**THE TREE AND THE ROD: JURISDICTION IN LATE MEDIEVAL ENGLAND**

In the summer of 1435 an anonymous scribe composed a vivid description of landscape change in the region around Dunwich, a once prosperous port town on the coast of East Anglia. ‘In olde tyme’, he began, ‘ther was an havene rennyng under the town of Donewich’, near some marshes belonging to the neighbouring village of Walberswick. And, he went on, this haven or harbour ‘was, be castyng & werkyng of the see, stopped & distroyed; and sithen an newe haven brake owt of the see, into the lond of Walberswyke’.[[1]](#endnote-1) This environmental transformation had provoked a great deal of legal trouble between the lord of Walberswick and the burgesses of Dunwich over the previous half century. As the harbour had ‘moved’ around a kilometre northwards from its original location, jurisdiction over its waters had been thrown into doubt, and it was no longer clear where the boundaries between the two communities lay.

These troubles had been settled before in 1410, but in the intervening quarter-century a new problem had arisen. The harbour at Walberswick had recently become ‘soo feble and schold [shallow], & sonds & groundes soo growen in the stremys therof, that no schip may seylen in nor comyn owte’.[[2]](#endnote-2) By 1435 then, it was proposed that a new shipping channel would be dug through the northern sandbanks of the silted-up haven, an enormous logistical endeavour which posed yet more jurisdictional problems.

Not only did the cutting of the channel require the special licence of the landowner — none other than the lord of Walberswick — but it seemed to interfere with the boundary established in the previous settlement, which had been set at the mouth of the harbour. Moving the channel further north, ‘delvyn & made of newe be mannys hand’, would seem to take the boundary between Walberswick and Dunwich with it. This raised several questions for the settlement of 1435: how were the parties to define the new boundary? What would happen if the landscape transformed once again? And most importantly of all, how could the boundaries be secured for the future?

The answers proposed to these questions reveal a great deal about how people in fifteenth-century England thought jurisdiction should be defined and fixed. In the first place, the scribe wrote, ‘ther is set a tree on the north brynte [divide] of the feble haven that is the true bounde’. By placing a tree at the site of the original, now silted-up harbour mouth, the parties hoped to mark the boundary, a very common practice in late medieval and early modern England.[[3]](#endnote-3) Much less common was the rationale given: ‘in cas fortune that the same feble havene weyll frie [increase] and growe to gravell & stone, as other places be the see don, that than the seid tree, xall beren record of the seid true bounde’.[[4]](#endnote-4) That is to say, the tree was not just a boundary marker, but a durable witness against the travails of further environmental destruction; a natural feature that would survive future natural disasters.

Yet in spite of this firm statement, there was evidently still some lingering doubt about the longevity of a tree in this environment, for the scribe continued: ‘And for the more surenesse … & to voyden trouble & travers that may falle, in cas were the rages of the see [to] put down the tree, or ells it were remeved or putte down be mannys hand, therefore the ground is meten [measured] be a lawfull rode’.[[5]](#endnote-5) This measured distance, from the proposed shipping channel to the boundary tree at the site of the old harbourmouth, was recorded as 201 rods (about 1km).[[6]](#endnote-6) And indeed this piece of writing was ratified at the midpoint of this very distance, with a large group of men from the surrounding villages, along with the bailiffs of Dunwich, and the lord of Blythburgh and Walberswick himself, Sir John Hopton. The parties had gathered there to witness their agreement, and to take the measure of the new legal landscape.

The tree and the rod were ultimately failures as solutions to this particular jurisdictional dispute. As we see in what follows, further and even more protracted conflicts over jurisdiction arose at Dunwich in the 1460s, after yet more environmental changes in the area: a harbour that had caused so many problems by silting up in the fourteenth century overflowed in the fifteenth, provoking an attempt by the burgesses to re-establish the boundaries between the jurisdictions of the town and the lordship.[[7]](#endnote-7) Yet while the boundary-marking tree and the measurement by rod proved futile, they are illuminating of the two key aspects of jurisdiction in late medieval England: the interpretation and communication of authority.

In the first place, the act of surveying and measuring the land needs to be understood within the context of the highly legalistic text of the 1435 agreement. This document threaded together thirteenth-century royal charters, previous settlements between the lords of Walberswick and the burgesses of Dunwich, and the new shape of the landscape into a single vision of jurisdiction. This attempt to reconcile old charters with present conditions was typical of late medieval jurisdictional disputes, which often hinged upon the analysis of — so it seemed — frustratingly vague texts, which referred to rights held ‘in’ certain places, but which rarely attempted to define those places, or their boundaries.[[8]](#endnote-8) The rather unusual step in 1435 of ‘simplifying’ the land in order to make it more legible to authority was a direct riposte to the ambiguity of these earlier texts.[[9]](#endnote-9)

But jurisdiction could not rely upon hermeneutical gymnastics alone, and the placement of the tree provided a real, physical demonstration of jurisdictional boundaries. It was designed to be visible, a signpost for the people who lived in the surrounding settlements. More than this, it was clearly intended, like other pre-modern boundary marks, to become embedded in local memory.[[10]](#endnote-10) The tree was to ‘bear record’, not unlike the old men brought forward to enunciate customs or boundaries in other such disputes.[[11]](#endnote-11) These pragmatic enunciations of jurisdiction, expressed in specific visual markers and condensed in local memory, were vital to its conception.[[12]](#endnote-12)

Thus while jurisdiction was partly an ideological projection, a vision of how communities and territories were bound to legal authority, it was also about the communication of such projections to a wide audience. The day-to-day business of jurisdiction relied upon demonstrations of legal authority in diverse media, from tangible markers to performative processions to acts of corrective violence. The expanding political society of fifteenth-century England, moreover, gave such endeavours a new urgency.[[13]](#endnote-13) Jurisdictional conflicts arose when these projections proved phantasmagoric, or when the ability of institutions to communicate and demonstrate their authority was eroded. At Dunwich, unusually, the massive transformations to the landscape meant that both the projection and its communication unravelled at once, leading to a detailed argument about how to define jurisdiction there, and how to make it legible to the local community.

Through a detailed exploration of the disputes at Dunwich, this article sets out to provide a more compelling explanation of late medieval jurisdiction. The next section traces the Dunwich disputes back to the late twelfth century, following their periodic development through to the end of the Middle Ages. Some of the settlements and grants of rights made during the earliest conflicts between the two parties, it transpired, were essential to later claims; the dense series of arguments and disputes prompted in the fifteenth century are examined here in detail. This pattern of generational jurisdictional conflict was common in England, and speaks to the nature of jurisdiction as a process, requiring regular reformulation.

The rich vernacular documentation produced during the dispute of the 1460s provides an excellent demonstration of this point. These texts are especially revealing because the sedimentation of the harbour was an extraneous cause of conflict, glossed by the evocative phrase ‘the rage of the sea’. The scale of environmental change forced the parties to consider some fundamental aspects of jurisdiction — how to define it, how to communicate it — at the same time as they put forward their respective visions of how jurisdictions should be organized between Dunwich and the lordship of Walberswick. Much less attention was given to specific acts of wrongdoing by either party, as was often the case in contemporary jurisdictional disputes.

Yet while the Dunwich disputes were unusual, the wider issues that they confronted were far from unique. The model of jurisdiction set out for Dunwich, therefore, can also help to explain the tide of jurisdictional disputes that arose in fourteenth- and fifteenth-century England. These conflicts might have had very different proximate causes and manifestations; yet apprehended in the context of attempts — and failures — to interpret and communicate authority, it is possible to see some broader structural causes for their proliferation. Overall, the aim is to understand how authority was conceptualized in relation to its foundations in territories and communities; to grasp how power was understood to extend through both word and world.

I

Jurisdiction has long been a subject of interest to historians of medieval England. To begin with, institutions with very extensive jurisdictional autonomy, sometimes called ‘liberties’, were a focal point of early twentieth-century historiography.[[14]](#endnote-14) Following in the wake of F. W. Maitland’s monumental survey of medieval English law, several historians — most prominent among them Helen Cam — examined the place of liberties within the wider English constitution.[[15]](#endnote-15) While attentive to occasional flashpoints such as the struggles between Anthony Bek, bishop of Durham, and Edward I in the 1280s, such studies tended to focus on the formal judicial privileges granted to liberties by the crown.[[16]](#endnote-16)

Their conceptual framework was rights-based: what rights did these institutions possess, how did they acquire them, and to what extent were they able to exert them?[[17]](#endnote-17) These studies thus conceived jurisdiction in what now seems a highly legalistic way, within a wider vision of the constitution as a set of formal legal structures. The scholarship was meticulous and has proved to be of enduring value, but these interpretative structures now seem at best quaint, and at worst teleological in their reification of the medieval state; moreover, the general abandonment of constitutional history as a mode of political historiography, and a greater focus on what later would be called political culture, opened up new routes for studies of jurisdiction to follow.[[18]](#endnote-18)

In retrospect, this turn paralleled a trend in social history towards the concept of ‘community’, which was often wedded creatively with jurisdiction in studies of particular liberties, especially towns.[[19]](#endnote-19) One herald of this alignment was Marjorie McIntosh’s pioneering work of 1986 on Havering, a small market town with a strong sense of local identity that centred upon its status as an ‘ancient demesne’ manor, which granted its inhabitants certain special privileges.[[20]](#endnote-20) Further studies followed in the late 1980s and early 1990s, on relatively autonomous communities that flourished under the halo of specific liberties, such as the settlements of Westminster and Southwark that benefited from their proximity to, and legal independence from London, and the Somerset town of Wells, a borough created by the bishops based there.[[21]](#endnote-21) This work often intersected with the historiography of English towns more generally, which during the same period was beginning to examine the different communities that existed within urban settlements, such as religious organizations, craft guilds and parishes.[[22]](#endnote-22)

Concomitantly, historians developed interests in the way that jurisdictions — even those that did not represent fully immune liberties — could become the focus for communal solidarities. This was a recurrent theme of Lorraine Attreed’s work throughout the 1990s and early 2000s, which used conflicts between different urban authorities to explore the formation of civic identity.[[23]](#endnote-23) It also found expression in the recent wave of interest in ecclesiastical sanctuaries, which possessed legal immunities allowing people to avoid facing secular justice.[[24]](#endnote-24) More recently still, in a reworking of issues that concerned Maitland and Cam, there has been some historiographical interest in the role of the large and relatively autonomous liberties — such as the palatinate of Durham — in medieval political culture, especially insofar as they could focus loyalties to people other than the king, and institutions other than the royal government.[[25]](#endnote-25)

The historiographical conception of jurisdiction in medieval English politics has thus slowly morphed from a rather schematic understanding of its place within constitutional structures, to a more nuanced recognition of its relationship to social and cultural identity, and its role in fostering communities and solidarities. This development, moreover, has helped to provide better kinds of explanation for local jurisdictional disputes in the Middle Ages. No longer do these appear as simple politicking or constitutional struggles, but rather as complex, localized disputes, in which abstract legal privileges were taken extremely seriously precisely because they were entangled with both the identities and the everyday governance of medieval communities.

These historiographical trends have allowed, generally, for a more capacious understanding of jurisdiction that absorbs its social and cultural, as well as its legal and constitutional meanings. At the same time, however, they have created two new problems. In the first place, the linking of jurisdictions and their respective social and geographical identities tends to imply that they were relatively fixed entities, defined in relation to particular communities and certain areas of territory. In fact this is rather contentious. In the second place, while such a model provides very good accounts of local jurisdictional disputes, their proximate causes, and the strategies parties employed, it fails to provide a compelling explanation of why so many disputes took place in the later fourteenth and fifteenth centuries. By engaging critically with these ideas, it is possible to formulate a new conception of medieval jurisdiction, and a new hypothesis about the proliferation of disputes.

To begin with, it is important to re-examine the notion that some jurisdictions were associated with particular communities of people. In arguing this, historians have often turned to the concept of identity in order to explain the relationship between particular institutions and authorities and the communities which belonged to them. In her study of Havering, for example, McIntosh writes of the strong ‘institutional identity’ forged through the inhabitants’ unusual privileges, particularly as they were manifested in the particular law courts that they were able to use.[[26]](#endnote-26) And urban historians, moreover, have written about the close connection between the assertion of civic authority — and jurisdiction in particular — and the formation of civic identity.[[27]](#endnote-27)

Yet there are several problems with this association between jurisdiction and ‘community’ — a term that Christine Carpenter proposed to ban because of the way it implies harmonious and fixed political entities.[[28]](#endnote-28) In the first place, medieval England was legally plural: there were not just many jurisdictions, but many different *kinds* of jurisdiction in co-existence.[[29]](#endnote-29) Other institutions with their own distinctive jurisdictions — whether ubiquitous, such as the ecclesiastical courts, or more specific, such as those held for merchants at markets and fairs — did not necessarily foster the same kinds of strong identification among their constituents.[[30]](#endnote-30) The suitors to such courts were more diverse, and more fluid, and did not necessarily identify as a specific community, bound by allegiance to a single jurisdiction.  
 Looking at the same problem the other way around, it is obvious that individuals belonged to several jurisdictional communities. They thus had several jurisdictional identities, and these could even change over the course of a lifetime. For example, a London grocer named Robert Purfote moved into a house within the sanctuary of St Martin-le-Grand in the late fifteenth century, in order to avoid having to answer for the debts that he had accumulated. Though he subsequently discharged the debts, he remained in the house. His neighbours recalled later that he *had* been a ‘sanctuary man’, but also that he had shed this jurisdictional identity; as a citizen of London, he was presumably able to adopt others still.[[31]](#endnote-31) Jurisdictional identities and jurisdictional communities were far less static and homogenous than often has been implied.

In more recent studies, this tendency to wrap up the notion of jurisdiction with particular communities has been further complicated by the spatial turn. Thus historians such as Attreed have incorporated the idea of ‘territory’ into this already dense agglomeration of ideas circulating around jurisdiction: ‘towns viewed legal jurisdiction in suburbs and particularly in urban neighbourhoods as an essential component of their own government … control over those districts created town identity distinct from other incorporated bodies’.[[32]](#endnote-32) More generally, the idea that jurisdictions occupied distinct spaces can be perceived in the language of ‘honey-combs’, ‘jigsaws’, ‘maps’ and ‘mosaics’ that historians now use to describe the plurality of medieval jurisdictions.[[33]](#endnote-33)

People in medieval England clearly understood jurisdiction as a concept with spatial components. As the 1435 settlement at Dunwich demonstrated, the demarcation of certain physical boundaries in relation to jurisdiction was considered important. Understanding the performative and ritual aspects of these demarcations, moreover, has proved a rich vein for urban historians, who have seen events such as processions and judicial ‘ridings’ around city walls in a new light.[[34]](#endnote-34) Beyond this, indeed, as Shannon McSheffrey has shown in a pioneering study of the ‘legal topography’ of sanctuaries in late medieval London, some jurisdictions were evidently perceived in spatial and even proprioceptive ways, constituted in physical environments and material objects that people could actually reach out and touch.[[35]](#endnote-35)

At the same time, however, this conception of jurisdiction has brought some problems. In the first place, it recalls one of the less attractive ideas of the early historiography on liberties, in which the idea of territorial coherence figured strongly.[[36]](#endnote-36) The intellectual genealogy of territory, of course, is bound up closely with the notion of nations and states, and easily opens up a logic that would make each individual jurisdiction a state in microcosm.[[37]](#endnote-37) This, in turn, can slip quite easily into a statist narrative of medieval political history, in which the central government gradually conquers and absorbs the pockets of autonomous power represented by jurisdictional liberties.[[38]](#endnote-38) Even in Keith Stringer’s insightful attempt to derail such narratives and advocate the centrality of liberties in the history of the English constitution, ‘territorial ascendancy’ looms large as an explanatory mechanism.[[39]](#endnote-39)

But leaving aside the conceptual problems with territory *per se*, understanding medieval jurisdictions as blocks of space can also lead to a rather simplistic way of explaining their interrelations. When jurisdictions are reduced to integral territories, jurisdictional disputes are reduced to border conflicts. In the most plausible explanations, this is transmuted into competition over shared resources, but at worst, the mere fact of proximity is assumed to produce bitter antagonism between neighbouring institutions.[[40]](#endnote-40) But of course, disputes did not arise every time someone overstepped a notional boundary; indeed, the fact that jurisdictional disputes often focus so intently on the inviolability of routinely-traversed boundaries needs to be treated with more scepticism. As Monique Bourin has remarked in a slightly different context, ‘communities without conflict are without history’.[[41]](#endnote-41)

  Altogether, the various problems with grounding jurisdiction in communities, identities and geographical zones are a part of a much larger category error. In each case, jurisdiction is treated as though it is a real, solid entity: either one that was made socially real through its constitution in a particular community, or one that was made physically real in its expanse over a particular space. In this view, jurisdiction is frozen, bounded and fixed in place; and specific disputes that involve liberties and privileges become the stuff of politics, fluttering over the surface of a solid jurisdiction but never fundamentally changing its essential shape. Thus while many of the important elements of medieval jurisdiction have been identified, they have not been assembled into a convincing conceptualization of jurisdiction, nor one that adequately explains jurisdictional disputes.

In order to resolve these problems we need to think about jurisdiction in a very different way. Rather than conceiving of it as a thing-in-itself, an expression or constitution of communities and territories, we need to think about it as a medium, an ongoing process of connecting these entities with authority. Jurisdiction was an interpretive, even imaginative act. The word itself is a metaphor — *jurisdictio* refers to the ‘speaking of (the) law’ — and this sense that jurisdictions are invented and reinvented is vitally important. As the Dunwich disputes demonstrate, there could be many ways of interpreting how jurisdictions translated onto the same piece of land, and these were highly provisional, liable to upset as landscapes and communities changed, and new rights were accumulated.  
 Leading on from this, it is important to recognize that these interpretative processes did not take place in a cultural vacuum. The later fourteenth and fifteenth centuries saw the emergence of much larger political publics, and this had significant consequences for the way in which authority was communicated.[[42]](#endnote-42) Institutional jurisdiction depended on the effective communication of authority, in order to persuade widening constituencies of people that they were, in fact, a member of the social or territorial grouping that the institution claimed to govern. When the law had to be spoken in late medieval England, it had to be heard by an ever larger and more diffuse group of people than before.

This article sets out this model of jurisdiction through a detailed exploration of the disputes that took place in the middle of the fifteenth century between the lords of Walberswick and the burgesses of Dunwich. Here, the sedimentation of the town’s harbour, and thus its ‘movement’ about a mile to the north of its original location, began a process in which jurisdiction — constituted in the relationship between authority, community and the physical landscape — unravelled, flaring into a long dispute. Were the territories of jurisdiction constituted in certain materials like sand or water, or were they simply a bounded area? How were rights and privileges invested in these places, and in the communities that claimed them? How had these visions of jurisdiction been signalled, and how should they be communicated in future?

II

Dunwich is perhaps best known today as a ‘British Atlantis’, a town gradually swallowed by the North Sea.[[43]](#endnote-43) On the north-east coast of Suffolk, it used to lie on a promontory of high, sandy cliffs, to the south of a shallow harbour. In the Middle Ages it was sheltered from the North Sea by a spit of land called Kingsholme, which formed a horn over the northern part of the harbour, with a small opening next to the town. The broader area formed a vibrant maritime community centred upon the Dunwich harbour, which was in turn an important hub for the wider East Anglian fishing and shipping industries.[[44]](#endnote-44)

The harbour provided the inhabitants of Dunwich with the opportunity to profit from the foreign trade and shipping traffic that visited the area. Already by the late 1180s the townsmen were organized, in possession of a common chest and issuing letters collectively.[[45]](#endnote-45) Their claims over the harbour were given formal recognition with the grant of the town’s first royal charter. In 1198, after they paid off their outstanding debts of £540 to the Crown, they received a grant of liberties from King John, who also subsequently confirmed and expanded these privileges in 1215.[[46]](#endnote-46) Among the traditional list of rights like *sac* and *soc*, and freedom from tolls, they were also granted the specific right to levy distresses on unpaid debts and exclusive legal jurisdiction over the borough and its inhabitants.[[47]](#endnote-47)

Practically, this meant that the town could have a government, that it could charge tolls on merchants and fishermen who passed through the harbour, and legitimately confiscate the possessions of those who refused to pay. This soon set the burgesses on a collision course with the inhabitants of Blythburgh and Walberswick, two coastal settlements that lay on the north side of the harbour.[[48]](#endnote-48) These were the main population centres in the lordship of Blythburgh, which had belonged to the royal demesne both before and after the Conquest, before it was granted out in 1157 to John, son of Robert de Chesney, with rather extensive jurisdictional rights.[[49]](#endnote-49) Matters first came to a head in 1216, when some men of Dunwich went to Walberswick, burned down twelve houses, and stole an image of St John.[[50]](#endnote-50)

Though nothing more was recorded for another decade or so, by the 1220s it is clear that a substantial dispute had been taking place. It was settled not by further violence, however, but by law and arbitration. Margery Cressy, the lady of Blythburgh in right of her husband, had sued the burgesses of Dunwich in the king’s court over the right of her tenants to have ships and fishing boats in the harbour. The settlement, made in 1228, fixed the tolls that should be paid by the ships of Walberswick for the use of Dunwich’s haven, but only for the duration of Margery’s life.[[51]](#endnote-51)

But this entente does not appear to have lasted very long, as both parties looked to secure their rights. The next year, in 1229, Margery obtained a charter exemplifying the privileges of the lordship, and particularly the right to take shipwrecked goods which washed up on the shore ‘from the south part of Eycliff by Southwold to the port of Dunwich’; it also rehearsed that the inhabitants of the lordship enjoyed freedom from tolls.[[52]](#endnote-52) The burgesses responded by having their own charter from John confirmed by Henry III.[[53]](#endnote-53) By 1231 the burgesses and the new lord of Blythburgh, Hugh Cressy, were in the royal court of Chancery fighting out their claims.[[54]](#endnote-54)

This case had two important outcomes. Firstly, it was given in favour of Hugh Cressy, and recognized the maritime and economic jurisdictions of the lordship in the locality. Secondly, the proceedings produced an inquisition taken by a jury of twelve local men, which gave a brief geopolitical description of Dunwich harbour.[[55]](#endnote-55) This is worth quoting at length:

There is there a port … dividing the town of Dunwich to the south and the town of Walberswick, which is a hamlet of the town of Blythburgh, to the north. And the harbour forks on the land of the town of Westleton to the west. And from the entrance of the port to the said fork and so to the town of Dunwich, it pertains to the town of Dunwich…

From the fork of the port to the said town of Blythburgh is … a general hithe [a trading port] of the said Hugh [Cressy] pertaining to his manor of Blythburgh. And on it the burgesses and men of Dunwich should not make attachments or distraints from the said merchants or their goods or ships, because the hithe is within the town and soil of Blythburgh and not within the port and liberty of the town of Dunwich.[[56]](#endnote-56)

In essence, therefore, the inquisition split jurisdiction in the harbour between the lordship and the town. The harbour was said to fork at the hamlet of Westleton: from this point southwards, it belonged to Dunwich; northwards, it belonged to the lordship.

This settlement might have worked in principle, but in practice it was soon undermined by the shifting coastal environment. Sand and shingle repeatedly blocked the mouth of the harbour over the course of the thirteenth and fourteenth centuries, before a storm of January 1328 blocked it once and for all.[[57]](#endnote-57) Meanwhile, the sea broke through the Kingsholme sands opposite Westleton, making it possible for trade to enter the haven without passing by Dunwich. The town, already physically and demographically depleted by the erosion and destruction of its buildings in storms, was now also bypassed by visiting merchants; they could avoid the town’s tolls on shipping and trade, and sail straight to Walberswick without having to pay.[[58]](#endnote-58)

Understandably, the inhabitants of Walberswick and Blythburgh grew reluctant to pay their annual shipping dues to Dunwich for a silted-up harbour that was no longer in use. No real conflict arose, however, until the 1380s.[[59]](#endnote-59) This dispute began when the Swillington lords of Blythburgh started to assert their claim to the piece of land called ‘Kingsholme’.[[60]](#endnote-60) This was the shallow, gravelly marshland that had been gradually formed since the Dunwich harbour had silted up in the early fourteenth century.[[61]](#endnote-61) Sir Roger Swillington had encouraged his tenants to stop paying tolls in Dunwich, and began a suit of novel disseisin to recover the land.[[62]](#endnote-62) After a great deal of legal manoeuvering throughout the 1390s, the burgesses were able to defend their rights through an appeal to the Crown. They were taken under royal protection in 1400, and an inquisition was ordered into the ownership of the marshland.[[63]](#endnote-63)

But in the next couple of years, Swillington regained the upper hand, after his lawyer Hugo Holcote unearthed three early thirteenth-century charters used in the disputes between the town and the Cressy lords. The first, from 1229, guaranteed the lordship’s rights to shipwreck and its tenants’ exemption from tolls from ‘the south part of Eycliff by Southwold to the port of Dunwich’.[[64]](#endnote-64) In the much-changed landscape of the early fifteenth century, such foreshore rights, which had once applied just to the lands around the Dunwich harbour, now applied to the harbour itself, because it had become land. The burgesses quickly ceded ownership of the land to Swillington in an arbitration of 1405, but continued to dispute his claims of jurisdiction in the harbour.[[65]](#endnote-65)

These claims were decided, however, by the production of yet more old charters. First, Holcote found the 1228 agreement between Margery Cressy and the burgesses. In 1407, before the king’s council, he used it to argue successfully that Dunwich’s right to take shipping tolls from tenants of the lordship had long since expired.[[66]](#endnote-66) Second, the issue of Dunwich’s general jurisdiction over the harbour was settled by the production of the royal inquiry of 1231, which Swillington had exemplified in the summer of 1409.[[67]](#endnote-67) As seen above, this inquiry had divided the harbour in half, allocating the part north of Westleton to the lordship, and the southern part to Dunwich. But what had been a relatively straightforward geographical statement in the early thirteenth century had become, two centuries later, an explosive disruption of Dunwich’s jurisdictions.

The old harbour had almost completely silted up into land that now belonged to Swillington, and so the new haven was now located in what had been the northern part of the harbour. Thus, on the basis of the 1231 inquiry, the lordship of Blythburgh now had jurisdiction over the remaining harbour. Dunwich, by contrast, was left with just a tiny slither of water as a shipping channel leading from the town, up past the western part of the Kingsholme marshland, and into this ‘new haven’, owned and operated by the lords of Blythburgh. Dunwich was comprehensively beaten, and settled with Swillington in a second arbitration that was concluded on 20 June 1410.[[68]](#endnote-68)

Swillington retained absolute possession of the marshland, but granted it to the burgesses in perpetuity in exchange for a symbolic annual payment of a ginger root; he also agreed to pay them 20s. annually for the right to have a ferry between the north and south sides of the new haven. The burgesses, for their part, ceded their traditional tolls and customs in the harbour: the tenants of Blythburgh and Walberswick were able to move freely, trade, and use the common lands in the locality without paying anything. And finally, it was further agreed that that there was to be a boundary between Dunwich and the lordship at the site of the new haven, ‘wherever it may be diverted or changed by heaping of sand or otherwise’.[[69]](#endnote-69)

III

This clause was to prove prescient, for the heaping of sand continued unabated. To begin with the two parties were able to cooperate. As we have seen, around a quarter of a century after the 1410 arbitration was completed, the two parties came together again, as the new harbour itself began to silt up.[[70]](#endnote-70) By this time, Blythburgh had a new lord, Sir John Hopton, a Yorkshire gentleman transplanted to Suffolk who ‘spoiled for no fight’, and tended to manage his affairs with pragmatism and diligence.[[71]](#endnote-71) Indeed, the licence that he granted in 1435 for the digging of a new shipping channel into the harbour seems to reflect a more straightforward, even amicable relationship with the burgesses of Dunwich than that of his predecessors.

By the 1460s, however, the same old dispute resurfaced again in a flurry of legal activity. The estuary had changed course once more: the new shipping channel cut in 1435 had silted up, but the Kingsholme marshland in the southern part of the older harbour, it seems, was now beginning to overflow with the sea. There were thus several — probably shallow and dangerous — routes into Dunwich’s haven.[[72]](#endnote-72) This prompted the burgesses to attempt two new arguments about their jurisdiction there.

In the first place, having given up their claims to tolls and customs, they now declared that their powers to distrain on unpaid debts, to make arrests, and to set standards for weights and measures, were being infringed by Hopton. They maintained that, as the chief port town in the area, they ought to have predominance over these matters of commercial law.[[73]](#endnote-73) In the second place, they argued that the boundaries between the town and lordship had only ever been established for lands and not for water; the burgesses claimed that their legal jurisdiction stretched over the entirety of the harbour and its waters.[[74]](#endnote-74)

The Dunwich burgesses were thus insisting that all the commercial suits of visiting merchants ought to be heard in their court.[[75]](#endnote-75) And they became proactive about these rights, forcing their way into Hopton’s lordship to take distraints, and even smashing up one of his quays there.[[76]](#endnote-76) These tensions also spilled over into a new issue: Hopton complained that the burgesses had ‘broken & dikked up his muskyll beddes’ in the northern side of the harbour, on land that clearly belonged to him.[[77]](#endnote-77) (They responded that many in the locality took from this mussel bed.)[[78]](#endnote-78)

These conflicts over legal jurisdiction, distresses and payments, weights and measures, the co-option of foreign merchants, and indeed the use of the mussel beds, built up slowly in a succession of tit-for-tat actions. At least in the burgesses’ version of events, Hopton’s men had several times — probably in the late 1450s and early 1460s — assaulted their officers as they performed their duties in the harbour. For example, Robert Dolfynby, Hopton’s bailiff, had warned the serjeant-at-mace of Dunwich that if he attempted to cfome into the northern side of the haven, he would regret it.[[79]](#endnote-79)

The attacks on Hopton’s quay and his mussel beds, perhaps, were part of this same cycle of recriminations; violence was of course a frequent precursor to the settlement of disputes by arbitration in late medieval England.[[80]](#endnote-80) And by 1463–4, Hopton was clearly readying himself for legal action: in this year he paid 4d. to have a copy made of a royal charter concerning his rights regarding Dunwich. Informal negotiations probably started the following year, and both parties compiled lengthy dossiers of grievances, counterclaims and rejoinders.[[81]](#endnote-81)  
 All of a sudden in 1466, however, the conflict came to a swift conclusion through royal intervention.[[82]](#endnote-82) Once again, the Dunwich burgesses had entreated the Crown to intervene on their behalf, making frequent mention of their inability to pay their owed fee farm because of the reduction in toll revenues. In response, the king sent Henry Sottell, the attorney-general, and William Jenney, a serjeant-at-law, as arbitrators.[[83]](#endnote-83) But the burgesses quickly rejected whatever compromise was suggested, and made a proclamation to this effect in their market; they then attempted to purchase further exemplifications of their rights.

All that this achieved, however, was the king’s ‘displesur’: in a signet letter of 1466 he commanded them to settle with the arbitrators, ‘ellys we wille remytte yow to the lawe…to chanysshe yow at yowr perill, wythout resort be had unto us for that cause heraftyr’.[[84]](#endnote-84) Royal patience had run out: Dunwich was no longer an important source of revenue or ships for the Crown, as it had been in the thirteenth century, and it was unable to command any special influence. The dispute was thus quickly quashed, ending nearly 250 years of sporadic conflict between the two parties.

IV

A close reading of the evidence produced during the 1460s disputes tells us a great deal about the way in which jurisdiction was conceived and communicated in late medieval England. To begin with, this section looks at the way that the two parties interpreted jurisdiction. In their arguments, they founded authority in three different sources: in the physical territory of the local landscape; in the rights and privileges granted in royal charters and other legal settlements; and in rather more abstract notions of community and reputation. Each of these is examined in turn; the different strategies and media that were used to communicate jurisdiction are then considered.

The central claim of the Dunwich burgesses in this dispute was that the statement of boundaries produced in 1410, and subsequently reconfirmed in 1435, had referred only to the ‘mersh, stones & sond’ of the silted up haven.[[85]](#endnote-85) As these earlier agreements so clearly set out the land boundaries at the point of the old haven, the burgesses reasoned, then if it had referred to the waters, too, then ‘it schuld have sertaynly bene expressed … in the said composicion’. Thus the Latin phrase of the 1410 arbitration —setting theboundaryat ‘the port, and wheresoever the thread of water leads, or the tide touches’ (‘portus et filus aque ubicumque ducit vel inuntatio contigit’) *—* in the estimation of the burgesses, ‘was sette to dyvyde the lordchipes uppon the lond & not uppon the water’.[[86]](#endnote-86)

This extraordinary reinterpretation of a boundary settlement, which had endured for the previous half century, was matched by an equally remarkable description of the landscape, demonstrating how its physical forms and features matched up with their exegesis of the old agreements. In their rejoinder to the complaints of John Hopton, the Dunwich burgesses described the estuarial landscape by tracing the flow of water from the new harbour mouth:[[87]](#endnote-87)  
 which sayd water … now called the mouthe of the newe haven, beteth & butteth pleyn flatte weste, uppon the ground of Walborswyk, and ther breketh & dyvydeth hym self in t[w]o partes: on streme northward whiche … procedeth & goeth to Blybor & Walborswyk; the other streme procedeth & renneth … south west, betwix & dyvydyng Donewich ground on the est, & Walborswyk ground on the west; and … the said south streme dyvydeth a yen and breketh & forketh uppon a corner of Westelton ground and ther dyvydeth a yen.

These many channels helped to divide and bound the lands of the two parties, but the flow of the water itself was also vitally significant to their formulation of jurisdiction. The waters of the harbour mouth — over which the burgesses were claiming tolls related to anchorage and trade — flowed towards the small haven left at Dunwich, and never towards the rivers of the lordship, ‘but if it were at a see ebbe’ (an ebb tide).[[88]](#endnote-88) This was a strongly material conception of jurisdiction, in which the water did not just statically signify a boundary, but dynamically acted out the jurisdictional division between the Dunwich lands and the grounds of the Blythburgh lordship.

This imaginative rendering of jurisdiction in relation to territory was of course rejected by Hopton and his counsel. But rather than arguing with the way in which the burgesses interpreted jurisdiction in territorial terms, they offered a counter-interpretation which was rooted in a more legalistic set of arguments, about the historical accumulation of rights and privileges. They focused on the fact that Henry II (1133–89) had been seised of both the lordship of Blythburgh and the town of Dunwich before it was incorporated. These two jurisdictions, apparently, had been distinct even then: Henry’s rights in the northern part of the harbour derived from his lordship of Blythburgh, and his rights in the southern part from possession of Dunwich.[[89]](#endnote-89)

Hopton thus drew upon Henry’s original grant of the rights and jurisdictions associated with the lordship in 1157 (when it had first been granted out of royal possession), which encompassed ‘the southpart of Eycliff be Southwold unto Dunwich haven’.[[90]](#endnote-90) In the intervening three centuries, of course, this distance had been reduced by about a mile, as recorded when the new haven mouth was cut in 1435.[[91]](#endnote-91) On the basis of this old charter of rights, then, Hopton claimed jurisdiction ‘up to’ (*usque* in the original Latin), or as far as the old Dunwich haven. The 1410 settlement had established that this silted-up haven was Hopton’s land: even now that it had been filled with water again, he argued, it remained his. The way that the harbour looked was immaterial.

In their replication, the Dunwich burgesses attempted to counteract this point by looking back even further in time. They managed to dig out — from where is not known — a document from the eleventh century.[[92]](#endnote-92) They stated that ‘when seynt Edward kyng of Englond [Edward the Confessor, *c*.1003/5–1066] was sesed of the maner of Blybor … ther was no mencyon mad of any water longyng to Blybor maner’.[[93]](#endnote-93) They acknowledged that they had long conceded to the lords of Blythburgh the small inland river (the Blyth) running between Blythburgh and Walberswick. But they had never conceded their authority over the main haven waters, because, as they put it, ‘Donewic was than the chief porte toun that marchaunts ought at ther wylle to have ther repeyre’.[[94]](#endnote-94)

They thus linked these arguments about who had the oldest rights and privileges to a more abstract set of ideas about the essential nature of the two communities. Dunwich, they claimed, was a known port and had been recognized as such for over four centuries — it was thus obvious that it should have jurisdiction over the harbour. But Hopton’s lawyers responded with their own argument about local pride:[[95]](#endnote-95)

A man may suppose well of reson mor resort was [had by merchants] to Donewich whan the haven was under the town than now, whan the haven is a myle thens & almost upon Walberswyk; be cause that Walberswyk men somewhat thryveth, Donewich forthenketh [resents it]; and that appereth clerely moor of invye [envy] thanne any other cause.[[96]](#endnote-96)

In this account, Walberswick deserved to have jurisdiction because it was thriving — its proximity to the harbour meant that it was now the favoured port of visiting merchants. And it was the unbalanced economic fortunes of the two settlements that had engendered jealousy in the burgesses.

In these back-and-forth arguments between the burgesses and Hopton, the foundations of authority on which jurisdiction was based were shifting like the sands of Dunwich haven. The burgesses looked initially to a territorial interpretation of jurisdiction: the harbour, by the 1460s ‘over fflowen with the se’ looked more like it had before the sedimentation of the early fourteenth century set in. And more than its simple proximity to the town, the flow of the estuarial waters — at least in the view of the burgesses — physically constituted the connection between the harbour, the sea (and mercantile trade) and the town. This territorial conception of jurisdiction invested sovereignty in the landscape, translating the very substance of the contested area into an argument about authority.

Of course, this kind of interpretation could not stand on its own, but had to be related to established rights and privileges — part of the reason it worked is because it could be synchronized with a set of earlier legal agreements. But this opened up the possibility of a different, more textual kind of argument. Hopton’s advantage lay in the unnuanced geographical descriptions of twelfth- and thirteenth-century charters. This interpretation of jurisdiction was still territorial, but its parsing of place was flat, and was thus much more easily manoeuvrable in a dispute; thus his argument hinged not on a materialist reading of the landscape, but on a conjunction, *usque*. Parchment texts, it turned out, bore the weight of authority much more easily than tons of rock and sand.

Yet if the translation between text and place was a problem for jurisdictional disputes throughout the Middle Ages, the third kind of argument — which looked to reputation and community — was more novel. It was, of course, a risky strategy of interpretation: by introducing the idea that Dunwich had a proud history as a renowned port town, the burgesses opened themselves up to the response that this was no longer true. The notion that jurisdictional authority could be founded upon history (distinct from custom) was gaining traction in the fifteenth century; it was perhaps particularly attractive to urban governments at this time, as they commissioned elaborate civic histories for incorporation into their custumals.[[97]](#endnote-97) The idea that jurisdictional disputes could be caused by widespread envy, moreover, speaks to a more fundamental shift in wider political culture.

In late medieval England, it was increasingly vital to communicate authority to a wider audience of people; without mechanisms to achieve this, jurisdiction did not work. Contemporaries drew on a range of strategies to communicate their particular vision. In the disputes at Dunwich, perhaps the three most important such strategies were the names that the two parties attempted to give to landscape features, the demonstrative disruption of legal powers, and the utilization of crowds. Through these means, both the burgesses and the lordship’s officers attempted to communicate their authority within a localized public sphere.

The name of the haven had been an important sticking point since the disputes of the fifteenth century. When the crown had seized the disputed marshland in 1400 at the request of the Dunwich burgesses, it had been described as two separate places: ‘a place called ‘Oldehaven’ and a marsh called ‘Kingsholme’.[[98]](#endnote-98) While the name Oldehaven reinforced that the marshland had been Dunwich’s harbour, the name Kingsholme is more ambiguous. It was possibly an allusion to the town’s granted privileges, and the status of the burgesses as agents of the Crown; or it might have been an attempt to flatter the king, to connect a powerful geological transformation to royal sovereignty.   
 Whatever the intention, however, contemporaries certainly understood the names to be politically sensitive: the inquest jury of 1408 stated that ‘it ought not to be called “Kyngesholme”, but that name is newly put upon it by the men of Dunwich, and one part is and ought to be called “Lenaldesmersshe”, another “Middelmersshe”, and a third “Chirchemersshe”’.[[99]](#endnote-99) But later there also seems to have been another name: in 1438 an entry in the lordship’s court rolls, against a Dunwich burgess who pastured his animals on the marsh without permission, referred to the land as ‘the lord’s marsh, called Stapilhed’.[[100]](#endnote-100) That another vernacular name was in circulation is intriguing — it does not have any immediately striking ideological connotations — but the fact that it was by then ‘the lord’s marsh’ was of more immediate significance.

In the dispute of the 1460s, the politics of naming came into play again, not in relation to the (now submerged) marshland, but to the harbour. The burgesses called part of the harbour ‘the kyngs streme’, drawing more definitely on their status as a royal port town.[[101]](#endnote-101) They also repeatedly asserted that the ‘northpart of the streme of the seid haven [was] called Donewich reche’.[[102]](#endnote-102) And finally, Hopton complained that after the sea had broken through by Walberswick to refill the sedimented harbour, the Dunwich bailiffs ‘called that new haven Donewich haven, all be it that of right it is Blitheborough haven & so owth to be called’.[[103]](#endnote-103)   
 This phrase reveals the importance of names as a strategy of communicating authority. They were effective both because they simplified the landscape (not unlike old charters), and because the particular simplifications that they made were easily communicable. The names of harbours were of course circulated orally among the maritime community, and textually in the ‘rutters’ or sailing directions which explained how to navigate between the ports along a coastline.[[104]](#endnote-104) A particular place-name was thus one way of enunciating possession to a large and economically significant constituency of visitors; as they casually mentioned the name when they gave directions or shared navigational knowledge, moreover, they helped to perpetuate particular jurisdictional claims.

The second strategy of communicating jurisdiction was through the public demonstration and disruption of legal powers and rights. In the 1460s one of the key issues was the burgesses’ right to levy distresses on debts, which had been granted in their first royal charter and formed a key plank of their ability to regulate mercantile activity.[[105]](#endnote-105) The very act of taking such distresses probably represented the most tangible day-to-day demonstration of the town’s jurisdiction, as the serjeant-at-mace, one of the chief civic officers, physically arrested debtors themselves or their chattels. Such actions were powerfully visible and strongly resented: in the 1460s the tenants of Walberswick and Blythburgh were warning the Dunwich serjeant not to take their goods in the north haven, ‘upon the peril that wole folowe theroffe’.[[106]](#endnote-106)

But more than this general, simmering discontent among the inhabitants of the lordship, the burgesses complained that their right of distress was being undermined because of threats made against the the serjeant-at-mace. They pointed to a couple of incidents in which Robert Dolfynby, John Hopton’s bailiff, had deliberately disrupted the serjeant’s activities. In the first place, he had warned the serjeant that if he came into the north part of the haven ‘to take any distresse for hys owne availe … he shuld not esily goo hoom’.[[107]](#endnote-107) In the second place, while the serjeant was attempting to investigate a consignment of wine on a ship in the north haven, Dolfynby had mischievously stolen the mace from his belt — a key symbol of civic jurisdiction throughout late medieval England — and told him not to come within the lordship.[[108]](#endnote-108)

Public mockery and threats provided a key means of disrupting the jurisdictional claims made during the enactment of legal powers. They performed a highly visible disobedience to a wide audience. During the first incident, the burgesses emphasized that Dolfynby had made his threat to the serjeant while standing on a boat in the middle of the harbour — the notional border between the two jurisdictions — in such a way as to be clearly seen. Even for those who had not witnessed his loud act of defiance, it had apparently caused some scandal, ‘be cause wheroffe divers marchaundez have departed and not payed her seid custom’ to the Dunwich burgesses.[[109]](#endnote-109) These communicative acts, and the gossip they subsequently spurred, had real consequences for the exercise of jurisdiction.

The third strategy of communication used was the utilization of crowds. Hopton had raised a new issue in the 1460s disputes when he complained that ‘in gret dispyte & malice’, the burgesses had ‘broken & dikked up his muskyll beddes’ in the northern side of the harbour, on lands that clearly belonged to him.[[110]](#endnote-110) This allegation was appended to a wider section in his replication, denouncing the Dunwich burgesses for entering the northern part of the harbour ‘in the truble tyme with grete force & multitude of puple in the most riotows wise’.[[111]](#endnote-111) This accusation of ‘riot’ was commonly used in fifteenth-century England to attract the attention of the royal authorities, and paint one’s enemies as rabble-rousers.[[112]](#endnote-112)

The response of the Dunwich burgesses rather implies that such an association was not so far off the mark. They made an argument about customary access to the mussels as a common resource in the locality: it had always been the case that when mussels fortuned to appear in the harbour, ‘men of Walberswyk, Southwold, Blybor & of other townes next ajoynyng, as [well as] men of donewich & of other townes … han used to come theder … with butte speris & smyte butts [spears and spearheads] to take hem & bere hem awey’.[[113]](#endnote-113) Indeed, they went further still, arguing that the mussels were a ‘gret comfort & relief of the kyngs pore pepyll’ in particular, and that whenever they had bedded in Dunwich haven, the civic government had always allowed anyone to take them.[[114]](#endnote-114)   
 The image of a crowd of well-armed commoners acting at the behest of the Dunwich burgesses, then, does not appear to have been entirely false. It was an extremely effective strategy for communicating jurisdiction, not only because it mobilized a large group of people in the assertion of civic authority, but also because of its relationship to powerful notions of custom. The right to glean customary resources like mussels, as Andy Wood has argued, undermined seigneurial claims of exclusive property.[[115]](#endnote-115) Encouraging a crowd of people to act out their rights thus enabled the burgesses to erode Hopton’s exclusive proprietorial claims over the northern part of the harbour, and to project their own good government on behalf of the Crown, giving the ‘kyngs pore pepyll’ their due.

In sum, the dense and detailed arguments produced in the course of the 1460s disputes at Dunwich thus help to reveal the complex ways in which jurisdiction worked in late medieval England. Jurisdiction was neither the legal manifestation of a community, nor a straightforward extent of territory — although in the context of a dispute people might make such claims. It was, rather, a series of processes, an ongoing attempt to interpret abstract rights and privileges in relation to contemporary power relationships, and to communicate such interpretations to a wide audience. The following section, assesses how this model can help to explain the wave of jurisdictional disputes in fourteenth- and fifteenth-century England.

**V**

The wave of jurisdictional conflicts that broke out across late medieval England have mostly been examined within the context of towns, and thus have been explained in terms of civic political culture and identity.[[116]](#endnote-116) Gervase Rosser and Helen Carrel, for example, have both seen conflicts between municipal governments and neighbouring ecclesiastical institutions as a largely positive structural feature of late medieval towns, which helped to widen political participation among the urban population.[[117]](#endnote-117) As Rosser puts it, ‘processes of [jurisdictional] dispute settlement themselves acted as a catalyst of the idea of the urban community’.[[118]](#endnote-118) In this model, disputes over jurisdiction are to be seen within a narrative of the increasing sophistication and expanding constituencies of urban politics in England after the Black Death.[[119]](#endnote-119)

Such ‘town and gown’ disputes were undoubtedly important to the formation of late medieval civic political culture, and they did have their own specifically urban dynamics. At the same time, however, it is important that urban identity does not become a heuristic for these conflicts, for two reasons. Firstly, towns had complex and varied identities; in their struggle with the lordship over the harbour Dunwich’s identity as a port was just as — if not more —important to its governing elite than its status as a town *per se*. And secondly, these urban conflicts were part of a much larger pattern of jurisdictional disputes in late medieval England. These require an explanation that takes a wider perspective.

Jurisdiction has been understood here not as a static entity actually founded in territory, community or other structures, but rather as a process of interpreting the relationship between legal authority and these foundations; and, crucially, as the communication of these interpretations to the group of people over whom jurisdiction is claimed. Disputes over jurisdiction, then, can be explained by both breaks and intensifications in these processes. Why might this have happened more frequently in the period after the Black Death?

In the first place, a central part of the interpretation of jurisdiction consisted in the ongoing process of renewing and augmenting the judicial rights granted by the crown. Changes in the configuration of these rights, quite clearly, could provoke and exacerbate disputes. Legal institutions of all kinds invested significant time and money in obtaining royal *inspeximus* charters, to confirm and update the privileges that they received from the Crown. This was a relatively regular process, as institutions sought to ensure that old grants were still valid, and also to acquire new rights as they became available. In the early fifteenth century, for example, exemption from the jurisdiction of the admiral — and the implicit right to hold admiralty courts — was sought and gained by many ports, Dunwich among them.[[120]](#endnote-120)

Why did this kind of documentary one-upmanship proliferate after the Black Death? Quite simply, there were more kinds of jurisdictional rights available.[[121]](#endnote-121) As the office of justice of the peace, for example, became more important over the course of the fourteenth century, so in turn many institutions (towns in particular) sought to acquire equivalent powers.[[122]](#endnote-122) These new jurisdictions often overlapped with older ones — peace sessions being a case in point — and, moreover, they had to be reconciled with the existing corpus of rights, privileges and agreements. As these accumulated over the course of the Middle Ages, the harder it was to reconcile the new with the old.

But interpretation was not just about rights and privileges, but their referents in the communities and territories over which they were claimed. Disputes were also caused when the links between rights and their referents — in landscapes or constituencies — broke down. We have seen already, with the environmental transformation at Dunwich, how this could happen in relation to swathes of territory. Changes to jurisdictional communities were doubtless harder to gauge; but the demographic nature of post-plague society, with its high levels of geographical mobility and larger transient populations (particularly in towns), must have disrupted the ability of legal authorities to invoke a homogeneous community in support of their jurisdictional claims.[[123]](#endnote-123)

The problems that this generated can be briefly glimpsed in a set of depositions from an early fifteenth-century jurisdictional dispute over whether any neighbouring settlements had rights to use the ‘lings’, or common ground, of the village of Litcham, in Norfolk. Recent changes in Litcham’s demography may have been partly to blame: a witness named William Boter deposed that ‘newe komen men in to Lucham which men clepe [call] “komelynges”, that han hired here hous & here lond of men in Lucham: … because thei weren no tenaunts to my lord, thei weren amercied [fined] in my lords cort of Lucham for ganyng in [using] that comon’.[[124]](#endnote-124) That is to say, these new people had no customary rights in Litcham, but did, apparently, pay fines to its manorial court for illicitly using the common. They were a significant but disadvantaged subgroup, subject to manorial jurisdiction yet unable to partake in customary privileges. They represented a potential split, then, between a jurisdiction and its particular community.

How could late medieval institutions communicate their authority to such disaggregated and fragmentary communities? This question brings us to the third widespread cause of disputes: the intensification of communicating jurisdiction, and its concomitant disruptions. And as historians increasingly recognize, in the later fourteenth and fifteenth centuries government at all levels in England was broadcast both more and in more regular, institutionalized ways.[[125]](#endnote-125) Royal proclamations, for example, were utilized more regularly, and civic governments availed themselves of similar mechanisms to reinforce their authority.[[126]](#endnote-126) After they were granted new rights over the Colne estuary in 1399, for example, the Colchester bailiffs took care to make a proclamation in the river itself, rehearsing at length the offences that they could now prosecute with the powers that they had been afforded by the Crown.[[127]](#endnote-127)

The increasing frequency and institutionalization of such communications, however, created more opportunities for disputes to break out. The atmosphere created by these authoritative statements was fissile, and easily disrupted. In a culture which accorded tremendous power to the spoken word, a shouted interruption during a public meeting could be an extremely effective way of expressing dissent and precipitating disputes.[[128]](#endnote-128) Likewise, missteps during the ritualistic and orderly civic processions performed in late medieval towns could be highly threatening; jurisdictional disputes at both Bristol and Exeter, for example, started with the disruption of such ceremonies.[[129]](#endnote-129) Authority was most fraught at the moment when it was proclaimed, and the regularity of these moments was increasing over the course of the later Middle Ages.

And, as Ian Forrest has highlighted, the etymology of jurisdiction is important not only for what it conveys about the moments at which the law was spoken, but also the points at which it was heard: it hints at ‘the link between oral proclamation and the extent of the law in geographical and social terms’.[[130]](#endnote-130) This is to say, a public so well-informed about jurisdictional boundaries and conventions could not be so readily forgiven when they transgressed them. If and when they did, it could be presumed that they knew what they were doing. This gave such actions rather more significance in relation to jurisdiction.

For example, a dispute broke out in Hereford in the 1420s after some burgesses led a horse away from the house of one of the canons of the cathedral there — just twenty years after the civic and ecclesiastical authorities had reached a major jurisdictional settlement over church property within the city walls.[[131]](#endnote-131) In the resulting case, witnesses were asked whether, if someone took goods from houses belonging to the church, they could be excommunicated. More than one witness responded: ‘he believes this to be true, as he has heard it publically preached’.[[132]](#endnote-132) By the fifteenth century, ignorance of jurisdictional matters had become implausible, and so wrongdoing became freighted with deliberate defiance. The intense communication of jurisdiction, and the expectations of obedience that this created, made it much more vulnerable to upset.

The conditions of interpreting and communicating jurisdiction changed after the Black Death in a number of different ways; together, they may help to explain why disputes over jurisdiction proliferated during this period. These were linked to the problems created by the heaping of liberties and privileges and the need to reconcile them; further complicated by the breakdown between authorities and the communities that they claimed to represent, in the wake of rapid demographic change; and exacerbated yet more by an increasingly public political culture, in which more people were able to participate, and thus in which authority was more easily threatened.

VI

As Donald Davis has noted, the etymology of jurisdiction is useful for understanding ‘the critical and creative role to be played by other claims to speak the law’.[[133]](#endnote-133) This article has used this heuristic precisely in order to highlight — indeed, insist upon — the interpretative and communicative aspects of jurisdiction insofar as it was asserted in late medieval England. The disputes at Dunwich during the fifteenth century help to illuminate the complex ways in which these aspects took shape over the course of the Middle Ages; and though the proximate cause of these particular conflicts lay in a highly unusual set of environmental conditions, they were in many other ways completely typical of other contemporary jurisdictional disputes.

It is worth noting that after the great dispute of the 1460s was settled by royal fiat, neither the burgesses of Dunwich nor the lordship of Blythburgh in fact gained lasting supremacy on this stretch of the Suffolk coast. Oddly enough, it was a third place that eventually triumphed: by the end of the fifteenth century, the previously insignificant settlement of Southwold had grown into a substantial port. A royal manor lying on a shingle beach to the north of Walberswick and thus unaffected by the silting-up of the harbour to the south, it was attracting enough trade by the 1480s that the Dunwich burgesses, once again, attempted aggressively to assert their monopoly over shipping tolls in the locality.[[134]](#endnote-134) Typically, the move backfired spectacularly. Crown-appointed mediators found that the inhabitants of Southwold owed nothing to Dunwich.

Emboldened by this success, the men of Southwold petitioned for incorporation into a town. This request was granted in January 1489, and confirmed by an *inspeximus* of 1490.[[135]](#endnote-135) Subsequently Southwold was granted sweeping jurisdictional liberties, and became an important royal port during the sixteenth and seventeenth centuries.[[136]](#endnote-136) Dunwich, on the other hand, financially and physically ruined, over the same period became merely a curiosity for antiquaries. John Dee received a long description of the town in 1573, which reported how the town had decayed ‘indede frome a great citie as summe dothe saye … to a verie little small towne’.[[137]](#endnote-137) By the mid eighteenth century, the antiquarian Thomas Gardner was writing of its ‘great and wonderful Decline’, as a prompt for his readers ‘to ruminate on the Vicissitude, and Instability of sublunary Things’.[[138]](#endnote-138)

This antiquarian rhetoric of changing fortunes would not have been unfamiliar to participants in the legal disputes of the early fifteenth century. The agreement between Sir John Hopton and the burgesses of Dunwich in 1436, which used the tree and the rod to interpret and communicate local jurisdictional boundaries, deployed a rhetoric that included the words ‘sureness’, ‘in case’ and, strikingly, ‘fortune’, in an explicit attempt to ‘avoid trouble and traverse’ in future.[[139]](#endnote-139) Though perhaps heightened in the context of repeated and sustained environmental change, this language of ‘just in case’ was utterly typical of jurisdictional settlements made throughout late medieval England. This is significant, indeed, for how we think about jurisdiction more generally.

A 1478 boundary agreement between two North Yorkshire squires, for example, allowed for the eventuality that Richard Croft’s hounds might accidently run onto Roland Place’s land during a hunt. If they did so, it was specified that Croft should not cross the border with them but instead blow his horn to recall them; but equally that if Place found the dogs on his land, he should merely ‘rebuke thame and no noder hurt ne damage do’.[[140]](#endnote-140) Some version of this situation had obviously happened before and aggravated tensions between the two, yet the agreement allowed for the possibility that it would happen again in the envisioned future of peaceful coexistence.

Settlements, compositions, arrangements — in their own etymology they represented the aspiration that authority could be finally and definitively fixed, and left to abide; but in their very terms they admitted the possibility that all would come undone again. The ways in which authority was interpreted — through texts that claimed it had endured for hundreds of years, through boundary markers that ancestors had memorized since their youth — certainly made it seem enduring, and undoubtedly this was an important aspect of its influence over people. But, as we have seen, it was also frequently interrupted: by changes to the landscape, through deliberate defiance, or through reinterpretation. In the cacophonous public sphere of late medieval politics, jurisdictional claims were just that – claims – which no tree nor rod could permanently resolve.

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1. Suffolk Record Office, Ipswich (hereafter SROI), HA30/50/22/27.2 (1). Here, as throughout, I have added modern punctuation to the Middle English, changed the letter ‘thorn’ (þ) to ‘th’, and included translations of difficult words in brackets. [↑](#endnote-ref-1)
2. *Ibid*. [↑](#endnote-ref-2)
3. Trees were common boundary markers, but it was unusual to ‘set’ one anew, as at Dunwich: Nicola Whyte, ‘An Archaeology of Natural Places: Trees in the Early Modern Landscape’, *Huntington Library Quarterly*, lxxvi (2013). [↑](#endnote-ref-3)
4. SROI, HA30/50/22/27.2 (1). [↑](#endnote-ref-4)
5. *Ibid*. [↑](#endnote-ref-5)
6. The length of the rod varied locally: P. Harvey, *Manorial records* (London, 1984), 14. [↑](#endnote-ref-6)
7. For a brief summary of these disputes, see Colin Richmond, *John Hopton: A Fifteenth Century Suffolk Gentleman* (Cambridge, 1981), 152–3. [↑](#endnote-ref-7)
8. For example, Lorraine Attreed, *The King’s Towns: Identity and Survival in Late Medieval Boroughs* (New York, 2001), 264–8; H. Carrel, ‘Disputing Legal Privilege: Civic Relations with the Church in Late Medieval England’, *Journal of Medieval History*, xxxv (2009), 284–5; Daniel Pichot, ‘Paroisse, limites et territoire villageois de l’Ouest’ (xie–xiiie siècle)’, in Didier Boisseuil, Pierre Chastang, Laurent Feller and Joseph Morsel (eds.), *Écritures de l’espace social: Melanges d’histoire medieval offerts à Monique Bourin* (Paris, 2010), 220; C. P. Lewis, ‘Framing Medieval Chester: The Landscape of Urban Boundaries, in Catherine A. M. Clarke (ed.), *Mapping the Medieval City: Space, Place and Identity in Chester, c.1200–1600* (Cardiff, 2011), 46. [↑](#endnote-ref-8)
9. James C. Scott, *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed* (New Haven and London, 1998), 3. This concept is developed in Nicholas Blomley, ‘Simplification is Cmplicated: Property, Nature, and the Rivers of Law’, *Environment and Planning A*, xl (2008). [↑](#endnote-ref-9)
10. See Nicola Whyte, *Inhabiting the Landscape: Place, Custom and Memory*, *1500–1800* (Oxford, 2009). [↑](#endnote-ref-10)
11. Bronach Kane, ‘Custom, Memory and Knowledge in the Medieval English Church Courts’, in Rosemary C. E. Hayes and William J. Sheils (eds.), *Clergy, Church and Society in England and Wales, 1200–1800* (York, 2013), 72–3. [↑](#endnote-ref-11)
12. On local memory in pre-modern England, the best discussion is Andy Wood, *The Memory of the People: Custom and Popular Senses of the Past in Early Modern England* (Cambridge, 2013). [↑](#endnote-ref-12)
13. See Jean-Philippe Genet, ‘Politics: Theory and Practice’, in Christopher Allmand, *The New Cambridge Medieval History,* ii, *c.1415–c.1500* (Cambridge, 2009), 7. [↑](#endnote-ref-13)
14. Although see Julia Crick’s historicization of the term ‘liberty’: ‘“Pristina Libertas”: Liberty and the Anglo-Saxons Revisited’, *Transactions of the Royal Historical Society*, 6th ser., xiv (2004). [↑](#endnote-ref-14)
15. In particular see Helen M. Cam, *Liberties and Communities in Medieval England: Collected Studies in Local Administration and Topography* (Cambridge, 1944); ‘The Evolution of the Mediaeval English Franchise’, *Speculum*, xxii (1957); *Law-Finders and Law-Makers in Medieval England: Collected Studies in Legal and Constitutional History* (London, 1962). See also the largely forgotten (but contemporarily influential) work of George Burton Adams, ‘Private Jurisdiction in England: A Theoretical Reconstruction’, *American Historical Review*, xxiii (1918), to which Cam was sometimes responding, and Warren Ortman Ault, *Private Jurisdiction in England* (New Haven, 1923). Later interest in this topic includes Donald W. Sutherland, *Quo Warranto Proceedings in the Reign of Edward I* (Oxford, 1963), and Helen M. Jewell, *English Local Administration in the Middle Ages* (Newton Abbot, 1972). [↑](#endnote-ref-15)
16. Jean Scammell, ‘The Origin and Limitations of the Liberty of Durham’, *English Historical Review*, lxxxi (1966), 451–8. [↑](#endnote-ref-16)
17. Or, in Maitland’s phrasing, ‘What had the king to give?’: F. W. Maitland, *Domesday Book and Beyond: Three Essays in the Early History of England* (Cambridge, 1907), 234. My thanks to Tom Lambert for elucidating these points for me in several excellent conference papers. See his *Law and Order in Anglo-Saxon England* (Oxford, 2017).My tourse. SO we vertake the widedocationuture weeks. week.:easants paid, often in money.h this course. SO we vertake the wid [↑](#endnote-ref-17)
18. On these developments see Christine Carpenter, *The Wars of the Roses: Politics and the Constitution in England, c.1437–1509* (Cambridge 1992), 4–26. [↑](#endnote-ref-18)
19. Although much broader in scope (and focusing on an earlier period), seminal in this regard was Susan Reynolds, *Kingdoms and Communities in Western Europe, 900–1300*, 2nd edn (Oxford, 1997). [↑](#endnote-ref-19)
20. Marjorie Keniston McIntosh, *Autonomy and Community: The Royal Manor of Havering, 1200–1500* (Cambridge, 1986). [↑](#endnote-ref-20)
21. See, respectively, Gervase Rosser, *Medieval Westminster, 1200–1540* (Oxford, 1989); Martha Carlin, *Medieval Southwark* (London, 1996); and David Gary Shaw, *The Creation of a Community: The City of Wells in the Middle Ages* (Oxford, 1993). [↑](#endnote-ref-21)
22. For example, Gervase Rosser, ‘Communities of Parish and Guild in the late Middle Ages’, in S. J. Wright (ed.), *Parish, Church and People: Local Studies in Lay Religion, 1350–1750* (London, 1988); Ben R. McRee, ‘Religious Gilds and Civic Order: The Case of Norwich in the Late Middle Ages’, *Speculum*, lxvii (1992); Katherine L. French, *The People of the Parish: Community Life in a Late Medieval English Diocese* (Philadelphia, 2001). [↑](#endnote-ref-22)
23. See Lorraine Attreed, ‘Arbitration and the Growth of Urban Liberties in Late Medieval England’, *Journal of British Studies*, xxxi (1992); *The King’s Towns*; and ‘Urban Identity in Medieval English Towns’, *Journal of Interdisciplinary History*, xxxii (2002). See also Gervase Rosser, ‘Conflict and Political Community in the Medieval Town: Disputes Between Clergy and Laity in Hereford’, in T. R. Slater and Gervase Rosser (eds.), *The Church in the Medieval Town* (Aldershot, 1998); Peter Fleming, ‘Conflict and Urban Government in Later Medieval England: St Augustine's Abbey and Bristol’, *Urban History*, xxvii (2000); Carrel, ‘Disputing Legal Privilege’. [↑](#endnote-ref-23)
24. See Gervase Rosser, ‘Sanctuary and Social Negotiation in Medieval England’, in John Blair and Brian Golding (eds.), *The Cloister and the World: Essays in Medieval History in Honour of Barbara Harvey* (Oxford, 1996). For a legal history, see Karl Shoemaker, *Sanctuary and Crime in the Middle Ages, 400–1500* (New York, 2011); in a European context, see Barbara H. Rosenwein, *Negotiating Space: Power, Restraint, and Privileges of Immunity in Early Medieval Europe* (Manchester, 1999). [↑](#endnote-ref-24)
25. See the essays in Michael Prestwich (ed.), *Liberties and Identities in the Medieval British Isles* (Woodbridge, 2008); M. L. Holford and K. J. Stringer, *Border Liberties and Loyalties: North-East England, c.1200–c.1400* (Edinburgh, 2010). [↑](#endnote-ref-25)
26. McIntosh, *Autonomy and Community*, 184. [↑](#endnote-ref-26)
27. Carrel, ‘Disputing Legal Privilege’, 279–80. [↑](#endnote-ref-27)
28. Christine Carpenter, ‘Gentry and Community in Medieval England’, *Journal of British Studies*, xxxiii (1994), 340. [↑](#endnote-ref-28)
29. See the summary in Alan Harding, *The Law Courts of Medieval England* (London, 1973), ch. 3, ‘English Law Courts in the Later Middle Ages’. [↑](#endnote-ref-29)
30. On market courts see *Lex Mercatoria* *and Legal Pluralism: A Late Thirteenth-Century Treatise and Its Afterlife*, ed. and trans., Mary Elizabeth Basile *et al.* (Cambridge, Ma. 1998). [↑](#endnote-ref-30)
31. Shannon McSheffrey, ‘Sanctuary and the Legal Topography of Pre-Reformation London’, *Law and History Review*, xxvii (2009), 504–5 and n. 87. [↑](#endnote-ref-31)
32. Attreed, *The King’s Towns*, 254. [↑](#endnote-ref-32)
33. ‘Honeycomb’ is used more than once by Attreed, in *The King’s Towns* at p. 256, and in ‘Urban Identity in Medieval English Towns’, at p. 572. ‘Mapping’ is suggested in Carrel, ‘Disputing Legal Privilege’, 285, and is used in Peter Arnade, ‘City, State, and Public Ritual in the Late-Medieval Burgundian Netherlands’, *Comparative Studies in Society and History*, xxxix, 2 (1997), 302. ‘Mosaic’ is used In the first place, as Shannon Mcanding why jurisdictional conflicts arose.ted treelate-medieval England.tion' other than to in Kathryn L. Reyerson, ‘Public and Private Space in Medieval Montpellier: The Bon Amic Square’, *Journal of Urban History*, xxiv (1997), 8. For ecclesiastical jurisdictions, see R. N. Swanson, ‘Peculiar Practices: The Jurisdictional Jigsaw of the Pre-Reformation Church’, *Midland History*, xxvi (2001). [↑](#endnote-ref-33)
34. On civic processions, see the classic article by Mervyn James, ‘Ritual, Drama and Social Body in the Late Medieval English Town’, *Past and Present* no. 98 ( Feb.1983). See also Nicholas Orme, ‘Access and Exclusion: Exeter Cathedral, 1300–1540’, in Peregrine Horden (ed.), *Freedom of Movement in the Middle Ages: Proceedings of the 2003 Harlaxton Symposium* (Donington, 2007); Hannes Kleineke, ‘Civic Ritual, Space and Conflict in Fifteenth-Century Exeter’, in Frances Andrews (ed.), *Ritual and Space in the Middle Ages: Proceedings of the 2009 Harlaxton Symposium* (Donington, 2011), 173; Carrel, ‘Disputing Legal Privilege’, 284. [↑](#endnote-ref-34)
35. McSheffrey, ‘Legal Topography of Pre-Reformation London’, *passim*. [↑](#endnote-ref-35)
36. Adams, ‘Private Jurisdiction in England’, 601; Ault, *Private Jurisdiction*, 2; Cam, *Liberties and Communities*, 60. There is a close parallel in the historiography of medieval towns: see the comments in Christian D. Liddy, *War, Politics and Finance in Late Medieval English Towns*: *Bristol, York and the Crown, 1350–1400* (Woodbridge, 2005), 4–7. [↑](#endnote-ref-36)
37. On the genealogy of ‘territory’, especially in relation to ‘territorialization’, see Stuart Elden, ‘Land, Terrain, Territory’, *Progress in Human Geography*, xxxiv, 6 (2010). [↑](#endnote-ref-37)
38. See John Watts, *The Making of Polities: Europe, 1300–1500* (Cambridge, 2009), 23–33. [↑](#endnote-ref-38)
39. Keith Stringer, ‘States, Liberties and Communities in Medieval Britain and Ireland (*c*.1100–1400)’, in Prestwich (ed.), *Liberties and Identities*, 28–9. [↑](#endnote-ref-39)
40. On such rivalries, see Attreed, ‘Urban Identity’, 572–3. [↑](#endnote-ref-40)
41. Monique Bourin, ‘Les Droits d’usage et la gestion de l’inculte en France méridionale: un terrain de comparaison “avant la Peste”’, in Monique Bourin and Stéphane Boisellier (eds.), *L’Espace rural au moyen âge: Portugal, Espagne, France (XIIe–XIVe siècle): Mélanges en l’honneur de Robert Durand* (Rennes, 2002), 202. [↑](#endnote-ref-41)
42. See John Maddicott’s classic article, ‘The County Community and the Making of Public Opinion in Fourteenth-Century England’, *Transactions of the Royal Historical Society*, xxviii (1978); also Simon Walker, ‘Rumour, Sedition and Popular Protest in the Reign of Henry IV’, *Past and Present* no. 166 (Feb. 2000), andJohn Watts, ‘The Pressure of the Public on Later Medieval Politics’, in Linda Clark and Christine Carpenter (eds.), *The Fifteenth Century,* iv, *Political Culture in Late Medieval Britain*. (Woodbridge, 2004). More recently, see the essays in Jan Dumolyn, Jelle Haemers, Hipólito Rafael Oliva Herrer, and Vincent Challet (eds.), *The Voices of the People in Late Medieval Europe: Communication and Popular Politics* (Turnhout, 2014). [↑](#endnote-ref-42)
43. An ongoing interdisciplinary project supported by English Heritage, the University of Southampton and other benefactors, is working to reconstruct the town’s medieval boundaries and buildings: <http://www.dunwich.org.uk/> (accessed 2 December 2013). [↑](#endnote-ref-43)
44. On the East Anglian maritime community, see G. V. Scammell, ‘English Merchant Shipping at the End of the Middle Ages: Some East Coast Evidence’, *Economic History Review*, n.s. xiii (1961); Mark Bailey, ‘Coastal Fishing off South East Suffolk in the Century After the Black Death’, *Proceedings of the Suffolk Institute of Archaeology and History*, xxxvii, 2 (1992). More generally, see Maryanne Kowaleski, ‘The Demography of Maritime Communities in Late Medieval England’, in Mark Bailey and Stephen Rigby (eds.), *Town and Countryside in the Age of the Black Death: Essays in Honour of John Hatcher* (Turnhout, 2012). [↑](#endnote-ref-44)
45. *Leiston Abbey Cartulary and Butley Priory Charters*, ed. R. Mortimer(Ipswich, 1979), 63–4. [↑](#endnote-ref-45)
46. R. Parker, *Men of Dunwich* (New York, 1978), 52–60. See also See also: Ernest R. Cooper, ‘The Dunwich Charter of King John, of 1215’, *Proceedings of the Suffolk Institute for Archaeology and Natural History*, xxiii:3 (1939). [↑](#endnote-ref-46)
47. On *sac* and *soc*, see Maitland, *Domesday Book and Beyond*, 84–5; Cam, ‘Evolution of the Medieval Franchise’, 430 and n. 25. [↑](#endnote-ref-47)
48. Before the late twelfth century the formal jurisdictional relationship between Dunwich and Blythburgh was rather fuzzy: Maitland, *Domesday Book and Beyond*, 96–7 n. 8 [↑](#endnote-ref-48)
49. *Blythburgh Priory Cartulary*, ed. Christopher Harper-Bill, 2 vols. (Woodbridge, 1980–1), i, 24. [↑](#endnote-ref-49)
50. Parker, *Men of Dunwich*, 66–7. [↑](#endnote-ref-50)
51. *Curia Regis Rolls* (London, 1959), xiii, 522, item 2547. [↑](#endnote-ref-51)
52. See *Cal. Pat. Rolls, 1401–5*, 353 (a later exemplification). The original was not recorded on the Patent, Close, or Charter Rolls. On wreck rights more generally, see Rose Melikan, ‘Shippers, Salvors, and Sovereigns: Competing Interests in the Medieval Law of Shipwreck’, *Journal of Legal History*, xi (1990). [↑](#endnote-ref-52)
53. *Cal. Ch. Rolls*, i, 124. [↑](#endnote-ref-53)
54. *Cal. Pat. Rolls, 1408–13*, 105–7. [↑](#endnote-ref-54)
55. On the use of juries for this kind of information gathering, see James Massachaele, *Jury, State and Society in Medieval England* (New York, 2008). [↑](#endnote-ref-55)
56. *Cal. Pat. Rolls, 1408–13*, 105–7. [↑](#endnote-ref-56)
57. *Close Rolls of the Reign of Henry III, 1247–1251*, (London, 1902–38),279; *Cal. Pat. Rolls, 1292–1301*, 548. See also Mark Bailey, ‘*Per Impetum Maris*: Natural Disaster and Economic Decline in Eastern England, 1275–1350’, in Bruce M. S. Campbell (ed.), *Before the Black Death: Studies in the ‘Crisis’ of the Early Fourteenth Century* (Manchester, 1991), 195–7. [↑](#endnote-ref-57)
58. See the editor’s introduction to *The Bailiff’s Minute Book of Dunwich, 1404–1430*, ed. Mark Bailey (Suffolk Records Society, xxxiv, Woodbridge, 1992), 2. [↑](#endnote-ref-58)
59. Intermittent, but never disputatious investigations into the harbour continued over the fourteenth century: *Cal. Inq. Misc.*, ii, 226, item 907; *Cal. Pat. Rolls, 1348–1350*, 79; *Cal. Inq. Misc.*, iii, 56, item 156. [↑](#endnote-ref-59)
60. This phase of the Dunwich disputes has been briefly rehearsed before: Richmond, *John Hopton*, 152; *The Bailiff’s Minute Book*, ed. Bailey, ‘introduction’, 12–14. [↑](#endnote-ref-60)
61. *Cal. Close Rolls, 1389–1392,* 228. [↑](#endnote-ref-61)
62. *Cal. Close Rolls, 1396–1399*, 332–3. A later fifteenth-century copy of the beginning of these proceedings can be found at SROI, HA30/369/394, m. 1r. [↑](#endnote-ref-62)
63. Technically, the town was taken into the king’s hands (that is, it was theoretically under his direct governance), as had been requested in 1390: The National Archives, London, SC 8/306/15285; C 1/68/35. For the inquiry, see *Cal. Close Rolls, 1399–1402*, 160–1. The burgesses still had to pay the fee farm, however, which caused further problems: *The Bailiff’s Minute Book*, ed. Bailey, ‘introduction’, 14. [↑](#endnote-ref-63)
64. See n. 57 above. The burgesses had the charter copied in their minute book: *The Bailiff’s Minute Book*, ed. Bailey, 25. The same phrase was subsequently quoted in the proceedings of 1404: British Library (hereafter BL), Add. Ch. 40707, m. 2. [↑](#endnote-ref-64)
65. Both copies of this indenture of arbitration survive: BL, Add. Ch. 40763 (Dunwich’s copy); SROI, HA30/369/327 (Swillington’s copy] [↑](#endnote-ref-65)
66. *Curia Regis Rolls*, xiii, 522 [item 2547]; copied in BL, Add. Ch. 40707, mm. 1–2. Given that the arbitration of 1405 made specific provision for the continuation of the royal inquiry into the rights of Walberswick in the harbour, it seems possible that Swillington knew of this document before seeking arbitration. [↑](#endnote-ref-66)
67. *Cal. Pat. Rolls, 1408–1413*, 105–7. [↑](#endnote-ref-67)
68. *Ibid.*, 206–7. [↑](#endnote-ref-68)
69. *Ibid.*, 207. [↑](#endnote-ref-69)
70. See above, [REF]. [↑](#endnote-ref-70)
71. Richmond, *John Hopton*, 30. [↑](#endnote-ref-71)
72. This is hinted at in BL, Add. Ch. 40721, m. 5. [↑](#endnote-ref-72)
73. *Ibid.*, m. 1. [↑](#endnote-ref-73)
74. *Ibid.*, mm. 5–7. [↑](#endnote-ref-74)
75. SROI, HA30/369/394, m. 3. [↑](#endnote-ref-75)
76. *Ibid.*, mm. 1–7; SROI, HA30/369/394, mm. 2–3; HA30/312/87. [↑](#endnote-ref-76)
77. BL, Add. Ch. 40721, m. 3. [↑](#endnote-ref-77)
78. Ibid. m. 7. [↑](#endnote-ref-78)
79. Three separate (but undated) incidents are recounted in SRO, HA30/369/394, m. 2. [↑](#endnote-ref-79)
80. See Edward Powell, ‘Settlement of Disputes by Arbitration in Fifteenth-Century England’, *Law & History Review*, ii (1984). [↑](#endnote-ref-80)
81. These survive as BL, Add. Ch. 40721, and SROI, HA30/369/394, HA30/312/87. [↑](#endnote-ref-81)
82. Richmond, *John Hopton*, 49, 153. [↑](#endnote-ref-82)
83. SROI, HA30/369/335. [↑](#endnote-ref-83)
84. *Ibid*. [↑](#endnote-ref-84)
85. This phrase is from SROI, HA30/369/327, the 1405 version of this arbitration. [↑](#endnote-ref-85)
86. SRO, HA30/369/394, m. 2. [↑](#endnote-ref-86)
87. BL, Add. Ch. 40721, m. 5. [↑](#endnote-ref-87)
88. *Ibid.*, m. 5. The specific tolls claimed, by both parties, were rights of ‘mesurage’, ‘ancorage’, ‘pickage’ and ‘ferriage’: respectively the right to charge for measuring incoming produce, anchoring ships in the haven, having booths for selling produce and ferrying passengers across the water ynamically n of jurisdictions. out the division of jurisdictions. privileges. ightforwardly ' to the formulaic common law disco. They are laid out explicitly in one set of complaints of the burgesses: SROI, HA30/369/394, m. 2. [↑](#endnote-ref-88)
89. BL, Add. Ch. 40721, m. 2. [↑](#endnote-ref-89)
90. On the grant, see n. 49 above. This description from the 1157 charter was first used in the Latinate Chancery proceedings between Swillington and Dunwich in 1408: BL, Add. Ch. 40707, m. 2, and subsequently it was referenced in the exemplification of the 1408 inquest: *Cal. Close Rolls, 1405–1409*, 337. It was then used, in translated form, in Hopton’s answer to the complaints of the burgesses in the 1460s: SROI, HA30/312/87. And then again, twice, in his rejoinder: BL, Add. Ch. 40721, m. 2. [↑](#endnote-ref-90)
91. SROI, HA30/312/87. [↑](#endnote-ref-91)
92. This was referred to as a ‘wrytyng mad of all thyngs of valew perteynyng to the said maner’, during that time, but no copy of such a document has survived: SROI, HA30/369/394, m. 3. [↑](#endnote-ref-92)
93. *Ibid*., m. 3; BL, Add. Ch. 40721, m. 6. [↑](#endnote-ref-93)
94. BL, Add. Ch. 40721, m. 6. The spelling of Dunwich here, possibly transcribed from this purported eleventh-century document, was possibly an attempt to signal the antiquity of their claim; although in general the orthography of Middle English was variable, the spelling of ‘Dunwich’ in every single other vernacular document from this time includes an ‘h’ at the end. [↑](#endnote-ref-94)
95. See M. L. Holford, ‘Pro Patriotis: “Country”, “Countrymen” and Local Solidarities in Late Medieval England’, *Parergon*, xxiii,1 (2006). [↑](#endnote-ref-95)
96. BL, Add. Ch. 40721, mm. 3–4. [↑](#endnote-ref-96)
97. See Debbie Cannon, ‘London Pride: Citizenship and the Fourteenth-Century Custumals of the City of London’, in Sarah Rees Jones (ed.), *Learning and Literacy in Medieval England and Abroad* (Turnhout, 2003); Peter Fleming, ‘Making History: Culture, Politics and the Maire of Bristow is Kalendar’, in Douglas L. Biggs, Sharon D. Michalove and A. Compton Reeves (eds.), *Reputation and Representation in Fifteenth-Century Europe* (Leiden, 2004). [↑](#endnote-ref-97)
98. *Cal. Close Rolls, 1399–1402*, 160–1. [↑](#endnote-ref-98)
99. *Cal. Close Rolls, 1405–1409*, 337. It is obscure who or what ‘lenald’ was. [↑](#endnote-ref-99)
100. SROI, HA30/314/19d/1–21, m. 19r. [↑](#endnote-ref-100)
101. *Ibid.*, m. 2. [↑](#endnote-ref-101)
102. SROI, HA30/369/394, m. 2. [↑](#endnote-ref-102)
103. BL, Add. Ch. 40721, m. 3. [↑](#endnote-ref-103)
104. For a transcription of the rutter in John Paston’s ‘grete boke’ (BL, Landsdowne MS 285), see *Sailing Directions for the Circumnavigation of England: and for a Voyage to the Straits of Gibraltar from a XVth Century MS,* ed. James Gairdner (London, 1889). The relevant passage misses Dunwich, however, going straight between the sands at Lowestoft and Orwell haven at Harwich. [↑](#endnote-ref-104)
105. See n. 47 above. [↑](#endnote-ref-105)
106. SRO, HA30/369/394, m. 2. [↑](#endnote-ref-106)
107. *Ibid*. [↑](#endnote-ref-107)
108. Attreed, ‘Urban Identity’, 579–80. [↑](#endnote-ref-108)
109. SRO, HA30/369/394, m. 2. [↑](#endnote-ref-109)
110. BL, Add. Ch. 40721, m. 3. [↑](#endnote-ref-110)
111. *Ibid*. [↑](#endnote-ref-111)
112. See Philippa C. Maddern, *Violence and Social Order: East Anglia, 1422–1442* (Oxford, 1992), especially ch. 6, ‘Community Violence: Two Case Studies’. [↑](#endnote-ref-112)
113. BL, Add. Ch. 40721, mm. 6–7. [↑](#endnote-ref-113)
114. *Ibid.*, m. 7. [↑](#endnote-ref-114)
115. Wood, *Memory of the People*, 7. [↑](#endnote-ref-115)
116. See Attreed, ‘Urban Identity’, and ‘Arbitration and Liberties’, *passim.* [↑](#endnote-ref-116)
117. Fleming, ‘Conflict and Urban Government’, 342–3; Rosser, ‘Relations Between Clergy and Laity in Hereford’, 35–6, and ‘Sanctuary and Social Negotiation’, 79; Carrel, ‘Disputing Legal Privilege’, 295–6. [↑](#endnote-ref-117)
118. Rosser, ‘Relations Between Clergy and Laity in Hereford’, 36. [↑](#endnote-ref-118)
119. More generally, see Patrick Lantschner, ‘Justice Contested and Affirmed: Jurisdiction and Conflict in Late Medieval Italian Cities’, in Fernanda Pirie and Judith Scheele (eds.), *Legalism: Community and Justice* (Oxford, 2014). [↑](#endnote-ref-119)
120. R. G. Marsden, ‘The Vice-Admirals of the Coast’, *English Historical Review* xxii (1907), 472 and *passim*. [↑](#endnote-ref-120)
121. On these charters, see a new article by Eliza Hartrich, ‘Charters and Inter-Urban Networks: England, 1439-1449’, *English Historical Review* cxxxii (2017). This important work appeared late in the publication process, and so I have not been able to incorporate its many insights into the main body of my argument. [↑](#endnote-ref-121)
122. See *Proceedings before the Justices of the Peace in the Fourteenth and Fifteenth Centuries: Edward III to Richard III*, ed. Bertha Haven Putnam (London, 1938), pp. xiii–cxxxii. On towns acquiring these rights, see Liddy, *War, Politics and Finance*, ch. 5, ‘Urban Charters’. [↑](#endnote-ref-122)
123. On mobility, see the classic work J. Ambrose Raftis, *Tenure and Mobility: Studies in the Social History of the Medieval English Village* (Toronto, 1964), ch. 7, ‘Peasant Mobility in the Fifteenth Century’; but note the more skeptical analysis in Mark Bailey, *The Decline of Serfdom in Late Medieval England: From Bondage to Freedom* (Woodbridge, 2014), 76–9. [↑](#endnote-ref-123)
124. Norfolk Record Office, Norwich, KIM 1/9/16, m. 2. [↑](#endnote-ref-124)
125. Maddicott, ‘The County Community’, 41–2; Colin Richmond, ‘Hand and Mouth: Information Gathering and Use in England in the Later Middle Ages’, *Journal of Historical Sociology*, i (1988); W. M. Ormrod, ‘The Use of English: Language, Law, and Political Culture in Fourteenth-Century England’, *Speculum*, lxxviii (2003), 785–7. [↑](#endnote-ref-125)
126. James A. Doig, ‘Political Propaganda and Royal Proclamations in Late Medieval England’, *Historical Research*, lxxi (1998), 257; James Masschaele, ‘The Public Space of the Marketplace in Medieval England’, *Speculum*, lxxvii (2002), 396. [↑](#endnote-ref-126)
127. Essex Record Office, Chelmsford, D/B 5 R1, f. 21r. [↑](#endnote-ref-127)
128. Christian D. Liddy and Jelle Haemers, ‘Popular Politics in the Late Medieval City: York and Bruges’, *English Historical Review*, cxxviii (2013), 795. [↑](#endnote-ref-128)
129. Fleming, ‘Conflict and Urban Government’, 333; Kleineke, ‘Civic Ritual, Space and Conflict’, 173. See also Rosser, ‘Relations Between Clergy and Laity in Hereford’, 33 n. 63. [↑](#endnote-ref-129)
130. Ian Forrest, *The Detection of Heresy in Late-Medieval England* (Oxford, 2005), 123. [↑](#endnote-ref-130)
131. See Rosser, ‘Disputes Between Clergy and Laity in Hereford’, 24–6. [↑](#endnote-ref-131)
132. HCLA, HCA3209, fos. 4r. (the articles), 5r–v, 6r–v (witnesses). [↑](#endnote-ref-132)
133. Donald R. Davis, ‘Centres of Law: Duties, Rights, and Jurisdictional Pluralism in Medieval India’, in Paul Dresch and Hannah Skoda (eds.), *Legalism: Anthropology and History* (Oxford, 2012), 87. [↑](#endnote-ref-133)
134. *The Parliament Rolls of Medieval England, 1275–1504*, ed. Chris Given-Wilson, Paul Brand, Seymour Phillips, Mark Ormrod, Geoffrey Martin, Anne Curry and Rosemary Horrox, 16 vols. (Woodbridge, 2005), xvi, 58-60. [↑](#endnote-ref-134)
135. *Cal. Pat. Rolls, 1485–1494*, 300. [↑](#endnote-ref-135)
136. For a summary of Southwold’s new liberties, see *British Borough Charters,* *1307–1660*, ed. Martin Weinbaum (Cambridge, 1943), 111. [↑](#endnote-ref-136)
137. BL, Harley MS. 532, fos. 53r–60r at fo. 57v. The report stated that the ‘common report and fame’ of the townspeople was that Dunwich had been a very great and powerful city in the olden days. On early modern Dunwich, see Parker, *Men of Dunwich*, 259–65. [↑](#endnote-ref-137)
138. Thomas Gardner, *An Historical Account of Dunwich, Antiently a City, now a Borough* (London, 1754), ‘The Preface’ (unpaginated). [↑](#endnote-ref-138)
139. See nn. 4–5 above. [↑](#endnote-ref-139)
140. North Yorkshire County Record Office, Northallerton, ZQH 1, fo. 155v. On the dispute, see A. J. Pollard, *North-Eastern England During the Wars of the Roses: Lay Society, War, and Politics, 1450–1500* (Oxford, 1990), 118. [↑](#endnote-ref-140)