

Kirtlington Manor Court, 1500-1650

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INTRODUCTION

F.W. Maitland, writing in 1888, took the view that manorial courts in the sixteenth century were in the process of losing or had already lost, their hitherto powerful influence over the lives of the common people of the English countryside. In particular, he thought that the growth of the commissions of the peace had drawn away the life of the ancient courts leet.¹ I hope that this article will show that manorial courts in the sixteenth century and later could have a powerful influence over the economic and social affairs of the local community, especially where they preserved a leet function.² It will examine the Kirtlington manor court as a social and legal institution, paying particular attention to the nature of its authority, its social composition, its methods of decision-making, and its regulation of social life. To the ordinary inhabitants of Kirtlington, their manor court was probably of much greater importance than such bodies as Quarter Sessions. In contrast to Maitland, Tawney considered that

for the mass of the peasantry, even in the sixteenth century custom is a bigger, more important, thing than the law of the national courts. It is with custom that the first decision will lie.³

Kirtlington, with an area of 3,582 acres, is one of the largest parishes in Ploughley hundred, and the southernmost parish of that region of limestone soils — cornbrash or stonebrash — that dominates the north-east of Oxfordshire. Unlike, for example, David Hey's study of Myddle in Shropshire, which was based on Richard Gough's early eighteenth-century manuscript history of that parish,⁴ my study of Kirtlington could not be based on a special and rare source of information. However, I had available a good selection of the typical records that may be found for many English parishes in the early-modern period: probate records; deeds; manorial rentals, surveys and court rolls; and the parish registers, which commence in 1558. Alongside the wills and probate inventories of the inhabitants, filed amongst the Oxford diocesan records in the Bodleian Library, the central source for the history of the community during the sixteenth century and the first half of the seventeenth century was the collection of court rolls preserved in the Dashwood collection in the Oxfordshire County Record Office.⁵ Beginning in the later years of the reign of Henry VII, the series of Easter courts baron and Michaelmas courts leet continues in almost unbroken succession down to 1562. Records of two courts baron survive for the years 1565 and 1572, and the series begins again in 1585, continuing until 1602. From 1606 until 1641 the rolls of 24 courts, mainly courts leet, have come down to us. Few later

¹ F. W. Maitland, 'Leet and Tourne', in *Selected Historical Essays of F. W. Maitland*, ed. Helen M. Cam (Cambridge, 1957), p. 41.

² This paper is based on my 1979 thesis 'Kirtlington: an Oxfordshire Community, 1500-1750' (Oxford Univ. D. Phil. thesis 1979). Hereafter cited as 'Thesis'.

³ R.H. Tawney, *The Agrarian Problem in the Sixteenth Century* (Oxford, 1912; reprinted New York, 1967), p. 125.

⁴ D.G. Hey, *An English Rural Community: Myddle under the Tudors and Stuarts* (Leicester, 1974).

⁵ Oxfordshire Record Office, (hereafter O.R.O.) Dash. 1/i.

seventeenth-century rolls exist, but rolls in good condition begin again in 1739, thereafter continuing into the nineteenth century.

These are the rolls of the courts held under the jurisdiction of the principal manor in the parish, the manor of Kirtlington, which had become part of the Duchy of Lancaster after the division of the Bohun estates in 1421. For most of the sixteenth century, and until 1624, the main manor was let to a farmer. Between 1556 and 1622, the lessee of the manor was a member of the Ardern family, a branch of the Cottisford Arderns. Anthony Ardern, the farmer between 1556 and 1573, had first acquired land in Kirtlington in the 1530's. He was followed as farmer by his sons John (1573-1605) and Henry (1605-22), and the family's lease was protected when the Crown sold the estate to two London merchants, Peter Vanlore and William Blake, in 1604, and when the manor was resold in 1610 to Sir Thomas Chamberlain, Chief Justice of Chester. The other principal estate in Kirtlington was the manor of Northbrook, leased by the Gays in the earlier sixteenth century, until they sold their property to the Arscote family of Holdsworth in Devon. In 1578 a wealthy Kirtlington yeoman, John Fox, married the daughter of William Arscote, and thereby acquired control of Northbrook, which passed after his death to William Hollyman of Long Hanborough, who married Fox's daughter Joyce in 1609. Ten years later Hollyman sold Northbrook to John Hollins of Oxford, who was acting as agent for the Principal of Gloucester Hall, John Hawley. In 1641, Hawley's son, Edmund, sold Northbrook to the Chamberlains, thus uniting the two estates under that family's ownership.⁶

Despite the existence in a large parish of two ancient manors, Kirtlington possessed a single (two-field) field-system, which was not enclosed until 1815. Fifteenth-century rentals show that the Gays owed suit to Kirtlington, and paid a fee to its lord in commutation of labour services.⁷ Northbrook tenants owed suit to the Kirtlington court, which laid down by-laws for the management of the common fields, meadows and pastures binding on Kirtlington and Northbrook villagers alike. By 1500, Kirtlington possessed a landscape of virgate or multi-virgate farms of 30 to 80 acres or so, and until the last quarter of the seventeenth century the dominant class in the community was composed of husbandman or yeoman farmers occupying copyhold, leasehold or freehold farms. Freehold land predominated. In the later sixteenth century the 20 copyhold tenements of the manor of Kirtlington accounted for about 675 acres.⁸ According to late sixteenth-century deeds the Northbrook estate covered about a thousand acres, though this may be an exaggeration, since the figures given are only approximations.⁹ Since a yardland at Kirtlington measured roughly 30 acres, the other freehold estates in the parish earlier in the century may have comprised some 1,200 to 1,300 acres. The commons made up at least 700 acres; woodland, in 1591, 100 acres.¹⁰ By 1568 the Arderns' own estate in the parish may have amounted to some 600 acres. That was the year in which Anthony Ardern rounded off his possessions in the parish by acquiring the former Bicester Priory estate of Kirtlington and Tackley from a London grocer, Nicholas Backhouse.¹¹ Amongst the larger farms of the parish were the New College farm, let for most of our period to the Woodward family, and the Rectory Farm (c. 80 acres), acquired in 1578 by St John's College, Oxford.

⁶ This account of the descent of the two estates is substantially based on *The Victoria History of Oxfordshire*, vi, pp. 221-4. For the marriage settlement between John Fox and William Arscote see Dash. III/ii/3-4.

⁷ P.R.O., D.L. 43/8/16 (1422); O.R.O., Dash. I/ii/1 (1495).

⁸ P.R.O. D.L. 42/117, ff. 91-99v. (Survey of the manor of Kirtlington, 1591)

⁹ E.g. O.R.O., Dash. III/ii/2 (1582).

¹⁰ P.R.O. D.L. 42/117, f.98v.

¹¹ *Calendar of Patent Rolls*, Elizabeth, IV, p. 296. This estate may have made up about 150 acres.

The predominance of freehold land in Kirtlington meant that the parish did not acquire a strong resident lord until 1682, when Robert Dashwood, the son of a wealthy London financier, married Penelope Chamberlain, Sir Thomas's great-granddaughter. Kirtlington Manor played a very important part in the life of the early-modern community, but it did not *dominate* it. Rather, the structure of manorial organisation provided a framework within which the farmers of the parish, whether they were copyholders, leaseholders or freeholders, enjoyed considerable autonomy. Although the Arderns were continuously resident in Kirtlington from the 1530's until the 1620's, they were hardly active lords. They were content to let rents remain at the level they had reached by 1516, and although they amassed a sizeable estate in the parish, they also sold off some of their lands to local yeoman and husbandmen. In the 1620's, the Chamberlain estate did raise its tenants' rents, and permitted a considerable expansion of the number of manorial cottagers, but it made no major re-organisation of tenure or the structure of landholding. The period between 1550 and 1640 was the golden age of the small yeoman or husbandman farmer in Kirtlington.

Although the population of the parish rose some 80 to 90 per cent between 1523 and 1676, from c. 240-60 to c. 475,¹² the typical Kirtlington farmer, unlike his Cambridgeshire counterparts described by Dr. Spufford,¹³ was able to weather years of bad harvests because his tenement was large enough to yield sufficient produce to cover his costs. The community as a whole never suffered from harvest crises, food shortages or demographic crisis in the way that other English parishes seem to have done.¹⁴ The inflation of prices in the late-Tudor and early-Stuart period brought increasing prosperity for Kirtlington farmers. Their probate inventories and wills bear witness to a rising standard of living. By the later sixteenth century they were able to provide for their children with legacies in cash rather than in kind, a sign that they were accumulating profits from their holdings, profits that could be invested in improvements to houses and loans to neighbours. By 1600 the non-resident freeholders who had earlier controlled the bulk of the free land in the parish had been largely replaced by members of local families, often from amongst the ranks of the customary tenants. Parents maintained their holdings intact and were able to pass on economically viable farms to their children. It is clear that by 1640 the field-system of the parish, whose economy was based on a sheep-corn husbandry, had been extensively altered in order to increase productivity and take advantage of high prices. Ley-farming was adopted by the end of the sixteenth century, and after 1600, if not earlier, a hitching cycle was introduced which enabled the production of fodder crops to increase, so raising arable yields and allowing larger flocks and herds to be kept.

Much of the data supporting the above description of the development of Kirtlington's economy between 1500 and 1640 is derived from the court rolls. Many historians of the middle ages and later, Maitland amongst them, have felt that surviving court rolls are so numerous and detailed that it is not practical to exploit them systematically. However, Hilton and Raftis, amongst others, have shown recently how proper court roll analysis can deepen our insight into the society and economy of medieval communities. The systematic indexing of every entry from a long series of court rolls may permit the reconstitution of

¹² Estimate based on the Lay Subsidy returns of 1523 and on the Compton Census. *Vide* Thesis, pp. 60-72.

¹³ Margaret Spufford, *Contrasting Communities* (Cambridge, 1974).

¹⁴ For an example of such a crisis see V. Skipp, *Crisis and Development: An Ecological Case-study of the Forest of Arden 1570-1674* (Cambridge, 1978).

medieval families, and the understanding of tenures, social mobility and demography in a way hitherto regarded as impossible.¹⁵

Early-modern court rolls have also been neglected, for much the same reasons. It has always been easy enough to make lists of agrarian by-laws, or transfers of tenements, but much more detailed analysis is necessary if proper use is to be made of the complexity of social and personal information a good series of court rolls contains: the multitude of presentments for infringements of by-law and custom, the jury lists, the regular fines levied on local tradesmen, punishments of assaults, and so on. The records of 137 courts held at Kirtlington between the first decade of the sixteenth century and 1641 have survived. Of these 137 courts, 79 were courts leet. It is clear that most of the community attended these courts. In theory all males between the ages of 12 and 60 living within its jurisdiction were obliged to attend the court leet. An average of at least 40 named persons attended the five views of frankpledge that met between Michaelmas 1520 and Michaelmas 1524; a similar number are named as attending those held between 1585 and 1589. At six views held between 1625 and 1629 an average of at least 60 persons was present. 105 people are named in the rolls of courts leet in the early 1520's; 139 are named between 1625 and 1629. If Kirtlington's population was between 240 and 260, living in 50-55 households, in the 1520's then perhaps a third of the adult community — and most of the male householders — might be present in name in the rolls of each view of frankpledge. These record not only the names of the farmers of the parish, but those of many lesser folk who might otherwise have escaped observation; for example, labourers and servants who may have lived for a relatively short time in Kirtlington.

THE COURT IN THE FIFTEENTH CENTURY

Apart from some thirteenth-century rolls of the Bicester Priory manor, the earliest Kirtlington roll to survive records a view of frankpledge and court baron held on 16 November 49 Henry VI (1470).¹⁶ This document is made up of three sets of material:

1. An undated list of seventeen surrenders and new takings of copyhold tenements and parcels of arable, meadow and pasture.
2. A rough record of a view of frankpledge and court baron.
3. A slightly abbreviated fair copy of the proceedings of the same court.

Altogether it contains a total of at least 80 separate personal entries, naming a minimum of 49 individuals, excluding those in default of suit of court, and those inhabitants of the manor of Bicester Kings End who owed suit at Kirtlington. As in later rolls, the same document records both Kirtlington and Bicester business, but separately. There is considerable similarity between the activities of this fifteenth-century court and those of a typical sixteenth-century view of frankpledge and court baron. The first entry concerns the payment of cert money by the two Kirtlington tithingmen, followed by a list of thirteen jurors, of whom one, John Tanner, is omitted in the fair copy. The entry about cert money is repeated, and then the tithingmen present nine persons, including the prior of Bicester, for default of suit of court. Eleven residents and 'omnes alii tenentes' are presented for failing to clean their ditches and gutters. Next follow two assault cases, and the presentment of the

¹⁵ Cf. R.H. Hilton, *The English Peasantry in the Later Middle Ages* (Oxford, 1975); J.A. Raftis, *Tenure and Mobility: Studies in the Social History of the Medieval English Village* (Toronto, 1964); idem, *Warboys* (Toronto, 1974); E.B. de Windt, *Land and People in Holywell-cum-Needleworth: Structures of Tenures and Patterns of Social Organisation in an East Midlands Village 1252-1457* (Toronto, 1972).

¹⁶ P.R.O., D.L. 30/108/1594.

presence of two stray horses within the precincts of the view. Two by-laws, one concerning the tethering of dogs, come next, and then the ale-tasters present thirteen men and one woman for breaking the assize of ale, and one baker for breaking the assize of bread. Two millers had taken excessive toll. Next follows an order about the way to apply for a licence to brew ale, and a note of the taking-up of a yardland customary tenement. At this point the Bicester Kings End section of the roll is inserted, followed by a list of expenses incurred at the court: 3d. was laid out on bread, and 6s 8d on ale. The heading 'sequitur curia' then introduces the business of the court baron, which begins with a note recording the death of a Kirtlington tenant, John Hede, and continues with a series of agricultural orders of the type common in the sixteenth and seventeenth-century rolls. At this point the steward includes an instruction that tenants whose copies were granted by the pretender-king Edward must have them re-granted in King Henry's name. The final section, only partly legible, records the election of a reeve, the names of the affeerors, and a final entry which presents a tenant for removing windows and door-posts from a tenement that had been lately William Norys's.

Several features of this document are not repeated in later Kirtlington rolls. This is the only one to mention an ale-taster; later, the tithingmen do this job. There is no mention of a constable, the most prominent manorial and parochial officer in succeeding centuries; and this is the only roll to mention a reeve, apparently elected by a process involving not only the lord, through his steward, but also some of the customary tenants. In general, however, there is considerable similarity between both the business and the general lay-out of this court roll, and the rolls of the sixteenth century and later.

THE EVOLUTION OF COURT-KEEPING AT KIRTLINGTON

The appearance of and the activity recorded by the 1470 roll is, one assumes, typical of court-keeping and procedure as it had evolved by the end of the middle ages. It records the operation of two types of court, which in later Tudor and Stuart legal theory were to become radically separated: the *court leet* with its origins in the sheriff's tourn of the twelfth and thirteen centuries, and in the frankpledge system; and the manorial court proper, the *court baron* and *customary court*, whose proceedings the 1470 roll introduces by the heading 'sequitur curia'. By this date the phrase 'view of frankpledge' implied the holding of a court leet which took the view of frankpledge itself, regulated the assizes of bread and ale, controlled the local use of weights and measures, and exercised other minor franchises of petty criminal jurisdiction and police control, rights which the king and lawyers claimed as *regalia*, but which they allowed to remain in the hands of privileged local authorities, such as lords of manors. While the distinctions between these different jurisdictions were apparent in 1470, in practice it was a single court, exercising the different functions of court leet, view of frankpledge, court baron and customary court at the same meeting and with the same body of jurors. In the 1470 roll a clear primacy was already ascribed to the leet, and the court baron (subsuming the functions of the original court baron and customary court) was treated very much as an appendage. There was confusion between what matters were proper for a leet and what should be included under the heading of the court baron. However, the legal formulations should not be taken too seriously; the same confusion is apparent in the early-Tudor printed treatises on the subject.

Later medieval court-keeping was heavily influenced by various manuals written to assist stewards. None of these have survived, although the *Modus Tenendi Curias* of c. 1340, which survives in the Cambridge University Library, is an early and undeveloped example.¹⁷ The earliest printed guides, available widely after 1510, were reproductions of a

¹⁷ F.J.C. Hearnshaw, *Leet Jurisdiction in England*, (Southampton Rec. Soc., v), p. 34.

widely-established and recognised authority, and indicate that there had been a considerable standardisation of court procedure by the end of the fifteenth century. They are almost identical in form and content, and they make no sharp distinction either between the court baron and court leet in terms of jurisdiction and procedure, or between matters presentable and matters punishable at a leet court.¹⁸ The *Modus tenendi curiam baronis cum visu franciplegii* of 1510¹⁹ has a model roll in which entries proper to a leet appear, as at Kirtlington in 1470, under the heading of the court baron.

The spread of printing was of great importance in the establishment by Tudor and Stuart jurists of the theory of the court leet, which they separated from the other elements of the manor court, as they responded to the need to provide much more guidance on its powers than earlier manuals had done. In the later sixteenth century the standard work of reference was John Kitchin's *Le Court Leete et Courte Baron*, which was printed in French and Latin about 1579. This became the model for later English manuals.²⁰

In the view of these manuals, the leet was a petty police and criminal court, held by the lord of a manor from the king, the court baron the lord's court for his freehold tenants, with jurisdiction in all personal actions up to 40s., the court customary his court for his unfree tenants, its main business being the conveyancing of copyhold land. This artificial distinction between the court baron and the court customary is scarcely to be found before the seventeenth century. In fact, in the seventeenth century as in the late fifteenth, the distinction between these courts was one of theory only; in practice there was a single court. Every court leet was as a matter of fact also a court baron, and its activity barely, if at all differentiated.²¹

How far can the influence of these manuals be traced in the courts held at Kirtlington? Between the first datable sixteenth-century roll to survive and 1641, twenty different hands can be detected in these documents, recording the business transacted at 137 courts. During the sixteenth century at least two courts were held annually at Kirtlington, which were as a rule also attended by the tithings of Bicester Kings End. These were at Easter, described as either the 'Court Baron' or the 'Curia Manerii' according to the steward's preference; and the 'View of frankpledge with the court of the manor' or the 'View of frankpledge with the court baron', held in the autumn, usually in October, occasionally in November or December, and often referred to as the Michaelmas court. A view or a court baron might also be held on occasion at other times of the year. A court baron might meet, for example, to handle a special piece of conveyancing of copyhold land. Similarly, when a view was held outside the normal time of year there must also have been a special reason, although this is not always clear from the recorded business. It is not obvious whether or not Easter courts baron were held with the same regularity after 1600. The Michaelmas court continued to meet annually but only a few records of courts baron have survived from the early seventeenth century. As a rule they seem to have handled much less business than their sixteenth century counterparts, and usually simply record transfers or surrenders of land, together with the names of the homagers that were present.

Normally one might identify a change of hand with a change of steward at the court. Twenty different hands compiled these rolls; but this is not necessarily to say that there

¹⁸ Hearnshaw, *Leet Jurisdiction*, p. 35.

¹⁹ *Modus Tenendi Curiam Baronis cum Visu Franciplegii*, ed. Charles Greenwood, (Manorial Society Publications, No. 9).

²⁰ Notably Thomas Wight, *The Order of Keeping a Court Leet and a Court Baron* (1593), John Wilkinson, *The Manner and Form of How to Keep a Court Leet* (1620), and William Sheppard, *The Court Keeper's Guide* (1641).

²¹ Hearnshaw, *Leet Jurisdiction*, pp. 76-7. For a list of Tudor and Stuart legislation which imposed new duties on courts leet see *ibid.* pp. 118-30.

were twenty separate stewards involved over the period 1500-1641. In the first place the steward is seldom named in the sixteenth century. Secondly, two stewards are associated with court rolls written in different hands. John Ellys, for example, was steward between 1619 and 1623, and rolls in three different hands appear under his name. In common with two other seventeenth-century stewards, Ellys signed the rolls that he wrote up himself. It can, however, be said, with reservations, that a change in the handwriting in the rolls, associated with minor variations of form or phrasing, indicates a change of steward. There is, in fact, remarkable standardisation in terms of general lay-out and procedure over the period of 150 years with which we are concerned. This is surely a measure of the influence of the available manuals dealing with court-keeping, and the permanency and strength of the manor court at Kirtlington as an institution; methods adopted in the past and seen to work would not lightly be altered by succeeding stewards. Some general changes may, however, be noted. The court rolls dating from the reign of Henry VIII usually divide the proceedings between the business of the court leet — the presentments of constable and tithingmen, etc., — and the business of the court baron, which is usually introduced by the phrase 'sequitur curia' or 'modo de curia baron'. By the time of Queen Elizabeth, however, this separation had been lost, and the proceedings were treated as a unitary court. Until this time also, the rolls tend to record first of all the business of the Kirtlington Leet, followed by the Bicester Kings End leet, and then the courts baron of Kirtlington and Bicester in the same order. Later rolls treat the two manors separately, Kirtlington taking precedence. How far this reflects an actual change in the order of business is hard to say. Two juries were empanelled, one for each manor, although occasionally a Bicester man might appear as a member of the Kirtlington leet jury, as was legally permissible. Business was presumably also separate.

Other variations in form may be noted. Sixteenth-century court baron juries are always collectively described as 'the homage' (*homagium*), but the juries at the Michaelmas courts are variously called. They are most often the 'jurors', or the 'jurors for the lord king'; less often, the 'homage' or the 'jurors and homage'. In theory, they were a 'jury for the lord king' in matters concerning the leet, and a 'homage' for the business of the manor itself. In 1608 we first meet the phrase 'juratores tam pro domino rege quam pro articulos curie'.²² Caroline juries at either court are referred to as the homage, but described in the text of the rolls as the jurors. When English is used, they are always referred to as the jury.

THE JURISDICTION OF THE COURT

Most of the Kirtlington rolls do not therefore make the jurists' artificial distinction between *court leet*, *court baron* and *customary court*. By the mid-sixteenth century, the business of the Michaelmas courts is regarded as unitary; one court performs different functions which are not distinguished in the text. Nonetheless we must consider the powers that the court, acting as a leet, could exercise, and the people its jurisdiction could affect, and its powers and scope as a court baron. The powers of the leet were, broadly speaking, public and communal, those of the court baron private and personal. In theory every resident between the ages of 12 and 60 owed suit in person to the court leet, unless exempt under the provisions of the Statute of Marlborough (1267), although even those so exempt could be required to attend for some special case. If a man held property in several places under different leet jurisdictions he would normally attend the court of the place where he lived. In the court baron the judges of causes were the suitors; at the leet the steward was judge.

²² O.R.O. Dash. I/i/160.

At a leet there could never be less than twelve jurors, and strangers might be empanelled to make up a jury; a court baron required a minimum of two suitors and might never empanel strangers.²³ The court-keeping manuals offered useful summaries of the kind of business presentable and punishable at manor courts. The leet could deal with every common law offence which had ever been within leet jurisdiction and had not been expressly removed by statute. No new statutory offence came within the purview of the leet unless stated in the statute. Many minor offences were placed within leet jurisdiction by Tudor and Stuart legislation. Some matters (mainly common law felonies and a few statutory felonies) were enquirable and presentable at a leet but not punishable. Those matters that were both presentable and punishable fell mainly into the category of petty misdemeanours and public nuisances. These included suit of court, the oath of allegiance, duty to the lord of the leet, all common nuisances to the king's subjects within the leet, breaches of the peace, evil persons and pests, forestallers, regrators and ingrossers, inmates and illegal cottagers, usurers, evil trade practices and frauds, and violation of the assizes of bread and ale. The leet was also to supervise the conduct of its officers, the keeping of watch and ward, and the maintenance of instruments of local justice such as the stocks and cucking stool.²⁴

Comparison of the matters over which courts baron had jurisdiction makes it obvious why many court rolls which try to distinguish the two courts are confused as to which matters are proper for each heading. Thomas Wight's *The Order of Keeping a Court Leet, and a Court Baron* (1605 edn.) lists the following offences. Apart from matters touching customary and freehold land, and causes of debt up to 40s., a court baron could deal with the waste of tenements, and other matters tending to the disruption of agriculture. It could enquire into matters of petty treason, felony and murder involving tenants, into lost rents or withdrawn services owed to the lord, into strays, rescues against the lord or any manorial officer (i.e. where animals had been distrained for damage or trespass), and into breaches of the common pound. It could punish the decay of husbandry on a tenant's farm, the overcharging of commons, hedge-breaking, unlicensed encroachments, the stopping of the highways, and a wide range of other offences that would disrupt a communal system of farming. In addition it could present whether the officers of the manor (saving the constable or 'headborough') had carried out their duties properly.²⁵ Many matters could thus be presented at and dealt with by both the leet and the court baron. Those who actually kept and recorded the work of real courts largely ignored the manual-writers' attempts to separate sharply the jurisdictions of the two courts.

OFFICERS AND PERSONNEL

Residence was the chief factor in determining who owed suit to the leet, and *tenancy* that which imposed an obligation to attend the court baron. The proceedings of the Kirtlington leet were probably witnessed by the bulk of the adult male population of Kirtlington and Northbrook. Women were not legally obliged to attend the leet, but the Kirtlington court, like others elsewhere, sometimes fines them for non-attendance.

Legally every male of full age resident in Kirtlington could be compelled under penalty to serve as an officer of the court. The full complement of officials typical of the Kirtlington leet was established by 1547, when the practice was begun of electing three or four men annually to serve as Surveyors of the Common Fields and Numerators of Cattle (*Supervisors*

²³ Sheppard, *The Court Keeper's Guide* (2nd edition, 1650), pp. 2-3.

²⁴ Hearnshaw, *Leet Jurisdiction*, pp. 112-7, 118-30.

²⁵ Thomas Wight, *The Order of Keeping a Court Leet and a Court Baron* (1605 edition), pp. 19-31.

Camporum or the *Numeratores Catallorum*).²⁶ In the earliest sixteenth-century rolls we learn of the constable, tithingmen and hayward (*messor*), and these were the most stable manorial officials. The constable and the two tithingmen were the only officers particular to the leet. The other officers presented also at the Easter courts on occasion, but were elected at the Michaelmas view of frankpledge. Other officials regularly mentioned in the sixteenth-century rolls, were two common herds, one each for Kirtlington and Northbrook (seventeenth-century rolls also mention a shepherd appointed by the court); two supervisors of the highways were elected in 1619, and a Clerk of the Market and Water Bailiff in 1638.²⁷ Also chosen at each court, though not consistently named, were two affeerors, who established fair levels of amercement for persons in mercy to the court. Occasionally the jury itself did this. A bailiff is frequently mentioned in passing, often in connection with the attachment of an animal, the custody of a stray, or the distraint of a heriot, but he is named once only, in 1628. His name then, appropriately enough, was John Reeve.²⁸ Of these officers, the court roll of 1470 only mentions the tithingmen, reeve and affeerors; the *tastatores cervisie* are mentioned in that roll only, never again.

William Sheppard, author of the *Court Keeper's Guide*, also published, in 1641, a handbook directed at those people who found themselves holding petty offices of this kind, called *The Offices and Duties of Constables, Borsholders, Tythingmen, Treasurers of the County-Stock, Overseers for the Poor and other lay ministers*. . . It was intended as a pocket reference book to prevent such officers exceeding their authority or falling into other error, and to encourage a proper sense of responsibility in what the author assumed to be unpopular posts. His discussion of the origins, duties and election of constables and tithingmen is relevant here:

the other sort of constables are called petty constables, or the under constables, who are only for some part, as for a town, parish, village, tithing, or hamlet within the hundred, for every hundred hath his high constable, and every several tithing within the hundred hath his petty constable, tithingman, or the like within it . . . The tithingman, borsholder, borrow head or Headborow, Thirdborow and chief pledge . . . and their offices are in effect in most places one and the same . . . in other places he is called constable, and in some places he is called tithingman, for he that is called and sworn tithingman is in effect the constable of the place . . . but if it be so (as it is in some few places) that there is one constable for the king, and there is also one or more tithingmen, and the constable doth execute all the office, and the tithingmen are as but attendants upon him, and seem to have but little power . . .²⁹

The constable as a petty officer of a township, responsible for the keeping of the peace, the appointment of the watch, the raising of the hue and cry, the execution of justices' warrants, the passing on of vagrants, and the repair of the local stocks and archery butts seems to have first been elected at manorial courts around 1400. By the sixteenth century he was often a parochial rather than a manorial official; in places where the manor was weak his election tended to be relinquished to the vestry. He might have an assistant constable to help him, and in some rare cases these were the chief pledges.³⁰ Sheppard points out that in some places where there were two tithingmen, one might act for the king as constable, and one might be chosen at the leet who was not constable but 'attends on the leet only'. If a constable *was* chosen at a leet, then it might be done by the steward or by the

²⁶ O.R.O. Dash. I/i/74.

²⁷ Ibid. I/i/156, 172.

²⁸ Ibid. I/i/164.

²⁹ William Sheppard, *The Offices and Duties of Constables, Borsholders, Tythingmen etc.*, (1641), pp. 11-13.

³⁰ W.E. Tate, *The Parish Chest; a Study of the Records of Parochial Administration in England* (2nd edition, Cambridge, 1951), pp. 175-8.

jury, according to custom.³¹ The office of constable was probably established at Kirtlington between 1470 and 1509. Hearnshaw traces the origin of the office to the earlier chief pledges or tithingmen, but at Kirtlington they were clearly separate officers. The Kirtlington constable was usually elected at the Michaelmas court. As a rule he served for one or two years only, and until 1589 he may have been unpaid.³²

Unfortunately we have no vestry records from Kirtlington which might clarify the relationship of the constable with the parish authorities. His election at the leet suggests that he was in origin a leet rather than a parish official. In practice the activities of the tithingmen are more prominent in the court rolls. They seem to have far more to do with the work of the court than the constable, and would appear to be the descendants of the chief pledges of the Kirtlington tithings; by the sixteenth century they had taken over the duties of the earlier ale-tasters, they presented cert money and the capture of strays, regulated the assizes of bread and ale, and controlled such matters as the playing of unlawful games. Like the constable, the tithingmen generally served for one or two years.

Those who occupied the less important manorial offices tended to hold them for longer and more frequently. The hayward was responsible for the maintenance of hedges and fences, and the opening and closing of the meadows. The *numeratores catallorum* regulated the depasturing of animals according to the stints the court established.

How were these greater and lesser officials chosen? The rolls use the standard phrase that such and such a person has been elected ('electus est'). Often, as is suggested by the fact that a man could be chosen as an officer at a court at which he has been excused attendance, it seems that the court is merely confirming a previous choice, according to some kind of rota system, such as parish vestries often adopted, or made at less formal village meetings before the leet itself met.³³ Nothing contradicts the possibility that the nomination of officers was done by the steward, though this seems unlikely given the strong evidence of strong communal spirit in these rolls.³⁴

We can be much more definite in identifying the social strata within village society from which the jurors and officers were chosen. In common law the minimum number of leet jurors was twelve, for a court baron two. Sheppard recommends summoning 24 in his *Court Keeper's Guide*, and choosing fewer than that number. Most manual writers suggest that in the absence of good custom to the contrary, the bailiff should select the jurors rather than the steward.³⁵ At Kirtlington the number of jurors varies according to the steward of the day. John Okeley (1585-7) had over 20 jurors at his courts (26 in Michaelmas 1586), but juries were usually smaller. In the early Henrician rolls, the 'duodecim pro domino rege' might also number 20 or more, but most stewards were content with between fourteen and twenty at a leet, and ten to twelve at a court baron.

It was the farmers of the parish, especially those who occupied three-quarters of a yardland or more, who dominated the government of the community through the manor court between 1500 and 1641. Until the second half of the sixteenth century jurors and the main officials were usually copyholders, but as the husbandmen and yeomen prospered, and began to acquire freeholdings, resident freeholders and leaseholders also became

³¹ Sheppard, *Offices and Duties*, pp. 13-14.

³² Hearnshaw, *Leet Jurisdiction*, p. 90. At the Michaelmas court of 1589 it was established that each inhabitant was to pay 1d per yardland *per annum* as a contribution to the constable's expenses. (O.R.O. Dash. I/i/113) In 1595 it was ordered that he should receive 6s 8d *per annum*. (O.R.O. Dash. I/i/133)

³³ For example in 1631, When both tithingmen had been essoined. (O.R.O. Dash. I/i/167)

³⁴ Below, pp. 271-2.

³⁵ Hearnshaw, *Leet Jurisdiction*, p.90.

prominent. There was a social gulf between this class of folk and the men who occupied the lesser offices. Occasionally cottagers and half-yardlanders might be jurors or tithingmen, especially under those stewards who liked large juries, but many amongst this group in the community played no visible part in the activities of the court; neither did labourers. However, it was from amongst the upper levels of this second group that haywards, herds, warreners and woodwards, and most of the tellers of the fields were drawn.

Sheppard thought that a constable or tithingman should be 'fit for his ability of body and estate'. An old or sick man, or 'a poor needy man, that lives only by his labour' was not suitable. He lamented, however, that 'because the common course is everywhere, to put these offices upon the meaner sort of men, the more able sort do think themselves exempted'.³⁶ So far as ability to serve in such offices was dictated by social and economic standing in the community, the situation described in the above quotation was not the case at Kirtlington.

At the view of frankpledge held on the 2 October 1528 there were twelve jurors.³⁷ The lands held by two of them, one of whom, William Freman, may have been from Bicester, have not been identified. William Arundell and Richard Walker held copyhold tenements of two yardlands each. John Horne and Thomas Kyte farmed copyholds of one and a half yardlands. Walter Foxe, Richard Keynsham, John Arundell, and probably William Andrews, were yardlanders. John Philypps had a copyhold cottage and seven acres of land, was tenant of the Lawnd Close, and appears to have held some freehold land locally, with an interest in a mill at Kirtlington.³⁸ The humblest man on this jury was Thomas Jakes, who rented a half-yardland tenement and a shop from Kirtlington manor; he was possibly a craftsman as well as a small farmer. The two tithingmen for that year were John Bath and John Sawle, both copyhold yardlanders. The constable was John Andrews, a substantial freeholder, and lessee, from 1515, of the Rectory Farm in Kirtlington. He was unusual in that he was constable for fourteen years without a break, from 1519 until 1536.³⁹ He was assessed at £30 in lands in the lay subsidy of 1523, when he was described as a gentleman. In his will (proved in 1542) he described himself as a yeoman.⁴⁰

The social composition of the jurors and manorial officials named in late sixteenth-century and early seventeenth-century court rolls suggests similarly that juries were dominated by the larger farmers and the middle-ranking copyholders of the parish. Jury service, and the holding of the offices of constable and tithingman, were functions of relative status in the community; in other words, of landholding. The Michaelmas court in 1592 had seventeen jurors, dominated by substantial copyholders of a yardland or more, and including Richard Wooward, tenant of the New College farm, and John Foxe, the lord of Northbrook. On this larger jury there was a leavening of smaller folk; including William Davies, a butcher, Alexander Mylman, a slatter, and two cottagers, Edmond Copland and Robert Dully.⁴¹ The typical juror of the first half of the seventeenth century was often a yeoman, the kind of man who might leave £100 or more of moveable property at his death, but essentially the same class of person as the typical juror of the early sixteenth century, farming a tenement of the same order of size.

³⁶ Sheppard, *Officers and Duties of Constables etc.*, pp. 16-17.

³⁷ O.R.O. Dash. 1/i/39.

³⁸ Bodleian Library, MS. Wills Oxon. 1/1/19.

³⁹ *Valor Ecclesiasticus* (Record Commission, 1810-34), iii, p. 53; St John's College, Oxford, Aulnay Deeds; O.R.O. Dash. 1/i/19-20, 22, 25, 27, 29, 32, 34, 36, 38-9, 42, 44, 48, 52.

⁴⁰ P.R.O. E 179/161/176; Bodl. Libr., MS. Wills Oxon. 1/2/113.

⁴¹ O.R.O. Dash. 1/i/125.

Jury service was not an occasional activity. During the time that they occupied their tenements, jurors served at manor courts for year after year, commencing as soon as they took up their farms. Thomas Shadde farmed two copyhold yardlands from the 1530's or before until his death in 1558, when his goods were valued at £27 7s. 1d.⁴² He was a juror at 40 courts, almost continuously from 1533 until 1557. At seven courts he was an affeeror, and once, in 1547, a supervisor of the common fields. John Hawkins took up his father's copyhold yardland in 1622, on his mother's surrender, and was thereafter a regular juror until the year of his death, 1640, during which time he also served as tithingman and constable. His estate was valued at £109 5s. 6d.⁴³

Lesser folk, men who farmed a half-yardland or less, were jurors much more occasionally, and most of the cottagers played little or no part in the running of the court, the majority appearing only as participants in a quarrel, as bakers, brewers or butchers, or for petty offences concerned with the woods, or furze-gathering. Many such people are identified in the rolls as shepherds, servants or labourers, but few are named, and many must have been transient or short-term residents, on the margins of the community, and seldom able to establish a firm foothold in the parish. The numbers of these families were on the increase after 1485. Such people formed perhaps a third of the population of Kirtlington as early as 1523, and formed a major part of its labour-resources, but played little or no part in its administration. When cottagers held office it was as a rule in the lesser roles of hayward, herd, woodward or warrener (although John Redhed was tithingman in 1558). Supervisors of the fields were usually cottagers or small farmers.

A clear social stratification determined levels of responsibility in the affairs of the manor court. The copyholders, resident freeholders and leaseholders who farmed three-quarters of a yardland or more dominated village government through the court, and supplied the majority of the jurors, constables and tithingmen. By and large, as a study of the family occupation of farms has shown, they came from families prominent in the parish over several generations, often a century or more: families such as the Andrews, Keynshams, Arundells, Baths, Rayers, Turners and Halls.⁴⁴ Little in the administration of Kirtlington seems to justify William Sheppard's fears about the class of person called upon to occupy local office insofar as economic status at least is concerned. Even if lesser folk served in some of the humbler offices, they were generally from families that had achieved some stability in the community.

Very little formal complaint seems to have been made about the way court officers or jurors carried out their duties. Hugh Smith was a juror in 1626 when 'he went away in contempt of court before the verdict had been given' and was fined 5s. However, next year he was chosen constable, as he had been in 1617, and in 1638 he was a tithingman. In 1640 he was fined 40s. by a court of which he was a juror 'pro recusando officium constabularii'.⁴⁵ Henry Daye, a gentleman, and copyhold tenant of 1¾ virgates from 1623 was a juror first in 1625. The following year he was fined, like Smith, for leaving the court. In 1631 he refused to serve as constable and was fined 20s., but was a juror at the next view of frankpledge.⁴⁶ Refusal of office, for which a heavy fine was payable, did not prejudice

⁴² Bodl. Libr., MS. Wills Oxon. 1/4/259.

⁴³ O.R.O. Dash. 1/i/157; Bodl. Libr., MS. Wills Oxon. 32/1/33.

⁴⁴ Thesis, pp. 115-45.

⁴⁵ O.R.O. Dash. 1/i/161, 162, 172, 174.

⁴⁶ Ibid. 1/i/158, 167.

future office-holding or jury membership. Both Smith and Daye, the only men about whom such cases are recorded, were substantial farmers, members of the natural leading group in the community.

CUSTOM AND BY-LAWS

It is not necessary to emphasise how far custom was the overriding principle in the affairs of manor courts. It is important for our purpose to assess attitudes towards custom at Kirtlington and to question how far the court was a *communal* institution. How far did the residents and tenants of Kirtlington and Northbrook actually have a voice in the regulation of the community's affairs through the manor court?

The customs of Kirtlington manor are set down once only, in the survey of 1591 made by the Duchy of Lancaster. This description of custom as it stood in the last decade of the sixteenth century was hardly comprehensive; the surveyor set down only the most significant customs relating to agricultural management and the transmission of holdings.⁴⁷ Each court roll, however, makes frequent reference to the custom of the manor, which was modified regularly according to need by the promulgation of by-laws and orders at the Easter and Michaelmas courts. In the seventeenth-century rolls by-laws were confirmed or modified annually each Michaelmas, and written down at the end of each roll. There seems to have been little recorded dispute in our period concerning local custom. More interesting, and as yet little researched is the manner in which by-laws were made, and the authority which promulgated them.⁴⁸

John Kitchin's manual *Le Courte Leete et Courte Baron* of c.1579 was the chief model for late Tudor and early Stuart writers, and was published in English as *Jurisdictions or the Lawful Authority of Courts Leet, Courts of Pypowder, and Ancient Demesne*. The second edition of 1653 has this to say concerning the by-laws of manorial courts:

'Where a bye-law is for a Commonwealth, it is good to bind all, though all do not agree, as to make a Causeway, Way or Bridge; but a Bye-law to repair a Church is a charge, for that it shall not bind but those that assent . . .⁴⁹ . . . tenants in a leet may make bye-laws, for that it is the King's court, which shall bind them by their assents, and a Town may make bye-laws by prescription, and that shall bind them, but not a stranger . . . where the greatest part of a town agree to a Bye-law, which was charged, that then it is good against them all.'⁵⁰

The court leet could therefore make by-laws that were binding on the whole community under its jurisdiction, as a court baron could for the tenants of the manor it regulated. Kitchin and other contemporary authorities stress that by-laws were not binding unless they were assented to by the people whom they affected. What was the precise nature of this assent? Clearly it required in some sense a majority of the community, 'the greatest part of a town'. But how far was the community as a whole actually involved in the process of making by-laws? Was this assent merely formal, or was there genuine communal involvement and consent? How far was the manor court a communal institution as pictured by

⁴⁷ P.R.O. D.L. 42/117, ff. 98-99r.

⁴⁸ On the legal status of customary law, and the extent to which it might conflict with common law, see R.H. Tawney *Agrarian Problem*, *passim*, and E. Kerridge, *Agrarian Problems in the Sixteenth Century and After* (1969), *passim*.

⁴⁹ John Kitchin, *Jurisdictions, or the Lawful Authority of Courts Leet Courts of Pypowder, and Ancient Demesne* (2nd edition, 1653), p. 89.

⁵⁰ *Ibid.*

Tawney, an institution in which the common interest 'in the case of the village community . . . is a permanent, not merely a passing ground for co-operation'.⁵¹

Since by-laws were made and upheld to protect and maintain the economy of the local community, it is likely that it would be those people who had the greatest stake in that economy who would be most concerned in the making of by-laws, by-laws that concerned not just the practice of husbandry, but other areas of the court's jurisdiction such as the upkeep of highways, the maintenance of rights of way, the clearing of water-courses and so on. Although occasionally lesser men might appear as jurors or manorial officers, it is clear that the leading group of villagers was composed of men who farmed three-quarters of a yardland or more. It is these men who would have a genuine common interest in the general wellbeing of the community's husbandry, although they might often come into conflict on minor matters, such as the encroachment of a lane, the boundaries of open-field strips, or failure to fulfill their obligations by helping to maintain the highway. One would expect the court rolls to reflect their common interest in this sense.

To a greater or lesser extent the rolls must also reflect the interest of the lord or farmer of the manor and his steward; one would expect their leadership in the common interests of the community, in initiating and supporting by-laws, and in ensuring efficient enquiry into those matters over which the court had control, for economic reasons and also because the lord had a financial interest in the profits to be made from amercements levied by the court. After 1556, the Arderns were not only lessees of Kirtlington manor, but substantial farmers in their own right, so that their role in the affairs of the court cannot have been negligible. However, in agricultural matters at least the court asserted considerable independence from the Arderns, in whose names the court was held. The jurors had several times no apparent hesitation in presenting members of the family for breaches of custom or by-law. John Ardern was fined on at least four occasions: twice for putting his oxen into the stubble before the field had been cleared (being fined sums of 16*d.* and 2*s.*), once for allowing his sheep to graze in Briton meadow (6*d.*), and once for putting his oxen into the meadow before Lammas (12*s.*).⁵² These presentments may or may not be significant, and certainly there is no other recorded case of an earlier farmer or of a member of the Chamberlain family being amerced. Despite their position as farmers of the manor, however, the Arderns by no means controlled the majority of acres in the parish, and do not, after 1568, seem to have attempted to further consolidate their estate. In 1587 Henry and John Ardern sold off a yardland tenement to one of their (presumably leasehold) tenants, Edmond Copland, a Kirtlington baker.⁵³ Neither did the Arderns do much to increase their revenue from their customary tenants; rents did not rise between 1516 and the 1620's. Only by levying higher entry fines were they able to raise their income from the manor. In short, they were not active lords, eager to consolidate their position at the expense of their tenants or the smaller freeholders in the parish.

Beyond these observations it is not possible to determine the extent of the direct control exercised by lords and stewards. However, it is worth looking at some of the phrases in the by-laws themselves which refer to the authority under which they were made. These phrases are often very informative, referring clearly and specifically not only to the tenants of the manor, but also to the inhabitants of the village at large. Although numerous by-laws

⁵¹ Tawney, *Agrarian Problem*, p.160.

⁵² O.R.O. Dash. 1/i/108, 113, 121, 133, 134.

⁵³ Ibid. III/xiii/3.

begin with uninformative phrases such as 'preceptum est quod . . .' or 'mandatum est quod . . .', others are more suggestive of the extent of consent to by-laws. For example, an order of 1525 restricting the possession of geldings, begins: 'pena posita est ex assensu et consensu senescalli et omnium tenentum . . .' Also from the same court we have: 'ordinatio facta est ex assensu senescalli et omnium tenentum . . .' in a by-law which forbids cottagers to keep more than one cow on the commons.⁵⁴ These imply the involvement of the steward, the tenants of the manor and, one must assume, the jurors of the court. In fact there are few such references to the steward in the Kirtlington by-laws. More frequent are those which mention either the homage or jury alone, 'all the tenants', or 'the homage and all the tenants'. In 1541 it was ordered that no yardlander was to keep more than 40 sheep in the West Field 'ex assensu omnium tenentum'.⁵⁵ In 1535/6, 'per totum homagium', it was ordered that all tenants should ring their pigs before the feast of St. Leonard. Other by-laws extend the number of people seemingly involved in drawing them up. In 1538 it was ordered 'ex assensu omnium tenentum et inhabitantum eiusdem ville' that none should keep more than eight oxen, horses, cows or heifers per yardland.⁵⁶ In 1595 the numbers of oxen and horses were again stinted, 'concordatum . . . per inhabitantes manerii predicti'.⁵⁷ Frequently by-laws refer to the inhabitants of the manor or the vill alone with reference to no other authority. Other sixteenth-century by-laws use somewhat different phraseology. In 1590 farmers were ordered to make balks between their strips; the by-law begins: 'concordatum est ad hanc curiam inter vicinos ex assensu domini . . .' It was agreed amongst the neighbours and the lord agreed to their ruling.⁵⁸ The often-repeated phrase, 'concordatum est ex commune assensu', probably contains much the same meaning. Presentments at the manor court also refer to communally made decisions, about, for example, the day agreed amongst the neighbours for putting animals into the stubble-field.

In the Jacobean and Caroline rolls the by-laws agreed at the Michaelmas courts are usually grouped together at the end, and written down in English rather than in Latin. These lists are typically headed, as in 1621, "Orders made at the Courte Leete and Courte Baron holden at Kirtlington", and each by-law is introduced by 'we agree'.⁵⁹ Under the steward Richard Griffiths (after 1624) the orders are made 'by the Jury' and each begins similarly with 'we agree'.

Most suggestive of all these hints as to the process of making by-laws is an instruction of 1609 to the inhabitants of the Bicester Kings End manor. This occurs in one of the last full records describing Bicester affairs.

Item it is agreed that all the inhabitants in Bicester Kings End and Bignell shall meet at Kings End Cross on new year's even next by 8 of the clock in the forenoon to agree upon some good orders upon pain of everyone making default to pay to the lord 5s which orders being agreed are promised to be delivered to the Steward of this manor . . .⁶⁰

Thus the Bicester jurors ordered all the inhabitants of the manor to meet independently of the court to draw up a set of by-laws. Is it unreasonable to suggest that similar autonomy

⁵⁴ Ibid. I/i/34.

⁵⁵ Ibid. I/i/64.

⁵⁶ Ibid. I/i/52, 59.

⁵⁷ Ibid. I/i/132.

⁵⁸ Ibid. I/i/116.

⁵⁹ Ibid. I/i/153.

⁶⁰ Ibid. I/i/152.

was enjoyed by the inhabitants of Kirtlington, who shared a common lord and steward, and whose court met on the same day at Kirtlington as the Bicester court?

The by-law formulae seem to imply that by-laws were made with at least the assent of the steward and the tenants of Kirtlington. Often they go further and suggest a process of consultation which, at least formally, involved all the inhabitants of the parish. Such assent was, as Kitchin says, necessary if a by-law was to be binding. In practice in the management of an open-field economy the agreement of those with the greatest stake in that economy must have been necessary, or by-laws would not have been enforceable through the court. What would have been the use of an order stinting the number of sheep on the commons, if the Woodwards, with their six yardlands leased from New College, were not consulted and chose to ignore the order? By-laws, to be accepted, had to be regarded as being for the good of the community as a whole, or at least for the general good of the leading copyholders, leaseholders and freeholders. For as long as communal agriculture remained in force, the farmers who made up the juries would share common interests with the lesser farmers, and the lords or farmers of the manor. The rolls seem therefore to show the tenants of the manor and those who shared their concerns taking those actions, and making those rules, which were in their economic interest, and in the interest of the lord. So far as initiative in these matters is concerned, economic status must have been paramount and landless or near landless villagers must have counted for little. To stiffen custom, the assent of the lord or steward might be invoked, but the agreement of the farmers was essential if custom was to have any force, and in most cases it was probably they who took the lead in drafting agricultural and other by-laws.⁶¹

At Bicester we have seen that the court might order the holding of a village meeting to draft by-laws and present them to the steward. Practice at Kirtlington may well have been similar, and it seems only reasonable that meetings of some kind, however informal, must have taken place before the manor court itself met to agree on the by-laws for the succeeding year. If a by-law was disobeyed, the lord's authority might be invoked to secure obedience. This would fit with the fact that, at Kirtlington, it was the middle-ranking and substantial farmers who conducted the court's business and were its leading officers. As Ault emphasises, we can in no way observe some sort of 'peasant democracy' at work.⁶² Nonetheless, where, as at Kirtlington, the manor and the vill for practical purposes coincided, the court must have served as a village assembly, alongside which non-manorial meetings of villagers must occasionally have taken place to prepare business for the court. At Bicester, the attendance of the inhabitants at such a meeting was compelled under pain of a heavy fine.

⁶¹ Cf. the conclusions reached by W.O. Ault in his studies of (mainly medieval) agrarian codes and by-laws. Ault considers that as such ordinances were, in general, 'for the conservation of the grain of the lord and his tenants', those with the most grain, whether they were free or customary tenants, would be most concerned in their drafting enactment. Economic rather than legal status was paramount. W.O. Ault, 'Open Field Husbandry and the Village Community: a Study of Agrarian By-laws in Medieval England', *Transactions of the American Philosophical Society*, New Series, lv (1965). The above quotation is from p. 41 of the last cited work. The article has been published in England as *Open Field Farming in Medieval England: a Study of Village By-laws* (1972). See also, by the same author, 'Village By-laws by Common Consent', *Speculum*, xxix (1954), pp. 378-94, and 'Some Early Village By-laws', *English Historical Review*, xlv (1930), pp. 208-31.

⁶² Ault, 'Open Field Husbandry', pp. 41-2.

THE MANOR COURT AND SOCIAL CONTROL

So far I have considered the extent of the court's authority, its social composition, and the way it formulated by-laws. It is now appropriate to review some particular aspects of its work, and the way it intervened in the regulation of the social and economic life of the parish. The establishment of by-laws concerning agrarian practice, and presentments of field offences naturally took up much of its time; the study of these provides a considerable amount of information about farming in Kirtlington during our period.⁶³ I intend here to deal with some other aspects of the court's activity which have received less attention from other historians. Firstly I shall review the use villagers made of the court as an arena for the settlement of personal actions, and then I shall turn to its control of local trade and petty crime.

Courts baron could deal with petty litigation concerning matters of debt, damage, trespass or false detention, etc., where the sum involved did not exceed 40s. The Kirtlington manor court was a popular arena for the settlement of such disputes within the local community in the sixteenth century, but after 1593 this function of the court seems to have been discontinued. However, 52 actions of this sort are recorded between 1516 and 1593; 33 cases at fifteen courts under Henry VIII, nine cases under Edward VI, and nine cases at six Elizabethan courts. Little information is given concerning the majority of actions apart from the names of the parties involved and the general nature of the suit, but from the details of a minority of cases the types of litigation typical of the court can be traced.

Some cases involve disputes connected with trade; others the loss of animals. In Michaelmas 1517, for example, Hugh Kerkeby, gentleman, complained that a butcher, Thomas Davye, owed him 6s. 8d. At the same court, Davye claimed that Kerkeby owed him the value of a bay horse taken without his permission, harnessed to a dung-cart, and worked almost to death, for which he sought 3s. 4d. compensation.⁶⁴ In 1550 Anthony Ardern claimed compensation for nine sheep killed by Thomas Andrew's dogs, and Thomas Hedges wanted payment for two lambs killed by the same animals.⁶⁵ The sums claimed in the latter case were unusually large — 26s. and 10s. respectively; as a rule, the amounts claimed by plaintiffs were under 10s. Sums of 6s. 8d. or 3s. 4d. were not of course negligible in the sixteenth century; John Cobwell admitted in 1551 that he owed 6s. 8d. to Thomas Sowth, and the court arranged that he should be repaid in four instalments of 1s. 8d. each.⁶⁶

Members of other villages were also prepared to take their suits to the Kirtlington court; in three of the four such cases the plaintiffs (including two women) were from Hampton Poyle. The fourth case involved Richard Carter of Lutterworth, who sought damages of 6s. 8d. from the vicar of Kirtlington, Thomas Wylkynson, in 1536.⁶⁷

In this way the court provided a means of obtaining justice and settling disputes which involved no costly travelling or legal fees. The cessation of these cases appears to coincide with the appearance of Edward Dingley as steward in 1596. His stewardship saw other important changes in the character of court business, notably that it began to take less part in the administration of the assizes of bread and ale, and ceased to punish cases of

⁶³ Thesis, Chapter 4, pp. 195-226.

⁶⁴ O.R.O. Dash. I/i/13.

⁶⁵ Ibid. I/i/79.

⁶⁶ Ibid. I/i/52.

⁶⁷ Ibid. I/i/52.

petty assault and theft. Steward and farmer may well have agreed that they saw little profit in fines under these heads.

Most sixteenth-century courts were concerned with the regulation of the activities of local butchers, bakers and brewers, and with the punishment of petty criminal behaviour. Significantly fewer courts deal with trade offences after 1597, although the real position is clouded by the loss of some of the Jacobean court rolls. Table 2 indicates that between 1620 and 1642, during which period the records of only five Michaelmas courts are lost, trading offences were presented at only five courts leet. Assaults were punished at only one court after 1620.

TABLE 1
TRADE OFFENCES PRESENTED AT KIRTLINGTON, 1514-1640

	1515- 1519	1548- 1553	1585- 1589	1600- 1641
Brewers	21	13	16	15
Bakers	10	2	7	3
Butchers	4	3	8	2
Millers	1	4	0	0
	36	22	31	20

TABLE 2
TRADE OFFENCES AT KIRTLINGTON, 1608-41

Court Roll	Year	Brewers	Butchers	Bakers
151	1608	1	0	0
152	1609	1	1	1
154	1610	2	1	1
153	1620	1	0	0
157	1622	4	0	0
164	1628	1	0	0
168	1632	3	0	1
175	1641	2	0	0
		15	2	3

These tables show the number of presentments within the categories of brewer, butcher, baker and miller within the periods indicated. For each group of five years selected from the sixteenth century there were five successive Michaelmas courts at which these offences were presented. During the seventeenth century, 20 courts leet were held at Kirtlington up to 1641 for which the rolls have survived. Trade offences were presented at eight of these. The missing years are 1607, 1611-16, 1618, 1621, 1624, 1633, 1635, and 1637.

In 1470 it was the ale-tasters who regulated the assizes of bread and ale and other local trades. By 1500 the tithingmen had assumed this role, which they continued to exercise down to 1641. Courts leet could present and punish a whole range of offences in this

category: forestalling, regrating and engrossing, fraud and other corrupt practices such as the sale of poor quality drink and victuals, the charging of excessive prices by vendors, the sale of drink without licence, and other violations of the assizes. The Assize of Bread and Ale (*Statuta Assisa Panis et Cervisie*) imposed a system whereby prices per loaf were fixed for different types of bread, and the weight of loaves varied according to the price of corn, which was to be fixed by the local justices. Alehouse-keepers were placed under a statutory obligation to sell their ale in quart pots. At the level of the vill, the local ale-tasters or 'searchers of victuals' were to enforce these arrangements.⁶⁸ In Kirtlington this became by the sixteenth century the responsibility of the two tithingmen. Some manors, especially those with market rights, also had fish-tasters or leather-searchers, who were responsible to the local justices of the peace in petty sessions. In 1638 the Kirtlington court elected a 'clerk of the market and water bailiff'.⁶⁹ This supplies a hint that a market may have been held at Kirtlington on at least a semi-regular basis. Robert Plot's 1677 map of the county gives Kirtlington the status of a market town, and occasional references in the court rolls to the regulation of the local weights and measures give support to this hypothesis.⁷⁰ Several butchers and bakers presented at the court in the first half of the sixteenth century were not local men. But any such market must have been a very small-scale affair, from the evidence of the numbers of tradesmen recorded in the rolls, and the people of Kirtlington must still have relied on the markets at Oxford, Woodstock and Bicester. There is no way of telling whether the clerk of the market was a regular official or merely an experiment. He seems in 1638 to have combined this role with the control of the lord's rights over the waters of the Cherwell.

Beyond these observations, Kirtlington does not seem to have been unusual in the way that its court and tithingmen controlled the activities of local brewers, bakers and butchers. Fifty one out of 56 views of frankpledge before 1600 contain assize presentments, listing a total of 60 tradesmen, and some sporadic references to the excessive prices charged by local millers.

The majority of brewers, bakers and butchers were cottagers and sub-tenants, or isolated individuals, about whom little else is known. However, several of the wealthier farming families were also involved, such as the Gardiners, Halls, Keynshams and Woodwards. Jerome Brode and his family sold ale in the parish for ten years during the 1540's and 1550's. Brode was an Oxford M.A. and a lessee of the New College Farm.⁷¹ Most folk rich or poor, were presented only occasionally, two or three times at most, but several families clearly relied on keeping ale-house or selling meat as the main source of their livelihood. The Davies's *alias* Butchers were butchers and ale-house keepers in the parish from the 1540's until the end of the sixteenth century. Outsiders to the community appear only as sellers of bread. Eleven appear in the rolls; eight from Woodstock, two from Bicester and one from Oxford. Only one man amongst this group sold his wares regularly in Kirtlington, a baker from Woodstock called William Cornewell, who was presented at twelve courts between 1513 and 1532.⁷² John Andrews, the wealthy tenant of the Bicester

⁶⁸ *Statutes of the Realm* (Record Commission, 1812-18), i, pp. 199-200, where its date is regarded as uncertain. It is now thought to date from 1266 (51 Henry III). See Alan S.C. Ross, 'The Assize of Bread', *Economic History Review*, 2nd Series, ix (1956), pp. 332-7.

⁶⁹ O.R.O. Dash. I/i/72.

⁷⁰ Robert Plot, *The Natural History of Oxfordshire* (1677) frontispiece.

⁷¹ Bodl. Libr. MS. Ch. Oxon. 1517, 1519.

⁷² He is probably the William Cornewell of Woodstock who made his will on 9 November 1550 (proved 9 July 1552) and left property worth £108 3s. Bodl. Libr. MS. Wills Oxon. 1/3/122.

lands sold meat regularly between 1513 and 1524, and in 1522 (when he was constable) was presented by the tithingmen for preventing William Cistowe of Bletchingdon selling meat in the village.⁷³

The usual fine for breaking the assize of bread or ale was 2*d.* or 4*d.*, and the tithingmen appear to have been conscientious in their duty. However, it seems, from the level of amercements, and the repeated presentments of the same people, that the court was operating a licencing system that had little effect on the quality of products for sale, or on the use of statutory measures. The small fines that brewers or bakers paid must have been quickly recouped. In 1518 licences were granted to Richard Huchill, William Skotte and Richard Smyth to continue as brewers, although at the same court Huchill was amerced 2*d.* for selling ale from his house on several nights to 'certain unknown men'.⁷⁴ They were to be of good conduct in their houses and were not to allow their neighbours or their neighbours' servants to 'keep vigil' or play games on any night after nine o'clock. They had to find pledges for their good conduct.

Some tithingmen were more conscientious than others about standards of service, perhaps in response to initiatives taken by the local justices to regulate trade more strictly. Agnes Butcher was fined in 1558 for refusing to sell ale to a pauper although she had been ordered to do so by a tithingmen.⁷⁵ Under Edward VI several people were warned not to sell their wares during service time on the sabbath, and several ale-house keepers were fined because they had failed to tell the tithingmen when their ale was ready to be tasted, because they had not sold their ale in quart measures, or because they had allowed tippling.

Most sixteenth-century views of frankpledge also dealt with cases of petty assault, barratry, theft or unlawful gaming presented by the constable, tithingmen or the jurors themselves. As a rule most cases are repetitive presentments of minor assaults. In this respect the court fulfilled an important local police function which must have saved the justices much work and provided injured parties with the assurance of redress in the sight and hearing of their neighbours. Most of these disputes were the kind of quarrel typical of any community's life, and the only outstanding cases of assault were on the parish priest, Gilbert Fowler, in 1515, and Robert Johnson's assault of the royal rent collector, William Thorne, the following year, for which he was fined 2*s.* The three men who attacked the priest, one of whom was a stranger armed with a sword, were fined 3*s.* 4*d.* each. In both these cases the amercements were much higher than was usual.⁷⁶

The form of presentment used was generally similar to that of quarter sessions records. In 1527, for example,

Johannes Shenley (12*d.*) et le shepherd Johannes (12*d.*) insultum fecerunt super Johannem Heron et extraxerunt sanguinem.⁷⁷

Other cases were recorded in more detail. In 1548 William Persons (who was fined 4*d.*) beat Henry Hoge kyns so badly with a cudgel that he was unable to work for a week, and William Arundell, Richard Turner and a servant of Thomas Miles's attacked a servant of John Martyn's, whom they threw from his horse, dislocating his shoulder and wounding his head. They were also fined 4*d.* each.⁷⁸ Most people appeared once or twice at most for such offences and there is no evidence of any lasting personal feuds in the parish in the court rolls

⁷³ O.R.O. Dash. I/i/125.

⁷⁴ Ibid. I/i/16.

⁷⁵ Ibid. I/i/101.

⁷⁶ Ibid. I/i/9, 11.

⁷⁷ Ibid. I/i/36.

⁷⁸ Ibid. I/i/76.

although there were occasional return matches.⁷⁹ The persons presented for assaults were a complete social mixture, from servants and labourers to copyholders such as John Sall (1527), but people from the lower ranks of the community predominated. Those accused of being scolds or barrators tended to be women of lowly status in the parish, although in 1526 a customary yardlander, Peter Frankelen was accused of being a common barrator and disturber of the peace.⁸⁰ When John Slatter and Thomas Fender and their wives were presented as vagabonds and common barrators in 1521 the jury asked that they should be expelled from the parish.⁸¹

Long before the statute of 1541 was passed against the neglect of archery and playing of unlawful games such as backgammon, cards, dice, football, tennis, bowls, quoits, ninepins and shovegroat, the manor court was punishing such activities, although constables were sporadic at best in their pursuit of such offences, and the fines that were handed down were lower by far than those that the local justices might mete out.⁸² The officers of the leet launched occasional drives against such activities. In 1525 Robert Andrews, William Bath, William Keynsham and John Turner, together with Richard Colegrave and his friends, were fined 2d. each for playing tennis, and Nicholas Gardiner, Richard Keynsham and John Hall were fined 2d. each for keeping dice and 'painted playing cards' in their houses and gaming with them.⁸³ Similar offences were being presented at the end of the century. The village archery butts seem normally to have been out of use and in disrepair although the court passed at least nine rulings that they should be maintained. On one occasion, in 1528, it threatened a fine of 10s. on the whole village if they were not put in order by Trinity Sunday.⁸⁴ The act of 1541 imposed a penalty of 6s 8d. for every month that a man neglected practice at the butts, and 20s. on each township for every three months that it failed to keep them in repair. In 1598 it was presented that the only inhabitant to practise with his bow was Anthony Hall, and everyone else was fined 2d.⁸⁵

Occasionally the court handled more serious crimes. In 1550 a horse thief was discovered in the parish and sent to the king's gaol at Oxford.⁸⁶ Earlier, the court had punished several cases of felony. In 1518 a labourer, William Lone, broke into the house of John Cockes, a freeholder and wool-merchant, and stole 26 lbs of wool valued at 8s. That same year another labourer, Richard Whatcott, stole a wether from Cockes which he took into the fields, killed and skinned. Whatcott had no goods and chattels and was declared a pauper. He was imprisoned overnight, and the constable was to expel him from the village on the morning after the court.⁸⁷ Where members of better-off local families were involved the court was more lenient. In 1520, John Cobwell junior, William Keynsham and Robert Arundell, two of whom were later jurors, burgled John Phillips's house and took goods worth 8d. They were fined 3s. 4d., 12d. and 12d. respectively.⁸⁸

⁷⁹ For example, in 1521: Hugo Colens (4d) insultum fecit super Thomam Webbe ideo est in misericordia. Et quod idem Thomas (4d) alio tempore insultum fecit super eundem Hugonem ideo est in misericordia. O.R.O., Dash. I/i/23.

⁸⁰ O.R.O. Dash. I/i/34.

⁸¹ Ibid. I/i/23.

⁸² *Statutes of the Realm*, iii, pp. 837-41, 3 Henry VIII, c. 9. 'An Acte for Mayntenance or Artyllarie and debarringe of unlawful games'.

⁸³ O.R.O. Dash. I/i/31.

⁸⁴ Ibid. I/i/38.

⁸⁵ Ibid. I/i/36.

⁸⁶ Ibid. I/i/79.

⁸⁷ Ibid. I/i/16.

⁸⁸ Ibid. I/i/22.

Only one family seems to have been persistently troublesome. Agnes Johnson and her husband Robert were a considerable nuisance in the early years of Henry VIII's reign. Robert may have been a tenant of Kirtlington manor, since he was a juror on six occasions between 1515 and 1521. He was a brewer and a baker, and although fined heavily and dismissed from brewing in 1518, continued to run an ale-house until 1522. It was his wife who was the particular source of trouble. She was presented for theft in three successive years, 1516, 1517 and 1518. In 1516 she stole two geese from Richard Huchill and was threatened with the stocks. She was again presented as a thief at the following Michaelmas court, and the bailiff was ordered to attach her. In 1518 she was accused of taking a skein of linen yarn from Richard Smith and a lateen basin from John Sall. The court decided that because her husband was a pauper and Agnes of ill fame, he was to remove her from the parish by the Christmas following the court, under pain of being sent to the gaol at Oxford.⁸⁹

Despite the severity of this ruling, and court's evident determination to do something about the couple, this last threat had no effect. Robert was a juror in 1520, and was again presented the following year for breaking the assize of ale. Agnes was fined in 1520 and 1521 for taking wood from the lord's wood and for being a scold.⁹⁰ Only after 1522 do she and her husband disappear from view. Had the court relented, or had it been unable to force the Johnsons out? And what was a 'pauper' doing as a juror?

CONCLUSIONS

It is a pity that we lack any records concerning the organisation and activity of the parish vestry during the sixteenth and seventeenth centuries and so it is not possible to make a comparison of the relative importance of the manor court and the vestry in the government of the parish. Under the Tudors, and especially during the reign of Queen Elizabeth, the vestry in many parishes assumed powers of social control that had previously been the province of the manor court. At the same time as legislation such as the late Elizabethan Poor Law placed new powers in the hands of the vestry, many manor courts guarded jealously their powers of leet jurisdiction, powers that Tudor parliaments increased rather than diminished. Where manor courts were weak, perhaps as a result of the abandonment of open-field husbandry, or where their jurisdiction did not coincide with the parish, the vestry might flourish. Where they were strong, it might not be until the eighteenth century that the manor court became clearly the lesser body.

During the sixteenth century the Kirtlington manor court retained and even strengthened its powers. It chose the parish constable, punished assaults and controlled trade, and it exercised the authority granted it under such acts as that of 1571⁹¹ which enforced the wearing of woollen caps on Sundays and holy days. It used its powers to elect surveyors of the highways and compel the community to labour for their upkeep, whereas elsewhere this was often done by the constables and churchwardens.⁹² It punished the playing of unlawful games, and fought a losing battle against the neglect of archery. There can be little doubt that in the sixteenth century it was the leading secular social and legal

⁸⁹ O.R.O. Dash. I/i/11, 12, 16.

⁹⁰ Ibid. I/i/19, 20, 22, 23.

⁹¹ *Statutes of the Realm*, iv, p. 555, 13 Elizabeth, c. 9. 'An Acte for the makinge of cappes'.

⁹² Under an act of 1555. Ibid., iv, pp. 284-5, 2 & 3 Philip and Mary, c. 8. 'An Acte for the Amendying of the highways'.

institution in Kirtlington. Although the court was the property of the manor and was presided over by the steward of the lord or the farmer, its decisions were, it seems, by and large the judgements of the more important farmers of the parish, men who profited enormously from the inflationary price conditions of the later sixteenth and early seventeenth century. It was as much the court of the husbandmen and yeomen of the parish as it was that of the farmer or lord, with whom they shared a common interest in the maintenance of good agricultural management and social order. The court tried to meet the communal needs of the parish as they were understood by those who had the greatest stake in its economy, and decisions about agrarian by-laws were made with the consent of those who tilled the majority of the strips in the open fields and grazed their flocks and herds on the common pastures. Although the court met formally only twice a year, its communal nature must have been reflected at less formal village meetings, and in daily discussions concerning agrarian by-laws which were later formalised in the codes promulgated by the court, which a large proportion of the male community attended.

It was to retain something of this communal nature for as long as open fields survived in the parish, and it never degenerated into a mere land registry. But by the early seventeenth century its character was changing. It lost interest in the punishment of petty criminal behaviour and the settlement of personal actions, and showed declining concern in the regulation of the assizes of bread and ale. Other leet functions it retained, however. It continued to elect surveyors of the highways and make orders for the upkeep of the roads and tracks through the parish. It exercised its powers under the act of 1589 against the building of cottages without four acres of land attached and the harbouring of illegal inmates, and population pressure on available housing increased in the 1620's and 1630's.⁹³ Increasingly, however, its concern with agricultural matters dominated its business. The leet still elected the constable and tithingmen, but they seldom made presentments and they had probably become more responsible to the vestry. Down to 1641, however, the court was still dominated by members of the traditional farming class in the community, the husbandmen and yeomen, who sat on juries, and filled the more important manorial offices. By the early eighteenth century, however, this class was disappearing as the freeholds of the parish were steadily engrossed by the Dashwood family, the new lords of Kirtlington and Northbrook, and customary tenements were reorganised and converted into large tenant farms. In 1739 the larger part of this reorganisation within the parish was complete, and work was soon to start on the building of Kirtlington Park, whose magnificence symbolised the arrival of the Dashwoods as a leading landed family in the county. A view of frankpledge held on 22 October in that year is representative of the kind of institution that the court had by then become.⁹⁴

The composition of the court reflects the polarisation of the community that had taken place by this date, and the extent to which the traditional society of the sixteenth and seventeenth centuries has disappeared. The list of essoins suggests that the majority of the male population of the parish no longer attended the court, as they would have done in the sixteenth century. Seventy four people were excused attendance, the majority of them Kirtlington folk. Those who did not attend were overwhelmingly cottagers and labourers, who made up a greater part of the population than ever before, and whose words would have counted for little in the discussions that took place.

Twelve jurors were chosen for Kirtlington, and twelve for Bicester, and the court was

⁹³ Thesis, pp. 133-7.

⁹⁴ O.R.O. Dash. 1/i/186.

presided over by Sir James Dashwood's steward, George Eddowes. Most of the Kirtlington jurors can be identified in a survey of the parish made in 1750.⁹⁵ All were substantial farmers. Five were, in 1750, the largest tenants on the Dashwood estate, with farms ranging from 112 to 273 acres. Four other men were freeholders, one of whom, John Blunt, who owned 5¾ yardlands, was to sell out to Sir James Dashwood in 1748. The atmosphere of the court was that of a gathering of the principal tenant farmers and surviving large freeholders, meeting together with the steward.

The court retained vestiges of its earlier role. A constable was elected for Kirtlington: John Trafford, tenant of New Farm, at 273 acres the largest farm in parish. Anthony Woodward and Thomas Walker were elected tithingmen. But apart from these elections, the sole business of the court was to make agrarian by-laws for the following year, and to elect the four fieldsmen for Kirtlington, one of whom was again John Trafford. There is no mention in this court roll of any transfer of land, and it is unlikely that by this date there were many remnants of copyhold tenure still surviving at Kirtlington.

By 1739 a much greater gulf existed between the jurors and the remainder of the community than was apparent before 1640. At a sixteenth- or early seventeenth-century court one or two smaller farmers might act as jurors alongside their more prosperous fellows, and even the latter were not so distinct in a social or economic sense from those who were not jurors as were the jurors of 1739 from the labourers and cottagers who made up the bulk of the community but did not attend the court. A jury meeting in 1640 or in 1540 took decisions that might well be claimed to be in a wider, communal interest; eighteenth-century juries made by-laws that were in the interest of a much narrower group within the parish. Whereas earlier lords of the manor seem to have interfered very little in the affairs of Kirtlington farmers, the Dashwoods in the eighteenth century took a considerable interest in the management of their estate, which by 1750 amounted to some 68 per cent of the area of the parish. Of the remainder, 21 per cent was common land. There remained only four substantial freeholds in the parish, two of which belonged to New College and St John's (129 acres and 91 acres respectively). The other two belonged to John Hall (70 acres) and Francis Brangwin (35 acres).⁹⁶ With this greater control of the land of the parish may have come a greater willingness and ability to intervene in the affairs of the manor court, and the role of the Dashwoods' stewards may have been considerably more active. While eighteenth-century court rolls are similar in appearance to those of earlier centuries, the institution they record had changed in accordance with the major alteration that took place in land-ownership, tenancy and social structure between 1680 and 1750.

⁹⁵ St John's College, Oxford, Survey of Kirtlington. Munim. XX, 29 a-d.

⁹⁶ Thesis, pp. 402-4, and Chapter 7, *passim*.