

The Court Leet of the University of Oxford

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THE court leet or view of frankpledge of the university was a source of bitter dispute between the university and the city from the beginning of the sixteenth century until the outbreak of the civil war in the seventeenth diverted the attention of both parties to wider and more serious issues. Both bodies claimed the right to hold a court leet, the city by charter,¹ the university by prescription. The university's claim to a court leet, and its definition of the jurisdiction comprised therein, is conveniently summarized in a draft of university privileges drawn up in the early sixteenth century.² Under the heading 'for holdyng of cowrts and leets' it is claimed that 'The Universitie hath allway sith Edward the thyrde holden cowrte twice by the yere in the guylde haule in Oxford and the bailifs of Oxford have allway returnyd a jurye of XVIII townysmen before the Chauncellar to enqyre as was to them enioynyd ex parte domini regis. In the whiche cowrts inquisition was made of forstallars and regraters of the markett. Item of the price of corne and grayne. Item of the assise of bredde & ale, howe it was kept & observid. Item of kepyng cleyne the streits & paving the same; of waights & mesures; of fyshe & flesshe putrified, viciose & otherwise incompetent; of corrupt lyvers & brekars of the peace, with other like. (This usage is approvid by Parliament, anno 8 Ric. II, 10 die Decembris.)' This statement is an interesting example of a sixteenth century attempt to define leet jurisdiction, and to define as such jurisdiction which had certainly been exercised in some form or other by the university since the great conflict, but had not necessarily been exercised in the precise form which the university wished to confirm and justify. By the charter of Edward III (27 June 1355) the university was granted, *inter alia*, the assize of bread and ale, and the profits thereof, the

¹ The city court leet or view of frankpledge is not specifically mentioned in the early charters of liberties; the aldermen's frankpledge is mentioned in the charter of 1 Edward III (1327) *v. Ogle*, *Royal Letters addressed to Oxford*, p. 39. Extracts from eleven city courts of frankpledge are printed from Twyne, in Salter, *Medieval Oxford*, p. 146 seq., and one of 26 April 1515, is printed in Turner, *Records of the City of Oxford*, p. 12. Thorold Rogers, *Oxford City Documents*, p. 180, prints from Twyne's collection an extract of a court of frankpledge held on 27 April 1428, which is unusual in that nearly all presentments are of felonies. At a later period there are surviving documents of the aldermen's courts leet for the four wards, 1746-1833, see Madan, *Oxford City Records*, p. 4.

² Salter, *Medieval Archives of the University of Oxford*, I, p. 358.

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assaye of weights and measures, of which the fines and profits were to be collected by the mayor and bailiffs for their fee-farm, and the cognizance of forestalling and regrating, of which the forfeits and fines went to St. John's hospital. Then by letters patent³ of 2 October 1380, the mayor and chancellor were made jointly responsible for the care of streets, the chancellor to proceed alone if the mayor neglected his duty, but the fines, even if levied by the university, were to be delivered to the city. Subsequently the university was given a freer hand in punishing street offences, for on 25 February 1459 letters patent⁴ to the university stated that whereas the chancellor had among other liberties 'the punishment by ecclesiastical censures of those who put trunks, stones, earth, dung or other dirt or filth in the streets of the town and the suburbs thereof, which punishment on account of the gravity thereof for so small an offence has fallen into disuse', now the chancellor is given 'power to amerce all found guilty herein by due inquisition or public evidence . . . and the chancellor shall cause estreats to be made and delivered to the bailiffs of the town to levy the amercements, if after reasonable warning such defects be not amended and such obstructions removed, and the bailiffs shall receive the same amercements to support the payment of their farm, and if they be negligent within three days after the receipt of the estreats, the amercements shall be taken to the use of the chancellor or of him to whom the chancellor shall assign the same.' Here, then, though the form of the 'due inquisition' is not specified, is one element which the university later claimed for its court leet, but the germ of the university leet, as it appears in the sixteenth century, lies rather in the organization of the assize of bread and ale, and the assaye of weights and measures. Before 1355 the assize of bread was held twelve or more times a year by the mayor and chancellor jointly, and the assize of ale was held twice a year. After the great conflict the assize of bread and ale was held twice a year by the chancellor before a mixed jury in the Guildhall, and surviving precepts illustrate this practice. Thus a precept⁵ from the chancellor to the bailiffs, dated 17 October 1372, orders them to summon to the Guildhall eighteen 'probos et legales homines de balliva vestra qui non sunt pistores nec braciatores', and this precept is issued by the chancellor as 'custos assise panis et cervisie'. But although there are frequent references to this inquisition held before a mixed jury in the Guildhall, the term frankpledge does not appear to be used in this connection until 1502, '14 Aprilis habita deliberacione cum gravioribus viris universitatis super assisa panis ponenda, consideratum quod duodena Jurati in visu Franci plegii tento in Guihaldia ville Oxon.

³ *Ibid.*, I, p. 212.

⁴ *Cal. Patent Rolls*, 1452-61, p. 479.

⁵ Salter, *Munimenta Civ. Oxon.*, p. 149.

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13 die Aprilis presentabunt'.⁶ From then on there are frequent references to inquisitions in the Guildhall in which the emphasis gradually passes from the limited assize to complete view of frankpledge.

It must be borne in mind, however, when considering the great value which, in the sixteenth century, the university appeared to place on its rights to hold inquisition before a mixed jury in the Guildhall, that such inquisitions were not essential to the purpose which the university wished to achieve. The regulations and punishments which were designed to maintain the quality of food and drink supplied to the university were imposed by the chancellor or his deputies at any suitable time and place. Thus on 17 August 1434, the chancellor's commissary summoned all Oxford taverners before him in the church of St. Mary the Virgin, issued regulations for the supply of beer, and appointed supervisors to report any disobedience to the commissary;⁷ and a baker, summoned before the chancellor for light weight, and not appearing, was banished for ever from the precincts of the university and publicly proclaimed at Carfax.⁸ Such summary, and doubtless more effective, jurisdiction was also applied to those who obstructed the streets of the city, and cases before the chancellor's court appear even in the sixteenth century concurrently with the university's attempt to enforce due care of the streets by leet inquisition. Thus we find that on 11 May 1509, William Taylor, chamberlain, appeared before the chancellor and promised to repair the pavement about St. Mary the Virgin, 'officio suo pertinente', before the feast of St. James, on pain of a fine of £10,⁹ and a precept from the chancellor to John Rews, 'ut ante diem dominicam in ramis palmarum, destruat murum aedificatum in medio regie vie super unum guttyr . . . sub pena excommunicationis'.¹⁰

Though the summary jurisdiction of the chancellor would seem to have been better suited to the university's purpose than inquisitions held in the Guildhall, which depended on the unwilling co-operation of the city, the university began, after 1500, to place the greatest value on such inquisitions. The inquisitions under the assize of bread and ale, held once or twice a year in the Guildhall, were extended to include cognizance of non-paving, breach of the peace, recusancy, unlawful gaming and other miscellaneous matters of interest to the university, and by adopting the name of leet or view of frankpledge the university appeared to rival more directly the established leets of

⁶ Univ. Arch. Reg. D (reversed) f. 128v.

⁷ Anstey, *Munimenta Academica*, II, p. 506.

⁸ *Ibid.*, II, p. 517.

⁹ Univ. Arch. Reg. F (reversed) f. 89v. It would be interesting to know what, if anything, happened to the fine in this case. The chamberlain was a city officer, summoned in his official capacity; the fine for non-paving should properly be collected by the bailiffs for the city.

¹⁰ Univ. Arch. Reg. F (reversed) f. 138r.

the mayor and aldermen. This roused the opposition of the city, which in turn spurred on the university to confirm and stress its claims. Thus we find the view of frankpledge specifically mentioned in two summaries of privileges drawn up between 1500 and 1523,¹¹ and in the privileges confirmed to both universities by Act of Parliament of 13 Elizabeth.¹² Then the Laudian code formally included the leet in university procedure and there it remains, one of the odder survivals, in the statutes of the university, for the chancellor is still deemed to have the right to hold 'Curias et Leetas (quae et Visus Franci Plegii dicuntur)'.¹³

Though the university went to great lengths to justify its leet court, a study of the surviving rolls discloses a peculiarly ineffective organization which scarcely seems to merit the time and trouble lavished upon it. The rolls of twenty courts leet now survive in the University Archives, the earliest dated 1546, the latest dated 1733.¹⁴ From these it appears that the courts were held in the Guildhall usually in April or October; there are rolls of one court held in January, one held in March, six held in April, eight in October and one in November (three lack exact dates). As there are so few surviving rolls it is difficult to say if two courts were ever held in one year; university tradition held that two courts a year were held, but the entries in the vice-chancellor's accounts from 1548 to 1666 definitely suggest that in most years only one court was held. On instructions from the vice-chancellor the bailiffs summoned eighteen freemen, and the beadles eighteen privileged persons to serve on the jury, but although eighteen of each body were empanelled the rolls of 1630 and 1635 show that only twelve from each body actually served.¹⁵ From these jurors six or seven assessors, representative of city and university, were chosen. At the court the jurors were instructed in their duties, and the general regulations for baking and brewing may have been published, but there is no mention of this in the rolls. The only direct evidence of ceremony on the lawday up to 1665 is the entry in the vice-chancellor's accounts for a dinner attended by the steward and his chief assistants, a meal which rose in cost and (prestige) from two shillings and sixpence in 1550 to £6 5s. 10d. in 1665 by which time it had become customary for the vice-chancellor, proctors and

¹¹ Salter, *Medieval Archives*, I, p. 352 seq.

¹² J. Griffiths, *Enactments in Parliament* . . . Oxford and Cambridge, p. 30.

¹³ *Stat. Tit. xvii*, 12, c.6. See also De Seneschallo, *Tit. xvii*, Sect. II, c.5.

¹⁴ For a list of rolls see R. L. Poole, *Lecture on the History of the University Archives*, pp. 38, 44, 47. In addition to those listed therein there are rolls for courts of the following years, 1575, 1593, 1597, 1601, 1602, 1636, 1637, 1638, 1651, 1659, 1665, 1733 (W.P.Q.1-16). Twyne noted that 'we have no auncient Court Rolls', i.e. he could find none earlier than the sixteenth century.

¹⁵ A payment of two shillings for a breakfast for the jurors is mentioned in the vice-chancellor's accounts for 1550 and 1551. In 1575 the jurors received twenty shillings from the amercements. (Univ. Arch. W.P.C.4.)

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doctors to attend. The only detailed record of procedure in the court is an instruction drawn up, probably for the commissary in 1665 (Appendix), but the charge then given, including cognizance of treason and felony, may not have been given at an earlier period when the leet was gradually emerging from the assize of bread and ale, and when the inquisition dealt almost entirely with street and market offences. Even in this more limited field the business of inquisition and assessment of fines seems to have been lengthy, and the collection of fines interminable. The whole town was perambulated parish by parish, and street by street, in such a way that when the presentments are properly and carefully made the rolls form a very useful directory for the period they cover. According to an endorsement on the 1596 roll a fortnight was allowed for assessment, but this particular roll was returned with assessments for non-paving and regrating only; presentments for weights and measures were not assessed. In 1630 the court was held on 19 October, but some of the presentments refer to sending tallow out of town on various dates in November, five or six weeks after the lawday, and the assessors were allowed until 1 March 1631, to rate presentments. The assessors' endorsement of the roll shows that they returned the roll assessed to the vice-chancellor on 3 March 1631, but the university steward did not issue instructions to the beadles to collect the amercements until 19 April, just six months after the lawday in the Guildhall, and when Twyne examined the roll in 1633 he noted that the city protested against the university's attempt to levy amercements and nothing further was done despite 'three meetings, and so many conferences . . . and so the amercements lie still ungathered'.¹⁶ Similarly the assessed rolls of the leet held on 10 April 1634 were not delivered to the beadles for collection until 29 July 1634, and half the assessments of the court held on 6 April 1635 were not delivered for collection until 5 October 1635. This slow procedure was, of course, due to the general conflict between city and university, and the fact that the beadles were ordered to collect fines shows that the bailiffs had refused to recognize the university leet. The assessed rolls for non-paving and obstructions in the streets should have been delivered to the bailiffs to collect the fines, but the university complained that 'the Townesmen, when they have had estreats delivered unto them to levie these amercements have made such hast in collectinge them as that they compound with offenders for little or nothings and the nusanances not redressed'.¹⁷ This was partly the reason for the university's attempt to collect all fines through the beadles, but this, though certainly not made with 'such hast', produced little financial result.

The only roll on which the fines have been properly accounted is that of

¹⁶ Univ. Arch. W.P.C.9.

¹⁷ MS. Twyne 9, p. 37.

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1575.¹⁸ At the foot of the presentments for street offences the steward has entered :

Summa totalis huius visus xli. xixs. viiid. unde allocutus pro iuratibus
xxs et pro emendatione platearum facta per Commissarium ut patet
per billam xxxs iid for the dyner of the commissarie and the doctors,
proctors, steward etc. assistinge hym at the lete xivs iiiid for the
pound borrowed in the tyme of this infection vs Per me Willm.
Standishe prefatae curiae senescallum

Sum owing to the citie etc. upon consideration viili. xs. iid.

Twyne has noted on this roll that although it appears from this account that after payment of expenses arising from the leet, the university handed over the fines for non-paving, etc., to the town, yet the form of the account suggests that the money was collected by the university beadles, and not by the bailiffs.

The roll of market offences for 1575¹⁹ is noted 'Summa totius huius visus viili. vs., per me Willm. Standishe praefatae curiae senescallum', but there is no indication as to how these fines were collected, if they were collected. The vice-chancellor's accounts for 1575 contain no reference to fines imposed at this leet, and only five shillings were received 'de amerciametis collectis super visu franci plegii' in 1578. Some such heading as 'de amercimentis . . . franci plegii' occurs annually in the accounts from 1580 to 1585, but there is never any entry of money received, and thereafter until 1634, all reference to such fines disappears altogether from the vice-chancellor's accounts. The rolls for the courts of October 1630, April 1634, and April 1635, as we have seen, all have endorsements by the vice-chancellor or steward instructing the beadles to collect the fines. On the 1630 roll the beadles are specifically instructed to gather 'to the use of the University' the fines which amounted to £28 os. 8d. for streets and £4 3s. 2d. for weights and measures and miscellaneous offences, but Twyne asserts that they were never collected. Of nearly two hundred amercements for non-paving and obstructions in the roll for 1634, only nineteen are noted as 'paid' on the roll itself, and only seventeen out of seventy-five amercements for weights and measures. An entry in the vice-chancellor's accounts for this year shows the receipt of £3 15s. 2d. 'de pecuniis receptis pro finibus et amerciametis visus franci plegii' from which it appears, by comparison with the roll, that the university on this occasion appropriated all the fines it could collect. In the accounts for 1635 there is an entry of £2 12s. 4d. received by the university from fines of the court leet, but this is a negligible portion of the total fines

¹⁸ Univ. Arch. W.P.C.4.

¹⁹ Univ. Arch. W.P.C.5.

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assessed, for there were about three hundred presentments for non-paving and the like, with fines assessed at £26 3s. 4d., and about two hundred and fifty presentments of defective weights and measures and similar offences, with fines assessed at just over £200.²⁰

References to expenses in the vice-chancellor's accounts show that the university leet continued to be held regularly at least up to 1666, and there is a record of one leet held as late as 1733, but it was then a moribund institution, maintained out of obstinacy and an ill-founded respect for tradition. Indeed, it is difficult to avoid the conclusion that the chief use of the university leet throughout the sixteenth and seventeenth centuries was an additional goad with which to prick the growing pride of civic authority. The city records printed by Turner, and the notes amassed by Twyne, show that the city was prepared to go to any lengths to obstruct the holding of the university leet; frequently they refused to impanel a jury;²¹ occasionally they closed the doors of the Guildhall against the leet,²² while both parties referred the quarrel at intervals to the arbitration of the King or Privy Council. The argument was interminable, for the history of the leet could not be clearly traced. Thus, at a conference at Lambeth in 1633 the Attorney General gave his opinion that the 'universities Charters were full of particulars of a Leet; but he did not see a Leet granted to the universitie; and slighted that matter in k. Henry the 8 his Charter'.²³ But when the University retorted that they claimed a leet, not by charter but by prescription, they were faced with the problem of lack of early evidence, and could produce no early court rolls as a precedent. So the judgments given from time to time tended to be obscure. As a result of the conference at Lambeth in 1633, Archbishop Laud advised the university to 'keep their Leets yerely well and duely at the last once the yere in that forme and manner as heretofore they have byn kept; be they qualified Leets or full Leets etc. And levie the amercements thereof to the universitie use (exceptinge for weights and measures etc) for common nusances in the streets and all other things: and if the towne found themselves greived therein, they should be satisfied and answered etc.'²⁴ The town was not satisfied, and the dispute was again referred to arbitration in 1636 when Mr. Justice Jones attempted to give a clearer statement of the position.²⁵ The town, he maintained, could hold a leet twice a year in the four wards

²⁰ The assessments made in this year were particularly severe, and some of them, read too literally, appear peculiarly wayward, e.g. 'we present Philip Rixon sells beer, keeps good measures and hath a great charge of children'—fined £1.

²¹ Cf. Turner, *Records of the City of Oxford*, pp. 16, 42 *et al.*

²² *Ibid.*, pp. 69, 373 *et al.*

²³ MS. Twyne 9, p. 84.

²⁴ *Ibid.*, p. 87.

²⁵ MS. Twyne-Langbaine 1, f. 144v.

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within its boundaries, and therein have all power of leets, except over scholars and privileged persons. The universitie, on the other hand, had a full leet over privileged persons, and a qualified leet over the town in those things which were granted by the charter of 29 Edward III. This university leet was to be summoned under the name of court of view of frankpledge and was to be served by a mixed jury, one half privileged and one half freemen, according to ancient usage, and therein to have power to make bye-laws to bind scholars and privileged persons, not contrary to law. The fines for non-paving and obstructions in the streets, he continued, save those on privileged persons, were to be levied by the town within three days, and thereafter by the university, while those for weights and measures were to go to the town in so far as they were imposed within its boundaries and jurisdiction. Mr. Justice Jones's precise statement was part of a worthy though unsuccessful attempt to settle the dispute, but Archbishop Laud was more precise and more practical when, apparently weary of the dispute, he wrote to the vice-chancellor on 6 December 1639, 'For your court-leet, if it be so expenceful as you mention, and of so little use, since the vice-chancellor can do all in his private chamber without contradiction, which he can do in that court, I shall not advise any frequent keeping of it.'²⁶

The ineffectiveness of the university leet was in great part due to the natural objection of the city to what must have seemed to be an unnecessary duplication of its own activities, particularly in the care of paving and housing. Since leet procedure required the co-operation of the city in the use of the Guildhall, in the summoning of freemen as members of the jury, and as the city bailiffs were required to collect fines, it would obviously be better, if this co-operation was withheld, for the university, as Laud pointed out, to rely on the chancellor's jurisdiction which could be exercised effectively over all members of the university and over all privileged persons at any time and place. The very nature of this jurisdiction, being essentially ecclesiastical, was ill-adapted for the petty business of the leet, and as the city became more populous and more wealthy the limitations of that jurisdiction became more obvious. The university chancellor, or those who acted for him in his court, could fine, imprison or excommunicate any privileged person, and here, perhaps, lay the vital difference between the university leet and a 'full and perfect leet' where the penalties imposed could, if necessary, be enforced by distraint, a method better adapted to the collection of petty fines than excommunication or its later secular form, discommuning. To a member of the university, excommunication, apart from the spiritual disabilities, meant the loss of all legal rights in the university and was tantamount to banishment

²⁶ Laud, *Works* (1853), v, p. 244.

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from Oxford, but it was not a threat to the growing number of freemen such as those many householders who were presented in the university leet for 'non-paving' or 'blocks' in the street. It is fairly clear that during the sixteenth and early seventeenth centuries the city naturally resented the imposition of fines on freemen of its own body, and took no trouble to collect fines for which the university could not legally distrain. This eventually forced the university to assume the right to distrain, although it only seems to have exercised that right in business arising from the leet on one occasion, and then only on a bookseller who was probably a privileged person. And it is significant that this occurred, apparently for the first time, in 1630 when the dispute with the city was at its height and when the bailiffs refused to take any action at all on the presentments which were submitted to them. Again in 1733 the vice-chancellor ordered the yeoman beadle to collect the fines and to distrain goods in cases of default, but by then the only fines passed to the beadles for collection were those on four colleges and one member of the university, all presented for obstructions in the streets. These seem to have been collected without difficulty; the other presentments were passed to the city and there does not appear to have been any further attempt to supervise the collection of fines on townsmen or to ensure the effectiveness of any further action taken by the city bailiffs. The leet dinner cost the university £23 11s. 6d. and fines amounting to £1 4s. 4d. were received. So the year 1733 saw the end of what had become an expensive luxury and, so far as the university was concerned, the supervision of markets, weights and measures, care of the streets and other miscellaneous business of the leet continued to be exercised in other more effective ways.

APPENDIX

PROCEDURE TO BE FOLLOWED AT THE COURT LEET, 1665

This text is a conflation of two drafts (Univ. Arch. W.P. Q.15b) which were probably drawn up for the use of the university commissary.

PRO CURIA FRANCI PLEGII

Make 3 proclamacions. Then lett the crier say after you that, All manner of persons that were summoned warned or owe suite & service to the leete this day to bee houlden for the Chauncellor Masters & Scholars of the University of Oxon draw neare & answeare to your names at the first call upon payne & perill shall fall thereon [sic].

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Then lett the crier make another proclamacion & lett him say after you thus, If there bee any person that wilbee essioyned lett him come in & shewe a lawfull cause & it shalbee receaved.

Then lett the crier make another proclamacion & say after you thus, Baylieffes of the Citty of Oxford returne the precept to you directed. Beedles of the University of Oxon. returne the precept to you directed.

Then say, all resiants who are summoned to appeare answere to your names as you shalbee called. Then call them severally & say to every one as you call, Come into the court & doe your suite & service or else you wilbee amerced.

And if any one make default marke his absence by a , After you have called all the resiants, then make another proclamacion & lett the crier say after you thus,

You gent. that are returned to serve his Majestie answere to your names as you shalbee called. Then call them severally.

If any one desire to bee essoyned enter it thus, J.H. ess. Then call the jury to bee sworne, calling the privileged persons 1st. & then the townesmen, and give the foreman this oath.

You shall diligently inquire & true presentment make of all such articles & things as shalbee given you in charge concerning the Court Leete now to bee houlden, the Kings Majesties counsell, your fellowes & your owne you shall keepe, you shall present noe man for hatred, malice or ill will, neither shall you spare to present any for favoure, feare or affeccion, but you shall present the truth, the whole truth & nothing but the truth soe helpe you God & the contents of this Booke.

Then enter on his name juror. Then call the rest by 3 or 4 at a tyme & lett them bee sworne thus,

The same oath as A.B. your foreman hath taken to observe & keepe you & every of you for your parts shall observe & keepe soe helpe you God & the contents of this Booke.

Then after they are all sworne say to the crier, Count us, & soe call the Jury by name, & when you have called the last say, Good Men & true stand togeather & heare your charge. Then let the crier make another proclamacion & say, All manner of persons keepe silence whilest the charge is giveing.

If any persons can informe the Steward or this Inquest of any treason felony or any other matter inquyrable at this leete let him come into the Court & hee shalbee receaved.

After the Steward hath given & donne his charge, then make another proclamacion & say, If there bee any person that hath anything more to doe at this Court lett them come in, or else keepe their hower of — a clock such a day & at such a place to which this court is adiourned.

ON THE ADIOURNMENT

Make a proclamacion & let him say after you, Gent. of the Jury which were adioyrned over to this hower & place answere to your names as you shalbee called on payne & perill that will fall thereon.

Then call the Jury & aske them if they are agreed of their verdict. If they say yes, then desire them to deliver it in & aske them if they are contented it shalbee

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amended in forme not altering the substance thereof. If they say yea, then aske the Steward whether hee will have them publicuely read, if soe then read them.

Then sweare 4 or 2 affeerers whose oath is, You & every of you shall truely taxe & affeere & true affeerance make of all such presentments & amerciaments as are to bee taxed & affeered by you & this you shall doe without favoure or partiallity soe helpe you God.

Then write downe the names of the affeerors & deliver them the presentments & lett them sett downe particularly how much they amerce everyone.

Then make another proclamacion & say, All manner of persons that haveing any thing more to doe at this Court may depart for this tyme & keepe their tyme here upon a new sumons, & soe may

God save the King.