

THE TAMWORTH COURT ROLLS

**An introduction to the colour microfiche edition
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AN INTRODUCTION TO THE TAMWORTH COURT ROLLS

The publication on microfiche of the Tamworth court rolls makes available for the first time in readily usable form a particularly interesting and extensive set of court rolls emanating from a small medieval town in the West Midlands. The rolls, which are the property of Tamworth Borough Council, are housed with the archives of the Library of the University of Keele, Staffordshire, where the originals may be seen. In all almost three hundred rolls and paper folios survive. They span a period of two and a half centuries from the 1280s to the reign of Edward VI, with a single folio remaining from the reign of Queen Elizabeth.

In 1952 Miss M. K. Dale produced a calendar of the rolls for the Tamworth Borough Council. Her work has served as the basis of all subsequent commentary and has proved an invaluable aid to the historian of the medieval town as well as to local historians in Staffordshire and Warwickshire. It was an enormous undertaking. Her calendar is very full for the extant thirteenth and earliest fourteenth century rolls. From the reign of Edward II, however, Miss Dale's work necessarily became increasingly selective. To calendar all the repetitive and routine entries on these rolls would clearly require a publication way beyond the scale of the presumed intentions of the Borough Council to make available for public use a sample of the material included in the rolls. Miss Dale's approach to the later medieval period was consequently to select deliberately the distinctive, the unusual and even the quirky. Unfortunately her emphasis on the rolls of Edward I's reign, which were the product of a manorially organized administration, has led some to regard these early rolls as typical of the whole run. They are not. Both the changing economic circumstances of medieval England in general and the acquisition of the right by the townsmen of Tamworth to govern themselves almost wholly without reference to the respective lords of the two parts of the town account for changes in the format and function of the rolls. The obvious manorial context of the early rolls gives way to the more essentially urban concerns of later medieval Tamworth as the Courts, especially the View of Frankpledge, came to adopt the role of a town council. This change can be perceived only dimly in Miss Dale's calendar. It should also be said that since Miss Dale produced her work several additional rolls and related documents have been discovered and that among them is what is now believed to be the earliest surviving court roll for the town. These have been included in the present publication.

Palmer's nineteenth century history of Tamworth provides a useful starting point for the student of these rolls. Recent significant work on them has been done by Andrew Tonkinson whose M.A. thesis (University of Keele, 1985) sets out to define the actions of the various courts and to analyse the social structure of Tamworth in the last decade of the thirteenth century. Jim Gould's earlier essay on the 'Medieval Burgesses of Tamworth ...' discusses the liberties, courts and markets of Tamworth and indicates the conditions of life in the medieval town. No attempt has been made here to duplicate his work.

This introduction attempts to do two things only. Firstly, it aims to set the medieval borough in its historical context by outlining its development from the period of the Mercian settlement to the Norman Conquest and to the beginnings of the town's self government in the twelfth century. Much of what took place in the medieval town was owed to events occurring before 1066. Secondly, it tries to explain the nature of the rolls and of the three courts of the medieval borough that produced them. Whilst the most common form of action, pleas and suits before the court are considered no attempt has been made to be comprehensive. Many further lines of enquiry remain to be researched.

I EARLY HISTORY

i) The Mercian period

In the period of the formation of the Mercian kingdom between the late sixth and early eighth century, Tamworth appears to have been only one of several sites used by the Mercians to extend their hegemony throughout central England. It was however already the tribal centre of the Tomsaetan who, with the Pencersaetan, comprised the most politically successful of the tribal units making up the Mercian folk. By the later seventh century Tamworth lay at the centre of a district bounded in the North by Derby, the chief settlement of the North Mercians, and to the east by the newly established monastery at Breedon-on-the-Hill. Southwards lay the territory of the Stoppingas of the Forest of Arden while the western frontier, at least initially, appears to have followed the ridge that became Cannock Chase. This was the Mercian heartland.¹

By the eighth century Tamworth had certainly become the principal seat of the Mercian kings - 'the Mercian capital'.² From 731 AD, for instance, it is known that Tamworth was the location at least twice a year, at Christmas and Easter, of Mercian assemblies presided over by the Mercian *Bretwaldas*, Aethelbald and Offa. Even during the ninth century, when the political centre of the Mercian kingdom had shifted southwards towards London after the succession of a collateral branch of the royal house following the short reign of Offa's son and successor Ecgfrith (141 days, July-December 796), the evidence from surviving charters of the period is that Tamworth continued to be a regular meeting place of Mercian assemblies until the later years of the reign of Burghred (?852-873/4).

Before the arrival of the Vikings there is no doubt of the importance of Tamworth. A charter of King Offa, dated 781, was issued *in sede regali sedens ... in Tamuuordie*. Another from the reign of King Cenwulf, dated 801, was drawn up *in vicu regio aet Tomepordige*. In 855 Burghred issued another *in vico celebre qui a multis vocitatur Tomanportigne*.³ From these and other charters it is clear that there was a Mercian palace complex at Tamworth at least from the reign of King Offa which Robert Meeson has been able to show, by a careful systematic analysis of property boundaries, lay virtually within a quadrangular area on the crest of the ridge where the modern town centre lies. Contrary to local tradition therefore it has been possible to demonstrate that the Mercian palace did not lie beneath the site of the Norman Castle. Certainly by the ninth century and probably from the eighth this complex was surrounded by a ditched enclosure within which also stood the royally founded minster church of St Edith in a relationship broadly similar to that uncovered by archaeologists at Cheddar.⁴

But was Tamworth a town in the Mercian period? We have very little evidence to enable a positive conclusion to be drawn beyond Tamworth's name. The 'worth' element, however, is important. It usually denotes an enclosure and it has recently been pointed out that it was sometimes used as an alternative to 'burh'.⁵ Pre-Alfredian

¹ C. Hart, 'The kingdom of Mercia', in *Mercian Studies*, ed. A. Dornier (1977), 53-4; F.M. Stenton, *Anglo-Saxon England*, 3rd edn. (1971), 40.

² Hart, *loc. cit.*

³ R. Meeson, 'The Formation of Tamworth', unpublished MA thesis, University of Birmingham, 1979, 15-18. Meeson provides a full list of charters issued by the Mercian kings at Tamworth.

⁴ Meeson, *ibid.*, 28-32.

⁵ S. Reynolds, *An Introduction to the History of English Medieval Towns*, (1977), 28.

burhs were, it appears, defended locations where military stores and provisions could be kept so that it seems likely that Tamworth had a garrison role at least from the eighth century when the place name first occurs in the records. From this date Tamworth was a defended site on the banks of the River Tame.⁶

The charter evidence, however, reveals rather more. Authenticated Charters of King Cenwulf (799-814), King Beorhtwulf (841) and King Burghred (855) use the term *vicus* to qualify Tamworth. Of these the one eighth century charter to use the term further tells us that the *vicus* was 'royal' and the ninth century charters, using a form of the Latin adjective *celeber*, additionally indicate that it was 'much frequented'. With this evidence it seems certain that Tamworth was a *wic* as an island trading centre, and of sufficient standing to merit the adjective 'renowned' in other charters from the ninth century.⁷ Just as York - *Eoferwicceastre* or *Eoferwic* as it was known at this period - was both a trading centre and the capital town of an English kingdom, so was Tamworth.

To conclude that Tamworth was an early town should not cause surprise. Although the evidence for the presence of urban characteristics at this early date is not strong there are several pointers in this direction. The palace complex that stood within the settlement from at least the eighth century would have been a substantial magnet for traders and craftsmen as a considerable centre of consumption. The presence of a royally founded *monasterium* would have had a similar effect upon the development of a market there. The discovery of pottery sherds of possible Carolingian origin in at least two locations during the course of excavations points to the existence of something rather more than a localized trade being carried on. Archaeologists have also revealed the presence of timber roads and of what could be a metalled *intervallum* thoroughfare indicating that the settlement was indeed of more than ordinary importance. Finally, the presence of a watermill which could date from the eighth century, discovered in 1971, standing on the River Anker close to the Anglo-Saxon east gate below the palace area, whilst not a specifically urban feature, does imply the presence of an established and comparatively sophisticated community at Tamworth alongside the royal and ecclesiastical institutions.⁸

The political decline of Mercia and, conversely, the rise to pre-eminence of the kingdom of Wessex is a major theme of ninth century English history. No Mercian king was able to establish lasting authority even within the Mercian heartland itself during the first half of the century, and in the decade following the death of Cenwulf on campaign at Basingwerk on the Dee in 821 internal squabbles accounted for the murder and deposition of several of her kings. When the West Saxons won the battle at *Ellendun* in 823 the Mercians were for the first time forced to accept a form of clientage. The age of Mercian political domination was over.

⁶ See the discussion of the *-burh/-byrig* elements in a Mercian context by M. Gelling in 'Some thoughts on Staffordshire Place Names', *North Staffordshire Journal of Field Studies*, 21, (1981), 17-19.

⁷ Reynolds, *op. cit.*, 22-30, cf M. Gelling *Signposts to the Past: Place Names and the History of England*, (1978), 67-74.

⁸ P. Rahtz & K. Sheridan, 'Fifth Report of Excavations at Tamworth, Staffs. - 1971 - A Saxon Water-Mill in Bolebridge Street. An Interim Note', *Trans. of the South Staffs. Arch. & Hist. Soc.*, xiii, (1971-2), 9-16; K. Sheridan, 'Sixth Report of Excavations at Tamworth, Staffs. (1971). A Section of the Saxon and Medieval Defences, Albert Road', *ibid.*, xiv (1972-3), 32-7; K. Sheridan, 'Seventh Report of the Excavations at Tamworth, Staffs. A Section through the Northern Defences excavated by Dr F.T.W. Wainwright in 1960', *ibid.*, 38-42; P. Rahtz, 'The Archaeology of West Mercian Towns' in *Mercian Studies*, ed. A. Dornier, (1977), 111, 117, 119-25.

(ii) The West Saxon burh

Charter evidence suggests that for a time, in the 840s and 850s, Tamworth was once more a regular meeting place for the Mercian court but when the Vikings seized London, then a Mercian city, in 851 the Mercian kingdom was dealt a mortal blow. Increasingly her kings had to rely upon West-Saxon assistance politically and militarily but the Vikings were not to be dislodged. In 855 they demonstrated vividly that there was no place in England safe from their depredations when they sailed up the Trent as far as they could go (probably to the confluence of the Trent and the Tame) and, passing right through the old heart of Mercia, came to Wroxeter. In 867, they established their headquarters at Nottingham before moving upstream in 873 to Repton. In this way Mercia was dominated. King Burghred was expelled and a Mercian quisling installed as a puppet ruler in his place. The very next year Mercia was partitioned and although Coelwulf retained the western parts for himself, three Danish army commanders were put in charge of the east.

As is well known, it was the West Saxon king, Alfred, who provided the leadership to begin the slow Anglo-Saxon recovery from the Viking occupation of Mercia. Alfred was himself of half Mercian blood and, as Susan Reynolds has recently pointed out, it is probable that his successful and famous policy of building *burhs* - defensive fortifications - against the Vikings, may have its origins in Mercia inspired by such places as the defended *palatium* at Tamworth.⁹ Alfred also married his daughter, Aethelflaed, to the Mercian lord Aethelred, who is styled *ealdorman* in the Anglo-Saxon Chronicle but who appears to have been recognized by the Mercians as their king. Their marriage in 886 occurred in the same year that England was divided with the Danes and, by the terms of Alfred and Guthrum's peace, the Danelaw came into existence. Watling Street was used to define the frontier in the Midlands and Tamworth found itself just inside the Danelaw region and a frontier town for the first time.

It is clear, however, that the boundary was insubstantial and that the Vikings were not so easily pacified. Aethelred and his wife were active in the West Saxon cause during the ensuing years but, in two years from 893-895, this part of England experienced three destructive Viking raids. In the summer of 893 an army of Vikings crossed England to the River Severn before being stopped in their tracks by a combined West Saxon and Mercian army at Buttington, near Welshpool. A second raid later in the same year resulted in the temporary occupation of Chester by a Danish army. In 895 a further raid was sufficiently successful to enable the Vikings to establish their winter headquarters at Bridgnorth.

Two events during the reign of Alfred's successor, Edward the Elder, did more than almost anything else to put an end to the Danes' capacity to launch such sudden, terrifying and dramatic raids. In 907 Aethelflaed defeated the Norse of the Wirral at a battle at Chester. Chester was promptly re-fortified as a West Saxon *burh*, the earliest of the type that we know about in the Mercian region. This was an extremely significant event in that it drove an effective political wedge between the Danish areas of England and the Norse dominated western islands and Ireland. Then, in 910, after another far reaching raid across England, Edward the Elder inflicted a severe defeat on the main Danish army at Tettenhall which enabled the West Saxon king to extend his effective political control into Staffordshire and the north-west beyond the line of Watling Street. The battle is particularly important in marking most obviously the turn in Anglo-Saxon fortunes. A slow, piecemeal but ultimately successful erosion of the Danelaw areas now became possible which was in no way set back by the death, of a wasting illness, of *ealdorman* Aethelred in 911.

⁹ Reynolds, *op.cit.*

Aethelflaed governed in Mercia on behalf of her brother, King Edward, on her own for the next seven years. She too appears to have been given a royal title by the Mercians; but she certainly carried further the West-Saxon policy of *burh* building in this region. The Anglo-Saxon Chronicle gives her credit for founding eleven *burhs* in the next seven years and that may be an underestimate. Tamworth (913) was among them. A recent excavation has shown that this meant, at the least, the creation of a new system of defences around the settlement to replace the decayed defences of the *palatium* complex.¹⁰ This system of defended sites, intended to hold up any Viking army just long enough to give time for an Anglo-Saxon army to be brought against them, was very successful. With a system of *burhs* at Stafford, Bridgnorth Chirbury, Warwick, Runcorn and Derby and at other places unidentified and unknown the Danes were effectively excluded from the north western Mercian area. In 918 Aethelflaed sent her army successfully against the Danes of Leicester and then to York itself.

(iii) The Later Anglo-Saxon period

At the apparent pinnacle of her success, Aethelflaed died - at Tamworth. Her brother Edward, who was then busy attacking the Danes of Stamford, immediately disengaged and marched to Tamworth to forestall any possible Mercian reaction against West Saxon rule. Mercian particularism remained a strong force to be reckoned with, in spite of West Saxon political domination for up to half a century. It is interesting to note how coy the Anglo-Saxon chronicle, with its West Saxon bias, is in recounting these events. It is by no means certain that Edward was immediately successful in securing Tamworth. Aelfwynn, the daughter of Aethelred and Aethelflaed, and certainly a descendant of the Mercian royal house, was installed as her mother's successor but whether by Edward or, as seems more likely, by the Mercians themselves is not clear. In West Saxon sources Aelfwynn is represented as an inept ruler who had to be removed. That may be far from the truth. We are told curtly that she was 'deprived of all authority in Mercia' and that 'she was taken to Wessex three weeks before Christmas', entries that hint at captivity and compulsion. It is probably not a coincidence that Aelfwynn disappears from the records at this point. These events, which centred on Tamworth, undoubtedly represent the conquest of Mercia by the West Saxons, for the king of Wessex ruled in Mercia directly from this time (December 918). Whatever happened at Tamworth in this year clearly brought about the formal political union of the two southern English kingdoms.¹¹

With the submission of the Danes of Nottingham and Lincoln during the next year Edward became the ruler of the whole of England south of the Humber and, with the submission of the Northumbrians in 920, he was, however briefly, the first English king to be ruler on a voluntary basis both north and south of the Humber.

By their opposition and defeat the Mercians inevitably incurred the penalties of conquest. The West Saxon practice of dividing the kingdom for administrative purposes into shires was now extended by *force majeure* to Mercia either between 918 and 924 or shortly thereafter by Edward's successor, Athelstan. In Wessex this process was of some antiquity already. Dorset, Somerset, Wiltshire and Hampshire, the oldest of all, were all formed in the pre-Viking period. Other shires were co-terminous with conquered Anglo-Saxon kingdoms such as Kent, Sussex or Essex and, when eastern Mercia was conquered from the Danes, shires there were based on the holdings of the Danish army commanders. In this way Huntingdon, Cambridge and

¹⁰ Sheridan, 'Sixth Report', *ut supra*

¹¹ *The Anglo-Saxon Chronicle*, ed. G.N. Garmonsway, (1953), 105.

Bedford became shire centres. In Western Mercia, however, where the Danish hold was weak, even beyond Watling Street, the new shires were imposed in deliberate imitation of the West Saxon model. Apart from Worcestershire whose nucleus comprised the lands of Worcester cathedral, the western Mercian shires were extremely artificial creations based upon the recently re-fortified centres at Chester, Stafford, Warwick and Shrewsbury although there is no written evidence for the last of these being a *burh*.

Tamworth, the Mercian capital from the eighth century and still an important place was, quite deliberately it seems, ignored as one of the new shire centres although local administrative and political tradition would clearly have favoured it. Worse, Tamworth appears to have been deliberately slighted in that the new shire boundary between Warwickshire and Staffordshire was drawn through the middle of the town leaving the minster church in the Staffordshire part and what appears to be the main market area in Warwickshire. The consequence of this division was far reaching, above all because it was permanent. Tamworth remained a politically divided town for the remainder of the middle ages and beyond. As the court rolls so vividly indicate, it was this that necessitated the duplication of the greater number of its institutions, in every particular. It was this division that made Tamworth a unique medieval town.

Tamworth hardly appears in the records of the late Anglo-Saxon period. Her eclipse was complete with the defeat of the Mercians in 918 and the suppression of the office of *ealdorman* of the Mercians. The Mercians rebelled against West Saxon rule in 924 probably as a consequence of the more direct political control that the West Saxon kings were seeking to impose through the shire system. Whether the men of Tamworth were involved is unknown but the rising was sufficiently severe for Edward the Elder to lead an army north westwards to the Dee valley and it was there that he died, at Farndon in Cheshire, while suppressing it.

His ultimate successor was Athelstan, who was brought up at Aethelflaed's court and may have been of Mercian stock. Certainly he was more politically acceptable to the Mercians and his reign appears to have been untroubled by Mercian reaction.¹² Tamworth was one of several Mercian towns where the king set up mints, which is a clear indication of its continuing significance as a trading centre and evidence for the northward expansion of the kingdom's trade. He was, as is well known, perhaps the strongest and most successful of Anglo-Saxon monarchs and is justly famed for his victory at *Brunanburh* in 937 over the Vikings and their allies. But Athelstan's death, in 940, was a signal to his opponents. In particular, early in this year the Dane, Olaf Guthfrithson, launched an attack on the Midland shires seizing everything north of Watling Street. Tamworth, we learn from one version of the Anglo-Saxon Chronicle, was stormed 'and there was great slaughter on both sides'¹³. Once again the West Saxon inspired source may be exaggerating. Nothing has been discovered in recent archeological investigation of the town to suggest the scale of destruction that is indicated by the record. The Vikings were careful not to destroy towns and so to disrupt the trade that contributed directly to the growth of England's wealth in this century. Indeed there seems to have been no interruption in Tamworth's capacity as a minting centre, and it may indeed be from this period of Viking occupation that Tamworth acquired her 'gate' street names. That occupation was of short duration. In 944 King Edmund, Athelstan's brother and successor, drove the new Danish rulers from the kingdom of York, and although there was a temporary revival of its fortunes ten years later the kingdom was finally suppressed and the Viking threat brought to an end.

¹² J. Campbell, *The Anglo-Saxons*, (1982) 130-1

¹³ Sub 940-3 but dated by Simeon of Durham to 939.

As with most towns we know nothing of the administrative organization of Tamworth before the conquest. We can perhaps infer that like other major Mercian towns, such as Chester, it would have had lawmen to maintain the laws and customs of the place, but this is speculation. There is likely to have been a reeve, a royal officer presiding over its courts and collecting their revenues on the king's behalf. But none of this can be known for certain. Our knowledge of Chester derives from the Domesday Survey; unfortunately for us, and for later medieval Tamworth, the town is omitted from the Survey of 1086 although we do not know why. Stafford is the only Staffordshire town recorded by the Domesday commissioners in the county and Warwick was alone in being surveyed in Warwickshire. It certainly seems that the commissioners were uncertain as to which shire Tamworth should be entered under. Very likely two different sets of commissioners were responsible for the returns for these two counties. Each may have assumed that the other would have carried out a survey of the town. Towns, however, are notoriously under-recorded by the commissioners. Perhaps it was intended to return to consider places of especial difficulty, such as Tamworth must surely have been, and, that like so many aspects of the Survey, this was never completed. We simply do not know.

(iv) The Norman colonization

The existence of a town at Tamworth in 1086 is known, but only from the presence of 'contributory burgesses' on neighbouring royal manors. What the precise status of these contributory burgesses was, however, remains a matter of some debate among Domesday scholars. The only certainty is that as burgesses they contributed to the borough duties. It is possible that, as Miss Bateson argued, they were non-residents attached to the borough for the purpose of trade. Equally they could be tenants of lands within the borough attached to the manor within which they were surveyed. Whatever is the correct explanation for the eight burgesses of Tamworth entered under the king's manor of Drayton Busset, the four burgesses recorded at Wiggington in Staffordshire and the ten burgesses at Coleshill in Warwickshire, presents a problem of interpretation.¹⁴ What is clear, however, is that Tamworth clearly remained a place of some size and that these entries under two different counties reflect the divided nature of this borough at the time of the conquest.¹⁵

How far Tamworth was affected directly by the Norman Conquest is also not known. These events are often assumed to have provided a fillip to urban growth in England, as the building of a new castle by William de Ferrers did at Tutbury, a few miles to the north in Staffordshire. At some unknown date after William the Conqueror's suppression of the Mercian Earldom in 1070, part of the Warwickshire half of Tamworth appears to have been granted to Robert le Despencer, brother of Urse d'Abitot, sheriff of Worcester and, in 1086, the holder of a handful of small manors in the Coleshill Hundred of Warwickshire at Lea Marston, Fillongley and Barston.¹⁶ On this site Robert began the construction of a substantial Norman Castle at Tamworth just inside the southern defences of the town. Robert is also known to have strengthened and repaired the Anglo-Saxon ditch, bank and palisade around the town but, perhaps more significantly from a Tamworth point of view, he was the ancestor of the Marmion

¹⁴ H.R. Loyn, *Anglo-Saxon England and the Norman Conquest* (1962), 372-5; M. Bateson, Review of a Ballard, *The Domesday Boroughs* in *Eng. Hist. Rev.*, xx (1905), 143-51.

¹⁵ C.F. Slade, 'Domesday Survey', in *Victoria County History of Stafford*, IV (1958), 22-4, 38, 40; *Domesday Book: 23: Warwickshire*, Ed. J. Plaister (1976), 1:5; Loyn, op. cit., 371-4.

¹⁶ *Domesday Book: 23: Warwickshire*, Ed. J. Plaister, 23.

family through his niece who married Roger Marmion, the first of the family that held the castle in direct line of male descent until 1291. The castle was always more impressive than politically important and Robert's activities here must surely point to a revival of the town's commercial fortunes in the late eleventh century following the Norman colonization.

The king, on the other hand, retained both halves of the town in his own hands after the Conquest. As Jim Gould noted, Tamworth was nevertheless a poor town even by Staffordshire and Warwickshire's modest standards in the twelfth century.¹⁷ Its worth to the crown, as recorded in the Pipe Rolls of the period, was about two thirds that of Newcastle-under-Lyme and only about one sixth that of Stafford. At least for a period the Staffordshire half of the town was administered for the king as part of his manor of Wiggington whilst the Warwickshire half was farmed in the first half of this century. Such an arrangement graphically demonstrated that as yet 'living in a town did not formally confer any particular liberty'.¹⁸ In a legal sense Tamworth was not yet a borough.

(v) The development of self-government

In the later twelfth century towns began to assert their independence, to seek to control their own affairs and to appoint their own officials. Successful towns were gradually granted the right to farm themselves, that is, to raise cash payable annually to the Royal Exchequer to meet the town's dues to the crown. These grants of the *firma burgi* encouraged the development of a corporate outlook and a sense of community, as well as a wish for self-regulation on the part of the townsmen. The sheriff and other royal officers within the county were excluded from intervening in the day to day business of running the town. The townsmen of Stafford acquired this right by a charter from King John of 1206, and the burgesses of Newcastle-under-Lyme in 1251, but at what date Tamworth acquired the privilege is a matter of conjecture. The Warwickshire side of the town is known to have been farmed during the early part of the century but there is no evidence that the townsmen themselves were involved. As a 'borough by prescription' whose status was later considered to be based on its antiquity rather than on the possession of any specific rights conceded by charter, it might be assumed that the Tamworth townsmen had the right to farm their borough from an early date but there is no precise evidence to support this view. In 1199 Tamworth was represented at the eyre by its own jury but this seems to be no more than a confirmation of its borough status since, within Staffordshire, Lichfield, Eccleshall and Tutbury were also independently represented.¹⁹ On the other hand, bailiffs of the town are first encountered collecting dues on behalf of the town in 1204 which seems to imply the grant of the *firma burgi* by this time. It appears that these were already elected officials chosen by the burgesses in place of the town reeves previously appointed by the king, and that because Tamworth was a divided town, there were two for each side.²⁰ There

¹⁷ J. Gould, 'The Medieval Burgesses of Tamworth; their Liberties, Courts and Manors', *Trans. of the S. Staffs. Arch. & Hist. Soc.*, xii, (1971-2), 2.

¹⁸ Reynolds, *op.cit.*, 95.

¹⁹ M.W. Beresford & H.P.R. Finberg, *English Medieval Boroughs: A Handlist*, (1973), 160-5.

²⁰ H. Wood, *Medieval Tamworth*, (1972), 8-11.

is, however, no evidence of the development of a council of portmen to assist them such as, for example, occurred at towns like Ipswich.²¹

Tamworth was far smaller and lacked the need for administrative sophistication of the kind found in larger towns in the thirteenth century. There was, for instance, no guild merchant in the town in the middle ages and, unlike Newcastle-under-Lyme which began to nominate to the office in 1251, no mayor. As the court rolls clearly show, the town was governed by its bailiffs through the courts of the town. It was the bailiffs who had the sole responsibility for raising, collecting and paying the farm of the borough; it was they who had collected tolls on those coming to trade in the town's markets and the rents for the burgage tenure and other customary dues; it was they who were charged with the conduct of the markets and the maintenance of communal needs. Orderly town government was their primary responsibility and duty as it was also of their assistants who occur for the first time in the records during the fourteenth century. An underbailiff is first mentioned in 1332 (Fiche 20/8) and, as the rolls indicate, as the office developed this official came to have a number of specific duties including the distraint of goods, issuing summons to attend the courts and general oversight of weights and measures within the town market. The office of constable is first recorded in 1390 when John of Coton was elected (Fiche 43/2). His duties combined those of policeman and tax collector.²² Finally, from 1453 the rolls record the election of chamberlains to act as town treasurers (Fiche 62/5; 63/4).

As towns shouldered responsibility, after 1200, for their own government, so it became necessary for them to maintain lists of those exercising authority on behalf of the majority as well as keeping records of the deliberations and decisions of its governing body. The thirteenth century was an increasingly litigious period as the whole basis of feudal society changed and principles of inheritance, for instance, were slowly accommodated. Townsmen, like lords of rural manors amongst others, were likely to find themselves suing and being sued in the royal courts especially to prove title to land and, even more frequently, townsmen began to sue other townsmen in their own courts in an increasing variety of causes. The collective memory of the community was no longer adequate or a proper safeguard either of local custom or of rights. Written records became, therefore, an essential and indispensable feature of all levels of medieval government and administration in this century. The royal chancery began systematic enrolment of charters, letters patent and letters close; manorial officials started to keep accounts of rolls which recorded the dates of manorial courts and the sums of money received from them; townsmen began compiling lists of guildsmen to record the names of those entrusted with the town's government. All these developments are first known to have occurred during a decade after 1195.²³

Leicester (1196) and Shrewsbury (1209) are thought to have produced the earliest English guild lists. The earliest borough court rolls are probably those from Wallingford dating from 1227-9. Town records dating from the reign of Henry III are, however, exceptionally rare. Dr Geoffrey Martin noted an Exeter custumal of 1242 and court rolls from 1264. Rolls from the Hustings court of London are extant from 1252. There are borough court rolls from Ipswich (1256); guild rolls from Totnes (1261) and

²¹ G. Martin, *The Early Court Rolls of the Borough of Ipswich*, University of Leicester Occasional Papers No. 5, (1954), 7-9.

²² Gould, *op.cit.*, 28.

²³ M.T. Clanchy, *From Memory to Written Record: England 1066-1307*, 70-82; *Manorial Records of Cuxham, Oxfordshire, c.1200-1359*, ed P.D.A. Harvey, Oxfordshire Record Soc., L, 1974, (1976), 79-80.

Andover (1262); account rolls or accounts from Shrewsbury (1256), Canterbury (c.1260) and Hereford (1264); and there is a plea roll from Winchester (1270).²⁴

Dr Martin further listed eleven towns where surviving records start between 1272 and 1300. Barnstaple (1277), Bridport (1278), Chester (1282), Oxford (1292) and Great Yarmouth (1292) have surviving court rolls from this period. Fordwich (1281), Norwich (1285), Cambridge (1294-5), Reading (1296), King's Lynn (1296) and Gloucester (1298) have other forms of town record of thirteenth century date. Tamworth was not included in his list.

II THE COURTS AND THE COURT ROLLS

(i) The court rolls

The earliest surviving court roll from Tamworth does, in fact, date from 12 Edward I. The first court recorded took place on the Monday after the feast of 'St Edith, the virgin', that is, St Edith of Polesworth or Tamworth to whom the parish church of Tamworth was dedicated, (not St Edith of Wilton whose feast day was 16 September).²⁵ This court was therefore held on 17 July 1284 and was followed by courts on 31 July, 21 August, 11 September, 2 October, 23 October, 30 October (Great Court), and 20 November 1284. Only eight courts are entered on this roll which is incomplete (Fiche 01/1,2) and was omitted from Miss Dale's calendar of the Tamworth Court Rolls produced for Tamworth Borough Council in 1952.²⁶

The next surviving roll (17 Edward I) contains only the record of the session of the Great Court held on 7 November 1289 (Fiche 01/3). The roll for 18 Edward I is also incomplete and begins with the record of the Little Court held on 13 February 1290. But from this date until December 1295 there is an apparently unbroken sequence. The rolls are extant from the court of 13 August 1296 in a further uninterrupted run until that held on 16 March 1299 but there are no rolls surviving from that date until 10 June 1303. The roll for 1304 is similarly incomplete with only the views of Frankpledge proceedings, a single Little Court and the earliest extant record of the transactions of the Tamworth Piepowder Court (Fiche 07/8). There are no rolls for 1305, 1307 and 1308 but complete sequences for courts in 1306 and 1309 survive. Thereafter, and for most of the fourteenth century, there is an unbroken run which is, in fact, more extensive than Miss Dale's edition of extracts since a roll for 6 Edward II (Fiche 12/8-13/5) was discovered in the same bag as that of 1284 together with a number of other rolls and related fragments. Two fourteenth century related manuscripts include a tax roll for the Warwickshire side of the borough of 23 Edward III (dated 15 January 1350, Fiche 80/1,2) and a roll of the issues of the View of Frankpledge held on 7 November 1373 (47 Edward III, Fiche 79/8).

There is a not surprising break in the run between June 1347 and June 1349 but, in general, there are only a few interruptions to the sequence of two years and more during this century (June 1349-May 1352; June 1361-August 1363; May 1398-May 1402). This remains the pattern during the first sixty or so years of the fifteenth century. Breaks occur from April 1404-July 1408, May 1414-July 1416, May 1432-August 1435, October 1436-October 1438, June 1446-October 1448. In the latter part

²⁴ G. Martin, 'The English Borough in the thirteenth Century', *Trans. of the Royal Hist. Soc.*, 5th ser., xiii (1963), 129-30.

²⁵ F. Arnold Forster, *Studies in Church Dedications*, II (1899), 414-7.

²⁶ *Court Rolls of Tamworth*, translations by Miss M.K. Dale, Tamworth Borough Council, 1952.

of the century however there are more substantial gaps. For instance, no records of proceedings survive for the period November 1462-May 1470 and there is an even more extended break between April 1471 and November 1488.

By the sixteenth century the run is altogether rather fragmentary and a number of the rolls are in poor condition. This may be due, at least in part, to the substitution of paper for parchment which began during the second half of the fifteenth century. Paper had certainly replaced parchment as the medium on which the record of the transactions of the Tamworth courts was kept by the beginning of Henry VI's reign, and it was used invariably throughout the Tudor period.

The series ends with eleven folios containing records of courts held during the reign of Edward VI in 1547, 1550 and 1551 and finally with a single folio containing a record of the View of Frankpledge held on 11 May 1584.

With rare exceptions Latin was the language of record used in the Tamworth courts throughout the period covered in the rolls. There were, however, a few occasions when the local scribes' Latin was not up to what was required as, for instance, in 1337 when we are informed of an amercement on a townsman because *ejecit boweles* to the distress of his fellows (Fiche 24/6). Possibly the earliest use of English in these records dates from May 1432 when the View of Frankpledge instructed that William Romeshed should '*put hys getes in oder gofurnauns then they have bene befor tyme or in payne of xiid half to pe comyn box and d baillivis*'. Its use, nevertheless, remained rare even in the sixteenth century records and appears to be limited to occasions when the court was prescribing by-laws and orders intended for everyday consumption. In 1550, for instance, the View of Frankpledge laid down *inter alia* '*yt every man make cleane the strettes before ther dorrz*' and '*yt everyman kepe ther gret dogges in ther howssys*'.

The courts are entered on the rolls in the standard medieval form. The record of each court is preceded by a heading recording the type of court, the place where it was being held and the date. Dating was done by reference to the feasts of the Christian calendar and by regnal year. The agenda of the courts also follows the usual medieval formula. Essoins are listed as first business and they are followed by appearances, and then by a record of cases actually heard at the court and in the order in which they were heard. Tasters' presentments, recording breaches of the assizes of bread and ale, were usually last business in the Little Court. The records of the View of Frankpledge frequently conclude with a note of by-laws agreed by the whole community of Tamworth. By the fourteenth century elections to borough offices and entries into the liberty of the town were also regular items of the business of this court. Marginal entries are unusual in the earliest rolls and were used merely to signal lists of essoins and amercements. Only occasionally was the amount of the amercement also recorded. During the last decade of the thirteenth century marginal entries begin to be more informative and commonplace. Quite often a note recording the outcome of a particular case is also entered, presumably to facilitate later reference. Thus against cases before the Portmanmoot of 27 March 1290 *ponitur in respectu, distringitur, and peridicio brevis* occur (Fiche 02/2).

The court rolls are clearly not a comprehensive record of all the court's business. The rolls themselves appear to have been made up after each session and not while the courts were sitting. They are therefore in the nature of minutes and are inevitably selective. In some instances no note was made of the intervening stages of a case between first reference in the rolls (often in the form of an esoin) and judgement many courts later. In other instances we are provided with the summary of the plea and a statment of the defendant's denial but no further indication of the process or outcome of the plea.

(ii) The Courts

There were three borough courts at Tamworth in the middle ages. Two met at fairly regular intervals, the View of Frankpledge which is sometimes referred to as the Great Court (*Magna Curia*) and the Portmanmoot or Little Court (*Curia Parva*). The third court was the Piepowder court which sat *ad hoc*. The first two were clearly of some antiquity already when their transactions began to be recorded in the later thirteenth century.

Each court was presided over by the bailiffs of their respective sides of the town. The several lords' stewards rarely attended and did not, as elsewhere, participate in the routine business of the courts. On each of the rare occasions when they were present it was to swear in individuals wishing to enter the liberty of the town (Fiche 44/1, 57/4, 58/2).

(a) The Piepowder Court

The Piepowder Court was almost certainly a relatively new feature of Tamworth's justice in the later thirteenth or early fourteenth century. Until this date, it seems, only the larger and commercially more active towns had need of particular arrangements to hear cases arising on the complaint of or about long distance traders. In 1221, for instance, in London, the mayor and a small group of aldermen were assigned specifically to hear the pleas of merchants and travellers passing through the city for debt and injury on a day to day basis and when it was known that the merchants were unable to wait for the next session of the London Husting court.²⁷ Because of their haste, we are told, these men were called *pepoudrous*, that is 'pie-powders'. Other larger trading towns within England also seem to have had a similar arrangement for settling debts and dealing rapidly with such itinerant traders during the first half of the thirteenth century. Bristol, for example, permitted action by strangers to recover debts on a day to day basis and the smaller port of Torksey had a piepowder court from about 1238.²⁸

As trade expanded in the course of the thirteenth century so it became generally necessary for merchants to be able to settle their accounts as speedily as possible. Two of the Statutes of Edward I, Acton Burnell (1283) and Merchants (1285) attempted to standardize practice by codifying Law Merchant and certainly gave a fillip to the development of Courts of Piepowder throughout the realm. The late thirteenth century treatise, *The Mirror of Justices*, emphasized the speed that was necessary when dealing with cases involving foreign merchants.²⁹

At Tamworth no special court appears to have been necessary for this purpose during the thirteenth century. Pleas of debt involving non-burgesses were an infrequent occurrence at this time and there is little evidence of outsiders coming to trade in the town.³⁰ In the early fourteenth century, however, there appears to have been a quickening of commercial activity. The first recorded Piepowder court of the borough took place on 17 December 1304 when a suspected cattle dealer was arraigned on

²⁷ *Borough Customs*, II ed. M. Bateson, Selden Soc., 21 (1906), 183.

²⁸ *ibid.*, 183-4; *Select Cases concerning the Law Merchant*, I, Ed. C. Gross, Selden Soc., (1908), xivn, xvi-xvii.

²⁹ *ibid.*, N. Denholm-Young, 'Who wrote *Fleta*?', *Collected Papers*, (1969), 198.

³⁰ A. Tonkinson, 'The Borough Community of Tamworth and its Courts at the end of the thirteenth century; The evidence of the Court Rolls', unpublished MA thesis, University of Keele, (1985), 124.

suspicion of having stolen the four cows he was offering for sale. The case was dismissed when it was learned that the animals had been bought at Newport (Shropshire) (Fiche 07/8). Sessions of this court, nevertheless, remained infrequent. It appears that it was not until May 1311 that there was another sitting of the court which was held on this occasion to hear a plea involving breach of contract over the sale of a quantity of wool (Fiche 10/6). The rolls indicate that the court sat on a further five occasions during the fourteenth century in February 1332, June 1333, April 1334, April 1383, and May 1384 and three times during the fifteenth century in November 1450, May 1451 and August 1455. Gaps in the records mean that this is almost certainly not an exhaustive list but the dates indicate that at Tamworth sessions of the court were not particularly associated with the town's fair. There is also evidence of overlap with functions of the Small Court of the borough which is likely to have resulted in an under-recording of this court in the rolls. A defendant, a market stall holder, countered that he ought not to be justiciable before the Piepowder Court since he had already been sued before the small court in the same plea by the plaintiff, a Tamworth burgess. The plaintiff seems to have been seeking the swift remedy available in the Piepowder Court that was unavailable in the other courts of the borough and because the defendant was an itinerant trader, even though a regular stallholder in the market, he got it. The defendant was ordered to pay damages and was amerced (Fiche 39/8). In many towns, it seems, transactions of piepowder courts were not systematically entered on the borough rolls and it looks as if this may have happened at Tamworth. This could help to account for the patchy nature and the apparent pattern of the surviving records of the court.

A principal objective of courts of piepowder was to provide rapid redress and so to encourage merchants to trade in a town certain in the knowledge that aliens and denizens would be treated alike before the courts and that debts could be settled with alacrity. Cases were set in motion without the requirement of a formal writ. They were heard and determined at a single session of the court so that the delay which is a characteristic feature of medieval justice at all levels was dramatically avoided.³¹

This expedition is well illustrated from these rolls by three separate actions for debt brought in the Piepowder Court of 16 June 1333 (Fiche 22/6). The plaintiff, Henry of Drayton, clerk, sued for recovery of his debts at the hour of prime (6 a.m.). The defendant, William David, parson of Overton, was summoned to be before the court and ordered to be distrained of his horse but did not appear.³² A further distraint was ordered and he was instructed to be present at the hour of terce (9 a.m.). He still did not appear when the court sat at this time and was once again ordered to be distrained to appear at noon. Once more he defaulted and a further hour was set for the court to sit later in the day. Further defaults occurred at 3 p.m., at 'mid-day' (*meridiana*, as this was midsummer an early evening hour seems to be implied) and at the hour of vespers (probably at 7 or 8 o'clock).

In most instances this would have been sufficient time to see the case settled. If a defendant had failed to appear throughout the day before any of the court's sessions (on this occasion the court sat six times in the day) his goods would be attached and held until he did so or for a year and a day before being sold. When William David still failed to appear at the session of the court held at vespers and the pleas remained unheard, the case was removed to the next meeting of the Portmanmoot, the Little Court of Tamworth, which sat next just under a fortnight later. The reasons for the transfer are not given. Judgement would normally have been given to the plaintiff in

³¹ *Select cases concerning the Law Merchant*, xx-xxvi.

³² He was possibly from the Cheshire parish of that name but there are other Overton parishes in Maelor Saesneg, Hampshire, Wiltshire and Yorkshire.

such circumstances. Unfortunately also for the plaintiff, the defendant was now able to utilise all the opportunities for delay permitted by the regular courts of the borough. It is not therefore surprising that he did not appear at the appointed sitting of the Little Court either. Regrettably the record of subsequent courts is missing so that we cannot know the outcome of the case. Nevertheless, whilst illustrating the summary nature of procedure before Courts of piepowder, this case also shows that it was not always effective.

The evidence of the Tamworth court rolls, however, makes it clear that in this town the Piepowder Court was regarded as a special session of the borough court and not as a separate tribunal, as happened elsewhere.³³ Piepowder records are not especially common. Whilst the Tamworth entries are not especially numerous or full they begin at an early date and continue on an intermittent basis throughout the medieval period. They are no indication or otherwise of trade and no more, especially latterly, than an example of the kind of action that was possible for those who required swift redress under Law Merchant even in the kind of small localized trading centre that Tamworth was after 1300.

(b) The Portmanmoot or Little Court

While the Court of Piepowder was the least frequently held of the Tamworth borough courts in the middle ages, the Portmanmoot or Little Court (*curia parva*), which is often referred to simply as the Court of Tamworth in the rolls, met most often and dealt with a wide variety of everyday matters. As the court rolls indicate, it sat on Mondays at regular three week intervals throughout the period. Thus, in 1290, the court met on 13 February, 6 March, 17 April, 8 May, 29 May, 19 June, 10 July, 31 July, 21 August, 11 September, 2 October, 23 October, 13 November, 4 December, 25 December and then on 15 January 1291 (Fiche 01/4-6; 02/2).

The rolls for the Staffordshire side of the borough for 1422 indicate that a similar pattern was being maintained a century and a quarter later, except that a break seems to have been allowed at Christmas by this date. In this year the court's sessions were held on the Monday after the Circumcision (4 January), on the feast of the Conversion of St Paul (25 January), on the Monday after St Valentine (15 February), on the Monday before St Gregory (8 March), on the Monday after the feast of the Annunciation (29 March), on the Monday before St George (19 April), on the Monday after St John at the Latin Gate (10 May), on the feast of St Petronilla (31 May), on the Monday before the Nativity of St John the Baptist (21 June), on the Monday before St Edith the Virgin (of Polesworth/Tamworth) (12 July), on the Monday after St Peter ad Vincula (2 August), on the eve of St Bartholomew (23 August), on the Monday before the Exaltation of the Holy Rood (13 September), on the Monday after Michaelmas (4 October), on the Monday before Saints Simon and Jude (25 October) and on the Monday after Martinmas (15 November). The next court took place on 16 January 1424. (Fiche 52/5-8).

In the sixteenth century the business of the court was very much briefer than in earlier centuries. While the regular three weekly cycle seems to have been maintained there were occasions when the court had no business to transact so that, for instance, the extant court rolls for the period 5 December 1530 to 19 June 1531 (Fiche 77/2,3) reveal intervals of either three, six or nine weeks between sessions.

Before the end of the thirteenth century cases relating to the two sides of the borough were recorded in separate sections of the rolls as if two courts were held consecutively

³³ For instance at Canterbury, Boston and Leicester. *Select Cases concerning Law Merchant*, xx-xxii.

on the same day. This distinction is not evident, however, in the 1284 roll, the earliest surviving Tamworth roll. Only a brief list of amercements for default is divided by county. The summaries of pleas are entered on this roll without regard to the separation of the borough into a Warwickshire half and a Staffordshire half (Fiche 01/1,2). In its relative lack of sophistication this seems to indicate that the practice of enrolment was a comparatively novel feature of the Tamworth courts. Although the borough's community did act in unison on a number of occasions it must soon have become clear that the unitary arrangement of this early roll was, at the very least, politically impractical. Although the king was the ultimate lord of Tamworth during the thirteenth century both halves of the borough were leased to different lords. The Warwickshire side was acquired for life by Philip de Marmion after the Barons' Wars as a reward for loyal service to Henry III and was only returned to the crown after his death in 1291. The Staffordshire half was granted to Henry of Hastings by Henry III in 1238 and repossessed by him after Hastings was named among the Disinherited for his garrisoning of Kenilworth Castle against the king in 1266.³⁴ The king then granted this half of the borough to Marmion too, but Hastings' heirs recovered it in 1285. They held it from the crown for the next 104 years. As the profits of the courts were shared between the lords and the community it would have been essential to separate the Warwickshire from the Staffordshire pleas on the same roll. From February, 1318, however, separate rolls began to be kept for each side of the town (Fiche 15/6,7). Unfortunately at some subsequent time the Warwickshire rolls have become detached from their Staffordshire counterparts with the consequence that the bulk of those remaining after this date relate specifically to the Staffordshire half of the borough alone. There are a few surviving Warwickshire rolls, for instance for part of 1391, but they are rare (Fiche 43/8). ☼

The business transacted in the Portmanmoot was extremely varied, as recent analysis of the later thirteenth century courts by Andrew Tonkinson has shown. In his study period of the courts held between 1290 and 1295 49% of all actions were found to be taken up by personal pleas and more than 90% of these were pleas of trespass. Tasters' presentments accounted for 21% of business and a further 12% was concerned with the transfer of land. Very small percentages made up the rest of the business of the court in this period. These include essoins of common suit (5%), indicating perhaps the small number of those who owed regular suit at the Tamworth borough court and, besides records of a small number of attachments, defaults and distrains, several matters which would certainly be regarded as normal business of the View of Frankpledge. These included butchery offences, receipt of stolen goods and bloodshed. Entry into the liberty of the town was still at this time regarded as appropriate business for the Little Court.³⁵ Random sampling of fifteenth century rolls confirms that although the business of the court was very much briefer than in the last decade of the thirteenth century the same types of action were being brought before it, with personal pleas still making up a substantial proportion of the total. (See for example, Fiches 51 and 64).

The majority of personal pleas at Tamworth, as pleas of trespass, were of a very trivial nature involving disputes between neighbours and often arising from such small matters as the straying of domestic animals. Pleas for trespass in excess of forty shillings were, in any case, forbidden to local courts by statute in 1278 so that many cases were quite speedily abandoned or settled by agreement between the parties. Agreements often followed the award of a 'love day' by the portmanmoot giving the

³⁴ *Documents of the Baronial Movement of Reform and Rebellion, 1259-1267*, ed. R.F. Treharne & I.J. Sanders, (1973), 328-9.

³⁵ A. Tonkinson, thesis *cit.*, 49-93. Much of what follows on the business of the courts is indebted to Tonkinson's analysis.

☼ E.g. Henry II, Roll 7 (1417-19) and Henry VIII, Rolls 7 and 9 (1517 and 1530); Edward III, Roll 46 (1368); Edward III, Roll 5 (1331-2); Henry IV, Roll 8 (1417-18)

parties an opportunity to settle out of court. Other pleas were settled by default, that is by defective pleading or by the defendant giving up his defence, failing to appear without excuse or admitting complicity or responsibility.

More serious pleas for assault, defamation and damage to property took much longer to conclude (fifteen weeks would be expected in a straightforward suit) and could sometimes lead to presentment at the View. Cases of this kind could occasionally be concluded by a wager of law in which the defendant produced compurgators, or oath helpers, to swear to the veracity of his case. This survival of Anglo-Saxon legal practice was not an especially common feature of the late thirteenth century Tamworth courts but it was still being used as a formal response in the later medieval period.³⁶ If a sufficient number of compurgators of adequate standing could be found to testify for the defendant the plaintiff was likely to be amerced and to have damages awarded against him. When for instance the prominent burgess John Elyot was sued in 1313 in a plea of trespass for the serious offence of moving property boundary markers and he waged his law it was sufficient for him to bring testimony from another substantial burgess. Two witnesses were usually required in such cases; in the same court, Richard le Vilers denied the purchase of four shillings' worth of russet cloth and did produce two compurgators (Fiche 12/2). In 1460 John Prynce waged his law six-handed when he was sued by William Danegell, *inter alia*, for unpaid wages as a soldier hired by Prynce for service overseas in the campaign of Castillon (1453) in the company of John Sandbroke of *Wurcot* (sic.) (Fiche 65/7).

Personal pleas at Tamworth were begun either orally or by writ. It was then the responsibility of the plaintiff to find two pledges to prosecute his suit and to summon witnesses. The defendant was generally given three weeks from one court to the next, before having to appear. Failure to do so would result in distraint, the seizure of the defendant's goods. At Tamworth distraints imposed at this stage of the process could be taken only from goods found outside the defendant's home and this accounts for the record of cows, horses, ploughs, carts and other agricultural equipment seized. If, however, the defendant in a suit persisted in his non-appearance a more substantial distraint was occasionally ordered and, this time, the defendant's house could be entered for the purpose. Carpets, knives, food, woollen or linen cloth and other personal possessions are known to have been taken. In consequence, failure to attend after a third summons would result in the loss of the case.

At Tamworth, as elsewhere, the conclusion of pleas was considerably delayed by the opportunity to excuse attendance at the given session of the court. Essoins were permitted to both parties. Each was allowed to excuse himself three times at each stage of the proceedings. Almost the only restriction on this right was the requirement that the essoiner, who appeared before the court to explain the absence, had to be a different person on each consecutive occasion. Particular care also had to be taken that the essoiner accurately represented the plea at issue. Inevitably, it is unusual to find both parties essoining at the same court so that suits could drag on for a considerable period of time and through many courts.

All pleas involving land or rent in the borough were initiated by the writ or right (*de recto tenendo*) by which the king instructed the sheriff or royal bailiff to do right by the plaintiff. Several engrossed writs have survived among the Tamworth court rolls addressed to the bailiffs of the respective sides of the town ordering them to do right to the party deforced 'according to the custom of the manor of Tamworth' (*secundum consuetudinem manerii de Tameworth*) (Fiche 01/1). In general, these writs are sewn to the roll at the point at which the court began to take cognizance of the suit. Here also a note was made of the plaintiff who had brought the writ and of his pledges to

³⁶ A. Harding, *The Laws Courts of Medieval England*, (1973), 25-6. For examples see M. Bateson, ed., *Borough Customs I*, 36 ff.

prosecute (usually two) who are sometimes named on the dorse of the writ. The deforciant's summons to answer at the next session is also recorded.

Since land or rights were at stake every device for delay was tried in order to postpone judgement including distrains, essoins, challenges to the form and substance of the narration of the evidence and claims of variation of the terms of the original writ. It could often be a year before a decision was reached and commonly a minimum of sixteen courts over forty-eight weeks. Nevertheless, this allowed time for either of the parties to default or else for both sides to reach an agreement out of court. Slow though medieval justice was, it was, nevertheless, sure and at the end of the process judgement was given by a sworn inquest of twelve men from both sides of the borough. This procedure had its counterpart in the Grand Assize of the knights of the shire in county administration and instances do occur at Tamworth of this inquest being described as in the form of the grand assize (Fiche 03/5, 04/6).

Already in the last decade of the thirteenth century about an eighth of the business of the small court at Tamworth was concerned with transfers of land, as Tonkinson has shown.³⁷ During the fourteenth century this role became increasingly important as the court rolls came to serve as a kind of voluntary land register for the borough. There was no compulsion to do so but it was clearly thought by many to be in their interest to preserve a record of such transactions. In several instances the use of the common seal to authenticate such a transfer outside the court was itself noted as a means of registering a transfer which took place away from the court.³⁸ Many, however, chose to come to the court in order that the court should have cognizance of the business and thereby, formally, have a record made of the transfer of the title. When, for instance, we are informed in the rolls that Osbert son of Geoffrey le Crouther of Tamworth surrendered a tenement with garden and curtilage to the use of John of Pycheford (17 March 1315) followed by a precise description of the location of the property, it is clear that the rolls are serving as a formal register of title to land (Fiche 13/7).

By the fourteenth century the process of transferring land using the courts of the borough had been defined. The bailiffs of the town received seisin, often in full court and it was they who are said to give seisin to the new tenant according to the custom of the manor of Tamworth. Payment of an entry fine was necessary in most instances and this was fixed by the court, presumably in line with manorial custom. An obligation to render service was also attached to some properties in the borough including suit at court and a variety of renders, such as a rose at midsummer (1311), and they are specified, but they were usually of a general nature by this date. Fealty was taken by the bailiffs with an oath being taken to maintain the customs of Tamworth.

In many cases the wording of the entry on the rolls is an obvious adaptation of the formulae employed in a related private charter, complete with a *habendum et tenendum* clause (see, for example, the surrender by Nicholas of Pychford of a half-burgage in Otewalestrete at the court of 11 November 1314) (Fiche 14/4). The enrolment of private charters and other deeds occurs with an increased frequency in the fourteenth century rolls, indicating both that it was no longer considered sufficient to rely upon collective memory and that the rolls were coming to be regarded as a general register for the burgesses of the town. Thus we find that three separate charters relating to different messuages in Otewalestrete were enrolled in a single court in 1369 (Fiche 34/3) and that a charter relating to property in Church Street was enrolled in 1424 (Fiche 53/20). Final concords also occur, for instance, in 1311 (Fiche 11/3) and 1388 (Fiche 42/3). A small number of deeds issued by the community of Tamworth under its common seal

³⁷ Tonkinson, thesis *cit.*, 88-9.

³⁸ e.g. See *Court Rolls*, ed M.K. Dale, for Tamworth Borough Council (1952), 97.

have also survived among the rolls and, whilst not forming a part of the sequence, they clearly relate to matters brought before the borough courts (e.g. Fiche 41/4).

Tasters' presentments made up 21% of the business of the Little Court between 1290 and 1295. They remained a very substantial item and an important aspect of the transaction of this court throughout the medieval period.³⁹

There were four tasters at Tamworth, two for each side of the borough appointed annually at the View from amongst the burgesses, apparently in some kind of rotation. Their duties were to oversee trading practices in the markets and fairs of the borough and in particular to enforce the assizes of bread and ale. It was not a popular office for it was probably hazardous and clearly time-consuming so that some tried to avoid their responsibilities. In 1461, for example, William Grene was presented by his fellow taster for the Staffordshire side of the borough for dereliction of his office. He was ordered to be fined 3s. 4d. each time he failed to do his duty but still failed to appear at courts held on 24 August, 14 September, 5 October and 26 October (although he did attend the View held on 27 October). Neither taster appeared at the Little Court of 7 December so both suffered a penalty of 3s. 4d. for default (Fiche 67/1,3).

Market day was on a Saturday at Tamworth in both sides of the town. The Warwickshire market was held in Market Street in front of the gate of the castle. The Staffordshire market, which was almost certainly the older of the two, took place close to the stone cross which the rolls record as standing near to St Edith's church. By 1388, at least, a swine market was also held in the town. In the fifteenth century its location is described as 'by Lichfield Street' in a road that is which was divided by the county boundary, close to the cross roads just inside the west gate of the town. Three fairs were held. The oldest, almost certainly, was the patronal fair which took place on St Edith's day (15 July) with the profits going to the church. From 1337 a Spring fair began on St George's day and lasted until 25 April and an Autumn Fair was held for three days beginning on the feast of St Edward the Confessor (13-15 October).⁴⁰

The franchises of bread and ale permitted lords to control the price and quality of bread and beer sold in the markets of their estates so that in enforcing the assizes the tasters were, strictly speaking, acting as the lord of the borough's representatives. At Tamworth the tasters also had general responsibilities for all weights and measures matters in the markets and for allocating stalls as well as, quite literally, tasting the wares on sale. The profits to be made, particularly as the market expanded in the early fourteenth century, were probably quite substantial, for contraventions of the assize are a constant feature of the business of the Portmanmoot. Amercement for breaking the assizes - for selling bad ale, short ale, underweight or impure loaves, for other infringements of weights and measures regulations and for selling at prices in excess of those fixed - was standard practice from the thirteenth century. Physical punishment in the pillory was reserved only for the most persistent and incorrigible of offenders, like Nicholas Alcus who had transgressed on five occasions before being ordered to endure the pillory (Fiche 04/6). This kind of punishment was, however, exceptionally unusual, since by the thirteenth century lords - and the burgesses themselves - preferred the financial benefit from the collection of amercements. At Tamworth 4d. was the usual penalty imposed by the court with over forty individuals being presented at some courts and an average of around ten per court for much of the medieval period.⁴¹

³⁹ Gould, *op.cit.*, 33-7.

⁴⁰ *Court Rolls*, ed. M.K. Dale, 137; J. Gould *op.cit.*, 33,37.

⁴¹ *Court Rolls of the Wiltshire manors of Adam de Stratton*, ed. R.B. Pugh, Wiltshire Record Society, XXiv for 1968 (1970), 6-7; A. Tonkinson, thesis *cit.*, 89-90, 129-30.

(c) The View of Frankpledge

The View of Frankpledge, occasionally called the Great Court of Tamworth, was the most exalted and the second of the regular borough courts of Tamworth. It took its name from the delegated royal franchise of viewing the frankpledge tithings which many lords and some towns possessed. This gave its holders both a right to take the profits of the court and a responsibility for holding, twice yearly, a 'police court' within the franchise, as a court for the presentment of offences and the punishment of offences that fell short of felony.⁴² At Tamworth this was done by empanelling a sworn jury of burgesses, in reality the chief tithingmen, or frankpledges as they are styled in the rolls, whose duty was to present offenders against the whole community before the court and whose names are entered at the head of many of the records of the View from 1334 onwards. Two sessions of this court were held, as required, in each year for each side of the town between March and June and in either October or November. There were no fixed dates for these hearings or a set day; sessions seem to have varied according to the volume or urgency of the business. Nor did the Warwickshire and Staffordshire sessions of the View necessarily meet on the same day. Quite often they sat on days a week or more apart. In 1368, for instance, the Staffordshire side sat on Thursday 4 May while the Warwickshire View was held exactly one week later (Fiche 33/1). In 1325 when, rarely, rolls have survived for both sides of the borough, the Warwickshire View was held on 18 October and the Staffordshire court sat on 28 October. (Fiche 18/5,7).

The Business of this court can be summarized under several heads: business relating to the tithings, business relating to the liberty of the town, offences against the peace including the raising of the hue and cry, general trading offences, purprestures, election of town officials and borough ordinances. The rolls indicate that these matters were dealt with in no particular order.

As the thirteenth century lawyer, Bracton, reminds us, every male over the age of twelve had to be in a tithing, that is to say, assigned to a group of ten men mutually responsible for each other's conduct and with a duty of reporting misconduct whenever it occurred. Magnates, knights and clergy alone were excepted from this system which originated in the Anglo-Saxon period as an efficient means of local peace-keeping and was retained by the Norman conquerors for its effectiveness.⁴³ Burgesses were not exempt so that a primary function of this court, as its name suggests, was to view the tithings to ensure that all were allocated to membership. At most sessions of the View in the later thirteenth and for much of the fourteenth century admissions were recorded, sometimes noting that an oath had been sworn and occasionally referring to the payment of a sum of money as an entry fine. The Portmanmoot also continued to admit to tithings into the fourteenth century.

Membership of a tithing was important not only for those in authority who viewed it as a means of social control but also for the townsmen themselves. It was their membership that identified them as adult members of the community and so permitted them to enjoy the privileges of the borough as native-born townsmen. The right to a say in the government of the town, to join in elections, to enjoy the protections of the town's courts, to hold property by burgage tenure and, above all, to trade within the borough, followed. In practice, however, during the fourteenth century it was the chief

⁴² F. Pollock & F.W. Maitland. *The History of English Law*. 2nd edn. Ed. S.F.C. Milsom (1968), 580.

⁴³ *ibid.* 568-71; H.M. Jewell, *English Local Administration in the Middle Ages*. (1972), 162-3.

tithingmen or frankpledges who came to act as guardians of these rights on behalf of others. From 1372 they began to meet together as a body for Mass called 'le brothur messe' and to consider in detail and to amend the ordinances made by them at the Great Court of Tamworth (*ad ordinandas et emendas consitutiones ad magnam curiam per eos factas et conditas*) (Fiche 36/3).

As Jim Gould noted, from this date by-laws were no longer issued on the orders of the community but were promulgated by the twelve jurors. By the mid-fifteenth century, and probably earlier, the frankpledges had ceased to be appointed by the bailiffs of the two sides of the town but had become a self-governing body and, in effect, a fully fledged town council.⁴⁴ This development exemplifies the way in which the tithing system broke down in the later medieval period as society became more generally mobile and self-confident and as new methods of law enforcement were introduced. At Tamworth admissions to the liberty of the borough as a means to acquiring its privileges became a more prominent feature of the business of the View. Grants of the liberty of the town by which strangers gained Tamworth's privileges are extremely uncommon before the later fourteenth century. Thereafter the acquisition of property within the town was usually a sufficient qualification and consequently the rolls record a number of prominent local lords and merchants swearing on oath to the community and paying a quite substantial fine to secure these rights including Thomas Beauchamp, earl of Warwick (Fiche 43/5 Warwickshire View), John Freville (Fiche 37/4), Edmund Paget (Fiche 53/5), Thomas Alleyn (Fiche 43/5 Staffordshire View), William Wyrleye, baker (Fiche 39/1) and William Greene, baker (Fiche 65/8).

Conversely, proceedings were taken in the View against those who betrayed the borough's interests. This inevitably resulted in loss of the town's liberty and denial of its privileges. In 1358 the court proclaimed an order that all who lived outside Tamworth for a year and a day avoiding payments due to the town should lose their liberty (Fiche 30/1). Richard Garleggemon was expelled for refusing to render customary service (Fiche 32/5). A Tamworth butcher, Thomas Walker, lost his liberty in 1418 because he prosecuted his fellow burgesses in the Warwickshire county court instead of in the Warwickshire View at Tamworth (Fiche 50/6). Others were denied the liberty of the town because they betrayed the town's secrets, because they refused to appear before the town's courts or because of general unruly behaviour.

The essential jurisdiction of the View of Frankpledge at Tamworth was the regulation of the tithings as a means to preserve order within the town. As elsewhere, householders were bound by custom to see that servants were in membership just as heads of families were required to see that all male members over twelve were assigned. Persons not in tithing were regarded as potential troublemakers and seen as threats to local stability. They were not therefore, permitted to remain within the town, while the receiving and harbouring of 'strangers' (a very general term applied to all not allocated to a tithing in the town) was a serious offence and forbidden because such persons were not readily justiciable before the borough's courts. In 1297, for example, one burgess was sent before the court for receiving travellers at his house in the town (Fiche 06/5) and, in 1314, Walter Kockon, another townsman, was arraigned for harbouring a woman had been specifically renounced by the town (Fiche 14/4). The rolls record many cases of this kind.

Tamworth lay just north of the main arterial road towards Shrewsbury and the Welsh March; it was on a main route northwards through Lichfield towards Stafford and Chester and it stood at the intersection of several minor routeways. Its markets were an attraction to traders in many commodities so that itinerants, both merchants and others, seem to have been a continuing problem for the town. Trading was strictly licensed

⁴⁴ Gould, *op.cit.*, 29-30.

and protected in the interest of the townsmen. Elsewhere the guilds acted against breaches of their trading regulations, but in Tamworth, where there was no guild or organization in the middle ages, the town's courts fulfilled this role. There are consequently many records of amercements for infringements and, particularly, for trading without licence. In 1344 several traders, at least one with a Cheshire name, were fined small sums, corresponding it would seem with the scale of charges levied on those who had permission to sell in the town, for setting up stalls without authority. This points perhaps to a system of licensing of traders through the operation of the Tamworth courts (Fiche 25/7). Three years later, the court felt obliged to forbid the reception of Welshmen within the town in an ordinance which clearly reflects the town's geographical situation. Those who ignored the instruction were to be subject to a swingeing fine of 6s. 8d. (Fiche 26/5). The thriving cattle trade with Wales may also be an explanation of the order issued at the View in 1410 that foreign butchers should not be allowed to sell their meat in the town (Fiche 46/7).

Edward I's Statute of Winchester (1285) made towns responsible for the conduct of those they allowed to lodge within their area. It also re-inforced the responsibility of townships to deal with offences against the peace. No longer was it considered acceptable that towns should merely expel felons from their jurisdictions as the statute laid on them the duty of the pursuit and apprehension of malefactors. Failure to produce offenders before the courts would result in a fine upon the whole community.⁴⁵ The re-invigoration of the Anglo-Saxon hue and cry which resulted from this is evident in the Tamworth Court Rolls. Every session of the View heard cases concerning the raising of the hue. Victims of violence or a felony, or those who suspected that such crimes had been committed, had a duty to raise the hue and cry and to report the circumstances to their tithingman who had to present the matter to the court. It was for the court to determine whether the action of raising the hue was just (e.g. Fiche 06/5) or unjust (e.g. Fiche 04/5) and to apportion an appropriate penalty. The hue also had to be raised by the town watch which the Statute of Winchester also required to operate throughout the realm against those who behaved suspiciously at night. At Tamworth the rolls indicate clearly that this was done although not always willingly, (Fiche 32/5) and that it was at times not without hazard for the townsmen who took turns in rotation to maintain the watch (Fiche 10/4).

Much business of the View of Frankpledge was taken up with purprestures, the encroachment, that is, upon the crown's lands or rights. Tamworth was a royal town and its bailiffs exercised delegated royal authority so that the View was the appropriate court to consider these matters. Building into the king's highway, dumping rubbish into the street, building dung heaps projecting into the road, throwing up boundary banks without authority, cutting down trees along the highway, digging ditches and diverting watercourses without permission are among a wide group of offences of this kind which occur quite commonly in the records and convey a vivid picture of the discomfort and even squalor of life in a small medieval town.⁴⁶

Finally, as has already been observed, as the frankpledges became more powerful in the course of the fourteenth century and came to assume the functions of a town council so their court, the View of Frankpledge, developed accordingly. It now became the place at which elections to town offices took place as well as an occasion for considering, when need arose, allegations of misconduct on the part of those officers. It also became the place at which new by-laws were proclaimed following their

⁴⁵ *English Historical Documents, III, 1189-1327*, ed. H. Rothwell, (1975), 59 (pp 460-2)

⁴⁶ Gould, *op.cit.*, 29-30.

formulation by the frankpledges.⁴⁷ As has already been noted, the twenty four frankpledges, twelve from each side of the town, were not elected but other town officials were, the constables from about 1388 and the chamberlains from the early fifteenth century. After about 1450 however other officials are recorded as being elected at sessions of the View. Keepers of the town bridge (Ladybridge) are the earliest recorded (1455, Fiche 63/4). Churchwardens are noted as being elected from 1456 (Fiche 64/3) and from 1470 keepers of the lights of St Mary the Virgin, St Katherine, St Nicholas the Bishop and the Holy Trinity occur (Fiche 68/3). The Warden of the service of St George the Martyr was elected at the View from 1505 and collectors of 'the oxherd's stipend' (*collectores stipendii bubulorum*), from the same date (Fiche 72/1)⁴⁸ The election of Wardens of Bolebridge at the eastern end of the town is first noted in 1508 (Fiche 72/7).

These records of elections at the View are an unusual feature of the court rolls and serve to remind us that Tamworth was governed through its courts. With their mixture of appointments to secular and ecclesiastical office they highlight the communal and corporate nature of medieval towns. Perhaps nothing else in these rolls illustrates more strikingly the change in the role of the Tamworth courts which occurred in the period spanned by the rolls. From a rather ordinary but very full record of a typical medieval manorial court, whose community happened to have acquired the status of a town, as reflected in the earliest extant rolls, by the fifteenth century the rolls had become a record of the deeds of the whole self-governing and self-confident community of Tamworth. The process by which this occurred has not been charted and would clearly repay further detailed study: the survival of this remarkable series of court rolls makes that possible.

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⁴⁷ Orders made by the court have been collected by H. Wood, *Medieval Tamworth* (1972), 74-87.

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