



The English Borough in the Thirteenth Century

Author(s): G. H. Martin

Source: *Transactions of the Royal Historical Society*, Fifth Series, Vol. 13 (1963), pp. 123-144

Published by: Royal Historical Society

Stable URL: <http://www.jstor.org/stable/3678732>

Accessed: 12/03/2009 00:27

Your use of the JSTOR archive indicates your acceptance of JSTOR's Terms and Conditions of Use, available at <http://www.jstor.org/page/info/about/policies/terms.jsp>. JSTOR's Terms and Conditions of Use provides, in part, that unless you have obtained prior permission, you may not download an entire issue of a journal or multiple copies of articles, and you may use content in the JSTOR archive only for your personal, non-commercial use.

Please contact the publisher regarding any further use of this work. Publisher contact information may be obtained at <http://www.jstor.org/action/showPublisher?publisherCode=rhs>.

Each copy of any part of a JSTOR transmission must contain the same copyright notice that appears on the screen or printed page of such transmission.

JSTOR is a not-for-profit organization founded in 1995 to build trusted digital archives for scholarship. We work with the scholarly community to preserve their work and the materials they rely upon, and to build a common research platform that promotes the discovery and use of these resources. For more information about JSTOR, please contact support@jstor.org.



Royal Historical Society is collaborating with JSTOR to digitize, preserve and extend access to *Transactions of the Royal Historical Society*.

<http://www.jstor.org>

THE ENGLISH BOROUGH IN THE THIRTEENTH CENTURY

By G. H. Martin, M.A., D.Phil., F.R.Hist.S.

READ 13 OCTOBER 1962

THE thirteenth century was a crucial time in the history of the English borough. It saw towns at the height of their prosperity before the calamities of depression and plague, and the last burst of town-making until the spas of the seventeenth century inaugurated our present urban society. It saw an apparent attempt by Edward I's government to define a hierarchy of towns, in which that which was not a borough would be seen plainly to be something else. It marks the time during which the continental commune was tamed and assimilated to English politics, and commune, gild and portmanmote fused together, in as many different ways as there were boroughs, to make the communities for which the Common Law had evolved the doctrine of incorporation. It also produced for us the first substantial quantity of original records written in the towns themselves, records which are from that time onward our principal source of information about municipal affairs. The purpose of this paper is to display the nature and scope of borough archives before 1300, both as a guide to the mass of material that survives from later centuries, and as a commentary upon the thirteenth-century borough. It is confined to those towns, such as the shire boroughs of Domesday Book, which may be presumed to have recruited their own clerks, and not, like the numerous enfranchised manorial towns of this time, to have had someone else provide them.

Besides its other distinctions, the thirteenth century has a special significance for historians: it marks the end of our authoritative history of the borough. The scientific study of municipal institutions, of the borough in general as opposed to individual boroughs, began early with Thomas Madox's *Firma Burgi* in 1726, but it was not until the end of the nineteenth century that professional historians were able to match the standards set by the harassed and impecunious Treasury clerk. In the meantime local

historians wrote some excellent accounts of particular towns, but the gradual shift of interest to the publication of records, and their consequent and daunting growth, probably inhibited amateur enterprise as the nineteenth century passed. With the appearance of the First Report of the Royal Commission on Historical Manuscripts, in 1870, specimens of the towns' own records were made available for the first time on any large scale and helped to re-awaken a general interest in municipal history. From Charles Gross's *Gild Merchant* (1890) to Adolphus Ballard's *British Borough Charters, 1042-1216* (1913), the study flourished marvellously, and in the years immediately before the First World War the borough seemed a lively and promising subject for enquiry.

After Ballard died in 1915 his work devolved upon James Tait, a scholar who had not been particularly associated with municipal history before the war, although as a young man he had demonstrated in a celebrated review the weaknesses of the two principal theories of Maitland's *Domesday Book and Beyond*, and had written, in *Medieval Manchester and the Beginning of Lancashire* (1904), a model essay upon a seigniorial borough. Tait took up the charters with some reluctance, but he quickly responded to the problems that the subject set. In 1922, the year before *British Borough Charters, 1216-1307*, was published, he read a paper entitled 'The Study of Early Municipal History in England' to the British Academy. In it he surveyed the work already done, and sketched his hopes, and presumably his plans, for the future. Inevitably he commented upon 'a sort of fatality' that had waited upon his predecessors. Of the distinguished group of scholars working at the beginning of the century, Round alone was left, and Round had exercised his bitter acumen only occasionally upon municipal history. Maitland and Mary Bateson had both died in 1906; Charles Gross, after enlarging this country's debt to himself by his two remarkable bibliographies, died in 1909, Ballard six years later. Tait was undaunted by this ominous concatenation. He had taken up Ballard's work and his plan with some misgivings, but had worked them out in a satisfactory way; he now saw beyond the charters to a grander theme. The tone of his paper is strikingly confident; it is the work of a man who promises himself great things.

That buoyancy is missing from *The Medieval English Borough*

(1936), the report upon his next fourteen years' labour. Its subtitle, 'Studies on its Origins and Constitutional History', is intended to dispel false hopes and its text does nothing to recruit them. The casual reader might well reflect that, if ever a subject were veiled in the decent obscurity of a learned language, then was English municipal history in 1936. The paper of 1922, which the casual reader is not likely to reach, makes a chastening epilogue to the work. Since 1936 there have been some notable additions to our knowledge of medieval towns, but the subject cannot be said to have flourished. And indeed, if Tait really failed to master it, then human ingenuity spent upon it is likely to be wasted, for Tait was a man of great learning, and breadth of mind, and uncommon patience: a scholar.

To say that, however, is only to spell out what the book's subtitle says succinctly. The subject is a difficult one, and Tait made it sound difficult; his book is not a failure, but it is necessarily incomplete. In the first place, the borough cannot be defined; there is no formula which defines all the kinds of community to which the terms *burh* and *burgus*, and between them, *port*, were applied from the time when the early English became articulate until the Tudor Poor Law hardened the pattern of local government. One can write a book upon such a subject, but the edges of its argument will be uncertain, and uncertainty may have unjustly a taint of misapprehension about it. In the second place, no matter how its limits are sketched, the history of the English borough demands a very large investigation. Any community that does not live solely by producing its own food—and that at least is a category into which every *burh*, *port* and *burgus* must fall—is a complex and troublesome thing to apprehend, and the historian of the English borough in the Middle Ages can number his cares by scores, and if he will, by hundreds, before he begins to divide and analyse the material to which they lead him. And in the third place, that material, even for a history of the larger English boroughs that excludes London, is still imperfectly explored.

Tait's book would be a remarkable one even if these handicaps did not exist; its chosen limits are wide, and it would be difficult to frame a question within them that could not be answered from its text. Carl Stephenson's theories moved Tait to write the history of the Anglo-Saxon borough *de novo*, and the first six chapters of *The Medieval English Borough* set out the subject in

a form that is not likely to be substantially altered. For the period after 1066 Tait was content to re-use the papers that he had published since 1922, but again he tells a story that is satisfyingly comprehensive, no matter what extra detail it might be asked to accommodate. Down to the thirteenth century we have at least a constitutional history of the borough with so much of its economic and social history as a proper understanding of what we call constitutional matters demands. It is after 1200 that the book's argument falls into self-sufficient parts.

Tait found himself unable to deal with two large topics: the jurisdiction of borough courts and the doctrine of incorporation. The second Martin Weinbaum had in hand; the first still waits, in a posture little changed since 1905, for someone to disentangle the pre-Conquest from the post-Conquest material in the borough customs that Mary Bateson assembled. It was not simply for these reasons that Tait turned aside at that point. Weinbaum subsequently did for the theory of incorporation what he did for the later borough charters: he elucidated and expounded it in a rational way.¹ It is no denigration of his work to say that, if it were fitted into the interstices of Tait's later chapters, and if a similar exposition of burghal jurisdiction were added, there would still be many untidy holes in our borough history. *The Medieval English Borough* takes the story as far as it can be taken on the terms which Tait chose and which he managed so competently. Beyond 1200 there lie formidable problems, and a great mass of material which at present conceals the answers to them. Any means by which we can distinguish and explain the forces at work in the thirteenth century would be invaluable.

Charles Gross laid two mistaken, or misleading, emphases in his work: not an extravagant allowance for a lifetime of scholarship. Intent upon correcting the peculiarly English estimates of the gild merchant, he confirmed another native notion of it, so that even M. Coornaert's arguments have not yet persuaded us that the gilds were, in terms of medieval European society, an entirely natural thing, a form of association as unself-conscious and irresistible as the committee is today.² In doing so, he under-

¹ M. Weinbaum, *The Incorporation of Boroughs* (Manchester, 1937); *British Borough Charters, 1307-1660* (Cambridge, 1943).

² E. Coornaert, 'Les ghildes médiévales', *Revue Historique*, cxcix (1948), pp. 22-55, 208-43.

estimated the essential part that the gild played in fostering the nascent municipal community. And, again because of the strictness of his argument, he underestimated the weight of Henry II's hand while it rested upon the borough court, the portmanmote, and therefore the way in which the court rallied and the relative importance of the gild declined, when that dreadful presence gave way to the absentee Richard and the energetic, resourceful, but necessitous John.¹

This important adjustment of the borough's principal institutions began in the late-twelfth century and extended into the thirteenth. Generally, although with some instructive exceptions, the portmanmote absorbed and redirected the political energies for which the gild merchant had previously offered the only legitimate outlet. The process was complicated by the coincidental excitement over the continental commune, an institution highly offensive to conservative tastes until it had been domesticated and naturalized. In the event the commune was tamed and suppressed very quickly, leaving little but the office of mayor and the sworn council behind it: powerful additions to the invigorated portmanmote, but no longer revolutionary institutions. This happened, and the later medieval borough took its long-enduring shape, within some two generations from Henry II's death.² Formal incorporation and its special patterns of government lay in the future, but their origins are found in the newly enfranchised borough community of the early-thirteenth century. Freed from the continual supervision of royal officers, and above all free to contrive their own surplus from the royal dues that they now handled, the burgesses of the great demesne boroughs turned to make the self-governing communities that the common lawyers rationalized and approved in the next two centuries.

A community of this kind needed a settled administration, a means of ordering its affairs that enabled it to fulfil its public obligations and to manage its private life efficiently. What mattered most was that the fee-farm should be paid when it was due, and that other charges, first tallages and later the Parliamentary taxes, should be met on demand, that the king's peace should be kept and justice done within the competence of the borough court. Besides these cares, the community had to be held together,

¹ J. Tait, *The Medieval English Borough* (Manchester, 1936), pp. 232-33.

² *Ibid.*, pp. 255-56.

its members' business furthered, and the costs of its modest public services defrayed. By the thirteenth century such an organization needed written records, and the survival of those records in increasing quantities is one of the factors that complicate the later history of the medieval borough. As each town becomes articulate it has a right to be heard, and the municipal chorus of the fourteenth and fifteenth centuries is ragged but hearty, each of its many voices proclaiming the same theme in different words. The theme is an interesting one, but its origins are more interesting still. Because they are numerous, borough records have received only spasmodic attention, and little of that for their own sake. Their beginnings are mysterious, but their first appearance was highly significant: in an age when government was newly literate, the inception of regular written memoranda marked an important stage in a community's progress towards corporateness.

There are today eleven English boroughs, including London, which have preserved original administrative records from the period before 1272, and another eleven with records earlier in date than 1300. These are not large numbers, but they are remarkable enough, and they do not include towns like Northampton and Colchester which have later copies of earlier records or other evidence that they once possessed them. Moreover, the earliest town records now surviving are very early indeed, older by several years than the earliest bishops' registers, and, by a narrower margin, than the royal Chancery's enrolments of outgoing letters.

Historians of the borough have commented more readily upon the absence of early records than upon their presence. Tait said truly that the material for the twelfth century was 'deplorably scanty',¹ but on reflection we might rather wonder that there should be any at all. The existence of records before 1200, or even before the end of John's reign, pushes the period of what we might call experimental writing in the boroughs back to a time when writing was still not an indispensable part of public administration, and suggests in turn that the surviving material from the thirteenth century is likely to be the wreckage of a sophisticated system of archives, rather than the first indications of a practice that was not established and perfected until a much later time. They compare well, therefore, with the manorial accounts of the great monastic houses, which might, with their great store of

¹ Tait, *op. cit.*, p. 226.

documented titles, have been expected to outpace the towns in producing ordinary administrative memoranda.¹

The earliest administrative records written and preserved in an English borough for its own purposes, and surviving there today, are the gild rolls of Leicester, the oldest of which dates from 1196. They are closely matched by the first gild rolls of Dublin, which also belong to the close of the twelfth century, although they cannot be precisely dated, and they are younger than the oldest manuscript of the customs of Newcastle-upon-Tyne, but the Newcastle customs are now among the Chancery Miscellanea, while the rolls of the Leicester and Dublin gilds are in their original custody.² All these manuscripts are comfortably earlier than the oldest original records of the City of London, although there is evidence that London has lost material of this date. If, however, we consider only original texts, we are drawn into the thirteenth century. Shrewsbury has gild rolls that begin in 1209, and some twenty years later Wallingford can show taxation rolls from 1227 and court rolls from 1229.³ Exeter has a custumal written about 1242, but no court rolls until 1264. Between these documents come the oldest enrolments of deeds in the hustings court of London, from 1252, the first court roll at Ipswich, from 1256, and the gild rolls of Totnes and Andover, beginning in 1261 and 1262 respectively.⁴ Hereford has a solitary account roll of 1264,

¹ See, e.g., E. Stone, 'Profit-and-Loss Accountancy at Norwich Cathedral Priory', *Trans. Roy. Hist. Soc.*, Fifth Series, xii (1962), pp. 25-26.

² For Leicester, see *Records of the Borough of Leicester*, ed. Mary Bateson, i (Cambridge, 1899); *The Records of the Corporation of Leicester* (Leicester, 1956); G. H. Martin, 'The Origins of Borough Records', *Journal of the Society of Archivists*, ii, no. 4 (Oct. 1961). The Dublin rolls are printed and discussed in *Historic and Municipal Documents of Ireland, 1172-1320*, ed. J. T. Gilbert (Rolls Series, 1870), and the Newcastle customs in *Archaeologia Aeliana*, Fourth Series, i (1925), pp. 169-78.

³ *Calendar of the Shrewsbury Borough Records* (Shrewsbury, 1896); *Trans. Shropshire Archaeol. and Natural History Soc.*, Second Series, viii (1896), pp. 21-43; Hist. MSS Comm., *Sixth Report*, Appendix, Part I (Wallingford), pp. 572-77.

⁴ *The Anglo-Norman Custumal of Exeter*, ed. J. W. Schopp (History of Exeter Research Group, Monograph no. 2, 1925); Hist. MSS Comm., [*Report on the Records of the City of*] *Exeter* (1916). P. E. Jones and R. Smith, *A Guide to the Records in the Corporation of London Records Office . . .* (London, 1951). G. H. Martin, *The Early Court Rolls of the Borough of Ipswich* (Leicester, 1954). C. Gross, *The Gild Merchant* (Oxford, 1890), ii, pp. 3-12,

Canterbury an undated account of c. 1260, and Winchester a fragment of a roll of pleas written in 1270.¹ These complete the list for Henry III's reign; but some of the towns have other classes of records which are also earlier than 1272, such as the account rolls at Shrewsbury from 1256.

Besides these, there are eleven towns in which the surviving records begin between 1272 and 1300. Barnstaple has a fragmentary court roll of 1277, and Bridport a complete one of 1278; Fordwich has a roll of tenements sold in the borough, beginning in 1281.² The first pentice court roll at Chester dates from 1282, and the first roll of registered deeds at Norwich from 1285. Oxford has a hustings court roll of 1292, Great Yarmouth's court rolls begin in 1293, and Cambridge has a single plea roll for 1294-95.³ Reading has an account roll and King's Lynn a roll recording the assizes of bread for 1296, and Gloucester has a murage account for 1298.⁴ If we close the reckoning at 1300, we exclude some boroughs, like Colchester, by a narrow margin, but we should have to advance it much further to include others, like Bristol and Carlisle, which are important and interesting but have suffered heavy losses in their early records. Most of these places, and perhaps all the larger Domesday boroughs, could be shown to have

235-44 (Andover and Totnes); Hist. MSS Comm., *Third Report*, Appendix, p. 297 (Totnes).

¹ Hist. MSS Comm., *Thirteenth Report*, Appendix iv (Hereford); Canterbury Corporation Archives, F/L/2; J. S. Furley, *City Government of Winchester* . . . (Oxford, 1923). I am obliged to Dr William Urry for information about the records of Canterbury and Fordwich.

² Hist. MSS Comm., *Ninth Report*, Part I, Appendix (Barnstaple), pp. 203-16. Bridport Borough Archives, no. 1465: the roll is for 6-7 Edw. I, not 2-3 Edw. I as in the manuscript calendar. Fordwich Archives (in Canterbury Cathedral Library), bundle 1, no. 121.

³ *Selected Rolls of the Chester City Courts*, ed. A. Hopkins (Chetham Soc., Third Series, ii, 1950), p. xv. *Munimenta Civitatis Oxonie*, ed. H. E. Salter (Oxford Hist. Soc., lxxi, 1917); the introduction discusses lost documents: Brian Twyne used hustings rolls from 1278. *Repertory of Deeds and Documents relating to Great Yarmouth* (Yarmouth, 1855); the earliest rolls of Edward I's reign have been lost since J. C. Jeaffreson reported on the borough in Hist. MSS Comm., *Ninth Report*, Part I, Appendix, pp. 299-324. *Cambridge Borough Documents*, ed. W. M. Palmer, i (Cambridge, 1931).

⁴ *Reading Records*, ed. J. M. Guilding, i (London, 1892), p. xiii. Hist. MSS Comm., *Eleventh Report*, Appendix, Part III, p. 210 (King's Lynn). W. H. Stevenson, *Calendar of the Records of the Corporation of Gloucester* (Gloucester, 1893), p. 456.

had their own records from 1300, if other kinds of evidence were adduced, and in the same way others could be moved back from Edward I's reign to Henry III's or even further. Bristol had a custumal drawn up before 1241, Northampton had one that was probably written in the 1190's; but both survive today only in later texts.¹ Cambridge now has only one thirteenth-century plea roll, but there were others in 1261, when they were produced before the justices in eyre, just as the Curia Regis rolls and other records of the central courts reveal the existence of coroners' rolls from an early date.² On the other hand, the records that have been lost can only be assessed effectively by reference to those which still exist, and the survivors, though a much reduced band, provide an invaluable commentary upon the borough's progress at a significant time.

The most obvious feature of the thirteenth-century and earlier records, apart from their concentration in the southern half of the country, is the primacy of the gild. The losses by accident and war at Newcastle and Carlisle have been matched by similar misfortunes all over the north of England, so that the surviving sparse indications have to remind us that the towns there may be credited with much less history, violence apart, than is their due. In the south, however, the early records are well distributed, and even when due allowance is made for the accidents of survival, they emphasize the importance of the gild merchant in a striking way. The examples of Leicester and Shrewsbury are reinforced by the Dublin rolls and by similar lists of gildsmen copied into the fourteenth-century Ipswich custumal, for the importance of the gild-register is that it implies a continuing series of records and not, as the custumal may be, a document compiled for a particular occasion. The lost Northampton custumal and the roll from Newcastle may indicate the presence of municipal clerks in those

¹ *Borough Customs*, ed. Mary Bateson, i (Selden Soc., 1904), pp. xx, xli-xlii.

² P[ublic] R[ecord] O[ffice], Assize Roll no. 82. R. F. Hunniset, *The Medieval Coroner* (Cambridge, 1961), pp. 100-03. Norwich has a fifteenth-century text of the presentments to the justices in eyre in 1250, and Colchester once had records of inquests, the oldest of which seemed to Philip Morant to be as early as Richard I's or John's reign (*Records of the City of Norwich*, ed. W. Hudson and J. C. Tingey, i (Norwich, 1906), pp. 199-202; P. Morant, *History and Antiquities of Colchester* (Colchester, 1748), Book 2, p. 19, n. L).

boroughs in the twelfth century, but they cannot by themselves prove that there was then a regular system of records. When the evidence of such a system does appear, it comes first from the gild merchant, not from the portmanmote, and although court rolls appear quite early at Wallingford, they are accompanied by elaborate taxation rolls that evidently owe nothing to the rather pinched memoranda of the borough court. If Dublin is included with the English boroughs, there are, down to the last decade of Henry III's reign, more gild rolls than other kinds of original records.

This pattern changes in the second half of the century, when the number of court rolls increases. In some instances they are specialized records of pleas or other business transacted in court, like the hustings rolls of London or the plea rolls of Cambridge, and in others bear undifferentiated entries as at Exeter, Ipswich or Bridport. From 1272 onwards a court roll is commonly the earliest record left in a borough, and often it is also the first of a long series. Despite what appears to be a later start, the court roll has a more varied history than the gild roll, and for that reason it has some claim to be the archetype of medieval borough records. The accounts and miscellaneous rolls that appear before 1300 have their own significance, but the subtle interaction of gild and portmanmote commands the borough's archival as well as its constitutional history.

The obvious questions to ask of these documents are: who wrote them and for what purpose? The answers present themselves less readily, but there are some indications to be gathered. Leicester's gild roll consists of eleven membranes of irregular widths of eight inches or less, and some fifteen feet long in all; its entries run from 1196 to 1233. The first membrane is ruled with a tabular grid in dry-point and has a list of sixty gildsmen and their payments under the heading: 'Isti intraverunt in gildam merchatoriam die festi beati Dionysii primo post adventum comitis in Angliam post deliberacionem suam de capcione sua in Francia' [*i.e.* presumably 9 October 1196]. Each name is followed by the names of the entrant's pledges. The first twenty-eight entries are made in the neat, angular, hand that wrote the heading and that appears again lower in the column, but the record of payments and acquittances, like the occasional cancellation of entries, is in another hand. The gild merchant in Leicester was

licensed by Robert, count of Meulan (1103–18), so there is no question of this roll being an inaugural register, despite the care with which the first entries are set out. Moreover, the amendments to the list, which are mainly notes of instalments of the entry fee paid, are made in a comparatively careless way. The roll is a working document, not a formal and ceremonial one. It also has a strong local flavour: of twenty-one years specified in the headings, fourteen were identified, as they cannot all be today, by reference to local events in Leicester or events with some special local interest—the release of Robert Fitz Parnell (1196), the death of Abbot Paul (? 1205), the dedication of St Nicholas's church (1220), or the capture of Damietta, where Saer de Quincy was killed (1220). Of the other seven dates, three are John's regnal years, two refer to the general interdict, one to the death of Emperor Henry VI in 1197, and the last to the death of William Marshal in 1219.

Leicester became a seignorial borough after the Conquest, and conversation at the castle echoed at the gild hall perhaps more readily than events in London. It was this tutelage, unusual in a town of Leicester's standing, that made the gild merchant so important to the townsmen and gave the gild a more commanding part there than in any of the other shire boroughs of Domesday Book. The second gild roll, now a bundle of twenty-one membranes, with entries running from 1234 to 1274, demonstrates the special relation of the gild and the borough community even more clearly than the first. The casual memoranda upon the first roll include a note upon the five great Midland fairs, for which a burgess was excused attendance at the portmanmote. Those on the second include a loan made *ad commodum ville* in 1239, payments for such public works as gates and bridges, and payments for presenting the new mayor to the earl and for negotiating the charters of 1255 and 1256 from Simon de Montfort and the king, which substituted primogeniture for ultimogeniture as the local rule of inheritance.¹ In another borough these would have been matters for the community, organized by the portmanmote. In Leicester they are not so much discharged by the gild as paid for by the gild. The haphazard nature of the entries show them to be incidental to the gild's principal business, which is to define, discipline, and further the interests of the merchant community,

¹ *Records of the Borough of Leicester*, ed. Bateson, i, pp. 33, 61, 71, 74.

but the public demands upon the gild's disposable surplus make the gild a public body. There were more obvious forces at work: the burgesses did not hold the borough at fee-farm and the revenues of their portmanmote went to the earl; the gild was their most effective communal organization because it commanded the only income in the borough which was freely theirs. Moreover, the leading burgesses were the leading gildsmen; the alderman of the gild came to be the mayor of the borough, presided as mayor over the morning-speech and drew his expenses from the gild funds. The gild rolls illustrate this process and something more; by spending money upon municipal affairs the association takes on wider responsibilities. In 1271 the serjeant *de suburbio orientali* produced his pledges in full portmanmote to warrant his fidelity in office. By this time the portmanmote had its own rolls of pleas and estreats, but the serjeant's bond was entered upon the gild roll, and so were the pledges of the serjeant of the south ward at a later morning-speech.¹ The serjeants were officers of the borough court, and their pledges stand to protect the community from the consequences of their defalcation, but in Leicester the community that pays is the community of the gild, and the gild needs to know who the serjeants and their pledges may be.

The early stages of the transition from community to corporation are better illustrated in Leicester, where the normal process was impaired, than they are elsewhere. The burgesses made more rapid progress toward the impersonal Town, 'the Town which has rights and duties, the Town which owes and is owed money',² in their gild than they might have made in an unfettered portmanmote, and the records of the gild illuminate their way more distinctly than would the records of such a court. In other towns the gilds had a lighter burden to bear, but their earliest records are significant. Dublin and Shrewsbury had some similar problems, Dublin as a privileged settlement in a newly annexed territory, Shrewsbury as a border town, more secure than the Irish boroughs, but anxious enough. Medieval Dublin is now so lightly documented that its administrative history is obscure, but the survival and the form of the gild rolls show that the composition of its merchant community, the identity of its burgesses, were matters of prime importance. The 'Roll of names' records the gildsmen

¹ *Records of the Borough of Leicester*, ed. Bateson, i, pp. 110-11.

² F. W. Maitland, *Township and Borough* (Cambridge, 1898), p. 80.

and their entrance fees; there are no casual memoranda as there are at Leicester, and the effect is that of a register rather than of an account or entry book. The Shrewsbury rolls have been less carefully preserved, but again they are concerned with admissions and payments rather than with business transacted.

The first roll at Shrewsbury consists of two membranes, sewn in Exchequer style. The first membrane begins with an invocation, 'Sanctus Spiritus assit nobis', and then has something over 150 names, arranged in two subdivided columns. There is a general heading, 'De illis qui sunt in gilda mercanda in burgo Salopie et quorum patres prius non fuerunt in libertatibus gilde anno xj^o regni regis Johannis et quorum finis est v sol. iiijd', which refers to the upper left-hand column of 31 names, each with a sum of 8*d* recorded against it. The lower left-hand column, containing 55 names, has the subheading 'De forinsecis qui intraverunt gildam et de finibus eorum'. The right-hand column has two subheadings, 'De illis qui primo intraverunt gildam', followed by nine names without payments against them, and 'Isti intraverunt ad ultimam assisam primo', followed by more than fifty names, with a record of payments by instalments: 'dimidium marce; dabit ijs', and so on. The dorse has two columns of names, unheaded, in the same hand as the left-hand columns on the face. The second membrane records the fourth *assisa* of the gild in 11 John and has a subheading, 'De illis quorum patres fuerunt in gilda unde assisa de xxxij*d* apposita et pacaverunt iiijd'. Payments of 4*d*, some distinguished as *primo* and *secundo*, follow against 69 names. The dorse records the first *assisa* of 4 Henry III on 26 July 1220 and lists new admissions, without specifying payments. The remaining dated rolls from Henry III's reign have entries of a similar kind for 1232, 1239, 1242 and 1252 (three membranes), and 1268 (two membranes). That for 1252 has notes on the dorse of four cases of trespass, giving only the parties' names, but there is no record of any further proceedings.

Like the Dublin rolls, these lists are registers, and the first of them, with its pious introduction, looks like an early essay in record-keeping. The Shrewsbury gild was apparently not licensed by royal charter until 1227, and may not be much older than its records, but whatever its age it probably produced other less formal memoranda, rough jottings of accounts such as survive for a later period among the gild rolls of Totnes. At Shrewsbury,

unlike Leicester, the gild's accounts were private rather than municipal, and have not survived, but for the same reason the borough kept elaborate accounts of its own, the remnants of which appear from 1249 onward. The first is an unusual fragment, a roll of assays from the mint, but the fullest are the murage and pavage accounts, which begin in 1256.¹ These are large rolls, the first, which has five membranes, being 7' 6" long by 5¼" wide, with a year's weekly accounts cast on Sundays. Two *custodes muragii* are named in an incidental note, and two clerks, the first of whom, Richard Fitz Herbert, gave place to Henry *clericus* at the beginning of December 1256. The change is marked by a sub-heading, 'Hic incipit Henricus clericus scribere recepta et expensa muragii Salopie anno scilicet xli]', but on a later margin the hand changes again against the marginal note 'Hic incipit R. Pungh custodire muragium Salopie usque in posterum tocius istius rotuli', which may mean that Pungh acted as clerk as well as *custos*.

The accounts are very simple and record weekly receipts of about 20s from collectors at the town's three gates, which are spent regularly on the quarrymen's wages, the haulage of stone and building work on the English bridge. Extra charges include the master mason's fees, the smith's wages for repairs to the quarrying tools, and small sums for parchment. The chief interest of the documents lies in their form rather than in their repetitious contents. They represent a continuous record of public works, accounted for, not anonymously, but impersonally. Although the *custodes* were responsible for the sums that they handled, they did not render separate accounts; when the roll passed to a new clerk, he began his entries where his predecessor finished, in the middle of a membrane.² The document is a public record, not a private justification; it is, so to speak, itself part of the works for which the murage pays. And the borough not only employed the

¹ Shrewsbury Borough Records, Box LXXVI, 2686 (assay roll); Box VIII, 302 ff. (murage accounts).

² As late as 1537 the clerks of the mayor's court of London kept the rolls on which they were working in their own custody, and the city records have suffered accordingly (*Calendar of Letter-Books of the City of London, Letter-Book A*, ed. R. R. Sharpe (London, 1899), pp. iii-iv). At Worcester in the fifteenth century the town clerk was enjoined to make up the bailiffs' records and yearly acquittances in his own hand and to keep them 'for lauffulle remembrance to be left to the said comynalte' (L. Toulmin Smith, *English Gilds* [E[arly] E[nglish] T[ext] S[ociety], xl, 1870), pp. 399-400).

workmen directly, both on the quarry and the site, but provided their equipment at the quarry. The accounts include lists of 'h utensilia ville Salopie de quarrera', wedges, mattocks and picks, which are kept in good condition by the smith, not an impressive array, but an interesting example of communal property. It was by such modest means as this—chattels which the townsmen owned collectively, but which their employees used—as well as by the more exacting exercises demanded by the communal management of real property, that the medieval borough moved towards realizing, in Maitland's phrase, an 'its' which is not 'theirs'.

The earliest records at Wallingford fall between the dates of the gild rolls and the accounts at Shrewsbury. They begin with a *rotulus de pactionariis* of 1227, bearing a list of some 180 names each charged with a small sum, ranging from 2d to 2s 8d, and a note of its payment, usually by instalments.¹ The names are arranged by trades. The so-called tallage rolls,² which begin in 1229, are also lists of names and small rents for tenements, probably arranged topographically. Both sets of rolls are written with exceptional care, on whitened parchment ruled with a grid. The records of the court, the burghmoot, which begin with an estreat roll in 1229, are more casually written. The first court roll, a single damaged membrane, is a record of courts hearing real and personal actions from July 1232 to the summer of 1233.³ The cases are mainly of debt and slander, but there were two real actions in September 1232, for which the writs were copied onto the roll. There are also periodic notices of the assizes of bread and ale.

Besides this burghmoot roll, which is the first of a long series, there is a single membrane for the year 1232 headed 'Rotulus de captione terrarum in Wallingeford anno xvj regni regis Henrici filii regis Johannis'.⁴ This has 33 undated and closely-written entries recording the gift and sale of lands and tenements in the borough. The transaction, which is described very tersely, is usually said to be witnessed by the court—*coram* or *teste burgimoto*—and there is no reference to any written deed. Whether deeds were

¹ Berkshire Records Office, W/FC/1.

² *Ibid.*, W/FT/1.

³ *Ibid.*, W/JBe/1 (estreats); W/JBa/1 (burghmoot).

⁴ *Ibid.*, W/RTa.

exchanged or not, this was evidently an ancient function of the court, and one common enough to demand a record of its own. The burghmoot roll itself apparently covers a wide range of business, but there may have been other ancillary records like this roll and the roll of estreats.

An interesting feature of the 'rotuli de pactionariis' is a series of brief, but regular, general accounts on the dorse of each. The items, which amount to some thirty shillings each year, include trimestrial payments of 15*d* to Henry *clericus*, 'pro servicio suo', and occasional payments to three other clerks, Ralph, Robert and Clement. Parchment accounts only for an infrequent 2*d* or 3*d* in contrast to several shillings spent regularly on forage. Other sums are paid *servientibus de foro*, against the king's visits, and to messengers. These notes are presumably entered upon the company rolls as the records of the borough's principal source of revenue, and they appear to be the earliest domestic accounts of an English borough, being fifteen years earlier than the Shrewsbury murage accounts and more regular than the notes in the Leicester gild rolls.

The records of Wallingford are a good deal earlier than any comparable group elsewhere; for the next twenty-five years we find only fragments again. The Anglo-Norman *custumal* of Exeter is interesting as a text that can perhaps be attributed to a particular city-clerk, John Baubi,¹ but like other *custumals* it is a by-product of a literate administration, a statement of common practice and not a record of business done. It was apparently begun not later than 1242, and is therefore twenty-two years older than the first surviving court roll in the city. The intervening period covers the appearance of the oldest surviving administrative record of the City of London, the roll of deeds registered in the hustings court which now begins in 1252, and includes testaments from 1258. There is no heading to the roll, which is a straightforward record of the written deeds, rather than as at Wallingford the transactions themselves. It seems unlikely that this was the hustings court's first record, but there are now no plea rolls from the court until 1272.²

The first court roll at Ipswich dates from 1255 to 1256. The next is one for 1270-72, after which there is a nearly continuous

¹ *Anglo-Norman Custumal of Exeter*, ed. Schopp, pp. 8-10.

² *Guide to the Records . . . of London*, p. 64.

series. The records of Ipswich are particularly interesting because we have some incidental contemporary information about them, and because they are the first court rolls in which we can watch the deliberate creation of an ancillary record.¹ In 1272 John le Blake, common clerk of the borough, decamped with various rolls of pleas and with the roll of the borough's customs called the Domesday. The custumal was not replaced until 1291, but early in the next century the customs were copied anew into a codex and other material added to them. Le Blake's default made the townsmen aware of their records and they took special notice of what remained to them. The fourteenth-century custumal contains an unusual and valuable account of the burgesses' proceedings when they received their first charter in 1200, said to be copied from a roll found in the common chest. Besides this record there are lists of gildsmen admitted between 1200 and Edward I's reign, which down to 1256 are taken from records now lost, and after that date are apparently copied from the surviving court rolls. It looks as though 1200 saw the beginning of regular written records in Ipswich, and that the earliest of them included gild rolls. Like the gild at Cambridge, the gild merchant at Ipswich seems to have languished as the enfranchised borough gained strength, and the apparent absorption of the gild roll by the portmanmote illustrates its decline.²

There were limits, however, to the business that could be accommodated in the portmanmote roll. In Edward I's reign separate rolls of personal actions or petty pleas appear, which at first record actions under the simple hearing of *querelle* [heard on] such and such a day, and much later develop into the rolls of a petty court. Then in the last years of the thirteenth century the clerk began to gather 'recognizances' of deeds registered in the portmanmote onto a single membrane of the court roll, and from 1307 to keep a separate roll of 'recognizances of free tenements' and testaments proved, which within the next two decades bred a court of its own. The mayor's court roll of Exeter was divided in a similar way during the same period, but at Ipswich the process is quite explicit and the appearance of a 'petty court of recognizances', called into being by the roll, is a most unusual tribute to the power of the written word.

¹ Martin, *Early Court Rolls . . . of Ipswich*, pp. 28-29.

² *Ibid.*, pp. 12-14.

The gild and the portmanmote started on equal terms at Ipswich, and the portmanmote proved to be the more powerful institution. In towns that were smaller or overshadowed by formidable neighbours the gild was more likely to maintain its position and to produce a more elaborate and vigorous record. The gild rolls of Totnes and Andover date from 1260 and 1262 respectively. The first roll at Totnes has four membranes, five feet long in all, and runs from 1260 into Edward I's reign.¹ It is headed 'Rotulus gylde mercatorum Totton' tempore Ricardi filii Ade et Ricardi de Porta anno Domini mcc sexagesimo. Hec scripta sunt per manus Bartholomei capellani et clerici hujus fraternitatis qui est libertatis juratus'. The roll begins with a simple list of 200 names, but develops into an elaborate record of admissions, with details of the undertakings exacted from the candidates. It was also used for memoranda such as a note of the grant of a right of way in which the gild had no evident interest except as the town's governing body. Totnes, like Leicester, was a mediatized borough, and a small one. Andover enjoyed formal independence, but until the Weyhill fair became a national institution in the sixteenth century and the borough was incorporated, it was ruled by its gild merchant, and the gild rolls dominate the early borough archives. Like those at Totnes, they are chiefly concerned with carefully documented admissions, including disputes over admissions between heirs or other parties, and with recording the fines which were an important part of the gild's income.

The last decade of Henry III's reign produces, besides continuations of these and other records, the Exeter court rolls, the first accounts at Hereford, an early but undated account from Canterbury which probably belongs to this period, and the isolated roll of personal pleas at Winchester. Edward I's reign multiplies original records of all kinds, ranging from the comprehensive court rolls of Bridport to the carefully differentiated records of the city courts of Chester and Norwich, and of London itself. The earliest court roll at Great Yarmouth shows already in 1293 the grouping of particular kinds of business on separate membranes, and in particular the roll of letters despatched under the common seal that made the borough's records so distinctive in

¹ *Trans. Devonshire Assoc.*, xii (1880), p. 183; *Hist. MSS Comm.*, *Third Report*, Appendix, p. 343.

the next century. The only other new classes of documents that appear at this time are the assize-of-bread records at King's Lynn, distinguishing a class of business that at Bridport was still entered on the court roll, and the interesting customs rolls at Exeter, with a similar fragment at Ipswich which survives only as a tag on another roll.¹ By this time, however, borough records have begun to accumulate at such a rate that, except in a few unlucky towns (which include, by mischievous chance, Lincoln and York), some part of the municipal administration is continuously in view.

The records that do not appear among these survivors are as interesting as those that do. Although the compiler of the *Liber de Antiquis Legibus* of London, whose work lies just inside Edward I's reign, was able to make a list of mayors and sheriffs of the city from Fitz Ailwyn's time, consular tables do not seem to have been an inevitable, or at least a highly-prized, feature of early borough records.² The account of the borough-making at Ipswich, in 1200, names the first officers elected, but thereafter there seems to have been no record of the bailiffs' names until they became a feature of the court roll. On the Leicester gild roll some early entries are dated by the aldermen or chamberlains holding office, but there is no consistent attempt to record them. Similarly there are no chronicles, apart from the material used in the *Liber de Antiquis Legibus* and the anomalous document at Ipswich; they are for the most part a product of later centuries than the thirteenth, whilst cartularies do not appear at all. The absence of calendars, which were essential to efficient dating, is probably to be attributed to bigoted zeal after the Reformation; one survives at Fordwich, and Twyne saw a volume that contained 'a Calendar and a crucifix', presumably an illuminated

¹ For the Yarmouth letter rolls, see Martin, *Early Court Rolls . . . of Ipswich*, p. 37. Not many early municipal letters have survived, but there is an interesting one at Lancaster sent by Northampton, c. 1200, in answer to an enquiry about the liberties of Northampton; see T. Pape, *The Charters of the City of Lancaster* (Lancaster, 1952), pp. 12-13. For the customs rolls, see Hist. MSS Comm., *Exeter*, p. 413, and Ipswich Borough Records, Great Court Roll 29-31 Edw. I, m. 2.

² Nor were they, apparently, on the Continent. The celebrated *Annales de Toulouse* derive from notices of consular elections that begin as late as 1295; see P. Wolff, *Histoire de Toulouse* (Toulouse, 1958), p. 13. M. Schneider implies that there were no regular tables in Metz before that time (Jean Schneider, *La ville de Metz aux XIII^e et XIV^e siècles* (Nancy, 1950), p. 511; cf. p. 161).

calendar, among the Oxford city records.¹ There may be some others, but most have been lost. It would be possible with some labour to reconstruct them in part in some towns, but long runs of records would be needed to make the lists of feast days passably complete.

The calendars are likely to have been destroyed, the other classes of missing documents were perhaps never very fully represented. What is left from the thirteenth century are the remnants of a substantial body of working documents, written in a business-like way for prosaic purposes. We are very imperfectly informed about their authors, the 'common clerks' and others who emerge dimly here and there. To whom, or to what, was the common clerk common?² Where was he educated and, in particular, where did he learn his law? Bartholomew the chaplain of the Totnes gild seems to have been an unusual figure;³ there is no general evidence that the clerks were, in the ordinary sense, local clergy or that they looked to an ecclesiastical career. A number of early-thirteenth century deeds at Bath are witnessed by Reyner *aurifaber*, who is described in one, not very well written, as *scriptor gilde*.⁴ Newcastle-upon-Tyne, which has lost almost all its medieval records, has kept deeds which reveal an apparent

¹ *Archaeologia Cantiana*, xviii (1889), p. 92. *Munimenta Civitatis Oxonie*, ed. Salter, p. xii.

² *Clericus communis* (e.g. in Ricart's Calendar) seems to be the general medieval usage, although occasionally *clericus communitatis* is used, as of Roger de Scaddisdem at Leicester, c. 1280 (Leicester City Records, BR II/8a/1). At Lincoln, c. 1230, there were two *clerici civitatis*, both called John and apparently equal in other respects (*Registrum Antiquissimum*, viii, ed. K. Major (Lincoln Record Soc., li, 1958), pp. 132, 198). It is difficult to say when the habit of using deputies began, but it may well have been early. The town clerk of Worcester was enjoined in 1467 to keep certain records and to attend to his business in person (L. Toulmin Smith, *English Gilds* (E.E.T.S., xl, 1870), pp. 399-400), but the common clerk of Bristol had a paid clerk (*ibid.*, p. 423). Ricart, who called himself 'Toune clerk' in English and 'communis clericus' in Latin, refers to his assistant's official livery but not to a customary stipend (*The Maire of Bristowe is Kalendar*, ed. L. Toulmin Smith (Camden Soc., 1872), pp. 81-82).

³ Bartholomew the chaplain was made vicar of Totnes in 1269 (*Trans. Devonshire Assoc.*, xii, p. 183). By the fourteenth century gilds usually named a clerk amongst their officers (Smith, *op. cit.*, *passim*). The Leicester gild merchant seems to have had two clerks; see above, p. 132.

⁴ C. W. Schickle, *Calendar of Ancient Deeds belonging to the Corporation of Bath* (Bath, 1921), pp. 3, 7.

dynasty of common clerks in the thirteenth century: Adam of Newcastle, c. 1216–59, was succeeded by his son-in-law Bartholomew, who was succeeded by his son Adam, from c. 1279 to 1300.¹ This was one means of recruitment. Elsewhere a kind of apprenticeship may have obtained, but not all such clerks were locally recruited if the presence of John of Colchester at Durham, and John of Dover at Bath, may be trusted.² If we knew more about these matters, we should know more than we do about medieval education and about the growth of the lay professions.

Private deeds are only one source of additional evidence about the early administration of boroughs, and that administration fills only one part, although an important part, of their history. The scope of the present survey could be largely extended by the inclusion of early records that survive in later texts, or which were noted or described before they were lost, but their accumulated evidence would be outweighed by other sources. The records of the royal Exchequer and of the central courts, the rolls of the justices itinerant, the Hundred Rolls, the rolls of letters patent and letters close, all contain a mass of information about the boroughs, about their relations with the king and with each other.³

The significance of the borough's own records in this period is of a different kind. Other sources are principally concerned with the forces that worked upon the town from the outside; their own archives reveal the townsmen as active rather than passive agents. The surviving originals show the towns not merely ordering their affairs in an effective way, but documenting them in a fashion that owes much less to external example than might be expected. The accidental loss of London's records before 1252 directs a proper share of attention to the provincial towns and displays their accomplishments without disparagement, for the earliest of their records stand up well to comparison, not only with bishops'

¹ *Early Deeds relating to Newcastle on Tyne* (Surtees Soc., cxxxvii, 1924), pp. 94, 171–72. For a contemporary regulation against such family connexions among the parochial *amanuenses* of Metz, see Schneider, *op. cit.*, p. 163.

² 'The Greenwell Deeds', *Archæologia Æliana*, Fourth Series, iii (1927), p. 24; Schickle, *op. cit.*, p. 28.

³ The medieval chapters of the *Victoria County History, Yorkshire, The City of York* (1961), are an example of what can be done with material of this kind in default of ordinary municipal records.

registers, but with town records from the Continent.¹ The varied material that chance has preserved shows some striking characteristics. The chief impulse to record-keeping seems to have come, not from the borough court, the institution most concerned with the authorities outside, but from the gild, and seems to have been directed first to questions of membership and status, as well as naturally with finance. When court rolls appear, they are compiled with an eye to local and immediate purposes, and they are subdivided and developed at will. There is little or no trace of notarial influence in any of these documents; they are casual rather than formal, abstracts rather than *verbatim* records, and yet they are not tentative or experimental, but fair-written copies for reference. If they have not yet revealed as much about their authors as we might wish, they have a good deal to tell us about their purpose and effect. They were the mind and memory of a community that was feeling its way toward corporate personality, and that achieved its purpose as much by their aid as by any means.

Department of History, University of Leicester.

¹ Registers are only one test of professionalism, and a good deal can be said about bishops' chanceries before registers appear (C. R. Cheney, *English Bishops' Chanceries, 1100-1250* (Manchester, 1950), pp. 2-4). The history of towns on the Continent opens a very wide field for comparison, but in northern Europe their apparently superior evidences are often the product of their religious houses. The documents discussed in this paper are mostly earlier than the earliest town records in the northern Netherlands; see *De Oudste Stadsrekeningen van Dordrecht, 1284-1424*, ed. C. M. Dozy (The Hague, 1891). Even at Toulouse the magistrates' decisions were not formally registered before 1225, but were left in notaries' copies in private hands (Wolff, *Histoire de Toulouse*, p. 12).