

Wareham Court Leet

By Mr.H.J.S.Clark

My purpose in writing this paper is to place on record such information as I have about the Court Leet of the Manor and Borough of Wareham.

My personal interest in the subject stems primarily from the fact that the Stewardship of the Manor from 1889 was held first by my father, Edward Seymer Clark and then from 1921 by my partner in my legal business, Henry Gordon Redman and then from 1965 by myself.

Such knowledge as I have of Courts Leet in general and of the Wareham Court Leet in particular has been gleaned largely from the books and documents which are listed in the appendix to this paper. The listing of these items of reference is undoubtedly the most valuable service I can render to future students of this subject.

I think that the most useful way of dealing with the matter will be to write down some of the questions which have been put to me from time to time and attempt to answer them.

I will say something about the Court at two points of time in particular: first the present time and then the time at which the Court came into being.

Question 1. What is a Court Leet today ?

It is the surviving remains of a once powerful feudal court of law which formed part of the English legal and administrative system.

Such courts have their origin in the century following the Norman Conquest of England. Courts Leet were courts of criminal jurisdiction created by a grant by the King to one of his trusted Tenants-in-Chief. The grant constituted a delegation of authority and a de-centralisation of power.

Every holder of a Manor had the automatic right to hold what was called a Court Baron to administer his estate and to settle disputes regarding tenancies and suchlike, but he had no automatic right to deal with crimes or to punish offenders.

In cases in which the King granted to his tenant-in-chief the right to hold a "Law Day" and thereby to punish offenders, the Court Baron became known at a much later date as a Court Leet.

No-one knows the derivation of the word "leet" but it appears in the proceedings of courts baron in the 12th and 13th centuries and in each such context it is used in the sense of "Law Day", from that I deduce that Court Leet means "Court of Lawday".

Very few such courts have survived the 800 years or so since their creation - that is what renders the Wareham Court of such special interest.

Those Courts Leet which have survived operate mainly for formal purposes and to maintain tradition.

Question 2. What is the Wareham Court Leet as it exists today ?

It is the court of Mr. J.C.D.Ryder. In 1986 he succeeded to the lordship on the death of his father, Major D.C.D.Ryder who had been Lord of the Manor for fifty-eight years and whose family have held the manor for well over two hundred years.

The court is convened once a year in November. It then carries out the traditional procedure and formalities which have, so far as we know, been carried out from time immemorial.

The Bailiff opens the proceedings.

The Foreman of the Jury is appointed and he and the Jury are sworn.

The Officers are present.

They include:

Constables, Carniters, Aletasters, Bread-weighers, Surveyors of chimneys and mantels, Scavengers, the Leather Sealer and the Hayward.

At the annual session of the Court some of the Officers deliver Reports.

The Foreman reports on behalf of the Commons Committee whose special field of interest is the Common, the Town Walls and such manorial appendages as the Pound into which stray cattle used to be put.

The Steward, who is appointed by the Lord of the Manor, presides over the proceedings.

The word Steward is a corruption of "styward". He is the officer who in Saxon times was responsible for the sty, i.e. the enclosure containing the cattle and other food animals for the Lord's table. He was the chief servant and was the general overseer of the manor. One Steward, Walter de Scotney tried to poison the Lord of the Manor and was hanged for it. In recent times, Stewards have not been required to provide the food for the Lord of the Manor.

Of all the organisations in Wareham, the Court Leet is the one which is most essentially 'Wareham' in character. There is a good deal of family continuity amongst its members. Several of us are third generation members and some, including Mr. J. Baggs, are, I believe, very much more. A couple of years ago we had three generations of one family as members at the same time.

On the Court Leet Day, all present have lunch together at the invitation of the Lord of the Manor. That is always a very pleasant occasion.

In the afternoon following the lunch, the jury sits and makes its decisions and recommendations, known as presentments, on matters raised and the officers for the ensuing year are appointed.

The aspect of the Court Leet activities which nowadays attracts the most interest and public fascination is the annual tour of the taverns by the Aletasters, Chimney-peepers, Breadweighers and other officers on the evenings of the week in which the Court sits. This duty was no doubt a serious necessity in the old days before the creation of Government Trade Standards officers. Today it is carried out with enthusiasm and is the activity for which the Court Leet is best known to the public.

The continuance of the Court Leet owes much to the lively way in which these traditional functions are performed.

Question 3. When and to whom did the King first grant the rights which confer Court leet jurisdiction at Wareham ?

No-one knows the answer to that question. All the early Court records have perished as one would expect in a period of 800 or 900 years. However, we do know that the first Tenant-in-Chief of Wareham after the Conquest was a Norman baron called Robert de Beaumont Count de Mellent and that he held Wareham in the early days of the 12th Century. So far as I remember, the earliest date at which his name appears in the records in relation to Wareham is 1108. We know with certainty that his direct descendants, the Earls of Leicester, Gloucester, Hertford and de Clare successively held Wareham until 1360.

We also know from surviving documents that, in the Inquisitions Post Mortem on the deaths of Kings or holders of rights, Robert de Beaumont's descendants claimed rights in Wareham, some of which are exercisable only through a Court Leet. For example on the death of Henry III in 1272, Gilbert de Clare asserted his claim to the following rights in Wareham: Gallows, bloodshed, hue and cry, view of frankpledge, pillory, ducking-stool, assize of bread and beer, a weekly Saturday market and other rights all of which he claimed that he and his ancestors had enjoyed since time out of mind.

The expression "Time out of mind" would have taken the exercise of the rights back to the 12th Century and it seems safe to conclude that those rights were granted to Robert de Beaumont when the manor was granted to him. We also know that Robert de Beaumont was a powerful and important baron close to the King.

I will set out a note about him in an appendix so that readers can see that he was the person to whom the rights of criminal jurisdiction were most probably first granted.

Question 4. What was the function of the Court Leet in its earliest days ?

The answer in the absence of direct evidence, must be by deduction from a very few facts and by analogy with the records which have survived of other Courts Leet.

I think that the answer is that the Court Leet dealt with everything within the manor in the nature of Local Government and the maintenance of law and order.

The burgesses of the town formed another organised body which could be said to be the predecessor of the Town Council but my impression is that it was in its early days more in the nature of a Chamber of Commerce. A document survives, recording that it was fined in the 12th Century for forming a Guild without a licence. It is also recorded as having acquired, for a money payment, some commercial rights from King John. Certainly that organisation would not have held rights of criminal jurisdiction.

To understand the Court Leet jurisdiction, it is necessary to realise that in its earliest days there was:

No Police Force, Police Court, Magistrates Court, County Court, District Council, County Council, Highway Authority, Planning Authority, Port Authority, Commons Commissioners and, above all, no Parliament.

Although the Church wielded great power and influence and the Priory at Wareham was a seat of learning and of spiritual teaching and met the charitable needs of the community, yet the Church did not administer the criminal or civil law. Civil and criminal law within the manor were the province of the Lord of the Manor except that major lawsuits were dealt with by the King himself or his Justiciar on the King's bench.

The "articles of enquiry", what we might call a "check list", of a typical Court Leet Law Day is as follows:

Articles of the View of Frankpledge.

Are all chief pledges present,

Are all persons over 12 enrolled,

Is there any vagrant not in a tithing,

Anyone for whom no-one will vouch.

Any bloodshed, receivers of stolen cattle or hides, stealers of horses or horseshoes, false weights and measures, pilferers of corn at harvest-time, treasure trove, waif and stray, unlicensed fishers, hunters and fowlers, tavern haunters, rape, counterfeiters and clippers of money, melters-down of stolen plate, re-fashioners of stolen ploughshares, harbourers of strangers, petty thieves, great thieves, robbers, window-snatchers, watercourses and paths interfered with. If there was hue and cry did anyone fail to join in, unauthorised butchers, walls wrongfully set up or pulled down, chattels of thieves, chattels of Christian users, house burners, evildoers in vineyards, parks and rabbit warrens, dove stealers, woods or thickets injured, sellers of faulty goods, poisoners, cutpurses, sorcerers, homicides, prison breakers, bridges broken, tolls wrongly levied, runaway wives - the last item in the list had written in Latin against it, "and did all run to one and the same man ?".

Courts Leet did not and could not make laws but they enforced strictly and impartially the Laws of England and the customs of the manor.

Question 5. What, very briefly, would the town have looked like in the early days of the court ?

I include this question because it would be anomalous to visualise a 12th century court in a 20th century town.

To have the barest impression of what Wareham was like in the 12th century one must obliterate from one's mind every building and structure now standing in the town except the earthwork walls and the churches and then one must add:

A stone bridge over the rivers North and South, a Priory where the Priory Hotel now stands, a small port between the South bridge and the Priory with moorings, landing stages, boats, boathouses and warehouses, about 250 smallish mud cottages with thatched roofs standing alongside the streets and lanes which already existed in their present grid layout. Add a large collection of mud and thatched sheds used for cattle, pigs and poultry and as slaughterhouses, blacksmiths' forges, cart sheds, carpenters' shops and the work places of craftsmen such as the

licenced coin makers. Add a few traders' stalls near the Cross selling fish and other perishables. Then fill in the whole area within the Town Walls with allotments of vegetable gardens and add a population of about 1200 people including boatmen, monks, traders, housewives and masses of children and chickens running all over the roads.

Add to the above a massive stone castle in the south-west corner of the town.

On Law Days when there was a View of Frankpledge all the men and youths would proceed to the Castle and form groups of ten. The head of each group was called a tithing-man and he was responsible for reporting that his group was present and complete. It was a sort of roll-call.

To give just some idea of how different were the lives of our forebears in those days, I would mention that they lived in houses with mud walls, thatched roofs and earth floors covered with rushes. They slept on palliases filled with chaff and moss and leaves on the floor and used wooden blocks as pillows. During the day they wore an undershirt and long stockings, thick-soled shoes and a sleeveless smock. For outdoor wear they had a long coat with hood attached. Breakfast usually consisted of brown bread, cheese and ale. They had virtually none of the things which we today take for granted such as clocks, watches, electricity, tap-water, newspapers and letters.

In the Castle on Law Days, the Steward sat on a bench at a trestle-table where his clerk sat with a large roll of parchment and the Court proceedings went ahead.

No records survive of any criminal cases heard by the Wareham Court Leet in ancient times but to show the sort of thing that went on I will set down a copy of one single, very short case from the records of another Court Leet.

Of horse stealing

Bailiff: "Sir."

Steward: "Let the prisoners come before us."

Bailiff: "That will I Sir. Lo they are here."

Steward: "For what cause was this man taken?"

Bailiff: "Sir for a mare which he took in other manner than he ought."

Steward: "What is thy name"

William: "Sir my name is William."

Steward: "William, now answer me by what device thou camest by this mare: for at least thou canst not deny that she was found with thee and that thou didst avow her for thine own."

William: "Sir, I disavow this mare and never saw her until now."

Steward: "Then thou canst right boldly put thyself upon the good folk of this vill that thou didst not steal her."

William: "Nay Sir, for these men have their hearts big against me and hate me much because of this ill report which is surmised against me."

Steward: "Thinkest thou William that there would be any who would commend his body and soul to the devils for thee or for love or hatred of thee? Nay verily they are good folk and lawful and thou canst not be among them all those thou suspectest of desiring thy condemnation, but do thou what is right and have God before thine eyes and give not thyself wholly to the enticement of devils, but confess the truth and thou shalt find us the more merciful."

William: "Sir in God's name have pity on me and I will confess the truth, my great poverty and neediness and the enticement of the devil made me take this mare larcenously, and often have they made me do other things that I ought not to have done."

Steward: "God pardon thee, at least thou liast confessed in this Court that larcenously thou tookest this mare, now name some of thy fellows for it cannot be but that thou hadst fellowship in thy evil, deeds."

William: "Of a truth Sir never had I a companion in my evil deeds save only the fiend."

Steward: "Take him away and let him have a priest."

Question 6. Was the Court Leet system effective in the enforcement of Law and Order ?

Judging by results, the answer is most certainly - yes. Statistics show that crime all over England was absolutely minimal. The Frankpledge system whereby people were responsible for one another in groups of ten was ingenious and an effective safeguard against crime.

The "hue and cry" system involved everyone in the community in the speedy apprehension of offenders.

The punishments used were quick, inexpensive and effective deterrents.

The stocks and ducking-stool were used for the punishment of minor crimes. By their use, justice was not only done but seen to be done and public opinion could express itself.

For theft on the first offence one ear was clipped in a way that people who came in contact with the offender would be made aware of his propensity. For a second offence, the second ear was appropriately clipped.

Third convictions for theft were, consequently very rare indeed but in instances in which they did occur, the criminal was, in the words of some records: "returned to his Maker".

The system was based on the fact that crime is voluntary, that there is no reason why innocent people should be exposed to it and that if you hang a thief when he is young he will not steal when he is old.

The feudal system of which Courts Leet constituted an integral part, operated before science had yielded present-day wealth. It was an era of rural life when every man had his plot of land to cultivate. The enjoyment of reasonable comfort depended on the exercise of industry and frugality.

It was an age of youth - most people died before the restraints of old age had set in. The era of false teeth and spectacles had not dawned. The idea of keeping millions in geriatric conditions did not appeal to our forebears.

The general public was almost entirely Anglo-Saxon so they were inclined to be resentful of Norman intruders. In their wildest nightmares, they never dreamed that their descendants would be subjected to a multi-racial society.

For all its frugality, the Feudal age was one of discipline and chivalry which finally blossomed into the Renaissance and the Golden Age of the Tudors, from which the nation garnered the fruits.

Question 7. Why and how did the Court Leet lose its powers and duties ?

The answer is briefly that once Parliament had come into being, it gradually secured for itself financial control over the Kingdom and thence supremacy over the Crown and over all the institutions which the Crown had created.

Although Parliament has not expressly abolished the Court Leet or created any one institution to take over all its powers and duties, yet it has by degrees over the centuries created numerous bodies and officials to whom it has assigned powers and duties which had formerly been wholly or partially within the province of Courts Baron and Courts Leet, for example:

Justices of the Peace, Parish Councils, Town Councils, District Councils, County Councils, River Authorities, Port Authorities, Highway Authorities, Planning Authorities, a Police Force, Police Courts, County Courts, Crown Courts, Trading Standards Officers, Health Inspectors, Commons Commissioners and many others, each of which eroded the functions of the feudal courts.

After the 1880's, the Court Leet no longer imposed fines.

I have not investigated the reason for that but expect that it was due to some provision in the Criminal Justice Act. In 1925 the Law of Property Act abolished copyhold tenure and most of the remaining manorial rights.

However, right up to the 1970's, some manorial courts still claimed the right to exercise legal jurisdiction. Parliament therefore decided that manorial courts should cease to have jurisdiction to hear and determine legal proceedings. That was carried into law by the Criminal Justice Act 1977. The manorial courts were not abolished, as was originally proposed by the Law Commission, but their functions were restricted to those which were exercised in 1977, namely in the case of Wareham to the Appointment of Officers and the taking of Presentments with respect to the common, the Town Walls, the Town Pound and other matters of local concern.

The first feudal Lord of the Manor of Wareham

The first great Norman overlord to whom the castle and town of Wareham was granted by the Crown was Robert de Beaumont or Bellomout Count de Meulan, otherwise Earl of Mellent, who in 1103 was created Earl of Leicester. At what date the custody of Wareham was granted to him we do not know but his descendants held Wareham for about 250 years. The first thing we hear of him in connection with Wareham is that during the reign of Henry I he took the patronage of St. Mary's Church at Wareham from St. Wandregisil's Abbey at Fontanell to whom Edward the Confessor had given it, and he gave it to the Benedictine Abbey of Lire in Normandy.

He allocated the toll charges which were levied on those who traded in Wareham to St. Peter's Abbey at Montacute. He also gave that Abbey the houses of Herlewyn the painter at Wareham.

This feudal overlord of Wareham was a man of great power and influence. He and his brother Henry Earl of Warwick, sons of Roger de Beaumont who built the Monastery of Preaux in Normandy, were both outstandingly brilliant. When Henry I wished to impress Pope Calixtus and his cardinals on their visit to Normandy, he arranged for Robert and Henry to dispute with the cardinals in logic. The following account of Robert written by a monk of Mulxnesbury who lived in those days helps us to realise the power and quality of a Norman Baron.

"In addition to his paternal inheritance in Normandy and large estates in England Robert purchased from the King of France a castle called Mellent. Conducted gradually by budding hope towards fame in the time of former kings, he attained to its full bloom in Henry's days; and his advice was regarded as though the oracle of God had been consulted: indeed he was deservedly esteemed to have obtained it, as he was of ripe age to counsel; the persuader of peace, the dissuader of strife, and capable of very speedily bringing about whatever he desired from the powers of his eloquence."

"He possessed such mighty influence in England as to change by his single example the long established modes of dress and diet. Finally the custom of one meal a day is observed in the castles of the nobility as a result of his influence, which habit he adopted from Alexius Emperor of Constantinople on the score of his health spread as I have observed among the rest by his authority. He is blamed as having done this more through want of liberality than any fear of surfeit or indigestion but undeservedly since no one it is said was more lavish in entertainments to others or more moderate in himself. In law he was the supporter of justice; in war he was the insurer of victory, urging his lord the king to enforce the rigour of the statutes, himself not only following the existing but proposing new ones; free himself from treachery towards the king, he was the avenger of it in others."

It was perhaps for this latter reason that Henry I caused his two most formidable political prisoners, Robert Duke of Normandy and Robert de Belesme to be delivered as prisoners to the Earl's castle at Wareham.

He died in 1118.

I have a photograph of his seal. It shows him on horseback wearing armour carrying his shield and spear with his pennant. One can see on the seal the flowing linen surcoat which was worn over armour to prevent the metal from getting very hot in the sun. His emblem was a cinqfoil*. It is depicted in the centre of the shield on the tie worn by members of the Court Leet. His armour was not just for show. He distinguished himself in many battles from Senlac in 1066 to Tenchebrai in 1106.



*Cinqfoil: five petalled flower
In heraldry it represents hope and joy