The Lincolnshire County Court in the Fifteenth Century

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CONSIDERABLE interest has been shown in recent years in the complexities of society in the shires of later medieval England. In the conflicts within the counties lies much of the explanation of the anarchy of the fifteenth century. At the core of the county lay the county court, under the supervision of the sheriff. Particular attention has been focussed on the elections of the knights of the shire, the county representatives to parliament, in the county court¹. Any light which can be cast on the constitution and functioning of this court will help eventually to an understanding of the social trends and political events of what has been until recently the most obscure period in medieval English history.

It must first be emphasised that this is in no way a complete study of the functionings of the Lincolnshire county court during the last century of the English Middle Ages. The materials for such a study are not available. Monographs such as W. A. Morris, The Early English County Court,² are pieced together from a great deal of fragmentary and often contradictory evidence, covering most of the medieval period and all the English shires. They are arguments by analogy. Very occasionally records survive which throw light on the functionings of one particular county court. This is so for Cornwall, Bedfordshire, Berkshire and Oxfordshire where rolls of legal proceedings in these courts have survived.² But these are exceptional; it is probable that no permanent record was made of the vast administrative activities of these courts.³ For the normal business of the county court, we have to rely on scattered pieces of information, buried here and there in official or private records, on the coroner’s rolls (which deal with much of the legal business of this court), on various shrieval records (chiefly financial)⁴, and the like.

What is attempted here is to introduce one such source, hitherto neglected in the study of local government in the fifteenth century, and to see what can be gleaned about the Lincolnshire county court from it. This source is the series of returns made by the sheriff of each county in response to the royal writ commanding the election of knights of the shire to represent the county at the king’s parliament. Many of these returns covering the last two centuries of the Middle Ages have been preserved in the Chancery and are thus now in the Public Record Office⁵. There are however considerable gaps in this series, which increase as the troubles of the middle of the fifteenth century affected the machinery of central and local administration. The missing names of many of the knights of the shire can be
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recovered from the writs which were issued to them to claim their expenses from the county, and which were enrolled (until 1414) on the great chancery enrolments of letters close. After 1414, the names are often totally lost.

The form of these returns in the fifteenth century differs from that of the preceding century. The usual practice until 1406 was for the sheriff to write the names of the elected representatives on the back of the writ, together with the names of two sureties for each knight of the shire to guarantee his attendance at the parliament. As the sheriff also had the responsibility for registering the elections made in the parliamentary boroughs within his bailiwick, his list sometimes exceeded the space available on the back of the small writ. In this case, the sheriff sent a schedule attached to the writ conveying the same information.

There is no real value in this earlier return for our study of the county court. The date of election is not given. The names of the sureties are very unreliable guides; often they are not real people at all.9

In the great parliament of 1406, where the Commons seemed to be most vociferous and obstructive, a statute was made by the king at the Commons’ request, altering the form of this return. The reason given in the statute for this change was the “nomen dextra electionis des chevalers des comtes par le parlement queus aucune faits sont faits de affectiion des viscounts et autrement”. The new procedure, devised to stop this interference with the free election in county court by sheriffs and others,9 was outlined in the statute. At the next meeting after the receipt of the writ, the sheriff was to announce “en plain counter”10 the date and place of the parliament; all those who were present “attendant la electionis de leurs chivalers par le parlement” and then they shall proceed (aillent) with the election of the representatives freely and impartially, notwithstanding any prayer or command to the contrary. Those elected need not be present at the election.

The statute then laid down the form of the return to be made by the sheriff. He was to draw up an indenture over his seal (as sheriff)12 and over the seals of all those who had made the election, recording therein the fact, date and place of the election. One part of this indenture, together with the writ, formed the return made by the sheriff; the other two parts were taken up to Westminster by the duly elected knights of the shire.

This statute first came into operation in 1407, when writs were issued on the 26 August, summoning a parliament to meet at Gloucester on 20 October. From this date we get the return as an indenture made between the sheriffs on the one hand and a long list of electors or “attestors” on the other hand. The writ is still endorsed with the names of the representatives and their sureties; but the indenture is of more significance for our purpose of trying to view the county court in action.

There are 29 returns from the sheriff of Lincolnshire from 1407 to 1485. In other words, for nearly half of the 47 parliaments of this period there are no returns.13 This in itself reduces the value of these records. There are many gaps in these returns although they are extant for the 14 successive parliaments between 1420 and 1437.

Several of these returns are partially illegible, thus further reducing their value. Nevertheless, there is a series of 29 lists of names of those attending the county courts of Lincolnshire. There can be very little doubt that the people named in the indenture of return were present at the election stated. It is certain that they were not the total assembly; the lists vary considerably in length from 16 (1420 and 1421 (ii)) to 116 (1427). Almost all bear concluding phrases such as et aliorum or et multorum aliorum.

Nevertheless, it is quite clear that most of the important suitors were so listed. The order of the names is in general consistent; any knights present head the list, followed by the armigerous families and then (in some later lists) those called ‘gentlemen’ and finally some with no designation. This order is not universal, but is sufficiently general to establish that if anyone were omitted, it would most probably be those of lesser importance.
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It can thus be accepted that we have here a list of the main electors present in the county court. The statute of 1406 asserted the right of all those who were called to the court on any business to take part in the election, but how far this right was acknowledged or exercised locally is not known. In view of the fact that the elections were by acclamation or common consent, and were not generally contested in the modern sense, the distinction is probably not important. The lesser folk would usually follow the lead of the greater.

Before proceeding to analyse these returns for Lincolnshire, a word or two must be said generally about the county court. It met usually every four weeks, but in the north and east, the regular interval was six weeks. There were however two special sessions of the county court each year—the very ancient “general counties” as they were called, or “great counties”. Although the business here transacted was apparently the same as in the ordinary county court, nevertheless the attendance was considerably larger. It has been suggested that these sessions were timed to assist the sheriff to prepare accounts for his Easter proffer and Michaelmas audit.

The court was usually held in one place within the county, often in the castle of the county town, since the sheriff was usually the constable of the castle. This however was not invariably the case; in Berkshire in 1377–8, for instance, the court was held in 5 different places in just under a year. The quarrels of Lewes and Chichester over the sessions of the county court are well known. Usually however a change of meeting place had to be sanctioned by the king.

There is only obscure evidence as to the constitution of the county court. The duty of attending the court had fallen in earlier days on those who had business there, on the representatives of certain vills and bailiwicks, and it seems on the holders of certain tenements. These together with the officials (sheriff, escheator, coroners, bailiffs) and their staffs constituted the court. But by the fourteenth century, the numbers attending the court were small, so far as we can gather. The original attendance of all lords (or barons) and of the special class of doomsmen had been undermined by many factors. Lords had bought or secured exemption or merely assumed it without warrant. As from 1236 (the Statute of Merton), lords were given leave to attend by attorneys instead of by stewards. This led to the process of the lord enfeoffing a tenant in serjeancy, by service of attending the county court (and other courts) at his own cost. Thus the original obligation of the lord was quite forgotten, and suit of court devolved on the holder of a tenement. Again, when a tenement was divided, it still returned only 1 suitor to the court, although new holders could (and sometimes did) agree to take it in turns to attend. This bargaining sometimes happened in the case of whole vills, one man holding land to represent the vill.

Again, suit of court had never been universal; some holders of ancient tenements only owed suit to the two ‘general counties’ each year, and often only to one court per annum. Thus often suitors must have been scarce.

On the other hand however there is evidence of special summonses according to the class of business dealt with in the court. The clearest evidence is in the statute of 1406 concerning the elections of the knights of the shire, which we have already seen altered the form of the sheriff’s return. There was apparently a group of men who were summoned, probably by name, when the court had the job of choosing the county representatives. The statute makes this quite clear by speaking of “tous ceux qui illeques sont presentz, sibien sutesz duement somaines par celz cause come autres”. The fifteenth century saw several attempts made by parliament to regulate the elections of the knights of the shire in the county court. These were mainly directed (as in 1406) to eliminate shrivial interference, but indirectly they affected the constitution and practice of the county court. For instance, in 1406, it was further proposed that the sheriff should be ordered to make proclamation “en toutes les villes marshes du counte” of the date and place of the election, 15 days before the court was held. The aim of this was obvious; these
"suffisiamt28 persones inhabitantes en le dit contee" who were entitled to choose their representative were to be given the chance to attend the election. It was not that the sheriff was making an election with insufficient numbers of electors present; there was no stated quorum for an election, although local custom may have stipulated such a quorum in a few places. In 1411, further penalties were enacted against sheriffs and consenting knights of the shire who influenced the elections.29

A further procedural note is provided in 1445, when it was stated that the most convenient time to hold the election was "parentre le houre de viii et le houre de x devante le none . . . en pleyne countee".22 A sheriff who did not make a due election in this manner, or made a false return, was subject to severe penalties.

A proclamation fifteen days before the court, and the election to take place in the morning; but the main influence of the fifteenth century legislation was upon the attendance of the court rather than on its practice which had now been fixed for centuries. Thus in 1413, it was laid down that those elected should be resident in the same shire on the date of the issue of the writ; and more important for our purpose, that "les chivalers et esquiers et autres qui serroent estis sors de telz chivaleres des contees soient auxi receauz deins mesmes les contees" in like manner.31 The reason for this stipulation is not clear. There is very little evidence of non-residence among the members of parliament at this date and the statute of 1430 complains of resident electors; but it must be presumed that those who drew up the statute either thought that there was already some pressure from outside various counties on the elections, or envisaged a situation where such a thing could arise.

Residence for electors was again stressed in the more important statute of 1430.32 This well-known statute, which it is often urged laid the basis of all later electoral law until 1832, limited the electors in the county court to those who were resident in the shire and who possessed a "free tenement to the value of at least 40/- p.a."—the 40/- freeholder as he later became known. The complaint that led to the statute was that lately the elections in several counties had been made "par trop grangue et excessive nombre des gens demurants deins mesmes les contees, dont la greindre partie estoit par gens sinoun de petit avoir ou de nulle valo, dont chescun pretende davoir voice equivalent quant a tiels elections faire ore les pluis valautz chivalers ou esquieres demurants deins mesmes le countee". The objection was to the "riff-raff" of the county this time, and the picture drawn of the result is interesting—"homicides, riotes, bataries et devisions entre les gentiles et autres gentz de mesmes les contees soyvront et serront" unless something was done quickly. The answer was to establish a basic qualification for both elector and elected, a 40/- freehold within the county. The statute also sought to regulate electoral practice by establishing for the first time the majority principle—"ceux qui ont le greindre nombre de yeultz qi poient expendre par an xle et outre . . . soient retournes par les esinscription . . . chivalers par le parlement." The sheriff is empowered to examine each elector if necessary on the Gospels "combiens il peut expender par an". Severe penalties await a sheriff who still makes false returns. As with previous legislation, the writ ordering the sheriff to make the election is expanded to include these new regulations.

What must be clear is that this statute did not establish any new franchise. It did not give all 40/- freeholders in the county the right to elect their knight of the shire. The statute was more concerned with excluding electors—no-one who cannot spend 40/- per annum shall be in any way an elector of the knights for the parliament. It was merely concerned with the existing county court; of those who attend the court, those who possess freehold estates worth less than 40/- per annum are excluded from one part of the business of the court. It did not give those who did not attend the court a prescriptive right to do so. Such a practice did grow up, and was probably due as much to this statute as to local custom and economic trends; it was all part of the general trend towards making local custom conform to universal or national custom. But it was not the intention of the framers of this statute to establish a universal franchise for the counties.

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The limitation here lay in the word "freehold". The value of 40/- was not a serious barrier; there were many humble wage earners of 2d. per day, which would give them an annual income of over 40/- per annum. 40/- was the qualification of the juror; the link is here surely proved by the fact that the sheriff was to examine them on the Gospels as to the value of their property. It must have been the freehold in a time of growing copyhold which provided the limitation. In a disputed election in Huntingdonshire in 1450, mention is made of "hominés libere tenentes qui expedere possunt quadraginta solidos per annum". In 1530 the court was said to be composed of "the gentlemen freeholders and the suitors".23

In 1432, this statute was reinforced with another declaring that the (freehold) tenement must be within the shire; in other words, it reiterated the demands for residence on the part of the electors first heard in 1413.24 It is often forgotten that those who at least consented to this legislation were themselves affected by these new regulations. Proposals to control their electors can be more readily understood than any proposals which would unseat a number of themselves.

Thus in the fifteenth century, four classes of men attended these courts. There were the officials, summoned to account to the sheriff. There were those whose land owed suit of court, some to all courts, some to one or two. Several of these would be substantial freeholders. There were those who were summoned for specific business, such as the elections of the knights of the shire. Finally, there were those of all classes whose pleas brought them to the court.

With such a body, however, there must still have been more desire to get people to attend than to exclude them. No substantial freeholder who came would be turned away. Attendance does not seem to have been enforced, even for those who acted as doomsmen. This being the case, a large concourse of people, coming together for very many different reasons, was almost incapable of being controlled. So long as the business was transacted satisfactorily, there was no reason for any such control.

To see these people actually at work in the county court is very difficult. In the nature of the medieval records which have survived. But it is possible to see many of the actual persons who attended throughout most of the fifteenth century by means of these parliamentary returns. In this way we are able to see their social status and previous experience in local government—factors which may well throw some light upon the processes involved in the election of their representatives. At the least, it will give us a glimpse of the county court in action.

The following is a transcript of the 29 lists of those Lincolnshire persons who sealed the indentures of returns of the members of parliament from the county during the fifteenth century. No attempt has been made to transcribe the indentures, but the form follows, as closely as possible, that of the original return. First comes the Public Record Office reference number, then the date of the court and sheriff's name; then the names of the electors; finally the names of the knights of the shire. It is hoped to follow this up with a directory of all persons named in the returns, and finally with an analysis of those who attended the Lincolnshire county court in the fifteenth century.
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## TABLE

*List of returns from Lincolnshire for parliamentary elections in the fifteenth century.*

<table>
<thead>
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<th>Parliament</th>
<th>No. of “electors”</th>
<th>Parliament</th>
<th>No. of “electors”</th>
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<td>23(9)</td>
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<td></td>
<td></td>
<td>1478</td>
<td>52</td>
</tr>
</tbody>
</table>

C 219/10/4

Sheriff: Henry Ridford.


M.P.s.: John de Skypwyth; John de Meets.

C 219/10/6

Sheriff: John Waterton.


M.P.s.: Thomas de Wylyghby; John Pouger.

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C 219/11/1.  24 April 1413

Sheriff: Nicholas Aldrewyche.


M.P.s.: Richard Haunsard, miles et chivaler; John Bell, armiger, de Sco. Botolpho.

C 219/11/4.  22 Oct. 1414

Sheriff: Thomas Clarell.


M.P.s.: Thomas de Wylyngby, chivaler; Richard Haunsard, chivaler.

C 219/11/8.  9 March 1416

Sheriff: Thomas Cumberworth.


M.P.s.: Robert Hylton; William Tirwhyt.

C 219/12/4.  25 Nov. 1420

Sheriff: Robert Roos.


M.P.s.: Thomas Cumberworth, chivaler; Robert Hakbeche, chivaler.

C 219/12/5.  31 March 1421.

Sheriff: Robert Roos.


M.P.s.: Richard Haunsard, miles; Godfrey Hilton, miles.
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C 219/12/6. 27 Oct. 1421.
Sheriff: Robert Roos.
M.P.s.: Thomas Cumberworth, miles; Richard Welby, armiger.

C 219/13/1. 26 Oct. 1422.
Sheriff: Thomas Clarell.
M.P.s.: Robert Roos, miles; John Graa, miles.

C 219/13/2. 27 Sept. 1423.
Sheriff: Walter Tailboys.
M.P.s.: Richard Haunsard, chivaler; William Tirwhit, chivaler.

C 219/13/3. 26 March 1425.
Sheriff: Robert Hillyerd.
M.P.s.: Thomas Cumberworth, miles; Walter Tailboys, armiger.

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C 219/13/4.  
14 Jan. 1426. 
Sheriff: Robert Hillyerd.


M.P.s.: William Tirwhyt, miles; Walter Tailboys.

C 219/13/5.  
6 Oct. 1427. 
Sheriff: William Copuldych.


M.P.s.: Walter Tailboys; Patrick Skypwryth.

C 219/14/1.  
8 August 1429 
Sheriff: Hanso Sutton.


M.P.s.: Walter Tailboys; Thomas Meres.
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C 219/14/2. 25 December 1430.
Sheriff: Thomas Cumberworth.


M.P.s.: Walter Tailboys, senior; Hano Sutton.

C 219/14/3. 31 March 1432.
Sheriff: Robert Roos.


M.P.s.: John Pygot; Geoffrey Pagnell.

C 129/14/4. 29 June 1433.
Sheriff: John Pygot.


M.P.s.: Thomas Mers; Patrick Skypwyth.
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C 219/14/5. 12 September 1435
Sheriff: John Constable.

M.P.s.: Hamo Sutton, arm.; Thomas Meres, arm.

C 219/15/1. 5 November 1436.
Sheriff: Robert Roos.

M.P.s.: Thomas Cumberworth, miles; Thomas Meres, arm.

C 219/15/2. 8 January 1442.
Sheriff: Roger Pedwardyn.

M.P.s.: Thomas Meres; Robert Sheffield.

C 219/15/4. 30 January 1447.
Sheriff: Thomas Meres.
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M.Ps.: John Byron, miles et chivaler; Mauncer Marmyon, miles et chivaler.

C 219/15/6. 13 January 1449.
Sheriff: Mauncer Marmyon, nil.

M.Ps.: John Nievil, arm., Richard Waterton, arm.

C 219/16/1. 5 October 1450.
Sheriff: Brian Stupulton, nil.

M.Ps.: John Neuport, arm.; Richard Welby.

C 219/16/2. 5 March 1453.
Sheriff: John Neville, arm.

M.Ps.: Thomas fitz William; John Truthall.

C 219/16/5. 5 November 1459.
Sheriff: William Skipwith.

M.Ps.: ..., Constable, arm., William Grymesby, arm.
C 219/16/6.
Sheriff: John Marmyon.
M.Ps.: Humfrey Burghcbye, arm.; Thomas Blounte, arm.

C 219/17/1.
Sheriff: Robert Constable, mil.
M.Ps.: Thomas Burgh, miles; Thomas Blount, arm.

C 219/17/2.
Sheriff: Leonard Thornburgh, arm.
M.Ps.: Robert Taylboys; Richard Welby.

C 219/17/3.
M.Ps: Thomas Burgh, miles; Robert Taylboys, arm.
Notes

4 Fowler's remarks (op. cit. p. 50) are quite inaccurate. Based on one case, he asserts for his "County Court Roll": "Had it not been for one administrative order, we might have inferred that our Roll had been deliberately concealed to the judicial work of the Court, to the exclusion of any other business with which it may have dealt; but the corresponding Rolls for Berkshire and Cornwall are of the same type; and one can but conclude that administrative, financial and electoral business came before the Court only occasionally and at considerable intervals". The one case cited is where the bailiff is ordered to distrain two vills to appear at the next court. The sheriff is here either settling a dispute as to who is to repair a bridge, or perhaps enforcing their duties. Fowler does not cite any evidence from the other rolls. In fact the inference he refuses to draw is quite valid; administrative work was excluded from these rolls. Cf. also Harvard Law Review, 42, (1929-30), pp. 1063-1110; G. E. Woodbine, "County Court Rolls and Records", and Plucknett, ibid., pp. 1111-1118; Fowler, op. cit., p. 46, on the title of these rolls.
5 Transcripts of cases in the county court from as early as the reign of Edward II were frequently called into chancery in the fifteenth century; Lincolnshire transcripts survive among P.R.O. Chancery Miscellanea C47, bundle 67. It is thus clear that records were kept in the sheriff's office for a long period. Cf. authorities cited above; also references to the county elections in (for example) the Patent Letters, ed. J. Gairdner, (1904), ii, pp. 184-5; iii, pp. 34, 38-9; K. B. McFarlane, Wals of the Roses, Proceedings of British Academy, 50 (1964), pp. 89-90. For coroners, cf. Grossa, Select Cases from Coroner's Rolls, Selden Soc., I; R. F. Hunnisett, The Medieval Coroner, (1961). Cf. also Engf. Hist. Rev. 43, especially p. 32, note 2.
6 P.R.O. C 219/10 ff.
7 For a good example of different returns made by the same sheriff, cf. the returns for Surrey and Sussex; in the former return was on the demise of the writ (2 knights of the shire and burgesses from 4 boroughs); the Sussex return was a schedule (2 knights of the shire, burgesses from 8 or 9 boroughs), e.g. P.R.O. C 219/10/1.
9 Statute Roll, ii, p. 156. It has been suggested that this statute was aimed solely at the sheriffs. There is no doubt that it aimed mainly at shrieval interference but his was not the only pressure brought to bear on the elections. It was not the first such attempt, but one in a series which began at least in 1376; nor did this reform succeed completely as later statutes show; Stat. Roll, ii, pp. 162, 170, 243-4, 340-342.
10 Fowler (op. cit. p. 48) says "elections of the knights of the shire, to serve as Members of Parliament, were also probably made at a special session." He was talking of the 1330's but it was very improbable even then. The evidence he cites certainly does not prove his point. Certainly by 1406 the statute is clear—en pleine countee a tenir apres la livre de l'histoire du parlement ....... 1 A special county might be necessary if time was short, but normally a period of 40 days was intended; when it could not be given, as in 1359, the sheriff was asked to return the previous elected member. This error of Fowler's probably springs from his ideas about the inclusion of administrative business on the County Court Rolls; having said such business was included and then having failed to find it, he presumed it was passed off to a special (unrecorded) session. It is true that earlier some elections took place outside of the normal county court, as in Wiltshire, 1314. But this is an isolated case; in 1327, Surrey and Sussex made no election because no court was held between the receipt of the writ and the parliament. (Pynne. Register, iii, p. 172; Parl. Writs, II, i, p. 149). In the later cases (Devon, 1449, and Leicestershire in 1450), the elections took place in the next county court, even though parliament met before the election, Pynne, op. cit., iii, p. 151. In no case do we get a clear reference to a special county court.
11 It is perhaps unnecessary to reiterate that en plein countee does not mean a special session but a public session, when the people would be paying attention; cf. Fowler, op. cit. p. 48; Chester County Court Rolls, p. xvi; Morris, op. cit. passim; H. M. Cam, "From Witness of the Shires to Full Parliament", Trans. Royal Hist. Soc., 4th series, XXVI, (1944), pp. 13-35. This phrase was not new; it occurred in all writs from 1377 onwards. Stubbs translates it as "the whole county", Const. Hist., iii, p. 415.

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18 For the seal of the office of sheriff, cf. Fowler, op. cit. p. 5. There is some doubt as to whether the sheriff had an official seal; probably the sheriff's personal seal was used as an official one. In the lists of things handed over to the new sheriff a seal is never mentioned. Cf. M. H. Milb, "The Medieval Shire House" in Studies presented to Sir Hilary Jenkinson, (1957), pp. 254-271.

19 The names of the county representatives for 2 of these 18 parliaments have been recovered from elsewhere; cf. Official Return of Members (Parliamentary Blue Book, 1878) with additions in copy in P.R.O. Search Room.


15 Cf. ibid. i, p. 540.

14 Fowler, op. cit. p. 48. This would entail alteration from a cycle of 24 weeks, as this cycle would prevent the general counties from coinciding with Easter and Michaelmas. Miss M. H. Milb (in Studies Presented to Jenkinson, p. 270) shows that the "sheriff frequently made payments at other dates than the traditional Easter and Michaelmas, and that his audit might be at any time between Michaelmas and the end of the following Trinity term".


18 Fowler, op. cit. p. 75.

19 Morris, op. cit. p. 93.

The best description of this is in Pollock and Maitland, (2nd edn.), i, pp. 532-556. Fowler, however, (op. cit. p. 49) shows from the Barnwell Priory Book that the arrangements were more complex than used to be thought.

21 The sheriff had a large staff of clerks and bailiffs; Eng. Hist. Rev., 43, loc. cit.; Fowler, op. cit. pp. 1-8; the escheator probably did also. For a subescheator, cf. ibid. p. 20.

22 Cf. Liber Memorandum Ecclesie Berewelle, ed. J. W. Clark, pp. 250, 244, 252.

23 Ibid. pp. 253, 250.

24 Pollock and Maitland, i, p. 540.

25 Cf. Placita de Quo Warranto, p. 9. Numbers however may have been increased by the division of the suits. For cases of half a suit, thirds of a suit and quarters of a suit, cf. Liber ... Berewelle, pp. 243, 257, 248.

26 E.g., Liber ... Berewelle, pp. 238-263.


32 Chester County Court Rolls, p. xxxvii; Prynne, Register, iii, pp. 156-9.