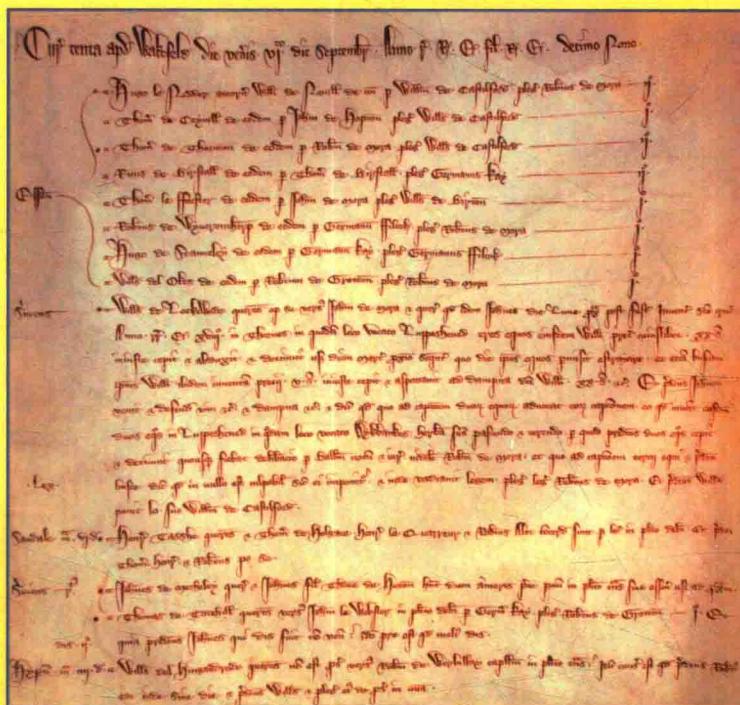


# COURT ROLLS OF THE MANOR OF WAKEFIELD

EDITED BY  
JOHN LISTER

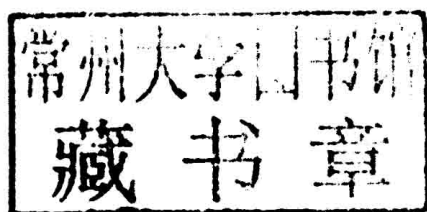


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# Court Rolls of the Manor of Wakefield

VOLUME 4: 1315 TO 1317

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## **Court Rolls of the Manor of Wakefield**

The detailed records of the proceedings of the manorial court of Wakefield provide a unique insight into medieval life and commerce, the many legal disputes arising, and the mechanisms for resolving them. The manor court met every three weeks, as well as holding additional courts, or 'tours', at various locations around the West Riding of Yorkshire. Recognising the historical significance of these exceptionally complete court records for one of the largest manors in England, in 1901 the Yorkshire Archaeological Society began publishing them as part of its Record Series. Up to 1945, five volumes appeared that span the years 1274–1331. Edited with an introduction and notes by John Lister (1847–1933) and published in 1930, Volume 4 contains the court rolls for 1315–16 and 1316–17. The texts of the rolls are given in English translation.

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Current volumes in the Record Series are published for the Society by Boydell and Brewer. The Society also publishes parish register transcripts; since 1897, over 180 volumes have appeared in print. In 1974, the Society established a programme to publish calendars of over 650 court rolls of the manor of Wakefield, the originals of which, dating from 1274 to 1925, have been in the safekeeping of the Society's archives since 1943; by the end of 2012, fifteen volumes had appeared. In 2011, the importance of the Wakefield court rolls was formally acknowledged by the UK committee of UNESCO, which entered them on its National Register of the Memory of the World.

The Society possesses a library and archives which constitute a major resource for the study of the county; they are housed in its headquarters, a Georgian villa in Leeds. These facilities, initially provided solely for members, are now available to all researchers. Lists of the full range of the Society's scholarly resources and publications can be found on its website, [www.yas.org.uk](http://www.yas.org.uk).

# Court Rolls of the Manor of Wakefield, 1315–1317

## (Record Series volume 78)

The Wakefield manorial court rolls span more than six centuries from 1274 to 1925, making them one of the most comprehensive series now in existence, and the Yorkshire Archaeological Society has been engaged in their publication and preservation for more than a century. The manor of Wakefield was one of the largest in England, covering a huge area of the West Riding of Yorkshire, although it was divided into many sub-manors. The actual area over which the court had jurisdiction during the centuries for which the records survive was approximately 90 square miles. The records of the manor's property transactions, agricultural business and law enforcement are an important source for legal, social and economic historians. In 1898, several members of the Society provided a fund to employ Miss Ethel Stokes, a leading London record agent, to produce translations of the earliest surviving rolls.

This is the fourth of the five volumes in the Record Series devoted to these early rolls, the others being 29, 36, 57 and 101. It contains translations of the surviving rolls for 1315–16 and 1316–17. Neither was in the possession of the manorial rolls office and so they did not pass into the safekeeping of the Yorkshire Archaeological Society. That for 1315–16 was, at the time of transcription, in the possession of the Wilson family of Sheffield and is now held at the Brotherton Library in the University of Leeds, where it has the reference MS295/30640 and 30648 among the Wilson papers. The court roll for 1316–17 is held by the British Library with the reference Additional Charters 54408.

The editor of this volume, John Lister (1847–1933), prepared several publications for the Record Series, five of which are reissued in the Cambridge Library Collection. An obituary and bibliography of Lister, which can be found in the *Yorkshire Archaeological Journal*, 31 (1934), 423–6, records that he died 'at his ancestral home', Shibden Hall, Halifax, and that – like many of his colleagues in the Society – he was a member of the landed classes, and also a non-practising barrister. His obituary in *The Times* of 13 October 1933 reported that he was a founding member of the Labour Party in Halifax and had twice stood as a parliamentary candidate for the Independent Labour Party.

COURT ROLLS  
OF THE MANOR OF WAKEFIELD.

Vol. IV.



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COURT ROLLS  
OF THE  
MANOR OF WAKEFIELD.

VOL. IV.

1315 to 1317.

EDITED BY

JOHN LISTER, M.A.,

*of B.N.C., Oxford, and Barrister of the Inner Temple.*

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## INTRODUCTION.

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The last volume of these Court Rolls brought the story down to the year 1315, and the Court held at Wakefield on the Friday after the Exaltation of the Holy Cross, September 14th of that year. The late Mr. Paley Baildon, F.S.A., in the second volume of these Rolls gave, as far as the year 1311, a few items relating to the life of John the Seventh and last Earl of Warenne to possess the Manor of Wakefield.

There is not very much to add in regard to this Earl's dealings with it for the years 1315-1317 covered by the present volume. A most excellent account of the later life of this last of the Warennes is, however, to be found in the XIX volume of our *Yorkshire Archaeological Journal* written by Dr. Royston Fairbank, F.S.A., to which, and to the very interesting article by Mr. J. W. Walker, F.S.A., in Vol. XIII of the same Journal, I would refer the readers of this Introduction for fuller information. It may, I think, be sufficient for me to excerpt from these authorities a few facts regarding the three years, 1315-1317, dealt with in this volume, that relate to the Earl's treatment, during this short period, of his Yorkshire estates.

On the 29th June, 1316, the Earl, wishing eventually to make a settlement of his estates, issued letters patent, granting and releasing "to his most dear Lord Edward," the King, with a view of their being re-granted to him on special terms with special remainders, the following castles, towns and manors in the County of York. These were the castles and towns of Conisboro' and Sandal, the Manors of Wakefield, Hatfield, Thorne, Sowerby, Braithwell, Fishlake, Dewsbury, and Halifax, with their appurtenances. This grant is fully given in Dr. Royston Fairbank's article, p. 206.

On the 1st July following, Warenne having thus surrendered these and other estates, the King appointed Geoffrey le Scrope to take seisin of the above-named castles and estates in Yorkshire, in the King's name, and also to take fealty of the tenants, who were to obey him in all matters.

The King, on the 6th July following, re-granted to the Earl for his life, these and other castles and estates in other counties which Warenne had previously surrendered to His Majesty, and Geoffrey le Scrope was instructed to give seisin and re-possession to the Earl.

To make assurance doubly sure, on the 4th August of the same year, 1316, a further re-grant for life of the same estates was made, the King "wishing to do the aforesaid Earl a special favour."

This Charter gave John de Warenne, Earl of Surrey, for his life, the castles and manors and all other his estates above named in the County of York, with all receipts while they were in the King's hands. It is singular that the Manor of Halifax should be granted under this and the other charters, seeing that it belonged to the Monks of Lewes. The Court Leet jurisdiction, however, had been retained in the hands of the Warennes when the grant was made seemingly by the second Earl to that Priory.

I think it possible that the "Recognitions" stated on p. 134 of this volume of our Court Rolls, as made by the King to the Earl, may have some connection with this re-grant of the latter's estates, seeing that "the receipts" thereof that were in the King's hands, were to be refunded.

The object of Earl Warenne in making his grant to the King and receiving these re-grants, was to secure, after his own life tenancy, remainders to John de Warenne his illegitimate son by Maud de Neirford and to Thomas de Warenne, another illegitimate son by the same lady, and the heirs male of their bodies, with a final remainder to the heirs of his—the Earl's own body.

In 1314, the 7th year of Edward II, Watson, in his *Memoirs of the Earls of Warren* (Vol. 11, p. 7), quoting a monk of Malmesbury, tells us that the Earl together with the Earls of Lancaster, Warwick, and Arundel, refused to attend the King in person in his expedition to Scotland, because King Edward had delayed to put in execution the articles for redress of grievances often petitioned for, granted, but unfulfilled, though they sent what soldiers they were obliged to furnish. Thus, the Earl, who had gone with the King into Scotland on a former occasion, when most of the nobles refused, in this latter instance, personally declined to go when most of the other nobles went.

Several references are to be found in the present volume as to the election of tenants of the Manor to their lord's musters of fighting men to oppose the Scots in the Autumn of 1316 when the latter were making frequent raids into Northumberland (p. 137).

At a Court held at Wakefield in October, 1316, there is an instance of a man "elected to go in the King's Army to Scotland," who "withdrew himself, and was attached," but by paying a fine of 20s. he was permitted to remain at home (p. 140). Seven men are fined at the same court 12d. each for not driving, when appointed to do so, one of the lord's carts with the army to Scotland, and not even putting in an appearance. At the same time the whole town-

ship of Heptonstall was amerced 40d. because none of that place obeyed the call to arms.

Nothing on this occasion could be done with one Hugh Fox, "because he left for Ireland before they were called up." The fines were generally 6d. or 3d. for disobeying conscription.

In 1317, the last year, with which the present volume deals, the Earl of Lancaster, "with a multitude of armed men besieged and captured Earl Warenne's castles of Sandal and Conisboro', and attacked his estates in Wales, in the course of a private war that arose in consequence of the carrying-off of Lancaster's wife by Richard de St. Martin, a retainer of Earl Warenne's." Sandal Castle may have been captured by Lancaster before the date of the end of our portion of the 1317 roll, August 15th, but, if not, shortly afterwards.

Though relating to a date subsequent to the last roll published in this volume, it may be well to remind the reader that an Agreement was made, in 1318, between the Earls, which led in the following year, 1319, to a grant and licence by the King to the Earl of Lancaster, to have and hold for the life of the Earl of Warenne, of the King and his heirs, the towns and manors of Conisboro' and Sandal; and the manors of Wakefield, Thorne, Hatfield, Sowerby, Braithwell, Fishlake, Dewsbury, and Halifax with their appurtenances, which were held of the King *in capite*, and which John de Warenne, Earl of Surrey, had lately held under Royal Grant.<sup>1</sup>

Through the forfeiture of the Earl of Lancaster's estates all the above and other properties fell to the Crown in 1322, and after being for about four years in the King's hands were, so far as the Yorkshire estates were concerned re-granted by the King on May 17th, 1326, to the Earl of Warenne with a stipulated reversion to the King.

In a "Contrariants Roll" dated 15, Edw. II, and fully transcribed in the *History of Wakefield Rectory Manor* by Mr. Thomas Taylor,<sup>2</sup> under the graveship of Holne, some entries are given that illustrate this change of ownership, as follows: viz., "XXVIs, VIIId from lands lately improved found by measurement within the last three years of the time of Earl Warren," and "of VIIIs, VIIId of one mesuage, XXX acres and I rood of waste improved in the time of the Earl of Lancaster." Also there is mention made concerning "two bulls and other cattle found at Holne at the time when the King took the same manor into his own hands."<sup>3</sup>

<sup>1</sup> Stubbs Roll Series, Vol. 76, 11, p. 340.

<sup>2</sup> Appendix p. 59. This "Contrariants Roll" is wrongly dated in Mr. Taylor's Book, the true date being 15, Edw. II., not Edw. III.

<sup>3</sup> p. LX.

It appears that, during his life interest in the manor, previous to its concession to the Earl of Lancaster, Warenne had made a lease without the King's licence to John de Eland, in consideration of a yearly rent of 20 marks of lands in Hipperholme and elsewhere, which afterwards came into the hands of the Earl of Lancaster, and were in 1322 in the King's hands by the forfeiture of the said Earl of Lancaster.

In 1322, October 3rd, we find from the Close Rolls that an order was made to Thomas de Eyvill, keeper of the lands of certain rebels in the County of York, to restore to John de Eland his lands in Eland and the issues thereof, since his lands were taken into the King's hands upon his finding mainpernors to answer to the King, as the said keeper has certified, that Simon de Dryby took John's lands into the King's hands, pretending that he was an adherent of Thomas, late Earl of Lancaster, and of other rebels, and that John was not an adherent of the said Earl or of other rebels. John de Eland was really, of course, an adherent of Earl Warenne's and in his service.<sup>1</sup> Here it may be mentioned that in 1316-17, February 24th, a grant was made, by the King, at the request of Earl Warenne to John de Eland of a weekly market on Tuesday at the Manor of Eland and of two yearly fairs there.<sup>2</sup>

The next Roll to be printed by our Society may contain interesting particulars relating to further occurrences in the life of John, the last Earl of Warenne, and of the events that concerned his Wakefield manorial estates, and the tenants thereof.

It may be as well to state that the Earl died at Conisboro' Castle, on June 30th, 1348, on his sixty-first birthday.

### Criminal Jurisdiction.

I do not think that this subject has been more than casually dealt with by the late Mr. Paley Baildon or myself in the Introductions to Rolls which have hitherto been edited. It may be well therefore, to endeavour to discuss the matter, difficult though it may, in some measure be.

By Royal grant the second Earl of Warenne had had conferred upon him the franchises and royalties covered by those somewhat mystic words, "*sok, sak, toll, team, and infangthief.*" Mr. Maitland, the editor of the volume published by the Selden Society, entitled *Select Pleas in Manorial and other Seignorial Courts*,<sup>3</sup> interprets "Sok" as the right to hold a Court for one's tenants; "Sak," the right of the amercements arising from such a court; "Toll," the right to tallage (tax) one's villeins; "team," the right of the progeny,

<sup>1</sup> See Family of Eland by C. T. Clay, F.A.S., Arch. Journal, Vol. 57, p. 236. See Wakefield Court Rolls, Vol. III, p. 15.

<sup>2</sup> *Cal. Charter Rolls.*

<sup>3</sup> Vol. I, 1888, Pref.

the brood, the team of one's villeins. It may be added that in the Liberties as they were styled, of Wakefield and Conisboro, the lord of the Manor's tenants were exempted from doing suit at the Wapentake Courts and the Sheriff's Tourns; they did not contribute to the Sheriff's aid, nor the fines imposed on the Shire, or the Wapentakes, and they were free from the payment of toll.

The Lord of the Manor, or Liberty, so called because of the franchises it possessed, might also hear in his Court pleas of replevin, and certain other pleas of the Crown.

The very large number of burglaries and larcenies committed and dealt with in the course of the three years covered by these Rolls is somewhat surprising, but the unsettled state of this part of the country owing to the repeated raids of the Scots or fear of them, and the unfriendly relations of those two potentates, the Earls of Warenne and Lancaster, may have been partly responsible for these criminal manifestations.

### Infangthief.

Perhaps, it may be well to deal firstly with the privilege of *Infangthief* which was claimed and exercised by the Earl of Warenne. This, of course, was the right to execute in a summary manner all thieves who were taken with the stolen property in their hands, or bearing it on their backs, or confessing the larceny. This privilege, or custom, derived from Anglo-Saxon times, was retained, strange to say, in the case of Halifax and some other townships included in that parish in an unrestricted manner, down to 1850.

Justice Stephen in his *History of the Criminal Law*<sup>1</sup> has instanced the procedure in the seventeenth century in the trial of criminals under the *Halifax Gibbet Law* as "a legal curiosity, displaying, at every point, traces of the earliest form of our judicial institutions," and quoting the words of Sir F. Palgrave, "the last vestige of the law of *infangthief*." "The townships," Stephen continues, "are represented each by four men, who are brought up by the constables; the bailiff charges them to inquire, much as a justice might have charged the inquest in Bracton's day"—the first half of the 13th century.

Sir F. Palgrave, quoted above, also writes: "In England the Records and Annals of the Law have not furnished any instances of the exercise of *infangthief* after the reign of Edw. III, except in one northern borough"—district would be the more appropriate word—"Halifax, where judicature grounded upon the Anglo-Saxon custom subsisted until a comparatively recent period."

In passing, one may note that Professor Gross gives instances a little later than Edward III's time in the Coroners' Rolls published by the Selden Society.

<sup>1</sup> Vol. I, p. 64.

Where are we to search for instances of trials for infangthief elsewhere than in the Coroners' Rolls, seeing that only one or two examples can be found in these Wakefield Court Rolls?

Let us, first of all then, enquire if, as we should expect them to do, the former records, i.e., the Coroners' Rolls, can give us any information.

Professor Gross, in a note at the foot of his Introduction to the Coroners' Rolls, published by the Selden Society, p. XXIV, writes: "In the Rolls, I find only one inquest concerning theft," on page 67, of his volume, in which occurs the case of a thief found guilty of theft on his own confession; yet another instance, which he has omitted to quote is to be found on p. 107 of his volume, where a man arrested at Salisbury, in the year 1382, was tried in the presence of the coroners, for theft, and condemned to be hanged. It is stated that he was taken with the "mainour"—the stolen property—on his person.

It is strange that so few cases in the Coroners' Rolls are discoverable, for as Professor Gross tells us, "when a criminal was caught redhanded, or with the mainour in his hands in the district of a seigneur, who had infangthief, the penalty of death could be lawfully inflicted only in the presence of a Coroner."

The term "Infangthief" itself does not occur either in the published Coroners' Rolls, nor in our Wakefield Court Rolls, and there are, seemingly, only two cases in the latter in which the Coroner is stated to have been present at or concerned, in trials for larceny.

The first case occurs on p. 94 of Vol. I. of our Court Rolls. A certain John of Midgley, a forester, was charged at Wakefield, on the 22nd November, 1274, with "taking a stag in Sowerby Forest, and put himself on a good inquisition at Halifax, or at Rastrick," and, three days afterwards, at the latter place, a jury consisting of forty persons found him quit of taking the stag, but he was also charged with having received chattels—consisting of four oxen and sixteen sheep—from a fugitive thief, and the jurors said on their oath that he, as a forester of Earl Warenne, "was not able to have any part of those chattels, because the King's Coroner claimed them for the King's use by an Inquisition."

Perhaps, this case is not to be considered as a trial for larceny, but rather as procedure under Forest law. However, it is one of the only two cases in our Rolls, in which the Coroner's name figures.

The second case, in which the Coroner's presence is indicated, seems clearly to be a trial under the head of infangthief, and is to be found on p. 103 of the same Vol. 1., where, on the plaint of Isolda of St. Oswald, at a Court held at Wakefield, in February,



1274-5, we are told that "Jack of Ireland, who was seized and imprisoned for larceny, on the Sunday before Christmas, in the night stole a robe of burrell, trimmed with black lambskin, value 8s. 6d., which was in her keeping. He came in full Court before the Steward, and before John of Horbury, the King's Coroner, and confessed it with his own lips. Therefore, let him be hanged."

It is to be remembered that the royalty of infangthief was not confined to the Liberty of Halifax, but originally included the whole of the Wakefield Manor. At Wakefield the execution was performed by the halter and by the axe at Halifax. Some of the seigneurial manor lords appointed coroners of their own, but this does not seem to have been the case at Wakefield, though John of Horbury's name as Coroner of the King, who was the largest freehold tenant of the Earl's, is rather intriguing.

In the Rolls printed in this volume relating to the years, 1315-17, on p. 113, is a reference to the beheading of a thief, which probably took place at Halifax, as, at Wakefield, the penalty of death was always, so far as one can learn, inflicted by the hangman's halter. In the case referred to, we find that the townships of Hiperholme and Northowram had the administration of the goods of one, Hugh of Cokhill, "a beheaded thief," granted to them on the payment by those townships of 20s. On p. 115 we are told that a cow found among the cattle of this "beheaded thief," was claimed as his own, and proved to be so, by one, John of the Clife, who thereupon paid 6s. 8d. for its custody.

On p. 97, the reader will learn that one Thomas of Ripon "was beheaded for larceny," and that his widow, Agnes, had "with-drawn herself," and was to be taken when found. It is to be presumed that he was beheaded at Halifax. It appears that sometimes those who were indicted at the Tourns at Halifax were not dealt with in the summary infangthief fashion, for we find, for instance, that "Henry Somer, indicted at the last Tourn at Halifax of larceny of an ox, made a fine of 20s. for having aid until the Gaol Delivery at York, and was mainprised, body for body, by Henry of the Schaghe and Adam Attetounhende of Miggelay."

Numerous instances will be found in these Rolls of persons, indicted at Halifax and at other Tourns, being mainprised until the date of the holding of the Assizes and Gaol Delivery at York. Sometimes instead of being kept in prison until that event, those indicted of larceny and of even more petty misconduct were placed in the custody of the townsmen of the township to which they happened to belong. Pending trial at York, some culprits who were too poor to pay for aid from the lord, and unable to find mainpernours, were, seemingly, detained in prison at Wakefield; others after having been indicted at Halifax, or some other Tourn, were taken to York and imprisoned there until the Assizes.