fixing. The challenge lies in establishing the typicality of such examples, because few attempts have been made to document systematically and quantitatively the frequency and type of such presentments in manorial court rolls, or, indeed, to document explicitly when no such presentments are recorded. This is an important yet often overlooked flaw in historical methodology: we tend to notice, document, and quantify positive examples of an activity while overlooking absences. The importance of registering nil returns to establish the typicality of positive findings emerges clearly from a recent in-depth study of five manors distributed throughout England with an exceptionally good survival of post-plague manorial court rolls, where there were hardly any attempts to implement the labour legislation in 1445 extant court sessions: there was no recorded wage-fixing nor any imposition of compulsory service on any of the manors in the sample.[46] Presentments for leaving the manor to work elsewhere were very rare, with just one example of a jury in a single administrative sub-division within the manor of Wakefield (Yorkshire) amercing a number of people for leaving during the harvest in 1351, although other jurors on the same manor had made no such presentments that year.[47] Hence, when a systematic study is made of manors with a relatively complete series of extant courts, and when nil returns are recorded alongside positive evidence, the general absence of presentments under the legislation is overwhelming, other than some occasional and isolated interest.[48]

[43] Ault, 'Open field husbandry', pp. 13, 15–6; Ault, *Open field farming*, pp. 32–3.

[44] See, for example, Ault, *Open-field farming*, p. 32.

[45] Franklin, 'Thornbury manor', pp. 170–1, 359–62. The use of the word arrayer is odd, because its meaning is more akin to a tax assessor than a juror. In the mid-1350s a couple of presentments of workers taking excessive wages against the statute are recorded in the manor court of Ruyton, Putnam, *Enforcement*, pp. 397–8.

[46] The manors are Wakefield (Yorkshire), Newton Longville (Oxfordshire), Layham (Suffolk), Walsham, and Walsham High Hall (Suffolk).

[47] Bailey, 'Regulation', pp. 151–3.

[48] Richard Smith, personal communication, confirmed from his own extensive research that controls over labour, and evidence for the implementation of the government's legislation, are absent from thousands of extant manorial court rolls

The survival of manorial court rolls from the second half of the fourteenth century across England is very good and so there is plenty of scope for future research to determine the typicality of this initial sample of five manors. As a preliminary contribution, table 1 presents the findings from another eight manors with a good series of post-Black Death court rolls, adopting the established methodology. The manors were held by a variety of landlords, including aristocratic (Elmley Castle), lay gentry (Bredfield), minor monastic (Romsley), and major ecclesiastical lords (Brandon, Codicote, Hargrave, Monks Eleigh, Winston). The domination of the sample by high status lordship is deliberate because they possessed both the power to implement the legislation in their own courts and the incentive, as lords dependent on hired labour to run their demesnes.

The evidence contained in table 1 is powerful and unequivocal: there were no public presentments against the statute on seven of the eight manors covering 578 courts, even though the sample is deliberately weighted towards those lords most likely to enforce it. The only recorded presentments under the statute were at Brandon, a small market town whose court consequently contains more 'urban'-style issues, such as pollution and public order offences, than the other manors. Here, between 1350 and 1399 a mere 13 people were presented and amerced for leaving the vill during the harvest, 11 of whom were presented in a single case in 1396. In 1369, the court noted an order to keep three labourers in custody to serve the lord under the statute, but no further explanation or action is recorded.[49] Sensitivity to the availability of harvest labour was perhaps especially high in 1369, a year of plague and poor weather.[50] Hence, the Brandon court sought to enforce the statute very occasionally rather than routinely, and its sole interest was in securing a workforce for the harvest.

Thus, nearly 90 per cent of manors in this new sample did not make a single presentment against the statute. The only manor to do so made its presentments occasionally and episodically, focusing mainly on workers leaving the vill during the harvest. As yet, nowhere in the published research is there a single example of a manor court making presentments against the statute routinely and systematically. Until future research proves otherwise, the conclusion must be that the overwhelming majority of manor and leet courts made no attempt to prosecute under the statute.

There are strong a priori grounds for supposing that borough courts would have been active in presenting offenders against the statute, because towns depended heavily on a hired labour force and were run by burgesses who were themselves regular employers of labour. Clark noted the very low number of townspeople prosecuted under the statute in JP sessions of the late fourteenth century and suspected this must have been a direct function of the high levels of enforcement of the same in borough courts: indeed, the Statute of Cambridge in 1388 explicitly directed 'boroughs and cities' to prosecute such cases.[51] It is possible that the authorities in London actively enforced it within the city.[52] In contrast, however, the many published academic studies of

from Redgrave, Rickinghall and Hinderclay (Suffolk), High Easter and Great Waltham (Essex), and the three manors of Crowland abbey in Cambridgeshire.

[49] Muller cites 18 post-1349 cases of presentments against the statute, mainly leaving the vill to work elsewhere (Muller, 'Conflict and revolt', p. 4). Two of these were in 1408 (for two men procuring labourers out of the vill during the harvest, University of Chicago, Joseph Regenstein Library, Bacon Ms 293/17), so are not included in this sample. This leaves 16 people in our sample, 3 of them covered in the 1369 presentment. The remaining 13 were amerced in just three separate presentments for leaving the vill *during the harvest* (cf. Muller): in 1364 (1 person), 1384 (1 person), and 1396 (11), University of Chicago, Bacon Ms 291/43, 292/9, 292/27. Muller uses this material to illustrate the build-up of tensions between lord and peasants before the revolt of 1381, yet in reality just 4 of her 18 cases preceded the revolt, all in the 1360s.

[50] Pribyl, *Farming, famine and plague*, pp. 201, 207, 232; Bailey, *After the Black Death*, pp. 138–9.

[51] Clark, 'Medieval labour law', p. 336 and appendix B.

[52] Braid, 'Behind the Ordinance', pp. 17–24.

TABLE 1 Summary of presentments or ordinances regulating labour in the court rolls of seven English manors, 1350–1400.

Provision	Bredfield (Suffolk)	Brandon (Suffolk)	Elmley Castle (Warks.)	Hargrave (Suffolk)	Monk's Eleigh (Suffolk)	Codicote (Herts.)	Romsley (Worcs.)	Winston (Suffolk)
Number and range of extant courts	75 courts, 1350–78	126 courts, 1350–99	31 courts, 1350–9, 1371–90	87 courts, 1352–98	21 courts, 1350–73	109 courts, 1350–77	129 courts, 1354–99	63 courts, 1350–98
Adults not to leave the vill to work	No	No	No	No	No	No	No	No
Adults not to leave the vill to work in the harvest	No	Yes	No	No	No	No	No	No
Lordly first claim on labour	No	No	No	No	No	No	No	No
Lordly first claim in harvest	No	Yes	No	No	No	No	No	No
Able adults to reap	No	No	No	No	No	No	No	No
Wage-fixing	No	No	No	No	No	No	No	No
Use of Statute of Labourers provisions post 1349	No	Yes	No	No	No	No	No	No

Sources: Suffolk Archives/Ipswich, HA91/1 (Bredfield); University of Chicago, Jospeh Regenstein Library, Bacon Ms 291, 292 (Brandon); R.K. Field, ed., *Court rolls of Elmley Castle, Worcestershire, 1347–1564* (Worcestershire Historical Society, 20, 2004), 8–66; Suffolk Archives/Bury St Edmunds, E3/15.10/1.1 to 1.19 (Hargrave); V. Aldous, ed., *Monks Eleigh manorial records 1210–1683* (Suffolk Records Society, 65, 2022), pp. 100–156; M. Tompkins, ed., *Court rolls of Romsley 1279–1643* (Worcestershire Historical Society, 27, 2017), pp. 122–159; Cambridge University Library, EDC 7/19/Box 1/13 to 35 (Winston).

fourteenth-century towns make hardly any mention of urban authorities upholding the statute actively.[53] Even a recent edited volume dedicated to the study of late-medieval borough courts fails to yield a single reference.[54] In short, public presentments against the statute were unusual in late fourteenth-century borough courts. In the late 1390s Lincoln and Nottingham obtained royal charters enabling them to hear all pleas under the labour laws, as distinct from the JP courts, so it is possible that presentments did become more common in fifteenth-century courts.[55]

To test whether public presentments in borough courts were unusual, a sample of nearly 130 courts was analysed from Colchester (Essex) covering 12 full years between 1350 and 1379.[56] In 1352 the JLs appointed to Essex had been especially active throughout the county, and on their visit to Colchester had raised the enormous sum of £84 7 s. 7 d. in fines from offenders against the statute.[57] Did the burgesses adopt the same approach thereafter in their own court? Certainly, they were highly active in enforcing many public order issues, such as the assizes of bread and ale, forestalling, night vagrants, unruly taverns, and harlotry. Despite this, only five cases for contravening the labour legislation are recorded in the sample of 12 full years of courts between 1350 and 1379. In 1367, Thomas Fletcher was ordered to respond to the bailiffs for 'taking excess for his work', although no more is heard of the matter, and in 1376 two men were amerced 2 s. each for taking excessive weekly pay.[58] In 1372 John Borham contravened the bailiffs' order that no one should leave the town to work elsewhere until the harvest was finished, and duly fined 2 s.[59] Finally, in 1356 there appears to be a case of enforcing compulsory service, when 'Agnes, lately with Julian Palmer, agrees to serve John Curteys, clerk, until next Michaelmas'.[60] While the Colchester courts contain no explicit statement of a local by-law relating to the labour legislation, it is clear from the Borham case that the bailiffs had attempted to restrict worker movement in the harvest through a verbal order, and were willing to make an example of one of the most flagrant offenders under its provisions.[61] It is equally clear that this aspect of public order was low on their list of priorities, judging by the total of just three monetary fines from the sample of courts between 1350 and 1379.

Thus, on the basis of all the evidence published to date, borough courts rarely prosecuted residents under the statute. No academic study has yet demonstrated routine and persistent enforcement of the labour laws in towns outside London, and the lack of references to such activity – and the very limited interest of the Colchester court – provides sufficient grounds for drawing the preliminary conclusion that urban authorities did not wish to pursue offenders through their own jurisdiction.

[53] Kowaleski, *Local markets*, p. 88 notes briefly that the mayor's courts in the 1350s included some public presentments.

[54] Goddard and Phipps, eds., *Town courts*. See, for example, the detailed study there of the Norwich leet courts, where 63% of all business involved economic infractions, mainly against the assizes of ale and bread including forestalling, but no mention of the labour legislation. (Sagui, 'The business of the leet courts', pp. 125–31.)

[55] Clark, 'Medieval labour law', p. 336.

[56] The sample is based on a complete set of surviving court rolls for each of the following years, covering the period Michaelmas (29 September) to Michaelmas: 1310–1, 1311–2, 1329–30, 1333–4, 1336–7, 1340–1, 1345–6, 1350, 1351–2, 1353–4, 1356–7, 1359–60, 1360–1, 1364–5, 1366–7, 1372–3, 1374–5, 1376–7, 1378–9: Jeayes, *Court rolls of the borough of Colchester*, volumes I to III.

[57] Britnell, *Colchester*, pp. 136–7; Poos, 'Social context', p. 49.

[58] Jeayes, *Court rolls of the borough of Colchester*, II, p. 226, '*super excessive captione pro opera suo*'; III, p. 113 '*excessive capit ebdomatim*.'

[59] Jeayes, *Court rolls of the borough of Colchester*, III, p. 8.

[60] Jeayes, *Court rolls of the borough of Colchester*, II, p. 42.

[61] Britnell, *Colchester*, p. 135, fn. 40, also cites this case but no others.

The sessions of the royal justices – notably JLs/JPs and the court of the King's Bench – are a much more likely source of presentments, although unfortunately the survival rate of JL/JP sessions in the second half of the fourteenth century is very low. Published studies of the small number of surviving sessions reveal routine enforcement of the statute, with a particular focus on those taking excessive wages.[62] For example, courts under the direct control of the Black Prince in Cheshire were especially active in presenting offenders in the mid-1350s, with further enforcement waves around the second epidemic in the early 1360s, and again in the late 1360s: the number of cases then fell sharply in the 1370s.[63] Excessive wages were the main target, if the presentments to the county court between 1356 and 1359 are representative, comprising 72 per cent of cases, while the next most frequent offence was leaving during the harvest (22 per cent, appendix table A1). There was little interest in the compulsory service clause.[64]

Excessive wages were also the dominant offence in the JP sessions in Norfolk (1375–8) and Suffolk (1361–4), comprising 67 per cent of all cases (appendix table A2). A session of the King's Bench in Essex in 1389 mainly targeted excessive wages.[65] Only the JP sessions in Lincolnshire display any deviation from this pattern (appendix tables A3 and A4). Excess wages were the largest single category between 1360 and 1375 (29 per cent), followed by excess prices (24 per cent), but interest in the latter fell away completely in the period 1381–96, when general conditions of deflation had largely dispelled social anxieties about this issue. Instead, departing before the end of the contract had emerged as the main issue in this later period (39 per cent), a proportion which rises to over half of all cases if presentments for procuring labourers are added (appendix table A4). Excess wages remained the next most common category (25 per cent).[66]

Hardly any records of lesser royal courts, notably hundred courts, have survived. Booth has shown how in 1350 the hundred court of Macclesfield – which enjoyed extended jurisdictional privileges with exceptional autonomy from interference by royal officials – had initially imposed elements of the Ordinance of Labourers, but thereafter its interest in the legislation waned sharply.[67]

Thus, it is no surprise to discover that the royal courts of JPs and King's Bench were most active in enforcing the legislation. Their focus was primarily and consistently on the wage clause, which was consistently the largest category of offence, followed by the mobility clause. Breach of contract was uncommon, presumably because these were likely to involve more complex points of law requiring discussion and perhaps expert legal input: this made them less suited to the jury presentment common in the JP courts, and better suited to private pleas in the CCP or the higher royal courts.[68] The Lincolnshire evidence indicates, however, that towards the end of the century breach of contract was becoming more common in JP sessions.

[62] Putnam, *Enforcement*, pp. 174, 177, 179; Whittle, *Agrarian capitalism*, pp. 291–4.

[63] Booth, 'Enforcement', tab. 1, p. 9.

[64] For a discussion of the few examples that have survived, see Bennett, 'Compulsory service', pp. 16–19.

[65] Kenyon, 'Labour conditions', pp. 91–102; Clark, 'Medieval labour law', tab. 2.

[66] Clark, 'Medieval labour law', tab. 2, covers some of these JP sessions, although only the figures for the later Lincolnshire sessions correspond with mine. The reasons are twofold: Clark uses a subset of the earlier Lincolnshire sessions rather than the full series, and I have used Hettinger's figures for the Norfolk and Suffolk sessions. Her conclusion is the same as mine: excessive wages were the main focus (Hettinger, 'The role of the Statute of Labourers').

[67] Booth, 'Enforcement', pp. 3, 8. See fragments from the Slaughter hundred court (Gloucestershire) in the mid-1350s in Putnam, *Enforcement*, p. 392.

[68] Putnam, *Enforcement*, pp. 177–8.

A clear pattern emerges from this analysis. Nearly 90 per cent of sampled manor courts made no presentments under the statute, and the evidence from borough courts (outside London) points the same way. Occasional presentments in a few courts were probably targeted responses to some especially pressing local concern, usually a desire to stem the outflow of workers at harvest time. The royal courts of JPs and King's Bench were the most active enforcers of the statute, focusing primarily on those taking excessive wages. The unwillingness of landlords and burgesses to use their own jurisdictions to complement the work of the royal justices confounds the traditional historical narrative that in the generation after the Black Death the statute made common cause among the ruling elite against the mass of hired workers. Instead, it adds weight to the view that the legislation was divisive and that the ruling elite was split between, on the one hand, social conservatives seeking a hard line, and on the other, pragmatists seeking to narrow the targets to vagrancy, idleness, and the worst offenders.[69] Furthermore, the absence of public labour regulation in local courts after 1350 undermines the other traditional narrative that wage, mobility, and contract controls were already commonplace in the era before the Black Death: after all, if local courts had routinely exercised these controls before 1350, then there ought to be manifold examples of stiffening enforcement afterwards when the additional leverage was most needed.

Consequently, there are strong grounds for arguing that the ineffectiveness of the government's labour laws owed something to a lack of concerted and unified commitment to its aims at grassroots level. The vast majority of employers of waged labour in medieval England were artisans, retailers, merchants, and the wealthier peasants, including serfs, so in reality manorial lords comprised a small minority.[70] Attitudes towards the legislation among this disparate group of employers must have been varied, with some eager to enforce it and others doubtful that the legislation could ever achieve its aims. In fact, many lords had recognized the reality of the post-plague world by paying wages higher than those specified in the statute and offering additional inducement to workers, mainly in the form of additional food and drink, although few such employers were ever presented to the justices.[71] Given this reality, perhaps they reckoned that enforcing the statute in their own courts would be just too inflammatory. Whatever the reason, the absence of cases relating to the statute in local courts does not fit the old narrative of a post-plague seigniorial reaction which united the ruling elite against labourers in general and serfs in particular.

IV | PRIVATE LITIGATION IN DIFFERENT LEGAL TRIBUNALS

Having considered the public enforcement of the legislation in various legal tribunals, we now focus on private pleas between individuals involving employment disputes in general and those citing breaches of the statute in particular. Private pleas between individual litigants had comprised the bulk of the business of borough courts in the early fourteenth century and a sizeable minority of the business of many manor courts.[72] The vast majority of these were pleas for debt and trespass, whereas pleas for breach of contract were relatively uncommon.[73] Did the volume of

[69] See also Bailey, *After the Black Death*, pp. 266–8.

[70] Broadberry et al., *British economic growth*, p. 321.

[71] Hatcher, 'England in the aftermath', pp. 19–25.

[72] Kowaleski, 'Town courts', pp. 23–32; Briggs and Schofield, 'The evolution of manor courts'.

[73] See, for example, Kowaleski, *Local markets*, pp. 216–20; Britnell, *Colchester*, tab. 7; Briggs, 'Manor court procedures', especially p. 530, fn 32.

TABLE 2 Private pleas for a breach of contract under the Statute of Labourers recorded in the Court of Common Pleas, sample of five years 1355–70.

Year	No. of cases	Total contract pleas	No. of breach of contract	No. of inducement to breach	Other pleas
1355	61	61	25 (41%)	36 (59%)	0
1360	203	201	118 (58%)	83 (41%)	2 (1%)
1365	272	269	173 (63%)	96 (35%)	3 (1%)
1370	206	203	132 (64%)	71 (35%)	3 (1%)
1375	241	235	155 (64%)	80 (33%)	6 (3%)
Total	983	969	603 (61%)	366 (37%)	14 (2%)

Source: The National Archives, CP 40/380, 401, 419, 437, 457.

private plaints for breach of contract over work issues increase after 1351 in response to the labour legislation and did they become more explicit about the nature of the breach?

Musson and Eldridge have recently argued independently that the Ordinance and the Statute of Labourers mark a milestone in the evolution of contract law.[74] This legislation represents the first use of public policy to shape private legal obligations in the sphere of employment. It applied equally to people of free and servile status, and even undermined the theoretical rights of lords in the common law over the labour of their serfs.[75] In particular, it made pleas of breach of contract easier to initiate in the royal courts, because a plea citing a breach of the statute did not require the same degree of formality when pleading a breach of covenant in the courts of common law.[76] The latter were only actionable if they had been sealed by a written agreement, whereas a plea citing the statute could be initiated on the basis of an oral contract or informal agreement. At a stroke, then, the statute had the dual effect of tightening contractual arrangements in the labour market and creating a category of informal contract which was much easier to action under the common law than the existing plea of covenant.[77] Furthermore, the labour laws also created mutual obligations between employer and employee, providing firm grounds for the latter to defend a plea of breach of contract successfully: for example, leaving employment early could now be justified if the employer had not paid the package agreed in the contract, and an employee might now use a private contract action against an employer – as opposed to a debt plea – for unpaid wages.[78]

Private plaints between individuals over employment often feature in the CCP, whose records offer a very promising source for further research. To explore their potential, a sample was created from all the proceedings recorded during the Hilary term in each of the years 1355, 1360, 1365, 1370, and 1375. The findings are presented in table 2. Unsurprisingly, the sampling reveals a significant increase in the volume of pleas citing breaches of the statute. From a low base in 1355 the number of pleas rose nearly four-fold to 203 in 1360, then rose again by around one-quarter to a peak of 272 in 1365. In 1370 the number of cases had fallen back to 206, but then partly recovered to 241 in 1375.

[74] Musson. 'Reconstructing', pp. 121–6; Eldridge, 'Centralisation'.

[75] Palmer, *English law*, pp. 62–91; Eldridge, 'Centralisation'.

[76] Clark, 'Medieval labour law', pp. 334–8.

[77] Putnam, *Enforcement*, pp. 194–5; Clark, 'Medieval labour law', p. 345; Bailey, *After the Black Death*, pp. 208–10, 335–6; Eldridge, 'Centralisation'.

[78] Clark, 'Medieval labour law', pp. 335–6; Eldridge, 'Centralisation'.

Nearly two-thirds of the pleas in the sample (603 ex 983) cite the employee and allege a breach of the contract clause of the legislation, meaning departure before the expiry of their term of work. More than one-third (366 ex 983) cite a third-party employer and allege that the same had 'retained' the plaintiff's employee in breach of the ordinance, and 195 of these 366 retention cases also cite the absconding employee. Within this grand total of 969 contract cases, a handful incidentally provide further details, such as the date and place at which the employee was recruited; the start date and term of their employment; the date on which they absconded; and the defence proffered by the employee and/or the third-party employer. The remaining cases (14 ex 983) allege some other offence arising out of the labour laws, mainly relating to the compulsory service clause. The incidence of retention pleas was comfortably largest in 1355 (59 per cent), before settling consistently to around a third of the cases. This might be the result of an expectation in the years immediately following the introduction of the statute that compensation could be obtained from the new employer, with the subsequent decline reflecting the emerging reality that it seldom was.

The occupation of the employer is given in 255 of the 969 contract cases in the CCP sample, the occupation of the third-party defendant employee is given in 57 of them, and the occupation of an employee in 141 cases. We cannot know why some litigants gave their occupation, or why it was recorded, whereas others were not. The 255 plaintiff employers are dominated by heads of minor religious houses (26 per cent) and parish priests/chaplains (20 per cent), and a further 17 per cent were gentry lords and 15 per cent were clerks. A similar pattern emerges among those accused of retaining employees in breach of contract, which are led by priests/chaplains (33 per cent) and 7 per cent heads of lesser religious houses. A parliamentary petition of 1368 identified lesser landowners such as these as the types of employers experiencing most difficulties finding labour in general and servants in particular.[79] Not surprisingly, most of the 141 employees worked in agriculture (41 per cent), although clerks and chaplains occupied a sizeable minority group (14 per cent). However, by the end of the reign of Edward III, chaplains, as servants of God, had acquired immunity from such breach of contract claims.[80]

Private plaints in general comprised a large component of the business of borough courts, sometimes involving property but overwhelmingly relating to debt.[81] The court of a sizeable town such as Nottingham could attract more than 400 litigants each year towards the end of the century.[82] Pleas explicitly relating to employment disputes were uncommon before 1350, but thereafter became more numerous.[83] For example, at the end of the fourteenth century the borough courts of Grimsby and Yarmouth each handled around 90 employment cases (approximately 3 per annum) citing the statute, one-third of which involved wage disputes, with the rest being departures before the contracted period.[84] The Colchester borough courts exhibit the same upward trend in the volume of private pleas, although plaintiffs were less likely to cite the statute. Before 1350 private plaints between individuals were common enough, although they were dominated overwhelmingly by cases of debt and trespass. The rolls do not routinely describe what these disputes were

[79] Musson and Ormrod, *Evolution of English justice*, p. 95.

[80] Putnam, *Enforcement*, pp. 188–9.

[81] See, for example, Kowaleski, *Local markets*, pp. 216–20; Britnell, *Colchester*, tab. 7.

[82] Phipps, 'Female litigants', p. 80.

[83] Clark, 'Medieval labour law', p. 335; Kowaleski, *Local markets*, p. 88.

[84] From 80 cases in Grimsby between 1380 and 1417, 31% related to wages, 56% covenant against the employee, and 13% covenant against the employer; in Yarmouth there were 90 cases between 1389 and 1425, with 34% related to wages, 41% covenant against the employee, and 25% covenant against the employer (Clark, 'Medieval labour law', tab. 1).

TABLE 3 Number of private plaints involving servants as employees in labour disputes recorded in a sample of the borough court rolls of Colchester 1310–79, by decade.

Decade	No. of years in sample	No. of cases	No. of cases per annum
1310–9	2	1	0.5
1320–9	0	–	–
1330–9	3	0	0
1340–9	2	0	0
1350–9	3	6	2
1360–9	3	16	5.3
1370–9	4	45	11.2

Source: See footnote 56. Court rolls run from Michaelmas (29 September) to Michaelmas, so the roll for say, 1309/10 is included in 1310–9. Around 20 courts were held each year. The partial roll for 1350 is included in the 1350–9 sample. Number of individual cases, whether alleged or proven, where either the plaintiff or defendant can be positively identified as in service, excluding apprenticeships.

about, at best offering just sketchy details. The only possible case relating to labour in the pre-plague sample was heard in 1310, when Richard and Alice Carter entered a plea of trespass against their servant, William.[85] It is highly likely that in this period other labour disputes are hidden within pleas for trespass and debt, while remaining a small minority of cases.

After 1350 two important changes occurred. First, the volume of all types of personal litigation rose dramatically. Debt pleas jumped from around 25 per annum before the Black Death to around 400 per annum in the 1380s and 1390s, and contract pleas rose from a negligible number in the pre-plague era to 45 per annum in the 1370s (see table 3).[86] Second, the entries in the rolls are more likely to flag the issue in dispute, which reveals that the volume involving employment was significant. This was undoubtedly a genuinely new phenomenon in the types of private pleas rather than an administrative change, reflecting heightened sensitivity to labour shortages and greater attention to the terms of employment.[87]

While the post-1350 entries in the Colchester court rolls are more informative than the pre, some remain terse and laconic. Table 4 breaks down the source of the 67 recorded disputes between employer and servant, which are dominated by employers suing for either breach of contract (46 per cent) or retention/abduction (18 per cent). One-fifth of pleas do not provide any indication at all of the nature of the dispute. Pleas by employees against employers comprised only a small proportion of cases, mainly involving allegations of assault (4 per cent) or unpaid wages (9 per cent). There are no pleas which can be confidently attributed to the compulsory service clause.

What of private plaints in manor court rolls? Some handled large numbers of private plaints between individuals, amounting in some places to around one-third of the court's total business: others, by contrast, handled few such plaints.[88] Once again, the majority of actions related to debt and trespass, and contract cases were much less common.[89] More research is needed

[85] Jeayes, *Court rolls of the borough of Colchester*, I, p. 11.

[86] Britnell, *Colchester*, tab. 7.

[87] At Thornbury (Gloucs.) in the early 1350s, private plaints over the employment of servants suddenly increase, with no comparable cases in pre-plague courts (Franklin, 'Thornbury manor', p. 358).

[88] Briggs and Schofield, 'The evolution of manor courts', pp. 1–22.

[89] Briggs, 'Manor court procedures'.

TABLE 4 Breakdown of private plaints involving servants in the borough court rolls of Colchester 1350–79.

Category	Male	Female	Total
Assault	3	0	3
Retention/abduction	4	8	12
Breach of contract	24	7	31
Unpaid wages	5	1	6
Surety for behaviour	1	1	2
Unspecified pleas	12	1	13
Total	49	18	67

Source: See fn. 56. Number of individual cases, whether alleged or proven, where either the plaintiff or defendant can be positively identified as in service, excluding apprenticeships.

here, although in the sample of five rural manors referenced above, actions specifying disputes over work did increase after the Black Death, while still remaining very uncommon: of the employment-related pleas, two-thirds were initiated by employees claiming withholding wages and one-third by employers for leaving employment before the agreed term.[90] These pleas in manor courts seldom cited the statute. This admittedly small sample indicates that the concept of mutual obligations in employment contracts was already taking hold in rural settings.

Thus, before 1350 private plaints for breach of employment contracts were very unusual in manor and borough courts, but increased sharply in the 1360s and 1370s from this low base. The growth appears to have been modest in manor courts, mainly involving employees suing employers for unpaid wages, whereas the rise was more pronounced in borough courts and the majority of actions featured employers as plaintiffs. In both tribunals, breaches of contract still comprised a minority of all private actions, which continued to be dominated by debt cases. The rise in litigation over employment issues from the 1350s is most evident in the CCP, where cases citing a breach of the statute in the sample rose nearly four-fold between 1355 and 1365. The ability to initiate a private plea in the royal courts on the basis of an informal agreement by citing the statute made the common law more accessible to prospective litigants. The leading litigants in the CCP were the small monastic houses and lay clergy, implying that they felt the shortage of labour most keenly: it is not clear whether they were the least attractive or most vexatious employers, or perhaps they were both. This discovery adds weight to the suggestion that certain sections of society, or perhaps even certain parts of the country, were keener on enforcing the statute than others.

V | CONCLUSION

The Ordinance and Statute of Labourers represented a major and unprecedented intrusion into the English labour market. The government had not previously attempted to regulate employment, and the scale and ambition of its intervention were unparalleled. Both these attributes, and the persistence of the English legislation, were exceptional by contemporary European standards, and they are explained by the coincidence of particular institutional factors – a centralized and relatively unified legal, fiscal, and political system – with the personal agency of an able and confident monarch backed by a highly capable group of ministers. Historians have been dubious about

[90] Bailey, 'Regulation', tab. 3. The five manors yielded a grand total of just 27 cases in the post-plague era.

the novelty of many of the statute's provisions, and cautious about attributing too much significance to the transformative effects of the Black Death, because, as Musson and Ormrod rightly point out, the labour laws did not exist in a vacuum, but built upon established processes within a legal system which was already multi-faceted and sophisticated.[91] Hence, we cannot attribute to the Black Death a simplistic monocausal primacy in legal developments, although it is evident that the legislation in response significantly accelerated and altered existing legal structures and norms in intended and unintended ways. The legislation created a tighter template for contracts of employment and introduced a new category of informal contract actionable in the courts of common law, one which additionally established mutual obligations between both parties. As a result, the number of private actions involving employment issues in general, and breaches of contract in particular, rose dramatically during the late 1350s and 1360s from a low base in both royal and local courts. The evidence presented here indicates that future assessments of the statute's effects should maintain a clear distinction between its impact on private litigation and on its public enforcement, and consider how these varied in different categories of court.[92]

Despite some clear successes in the early 1350s, and despite the expanding volume of private litigation, the legislation failed to achieve its own ambitious objectives. This failure owed something to its origins as crisis legislation, focused initially on stabilizing the immediate post-plague labour market for the benefit of employers. It also owed something to its unrealistic objectives and to the absence of a standing government bureaucracy capable of imposing it on a sizeable and hitherto unregulated hired labour market. The evidence presented here reveals how the statute was hardly enforced in manor and borough courts, which were certainly capable of doing if they chose to do so. This discovery was only made possible by recording nil returns in a systematic and quantitative manner across 578 courts from eight manors. It also directly contradicts the widely received wisdom that the legislation found common cause among all categories of employer, and instead it indicates strongly that enough grassroots employers – who were expected to identify local offenders through presentment juries – were not sufficiently committed to its blanket enforcement through public presentments. We cannot know whether they disagreed with its objectives, or covertly agreed but feared the likely conflict it would unleash locally if rigorously enforced, but the reluctance to utilize their local courts for this purpose certainly contributed to its ineffectiveness.[93] We do know that from the early 1360s the legislation triggered two debates among the ruling elite, the first about just how far the government should attempt to regulate the lives of ordinary people and the second about how to resolve the problem of labour. The implication is that the legislation was socially divisive among employers of labour.

Despite the lack of appetite for public presentments in local courts and despite its ineffectiveness, the legislation was not without influence. After all, it continued to be revised and reissued over the remainder of the fourteenth century, JPs' sessions and the King's Bench continued to prosecute offenders, and as we have shown, it triggered a rising tide of private litigation. In doing so, it continued to project the ruling elite's vision of how society should be ordered and to influence the behaviour of individual actors by raising the operating costs of employment, either directly through fines or indirectly through their attempts to evade prosecution.[94] The threat of

[91] Musson and Ormrod, *Evolution of English justice*, pp. 4–7, 158–60.

[92] Developing the early work of Clark, 'Medieval labour law'.

[93] For the impracticalities of enforcement, see Musson, 'Reconstructing', pp. 120–1; for the dilemmas facing local people when confronting the legislation, see Bailey, *After the Black Death*, pp. 206–18.

[94] Humphries, 'Plague, patriarchy and girl power', pp. 222–3.

the humiliation of the stocks or even imprisonment must have deterred some workers from breaking contracts, regardless of the government's weak enforcement capability. The statute had tipped the balance of equity in contracts towards the employer while emphasizing the subservience of workers and promoting a particular view of the social order.[95] The flip side was that contracts now bound the employer as well as the employee in mutual obligations, and it was easier to sue for non-payment of wages. The legislation contributed to a general tightening of contractual terms in the labour market, a cultural shift which is also evident in the land market through the spread of leaseholds.[96]

In the long term, the labour legislation altered legal structures and the regulatory capability of the state in unanticipated ways. The most obvious and direct long-term legacy was the creation of the JLs, who by 1368 had merged into an enhanced role of JP, drawn from the provincial gentry and local burgesses to meet quarterly in every county to deal with a range of civil and criminal issues. This system of JPs prevailed in England until the early 1970s.[97] Another legacy of the statute was to cement the authority of the government to intervene in moments of national crisis to regulate labour and commodity markets, harnessing the power of law for social control and increasing state intervention into the lives of ordinary people.[98] Finally, from 1388 the Statute of Labourers was systematically revised and narrowed in scope to target idleness and vagrancy, effectively opening up a new legislative pathway, which in the early modern period produced a unique English institution: the poor laws.[99] As Bennett observes, the fundamental tenets of the statute persisted 'to the dawn of the nineteenth century…shaping employment law throughout the British Empire and touching, by one estimate, about a quarter of the world's people'.[100] Hence the immediate response of the English government to the Black Death exemplifies the potential for legal responses to infectious diseases to have inadvertent long-term consequences. In establishing for the first time the authority of the government to intervene in the labour market and in creating the framework with which subsequent legislators would formulate national social policy for the poor, the statute also exemplifies a tendency for major government initiatives to suffer mission creep and to result in an increase of state power in the wake of pandemics.

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ORCID

Mark Bailey https://orcid.org/0000-0002-8957-2405

[95] Whittle, 'Attitudes to wage labour', p. 53.

[96] Bailey, *After the Black Death*, pp. 92–6.

[97] Whittle, 'Attitudes to wage labour', p. 39.

[98] Palmer, *English law*, pp. 1–6, 17–25; Bennett, 'Impact of the Black Death'.

[99] Musson and Ormrod, *Evolution of English justice*, p. 95; Whittle, 'Attitudes to wage labour', pp. 46–7; Bailey, 'Regulation', p. 156.

[100] Bennett, 'Compulsory service', p. 7.

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APPENDIX
One: Presentments under the Statute of Labourers in a selection of royal courts

TABLE A1 Presentments under the Statute of Labourers in the county court of Cheshire, 1356–9.

Category of offence	Number of individuals presented	Percentage
Taking excessive wages	58	72%
Charging excessive prices	2	2%
Procuring labour	3	4%
Breaching contract	0	–
Left the county (in harvest)	18	22%
Compulsory service	0	–

Source: P. Hill and P. H. Booth, eds., *The Chester county court indictment roll 1354–1377. Dealing with serious crime in later fourteenth-century Cheshire* (Chetham Society, Third Series, 53, 2019), pp. 96, 106. 137–8, 144, 147–8.

TABLE A2 Presentments under the Statute of Labourers in the Justices of the Peace courts of Norfolk (1375–8) and Suffolk (1361–4).

Category of offence	Number of individuals presented	Percentage
Taking excessive wages	468	68%
Charging excessive prices	125	18%
Procuring labour	27	4%
Breaching contract	51	7%
Left the county (in harvest)	12	2%
Compulsory service	10	1%

Source: M. J. Hettinger, 'The role of the Statute of Labourers in the social and economic background of the Great Revolt in East Anglia', unpubl. PhD thesis, Univ. of Indiana (1986), table 3.3.

TABLE A3 Presentments under the Statute of Labourers in the courts of Kings Bench and Justices of the Peace in Lincolnshire, 1360–75.

Category of offence	Number of individuals presented	Percentage
Taking excessive wages	57	29%
Charging excessive prices	48	24%
Procuring labour	12	6%
Breaching contract	32	16%
Left the county (in harvest)	48	25%
Compulsory service	With above	

Source: R. Sillem, ed., *Records of some Sessions of the Peace in Lincolnshire, 1360–1375* (Lincoln Record Society, 30, 1936), pp. xlv–xlvi.

TABLE A4 Presentments under the Statute of Labourers in the courts of Kings Bench and Justices of the Peace in Lincolnshire, 1381–96.

Category of offence	Number of Individuals Presented	Percentage
Taking excessive wages	43	25%
Charging excessive prices	5	3%
Procuring labour	21	12%
Breaching contract	66	39%
Left the county (in harvest)	36	21%
Compulsory service		

Source: E. G. Kimball, ed., *Records of some Sessions of the Peace in Lincolnshire, 1381–1396*: *the parts of Kesteven and the parts of Holland* (Lincoln Record Society, 49, 1955), p. l.