A Polite Exchange of Bullets

The Duel and the English Gentleman 1750–1850

STEPHEN BANKS

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Introduction

This is a study of one particular aspect of English society during a period of the most astonishing transformation. In 1750, a foreign-born king, who had not long before defeated an attempt to unseat him, presided over the affairs of a largely agrarian country. A constitutional settlement had limited his powers, but he still claimed the right to make and unmake administrations at will. Science had progressed, but until as recently as 1736 one could still be condemned for the offence of witchcraft. Travel remained a precarious endeavour limited to the speed of the horse and vulnerable to the predations of the highwaymen who infested the doubtfully maintained turnpikes. Education for most was rudimentary. By 1850, by contrast, men were flying over London in balloons for mere pleasure, hurrying about their affairs upon the paved and lighted streets or else journeying through the kingdom at hitherto unimaginable speeds of locomotion. A thriving middle class had begun to emerge, literate, rationally minded and politically enfranchised. By the time at which this study concludes its examination, Great Britain was on the threshold of the Great Exhibition.

Yet the period in between was often traumatic: abroad the nation spent much time and blood engaged in a deadly struggle with an old rival, while at home domestic conflict seemed scarcely less dramatic. By 1850, the institutions of power had successfully met and defeated challenges to public order, along the way introducing new modes of law enforcement and penalisation. For a long time, though, many supposed that the very existence of the society that they recognised was in doubt as Radicals, Deists, Frame-Breakers, Chartists and others appealed to an increasingly resistive and radicalised population to challenge the legitimacy of existing laws, customs, creeds and practices. The later eighteenth and early nineteenth centuries were a time of contending spirits and ideals, of new and widespread popular movements and anxious governmental responses.

This being so, some might think that studying duelling, out of the many rich opportunities for research apparent in the eighteenth and nineteenth centuries, represents a somewhat quixotic choice. One might be forgiven for supposing that observing the manner in which some few gentlemen resolved their personal, often petty, differences can tell us little about eighteenth- and nineteenth-century England. This assumption, however, would be mistaken. Although it will soon become apparent that duelling was not a very common phenomenon, this does not mean that it was a marginalised act of peripheral interest. Rather, this study will assert that as a phenomenon duelling was embedded in a broader language of violence, a language which, for good or ill, played an important role in constructing and sustaining the social structure. More specifically, the potential for this form of mannered violence – occasionally realised – both

ordered the relations of gentlemen with each other and conditioned the way in which they perceived and were perceived by the rest of society. As such, I shall argue, the duel can tell us much about the more general nature of Georgian England. Similarly, the demise of the duel, during the early years of the reign of Victoria, can be seen to signal the most profound changes in the social fabric on the road to modernity.

That the ability to receive or to inflict certain forms of violence is a powerful mode of social delineation and a signifier of social status is not a new discovery, and at the risk of indeed seeming somewhat quixotic, I shall begin with a story told by the Greek Herodotus in the fifth century BC. In Book IV of his *Histories*, he relates that the Scythian people once invaded the country of Media. The army was away for twenty-eight years, and during this time their wives, who had been left behind at home, interbred with their household slaves. By the time they returned, the Scythians thus found that their country was now occupied by a new race, descended from the slaves and from their own wives. They promptly sought to oust them, but could not prevail in battle. Until, that is, one of the soldiers observed:

> My counsel is that we drop our spears and bows, and go to meet them each with his horse-whip in hand. As long as they saw us armed, they thought themselves to be our peers and the sons of our peers; let them see us with whips and no weapons of war, and they will perceive that they are our slaves; and taking this to heart they will not abide our attack.[1]

The plan, we are told, was put into effect and was immediately successful. At the sight of the whips these descendants of slaves forgot that they were soldiers and fled.

The story, like so much of Herodotus, is of course fictional and based on an obviously erroneous theory of natural slavery, but it is no less instructive for that. What we learn from it is that types of violence cannot be measured simply by the degrees of harm they engender. Violence is nuanced and in its different forms has appropriate and inappropriate, natural and unnatural facets. Violence speaks in different ways, and the ability to inflict and the duty to receive certain types of violence has historically played an important role in creating one's personal identity as well as classifying one's social status. The slaves in the Herodotean story were not afraid of finding death on the battlefield; indeed, the act of engaging in combat sustained them as the equals of their would-be masters. It was only when equality was denied and a different, symbolic, form of violence was substituted that they recalled their slave identity. The imposition of a particular form of violence or, conversely, the adoption by mutual consent of a very particular form of violence can then be what Pierre Bourdieu describes as:

> An act of communication, but of a particular kind: it signifies to someone what his identity is, but in a way that both expresses it to him and imposes it on him by expressing

1 Herodotus, *The Histories*, Book IV. 3, trans. A. D. Godley (London: Loeb, 1921).

> it in front of everyone (kategorein, meaning originally, to accuse publicly) and thus informing him in an authoritative manner of what he is and what he must be.[2]

The nuances of violence serve as one of those devices through which, again quoting Bourdieu, 'social magic always manages to produce discontinuity out of continuity'. Historically, the passing through the boundaries of social groups has meant losing or gaining the capacity to receive, as well as to inflict, diverse types of violence. For example, the attainment of majority may mark the end of a period in which one may be lawfully beaten. The duel, in turn, represented a very formalised pursuit of violence, one in which ritual behaviours were adopted that seemed to deny the existence of the very emotions normally expressed when two parties seek to do harm to each other. Indeed, once the pistol had become the instrument of preference, the combat itself was often reduced to a single mechanical act that briefly, albeit sometimes fatally, interrupted a discourse of utmost civility. The right to demand satisfaction from a fellow gentleman legitimated a very particular view of society and of the role of the gentleman within it. As such, then, when the duel was no more, something very important had happened to the relationships between gentlemen and those between them and their inferiors.

Why the duel disappeared in England a full half century or so before its demise on the Continent is the question that will occupy the final portion of this book. The greater part of it will, however, be devoted to the study of duels themselves, to a consideration of their actual distribution socially and geographically through late eighteenth- and early nineteenth-century society and to an investigation of the causes of duelling and the significance, customs and mores of the practice. The limits of the endeavour should be acknowledged from the first. This is predominately a study of duels in England, and although it contains comparative material regarding duels in Europe and duels in the colonial possessions, I have for reasons of brevity chosen not to extend the study to a consideration of duelling in Ireland, where there is a rich independent tradition, or to Scotland. Similarly, this is not a moral study; while the copious literature produced by anti-duelling campaigners will naturally feature to some degree, the focus will remain predominantly upon the attitudes and attributes of the duellists themselves. Duelling, though, was not a native English custom. Although some English apologists were later to claim the duel for their own and to contrast domestic honour with foreign perfidy, the duel in fact arrived from Italy towards the end of the sixteenth century. Before considering the duel in its later manifestations, then, it will be helpful to first consider the arrival of honour culture in England and to sketch out something of its subsequent history up to the point where my period proper begins.

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2 P. Bourdieu, *Language and Symbolic Power*, ed. J. B. Thompson, trans. G. Raymond and M. Adamson (Cambridge: Polity, 1992), p. 121.

1

Setting the Scene: The Arrival of the Duel and a Brief History to 1750

On 29 June 1612 Robert Creighton, Lord Sanquhar was hanged on a gibbet erected outside Westminster Hall for the offence of procuring the murder of a fencing master, John Turner. Although Sanquhar's rank alone would have been enough to make the execution memorable, it was the peculiar circumstances leading to the murder that lent the affair a particular notoriety. In brief, Sanquhar had some seven years before affronted and then challenged Mr Turner to a fencing match – seemingly wishing to demonstrate his prowess with the blade. In the encounter, however, Turner had prevailed, accidentally blinding Sanquhar in one eye. To all intents and appearances, though, Sanquhar appeared to have accepted the loss equably and to have forgiven his opponent. Until, that is, some years later, when the lord had found himself at the court of Henry IV and the King had inquired as to how he had lost his eye. Sanquhar had recounted the incident whereupon, as one observer reported, 'The king replie[d], Doth the man live? And that question gave an end to the discourse but was the beginner of a strange confusion in his working fancy, which neither time nor distance could compose.'[1] Unable to shake the conviction that it was shameful not to have requited the injury, but equally unable, both because of his social station and his disability, to challenge Turner to a duel, Sanquhar had then hired assassins to kill Turner. Although the fencing master had been shot in his house, the assassins had been captured and had confessed all.

At his trial Sanquhar had professed his guilt, expressed his remorse and appealed for clemency. However, he had nevertheless sought some justification for his conduct in reference to a particular system of values that had induced him to behave as he had. 'I considered not my wrongs upon terms of Christianity, for then I should have sought for other satisfaction, but being trained up in the courts of princes and in arms,

1 T. B. Howell, ed., *A Complete Collection of State Trials*, 33 vols (London: R. Bagshaw, 1809–1826), vol. ii, col. 745.

I stood upon the terms of honour.'[2] He declared, 'I confess I was never willing to put up a wrong, where upon terms of honour I might right myself, nor never willing to pardon where I had a power to revenge.' Of course, an unwillingness to finally forgive was no great novelty in human affairs. The intuition that requiting a wrong is an absolute, one might almost say ethical, imperative, the absence of which diminishes the self, is one that I shall often have cause to allude to in the following pages. One suspects that such a sentiment has always been embedded in human society, although its impact upon the conduct of human affairs perhaps waxes and wanes. In Christianised English society, however, such a sentiment was clearly inimical to the teachings of the Church; it might be felt, perhaps, but not decently expressed. Sanquhar, however, did so, and he did so because in the latter part of the sixteenth century a new wave of mores and manners had arrived in England which sought to recast reputation no longer in terms of Christian virtue but in terms of a very particular form of honour, a form of honour which legitimated, indeed prescribed, studied yet violent responses to transgression. It was by reference to these new mores that Sanquhar hoped to gain some sympathy for the predicament occasioned by being unable to requite a wrong done to him. Sir Francis Bacon, prosecuting as Solicitor General, was nevertheless quick to identify their origin and to reject them: 'I must tell you plainly that I conceive you have sucked those affections of dwelling in malice rather out of Italy, and outlandish manners, where you have conversed, than out of any part of this island of England and Scotland.'[3]

The history of the affections and manners referred to – and connected with them the history of the Italian duel – can scarce be done justice here. In brief, however, the origins of the codes of honour that legitimated duelling are to be located with the Italian Renaissance theories of courtesy and civility that emerged in the fifteenth century and endured through the chaos of the Italian wars between 1495 and 1559. As the name suggests, courtesy was very much a quality deriving from life at court, where the ability to behave respectfully while concealing one's personal inclinations or views was a most useful attribute. As such, then, courtesy, as Markku Peltonen suggests, was rather more a mode of behaviour than a view of inner being: 'Whereas for Erasmus and others, courtesy was an outward sign of the soul, for Castiglione and his followers, it was largely a means to repress outward indications of feelings.'[4] Nevertheless, closely tied to both courtesy and civility was the assertion that gentlemen by birth or deed held within them a reservoir of honour that they must keep inviolate by requiting any attempt to transgress upon it. Although both courtesy and civility

2 Ibid., col. 747.

3 Ibid., 751.

4 Markku Peltonen, 'Civilised with death: Civility, duelling and honour in Elizabethan England', in Richards, J., ed., *Early Modern Civil Discourses* (Basingstoke: Palgrave MacMillan, 2003), pp. 51–67 at 55.

might, by some, be approximated to dissembling and disingenuousness, in fact they served the dual functions of both preserving one's own honour and of enabling sociability between equals by recognising the honour of others. Where one's own honour was not acknowledged by a social equal, where one was affronted, the appropriate response according to courtesy literature was to reassert that honour, and to do so by means of a challenge to a duel. It was often asserted that the more vigorous the response to any transgression, the more punctilious one was in protecting one's reputation, then the greater indeed was one's honour. The consequence was that in some men the concept of honour grew so fetishised that they were always ready to perceive affront. The history of the duel is littered with instances of homicidal confrontations occasioned by the most minor, and sometimes entirely accidental, social slights.

The Church, of course, contested such new notions of courtesy and civility, but it was characteristic of the Renaissance that men became less afraid of combat with the Church in the realm of ideas. According to Peltonen, 'the extent to which the authors of civil courtesy and duelling were prepared to argue that some elements of their ideology were incompatible with the doctrines of Christianity is striking'.[5] From the end of the fifteenth century, a series of texts defended the duel as the legitimate response of gentlemen to specific affronts from their equals or betters. Girolamo Muzio's *Il Duello*, published in Venice in 1550, was to become an important duelling text, but the most influential of the more general courtesy books was undoubtedly Castiglione's *Libro del Cortegiano* (*Book of the Courtier*), published in 1528. The whole genre of Italian courtesy and conduct books espoused what Kiernan has described as, 'allegiance to that lodestar of Italian humanism, virtú: manliness, or the ideal of manly and courageous action, with overtones strongly aristocratic'.[6]

Not least among the attractions of courtesy literature was that it served not only to differentiate the well-born from the commoner, but also to create a certain rough equality within the ranks of the well-born: each within the order was to deploy civility and courtesy in the face of the other. When such was not observed, the privilege of the duel was, in Kiernan's terms, 'the sign and seal of a mystic equality between higher and lower, a fraternal bond uniting the whole multifarious class'.[7] That the duel disciplined social conduct and shielded the lesser gentlemen from oppression by their betters will be a claim that will reoccur throughout this work – allied to the assertion that far from encouraging interpersonal violence, duelling prevented indiscriminate social warfare. This was clearly a claim that many at the time and

5 Markku Peltonen, *The Duel in Early Modern England: Civility, Politeness and Honour* (Cambridge: Cambridge University Press, 2003), p. 78.

6 Victor G. Kiernan, *The Duel in European History: Honour and the Reign of Aristocracy* (Oxford: Oxford University Press, 1988), p. 48.

7 Ibid., p. 52.

thereafter accepted. According to Stone, the spread of civility and of duelling in Italy 'succeeded in diverting the nobility from faction warfare with armed gangs without leading to a dislocation of social intercourse by incessant fighting over trivial slights, real or imagined'.[8]

The routes by which these Italianate ideas of humanistic virtue found their way into English society were diverse. By means of courtesy literature certainly: Castiglione's *Courtier* was first translated into English in 1561 and soon inspired home-grown works such as Simon Robson's *The courte of ciuill courtesie* (1577), Annibale Romei's *The courtiers academie* (1598) and William Segar's *Honor military and ciuill* (1602), and by the beginning of the seventeenth century a series of English works devoted specifically to the duel were appearing.[9] Where words moved, so did people; English merchants and mercenaries travelled to the Italian cities and could hardly have failed to report upon the ideas that they found there. Italians, and other foreigners of course, returned the compliment. It is interesting that Cockburn, in his study of homicide in Kent, has suggested that 'the bulk of the (admittedly circumstantial) qualitative evidence suggests that after about 1620 most duels in Kent were occasioned by gentlemen or foreign sailors'.[10] Notwithstanding political difficulties and the turbulence of the times, English and Scottish aristocrats (such as Lord Sanquhar, of course) paid their visits to Italy and imbibed some of what they learned there.

In addition, towards the end of the sixteenth century there appeared in London a number of émigrés who did much to propagate the duel and honour culture. These were the Italian fencing masters, of which the most important early example was Rocco Bonetti, who arrived in London around 1569. Bonetti founded a college in Blackfriars for noblemen at the court, until, that is, he was himself killed by English swordsman Austin Bagger in 1587.[11] The death was far from accidental. The English masters had formed themselves into a corporation sometime before 1540 and in that year had acquired a commission from Henry VIII giving them the power to suppress unlicensed fencing schools.[12] Relations between these English masters and their unofficial Italian counterparts were far from cordial, and Bagger had deliberately sought out Bonetti and the fatal encounter. Nevertheless, the prestige

8 Lawrence Stone, *The Crisis of the Aristocracy, 1558–1641* (Oxford: Clarendon Press, 1965), p. 250.

9 For example, George Silver's *Paradoxes of defence* (1599) and John Selden's *The Duello or Single Combat* (London: J Helme, 1610).

10 J. S. Cockburn, 'Patterns of violence in English society: Homicide in Kent, 1560–1985', *Past and Present*, 130 (1991), pp. 70–106 at p. 84.

11 See J. P. Anglin, 'The schools of defense in Elizabethan London', *Renaissance Quarterly* 37:3 (1984), pp. 393–410.

12 J. S. Brewer, J. Gairdner and R. H. Brodie, eds, *Letters and Papers, Foreign and Domestic, of the Reign of Henry VIII*, 23 vols. (London: Longman, 1862–1910), vol. xv, p. 477.

of the Continental styles of swordsmanship – predicated upon the rapier as opposed to the broadsword – seems to have been undiminished by Bonetti's death. In 1589, Vincento Saviolo arrived and set up a thriving school. Many of the students were young lawyers who engaged fencing masters while studying at the Inns of Court.[13] Saviolo himself published a manual of his techniques, *Saviolo His Practise* (1595). A characteristic of the Continental styles of fencing, Anglin reports, is that they concentrated primarily upon attack. They were much more aggressive than the English system, which emphasised defence, and indeed the English master George Silver pointed out in his own *Paradoxes of Defence* (1599) that Continental systems were likely to lead to more violence.[14]

The contribution made by the Italian Renaissance to the spread of duelling and 'honour culture' in England is incontestable. This has led Peltonen to stress the novelty of duelling culture:

> The ideology of duelling (and thus the distinct notion of honour) not only emerged in England as part of a theory of courtesy and civility but throughout its history retained its central role in that theory. Far from being a remnant from medieval honour culture which a new humanist culture of civility replaced, the duel of honour came to England as part of the Italian Renaissance notion of the gentleman and courtier.[15]

Others before Peltonen have not always been quite so sure. One early authority, John Selden, in his *Duello* (1610), made little distinction between the old rites of trial by battle and the duel fought extra-judicially between private gentlemen. While he owned that 'the old Saxon laws of Alfred, Edward, Athelstan, Edmund, Edgar or others of those Times are silent of any such matter ... we admit that the Normans ... were the first authors of it in this their conquered kingdom'.[16] In truth, many of the early 'duels' resembled rather more the lawless chance-medleys fought with private retainers and long endured by society than the formal rule-bound encounters of later times. When Sir John Hollis fell out with the Shrewsbury family in the 1590s (a matter of a jilted daughter), the consequence was a clash between retainers in which one was killed. This was followed by a chance encounter between Hollis and a friend of the Shrewsbury family, Sir Gervase Markham, in which both drew swords and Markham was severely injured. Several commentators have regarded the latter encounter as a duel, but in truth later duellists would not have recognised it as such.

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13 W. R. Prest, *The Inns of Court under Elizabeth I and the Early Stuarts, 1590–1640* (London: Longman, 1972), p. 24.

14 Anglin, 'The schools of defense', op. cit., pp. 408–409.

15 Peltonen, *The Duel in Early Modern England*, op. cit., p. 13.

16 Selden, *The Duello, or Single Combat,* op. cit., pp. 41–42.

Kiernan has described the duel as a 'vestigial survival of the early feudal right of private warfare' and gone on to make the rather grandiloquent statement that:

> Chivalry was part of the setting within which the early modern duel took shape, one of the siren songs that lured so many to soon forgotten graves. As often, a class unwilling to quit the stage of history could take refuge in fantasy or, more positively, hearten itself for its journey into the future by hugging the rags and tatters of the past.[17]

There is much here, however, to which I would object. Remarkable the rags and tatters that were to endure for the next three hundred years! The duel was a vibrant institution which transmitted itself to the new colonial worlds then opening up, which successfully crossed the barriers of social class, which survived industrialisation (for a time), descended the social classes and, as we shall see, long resisted all attempts to proscribe it. It cannot be usefully described as a remnant of a chivalric past, and if I am right in reading a certain pejorative judgement in Kiernan's use of the word 'fantasy', I would respond that there is a sense in which very many forms of successful social relations are rooted in imaginative orderings of the world that have no basis in objectively measurable reality.[18]

Perhaps the strongest reason for doubting that the duel should be primarily regarded as a vestigial remnant of chivalric ideals and private warfare is simply that it was not so perceived at the time. For instance, in 1613, James I declared, 'This bravery, was first borne and bred in Forraine parts; but after convaied over into this Island.'[19] Conversely, the duel could not have established itself so rapidly had its values not flattered existing predispositions among the aristocracy. The duel as we know it, with its elaborate honour theories, was a distinct product of the Renaissance and Renaissance Italy, but Anna Bryson is probably right to contend that the duel was able to establish itself in England because it appealed to ideologies left over from the late medieval world and to martial values that were entirely home grown. The connection between the peerage and the military was, and was to remain, close. Manning has shown that, in 1600, some 36 per cent of the living peers had held or were still holding military appointments and, by 1640, that percentage had risen to some 69 per cent. The numbers were to decline later in the century but even as late as 1700 nearly half, 49 per cent, of the peers were either serving or had served in the military. [20]

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17 Kiernan, *The Duel in European History*, op. cit., p. 60.

18 Of course some of these fantastical constructions go by the name of 'religion' or, more fashionably, 'equality'.

19 James F. Larkin and Paul L. Hughes, eds, *Stuart Royal Proclamations*, 2 vols (Oxford: Clarendon Press, 1973), vol. i, p. 307.

20 Roger B. Manning, *Swordsmen: The Martial Ethos in the Three Kingdoms* (Oxford: Oxford University Press, 2003), Table 1.1 at p. 18.

During Elizabeth's reign there were a number of duels, and she actively intervened in 1597 to prevent duels at court between the Earl of Southampton and Lord Grey, and between Southampton again and the Earl of Northumberland. However, it was during the reign of James I that the vogue for duelling seems to have truly developed. Lawrence Stone found only five duels and challenges recorded in newsletters and correspondence from the period 1580–1589 but for 1610–1629 identified thirty-three, and there were probably many more.[21] Pressure, then, mounted upon the sovereign to forbid duelling and to penalise those who encouraged it or undertook it, even when no fatalities ensued. In October 1613, following the duel between Edward Sackville and Lord Bruce in which the parties had met ankle-deep in water in a meadow in the Netherlands and had hacked at each other until Lord Bruce was slain,[22] James I issued 'A proclamation prohibiting the publishing of any reports or writings of duels'.[23] He followed this with 'A proclamation against private challenges and combats' in February 1614.[24] Sir Francis Bacon had already declared that the Star Chamber would prosecute anyone who challenged another or who went abroad to fight, and he had carefully prepared specimen charges against two minor personages in January 1614.[25] James's 1614 edict was subsequently published as an expanded treatise penned by Henry Howard, Earl of Northampton, and contained within it what was to become something of a classic definition of the two species of offence that might engender honour disputes:

> Wrongs which are the grounds of Quarrels, are either Verball; that is, when one Gentleman accuseth another of some dishonest fact, or gives the Lye: or Reall; under which Head may bee comprised, Blowes, Stripes or Hurts in all degrees, though they differ in proportion; and beside all scornefull lookes, actes, or figures, that implie contempt.[26]

In 1614, the approved response to such provocations was to complain to an honour court, a commission fulfilling the office of the Earl Marshal, which would hear a gentleman's complaint and 'who shall right him in his Reputation, if they finde he be wronged'.[27] Peltonen has shown that Northampton, whose opinions were deeply

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21 Stone, *The Crisis of the Aristocracy*, op. cit., p. 245.

22 Lorenzo Sabine, *Notes On Duels and Duelling, Alphabetically Arranged, With A Preliminary Historical Essay* (Boston: Crosby and Nicholls, 1859), pp. 74–78.

23 Larkin and Hughes, *Stuart Royal Proclamations*, op. cit., vol. i, pp. 295–297.

24 Ibid., p. 304.

25 *The Charge of Sir Francis Bacon, knight, his majesties Attourney General, touching duells upon an information in the Star Chamber against Priest and Wright* (London, 1614).

26 *A publication of his majesty's edict, and severe censure against priuate combats and combatants* (London, 1613). Reproduced in Peltonen, 'The Jacobean Anti-Duelling Campaign', op. cit., pp. 1–2.

27 Larkin and Hughes, *Stuart Royal Proclamations*, op. cit., vol. i, p. 297.

influential in shaping the proclamation, was himself sympathetic to the values of civic courtesy and believed that insults to honour were egregious offences for which the common law offered no adequate remedy. An honour court, then, was necessary in order to avert the understandable responses of gentlemen who would otherwise have recourse to arms. Francis Bacon, however, was of different opinion and, as the Sanquhar trial was to demonstrate, entirely rejected the notions of Italianate courtesy and the associated theories of honour. Bacon, Peltonen has observed, 'held that the best and easiest remedy for these questions of honour was to ignore trifling insults and to harden one's sense of one's own reputation'.[28] Northampton accepted the premise of honour as proffered by civil courtesy but tried to avoid duelling as the natural consequence, whereas Bacon and other critics refused to accept the basic assumptions of this foreign fashion, refused to be dishonoured by trifles and invited others to feel the same. It seems that Bacon's views prevailed with the king. In 1618, Thomas Middleton penned *The Peacemaker* with royal approval, and this signalled what Peltonen has described as a volte-face in royal opinion since the document ridiculed the 'small things' that occasioned disputes, urged forbearance and made no mention of a court of honour.

Those who did not forbear risked prosecution, and between 1603 and 1625 there were about two hundred such cases heard in the Star Chamber.[29] Nevertheless, the very number of prosecutions is testimony to the ineffectiveness of the threat of prosecution in deterring would-be duellists. It is generally accepted, though, that duelling did decline somewhat after the reign of James I, less because of the effectiveness of the courts in proscribing it and more because of the spread of Puritanism opposed to it. Honour culture was inimical to Puritan piety – though it would be wrong to assert that Puritan gentlemen were wholly uninfluenced by it. The Articles of War on the parliamentary side specified that 'No Corporal, or other Officer commanding the Watch, shall willingly suffer a Soldier to go forth to a Duel or private Fight upon paine of Death.'[30] A Commons committee set up in 1651 proposed duellists should lose their right hand, and suffer confiscation and banishment.[31] Interestingly, in that same year duelling was still being cited as a new phenomenon; it was described by Hobbes in his *Leviathan* as 'a custome, not many years begun'.[32]

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28 Peltonen, 'The Jacobean anti-duelling campaign', op. cit., p. 17.

29 Thomas G. Barnes, ed., *List and Index to the proceedings in Star Chamber for the reign of James I (1603–1625) in the Public Record Office, London, Class STAC8* (Chicago: The Foundation, 1975), pp. 159–163.

30 C. H. Firth, *Cromwell's Army* (London: Methuen 1902), pp. 418–419.

31 H. N. Brailsford, *The Levellers and the English Revolution* (London: Cresset Press, 1961), pp. 651–653.

32 Thomas Hobbes, *Leviathan* (1651), cited in Peltonen, *The Duel in Early Modern England*, op. cit., p. 13.

It is difficult to gauge how many duels there actually were during the civil war. It is possible that the ferocity of the conflict concentrated the minds upon matters at hand, leaving little time for concern about the punctilios of honour. It is equally possible however, that the fractures throughout better society led to more honour disputes, but ones which, in the bloody context of the times were scarcely remarked upon. Whichever is correct, by 1654, Cromwell had to issue a further proclamation providing for the imprisonment for six months of anyone sending, delivering or accepting a challenge. This did not prevent Philip Stanhope, second Earl of Chesterfield from wounding John Whalley in 1658 and being imprisoned that same year to prevent a duel with Lord St John.

After the Restoration in 1660, 'Duelling formed part of a popular royalist reaction, along with wild drinking and prostitution and the reopening of disorderly theatres.'[33] It is probably true that the return from exile of so many of the aristocracy keen to reassert their leadership of society led to conflict, but equally true that the end of war meant that duels were more likely to be newsworthy. Truman asserted that between May 1660 and February 1685 there were 196 duels with 75 fatalities, a death rate of some three per year.[34] Some of these were in all senses very much in the public eye, either because of the status of the participants or the location of the contest. In 1662, a fatal duel was fought in Pall Mall, St James between Mr Jermyn and Captain Thomas Howard and their two seconds. The Lord Chancellor himself, Clarendon, was challenged by Lord Ossory over a bill prohibiting the import of Irish cattle.[35] A duel in 1666 between Viscount Fauconberg and Sir Thomas Osborne led Sir Edward Thurlow to introduce a parliamentary bill whereby anyone who issued a challenge to another was liable to be imprisoned for life and to forfeit all his goods and estate. However, the second reading of the bill was deferred in the face of protests that forfeiture of goods would ruin whole families. The bill was directed to a committee appointed by Charles II to inquire into duelling, as was a second bill proposed in 1667.

In 1668, however, there was another scandalous duel, again involving the Shrewsbury family. Learning that the Duke of Buckingham had been wooing his wife, the Earl of Shrewsbury challenged. The king, learning of this, ordered Lord Abemarle to confine Buckingham and prevent the duel. This was not done, and the two combatants met at Barnes Elms assisted by two seconds, each from prominent families.

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33 Kiernan, *The Duel in European History*, op. cit., p. 99.

34 Maj. B. C. Truman, *The Field of Honour: Being A Complete And Comprehensive History of Duelling In All Countries* (New York: Ford, Howard and Hulbert, 1884), p. 35.

35 J. G. Millingen, *The History Of Duelling Including Narratives Of The Most Remarkable Personal Encounters That Have Taken Place From The Earliest Period To The Present Time*, 2 vols (London: Richard Bentley, 1841), vol. ii, pp. 38–39.

As was still customary, all partiers engaged and 'the combat was long and desperate'.[36] One second, Sir J. Jenkins, was killed outright; Shrewsbury lingered for two months, and his widow promptly moved in with Buckingham, who seemingly ousted his own duchess. Notwithstanding the subsequent public proclamations against duelling, the true demeanour of the sovereign is best ascertained from the fact that Charles II promptly pardoned all those involved in the affair. He declared in April 1668, however, that he would no longer issue such pardons, 'The strict Course of Law shall take Place in all such Cases.'

This brings us to the question of what the strict course of the law was. Murder was a common-law offence, and the common-law position that a man who killed his opponent in a premeditated duel was guilty of murder was never formally questioned. The premeditated duel, however, was to be distinguished from those combats (also sometimes referred to as duels) occasioned by sudden quarrels and carried out in the heat of passion. These could be categorised as either chance-medleys or acts of manslaughter under provocation. Chance-medley was perhaps the older doctrine and, according to Horder, existed as an important species of voluntary manslaughter, separate from manslaughter under provocation, until the middle of the nineteenth century.[37]

For a homicide to fall under chance-medley, two conditions needed to be satisfied. First, the killing itself had to be carried out immediately and in anger before the blood had cooled. Thus, Crompton, in 1583. observed:

> Two men fall out suddenly in the town, and by agreement take the field, nearby, and there one kills the other, this is murder, for there was precedent malice ... But if they fought a combat suddenly without malice precedent, and paused a little in the combat, and then they took the field, and one killed the other, that would be manslaughter, because everything was done in the continuing heat of passion.[38]

Second, it was said that the parties must be equally and fairly combating. This requirement of the law was considered in depth in the case of *Mawgridge* in 1707. It was considered that if A.:

> Draws his sword, and then before he passes, B.'s sword is drawn, or A. bids him draw, and B. thereupon drawing, there happen to be mutual passes: If A. kills B. this will be but manslaughter because it was sudden; and A.'s design was not so absolutely to destroy B. to combat with him, whereby he run the hazard of his own life at the time.[39]

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36 Ibid., pp. 42–45.

37 Jeremy Horder, *Provocation and Responsibility* (Oxford: Clarendon Press, 1992), p. 29.

38 Crompton, *Loffice et Aucthoritie de Justices de Peace* (1606 ed.), folio 23 b.

39 *R.* v. *Mawgridge*, 130–131.

Manslaughter on the basis of provocation was a much broader doctrine applicable in many different types of homicide. Unlike the doctrine of chance-medley it did not require evidence of equal combat; for instance, provocation might be pleaded by husbands who had murdered their wives. However, in the context of a dispute between two gentlemen, a defence of provocation was most unlikely to succeed unless there had been an equal combat. The defence required, as the name implies, the existence of some particular provoking act, but it was not enough to merely show that one had been provoked. As with chance-medley – no matter how severe the provocation – if the blood had cooled between the provoking act and the fatal combat then the defence was not available. Hence, Sir Matthew Hale's determination that:

> If A. challenge C. to meet in the field and C. decline it as much as he can, but is threatened by A. to be posted for a coward ... if he meet not; and Thereupon A. and B., his second, and C. and D. his second meet and fight, and C. kill A.; this is murder in C. and D. his second.[40]

Whether the blood had indeed cooled between the dispute and the subsequent homicide was determined by reference to the facts of the case and most particularly the time span between the quarrel and the homicide. Quoting once more:

> Two men fight suddenly without malice aforethought, and one breaks his sword, and goes into his house to fetch another sword, returns and, taking up the fight with his opponent again, kills him. This is murder if it appears that, as a result of the killer's intentional actions, his blood was able to cool before his return.[41]

It was an important aspect of the law of homicide that in cases of intentional homicide the burden was upon the defendant to show some evidence that the act had been committed in circumstances that either allowed for a complete defence (for example, legitimate self-defence) or a partial defence such as chance-medley, or provocation. In *Taverner's Case*[42] Sir Edward Coke declared, 'This is a plain case and without any question if one kill another in fight upon the provocation of him which is killed, this is murder.'[43] This was the presumption of the law; the exception was where it could be shown that the act was 'without malice express or implied',[44] which would make it

40 1 Hale's *Pleas of the Crown* 452.

41 Crompton, *Loffice et Auchtorite*, 26 a–b.

42 *Taverner's Case* (1616), 3 Bulstr. 171 at 172.

43 3 Bulstr. 172.

44 1 Hale, *Pleas of the Crown*, 166.

merely manslaughter. The law, though, implied malice where the killing was 'voluntary and of set purpose, though done upon sudden occasion, for if it be voluntary the law implieth malice'.[45] The defendant had then to show some evidence to suggest that the killing was not done of set purpose.

> In every charge of murder, the fact of killing being first proved, all the circumstances of Accident, Necessity, or Infirmity are to be satisfactorily proved by the prisoner, unless they arise out of the evidence produced against him: for the laws presumeth the fact to have been founded in malice, until the contrary appeareth.[46]

Furthermore, some courts weighed the gravity of any provocation; the defendant not only had to produce evidence that he had been provoked and had killed in hot blood, but also had to show that the provocation had been sufficient to justify his conduct. Thus in *Lord Morley's Case* (1666) it was said that it was murder to kill without provocation but similarly, 'if the provocation be slight and trivial, it is all one in law as if there be none'.[47] In *Mawgridge* (1707) it was declared that 'No words of reproach or infamy are sufficient to provoke another to such a degree of anger as to strike or assault the provoking party with a sword.'[48]

It should by now be apparent that the paradigmatic duel where parties set a date and a time for a meeting did not easily lend itself to an appeal to the defence of either chance-medley or provocation. Although both parties were at equal hazard, it had been declared conclusively in *Mawgridge* that 'if time was appointed to fight (suppose the next day) and accordingly they do fight; it is murder in him that kills the other'.[49] Judge Foster had been similarly explicit:

> In all possible cases deliberate homicide upon a principle of revenge is murder; for no man under the protection of the law is to be the avenger of his own wrongs ... deliberate duelling, if death ensueth is in the eye of the law murder; for duels are generally founded in deep revenge; and though a person should be drawn into a duel, not upon a motive so criminal, but merely upon the punctilio of what the swordsmen falsely call honour, that will not excuse.[50]

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45 3 Coke's *Institutes*, c. 13.

46 Sir Michael Foster *A Report of Some Proceedings on the Commission for the Trial of the Rebels in the Year 1746, in the County of Surry; And of Other Crown Cases: to which are Added Discourses Upon a Few Branches of the Crown Law,* 3rd edn (London: E. and R. Brooke, 1792), p. 255.

47 *Lord Morley's Case* 1666 6. St. Tr. 770, 780.

48 *R.* v. *Mawgridge*.

49 Ibid.

50 Foster, *Crown Law*, op. cit., p. 296.

From the sixteenth century onwards, the common-law position was really quite simple then. Any pre-arranged duel in which one party was killed, be the combat ever so fairly conducted, was an act of murder on the part of the surviving combatant and also, it should be noted, upon the part of all who had assisted in the duel.

The rigour of the law in the seventeenth and eighteenth centuries was, however, entirely defeated by the insincerity of the sovereigns. Thomas Hobbes pointed out that obeying the law was no simple matter for ambitious young gentlemen. Although 'the Law condemneth Duells; the punishment is made capitall, yet, on the other; he that refuseth Duell, is subject to contempt and scorne, without remedy; and sometimes by the Soveraign himselfe thought unworthy to have any charge, or preferment in Warre.'[51] Faced with the prospect of leaving to the law personal favourites, or abandoning officers who might be of use, or resisting pressure from influential political supporters, the monarchs, themselves imbued with very particular notions of honour, often intervened to save duellists who had slain. James II, for example, ordered the Lord Justices in Ireland in 1685 to cashier all officers involved in duels, and then the following year reversed a decree of outlawry on David Stanier for killing Sir William Throckmorton in a duel. The Glorious Revolution did little to inhibit this practice. William III pardoned William Drummond in 1697 after a duel in Edinburgh with two fatalities, and in 1701 he reversed a decree of outlawry on John Young for killing William Carey.[52]

Perhaps the sovereigns felt that they could afford to be indulgent since, as Pelltonen and Kelly have argued, the number of duels was probably not very large at the end of the seventeenth century.[53] Cockburn has written that 'by and large enthusiasm for swordplay declined in the course of the seventeenth century',[54] and Peltonen notes that minor skirmishes were thought noteworthy precisely because they were rather rare and that by 1720 'nobody talk[ed] of anything but stocks and South Sea, and now and then a duel'.[55] However, it can still be asserted of eighteenth-century society that it 'was unusually, perhaps uniquely, conditioned to accept violent behaviour'.[56] The extreme physicality and, it seems, the ill temper and ill discipline of the aristocracy of the late seventeenth and early eighteenth centuries are difficult to convey today. This was a time when young aristocrats might terrorise parts of London and be labelled

51 Thomas Hobbes, *Leviathan*, cited in Peltonen, *The Duel in Early Modern England*, op. cit., p. 211.

52 James Kelly, *That Damn'd Thing Called Honour: Duelling in Ireland 1570–1860* (Cork: Cork University Press, 1995), p. 46.

53 See generally, Peltonen, *The Duel in Early Modern England*, op. cit., pp. 205–206.

54 Cockburn, 'Patterns of violence', op. cit., p. 84

55 HMC, Portland Manuscripts (London, 1891–1931), vol. iv, p. 59, cited in Peltonen, *The Duel in Early Modern England,* op. cit., p. 205.

56 Cockburn, 'Patterns of violence', op. cit., p. 101.

Mohocks. When the Duke of Grafton, the grandson of Charles II, might beat his coachman in the middle of the street,[57] and when the Duke of Leeds might shoot his son's steward.[58] Some sense of the vigour of such men and some sense of the incapacity of the law to restrain them may, however, be gleaned from a brief examination of the lives and circumstances of two men who were to perish in a duel in 1712: Charles, the fourth Baron Mohun, and the Duke of Hamilton.

The fourth Baron Mohun might perhaps have been forgiven had he shied away from the duel, for his own father (also called Charles) had been killed in one in November 1676. The third baron and his friend Lord William Cavendish had quarrelled with John Power, an Irish officer in the service of Louis XIV, seemingly over matters of religion. Cavendish and Power had fought as principals, Mohun as Cavendish's second against his opposite number. The initial duel had been concluded with only minor injuries; however, Mohun had subsequently perished when he had quarrelled on the field with Power and swords had again been drawn.

The conduct of the fourth baron soon made it clear that he was nothing daunted by his family's history. According to Victor Stater, Mohun fought his first duel in 1692 at the age of fifteen, having quarrelled with the twenty-year-old Lord Kennedy. William III had heard of their quarrel prior to the meeting and had tried to prevent it by commanding both to remain confined to their houses. Both had disobeyed, and minor wounds had ensued on both sides. Significantly, neither party was punished thereafter for disobeying the royal command. The following year Mohun was brought to trial before his peers at Westminster Hall for murder. Richard Hill, a friend of Mohun, had persuaded him to take part in the kidnapping of an actress, Anne Bracegirdle. The attempt had failed, and Hill and Mohun had thereafter burst into the house of her lover, the actor William Mountford. Hill had fatally stabbed Mountford before he had had time to draw his sword. Fortunately, Mohun had not drawn his weapon, and his peers found that he had not been complicit in Mountford's death.

Undaunted, in October 1694, Mohun drew his sword upon the MP Francis Scobell, who had intervened to protect a coachman from his wrath. Mohun issued a challenge but the duel was never fought. In early 1697, however, he fought a duel with an army officer in St James Park, but the park keepers broke up the swordplay. Then, in September of that year Mohun stabbed to death an army officer called Hill in a drunken brawl in a tavern in Charing Cross. A trial was prepared, but the king pardoned him, seemingly so that, now twenty-one, he could take his place in the Lords as a Whig peer favourable to the government. Little more than a year later he was again being tried at Westminster Hall, on 29 March 1699, for assisting Lord

57 Henri Misson, *Memoirs and Observations of His Travels over England* (London, 1719), pp. 305–306.

58 Margaret Verney, ed., *Verney letters of the Eighteenth Century*, 2 vols (London, 1930), vol. i, p. 373.

Warwick in the murder of Captain Richard Coote in Leicester Square after a drinking party. He was acquitted, whereas Warwick was convicted and symbolically burned with cold iron.

By the time of his duel with James Douglas, fourth Duke of Hamilton, Mohun's life had, then, been distinguished by a catalogue of violence from which he had nevertheless always been exculpated. Hamilton could offer no illustrious pedigree of violence to match that of his eventual slayer. He had seemingly fought one duel with Lord Mordaunt sometime before 1700, with no lasting consequences. The reasons for the fateful confrontation in 1712 were numerous. Hamilton was a high Tory who had remained loyal to James II and Mohun a Whig; therefore, a natural antipathy between them was to be expected. Indeed, they had soon become bitter political rivals, but the deepest cause of their enmity seems to have been a complex property dispute. This was caused by the death in 1701 of the second Duke of Macclesfield, who had named his friend Lord Mohun as the heir to his estates. Hamilton had expected much of the property to pass to his own wife, she being the niece of the second duke. A series of legal suits had followed in respect of the property, at first to Mohun's advantage, but by 1712 the tide had begun to turn against him. Hamilton had acquired an important situation in Robert Harley's Tory administration after the Whigs had been routed in the elections of 1710. Mohun anticipated that he would lose a suit laid by Hamilton over the Macclesfield properties. Furthermore, the Tory government were seeking peace with France and Mohun, as a client of the Duke of Marlborough, was opposed to it. The prospect of losing his properties, the infuriating elevation of his rival and perhaps a desire to serve his patron led Mohun to issue a challenge in November 1712.

Hamilton accepted and selected a kinsman as his second; Mohun chose another Marlborough client, Gen. George Maccartney, who was also opposed to the forthcoming peace. Mohun and the Duke met in Hyde Park on 12 November 1712 and during the combat both were killed. The seconds, who had also been engaged in the fray, survived. Mohun died immediately, but Hamilton emerged before succumbing to blood loss from a sliced artery. Maccartney promptly fled after the duel but by contrast the second to the Duke of Hamilton, his kinsman Col. John Hamilton, promptly surrendered himself for trial. In parliament the Tories suggested that the affair had been got up as a Whig plot to derail the peace with France, and their fears were confirmed when Col. Hamilton gave evidence that Maccartney had treacherously and fatally stabbed the duke after the duke had laid his sword aside.[59] Maccartney, who had escaped to the Low Countries, produced a pamphlet in his own defence,[60]

59 HMC, Portland Manuscripts, vol. v, pp. 246–247, cited in Peltonen, *The Duel in Early Modern England,* op. cit.

60 *A Letter from Mr. Maccartney to a Friend of His in London* (London, 1713).

and partisans on both sides engaged in a war of pamphlets, press editorials and scurrilous letters. Col. Hamilton, meanwhile, was tried at the Old Bailey on 12 December 1712. He claimed that he did not know when he came to the field that a duel was in the offing. The jury affected to believe him, found him guilty of mere manslaughter, and after pleading clergy he was released.[61]

The duel is of particular interest to us for three reasons. First, it was conducted on the cusp of a change in duelling practice. On the field Mohun had suggested that the seconds should not be engaged in the combat itself, although Hamilton had demurred and Maccartney had indicated his enthusiasm for the match.[62] Henceforth, it was to become increasingly common for the seconds not to engage in combat – indeed, after the middle of the eighteenth century it was almost unknown, although I shall deal with this further in Chapter 6. Second, the duel had an avowedly political dimension but the use of duelling as a tool of political partisanship was slowly falling out of favour. The duels of John Wilkes are sometimes alleged to have had a political character, and remarks characterised as personal during the conduct of politics could engender combats; for example, Charles James Fox and William Adam duelled in 1779 under such circumstances. However, all sides in the later eighteenth century seemed to draw back from adopting duelling as a conscious and bloody strategy to advance political interests. Perhaps the temper of politics had simply cooled somewhat. The most celebrated 'political' duel of the nineteenth century was fought between members of the same administration.[63] Finally, of course, the whole career of Lord Mohun and the leniency extended to Colonel Hamilton are testimony to the bankruptcy of the previous attempts to prohibit duelling per se.

Superficially, at least, Parliament's failure to take a stand against the duel was not from want of activity. Following Charles II's declaration in 1668, a number of further but equally abortive attempts had again been made to proscribe the act of duelling. The Duke of York introduced a bill into the Lords in 1668 that proposed the forfeiture of the estates of all duellists whether or not a death had ensued. This, however, was buried in committee. A second committee established in 1675 continued to debate the preparation of an anti-duelling bill but had come to no conclusions by 1680 when Charles II delivered a new proclamation against duelling. Bills were actually proposed in the House of Commons in 1692 and 1699, but neither made progress. It was apparent that there was no great enthusiasm for the proscription of duelling in either of the houses, notwithstanding an

61 *A Particular Account of the Trial of John Hamilton, Esq.; for the Murder of Charles Lord Mohun and James Duke of Hamilton and Brandon* (London, 1712).

62 HMC, *Earl of Dartmouth's Manuscripts* (London, 1887), p. 313.

63 That between Castlereagh and Canning in 1809.

increasing number of publications deploring the practice.[64] The deaths of Mohun and Hamilton in 1712 reinvigorated the campaign against duelling, and Queen Anne condemned the practice at the opening of Parliament in April 1713. Two bills were introduced in consequence, but both came to nothing. A bill introduced in 1720 passed through the Commons only to fall in the Lords at the first reading.[65] Thereafter, the parliamentarians seem to have simply given up, and no further bill to prohibit duelling per se was laid until a further abortive effort in 1819.

It seems that in the final analysis there was no constituency prepared to take a consistent and principled stance against duelling. Numerous individuals wrote to deplore it, but no organised and effective opposition resulted. The churches might be thought to have been best placed to formulate a coherent campaign for effective prohibition, but as an institutional body, the established Church was curiously ambivalent. As Peltonen has pointed out:

> It seems obvious that Christianity did not play a very prominent role in the anti-duelling discourse in the late seventeenth and early eighteenth century. Certainly, the problem of duelling did not impinge on the anti-vice campaign of the Societies for Reformation of Manners in the 1690s and 1700s. It is indicative that during the most sustained parliamentary campaign against duelling one critic remarked that the divines remained curiously silent about the whole issue.[66]

By the nineteenth century, as we shall see, this was to change, and Church leaders were to play an important role in mobilising constituencies of opinion against duelling and even in threatening to oppose the re-election of politicians who had duelled. Not before, however, they themselves had succumbed in part to the attractions of honour culture: there were those in the late eighteenth century who sported clerical titles and yet who duelled, most notably the editor of the *Morning Chronicle* and sometime clergyman the Rev. Bate., who fought with Captain Stoney in 1777 and with many others besides.

The general temper of better society as the early eighteenth century progressed can be gleaned from Millingen's observation that not only duels but also general affrays between gentlemen were still common. For example, in 1717 a large party of gentlemen quarrelled at the Royal Chocolate house in St James Street. Swords were drawn and three gentlemen killed before a contingent of the Horse Guards restored

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64 For example, Thomas Comber's, *A discourse of Duels* (London, 1687) and William Darrell's, *A Gentleman Instructed in the conduct of a virtuous and happy life* (London, 1704).

65 *Journals of the House of Commons*, xix, pp. 296, 313, 323, 326, 331, 339, 352; *Journal of the House of Lords*, xxi, pp. 314, 320.

66 Peltonen, *The Duel in Early Modern England*, op. cit., pp. 214–215.

order. In 1720 a hundred gentlemen were involved in an affray in Windmill Street. The watch summoned to quell the affair found themselves severely handled, and a detachment of Horse Guards had to plunge in to assist, killing several in the process.[67] The violence, fuelled by alcohol, was greatly facilitated by the wearing of swords. Yet already the practice of carrying of a sword was beginning to be in decline. César de Sassure in 1726 described the English gentleman as wearing 'little coats called "frocks," without facings and without pleats, with a short cape above. Almost all wear small, round wigs, plain hats, and carry canes in their hands, but no swords.'[68]

Swords were still available if required, however, for in that same year a Major Oneby and a Mr Gower quarrelled in a tavern during a game of hazard with a number of others. Oneby, objecting to some jest of Gower's, described him as 'impertinent', whereupon Gower responded by calling Oneby a 'rascal'. Oneby then flung a bottle at Gower, who responded with a flying candlestick. Their swords were sent for, but the rest of the company intervened and the two men sat down for an hour. Gower then attempted a reconciliation and offered his hand to Oneby, who, however, refused to take it and declared, 'No damn you I will have your blood.' Everyone hurriedly made to leave, but Oneby then contemptuously called Gower back and shut the door on the others. The two drew on each other. Gower was killed, although he did not die before being asked if he had received the fatal wound in a fair manner and declaring, 'I think I did.'[69] The encounter was typical of a species of duel that was to become more common from then on until the 1770s: duels where the parties combated alone in a closed room. For example, Mr Dalton and Mr Paul fought in this fashion in 1750, and Lord Bryon and Mr Chaworth in 1765. What was most unusual in this case, however, was that Oneby was brought to trial and subsequently convicted of murder. More remarkably still, no intention of respiting the sentence of execution was expressed. In the event, however, Oneby, despairing of any reprieve, cheated the hangman by committing suicide.

While it might be tempting to see the Oneby trial and conviction as indicative of an increasing impatience with duelling, this however, would almost certainly be an error. What this affair demonstrates is nothing more than that there were occasions upon which the courts were prepared to penalise homicides that were both outside the law and at the same time outside the normal conventions of honour. Here it counted very much that the parties sat calmly together for an hour before the final confrontation. Where the blood had cooled and the homicide was the product of a deliberate act, the offence was clearly that of murder. Now, duellists were rarely

67 Millingen, *History of Duelling*, op. cit., vol. ii, pp. 50–51.

68 César de Sassure, *A Foreign View of England in 1725–1729*, trans. Madame Van Muyden (London: John Murray, 1902), p. 113. Letter of February 1726.

69 Millingen, *History of Duelling*, op. cit., vol. ii, pp. 52–55.

convicted of offences merely because they had actually committed them. However, there were additional elements to the affair that seemed to render Oneby's conduct particularly dishonourable. First, it seems that it was he who was responsible for the original quarrel. Second, he thereafter refused a generous attempt to reconcile the parties. Third, as a matter of principle gentlemen were expected to fight according to the dictates of honour, but without espousing any personal animosity towards their opponent. According to Millingen, 'The main point then, on which the judgment turned ... was the evidence of *express malice*, after the interposition of the company.'[70] It counted very much with the court that 'he had made use of that bitter and deliberate expression, "That he would have his blood".'[71] Oneby was an experienced swordsman who might be expected to prevail, and:

> Calling back the deceased by the contemptuous appellation of 'young man' on pretence of having something to say to say to him, altogether showed such strong proof of deliberation and coolness, as precluded the presumption of passion having continued down to the time of the mortal stroke, and there was no doubt but that he had compelled Gower to defend himself.[72]

The Oneby affair is to be viewed as very particular; indeed, it resembles nothing so much as the duel between Major Campbell and Captain Boyd in 1807, to which I shall return to as the only instance in the nineteenth century in which the sentence of execution was actually carried out upon a duellist. Similar elements were present in both cases: Campbell too refused all offers of reconciliation, overbore his opponent's reluctance to fight, declared his malice and conducted the affair without witnesses to ensure fair play.

Where combat was perceived as both fair and honourable, duellists were not left to the mercies of the law, notwithstanding professions of abhorrence for the duel. For example, a series of duels among naval officers culminated in a fatal meeting on 12 March 1750 between Captains Innes and Clarke. The quarrel had been caused by an encounter in October 1748 between a British fleet in the West Indies under Admiral Knowles and a Spanish fleet under Vice Admiral Reggio. Criticism of the subsequent conduct of battle had led to Knowles being impeached. Some captains, including Clarke, supported him against others who had complained of his conduct to the Admiralty, Innes among them. In the duel Innes was slain, and, after a trial at the Old Bailey Clarke, was convicted of his murder. This had been no unequal or dishonourable combat though, and George II

70 Ibid., p. 54

71 Ibid.

72 Ibid., pp. 54–55.

promptly pardoned him. Indeed, shortly afterwards he was promoted to the captaincy of a larger vessel.[73]

By 1750, under the eyes of intermittently hostile but more often indulgent sovereigns, the honour culture that propagated duelling had spread through the virile peerage and among the officers' messes of both army and navy. However, honour theorists were never able to vanquish an opposition that was grounded in theology and Christian morality. Many gentlemen, of whom Bacon and Northampton were but two, were opposed to the duel from the very moment of its arrival in England. Speeches were made, sermons were preached and pamphlets appeared at regular intervals denouncing duelling. Since we cannot know how many disagreements would have otherwise proceeded to a duel, we cannot truly assess the effect that such anti-duelling activity had, but it is hard to believe that so many appeals to law and conscience operated to no effect.

It is often pointed out, and I shall do the same, that the laws against duelling were frequently thwarted. From another prospective, though, duellists and their apologists did not succeed in amending the law, which, doctrinally at least, held true to its position. While there were those, perhaps many, within the judiciary prepared to tolerate duelling, there were none avowedly seeking to legalise it. By the eighteenth century, however, the duel appeared to have successfully subverted the actual operation of the criminal justice system. Similarly, it had, for the moment, prevailed against the tenets of religion. The Church as an institution had no stomach for a fight with powerful interests. Again, though, that is not to say that most of the clergy and the laity were ever convinced of the legitimacy of duelling but rather that on a personal level many, not all, felt obliged to turn a blind eye to it. In short, by the eighteenth century there were groups of powerful, active men operating under a common ethos who were able to propagate in public a vigorous, noisy and even romantic honour culture, able to ignore moral sanction and turn aside legal retribution. Even if most of society did not share their values, a respectable portion of those that mattered did. Opposition was strident but, in the absence of coherent leadership, fragmented and uncertain. Those who adhered to the codes of honour in the eighteenth century could scarcely have predicted then that it would be their opponents who would ultimately win on the battlefield of ideas.

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73 John Charnock, *Biographa Navalis: Or Impartial Memoirs of the Lives and Characters of Officers of the Navy of Great Britain, from the year 1660 to the Present Time*, 6 vols (London: R. Faulder, 1798), vol. v, p. 475.

2

Fashion and Physicality

As we have seen, neither the somewhat insincere disapprobation of the sovereigns and their ministers, nor the operation of the courts, nor the appeals of the pious, sufficed to prevent influential members of the court and aristocracy from becoming infused with the values of the duel during the late sixteenth and the seventeenth centuries. Numerically though, this represented but a small constituency, the strength of honour culture in the eighteenth, and continuing into the nineteenth, centuries was to lie in its transmission out from the court into the much broader, if ill-defined, classes of gentility. In Chapter 3 I shall consider the norms of behaviour and of honourable conduct that came to be expected by honourable gentlemen in the eighteenth century, norms the violation of which might lead to fatal consequences. However, the particular concepts of honour with which we are concerned could not have embedded themselves within society had that society not been configured in such a way as to prove susceptible to their arguments. As we shall see, in the complex web of violent relations that did so much to constitute national culture, the duel was able to find a home – so much so that some gentlemen came to quickly regard this European import as emblematic of very particular English martial virtues.

By way of explanation, one might first observe that the English society of the seventeenth and indeed later centuries was animated by a spirit of extraordinary competitiveness. Competition within the court and within the developing political establishment naturally focused not only upon placements and perquisites but also upon the need to catch the eye and to cultivate that careful self-regard fitted for the well born. Thomas Hobbes was the man who most powerfully expressed the seventeenth-century conviction that all life was a matter of self-assertion, a matter of prevailing over the interests of others. According to Hobbes, 'Because the power of one man resisteth and hindreth the effects of the power of another: power is no more, but the excess of power of one above that of another.'[1] In such a society, reputation served as a form of cultural capital, a form of social power, and the Hobbesian view that the natural state of being was but 'a chaos of violence' encouraged men to be

1 Thomas Hobbes, *The Elements of Law, Natural and Politic*, ed. F. Tonnies (London: Frank Cass, 1969), p. 34.

vigorous in asserting their interests when they came into conflict with the interests of others.

However, although society applauded personal aggrandisement, along with the evolution of politeness there developed from the seventeenth century onwards a compensatory sense that all those of a certain station were entitled to an equal protection of interest and reputation. This extended not merely to the scions of the aristocracy but to all those who might truly style themselves gentlemen. Such men were qualified to appeal to the shared values of their social group when seeking protection against the transgressions of others. Members of the social elite were, in brief, in competition with each other, but united in the need to differentiate themselves from those below. Thus, while many duels were caused by the competitive nature of elite society, the institution itself became, in the eyes of its apologists, a rational strategy for maintaining the coherence of the social group and restraining the more destructive impulses of the competitive ethos. The duel, those apologists argued, was a controlled, rule-bound mode of dispute resolution absent which men would war indiscriminately upon one another with far more deleterious consequences. Indeed, the existence of duelling and the latent potential of all gentlemen to hold others to account upon the field, they were to argue, prevented much social conflict for it served as a putative sanction which deterred men from unwarranted trespasses. Social intercourse was, in other words, lubricated by the fear of what might follow should one not observe social norms. To illustrate, Bernard Mandeville's fictional Col. Worthy observed in the *Female Tatler* of 1709 that he could not conceive how civil conversation could be maintained if duelling was abolished.[2] Samuel Stanton in 1790 reiterated what had by then become a commonplace argument: that the duel upheld the interests of lesser gentlemen in the face of the greater.

> Was it not from the fear of being called on for redress in this manner, many persons whose fortunes and interest are large, would without scruple, injure and oppress their inferiors in those respects ... Money will carry through any thing; power and interest will work similar effects; but, happy is it, neither will turn a pistol ball, nor ward off the thrust of a rapier; otherwise gentlemen who are deficient in riches, would be subject to continual injuries and insults.[3]

The argument that the existence of the duel helped to prevent indiscriminate violence in higher society has a certain cogency when one observes that the formal duel which

2 *The Female Tatler*, 52, 4 Nov. 1709.

3 Samuel Stanton, *The Principles of Duelling with Rules to be Observed In Every Particular Respecting it* (London: Hookham, 1790), pp. 21–23.