Challengers Chastised and Duellists Deterred: Kings Bench and Criminal Informations 1800-1820

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To those of us interested in honour culture and British society it has become something of a truism to assert that whilst duelling was entirely unlawful the British legal systems of the eighteenth and nineteenth century were largely ineffectual in penalising those who undertook it. In a short article it would be wearisome to list all those legal eminences who agreed with Foster that, "deliberate duelling, if death ensueth, is in the eye of the law murder."[1] Coke asserted it,[2] Mawgridge[3] affirmed it and yet the actions of the courts seemed to deny it. By my own calculations there were at least 277 fatalities in British duels between 1785 and 1844 but these homicides resulted in the capital sentence being carried out on only one perpetrator of a duelling fatality, the unfortunate Major Campbell who was executed in Ireland in 1808.

Campbell's duel with Captain Boyd had violated the conventions of honour, being hurriedly fought in a locked room and without the presence of seconds.[4] Where however a duel had been properly fought and the fatality occasioned by fair play, then as Rowland Ingram declared in 1804, the judges, grand juries and common juries scarcely seemed to

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[1] Foster *Crown Law* 296.

[2] *Taverner's Case* (1616) 3 Bulstr. 171, "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." Sir Edward Coke at 172.

[3] *R v Mawgridge* (1707) 84 ER 1107.

[4] Lorenzo Sabine, *Notes On Duels And Duelling, Alphabetically Arranged, With A Preliminary Historical Essay* (Boston: Crosby and Nichols, 1859), 72.

regard the homicide as unlawful.[5] Judges of course, did not openly refute the doctrines of their forebears, although some came close. Instead, they tended to assert orthodox legal principles whilst at the same time striving to find reasons why the general severity of the law should not apply to the particular case at hand. For example, they sometimes suggested to the jury, against all evidence to the contrary, that perhaps the killing had been done under provocation. This was a judicial tactic which led Grenville Sharp, in 1773, to denounce "the corrupt practice of the Courts under which, wilful murder has been excused under the name of manslaughter…contradictory to the just doctrines laid down."[6] The judges alone were not to be blamed, however, for the failure to adequately penalise the duellists. Social pressure prevented many a prosecution and where prosecutions were conducted all parties were obliged to disavow any intent upon the life of the defendant. As the *Morning Chronicle* put it in 1841, "everybody is aware that the judge, the counsel on both sides, and the witnesses, are straining all their ingenuity to prevent a verdict against the prisoners; and everybody sympathises with their endeavours."[7] Some judges indeed directed straightforwardly upon the law; in such a fashion that a guilty verdict might be thought to have been an inevitable consequence. At this point, however, other factors came into play. If the petty jurymen were not of the class of duelling gentlemen, yet their conduct revealed a certain admiration for honour culture and they were reluctant to capitally convict defendants for acts which they regarded with no great abhorrence. The consequence then was that the observation made by Samuel Madden in Ireland in 1738 that it was, "safer to

[5] Rowland Ingram, *Reflections upon Duelling* (London: J. Hatchard, 1804).
[6] Grenville Sharp, *Remarks on the Opinions of some of the most celebrated Writers on Crown Law Respecting the Due Distinction between Manslaughter and Murder* (London, 1773), p. 15.
[7] *Morning Chronicle*, 22 February 1841.

kill a man [in a duel] than steal a sheep or cow,"[8] was still one that might be legitimately made in England a century later.

Since so few were ever capitally convicted for killing during the course of a duel and, with the aforementioned exception, such sentences were invariably commuted, the anti-duelling campaigners would seem to have been justified in their assertion that the law had been rendered a mockery. Modern commentators have not challenged that view and nor will I seek here to overturn it. However, I will suggest that such a view needs to be to a degree qualified. In truth, an understandable interest in fatal and dramatic acts, and the particular obligations of honour which led to them, has led to a neglect in the study of the legal remedies available to the gentleman who did not wish to duel. There has been little study of those men who sought to avoid the obligations of honour by placing themselves under the protection of the courts. I do not by this mean to refer to those gentlemen who chose to prosecute other gentlemen for the commission of an ordinary criminal offence against them but rather to those men who were challenged to a duel, or who felt that they were being goaded to issue a challenge themselves who did not succumb, but rather responded by laying a criminal information before King's Bench.

To challenge another to a duel or to seek to provoke a challenge was an indictable misdemeanour, yet the cases that followed have been almost entirely neglected in studies of British duelling. Such cases are tangentially referred to but rarely investigated, almost as though such trivial matters cannot have been of any great consequence to the parties so charged. Now, as we shall observe, the process of prosecution in such circumstances was

[8] Samuel Madden, *Reflections and Resolutions Proper for the Gentlemen of Ireland* (Dublin, 1738), cited in Kelly, *That Damn'd Thing* (Cork: Cork University Press, 1995) p. 65.

both open to abuse and beset with evidential difficulties. However, my preliminary study will suggest that such informations were being employed in earnest in the early nineteenth century, that penalties upon conviction were significant, and that there is good reason to suppose that the conduct of many a gentleman was moderated by the knowledge that such a remedy was available to a putative opponent. Not, of course, that we can expect gentlemen to have openly avowed that this was so. In an age when an apparent indifference to personal harms was a necessary accoutrement to the public personas of men of honour, such men would not readily admit that they had been dissuaded from a course of action by fear of prosecution. The first part of this paper then, is devoted to a general consideration of the use of criminal informations against would be duellists in the first two decades of the nineteenth century. I shall examine the difficulties and defects of the trial process and consider the sanctions employed against those who were finally convicted. The second part of the paper, however, will focus upon a single information, that laid against Lord Camelford by Peter Abbott in 1800 and upon Camelford's response which, perhaps uniquely, reveal the anxieties that a defendant might feel in such circumstances. Publicly, Camelford cultivated his reputation as one of the most fearsome young bucks of his generation and his biographer Nikolai Tolstoy confirmed the impression of a man whose conduct was rarely governed by considerations of either physical safety or of social and legal consequences.[9] Camelford's private papers concerning the affair with Abbott, however, paint quite a different picture.

If we begin, then, by considering the remit of King's Bench, one observes that it did not have an active duty to suppress duelling, unlike Star Chamber which during the

[9] Nikolai Tolstoy, *The Half-Mad Lord: Thomas Pitt, 2nd Baron Camelford* (New York: Holt, Rinehart and Winston, 1978).

Jacobean campaign of the early-seventeenth century had actually instigated prosecutions.[10] However, by the end of the eighteenth century private prosecutions before King's Bench were not uncommon, relative that is, to the number of duels actually fought. If we take King's Bench during the period between 1800 and 1805 there were at least eight convictions of gentlemen during that period for challenging another or attempting to provoke a challenge to a duel.

Each resulted in imprisonment. The least severe penalty was imposed upon the Reverend August Beavor in 1801 who received three weeks for writing offensive letters with the intent of provoking a duel; the most severe, that of twelve months, was imposed the same year against a Major who had challenged his commanding officer. Sentences of three or four months were quite common and were supplemented by hefty fines. To put the terms of imprisonment into context, at this period twelve months was the maximum penalty that could be imposed for manslaughter and of the seven duellists so convicted in English courts between 1785 and 1845, two served twelve months but two only six months, two three months and one but a month. The rigour of imprisonment as a punitive sanction upon gentlemen should not be underestimated. Prison conditions were harsh, and if a gentleman's wealth might ameliorate those conditions somewhat, as the prison system became more systematised and rule-based it became more difficult to thwart the operation of that system.[11] Incarceration and more particularly prison discipline were, I think,

[10] About 200 cases were heard in Star chamber between 1603 and 1625 in which sending or receiving a challenge, or actually combating was charged: *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*, Thomas G. Barnes ed., (Chicago: The Foundation, 1975), pp. 159-163.

[11] Note, for example, the onerous discipline applied to Messrs Young and Webber after their conviction for their part in the duel between Mr Eliot and Mr Mirfin*, The Times,* 12 April 1839, p. 7 col. A; *R v Young and Webber* (1838) 8 Carrington and Payne 644

particularly damaging to the reputation of men of honour. The man of honour was, after all, a man who would sooner die than fail to requite a blow, a man who tried to maintain an absolute bodily autonomy. His very claim to be a gentleman was based upon prioritising honour ahead of consequence and maintaining the distinctness of his being. Confinement might be tolerable, under certain circumstances, but to be absorbed into the amorphous body of common prisoners, denied the basic conditions of gentility, and obliged to obey the common jailor: these were matters for horror. Matters, too, not easily forgotten upon release, for honour society cannot easily have accepted back into it those who had been obliged to passively endure all those affronts which it found so abhorrent. Captain Smith of the 32nd Regiment had the stomach for a duel with Standish O'Grady and he killed his opponent, but when he was told he would in consequence be imprisoned for twelve months, he burst in tears, declaring, "My God! Take my life! Is it come to this! Oh I wish they would take my life! Shame and disgrace and everything else have come upon me."[12]

The penalties, then, that King's Bench might impose upon a would-be duellist were very far from nugatory and perhaps it was in consequence of an awareness of this that judges sometimes refused to accept informations from parties who did not come to court with clean hands. In 1803 Kings Bench refused to proceed against a Mr Cook who had been provoked to a challenge by the refusal of the complainant to repay an outstanding loan.[13] In *Flint* 1806 it first accepted an information but then refused to allow the prosecution to continue once it became apparent that the complainant had been challenged after he had

[12] John. G. Millingen, *The History of Duelling: Including Narratives Of The Most Remarkable Personal Encounters That Have Taken Place From The Earliest Periods To The Present Time*, 2 vols (London: Richard Bentley, 1841), ii., 318.
[13] *The Times,* November 17 1803, p. 3, col. b.

refused to repay a legitimate wager.[14] Sometimes the court simply refused to believe that the complainant was worthy of protection. In 1825 a rule granted against a Lincoln attorney upon behalf of a Mr Gresham was overturned once the court were informed that Gresham had once been a waiter.[15]

Where an information was accepted, proceeding with a prosecution might meet with an immediate evidential difficulty. That is to say, that many challenges were made privately, purely verbally and without witnesses. However, here the honour code itself might come to the assistance of the complainant. Being unabashed about one's conduct, even if consequences ensued, was a component of that honour code and sometimes gentlemen testified to their own detriment in contexts where their guilt could otherwise not have been proved. When John Adolphus proposed to prosecute Lord Ranelagh in 1818 after an altercation in private in his office, he first asked Ranelagh if he would deny in court the words that he had used. Ranelagh indignantly replied that he would "certainly not".[16]

Where the defendant admitted the challenge or witnesses testified as to that challenge matters could proceed. However, the act of trying to provoke a challenge was quite as much a misdemeanour as having made one oneself, but here there might be a difficulty in proving intent. In *Phillips* [17] the court declared that

> Where an evil intent accompanying an act is necessary to constitute such act a crime, the intent must be alleged in the indictment and proved…But where the act itself is

[14] *Annual Register* 48 (1806) 367.
[15] *The Times,* January 25 1825, p. 3, col. e.
[16] *The Times* ,December 9 1818, p. 3, col. f.
[17] *R v Phillips* (1803) 6 East 464, 102 ER 1365.

> unlawful, the law infers an evil intent, and the allegation of such intent is merely a matter of form, and need not be proved by any extrinsic evidence on the part of the prosecutor.

Proving intent was difficult where a defendant had confined himself to remarks that although provoking were not unlawful and the court was doctrinally obliged to construe words benevolently. Since both provoking a challenge and issuing a challenge were equally culpable, a thorny question of eligibility emerged. Could a gentleman who had behaved in a provoking fashion, such that his own conduct was potentially indictable, then bring a prosecution against the person he had provoked into issuing a challenge? In the case of *Peel* 1818[18] the court had to consider this very issue and although it was divided the majority concluded that under such circumstances the conduct of the prosecutor did not bar him from bringing an action.

The circumstances were briefly as follows. William Yates Peel, son of Sir Robert, had become embroiled in an election dispute in Tamworth in 1818. He had put himself forward against the candidate of Sir Charles Townshend and this had offended Townshend's agent Mr Floyer. Floyer had responded by issuing in June of that year a pejorative handbill in which he had declared, "I will meet the Hon. Baronet upon the hustings, and if he denies a single syllable of what I have uttered, let him call upon me".[19] William Peel had indeed called thereafter to state that he "desired an interview in a field". His own invitation notwithstanding, Floyer had declined to accommodate Peel upon that occasion and had expressed his intention to apply to King's Bench. This had had the effect of causing Peel to

[18] *The Times,* 16 November 1818, p. 3, col. b-c.
[19] *The Times* ,16 November 1818, p. 3, col. b.

desist in his challenge and Floyer for his part had not pursued the matter. Until that is October 1818 when Floyer had sought the advice of the barrister Scarlett to ask whether he could lay an information against Peel. Scarlett had advised he could not, as two quarter sessions had passed during which time he might have indicted him, and therefore his application would now be deemed stale. It seems that it was to provoke a resurrection of that stale challenge that on the 6 November 1818 Floyer had then published another handbill in which he had claimed that he had in fact offered Peel satisfaction but that it had been Peel who had declined it. Thereafter he had posted Peel as a coward throughout the coffee houses of Tamworth. Peel's response had been prompt; upon reading the notice posted by Floyer he had gone off, ambushed him on his way home from church, and challenged him. When Floyer had declined, Peel had shook a whip at him and told him he should consider himself horsewhipped. Floyer had responded by lodging the information which now lay before Kings Bench. Mr Justice Best in the minority would not accept a criminal information "upon the application of a complainant who had so conducted himself as Mr Floyer".[20] For the majority, Lord Chief Justice Ellenborough condemned Floyer but nevertheless granted the rule against Peel since not to do so would hold out "an inducement to others to take the law into their own hands". Peel was ultimately convicted, but perhaps in recognition of the situation of his father, or because of the egregious conduct of the prosecutor he was not imprisoned. However, he was fined the hefty sum of £500 with two sureties demanded for his future good behaviour of £2,000 each.

[20] Ibid. col. c.

The court had already found that same year in *Charles Davies* [21] that although a defendant midshipman had been pursued with a false embezzlement charge by a thoroughly vindictive ship's captain, nevertheless this did not legitimate the challenge offered to the captain. Davies was imprisoned for two months. Although Ellenborough argued in both cases that the court must prevent individuals becoming the avengers of their own wrongs, there was a difficulty insofar as the court could become a mere tool in the hands of unscrupulous men. Such men regarded legal action as but another weapon in their arsenal against others; they were not necessarily repudiating duelling at all. Peel's counsel pointed out at his trial that the complainant had himself already fought one duel and had twice acted as second. He was "perfectly acquainted with the mode of provoking and accepting a challenge". Indeed, at several points Peel might have filed an information against him.

Furthermore, it seemed that the court could offer no remedy to gentlemen who had been offered the most egregious insult of all, that of being declared incapable of giving satisfaction. In 1810 Kings Bench dealt with the complaint of William Bates who had become involved in a sporting dispute with Gen William Carr. Carr had challenged Bates to meet him the following day. Supposing that this was mere hot headedness Bates had not turned up at the rendezvous. He had then received a letter declaring him a coward who could no longer be looked upon as a gentleman. This letter provoked Bates to lay an information against Carr. However, Ellenborough would not grant a rule against the general. His reasoning was that although Carr had issued a challenge, his subsequent assertion that Bates was no longer a gentleman was in effect a declaration that he could and would under no

[21] *The Times* , 30 April 1818, p 3, col. f.

circumstances meet him. No misdemeanour was thus presently being occasioned. The court looked to the present circumstance rather than the lapsed invitation.[22]Such was scarcely a satisfactory conclusion. It seemed that although an aggressor might behave unlawfully by issuing a challenge, to return his conduct to that of lawfulness he had only to declare his opponent incapable of giving satisfaction. Thus, at the moment of damming his opponent socially he acquired immunity from prosecution. The gentleman so damned, however, had in effect been penalised by his lawful conduct; he had either to tolerate the social opprobrium heaped upon him by his opponent, or else try to rehabilitate his reputation by challenging. If he chose the latter course it was he who was now open to prosecution.

Yet despite the difficulties in addressing and suppressing the nuances of honour culture, the court did provide a useful remedy for those prepared to resort to it in a timely fashion. That same year that Floyer was prosecuting Peel, Lord Sidmouth was launching a prosecution to contain the insults heaped upon him by Arthur Thistlewood.[23] One gets the subjective impression that prosecutions for the misdemeanour of a challenge were very much more likely to succeed than prosecutions for homicide in a duel. In the case of misdemeanours, of course, judges and juries did not need to be inhibited by the shadow cast by the capital sentence. Furthermore, as we have seen, the penalties upon conviction were no mere tokens; indeed they compared not unfavourably with those applied in cases of manslaughter. Imprisonment was a very real possibility for a gentleman charged with having challenged another-with all the disgrace that this entailed.

[22] *The Times* , 28 November 1818, p. 3, col. d.
[23] Philip Ziegler, *Addington; A Life of Henry Addington, First Viscount Sidmouth*, (New York, 1965), pp. 356-7.

When Mr Peter Abbott and Thomas Pitt, 2nd Lord Camelford quarrelled then in 1800 and Abbott laid an information against Camelford, even he, the most notorious and well connected of social bucks, was dismayed. The details of the dispute between the two men are to be found in a bundle in the Dropmore Papers[24] and have to date, I believe, not been investigated in any detail. First amongst the bundle is the copy of the criminal information laid by Abbott at Bow St. on 1st March 1800.[25] The rest of the papers are of four types. Firstly, the legal papers which passed between Camelford and those he appointed to defend him against Abbott's charge. Secondly, papers which passed during the case between Camelford's solicitors and Abbott's. Thirdly, the bundle contains private intimate correspondence belonging not to Lord Camelford but to Peter Abbott. Finally there is a postscript, a memorandum added by the secretary to the succeeding Lord Camelford, the 3rd Baron, explaining how Peter Abbott's letters came to be in the bundle and dealing with a subsequent demand for money.

According to Abbott's information the quarrel between them had begun congenially enough. On 25th February 1800 Abbott had dined at Camelford's house, and "Every mark of goodwill appeared." At the end of dinner Abbott had acceded to a request from Camelford to accompany him upon a drive into town. During the journey, however, he had become aware that Camelford had directed the coach driver to turn aside from the normal route onto a remote road and that a case of pistols had been placed in the coach. Camelford had then informed him that he, Abbott, had in conversation after dinner, implied that he, Camelford, was addicted to an unnatural sexual vice. Consequently, one of them must die at the other's hand. Abbott had immediately "disavowed having made any such insinuation".

[24] The British Library, The Dropmore Papers, (series II) vol. cxxxxvii.
[25] Ibid, Folio 1.

However, Camelford," was sure I had charged him with it and was therefore resolved to have my blood." Terrified, Abbott had leapt out of the moving carriage and had run down the road and into a nearby cottage. Camelford had pursued him into the house, struck him twice and had then ordered his valet to offer him a sword, "I was impelled by resentment to take it-but I saw that the Moment I should touch the sword and before I could take a posture of defence, Lord Camelford would run me through." Abbott had declined and Camelford had left abusing him as he went. It is perhaps important that at no point during what was to follow did Camelford suggest that Abbott's description of the basic events was untrue.

Upon learning that an information had been laid against him, Camelford had immediately appointed solicitors, who made the relevant inquiries upon his behalf and then wrote back to him informing him that a grand jury would sit upon the bill against him on the 24th or 26th May 1800. Camelford responded with a diatribe lambasting Abbott for, "Turning a challenge to fight into an attempt of assassination…this affront is so blended with buggery and assassination that to pacify this man of conscience we must let him have it all his own way and admit either one or the other or both."[26] This, however, was smoothly transliterated by his solicitors into a conciliatory statement

> Lord Camelford…declares that he then was and still is deeply concerned that such events should have taken place between himself and a person with whom he had lived

[26] Ibid, Folio 22.

> upon terms of intimacy and equality…Lord Camelford has much satisfaction in making the above statement which he perceives must answer all honourable purposes. [27]

The solicitors also engaged the services of the barrister Erskine who, in an opinion of 25th May, strongly advised an out of court settlement, "If he [Camelford] can aforehand avoid the judgement by an honourable arrangement he may do it without disgrace." [28] Erskine pointed out the social embarrassment that Abbott's prosecution might bring upon Camelford's family and although, "in Lord Camelford's situation the countenance of his powerful kindred will be most important," he urged that he did not involve himself in politics, "whilst his nearest relations are so deeply implicated in the government of the state."

The following day the grand jury sat and found a true bill and the trial date itself was set for July, although it was later put back to the end of November. In the interim, Camelford's solicitors tried to negotiate a settlement, but they were hampered by Camelford's insistence that he would not come to a pecuniary settlement with Abbott. On 5th July Erskine delivered a second opinion anticipating that at trial the court would take an approach similar to that which was in fact later taken in both *Charles Davies* and *Peel*. That is to say, that however much Camelford might feel himself aggrieved, that could not negate the offence of having issued a challenge. The insinuations made by Abbott, "though most important for the consideration of the court cannot procure any acquittal, a challenge being

[27] Ibid, Folio 17.
[28] Ibid, Folio 23.

under any possible provocation a misdemeanour. We are of the opinion that the plea of not guilty should be withdrawn and the facts fully disclosed to the Court."[29]

Camelford would not change his plea nor pay money to Abbott, for he had his own scheme afoot. He was never tried upon Abbott's information. Instead, on 22 November, shortly before the onset of the trial, opposing counsels for both sides met:

> as a sort of Court of Honour — to direct upon what terms (not being pecuniary terms) the proceedings should be abandoned…Lord C. was indebted for this change in his situation to the possession of Abbott's letters (which were kept secret from A)…and A.'s consequent dread of exposure to the world.[30]

This description of events is set down in the memorandum written by a secretary to the 3rd Lord Camelford after the demise of the 2nd and explaining the circumstances under which the prosecution of his father came to be withdrawn. The nature of Abbott's letters was not specified but bundled in with the memorandum is another document headed, "Copy of Letters written to Mrs Turner, dated From June 19th to July 7th 1800". Seven letters, lettered A-G are copied in this one document, each is signed P. A. [Peter Abbott].[31] A note in the margin at the end of letter E explains:

> All the above five letters were received from Mrs Turner by Mr Whayley on Saturday 5th July-delivered by him to Lord Camelford on the 6th July (Sunday) and produced by

[29] Ibid, Folio 59.
[30] Ibid, Folio 74.
[31] Ibid, Folio 74.

Lord C at the Consultation at Mr Erskine's house that morning. The remaining two letters were received by Mrs T after Mr W had interviewed her at Slough on the aforementioned Saturday 5th July at which she gave him the five letters aforementioned.

All seven are intimate letters to a "Sophia" making reference to a money-making scheme. It appears that at the time the letters were written Sophia was on friendly terms with Lord Camelford's family and she and Abbott appear to have agreed that she was to feign concern for the Baron and to offer to effect the withdrawal of the action against him for an undisclosed sum of money. The letters begin on 19th June when Sophia was already in contact with Camelford's solicitors- with Abbott's knowledge and approval. To give a flavour of the letters, letter B from Abbott dated 30th June 1800 informed Sophia that:

> If he [Camelford] proposes to you to come to Town he ought to pay handsomely, you ought to have a very handsome sum, more than you expected before as the Business is very serious to Lord C-may you prosper my Angel. But take care to do nothing without first receiving proper Security.

At this stage it was anticipated that Lord Camelford's trial would commence in July and on 1st July, in letter C, Abbott wrote to Sophia that:

> I wish to God something was settled the Time presses, either it must be settled one Way or the other by Friday as I shall not have it in my Power afterwards to do anything

but what the Law requires. Bless you my Darling a thousand Times let me hear from you immediately, I would do anything in my Power to make you happy

Further letters followed in this vein. Alas, however, for his money making scheme and alas it seems for the course of true love- for by 5th July five of his private letters were in the hands of Camelford delivered by Mrs Turner and two more were to follow.

It is of course not necessary to conclude that Sophia and Mrs Turner were one and the same, but, put briefly, the details in the memorandum to the 3rd Lord describing the acquisition of the letters makes it very likely. Shortly after the death of Thomas Pitt in 1806, a Lady Cox approached his successor asking for money. It was this demand that seemingly prompted the secretary to draw up a précis of the whole affair. Lady Cox had, according to the secretary, been paid £150 to pass Abbott's letters to her over to Camelford. However, she was now claiming that she had also received a promise that she would receive a further £500. That promise that had not been kept by the date of the death of the second lord and she now expected his successor to stump up. The secretary summed up her role thus:

At the time of Lady Cox's interference she was Abbott's friend and not Lord C's…her object in the first instance was, in concert with Abbott to obtain money from Lord C for being the means of accommodating the dispute and suppressing the dispute at law. The answer given by Lord Camelford was that it was his own decision not to come to any accommodation upon pecuniary terms, lest it be construed by malignants into a device to hush up the insinuations made by Abbot She must have become immediately sensible of the impossibility of effecting the above purposes…she then

changed her means with a view to effecting the same End, that of obtaining money from Lord C and determined to sacrifice Abbott to him for her own benefit.

The identification of Lady Cox with both the Mrs Turner who had delivered the letters and with Sophia who had, from the correspondence between them, clearly connived with Abbott to get money from Camelford seems irresistible. Abbott in other words had been double-crossed. When he was confronted with the letters by Camelford's solicitors immediately prior to the trial, he must have realised that his motives would be discredited and he withdrew the prosecution. We do not know whether Lady Cox got her money, but from the comments of the third lord's secretary we may doubt it, "No sense or feeling of honour (as far as could be collected from the Documents and from the circumstances which occurred, so many of which seem to speak trumpet-tongued to the contrary) appears to have entered into Lady C's share of the transactions."

Aside from providing a further insight into the life of a colourful historical personage and a somewhat melodramatic tale of betrayal, the dispute between the two men provides us with some interesting insights into the misdemeanour in question. We learn that to be tried for such a misdemeanour was a serious matter, even for someone as powerful as Camelford. To suppress such a prosecution a complainant might hope to receive a significant sum. In the case of Camelford that sum was not to materialise, but the lord was prepared to spend time and money in order to suppress the dispute- by applying a little "blackmail" of his own. His legal advisors were sanguine about his prospects in court urging private reconciliation and pointing out the damage to his familial and political connections once matters became public. In the absence of a settlement, Erskine did not believe that

any evidence of provocation would avail Camelford in court and urged a guilty plea. There is, then, no sense in any of this of a court in which judges and counsel, with the complicity of a sympathetic jury, could be expected to strain to acquit the defendant. Nor any sense that the sanctions the court imposed were nugatory.

A more systematic study of the prosecutions for this particular misdemeanour would clearly be desirable. What I will say somewhat tentatively is that the evidence thus far suggests that by the beginning of the nineteenth century criminal informations were being regularly laid by gentlemen against those who had challenged them, or who had sought to provoke them to a challenge. They were doing so in the knowledge that there was a good chance of success before King's Bench and that upon conviction the court would apply meaningful sanctions against malefactor. Obviously, we cannot know how many gentlemen were dissuaded from issuing a challenge by the prospect of being hauled before the courts. William Peel had, it appears, first been so dissuaded, but then he had given way in the face of quite intolerable provocation. The evidence, however, suggests that the courts were operating with some meaningful deterrent effect. Whatever public persona gentlemen might project, whatever romantic memoirs or honour theorists may suggest, by the beginning of the nineteenth century, would be duellists certainly did not regard the prospect of being prosecuted before the Kings Bench with insouciance.
