THE NATURE AND FUNCTION OF THE MANOR COURT 1350-1700

submitted by

Mary Saaler

for the degree of Ph. D.

UNIVERSITY COLLEGE LONDON

January 1994
Abstract

The aim of the study is to analyse the records of three manor courts over a relatively long time-scale, with the object of identifying the changes which occurred in the nature and function of the manor court from 1350 until 1700. The principal source material consists of previously untranslated and untranscribed records of the view of frankpledge, or court leet, and court baron of the Surrey manors of Carshalton, Farleigh and Merstham, which lie 16-26 km. from London. Since the manors differ in their historical and geographical background, we can use this material to make comparisons and to identify broader regional trends.

Following a discussion of the history of the manors and the extent and compilation of the records, with the aid of a computer data-base, I have examined the functions of the view. These are defined as a) residence, b) supervision of trade, c) minor criminal offences, d) management of the environment and e) the procedures of payment, distraint and dispute settlement. This is followed by an assessment of the roles of officials, identified as tithingmen, ale tasters, constables and jurors. This leads to a discussion of the influence of external factors, such as the quarter sessions and parliamentary legislation.
I have similarly analysed the records of the court baron to show changes in property-holding, the role of the jurors and in procedures, such as dispute settlement, use of pledges and distraint.

By making this investigation, we can see the reactions of the community to social and economic factors as it developed from a medieval to an early modern society.
TABLE OF CONTENTS

GENERAL INTRODUCTION 8

1. HISTORICAL BACKGROUND 13
   CARSHALTON
   FARLEIGH
   MERSTHAM AND ALBURY

2. RECORDS 32
   CARSHALTON
   FARLEIGH
   MERSTHAM AND ALBURY

3. VIEW OF FRANKPLEDGE 42
   CARSHALTON
   I. Jurisdiction of the view
territory
   people
   
   II. Work of the view
   1) residence
      a) enrolment
      b) default
      c) keeping the watch
   2) supervision of trade and traders
      a) brewers and sellers of ale
      b) bakers and sellers of bread
      c) millers
      d) fishmongers
   3) minor criminal offences
      a) assault
      b) theft
      c) hue and cry
      d) disturbances of the peace
   4) management of the environment
      a) water
      b) enclosures
      c) roads
      d) bridges
      e) orders

   III. Procedures at the view
   1) payments
      a) residence
      b) supervision of trade and traders
      c) minor criminal offences
      d) management of the environment
   2) distraint
   3) settlement of disputes and use of pledges
I. Jurisdiction of the view

II. Work of the view
   1) residence
      a) enrolment and default
      b) common fine
   2) supervision of trade and traders
   3) minor criminal offences
   4) management of the environment

III. Procedures at the view
   1) payments
   2) distraint
   3) settlement of disputes and use of pledges

IV. Officials of the view
   1) tithingmen
   2) ale tasters
   3) constables
   4) jurors of the view

4. WHY DID THE VIEW OF FRANKPLEDGE DISAPPEAR? 263

5. COURT BARON 274

I. Work of the court baron
   FARLEIGH
   CARSHALTON
   MERSTHAM
   ALBURY

II. Procedures at the court baron
   1) enquiries
   2) distraint
   3) settlement of disputes and business between tenants
   4) pledges

III. Jurors of the court baron
   CARSHALTON
   FARLEIGH
   MERSTHAM
   ALBURY

6. ADAPTATION AT THE COURT BARON 437

7. GENERAL CONCLUSIONS:
   THE PROCESSES OF CHANGE 452
FIGURES

1. Surrey parishes and hundreds in 1832. 12

TABLES

1. Number of individuals mentioned in each 50 year period. 53
2. Total number of residents unsworn or withdrawn. 62
3. Average number of defaulters in each 50 year period. 64
4. Average number of brewers in each 50 year period. 77
5. Number of individuals charged with offences in each 50 year period. 94
6. Number of fines in each 50 year period. 163
7. Average fines. 163
8. Number of penalties in each 50 year period. 177
9. Use of distraint in each 50 year period. 181
10. Number of brewers in each 50 year period. 221
11. Composition of the jury of the view at Carshalton in each 50 year period. 261
12. Property transactions in each 50 year period. 278
13. Landholdings in acres (excluding woodland). 282
14. Inheritance transactions in each 50 year period. 287
15. New tenancies in each 50 year period. 287
<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>16</td>
<td>Proportions of free and customary tenants in Farleigh.</td>
<td>292</td>
</tr>
<tr>
<td>17</td>
<td>Distraint orders in Carshalton.</td>
<td>351</td>
</tr>
<tr>
<td>18</td>
<td>Distraint orders in Farleigh.</td>
<td>357</td>
</tr>
<tr>
<td>19</td>
<td>Distraint orders in Merstham.</td>
<td>359</td>
</tr>
<tr>
<td>20</td>
<td>Distraint orders in Albury.</td>
<td>361</td>
</tr>
<tr>
<td>21</td>
<td>Frequency of distraint orders.</td>
<td>361</td>
</tr>
<tr>
<td>22</td>
<td>Business between tenants in Carshalton 1350-99.</td>
<td>367</td>
</tr>
<tr>
<td>23</td>
<td>Business between tenants in Farleigh 1400-99.</td>
<td>377</td>
</tr>
<tr>
<td>24</td>
<td>Business between tenants in Merstham 1350-99.</td>
<td>382</td>
</tr>
<tr>
<td>25</td>
<td>Business between tenants in Merstham 1400-99.</td>
<td>384</td>
</tr>
<tr>
<td>26</td>
<td>Proportion of jurors to tenants.</td>
<td>417</td>
</tr>
<tr>
<td>27</td>
<td>Proportion of defaulters to tenants.</td>
<td>431</td>
</tr>
<tr>
<td>28</td>
<td>Proportion of tenants present at meetings.</td>
<td>433</td>
</tr>
</tbody>
</table>
GENERAL INTRODUCTION

The aim of this study is to examine the degree of change in the nature and function of the manor court in three Surrey manors over a period of 350 years. This work is based on the local records of Surrey manors; it does not produce a history of Surrey, but it provides an analysis of detail which allows us to compare changes in the social process in an area of Surrey in a way which may be relevant potentially to areas outside Surrey.

The individual manors are small enough for us to examine the history of each one and, when studied together, they describe patterns of change in the eastern part of Surrey. The manors of Carshalton, Farleigh and Merstham were chosen for this work principally because of the quantity of records available for each manor over such a wide time-scale, providing plenty of material for a comprehensive analysis. Because they also provide a variety of geographical environments, we can study the effect of location on the work of the manor courts.

The purpose of this enquiry is to assess the amount of change by examining closely the procedures of the manor courts and the actions of the people mentioned in the records. In order to examine the records objectively, I have compiled a computer data-base of names. Since the
compilers of the original records used names as a way of identifying individuals, I have followed a similar procedure. Individuals have been identified by name, date and manor, with further information about occupation, office-holding, property and inheritance. Where people held the same names, the compilers of the original records usually included additional information and defined them as 'senior' or 'junior', or by occupation or property. With the name as an identifier, all the events associated with that name have been listed. By using these procedures, we can accumulate information about ordinary people whose lives would otherwise be unnoticed.

There is no simple rule for the spelling of names; where modern standard spelling exists for names like Bolton, Henley and Miller, I have used the modern form. With some names there are so many variations that it is difficult to find a modern standard form and I have used the form which is most common in the records; for example, Dylcok, Fromond and Leycester. For the place-names I have used the spellings which are used at present, if the places can be identified. For places which cannot be identified, I have used the spelling which is most commonly used in the records.

As a way of dealing with such a large amount of information, I have separated the work of the manor court
into the two elements of a) the view of frankpledge, or court leet, and b) the court baron. The two elements had separate origins and had different functions, since the view was concerned with residents and the court with tenants. However, in practice, the two meetings frequently involved the same people. In some cases, the records of the two meetings were kept distinct and separate throughout the period, in other cases, the distinction was less clear. There is no surviving view of frankpledge for Farleigh, but the records of the court baron are very comprehensive.

I have looked at the roles of local officials to examine the degree of change. The roles of the jurors of the view and the court baron have caused particular problems. The Assize of Clarendon clearly defined the roles of juries in royal courts as a) juries of presentment and b) trial juries, with a clear distinction between the two roles. ¹ However, there is no evidence of such a distinction at the manor court where local jurors presented cases, held enquiries, and made decisions. In the absence of conflicting evidence, we have to assume that a group of jurors fulfilled all these roles. Putnam made a similar observation about the juries of the quarter sessions when she stated that the phrase *item presentant* covered a number of different, undefined procedures. ²
There have been many studies of the manor court; Maitland, in his late nineteenth-century studies of medieval manorial records, laid the foundations for twentieth-century interpretations of the manorial system. However, with a few exceptions, most later studies of the development of the manor court have concentrated on the medieval or early modern period and lacked investigation into long-term change.

References:
Figure 1.
Surrey Parishes and Hundreds in 1823

Surrey Parishes and Hundreds in 1823
1. HISTORICAL BACKGROUND

CARSHALTON

The parish of Carshalton lies on the north side of the North Downs, extending about 2km. from east to west and about 8km. from north to south, covering an area of almost 3000 acres. Because we have no estate maps for the manor of Carshalton, there is no evidence to show whether the boundaries of parish and manor coincided. There were clearly changes in the composition of the manor, as five pre-conquest manors were amalgamated into one by the time of Domesday and sometimes the manor included holdings in the adjoining manors of Morden, Sutton and Wallington. However, in spite of such changes, there was probably a rough correlation between the extent of manor and parish. ¹

Cemeteries along the North Downs, dating from the fifth and sixth centuries, are evidence for settlement in the early Anglo-Saxon period, while the charters of Chertsey Abbey refer to a grant of ten hides in Carshalton to the abbey, which was confirmed by Athelstan in the early tenth century. ²

The Domesday survey refers to a water mill in Carshalton, while the earliest forms of the place-name,
which appeared as Auueltone in the seventh-century charter and in Domesday as Aultone, contained references to water.³ The study of Surrey place-names suggests that it means 'a farm by the spring-head', with the word 'cress' being added at a later date, implying that Carshalton was once the site of a water-cress farm. Confirmation of watercress-growing is found in a thirteenth-century grant of a messuage in Carshalton 'cum kersenaria' - 'with a watercress bed'; furthermore, the Domesday reference to a mill shows that exploitation of the natural resources was already under way in the eleventh century.⁴ The medieval village grew up close to the water supply and spread east-west along the highway running between Croydon and Sutton. The Victoria County History refers to several strong springs which join to form a large tributary of the River Wandle, with the united stream forming the eastern boundary of Carshalton; at the present day the springs still supply water to large, clear ponds in the village itself, giving a total area of about 22 acres of water.⁵

The value of the water as a source of power for mills made the area attractive to religious establishments in Surrey, particularly Chertsey Abbey, Merton Priory and the Priory of St Mary Overy, later known as Southwark Priory, all of which held land and mills in Carshalton at
various times until the early years of the sixteenth century. 6

At the time of Domesday, the manor of Carshalton was held by Geoffrey de Mandeville, who also held two other Surrey manors, Clapham and Wanborough. 7 The overlordship of the manor descended through the Mandevilles to the Bohuns who married into the royal family and, by 1399, it had passed to the crown. 8

Although we cannot be certain about the boundaries of the manor of Carshalton, we can see that, by the time of Domesday, changes had already taken place in its structure, since Mandeville had granted one part of it to his son-in-law, Geoffrey de Boulogne. This part of the manor, which formed the chief part and was called Carshalton, passed to Geoffrey's grandson, Faramus de Boulogne, whose daughter, Sybil, married Ingram de Fiennes. The Fiennes held this share of the manor until the 1280s when William de Fiennes granted it to Sir William Ambesas. Manning and Bray in The History of Surrey refer to various documents of the reign of Edward III concerning this portion which show that, by 1374, it was held by Nicholas Carew who also acquired the adjoining manor of Beddington. 9 The holding continued with the Carews, or their relations, passing through the female line. John Iwardby had married Sanctia, one of
the daughters of Nicholas Carew and, in this way, acquired the lordship of Carshalton. He was a JP and became a knight of the bath in 1501. He and his wife lived at Fitznells in Ewell, about 5km. to the west of Carshalton, which provided Iwardby with a 'pleasant manor-house and groves and a paddock for his horses'. When he died in 1523, the manor passed to his daughter Joan who married John St John. The St Johns retained the manor until 1580, when it passed to Richard Burton, whose family kept part of the manor but sold a share of it to Walter Cole in 1590. The two parts were bought and sold numerous times, often by London lawyers, until Sir William Scawen, a wealthy merchant and a governor of the Bank of England, re-united both parts of the manor by buying one part in 1696 and the other in 1713.

The other portion of the Mandeville manor had a similar history and was held by a series of undertenants who did fealty at the manor court for their tenements. Among these was the Coleville family which, in the thirteenth century, obtained the grant of a weekly market on a Tuesday and an annual fair for three days at the beginning of September. Manning and Bray considered that this share of Carshalton was probably the manor or estate later known as Stonecourt, which was held by the Gaynesford family from about the mid-fifteenth century until the mid-sixteenth century. This part was also
subdivided and sold numerous times until it was acquired by Thomas Scawen in 1729. A third estate, or so-called manor, the manor of Kinnersley, which consisted of land in Carshalton and the adjoining manors of Morden, Sutton and Wallington, passed through various hands and was also acquired by the Scawens in 1696.  

From these transactions we can see that the manorial history of Carshalton was a process of fragmentation and subdivision over about 650 years, followed by eventual re-unification under the Scawens in 1729. The high intensity of transactions concerning the manor may have resulted from its proximity to London, which made it an attractive and convenient place for country residence by wealthy Londoners. Meekings, in his discussion of the value of the hearth tax records of the 1660s as a social document, stressed the uneven distribution of population through the county of Surrey, stating that the influence of London was particularly obvious in the large villages north of the North Downs, like Carshalton and Clapham, 'where there were many houses of the sort which came to be called villas in the next century', and he compared these with the scanty population of the settlements on the eastern North Downs, such as Farleigh and Chelsham.  

12

13
resources

As well as being an attractive place for residence, Carshalton had other aspects which encouraged settlement, principally a variety of soils and a good water supply. The earliest available statistics, compiled in 1801, provide evidence for the size, population and agriculture of Carshalton. In an area of almost 3000 acres there were 1449 inhabitants, making it the most densely inhabited area in this study. The crop returns for the same year show that 436 acres were used for wheat, 242 acres for barley, 275 acres for oats and almost 200 acres for a mixture of potatoes, peas, beans, rape, turnips and rye, leaving the largest element of about 1800 acres for other uses. While it is impossible to be specific about the 'other uses', there were areas of pasture and common grazing land, some of which were used for horse-racing; the southern area of Carshalton included part of what is now called Epsom Downs. In addition, the fertility of the soil made it suitable for gardens and orchards. John Evelyn, writing in the seventeenth century, described Carshalton as 'full planted with Walnuts and Cherry trees, which afford a considerable rent'. Fuller, too, commented on the walnuts and added that the fine timber was used for both furniture and gun stocks. The emphasis on cherries and walnuts may explain the references in the records of the
court baron to the orchards and gardens which adjoined some of the houses.

While Evelyn and Fuller mentioned the orchards, John Aubrey referred to the water supply in Carshalton, commenting on its many springs and fish ponds.\textsuperscript{17} This water supply, usually known as the River Wandle, also provided the basis for industrial development and employment for the local population. Evidence for the intensive industrial use of the river can be found in a report of a royal commission in 1609 which proposed to divert a tenth of the flow to supply water to London through a system of canals, tunnels and pipes. At that time there were 24 corn mills on the Wandle and in Carshalton in particular there were three corn mills, two fulling mills and a gunpowder mill. Because of this heavy usage, millers had difficulty in maintaining a head of water and the plan to divert some of it to London was abandoned. One of the arguments put forward against the proposal provides evidence for close trading links with London - the millers declared that since the Wandle never froze, they could continue to supply London with corn even when the Thames was frozen over. So, the water supply in Carshalton was undiminished and the mills were used to produce gunpowder, sheet copper, linseed oil, drugs, snuff, paper and leather during the seventeenth and eighteenth centuries.\textsuperscript{18}
References:

5. VCH. *Surrey*, 4, pp. 178-9.
6. Ibid.
8. VCH. *Surrey*, 4, p. 181.
12. Ibid., pp. 511-12.
15. de Beer, *The Diary of John Evelyn*, 4, p. 16.
18. VCH. *Surrey*, 4, p. 254.

FARLEIGH

The manor of Farleigh is situated on the North Downs about 24km. to the south of London; an estate map of 1768 shows that it was a relatively small manor, covering about 1051 acres. The map also shows that the boundaries of manor and parish coincided at that date - a situation which existed until the later years of the twentieth century when the parish was amalgamated with Chelsham and Warlingham.
The first documented reference to Farleigh is found in a ninth-century charter when ealdorman Alfred, described as dux, granted land in Fearnlega to a certain Eadred in return for the payment of 30 measures of corn to the monks of Rochester. 2 At the time of Domesday the manor, like many others in Kent and Surrey, was held in overlordship by Richard de Clare. Farleigh, together with the adjoining manor of Chelsham, was held of the Clares by Robert Watville, who was a major tenant of the Clares. 3 The Clare overlordship lasted until the death of Gilbert de Clare in 1314, when it passed by marriage to the Despensers who retained it until 1375 when the overlordship lapsed. The Watviles continued to hold the lordship of Farleigh but, by the middle of the thirteenth century, William Watville had granted his manors of Farleigh and Malden to Walter de Merton, chancellor to Henry III. 4 (Malden lies in Surrey about 18km. to the north west of Farleigh). In 1264 Gilbert de Clare gave formal approval to the transfer, allowing the revenues from the two manors to be used to support an establishment in Malden, run by a warden and priests. It was their responsibility to provide income from the manors of Farleigh and Malden to pay for the education of 20 poor scholars at a university. 5

It was not until 1274 that this establishment moved to Oxford after Walter de Merton had acquired a building
there which was suitable for scholars. He then combined the two elements of teaching and administration in one building and called it Merton College. He also laid down the statutes for governing his foundation. He later acquired other manors to provide revenue for his college, including a third Surrey manor, called Thorncroft, at Leatherhead.

Following the instructions laid down in the founder's statutes, the Merton manors were under the direct control of a warden, and he, or some of his officials, were required to visit the manors at regular intervals. Evidence for their visits is found in the account rolls of the various manors which listed the expenses of the warden and his officials. On their visits to Farleigh, they stayed at the manor-house there. In compliance with the same statutes, the local official, or serviens, rendered his accounts annually to the bursars and fellows of the college. The affairs of the tenants were managed at the court baron where a steward appointed by the college presided over the meetings. Evidence from the thirteenth-century rolls shows that at that date the same steward was responsible for all three Surrey manors. The lordship of the manor has remained unchanged since the thirteenth century and, in the 1990s, the college is still the largest landholder in Farleigh.
The earliest available population numbers for Farleigh were given in 1767 by the Rev. Joseph Kilner who, after serving as bursar at Merton College, retired to Farleigh and became rector there. He described his parish as 'very small and retired', containing about 20 families consisting of 94 individuals, 18 of whom were in the manor-house. Kilner's population figure of 94 individuals is corroborated by the census returns of 1801 which recorded 95 inhabitants - a population density which remains the same in the 1990s.

Kilner commented that the parish covered about 1000 acres, with about 300 acres being planted with corn and about 400 given over to pasture and hay crops. His figures are supported by the crop returns for 1801 which show that at that date 321 acres were used for the production of wheat, oats, barley, turnips, peas and potatoes, with the remaining 700 acres being divided between pasture and woodland. The account of Farleigh given in the *Victoria County History* in 1912 suggests that, because of its situation on the North Downs, where the chalk is capped with a mixture of brick earth, clay and gravel, the soil is not particularly fertile, with the result that a considerable amount of land was used for woodland. From these post-1700 studies, a general
picture emerges of a small manor with a low density of population, dependent on a mixed economy of arable, pasture and woodland, continuing the pattern which had been established in the medieval period.

References:
1. MM 4901.
2. VCH. Surrey, 3, pp. 281-2.
8. VCH. Surrey, 4, p. 450.

MERSTHAM AND ALBURY

In contrast to Carshalton and Farleigh, the parish of Merstham lies on the southern side of the North Downs, extending for about 3km. from east to west and about 5km, from north to south, occupying about 2000 acres. The earliest reference to Merstham occurs in a charter of Chertsey Abbey of 675 which recorded a grant of 20 hides of land in Merstham to the abbey. In addition to the Chertsey material, there is a diploma of 947 by which Eadred, king of Wessex, granted 20 hides in Merstham to his minister, Oswig. Because this document included a perambulation of the boundaries of the territory held by...
the grant, we can see from a study of the place-names that the boundaries of 947 corresponded roughly to the boundaries of the parish, as defined by the tithe map of the 1840s. This suggests that the boundaries of manor and parish were virtually the same. The medieval village of Merstham developed in the centre of the parish on the upper greensand at the foot of the chalk escarpment of the downs, close to an abundant spring and on the main highway between the towns of Croydon and Reigate. A grant of weekly market and annual fair was recorded in 1338. Both the Chertsey Abbey charter and the diploma referred to Merstham having woodland pastures outside its boundaries. The diploma allows us to identify these as lying in the parish of Horley at Petridgewood, Great and Little Lake Farms and Thundersfield, an area which lies about 6km. to the south of Merstham.

The records of Canterbury Cathedral show that, in 1018, Archbishop Athelstan granted Merstham to the convent and priory of Christchurch, Canterbury, and by the same grant he also gave the Surrey manors of Cheam and Charlwood to Christchurch. The Domesday survey recorded that the archbishop held Merstham, 'for the clothing of the monks' of Christchurch, and Cheam 'for the supplies of the monks', while Charlwood was not included in the survey. In the later eleventh century, Lanfranc organized a division of the archbishop's property, retaining some for
himself while granting the manors of Merstham, Charlwood and Cheam to Christchurch, with all three being administered from Merstham. As a result of the organization, the prior of Christchurch was responsible for the practical administration of the Surrey manors. There was a further change in the late thirteenth century. By 1285 the manor of Cheam was divided into the two estates of East and West Cheam, with East Cheam being held by the archbishop and administered from his court at Croydon, while West Cheam remained with Christchurch and was administered from Merstham.

In contrast to Cheam, the manor of Charlwood lay in the wealden forest, about 13 km. south west of Merstham. As well as providing extensive woodland, Charlwood also contained ironstone. The importance of the iron is shown by a fourteenth-century lease of the manors of Merstham and Charlwood, which reserved the right of iron extraction for the prior and convent of Christchurch.

In addition to these two manors, the court at Merstham was responsible for the administration of the tithing of Erbridge from at least 1388 until the 1520s. An estate map of Horley dated 1602 shows the location of Erbridge Street and an area called Erbridge lying close to Great and Little Lake Farms, while place-names in the Merstham records reveal that Erbridge extended northwards from
Thundersfield at least as far as Salfords. This evidence suggests that the tithing of Erbridge represented the woodland pastures which were included in the grant of 947, when they were described as Petridgewood (which lies on the northern side of Salfords), Great and Little Lake Farms and Thundersfield. The northern boundary of the area defined as Erbridge lay 6km. to the south of Merstham in the wealden forest, where it was criss-crossed by tributaries of the River Mole. Much of the forest area was divided up into the woodland pastures of manors which lay to the north, including Merstham and Cheam, an arrangement which led Blair to describe it as 'a bewilderingly complex patchwork of outliers'.

All these manors, together with the tithing of Erbridge, were held by Christchurch until the Dissolution caused the break-up of the Merstham manors. Both Merstham and Charlwood passed to Sir Robert Southwell, Master of the Rolls, who leased out Charlwood, which then ceased to be included in the Merstham records. East and West Cheam were combined into one manor, becoming part of the honour of Hampton Court, and like Charlwood had no further representation at the Merstham court. An estate map shows that Erbridge had become incorporated into the manor of Horley by the early seventeenth century. Merstham itself was held by the Southwells until 1569 and then passed to the Copley family. In 1608 it was
acquired by John Hedge, whose family retained it until 1678 when it passed to Sir John Southcote. Eventually, in 1788, the manor was purchased by William Jolliffe, whose descendents retained it until the twentieth century. 11

resources

Manning and Bray, writing at the beginning of the nineteenth century, emphasised the contrast between the northern and southern areas of the parish, which was almost equally divided by the chalk escarpment of the downs. They described the northern part, consisting of clay-with-flints, as difficult for cultivation but 'under skilful husbandry, productive of much excellent corn', while the southern area contained clay, sand and good agricultural land. They also commented on the meadows which were famous for their excellent hay, stating that 'formerly beasts of great weight were fed here', and they noted the absence of woodland. 12

The crop returns for 1801 suggest a similar picture, since they reveal that about half the acreage of Merstham was given over to the production of oats, wheat, barley, potatoes, peas and turnips. This leaves about half the area unaccounted for, but much of this was probably used for grazing, as suggested by Manning and Bray. 13
The importance of Merstham, however, lay in its position on the upper greensand, where stone may have been quarried during the pre-conquest period. Although Domesday contained no reference to stone quarries in Merstham, the adjoining manor of Chaldon provides the first definite evidence for stone-working in the same rock stratum, as it was assessed for two quarries (due fosse Lapidum). The lease of the manors of Merstham and Charlwood made in 1396, which reserved the right to extract iron in Charlwood to the prior and convent of Christchurch, imposed a similar condition in Merstham, where two stone quarries were reserved for the use of the prior and convent. Because the quarries at Merstham were the nearest source of building stone to London, the stone was used extensively there from the middle ages onwards. Its quality as freestone, which has virtually no grain and splits fairly easily in all directions, made it suitable for decorative carving and it was used particularly for royal and ecclesiastical buildings, generally for interior work. In the thirteenth century it was used for the royal palace at Westminster and in the fourteenth century it was taken to Windsor Castle, St Paul's Cathedral and London Bridge.

In spite of its poor resistance to weathering, the stone was widely used until the twentieth century because of its proximity to London and the ease with which it could
be worked. From the time of the Industrial Revolution it was also used as a refractory to line furnaces because of its ability to withstand the effects of heat. After William Jolliffe acquired the manor of Merstham in 1788, he was instrumental in promoting a plateway, known as the Croydon, Merstham and Godstone Iron Railway. This formed a southern extension to the Surrey Iron Railway, which provided a track for horse-drawn waggons. Jolliffe's aim was to transport building stone and lime from Merstham to London. The extension was opened in 1805 but the venture was not a financial success, chiefly because there was insufficient return traffic; it was later replaced by railways for steam locomotives. 17

Evidence in the court rolls of Merstham suggests that the quarries lay within the manor and parish of Merstham on an estate or manor of about 400 acres, known as Albury. From the beginning of the fourteenth century Albury was held on lease as a separate tenement within Merstham and, by the mid-fourteenth century, it was held by Fulk Horwood, a citizen of London. In about 1472-3 Albury was conveyed to John Elmbridge, whose second wife, Anne, was the daughter of John Prophete. Members of the Prophete family had been concerned with working the stone since at least 1360, when two of them were managing the quarries and were ordered to supply stone and workmen for Windsor Castle. 18 In the early sixteenth century, Albury passed
to John Elmbridge, grandson of John Elmbridge senior, but he died as a child, and it then passed to John's elder sister, Anne, who later married her guardian, John Dannet. In this way, Sir John Dannet, of Dannet Hall in Leicestershire and a citizen of London, acquired the estate or manor of Albury. Monuments to the Prophètes, Elmbridges and Dannets in St Katherine's Church at Merstham are evidence of their local involvement in the area. By 1579, the Dannets had transferred the manor to John Southcote, a judge of the queen's bench. The Southcotes also acquired the manor of Merstham in the mid-seventeenth century and, from then on, the two manors were held jointly.¹⁹

References:
5. Morris, *Domesday Surrey*, 2.3; 2.2.
2. RECORDS

The documents can be grouped into two categories, being the records of a) the view of frankpledge or court leet and b) the court baron, which, when combined, form the records of the manor court. Where both categories of documents exist for a manor, we can see that the records of the court baron and the view were generally written on the same roll on the same occasion. An alternative form of document was used at Merstham on a few occasions in the early fifteenth century, when elements of the court baron and the view were combined under the heading of court general.

A few additional documents have survived which allow us to see some of the processes used in constructing the record. These include a few draft copies which were made shortly beforehand for use during a meeting and then copied to produce a final version. On the rare occasions where both draft and final copies have survived, it is possible to compare them showing that, although minor alterations were made to produce the final version, there were scarcely any differences of fact. For Farleigh, in particular, extra documents have survived in the form of preparatory agenda and memoranda compiled by jurors of the court baron and subsequently incorporated into the final version.
A lease of the manor of Merstham made in 1396 reveals how the court records were stored there; the lease included an inventory of the contents of the manor-house and stated that in the chapel there were two chests which held the court rolls. ¹

Latin was the usual language of the records and, prior to 1650, the use of English was normally restricted to short items of business which applied to the general population or to descriptions of property which did not easily fit into Latin. However, during the period of the Commonwealth, English, in easily legible handwriting, was made compulsory and among the acts and ordinances of the Interregnum was a statute of November 1650 'for turning the Books of Law into English, whereby --- all Proceedings of Courts Leet, Courts Baron and Customary Courts shall be in the English tongue only. And that the same shall be written in an ordinary, usual and legible Hand and Character, and not in any Hand commonly called Court-Hand'.² The effect of this legislation can be seen in all three manors during the 1650s with the introduction of English and a cursive style of hand-writing, but they mostly reverted to Latin after the Restoration, with English being used occasionally for explanation.
References:


CARSHALTON

For the manor of Carshalton, ten rolls of documents have survived which were originally numbered 1-9, as roll 2 was apparently missing at the date when they were numbered. They extend from 1359 until 1700, although an undated document from the reign of Edward III may be slightly earlier. They consist of 184 records of courts baron and views of frankpledge or courts leet, which are lodged at the Sutton Heritage Centre and classified as P5/1-10. 41 of these records were transcribed by Powell and were published in Latin by the Surrey Record Society in 1916, while I have transcribed the remainder. In addition to the court rolls, two rentals of the mid-fifteenth century provide information about the tenants and their property and two bundles of papers of nineteenth-century date contain evidence for the procedures of the court.

When a meeting of the court baron and the view was held at the same time, the records of each were written consecutively and kept together on the same, or following, sheet; this changed in the late seventeenth
century when there were meetings of the courts baron only. Parchment was used for the majority of records; the few written on paper are in a poor state of repair and are undergoing conservation treatment.

Roll 1, covering the period 1359-1505, consists of 41 sheets, which were stitched together at the top, but not in chronological order. This roll includes a draft copy of the record for May 1484, which was written on paper, together with the final version on parchment. There are relatively few differences between the two versions and insertions above the line on the draft copy were included in full in the final version. There were slight variations in the spelling of names; for example, 'White' was changed to 'Whyte' and 'Crystmas' was changed to 'Cristmasse'. In addition, an assault with a piece of wood, 'cum uno chip', was rendered into less colloquial Latin as 'cum una assula'. These minor differences in detail show that very little was changed in the final versions. Although there is no direct evidence to show when the drafts were made, they were probably drawn up beforehand to form an agenda. Using this as a basis, alterations and additions were made either during the meeting or soon afterwards and the revised text was copied to form the final version. For the later period from 1526 onwards, the records are in a better state of
preservation and generally have a more organized appearance. We can see that batches of documents were copied on to similar-sized pieces of parchment and, although different styles of hand-writing were used, they tend to be clear and reasonably legible. The effect of employing professional lawyers as stewards may have resulted in better-organized records and, in this context, it is interesting to note that Edward Thurland, who was a member of the Inner Temple, member of Parliament for Reigate and solicitor-general to the Duke of York, later James II, was steward of the manors of both Carshalton and Merstham during the mid-seventeenth century.  

There is evidence in the Carshalton records for the use of the court rolls by later generations to prove title to property. Some items of business, particularly those which were needed to settle a dispute, were marked with a dot, a cross, or a pointing hand as reference points, and an early nineteenth-century document lists the scale of fees for 'searching court rolls'.  

References:
1. Powell, *Carshalton Court Rolls*.
4. P5/1.41.
5. Bax, 'Members of the Inner Temple', p. 34.
FARLEIGH

For the manor of Farleigh, the earliest surviving records date from 1278 and, for the purpose of this study, the court rolls from 1351 until 1700 have been analysed. These consist of 82 meetings of the court baron, with the addition of a court roll of 1329 and a rental of 1335, which provide information about population numbers in Farleigh before the Black Death. Other documents include manorial accounts, an enquiry and jurors' presentations. The records are kept at Merton College, Oxford, classified as MM 4928-55, and print-outs from microfilm were made available for this study.

There are no records of the view for Farleigh among the archives at Merton College, as the right to hold the view was not vested in the lord of the manor. It is likely that the view for Farleigh was incorporated into the sheriff's view of frankpledge for the hundred of Tandridge, although no documents have apparently survived.

For Farleigh the record of each meeting of the court baron was usually written on one or two pieces of parchment and most of these were kept as loose sheets. Unlike those for Carshalton, the records are not evenly
spread throughout the period and there is very little material available for the sixteenth century. This lack of documents is not unique to Farleigh as the two other Merton College manors in Surrey, Malden and Thorncroft (Leatherhead), have a similar gap, and at the Merton College manor of Kibworth Harcourt in Leicestershire, only 27 meetings took place between 1500 and 1611. ¹

For the seventeenth century, the Farleigh records include informal documents, mostly in English, consisting of lists of jurors, jurors' presentments and memoranda; this kind of material was generally discarded after the meetings and the survival of it enables us to investigate the procedures involved in the work of the court.

References:

MERSTHAM AND ALBURY

For the manor of Merstham, the documents survive in large quantities as they include other areas of Surrey which were administered from the court at Merstham. In total, they consist of about 200 meetings of the view of frankpledge and the court baron and, because the business of the Merstham court was concerned with the
whole area under its jurisdiction, the entire group of manors or districts has been included in this study.

Two rolls for Merstham and its associated manors of Charlwood and Cheam, together with the tithing of Erbridge, which date from the second half of the fourteenth century, have been deposited at the Public Record Office in the class SC2 204/66-7. The rest of the material is held at the Somerset Record Office catalogued as DD/HY. Box 27, where it was deposited by Lord Hylton, a descendant of William Jolliffe who had acquired the manor of Merstham in 1788. These consist of four rolls for Merstham and its other districts from 1402 until 1523; one roll for Merstham only, dating to the mid-seventeenth century, one eighteenth-century roll for the manor of Chipstead, which includes meetings of the Merstham court leet in 1705 and 1708, and two rolls for the manor of Albury. 1

As so much Merstham material has survived, a selection of 47 records has been transcribed for this study, to provide comparison with Carshalton and Farleigh. The Merstham records began in 1364 and show a pattern similar to that seen in Farleigh, with very little material available for the sixteenth century and no documents at all for the period 1524-1646. To cover this gap, I have looked at the records of the court
baron for the manor of Albury 1537-1681. Albury was part of the manor of Merstham and the business of its court involved many of the same people as the Merstham court, even to the extent of having the same steward (Edward Thurland) in the period when both manor courts were recorded. The Albury documents are particularly valuable since they include additional material in the form of rough drafts on paper, lists of jurors and rentals. With the exception of the rough drafts on paper, the records are on parchment and are generally in a good state of preservation.

By studying the documents of all the manors, we can see changes in the form of the records over 350 years. The earlier documents were brief, usually consisting of simple statements written in highly abbreviated Latin. However, there were differences between the manors. For example, in Merstham there were distinctions between the two types of record throughout the entire period of this study. In Carshalton before the sixteenth century there was very little distinction between the records of the view and the court baron but, by the sixteenth century, the distinction between the two types of business was clearer and the records were more clearly presented. The headings were more conspicuous; there was standardisation in size and form and occasional use of English. In the seventeenth century English was used for a short time,
usually as a translation of the Latin used previously. In Farleigh there was a contrast between the notes in English compiled by the jurors and the final version, usually in Latin. The chief feature of the seventeenth century was an increase in legal terminology. The records were longer and contained repetitive, formulaic phrases reflecting the professionalism of the lawyers who were stewards of the courts.

I have consulted parish records, mainly the parish registers. For Carshalton and Merstham they date from the 1530s but the register for Farleigh does not survive for before 1679. I have also used published churchwardens' accounts. As well as local records, I have consulted documents not directly related to the parish. These include the records of parliamentary legislation, which affected the manor court throughout the period of this study, and the pardon rolls of the fifteenth century, which provide extra information about the identity of individuals. I have used published records of the Surrey assizes and quarter sessions for the sixteenth and seventeenth centuries, while the hearth tax returns have provided information for the later seventeenth century.

References:
1. DD/HY, Box 27. Chipstead Roll 4. The manor of Chipstead adjoins Merstham on the north west.
3. VIEW OF FRANKPLEDGE

When lords of the manor were acquiring the right to hold their own views of frankpledge during the later medieval period, they were both adopting and expanding a system of keeping the peace which had originated in pre-conquest England. As a way of maintaining law and order within the local community, they were continuing to use a method of collective responsibility which had placed the onus for keeping the peace on the smallest territorial or numerical unit in the Anglo-Saxon administrative system - the tithing.

We can trace the history and development of the view of frankpledge through the laws of the Anglo-Saxon kings, beginning in the first half of the tenth century with the laws of Athelstan, which stated that men were to be part of a group of ten, or tithing, with one man in charge of the other nine, 'for the common benefit'. The same ordinance established a meeting where those in charge of the hundreds and tithings should assemble once a month on a convenient occasion, dine together and assess how the policing duties and the imposition of fines on offenders was being carried out. ¹

The laws of the Anglo-Saxons also show how the link between the identity of individuals and their location
within a tithing became the basis of the peace-keeping system. The laws of Cnut illustrate the importance of this link between identity and residence by defining membership of a tithing - they stated that every free man over the age of twelve should be placed in a hundred and tithing since, without such enrolment he would not have the rights of free man.² The system of tithings, which had evolved under the Anglo-Saxons, continued in use after the conquest and, by the twelfth century, the sheriff presided over twice-yearly meetings of the hundred court which incorporated a procedure known as the view of frankpledge. These meetings were attended by the officials of the hundred, with tithingmen representing their tithings.³ The maintenance of law and order within the hundreds and tithings formed the agenda of the view.

Bracton's description of the hundred court in the thirteenth century illustrates the business of the view as the sheriff made his twice-yearly tour, or turn, through all the hundreds of the county and presided over the meeting. It involved the following procedures: a) holding an enquiry to ensure that all males over the age of twelve were enrolled into a tithing, b) obtaining information against suspected criminals and c) imposing fines as punishment for minor offences.⁴
However, changes gradually took place as additional types of business came before these meetings; these included collection of the common fine, which contributed to the financial costs of royal justice, the supervision of certain trade and traders, and ensuring that the watch was kept and strangers detained.

While the hundred court continued to deal with the upkeep of law and order on the king's behalf, during the medieval period and later, lords of the manor either annexed or purchased from the king the right to hold a private view of frankpledge for their own manors and the tithings within them. As we might expect, they used the system which was already established for the hundred court and held a meeting twice a year to establish the identity of residents and punish petty offenders. There were perhaps two main advantages in holding a private view of frankpledge: a) the lord gained income from the fines and had greater control over his tenants and b) the tenants had items of business settled locally and relatively quickly.

By comparing the records of the manorial view with Bracton's description of the hundred court, we can see how closely the agenda for the view in private courts was based on the form used in the hundred court. In addition, manuals or court keeping guides, drawn up to

- 44 -
assist officials who had the task of organising meetings of the lord's court, provide further evidence for patterns of agenda. Maitland and Baildon, in their study of the court baron, have presented four of these treatises, described as 'precedents for court keeping'.

The second of these treatises, which has been dated to the 1270s, listed the items which might be on an agenda for a meeting of the manorial view. It began with a check to ensure that all residents were enrolled into a tithing, then noted the names of defaulters, and went on to regulate the prices of bread and ale. The manual then set out further subjects for enquiry which related to the maintenance of order within the community. It defined the range of business as: raising the hue and cry; shedding of blood; changes to watercourses, walls, ditches and roads; harbouring strangers and criminals; keeping the watch; noting the state of repair of bridges, causeways and roads; and any other items which may have arisen. A study of both the court keeping guides and the records of the manorial view show that the subjects for enquiry were already standardised to a certain extent by the thirteenth century and can be grouped into four main sections: a) a check on residents and strangers, b) control of prices, c) minor criminal offences and disputes, including raising the hue and cry, and d) management of the environment.
The pattern for holding a view was standardised further by a statute, probably pre-1327 in date, which again set out the agenda for a meeting of the view, beginning with an enquiry about residents and defaulters, then going on to deal with encroachments, hedge-breaking, boundaries, blocking of roads and watercourses, theft, the hue and cry, bloodshed, counterfeit money, treasure trove, the price of bread and ale, the use of false weights and measures, idlers, traders living outside the towns and therefore outside local price controls, sanctuary, release of prisoners on bail and taking pigeons in winter. The articles of enquiry covered the same categories of business as set out in the manual of the 1270s, but included more detail, and this appeared to be the pattern of usage, with each view having common elements, but showing differences in detail. These differences, which grew out of adaptation to different circumstances, are illustrated further by a court keeping guide compiled for the use of officials of St Alban's Abbey in about 1340, which included additional items relating to fishing, poaching, theft of corn at harvest-time, usury, butchers selling stolen animals and the unshoeing of horses and selling the shoes.

In the course of time, the name of the meeting was changed and it was sometimes called the court leet (curia leta). At various times, the two titles of view of
frankpledge and court leet were used together, clearly showing that the two names referred to the same meeting. The title 'court leet' appeared to originate in Norfolk in the thirteenth century and Cam quotes the example of the bailiff of the royal hundred of South Erpingham in Norfolk being ordered to hold 'all the leets' in the hundred twice a year. 9 The usage spread throughout the rest of the country and was well established by the fifteenth century. In the sixteenth century the title was incorporated into parliamentary legislation where it was used to distinguish meetings of the view from the court baron, which dealt principally with matters relating to the lord's property and tenants.

From the late fourteenth century onwards, parliamentary statutes extended the work of the view by making it responsible for prohibiting unlawful games, for promoting archery, for controlling the number of cottages being built (by enforcing a land allocation of four acres for each dwelling), for restricting the number of lodgers and for reducing drunkenness. 10 Holdsworth saw the manorial view of frankpledge in the early modern period as a court in decay, irrelevant to changing circumstances and being unable to cope with the increased complexities of local government because it could punish offenders with fines, not imprisonment, and because it lacked the powers to enforce punishment. 11 However, McIntosh, in her study
of Tudor courts in Essex, has shown how, in the face of increasing parliamentary legislation, the view played an important part in coping with the social and economic problems caused by a rising population and poverty and dealt with shortages of common land, hedge-breaking, lack of sanitation and deficient water supplies.\textsuperscript{12}

The continuing importance of the view in dealing with social problems can be seen in statutes of the seventeenth century. For example, in 1630, a statute directed stewards of lords and gentlemen to ensure that views or leets were held twice a year and it listed the following items of enquiry: the price and weight of food, thieves, idlers, non-residents, builders of cottages without the statutory four acres, taking in lodgers, keeping the watch, and apprehending rogues and vagabonds, all with the object of promoting safety and good order.\textsuperscript{13}

The repeated publication of court keeping guides helps to confirm the importance of the function of the view and, as an example of one of these, John Norden's \textit{The Surveyor's Dialogue}, which is an excellent source of information for the management of the court in the seventeenth century, ran to three editions.\textsuperscript{14} The basic categories for investigation in the seventeenth century were very similar to those set out in the agenda.
for the thirteenth century as a system for maintaining order; the chief difference lay in the scale and extent of the business. Evidence for this occurs in a statute of 1603-4 which referred to the increasing amount of business coming before the courts 'because of the great increase of people'. Although legislation and social conditions had made the work of the view more complicated, stewards who presided over the meetings were usually lawyers, well-equipped to deal with the complexities of legislation. The same statute also provides evidence for the profitability of meetings of the view — it attempted to restrict the excessive profits from fees that stewards were making when they imposed heavy fines on greater numbers of residents, 'out of a greedy desire to obtain undue and extraordinary gains to themselves'.

At the time of the Restoration, when many posts were still vacant, temporary officials were appointed to oversee the business of the view until the processes returned to normal. This action suggests that the holding of courts was the rule rather than the exception but, after the Civil War, meetings were held less often and the agenda changed, becoming little more than a list of residents and a record of the names of officials. This, to a certain extent, bears out Holdsworth's observation about Tudor and Stuart courts being in a
state of decay. By studying the records of Carshalton over 350 years and comparing them with the records of Merstham, we can consider the extent of change there in the function of the view.

References:


- 50 -
CARSHALTON

I. Jurisdiction of the view

In considering changes in the nature and function of the view of frankpledge in Carshalton, we should first examine the extent of the territory and then the number of people that came within its jurisdiction.

territory

As we have seen in the Anglo-Saxon method of keeping the peace, the tithing was the smallest unit in the system. 1 The territorial basis of the view of frankpledge becomes evident from later records when lords of the manor gained the right to hold views of frankpledge for their own manors and the tithings that lay within them. For example, in 1448 Nicholas Carew, lord of the manor of Beddington, which adjoined Carshalton, contracted to pay the king a yearly sum of 6s 8d in return for the right to hold 'the king's leet' in Beddington and Bandon. 2 The records of these courts show that the area coming within the jurisdiction of the view at Beddington corresponded to the area of the manor and consisted of at least three separate tithings, some at a distance of about 10km. from Beddington. 3
Evidence from the assize rolls shows that in Carshalton the lord's right to hold the view was acquired much earlier than in Beddington and Bandon. In 1279 William de Fiennes claimed the right to hold the view for the manor, saying that it had descended to him from his ancestors. The area within the jurisdiction of the view was established in 1392 when an order was issued to erect 'metes and bounds' as a means of identifying the extent of Carshalton. Because there are no estate maps for the manor, we can only guess that the boundaries enclosed an area of almost 3000 acres, which was the extent of the parish in 1801. This area was represented by five tithingmen until the mid-fifteenth century when the number fell to four and, from 1510 onwards, there were just two tithingmen. While one tithingman was responsible for a tithing in the adjoining manor of Sutton in the early sixteenth century, there is no other evidence to show that any tithingman was responsible for a particular area of Carshalton.

people

In contrast to the extent of territory, which probably changed in minor ways, the numbers of people coming within the jurisdiction of the view probably changed throughout the period of the records. Our only evidence for the number of residents in Carshalton comes from the
documents themselves. These are admittedly biased since they were concerned predominantly with adult males. However, by using the combined records of the court baron and the view of frankpledge, we can arrive at an average number and maximum number of individuals, mostly adult males, who were mentioned in each period of 50 years, as shown in Table 1.

Table 1. number of individuals mentioned in each 50 year period:

<table>
<thead>
<tr>
<th>date</th>
<th>average number</th>
<th>maximum number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1350-99</td>
<td>55</td>
<td>82</td>
</tr>
<tr>
<td>1400-49</td>
<td>58</td>
<td>81</td>
</tr>
<tr>
<td>1450-99</td>
<td>47</td>
<td>52</td>
</tr>
<tr>
<td>1500-49</td>
<td>43</td>
<td>60</td>
</tr>
<tr>
<td>1550-99</td>
<td>50</td>
<td>61</td>
</tr>
<tr>
<td>1600-49</td>
<td>54</td>
<td>99</td>
</tr>
<tr>
<td>1650-99</td>
<td>66</td>
<td>96</td>
</tr>
</tbody>
</table>

While average figures provide useful comparative material, they mask the effects of particular events - as in the case of the second outbreak of the Black Death in 1361, which in many places was more devastating than the first outbreak in 1348. This effect is particularly noticeable in Carshalton where a total number of 82 individuals was recorded in 1360, whereas this fell to 31 in 1361 and levelled off at about 55 in the later years of the century.

There was clearly a reduction in the number of residents mentioned during the second half of the fifteenth century.
and, while there is no definite evidence to account for this reduction, it was not just a local effect. Thirsk observed the same situation in rural areas throughout the country and concluded that unemployment and depopulation in the second half of the century resulted from enclosures made during the first half. 8 Hatcher, on the other hand, while identifying both an increase in the average size of holdings and in the number of labouring poor throughout the country in the fifteenth century, has attributed the fall in overall population numbers to the spread of disease. 9

Although there is no information about epidemics at this time in Carshalton, the process of enclosing gathered momentum during the fifteenth century, as tenants with sufficient capital both enclosed the land they already held and took over additional land. Enclosures by major tenants were likely to cause local people to become landless, with the result that they would need other forms of livelihood, perhaps elsewhere. A noticeable feature of the Carshalton records of the later fifteenth century is an increase in the number of servants; there were six mentioned in 1478 - the highest number in any one year throughout the entire set of records from 1350 to 1700. 10 While there is no direct evidence in Carshalton to link the spread of enclosures with the increase in the number of servants, there is evidence for
change in patterns of trade. This is discussed in more detail below in the section concerning supervision of trade but briefly, changes in brewing methods occurred in Carshalton which allowed brewers to brew all year round, as professional brewers. In this capacity, they were able to employ others. During the same period, there was an increase in the number of millers, who similarly employed other workers. Apart from landowners, brewers and millers were the main employers. If we project this change along the length of the River Wandle, through Beddington, Morden and Wandsworth, we can see that there may have been a change in employment prospects which provided occupations for those made landless by enclosures. This change in trade may account for the population fall in Carshalton in the later fifteenth century, as men moved around to find other types of work.

Table 1 shows that the number of male residents mentioned in the records remained relatively static during the sixteenth century. An additional note in the records for 1565 makes the point by stating that there were no 'new incomers this year'.

The average figures show a slight increase in numbers in the first half of the seventeenth century, but these give the highest number of 99 in 1628. This increase
occurred in spite of outbreaks of disease during this period: the parish register recorded as many as 36 deaths in an epidemic in 1626. The records for the second half of the seventeenth century provide the highest average figure of 66 residents. It is possible to check this figure to a certain extent against the hearth tax returns of 1664, which give a total of 69 households in Carshalton, headed by 66 males and three females, with three houses unoccupied. By comparing these sets of figures, we can see that the average number of residents given in the court rolls correlated with the number of heads of households, rather than the total population.

The increase in population numbers in Carshalton during the seventeenth century was probably part of a countrywide increase, while in Carshalton in particular, there were at least two specific factors which influenced population growth - its attractiveness to Londoners wishing to acquire country residences and investment in industries along the River Wandle.

References:
1. See above pp. 42-3.
3. Wilks and Bray, Bandon and Beddington, p. 68.
4. VCH. Surrey, 4, p. 181.
7. P5/1.3-9.
8. Thirsk, Agricultural Change, p. 61.
II. Work of the view.

While the work of the view of frankpledge was defined by a statute issued pre-1327, no individual meeting slavishly followed the set pattern, as allowances were made for local differences arising from local conditions. Because the view embraced so many varied activities, for the purpose of this study these have been grouped into four main categories of business which are derived from the general categories used in the documents. By employing a general approach in this way, it becomes possible to use the large numbers of minor changes in the individual records to detect overall chronological changes.

The main categories used for this study are: 1) residence, which includes enrolment, default and keeping the watch. 2) supervision of traders and prices, 3) minor criminal offences, and 4) management of the environment.
Although the work of the view has been divided into these main, broad categories as a basis for this study, the distinctions between them are not clear-cut and it is important to be aware that some types of business fit into more than one category, while a few others are transient and fall into no particular category.

As the work of the view concerned supervising regulations, it also had to cope with the results of supervision, which meant taking action against people who infringed the regulations and granting licences to residents to allow them to trade or carry out some other activity. While most of the business of the view involved statutory regulations, it was also a place where individual residents could gain public recognition for business arrangements and bring complaints other residents or strangers, and obtain judgements.

1) *residence*

From the tenth century onwards, the identification of individuals and their place of residence had been a central part of the Anglo-Saxon system of keeping order. This was set out in the laws of Athelstan, Edgar and Cnut, which had defined the tithing as the smallest unit of responsibility and limited membership of a tithing to free males over the age of twelve. ² By the thirteenth
century, Bracton has shown that there had been changes in the earlier system to include slaves, as well as free men, and that magnates, knights and clergymen need not be enrolled into a tithing.

a) enrolment

A court keeping guide of about 1307 illustrates the procedures that led up to enrolment. After stating how many persons he had in his tithing, the tithingman should identify anyone who was over the age of 12, but not in a tithing. If the man were present, his name should be enrolled. Enrolment was first recorded in Carshalton in 1360 and, after that date, one or two men were generally enrolled at 25% of the meetings until 1571 when this procedure ceased to be function of the view. The simple act of enrolment, when a man was described as being sworn into a tithing (*iuratus in decennam*), gives us very little information about the procedures of enrolment. However, some cases, which were more prolonged, show stages in the process of enrolment.

An incident illustrating some of the processes occurred in 1360 when six men were fined 2d each for not being enrolled; one of them came to the next meeting and was duly enrolled, one was not mentioned again, and the other four were fined a second time because 'they had not come
as summoned to be sworn into the tithing'. The case of William Wanlok in 1380 provides an example of difficulties with enrolment; he was first distrained because he had failed to enrol and then, since his pledge failed to bring him to the next meeting for enrolment, the pledge was both fined and distrained and ordered to produce him at the following meeting, while Wanlok was distrained for a second time. Unfortunately, there is no record of his enrolment and his name afterwards disappeared from the records.

A dispute in the early fifteenth century provides direct evidence for the residential qualification for membership of a tithing in Carshalton - defined as being resident for a year, or a year and a day. It occurred when a servant was charged with not being enrolled, but the charge against him was dropped because he had not been resident for the requisite year and a day. The number of those who failed to enrol (being classed as 'unsworn') was highest in the second half of the fourteenth century. 19 residents were placed in this category and they were either fined 2d or distrained to attend the next meeting. Changes occurred in the following centuries as the numbers of unsworn residents fell and, between 1428 and 1506, only ten of these were recorded; some had no action taken against them, others were fined 2d and ordered to
attend the next meeting, while distraint was no longer used against any of them.

The disappearance of distraint orders after 1428 may be an indication of change in the use of fines. Although fines continued to be imposed, it is not clear whether they were regarded as a punishment or as a payment like a licence which, in effect, gave an individual permission to be absent.

Although the numbers of those who were unsworn fell during the fifteenth century, this reduction was accompanied by the emergence of a new category of residents, described as 'withdrawn'. These were individuals who had been enrolled and sworn into a tithing but then failed to attend the meetings of the view, which was compulsory following enrolment. People who were defined as withdrawn were placed in two categories: a) a few who had withdrawn from the tithing by their own wishes and b) the majority, who had been withdrawn by another person, usually sons withdrawn by fathers or servants by their masters. The responsibility for the withdrawal was clearly indicated by the fine, as in the case of Thomas Taylor and Thomas Trewman who were each fined 2d in 1428 for withdrawing themselves (recedunt se extra decennam), whereas Walter at Dene was
fined 4d for withdrawing Richard Towyk and Edward at Dene - one was probably his servant and the other his son.  

As we have seen with enrolment, these payments may have granted permission to withdraw. After 1446 there were hardly any references to withdrawals, although the rolls of 1511-12 reveal the continuing responsibility of fathers and masters for enrolment. For example, when Thomas Dygon was ordered to bring his son Nicholas to be enrolled, Dygon complied with the order and Nicholas was enrolled. However, when John Richbelle was similarly ordered to bring his servant for enrolment, he failed to produce him. As a result, Richebelle incurred a penalty of 4d and he was again charged to bring his servant 'to make corporal oath to the king'. Table 2 shows the high incidence of unsworn residents in the earlier years of the records and the large number of withdrawals in the first half of the fifteenth century. Procedures against these two groups ceased to be part of the work of the view after 1512, although enrolment continued until 1571.

Table 2. total number of residents unsworn and withdrawn:

<table>
<thead>
<tr>
<th>date</th>
<th>unsworn</th>
<th>withdrawn</th>
</tr>
</thead>
<tbody>
<tr>
<td>1350-99</td>
<td>19</td>
<td>0</td>
</tr>
<tr>
<td>1400-49</td>
<td>3</td>
<td>26</td>
</tr>
<tr>
<td>1450-99</td>
<td>1</td>
<td>4</td>
</tr>
<tr>
<td>1500-49</td>
<td>6</td>
<td>2</td>
</tr>
<tr>
<td>1550-99</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>1600-49</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>1650-99</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>
b) default

After an individual had been enrolled into a tithing, he was obliged to attend the meetings of the view. Although this aspect of compulsory attendance was never stated in the records, its existence is acknowledged by the lists of absentees who were classified as 'those making default' and fined 2d for their absence. In a few cases, fines were remitted on grounds of poverty, which was shown by the word pauper being written above the defaulter's name. As Table 3 shows, there were wide fluctuations in the number of defaulters throughout the period and, with a few rare exceptions, such as being on royal service or illness, reasons for default were not generally given. During the fourteenth and fifteenth centuries, the absentees were classified separately as unsworn, withdrawn or defaulters, but in the first half of the sixteenth century almost all absentees were put into one group and listed as defaulters.
There was a new procedure introduced in the middle of the sixteenth century when the absentees were divided into a) defaulters and b) those who were essoined, or excused from attendance. The procedure of essoining had been normal practice at the court baron in Carshalton since at least 1361, but it did not become accepted at the view of frankpledge until 1559 where it had the effect of excusing the absentees from payment of a fine of 2d. ¹ While just a few residents were essoined in the late sixteenth century, the number increased in the seventeenth century. For the purpose of this study, residents who were essoined have been classified as defaulters in Table 3, but the unsworn or the withdrawn, whose numbers were relatively small, have been excluded.

Table 3. average number of defaulters in each 50 year period:

<table>
<thead>
<tr>
<th>date</th>
<th>defaulters</th>
<th>residents</th>
<th>% of defaulters</th>
</tr>
</thead>
<tbody>
<tr>
<td>1350-99</td>
<td>10</td>
<td>55</td>
<td>18</td>
</tr>
<tr>
<td>1400-49</td>
<td>12</td>
<td>58</td>
<td>21</td>
</tr>
<tr>
<td>1450-99</td>
<td>8</td>
<td>47</td>
<td>17</td>
</tr>
<tr>
<td>1500-49</td>
<td>6</td>
<td>43</td>
<td>14</td>
</tr>
<tr>
<td>1550-99</td>
<td>9</td>
<td>50</td>
<td>18</td>
</tr>
<tr>
<td>1600-49</td>
<td>31</td>
<td>54</td>
<td>57</td>
</tr>
<tr>
<td>1650-99</td>
<td>34</td>
<td>66</td>
<td>52</td>
</tr>
</tbody>
</table>

The high level of default is particularly noticeable in the seventeenth century when the total number of people mentioned in the records also increased. The increase in the number of absentees became a consistent feature of
the records of the view and, as a result, producing lists of defaulters became its main function in the seventeenth century until 1661, after which the procedure ceased entirely. ²

The increasingly large numbers of absentees from meetings may have resulted from illness and the spread of disease which clearly affected Carshalton, as we can see from the number of deaths recorded in the parish register, with as many as 36 people dying in one year from an outbreak of disease. ³ There is no evidence to suggest that lists of defaulters included out-of-date information such as the names of people who had already died; on the contrary, most of them featured in later transactions. However, residents may have been affected by general proclamations issued between 1625 and 1630 which restricted movement as a way of containing the spread of disease. These orders stated that no-one should attend the royal court and they banned movement in London and especially in Surrey where there were six royal establishments, including those at Ewell and Nonsuch which lay 3-5 km. from Carshalton. ⁴

In addition, the quarter sessions records contain evidence for outbreaks of the plague in Surrey. For example, in 1660, Henry Byne of Carshalton, who was clerk of the peace for Surrey, ordered JPs to collect money throughout the county for distribution to the poor who
were affected by the plague. Furthermore, in 1665, the constable of Carshalton was taken before the sessions court for failing to implement a removal order against a woman and her children from London. However, he was acquitted on the grounds that he was acting according to the orders of the privy council which banned movement, as a way of preventing the spread of disease.

In addition to outbreaks of disease, the Civil War may have been a cause of absence. The county of Surrey mainly supported Parliament and meetings of the county committee were held at Kingston and Croydon, both of which lie within 9km. of Carshalton, while Fairfax and a large number of troops were based in Croydon in 1647. The only direct evidence for the effect of the war in Carshalton comes from the record of the view in 1645, when two gentlemen were heavily fined for refusing to take the oath of allegiance to the king. Since this was a normal part of court procedure, they incurred the anger of the steward, Edward Thurland, who was a keen royalist. The vicar of Carshalton was also royalist in his sympathies, as shown by his epitaph written in 1657 which stated that 'he had burned incense for 30 years'. Although there was relatively little fighting in Surrey, there were clearly divisions and problems within the local community which may have affected attendance at meetings of the view. Certainly, attendance or absence
became increasingly unimportant and, by 1671, there was no attempt even to list the names of absentees.

References:

1. P5/1.22-3.
7. Bax, 'Members of the Inner Temple', p. 34.

c) keeping the watch

The principle of enrolment into a tithing was based on residence for at least one year, in the belief that strangers were a threat to law and order. Following this same principle of regarding strangers with suspicion, an ordinance of 1242 established a system of keeping the watch in all communities throughout the country which was known as watch and ward. According to this system, the sheriff of each county was responsible for ensuring that, in each community, four or six armed men (depending on the size of the community) should keep watch at night during the summer months, from ascension day until Michaelmas, and detain any strangers. The ordinance of 1242 was further reinforced by a statute of 1285 which
allowed strangers to be arrested on suspicion of being potential criminals. 2

Although the responsibility for ensuring that the watch was kept lay principally with the sheriff and the hundred court, failure to keep the watch was a fairly common item of business at local views of frankpledge. It featured in the Carshalton records for a very short period from 1444 until 1449 when the whole community was fined 12d at each meeting for failing to maintain the watch. 3 There is no evidence in the records to account for this change. As supervision of the watch featured for such a short time, it may previously have been a function of the hundred court. Certainly, the few surviving records of the court for the hundred of Wallington in the 1390s show that fines were being imposed there for failure to keep the watch in some of the districts adjoining Carshalton. 4 By the seventeenth century, cases of failure to keep the watch in other areas of Surrey were being presented to JPs at the quarter sessions, but there is no record of any presentations from Carshalton. 5

References:
3. P5/1.24-5.
4. PRO. SC2 205/22.
2) *supervision of traders and prices*

Throughout almost the entire period of this study, the supervision of traders, their goods and the prices which they charged, formed an integral part of the work of the view of frankpledge. During the thirteenth century statutes had already been issued to regulate trade in a general way, principally through *magna carta* and its affirmation in 1297, which stated that there should be one common measure throughout the kingdom for various classes of items such as ale, corn and cloth. However, it was not until 1324 that specific regulations were made to control the prices of goods. A statute of 1324 laid the foundations of price control by establishing the assize of bread and ale - two commodities which formed an important part of the diet of the general population; it also regulated other goods, but to a lesser extent. ¹

The work of supervising these regulations devolved upon the local community through the view of frankpledge, either at the hundred court presided over by the sheriff or, as in Carshalton, at the lord's private court.

The statute of 1324 was wide-ranging in its application since it not only defined prices of goods but also regulated the size of traders' measures and stipulated the amount they could take as profit. As regards bread, it defined the relationship between the price of a

- 69 -
quarter of wheat and the price and weight of a loaf of bread, (with allowances for different qualities of wheat and different types of bread) while, at the same time, it specified the amount of profit for the baker. It stated that, after he had deducted his expenses for fuel, servants and rent, a baker was entitled to make a profit of 4d on each quarter of wheat. To make it easier for the view to check that bakers were observing the regulations, each baker was to have his own mark for his bread. The same set of regulations also affected the price of the baker's raw materials, as it limited the amount of grain which the miller could take as his allowance for grinding the corn, usually called the miller's toll. In the case of fraudulent bakers who sold underweight bread, the penalties laid down in the statute depended both on the scale of the underweight and the number of offences, ranging from fines for the first offence to the pillory for frequent offences.

The assize of ale was organised in a similar fashion; the selling price of ale depended on the selling price of barley which, in turn, was based on the price of wheat. The statute quoted the following example - when a quarter of wheat was sold for 3s 0d or 3s 4d, one quarter of barley should be sold at 1s 8d or 2s 0d. Brewers should then be able to sell their product at the rate of two gallons for 1d in cities, three gallons for 1d in towns
and four gallons for 1d in the countryside. As with bakers, allowances were made for market forces and local differences, so that brewers were expected to adjust their prices if the price of grain rose or fell. Penalties for infringing the regulations were defined as fines up to the limit of 2s 0d for the first three offences. If the brewer persisted in offending, he was to be punished with the tumbrel, 'or some other correction', and still pay a fine.

As with bread, price controls could only be effective if measures were standardised and, for this purpose, the same statute set out the means of standardisation, using a local committee to oversee brewers' measures. It declared that, at a local court, a group of six men were to gather together all the measures used in the locality - all the 'Gallons, Pottles and Quarts' from taverns and such places - and have the names of the owners clearly inscribed on them. It went on to state that 12 men should act as jurors and that the brewers should appear before them with their measures, so that these could be checked against the standard measures. These measures were to be 'sealed with the king's seal' and kept securely in the custody of the local bailiff who was responsible for summoning the brewers to have their measures checked.
Having established the constraints of measurement and price, the local jurors appointed an agent called the ale taster who had the task of assessing the quality of the product and applying the regulations. Quality assessment was an important part of his work, as brewers might make a product which obeyed the regulations about measurement and price, but it might be so heavily diluted and adulterated that, in practice, it broke both sets of regulations. Since the only means of assessing the quality and strength of ale was by tasting it, a resident ale taster, known as Tastator or Gustator Cervisie, was appointed who had the function of checking the price, the measures, and the quality.

While ale and bread were the main subjects of the assize, the statute also dealt with other fraudulent or questionable traders. These included butchers selling bad meat, forestallers selling goods cheaply before the market officially opened, and regrators, who bought goods at wholesale prices and retailed them at a high price. In practice, the statute established a basis for trade by regulating the weights of coins, wool, tallow and cheese, and standardising ounces, pounds, gallons and bushels. At the same time, it empowered the view to charge traders who were using 'false', or non-standard, weights and scales.
This wide-ranging and comprehensive piece of legislation was altered to some extent by further legislation in 1349. At this date controls were extended to cover wages as well as prices because of economic changes resulting from the first outbreak of the Black Death. Wages, however, were not included in the work of the view and they were supervised by justices on specially appointed commissions. While fixing wages, the statute of 1349 also issued price regulations, but it differed from the earlier statute by including other traders, such as fishmongers, innkeepers and poulterers, and allowing traders to charge 'reasonable prices' and make 'moderate gains'. Because allowance was made for costs of transport, there was no attempt to define the prices on a countrywide basis similar to the statute of 1324, but anyone making an excessive profit was faced with a fine which was double the amount that he made. These regulations were to be proclaimed by the sheriff in all local communities and also announced in church. In this way, by a gradual process of legislation, the local community, through the view of frankpledge, became responsible for deciding which prices were reasonable, according to local conditions.

The regulations contained in these statutes formed the basis of trade supervision in Carshalton, where it affected the following traders: a) brewers and sellers
of ale and beer, b) bakers, c) millers, d) butchers, and e) fishmongers. While the fourteenth-century statutes established the main outline of the work of the view, both local conditions and general economic changes affected this work, and this present study examines the extent of change over 350 years.

As a general rule, the view regulated trade by a system of fines. According to this system, each trader paid a sum of money, or fine, which allowed him to trade and, in effect, he was paying a local tax on his business to the lord of the manor. Traders normally paid these licensing fines twice-yearly at the meetings of the view, but they had to pay additional fines if they infringed specific regulations. Some traders practised multiple occupations and paid for several licences at one time.

a) brewers and sellers of ale and beer

The trade of brewing and selling ale and beer, which was supervised by the ale taster, provided work for the view in varying amounts throughout almost the whole period of the records. It remained far longer under the supervision of the view than any other trades.

In the fourteenth and fifteenth centuries, brewing was generally a part-time or occasional occupation. People
who were licenced to brew, brewed once or twice a year for family or local consumption and paid a fine of about 4d a year. This kind of occasional brewing was often done by women, especially widows, as a way of earning extra money, but it was probably not a trade carried out by the poorest people, since it required a certain amount of capital investment. It needed space, often in the form of a separate brewhouse, with a hearth for fermenting the barley, and equipment, such as tubs, pails and vats, as well as raw materials like fuel and barley. Some of the brewers may have shared their equipment, since people in Carshalton with the same surnames were carrying out occasional brewing, which suggests that they were sharing or lending or passing on equipment to other members of the same family. Certainly the records show that it was a family activity - William Bockley was brewing in 1359 and 1360, then Matilda Bockley, who was probably his widow, was brewing in 1380 and 1381, and she was followed by Roger Bockley in 1392. Similarly both William and John Vincent were occasional brewers, as were members of other families with the surnames Colecock, Foller, Papelot, Stillego and Whythend.

The amount of work for the view arising from brewing was at its peak during the fourteenth century, when an average of 25 brewers was recorded at each meeting. The
roll for 1359 shows the distinction between the supervision of brewers and the presentation of those who had infringed the regulations. 15 brewers were listed, without payments, while seven were fined for 'breaking the assize'. In 1360, 15 brewers paid additional amounts because they were selling ale in non-standard measures, and two others paid extra for selling ale untasted by the ale taster.

The fourteenth-century records show that it was normal practice for the view to collect both types of payments from brewers after they had brewed and that the size of the payments depended on the number of brews they had made. For example, when John Piper was presented at the view for brewing 33 times, for selling in non-standard measures and for failing to send for the ale taster, he paid a total of 6s 0d. However, during the fourteenth century, most brewing was an occasional occupation, with ale being made largely for domestic consumption and only the surplus being sold off.

In addition to checking on the extent of brewing and the quality of the brew, the view was also required to exercise control over the selling of ale and the premises where it was sold. An example of this occurred in 1381, when John Foller was charged with continuing to sell ale for three days after he had taken down his sign, called
an Alstake, at the ale festival (*in feria servisie*). At the same time, his brother, Hugh, together with Geoffrey Whytend, was fined for refusing to sell ale 'outside their house', which meant that they were selling at the back door where they could charge what they liked, instead of in public and under supervision. 

While the trade of brewing still predominated among the other trades supervised by the view, the number of brewers paying to brew began to fall in the fifteenth century, as shown in Table 4.

<table>
<thead>
<tr>
<th>Date</th>
<th>Average number</th>
<th>% of total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1350-99</td>
<td>25</td>
<td>43</td>
</tr>
<tr>
<td>1400-49</td>
<td>16</td>
<td>28</td>
</tr>
<tr>
<td>1450-99</td>
<td>13</td>
<td>22</td>
</tr>
<tr>
<td>1500-49</td>
<td>4</td>
<td>7</td>
</tr>
<tr>
<td>1550-99</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>1600-49</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>1650-99</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

In the fifteenth century the work of the view changed as the trade of brewing tended to become concentrated in the hands of families who brewed year after year. In the early part of the century, there were still some families who brewed occasionally for household use. However, in the later fifteenth century, the change was more marked,
with a move away from occasional brewing into professional brewing all year round. There were other changes as well - one of these occurred in 1476 when the view laid down regulations to control the amount of brewing, stating that no resident should brew more than once at any one time. After he had made and sold his ale, then his neighbours were permitted to brew if they wished, but with the same restriction. The view also set the price at 2d a gallon, with a penalty of 6d for overcharging.  

A further change occurred in 1479 when the licence to brew took on a new form. This happened when three or four individuals applied in advance for an annual licence on payment of a lump sum, rather than paying in retrospect for the number of brews they had made. While payments were still being made for occasional brewing, the numbers were much reduced. The development of annual licences appears to mark a change to professional brewing carried out all year round by just three or four families. Another indication of this change to professional brewing is the description given to them of 'common brewers' to distinguish them from the occasional brewers. This change may have been caused by external factors - possibly the introduction of hops and the production of beer, which had better keeping qualities than unhopped ale. The use of hops allowed
manufacturing to take place at a steady rate all year round, not just when there was a demand, and the product could be stored until it was required for sale. However, payment for an annual licence did not free brewers from having to pay fines for infringing the regulations and, in 1484 for the first time, a brewer, who was fined for selling in illegal measures, also had a penalty of 3s 4d imposed against committing a further offence. 11

For the first time also, there was a direct challenge by a brewer to the supervision and regulation of the view. Nicholas Scoryer had brewed twice but refused to pay any fines. He stated that the Carshalton view had no rights of jurisdiction over him because his brewhouse was located at Stonecourt, which he claimed was a separate manor, not subject to the Carshalton view. Scoryer was taking advantage of the unresolved status of Stonecourt, which was occasionally described as 'the manor of Stonecourt' and was sometimes a free tenement, while at other times it was considered to be a customary tenement of the lord. The view, however, did not accept his claim and he was distrained for his fines, being the only brewer to be distrained for non-payment. 12

Further statutory legislation reduced the supervision of the view over brewing in the late fifteenth century as JPs at the quarter sessions gradually took over the
responsibility for brewing licences. This process began in 1495 when JPs were given authority to stop ale being sold, if they thought fit, and were empowered to demand guarantees in cash from ale house keepers as a condition of good behaviour. This marked the beginning of the control and licensing of the sale of ale and beer by an agency outside the manor.\(^{13}\)

In the sixteenth century the number of occasional brewers declined gradually and most applicants for licences were professional brewers, paying 12d a year in advance for the right to brew all year. Since the same people were brewing year after year, the trade became concentrated in the hands of a small group, leading to a degree of stability in the trade and a regular supply of beer. The abundant supply of ale and beer may have caused the view to issue an order in 1536 safeguarding the sale of church ales - the order stated that no brewer should brew ale in Carshalton for eight days whenever the churchwardens were selling ale for the benefit of the church.\(^{14}\) (Church ale was a strong ale made and sold in aid of church funds, usually at Whitsun, or at the time of the patronal festival.)

Some brewers also paid for licences to retail; for example, in 1527 three brewers, who were retailers, were ordered to sell beer openly from their houses and
have a reliable supply for sale, 'at whatever time they shall be required, any of them having two gallons or more in the house'.

The growth of professional brewing also led to an increase in the number of retailers of beer and ale. Retailing, like brewing, provided a steady income, but it involved less capital investment, since the licence cost less and retailers could sell directly from their houses without having to provide much storage space. In some cases, the retailers were not only selling ale and beer but also applied to sell bread and other foodstuffs. The view exercised control over these multiple retailers to the extent of banning two of them from trading, but no reason was given for the ban.

By the second half of the sixteenth century, the work of the view had changed completely and only retailers of beer and keepers of ale houses still came within its jurisdiction. Some of these were charged with selling their products in non-standard measures, usually described as 'stone pottes', which were probably stoneware vessels imported from the Rhineland and not of standard sizes. However, in an exceptional example in 1557, no ale retailers paid fines and two of them were stated to be selling 'by legal measures'. Outside influences began to affect the work of the view during
this period, as retailers were fined for selling beer that was made elsewhere, described as 'foreign beer', and one retailer from Ewell, (about 5km. to the west of Carshalton), was fined for selling his beer in Carshalton. 18 Croydon, which lies at a distance of about 5km. from Carshalton, may also have been a source of beer for retailing in Carshalton since the land tax returns for 1547-50 show the existence of a 'berebrewhouse' in Butcher Row in Croydon. 19

In the 1560s, one particular case shows intervention in the normal procedures of the view. Two retailers, Henry Sadeler and Juliana Goldwyer, had been fined a number of times for persistently selling ale and beer that had not been checked by the ale taster. After a series of ineffectual small fines, Sadeler was ordered to pay 3s 4d, but this amount was commuted to 4d, 'by his lordship's special grace'. 20 No reason was given for the reduction; perhaps his infringement of the regulations was not regarded as a serious offence, or the jurors of the view were exceeding their powers by demanding such a large sum which could have put him out of business, but clearly some kind of negotiation had taken place to cause the remission.

In the seventeenth century, the function of supervising beer and ale virtually disappeared from the records of
the view. At the same time, increasing numbers of statutes placed greater responsibilities for supervision on JPs at the quarter sessions. In addition, the cost of an annual licence to trade at the Carshalton view had increased from 12d a year to 10s 0d, which was the same as the cost of a licence at the sessions. Ale tasters were still being appointed there in the 1660s and 1670s and the view recorded just a few cases of selling in non-standard measures and a few examples of disorder in ale houses. Certainly a contemporary list of Surrey inns shows that beer and ale were still being sold there, as it included the White Lion Inn in Carshalton. However, by the end of the century, the function of the view no longer included the supervision of ale and beer, as the control of brewing and selling passed to JPs at the sessions who issued licences and set the price.

References:

2. Ibid., pp. 307-8.
4. P5/1.2; P5/1.8; P5/1.11-14.
5. P5/1.2.
7. Ibid.
10. P5/2.13
12. P5/2.10.
17. P5/5.18.
18. P5/5.22.
b) bakers and sellers of bread

While baking and selling bread were subject to the same type of regulations as brewing and selling ale and beer, the production of bread had less effect on the work of the view, principally because there were far fewer people baking bread and selling it to the public. There was a clear difference in the treatment of the two trades since brewing for household use required a licence because the surplus could be sold, but the same principle did not seem to apply to bread. There was no record of anyone selling bread in Carshalton until 1429 when Alice Trewman a 'hawker of bread and ale' was fined an unspecified amount for overcharging. ¹ In the 1440s, bakers began to feature more regularly when three bakers paid fines of 2d each for selling bread and 'breaking the assize'. Supervision of the sale of bread also shows the view taking action against regrators - people who bought goods cheaply at wholesale prices and retailed them at a profit. ² Charges of regrating in Carshalton applied only to bread and cakes and ale.
Just as the work of the view began to relate almost entirely to professional brewers in the late fifteenth century, we can see the same effect with bakers. One baker in particular, John Burnet, who made an advance payment of 6d for an annual licence to bake and sell bread, was an employer of three servants, including his son. At the same time, his wife, Elizabeth, who kept an ale house, was also named as a baker. Burnet seems to have established a virtual monopoly of baking in the 1470s and 1480s and only one other baker was mentioned for selling underweight cakes. 3

At the beginning of the sixteenth century there were two or three local bakers, including Thomas Miller who also sold ale, and John Burnet, whose family had been bakers in the previous century. However, a change occurred in the work of the view during this period as it began to record payments by bakers from outside Carshalton who brought their goods to sell there. In the 1530 and 1540s there were three 'foreign bakers' from Croydon and Banstead, both of which lie about 5km. from Carshalton. 4 One of the foreign bakers, John Hurlock of Croydon, came from a family of bakers who were selling their products over a wide area since they paid fines at views in Warlingham (about 7km. from Carshalton), and in Beddington, which adjoined Carshalton. 5 This distribution pattern suggests that they were making bread
at a central point, probably in Croydon, and organizing its carriage to the surrounding areas.

While outsiders were paying to trade in Carshalton, a few local bakers continued to produce bread, but they usually held multiple licences to bake and sell bread in addition to selling ale and beer. The last references to the sale of bread occurred in the 1560s when Robert Harman was regrating ale and bread, while John Clerk of Croydon, a foreign baker, was selling bread in Carshalton. After this date, supervision of baking and selling bread ceased to be a function of the view in Carshalton. Like brewing and selling ale and beer, supervision of baking and selling bread and cakes became a function of JPs at the quarter sessions.

References:

1. P5/1.21.
2. P5/1.22-35.
3. P5/2.1-14; P5/1.37-8.
6. P5/5.7.

c) millers

The assize of 1324, which fixed the price of ale and bread, also regulated the price of corn. While it
acknowledged that there might be local variations depending on local custom and the strength of the watercourse, it limited the amount which the miller might take as his toll, or entitlement, to a twentieth or twenty-fourth of the total amount of corn which he was grinding. It went on to state that he should take his toll in a container of specific size, with level, not heaped, measures. If the lessor was responsible for the running expenses of the mill, the miller's profit was limited to his toll. As a result of this legislation, the view was required to regulate the amount of corn taken by the millers. Because of its situation on the River Wandle, Carshalton was well-placed for the development of water mills and one was already in existence at the time of the Domesday survey, while the Chertsey Abbey cartularies refer to the abbey acquiring a mill in Carshalton in 1199 which it continued to hold until the sixteenth century. In the records of the view, the first reference to two mills occurred in an undated document of the reign of Edward III. This shows that the abbot of Chertsey was fined because the highway was flooded near the 'Tounmulle', and the prior of St Mary Overy was similarly fined because of flooding near his mill at Hackbridge. The name of Townmill was still in use in the fifteenth century. In 1428, for the first time, the view began to charge two millers for taking excessive toll. From 1428 until 1559, two or three
millers regularly made annual payments which gradually increased from 2d to 12d over the period of 130 years, while some of them were also paying for licences to brew and sell ale and to sell bread. ⁴

In the 1550s, in the same way as two ale retailers were stated to be selling their products according to the law, so millers were also presented at the view, but they were not taking excessive toll. ⁵ After 1559, the view ceased to supervise the miller's toll and, like the supervision of beer and bread, the miller's toll became the concern of the JPs at the Surrey quarter sessions although, unlike brewers and bakers, millers were not often presented at the sessions. ⁶

While the licensed millers were all corn millers, the manor also contained at least two fulling mills in the fifteenth century, as well as a brazil mill in the sixteenth century, (which was used to extract red dye from imported timber). As none of these products directly affected the price of food, they were not included in the traditional jurisdiction of the view. They did, however, affect the function of the view in other ways because they caused damage to roads and property from flooding and poorly-maintained water courses and, for the purpose of this study, this aspect of mills has been included in the section concerning management of the environment.
References:

4. P5/1.18–P5/5.23.
5. P5/5.19.

d) butchers

Butchers were also included in the assize of 1324 but for selling bad meat, rather than for charging too much for their products. Punishment for selling bad meat ranged from a fine for the first offence to being banned from the district for a fourth offence. The statute of 1349, which attempted to regulate prices after the Black Death, included butchers with other food sellers who were ordered to sell at reasonable prices, depending on local conditions and costs of transport.

As far as the view in Carshalton was concerned, it began supervising butchers in 1428, when John Butcher paid 2d for making too much profit. Similar orders of overcharging were made against John London in the 1440s and John Martin in the 1470s, with the difference that Martin was fined for selling bad meat as well as overcharging. Two butchers paid for overcharging in 1476 but, after that date, the view in Carshalton was no longer involved in the supervision of butchers, perhaps
because of external economic factors. Evidence from statutes shows that, when meat prices rose in the early part of the sixteenth century, attempts were made to control the price by legislation but, since this resulted in butchers having to sell at a loss, the market disintegrated and controls were abandoned. Eventually butchers were allowed to sell at whatever price they could get, and those who sold bad meat were presented at the quarter sessions.

References:
2. Ibid., pp. 307-8.
3. P5/2.6.

e) fishmongers

Fishmongers were also included in the statute of 1349 which stated that they should sell at reasonable prices, with allowance for distance and local requirements. Because the waters of the River Wandle provided such good fishing grounds in Carshalton, the area was famous for its fish, especially trout. As a result, fishing as a sport came within the jurisdiction of the view, in addition to catching fish for sale. It is sometimes difficult to distinguish between the two groups, as poachers might be taking fish to sell but, for the
purpose of this study, the theft of fish (where it can be identified as theft) has been classed as minor crime.

The control of fishmongers in Carshalton differed from the supervision of other traders because fish, being a local product, could be sold for a better price in other districts where it was not so readily available. As a result, it was the function of the Carshalton view to charge local fishmongers for selling outside its jurisdiction. The first example of the supervision of fishing occurred in 1360, when three men paid 6d each because they were fishing with nets that were too small, 'to the great destruction of the fish'. As they were fishing with nets, they were probably catching fish for sale, although this is not stated. However, in 1381, five men paid sums ranging from 2d to 1s 6d for selling outside the local market and beyond the jurisdiction of the view. They were catching fish in Carshalton and selling it in London, which meant that they were transporting it a distance of 16 km. in order to make a sale.

The same kind of cases were repeated in 1428, when three men were selling fish extra forum, presumably outside the jurisdiction of the view. Of these three, John Martin paid the largest amount of 12d. In the following year, when an unspecified number of people were taking fish,
Martin again paid the largest amount of 20d, which suggests that he was conducting an organized trade. Since all these people were described as *communes piscatores*, they were probably catching fish on a regular basis. A few other residents made payments in 1484 and 1506 when they were again described as *communes piscatores* and an outsider from the adjoining manor of Mitcham paid for taking trout and other fish from the ponds in Carshalton. The only reference to fish being sold in Carshalton occurred in 1443, when Nicholas Mill, a retailer of food, was reported for selling bad fish.

In the sixteenth century, the function of the view changed with regard to fishing. The court baron appointed bailiffs to supervise the number and size of fish to be taken, while the view was responsible for taking action against those who infringed the regulations. After the 1560s, control of fishing and the sale of fish, ceased to be function of the view in Carshalton but, unlike any other traders, fishmongers were not recorded at the Surrey quarter sessions.

References:

2. P5/1.8.
5. P5/1.40; P5/1.39b.
6. P5/1.23.
3) *minor criminal offences*

In discussing the early development of the view of frankpledge, we have seen that its aim was the maintenance of law and order, while at the same time providing a sense of security and freedom for individuals within the community. During the medieval period, at the same time as the view of frankpledge was in use both at the hundred court and in lords' private courts, other administrative systems evolved which influenced the function of the view. A change had occurred in the twelfth and thirteenth centuries when justices in eyre were appointed. They dealt with felonies such as murder, burglary, grand larceny, rape and arson, and took over some of the functions of the hundred court. There were further changes in the fourteenth century when justices at the assizes and JPs at the quarter sessions took over and extended the work of the justices in eyre. As the assizes met twice-yearly and the sessions met four times a year, they provided a frequent, regular system for dealing with offenders. As a result of these changes, the view of frankpledge was left with minor, local offences, usually classed as misdemeanours.

The statute dated to pre-1327, which provided an agenda for the view with regard to minor criminal offences, included within its jurisdiction cases of affray and
bloodshed, burglary and theft, and failure to pursue the hue and cry. This agenda allows us to classify minor crime into four main categories: a) assault, which was an offence against persons, b) theft, which was an offence against property, c) raising the hue and cry, which was usually a consequence of either assault or theft, and d) disturbances of the peace.

Table 5 shows the number of individuals in Carshalton who were involved in assault, theft, raising the hue and cry, and disturbing the peace.

Table 5. number of individuals charged with offences in each 50 year period:

<table>
<thead>
<tr>
<th>date</th>
<th>assau</th>
<th>theft</th>
<th>hue</th>
<th>disturb</th>
<th>total</th>
<th>% of total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1350-99</td>
<td>6</td>
<td>24</td>
<td>14</td>
<td>5</td>
<td>49</td>
<td>22</td>
</tr>
<tr>
<td>1400-49</td>
<td>19</td>
<td>18</td>
<td>0</td>
<td>25</td>
<td>62</td>
<td>27</td>
</tr>
<tr>
<td>1450-99</td>
<td>16</td>
<td>5</td>
<td>0</td>
<td>1</td>
<td>22</td>
<td>10</td>
</tr>
<tr>
<td>1500-49</td>
<td>29</td>
<td>8</td>
<td>0</td>
<td>2</td>
<td>39</td>
<td>17</td>
</tr>
<tr>
<td>1550-99</td>
<td>10</td>
<td>8</td>
<td>0</td>
<td>23</td>
<td>41</td>
<td>18</td>
</tr>
<tr>
<td>1600-49</td>
<td>0</td>
<td>2</td>
<td>0</td>
<td>6</td>
<td>8</td>
<td>4</td>
</tr>
<tr>
<td>1650-99</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>4</td>
<td>5</td>
<td>2</td>
</tr>
<tr>
<td>total</td>
<td>80</td>
<td>66</td>
<td>14</td>
<td>66</td>
<td>226</td>
<td></td>
</tr>
<tr>
<td>% of total</td>
<td>36</td>
<td>29</td>
<td>6</td>
<td>29</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

In presenting statistics in this way, it is important to understand that sometimes all the antagonists were charged in cases of assault and disturbing the peace, with the result that the number of individuals charged is greater than the number of offences. The illegal
recovery of distrained goods has been included with theft in Table 5. Although assault and theft formed the main categories of minor crime, there was a variety of minor offences which were likely to disturb the peace. These included spreading gossip, eavesdropping, breaking windows and playing games. In addition, increasing amounts of social legislation gave rise to other offences, like building unauthorised cottages, taking in lodgers and being vagrants.

a) assault

The records for the second half of the fourteenth century refer to six cases of assault. From these we can see that certain groups of residents were particularly liable to be engaged in assaults, usually servants and officials. In one case, a master was fined for assaulting a servant and, in another example, the servant of William Bockley assaulted Henry Mirifield, who then attempted to raise the hue and cry against Bockley. William Pak, in his capacity as the lord's bailiff who was responsible for distraining goods, was a victim both of assault and theft, while, from time to time, women also featured as victims of violence. In 1359 there was an unusual case of bloodshed between two women; when Isabel Piper raised the hue and cry against Alice Pak, whose husband was the tithingman and the lord's bailiff, Alice retaliated by
assaulting Isabel. The case was resolved by William Pak being fined 2d. Fines were the normal sanction against offenders, as shown in the case of William Pak, who was judged to be responsible for his wife's behaviour.  

In the first half of the fifteenth century there was an increase in the number of recorded assaults when a total of 19 cases were presented to the view. Five of these occurred in 1428 and were mostly due to one individual, named as Adam Parys. As an example of Parys' activities he first assaulted William Storm, for which he was fined 6d, and then attacked the tithingman Richard Gredere who intervened. There was a wide discrepancy in the fines for the two offences, since Parys was fined 6d for the attack on Storm, but 20d for the attack on Gredere. Perhaps an assault on an official in the performance of his work was a more serious offence. He was also fined a further 12d for assaulting two other men and was responsible for other offences, such as theft and playing at dice, while two of his victims were also fined for playing games.  

The example of Parys in particular shows that while the majority of people were law-abiding, the same few people tended to be presented for numerous offences. There is also evidence for a link between offences and default during this period, since most of those who were presented for various minor criminal offences at the meeting in April 1428, were absent from the next meeting.
in October. By defaulting, even as a temporary measure, offenders seem to have avoided paying their fines. There is no evidence for any mechanism for pursuing them once they were outside the jurisdiction of the view, and there is no indication that charges were repeated against them when they returned. In practice, it would have been difficult to organise follow-up procedures against absent offenders and perhaps their temporary absence was welcomed by the rest of the local community.

In the same way as these records show that minor crime tended to be committed by the same people, they also reveal that officials were the most likely victims. This is shown by the case of Richard Gredere, the tithingman, who was both attacked by Adam Parys and was a victim of theft by another resident, while the lord's rent-collector was similarly a victim of theft.

Parys was responsible for further trouble in the 1440s, when he was fined a total of 3s 4d for brawling and causing bloodshed, and the arrival of the Leycester family in Carshalton also increased the number of assaults; this was a wealthy family which employed at least five servants and caused a considerable amount of trouble for the view. Both John and Thomas Leycester were charged with assaults and illegal recoveries of
distrained animals, while John was fined 12d for assaulting a woman, Mercy Burton. A fine of 20d was also imposed on one of his servants for an assault on Alice Leycester, John's wife. 9

As regards victims of assault, one rent-collector was a victim, probably because of his duties, the bailiff and his officials and three women were assaulted. Although the number of female victims was small, it was greater than at any other time; one of these was Mercy Burton, who was assaulted by John Leycester, another was John Leycester's wife, who was assaulted by a servant, while the third was Clarice Barbor, who was assaulted by Peter Vesey, perhaps as a result of her husband's activities, since he was fined for being a common gossip. 10 In contrast to the increase in the number of assaults on women, there was a decrease in the number of cases involving servants. Only one servant was recorded as a victim during this period and, similarly, only one servant was charged with assault.

While there was an increase in the number of assaults in the fifteenth century, this was accompanied by an increase in the size of fines. It is difficult to make comparisons between fines because they were not recorded consistently; sometimes they were omitted or are illegible and sometimes a total sum was given without any
details. Where sums were given separately, we can see that 2d or 4d were the usual fines in the fourteenth century. In the 1420s, the average fine for assault was 11d, which rose to 19d in the 1440s.

The increase in the number of assaults in the first half of the fifteenth century, especially against those in authority, may have been part of the general discontent which was voiced in Jack Cade’s rebellion in 1450. The rebels included a large contingent (12%) from East Surrey, particularly from the hundreds of Brixton and Wallington, which are the areas of East Surrey nearest to London. Evidence that the residents of Carshalton were involved in this expression of discontent against central government, county administrators, collectors of taxes, local bailiffs and officials who were extorting excessive sums of money, can be found in the pardon roll for 1450. The name of Carshalton appeared three times in the lists, in which both the whole community and certain individuals sought pardons. In her comprehensive study of the insurgents in the rebellion, Harvey explains the difference in the two types of pardon, concluding that, although whole communities sought a general pardon for all manner of offences, the individuals named in the lists were likely to have been involved in the rebellion.
While the roll contained an overall pardon for all the residents of Carshalton it also named ten people, including Thomas Leycester, 'yeoman', John Carter, the constable, John Cok, the tithingman, a fuller and a draper, a number of labourers and one woman; the social mix of the group is consistent with Harvey's statement that the rebels were a mixed group of yeomen, artisans and hangers-on, 'acting together from shared and individual motives', as a protest against conditions which they found oppressive. Perhaps the increasing number of assaults which were recorded at the view in Carshalton in the 1440s was a symptom of the wider discontent felt throughout the south-east, which was expressed in the rebellion. After the increase in assaults in the 1440s, the number fell slightly in the second half of the century, but it is important to note that no minor crime was reported in 1480, because the tithingmen failed to attend the meeting. As well as showing a slight reduction in the number of assaults, the records also show a fall in the average level of fines to 4d, which was a return to the levels of the fourteenth century. There were only two exceptions to the low fines; one was a brawl between William Halle and Robert Martin, for which Martin was fined 3s 4d, and the other involved John Fox, the chaplain, who was fined 8d for a series of assaults.
The case against Fox, like the charge against Adam Parys in the earlier part of the century, shows the risk faced by an official who attempted to intervene in a violent quarrel. Fox first assaulted John Merkley with a piece of wood then, as the constable tried to intervene, Fox attacked him with a knife, at which the constable retaliated by attacking Fox with 'a bill' (probably a chisel-like tool used for re-working mill-stones), and Fox was fined for all the offences. This case is also unusual because it described the type of weapons used in the attacks.

As in previous years, cases of assault tended to be linked with particular individuals and, in the period 1473-84, the most frequent offender was John Yorke, a miller, who was fined for assaults on his own servant, on another miller and on the tithingman. Others who were fined for assault included a tithingman and a constable in offences arising from the offices they held. Servants formed the largest single group involved in assaults and this may be related to the increase in their numbers, with 22 being recorded in the later fifteenth century, seven of whom were involved in brawls, often with their masters.

In the first half of the sixteenth century, the number of people involved in assaults showed a large increase,
reaching the highest number of any 50-year period. There was a total of 29 offenders, but eight of these were fined more than once and certain individuals were frequent offenders as, for example, William Ludwell, a miller, who was involved in four brawls. Two other men, Thomas Degon and John Simson, were also involved in more than one assault, for which they were each fined 6d, while William Charlewood was fined 2d for causing frequent breaches of the peace. 17

Of the 21 people who committed offences, it is noticeable that seven (forming the largest single group) held the offices of constable, tithingman and ale taster. Three other officials were the victims of assault, and sometimes the officials were fined for brawling with one another. We have seen that officials had been involved in assaults in earlier years but the number of incidents had been far smaller in the past, which suggests a change either in the work of the view or in social conditions. There is no direct evidence to account for the change and there was no apparent increase in population numbers, but a study of the names of the jurors of the view and the court baron suggests that there may have been an increase in the numbers of newcomers into the community. Such an increase may have caused informal methods of settling quarrels between neighbours to break down, giving rise to violence, while making it difficult for the local
officials to police the community. We may also be looking at a changing situation in which private individuals were unwilling to accept the authority of local officials and either physically challenged their authority or used the view to bring cases against them, as shown in the two following examples. In one incident Margery Grobbe, wife of a brewer, assaulted the ale taster and refused to allow him to examine her husband's ale. The charge against her specifically stated that she attacked him 'in the performance of his office'. In another incident, the tithingman was fined for attacking a stranger - an action which might be considered part of his legitimate duty in protecting the community from strangers.18

There were fewer incidents involving servants, with only three being recorded in this period, and there was just one attack on a woman. In most incidents, there is very little information about the background to the attack, but the description of the assault on Agnes Waker suggests that this was the last act in a series of events. First of all, Alan Crocker had allowed his pigs to stray into John Waker's corn, then Waker distrained four pigs to compensate for the damage but, when Crocker tried to recover his pigs by force, he also attacked Agnes and was fined 4d for the assault.19
The fines during this period varied from 2d to 12d and the apportionment of the fine shows a disparity in fines which may relate to the ability to pay. We can see this, for example, in the case of a brawl between William Christmas and Thomas Degen, for which Christmas was fined 6d and Degen was fined 2d. Similarly, when John Richebelle was fined 12d for assaulting a servant, the servant was not fined. 20 Sometimes, as in the case of William Ludwell and John Simson, both were fined equal amounts. 21 Again, very few weapons were mentioned; there were three attacks with daggers, two with a candlestick, and one brawl was described as a fist-fight.

During the second half of the sixteenth century the number of assaults recorded in Carshalton fell to just ten from a peak of 29 in the previous 50 years. This reduction occurred in spite of the presence of John Fromond - a wealthy gentleman who consistently took every opportunity to flout the regulations of the view and the court baron. He was directly involved in two assaults in which he used his staff as a weapon - the record specifically stated that he was holding it in his right hand at the time of the assaults. On one occasion he was fined 3s 4d for attacking a shepherd and, on the other occasion, he used his staff to ward off a company of local men who had been sent against him by the lord of the manor to re-direct a water course that he had
diverted for his own use. He was fined 6d for this incident, but his staff was also confiscated. It was not only Fromond who caused trouble; one of his servants was also charged with attacking the wife of the tithingman.

During this period, a total of four servants were involved in assaults, sometimes with one another. A further assault was committed by a resident who was probably a servant, since five years earlier he had been charged with being 'masterless'. Apart from servants, officials of the view were generally at risk of being attacked. For example, John Blake, the ale taster was given a 'box on the ear' and laid low, while the wife of the tithingman was also attacked.

The size of the fines increased during the later sixteenth century and ranged from 4d to 3s 4d, with the higher fines being more common. There is no apparent explanation for the fall in the number of assaults coming before the view, nor is there any evidence to suggest that larger numbers of offenders were being sent for trial at the assizes; on the contrary, the Surrey Assizes, which were held at Croydon, Kingston and Southwark, tried only 28 cases of assault throughout the whole county of Surrey between 1559 and 1601 and recorded only one assault in Carshalton. Although the figure
seems to be low, comparison with other areas in the southeast shows similar or lower numbers. In Bletchingley, which lies at a distance of about 13 km. to the south of Carshalton, there were only three assaults recorded at the view between 1522 and 1530 and, further afield, at the manor of Preston in Sussex, only two assaults came before the view in 20 years of records.  

During the first half of the seventeenth century, no cases of assault came before the Carshalton view and the assize records show a similar picture, where the only cases involving residents of Carshalton between 1604 and 1617 concerned an ale house licence and recusancy. The same situation continued in the second half of the century when no cases of assault came before the view. The only incident of violent behaviour resulted from drunkenness at an ale house as two men, who had been drinking into the night, broke windows and hurled 'common bridges' into the river, for which they were fined 5s Od each. The quarter sessions records for the middle of the seventeenth century show a similar low level of violence in Carshalton. There was one charge of an assault on a woman, but most of the other charges were associated with one individual, named as Thomas Fenwick, who was involved in four cases - he was twice bound over to keep the peace, he was accused of uttering disparaging words against one of the lords of the manor and was also
charged with being drunk during the time of divine
service. However, Fenwick was never presented at the
view for any such charges.

References:

1. See above p. 42.
4. P5/1.2.
5. Ibid.
6. P5/1.18.
8. P5/1.18.
13. Ibid., p. 111.
15. P5/1.41.
16. P5/2.1-14; P5/1.37-8; P5/1.40-1.
18. P5/4.5
22. P5/5.26; P5/5.49.
23. P5/5.38.
24. P5/5.46.
25. P5/2.25; P5/5.38
27. Lambert, 'Court Rolls of Bletchingley', passim.
   Thomas-Stanford, 'Abstract of the Court Rolls
   of the manor of Preston', passim.
28. Cockburn, Surrey Indictments, James I, passim.
30. Jenkinson and Powell, Surrey Quarter Sessions 1663-6,
b) theft

The statute dating from pre-1327, which set out an agenda for the view, acknowledged that there were various degrees of theft and distinguished habitual thieves from opportunist thieves or pilferers.\(^1\) The first group, consisting of house-breakers and common thieves, together with their messengers and receivers, was clearly recognised as being part of organised crime. It differed from the people in the second group, who took advantage of open doors and windows to snatch items such as geese, hens, sheaves of corn, pieces of clothing, or anything that was left lying around. Although the statute distinguished between the two groups, it did not define different types of punishment for the various offences. We can see that fines were the usual form of punishment in Carshalton.

The highest incidence of theft throughout the period of the records occurred in the first 50 years when there were 24 cases. While there is no evidence for organised crime in Carshalton at any time, clearly some individuals were committing more than just one offence. For example, in 1393 John Skinner stole a pair of fetters, an axe and a rope from three different people. The total value of the stolen property was given as 8d but there is no indication of the punishment and he was distrained to
attend the next meeting. In contrast to the case of Skinner, whose thefts were limited to one year, the dispute between William Hod and William Pak, the lord's bailiff, lasted several years and involved rescue, assault and theft, allowing us to see the progression of the case. It began sometime before 1360 when Pak, the bailiff, had taken some of Hod's goods as a distraint; Hod then made a rescue to recover his distrained possessions, at which the bailiff raised the hue and cry, and Hod was fined a total of 6d. (For the purpose of this study, the illegal recovery or rescue (rescussus) of distrained goods has been included with cases of theft).

As with assaults, officials tended to be victims of rescues because of the nature of their employment. The lord's bailiff was the more usual victim since he was normally responsible for distraining goods, but a rescue was also made on a collector of the fifteenth tax in 1392. In this case, William Hunt, a tithingman, was fined 2d for making a rescue on the collector who had presumably taken Hunt's goods as distraint because he had not paid the tax.

Some of the examples of theft which came before the Carshalton view in the second half of the fourteenth century are very similar to items mentioned in the court keeping guide for the officials of St Alban's Abbey in
1340. One of these was the theft of grain at harvest-
time, which was recorded in Carshalton in 1360 when John 
Piper was fined 3d for such an offence, while the whole 
tithing was fined a further 4d for not presenting the 
charge. Another item which featured in the St Alban's 
guide was poaching, and this too appeared as an offence 
in Carshalton in the 1390s. While poaching was already 
seen as an offence in the St Alban's manors in the 1340s, 
a statute issued in 1390 laid down more specific 
regulations forbidding anyone to keep hunting-dogs or 
kill game, unless they were freeholders with land worth 
more than £2 0s 0d a year or, in the case of clergymen, 
having an annual income of £10 0s 0d. Perhaps as a 
result of these new regulations, eight offenders, 
including a clergyman, were distrained in Carshalton to 
attend the next meeting of the view to explain their 
offence.

In the same way as particular individuals, like John 
Skinner and William Hod, were responsible for a number of 
minor crimes in the later fourteenth century, the same 
pattern was repeated in the first half of the fifteenth 
century, when John and Thomas Leycester were brought 
before the view for various offences. In the discussion 
of assaults, we have already seen that they were involved 
in a number of offences against people, and they applied 
the same disregard to property. In 1428 they were
both charged with making a rescue on the bailiff's servant when they recovered 20 pigs which had been distrained from John Leycester. There is no information about the outcome of this case as the Leycesters asked for a postponement, but the tithingman was fined for failing to present the offence. At the same meeting, John Leycester was charged with using distraint as a weapon against other tenants because he had confiscated their animals and refused to hand them back without payment, but again there is no evidence about the result.

During the first half of the fifteenth century, a total of five people were charged with making rescues. There was one example of the theft of cash when two local people were fined 3s 4d each for stealing 4s 10d from another resident, but all the other cases of theft during this period concerned animals. In addition to the recoveries of distrained animals, there were thefts of two chickens and a lamb, while three offenders were brought before the view for poaching 'contrary to the statute'.

In 1448, however, a different kind of theft was presented to the view for the first time, when two outsiders from the adjoining manor of Sutton were charged with stealing three sheep from Thomas Leycester. Another new feature in cases of theft was the large increase in
fines, which were even greater than the increases for assault. For example, the two men from Sutton, who stole Leycester's sheep, were fined record amounts of £1 6s 8d and 13s 4d. Most of the victims of theft were officials - the chickens and lamb were stolen from a tithingman, a rent-collector and the bailiff, while the distrained animals were taken from either the bailiff or his servant.

A major change in the treatment of theft occurred in the later fifteenth century when the records began to show a greater degree of interaction between the work of the view and the court baron. After 1450, the view dealt with hardly any cases of theft from residents and we are left with the unanswered question of what happened when local people stole from one another. Although there is no direct evidence, we can only speculate that cases of thefts from residents were presented at the assizes and the sessions, as they were in the following century. 14

There were only five offences recorded in the second half of the fifteenth century but, of these, only one came before the view, while the rest came before the court baron because they concerned the property of the lord. The one exception to the trend involved charges of poaching which came before both the court baron and the view. In 1477 two clergymen, named as William Kellet and
William Morland, accompanied by two other unnamed persons, were presented at the court baron for poaching on the lord's land, but no fine was given; in 1479 however, when the same Kellet was charged with taking 200 trout from the lord's ponds, the case came before the view and he was fined 10s Od. 15

The patent rolls also provide evidence for theft from the lord of the manor, although on a much larger scale than appears in the records of the view or the court baron. In 1467, for example, charges were brought against John Broke, Thomas Leycester and 22 others from Carshalton that they had formed a conspiracy to break and enter the house of Nicholas Carew to steal horses. 16

During the first half of the sixteenth century, the same picture emerges, with very few cases of theft being presented to the view and theft of the lord's property coming before the court baron. Only three cases of theft came before the view in this period. One of these involved an outsider as victim when two men were fined 4d each for stealing a bushel of corn in Carshalton from a Croydon baker. 17

The same pattern of presenting most cases of theft at the court baron continued in the second half of the sixteenth century. However, one person was responsible for most
thefts. We have already seen that John Fromond, or his servants, had been involved assaults in the middle of the sixteenth century, and the same applied to thefts. 18 Some of Fromond's offences came before both the view and the court baron. For example, when he was presented at the view for an illegal recovery of 60 sheep which the bailiff had impounded, Fromond was not fined, but his accomplice or agent, a poor cottager named Bartholomew Dylcok, was fined 2s 0d by the court baron. 19

As we have already noted with fishing in Carshalton, it is difficult to distinguish between payments for licences to fish and fines for theft.20 In April 1566, because so many people had been taking trout from the local ponds that there were hardly any left, the court baron introduced regulations to restrict the number and size of the fish that could be taken and appointed bailiffs to supervise the fish and fishing. 21 The regulations, however, did not deter Fromond from fishing and, in the following October, he paid £2 0s 0d at the view for fishing in the mill pond. 22 In 1567 he and two associates were also presented at the court baron for taking trout from the local streams and ponds. 23 It is impossible to know whether these payments were fines for theft or licences to fish.
There is clear evidence during the second half of the century that thefts from local people were presented at the assizes. The records for the reign of Elizabeth show that there were ten charges of theft in Carshalton, including one case of highway robbery. However, analysis of these cases reveals that two were committed by outsiders - one by a woman from Southampton and the other by three men from London - while the remaining eight charges resulted in three verdicts of 'not guilty' and one pardon, leaving four verdicts of 'guilty'. Those who were judged to be guilty were whipped or hanged, or in the case of a woman, remanded because she was pregnant. There was a contrast between the types of theft presented at the assizes and the lord's court. The cases at the assizes concerned money, clothes and lengths of cloth, whereas the view and the court baron dealt mostly with thefts of animals. 24

In the seventeenth century, when only three incidents of theft were recorded in the Carshalton court rolls, they all came before the court baron. 25 Generally, offences by outsiders were dealt with by the view but, by the seventeenth century, the view seemed to have lost the initiative in presenting cases of theft and, on the rare occasions when such cases were presented, the court baron assumed responsibility.
As with cases of assault, theft might come before the assizes or the quarter sessions, but there were very few cases in Carshalton in the mid-seventeenth century sessions records. The only reference to theft related to a robbery on 'a Welchman' in Carshalton, without naming the assailants, while one resident of Carshalton, Nicholas Lampriere, was charged with committing various undefined felonies. 26

If we look at the examples of theft in Carshalton, there seemed to be a change taking place in the later fifteenth century. Before that time, most thefts were presented at the view; afterwards, the majority came before the court baron. Traditionally, the view dealt with matters involving residents, while the court baron dealt with business between landlord and tenant. But from the fifteenth century onwards, there seemed to be a merging of some of the functions of the two courts and, as a result, the court baron dealt with most cases of theft. Holdsworth regarded this merging of the two courts as a deliberate act by lords of the manor to use their courts baron as police courts. 27 However, since many cases involved the lord's property, the court baron would be the logical place for such business. What is not clear from these records is what happened in case of thefts from residents. We can only speculate that the more
serious examples were dealt with at the quarter sessions and assizes, as happened in the following century.

References:

2. P5/1.15.
3. P5/1.8; P5/1.6-7.
4. P5/1.13. The fifteenth tax was a tax on movable goods; sometimes the tax collectors relied on a sworn declaration by the individual and, at other times, on an assessment by jurors.
11. P5/1.20.
13. P5/1.33.
14. See below p. 115.
15. P5/2.9; P5/2.13.
17. P5/3.3; P5/4.11; P5/4.27.
19. P5/5.27.
20. See above pp. 90-1.
22. P5/5.38.
23. P5/5.40.

c) hue and cry

Raising the hue and cry, which had evolved during the Anglo-Saxon period as a system for identifying and arresting criminals as soon as possible after they had
committed an offence, was still part of the system of law and order in this country as late as the eighteenth century.¹

To be effective, the hue and cry needed the co-operation of the local community; Meekings emphasised this aspect of co-operation in his discussion of the Surrey eyre of 1235. He stressed the importance of raising the hue and cry immediately after a crime was committed, so that neighbours would be witnesses to the event, the truth could be established and criminals brought to justice. By the same token, however, a victim who failed to call the hue could be fined and his accusation against an offender might be challenged, on the grounds that it was false. ² We can see from the statute books that there was a continuing reliance on the hue and cry as a way of catching criminals. For example, a statute of 1275 ordered all individuals to obey the summons of the sheriff to pursue and arrest felons within the jurisdiction of the view of frankpledge and beyond. ³ And so, through the hue and cry, the local community became responsible for catching felons by a system which we might describe as a legitimate use of force.

The statute of pre-1327, which provided an agenda for the view, also referred to the hue and cry, but it stressed the failure of local people to respond to the cry. The
same emphasis appears in the court keeping guide for St Albans Abbey, which suggested that enquiries should be made to discover whether the hue and cry had been properly raised after an affray. Both these sources show that people were reluctant to raise the hue and cry. This is an understandable reaction, since raising it without good reason was a finable offence and there was no advantage to be gained from carrying the pursuit into a different community.

However, in spite of a general reluctance to raise the hue and cry, it remained on the statute books; a statute of the reign of Elizabeth, which attempted to enforce the use of the hue and cry in the sixteenth century, goes some way to explain why people were reluctant to use it. After referring to fourteenth-century statutes, which had aimed to use the hue and cry to arrest offenders and bring them before views of frankpledge in tithings and hundreds, the statute went on to give details. It was found 'by experience' that when offenders fled into a neighbouring hundred or tithing, local people had no interest in pursuing the hue and cry any further because it was no longer their responsibility, and the offenders escaped. The Elizabethan statute attempted to remedy this failure by promoting the use of the hue and cry, both on foot and on horseback, and urging the injured parties to report the offence in the nearest town; it also imposed a
charge on each parish for the relief of the victims of robbery within the parish. In this way, all the local inhabitants became responsible for preventing robberies, since the amount which they were liable to pay depended on the number and extent of the offences. Although responsibility for dealing with the hue and cry passed from the view of frankpledge to JPs and parish constables, there were problems with implementing the changes, since the constables had difficulty in collecting the money from parishioners and victims exaggerated the size of their losses.

In Carshalton the hue and cry was raised 13 times between 1359 and 1395. This included two occasions when it was raised without due cause and the person who raised it 'unjustly' was fined. On the whole, the records provide very little evidence about why the hue and cry was raised but, in the four cases where there is information, we can see that it resulted directly from assault and theft. It was raised three times in 1359 and two of the cases reveal some of the background to the events. On the first occasion, a servant of William Bockley had made an assault on Henry Mirifield and Mirifield used this as an opportunity to call out the hue and cry against Bockley, but the view decided that this was wrong and Mirifield was fined 3d for raising the hue and cry unjustly. The second example followed a brawl
between two women, when Isabel Piper raised the hue and cry against Alice Pak after an assault, while in the third case no reason was given. As we might expect, the people who were involved in assaults and thefts were also likely to be involved in the hue and cry and William Hod provides an example of such a person. He has been quoted above, as an offender in the sections concerning assault and theft, and the hue and cry was called out twice in pursuit of him; once because he made an illegal rescue and secondly following an assault. Four women were responsible for raising the hue and cry in Carshalton; one of them called it out against a male servant, but no reason was given. No-one was fined in Carshalton for failing to raise the hue and cry after an offence, but two people were fined for raising it without good reason.

Until 1360 there was a direct connection between calling out the hue and cry and the need for pledges, as the offender had to provide a pledge who would guarantee his attendance at the view when required. Meekings referred to a similar system at the eyres, where an offender, who had been pursued by the hue and cry and wished to appeal against his charge, had to find two pledges to guarantee his appearance at the next meeting. Two was the usual number for pledges at the eyres in cases of assault and theft, with only exceptional offences requiring more.
The system used at the Carshalton view in the years 1359 and 1360 required only one pledge for the hue and cry. After 1360, pledges were no longer required in cases of raising the hue and cry, although the cry continued to be raised until 1395.

References:
6. P5/1.2.
7. See above p. 109.

d) disturbances of the peace

Many other charges, which did not involve assault or theft, came within the jurisdiction of the view because they concerned behaviour which was likely to lead to breaches of the peace.

1) idleness and playing games

Idleness had been an item on the pre-1327 agenda of the view, when it specifically referred to people with no
visible means of earning a living, such as those 'who continually haunt taverns'. ¹ The court keeping guide produced for the manors of St Alban's Abbey similarly viewed with suspicion 'any man who goes about loafing by night, commonly haunting the tavern and who is no rich proprietor or rich merchant'. ² The records of the Carshalton view show a similar concern about idlers who spent time playing games. The offence of playing with dice was first recorded in Carshalton in 1428 when three men were described as communes lusores ad dales. ³ The charge may have resulted from a statute of 1388, which was confirmed by a later statute of 1409-10, banning idle games and encouraging more useful pastimes like archery. ⁴ Predictably, the men who were fined for playing games in Carshalton - Adam Parys, Thomas Trewman and Thomas Buxsale - were also involved in cases of assault and theft.

In the 1440s the new offence of playing handball came before the view when Thomas Buxsale, who had been fined for playing dice, was also fined for playing handball with his fellow tithingman 'contrary to the statute'. ⁵ Although the game was called handball (pila manualis), it was also a form of football, and legislation against playing it was issued at intervals during the fifteenth century. Only two were fined at the meeting in April 1446, but the number had increased to eight by the
following September. There are signs that the view had some difficulty in enforcing the statute, since the tithingmen were fined for not presenting the offenders. The failure of the tithingmen to present them is hardly surprising, since Thomas Buxsale, the tithingman, was one of the players. There was also a further difficulty because John Carter, a juror of the view, refused to cooperate with his fellow-jurors in imposing a fine on the players. The fines of 2d each did not deter the players and eleven were again fined in the following year for playing handball 'contrary to the statute'.

Further statutes were issued in the fifteenth century to restrict the playing of games. One of these was issued in 1477 and shows how the legislators connected the playing of games with violent behaviour. It declared that no-one should play unlawful games like dice, quoits or tennis, but that all should practice archery for the defence of the land and that 'new and unprofitable games, such as Closh, Kailes, Half-bowl, Hand-in and Hand-out and Queckboard', should be forbidden because they resulted in murder, robbery and other crimes.

In 1537, two men in Carshalton, Thomas Roger and Thomas Wright, were fined for playing with dice 'contrary to the statute' and, although there is no evidence for violence
as the result of the game, Wright had previously been fined for theft. 9

Because of the emphasis on archery as a useful pastime, the view was made responsible for ensuring that the butts were in good order.10 However, the frequency of the orders to repair the butts suggests that they were usually out of order. This is largely substantiated by a survey of shooting grounds in and around London in 1561 which found that land was being enclosed with tall hedges and wide ditches 'for private gain', making archery impossible.11 The survey suggested that people preferred to play games instead of practising archery. This was confirmed at the Carshalton view in 1565, when an order was made that various gentlemen, who were allowing their servants to play prohibited games within their houses, should encourage them to practice archery instead.

At the same meeting, John Fromond, who was probably one of the gentlemen referred to in the order, was presented at the view for having a bowling alley at his house where various people, including servants, were playing bowls and setting a bad example to others.12 Playing bowls and having bowling alleys were banned by various statutes, but nobles and gentlemen were allowed to play under licence. The patent rolls recorded the issuing of
licences for bowling alleys 'for the recreation of gentlemen and other fit persons of the better sort', excluding servants, vagabonds, idle and masterless persons. As Fromond did not have such a licence and was allowing his servants to play games, the view ordered him not to repeat the offence and imposed a penalty against further offences. At the same time, an associate of Fromond, Robert Harman, was also fined for allowing people to play card games at his house.

In 1571, 17 men were fined 12d each for being in the habit of playing games and, in 1582, the tithingmen presented that all the residents had been playing games 'at one time' and should be fined 1d each. This suggests that they may have been playing a rowdy game of handball or football. After this date, there were no further references to playing games in the records of the view.

References:
2. Maitland and Baildon, The Court Baron, p. 95.
3. P5/1.18.
5. P5/1.28.
6. P5/1.29.
7. P5/1.31.
12. P5/5.32.
ii) vagrants

While playing games was regarded as an undesirable result of idleness, the state of being idle or unemployed was considered to be a cause of crime and those who had no settled home or regular work were termed 'vagrants'. The agenda for the view of pre-1327 clearly associated idleness with crime and this same concern was expressed in various later statutes which revealed a persistent belief that idleness resulted in crime. From this belief, it followed that idlers were identified as potential criminals and that a reduction in idleness or unemployment would lead to a reduction in crime.

A statute of 1536 attempted to deal with idlers and vagrants by allocating responsibility to the officials of hundreds, tithings and parishes to find work for 'sturdy vagabonds'. It also empowered them to use physical punishments if the vagrants refused to work. We have seen that cash fines were normally used as punishment at the Carshalton view, but for the first time in the mid-sixteenth century, probably as a result of legislation, the view issued orders to all the residents to make a pillory and 'a timbrel called le cuckinge stoole'. This was a contrivance which served the same purpose as a
pillory, with the offender being set inside it and pelted by the mob. McIntosh, in her work on Essex manors, has suggested that physical punishments, like the pillory or stocks, were designed for the poor who could not afford to pay fines. However, with only one possible example for the use of physical punishment in Carshalton, the evidence there is not conclusive. Only one person was presented to the view in Carshalton for being unemployed; this was Daniel Gilbert in 1567, who was described as 'masterless' and was charged with 'going about the manor without any master and being unwilling to serve any'. The record states that he was punished 'according to the statute', which may indicate that he was put in the pillory or the cucking stool.  

The number of statutes and proclamations which were issued about sturdy vagabonds indicates a growing unease about people who refused to work, who were seen as a threat to the social order. In view of all the orders issued in the sixteenth century demanding that vagrants should leave London and the suburbs, where they were regarded as potential criminals, it is surprising that Gilbert was the only recorded example of a vagrant in Carshalton. The evidence shows that he remained in Carshalton, since he was fined for assault in 1571 and was last recorded in 1586, when his fourth child was baptised.
There was a distinction between vagrants and migrants, since vagrants were defined as able-bodied, but unwilling to work, whereas migrants were usually travelling from place to place, probably in search of work. Although Gilbert was the only vagrant to come before the view, the parish registers of the early seventeenth century show that there were poor migrants in Carshalton, but they seemed to be few in number and not fit to work. The register for 1602 recorded that 'a man and a woman being goers about, died at Brightelmes in Carshalton Fields and were buried in September', and in 1621 there was the baptism of a the daughter of 'an unknown lame man'. This evidence suggests that, similar to the rest of Surrey, there were relatively few vagrants or migrants in Carshalton, especially when compared with districts in the adjoining counties of Kent and Sussex. When it was necessary to take action against them in Surrey, the cases mostly came before the quarter sessions, rather than the view.

References:
3. P5/5.27.
5. P5/5.46.
7. P5/5.49. SRO. P32/1/1. 1586.
iii) lodgers

The offence of taking in lodgers without permission came before the view in the 1640s. This new charge stemmed from parliamentary legislation in the second half of the sixteenth century which attempted to limit the number of small cottages and crowded hovels that were being built on patches of waste ground. A statute of 1588 prohibited the building of cottages unless they had four acres of land, either adjoining or nearby, which had to be kept in good order as long as the cottage was inhabited. The statute also limited the number of inhabitants to one family only, with no lodgers. The statute gave the view the power to bring charges against offenders, ordering each offender to pay 10s Od for every month of the offence, with powers of distraint if it was not paid. ¹

In 1649, the Carshalton view fined four residents for having lodgers. Among these was a tithingman who paid £1 10s Od because he had a lodger for three months; Allan Mathews was fined £1 0s 0d for having two widows as lodgers, and Moses Eley, who later became an innkeeper, was also fined 10s 0d for having a lodger. ² Clearly, the lodgers were not vagrants or migrants, since we can see from the parish registers that one of them, Richard Gilbert was a carpenter and grandson of Daniel Gilbert, who had been 'masterless' in 1567, but had presumably
found an occupation in Carshalton. The two widows also belonged to families which had long been resident in Carshalton and, as one of them had the surname Mathews, she may have been related to her landlord. The other two lodgers continued to be named as residents for another 12 years, although no longer classed as lodgers.

A few years later, in 1651, a case involving a lodger received slightly different treatment from the view. In this instance the landlord was offered the alternatives of either evicting the lodger, who was described as a weaver, or assuring the view that he would not be a charge on the parish and paying a fine of £2 0s 0d if the man stayed. While there is no information about the landlord's choice of action, he was clearly considered to be responsible for his lodger, who might be allowed to stay if he had employment. This contrasts with the removal orders normally issued against poor lodgers. For example, the quarter sessions record of 1665 shows that the constable of Carshalton was ordered to carry out a removal order against a woman and her children from London. However, as Clarke has shown in his study of migrants, a single male with prospects of employment might be allowed to stay, while a woman with children would generally be moved on, because she was more likely to become a charge on the parish.
iv) gossiping and eavesdropping

While charges of gossiping and eavesdropping do not appear on the statute book as finable offences, they may have become offences because they were liable to cause breaches of the peace. A statute of 1357, which extended the duties of JPs to deal with 'offenders, rioters and other barators' as well as felons and trespassers, may have brought quarrelsome and troublesome people within the jurisdiction of the law, because their activities were likely to cause a disturbance of the peace. ¹ This may account for the presentation of gossips and eavesdroppers at the view but, because so few of these offences occur, it is difficult to establish when they became finable. However, the Winchester court rolls of 1365-6 contain an example of a gossiping woman being fined for disturbing the peace, showing that it was already an offence by that date. ² The court rolls of Norwich refer to an eavesdropper in 1390-1 - he was a chaplain, who was fined 3s 4d 'for listening under his neighbours' eaves and being a common night-rover'. ³
It is easy to understand that such behaviour would be troublesome to the local community, leading to fines at the view or the quarter sessions for disturbing the peace. Putnam quotes an example at the Leicester quarter sessions in 1413, where William Smyth was presented for being an eavesdropper (*ascalator et obauditor*) at night-time, beneath the walls of his neighbours' houses. However, such offences were not commonly reported at the view and there were only three examples in Carshalton. In 1393, five women were described as common gossips (*communes garulatores*) and were distrained to attend the next meeting of the view. Unfortunately, there are no records for the next meeting and we do not know what penalty they received but, for comparison, Matilda Dygon was fined 5d at the Merstham view for being a 'common gossip and disturber of the peace'. Two men were also charged in Carshalton with gossiping and eavesdropping. In 1446 William Barbor was fined 12d for being a common gossip with his neighbours. Then a few years later, John Garlond, who was a tithingman at the time, was fined 8d for being a common eavesdropper (*communis Evesdroppere*) and lurking outside peoples' houses, listening to what his neighbours were saying within the privacy of their own homes. After the mid-fifteenth century, no further charges of gossiping or eavesdropping came before the view.
v) using insulting language

Like gossiping and eavesdropping, using insulting language probably became finable because it disturbed the peace. It happened only once in Carshalton when it occurred at a meeting of the view. During the Civil War two men, Bernard Burton and Samuel Gilpin, refused to take the oath of allegiance to the king. As a result, Burton was fined £5 Os Od for disturbing the meeting and withdrawing 'in contempt of court', while Gilpin was fined £20 Os Od 'for evil behaviour'. While such behaviour may have offended the royalist sympathies of the steward, Edward Thurland, charges of using insulting language about the king, or other people, were more commonly presented at the quarter sessions.

References:
1. P5/7.2.
4) management of the environment

The view of frankpledge provided a system for dealing with the practical problems of everyday living in a local community and, for the purpose of this study, this function of the view has been called management of the environment.

The view was faced with a variety of problems concerning the environment. Some of these arose out of conflicting demands for limited resources, like land and water, and others resulted from natural disasters, such as disease, drought or heavy rainfall. However, many were caused by wilful or neglectful behaviour by members of the community. In a situation where the population was small and scattered, with hardly any competition for resources, problems of everyday living would be less likely to occur; on the other hand, in a community where there was direct contact between individuals, and especially between neighbours, such problems might be expected to arise.

In his introduction to the Surrey eyre of 1235, Meekings quotes some examples of what he describes as 'nuisance' which came before the eyres in the period 1168-1235. He refers to actions which resulted from damage by owners of adjoining properties, such as making or destroying banks,
ditches or hedges, diverting watercourses or damming them to make pools, and blocking roads or footpaths. While the eyres provided a system for presenting these complaints of nuisance and imposing an appropriate penalty, the cases at the eyres were generally brought by wealthy landowners, such as lords of manors, knights, heads of religious houses and parsons, who were in dispute with one another. The local view of frankpledge dealt with the same types of actions, but on a lesser scale and between less eminent people. The pre-1327 agenda for the view specifically referred to encroachments, to altering walls, houses, ditches and hedges, to changing boundaries, to blocking or opening roads and to diverting watercourses. Similarly, the court keeping guide for St Alban's Abbey of 1340 quoted encroachment, putting dung heaps on the highway, building walls on a neighbour's land or on the highway, ploughing up a neighbour's land or the highway, diverting watercourses and blocking paths.

From these three sources, which contain a core of similar elements, we can identify the areas that were most likely to cause trouble and disputes in a community. We are looking at the kind of events which upset the routine pattern of everyday life. Although they may have been of minor importance in the general order of things, they caused local aggravation between neighbours and
residents. Many of these items of business came before both sections of the manor court - the court baron and the view. While the court baron was responsible for dealing with matters concerning the lord's property, the view of frankpledge dealt principally with cases affecting residents. In this way, the court provided a place where everyday problems could be presented.

a) water

Because of its location on the River Wandle, management of water was one of the main environmental concerns of the Carshalton view. On the one hand, the community had the benefit of a good water supply for both business and domestic use but, on the other hand, its situation made Carshalton particularly vulnerable to problems relating to water supply and drainage. As a result, throughout almost the whole period of this study, problems caused by water were a feature of the records of the view.

Specific areas, such as Stonerythe (now known as Wrythe), Brythelmestrete, Threelmestrete, Oldfeld, Hackbridge with its water mill, and the road next to the churchyard (which lies close to the present-day ponds) were mentioned frequently at the view as being in a bad state, usually because the drainage ditches alongside the roads were flooded. Since some of these ditches lay on both
sides of the road and were of considerable size, sometimes up to 1.5m. wide, it is easy to see that flooding was likely to be a regular event. There were additional problems because different individuals were responsible for separate lengths of up to 200m. However, it was the responsibility of the view to ensure the upkeep and management of them in a way that would be beneficial to business, health and communications.

The water mills on the River Wandle caused work for the view over more than 200 years because of the effects of flooding and water shortages. During the fourteenth and fifteenth centuries the mills were held by non-resident tenants; these were the religious establishments of Merton Priory and St Thomas' Hospital in Southwark (which became incorporated into Southwark Priory). Clearly, the owners of both mills were slow to react to the complaints of local residents about nuisances associated with their property. In 1359, the first environmental case to come before the view was a complaint against the master of St Thomas' Hospital that his establishment was responsible for diverting a watercourse to serve his mill at Hackbridge while, at the same time, depriving the other residents of water. Similar charges, together with complaints about undermining the roads, not clearing ditches and allowing trees to overhang the highway, were
made frequently against the priors of Southwark and Merton.

Apart from the priors, one of the main offenders was the lord of the manor, who was frequently presented at the view for allowing ditches to flood, failing to have pits cleaned out, not repairing roads, and allowing the bridge known as Hackbridge to be in a bad state. However, since he was lord of the manor, a fine in his own court was not appropriate for him, and the view usually ordered his bailiff to ensure that the defect was put right. Occasionally, the word *emend'* for a road, or *scurata* for a ditch, was written over the item in the records to indicate that some action had been taken to repair the defect but, more often, the orders were repeated year after year. In 1479, perhaps in desperation because the ditch at Stonerythe continued to overflow, the view decided to 'take counsel with the lord's council', but there is no evidence for the outcome of such a meeting.5

The repetition of orders for fines, with increasing penalties for non-compliance, formed a complete contrast to the sanctions imposed in other cases, such as assault and theft, where a single fine or penalty was usually imposed. The reason for this contrast may lie in the nature of the business. It may have been easier to
allocate responsibility when people held property, which made them more accountable.

During the fifteenth century many of the problems probably arose out of neglect, as in the case of the priors of Merton and Southwark, and Thomas Leycester, who were all fined for allowing ditches to overflow. After two or three reminders, the charges were dropped and then different charges were brought against them, suggesting that some kind of action had been taken to put right some of the causes of trouble. This contrasts with the complaints made against Nicholas Carew, lord of the manor, regarding repairs to Hackbridge and overflowing ditches at Stonerythe, which were repeated five times without result. The water mills caused particular problems; the prior of Southwark was held responsible for ditches flooding near the fulling mill, and Reginald Church was the subject of a special order of the jurors of the view because he had blocked the watercourse to the mill pond, causing the road to be flooded.

In 1476 and 1477 requests were passed to Nicholas Carew to have his overflowing ditches cleared or pay a penalty of 6s 8d, if the work was not carried out. The order was repeated in 1479 when the penalty was changed to a fine; the situation was probably serious, as the jurors of the view ordered the tithingman to remind Carew about
the task. This illustrates the difficulty faced by the view in dealing with an absent tenant who, in this case, was a minor whose property was in the hands of the crown after the death of his father. There was no mention of the case after 1479 and it may have been dealt with.

A change occurred in the late fifteenth century in the size of the fines. We have already seen that the size of fines for minor crimes fell during this time, but this contrasts with fines for environmental damage, which increased. In the earlier records, the priors of Merton and Southwark had usually incurred the highest fines of 3s 4d for allowing ditches to flood, while other tenants often paid about 6d. However, in the period 1473-84 the system changed; instead of paying fairly low fines, high penalties were imposed on all tenants, part of which was forfeit if the work was not done. The penalties ranged from 3s 4d to 6s 8d, and presumably they were considered to be a more effective means of ensuring that the work was carried out, but the process often took a long time and orders had to be repeated. This is illustrated by the case of John Normanton and Roger White, who were ordered in May 1484 to have their flooded ditches at Holden and Stonerythe cleared, or pay a penalty of 3s 4d each. The order was repeated in September of that year, showing that nothing had been done in the meantime.
There was a change in the function of the view concerning the water mills in the early years of the sixteenth century. In 1514 and 1515, the view continued to issue orders to the prior of Merton and the lessees of Southwark Priory to clear their flooded ditches at the fulling mills. After 1515, however, there were fewer references to flooded ditches near the mills, which had been a consistent feature of the records since the fourteenth century. There was also a change of ownership as religious establishments withdrew from property-holding in the early part of the sixteenth century. By 1526 the mill, which was formerly held by Merton Priory, was in the hands of Walter Lambarde, a London goldsmith, who held it directly from the lord of the manor. The other mill, which was previously held by Southwark Priory, had already been leased in the later years of the fifteenth century and in the sixteenth century became a brazil mill, producing dyes from imported timber.

Both the owners in the first part of the sixteenth century were directly involved in Carshalton, as Lambarde married into a local family and built a house there, while Anthony Wood, who held the brazil mill, was a juror both of the view and the court baron, and was chosen as constable. As well as a change of ownership, we may also be seeing part of the process of industrialisation.
along the River Wandle, which is well documented in the following century when increasing demands for water led to shortages.\textsuperscript{16}

There was a further change in the sixteenth century when, instead of dealing with problems arising from an excess of water due to flooding, the view had to deal with difficulties of water shortages. Two orders made against John Mason, the miller, are symptoms of the increased demand for water, as he was charged with holding too much water in his mill pond, so depriving other residents of water both for business and domestic use. On the first occasion he was given a penalty of 10s 0d and ordered to put it right but, since this had no effect, he was then fined 3s 4d, with a penalty of 13s 4d against a future offence.\textsuperscript{17} He probably complied with the order since the charge was not repeated. However, he provided a contrast to John Fromond who committed a series of similar offences of building banks, ditches and watercourses to divert water for his own purposes, while depriving others of water supply. He not only ignored the frequent orders made against him, but he even assaulted a group of men who had gone out, on the lord's orders, to restore the diverted watercourse to its proper channel.\textsuperscript{18}
Perhaps because it was so difficult for local people and the lord of the manor to enforce orders against Fromond, similar charges were made against him to the Surrey and Kent Sewer Commission in 1569-70. The records of the commission referred to 'strife' between Fromond and the people of Carshalton because he had built a dam, with a footpath to his house running along it, and had 'turned a water-sluice so that he would have a full course of water'. The commission also ordered other residents to keep the river channels clear; these included Anthony Wood, who had the brazil mill, who was also presented for drawing too much water. 19

As well as shortages of water, other problems arose with watercourses since residents used them for the disposal of rubbish. A general order was made by the view in 1553, imposing a fine of 3s 4d 'according to the statute' for the offence of putting a dead animal in a watercourse. The order issued by the view in 1553 about streams and watercourses probably resulted from a statute of that year, which specifically mentioned the offence of affecting the water supply by damaging streams, watercourses and conduits. 20 There were only two recorded infringements of this order of the view, one by a resident who put a dead dog in a stream, and the other by Fromond, who was fined 3s 4d for putting a dead horse in the stream near his house. 21

-144-
It is clear from statutes that manorial lords and gentlemen had been enclosing fishponds to keep a supply of fish for their own households. In the same way as enclosing land reduced the amount of pasture for the animals of poorer people, so enclosing fishponds reduced the access to fish for local people. We can see the effect in Carshalton, where both the lord and some of his tenants had their own private fishponds. Fromond and two associates, probably more out of bravado than need, risked fines and confiscation of fishing tackle by fishing in private ponds, and were fined 'according to the statute'. The statute concerning the conservation of fish, which limited the size and number of fish that could be taken, imposed fines and the threat of confiscation of tackle, but there is no evidence that equipment was confiscated in Carshalton.

In the seventeenth century the view was not concerned with shortages of water, but its work may have been influenced by proclamations issued in London to prevent the spread of disease. These urged residents to wash their houses daily and keep water channels clean, as a way of preventing the spread of epidemics. Certainly in Carshalton, a charge was brought against Ambrose Irons in 1621 of allowing 'bad and dirty water' to run through a gutter, called 'a sincke' from his kitchen on to the highway, for which he incurred a penalty of 10s 0d and
was ordered to stop up the gutter.\textsuperscript{25} He clearly had not complied with the order as it was repeated in 1628 against his widow, when she was fined 12d, with a penalty of £1 0s 0d.\textsuperscript{26} After this date, the management of water and drainage ceased to be function of the view.

References:

4. P5/1.2.
5. P5/2.13.
8. P5/2.7.
10. See above p. 100.
11. P5/1.37-8; P5/1.40-1; P5/2.1-14.
12. P5/1.41.
18. P5/5.49.
23. P5/5.38.

b) enclosures

Hedge-breaking was first recorded in Carshalton in the late fourteenth century, when four people were distrained
in 1392 for breaking the lord's hedges. ¹ This was followed by another case in 1393 when William Best was charged with destroying the enclosing hedge of John Milleward and using the land to pasture his own animals. ² It is often impossible to decide whether hedge breakers were gathering firewood or breaking down hedges and fences to obtain grazing for their animals; however, the charge against William Best indicates a link between enclosures and hedge breaking. This type of hedge breaking may have been a reaction to enclosures which reduced the amount of common grazing land for poorer residents who could not afford to enclose land for their own private use.

This change in land use was probably part of a general trend. Certainly, a similar picture emerges in Farleigh at about the same time, where the court baron first recorded cases of hedge breaking in 1399-1400. ³ The effect was not just peculiar to Surrey and may have resulted from a general population decline in the second half of the fourteenth century, which made land available for enclosure by those who could afford it. Clay, in his study of the economic effects of enclosure, stressed the beneficial aspects, such as giving the tenant more independence in the way he used his land. However, the records of Carshalton reveal the local effects of enclosure. They show that the view had to deal first
with charges of breaking enclosures, then with cases of tenants failing to maintain hedges and fences and, finally, shortages of grazing land.

Poor maintenance of enclosures was a frequent cause for grievance by local people since animals escaped from ineffective enclosures and strayed, causing loss and damage to the crops of other tenants and residents. In 1446 five men were fined for having their enclosures in a poor state of repair; these included John and Thomas Leycester and William atte Wood, who were all substantial tenants. Atte Wood had enclosed part of the common as pasture for his large flocks of sheep and, by doing this, he had blocked the path which his neighbours had previously used to take their animals to pasture. The example of atte Wood shows how enclosing might benefit the wealthier tenants since, by enclosing part of the common field for his own use, he could put his sheep to fold on his own land to improve the quality of the soil.

An effect of such enclosures was to reduce the amount of common grazing land. This, in turn, caused people to encroach either on the remaining common or into woodland to replace some of the pasture which they had lost. As a result, the view had to deal with a steady number of cases of encroachment.
An additional effect of enclosing was an increase in the number of stray animals. Without access to common grazing, animals were put to graze wherever there was space. These stray animals were liable to enter the lands of others through broken enclosures and cause damage to crops. Because of the damage and aggravation caused, the animals were impounded. The impounding of strays appeared for the first time in Carshalton in the 1440s when the bailiff, or other tenants, impounded the animals, usually for a year and a day, until they were reclaimed and paid for by their owners. From such evidence, we can see that the use of enclosures had a direct effect on the work of the view - there were more cases of hedge breaking, more orders for the maintenance of hedges and fences, and more stray animals.

Another effect of enclosing and the pressure on common land, which appeared for the first time in the late fifteenth century, was the use of 'stints'. Thirsk defines stints as a way of organizing the number of animals that could be put on the common at any one time to relieve the pressure caused by overgrazing. Sometimes stints limited the number of animals, at other times they limited the periods of grazing. In Carshalton, the first stint was issued by the view in 1478 in a regulation which applied to the whole community - it stated that no inhabitants were to keep geldings on
the common field and set a fine of 3s 4d for any infringement. Although only one such order was made in the late fifteenth century, this followed the same trend as we have seen in the control of brewing in 1476, when the view ordered that residents should brew one after the other, in an orderly fashion and at a specified price. Orders like this show a major change in the function of the view when, instead of imposing fines after an event, the jurors issued proclamations beforehand, often in church, to the whole community. By announcing the regulations and warning people of the consequences of infringement, these orders may have acted as a deterrent. The 1470s marked the beginning of this process in Carshalton, which became more evident in the following century. A similar pattern appeared in the Merstham manors, but with a slight time-lag, as the orders there did not begin until the first decade of the sixteenth century.

Enclosing by major tenants and lease-holders continued to occupy the view in Carshalton during the sixteenth century. For example, William Muschampe, who leased the rectory lands had put a fence across the footpath leading from West Street to the church. Similarly, Thomas Fromond of Mitcham had put a ditch and a bank, topped with a fence, near the lands of the rectory. Both men were ordered to remove these, with penalties of £1 0s 0d
and £2 0s 0d if they refused. In addition, John Fromond was frequently charged with failing to remove hedges and ditches, while Nicholas Burton, another major tenant, was presented on several charges - he was asked to mend the pales of his enclosures because his neighbours' pigs were getting into the corn field, and the jurors of the view resolved to keep open a roadway to pasture land which Burton was attempting to block. Cases like this caused problems throughout the country and were the subject of proclamations by parliament. For instance, in 1528 a parliamentary order called for all enclosed grounds to be opened, ditches filled and hedges and pales removed. Another proclamation of 1548 indicated the extent of the problem, stating that 'land which formerly supported a large number of people is now by the greediness of men and unlawful enclosure of arable land, gotten into one or two men's hands and hardly supports one shepherd'.

In the first half of the seventeenth century, matters concerning the environment came before both the view and the court baron, continuing the trend which was evident in the sixteenth century; on occasions both courts were issuing orders to regulate the number of animals on the commons, while the court baron dealt increasingly with complaints about blocked roads, encroachments and failure to repair hedges and fences. There were hardly any
orders against enclosures and, in April 1646, the view made an order that inhabitants could pasture their animals on the common, but only on their own land, which suggests that areas of the common land had been divided up and allocated to specific tenants. The lack of orders against enclosures may indicate that, apart from small areas of waste, most land had already been enclosed and a parliamentary proclamation issued in 1618, which pardoned people for making enclosures and converting arable into pasture, may reflect a realistic acceptance of enclosure.

In the second half of the seventeenth century, the practice of enclosing common land took a new turn in Carshalton and it was used as a way of providing money for the poor. When a few wealthy tenants applied to enclose small pieces of waste and common to extend their gardens and estates, they were given permission, on condition that they paid an annual rent to the overseers of the poor.

References:

2. P5/1.15.
3. MM 4936.
5. Thirsk, Agricultural Change, p. 42.
6. P5/2.11.
7. P5/2.6.
8. DD/HY. Box 27 Merstham roll 4.
c) roads

As well as coping with problems of water supply and enclosures, the view was involved with the upkeep of roads and bridges which were affected by flooding, overhanging branches and general wear and tear. During the fourteenth and fifteenth centuries there was a succession of complaints about flooded ditches which undermined the roads and made them impassable. An order made in 1550 clearly showed the effect of flooding on the road system. It stated that, because Sparkemore Lane was sunken and in a bad state, all those with ditches alongside should clear them, with a penalty of 4s 0d each.  

After the mid-sixteenth century, parliamentary legislation brought about a change in the function of the view concerning the upkeep of roads. From 1550 onwards various statutes ordered that individuals should provide tools and spend a specific number of day repairing the roads, or pay a sum of 12d a day as a contribution towards the total cost. The view was responsible for enforcing the regulations and a note of the names of
defaulters was sent to the constable of the hundred.\textsuperscript{2} A statute of 1562-3 further stated that hedges near highways should be cut back, and the view was again made responsible for ensuring that the work was done.\textsuperscript{3} Evidence for the enforcement of these statutes in Carshalton appears in the imposition of fines of 12d on a few people for defaulting 'contrary to the statute'.\textsuperscript{4}

The difficulties faced by the views in enforcing the work resulted in a further statute in 1575-6 which imposed taxes on the wealthier local residents to pay for the upkeep of roads.\textsuperscript{5} After this date, supervision of road repairs was transferred to the parish administration and was no longer a matter for the view. However, hedges and ditches remained under the jurisdiction of the view and residents were fined for failing to cut back trees which overhung the roads.

References:

1. P5/5.6.
3. Ibid., pp. 442-3.
4. P5/5.23.
The upkeep of bridges also caused problems in Carshalton; for example, in 1380 William Hod was fined 3d for damaging the bridge by fishing. However, the responsibility for bridges more commonly lay with the lord of the manor, and the view made frequent requests for action to repair Hackbridge. In 1506 the view requested the lord's lessee to repair the bridge with a penalty of 6s 8d if he failed to do so. However, by 1516, the bridge had apparently collapsed, as the view made an order that all the inhabitants of Carshalton should make a new bridge, or incur a penalty. This procedure took a long time and the same order was repeated in 1531, with a further statement that the bridge was in ruins, and the penalty was increased from 6s 8d to 10s Od. In 1546, perhaps in desperation, an order was issued to all the inhabitants of Carshalton and Wallington (which lies on the other side of the bridge) to carry out repairs and provide themselves with shovels for the purpose. An order to repair the West Bridge was issued in 1526 and the work may have been done, as the order was not repeated. From the mid-sixteenth century onwards, bridges did not come within the jurisdiction of the view.
e) orders

While the types of business associated the environment changed over the years, we can also see changes in procedures. We have already noted the use of general orders issued by the view to control use of common land in 1478 and this usage increased in the following century. While it is difficult for us to assess the effectiveness of such orders, we can see that the view was attempting to make the residents aware of regulatory measures, in effect, making it a self-policing community, dependent on mutual co-operation. The issuing of preventative orders was probably part of a general trend which began in Carshalton in the late fifteenth century and gathered momentum in the sixteenth century. There was a similar effect in the Merstham manors, but it occurred slightly later as the orders there did not begin until the early years of the sixteenth century.

In Carshalton in the sixteenth century there were orders against hedge breaking and about repairing the butts.
Other general orders related to impounding stray animals and repairing the bridges. While some of these orders can be regarded as preventative measures, issued as a warning, others were of a different nature. In the first half of the sixteenth century, there was an increasing tendency for the view to make the whole community responsible for its surroundings, instead of trying to persuade individuals or officials to put matters right. For example, this happened with repairs to Hackbridge where all the inhabitants were ordered to take responsibility for the repairs. The emphasis on the role of the community in assuming responsibility for upkeep was not peculiar to Carshalton, since we can see the same effect in the Merstham manors, where general orders were issued to each community within the separate tithings of Merstham, Charlwood and Cheam.

In Carshalton in 1582, in the final document of the sixteenth century, the view issued an order in English - this was the first order in English, perhaps because it was to be read out in public. It stated that a specific area of 40 or 50 acres should be left free of corn, so that all inhabitants could graze a limited number of animals. If they exceeded the limit they should pay 4d for each animal, with 2d going to the lord of the manor and 2d to those who kept to the limits. Similarly, residents of Carshalton who were pasturing their animals
in other districts, had to pay 6d, with half going to the lord and half to the other residents. We can see from these measures that the view was attempting to deal with a shortage of pasture by a mixture of cash payments and restrictions on numbers. The result was that the wealthier people, with larger herds and flocks, paid more, but everyone had a limited amount of pasture.

During the seventeenth century orders concerning the environment came increasingly from the court baron, rather than the view. A change also occurred in the method of issuing the orders; in previous years they had been issued by the bailiff in church but, in 1656, for the first time, it was specifically stated that the order should be proclaimed by the parish clerk. 6

In conclusion, we can see that in the 1650s and 1660s the view was dealing with just a few orders about the use of commons, neglect of property, blocked roadways and three cases of residents putting timber and manure on the waste. Finally, after 1671, it ceased to have any administrative function concerning the environment. After that date, all aspects of management of the environment passed from the jurisdiction of the view to either the court baron, or special commissions, or the parish administration, or the sessions. A glance at the records of the quarter sessions in the mid-
seventeenth century reveals charges of flooded roads, lack of repairs to highways, blocked watercourses, damaged bridges, keeping pigs in churchyards, putting dung heaps on the road, and enclosing common land - all of which had formerly been the concern of the view. In effect, matters which had formerly been the business of the lord's private court had passed into the public domain.

References:

1. P5/2.11.
2. DD/HY. Box 27 Merstham roll 4.
3. P5/4.27.
4. DD/HY. Box 27 Merstham roll 4.
5. P5/5.52.
III. Procedures at the view

1) payments

The right to hold the view of frankpledge allowed lords to derive extra income in the form of fines, or amercements. Because they were administering the king's justice and acting as his agents, they retained the fines. As far as the view was concerned, fines had two aspects - one was a form of punishment following an offence and the other was a payment for permission to carry out some kind of action or process. There was a distinction in terminology. Payment after an event was usually an amercement (amerciamentum), when the individual was 'at the mercy of the lord' (in misericordia domini) and liable to be fined. In contrast to this, the word finis for payment was commonly used at the court baron when a tenant took over property and paid a fee on taking up his tenancy. However, with the introduction of payments for permission to trade in the late fifteenth century, the word finis was sometimes used to indicate payment for a licence, for example, in finis brasiandi.¹ We need to be aware that, in the records of the view, the distinction between the two types of payment is not always obvious and the word 'fine' simply indicated a payment to the lord.
Pollock and Maitland explain the origin of the use of fines by reference to the king's courts, where judges had the power to imprison offenders or were able to discharge those who had 'made a fine with the king' (finem fecerunt). By paying money, they brought the matter to a conclusion (finis) and they were effectively discharged from their offence. In this way, a fine was a bargain made between two parties and, technically, a fine was made, not imposed. ²

In his study of the Surrey eyre, Meekings discusses the payment of fines in the twelfth and thirteenth centuries. While he makes the point that amercement was a feature of all contemporary jurisdiction from the manor court upwards, he also notes that fines were not arbitrary, but were assessed, according to local custom and tradition, by neighbours who would be well aware of the offenders' ability to pay. At the eyres, the fines were assessed, or affeered, by a panel of knights and leading men of the hundred; for the lord's private court, the assessors were generally chosen from among the jurors. ³ This suggests that the method of assessing fines in the king's court was adopted at the lord's view of frankpledge. Since Pollock and Maitland similarly could find no evidence for standard fines, this led them to suggest that the local people had a large amount of freedom in assessing fines. ⁴ We can see from the court rolls that
fines were usually added to the record either during the meeting, or shortly afterwards, and the amount of fine was normally written above the name of the person paying.

While he found no evidence for standard fines, Meekings concludes that lords obtained a good income from their courts, even suggesting that, in proportion to the size of their possessions, they derived as much income from the administration of justice in their courts as the king gained from royal justice, if not more. He quotes examples from the records of the bishops of Winchester for their Surrey manors between the 1220s and 1240s, when members of tithings at Farnham were paying fines ranging from 6d to one mark. Since being able to hold a view was profitable for the lord, it is understandable that lords were eager to acquire the right to hold a view but, if fines were dependent on local custom, the lords needed the cooperation of the local community in order to derive a reasonable income. There is, however, no evidence that the lords of Carshalton or Merstham tried to increase the size of fines to generate more income, on the contrary, there are just a few examples of fines being reduced 'because of the lord's special grace'.

Another procedure, known as a penalty, (pena), came into force in Carshalton in the 1380s. Penalties acted as postponed fines and, if an offender repeated an offence,
the penalty, or part of it, was forfeit and became a fine. Penalties had the same sort of function as pledges - they were guarantees of good behaviour in the future.

Table 6 shows that the numbers of fines rose to a peak in the first half of the fifteenth century and then gradually tailed off.

Table 6. *numbers of fines in each 50 year period:*

date: 1350- 1400- 1450- 1500- 1550- 1600- 1650-
1399 1449 1499 1549 1599 1649 1699
%  %  %  %  %  %  %  % total
no.
type
resident 6 21 12 15 13 16 17 (1163)
trade 22 25 24 22 6 0.4 0.5 (1030)
minor
crime 12 33 11 21 19 3 1 (181)
environ 11 38 15 4 23 7 2 (116)
% of
total 13 25 17 18 11 8 8
(323) (604) (422) (453) (277) (205) (206)(2490)

Table 7 illustrates the average size of fines for each type of business.

Table 7. *average fines:*

date: 1350- 1400- 1450- 1500- 1550- 1600- 1650-
1399 1449 1499 1549 1599 1649 1699
type
resident 2.5d 5d 7d 4d 3d 4d 1s0d
trade 7.5d 6d 5d 7.5d 7.5d 10s0d 11s0d
minor
crime 3d 1s1d 10d 7d 4s3d £5 10s 5s0d
enviro 7d 4s8d 6d 3d 5s3d 4s0d 13s0d

-163-
a) residence

The largest number of fines (1163) was imposed for matters concerning the administration of the view and security (residence); these included absence from the meetings (default), not being sworn into a tithing, withdrawal from the tithing, failing to keep the watch, and negligence by officials.

The charge of default consistently incurred fines in Carshalton from 1359 until 1661. This procedure differed from the practice at the hundred court, where attendance was compulsory only for those who were involved in the business. Throughout the fourteenth and fifteenth centuries the fine in Carshalton remained at 2d, but rose to 4d in 1528 in special circumstances when the residents failed to arrive until 11 o'clock, by which time the officials had completed most of the business. However, it reverted to 2d for about the next thirty years and increased to 4d again in the late 1550s, when the system changed to allow residents to be essoined, or excused from attending. About half the number of residents took advantage of this change at the view and their essoin was indicated by the letters 'ess' written above their names instead of the fine. In a few cases, illness was accepted as a legitimate reason for absence and this was shown by the letters 'aeg' for aeger or the word 'infirm'  

-164-
written over the name. Fines for default remained at 4d until 1649 when they rose to 6d, and they continued at this level until 1661. After 1661, fines for default were abandoned and there was no further attempt to list the names of defaulters, probably because the disruption of civil war, followed by outbreaks of plague, had made it difficult to keep accurate records of large numbers of individuals. The practical difficulty of collecting the fines may also have led to the policy being abandoned, as there was no apparent means of enforcing the fine.

The Merstham records follow the same pattern, with default incurring a fine of 2d in the fourteenth century which gradually increased to 6d by the mid-seventeenth century. Defaulters were still being listed and fined at Merstham in the 1650s but the procedure had ceased by 1705.

In Carshalton, fines for not being enrolled into a tithing or withdrawing from the jurisdiction of the view were kept at a similarly low level of 2d, rising to 4d in the sixteenth century, and they ceased altogether after 1567.

Fines were imposed on officials in connection with their duties; in 1360 the tithingmen paid a fine of 3d each on relinquishing their office, whereas the ale tasters were
fined 4d each for failing to carry out their appointed tasks. In later years, officials were fined for absence, negligence, or failure to present business; there were very few charges of this nature and it is noticeable that during the first half of the fifteenth century, when the level of activity of the view was at its highest, no charges of negligence were brought against officials. The highest fines (about 7s 0d) for officials failing to attend the view occurred in the mid-seventeenth century at the time of the plague.

Fines for failing to keep the watch were in a different category from the rest since they were imposed on the whole community. During the mid-fifteenth century a fine of 12d was imposed on ten occasions but the charge then disappeared from the records.

References:
1. P5/1.38.
5. Meekings, The 1235 Surrey Eyre, 1, p. 129.
7. P5/4.3.
10. DD/HY. Box 27 Merstham rolls 1-5; Chipstead roll 4.
b) supervision of trade and prices

Trade, like default, was consistently fined, with payments which were fairly standard. However, fines for trade differed from other categories, as they evolved into licences to trade, and permission to make a profit. The story of Piers, the ploughman, provides a contemporary comment on fourteenth-century traders, who were fined for high prices and bad products but were allowed to trade provided they paid their 'fines'.

The fines at Carshalton and Merstham followed this pattern, where most fines were a licence to trade. In Carshalton in the fourteenth century, occasional brewers paid sums ranging from 2d to 5s 6d, usually at the rate of 2d per brew, after they had made and sold their ale. An average of 25 brewers each year provided the largest amount of income at the view. During the first half of the fifteenth century the average number of brewers in Carshalton fell to 16, while the fines were about 4d. However, this system changed in the second half of the fifteenth century. At this date, the average number fell to 13, two or three of whom paid in advance for a licence to brew all year, while the remainder continued to pay retrospectively for their occasional brews. There was a further change in the 1470s when the view began to issue regulations about brewing, with financial penalties.
(usually 6d), for those who refused to comply. From 1520 onwards, there were generally about four people paying about 12d either to brew or sell ale and beer. There was no substantial increase in the amount until the seventeenth century when just one or two retailers were paying an average of 10s 0d for permission to brew, which matched the costs of licences at the quarter sessions. The Merstham records show a similar pattern, with the chief difference that supervision of all traders was reduced to two fines of 2d each for selling beer in 1523 and no other payments were afterwards recorded.

Payments for selling bread in Carshalton, which commenced in the 1420s, followed the same pattern as for brewing ale and remained at 2d until the 1470s, when bakers began to take out an annual licence to bake and sell. Payments increased to an average of 4d and they stayed at that level until the 1540s when they disappeared from the records. Butchers featured in the records only during the fifteenth century, when they paid a fine of 2d, while corn millers paid between 4d and 6d from 1428 until 1556 for taking 'excessive toll'. Selling fish was special to Carshalton because of the trout which could be caught in the ponds. Perhaps because of the profits to be made, the payment of about 12d was higher than for the other trades.
c) minor criminal offences

The overall number of fines for minor crimes (181) was far smaller than the number of fines for default or trade. The fines for minor criminal acts were far more variable than payments for default and trade. In the fourteenth century the average fine for assault was 4d, while fines for theft and raising the hue and cry unjustly averaged at 3d. This changed sharply during the first half of the fifteenth century when both the number of offences and the fines increased. The fines for assault rose to an average of 19d, with a peak of 3s 4d in 1446, and the fines for theft rose to an average of 18d. However, in the second half of the century, the level of minor crime fell; no thefts were recorded, while the fines for assault fell to an average of 12d.

While the number of fines for minor crime almost doubled during the first half of the sixteenth century, this was mainly due to the practice of fining all the antagonists in brawls, rather than just one assailant. This
increased the number of fines but the size of the fines fell, with an average of 8d for assault and 6d for theft. There was another noticeable change during this time as the fines were apportioned differently to those who were involved. This may have been related to their ability to pay. There were further changes in the second half of the century as the number of fines declined slightly but the fines showed huge increases and rose to an average of 4s 3d. After 1561, 3s 4d was commonly the fine for assault, while the high fine of 6s 8d was imposed on Thomas Pattenson, a tithingman, who refused to carry out his duties.

During the seventeenth century no assaults or thefts came before the view, but charges of keeping lodgers without permission brought fines of 10s 0d per month, as laid down by statute, while using insulting language about the king at the time of the Civil War brought enormous fines of £5 0s 0d and £20 0s 0d, raising the average fine for minor crime to £5 10s 0d. If we deduct the large fines for using insulting language, we arrive at an average figure of about 7s 0d. In the second half of the century, there were only two fines of 5s 0d each for disorder when two men, who were probably drunk, broke windows and threw 'common bridges' into the river.
The Merstham records show a different picture; they contain fewer references to minor crime throughout the whole period of 350 years and the fines remained at an average level of about 4d until the last ten years of the fifteenth century, when they rose to about 8d, and they continued at this level in the first quarter of the sixteenth century. By the seventeenth century, no minor crime was recorded in Merstham. 5

References:
1. See above p. 104.
2. P5/5.50.
3. P5/7.2. See above p. 163.
5. DD/HY. Box 27 Merstham rolls 1-5.

d) management of the environment

Managing the environment was more wide ranging than the other categories of business, since it involved road repairs, upkeep of bridges and ditches, diversion of water, encroachment and enclosure. The size of fines was generally higher than for other offences, although the number of fines was smaller (116).

Shoemaker, in his study of fines imposed at the quarter sessions in the later seventeenth century, suggests that the nature of the offence and the ability to pay affected the size of the fines. 1 While there is no direct
evidence for differential fines at the view for default or trade, and some slight evidence for differential fines for minor crime, there is more evidence for differences in fines for environmental offences. This probably occurred because the wealthier residents were more likely to be tenants of larger properties. We can see this distinction in the records of 1359-60, when the master of St. Thomas' Hospital incurred two fines of 3s 4d for diverting the water for his mill at Hackbridge, while a local resident was fined 3d for ploughing the highway.

The same situation occurred in the first half of the fifteenth century, when fines as high as £1 6s 8d and £2 0s 0d were imposed on wealthy tenants for failing to repair roads and putting too many animals on the common, whereas the average fine for all offences was 1s 7d.

Together with higher fines, there were changes in the system in the first half of the century, as responsibility for fines was allocated to the whole community and heavy penalties were imposed against further offences. The two procedures were used together for the same offence in 1428 when the whole tithing was fined 3d because a road was in a bad state and needed to be built up (\textit{defectu exaltacionis}), and a penalty of 10s 0d was imposed, to be forfeit if the work was not done. Since the work was not done, part of the penalty became a
fine of 3s 4d and a further penalty of 10s 0d was imposed. By 1443, when the road near the churchyard was 'foundrous', there was no fine, but a penalty of £1 0s 0d was imposed on the whole community and, as long as the work was not carried out, the penalty was repeated. Eventually in 1448, the fine was £2 0s 0d with another penalty of £1 0s 0d and there was a further fine of £2 0s 0d the following year. There is no record of fines or penalties for this offence after 1449, so perhaps the work was done.

The first recorded use of penalties occurred in Carshalton in the 1380s, when John Swafham was fined and had a penalty of half a mark imposed for not clearing ditches. The situation in the Merstham manors followed a similar pattern. There was just one instance of penalties of 12d each being imposed on two men at Cheam in 1364 for allowing the road near their houses to be in a bad state. However, they began to be used systematically in 1431 (at about the same time as in Carshalton) and they were used first for environmental offences. There was a slight difference in Merstham, where they were used against individuals before being imposed on the whole tithing a few years later. For example, in 1431 John Hunt was fined 2d for allowing water from his ditches to flood the road, with a penalty of 12d if he failed to put it right,
and it was 1438 before penalties of 6s 8d were imposed on whole tithings for repairs to damaged bridges. 9

During the second half of the fifteenth century there was extensive use of penalties in Carshalton, mostly for environmental offences, as a means of influencing residents to comply with orders. In 1482, for example, Henry Lee had a penalty of 6s 8d imposed because his blocked ditches caused the footpath near his fulling mill to be flooded. When the work was still not done, he had to forfeit the whole amount of the penalty and he incurred a further penalty of 6s 8d. Two other residents were also given penalties of 3s 4d for having flooded ditches, while the lord's lessee and Nicholas Gaynsford were given penalties of 5s 0d each for allowing their trees to overhang the roads. 10 Penalties were also given for failure to carry out road repairs and for allowing timber to lie on the highway.

The combination of fines and penalties continued in the first half of the sixteenth century, but with a pattern of smaller fines and larger penalties. As, for example, in the case of Henry Burton, who was fined 4d with a penalty of 12d in 1506 because his overflowing ditches flooded the road, but the original amount of the penalty was deleted and increased to 3s 4d. Also in 1506, Hackbridge was in a bad state, being described as debilis
et defracta. and the responsibility was allocated to the lord's lessee who was fined 6d with a penalty of 6s 8d. In 1516 all the inhabitants were summoned to rebuild Hackbridge, with a penalty of 6s 8d if they failed to attend. The summons was repeated in 1531, with an increase in the penalty to 10s 0d and again in 1532 when the penalty was increased to £1 0s 0d. Since similar orders were again issued in the 1540s, this was probably not a very effective way of initiating repairs.

In all the examples quoted so far, the penalties related to past events like bad roads and flooded ditches, but a new departure appeared in the sixteenth century when penalties were applied as a means of regulating future activities. For example, in 1511, the view issued an order stating that all tenants should have a fair share in the common fields, with a penalty of 3s 4d if this was not done. There were other similar orders about making a pillory or cucking stool, laying bait for fish, and hedge-breaking.

While making extensive use of penalties, the view continued to impose fines, especially on John Fromond who disregarded the orders of the view and was largely responsible for the increase in the number of fines for environmental offences in the second half of the sixteenth century. He was fined 5s 0d in 1568 for
blocking the road at Brightelmesgate, with a penalty of £1 0s 0d but, by 1574, the penalty had become a fine because he failed to open the road. Also in 1574, when he incurred a penalty of £1 0s 0d for diverting a watercourse, it was fixed at £1 0s 0d for every successive month of the offence, which would clearly result in a very heavy fine if it were implemented. However, by 'his lordship's special grace', the fine was charged at £2 0s 0d. There was another example of a penalty being reduced when Robert Shott, who faced a penalty of 3d 4d for not clearing ditches, had it reduced to a fine of 12d, 'because they were well scoured'.

In the seventeenth century the number of environmental offences at the view decreased, as cases tended to be presented at the court baron. However, in contrast to the reduction in the amount of business, fines and penalties increased in size. Fines for blocking roads and making encroachments, putting dung on the road and discharging dirty water on to the highway brought fines ranging from 12d to £1 10s 0d, while penalties also averaged at about 10s 0d, which was comparable with fines at the quarter sessions. Fines and penalties at Merstham in the mid-seventeenth century were set at similar levels. Table 8 illustrates the relatively high use of penalties in Carshalton from 1450 until 1599.
Table 8. *numbers of penalties in each 50 year period*:

<table>
<thead>
<tr>
<th>date:</th>
<th>number</th>
<th>% of total no.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1350-99</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1400-49</td>
<td>6</td>
<td>6</td>
</tr>
<tr>
<td>1450-99</td>
<td>39</td>
<td>36</td>
</tr>
<tr>
<td>1500-49</td>
<td>20</td>
<td>19</td>
</tr>
<tr>
<td>1550-99</td>
<td>33</td>
<td>31</td>
</tr>
<tr>
<td>1600-49</td>
<td>7</td>
<td>6</td>
</tr>
<tr>
<td>1650-99</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>total no.</td>
<td>107</td>
<td></td>
</tr>
</tbody>
</table>

References:
2. See above p. 104.
3. P5/1.2; P5/1.8.
5. P5/1.20.
6. P5/1.22.
8. PRO. SC2 204/66. DD/HY. Box 27 Merstham roll 2. P5/1.12
9. DD/HY. Box 27 Merstham roll 2.
15. P5/5.47; P5/5.50.
16. P5/5.50.
17. P5/5.27.
18. DD/HY. Box 27 Merstham roll 5.

2) *distraint*

While distraint was more commonly used at the court baron, it was used occasionally at the view, principally to ensure attendance at meetings. Pollock and Maitland refer to the use of distraint or distress, which allowed the lord to acquire a tenant's possessions as a way of compelling the tenant to perform services, or pay rents,
or attend the court. Rules governed the use of distraint - the lord had the power to take the tenant's goods or land into his own hands, but he could do this only within the manor, he could not sell or exploit them, he had to keep them and return them to the tenant when he complied.  

1 It was not until 1690 that the laws governing distraint were changed and the distrainor was given the statutory right to sell the distress.  

Most legislation about distraint concerned its use at the court baron as, for example, a statute of 1267 pointed out the limitations of distraint, stating that it should be reasonable, that it could only be done by a court and that anyone who acted independently should be fined.  

3 In practice, the distrainor was usually the manorial bailiff who was acting as the lord's agent, since the distraint normally concerned manorial business. At the court baron the lord could take distraint because of his proprietary right as a landowner but, at the view of frankpledge, he could take distraint as a way of maintaining law and order. The chief function of distraint at the view concerned residence and it was mainly used to ensure enrolment in a tithing and attendance at meetings.

The first example of distraint for attendance in Carshalton occurred in 1360 when two men, who had failed
to attend the meeting to be sworn into a tithing, were fined 2d each; the fine was repeated but they were also distrained to attend the next meeting. Since the charges were not repeated in 1361, they may have complied with the order. A similar case in 1381 concerned enrolment; when William Wanlok failed to enrol, as ordered, his pledge was also fined and distrained to produce him at the next meeting, while Wanlok was also distrained. Three other men were distrained to ensure their enrolment, while one man was fined for failing to enrol. Although there is very little direct evidence, it appears that a fine was used for the first failure to enrol, followed by distraint for more persistent offenders.

When nine men were charged with poaching in 1392 the fine was struck out and they were distrained to attend the next meeting. Distraint was similarly used for attendance against four people who were charged with hedge breaking. In the same year, seven men who were qualified to be residents but had not attended the meeting to be sworn into a tithing, were also distrained to attend. In 1393, one thief, and five women charged with gossiping, were also distrained for attendance.

None of the cases concerning distraint for attendance provides any evidence about items being taken as
distraint. However, since fines were used in the first instance for failure to enrol, we can only speculate that cash was used as a form of distraint to compel attendance and residence. In the fifteenth century, the use of distraint for attendance generally ceased.

In the second half of the sixteenth century, there was just one case of distraint when 60 sheep were distrained by the bailiff from John Fromond and were taken into the lord's park at Carshalton. The reason for the distraint was not given but, since Fromond persistently refused to comply with any orders of the view, they may have been taken when other measures failed to have effect.

While Fromond was the last recorded individual to be distrained by the view, the various general orders issued about grazing stints on the common land contained the threat of distraint. In the 1550s and 1560s the orders regulating the number of horses, cattle, sheep and pigs on the commons specifically stated that, either any animals above the limits would be distrained or fines would be levied on the individual's goods and chattels. John Fromond was the only person to have his animals distrained during this time and he may have been breaking the regulations about the use of the commons in the same way as he ignored so many other orders of the view.
Although distraint ceased to be a function of the view after the 1560s, it continued to be used by the court baron until 1691. Table 9 reveals the pattern of use at the Carshalton view.

Table 9. the use of distraint in each 50 year period:

<table>
<thead>
<tr>
<th>date:</th>
<th>number</th>
<th>% of total no.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1350-99</td>
<td>32</td>
<td>78</td>
</tr>
<tr>
<td>1400-49</td>
<td>4</td>
<td>10</td>
</tr>
<tr>
<td>1450-99</td>
<td>2</td>
<td>5</td>
</tr>
<tr>
<td>1500-49</td>
<td>2</td>
<td>5</td>
</tr>
<tr>
<td>1550-99</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>1600-49</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1650-99</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>total no.</td>
<td>41</td>
<td></td>
</tr>
</tbody>
</table>

The trend in the Merstham manors shows a similar pattern, with the greatest use of distraint occurring in the fourteenth century when it was recorded 15 times, for failure to attend. The number fell to six in the first half of the fifteenth century when it was extended to include the offences of park-breaking and putting too many animals on the common, while it was also used as means of persuading the constable and tithingman to take up office 'as elected'. It was finally used in 1485 to ensure enrolment at the view and, similar to the situation in Carshalton, it continued in use at the court baron until 1681. The few references to the types of goods taken as distraint at the Merstham view show that animals were taken. 10
In both Carshalton and the Merstham manors, the use of distraint at the view declined during the first half of the fifteenth century and never recovered in later years. When distraint was no longer used to ensure residence and was replaced by fines, it almost disappeared as a function of the view. This shows a clear contrast with the court baron, where distraint was used consistently in both Carshalton and Merstham until the late seventeenth century.

References:
4. P5/1.8.
5. P5/1.12.
7. P5/1.15.
10. PRO. SC2 204/66.

3) settlement of disputes and use of pledges

On the whole, most disputes came before the court baron, rather than the view. At the court baron we can more clearly observe processes leading to some form of resolution, in which the plaintiff presented a complaint, the defendant was notified and required to attend the court, evidence was offered, and a settlement was reached. However, in the records of the view of
frankpledge, there is less information about procedures and we can usually observe only the settlement, in the form of a fine or penalty.

Since the view was principally concerned with the maintenance of law and order, it was empowered to deal with minor offences which infringed both statutes and local custom. Through presentations by local officials and jurors, it provided local people with a system for dealing with anti-social behaviour and nuisances, and imposed fines or penalties as the settlement.

Because of the emphasis on law and order as the main function of the view, many of the cases presented there concerned assault and theft, which were symptoms of disagreements between local people. In the majority of cases, the record is very sparse and tells us only that the tithingmen or jurors presented the offender in a specific case and that it was settled with a fine or penalty. The case of Henry Spenser in 1428 provides a typical example; when the tithingmen presented that he had unlawfully struck the wife of John Carter, his fine was assessed at 6d, which was written above Spenser's name, and he made, or paid, his fine in settlement.² Many other cases follow this same pattern and, from the fifteenth century onwards, there is no suggestion of any form of compensation for the victims of assault or theft.
While Spenser's case shows that the assessment of a fine was the final stage of the process, the fourteenth century cases provide us with rather more information about procedures. For example, in 1359, first the jurors presented that Alice Pak, wife of William Pak, had assaulted Isabel Piper; secondly, William Pak was fined 2d for the offence because he was held responsible for his wife's behaviour; thirdly, John Piper, husband of Isabel, stood as Pak's pledge to guarantee the payment of the fine in settlement of the dispute. Although this might be considered an unusual arrangement, with the assailant's husband standing as pledge for the victim's husband, it may reflect John Piper's role as a tithingman in Carshalton, who was required to stand as pledge for fines of offenders. There were five other examples of the use of pledges at the Carshalton view in 1359 and, while none of them contains any evidence for a family relationship between offender and pledge, it is noticeable that three of the pledges were tithingmen and they stood as pledges on more than one occasion. Nicholas Davy, for example stood as pledge for several offenders and was responsible for guaranteeing a total of 1s 2d in fines. This use of pledges in the fourteenth century suggests that the pledge for the fine was the system for enforcing the settlement.
In the Merstham records it is more difficult to discern a link between offenders and pledges because the names of tithingmen were not given. The only direct evidence for a connection comes from an affray between two servants, when the master of the offender stood as his pledge.4

After 1360, pledges were no longer required at the Carshalton view but they were still used in the Merstham manors until the 1380s to ensure that the plaintiff and defendant attended the meetings. For example, in 1374, there was a dispute involving theft and assault in Charlwood when Thomas Frowell was fined 3d for attacking Richard Haycock; however, the dispute had other aspects, because Haycock had taken two sheep from Frowell, valued at 11d, which were then distrained by John Payne, who was the bailiff. Both Frowell and Haycock were required to provide pledges to guarantee their appearance at the next meeting, but there was no resolution of the case because both offenders failed to appear. In the event, their pledges were fined for failing to bring them to court. There is no evidence that tithingmen were pledges at Merstham but it is noticeable that John Payne, the bailiff, was one of the pledges in this dispute.5

These cases emphasise the difficulties faced by the view at Merstham in resolving disputes which extended over several meetings and four separate districts. Attendance
at the meeting was a vital part of the process of agreement but, when offenders failed to attend the court, their pledges were fined for the default and the disputes remained unresolved.

While assault and theft were obvious signs of disagreements between local residents, the view of frankpledge also provided a way of allowing local people to present cases of nuisance by others. These were different from disputes between two residents and were grievances brought by neighbours, usually against the wealthier residents who deprived others of access to pasture or water. For example, at Carshalton in 1446, William atte Wood was charged with blocking the way to the pasture for his neighbours' draught animals. Charges of destroying neighbours' hedges or having enclosures in a bad state, so that animals escaped and ate the crops of other residents, also incurred fines and penalties as a means of putting things right and settling disputes.

Enclosures affecting local people caused further problems and we can see that the role of jurors was important in reaching a settlement. In 1555, when the jurors examined a complaint about a pathway, they declared that, 'since time immemorial' two residents had used the way to take their animals to pasture at Whatmanshill and that
Nicholas Burton, a major landholder, had no right to impose a charge on local people for taking their cattle past his land. At the same meeting, the jurors also presented that the enclosure of four acres of waste by another major tenant was unlawful. In 1661, there was a similar statement by the jurors, declaring that pathways were 'old common ways', open to all local people and not restricted to a few wealthy individuals. The statement issued by the jurors in 1661 was a culmination of various previous attempts to open up pathways, which had been blocked by wealthy people who had ignored the increasing fines and penalties.

Statements and presentations of the jurors in these cases suggest that they were working on behalf of the local residents to uphold their access to land at a time when enclosures threatened their livelihood. Because of the nature of the records, we can observe only part of the process in a dispute and we may assume that, either an aggrieved party approached the jurors with a complaint or, perhaps more likely, the tithingmen presented an offender to the view. The majority of cases were presentations, rather than disputes between two people, and the act of presentation was part of the resolution. The fine was assessed and recorded, as the final stage of settlement. In only a few exceptional cases were statements issued by the jurors as a final judgement.
In the mid-sixteenth century, there was a long-lasting dispute between two residents about the division of property which mostly came before the court baron and it has been included in the discussion of the work of the court baron. It involved the view only after the two parties had failed to comply with an order of the court baron to divide the property, and the bailiff and six jurors of the view were called upon to witness a physical division of the tenement. Following the division, the view ordered the tenants to put up hedges and fences to form permanent boundaries which would halt further disputes. 9 However, this allocation of property did not settle the matter and it continued in the court baron and the sheriff's court for a few more years. Even though the jurors of the view were unsuccessful in resolving the dispute, we can see that they had a mediating role.

References:

2. P5/1.19.
3. P5/1.2.
4. PRO. SC2 204/66.
5. Ibid.
6. P5/1.28.
8. P5/8.8
I. Jurisdiction of the view

A conspicuous difference between the jurisdiction of the views of Merstham and Carshalton was one of size. Carshalton probably covered almost 3000 acres and these were more or less in one location; in contrast, the jurisdiction of the Merstham view during the period 1350-1523 covered a much larger area, extending to Charlwood, Cheam and Erbridge, all of which lay at a distance of between 6-13km. from Merstham. While Merstham itself covered about 2000 acres, a rough estimate of the total area coming within the jurisdiction of the Merstham view might be as much as 9000 acres.

It is more difficult to estimate the number of residents who came within the jurisdiction of the view. Cheam lies within 4km. from Carshalton and may have had a similar density of population, whereas Charlwood mostly consisted of scattered farms on the wealden clay. After the Dissolution, the view was confined to Merstham alone and the hearth tax returns of 1664 give a total of 55 dwellings there. For comparison, Carshalton contained 69 dwellings at the same time.
II. Work of the view

1) residence

a) enrolment and default

The function of enrolling new residents into a tithing and ensuring attendance at meetings shows the effect of location on the work of the Merstham view. It is noticeable that most of the defaulters were residents of Charlwood and Cheam. In the late fourteenth century these regularly numbered 17 or 18, while there was only one defaulter from Erbridge and seven from Merstham. This same pattern was repeated until 1523 when records for the combined manors ceased.  

We have seen in Carshalton that on a few occasions reasons for absence were given - usually when servants or sons were withdrawn.  There were also examples of men who were described as 'unsworn' and did not come to be sworn when summoned. The Merstham records also identified men who refused to come for enrolment when summoned (recusant venire). They were first mentioned in 1374, when half the absentees were refusers. The numbers did not seem to be affected by location, since there were six refusers in both Merstham and Charlwood and only two in Cheam. The refusers received different treatment
from those who were absent for an unspecified reason; the refusers were distrained to attend the next meeting, while the absentees were fined 2d or 3d. 6 The recording of absentees was still a function of the Merstham view in 1652 but it had ceased by 1705. This follows the same pattern as Carshalton where it ceased after 1661.

b) common fine

The Carshalton records did not mention payment of the common fine. However, the records of the court for the hundred of Wallington which survive for the end of the fourteenth century, show that the payment of 5s 0d was due there, but hardly ever paid. 7 In contrast to this, the payment of the common fine was a consistent feature of the Merstham records and was still being paid in 1708. The common fine, or head silver, was a collective payment made by each tithing to the sheriff, or his officers, to pay for the administration of justice within the county. 8 From the beginning of these records, the sums were set at 13s 4d from Charlwood, 13s 4d from Merstham and 6s 8d from Cheam, presumably the half-rate payable by Cheam reflected the division of the manor into East and West Cheam. There was no separate common fine from Erbridge, indicating its status as an integral part of Merstham. Despite changes in the value of money, the sums remained the same throughout the period of the records. There is
some evidence for failure to pay when three residents of Cheam and one of Charlwood were fined 2d each in 1488 for refusing to pay. 9

2) supervision of traders and prices

Both Carshalton and Merstham had grants of markets and fairs, which may have affected the number of traders coming within the jurisdiction of the view. As in Carshalton, the view in Merstham in the fourteenth century dealt principally with brewers, although one or two bakers and retailers of bread were also recorded. The large number of brewers in Merstham to some extent reflected the larger overall population of the view. For example, in 1380 there were 56 brewers presented at Merstham, but this figure included residents of Charlwood and Cheam. This was about twice the average figure in Carshalton. 10 In Carshalton most brewers were men, with the addition of a few women, usually widows. However, in Merstham itself, 24 women and one man were brewing in 1364. Ten years later, the situation was reversed, with four women and 25 men brewers. 11 Many of the female brewers of 1364 bore the same surnames as the male brewers in 1374, which suggests that the women were brewing in 1364 because the males in the family were absent. The records of the stone quarries may account for this absence, since in 1360 the managers of the
quarries were empowered to round up craftsmen and others and send them, with the stone, to work at Windsor Castle - 'cementarios et operarios -- et omnes illos quos contrarios vel rebelles in hac parte inveniunt' 12 It is likely that these men had returned by 1374. We can see the same effect in the supply of bread; women were retailing bread in 1364, but they were replaced by men in 1374. These changes were not apparent in Charlwood and Cheam where the trade of brewing was more evenly divided between men and women.

Bakers and retailers of bread came before the Merstham view in the fourteenth century, in contrast to Carshalton, where they did not appear until the fifteenth century. During the fifteenth century, there was a greater variety of traders in Merstham than in Carshalton; these included a baker, two or three retailers, a carpenter, an innkeeper and a tanner who was fined for selling outside the local market. Charlwood, Cheam and Erbridge recorded only brewers.

As we have seen in Carshalton, there was a fall in the number of brewers in the later fifteenth century, and the same effect appeared in Merstham. We also see the same pattern of classification into a) common brewers, b) retailers of ale and beer, and c) occasional brewers. Although the number of brewers fell at Merstham, there
was an increase in the variety of other trades coming before the view. These included a miller, three candlemakers and a butcher who was fined for his deception in selling 'rotten boar meat and pork'.

By the beginning of the sixteenth century the number of beer retailers outnumbered the brewers. An additional factor in the reduction of local brewers may have been the cost of raw materials, since the price of barley almost doubled in Merstham in the early sixteenth century. The information about local prices appears in orders made by the view at intervals from 1488 until 1523 which set the price of a bushel of wheat, barley and oats. We have already seen a similar type of regulation in Carshalton in the 1470s which set the selling price of ale. By 1523 the only traders coming before the Merstham view were two beer retailers from Charwlood. After that date, the supervision of trade and prices ceased to be function of the view.

3) minor criminal offences

In contrast to Carshalton, where the fourteenth-century view dealt with six assaults, 24 thefts and 13 cases of raising the hue and cry, the Merstham view recorded a total of only four assaults, two thefts and seven cases of raising the hue and cry over the same period.
Most of these occurred at Charlwood and Cheam, not at Merstham, showing that distance was not a contributory factor to the low level of reporting minor crime. The hue and cry was last recorded in Carshalton in 1395 but it continued in use for a few more years in Merstham, where was last raised in 1408. 

This comparatively low level of assaults and thefts at the Merstham view continued in the fifteenth century. Only five cases were reported between 1402 and 1438. The only case of theft concerned stealing pigeons with the use of traps which was specifically banned by statute. There was one example of gossiping when a fine was imposed on Matilda Dygon for being a 'common gossip and disturber of the peace'. The same charge was brought in Carshalton against five women in 1393 when they were distrained to attend the next meeting. Between 1457 and 1492 there were ten cases of assault and theft in Merstham, averaging at between two or three at each meeting. These included two cases of thefts of animals; one by Richard Dand of Reigate, who stole three animals and removed them beyond the jurisdiction of the view. In addition to the cases of assault and theft, two men paid fines of 12d for procuring, and five were fined 6d each for being vagabonds, 'because they served no-one and lived suspiciously'. This was the only reference to vagabonds in Merstham where they appeared earlier and in
larger numbers than in Carshalton; they were probably not all strangers, since three of their surnames appeared in earlier records. 22

In the first quarter of the sixteenth century there was a total of six assaults, most of them in Merstham, which was far less than in Carshalton. 23 No assaults had been recorded in Cheam and Erbridge since 1485 and there were only two in Charlwood in the early sixteenth century. In the seventeenth century, the presentation of minor crime at the view had ceased and most cases concerned management of the environment.

4) management of the environment

Environmental concerns formed a conspicuous feature of the work of the view in 1364 when there were 23 charges made in Merstham, two in Cheam and one in Charlwood. The largest fines, ranging from 2s 0d to 6s 8d were imposed on Fulk Horewood because he failed to repair roads at 'Wolneryscrofte' in Merstham and 'between the pit of the manor of Albury and the bridge there', and allowed the highway at 'the hill' to become flooded. These charges contain the earliest references in these records to the pit or stone quarry that lay within the manor of Albury. 24 The large number of charges relating to Merstham suggests that the view was dealing with an unusual
situation of a backlog of repairs to roads and bridges. This may have resulted from the transfer of able-bodied men to work at Windsor, which caused a shortage of labour in Merstham. The neglect of services may have hindered activities such as the transport of stone. Horewood sold the Albury estate in 1366 and, while the upkeep of roads in Albury was frequently a concern of the view, the scale of fines and the total number of cases for the remainder of the century fell to about eight at each meeting, with fines ranging from 2d to 8d.

The distance of Charlwood, Cheam and Erbridge did not appear to affect the number of charges brought at Merstham, although Cheam generally produced the smallest number. The location of Charlwood and Erbridge on the wealden clay, with its large amount of surface water and poor drainage, was probably responsible for the continued emphasis on upkeep of watercourses and bridges, blocked ditches and flooded roads there.

During the fifteenth century the view moved away from imposing on individuals the responsibility for carrying out repairs and allocated responsibility to the whole tithing. In Cheam the whole tithing was put under a penalty of 6s 8d, if the residents failed to repair the road to the 'Duckpool', and in Charlwood the same penalty was imposed because a bridge was broken. The change in
the emphasis of responsibility was accompanied by the introduction of penalties against further offences. The usual pattern was a small fine of about 4d on an individual or tithing, with penalties ranging from 12d to 6s 8d. The system of penalties was already in use in Carshalton in the 1380s, but did not appear in Merstham until the 1430s.  

In the first half of the fifteenth century, the Merstham view began to deal with cases of too many animals on the common; however, there were only two cases - one in Charlwood and one in Cheam - which suggests that grazing land was reasonably plentiful in the Merstham manors. This changed later on in the century as examples of encroachment and overloading the common became more frequent, but they were always outnumbered by cases relating to road repairs and flooding.

A feature of the sixteenth century records is the increasing emphasis put on the whole tithing to assume responsibility for upkeep. More orders were issued to the whole tithing and there was direct evidence to show that the work was completed, as the word *emend'* was added. A new departure in the sixteenth century was the issuing of general orders or regulations concerning management of the environment. The regulations applied to each separate district, with particular orders issued
for Charlwood, or Cheam, or Merstham. There was only one order which applied throughout all the Merstham manors; this concerned the theft of honey (*fructus Apium*) and stated that anyone found with his neighbour's honey would be fined 4d on each occasion. The variety of different orders and regulations point to the process of enclosure in Merstham. As examples of these orders, the inhabitants were told to make fences and hedges between their gardens and the highway, no stray animals were allowed on the highway and the number of sheep was restricted to one per acre. The impounding of larger numbers of stray animals - 16 in Charlwood and nine in Merstham - shows the effects of enclosing.²⁸

In the seventeenth century the Merstham view had only two functions, producing lists of defaulters and dealing with the environment. There were charges of leaving a dung-heap on the highway, neglecting hedges and fences, and failing to repair the mill.²⁹ As in Carshalton, by the early eighteenth century, such cases no longer came before the view.

References:

1. See above p. 13; p. 25.
2. PRO. E179 188/481.
3. See above p. 27.
4. See above pp. 61.
5. See above pp. 59-60.
6. PRO. SC2 204/66-7.
7. PRO. SC2 205/22.
A statute of 1275 laid down regulations for assessing the fine in the counties, hundreds and tithings (Stat. Realm, 1, pp. 31-2).

9. DD/HY. Box 27 Merstham roll 3.
10. PRO SC2 204/66. See above p. 77.
11. PRO SC2 204/66.
13. See above p. 77.
14. DD/HY. Box 27 Merstham rolls 3-4.
15. See above p. 77.
16. DD/HY. Box 27 Merstham roll 4.
17. PRO SC2 204/66-7.
18. DD/HY. Box 27 Merstham roll 1.
20. DD/HY. Box 27 Merstham roll 1.
21. See above p. 133.
22. DD/HY. Box 27 Merstham roll 3.
24. PRO. SC2 204/66.
27. DD/HY. Box 27 Merstham rolls 1-2. See above pp. 162-3.
28. DD/HY. Box 27 Merstham roll 4.
29. Ibid., roll 5.

III Procedures at the view

1) payments

The records over such a wide time-scale reveal changes in aspects of procedure at the Merstham view. Although the payment of fines remained the standard practice throughout the period, there were changes in the amounts and the way they were imposed. From the 1360s until the last quarter of the fifteenth century, payments of 2d or 3d were the general rule, except for common brewers who paid between 6d and 8d. The system changed in the late fifteenth century as penalties were introduced to ensure
compliance with orders of the view in environmental matters. By the mid-seventeenth century, there is evidence that the amounts of fines and penalties had increased to a level comparable with those at the sessions. For example, when a resident of Merstham put a dung-heap on the road, he was fined 10s 0d, with penalties of 12d for each cartload he failed to remove. In another example, the miller was fined 12d for not repairing the mill, with a penalty of 10s 0d, while failing to cut back overhanging branches carried a penalty of £2 0s 0d. 

2) distraint

While pledges were used during the fourteenth century as a way of guaranteeing fines and attendance, distraint was normally used to ensure the attendance of men who refused to be sworn into a tithing. In the fifteenth century, this system changed and fines were imposed on such refusers, while distraint was used when men failed to take up the offices of tithingmen and constable and when there were too many animals on the common. There was a further example of distraint in 1485 when John Puplet of Cheam was distrained to attend the next meeting because he refused to be enrolled. After this date, however, distraint was no longer used at the Merstham.
view, although it continued to be used at the court baron.

c) settlement of disputes and use of pledges

The number of disputes between residents was relatively low at the Merstham view, reflecting the low level of assault and theft. As in Carshalton, most disputes came before the court baron.

Pledges were used in Merstham principally to guarantee payment of fines and attendance at meetings. Generally, there is not enough information to indicate a relationship between the principal and pledge, but three examples suggest that the ability to produce cash was an important factor in the choice of pledge, as the pledges were required to pay fines when the principals did not appear. The use of pledges virtually disappeared after 1388, the only exception being the case of Henry Letchford, who in 1510, after breaking his cups in contempt for a brewing offence, caused his pledges to withdraw their support because he set 'a bad example'.

References:
1. DD/HY. Box 27 Merstham roll 5.
2. DD/HY. Box 27 Merstham roll 1.
3. Ibid., roll 3.
4. PRO. SC2 204/66-7.
5. DD/HY. Box 27 Merstham roll 4.
IV. Officials of the view

Meetings of the view usually coincided with meetings of the court baron and the same steward presided over both. There are no references to a steward's clerk, but it would be common practice for a clerk to attend to write up the records. The manorial bailiff was also present at the view in his capacity as the lord's agent. These people, who were the employees of the lord of the manor, were rarely named in the records. We know much more about the identity of the local representatives - the tithingmen, ale tasters, constables and jurors.

While we can identify these officials, it is sometimes difficult to assess the extent of their powers, since the roles of tithingmen, ale tasters, constables and jurors tended to overlap and merge. Lambard, writing at the end of the sixteenth century, consulted the statute books in an attempt to distinguish the roles of the various officials, but found it impossible 'Whilst I passed through some of the Statutes concerning the offices of Constable and Tithingmen, I found them mingled with divers duties pertaining to the Churchwardens of parishes the Surveyors of the highways, the distributors of the provision for the destruction of vermin and overseers of the poor'. He concluded that it was up to the tithingman to see where his powers lay. This overlapping of
roles and merging of powers suggests that each community developed its individual method of management, with certain elements being common to all and others being rooted in custom and location.

1) tithingmen

Aethelstan's laws, dating from the first half of the tenth century, stated that men should be part of a group of ten, with one man in charge of the other nine 'for the common benefit'. Sometime later in the tenth century, the hundred ordinance, which formed part of the laws of Edgar, specifically referred to tithingmen. It decreed that, if a theft had taken place, information should be sent to the hundredman who would report it to the tithingmen (toedingmannum) and they should search for the thief. The procedures continued in use after the conquest and various eleventh- and twelfth-century laws and law-books referred to the system of keeping the peace by the use of tithingmen. While the adjective décennalis indicated the basis of ten, the laws also referred to the relationship between the tithingman and the rest of his tithing 'sub décennali fideiussione debebant omnes esse, ita quod si unus ex decem foresfaceret novem haberent eum ad rectum'. The word capitalis was also used to indicate the man in charge of the tithing. By the fourteenth century the tithingman
was alternatively called *decennarius* or *capitalis plegius* (chief pledge) and, when English was used, he became the headborough or hedborowe. ⁶ As an outward symbol of his office, the tithingman had a rod or staff, which was handed to him at the meeting of the view of frankpledge or sent to him in his absence.

Larger settlements required a number of tithings but smaller ones formed just one or two tithings. However, the number of tithingmen might change over time. For example, in Carshalton, from 1360 until 1393, there were five; in the fifteenth century the number fell to four and, from 1514 onwards, the number settled down at two.

The arrangement in the Merstham manors was slightly different; the two larger manors of Merstham and Charlwood had two tithingmen, whereas Cheam and Erbridge had just one each. There is some evidence in the records of both Carshalton and Merstham to show that tithingmen were responsible for specific areas. For example, Erbridge was part of the manor of Merstham, but it was detached from it and lay about 6km. to the south and had its own tithingman. We can see a similar situation in Carshalton, where the manor of Carshalton had a separate holding within the manor of Sutton for which a specific tithingman was responsible. ⁷
The Carshalton records show how the system of frankpledge functioned as a means of maintaining law and order in the community in the later middle ages and early modern period. In this system, the tithingmen had the duty of presenting business. The phrase used was *presentant quod* and a court keeping guide of about 1307 referred to this act of presentation - *'omnibus transgressoribus pacis per presentationem decenariorum vel duodecim iuratorum'*. This suggests that the role of tithingman and jurors had developed beyond the role of peace-keeping into presenting offenders. In this way, the tithingman was acting on behalf of the community in making a public and official presentation of people who were presumed to be guilty. The resulting fine represented a public acknowledgement of the judgement of the court.

In Carshalton in the fourteenth century the tithingmen generally made their presentations in the manner prescribed by statute, bringing charges of non-attendance, assault, theft and fishing without permission. However, there were a few exceptions to this pattern; for example, at the court held in 1359, no tithingmen were mentioned and the jurors presented the offenders. The court keeping guide of 1307 showed that presentations might be made by tithingmen or jurors, and this clearly happened in Carshalton. At the following meeting in September 1360, four tithingmen paid 3d or 4d
to the lord on relinquishing their office and they were replaced by four others - possibly they were being fined for failing to carry out their duties the previous year. At the meeting in September the tithingmen presented the cases as usual - their first presentment being the absence of the fifth tithingman from the court.  

These records of 1359-60 provide the only evidence for tithingmen acting as pledges. In 1359, when five men stood as pledges to guarantee payments of fines, three of these were tithingmen at the time and one of them stood as pledge for several different offenders. 

Where the names of jurors are given, we can examine the relationship between jurors and tithingmen to assess how the functions of the two offices relate to one another. Generally the jury list included the names of those who had previously served as tithingmen; there is no indication that service on the jury was a requirement for being a tithingman but, in practice, most of them had been jurors. Only a few examples occur of tithingmen who had no previous jury service. In contrast to this, Howell, in her study of Kibworth Harcourt, suggests that tithingmen there were at the lower end of the scale and that the office was a step to becoming a 'supervisor or juror'. 

-207-
The Merstham records show a distinct difference from Carshalton in the relationship between tithingmen and jurors. There appears to be very little connection between service on the jury and appointment as tithingmen at Merstham. The reason probably lies in the composition of the Merstham jury, which consisted of about 12 men drawn from all four districts, with usually five or six from Merstham and the remainder allocated between Chariwood, Cheam and Erbridge. This arrangement allowed each area to be represented on the jury but reduced the chances of any individual to serve on it.

Affeerers, or assessors, of payments formed another group within the jurors; there were usually about three of them and sometimes the tithingmen acted as assessors. There is no indication of how the assessors were chosen but, since the head juryman was frequently named as an assessor, the position was probably regarded as having a special status among the jurymen. From the Merstham records we can see that assessors, like jurors, were chosen from each area and so they would be likely to know the financial circumstances of the people whose fines they were assessing. Assessors were sometimes responsible for imposing fines upon fellow jurors but the records contain no evidence of bias for or against members of the jury or other assessors.
Over two-year periods, for example in 1380-1 and 1392-3, the same people served as tithingmen in Carshalton, and in 1395 they were the same as in 1393 but with one substitution, suggesting an element of continuity which is mirrored in the later records. In the fifteenth century the function of the tithingmen appears to have become more formalised, with increasing emphasis being placed on information about residence. Keeping a check on residents was an important aspect of the work of the tithingmen - they needed to know who was present, who was absent, whether absence was excusable and, in the case of masters and servants, who was responsible for the absence. We can see that sometimes their presentations were questioned and overruled by the jury, as in the case of John Bayly in 1428. The tithingmen presented that John Squier had withdrawn Bayly, who was probably his servant, from the tithing but they also included Bayly in the list of the people who had failed to enrol, despite being qualified for enrolment. Since Bayly could not fulfil both conditions at the same time, i.e. withdrawal and participation, the jurors, including Squier, rejected the presentation that Bayly should have been enrolled and the tithingmen were fined for wrongful presentation.

The jurors also brought charges of 'concealment' against the tithingmen when they failed to present cases which the jury felt should have been presented. The
relationship between the two bodies is almost like the relationship between father and son, with both sides having freedom of action but with the one being answerable to the other. The jurors themselves were not immune from charges. For example, in 1446 the tithingmen presented charges against five jurors - for overloading the common with animals, for enclosing part of it and for having hedges in a bad state of repair. Nor did the tithingmen escape charges, as we can see when two tithingmen were fined 12d for playing handball.

Tithingmen were faced with problems in carrying out their work, as in the case of Richard Gredere in 1428 who was assaulted when he intervened in an attack made by Adam Parys on William Storm. Parys then turned on Gredere and assaulted him; the fines in this case show an interesting discrepancy, since Parys was fined 6d for the attack on Storm and 1s 8d for the attack on Gredere. There is no indication of the reason for such a difference, but it may reflect the seriousness of the injuries to Gredere or his office as tithingman. Whatever lay behind the decision, it shows that the attack on the tithingman incurred a heavier penalty. However, despite assaults, tithingmen remained in office for several years in succession and there was generally no lack of men to perform the duty. When the tithingmen failed to attend the court they were usually fined for default unless a
good reason was given, but defaulters were often re-appointed the following year.

Case studies of tithingmen in Carshalton show that they had different patterns of appointment. For instance, Thomas Buxsale, who was tithingman every year for four years from 1446, had been sworn into the tithing in 1429. Since various members of the Buxsale family had resided in Carshalton for almost a hundred years, he was probably enrolled at about the age of twelve, which would make him about 29 years of age when he became tithingman. According to the surviving records, no other members of his family had previously been tithingmen or jurors and he does not appear to have served on the jury before his appointment, but John Buxsale, a contemporary, who may have been his brother, was a juror at the time.¹⁸ John Cok also held the office of tithingman for four years, but he had been a juror beforehand and other members of his family had been tithingmen and jurors over the previous twenty years.¹⁹

Because of the lack of correlation between tithingmen and jurors in the Merstham manors, it is impossible to make direct comparisons, but the use of distraint in the early fifteenth century to compel men to take up office shows that men there were reluctant to take on the duties.²⁰
Although the overall number of cases of assault in Carshalton fell slightly in the second half of the fifteenth century, the records show an increasing number of tithingmen being involved in assaults, both as aggressors and victims. In 1473 John Yorke, the miller, assaulted the tithingman while he was carrying out his duties. In the following year William Dalton the tithingman was the victim of an assault and, in 1477, Thomas Carter the tithingman was involved in two cases of assault, both of them against servants. Carter continued to hold office and in 1481 he was appointed as constable - an office which he held again in 1484.

A change occurred in the early sixteenth century when the view was called a meeting of the hundred court. This change coincided with the lordship of Sir John Iwardby, who may have acquired the right to hold a private hundred court at Carshalton. The business of this court in Carshalton was almost identical with the business of the view in previous years, except that the constable took a more prominent part and presented several cases of assault. However, the view resumed in 1514 with presentations by the tithingmen, as before.

The records of the period between 1526 and 1560 show the greatest degree of change in the role of tithingmen as the jurors took over increasing amounts of business from
them. The beginning of this change also coincided with a reduction in the number of tithingmen from four to two. We can examine the chronology of change; for example, in 1536, the tithingmen presented cases of defaulters, trade, and assault, while the jurors made an order about brewing. In 1540, the tithingmen presented only the defaulters and the jurors presented a case of assault. In 1555, the tithingmen presented the defaulters and a miller, while the jurors presented all the other business which concerned use of the common, blocked footpaths and encroachment. This was not a consistent change, since the tithingmen presented all the business in 1552, while the jurors presented nothing. However, allowing for occasional variations, there was a distinct trend of business passing from tithingmen to jurors. By the end of the sixteenth century the tithingmen were generally presenting only lists of defaulters. However, even compiling lists of absentees brought problems for the tithingman, as shown by the case of Thomas Pattenson in 1574. He resigned from his office because of the abuse which he had received in the performance of his duty, and handed back his rod of office with the words, 'this is my rodd, I will be no longer hedborowe, doe what you care'.

The Merstham records also show changes in the role of the tithingman, but earlier than in Carshalton. There were
signs of change in the first half of the fifteenth century, when the jurors held an enquiry to review the work of the tithingmen and ale tasters. Their enquiry, as to whether the officials had carried out their work properly, brought the reply that all was well, 'dicunt quod omnes capitales plegii et tastatores cervisie bene et fideliter presentant et sunt omnia bene' - a phrase which developed into a formula and became part of the standard procedure of the view. In the later fifteenth century there was a further development at Merstham, as jurors began to act independently by bringing additional matters to the attention of the view; this then became a consistent feature of the business. The period from 1480 to 1500 shows the greatest amount of change in the role of the officials at the Merstham court. At this date, the tithingmen began to take over the role of the ale tasters and frequently, although not always, presented the brewers, while the jurors presented additional cases of theft and prostitution, as well as environmental charges.

The tithingmen were probably chosen by the jurors in consultation with the bailiff and the steward, but the Carshalton records of the early sixteenth century provide the first direct evidence about how the tithingmen were chosen. In 1510, and occasionally at other times, the tithingmen nominated their successors,
'they nominate to the aforesaid office Thomas Otway and Thomas Best' (the names of the other two nominees are indecipherable).\textsuperscript{31} Such nominations were presumably accepted by the jurors. The first definite evidence for officials being formally chosen by the jurors occurred in 1540 when the jurymen elected (eligerunt) John Mason to the office of constable, John Wanlyng and Humphrey Hayley both to the office of tithingman.\textsuperscript{32} Before this date, the choice was recorded in the passive form as 'John Mason was elected to the office of tithingman' without stating who had made the choice.

Analysis of the records for the middle of the sixteenth century reveals a continuing degree of correlation in Carshalton between service on the jury and election as tithingman: between 1555 and 1560 70\% of the tithingmen had previously served on the jury and, in 1558, out of a list of fifteen jurymen, eleven of them had previously served as tithingmen, which suggests an strong element of continuity in office-holding in the local community.\textsuperscript{33} Because there are no records of the Merstham view between 1523 and 1647, it is impossible to assess the degree of change there during this time.

During the first half of the seventeenth century, in both Merstham and Carshalton, the office of tithingman became little more than a formality and the jurors took over the
function of listing defaulters. In 1671 in Carshalton, the constable and tithingmen all appeared at the meeting of the view and presented nothing, and the only business recorded was the election of officials for the coming year. After this date there were no more meetings of the view until 1714, when again the only business was elections. A similar picture emerges in Merstham where the tithingmen were still being elected at the beginning of the eighteenth century, but their only function was to collect and pay the common fine.

From these records we can assess the extent of change in the role of the tithingmen. We have seen that under the Anglo-Saxon system they were in charge of small groups of people as a way of promoting law and order. In the later medieval period their duties expanded to include additional aspects of keeping order, such as the presentation of cases of encroachment, blocked ditches, overloading the common etc. However, when the jurors of the view took over some of the functions of the tithingmen and different aspects of their work passed to the court baron, the parish administration and the sessions, the tithingmen no longer had a peace-keeping role to play within the local community. By the end of the seventeenth century, the office of tithingman still existed in Carshalton and Merstham, but it had lost its powers.
References:

5. Stubbs, *Select Charters*, p. 127. 'sub fideiussionis stabilitate quam Angli vocant friborgas, hoc est numerum x hominum -- in omni friborge unus erat capitalis quem ipsi vocabant friborges heved'.
6. P5/5.50.
7. P5/1.39b. John Nyxson was fined by the Carshalton jurors for refusing to hold the office of tithingman for a tithing in Sutton in 1506.
11. P5/1.2.
13. P5/1.11-16.
15. P5/1.28.
17. P5/1.18.
18. P5/1.28-36.
20. DD/HY. Box 27 Merstham roll 1.
22. P5/2.1-2; P5/2.9.
23. P5/1.41.
29. P5/5.50.
30. DD/HY. Box 27 Merstham roll 1.
31. P5/5.3.
32. P5/5.19.
33. *Ibid*.
36. DD/HY. Box 27 Chipstead roll 4.
2) **ale tasters**

The function of an ale taster in the local community was related to the notion of a reasonable price level in the market place, which allowed producers and sellers to make enough profit to maintain their living standards without exploiting their customers. \(^1\) The acceptance of a certain amount of variation in prices can be seen in legislation issued after the Black Death, which fixed wages but did not regulate prices. A statute of 1351 realistically declared that prices should be 'reasonable' and that sellers might make moderate gains. As ale formed an important part of the diet of the population, various orders were issued to exercise a measure of control over the price, usually in association with the price of bread. \(^2\)

Fourteenth-century statutes fixed the price of ale and standardised the measures, while allowing for market forces. \(^3\) We cannot judge from the Carshalton records to what extent national prices were adhered to locally, but the evidence shows that prices were subject to local control at the view. There is one example of a price of 2d per gallon being set in 1476, with penalties for failure to comply. \(^3\) Comparison with prices elsewhere in the country shows that the normal price of a gallon of ale or beer at this date was between 1d and 2d. \(^4\)
Having established the limits of measurement and price, ale tasters were appointed to apply the regulations and assess the quality of the product. The position was unpaid and ale tasters were chosen annually at the view of frankpledge to supervise the production and sale of ale and beer. The function of the ale taster at the view was to present the names of brewers and the number of times they had brewed. One act of brewing incurred a payment of 2d, which provided retrospective permission to brew. Extra payments were imposed when brewers failed to use standard measures or sell in public.

Two ale tasters were appointed each year in Carshalton from 1360 until 1512; afterwards there was just one. In the Merstham manors, each separate district - Charlwood, Cheam, Erbridge and Merstham - had one ale taster.

In the earlier years of the Carshalton records, from 1359 until 1516, when many residents were brewing on an occasional basis, the number of brewers ranged from six to 33 each year. However, major changes occurred in the late fifteenth century, probably because of the introduction of beer which had better keeping qualities than unhopped ales. The introduction of beer gave brewers greater control over their output, because it allowed them to manufacture all year round on a larger scale and store their products, instead of brewing
occasionally according to demand. Evidence for this change can be seen in both the Carshalton and Merstham records of the late fifteenth century, when the total numbers of brewers fell and just a few of them began to take out licences to brew all year. Because of the fall in the number of brewers, there was less work for the ale tasters and, in Carshalton, only one was appointed each year from 1512 onwards.

In the Merstham manors the number of payments for brewing fell by about half in the later fifteenth century and, as the work-load of the ale tasters was reduced, the tithingmen took over the functions of the ale tasters and the two offices were sometimes merged. After 1457, the tithing of Erbridge had no ale taster and no brewers. The total number of payments for brewing in the Merstham manors fell from 33 in 1456 to 22 in 1492; these figures emphasise the decrease in the number of occasional brewers, while a smaller number of brewers worked all year and provided products for beer-retailers to sell.

In Carshalton in the first half of the sixteenth century, when three or four professional brewers were paying in advance for permission to brew, the ale tasters' presentations averaged at about three or four a year. After 1550, when the emphasis changed from brewing to retailing, the numbers were insignificantly small, with
usually just one or two in occasional years. The reduction in the number of brewers and the change to retailing suggests that beer was being brewed outside the manor and brought in for sale.  

The Merstham records show the same trend and, in 1523, only the ale taster of Charlwood presented two beer-retailers. In the mid-seventeenth century, ale tasters were still appointed, but had no business to present. Table 10 gives the number of brewers who came before the views at Carshalton and Merstham - it does not include retailers who might or might not be brewing.

Table 10. percentage of brewers in each 50 year period:

<table>
<thead>
<tr>
<th>date</th>
<th>1350-</th>
<th>1400-</th>
<th>1450-</th>
<th>1500-</th>
<th>1550-</th>
<th>1600-</th>
<th>1650-</th>
<th>total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>no.</td>
</tr>
<tr>
<td>Carsh</td>
<td>32</td>
<td>22</td>
<td>25</td>
<td>20</td>
<td>0.9</td>
<td>0</td>
<td>0</td>
<td>(542)</td>
</tr>
<tr>
<td>Merst</td>
<td>37</td>
<td>37</td>
<td>21</td>
<td>5</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>(464)</td>
</tr>
<tr>
<td>total</td>
<td>(347)</td>
<td>(296)</td>
<td>(226)</td>
<td>(134)</td>
<td>(5)</td>
<td>(0)</td>
<td>(0)</td>
<td>(1006)</td>
</tr>
</tbody>
</table>

The decline in the number of presentations by the ale taster is paralleled by the increasing amount of parliamentary legislation concerning the sale of beer and ale. The first regulations, issued in 1495, gave JPs at the quarter sessions the authority to stop people selling ale if they thought fit. They also gave JPs the right to demand guarantees for good behaviour in the form of money
from ale house keepers - this formed the beginning of the control and licensing of the sale of beer and ale by an agency outside the manor. 8

Ale tasters featured regularly in the records of the fourteenth and fifteenth centuries but, after that time, references to them became more spasmodic. In Carshalton in 1359 there was no reference to any ale tasters and the jurors presented 22 brewers for breaking the regulations. However, in the following year, two ale tasters had failed to do any work - 'the jurors presented that the ale tasters did not perform their office'. The jurors also fined two brewers because they had not sent for the ale tasters to test the quality of their product, indicating that brewers were expected to inform the officials when their brew was ready. 9

The ale tasters were first mentioned by name in 1380 when two men held the office. These were John Foller and William Vincent - both men were brewers and Foller held the office of ale taster at least five times between 1380 and 1395. 10 The Follers first appeared in the records in 1360 and held considerable property in Carshalton in the fifteenth century, Vincent similarly came from a family which had been resident in Carshalton since at least 1359 when his father stood as pledge at the court baron. 11 Where the records contain additional
information about individuals, we can see that the ale
tasters were generally brewers and were among the more
prosperous tenants.

Studies of later ale tasters show no discernible patterns
of appointment; William Aglond held the office between
1474 and 1506 but held no other office. In contrast, Adam
Alot held a succession of offices being ale taster,
tithingman, juror and finally ale taster again for three
years.\textsuperscript{12} In the sixteenth century, Thomas Degon, who was
first recorded as a tenant in 1505, became ale taster in
1512 and then a juror; Thomas Palmer, who held office
from 1529 to 1532, became tithingman then successively
ale taster, juror and tithingman; and John Stevynson who
was ale taster for eight years was also a brewer,
retailer of beer and ale, and was a juror.\textsuperscript{13}

In the second half of the century, John Blake held the
office almost every year between 1552 and 1567.\textsuperscript{14} There
were two men named John Blake, but the records
distinguish them as senior and junior, and John Blake
senior was the ale taster. According to the surviving
records, Blake was the longest serving ale taster; in
1555, he provided the first recorded example of the ale
taster having no cases to bring to the court and, in
1557, he reported that the two retailers were selling ale
in legal measures.\textsuperscript{15}
With the decline in the number of brewers, the ale taster generally presented retailers for selling in illegal measures, usually described as 'stone pottes'. In 1561, Blake himself was fined for 'concealment' when he failed to present Richard Bothomley, the tithingman, for using illegal measures. Bothomley was also the only person to be fined for selling bad beer. After Blake's term of office ended in 1567, the ale tasters were either not appointed or, if they were appointed, they had hardly any business to present. In the seventeenth century, their usual function was to check the measures and ensure that inns and ale houses were properly kept, as in 1657, when Moses Eley was fined for allowing disorder in his ale house. In this set of records Christopher Smith was the last ale taster, in 1671, and, like the other officials at this view, he had no business to present.

There is no indication from the Carshalton records that the officials had the right to enter premises in order to inspect the product or the measures without permission; on the contrary, the onus appeared to lie with the brewer to call in the taster to inspect and approve. This is shown by the cases of John Cok in 1443, who was fined twice for failing to send for the taster, and Richard Robson in 1510, who was fined because he failed to fix a day for the ale taster to test his brew.
The ale taster also regulated the place of sale to ensure that retailers held sufficient stocks and that they were selling publicly where they were subject to price and quality controls. The Carshalton records show that they were expected to put out a sign called an Alstake when they were selling ale and they could be fined if they sold it without the sign.\(^{21}\) Even if the ale tasters were invited by producers and sellers to check the products, they were still likely to be assaulted (although not as frequently as the tithingmen) as when Thomas Palmer was assaulted 'in the pursuit of his office' by Margery Grobbe, wife of John Grobbe, brewer.\(^{22}\)

The ale taster's function was the exercise of supervision, which required the co-operation of the producers and sellers. The effect of his office is most clearly seen in the earlier years of the records when the number of presentations made to the view were at a high level. However, in the same way as the function of the tithingmen became a formality, so the office of ale taster lost its power, and a study of the Carshalton and Merstham records allows us to see this change in measurable terms. The most significant change occurred in the late fifteenth century, with the beginning of outside intervention by JPs in the sale of beer and ale, and when brewing became largely concentrated in the hands of a small number of professional businessmen. The
ale taster continued to make presentations to the view, but on a much reduced scale, and from the mid-sixteenth century onwards the post was held irregularly. Eventually it ceased to have any responsibility, as control of brewing and selling ale and beer gradually passed to JPs at the quarter sessions. For example, the records of the Surrey quarter sessions held in April 1665 show that JPs were then regulating the selling prices of ale and beer at 10s 0d for a barrel of strong ale and beer (36 gallons) and 6s 0d for a barrel of small ale and beer, with other measures in proportion. 23

References:

3. P5/2.6.
4. Rogers, *Prices*, 2, pp. 278-9. Rogers gives the normal price of a gallon of ale in the second half of the fifteenth century as 1d or 2d.
5. DD/HY. Box 27 Merstham roll 2.
7. DD/HY. Box 27 Merstham roll 4.
10. P5/1.11-16.
11. P5/24; P5/1.2.
15. P5/5.13; P5/5.18.
17. P5/5.23.
20. P5/1.22; P5/3.3.
3) constables

Although the constable was chosen at the view, he was not traditionally involved in the work of the private view of frankpledge, as his responsibilities lay first with the administration of the hundred and then the parish. In Carshalton, where his election was recorded from the late fifteenth century onwards, he had usually served on the jury beforehand and frequently held the position of head juror, providing a link between the manorial, parochial and judicial administrations.

The position of constable was established by the ordinance of 1242 which ordered the sheriff of each county to enforce the watch and ward and the assize of arms. As part of this legislation, one or two constables (depending on the size of the community) were appointed to keep the peace and arrest strangers. The Statute of Winchester of 1285 reinforced this ordinance by imposing on constables the duty of checking the weapons held by individuals and empowering them to arrest strangers and deliver suspected persons to the sheriff at the hundred court. (Carshalton lay within the hundred of Wallington and, where records exist, we can see that meetings of the hundred court were generally held in the adjoining manor of Wallington.3)
We have seen that either the tithingmen or jurors presented minor cases to the private view of frankpledge. However, the jurisdiction of the constable covered a larger area. The ordinance and statute were particularly directed at strangers who might commit crimes and then disappear from the district, putting themselves outside the jurisdiction of the view. Because of this, the constable, whose powers extended beyond the tithing, was given the responsibility for supervising strangers. His office was imposed on an already existing system of law and order, based on tithings and local custom and he, to a certain extent, bridged the gap between local offenders, who could be brought to justice with relative ease because they were known to the community, and strangers, who were viewed as potential criminals.

At first, constables were agents of the sheriff, but further legislation, which increased the powers of JPs, gave added responsibilities to the constables, as servants to the JPs. As the powers of JPs at the quarter sessions increased throughout the fifteenth century, the constables acquired further responsibilities for the upkeep of law and order. During the sixteenth century their responsibility for weapons continued under warrants of the lord lieutenants, while they also became parish officers and tax collectors of the parish on behalf of the crown. The decline in the number of...
tithingmen in Carshalton, and in the amount of business they presented, may be directly related to the increasing amount of work which devolved upon the constables from the late fifteenth century onwards. The form of the court rolls shows the importance of the office, as the name of the constable was normally written above the names of the tithingmen and ale tasters, suggesting that his office had greater prestige because of its extra-manorial connections.

Although the constable was answerable to the sheriff and the JPs, the task of choosing him lay with the jury of the local view and, in Carshalton, from the last quarter of the fifteenth century onwards, the choice was recorded in the court rolls. As might be expected, the jurymen frequently chose one of their fellow jurors; there is some further evidence for procedures in the middle of the seventeenth century when the jurors offered two names to the steward, who made the final choice.

Clearly, the office of constable existed in Carshalton before his name appeared in the records of the view. Evidence for this occurred not in the court rolls, but in the lists of those who were pardoned for taking part in Jack Cade's rebellion in 1450. Among those pardoned were John Carter, 'Constable of Crassalton town' together
with his wife and six others. At the time, he was the leading juror of the view. 5

The Merstham records show a slightly different pattern; the first reference to a constable occurred in 1408 when he was distrained in his absence to take up office. We can identify him as John Dawe, an innkeeper, who was also the first juror a few years later. 6 The election of constables was first recorded in 1431 when two men were chosen, one for Merstham and one for Cheam. 7 There was no constable for Erbridge and the election of constables for Charlwood, Cheam and Merstham was recorded only intermittently, with the implication that men continued in office without re-election. In contrast with the tithingmen, there seems to be greater correlation between service on the jury and being constable, as five of the 18 constables were named as jurors; the figure however, is distorted because the names of the constables were given only irregularly and the jury lists were sometimes omitted. Although constables were still being elected at the meetings of the view in Merstham in the early eighteenth century, none of them played any part at the view at any time.

In Carshalton, the first record of a constable in the court rolls occurred in 1473 when John Scoryer was appointed. While this is the earliest reference to the
Scoryer family, the family had probably lived in Carshalton for some time previously, since at least three Scoryers were residents at the time and some served as jurors. Scoryer was chosen constable for the second time in 1476. In 1474, John Burnet, a baker who had previously been a juror, was constable. In 1482, Thomas Carter was appointed as constable, holding the office three times between 1482 and 1506, having previously been tithingman and juror. William Punchon who had already served on the jury several times, was constable twice in the 1480s.

A change occurred in 1509 when the record of the view of frankpledge was replaced by the roll of the hundred court, with the business of the court baron appended. This change occurred during the lordship of Sir John Iwardby, who may have acquired the right to hold a private hundred court, perhaps because it was considered more prestigious. However, the jurisdiction of the court did not extend to the hundred of Wallington, since it concerned only Carshalton. The form of the roll also changed: the title of the constable was more prominently displayed, and the constable himself, for the first and only time, took part in the business of the court by presenting four cases of assault. All the men involved in the assaults were residents who were fined 4d or 6d and there is no evidence to indicate that these
were unusually serious offences. The tithingmen and ale
taster presented their cases as usual. The meeting was
described as the hundred court on four occasions between
1509 and 1512 and the constable on each occasion was
William Calverley.

From 1514 onwards, the constable was elected at the
meetings but took no official part. In one third of the
courts where the constable was named, he was also the
first, or head, juror and the court may have relied on
his expertise in making decisions, as indicated by Sir
Francis Bacon, who wrote in 1610 about the office of
constable. He stated that constables were expected to
attend the court and their chief function lay, not in
presenting offenders, but in providing information about
matters of disturbance and keeping the peace 'which they,
in respect of their office, are presumed to have best and
most particular knowledge of'.

Generally, there was a pattern of jurors being chosen as
constables; these were men with experience in the
workings of view who knew the locality and the residents.
The office was not monopolised by particular families and
four years was the maximum time that it was held by one
individual. Six men held the office twice and three held
it for three years; most held office for one year only.
Apart from William Calverley, no others made
presentations to the court. Although there were a few exceptions, previous membership of the jury appeared to be the most important qualification for holding office. The jury list for 1561, which is a typical example, shows that 50% of the jurors served as constables and one of the jurors, Walter Marshall, who was also bailiff and a major lease holder, held the office three times. 14

Until the beginning of the sixteenth century, jury service appeared to be a pre-condition of being constable, but there was a change during the sixteenth and seventeenth centuries, as men became constables without being jurors beforehand. From 1621 onwards, the change in the composition of the jury probably affected the choice of constable. From this date, men described as 'gentlemen', who were also leading tenants of the manor, became increasingly involved in the work of the jury of the view. These gentlemen monopolised the position of head juror, and the men chosen as constables were included in the general list of jurymen. Towards the end of the century, men were appointed who had not been jurors, and some, like George Hawkins, Thomas Fenwick, Nicholas Hickson, John Drewe and James Hill, sometimes described as gentlemen, were substantial tenants of the manor and members of the jury of the court baron.

-233-
The greatest change probably occurred during the fifteenth century when the constable's name began to be entered on the rolls. This may be a symbol of his increasing duties with regard to keeping the peace which, in turn, reduced the activities of the tithingmen. Lambard, writing at the end of the sixteenth century, found it difficult to distinguish between the roles of the two officials. However, the quarter sessions records of the mid-seventeenth century show how the constable had taken over duties formerly associated with the tithingmen. This change suggests that the tithing, which was the basis of the system for keeping the peace during the Anglo-Saxon period, had become too small to be effective, as a result of social and political changes.

References:

6. DD/HY. Box 27 Merstham roll 1.
7. Ibid., roll 2.
8. P5/2.1.
9. P5/2.6.
10. P5/2.2; P5/1.37; P5/1.38; P5/1.41.
11. See above p. 212.
4) jurors of the view

The jurors of the view of frankpledge in Carshalton and Merstham appear to have had three functions - to present offenders, to hold enquiries to discover the truth, and to make decisions. The factors which influenced the work and power of jurors had evolved through the centuries, beginning with the hundred courts which were set up during the Anglo-Saxon period. Although the framework of hundreds may have existed in southern England by the seventh century, the functions of the hundred court were not clearly defined until the tenth century. At this time, the Ordinance of the Hundred, issued by Edgar, established a system for regulating the court under the supervision of reeves who were the king's officers. The chief officials of the hundred and its tithings were responsible for presenting offenders at this court. 1

A further ordinance of the time (not relating to the work of the court) stated that a body of witnesses, consisting of 12 men from small boroughs and hundreds, should be set up to exercise general supervision over trade in markets. Two or three of them should be present at transactions between individuals to ensure that such transactions were carried out in public, to reduce the likelihood of crime and deceit. These witnesses were sworn to tell the truth 'and each of them, when he is first chosen as witness,
shall swear an oath that he will never, for money or favour or fear, deny any of the things of which he has been witness'. The ordinance gives no indication of how the witnesses were chosen but, by implication, we may assume that they were chosen by the king's reeves who were charged with putting his ordinances into effect. 2 Although the work of these witnesses lay outside the hundred court, their testimony might be used within the court to enable reeves to arrive at a decision and settle a dispute.

The Norman kings used sworn witnesses as jurors to discover information about rights and tenancies which was useful to the crown, as seen in the Domesday survey. The legal reforms of the twelfth century extended the function of jurors into the presentation of offenders when they ordered the sheriffs to appoint 12 of the more responsible men from each hundred, and four from each town, to present offenders to itinerant judges. 3 This group of men, which had taken an oath to tell the truth, was known as a jury (iurata) and the individuals were called jurors (iuratores) i.e. men who had sworn an oath to tell the truth. These men were also regarded as providers of evidence, who were familiar with the locality and local events; their local knowledge was the basis of their appointment and they were described by
Pollock and Maitland as people who were important because they had first-hand information. 4

Meekings has described the procedures used at the Surrey eyre of 1235 where bailiffs of the hundreds and boroughs nominated two knights, or substantial freeholders, or burgesses, as electors of juries. When the 12 jurors were chosen, they were sworn to tell the truth. After they had been sworn, they were supplied with the articles of the eyre, which may have been formally read out to them. Each jury then withdrew to prepare its answer, or verdict. A trial jury was composed of the 12, with the addition of four representatives from the district where the accused lived, or where the offence had been committed. Meekings suggests that men chosen as jurors were interested and prominent in local affairs and possibly literate. 5

The practices of the king's court of the twelfth century and later, influenced procedures at private hundred courts and views of frankpledge, where jurors presented and enquired and gave verdicts. However, under the Anglo-Saxon system, presentations of offenders in the hundred court had been made by tithingmen not jurors, and traces of the earlier system continued, resulting in presentations by both jurors and tithingmen at the same meeting. The results of this parallel system can be
seen in the records of the view of frankpledge in Carshalton and in Merstham, where jurors presented some cases and tithingmen presented others.

Maitland examined the duality of the system of presentation at some length in his work on the Bishop of Ely's court at Littleport in Cambridgeshire, which functioned from 1285 to 1327, and he concluded that the 12 jurors, who were usually tithingmen representing 12 tithings, presented offenders. However, in some cases there was a double presentment, when jurors who were not tithingmen presented offenders, and Maitland suggested that the jurors were presenting material supplied to them by the tithingmen.

The unresolved situation at Littleport may, however, be an indication of jurors taking the initiative in presenting offenders, when they considered that the tithingmen had failed to act, rather than duplicating their work. We have already looked at the evidence of a court keeping guide of about 1307, which indicated that either tithingmen or jurors might make presentments. In a later guide, of about 1340, the author provided an imaginary account of a view of frankpledge, giving an example for officials to follow. In his description of the role of the jurors, he indicated that they should hear the presentment of the tithingmen and see that they
made no concealment. If, on the other hand, there had been concealment, the jurors should present this business after the tithingmen had finished. If jurors were able to act in this way and make presentations, they were clearly men with local knowledge, which argues for continuity of jury service by certain individuals or families, as we can see from the records of both Carshalton and Merstham. This contrasts with the view of Hearnshaw, who, writing in 1908 about the courts at Southampton, considered that the jury was made up of 'creatures of a day. They may be passing strangers rudely interrupted on a journey; need not be permanent and responsible heads of the community'.

There is no information in the Carshalton and Merstham records about how the jurors were chosen or what qualifications were required, apart from residence in the area within the jurisdiction of the view; however, they were probably chosen by someone in authority, either the lord's steward or the manorial bailiff. Evidence for the steward being involved in the choice comes in the same court keeping guide of 1340 where the writer stated that the steward administered an oath of loyalty to the king and to the lord of the manor and then went on to arrange for the appointment of jurors - 'the Steward shall cause to be chosen 12 free tenants (or six free and six bondmen).' Although the phrase 'cause to be chosen'
(fere elire), did not direct the steward to appoint jurors, he was clearly instrumental in their appointment, and Maitland considered that the lord's steward at a view of frankpledge was the equivalent of the king's sheriff, who appointed the jury at a hundred court. 11

In the absence of other evidence, we can only guess, or assume, that the new jurors in Carshalton and Merstham were chosen by several people - probably by the steward, in consultation with the bailiff and some of the more experienced jurors. The bailiff then summoned them to the meetings. Apart from residence, which was a compulsory requirement, the basis of the choice is difficult to analyse, but certain factors appear to be common to the majority of jurors - for example, tenancy, particular relationships to existing jurors, office holding and length of residence. By examining biographical information about the jurors, it may be possible to account for the appointment of some of them.

Once they had been chosen, these men presented offenders, ordered further enquiries to be made 'to discover the truth' in doubtful cases and made inspections of sites of offences - processes which led them to make decisions and give verdicts.
Examination of the records of Carshalton and Merstham allows us to see who these jurors were and what part they played in the community. Other contemporary sources substantiate these records; these include fifteenth century rentals and pardon rolls, parish registers and hearth tax returns.

Although the names of the jurors were not recorded at Carshalton until 1380, the jury of the view was clearly functioning before that date, since the jurors, who were not named, presented all the business in 1359. They presented cases of assault, bloodshed, raising the hue and cry, default of the view, diverting a watercourse and overcharging by brewers. 12

The records for 1380-1 named the head juror only and stated that he and his fellow jurors accepted the presentations of the tithingmen. 13 A detailed study of the two head jurors shows that they had both been residents for at least 25 years before they were named as jurors and one was probably the lord's bailiff, while the other had acted as pledge for several other residents. From this information we can see that both men held positions of influence within the community, which may account for their position as head jurors. Evidence from later records suggests that the first name on the list of jurors (the head juror) usually belonged to an individual.
who had been resident for several years, had served on the jury previously, had held other offices and was a tenant and an employer.

While the records of the later fourteenth century enable us to identify the jurors, they contain hardly any information about their activities. From 1360 until 1395 almost all the business was presented by the tithingmen and ale tasters; the only exception was in 1393 when the jurors made an additional presentation of five women for malicious talk. 14

The function of the jurors in the Merstham manors was similar to Carshalton, but the choice of jurors depended on location, as they were chosen to represent the various districts which came within the jurisdiction of the view. There is a certain correlation between their place of residence and jury service, with all four districts being represented on the jury. The first jury list was given in 1388 and, although the names were listed without any specific information about location, incidental references reveal the distribution of jurors. We can see that five or six came from Merstham and the remainder came from Cheam and Charwood; it is impossible to identify a juror from Erbridge in this list. 15
In Carshalton the jury lists of the fifteenth century allow us to examine patterns of appointment to the juries, particularly in the case of the Carter family. John Carter was juror 11 times between 1443 and 1450, eventually becoming head juror when he was also constable, while his son William was juror five times from 1446 until 1450. Sometimes the two of them served together on the jury, but William's name was usually at the bottom of the list. The same pattern can be seen in the Cok family, where John Cok senior was replaced by Thomas Cok and John Cok junior, who were put lower in the lists. Similarly, Robert and Henry Brygger served together on the jury, but Robert, who was older, was invariably listed above Henry. This pattern of listing suggests that continuity of jury service within families was maintained by the appointment of sons or younger brothers who first appeared in the lower half of the lists.16

Because of this pattern of jury service, the overall trend in the fifteenth century shows that about 50% of each jury was composed of men who had served as jurors previously and were named in the top half of the list; the remaining 50% were new jurors or those who served a few times only and then disappeared. In 1428, we see the beginning of a trend to appoint traders as jurors. This trend developed during the fifteenth century as traders
featured more consistently as jurors; in the mid-fifteenth century 10% of the jurors were engaged in trade and, by the end of the century, this figure had risen to 17%, with millers being in the majority.

In the discussion of the role of the tithingmen in Carshalton we have seen that there appeared to be a connection between service on the jury and the holding of other offices, as men had often been jurors before they became tithingmen. In Merstham, however, this connection did not seem to be significant, principally because of the restricted number of jurors from each area. Where jury lists are given for meetings in fairly close sequence, there is evidence for some degree of continuity in jury service, with about 50% of jurors in each list having served before.

In Carshalton in the 1420s most of the business was presented by the tithingmen and ale tasters, with just a list of jurors given at the end of the items, following the pattern of the later fourteenth century. However, from then on, we begin to see a gradual increase in the number of presentations by the jurors, sometimes as corrections to the presentations of the tithingmen and ale tasters and sometimes as additional business. For example, in 1428, when the tithingmen presented that John Bayly had not enrolled into a tithing, despite being
qualified for enrolment, the jurors decided that he had not been resident for the qualifying period and fined the tithingmen for making a wrongful presentation. 18 The jurors also took the initiative in presenting charges against John and Thomas Leycester of making an illegal recovery of distrained animals, which the tithingmen had neglected to present, and they further charged John Leycester with distraining the animals of other tenants. 19 As the Leycesters were wealthy tenants, employing at least five servants, the jurors may have presented the charges because the tithingmen were unwilling to take action. If this is the case, we may be observing a situation in which collective action by the jurors was becoming more effective than the legal powers of the individual tithingmen.

As the fifteenth century progressed, the jurors made an increasing number of presentations, extending their sphere of influence to include default, trade, assault and environmental management, which had previously been the concern of the tithingmen and ale tasters. However, the jurors did not totally usurp the functions of the other officials, but shared the business and gradually took over a larger proportion of it. In the 1470s we see the jurors beginning to issue general orders which became common practice in the sixteenth century. 20
The Merstham records show the same trend and, by the end of the century, the jurors were presenting additional items of business, such as lists of defaulters, environmental charges, and cases of theft and prostitution. They also set the selling prices of grain. 21

The rolls of Carshalton in the mid-fifteenth century provide us with the only recorded example of disagreement among the jurors, when John Carter was fined for refusing to pass judgement (recusavit facere execucionem) on eight men who were charged with playing hand-ball. 22 Although this is the only example of a disagreement, it shows that there was an element of discussion or debate among jurors before they arrived at a decision.

In Carshalton in the 1470s, there was a temporary change in the form of the records when the names of the jurors of the court baron were also listed, but for three years only. However, this extra information allows us to see that about 50% of the jurors of the view were also jurors of the court baron, which identifies these men as resident tenants. 23
During the sixteenth century we begin to see increases in the size of the jury, which had remained at 12 throughout the previous 120 years. In 1509 the figure rose to 14 and, from then on, it varied, rising to a maximum of 21 in 1654.

A change in the form of the records in Carshalton, which had been a temporary feature in the 1470s, became permanent from the early years of the sixteenth century, when the names of jurors of the court baron began to be listed consistently. This change allows us to see which jurors of the view also served as jurors of the court baron. During the first half of the century usually just one or two men served on both juries, but this figure increased as the century progressed.

As an example of service on both juries, the Richebelle family illustrates a trend which developed during the sixteenth century of tenants serving just occasionally on the jury of the view, but more frequently on the jury of the court baron. John Richebelle senior was first mentioned in 1511-12 when he was juror of the court baron. At the meeting in 1516, the court baron formally recorded his admission to his property, which consisted of the tenements known as Buxsales and Stokbards and two closes called Colesweynes and Walters, together with another croft. He was juror of the view only once, but

-247-
served as juror of the court baron until his death in about 1530. John Richebelle junior was also on the jury of the view in 1526; he too served only once, but was juror of the court baron 1531-9. In the 1540s and 1550s, William Richebelle was juror of both the view and court baron, tithingman and constable.

Like the Richebelles, the families of Bendon, Waker and Oscombe also served on the court baron as well as the view. For example, James Bendon was the first representative of a family which held a number of properties in Carshalton. He was juror of the view in 1526, ale taster in 1527-8 and juror of the view again in 1529-34 and 1539-40. During this time, he was also a juror of the court baron from 1530 until 1541. Following his death in 1541-2, his property passed to his widow, Agnes, while his three sons served on both juries until 1550.

We have already observed from the fifteenth century records that the head juror was likely to be a man of some influence and that trend continued in the sixteenth century when men like Walter Marshall and William Ache held this office.

Marshall's family had been resident for at least 20 years prior to his appointment to the jury in 1539; he was
sworn into a tithing in 1530, which suggests that he was aged 20 or 21 when he became a juror. He held a number of offices - as well as being a head juror twice, he was a tithingman, he was constable three times and was the lord's bailiff. He was also described as 'farmer of the lord', suggesting that he was a major lease-holder within the manor, and the church records show that he was a sidesman in 1552.27

William Ache's career followed a different pattern. He was a new juror in 1548 when his name was put at the end of the list. He was a miller and, by 1551, he had married Elizabeth Bolton, nee Richebelle, who was the widow of Richard Bolton, miller. She had inherited property from her father, John Richebelle, and William Ache became juror of the court baron because he had taken over his wife's tenancy. He held a position of importance within the community for 20 years, becoming head juror of both the view and the court baron and a churchwarden at the same time as Walter Marshall was a sidesman. 28

Length of residence was still a factor in the composition of the jury and, when newcomers were first recorded, they had been resident for an average of three years before becoming jurors. Many of these new jurors served on an average of three juries before giving up the
role, which resulted in rapid changes in the composition of the jury. However, heredity remained a significant element in jury service, both among the established families and newcomers, since the new families which remained in Carshalton followed the practice of introducing younger family members as jurors, who were often placed at the end of the jury list. A sense of seniority was still a feature of the lists, with the same names appearing frequently at the top and new jurors at the bottom.

The proportion of traders serving as jurors changed during the sixteenth century. In the first half of the century, 18% of the jurors were engaged in trade - mostly brewing and selling ale and beer throughout the year. This figure fell to just over 12% by the end of the century. The other trade which featured among the jurors, but to a lesser extent, was milling.

The system of dual presentations by tithingmen and jurors, which we have observed in the fifteenth century, continued in the sixteenth century. For example, in 1505 the list of jurors was placed prominently at the head of the roll, but the tithingmen presented all the business. However, this changed in 1506 when the jurors added charges of theft, selling ale in unsealed measures and the refusal of John Nyxson to serve as a tithingman. 

-250-
By the mid-sixteenth century, the jurors were presenting general regulatory orders and a variety of other business. They were also increasingly responsible for making orders against the wealthier residents and tenants, as they had done against the Leycesters in the fifteenth century. An example of this occurred in 1547 when the jurors ordered Nicholas Burton, a gentleman and major tenant, to present himself and his servants at the view, 'according to English Law'. In 1555, they brought further charges against Burton that he was preventing local people from having access to pasture land as they had always done 'from time immemorial'; they also charged Anthony Wood with driving other peoples' cattle from the common and presented Thomas Lambert, another gentleman, for claiming four acres of waste as his own - 'the jurors say on oath that the four acres are the waste of the manor of Carshalton'.

The Merstham records show the same effect, where jurors did not replace the other officials but brought extra charges. While the jurors' responsibilities at Merstham covered the whole jurisdiction of the view, it is noticeable that most of their presentations related to Merstham, Erbridge and Charlwood, with very few references to Cheam. As the distance between Cheam and Merstham is slightly less than between Charlwood and Merstham, the lack of presentations about Cheam cannot be
explained solely in terms of location, but it may reflect the composition of the jury, since Cheam sent very few jurors to Merstham and, for example, in 1516 only one came from Cheam. 33

The policy of more obvious intervention by jurors into the work of the view may have resulted from a further change in the composition of the jury, as the more wealthy tenants of the manor became jurors of the view. We can see this in Carshalton where the jurors were men like Richard Goldwyer, who was a lease-holder and a guardian for another tenant, and Richard Thomas, a miller, who became the first gentleman to serve on the view. Thomas' career followed a similar pattern to that of William Ache a few years earlier. 34 He married the widow of Henry Gaynesford, a gentleman, and by marriage he acquired the status of a gentleman and control of her property which included half of the manor of Stonecourt, with its chief house, water mill and other tenements. He served on the jury of the view and was also leader of the jury of the court baron. 35

The records for 1567 provide evidence for the proportion of jurors to others who were expected to attend. They listed all those who attended the meeting, including the jurors and officials, together with a list of absentees. This gives a total of 45 males over the age of twelve,
consisting of 14 jurors, 23 attenders and eight absentees. Of the 31 who were listed as either attenders or defaulters, ten served as jurors on some other occasion, which suggests that about half the number of those likely to attend served as jurors at some time. 36

After 1560, there was clearly a fall in the amount of business being presented by the tithingmen, who still presented the defaulters and a few other charges, while most of the work devolved on the jurors. However, another factor appeared in the 1560s as the jury of the court baron began to encroach on the work of the view. The court baron dealt principally with the administration of property but, perhaps because an average of four or five men were combining the offices of jurors of the view and the court baron, much of the traditional business of the view tended to be transferred to the court baron. This change became more noticeable in the 1560s, when charges against John Fromond were presented at both the view and the court baron and orders about the use of the commons, encroachment and general regulatory orders tended to be issued by the court baron, rather than the view.

The move of business from the view to the court baron is most evident between 1574 and 1582. In 1574, the tithingmen presented only the lists of defaulters, while the jurors of the view presented a brawl, encroachments
by John Fromond and various other tenants, and issued regulations about putting animals on the commons and presented the tithingman for refusing to carry out his duties. At the same time, the court baron was concerned only with transfers of property. 37 By 1582, however, the tithingmen presented just defaulters and games players, and, although 20 men were listed as jurors of the view, they presented only that the lord's park was in disrepair, while the jurors of the court baron issued regulations about the use of common land in addition to dealing with property transfers. 38

As there are no surviving records for the view in Merstham during the second half of the sixteenth century, it is impossible to compare the juries in this period. However, since the seventeenth century records show that about 38% of the view jurors were also jurors of the court baron, the same pattern of change may have occurred there. 39

In Carshalton during the seventeenth century, men who were described as gentlemen featured consistently on the jury of the view. Only two gentlemen had served briefly as jurors in the sixteenth century but the change became more evident during the seventeenth century. The list for 1621 was headed by two gentlemen, with John Lambert as the head juror. His family was first recorded in
Carshalton when Walter Lambarde or Lambert, a gentleman and goldsmith of London, paid a fine for default from the court baron. Walter had previously married a daughter of Henry Gaynesford and built a house in Carshalton within the so-called manor of Stonecourt, which was held by Gaynesford. After Walter died, the family remained in Carshalton, with John Lambert being the first member of the family to serve as juror. He served twice on the jury, both times as head juror; he was also an assessor of fines, a leading juror of the court baron and he frequently acted as a sponsor at the court baron, presenting items of business on behalf of other tenants. He held a substantial property, later known as Cockers Hall, which he surrendered to his brother Edward in return for £400 Os Od.

The second juror of the view was Henry Herringman, also a gentleman; he was a juror for the first time in 1621 and served on three occasions. He had been resident for some time before 1621, having married Anne, daughter of John Mathews, who was a local resident, and the baptism of their son, John, was recorded in the parish register in 1599. Like John Lambert, Henry Herringman was an assessor and juror of the court baron. His son John followed him in serving on the view jury and, in 1682, the family presented the church with a silver alms dish, inscribed with their name.
The same pattern of putting gentlemen first can be seen in 1645, when the list was headed by three gentlemen, John Wood, Richard Richmond and Henry Herringman. Wood was baptised in 1592 as the son of Epaphroditus Wood, but his father died before John came of age. In 1638 John took control of property described as a part of Colesweyns and other lands, which were held by a subtenant. Between 1642 and 1657 he held the position of head juror, leader of the jury of the court baron, assessor and, with George Burrish, he acted as sponsor on behalf of other tenants.

From these lists we can see that gentlemen formed 24% of the jurors of the view; two or three were present on most juries, usually listed at the top. These men were generally substantial tenants and featured extensively on the jury of the court baron; some were newcomers but others were members of established families who were classed as gentry for the first time. There were men like George Hawkins and William Weston, who were listed simply as jurors when they first appeared in the records, but after a few years, they were described as gentlemen. In the seventeenth century records only one non-gentleman, Thomas Warden, was head juror.

The trend towards gentry representation on the jury continued in the second half of the century. There were
generally three or four gentlemen on each list, usually at the top, and they formed 23% of the jurors, which echoes the 24% in the period 1621-49. The only occupation featuring in the lists was innkeeping, with two innkeepers being jurors in 1657.  

In 1656 the jury list was headed by three gentlemen: George Burrish, John Wood and Henry Byne, of whom Henry Byne was a new juror. His father, Henry Byne senior, had been a juror in 1649 and, when his father died in 1654, Henry Byne junior took over the chief house, with its gardens and other properties. In 1656 he was juror of both the view and the court baron; he was on both juries on three occasions and was leader of the jury of the court baron in 1672. The records of the quarter sessions show his involvement in justice outside the manor. He was clerk of the peace and was responsible for organizing JPs to collect money for the poor at the time of the plague and deliver it to him, 'att his house att Carshalton', for distribution to the poor. Some of the other jurors, too, acted as JPs at the quarter sessions. However, poorer residents were also jurors of the court baron; for example, William Wilson became juror after he had been granted a piece of waste ground by the steward and was excused from paying an entry fine because of his poverty. The hearth tax returns provide evidence that poorer residents might be jurors, since
five heads of households with just one or two hearths, who were too poor to pay the tax, served on the jury. \(^{51}\)

The records of the seventeenth century included long lists of defaulters, which suggest that very few people, apart from jurors and officials, attended the meetings.

The function of the jury changed in the seventeenth century when the tithingmen did not attend or, when they did attend, they had no business to present. As a result, the jurors presented all the business, which included lists of defaulters, charges of discharging dirty water on to the highway, putting dung on the road, blocked roads, neglected fences and hedges, flooded ditches, having lodgers, using insulting language and putting animals on the common. However, the court baron was also presenting similar items and, eventually, the court baron took over all the business. By 1671, the names of the jurors of the view were listed, but they ceased to have any function. They no longer presented even a list of defaulters and, although a gap of about 2.5cm. was left for the names, it was not filled and the jurors of the court baron presented all the business. \(^{52}\) After 1671, the view was not convened.

We see a similar picture in the Merstham records of the mid-seventeenth century, where the tithingmen presented
the common fine, while the jurors presented the rest of the business. By the early eighteenth century, although the title of view of frankpledge was retained and the jurors were listed, the meeting dealt only with property transfers, which were the business of the court baron. There was however, a major difference in the composition of the jury at Merstham, where there were hardly any gentlemen.

In conclusion, these records allow us to see changes in the composition of the jury. In the mid-fourteenth century, the jurors were anonymous but, by the 1380s in both Carshalton and Merstham, 12 men can be identified as jurors and local residents, some of whom were also tenants. During the fifteenth century, when the names of the jurors of the court baron were listed for a few years in Carshalton, we can see that about 50% of the jurors of the view also served on the jury of the court baron. This allows us to identify these men as local tenants. In the early sixteenth century there was less correlation between the two sets of jurors, when only one or two men served on both juries in Carshalton. This changed in the second half of the century, when the average number of jurors of the view increased to 13 and three of these served consistently on both juries. At the same time, about eleven members of each jury of the view had been jurors before, showing a degree of
continuity of service. The records of the seventeenth century were characterised in Carshalton by the presence of gentlemen on the jury of the view, where three or four frequently headed the lists, forming 23-24% of the numbers. In addition, these same gentlemen served consistently on the jury of the court baron because of their tenancies, where they took over most of the work of the view until the view finally ceased in 1671.

The records also show a gradual change in the occupations of the jurors; in the earlier years, they were principally engaged in agriculture, but this began to change in the fifteenth century as the representation of traders increased from 10% to 17%. In the early sixteenth century, local businessmen formed 18% of jurors but this figure fell to 12.5% in the later part of the century. There was further change in the seventeenth century when local traders had scarcely any representation on the jury, while gentlemen and professional men, with businesses outside Carshalton, took up residence and took their place on the view jury.

Although the records for the Merstham view have not survived for the period 1523-1647, the evidence suggests that the same process of 'gentrification' did not occur there. For example, in 1647, Nicholas Best was the only gentleman on the jury of the view and there was only one
other gentleman on the jury of the court baron. Similarly, the court baron of 1652 recorded only two gentlemen among the total number of residents and tenants. This difference was probably not the result of a difference in record keeping, since Edward Thurland was the steward of both manors. The difference may be due to their location, with Carshalton being closer to London and an attractive place for gentlemen to live, as shown by Aubrey's description of Carshalton, published in 1718, which emphasised the pleasantness of its clear springs, fish ponds and walks. In contrast to this, Merstham was a place where agriculture and quarry-working continued to predominate. Table 11 shows how the composition of the jury changed in Carshalton.

Table 11. Composition of the jury of the view at Carshalton in each 50 year period:

<table>
<thead>
<tr>
<th>date:</th>
<th>average no.</th>
<th>traders</th>
<th>gentlemen</th>
<th>total no. of jury lists</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>of jurors</td>
<td>%</td>
<td>%</td>
<td></td>
</tr>
<tr>
<td>1350-99</td>
<td>12</td>
<td>0</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>1400-49</td>
<td>12</td>
<td>10(1)</td>
<td>0</td>
<td>16</td>
</tr>
<tr>
<td>1450-99</td>
<td>12</td>
<td>17(2)</td>
<td>0</td>
<td>16</td>
</tr>
<tr>
<td>1500-49</td>
<td>12</td>
<td>18(2-3)</td>
<td>0</td>
<td>35</td>
</tr>
<tr>
<td>1550-99</td>
<td>13</td>
<td>12.5(1-2)</td>
<td>0.5(&lt;1)</td>
<td>28</td>
</tr>
<tr>
<td>1600-49</td>
<td>13</td>
<td>-</td>
<td>24(2-3)</td>
<td>7</td>
</tr>
<tr>
<td>1650-99</td>
<td>15</td>
<td>1.5(&lt;1)</td>
<td>23(3-4)</td>
<td>8</td>
</tr>
</tbody>
</table>

References:
2. Ibid., pp. 33-7.
7. See above p. 206.
12. P5/1.2.
13. P5/1.11-12.
14. P5/1.15.
15. PRO. SC2 204/67.
16. P5/1.18-36.
17. See above p. 207.
21. DD/HY. Box 27 Merstham roll 2.
22. P5/1.29.
23. P5/1.2-7.
28. P5/5.3-46.
30. P5/1.39b.
31. P5/5.2.
33. DD/HY. Box 27 Merstham rolls 3-4.
34. See above p. 249.
35. P5/5.6-12.
37. P5/5.50.
38. P5/5.52.
39. DD/HY. Box 27 Merstham roll 5.
40. VCH. *Surrey*, 4, p. 184.
41. P5/7.12.
42. SRO. P32/1/1. 1599.
43. Milbourn, 'Notes on Carshalton', p. 146.
44. P5/6.5; P5/7.1.
45. P5/7.5.
47. Ibid.
50. P5/7.8.
51. PRO. E179 188/481.
53. DD/HY. Box 27 Merstham roll 5.
54. Ibid., Chipstead roll 4.
55. DD/HY. Box 27 Merstham roll 5.
4. WHY DID THE VIEW OF FRANKPLEDGE DISAPPEAR?

The changing nature and function of the view of frankpledge or court leet over 350 years may best be summed up by comparing the records of the mid-fourteenth century with those of the late seventeenth century. At Carshalton in 1359 the unnamed jurors presented defaulters, assaults, raising the hue and cry, encroachment on the highway, diversion of a watercourse and payments by brewers. They employed the procedures of cash payments and pledges who guaranteed payment and attendance at meetings. ¹ The records of Merstham for 1364 are of a similar nature, where the tithingmen and ale tasters paid the common fine, presented defaulters, the need for repairs to roads and bridges, raising the hue and cry and payments by brewers and other traders. The procedures consisted of payments in cash, and pledges to ensure payments and attendance.²

By 1671, the jurors were listed in Carshalton, but presented no business; in Merstham in 1652, the records were in English, the tithingmen failed to attend to pay the common fine, the jurors presented the defaulters, they also presented orders to repair the mill-gate, to repair hedges and ditches and to cut back overhanging trees. Fines for default were still retained and penalties were imposed for environmental damage. ³
However, by the early years of the eighteenth century, we can see a situation similar to that in Carshalton in the 1670s; the records had reverted to Latin, the tithingmen presented only the common fine and the jurors were listed, but had no function. Comparison between the earliest and latest records clearly illustrates the changing nature and function of the view, as it gradually lost its importance within the community.

The records of Carshalton and Merstham reveal common elements in the process of change; one of the main causes of change was the increase in the powers of JPs at the quarter sessions. The system of JPs, as keepers of the peace, made a slow and long-term replacement to the lord's private court and the sheriff's hundred court. By the end of the thirteenth century, keepers of the peace were already involved in hearing grievances, but it was not until 1361-2 that the powers of JPs at the quarter sessions were formally established by statutes. The statute of 1361 gave them powers to question vagabonds, arrest suspicious strangers, restrain offenders, rioters and trouble-makers, and imprison or punish them according to law and custom. When the quarter sessions were set up the following year, they formed the beginning of system of regular, local meetings, which in time replaced the views of frankpledge. The new system was based on the county, rather than on tithings and
hundreds, and in Surrey, the sessions were held at Croydon, Guildford, Kingston and Reigate, with some meetings at Dorking also. Only Guildford lay some distance away (30km.), the other towns lay within 5-16km. from Carshalton and Merstham. This transfer to a county-based system suggests that, in changing world, a system of law and order based on units of tithings and hundreds had become ineffective and too dependent on individuals. As an example of the attitude that looked beyond the lord's private court, a commission appointed to oversee the water supply in Kent and Surrey stated that uncontrolled individual action in private courts was unreliable because it depended on the will of individual landowners. Putnam, on the other hand, has suggested that public opinion influenced the move from the hundred court and the lord's view to the sessions. In effect, the administrative and judicial systems of central government gradually prevailed over private jurisdiction.

From the Surrey rolls there is no evidence to show that the quarter sessions were more effective in maintaining law and order because they imposed harsher punishments than the lord's view. On the contrary, the mid-seventeenth century rolls show that punishments were usually fines ranging from 6d to £1 0s 0d, with one example of flogging. Comparison with punishments authorised by the statutes shows that the sentences at
the sessions were light and similar to those imposed at the view. In cases of environmental concerns, many offenders at the quarter sessions were discharged; this is shown by the words *exon' or exon' super certif*, indicating that the damage had been put right and that there was no fine.

Apart from investigating strangers, the description of the powers of JPs given in the statute of 1361 does not immediately suggest encroachment upon the work of the view but, in effect, there was a steady increase in the work of the quarter sessions in matters concerning law and order, supervision of traders and weights and measures. Evidence for these overlapping functions comes in the rolls of parliament for 1376-7 which stated that JPs should not enquire into matters which were the concern of the courts of lords and the view of frankpledge. However, many statutes acknowledged the duplication inherent in the two systems and declared that certain offenders and applicants for licences to trade should appear either before JPs or before stewards at the lord's view of frankpledge. There was a great deal of overlap between the two systems and Lander, in his study of JPs, suggests that the legal situation was so confused that it was doubtful if the justices themselves had any precise notion of their powers.
While some aspects of business gradually moved to the quarter sessions, there is direct evidence in the Carshalton records for increasing work for the view resulting from statutes. For example, in 1429, poachers were stated to have acted 'contrary to the form of the statute', which was probably a reference to the game laws of the 1390s. Similarly, in 1446, residents were fined for playing hand-ball, 'contrary to the statute' and, in the sixteenth century, a vagrant was punished 'according to the statute', while John Fromond was fined for illegal fishing in 1566 - 'contrary to the form of the statute', with specific reference to a statute of 1553. In the seventeenth century, we can also see the effects of social legislation of the late sixteenth century restricting the number of occupants in each house. In contrast to the situation in Carshalton, the Merstham records contain no references to statutes. Clearly, the Carshalton records show that some statutes were enforced at the view and that parliamentary legislation extended and changed some of its functions - this contrasts with the statement of Shoemaker in his study of the Middlesex quarter sessions that manorial courts could not deal with statutory offences.

While statutes increased the work of the view in some respects, social and economic factors reduced its other activities. A change in trading patterns in the mid-
sixteenth century meant less work for the view, as local producers of beer and bread were replaced by manufacturers, who produced goods, mostly in Croydon and Reigate, and transported them for a distance of about 5km. for retail trade. Since a licence from JPs at the quarter sessions allowed them to trade over a wider area than the jurisdiction of a single view, businessmen no longer applied to the view for licences to trade. The only exception to this trend were local retailers.

Other aspects of the work of the view, like the upkeep of roads, was also transferred to the quarter sessions in the late sixteenth century, while the view retained responsibility for ditches and hedges alongside the roads. 16

The constable provided the only formal and direct link between the quarter sessions and the view, since he was elected at the view, but presented offenders at the sessions. However, there was another factor in the interaction between the view and the sessions which is more difficult to define, but none-the-less real, since lords of the manor and major tenants served as JPs, while jurors of the view in both Merstham and Carshalton were also jurors at the sessions. 17
In their study of the Surrey quarter sessions for the mid-seventeenth century, Jenkinson and Powell reveal the extent to which business had passed from the view to the sessions. Although there was no formal list of presentments to the sessions, the business was a mixture of judicial and administrative matters, including assault and theft, unlicensed ale houses, bakers selling underweight bread, taking in lodgers, keeping the watch, unlawful games, tipplers, scolding women and repairs to highways and bridges. All of these were matters which in earlier periods would have been the business of the view.

While this mixture of judicial and administrative functions gradually devolved to the sessions, the lord's court baron also took over some of the functions of the view in connection with the lord's property. Although the court baron in Carshalton had its own functions concerning inheritance, transfers of property and settling disputes between tenants, from the mid-sixteenth century it began to take over some of the functions of the view. For example, while the view had previously issued general regulations about management of the commons, the court baron added extra regulations and, eventually, in the seventeenth century, it issued most regulations and presented property offences. Sometimes there was interaction between the two organisations when
charges were brought first at one court, followed by presentation at the other, but this hardly justifies Holdsworth's statement that lords were using the court baron as a police court. 19

As well as changes in the types of business presented to the view, comparison between the earliest and latest records also shows changes in procedures. For example, pledges were used in the fourteenth century, both to guarantee payment of fines and attendance at the view. This system ceased in Carshalton by 1360 and in Merstham in the 1380s and we may be seeing the effects of general upheavals like the Black Death and peasant uprisings, which upset the traditional system of collective responsibility. However, the use of pledges persisted until 1450 at the court baron, where they were clearly related to property, rather than residence and attendance.

While cash payments and fines remained standard procedure throughout the entire period of the records, distraint as a means of gaining compliance with orders of the view was used until about 1450. After that date, penalties against future offences became part of the standard procedure but, in the same way as the use of pledges was retained at the court baron, so distraint continued to be used at the court baron until the 1690s.

-270-
The functions of officials also changed; in Merstham the
greatest change occurred in the late fifteenth century as
tithingmen also adopted the role of ale taster, and
jurors began to encroach on the work of the tithingmen.

While the Carshalton records show similar increase in
the amount of activity by jurors in the second half of
the fifteenth century, other changes occurred in the mid-
sixteenth century when jurors were presenting most of
the business and the tithingmen presented only
defaulters. The difficulties experienced by the
tithingman in carrying out his work may also be a
symptom of diminishing respect for such a local office.

These changes in Carshalton may indicate the
development of a local elite during the second half of
the sixteenth century. This was composed of businessmen
who were also leading jurors of the view and the court
baron and, at the same time, were involved in parish
administration and served as jurors at the assizes. By
the seventeenth century, these men were replaced to some
extent by wealthy outsiders who had moved into
Carshalton. Because there are no records of the view for
Merstham between 1523 and 1647, it is difficult to make
direct comparisons for the same period.

If we search for differences between Carshalton and
Merstham, we can see that Merstham tended to lag behind.
For example, procedures like the hue and cry and use of
pledges lasted longer in Merstham, while innovations, such as penalties and general orders appeared there later. These chronological differences may have arisen from social differences associated with location. For example, the Merstham quarries provided steady employment which was not dependent on the vagaries of the weather or economic changes. It was laboriously hard work, reasonably well paid, and not subject to technical innovation. However, in Carshalton, the use of water mills was subject to innovation, as new techniques were brought in to deal with different materials, giving rise to new types of trade and attracting outside investment. Changes may have occurred earlier in Carshalton because of its proximity to London and because new trades were not subject to the view, causing the view to become less relevant in a changing society.

References:
1. P5/1.2.
2. PRO. SC2 204/66.
4. Ibid., Chipstead roll 4.
7. Gomme, Court Minutes of Surrey and Kent Sewer Committee, p. iii.
Shoemaker quotes the court keeping guide of William Sheppard published in 1676 which stated that manorial courts did not deal with statutory business. However, statutes were frequently directed at stewards of the lords' courts as well as JPs.

17. Jenkinson and Powell, Surrey Quarter Sessions 1659-61, passim.
18. Ibid., pp. xvi-xvii.
20. DD/HY. Box 27 Merstham roll 3.
21. P5/5.6-52. See above p. 213.
COURT BARON

The court baron was the lord's private court, concerned with the administration of the property within his manor and, while the chief business of the court concerned property matters affecting the lord and his tenants, it was also used by tenants to settle disputes and make business arrangements.

At meetings of the court, tenants swore fealty to their lord, using different forms of the oath for free or customary tenancies. The words stated by the customary tenant of being justified, or protected, by his lord, illustrate the relationship between lords and customary tenants. Customary tenants were economically dependent on the lord and rendered him services, either as work or money, in return for holding land, but they relied on the lord as their protector because they had no other protector. Free tenants, in theory at least, had the protection of the common law. However, by the fourteenth century, the description of tenants as free or customary, was based on the designation of their land and some tenants were in both categories. In Carshalton, Farleigh and Merstham there was very little distinction in the work of the court between free and customary tenants, but there is evidence for a social distinction - when lists
of tenants were made, the names of free tenants were always put first.

As Pollock and Maitland argued, both free and customary tenants received the same justice in the lord's court. In practice, the difference lay in administration, with transfers of customary property being carried out with the lord's permission and recorded at the court baron, while free property was transferred out of court and the transfer was formally enrolled at the court baron.

All tenants were required to attend the court baron as a condition of their tenancy. Non-resident tenants did not normally attend but sent excuses for absence (essoins) or paid fines for non-attendance and, if they were involved in court business, they had deputies to deal with it.

The tenants of the manor provided a jury for the court baron which was usually called the homage (homagium). The jury consisted of local tenants, generally male, with occasionally a few women. There was no standard size for the jury of the court baron; the numbers ranged from two to 11 and sometimes all the suitors were jurors. The age of inheritance varied from 16 to 21 and a guardian might act as juror for an under-age tenant. There is no evidence to show how the jurors were chosen or on what basis they were chosen. We can judge from the size of
their holdings and the amounts they paid in rent whether they were poor or wealthy; both groups served as jurors. Women, usually widows, served on the jury because of their tenancies but, if they remarried, their new husbands took their place. Sponsors, who presented business on behalf of other tenants, and men who acted as assessors were often members of the jury.

The system of making the lord's court available to tenants for settling disagreements was set out in *Leges Henrici Primi*, probably in re-definition of existing procedures; they stated that a dispute should be brought before the court where either 'friendly agreement shall bring them together or a formal judgement shall separate them'.

The frequency of meetings in all three manors varied - occasionally they were held monthly, but two or three times a year was more common. The twice-yearly meetings of the view of frankpledge often coincided with the court baron and the records of the two meetings were combined, with the records of both being written on the same roll and the same steward being responsible for both meetings.

The court records for Farleigh in the seventeenth century show how the steward called the meetings. He issued a
summons by sending an order to the manorial bailiff up to
a month before the meeting, in the following terms:
'The Manor of Farleigh. To the Bailiff, greeting.
You are hereby required immediately upon sight hereof, to
warne the Court Baron of Sir Thomas Clayton, Knight, the
Warden, and the Scholars of the house or College of
Scholars of Merton in the University of Oxon, Lords of
the said Manor, to be kept at the usuall place there on
Friday the sixth day of Aprill next ensuing, by eight of
the clocke in the morning of the same day. And that you
summon and require all persons that owe suite and
appearance then and there to doe the same. And that you
yourselue be then there present to make returne of this
precept and to doe and perfore all such other matters as
to youre office perteineth. Given under my hand and
seale this seaventh day of March, Anno Jacobi secundi
nunc Anglie etc. quarto Annoque Domini 1687. Thomas
Baker, Senescallus'. 4

The manorial accounts for Farleigh also reveal that the
steward was paid an annual fee for his work. 5

The continued usage and survival of the court baron into
the seventeenth century, at a time when various other
legal processes and courts were available to people,
shows that the lord's court was adapting itself to the
needs of tenants. In particular, it provided them with a
useful way of recording title to customary property which they could then use as a basis for raising money.

References:
2. Pollock and Maitland, History of English Law, 1, p. 593.
3. Downer, Leges Henrici Primi, p. 177.
4. MM 4950.
5. MM 4864.

I. Work of the court baron

The main work of the court baron was the administration of property, which remained a consistent feature throughout the period of this study. While the upkeep and management of property was the concern of the bailiff, tenants used the court rolls to record transfers of property and so provide themselves with proof of title. Table 12 shows the use of the court baron in the Surrey manors to record property transactions.

Table 12. property transactions in each 50 year period:

<table>
<thead>
<tr>
<th>date</th>
<th>Carsh</th>
<th>Farl</th>
<th>Merst</th>
<th>total no.</th>
<th>%m</th>
</tr>
</thead>
<tbody>
<tr>
<td>1350-99</td>
<td>3</td>
<td>42</td>
<td>12</td>
<td>(57)</td>
<td>20</td>
</tr>
<tr>
<td>1400-49</td>
<td>15</td>
<td>8</td>
<td>14</td>
<td>(52)</td>
<td>12</td>
</tr>
<tr>
<td>1450-99</td>
<td>3</td>
<td>8</td>
<td>1</td>
<td>(15)</td>
<td>4</td>
</tr>
<tr>
<td>1500-49</td>
<td>16</td>
<td>1</td>
<td>18</td>
<td>(51)</td>
<td>12</td>
</tr>
<tr>
<td>1550-99</td>
<td>18</td>
<td>3</td>
<td>18</td>
<td>(56)</td>
<td>13</td>
</tr>
<tr>
<td>1600-49</td>
<td>20</td>
<td>33</td>
<td>27</td>
<td>(78)</td>
<td>26</td>
</tr>
<tr>
<td>1650-99</td>
<td>25</td>
<td>26</td>
<td>10</td>
<td>(84)</td>
<td>20</td>
</tr>
<tr>
<td>total no.</td>
<td>(202)</td>
<td>(97)</td>
<td>(94)</td>
<td>(393)</td>
<td></td>
</tr>
</tbody>
</table>
The court rolls give us a record of property transfers, showing that tenants used the court baron to gain formal and public recognition of their title to property. This system was available to all tenants, poor or wealthy, with small cottages or large mansions. The procedures were either surrenders of customary holdings, which were then re-allocated to other tenants, or enrolments of transfers of free property which had occurred out of court. Another less frequent procedure was the enrolment of leases. Rent rolls also provide information about tenants and their properties. Unfortunately, there are no contemporary rentals for all the manors; however, the information in the rentals is useful because it spans three centuries. The rent rolls for Farleigh cover the years before and after the Black Death, while there are two mid-fifteenth century rentals for Carshalton and eight for Merstham and Albury in the sixteenth and seventeenth centuries. In her study of the Merton College manor of Kibworth Harcourt, Howell makes the point that the making of a new rent roll was evidence of rapid change. Lists of free and customary tenants also provide information about individuals and the types of property they held.

References:
FARLEIGH

fourteenth century

Of the three manors which make up this study, Farleigh provides the clearest evidence for the effect of the Black Death on the function of the court baron. Table 12 reveals the level of property transactions in Farleigh in the second half of the fourteenth century, which far exceeds the level of transactions in both Carshalton and Merstham. Five of these concerned inherited property, while 34 involved transfers of property to new tenants. There was one example of a surrender of property with no outcome.

This high level of property movements in Farleigh was probably a consequence of the Black Death. The manorial accounts of 1349-51 show the effects of the disease when a shortage of workers caused problems for the management of the demesne; the accounts refer to extra payments of wheat having to be made to the surviving demesne employees, 'pro parcitate famulorum racione maioris pestilencie', and the lack of income from the dairy because no-one was employed there, 'causa pestis ingentis'. The effect is most clearly seen in the court rolls of 1352, when the grants of empty tenements rose to a peak of eight, then fell to an average of four
per year in 1354 and 1355. They settled down to one or two a year between 1355-81 and ceased after 1383.² 

Comparison between the rentals of 1335 and 1356 shows that the number of tenants almost halved and the total of tenanted dwellings (messuagia) fell by a third.³

<table>
<thead>
<tr>
<th></th>
<th>tenants</th>
<th>dwellings</th>
</tr>
</thead>
<tbody>
<tr>
<td>1335</td>
<td>32</td>
<td>21</td>
</tr>
<tr>
<td>1356</td>
<td>18</td>
<td>13</td>
</tr>
</tbody>
</table>

The rentals show that three major tenants of the pre-Black Death period had died by the early 1350s and their tenements were divided up between other tenants. The rent roll of 1356 allows us to identify these people, showing us that there were 18 tenants of 42 holdings outside the demesne; of these, 12 tenants held free property, four tenants held both free and customary tenements and five held only customary tenements. One tenant held land on lease only, while four others leased land in addition to their other holdings.

There was a contrast in the size of tenements as two tenants held large free tenements of 30 and 50 acres, while the majority of free holdings were less than five acres, although some tenants had multiple holdings. Customary tenements varied in size from one acre to 20 acres and, by 1356, five tenants held a total of 58 acres on lease. Although an acre was an inexact measurement of
land, the figures given in Table 13 allow comparisons to be made in the amounts of land held by tenants in the 1350s.

Table 13. *landholdings in acres (excluding woodland)*:

<table>
<thead>
<tr>
<th>demesne</th>
<th>customary</th>
<th>free</th>
<th>leased</th>
<th>total no.</th>
</tr>
</thead>
<tbody>
<tr>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>no.</td>
</tr>
<tr>
<td>37</td>
<td>33</td>
<td>19</td>
<td>11</td>
<td>(516)</td>
</tr>
<tr>
<td>acres (188)</td>
<td>(170)</td>
<td>(100)</td>
<td>(58)</td>
<td></td>
</tr>
</tbody>
</table>

(As woodland was frequently described as 'a grove' or 'a piece', there is not enough information in the records to provide useful comparisons).

The list of free tenants in 1356 was headed by Nicholas atte Welle who had the largest amount of land – about 50 acres in all. The atte Welle family appears to have moved into the area at about the time of the Black Death, taking the opportunity to acquire empty tenements. Nicholas atte Welle of Croydon was a royal administrator and tax-collector for the county of Surrey at the time of the Black Death and the court rolls of Farleigh show how the family acquired extensive properties which had fallen vacant by 1351. The use of the word *mansio* for his house at Fickleshole in the adjoining manor of Chelsham suggests that he was sometimes resident there. Other non-resident free tenants, like the Uvedales of Titsey and the Lee, or Leigh family of Addington, who held land in Farleigh, also had their residences in adjoining or nearby manors.
Apart from these few non-residents, most of the free and customary land was held by resident tenants and transactions at the court baron generally concerned people who lived locally. One family, with the surname Bryan or Brian, predominated in the records of the fourteenth century, being mentioned 68 times until the name disappeared after 1410. Unlike the atte Welles, the Bryans had a long history of residence in Farleigh, being first recorded in 1285-6. The manorial account rolls for the manor show that various members of the family served as reeves and bailiffs during the first half of the fourteenth century and continued to hold office until the 1380s, sometimes leasing the demesne.

The rentals of 1335 and 1356 show the extent to which this family took up holdings which became vacant after the Black Death - in 1335 individuals with the surname Bryan held 21% of tenements but, by 1356, their holdings had increased to 45%. In the period 1351-80, members of this family received seven grants of property, which amounted to one third of such grants. By the 1380s, the older generation had died out, Roger Bryan junior was dispossessed, only two widows remained, and the family's share of the tenements shrank.

Other tenants also took advantage of the vacancies to increase their holdings in the 1350s, as John Man took
over three new tenancies. Possibly as an incentive to encourage tenants to take over vacant land, payments of entry fines were occasionally cancelled as, for example, when John atte Welle took over four fields and a croft in 1354, amounting to about 20 acres in total, at a rent of 4s Od, the entry fine was pardoned. The difficulty of obtaining tenants for vacant land seems a more likely reason than poverty for waiving entry fines. Similarly, at Kibworth Harcourt, the college was prepared to excuse entry fines in the period after the Black Death. 6

Another effect of the Black Death on the use of the court baron was a low level of transactions concerning inherited or family property, compared with transfers of property to new tenants. There were just five transactions within families and all except one involved members of the Bryan family. These ranged from the transfer of an acre of arable from Roger Bryan to William Bryan, to the setting up of a joint tenancy between Lawrence and Alice Bryan to safeguard the survivor. 7

In contrast to the numbers of grants of vacant property which were relatively high in the 1350s and then ceased after 1381, the number of transfers of tenements between tenants remained at a consistent level of about one at each meeting during this period. In the same way as members of the Bryan family predominated as new tenants
of previously empty property, they were also involved in two thirds of the dealings between tenants. Most of their later transactions were in the form of surrenders of property to other tenants and, from 1383 onwards, the Bryan family acquired no further tenements.

Another aspect of property transactions was the granting of leases; the effect of leasing was to provide a guaranteed annual payment to the landlord while giving the lessee greater control over the tenement, and the records reveal the gradual process which eventually resulted in the leasing of the demesne. The rental of 1335 shows that two tenements were then held on lease at that date but, by 1356, the number had increased to six, with parts of the demesne arable being leased out to different tenants.

The situation in Farleigh in the 1350s, when there was one example of inherited property and 15 transfers to new tenants, is comparable with the Merton College manor of Cuxham in Oxfordshire. Although Cuxham was just over half the size of Farleigh, it recorded two examples of inheritance and 17 transfers to new tenants in the period 1352-9. At Kibworth Harcourt a rent roll of about the middle of the century showed a fall in the number of customary tenants, an increase in the size of holdings and a situation where only seven out of 24 customary
tenants had the same surname as their predecessors. Hilton considers this to be a remarkable interchange of tenements among local people, but comparison with Farleigh and Cuxham shows that this level of change was not unusual at about that date.9

However, by the later years of the century the function of the court had changed; between 1380 and 1399 the overall number of property transactions in Farleigh fell and the contrast between the number of inheritance transactions and new tenancies was less extreme. The fortunes of the Bryan family also changed in this period as the earlier impetus towards expansion died down and tenants were left with large holdings, which they could no longer work.

At the same time the main function of the court changed, as it issued orders to deal with derelict property and repairs, instead of recording frequent transfers of property.10 Dyer, in his study of the estates of the Bishop of Worcester, suggests that a similar increase in repair orders there in the later fourteenth century was due to tenants taking up multiple holdings and allowing unwanted buildings to become derelict.11 However, there is a distinction to be made between redundant buildings and unrepaired ones, as we can see from the accounts for the nearby manor of Tillingdown in the same period, where
it was the policy of officials to re-use materials from redundant buildings for new buildings and for extending others. The situation in Farleigh in the later fourteenth century suggests that the court was then having to cope with the withdrawal from the expansion of the 1350s and, by the 1380s, Merton College was using the court baron to force new tenants to carry out repairs or put up new buildings, sometimes providing the materials. After the fourteenth century, the number of transfers to new tenants fell considerably in Farleigh. Tables 14 and 15 show the comparative levels of transactions in all three manors.

Table 14. inheritance transactions in each 50 year period:

<table>
<thead>
<tr>
<th>date</th>
<th>Carsh</th>
<th>Farl</th>
<th>Merst</th>
<th>total no.</th>
<th>%m</th>
</tr>
</thead>
<tbody>
<tr>
<td>1350-99</td>
<td>1</td>
<td>18</td>
<td>3</td>
<td>(7)</td>
<td>7</td>
</tr>
<tr>
<td>1400-49</td>
<td>6</td>
<td>18</td>
<td>9</td>
<td>(13)</td>
<td>8</td>
</tr>
<tr>
<td>1450-99</td>
<td>1</td>
<td>18</td>
<td>0</td>
<td>(6)</td>
<td>6</td>
</tr>
<tr>
<td>1500-49</td>
<td>22</td>
<td>0</td>
<td>26</td>
<td>(27)</td>
<td>16</td>
</tr>
<tr>
<td>1550-99</td>
<td>24</td>
<td>0</td>
<td>26</td>
<td>(28)</td>
<td>16</td>
</tr>
<tr>
<td>1600-49</td>
<td>21</td>
<td>18</td>
<td>18</td>
<td>(28)</td>
<td>19</td>
</tr>
<tr>
<td>1650-99</td>
<td>25</td>
<td>28</td>
<td>18</td>
<td>(34)</td>
<td>27</td>
</tr>
<tr>
<td>total</td>
<td>(81)</td>
<td>(28)</td>
<td>(34)</td>
<td>(143)</td>
<td></td>
</tr>
</tbody>
</table>

Table 15. new tenancies in each 50 year period:

<table>
<thead>
<tr>
<th>date</th>
<th>Carsh</th>
<th>Farl</th>
<th>Merst</th>
<th>total no.</th>
<th>%m</th>
</tr>
</thead>
<tbody>
<tr>
<td>1350-99</td>
<td>2</td>
<td>52</td>
<td>16</td>
<td>(45)</td>
<td>23</td>
</tr>
<tr>
<td>1400-49</td>
<td>23</td>
<td>5</td>
<td>17</td>
<td>(34)</td>
<td>15</td>
</tr>
<tr>
<td>1450-99</td>
<td>6</td>
<td>5</td>
<td>2</td>
<td>(9)</td>
<td>4</td>
</tr>
<tr>
<td>1500-49</td>
<td>13</td>
<td>1</td>
<td>13</td>
<td>(21)</td>
<td>9</td>
</tr>
<tr>
<td>1550-99</td>
<td>13</td>
<td>3</td>
<td>16</td>
<td>(23)</td>
<td>11</td>
</tr>
<tr>
<td>1600-49</td>
<td>18</td>
<td>9</td>
<td>33</td>
<td>(42)</td>
<td>20</td>
</tr>
<tr>
<td>1650-99</td>
<td>25</td>
<td>25</td>
<td>3</td>
<td>(42)</td>
<td>18</td>
</tr>
<tr>
<td>total</td>
<td>(92)</td>
<td>(66)</td>
<td>(58)</td>
<td>(266)</td>
<td></td>
</tr>
</tbody>
</table>
(The cases where the outcome was unknown have been omitted from these two tables. There were three examples in Farleigh and two in Merstham throughout the entire period of the records. Carshalton shows a totally different picture, where there were 29 examples of tenements whose tenants were unknown, usually because these were free tenements which had been transferred out of court).

*fifteenth century*

In Farleigh the surviving records for the first half of the century cover only the period 1400-10. There is, however, additional material in the manorial accounts and a lease for 1432. The demesne was leased to John Ownsted who was required to provide accommodation in the manor-house for the officials of Merton College on their visits. In contrast to the years immediately following the Black Death, when there were many empty tenements, only one remained empty in the early fifteenth century. The level of property transactions remained the same as in the last decades of the fourteenth century. This contrasts with the situation in Kibworth Harcourt, where tenants were deserting their holdings in large numbers. Unlike Carshalton and Merstham where there were hardly any examples of tenements being inherited in the fifteenth century, the number of
transactions between families in Farleigh outnumbered new tenancies. However, during the second half of the century we begin to see investment in Farleigh by outsiders, especially by London businessmen. This process first appeared in Merstham in the mid-fourteenth century and in Carshalton in the first quarter of the fifteenth century, but was not recorded in Farleigh until 1458. In that year, 'Thomas Cook de London', was ordered by the jurors of the court to pay the heriot and relief which were due on 20 acres of woodland, known as Frelondswood. 

Thomas Cooke, who was later knighted, was a member of the drapers' company and became sheriff, then alderman and lord mayor of London. He built up a considerable estate by acquiring property in and around London, much of it in Essex, near Romford. He had also taken over the manor of Chelsham Watvile which adjoined Farleigh, acquiring the house at Ficklehole which had previously belonged to the atte Welles. By 1475 Cooke had transferred his manor of Chelsham Watvile and his tenement in Farleigh to Robert Harding, a London goldsmith, who leased out part of the large house at Ficklehole to a local tenant, while retaining some of it as a base for sport and recreation.
Another new tenant, John Broke or Brock, was also a London merchant; a brass effigy in Farleigh church described him as 'a citizen and poulterer of London'. However, unlike Cooke and Harding, Broke made his home in Farleigh, having acquired his property there by marriage and he served frequently on the jury of the court baron. Broke provides the only example in Farleigh of the use of novel disseisin at the court baron to gain possession of his wife's property. The process of novel disseisin was first recorded in Merstham in 1379 where, as in Farleigh, it was used by incomers to the district. There is no record of it being used in Carshalton.

During the second half of the fifteenth century, by far the largest amount of business administered by the court in Farleigh concerned the maintenance of property. In total, 32 such orders were made, almost equally divided between orders to repair buildings and orders for the maintenance of enclosures. It is clear from these orders and from the property transfers that the tenants had multiple holdings, suggesting that poverty was unlikely to be a reason for poor maintenance. A more likely explanation may be an increase in the amount of subletting, where the responsibility for upkeep lay with the tenant, not the subtenant. The fall in numbers of the jurors of the court baron provides further evidence for this change. In the early years of the fifteenth
century, an average of five men were jurors; later in the century, the average number of jurors fell to three. This reduction may have resulted from the accumulation of multiple tenements by a few local men, such as John Broke, Thomas Kempsale and William atte Water, who served as jurors because of their tenancies, while others, being their subtenants, had no representation at the court baron. 19

sixteenth century

The lack of records for Farleigh in the sixteenth century makes it difficult to draw conclusions about property transactions there, since only four were recorded.

seventeenth century

For the seventeenth century, far more records have survived. Table 15 shows that the number of transactions concerning new tenancies increased in Farleigh during this period. An important factor in this change was the designation of tenements as free or customary. Free tenements might be transferred at will outside the court baron and the transaction was later enrolled into the records of the court. In contrast, transfers of customary land could only be carried out by the court baron. However, in the seventeenth century, changes in
financial law affected the court baron since borrowers could avoid foreclosure by keeping up payments of interest. This meant that it was advantageous for tenants to borrow money against their property and invest it more profitably elsewhere. Customary holdings were useful in these transactions because it was relatively easy to obtain proof of title 'by copy of court roll', and they became a marketable commodity.

Probably for this reason, the Farleigh court rolls of 1680 included a survey which divided the holdings into free and customary. The survey shows that there were four free tenements and seven customary ones, held by a total of nine tenants, with some tenants holding both types of property. For the first time since the mid-fourteenth century, we can see the balance of landholding in Farleigh. Table 16 demonstrates that, although the overall figures had changed in 300 years, the proportions of free and customary tenements remained the same.

Table 16. proportions of free and customary tenements in Farleigh:

<table>
<thead>
<tr>
<th>Date</th>
<th>Free Tenements</th>
<th>Customary Tenements</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>%</td>
<td>%</td>
<td>no.</td>
</tr>
<tr>
<td>1356</td>
<td>37</td>
<td>63</td>
<td>32</td>
</tr>
<tr>
<td>1680</td>
<td>36</td>
<td>64</td>
<td>11</td>
</tr>
</tbody>
</table>

Comparison between the two sets of figures illustrates the process of amalgamation over 300 years. The list of
properties held by the two major customary tenants in 1680 shows that they held a total of more than 20 small units of property, many of which can be identified from the rental of 1356 as separate tenements then held by different individuals. There was also a change in terminology when, for the first time, customary tenants were described as 'copyholders', holding tenements 'by right of copy of court roll', and the term copyholders passed into common usage.

There has been very little study of the relative proportions of free and customary land in the seventeenth century; Clay has suggested that customary tenure accounted for about one third of property and that the amount of land held by custom was probably very small, as customary tenements usually consisted of small farms and cottages. In fact, the survey in Farleigh shows that the customary holdings were larger but fewer, ranging in size from a cottage and garden to 120 acres, while the free holdings ranged from a cottage with two acres to 36 acres. There is also direct evidence to show that land which had formerly been common land was designated free when it was enclosed. For example, Oliver Mouse was granted permission to live in a cottage on the waste with the statutory four acres of land, and this afterwards became a free tenement.
As an example of the dealings in customary land, the property of William Children, who was the major local tenant, came before the court on several occasions and the rolls show he used the court to make an official record of his financial operations. Children held both free and customary properties and he and his son, George, used the court baron to record that they had raised a loan of £210 0s 0d from a London businessman on one of the tenements in 1681. When William Children died, his son, who was described as a goldsmith of London, inherited all the customary property, while Ann Children took her father's free property. However, they soon transferred their holdings to Richard Glover of Nether Court, Woldingham, a wealthy yeoman farmer. After seven years he transferred the property to John Harley, a gentleman of Croydon. Several other customary properties, which were first passed on by inheritance, were later transferred to tenants who were not members of the family. This again contrasts with the view of Clay that grants of customary land to new tenants were relatively rare.

The transfers to Glover and Harley show a change in the type of tenants in Farleigh. In earlier periods, the wealthy non-resident tenants had their main residences in London or elsewhere in Surrey but, by the end of the seventeenth century, almost all the tenants lived either
in Farleigh or within 5km. of the manor. There was also a change in their social status, as the previous wealthy absentee tenants were replaced by local yeomen farmers. The seventeenth-century records of Farleigh show an apparent increase in the importance of rents, which were carefully recorded on the court rolls, although there was no sign of an increase in their values. This was a distinct change from earlier periods when they were hardly mentioned. Because there is so little comparative information, it is difficult to compare rents, but where we can make direct comparison, as in the case of Frelondswood, the rent of 12d was the same in 1612 as it had been in 1462.

An obvious change in the function of the court in the seventeenth century occurred in the imposition of higher occasional payments of heriots, fines and penalties, which were measured in pounds sterling, compared with the maximum charges of 13s 4d in earlier periods, and in the employment of stricter measures against those who refused to pay. No distraint orders were issued during this period, being replaced by summary confiscation of entire tenements - measures which may have resulted from a more aggressive policy by Merton College.

During the second half of the century we have direct evidence for resident subtenants in Farleigh, whose
existence was recognised in earlier periods, but who were then anonymous. Evidence for their presence is found in property transfers when the property was occupied by an individual (not a tenant of the manor) who did not participate in the transaction. An example of this occurred in 1678 when Thomas Norwood transferred his customary tenement to Thomas Indery, while it was 'now in the occupation of John Mills of Farleigh'. The hearth tax returns for 1664 show that Mills was resident in Farleigh at that date, paying for one hearth.

Further transfers of property contained specific references to six other subtenants.

The hearth tax returns, the sessions records and the parish register show that most of the residents of Farleigh were not tenants of the manor, but were probably subtenants or employees. Taken in combination with these non-manorial records, comparison between the rental of 1356 and the survey of 1680 reveals a decrease in the number of tenants by about 50% over 300 years. There is no evidence for a fall in population numbers during that time, on the contrary, the protestation returns for 1641-2 give a total of 27 adult males in Farleigh, 18 of whom were not tenants, but were probably subtenants or employees. In 1356, there were 18 tenants, with no indication of subtenants. These figures suggest that
there was a genuine change in the proportions of tenants to the rest of the population.

References:

1. MM 4849; 4851.
2. MM 4828-31.
3. MM 4895; 4897.
7. MM 4930.
10. MM 4931-3; 4936.
13. MM 4880.
15. MM 4937.
17. BL. Harl. 86 H 22.
18. MM 4938. PRO. SC2 204/67.
19. MM 4937-60.
20. Clay, *Rural Society*, p. 277. The introduction of equity of redemption gave the mortgagor, who in law had forfeited his estate, the right to redeem his property in a reasonable time by payment of the principal and interest.
21. Ibid., p. 326.
22. MM 4942.
23. MM 4950.
24. MM 4950; 4954.
26. MM 4937; 4934.
28. MM 4943; 4949.
29. PRO. E179 188/481.
CARSHALTON

The situation in Carshalton forms a direct contrast to Farleigh. There was a major difference in the organisation of the manor, since Carshalton had no demesne and the manor was divided and held by a succession of different families.

fourteenth century

Although most of the business in the fourteenth century concerned matters between tenants, there is evidence for property transfers in the period after the Black Death. The level of transactions was considerably lower than in Farleigh and totalled only six, compared with 40 in Farleigh at the same time. Of these six, one was a transfer by inheritance, two were grants to new tenants but, in three cases, tenants had died and there was no information about the heir or a new tenant. While this shows there were vacant tenements in Carshalton, there are also signs that the landlord countered the shortage of tenants by selling pasture rights to existing tenants, principally for their sheep.¹
During the first half of the fifteenth century, there was a distinct increase in the number of property transfers, particularly concerning new tenancies, which rose from two in the previous century to 21. In the same way as the rentals for Farleigh provide information about tenants there in the mid-fourteenth century, so two rentals for Carshalton give us the names of tenants, their holdings and rents in the mid-fifteenth century.

The first rental for the year 1445-6 listed only customary holdings, giving the names of 24 tenants who held land in small scattered parcels of a few acres or half an acre, with each tenant holding about six acres in all. The largest single holding amounted to eight acres in La Sonde, which was one of the common fields. Bearing in mind that acres were likely to be of variable size, we can see from the rental that the average rent for an acre of arable was about 9d, whereas four gardens, which were held in addition to other tenements were more valuable and ranged in rent from 1s 8d to 2s 8d per year. Crofts and other tenements also varied in value from 1s 0d to 12s 0d. There were nine leases for five years for land which averaged about three acres per lessee; this land also lay in scattered parcels, ranging in value from 1s 0d to 5s 8d. The most expensive property was held by

-299-
John Cantelon who held a lease of eight acres in separate locations for 5s 8d a year, with two additional crofts called Pentecosts, 'on the north side of Wallington' — a manor which adjoined Carshalton. There is no evidence in this list for tenants with single holdings. The rental also provides evidence for the involvement of non-residents in Carshalton, since it referred to the property of John Carter, a dyer of London and to the tenement of John Dyssher of Mitcham who held a meadow in Carshalton for rent of 6s 8d.

The second rental dates from about six years later (1452) and, although it is difficult to decipher, it supplies some useful comparative evidence. It is different from the earlier rental since it included free tenants and the list was headed by John Burgh esquire, a non-resident, who held five tenements for a total rent of 13s 0d. Other non-residents included the priors of Merton and Southwark who held water mills in Carshalton. Like the rental of 1445-6, it also showed that outsiders, one from London and another from Deptford in Southwark, were acquiring property in Carshalton.

Comparison between the two rentals bears out Howell's statement about the Merton College manors, that rentals may be symptoms of rapid change. In fact, the Carshalton rentals show that the majority of tenancies had changed
hands in six years and only seven names appeared on both lists. John Cantelon, who had the largest holding in 1445-6, was no longer a tenant, and the wealthy Burton family had begun to acquire interests in Carshalton which lasted until 1664. The second rental contains further evidence of changes in tenancies as it describes tenements by the names of their previous owners, rather than size. As examples, there are tenements referred to as formerly William Wilde's or John Taillor's or John Gadd's. It also provides evidence for sub-letting, since some tenants had multiple holdings and four of the tenements were described as being in the occupation of a different individual from the tenant. For instance, John Ive acquired a tenement for a rent of 6d which was clearly occupied by another - 'in quo Robert Mordine manet'. While the rents of gardens, crofts and meadows remained at the same level in the two rentals, the annual rent of the arable had fallen from 9d an acre in 1445-6 to 4d in 1452.

Comparison with the rental for Farleigh in 1356, which is admittedly 100 years earlier, shows a totally different pattern of land-holding there, where each tenant held an average of about 20 acres. This average figure for Farleigh must be treated with caution, since some holdings were described as crofts or groves without any indication of size and they have not been included in the
average figure. However, the smaller pieces of one, two or three acres, were usually associated with houses and were probably small-holdings, while the larger holdings of about 10 acres each were in the common fields. This kind of arrangement of land-holding might be expected in an area where people were totally dependent on agriculture for their livelihood. There was a different picture in Carshalton, where the rentals reveal a pattern of tenants holding gardens and about five acres of land which were scattered in acres and half acres in small tenements throughout the manor. Since some tenements were sub-let, and the records of the view of frankpledge show that some tenants had other forms of employment, such as producing or selling beer, bread, meat, fish and timber and working at the corn mills or fulling mills, agriculture was probably a part-time occupation for many tenants.

Evidence for vacant tenements in the fifteenth century is found in proclamations for new tenants to come forward to take up empty holdings. For the first time in Carshalton, two proclamations were issued at the court baron in 1428. Proclamations were usually made at three successive meetings and if, the properties were not claimed, the bailiff managed them until they could be re-allocated.
Among the transactions of property, there were two which resulted in property passing to Londoners. In one case, a widow, Margaret Bate, whose former husband had acquired property in Carshalton and had been resident there since about 1443, transferred all her lands and tenements to William Holt, a mercer and citizen of London, and his associate Stephen Browne. In the other transfer, on the death of Joan Colecock, also a widow, whose family had been resident in Carshalton for about 100 years, her free tenement of Colecocks, passed to her son Richard, who was then a currier and citizen of London. These two transfers show the effect of the proximity of London, with a citizen of London investing in property in Carshalton and a member of a local family having interests in the London market.

A striking feature of the records of the second half of the fifteenth century is the fall in the number of property transfers in Carshalton and Merstham when compared with the first half of the century. Among the transfers in Carshalton there were three admissions to free tenements for which the new tenants produced charters in court as proof of title. For example, Thomas Wodland, described as a 'shearman' (one who shears cloth), who was probably involved in the cloth trade associated with the fulling mills, took over 'lands and tenements' in Carshalton.
A transfer of customary land serves to illustrate some of the processes of the court baron. For the first time in Carshalton we have an example of a sponsor acting on behalf of another tenant who was unable or unwilling to attend the meeting. The usage was recorded in Farleigh in 1463 but it did not appear in Carshalton until 1478. At this date, Thomas Christmas, who was a tithingman and assessor, acted on behalf of Adam Parys. He presented a surrender of property made to him by Parys out of court and in the presence of other tenants. Parys' property, consisting of two tofts, was then granted to William and Agnes Saye in a joint tenancy. In 1478, when the Sayes transferred the same property, Agnes was interviewed separately by the steward to ensure that she agreed with the transfer - sola in curia examinata per Senescallum.

The words illustrate one of the principles of a joint tenancy that a wife's consent was necessary for a transfer. They also echo the phraseology used in a final concord, which has been described as the 'married woman's conveyance'. The procedure of obtaining the consent of a married woman was recorded in the late twelfth century and was used for centuries afterwards. It was still recorded in the court rolls of the Surrey manor of Warlingham in the eighteenth century.

By the transfer of 1478, the Sayes' customary holdings passed to Nicholas Gaynesford and his two sons, who
already held the manor of Stonecourt in Carshalton. Gaynesford was a member of an eminent Surrey family and he served as sheriff of Surrey numerous times in the late fifteenth century. During this time, the manor of Stonecourt included a chief house, a water mill and various lands and tenements. The Gaynesfords clearly resided in Carshalton from time to time and Nicholas and his wife, Margaret, were buried in All Saints' Church in Carshalton. Their monument records his service to Edward IV and Henry VII and the position of his wife as attendant to the wives of both kings. The Gaynesfords intermarried with other local gentry families and were recorded in Carshalton until 1558. 14

sixteenth century

A factor which may have increased investment by outsiders in Carshalton was the withdrawal of the two priories of Merton and Southwark from property-holding. Certainly, the number of knights and esquires who were tenants in Carshalton increased from two in the previous century to eight in the first half of the sixteenth century. During the same period there were 12 grants to new tenants, many of whom took over substantial tenements. For the first time in Carshalton, their transactions provide evidence that the transfers were first recorded in official legal documents before being enrolled at the court baron.
These documents, known as final concords, had been in use since the twelfth century to register the legal owners of property. The general impression gained from the transactions at the court baron suggests that wealthier tenants of free tenements and those with properties spread over a number of manors were using final concords to record their title, whereas in the past they had used charters which had similarly been enrolled at the court baron. From 1500 onwards, charters rarely featured in the Carshalton records.

Although the number of property transactions remained at a steady level throughout the sixteenth century, the number of new tenants fell in the second half of the century, since existing tenants, rather than newcomers acquired vacant properties. Men like John Fromond, Richard Rogers, Richard Thomas and Anthony Wood were already resident in Carshalton before they expanded their holdings. The records of the view of frankpledge show the same trend, when at two meetings in 1564, they stated that there were 'no new incomers'.

Throughout the century the rents of free properties remained low and stable, at about 6d or 7d a year. Although the rents of customary properties were higher, they too remained stable, while the occasional payments of entry fines and heriots increased. Such a combination
of stable rents, but increasing fines, benefited both landlord and tenant, allowing the tenant to plan on the basis of predictable expenses, while the landlord increased his income when the property changed hands.

**seventeenth century**

The first meeting of the court baron was held in 1621 and it was probably made after an interval without records as it included a form of 'stock-taking' of tenancies, recording deaths and transfers that had occurred over several years. As a preliminary measure, it began with a list of free and customary tenants, providing the first direct evidence for the relative proportions of the two groups. It listed 18 free tenants and 11 customary ones and, as three tenants were in both groups, it gave a total of 26 tenants. This included eight gentlemen, three widows and two men who held property by virtue of their wife's tenancy. It appears from this record that most of the tenants were resident in Carshalton, which is substantiated by the parish register. 17

We have already looked at the significance of customary tenancies in Farleigh, where tenants took advantage of customary holdings to raise money. 18 The distinction between the two groups was recorded in Carshalton, where it affected the work of the court baron at an earlier
stage. The property dealings for investment in customary land began in the first half of the seventeenth century and gained momentum in the second half of the century. Some tenements changed hands about once every five years, which is evidence for the ease and simplicity with which customary land could be transferred. This made it attractive to professional men and businessmen, particularly those with moderate incomes who wished to acquire property for investment. However, this degree of activity caused problems for the court baron in recording ownership and allocating responsibility for repairs and upkeep. The records also show that frequent movements of property were profitable for the lords of the manor, as entry fines were payable on each transaction. In contrast, payments of heriots disappeared.

New tenancies in Carshalton consisted partly of new tenants coming in and existing tenants taking over extra holdings. These transfers provide evidence for the reduction in the overall number of tenants, as almost half of them involved existing tenants adding to their holdings. Dixey Long provides an example of such a tenant; he acquired a share in the lordship of the manor during the first half of the century and then took over other tenements which he let to a subtenant. Other men,
who similarly shared the lordship, also took over extra

tenements as part of their estates. 20

The Civil War had an effect on property-holding and on
the work of the court baron. The records of the
interregnum show that Dixey Long took over property which
had belonged to the Burton family and put in his own
tenant. This property included a house, which was 'out
of repair', land and three water mills, all valued at
about £350 0s 0d. The records of the ordnance officers
of the 1650s also referred to water mills at Carshalton
being used to produce gunpowder - generally of a
substandard nature. 21 Two manufacturers of gunpowder
featured in the court rolls, including Josias Dewey of
London, who acquired a large house in Carshalton. An
effect of the war and outbreaks of disease was to put
more property on the market; another factor which
maintained the level of property transactions was the
amount of speculation in property for investment and
sale. The proximity of London was a likely reason for
some of these tenancies and some tenants were described
as 'of London and Carshalton'.

While transactions continued at a high level until about
1670, the work of the court baron showed a fall in the
number of tenants, with men like Thomas Punchard holding
several tenements and sub-letting to under-tenants. 22
Because of these changes, the number of tenants fell to 14 by the 1680s, compared with 26 in 1621. There is no evidence for a fall in population numbers to account for the fall in tenant numbers. Clearly, there was a genuine fall in the number of tenants, which reduced the amount of work for the court baron. As a result, between 1683 and 1700, meetings were summoned to deal with just one or two property transfers. This was the pattern in the eighteenth and nineteenth centuries, when meetings were called to deal only with the transfer of tenements.

References:

2. See above p. 278.
5. MM 4897.
6. See above pp. 77-90.
8. P5/1.35.
9. See above p. 278.
10. P5/2.4.
11. P5/2.11; P5/1.23; P5/1.27.
13. Saaler, 'Warlingham Court Rolls 1728'.
14. VCH. *Surrey*, 4, p. 184.
17. P5/6.2. SRO. P32/1/1.
MERSTHAM AND ALBURY

A major difference in the work of courts of the Merstham manors is the lack of customary tenancies. While the records contain very occasional references to customary services, the tenements were generally designated as free. As a result, many property transfers were made out of court and later enrolled into the records. Another difference lies in the capabilities of the court at Merstham, which had legal powers and access to professional lawyers on a much wider scale than the courts of Carshalton and Farleigh.

fourteenth century

Similar to Carshalton, there was only one example of an inheritance transaction in the Merstham records of the fourteenth century and this concerned a tenement in Cheam. Most of the work of the court baron consisted of issuing orders for new (unnamed) tenants to do fealty and have their transfers recorded. There was just one example of a charter produced in court as proof of title and the information was then recorded on the roll.¹

There is some evidence for the take up of empty land in Merstham by tenants who survived the Black Death, but on a smaller scale and later in the century than in
Leasing the demesne was also recorded in Merstham; for example, in 1396, the demesne in Merstham and Charlwood was leased to three local men. However, the priory officials retained control of two stone quarries in Merstham and iron workings in Charlwood.  

The Merstham records provide the earliest examples of tenants producing writs of novel disseisin as a way of gaining possession. There were two examples in the fourteenth century; the plaintiff applied to the king's court for a writ which he then produced in the lord's court. The common factor in these two examples is the relative wealth of the plaintiffs who had the resources to apply to an agency outside the lord's court.  

_fifteenth century_

In Merstham the proportions of inheritance and new tenancies remained at a similar level to the previous century with three cases of inheritance and 10 examples of new tenants. In contrast to both Carshalton and Farleigh, there is no evidence in Merstham for empty tenements nor were there any orders for repairs to property. The repair orders which predominated in the Merstham manors were of a different kind - they came mostly before the view of frankpledge since they applied to the upkeep of the roads and, as stone was being worked
in Merstham and iron in Charlwood, the upkeep of roads and bridges was probably an important factor in transporting the products. The industrial basis of the manors may also have brought prosperity and attracted people to take up tenements as they became vacant.

Among the cases of inheritance, one concerned the transmission of lands and tenements in Charlwood to John Landshute aged eight, whose father had died. There was no mention of a guardian being appointed, but the entry fine and fealty were postponed. There was also an unusual case of a claim to property on the grounds of insanity. In 1408, Thomas and Joan Lokebrygge, by right of Joan, asked to have control of the lands of Julyana atte Hulle in Charlwood. The wording of the claim suggests that Joan was Julyana's daughter and Julyana was not capable of managing her property, 'non est compos mentis', which was attested by the whole court. Thomas Lokebrygge then did fealty for the lands.

Continuing the trend seen at the end of the previous century when the process of novel disseisin to gain possession was first noted in the Merstham manors, there was another example in 1407. However, the process of novel disseisin was then replaced by another legal form known as a final concord. There were four examples of final concords in the Merstham records between 1408 and
The process took its name from the first words of the document - 'finalis concordia' - which had the effect of putting an end to disputes and was an amicable agreement, either real or fictitious. It originated as a real action in the king's court in the twelfth century, beginning with the grant of a writ, followed by an appearance in court where a licence to agree was granted. The plaintiff and defendant each received an indented copy of the agreement and the third part, the foot of the final concord, (pes finis) which began with the words Haec est Finalis Concordia, was a permanent expression of an agreement or arrangement between the two sides. The third part, known as the foot of the fine, was enrolled in the records of the court where the case was brought. In most cases a sum of money, a fine, was payable for leave to concord. Anyone who wanted a copy of the foot of fine had to pay a fee to the court.

Because the final concord had the force of a judgement of the court, by the end of the twelfth century, actions were being brought to be concorded and the concord became a deed of conveyancing. Final concords related almost entirely to free tenements and provided a convenient way of transferring them. They were not all made in the royal courts - they were made in the courts of the archbishops of Canterbury, in county courts and in some manorial courts, as in Merstham.
The first example occurred in Merstham in 1408, when Thomas Ropkyn produced a writ against William and Joan Ashley claiming a house and land in Merstham. The court gave its assent to the writ and the final concord was drawn up beginning with words 'Haec est finalis concordia facta in Curia Thome prioris ecclesie Christi'. The bailiff and tenants acted as witnesses and Ropkyn paid a fee of 6s 8d to the court. In this way, the foot of fine was written into the court roll and remained there as proof of Ropkyn's title. All the final concords concerned transfers to new tenants. Two Londoners were among the new tenants; one of them was John Beverley, a Skinner, and the other was John Foxcotes, a goldsmith who acquired property in Cheam. Because such an agreement involved payments, in addition to entry fines, they were used by the more wealthy tenants.

sixteenth century

For the first time we have rentals for the Merstham manors, which provide information about patterns of landholding. In total, five rentals have survived from the sixteenth century at roughly 20-year intervals: 1522, 1541, 1560, 1561 and 1582. The earliest one dating from 1522, relates to the period when the three manors of Merstham, Cheam and Charlwood were held by Christchurch Priory. From the early years of the sixteenth century
there was a shift in property holding throughout the country as religious establishments gradually withdrew from direct management of their property. Certainly, in the Merstham manors, the larger holdings had already been leased out, but Christchurch retained overall control until 1539. From 1523 to 1647 there are no surviving records for the manor of Merstham, but the gap is filled by the records of the manor of Albury, which exist for the period 1537 to 1681. Albury was a manor within Merstham and it had been held on lease as a separate estate since at least 1364. The importance of Albury lay in the presence of stone quarries within the manor.

This provides the background to the five rentals of Merstham and Albury during the sixteenth century. The rental of 1522, which has survived in a copy made in 1710, provides a comprehensive description of Merstham, including the manor of Albury. The rental shows the system of land use in Merstham, with larger holdings of arable, pasture and woodland lying close to dwellings, while small scattered tenements, called 'shots', lay in the common fields. There were 24 tenants in Merstham, with Albury, held by John Dannet, being the first property on the list. It consisted of about 329 acres scattered throughout Merstham. The area immediately surrounding the manor-house consisted of meadow, arable, park, orchards and gardens. Dannet also held Dean Farm.
within the manor of Albury, which was divided up into fields and woodland; one of these holdings was four acres in Quarry Pit Dean. The remainder of Albury was divided into 21 scattered pieces, or shots, of about half an acre each in the common fields, some were associated with quarries, including one acre in Bellringer Pit.

Another large element in Merstham was held by Richard Best, tenant of Alderstead. His holding was perhaps larger than Dannet's, consisting of nearly 400 acres, much of it being woodland. Best was also involved in exploitation of the quarries, having several pieces of land in Bellringer's and Quarry Pit. A third estate, known as Chilbertons was held by Sir John Leigh, who was the steward of the Merstham manors at the time. Leigh sub-let part of Chilbertons to Robert Sharpe. The pattern of scattered holdings was repeated for other tenants, but on a smaller scale. These included Nicholas Killick, who held the blacksmith's forge as well as an interest in the quarries. Other local tenants held cottages and gardens; for instance, William Wyott paid 2d a year for a 'yard of ground' and a cottage at Woodstreet which he had built for himself. There were a few non-resident tenants; for example, Merton Priory held a tenement which was sub-let to Richard Ainscombe, a quarryman, but generally in 1522 the land was held by local tenants. A few incidental references to the lord's
land show that Christchurch still managed part of the manor directly, principally in the area of the quarries.

The list of tenements in 1541 was made on a different basis; it named the lands in Merstham held by John Gawton, but did not include the rents. His holding amounted to about 138 acres scattered in 64 parcels, averaging about two acres each, which included land in Bellringer's Pit, Quarry Dean and Strawberry Pit. (Strawberry may be a corruption of Awbury or Albury). Although this list named only Gawton's lands, because of the scattered nature of his land, it contained incidental references to the holdings of 18 other tenants. For example, Gawton's land at Bellringer's was described as lying between the lands of Sir John Dannet on the west and the lands of Richard Best of Alderstead on the east.

The later rentals of 1560, 1561 and 1582 related only to Albury and listed 15 or 16 free tenants. While relating specifically to Albury, they show that more tenements in Merstham had been added to Albury between 1522 and 1560. Properties like Whiteleaves, Bearcroft and Hippeshawe had been transferred into Albury, with the result that, by 1560, Albury was larger than it was in 1522 and formed the main part of Merstham. Unfortunately, the later rentals give only a very brief description of the properties as 'a tenement and land' or

-318-
'a tenement and garden', making it difficult to compare them with the rentals of 1522 and 1541 and to estimate the size of holdings. However, they reveal that most of the tenants lived in the locality and that very little of their land was sub-let. Howell's comment about Kibworth Harcourt that frequent rent rolls are indicators of change does not appear to hold good in Albury, since there was only one change of tenancy in 1560-1 and, even by 1582, there were only five new tenants. 16

After 1516, there are no sixteenth-century records of the court baron for the whole manor of Merstham. However, the records of Albury, which was a separate estate within Merstham, have survived. An obvious difference between the records of Merstham and Albury lies in the emphasis placed on documents drawn up elsewhere; in Albury, there was greater reliance on the information held locally in the court rolls, rather than on charters and indentures drawn up by outside lawyers, as in Merstham. While the formal records of Albury began in 1537, a few rough notes for 1509-13, containing names of tenants and lists of jurors and sketch of a family tree, show that the court was in operation in 1509. 17 In 1537 there was a large proportion of transfers relating to inherited property - there were seven transfers within families and only one to a new tenant. All the properties which were mentioned in 1537 were described as free tenements and we might
expect them to be transferred out of court by charter or other legal documents; however, only one was transferred by charter. One of the properties, which was transferred within the family of Sharpe alias Woodruffe, was described as free, but clearly retained traces of customary services, since the rent of 4s 6d included 1s 2d to pay for four days' work at harvest-time.¹⁸

In the second half of the century, the number of cases of inherited property in Albury (13) exceeded the number of grants to new tenants (9). Among the new tenants was John Richardson, a citizen of London, who in 1565, transferred his tenement to his son, Nicholas.¹⁹ Evidence for the family's involvement in quarrying comes in an agreement made in 1596 for Nicholas and Christopher Richardson, freemasons, and Gabriel Ainscombe, of nearby Chaldon, to supply 'good and seasoned free-stone sufficient for doors and windows' for the Whitgift almshouses which were being built in Croydon. As well as supplying stone, they were contracted to cut it and put the finished pieces in place.²⁰

_seventeenth century_

Three rentals help us to identify the pattern of landholding in Merstham in the seventeenth century. Two have survived for Albury, for 1616 and 1633, and one for the
whole of Merstham, including Albury, in 1657. The rentals illustrate the arrangements of land-holding between the two manors; John and Anthony Hedge, lords of the manor of Merstham, were the major tenants of Albury, while the Southcotts, lords of the manor of Albury, were the major tenants of Merstham. In 1633 Albury had 13 tenants, headed by Anthony Hedge who held four tenements. The rector of Merstham, Charles Sonnybanke, also had considerable holdings in Quarry Dean. The total of 13 tenants in 1633 shows a slight reduction from 16 in 1561, but this difference can be attributed to the multiple holdings of Hedge and Sonnybanke. The rents of the tenements were virtually unchanged from 1561.

The rental for Merstham in 1657 shows a contrast to the situation in Albury and in both Carshalton and Farleigh, since the number of tenants in Merstham had increased, perhaps because tenements were smaller and there were fewer subtenants. Comparison between the Merstham rentals of 1522 and 1657 indicates an increase from 24 in 1522 to 34 in 1657. While the 1522 rental showed how multiple holdings consisted of small, scattered tenements, by 1657 some of these multiple holdings were divided up and held separately. For example, Sir John Leigh's tenement described as Chilbertons in 1522 was divided between at least three tenants in 1657. There is also evidence for sub-division in Albury when Alice
Sharpe's tenement and garden in Merstham were divided between Nicholas Eastland, her eldest son by a previous marriage, and Richard Fleete in 1671. Ten years later, the court heard that one part of it had passed to Thomas Fleete and then to his widow, while Richard Sharpe, quarryman, took the part which had been held by Eastland. The rent of 8d was duly apportioned between the two men, who were tenants of the manor, not subtenants. In addition, the manor had acquired extra tenements in the mean-time, like the manor of Salmons in Caterham, which lies about 4km. to the north-east of Merstham. The situation follows the pattern which we have seen in Carshalton at the beginning of the seventeenth century, where the multiple holdings of the sixteenth century were divided up. However, the reason for the change in Carshalton, where wealthy Londoners were seeking suburban homes, is unlikely to apply to Merstham. Some of the transfers in Merstham suggest that the acquisition of property by non-residents was a way of raising money for investment elsewhere.

The rentals also reveal different patterns of landholding between Albury and Merstham. The parish register and the records of the view of frankpledge show that all the tenants mentioned in the Albury rental of 1633 were residents in Merstham, whereas the Merstham rental of 1657 indicates that about 71% of the tenants of Merstham
appear to have lived in the parish. Some of the non-resident tenants were described in the rental by their place of residence; for example, there was (---) Hill of Dorking and John Wood of Coulsdon. Unfortunately, a number of the names on the hearth tax returns for Merstham are illegible, but it is clear that there were 55 households, divided between 38 payers and 17 non-payers. While some of the tenants feature among the tax payers, none of the non-payers was a tenant, suggesting that the poorer residents were either subtenants or employees, as we might expect.

We have seen a relatively high level of property transfers in Carshalton and Farleigh relating to customary tenements, because of the ease of proving title by the court roll. And so, we might expect a lower level of transactions in Merstham and Albury, where there was apparently no customary land. However the number of transactions in Merstham and Albury reached its highest level in the first half of the seventeenth century of 25, but this fell back to nine in the second half of the century. The high level of transfers in the first half of the century was due to new tenancies; inheritance transfers remained at a steady level.

The difference between the transactions in Merstham and those in Carshalton and Farleigh lies in their multiple
nature. For example, in 1616 the court roll stated that William Copley esquire had transferred Perys in Albury to William Jordan esquire, who had then transferred it to John Hedge, who was lord of the manor of Albury. In 1647 another entry referred to a transfer of a free tenement, consisting of a house and land in Merstham, by Thomas Smyth to Charles Allen of Tooting by an indenture. This transaction provides evidence for mortgaging a tenement to raise money, as it contained a redemption clause, stating that the money was to be repaid within 100 days. After the indenture was drawn up, Allen transferred the same tenement to John Lambert of Banstead, but as the jurors were not certain that the money had been repaid, they were unwilling to acknowledge the transfer. We can see from these transactions that there was a high level of transfers to new tenants in the first half of the seventeenth century, but these were made outside the court baron by other agencies. While they show the difference in procedures between free and customary tenements, they also show that the high level of transfers was not confined to customary land.

We have seen that heriots disappeared in Carshalton during the seventeenth century. In Merstham, they were payable in cases of inheritance of the larger tenements. For example, on the death of Edward Southcott, lord of the manor of Albury, his son John was
required to pay two heriots - one for Albury and one for the tenement known as Dawes. When Sara Smyth, a widow, took over her former husband's two tenements in 1633, two heriots were due, consisting of two horses, valued at £15 0s 0d. However, the record states, without explanation, that she paid £8 0s 0d. In another example, on the death of Richard Clement, his tenement, together with a garden and croft, held for a total rent of 1d, incurred a heriot of a cow valued at £3 0s 0d, which the bailiff was ordered to take. In most cases, however, the transactions were accompanied by the phrase that no heriot was paid because the tenant had no animals.

While entry fines increased in Carshalton and Farleigh, the payments for reliefs on taking up free tenements in Albury and Merstham were negligible. There were very few references to reliefs and, since a relief was usually equivalent to a year's rent payable in advance, the low rents in Merstham and Albury were reflected in the size of the reliefs. The payments were in no way comparable with the size of entry fines in the other manors and they show a distinct contrast in the value of free and customary tenements for the landlord.

In Carshalton there is clear evidence for social and economic effects arising from the Civil War and disease,
but in Farleigh and Merstham these events did not have a noticeable effect on the work of the court baron. We know that the manor of Albury was sequestrated during the reign of Charles I, but this did not affect the court baron. The parish registers of Merstham do not contain references to epidemics or disease, as they do in Carshalton, nor do they show disproportionate numbers of deaths in particular periods. While there is no directly comparative information about Farleigh, since the registers have not survived from before 1679, there is no circumstantial evidence for the effects of outside events.

While national events affected the property market in Carshalton, probably because it lies closer to London than the other manors, all the manors showed a larger number of resident tenants in the seventeenth century. In Carshalton, wealthy Londoners found country homes, while in Farleigh, the local gentry held most of the land. In Merstham and Albury, where many tenants were also residents, we may be seeing the effects of the stone industry, where a larger number of tenants worked their own land or were employed in the quarries, while holding small tenements as gardens and crofts.

References:
1. PRO. SC2 204/66.
2. Ibid.
3. PRO. SC2 204/67.
4. See above p. 278.
5. DD/HY. Box 27 Merstham roll 1.
6. Ibid.
7. Ibid.
8. Ibid., Merstham rolls 1-2.
10. DD/HY. Merstham roll 1.
11. Ibid., roll 2.
12. Hylton, 'Rental of the Manor of Merstham 1522'.
    DD/HY. Box 27 Merstham rental 2; Albury rolls 1-2.
13. Hylton, 'Rental of the Manor of Merstham 1522'.
14. DD/HY. Box 27 Merstham rental 2.
15. Ibid., Albury rolls 1-2.
17. DD/HY. Box 27 Albury roll 1.
18. Ibid.
19. Ibid., roll 2.
21. DD/HY. Box 27 Albury roll 2; rental 4; Merstham rental 5.
22. DD/HY. Box 27 Albury roll 2.
23. Ibid., roll 1.
24. Hylton, 'Rental of the Manor of Merstham 1522'.
    DD/HY. Box 27 Merstham rental 5.
25. Ibid., Albury roll 2.
26. Ibid.
28. PRO E179/481.
29. DD/HY. Box 27 Albury roll 2.
30. Ibid.
31. See above p. 308.
32. DD/HY. Box 27 Merstham rental 5.
33. Ibid.
34. Ibid., Albury roll 2.
35. See above p. 309.
II. Procedures at the court baron

1) enquiries

From time to time, the jury of the court baron functioned specifically as a jury of enquiry - 'to discover the truth'. For this purpose, the jurors, or a specially summoned group of men, asked questions and carried out investigations to find the truth. Finally, they put together all the information and reached a decision. However, it is only in a few rare cases that we can see all these processes at work. Normally, because the records are not complete, we can see only part of the procedures in each case. Because our information is sparse, it is helpful to look at a number of cases and derive pieces of evidence and small clues from these in order to assess the function of the jury of enquiry.

There was no specific number of jurors for an enquiry; sometimes the whole homage jury was given the task. On other occasions, all the tenants, or a panel of up to 14 jurors, were summoned by name to investigate a particular event or series of events. Failure to obey such a summons might result in a fine for default. There are also indications that jurors might be called upon to go out and view land or other property which was the subject of an enquiry.
Juries of enquiry were used at intervals throughout the whole period of this study from 1364 until 1691; generally the subjects of their enquiries fell into three categories: a) inheritance, b) disputes between tenants, and c) offences against the custom of the manor. Enquiries concerning inheritance normally centred upon identifying the heirs to free tenements which had been transferred out of court. This contrasts with the case of customary tenements with no known heirs; for these, there were no enquiries, but proclamations were made at the meetings for a claimant to come forward. If no-one claimed the property, the landlord took it over and it was either managed by the bailiff or granted to a new tenant. When the enquiries were held to resolve disputes between tenants, or between landlord and tenant, they usually concerned land or other manorial property.

FARLEIGH

The first enquiry occurred in Farleigh in 1364 and concerned management of the woodland in the lord's park and in the west wood. There is nothing to indicate where the meeting took place, only that it was held 'in the presence of the warden'. It may have been held in Farleigh, or Oxford, or in any one of the Merton College manors. Clearly, an irregularity had occurred which merited an enquiry. There is no direct evidence that
the jurors were making a judgement; on the contrary, they seemed to be supplying information in answer to questions. Six men formed the jury and they were described as jurors (iuratores), not as the homage jury. This may indicate that they were a panel of jurors specially summoned for the task. They stated on oath that John Bele, the keeper of the park, had been selling products of the woodland, including almost 400 trees, various cartloads of underwood, bark, laths and shingles, but had 'made concealment' of his transactions. They quoted specific examples, such as timber sold to William Ostyn for two marks or to the smith of Addington for 5s Od. In such a small community of about 16 tenants, the jurors would be likely to have a good knowledge of events and people and would know who had received the timber. The document simply records the details of the enquiry; there is no information about the outcome.

The next example of an enquiry occurred in 1397 after William Bryan and Richard atte Water had cut down trees on their customary land and had sold the wood. On this occasion, the members of the homage jury formed the jury of enquiry. When they said that they did not know the value of the wood that had been sold, they were ordered to find this out before the next meeting. By this next meeting, the jurors were able to quote the value, which they put at 13s 5d. Finally in 1399, Bryan
came to court and 'placed himself at the mercy of the lord' for cutting down and selling the underwood. There seemed to be no action against atte Water, although he was present and was involved in other business.

There were only three enquiries held in Farleigh throughout the whole period of the records and the final one concerned the inheritance of free property in 1589. On the death of a widow, Jocosa Pather, the court had no information about the heir to her tenement called Watts. The same case must have been presented previously, since the jurors were ordered to persevere and continue in their enquiries (melius inquirendum) to discover the next heir. There is no direct evidence for the outcome, but in 1612 Thomas Eyres took over the tenement.  

CARSHALTON

In contrast to Farleigh, there were eight enquiries in Carshalton, most of them concerning property. None was recorded in the fourteenth century and the first occurred in 1428 with the case of Alice Threll, which involved both the intervention of the officials of the lord of the manor and an enquiry. The court rolls of 1428 indicate that there had previously been a consultation with the lord’s officials about the offence - 'ad ultimam (curiam) consilendum est cum consilio domini'. At the
meeting in 1428 she and her husband Richard were charged with having cut down some of the lord's timber trees but, as Richard had died, the question arose as to whether she was still liable. John Leycester, who was her second husband, was probably unwilling to pay her fine and he asked for the charge against her to be dropped on the grounds that the first husband was dead. The matter was considered 'by the court', which may indicate that all the tenants who attended were consulted. An enquiry was also ordered to discover the names of the others who were involved in the same offence. When the matter came up again in 1429, the record specifically stated that the jurymen (*Homagiarii*) should make further enquiries to discover the identity of the offenders. Unfortunately, the case was not mentioned again, so it is impossible to follow the enquiry through to an outcome.  

However, the case concerning the property known as Buxsales gives more information about the processes of investigation. In 1443, John Sampson had taken over the tenement of Buxsales, but it was quickly occupied by squatters, William and Joan Melman. By 1447 the case of their occupation came before the court baron and they were charged with occupying the property without permission for four years. After searching the records, the court found that Sampson was the rightful tenant but that it was already derelict before he became tenant.
Before a decision was reached, a group of people, consisting of 'the steward and other tenants', had gone out to examine the state of the property. Having viewed it, they decided that, because the Melmans had carried out some repairs, they should continue in occupation, provided that they carried out further work. In this example, we see the court being confronted with a problem, this was followed by an investigation which involved searching the records and looking at the property, and finally a decision was reached.7

There is far less information about procedures when enquiries were made concerning property transfers made out of court. For example, in 1506, when no-one knew who should inherit William Saye's three half-acres, the jurors postponed the business for further enquiries to be made before the next meeting. Since there was no record of this meeting, we can only assume that the information was supplied and, by 1509, John Saye was leasing land to Edward Burton.8 By 1565, there was a similar problem when the jurors were charged to discover the amount of property which Henry Burton held before he died, but the result of the enquiry is missing.9

However, in the mid-sixteenth century, when John Fromond presented the court with so many problems, we have another chance to examine the procedures of enquiry.
There were at least five meetings over the two years 1566-7, but the case had its roots in the earlier part of the century. In 1539 Thomas Christmas, who held the tenement of Pupletts and various associated properties, surrendered them to the lord to be re-granted to himself and his wife, Elizabeth, in a joint tenancy. Accordingly, when he died, Pupletts passed to Elizabeth Christmas with the reversion to their two young daughters and, on the death of Elizabeth, the two girls, Katherine aged 15 and Jane aged 12, were admitted as tenants.

By 1562, Jane, who had married Peter Powell, transferred her half of Pupletts to John Fromond and the following year Katherine transferred her share to Anthony Wood. Problems arose because of the physical division of the property since the two new owners did not lease out the tenement and share the income, but attempted to share the property. In 1564, when the two men had failed to obey an order of the jurors to put up dividing fences and hedges on the property, they were given penalties of £1 0s 0d each for not carrying out the work. Wood then asked for the land to be formally divided up 'according to the custom of the manor', but the jurors were uncertain of how to proceed and asked for advice, presumably from the steward. When Fromond and Wood still failed to divide the land, the jurors of the court baron were ordered to make a partition of the land. The
allocation of the land took place in 1565 in the presence of the bailiff and six other named tenants, who were also jurors. At the same time, Wood gave formal notice to the court that he was bringing a charge of trespass against Fromond. Six months later he gave the details of the charge, alleging that Fromond had broken into his share of Pupletts and had destroyed the pasture there, causing damage which he assessed at £1 19s 0d. Fromond reacted by stating his innocence and asking for a postponement until the next meeting when both he and Wood asked for a jury of enquiry to be appointed to consider the case. As a result, Walter Marshall, the bailiff, who was described as 'minister of the court' on this occasion, called for a meeting six months later at which 12 men of the manor should form the jury. However, 'with the assent of the jurors and all parties', the case was postponed for another six months.

When the court eventually met, Fromond defaulted, but the jurors decided he was guilty of trespass and awarded damages to Wood. They also declared that they wished to inspect the premises before giving a final judgement, and the court was adjourned for another month. After several more adjournments, the jurors decided that Wood was entitled to damages and costs. However, that was not the end of the case: Fromond had taken independent action and had tried to prosecute Wood for trespass at
the sheriff's court, contrary to the custom of dealing with disputes between manorial tenants at the lord's private court. Fromond had no right to take the case to another court without the lord's consent and it was sent back to the court baron, because it was not a matter for the sheriff's court. The lord's bailiff 'by warrant of the steward' then summoned 14 men to form a special jury, with a penalty of 10s 0d if they failed to attend the meeting. When they eventually met, they decided that Fromond had acted without permission from the lord in taking his case to the sheriff's court and should forfeit his customary property. Because they were clearly uncertain about their right to make this decision, they asked for an adjournment to discover whether this was the correct procedure. 17

This dispute between Fromond and Wood was adjourned several more times and, finally in 1567, the record stated that a judgement had been given in the case - but it did not give the verdict. 18 The disputes between the two men lasted for several years and gave rise to an extraordinary number of meetings. The presence of both Fromond and Wood on the jury must have had an effect, possibly splitting the jury into factions. There was also a suggestion of intimidation by Fromond against William Ache, one of the leading jurors. Fromond was alleged to have fixed 'door-hooks' to a tree growing on
Ache's customary land and hung a door on it, claiming that it was his own tree. As a result, Fromond was ordered to remove the hooks or 'come to some agreement'.

Perhaps in an attempt to reach a settlement, Oliver St John, son of the lord of the manor, acted as steward on several occasions. The extensive nature of this dispute reveals the difficulties encountered by the jurors of the court baron in dealing with a wealthy tenant who persistently failed to attend the court or answer charges.

Three enquiries occurred during the seventeenth century, one of which shows the appointment of a small group of men to go out and view the scene of an offence. In 1636, Castlemain Smith complained to the court that Robert Drewe had encroached on his land and had taken over two and a half acres of land along the highway to Banstead.

As a result of this charge, three men, including two jurors of the court baron, were asked to go out and inspect the land and report back to the next meeting. There was another charge of encroachment presented at the same meeting but there was no similar order for an inspection, only a penalty and an order to put it right. The contrast in the two cases suggests that Drewe's encroachment had occurred some way out of Carshalton, so that the jurors needed more information about it. Drewe had died by the next meeting and no outcome was recorded.
An enquiry was ordered in 1651, following the death of Barnard Burton, to discover what land he held, but again there was no record of the outcome. Burtons' land was a free tenement, and free tenements often caused problems for the court baron because transfers took place out of court. However, in 1691, a customary tenement gave rise to an enquiry. Before he died, William Hewett had transferred his customary tenement called Brittonsgate to John Best and presumably this transfer had taken place out of court and had not been enrolled in the court records, since the jurors did not know the extent of property. As a result, the homage jury was ordered to make enquiries to discover the boundaries of the property. In the meantime, the new tenant was deprived of the holding.

MERSTHAM

The situation at the Merstham court was different from the two other manors, principally because it included Cheam and Charlwood in the centuries before the Dissolution. As we have seen in Farleigh and Carshalton, most enquiries concerned property and the same pattern emerged in the Merstham manors. There were two enquiries in 1374, one concerning a tenement in Cheam and the other in Charlwood. The first enquiry was held to determine inheritance: Agnes Lamnel, the daughter and heiress of
John Lamnel, paid a sum of 6d to the court so that an
enquiry should be made "per omnes sectatores curie" to
discover whether she was the rightful tenant of a cottage
and yard in Cheam. She claimed the tenement because it
had previously been held by her kinsman, John Salote. A
distRAINT order was made for all the suitors to attend
the enquiry, but we have no record of the outcome.

In the same way as Agnes Lamnel paid 6d for her enquiry
to come before the court, so nine tenants in Merstham
paid 6d for an enquiry concerning an apportionment of
rent. They had jointly taken over the tenement
previously held by Walter Chilberton, which consisted of
a house and six acres of land at a rent of 2s 5d. The
jury made its decision and divided the rent into sums
ranging from one farthing to 8d. However, the decision
proved to be unworkable, since three of the tenants
failed to pay their rents and one tenant was distrained
for the full amount a few years later.  

The procedure of paying for an enquiry seem to have been
dropped after 1374 and there are no other examples of
tenants paying for enquiries. There is more evidence
about procedures in 1387 when an enquiry was ordered to
settle a dispute between tenants.  
The bailiff was
commanded to summon men to conduct an enquiry (venire
faciat homines) to decide whether John atte Lane had
occupied land in Charlwood which Julyana atte Hulle claimed as hers. Unfortunately, there is no further information about this case. However, there was another dispute at the next meeting which lasted rather longer. In December 1387, Robert atte Newe complained that Robert Smythe had taken his oxen and kept them. The court gave the two men time to come to an agreement (*habent diem concordandi*) but, inserted above this entry, is a statement that an enquiry should be made to discover whether Smythe had taken two oxen and kept them on his pasture land for 11 days. In this example, atte Newe presented his complaint, but the court clearly felt the need for further information which could only be obtained by questioning witnesses. This was followed up in February 1388 when the bailiff was charged to summon men to hold an enquiry into the case. 26 But, as so often happened, there is no information about the next stage.

There was only one enquiry recorded in Merstham during the fifteenth century, but it differed from the earlier ones because it also involved the view of frankpledge. It occurred at a meeting of the court general (*curia generalis*), which differed from the usual meetings of the court baron because it included a presentation by ale tasters. At the meeting in 1437, the jurors followed up the preceding view of frankpledge by asking for more time to reach a verdict (*veredictum*) in a case brought by the
lord of the manor, Nicholas Gervays and Thomas Twyner, against Robert Best, in a plea of debt. There is no evidence about the outcome but, following the jurors' request for a postponement, Best 'put himself at the mercy of the lord' with regard to making an agreement with Twyner. Although no sum of money was mentioned, this suggests that Best would make a payment to Twyner.

ALBURY

After 1437, there were no enquiries in the manors of Merstham, Cheam and Charlwood; the remaining three enquiries concerned Albury. The first, held in 1561, was probably initiated by John Richardson, a citizen of London, who had recently become a tenant in Albury. The record stated that 'the jurors say, but do not truly know, that John Richardson, in their opinion, ought to have right of way across the land of the lady of the manor and so have access (cursum) to Quarry Dean'. They qualified their statement by saying that, as far as they knew, he had not been previously entitled to this access. Although there is no further evidence in the case, it suggests that he had acquired land for stone-working and was opening up new areas to which he needed access. The decision by the jurors was followed up by a statement a few years later when his son Nicholas took over some of his property. At the meeting in 1565, the
jurors declared that John Richardson 'from time immemorial' had enjoyed the right of access to his four acres of land across the land of the lady of the manor. In both these cases, John Richardson was the first juror and was also one of the two assessors of the court, and he may have used his position to gain the access he needed. On the other hand, extension of the stone quarries was probably beneficial to the local economy in terms of employment and income and so his action may not have been opposed by local people. The enquiry of 1561 was probably a way of resolving an uncertainty which, by 1565, had become an established fact.

The jurors were presented with a more difficult task in 1596 after a murder. They did not enquire into the murder, but they were faced with a problem concerning the murderer's property. William Ropkyn had been tenant of Little Thornfrith, which consisted of a house and about seven acres but, in spite of making enquiries, the jurors did not know whether he still held the property at the time of his arrest. They took action by ordering the bailiff to distrain the tenants of the property, whose names were unknown, to come to the court to show title to the land. The jurors also asked for anyone to come forward who had any evidence which would prevent the lord of the manor taking the property. As in so many cases, there is no information about the outcome, except that 20
years later it had a tenant, who transferred it to John Hedge, lord of the manor of Merstham. 30

The final enquiry in Albury was held in 1681. Under the heading 'Memorandum' an order was made for an enquiry to discover what land was held by John Hedge when he died. 31 Hedge had been lord of the manor of Merstham and was succeeded there by his two daughters, Jane and Mirabellla. Jane had married Henry Hoare and the enquiry concerned her land in Albury which Hoare acquired by marriage. As part of the enquiry, the jurors consulted the court rolls and examined witnesses in the presence of Hoare. They decided that Hedge had held the property known as Perrys in Merstham Street and other lands which belonged to it, which were previously held by the Copleys. This information shows that they consulted the records at least as far back as 1616. 32

In general terms, enquiries were used throughout the whole period of the records in all the manors. A jury of enquiry was a resource which could be used when it was impossible to reach a decision at a meeting without further information. Throughout the period of this study there were eight enquiries in Carshalton, three in Farleigh and nine in Merstham and Albury. Although the overall numbers of enquiries were very small, the figures show some relationship to the size of the manors. The
largest number of five enquiries took place in the fourteenth century in Merstham when business from both Cheam and Charlwood was presented. Only in the Merstham manors is there evidence for tenants paying for enquiries to be held. Apart from payment, which seems to have ceased by the end of the fourteenth century, there is very little evidence of chronological change in the procedures for holding enquiries over a period of 350 years.

Most enquiries were mentioned at just one meeting; sometimes we have the bailiff issuing a notice beforehand to summon men to an enquiry and, very occasionally, a final decision. If we put all these processes together, we can see a formal pattern in which an individual, or several individuals, presented an item of business at the court. If the jurors needed more information before they made a decision, the bailiff summoned local men for an enquiry who might be fined if they failed to attend. When the enquiry was held, evidence was presented, and a decision was reached. Sometimes an enquiry involved going out to inspect land; at other times jurors consulted records and asked questions. Enquiries were rooted in the locality and local people were called upon to provide information about people and events of which they had special knowledge.
References:

1. MM 4674.
2. MM 4936.
3. Ibid.
4. Ibid.
5. MM 4842-3.
7. P5/1.23; P5/1.31.
12. P5/5.27.
15. P5/5.33.
18. P5/5.44.
23. PRO. SC2 204/66.
24. PRO. SC2 204/67.
25. Ibid.
26. Ibid.
27. DD/HY. Box 27 Merstham roll 2.
28. Ibid., Albury roll 2.
29. Ibid.
30. Ibid.
31. Ibid.
32. Ibid.
2) distraint

The procedure of distraint allowed the lord of the manor to take some form of security from tenants as a way of ensuring that they complied with the orders of the court. Animals were often taken as a distraint but occasionally we have evidence for other forms of distraint. In all cases, the distraint remained the property of the tenant and could not be sold to others by the lord or his officials. If we look at the use of distraint in all the manors in this study, we can see differences between the areas and chronological changes in usage.

CARSHALTON

In the second half of the fourteenth century there were 25 examples of the use of distraint; the majority of these were made to ensure that tenants were present at meetings. 15 of the orders were made in disputes and settlements between tenants, where the plea could not go forward without both parties being present. Sometimes the distrains were repetitive; for example, in December 1360 when John Pollard was distrained to answer in a plea of debt, the order was repeated in January 1361.¹ There is some evidence for a connection between the use of distraint and pledges as a way of guaranteeing attendance; sometimes the two processes were seen as
alternatives but, more often, they reinforced one another. For example, William Joskyn could not be distrained in Carshalton since he was a stranger and had no goods there, and so he had to provide two pledges to guarantee his attendance. When his pledges failed to produce him, they were distrained. 2

In another example we can see the interaction between the use of distraint and pledges - when two men were cutting down wood on the lord's land without permission, the bailiff took their cart, but released it on the guarantee of their pledge that he would produce them at the next meeting. When the pledge failed to produce them, both he and the two principals were distrained for attendance. 3

Evidence for the actual goods taken as a distraint is very meagre - there was one example in the fourteenth century records which suggests that money was taken on that occasion. It occurred when Walter Wodyer kept a book belonging to the chaplain, he was distrained for the value of the book (half a mark) and for damages. 4

Apart from distraint being used to guarantee attendance, tenants might also be distrained to perform fealty to the lord when they took over property. With the total of seven orders, this formed the next largest group of distraint orders. In association with fealty, tenants who
failed to pay a relief or heriot on taking over the property were distrained for payment. Since most conditions of tenancy involved suit of court, defaulting suitors were distrained if they did not attend meetings of the court. Sometimes we have evidence that tenants complied with orders after they had been distrained. For example, in 1395, the court roll recorded a distraint made on Henry Haselmere to perform fealty for his lands and tenements and for suit of court; further on in the roll, the fealty of Haselmere and his wife was recorded and they put themselves at the mercy of the lord for their previous failure to perform suit of court. The remaining three orders in 1395 concerned payments for pasture and cutting down trees without permission. 5

There were two changes in the use of distraint in Carshalton in the first half of the fifteenth century—there was an increase in the number of orders and a change in the proportions of the orders. The total number of orders increased from 25 to 30, most of which related to fealty and suit of court. As in the fourteenth century, there were just a few examples of compliance after distraint orders were issued; for instance, John Burgh was first distrained for fealty and suit of court in 1443 and finally in 1446 his fealty was recorded. 6 Similarly, two other tenants, William Holt and Stephen Browne, were distrained for fealty in 1449 and, six
months later, their fealty was recorded. In another example, Christiana Best was distrained for fealty but, in the following year, Thomas Best came to court and asked for the distraint to be released by providing 'evidence'. As a result, he was given time to provide proof of title and there was no further distraint order. However, other tenants continued to be distrained repeatedly, with no indication that they performed their fealty. This increase in the use of distraint for fealty probably resulted from absentee tenants arranging property transfers out of court and neglecting to complete the formalities at the court baron.

There was one example of distraint for a heriot, which involved the bailiff taking a bronze vessel (unam ollam enneam) because the tenants had no animals. This arose from a disputed claim to the manor of Stonecourt when the new tenants refused to pay a heriot on the grounds that it was free tenement held by charter, not a customary tenement on which a heriot was payable. Because they initially failed to pay the heriot, the bailiff took over the property, but they regained it by complying with the order of the court that they should hold it as a customary tenement on which a heriot was payable.

In contrast to the situation in the fourteenth century, there was only one example of a distraint order in the
fifteenth century to ensure that a tenant was present in court to prosecute his plea against another tenant. Since he was present at the next meeting, he had presumably complied with the order. The reduction in the number of such orders resulted from a change in the usage of the court, as business between tenants ceased to be presented in Carshalton.

During the second half of the fifteenth century, five distraint orders were made - all in 1450. Three of these concerned attendance in court to answer for payments to the lord for pasture and cutting down trees without permission, while the other two were for fealty.

From the mid-fifteenth century onwards, the main use of distraint was to ensure fealty and payments of reliefs and heriots. We can also see a reduction in the use of distraint - during the whole of the sixteenth century there were only 17 orders and there were just five in the seventeenth century, with the last one occurring in 1671. If the heir to a tenement was under-age, it was common practice to distrain for payment of a relief or heriot, but to postpone the performance of fealty to a later date. We can see this in the case of Bartholomew Dylcok, who inherited his father's cottage in West Street at the age of seven - he was distrained for the relief, but his fealty was postponed.
While the majority of orders concerned fealty, there was an order in 1544 against the churchwardens to show on what basis they held the lands belonging to the church and three tenants were twice distrained in 1511 for unpaid rents. Throughout these two centuries there was only one vague reference to objects taken as distraint - this occurred in 1671 when the bailiff was ordered to take 'goods and chattels' when a relief remained unpaid. Table 17 shows the changes in the number of distraint orders in Carshalton over 350 years.

Table 17. *distrain orders in Carshalton:*

<table>
<thead>
<tr>
<th>date</th>
<th>number</th>
<th>% of total no.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1350-99</td>
<td>25</td>
<td>30</td>
</tr>
<tr>
<td>1400-49</td>
<td>30</td>
<td>37</td>
</tr>
<tr>
<td>1450-99</td>
<td>5</td>
<td>6</td>
</tr>
<tr>
<td>1500-49</td>
<td>13</td>
<td>16</td>
</tr>
<tr>
<td>1550-99</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>1600-49</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>1650-99</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>total</td>
<td>82</td>
<td></td>
</tr>
</tbody>
</table>

While the level of distraint fell, there is no definite evidence to show what replaced it. There were just a few examples of tenants having their tenements confiscated and then returned to them in a pattern similar to distraint, but it was not classed as distraint. For instance, in 1561, when a subtenant of John Dove cut down a walnut tree on his tenement without permission, there was no reference to distraint, but the tenement was confiscated and Dove had to pay 16s 8d to recover it.
FARLEIGH

There was a total of 42 distraint orders made in Farleigh between 1350 and 1399. The causes of the orders tended to be more varied than in Carshalton during the same period - as well as for fealty and default of suit of court, distraint was used in Farleigh to enforce payments for cutting down trees without permission, to enforce repairs to enclosures, and for unpaid rents.

Many of the distraint orders were repeated for several years; for example, Dionysia, widow of Hubert Edward, was the subject of five distraint orders for fealty in the 1350s when she had taken over property on the death of her husband. Eventually, when the tenement passed to John atte Welle in 1356, the distraint orders ceased. In the 1370s distraint was used for three reasons: a) against defaulters to ensure their attendance, b) to force a tenant to provide proof of title to his tenement, and c) against failure to pay for pasturing animals. There was a change in the 1380s when arrears of rent first appeared as the subject of distraint orders. One of these, John Uvedale of Titsey, was frequently distrained for arrears of 5s Od a year for 18 acres of land called Dykensfeld. Distraint orders for the rent of this property continued to be issued against members of the Uvedale family until 1475. The other non-resident
tenant, Richard Lee of Addington, was first distrained to show proof of title to about an acre of land known as Bures or Buryes 'below le Frith', and between 1397 and 1410 he was regularly distrained for the rent, like the Uvedales.  

A major increase in the number of distraint orders appeared in 1397 when 14 orders were made for a variety of reasons. These consisted of two tenants being twice distrained for default; Uvedale and Lee continued to be distrained for their rents as noted above but, in addition, three other tenants were also distrained for non-payment of rents, another was distrained for failing to make enclosures on his land, and there were three orders relating to payments for cutting wood and timber without permission. In 1399, distraint orders were issued against six tenants for non-payment of rents, while some of the orders issued in 1397 were repeated.  

This trend of making distraint orders for rents continued at the beginning of the fifteenth century, when six orders were made. Perhaps the rents were then paid or changed into labour services as, after 1400, the only tenants with arrears of rent were the non-resident families of Lee and Uvedale. By way of explanation for the number of rent arrears, Hilton, in his study of the manor of Kibworth Harcourt in Leicestershire, which was
also held by Merton College, has suggested that the extent of unpaid rents there amounted to what he termed a 'rent-strike'.

In Farleigh, where the court baron was having to deal with a similar situation, the highest incidence of unpaid rents occurred between 1390 and 1400, possibly as a delayed effect of the uprising of 1381. There is no evidence in Farleigh that distraint orders were caused because the landlord was attempting to increase rents; on the contrary, where rents were stated, they remained static.

During the years 1400-10, 33 distraint orders were made, continuing the high level of orders of the 1390s when 25 such orders were made. Most of the orders, amounting to one third of the total, were issued in just one year - in 1400. Some of these were repeat orders from the 1390s particularly for unpaid rents, default of court and encroachment. Between 1402 and 1410 the number of orders fell to about four at each meeting, reverting to the levels of 1350-88, which again suggests that during the period 1390-1400 the landlord and his officials were having difficulty in dealing with tenants.

During the second half of the fifteenth century there was a total of 21 distraint orders, showing a distinct fall from the 33 orders made in the first ten years of the century. In the later years of the century, distraint
was principally made on non-resident tenants like the Uvedales, Thomas Cooke of London and his successor, Robert Harding. These were the only tenants to be distrained for suit of court, while Cooke and the Uvedales were also distrained for unpaid rents. The order against Cooke stated that the distraint for rent should be carried out in his lands and woodland, but did not identify the nature of the distraint. The majority of such orders, usually two at each meeting, were issued against these tenants; however, in the 1450s, and particularly in 1454, seven orders were made - these consisted of three orders for unpaid rents, three orders for repairs which resulted in distrainments of cash, ranging in size from 1s 0d to 3s 0d, and a cash distraint of 5s 0d because tenants had taken over a property without paying an entry fine of 5s 0d. In the case of the repairs to property, the tenants had already reached the stage of being under penalty to do the work and they were distrained for the cash penalties when they failed to comply. This is different from other occasions both before and afterwards, when tenants were required to find pledges to guarantee that they carried out repairs. Unfortunately, the records for the years just before 1454 are missing and it is impossible to discover the reasons for this change. After 1458 the use of distraint levelled off to about two orders at each
meeting and was generally directed at non-resident tenants for fealty or rent.

It is difficult to draw conclusions about the sixteenth century in Farleigh as only two records survive. There is no reference to distraint in 1502 but, in 1589, there was one distraint order for fealty. This resulted from a transfer of property to Richard Hayward of Woldingham, which lies about 4km. from Farleigh. We have already seen that many distraint orders were made against the non-resident tenants, and this followed the same trend.

In the seventeenth century there were no recorded distraint orders in Farleigh. There was an obvious change in the function of the court in this period with the imposition of higher occasional payments of heriots and entry fines and penalties. We can also see stricter measures being employed against those who refused or were unable to pay, resulting in summary confiscation of entire tenements; for example, when William Wood pollarded trees and cut down timber without permission, he was evicted from his tenement and had to pay for re-admission. Also when William Ownsted refused to allow the bailiff to take a heriot, the bailiff took the tenement and the Ownsted tenancy ceased. Table 18 shows the changing pattern of distraint in Farleigh,
where the orders virtually ceased at the end of the fifteenth century.

Table 18. *distrant orders in Farleigh*:

<table>
<thead>
<tr>
<th>date</th>
<th>number</th>
<th>% of total no.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1350-99</td>
<td>42</td>
<td>43</td>
</tr>
<tr>
<td>1400-49</td>
<td>33</td>
<td>34</td>
</tr>
<tr>
<td>1450-99</td>
<td>21</td>
<td>22</td>
</tr>
<tr>
<td>1500-49</td>
<td>0</td>
<td>-</td>
</tr>
<tr>
<td>1550-99</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>1600-49</td>
<td>0</td>
<td>-</td>
</tr>
<tr>
<td>1650-99</td>
<td>0</td>
<td>-</td>
</tr>
<tr>
<td>total</td>
<td>97</td>
<td></td>
</tr>
</tbody>
</table>

**MERSTHAM**

The use of distraint was recorded in the Merstham manors to a far greater extent than in either Carshalton or Farleigh. During the second half of the fourteenth century, distraint orders were made on 152 occasions, compared with 25 in Carshalton and 42 in Farleigh. While many of the examples in Merstham resulted from repeated orders, failure to attend meetings was the chief reason for distraint. 66 orders concerned the default of tenants for whom attendance was compulsory, although they were not involved in the work of the court. The next largest group of 48 orders concerned tenants who were required to attend to take part in some aspect of business between tenants. In addition, there were 20 orders regarding fealty, suit of court and the
requirement to provide proof of title. Unlike Carshalton and Farleigh there were orders for men to come to court to warrant their essoins and orders were made against tenants who failed to carry out customary work of harrowing or gathering in the harvest. 28 Again, unlike Carshalton and Farleigh, distraint was used in Merstham to ensure that all the suitors were present at a meeting to consider particular matters. This happened in a case of money owed to the lord and at the first presentation of a novel disseisin. 29 As in Farleigh at the end of the fourteenth century, there were orders for unpaid rents but there were only four of these in Merstham, compared with 13 in Farleigh.

In the first half of the fifteenth century in Merstham, the number of distraint orders followed the same trend as in Farleigh and fell from 152 to 104. Many of these were repeated orders, but the balance in the use of distraint changed and just over half the total number of orders concerned fealty, sometimes with distraint for payments of reliefs as well. In addition there were distrainsts for the payment of two heriots; for example, in 1407 the bailiff was ordered to retain an ox taken from Thomas Welford as a heriot and was ordered to take more as well - 'plus capere'. 30 The number of distraint orders made against tenants to attend to prosecute some court business was halved in the first fifty years of the
fifteenth century and fell to 24, compared with 48 such orders in the fourteenth century. Distraint for default also fell and was used on only four occasions, compared with 66 in the previous fifty years.

While distraint orders showed a decrease during the 1430s, there was an increase in the orders for unpaid rents, which rose to six, and a new cause of distraint arising from failures to render customary allocations of grain to the lord. In 1407 one case provides us with information about what was taken by way of distraint - when William Corffe was distrained to answer to John Waleys in a case of debt, the words '20 sheep' were written above Corffe's name to indicate that they were to be taken. We can also see that he had been distrained before in the same case because the words 'sic aliter' were included in the statement.

Table 19. distraint orders in Merstham:

<table>
<thead>
<tr>
<th>date</th>
<th>number</th>
<th>% of total no.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1350-99</td>
<td>152</td>
<td>57</td>
</tr>
<tr>
<td>1400-49</td>
<td>104</td>
<td>39</td>
</tr>
<tr>
<td>1450-99</td>
<td>6</td>
<td>3</td>
</tr>
<tr>
<td>1500-49</td>
<td>1</td>
<td>&gt;1</td>
</tr>
<tr>
<td>1550-99</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1600-49</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1650-99</td>
<td>2</td>
<td>&gt;1</td>
</tr>
<tr>
<td>total</td>
<td>265</td>
<td></td>
</tr>
</tbody>
</table>

As in Carshalton and Farleigh, there was a marked fall in distraint orders in Merstham in the second half of the
fifteenth century, when only six orders were made. One of these concerned a case of trespass between tenants and the others related to fealty and proof of title. In the sixteenth and seventeenth centuries the evidence is affected by the lack of records for Merstham, but we can see that distraint continued to be used occasionally - there was one order for fealty in 1512 and two in 1652.

ALBURY

The records for Albury help to fill the gap in the Merstham documents. Distraint was used there only for fealty and payments of reliefs and heriots and two cases provide some evidence for procedures. In 1596 when Richard Heath inherited a tenement on the death of his mother Margery, the bailiff distrained a heriot of a cow worth 13s 4d, which was then sold back to the executors, effectively enforcing payment of a heriot. In the seventeenth century, there was a similar example when a cow worth £3 Os Od was distrained as a heriot.

We have already seen in Carshalton that fealty might be postponed when the heir was under-age while he was distrained for payment of a relief and there were similar examples in Albury. The last recorded use of distraint for fealty and relief occurred in Albury in 1681, which
is comparable with Carshalton where it was last recorded in 1671.  

Table 20. *distraint orders in Albury:*

<table>
<thead>
<tr>
<th>date</th>
<th>number</th>
<th>% of total number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1500-49</td>
<td>2</td>
<td>6</td>
</tr>
<tr>
<td>1550-99</td>
<td>11</td>
<td>36</td>
</tr>
<tr>
<td>1600-49</td>
<td>15</td>
<td>50</td>
</tr>
<tr>
<td>1650-99</td>
<td>2</td>
<td>6</td>
</tr>
<tr>
<td>total</td>
<td>30</td>
<td></td>
</tr>
</tbody>
</table>

The changing pattern of the use of distraint in all the manors reflects the changing use of the court baron over 350 years by both lords and tenants and it also reveals differences between the various manors. Table 21 shows the chronological changes in the use of distraint.

Table 21. *the frequency of distraint orders:*

<table>
<thead>
<tr>
<th>date</th>
<th>Carsh</th>
<th>Farl</th>
<th>Merst</th>
<th>Albury</th>
<th>total no.</th>
<th>% of total no.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1350-99</td>
<td>25</td>
<td>42</td>
<td>152</td>
<td>-</td>
<td>219</td>
<td>46</td>
</tr>
<tr>
<td>1400-49</td>
<td>30</td>
<td>33</td>
<td>104</td>
<td>-</td>
<td>167</td>
<td>36</td>
</tr>
<tr>
<td>1450-99</td>
<td>5</td>
<td>21</td>
<td>6</td>
<td>-</td>
<td>32</td>
<td>7</td>
</tr>
<tr>
<td>1500-49</td>
<td>13</td>
<td>0</td>
<td>1</td>
<td>-</td>
<td>16</td>
<td>3</td>
</tr>
<tr>
<td>1550-99</td>
<td>4</td>
<td>1</td>
<td>-</td>
<td>11</td>
<td>16</td>
<td>3</td>
</tr>
<tr>
<td>1600-49</td>
<td>3</td>
<td>0</td>
<td>-</td>
<td>15</td>
<td>18</td>
<td>4</td>
</tr>
<tr>
<td>1650-99</td>
<td>2</td>
<td>0</td>
<td>2</td>
<td>2</td>
<td>6</td>
<td>1</td>
</tr>
<tr>
<td>total no.</td>
<td>82</td>
<td>97</td>
<td>265</td>
<td>30</td>
<td>474</td>
<td></td>
</tr>
</tbody>
</table>

% of total no. 17 21 56 6
(The dashes indicate periods for which no records have survived.)

The major change revealed in Table 21 is the high level of the use of distraint until about 1450 followed by a
marked drop in the number of orders. The chief reason for this change lies in changes in the type of business coming before the court baron. For example, between 1350 and 1450 there was a high level of business between tenants at the Merstham court, which at the time was also concerned with Cheam and Charlwood. The large number of cases meant that orders were issued frequently and repetitively to ensure that participants attended the court to pursue their pleas. Many such orders were made after pledges had failed to present their principals and a pattern developed of using distraint against the principals and cash fines against the pledges. After 1438, this type of business virtually ceased in Merstham and had already almost disappeared in Carshalton by 1400.

Farleigh presents a different picture; there were relatively few cases of business between tenants and distraint was more commonly used by the lord and his officials as a way of obtaining payments, rather than ensuring attendance. From this, we can see that in Farleigh the enforcement of attendance seemed to be less important than guaranteeing cash payments. This would suggest that obtaining payments presented the chief area of difficulty for the court baron in Farleigh.

Against this changing pattern and different usages, there was a constant use of distraint to ensure fealty and
payments of reliefs and heriots, especially concerning free tenements which were transferred out of court. This is particularly evident in Albury where all the tenements appear to have been free ones. For this reason, distraint continued to be used until the later years of the seventeenth century, but on a reduced scale.

There is very little evidence throughout the records to show us what was being taken by way of distraint. The only definite references were to animals and cash, with one example of a bronze vessel being taken from tenants who had no animals. It is also difficult to estimate the effectiveness of distraint; occasionally there is direct evidence to show that attendance, or fealty, or payments for reliefs and heriots occurred after a distraint order, but most of the evidence is negative - there are very few identifiable signs of compliance. This leaves us with the implication that if a distraint order ceased, the tenant had complied with the order. More often, orders were repeated over a period of years and then ceased on a change of tenancy. We can see from Table 21 that the level of distraint generally tailed off to almost nothing in the sixteenth and seventeenth centuries - perhaps it had become ineffective as a way of enforcement; there are just a few signs that eviction was used, rather than distraint, when tenants flouted orders of the court.
References:

1. P5/1.5-6.
2. P5/1.9; P5/1.3; P5/1.6-7.
3. P5/1.16.
4. P5/1.7.
5. P5/1.16.
6. P5/1.22; P5/1.29.
7. P5/1.34-5.
11. P5/1.36.
16. MM 4928; 4897.
17. MM 4929-33; 4936.
18. MM 4934-6.
19. MM 4936.
20. Hilton, Class Conflict, p. 16.
22. MM 4936.
23. MM 4937.
24. MM 4935.
25. MM 4942.
26. MM 5.9.
27. MM 4943.
29. PRO. SC2 204/67.
30. DD/HY. Box 27 Merstham roll 1.
31. Ibid., roll 2.
32. Ibid., roll 1.
33. Ibid., roll 3.
34. Ibid., rolls 4-5.
35. DD/HY. Box 27 Albury roll 2.
36. Ibid.
37. Ibid.
3) disputes and settlements between tenants

The lord's court provided his tenants with a means of settling disputes and obtaining a public recognition of such settlements. Agreements were reached through the processes of bringing a case to the notice of the court, followed by formal announcements to both parties to ensure that they were present together at a meeting. If it was impossible for the court to arrange a settlement at a particular time, adjournments were requested, while pledges, amercements, distraint and attachments might be required to guarantee the appearance of the parties in court at later meetings. ¹ It was important for both parties to be present, since the case could not proceed in the absence of either party. Essoins played a part in these procedures because they allowed for further postponements. (This use of essoins differed from the much more frequent essoins, or excuses for absence, when tenants, who were not involved in any court business, were excused from attending meetings.) ² When the two parties were eventually present at the same meeting, a settlement was made either by the two parties coming to an agreement or, more commonly, by a judgement of the suitors of the court. In practice, the number of agreements between tenants was very small; many cases were presented, then postponed and abandoned without any kind of formal agreement.
We can see from the *Leges Henrici Primi* that, as early as the twelfth century, tenants might use the lord's court to make settlements. In a section devoted to 'quarrels between neighbours' there is a statement that 'if tenants have a common lord, and the matter falls within his jurisdiction in his court, friendly agreement shall bring them together or a formal judgement shall stand between them (*illīc eos amicitia congreget aut sequestret iudicium*)'. \(^3\) Clanchy has suggested a stronger meaning for *sequestret*, translating it as 'separate' or 'cut off', emphasising the contrast between an agreement which binds people together and a judgement that comes like a sword between them, separating the contending parties.\(^4\) It is difficult for us to judge what an agreement signified; was it a situation where both parties truly made an amicable settlement, or was it an arrangement to bring a matter to a conclusion by making a payment to the court, in order to settle out of court?

The two main areas of dispute concerned trespass and debt but it would be wrong to assume that all settlements were the resolution of conflicts; on the contrary, some cases, particularly those concerning debt, may have been a way of obtaining public recognition of an agreement. Trespass, however, is more likely to be evidence of a genuine dispute which, like debt, required public acknowledgment of its conclusion. By whatever means a
settlement was made, the records show that collective discussion at a local level among people who knew one another and acceptance of a verdict by all parties were an essential part of the process. These formed a continuation of processes which were already in existence in the early medieval period, as Davies and Fouracre have shown in the studies of disputes over a wide spectrum. 5 By studying the records of Carshalton, Farleigh and Merstham, we can examine the function of the court over 350 years concerning settlements between tenants.

CARSHALTON

In Carshalton during the fourteenth century the largest amount of business between tenants concerned debt, as shown in Table 22. These figures give the total number of presentations and include the various stages of each case.

Table 22. *business between tenants in Carshalton 1350-99:

| business   | presentations | number | % of total no.
|------------|--------------|--------|----------------
| debt       | 21           | 47     |
| trespass   | 14           | 32     |
| detention  | 6            | 14     |
| covenant   | 3            | 7      |
| total no.  | 44           |        |

(Out of the total of 44 presentations, there were eight concords or conclusions which were reached by some kind of agreement, rather than by judgement of the court). The higher incidence of debt may have resulted from

-367-
tenants using the lord's court to arrange loans and repayments. For example, in November 1360, Maud Bockley brought a plea that John Taillor junior owed her 12d which he had received from her as a loan and had not repaid. Taillor duly came to the court and acknowledged his debt. In accepting his acknowledgement, the court decided that Bockley should recover her 12d and assessed her loss at 2d. Taillor was required to make a payment of 2d to the court. At the same meeting, when John Piper brought a case of debt against Roger Alot, it was enrolled in the record that the two men had come to an agreement, and Alot similarly paid the court 2d. It is noticeable that, out of the eight agreements entered on the roll in this period, six concerned debt.

While some of the relatively straightforward cases may well be money-lending arrangements, others may have been the results of disputes. For example, the case against William Joskyn in a plea of debt was a complicated one. The first record of this case occurred in October 1360, although it had clearly come up previously, because he had already been issued with a summons to attend. At the meeting in October, Joskyn failed to answer a charge of debt brought against him by John Johnson and, since neither Joskyn, nor his two pledges, Thomas Cowherd and Philip Wrenne, attended the meeting, the court amerced all three and distrained the pledges to attend the next
meeting. In November 1360, the record stated that Joskyn was not present at the meeting but had been attached by his pledges 'elsewhere'. This may mean that that they had taken physical possession of him and arrested him, but not in Carshalton, or it might indicate that they had taken something from him in another manor to force him to attend the meeting. As an explanation for their need to attach him elsewhere (alibi), the record went on to state that, because he was stranger in Carshalton, he had no goods there by which he might be distrained.

The case presented the court with a problem because of the responsibilities placed on the two pledges. They were not likely to be able to produce him as he was not resident in Carshalton, but it must have seemed unfair for them to go on being fined and distrained. There is no evidence to show why Cowherd and Wrenne stood as pledges in a case where they had such difficulty in guaranteeing attendance. However, the case continued and, in December 1360, two pledges named as Wrenne and Cowherd were distrained for failing to produce Joskyn. The case continued into January, when Cowherd did not attend the court as Joskyn's pledge and was ordered to come to the next meeting and bring two others to support him. 7

About one third of the cases during the fourteenth century were described as 'trespass'. Trespass was
usually undefined and meant any kind of offence, but occasionally we have a few clues about the offences and the procedures. For example, Henry Mirifield had already presented a case of debt against Philip Wrenne and then, at the same meeting, Wrenne presented a complaint of trespass against Mirifield. He described the trespass, stating that Mirifield had kept an iron-bound chest belonging to Wrenne worth 4s 0d and a table worth 1s 0d and he claimed damages of 3s 3d. Mirifield denied this and was given a day to come to court with two others as witnesses to his trustworthiness. Two postponements followed and, when Wrenne came to court, Mirifield failed to attend. He was distrained for the next meeting but there was no further record of the case.  

The dispute between William Hod and William Pak also gives some background details to the charge of trespass. In January 1361 Hod presented that Pak, the lord's bailiff, had broken into his house and used violence against him and his wife. Pak denied the charge and was ordered to come to the next meeting with five others to support him. Pak also brought a charge that Hod had stolen his hat, which Hod denied, and he too, was told to present himself with five others at the next meeting. By February 1361, the two men had come to agreement 'concordati sunt', while Hod paid a sum of 4d.  

-370-
In another case of trespass, Roger Syleby complained that, although he had paid Walter Skynner to reap his fields at harvest time, Skynner failed to carry out the task. When Skynner came to the court and acknowledged the offence, he was amerced 2d and both parties were given a day to reach an agreement while an assessment of damages was made in the meantime. There were other examples of broken agreements and withholding money and goods, most of which occurred in the years 1360-1. By the 1380s and 1390s, the situation had changed and there were just two cases, one of trespass and one of debt.

Overall, agreements were very few; generally, the case was abandoned or the court made a judgement. For example, when Walter Wodyer kept a book which belonged to the chaplain, he was ordered to return the book, pay a fine of 3d, and he was distrained for damages. In this example, there was no concord and the case was brought to an end by payment of a fine.

In eight cases the tenants reached an agreement, signified by the words 'concordati sunt', but this also involved payment by one of the parties, usually the defendant. For instance, in October 1360, when Nicholas Davy was the plaintiff against Roger Baker, the two men came to an agreement, but Baker paid 2d. In the case of William Pak and William Hod, where we have more details
of the procedures, the outcome was the same - agreement, followed by payment by the defendant. This was the pattern of events in Carshalton - a concord was reached, but one person paid for it. We can see from this evidence that an agreement or judgement had the same effect - both resulted in payment to the court, which brought the matter to a conclusion.

In cases of business between tenants, pledges to guarantee attendance or payments were rarely used in the mid-fourteenth century. This contrasts with cases between landlord and tenant when they were required on 12 occasions. The rarity of pledges in cases between tenants also contrasts with the requirements for character witnesses, who were needed on eight occasions.

During the fifteenth century there were only three examples of presentations between tenants. One was a plea of debt which was presented once and then disappeared when one of the parties failed to appear, but another was more prolonged. In this example, Roger Stillego presented a plea of trespass in 1446 against Adam Papelot or Taillor, who was distrained to appear at the next court. Six months later, at their request (prece parcium) they were both given a day to agree (dies concordandi) before the next court. The request for a day to agree was repeated four times until, in October
1448, Taillor put himself at the mercy of the lord for a licence to agree with Stillego (*licentia concordandi*) and Taillor paid 2d. Possibly he was paying the court for permission to come to an out of court settlement.  

The third case in the fifteenth century was unusual for the court baron since it concerned a charge of assault, which more commonly came before the view of frankpledge. In 1484 the jury of the court baron presented that the servant of Nicholas Scoryer had assaulted Nicholas Herblade and imposed a fine of 4d on the servant.

In the sixteenth century, disputes and settlements between tenants generally centered on property. For example, the disputed claims over the division of Stonecourt occupied the court baron over several years. This was an estate which the Gaynesfords had acquired in the late fifteenth century and were still holding in the 1540s. However, in 1544, according to the feet of fines, Henry and Katherine Gaynesford had transferred a house and lands in Carshalton and Wallington to Sir Roger Copley who lived at Gatton, at a distance of about 12km. to the south of Carshalton. In the following year, the court roll of Carshalton recorded that Henry Gaynesford had granted half of Stonecourt to Copley. When Gaynesford died, the court decided that half of Stonecourt should pass to his widow and that his customary property should go to the younger son, Francis.
However, this arrangement was challenged by the elder son, Robert, who had already acquired Copley's share of Stonecourt. Robert Gaynesford produced a deed to support his claim which stated that his father had previously granted part of Stonecourt to Walter Lambarde, a London goldsmith, who built a house and garden there. A later note in the margin states that the deed was an indenture and that Lambarde held the property on a 99-year lease. When confronted with the evidence that Lambarde held title to the half of Stonecourt which the court baron had earlier assigned to Katherine Gaynesford, the jurors decided that the award to her was invalid and Robert Gaynesford took her share.  

While the case of Stonecourt was based on documentary evidence, another property dispute was settled by drawing up a deed of entitlement. In 1540, John Richbelle transferred his customary holdings of Buxsales, with the close of Stokbards adjoining, and two other closes, known as Colesweyns and Walters, to his married daughter, Elizabeth Bolton. However, the transfer was challenged by Thomas Blake, who claimed Colesweyns and Walters for himself, on the grounds that they had been held by his grandfather. At the meeting in 1540, the court postponed Elizabeth Bolton's admission because of the doubt about its validity. The dispute was not settled until the 1550s when the court decided that the property was hers,
but issued a proclamation for Blake to come to court to contest her claim. When Blake did not come, the steward granted her the property, but only after she and her second husband, William Ache, had paid Blake £4 0s 0d for an agreement. This written agreement was made 'by the judgement of John St John and the steward' not in Carshalton, but in Ewell and in the presence of three named witnesses. This case was unusual because it provides the first example of a case about manorial property being taken out of the lord's private court and resulting in a formal legal settlement elsewhere. Elizabeth Bolton paid a fee of 6s 8d for the settlement.

The disputes concerning the division of the tenement known as Pupletts which arose between Anthony Wood and John Fromond during the sixteenth century have already been discussed in the section concerning enquiries. Like the case of Elizabeth Bolton, the dispute lasted for several years and involved outside intervention. It began when Wood and Fromond each acquired a part of the property, but did not make a physical division of it. Various meetings of the court baron were held in an attempt to persuade the two men to make a division with visible boundaries and it was eventually measured out under the supervision of the bailiff and six tenants. However, the division of the property did not end the dispute; Wood brought a charge of trespass against...
Fromond, alleging that Fromond had broken into his part of the property and destroyed the pasture there. After various meetings and enquiries, the jurors decided that Wood was entitled to damages and costs but, in the meantime, Fromond had presented a charge of trespass against Wood at the sheriff's court. However, this case was referred back to the court baron, on the grounds that it concerned customary property and was a matter for the lord's private court. After three years of meetings, judgement was given at the court baron but there is no direct evidence to show what it was, simply a statement that judgement had been made. Nor is there any evidence for a payment being made to conclude the matter.  

There was only one example of a dispute between tenants in the seventeenth century, when Castlemain Smith charged Robert Drewe with encroachment. Like the dispute between Wood and Fromond, this is discussed in the section about enquiries, since the court requested three other tenants to investigate the enroachment and make a report at the next meeting.  

There is no evidence of a settlement, perhaps because Drewe died soon afterwards.
The evidence in Farleigh shows a rather different pattern. In the fourteenth century the court baron dealt mostly with cases between landlord and tenant; there is hardly any evidence of disputes between tenants. This changed in the fifteenth century when there were eight presentations of business between tenants. After that date there were very few cases - just one in the sixteenth century and one in the seventeenth century, both concerning entitlement to property.

The single example from the fourteenth century was presented in 1399 and concerned a plea of trespass brought by the vicar against John Aynescombe. Aynescombe had stolen half a bushel of wheat and the court decided that he should pay 6d, which was the value the wheat, and a fine of 2d. The words *convictus est*, referring to Aynescombe, with the sum of 2d written above them, suggest that a judgement was made concerning him and that the fine of 2d brought the case to a conclusion.  

Table 23. *business between tenants in Farleigh 1400-99*:

<table>
<thead>
<tr>
<th>business</th>
<th>presentations</th>
<th>number</th>
<th>% of total number</th>
</tr>
</thead>
<tbody>
<tr>
<td>debt</td>
<td></td>
<td>1</td>
<td>13%</td>
</tr>
<tr>
<td>trespass</td>
<td></td>
<td>7</td>
<td>87%</td>
</tr>
<tr>
<td>total no.</td>
<td></td>
<td>8</td>
<td></td>
</tr>
</tbody>
</table>

-377-
Out of the eight cases in the fifteenth century, only one concord was recorded. Some of the cases of trespass involved the lord's property, but I have included them for two reasons - they illustrate court procedures and were presented as disputes between bailiff and tenant. In the years 1403-4, William atte Park, who was the bailiff and lessee of the manor, brought charges against two members of the Bryan family. Two charges concerned the lord's property, for which atte Park was responsible, while the other concerned his own holding. In 1403, atte Park presented that John Bryan had broken into the lord's close at le Frith and had stolen heron chicks valued at 6s 8d, with damages assessed at £2 0s 0d. Bryan admitted the charge, but asked for further assessment of damages. In the second charge, atte Park complained that Bryan's cattle had gone into the lord's corn field and trampled down the crop, causing a loss estimated at 6s 8d. Bryan similarly admitted the charge and was amerced 2d. As in the previous case, he asked for further assessment of damages. William Osbourne, who had married a member of the Bryan family, stood as his pledge. The third case was rather different, since atte Park brought it personally (in propria persona) against William Bryan. He complained that Bryan's cattle had trampled down his corn because Bryan had failed to repair hedges and fences. Atte Park estimated the damage at 10s 0d. The defendant admitted the offence and was amerced 2d, while
the court assessed the damages at 6d. In this example, the judgement of the court concluded the case.

The first two cases were followed up at the next meeting; on the second presentation concerning the theft of young herons, John Bryan was amerced 4d and the level of damages was reduced from £2 0s 0d to £1 0s 0d, but this was still not acceptable to him and he asked for another assessment of damages by the local people – *per vicinos*. Unfortunately, our information ends there and we do not know the outcome. In the other case of trampling the lord's corn, John Bryan admitted the charge and put himself at the mercy of the lord. He was amerced a further 2d and again he asked for another assessment of damages. Clearly, some agreement was reached, since the business ends with the words *concordatum est cum predicto Williamo*. The insertion of the word *factum* over *concordatum* may emphasise that the agreement was the conclusion. Although atte Park was acting on behalf of the lord of the manor in two of these cases, they seem to be pitched at a level of disputes between two tenants, rather than between landlord and tenant.23

There were a few other cases in the second half of the century. In 1458 William atte Water brought a complaint of trespass against a widow, Isabel Kempsale, that her dogs had attacked three of his ewes and caused damage
estimated at 4s 0d. As a way of resolving the case, they both agreed to abide by the decision of two other tenants, Thomas Smyth and John Broke - 'posuerunt ipsi ambo stare ordinacioni et arbitrio Johannis Broke et Thome Smyth de transgressione predicta'. The case had not been resolved by 1461 when Smyth and Broke were given a day to arrange an agreement (concordia) between atte Water and Kemsale. As in so many other examples, there is no further information. The two arbitrators, Broke and Smyth, were also engaged in a plea of debt. Smyth presented a complaint against Broke claiming a payment of 16s 8d, for which Broke was distrained to attend the next meeting. The same two men were related by marriage, since Smyth had married the widowed mother of Anne, wife of John Broke. Both men were also outsiders and had married into the Bryan family, which had been in Farleigh for at least 200 years. The smallness of the community in Farleigh and its close-knit family relationships may account for the lack of debt cases. It suggests that either there was very little money available for lending or that arrangements were made informally within families without recourse to the court baron.

The single dispute in the sixteenth century concerned the validity of a property transfer. Two jurors, acting as sponsors, presented an out of court surrender made by
Arthur Ownsted to Jeremy Trollope. Problems arose because Ownsted had also leased the same property to John Vanwey, but without the permission of the court. The court was then faced with two claims on the property. The case was concluded not by fines, but by confiscation, as the bailiff took over the property in the presence of the jurors and it was transferred to Trollope. 27

In the seventeenth century, the property known as Farleigh House was the subject of a dispute and, like John Fromond's case in Carshalton, was taken out of the court baron to a higher court. The family of John Dodd held Farleigh House in the early seventeenth century and retained it until 1662 when Richard Dodd transferred it to Isaac Taylor. It was then transferred to John Filewood who surrendered it to Thomas Wood of Sanderstead. Although these admissions were duly entered into the court rolls, they were contested by John Dodd, a descendant of the first John Dodd, who brought a 'plea of land' against Filewood and Wood. In his plea, he produced two pledges for his presence at the court. Dodd then took his plea to the assize court and obtained a decision in his favour. In 1689, the jurors at Farleigh revoked their earlier admission of Wood and admitted Dodd. Possibly Dodd went to the expense of transferring his plea to the assize court because it gave him title to
the property which the local jury would be unlikely to dispute. 28

MERSTHAM

Of the manors in this study, Merstham produced the largest amount of business between tenants in the fourteenth century. There was a total of 75 cases, almost evenly divided between debt and trespass as appears in Table 24.

Table 24. *business between tenants in Merstham 1350-99*:

<table>
<thead>
<tr>
<th>Presentations</th>
<th>Number</th>
<th>% of Total No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Debt</td>
<td>35</td>
<td>47</td>
</tr>
<tr>
<td>Trespass</td>
<td>34</td>
<td>45</td>
</tr>
<tr>
<td>Other</td>
<td>6</td>
<td>8</td>
</tr>
<tr>
<td>Total no.</td>
<td>75</td>
<td></td>
</tr>
</tbody>
</table>

The types of business classified as 'other' consisted of one plea of waste, one plea of covenant, two pleas of detention of animals and two of unpaid wages. The total number of cases resulted in only one recorded agreement; in the majority of examples, one or other of the parties failed to attend the meetings and they were excused, fined or distrained.

As in Carshalton, it is difficult to distinguish between arrangements of loans and disputes about money. However, some examples, especially those concerning disputes,
provide extra evidence about procedures. For instance, two tenants of Charlwood were engaged in a case which was probably a dispute. The first details of the case were given in October 1387, when John Tromper, who was either the bailiff or a pledge, was fined 2d for not bringing John Walssshe to the meeting to answer to Thomas atte Hale in a plea of debt. While Tromper was fined, Walssshe was distrained to attend the next meeting. In November atte Hale gave details of his plea, alleging that he had paid Walssshe, who was a tax-collector, the sum of 3s 4d, which Walssshe then denied. At the same meeting, atte Hale was given a day to produce other tenants to swear to his good character. However, the case could not proceed because Walssshe did not attend and his name afterwards disappeared from the records. 29

Atte Hale was simultaneously involved in another case concerning debt and unpaid wages. In November 1387 he was also given a day to produce supporters in a dispute with John Honnte. Honnte alleged that atte Hale had not repaid 5s Od which Honnte had lent him 'in his house at Charlwood', and furthermore, atte Hale owed him a total of 8s 8d for debts and unpaid wages. In December, atte Hale failed to attend and was distrained. In February 1388 atte Hale was excused by John Tromper and the case was postponed, with no resolution. In these fourteenth
century records, atte Hale was one of only two tenants required to produce tenants to support his case. 30

Similar to the situation in Carshalton concerning trespass, there were very few descriptions of the cases. One example which gives additional information may also show signs of a settlement. In 1379 John Guildford brought a charge of trespass against Robert Smyth and, since the charge began with the word *adhuc*, we can assume that it had been presented previously. Guildford declared that Smyth had put eight draught animals into his crop of oats and he asked the court to assess the damages. There is no record of the next meeting, but a note added in the margin stated that he should recover three bushels of oats, which suggests that some kind of settlement was made. 31

During the fifteenth century, there were 73 presentations of business between tenants. Although the number is about the same as in the fourteenth century, this covers 100 years rather than 50. The proportions of cases also changed, as shown in Table 25.

<table>
<thead>
<tr>
<th>business</th>
<th>number</th>
<th>% of total number</th>
</tr>
</thead>
<tbody>
<tr>
<td>debt</td>
<td>49</td>
<td>67</td>
</tr>
<tr>
<td>trespass</td>
<td>22</td>
<td>30</td>
</tr>
<tr>
<td>other</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>total no.</td>
<td>73</td>
<td></td>
</tr>
</tbody>
</table>

Table 25. *business between tenants in Merstham 1400-99:*
The two cases classified as 'other' concerned the detention of goods. While the overall level of cases dropped, there was an increase in the proportion of debt to trespass. In the fifteenth century records there is much more information about the sums of money involved, which ranged from 1s 10d to £2 0s 0d and averaged at 4s 6d. There is also evidence of settlements being reached in six cases.

If we examine a few cases in detail we can see the procedures at work. In June 1407 a summons was issued to Hugh Mordon to attend the court to answer Adam Salter in a plea of debt of 10s 0d. In January 1408 Salter presented his charge of debt against Hugh Mordon, this time for 6s 8d. Mordon was not present and was distrained to attend the next meeting and the words plegius in misericordia were written over Mordon's name. At the next meeting in May, his first pledge was fined 3d for failing to produce him and, in June, his second pledge was fined 6d. After that date the case disappeared.

In June 1407 tenants who failed to answer their summons to attend the court in pleas of debt were attached for the next meeting. Six orders for attachment were issued on this occasion but there is no evidence about the form of the attachment, whether it was in money, or goods, or
animals. In one example, when Robert Dawe was summoned
in a plea of debt, a note above his name reads plegius
quod non attachiatus, which suggests that someone stood
as his pledge as an alternative to attachment. 32

As far as trespass was concerned in the fifteenth
century, two examples contained some further descriptive
information. For instance, in 1407, in a continuing plea
shown by the word adhuc, William and John Corff were
distrained on a charge of fishing in the water belonging
to another tenant. 33 There was a more detailed case in
1438, when Robert Dawe brought a charge of trespass
against John and Isabel Daly, alleging that Isabel had
broken into his house and stolen a length of thread
called 'twyne' valued at 6d; he estimated that damages
amounted to 3s 4d. John Daly, representing Isabel,
denied the charge and asked for a jury to decide - ponit
se super patriam. As a result, an order was made for 12
men to form a jury at the next meeting. Daly also made
a similar charge against Dawe's wife, but put the damages
at £1 0s 0d. However, neither was present at the next
meeting and the case disappeared. 34 While there were
six examples of attachment for debt in 1407, there was
only one for trespass, which occurred in 1438. At this
meeting, John Beverley brought a plea of trespass against
Nicholas Gervays, who was then attached, and two tenants,
John Dawe and John Aleyn, were made pledges for his attendance at the next meeting. 35

There are indications of some kind of settlement in six cases; in 1407, two tenants of Merstham paid 2d each 'for a licence' with John Fether in a case of trespass, and in 1407-8 two tenants of Charlwood similarly paid 2d each for licences in pleas of debt. 36 In 1437, as a result of an enquiry at a previous view of frankpledge, a postponement was made to give the view time to reach a decision in a plea of debt brought by the lord of the manor and two of his tenants, Nicholas Gervays and Thomas Twyner, against Robert Best. At the following court baron, Best asked for a licence to come to an agreement with Twyner, but there is no indication of payment for a licence. 37 The final example in 1456 was clearly a continuation of an earlier case; it featured Robert Best as the defendant against Nicholas Gervays and two other tenants in a plea of detention of animals. It showed some signs of a settlement being reached since, with the agreement of all parties, they were to have a meeting (dies interloquendi) before the next court. 38

In the sixteenth century, there was a considerable fall in the number of cases between tenants with only four occurring between 1500 and 1516. Three of these were for the detention of animals; the remaining one concerned
debt. The plea of debt contains some background information about the procedures of the case; it began in 1510, but the use of the word *supradictum* to describe the plea shows that it had been presented before. In 1510, Roger Asshley charged William Conloffe with failing to pay him £1 0s 0d for four quarters of malt, in spite of Asshley’s frequent requests for payment. They then both agreed to submit to the judgement of two others, Richard Best and Richard Rokant. Best was an assessor of the court, which might account for his choice as arbitrator, but there was no other reference to Rokant. This is the only example of the use of two tenants as arbitrators in Merstham, but we have already seen the same process being used in Farleigh in 1458. In spite of having two men to make a judgement, the case was not resolved and came up again in 1512. In reply, Conloffe denied the charge and they both asked for a day for a meeting before the next court. As in other cases, there was no recorded conclusion. There were no other recorded disputes and settlements between tenants in either Merstham or Albury after this date.

There are common elements in settlements in all three manors - the most obvious one being the lack of resolution. In spite of various processes, such as the use of fines, pledges, distraint and attachment, the principal difficulty lay in persuading both parties to
attend at the same time, which was essential for reaching some kind of concord. The small number of concluded cases between tenants stands in contrast to the concluded cases between landlord and tenant, where fines and penalties were evidence of the judgement of the court.

Time was also an important factor in the lack of obtaining resolution, since cases lasted for several years and the parties died, moved elsewhere or abandoned the plea, before reaching any agreement. Although the records are incomplete, we can see that some cases spanned longer time-scales than we have records for; such clues as the word *adhuc* before a presentation indicates that it was a continuation of a case and, similarly, when a plea was described as *supradictum*, we can tell that it had been presented on a previous occasion.

As aids to obtaining settlements, the parties were sometimes required to provide other tenants to attest to their credibility. Eight tenants in Carshalton were required to produce character witnesses and two in Merstham. References to such supporters were a feature of the fourteenth century and were last recorded in Carshalton and Merstham in the 1380s and 1390s. Perhaps the difficulty of finding people who were prepared to come to the court to supply support or proof led to the practice being abandoned. This may be evidence for a
cultural change, perhaps resulting from greater mobility of people, where factors like reputation and good character had become less important. The evidence from Farleigh is inconclusive, since there were no disputes recorded there in the fourteenth century. Farleigh also differed from the other manors in the lack of arrangements concerning debt. While the single example of debt shows that procedures for arranging debts existed, perhaps such a function was not generally needed within the community. Although there was only one example of a concord being reached in Farleigh, this, too, was different from the arrangements in the other manors, where one tenant, usually the defendant, paid a sum of 2d for permission to arrive at an agreement or concord. When William atte Park brought his plea against John Bryan and some kind of agreement was reached, there was no indication of payment for permission. 41

There is no clear pattern of a correlation between licences to concord and types of presentations. In Carshalton in the fourteenth century, when 21 presentations for debt represented 47% of all the cases, there were six concords for debt, one for trespass and one for an unknown reason. However, in fourteenth-century Merstham, where 35 presentations for debt similarly made up 47% of the cases, not one was concluded and the only concord was in a case of trespass. There
was a change in Merstham in the fifteenth century, when presentations for debt formed 67% of the total, but the number of licences for concord were equally divided between debt and trespass, at three each.

Payments of damages or compensation played a part in the settlement of disputes. Sometimes they were claimed by both parties, but more often by the plaintiff. There are a few references to damages being assessed by the court; for example, in Farleigh in 1399, the defendant paid 6d, which was considered to be the value of the wheat he had stolen. Also in Farleigh, John Bryan disputed the amount of damages claimed against him and asked the court to make a further assessment. While in Merstham in 1379, a marginal note may be evidence that the plaintiff recovered three bushels of oats to compensate for his loss. After the mid-fifteenth century, the only reference to damages occurred in Carshalton in the 1560s.

In all three manors, 1450 probably marked the watershed in the use of the court by tenants to bring presentations against other tenants. There were a few spasmodic examples after this date, with the last one occurring in Farleigh in 1688, but clearly the court baron failed to provide tenants with a useful service for settling disputes from about the mid-fifteenth century onwards.
References:

2. See below p. 419.
3. Downer, Leges Henrici Primi, p. 177.
6. P5/1.3.
7. P5/1.9; P5/1.3; P5/1.6-7.
11. P5/1.11-16.
12. P5/1.7.
13. P5/1.9.
15. P5/1.40.
18. P5/5.10.
20. P5/4.17; P5/5.2; P5/5.17; P5/5.27-8; P5/5.31-44.
22. MM 4936.
23. MM 4934-5.
24. MM 4937.
25. Ibid.
26. Ibid.
27. MM 4942.
29. PRO. SC2 204/67.
30. Ibid.
31. DD/HY. Box 27 Merstham roll 1.
32. Ibid.
33. Ibid.
34. Ibid., Merstham roll 2.
35. Ibid.
36. Ibid., Merstham roll 1.
37. Ibid., Merstham roll 2.
38. Ibid.
40. DD/HY. Box 27 Merstham roll 4.
41. MM 4935.
42. See above p. 379.
43. See above p. 384.
44. See above p. 335.
4) pledges

Until the mid-fifteenth century the court baron used a system of suretyship to secure both payments of money and to ensure attendance; these sureties were called pledges. Normally tenants stood as pledges for fellow-tenants; frequently the bailiff stood as pledge and sometimes members of the same family stood as pledges for one another. Apart from obvious examples like these, it is difficult to understand how pledges were chosen but presumably they were people with sufficient means and authority to fulfil their role. At the court baron, pledges were often used to guarantee that tenants involved in some kind of court business would attend the next meeting. This implies that the choice of pledges was related to local residence and the ability to attend meetings. However, the chief difficulty for pledges lay in producing the person for whom they were standing pledge and, when the principal failed to attend, the pledges themselves might be fined or distrained.

CARSHALTON

In Carshalton we see the greatest use of pledges in the period 1359-61. In 1359, 11 men stood as pledges, not for attendance, but to guarantee payments for putting animals to pasture. They guaranteed sums ranging from 2d
to 6d. Two men stood twice as sureties and the bailiff and the lord of the manor both stood pledge. This is the only recorded occasion when the lord acted as pledge, but his principal, Adam Kentish, was probably the bailiff of the manor and the lord's employee. 1

In the period 1360-1, no further pledges were required for payments for pasture, but they were used to guarantee attendance at meetings. This occurred in a case of debt brought by John Johnson against William Joskyn which has already been discussed in the section about disputes and settlements. Usually only one pledge was required, but the need for two to ensure Joskyn's attendance may have arisen because he was 'a stranger', perhaps requiring a stronger measure of enforcement. Joskyn's two pledges were named as Thomas Cowherd and Philip Wrenne and the two men clearly found it difficult to carry out their task. On the first occasion, they were distrained because they could not produce him; the next time, they had arrested him 'elsewhere' but again he did not attend, and the court discussed the responsibilities of the pledges who were in a difficult situation - 'the suitors of the court ask for postponement until the next meeting to decide whether the pledges ought to answer for Joskyn or not'. However, there is no evidence about the decision and the two men continued to be distrained because they could not present Joskyn. There is no
direct information in the records to show why Cowherd and Wrenne stood as pledges for Joskyn; Wrenne's position as tithingman may have suggested that he would be a reliable surety, while Cowherd also stood pledge for another tenant. In this second case, Roger Baker was presented to the court for cutting down some of the lord's trees, which he denied. At the following meeting Baker was told to find 11 others to support him and was given a further two months to answer the charge, with Cowherd as his pledge for attendance. 2 The case ended there, with no further information.

After 1361, there was a long gap in the use of pledges in Carshalton until the mid-fifteenth century when they were required for entry fines and repairs to property. The first occasion was in 1447, when William and Joan Melman took over a derelict tenement, for which the entry fine was 6s 8d, and Nicholas Bockley and Adam Tailor guaranteed the fine. However, when the Melmans failed to maintain the property, they were evicted and John and Katherine Buxsale took it over, but with a reduced entry fine of 3s 4d. They were given a year to carry out repairs under penalty of £2 0s 0d if they failed to make the repairs. On this occasion, Bockley again stood as pledge, but this time with Roger Stillego. There is no evidence to link any of these tenants by family relationships but the pledges may have been among the
more wealthy and influential local tenants. Bockley held the position of ale taster over several years; Stillego had been tithingman and was probably bailiff as well, while Taillor was a juror of the view and assessor of the court. Since these men held official positions within the local community, they may have been identified as suitable persons to be pledges. This was the only example of a derelict tenement in Carshalton and the requirement for pledges after a gap of almost 100 years may have been a sign that the court was dealing with exceptional circumstances. In total, pledges were used on 19 occasions in Carshalton between 1351 and 1449; after 1449 no other pledges were recorded. ³

FARLEIGH

While the records for Farleigh in the second half of the fourteenth century show a greater usage of pledges than in Carshalton, they reveal a reduction when compared with the earlier years of the century in Farleigh. For example, in 1329, pledges were used in Farleigh on 35 occasions; some were required as guarantors for unpaid rents, but principally they guaranteed payments for pasture - which is similar to the earliest use in Carshalton. In Farleigh in 1329 six men stood as pledges, but one tenant, Hugh Haghe, stood 14 times - far more than any other tenant. ⁴
In the second half of the fourteenth century, the use of pledges to guarantee payments for pasture was retained, but on a reduced scale, and they were used to guarantee entry fines and property repairs. We also see a greater use of two pledges for one principal, particularly for entry fines. No pledges were recorded in 1351 but, when William Bryan took over a vacant tenement in 1352, Lawrence Bryan and John Man guaranteed his exceptionally large entry fine of 6s 8d and, when Roger Bryan senior took over property, William Bryan and John Man were his pledges. In total, there were 12 property transactions in 1352–4 and fellow-tenants guaranteed entry fines which were mostly sums of 6d or 1s 0d. There was an exception in the case of Roger Bryan junior - when he took over a vacant tenement consisting of a house and two crofts, his two pledges, William Bryan and John Man, were required to ensure the upkeep of the property as well as payment of the entry fine. Tenants also acted as pledges for payments for pasture on four occasions. The individuals who guaranteed payments for pasture were three members of the Bryan family, together with John Drew and John Man. In 1355, no pledges were mentioned by name, although there was one reference to the requirement of a pledge for pasture. 5

The same people tended to act as pledges on a number of occasions; for example, in 1374, William Bryan and
Richard Carter, stood ten times, and Roger Bryan was pledge six times for pasture payments in 1378.  

In 1398 the record provides further evidence about the role of pledges, as two of them, John Bryan and Richard atte Water, were fined for failing in their duty of bringing to court tenants who were involved in court business. These men were guaranteeing attendance at meetings rather than the payments of money. Atte Water was fined for not bringing Thomas Asshley to do fealty, while John Bryan was fined twice for not bringing William Bryan to answer for two charges of trespass.

John Bryan also acted as pledge for others; for example, when William and Alice Osbourne took over Alice Bryan's tenement, they were required to provide accommodation for her at the west end of their cottage and John Aynescombe and John Bryan were pledges to ensure that they would use eight pairs of tie-beams for the building work. In a similar case, John Bryan had to provide two pledges to ensure that he would use ten pairs of tie-beams for a new building on his tenement within a year and a half.

The number of occasions when pledges were used as guarantors for payments for pasture and tree felling formed an average of about one at each meeting, reaching a total of 19 during the period 1351-99. In contrast,
Sureties for entry fines and building work were required on nine occasions during the same period, with the greatest number occurring in 1352, when the mortality caused by the Black Death had left many tenements vacant.

Some individuals, particularly members of the Bryan family, acted as pledges on numerous occasions. Notable among these was William Bryan, who stood six times in 1378. However, as members of this family held large tenements and two of them were bailiffs, it is not surprising that they were able to stand as sureties for money. As there are no jury lists for these meetings, we cannot correlate jurors directly with pledges but, at an enquiry held in 1364 about sales of timber, the names of six jurors were given, and four of these stood as pledges. However, from 1375 onwards, the names of assessors of the court were recorded and all the named assessors acted as pledges at some time.

During the first decade of the fifteenth century pledges continued to be required both for payments and as security for repairs. In these ten years three individuals stood as sureties on five occasions; William Osbourne stood twice for John Bryan on charges of theft and trespass (they were probably related since Osbourne was married to Alice Bryan) and John Bryan and John Aynescombe stood twice as pledges for John and Alice
Marchant to guarantee their entry fine and building work on their cottage. An unusual aspect of these examples is the size of the sums of money that they were required to guarantee compared with the previous century, when the largest amounts were 6s 8d and most were less than 12d. In 1403-4 William Osbourne stood pledge for John Bryan for two separate amounts of 10s Od and £1 0s 0d, while William Bryan and John Aynescombe were guarantors for £5 0s 0d for the Marchants. In the case of the Marchants, the pledges were required to pay 3s 4d each when the building work was not done within the specified time and William Bryan then stood alone as surety for a further sum of £1 0s 0d. We can see from this example that the pledges were not committed to being responsible for the full amount which they had guaranteed, but they might be called upon for a part payment. This is similar to the treatment of penalties, where people paid a proportion of the total penalty if they failed to comply with the orders of the view or the court baron. In these pledging arrangements we can also see evidence for family connections and reciprocal agreements, since John Bryan had stood as pledge for William and Alice Osbourne (nee Bryan) in 1397 for building work, while William Bryan may have been related to Alice Marchant. Two of the pledges, John Bryan and John Aynescombe had also acted as sureties in the last years of the previous century.
During the second half of the fifteenth century, the use of sureties declined in Farleigh. There was one case of a guarantee for repairs; for example, when Isabel Kempsale had to find two pledges to ensure that she carried out repairs to her enclosures, John Lee and John Ownsted were pledged for penalties of 6s 8d each. Pledges were also named in a case of novel disseisin between John Broke and Thomas Smythe, when John Lee and Thomas Fowler acted as sureties to ensure the presence of the two parties at the meetings. While there is no further information about Fowler to account for his position as pledge, Lee and Ownsted were major tenants with property in Farleigh and adjoining manors.13

The only other example of suretyship in Farleigh occurred in 1688, when John Dodd brought a complaint against John Filewood and Thomas Wood concerning his title to Farleigh House. Two men were named as pledges for Dodd's presence, but neither of them seemed to be local men.14

MERSTHAM

In the Merstham manors we can see an extensive use of pledges between 1374 and 1438 when they were required on 55 occasions. This was on a far greater scale than in Carshalton and Farleigh and, while we might expect higher
numbers since the Merstham court covered Charlwood and Cheam, many of these resulted from repeated orders when tenants failed to attend meetings. The use of pledges in Merstham ceased completely after 1438, which is slightly earlier than in the other manors - in Carshalton no pledges were required after 1450 and the system virtually came to an end in Farleigh in 1462.

In contrast to Carshalton and Farleigh, the Merstham pledges were not used to guarantee sums of money or repair work, but they invariably acted as pledges for presence - that is, they were required to ensure that tenants who were involved in some part of the court business were present at the meetings. Often the bailiff, together with another tenant, acted as a pledge for presence. Because the names of the pledges were not always given, it is difficult to identify the individual pledges and to see how often they stood as pledges. It is also difficult to find a relationship between pledge and principal, except that tenants of each separate district stood as pledges for their fellow-tenants.

Also in contrast to Carshalton and Farleigh, we see in Merstham a system of having a series of sureties for tenants to guarantee attendance. For example, in January 1408, the unnamed first pledge of Thomas London of Charlwood was fined 2d because he failed to produce
London to answer in a plea of debt; in the following May, London's second pledge was fined 3d for the same failure, while in June, his third pledge was fined 4d. There is no reference to any cases running beyond the third pledge and presumably the case then lapsed. Because the pledges were not named, we cannot judge whether the same individual stood as pledge each time, or whether each one was different.

We have seen in Farleigh that pledges for presence were named in a case of novel disseisin, and the same process is evident in the Merstham records, where they were used in cases of novel disseisin and final concords.

If we examine the use of pledges in all the manors, we can see that it had virtually ceased by the mid-fifteenth century. In Merstham it was no longer used after 1438; in Carshalton, it had stopped by 1450 and it was used in Farleigh until 1462, with just one example in 1688.

There was a contrast in the pattern of usage in the three manors; in Merstham, pledges were used to guarantee attendance only, in Farleigh they more frequently guaranteed payments of money and building work, while in Carshalton, they were used for a mixture of the two. By studying the use of pledges, we may be able to identify areas of difficulty for the court baron, such as the
types of business that required some kind of extra security through suretyship. If this is the case, we can see that failure to attend the meetings presented the Merstham court with difficulties, while in Farleigh, payments in cash were the most likely areas of difficulty. Such differences probably resulted in different types of tenants acting as pledges. For example, in Farleigh, pledges needed to have money available for payments, which would restrict the role of pledge to the wealthier local tenants. In Merstham, where the chief requirement for a pledge was the ability to attend with his principal, location, mobility and authority may have been more important. The situation in Carshalton was more mixed, but most pledges were for money. Because the names of pledges were not always given, it is impossible to give accurate figures for the people who stood pledge, and I have concentrated on the number of occasions on which pledges were used. They were used in Carshalton 19 times; in Farleigh 35 times and in Merstham 55 times. Where we can identify pledges, family relationships, wealth, influence, and locality seem to be the prime qualifications.

There were also chronological differences within the three manors; by far the largest requirement for pledges was recorded in Carshalton and Farleigh in the fourteenth century, and this began to fade out in the early years of
the fifteenth century. In Merstham, the main use of pledges (on 26 occasions) occurred in 1407-8 and many of these resulted from repeated orders for attendance. This figure represents almost half the total number of occasions when pledges were required there. This unusual and intensive use of pledges to secure attendance over just these two years may have been influenced by John Thurston, who was both steward and bailiff of Merstham at the time. 16 In the years before and after 1407-8, pledges for attendance usually averaged at one or two a year, until they ceased in 1438.

References:

1. P5/1.2-9.
2. P5/1.9; P5/1.3; P5/1.6-7. See above pp. 368-9.
3. P5/1.30; P5/1.35.
4. MM 4917.
5. MM 4928.
6. MM 4931.
7. MM 4936.
8. Ibid.
9. MM 4930.
10. MM 4674.
11. MM 4934-5.
12. MM 4936.
14. MM 4950.
15. DD/HY. Box 27 Merstham roll 1.
16. Ibid.
III. Jurors of the court baron

We have already looked at the changing function of the jury of the view of frankpledge and seen how certain elements of the work of the view were gradually taken over by the court baron, leaving the view with very few functions.¹ By studying the jurors of the court baron, we can see some of the factors that caused this change.

The steward and the bailiff of the manor were responsible for organising both sets of juries, but the qualification for service on the two juries was different. While residence within the jurisdiction of the view was the essential qualification for membership of the jury of the view, the qualification for the jury of the court baron was tenancy. Since a number of tenants might be non-resident and, like the priors of Merton and Southwark, they might hold many tenancies in manors scattered across the country, non-residents were not likely to serve on local juries. In practice, this meant that the jurors of the court baron were drawn from a pool of tenants who were either resident within the manor or living close enough to be able to attend the meetings. As a result, there was a tendency for a core of local people, who were both residents and tenants, to serve on both juries. In Albury and Farleigh, where there was no view of frankpledge, we see the same process of a core of local
people, either resident within the manor, or nearby, serving on the jury of the court baron.

Where there were two juries, the jury of the court baron was distinguished from the jury of the view by being called 'the homage' and the jurors were called 'homagiarii'. As with the view, there is no evidence to show how the jurors were chosen, but they were probably appointed informally by the bailiff and steward. Their numbers varied from two to twelve at different times and the homage jury had no nominal size, unlike the jury of the view. It is not until the seventeenth century that we have evidence that some of the jurors could write.

While their chief function concerned the administration of the lord's property, the jurors presented essoins for tenants who did not attend the meetings and listed the names of the defaulters. In addition, they were empowered to hold enquiries 'to discover the truth', they also presented business to the court, and some jurors acted as assessors of fines of both the court baron and the view. Some of their functions changed over the years; during the fourteenth and fifteenth centuries they acted as pledges for other tenants, while in the sixteenth and seventeenth centuries they often represented tenants in transfers of property. We can see from the records of property transfers and business
between tenants that the jury of the court baron was clearly functioning in the manors of Carshalton, Farleigh and Merstham during the fourteenth century, but the names of jurors were not given. This contrasts with the records of the view, where the names of the jurors began to be written in Carshalton and Merstham in the 1380s.

From time to time, we can use rent rolls and lists of tenants to show what proportion of tenants served on the jury and we can use lists of absentees to give us some idea of the relative proportions of jurors to tenants.

CARSHALTON

Since there are no lists of jurors of the court baron for Carshalton in the fourteenth century, we can only extrapolate from later records and guess that men like Walter Edward, Nicholas Davy and Thomas Cowherd, who stood as pledges on several occasions for other tenants, also served as jurors. In addition, later evidence shows that men who were assessors of the court were very likely to be members of the jury.

In Carshalton the homage jurors were identified in 1409 when eight of them were listed, but it was not until 1474-6 that their names were recorded consistently over several years. In the 1470s, there were 13 or 14
jurors and, by comparing these figures with the two rentals of the mid-fifteenth century, we can see that about half the total number of 24 or 25 tenants may have been jurors at each meeting.

There was a distinct change from 1509 onwards when the names were usually given, although the jury was still occasionally described just as 'the homage' without a list of names. When the names were given consistently in Carshalton in the sixteenth century, we can see that there were generally fewer jurors than in the previous century, averaging about six for each meeting. By using the names of jurors and relating them to their tenements, we can see that tenants qualified for service on the jury purely by virtue of their tenancies, regardless of their size and value. As soon as we have the jurors' names, we can also see that the two assessors of the court were normally jurors.

The Carshalton records also provide the unusual evidence of women serving as jurors. Three women were jurors in the 1540s and 1550s, but this effect was not repeated in any of the other manors. For example, in 1545, Agnes Barnes became a juror and served on the jury for five years. She was a widow with a small cottage on the waste, whose husband had previously been a juror. In 1546 there were three female jurors as Barnes continued to serve and
was joined by Margaret Alder and Elizabeth Ludwell. John Alder had married Margaret Dylcok, a widow, in 1542 and he was a juror for a few years 'by right of his wife', but in 1546, perhaps after she was widowed for a second time, she became a juror and served until 1552. Like Barnes, her property was small, consisting of a cottage in West Street. Elizabeth Ludwell had inherited her property from her father. She married John Wood, but he died fairly soon afterwards and she retained her property and continued to serve as a juror until she remarried and her new husband, Thomas Gaskyner, replaced her on the jury. No women jurors were recorded at any other time in Carshalton and none ever served in the other manors.

Men described as gentlemen began serving on the jury of the court baron in Carshalton in 1510, usually as head jurors. Some tenants served on both the jury of the view and the court baron, but gentlemen served only on the court baron until the second half of the sixteenth century, when they began to feature on the view jury as well. In the seventeenth century, the jury of the court baron was dominated by gentlemen, such as John Lambert, George Burrish, Henry Byne and Josias Dewey, who held substantial properties within Carshalton. The domination of these men was marked by a change in the composition of the jury, which reflected the change in tenants, as wealthy men took over large amounts of
property in Carshalton. A list of tenants in 1682 reveals that there were 25 tenants at that date, of whom seven served on the jury, giving a proportion of 28% of tenants serving as jurors. 10

FARLEIGH

In Farleigh, the jurors were recorded by name slightly earlier than in Carshalton, beginning in 1403 and, from then on, they were named at almost every meeting. We can see from the lists for 1403-10 that, out of an average number of 14 tenants mentioned at each meeting, five served as jurors. 11 When the names were first given in 1403, we can see the extent to which members of the Bryan family were included in the jury lists. A list of jurors at an enquiry in 1364 showed that they were in a majority on that occasion but, as no other jury lists were given in the fourteenth century, there was no direct evidence to support the idea that they may also have predominated in the regular meetings of the court. 12 However, the fifteenth century lists show that John and William Bryan served on every jury between 1403 and 1410, usually with their names appearing at the top of the list; John Bryan also acted as an assessor and William Bryan was both a pledge and assessor. With the opportunity to identify the jurors, we can see that assessors and pledges were consistently chosen from among
the jurors, which suggests that men named who were named as assessors and pledges in the previous century were probably members of a jury then. It is also noticeable that non-resident tenants with larger holdings, like the atte Welles and Westons, who also held property in other manors, were not jurors.

In the second half of the fifteenth century the number of jurors fell to about three at each meeting, with the bailiff or lessee often being the first juror to be named. Assessors were chosen from among the jurors and, when two arbitrators were asked to give judgement in a dispute, these too were jurors. Two out of the three men who stood as pledges were also jurors and two sponsors, who accepted a surrender of property out of court and presented it to the court, were listed as jurors. The fall in the number of jurors in the second half of the century may have resulted from the accumulation of multiple tenements by a few tenants, with a corresponding increase in the number of subtenants who were not qualified to be jurors. 13

Only two records have survived for the sixteenth century in Farleigh. In 1502, the court roll began with a list of four jurors, headed by Robert Harding, who was also lord of the manor of Chelsham Watvile and a London goldsmith. His position as first juror was probably due
to his status and provides further evidence that, although a London merchant, he was directly involved in local matters. A line drawn through his name shows that he was expected to attend the meeting, but failed to do so. The next juror, who then became the first juror, was John Ownsted, the lessee of the manor. The other two jurors also acted as assessors of the court. By the end of the century, the families of Ownsted and Basset provided all the jurors. The Ownsteds lived in Woldingham, about 4 km. to the south of Farleigh, while the Basset family was resident within Farleigh. There was a change in the composition of the jury at this date, with the omission of the lessee or bailiff, Stephen Heath. This contrasts with the situation in 1502, when John Ownsted, the lessee, was listed after Robert Harding.

In the seventeenth century just two or three men served as jurors in Farleigh; they also acted as assessors and were sponsors of surrenders of property made out of court. These formed about 30% of the total number of tenants. The same family names dominated in the jury lists - principally the Bassets. These were joined by William Children, a major customary tenant, who was high constable of the hundred of Tandridge and was listed as first juror. Other individuals became jurors as they took over tenements; these were Richard Mouse, Thomas
Indery, William Beadle and Richard Glover. As we have seen in Carshalton, there was a marked contrast in the size of the holdings of jurors. In Farleigh, John Basset, Richard Mouse and William Beadle had small cottages on the waste, while the others had large or multiple holdings. With the exception of Mouse, all the other jurors acted as sponsors and presented surrenders on behalf of fellow-tenants. It is clear from the preparatory agenda and memoranda that accompany the court rolls, that some of these jurors could write their own names - Thomas Indery and Richard Glover had confident flowing signatures, while William Children's signature was laboriously written and the others put their marks.  

(In contrast to Carshalton, no juror in Farleigh was ever described as a gentleman).

MERSTHAM

In Merstham, unlike the manors of Carshalton and Farleigh, there were no lists of jurors until the mid-seventeenth century. However, on the basis of the evidence from Carshalton and Farleigh, men like Nicholas Waddon, John Tye, William Ridere and John Dene, who were pledges and assessors, may also have been jurors.  

We can see from the jury lists of the mid-seventeenth century that men who were jurors then were also assessors. The same picture emerges from the records.
of Albury, where the jury lists from 1537 until 1681 show that assessors were also members of the jury. 18

In 1647 there were ten jurors in Merstham, which represented about a third of the total number of 34 tenants mentioned in the rental of 1657. 19 In the mid-seventeenth century the Merstham lists were headed by one or two gentlemen, notably Nicholas Best who was tenant of the large estate of Alderstead. Although a few gentlemen were jurors in Merstham, they did not predominate in the lists to the same extent as in Carshalton.

ALBURY

Albury was by far the smallest of the manors in this study, being little more than a large estate of between 400-500 acres, lying within Merstham. However, the same administrative system was used in Albury as in all the other manors. The study of Albury is restricted to the sixteenth and seventeenth centuries, because that is the limit of the records. In Albury there was an average of six or seven jurors at each meeting, which represented almost half of the 15 or 16 tenants listed in the mid-sixteenth century rentals. 20 There is evidence from rough working notes for the period 1509-13 that some of the tenants were represented on the jury by their subtenants. For example, in a list of jurors' names we
see that Richard Lyngfeld was represented by John Chyner, 'the keeper of his house in Woodstrete', and Christopher Travers by his feoffee, William Holman. These do not seem to be presentations of essoins because these were made separately, but they were additions to the list of jurors. If this is an example of subtenants representing tenants on the jury, it may have been limited to Albury; certainly, there is no direct evidence for this in any of the other manors, where only tenants served as jurors.

In the seventeenth century, by comparing the list of tenants in Albury with the number of jurors, we can see an increase in the proportion of tenants serving on the jury to 66%, which suggests a high level of local participation in the work of the court. Similar to Farleigh, no gentlemen served on the Albury juries, and when we associate the names of the jurors with their tenements, we can see that the leading jurors were local men, concerned with the stone quarries. Various members of the Sharpe family, who were involved in the quarries, served consistently on the jury. John Richardson, too, became the first juror following his acquisition of property in Albury and immediately claimed right of access to his land at Quarry Dean. Only one man, Richard Bowman, served on the jury in both Merstham and Albury. The assessors of Albury were consistently chosen from among the jurors, which again suggests that we might use
the office of assessor to help us to identify potential jurymen in earlier periods for which no jury records exist.

The figures in Table 26 show the proportions of jurors to the total number of tenants. The proportional figures are restricted to the periods for which lists of tenants are given.

Table 26. proportion of jurors to tenants:

<table>
<thead>
<tr>
<th></th>
<th>tenants total no.</th>
<th>% of jurors to tenants</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carshalton</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1350-99</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1400-99</td>
<td>24</td>
<td>54</td>
</tr>
<tr>
<td>1500-99</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1600-99</td>
<td>25</td>
<td>28</td>
</tr>
<tr>
<td>Farleigh</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1350-99</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1400-99</td>
<td>14</td>
<td>36</td>
</tr>
<tr>
<td>1500-99</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1600-99</td>
<td>7</td>
<td>35</td>
</tr>
<tr>
<td>Merstham</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1350-99</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1400-99</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1500-99</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1600-99</td>
<td>34</td>
<td>29</td>
</tr>
<tr>
<td>Albury</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1500-99</td>
<td>15</td>
<td>45</td>
</tr>
<tr>
<td>1600-99</td>
<td>13</td>
<td>66</td>
</tr>
</tbody>
</table>

While these figures apply only to the periods when lists of tenants are available, they show the overall pattern of juror numbers. The high levels of participation in Carshalton in the fifteenth century fell in the sixteenth
century and less than one third of the tenants were jurors in the seventeenth century. The absence of jury lists for Merstham before the mid-seventeenth century makes it difficult to draw conclusions about the proportions of jurors there, but we can see that, as in Carshalton, less than one third of the tenants served on the jury at that time. In Farleigh and Albury there seems to be less change in the proportions of jurors to tenants; in Farleigh throughout the period of this study, just over one third of the tenants were jurors and in Albury the jurors represented about half the total number of tenants. These figures suggest that changes occurred in the larger communities, since the smaller manors retained a greater amount of local participation in the court baron.

As an aid to assessing the proportion of jurors to people present at meetings, I have looked at the numbers of those tenants who can be identified as absentees. In the same way as the presentation of the names of absentees was a consistent function of the view of frankpledge throughout almost the entire period of this study, so the court baron had the same function. While suit of court, or attendance at court, was usually one of the conditions of tenancy, tenants could offer reasons for not attending, known as essoins.

-418-
In Farleigh the first essoins, or excuses for not attending the meeting, occurred in 1351 when John Drew was essoined by Adam atte Park. In Carshalton, essoins were first recorded in the 1360s. It is clear that women were likely to appear among the essoined and absentees, since they might not wish to attend the meetings and, in the records of the 1360s Agnes Colesweyn was essoined from most meetings in Carshalton.

The numbers of those essoined in all the manors were very few - usually there were none or just one or two - and sometimes the words 'aeger' or 'infirmus' were written above their names to show why they were absent. From time to time, tenants were called upon to 'warrant their essoins' - a process which called upon them to show that their earlier essoins were genuine. This happened in Carshalton in 1392 when Roger Berewell and Richard Couper were fined for not coming to warrant their essoins. There is no record of this process being used in the fifteenth century in Carshalton, but it was revived for about ten years in the mid-sixteenth century when a total of six tenants were fined for not coming to court to warrant their essions. However, after this date, the process of warranting essoins disappeared. The last essoins were noted in Farleigh in 1637, when two non-residents, Hayward Bickerstaffe and Richard Glover were
essoined. In Carshalton the last essoins were presented in 1682 and, after that date, a space was left for the names of the essoined, but it was not filled. In Albury essoins were still being presented in 1681 when three tenants were excused. Because the total numbers of essoins were so small, they become insignificant in the overall picture of attendance.

_defaulters_

Since the requirement to attend meetings of the court, known as suit of court, was normally a condition of tenancy, failure to attend without good reason incurred payments and sometimes distraint. The listing of defaulters was the most consistent item of business of the court baron in all the manors throughout the period of this study and sometimes it was the only business. This suggests that, as at the view of frankpledge, it was considered to be an important aspect of the work of the court. Lists of defaulters provide us with different types of information; we can use them to assess changes in the numbers of those who attended the meetings and to look at changes in the methods of penalising defaulters.
In Carshalton the first list of defaulters was made in 1409, when three tenants paid fines of 2d instead of attending the meeting. The situation remained virtually unchanged during the fifteenth century, when two or three defaulters still paid 2d for not attending. These were wealthy tenants like John and Thomas Burgh and various members of the Gaynesford family. If we use the mid-fifteenth century rentals for comparison, we can see that the proportion of defaulters was about 13%.

During the sixteenth century, there was an increase in the numbers of defaulters in Carshalton, with about ten being recorded at each meeting. These mostly consisted of the non-resident tenants, such as the priors of Merstham and Southwark, the families of Gaynesford and Burton and wealthy businessmen and lawyers like Sir Lawrence Aylmer, Sir John Scott and Walter Lambarde.

As in previous years, the payment for default remained at 2d for each meeting but, in 1510, there was an administrative change when three tenants, John Waker, William Andrew and Thomas Carter of London had their amounts of 4d for the whole year paid to the court by their bailiffs. This custom persisted in Carshalton and usually three tenants paid in this way. Clearly,
women took advantage of this option and three of them, all widows, Magdalen Christmas, Mercy Chamlett and Lady Elizabeth Copley used this method of payment. While absentees in the other manors may have used a similar system, there is no direct evidence for its use there.

The importance of attendance at meetings becomes evident in Carshalton from the records of the 1560s, when extra meetings were held to deal with problems caused by the troublesome tenant, John Fromond. When special meetings were called, tenants had their payments for non-attendance cancelled because of the short notice. In 1564 nine tenants were excused attendance, again probably because of the short notice. However, one of the nine, Thomas Gaskyner, must have arrived for the meeting because the letters 'ap' for appeared or apparuit, were written next to his name. The difficulty of giving due notice to all the tenants about the date of the next meeting is evident again in 1574 when it was noted that a number of tenants did not attend, but they did not have to pay for their default, because they had not been informed in time. In Carshalton, during the 1560s, when many meetings were held, the date of the next meeting was written at the end of the roll and, similarly, the rough notes from Albury show that the date of the next meeting was noted at the end. However, this information would not be immediately available to
absentees. We can see from the Farleigh records that it was the custom there for the steward to send out a notice to the bailiff three or four weeks before a meeting and it was the bailiff's duty to pass on the information. In the case of non-resident tenants, it would probably be some time before they received the information.

Payment for default had remained at 2d since the fourteenth century in Carshalton but in 1582 there was a change, when a distinction was made between free and customary tenants. As a result of this distinction, free tenants paid 4d for default and customary tenants paid 3d. The difference in payments continued in Carshalton at the beginning of the seventeenth century when they were 6d for free tenants and 4d for customary ones. After 1633 they were the same - at 6d for all.

The numbers of defaulters in Carshalton in the seventeenth century averaged at about 11 from each meeting, which was about the same number as in the previous century. A court roll of 1682 listed all the tenants and gave a total of 25, which gives a level of default of about 44% at that date. Unlike the records of the view of frankpledge, which show large numbers of absent residents in the mid-seventeenth century, there is no evidence in the records of the court baron for any increase in the number of defaulters.
because of the Civil War or outbreaks of disease. In the second half of the century, the process of listing defaulters seems to have become less important and, for example, in 1671, a space was left for their names, but it was never filled.  

FARLEIGH

The names of defaulters were given earlier in Farleigh than in Carshalton, beginning in the mid-fourteenth century and we can see that the numbers of defaulters and the amounts that they paid remained roughly the same throughout the whole period of the records. The numbers of defaulters in Farleigh in the fourteenth century averaged about three per meeting, which represented about 17% of the 18 tenants on the rent roll of 1356. Some tenants, usually the non-residents, never attended and paid 2d or 3d for default. Occasionally, distraint orders were made against tenants because of their failure to attend. The use of distraint to persuade tenants who were not directly involved in any of the court business to attend the meetings seems to have disappeared in Farleigh at the end of the fourteenth century. It was re-introduced in the 1470s as a temporary measure against wealthy non-residents but, after that date, tenants paid 2d or 3d instead of attending the meetings.
In the fifteenth century, the level of default remained about the same, with mainly two or three defaulters. As we might expect, these were wealthy non-residents like Thomas Cook, John Lee, Thomas Uvedale and their descendants or successors. They usually paid 2d for default but the amounts increased during the 1460s to 6d and then to 8d as the unpaid sums accumulated until, in the 1470s, they were distrainted on their free property.47

There are only two records for Farleigh in the sixteenth century and they show the continuation of some of the procedures seen in the previous century - there were usually two defaulters from each meeting who paid 2d. However, there was a change in 1589, when the two absentees were specifically described as free tenants.48 This contrasts with the practice of earlier years, when the names of defaulters were given without any distinction being made between free and customary. We have already seen that a similar distinction was made in Carshalton at about the same time, but there, the two groups of tenants were further separated by different payments.49 In Farleigh, the amount of payment was the same for all defaulters. The grouping of defaulters into free and customary may have been general in the late sixteenth century, since the records of Chelsham Court, which adjoins Farleigh, show the same distinction but,
unlike Carshalton, all defaulters paid the same amounts.

In addition to the court rolls, much of the seventeenth-century material for Farleigh consists of preparatory notes for meetings of the court. This material includes lists of free and customary tenants which the jurors and officials used for the meetings. Instead of writing out the names of defaulters, they put the letters 'ap', as an abbreviation for 'appeared', by the names of those who attended. During the seventeenth century, the total number of tenants was only seven and it is clear from these notes that about five or six actually attended the meetings. Those who attended meeting were often directly involved in some aspect of the work of the meetings, mostly as jurors and sponsors acting on behalf of other tenants. Defaulters were listed for the last time in 1695, when three free tenants were absent. Although the names of absentees were listed until 1695, payments for default were often omitted, which suggests that they may not have been collected because they were so small. In theory, the amount of payment remained at 2d in Farleigh and, in a note at the end of the roll for 1699, the jurors stated that 'we present all persons making default this day, 2d each person'.

-426-
In Merstham the level of default was much higher than in the other manors, which is not surprising, considering that until the time of the Dissolution the court baron there also transacted business for the associated manors of Cheam and Charlwood. Unfortunately there are no rentals for Cheam and Charlwood and the first rental for Merstham dates from 1522, so there is no information about the proportion of defaulters to the total number of tenants of all three manors. The location of tenements in Cheam and Charlwood was probably responsible for the large number of defaulters in the earlier years of the records between 1364 and 1523. For example, in 1374, there were ten defaulters, consisting of one from Merstham, three from Cheam and six from Charlwood. At the same time, there was extensive use of distraint for attendance, again showing the effect of distance. In 1374, 14 tenants of Charlwood were distrained because they had failed to attend earlier meetings and, at the same time, ten people from Cheam were also distrained for attendance, while only three tenants of Merstham were distrained. However, the use of distraint purely for default ceased after 1402 and, after that date, tenants paid 2d or 3d instead of attending. This use of distraint in the Merstham manors follows the same pattern as in Farleigh, where it ceased.
at the end of the fourteenth century. It was revived briefly in Farleigh in the 1470s, but was not used again. There is no comparative evidence for similar use of distraint in Carshalton, as no defaulters were listed before 1409.

The same pattern of default as in the fourteenth century persisted in Merstham during the fifteenth century; for example in 1488, when there were 36 defaulters, only two were Merstham tenants and the remainder had land in Cheam and Charlwood. However, there was an administrative change in Merstham at the beginning of the sixteenth century when, instead of being listed separately, the names of defaulters from the three manors of Merstham, Cheam and Charlwood were placed in one list, without any indication of where they were tenants. This makes it difficult to identify the location of their tenements, but we can see from the records of the view of frankpledge and the Merstham rental of 1522 that most defaulters were tenants of Cheam and Charlwood. In the period 1503 to 1523, while the records continued to cover Cheam and Charlwood, as well as Merstham, there was an average of 15 defaulters. This figure is higher than in Carshalton, where there were about ten defaulters from each meeting during this time. The larger numbers of defaulters at the Merstham court baron resulted from:

a) a greater number of tenants, holding land in three
manors, and b) distance, with tenants of Cheam and Charlwood probably being unwilling to attend the meetings if they were not directly involved in the business.

In the mid-seventeenth century, when the court baron applied only to Merstham, we have a rental which gives a total figure of 34 tenants. Using the rental for comparison, we can see that the 16 absentees formed almost half the number of tenants. These included gentlemen who also held property elsewhere and four widows, who may have been disinclined to attend the meetings. By the seventeenth century, the payments for default in Merstham had increased to 6d, similar to the increase in Carshalton.

ALBURY

Although Albury lay within the manor of Merstham, with regard to the level of default it shows greater similarities with Farleigh than Merstham. In the sixteenth century, the average of four defaulters usually included the more wealthy tenants who also held property in other manors. For example, these included a member of the Dannet family, who were lords of the manor of Albury, the Copleys, who were lords of the adjoining manor of Gatton, and John Richardson and his son Nicholas
who were actively involved in working the quarries. Normally the defaulters paid 2d for their default from each meeting, but the Copleys, Dannets and Richardsons paid sums ranging from 4d to 12d. This was probably the result of an accumulation of fines rather than any social distinction between tenants.

The rough notes which were compiled in preparation for the meetings in the early sixteenth century show similarities with the later notes in Farleigh and indicate how lists of defaulters were compiled. They included prepared lists of tenants, with some names crossed out and others added, while a large dot placed in the left hand margin against certain names, probably indicated those who attended the meeting. When the number of tenants fell to 13 in the seventeenth century, the level of default remained roughly the same at 23%. The reason for the lower figures for default in Albury was probably the same as in Farleigh - in both manors the majority of tenants were local people. The fines in Albury increased to 6d in the seventeenth century, similar to the levels in Merstham and Carshalton; they remained at 2d only in Farleigh.
Table 27. proportion of defaulters to tenants:

<table>
<thead>
<tr>
<th></th>
<th>tenants total no.</th>
<th>% of defaulters to tenants</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carshalton</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1350-99</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1400-99</td>
<td>24</td>
<td>13</td>
</tr>
<tr>
<td>1500-99</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1600-99</td>
<td>25</td>
<td>44</td>
</tr>
<tr>
<td>Farleigh</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1350-99</td>
<td>14</td>
<td>20</td>
</tr>
<tr>
<td>1400-99</td>
<td>14</td>
<td>21</td>
</tr>
<tr>
<td>1500-99</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1600-99</td>
<td>7</td>
<td>28</td>
</tr>
<tr>
<td>Merstham</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1350-99</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1400-99</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1500-99</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1600-99</td>
<td>34</td>
<td>47</td>
</tr>
<tr>
<td>Albury</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1500-99</td>
<td>15</td>
<td>25</td>
</tr>
<tr>
<td>1600-99</td>
<td>13</td>
<td>23</td>
</tr>
</tbody>
</table>

While it is impossible to arrive at consistent figures to represent the proportions of defaulters because we do not have sufficient lists of tenants, the figures in Table 27 show certain trends. It is clear that in the smaller manors of Farleigh and Albury, the proportion of those failing to attend meetings formed about one quarter of the total number of tenants.

In Carshalton, there were only two or three defaulters in the late fifteenth century, but this changed in the sixteenth and seventeenth centuries when there was an average of ten or 11 defaulters, who formed about half the total number of tenants.
In the Merstham manors the number of defaulters remained at about 15 or 16 throughout the period, but the reasons for default changed. In the fourteenth and fifteenth centuries most defaulters were tenants of Cheam and Charlwood and presumably the distance from Merstham was a factor in their absence.

In the seventeenth century, when we are looking at only Merstham, the same level of default was caused by wealthy tenants, who had holdings in other manors and residences elsewhere.

Ignoring the essoins, who formed a very small proportion of the total number, if we take the figures for jurors and defaulters and compare them with the total tenant numbers, as given in the rentals, we can see what proportion of tenants were present at meetings. These were probably tenants who were resident within the manor or nearby and were directly involved in the business of the court.
Table 28. *proportion of tenants present at meetings:*

<table>
<thead>
<tr>
<th></th>
<th>tenants present</th>
<th>total no. (inc. jurors)</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Carshalton</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1350-99</td>
<td></td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1400-99</td>
<td>24</td>
<td>1400-99</td>
<td>87</td>
</tr>
<tr>
<td>1500-99</td>
<td>-</td>
<td>1500-99</td>
<td>-</td>
</tr>
<tr>
<td>1600-99</td>
<td>25</td>
<td>1600-99</td>
<td>56</td>
</tr>
<tr>
<td><strong>Farleigh</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1350-99</td>
<td></td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1400-99</td>
<td>14</td>
<td>1400-99</td>
<td>79</td>
</tr>
<tr>
<td>1500-99</td>
<td>-</td>
<td>1500-99</td>
<td>-</td>
</tr>
<tr>
<td>1600-99</td>
<td>7</td>
<td>1600-99</td>
<td>72</td>
</tr>
<tr>
<td><strong>Merstham</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1350-99</td>
<td></td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1400-99</td>
<td>-</td>
<td>1400-99</td>
<td>-</td>
</tr>
<tr>
<td>1500-99</td>
<td>-</td>
<td>1500-99</td>
<td>-</td>
</tr>
<tr>
<td>1600-99</td>
<td>34</td>
<td>1600-99</td>
<td>53</td>
</tr>
<tr>
<td><strong>Albury</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1500-99</td>
<td>15</td>
<td>1500-99</td>
<td>75</td>
</tr>
<tr>
<td>1600-99</td>
<td>13</td>
<td>1600-99</td>
<td>77</td>
</tr>
</tbody>
</table>

Although it is impossible to prove the accuracy of the figures for attendance at the meetings, we can see certain trends. For example, the small manors of Farleigh and Albury show consistently high levels of attendance, with the jurors outnumbering the absentees. As we might expect, these manors demonstrate a high degree of involvement in the court by local people and they show very little change in the process in the periods for which documents are available. The level of local involvement was high in Carshalton in the fifteenth century, but this changed in the sixteenth and seventeenth centuries as more property passed to non-
residents. While the addition of Cheam and Charlwood make it more difficult to draw conclusions about Merstham, we can see in Merstham certain similarities with Carshalton. There were few defaulters from Merstham itself before 1523 but, by the seventeenth century, the level of default resembled that in Carshalton, when almost half the tenants failed to attend meetings.

If we use the information about defaulters given in Table 26 and compare this with jury numbers in Table 27, we can see that jurors generally comprised just over half the number of those who were present at the meetings. However, from Table 28, which shows the relationship between those who were present and the total tenant numbers, we can see that in fifteenth-century Carshalton and in the smaller manors of Farleigh and Albury, the jurors were local residents. This close local involvement was retained in Farleigh throughout the period of this study and is evident in Albury in the sixteenth and seventeenth centuries. The greatest changes probably occurred in Carshalton, where the type of tenant changed during the sixteenth century from predominantly local people to those with properties in various manors and particularly in London. By the seventeenth century, the jurors of the court baron were almost all gentlemen, with businesses or independent means, and comprised just over one quarter of all
tenants. The jurors may have formed a committee, to some extent isolated from the rest of the local community. In seventeenth-century Merstham the situation was similar, but less divisive than in Carshalton, as the Merstham jurors formed 29% of the total number of tenants but the proportions of gentlemen were different.

References:
2. See above pp. 239-40.
3. DD/HY. Box 27 Albury roll 1.
5. P5/2.1-8.
8. P5/3.3.
9. See above p. 252.
11. MM 4934-6.
12. MM 4674.
14. MM 4939; 4942.
15. MM 4943-55.
16. PRO. SC2 204/66-7.
17. DD/HY. Box 27 Merstham roll 5.
18. Ibid., Albury rolls 1-2.
19. Ibid., Merstham roll 5.
20. Ibid., Albury rolls 1-2.
21. Ibid., roll 1.
22. Ibid., roll 2.
23. Ibid., Merstham roll 5.
24. MM 4928.
27. P5/5.1-6.
28. MM 4944.
30. DD/HY. Box 27 Albury roll 2.
31. P5/1.17.
32. P5/1.19-41; P5/2.1-14; P5/24-5.
33. P5/3.1-16.
34. P5/3.3.
35. P5/3.3-9; P5/4.1-28; P5/5.1-23.
37. P5/5.51.
38. DD/HY. Box 27 Albury roll 1.
39. MM 4950; 4953.
40. P5/5.52.
41. P5/6.6.
42. P5/10.1.
44. MM 4897.
45. MM 4936.
46. MM 4938.
47. MM 4937-8.
48. MM 4942.
49. See above p. 423.
50. Saaler, 'Chelsham Court Court Rolls 1585'.
51. MM 4946-55.
52. MM 4953.
53. MM 4955.
54. Hylton, 'Rental of the Manor of Merstham 1522'.
55. PRO. SC2 204/67.
56. DD/HY. Box 27 Merstham roll 3.
57. Ibid. Hylton, 'Rental of the Manor of Merstham 1522'.
58. DD/HY. Box 27 Merstham roll 4.
59. Ibid., roll 5.
60. Ibid., Albury rolls 1-2.
61. Ibid., roll 1. The use of a large dot in the left margin to signify presence at a meeting is evident in the Merstham records of the early fifteenth century. When 12 men were summoned to attend in a case of novel disseisin, six names were marked with a dot.
62. DD/HY. Box 27 Albury roll 2; rental 4.
63. See above p. 417; p. 431.
We have seen that the court baron was concerned with business between landlord and tenant and dealt principally with the administration of property. As a result, changes in the organization of the manors and in the types of tenants brought changes in the nature and function of the court baron. While we see similar processes of change in all the manors, the changes differed in scale and time.

During the second half of the fourteenth century some similar features can be found in the functions of the courts of all manors. As a result of the Black Death, there were relatively few transfers of property by inheritance as many tenements passed to new tenants. Farleigh differed from the other manors because of the intensity of the dealings there. However, the records of the Merton College manors of Cuxham and Kibworth Harcourt show similar levels of activity and we may be seeing the results of speedy action by the officials of Merton College to generate income after the Black Death. ¹ The manorial accounts for Tillingdown, which lies about 5km. to the south of Farleigh, showed the same effect in the 1350s, when the officials of the earls of Stafford were reacting quickly to restore the productive capacity of the manor. ² In Sussex too, the officials of Battle
Abbey were carrying out the same kind of programme, which led Searle to remark that professional managers and officials who reacted quickly to changing circumstances, were able to make manors profitable. ³

If professional management was responsible for the high level of activity in property transfers in Farleigh, we are left with the question of why this did not happen in Merstham, which was held by the much larger organization of Christchurch Priory. The Merstham manors were different because, as far as we can tell, all the tenements were free and so transfers could be made out of court. There were a few references to customary work and payments, but no tenants were described as customary. Perhaps in this situation there was less need for speedy action by officials and tenants were not dependent on the court baron to arrange their property transfers. In her study of the manorial accounts of the Christchurch manors for the years after the Black Death, Mateš found evidence for the high costs of building materials and iron, both of which were available in the Merstham manors and could be sold at a profit, or used on priory manors to keep costs down. ⁴ In addition, the Cheam potteries were supplying their products to London and Surrey. ⁵ These pieces of evidence suggest that the Merstham manors were well-placed to recover from the effects of the Black Death, having commercial resources which were not
affected by weather or disease in the same way as agricultural activities may have been.

Carshalton differed from Farleigh and Merstham since it was not part of a larger organization; it was held by a succession of landlords and may have lacked sustained direction and policy. In such a situation, the tenants may have taken the initiative and paid to use the vacant land as pasture to suit their requirements.

A factor causing change in the function of the court baron in fifteenth century was the proximity of London. Poos, in his study of Essex after the Black Death, remarked on the economic effect of London on the surrounding countryside during the fourteenth and fifteenth centuries. He found that the fifteenth century, in particular, was a time when wealthy Londoners were acquiring property in Essex. He has shown that investment in Essex was mostly within a distance of 16-24km. from London, whereas it virtually ceased in districts beyond about 30km. from London.6

If we apply the same principle of a 24km. limit to investment in the Surrey manors, we can see the effect most clearly in Charlwood, which lies about 38km. from London and recorded no investment by London merchants. On the other hand, Farleigh, which lies about 24 km. from
London, did not provide the kind of investment that was attractive to wealthy Londoners until 1458.

The situation in Carshalton, Cheam and Merstham was quite different from Charlwood and Farleigh. Carshalton, being about 16km. from London, comes well within Poos' limit of 24km. The first record of investment by Londoners there occurred in 1428 when John Leycester had already acquired a large, free property, sometimes called Kinnersley or Kenwardesley. The family employed at least five servants in Carshalton and, while Leycester was resident there, he was also leasing out property in London. Leycester's will, proved in 1455, described him as a gentleman of the parish of St. Botolph's, Aldersgate, of St. Andrew's, Holborn and of Carshalton. While he was the first wealthy Londoner to be recorded in Carshalton, four others followed in the 1440s. Since two of these men were connected with the cloth trade, we may be seeing evidence for trade associated with the fulling mills which were operating on the River Wandle.

Cheam, which lies close to Carshalton and about 17km. from London, also recorded property transfers involving Londoners, beginning with John Foxcotes, a goldsmith, in 1408 and William Walton 'of London' in 1438. Investment by Londoners in Cheam is not surprising because the district had a steady trade from its
potteries, which had been supplying London and the surrounding districts since 1350 and continued to do so until about 1480. 9

However, Merstham lies just on the edge of the limit set by Poos, at about 26 km. from London. The manor was clearly a special case because of its stone quarries and it recorded investment by Londoners earlier than any of the other manors. For example, in the 1360s, Fulk Horwood, a citizen of London, was the tenant of Albury, the estate which contained the quarries. 10 Investment by Londoners continued during the first half of the fifteenth century, when John Beverely, a skinner, and Edmund Salle, a draper took over properties in Merstham. 11

The effect of investment by outsiders in these manors is most clearly seen in the type of property transfers which were coming before the courts baron. Apart from Farleigh, there was a relatively low level of transfer by inheritance. In the Merstham manors and Carshalton the courts baron were recording new tenants and, in Merstham in particular, new tenants were seeking to secure possession of free tenements by the use of novel disseisin and then by final concords. Such legal procedures were likely to be limited to wealthy tenants.
Both Poos and McIntosh stress the continuing effects of investment in Essex by Londoners throughout the fifteenth century. They show that Londoners were investing surplus capital in property which they either sub-let or used as second homes. McIntosh has commented particularly on the increase in the amount of land used for pasture at the expense of the arable, which became less valuable in the later fifteenth century. She considered that the move towards larger holdings was accompanied by an increase in the number of smaller tenements, which she estimated as being below subsistence level. 12

In the Surrey manors the only direct evidence for a fall in the value of the arable is found in the two mid-fifteenth century rentals for Carshalton, when it fell from 9d an acre in 1445-6 to 4d in 1452. 13 This reduction in the value of the arable may help to account for the comparatively low level of property transfers in the second half of the fifteenth century, as existing tenants kept their land, but paid low rents and sub-let to other tenants. This may also indicate a change in the type of tenants, who were less directly dependent on agriculture for their livelihood and derived income for rents and trade. Such a change may be evidence, not of poverty, as seen by McIntosh, but of an increase in alternative occupations. Certainly, at least three mills were operating in Carshalton at this time and some
of the residents were employed by businessmen and holders of larger tenements. The second half of the fifteenth century also provides the highest number of references to servants and gives the greatest variety in the types of trade coming before the view.

In Farleigh there was also a change in tenancies as much of the land outside the demesne was acquired by tenants who lived outside the manor, but not far away. They sub-let tenements to the inhabitants of Farleigh who continued to work the land as before, but without responsibility for upkeep or representation at the court baron. And so, in spite of investment by a few Londoners and being only 24 km. from London, Farleigh, being rather remote and lacking good communications, did not feel the impact of capitalism and kept its strong local traditions.

Although there were newcomers in Merstham, there is no apparent change in the system of land use, nor is there evidence for enclosing. Generally, the land remained in small, scattered parcels, some of which were leased out or sub-let.

Of the three manors which form this study, Carshalton, being the nearest to London and having good communication links with the city, appears to have been in the best
position, in terms of investment in property, to benefit from the rising prices in the following century. It is an area where, as Bolton describes it, 'the middle classes seem to have been in quiet and prosperous estate'. It also bears the closest resemblance in economic terms to the areas of south-west Essex which lay within 24 km. from London.

In the sixteenth and seventeenth centuries we see further changes in the function of the courts baron as they recorded a steady increase in the total number of property transfers. In the early years of the sixteenth century the withdrawal of religious establishments from property holding made land available for transfer. In Carshalton, in particular, new tenants took up this property. As a result, there were further changes in the function of the court as these new tenants became jurors. By the mid-sixteenth century, men who were jurors of the court baron were also acting as jurors of the view; it is noticeable that the business of the two courts was merging at about this time and the court baron was taking over some of the functions of the view. After the mid-sixteenth century, the view had very little to do and the court baron became the only local court. Unfortunately there are no contemporary records of the view and court baron for the other manors to allow us to make comparisons.
In the seventeenth century there was an increase in property transfers, as legal changes made it easier for tenants to raise money by mortgaging property to invest in more profitable enterprises. The legal changes emphasised the importance of customary tenure since it was fairly simple to transfer tenements, using the court roll as proof of title. On the other hand, we can see from Merstham and Albury, that free tenements were also exchanged rapidly, but out of court.

As part of this increase in transfers of customary land, there was an increase in the use of sponsors at the courts baron. Sponsors were first recorded in Farleigh in 1463, when the bailiff and two other tenants presented a surrender of property made to them outside the court, but according to the custom of the manor. This convenient procedure became common during the sixteenth and seventeenth centuries. Sponsors were usually the leading jurors and customary tenants who presented business on behalf of other customary tenants. There was one exceptional case of a woman, Elizabeth Fenwick, acting as sponsor on two occasions in Carshalton in the seventeenth century. She was not a juror, but her husband served on the jury by right of his wife's tenancy. The use of sponsors, which probably began when tenants were unable to attend the court because of illness or other disability, had the advantage of allowing customary
tenants to conduct business out of court, at their own convenience. In this way, they gained a facility which was previously limited to free tenants. The growing use of sponsors may be evidence for the growth of 'professionalism' in the lord's private court, since they acted on behalf of other tenants, possibly even when the tenants they were representing were present in court.

There was also an increase in legal terminology at the courts baron, perhaps because more people had recourse to professional lawyers and experience of litigation. Two examples from Merstham show the extent of this change; they both concerned cases of trespass with animals, but the amount of precise legal description was vastly increased in the seventeenth century. The court roll of 1374 stated 'Johannes Edward de Mordon attachiatus est pro transgressione cum III iuvencis in pasturis Domini, perplegium Galfridii Brugger'. The court roll of 1647 contained a similar charge against Humphrey Broughton:

'Item presentant quod Humfridius Broughton oves et porcos suos et cetera pecora posuit in communia vocata Alderstead Heath infra jurisdictionem huius Curie super die Lune scilicet decimo nono die huius instantis mensis Aprilis et diversis aliis diebus ante et post eundem decimum nonum diem Aprilis predicti Humfridio non habente
ius communandi in communia predicta. Ideo ipse in misericordia in transgressione predicta VId. Et si predictus Humfridius imposterum ponerit oves boves sive porcos suos vel aliqua alia pecora in communia predicta tunc forisfecerit Domino manerii predicti quolibet tempore quo postea servabit vel ponerit oves boves porcos vel alia pecora in communia predicta summan duorum denariorum bone et legalis monete Anglie. 19

From these examples we can also see how the appearance of the rolls changed. In the early years of the records they gave lists of short, separate items and then gradually changed until they recorded just a small number of very extensive presentations. The diffuse legal language increased the length of each item, and although there were far fewer items of business in the seventeenth century, the records themselves were very long.

By the end of the seventeenth century, the courts baron had very little business to record. The fall in the number of tenants reduced both the amount of business and the number of those who were entitled to serve as jurors. In addition, a consistent feature of the records of the second half of the seventeenth century in Carshalton and Merstham is the involvement of lords of the manor in property transfers. For example, in Carshalton, three or four men, usually lawyers, shared the lordship and they
took advantage of the availability of land after the Civil War to accumulate substantial holdings. As a result, the number of tenants fell and there was a common pattern of wealthier people taking over multiple holdings and sub-letting. As subtenants were not involved in court business and were not generally entitled to be jurors, there was also a gradual reduction in the number of jurors. By the end of the seventeenth century, this led to a situation where there was hardly any business to transact and meetings were held occasionally to deal with specific items of business, instead of being routinely called.

However there were differences of scale; in the seventeenth century, the two smaller manors of Albury and Farleigh recorded more involvement by tenants in the work of the court baron than appears in either Carshalton or Merstham. This was probably an effect of location, as most tenants in Albury and Farleigh lived either in or near the manors and were involved in stone-working or agriculture. This contrasts with Carshalton and Merstham where wealthy tenants were resident and took part in the court baron, but they also held properties elsewhere and tended to be professional men or businessmen, or have independent means.
While transfers of property showed a steady increase from 1500 onwards and ensured the survival of the courts baron during the seventeenth century, other functions disappeared in time. We have seen that in the fourteenth century tenants were using the lord's court to deal with their own items of business, such as loans, or theft, or damage by other tenants. However, this usage had generally ceased by the 1450s.

In conducting business between tenants, it was difficult for the court to ensure that both parties were present at the same meeting and, because of the failure to ensure attendance, the majority of cases were abandoned before any conclusion was reached. Pledges were used as a way of guaranteeing attendance, but this process had virtually ceased by the 1450s, probably because of the difficulties encountered by pledges in producing their principals at the right time. The small number of concluded cases between tenants stands in clear contrast to the concluded cases between landlord and tenant, where fines, penalties and distraint were evidence for the judgement of the court. In addition to pledges to guarantee attendance, tenants were sometimes required to find other tenants to come to court to support their case. This system depended on co-operation between individuals but the usage had ceased by the end of the fourteenth century, possibly as a result of social and
cultural changes which also led to the demise of pledges. Such a system of mutual support may have been common in the period before the Black Death and continued to be used for a while afterwards. However, among new tenants and in a period of change, this system of mutual support may have become irrelevant.

The use of pledges and distraint point out areas of particular difficulty for the courts baron. In Farleigh, they were mostly used to guarantee or enforce payments, which suggests that this was a community where money was not readily available. In Merstham, pledges and distraint were used principally to ensure attendance, showing the difficulty of dealing with distant tenants and tenements. There was less contrast in Carshalton, where pledges and distraint were used both for attendance and payments, but the practices stopped at an earlier date. After 1450, distraint was normally confined to ensuring fealty by new tenants of free tenements.

References:
8. DD/HY. Box 27 Merstham rolls 1-2.
9. Orton, 'Excavations of a Late Medieval Kiln at
11. DD/HY. Box 27 Merstham roll 2.
15. MM 4938.
16. P5/7.6; P5/7.10.
18. PRO. SC2 204/67.
19. DD/HY. Box 27 Merstham roll 5.
7. GENERAL CONCLUSIONS: THE PROCESSES OF CHANGE

By making a detailed analysis of the records of the manor court in Surrey, I have accumulated a mass of information about people and events. This information presents us with a large number of minor changes which reveal overall chronological changes and differences between the manors. Such studies of small-scale societies show how local people worked together and used their courts. They had access to an institution which was responsible for law and order, where they could obtain licences to trade, make money-lending arrangements, settle disputes, present environmental problems and make property transfers. The accessibility of the lord's private court to residents and tenants, rich and poor, probably caused the institution to survive, even when other organizations became available to them.

The amount of change that occurred shows that the courts changed in response to requirements. This suggests that peoples' needs changed over time and varied from place to place. For example, there was a high degree of activity at the court baron in Farleigh after the Black Death, when new tenants took over vacant tenements. This phenomenon was not recorded in the Merstham manors, where the tenants held free tenements which could be
transferred out of court, nor in Carshalton, where tenants took over additional pasture.

We can see clearly the effect of geography in the various manors. The agricultural basis of Farleigh has kept the manor virtually unchanged. In the eighteenth century Kilner described Farleigh as 'retired' and its remoteness from main roads has kept it that way until the present day. After the end of the fourteenth century, there were very few changes in the function of the court baron. The population level remained low, there were few newcomers and the hearth tax returns show that, of all the manors, Farleigh contained the largest proportion of non-payers. Kilner's comment in 1767 that about one fifth of the population was employed in the manor-house indicates a high proportion of agricultural labourers, while most of the other inhabitants were subtenants of tenants who lived nearby. There was probably very little in Farleigh to attract outside investment, since it remained in the ownership of Merton College, which took a large allocation of grain out of the manor every year.

The situation of Carshalton, at about 16km. from London and on the River Wandle, affected both the view of frankpledge and the court baron. The availability of water attracted traders, who used the view to obtain

-453-
licences to trade, while Londoners used the court baron to record their property transfers. The easy links with London encouraged investment and promoted trade. We can see the effects of this in the numbers of businessmen, servants and wealthy resident tenants. Cheam lies close to Carshalton and the potteries probably provided occupations there and attracted outside investors. Certainly, the surname Potter is common in the few records that have survived. The rows of suburban houses in present-day Cheam and Carshalton are evidence for easy links with London.

We have seen that Merstham and Albury contained the stone quarries which formed the basis of their economy. They provided the area with a relatively secure livelihood and contributed to other businesses, resulting in a variety of traders coming before the Merstham view in the fifteenth century. Most tenants were local people and the records suggest that Merstham was a community where residents and tenants held small scattered units of property and shared a general level of prosperity.

Charlwood was more remote from London but it contained iron-workings, some of which were retained by Christchurch. The frequent references to bad roads and broken bridges suggest that the court was dealing with a combination of large amounts of surface water and the
need for efficient transport. There were hardly any traders featured in the Charlwood records.

While we can see that some differences in the function of the manor courts in Surrey arose from location, the nature and function of the court also shows a process of chronological change. In all the manors the second half of the fourteenth century shows the highest level of activity. There was a large amount of business between local people and between landlord and tenant in matters concerning law and order, trade, and management of the environment. This gives a picture of communities where individuals were known to one another and were willing to act as pledges and supporters for their fellows at the manor court. The level of activity also suggests that decisions made at the court were respected and were generally accepted within the community.

For both the view of frankpledge and the court baron, the second half of the fifteenth century stands out as the period of greatest change, probably as a result of increased mobility and social and cultural changes. This was the time when general orders began to be issued in Carshalton, which appeared in Merstham at the beginning of the sixteenth century. The issuing of such orders, often in church, suggests that the manor court was losing contact with the local community in these areas and that
there was less direct communication between residents. This contrasts with Farleigh, where there were no orders; perhaps in a small community there was enough social contact between local people to make general orders unnecessary.

Also during the second half of the fifteenth century, the records of the view in Carshalton reveal assaults on local officials who were performing their appointed tasks; there was also an increase in the numbers of subtenants and servants who were not answerable to the court. This was the time when various functions of the view were affected by the quarter sessions, which provided jurisdiction over larger areas than the lord's private view of frankpledge. Since the sessions were county-based, licences at the sessions offered advantages to businessmen who wished to trade beyond the immediate vicinity. This kind of move implies that local businessmen were able to choose to apply for licences at the sessions; if this was the case, it is perhaps understandable that other types of business followed suit. It was during the late fifteenth century that the transition from private jurisdiction at the lord's court to the wider jurisdiction of central government was most marked. Having lords of the manor who were also JPs may have been another factor in the transfer to the sessions. This period also recorded changes in patterns of trade,
with a growth in manufacturing and new industries which were not traditionally subject to the view.

Sanctions also changed in this period, with the introduction of financial penalties to ensure good behaviour in the future. This identifies a change from the use of pledges, who provided a personal guarantee for compliance, to the use of monetary guarantees.

Events in Merstham were similar, but not the same; the number of traders coming before the view fell, as in Carshalton, but the amount of minor crime was far less. It is always difficult to argue from negative evidence, but we can speculate about the reasons for the apparent lack of crime in the Merstham manors. It might be an effect of distance from London, with fewer strangers or newcomers being present and less pressure on resources. It might also be evidence for greater contact between residents, resulting either in less conflict, or informal resolution of problems before they reached the court.

In the sixteenth century there was an increase in general orders in Carshalton, mostly concerning the pasturing of animals, which suggests that there was a shortage of land there. This is in distinct contrast to the other areas; there were a few such orders in the Merstham manors and none at all in Farleigh. This implies that there was a
greater demand for land nearer to London and may also be a symptom of industrial expansion along the Wandle.

Other changes occurred in the mid-sixteenth century when the court baron in Carshalton was taking over much of the remaining work of the view. This probably also happened in Merstham, where the records have not survived. Since many jurors served on both juries and held positions of authority in the parish administration, we can see the development of a local elite who dealt with local issues. In the same way as the sessions affected the function of the view, so increasing amounts of parliamentary legislation concerning local matters, such as law and order, the poor, vagrants and the environment, affected the work of the court in the second half of the sixteenth century. While private courts were empowered to enforce such legislation, their unreliability, which depended on action by individual landlords, led to the transfer of business to other agencies, principally the parish and the sessions. There were also changes in the powers of the local constables, who were responsible for the parish and parishioners at the sessions. In this way, the traditional role of the tithingmen for the maintenance of law and order at the view passed to the constable at the sessions.
Legal changes in the seventeenth century led to the courts baron in all the manors becoming courts for conveyancing property, generally, although not exclusively, for the more wealthy tenants. As these took over multiple tenements, the numbers of tenants fell. As a result, the number of jurors fell and so did the amount of business coming before the court. Eventually, in all the manors there were just a few meetings to deal with particular property matters. While the view of frankpledge continued to be held in Carshalton and Merstham, it had very little to do, since most of its traditional business had passed to the sessions. This shows a contrast with Essex, where the manor court was still dealing with a variety of social problems. 4

This study has shown the development of the manor court from a regular event in the community, responsible for dealing with business affecting many local people, to a conveyancing court held for the benefit of a few people. The driving force for change was probably the local economy, since the greatest changes occurred in the areas which were attractive to outside investors.

References:
1. See above p. 23.
2. Ibid.
3. MM 4941.
4. See above p. 48.
BIBLIOGRAPHY:

Primary sources

MANUSCRIPT

British Library
Harleian Charter 86. H 22.

Lambert, U., 'Court Rolls of Bletchingley 1522-30', ms. transcription.

Merton College Muniments
Court Rolls and Rentals of Farleigh: MM 4928-55.

Public Record Office
Court Rolls of Merstham: SC2 204/66-7.
Hearth Tax Returns: E179 188/481.
Hundred Rolls of Wallington: SC2 205/22.

Saaler, M., 'Court Rolls of Chelsham Court 1568-1700', ms. transcription.

----- 'Court Rolls of Chelsham Watvile 1458-1530', ms. transcription.

----- 'Court Rolls of Warlingham 1544-1786', ms. transcription.

Somerset Record Office
Court Rolls of Merstham and Albury: DD/HY. Box 27.

Surrey Record Office
Parish Register of Carshalton: P/32.

Sutton Heritage Centre
Records of Carshalton Manor: P5/1-10; P5/24-5.

PRINTED WORKS


----- Calendar of the Proceedings of the Committee for Compounding 1643-60 (5 vols.; London, 1889).


----- Abstracts of Surrey Fines 1509-58 (Surrey Record Society, 19; London, 1946).

----- The 1235 Surrey Eyre (2 vols.; Surrey Record Society, 31; Guildford, 1979).


Powell, D. L., (ed.) Court Rolls of the Manor of Carshalton (Surrey Record Society, 8; London, 1916).


Secondary sources


Baildon, W. P., Select Cases in Chancery 1364-1471 (Selden Society, 10; London, 1896).

Bannerman, W. B., (ed.) Visitations of the County of Surrey (Harleian Society, 82; London, 1899).

----- 'Members of the Inner Temple 1547-1660 and Masters of the Bench 1450-1883', Surrey Archaeological Collections, 14 (1896) 19-41.

----- 'Lay Subsidy Assessments for the County of Surrey', Surrey Archaeological Collections, 19 (1906) 39-101.

----- 'Preparations by the County of Surrey to Resist the Spanish Armada', Surrey Archaeological Collections, 16 (1901) 137-67.


Blair, J., Early Medieval Surrey: Landholding, Church and Settlement before 1300 (Stroud, 1991).


Briggs, H. M., Surrey Manorial Accounts (Surrey Record Society, 15; London, 1935).


Cam, H., The Hundred and the Hundred Rolls (London, 1930).
----- Law-finders and Law-makers in Medieval England  


----- *Standards of Living in the later Middle Ages*  
(Cambridge, 1989).


Ducarel, A. C., *Some Account of the Town, Church and Archiepiscopal Palace of Croydon* (London, 1783).


Fosbery, H., 'Notes from a Carshalton Vestry Book', Surrey Archaeological Collections, 26 (1913) 100-18.


Furley, J. S., Town Life in the XIV Century (Winchester, 1952).


Hatcher, J., Rural Economy and Society in the Duchy of Cornwall 1300-1500 (Cambridge, 1970).


Hearnshaw, F. J. C., Leet Jurisdiction in England (Southampton Record Society, Southampton, 1908).


Class Conflict and the Crisis of Feudalism (London, 1985).

Historic Manuscripts Commission, Report 7; Report 8.


Hudson, W., (ed.) Leet Jurisdiction in Norwich (Selden Society, 5; 1892).


Hybel, N., Crisis or Change (Aarhus, 1989).

Hylton, Lord, 'A Rental of the Manor of Merstham in the Year 1522', Surrey Archaeological Collections, 20 (1907) 90-114.


-466


Lambard, W., *Eirenarcha or the Office of the Justices of Peace, in Four Bookes* (London, 1614).


------ 'Notes on the family of Leigh of Addington', *Surrey Archaeological Collections*, 7 (1880) 77-124.

------ 'Notebook of a Surrey Justice', *Surrey Archaeological Collections*, 9 (1888) 161-252.


Maitland, F. W., (ed.) *Select Pleas in Manorial and other Seignorial Courts* (Selden Society, 2; 1888).

Maitland, F. W. and Baildon, W. P., (eds.), *The Court Baron* (Selden Society, 4; 1891).


------ 'Notes on Parliamentary Representation in Surrey', *Surrey Archaeological Collections*, 39 (1931) 51-64.

Manning, O. and Bray, W., *History of Surrey* (3 vols.; London, 1804-14)


McIntosh, M., 'Social Change and Tudor Manorial Leets' in Guy, J. and Beale, H., (eds.) *Law and Social Change in British History* (Royal Historical Society, 40; 1984) 73-85.


Milbourn, T., 'Notes on the Parish and Church of Carshalton', *Surrey Archaeological Collections*, 7 (1878) 125-51.


------ 'Coping with Uncertainty: Women's Tenure of Customary Land in England c.1370-1430' in Kermode, J.,
Enterprise and Individuals in Fifteenth-Century England

Stephen, L. and others (eds.) Dictionary of National
Biography (63 vols.; London, 1887).

Stubbs, W., (ed.) Select Charters 9th. edn. (Oxford,
1951).

Taylor, J., 'The Old Taverns of Surrey', Surrey
Archaeological Collections, 19 (1906) 196-8.

Thirsk, J., (ed.) Agricultural Change: Policy and

Thomas-Stanford, C., An Abstract of the Court Rolls of
the Manor of Preston (Sussex Record Society, 27; Lewes,
1921).

Thrupp, S., The Merchant Class of Medieval London (Ann
Arbor, 1962).

Walters, D. B., 'The General Features of Archaic European
Suretyship' in Charles-Edwards, T. M., Owen, M. E. and
Walters, D. B., (eds.) Lawyers and Laymen (Cardiff,
1986).

Webb, B. and Webb, S., English Local Government (4 vols.;
London, 1908).

Wrigley, E. A., (ed.) Identifying People in the Past