

Early Stuart Courts Leet Still Needful and Useful

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Research of the past twenty years has corrected the view that post-medieval leets were decadent and has demonstrated that many Tudor leets remained active and powerful. This article attempts to demonstrate that several early Stuart leets were not "decadents", but still exercised jurisdiction over many misdemeanors and satisfied the desire and need for local, inexpensive, neighbourly justice. Given the local character of early Stuart society, and the dependence of justices upon inferior officers, courts leet were needful and useful.

La recherche des vingt dernières années a modifié la vision traditionnelle selon laquelle les cours leet auraient sombré dans la décadence pendant la période moderne; elle a démontré que sous les Tudors, les cours leet étaient actives et puissantes. Cet article cherche à prouver que sous les Stuarts, un certain nombre de cours leet n'étaient pas décadentes, mais continuaient à exercer leur juridiction à l'encontre d'un grand nombre de délits et satisfaisaient le besoin pour une justice locale et peu coûteuse. Compte tenu de la décentralisation de l'Angleterre des Stuarts et de la dépendance des juges envers leurs subordonnés, les cours leet étaient nécessaires et utiles.

For stealing a hen in 1614, the leet jurors at Upholland in southwest Lancashire ordered Roger Gaiskell to sit in the stocks on a Sabbath for six hours "with a hen tied unto his foot". Fifteen years later, trial jurors at the Lancashire quarter sessions found Ralph Kershaw and his wife Ann innocent of stealing over £9 in cash, but the justices of the peace imprisoned the Kershaws until they paid 12s. in fees to the clerk of the peace.¹ These three persons came face-to-face with royal justice. Both courts leet and quarter sessions were royal courts protecting and punishing the king's subjects. Both court systems represented two sides of the same judicial coin.

In this article, I will analyze the relationship between early Stuart courts leet, especially the leet at Prescott near Liverpool, and the quarter sessions of

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A shorter version of this article was presented to the American Society for Legal History, October 19, 1985. A research sabbatical in England, in 1987, was made possible by the generous support of the American Philosophical Society, the National Endowment for the Humanities and Northern State University. This article has benefited from comments by Profs. J.S. Cockburn, DeLloyd Guth, Barbara Hanawalt, Larry Poos and James Shekleton.

1. Lancashire Record Office [hereafter LRO], DDHi (1614); QSR/26, Manchester (Easter 1629).

the county of Lancashire. Prescott was an important marketing center for the surrounding agricultural area and the site of the parish church that served seven other townships. Approximately 600 to 650 persons resided in early Stuart Prescott. In addition to Prescott, accusations of wrongdoing at the leets at Upholland, Walton-le-Dale, Westby and Slaidburn have been quantified and the records of seventeen other leets and seven courts baron examined. All were in Lancashire, except the leet at Slaidburn in western Yorkshire.² The commonplace view of early Stuart leets as mere shadows of their medieval predecessors will be challenged and, instead, leets will be shown to be needful and useful.³

A court leet was a manorial or borough court held annually or semi-annually that exercised limited civil and nonfelonious criminal jurisdiction.⁴

2. Since the credibility of the numbers and the validity of the conclusions partially depend upon the completeness of the records analyzed, it is appropriate to mention how well they have survived the ravages of man and time. Unless otherwise noted, all records are in the Lancashire Record Office. Prescott's leet records (DDKc/DDCs and DDKc/PC) are 97% complete for 1601-60. The leet records for Westby (DDCl/1137, 1138, 1141) for 1581, 1584 and 1611-99 are 75% complete; for Walton-le-Dale (DDHo) for 1626 and 1631-60, 73%; for Slaidburn (Cl) for 1651-60, 100%; and for Upholland (DDBa, DDHi, DDK) for 1599-1633, 51%. The principal sessional records are the Rolls (QSR), the final verdict of the court, which are 82% complete for 1601-60. Other sessional records are the Petitions and Recognizances (QSB and QSP), 84% for 1626-60; Indictment Rolls (QJI/1) and Indictment Books (QJI/2), 67% for 1601-60; and Estreat Rolls (QJE at the LRO and DL 50 at the Public Record Office), 63% for 1601-60. The overlapping between the different sessional records mitigates the significance of gaps in each type of record. For example, the fact that recognizances were enrolled in the sessional rolls lessens the effect of the missing original recognizances before 1626. The Lancashire quarter sessions rolls for 1590-1606 have been edited by James Tait, *Lancashire Quarter Sessions Records, Vol. I: Quarter Sessions Rolls, 1590-1606*, Chetham Society, n.s., lxxvii (Manchester, 1917).

3. For a useful discussion of leet records after 1540, see P.D.A. Harvey, *Manorial Records*, British Records Association, no. 5 (London, 1984) 55-68. Because the issue of the ultimate fate or decline of leets is a different article, I have not, directly and in detail, dealt with it here.

4. Tudor-Stuart writers of leet guides claimed that the *Magna Carta* (ch. 35) permitted a maximum of two leets a year. Also, see Francis Hargrave and Charles Butler, *Notes on Lord Coke's First Institute or Commentary Upon Littleton*, 4 vols. (London, 1794) iii: 115, nos. 10, 11 and 12. William Blackstone wrote that courts leet could be "held once in a year and not oftener...". *Commentaries on the Laws of England. A Facsimile of the First Edition, 1765-1769*, 4 vols. (Chicago, 1979) iv: 270. Prescott's leet jurors met annually, but adjourned an average of three times per year, between 1637 and 1660, in order "to perfect their verdict". The origin and evolution of the leet are discussed in Edward Coke, *The Second Part of the Institutes of the Laws of England*, 4 vols. (London, 1797) i: 71; Sir Frederick Pollock and Frederick William Maitland, *The History of English Law Before the Time of Edward I*, 2 vols. (Cambridge, 2nd ed., 1898, 1968) i: 532. R.E. Latham, *Revised Medieval Latin Word List from British and Irish Sources* (London, 1965) 274, gives the year 1086 for the first known use of *leta*. The first statutory use of "leet" occurred in 1353. F.J.C. Hearnshaw, *Leet Jurisdiction in England, Especially as Illustrated by the Records of the Court Leet of Southampton*, Southampton Record Society, v (Southampton, 1908) 366.

Essentially, the court leet was a royal court in private hands that adjudicated offenses against the public or “the Common-wealth”.⁵ To underscore the public nature of leet jurisdiction, leet presentments were supposed to include the phrase “to the common annoyance of the king’s subjects”, but they rarely did.⁶ Private grievances between “Lord and tennant...tenant and tenant [and] neighbour and neighbour” were not adjudicable in a court leet, but in a court baron, the private court of the lord.⁷ Although early modern writers of guides for court keepers differentiated court leet from court baron, usually, the two courts were not distinguished in the court records.⁸ Finally, although leets could inquire about all illegal activity, they could dispense punishments only for certain misdemeanors.⁹

Modern writers have usually not held Tudor-Stuart leets in high esteem. Earlier this century, W.S. Holdsworth authoritatively declared that the leet “was clearly decadent in the sixteenth century”, while more recently, Helen Jewell characterized leet jurisdiction as early as the fourteenth and fifteenth centuries as “insignificant”.¹⁰ Believing that “decadent” leets need not be investigated, today’s historians of crime in Tudor-Stuart England almost exclusively investigate the records of the royal courts of assizes, held once or twice a year, and quarter sessions, held quarterly. For example, in his study of crime in Elizabethan Essex, Joel Samaha devoted only three sentences to

5. “...The Leets and [sheriffs’] Tourmes are the Courts of the King....” Coke, *Second Part* (London, 4th ed., 1671) ch. xxii, 143. “It is a royal police court....” F.W. Maitland, ed., *Select Pleas in Manorial and Other Seignorial Courts, Volume I: Reigns of Henry III and Edward I*, Selden Society, ii (1888) xxvii. Also, see John Kitchin, *Jurisdictions: or, The Lawful Authority of Courts Leet, Courts Baron, Court of Marshalseys, Court of Pypowder, and Ancient Demesne* (London, 5th ed., 1675) 6.

6. Hearnshaw, *Leet Jurisdiction*, *supra* note 4 at 370.

7. LRO, DDHo, “Method of Keeping a Court Leet and Court Baron” (1744), fol. 17.

8. A common heading on leet records is “court leet or view of frank pledge with the court baron of...”. However, at Wakefield, the two courts were distinguished. Constance M. Fraser and Kenneth Emsley, eds., *The Court Rolls of the Manor of Wakefield from October 1664 to September 1665*, Yorkshire Archaeological Society, v (Leeds, 1986).

9. See, for example, Hearnshaw, *Leet Jurisdiction*, *supra* note 4 at 34-42 and 93-131; Kitchin, *Jurisdictions*, *supra* note 5; and “Method”, *supra* note 7. For charges to a leet in 1510 and 1650, see Alan Macfarlane, *A Guide to English Historical Records* (Cambridge, 1983) 82-88.

10. W.S. Holdsworth, *A History of English Law*, 13 vols. (Boston, 4th ed., 1927) i: 137; Helen M. Jewell, *English Local Administration in the Middle Ages* (New York, 1972) 62. Contrast these views with DeLloyd Guth’s: “By Henry VII’s reign, these [local, secular] courts were still the most effective because they were most immediate to the community”. “Enforcing Late-Medieval Law: Patterns in Litigation During Henry VII’s Reign” in J.H. Baker, ed., *Legal Records and the Historian*, papers presented to the Cambridge Legal History Conference, 7-10 July 1975 and in Lincoln’s Inn Old Hall, 3 July 1974 (London, 1978) 91.

courts leet.¹¹ And while very ably discussing law enforcement in Stuart Essex, J.A. Sharpe largely ignored leet data.¹²

However, within the past twenty years or so, a growing number of researchers have come to acknowledge the important role in law enforcement played by Tudor and early Stuart leets. The study by Kenneth Newton and Marjorie McIntosh, for example, should be employed as a corrective to Samaha's, for they have demonstrated that in Elizabethan Essex, leets fulfilled community needs.¹³ Elsewhere, McIntosh has described "manorial leets in Essex during the sixteenth century [as] frequently powerful and vigorous..."¹⁴ Alan Everitt has also shown that many Tudor-early Stuart courts leet and baron "carefully regulated" the lives of Englishmen.¹⁵ And after broadening his focus from Essex to England, Sharpe, too, declared that until mid-seventeenth century, "the leet was still an institution of considerable importance for many communities".¹⁶ That is the position taken in this paper.

Although most data for this study come from the leet at Prescot and although similar findings were discovered at four other leets, Prescot is not, here, presented as a typical early Stuart leet. Because courts leet were local and differences obviously prevailed between them, a typical leet did not exist, as was pointed out as long ago as 1553.¹⁷ Still, at least for Lancashire, similarities can be discerned among the twenty-nine courts leet and baron investigated. And in order to compare the usefulness of leets and quarter sessions, this article will include an analysis of both presentments — informal accusations — and indictments — formal written charges from grand juries — recorded in the Lancashire sessional records.¹⁸

11. Joel Samaha, *Law and Order in Historical Perspective: The Case of Elizabethan Essex* (New York, 1974) 97.

12. J.A. Sharpe, "Enforcing the Law in the Seventeenth-Century Village" in V.A.C. Gatrell, Bruce Lenman and Geoffrey Parker, eds., *Crime and the Law: The Social History of Crime in Western Europe Since 1500* (London, 1980) 97-119; and *Crime in Seventeenth-Century England: A County Study* (London and Paris, 1983). However, Sharpe does integrate exceptionally well into his research at every turn the pitfalls of counting only indictments.

13. Kenneth C. Newton and Marjorie K. McIntosh, "Leet Jurisdiction in Essex Manor Courts During the Elizabethan Period", *Essex Archaeology and History*, xiii (1981) 3-14. I am indebted to Prof. Larry Poos for this reference.

14. Marjorie K. McIntosh, "Social Change and Tudor Manorial Leets" in J.A. Guy and H.G. Beale, eds., *Law and Social Change in British History*, papers presented to the British Legal History Conference, 14-17 July 1981 (London, 1984) 77.

15. Alan Everitt, "Farm Labourers" in Joan Thirsk, ed., *The Agrarian History of England and Wales, IV: 1500-1640* (London and New York, 1967) 405, 459-60.

16. J.A. Sharpe, *Crime in Early Modern England, 1550-1750* (London and New York, 1984) 83.

17. A.J. Bettey, "'According to Ancient Custom Time Out of Mind': A Problem of Manorial Custom", *The Local Historian*, xiv (1980) 93.

18. Early Stuart Lancashire assize rolls are too incomplete to be of any value — only eight have survived for the first sixty years.

The leet at Prescot, here presented as a powerful leet, was not that unusual in early Stuart Lancashire. The number of leets among the twenty-two investigated that can be labeled relatively powerful approaches a dozen; undoubtedly, there were others. Among these, leets at Upholland, Penwortham, Clitheroe and Wigan were quite active. The strength of a leet *vis-à-vis* quarter sessions can be measured by the number of simple assaults the leet adjudicated (*see* Table 1). Weak leets prosecuted few assaulters. For example, between 1615 and 1660, Prescot's leet judged 1,253 assaulters, while the fairly weak leet at Westby, demographically about the size of Prescot, adjudicated approximately 160 during the same period.¹⁹ As if to demonstrate the difference between court leet and court baron, the court baron at Rishton, with a population approximately one third that of Prescot, heard only one assault case between 1615 and 1660.²⁰ The strength of a leet can also be measured by the variety of cases that came before it. A weak leet almost exclusively heard cases relating to unlicensed alehousekeeping, unrepaired highways and diversion of "antient watercourses out of their right courses". A very weak court, that met as a combined court leet and court baron, essentially determined cases within the jurisdiction of the court baron, such as blocked ditches and uncut hedges.

Table 1 Annual average of the number of assaulters and other offenders at courts leet

Court leet	Period	Assaulters ^a	Other offenders
Prescot	1615-39 (25) ^b	37	81
	1640-59 (18)	17	78
	1667-99 (30)	7	80
	1700-40 (38)	2	44
Upholland	1600-33 (16)	40	79
	1678-79 (2)	0	26
Walton-le-Dale	1626-39 (8.5)	5	51
	1640-60 (11)	1	48
Westby	1611-39 (23)	4	27
	1640-59 (11)	3	26
	1662-99 (34)	0	12

^aWhether factors depressed the number of assaulters but not the number of other offenders has not been investigated.

^bThe number in parentheses represents the number of years for which court leet records are complete.

19. The number 160 was arrived at by dividing the 120 recorded assaults by the 32 years for which records survive. The quotient of 3.75 assaults was multiplied by the 10 1/2 years for which no records have survived. The product of 39 was added to the 120 assaults.

20. LRO, DDPt/22.

The alleged wrongdoing of Prescott's residents came to the attention of justices of the peace by a justice viewing the alleged act and possibly summarily passing judgment; by a complaint from a witness, complainer, informer (including, as we shall see, a grand juror), or victim in Prescott; or by the presentments of the town's two constables. Concerning leet presentments, we know very little about the extent to which leet officials received from inhabitants information about illegal acts. Occasionally, leet residents were charged with accusing jurors or other leet officials of not listening to their volunteered information against alleged offenders or were accused of refusing to repeat under oath in court information that they had earlier brought to the attention of leet officials.²¹ By and large, the records portray leet jurors receiving accusations of wrongdoing from themselves and other presentment officers.

A search of all extant Lancashire quarter sessions records for the period 1601 to 1660 turned up 85 individuals from Prescott presented to the sessions for 110 illegal acts. In contrast, between 1615 and 1660, inhabitants came before their court leet at Prescott accused of 4,759 offenses²² (*see* Table 2). I have categorized these offenses as against the person (assault, murder, rape), private property (burglary, robbery, forcible entry, theft, encroachment against neighbor), community property (theft from commons or woods, encroachment on highway or commons, overstocking commons, selling unwholesome or low weight food), or the public good (trading without a license or at illegal times, blocked ditches, improperly discarded waste, poor law violations, gaming, sexual misbehavior, drunkenness, and offenses against and by officials).

Clearly, most residents who committed unlawful acts came before their court leet. Actually, it is an understatement to say "most" because of the almost 5,000 alleged illegal acts, 98 percent ($N = 4,759$) were adjudicated by leet officials and only 2 percent ($N = 110$) by the justices. Appearing before Prescott's leet were all persons stealing from the community or infringing community property rights ($N = 543$), 99 percent of offenders against the public good ($N = 2,954$), 98 percent of offenders against the person ($N = 1,286$), and a third of individuals charged with stealing, damaging, or illegally occupying private property ($N = 21$). (The unknown, of course, is the number of charges of wrongdoing adjudicated by justices at petty sessions and their residences.) Let us first consider offenses against the person.

21. E.g., LRO, DDKc/DDCs (1624) and DDHo (1641).

22. It remains to be determined in a future study how many different individuals committed the 4,759 alleged illegal acts.

Table 2 Number and type of offenses of the inhabitants of Prescot at their court leet and Lancashire's quarter sessions

Type of offense	Court leet 1615-1660		Quarter sessions 1601-1660	
	N	%	N	%
Person	1,286	26.6	32	27.3
Private property	21	0.4	45	38.5
Community property	543	11.2	0	0.0
Unknown (private or community)	21	0.4	0	0.0
Public good	2,954	61.2	40	34.2
Unknown	2	0.0	0	0.0
Total offenses	4,827	99.8	117	100.0
Less double entries ^a	68		7	
Total offenses	4,759		110 ^b	

^aA double entry occurred when one offender in one incident committed two offenses in two categories, for example, a thief who assaulted his victim. An offense against the person was committed with another offense in 59 of the 68 double entries at the leet.

^bThe unknown is the number of cases adjudicated at petty sessions.

Individuals presented to the sessions from Prescot were accused of 32 offenses against the person, while 1,286 similar offenses were brought before the court leet. Twenty-seven of the 32 charges were for assault. The more serious the assault, the more likely it was to be presented to the sessions. Seventy percent (N = 19) of persons charged at the sessions with assault, but only 22 percent (276 of 1,253) of those similarly charged at Prescot's leet had reportedly drawn blood. An analysis of the charges against Evan Pike of Prescot confirms that the seriousness of the assault helped constables decide to present certain assaulters to the sessions rather than to the leet. In 1626, Prescot's court leet prosecuted him for 17 assaults, but the constables presented Evan to the quarter sessions for only the one assault that was upon an officer, the leet bailiff. Of his 54 other assaults committed between 1622 and 1629 when Evan committed suicide, he was presented to the sessions, again only once, for assaulting a leet watcher. In other words, it was more serious to attack an official than a nonofficial, and cases of attacks on officials tended to be adjudicated by the justices of the peace.

When three or more persons fought, technically their action was a riot and punishable only at a royal court superior to the leet (1 Mary, second session, c.12). Occasionally, though, leets judged rioters. Of course, an assault of one individual upon another was punishable at either court leet or quarter sessions. Yet, only two percent of assaulters from Prescot (27 of 1,280) were presented to the quarter sessions. Certainly, conclusions about the frequency of nonfelonious illegal activity derived only from the sessional court system, but also adjudicable at the leet will at best be inconclusive and will reveal only

the proverbial tip of the iceberg. Not to count the affrays, tussles, assaults and "bloodwipes" determined at courts leet is to misrepresent seriously the frequency of violent acts in Tudor-Stuart society.²³

Moving on to offenses against property, we find that people from Prescot were accused at the sessions of 45 instances of theft, destruction, or illegal occupation of private property. Those 45 charges represent 38 percent of all charges at the sessions relating to Prescot and compare with only 21 similar charges, or 0.4 percent, among all offenses submitted to the court leet. Not a single resident of Prescot was charged at the sessions with stealing from the community or with infringing community property rights, while 543, or 11 percent of all offenders, were so accused at the leet.²⁴ That is to say, courts leet and quarter sessions complemented each other by determining different types of property cases. In general, the justices protected the property rights of individuals, while leet officials protected the property rights of the community.

The overall impression is that leet officials stressed obligations and subordinated individual interests or private rights to the collective good. At rural Westby, in the Fylde area of Lancashire, when a resident died leaving turfs or coal, his executors, before selling this fuel off the manor, were required to offer to sell the fuel to the new owner or renter of the deceased's land and, only later, to others.²⁵ In the River Ribble Valley, at Clitheroe, a decree of 1635 cautioned: "No freeman of this town shall at any time hereafter put any of their children's, brothers' or sisters' cattle to the mores or commons in lieu of their own."²⁶ In other words, leet residents could not transfer their unused pasture rights. Residents of other leets were prohibited from collecting nuts before Nut

23. Regarding the level of violence in early modern England, see Alan Macfarlane, *The Justice and the Mare's Ale: Law and Disorder in Seventeenth-Century England* (New York, 1981), especially "Conclusion: English Violence in Context", 173-99; Lawrence Stone, "Interpersonal Violence in English Society, 1300-1980", *Past and Present*, ci (1983) 22-33; J.A. Sharpe, "The History of Violence in England: Some Observations", *ibid.*, cviii (1985) 206-15; and Stone, "A Rejoinder", 216-24.

24. "Offenses against community property" is here defined as the infringement of communally owned land. "Theft from the community" refers to cases of fraud against the community, such as selling food and drink at low weight and measure, selling unwholesome food and drink, and misrepresenting the quality of nonfood products (mixing horse and cow leather, for instance); embezzlement of taxes; forestalling (buying goods before they were brought to the market) and engrossing (the monopolizing of goods). Although the victims of these frauds were individuals, most commonly, the alleged offenders intended to cheat not specific individuals but a community or the public composed of individual buyers. "Offenses against private property" refers to the unlawful taking or destruction of land, animals, or objects privately owned and to the refusal to render what is legally due to individuals (rent, for example).

25. LRO, DDCl/1141 (1655 and 1666).

26. LRO, MBC; William Self Weeks, *Clitheroe in the Seventeenth Century* (Clitheroe, n.d.) 25-27; Weeks, "Clitheroe in the Seventeenth Century", *Lancashire and Cheshire Antiquarian Society*, xlii (1925) 95-104. The issue of the assumption of unused pasture rights was raised by at least the fourteenth century. Thomas E. Scrutton, *Commons and Common Fields* (Cambridge, 1887; New York, 1970) 70-71.

Day, or brackens (ferns) before Bracken Day, and from cutting more brackens than a person could carry on his back.

Leets protected their inhabitants in still other ways. To protect the poor and prevent individuals from cornering the market and raising prices, authorities at Prescot allowed the purchase of food outside the public market that opened “exactly” at noon, but only for consumption by a household.²⁷ Annually, two aletasters, two clerks of the market, two sealers of leather and about fifteen presentment jurors also attempted to ensure that the quantity and quality of food and nonfood products were not substandard. According to leet jurors, in 1654, “many do Forbeare coming to the m[ar]kett” because of a lack of “Settled and constant measures”. Jurors, therefore, ordered the clerks of the market to “seal” all measures and to acquire and use “one good & sufficient standing measure”²⁸ Besides containing many accusations against traders for using unlawful measures, Prescot’s leet records also include presentments for stuffing, beating or rubbing meat; mixing horse and cow leather; and offering for sale untanned, badly tanned or unsealed leather, or ale, butter, bread, beef, mutton, and “stinking” herrings “not fit to be sold for mans body”. While Prescot’s leet jurors considered 290 presentments for selling food and drink of poor quality or low weight or measure, not a single similar accusation against residents of Prescot came before the sessions. It would appear that when courts leet declined or disappeared, consumer protection suffered a serious blow.

Leet jurors also acted to preserve Prescot Wood. Leet records mention 27 accusations against individuals for taking underwood from Prescot Wood and a further 98 for unlawfully taking wood or employing wood, obtained with permission, not for approved purposes. The court stated quite clearly, in 1613, that laws relating to the Wood were meant “to restraynt for the preservacon & sparinge of the tymber and vnderwoods...for the good of the tenants & there posteritye for repayringe of there howses...”.²⁹ Equally clear is the need for this declaration. It seems that in 1613, Thomas Malbon, gentleman, had felled 80 trees without permission, “many of them of the best & strayghtest trees”, to make a “platt” (bridge) and “palinge” (fence). Six years later, Malbon cut down another 52 trees, 12 more than he had permission to take; John Aldem, the vicar, cut 20 trees without consent; and two other individuals removed 7 trees without permission. Again, before the court in 1630, Aldem was fined 50s for “falling” 50 poles. Despite the apparent inability of the leet to enforce its will to restrict exploitation of the Wood, no one from Prescot appeared at the sessions charged with unlawfully taking wood. The protection of community resources was a local concern.

27. F.A. Bailey, ed., *A Selection from the Prescot Court Leet and Other Records, 1447-1600*, Record Society for Lancashire and Cheshire, lxxxix (London, 1937) 152-53; LRO, DDKc/PC 4/154 (1671).

28. LRO, DDKc/PC 4/112 (1654).

29. LRO, DDKc/DDCs (1613).

The intent of much Stuart legislation at both the leet and sessions was social responsibility, not individual opportunity. The whole was greater than any of its parts: accumulating wealth without exercising social responsibility was prohibited; selling to the highest bidder or in the most profitable market was overshadowed by community obligations. Limitations upon economic freedom were necessitated by the belief in the innate badness (original sin) of humanity, widespread poverty, the current concept of limited wealth, and the Hobbesian view of a fragile social order. Given the fact that even during good economic times, from one-third to one-half of the inhabitants of Stuart England were poor or on the verge of becoming poor, such limitations, enforced predominantly at the leet, were quite practical. They must also have seemed quite necessary at Prescot, as her population increased from about 500 around 1590 to approximately 650 by the 1630s, an increase that surely must have put pressure on limited resources.

Despite protecting the collective good, leet officials seem to have viewed an offense against private property more seriously than an offense against community property. Leet officials at Prescot presented ten persons for ten cases of theft against private property. To underscore the seriousness with which such theft was viewed, all ten cases were brought before Prescot's leet by the presentment jurors, despite the fact that other presentment officers, subordinate to the jurors, submitted most allegations of wrongdoing to the leet. In 1563, Prescot's leet ordered John Crosby to pay an amercement of 12d. each time he took "prickes or wyndings" from the town's Wood, but he was "to be avoyded out of the Towne" if he took the same from "any mans hedge".³⁰ Ten miles north, at Upholland, the average amercement for offenders against private property (N = 127) was 12s. 8d., while the average for community property offenders and those stealing from the community (N = 313) was lower at 11s. 4d. It could not have advanced the importance of the leet *vis-à-vis* sessions for leet officials themselves to consider more serious the type of illegal property actions that they did not often adjudicate.

The next category is offenses against the public good, and some 2,961 were presented to Prescot's leet, or 61 percent of offenses of all types.³¹ This compares with 34 percent of offenses of all types presented to the sessions from Prescot. What stands out is that 48 percent (N = 1,427) of the public-good offenses presented to Prescot's leet dealt with trading violations. This sharply contrasts with no similar accusations of wrongdoing at the sessions. A partial explanation lies with Prescot's right, granted by Henry VI in 1446 to the lord of Prescot's manor, to license her alehousekeepers locally. Indeed, Prescot's residents were severely fined (13s. 4d.) for securing licenses from justices instead of from the steward.³² While no resident of Prescot was cited before

30. Bailey, *Prescot Court Leet*, *supra* note 27 at 156.

31. The 2,961 includes 7 double entries (*see* note a for Table 2).

32. LRO, DDKc/DDCs (1648 and 1650); Bailey, *Prescot Court Leet*, *supra* note 27 at 215, nos. 2 and 231.

the sessions for an alehousekeeping offense, over 1,100 such offenses came before the leet. Actually, as I have suggested elsewhere, most of these allegations were disguised tax assessments and not accusations of wrongdoing.³³ Almost half of the 2,900-plus offenses against the public good over the entire period related to trading violations. And this fact, in light of the comment about tax, reduces somewhat the importance of this large group *vis-à-vis* the other major categories of offenses presented to Prescot's leet.

McIntosh has demonstrated that Tudor leets responded to a growing population and increased poverty.³⁴ These problems did not disappear when the Stuart period dawned. Attempting to keep the nonresident poor out of town, between 1615 and 1660, leet authorities at Prescot inquired about or presented approximately 370 "inmates" (persons unwilling or unable to provide for themselves) and made 154 accusations against inhabitants who lodged inmates without providing security that they would not become a financial burden to the town. While all people accused of being or harboring inmates appeared before the leet, two men apprehended in Prescot were conveyed to justices. One was charged with being a wanderer and the other an incorrigible rogue. Also accused at the leet of wrongdoing were those who converted shippens or barns into houses of habitation or who converted one house into two or more habitations. An additional eleven presentments were made for harboring unwed parents or bastards. Even parents lodging unwed pregnant daughters were fined.

No resident of Prescot appeared before the leet accused of unlawful sexual behavior, and at the sessions, only six were so accused. Two were charged with fornication, and three males and one female in four cases were presented for bastardy. Actually, these four were at the sessions to guarantee that they would maintain their illegitimate children, not to respond to an accusation of sexual misbehavior and be punished. It was the diocesan and metropolitan courts which heard most cases relating to sexual immorality. At these two courts, between 1601 and 1633, 276 persons from the eight-township parish of Prescot were charged with fornication (213), adultery (44), adultery and fornication (16), incest (2), or bastardy (1).³⁵

Problems with runoff from swine troughs, "houses of office" (outhouses), blocked ditches and piles of dung in streets similarly did not disappear when the Stuart age dawned. While residents of Stuart Prescot could heap human waste products in the streets near their doors for up to a month, they were expected to remove them at least four days before an annual fair.³⁶ In the

33. Walter J. King, "Regulation of Alehouses in Stuart Lancashire: An Example of Discretionary Administration of the Law", *Transactions of the Historic Society of Lancashire and Cheshire*, cxxix (1980) 37-40.

34. McIntosh, "Social Change", *supra* note 14 at 73-85.

35. Walter J. King, "Punishment for Bastardy in Early Seventeenth-Century England", *Albion*, x (1978) 137, Table 2.

36. LRO, DDKc/DDCs (1678); and Bailey, *Prescot Court Leet*, *supra* note 27 at 86.

meantime, some muck or dung got into houses, ditches, streets, and the town's three public wells were dispersed by animals and became "noisome" and unhealthy. Also, leet officers attempted to prevent butchers from discarding animal parts in or near Prescott's three wells, and residents from washing "filthee things" in them. To protect these community water supplies, inhabitants were required to fetch water in clean vessels and wash items and place dunghills at least 20 feet downhill from the wells in 1552, reduced to 15 feet in 1609.³⁷ At nearby Stuart Ormskirk, the minimum distance was 12 feet.³⁸ Concern about these problems led to many presentments at Prescott's leet for failing to scour ditches, polluting water, improperly discarding waste and erecting a privy or swine trough that was a nuisance.

Broadly similar relationships for the four major categories of offenses were discovered between four other courts leet and the Lancashire quarter sessions (*see* Table 3.) Since the emphasis in this article is on the usefulness of early Stuart courts leet and their relationship to quarter sessions, I shall, with only broad strokes, discuss temporal changes in the number of alleged offenses that have been grouped into five-year periods. Accusations of wrongdoing that came before Prescott's leet rose dramatically from 328 in 1615-19 and 517 in 1620-24 to a high of 786 in 1625-29. From the middle of the 1630s, a decline set in that continued unabated to the end of our period in 1660, except for a slight rise in 1645-50.³⁹ The fall was precipitous in the second half of the 1630s when the number of presentments fell by one fourth. During the next four periods, the decline slowed and ranged between 12 and 17 percent in three periods and rose 7 percent in another. These changes in the number of accusations paralleled changes in the size of Prescott's population, which increased from the late sixteenth century to about 1630 when it stabilized; a decline set in during the 1640s and continued until about 1685 when a new increase began.

That temporary rise in the number of offenses in 1645-50 was spurred by an upsurge in alleged wrongs against the public good, particularly trading violations and offenses against officials. Zealous prosecution, during the "Puritan Revolution", of individuals who sold ale at illegal times and of "superfluous" alehouses in order to suppress them, especially those unlicensed, added to this temporary increase in trading violations. Offenses against officials followed the overall trend and peaked about 1630. But the number rose dramatically to 131 in 1645-50, which was more than double the amount for the preceding and subsequent periods. That the number of such offenses was high when a civil war was in progress is not surprising.

37. *Ibid.* at 119; LRO, DDKc/DDCs (1609).

38. R. Sharpe France, ed., "The Order Book of Ormskirk, 1613-1721", *A Lancashire Miscellany*, Record Society of Lancashire and Cheshire, cix (1965) 39.

39. The five-year period 1645-50 is necessitated by a missing leet record for 1649.

Table 3 Offenses presented to courts leet and quarter sessions

Type of offense	Courts leet at: Upholland Slaidburn Walton-le-Dale Westby 1581-1699		Lancashire Quarter sessions 1590-1606	
	N	%	N	%
Person	983	19.6	630	22.9
Private property	284	5.7	912	33.2
Community property	522	10.4	26	1.0
Unknown (private or community)	47	0.9	0	0.0
Public good	3,158	63.1	1,178	42.9
Unknown	13	0.3	1	0.0
Total offenses	5,007	100.0	2,747	100.0
Less double entries ^a	80		132	
Total offenses ^b	4,927		12,615	

^aA double entry occurred when one offender in one incident committed two or more offenses in two categories, for example, a thief who assaulted his victim.

^bWhile the time periods analyzed in this table for leets and quarter sessions are different, the trends are similar to those in Table 2 where the periods are nearly identical. As with the leet presentments, the Lancashire quarter sessions sample, which covers the entire county, is of presentments or informal charges (*see note 2 supra*).

Clearly, from approximately 1630, on the overall, trend in the number of presentments at Prescott's leet was downward. A declining population and the civil war contributed to this downward trend.⁴⁰ It was during the 1650s that presentment officers at Prescott began to add to their presentments to leet jurors the statement, "We have nothing else to present", as if to apologize for not submitting more accusations of unlawful activity. This statement appeared with increasing frequency until, by the late seventeenth century sometimes, that was the only statement to leet jurors. Relatively speaking, however, Prescott's leet remained active into the late seventeenth century. A preliminary analysis of leet records after 1660 reveals that the downward trend bottomed in the first five-year period at 322 presentments and, then, rose to 480, 438, 547, and 513 in subsequent periods. The last year with over 100 presentments

40. War depresses the crime rate. *See, e.g.,* B.B. Rosenbaum, "The Relationship between War and Crime in the United States", *Journal of Criminal Law and Criminology*, xxx (1940) 722-40; H. Willback, "Crime in New York City as Affected by War", *Journal of Criminal Law, Criminology, and Police Science*, xxxiv (1944) 371-76; W.A. Lunden, "War and Juvenile Delinquency in England and Wales, 1910 to 1943", *American Sociological Review*, x (1945) 390-93; and J.M. Beattie, *Crime and the Courts in England, 1660-1800* (Princeton, New Jersey, 1986) 213-35.

was 1693. Between 1700 and 1740, the annual average number of presentments was lower at 46.⁴¹ “Decadency” was creeping in, and although Prescot’s leet would survive into the twentieth century, the days were drawing to a close on its usefulness. One sign of decadency was the decreasing number of assaulters appearing before the leet (*see* Table 1).

At the sessions, between 1601 and 1659, changes in the number of Prescot’s inhabitants accused of unlawful actions resembled changes in the number at the leet, with fewer being charged during the civil war and Cromwellian periods than during the previous decades.⁴² In fact, no one from Prescot was before the sessions for wrongdoing between 1642 and 1649 inclusive. Although the sessions did not meet between Easter 1643 and Michaelmas 1645, illegal activity did not cease. Between 1642 and 1648 (no leet record has survived for 1649), 706 presentments, including 103 for assault, were submitted to Prescot’s leet.

To repeat, between 1601 and 1660, some 85 persons from Prescot were presented to the sessions for 110 alleged illegal acts. But 131 individuals not charged with unlawful behavior also encountered sessional justice when required to enter into a recognizance calling for their appearance at the next sessions and, there, to answer objections to their actions and in the meantime, to be of good behavior. The alternative to fulfilling the requirements in a recognizance was imprisonment. These individuals appeared before one justice, occasionally two, at the residence of the justice(s) and put up a bond of £10 to £40. Two other persons, or sureties, put up bonds usually equal to half the amount required of the individual entering the recognizance. Those bonded agreed to appear at the next sessions. Most did. Only 10 failed to appear, and one other individual was imprisoned for failing to provide sureties. Sixty-seven of the 131 bonded appeared before justices at the sessions and were discharged because no one appeared to object to their behavior. This failure of anyone to appear at the sessions and object supports Norma Landau’s suggestion that one of the principal functions of the recognizance was to create bureaucratic and financial discouragements to further unlawful behavior, and not necessarily to serve as an initial stage in prosecution.⁴³

The function of the recognizance, particularly the recognizance for the peace, “essentially a preventive instrument”,⁴⁴ was to settle disputes out of

41. Leet records are missing for 1661-66, 1673, 1677, 1682, 1730, 1734 and 1735.

42. In and outside Lancashire, the recorded crime rate continued to decline during the last half of the seventeenth century. King, “Alehouses”, *supra* note 33 at 36; and J.A. Sharpe, *Early Modern England: A Social History, 1550-1760* (London, 1987) 111.

43. For a useful discussion of the recognizance, *see* Norma Landau, *The Justices of the Peace, 1679-1760* (Berkeley, California, 1984) 24 and 185-94. Also useful, J.A. Sharpe, ““Such Disagreement betwix Neighbours”: Litigation and Human Relations in Early Modern England” in John Bossy, ed., *Disputes and Settlements: Law and Human Relations in the West*, Past and Present Society (Cambridge, 1983) 167-87.

44. Keith Wrightson and David Levine, *Poverty and Piety in an English Village: Terling, 1525-1700* (New York, 1979) 124.

court and, it has been claimed, “in itself constituted a minor punishment”.⁴⁵ The cost of the recognizance (2s. 4d. in Lancashire) and the time and expense involved in traveling to the sessions, staying overnight, and possibly paying the expenses of witnesses undoubtedly discouraged many disputants from continuing their disagreement to the point of committing a punishable offense. Indeed, at Prescot, only 4 of 60 recognizances for the peace failed to prevent an assault. It is important to remember, though, that the recognizance was not just a “preventive instrument”. Almost half (N = 48) of the 110 persons presented to the sessions from Prescot for unlawful behavior were similarly bound in a recognizance.⁴⁶

Having examined the nearly 5,000 offenses, it remains for us to investigate why not more than 110 individuals from Prescot found themselves before the sessions.⁴⁷ The number of misdemeanants and felons prosecuted at courts leet and quarter sessions ultimately depended upon the ability and zeal of leet officers, especially constables, and of private prosecutors.⁴⁸ Prescot’s 600 residents were policed by about 48 leet officers including the jurors. It was the two constables, however, annually elected who linked the world of the leet with the world of the sessions.⁴⁹ They submitted accusations of wrongdoing to both courts and executed their orders. Both court systems could direct constables to do just about anything.

Space does not permit a detailed review of the types of offenses adjudicable at Stuart leets beyond our previous discussion of the 110 persons from Prescot presented to the sessions. In a nutshell, felonies, inquirable and presentable but not punishable at the leet, were to be certified to a higher court, namely to the quarter sessions or assizes. Since leets could punish a wide range of petty misdemeanors and public nuisances, many Stuart misdemeanants could have been presented to a leet or the sessions, or in some cases, even to an ecclesiastical court by churchwardens. The publication of numerous charges to sessional grand juries and of a myriad of leet manuals specifying which offenses courts leet could investigate and punish would appear to have

45. Landau, *Justices of the Peace*, *supra* note 43 at 24.

46. While some of the remaining 62 individuals may have also entered into recognizances that have not survived, most certainly were never bound. *See supra* note 2 regarding recognizances.

47. For the jurisdiction of the sessions, *see* LRO, DP/172, “Articles to bee given in Charge at the Sessions of Peace”, n.d. (c.1610); DDKe/2/10/2, “The things inquirable att ye Sessions of the peace” (1659); and Elizabeth M. Halcrow, ed., *Charges to the Grand Jury at Quarter Sessions, 1660-1677*, by Sir Peter Leicester, Chetham Society, 3rd ser., v (Manchester, 1953). For the jurisdiction of the leet, *see supra* note 9.

48. Sharpe, *County Study*, *supra* note 12 at 173; Peter Clark, *The English Alehouse: A Social History, 1200-1830* (New York, 1983) 177; and Joan R. Kent, *The English Village Constable, 1580-1642: A Social and Administrative Study* (New York, 1986) 2 and *passim*.

49. “The dual nature” of the office of constable has been discussed by Joan R. Kent, “The English Village Constable, 1580-1642: The Nature and Dilemmas of the Office”, *The Journal of British History*, xx (1981) 26-49.

relieved leet officers of decision making.⁵⁰ Reality, however, was considerably more complex.

The juridical liability of a sizable number of minor offenders was determined by constables and private prosecutors. Of the 110 individuals presented to the sessions, at least 29 committed their alleged offense outside Prescot and, hence, did not fall within the jurisdiction of Prescot's authorities. For 6 persons, place of offense could not be determined; and the juridical liability of one offender, a thief, could not be ascertained because the value of the property stolen was not given or estimable. Of the remaining 74 offenders, at least 38, or 51 percent, could have been presented either to the leet or sessions. For most constables, very practical considerations influenced the decision whether to present a misdemeanor to the leet or sessions. An obviously important consideration was money. Leet jurors were the constables' immediate superiors and annually reviewed their expense accounts. During their year in office, when disbursements exceeded tax receipts, constables paid "out of purse" and later sought, sometimes fought, for reimbursement from leet jurors who could order a special tax to raise the necessary revenue. At Prescot, between 1679 and 1699, 55 percent of the annual constable accounts were in the red when presented to leet jurors for review.⁵¹ Three of those accounts in the red were transformed into accounts with a surplus, owed by the former constables to the new constables, when "unreasonable" or "extravagant" expenses were disallowed. When constables submitted accounts in the red to leet jurors who refused to reimburse them, they either had to forget about reimbursement or petition the justices of the peace for redress. Obviously, not everyone could afford to be a conscientious constable able to wait months or even years for reimbursement. It was not unusual for widows of former constables to petition justices to order reluctant township or manorial authorities to pay them what was owed to their late husbands.

At Manchester's leet, between 1612 and 1647, 38 percent of annual constable accounts were in the red. Of 804 misdemeanants punished in Manchester during those same years by whipping, carting or incarceration in the local two-story dungeon, only 29 were ordered punished by justices.⁵² The 804 included many offenders such as vagrants who could have been punished at either the leet or sessions. Several thousand other misdemeanants were otherwise punished by leet authorities, mostly by fining. Clearly, most offenders apprehended by leet authorities were also punished on the orders of

50. See *supra* notes 9 and 47 for the jurisdiction of the leet and sessions.

51. Late Stuart accounts have been analyzed because fewer than half a dozen survive for the early period.

52. The 804 is on the low side because Manchester's constables did not itemize payments for whipping after 1630. An additional 174 offenders were conveyed by Manchester's constables to the house of correction or gaol on the orders of the justices. The numbers were derived from J.P. Earwaker, ed., *The Constables' Accounts of the Manor of Manchester*, 3 vols. (Manchester, 1891 and 1892).

leet authorities and never brought before justices. The reason for leet adjudication and punishment was economic. While it was comparatively inexpensive for early Stuart Manchester to whip offenders at 4d. per person, or to incarcerate in the local dungeon at an average cost of almost 4d. per day, it cost Manchester about 20s. to convey an offender to the house of correction in Preston or over 30s. to the gaol in Lancaster.⁵³ While justices could command that offenders be whipped locally, they could also order the more expensive incarceration in Preston or Lancaster. Cost-conscious leet authorities preferred to determine accusations of minor wrongdoing themselves than risk a justice ordering more expensive punishment.⁵⁴

To control the expenses of constables, leet jurors punished residents who, in their view, procured warrants from justices “for tryflinge businesse” without the consent of the steward or other authorized officers. Jurors expressed concern because many warrants only required individuals to enter into a recognizance and did not order constables to apprehend a suspected criminal. In 1617, the leet at Prescot ordered individuals fined 6s. 8d. and forced to bear the expenses of constables when they obtained warrants for “divers triviall causes some of noe moment & some of matters w[hi]ch they might have had reformed by the towne”. The accounts of Peter Kenwick, constable in 1617, shed some light on the background to this order. Kenwick had spent 11s. 4d. making ten trips conveying to justices persons served with warrants obtained by residents of Prescot. Reasons for the warrants were not given, but Kenwick undoubtedly impressed leet jurors with the need for action when he ended his accounts with the claim that the town was indebted to him for 8s. above the amount the town had previously provided him for expenses.⁵⁵ Almost a century later, in 1702, to avoid “Extravagant expence”, leet jurors ordered residents securing warrants against neighbors to pay the expenses not approved by leet officers. And in 1725, the order was amended to include all expenses for any warrant “Except [for] publick offences”.⁵⁶

Although the law required the offender to pay for his conveyance to prison (3 James I, c.10), commonly, the apprehending town incurred the expense. Ninety percent of the costs of conveying 174 persons from Manchester to prisons in Preston and Lancaster, for example, fell upon the town between 1612 and 1647.⁵⁷ And Prescot failed to have the much larger parish of Prescot pay the £5 17s. spent conveying John Richardson, a stranger,

53. Walter J. King, “Vagrancy and Local Law Enforcement: Why Be a Constable in Stuart Lancashire?”, *The Historian*, xlii (1980) 278-79.

54. “Lesser malpractices, such as market offences, could be remedied cheaply in the leet and, hence, were unlikely to be taken to a higher court.” Sharpe, *County Study*, *supra* note 12 at 48.

55. LRO, DDKc/DDCs (1617). Also, *see* DDKc/DDCs (1623, 1626, and 1627).

56. LRO, DDKc/PC 4/115 and 49.

57. Computations were derived from Earwaker, *Constables' Accounts*, *supra* note 52.

to the gaol from Prescott township where he had been apprehended for an alleged robbery committed elsewhere in the eight-township parish.⁵⁸

Besides the expenses incurred conveying alleged offenders to justices for examination and later to prison, constables were also charged fees by clerks of the peace whose income derived from the documents they issued. Lancashire's clerks of the peace charged Stuart constables 12d. for a petition or indictment, 16d. for an order, and 2s. 4d. for a warrant.⁵⁹ Of course, clerks at courts leet also charged fees. The fee due to the leet clerk at Clitheroe for writing an order rose from 6d. at the beginning of the seventeenth century to 2s. in the 1650s.⁶⁰ Nevertheless, by opting for leet justice, at a minimum, constables avoided the inconvenience and expense of traveling to the residences of justices and possibly to a prison.

We can sympathize with a constable debating whether to present a misdemeanor to justices or to leet jurors. One late evening, about the first of February in 1627, several residents of Chaigley in central Lancashire on the Yorkshire border brought four wanderers to William Leaches, the constable. Ultimately, William disbursed 16s. of his own money conveying the four alleged wanderers to the residences of two justices before he found one at home and obeying a justice's order to convey them to the house of correction in Preston, about twelve miles to the West. Although he obtained a warrant from a justice compelling his reluctant superiors to levy and his neighbors to pay a supplemental tax to reimburse him 10s., William died before he collected any money. We know these details because John Leaches, presumably a relative of the late William, almost three years later, was continuing the struggle for partial reimbursement.⁶¹ Still, later in 1635, to the West in the Fylde, Richard Roa, constable of Greenhalgh-with-Thistleton, refused to obey a justice's order to arrest twelve persons who had allegedly stolen fruit at night, unless he first was paid 4d. per person. He feared that arresting them "would cost him a greate deale of money".⁶² The constables of Greenhalgh and Chaigley attended the same division of the Lancashire sessions of the peace at Preston. Perhaps, Richard or one of his predecessors had heard about William's problems with the more expensive sessional justice.⁶³

The relative cheapness of leet justice was also attractive to justices who were cognizant of the disadvantages, to county rate payers and directors of the

58. LRO, QSP/464/25 and QSR/71, Ormskirk (Easter 1677).

59. LRO, QSB/1/293/55, Manchester (Midsummer 1647); QSR/26, Ormskirk (Midsummer 1629).

60. LRO, MBC/194 (1652). For fees at Wigan's leet, see Wigan Record Office, CL/Wi.-11.

61. LRO, QSB/1/49/32, Preston (Epiphany 1628/29); QSB/1/65/29, Preston (Epiphany 1629/30).

62. LRO, QSB/1/161/19, 29, and 30, Preston (Epiphany 1635/36).

63. Regarding the financial burdens of constables, see Kent, *Village Constable*, *supra* note 48; and King, "Vagrancy", *supra* note 53.

house of correction, of incarcerating too many indigent misdemeanants. Those justices, for example, cautioned constables to apprehend vagrants for bringing before them only when a sessions was approaching.⁶⁴ It was presumed that at other times, constables would whip and send vagrants on their way with a pass enabling them to travel to their place of birth or last residence without further punishment. The costs, naturally, would be born by the leet, whose residents probably preferred the known costs of 4d. per whipping and 2d. per pass at Manchester to the unknown higher costs of punishments ordered by justices.⁶⁵ It was probably also not lost on justices that Francis Barker, the first director of the county-wide house of correction that opened in Preston in 1619, died a pauper in 1628. His annual salary of £60 was insufficient to cover his expenses as husband and father, and to enable him to fulfill his contract to care for up to seven ill prisoners and maintain the “necessaries for keeping of the prisoners in work”, as well as to allow him charitably to provide food for poor prisoners.⁶⁶ We should not be surprised that two years after Barker’s death, his successor refused to accept as prisoner a female “wandering Idle Rogue”.⁶⁷ It was not uncommon for directors of the house of correction to petition justices that “the fee of this commitment” and subsequent charges for conveying the accused from prison to quarter sessions be paid by towns in which prisoners had resided or been apprehended. Needless to say, payments were not always received. Like constables, directors paid extraordinary expenses out of their purse and later submitted claims for reimbursement. Also, like constables, the amounts they sought were sometimes reduced. For instance, at the end of the century, in 1693, justices reviewed the accounts of William Higginson. They “thought Good to Reducce” by almost £14 his request for reimbursement for expenses incurred caring for 44 male Irish prisoners.⁶⁸

While justices were well aware that leet justice could be less expensive than sessional, they also knew that the disturbances of the civil war period had resulted in infrequent meetings of the leet. So, justices reminded constables of their duties to submit their presentments to the sessions by forwarding “articles” of inquiry or questionnaires to them.⁶⁹ For West Derby, hundred, in which Prescott was located, the July 1650 and July 1651 presentments were unusually numerous. Constables from 39 of the 195 towns presented 45 unlicensed alehousekeepers and bakers, 175 recusants and 11 other individuals for offenses against the public good (N = 10) and community property (N = 1). Given the pressure from justices through hundredal constables to petty constables to present misdemeanants, one might have expected constables to submit more accusations of wrongdoing — unless, of

64. LRO, QSR/13, Manchester (Easter 1616).

65. King, “Vagrancy”, *supra* note 53 at 275, 278.

66. LRO, DDKe/2/14/2; QSR/25, Ormskirk (Easter 1628); and QSB/1/36/22, Lancaster (Easter 1628).

67. LRO, QSB/1/77/34, Preston (Midsummer 1630).

68. LRO, QSP/729/10, Preston (Easter 1693).

69. LRO, QJI/1 (1646-58).

course, they had one eye on their purse. Instead, in their responses to these articles of the late 1640s and 1650s, constables depicted a rather peaceful setting in which “the pore are provided for” and do not wander abroad, “no ground is nowe touned from tillage to pasture”, watch and ward “have ben truly kept”, “profanation of the Sabboth wee have nott anie”, highways “are partly repaired and the rest are in repaireing”, there are no misorders in alehouses except those punished in our own court, “wee have no Regrators nor forestalers that wee know of”, there are no “pulferers” and gaming houses, “All wandring Roges and Idle persones And begers [are] punished”, there have been no felonies since the last assize, and so forth. Statements that there were no misdemeanants for presentment to the sessions were balanced with declarations that minor offenders had been punished by leet authorities. The message from constables to justices was basic: law enforcement is well handled at the leet level.

Charges of unlawful behavior presented to the sessions by constables were investigated by grand jurors who themselves could inform their fellow jurors of other alleged illegal activities. At those same two July sessions of 1650 and 1651, grand jurors from 41 towns presented 45 unlicensed alehousekeepers and bakers, 12 townships for unrepaired bridges and highways, and 36 other alleged offenders against the person (N = 15), private property (N = 7), community property (N = 3), and the public order (N = 11). Only 5 towns in the two groups of 39 and 41 overlapped, and all 8 unmistakable cases of private prosecutions were among the jury presentments. Both groups of presentments, which appear to be distinct, were investigated by the grand jury that indicted. It would seem that on manors and in towns whose constables did not submit presentments, victims made known to grand jurors their desire to initiate prosecution.

Access to a court leet affected all individuals, not just constables, justices and executors of county prisons. According to the jurist Edward Coke, courts leet were established “for the ease of the people...[so that they] should have...justice done unto them at their own doors without any charge or loss of time...”.⁷⁰ Coke’s statement points out the obvious: both plaintiffs and defendants sometimes preferred leet to sessional justice. At the leet, both would avoid not only the inconvenience of travel and legal delays, but their personal expenses and those of their witnesses. Defending oneself at Stuart sessions against a misdemeanor charge could cost between £1 14s. and £4.⁷¹ It is, therefore, not surprising that justices ordered Matthew Wilcock of Prescot to pay 4s. to fellow townsman William Finney for his “unjust vexation”. It seems that Matthew had warned William to appear at the Easter 1621 sessions to

70. Coke, *Second Part*, *supra* note 4 at 70-71. He reiterated this belief in his decision in the case of *Porter vs. Rochester*, George Wilson, ed., *The Reports of Sir Edward Coke, Knt.*, 7 (Dublin, 1793) pt., xiii, 7.

71. B.W. Quintrell cited in Sharpe, “Enforcing the Law”, *supra* note 12 at 111. For costs incurred by private prosecutors, see Beattie, *Crime and the Courts*, *supra* note 40 at 41-48.

defend himself against Matthew's charge of wrongdoing and, then, failed to appear and prosecute.⁷²

Margery Sharrock, on the other hand, abridged the principle of "justice...at their own doors". She oppressed her neighbors by causing them to be taken before a justice for examination twelve miles from their abode instead of before nearby justices.⁷³ In Lancashire, each of the four sessions of the peace — Epiphany, Easter, Midsummer and Michaelmas — was held at four locations with different justices. After adjourning at Lancaster for Lonsdale hundred, the sessions reconvened at Preston for Amounderness and Blackburn hundreds, then at Ormskirk (for Easter and Midsummer) or Wigan (for Michaelmas and Epiphany) for West Derby and Leyland hundreds and, finally, at Manchester for Salford hundred. It was contrary to custom for an individual to seek an indictment in one sessional area against a resident in another. When, in 1629, William Stones violated this custom, justices in the Preston area asked their colleagues in the Ormskirk/Wigan area to fine "at an easy rate" the individuals from Amounderness hundred indicted at Stones' initiative in West Derby hundred.⁷⁴ This preference for indictment in the defendant's sessional area underscores the need for the local and cheaper justice dispensed at the leet.

As the Kershaws, mentioned at the beginning of this article, knew well, indigent alleged offenders brought before the sessions were clearly at a disadvantage. During the two-year periods of 1628-29, 1637-38, 1647-48 and 1657-58, justices from throughout Lancashire ordered 42 offenders and alleged offenders incarcerated.⁷⁵ Thirty-five of them were imprisoned for failing to provide sureties or to pay fees due to the clerk of the peace for their appearance on and discharge from recognizances. Lancashire's clerks of the peace charged 2s. 4d. for a discharge from a recognizance. The inability of the accused and those bound in a "preventive" recognizance to pay sessional fees was the real cause of the committal of many early Stuart alleged offenders.

Defendants might further prefer leet justice in the hope that sympathetic neighbors serving as jurors might temper their punishments if not altogether let them go unpunished, or that tempers might moderate by the time their case came before the leet which met less frequently than the sessions. When leet jurors deliberated innocence or guilt and when leet affeerors, who often also served as jurors, assessed the amount of the ameracements, the most common punishment dispensed at leets, there was considerable give and take.⁷⁶ For

72. LRO, QSR/18, Ormskirk (Easter 1621). The leet records of 1620-22 contain no indication of trouble between William and Matthew.

73. LRO, QSB/1/1694, Ormskirk (Easter 1694).

74. LRO, QSR/26, Preston (Midsummer 1629).

75. The period 1628-29 was selected over 1627-28 because the sessional rolls for 1627 are incomplete.

76. Walter J. King, "Leet Jurors and the Search for Law and Order in Seventeenth-Century England: 'Galling Persecution' or Reasonable Justice?", *Histoire sociale — Social History*, xiii (1980) 305-23.

instance, rather than automatically assess the same amount to all assaulters, at Upholland, affeerors worked within a wide range. Among assaulters who did not draw blood, 439 were amerced: 3d. (1), 5d. (6), 6d. (16), 10d. (163), 12d. (68), 20d. (116), 2s. (28), 3s. 4d. (39), 5s. (1), and 6s. 8d. (1). The 155 who drew blood were amerced: 10d. (1), 12d. (11), 20d. (9), 2s. (3), 2s. 6d. (1), 3s. (2), 3s. 4d. (51), 4s. (2), 5s. (3), and 6s. 8d. (72). It would seem that affeerors sometimes assessed ameracements on the basis of offenders' ability to pay. At Slaidburn, between 1651 and 1660, 10 of 215 ameracements were remitted because offenders were "paupers", and Prescott's leet authorities sometimes reduced uncollectible ameracements to smaller but collectible amounts and at other times, voided entire amounts.⁷⁷ Flexibility was possible at the leet level because jurors did not just sit and listen to evidence, but actively sought information. They asked questions, visited places, and "hath informed them selves as much as they can" about the alleged illegal activity of their neighbors.

Flexibility at the leet would seem to be indicated in still another way. Between 1626 and 1660, the semiannual leet at Walton-le-Dale near Preston met between 28 March and 14 May in the spring and 13 August and 9 November in the fall. The court opened its spring session on 19 different days and issued 174 orders that had 31 different completion dates; the fall session opened on 22 different days and 259 orders were issued with 36 different completion dates.⁷⁸ One explanation for the great diversity in the completion date for orders is that leet authorities considered factors influencing the ability of individuals to complete those orders.

During the civil war and Cromwellian periods, leets did not always meet. Therefore, as we have seen, justices forwarded articles of inquiry to constables requesting — even demanding — information on minor offenses. The result was that constables presented misdemeanants to the sessions who otherwise might have been brought before the leet. To these sessional presentments, constables sometimes added a plea for mercy. Anthony Mullenex, constable of Litherland near Liverpool, presented to the sessions Nicholas Moorecroft for grinding corn at the windmill on Sunday, but "it was in a case of nessesitie where there was no wynd in a fortnights tyme before".⁷⁹ Five years later, in 1659, north of Lancaster, the constable of Cantsfield, John Gibson, tempered his presentment of Ann Toulson, widow, for keeping an unlicensed alehouse. He pleaded that "her returne is very small and she is a pore woman and lame & her childeren sumtimes goeth a begging for Releefe".⁸⁰ In other words, it was assumed that manorial and borough officers would know the circumstances

77. LRO, Cl (1651-60) for Slaidburn and DDKc/DDCs (1650) for Prescott.

78. LRO, DDHo. Only orders directed to specific individuals, except officers, were tabulated.

79. LRO, QJI/1/29, Wigan (Epiphany 1654/55). The justices decided it was "a true presentment".

80. LRO, QSP/181/9, Lancaster (Michaelmas 1659). There was no result recorded.

surrounding certain alleged illegal acts while strangers (justices and sessional jurors) might not.⁸¹

The only leet which consistently fined assaulters the same amount (3s. 4d. for an assault without blood or 6s. 8d. for drawing blood) was the Great Court of Penwortham in central Lancashire. This consistency supports the suggestion here that affeerors employed more discretion when dispensing fines than leet authorities expected from justices. For while the other courts leet analyzed for this study were single township or manor courts, Penwortham's jurisdiction extended over about two dozen townships scattered throughout central Lancashire. Affeerors at Penwortham were probably as unaware as were justices at the sessions of mitigating factors relating to assaults occurring miles away and, thus, could dispassionately dispense identical fines to assaulters. In sum, that a defendant should "be judged where he and the matter is [*sic*] best known" was a well-recognized principle of Elizabethan and Stuart justice that made the leet needful.⁸²

The perception of a fragile social order gave added importance to another of the leet's significant functions: resolution of conflicts in or out of the formal legal system before violence erupted.⁸³ Tension over water rights, rights of way, debts, and sharing expenses for repairs to ditches and fences, among other issues, could be quite disruptive in small communities in which inhabitants daily interacted. At Prescott, when Ralph Fletcher died and his widow and son quarreled over the use of their house, the court leet, in 1620, upheld the deceased's will, bequeathing two rooms to each survivor and ordered the son to remove his property from his mother's portion of the house or be fined 40s. The substantial fine demonstrates the court's eagerness to prevent family conflict.⁸⁴ Leet jurors at Westby, in 1624, ordered Robert Welding to "more loveinglie and tenderlie Cherish" his widowed mother or to take his wife and children out of his mother's house so that "she may have some to be more tender over hir".⁸⁵ Oftentimes, neighbors were the first to attempt to resolve disputes, sometimes at the request of leet officials. Friends of Edward Stockley and Peter Kenwick mediated a "difference of hedge-ment", and friends of John Webster and William Lyon arbitrated a dispute over

81. Keith Wrightson has pointed to the desire of constables and other local officials to avoid "arousing the antipathy of the neighbourhood" by presenting fellow villagers "out of the neighbourhood to the judicial bench" where there was a "distinction between the order of the law and that of the community...". "Two Concepts of Order: Justices, Constables and Jurymen in Seventeenth-Century England" in John Brewer and John Styles, eds., *An Ungovernable People: The English and Their Law in the Seventeenth and Eighteenth Centuries* (New Brunswick, New Jersey, 1980) 31.

82. See note 70 *supra*.

83. For a discussion of arbitration and litigation in early modern England, see Sharpe, "Betwyx Neighbours", *supra* note 43 at 167-87.

84. LRO, DDKc/DDCs (1620).

85. LRO, DDCl/1141 (1624).

a watercourse. Prescott's leet jurors later accepted the proposed solutions and ordered them carried out.⁸⁶ Justices, too, recognized the valuable contribution of local courts to the keeping of the king's peace and referred some disputes back to a leet for resolution.⁸⁷

Examples of conflict resolution are endless. The point is that courts leet performed the valuable service of resolving many disputes before they erupted into violence and entered either the leet or quarter sessions as criminal matters. One other element of that resolution process was the warning to modify alleged illegal behavior or risk punishment. In Stuart, England, the function of punishment for wrongdoing was to prevent or, more correctly, to limit future wrongdoing, not to exact a pound of flesh. And, in fact, to prosecute petty offenders too vigorously could itself disrupt village harmony.⁸⁸ After all, neighbor was punishing neighbor, and annually chosen leet officers would soon be out of office and subject to the watchful eye of those same neighbors who might be the next leet officials. Consequently, leet authorities employed an "alternative to formal prosecution"⁸⁹ and ordered numerous residents to alter their alleged unlawful activity before a specified date or risk punishment. When reasonable warnings produced no result, leet officers presented residents to the court leet for illegal behavior. For instance, Prescott's leet jurors accused Thomas Gerrard and his wife Joan of laying dung in the street and not removing it after officers, called the streetlookers, had warned them to remove the dung within a day. They were given two more days and then another day to remove the dung before they were finally amerced 3s. 4d.⁹⁰

Leet jurors at Upholland also employed warnings to change behavior. Between 1607 and 1633, 13 extant court books contain 18 presentments of persons who had not repaired their houses or barns. Those same 13 court books also contain 97 orders, or 5 times the number of presentments, to repair or risk being presented and fined.

An analysis of the records of the semiannual leet at Walton-le-Dale revealed two types of warnings to correct behavior. One type was issued at or soon after the commission of the alleged offense, and we learn of this informal warning in the presentments because it failed to effect a change in behavior. A second type of warning was formal and appeared as an order to correct behavior by a specified date or risk a threatened fine. To the latter type, leet

86. LRO, DDKc/DDCs (1622 and 1624); DDCI/1141 (1623); DDPt/22 (1605); QSB/1/296/35, Wigan (Michaelmas 1647). Arbitration by local people in early-seventeenth-century Wiltshire has been documented by M.J. Ingram, "Communities and Courts: Law and Disorder in Early Seventeenth-Century Wiltshire" in J.S. Cockburn, ed., *Crime in England, 1550-1800* (Princeton, New Jersey, 1977) 125-27.

87. E.g., LRO, QSR/55, Wigan (Epiphany 1661/2).

88. Wrightson and Levine, *Terling*, *supra* note 44 at 139. Elsewhere, Wrightson wrote of "this reluctance to prosecute". "Two Concepts of Order", *supra* note 81 at 31.

89. Sharpe, "Enforcing the Law", *supra* note 12 at 117.

90. LRO, DDKc/DDCs (1609).

clerks subsequently added “done”, “performed”, “observed”, “not done”, or “not performed”. Of 371 orders analyzed for the period 1631 to 1660, 280, or 75 percent, were obeyed.⁹¹ Whether this percentage is high or low will be determined by future detailed village studies.

Besides resolving disputes in and out of court, courts leet performed another necessary function: that of informing residents about each other’s suspected or confirmed illegal behavior. Baptism and citizenship, sin and crime were often equated in early Stuart England. Sin was not a personal matter between the individual and God, as it would become in the post-Enlightenment world, but between the community and God. Many Stuart inhabitants believed it their duty to prevent the illegality of their relatives and neighbors because the wrongful actions by some could bring God’s wrath down on all. Peasants and kings alike believed that good and evil spirits — God, angels, saints, devils — intervened daily in human affairs. It was God who sent plague and drought and placed an evil king on the throne as a punishment and removed them as a reward.⁹² In order to save itself from God’s imminent justice, the whole community had to know who the offenders were so that it could play a role in controlling their illegal actions. It was, therefore, necessary for leet authorities to employ public punishments, and they kept the stocks, pillory, ducking stool, and whipping post in good repair, ordered a sign describing their offense placed around the necks of those in the stocks, and decreed that leet warnings and orders for punishment should be read after sermon in church or in the churchyard.⁹³

There is no need to belabor these contextual points about fragile social order and divine intervention that so fascinated previous generations of historians.⁹⁴ They are mentioned here only because they are part of the context in which leets played a significant role in preventing and prosecuting illegal activity. But another, “more practical”, factor needs to be mentioned. Courts leet were also needful and useful because to present all or even most offenders

91. LRO, DDHo. Not tabulated were orders directed to officers, those aimed at “inhabitants”, and all orders issued at courts when the roll for the next court meeting was missing and could therefore not be used to check the leet clerks’ diligence in recording the results of orders. The latter condition resulted in the period of analysis being limited to April 1631–April 1632, October 1633–October 1637, April 1639–May 1641 and April 1656–May 1660.

92. LRO, QSP/3/2, Prescott (Midsummer 1648). Also, see QSB/1/51/59, Manchester (Epiphany 1628/29); QSB/1/296/35, Wigan (Michaelmas 1647); and QJI/1/27, Wigan (Easter 1653). Also relevant here is Keith Thomas, *Religion and the Decline of Magic* (New York, 1971).

93. LRO, DDHo (Michaelmas 1626 and 1639); DDHi (1607 and *passim*). J.A. Sharpe has discussed the importance of public execution for felony in the seventeenth century, “‘Last Dying Speeches’: Religion, Ideology and Public Execution in Seventeenth-Century England”, *Past and Present* (May 1985) 144–67.

94. The “generation gap” is demonstrated by the absence of references to Thomas Hobbes in J. Stevenson, “The ‘Moral Economy’ of the English Crowd: Myth and Reality” in Anthony Fletcher and John Stevenson, eds., *Order and Disorder in Early Modern England* (Cambridge, 1985) 218–38.

to the sessions would have clogged the sessions at a time when witnesses were already complaining about long, expensive delays. It is reasonable to hypothesize that if all factors were equal, a manor or borough without a leet should have forwarded to the sessions more presentments than a manor or borough with a leet, especially with a strong leet like Prescott's. While Terling, in Essex, and Prescott, in Lancashire, may not be exactly comparable, they are sufficiently similar that a comparison illuminates another reason why leets were useful: namely that misdemeanants were more likely to be prosecuted when residing in a manor or borough served by a leet than when residing in a locality without a leet. Residents of Lancashire's leets who, about 1650, complained of "manie nuisances & inconveniences" which had arisen "since the late warres & troubles", because their leets had not met, were convinced of their usefulness in prosecuting alleged misdemeanants.⁹⁵

While many factors could have affected the number of offenses prosecuted and recognizances issued, two very significant factors, size of population and completeness of the investigated court records, did not. Keith Wrightson and David Levine have estimated the population of Terling, in 1671, to have been about 580.⁹⁶ Using their multiplier of 4.75 persons per household, Prescott's population, in 1614, can be estimated at somewhat less than 620.⁹⁷ Regarding completeness of records, Wrightson and Levine have stated that the Essex "Quarter Sessions and Assize records survive very fully...".⁹⁸ This is also true for the Lancashire sessional records.⁹⁹ Since the Terling study includes cases prosecuted at the assizes while the Prescott study does not, because only 8 rolls have survived for the first sixty years of the seventeenth century, there would seem to have been more prosecutions at Terling. That edge remains with Terling than at Prescott because the Terling sample includes petty sessional records while, again, the Prescott sample does not, except for their rare inclusion in the quarter sessions rolls. Since most offenders committed misdemeanors that fell within the jurisdiction of the quarter sessions, it is doubtful whether inclusion of assize records would significantly affect the Terling-Prescott comparison.

Because the village of Terling in central Essex had no court leet, local officials and victims prosecuted petty and felonious offenders at the quarter sessions and assizes. For the sixty years between 1600 and 1659, exactly 188

95. E.g., LRO, QSP/62/18, Preston (Easter 1652); QSB/1/277/53, Manchester (Midsummer 1646).

96. Wrightson and Levine, *Terling*, *supra* note 44 at 45.

97. LRO, DDKc/DDCs (1614) contains a list of 130 houses and shops which approximate 130 households. It can be assumed that many owners of shops lived in the back or above the shops if not in the "shops" themselves.

98. Wrightson and Levine, *Terling*, *supra* note 44 at 112 no. 4. Because Wrightson and Levine lumped prosecutions at the sessions and assizes together, it is not possible to compare for Prescott and Terling only the prosecutions at the sessions of the peace.

99. See note 2 *supra*.

cases of illegal activity and disputes that resulted in the issuance of recognizances were presented from Terling to the sessions and assizes and to individual justices who issued the recognizances. The 188 cases compare with 178 from Prescot (72 cases of illegal activity and 106 of recognizances) presented to the quarter sessions and to individual justices for the 60-year period of 1601-60.¹⁰⁰ I followed Wrightson and Levine and counted recognizances “as separate ‘cases’ only when they were not issued in the course of the preparation of another known case”. *Ibid.*, 117 no. 9. The nearly identical sums from Terling and Prescot would appear to negate the hypothesis that a village without a court leet would present more wrongdoing to courts superior to the leet than would a village with a leet.

In general, it would seem that Terling and Prescot were not that different. Yet, there was one very important difference which underscores the usefulness of early Stuart leets. Between 1560 and 1699, only 43 villagers from Terling were before the quarter sessions and assizes for assault. In sharp contrast, for the much smaller period of 1601-60, 27 residents of Prescot were before the sessions for assault, and for the still smaller period of 1615-60, some 1,253 were charged at Prescot’s leet with assault. Given that the population of the two localities was roughly equal, two explanations are possible. Either the residents of Terling were exceptionally more peaceful or, as has been argued here, to ignore leet data is to ensure that one’s conclusions about crime in early modern England rest upon quicksand.

Lest Prescot still be considered unique, it should be noted that 691 assaulters were presented at Upholland’s leet between 1599 and 1633 and that 219 came before Penwortham’s leet between 1599 and 1626.¹⁰¹ Even the relatively weak leet at Westby between 1615 and 1660 adjudicated the cases of about 160 assaulters that never reached the sessions or assizes.¹⁰²

Besides population and record survival, other factors — differences in the local economies, the eagerness of village officers and aggrieved victims to prosecute, and so forth — could have influenced the number of prosecutions from Terling and Prescot to the sessions and assizes and could have affected the number of recognizances. Those unknown factors prevent giving more significance to a comparison between the two villages than the data warrant. But while speculative, it is consistent with the evidence to suggest that early Stuart courts leet were useful because they prosecuted misdemeanants who were not formally prosecuted in villages without a leet. Because Terling had no leet, more residents from Terling should have been prosecuted at the

100. Wrightson and Levine, *Terling*, *supra* note 44 at 118, Table 5.

101. LRO, DDF/192-207 for Penwortham.

102. These numbers must be increased significantly because of incomplete leet records. For Upholland, the records are 48 percent complete; for Penwortham, 55; and for Westby, 73. The percentage for Westby excludes the civil war gap of three and a half years; because the court did not meet, no records are missing. Also, *see* note 19 *supra*.

sessions and assizes and required to enter more recognizances than from Prescott which had a leet, and a powerful leet at that. From Prescott, and apparently from Terling, too, misdemeanants were commonly not prosecuted at quarter sessions and assizes, unless they had committed particularly irritating offenses or had breached the patience of local officers with a history of numerous illegal acts, as the example of Evan Pike demonstrates.¹⁰³ Presumably, manors and boroughs not served by a leet exerted greater efforts to resolve disputes out of the formal court system, issued more warnings to correct behavior, and possessed greater tolerance of unconventional behavior. Further we cannot yet venture.

The unknown factor in much of the analysis in this article is the important role played by petty sessions, but their history in early Stuart Lancashire has yet to be written. There are only three references to quarter sessions, justices, or their warrants among the 10,328 charges of wrongdoing at Prescott and three other Lancashire leets, and none to petty sessions. For Prescott itemized seventeenth-century constable accounts have survived for only five years (1606, 1617, 1618, 1665, and 1683). Of the 270 entries for disbursements, 10 refer to privy sessions.¹⁰⁴ The churchwarden accounts of Prescott's eight-township parish are more complete, and records of disbursements are extant for twenty-four years between 1638 and 1663. Among the 1,918 entries, a minimum of 51 refer to petty sessions, 202 to quarter sessions and 60 to justices. These petty sessions must have provided cheaper, more local and possibly more flexible justice than did the quarter sessions and, consequently, contributed to the decline of leets. But the petty sessions were not necessarily as local as leets. While they may have been held, there is no evidence that petty sessions were held at Prescott during eighteen of those twenty-four years. Many monthly meetings of justices were held at Childwall, five miles from Prescott and others at Liverpool (eight miles away) and Warrington (ten miles). In contrast, the general quarter sessions were held at Ormskirk (fourteen miles away) or Wigan (sixteen miles). So, for those localities without a justice in residence or which did not each year several times experience the holding of petty sessions, the leet remained more local and cheaper.

In summary, research of the past twenty years has corrected the view that post-medieval leets were decadent and has demonstrated that many Tudor leets remained active and powerful. I have attempted to show that several early Stuart leets were also not "decadent", but still exercised jurisdiction over many misdemeanors and satisfied the desire and need for local, inexpensive, "neighbourly" justice. It is also apparent that leet officers possessed and employed considerable discretion about whether to prosecute alleged misdemeanants at either the leet or sessions or to warn individuals to discontinue their behavior or risk prosecution. To be sure, there were alternatives to prosecution at both

103. Wrightson and Levine, *Terling*, *supra* note 44 at 139.

104. References not clearly to petty sessions were included with those for quarter sessions or justices.

the leet and sessions. Still, when leet officers neglected their duties, drinking water might have become less sanitary, food sold at retail might have become less wholesome, highways more hazardous, alehouses noisier, residents more violent, and fewer accusations of alleged wrongdoing might have been submitted to the justices of the peace. Given the local character of early Stuart society and the dependence of justices upon inferior officers, courts leet were needful and useful.

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