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**WILLIAM FARRER**

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THE RECORD SOCIETY

FOR THE

Publication of Original Documents

RELATING TO

LANCASHIRE AND CHESHIRE.

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VOLUME XLI.

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1901.

SOME  
**Court Rolls**  
OF THE  
LORDSHIPS, WAPENTAKES,  
AND  
DEMESNE MANORS  
OF  
**Thomas, Earl of Lancaster,**  
IN THE  
**County of Lancaster.**

FOR THE 17TH AND 18TH YEARS OF EDWARD II.,  
A.D., 1323-4.

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*From the Original Rolls, preserved in the Public Record  
Office, London.*

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EDITED BY  
**WILLIAM FARRER.**

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1901.

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## INTRODUCTION.

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For the maintenance of peace, the administration of justice, and the general conduct of public affairs, the country was at an early period divided into counties, the county into hundreds or wapentakes, and the latter into townships or vills. Of these three divisions, the two greater ones had each a Court. Sometimes the township, or a group of townships, was coincident with a manor, and the manor also had a Court. The "County" was not, however, a district or extent of country, it was a large community and it was also a Court. So also the "Wapentake"—a name, formerly, of more general use in Lancashire than Hundred—was a smaller community, and was also a Court. Sometimes, as in the case of the Wapentake of Blackburn, the baronial Court for the Honour of Clitheroe became merged in the "Wapentake," both being coincident with the fief granted to the de Lacy family. In other cases, the "Wapentake," *i.e.*, the Court of the Wapentake, was shorn of some of its townships, which became appendant to a baronial court, such as that of Penwortham. The creation of this barony eliminated the "Wapentake" of Leyland, *i.e.*, the Court, and it became merged in the baronial Court of Penwortham, together with the following townships in Amounderness, Prees, Broghton, Whittingham, Claughton, Freckleton, Warton and Bankhouses, Newton, Elswick, Kellamergh and

Brining.\* So again the "Wapentake" of Salford had no jurisdiction within the lordship of Rochdale, manor of Tottington, nor within those manors which belonged to the barony of Manchester. On the other hand, the "County" had jurisdiction over all other courts, whether baronial or hundredal.

The "County" met once every six weeks under the presidency of the Sheriff, or one of the coroners, or their deputy. It was attended by judges or doomsmen (*judices, judicatores*), by suitors (*sectatores*), certain freeholders of the shire required by their tenure to do suit to it (*facere sectam*), and by the township and constable of each township in the persons of two or four freeholders. Juries were also sent from each of the wapentakes to present offences, trespasses, defaults, accidents, and other matters which had come under their view, or about which the Crown desired to be certified. The records of the Courts are usually drawn up in a routine manner. After the heading cited in the last footnote, follow the fines laid upon doomsmen or judges for absence at either or both of the two great yearly Courts, which were usually held after Easter and Michaelmas; then follow the names of the suitors and the fines laid upon them in like manner, then the names of the townships (*villatæ*) and constablewicks (*constabulariæ*), with the names of two or four persons appearing at each of the two great courts, or the fine imposed for failing to appear. After that the business of the Court is put on record.

While the "County" was nominally held every six weeks,

\* See the Roll of the "Curia Apparence" or Court of Appearance of Penwortham, held there on Oct. 21st, 13 Henry VIII. (1521), before Henry Faryngton, esquire, chief steward there. (*Duchy of Lanc., Court Rolls, Bundle 78, No. 1021, m. 4*).



it is probable that the various suitors just described were only obliged to attend the two great courts yearly. They were probably summoned to attend the others by notice, and if the King sent his writ to the Sheriff he might summon a special Court at any time.

Many of the actions brought in the "County" are appeals of assault, or trespass with force and arms. There are many actions for debt, and not a few personal actions, such as that referred to in the Fine Roll, 1 John, *m.* 8, where Hugh Bussel deraigned the barony of Penwortham against Geoffrey Bussel, in the Court of John, Count of Mortain, when he was lord of Lancaster. In this case, as very frequently happened, the judgment was obtained wrongfully, and the case was removed into the King's Court, where so heavy a fine was laid upon Hugh Bussel, that he was fain to sell his barony to the Constable of Chester in return for an acquittance of the said fine. As a rule, the "County" dealt only with the initial proceedings in criminal cases. It is a matter for regret that no roll of any "County" Court of Lancaster has been preserved to our time, but there are many presentations—apparently made in the "County"—recorded on the Palatinate of Lancaster Plea Rolls from Henry IV. onwards, and mention of suits commenced in the County is frequently found in the Rolls of Justices of Assize, Coram Rege, and the King's Bench.

The inferior Court of the Wapentake was held once every three weeks, and judging from the rolls here printed, and from the rolls of later "Wapentakes," there appears to have been little if any difference as to suitors and judges between it and the "County." The *inquisitiones post mortem* contain frequent references to estates held by military service or in socage, and by doing suit to "County" from six weeks to

six weeks, and to "Wapentake" from three weeks to three weeks. Actions to resist distraint for suit of court are often traceable in the *Final Concords*.\*

Again, there seems to have been little difference between the procedure of the baronial courts and the "Wapentake." Where there was much land held "by barony," the proceedings of the "Wapentake" seem to have been confined to actions for trespass with force and arms, and for recovery of debts under forty shillings and breach of assize, by-laws, etc. The present volume affords examples of each class of Courts.

The introduction to this volume is not the place for a disquisition upon the administration of justice in the County and Wapentake in early times. Those who are curious for information on the subject are referred to Pollock and Maitland's *History of English Law*, Bishop Stubbs' *Constitutional History of England*, the Publications of the Selden Society, and kindred works. But one or two extracts from Assize Rolls throwing light on the subject of suit of court to the county and wapentake or baronial court in the thirteenth century, may not be considered out of place here:—

At Lancaster, on the morrow of Holy Trinity, 40 Henry III. (12th June, 1256), a final agreement was made between Roger de Lancaster, plaintiff, and Gilbert de Lancastre, deforciant of customs and services which Roger claimed from Gilbert of the free tenement which he holds of him, to wit the manor of Hartshope (Hartshope Hall, near Patterdale), of which he claimed homage, and the service of the 20th part of one Knight's fee, suit to his Court of Barton from three weeks to three weeks, and that he should find a "Witnessman" to testify to summonses and attachments in the said Court, and that he should find pature for the

\* Cf. vol. xxxix, Record Soc. of Lanc. and Ches., pp. 90, 94, 104, 109-110, 129, etc.

land serjeant of the said Roger when he should pass through Gilbert's said manor to make summonses and attachments, which services Gilbert has not acknowledged.

Gilbert acknowledged that he and his heirs will henceforth render to Roger and his heirs homage for the said manor, and the service of the 10th part of one Knight's fee, and do suit at the said Court when any plea shall be in the same Court by the lord King's writ of right (*breve de recto*), and when a thief shall be in the same Court to be judged, and likewise towards the strengthening (*per afforciamentum*) of the Court, if any of Roger's men or of his heirs be impleaded in the County, and the said Roger and his heirs on that account seek to have their own Court, the said Gilbert and his heirs will there do their suit until that plea be ended.\* Likewise if a record ought to be made in the County of any plea tried (*placitatus*) in the Court of Roger or his heirs, Gilbert and his heirs, together with other of Roger's free men and his heirs, will make that record in the County, for all services, suit of Court, custom and claim.

For this concession Roger released to Gilbert and his heirs all the right he had to claim other customs or services of the said manor of Herteshop. And let it be known that it shall not be lawful for Roger or his heirs to take the beasts of Gilbert, his heirs or his men, nor to make any distress for default of suit or for any trespass except (*nisi*) by the consideration of the freemen of Roger's and his heirs' court; but if Gilbert's, his heirs' or his freemen's beasts be found in the forest of Roger or his heirs, or in any loss (*in aliquo dampno*), it shall be lawful to Roger and his heirs to take and detain those beasts until Gilbert and his heirs find pledges to make amends for that trespass or loss by the consideration of the court of the said Roger and his heirs for ever.

Briefly stated, the agreement provides for the limitation of suit due by Gilbert de Lancaster to his lord, to suit of court when the King has sent word by his writ that the court do right between two parties, one of whom has sought

\* *i.e.*, if through his forced absence at the County, Roger's Court was deficient in suitors to make judgments, Gilbert will do suit there until the business be terminated.