

§ 1515. Although the king can make new laws, he must take great care to make them for reasonable causes and for the common good, and after much consultation [*par grant conseil*], and especially they must not be made against God or against morality [*bonnes meurs*]; for if he did (which will never happen, with God's help), his subjects should not permit it, for each person should above all things love and fear God with all his heart and for the honor of Holy Church, and after that his earthly lord. And everyone should obey the commandments of our Lord in the hope of the reward of heavenly treasures [*des biens celestiaux*], and after that obey his earthly lord according to what one should do for one's temporal goods [*les possessions temporeus*]. *Here ends the chapter on laws and times of emergency.*

Pierre de Mornay on Kingship

LONDON BL MS ARUNDEL 459, fol. 70v (1278)

transcribed in K. Pennington, *The Prince and the Law* [Berkeley, 1993], 99–100 n. 92, 94, 95, 97, trans. CD³

[This is a student's report of an academic disputed question, perhaps disputed at the university of Orléans in the year 1278, when, if we've got the right man, the doctor, Pierre de Mornay, who gives the judgment, would have been a quite young man. He was to go on to become a counselor of Philip IV, bishop of Orléans and then of Auxerre, and chancellor of France for a brief period before his death in 1306.]

The . . . question was this: There was a custom in Brittany that if anyone of the jurisdiction of the count [?duke] of Brittany was called before the count in either a civil or a criminal case, he could complain or appeal to the king of France, and thus the count could not further lay hands on the matter. Then the king of France wished to remit this right to the count, indeed we put it that he did so *de facto*, without calling the barons. Then the barons said: "Sir King, your remission is not valid, because operates to the prejudice of us and the whole land, and you did not call us when you made this remission." The king said, "It is indeed valid, and we are not bound to call you for this." Query whether this remission is valid or not? And the doctor discussed this question briefly. First, he argued that is valid according to the law, [C.1.19(22).2]. Since the king of France is reputed not to have a superior to himself in his lands, and hence by a certain error he reputes himself to be the prince. He can grant whatever rescript he wishes to his subordinates, so long as the right of an adversary is not totally damaged or taken away, according to the example of the prince who can also do this according to the law [just cited]. By this remission the right of the barons was not taken away entirely nor that of any other subordinates, therefore, etc. But the doctor in determining to the contrary said: Now something which would be tolerated [when done to] a few persons is reputed a great error and great iniquity [reading *iniquitas*] [when done to] many persons or those of a given province. [D.28.6.43; C.8.53(54).24; and especially D.1.16.6.]⁴ Sir Peter Mornay disputed these questions in 1278 on the Friday before Christmas.

H. COURT STRUCTURE AND SOCIAL STRUCTURE, c. 1300

from F. Stephenson & F. Marcham, *Sources of English Constitutional History*
(rev. ed., New York, 1972) I:96–101, 104–9, 177–89, 246–8 (Nos. 39A, 39B, 40, 54, 65)

THE BOROUGH OF IPSWICH

S&M No. 39A–B

(A) JOHN: CHARTER TO IPSWICH (1200)

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⁴ In contrast to the previous citation to Roman law, which supports the conclusion reached in that section, these citations to Roman law are decidedly stretching a point. The Latin of the sentence is somewhat garbled, but Prof. Pennington's translation, which I largely follow here, seems to capture what is intended. CD.

John, by the grace of God king, etc. Know that we have granted and by our present charter have confirmed to our burgesses of Ipswich our borough of Ipswich, with all its appurtenances and with all its liberties and free customs, to be held of us and our heirs by them and their heirs in hereditary right, paying to our exchequer every year at Michaelmas term, by the hand of the reeve of Ipswich, the just and accustomed farm and, at the same time, the increment of 100s. sterling by tale that they used to pay. We have also granted that all burgesses of Ipswich are to be quit of toll, stallage,¹ lastage, pontage, and all other customs throughout our land and throughout the ports of the sea. We have granted to them that, with the exception of our officials, none of them shall be impleaded in any plea outside the borough of Ipswich, save only in pleas concerning foreign tenures and that they shall have their gild merchant and their hanse;² that no one shall be lodged or shall take anything by force within the borough of Ipswich; that they shall justly have their lands and their pledges and all their debts, by whomsoever owed; that, with regard to their lands and tenures inside the borough, justice shall be assured to them according to the custom of the borough of Ipswich and of our free boroughs; that, with regard to their debts established at Ipswich and their pledges made in the same place, the pleas shall be held at Ipswich; and that none of them shall be adjudged in mercy with respect to his chattels except according to the law of our free boroughs. We also forbid any one in all our land, on pain of £10 forfeiture to us, to exact toll, stallage and any other custom from the men of Ipswich. Wherefore we will and straitly command that the aforesaid burgesses shall have and hold the aforesaid liberties and free customs well and in peace, as they have been and are best and most freely enjoyed by the other burgesses of our free boroughs in England, saving in all things to our citizens of London their liberties and free customs.

Furthermore, we will and grant that our said burgesses, by the common counsel of their town, shall elect two of the more lawful and discreet men of their town and present them to our chief justice at our exchequer; which men shall well and faithfully keep the reeveship (*preposituram*) of our aforesaid borough of Ipswich. And so long as they well conduct themselves in that office, they shall not be removed except by the common counsel of the aforesaid burgesses. We also will that in the same borough, by the common counsel of the aforesaid burgesses, four of the more lawful and discreet men of the borough shall be elected to keep the pleas of the crown and other matters that pertain to us and to our crown in the same borough,³ and to see that the reeves of that borough justly treat both rich and poor.

These are the witnesses. . . . May 25, in the second year of our reign.

(Latin) Gross, *Gild Merchant*, II, 115 f.

(B) RECORD OF PROCEEDINGS AT IPSWICH (1200)

On Thursday next after the feast of the Nativity of St. John the Baptist, in the second year of the reign of King John, all the townspeople (*tota villata*) of the borough of Ipswich assembled in the churchyard of St. Mary at the Tower to elect two bailiffs⁴ and four coroners in the same borough according to the provision of the aforesaid charter of the lord king, which the same king had recently granted to the burgesses of the aforesaid borough. On which day the same burgesses, by common consent and in unanimity, elected John Fitz-Norman and William de Belines—who were sworn to keep the reeveship (*preposituram*) of the aforesaid town, and well and faithfully to treat both rich and poor. On the same day, furthermore, they unanimously elected four coroners—namely John Fitz-Norman, William de Belines, Philip de Porte, and Roger Lew—who were sworn to keep the pleas of the crown and to care for other matters that pertain to the crown in the same borough and to see that the aforesaid bailiffs justly and lawfully treat both rich and poor. On the same day, furthermore, it was ordered by the common counsel of the said town that henceforth there should be sworn in the aforesaid borough twelve chief portmen, as there are in other free boroughs of England, and that, for themselves and the whole town, they should

¹ Rent paid for stalls in a market or fair; not to be confused with tallage. Cf. no. 28B for a number of these privileges.

² See [S&M no. 28B], n. 14.

³ See above, [no. 25], n. 16; cf. no. 40A, art. 20.

⁴ [From the Statute of Northampton (§ 4A, art. 11) onward, this was the ordinary title of an official in charge of a district less than a county. Bailiffs might be subordinates of the sheriff, but certain boroughs, escheated honours, and the like were regularly farmed as separate units.] It was obviously a matter of indifference to both king and burgesses whether their magistrates were styled *praepositi* or *ballivi*. For criticism of this whole document, see C. Stephenson, *Borough and Town*, pp. 174 f. and J. Tait, *The Medieval English Borough*, pp. 270 f.

have full power of governing and maintaining the aforesaid borough and all the liberties of the aforesaid borough, of rendering the judgments of the town, and also of keeping, ordering, and doing in the same borough whatever ought to be done for the welfare and honour of the said town. And besides it was announced by the aforesaid bailiffs and coroners that all the townspeople should come to the aforesaid churchyard on Sunday next after the coming feast of the Apostles Peter and Paul, to elect the aforesaid twelve chief portmen according to the provision of the same ordinance.

On Sunday next after the feast of the Apostles Peter and Paul in the aforesaid year, the whole town of Ipswich assembled in the presence of the bailiffs and coroners of the same town, to elect twelve chief portmen in the same town, as previously ordered. And the aforesaid bailiffs and coroners, by the assent of the towns people, chose four good and lawful men from each parish of the said town, who were sworn to elect twelve chief portmen from the better, more discreet, and more influential men of the aforesaid town, to make ordinances for the welfare of the town, as aforesaid. And the aforesaid sworn men of the parishes met and elected, for them selves and for all the townspeople, these twelve whose names are written below: namely, John Fitz-Norman, William de Belines, Philip de Porte, Roger Lew, Peter Everard, William Gotschalk, Ames Bolle, John of St. George, John le Mayster, Sayer Fitz-Thurstan, Robert Parys, and Andrew Pepper. Which men were sworn in the presence of all the aforesaid townspeople well and faithfully to keep and govern the borough of Ipswich and, to the best of their ability, to maintain all the liberties that had recently been granted to the burgesses of the same borough by the charter of the lord king aforesaid; also to maintain all other liberties and free customs of the aforesaid town and justly to render the judgments of the courts in the same town without respect to the person of any one; and, besides, to order and to do all else that ought to be done for the welfare and honour of the aforesaid town, justly and lawfully treating both rich and poor.

On the same day, as soon as the aforesaid twelve chief portmen had been sworn according to the aforesaid form, they had all the towns people raise their hands towards the Book and in unison solemnly swear, from that hour onward, to be obedient, attentive, agreeable, and helpful with body and with goods to their bailiffs and coroners, and to all and singular of the twelve chief portmen aforesaid, for preserving and maintaining the aforesaid town of Ipswich and the aforesaid new charter, together with the honour and all the liberties and free customs of the aforesaid town, to the best of their ability as they justly and reasonably should, in all places and against all persons, saving, never theless, the king and his royal authority. On the same day it was agreed that the aforesaid new charter of the lord king should be given for safe keeping to two good and lawful men of the same town—namely, John Fitz-Norman and Philip de Porte—who were sworn faithfully to keep the said charter and to deliver it to the aforesaid townspeople whenever that should be necessary and when, on the request of the townspeople, they should be notified to do so. And since there was more to be ordered and done for the welfare and honour of the town than could properly be attended to on this one day, it was agreed that the bailiffs, the coroners, and all the chief portmen aforesaid should come and assemble here on Tuesday next after the feast of the Translation of St. Thomas the Martyr, to order and do whatever ought to be ordered and done for the welfare and honour of the said town.

On Thursday next after the feast of the Translation of St. Thomas the Martyr, in the aforesaid year, the bailiffs, coroners, and other chief portmen assembled to deliberate and ordain concerning the welfare of the town of Ipswich. In the first place, they ordered that all revenues of the aforesaid borough should thenceforth be collected by the hands of the bailiffs and of four good and lawful men of the same borough; and that every year, for the said townspeople, they should pay the right and accustomed farm at the exchequer of the lord king. Furthermore, they ordered that in the said borough two beadles should be sworn to carry out arrests, distrains, and all commands of the bailiffs, coroners, and chief portmen that ought to be carried out in the same borough; that one of the same beadles should be keeper of all prisoners to be placed under arrest by the bailiffs of the borough; and that such keeper should find security for the safe keeping of all his prisoners, etc. Furthermore, they ordered that, by the common counsel of the townspeople, there should be made in the said borough a common seal for use in important business affecting the community of the said borough, also, for signing affidavits on behalf of all and singular of the burgesses of the same borough, and for doing all else that ought to be done for the common honour and benefit of the aforesaid town; and that such common seal should be kept by three or four good and lawful men of the aforesaid borough, sworn to do so before the community of the same borough: Furthermore, they ordered that in the said borough, by the common counsel of its townspeople,

one good and lawful and fit man should be elected to be alderman of the gild merchant in the same borough; that four good and lawful men of the same borough should be associated with him- and that the alderman and those four should swear well and faithfully to maintain the aforesaid gild and all pertaining to the gild. Furthermore, they ordered that the aforesaid new charter should be sent to the full county [court] of Suffolk and as far as Norwich to the full county [court] of Norfolk; and that the same charter should be publicly read in those counties, so that the liberties contained in the said charter should be generally known and published everywhere in each county. Furthermore, they ordered that no burgess of the aforesaid town should be quit of custom for his merchandise in the same town—that is to say, if he were a merchant—except one in scot and lot with respect to the common aids and obligations of the town.

On Sunday next after the feast of the Nativity of the Virgin Mary, in the aforesaid year, the community of the town of Ipswich assembled before the bailiffs, coroners, and other chief portmen of the same town to hear all the aforesaid ordinances, which were read before the people of the town in the churchyard of St. Mary at the Tower. And to the aforesaid ordinances, when they had there been read, the whole community aforesaid unanimously consented. And afterwards they elected their bailiffs to remain [in office] for the next year to come: namely, John Fitz-Norman and William de Belines. On the same day they elected four men to collect the customs of the town together with the aforesaid bailiffs: namely, Peter Pepper, Norman Halynoth, Clement le Palmer, and Leman de Pont. Like wise on the same day they elected two beadles—namely, John Prikehert and John Hawe—who were sworn well and faithfully to carry out arrests, distrains, and all commands of the bailiffs, coroners, and portmen, and [to do] all that pertained to their office. And the aforesaid John Prikehert was elected to keep the prisoners of the town; and he found sureties to be responsible for the escape of prisoners, should that—which God forbid!—occur: namely, Edmund Marsh (de Marisco), Peter Pepper, John Havre, and Thomas de Horner. And since more could not be attended to on this day, it was agreed that the bailiffs and the whole community should be here on Thursday next after the coming feast of St. Faith, in order to elect an alderman and do the other things that could not at the moment be done. And it was announced by the bailiffs that in the meantime they would have a common seal made, as ordered above.

On Thursday next after the feast of St. Faith, in the aforesaid year the bailiffs, coroners, and other chief portmen, as well as the whole community, assembled in the church of St. Mary at the Tower. And the bailiffs there showed the common seal of the town which had recently been made. And then three of the more lawful and influential men of the said borough were elected to keep that seal: namely, John Fitz-Norman, William de Belines, and Philip de Porte. Which men were sworn before the community well and faithfully to keep the aforesaid seal and not to sign any letter or other instrument with the same seal unless it was for the common honour and benefit of the town or of the burgesses of the town—and that with the assent of their peers. And besides it was agreed that the common charter of the town should remain in the keeping of the same men. On the same day an alderman was elected by the common counsel of the townspeople namely, William Gotschalk. And four men were elected to be associated with him: namely, Peter Everard, John le Mayster, Roger Lew, and John of St. George. Which men were sworn, together with the alderman, well and faithfully to govern the gild merchant in the borough of Ipswich and all matters pertaining to the gild, and well and faithfully to treat all brothers of the gild. And afterwards it was announced by the alderman and his four associates, in the presence of the people of the town, that all who were of the liberty of the town should come before the alderman and his associates on a certain day—when and where to be made known to them—in order to put themselves in the gild and pay their hanse to the same gild. . . .

(Latin) *Ibid.*, II, 116 f.

JUDICIAL RECORDS OF 1194

S&M No. 40

(A) ARTICLES FOR THE GENERAL EYRE

In the first place, four knights are to be elected from the entire county, who on oath shall elect two lawful knights from each hundred or wapentake, and these two shall on oath elect ten [additional] knights—or free and lawful men, if knights are not available—from each hundred or wapentake; so that these twelve shall together make response concerning all the [following] articles for the entire hundred or wapentake.

1. Concerning the pleas of the crown, both old and new, and all those which have not yet been determined before the justices of the lord king.

2. Item, concerning all recognitions and all pleas which have been summoned before the justices by writ of the king or of his chief justice, or those which have been sent before them from the principal court of the king.

3. Item, concerning escheats, which now exist, and which occurred after the king set out for the land of Jerusalem, and which were then in the king's hands, and whether or not they are in his hands now- and concerning all escheats of the lord king, if they have been taken out of his hands, how and by whom [it was done] and into whose hands they have come, and who has thence had the revenue and how, what it was, what it has been worth and what it is worth now; and if there has been any escheat which belongs to the lord king and which is not in his hands.

4. Item, concerning churches which are in the gift of the lord king.

5. Item, concerning the wardships over children to which the king is entitled.

6. Item, concerning the marriages of girls or widows to which the lord king is entitled.

7. Item, concerning malefactors and their receivers and confederates.

8. Item, concerning falsifiers.⁵

9. Item, concerning the slayers of Jews, who they are; and concerning the pledges of the slain Jews, and their chattels, lands, debts, and charters . . . - and all the pledges and debts of the slain Jews shall be taken into the king's hands- and those who were present at the slaying of the Jews, and who have not yet fined with the lord king or his justices, shall be arrested and shall be freed only by the lord king or his justices.

10. Item, concerning all aids paid for the ransom of the lord king. who made promises and to what amount, how much he has paid and how much is in arrears.

11. Item, concerning the adherents of Earl John,⁶ which ones have fined with the lord king and which have not.

12. Item, concerning the chattels of Earl John or of his adherents, which have not been confiscated for the use of the lord king, how much the sheriffs or their bailiffs have received, and who has bestowed any thing contrary to the ancient customs of the kingdom.

13. Item, concerning all the lands of Earl John, his demesnes, wardships, escheats, and grants, and why the grants were made; and such grants of Earl John and all of them shall be taken into the lord king's hands, except those which have been confirmed by the king.

14. Item, concerning debts and fines which were owed to Earl John, and why; and all of them shall be exacted for the use of the lord king.

15. Item, concerning money-lenders who have died, and their chattels.

16. Item, concerning wines sold contrary to the assize and concerning false measures both of wine and of other things.

17. Item, concerning crusaders who died before setting out for Jerusalem, who has had their chattels and what and how many these are.

18. Item, concerning grand assizes,⁷ which involve 100s. worth of land, and which less.

19. Item, concerning defaults.

20. Furthermore, in each county three knights and a clerk shall be elected as keepers of the crown pleas.⁸

⁵ See [the Statute of Northampton (§ 4A, art. 1)], and cf. art. 24, below.

⁶ The king's brother, who had conspired against him and who had just been driven out of England.

⁷ Trials in which a disputed title to land was settled by a jury of knights; see Pollock and Maitland I, 147.

⁸ That is to say, coroners. See above, [no. 25], n. 16; also nos. 39B, 53D.

21. And no sheriff shall be justice within his shrievalty or within any county that he has held since the first coronation of the lord king.

22. Furthermore, all the cities, boroughs, and demesnes of the lord king shall be tallaged.⁹

23. Moreover, the justices named¹⁰ . . . shall cause to be summoned the knights of the county named in the roll to come on the day and to the place of which they shall make announcement, and in their presence they shall have those men swear to do all that is lawfully possible to restore the wardships and escheats of the lord king and to evaluate them for the advantage of the lord king, failing to do so for neither hate nor favour nor grace of any one.¹¹ . . .

24. All debts and pledges of Jews shall be enrolled, [also their] lands, houses, rents, and possessions. Moreover, a Jew who conceals any of these is to incur forfeiture to the lord king of his body and of what he has concealed, as well as of all his possessions and all his chattels. Nor shall it be permitted for the Jew ever to recover what he has concealed. Furthermore, six or seven places shall be provided, where [Jews] are to make their loans. And two lawful Christians, two lawful Jews, and two lawful scribes shall be provided, before whom and the clerk of William of St. Mary's Church and of William de Chimelli the loans are to be made. And the charters for the loans shall be made in the form of a chirograph:¹² one part, sealed with the seal of the borrower, to remain with the Jew; the other to remain in a common chest, on which are three locks. Of the keys to these locks the two Christians shall have one, the two Jews a second, and the clerk of William of St. Mary's Church and of William de Chimelli the third. And besides [there shall be on the chest] three seals those having the keys shall affix their seals.¹³ . . . And henceforth no loan, no payment to Jews, and no change in the charters shall be made except in the presence of the aforesaid men or the majority of them, if all cannot be present. And the two Christians aforesaid shall have one receipt roll for payments henceforth to be made to Jews and the two Jews shall have one, and the keeper of the roll [shall have] one. Furthermore, every Jew shall swear on his scroll¹⁴ that he will enroll all his debts, pledges, and rents, and all his goods and possessions, and that he will conceal nothing, as aforesaid; and [that,] if he should gain knowledge that any one has concealed anything, he will secretly reveal it to the justices on mission, that he will detect and denounce forgers of charters and clippers of coin whenever he learns of them, and [that he will act] in the same way with regard to the forged charters. . . .

(Latin) *Ibid.*, pp. 250 f.

(B) EXCERPTS FROM A COURT ROLL OF 6 RICHARD I¹⁵

Wiltshire Pleas and Assizes. . . . The assize comes to make recognition whether Richard le Cras unlawfully and without judgment disseised Walter son of Philip of his free tenement in Melksham after the first coronation of the lord king. The jurors say that they do not know whether or not it is a free tenement. Let him ask other jurors if he wishes. . . .

The assize comes to make recognition whether the prior of Farley unlawfully and without judgment disseised William Burnel of his free tenement in Penly after the first coronation of the lord king. The jurors say that the prior of Farley did disseise him of it. Judgment: William to have seisin of it and the prior [to be] in mercy. . . .

⁹ See [S&M] no. 37B.

¹⁰ That is to say, those on eyre in that region.

¹¹ These knights are to choose twelve lawful men in each region of the county and the twelve are to choose enough of the freer men in each wardship or escheat to meet the needs of the king. From information thus obtained the manors are to be evaluated, restocked whenever necessary, and let to farmers.

¹² Two copies inscribed on one piece of parchment were separated by cutting through letters, such as CHIROGRAPH, written in between the two.

¹³ Details follow in the text for enrolling such records and concerning the fees to be paid to the scribes.

¹⁴ Of the Hebrew law.

¹⁵ The first part is a record of civil pleas held before the justices [in the Wiltshire eyre]; the second is a record of the returns made to the articles in the preceding document. See Maitland's introduction to the volume cited below. For the forms of action here illustrated, cf. [*Glanvill* (§ 4B)].

The assize comes to make recognition whether Payn Burnel, uncle of Ralph de Berners, was seised in demesne as of his fee on the day that he died of one virgate of land with its appurtenances in Hillcot, and whether he died after the first coronation of Henry, the king's father, and whether Ralph is his nearest heir—which land is held by Henry de Berners. The jurors say that Payn was not seised of it on the day that he died. Judgment: Henry to hold in peace and Ralph [to be] in mercy for a false claim. . . .

The assize comes to make recognition whether Richard, uncle of William, was seised in demesne as of his fee on the day that he died of one virgate of land in Charlton, and whether he died after the first coronation of Henry, the king's father, and whether William is his nearest heir—which land is held by Isabel of Marlborough and Thomas, her son. And Isabel and Thomas have said that they claim nothing in that land of right,¹⁶ but that they hold it as villeinage of the canons of Charlton, and [that it is] free alms of Reginald de Pavillon who gave that land to the aforesaid canons. And William asks the assize that recognition be made whether that land was free tenement or villeinage when that land was to be inspected and was inspected. The jurors say that, when by the king's writ that land was inspected, Isabel held that land as a free tenement. Judgment: William to have that land and Isabel [to be] in mercy. . . .

Hundred of Calne, inside and outside [the borough]. The jurors say that a certain man was found dead in the fields of Cherhill and it is not known who he was. Murder.¹⁷

Eli of Stodleghe and the forester of G[eoffrey] Fitz-Peter, in the home of Herbert the Chamberlain (*de Camera*), took a certain Matthew who, they said, was an outlaw, and who was handed over to G[eoffrey] Fitz-Peter by writ of the archbishop of Rouen.¹⁸ And the said Herbert was therefore put under gage and pledge. And the jurors say that they made no imputation against the said Herbert because of that reception of Matthew. And Herbert appears and acknowledges that he gave lodging [to Matthew] that one time when he was captured, not knowing that he was a malefactor. Herbert is to be quit.

Tova, wife of Ralph Jagard, has accused Ralph, nephew of Hugh de Brewer, and others of having stolen a certain pig, and she has withdrawn [from her suit]. In mercy.¹⁹ . . .

Berwick is an escheat of the lord king and is worth £15. John Marshal had possession of it and thence took 75s. Then Henry de Longchamps had it and thence took £26. 5s., and after him the sheriff of Wiltshire thence took £7. 10s. . . . Again William de Braose held it and thence took £15, and he still has it. . . .

Richard, son of Elmer, and Alfred the Ploughman fled on account of the robbery of sheep from the castle of Marlborough, and they were in the tithing of Walter. . . . In mercy.²⁰

The same [jurors] say that Philip and Arnold of Calne were at the taking of the sheep of Marlborough together with others who fled and that Arnold was not in any tithing. And Philip comes and acknowledges that he was there and that Arnold was with him. Philip is to be put under pledge, in case any one wishes to bring suit against him. . . .

Sum of the first aid²¹ from the vill of Calne 47*m.*, which the sheriff has received. Sum of the second tallage £4. 16s. 8*d.*, which the sheriff has received.

Sum of the first aid from the hundred outside [the borough] £25 18s. 11*d.*, which the clerks of the sheriff have received. Sum of the second aid £4. 6s. 8*d.*, [which] Thomas the clerk has received. Sum of the hidage £9. 18*d.* Adam, clerk of the sheriff, has received all except 23s., which Guy de Dives has received, and [except] 20s. from the hidage of Alan Basset. . . .

Manor of Malmesbury. Emma of Summerford was slain in the house of her mother, and Thomas and Richard of Malmesbury were on that account accused. And the whole jury, being interrogated concerning

¹⁶ Since they hold in villeinage, which is not protected by the king's court; see above, [*Glanvill* Extracts (§ 4B), references to "free tenement" *passim*].

¹⁷ See above, [S&M no. 18], n. 2.

¹⁸ [Walter, archbishop of Rouen, was royal justiciar from 1191 to 1193.]

¹⁹ Marginal notation.

²⁰ Marginal notation. Walter and his tithing are to be amerced because of the escape; see above, [S&M no. 18], n. 6.

²¹ The following entries deal with the various taxes levied for Richard's ransom. *Auxilium* and *tallagium* sometimes appear as synonymous terms.

it, said that they did not suspect the aforesaid Thomas and Richard of Malmesbury of the death of the same Emma.

And the knights of the whole county said that they did suspect the aforesaid Thomas and Richard, because the same men then proceeded to Gloucester, and they are convinced that the same men proceeded to Gloucester for the sake of there selling the chattels of that woman. Thomas and Richard are to clear themselves by the water.²²

Sum of the first aid 67s. 6d.; sum of the second aid £5. 10s. 9d.—which [sums] Ralph Fitz-Stephen has received. Sum of the hidage 2s., which Laurence the serjeant of the hundred has received.

Hundred of Sedgelaw. The jurors say that a certain man was slain at Ashley, and his wife on that account accused John and Hugh, serjeants of the abbot of Malmesbury in the vill of Crudwell, and they fled. John was in the tithing of Walter Scarlet of Norton, and Hugh was a clerk. They are to be outlawed.

Fulling, land of Walter Maltravers, is escheat, and it is worth 50s. and is in the hands of Walter of St. Mary's Church.

Countess Margaret is in the gift of the lord king and has the wardship of her son by [grant of] the lord king. . . .

Hundred of Bradford. . . . In the vill of Bradford a certain woman was slain . . . , and Agatha was taken on the appeal of the mother and father of the slain woman and incarcerated at Salisbury. And when Earl J[ohn] broke the jail, then she escaped with the other prisoners and was never seen afterwards. . . . Englishry was presented at the [proper] term.

A certain infant of twelve years was drowned at Broughton, and Englishry was not presented. . . . Accident. . . .

Hundred of Devizes. The churches of Devizes were given to William de Furneaux by Earl John, and they are worth 3½m.

Sum of the first aid for the ransom of the lord king 3m., which Roger Fitz-Everard and Walter Giffard received. Sum of the second [aid] 100s. 7d., which Guy de Dives paid at the exchequer, and for which he has [a receipt].

Concerning the other articles [the jurors report] nothing.

(Latin) Maitland, *Rolls of the King's Court*, pp. 70–109.

JUDICIAL RECORDS (1220–83)

S&M No. 54

(A) EXCERPTS FROM THE CURIA REGIS ROLL OF 1220²³

Hugh Hop-over-Humber appeals Thomas of Dean for [the following offense:] that on St. Giles's day, between the first and third hours, in the second year of the king's reign, while he, together with his cousin William of Leigh, was in the park of Cuckfield belonging to the earl de Warenne, for the purpose of guarding that park, the said Thomas came with a band [of accomplices], a multitude of men armed with bows and arrows, and assaulted them, aiming an arrow at the said William and hitting him in the leg, so that within nine days he died of the wound. And that [Thomas] did this wickedly and feloniously and in [violation of] the lord king's peace, [Hugh], as one who was present and saw it, offers to prove by his body, as the court shall decide. He also says that pursuit was made according to the law of the land and that hue was raised; that twelve jurors indicted [Thomas] on account of that death²⁴ before the itinerant justices on their last visit to these parts; and that the said William, while he was still alive after being wounded, stated that the said Thomas had struck him as aforesaid, and so blamed [Thomas] for his death.

²² See [Assize of Clarendon (§ 4A)], art. 2.

²³ On the nature of these records see Maitland's introduction; cf. immediately below, no. 54E, F. [Despite the criminal nature of these records, Maitland thought that this roll was, in fact, a roll of the Common Bench. During the minority of Henry III, the distinction between the court *coram rege* and the Common Bench was only beginning to emerge.]

²⁴ See [Assize of Clarendon (§ 4A)], art. 1.

And Thomas appears and denies the entire charge as an ordained clerk. And thereupon Robert of Dean, his brother, appears and presents letters close from the bishop of Chichester, in which it is set forth that the said Thomas has sufficiently proved before him by witnesses, etc., that the said Thomas was in due season promoted to the order of acolyte by Selfrid, one time bishop of Chichester, and that [the bishop] accordingly claims him as a clerk, so that justice may be administered with respect to him for all who may complain in the ecclesiastical court. Thomas is committed to R[alph], bishop of Chichester, who shall hold him for justice because he is a clerk. And it should be known that the lord [archbishop] of Canterbury, who earlier took the said Thomas into custody, is quit thereof.

William Smallwood²⁵ appeals Hugh the Large of Walthamstow for having received him together with two horses which he had [taken] from the chamberlain of Baldwin de Guisnes, whom he had slain, so that the said Hugh kept those two horses in his chamber for eight days, and for thus keeping them he received 6s., and a certain woman at the inn [received] 6d. for carrying water to the horses in order that they might not be seen. And that the same [Hugh] knew they were stolen property and received them as stated he offers to prove by his body. And Hugh denies the entire charge against him, [submitting to judgment] as the court shall decide, and he puts himself on the country²⁶ that he is held to be a trustworthy man. He is committed to the vill of Walthamstow to be produced on summons.

The same [William] also appeals Nicholas of Trumpington as a receiver. . . . He is committed to the vill of Cheshunt, etc. . . .

The same [William] also appeals Robert Woodcock and William his son as receivers. . . . Let the sheriff take pledges for them.

The same [William] also appeals William, son of Henry Ware as a receiver, but he is so old that he can hardly move, [evidently] the charge against him is trumped up. And so the matter should be discussed. The jurors say that they know nothing [bad] of him, and so let him go quit because he is old.

The same [William] also appeals John and Adam, sons of the priest, for being his associates and for homicide: namely, that they along with him slew a man of Alfred Gernon, scalding him in the house of Robert Woodcock and taking from him property to the value of £4 sterling. Likewise they killed another man in the same house and a third between Writtle and Chelmsford. Likewise Adam together with him broke into the house of Michael Smallwood, his brother, and robbed it, so that the said Adam [thence] received a blue cloak with a hood of doe-skin worth half a mark. And this he offers to prove by his body, and he takes as his first opponent Adam. And they appear and deny the entire charge word by word, and they put themselves on the country. And the sheriff says that he held an inquest and that, according to the inquest, they are of ill fame. The awful knights of the county give the same testimony. So the combat is to proceed, in the first place against Adam, whom [William] appeals for the death of the aforesaid men and for the robbery of his brother's house and [the theft of] the aforesaid cloak worth 7s., and who denies the entire charge [offering defense] by his body. . . . William Smallwood is vanquished and hanged; Adam and John are dismissed under pledge. . . .

Alice, wife of William Black, confesses that she was present with her husband at the slaying of three men and one woman at Barnet. And so let her be burned. . . .

Thomas of Lyminge, who was captured together with robbers, at St. Albans, appears and says that he has no lord, that he is not in frankpledge, and that he has no pledge [of any kind]. Furthermore, it is testified by the steward of the abbot of St. Albans and by [other] good men that he confessed the robbery in the abbot's court. Furthermore, he stated in the [court of the] bench that he knew no man who was so big a thief as Robert of Bermondsey, the archbishop's steward, and afterwards he withdrew the charge. And since he has nothing in his favour and refuses to put himself on the country, it is decided that he is to be hanged.

(Latin) Maitland, *Select Pleas of the Crown*, pp. 120–34.

²⁵ William, a confessed felon, has turned approver. That is to say, he now has to appeal and vanquish a certain number of persons—often five—in order to secure a pardon. In the present case, however, he is himself vanquished in his first duel. See F. C. Hamil, in *Speculum*, XI, 238 f.

²⁶ The ordinary phrase for submitting to jury trial, on the beginnings of which in criminal cases see Pollock and Maitland, II, 648 f.

(B) EXCERPTS FROM COURT ROLLS OF 1221-1225²⁷

Agnes, who was the wife of Robert Wood, appeals Thomas, son of Hubert, for the death of her husband Robert. And because the same [Agnes has a [second] husband named Robert de Verdun who makes no appeal, she has no power of appealing; so the truth is to be sought by the country. And Thomas appears and denies responsibility for the death, but does not wish to put himself on the country. And the twelve jurors say that he is guilty of that death, and twenty-four knights chosen for this purpose, other than the aforesaid twelve, say the same; and so let him be hanged. The chattels of Thomas [amount to] 34s. 6d., for which the sheriff is answerable.

And the jurors testify that the said Thomas, after that deed, continued to go back and forth from his house to cultivate his land; and [yet] he was not arrested, nor was his land taken into the king's hands until the day before the arrival of the justices. So the sheriff [is to be brought] to judgment. And [Thomas] was a villein and for that reason his land was not taken.²⁸ And the township²⁹ of Spernal does not appear; therefore it is in mercy for default, and is to appear tomorrow.

The same Agnes appealed as accessories Henry, son of Hubert; Michael, reeve of Spernal; Simon, the priest's son; Patecoc, son of Simon of Spernal; and Robert of Shortenhall. And none of them appears, and [yet] she sued at a number of county courts after the death of her husband, and [the accused men] were neither attached nor outlawed. So the county [is to be brought] to judgment.

Afterwards the township of Spernal appears and confesses that all the aforesaid men were residents in their vill after the death of Robert and were not arrested. So [the township is] in mercy. And all those appealed as accessories have fled, and they were in the frankpledge of the township of Spernal. So [the township is] in mercy. The chattels of Henry [amount to] nothing. The chattels of Michael [amount to] 14s., for which the sheriff is answerable. . . .

Simon of Coughton, on account of drunkenness, fell dead from his horse in the vill of Alcester. And Simon, his son, who was with him does not appear, nor was he attached—he is not suspected. The township of Alcester confesses that they did not present the death [of Simon] at the county [court] or to the coroners. So the township is in mercy. No one is suspected. Judgment—misadventure. The township of Coughton confesses that the body was carried into their vill and that it was buried without the view of the serjeant [of the hundred] or of the coroners, and that they made no presentment at the county [court]. So [the township is] in mercy. The value of the horse is 1*m.* for which the sheriff is answerable. . . .

³⁰Richard Goky, accused of the death of Henry Lightfoot who was slain at Ling, appears and denies the entire charge and puts himself on the country. And the townships of North Curry, Bridgewater, Creech, and Newton, also the twelve jurors, say on oath that they suspect of that death no one but the same Richard, and they affirm that he slew [Henry]. And so let him be hanged. Inquiry is to be made as to his chattels. And the township of Ling and the twelve jurors in the first place presented a certain Robert Young as having killed [Henry]. And afterwards they appear and confess that they did so on the instance of Roger Baryl, serjeant of the hundred. And so [he is to be put in] custody, and the twelve jurors and the township of Ling are in mercy for their false presentment. The amercement of the jurors is pardoned.

(Latin) *Ibid.*, 99-117.

(C) EXCERPTS FROM EXCHEQUER PLEA ROLLS OF 1236-37

An assize, summoned and attached to make recognition on oath whether Richard of Hinton holds three-fourths of a knight's fee with appurtenances in Eastbury of the king in chief or of Ralph le Moyne appears before the barons of the exchequer on the morrow of St. Hilary: namely. . . .³¹ They declare on oath that the said Richard of Hinton holds the said three-fourths of a knight's fee with appurtenances in Eastbury of Ralph le Moyne in chief; that the said Richard and his ancestors always rendered to the same

²⁷ [Except for the last entry, these entries are from the rolls of the justices in eyre in Warwickshire in 1221. CD]

²⁸ An addition to the record to explain the sheriff's conduct.

²⁹ *Villata* meaning the people of the vill or their legal representatives.

³⁰ [Unlike the preceding records, this record is from the rolls of Martin Pateshull and three knights who were commissioned to take assizes of novel disseisin and deliver the jails in Somersetshire in 1225. CD]

³¹ The names of the twelve jurors are omitted.

Ralph and his ancestors the service owed from this [fief]; and that the said Ralph holds that tenement of the lord king. And so it is decided that the said Richard is to be quit of the scutage exacted from him for the said tenement, and that the same Richard shall henceforth render service for the said tenement to Ralph le Moyne and his heirs as has been accustomed. . . .

Robert Musard has offered himself against Henry of the exchequer with respect to a plea of 6*m.* for the scutage of Poitou, as is contained in the writ. Henry, having been summoned and attached a number of times, has appeared and has acknowledged that he received from the aforesaid Robert 6*m.* for the aforesaid scutage of Poitou; and he states that he acquitted the said Robert for 40*s.* out of the 6*m.* aforesaid in the county of Nottingham when he was sheriff of Berkshire. And the barons have had inspection made of the account rolls of that county for the fifteenth and sixteenth years, during which the said Henry was sheriff of Berkshire; and from the rolls they have found that nothing was paid by the said Henry on behalf of the aforesaid Robert in the county of Nottingham for the aforesaid scutage, as he has alleged. . . .³² Finally, however, they have come to an agreement by permission of the barons: to the effect that the same Henry will acquit Robert of the said scutage and will give him 4*m.* for his trouble and expense. And because the same H[enry] had rendered account in full and had pledged his faith to having rendered an honest account, when [actually] he had not fully accounted for the said scutage, because of his concealment, he is delivered to the marshal as a prisoner. Afterwards he is liberated from prison by the bishop of Carlisle. And the same Henry is in mercy, but is pardoned by the barons. . . .

Hubert of Wick and Walter of Hales, executors of the will of Richard of Brome . . . have appeared and declared that they have in deposit at Langley about 25*m.* from the goods of the said Richard, and they have undertaken to pay that sum at the exchequer within three weeks after Easter toward satisfaction of the debt that the same Richard owed the lord king. Moreover, they have declared that William Bernehouse, who lives in the county of Suffolk, owed the said Richard 20*m.*; that Nicholas Crawe, who lives in Norfolk, owed the same Richard 20*s.*; [and that] Ralph of Selton [owed him] four oxen worth 40*s.* Besides, as they say, the men of Earl R[oger] Bigot in Ditchling carried off the crop from five acres of corn belonging to the said Richard, worth 1*m.* And the sheriff is ordered to distrain the said debtors for the said debts to the king's use. . . . Afterwards the said executors paid £17. 4*s.* of the said debt, and they have declared that they have nothing more of his goods. And so they are acquitted, and the lord king is to recover the remainder of the said debt from the heir of the said Richard of Brome.

(Latin) Jenkinson and Formoy, *Select Cases in the Exchequer*, pp. 7–13.

(D) EXCERPTS FROM CORONERS' ROLLS OF 1266–67³³ Richard of Eltisley of the parish of Eaton came to the county [court] of Bedford on Monday next after Epiphany in the fiftieth year of King Henry [III] and appealed William Moring of Staplehoe for [the following offense:] that before the hour of vespers on Sunday next after the Lord's Nativity he came into the house of the said Richard and assaulted the said Richard wickedly, feloniously, and against the peace of the lord king by premeditated assault striking him on the right shoulder with a willow stick and so knocking him to the ground; afterwards, falling upon the said Richard [W111iam] seized with his right hand [Richard's] finger—the one called index, next the thumb—and bit it, so that [Richard] believes himself to be maimed. This he offers reasonably to demonstrate and prove as a maimed man can and should, according to the decision of the lord king's court. The said Richard finds pledges for prosecution: [namely,] Henry of Basing from Staplehoe and John Poignant from the same [vill].

Item, at the county [court] of Bedford, on Monday next after the Purification of the Blessed Mary, Richard appears and sues, and the said William, having been called for the first time, does not appear. Item, at the county [court] of Bedford, on Monday next after the feast of St. Matthew the Apostle in the fiftieth year, the aforesaid Richard appears and sues, and William Moring, having been called for the second time, does not appear. Item, at the county [court] of Bedford, on Monday next after the Annunciation of the Blessed Mary in the aforesaid year, Richard appears and sues, and William Moring, being present, denies the entire charge and finds pledges: [namely,] Reginald, son of Walter of Honeydon, and William Allen of Staplehoe. . . .

³² Henry says he paid the rest of the money into the exchequer and a mistake was made in the tallies, but his explanation is found to be worthless.

³³ [These are probably extracts from the original rolls that the coroners laid before the justices in eyre. CD]

It happened about bedtime on Sunday next before the feast of St. Bartholomew in the fiftieth year that Henry Colburn of Barford went out of his house in Barford to drink a tankard of ale and did not return that night; but early the next morning Agnes Colburn, his mother, looked for him and found the said Henry dead. And he was wounded in the body about the heart and in the belly with seven knife-wounds, and in the head with four wounds apparently made with a pick-axe, and also in the throat and the chin and the head as far as the brain. The aforesaid Agnes at once raised the hue and pursuit was made. And she finds pledges: [namely,] Humphrey Quarrel and Thomas Quarrel of the same Barford.

Inquest was held before S[imon] Read, the coroner, by four neighbouring townships: Barford, Boxton, Wilden, and Renhold. And they say that Gilbert, son of Margaret, killed the said Henry as aforesaid. They also say that they have suspicion of Hugh Cointerel, Agnes Cointerel, Hugh, son of the same Agnes, and Alice Wrong who have appeared in the full county [court] and are delivered to G. Read, the sheriff, [to be put] in jail. . . . Gilbert had no chattels. Englishry was presented by Richard, brother [of Henry], on the side of his father and mother; and by Maurice Plane, his uncle, on the side of his father.

It happened in the vill of Wilden on Wednesday next before the feast of Simon and Jude in the fiftieth year that unknown malefactors came to the house of Jordan Hull of Wilden and broke into the said house while the said Jordan was absent. And the said malefactors wounded Agnes, wife of the said Jordan, and killed Emma, his eight-year-old daughter. Afterwards they carried off all the goods from the house. . . . Inquest was held before S[imon] Read, the coroner, by four neighbouring townships . . . , who said what has been reported, and that the malefactors were unknown. . . .

It happened at Eaton on Thursday next after the feast of the Apostles Peter and Paul in the fiftieth year that Reginald Stead of Eaton, reaper of John Francis, went into the meadows of Eaton to guard the meadow of his lord and, being taken with falling sickness, collapsed and died forthwith by misadventure. Alice, his wife, was the first to discover him, and she finds pledges. . . . Inquest was held before S[imon] Read, the coroner, by four neighbouring townships . . . , who say that he died by misadventure of the aforesaid disease, and they know nothing beyond that.

(Latin) Gross, *Select Cases from Coroners' Rolls*, pp. 2-6.

(E) MEMORANDUM OF JUDICIAL APPOINTMENTS (1278)

Justices of the bench for pleas of the king:

Ralph of Hengham, Chief [Justice], who is to receive annually in fee for maintaining himself in the king's service, at two terms,	60m.
Nicholas of Stapleton, at two terms,	50m.
Walter of Wimburn, at two terms,	40m.

Total 150m.

Justices of the bench at Westminster:³⁴

Thomas of Weyland, Chief [Justice]	60m.
Walter of Helion	50m.
John of Lovetoft	50m.
Roger of Leicester	40m.
William of Brompton	till now nothing

Total 200m.

Itinerant justices toward the north, namely, in the counties of Cumberland, Westmorland, and Northumberland:

The Abbot of Westminster, Chief [Justice]³⁵

John de Vaux	
William of Saham	50m.
Roger Loveday	40m.
John of Mettingham	40m.

³⁴ [This is the common bench; the court preceding is that of *coram rege*, or king's bench. Cf. no. 52G.]

³⁵ The man heading the circuit, being a beneficed clergyman, receives no salary.

Master Thomas of Sodington40m.

Itinerant justices toward the south, namely, in the counties of Hertford and Kent:

The bishop of Worcester, Chief [Justice]

John of Reigate60m.

Geoffrey of Leukenore40m.

William of Norburgh40m.

Walter of Hopton40m.

Solomon of Rochester40m.

The aforesaid justices were installed by the king himself and others of his council [at Gloucester].

(Latin) Palgrave, *Parliamentary Writs*, I, 382.

(F) EXCERPTS FROM THE CORAM REGE ROLLS OF 1281

Command was given to the mayor and sheriffs of London that they should send to the king here on this day the record and process of the suit recently held before them in their husting of London between Edmund Trentemars, plaintiff, and Master Thomas of Bread Street concerning a messuage with appurtenances in the suburb of London; which same record and process they sent to the following effect. . . . And Edmund, being asked why he had caused the aforesaid record to come here, says it is because the lord king granted by his Statute of Gloucester³⁶ that, if any one within the city of London vouches any foreigner to warranty, he shall, according to the Statute of Gloucester, sue against his warranty before the justices of the bench, etc. Whereupon the said Thomas Trentemars was adjourned until the next arrival of the itinerant justices at the Tower of London. And thereof he seeks remedy, etc.

The abbot of Fécamp was summoned to answer to the lord king by what warrant he holds the manor of Steyning, which is ancient demesne of the crown of England, as is said, and concerning which William of Pembroke, who sues for the king,³⁷ says that the lord King Henry, father of the present lord king, was seised of the aforesaid manor, etc. . . . And the abbot now appears by his attorney and says that he holds the aforesaid manor by this warrant that St Edward [the Confessor], one time king, gave the aforesaid manor with its appurtenances to the abbot and monks of Fécamp, which same deed was confirmed by William [I], one time king of England, and a certain Henry, king of England. . . . When this charter had been read and understood, the attorney of the same abbot was told that in such connection he might go *sine die*, etc

The jury [in the suit] between Hugh le Despenser, plaintiff, and Roger le Bigot, earl of Norfolk and marshal of England, having been chosen by the consent of the parties, [comes to make recognition] whether Alina le Despenser, who was wife of the aforesaid Roger, bore of the same Roger offspring since deceased that was heard to cry or raise its voice within four walls in the manor of Woking, or not; and if so, what kind of voice it raised, and whether that offspring was male or female, and in what house such child was born and in what church it was baptized, and when and at what time and in whose presence, and how long the same child lived, etc. . . .³⁸

Command was given to the sheriff that he should cause to come here on this day the appeal which Wentthiliana, daughter of William le Prestre made in his county [court] against William d'Evreux for the death of Adam le Gouth, her husband, and also the appeal which Susan, daughter of Organ, made in the aforesaid county [court] against the aforesaid William for the death of her brother, John son of Organ, together with all appendant matters touching those appeals. . . .³⁹

³⁶ No. 52A. [The omitted record shows that this case was a writ of right patent in the London court of Hustings. The vouchee was one Nicholas fitz Bart of Aldgate, a foreigner only in the sense that he had no land in London. The real issue was applicability of the statute to events in 1276, two years before the statute was passed.]

³⁷ That is to say, acting as king's attorney.

³⁸ The case did not go to the jury, for Roger surrendered Alina's lands to Hugh, her nearest heir. If she had borne Roger a living heir, he would have had a life estate.

³⁹ The cases were sent to the hundred court of Archenfield because of that district's ancient liberty.

The lord king, by Walter of Wimbourne who sues for him, brings suit against Robert Banaster for the advowson of the church of Wigan with appurtenances. . . .⁴⁰

Command was sent to John de Vaux and his associates, justices of the last eyre in the county of York, that under their seals they should send to the king the record and process of the suit brought before them on the aforesaid eyre by writ of right of the lord king between Peter de Mauley, plaintiff, and the abbot of Whitby, tenant, concerning the manors of Newholm, Stakesby, and Dunsley with their appurtenances. . . . Which same justices sent the record to the following effect. . . .⁴¹

Agnes Colie appeals Henry le Ternur and Gilbert of Grafham for the death of her son John. And she appeals them for this: that, while her aforesaid son was in the peace of the lord king on Saturday next after the feast of the Nativity of the Blessed Virgin in the eighth year of the present king's reign, at a place called Broneswellbrook between the vill of Offord Cluny and [that of] Offord Darcy, the aforesaid Henry le Ternur and Gilbert came with a certain Henry Nichol of Bedwin, and they held the aforesaid John by his hands and neck while the same Henry struck the aforesaid John with a Cologne sword [wounding him] to the brain, whereof he died. And that they wickedly and by felony aforethought committed the aforesaid felony on the aforesaid day in the aforesaid year she offers, etc. . . .⁴²

(Latin) Sayles, *Select Cases in King's Bench*, pp. 74–91.

(G) EXCERPTS FROM THE PARLIAMENT ROLL OF 1283⁴³

Aymer de Peche, who is ill, beseeches the lord king graciously to command the escheator to return to him the seisin of the manor of Steeple, the custody of which belongs to him because Hugh son of Otto ended his days holding of the said Aymer by military service the aforesaid manor, with which he had been enfeoffed by the same Aymer, who held the aforesaid manor of the lord king in chief.

[Endorsed:] Let it be restored because [Hugh] held nothing of the king in chief.

The lord William Martin seeks a writ of the lord king to the treasurer and the barons of the exchequer [permitting him] to pay the debt that he owes the king by instalments of £10 a year.

Let him pay 50*m.* a year in two [instalments]. . . .

When our lord the king was at Bristol on the festival of Easter in the eighth year of his reign, the mayor and community [of the town] made to him devout supplication, asking that he regard their condition which, through default of confirmation of the liberties obtained by grant and confirmation from the lord king Henry, father of the present lord king, and from his other ancestors, had been greatly injured by the divers oppressions of justices, sheriffs, and bailiffs, and requesting that the lord king would confirm their charters of liberties aforesaid. And the lord king promised them that he would do so when he first confirmed any liberties. We beseech you, lord chancellor, that you apply your counsel to whatever may be done in this matter for the sake of the community aforesaid.

The king will respond in the next parliament. . . .

The prior of Hexham beseeches the lord king to grant him licence⁴⁴ to enter upon land to the value of £20 in North Milburn within the county of Northumberland, which is held of Robert de Stuteville and Eleanor his wife for the service of 6*d.* a year for all service, and concerning which the sheriff of Northumberland was commanded to make diligent investigation as to what damage the lord king would suffer if the said prior took possession of the said land in fee. And the sheriff, having carried out an investigation, made a return in which it was stated that the lord king would thereby suffer no damage, except only to the amount of 6*d.* per year. And when [the result of] this inquest had been seen by the chancellor, the prior was told that he should come to this parliament

[Endorsed:] The king will not grant the favour asked in the petition.

⁴⁰ A jury of twelve awarded the right to Robert.

⁴¹ A jury of twelve gave a verdict for Peter; the abbot was declared in mercy.

⁴² The accused denied the charge and put themselves on the country. A day was set for trial.

⁴³ On the nature of these enrolments see the editors' introduction to the volume cited below; also that of Maitland to his *Memoranda de Parlamento*.

⁴⁴ Cf. no. 52B.

Thomas de Torneye, who had been in Wales to perform the service that the lord Gilbert de Bulebeke owed to our lord the king in connection with his recent expedition into those parts, was taken, after returning from Wales, and held in the prison of Aylesbury in the county of Buckingham on suspicion of a robbery suffered by Master John de Saint-Omer, of which he is not guilty; and by letters under the king's privy seal in the possession of the sheriff, to the effect that he is not to be released, he is being held in that prison until the delivery of the same prison.⁴⁵ Wherefore he beseeches our lord the king that he may be brought under the common law and have a jury trial;⁴⁶ for in the prison he is at the point of death on account of the duress with which he is treated.

[Endorsed:] Let a writ be issued for the two men imprisoned at Aylesbury; it is not to be neglected on account of a mandate under the small seal. Let an inquest be made by the justices through a good [jury of the] country.

(French and Latin) Richardson and Sayles, *Rot. Parl. Anglie*, pp. 17–25.

(H) EXCERPTS FROM MANORIAL COURT ROLLS (1246–49)⁴⁷

Pleas of the manors . . . of Bec, Hokeday term, A.D. 1246:—

Bledlow [Buckinghamshire]. . . . The court made presentment that Simon Combe has raised a certain fence on the lord's land. Therefore let it be pulled down. . . . A day at the next court is given to Alice of Standen for producing her charter and her heir. . . .

Tooting [Surrey]. . . . The court made presentment that the following persons had encroached on the lord's land. . . .⁴⁸ Therefore [they are] in mercy. Godwin [is] in mercy because he neglected to do what he was ordered on behalf of the lord. Fine 12*d*. Roger Reed [is] in mercy for non-payment of rent. Pledge: Jordan of Streatham. Fine 6*d*. . . .

Ruislip [Middlesex]. . . . The court makes presentment that Nicholas Breakspeare is not in tithing, and he holds land; Therefore let him be distrained. Breakers of the assize [of ale]. . . .⁴⁹ Roger son of Hamo gives 20*s*. to have seisin of the land that was his father's and to have an inquest by twelve [men] as to a certain croft held by Gilbert Bisuthe. Pledges: Gilbert Lamb, William son of John, and Robert King. . . . Richard Maleville [offers to prove] at his law⁵⁰ as against the lord that he did not take attached property away from the lord's serjeants to the lord's damage and dishonour [amounting to] 20*s*. Pledges: Gilbert Bisuthe and Richard Hubert. Hugh Tree [is] in mercy for cattle of his taken in the lord's garden. Pledges: Walter of Hull and William Slipper. Fine 6*d*. Twelve jurors say that Hugh Cross has title to the bank and hedge over which there was a dispute between him and William White. Therefore let him hold in peace, and let the said William be distrained for many trespasses. Later he fined for 12*d*. . . .

Pleas of the manors of Bec, Martinmas term, A.D. 1247:—

Weedon Beck [Northamptonshire]. . . . Elias Deynte resigned his land in full court and seisin of it was given to William Deynte, his son, who swore fealty and found pledges, named above, for his 5*s*. of relief. Later he paid it. The whole township gives 6*m*. for the abbot's tallage. . . . William Green and Guy Lawman have gallon measures that are too small. John Mercer will give three hens yearly at the feast of St. Martin to have the lord's patronage,⁵¹ and he is received into a tithing. . . .

Wretham [Norfolk]. . . . Gilbert son of Richard gives 5*s*. for permission to marry a wife. . . . The following women have been violated and accordingly owe *leyrwite*. . . .⁵² From the township 3*m*. for the abbot's tallage. . . .

⁴⁵ By the itinerant justices.

⁴⁶ Literally "have his country (*pays*)"; see above, [no. 54A], n. 4.

⁴⁷ On the nature of these courts and their records, see the famous introduction by the editor, F. W. Maitland. [Maitland's main points are (a) that the court does not seem to have view of frankpledge, (b) that the litigants are mostly villeins, and (c) that the steward made a circuit of the manors two times a year, somewhat like an itinerant justice.]

⁴⁸ Seven persons are named, with fines from 6*d*. to 2*s*.

⁴⁹ Thirteen persons are named, with a normal fine of 6*d*.

⁵⁰ That is to say, by compurgation; see above, [Assize of Clarendon (§ 4A), art. 3].

⁵¹ Meaning to be received as a manorial tenant.

⁵² The fine for unchastity. Five girls are named, with fines from 6*d*. to 12*d*.

Tooting [Surrey]. . . . The whole township gives 2½*m.* for the abbot's tallage. William Jordan [is] in mercy for badly ploughing the lord's land. Pledge: Arthur. Fine 6*d.* John Shepherd [is] in mercy for encroaching upon land bordering on his. Pledge: Walter Reeve. Fine 6*d.* Lucy Reed [is] in mercy for cattle of hers taken in the lord's pasture after ward had been set. . . .⁵³ Elias of Streatham [is] in mercy for default of autumn [labour] service. Fine 6*d.* Bartholomew Chaloner, who was at law against Reginald son of Swain, has defaulted in his law. Therefore let him be in mercy and let him satisfy the aforesaid Reginald for the latter's damage and dishonour, namely with 6*s.* Pledges: William Shoemaker and William Spendlove. Fine 6 gallons [? of ale].

Deveril [Wiltshire]. . . . William Miller [offers to prove] at his law that he was not pledge for William Scut of Hull, whose sheep were taken in the lambs' pasture. Pledges for his law: William Swineherd and Thomas Guner. Arnold Smith is in mercy for not producing the said William Scut, for whom he was pledge. The parson of the church is in mercy for a cow of his taken in the lord's meadow Pledges: Thomas Guner and William Cook. The township gives 2*m.* for the abbot's tallage. From William Cobbe, William Cook, and Walter Dogskin 2*s.* for [neglect of] ward [in the case] of seven pigs belonging to Robert Gentil and for the damage that they did in the lord's corn. From Martin Shepherd 6*d.* for the wound that he inflicted on Pekin. . . .

Weedon Beck [Northamptonshire]. . . . The court made presentment that William son of Noah is the fugitive bondman of the lord and is living at Dodford. Therefore he is to be sought. They also say that William Askil, John Parsons, and Godfrey Green furtively carried off four geese from the vill of Horepoll. John Witrich [is] in mercy for a colt of his taken in the lord's corn. Pledges: Guy Love and Simon Winbold. . . .

Pleas of the manors of Bec, A.D. 1249:—

Ogbourne [Wiltshire]. . . . Presentment was made that Stephen Shepherd by night struck his sister with a certain knife and badly wounded her. So let him be committed to prison. Later he fined for 2*s.* Pledge: Walter of Wick. Presentment was made that Robert son of Carter by night invaded [the property of] Peter Burgess and feloniously threw stones at his door, so that the same Peter Burgess raised hue [and cry]. Therefore let the aforesaid Robert be committed to prison. Later he fined for 2*s.* . . . Adam Moses gives half a sester of wine to have an inquest as to whether Henry Ayulf imputed to him the crime of larceny and used vile and insulting words [concerning him]. Later they came to agreement, and Henry gives security for amercement. Fine 12*d.* . . . From Ralph Joce ½*m.* for his son because [the latter] unlawfully took corn from the lord's court. . . . From Ralph Scales 6*d.* for carrying off timber from William Cooper 12*d.* because without licence he ploughed his land with the lord's plough. From Hugh New 12*d.* . for trespass in the wood. From Richard Penant 12*d.* for the same. From Helen, widow of Little Ogbourne, 6*d.* for the same. From Nicholas Seward 6*d.* for a false claim against William Pafey. From William Pafey 12*d.* for engaging in a fight with the same Nicholas. . . .

(Latin) Maitland, *Select Pleas in Manorial Courts*, pp. 6–20.

DURHAM HALMOTE ROLLS (1375)⁵⁴

S&M No. 65

Pittington. . . . Inquest: it was proved by oath . . . that Thomas, son of John Widowson of West Rainton, is a freeman of free condition and of free status and not a bondman of the said lord prior.

Ferry. It was ordered⁵⁵ that no cotters of the vill should leave the vill while any of the tenants had work to be done. . . .

⁵³ That is to say after it had been closed to such use.

⁵⁴ On the significance of these records see Pollock and Maitland, I, 624 f.; and cf. no. 54H. [Maitland's main points are (a) the quasi-corporate character of the vill and (b) the separate status of the freeholders.]

⁵⁵ *Ordinatum est*—the usual form used to introduce a local ordinance or by-law. Before too much communal self-government is read into these extracts, it should be noted that the village obligations, though declared “by common assent,” often carried a penalty of 20*s.* for disobedience. See the entries below.

Wallsend. From Alan of Durham and John del Rawe 2s. for breach of the peace in gathering peasecods. And it was ordered that no tenants of the vill should gather peasecods except for their own use, and not for sale at Newcastle—and this in the place ordered by the reeve. . . .

Westoe. Increase of rent 6d.: John Gray took a cottage last in the holding of Thomas Wright, to have and to hold at the will of the lord, at annual rent of 2s. Catherine of Brenklaw took half a cottage, last in the holding of William Souter, to have and to hold at the will of the lord, at annual rent of 18d. . . .

Coupon. It was ordered that no tenants of the vill should enter the park without licence. . . .

Aycliffe. It was ordered that all cotters, and all other tenants of the lord who had no corn of their own to harvest, should reap with the lord at Ketton, on pain of 40d. . . . And it was ordered that William Power, the reeve, and the forester should have all such tenants, servants, and labourers of the vill stopped from going outside the vill for harvesting, except with the lord and his tenants, on pain of 20s. William Power, John Taylor, Gilbert Randolph, and Thomas Watson were made constables of the vill. . . .

Willington. From the tenants of Willington and Wallsend 2s. amercement because they did not have a common smith as they had been ordered in many halmotesl. It was ordered that [the men] of this vill and township should have a common smith before the feast of St. Martin and that henceforth none of them should work on ploughshares, under penalty of 20s. . . .

Hebburn. John of Hedworth rendered homage and fealty in the church of Jarrow to the lord Robert, prior of the church of Durham . . . , for his land which he holds of the aforesaid [prior] in Hebburn. Item, John Wiley rendered homage and fealty to the same lord Robert in his court at Harton. . . .

Aycliffe. It was ordered for all tenants of the vill, namely for brewers, that they should not sell a gallon of ale for more than 1½d. . . .

West Merrington. It was ordered that no tenants of the vill should insult one another by word or deed.

Mid Merrington. . . . It was ordered that no tenants of the vill should cut down thorns in the fields of Mid-Merrington. . . .

Moorsley. Presentment was brought that Alice, daughter of John Hudson, was married on free land; therefore let inquiry be made whether the same Alice should give merchet⁵⁶ or not. John son of . Roger was claimed as the lord's bondman of the vill of Little Haswell. And he says he is a freeman; so he shall swear not to remove himself before the next court. . . .

Coupon. Little-Stephen took a cottage once in the holding of Geoffrey Ladman. Gilbert son of John was elected to the office of reeve, and John de Raw is his associate. And they were sworn.

Aycliffe. It was ordered by common assent that they should have a common harvester⁵⁷ before the feast of St. Cuthbert in March, on pain of 20s.; also that they should have a common harvester before the feast of St. Helen, on pain of 20s.; also that 110 tenant of the said vill should do wrong to the said harvester or unlawfully take from him animals under pledge or remove animals from his fold without the licence of the said harvester, on pain of 20s., also that every tenant should act toward the shepherds of the vill as was agreed in common. . . .

Ferry. It was ordered that no tenants of that vill or of the townships of East Merrington, Mid Merrington, West Merrington, and Chilton should implead one another in any court except the court of the prior, that is to say, in his lay and secular [court]. . . .

West Rainton. . . . From Thomas Rois 18d., because his dog ate a pea-hen. . . .

Hedworth. . . . It was ordered that no tenant of the vill should permit his wife to vilify or insult any persons of the neighbourhood. . . .

Hesleden. . . . It was ordered by common assent that everything gathered in the field, whether corn or herbs, should be brought openly through the centre of the vill and not secretly behind the gardens. . . . It was ordered that all women of the vill should hold their tongues and should not scold or curse any one.

⁵⁶ A fine for permission to marry, at this time a mark of servile condition.

⁵⁷ *Messor*—apparently a superintendent of the harvest who incidentally acted as keeper of the pound.

Dalton. From Joan, wife of William Smith 12*d.* for merchet. From Margaret, servant of the farmer, 12*d.* for *leyrwite*⁵⁸ [incurred] with two men. From Joan Woodcock 6*d.* for the same. From the wife of John Dawson 6*d.* for breach of the assize of ale. . . . Marjory, widow of John Dawson, deceased, took a kiln built by the same John in the lord's waste, to have and to hold for the term of her life, at annual rent of 12*d.*, but the lord prior of his grace remitted to the aforesaid Marjory all but 8*d.*, to be paid annually during the life of the said Marjory. And she gave as fine 12*d.*, which was pardoned except 3*d.* Item, the aforesaid Marjory took a villein tenement (*terra husbandorum*: namely, a messuage and eighteen acres of land with appurtenances, which the said John Dawson formerly husband of the said Marjory, once held, to have and to hold for the term of her life, and paying annually the ancient farm. And within a year she will build a house at her own expense. And she gives as fine 13*S.* 4*d.*, which is pardoned except 40*d.* . . . John, son of John Dawson, took two villein tenements, each containing eighteen acres, which the said John Dawson earlier held, to have and to hold for the term of nine years, rendering annually the ancient farm. And he gives 40*d.* as fine for the said term of nine years. . . .

(Latin) *Halmota Prioratus Dunelmensis*, pp. 126–32.

⁵⁸ See above, [no. 54H], n. 27.