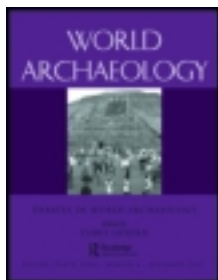


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Outside the gate: sub-urban legal practices in early medieval England

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Outside the gate: sub-urban legal practices in early medieval England

John Baker and Stuart Brookes

Abstract

Many aspects of English early medieval (Anglo-Saxon) legal landscapes can be discerned in archaeological and toponymic evidence, ranging from the locations of legislative councils and judicial assemblies to sites of capital punishment. Among the corpus of such sites a striking group can be detected at the periphery of urban spaces. Gates into a number of towns appear to have functioned as legislative meeting-places, and even gave their names to some legally constituted communities, while suburban locations also feature prominently as sites of gallows and public punishment. In this paper historical, archaeological and toponymic evidence is used to examine this phenomenon of suburban legal practices and to pose questions about the wider dimensions of the early medieval legal landscape.

Keywords

Towns; boroughs; hundred meeting-places; medieval England.

Introduction

In England, the places where law was made or administered in the early medieval (Anglo-Saxon) period hold a privileged place in the documentary record. As the sites where royal or ecclesiastical councils met periodically, and where the freemen of each unit of local and regional government assembled regularly, many of them are named in charters and narrative sources (Cubitt 1995; Keynes 1980); and, inasmuch as local administrative districts (hundreds and wapentakes) were named after the location of their four-weekly meetings, the names of many such locations are preserved in the great eleventh-century survey known as Domesday Book (Anderson 1934, 1939a, 1939b). In sources of the post-Conquest period, that is after the Norman invasion of 1066, they may not be written down as often as the names of settlements, but they make a strong

enough impact on the surviving record for us to identify a good number of them on the ground (Meaney 1993, 1997; Pantos 2002, 2004). Sometimes, particularly when the feature giving its name to the administrative territory is still present as an above-ground monument (e.g. the Tibblestone, in Gloucestershire (Pantos 2002, 310–11); the Hundred Stone in Yeovil, Somerset (Gomme 1880, 108)), or identifiable through archaeology (e.g. Secklow hundred mound (Adkins and Petchey 1984); Thynghowe meeting-mound (Mallett et al. 2012)), this identification can be quite precise, but more typically sources suggest that the assembly took place at an approximate location (a crossroads, a field or hill) which defies more accurate identification.

As gleaned from the written sources, these assembly sites fulfilled a range of purposes, with political assemblies (those with a highly visible royal or ecclesiastical presence) more noticeably functioning as legislative and jurisdictional councils, and those of local and regional assembly operating mainly in an administrative and judicial capacity, though much overlap existed between the two. Clearly both forms of assembly were in some senses ‘public’, and part of the legal procedure seemingly involved the active participation of all those assembled on behalf of whom decisions were made (Airlie 2003, 34–6; Barnwell 2003, 6–7). This quality of early medieval assembly emphasizes the significance of the venues in which meetings were held and the criteria for selecting specific locations. What, for example, might these venues tell us about the communities attending them? And how did these assemblies express the relationship between king and people?

These questions are of relevance when considering a particular class of assembly site that has come to light as part of a three-year project funded by the Leverhulme Trust, entitled ‘Landscapes of Governance in Anglo-Saxon England’. The project team has visited about 350 of these sites, and has identified some important characteristics of their landscape location. A recurrent trait of Anglo-Saxon assembly, evident from this survey, is its location at what might be thought of as gateway sites, including transitional points between divergent terrains – upland and lowland, woodland and open land, dry land and wetland or water – or between different political units – the boundaries of kingdoms, shires, hundreds and parishes (Baker and Brookes forthcoming). It is the aim of this paper to examine a particularly notable application of this spatial tendency, namely the situating of assembly sites on the periphery of towns and ecclesiastical enclosures; in other words, at points of transition between different legal and spiritual jurisdictions. Within the present confines, it will not be possible to provide extensive analysis of the role of such sites within wider trends of urban development, although the relevance of such processes should not be overlooked. The intention here is to draw attention to a particular type of assembly site and to propose a number of possible explanations for its configuration relative to urban settlements.

Gates to towns

Among the clearest transitions between one important legal territory and another was, of course, that between urban communities and rural dwellers. As expressed in medieval town charters, urban inhabitants could gain special legal and economic rights and privileges that distinguished them from communities outside the borough (even if they were essentially linked closely together (cf. Astill 2009, 256–7, 261–5)). In Henri Pirenne’s famous phrase, urban spaces formed ‘islands of independent jurisdiction’ within the landscape (1949, 53), in which a degree

of self-autonomy and self-government could be exercised. Among these were the municipal organization of law and order, the collection of tolls, the maintenance of walls, gates, bridges and streets and the payment of the lord's dues (Stephenson 1933, 46). The emphasis on walls and gates is particularly noteworthy in this regard. Town walls often came to delineate the limit of urban right and became a symbol of judicial and military autonomy (Weber 1958, 75–7). It may be significant, then, that a number of hundred courts were held at city gates, or immediately outside town walls, most noticeably in the case of several former Roman towns that may have functioned as regional centres over the long term.

A very clear instance of this phenomenon is the Domesday hundred of *Stursete*, adjacent to Canterbury, which by the thirteenth century took its name from the western gate of that city (Fig. 1). The present west gate was newly constructed c. 1380, but it lay on the site of an earlier gate for routes leading from the city across the River Stour, and was one of only three Roman gateways to be retained by the early medieval fortifications. As rubricated in Domesday Book, the legal territory of the hundred comprised the western and southern approaches to the city as well as the intra-mural parishes of St Alphage, St Mary Northgate and Holy Cross above Westgate itself. Yet, importantly, already in a charter of King Æthelberht (858–66), explicit mention is made of separate fraternities named the *innan burhware* (those who lived within the borough) and the *utan burhware* (those who lived outside) (Sawyer 1968, charter number 287; Brooks 1984, 28–9).

The meeting-place of Dudstone hundred in Gloucestershire appears to occupy a similarly peripheral location on the north side of the City of Gloucester – Roman *Glevum* (Fig. 2). Although a precise location cannot be ascertained from the sources, fifteenth-century documents refer to the medieval hospital of St Mary Magdalene as lying ‘outside the outer gate on the left side towards Dudston’, which would place it outside the lower north gate (Pantos 2002, 294, citing Rudder 1779, 207). This location is also implied by A. H. Smith (1964, 137), who suggested the meeting-place was approached by Feet Lane, a street that started ‘between the two north gates and was in the neighbourhood of Worcester St[reet]’. This would place Dudstone



Figure 1 Photo of Canterbury Westgate, the site of the meeting-place of Westgate Hundred, Kent.

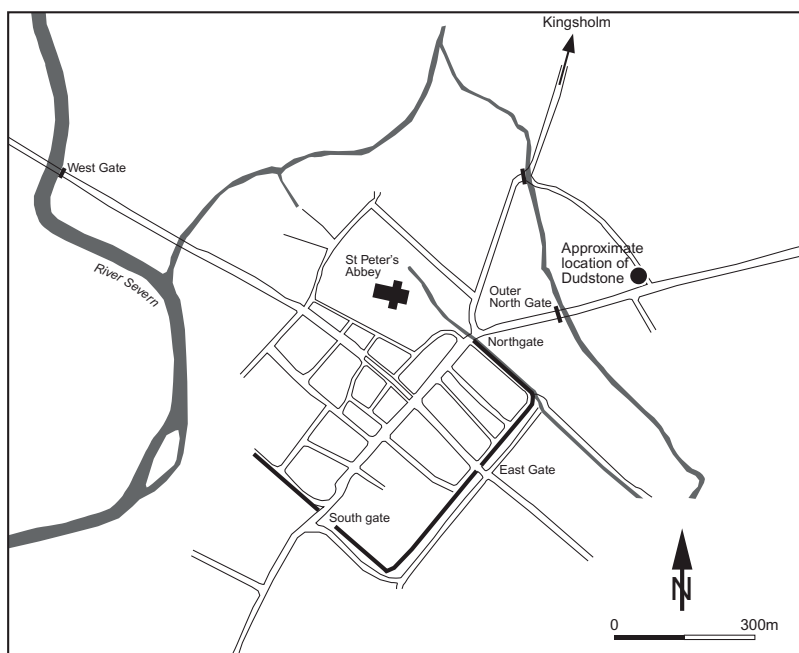


Figure 2 Map of Gloucester showing the likely location of Dudstone, the meeting-place of the hundred.

between Gloucester and the royal manor at Kingsholm, which lay at a Roman crossroads, just 400m to the north of the city.

The meeting-place of Underditch hundred in Wiltshire was also located close to the site of a Roman town, in this case *Sorviadunum*, in Stratford-sub-Castle, on the south-western flank of Old Sarum, Iron Age hillfort and medieval borough. Its location can be identified by a charter of mid-tenth-century date (Sawyer 1968, charter number 706) with an earthwork lying 1000m north of Old Sarum in Durnford parish and named in the boundary clause as *windryðe dic* or Underditch (Anderson 1939b, 147; Gover, Mawer and Stenton 1939, 371). The early modern assembly site of Parliament Tree (Stooks Smith 1803, 149), just to the south of Old Sarum, is below the ditches of the Iron Age hillfort, on the line of a Roman road (RR4a) leading south-west to the River Avon (James 2010, 174–6) (Fig. 3). In both cases, the meeting-place can be regarded as lying just outside the gates of the town.

Outside the south gates of Roman Dorchester lies Maumbury Rings, a Neolithic henge site which had been adapted to serve as a Roman amphitheatre (Putnam 1984, 37–8; Yorke forthcoming). This may have been the location of the meeting-place of Dorchester Hundred. Later, however, this was known as St George Hundred after the church of that name in Fordington (Anderson 1939b, 118; Mills 1977, 334), which may locate the Domesday meeting-place outside Dorchester's south-eastern gate, close to the night's farm manor (a settlement exempt from tax, but obliged to support the king and his retinue on the occasion of a visit) and the minster which gave the hundred its name. Similarly, it has been argued that the borough court of Lincoln met near the church later known as St Peter at Pleas, the affix of which (*ad Placita*, c. 1200) is suggestive, and which is recorded as *St Peter ad motstou*, c. 1200 (in a manuscript of

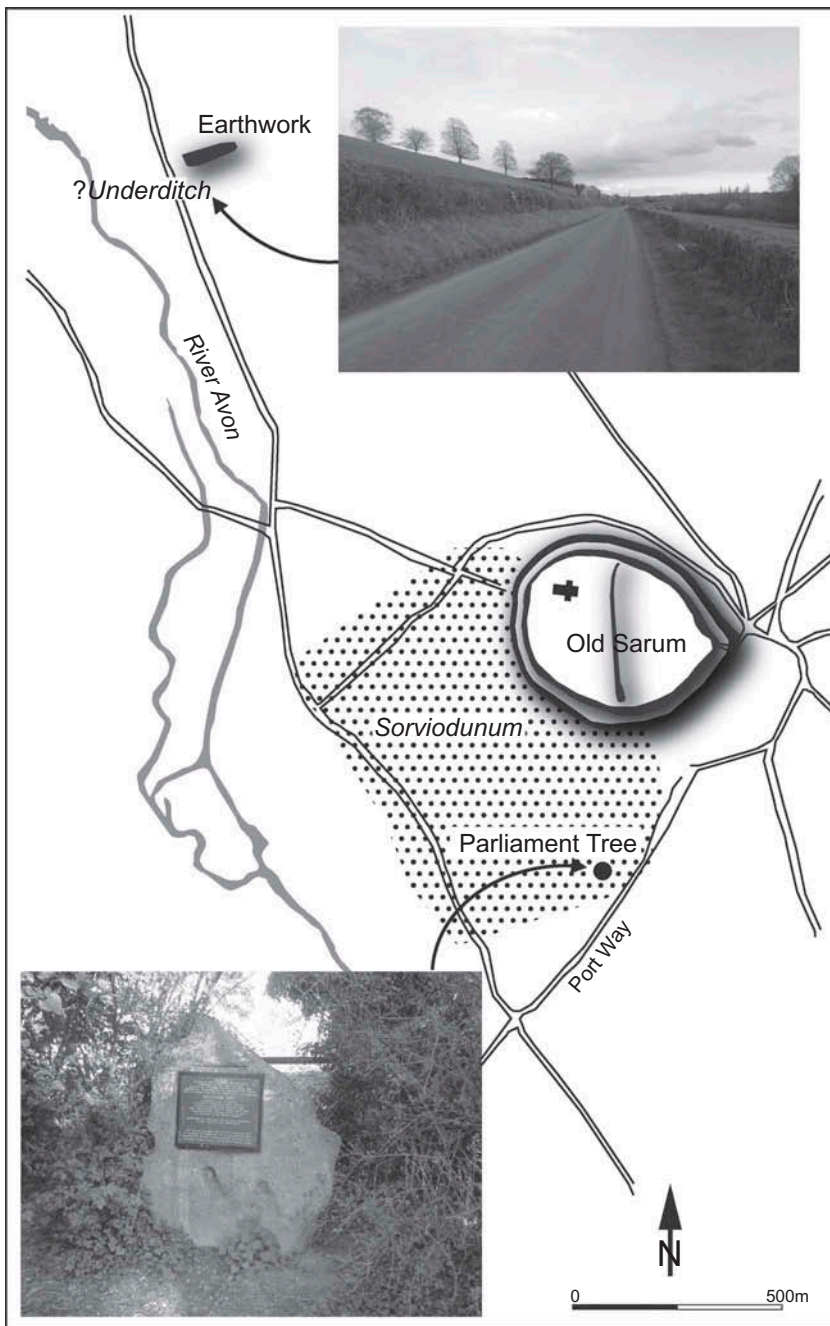


Figure 3 Map and photos of the putative meeting-places of Underditch Hundred, Wiltshire.

c. 1340). This latter is from OE *(ge)mōt-stōw*, so the church was known as ‘St Peter at the assembly place’ (Cameron 1985, 132; Hill 1965, 60–1; Pantos 2002, 331, fn. 1176). Intriguingly, St Peter is located at the southern gate of the Roman walled town.

Gateways to the precincts of power

Examples such as this can be multiplied, but need not be restricted to Roman towns. Hundreds named after town gates were presumably so called because their meetings took place there. The post-Conquest hundred of Northgate, for instance, took its name from a gate leading into the walled town of Oxford (Cam 1936), while the meetings of the hundred of Edgegate in Hampshire appear to have taken place on land lying just outside the burh of Christchurch (Anderson 1939a, 175). Perhaps significantly, of the 112 boroughs listed in Domesday Book (Darby 1986, 289–90) at least ten are known to have held meetings close to, but outside, the urban precincts, with potentially many more such sites hidden in the sources. Possibly suggestive of this tendency is the fact that only forty-two (37.5 per cent) of Domesday boroughs give their names to the hundreds in which they lie; in all other cases the hundred is named from a feature or place lying somewhere outside the town. Analysis of the later medieval hundred-names may reveal that this marks a stage in a longer trend for meeting-places and hundred-names to focus on boroughs.

Intriguingly, we find a very specific reference to the importance of gateway meetings in a class of assembly sites that might be termed ‘extrapotentiary’, being sited immediately outside seats of power. Broadly, this group consists of hundred meeting-places located at the entrances of central places, often ecclesiastical, but not always; while the clearest examples of the type are adjacent to minster precincts, it may well be that the suburban meeting-places discussed above represent an extension of the same category. Examples stretch across the country, from Sherborne in Dorset (Fowler 1951, 159) to Northgate in Ely (*Liber Eliensis* II.12 and II.18, in Fairweather 2005, xiii, 115, 117; Atkinson et al. 2002: 4–8). These again suggest a tradition of holding meetings just outside, but right at the entrance of powerful ecclesiastical or secular centres. While it is difficult to ascertain just how many of these meeting-places may once have existed, a survey of the shire of Dorset suggests that maybe as many as 28 per cent (eleven of thirty-nine hundreds) were in extrapotentiary locations.

The parallel with assembly sites at the edge of urban spaces is clear, and it is worth noting the proximity of churches in a number of those instances too – St Peter at Pleas in Lincoln, Fordington minster at Dorchester, West Gate at Canterbury (site of the original church of Holy Cross, mentioned in Domesday Book) and Northgate at Oxford (site of an important late Anglo-Saxon church of St Michael’s; Fig. 4). These associations would seem to indicate a particular Christian presence close to the meeting-places, which, apart from the extrapotentiary sites, is not commonly observed elsewhere, but may be implicit in a number of hundreds apparently named from crosses (e.g. Anderson 1939b, 191).

The significance of gates

This correlation of meeting-places with city gates and the entrances of ecclesiastical and secular compounds may simply reflect practical aspects of public gathering. As is suggested by contemporary sources (see Douglas and Greenaway 1981, 481–3), assemblies may in some cases have consisted of several hundred attendees, requiring provisioning, accommodating and the space to conduct affairs – a situation not easily managed in an urban environment. If land could be set aside for such periodic gatherings outside towns, these would have been most easily accessed through the city gates and the roads leading up to them; and, if such meetings ever became unruly

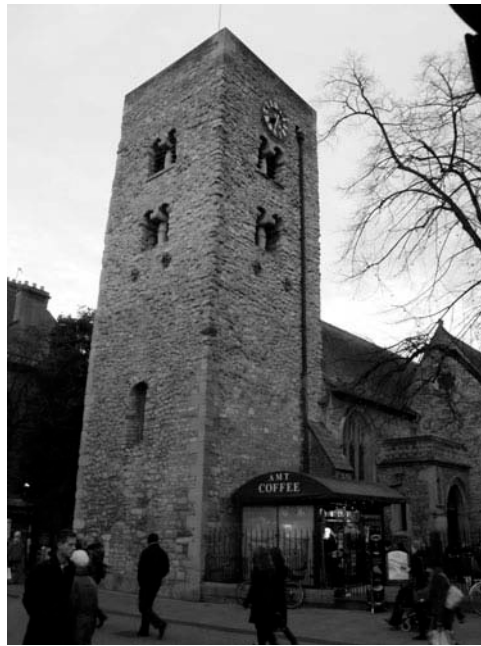


Figure 4 The eleventh-century tower of St Michael at Northgate, Oxford.

or violent, which must have been a distinct possibility, it might be considered very sound planning to keep them physically separated from urban spaces and the enclosures of local potentates.

These kinds of consideration can perhaps be seen in the archetypal extrapotentiary meeting-site of Albanstow Hundred (Hertfordshire). The Domesday name suggests that meetings were held at St Albans abbey in the eleventh century, and thirteenth-century accounts confirm that assemblies took place under an ash tree in the Abbey Great Court, just within the impressive abbey gateway (Levett 1924, 60; Niblett and Thompson 2005, 245, 264; Page 1908, 319–22, 1920, 32). However, the land just outside the gateway is known as Romeland (*Roumelond*, 1331), from OE *rūm-land* ‘open land’ (Gover, Mawer and Stenton 1938, 88), and it has been suggested that this is a reflection of its use for occasional gatherings; that it was an empty area of ground reserved for this purpose (Niblett and Thompson 2005, 264) (Fig. 5).

This arrangement finds a parallel at Waltham Holy Cross, centre of one of the Essex hundreds, which also has a Romeland at the gates of the abbey. Intriguingly, the origins of St Albans Abbey gatehouse are unclear, and it is possible that its earliest structure was raised only after the Conquest, in which case meetings may have originated outside the abbey precinct (even already perhaps under the ash tree, if its existence stretched that far back), to become demarcated and enclosed by increasingly impressive structures only during the later medieval period. At the same time, and probably beginning before the Conquest, St Albans Abbey was gradually reinforcing its holdings in Hertfordshire and incorporating them into what is thought to have been a relatively newly created hundred of Albanstow (Anderson 1939b, 28–9; Gover, Mawer and Stenton 1938, 26; Williamson 2010, 106), while asserting itself through legal channels and displays of force over its immediate rival for control of local commerce and resources, the royal centre of Kingsbury (Niblett and Thompson 2005, 194).



Figure 5 Photo of Romeland, Hertfordshire.

In the location of the assembly site we may see two separate displays of authority. The first was the creation of a new venue for periodic moots just outside the abbey – a summoning of the people to the abbey’s gates and their simultaneous exclusion from the abbey precinct. The second, during the late medieval period, was the establishment of a much more controlled zone of assembly, where the Abbey gatehouse allowed only selective access to justice and a much tighter control on meetings. The dramatic intensity of such displays can only have been heightened by the close proximity of the burh of Kingsbury, and especially its last vestige, thought to have been on the site of the London Gate of the former Roman town of *Verulamium*. Construction of the earliest Abbey gatehouse on this particular spot, together with the abbey’s holdings around St Michael’s, may have been decisive in re-routing traffic north of the abbey and through its new market; it may also have severed royal ties with the traditional hundred meeting-place (Niblett and Thompson 2005, 186, fig. 6.4, 194). In this instance, though not adjacent to the market place that became the focus of the town, the creation of a controlled meeting-place may have helped to shape St Albans’ urban development.

Such careful delimitation of the spaces in which large gatherings might take place can easily be read into the positioning of hundred meeting-places more directly outside towns, too. For reasons of practicality, convenience and control, gates may have been natural focuses for public assembly, marking not so much a periphery, but the interface between communities and *pays*, located outside (and thus perhaps not straightforwardly part of) the centres of authority, and therefore a natural place for all people to come together. Gateways were designated ‘public’ spaces, which could act as focuses for processions and pageants (Creighton and Higham 2005, 171), but they simultaneously provided a suitably dramatic statement of burghal authority by virtue of their height and architectural density. Certainly, by the later medieval period some gateways had become the venues for expressing civic unity and pride (Lilley 2002, 244). While the evidence for such activities comes mainly from the later and post-medieval periods, the location of pre-Conquest meeting-places at gates suggests that the spectacular staging of these events may have had long antecedents.

There may be further topographical issues at play. In discussing the form of early minsters, John Blair (2005, 221–5) has emphasized how early medieval religious sites comprised a series of graded concentric zones which became increasingly accessible to the profane the further their distance from the holy centre. At the heart of these banded precincts may have lain something akin to the contemporary Irish concept of legally defined protected space. Recent analysis of the spatial dimensions of medieval towns (Agate 2013) has made a similar observation wherein the intra-mural ‘town’ was bounded, first, by thresholds between urban core and suburb and then between suburb and surrounding rural areas. These bands, in Agate’s view, represent dynamic *loci* for the melding of rural and urban communities, in much the same way as sacred peripheries functioned around minsters.

Perhaps significantly, the location of some meeting-places appears to mirror the spatial growth of towns. It has been suggested that in Canterbury the ruins of the Roman theatre may have been the earliest site of public assembly (Brooks 1984, 24–5). Though lying within the Roman walls, the theatre is noticeably outside the main ecclesiastical precinct established in the north-eastern corner of the city, and the main area of settlement both within and outside the eastern walls (Fig. 6). A similar arrangement is found in London, where the Roman amphitheatre – which possibly served as a similar early assembly-place – remained an open hollow until the eleventh century (Bateman 2000, 46–57). Again, the amphitheatre lay outside both the ecclesiastical precinct around St Paul’s and the burghal urban core established by King Alfred between Cheapside and the River Thames (Baker and Brookes 2013; Milne 1990). (Yet more intriguingly, the thirteenth-century gatehouse to Guildhall Yard above London’s amphitheatre lay directly above the Roman gateway, perhaps hinting at some long-remembered symbolic association.) Both sites, despite lying within the Roman town walls, can be suggested still to fulfil the same extrapotentiary qualities. They were located near to but outside centres of elite authority that (potentially) claimed a form of legal distinction.

In a mid-tenth-century document known as the ‘hundred ordinance’, participation in the administrative affairs of the hundred, borough and shire was a public duty for all freemen of the land (Whitlock 1979, 429–30). The close association of meeting-places with town gates, hints, however, that these meetings may also have been used to amplify lordly power. Certainly, it is clear from law codes of the tenth and eleventh centuries that lords of the hundred, or their bailiffs, often presided over the court, witnessing the transfer of property, helping to oversee civil and criminal cases and dispensing justice (Loyn 1984, 142–6), and this imposition of officialdom is reflected also in the setting of the courts. An example is provided by the hundred of Northgate, which took its name from the northern gate of medieval Oxford. Lying immediately inside the medieval north gate, on the line of the Anglo-Saxon rampart, is the still extant eleventh-century tower of St Michael’s (Fig. 4). Built in five stages, this tower appears to have formed part of the Anglo-Saxon gateway structure, and certainly contained a bell, but may also have served as some form of official residence – perhaps a so-called *burh-geat* (Durham et al. 2003, 163). Although law codes suggest freemen were actively encouraged to participate in legal decision making, it seems that in most cases this did not amount to full legal autonomy.

Medieval charters document the gradual ceding of rights from lords to townsfolk, and it is interesting to note that in two of the instances of extrapotentiary assembly – at Canterbury and Lincoln – there is also evidence for relatively early legal autonomy. Canterbury is recorded in Domesday Book as having a town guild, which may have been free of outside supervision, and town lawmen (or *judices*) are recorded at Lincoln by the eleventh century (Reynolds 1987, 307),

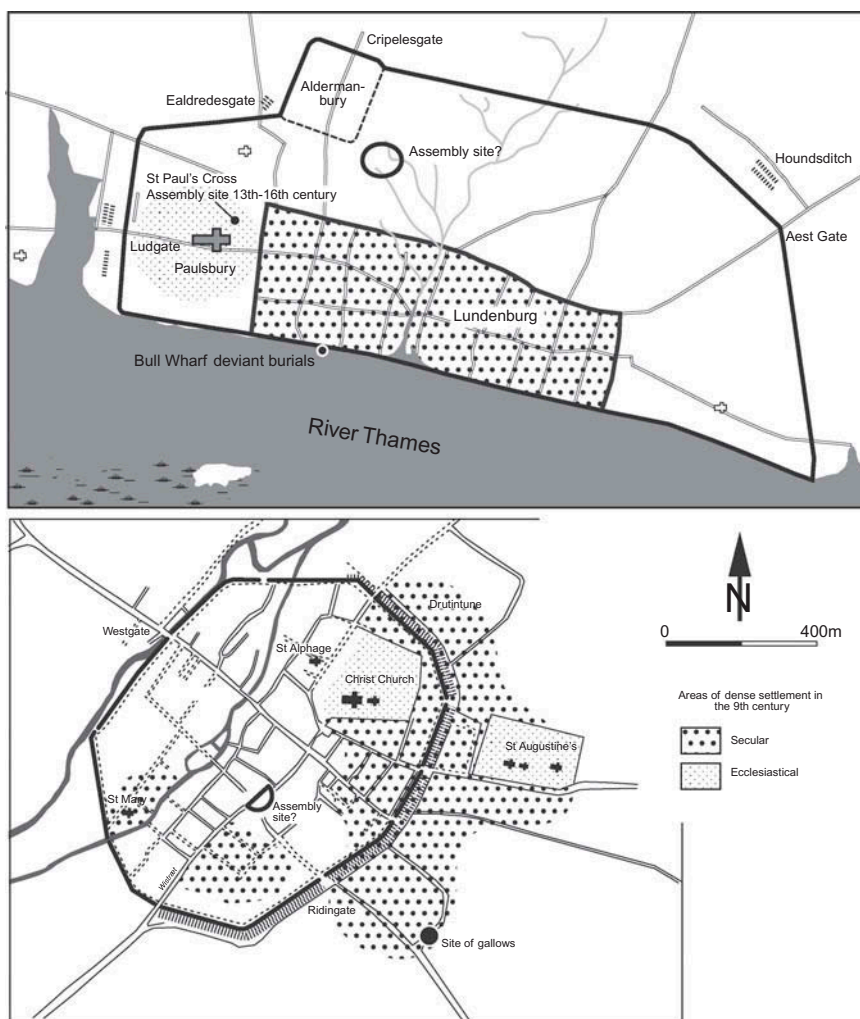


Figure 6 Map showing the location of putative ancient meeting-places in Canterbury and London.

suggesting that in these cases it was townsfolk themselves who were administering justice and punishing wrongdoing. This development of urban self-government, what Stephenson (1933) terms 'advanced liberties', may be regarded as a potential driver of extrapotentiary meetings.

In this regard, it is tempting to see gateway assembly as part of the outward expression of burgeoning civic identity, a development which similarly underscores the proliferation of suburban sites of legal punishment. Some of these gateway sites were indeed used as gaols at least from the later medieval period. This was certainly the case at St Albans (Niblett and Thompson 2005, 254) and Canterbury, West Gate (Creighton and Higham 2005, 171). Furthermore, medieval town plans are replete with suburban stocks, gallows and other visible facilities for corporal and capital punishment occupying similar extrapotentiary locations. Between Maumbury Rings and Fordington outside Dorchester lies Gallows Hill, a site used for public execution in the sixteenth and seventeenth centuries, before these were moved to

Maumbury Rings in the eighteenth century (Filleul 1911). Gelling et al. noted a number of gallows place-names around Shrewsbury, including one at Meole Brace, about 1km to the south of the town, and one, more significantly in the present context, in the fields of Abbey Foregate – in other words within the area in front of the Abbey gate (Gelling, Champion and Foxall 2004, xxi, 75, 90, 145). Similarly, the old execution site of Canterbury lay on Oaten Hill, 200m south east of the walled city and the Roman Ridingate (Ward 1955, 51).

We should not rule out another more ideological significance to the holding of hundredal courts at town or ecclesiastical gates. Gateway assemblies feature prominently in biblical sources and their Old English translations (e.g. Ruth 4, 1–4; Psalm 69, 12; Psalm 127, 5); indeed, the *Dictionary of Old English* (Cameron, Amos and Healey, 2007) defines one of the senses of *geat* as ‘Biblical phraseology: referring to the gate of a city as a meeting-place/place of judicial assembly’ (*sub* *geat*, 1.b.v). It is possible that early medieval meetings at city gates were intended to draw parallels with perceived ancient Christian practice. Perhaps significantly, Old Testament references make clear that kings could preside over such gateway meetings: ‘[t]hen the king arose, and sat in the gate. And they told unto all the people, saying, Behold, the king doth sit in the gate. And all the people came before the king: for Israel had fled every man to his tent’ (2 Samuel 19, 8).

Echoing this elevated status, there are hints in the sources that gateway meeting-places in Anglo-Saxon England often functioned as the venues of more significant assemblies. Of the thirty places documented as holding more than one political assembly between 800 and 1066, 20 per cent were at sites for which extrapotentiary meeting-places have been identified; of the fourteen places documented as the venues of four or more meetings of the witan (royal council), four (29 per cent) have evidence for gateway assembly sites. On the one hand, this trend towards holding the witan in or near to towns demonstrates the narrowing gap between urban places and political power. As political institutions became increasingly focused on towns, it was a natural development for political assemblies to do the same. On the other hand, this trend emphasizes the growing importance of the urban community, and urban elites in particular. In light of the potential religious symbolism of gateway assemblies, it may even be that such venues reinforced statements about good and visible kingship. As various authors have recently explored in some depth (e.g. those collected in Barnwell and Mostert 2003; Reuter 2001), among the varied roles of royal assembly was the need to demonstrate the active relationships between king and political community, alongside less obviously political functions such as the giving of alms and the pronouncement of religious agendas.

Conclusions

In this paper we have examined some of the settings for medieval legal behaviour, finding a significant association with locales at the edges of major legal entities, such as towns and ecclesiastical precincts. Beyond the practical considerations that must have been involved in the choice of such locations, we suggest that these physical settings were significant in the constitution of particular medieval social identities in a number of ways. First, the physical association with walls, town gates and towers made both formal links with the institutions of the state (officials, urban privileges and so on), and informal ones with the symbolic spiritual (biblical) antecedents and legal context.

Second, the recurrent location of these legal activities at similar sites emphasizes the existence of geographically predetermined spaces of law and punishment. These helped to define communities and provided conveniently placed arenas for the negotiation of relationships between legally separate communities that shared an administrative identity. There are hints in the evidence that proximity to a gateway gradually became the most recognizably significant feature of these meeting-places, perhaps reflecting a process of specific legal definition. *Stursete*, for example, is first recorded by reference to the people it served – the settlers on the river Stour – but its alternative name, Westgate, which refers to its gateway location, later became the normal name of the hundred. Northgate in Oxford is a post-Conquest development. Given the evidence from Canterbury and London it is conceivable that gateway meeting-places – linked to physical walls and gates – evolved out of earlier assembly practices taking place on the peripheries of centres of elite authority. Only with the changing legal character of towns did an extrapotentiary location become explicitly tied to monumental gateways. While some of these legal dimensions are likely to have been established before Domesday, it was in the high medieval period, particularly the twelfth and thirteenth centuries (Astill 2000, 27–30, 2006, 249), that urban communes become more fully defined, and it is not inconceivable that gateway meeting-places were part of this process, combining a physical display of urban wealth and potency with the activities that helped reinforce urban legal power.

Finally, through these examples it becomes evident that the full cycle of legal culture recognized the importance of gateways and can sometimes be correlated with extrapotentiary locations. Legislative, administrative and executive functions are all evidenced in such contexts, from the very highest levels of law-making by the witan, through the periodic regulation of local and regional disputes and relationships at the hundred moot, to the punishment of local felons on suburban scaffolds.

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