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## NOTE

**The Foundation of the Court of Chivalry.** John Campbell-Kease writes: Although it is believed by some notable medieval historians that the Court of Chivalry under the jurisdiction of the Constable and the Marshal was founded somewhere between 1346 and 1348 there is no absolute proof of such and we may question if even 1346 is an early enough date. Three distinguished modern scholars, G. D. Squibb, M. H. Keen and N. Denholm-Young have expressed important differing views on this subject.

In his book *The High Court of Chivalry* (Oxford 1959, pp. 14f.) George Squibb concluded that the origin probably lay between 28 November 1347 and 23 August 1348. He commented that during the siege of Calais, 1345 to 1348, an armorial dispute between John de Warbeltone and Tibaud Russel (or Gorges) for the arms *lozenge dor et daszeur* was held before commissioners appointed by the king under *lettres ouvertes*, the decision being dated 19 July 1347 (Bod. Ms Ashmole 1137, fo. 144). The letters patent recited that the commissioners had been appointed for the purpose of 'oier trier et jugger toutes maniers de batz darms et heaumes et dayntz son host et son siege devant Calays.' There was no mention of the Constable or the Marshal, but it should be noted that Ashmole Ms 1137, referred to above, is a late copy made in 1729 by George Vertue the engraver, and said to be from the original, now lost, belonging to Peter Neve, Norroy.

Mr Squibb went on to aver that the data in the manuscript were consistent with an entry on the patent rolls (*CPR 1345-8*, p. 468) recording a commission issued on 28 November 1347 appointing John Bonde to arrest two men who had broken their parole and to bring them before 'the Council', thus perhaps again suggesting there was no Court of Chivalry in existence at that later date. Mr Squibb continued that he considered the 'earliest recognisable reference to the Court appears to be the appointment by King Edward III on 23 August 1348 of two of his serjeants-at-arms to arrest William le Counte ... and bring him before the King's Constable and Marshal' to answer certain charges (*CPR 1348-50*, p. 174). Mr Squibb's phrase 'appears to be' should be noted.

In his closely argued paper, 'The Jurisdiction and Origins of the Constable's Court' in *War and Government in the Middle Ages: essays in honour of J. O. Prestwich*, edd. J. Gillingham and J. C. Holt (Woodbridge 1984), Maurice Keen disagreed in some detail with George Squibb's (albeit tentative) view of 1347 to 1348 for the first dependable record of the existence of the Court and postulated the earlier date of 1346. He later put the central point of the matter in his *Origin of the English Gentleman* (Stroud 2002), pp. 25f. In a case 'tried before the Court (Lovell v Morley, 1386-91), John Molham, esquire, testified that on the Crecy expedition [in the summer of 1346] he had been in the service of William de Bohun, Earl of Northampton and Constable of England, and had filled the office of Clerk to the Court of Chivalry [CA Ms Processus in Curia Marescalli 2, p. 98]. In that capacity he had recorded Nicholas Burnell's challenge to Lord Morley for the right to bear arms *Argent a lion rampant Sable, crowned and armed Or*, which was later heard by

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the Constable and Marshal, sitting *tribunalement*, during the siege of Calais. Nothing Molham said hints that he thought the post a new one ...'.

This last is interesting, but as Maurice Keen pointed out, Molham's testimony is 'hardly evidence for the existence of a standing court with a settled jurisdiction'. This, of course, is true, but if we turn to Noel Denholm-Young, *History and Heraldry* (Oxford 1965), pp. 12f., he stated anent an accusation levied against Roger Damory in 1322, 'here the jurisdiction of the later Court of Chivalry (though not so styled) is seen, acting ... under the Constable and the Marshal and styled in the *Placita Exercitus*'. In a later work, *The Country Gentry in the Fourteenth Century* (Oxford 1969), p. 133, Dr Denholm-Young wrote that the authority of the Constable and Marshal, who held their offices by Grand Sergeanty, 'was not increased by a commission of 1346 setting up the High Court of Chivalry'. He went on, 'so it is possible to believe that the commission of 1346 was simply declaratory, giving special form to an authority that at all times emanated from the fountain of honour. It existed by prescription, though it was not in regular session but grew; like the Chancery perhaps, like Admiralty certainly.'

So, to sum up; we may feel that doubt remains regarding 1346, 1347 and 1348 given Molham's testimony and the paucity of other evidence in the form of *lettres ouvertes* or other relevant documents. The fact that the Court (if such it was) was not in regular session from 1322 is not important. A court of law does not cease to exist merely by falling into occasional disuse; indeed, as far as records seem to show the Court of the Constable and Marshal did not sit in regular session even after 1346. As for its jurisdiction, the first formal statement of this was in a statute of 1390 (13 Ric. I, st. 1 c. 2), later expanded in a note of about 1450 in the *Black Book of the Admiralty* (ed. T. Twiss, London 1872-6, vol. 1 p. 281).

There may be more to be discovered regarding the emergence of the Court; even the year 1322 may not be early enough for a functioning institution that existed in everything but name by that time.