AN ESSAY

ON THE

PRACTICE OF DUELLING,

As it exists in Modern Society.

Occasioned by the late lamentable occurrence near Philadelphia.

[Probably the death of Miller who graduated at Harvard College in 1825 who fell in a duel]

BY JAMES SEGA, LL.D.

TRANSLATED FROM THE ITALIAN, BY THE AUTHOR.

Mercutio.—O, he is the courageous captain of compliments. He fights as you sing prick-song, keeps time, distance and proportion: rests me his minim rest, one, two, and the third in your bosom: the very butcher of a silk button, a duellist, a duellist; a gentleman of the very first house,——

Romeo and Juliet.

PHILADELPHIA:

1830

Eastern District of Pennsylvania, to wit:

SEAL. BE IT REMEMBERED, That on the fifteenth day of April, in the fifty-fourth year of the independence of the United States of America, A. D. 1830,

JAMES SEGA, LL.D.

of the said district, has deposited in this office the title of a book, the right whereof he claims as proprietor, in the words following, to wit:

"An Essay on the Practice of Duelling, as it exists in Modern Society. Occasioned by the late lamentable occurrence near Philadelphia. By James Sega, LL.D. Translated from the Italian, by the Author.

Mercutio. O, he is the courageous captain of compliments. He fights as you sing prick-song, keeps time, distance and proportion: rests me his minim rest, one, two, and the third in your bosom: the very butcher of a silk button, a duellist, a duellist; a gentleman of the very first house."

Romeo and Juliet.

In conformity to the Act of the Congress of the United States, intituled, "An act for the Encouragement of Learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies, during the times therein mentioned"—And also to the act, entitled, "An act supplementary to an act, entitled, "An act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies, during the times therein mentioned," and extending the benefits thereof to the arts of designing, engraving, and etching historical and other prints."

D. CALDWELL,
Clerk of the Eastern District of Pennsylvania.

MOST BELOVED FATHER,

This essay, which the love of my kind dictated to me, being the fruit of those maxims which I learned from the cradle, is due to you; accept it, as a tribute of filial respect, and as a pledge of that love, which, inspired by nature, can be diminished neither by distance of place, nor by lapse of years. And if fates be so benign, that this little book, reaching your hands, be the bearer of the only consolation that is now reserved for your paternal heart, "to know that your son yet lives, and honourably," I will give my warmest gratitude to heaven for it.

Receive with it a tender, and respectful embrace from your son JAMES.

ESSAY ON DUELS.

It will always be a difficult matter to decide, whether duelling ought to be tolerated or punished; and, in the latter supposition, it will be still difficult to ascertain whether the killing a man in a duel shall be punished as murder or manslaughter.

All modern nations appear to have agreed in this, that duels should not be tolerated; but none have yet been so far successful as to prevent duels from taking place within the boundaries of their own territories; if we partly except Austria, Russia and Turkey.

He who looks upon things as a philosopher, without permitting himself to be misguided by useless antipathies, will easily perceive that those governments being absolute monarchies, (or despotisms, if he chooses, which will always mean a government where the law is the expression of the will of one man,) and, consequently, their laws emanating from the will of a man, who feels it to be of the first consequence that his will should be done, it follows, that these laws are more strictly observed: because, with such governments, the people, taking no part in the framing of the laws, cannot, even aided by public opinion, absolve any man who has violated the law. Besides, the law which emanates from one man, causes all men to fear it, not only because of its being a law, but because by violating that law, they sin against the will of him who made the law, and therefore make themselves guilty of a crime which men in power will seldom or never pardon, "that of not conforming oneself to the will of Him who can command."

The very reverse is the case with republics, and with all governments where the people, either by themselves, or through their representatives, make, or are supposed to make, the laws. These laws being made by the people, or in the name of the people, it follows that the violators of a law are the very persons who were concerned in the framing of it; and these same violators of the law, together with others who concurred in the framing of the law, may constitute that public, whose opinion declares itself against that law.(1)

If we add to this, that the persons who are charged with the execution of the laws, are taken from those who made them, and may either join public opinion in declaring themselves against such a law, or find themselves restrained from applying the severity of that law to violators, whom public opinion holds no longer criminal, because of the friends, the relations, and connexions of him who should suffer the penalty of that law, and because of those who wish for an opportunity of complaining, who would accuse of excessive severity, and even of cruelty, him who should cause that law to be executed: we will easily perceive why it is so in republics.

Moreover, with regard to the laws of a popular government, it is not the case as in monarchy, that he who is charged with the execution of the laws, considers the violation of a law as an injury done to himself; and, therefore, though he may feel bound by duty to have them executed, he will never have a personal interest in acting in opposition to public opinion.

Another great obstacle to the execution of any law, might arise from the very penalty inflicted upon the transgressor; if the penalty did not bear a just proportion to the injury, that society thinks it receives by the perpetration of the crime punished by that law.

The measure of the injury, that society deems itself to receive from any crime, is to be recognised in the abhorrence which the generality of the people express towards the offender. Nobody will doubt that he who takes a man's life, does a greater injury to society, than he who takes from a very rich man a dollar; and yet every body would shrink from the idea

of pronouncing a duellist a greater offender than a thief! And why so? Because each one thinks himself wise enough not to allow himself to be exposed to lose his life in a duel: but no man will think himself secure against thieves; because, when once a man has acquired property, he fears to be deprived of it.

In Switzerland, where the commodities of life are acquired with great difficulty, and where it would be too expensive to secure them, all thefts are punished with death.

In the criminal code of Napoleon the domestic theft was punished with ten years of imprisonment, though the value of the thing stolen was less than a crown. Some have believed that this severity of the law proceeded from the great respect in which the French people held hospitality: and yet, in Italy, where hospitality is considered rather a duty, than a virtue, and where thefts are not more common than in other nations, this law was viewed with horror! And why so? The Italians consider it an act of hospitality, to receive in their own house, either a stranger or an acquaintance; and there to keep him at perfect ease, sharing all the commodities of life, which are within the reach of that family, without being allowed, in any way, to defray the expenses of the hospitality shown to him. The French extended the appellation of guests to all the inmates of a house, except the master and his own family; therefore, a servant, who had stolen a pound of flour in the house where he served, was punished as severely as the knight, who, under the shelter of sacred hospitality, became the inmate of a family, and robbed it of its richest ornaments. Did not that depreciate hospitality itself? Let not, then, the Italians be accused of viewing theft with less horror than the French; and let it be seen that the Italians hold hospitality too sacred to think that they share it with him, who by hard labour, and low services, earns that bread which sustains life.

Let the very state of France, at the very epoch of that law, be more accurately examined, and we shall see that the horror with which the French legislators viewed the crime of theft,

proceeded from the facility with which that crime could be perpetrated, and consequently from the great difficulty of protecting themselves against it.

The French revolution having proclaimed the equality of all men, every one felt at liberty to introduce himself into the house of the rich, and to take what he wanted; likewise, a servant did not scruple to take a portion of his master's property, under the conviction, that to take it was not to steal: thence the necessity of punishing severely those who, admitted into the house of the rich, should steal any of their property, trusting that, if they were guarded by the law against those who had become the inmates of their houses, they would be wise enough to protect themselves against those, who were out of the house. (2)

Thus, we see that the measure of the abhorrence which is shown for a crime, is always to be found in the facility of perpetrating that crime, and in the difficulty of preventing it. Hence it may easily be inferred, that duelling, being a crime, neither easy in its perpetration, nor difficult in its prevention, the people will never show for that violation of the law, the same abhorrence which they are wont to show for the crime against which they are unable to protect themselves.

This permitted as an introduction to my essay on duelling, I think that duels should be considered, first, in themselves; secondly, with reference to the causes of duelling; thirdly, with regard to public opinion; fourthly, with regard to the law, which has reference to that crime.

Duels would, perhaps, be set forth as a fatal evidence, that ferocity, or, in other words, barbarity, is the original sin of the animal creation, since the human kind preserves it in common with wild beasts, and birds of prey, notwithstanding all the civilization of which men are susceptible.

Among civilized people, where falsehood was the most abominable vice, and personal valour, a sovereign virtue; and where laws did not exist, disputes, quarrels, and even trials, were decided by the sword.

Where a prince, either by his own valour, or by fortune,

obtained royal authority over fellow chiefs, who being armed, and having followers, could not only with difficulty be brought to submit to tribunals, but even to recognise a law, the settling of quarrels, and disputes, and titles by the sword was still a necessary evil; and kings found it to their interest to give leave to combatants, who could not be prevented from fighting.

Among civilized people, duelling is thought a necessary substitute to revenge those offences, which either are not punished by the law, or are deemed not punishable by law.

Now taking briefly a view of the different ways, by which disputes were decided by appointed fighting, and titles ascertained by force of arms, I intend to point out, when appointed duels were less pernicious, and almost just; when nearly necessary; when entirely useless and absolutely pernicious.

As to write freely is a virtue as useful to one's country, and to human kind, as that of facing death in behalf of our country; and as to speak in writing, that truth, whose light dazzles the eyes of the many, requires as much courage as that which is necessary to meet armed an armed opponent; so I will speak freely: sure, that I, writing in behalf of mankind, and fearlessly prostrating the prejudices of the past ages, and those of the present one, will always have the applause of the best part of the people, and of all those people, who, really christian and polished, will rejoice when they see the ferocity of barbarous times entirely daunted.

If we consider the uncivilized people most known in consequence of their posterior conquests, we see the Germans, otherwise known under the name of Normans, governed by chiefs, who either by a hereditary title, valour, or force, possessed themselves of the little power, with which the necessity of having a leader vested them. The personal valour alone of the chief, could secure to him the esteem of his followers: the military exploits of a tribe, were the only means of obtaining the esteem of other tribes; an esteem, which was always in proportion to the fear, that the less warlike tribes entertained of that, which had signalized itself by feats of

bravery. Therefore, personal valour, and arms constituting force, it follows that, in such a government, force was the supreme law: valour, the best title; arms, the only tribunal.

These people not restrained, either by duty or law, obeyed the impulse of their passions, and ran to combat, following either the leader to whom they felt attached, or whom they admired most, or the one by whom they hoped to obtain booty. With these people, where the leaders were always accompanied by their followers, and where, keeping constantly under tents, war always offered spoils to the conquerors, though bloody combats might take place, duels, or single combats could not; because those rude people, governed by their passions, could not contain themselves so as to be the passive spectators of a combat between a few: they partook the same feeling, and arrayed themselves according to their sympathies, interest, or engagements on one or the other side: perhaps it was considered as a proof of cowardice to stand a spectator, while the leader was engaged in combat.

Duels, or combats between chosen warriors, appear not to have been known before the people attending to the tillage of their lands, entrusted their defence to a certain class of men, ready to take up arms at the approach of the enemy. We see some examples of it in the ancient Latium, where people decided their disputes by "certamina," between one or several warriors, chosen by each of the contending parties. In times, in which laws did not exist, or even existing, civilization could not be such as to render absolute the empire of laws, not taking the necessary hands from agriculture, in order to decide a title, or to revenge an injury, might be considered as a remote step towards civilization. This custom appears to have been maintained in the first centuries of the Roman republic; but all those appointed combats were between warriors chosen by two opposite armies.

The ancient heroes of Greece, and her fabulous gods, killed wild beasts, and purged the earth of monsters, but never had appointed combats with each other, though impelled by anger, they sought, sometimes, a bloody revenge, and to obtain it

made their way through a thousand unsheathed brands. They employed their valour to protect men against monsters, and against those gangs of pirates, and assassins, then known under the names of Hydras and Chimeras.

At the siege of Troy, all the single combats were between Trojans and Grecians. Achilles reproaches, and even threatens Agamemnon, but he does not challenge him to a single combat. During the times of civilized Greece, warriors had some military contests, but they only fought for the laurel of the conqueror.

The Horatii and Curiatii decided in an appointed combat the fate of their countries; but the surviver of the Horatii, who murdered his sister, was not seen afterwards to sustain a plea of not guilty, with the sword: nor did they see the proud Coriolanus defend himself against accusation with the sword. So far were the Romans from finding duels just, that they punished them, even if successfully fought against the enemy. Every reader of history, shudders with a mixed feeling of admiration and horror at the sight of a head girdled with still fresh laurels, cut off by the severe command of a consul, and a father.

To find instances of duels, it is necessary to come to the times in which the Moors possessed themselves of Spain, and to those in which the Danes established themselves in England and Normandy.

We must here determine what a duel, properly speaking, or according to the modern use, is: the duel is a combat fought with deadly weapons, by two persons, on their own account, and on account of a personal quarrel.

The knights errant will, perhaps, be considered too well known, to become subjects of examination in this essay; yet I intend to speak of them for the purpose of drawing comparisons with our present mode of duelling; but this after I have spoken of the Danes.

Properly speaking, the tournaments and the celebrated trials by the sword are the appointed combats, which would seem to bear some likeness to our duels. It is much to be

lamented, that our present civil society looks upon the celebrated trials by the sword as evidences of the barbarity of the times, instead of recognising in those barbarous and ferocious trials, the first steps that the northern barbarians made towards civilization, instead of admitting that all the barbarity of those proofs, would never equal the stupid ferocity of our not even apparently necessary duels.

The northern barbarians, after their conquests in the western part of Europe, were under the necessity of settling themselves in the conquered provinces, because they were not able to carry with them all the riches which were before their eyes, because they did not wish, returning home, to share those riches, which they could carry with them, with the other Danes, who had remained in Denmark; and, because, after the conquest of England and Normandy, they saw no other fertile country from which they might hope for a rich booty. Their kings were brought to the throne more by their personal valour, and by force, than from any dear title of succession. The force of the king was that of the barons, who recognised his authority, and who had aided him in the conquest of his kingdom. The laws made by those kings were observed only as long as the life and virtue of him who made them could force the barons to obey them; every non-observance of the laws by barons, who were armed, and had followers, and who were always eager to enrich themselves more by force than any legitimate title, occasioned wars; wars caused a change in possessions, and the change in possessions an uncertainty in titles. The kings themselves, by punishing the rebels, and rewarding their faithful subjects with the property of the rebels, rendered it still more difficult to ascertain those titles. Therefore, in a country where either laws were called again into force by the new king, or by him made anew, the right of succession could be but faintly known, and the titles of those claiming the same property with great difficulty ascertained.

In the want of positive laws, the contests arising from disputed titles were to be settled either by the parties themselves,

or by the king. These barons knew no other means by which to settle their differences than by force, and force caused open wars, and contempt of royal authority. The king must, in these times, have been wanting in a correct sense of justice, and, if possessed of it, must have wanted the coercive means by which to force the reluctant parties to obey. Placed in these difficulties, kings wisely resorted to the single combat, that is to say, to having the dispute settled by the sword of the contending parties.

I say wisely, because by this means men were accustomed sooner to obey the laws, and because, instead of taking from the lands the hands necessary to its tillage, and ravaging towns and cities, they had that dispute, which they could not prevent, decided by the death of one of the contending parties; preventing thus open war, and the contempt of royal authority, and accustoming those turbulent barons to obey the laws, even in making use of their arms, since they had to fight in an appointed field, and under certain regulations. Those people who remained quietly to cultivate their lands, and to guard their flocks, divested themselves little by little of their native ferocity, and considering their new master as their lawful one, began to accustom themselves to the idea of lawfulness, and to that obedience which is always so necessary in a civil society, where we must obey either laws or men.

It will be observed, perhaps, that the trial by the sword was extended to the accuser and the accused; and that the conquered was considered guilty; and why wonder at it! In times in which personal valour was the supreme virtue among those people, it is not altogether strange that the conqueror should be deemed worthy of life, and honoured. In times in which either laws did not exist, or were uncertain and not obeyed; when those complicated paths of the law, by which accusations are to be brought and proved, were unknown, it was, if not a just, an expeditious mode of deciding the cause, particularly so, because the ideas of valour and guilt were not then deemed reconcilable.

The philosopher and the observer would, perhaps, discover

one reason more in favour of those trials by arms. If the mode of bringing the accusation, of proving it, and of pronouncing a judgment upon it, were then not known, it follows that calumny also must have been unknown, since calumny may, perhaps, be styled, the opposition to the proceeding by law established to regulate trials. It is true that there would be lying, but this base vice, as well with barbarians as with polished people, has never been considered the accompaniment of valour; for both the accuser and the accused could, deceived by circumstances, believe what they stated to be the truth, and be ready to sustain with arms the veracity of that which they stated. Those people might very well believe, that the false accuser, or the guilty defender, would perish at the trial, since it is consistent with human nature, that he, who tells lies should be wanting in courage: and as courage, and valour, and not chance, decided the quarrel, the deficiency of either, would always prove fatal.

Speaking of knight-errantry, it appears to me, that men ought to be more cautious; if Cervantes ridiculed it at a time, in which it could not exist, the wise critic of human nature, will shrink from ridiculing it, at the times in which it did exist.

There are a great many actions of men, which are neither wise, nor absolutely ridiculous in themselves: and many actions which were a source of great advantage to certain people, would have caused innumerable evils to others; and those same actions, which in certain times served to dignify the human mind, and to polish manners, would, at other times, prove the fatal sources of the ferocity of the human heart, and of brutal manners.

Let us look to Spain, when the richest and the most polished provinces of the peninsula had become the prey of the Moors, ferocious and warlike Saracens, who had dispossessed them of the softened Celtiberians: and then let us look to those same Moors, who conquered by the softness of the climate, and the delicacies of civil life, had fallen into that same state

of relaxation, which, found in the Spaniards, was the cause of their easy conquest.

Those fierce Spaniards, who could not submit to the yoke of the Saracens, retreated into the Asturias, and other mountainous countries, where at first, they defended themselves by timely flight, and force of arms. In these retreats, being neither feared, nor minded by the Moors, they would not only easily defend themselves, but occasionally abandoning them, surprise, perhaps, parties of Moors, and defeat or disorder them.

Hence will have happened, that some of these Spaniards, guided by the desire of seeing again their abandoned relations and friends: others guided by a husband's love, or by the rekindling of a flame, which fear appeared to have extinguished, will have traversed Spain, when the conquerors, sure of victory, and not apprehensive of enemies, were plunged in those pleasures, against which barbarians are never wont to bear a shield. Hence, that a Spaniard could be daring enough to enter one of those numberless castles, which the Moors had built upon the shores of the Mediterranean; and that, there surprised, he has escaped punishment, either by force of arms, or by his undaunted courage. This one on returning to his retreat, will have related the fact, and, as it is natural, magnified it, in order to render his valour more conspicuous. The emulation of great actions, and the consequent wish to meet dangers in search of fame, is quickly roused in the human breast, and there it kindles as a heavenly spark, if the flattering hope of a noble revenge be added. That love harrows easily the heart of a Spaniard, no body doubts; that love increases with the difficulty of reaching the beloved object, every body that has a heart, knows. If we add to this, that the Moors, already too secure, lived in luxury, relaxation, and dissoluteness, unmindful of their arms, we can see how easily daring men contemners of danger, as the Spaniards naturally are, could traverse Spain, and even approach near the palaces, and the castles of their degenerated masters.

One of these errants, who, wandering in search of the place

where his ancestors once lived, passed near a castle, and saw at a balcony a damsel, who was, perhaps, as curious as himself on seeing an unknown and strange knight. Cupid dwells in the eyes of him, who has a heart; and love entering through the eyes, causes the heart to burn, and blinds the eyes. The daring Spaniard will have left no way untried to see again, and speak to the damsel: she will have agreed, either by words or signs, to fly with him. Thence the flights of damsels; thence the pursuits by armed people; thence the extraordinary proofs of valour offered by him, who flying on a horse doubly loaded, was soon overtaken by lighter, and fresher steeds, which, however, carried knights, whose mercenary valour could not withstand that of a heart, which hardens at the aspect of danger, and knows no other death than that of being deprived of her, who taught it first to sigh. A desperate valour always triumphs over the irresolute; and a magnanimous soul always daunts a mercenary one.

Perhaps a youth, who had placed all his hopes in the beautiful fugitive, will abandon the castle, and attended by a faithful servant, follow her traces. Here begins knight errantry. The Spaniards growing rich by the tillage of their lands, and with the spoils taken from the enemy, will have carried with them a servant to take care of their horse and equipment; thence the use of a squire, or shield bearer. The follower having on his horse the provisions for his master, and for himself, will have been prevented from fighting by the side of his master; thence the use of keeping shield-bearers out of combat; and thence, that of fighting man against man. No one, who is even slightly acquainted with Spain, will wonder that the Spaniards went through the country on horseback: we should rather wonder if, in a hilly country, where horses climb the mountains more easily than men, and where horses are most excellent, and plentiful, the Spaniards had gone on foot on their excursions.

During the same time, other Spaniards, descending occasionally from their mountains, will have met with Moors, who, profiting by the absence of men, plundered the towns, where

women had remained deserted; the Spaniards, inspired by that natural sentiment which moves all noble hearts to the succour of the weak, and by which men despise death when they expose their life in defence of the fair half of the human creation, will have rushed upon the Moors, and, by defeating them, saved the chastity of their women. Hence the duty of fighting in defence of the fair will have become sacred.

It is natural, that these brave men, who went either in search of an enemy, or in pursuit of him who deprived them of their beloved, should not consider as their enemies all those they met with, as it is natural, that, secure in their valour, they should travel together without entertaining any fear of an unknown companion.

From this knight-errantry was derived the custom of fighting, not only in defence of the fair sex, but of all unarmed persons; thence the respect of plighted faith and hospitality; and thence, perhaps, that valour by which the Spaniards succeeded in purging from strangers their conquered and ravaged country.

But as the knights-errant did not fight friend against friend, nor a traveller against his fellow traveller; as their fighting depended on their strength and their courage, so it was a rich source of true virtue and true valour. They fought either to obtain, to revenge, or to protect, and sometimes to make a show of their valour, but never for the purpose of taking a man's life: nay, no knight would have fought against a man who had not both arms and armour; no knight would have fought against one who was inferior to him, either in strength or skill, though well armed.

It was not my intention in speaking of knight-errantry to make the eulogium of Tristan, Rolando, and others, though I intend that the reader, allowing for poetical exaggerations, and for the ignorance of those times, the difficulty of communications, and the great fear entertained by the common people of the Moors, should still recognise the great valour of those warriors, and the corresponding virtues of a bravery no way unpolished. I intended also to observe, that though we

may with Cervantes laugh at the idea of knight-errantry, when a few, devoid of reason, went in search of adventures, after the discomfited enemy had been compelled to abandon the Spanish soil; yet we must acknowledge it to have been the source of modern courtesy, and not neglect the moral, which Cervantes, through the means of laughable stories, teaches to the circumspect reader; and, laughing at the extravagances of Don Quixote, yet admire that gentleness of mind which shone through his disordered knightly achievements.

Which of these virtues are to be found in our modern duellists? Is it valour or chance which decides the combat? Does a modern duellist fight against those who are skilful in arms, or does he fight against those who are entirely inexpert?(3)

Is it not a reproach to modern civilization to see living vampires, who exercise themselves in the use of arms in order to shed the blood of the unexercised and peaceful inhabitants of towns and cities? A knight-errant would have blushed even to threaten a man not clad in armour; our modern heroes exercise themselves in arms for the noble purpose of availing themselves of their skill to take life from those who engaged in the speculations of the mind, contrive to be useful to their country, neglecting to cultivate the noble art of killing men.

The youth who by industry contrives to earn that bread of gratitude which must sustain life to his kind parents, is the most exposed to the bravery of knights, who, instead of protecting the innocent and the weak, deprive families of their support.

If Plato, passing by the retreat of one of our heroes, should step in and ask, why he is practising with the pistol? on hearing the answer would he not, like Heraclitus, weep at the sight of a man? Do you wish to know why I practise shooting this pistol? I'll tell you; because I wish to enter this ball into that small ring! And what will you gain if you succeed in that? What shall I gain? I'll gain—when I shall go out to fight a duel I am sure of shooting my opponent through the heart. Why have we a divine religion? why are there ministers of the gospel? why are we called christians,

or even civilized? Who, a lover of mankind, would not feel anger and disdain rising within his heart on seeing how much ado is made to prevent a few horses from running on the Sabbath day, while all are silent and indifferent to the true evils that afflict human kind?

OF THE CAUSES OF DUELLING.

The causes of single combats among the ancients, and among those people now called barbarians, have already been spoken of; to recapitulate, I say: 1st, that duelling was not known among the Greeks, and the Romans, (4) who had only combats of chosen warriors: 2nd, that the Danes in organizing a civil government, were obliged to decide their quarrels, and to show their titles, by the means of the same law, by which they had made themselves masters of England and Normandy—force! The kings of England and France being able, neither to take arms from their vassals, nor to give them laws, which could have the two necessary requisites, to be wise, and to be obeyed, submitted to the trial by arms, or to the duel, the sustaining a title, and the proofs of an accusation. Those kings, by permitting their vassals to make use of their arms on certain occasions, and under certain restrictions, obtained the double advantage of causing their barons to submit to law, and of weakening them by the death of the vanquished: 3d, that the knight errantry, occasioned by the wish, which the Spaniards would naturally feel to see the places of their birth, and the necessary and noble protection afforded to the defenceless sex and ages, kindled in the breast of those brave Spaniards, a flame of honour, valour, and virtue; that knight-errants, though fighting duels, made use of their arms for the protection of the weak, and never for their oppression; that though the knight-errants fought duels to make a show of valour, they never did so to satisfy the brutal passions of anger and hatred.

What are the causes of our modern combats? Offences against one's honour, is the answer! And this is the answer of

all those, who know neither how to condemn, nor to absolve him, who (in the midst of a servilely celebrated civilization, and under the regimen of a religion, that by itself ought to divest every man of all remains of ancient barbarity) perpetrates a crime unknown to the fiercest barbarians: that of exercising oneself in arms for the purpose of taking life from the unskilful!

It is either by actions, or by words, that in civil society, those offences of honour, which must be atoned for by duelling, come.

As we communicate our thoughts through the means of words; and as words may be communicated to the person, to whom those words have reference, either through the means of his ears, or eyes, so those offences may be committed by speech, or by writing.

Words may be uttered, either in the presence of him, who will resent them, or out of his presence.

A writing may bear the name of the writer, or not.

"He, who accuses a person in writing, and does not sign his name, writes calumnies.

"He, who speaks out of the presence of him, to whom his speaking does injury, has a base soul."

If a man write, and sign his name, then we must consider if he be a man of honour, or not. (5)

If he be not a man of honour, how can he give, or take honour from any person? and if he could take honour from a man, how could he restore to that man the honour taken, if he have none of his own, with which to reintegrate the injured person? Nemo dat quod non habet. (6)

If he be a man of honour, he may be led into error by circumstances, blinded by passion, or tell the truth.

"If he be led into error by circumstances, when once the circumstances are ascertained, the man of honour will confess his error, and give by this means a better satisfaction to the injured person, than the death of either the person doing the offence, or the one receiving it, would afford.

"If a man injure another because he is blinded by a pas-

sion, why should the offended not only challenge, but even wish to punish a man because nature made him weak; that is to say, subject to the dominion of passion? A visiter of the mad-house, who, on being called a villain, a rascal, or coward, by one of the inmates, should challenge the provoker, would be reckoned worthy of taking up his lodging with the person who injured him! What is it that impairs a man's reason but the dominion of passion over the reason itself? Pity human nature, and lend the necessary aid to cure it of its infirmity.(7)

"If he who writes is a man of honour, and not deceived by circumstances, nor blinded by passion, there is no real injury, because the real injury to society is done by him who acted wrong, and not by him who discovered it.

"But, even supposing that there is injury, will the accusation be less true after washing it with the blood of either of the parties? The sword is freed from rust by blood, and shines more after the combat! Can the death of him who has done injury destroy the facts upon which the accusation rests? yet this is the first, and perhaps the general cause of modern duelling. The wicked man hopes to conceal from the eyes of the people his wickedness by threatening with death him who dares to raise the veil under which they are covered. But as this would lead to speak of public opinion, I will speak of it under that head."

Nearly the same considerations which have been applied to writing, ought to be applied to a speech made in the presence of him who ought to be offended by that speech; yet, as it is more difficult to restrain sudden fits of anger, when the object of angry feeling excites the desire of revenge by his presence, some allowances ought to be made by both, the person doing the offence, and the one receiving it, when anger yields to reason. To preserve violent passion against one who did us injury renders a man not only undeserving the name of christian, but that also of civilized man. Though it conform to human nature to resent offences, and to feel passions, yet we cannot call less than a barbarian, and perhaps a wild beast,

the man in whom passions never yield to reason, particularly anger, the most fatal and abominable passion in a state of civil society, by which we are led to doubt whether tigers are as ferocious as the man whom anger governs.

Thus, speaking of the offences of honour, done by words uttered in the presence of him who should, or could, consider himself to be injured by them, we must distinguish the following cases:

1st. Has the injury been resented or not?

2nd. Resenting the injury, has he attempted to revenge it or not?

3d. Revenging the offence, was it done by words or actions?

A pitiful evidence of human weakness, and a fatal proof of the great difficulty met with in the attempt to divest man, by means of reason, polish, and religion, of those qualities, which he holds in common with other animals, will certainly be that of revenging the injury done by words, by the use of that physical power, of which nature has been more or less liberal to us; it might be deemed an impossible circumstance in the very class of people, which is wont to revenge the offences of honour by duels.

3d, As the revenging by physical means an injury, will always happen, either among people, unhappy for their temper, (8) or among the thoughtless, I wish to speak of it while speaking of public opinion, because those persons will never fight a duel unless compelled by public opinion.

If the injury is resented by words, the injury will always be, either a calumny, or an accusation, and laws must provide for it.

2nd, He who attempted to revenge an injury, and yet, without being prevented by any reason, did not revenge it, will have a just motive to boast of his forbearance.

1st, A proud soul will resent an offence—Not to resent it may be magnanimity. It may proceed from a calmness of mind, or from the perfect ease of his conscience; it may proceed from contempt for the person who does the injury, or

from a magnanimous compassion for the weakness of him who, either moved by envy, or blinded by passion, injures him, who deserves, or obtains, what the other rather wishes to obtain than to deserve.

To conclude, by repeating what I have said while speaking of writings; I say, the person who does the injury by words, must be a man of honour, or not.

If he is not a man of honour, I, indeed, would never excuse the man who allows himself to be put out of temper by a scoundrel who deserves his contempt, and not his anger. A villain cannot obtain a greater triumph, that to reduce a man of honour to a level with him!

"Whatever be the injury it can never be of any consequence, if the person who does the injury is despicable! In fact, how can we prize the actions of a man whom we hold in contempt?

"If the person who does the injury by words, is a man of honour, we must proceed as is said above, when speaking of the injuries done by writings." (9)

With regard to the offences done by actions, amongst all civilized people, and by all civil governments, they are provided for by the criminal laws, which consider the different offences done to the person, or property of citizens; and, though there are some offences of fact, which may, and should be revenged, at the moment they are done; there is none that can be atoned for, by means of a duel.

If the offence of honour is in relation to those, who, by a chaste love, and by most holy ties, are destined to divide with us the pleasures, and the sorrows of life, how can blood atone for such an injury? and if it could, shall we see a betrayed husband, an afflicted father descend to the wrestling arena with the seducer of a faithful wife, of an innocent daughter? (10) Can a seducer be a man of honour? and, if he is not such, how can he restore to you the honour which he has not!

These are horrible crimes, which, among civilized people, must be, with all rigour, punished by law, and severely reproved by public opinion; but such as can never be prevented

by duels, which would rather tend to legitimate them in those who dared afterwards to punish with death him, who dares express his unwillingness to bear such offences.

Bodily injuries also are reckoned as falling under the head of offences of honour. Indeed, it seems impossible that, amongst polished people, living under a civil government, such offences should take place, and what is more, that they should be revenged by duels; because, how can a man abuse that physical power, which men uniting in society have ceded to the law, which, by the means of a collective force, which is the sum of individual forces, is enabled, both to protect citizens, and to revenge the injuries, done to them! Repel the injury, and even, as a means of defence, punish him who injures thee, if safety requires it, but the danger passed thou hast no longer the active right of defence. It is the law, that resents the offence, it is the law that punishes the injury.

The bodily injury done to a man, why should it be a different offence against a man belonging to a higher class of society, and against a man belonging to a lower one! A man is assaulted, and beaten by a porter, he takes shelter under the protection of the law; he is assaulted, and beaten by a gentleman, he despises the law, and takes shelter under the protection of chance, to revenge the injury which he has received.

As I speak of this more at length, while on the subject of public opinion, I would beg leave to refer the reader to that head, meanwhile, I say, that under any civil government, if such injuries are not punished effectively by the law, there must be wanting either laws, or magistrates; the duty of the latter is to have the laws executed; the duty of the former is to provide not only the penalties to be inflicted for such injuries, but also the means, by which such injuries should be prevented, and, if not prevented, inevitably punished. Since the character of true civilization is to make all men secure in the exercise of their rights, and to cause to disappear those causes, by which individuals should recall their ceded right of defence to protect their life, and their property.

PUBLIC OPINION.

Public opinion should be considered—

1st. With regard to the causes of duelling.

2nd. With regard to the duel itself.

1st. Public opinion pretends, that there are certain stains cast upon honour, which can be removed only by blood. But this public opinion first sprang from the vain talking of those who, idling the precious time of life, are made conscious that they live by their senses, and enjoy life because they have gold and senses; but, does that public opinion fix which are the injuries that must be revenged with blood? Has ever any of those, who, even in our days, pretend to blow into the trumpet of public opinion, thought of the fatal consequences of this remnant of barbarous times?

Would not a man, whose heart can be moved, shudder with anger, pity, and horror, on seeing two childless parents mourn the untimely and useless death of a son, upon whom they looked as the only comfort of their advanced years? Who is the wretch who can behold the tears and the mourning of a sister, who sheds comfortless tears for the loss of the tender companion of her youth; of him upon whom she looked as the protector of a fatherless child; who, a thousand times had deposed in her bosom his secrets, his sorrows, and his joy; who so many times was intrusted with the causes of her first sorrows? See her shuddering at the sight of the untimely garments she wears; see her, guided by love, approaching the tomb of her first friend and confident; she dares not allow her tears to bathe the tomb of a man who assented to forcing life from its abode, fearful that a growing flower should accuse the undue tears: her heart is torn by fraternal love, and horror for the crime, while tears dry upon her motionless eye-lids.

What but a tiger could, with a tearless eye, behold the grief of a tender wife, now a distressed mother? See her carrying in her arms an infant, and bringing by the hand a lit-

tle one, how she wanders in search of that span of earth, under which lies him who inspired her with a chaste love, who had promised her to live for her happiness, and that of their common children; see, she finds it, and throws herself upon it bathed in tears; see the little one, who, embracing her, inquires the cause of her tears? I weep for the loss of thy father, my dearest child, he is under this earth; and then despair, love, and grief change her tears into sobs; yet, she dares not utter the name of him who closed his career by violating divine and human laws, and those of nature. But let me stop; my heart is torn by the contemplation of those true and lamentable scenes of grief! Wretched is he who does not shudder at the appalling scene of distress. He who can make them the subject of an idle mockery, must have been born amid the greatest pangs of convulsed nature!

One is insulted by a person who moves in the circle of society, where he moves also, or to which he belongs, he must revenge the insult as a gentleman, as is customary among gentlemen: that is to say, he must challenge the person who insulted him.

But which kind of insult was that? Did he call him a scoundrel, a thief, a liar, a villain, &c.? He did! Now tell me, for the sake of heaven, how a man, who is a gentleman, can sully his lips or his writings with such names! and, if a man who is considered a gentleman, and is such by education and birth, allows himself such words, he must be under one of the above mentioned circumstances.

However, if a real gentleman should so far forget himself, or if he should be obliged to call a man by any of those names while self-possessed, I see no reason why the person so called should have the right of considering himself offended, particularly if the gentleman has stated the circumstances, and the facts, that entitled him to call such a person by one of those names! And if he is entitled to resent the injury, the other must give him a satisfaction, but not that of fighting a duel! To entitle to satisfaction any man, who moves in a circle where gentlemen move, is it not to permit the wicked to in-

trude into the company of honest men, who will never make known their wickedness provided he is to be challenged, who does it! This at all events would be protecting villany, if a true offender should be allowed to consider himself insulted by being called by the name which his actions give him! It is not eating dinners and suppers in gentlemen's families that entitles a man to be called a gentleman! How many families have seen a hundred times, seated at their tables, persons, of whom they only know the names, and of whom they never will know any thing else! I certainly would scorn the idea of fighting a man, who, as sole proofs of his being a gentleman, can show me dinner and supper invitations. Thus let us ascertain, before we fight, that both are in fact gentlemen, and be sure, that two true gentlemen, having friends who are such, will be enabled to give one another such satisfaction as will prevent them from aiming at each other's life. I finish by saying, that it will be a great fatality if a real gentleman calls another gentleman by such names, and that I hope the insulted one will take pity on human nature!

"But let the man, who thus insults another man, be a gentleman, or not, and let us suppose that the insulted is a real gentleman, what is then to be done? It will be ascertained, first, if the gentleman insulted is known, or not; secondly, not being known, if he has means, or not, of making himself known as a gentleman."

"He who accuses a man of villany, and does not produce the facts upon which he has formed his opinion, must be a wretch; but if he produces the facts, and these facts prove his assertion to be true, why shall the insulted be allowed to challenge? But if the facts do not exist, how should the injured person challenge him who did the injury? The challenge would naturally lead people to believe that he has no better means of proving the accusation false. If the person injured is known, why should he contrive, by the means of a challenge to clear himself of an accusation, which his friends do not believe; because, indeed, we must have a very poor opinion of our friends, if we suspect that they would rather

believe the assertion of any man, than their own experience.(11)

But it will be added, if the man thus insulted is not known, then he has no other means to prove himself innocent, but sending a challenge? Thus reason all those who learn words by heart, instead of expressing thoughts with words. A man who is not known, has no right to be called a gentleman, unless his actions entitle him to be considered such! Yet, let me ask, has he means, or not, to make himself known to be a gentleman? Yes, he has means; but meanwhile the world —and what has the world to do with it? The world is composed of wise men and fools; and the latter waste more breath! The wise men are not always they who condemn us; nor the fools always they who absolve us.

"Let me now ask those, who give the power of speech to public opinion, if this man challenge him, who thus injured him, and kill him, will you afterwards hold him to be a gentleman, because he has slain a gentleman? and if he dies, will you hold him to be a gentleman, because he has been killed by a gentleman? Has he not lost for ever the opportunity of showing that his name was borne by a gentleman, and left, perhaps, behind him, persons who will add to the grief for his death, the painful doubt, whether he lived a gentleman, or not."

"But it will be said if he have not these means, then he must perforce send a challenge. In such a case he would act for the worst if he should; because, whether he is slain or slays, he has lost for ever the power or proving his innocence."

In all countries there are men of honour; in all countries there are honest and wise men, and people possessed of a good heart; he will never fail to appear a gentleman to them, if his actions are those of a gentleman. It will be observed, perhaps, that virtue is necessary to this. And how could a man pretend to civil society, and liberty, if he were deprived of virtue? Virtue is nothing else that the act of restraining the animal nature by means of that spirit infused into matter by the Divinity!

I intend this same reasoning to be applied to the offences of honour, done by writings; because those writings, or libels, which are supposed to do injury to the character of certain persons, must have been written by persons worthy of reliance, or not; because, in all instances, they must be supported by facts. (12)

Certainly there are situations in which a man is entitled to tell the truth, in the name of the people who require that he should fearlessly say all that he conscientiously believes to be the truth. Why should such a man be challenged? Because he said that which was not the truth! Then prove that he did not tell the truth, and his punishment will be of the severest kind, because all the nation will hold him to be a calumniator! If he was deceived by circumstances, he will apologize in the presence of that same nation that heard his accusation; because no gentleman will decline confessing his having been deceived by accidental evidences. But far from us the idea, that a man, whose duty requires him to say what he conscientiously believes to be the truth, should be prevented from discharging his duty by the apprehension of a challenge; that is the place where truth, not proved to be such, can be said; because they are not truths in fact, until they have, by a trial, been pronounced such. If those men, who may feel most injured by the truths there said, should be permitted to challenge him, who should utter one of such truths, the law providing for impeachments would be admitted into the code of fundamental laws after the same manner that "King of Jerusalem" is introduced into the list of titles of several kings of Europe; to show that such a right did exist.

But I hear a man, who has a feeling heart, and yet, who is a proselyte of public opinion, say that there are insults, and offences of honour, which do injury to persons, to whom we feel attached by blood, connexion, or friendship! Then you will act for the worst if you challenge the person who does such an injury; if the accusations are true, you make them more public by your unwise proceeding; and in every way you show yourself the first to believe them, since you deem

blood the only means to prevent their being made known; if not true, why do you not contrive to show the innocence of the calumniated persons, and thus really revenge the injury, by exposing the false accuser to the contempt of all honest people. In sending a challenge you do wrong to the same persons to whom you feel so attached, because you express a doubt that their conduct is not so far unstained as to enable you to prove their honesty.

Nothing can be said of those chivalrous causes of duelling, because, in our times, we have no occasions for knights errant; we do not want them, and if we should, we have neither their valour, nor their virtue; besides that, public opinion, foolish even while doing good, ridicules those proofs of valour. (13)

Public opinion is decidedly in favour of challenge, and duelling, in regard to the causes of fact. A man who sees the dutiful mother, and the once faithful consort taken from him, must challenge the seducer, or his honour is for ever stained. A father has no other means to punish him, who abused the innocence of his youthful daughter, but to invoke chance, by means of a challenge, and thus either obtain, or give death. In vain a loving brother would seek to revenge the honour of a betrayed sister; if he does notexpose himself and the betrayer to the chance of being slain; and yet, the husband, the father, and the brother, leave behind them persons, who will, in wretchedness and obscurity, mourn their untimely and useless death, without having been indemnified for the injury done to their honour.

A man wishes not to have been beaten; a man wishes to be entitled to present himself in society together with him who insulted him, making an abuse of his physical power; he must challenge him who did him the injury, and receive death as a penalty for his being liable to be insulted.

But if the seducer of a chaste wife, the one who abuses the innocence of a youthful daughter, and the faithless deceiver of a sister must be challenged! If the man who beats another must be challenged, why do we not challenge him who takes

from us one hundred dollars? and he who assaults us, and inflicts a wound with a poniard?

Public opinion would answer with a smile of compassion, the law provides for these offences; the injuries which we require to be revenged by challenge and duelling, are those by one gentleman done to another! And how thus? the law provides to assure the possession of a hundred dollars, and even of a handkerchief, and it does not provide for the protection of your honour, of your daughters, of your wives, a property of so much greater value. Is it not the law that is vested with the sum of the individual rights of defence, and their corresponding forces, to protect the rights of all citizens? Yes, but we do not speak of citizens in general; we speak of gentlemen! I hear public opinion reply.

The patricians of the ancient republics, at times, which we consider unpolished, distinguished themselves from the common people, by their valour and their virtues, and ours should distinguish themselves by their crimes. A modern patrician will have the privilege of committing those crimes which are not permitted to the common people; and that we would be led to call a patrician or a gentleman him who may stain himself with crimes, which are punished in those, who are not gentlemen; and then come to the sad conclusion, that the law does not punish the crimes of the rich.

2nd, With regard to duelling, public opinion pretends, that it is a means happily resorted to by modern civilization to prevent assassinations, and to revenge injuries, as it belongs to a polished people.

Here public opinion says what is not true; because it was at the decay of knight errantry, that the crimes which the abuse of civilization carries with it, were known; and that people pretended to protect them by rashness and force of arms; because that means was resorted to a long time before, by the Normans; and because England and France were not without assassinations, even in the times in which duelling was entirely lawful.

But it tells a still greater untruth, when it says, that by

that means we revenge injuries as a civilized people ought. What distinguishes the polished man from the barbarian! In times of barbarity men protected their rights by means of their personal strength; in times of civilization men protected their rights by means of the law.

But what is the public opinion with regard to duellists, and duels considered together? That duels maintain frankness in a nation; loyalty in the individuals who compose it; valour in the well bred part of the people; therefore it pronounces cowardly and pusillanimous those who do not accept a challenge when given, or do not send one when insulted. This is the very part of public opinion, that causes all modern tragedies, which preserves barbarity amidst civilization. A champion of civilization, to reproach Spain with want of civilization, speaks of its bull-fights, and utters lamentable complaints, representing the sufferings of that assassinated animal, and people rejoice that they have not such feasts within the territory of their nation; yet, unaware that to aim coldly at the heart of a fellow man, is an act, at least as ferocious as that of making the sufferings of a poor animal a source of amusement.

"It is untrue that it maintains frankness of intercourse; on the contrary it destroys it entirely, and protects calumny and crime. An honest man, a good father of a family, cannot unveil the wickedness of an intruder unless he will suffer abuse for it, or expose his heart to the aim of a pistol, which never misses its aim in the hand of the wicked.

"For the same reason it is untrue that duelling preserves loyalty in the individuals composing the better part of a nation; because, whoever has the boldness and the impudence to challenge an honest accuser, may with impunity, stain himself with all those crimes which belong to the patricians. (14)

"It is also untrue that duelling preserves valour; the very reverse is the case; because they must deprive of all feeling, and consequently of all valour and courage him, who, by practice, makes himself a skilful duellist. In the times of chivalry the weapons were such, that to make use of them, force, skill and valour were necessary; those ancient duellists

could be moved, also, by the ambition of making a show of their valour, and might, since they fought in the presence of a great multitude of people; but what valour can he show, who takes aim at the heart of a man, who does not and cannot make any defence. The ancient duellists could conquer without slaying; the modern ones can slay, but never conquer. Is it possible that generosity and valour should be supposed to exist in a man, who coldly slays a fellow man, who waits for death without any defence?

O you barbarous, or thoughtless men, who lend spirit to public opinion, why do you not endeavour yourselves to have duels protected by law; for the community, seeing the ferocity of the combatants, may blush to consider a part of itself those who thus insult modern civilization? The ancient duellists made use of those arms which the profession of soldiers required; the modern duellists make use of arms, which are not the usual weapons of a soldier; (16) to the practice of which they are only guided by a thirst for blood. To fight a duel, some practice, and a steady arm only are necessary: his arm does not shake whose heart does not palpitate; his heart does not palpitate who never knew the heavenly love of the soul, to whom are unknown the tender sentiments of nature, and the everlasting sympathies infused by blood and friendship into a man's heart! Ancient duellists shrunk from the idea of fighting against those who did not follow the profession of arms; ours go to look for them among the classes of those pacific citizens, to whom laws and civilization forbid the use of deadly weapons.

O you, whoever you are, unhappy victims of a foolish public opinion, have sufficient valour to despise it; and you, most unfortunate men, who, obeying that same fatal tyrant, and the laws of a fictitious honour, have been guilty of shedding blood, pity yourselves, and your more foolish credulity. See how many wives you have deprived of husbands; see how many mothers, by you deprived of their only sons, utter terrible curses, accompanying them with desolate complaints, and ceaseless tears, imploring from heaven that revenge which

men seem to deny them! See how many youthful persons, who were the ornaments of our circle, are now obliged to avoid society, while shuddering at the sight of those garments of grief in which you have clad them! Do you hear the complaints of your victims? Is not your heart moved? Ah yes! for you are men; and more deceived than guilty! lay aside that deadly weapon; sacrifice upon the altar of your country the cruel desire of revenge. You are all young, the victims of a public opinion, the injustice of which you know, and the yoke of which you dare not shake off! Despise those who make human weakness the subject of mockery; follow the path of virtue, and you will have the esteem of all virtuous people, and will not want the esteem of those few who shine through the gilded ornaments amassed by the industrious economy of their ancestors.

Finally, the judgment, as pronounced by public opinion on those who decline to fighting a duel, is erroneous; because, though those, who refused to bear arms when commanded by the law of their country, were called cowards, yet, never were they considered such, who declined an invitation to single combat. (17) Pompey and Cæsar were not timid, nor were they considered cowards, because they did not decide their quarrel by a duel.

It is also an error to pronounce those pusillanimous, who do not accept a challenge; because a man may be pusillanimous, both in fighting and in refusing to fight. Pusillanimity bears relation to the actions of a man in civil society, and there have been soldiers who have fought, though pusillanimous men; nay, pusillanimity may often be the cause of fighting a duel; because, he who has a mean soul, may still wish to legitimate his actions by his courage, or his skill in fighting. Pusillanimous is the reverse of noble, and a noble soul does not shine forth by destroying human kind, but by endeavouring to show that we may conquer our passions, and live for the happiness of our fellow men.

However, nations ought never to believe, that they can easily conquer public opinion, however erroneous; because,

that public opinion, which authorizes duelling, is a small minority, if we compare it with the absolute majority of the people! because, though that public opinion, which relates to affairs of honour, begins at first, from sources not altogether worthy of esteem, yet it happens, in relation to it, as to those high tides, which, overflowing, reach the bank of a stream, they change its soft waters into a disagreeable drink, which continues to be such, till all the waters carried by the tides, have been returned to the ocean. Duels are generally fought by a distinct class of men, to which, the nobility, (18) and those charged with honourable commissions, belong; and in relation to it, the minority of a nation may be the majority of certain classes of a people; because the mass of the people takes no interest in that which has reference to duelling; and sometimes they rejoice on seeing those, whom the mass of the people will always look upon as their enemies, slay one another. Hence comes the great difficulty, by all governments met with, in the attempt to correct public opinion; and yet, it will be only in the power of government, and of religion, to correct a public opinion, against which, the heavy shield of virtue is hardly sufficient.

One who, from his own gentleness of mind, judges of human nature, propose, that the fair should take it upon themselves to correct the abuses of public opinion, with regard to duelling; and, indeed, all that remains of barbarity would disappear from the earth, if but the fifth of all men shared with him feelings, which, at any time, have, and will prove the source of all courtesy. Unfortunately, in times in which error proceeds from selfishness, from abhorrence of domestic virtues, and from the corruption of the mind, the fair would vainly attempt to arrest the torrent of vice, more derived from calculation, than from passion; though they might, and in a short time succesfully, attempt to correct public opinion, if religion and the law, through the means of the ministers of the gospel, and the legislators of a nation, should come to their aid,—but principally religion.

Let the people remember that our religion is called chris-

tian, because Christ revealed it to men through the means of example. Let the ministers of the gospel remember, that the moral of a divine religion can be but one; because the will of a Supreme Being is one, and immutable, and so the guide of human actions, as communicated by divinity to man, must be one, and invariable. Let us remember that Jesus came upon earth to teach the doctrines of religion by means of examples, and, therefore, christians, and ministers of the gospel, are those, who give the example of good actions. He who gives good precepts, without doing good works, is not a christian. Because, without doing we cannot give examples; and if men, in order to follow good examples, do good actions, they will have no time left for the bad ones. Let the ministers of the gospel set before all heads of families, that parents love their children, and that children are commanded to love, and respect their parents; that children must receive the true precepts of morality from those same lips, which impressed upon their foreheads the first human kiss; that between two persons who love one another, (the one loving much, the other respecting much) it is easy to agree; because he who respects much, will always imitate him who loves. Let those parents, who deem their duty discharged, by procuring preceptors of religion, and sciences for their children, be undeceived; thus, they will never be christians, because our religion requires examples, that is to say, works, according to precepts.

Finally, if the law proceeds together with religion and civilization, soon the vain chimera of a tyrannical public opinion will be annihilated.

OF THE LAWS.

The legislators themselves appear now to agree in this, that laws are unable to restrain the mania of duelling; and each nation excusing itself on the score of the other, and each one looking to the laws of other countries, leaves the people to suffer in a passive indifference, evils, from which, even

laws are unable to protect them. For me, I know no better laws, than those which are executed; I know no worse laws, than those which are not executed; laws may be useful or prejudicial, humane or unjust, according as they facilitate, and protect, more or less, or embarrass, more or less, the exercise of those rights, which, from nature, belong to man; but laws can never be bad, but through the means of those who are charged with their execution.

It was for this reason I said, that in absolute monarchies, laws are generally better observed, than in republics, from the very cause of their illegitimate origin. (19) For in republics, and aristocracies, sometimes the power, and sometimes the will is wanting to execute those laws, which, however, are executed in a monarchy, where there is always the power, and where the will is never suffered to be wanting.

In the code of laws of some nations duelling is considered as a special crime, and as such punished, by a determined penalty, and a peculiar law; such a law is useful; in others the challenging is considered a crime, and then the killing a man in a duel punished, either as manslaughter, or as murder of the first or second degree; these laws are useless on one hand, and unjust on the other.

It is absolutely unjust to punish the wretched man, who in such a meeting kills his adversary, in the same manner that an assassin is punished; because, indeed, these are two very different cases, that of waiting with a treacherous arm for an unexpecting and unarmed person, and that of exposing one's self to the chance that the ball of an adversary may pass through ones heart, or through the body of the opponent. There is no doubt that duelling is a crime, a horrible one, which violates the divine, the human, and the natural laws, together with those of civilization, but why should we persist in considering the killing a man in a duel as murder, if good sense and all human reason refuse to give their assent. Is it not owing to extreme severity of the law, and to the injustice of classing a provoked manslaughter with murder, that the guilty always escape punishment?

Duelling is a crime, but it is a crime because those, who revenge by the means of their physical power the offence done to them, wrong that power which belongs to the law, since men implicitly or expressly ceded it to the law, when they united in society under a civil government; it is a crime against the fundamental law of civil society, and as such it must be punished by an express law, with a specified penalty.

Beating, in any way, a man, is a violation of the same fundamental law of civil society, and as such it must be punished by an express law, the severity of which, and the certainty of its execution, should be in proportion to the difficulty met with in preventing such a crime. This injury when done to a gentleman, will most generally be a cause of duelling; because it does injury, not only to the person, but to the standing of a man in society; an injury, which, alas! will always be revenged by a man unwilling to bear injuries, as we nearly all are, either through the means of a duel, or that of a poniard, whenever the law shows itself unable to protect citizens from being thus injured.

Now, in order to show how easily duelling could be prevented by law, I ought to speak of the criminal laws; but as when I speak, or write, I wish to speak or write to the purpose; thus to speak or write it is necessary to reason, and reasoning to investigate facts and their causes; so I apprehend, that I should transgress those limits, within which the foreign observer is bound to keep himself, speaking of the laws and the magistrates of a nation, under whose government he lives. Wishing well to my fellow men, "here I lay down my pen."

NOTES.

(1) Public opinion is nothing else but the sum of individual proclaimed opinions, and as there are few, who think themselves entitled to express, or to render public their opinion, it may happen that an absolute minority of proclaimed opinions may constitute the public opinion of a town, a city, a province, and even of a nation.

(2) Why has the theft committed in a church been reckoned sacrilege, and punished more severely than any other theft? certainly not because it is a greater crime to steal from God than from man! because the Almighty, wanting nothing, requires no property to supply his wants: Maker of the whole, the whole belongs to Him, but without any distinct property. The churches of former times were open during the whole day, and part of the night, to all sorts and classes of people, and thence the thief had great facility in perpetrating the crime; the churches not being particularly guarded by any person, and the multitude of visiters being mostly strangers, the difficulty of guarding against that crime was extreme; therefore the abhorrence expressed for that crime greater.

(3) Some think that duelling is the consequence of a preposterous chivalry, yet it appears to me that duels would be fought in a different manner if this was the case. Voltaire, introducing in his Henriade a duel fought with the sword, would lead people to believe that such a mode of fighting was no longer in use in his times, or that it had been much more in use in the preceding centuries. They who think that the degenerated Romans learned the art from the gladiators, when their emperors prostituted the imperial majesty by their exhibitions as gladiators, would not be able to say how this custom, which must have been preserved in the eastern empire, was brought back to Italy, where the fencing schools flourished more than in any other modern nation. In all probability the Lombard nobility, as descendants of the Longobards, introduced this kind of duelling, when, devoid of personal virtues, they enjoyed privileges vested in a noble cradle. This hypothesis will be deemed not altogether unfounded, if we observe that not only the noblemen, but all those who lived "more nobilium" were wont to wear swords in Italy. The fencing schools, and the interfering of other persons in a quarrel between two, must proceed from the custom which Italian noblemen preserved as late as the time of the French revolution, of entertaining people who would be ready to fight their quarrels, and to revenge real or supposed offences done to them.

The French think that the custom of fighting duels with the pistol was first introduced into France about the close of the last century, by Irish officers in the service of France.

(4) The Romans have perhaps shown their abhorrence for duels, by confining the right of killing one another, except in battle, to gladiators.

(5) When I speak of a man of honour, I do not mean a man who is ready to take a man's life, and to lose his own for any offence or just accusation: I mean a man who hates falsehood, who respects man, and his moral and physical properties, who respects all the sacred ties of civil society, as determined by divine and human laws.

(6) Honour is a thing that does not exist by itself, though it exists with man: man gives life to honour by actions, and by actions keeps it alive. If honour is really taken from a man, he must either give life by his actions to a new honour, or (if society will admit of this fiction,) take another's honour, and with that supply the one which has been taken from him.

(7) Nor will I hear any one who tells me that anger and a natural quickness of temper render it impossible to guard one's self against taking revenge of an insult whencesoever it comes! because I would take him to the madhouse and ask him, what would you say of yourself if one of these unhappy fellow creatures should do you injury, and cause you to resent it, and to become angry? What else distinguishes the civilized man from the savage, but reason, which, in the former governs passion, in the latter yields to passion?

(8) I call unhappy those commonly called ill-tempered men: and in fact they are so, and ought to be so; because society ought not to care for them as selfish persons, who consider it the duty of all those who, either are inferior to them, or have need of them, to respect them! But it is not respect that they wish; it is servility! Respect is always obtained from well-bred persons; and he who deserves respect does not care for the ill-bred. A bad temper, as I said, renders a man selfish, because it arises from no other source, than an indulged pretension that those who must have business with such a person should be anxious to please him. If not, let us look at a bad-tempered minister, who is speaking to a firm and absolute king, does he allow himself those fits of ill-temper with which he saddens the condition of those who are his dependants?

(9) I have not spoken of those offences of honour done by ill-speaking of ladies, tarnishing the good name of a young lady, or a married lady; and this for two reasons: 1st, because I wish not to esteem him who, truly or malignantly speaking of a lady, attacks her good name, and impeaches the chastity of her manners; 2nd, because, if such injuries, whether true or false, should be revenged by a duel, it would be showing to the world that the unhappy lady, thus offended, has no better means to protect her good name than the sword of a Don Quixote.

(10) Though all people have laws of divorce to punish such crimes, yet, it appears, that those laws have proved insufficient to prevent them. A woman, though she may be frail, is never the first author of such crimes! Without the assiduities and the deceit of another, she would, perhaps for ever, be the faithful wife, the dutiful daughter! Let then the true guilty one be severely punished. He who takes honour from a man, or any thing

that is more valuable to him than gold, must suffer punishment in his person, and not be permitted to set a price upon another's infamy.

(11) I say of any man, because it is scarcely to be expected that a gentleman would ever call a man a scoundrel, or any thing else, without being able to show his accusation to be supported by facts.

(12) Any assertion against the character of a man must be deemed a calumny, if not supported by positive facts.

(13) I call public opinion foolish, because it is so: because foolish men have more time to talk, and more opportunities to be heard; because, though I might excuse him, who, with Heraclitus, weeps at the sight of a man, I can never excuse him, who, with Democritus, laughs at human follies and at bloody deeds, instead of pitying human nature, and endeavouring himself to free men from vice.

(14) Here I think it my duty to declare absolutely erroneous that maxim, that if duels are to be endured at all, they should only be tolerated in persons of a certain maturity of age, and this for two reasons: 1st, because human wickedness grows with years; and therefore, those dishonourable acts, the discovery of which would for ever destroy hopes founded on illicit proceedings, (I do not speak of those who only yield to public opinion fighting a duel,) are at all risk defended in that age, in which it would be too late to begin a new method of life; 2nd, because those men of a mature age, who should protect their honour by means of duelling, will be known in the country, or at least in the town where they live; and therefore their actions being looked at by the many, would be a fatal example to the many; a much more pernicious example to youth, for people are wont to consider wisdom the attribute of years!

(15) I wish not to decide whether animal courage, artificial spirit, or moral courage, be necessary to fight a duel!

Valour comes from "valere," and it expresses "that ability to" which a man has. Courage comes perhaps from "de corde ago," that is to say, "the act by which we make use of our physical strength, as if receiving the impulse from without." Since the heart is the seat of passions, and a passion is nothing else but yielding to a received sensation, I could not state what artificial spirit is, nor do I think that a man can fight in consequence of an artificial spirit, though he may speak.

Courage, properly speaking, is that physical virtue by which we withstand a danger without fearing its consequences.

Valour is the effect of that moral virtue by which we despise dangers, and their consequences, employing usefully, or guided by reason, those means which nature and art have put at our disposal to triumph over dangers. Therefore,

Physical valour would be that by which we withstand and meet dangers, without thinking of them, and making use of those means of offence put at our disposal without requiring the guidance of reason.

Moral valour is that by which, knowing the danger, and fearing its con-

sequences, we meet the danger, and make use according to reason and wisdom, of those means of defence and offence which are put at our disposal.

Artificial valour will participate of both; but it springs particularly from the necessity of avoiding a real or supposed injury, greater than that which we may receive from the present danger.

He who makes duelling a profession may have physical valour, he needs not the artificial, and supplies the want of moral courage by his ferocity of mind. Those young people, who, from a fatal dread of public opinion, seek death in a duel, to avoid infamy, are assisted by true moral valour, (if there can be any fighting a duel;) they need not the physical, because the fear of infamy supplies it; they need not the artificial, because the justice of their cause takes the place of it. Men of mature age have sometimes physical valour; in few instances the moral, and most generally that artificial valour by which, rather than suffer that their wickedness should be discovered, they expose themselves to slay, or to be slain in a duel.

Wyndham would acknowledge, I hope, that discipline, as far as it is connected with bodily punishments, only produces what I call physical valour. He would have well said that courage springs from fear, if he had recognised two kinds of fear, the moral and the animal. Moral fear is no less admirable than moral valour: it arises from the consciousness of the justice of the discipline, and from a perfect knowledge of the individual duties of those who are governed by such a discipline; it is the hope of the esteem of others, and the consequent fear of not deserving it, that makes a tumult in the youthful breast of a citizen soldier! For if the hero faces dangers with a palpitating heart; it is because by the side of a noble valour sits its inseparable and noble companion, the fear of not fulfilling his duty.

There is also an artificial fear; it is perhaps the natural sister of artificial valour, and it is the cause of military and civil virtues in all well established republics, where fame or infamy, rewards or punishes the actions useful or prejudicial to the republic. A republic, where such a fear enters into the framing of these laws, which have reference to the actions of its citizens, will have but one public opinion springing from laws and moral education.

(16) Let nobody, I beg, tell me that they fight with arms used in war, because cavalry carry pistols, and officers wear swords; because if officers wear swords, they do not fight in the field with them! If horsemen have pistols, they make use of them only as a secondary weapon, and never practise themselves in their use when dismounted; and even admitting that pistols were the first arm of cavalry, they are not all soldiers of cavalry who fight duels.

(17) A man to be called a coward must have refused to bear arms when duty and the laws have commanded it. We see in the true, and in the fabulous histories of knight-errantry, that knights often declined single combats, in order not to be wanting to their duty, and that they were ad-

mired for it, and thanked, and esteemed by their princes! Why should we now call those cowards who decline fighting against law and duty? The declining to give one's own life, or to deprive another of life, without benefit to our country, never can be called an act of cowardice. In the ancient republics, they who declined to bear arms when commanded by the laws, were deemed cowards, not those who did not spontaneously arm themselves to pursue him who had done them an injury! Every one remembers that the Roman cunctator could extricate from danger him who accused him of cowardice! How often he who declines a quarrel has more courage than he who takes it up! Nor does it avail to say, that public opinion makes the law, because public opinion upon duels is not the opinion of the people, and because, though public opinion may make the law, it can never create the duty, since the duty of a citizen to bear arms for his country arises from a necessary gratitude for the benefits which he receives. What security does public opinion afford to duellists? Does it protect their lives, their property, their honour? Does it even provide for the unfortunate persons, who, in consequence of a duel, are deprived of the father, the son, the husband?

(18) In those nations in which the government does not admit of a nobility, the rich take its place.

(19) Let not those who judge of a book and its author, from a mere glance at its pages, say that I prefer monarchies to republics, because this would not be true! I love a republic for two reasons: 1st, because the same persons who make the law obey it; 2nd, because every one, without exception, must obey it. But I wish also, that from these two causes, of my loving a republic, it should be inferred that there are two sorts of tyranny equally abominable; the one when laws emanate from one, or from a few, who are not subject to the law: the other when laws are not equally executed towards all persons, because there will always be tyranny where some are subject to the law, and others are not.

(20) To show how often it is the case, that the very imperfection of the laws against duelling, are the principal cause of its being tolerated, I will briefly speak of the law lately proclaimed at Hesse Cassel against duelling. This law is divided into two parts, the first considers the challenge, and establishes the penalty of six years imprisonment in a fortress, and loss of grades and office for the one sending a challenge; and three years imprisonment for the one accepting it: the second part considers the case, in which a man loses his life in a duel, and subjects him, who slays another in a duel, to all the laws against homicide. (See National Gazette.)

I purpose first to point out the inconsistencies of this law; then the uselessness of its first part, and the injustice of its second.

The inconsistencies of this law will strike us at first, if we only consider the different issues of a duel fought: 1st, a duel can take place without any loss of life: the one sending the challenge may lose his life, or the one accepting it.

In the first case the persons fighting a duel are not punished; therefore, duelling is not considered a crime. Hence the law would implicitly admit, that a duel may be fought, provided they do not slay one another, and provided no challenge is sent, or if sent, provided the sending and the accepting the challenge cannot be proved.

An inconsistency of the same nature, is that of punishing more severely him who sends the challenge, than him who accepts it; this will naturally lead people to believe that duelling is not a crime, since the law modifying so much the penalty for him who accepts the challenge, implicitly says, that the crime solely consists in sending, or accepting a challenge, and not in fighting a duel; besides that the law diminishing so much the penalty for him who accepts a challenge, appears to hold him, in a certain measure, liable to accept it.

If there is loss of life, and the one sending the challenge, slays him who accepted it, there is nothing to be said if the greater criminal receives a severe punishment; but if the one accepting the challenge, slays him who sent it, then we should have him, whom the law holds less criminal, punished as severely as the principal criminal; and thence the injustice of having two persons, reckoned differently guilty in the perpetration of a crime, suffer the same penalty.

The uselessness of the first part of this law will strike any one, who observes, that no provisions have been made to correct that public opinion, which is the sole cause of all duels, nor to punish those offences which are wont to be atoned for by duels, nor to create the means by which this law be executed.

To make a law, however wise, without providing for the means to have the law obeyed, would be but little better, than to give wise regulations to the inmates of a mad-house, relying on their good sense for their observance.

To say that there are tribunals, and magistrates, is not proving that they may, can, and ought to punish a crime created by a new law. To apply novel penalties to a new crime, particular means are necessary; and particular means are also necessary to try, and to bring the guilty one before the law. To prevent smuggling we have laws, tribunals, and guard-boats; and to prevent duelling, enacted laws are deemed sufficient.

This part of the law is useless, because it does not take into consideration the first causes of the crime by this law punished. Nobody sends a challenge through mere caprice; yet he does it because he is insulted, or deems himself insulted in a manner that the law is unable to revenge the injury he has received. To be publicly called a coward is an insult, which, according to public opinion, must be atoned for by means of a duel; particularly so, because laws appear entirely devoid of power by which to prevent, or punish such an injury.

To be beaten is a stain, which only by duelling may be taken off: laws generally do not mind these trifles, or only, when invoked by the injured

party: to appeal to the law, in such cases, is deemed cowardice; then if the law be not invoked, it will be useless, and the injury will not be revenged; or if at all, by means of a duel. To beat a man is a violation of the same fundamental law violated by duelling: both crimes are a violation of the fundamental law of civilization, because a man who revenges injuries by means of his physical strength, usurps that power which belongs to the law, by which his person and his property are protected, and the injuries done to him revenged.

This part of the law is also useless, because it does not consider public opinion, and makes no provision to correct it; and what will it avail to fix a penalty for a challenge, if public opinion holds him a coward, who accuses the person sending a challenge. In civil society we divest ourselves of nearly all animal tendencies; we become purer beings, who make life to consist in moral pleasures, and virtue; it is from our moral nature, that the idea of honour comes; and it is for that heavenly property, our honour, that we enjoy the benefits of civilization, and those intellectual intercourses, by which we show ourselves worthy of our origin; it is to preserve honour, that all our actions are directed; a property the most valuable to us, as it is the source of all human happiness; a property without which life cannot be dear; but a property of which we can be unjustly deprived, and reduced to abhor life, since we have lost the means by which we earn esteem! The esteem of our friends and relations is the bread which sustains civil life. The law can take from us that property, but it cannot restore it, if they whose esteem we aim at, deem us deprived of it.

It is by the means of wise laws, that public opinion must be corrected! A law to be wise, must be obeyed, and universally obeyed, and at all times. All these injuries which are revenged by duels, proceed from occasional inobservance of the laws; from yielding too much to public opinion! Laws must be positive; when a law has lain some time unobeyed, it must be called again in force, but by the legislative power; and not by those charged with the execution of the laws, because it is unjust to apply to one a law, whose penalty has not been inflicted on those who violated it first. Laws must be alive, and their life is made sensible by the observance of them. To apply an unobserved law, or to inflict a penalty, not established by law, will always be an infringement of the fundamental laws of any civil government; an act which public opinion can never legitimate. Public opinion has nothing to do with the application of a law, because this public opinion is only a small minority, when compared to the opinion of the people; and because "vox populi" is "vox dei" only when expressed in the forum, or in the parliament. Whatever public opinion is expressed out of those places, must be deemed seditious, inasmuch as it goes against the government, which must always be respected, whether it be monarchical or republican.

Now, to show the injustice of the second part of this law, we must consider, first, that according to nature, human actions are virtuous, whenever

man employs the means put at his disposal by nature, in conformity with the purpose for which they are given to him; vicious, when those same means are employed to a contrary one: secondly, that with regard to religion, those actions which are in conformity with the doctrines, and commandments of our religion are moral; those against them sinful: thirdly, that in civil society we have no action by itself just or criminal; nor any general measure of their justice, or their criminality; and though many vicious actions are considered crimes by the laws, yet we qualify the actions of a man in society by means of positive laws. To exchange their superfluities for that which they want is an undoubted right of all men, yet the laws of commerce make it smuggling.

Under a civil government, all the actions of men are either commanded, permitted, or forbidden. The commanded are so by an express law, and so the forbidden; hence a man cannot leave an action, which he is commanded to do, undone, or do one of those which he is forbidden to do, without violating a law: those actions of man which are not done in conformity with the law are criminal, and therefore a man is guilty, when his doing, or not doing, violates a law; the violation of a positive law makes the crime certain; hence the advantage of having positive laws.

He who fights a duel in Hasse Cassel is not guilty, because there is no law forbidding duelling there; but he who slays a man in a duel is subjected to all the laws against homicide, because he has spilt human blood. The idiot does much when he sees the effects, but the wise man must know that every effect indicates a cause; and that men being not all permitted to be wise, some will perchance thrust themselves into the causes, ignorant or unmindful of the effects. Is it not to prevent a cause of which shooting a man would be the effect, that we have laws forbidding man to shoot in an inhabited neighbourhood? If a general should permit his soldiers to plunder, and punish by law those who violently entered into the houses, either the permission would be ridiculous, or the law would be violated! But even supposing that with regard to crimes, causes should be disregarded, let us see what elements are necessary to make the depriving a man of life homicide.

A man commits homicide when by means apt to produce death, and with a determinate will to take another's life, he kills a man. No one doubts that a pistol in itself is a means apt to destroy a man's life, provided it is fired within reach of its aim, and its use be not prevented; but in a duel who knows which of the two pistols will prove itself a certain means to take another's life? (The same thing can be said of swords, &c.)

There cannot be in the man fighting a duel the determinate intention of taking another's life; 1st, because the intention is shown through the probable circumstances by which it may be carried into effect, and not through the mere effect of chance; 2nd, because the man who fights a duel can have but the determinate will or intention of exposing himself to the chance of taking or not taking another's life, of losing, or not losing his

own. It is altogether against human reason to say, that he who goes to fight a duel goes with the intention of taking another's life, because his intention of killing is counteracted by his intention of exposing himself to be killed, and because he exposes himself to this fatal chance as a victim which public opinion requires. Even the wicked man, who should fight a duel to prevent another from raising the veil which covers his wickedness, would not have this chance, unless public opinion had legitimated duelling, and unless the law had left unpunished those injuries which are the causes of duelling. They who fight a duel have no more intention of killing one another than the Emperor of Russia and the Sultan had!

I conclude by saying, that if we wish to be called a polished people, we must have laws corresponding to our state of civilization; we must judge men as beings who have both body and soul, and therefore protect them both morally and physically. We call certain ages barbarous, and yet we preserve their proverbs like oracles: because it was said that blood must be washed out by blood, we hold him a homicide who in any manner deprives a man of life. This reminds me of an anecdote, which will not altogether be amiss here. In a city of Lombardy, a mason, while working on the top of a house, made a false step, and, rolling down the roof, fell on a poor old man, who was passing by in the street; by his fall he killed the old man, who unwillingly abandoned life to save that of the clumsy mason. The deceased had a son, who, on hearing that the mason had killed his father, brought his complaint to the judge, and insisted on having the laws against homicide applied to this case. The judge, unable to dissuade the youth, gave him leave to revenge his father's death by killing the mason in the same manner in which he had killed his father. The youth agreed to it, and ascended the top of the same house to wait for his lawful victim. The mason, instructed by the judge, passed by the house; at the sight of him the heart of the youth palpitated, he fancied he saw his father's ghost coming to witness his filial piety; he stood leaning forward waiting for the instant in which he should make his revengeful leap, but when he perceived that the head of the mason was but a point on a hard and distant plain, he let him pass by unhurt.

I wish it not to be inferred that I hold the killing a man in a duel not punishable; all crimes must be punished, and this more than any other; but it is not by punishing an eventual manslaughter that we can prevent duelling; an express law, fixing penalties even as severe as those inflicted upon murderers, must make duelling a crime.

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