THE KENT HUNDRED ROLLS: LOCAL GOVERNMENT AND CORRUPTION IN THE THIRTEENTH CENTURY

JENNIFER WARD

The Kent Hundred Rolls of 1274-5, preserved in the National Archives, provide a mine of information for local historians. Many were printed by the Record Commission in the early nineteenth century, but the two bulky volumes are only to be found in major libraries and the rolls are printed in abbreviated Latin.[1] The new edition by the Kent Archaeological Society [published on its website, www.kentarchaeology.ac] comprises the complete rolls for Kent, in the original Latin and in an English translation (by Dr Bridgett Jones), and makes the source much more widely accessible. The Kent Rolls are remarkably complete, although there are a few omissions. The major liberties are only mentioned incidentally, namely the lowy of Tonbridge and the hundred of Wachlingstone, in the hands of Gilbert de Clare, Earl of Gloucester and Hertford; Wye, in the hands of the abbot of Battle abbey, Sussex; and the Cinque Ports which had their own privileges. In addition, there is no return for Sheppey or Ospringe. The Hundred Rolls have been discussed by a number of legal and administrative historians, notably by Helen Cam, whose *The Hundred and the Hundred Rolls*, published in 1930, is still of value today.[2]

Edward I returned from crusade in 1274 to a kingdom where the Crown had been weakened by civil war during the baronial reform period of 1258-65, and where there was extensive local government corruption. According to the heading of the Kent Hundred Rolls, inquiry was to be made into the king's rights which had been usurped by lay and ecclesiastical lords, and into the excessive demands of sheriffs, escheators and coroners, and also of bailiffs and other officials, whether royal or seigniorial.[3] Many of the encroachments on royal rights, often dating from *c.*1258-65, were the result of the expansion of royal government and justice in the thirteenth century. As new royal procedures developed, lay and ecclesiastical lords did their best to take them over for their own use, in order to strengthen their hold over their tenants. Henry III had ordered an inquiry into franchises in 1255, and Edward I throughout

his reign was intent on building up the rights and powers of the Crown. He and his lawyers considered that all judicial rights belonged to the Crown, and any private liberty or franchise had to be backed up by royal warrant.[4] He was, moreover, a reformer of law and justice, and realised that discontent among his subjects might lead to protest and rebellion. On the other hand, justice and good government would increase his prestige and his revenues.

The procedure for the Hundred Roll inquiry was similar to that of many other royal inquiries of the thirteenth century. Commissioners were appointed, two for each group of counties, who carried out their work between November 1274 and March 1275. The sheriff was ordered to empanel juries for each hundred who were to appear before the commissioners on a set day and place. It is significant that Edward I appointed two new escheators (for north and south of the River Trent) and many new sheriffs in September, 1274, just before the inquiry started. The names of the Kent hundred jurors, together with those for Canterbury, Rochester, Brasted and Dartford, are recorded on the rolls. Judging by the returns for Axtane and Blackheath hundreds, the jurors were unable to answer all the articles of the inquiry. The Blackheath jury, however, had plenty to say about franchises in private hands, recent encroachments on royal rights, the tax of one-twentieth on movable property, and the waste committed by the escheator when the vacant archbishopric of Canterbury was in his custody (1270-2). Their longest complaint concerned the so-called gifts taken by sheriffs, bailiffs and coroners under various pretexts.[5]

This return from Blackheath hundred epitomises the situation facing Edward I. The articles of the inquiry, numbering over forty, show that the royal government was under no illusions as to what had been happening in the localities. They included inquiry into the king's lands and his sub-tenants, his rights of wardship and marriage, and the names of those who had failed to take up knighthood. Inquiry was to be made into the collection of the tax of one-twentieth on movables, and into breaches of the embargo on wool exports to Flanders. Roads and bridges were also subjects of inquiry. Most of the articles, however, concerned the working of local justice; the appropriation by lords of franchises, suits of court, and chases and warrens; and the behaviour of officials at every level in carrying out their duties. The juries were more than ready to respond to these articles.

Usurpation of franchises and misdeeds of officials were undoubtedly exacerbated by the events of the baronial reform period and especially by the warfare of 1264-5. In the spring of 1264, while Henry III was in the Midlands, Simon de Montfort and Gilbert Earl of Gloucester besieged Rochester, which was held by John de Warenne and Roger de Leyburn. The city was taken on 18 April, and the outer works of the castle

the next day when the king's hall was burnt. The great tower was then besieged, but the rebels moved to London as Henry III came south and he and Edward took Tonbridge castle before being defeated by Simon and Gilbert at the battle of Lewes. The constable of Rochester's seizure in Shamwell hundred of grain and livestock was probably to enable the castle to withstand a siege. During the attack, Simon de Montfort stayed at Strood whose inhabitants had to pay £80 to Roger de Leyburn after Simon was killed at the battle of Evesham in 1265 because they had supported a rebel against the king.[6]

Some uncertainty surrounds Tonbridge. The castle was taken by Henry III on 1 May 1264. There is no mention in the chronicles of a further siege, but there seems to have been one in the summer of 1265, after Earl Gilbert fled to the Marches of Wales and was regarded as the king's (and Simon's) enemy. The castle was said to have been betrayed to Simon de Montfort the younger and John de la Haye, constable of Dover, by a former prisoner. The list of fines in the Hundred Rolls from those who besieged the castle probably refers to the 1265 attack, but some may date from the siege of 1264. After the battle of Evesham, the earl and his officials had wide powers of recrimination. For instance, Gilbert took £15 from the men of Faversham hundred for the attack on the castle, whereas they had been distrained to go there by John de la Haye. The earl's bailiffs took thirty marks from Felborough hundred unjustly because they were obeying the command of John de la Haye, acting for the king.[7]

Two recent political decisions were the subject of inquiry, the tax on the laity of 1269-70 for Edward's crusade, and the embargo on wool exports. The tax was a major grievance in Kent, the usual complaint being that the collectors, Fulk Payforer and Henry Malemains, had taken an excessive amount. No tax on movables had been levied since 1237, and movable goods included grain, livestock, and most household goods. The tax was assessed on the basis of the vill and the hundred. The chronicler, Thomas Wykes, described the complaints all over the country, at least partly because it was assessed and collected in the summer of 1270 on the basis of goods the taxpayers had had at Michaelmas, immediately after the harvest.[8]

The wool embargo was imposed in 1270 in retaliation for the expulsion of English merchants from Flanders. Flanders relied on English wool for its main industry, the manufacture of cloth. Some Kent merchants were, however, unwilling to forgo their usual trade across the Channel. Men are reported as exporting wool, and also cheese, from Sandwich, Dover and Hythe, and John Potyn and John de Mares, bailiffs of Rochester, were said to have taken bribes to allow exports. The jurors were somewhat vague as to the amounts of wool exported.[9]

Of far greater significance was the investigation into local justice. The structure of local courts had been established at least from late Anglo-

Saxon times and was to survive into the Tudor period and beyond. It was overlaid by the growth of the common law in the twelfth and thirteenth centuries and the use of the judicial eyre when royal justices were dispatched to the counties to check on royal rights and to deal with felonies and serious cases. The eyre was, however, an occasional visitation; for most men the county and hundred courts were of more importance. The county court usually met every four weeks under the presidency of the sheriff. Coroners, bailiffs and stewards attended, together with those who owed suit to the court and those with cases to be heard; by the 1270s, suit of court was attached to particular landholdings. The court dealt with minor crimes, if they had not been decided in the hundred, and personal civil cases, such as debt and trespass, provided that the sum involved was less than forty shillings.[10]

According to an ordinance of 1234, the hundred court met every three weeks, with the hundred bailiff presiding. In the case of royal hundreds, the bailiff was appointed by the sheriff. The court heard minor civil and criminal cases. From the twelfth century, the most important meetings of the hundred court were held at Easter and Michaelmas, either by the sheriff, or, in the case of private hundreds, by the lord's steward, in order to hold the view of frankpledge and to inquire into major crimes; the frankpledge system ensured that men were responsible for each other's good behaviour and provided a means of policing crime. These occasions were known from the early thirteenth century as lawdays or as the sheriff's tourn. From the time of Cnut men over the age of twelve were placed in tithings (in Kent, borghs), under a chief pledge or tithingman (or, in Kent, headborough); the tithings were responsible for producing any of their members accused of crime. At the view of frankpledge at Michaelmas, a check was made that all men belonged to a tithing. Those accused of felonies had to await trial by the justices in eyre; minor matters were dealt with on the spot.[11] According to the jurors of Felborough hundred, the sheriff's tourn dated back to the time of John de Wattun who was probably under-sheriff to Bertram de Crioll sometime in the 1230s or 1240s; this was probably a reference to financial levies and not to the court itself. The archbishop's bailiffs were twice accused of increasing the number of lawdays to three, and increases in the sums of money due at the lawday were alleged in 1274-5, as they had been in Hugh Bigod's eyre of 1259.[12]

Many hundreds were in private hands; Helen Cam calculated that, out of 628 hundreds in England, 270 were royal and 358 private. The archbishop held eleven hundreds in Kent and parts of twenty others while the king was lord of seventeen hundreds and of parts of a further eighteen. Few lay lords held private hundreds, although Alexander de Balliol was lord of Whitstable hundred and part of Kinghamford, and he and Isobel de Balliol held Felborough hundred.[13] Jurors in 1274-5 usually gave the

name of the lord but did not necessarily know why or when a hundred had fallen into private hands. The jury of Wingham hundred reported that Bridge hundred was in the king's hand, Preston hundred in William de Leyburn's, while half of Eastry hundred was in the king's hands and half in the hands of the prior of Christ Church, Canterbury. It was reported with more precision that Wachlingstone and Littlefield hundreds had been secured by the Clare earls of Gloucester before 1230 from the royal bailiff, William Smalwriter, and the bishop of Rochester had taken over half the hundred of Bromley ten years before.[14]

If they did not hold a private hundred, many lords withdrew their own tenants from suit to the hundred court, held their own view of frankpledge and also administered the assize of bread and ale, regulating price and quality. The township of Shipbourne in Wrotham hundred ceased to do suit to the hundred about the time of the battle of Lewes in 1264 and ten years later was doing suit in the earl of Gloucester's lowy of Tonbridge; this was part of the earl's policy for all his fees in Kent to do suit at Tonbridge. William de Montchensy withdrew half of Boughton Monchelsea tithing in Eyhorne hundred after 1264 and his Wateringbury tenants from two lawdays about the same time; they used to do suit to Twyford hundred.[15]

Lords' rights of manorial jurisdiction over their tenants go back to the Anglo-Saxon period when they were summed up as *sac* and *soc* (the right to hold a court), *toll* and *team* (cases concerning the sale of cattle), and *infangenetheof* which gave them the right to do justice on a thief caught in possession of stolen property on the estate. This meant that the lord had to have his own gallows which were included in the franchises listed by the jurors. In Preston hundred, the prior of Christ Church, Canterbury, and the abbot of St Augustine's claimed wreck, gallows and the assize of bread and ale, and William de Braose and William de Leyburn gallows and the assize of bread, the warrant in all cases being unknown.[16] Probably especially worrying to Edward I were gallows newly erected, as William de Montchensy had done at Wateringbury and Swanscombe about 1270. The story was told about Swanscombe that, when three robbers were hanged, one was not yet dead when cut down; he was revived in the church and remained in Swanscombe for a time; his present whereabouts were unknown.[17]

A lord who held the view of frankpledge, the court leet (the private equivalent of the sheriff's tourn) and *infangenetheof* held what is termed hundredal jurisdiction. Why were many lords eager to secure this? The revenue, though doubtless welcome, tended to be small. More important was the gain of greater control over tenants, and this was particularly significant in a county like Kent where manors often had outlying holdings. By Edward I's reign, lords were in danger of losing control of their free and military tenants because of social changes and the growth

of royal justice. There are strong signs that these tenants preferred doing business in royal rather than seigniorial courts. The tenures by knight service established after the Norman Conquest had often fragmented and the decline of military service weakened feudal ties. The lord with hundredal jurisdiction could force his tenants to attend his courts, especially at lawdays.

Few lords in Kent had the higher franchises which made them responsible for royal government in their lands. These franchises had developed in response to changes in royal justice and administration, and the most common were the rights to hold pleas of *withername* and to have return of writs; the latter took definite form by 1200 but was not called return of writs until Henry III's reign. The process of making pleas of *withername* a royal monopoly began under John; these pleas comprised cases of wrongful distraint or unjust detention of chattels. If a lord claimed this franchise, royal lawyers insisted that he have return of writs which excluded the sheriff and prevented him from hearing the plea. A lord who had return of writs executed all the king's orders on his fief; the franchise of extract of writs allowed him to levy royal debts.[18]

Higher franchises in Kent were mainly held by the ecclesiastical lords who dominated landholding in the county. The juries regularly reported that the archbishop held the return and extract of writs, pleas of *withername* and wreck; St Augustine's abbey and the priory of Christ Church, Canterbury, held similar liberties. The archbishop's right to return of writs had been confirmed in 1235, and was allowed by Edward I's justices. An agreement of 1259 between Archbishop Boniface of Savoy and the priory, ratified before the justiciar Hugh Bigod, allowed the priory return of writs for its own tenants in return for a payment of forty marks a year. A similar agreement was reached with the bishop of Rochester.[19] The royal writ would be delivered to the sheriff, be passed by him to the archbishop, and then if necessary sent on to the prior or the bishop.

The abbot of Battle's liberty of Wye was not given separate treatment in the surviving rolls, but the abbot was said to claim return and extract of writs and pleas of *withername*, and to have withdrawn his tenants from suit to the county and hundred courts, including the sheriff's tourn. The abbot had enjoyed the franchise of return of writs in the early thirteenth century, but it was subsequently questioned by royal government. In the *quo warranto* plea of 1293, however, he was allowed to keep his liberties. These included a special session of the justices in eyre at Wye; his warren, market and gallows; his right to the chattels of felons and fugitives, the amercements of his men, and fines for the escape of thieves; return of writs, waif and wreck. He also had his own coroner at Wye.[20]

Similarly, there is no separate return for the lowy of Tonbridge, although there are numerous references in the rolls to the Clare family's encroachments. In addition to the withdrawals of suit, the officials had

exceeded their powers in personal cases and had also encroached on land; for instance, 100 acres of wood and pasture, held by the Crioll family had been enclosed as part of Tonbridge forest in 1270-1. The thirteenth-century earls (Gilbert, d.1230; Richard, d.1262; Gilbert, d.1295) were in fact aiming at creating a compact judicial liberty. In 1279 and 1293, Earl Gilbert claimed a special session of the justices in eyre at Tonbridge, with all the fines and amercements and the issues of the eyre, together with chattels of felons and fugitives, fines for the escape of thieves, gallows and return of writs.[21] The special session of the justices in all probability goes back to before 1200. The Clares probably had their own coroner by the 1240s, but lost him during the *quo warranto* pleas. Their right to return of writs probably goes back to the early thirteenth century, and, as they held Tonbridge of the archbishop of Canterbury, the exact working of the franchise was settled by agreement with Archbishop Boniface in 1258. Although Tonbridge remained a highly privileged area in the later Middle Ages, the attempt to turn it into a compact territory where the earls had jurisdiction over all men, whosoever their lords, was unsuccessful. The Clares also failed in their attempt to extend the lowy's judicial privileges to their other lands in Kent. They lost the hundreds of Wachlingstone and Littlefield, and abandoned the franchises usurped on their other lands.[22] In this case, Edward I scored a notable success.

The articles of inquiry into the behaviour of local officials apply to sheriffs and undersheriffs, bailiffs and their underlings, whether royal or seigniorial, as well as to coroners and escheators who had particular ways of abusing their powers. The jurors were asked if the officials had taken bribes, committed wrongful distraints, extorted land or rent by the power of their office, extorted payments because of verdicts of the royal justices, or pocketed fines which should have gone to the king. The king wanted to know if officials had taken gifts to remove men from juries and amercements when too many turned up for duty, and if felonies had been concealed, or felons allowed to escape. Inquiry was made about approvers in prison who accused the innocent and not the guilty, and about execution of royal writs. Financial abuses covered the payment of royal debts to the Exchequer, claims put in for expenditure on royal works, and extortionate farms of hundreds.

Although the power of the sheriff diminished in the thirteenth century, he remained the most important and powerful county official with wide-ranging duties. In addition to presiding over the county court and the tourn, he was normally keeper of the county gaol, prepared for the eyre, and executed royal writs. He collected debts due to the Chancery and Exchequer, and accounted for the county farm, the sum due every year to the Exchequer. Money was paid out at the king's order, whether for local works or military purposes. There was a mass of work to be done by the sheriff and his officials, some of which might well be difficult to execute.[23]

At the same time sheriffs were in a position of showing favour or hostility to the people of the county. Complaints about sheriffs and bailiffs are found throughout the Middle Ages, from the Inquest of Sheriffs of 1170 to the demands put forward by the rebels in Cade's rebellion of 1450. The complaints of the Hundred Rolls echo those found in Hugh Bigod's eyre of 1259. In view of the infrequency of eyres, there was no effective check on officials' activities. The jurors only tell one side of the story but there is little doubt that offences occurred.

According to the Provisions of Oxford of 1258, at the start of the baronial reform period, the sheriff was to be a substantial landholder (vavassour) of the county. He was to take no reward and only to hold office for a year. The reformers considered that his landholding would provide him with the money needed for his duties, so that he would not be tempted to resort to corruption. Fulk Payforer served as sheriff in 1258-9, 1264-5 (between the battles of Lewes and Evesham when Simon de Montfort was ruling the country) and 1267-8. He was also appointed a collector of the twentieth. Many of the sheriffs of the 1260s, such as Roger de Leyburn, John de Cobeham and Stephen de Penecestre, held land in Kent but also had connections with the court; Roger acted as Edward's lieutenant in Kent after the battle of Evesham, while Stephen became Warden of the Cinque Ports.

Lathes and hundreds were generally held at farm and there were widespread complaints about increases in the farm. Roger Viniter of Malling was said to have farmed Aylesford lathe from John de Wattun, described as sheriff, for £10 a year, but in 1273-4 the present bailiff, Thomas de Ho, farmed it for over £25. John de Wattun handed over the lathe of Shepway to John de Kemesing for £16 who is said to have committed many evil deeds. It was farmed for £30 in the early 1270s. John de Wattun handed over the lathe of Scray to his bailiffs for £20, whereas the sum had earlier been £10, and all subsequent sheriffs had taken the higher sum. Sutton at Hone lathe used to be demised at £12 but in 1274-5 at £18.[24] All this looks like a case of outright oppression, but the king, by demanding increments on the county farm from the sheriff, was putting pressure on him to produce more money. The thirteenth century was an age of inflation, war and costly foreign projects, and, although the county farm only comprised a small proportion of the royal revenue, the king was anxious to secure what he could.

Juries were increasingly used in the thirteenth century to present suspects, provide information for royal assizes (concerning freehold property), and determine guilt or innocence; in addition, juries were used in private courts. Crimes were presented at the tourn by twelve lawful men of the hundred. A hundred jury of twelve appeared before the justices in eyre to answer the questions posed in the articles of the eyre; a similar procedure was adopted for the Hundred Rolls.[25] Jury and

assize service was time-consuming, and it is likely that men were willing to pay a small sum to avoid attendance. John Sperewe, bailiff of Christ Church, Canterbury, took money to remove five men from assizes and juries, and half a mark from Henry de Strethend because he did not come to an assize; the jurors commented that he had not been summoned. Hugh de Wy, bailiff of the seven hundreds, took two marks to remove men from assizes and put others in their place; thirty-two men were involved, paying sums of 6*d.* and 12*d.*, and in one case 18*d.*[26]

The arrest of suspects always posed problems and the arrest of innocent people happened in medieval as in modern times. The jurors of Bridge hundred complained that the hundred bailiff, John de Braburn, unjustly arrested Gunnora de Hardres and imprisoned her until she paid 30*s.* Hamo de la Forstall, a serjeant of the lathe of St Augustine and a frequent oppressor according to the juries, arrested Charles de Pette, falsely accusing him of theft and not releasing him until he paid £1. He falsely accused John de Bosco's wife of a felony and kept her in prison until she handed over a cow and a pig, worth 10*s.* Acquittal by the justices in eyre was not necessarily accepted locally. Henry de la Woylete was acquitted of murdering a woman and throwing her body down a well, but he had to make payments to Henry de Malemains and Ivo de Merdenn. Similarly, a tithing had to make payments totalling £3 to two officials after it had been acquitted of knowing about a theft by a felon.[27]

On the other hand, felonies might be concealed, felons allowed to escape, and crimes connived at. Henry de Burn, sheriff between 1265 and 1267, took five marks from William de Cruce of Chislet for a felony against John de Roffeburn, and £1 from Robert de Heliere for a felony against Giles de Or; presumably this was to say nothing about the felony. William Hogheman and John Moys killed two men, but had the support of the sheriff, Henry Malemains, and the jurors did not know where they were now.[28]

Officials were in an advantageous position to seize money and land. They had the right to demand hospitality when they were carrying out their duties, and Thomas de Pote lost half a mark because he did not want to entertain the sheriff's official with his four horses and greyhounds. Hamo de la Forstall is said to have grabbed five perches of land, with the crops, by authority of his office. Elias the clerk took money from William Gunnild because William's mare was loose on the royal road and because his horse followed the mare. Seizures were sometimes related to the civil war situation. After the battle of Evesham, Bartholomew de Woteringebur' was a prisoner in Dover castle and the king's bailiff seized his hay and two oxen; then Nigel de Chetham had twenty loads of his barley and fifteen loads of his wheat threshed.[29]

Court orders were enforced by distraint, usually the seizure of goods, which caused widespread problems. Distraint was subject to detailed

regulation in the Statute of Marlborough of 1267 and the legislation of Edward I. Thomas Andrew, at one time bailiff of Scray, took 4*s*. from the tithing of Ewell to remit a distraint made because of a summons to Greenwich, probably to attend a session of the royal justices. When William de Lodeneford came to the county court with Twyford hundred, Henry de Malemains, then sheriff, arrested him because of a dispute in his house. He paid a fine of 10*s*. He had found pledges for payment and later Henry seized Richard de Henhurst's horse for the money. At the present time, the sheriff was distraining William for the 10*s*. The activities of seigniorial bailiffs were also reported. Elias son of Emma, bailiff of the prior of Christ Church, Canterbury, maliciously distrained Thomas le Becke and Robert de Rygge who lost £5 and £2 respectively.[30]

The sheriff collected the king's debts, the 'summons of the green wax', which were listed and sent to the county by the Exchequer. Problems arose when the money was allegedly collected and not paid to the Exchequer. Walter de Berksted was said to have taken £2 from Bleangate hundred for the chattels of the felon, Andrew de Blengat', but the hundred had to pay the money again since it did not receive its quittance (receipt) from Walter. The sheriff, Henry Malemains, took two marks from the tenants of Chilham for a respite in paying their eyre amercements at the Exchequer until they paid his account; he then immediately issued a royal summons against them.[31]

Sheriffs and bailiffs were not the only officials said to oppress the county. Coroners were established in 1194 when three knights and one clerk were to be chosen in the county as keepers of the pleas of the Crown until they should be determined at the next eyre. In contrast to the sheriff who was a royal appointee, coroners were always chosen locally. In thirteenth-century Kent, it is likely that they were responsible for a particular area. The coroner, William de Crioill, was said to be unwilling to come to the hundreds of Newchurch, Ham, Worth and Aloesbridge and to Langport half hundred, so people who had been killed could not be buried. In 1313-14, the coroner was usually responsible for a lathe.[32] The coroner held inquests into sudden deaths; he also went to sanctuaries to hear the abjuration, the oath to leave England for ever, and to assign the abjuror a port of embarkation. Coroners were accused of taking money to carry out their duties. Robert de Borminge took half a mark from Brenchley hundred so that Adam But could be buried. John de St Clare, a coroner in Henry III's reign, took 4*s*. from the men of Grain before he was willing to deliver two felons from Grain Church who had fled there after the death of Adam de Stretende.[33]

At the time of the Hundred Rolls, there were only two escheators in England, one north and one south of the River Trent. Master Richard de Clifford who figures largely in the Kent Hundred Rolls held office south of the Trent between 1270 and 1274. The escheator was responsible for land

which fell into the king's hands, whether through forfeiture, the death of a tenant-in-chief leaving an under-age heir, or a vacancy in a bishopric or abbey. The king expected a maximum return from these lands; hence the jurors' complaints about waste and destruction. With only two escheators in England, sub-escheators are found locally. The sub-escheator, Robert de Scotto, took possession of Henry de Grey's lands after the death of John de Grey, held them for a week, and raised five marks in *tallage* from the tenants. After Roger de Leyburn's death, he took two marks for *tallage* from the tenants of Elham. The escheator was involved in cases of wardship and the widow's remarriage. About 1260, Alfred de Dene, then escheator, took Kenardington manor into the king's hands and Henry III immediately sold the wardship and marriage of the heir to his mother, Galiena de Northmanvill, for 300 marks. Widows were expected to take an oath not to remarry without the king's consent. The jurors of Larkfield hundred reported that Margaret de Say had married and they did not know if she had royal permission.[34]

These cases seem a matter of straightforward reporting. The danger of a royal custody lay in the risk that the estate would be ruined through the destruction of timber, livestock, buildings and equipment. The attempts in Magna Carta to remedy the situation were not necessarily successful. The Kent jurors had no good to say of the escheator's custody of the temporalities of the see of Canterbury in 1270-2 after the death of Boniface of Savoy. In Teynham hundred, the escheator was said to have felled 200 trees and had them taken to London, and he demanded six marks from the tenants for carriage although they were not liable for carrying service. He took £10 for *tallage*, and £5 because they concealed a piece of land liable for *heriot*. At Charing, the escheator caused waste in the wood valued at £10. He took £5 from the reeve and was unwilling to allow him the sum in his account. He took ten marks from the tenants, and his clerk, Hugh de Thornham, took a further mark against their will. Hugh put the reeve in the stocks until he had paid the £5 fine and given him a cow and a heifer. The reeve was to say nothing about this. Trouble also arose over the tenants' landholding. A similar picture emerges at Otford and elsewhere.[35] It was not only the archbishop who suffered during the custody.

The Hundred Rolls are mainly concerned with rural society, and, except for Canterbury and Rochester, references to towns are incidental. Wye fair, for instance, is mentioned in connection with a distraint on the men of Faversham in 1269-70. Complaints were made in several hundreds in east Kent about distraints by the Cinque Ports. The jurors of St Martin's hundred alleged that the men of Romney distrained 'foreigners' (men living outside Romney) for debt when they were neither debtors nor pledges; the sheriff could not take action because of the liberty of the

Cinque Ports, and Romney was therefore undermining royal authority to the great damage of the whole country.[36]

The return for Canterbury highlights two problems widespread in larger thirteenth-century towns: encroachments on land and roads, and liberties within the city.[37] Canterbury was a royal chartered borough, paying a farm of £60 a year; it had its own gallows, administered the assize of bread and ale, returned royal writs and heard pleas of *withername*. The cathedral and religious houses had their own liberties within the city which they might try to extend and in which the citizens could not interfere. Archbishop Hubert Walter (1193-1205) extended his liberty over the people living outside Westgate; the abbot of St Augustine's had extended his rights over the suburb of Longport, had encroached on the king's land for building, and his mill damaged the royal mill. The prior of Christ Church made the Canterbury freemen living outside Northgate do suit at his court, and had also made encroachments. Various encroachments had been made on the royal waterfront, by the Dominican friars, Robert de Hardres, and the abbot of St Radegund's among others. Such actions made for bitter relations between citizens and churchmen and the problem of the ecclesiastical liberties lasted into the early modern period.

Rochester was held of the king for a farm of £12 a year, and the prior of Rochester had had one quarter of the services of the city from ancient times.[38] The citizens had return of writs, pleas of *withername*, gallows, and the enforcement of the assize of bread and ale from 'of old', as confirmed by the king. As at Canterbury, there were numerous encroachments on the roads and for house-building, as was almost inevitable at a time when urban populations were rising. The jurors' main complaint, however, was against the two bailiffs, John Potyn and John de Mares, for injustice and for seizing goods by authority of their office. Details were given, for instance, of the bailiffs' treatment of Hugh de Celeby, clerk, and Alan son of Martha. John Potyn protected Simon son of Philip de Delham from a charge of murder, and took ten marks from him and 100 marks of the 400 marks kept, presumably for safety, in the priory by his brother Adam. When John Potyn was constable of the castle, he took tiles, lead and timber. According to the jurors, work was done on the tower by Hugh de Blithe and Simon Potyn who claimed that they had spent more than they had done; this was probably in the early 1250s, as Reginald de Cobeham was sheriff at the time.

In the years before their expulsion in 1290, the Jews were mainly engaged in moneylending and were protected and exploited by the Crown. The situation might also be exploited by local officials. The references to them in the Hundred Rolls mostly concern debt. John Potyn bought for one mark the 46*s*. of debts owed by Stephen le Teynterer to Reginald le Baud of London, and immediately distrained him to pay the money before it was due, so Stephen became indebted to the Jews. Henry Lovel

took £1 from William de Prato of Lyminge so that he might clear a debt of 45*s.* to the Jews, but Henry did nothing and William's heirs later paid the debt.[39]

The king's protection extended over royal highways, essential for military, commercial and social life, and Edward I wanted to know about obstruction on the roads and the raising of money for the repair of bridges. Rochester bridge was the most important in the county and had been repaired, at least since the eleventh century, by money raised locally for each pier. However, it appears that the Northfleet pier, on land at the west end, had lost its repair money, and the escheator's serjeant had taken 30*s.* from the *pontage* (the toll for bridge repair) from the hundred of Toltentrough.[40] Obstructions on the roads seem mostly to have caused local nuisance. William de Braose made an enclosure on the road from Canterbury to Stodmarsh in his park at Trenley so that no one could pass through. Christine, John son of Martin and his brothers, all of Ramsgate, blocked a common way there. Roger de Leyburn obstructed a path from Malling to Birling, and William de Offeham a road in Offham.[41]

In what they had to say about usurpation of franchises and the activities of royal and seigniorial officials, the jurors mirrored the returns from other counties. Yet, compared to the Midlands and parts of Southern England with high proportions of unfree tenants or villeins, Kent stands out in its number of free tenants who held all or some of their land by *gavelkind.* Both knights and peasants are found holding land by *gavelkind* tenure, such as Fulk Payforer, the sheriff and collector of taxes. The tenant by *gavelkind* had the right to alienate his land, and on his death his widow received half of his lands in dower provided that she did not remarry. In the event of the heir's minority, the guardian was generally his mother or a member of the family. He came of age at fifteen. Partible inheritance applied; in the absence of sons, the land was divided among the daughters. *Gavelkind* tenants were in a much more advantageous and less burdened position than unfree villeins, and also had advantages over tenants by knight service in that the lord had no rights of wardship or marriage over them.[42] Thirteenth-century lords, however, were anxious to secure those rights. Archbishop Hubert Walter secured a royal charter in 1201 allowing him to convert holdings from *gavelkind* to knight's fee, and this was an ongoing process. In the hundred of Faversham the Hundred Roll jurors said that the archbishop sold wardships and did not allow guardianship to the father, mother or uncle of the heir, contrary to common justice and the custom of the whole of Kent.[43] Other hundreds spoke of the action as being contrary to the custom of the realm or the custom of the country.

The use of this terminology indicates that jurors felt that the safeguarding of *gavelkind* custom was crucial. F.R.H. Du Boulay sees them as standing up for their customary rights and links this with the codification of Kent custom. The *Consuetudines Kancie* (*Customs of Kent*) survive in several

versions dating from the late thirteenth and early fourteenth century. Many state that Edward I's charter granting the customs and dated 19 April 1293 was handed over to Sir John de Northwode, probably then the sheriff; some associate the endorsement of the customs with the royal justice, John de Berewyk, who held the eyre at Canterbury for fifteen days after Easter in 1293. During the eyre of 1313, the knights of the county claimed their custom of *gavelkind*.[44] At a time when local custom was disappearing in much of the rest of England in face of the growth of royal justice, the knights and 'middling landholders' of Kent had a strong enough sense of their common interests to secure their own customs.

What was the upshot of the Hundred Rolls? If the jurors had been hoping for an immediate drive against corruption, they were disappointed. Edward I was more concerned to ensure that all liberties were held of the king by specific warrant. The Statute of Gloucester of 1278 paved the way for franchises to be investigated by a general eyre; the justices were to proceed against those who had usurped franchises, while those said to have been exercised by the claimant's ancestors were investigated under the writ of *quo warranto*, by what warrant the liberty was held. Edward expected specific charter evidence, but by the Statute of *Quo Warranto* of 1290 he had to accept liberties held since 1189. As a result of the sessions of the justices in Kent in 1279 and 1293, franchises were recovered, including those of Gilbert de Clare, Earl of Gloucester, but many of the great ecclesiastical landholders continued to exercise their liberties until the end of the Middle Ages.

ENDNOTES

[1] W. Illingworth and J. Caley (eds), *Rotuli Hundredorum* (2 vols, Record Commission, London, 1812-18).

[2] H.M. Cam, *The Hundred and the Hundred Rolls* (London, 1930).

[3] *Kent Hundred Rolls*, published on www.kentarchaeology.ac, p. 1.

[4] The terms, liberty and franchise, denote a judicial right which was in private hands. Liberty also denotes an area where private justice was exercised.

[5] A. Clarke, J. Caley, J. Bayley, F. Holbrooke and J.W. Clarke (eds), *Foedera, Conventiones, Litterae* (4 vols, Record Commission, London, 1816-69), I, ii, pp. 517-18; H.M. Cam, *op. cit.* (see note 2), pp. 39-43, 248-57; H. Rothwell (ed.), *English Historical Documents, 1189-1327* (London, 1975), pp. 392-6; M. Prestwich, *Edward I* (London, 1988), pp. 93-4; *Kent Hundred Rolls*, pp. 153-60, where the articles are given in a highly abbreviated form. Each jury made and sealed a separate return; extracts by the royal clerks were made later.

[6] F.M. Powicke, *King Henry III and the Lord Edward* (2 vols, Oxford, 1947), II, p. 462; R.A. Brown, *Rochester Castle* (English Heritage, 1986), pp. 14-15; *Kent Hundred Rolls*, pp. 94, 105, 106.

[7] Earl Gilbert supported Simon de Montfort in 1264, but changed sides in 1265 and fought with Edward against Simon at the battle of Evesham. H.R. Luard (ed.), *Flores*

Historiarum (3 vols, Rolls Series, London, 1890), II, pp. 491-2; W. Stubbs (ed.), *Gervase of Canterbury: Historical Works* (2 vols, Rolls Series, London, 1879-80), II, p. 236; *Calendar of Inquisitions Miscellaneous, Henry III and Edward I* (London, 1916), no. 760; *Kent Hundred Rolls*, pp. 38, 45. The mark was worth 13*s*. 4*d*. and was used as a unit of account.

[8] E.g. *Kent Hundred Rolls*, p. 2; S.K. Mitchell, *Taxation in Medieval England* (New Haven, Connecticut, 1951), pp. 148-50; *Chronicon Thomae Wykes*, in H.R. Luard (ed.), *Annales Monastici* (5 vols, Rolls Series, London, 1864-9), IV, p. 27.

[9] *Kent Hundred Rolls*, pp. 17-18, 31, 95, 106-7, 110.

[10] A.L. Brown, *The Governance of Late Medieval England, 1272-1461* (London, 1989), pp. 108-9.

[11] *Ibid*., pp. 106-8; F. Pollock and F.W. Maitland, *The History of English Law* (2 vols, Cambridge, 1898), I, p. 570.

[12] *Kent Hundred Rolls*, pp. 44, 135, 140, 143; A.H. Hershey (ed.), *The 1258-9 Special Eyre of Surrey and Kent*, Surrey Record Society, XXXVIII (2004), p. lii, nos. 295, 296, 379.

[13] Cam, *op. cit*. (see note 2), pp. 137, 270-2; on pp. 270-72 Cam lists the Kent hundreds and their lords in 1274; F.R.H. Du Boulay, *The Lordship of Canterbury* (London, 1966), pp. 297-305.

[14] *Kent Hundred Rolls*, pp. 23, 33, 96, 144, 151.

[15] *Ibid*., pp. 80, 96, 100.

[16] *Ibid*., p. 4. The franchise of wreck allowed the lord to have anything cast up on the shore in which no living thing survived.

[17] *Ibid*., pp. 87, 100-1, 142, 148-9.

[18] M.T. Clanchy, 'The Franchise of Return of Writs', *Transactions of the Royal Historical Society*, 5th series, 17 (1967), 59-82; S. Painter, *Studies in the History of the English Feudal Barony* (Baltimore, Maryland, 1943), p. 107.

[19] E.g. *Kent Hundred Rolls*, pp. 1, 7, 18; Du Boulay, *op. cit*. (see note 13), pp. 284, 291-5; Hershey, *op. cit*. (see note 12), no. 292; *Close Rolls, 1234-7* (London, 1908), pp. 117, 149.

[20] *Kent Hundred Rolls*, pp. 4, 25, 46-7, 49, 59; W. Illingworth (ed.), *Placita de Quo Warranto* (Record Commission, London, 1818), pp. 364-5; W.C. Bolland (ed.), *The Eyre of Kent, 6 and 7 Edward II, 1313-14* (3 vols, Selden Society, 1909-13), I, pp. 9, 26, 28, 83; E. Searle, *Lordship and Community. Battle Abbey and its Banlieu, 1066-1538* (Toronto, 1974), pp. 226-7, 235-8. Waif allowed the lord to have stolen goods which had been abandoned by a felon, if they were not claimed by the owner within a year and a day.

[21] E.g. *Kent Hundred Rolls*, p. 80; Illingworth, *op. cit*. (see note 20), pp. 348, 365.

[22] W.V. Dumbreck, 'The Lowy of Tonbridge', *Archaeologia Cantiana*, LXXII (1958), 138-47; J.C. Ward, *The Estates of the Clare Family, 1066-1317* (Ph.D. thesis, University of London, 1962), 209-33; J.C. Ward, 'The Lowy of Tonbridge and the Lands of the Clare Family in Kent, 1066-1217', *Archaeologia Cantiana*, XCVI (1980), 127-31.

[23] Brown, *op. cit*. (see note 10), pp. 142-3.

[24] *Kent Hundred Rolls*, pp. 37, 70, 88, 109-10, 112, 119, 123, 130, 140.

[25] H.M. Jewell, *English Local Administration in the Middle Ages* (Newton Abbot, 1972), pp. 50-1, 140-1, 150-2.

[26] *Kent Hundred Rolls*, pp. 21, 24, 73-4.

[27] *Ibid*., pp. 9-10, 39, 56.

[28] *Ibid*., pp. 2, 53.

[29] *Ibid*., pp. 10, 56, 102, 116.

[30] *Ibid*., pp. 37, 69, 101-2.

[31] *Ibid*., pp. 2, 44-5.

[32] *Ibid.*, p. 131; Bolland, *op. cit.* (see note 20), I, p. 5.

[33] *Kent Hundred Rolls*, pp. 90-2.

[34] *Ibid.*, pp. 58, 79, 85, 110, 127.

[35] *Ibid.*, pp. 47-8, 53-4, 141.

[36] *Ibid.*, pp. 40-1, 118, 121.

[37] *Ibid.*, pp. 13-17.

[38] *Ibid.*, pp. 102-7.

[39] *Ibid.*, pp. 104, 127.

[40] *Ibid.*, pp. 87-8; N. Yates and J.M. Gibson (eds), *Traffic and Politics. The Construction and Management of Rochester Bridge, AD 43-1993* (Woodbridge, 1994), pp. 15-20, 26-37.

[41] *Kent Hundred Rolls*, pp. 1, 18, 79.

[42] R. Eales, 'An Introduction to the Kent Domesday', in *The Kent Domesday* (Alecto edition, London, 1992), 25-7; Du Boulay, *op. cit.* (see note 13), pp. 68-72, 144-5; F.R.H. Du Boulay, 'Gavelkind and Knight's Fee in Medieval Kent', *English Historical Review*, LXXVII (1962), 504-11; I.J. Churchill (ed.), *Calendar of Kent Feet of Fines to the End of Henry III's Reign*, Kent Record Society, XV (1956), pp. 339-40; *Calendar of Inquisitions Post Mortem*, II (London, 1906), p. 138.

[43] *Kent Hundred Rolls*, p. 37.

[44] C.L. Sinclair Williams, 'The Codification of the Customs of Kent', *Archaeologia Cantiana*, XCV (1979), 65-79; F. Hull, 'John de Berwyke and the *Consuetudines Kancie*', *Archaeologia Cantiana*, XCVI (1980), 1-15; A. Luders, T.E. Tomlins, J.F. France, W.E. Taunton, J. Raithby, J. Caley and W. Elliott (eds), *Statutes of the Realm* (11 vols, Record Commission, London, 1810-28), I, p. 223; W. Lambarde, *A Perambulation of Kent* (London, 1826), pp. 513-31; Bolland, *op. cit.* (see note 20), I, pp. 17-18.