

THE LATHE IN THE EARLY SIXTEENTH CENTURY

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THIS brief paper is based on a parchment roll or file of three membranes found among the Kent Archæological Society's Collection, now transferred on loan to the Archives Office, County Hall.<sup>1</sup> No evidence has been found of its provenance but it must have lain among the records held by the Society for at least fifty years without anyone fully appreciating its significance. Technically the document is an estreat roll for the sheriff's "tourn" in 1509. It shows that, as the law required, the sheriff toured the county twice a year to hold what Blackstone referred to as "the Great Court Leet of the County". In view of this activity so late as the beginning of the reign of Henry VIII it is somewhat remarkable that neither William Lambarde, born in 1536, nor any of his near contemporaries seem to have been aware of the sheriff's function in this respect.

In theory, then, the sheriff had to visit the hundreds in turn twice a year to hold a Court of Record for the redressing of common grievances and the preservation of the peace,<sup>2</sup> a responsibility of which he was not relieved until 1887.<sup>3</sup> The powers of this court were very wide but the general decline of the sheriff and the gradual standardization of legal process as well as the removal of many shrieval functions to private courts all tended towards a collapse of this ancient jurisdiction. So far as Kent is concerned, for the sheriff to visit each of the sixty-three hundreds twice a year would have been a formidable task and it is little wonder if, as this roll indicates, he used the ancient lathe as his unit of administration and justice in preference to the hundred. While it may be dangerous to take matters from their context and place them many years earlier in time, it seems reasonable to suppose that a system, which the sheriff found to his liking in 1509, had been in use for a great many years; perhaps, indeed, from the Conquest and before.

The interest of this document therefore resides primarily in the use of the lathe as the centre for the shrieval jurisdiction, for the exact function of the Kentish lathe has caused local topographers much concern. Dr. Gordon Ward indicated in 1934 that the lathe appeared to be in origin "merely a territorial division, or the court of that division, in which one of the many processes of government or taxation

<sup>1</sup> K.A.O., U47/16 02.

<sup>2</sup> Jacob, *Law Dictionary* (1756).

<sup>3</sup> 50-51 Vict., c. 55.

was at the time exercised."<sup>1</sup> On early evidence he also stated that "the Hundreds not the lathes or boroughs were the chief administrative sub-divisions of the county," that the system at Domesday "leaves no place for the intervention of any court of the lathe, nor have we knowledge that courts were ever held for the great Domesday lathes of Kent. Nor do these lathes appear in our later history except as collecting areas for aids and subsidies, for the organization of the Militia, and for like purposes."<sup>2</sup> Sir Frank Stenton also refers to them "as the unit which governed the assessment of Kent to public taxation," and says that this was their chief function by the 11th century.<sup>3</sup>

The purely topographical and fiscal significance of the lathe is well documented, but its function as a court less well. In Dr. Ward's somewhat tardy acceptance of this aspect of the lathe he had in mind the so-called Grand Lathe held by the Lords, Bailiff and Jurats of Romney Marsh, at which the needs of the marsh as regards sea-defence and drainage were dealt with. In this sheriff's roll, however, there is firm evidence of the word "lastus" being used for an actual court. The form of each heading reads thus: *Kancia. Extractus finium et amerciamentorum forisfactorum ad lastum tentum apud . . .* Thus the form of words leaves no doubt that the lathe was regarded as a court, and that the name of the lathe was given as a place. In each circuit the order of progress is similar, the sheriff starts at Canterbury—in April "apud Monasterium Sancti Augustini extra muros Civitatis Cantuarie" and in October "apud portam Sancti Augustini." From there taking one day for each lathe he moves "apud Hedlynge," "apud Shipway," "apud Shewynghope," "apud Larkefeld," and "apud Sutton-at-Hone." These names vary in their relative obscurity. St. Augustine and Sutton-at-Hone raise no difficulties, but the others are less easy. The use of Larkfield suggests that despite Wallenberg's assumption to the contrary, Larkfield Heath was found in practice to be the best situation for holding the court.<sup>4</sup> There seems no reason to doubt that Shipway Cross in Lympne was the meeting place of the lathe of Shipway, but where were Shewynghope and Hedlyng? Each of these names requires far more research in medieval records. Wallenberg has dealt with the former at some length and has suggested that it lay somewhere in Chilham;<sup>5</sup> to the latter, however, he makes no reference, and the one comment which seems reasonable is that given by Furley, who refers to woodland formerly of that name lying in Waldershare.<sup>6</sup>

The survival of Hedlynge as a sixth lathe as late as the reign of

<sup>1</sup> "The Lathe of Aylesford in 975," *Arch. Cant.* vol. XLVI (1934), pp. 10-11.

<sup>2</sup> *Ibid.*, p. 8.

<sup>3</sup> Stenton, *Anglo-Saxon England* (Oxon. 1943), p. 496.

<sup>4</sup> *Place Names of Kent*, p. 99, suggests Aylesford as the meeting place.

<sup>5</sup> *Ibid.*, p. 241.

<sup>6</sup> Furley, *Weald of Kent*, vol. II, p. 776 (1874).

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Henry VIII is most unexpected. Hasted states that while he could find no evidence for the actual formation of the lathe of St. Augustine, he was of the opinion that it was formed by the reign of Edward I.<sup>1</sup> Feudal aids, edited for *Archaeologia Cantiana*, show just such a division as in this sheriff's roll in the reign of Henry III, but "Hedlynge" has disappeared by the middle 14th century.<sup>2</sup> Yet it is quite clear that Eastry and Cornilo hundreds at any event were regarded by the sheriff as separate from St. Augustine in 1509, as each is entered under Hedlynge. Survival of archaic form is one thing, but the holding of an actual court on a separate day speaks of a certain vitality which cannot safely be ignored.

The entries on the roll are of less interest than its wider connotation, but as an example of the sheriff at work they may well be examined. Being an estreat roll, only those matters incurring a fine are listed so that there may have been other business before the courts of which we have no record. It is clear that each borough sent its tithingman and suitors to the lathe as of ancient custom, a default by any of these resulting in a fine of 8d. So, too, all freeholders were liable to attend on pain of 12d. for default. A more heinous offence was the non-payment by a tenant of the crown of money due to the sheriff for the use of his royal master. In this case a fine was recorded of double the sum due to the crown "according to ancient usage in such cases." One somewhat odd entry occurs for the lathe at Hedlynge, held on 10 April 1509, when Nicholas Fyttyll one of the suitors for the borough of Waldershare, who was sworn to inquire on behalf of the King together with other tithingmen and suitors returned home before he had given his verdict and was duly fined 12d. The remaining entries are nearly all for nuisances to the highway for which the fine was almost invariably 4d., though not infrequently the responsible person was ordered to carry out the necessary work by the next lathe on pain of a 40s. fine. Finally at Sutton-at-Hone on 5th October 1509, we read that Geoffrey Crowshawe, one of the jury summoned to inquire on behalf of the King, failed to appear with the result that the whole jury which ought to have been impanelled remained uncalled. Geoffrey and his fourteen fellows were fined 12d. a piece.

Perhaps this last entry of the roll has a bearing on the final problem : how is it that Lambarde apparently knew nothing of this ancient usage ? Why, by 1576, had the lathe of Hedlynge so far disappeared that its separate entity was lost, though the name persisted merely as an alternative to St. Augustine ?

While the full business of the Sheriff's court cannot be judged from a single estreat roll, the entries given suggest a state of decadence with

<sup>1</sup> Hasted, *History of Kent*, vol. III, p. 549 (1778).

<sup>2</sup> *Arch. Cant.*, vols. X and XII, pp. 99-162 and 197-237, respectively.

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many defaulters and even failure to obey jury summons. There is no suggestion that the wider powers of the sheriff regarding treason and felonies were still in use and the value of the court seems to reside solely in its function as a vehicle for collecting fines and for presenting decayed roadways. It would indeed be interesting to know for how many years such rolls as this would still be produced, and whether the sheriff would not soon regard the keeping of his "tourn" as an unwarranted extravagance and his suitors regard it as an unmitigated waste of time. In 1555<sup>1</sup> the matters of highways would cease to concern it; wider powers of justice had already gone; where leets functioned they were manorial or hundredal in character and indeed there was little or no room for the lathe court or for the sheriff's jurisdiction. Yet, as Jacob in the 18th century suggests, the work of this court passed without fuss to the justices, who increasingly dealt with the one remaining matter of highways and who in turn heard the complaints and presentments of the local juries.<sup>2</sup> Moreover, by Lambarde's day the justices in Kent were in a remarkably ordered condition with their carefully worked out divisions for some of which "petty sessions" records survive from the earliest years of the 18th century. The divisions bear a close relationship to the lathes although usually a subdivision of that larger unit was required. It would seem, therefore, that the medieval court of the lathe passed in due turn "by default" into the hands of the justices and deputy lieutenants—newer, more adaptable officers of the crown, more suited to modern circumstances.

<sup>1</sup> 2 & 3 Philip and Mary, c. 8.

<sup>2</sup> Jacob, *op. cit.*, under Turn.