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The Public courts of Common law & Equity in England

1st "Respondre" — This is a court of record & the Steward of him who owns the toll of market is Judge, a writ of error lies in the nature of an appeal to Westminster

2nd Court-Baron — Held by Steward of Manor, the free-suitors are here the Judges. Its great right is "To determine by writ of right all disputes with regard to lands in the manor, It takes cognizance of all cases where debt or damage is under 40 Shillings. A writ of false Judgement lies to the court at Westminster

3rd Com-Pleas — The judges are three 1 chief & two associate judges. They are created by the Kings letters patent, an appeal from this court lies to the "King's bench".

6th Kings bench — This court sits at Wr & is the supreme court of common law in the kingdom, it is composed of a chief & three associate Justices. This keeps all inferior jurisdictions within the bounds of their authority. It takes cognizance both of criminal & civil cases principly crimes & Misdemeanors. This court might always hold pleas of civil actions (other than actions real) provided the defendant was an officer of the court, or in the custody of the Marshal for a breach of the peace or any other offence & by a fiction it began to hold pleas of

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Note book of an unknown person. 46 pages. 10 1/8 x 8 inches. Purchased from The Green Bookman, Richmond, Va., Sept. 14, 1937.

Contents:

Notes on law.

Farewell address of Brigadier General James A. Walker to the 13th Virginia Regiment of Infantry upon taking command of the old "Stonewall Brigade." 20 May 1863.

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3rd Hundred court — exactly like the "court-Baron"

4th Cty. Court — Not a court of record but may hold pleas of debt or damages under 40. Shillings. It may hold pleas of Many real & all personal actions, to any amt by virtue of a writ called "Justicies" The free-holders are here the Judges: Sheriff being ministerial officer.

5th Com. Pleas. — This was a branch of "aula regia", it sat at Westminster. It was to decide all disputes between private subjects. It is a court of record & is termed by coke the lock & key of "Com law" The judges are three 1 chief & three associate judges. They are created by the Kings Letters Patent, an appeal from this court lies to the "King's bench".

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continuation Court "Kings Bench"

all personal actions it being supposed that the defendant has been arrested for a supposed trespass which the the defendant has never committed. The defendant is not at liberty to dispute his being in the custody of the marshal, This is a court of appeal for all the inferior courts, & if then not settled the appeal is to "House of lords" & Exchequer Chamber

This is inferior to last two, It is a court of 1st Common law & 2nd Equity also. Established by William 1st

It contains two parts 1st Regulate kings revenue

2nd Is Judicial part. Judicial { Comn law / Equity

7 The Exchequer

By Stat 12 Chas II military tenures were done away with & Lands were held 1st By free & common socage 2nd Frankalmoign 3rd By Grand Serjeanty. 4 By copy of Court roll

Estates
- Free hold
  - 1st Of Inheritance
    - The Simple Absolute
    - " Conditional
    - " Qualified or Base fee
    - " Fee tail
  - 2nd Not of Inheritance
    - Estates tail female by issue extinct
    - Estates for Life
    - By Curtesy
    - In Dower
- Less than free hold

Powers conferred on the National Government.

1st. as relates to Security from Foreign Danger.

1st. Power of Declaring war.

It is vested in the Congress of the U.S. It is exclusive of its own nature: & besides it is expressly prohibited to the States. Hostilities however may be terminated by the Presdt. by and indefinite time & Peace completely restored by the concurrence of Senate & Presdt.

Granting letters of Marque & Reprisal

This is derived from the power of making war. The practice distinction between letters of Marque & of Reprisal is this the latter is a Privateers commission, & the former is applied to a vessel fitted out for war & merchandise & armed merely for defence

2nd. Power of making Rules concerning captures on land & water.

This also applies to enemies property found within the territorial limits of the U.S. The disposition of the enemy's property is a question of policy for the Legislative Leg. & not for the consideration of the Judicial Power. Until the Legislatures will so declared, no power of condemnation exists in the Federal Courts. A declaration of war does not "ipso facto" vest such property in the Govt. so as to support Judicial proceedings for its condemnation, nor is it "per se" a confiscation of enemies property

3rd. Power of raising Armies & equipping Fleets.

Standing armies in time of peace were regarded some to be a dangerous consequence from the indefiniteness of this power but if we cant limit the ambition & injustice of other nations we should not limit the power to provide against them. besides it would encourage and enemy from making such attempts. The jealousy to Standing armies can be traced to Mobile

of thinking of the people of the U.S derived from those from whom they sprung. The only restriction as to the power of congress over military operations is contained in the 3rd Amendment. The union & that provision in our constitution which requires an appropriation to be made every 2 years for maintaining an army are our securities. The States however can make use of a military power to put down any insurrection too strong for the civil authority.

4th The Power of regulating the Militia.

Note

Mem Taylor — Case of Malicious prosecution — It being contended that Taylor had sued out a warrant without cause to sustain such an action two things must be proven 1st want of probable cause & 2nd Malice. The malice may be inferred from — obvious want of probable cause — i.e. when no reasonable man would have been deceived — but the mere fact that there was no real ground for the warrant will not enable the party to action for Mal-prosn for if he thought he was right the action must be maintained see {Dillwyn on Torts} In this case witnesses were introduced to prove the general bad character of plaintiff but the witnesses were not allowed by the Judge to state any thing as to the individual cases in which the was suspected but put the question directly "Do you know the general reputed of Mr Mc Ven in the Community"? Drake he officially instructing the jury of general bad character.

36 Blank Pages Follow
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Headqrs 13th Va Regt Infy
May 20th 1863.

Fellow-Officers and Soldiers of the 13th Regiment
- Having been assigned to the command of Paxton's brigade I take official leave of the gallant officers & men of the old 13th whom I have so long had the honor to command. And in doing so I desire to return to each and every one of you my heartfelt thanks for the ready & cheerful obedience which you have always accorded to my command.

Coming among you by appt of the Governor, an entire stranger from a different section of the State, I met with nothing but kindness & friendship & a cordial support in all my efforts to discharge the duties of my office. For this I owe you a debt of good will, & gratitude which will long be remembered. But a higher & infinitely greater debt of gratitude is due you not from me alone, but from your country, for the unflinching courage gallantry & fortitude, which you have displayed on more than a dozen battle-fields & for the patient endurance which you have exhibited, amid all the hardships & privations of an arduous campaign. It would be idle for me to attempt to compliment the ~~regt~~ regiment which Gen Ewell placed in his "Iron Brigade". The future historian will record your deeds and the name of the 13th Regiment will be immortal.

Fellow-Officers & Soldiers I found you a large regiment
I leave you a handful of scarred & tried Veterans
Yet formidable not in numbers, but in that
invincible spirit which never quails & never
falters, in the tried valor & skill of your
officers & in the glorious name you have
won, which is a heritage of glory to
you & to your children & which I know
you will never lose but with your
lives. Then when you look at your dim
inished numbers be not discouraged, but
point to your scars & to your tattered colors
& to the graves of your brave companions
in arms, who have fallen by your sides
& say "it is of these we boast & our pride
In leaving you to take the command
to which your bravery & good conduct has
raised me, I feel that I am leaving an
old & dear tie & wherever I may go & wh-
atever future may await me, I will
ever remember with emotions of pride
& pleasure the gallant men of the 13th Va.

Las. A. Walker,
Brig General

Farewell address of Gen Walker to the
13th Va upon taking command of the
old "Stonewall Brigade"