qu'il allait remplir, puisqu'il combinait en sa personne les plus profondes connaissances légales et l'expérience politique la plus étendue.

La Cour Suprême ne siégea pas immédiatement cependant dans le petit édifice de l'encoignure de l'ouest. Elle occupa d'abord la salle du comité des chemins de fer, au Parlement. En attendant, sa future demeure servait d'atelier au Département des Travaux Publics. Elle ne perdit pas, en changeant de but, son caractère industrieux. Quand on pénètre à l'intérieur, par la porte réservée aux juges (mais dont tout le monde se sert), on arrive au premier étage par un escalier en bois craquelant qui mène à un long corridor vieux et nu, de chaque côte duquel s'ouvrent des loges de bénédictins. Là vivent ensemble les six juges de la Cour Suprême, près d'une bibliothèque où fraternisent tous les livres du droit anglais avec tous les livres du droit français. Ils étudient; ils échangent leurs vues; ils discutent; ils confèrent. Le contact des lois différentes entraîne les plus minutieuses et les plus prudentes explications, les illumine par la comparaison et par le contraste; force à en pénétrer plus profondément le sens, à le rechercher aux sources; et, en même temps qu'il amoindrit le danger des raisonnements routiniers ou des idées préconçues, il rend plus aigu le travail analytique et ouvre des aperçus et des horizons qui n'avaient pas jusqu'alors été soupçonnés. Tout les avocats du Québec qui ont plaidé devant la Cour Suprême ou le Conseil Privé ont fait cette constatation, qui provient du fait que, pour fournir une explication exacte et précise à des intelligences légales, d'ailleurs supérieurement organisées, mais qui ne sont pas familières avec nos lois, ils sont forcés eux-mêmes à consacrer à l'étude des textes une attention beaucoup plus minutieuse, et toujours susceptible d'apporter des lumières nouvelles.

(*To be continued.*)

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## WAGER OF BATTEL IN A.D. 1200.

To one who, like me, approached the study of the Common Law through the gateway of the Civil Law, the methods by which the right to land was determined in the early English law is a constant source of amazement.

From shortly after the Conquest (at the latest) until well within the reign of Henry Plantagenet the only method was the judicial duel. Henry II., with the consent of his nobles or Parliament, gave to the tenant of land which was demanded by another in the court the privilege of having the ownership determined by twelve recognitors—for this the tenant must pay a fee, *oblatum*, or *oblatio*, to the King, generally the minimum half mark or 6/8. Blackstone in his "Commentaries on the Laws of England," Book iii, pp. 337, *et seq.*, gives a reasonably full and accurate account of the practice, but by his time it had become conventionalized (and almost obsolete). The recent volume published in 1922 by His Majesty's Stationery Office, London, "Curia Regis Rolls of the reigns of Richard I. and John preserved in the Public Records Office," contains contemporary records of proceedings in Curia Regis, 1196-1201: from these records may be gathered the actual conduct of a "Wager of Battel" at that time—it must be remembered that the Curia Regis had not yet divided into permanent separate courts.

The Wager of Battel might be waged in three cases:—(1), in the Court Martial, i.e., the Court of Chivalry and Honor, (2) in Appeals of Felony, and, (3) in Writs of Right—the Curia Regis had to do with only the last two. Of the twenty cases of judicial duel mentioned in this volume, twelve are on Writ of Right and therefore civil, and eight are on Appeals of Felony, and, therefore, criminal.

While the Writ of Right could be and often was brought in the County Court or the Baron's Court, there is no mention of the Tolt to remove a plaint from Court Baron to County Court and only one or two of the Pone to remove from County Court to the King's Court. Apparently the first proceeding in cases in the Curia Regis was for the defendant to sue out his Writ of Right and have the tenant summoned by the Vice-comes, Sheriff of the County, through "good summoners" to be present before the Justices of the Court on a day named: on the day mentioned, if the demandant and tenant both appeared either in person or by attorney (1), the demandant made his claim and offered to prove it by a man whom he named or he might withdraw the claim—in the latter case he was "*in misericordia*" "in mercy" and paid a fine to the King, generally half a mark "*dimidium marcum*," 6/8, but sometimes more. Sometimes a litigant "*in misericordia*" escaped altogether, e.g., I find an early entry, "Robertus in misericordia: puer est, condonatus est"—Robert in mercy: he is a boy, he is excused."

One example of a record will suffice. In Hilary Term, 10 Ric. I. (1199), we find:—

"Bedef'—Robertus Malherbe, portans breve de nova disseisina super Simone de Bello Campo retraxit se, in misericordia. Misercordia est j marca."

"Bedford—Robert Malherbe having a writ of novel disseisin against Simon de Bello Campo (Beauchamp) withdraws, in mercy. The fine is one mark" (13/4).

If the claim was pressed, an entry such as this was made—the following is in Michaelmas Term, 2 Joh. (1200).

"Warri'—Henricus de Ermenters petit versus Gaufridum le Salvag' feodum j militis cum pertinenciis in Witton' sicut jus suum et hereditatem, sicut illud unde Ysabella de Ermenterres avia ipsius Henrici saisita fuit ut de jure et de feodo tempore Henrici Regis patris domini regis capiendo inde esplecias ad valenciam j marci argenti et plus: et hoc offert probare per Alanum de Hekinton', qui hoc offert ut de visu suo. . . . .'

(Instead of the latter expression is sometimes found "qui hoc offert disracionare per corpus suum ut de visu et auditu." . . .)

"Warwick—Henry de Ermenters demands against Geoffrey le Sauvage one military fee with appurtenances in Wooton (Leek) as his right and inheritance, as Isabella de Ermenters grandmother of the said Henry was seized of it as of right and of fee in the time of King Henry (the Second) father of our Lord the King by taking the esplees thereof to the value of one silver mark and more, and this he offers to prove by Alan of Hekinton who offers the same as by seeing. . . ." (or "who offers to prove the same by his body as by sight and hearing. . . .") Sometimes they are described as free and lawful men, "liberi et legales homines"—sometimes as the demandant's man or men, "Hominem suum," "homines suos."

The tenant not infrequently craves a view of the land: that is always granted him and the case is enlarged, generally until the Justices in Eyre come into the County—*e.g.*, in the case mentioned above "Gaufridus petit visum terre,[2] Habeat In adventu justiciariorum et interim fiat visus" "Geoffrey craves a view of the land. Let him have it. Till the coming of the Justices and in the meantime let the view be had."

The reason for craving a view is sometimes given; *e.g.*, "quia habet inde plures terras"—"because he has several lands there"—or "quia, ut dicit plures terras habet in eodem suburbio"—"because as he says he has several lands there in the same suburb" (of Warwick).

Sometimes the parties are accorded the right to come to an agreement either on the spot or in the interim—"interim habent liceniam

concordandi "—they paying a fee of "dimidiam marcam" or more. If they do agree, the agreement is recorded and remains of record "in perpetuam testimoniam," and cannot thereafter be contradicted.

The tenant may be ready and defends—*e.g.*, Mabel de la Grave demanded against Avice of St. Quentin two hides of land "et hoc offert probare versus illam per Radulfum de Nor' qui hoc offert disracionare per corpus suum ut de visu et auditu"—"and this she offers to prove against her by Ralph de Norf(olk) who offers to deraign the same by his body as of sight and hearing"; but Avice is ready—"Hawisia defendit jus suum per quondam hominem suum scilicet Robertum Pistorem de Notingham vel per alium per quem debuerit"—"Avice defends her right by a certain man of hers namely Robert Miller of Nottingham or by another by whom she ought." Sometimes the form is more extended, as this by Henry of Bedefunt in Trinity Term, 1200, "defendit totum jus suum per Willelmum liberum hominem suum vel per corpus suum proprium si de eo male contigerit"—"defends his whole right by William his freeman or by his own body if any ill befalls William"—Blackstone, Comm. Book iii, at p. iv, app. No. 1, gives the form the proceeding ultimately took. The champions were sometimes hired "conducticii."

And now all is set—"Consideratum est quod duellum vadietur"—"It is considered that battel should be waged." But the champions must find pledges that they will fight—"pledges of battel" as they were afterwards called—often two in number but sometimes only one for each.

In the women's suit mentioned above, "Plegius Radulfi" Thomas de Terefeld: Plegius Roberti Radulfus Nicholai"—"Pledge of Radph, Thomas of Terefeld: Pledge of Robert, Ralph Nicholson." If the duel is intended to be fought at Westminster a day is fixed for it by the Court and a director given, "et tunc veniant armati"—"and let them then appear armed."

In later years the duels were apparently always fought at Westminster: but at this time they were generally fought in the County either before the Justices in Eyre or in the County Court in presence of at least four Knights girt with their swords "milites"—in that case the day was not as a rule fixed by the Curia Regis.

This, the regular course, might be interrupted in several ways. The demandant might not appear in Court to make his demand—he was then "in misercordia" and paid a fine, unless he claimed sickness as the cause—"de malo lecti"—sending as essoignor—"essoniator"—to make the excuse. If this was accepted, he "essoigned himself," and a new day might be given him: if there was any doubt,

four Knights[3] were generally selected by the Sheriff (by order of the Court or on a writ sued out by his opponents) to visit him and see. The inspection was sometimes not made but when the sick man got well he came to Court and asked to be allowed to appear[4] which was allowed on paying a fee, generally half a mark; if the Knights visited him and found him sick, they generally assigned him a day, a year and a day later "in Turrim Londinensem"—"at the Tower of London," and so reported to the Court. If the tenant did not appear he might essoign himself in like manner: if he did not, his lands were taken into the hands of the King in obedience to a writ for that purpose directed to the Sheriff of the County. In Hilary Term 2 Joh. (1201) we find the following: "Ebor'—Preceptum fuit vicecomiti quindecimo die post festum sancti Martini quod caperet in manum domini regis ij carucatas terre cum pertinentiis in Arkeden,' quas Robertus de Bullers et Eularia uxor ejus clamant versus Johannem de Berkun, pro ejus defecta et diem prise mandaret a die sancti Hillarii in xv die.[5] . . ." "York Precept was given to the Sheriff the fifteenth day after the Feast of St. Martin that he should take into the hands of our Lord the King two carucates of land with appurtenances in Arkendale (in Knaresborough, Yorkshire) which Robert de Bullers (Boulers) and Eularia (Hilaria) his wife claimed against John de Birking—for the default of the latter and notify the day of taking possession a fortnight after St. Hilary's day.

The Sheriff would take possession and notify the Court whereupon an entry would be made in some such form as the following: "Susex'—Vicecomes *significavit* per breve *sigillatum* quod *cepit in* manum regis die Mercurii proximo ante Pentecosten, manerium de Waburtan,' quod Olivia de Sancto Johanne clamat versus Willelmum de Portu, pro defecti Willelmi"—"Sussex. The Sheriff signified by his sealed writ[6] that he took into the King's hand on Wednesday next before Pentecost, the Manor of Walberton (in Sussex County) which Olivia St. John claimed against William de Portu on account of William's default."

The default might be explained as in this very case.

"Susex'—Dies datus est Willelmo Clerico posito loco Rogeri de Munbugun et Olive uxoris sue de placito terre versus Willelmum de Portu a die sancti Michaelis in xv dies prece ejusdem Willemi; quia ballivus Fulconis Painel, qui terram illam habet in custodia, venit et dixit quod ipse tulit literas domini regis ad justicarium[7] quod ipse habeat pacem de omnibus terris et wardis suis, Et notandum quod terra illa capta fuit in manum regis et detenta et non petita nisi per Ballivum Fulconis"—"Sussex. A day was given to William the

Clerk put in place of (*i.e.*, attorney for) Roger de Munbugun and Olive his wife in a plea of land against William de Portu a fortnight after St. Michael's day, on the prayer of the said William (the Clerk) because the bailiff of Fulk Painel who had the land in charge came and said that he (*i.e.*, de Portu) bore letters of our Lord the King to the Justiciar (Geoffrey FitzPeter) that he should have peace concerning all his lands and his wards. And it is to be noted that this land was taken into the King's hand and detained and not asked for except by the bailiff of Fulk."

If the default were satisfactorily explained, the land might be delivered up on proper claim being made by the tenant: but if the land were not claimed seisin went to the demandant.[8]

"Ebor'—Dunecanus de Lacell' pro se et Christiana uxore sua optulit se iiij die versus Philippum de Munbray et Galienam uxorem ejus de placito j carucate terr et dimidie in Latton: et ipsi non venerunt vel se essoniaverunt, et terra capta fuit in manum regis et non petita. Ideo consideratum quod ipsi habeant saisinam suam"—"York—Duncan de Lascelles for himself and his wife Christiana on the fourth day presented himself against Philip de Mowbray and his wife Gillian in a plea of carucate and a half of land in (West) Layton (in Yorkshire). and these did not appear or essoign themselves and the land was taken into the King's hand and not claimed. Therefore it is considered that they (the demandants) should have their seisin."

Sometimes a sheer mistake was made as in the case of a collateral ancestor of mine. In Trinity Term, 2 Joh. (1200) "Norht'—Sibilla Ridel petiit per plevinam terram suam de Weston die Sabbati vigilia sanctu Barnabe que[9] capta est in manum regis sed nescitur qua de causa. . . ."—"Northampton—Sybil Ridel[10] sought by plevin her land at Weston (Corby Hundred, Northamptonshire) on Saturday the Vigil of St. Barnabas which was taken in the King's hand but she knows not for what cause. . . ."

Another instance—"Kent—Dominus rex precepit per breve suum justiciariis in banco quod teneri faciant in manu domini regis terram Hugonis de Castellione que capta fuit in manu sua pro ejusdem defecti, quousque Hugo de Nevill certificaverit ipsum regem de predicto Hugone: qui dicit ipsum Hugonem die quo debuit coram illo extitisse fuisse in servicio suo"—"Kent—Our Lord the King directs the Justices by his writ that they should cause to be held in the King's hands the land of Hugh de Castellione which was taken in his hand for his (Hugh's) default until such time as Hugh de Neville should inform the King himself of the said Hugh: who says

that the said Hugh on the day he was required to be before him (the King in his Court) was active in his service."

It must not be supposed that the demandant had plain sailing in every case to get this far; there were all sorts of traps and obstacles – amongst them what came in later days to be called "dilatory pleas." For example when in 1199, Hilary Term, Ric I., Agnes daughter of Gilbert claimed of Hugh de Scalarisi, twenty acres of land in Toddeworth (*i.e.*, Tetworth, Huntingdonshire) Hugh said he should not be called on to answer "quia ipsa habet virum qui non nominatur in brevi"—"because she has a husband who is not named in the writ." This was, and until but the other day continued to be a perfectly valid objection. The report proceeds:—"Et quia incertum erat de viro suo utrum vivat necne, concesserunt justiciarii ut concordarent se: et concordati sunt per sic quod ipsa Angnes quietum clamavit predicto Hugonis totum jus et clamium suum quod habuit in terra illa pro j marca quam ei dedit." "And because it was uncertain about her husband whether he was alive or not, the Justices allowed them to come to an agreement—and they agreed upon this that the said Agnes called quits to Hugh aforesaid of her whole right and claim which she had in said lands for one mark which he paid her." So, too, the Templars, who claimed to own the land, were not compelled to plead until the demandant had added their tenant as a defendant.

In Trinity Term, 2 Joh. (1200), Jordan son of Avice sued Robert the son of Berta (Bertha) for one hide of land in Creeksea in Essex, claiming through his mother Avice. Robert defended and said that John's father "nequam fuit et pro felonia ad Assisam de Clarendon' perdidit pedem et brachium et ipse genitus est de corpore nequam: et petit consideracionem curie utrum deberet ita genito de libero tenemento suo respondere. Jordanus defendit quod pater ejus nunquam ita perdidit membra sicut nequam"—"was worthless and for felony at the Assize of Clarendon (1164) lost his foot and arm and he himself (Jordan) was born of a worthless body, and he (Robert) asked the judgment of the Court whether he was called upon to answer concerning his free tenement to one so born. Jordan denied that his father ever thus lost his members as worthless." Robert put himself upon a jury of the vicinage and a day was given. The final result does not appear but a subsequent day for hearing judgment was set.

The writ may be objected to — in Michaelmas Term, 2 Joh. (1200), "Norf' Rogerius filius Turstani recedit sine die versus Odonem filium Galfridi de placito v acrarum terre cum pertinenciis

in Vitton' quia non habuit breve suum de recto "—" Norfolk, Roger son of Thurstan went without a day against Odo son of Geoffrey in a plea of five acres with appurtenances in Witton because he had not his writ of right." So in a case in Hilary Term, 10 Ric. I (1199), John, son of Ralph, sued by a wrong writ: the Court dismissed the action but "Johannes placitet per breve de recto si voluerit "—" Let John sue by writ of right if he wishes." A valid plea to a writ was the illegitimacy of the demandant: if that plea was raised it was referred to the Court of the Bishop. *E.g.*, in a case in Trinity Term, 2 Joh. (1200), it is recorded that Thomas of Melton carried his writ of right before the Justices in Eyre at Thetford in Norfolk against William the Parson and William charged Thomas with bastardy "unde ipse tulit breve ad episcopum Norwicensem ad inquirendum utrum legitime fuit natus vel non "—" whereupon he took a writ to the Bishop of Norwich to enquire whether he was legitimate or not."[11]

It is now time to speak of the actual combat: Blackstone, Commentaries, Bk. iii, p. 339, gives a description of the proceedings when the duel was fought at Westminster in presence of the Judges of the Court of Common Pleas; and *mutatis mutandis*, much of the description applies to a duel fought before Justices in Eyre or in the County.

The parties did not themselves fight—the reason alleged is that if either should be killed the action would abate—each party had a champion "campio," and they came to the field "armati," armed with a club, "baculum," an ell long and a four cornered leathern target. They were dressed in a coat of armor with red sandals, bare-headed and bare to knees and elbows. A field was prepared for the duel by the Sheriff or his deputies who selected four knights as "custodes campi," guardians of the field—the field was about sixty feet square enclosed with a stand at one end for the Justices—in Westminster there was also a bar for the Serjeants-at-Law. Each champion taking the hand of the other swore to the justice of his cause and also took an oath against sorcery, witchcraft and enchantment. The battle was to continue until one champion killed the other, which rarely happened, or one proved "recreant" and pronounced the word "craven"; or if neither of these events happened then until the stars appeared in the evening—in case of a drawn battle, the tenant succeeded—*potior est conditio defendentis.*

The Justices in Eyre, Sheriff and Knights reported the result to the Curia Regis and an entry was made of record—it was also of record in the County Court if there fought—this would be *res adjudicata* and bar all subsequent actions by estoppel by matter of record.

There are fairly full accounts of two of such duels in the recent

volume—both being of considerable interest. In Hilary Term, 10 Ric. I (1199) we find "Wilt'—Philippus de Bristo appellat Robertum Bloc quod, cum esset in duello suo et pugnaret pro quadam terram domini sui Willelmi de Ponte des Arch' in comitatu Wiltes' et prostravisset socium suum, venit idem Robertus et nequiter et in pace domini regis abstulit ei arma sua et ei plagam fecit in capite cum baculo camponis[12] prostrati: et hoc offert diracionare versus eum consideratione curie: et Robertus et omnes milites defendunt totum de verbo in verbum et dicunt quod interfuerunt duello sicut illi qui campum custodierunt per preceptum Ade Clerici, qui fuit ibi loco vicecomitis, et quod nullam injuriam ibi fecerunt; et inde ponunt se super eundem Adam et super recordum comitatus et petunt quod eis allocetus quod omnes campiones conducticii sunt et quod cum duellum percussum fuit, tunc nullum fecerunt querimoniam nec in comitatu nec alibi. Consideratum est quod vicecomes et recordum comitatus summoneantur quod sint a die Pasche in j mensem apud Westmonasteruim ad faciendum inde recordum.

Alexander de Lond' appellat Willelum de Percide vi illa.

Johannes Hereward' appellat Hugonem de Drueis et Robertum de Mara de vi illa.

Rogerus Waiffe appellat Willelum de Cotes quod in vi illa extraxit cultellum suum ut eum occideret."

"Wiltshire, Philip of Bristo appeals Robert Bloc for that when he was in his duel and fighting for certain land of his master William de Ponte des Arches in the County of Wilts and had prostrated his opponent, the said Robert came and wickedly and in the King's peace took away his arms and gave him a blow on the head with the club of the prostrate champion—and this he offers to prove against him according to the direction of the Court, and Robert and all the knights defend the whole word by word and say that they were present at the duel as keepers of the field by direction of Adam the Cleric who was there in place of the Sheriff, and that they did no wrong there: and therein they put themselves upon the said Adam and upon the record of the County and pray that it be allowed in their behalf that all the champions were hired and that when the duel was fought, they then made no complaint in the County Court or elsewhere. It is considered that the Sheriff and the record of the County Court be summoned to Westminster for Friday in one month that a record may be there made.

Alexander of London appeals William de Percy of the same violence.

John Hereward appeals Hugh de Drueis and Robert de Mara of the same violence.

Roger Waiffe appeals William de Cotes that in the same assault he drew his knife to kill him."

It is of course impossible to find out the rights of this case—apparently there were several of these hired or professional champions and perhaps more than one duel. Whether one of the champions was pressing his advantage too far—possibly to get rid of a professional competitor—or the knights were partial or wished the play prolonged—whether some of the appellors were interfering with the keepers of the field—all these and many like questions lie in the realm of conjecture. A Sir Walter Scott could make much of the picture as we have it in the Rolls—but we hear nothing more about it—probably the professionals thought it better to drop their action than to run the risk of being "*in misercordia.*"

The only other duel the account of which I extract has a domestic and romantic tint.

In Hilary Term, 1 Joh. (1200), a question arose between Ralph de Grafton who seems to have been Sheriff of Worcester and Hamon Passelewe which would depend upon a duel recorded in the Court of Malmesbury and Ralph was granted a writ to the Sheriff to have the record brought in "per iiij milites legales de eadem curia." Shortly afterwards in the same term we find "Wilt'—Gaufridus de Brinkeworth Osmundus de Sumercot' Petrus de Eston' Willelums de Sumerford' missi pro curia de Malmesberi ad ferendum recordum duelli quod fuit in ea tempore Manaseri Biset inter Hugonem Malet tenentem et Odiernam de Luserne petentem de v hidis terre cum pertinenciis in Mureslega dicunt quod eum duellum conciteretur concordia facta fuit inter eos ita quod medietas tocius predicte terre remaneret ipsi Hugoni et heredibus ejus in perpetuum et Odierne alia medietas tota vita sua et post ejus decessum remaneret Hamoni Passelew', qui pro ipsa pugnavit et heredibus ejus cum filia ipsius Hodierne in perpetuum" — "Wiltshire — Geoffrey de Brinkworth, Osmund de Sumercote, Peter of Eston, William de Sumerford sent on behalf of the Court of Malmesbury to bear the record of the duel which took place in it, in the time of Manaser Biset between Hugh Malet tenant and Odierna de Luserne claimant concerning five hides of land and appurtenances in Mursley say that when the duel was in active progress, an agreement was made between them that the half of the land aforesaid should remain in the said Hugh and his heirs forever and the other half go to Odierna for her whole life and after her decease

to Hamon Passelewe who fought for her, and his heirs by the daughter of the said Hodierna for ever."

Toronto. WILLIAM RENWICK RIDDELL.

[1] The word "Attorney" (Attornatus) I find used only twice in the thousands of suits mentioned in these Rolls. The usual teminology is "Thomas filius Eustacii positus loco abbatisse de Winton," "Thomas FitzEustace put in the place of the Abbess of Winchester." There are hundreds of entries like the following:—"Emma de Dunlege ponit loco suo Williamum de Rammescumbe versus Rogerum de Lega." "Emma de Dunlege puts in her place William of Rammescumbe against Roger of Leigh."

[2] It must be borne in mind that in very many if not most mediæval Latin manuscripts, the genitive and dative singular and nominative and vocative plural of nouns, pronouns and adjectives of the first declension have the termination "e" not "ae," cf. note 9, *post*.

[3] I find one curious instance—Trinity Term 2 Joh. (1200) "Staff"—Loquendum de vicecomite Staff' cui preceptum fecit ij vicibus fecere visum de infirmitate Amirie, uxoris Eborardi unde essoniavit se versus Rogerum le Gras; et non fecit; sed duo paupers, non milites, venerunt quo dixerunt quod eis preceptum fuit simul cum aliis videre ipsam Amiriam"—"Stafford. The King must be spoken to about the Sheriff of Stafford who had been twice ordered to make inspection concerning the sickness of Amiria, wife of Everard, when she essoigned herself against Roger the Fat; and he did not do it; but two poor men, not Knights, came who said that they had been ordered to see the said Amiria with others." Another entry in the same matter:—"Staff'—Dies datus est Rogero Crasso petenti et Evorardo de Hunesworth de placito terre in Appelbi in Leic,' quia Amiria uxor Eborardi essoniavit se de malo lecti versus ipsum Rogerum." "Stafford. A day is given to Roger the Fat, demandant and Everard of Hunesworth in a plea of land in Appleby in Leicester because Amiria wife of Everard essoigned herself in a plea of sickness in bed against the said Roger." The writ given to the Sheriff for such a view was called "breve ad faciendum visum infirmitatem."

[4] E.g. in Trinity Term 2 Joh. (1200) "Norht' Henricus del Aurei qui se essoniavit de malo lecti petit licenciam venendi ad curiam; et habet"—"Northampton. Henry del Aurei (or del Alneto) who essoigned himself on a plea of sickness in bed craves license of coming to Court; and has it." An earlier case reads (Trinity Term) 7 Ric. I, (1196), "Linc'—Robertus de Bruer mandavit ad curiam die Sabbati proxima ante festum sancti Laurencii quod essoniavit se de malo lecti versus Gilbertum de Gant in curia domini regis apud Westmonasterium et quod non fuit visus et petiit licenciam veniendi ad curiam et habuit; et statim in septimana sequenti venit et optulit se"—"Lincoln—Robert of (Temple) Bruer (in Lincolnshire) sent word to the Court, the Sabbath day next before the Feast of St. Laurence that he essoigned himself from sickness against Gilbert of Gaunt in the King's Court at Westminster and that he was recovered and that he had not been seen and he prayed licence of coming into Court and he had it; and forthwith in the next week he came and offered himself.

Here is another of Michaelmas Term, 2 Joh. (1200), "Essex, Radulfus de Latton' qui se essoniavit de malo lecti versus Ricardum de Sifrewest', mandavit ad curiam per Johannem de Einesford' quod non fuit visus et quod convaluit et petiit licenciam veniendi; et habet"—"Essex Ralph of (West) Layton (Yorkshire) who essoigned himself from sickness against Richard of Sifrewest sent word to the Court by John of Einesford that he had not been seen and that he had recovered and he prayed licence to come; and he has it."

[5] Of course this should be the plural "dies."

[6] Sometimes the return was not under seal; the entry then said "significavit sed non per breve suum sigillatum;" or equivalent language was employed.

[7] Instead of "ad justiciarium," another MS. has the equivalent language: "domino G. filio Petri"—"to Lord Geoffrey Fitz Peter"—he was Chief Justiciar at the time.

[8] There are a very few cases in which the party excuses non-attendance on the ground of difficulty of attendance "de malo veniendi"—this would cover bad roads, &c.

[9] The form in many mediaeval manuscripts for "quae," feminine singular of "quis": cf. note 2 *ante*.

[10] The original spelling of the name: the family of Norwegian origin came to Normandy with Rollo, then a branch settled in Aquitania. Some members came into England with William the Conqueror in 1066 and made their way north. By this time my immediate ancestors had got to Cumberland. Geoffrey de Ridel, Chief Justiciae, was a member of the family as was Ridel first Chancellor of Ireland. Geoffrey is named in a case in Eastern Term, 9 Ric. I. (1198) as the grandfather of Alice Cumin (Comyn) of Newbigging, Cumberland, and as having been "tunc inimicus domini regis"—"at that time an enemy of the King"—I presume Henry II. as Geoffrey Ridel was a Chief Justiciar of Stephen.

[11] There is a mistake either in the Roll itself or in the printing: "Gaufridus filius Thome" should read "Gaufridus pater Thome." A settlement was made: William Persona (the Parson) paid three marks (40 shillings) and Thomas "Clamavit quietam" cried quits.

[12] This should be "campionis"—the error in the Roll itself.

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## ANNUAL MEETING OF THE ONTARIO BAR ASSOCIATION.

The Annual Meeting of the Ontario Bar Association took place in Toronto on the evening of the 21st and the afternoon and evening of the 22nd of May. This year a somewhat radical departure was made from previous Annual Meetings inasmuch as all the formal business of the Association, including the reading of reports, special papers, and the election of officers for the ensuing year, was transacted at the Friday afternoon session.

The proceedings commenced with an informal dinner held at the Toronto Board of Trade at which the principal speaker was the Honourable N. W. Rowell, K.C., who gave an instructive address on the work of the Permanent Court of International Justice. This Court was constituted, Mr. Rowell pointed out, upon the recommendation of the first assembly of the League of Nations at Geneva. At the present time it consisted of eleven judges and four deputy judges whose salaries were paid by the signatories to the protocol. Until last year the Court had possessed only voluntary jurisdiction, that is, both nations to a dispute had to consent to have the question adjudicated upon by the Court. At the present time, however, it possesses com-