

Wareham Court Leet

By Mr.H.J.S.Clark

In 1965, when Mr. D.C.D. Ryder appointed me as Steward of the Manor of Wareham, he informed me that he held the Minute Books of the Court Leet from 1853 onwards.

Those which covered the period from 1853 to 1920 being deposited at the County Record Office and those from 1921 onwards being retained in the Rempstone Estate Office. The earliest listed Court papers were dated 1851.

As I was frequently asked by both members of the Court Leet and by members of the public about the history of the Court Leet, I enquired of everyone who I thought might know about its history, whether they had knowledge of any document relating to or even referring to Wareham Court Leet before 1851. No-one could give me any clue or suggest any line of enquiry.

On the other hand, with regard to Courts Leet in general, I found that there were a number of excellent text-books and legal histories which give authoritative and interesting accounts of the origin of feudal Courts and of their formal pleadings and proceedings. From those books one could construct a clear picture of what Wareham Court Leet would have been like in its early days if there had in fact been such a Court.

In case anyone in the future would like to know more about Manorial Courts in general, I will list in an appendix to this paper some of the books which contain useful information.

It seemed rather hollow for me to be referring to the Wareham Court Leet as an ancient and venerable institution if I was unable to cite one single fragment of evidence of its existence before 1851.

The only visible sign to me that the Court derived its authority from a grant by the Crown was the fact that the Steward required the Jurors and others to take an oath on the Bible. I doubt whether anyone in this country can require anyone else to take an oath on the Bible unless the person administering the oath is authorised, by virtue of his office to do so by a grant of the Crown. The Crown has always guarded very jealously its monopoly to administer the oath. Although I consider that the administration of the oath is prima facie evidence of a Royal grant, yet it is very thin evidence in a case in which the grant must be assumed to have been made over 800 years ago.

In view of the above, I decided to carry out some research into such records as have survived in the National Archives touching the affairs of the powerful feudal family which held Wareham from about 1104 until 1360, namely the Earls of Leicester, Gloucester, Hertford and De Clare to see whether such archives contained any reference to a Manorial Court at Wareham or any items from which one could safely deduce that such a Court ever existed.

It was rather an ambitious aim because the last member of the above family to hold Wareham, namely Elizabeth de Clare Lady de Burgh, had been dead for over 600 years besides which mediaeval documents are written in Latin and the writing itself is indecipherable to anyone who is not an expert. However, with the help of some translations I satisfied myself beyond doubt that a Feudal Court of criminal jurisdiction operated in Wareham during the Middle Ages and that by the 15th Century it had come to be known as a Court Leet.

In support of my conclusion, I will quote some very brief extracts from surviving documents. Alas, they are not reports of Court cases, but merely recorded items of income and claims to specified Manorial rights at Wareham. In combing through the items of Manorial revenue, I was looking in particular for receipts from "Views of Frankpledge" and "Perquisites of Courts" at Wareham.

The following tiny extracts from enormous ancient rolls of parchment, reveal items which would not have been there unless there was a Manorial Court of criminal jurisdiction at Wareham at that time.

Unfortunately, the few widely-spaced archives which have survived and come to my notice do not in any way satisfy our curiosity for the colourful details of the criminal trials heard by our forebears, but they do prove what I hoped to prove, namely that there was a Feudal Court Leet at Wareham.

Extracts (translated) from documents.

1236 Pipe Roll (Exchequer Lord Treasurer's Remembrancer) 20 Henry III. The Keeper of the Honour of Gloucester accounted for:- "£24.0s.7½d. of the issues of the Hundreds of the said Manors (which included Wareham) and View of Frankpledge of the same" and a further £35.2s.3d. in the same account from the same source.

1241 Pipe Roll (Exchequer Lord Treasurer's Remembrancer) 25 Henry III. The Keeper of the Honour of Gloucester shows income from View of Frankpledge

1280 Patent Roll (chancery) 16 Edward III. This document shows that in 8 Edward I the then Earl of Gloucester and Hertford claimed:- "In the Borough of Wareham estreats of grits, gallows, infangthef, pleas of withernam, bloodshed and hue, views of frankpledge and wayf, pillory, tuntbrell, assize of bread and beer..."

1295 Inquisition Post Mortem (Chancery) 24 Edward I No. 107B The following is an extract of the Inquisition taken after the death of Gilbert de Clare Earl of Gloucester (son-in-law of King Edward I)

Under "Borough of Wareham" there are numerous items, one being: "and the pleas and perquisites of Courts are worth by the year £4."

1314 Inquisition Post Mortem (Chancery) 8 Edward II. This was an Inquisition into the possessions of the late Earl of Gloucester (who had been killed at the Battle of Bannockburn in that year). "Pleas and perquisites of Courts (at Wareham)".

1339 Rentals and surveys (Exchequer) Roll 801 13 Edward III. Value of the lands of Elizabeth de Clare (sister of the last Earl of Gloucester). Wareham - "of the perquisites of Courts £10. 10s .7d..."

1461/2 Ministers Accounts (General Series) Henry III and Richard III Bundle 114. This document shows the position in the years 1 - 2 Edward IV. "And of £7.2s.4d. of the pleas and perquisites of 2 Views and 16 Courts there in this year held as appears by the rolls of the same..."

1489/90 Ministers Accounts (Exchequer) 5 - 6 Henry VII Under Wareham - "£7.8s.9d. of the pleas and perquisites of 2 Views and 16 Hundred Courts there this year."

1595/6 Ministers Accounts (General Series) 11-12 Henry VII. The account of the bailiff includes: "...£6.13s.1d. of the pleas and perquisites of 2 views and 15 Courts held (at Wareham) this year"

1497 Ministers Accounts (General Series) 13 Henry VII Bundle 1149. " 118s.7d. of pleas and perquisites of 2 Views and 15 Courts held there this year

1499 Similar to last above "...pleas and perquisites of 1 View and 7 Courts..."

1509/10 Ministers Accounts (Exchequer) 1 - 2 Henry VIII. Similar entry "2 Views and - Courts."

1534/5 Ministers Accounts (Exchequer) 26-27 Henry VIII. "... perquisites of 2 legal Courts and 15 other Courts..."
Patent Roll (Chancery) 35 Henry VIII Provision for his wife Lady Katherine, Queen of England. Various manors granted including Wareham and various rights including Views of Frankpletige and Courts Leet. Note: this is the earliest use of the word 'Leet' which I have come across in a document which includes reference to Wareham.

1582 Patent Roll 24 Elizabeth 1 Part 10 m.5. Queen Elizabeth granted to Edmund Frost and John Walker extensive property including the Borough of Wareham together with, amongst other rights: "Courts Leet, Views of Frankpledge, perquisites and profits of Courts and Leets and all things to Courts Leets and View of Frankpledge appurtaifling..."

1614 Articles of Agreement between the Purchasers of the Manor and the Mayor and inhabitants (Dorset County Record Office document D 1433A/125). This Agreement provides inter alia, for the Mayor to have the profits of the market except 5 shambles, the quay, wharf and three-weeks courts. "The owners of the said manor shall hold in their own name the Court Leete and the Lawday Court and keep the profits. " This is the earliest document I have seen which refers specifically to the Court Leet.

1659-1662 and 1686 Rough Court Book. (Dorset County Record Office document D.1/LZ 16). This is a rough Court book of 50 or more pages. It is very dilapidated and the lower right-hand corners of the pages have disintegrated and broken away due to damp.

Although it is neatly written, I could not decipher it but a member of the staff of the County Archivist very kindly sent me this summary:

"It is a Court book 1659-1662, 1686. It contains entries for Courts Leet and Lawdays 1659 and 1660 and Courts Baron with View of Frankpledge 1661, 1666 and 1686. The other entries between 1660 and 1662 are for meetings of the Borough Court.

This Court met every three weeks in theory. The Leet Court entries give the name of jurors followed by the presentments if any.

The Borough Court entries are very brief consisting mainly of lists of names and the words "he appeared" or "he did not appear", names of persons who elected the Borough officials and notes of cases heard in the form "A complains against B" with no details of the case. The rest of the book consists of notes of various sorts. There are memoranda about what Courts Leet are and the purposes they cover; about the officers of the Court and their duties and the charges of the Court. There are examples of particular types of document such as indentures, recognisances, powers of attorney, indictments, inquisitions and other legal documents."

The above books shows that the Town Steward at the time was one Nathaniel Child. From the following extract from Hutchins' "History of the Antiquities of Dorset" it appears that he stole the ancient records of the town: "The ancient records of the town are lost. Since the Restoration there was a chest of writings kept in St. Mary's church, under three locks; one key kept by the mayor for the time being, the second by the ex-mayor, and the third by the foreman of the jury. in it, amongst other things, was the Great Black Book, in three parts; the first contained courts kept for the Admiralty and things relating to the town lands: the second, constitutions and ordinances, made 7H. IV. by Robert Cokeman, mayor; and 29 H. VI. by Stephen Rawlin, mayor, in forty-one articles: the third, charters and patents relating to the town, temp. H. VI., H. VIII., Eliz. Here were recorded an account when and by 'whom the Common 'was given, &c. But Nathaniel Child, the town-steward, retired into the King's Bench with them, and, the town refusing a sum of money he demanded for them, he destroyed or secreted them."

1703 The Charter of Queen Anne to the Borough of Wareham is not concerned with the Court Leet and does not mention it, however the Charter cut into the jurisdiction of the Court Leet by providing that a Court of Record should be held before the mayor on the first Monday of each month and it authorised the administration of the oath on the Holy Evangelists.

The Charter also authorise&i the mayor to continue to hold the Court of Pie Powder which sat mainly on Fair Days and dealt primarily with matters of trade and commerce. That was an ancient itinerant court.

Since its members travelled from fair to fair, they had dusty feet and their court was named in Norman French, the Court of "Pieds Poudré" which the English soon corrupted into the "Court of Pie Powder."

1733-1734 Court Leet Proceedings. These are held at the County Record Office under reference D 131/M3. The proceedings are legible. They include the appointment of Tithingmen of Stoborough and also Constables, Breadweighers, Carniters, Leathersealers and Hayward and record the names of jurors.

I realise that the foregoing extracts of documents are of very little human interest, but they do establish what I set out to discover, namely that Wareham Court Leet appears to be of genuine mediaeval origin.

Appendix

Reference Books concerning Courts-Leet in general

The Practice of Courts Leet and Courts Baron. Published in 1714. (In possession of Mr. Ryder). This is a very authoritative and technical book on proceedings - most of which are written in Latin.

The Compleat Court Keeper and Land Steward's Assistant by Giles Jacob. Published in 1715 (In possession of Mr. Ryder) This book relates mainly to forms of land tenure which are now obsolete, much of it is in Latin.

The following books are mainly by scholars and exponents of mediaeval law and history. They contain fragments of information about the creation and operation of manorial courts in the centuries immediately following the Norman Conquest.

"Domesday Book and beyond" by Professor F.W. Maitland (see p.91)

"The First Century of English Feudalism" by Sir Frank Stenton (see p.43 and index)

"The Early Middle Ages" by Lady Stenton

"Seigniorial Administration in England" by N. Denholm-Young 1937 (see index under Court)

"The Open Fields" by Sir Charles Oman 1938 (see chapter xi)

"Life in the English Manor" by H. S. Bermet 1937

"English Villages in the 13th Century" by C. G. Roman 19k1

"The Borough of Bury St. Edmonds" by M. D. Sobel 1935 (see index under Leet)

"English Local Government. The Manor and the Borough" Part 1 by Sidney and Beatrice Webb.

"The Manor and Manorial Records" by Nathaniel Hone

"Leet Jurisdiction in England as illustrated by the records of Southampton Court Leet" by F.J.C. Ilearnshaw. Published by the Southampton Record Society 1908.

"The History of English Law before the time of Edward I" by Professor F. Pollock and Professor F.W. Maitland.

"The History of English Law" by Sir William Holdsworth.

"Select Pleas in Manorial Courts" by Professor F.W. Maitland 1889

"Tales of my Native Village" by Sir George Sitwell