

Debating the Legitimacy of Violence:

Duelling in Antebellum America

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Robert Early Harris, by the time of his own death in 1821, is known to have murdered at least two men. Aside from the evidence of these two killings, Harris left scant detail of his existence on the historical record.¹ In the first incident, Harris caused the death of an opponent during a street brawl. Harris was duly tried and convicted of voluntary manslaughter. He escaped being 'branded,' the legal penalty under Georgian state law, only through the intercession of Governor Jared Erwin, who issued a pardon. This fortuitous political connection indicates Harris' elite status: he was a gentleman or 'man of honour' in Georgia. His subsequent participation in a duel, the occasion of Harris' second (recorded) killing, further attests to his membership in the Georgian elite. A cousin, Harris Coleman, had made insulting public remarks regarding Harris' father, the late General Buckner Harris. Compelled to defend his family's honour, Harris challenged Coleman to a duel.² These remarks, unfortunately unrecorded, must have been particularly offensive as the duel ran to three exchanges of shots, ending only with Coleman's death. As the ultimate purpose of a duel was to reach an accommodation that preserved the honour of both parties, for an affair of honour to proceed to the duelling grounds was rare, and a fatal conclusion rarer still.³ Nonetheless, despite public knowledge of Coleman's death at Harris' hands, neither censure nor punishment was forthcoming. This was in spite of the fact that duelling was subject to specific legal sanctions under Georgian law (as in the majority of American states) in addition to the possibility of murder

1 Harris-Early-Massey-Lynch Family Genealogical Notes, compiled by Harris Vickson (1911), Virginia State Library, Richmond, Virginia. Transcription available at <<http://www.angelfire.com/tx5/dougtx/harrisorigins.html>>, accessed 10 April 2012. Robert E Harris, *From Essex England to the Sunny Southern USA: A Harris Family Journey*, (Atlanta, GA: R. E. Harris, 1994). Ruth H. Early, *The family of Early, which settled upon the eastern shore of Virginia and its connection with other families*, (Lynchburg, VA: Brown-Morrison Co., 1920), 228. Matthew A .Byron, 'Crime and Punishment: The Impotency of Duelling Laws in the United States,' (PhD Thesis, University of Arkansas 2008). 121-2.

2 Harris, *From Essex England*, 11. General Buckner Harris was a veteran of both the Revolution and the War of 1812, and had served in the state legislature.

3 John Lyde Wilson, *The Code of Honor; or Rules for the Government of Principals and Seconds in Duelling*. (Charleston, South Carolina: Printed by James Phinney, 1858[1838]), 33.

charges. Simply issuing a challenge to a duel was punishable by disqualification from public office, a crippling fine and a term of imprisonment.⁴

To modern observers, the disparity between the official responses to these two cases of lethal violence appears paradoxical. The historical conundrum is only underscored by the frequency with which such instances of non-enforcement occurred. Though at least 310 duels during the nineteenth century resulted in fatalities, only a single duellist was executed for murder.⁵ That actual practice contradicted the laws demonstrates that the boundaries differentiating legitimate from illegitimate acts of violence were as yet hazy and ill-defined. For the antebellum period, the controversial practice of duelling would inhabit a grey area between these boundaries.

In any society, such distinctions between acceptable and unacceptable forms of violence exist. Such boundaries are not static; they are subject to a historical process of change as they are constructed, challenged and defended over time. Indeed, these ill-defined boundaries were actively contested by proponents and opponents of the practice, who sought to delineate more sharply the bounds of legitimate violence by relegating the duel to one side or the other. Yet success or failure in these endeavours possessed implications beyond the future of duelling alone. As the nascent American state had yet to successfully establish a monopoly over the legitimate use of force, a vacuum existed. In attempting to sway public opinion via arguments that either justified or condemned duelling, various groups and interests simultaneously competed to assert authority over the power to decide what constituted legitimate violence and who could wield it.

By accessing this ongoing debate, then, historians are presented with the opportunity to reconstruct the attitudes of contemporaries towards what distinguished legitimate from illegitimate violence, and the competing sources from which such legitimacy was derived. The public nature of this debate – occurring predominantly in the press and in print – coupled with the longevity of the duel – rendered extinct only in the decades after the Civil War – has resulted in an abundance of primary source material. After briefly revisiting the historiography of the field and acquainting the reader with the key characteristics of the duel, this study will draw upon a series of anti- and pro-duelling pamphlets and polemics published between 1800 and the 1830s to reconstruct the contrasting conceptions of legitimate violence and its underpinnings. Much of this literature was produced in response to particular duels; as those featuring famous participants or fatal conclusions served to bring the ever-simmering debate to boil. Exploiting this tendency, this study is centred upon the flurry of responses provoked by two such case studies: the notorious 1804 duel between Federalist Party leader Alexander Hamilton and Vice-President Aaron Burr in New Jersey, and the comparatively unknown 1830 contest between naval officer Charles Hunter and lawyer William Miller in Philadelphia.

Prior historiographical approaches have treated duelling primarily as a cultural practice to be decoded. The field is thus characterised by competition between a series of prisms – transnational, sectional and political – through which various historians contend duelling can be best understood. Scholars Stuart Carroll and Richard Hopton situate the antebellum American practice

4 C. A. Harwell Wells, 'The end of the affair? Anti-dueling laws and social norms in Antebellum America', *Vanderbilt Law Review*, Vol. 54, No. 4, (May 2001), 1829.

5 Byron, 'Crime and Punishment', 38, 41. Lorenzo Sabine, *Notes on Duels and Duelling, alphabetically arranged with a Preliminary Historical Essay*, (Boston: Crosby, Nichols and Company, 1855), 43.

among multiple variations of a transnational – or, rather, transatlantic – cultural phenomenon, emphasising the ‘universally recognisable characteristics [apparent] ... wherever and whenever [duels] occurred.’⁶ Going further, Carroll emphasises that temporal, as well as spatial boundaries, do not apply to the duel: it was ‘a phenomenon which is not only transnational, but subverts the neat demarcation of time between medieval, early modern and modern.’⁷ This scholarly approach is understandable given the earlier work of historians such as Kenneth Greenberg and Bertram Wyatt-Brown, who perceived the duel chiefly as a symptom of the Southern culture of honour. In contrast to these sectional and transnational approaches, historians W. J. Rorabaugh and Joanne Freeman have reconceptualised the duel through the prism of politics.⁸ Highlighting the ‘political motives for duelling,’ Freeman situates the duel as a weapon within a ‘larger grammar of political combat’ practised by the elites of the early republic.⁹

Rather than privileging a singular aspect of the duel as definitive, this study adopts a less restrictive understanding of the cultural phenomenon. There were three characteristics central to duelling in antebellum America: its ritualised form, ultimate purpose of reconciliation and class dimensions. A typical duel could be identified by its progression through a series of prescribed protocols. In recording the famous 1825 duel between the statesmen Henry Clay and John Randolph of Roanoke, eyewitnesses preserved the performance of these ritual protocols in minute detail.¹⁰ Moreover, ‘the essential rulebook’ for duellists – a pamphlet entitled *The Code of Honour* published by onetime South Carolina Governor John Lyde Wilson – serves as a ‘description of common ... duelling practices’ for historians, which illustrates that the Clay-Randolph duel followed the customary procedures of the ritual.¹¹

The duel was initiated by a perceived insult to Clay’s honour by Randolph, who made ‘an attack ... upon the private as well as public character’ of the then-Secretary of State during a Senate speech.¹² According to protocol, Clay wrote to Randolph, demanding that Randolph either avow or disavow the insult. After Randolph’s avowal, this correspondence was then conducted by each gentlemen’s second, usually a close friend or family member. Their role was to explore all avenues for an accommodation, as they could ‘heal the breach more effectually’ than their antagonistic principals.¹³ Failing an accommodation at this stage, the seconds would agree upon the date and location of the duel, and accompany their principal to the field of honour to act as their assistant. The seconds, after each exchange of shots, were tasked with attempting to reconcile the combatants,

6 Richard Hopton, *Pistols at Dawn: A History of Duelling*, (London: Portrait, 2007), 291.

7 Stuart Carroll, ‘Introduction’ in *Cultures of Violence: Interpersonal Violence in Historical Perspective*, ed. Stuart Carroll, (New York: Palgrave Macmillan, 2007), 14.

8 W. J. Rorabaugh, ‘The Political Duel in the Early Republic: Burr v. Hamilton’, *Journal of the Early Republic*, Vol. 15, No. 1, (Spring, 1995), 1.

9 Joanne B. Freeman, *Affairs of Honor: National Politics in the New Republic* (New Haven: Yale University Press, 2001), 184, 163.

10 Sabine, *Notes on Duels and Duelling*, 109-123. Thomas Hart Benton, *Thirty Years in the U.S. Senate: Vol. 1* (New York: D. Appleton and Company, 1854), 70-77. Senator Thomas Hart Benton, an eyewitness to the affair, recorded his impressions in his later memoirs. Sabine supplements this with the account of General James Hamilton, a friend of Randolph, in his compendium of duels.

11 Byron, ‘Crime and Punishment’, 5. Kenneth Greenberg, *Honor and Slavery*, (New Jersey: Princeton University Press, 1996), 82.

12 General Jesup, quoted in Benton, *Thirty Years in the U.S. Senate*, 70.

13 Wilson, *The Code of Honor*, 17.

should they consider the point of honour satisfied.¹⁴ Clay and Randolph, after two exchanges of shots, were reconciled.¹⁵

As illustrated by the experience of Robert Early Harris, the ritualised nature of duelling rendered it legitimate compared to cases of uncontrolled violence, which demanded punishment according to nineteenth-century authorities. These divergent responses reflect Carroll’s assessment of the duel’s purpose. He concludes that if the ritual does not limit or reduce violence, at the very least it ‘makes violence more predictable.’¹⁶ Historian René Girard, adopting a functionalist approach to the ritual, reaches similar conclusions. According to Girard, a fundamental condition required for the existence of all societies is a solution to ‘the contagion of violence.’¹⁷ Any act of violence can potentially provoke a retaliatory act of violence, which risks a never-ending cycle of vengeance that ‘threatens to involve the whole social body.’¹⁸ The ritual of the duel, then, was a method whereby this cycle could be checked. As is apparent in antebellum America, the duelling ritual aimed to accord ‘a careful measure of satisfaction’ to the injured party, enough to quell their desire for vengeance without provoking another’s desire in response. If accommodation proved unachievable, the act of violence was contained by the ritual: conducted according to prescriptions that designated specific participants and relocated the combat to areas safely secluded from society.¹⁹ Burr and Hamilton, for instance, fought their encounter in isolated Weehawken, New Jersey (a frequent retreat for duellists), while Hunter and Miller evacuated Philadelphia for their duel.²⁰

Therefore, the primary purpose of the duelling ritual was reconciliation. Revenge and the desire to deal out death to an adversary constituted only a minor motivation in the issuance of challenges.²¹ In effect, the duel functioned as a conflict resolution mechanism: designed to reconcile the participants while preserving the honour of each.²² Though this appears counter-intuitive from a modern standpoint, it makes sense once contextualised within the holistic understanding of the duel advocated by Freeman and Greenberg.²³ They note contemporaries considered that an ‘affair of honour’ began with the first ‘notice’ of an insult and ended once honour was satisfied, whether through an accommodation or the exchange of bullets.²⁴ This is made apparent in an 1804 pamphlet issued (anonymously) by Burr’s second, William Van Ness, to vindicate his principal’s conduct.

14 *Ibid.*, 26.

15 Benton, *Thirty Years in the U.S. Senate*, 76-7.

16 Carroll, ‘Introduction’, 5, 11, 12, 29.

17 René Girard, *Violence and the Sacred*, trans. Patrick Gregory (John Hopkins, 1977), 30.

18 *Ibid.*, 14-15.

19 *Ibid.*, 20.

20 Anonymous, *An Authentic Account of the Fatal Duel fought on Sunday the 21st March 1830, near Chester, Pennsylvania between Mr. Charles G. Hunter, Late Midshipman of the U.S. Navy and Mr. William Miller, Jun., Late Attorney at Law of Philadelphia* (Washington City: Jonathan Elliot, 1830), 44. Joanne B. Freeman, ‘Duelling as Politics: Reinterpreting the Burr-Hamilton Duel’, *The William and Mary Quarterly*, Vol. 53, No. 2, (Apr., 1996), 289, 302. Crossing the state borders, as in the case of the New Yorkers Burr and Hamilton, also served as a means of evading state-based anti-duelling laws.

21 Carroll, ‘Introduction’, 31. Greenberg, *Honor and Slavery*, 64.

22 Wilson, *The Code of Honor*, 26.

23 Some scholars have, inadvertently, contributed to popular misperceptions of the duel’s purpose. Matthew A. Byron, in the most thorough statistical study of antebellum duelling, has recorded 734 duels in the United States during the nineteenth century, calculating a fatality rate of approximately forty-five per cent. Indeed, it is difficult to reconcile such a high fatality rate with an institution intended to reconcile the combatants, until we adopt the more holistic understanding of the ritual held by contemporaries. If it were possible for Byron to incorporate the vast number of ‘affairs of honour’ resolved before the duelling stage into his total, the fatality rate of the ritual would be substantially reduced. Byron, ‘Crime and Punishment’, 2, 6.

24 Greenberg, *Honor and Slavery*, 8. Freeman, *Affairs of Honor*, 167.

Challenging Hamilton's posthumous disavowal of the practice of duelling, Van Ness pointed to an 'affair of honour' initiated by Hamilton with then-President John Adams in 1800. Clearly, Van Ness considered these incidents comparable – even though the Hamilton-Adams affair never reached the duelling stage, and assumed his audience would share this outlook.²⁵ The ultimate purpose of reconciliation was evident throughout the Clay-Randolph affair. The antebellum historian Lorenzo Sabine noted that 'even in the hour of meeting in mortal combat ... these two great men ... loved one another,' and Benton recorded that within two days 'social relations were formally and courteously restored.'²⁶

A recent historiographical trend has been to uncover 'popular duels' conducted between members of the lower classes and locate them as a form of interpersonal violence within the historical category of the duel.²⁷ To contemporary Americans, however, this would have appeared nonsensical since it was, in part, the high social status of participants that defined a violent encounter as a duel.²⁸ The ritual was not intended to accomplish a reconciliation between any two individuals, but rather to mend a rupture between members of an elite 'community of gentlemen.'²⁹ After a perceived insult or injury to a gentleman's honour, public reputation or social standing, participating in the ritual with their traducer re-established the social equilibrium between the two gentlemen and signalled their continued acceptance within the elite community. In extreme cases, an exchange of bullets allowed gentlemen to re-affirm their honour by displaying their 'mastery over the fear of death' – the 'central virtue of men of honour.'³⁰ Indeed, in 1821 the *Missouri Intelligencer* commented that the ritual of duelling was 'the cheapest and smallest capital upon which a man can possibly become a modern gentleman.'³¹

Yet duels were not solely intended for the benefit of fellow elites, as is apparent in their public nature. Descriptions of duels were widely disseminated; newspaper accounts were expected, even encouraged, by the parties involved, as the ritual was 'a theatrical display for public consumption.'³² In this way, Caroll notes, duelling contributed to 'the shaping of [class] identities that [were] exclusionary and oppositional.'³³ The role of the duel in demarcating elite status is best illustrated by the response of gentlemen to an insult from an individual not considered a social equal. In such a situation the insulted gentleman would mete out a caning – 'a sound beating around the head and

25 Lysander [William P. Van Ness], *A Correct Statement of the Late Melancholy Affair of Honor between General Hamilton and Col. Burr in which the Former Unfortunately Fell, To which is added, A Candid Examination of the Whole Affair, In a Letter to a Friend* (New York: G. & R. Waite, 1804), 51-3, 56. Before the duel Hamilton wrote a letter to be published in the case of his death which recorded his in-principle opposition to the practice, stating he accepted Burr's challenge in conformity to 'public prejudice.'

26 Sabine, *Notes on Duels and Duelling*, 109. Benton, *Thirty Years in the U.S. Senate*, 77.

27 Greenberg, *Honor and Slavery*, xii. Pieter Spierenberg, *Men and Violence: Gender, Honor and Rituals in Modern Europe and America*, (Columbus: Ohio State University Press, 1998), 13.

28 In fact, the longevity of the duel can largely be attributed to the elite status of combatants. Not only were duels 'sanctioned by the example of the great' but, more simply, this same class of elites were those responsible for enforcing and executing any anti-duelling statutes that were enacted. Lyman Beecher, *The Remedy for Duelling: A Sermon, delivered before the Presbytery of Long-Island at the opening of their session at Aquebogue, April 16, 1806. To which is annexed, the Resolutions and Address of the Anti-Duelling Association of New York*. (New York: J. Seymour, Printer, 1809), 42.

29 Greenberg, *Honor and Slavery*, 81-2.

30 *Ibid.*, 88, 64.

31 *Missouri Intelligencer*, quoted in Hopton, *Pistols at Dawn*, 300.

32 Greenberg, *Honor and Slavery*, 8. Freeman, *Affairs of Honor*, 184.

33 Caroll, 'Introduction', 13.

shoulders with a cane,' of which the most famous example was Congressman Preston Brooks' near-fatal beating of Charles Sumner in the chamber of the U.S. Senate.³⁴

Though both the Burr-Hamilton and Hunter-Miller duels began in accordance with the usual protocols, their deadly conclusions signalled a radical departure from the reconciliatory purpose of the duel. Their 1804 duel was the culmination of the bitter political rivalry between the Federalist Hamilton and Republican Burr. Burr had demanded satisfaction after some 'despicable' remarks expressed privately by Hamilton were publicised.³⁵ Hamilton was mortally wounded in the ensuing contest. After an insulted Philadelphia attorney was denied satisfaction by another gentleman, a complex series of murky claims and counter-claims saw the affair climax in the duel between Hunter and Miller, respective friends of the original adversaries. Miller was killed instantly in the first exchange of shots.³⁶ In addition to the political prominence of Burr and Hamilton, the stark failure of these duels to effect reconciliation between the parties explains the controversy each excited. Indeed, as these affairs of honour came to a close, they only rekindled the wider debate over the legitimacy of duelling.

The resultant controversy was not unusual. Indeed, duels that involved prominent political figures or ended in fatalities tended to act as flashpoints, where the legitimacy of duelling was fiercely debated in the public sphere or Congress. This pattern was remarked upon by contemporaries. An anonymous pamphleteer who defended the practice noted that affairs 'in which parties of ... high character have been concerned' excite a high 'degree of interest', while a critic from the clergy observed that whenever 'a murder is committed in a duel, immediately a great bustle is made.'³⁷ Yet not only do these case studies exemplify this pattern, but they were also selected in order to illustrate the diversity of duels in regards to geography, participants, and motivations.³⁸ Crucially, these duels also bookend the era under examination. The timeframe of this study has been limited to 1800 to the 1830s, as beyond this period the duel was reduced from a national to a sectional phenomenon.³⁹ Unfortunately, the common conception of duelling as a Southern institution – fostered, according to some, by the sectional approach of scholars like Greenberg and Wyatt-Brown – has obscured the fact that, for a substantial period, duelling was both common and controversial across America, for reasons separate from section.⁴⁰

Although the South was always more predisposed to duelling, not until the mid-nineteenth century would the debate over duelling's legitimacy become coloured by the sectional tensions that would

34 Freeman, *Affairs of Honor*, 172.

35 Charles D. Cooper, quoted in Rorabaugh, 'The Political Duel in the Early Republic,' 9.

36 Anonymous, *An Authentic Account of the Fatal Duel*, 8, 44-45.

37 Postumus, *Observations on the South Carolina Memorial, upon the Subject of Duelling; in a Letter to a Friend* (South Carolina, 1805), 3. Beecher, *The Remedy for Duelling*, 25-7.

38 The Burr-Hamilton duel occurred in New Jersey, and the Hunter-Miller duel in Pennsylvania. Moreover, the Harris-Coleman duel took place in Georgia, and the Clay-Randolph duel on the border between Virginia and Washington, D.C. While Aaron Burr (a Vice-President), Alexander Hamilton (a Secretary of the Treasury), Henry Clay (a Secretary of State) and John Randolph (a Senator) were politically prominent, Robert Early Harris, Harris Coleman, Charles Hunter and William Miller were relative unknowns.

39 As the question of slavery and its expansion came to dominate antebellum politics, the chief political divide became geographical – displacing partisan and other allegiances. Historians have termed this phenomenon 'sectionalism'; as the distinctive societies and economies of these geographical sections (i.e. North and South) saw opposing attitudes towards slavery emerge on either side of the Mason-Dixon Line.

40 Byron, 'Crime and Punishment', 18.

culminate in the Civil War. This predisposition was noted in an anti-duelling sermon by clergyman Lyman Beecher in 1806, who noted that duels, while they occurred in the North, 'stalk[ed] with bolder front as you pass onward to the South.'⁴¹ Nevertheless, historian Joanne Freeman concludes that in the early decades of the nineteenth century 'Northerners were as well versed in this code as Southerners.'⁴² In 1838, however, a former parishioner republished Beecher's sermon, but as an anti-slavery tract – by simply replacing all references to 'duelling' in Beecher's arguments with 'slavery.' This illustrates that duelling was increasingly perceived as a sectional phenomenon, lumped together with slavery as one of the 'peculiar institutions' of the South.⁴³ Yet this perception was not yet dominant. Indeed, the Cilley-Graves duel, which had in part prompted the republication of Beecher's sermon, saw a Northern congressman and a Southern counterpart face off. Historian John Hope Franklin concludes, however, that 'by the mid-nineteenth century [duelling] had become sectional just as slavery had.'⁴⁴ Indeed, in the 1850s a contemporary 'historian of the duel' Lorenzo Sabine could describe the South as 'a duelling section' while the North comprised 'the non-duelling states' characterised by the 'unconditional, indiscriminate condemnation of the duellist.'⁴⁵ From then on, the arguments marshalled for and against the practice came to reflect the wider sectional conflict rather than divisions over what defined violence as legitimate.

Though the Hunter-Miller and Burr-Hamilton duels were both perceived as pivotal by contemporaries, with each producing a flurry of pro- and anti-duelling publications, there exists a stark divergence in their treatment by historians. In the decades following, contemporaries described the Burr-Hamilton contest as seminal. In 1816, the pacifist and anti-duelling advocate Noah Worcester observed that the 'impression ... made on the public mind' by the fatal outcome of the duel had been 'the occasion of exciting abhorrence to the custom of duelling.'⁴⁶ Indeed, the pro-duelling pamphleteer Postumus (a pseudonym) lamented the 'general and unqualified censure of the duel' that resulted. These assessments reflect the historiographical consensus: historians Richard Bell and Rorabaugh have cast the Burr-Hamilton duel as a decisive turning point in public opinion, which placed duelling on the path to extinction in the North.⁴⁷

This was due to the anti-duelling crusades embarked upon by a number of religious leaders such as Samuel Spring, Lyman Beecher and his mentor Timothy Dwight, the President of Yale College.⁴⁸ The historian Richard Hopton notes that sermons preached by these figures received 'wide currency among the anti-duelling lobby ... [and] had a marked effect on anti-duelling opinion in New England.'⁴⁹ This influence is attributable to the role of clergymen as opinion-leaders in their communities, as the 'quasi establishment' status of American Protestantism in the antebellum

41 Beecher, *The Remedy for Duelling*, 32-3.

42 Freeman, *Affairs of Honor*, 168.

43 Lyman Beecher, *A Sermon, Entitled 'The Remedy for Duelling' Applied to the Crime of Slaveholding by One of his Former Parishioners*, (Boston: Isaac Knapp, 1838), 1,3,4.

44 John Hope Franklin, quoted in Byron, 'Crime and Punishment', 18

45 Greenberg, *Honor and Slavery*, 14. Sabine, *Notes on Duels and Duelling*, iv, 42, 47.

46 Noah Worcester, *Friend of Peace: containing a special interview between the President of the United States and Omar, an officer dismissed for duelling; six letters from Omar to the President, with a review of the power assumed by rulers over the laws of God and the lives of men, in making war, and Omar's solitary reflections* (London: J. Low, 21, Gracechurch Street, 1816), 5, 16.

47 Rorabaugh, 'The Political Duel in the Early Republic,' 20. Richard Bell, 'The Double Guilt of Dueling: The Stain of Suicide in Anti-Dueling Rhetoric in the Early Republic', *Journal of the Early Republic*, 29 (Fall 2009), 390, 393-4.

48 *Ibid.*, 393-4.

49 Hopton, *Pistols at Dawn*, 296, 312.

era conferred 'substantial social prestige' upon religious leaders.⁵⁰ Indeed, Beecher himself was well aware of their ability to shape public opinion. In his sermon, he confidently predicted that 'ministers of different denominations, all united, would be able ... to awaken [a] formidable phalanx of opposition.'⁵¹ Rorabaugh even argues that such anti-duelling activism marked the beginning of the moral reform movements sparked by the Second Great Awakening.⁵²

These denunciations of duelling in turn provoked defences of the ritual. In his 1804 pamphlet written to 'defend the character of Col. Burr,' Van Ness provided a 'rare written justification of duelling ... [that expounded] many of the conventional arguments used to justify duelling.'⁵³ In 1805, the South Carolinian Postumus issued a tract in defence of the practice. Though his specific purpose was to oppose former Governor Charles Pinckney's call for the clergy's support in the passage of harsher anti-duelling laws, Postumus sought to refute the standard arguments marshalled against the practice.⁵⁴

The Hunter-Miller duel, conversely, is notable for its absence from the historiography. Though it may lack famous combatants or major political implications, the study of this contest is invaluable once the focus shifts to investigating how duelling acted as a point of contention in antebellum culture. Indeed, a variety of contemporaries perceived the duel as a seminal event, due to the response of President Andrew Jackson. Reacting rapidly, Jackson discharged all the naval officers involved in the dispute. An anonymous pamphleteer, aligned with the dismissed officers, published a pro-duelling tract in Washington D.C. in an attempt to persuade 'his Excellency General Jackson' to rescind the 'unparalleled measure.'⁵⁵ Walter Colton, an anti-duelling advocate, praised the measure in a letter to Jackson, in which he enclosed his own anti-duelling pamphlet.⁵⁶ News of and praise for the measure even crossed the Atlantic, with one British pamphleteer extolling Jackson's 'decisive procedure' in contrast to the 'pitiabile method[s]' of his own government.⁵⁷ However, following fierce lobbying, Jackson reinstated all the naval officers by 1833, thus illustrating that duelling continued to occupy a grey area.⁵⁸ An anti-duelling tract by an exiled Italian scholar, James Sega, was similarly 'occasioned by the late lamentable occurrence.'⁵⁹

50 Frances M. Clarke, *War Stories: Suffering and Sacrifice in the Civil War North*, (Chicago: University of Chicago Press, 2011), 18.

51 Beecher, *The Remedy for Duelling*, 35-6.

52 Rorabaugh, 'The Political Duel in the Early Republic,' 20.

53 Van Ness, *A Correct Statement of the Late Melancholy Affair*, 72-3. Freeman, *Affairs of Honor*, 194-5. Van Ness' authorial identity was disguised with the pseudonym 'Lysander' in the pamphlet.

54 Sabine, *Notes on Duels and Duelling*, 39-40. Hopton, *Pistols at Dawn*, 296.

55 Anonymous, *An Authentic Account of the Fatal Duel*, 1, 4.

56 Letter from Walter Colton to Andrew Jackson, October 26th 1830, in *The Papers of Andrew Jackson Vol. VIII, 1830*, ed. Daniel Feller, (Knoxville: University of Tennessee Press, 2010), 585.

57 Titus, *A Plan to Abolish Dueling*, (London: Saundurs and Otley, 1844), 5.

58 In addition to public pressures, such as the anonymously authored pro-duelling pamphlet, this lobbying extended to a cavalcade of letters commending the character of the dismissed officers and advocating their reinstatement. Jackson received letters from Lawrence Kearny, Daniel Todd Patterson, Edmund Pendleton Kennedy, Lewis Warrington, Daniel Turner and John Downes in 1831 alone. Furthermore, a former State Department clerk and onetime Secretary of Florida Territory related to one of the officers approached the Secretary of the Navy personally. Feller, *The Papers of Andrew Jackson Vol. VIII*, 620-1, 758-9, 764.

59 James Sega, *An Essay on the Practice of Duelling, As it exists in Modern Society. Occasioned by the late lamentable occurrence near Philadelphia*. (Philadelphia, 1830), i, ii. This essay formed the basis of a larger, more general reformist work published later that year. James Sega, *What is True Civilisation, or Means to Suppress the Practice of Duelling, to Prevent, or to Punish, Crimes, and to Abolish the Punishment of Death* (Boston: William Smith - Printer, 1830), 14-16, 20.

The arguments, both for and against, put forth to sway public opinion in the aftermath of the deaths of Hamilton and Burr were markedly similar. Likewise, the more general publications of the period tended to rehash the same rationales. Moreover, these debates were largely dominated by the same groups throughout. A waning aristocracy, seeking to maintain their traditional claims to authority via an honour culture in the face of the less-than-deferential democratic masses, asserted that historical precedent and its indispensable social functions legitimated the duel. Evangelical clergy, leveraging their religious authority to shape popular behaviour in the wake of the Second Great Awakening, maintained that nothing but God's will manifested in Christian doctrine could grant legitimacy to violent acts. Anti-duelling elites and democrats, attempting to bolster governmental authority, argued that only the sanction of the state differentiated legitimate from illegitimate violence.

Typically, proponents of the duel did not offer an unqualified defence of the duel. Instead, they distanced themselves from the 'abuse' of duelling while endorsing its 'fair and temperate practice.'⁶⁰ Wilson, in the preface of his duelling handbook, 'censured and deprecated ... the indiscriminate and frequent appeal to arms ... [proclaiming] I am no advocate for such duelling.'⁶¹ This was further accomplished by criticising the figure of the 'professed duellist.' According to Postumus, these 'duellists by profession' were 'nuisances in society.'⁶² This position was not merely a rhetorical stance feigned by pro-duellists to counter the arguments of anti-duelling advocates. Indeed, the original insult that eventually culminated (somewhat ironically) in the fatal Hunter-Miller duel was the 'most foul calumny and infamous falsehood ... the charge of being a professed duellist.'⁶³ Consequently, this position was not merely a strategic response, calculated to diminish the efficacy of a rhetorical device employed by anti-duellists, who graphically highlighted the chief outcome of duels as 'the tears of mourning parents, widows and orphans.'⁶⁴ Rather, it derived from their understanding of what legitimated the duel. They regarded it as a necessary evil that prevented greater social evils, chiefly legitimated, then, by the positive social functions it performed.

For instance, the anonymous pamphleteer likened duelling to capital punishment administered by the state. Executions, although an unpleasant spectacle, were 'legitimately practised ... [as] we believe it to have a considerable effect in repressing the commission of great crimes.'⁶⁵ These pro-duellists understood both duelling and this judicial action as legitimate forms of violence for the same reason: though distasteful, they performed crucial social functions. Indeed, Postumus observed that 'though the practice of duel be attended with some evils' they were outweighed by 'the benefits derived from it.'⁶⁶ To Van Ness, duelling was central to the 'well being of society.'⁶⁷ These 'benefits' to society were twofold. Firstly, by acting as a deterrent and avenue for redress for

60 Anonymous, *An Authentic Account of the Fatal Duel*, 71.

61 Wilson, *The Code of Honor*, 6.

62 Postumus, *Observations on the South Carolina Memorial*, 9.

63 Anonymous, *An Authentic Account of the Fatal Duel*, 10, 46-7.

64 Worcester, *Friend of Peace*, 15-6. This rhetorical device was a staple of anti-duelling texts, utilised also by Sega, Colton, Spring, Beecher and Dwight. Sega, *An Essay on the Practice of Duelling*, 23-4. Walter Colton, *Remarks on Duelling*, (New York: Jonathan Leavitt, 1828), 51-2. Samuel Spring, *The Sixth Commandment Friendly to Virtue, Honor and Politeness: A Discourse in Consequence of the Late Duel addressed to the North Congregational Society of Newburyport, August 5, 1804*, (Newburyport: E. W. Allen, 1804), 8. Beecher, *The Remedy for Duelling*, 29-31, 44-6, 53-4. Timothy Dwight, *The Folly, Guilt, And Mischiefs of Duelling: A Sermon, preached in the College Chapel at New Haven, on the Sabbath preceding the Annual Commencement, September 1804*, (Hartford: Hudson and Goodwin, 1805), 27-8.

65 Anonymous, *An Authentic Account of the Fatal Duel*, 71.

66 Postumus, *Observations on the South Carolina Memorial*, 30.

67 Van Ness, *A Correct Statement of the Late Melancholy Affair*, 56.

personal insults, the duel served to 'enforce what is called honorable reputation.'⁶⁸ If duels were to disappear, Van Ness warned that the 'floodgates of slander and detraction' would be released.⁶⁹ Similarly, Postumus predicted 'disorders and private quarrels [would] be infinitely multiplied' and 'scurrilous licentiousness [and the] corruption of public morals' would result.⁷⁰ Conversely, areas of the Union in which duels were prevalent, Postumus argued, were characterised by 'candour and decorum.'⁷¹ Secondly, participation in duelling acted as a 'line of demarcation ... to designate ... *cavaliers* [gentlemen]' from their inferiors, a crucial function given the (relative) social mobility of the American republic.⁷²

In short, as the 'laws of the country give no redress' for attacks upon honour, the duel served as a 'tribunal to do justice' to such 'wronged individuals.'⁷³ This use of legal terminology indicates that the 'laws of honour' were constructed as an informal legal system, operating in parallel or as a supplement to the 'laws of the land' – the official judicial system.⁷⁴ Indeed, the anonymous pamphleteer described Miller's participation in the duel as a 'law [by which] he was ultimately put upon his trial, and he who *acknowledges* the judge, cannot complain of his sentence.'⁷⁵ Within this mindset, the informal 'laws of the honourable code which governed' gentlemen derived legitimacy from sources independent of the official legal system – from natural law and widespread social acceptance.⁷⁶ The duel was a manifestation of 'the principles of natural Justice' that transcended the civil laws.⁷⁷ According to Van Ness, the right of every insulted citizen to 'call upon the reputed traducer' could not be 'denied by any person' as it was a 'law of nature.'⁷⁸ To Wilson, it was one of the 'natural rights.'⁷⁹ Moreover, these principles were further legitimised by their public acceptance – Van Ness noted duelling had 'received the sanction of the world.'⁸⁰ Moreover, the 'code of honour' reflected the 'established rules of right and wrong.'⁸¹ Despite the difficulties in gauging public opinion in this period, these assertions are in accord with legal scholar Harwell Wells' conclusion that antebellum duelling constituted a 'social norm.'⁸² This was evident in the Hunter-Miller duel. Despite the impending duel being the 'subject of universal comment in the public prints,' the participants openly departed Philadelphia 'in hostile array ... without ... the slightest attempt at interposition on the part of the constituted authorities.'⁸³

These arguments for the legitimacy of duelling, however, failed to convince anti-duelling advocates. Rather, the 'privileges of the law and the feelings of the public' were sufficient for 'the protection

68 Anonymous, *An Authentic Account of the Fatal Duel*, 77.

69 Van Ness, *A Correct Statement of the Late Melancholy Affair*, 49.

70 Postumus, *Observations on the South Carolina Memorial*, 13.

71 *Ibid.*, 15.

72 Anonymous, *An Authentic Account of the Fatal Duel*, 73.

73 Wilson, *The Code of Honor*, 6, 4.

74 Anonymous, *An Authentic Account of the Fatal Duel*, 26.

75 *Ibid.*, 59.

76 *Ibid.*, 56.

77 *Ibid.*, 3.

78 Van Ness, *A Correct Statement of the Late Melancholy Affair*, 48-9.

79 Wilson, *The Code of Honor*, 5.

80 Van Ness, *A Correct Statement of the Late Melancholy Affair*, 47.

81 Anonymous, *An Authentic Account of the Fatal Duel*, 74.

82 Wells, 'The End of the Affair?', 1807, 1810-11. Assertions of what constituted public opinion, in both pro- and anti-duelling literature, were clearly shaped by the agendas of their authors.

83 Anonymous, *An Authentic Account of the Fatal Duel*, 44, 60.

of character' from any serious insults or injuries.⁸⁴ In the modern society of antebellum America, then, the chief social function of the duel had been rendered redundant. Therefore the duel was no longer a 'necessary evil' but simply another social evil that demanded reform.⁸⁵ For many opponents of duelling, it was the sanction of the state that differentiated legitimate acts of violence, such as war and capital punishment, from illegitimate violence, such as the duel. Accordingly, Segal labelled duelling a crime because duellists privately utilised that 'physical power, which men uniting in society have ceded to the law.'⁸⁶ To historian Pieter Spierenberg, such arguments reflected the wider 'state formation processes' at work in nineteenth-century America, as central authorities sought to achieve the 'monopolisation of [legitimate] violence.'⁸⁷ It also corresponds with Girard's theoretical framework, in which the judicial system, like the duelling ritual, is considered a method for checking cycles of retaliatory vengeance triggered by violent acts. In order to do so, the judiciary must assume a 'monopoly on the means of revenge' so that the only response to violent acts is a single, authoritative act of reprisal 'enacted by a sovereign authority.'⁸⁸ To ensure that this reprisal does not itself trigger a cycle of vengeance, the judiciary's prerogative must be 'universally respected.'⁸⁹ Consequently, acts of 'private vengeance' such as the duel undermine judicial authority, and must be delegitimised.⁹⁰

At this stage, however, the sanction of the state was not yet universally perceived as the decisive factor that distinguished legitimate from illegitimate violence. Indeed, a common pro-duelling argument linked the widely accepted legitimacy of war-making with the more controversial ritual of duelling, in order to legitimise the latter. In justifying his encounter with Clay, Randolph conceptualised the duel as a 'private war [which] rested upon the same basis as public war.'⁹¹ Wilson, too, believed if 'an oppressed nation has a right to appeal to arms' then the same principle applied 'with equal force to individuals.'⁹² Nor did all anti-duelling advocates accept state sanction as the chief source of legitimacy. Clergymen, in particular, regarded duelling as an illegitimate form of violence because it violated divine law and the system of Christian morality. Worcester, a leading pacifist, went furthest in applying anti-duelling arguments to an equally 'diabolical and antichristian custom ... that of war' in order to discourage and delegitimise both practices.⁹³ Consequently, the anti-duellist Worcester, like the pro-duellist Wilson, denied the sanction of the state as the source of legitimacy for violent actions. For both, legitimacy originated from sources that transcended the state; Wilson from the 'natural' laws of honour and Worcester from the 'divine' system of Christian morality.

For these clergymen, duelling constituted illegitimate violence because it violated 'the holy commandment[s] of God.'⁹⁴ It did so in two ways, by disobeying Christian dictates against suicide as well as murder.⁹⁵ In entering the duelling ritual in order to murder his opponent, duellists not

84 Colton, *Remarks on Duelling*, 10, 36.

85 Segal, *An Essay on the Practice of Duelling*, 7.

86 *Ibid.*, 22.

87 Spierenberg, *Men and Violence*, 23-4.

88 Girard, *Violence and the Sacred*, 23, 15.

89 *Ibid.*, 23, 27.

90 *Ibid.*, 15.

91 Benton, *Thirty Years in the U.S. Senate*, 475.

92 Wilson, *The Code of Honor*, 4.

93 Worcester, *Friend of Peace*, 31, 9.

94 Spring, *The Sixth Commandment Friendly to Virtue*, 10.

95 Worcester, *Friend of Peace*, 8.

only violated the Sixth Commandment's prohibition on killing, but were 'stained with the guilt of suicide' by their willingness to sacrifice their life for this object.⁹⁶ The centrality of representing duellists as 'self-murderers' as well as 'wilful murderers of their adversaries' to anti-duelling discourse has been highlighted by Bell.⁹⁷ In this mindset, the God's laws differentiated legitimate from illegitimate forms of violence. According to Dwight and Spring, the acceptable usages of violence were limited to 'killing beasts [for] food ... in self-defence ... [administering] public justice' and 'defensive war.'⁹⁸ As duelling reflected none of these purposes, it was an illegitimate type of violence that constituted a 'violation of the laws of God.'⁹⁹

The list of acceptable forms of violence within the framework of Christian morality reveals that the view of the clergy was not uniform. Not all clergymen shared the outlook of Worcester, who, given his staunch pacifism, saw the 'authority of rulers' at odds with 'the authority of God.'¹⁰⁰ In fact, many saw duelling as all the more reprehensible as it was contrary to both 'the authority of God and man.'¹⁰¹ In such assertions religious leaders, including Spring, Beecher and Dwight, linked civil and divine law as synonymous on the subject. According to Beecher, the 'law of this state ... is in perfect accordance with ... the word of God.'¹⁰² Nonetheless, Christian doctrine reigned supreme. The legitimacy of state-based violence ultimately stemmed from divine sanction, rather than that of the state. God decided the legitimacy of violence, as articulated in the Bible and interpreted by his clergy, as 'civil government [was] a divine ordinance' to which one submitted 'for the Lord's Sake.'¹⁰³ In this sense, the relation of legitimacy to state sanction was similar to the understanding held by pro-duellists, like Wilson. But from Wilson's standpoint, the natural laws that legitimated the duel similarly transcended divine, as well as civic, objections. Indeed, the exercise of 'Christian forbearance' in response to an insult was 'utterly repugnant to ... all that is honourable ... which nature [has] implanted in the human character.'¹⁰⁴

In addition to natural law and the performance of beneficial social functions, proponents of duelling also looked to historical precedent to legitimise the ritual. One such proponent asserted that 'tradition ... handed down to us, the resort to single combat' was considered the 'most honourable' method of resolving disputes.¹⁰⁵ Carroll notes that proponents did not lack for 'virtuous precedents' – from the judicial duel and trial by combat, to medieval tournaments and classical gladiatorial contests.¹⁰⁶ The pervasiveness of the 'immemorial custom' of duelling throughout history, despite innumerable attempts at its abolition, allowed advocates to argue that the duel was not merely a necessary evil, but an ineradicable custom and inescapable condition of human existence.¹⁰⁷

96 Dwight, *The Folly, Guilt, And Mischiefs of Duelling*, 19.

97 Spring, *The Sixth Commandment Friendly to Virtue*, 13. Bell, 'Double Guilt': 385.

98 Dwight, *The Folly, Guilt, And Mischiefs of Duelling*, 22. Spring, *The Sixth Commandment Friendly to Virtue*, 5.

99 Dwight, *The Folly, Guilt, And Mischiefs of Duelling*, 21.

100 Worcester, *Friend of Peace*, 33.

101 Spring, *The Sixth Commandment Friendly to Virtue*, 15.

102 Beecher, *The Remedy for Duelling*, 12-14.

103 *Ibid.*, 11-12. Dwight, *The Folly, Guilt, And Mischiefs of Duelling*, 20.

104 Wilson, *The Code of Honor*, 7.

105 Anonymous, *An Authentic Account of the Fatal Duel*, 71

106 Carroll, 'Introduction', 28.

107 Anonymous, *An Authentic Account of the Fatal Duel*, 71-72.

Anti-duelling advocates recognised the efficacy of such arguments, and went to great lengths to refute them. Colton described this derivation of ‘authority ... from the usages of an age where ignorance had found her lowest depth’ as a ‘defence as impudent as it is unjust.’¹⁰⁸ Colton’s response illustrates how anti-duellists subverted historical precedents, originally drawn upon as a source of legitimacy, to delegitimise the practice. This was accomplished by locating the duel within a progress-based historical framework, in which past and present were dichotomised into barbarism and civilisation respectively. This framework mirrored wider nineteenth-century conceptions of primitive societies, cast as aggressive and bloodthirsty, versus ‘advanced civilisations’ characterised by the alternative use of ‘nonviolent statecraft or legal sanctions.’¹⁰⁹ In this construction, the duel was cast as ‘a remnant of Gothic barbarism’ and a ‘relic of the Dark Ages.’¹¹⁰ This approach also entailed the demolition of precedents from ‘civilised’ societies of the past, such as the Greeks and Romans. Sabine commented on this tendency among his contemporary anti-duelling writers, who were ‘anxious to find no resemblance between it and any custom of antiquity, [and] treat it as an institution purely Gothic.’¹¹¹ Consequently, reference to historical tradition was re-engineered to disqualify the duel from legitimate practise in modern society. Postumus railed against this strategy, asserting that duelling’s ‘barbarous origin is not of itself a ground of condemnation’ as ‘many of our best civil institutions’ such as republicanism and Christianity dated from similar periods.¹¹²

This historical framework and its dichotomy of civilisation and barbarism was also linked to contrasting notions of manhood. By casting duellists as the antithesis of the normative antebellum ideal of manhood they could thus be criticised directly. Repeatedly, the ‘conduct of the Duellist’ was likened to that of the ‘barbarian.’ Both were defined by their inability to govern their passions, and consequently were slaves to their anger, hatred, jealousy, avarice and ambition.¹¹³ The foil to the barbaric duellist was the ‘civilised man.’ This figure abstained from duelling, because he had mastered his passions through the exercise of ‘conscience and reason.’¹¹⁴ Spring goes on to link this self-mastery with public virtue – only those ‘who have established self-government’ should be entrusted with public office in the republic.¹¹⁵ In contrast, duellists were dangerous characters clinging to an obsolete, unlawful custom – ‘savages in a civilised land.’¹¹⁶ According to historians of manhood, the normative ideal of white manhood (especially in the North) was increasingly based upon definitions of ‘self-improvement and self-discipline,’ particularly through mastering ‘bodily desires and passions.’ Thus ‘middling white men’ defined their identities in opposition to ‘those who supposedly lacked self-control’ – a category to which the duellist was assigned.¹¹⁷ Simultaneously, this framework served to refute the conception of legitimacy as stemming from natural law. The duellist was cast as unable to rise above his animal nature to behave appropriately

¹⁰⁸ Colton, *Remarks on Duelling*, 52.

¹⁰⁹ Clarke, *War Stories*, 13.

¹¹⁰ Sabine, *Notes on Duels and Duelling*, 41. Beecher, *The Remedy for Duelling*, 9.

¹¹¹ Sabine, *Notes on Duels and Duelling*, 15.

¹¹² Postumus, *Observations on the South Carolina Memorial*, 9.

¹¹³ Colton, *Remarks on Duelling*, 20. Sega, *An Essay on the Practice of Duelling*, 19-20. References to the barbarity of duels or duellists were also made by Worcester and Beecher, while Spring and Colton listed the passions that motivated them. Worcester, *Friend of Peace*, 6. Beecher, *The Remedy for Duelling*, 9, 52-3. Colton, *Remarks on Duelling*, 49. Spring, *The Sixth Commandment Friendly to Virtue*, 23.

¹¹⁴ Colton, *Remarks on Duelling*, 19.

¹¹⁵ Spring, *The Sixth Commandment Friendly to Virtue*, 25.

¹¹⁶ Beecher, *The Remedy for Duelling*, 21-2.

¹¹⁷ Clarke, *War Stories*, 160.

in a civil society, represented as having more ‘in common with wild beasts’ and ‘other animals’ than civilised man.¹¹⁸

The antebellum debate over the legitimacy of duelling represented a fundamental disagreement over the basic sources of legitimacy for violence: who and what authorities should differentiate acceptable from unacceptable violence and shape the public response to such acts accordingly. In this sense, the debate was a struggle between various bases of power in antebellum America, each of which sought to privilege their competing interests. Clergymen, seeking to employ their religious authority in the cause of a more Christian society achievable through moral reform, maintained duelling was illegitimate as a violation of divine law and God’s will. Embattled duellists, defending the prerogatives that marked their elite status, defended duelling’s legitimacy by reference to centuries of precedent, natural law and the beneficial social functions it performed. Other elites, seeking to bolster government authority, aligned themselves with concerned citizens and members of the middle-classes to argue that duelling was illegitimate as it lacked the sanction of the state. As this debate resurfaced periodically to dominate political discourse and public conversation in the aftermath of particularly controversial duels, these interests existed in constant dialogue – endeavouring to undercut and refute competing understandings of legitimate violence. This contest would continue to the Civil War, eventually becoming a subset of mounting sectional tensions as the duel became increasingly perceived, like slavery, as an institution peculiar to the South.

¹¹⁸ Sega, *An Essay on the Practice of Duelling*, 6, 19-20. Worcester, *Friend of Peace*, 8.