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Records Branch

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FOR THE YEAR 1948

WILTSHIRE  
COUNTY RECORDS

MINUTES OF PROCEEDINGS  
IN SESSIONS

1563 and 1574 to 1592

EDITED BY  
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DEVIZES  
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## PREFACE

The manuscript abstracted in this volume is the property of the Wiltshire County Council, who have graciously sanctioned its publication, and, to that end, have allowed it to lie for several years in the Public Record Office. The Branch's thanks are due for these favours. Deep gratitude must at the same time be expressed to Mr. H. C. Johnson, who with characteristic skill and ingenuity has mastered the numerous problems of a difficult text. If, as may be hoped, Wiltshire county records of a later date are to be printed, it will be no easy matter to find a scholar to maintain the standard that Mr. Johnson has set.

R. B. PUGH

Hampstead

September 1949

## INTRODUCTION

Much has been written in the last half century concerning the value of records of proceedings before Justices of the Peace not only to the professional historian of law and institutions or of social and economic development but also to the increasing number of lay persons interested in the lives and conditions of the predecessors whose names, traditions and, sometimes, surroundings they inherit. Local record societies and county councils, separately or in partnership, have in one county or another published Quarter Sessions records, the principal, though not the only, source of our information for such proceedings. Bibliographies of these publications, of which the most recent and comprehensive are Dr. Elizabeth G. Kimball's *Bibliography of the Printed Records of the Justices of Peace for Counties* (*University of Toronto Law Journal*, vol. VI, No. 2, 1946) and the first appendix of the Historical Association's pamphlet on *County Records* by F. G. Emmison and Irvine Gray (1948), show few counties unrepresented. For Wiltshire an abridgement of the roll of proceedings under the Statute of Labourers in 1349 was published by Miss E. M. Thompson in the *Wiltshire Archaeological and Natural History Magazine*, volume XXXIII (1903-4); the text of the Sessions Roll for 1383-4 was published by Professor B. H. Putnam in her *Proceedings before the Justices of the Peace in the Fourteenth and Fifteenth Centuries* (Ames Foundation, 1938); extracts from the records for the reigns of Elizabeth and James I were printed by R. W. Merriman in the *Wiltshire Archaeological and Natural History Magazine*, volumes XX-XXII (1882-5); extracts from the Quarter Sessions Great Rolls of the seventeenth century were printed in the two volumes of *Records of the County of Wills* by B. H. Cunnington (1929, 1932); and extracts were printed in the Historical Manuscripts Report on the County Records (*Reports on Various Collections*, volume I, pages 65-176).

It is not proposed to give in this necessarily brief introduction an account of the office of the Justice of the Peace. Its earlier history, from the end of the twelfth century to the end of the fifteenth century has been the subject of exhaustive research inspired and led by Professor Putnam, who has set out her conclusions in the Ames Foundation volume mentioned above. Tudor legislation and Privy Council orders affecting the Justices have been summarized from the printed sources by the late Dr. C. A. Beard in his *Office of Justice of the Peace* published in 1904 and by the late Dr. J. R. Tanner in his *Tudor Constitutional Documents* published in 1922. From the seventeenth century onwards the fullest and most authoritative account is that given by Sidney and Beatrice Webb in their *Parish and County*, published in 1906 as the first volume of their great work on English Local Government. The best short accounts of

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the Justices and the county hierarchy of which they were the heads are Sir Hilary Jenkinson's introduction to the *Guide to . . . Quarter Sessions Records* published by the Surrey Record Society in 1931 and S. A. Peyton's introduction to the *Minutes of Proceedings in Quarter Sessions held for the Parts of Kesteven in the County of Lincoln, 1674-1695*, published by the Lincoln Record Society also in 1931.

THE JUSTICES OF THE PEACE IN THE SIXTEENTH CENTURY

The Minute Book with which this volume is concerned is mainly a record of the Justices' work in Quarter Sessions for nearly twenty years in the last quarter of the sixteenth century. These years are of great importance in the history of the office: significant alike to the historian, the archivist and the student of the literature of the subject.

The century that preceded the opening of the reign of Elizabeth had witnessed the consolidation of the Justices' position as principal agents for the preservation of the King's Peace in the counties. Their simple duties of keeping the peace by putting down riots, arresting offenders, and trying indicted persons with a jury in Quarter Sessions had been greatly expanded by statutes; certain governmental and police powers, with authority to convict petty offenders summarily had been given them; and more and more they had supplanted the old county court as the governing body of the shire. Their powers and their due execution of them had become so important that a new literature of manuals came into being to instruct the members of the commissions in their duties. Fifty-seven editions or issues of these works between 1506 and 1599 are enumerated by Miss Putnam in her account of *Early Treatises on the Practice of the Justices of the Peace*.<sup>1</sup> Of these the most famous is Lambard's *Eirenarcha*, first published in 1581. A new edition of this work was made necessary by the reform of the Commission of the Peace in 1590, in which we may see the statement of the developed judicial powers of the medieval justice; since it has persisted in this form—apart from the change of language from Latin to English consequent on the statute of 4 George II, c. 26—down to modern times. Lambard<sup>2</sup> tells us that the old commission had become so overlaid with additions and corrupted in form that the Chief Justice of the King's Bench summoned a meeting of the judges who 'carefully refined' the Commission and presented it as a meet pattern to the Lord Chancellor for his adoption. In its new form the commission contained three clauses, each beginning *assignavimus*, preceded by the salutation naming the Justices. The first clause gave power to each Justice to act in the county to which he was assigned as a conservator of the Peace, to keep the statutes, to punish offenders according to the statutes, to bind over persons of ill-behaviour to the peace and, if they refused to be bound, to imprison them. By the second clause two or more Justices, of whom one of certain specified

<sup>1</sup> *Oxford Studies in Social and Economic History*, volume VII (1924).

<sup>2</sup> Edition of 1594, pp. 41 ff.

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Justices, commonly called the *Quorum*, must be one, were authorized to hold their Sessions and exercise judicial powers; namely, to inquire of felonies, poisonings, witchcrafts, trespasses, forestalling, regrating, engrossing and extortions, unlawful assemblies, crimes against the person, the misconduct of innkeepers and victuallers, false weights and measures, the misdemeanours of sheriffs, bailiffs, stewards, constables, keepers of gaols and other officials, to inspect all indictments to be made before them and any former indictments remaining undetermined, to make process against indicted persons, to hear and determine all felonies and the other offences mentioned above according to the statutes and to punish by fines, amercements and forfeitures, judgment in difficult cases being rendered only in the presence of a Justice of Assize. They were to appoint certain days and places for their proceedings, to which the sheriff was ordered to summon juries and witnesses at their direction. By the third clause *assignavimus* the Custos Rotulorum was nominated. He, the principal Justice living in the county and, by this clause, Keeper of the Records of Sessions, with whom by a statute of 37 Henry VIII the appointment of the Clerk of the Peace generally lay, was instructed to bring all writs, precepts, processes and indictments to the Sessions for determination.

Armed with this Commission, the Justices had great judicial and police powers. Four times a year, as required by statute, they held their General Sessions of the Peace for the county and there they exercised a high criminal jurisdiction, empowered to try before a petty jury persons indicted by a grand jury of the county for most offences other than treason. Out of Quarter Sessions they had powers, given by statutes, to try summarily certain small offences, to examine accused persons and to bind them over for trial or to commit them to prison to await trial; and they had acquired large control over the constabulary of the county. But the powers which most distinguish the Justices of the seventeenth century from their predecessors of the fifteenth are administrative. Quarter Sessions, says Maitland,<sup>1</sup> had become 'not merely a criminal court for the county, but also a governmental assembly, a board with governmental and administrative powers'.

The Justices had performed some administrative functions since the middle of the fourteenth century, when the duty of enforcing the Statute of Labourers and fixing legal rates of wages was placed upon them. Later economic legislation added like duties. Administrative action was taken under judicial forms, being largely concerned with the punishment of offenders and restraint of anti-social behaviour rather than with the positive promotion of order; it was the duty of the Justices to punish offences against the people and their quiet, such as might be to the abatement of the general plenty or annoyance of the country and its well-being. Until they had adequate executive machinery and a financial system through which they could provide for necessary undertakings otherwise than by the imposition of fines for neglect of obligations, it was not possible for the Justices to do more.

<sup>1</sup> *Constitutional History of England*, p. 233.

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By the end of the fifteenth century the medieval system of local government in the counties was obsolescent. Economic changes, the disorders of civil war and the encumbrances of ancient franchises rendered it unable to meet increasing social needs. For their new system the Tudor monarchs took as their local unit the ancient ecclesiastical parish, which had its own elected officers, the churchwardens, and its own system of collecting and managing revenues for communal purposes. Its adaptation to secular uses was not difficult: the purposes of the new social legislation had a traditional connexion with Christian piety. The pious works for whose performance the medieval Christian made provision in his lifetime or by his last will included the maintenance of highways and bridges, the deliverance of poor prisoners for debt, the care of the sick and the relief of the poor. Now the state gradually made statutory these duties, for which private benevolence could no longer adequately provide; the local unit for their performance and for financial responsibility was the parish. The new relationship between Church and State created by the Reformation statutes also brought civil duties to the churchwardens concerning offences with an ecclesiastical flavour, notably those arising from ecclesiastical nonconformity. The parochial organization was strengthened by the creation of new unpaid officials, the overseers of the highways and of the poor, and by the gradual assimilation of the old township officers, the petty constables and tithingmen or headboroughs, with their police duties and a rating system which sometimes differed from that of the parish.

The enforcement of this new legislation was made the responsibility of the Justices of the Peace, who acquired an increasing supervision of the parochial officials and frequently their appointment. Accounts were submitted to Justices out of Sessions, and orders in many matters were in the first instance made by them; disputes about liability to serve or the non-performance of duties or refusal to bear office or to pay rates were heard in Quarter Sessions, where presentments of bridges and highways not repaired were also made. For county purposes the Justices gradually acquired their own executive and financial officers. At the beginning of the sixteenth century they had the Clerk of the Peace, who managed the affairs of Quarter Sessions, and their own privately appointed clerks to assist them out of Sessions. They had some authority over the sheriff, and more over his subordinates, the bailiffs of hundreds. The high constables, once elected by the hundred leets, came, as in Wiltshire, generally to be appointed by Quarter Sessions or the divisional Justices, and were the executive officers in the county divisions or hundreds, apportioning the county rates to be collected by the parishes, inspecting highways and bridges for defects, reporting disorderly alehouses and preparing presentments for Sessions. It was their duty to attend meetings of the divisional Justices, give an account of their hundreds and receive and see to the execution of orders. Other officials were statutory, as the several treasurers of the moneys collected for maimed soldiers and mariners, for the King's Bench and Marshalsey, and for the relief of poor prisoners. These were appointed by the Justices and were

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responsible to them. Treasurers for other funds might be appointed as need arose. By the end of the seventeenth century, when administrative experience had matured, county Benches were beginning to consolidate their funds and to appoint one treasurer to receive all county rates and manage their financial affairs.<sup>1</sup> Another county official appointed and entirely controlled by the Justices was the master of the house of correction.

Although it is in the Tudor period and especially in the reign of Elizabeth that the essential steps in the creation of this system of local government were taken, it is not until the end of the seventeenth century that we may regard it as fully established and the Justices of the Peace as rulers of the county. The developments in powers and organization to which we have referred took place over a century and a half of experiment. Not only the Justices but also the social classes from which their officers were drawn had to be trained and acquire administrative experience and judicial methods had to be adapted to non-judicial business or speedier and more economical methods and organization devised. Twice a year the Justices of Assize visited the county. Usually they were judges of the king's permanent courts. Their relations with the Justices of the Peace were close and intimate; normally they were in the Commission of the Peace for the counties of their circuits. Difficult cases and legal cruces were referred to them and much preparatory work in the examination of witnesses in cases to be heard before them was done. The Justices of the Peace were required to be in attendance at the county assizes, where the more important of them sat with the judges. There they received practical instruction in the conduct of cases and procedure generally as well as advice on the interpretation of statutes, and in the judges' charge they received the instructions of the central government regarding matters of general policy, such as the treatment of religious dissent, political unrest, wages, or vagrancy. Higher than the Justices of Assize in the judicial hierarchy were the Judges of the King's Bench who settled the interpretation of statutes and exercised powers to remove and review proceedings begun before the Justices of the Peace. Behind all was the Privy Council, which under the Tudors and Stuarts kept the Justices of the Peace under constant supervision, issuing directions, calling for reports, administering censure, especially active in times of national crisis, but always ready to intervene even in the smallest matter.

The reasons for the effectiveness of the Justices of the Peace in county administration are not difficult to discover. The dispensation of local justice and local government through the agency of country gentlemen was eminently suited to the temper of the times and the English character. They were the best representatives of the community; their qualifications were simple—residence in the county, suitability of moral character, religious conformity, and possession of lands or tenements of the value of twenty pounds a year. They were the natural leaders of the rural communities, but at the same time were

<sup>1</sup> See *Warwick County Records*, volume V, pp. xxxi-xlii; volume VI, pp. lv, lvi.

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not circumscribed by purely rural interests. Many of them were men of affairs; they included judges, officials and practitioners in the central courts and members of the royal household. From among them were drawn Members of Parliament, burgesses and knights of the shire. They also supplied many of the sheriffs; practically every sheriff of Wiltshire throughout the reign of Elizabeth was also a Justice of the Peace, dropping out of the commission for his period of office, if he was already a member of it. The decline in the importance of the sheriff's office, marked by the transfer of many of his functions to the Justices of the Peace and by their acquisition of authority over him and his officers, should not cause us to underrate his personal position in the county. The Bench, and especially its active membership, was composed of men who often had been or could expect to be sheriffs; certain functions had, for their better performance, in effect been transferred to a select body with a continuing judicial and administrative experience, of which the sheriff had been or might be a member, while the ceremonial, executive and other duties which only an individual could perform or which were required of him by statute were left for him to carry out during his year of office. It is evident from the records that the Clerk of the Peace and even the Bench itself did not always remember that the sheriff was not present at Sessions as a Justice; and sometimes he is to be found performing a Justice's non-judicial acts out of Sessions.

Another contributory cause of the effectiveness of the Justices was their distribution over the county in which they served. Although a statute of Richard II limited the number of Justices to be assigned to any one county to eight, by the sixteenth century commissions containing twenty to thirty names were not uncommon. Commissions issued for Wiltshire during the reign of Elizabeth name, apart from peers and notables included *ex officio* in most county commissions, as many as thirty or forty Justices. Thus there were likely to be few parts of the county outside the constant personal supervision of one or more Justices, who could be expected to have a thorough knowledge of local conditions and to exercise in their neighbourhoods the summary jurisdiction granted them in their commission. Attempts were made early in the sixteenth century to organize Sessions to be held by the Justices in each hundred midway between Quarter Sessions to deal with petty offences; and though these attempts were ineffective special Sessions were held from time to time, as we see in Wiltshire, to deal with some matters, usually for a particular division and not for the county as a whole. In the following century, largely as a result of the Privy Council's Book of Orders issued in 1631 to secure better execution of the Poor Laws, it became the rule for the Justices in each division of a county to hold a monthly meeting, at which much routine legal and administrative business was done and where the local officials could be better supervised. Moreover, the Justices were not repressive in their administration. They knew the needs of their communities and tempered the enactments and directions of the central government accordingly. Among them were representatives of all shades of political opinion, apart

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from the recusants: and even the views of the Roman Catholic gentry were not without sympathy on the Benches, whose members often had ties of kinship and friendship with them. Finally, Quarter Sessions served as a general county assembly, drawing to its place of meeting a large part of the population of the county either by necessity or interest, and at it the Grand Jury was able to discuss and bring forward the common needs.

### RECORDS OF QUARTER SESSIONS IN GENERAL

The survival and custody of the records of the proceedings of the Justices of the Peace reflect the administrative changes briefly described above. A suggestive parallel is to be found in the records of the Judges of Assize, whose close connection with the Justices of the Peace has been mentioned. Practically no records of county Quarter Sessions before the sixteenth century have survived in local custody; for the sixteenth century a few counties, and from the seventeenth most, have records in the custody of the Clerks of the Peace. The circumstances of the preservation of the medieval records have been described in considerable detail by Professor Putnam in her Ames Foundation volume. Rolls of the proceedings of whole Sessions survive, mostly for the fourteenth century. These were specially made up from the Sessions files, the majority for the determination of business by the King's Bench during its migrations and returned to London with the records of that court, others in response to writs from the King's Bench or Chancery to which they were the returns. During the fifteenth century the King's Bench rarely left London, and so the proceedings of the Justices were not enrolled for presentation to it; and returns to writs of error, certiorari or terminari were made of the records in particular cases rather than of the proceedings of a whole Sessions. It is probable that proceedings were not generally enrolled and that the records consisted simply of the files of indictments, presentments, bills, complaints, informations, recognizances, proclamations and other original documents produced in or for the Sessions. Although the Custos Rotulorum was charged with the duty of bringing the records to Sessions, no provision appears to have been made for their safe custody in a place assigned permanently for the purpose. It is probable that their actual keeper was the Clerk of the Peace and that when he ceased to hold office he retained such records as he had and that before long they were destroyed or dispersed. An attempt was made in 1547 to impose a statutory obligation for the provision of a repository for the keeping of records in every county; but the Bill introduced into Parliament for the purpose came to nothing. Eleven years earlier an Act had been passed for the enrolment of deeds of bargain and sale by Clerks of the Peace; the practice persisted for about a century, and in many counties the rolls, which are not records of Quarter Sessions although they are in the same custody, are still extant. It is probable that the need to preserve them as documents affecting title to land helped to make Clerks of the Peace and land owners more

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aware of the need for custody under proper safeguards. It might be expected that such awareness would be heightened by the increase in the administrative duties of the Justices and consequently growing importance of their Clerk and his office; good record-keeping is essential to good administration. By the end of the sixteenth century a beginning had been made in many counties; Sessions files, the principal judicial records of the court, were being preserved and continue to the present day. Another normal result of the increase of administrative duties is the subdivision into classes of the main record group and the inauguration of entry books containing decisions and orders. These exist for most counties from various dates in the seventeenth century. For some counties there is evidence that earlier volumes of Order Books than are now known to be extant once existed. The fact that the starting point of Order Books of Quarter Sessions so often is to be found in the first two decades of the reign of James I leads one to suppose that a general direction was issued for their keeping at some time during those years. Such an order would naturally emanate from the Privy Council either directly or through the Judges of Assize. Unfortunately the Act Books of the Privy Council from January 1602 to the end of April 1613 were destroyed by fire and it has therefore not been possible to confirm or refute this conjecture. Evidence of concern about the custody and preservation of the records about this time is forthcoming from Lambard. In the edition of *Eirenarcha* published in 1614 he makes an explicit recommendation which does not occur in the edition of 1594: 'howsoever these Records have heretofore been suffered to lie in the hands of the Clerk of the Peace, and by the death or remove of him have been to seek: yet now the inconvenience being found, and the Records themselves being grown to greater bulk, the same should be lodged in some special and proper room under safe custody and not without an Inventory (or Register) indented, whereof the one part to remain with the Custos Rotulorum, and the other with the keeper of them. . . . And now as this man is (by name and office) keeper of the Records of the Peace, so would it not a little amend the service if he were (in deed also) careful for the due preservation of them and would not loosely leave them (as commonly it is found) to the only custody of the Clerk of the Peace without having any Register of their number and sorts and without appointing any convenient place certain for the more ready search and safe bestowing of them: whereby it falleth out very often that after the death of such a Clerk these Records are hardly recovered and that piecemeal from his widow, servants or executors who at their pleasure may embezzle, misuse or conceal what they will.' It is doubtful whether in any county practical measures were taken to follow Lambard's advice; conditions were much the same in most a hundred years later. Nevertheless the records of Quarter Sessions were preserved in increasing variety and quantity from the early seventeenth century and handed down by each Clerk of the Peace to his successor. The groups and classes into which these records may be divided are set out in detail in the Historical Association's pamphlet on *County Records*.

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### THE WILTSHIRE RECORDS IN 1600

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For a description of the early Wiltshire Quarter Sessions Records, now housed in the County Record Office at Trowbridge, we can turn to a former Clerk of the Peace, R. W. Merriman. 'These records,' he says, 'divide themselves into two chief classes—the minute books, and the great rolls. The minute books, through a part of their currency, are subdivided into separate series of "Orders" and "Entries", between which the rough distinction may be taken that the entries address themselves to criminal and the orders to non-criminal business. The great rolls (of which, in the Elizabethan minutes, mention occurs under the homely title of "Sessions Bundles") consist of files of the several proceedings, the abridged notices of which fill the minute books. The great rolls (one of which was made up for each sessions) form the more interesting series of the two; for the reason that while the minute book may content itself with a somewhat curt entry of a magisterial act, the great roll will probably contain the full text of the order, with the autograph of the acting magistrate, and the depositions or information upon which it proceeded. . . . Unfortunately the series of great rolls cannot be said to have a satisfactory starting-point till the early years of King James the First, so that, as to the quarter Sessions of Elizabethan times, it is from the minute books alone that the inquirer can discover for himself which were the places of assembly—who the attending magistrates—and what the business transacted.'

The Great Rolls or Sessions Files, which consist of miscellaneous original documents pertaining to the business of a particular Sessions, strung together on a strip of parchment or a piece of string, all rolled up tightly within a cover which is usually formed by the Calendar containing the lists of persons whose duty it is to be present at Sessions in whatever capacity, begin in 1603. The first of the Minute Books (AADA/1), with which we are concerned in this volume and which will be more fully described, contains entries for 1563 and from 1574 to 1592. The second Minute Book (AADA/2) extends from Michaelmas Sessions 1598 to Hilary Sessions 1604; the third (AADA/3) from Hilary Sessions 1610 to Hilary Sessions 1616; subsequent volumes carry on the series without break. The second and third volumes have at some date been numbered 1 and 2. This may be taken to indicate either that the earlier book was at some time mislaid or that it was not regarded as a true record of Quarter Sessions or part of the regular series. An examination of the volume and its contents may guide us to a probable conclusion.

### THE MINUTE BOOK

This Minute Book is of great intrinsic interest as a record. So far as has been ascertained from the available lists of county muniments throughout the country it is the earliest existing document of its kind, and the only Minute Book of transactions in county Quarter Sessions for

<sup>1</sup> *Wiltshire Archaeological and Natural History Magazine*, volume XX (1882), p. 323.

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the period before the reformation of the Commission of the Peace in 1590. The evidence it contains of business done at Assizes and Special Sessions of Justices of the Peace is of interest because it is unusual. In it we can see the growth of an administrative record from its inception; its interest is not adventitious or spectacular, it does not depend on occurrences of great names or the light it throws on social or political conditions, but on what it reveals of the working of the administrative machinery of local government at a critical stage in its expanding development. That there are tantalizing reticences, unexplained phenomena and unsolved problems will surprise no one who is familiar with administrative history; we must regret the loss of the contemporary Sessions Rolls and lack of other records which might have elucidated the obscurities which for the present baffle us.

The book is a folio volume of 153 folios of laid paper measuring approximately twelve inches by eight. It is probable that the first folio is either not part of the original volume or is all that remains of its original first gathering. There are nine gatherings of eight sheets and one of four. Little of the original sewing remains and of the cover we have only two scraps of parchment, one of them part of an indenture between John Dautesey of West Lavington and members of the Phipp family, sewn together and probably used to stiffen one half. The watermark (one on each sheet) is a form of the 'pot' watermark common in certain papers manufactured in France in the sixteenth and seventeenth centuries. The first folio is much mutilated and has been used for pen trials. The remaining folios are all more or less worn at the edges. They will shortly be repaired and restored and the volume will be rebound. There is no trace of contemporary numeration either of pages or of folios; a lightly pencilled page numeration has been made for the purposes of this publication. A slip of paper inserted after page 4 has been numbered 4a.

It is probable that the volume, apart from the first folio, was bound before the entries were made. As will appear later, it is in two parts, the first a Register of Badgers from St. Thomas Sessions 1574 to Epiphany Sessions 1589, and the second a Minute Book of Proceedings from Michaelmas Sessions 1575 to Michaelmas Sessions 1592. The Minutes begin on page 69, that is on the second folio of the third gathering, and the writing of the Register is more crowded as it approaches the end of the space allotted to it: its final entries have been blotted on the opposite page, the first of the Minutes. After Epiphany Sessions 1589 entries of Badgers' recognizances are made in the Minutes.

The entries appear to have been made at or about the time of the Sessions to which they refer. The writing is in various hands, mostly in 'secretary' style. Some are neat and careful, but most are hastily written and ill-formed: some are those of the successive Clerks of the Peace.

The compilation of the Register of Badgers with which the volume begins is a direct result of the Statute 5 Elizabeth, c. 12. Badgers were persons licensed to buy corn and other victuals in one place and to carry them elsewhere to sell at a profit; they were exempt from the

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punishment laid down for engrossers. The statute 5 and 6 Edward VI, c. 14, had entrusted their licensing to any three Justices of the Peace, but the Act of Elizabeth restricted this power to the Justices in Quarter Sessions. Applicants for licences had to be not less than thirty years of age, householders and married; the duration of the licence was for one year and the badger was required to enter into bail for his compliance with the terms of the statute. The penalty for unlicensed trading was five pounds and the total bail of principal and sureties together or of the principal alone if no sureties were required amounted to not less than this sum. The Clerk of the Peace was directed to keep a register of persons licensed. The Wiltshire Clerk, Christopher Dysmers, was prompt in his obedience and started his register at the St. Thomas Sessions after the passing of the Act. The mutilated first leaf of our volume contains the entries of recognizances taken at that and the next Sessions. There follows a gap of nearly eleven years, the next entries being for the St. Thomas Sessions of 1574, when Walter Berington was Clerk of the Peace. A loose slip of paper dated '13 January 1574' (*i.e.* 1575) signed by Berington contains a list of badgers allowed by the Justices for certain towns and hundreds at Epiphany Sessions 1575; most of them occur in the register of recognizances for the same Sessions, others are registered at later Sessions. It would therefore appear that not all the badgers approved at any Sessions by the Bench took out their licences, or else that the registration was incomplete. The register continues to Epiphany Sessions 1589, more or less well kept; from Easter Sessions 1582 a few notes of recognizances and licences for other victuallers and some other entries intrude. As we have seen above, the space allotted in the volume to the register was used up at Epiphany Sessions 1589 and entries of badgers' recognizances taken at later Sessions are to be found among the Minutes.

At Michaelmas Sessions 1575 the same Clerk of the Peace began to use the register of badgers for the entry of notes of General Sessions business and so began a new record class, the Minutes of Proceedings. In this, its rudimentary form, the Minute Book is something more than a record of Quarter Sessions. The administrative office to which it owes its origin is not solely that of the Justices of the Peace. Besides the notes of proceedings in Quarter Sessions it contains notes of business done at five Special Sessions of Justices, two being upon the Statute of Labourers of 5 Elizabeth, and twelve sittings of the Assizes from 1576 to 1585. It is also something less than a record of Quarter Sessions. Its entries are for the most part jejune and often tell very little of the particular details of the judicial business of the Bench; they are concerned with persons rather than with matters. Fines are recorded, but the offences for which they were imposed are not stated; recognizances for appearance are entered, but the charges to be answered are not specified. No return to a writ of certiorari could be made from the information here given: yet the making of such returns requires information which the records of the Sessions should supply. Clearly the administrative origin of the record lies not in Quarter Sessions, but

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in the office of the Clerk of the Peace himself. It is his notebook, compiled by him or his clerks, containing his memoranda of the decisions of the court, of things done and, even more, of things to do, the gist of orders to be drawn up, warrants to be issued, recognizances taken and discharged, indictments and presentments respited and discharged, appearances, traverses, the issue and stay of process, committals and discharges of offenders, examinations, the names of high constables appointed, sworn and discharged, notes of fees owed and received, and of fines paid and imposed, notes of the delivery of the summons and precepts for the next Sessions, and personal and office memoranda. Its purpose is to remind the Clerk of work to be done, documents to be drawn up or issued, fines and fees to be collected : hence its preoccupation with persons. In course of time its value as a place where orders of the court could be entered for future reference was appreciated, and its successor, the Minute Book for 1598 to 1604, from 1601 assumed a new form, the various classes of entry being grouped together, as recognizances, process, orders ; the informality disappears and the record may be properly considered a record of Quarter Sessions rather than of the Clerk of the Peace.

The informality of our document is most noticeable in its earlier part, up to the year 1580, contained in pages 15 to 60 of the printed text. It is on these pages that we find most of the personal memoranda, references to ' my masters ', fees ' owed to me ', ' memorandum to call on . . . ', ' my brother ' and the like. Some of these notes appear to have been written by the Clerk of the Peace himself, others by his clerk. The entries ' I was willed to enrol ' and ' paid by my master for the Justices' diet ' on page 52 are written by different hands. This part of the book records proceedings during the time Walter Berington was Clerk of the Peace and it is reasonable to conclude that we are indebted to his business sense for what proved to be the beginning of a new record series.

THE CLERKS OF THE PEACE

At the end of the sixteenth century Lambard tells us concerning the appointment of the Clerk of the Peace that ' the nomination and appointment of him hath long belonged to the Custos Rotulorum, and he is to enjoy his office so long as the Custos Rotulorum keepeth his place . . . This office was for a time given by the king's letters patent for term of life, as that of Custos Rotulorum was until the statute 37 Henry VIII, c. 1, recontinued the ancient order of giving it by the Custos Rotulorum.' The Clerk of the Peace for Wiltshire in 1563, Christopher Dymers, was appointed by royal letters patent dated 3 July 1537,<sup>1</sup> nine years before the statute restored the appointment to the Custos Rotulorum ; by the same grant he was also appointed clerk of the crown for the county. Within the following year he received a grant of tithes in Winkfield and Staverton<sup>2</sup> and in 1543 he had a grant

<sup>1</sup> *Calendar of Letters and Papers, Henry VIII*, volume XII, Part 2, p. 166.  
<sup>2</sup> *ibid.*, volume XIII, Part 1, p. 586.

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of the manor of Lockeridge and lands in ' Barwyke ', Overton and Fyfield,<sup>1</sup> where he was living at the time of his death, probably shortly before 22 April 1567.<sup>2</sup> Subsequent appointments are less easy to trace. They were made by the Custos Rotulorum and no public record was kept of them. The Custos was probably the earl of Pembroke, who was also Lord Lieutenant, and, as we shall see, he had some connexion with at least one of the Clerks of the Peace.

By statutes of Richard II the Justices of the Peace below the rank of banneret were paid wages of four shillings, and their clerk two shillings, a day for the time of their attendance at Quarter Sessions out of the fines and ameracements arising and issuing out of the same Sessions. Payment was made by the sheriff and indentures were made witnessing it. The sheriff produced his indenture on his account at the Exchequer as evidence supporting his claim to an allowance of the amount paid, and the details contained in it were entered on the Pipe Roll recording the audit of the account. From the Pipe Rolls preserved among the Public Records it is therefore possible to recover a list of the Justices of the Peace below the rank of banneret attending Quarter Sessions and of their clerks, with the number of attendances made, for those years in which the sheriff claimed allowance for their wages. Such allowance does not appear to have been claimed by the Wiltshire sheriffs in six of the years from 1578 to 1588, so that the list of Wiltshire Clerks of Peace for the period of the Minute Book lacks complete certainty. So far as has been ascertained the succession was as follows. Walter Berington probably succeeded Dymers in 1567 and held office till the Easter Sessions of 1580.

Berington was the second son of William Berington of Reading, was admitted a member of Gray's Inn in 1547 and was described as of Sutton [Veny] in November 1573 when he was named executor of William Bennett of Norton Bavant.<sup>3</sup> He was succeeded by Robert Strensham, who held office from July 1580 to Epiphany Sessions in 1581, if we may correctly assume that the writing of the word ' Strensham ' at the heading of the Minutes for the July and Michaelmas Sessions 1580 and Epiphany Sessions 1581 indicates that he was then Clerk of the Peace. From Easter Sessions 1581 to Michaelmas Sessions 1582 William Staples was Clerk. Strensham then appears to have resumed the office, which he held till the Easter Sessions of 1587. Staples was again Clerk from July 1587 to the Michaelmas Sessions of 1588. He was succeeded by Daniel Appleford, who was still in office at the end of 1592.

Strensham, whose name is variously spelled Strainsham, Stransume, Stransham and Streynsham, was born in 1535, the son of George Strensham, afterwards mayor of Faversham in Kent. He was elected a

<sup>1</sup> *Calendar of Letters and Papers, Henry VIII*, volume XVIII, Part 1, p. 539.  
<sup>2</sup> *Survey of the lands of William, first earl of Pembroke* (Roxburghe Club), volume I, pp. 142, 251.  
<sup>3</sup> The biographical details of Berington and his successor, Strensham, have been supplied by Mr. R. B. Pugh. For Berington see *Visitation of Berks*, 1566 (Harleian Soc., LVI), *Gray's Inn Admission Register*, p. 20, and *Wiltshire Notes and Queries*, volume VI, p. 184.

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fellow of All Souls College, Oxford, in 1563, and admitted to the degree of bachelor of civil and canon law in that university in 1568. In 1578 he married Frances Wightman of Harrow-on-the-Hill, by whom he had two daughters. He held by lease or purchase from his college between 1575 and 1591 lands and woods in Edgware, Kingsbury and Hendon in Middlesex and was the lessee of the rectory of Ospringe in Kent. He died and was buried at Ospringe in 1605. On his monument he is described as secretary (*amanuensis*) to William first earl of Pembroke, who, it is elsewhere claimed, 'rayseed his fortunes'. After Pembroke's death in 1570 only two facts have been noticed to connect Strensham with Wiltshire: in two All Souls deeds of 1575 and 1576 he is described as 'of Wilton', and his second daughter married a man from Newton Tony, about nine miles from Wilton. He devised no lands in the county.<sup>1</sup>

In 1581 Staples appears as an attorney to deliver seisin at Amesbury.<sup>2</sup>

It is possible that Berington and Strensham were also clerks of the crown for the county: and that for that reason notes of business at Assizes were entered in the Minute Book for every year from 1576 to 1585, except for 1581. The presence of such notes in the Book is puzzling; such records of Assizes business at this date are rare, if not unique. The matters dealt with are such as commonly occur among the Minutes of Quarter Sessions and have no special interest, except the note of the resolution of the Grand Jury at the Lent Assizes of 1579, to which the jurors' names are subscribed, approving the amount of the corn rated on the county for the Queen's Household and asking that impropriations as well as the lands of the gentry should be fairly assessed towards the payment. It is possible that the explanation of these entries is to be found in Lambard's statement that 'Justices of Gaol Delivery . . . leave with the Clerk of the Peace indictments and such causes of the Peace as be not determined but do hang in process, to the end that offenders may be more speedily justiced'.

THE PROCEEDINGS IN QUARTER SESSIONS

The Justices were required by statute to hold four General or Open Sessions of the Peace each year; and each Sessions was to last three days, if necessary. The times of these Quarterly Sessions were appointed by the Act 2 Henry V, c. 4, to take place during the week following each of the four feasts of the Epiphany, the Close of Easter, the Translation of St. Thomas the Martyr (July 7th) and St. Michael the Archangel. Perhaps through declining respect for the feast of the English martyr, the third Quarter Sessions of the calendar year appears often to have been

<sup>1</sup> For these biographical details see *Archaeologia Cantiana*, volume XX, p. 61 note; Master, G. S., *Notices of the Family of Master* (privately printed, 1874); *Register of the University of Oxford* (Oxford Historical Soc.), vol. I; *All Souls College, List of Fellows, 1438-1937*; Martin, C. T. (editor), *Archives of All Souls* (London, 1877).

<sup>2</sup> Pugh, R. B., *Antrobus Deeds*, No. 117.

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held at other than the appointed date; in some counties, in the week following Trinity Sunday. In Wiltshire it was commonly held eleven weeks after the Easter Sessions. No direction was given by statute for the place of meeting. In some counties this was invariably the county town; in others, probably for reasons of convenience, several towns were used. Among the latter counties was Wiltshire, where the principal Sessions towns were Salisbury, Warminster, Devizes, and Marlborough; occasionally the court sat at Trowbridge, Calne or Chippenham. During the period covered by this volume the Epiphany Sessions invariably took place at Salisbury; the Easter Sessions was held at Warminster until 1586, after which year it was held at Devizes. From 1574 to 1586 the St. Thomas or Summer Sessions was held eight times at Devizes, twice (including once by adjournment from Devizes) at Salisbury, three times at Trowbridge, and once at Calne, while the Michaelmas Sessions was held at Devizes, except in 1574 and 1575, when it was held at Marlborough, and in 1579, when it was held at Chippenham. From 1587 to 1592 the Summer Sessions was at Warminster, except in 1592, when it was at Calne, and the Michaelmas Sessions was at Marlborough.

Special Sessions under the Statute of Labourers of 5 Elizabeth were held at Trowbridge on 4 January 1579 and at Warminster on 4 June of the same year; other Special Sessions, which may have been adjournments of Quarter Sessions, were held at Salisbury on 11 August 1584 and 1 December 1592 and at Hindon on 20 October 1586.

About fifty Justices are named as having attended Sessions during the whole period, attendances varying on single occasions from about six to twelve. Their names may be found in the Index of Subjects under the heading 'Justices of the Peace'.

The Sessions was summoned by a precept addressed to the sheriff under the hands and seals of at least two Justices of the Peace, one of them being of the Quorum. In Wiltshire the precept appears to have been issued by the Clerk of the Peace as soon after the end of the preceding Sessions as he had prepared his process writs, which he sent along with it to the sheriff or his officers. Memoranda of the transmission of these documents occur at the end of the Minutes for seven Sessions in this volume. It was the sheriff's duty to proclaim the Sessions, to cause all officials and others having business there to be warned to attend and to summon the jurors.

There were three kinds of juries, two of them, the Grand Jury and juries of hundreds and liberties, being juries of inquiry or presentment, chosen from the most sufficient freeholders of the county, members of the Grand Jury being generally of higher social status than the hundred jurors. The function of the Grand Jury was to consider criminal bills of indictment preferred to it after being drafted and engrossed in the office of the Clerk of the Peace at the instance, generally, of the Justices before whom the offenders had first been charged. The jurors heard sufficient evidence for them to decide whether there was a prima facie case for trial. If they thought there was, the bill was endorsed *Billa Vera*, but if not, it was endorsed *Ignoramus*. They also made presentments of decayed bridges, public buildings, unrepared highways and other nuisances,

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misdeameanours of local officers, cottages erected and continued contrary to the statute of 31 Elizabeth, c. 7, recusants, unlicensed victuallers, seditious persons and other offenders. Their social and often official status made it possible for them to be considered and treated as a consultative body in matters concerning the general welfare and administration of the county. The juries of hundreds and liberties were juries of presentment which brought to the notice of the court defaults within the hundred or liberty similar to those presented by the Grand Jury for the county. Their presentments were to be brought engrossed on parchment: the bailiff of Branch and Dole hundred was amerced at Epiphany Sessions 1579 for failing to observe this rule.

The third jury was the jury of trial, the petty jury; whose duty was to declare by its verdict the guilt or innocence of the persons put to trial.

Absence without leave from the jury and the disclosure of its secrets were punishable by fine. At Michaelmas Sessions 1591 Wiltshire jurors guilty of the former offence were fined one shilling each: and at Easter Sessions 1579 the court threatened a writ of distraint against defaulting jurors. In the latter case it appears that the jury had to be made up from the qualified persons present in court, *tales de circumstantibus*. Four persons returned in the Grand Jury were fined twenty shillings each at Michaelmas Sessions 1575, presumably for failing to attend the Sessions.

After the ceremonial opening of the Sessions the sheriff made his return of the precept and process directed and delivered to him, with the Calendar containing the names of the persons summoned to attend the Sessions and the prisoners to be tried, with the charges upon which they had been committed. The Crier called over the names of the officials who should be present and marked their names as they answered. Defaulters absent without good excuse were fined, as, for example, the bailiff of Chalke hundred at Epiphany Sessions 1579. Thereupon Justices of the Peace and other officials having any inquisitions or recognizances whereby they had let persons to bail or examinations taken since the last Sessions were called upon to put in their records. Then the juries of presentment were sworn and the court was ready to hear the Articles of the Charge. These were a lengthy rehearsal of the purposes and jurisdiction of Quarter Sessions and the duties of the jurors, with a classification and definition of the offences to be dealt with and citation of the relevant statutes. The charge was usually given by the Custos Rotulorum or a Justice assigned by him for the purpose. There is extant a copy the 'charge to be given by a Justice of the Peace in the Quarter Sessions, A.D. 1580' among the papers of the Marquess of Bath at Longleaf. It is printed at length in the *Wiltshire . . . Magazine*, volume XIV (1874).

In describing the business of Sessions as it is recorded in the Minute Book, it is convenient to follow the systematic order of the entries established in 1601. This does not correspond strictly with the order in which business was taken, but may help to an understanding of what was done.

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First are the recognizances, which fall into three groups, those taken in court at the preceding Sessions, those taken since the last Sessions by Justices and delivered by them, as we have seen, before the giving of the Charge, and those taken in court at the current Sessions. The recognizance was a declaration, written in Latin, that the principal, described by his name, address and occupation or social rank, acknowledged himself indebted to the queen in a certain sum and that other persons, also described in the same way, were bound in certain sums as his sureties, with the condition, written usually in English, that if specified conditions were fulfilled, the recognizance should be void. The usual number of sureties was two and the amount in which each of them was bound was usually half the amount in which the principal was bound. The recognizance was a much used instrument in administration and the keeping of the peace. It gave some small assurance of the responsibility of the person bound and of his credit with two at least of his neighbours; he had some standing in the community and was not under the universal condemnation of popular opinion. So badgers, innkeepers and other licensed victuallers were bound to observe the statutes governing their trade; persons suspected of offences were bound over to appear for trial; neighbours were prevented from pursuing private vengeance by being bound over to keep the peace; contentious persons, and those whose manner of living and morals engendered dark suspicions against them were bound to the good behaviour, *ad se bene gerendos*, to do nothing that might lead to a breach of the peace. The recognizance was a useful means of controlling suspected or accused persons without committing them to gaol and so filling the prisons with persons awaiting trial for petty offences: it was also a source of profit to the Clerk of the Peace; the entries in the Minute Book illustrate his interest in the fees payable for the bond itself, for its renewal and for release or discharge from it. The discharge or renewal of recognizances on appearance was noted at the appropriate Sessions with the words, usually written in the margin of Minute Book, *comparuit et relaxatur* or *comparuit et traditur ultra*. Default of due appearance is noted by *defaltam fecit*.

Next comes the criminal business proper of Sessions, the delivery of the gaol and the indictments and presentments of the current Sessions. The gaoler brought in the prisoners and the Court proceeded to their trial. The more important cases were usually reserved for the Assizes, Quarter Sessions seldom trying anything more serious than larceny. If the prisoner pleaded guilty, the Clerk wrote over his name in the indictment *cogn'* (i.e. *cognovit*), but if he pleaded not guilty, the Clerk asked him how he would be tried. If he said 'by God and the Country', that is, by a jury, the Clerk wrote *po. se.* (*ponit se*) over his name. If he refused to plead, the words *stat mule* were written and judgment entered against him by *nichil dicit*. When sufficient prisoners had been arraigned the sheriff returned a petty jury and the cases were heard. If the accused was found guilty *cul.* (*culpabilis*) was written after the *po. se.*; if he was found not guilty, *non. cul.* was written. The formal questions were

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then asked whether the convicted person had any goods, to which the answer was usually 'none' and *cal. null.* (*catalla nulla*) was written, or whether he had fled, to which the answer was usually 'no' and *nec retraxit* was written.

Then followed the hearing of the traverses. These were the defences objected against indictments for trespasses, maims, batteries, decays of highways and bridges and other lesser offences. The accused entered into recognizance to prosecute his traverse on an indictment of the current Sessions at the next Sessions. He might by his counsel take exception to the insufficiency of the indictment, which might be quashed if the court saw fit, as at Easter Sessions 1577, when an indictment against Quidhampton tithing was declared void because the way, for non-repair of which the inhabitants were indicted, was not described as a queen's highway. The accused might also demur against the evidence. When traverses for the current Sessions had been dealt with the Clerk called upon the persons bound at the last Sessions to prosecute their traverses then and they were tried by a jury in the ordinary way.

Persons who did not appear to traverse the indictments against them were summoned by process of the court. A writ in the queen's name, witnessed by two Justices of the Peace during the Sessions, was directed to the sheriff, requiring him to cause to come (*venire facias*) or to take (*capias*) and bring before the next Sessions the defendant or defendants named. 'Process,' says Lambard, 'hath its name because it proceedeth (or goeth out) upon former matter, either original or judicial'; it describes the means used to bring an accused person before the court unless he comes gratis or to answer his bail. Upon an indictment for felony process was usually a writ of *capias*, followed when necessary by a *sicut alias capias* and an *exigi facias* or writ of outlawry. Process upon indictments for lesser offences was a writ of *venire facias*, followed when necessary by a *distringas* or writ of distraint, if the offender was returned as having sufficient goods, and by a *capias* and so on if the return was *nichil habet*. At the calling of process persons discharged upon appearance were put out of process.

The statutes prescribed a formidable array of punishments, but there is little evidence of severity in the Minute Book. The court did not deal with the greater felonies, for which the more severe penalties were inflicted. Corporal punishment was administered to the parents of bastard children, who were flogged, and to a vagrant, who was branded on the ear. Otherwise offenders were fined, mostly in small sums. For the most part no indication is given of the offences for which fines were inflicted. For offences grounded upon statutes there was a prescribed penalty, but this could be, and generally was, mitigated. In practice, if the party came into court before conviction, protested his innocence, that is, traversed the indictment, and put himself on the mercy of the court, it was customary for the Bench to impose a much lighter fine. In some cases the statute left the fine to the discretion of the Justices, who taxed, that is assessed, the amount to be paid. Fines payable to the crown were, at the end of the Sessions, entered into a roll called the

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Estreat Roll, that is the roll of fines extracted from the proceedings of the court, which was sent into the Exchequer against the audit of the sheriff's account.

Finally there is the administrative business of the court. This includes orders made concerning the court's own procedure, the appointment of officials, particularly high constables of hundreds, the apportionment of rates, licensing of badgers, victuallers, cottages, beggars, and sellers of cloth, the making of market regulations, orders for the execution of the laws concerning relief of the poor, the maintenance of bastard children, the employment of vagrants and apprentices, the repair of highways and bridges, the execution of statutes and directions of the Privy Council concerning recusancy, the defence of the realm, purveyance for the Royal Household and collections for captives in Turkey, the erection and management of the house of correction at Devizes, the repair of the gaol and the relief of the prisoners there. Here also should be mentioned the reference by the Bench to Justices out of Sessions of the settlement of matters in dispute, the investigation of complaints and the performance of administrative duties; sometimes to a single Justice, sometimes to two, three or four Justices, and sometimes to the Justices of a division. Occasionally persons not in the Commission were appointed to assist. By this means great saving of time at Sessions could be effected for those on whom attendance was incumbent, but whose interest in much of the business was slight, while the Bench was enabled to take cognisance of all matters of which it should be informed. Opportunity was given in non-criminal matters for the ending of some disputes by compromise without the formality and strife of a court of law; in others the careful investigation of the facts was entrusted to local Justices who could report their findings and offer their advice to their colleagues at a later Sessions; in others the necessary action was left to the discretion of the local Justices. In administrative matters may be seen the operation of the committee system, later to be greatly developed as a necessary part of local government organization.

Mention has already been made of the statute requiring the enrolment of badgers, to which the Minute Book owes its origin. The effects of other Elizabethan legislation on the work of the Justices are to be noted throughout the book. Of particular interest is their administration of the various Acts concerned with the problem of the poor, precursors of the statute of 1601. References occur to the imposition of rates for the relief of parochial poor and of prisoners in the gaol and the duty to serve as collector under the Act of 1572; to the punishment and control of vagrants provided for by the same Act, but particularly numerous ten years later; to the care and apprenticing of poor children, the maintenance of those born out of wedlock and the punishment of their parents and to matters of settlement, where administrative practice anticipated the provisions of the statute of 1662. The Act of 1576 for the setting up of houses of correction was followed in 1578 by action directed to the establishment of the County House at Devizes. The concern of the central government with the effects of rising corn prices is reflected in regulations

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issued at the Warminster Sessions of 1576. Licences for the erection of cottages by authority of the Act of 1589 are numerous and begin in 1590. The background of this activity in the care of the poor may be studied especially in Miss E. M. Leonard's *Early History of English Poor Relief*. Measures to be taken to carry out the instructions of the Privy Council concerning the prosecution of recusants are noted in the Minutes of Michaelmas Sessions 1578, and interesting references to protestant and papist dissenters occur. Reference is also made to purveyance for the Queen's Household and to measures for defence against the threatened Spanish invasion in 1588; more light is thrown on these topics and the military duties of Justices by letters and papers of the earl of Pembroke, Lord Lieutenant of the county, printed from the Longleat papers in the *Wiltshire . . . Magazine*, volume XIV, pages 237 to 253.

For an analysis of the matter dealt with in the text the reader is referred to the Index of Subjects: matters, however, to which the only alternative to a forbidding string of numbers would be the helpless word *passim* are there omitted. These include recognizances of the peace and good behaviour and bonds to appear to answer or prosecute charges or to give evidence and their discharge, references to issues, process and its stay, appearances, binding over, traverses, warrants of the peace, fines on traverse, fines taxed or discharged, and the payment of or liability for fees.

## EDITORIAL METHOD

The first page of the Minute Book has been printed in an extended transcription of the abbreviated Latin text; the second page has been calendared in English. The register of recognizances from 1574 to 1589 has been presented in tabular form. The first table contains a list of badgers arranged in the alphabetical order of their surnames, the names of their sureties, where known, being given in the second column, and the Sessions at which their recognizances were entered in the third. The second table contains a list of other victuallers similarly arranged. A few stray minutes entered in this part of the manuscript are calendared with the minutes proper. The remainder of the text, the minutes of general business done in Sessions and Assizes from 1575 to 1592, is presented in a combination of calendar and transcript. The original is written in a mixture of rather corrupt Latin and English. The formal entries, most of which are in Latin, have been generally abstracted in English, except where no saving of space would be thus secured; the classes of entry treated in this way are the notes of recognizances, fines taxed, warrants of the peace, traverses, elections of high constables, licences, some stays of process and the Sessional headings. Separate successive entries in the same form, such as notes of fines, elections, recognizances, have been combined into single entries. Most of the English entries and Latin orders beginning 'ordinatur' or 'ordinatum est' have been transcribed in full. Entries and parts of entries so transcribed have been placed between single inverted commas: in them

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the spelling of the original has been retained, but in punctuation and the use of initial capital letters modern conventions have been followed. Marginal entries have been transcribed in full and printed in italics, except where they add nothing to the information given in the body of the entry, when they have usually been omitted. Except for the abbreviations *l. s. d.* nothing has been italicized merely because it is in Latin. Crossings out, false starts and alterations in the original have been noticed when they appeared to have interest or significance, but omitted when in the Editor's judgment they represented no more than corrections of clerical errors. Some entries are marked by marginal dots, probably to show that action was taken or payment made; but, since no systematic method could be identified, and recognition was in many cases uncertain, it has been thought proper to ignore such marks in this edition.

The General Editor, Mr. R. B. Pugh, to whom the editor unconditionally acknowledges himself indebted not less for his patient forbearance than for aid and encouragement abundantly given, has compiled the Index of Persons and Places, a task of considerable difficulty in a publication of this sort, involving much research and bringing many disappointments. He has contributed a note on this Index, with which this Introduction closes.

In Wiltshire there is a relatively large number of places that have the same name. Some, it is true, have different *cognomina* and of these some are adjacent, like the Lydiards, and some are not, like the Fishertons. It has seldom seemed worth while on the present occasion to spend much time in trying to identify adjacent places of the same name where no *cognomen* was given in the text. Greater pains have been taken with those homonymous places that lie apart, but the effort has mostly been unrewarding. All too many places, therefore, have had to be marked 'unidentified'—a term which has been used indifferently for those few places that could not be found at all and those that could have been identified with any one of one or more homonyms. Places are usually identified through their association in the text with persons otherwise known to have held land in or to have lived in them. This process, however, is rendered hard where the persons are, as so often in the present text, of small social stature; for in such circumstances the occurrence of their names in other published documents is rare. *The Place-Names of Wiltshire* (English Place-Name Society) has as usual been taken as the standard for the spelling of place-names and their location in hundreds. All places are to be understood to be in Wiltshire unless the contrary is stated.

Problems of equal difficulty have characterized the identification of persons. Many personal names recur with varying addresses and additions, or with none. These have been brought together or not rather by instinct than principle. It may, however, be said that in cases of doubt the tendency has been to keep persons of the same name apart.

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Thus one is more likely to find the same man in two or more entries than two or more men in the same entry. But even this principle is hard to observe without caprice and the reader must not trust too implicitly—or castigate too severely—the indexer's implied conclusions.

Repetitions of the same personal or place-name on the same page have not been noticed.

WILTSHIRE QUARTER SESSIONS  
RECORDS

MINUTE BOOK, 1563 AND 1574 TO 1592

[*p.* 1 and 2] ENTRIES OF BADGERS' RECOGNIZANCES MADE  
AT THE ST. THOMAS AND MICHAELMAS SESSIONS 1563.<sup>1</sup>

[*p.* 1] Sessio pacis tenta apud Chippenham in comitatu predicto die lune [xij<sup>o</sup> die] Julii anno regni Elizabethæ dei gracia Angliæ Franciæ et Hiberniæ regine [fidei defensoris etc.] quinto coram Edwardo Baynard Nicholao Snell Edwar[do] . . . . . Egidio Estcourt Johanne Penrudd'.

Manuceperunt pro Johanne Brewer de Castell Combe in comitatu [predicto] Willelmus Whyte de Fyflhed in comitatu predicto husbandman [et] . . . . . Hawkyns de Castell Combe in comitatu predicto husbandman [quilibet eorum in] pena quinque marcarum et pars . . . . . marcarum solvendarum ad usum dicte domine regine se[cundum] effectum statuti.

Johannes Fluellyn de Rowde in comitatu predicto husbandman pro se[ipso] . . . . .

Thomas Wattes de Pottren in comitatu predicto husbandman pro se[ipso] . . . . .

Thomas Collyns de Idmeston in comitatu predicto husbandman pro sei[ps]o . . . . .

Robertus Shoring de Netleton in comitatu predicto husbandman pro seip[so] . . . . .

Johannes Upton de Potren in comitatu predicto husbandman pro seip[so] . . . . .

Willelmus Peirs de Woorton in comitatu predicto husbandman pro seip[so] . . . . .

Walterus Feltham de Barwycke Sancti<sup>2</sup> Jacobi in comitatu predicto laborer pro seip[so] . . . . .

Johannes Hobbyus de Woorton in comitatu predicto husbandman pro sei[ps]o . . . . .

Robertus Flower de Mylkesham in comitatu predicto husbandman pro sei[ps]o . . . . .

Walterus Sawnders de Pottren in comitatu predicto husbandman pro seipso . . . . .

Nicholaus Russell de Kynton in comitatu predicto husbandman pro seipso . . . . .

Johannes Lancaster de Lacoche in comitatu predicto husbandman pro [seipso] . . . . .

Johannes Brewer de Castell Combe in comitatu predicto husbandman . . . . .

<sup>1</sup> p. 1 is transcribed in full; p. 2 is calendared.

<sup>2</sup> *M.S.* sancte.

The fine of Erasmus White and Thomas Davies is taxed by the court at 10s. each, ' wherof receved xs. and the rest to be payd by White upon the word of Mr. Hussey.' 20s. payd.

Fines taxed by the court—of Thomas Tytford at 2s., of John Slade, at 12d., and of the hundred of Mylksham and Scene at 5s.

*Domus tiplacionis.* John Rychman bound in 100s., and his sureties, John Somner and Thomas Parker, both of Scene, yeomen, each in 66s. 8d., for an alehouse.

Fines taxed by the court—of Richard Fry alias Cawlston, John Frye alias Cawlston and Alice Frye at 12d. each on protest of not guilty, of William Lewes, clerk, William Webb and William Chaterton the younger at 2s. each, of Robert Whittock at 12d., and of Jeremy Potecary at 2s.

[p. 127] *Pro domibus tiplacionis.* John Fletcher of Ashton Keynes, smith, and John Pannell of Pirton, husbandman, bound as appears before in the record etc. and now continued. John Clark of Helmerton, butcher, bound in 5l., and his sureties, Richard Barnard and Thomas Seveacre of Goatacre, husbandman, each in 50s.

The fine of Matthew Spenser of Imber, yeoman, Thomas Bradlye, Nicholas Baylie, John Stobbyn, William Warren, Philip Mynturne and Alice Forde is taxed at 12d. each on an indictment for forcible entry.

' Memorandum to make prosses against Tanner.'

Richard White of Ashton Keynes, husbandman, bound as appears before in the record etc. and now continued.

*Pro domo tiplacionis.* William Comfort of Edington, tailor, bound in 5l., and his sureties, Thomas Adlam, tucker, and Henry Noble, weaver, both of the same, each in 50s.

The fine of William Comfort is taxed by the court at 12d.

The fine of Henry Chevers the elder, Thomas Page, Roger Chevers, Henry Chevers the younger and John Swayne, who plead not guilty to an indictment for riot, rout and forcible entry, is taxed at 12d. each.

*Orders—1.* ' It is now agreed that the Justices of the Peace within every of their devisions shall use their best endeavours to see the contentes of the letter satisfied concerning Papistes at such times as they shall thinck most meete for the best service to be donne therein.'

2. ' It is further agreed that the said Justices of the Peace within their severall devisions shall at such time as they shall thinck most fittest send for the churchwardens of every parishe and enquire of them whether there be any persons within their severall parishes that doe withoute juste and lawfull cause refraine from comeing to the church, and also what persons doe resorte unto their parishes that either doe refraine comeinge to the church or be either hynderers or contemners of the Religion sett forth by her Majestie, and also whether they knowe any persons within their parishes to have any masse bookes, superaltares or any such thing belonging to the masse and so take understanding of their names and theruppon to send for the same persons by precept, and so theruppon to take such further order for the makeing of searches theruppon as may best satisfie the contentes of the letters.'

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[p. 128] 3. ' It is also agreed that every Justice of the Peace within every of their devisions shall make certificate of their severall doeinges to the shrief the countie before the feast of St. Andrew next wherby he may make certificate to her Majesties Counsell.'

1. ' Item it is ordered and agreed that such collections as be behynde for the relief of the prisoners in any hundred or devision shalbe forthwith collected and gathered and delivered to the collectors assigned for that purpose who are to yeld accompt to the Justices of the Peace at the next Sessions.'

2. ' And it is further ordered and agreed that there shalbe from hensforth collected thorough oute the whole shire the some of xl li. to be gathered by equall consideration to be had what shalbe gathered in every devision for the relief of the said prysoners, wherin it is agreed that uppon thapparauce of the said Churchwardens before the said Justices in their devisions they shall take a note of all the parishes within their devisions and therein consider of the biggnes or smallnes of their parishes and theruppon at the next Sessions to agree upon a taxation what every parishe shalbe taxed at, and theruppon take order for the collection and payment therof accordingly.'

3. ' It is also agreed that thorder taken for the gathering of iiijd. of the pownde of such as be sett at v li. and uppwardes and xls. in land shall contynewe and that the said collections be made and the money answered by the constables of every hundred within every devision at the next Sessions of the Peace where further order shalbe taken for thobtayning and making of the howse of correction for vagaboundes and roges, and in the meane time it is agreed that a letter be directed unto my Lord Theasurer to be a meane to her Majestie for the obtayning of a peece of the castell of the Devizes where the said howse is thought fittest to be.'

4. ' And it is agreed that Sir John Danvers shall have the carryeing of the said letters and solyciting of this cause unto his lordshipp, and if any charges shalbe by him layed oute in this behalf the same shalbe borne and discharged by the subjectes of this county by the taxation of the Justices of this county.'

## EPIPHANY SESSIONS 1579

[p. 129] Novam Sar'. Sessions of the Peace held Thursday after Epiphany 8 January 21 Elizabeth before Henry earl of Pembroke, John Zowch, [George Penruddock]<sup>2</sup> and John Danvers, knights, and Giles Escourte, Nicholas St. John, Christopher Dodington, William Hussey, [William Grove]<sup>2</sup> and Bartholomew Horsey, esquires, James Mervyn, knight, John Davys and Jasper Moore, esquires.

John Selby, bailiff of Chalke hundred, amerced 40s. because he did not diligently attend and perform his office this day.

<sup>1</sup> MS. of.

<sup>2</sup> Supplied from MS., p. 29. Horsey etc. added after the heading had originally been completed.

WILTSHIRE COUNTY RECORDS

*Domus tiplacionis.* Ralph Gyngell of Slawtenford, husbandman, bound in 100s., and his sureties, Thomas Averys and Richard Light, both of the same, husbandmen, each in 5 marks.

Warrant of the good behaviour granted by the court against Richard Baylye of Great Bedwyn, clerk.

The fine of the inhabitants of Broade Somerford alias Great Somerford is taxed by the court at 2s. 6d.

EPIPHANY SESSIONS 1580

[p. 146] Novam Sar'. Sessions of the Peace held Thursday after Epiphany 22 Elizabeth before Walter Hungerford, [John Danvers],<sup>1</sup> James Marvyn and [Thomas Wroughton],<sup>1</sup> knights, Giles Escourte, Bartholomew Horsey, William Hussey, Jasper Moore and Giles Thisslewayte, esquires, and other Justices of the Peace.

The fine of Owen Brynd of Wanborough, yeoman, and John Williams for trespass is taxed by the court at 2s.

The fine of the inhabitants of Charleton, Burton Hill and Malmesbury<sup>2</sup> on condition that they repair the queen's highway before Midsummer next, etc. *vs. paid by Mr. Baylye.*<sup>3</sup>

'Memorandum that the travers for Stanter shall procede at Warmyster and if the jury doe not appear then Mr. Hill hath promised to crave a decem tales for the quene de circumstantibus.'

<sup>4</sup>*Pro pace.* Robert Whittock of Trobridg, smith, and Thomas Diggell, sureties for John Stevens of Trole, clerk.

Rice Jones committed to gaol for the good behaviour till the next Sessions.

Richard Bayly committed to gaol until he will agree to provide for a child according to the former order.

'It is ordered that unles William White doe submyt himself to Sir John Danvers ther shalbe a warrant of the good behaveor graunted.'

The fine of Mylborne tithing in Mamsbury parish for a moiety of the bridge called Holloweys brydge and for the queen's ways from the bridge to Whitchurch mershe is taxed by the court at 5s.

The fine of Burton Hill tithing is taxed by the court at 5s.

'Memorandum all these tythings before mentioned are enjoined to emend their defaltes by Mydsomer next, otherwise that' proces be made againe.'

<sup>5</sup>*Travers.* Owen Brynd of Wanborough, yeoman, pleads not guilty to an indictment for common barratry. Order for a writ of venire facias returnable at the next Sessions.

*Travers.* William Emery of Charleton, husbandman, pleads not guilty to an indictment for trespass. Order for a writ of venire facias

<sup>1</sup> Supplied from MS., p. 34.

<sup>2</sup> Burton Hill and Malmesbury crossed out with sol' written over.

<sup>3</sup> Mr. Baylye undershrieve to pay it at the Assises crossed out.

<sup>4</sup> Entry unfinished and struck out.

<sup>5</sup> Entry crossed out.

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returnable at the next Sessions. 'Memorandum it is Sir Henry Sherington's matter against the said defendant.'

[p. 147] *Travers.* William Peterson of Wanborough, gentleman, pleads not guilty to an indictment for common barratry. Order for a writ of venire facias returnable at the next Sessions.

The fines of Nicholas Hemming and Henry Cam of Mylkesham, husbandman, on a presentment for contempt by a letter of William Brouncker, esquire, are taxed at 20d. each. *ijs. iiijd., sed non soluti quia predictus Willelmus Brouncker promisit solvere.*

The fine of Alice Flower of the same, for the like, is taxed at 12d. *Paid.*

*Pro domo tiplacionis.* Richard Rolf of Enford, husbandman, bound in 5l., and his sureties, Thomas Hutchins of Wynterborne Basset, yeoman, and Thomas Hancock of Fidleton, weaver, each in 53s. 4d.

*Pro bene gerendo.* 'Manucapcio pro Thoma Smith de Alborne in comitatu predicto husbondo; it is ordered that when it shalbe thought good he shalbe discharged that he shalbe bound to his good behaveour.'

The fine of the inhabitants of Frustfeild hundred, who plead not guilty to an indictment for not repairing the queen's highway, is taxed by the court at 6s. 8d.

*Travers.* Thomas Bartlet of Meer, tanner, pleads not guilty to an indictment for battery. Order for writ of venire facias.

Supersedeas allowed for Thomas Bartlet.

*Pro domo tiplacionis.* Thomas Pennycot of Barford, smith, bound in 5l., and his sureties, John Creede, gentleman, and Christopher Tanner, yeoman, both of the same, each in 53s. 4d.

Richard Baylye of Bedwyn, clerk, bound in 20l., and his surety, John Lyghtfoote alias Hawkins of Wylton, husbandman, in 5l., for his payment of 6d. weekly for the relief and support of John Bigges, an infant, until he reaches the age of 12 years into the hands of the guardians, to wit 'le churchwardens', for the time being of Bedwyn. 'And the lord of Hertford and Sir Thomas Wroughton like not of this order thenn to pay viijd.'

Warrant of the good behaviour granted against Thomas Bartlet.

*Domus tiplacionis.* William Carlyle of Chute, tailor, bound in 5l., and his sureties, Thomas Mylles, husbandman, and Richard Pomfry, tailor, both of the same, each in 53s. 4d.

[p. 148] *Pro feloniam.* Thomas Perkin of Wesbury, weaver, bound in 10l., and his surety, George Rawlins of the same, tanner, in 5l., for his appearance at the next Assizes. *Comparuit et relaxatur.*

*Vacabundus.* John Westbrooke of Alderbury, yeoman, gave surety to keep Thomas Grymsted in his service and to produce him at Epiphany 1581. *Comparuit et relaxatur per curiam.*

John Axhall of Basingstoke, co. Southampton, surgeon, was bound in 20l. for his appearance at the next Sessions and for his good behaviour in the meantime.

<sup>1</sup> Entry crossed out.

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WILTSHIRE COUNTY RECORDS

Constables elected—Richard Gyne in place of Edward Mylles for Amesbury hundred, John Ryves in place of William Compton for Underdiche, Thomas Rolfe in place of Robert Williams for Elstub and Everley, Richard Mackerell<sup>1</sup> in place of Nicholas Mussell, gentleman, for Brench and Doll, Richard Cable in place of Band for Frustfeld, David Feltham in place of Walter Sanger for Cawdon and Cadworth, and Simon White in place of Jeremy Barnard for Chalke.

*Vacabundus.* John Marshall of Fissberton Anger, yeoman, entered into surety of 5*l.* for John Tavell.

Thomas Smith of Alborne, yeoman, bound in 40*l.*, and his sureties, Thomas Whitway of Ramesbury, yeoman, and John Ludlowe of Baydon, gentleman, each in 20*l.*, for his personal appearance at the next Sessions and for his good behaviour in the meantime. *Comparuit et releatur per curiam.*

*Travers.* Thomas Rowdon and Humfrey Rowdon, both of Stiplelangford, husbandmen, plead not guilty to an indictment for common barratry. Order for a writ of venire facias returnable at the next Sessions.

*Prosses delivered.* 'Delivered to the Shrieve's man Stevens the xvij<sup>th</sup> of February anno supradicto vj writes besides the precept etc.'

[p. 149] Fines taxed by Christopher Dodington, esquire, at 6*d.* each—of Walter Burden, John Burden, William Clement alias Browne and William Vyncent.

EASTER SESSIONS 1580

[p. 150] Warm'. Sessions of the Peace held Tuesday after the Close of Easter 22 Elizabeth before John Zowch, John Danvers and [Thomas Wroughton],<sup>2</sup> knights, and William Brouncker, Giles Escourt and Michael Earnley, esquires.

'Memorandum by the comaundemente of Mr. William Hussey. Thomas Turner is to be discharged because it was a presentmente in a petit Sessions for not paying to the poore.'

The fine of John Wylmot of Cossham is taxed by the court.<sup>3</sup>

The fine of Thomas Bartlett of Meere, yeoman, and Owen Geffreys alias Levansage is taxed by the court at 2*s.* 10*d.*

'Memorandum to discharge the proces of these whose names do follow for caryages to the highe weys in Meere—Thomas Fryer, Edward Palmer, Robert Clavy, John Rogers, Robert Lawrance, Arthur Snooke, Thomas Bowle, Thomas Robbins, Lawrence Winsor, William Blake, Thurston Browne, Agnes Borne, Joan Skryne, Thomas Symons, Thomas White, Randall Coward, William Panter, Thomas Forward, Richard Joye alias Cox, William Cary.'

<sup>1</sup> Written over Giles Awsten crossed out.

<sup>2</sup> Supplied from MS., p. 35.

<sup>3</sup> Memorandum Mr Eyns is to answer this (in margin Willelmus Eynes promisit solvere) crossed out.

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*Travers.* Thomas Barnard of Meer, yeoman, pleads not guilty to an indictment and presentment for repairing the queen's highway with his carriage. *Prosequutus.*<sup>1</sup>

Warrant of the good behaviour granted by the court against John Yonge, Robert Geffreys and Ralph Gale of Draycot, yeoman. *Factum.*

Warrant of the good behaviour granted against William Allen of Tynhedd, yeoman, at the suit of Robert Blackborowe. *Factum.*

'It is orderyd at this Courte that a tales is awardyde here that shalbe retornid by the Shryve at the next Quarter Sessions to be holden within this shere so as it be after Mydsomer terme.'

[p. 151] The fine of Thomas Smith of Alborne for battery is taxed by the court at 10*s.*

Warrant of the good behaviour granted by the court against Walter Mackes of Westgrymstede.

Warrant of the peace granted by the court against William Poton the elder of Barwyck St. Leonards. *Factum.*

*Ordo.* 'It is orderyd at this Courte that if eny bill be preferryd against eny person for a comen barretor that the said byll shall not be receivid unlez there be open evydence in Courte gyven to the sayd bill.'

'Curia relaxaverunt omnes Rowdans de bene gerendo.' *Oweing for fees ix*s.**

The fine of Owen Brinde is taxed by the court at 2*s.* 2*d.*

*Pro pace.* Thomas Forrest of Bristow in the county of the city of Bristol, yeoman, bound in 10*l.*, and his sureties, Robert King and John de Neave, both of Horningsham, husbandmen, each in 5*l.*, for his appearance at the next Sessions and for his keeping the peace in the meantime, particularly towards Edmund Rydewod, clerk. *Relexatur per perdonacionem.*<sup>2</sup>

*Pro bene gerendo.* Humfrey Staunton of Marlebrough, cutler, bound in 20*l.*, and his sureties, Thomas Hickman of Upton Skidmore, clerk, and William Staples of Bulford, yeoman, each in 10*l.*, by the court for his appearance at the next Sessions. *Removetur per breve domine Regine assignatum cum manu capitalis Justiciarii videlicet Wraye returnabile crastino Sancte Trinitatis et teste sexto die Maii.*

*Pro pace.* John Tidderleigh of Tydderley, co. Dorset, gentleman, bound in 10*l.*, and his sureties, Thomas Francklyn of Veny Sutton, yeoman, and Robert Stone of Corsly, husbandman, each in 5*l.*, for his appearance at the next Sessions and for his keeping the peace particularly towards Robert Whittock of Trobridge. *Fecit defaltam.*

[p. 152] Fines taxed by the court—of William Baker and David Goodinoughe at 5*s.* (altered from 10*s.*) each, and of the inhabitants of Boram alias Burton at 12*d.*

'Memorandum that it is orderyd at this Courte that those that are appointed offycers and sensures for the howse of correction shall contynue for one other yere.'

<sup>1</sup> Non sol' crossed out.

<sup>2</sup> Fecit defaltam crossed out.

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