

# 1911 Encyclopædia Britannica, Volume 17 — Lord High Steward



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**LORD HIGH STEWARD.** The Lord High Steward of England, who must not be confused with the Lord Steward, ranks as the first of the great officers of state. Appointments to this office are now made only for special occasions, such as the coronation of a sovereign or the trial of a peer by his peers. The history of the office is noteworthy. The household of the Norman and Angevin kings of England included certain persons of secondary rank, styled dapifers, seneschals or stewards (the prototypes of the lord steward), who were entrusted with domestic and state duties; the former duties were those of purveyors and sewers to the king, the latter were undefined. At coronations, however, and great festivals it became the custom in England and elsewhere to appoint magnates of the first rank to discharge for the occasion the domestic functions of the ordinary officials. In accordance with this custom Henry II. appointed both Robert II., earl of Leicester, and Hugh Bigod, earl of Norfolk, to be his honorary hereditary stewards; and at the Christmas festival of 1186 the successors in title of these two earls, with William, earl of Arundel, who held the similar honorary office of hereditary butler, are described as serving the king at the royal banqueting table. Subsequently the earls of Leicester bought out the rights of the earls of Norfolk for ten knights' fees.

The last of these earls of Leicester to inherit the hereditary stewardship was Simon V. de Montfort; how he served as

steward at the coronation of Eleanor, queen of Henry III., is described in the Exchequer Red Book. The office of steward in France, then recently suppressed, had for some time been the highest office of state in that kingdom, and Simon de Montfort appears to have considered that his hereditary stewardship entitled him to high official position in England; and after his victory at Lewes he repeatedly figures as steward of England in official documents under the great seal. After Simon's death at Evesham his forfeited estates were conferred on his son Edmund of Lancaster, who also obtained a grant of the stewardship, but only for life. Edmund was succeeded by Thomas, earl of Lancaster, who received a fresh grant of the stewardship to himself and the heirs of his body from Edward II.; and this earl it was who, during the weak administration of the last-mentioned king, first put forward in a celebrated tract the claim of the steward to be the second personage in the realm and supreme judge in parliament, a claim which finds some slight recognition in the preamble to the statute passed against the Despencers in the first year of Edward III.

Earl Thomas was executed for treason, and though his attainder was reversed he left no issue, and was succeeded in the earldom by his brother Henry. The subsequent earls and dukes of Lancaster were all recognized as stewards of England, the office apparently being treated as annexed to the earldom, or honor, of Leicester. John of Gaunt, indeed, at a time when it was possible that he would never obtain

the Leicester moiety of the Lancastrian estates, seems to have made an ingenious but quite unfounded claim to the office as annexed to the honor of Hinckley. Strictly speaking, none of the Lancasters after Thomas had any clear title either by grant or otherwise; such title as they had merged in the crown when Henry IV. usurped the throne. Meanwhile the stewardship had increased in importance. On the accession of Edward III., Henry, earl of Lancaster, as president of the council, had superintended the coronation of the infant king; John of Gaunt did the same for the infant Richard II.; and, as part of the duties involved, sat in the White Hall of Westminster to hear and determine the claims to perform coronation services. The claims were made by petition, and included amongst others: the claim of Thomas of Woodstock to act as constable, the rival claims of John Dymock and Baldwin de Frevile to act as champion, and the claim of the barons of the Cinque Ports to carry a canopy over the king. Minutes of these proceedings, in which the duke is stated to have sat "as steward of England," were enrolled by his order. This is the origin of what is now called the Court of Claims. The precedent of Richard II. has been followed on all subsequent occasions, except that in modern times it has been the practice to appoint commissioners instead of a steward to superintend this court. In 1397 John of Gaunt created a notable precedent in support of the steward's claim to be supreme judge in parliament by presiding at the trial of the earl of Arundel and others.

When Henry IV. came to the throne he appointed his young son Thomas, afterwards duke of Clarence, to the office of steward. Clarence held the office until his death. He himself never acted as judge in parliament; but in 1415 he was appointed to preside at the judgment of peers delivered in Southampton against Richard, earl of Cambridge, and Lord Scrope of Masham, who had been previously tried by commissioners of oyer and terminer. No permanent steward was ever again created; but a steward was always appointed for coronations to perform the various ceremonial services associated with the office, and, until the Court of Claims was entrusted to commissioners, to preside over that court. Also, in the 15th century, it gradually became the custom to appoint a steward *pro hac vice* to preside at the trial, or at the proceedings upon the attainder of a peer in parliament; and later, to preside over a court, called the court of the lord high steward, for the trial of peers when parliament was not sitting. To assist in establishing the latter court a precedent of 1400 appears to have been deliberately forged. This precedent is reported in the printed *Year-Book* of 1400, first published in 1553; it describes the trial of “the earl of H” for participation in the rebellion of that year, and gives details of procedure. John Holand, earl of Huntingdon, is undoubtedly the earl indicated, but the evidence is conclusive that he was murdered in Essex without any trial. The court of the lord high steward seems to have been first definitely instituted in 1499 for the trial of Edward Plantagenet, earl of Warwick; only two years earlier Lord Audley had been condemned by the court of chivalry, a

very different and unpopular tribunal. The Warwick trial was most carefully schemed: the procedure, fundamentally dissimilar to that adopted in 1415, follows exactly the forged precedent; but the constitution of the court was plainly derived from the Southampton case. The record of the trial was consigned to a new repository (commonly but wrongly called the *Baga de Secretis*), which thenceforth became the regular place of custody for important state trials. Latterly, and possibly from its inception, this repository consisted of a closet with three locks, of which the keys were entrusted, one to the chief justice of England, another to the attorney-general and the third to the master of the crown office, or coroner. Notwithstanding the irregular origin of the steward's court, for which Henry VII. must be held responsible, the validity of its jurisdiction cannot be questioned. The Warwick proceedings were confirmed by act of parliament, and ever since this court has been fully recognized as part of the English constitution.

For about a century and a half prior to the reign of James I. the criminal jurisdiction of parliament remained in abeyance, and bills of attainder were the vogue. The practice of appointing a steward on these occasions to execute judgment upon a peer was kept up till 1477, when George, duke of Clarence, was attainted, and then dropped. Under the Stuarts the criminal jurisdiction of parliament was again resorted to, and when the proceedings against a peer were founded on indictment the appointment of a

steward followed as a matter of settled practice. The proper procedure in cases of impeachment had, on the contrary, never been defined. On the impeachment of Strafford the lords themselves appointed Arundel to be high steward. In Danby's case a commission under the great seal issued in the common form adopted for the court of the steward; this was recalled, and the rule agreed to by a joint committee of both houses that a steward for trials of peers upon impeachments was unnecessary. But, as such an appointment was obviously convenient, the lords petitioned for a steward; and a fresh commission was accordingly issued in an amended form, which recited the petition, and omitted words implying that the appointment was necessary. This precedent has been treated as settling the practice of parliament with regard to impeachments.

Of the proceedings against peers founded upon indictment very few trials antecedent to the revolution took place in parliament. The preference given to the steward's court was largely due to the practice, founded upon the Southampton case, of summoning only a few peers selected by the steward, a practice which made it easy for the king to secure a conviction. This arrangement has been partially abrogated by the Treason Act of William III., which in cases of treason and misprision of treason requires that all peers of parliament shall be summoned twenty days at least before every such trial. The steward's court also differed in certain other particulars from the high court of parliament. For example, it was ruled by Lord Chancellor Jeffreys, as

steward at the trial of Lord Delamere, that, in trials of peers which take place during the recess of parliament in the steward's court, the steward is the judge of the court, the court is held before him, his warrant convenes the prisoner to the bar, his summons convenes the peers for the trial, and he is to determine by his sole authority all questions of law that arise in the course of the trial, but that he is to give no vote upon the issue of guilty or not guilty; during a session of parliament, on the contrary, all the peers are both triers and judges, and the steward is only as chairman of the court and gives his vote together with the other lords. Lord Delamere was tried in 1685 in the steward's court; since then all trials of peers have taken place before the lords in parliament. The most recent trial was that of Earl Russell in 1901, when Lord Chancellor Halsbury was made lord high steward. The steward is addressed as "his grace," he has a rod of office, and the commission appointing him is dissolved according to custom by breaking this rod.

A court of claims sat and a steward was appointed for the coronation of Edward VII.; and during the procession in Westminster Abbey the duke of Marlborough, as steward, carried "St Edward's crown" in front of the bearer of the Bible (the bishop of London), who immediately preceded the king; this function of the steward is of modern origin. The steward's ancient and particular services at coronations are practically obsolete; the full ceremonies, procession from Westminster Hall and banquet in which he figured



prominently, were abandoned on the accession of William IV.

For the early history of the steward see L. W. Vernon-Harcourt, *His Grace the Steward and Trial of Peers* (1907); for the later history of the office see Sir E. Coke, *Institutes* (1797); Cobbett and Howell, *State Trials* (1809, seq.); S. M. Phillipps, *State Trials* (1826); John Hatsell, *Precedents*, vol. 4 (1818); and Sir M. Foster, *Crown Law* (1809). See also the various works on *Coronations* for the steward's services on these occasions. [\(L. W. V.-H.\)](#)



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