Richard, Duke of Gloucester, was created constable of England on 17 October 1469 by his brother, Edward IV, to replace the executed Richard Woodville, Earl Rivers.1 As constable, Richard was the superior judge of the court of chivalry, also known as the constable’s court, and he remained constable until he became King Richard III. It was in his capacity as constable that Richard sat in judgment over the prisoners taken in battle against the king at Tewkesbury in 1471.2 It is unfortunate that little is known about Richard’s work as constable or about many of the cases that must have come before the court of chivalry. However, a treason case that began when Richard was an infant found a place in the records of the royal council of King Henry VI, and that treason case offers a glimpse into the workings of the court of chivalry.

The treason case of John Lyalton versus Robert Norreys is not a new discovery,3 but it has attracted insufficient notice. The principal parties were obscure men, and the outcome of their dispute is not recorded. The case itself came under the jurisdiction of the court of chivalry, the records of which consist of fragmentary survivals. The medieval archive of the court has gone missing, with some notable exceptions, such as the famous dispute during the reign of Richard II in which Sir Richard Scrope successfully upheld his claim to the armorial bearing azur a bend or that was also being borne by Sir Robert Grosvenor.4 Another memorable case before the court of chivalry fell late in Richard II’s reign. This was the aborted wager by battle at Coventry between Thomas Mowbray, Duke of Norfolk, and Henry Bolingbroke, Duke of Hereford (and future King Henry IV).5

The court of chivalry was not a court of English common law. It was a court presided over by two judges: the constable of England (the superior judge) and the earl marshal. Its purview extended to cases arising from deeds of war, such

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as prisoner and ransom disputes, safe conducts, charges of treason, and the use of coats-of-arms.\textsuperscript{6} When the case we are considering arose, the constable of England was Edmund Beaufort, Duke of Somerset (d. 1455), and the earl marshal was John Mowbray, Duke of Norfolk (d. 1461).\textsuperscript{7} The two parties in the case we are examining are not identified in the surviving records by occupation. They were not necessarily soldiers, for treason cases unrelated to military action could come before the court. The court of Chivalry was fundamentally a military court which applied (as the records of this case indeed state) the law of arms, the international law of soldiers based upon Roman law, canon law, and the wisdom of experienced warriors.\textsuperscript{8} A classic type of case to come before the court of chivalry was for treason, and that is the nature of Lyalton \textit{versus} Norreys. The surviving information on this case is to be found in the records of the king’s council, and the records have to do with the early stages of the process of seeking resolution. The nature of our documents thus compels us to examine not an entire case but rather what would have been its early stages.

The story begins on Friday, 11 May 1453.\textsuperscript{9} In a session of court held on that day in the White Hall at Westminster under the supervision of Sir John Hanford, who was the lieutenant of Constable Somerset (who was also present), John Lyalton formally appealed (that is, accused) Robert Norreys (or Norris) of high treason against the king. No information is given on the nature of the treasonous act Norreys was accused of committing, but since in May 1453 the English were barely clutching the lands they occupied in Gascony, having been driven out of Normandy in 1450, it is attractive to imagine that Norreys might have said something derogatory about the kingly and martial qualities of King Henry VI. Injurious words could constitute treason.\textsuperscript{10} Or perhaps an event during military action prompted the appeal, and it would have been considered treason if Norreys was perceived to have failed to uphold an oath taken upon his honour as a soldier.\textsuperscript{11} Speculation aside, Norreys denied the truth of the appeal lodged against him, and it was determined that the appellant and the accused would settle their dispute in a trial by battle to take place (following the


\textsuperscript{7} Squibb, \textit{Court of Chivalry}, pp. 229, 230.

\textsuperscript{8} On the law of arms, see M.H. Keen, \textit{The Laws of War in the Late Middle Ages}, London 1965, Part One.


\textsuperscript{10} Bellamy, \textit{Law of Treason}, pp. 99, 107, 116; I.D. Thornley, ‘Treason by words in the fifteenth century,’ \textit{English Historical Review}, vol. 32 (1917), pp. 556-61. One definition of high treason provided by the treason statute of 1352 was imagining the death of the king, queen, or their eldest son. Over time, this definition was interpreted to include speaking words that appeared to be threats. Although we do not know what happened, it is possible to imagine Norreys saying something derogatory about the king, without meaning it as a threat, and Lyalton hearing the comment spoken as if it were a threat to the king.

\textsuperscript{11} Keen, \textit{Laws of War}, p. 55.
A 1453 Court of Chivalry Incident

customary interval of at least forty days)\textsuperscript{12} at Smithfield on 25 June. Smithfield was an open area beyond London’s walls but within the ward of Farringdon Without, the location of a horse fair and a cattle market, and a place where games and tournaments were sometimes held.\textsuperscript{13} Judicial combats also employed Smithfield as a venue. The points at issue between Lyalton and Norreys may be unknown, but the case did merit being settled by judicial combat. The conflicting sworn oaths of the two men must have been considered to be of equal merit.

Besides setting the date and place of the combat between Lyalton and Norreys, the court of 11 May, at the request of both appellant and defendant, determined that the weapons to be used would be limited for each man to a glaive (called a ‘gleyve’ in the council record), a staff-weapon with a pointed, single-edged sword blade attached to the end of a long haft,\textsuperscript{14} a short sword, a dagger, and an axe. The axe was explicitly to be employed in lieu of a long sword. Each man would thus have four blade weapons available to him for fighting on foot. Each man on 11 May was also assigned, as was customary, a council of advisors in anticipation of the forthcoming combat.

The council assigned to the appellant, John Lyalton, was made up of seven men, complemented by an artisan. The most eminent of the seven was Sir John Astley (d. 1486).\textsuperscript{15} By 1453 Astley had already made a martial name for himself and had served as counselor in a judicial combat in 1446. His name derived from the lordship of Astley in Warwickshire, and his father, Sir Thomas Astley, also held lands Leicestershire and Staffordshire. His mother was Elizabeth, daughter of Sir Richard Harcourt. While in Paris, in late summer 1438 Astley, still an esquire, fought in single combat with a French esquire, Pierre de Masse of Pontoise, and the Frenchman died after his head was pierced by Astley’s lance. On another occasion, in January 1442, Astley, then an esquire in the king’s household,\textsuperscript{16} engaged in single combat with an esquire from Aragon in Smithfield in the presence of King Henry VI, and Astley’s victory resulted in his being knighted. At the end of the fight Astley was poised to stab his beaten opponent in the face with a dagger when the king halted the contest. Astley was so enthusiastic about his performance that he commissioned an illustration of himself and an opponent in single combat, axes poised in the midst of battle, which was included in Astley’s common-place book\textsuperscript{17} on chivalric matters that

\textsuperscript{12} Russell, ‘Trial by battle,’ p. 346.
\textsuperscript{13} A.R. Myers, London in the Age of Chaucer, Norman, Okla., 1972, p. 13.
\textsuperscript{14} Kelly DeVries, Medieval Military Technology, Peterborough, Ont., 1992, p. 30.
\textsuperscript{16} Chronicles of London, ed. C.L. Kingsford, Oxford 1905, p. 150.
\textsuperscript{17} Dillon, Harold Arthur, Viscount, ‘On a MS. collection of ordinances of chivalry of the fifteenth century,’ Archaeologia, vol. 57 (1900), pp. 29-70. The drawing of Sir John and his
survives as Pierpont Morgan Library MS 775. Sir John was of sufficient martial reputation that in 1449 when the city of London raised a military contingent to fight in France, Astley was appointed to be the captain. In later years Astley entered the service of King Edward IV, fought for Edward in the battle of Towton in 1461, and the next year King Edward made Astley a knight of the Garter. Astley joined in Edward's French expedition of 1475 in his continuing service to the king and, following Edward's death in 1483, Astley was one of the four knights who supported the canopy over the king's corpse during the funeral ceremony in Westminster Abbey. Astley was present for the coronation of Richard III at Westminster Abbey on 6 July, and it must be presumed that he did not fight for Richard at Bosworth in 1485 because late in the year the victorious Henry VII granted Astley a life annuity.

In addition to Sir John Astley on the appellant's council, there were four esquires. Thomas Parker was an esquire to the king and a sergeant who enjoyed a life-annuity from King Henry VI. Edward Bromfield (called Bronfeld in the council record) was an esquire from Southwark, Surrey, who had seen military service as the French captured English-held Normandy. Thomas Montgomery (d. 1489) was a young king's esquire from a knightly family who was also a marshal of the hall in the royal household. Montgomery would go on to serve Edward IV, Richard III, and Henry VII. Montgomery fought at Towton for Edward IV, who thereafter dubbed him a knight and who in 1476 brought him into the fellowship of the Garter. Montgomery had many military and diplomatic responsibilities during Edward's reign, and he attended the coronation of Richard III, who retained him as a knight of the body. Sir Thomas then made an adroit shift into the service of Henry VII after Bosworth.

Laurence Rainford (called Reynford in the council record) was an esquire of knightly family who experienced warfare during the loss of Normandy to the opponent doing battle is reproduced as Plate VI; Astley in the midst of a joust, with lances broken at the moment of clashing, is reproduced as Plate V, while a representation of Astley's combat of 1438 is reproduced as Plate V. A brief description of Astley's chivalric miscellany is in Raluca Radulescu, ‘Literature,’ in Gentry Culture in Late Medieval England, ed. R. Radulescu and A. Truelove, Manchester 2005, p. 110.

19 Ibid., p. 227.
22 Calendar of Close Rolls 1445-54, pp. 156-57. Hereafter cited as CCR.
Rainford (d. 1490) had a long and successful career in royal service, although less dramatic than that of Thomas Montgomery. The two additional men on Lyalton’s council were a London fishmonger named Philip Trehern and another Thomas Parker, this Parker being a citizen of London as well as a king’s sergeant and royal armorer rather than an esquire. Parker held a life-annuity from Henry VI, had the life-holding of the workshops of the royal armory within the Tower of London, and also drew income as steward for life of the Welsh lordship of Cilgerran and Dyffryn-bryn in Pembrokshire. An eighth man assigned to assist Lyalton as part of his council was the painter Thomas Bee, who was to paint the banners and other decorative accoutrement necessary for a judicial combat.

The council assigned to the defendant, Robert Norreys, was also made up of seven men, complemented by an artisan. The most eminent figure assisting Norreys was the Welsh knight, Sir Hugh Johnys (d. c. 1485). By 1453 Sir Hugh had an established martial reputation. He had gone east to establish his career and in 1436 he entered the service of the Emperor in Constantinople. For some five years he was engaged in military action in Greece and Turkey and at sea. In 1441 he was in Jerusalem where he was admitted into the lay confraternity of the knights of the Holy Sepulchre. He returned to Britain where he became associated with John Beaufort, Duke of Somerset, who went to France in 1443 to direct the English war effort there. Johnys went to France as deputy to Somerset in the capacity of knight marshal of France. After Somerset returned to England in 1444, having achieved little if anything, Johnys stayed on until 1446 to assist Somerset’s replacement, Richard, Duke of York. Upon his return to England, Sir Hugh became knight marshal of England as deputy to the duke of Norfolk, marshal of England. A main responsibility of the knight marshal was to keep order in the royal household. Along the way, Johnys was becoming a notable landholder in south Wales and was ultimately buried in St Mary’s, Swansea. Like his counterpart in 1453, Sir John Astley, Johnys went on to service under Edward IV, who in 1468 appointed him one of the small group of poor knights of Windsor, a brotherhood of laymen, some of them old soldiers, each of whom had a residence at Windsor and an income, and who formed part of the college of St George’s Chapel, which served the members of the order of the Garter with prayer.

In addition to Sir Hugh Johnys on the council of the defendant, Robert Norreys, there were four esquires, and they are an elusive group. Ellis Langworth was of sufficient wealth to be a moneylender, but Thomas Keyle is not to be found in available records. Thomas Mering of Tong, Shropshire, was

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26 CCR 1445-54, p. 263.
27 CCR 1445-54, pp. 156-57, 196, 314, 399, 472.
29 Calendar of Patent Rolls 1446-52, pp. 573-74. Hereafter cited as CPR.
in the retinue of the earl of Salisbury in 1459, but what led to his appointment in 1453 is unaccountable. James Hide was a king’s esquire and held tenure of life as marshal and clerk of Dover Castle. Together with these four esquires, Norreys was to be assisted by a wiredrawer named Thomas Cotton, and the armorer named for the aid of Norreys was Everard Frere, a citizen of London. A painter called Piers Huke was the artisan called into service for Norreys as he approached judicial combat.

There is no blatant partisanship toward either of the parties in the dispute as the men appointed to assist them are reviewed, although the council assigned to Lyalton seems to be made up of more prominent men. Nor can any obvious bias be identified in the work of the court of chivalry on 11 May. Where a party interest can be seen, however, is the noticeable relationship of the council appointees to the royal household. The treason case was of interest to the king, and people connected to the king were involved with the councils of both Lyalton and Norreys. A judicial combat was a royal event.

Before many days had passed, John Lyalton petitioned the king asking that the king command the keeper of the privy seal, who at the time was Thomas Lisieux, dean of St Paul’s Cathedral, to issue letters under the privy seal to the appropriate parties to get the process moving so that the date of the combat could be met. King Henry signed the petition himself. The next recorded stage in the Lyalton versus Norreys case was a modest flurry of privy seal letters issued by order of the king. One letter, issued on or about 23 May, was directed to the chancellor of England, John Kempe, Archbishop of Canterbury and cardinal, who was commanded to issue a writ to the two sheriffs of London and Middlesex ordering them to see that a scaffold was constructed at Smithfield so that the king could view the combat. The sheriffs were also to see that appropriate lists and barriers were erected to define the area of combat, and that the ground in the designated area would be dressed with sand and gravel. Nothing is said of the size of the combat arena, but a later source mentions 40 feet by 30 feet for a fight on foot. Another privy-seal letter went to John Stanley, also known as Jankyn Stanley, a younger son of Sir William Stanley of Storeton and sergeant of the king’s armory, who was directed to provide sufficient weapons and armour for John Lyalton. The need for weapons and armour to be provided from the king’s resources, together with the combat being on foot rather than on horseback, strongly implies that neither combatant was a man of financial prosperity. The weaponry, at the

31 CPR 1446-52, p. 403.
32 CCR 1445-54, pp. 35, 60, 472.
33 POPC, vol. 6, pp. 132-33.
34 Ibid., vol. 6, pp. 133-36.
same time, suggests men with martial training. Yet another privy-seal letter was sent to the painter or stainer, Thomas Bee, informing Bee that he would be paid by the king for undertaking such work as was required from him in preparation for the judicial combat. On 23 May a single letter was sent to both Sir John Astley and Thomas Montgomery formally telling them that John Lyalton had appealed Robert Norreys of high treason, that a judicial combat would be held in Smithfield on 25 June, and that they were assigned to be part of Lyalton’s council.

With the proper arrangements seemingly set in motion by the king, it was the turn of Lyalton to submit another petition to the king. On 29 May Lyalton addressed a petition to the king begging for money with which to acquire things he needed before entering into combat with Norreys. He was seeing the date of the combat approaching, and he was not fully equipped. He asked the king to order the treasurer of England, who happened to be John Tiptoft, Earl of Worcester, to release funds quickly. He also asked that the king send a letter to his smith ordering that Lyalton be provided with the weapons he required.

Our next glimpse into the case is dated 22 June, just three days before the scheduled date of the combat. It is a petition from Robert Norreys to the king, and from it we learn that the date of the combat has been shifted by a month to Monday, 23 July. In his petition Norreys reiterated that he and Lyalton had appeared before the duke of Somerset on 11 May, that Lyalton had appealed him of high treason, a charge he denied, and that a trial by combat had been ordered. Norreys asked in his petition that the king command to be issued letters under his privy seal ordering the men named to his council to carry out their assigned tasks and that he be provided with the necessary weaponry with which to fight. The petition from Norreys leaves the distinct impression that little or nothing had been done to make ready for the judicial combat. The impression of inaction is reinforced by the fact that on 22 June the king did as Norreys requested; he had letters issued to each of the eight men assisting Norreys instructing them to do what was required of them in the case of Lyalton versus Norreys.

The day after Norreys petitioned the king, Lyalton also petitioned the king. Lyalton in his turn mentioned the case in which he was the appellant, and then went on to request of the king that letters under his privy seal be sent to the king’s sergeant or yeoman of tents ordering that a tent or pavilion be provided for Lyalton’s use on the day of the battle. He also requested that another letter be sent to the king’s smith ‘in alle hasty wise’ to provide the weapons required by Lyalton. With Lyalton’s petition of 23 June, the records of the king’s council concerning the case come to an end.

37 POPC, vol. 6, p. 136.
38 Ibid., vol. 6, p. 137.
39 Ibid., vol. 6, pp. 138-39.
40 Ibid., vol. 6, pp. 139-40.
Did the combat take place? There is no firm evidence indicating that it did or did not. Keeping in mind the remark of Carl Sagan, ‘absence of evidence is not evidence of absence,’ it is appropriate to look at the immediate circumstances, and there are good reasons to believe that the combat was not held. No record has been discovered of the goods of either party being forfeit to the king because of treason. Beyond no mention of such a trial by combat in contemporary governmental records or chronicles, weapons were still being requested on 23 June, and they may never have been delivered. In the days leading up to the revised date, 23 July, set for the judicial combat, the king was distracted by a violent quarrel over lands in south Wales between Richard Neville, Earl of Warwick, and Edmund Beaufort, Duke of Somerset, and by noisy rivalry between the Neville and Percy families in Yorkshire. The king decided to leave Westminster, most likely to try to settle the unrest in the kingdom, and the royal departure would have delayed the 23 July combat in Smithfield between Lyalton and Norreys. The king, who was expected to witness the combat, was at Sheen in Surrey on 21 July on his way west and was at Kingston Lacy in Dorset by 31 July. Unbeknownst to the parties in England at the time of the last petitions from Norreys and Lyalton, the English army had suffered a crushing defeat at Castillon in Gascony on 17 July. The king was at the royal hunting lodge at Clarendon near Salisbury about the beginning of August, and it was probably around this time, if not a bit earlier, that he learned of the disaster at Castillon. Disturbances in the kingdom and military collapse in Gascony would in themselves have distracted the king from Lyalton versus Norreys. But that was not all. While at Clarendon the king suffered some sort of mental collapse, along with a physical ailment, and he remained in a state of incapacity to function in daily life, much less rule a kingdom, until about Christmastime 1454. It seems not unreasonable to speculate that the appellant and defendant were firmly persuaded by powerful people to make some settlement, perhaps by face-saving arbitration. Arbitration was an accepted procedure under the law of arms, and the pressure upon the political community would have been immense to appear united in the face of violent disputes within the kingdom, the loss of Gascony and contingent fears of a French invasion of the kingdom, to which was added a king who was non compos mentis. The case was an active one and had attracted too much attention to be allowed simply to hang in suspension. Circumstances in late June and through July 1453 favour the assumption that the combat never took place, and that limited preparations for judicial combat, together with a flurry of parchment, is most of what happened so far as a trial by combat was concerned. The council records may tell us the greater part of what happened in the

43 Ibid., pp. 270, 370.
44 Keen, Laws of War, p. 35.
treason case of Lyalton *versus* Norreys, namely, orders to act and, at most, modest, incomplete preparations for judicial combat. The compelling conclusion is that Lyalton and Norreys bowed to the tensions of the moment and accepted some non-violent resolution of their dispute.

While this 1453 court of chivalry incident offers a curious vignette of a high-political moment, the anticlimactic nature of Lyalton *versus* Norreys is somewhat unsatisfying. Yet the case does provide an example of how riveting a charge of high treason could be for the royal government, even if the charge was brought by one obscure man against another equally shadowy fellow. The Court of Chivalry was set in motion with the involvement of the dukes of Somerset and Norfolk, assisted by Sir John Hanford. Two notable military men, Sir John Astley and Sir Hugh Johnys, were appointed to head councils assisting each of the parties in the quarrel. The financial and material resources of the crown were offered to the process of resolving the case, and the king himself planned to observe the combat. The proposed trial by battle also drew in to one degree or another the non-knightly members of each combatant’s council, the Earl of Worcester (as Treasurer of England), the sheriffs of London, the keeper of the king’s privy seal (who was also dean of St Paul’s), and the king’s armorer, smith, and pavilioner. The case may seem historically anticlimactic, but it was extremely compelling in springtime 1453. It is also a demonstration that the law of arms was being employed by the military community in England. The dithering manner in which the treason case was initially handled by the government of Henry VI is a small example of occurrences which finally led powerful people to look with favour toward a king drawn from the house of York. The case is as well a fifteenth-century example of one compelling event being utterly eclipsed by events of more drastic importance.