Way of Duels Before the King (No date)

Transcript

Norfolk Record Office, RYE 20, Item 1, ff. 1r–8r

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The way of Duells before the King /

When upon the exhibit of the Bill in Court before the Constable, the Appellant fayles in the proofe of his Appeale, and cannot by witnesse nor any other manner of way make the righte of his demaundes appeare, hee may offer to make proofe of his intent vpon the defendant with his body by force, and if the defend[an]t will say, hee will so defend his honor, the Constable as Vicar Generall in Armes (for so is my Author) vnder the king hath power to ioyne this issue by battaile, and to assigne the tyme and place, so that it bee not within fortie dayes after the yssue in that manner ioyned, vnlesse the agreament of the parties give themselves a shorter day; and vpon the ioyning of the yssue by combate the Constable shall signifie to them their Armes, which are a Gauntlett and short sword, and a long sword and dagger, And then the Appellant and defendant shall both finde able pledges for their appearance at a certaine tyme, and a day sett, before the Sunne be come to some one degree certaynely named to acquitt their pledges, and the playntiff to make proofe of his charge, and the Applellee to make the best defence hee can for his honor, and that in the meane tyme neither of them by themselves, nor by any wellwillers of theirs shall lye in ambush to assault or worke any greivance to the other. /

The King

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The King shall finde the feild for p[er]formance of the Duell, which must bee sixtie foote in length, and in breadth forty. It must be a hard and firme ground, nothing stony and listed about by the advise of the Marshall with good and serviceable Rayling. There must be twoe dores, the one in the east, and the other in the west, each of them of the height of seven foote or more, so that a horse cannot leape over them: And these dores are kept by the Serieant at Armes./

The day of the battaile the King shall sitt in a Chaire mounted on a Scaffold, and a lowe seate shalbe made for the Constable and Marshall at the foote of the descent from the Scaffold; and sitting there, they demaund the pledges of the Appellant and defendant to come into the listes and render them selves the Kinges prisoners, untill the Appellant and defendant are come in and made oath./

When the Appellant comes to the feild, hee shall come to the dore in the East armed, and so appointed as the Court did order, and shall there attend the coming of the Constable to bring him in./

And the Constable shall demaund of him, who hee is that comes thus armed to theise listes, what name hee beares, and the cause of his coming./

The Appellant shall answeare I am such a man A: of B: Appellant, who am come mounted and armed as you see to the dore of these listes, to

demaund

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demaund an entrie, to make Endeavour to prove my intent against C: of D: and to acquitt my pledges./

Then the Constable takeing vpp his beaver, so assuring him selfe hee is the same p[er]son, who is the Appellant, shall throwe open the dore, and bidd him enter in his Armes with his victualles and other necessary attendance, and his Councell with him, and shall then bring him before the King, and thence to his seate, where hee shall attend untill the defend[an]t come/

Then the Appellant shall make a request to the Constable and Marshall to discharge his pledges, And the Constable and Marshall shall informe his Ma[jes]tie that since the body of the Appellant is entred the listes to make proofe of his Appellee, his pledges by lawe ought to have a discharge, And after leave graunted by the king the Constable shall discharge them/

If at the tyme appointed the defend[an]t comes not in to his defence, the King doeth com[m]aund the Constable to call him by the Marshall; and the Marshall shall com[m]aund the Livetenant; and the livetenant shall com[m]aund the Marshall of the herauldes of the South, if it be in the March of Clarenceux; and if the Marshall of the herauldes of the king of the South be not there, then a herauld of the March of King Clarenceux shall call him. And if the p[er]formance of the battaile be on the North side of the River of Trent, in the March of the King Norreys, the Marshall of the king of the North shall demaund him, and in his default one of the herauldes of the March of king Norreyes shall call for the defend[an]t thus:

Oyes,

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Oyes, Oyes, Oyes, C: of D: defend[an]t come to yo[u]r action which yow have vndertaken this day to acquitt yo[u]r pledges, in the presence of the King, Constable & Marshall, and defend yo[u]r selfe against A: of B: in that hee shall question and charge thee./

And if hee appeare not, hee shalbe in like manner thrice demaunded at the fower corners of the listes, onely at the second tyme hee is proclaymed, at the end the herauld shall say, the day is farr passed, So at the third tyme, the herauld at the halfe hower after three of the clock in the afternoone, by the com[m]aundement of the Constable, shall thus sum[m]on him.

C: of D: defend[an]t, save your honor, and come into the Action, which yow have vndertaken at this day, the tyme is farr gon, the halfe hower is spent, come into the listes vpon the perill, that shall followe thereon; or els yow come too late./

Then when they have both appeared the Register of the Constables Court shall in writing observe their entrance, the order and tyme, and the manner whether on foote, or mounted, their Armes, the colour of their horses, and how their horses are harnished, least their horses or their harnish shold be changed or otherwise imbeazelled.

Then the Constable shall knowe whether it will please the kinges Ma[jes]tie to appoint any of his Nobles to councell and advise them.

The Constable shall imploy twoe knightes or esquires to the Appellant to keepe his standing, and to care, that hee observe no charme, spell, or

other

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other ill Artes vntill hee hath made oath, and with the like charge twoe others shalbe dispatched to the defend[an]t./

And when the Constable hath asked his Ma[jes]ties pleasure, whether his highnes will receive their oathes in p[er]son, or that the Constable and Marshall take them in the listes, calling for the Appellant with his Councell, shall demaund of the Councell, if they will make any further protestation, that they should now putt them in, for this tyme is peremptory, so as hereafter no protestac[i]on shalbe received./

Then the Constable shall have a Clarke ready by him with a booke, and the Constable shall cause his Register to ~~cause~~ read the whole bill to the Appellant, and shall say to him.

You A: of B doe you knowe this to be yo[u]r bill, & the Complaynt, which you exhibited in Court before me? laying your right hand vpon this Booke, you must sweare the truth of yo[u]r Bill in all pointes from the first to the last charge in it: and that it is your intent to prove vpon C: of D the contentes thereof to be true; so ayd yow God./

The forme of it is thus: Thou A of B: this thy Bill is sooth in all pointes and Articles conteyned therein, from the begining to the end; and it is thyne intent to prove them this day so to bee on the foresaid C: of D: So God the helpe and hallowe./

This done

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This done the Appellant is remaunded to his stand./

The defendant shalbe in like manner sworne vpon the truthe of his defence./

And this their first oath they ought to take kneeling, but by the favour of the Constable & Marshall they sometymes doe it standing/

Then the Constable shall by the Marshall call the Appellant before him, and tender him his second oath, which (if the Constable give leave) hee may take sitting./

A: of B laying yo[u]r hand on the booke this second tyme, you shall sweare, that you come no ~~ou~~ otherwise appointed, then as by vs the Constable and Marshall hath byn assigned; that is with a short sword, and a Gauntlett, a long sword and a dagger, that you have not any knife, or any other poynted Instrument or Engine small, or great, no stone, no hearbe of vertue, no charme, experiment, nor any other inchauntment, by whose power yow beleeve, yow may the easier overcome your Adversary, who within these listes shall oppose you in his defence; And that you trust not in any thing more then in God, your body and the merittes of your quarrell. So God yow helpe./

Then being conducted to his place the keepersof the Listes shalbe putt out, and the defend[an]t in the same manner shalbe demeaned./

Then the

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Then the Constable and Marshall shall send for them both before them, and the Constable shall name the Appellant and defend[an]t, and shall say to them both thus;

Take yee each other by the right hand, and I defend, that neither of you be so hardie, as vyolently to handle one another vpon your perill, and laying their left handes on the booke the Constable shall say;

I charge yow A of B: Appellant by yo[u]r faith, and your right hand, which is inclosed in the hand of your Adversarie C: of D: that yow use yo[u]r power, and make vse of all advantages to make good yo[u]r appeale upon C: of D yo[u]r enemy the defend[an]t, to force him to a rendring of himselfe into yo[u]r handes by demaunding a parley, or with yo[u]r owne hand to kill him before you part out of these listes by that hight of the Sunn, and age of the day yow have assigned yow by us the Constable and Marshall by your faith: And so God yow helpe./

The same forme shalbe observed on the part of the defend[an]t, and then they shalbe brought each of them to their places, the listes cleered of the Councell and servantes on both sides./

The oaths thus past, an herauld by the com[m]aund of the Constable and Marshall, shall make Oyes thrice, and shall say,

Wee the

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Wee the Constable and Marshall in the Kinges name charge and com[m]aund every man of what quality and condic[i]on soever hee be, that hee approach not within fower foote to theis listes; nor that hee speake any word, make any noyse give any signe, nor by his countenance or otherwise direct either of these parties A: of B: or C: of D: Appellant & defend[an]t to take any advantage the one vpon the other by any signe so given, vpon payne of life and member, and the forfeiture of his chattells./

Next the Constable and Marshall shall assigne the place, where the king at Armes, and the herauldes standing may have a full sight of the Action within the listes: for now they are to attend the Appellant and defendant, and minister to them in what they shall com[m]aund them; and if either of them fainte, or have either desire to eate or to drinck of their victuales they bring with them into the listes, it is the office of the herauldes to be attending vpon them./

If the Appellant will either eate or drinck, hee must first desire the good leave of the defendant, which shalbe by a King at Armes, signified to the Constable and Marshall, and they to attend his Ma[jes]tie with the desire of the Appellant, and the consent of the defend[an]t, and pray his Ma[jes]ties allowance of it; And if either the Appellant or the defend[an]t have a necessity to doe any other thing, the herauldes & the Pursevantes shall attend them./

After this

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After this the Constable and Marshall freeing the listes from people of all condic[i]ons except a knight and twoe Esquires of the Constables trayne, the livetenant, a knight and twoe esquires of the Marshalls retinue, which shalbe in Armour bearing launces in their handes, which are not to be barbed with any yron, to part them, when his Maiestie shall give the word./

These knightes and Esquires are neither to bring swordes, knives, bowes, nor daggees into the listes./

They of the Constables side are to keepe one corner of the listes, and there lay themselves flatt on the ground; And in like manner shall they of the Marshalles side bestowe themselves at another corner of the listes; for none may appeare vpright within the listes, save the Constable & Marshall./

And if the king be not present, then the Constable and Marshall shall sitt in the place of the king and the livetentaunt within the listes./

But if the King be present, then the Constable sitting vpon a seate before the king, within the listes, as the kinges vicar Generall, shall com[m]aund his livetenaunt to accompany the Appellant; And the Marshall or his livetenant with the like respect shall accompanie the defend[an]t./

And the

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An the Constable sitting at the foote of the seate Royall shall speake with a loud voyce: let them goe, let them goe to doe their indeavours/

This said the Appellant going to the defend[an]t, (standing in the presence of the king) shall with all his strength assault him, and the defend[an]t shalbe as wary as hee can in his defence./

The Constable and Marshall or their livetenauntes ought to be within hearing, and also within sight, if in case either of them speake or make any signe hee will renounce his quarrell; or if the kinges Ma[jes]tie say but, hoo, or give any other signall: then they who are within the listes with the Constable and Marshall, throwing their launces betweene the Appellant and the defend[an]t, and so parting them, they shall not give way to either of them to assault the other vntill the king com[m]aund they be free; or that the Constable declare his Ma[jes]ties pleasure to be so; by saying, lett them goe, the King wills it./

Notwithstanding, that the Constable hath given the defend[an]t a sett tyme to come in to his p[er]formance, yet in case hee com[m]eth not according to the appointment of the Constable; of right, Iudgement shall not passe against him vpon his default vntill the first halfe hower after three of the clock be clearly passed, lett the cause be treasonable or otherwise./

But the

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But the Appellant whose suite it is, ought to be there at his precise tyme, when the Constable shall first demaund him, els his pledges have forfeited his security./

The Appellant and defend[an]t shalbe searched by the Constable and Marshall, their weapons & armes questioned in all pointes, that they be avowable, and no engine or devise, not honorably iustifiable in them: And if they finde any such practise, the partie shalbe outed of that weapon; for reason, civility and the lawe of armes will vpon no condic[i]on, in Actes of this high p[er]formance admitt of treachery or conspiracie./

The Appellant and defend[an]t shall as they themselves agree, cloath their bodies; for that is left to them selves; onely the Constable shall examyne that they both have the same Armour or other defence vpon his body./

If one of them desire his sword to be shortned, so that it be shorter than the measure of the Standard, the other is not bound to abate the length of his weapon; but if they once agreed to fight with swordes longer then the Standard allowes, at the day of the action with in the listes either of them may demaund to have his weapon made to aunsweare the standard; and the other is in honor bound to make his conformable, being a demaund lawfull, not vpon fancie, and tasting of no private way or advantage./

Now the

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Now the Constable and Marshall are to be attentive to the king, if his Maiesty shall please to com[m]aund the combatantes should be parted to take breath, or for any other purpose, And in any case, they must have especiall care, how they part and divide them, and that at the tyme, when they interpose, they be both of them in the same degree or possibility, and neither of them in the mercie, nor in the hand of the other./

The Constable and Marshall shall not suffer them to whisper or have any private discourse, for they are the witnesses, and in their breastes lies the Record of their wordes, and in no other place./

And if the battaile be grounded on a cause of Treason, hee that is convicted and discomfited, shalbe disarmed by the com[m]aund of the Constable and Marshall, one corner of the listes broaken downe in disgrace of the party becoming recreant, and being fastned to a horse shalbe dragged from the place, whence hee so lost his Armes to the block, and have his head severed from his body, or be hanged by the neck or otherwise, according to the severall vsages of the Country. It is the office of the Marshall to accompany the party to the place, and there in his viewe to see execution done, and all the sentence performed;

and that

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And that as well of the side of the Appellant, as the defend[an]t; for good conscience, equity, and the lawe of the feild doe exact, that the Appellant, if in case hee be convicted, and becometh a man vanquished in his proofe, that hee incurr the same payne and hazard, the defendant should have done. ~~But~~. /

But if the cause be another crime, then treason, hee, that is so by the body of his Adversary convicted, shall loose his Armes within the listes, and thence be lead out to the place of his suffering, which is directed by the vsage of the Country, And this as well of the Appellant, as the defendant, as aforesaid; onely hee shall not be dragged, nor the Rayles broken, unles it be in case of treason, and not otherwise./

But if it be merely an Act of Armes, a Tryall by challenge allowed by grace of the King, Constable, and Marshall, hee that in such a combate confesseth himselfe vanquished, shalbe disarmed, degraded, and being lead to the skirt of the listes, hee shalbe tossed and throwen over the barres without any further punishment./

If it please the king to take the difference & the Iudgement thereof into his owne handes, and com[m]aund them to be freindes without any further controversie, Then the Constable taking the Appellant, and the Marshall the defendant, shall beare them both before the King,

and the

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And the King shall by the Constable signifie his pleasure vnto them, then they shalbe both of them lead together vnto one of the gates of the listes, and be so conveyed out of the listes in all pointes as they entred the listes and shalbe so conveyed out of the listes in the same Article of tyme, that of them no man may say, a first out, or a last within the listes; For since the King hath into his owne handes taken the considerac[i]on of the quarrell, it were dishonorable that either of the sides in a battayle be withdrawne by the word of a king should suffer any dishonor, the one more then the other; And the auncyent tenent and opinion hath byn, that hee that is first out of the listes, suffers a diminution of honor; the feild being his in honor, that is last possessor of it for hee maketh it good./

There ought to be double listes for the servantes of the Constable and Marshall, for the Sergeant at Armes of the king, who are to attend and defend, that no offence, affray, outrage, or other misdemeanor against the Cryes made openly in Court, be com[m]itted, or suffered, or any affront that may be meant against the Kinges Maiesty, the lawe and honor of Armes: these men ought to be in compleat Armes. The Constable and Marshall may bring what power they please with them into

the feild

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the feild, and those either armed, or otherwise at their election. The Kinges Sergeantes at Armes shalbe the keepers of the dores and portalles of the listes, and they are to make all arrestes by the com[m]aundement of the Constable and Marshall, and such so arrested to assure./

The Fee of the Constable is their Steedes and Armes, and all that they bring with them into the listes, save onely those wherewith they fight; and of the partie overcome, all his Armes and other thinges of combate are the right of the Constable./

The Fee of the Marshall is onely the listes, Barres, Seates and other worke for that Spectacle./

Other manuscript witnesses

- British Library, Lansdowne MS 211, ff. 61r–64r
- British Library, Additional MS 22561, ff. 13r–17r
- Lambeth Palace Library, Sion College MS ARC L.40.2/E50, ff. 46r–56v
- Queen's College, MS 121, ff. 276–281

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