

# Scandal, the Law and the Press: Attacking Immorality in Britain: Duelling 1760-1830

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D O N N A T . A N D R E W \*

## INTRODUCTION

**T**hroughout the eighteenth and the first several decades of the nineteenth century, clerics, moralists and newspapers all bemoaned the continuation of what they described as a barbaric or Gothic practice: the duel of honour.<sup>1</sup> Again and again, throughout this period, there were calls in the press for legislative action to stop duelling, to more strongly punish its practitioners or to set up courts of honour to make duels unnecessary.<sup>2</sup> But nothing happened; no new laws were made, no punishments enforced (in fact the punishments already available to the courts were seldom used, and most frequently the Law turned a blind eye to the activities of duellists, even when death resulted).<sup>3</sup> Yet public interest in the duel was obvious, and can be seen in the numerous duelling items inserted in the newspaper and magazine press well before 1750. However, most of these reports were very short and often did not mention the names of the duellists and their seconds, or reasons for the duel. At least one paper asserted that it was incorrect to do so, since the meeting concerned the private honour of two private individuals, and therefore was not a subject for publication. *The Prompter*, an essay-magazine of the 1730s commented that since “[d]uelling is a private Way of doing oneself

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<sup>1</sup> See e.g. Donna Andrew, “The Code of Honour and Its Critics: The Opposition to Duelling in England, 1700-1850” (1980) 5:3 Soc History 409 at 409-410.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*

Justice, independent of Law, the Motive of such violent Arbitrations of Right and Wrong between Gentlemen, ought not to be publicly entered into by any Writer.”<sup>4</sup> It is also probable that the widespread use of “omission fees” made it both safer and more profitable for newspapermen not to write about such conflicts.<sup>5</sup>

The practice of duelling in Britain during this period has attracted the attention of many historians, most of whom have used the eighteenth-century periodical press as a source to a greater or lesser extent.<sup>6</sup> Some have also offered arguments about what caused the disappearance of duelling in Britain by the mid-nineteenth century.<sup>7</sup> In this essay I hope to offer another clue to that complex puzzle.

## OTHER SOLUTIONS OFFERED

Decades before newspapers in their news columns invoked “the public,” this phrase was found in advertisements addressed to, and perhaps invoking, this entity. By the mid-century, this phrase could be found everywhere. Even “private letters” could and did become transformed and available to the public, when reproduced in newspapers. “The publick” could be obliged “with some observations on the late

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<sup>4</sup> Eustace Budgell, *The Prompter*, Issue 1 (1736) at 329.

<sup>5</sup> *Ibid*; See Lucyle Werkmeister, *The London Daily Press 1772-1792* (Lincoln, University of Nebraska Press, 1963) at 7, 90.

<sup>6</sup> See e.g. Andrew, *supra* note 1 at 410; Victor Kiernan, *The Duel in European History: Honour and the Reign of the Aristocracy* (Oxford University Press, 1988); Antony Simpson, *Dandelions on the Field of Honour: Dueling, the Middle Classes, and the Law in Nineteenth-Century England* (1984) at 99-155; James Kelly, *That Damn'd Thing Called Honour* (Cork: Cork University Press, 1995); Robert Shoemaker, “The Taming of the Duel: Masculinity, Honours and Ritual Violence in London, 1660-1800” (2002) 45:3 *Historical J* 525 [Shoemaker, “Taming of the Duel”]; Robert Shoemaker, “Male Honour and the Decline of Public Violence in Eighteenth-Century London” (2001) 26:2 *Soc History* 190-208; Markku Peltonen, *The Duel in Early Modern England: Civility, Politeness and Honour* (Cambridge: Cambridge University Press, 2003). Stephen Banks, “Very Little Law in the Case: Contests of Honour and the Subversion of the English Criminal Courts 1780-1845” (2008) 19:3 *King’s L J* 575.

<sup>7</sup> For some of these, see Andrew, *supra* note 1; Robert Shoemaker, “The Decline of Public Insult in London, 1660-1800, Past and Present” (2000) 169:1 *Oxford U Press* at 97-131; Stephen Banks, “Killing with Courtesy: The English Duels 1785-1845” (2008) 47:3 *J of British Studies* 528 at 543-44.

election in Westminster...<sup>8</sup> or astonished with further tales of the famous Hannah Snell, “whose suprizing adventures...have been the admiration of the publick...”<sup>9</sup> What is clear is that in its earliest and most inclusive definition, “the public” meant the collective body of newspaper readers.<sup>10</sup>

Duelling was an illicit activity. What this meant, of course, is that most people who duelled attempted to evade detection and tried to conduct their encounters at out-of-the-way spots and at odd hours of the day. If the meetings did not result in fatal wounds, it is possible that they entirely escaped public notice.<sup>11</sup> But, for the eighteenth century, we do have a great deal of contemporary evidence that allows us partially to reconstruct what ordinary men and women of the time might have read and consequently thought about this practice. One of the best of these sources is the growing newspaper press, made up of journals like the *Gentleman's Magazine*, the essay-periodicals like the *Tatler and Spectator*, but most significantly, the growing number of cheap, widely available, and extensively read daily, tri-weekly and weekly newspapers like the *Gazetteer*, the *Public Advertiser* and the *London Evening Post*.<sup>12</sup>

But can these newspapers be read as directly reflecting the number of duels that occurred in Britain during this time? There are certainly difficulties in doing so. Some historians chose to use only journal indexes to construct their database, others eliminate purported reports of duels as satirical, or refuse to credit duels that do not include the names of the

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<sup>8</sup> *London Evening Post* (2 January 1750).

<sup>9</sup> *General Advertiser* (31 January 1750).

<sup>10</sup> The earliest advertisement addressed to “the public” was found in the *Athenian Gazette*, (11 November 1692); see also the *Daily Courant* (22 October 1712) & the *Daily Post* (22 October 1730); For more on the central role of the press, see Kathleen Wilson, *The Sense of the People: Politics, Culture and Imperialism in England 1715-1785* (University of Cambridge: Cambridge University Press, 1995) at 29-54; Elizabeth Foyster, “Introduction Newspaper Reporting of Crime and Justice” (2007) 22:1 *Cambridge U Press* 9 at 9-12 (“It was during the eighteenth century that the newspaper became the dominant form of print culture” at 9).

<sup>11</sup> Donna Andrew, *Aristocratic Vice: The Attack on Duelling, Suicide, Adultery, and Gambling in Eighteenth-Century England* (Newhaven, CT: Yale University Press, 2013) at 45-46.

<sup>12</sup> There were about forty different magazines, journals and newspapers published between 1769 and 1788, and the chances were great that if an item appeared in one, it would appear in many.

duellists and their seconds.<sup>13</sup> Given the problematic nature of these stories, therefore, this essay focuses instead on the impact they would have had on the reading public.<sup>14</sup>

It is understandable why the duelling upper classes wished to maintain secrecy about these sorts of activities. Less worried perhaps by the law than their plebeian countrymen, they nevertheless felt demeaned and sullied by having their private affairs made public. Commenting on the press coverage in the aftermath of Lord Byron's trial of 1765 for killing his neighbour in a duel, Horace Walpole, though clearly unsympathetic to the man and his cause, still noted that though Byron "escaped with life and recovered some portion of honour, if that can comfort him,"<sup>15</sup> it must have been a terrible ordeal "after the publicity made of his character."<sup>16</sup>

While the spectacular nature of the trial as well as the differing versions of the duel itself made the event a media "happening," equally interesting, perhaps, was the number of letters that the duel evoked, and the dialogue that began within the press through such letters, both about this particular duel, but more about the practice of duelling in general. While three of the eleven letters published in the six months after the Byron duel were concerned with the costs of the trial to the public.<sup>17</sup> All of the others were on matters of principle, and several appeared on the front pages of their papers.

Duels, especially those that involved prominent people, were clearly of interest to the public. They aroused all the salacious interest that the bad

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<sup>13</sup> *The Times* (11 November 1786); *Morning Post* (3 November 1786); For others wishing only satirical or ridiculous duelling items to appear, see the *London Packet* (7 June 1782) & the *Public Advertiser* (9 November 1786). For the mock duel between Jerry Puff (hairdresser) & Jack Grimface (chimneysweep) see *The Times* (4 November 1786). Two years later, a similar mock duel between "Monsieur Stew-frog, head cook to Lord Bayham... [and] Roast Beef, head cook to lord Howe" that appeared in *The Times* (18 January 1788). An impression of the increased coverage can be seen in the rising number of duels and related items in the press: in the 1760s I have found 677 accounts in 20 magazines and papers & in the 1770s, 1758 accounts in 33 similar works.

<sup>14</sup> See Shoemaker, "Taming of the Duel" *supra* note 6 at 527, fn 9; Banks, *supra* note 7 at 530.

<sup>15</sup> Horace Walpole, *Correspondence*, Vol 22. to Mann, 14 May 1765 at 293.

<sup>16</sup> *Ibid.*

<sup>17</sup> See e.g. *Gazetteer* (4 March 1765); *London Evening Post* (13, 16, 18, 20 April 1765).

behaviour of one's betters often exhibited. However, beyond the opportunity for delight and disapproval, newspaper reports of duels allowed the ordinary reader to know about more duels than he or she was ever likely to witness directly. This indirect observance of the duel would have helped to create an antipathy to the practice that the press often encouraged.

It was the flurry of political duels, or duels fought for political differences, of the 1760s and 1770s, featuring such notable public men as Wilkes, Fox and Shelburne, which really made it impossible to conceive of duelling as a private activity fought for private honour.<sup>18</sup> Newspapers also became much more important for the proper conduct of the duel; unlike earlier reports of duels, from the 1760s onwards, it becomes more and more common to find both participants and seconds sending in their accounts, to inform the public that things had gone properly and in an honourable fashion. Rather than paying editors not to publish such stories, public men who duelled increasingly seemed to feel that it was imperative that their story be correctly told, and that the public be informed of its true circumstances.<sup>19</sup> Increasingly, the public was invited to view the duel, to see how coolly and fairly it had been conducted, and how all the rules of honour had been obeyed.<sup>20</sup>

In addition to such accounts of these duels, many correspondents also sent letters to the press, commenting on the protagonists, the desirability of settling political disagreements by such confrontations, and agreeing and disagreeing with each other.<sup>21</sup> Though the bulk of these letters and of most of the press comments were both partial and congratulatory, views were publicly expressed, not only by newspaper writers, but by their readers and correspondents, which raised serious questions about the role of duelling amongst public men. By the early 1780s there was some sense that such behaviour demeaned the political process and was inappropriate in a "certain Assembly, where good manners and politeness should form

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<sup>18</sup> In my survey of the Burney collection of seventeenth- and eighteenth-century newspapers, I have found 7 duels in the eighty years between 1680 and 1759 attributed to political differences; in the decade 1760-1769, 16 duels attributed to such differences.

<sup>19</sup> See Andrew, *supra* note 11 at 53.

<sup>20</sup> *Ibid.*

<sup>21</sup> See e.g. *London Evening Post* (25 April 1765).

the basis of all debates which are there agitated.”<sup>22</sup> Yet when, in the late 1790s, the Prime Minister, William Pitt and the leader of the opposition, George Tierney, fought a duel over remarks made in parliament, the press seemed unwilling to condemn them for it.<sup>23</sup> However unexpected and troublesome to some, if prominent public men fought over slurs to their political honour, and did so in an ordered, regulated and approved fashion, neither the state nor the Church, nor the voice of public opinion, the press, was willing wholeheartedly to denounce their acts.

So, through the second half of the eighteenth century, though there was an enormous expansion of press coverage of such rencontres, that publicity seemed to have no effect on the number of duels that occurred or were reported in the press. An imprecise count of duelling items in the press suggests that coverage increased by eight-fold from the preceding four decades (moving from 86 to 684).<sup>24</sup> In fact, some newspapers even suggested that a total ban of such reporting might serve a salutary purpose in reducing the actual incidence of duelling.<sup>25</sup> Thus, the *Whitehall Evening Post* commented on the use of the press by the duellists and their seconds:

It is not to be wondered at, that the parties themselves, concerned in modern duels, publish their folly to the world in the newspapers; there are a certain sort of gentlemen who live purely on their bravery and gallantry; it is their estate in fee-simple, and the credit of the world depends on the world knowing of their professions!<sup>26</sup>

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<sup>22</sup> The three letters on the Shelburne-Fullerton affair: the first, signed “Heath Cropper,” appeared in the *Gazetteer* (29 March 1780); the second, in the *London Chronicle* (24 March 1780); and the third, signed “A little further” also in the *Gazetteer* (1 April 1780). For the comment on the impropriety of duels for parliamentarians, see the *Town and Country Magazine*, letter to the *Observer*, signed “Anti-Duellist” (October 1784) 532.

<sup>23</sup> See the *Observer* (3 June 1798); *The Evening Mail* (25 May 1798); *The St. James Chronicle* (26 May 1798). The only newspaper I have found that made these sorts of negative comments was the *Weekly Register* (30 May 1798).

<sup>24</sup> Counting the first year of each decade, 1730-1790, I have found the following duelling “items” in the Burney Collection and available magazines for these years: 1730: 24; 1740: 3; 1750: 36; 1760: 26; 1770: 132; 1780: 220 & 1790: 332.

<sup>25</sup> Stanton, *The Principles of Duelling: With Rules to be Observed in Every Particular Respecting it*, (T. Hookham, 1790) at 4, 29, 35. See also Stephen Payne Adye, *A treatise on Courts Martial* (London J. Murray, 1778) at 32.

<sup>26</sup> *Whitehall Evening Post* (23 December 1784).

For this reason, the *Morning Post* recommended:

As one circumstance which may contribute to bring duelling into disrepute, let no duel be mentioned in the public papers, unless in the language of ridicule or contempt; and let no accounts appear as written by the parties, for it is a thousand to one that a little newspaper fame was all the combatants had in view, when they pretended to quarrel.<sup>27</sup>

Most pressmen argued instead that their reporting of such events revealed the horrific and needless violence of these affairs and would serve as a salutary preventative against other contemplating such action.

Despite the inability to come to terms with duelling in the new century, after at least fifty years of trying, we know that duelling did, in fact, end in Britain. The question then remains, how, when and why did this happen, and what brought it about?

There is no straightforward answer to this question, and the second part of my argument must therefore be a simple suggestion of the overlooked importance of one growing communicative practice in the latter eighteenth and early nineteenth century. Specifically, the publication of duels stopped by the intervention of the law in the form of magistrates and their associates, and the publication of court cases in which men challenged to fight refused to comply, and instead brought their opponents before the courts.<sup>28</sup>

There is some small evidence of the use of both of these alternatives to the duel in the earlier eighteenth century. For example, in 1761 the *Whitehall Evening Post* contained the following item:

Yesterday a duel had like to have been fought between two captains, one in the King's, the other in the Merchant service, upon a dispute about some men being

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<sup>27</sup> *Morning Post* (3 November 1786); *The Public Advertiser* (28 October 1791) ("Some ladies are suspected of giving fetes as some gentlemen fight duels— for the pleasure of having an account of them inserted in the news-papers"); *General Evening Post* (12 July 1792) ("If the public prints were to resolve not to publish the accounts of duels, it would be a fatal blow to the vanity of modern heroes; and we should not hear in future of so many real and mock fights").

<sup>28</sup> But see Stephen Banks, "Challengers Chastised and Duellists Deterred: Kings Bench and Criminal Informations, 1800-1820" (2007) *ANZLH EJournal*, Refereed Paper No (4).

impressed out of a West-India ship at sea, which however was prevented by peace officers, and each bound over, according to the Statute.<sup>29</sup>

A decade before another paper, *Old England*, told of a duel stopped in the courts:

On Saturday last a certain person well known about the parish of St. James's, Westminster, was brought to the bar in King's Bench, Westminster Hall, on an indictment against him, for sending challenges to two members of Parliament.<sup>30</sup>

For all we know, these two practices of stopping duels may have been in use for many years; however, until the press started reporting them, contemporaries could not have been aware of how frequently, and with what impact these alternatives were used. It is the growing press reporting of these, I wish to argue, concentrating only on the reporting of court cases in the interest of brevity<sup>31</sup>, that publicly demonstrated not only that viable alternatives to the deadly meeting were in existence, but that men of honour and repute – men whose courage and public probity could not be questioned – were using them, that made the imperative to duel less and less pressing and persuasive. If historians of the law are correct in asserting that, if eighteenth century courts were stages on which the power of the state was performed, then newspapers, in their reporting of these legal challenges to the code of honour, acted as amplifying devices for the dissemination of changes in the stance of the state toward duelling.

There were generally two different sorts of courts to which these complaints could be brought: if civilians were involved, the cases appeared at King's Bench.<sup>32</sup> If they involved military men, they were often treated in court martial proceedings.<sup>33</sup> Finally, if the challenged man was an MP, they

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<sup>29</sup> *Whitehall Evening Post* (26 September 1761).

<sup>30</sup> *Old England* (25 May 1751).

<sup>31</sup> John Beattie, *The First English Detectives: the Bow Street Runners and the Policing of London, 1750-1840* (Oxford: Oxford University Press, 2012) considers in detail the work of this group in preventing duels from occurring.

<sup>32</sup> Andrew, *supra* note 11 at 71.

<sup>33</sup> See e.g. *The Times* (10 March 1790); Of the 311 duels I have notice of for the 1780s, more than half (169) involved at least one member of the armed forces and in a little less than a quarter (76) of the cases, both duellists were military or naval men. Of course, this is very impressionistic, since press descriptions of all duellists are vague and often inaccurate.



were brought before the House of Commons.<sup>34</sup> When two landowners, for example, came into conflict about local land usage, and one challenged the other, this case was taken to King's Bench.<sup>35</sup> When Lieutenant Edwards, in a drunken state, challenged his captain to a duel, he was court-martialled at Plymouth and broke, i.e. lost his position in the Navy.<sup>36</sup> Finally, when Theophilus Swift challenged Sir John Wrottesley to a duel for his role in a contested Parliamentary election, Wrottesley invoked Parliamentary privilege and had Swift tried before the House and imprisoned.<sup>37</sup>

While the first of these venues was the most common site both for cases and of newspaper accounts, the reports of the court's proceedings were sometimes abbreviated and incomplete; in only about 2/3 of the reports do we get a sense of what the Court's initial ruling was, and only in a minority can we follow them through to sentencing.<sup>38</sup> However, their very appearance, the copious reporting of arguments made by the prosecuting attorneys who represented the challenged party, and the very extensive inclusion of the judges' comments, in themselves may well have had a significant impact on newspaper readers. Though we have newspaper accounts of challengers being taken to court before the mid-1780s, they were relatively rare. There are only four such notices for the 1750s and 1760, and only 6 in the 1770s; by the 1780s the numbers climb to 28, escalate to 62 in the 1790s and level off at 65 in the first decade of 1800. After a rule for criminal information was granted in King's Bench, it could then be appealed or made absolute, or referred to another legal tribunal—to the Master of the Rolls, or to the Grand Jury. If, however, it was made absolute, there were various possible outcomes for the parties involved. It is clear that both King's Bench and the House of Commons preferred to settle these sorts of cases amicably and favoured those who would either apologize for their offence or make some sort of out-of-court settlement. However, if that proved impossible, the courts used fines,

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<sup>34</sup> See e.g. *St. James's Chronicle* (23 June 1781).

<sup>35</sup> See *Bingley's Journal* (4 May 1771).

<sup>36</sup> For the Edwards case, see *The Times* (10 March 1790). For the Grey-Lempster duel, see *Gentleman's Magazine* (April 1752) at 90.

<sup>37</sup> The Swift-Wrottesley contretemps was reported in the *London Chronicle* (23 June 1781).

<sup>38</sup> See also Andrew, *supra* note 11 at 63, 70-2.

sureties for continued good behaviour, and even imprisonment to lessen the threat of a duel occurring.<sup>39</sup>

In many of the earlier cases before King's Bench, the challenged man brought the letters sent to him by the challenger, or by his representative, which was the proof of the offence, since challenging to a duel, as well as actually fighting one, was against the law. In the course of time, not only did King's Bench start punishing the bearers as well as the authors of such letters<sup>40</sup>, but the very nature of the evidence became more subtle and less explicit. Eventually the Courts no longer demanded the standard phrases in these notes such as "the satisfaction of a gentleman" or the time and place at which a meeting was to occur, but began to recognize "implicit" challenges and even took into account communications which they deemed were provocations, that is, letters that were so insulting that the receiver would either then accept a forthcoming challenge, or even better still, become a challenger himself. All of this appeared in the press, and especially when Lloyd Kenyon, Chief Justice of that Court, between 1788 and 1802, would provide remarkably detailed coverage of his closing comments and views, as we shall shortly see.

Not only did these reports become more detailed and voluminous, but in the twenty years from 1785-1804, they greatly increased in volume. While the number of such reported cases for the fifteen preceding years (1770-84) was fifteen, nineteen such reports appeared in the next five years.<sup>41</sup> Between 1785 and 1805, 107 cases were reported of challenges brought to court, and the reports were usually found in several of London's most widely-sold newspapers.<sup>42</sup> Though there is a falling-off thereafter, there is at least some evidence that these twenty years were the crucial period for the beginning of the end of duelling. Using the digital Times of London and the London papers listed in the Nineteenth Century British Library Newspapers as rough guides, we see that in 1800 those papers reported the occurrence of fourteen duels and eight that had been prevented, either by the magistrates or the courts; by 1820 the same

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<sup>39</sup> See *The Times* (30 September 1796); For the report of "seconds" being charged \$200 & \$500 see also *The Times* (12 August 1806); *Observer* (3 August 1800).

<sup>40</sup> See e.g. the case of one punished letter-bearer, Major Urquhart, in *The Times* (26 November 1792) and *Lloyd's Evening Post* (23 November 1792).

<sup>41</sup> Andrew, *supra* note 11 at 63, 70-2.

<sup>42</sup> *Ibid.*

number of duels had taken place as had been nipped in the bud (12); by 1830 while five duels were reported, ten had been stopped and were covered in the press.<sup>43</sup>

There are two additional reasons for believing that the activities of the Law as well as the publication of those actions by the press may well have convinced potential duellists to consider other methods of conflict resolution. The first were the size and nature of the penalties imposed on those challengers brought to court who were unwilling to apologize or allow for external mediation. Challengers found guilty by the courts could be fined anywhere from £50 to £1000, with £100 fine the most common sum. They also had to provide substantial sureties for keeping the peace, going from £100 to £2000 from their own pockets, plus two outside bonds for a like sum.<sup>44</sup> Probably the most unpleasant punishment the courts meted out in some cases, however, was imprisonment for a specified period, ranging from three weeks to two years, with most awarded six months in jail.<sup>45</sup> These extremely unattractive punishments must have borne especially hard on men who considered themselves gentlemen, men of honour, and better than the hoi polloi.

The second effect of the publicity given to cases of lawsuits against challengers was the example they set to the wider newspaper-reading public. Here I will only discuss two of the most notable of such: the suit by Lord George Cavendish, brother of the Duke of Devonshire, against a former captain of the Derbyshire Militia, of which Cavendish was the head<sup>46</sup> and the second a suit brought by General Coote against a Major Armstrong, at whose court-martial he had testified.<sup>47</sup>

In the first case, when Cavendish refused to meet his opponent John Bembric “on the field of honour,” the latter attempted to provoke Cavendish into an armed conflict by insulting him at the Opera, and widely posting him as a “poltroon, a coward and a scoundrel.” Less than

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<sup>43</sup> The initial report, under the heading “Law Reports, King’s Bench”, appeared in *The Times* (1 February 1800); “Anti-Duellist’s” letter was published on (12 February 1800). Interestingly enough, though Cavendish refused to fight Bembric, he was a second (to Earl Fitzwilliam) in an interrupted duel five years earlier, see *The Times* (30 June 1795).

<sup>44</sup> See e.g. *The Times* (4 May 1785).

<sup>45</sup> *Ibid*; See also Andrew, *supra* note 11 at 72-34.

<sup>46</sup> Andrew, *supra* note 11 at 71-72; *The Times* (1 February 1800).

<sup>47</sup> Andrew, *supra* note 11 at 76.

two weeks after the publication of Cavendish's court case, an anonymous correspondent, who signed his letter "Anti-Duellist" commended Cavendish's action, noting that: "he can only wish your Lordship to enjoy such thanks as mine, which I am sure must also be the wish of every rational man, who looks with horror at the system of duelling. I trust your Lordship will ascertain how far the Law will protect a Gentleman against abuse; and I consider your appeal to the laws as a more effectual means of preventing this detestable alternative of duelling, than all the logic that can be used."<sup>48</sup>

In the second instance, when Major Armstrong, angered by the required testimony of his superior officer at his court-martial, challenged that commander, General Coote, to a duel, the King himself intervened, and ordered his Adjutant-General to send a letter praising the conduct of the senior officer in bringing the case to court. This letter, which Erskine, the prosecuting attorney read, noted that "his Majesty had seen this matter in so serious a light towards the Army," that his commendation was to be sent to and read aloud in every military camp in the country. Direct monarchical involvement and publicity in such affairs was surely very unusual and gave newspaper readers some sense of what their ruler thought about military duelling.<sup>49</sup> But perhaps even more effective were Lord Chief Justice Kenyon's repeated and most widely quoted summaries at the suits of this sort over which he presided. Again and again, Kenyon noted at the conclusion of such cases that the man challenged had "acted with great propriety in appealing to a Court of Justice."<sup>50</sup> When Lord Bruce, brother of the Duke of Aylesbury, brought a challenger before Kenyon, he stated that "Lord Bruce had acted very properly in the steps he had taken."<sup>51</sup> When a challenger attempted to mitigate his offence by noting that the contretemps had occurred at a family wedding, when he was understandably intoxicated, Kenyon responded "that the defendant ought to know, that an offence so serious was not to be shifted off by such

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<sup>48</sup> *Supra* note 43.

<sup>49</sup> For the case of Major Armstrong, heavily punished for having challenged his superior officer, General Coote, to a duel, see *The Times* (21 June 1800) & *The Times* (11 June 1801). The King's letter can be read in *The Times* (8 July 1800).

<sup>50</sup> See e.g. *The Times* (20 February 1799).

<sup>51</sup> *Ibid.*

excuses.”<sup>52</sup> The final comment in this regard must be left to one of the most gifted legal practitioners of the day, Thomas Erskine. As prosecuting attorney against a man who had challenged and assaulted his client in attempting to provoke him to duel, Erskine noted that not only he, but “[t]he noble and learned judges had occasion to lament that one could hardly look into the newspapers of the day without seeing the sad effects of private quarrels.”<sup>53</sup> This trial, Erskine argued, would give Kenyon:

the opportunity of doing that which seemed to be the great object of his justice—to make the justice that was administered in that Court an improvement on the morals of the public, and beneficial to the public comfort and tranquility. If his Lordship, by his wise administration of the law, should be able to dissuade men that which seemed to be the great object of his justice—to make the justice that was administered in that Court an improvement on the morals of the public, and beneficial to the public comfort and tranquility. If his Lordship, by his wise administration of the law, should be able to dissuade men from risking their own lives at the expense of the dearest interests of their families, he would do that which the wisest nations have done—he would put an end to a custom repugnant to morality, and inconsistent with the positive law of this and every other civilized nation.<sup>54</sup>

While duelling did not end during the Napoleonic conflict, nor with the war’s end, despite such optimists as the Rev. William Butler Odell (“The officers of the army do not often fight duels”).<sup>55</sup> Much had changed, in a piecemeal and unplanned fashion, over the previous hundred years. Duels were now no longer private, but public affairs, thanks to the ubiquity of the newspaper press, and the appetite of its readers for reports of these sorts of battles. By the end of the Napoleonic wars, again thanks to the publicity afforded by press coverage, more and more of even such men

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<sup>52</sup> Kenyon first commended Sir James Marriott for bringing the ex-governor of Barbados, David Parry, to court for challenging him to a duel, see *Whitehall*, May 8/11, 1790; for his commendation of Bruce see the *Morning Chronicle* (28 January 1799); for refusal to accept inebriation as excuse for a challenge, see ‘The King v. Lewcock,’ reported in *The Times* (12 February 1793).

<sup>53</sup> This is a suit that a Colonel Smith brought against a Mr. Ardley; for coverage of this, see *The Times* (20 February 1799); *London Packet* (18 February 1799); the *Courier* (21 February 1799).

<sup>54</sup> *Ibid.*

<sup>55</sup> Rev. William Butler Odell, *Essay on Duelling, in which the subject is Morally and Historically Considered; and the practice deduced from the Earliest Times* (Cork: Odell and Laurent, 1814) at 27.

were using the Law, the magistracy and the Courts, as alternative venues to the fighting field. Duelling had not ended, but its imperative, its power, had waned and could be, though it not always was, resisted.<sup>56</sup>

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<sup>56</sup> George Buchan, in his *Remarks on Duelling; comprising observations on the arguments in defense of that practice* (Edinburgh: Waugh and Innes, 1823) argued that “It is an interesting thing, what greatly distinguishes the age in which we live, to see many officers, both naval and military, who now dare to be singular on such points [who refuse challenges to duel], and who now live under impressions little known a few years ago. This number is every year on the increase...” To newspaper readers, the incidence of reports of duels in the press would have seemed to have suggested a similar decline. A rough calculation, based on the newspapers read, contained the following reports of duels: 1790-1799: 151; 1800-1809: 51; 1810-1819: 8.

Challenges [C] and stopped duels (S)	Duels that took place
<p style="text-align: center;"><b>1800</b></p> <p>[c] Cavendish/Bambridge T February 1, 1800  [c] Payne/Beevor T February 3, 1800  [s] Abbott/Camelford T March 6, 1800  [c] Goodhew/Limbery T May 6, 1800  [c] Camelford/Mitford T May 16, 1800  [c] Armstrong/Coote T June 21, 1800  [s] Hopkins/Wilde T August 1, 1800  [c] Williams/Pepper T November 19, 1800  <b>8 instances</b></p>	<p style="text-align: center;"><b>1800</b></p> <p>Corry/Grattan T February 21,1800  Capt. R/Lt B T March 15, 1800  Officers in 17th reg T March 20, 1800  Officers in 4th reg T April 21, 1800  Corry/Newburgh T May 16, 1800  Baily/Nash T May 28, 1800  Ormond/Moore T June 14, 1800  Officers in 9th reg T July 15, 1800  Lt R/Mr M C August 12, 1800  Maj A/Capt WilsonT August14,1800  Capt W/Lt N T August 30, 1800  Watson/Magarey C October 6  Stapleton/Granger T November8,1800  D/McK GEP November 18, 1800  <b>14 instances</b></p>
<p style="text-align: center;"><b>1820</b></p> <p>[c] Williams/Howell T February 4, 1820  [c] Ranelagh/Adolphus T February 11, 1820  [c] Peel/Floyer T February 4, 1820  [c] Hawkes/Peele MC February 12, 1820  [s] Brown /? MC April 12, 1820  [c] Hollyoak/Hollyoak MC April 21, 1820  [c] Wallace/Sergeant MC June 6, 1820  [c] Steven/White MC June 20, 1820  [c] Windle/Blake MC August 8, 1820  [c] Edwards/O'Bryan T November 16, 1820  [c] Walker/Woods T November 23, 1820  [c] Thackray/Stanley MC November 25, 1800  <b>12 instances</b></p>	<p style="text-align: center;"><b>1820</b></p> <p>Maj Clayton/Lt Lee MC March 16, 1820  Hutchinson/Callaghan T April 14, 1820  C/W MP May 25,1820  Grattan/Ld Clare MP June 7, 1820  Capt D/Mr.MC June 22, 1820  Capt F/Mr. G MP July 4, 1820  E/R MC August 5, 1820  Hungerford/Travers MP August 9, 1820  Capt H/Mr. A MP August 10, 1820  Alterbury/Capt S MC August 22, 1820  M/C MC November 22, 1820  H/S MC December 12, 1820  <b>12 instances</b></p>

1830	1830
[s] Golding/Prendergast T March 25, 1830 [s] Conran/Bullinson T March 30, 1830 [s] Wills/Hay T May 24, 1830 [s] Cooper Mills/Burt T May 26, 1830 [s] Yeates/Colethead T June 23, 1830 [s] Honey/Christie T July 3, 1830 [s] Two barristers T July 28, 1830 [s] Howell/Halls T October 19, 1830 [c] Garner/Baskerville T November 19, 1830 [c] Giddy/Reeve T December 29, 1830 <b>10 instances</b>	Clayton/Lambrecht T January 11, 1830 O’Grady/Smith T March 22, 1830 Two officers, Chatham T June 3, 1830 Lt White/Saunderson T July 24, 1830 Scully/Bennett T August 19, 1830 <b>5 instances</b>

**Newspaper Abbreviations:** C = *Courier*; GEP = *General Evening Post*; MC = *Morning Chronicle*; MP = *Morning Post*; T = *The Times*