

## FRANCIS BACON, THE EARL OF NORTHAMPTON, AND THE JACOBAN ANTI-DUELLING CAMPAIGN\*

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**ABSTRACT.** *The article examines the intellectual and ideological debate about the notions of duelling, courtesy, and honour in the Jacobean anti-duelling campaign. Particular attention is paid to the two most important contributions to this campaign – Francis Bacon’s The charge touching duells (1614) and A publication of his ma<sup>ties</sup> edict, and severe censvre against priuate combats and combatants (1614), written by Henry Howard, the earl of Northampton. By placing these two treatises into their intellectual context of courtesy and duelling manuals, the article seeks to demonstrate their sharply contrasting responses to the problem of duelling. Northampton accepted the notions of courtesy, honour, and insult underlying the duelling theory, but still wanted to abolish duelling. His solution was therefore a court of honour which would solve all the disputes of honour between noblemen and gentlemen. Bacon, on the other hand, argued that the only efficient way of getting rid of duelling was to question the entire intellectual framework on which duelling rested. To accept the notions of honour, courtesy, and insult inherent in the duelling theory and to set up a court of honour, he insisted, was tantamount to encouraging duelling itself. In The charge touching duells Bacon was thus arguing as much against Northampton’s plans to suppress duelling as against the theory of duelling itself.*

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### I

On 4 February 1614 James I issued ‘A proclamation against private challenges and combats’. The proclamation acknowledged that ‘the custome and construction of the[se] dayes’ judged ‘the Lye’ (i.e. calling someone a liar) amongst ‘those wrongs that are reputed to be most exorbitant’.<sup>1</sup> The message was strengthened by a treatise under the title *A publication of his ma<sup>ties</sup> edict, and severe censvre against priuate combats and combatants*. This dwelt on the same issue at much greater length:

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

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<sup>1</sup> James F. Larkin and Paul L. Hughes, eds., *Stuart royal proclamations* (Oxford, 1973), I, p. 304.

contempt, all Libels published in any sort to the disgrace of any Gentleman; or any person, whom that Gentleman is bound in credite to defend, as himselfe: for all these trench as deeply into reputation as the stabbe it selfe doeth into a man that esteemes Honour.<sup>2</sup>

Four years later, in 1618, a treatise appeared entitled *The peace-maker: or, Great Brittaines blessing*. The work came from the pen of Thomas Middleton, but the king took great interest in it, for it was licensed with his personal knowledge and approval. Every contemporary reader in fact would reasonably have taken it as coming from King James himself. No author's name appeared, but its bearing the royal arms, with the initials I. R. (Iacobus Rex) and 'Cum Privilegio' and its addressing 'all Our trueloving, and peace-embracing subjects' clearly suggested that the treatise conveyed royal opinion.<sup>3</sup> It stated

The Aggravation of small things, when a sparke shall grow to a flaming Beacon, a Word to a Wound, the Lye to a Life ... Now the wise and understanding man is not subject or exposed to any of these Injuries whatsoever; neyther cares he, how many darts of Malice or Contumelie are shot against him, since he knowes, that he cannot be pierced ... the heart of a wise man is solid, & hath gathered such invincible force, that he stands as secure from Injurie ... So whatsoever injuries are attempted against a wise man, returne without effect, and are to him but as Cold or Heat, Rain or Haile ... And for words of Contumelie, it is held so small, and so sleight an injurie, as no wise man complaines, or revengeth himselfe for it: therefore, neither doe the Lawes themselues prefixe any penaltie therunto, not imagining that they would ever be burthensome.<sup>4</sup>

Whereas in 1614 the royal opinion was that any injury, whether verbal or real, deeply wounded a gentleman's reputation and that the accusation of lying was the worst insult, four years later the wise man was not merely exhorted to swallow every insult but was told that the accusation of lying was not an insult at all. It is the aim of this article to account for this complete and dramatic volte-face. My primary interest in what follows is the intellectual debate about the true notions of duelling and courtesy, honour, and insult, and therefore I pay less attention to the political and legal aspects and ramifications of the anti-duelling campaign.

## II

To gain an insight into the royal opinion, we should take a brief look at the nature and development of duelling theory in England. The first thing to note is that the duel of honour and its theory came to England as part of the Italian

<sup>2</sup> [Henry Howard], *A publication of his maties edict, and severe censure against priuate combats and combatants* (London, 1613 [old style]), pp. 42–3.

<sup>3</sup> Rhodes Dunlap, 'James I, Bacon, Middleton, and the making of *The peace-maker*', in Joseph W. Bennett, Oscar Cargill, and Vernon Hall, Jr, eds., *Studies in the English Renaissance drama* (London, 1961), pp. 82–94. For Middleton's knowledge of duelling theory, see Fredson Thayer Bowers, 'Middleton's *Fair quarrel* and the duelling code', *Journal of English and Germanic Philology*, 36 (1937), pp. 40–65.

<sup>4</sup> [Thomas Middleton], *The peace-maker: or, Great Brittaines blessing* (London, 1618), sigs. C3v–4v.

Renaissance notion of the gentleman and courtier.<sup>5</sup> The duel of honour, in other words, emerged as an integral part of the Renaissance theory of courtesy. One of the earliest treatises in England to mention duelling was Thomas Hoby's translation of Castiglione's *The book of the courtier*, published in 1561. Although Castiglione only mentioned duelling in passing, the message was not lost on the English. Thirty years later one English writer pointed out that if one wanted to know more about duelling and the concomitant notion of honour, one could do worse than peruse Castiglione's book. 'The Earle Balthazar Castilio in his booke of the Courtier', he wrote, 'doth among other qualities requireable in a gentleman, specially advise he should bee skillfull in the knowing of Honor, and causes of quarrell.'<sup>6</sup>

The duel of honour was soon discussed in other courtesy guides. Giovanni della Casa's *Galateo*, translated into English in 1576, mentions it, as does Stephano Guazzo's *The ciuile conuersation* (1586). Duelling occupies a central place in Philibert de Vienne's satirical *The philosopher of the court*, translated in 1575, Annibale Romei's *The courtiers academie*, published in English in 1598, as well as in Simon Robson's *The covrte of ciuill courtesie*, first published in 1577 and reprinted in 1582 and 1591.

Furthermore, duelling was also discussed in a number of works which made use of the more technical literature of Italian duelling manuals. One of the earliest of these was John Ferne's *The blazon of gentrie*, written in the late 1570s but published in 1586. It was soon followed by the anonymous *The booke of honor and armes*, published in 1590.<sup>7</sup> John Wolfe, a stationer specializing in publishing Italian books, printed a volume entitled *Vincenzio Saviolo his practise* in 1595, while Robert Baker, the queen's printer, published in 1602 William Segar's *Honor military, and ciuill*, which relied heavily on *The booke of honor and armes*. These four treatises appearing within fifteen years familiarized the English with

<sup>5</sup> For the background see F. R. Bryson, *The point of honor in sixteenth-century Italy: an aspect of the life of the gentleman* (New York, 1935); idem, *The sixteenth-century Italian duel* (Chicago, 1938); François Billacois, *Le duel dans la société française des XVIe-XVIIe siècles* (Paris, 1986); Francesco Erspamer, *La biblioteca di don Ferrante. Duello e onore nella cultura del cinquecento* (Roma, 1982); V. G. Kiernan, *The duel in European history: honour and the reign of aristocracy* (Oxford, 1986); David Quint, 'Duelling and civility in sixteenth century Italy', *I Tatti Studies*, 7 (1997), pp. 231–78; Edward Muir, 'The double binds of manly revenge in Renaissance Italy', in Richard C. Trexler, ed., *Gender rhetorics: postures of dominance and submission in history*, Medieval & Renaissance Texts & Studies, vol. 113 (Binghamton, 1994), pp. 65–82; and the outstanding article Henri Morel, 'La fin du duel judiciaire en France et la naissance du point d'honneur', *Revue historique de droit français et étranger*, 42 (1964), pp. 574–639.

<sup>6</sup> [Anon.], *The booke of honor and armes* (London, 1590), sig. A3r, see also p. 39.

<sup>7</sup> The treatise has often been ascribed to William Segar, although its printer Richard Jones has also been suggested as its possible author: see Ruth Kelso, 'Saviolo and his *Practise*', *Modern Language Notes*, 45 (1924), pp. 33–5. There is also some circumstantial evidence that the famous translator of Italian works, Thomas Beddingfield, could have been its author. One of the members of the Society of Antiquaries mentioned, in their debate about single combats, a treatise called 'the Honor of arms, written by Mr. Thomas Beddingfield'; see [Anon.], 'Of the antiquity, use, and ceremony of lawfull combats in England', in Thomas Hearne, ed., *A collection of curious treatises* (2 vols., London, 1771), II, pp. 210–11.

the tradition of the point of honour, developed especially by civilians in sixteenth-century Italy. All these treatises relied heavily on Girolamo Muzio's *Il duello*, first published in Venice in 1550. Saviolo's second book in fact amounts to an abbreviated translation of Muzio's tract.

One of the overriding themes in courtesy treatises was to explain how the perfect courtier or gentleman should conduct himself so that he would win a favourable response from other courtiers. As Castiglione put it, the aim was 'to purchase ... the general favour of great men, Gentlemen and Ladies'.<sup>8</sup> Similarly, Philibert insisted that 'the perfite glorie of our Philosophie' is nothing more than to 'be pleasing to all men'.<sup>9</sup> In order to achieve this end, it was of the utmost importance that the courtier should exhibit what Castiglione called 'a gentle and loving behaviour in his dayly conversation'. Philibert agreed: the true philosopher of the court must be 'ready to doe whatsoever it be' to please all men.<sup>10</sup> The central topic of della Casa's book was 'what manner of Countenance and grace, behoveth a man to use, that hee may be able in Communication and familiar acquaintance with men, to shewe him selfe plesant, courteous, and gentle'.<sup>11</sup>

This 'dayly conversation', or civil conversation as it was often called, referred to social intercourse in general, but speech assumed pride of place in it. Civil conversation, as Anna Bryson has aptly defined it, was the intermediary ideal between the *vita contemplativa* and the *vita activa*.<sup>12</sup> Its aim was not argument but assent.<sup>13</sup> The content of the conversation was insignificant as long as *decorum* was maintained. It follows that dissimulation was an integral part of civil conversation; honest dissimulation was justified because social life took precedence over inner life.<sup>14</sup> As George Puttenham expressed it in his well-known definition, 'the credit ... and profession of a very Courtier... is in plaine termes, cunningly to be able to dissemble'.<sup>15</sup>

If civil behaviour in general, and gentle words and speech in particular, were so important in shaping a perfect gentleman, the converse was also true.

<sup>8</sup> Baldassare Castiglione, *The book of the courtier*, trans. Thomas Hoby [1561], ed. Virginia Cox (London, 1994), p. 119.

<sup>9</sup> Philibert de Vienne, *The philosopher of the court*, trans. George North (London, 1575), pp. 95, 98.

<sup>10</sup> *Ibid.*, pp. 108–10.

<sup>11</sup> Giovanni della Casa, *Galateo: or rather, a treatise of the manners and behaiours*, trans. Robert Peterson (London, 1576), pp. 2–4.

<sup>12</sup> Anna Bryson, *From courtesy to civility: changing codes of conduct in early modern England* (Oxford, 1998), pp. 55–6, ch. 5.

<sup>13</sup> Steven Shapin, *A social history of truth: civility and science in seventeenth-century England* (Chicago, 1994), pp. 81, 114–19; Frank Whigham, *Ambition and privilege: the social tropes of Elizabethan courtesy theory* (Berkeley, 1984), p. 44.

<sup>14</sup> Jacques Revel, 'The uses of civility', in Roger Chartier, ed., *A history of private life, III: Passions of the Renaissance* (Cambridge, MA, 1989), pp. 167–205, at p. 192.

<sup>15</sup> George Puttenham, *The arte of English poesie* [1589], ed. Gladys Doidge Willock and Alice Walker (Cambridge, 1936), p. 299; see in general Daniel Javitch, 'The philosopher of the court: a French satire misunderstood', *Comparative Literature*, 23 (1971), pp. 103–4; Daniel Javitch, 'Poetry and court conduct: Puttenham's *Arte of English poesie* in the light of Castiglione's *Cortegiano*', *Modern Language Notes*, 87 (1972), pp. 865–82, at p. 881.

Speaking was necessary for the continuation of civil conversation, but there was always the risk of causing affront. All the authors of civil courtesy treatises agreed that nothing distanced a gentleman from the desired end more than uncouth behaviour and ungentle speech.<sup>16</sup> These instructions thus presupposed a culture where everyone on the one hand struggled to maintain their reputation, and on the other hand easily took umbrage at other people's words. When Simon Robson gave minute advice on how to respond in various situations, the implication was that even a slight deviation from the accepted code might cause a serious affront.

Vincenzio Saviolo insisted that a gentleman must abstain from everything which might tarnish 'his woorthye calling', and should thus 'embrace myldenes and curtesie'. But, following Aristotle's account of magnanimity, Saviolo argued that the gentleman should also 'be in minde magnanimous', which implied courtesy towards his equals but awareness of his own worth as well. What this amounted to in practice is well brought out by Saviolo's subsequent discussion of practical situations, where even the smallest deviation from the code of courtesy might occasion insult. Even 'to stare and looke [at] men passing by' could breed 'such an offence unto some men so marked, that they cannot take it in good part, and therefore it is verie dangerous'. Most importantly, in 'the companie of honorable Gentlemen' it was crucial 'to have a great regarde of their tung, to the end they say nothing which maye be evil taken or mis-constred'.<sup>17</sup>

Given the fact that gentlemen and courtiers easily took one another's words amiss, it is no surprise that the courtesy guides discussed the duel. Castiglione exhorted the courtier to be skilful in arms, which would stand him in good stead in 'variaunces betwene one gentleman and an other, whereupon ensueth a combat'. Recourse to the duel was necessary for a courtier 'to save his estimation'. As soon as the courtier thought it too late to pull out of a controversy 'without burdeyn', he must be ready to issue a challenge and be 'utterly resolved with hymselfe' in the actual fight as well. According to Guazzo, all affronts to God could easily be ignored, but 'we cannot be quiet when either we our selves or our friends are inured either in word or deede'.<sup>18</sup> 'And I knowe', he affirmed, 'when ... certaine Gentlemen have conveyed themselves into some close place, where because the one would not live with the name of an evill speaker, & the other of a false accuser, they have made an end of their lives and their quarrels both together'.<sup>19</sup>

Della Casa argued that 'many times it chaunceth, that men come to daggers drawing, even for this occasion alone, that one man hath not done the other, that worship and honour uppon the way, that he ought'. It was in order to avoid these situations that one always says to everyone who 'is not a man of

<sup>16</sup> Della Casa, *Galateo*, pp. 5–7, 22, 57–64.

<sup>17</sup> Vincenzio Saviolo, *Vincenzio Saviolo his practise* (London, 1595), sigs. P2v, P3v.

<sup>18</sup> Castiglione, *The Courtier*, p. 47; Stephano Guazzo, *The civile conuersation*, trans. G. Pettie and Barth Young (London, 1586), fo. 24r.

<sup>19</sup> Guazzo, *The civile conuersation*, fo. 29r–v.

very base calling', 'You' rather than 'Thou', because by using the latter 'wee disgrace him and offer him outrage and wronge: and by suche speach, seeme to make no better reconing of him, then of a knave and a clowne'.<sup>20</sup>

Della Casa's account yields a picture of people who felt deeply insulted by the smallest deviation from the accepted customs of courtesy. Simon Robson agreed, emphasizing that the gentleman should have a thorough knowledge of the whole code so that he would be 'provided of courage, but also of words, phrase and manner', and thus to be able to act with proper grace and courtesy should occasion arise.<sup>21</sup> This occurred when someone told wonderful stories. One's reply to a possible question must be extremely courteous but one's face should reveal his real state of mind. The 'woordes', Robson insisted, 'may bee uttered with sutch a grace, as the countenance may shew the minde, and yet the speeche keepe them from quarell'.<sup>22</sup> If the situation took a direction where a duel was the only possible outcome, Robson strongly advised the young gentleman to give the challenge circumspectly rather than directly: 'I will quarell with no body, but if any body have any quarell to mee, I have businesse into sutch a place, sutch a day, at sutch an hower: I wil have but my selfe and my man, or but my selfe and my freinde, there hee may finde mee if hee dare.'<sup>23</sup>

No matter how grave the insult had been, it was of the utmost importance to act politely and 'to forbear ruffainly words'. Courtesy was the hallmark of the gentleman, and whereas an open resort to violence was deemed a serious breach of courteous conduct, a challenge to the duel was in accordance with it. A challenge was a polite response to an uncouth word or act, which had degraded gentlemanly courtesy, and offered the only means to restore this courtesy. Far from being against civil conversation, the duel was an integral part of the gentleman's comportment.

As well as being impolite and uncouth, an insult was said to touch the gentleman's honour. Philibert de Vienne wrote that even 'the least fault', when it had this effect, was taken as 'the most odious and hatefulest offence that may bee'.<sup>24</sup> Similarly, Robson argued that 'fighting quarels never are made for profit, but for honour'.<sup>25</sup> But what kind of notion of honour was duelling based on?

In brief, a gentleman's honour was taken to be his reputation amongst his peer group. It was his exterior or appearance, above all how other gentlemen regarded him. While courtly philosophy, Philibert pointed out, turned a blind eye to many other offences, insults touching one's reputation required an immediate response. Because the courtier 'never regarde but the superficial part of any thing, and that which sheweth it selfe unto us', he was bound to challenge anyone who offended his exterior.<sup>26</sup> Honour, reputation, and duels

<sup>20</sup> Della Casa, *Galateo*, pp. 40–8.

<sup>21</sup> S[imon] R[obson], *The covrte of civill courtesie* (London, 1577), pp. 27–8.

<sup>22</sup> *Ibid.*, pp. 18–20.

<sup>23</sup> *Ibid.*, pp. 20–2.

<sup>24</sup> Philibert de Vienne, *The philosopher*, pp. 49–50.

<sup>25</sup> R[obson], *The covrte*, p. 24.

<sup>26</sup> Philibert de Vienne, *The philosopher*, pp. 49–50.

only appertained to questions touching exteriors, appearances, and courtesies. In this sense honour was horizontal rather than vertical.<sup>27</sup> Horizontal honour can be defined as a right to respect due to an equal, and presupposes an honour group which follows the same code of conduct and honour. An interesting thing about horizontal honour, at least insofar as duelling is concerned, is the fact that while it could be preserved, lost, or diminished, and even perhaps restored (although this was a moot point), it could never be increased. It has, therefore, been referred to as negative honour. Horizontal honour can be contrasted with vertical honour, which could be defined as a right to special respect due to one's superiority. As this definition implies, vertical honour can be increased, and it is therefore also called positive honour.

At the outset of the dialogue on honour in Romei's *The courtiers academie*, it was stated that there were two different kinds of honour: there was 'naturall and imperfect' honour on the one hand, and 'acquired honour, and perfit', on the other. Natural honour was defined as 'a common opinion, that he [who is] honored, hath never failed in justice, nor valor'. A man preserves this honour 'except through some greivous offence or suspition, he loose[s] this good opinion'.<sup>28</sup> Later Romei added that all those were men of honour who – be they 'good or wicked' – 'have not lost the good opinion that the worlde conceived of them'.<sup>29</sup> Such honour was called natural, because a gentleman 'is borne with that inward supposition, that he is good'.<sup>30</sup> Acquired and perfect honour could be defined as 'a signe of beneficent opinion', or as 'the reward of vertue'.<sup>31</sup> It is easy to see that, whereas Romei's natural honour was an example of horizontal honour, his notion of acquired or perfect honour as the reward of virtue was an example of vertical honour. It followed that those who had linked duelling with acquired honour had committed a flagrant error. Instead, Romei asserted, it was natural honour 'which giveth occasion every day, of bralles, hatred, and rancours: and uppon which was grounded, in times past, wicked combate'.<sup>32</sup>

But the notion underlying Robson's, Philibert's, or Romei's accounts, or indeed any concept of duelling, was also reflexive honour. Its distinguishing feature is the fact that if a man is insulted and his honour questioned, then his honour is diminished or destroyed unless he responds with an appropriate counterattack. This was, of course, crucial for duelling. The duel was precisely the means to restore one's reputation as a gentleman when this status had been questioned. A challenge to a duel was the only means by which a gentleman could demonstrate his status and thus reclaim his honour.

Again this is well brought out in Romei's account. According to his definition, a man lost his natural honour as soon as someone impugned it. Honour was lost as soon as a man lost the good opinion of the world. Every discourtesy was a clear indication that he was not being treated as he might

<sup>27</sup> The following discussion is based on the outstanding analysis in Frank Henderson Stewart, *Honor* (Chicago, 1994), especially pp. 54–71.

<sup>28</sup> Annibale Romei, *The courtiers academie*, trans. I[ohn] K[eper] (London, 1598), pp. 78–84.

<sup>29</sup> *Ibid.*, p. 100.

<sup>30</sup> *Ibid.*, pp. 109–10.

<sup>31</sup> *Ibid.*, pp. 78–84.

<sup>32</sup> *Ibid.*, p. 80.

expect. One's reputation or status as a gentleman was, in other words, questioned. When this was put at stake the only means of retaining the good opinion and thus one's status as a gentleman was a counterattack. As Romei's interlocutors agreed, he was 'amongest men dishonourable, who with his proper valour, makes no shew of being touched with an injurie'.<sup>33</sup> This reflexivity distinguished female from male honour, because unlike men, a woman did not lose her honour 'if with proper valor she repel not injurie'.<sup>34</sup> Since a challenge was the only proper way of restoring courtesy, it was also the only becoming way of displaying one's genteel character, and thus restoring one's tarnished reputation as a gentleman.<sup>35</sup> Romei argued that if one wanted to 'be an honorable man' he must preserve 'the opinion of the world'; and the only way to do this in case of an injury was to issue a challenge.<sup>36</sup> The gentleman's need to preserve his reputation was such that he must be ready to discard conventional questions of morality. The gentleman, Romei maintained, must react to every insult even if it were justified. 'An honorable man', he wrote, 'is tyed in right or wrong by his owne proper valor, to repell an injury, and also to maintaine an unjust quarell, lest he remaine dishonored'.<sup>37</sup>

The importance of this reflexiveness was dramatically increased by the fact that once lost there was no means by which a gentleman could recover his natural honour.<sup>38</sup> Relying on the unquestioned authority of Cicero in claiming that private revenge is admissible, Romei added that a gentleman who patiently suffered an injury showed 'himself worthie of contempt, and consequently, unjust, and wicked; for only the wicked man is worthy to be ignominious'.<sup>39</sup>

If courtesy and honour were discussed in detail in the Renaissance theory of duelling, even more meticulous attention was paid, especially in the more technical literature, to analysing quarrels and insults. It was widely agreed that between 'Gentlemen and Knightes, bearers of Armes' there were two ways in which a quarrel could be picked and an injury inflicted. There were, as John Ferne noted, 'the injurie of wordes', on the one hand, and 'the injurie of Fact', on the other.<sup>40</sup> 'All Injuries', as both the author of *The booke of honor and armes* and Saviolo pointed out, 'are either by words or by deeds',<sup>41</sup> but they insisted that not all quarrels should occasion a challenge. On the contrary, they emphasized that only those quarrels which implied an injury were 'worthie the prooffe by weapons'.<sup>42</sup> In the same vein Romei wrote that 'although the quarrelles may be infinite ... yet are they reduced to two heades'. They were 'either committed in words or deeds'.<sup>43</sup>

<sup>33</sup> Ibid., p. 99.

<sup>34</sup> Ibid., p. 126.

<sup>35</sup> Cf. Julian Pitt-Rivers, 'Honour and social status', in J. G. Peristiany, ed., *Honour and shame: the values of Mediterranean society* (Chicago, 1966), pp. 19–77, at p. 22.

<sup>36</sup> Romei, *The courtiers academie*, p. 99.

<sup>37</sup> Ibid., pp. 100–1.

<sup>38</sup> Ibid., pp. 105–6.

<sup>39</sup> Romei, *The courtiers academie*, pp. 105–6; [Anon.], *The booke*, sig A1r–v; Cicero, *De officiis*, 1.20.

<sup>40</sup> John Ferne, *The blazon of gentrie* (London, 1586), pt 1, pp. 311–12.

<sup>41</sup> [Anon.], *The booke*, p. 2; Saviolo, *His practise*, sig. R3v.

<sup>42</sup> Saviolo, *His practise*, sigs. Z2v–3r.

<sup>43</sup> Romei, *The courtiers academie*, p. 140.



Of all the injuries the closest attention was paid to the notion of lying, and especially to the accusation that another lied. The centrality of the lie becomes clear in Saviolo's words: 'The summe of all therefore, is in these cases of honour, that hee unto whome the lie is wrongfullie given, ought to challenge him that offereth that dishonour, and by the swoorde to prove himselfe no lyer.'<sup>44</sup> In the ideal case of the duelling treatises, both forms of injuries – by words and by deeds – implied giving the lie (i.e. calling the other a liar). There was, however, a crucial difference between these two kinds of injuries. If the injury was by words, the injured party would give the lie, with the consequence that the challenge was issued by the person who made the insult, and thus maintained what he said. If, on the other hand, an injury was done by deed, the offended party told the offender that he had abused him, with the consequence that the lie was given as a riposte, and the one who had been abused became the challenger.<sup>45</sup>

The reason why giving the lie was thought to require a challenge as a reply was that 'it is thought that everie man is honest, just, and honourable untill the contrarie bee proved'.<sup>46</sup> Thus in case of an injury by deed it was not so much the act of violence but the ensuing accusation of dishonesty that made the challenge necessary. Giving the lie thus questioned the gentleman's entire status as a gentleman.

Given the centrality of the lie in this process, it is hardly surprising that its nature was discussed at great length. On the one hand, it was argued that 'everie deniall, bee it never so simple, beareth the force of a Lie', because the effect was always the same. So no matter whether the actual words were 'Thou lye', 'Thou sayest untruly', 'Thou speaketh falsely', or 'Thou art wide from the truth', they always amounted to giving the lie. If, on the other hand, the words had been 'This is not so, or the truth heereof I take to bee otherwise', they did not imply that a lie had been given. This was so because 'the thing may bee false; and yet hee no Lyer, by reason that hee eyther maye bee evyll informed, or else not understande the matter as it was'.<sup>47</sup> On the basis of this, various forms of lies were distinguished. There were 'lies certaine' and 'conditionall lyes', 'lye in generall' and 'lye in particular', as well as 'foolish lye'.<sup>48</sup>

### III

At the same time as the theory of duelling was spreading, the actual social custom closely followed suit. There were more and more recorded duels. According to Lawrence Stone, the numbers of duels and challenges mentioned in newsletters and correspondence jumped from five in the 1580s to nearly

<sup>44</sup> Saviolo, *His practise*, sig. R4r.      <sup>45</sup> *Ibid.*, sigs. R3v–4r; [Anon.], *The booke*, pp. 2–3.

<sup>46</sup> Saviolo, *His practise*, sig. S1r; [Anon.], *The booke*, p. 4.

<sup>47</sup> Saviolo, *His practise*, sigs. S1v–2r.

<sup>48</sup> *Ibid.*, sig. S2v–T4v.

twenty in the 1590s. The peak was reached in the 1610s with thirty-three recorded duels and challenges,<sup>49</sup> although the number of actual duels and challenges must have been much higher.<sup>50</sup> The increased number of duels was bad enough for the peaceful king, who had always found the various forms of single combat utterly distasteful. In Scotland he had been able to eradicate bloodfeuds<sup>51</sup> – ‘a most kingly and Christian-like deed’, as Sir Walter Raleigh called it.<sup>52</sup> In 1598 James had condemned single combats in both the *Basilicon doron* and *The trew law of free monarchies*.<sup>53</sup> What made the situation even worse by the early 1610s was that many of the duels were very well reported, so much so that some assumed that the king must favour duelling. Lord Eure wrote to the earl of Northampton in December 1609 that the numerous reports of the fatal duel between Sir George Wharton and Sir James Stuart in the previous month has ‘nurrished a conceite in theis parts, that his Majestie wilbe pleasede, seeing the dangerous events of theis suddaine quarrells, and the prone inclination of his subjects to imitate, and fasten houlde of duellos doctrine’.<sup>54</sup> The next year duelling continued unabated and John Chamberlain wrote that it would be better for ‘our court gallants’ to have a foreign war to ‘vent theyre superfluous valour then to brabble so much as they do here at home: for in one weeke we had three or fowre great quarrels’.<sup>55</sup>

By the autumn of 1613 things seemed to be getting out of control. Of all the duels in Jacobean England it was the one between Edward Sackville, brother of the earl of Dorset and Lord Bruce of Kinloss, son of the king’s old friend and adviser, in the summer of 1613 which received the widest publicity.<sup>56</sup> It is of crucial importance to note the mixed feelings with which news of the duel was received. On the one hand, Sackville incurred the king’s displeasure and had to leave England for more than a year.<sup>57</sup> On the other, the whole affair, its honourable progress, and Sackville’s fair conduct, won general recognition. ‘His fair carriage and equal hazard’, one letterwriter noted, ‘maketh even his adversaries speak favourably’.<sup>58</sup>

<sup>49</sup> Lawrence Stone, *The crisis of aristocracy, 1558–1641* (Oxford, 1965), pp. 245, 770.

<sup>50</sup> Thomas G. Barnes, *List and index to the proceedings in Star Chamber for the reign of James (1603–1625) in the Public Record Office, London class STAC8* (Chicago, 1975), pp. 159–63.

<sup>51</sup> Keith M. Brown, *Bloodfeud in Scotland, 1573–1625* (Edinburgh, 1986); Jerry Wormald, ‘Bloodfeud, kindred and government in early modern Scotland’, *Past and Present*, 87 (1980), pp. 54–97.

<sup>52</sup> Walter Raleigh, *The history of the world*, in idem, *The works* (8 vols., Oxford, 1829), iv, p. 465.

<sup>53</sup> James VI and I, *Political writings*, ed. Johann P. Sommerville (Cambridge, 1994), pp. 32, 80.

<sup>54</sup> Ralph, Lord Eure to the earl of Northampton, 8. Dec. 1609, British Library (BL) Add. MSS, 12, 514, fos. 152–3.

<sup>55</sup> *The letters of John Chamberlain*, ed. N. E. McClure (2 vols., Philadelphia, 1939), 1, pp. 297–8.

<sup>56</sup> See in general David Smith, ‘The political career of Edward Sackville, fourth earl of Dorset (1590–1652)’ (Ph.D. diss., Cambridge, 1989), pp. 21–30; Charles J. Phillips, *History of the Sackville family* (2 vols., London, 1930), 1, pp. 295–303; Historical Manuscripts Commission (HMC) *Portland MSS*, ix, pp. 525–6.

<sup>57</sup> McClure, ed., *The letters of John Chamberlain*, 1, pp. 487–8; HMC *Downshire MSS*, iv, pp. 181–6.

<sup>58</sup> HMC *Downshire MSS*, iv, p. 202.

The duel between Sackville and Bruce caused a sensation and was still well remembered in the late eighteenth century.<sup>59</sup> At the same time news about other possible duels were running riot; when Chamberlain informed Carleton about the outcome of the Sackville–Bruce duel, he further mentioned five other quarrels which were expected to end in the affairs of honour.<sup>60</sup> Finally, the king and his ministers decided to take more decisive action to suppress duelling. In October 1613 the king published ‘A proclamation prohibiting the publishing of any reports or writings of duels’.<sup>61</sup> He also planned to issue another proclamation directed against duelling itself. It was ready for publication in November, but not published until February 1614, together with a separate treatise.

In order to understand the royal volte-face, and the entire nature of the Jacobean anti-duelling campaign, we need to focus our attention on two counsellors who were particularly closely involved – Sir Francis Bacon and Henry Howard, the earl of Northampton. In the autumn of 1613 Bacon wrote his own proposal for curbing duelling, suggesting that ‘there be published a grave and severe proclamation, induced by the overflow of the present mischief’.<sup>62</sup> As the recently appointed attorney-general, Bacon proposed that the offenders should be prosecuted in Star Chamber. This had occasionally been done since the beginning of the reign,<sup>63</sup> and in December Bacon announced in Star Chamber that henceforth the court would prosecute ‘all that challenged others, or went beyond seas to fight’. John Chamberlain surmised that this was likely to prove ‘a better course to cut of duells then any that hath ben yet thought on’.<sup>64</sup> There was a convenient case of a challenge sent, involving two obscure persons, which Bacon brought before Star Chamber at the first sitting of the court in Hilary Term, in January 1614. His charge, together with the decree of the court, was soon published.<sup>65</sup> Bacon was thus very active in the anti-duelling campaign, so much so that when *A publication of his majesties edict* came out in February, it was ‘commonly attributed to Sir Fra: Bacon’. Yet, when Chamberlain perused the volume he ‘did quickly acquit him [Bacon], and did easilie discern that yt came from some higher hand’.<sup>66</sup>

Chamberlain’s observation was not wide of the mark, for the treatise was composed by Henry Howard, the earl of Northampton. Writing such a treatise

<sup>59</sup> Richard Hey, *A dissertation on duelling* (Cambridge, 1784), pp. 2, 37.

<sup>60</sup> Chamberlain to Carleton, 9 Sept. 1613, McClure, ed., *The letters of John Chamberlain*, 1, pp. 474–5. See also Nicholas Charles to Robert Cotton, 10 Sept. 1613, in Henry Ellis, ed., *Original letters, illustrative of English history*, 2nd series (London, 1827), iv, pp. 234–5; HMC *Salisbury MSS*, xxii, p. 30. For examples of quarrels from early 1613 see HMC *Portland MSS*, ix, p. 31.

<sup>61</sup> Larkin and Hughes, eds., *Stuart royal proclamations*, 1, pp. 295–7.

<sup>62</sup> *The letters and the life of Francis Bacon*, ed. James Spedding (7 vols., London, 1861–74), iv, p. 397.

<sup>63</sup> Barnes, *List and index*, pp. 159–63.

<sup>64</sup> McClure, ed., *The letters of John Chamberlain*, 1, p. 491.

<sup>65</sup> *The charge of sir Francis Bacon, knight, his majesties Attourney General, touching duells vpon an information in the Star-Chamber against Priest and Wright* (London, 1614). A modern edition is to be found in Brian Vickers, ed., *Francis Bacon* (Oxford, 1996), pp. 304–13.

<sup>66</sup> McClure, ed., *The letters of John Chamberlain*, 1, p. 509.

befitted the aged counsellor.<sup>67</sup> He was a scion of an old aristocratic family, a fact of which he was notoriously proud. Indeed, upholding the dignity of the nobility was one of his favourite themes. His father, the earl of Surrey, had introduced Italian Renaissance forms to English poetry, whereas his cousin, the earl of Oxford, was ridiculed by Gabriel Harvey as an Italianate Englishman.<sup>68</sup> Moreover, he was exceptionally well educated, and, significantly, had both studied and taught civil law at Cambridge, but had no formal education in the common law. He knew his Castiglione well, having meticulously annotated his own copy of *The courtier*.<sup>69</sup> Linda Peck has aptly called Northampton ‘the consummate Jacobean courtier’.<sup>70</sup>

By 1614, opposing duelling was no new thing for Northampton. On the contrary, he had been preoccupied with it from at least 1609, when the first plans to publish a proclamation against duelling had been made. In February 1610 Sir John Finet informed Northampton from Paris about the details of duelling in France. There is also a letter from Francis Cottington (dated September 1613), obviously to Northampton, dealing with the laws of duelling in Spain. In November Cottington met the Spanish ambassador, who ‘fell into a long discourse’ on the strict laws against duelling in Spain.<sup>71</sup> Northampton compiled a detailed collectanea on duelling code and habits.<sup>72</sup> This preliminary material was put to use when he wrote *A publication of his ma<sup>ties</sup> edict*, which contains many passages referring to foreign habits of duelling, and a detailed exposition of the theory of the point of honour.<sup>73</sup>

Both Bacon and Northampton had been close to the earl of Essex in the 1590s, but in 1599 their mutual relations were somewhat strained.<sup>74</sup> During the first decade of the new reign they were both under the shadow of Bacon’s cousin, the earl of Salisbury. When Salisbury died in 1612 Northampton became the leading privy councillor, until his own death in 1614. Northampton could appreciate Bacon’s abilities,<sup>75</sup> but on the whole their paths remained apart. Northampton was identified with the Catholic, pro-Spanish interest, but

<sup>67</sup> See Linda Levy Peck, *Northampton: patronage and policy at the court of James I* (London, 1982); idem, ‘The mentality of a Jacobean grandee’, in idem, ed., *The mental world of the Jacobean court* (Cambridge, 1991), pp. 148–68.

<sup>68</sup> In 1582 Oxford fought a duel with Thomas Knyvett, a gentleman of the privy chamber, see Stone, *The crisis*, pp. 233–4; B. M. Ward, *The seventeenth earl of Oxford* (London, 1928), pp. 227–32.

<sup>69</sup> I am grateful to Peter Burke for this information; see also Peck, *Northampton*, n. 4 on p. 219.

<sup>70</sup> Peck, *Northampton*, p. 3.

<sup>71</sup> Cottington to Northampton, 12 Nov. 1613, Henry Ellis, ed., *Original letters illustrative of English history*, 1st series (London, 1824), III, pp. 106–10.

<sup>72</sup> These are to be found in BL Cotton MSS Titus C.IV, and Cotton MSS Titus C.I. A tract ‘Duello foil’d’ is often ascribed to Northampton, but the copy of the tract in Titus C.I, fos. 358ff contains his underlinings and annotations, which suggests it was written by someone else; see Peck, *Northampton*, pp. 160–5, and n. 57 on p. 247; Fredson Thayer Bowers, ‘Henry Howard earl of Northampton and duelling in England’, *Englische Studien*, 71 (1937), pp. 350–5.

<sup>73</sup> [Howard], *A publication*, pp. 14–16, 47–8, 98–9, 103, 39–58.

<sup>74</sup> See Peck, *Northampton*, p. 16; Lisa Jardine and Alan Stewart, *Hostage to fortune: the troubled life of Francis Bacon, 1561–1626* (London, 1998), pp. 15–17.

<sup>75</sup> See Jardine and Stewart, *Hostage*, pp. 328–9.

Bacon was close to a faction which identified itself with the cause of international Protestantism. Thus, whereas Northampton opposed the summoning of parliament in 1614, Bacon eagerly supported it.<sup>76</sup>

Their intellectual careers show a pattern of parallelism and antagonism. They were both exceptionally learned statesmen and consummate rhetoricians. Whilst Northampton saw himself as Cicero, Bacon's eloquence earned him the cognomen 'our English Tully'.<sup>77</sup> They were both also attached to the Ciceronian idea of the active life. But these similarities belied their completely contrasting perspectives. Northampton used the idea of an active life simply to urge subjects to pay their taxes obediently, and specifically emphasized that they should not meddle with questions 'touching the precedent errors or future directions'.<sup>78</sup> Unsurprisingly, he always belittled the role of the House of Commons.<sup>79</sup> Bacon, on the other hand, not merely put a major stress on the values of active life; he invariably emphasized the importance of parliament to James and saw the House of Commons as a place for serious political debate.<sup>80</sup>

A similar contrast can be seen in their attitudes towards duelling. Of course both Bacon and Northampton opposed it, insisting that duelling was of recent foreign origin,<sup>81</sup> and claiming that it might lead to rebellion.<sup>82</sup> They further shared the idea that it was ultimately parliament which should provide a permanent solution to duelling.<sup>83</sup>

Finally, some of their suggested punishments were similar. Both proposed that banishment from the court would be a particularly effective punishment, though they disagreed as to the appropriate length. Bacon suggested a life-long banishment, but Northampton thought a period of seven years would be sufficient.<sup>84</sup> But these similarities again belie a much more serious disagreement between Bacon and Northampton about the whole theory of duelling, and how the practice could be terminated. In many respects, their views were almost entirely antithetical, and Bacon can be seen arguing as much against Northampton as against the advocates of duelling.

<sup>76</sup> Mark Kishlansky, *A monarchy transformed: Britain 1603–1714* (Harmondsworth, 1997), pp. 94–6.

<sup>77</sup> Peck, *Northampton*, p. 186; Markku Peltonen, 'Introduction', in idem, ed., *The Cambridge companion to Bacon* (Cambridge, 1996), pp. 1–24, at p. 20.

<sup>78</sup> Markku Peltonen, *Classical humanism and republicanism in English political thought, 1570–1640* (Cambridge, 1995), pp. 222–3.

<sup>79</sup> Peck, *Northampton*, pp. 181–4.

<sup>80</sup> Markku Peltonen, 'Bacon's political philosophy', in idem, ed., *The Cambridge companion to Bacon*, pp. 283–310, at pp. 290, 295–300.

<sup>81</sup> [Howard], *A publication*, p. 13; Bacon, *The charge*, pp. 46, 10.

<sup>82</sup> [Howard], *A publication*, pp. 52–3, 33, 58; Bacon, *The charge*, p. 9, idem, *The letters*, vi, p. 110.

<sup>83</sup> [Howard], *A publication*, pp. 35–7; Bacon, *The letters*, iv, p. 397.

<sup>84</sup> Bacon, *The letters*, iv, p. 397; [Howard], *A publication*, pp. 85–94. Later Bacon obviously changed his mind, see *The charge*, pp. 17–18.

## IV

Like many other critics, Bacon believed that in order to eradicate duelling altogether it was of utmost importance not merely to punish particular individuals but to discredit the whole underlying theory. He remarked in Star Chamber, ‘that we have not to doe, in this case, so much with perticuler persons, as with unfound and depraved opinions, like the dominations and spirits of the ayre, which the Scripture speaketh of.’<sup>85</sup> The first and perhaps the most obvious qualm expressed by the opponents of duelling was about the notion of honour and valour inherent in the duelling code. The duellists, the critics insisted, upheld a perverted concept of honour. Bacon repeatedly argued that the most important cause of duelling was ‘a false and erroneous imagination of honour and credit’, ‘a false conceipt of honour’, a ‘fond and false disguise or puppetrey of honor’. What made this false notion particularly dangerous was its powerful nature: ‘it imposeth a necessity upon men of value to conforme them-selves; or else there is no living or looking upon mens faces’.<sup>86</sup>

The duellists, as we have seen, embraced a horizontal and reflexive notion of honour. Bacon, alongside many other critics, denied that this was the true concept of honour. According to him, honour was simply a reward for virtues and virtuous actions.<sup>87</sup> The proper goal for a man’s life was therefore to perform ‘great and lofty services to the commonwealth’, and to seek thereby ‘immortality by merit and renown’.<sup>88</sup> Bacon’s notion of honour was thus vertical (or positive) in character.<sup>89</sup>

More importantly, Bacon, like many other critics, denied a central argument of duelling theory, namely that true honour was reflexive in character. They rejected the idea that a challenge constituted the best means of asserting one’s valour and fortitude, and thus of maintaining one’s status as a gentleman. It was a cardinal error, wrote Thomas Barnes, to claim that ‘hee is a base gull, no rightly valorous, nor magnanimous Gentleman, that will pocket up the least injury, and not prosecute it to the very drawing of blood from him that offers it’.<sup>90</sup> Similarly, Bacon maintained that men in general and duellists in particular ‘have almost lost the true notion and understanding of *Fortitude* and *Valour*’.<sup>91</sup> A gentleman was not expected to demonstrate his courage unless the cause was both just and worthy. True fortitude, Bacon argued, ‘setteth a better price upon mens lives then to bestow them idely’. ‘A man’s life’, he went on in a memorable passage, ‘is not to bee tryffled away, it is to bee offered up and

<sup>85</sup> Bacon, *The charge*, p. 13.

<sup>86</sup> *Ibid.*, pp. 11, 17, 34, 41, 12–13.

<sup>87</sup> See e.g. Francis Bacon, *The essayes or counsels: civill and morall*, ed. Michael Kiernan (Oxford, 1985), pp. 159, 163–5.

<sup>88</sup> *The works of Francis Bacon*, ed. James Spedding et al. (7 vols., London, 1857–9), vi, p. 722.

<sup>89</sup> Stewart, *Honor*, pp. 59–61.

<sup>90</sup> Thomas Barnes, *Vox belli, or, an alarvm to warre* (London, 1626), p. 22.

<sup>91</sup> Bacon, *The charge*, p. 13.

sacrificed to honorable services, publike merites, good causes, and noble adventures.<sup>92</sup> Duelling was thus based on a doubly perverted notion of honour and valour. True honour was neither reflexive nor horizontal. It was instead vertical. ‘The winning of Honour is but the revealing of a man’s virtue and worth without disadvantage’, as Bacon put it in the opening words of his essay ‘Of honour and reputation’,<sup>93</sup>

Underlying the notion of horizontal and reflexive honour was the more general theory of courtesy, according to which even the slightest deviation from its rules amounted to questioning a gentleman’s honour, and thus to flinging a serious insult at him. Bacon agreed that it was the theory of courtesy which ultimately accounted for the new fashion of duelling, and accused certain Italian and French ‘vaine discourses’ of advocating duelling.<sup>94</sup> Consequently, he questioned the importance of polite formalities. He had commented on courtesy theory for the first time in his account of civil knowledge in *The advancement of learning* (1605). Civil knowledge consisted of ‘wisdom of the behaviour, wisdom of business, and wisdom of state’. ‘Wisdom of the behaviour’, or ‘the wisdom of conversation’, amounted to the art of civil conversation or courtesy, and thus attests to Bacon’s familiarity with the theory of courtesy. Just like Simon Robson, Bacon argued that ‘a man may destroy the force of his words with his countenance’. While he argued that courtesy should not be ‘despised’, because it had ‘an influence also into business and government’, he emphasized even more strongly that it should not be too much striven after, for courtesy easily made a man superficial. Nothing could be worse than to carry ‘the manners of the stage into real life’. Those who are ‘accomplished in that honour of urbanity’, Bacon wrote, are content with it and ‘seldom aspire to higher virtue’. Even worse were those who tried to compensate for their lack of true virtue by seeking ‘comeliness by reputation’. But the worst were those who did not have even this reputation, because they compensated it ‘by *puntos* and compliments’ – excessive formalities.<sup>95</sup> Similarly, Bacon began his essay ‘Of ceremonies and respects’ by emphasizing the importance of courtesy; only those who ‘have exceeding great parts of virtue’ could afford to be utterly sincere. Polite manners did ‘much add to a man’s reputation’, but these formalities should not be given too much weight. First, contrary to what many theorists of courtesy claimed, Bacon deemed that they were exceedingly easy to learn. ‘To attain them’, he wrote, ‘it almost sufficeth not to despise them.’ Moreover, men should not be ‘too perfect in compliments’. To put too much stress on them, Bacon maintained, ‘is not only tedious, but doth diminish the faith and credit’.<sup>96</sup> When he argued against duelling in Star Chamber, Bacon upheld these same principles. Only ‘a man of

<sup>92</sup> Ibid., pp. 13–14.

<sup>93</sup> Bacon, *The essayes*, p. 163.

<sup>94</sup> Bacon, *The charge*, pp. 10, 12.

<sup>95</sup> Francis Bacon, *The advancement of learning*, in Vickers, ed., *Bacon*, pp. 120–299, at pp. 265–6. The account in the *De augmentis* was substantially the same, see Bacon, *Works*, v, pp. 33–4.

<sup>96</sup> Vickers, ed., *Bacon*, pp. 441–2.

a disputed valour ought ever to be more careful of his reputation than a man of a declared' valour.<sup>97</sup>

Polite formalities were thus given too much emphasis; to make matters worse, these formalities implied a despicable notion of injury. Bacon, together with many other critics of duelling, aimed at repudiating this notion of injury. According to one critic, it was a gross error to suppose that 'a crosse word' or 'every slender occasion' brought into question one's status as a gentleman.<sup>98</sup> François de La Noue complained that there had been a dramatic change in the notion of injury and insult. Whereas in former times men had not been 'moved without great injuries ... now a word of nothing or in jest bringeth the lie'. Moreover, even 'a sharpe looke shall be accounted an injurie, and a slaunder or false opinion call for a combat: so ticklish and pricking is our dayly conversation'.<sup>99</sup> 'The Punctilioes of Reputation' required that even the smallest 'jeast, or freedom of language', as Thomas Pestel revealingly wrote, should be required by a challenge.<sup>100</sup>

Bacon fully concurred with this analysis. He told Star Chamber:

But I say the compounding of quarrells, which is other-wise in use, by private noble men and gentleman, it is so punctuall, and hath such reference and respect unto the receyved conceipts, whats before hand, and whats behinde hand, and I cannot tel what, as without all question it doth, in a fashion, countenance and authorise this practise of *Duells*, as if it had in it some-what of right.<sup>101</sup>

In other words, courtesy theory, with its meticulous and 'punctuall' way of 'compounding of quarrells', ultimately underlay duelling.

Whereas courtesy theorists argued that even the smallest possible digression from the prescribed rules occasioned serious insult, Bacon and other critics of duelling maintained that the best way to avoid this 'compounding of quarrells' was simply to ignore the meticulous rules of courtesy. 'When a mans reputation is touched by slaunder or disgrace', many would think that there was 'an honest quarrell' and that 'he standeth upon his reputation to maintaine it with the force of his owne sworde'. But, John Norden claimed, 'this is but a maske to cover a dishonorable affection'. This kind of 'simple disgrace' should rather be ignored.<sup>102</sup> 'You must learne to digest great quarrells', wrote another critic of duelling, and continued: 'you must have the stomack of an Ostrich, sometimes to swallow iron'.<sup>103</sup> Sir Walter Raleigh agreed: 'wise men and valiant men do rather deride petty injuries ... than revenge them'.<sup>104</sup>

<sup>97</sup> Bacon, *The letters*, vi, pp. 112–13.

<sup>98</sup> Barnes, *Vox belli*, p. 22.

<sup>99</sup> François de La Noue, *The politicke and militarie discourses*, trans. E[dward] A[ggard] (London, 1587), p. 160.

<sup>100</sup> Thomas Pestel, *Sermons and devotions old and new* (London, 1659), pp. 326–7.

<sup>101</sup> Bacon, *The charge*, p. 16.

<sup>102</sup> John Norden, *The mirror of honor* (London, 1597), p. 26. See also e.g. Anthony Stafford, *Honour and vertue, triumphing over the grave* (London, 1640), p. 55.

<sup>103</sup> G. F., *Dvell-ease: a worde with valiant spirits* (London, 1635), pp. 35–6.

<sup>104</sup> Raleigh, *The history of the world*, in *Works*, iv, p. 464.



Bacon held that the best and easiest remedy for these questions of honour was both to ignore trifling insults and to harden one's sense of one's own reputation. In his youthful device 'Of tribute' he argued that 'Fortitude is able to steel men's minds.'<sup>105</sup> Fortitude is 'The Vertue of *Adversity*', and thus 'more Heroicall' than temperance, he wrote in his essay 'Of adversitie', while in 'Of revenge' he advised how to ignore insults.<sup>106</sup> When he argued against duelling in Star Chamber Bacon pointed out that gentlemen's sense of reputation seemed to be 'but of copwebbe lawne, or such light stuffe, which certainly is weaknesse, and not true greatnesse of mind'. Instead of being swift to take offence, gentlemen should swallow small insults. 'But for this apprehension of a disgrace, that a fillippe to the person should bee a mortall wound to the reputation, it were good that men did hearken unto' the principle, '*A Gentlemans honor should bee, De tela crassiore*, of a good strong warppe or webbe that every little thing should not catch in it.'<sup>107</sup>

When Bacon and the other critics of duelling finally examined the most important notion of the duelling theory – that of giving the lie – their tone became highly ironic. To take trifling incidents as serious insults was ridiculous enough, but to take a lie given as the most serious insult of all was downright ludicrous. The absurd nature of giving the lie became readily obvious, according to Raleigh, owing to the fact that the whole theory of courtesy implied nothing so much as constant lying. He pointed out that most of the men 'who present death on the points of their swords to all that give' the lie to them, 'use nothing so much in their conversation and course of life, as to speak and swear falsely'. There were various kinds of lies, such as 'lies of necessity' and lies which proceeded 'from fear and cowardice', but the most common ones were 'complimental lies'. These were the lies which formed an integral part of polite conversation. 'Nay', Raleigh asked, 'what is the profession of love that men make nowadays? what is the vowing of their service, and of all they have, used in their ordinary compliments, and, in effect, to every man whom they bid but good-morrow, or salute, other than a courteous and courtlike kind of lying?' Complimentary lies were such a great fashion that he who failed to use them was 'accounted either dull or cynical'.<sup>108</sup>

By far the most famous mockery of the role of giving the lie in duelling theory is the one presented in Shakespeare's *As you like it*. But what is less often noted is the fact that when Touchstone reveals his deep knowledge of courtesy and duelling, he is trying to prove that he is a true courtier. He lists his accomplishments:

<sup>105</sup> Bacon, 'Of tribute; or, giving that which is due', in Vickers, ed., *Bacon*, pp. 22–51, at p. 28.

<sup>106</sup> Bacon, *The essayes*, pp. 16–18.

<sup>107</sup> Bacon, *The charge*, pp. 27–9; see also *The advancement of learning*, in Vickers, ed., *Bacon*, p. 248; Bacon, *The essayes*, p. 171; idem, *Works*, v, p. 10, vii, p. 150. Both arguments are cited in G. F., *Dvell-ease*, pp. 57, 59.

<sup>108</sup> Raleigh, *The history of the world*, in *Works*, iv, pp. 459–60. Pestel, *Sermons*, pp. 332–3, who repeats Raleigh's analysis almost word for word. See also *The essayes of Michael lord of Montaigne*, trans. John Florio [1600] (3 vols., London, 1910), 1, ch. xviii, p. 393.

... I have trod a measure, I have flatt' red a lady, I have been politic with my friend, smooth with mine enemy, I have undone three tailors, I have had four quarrels, and like to have fought one.<sup>109</sup>

When Jaques asks him how they settled the case, Touchstone replies that they 'found the quarrel was upon the seventh cause'.<sup>110</sup> And when asked to explain the meaning of 'the seventh cause', Touchstone points out that a lie was seven times removed and then expounds the degrees of the lie:

O sir, we quarrel in print, by the book – as you have books for good manners. I will name you the degrees. The first, the Retort Courteous; the second, the Quip Modest; the third, the Reply Churlish; the fourth, the Reproof Valiant; the fifth, the Countercheck Quarrelsome; the sixth, the Lie with Circumstance; the seventh, the Lie Direct. All these you may avoid but the Lie Direct; and you may avoid that too, with an If. I knew when seven justices could not take up a quarrel, but when the parties were met themselves, one of them thought but of an If; as 'If you said so, then I said so'; and they shook hands and swore brothers. Your If is the only peace-maker; much virtue in If.<sup>111</sup>

Bacon scorned exactly the same hairsplitting with the word 'if'. In a duelling case in Star Chamber in 1616, he noted that the challenge 'is not directly nor appertly a challenge, but it is an invitation to a challenge ... it is a challenge to a challenge'. But to conclude from this that it is not punishable was absurd. 'The King's edict', he insisted, 'will [go] out at a window if this be suffered.' Man could not get away with a challenge by an 'if'. It was, Bacon told Star Chamber, mere idle talk to argue that 'I will but put a *si* [i.e. if] in the challenge; as to say, if you have a mind to fight with me then send me your man or your writing. I stand not upon the definitive words of a challenge.'<sup>112</sup>

The theory of courtesy and duelling was thus misleading. Its notions of honour and valour were deceptive, as was its concept of civility. On the one hand, it directed people to use complimentary lies in their daily conversation. On the other hand, the very same theory prescribed that giving the lie was to hurl the most vicious insult. The paradox was of course that a duel arose from speaking the truth.

Complaints had been made, Bacon noted, that the English law did not provide 'sufficient punishment, and reparations for contumely words', but this was absurd. It was simply best to ignore 'every touch or light blow of person'.<sup>113</sup> Nowhere was this truer, Bacon went on, than with the lie given. It

<sup>109</sup> *As you like it*, v, iv, 44–7, quoted from *The Riverside Shakespeare*, ed. G. Blakemore Evans (Boston, 1974).

<sup>110</sup> *Ibid.*, v, iv, 49–50.

<sup>111</sup> *Ibid.*, v, iv, 90–103.

<sup>112</sup> Bacon, *The letters*, vi, p. 111.

<sup>113</sup> Bacon, *The charge*, pp. 19, 26, 28.

was nothing short of ‘madnes’ to demand ‘a punishment uppon the *lye given*, which in effect is but a word of deniall, a negative of anothers saying’.<sup>114</sup> Any serious lawgiver would agree with Solon, who had argued ‘that he had not ordained any punishment for it, because he never imagined the world would have beene so fantastick as to take it so highly’.<sup>115</sup>

To drive his point home Bacon, like Montaigne before him, argued that gentlemen should simply imitate the Romans and the Greeks. The extant orations of the Romans and the Greeks made it plain ‘what extreame and exquisite reproaches were tossed up and downe in the Senate of *Rome*, and the places of assembly, and the like in *Grecia*’. How had they reacted? According to Bacon, ‘no man tooketh himselfe fowled by them, but tooke them but for breath, and the stile of an enemy, and eyther despised them or returned them, but no blood spilt about them’.<sup>116</sup> In 1616 he said on a similar occasion that despite the fact that the Romans and the Greeks ‘had such excellent reproachful speeches’, there was ‘never a duel’ amongst them, ‘never no sword drawn’.<sup>117</sup>

## V

Bacon shared much of this criticism of the notions of honour and courtesy with many other censors of duelling, but there was one conspicuous name missing amongst their ranks – the earl of Northampton. Far from making an attempt to disprove the entire theory, Northampton embraced it wholeheartedly. He accepted its notions of honour, courtesy, as well as insult. Of course, in the end he argued against duelling. But in striking contrast to Bacon, he did not do this by revealing the hollowness of its theory. Instead, he simply wanted to find an alternative solution to the problems of gentlemanly reputation. It was not for nothing that the royal proclamation against duelling specifically stated that its aim was to ‘relieve men that are sensitive of honor’ – men that were ‘offended by disgrace’.<sup>118</sup>

Gentlemen, Northampton wrote in the king’s name, were so hypersensitive about their good honour and reputation that it was almost impossible to avoid duels. An accusation of cowardice ‘leaves very deepe impressions in the mindes of forward Gentlemen, that are not so sensitive of smart, as feareful of dishonor’. Dwelling on the same ideas as Philibert, that gentlemen were mostly concerned with outward appearances, and employing the vocabulary of duelling treatises, Northampton pointed out that duels were almost a necessity: ‘Considering how strictly all men that converse in the world, are bound to give an account to the world for all their actions that are visible, and therefore without satisfaction upon the proffer of offence, so farre as the point of reputation doeth urge, it will be found almost impossible to stay the current of

<sup>114</sup> Ibid., pp. 19, 26, 28.

<sup>115</sup> Ibid., pp. 19, 26.

<sup>116</sup> Bacon, *The charge*, pp. 27–8; Montaigne, *The essayes*, bk II, ch. xviii, vol. I, p. 394.

<sup>117</sup> Bacon, *The letters*, VI, p. 109. For a succinct account of the Roman customs see Stewart, *Honor*, pp. 55–8, 67–8. <sup>118</sup> Larkin and Hughes, eds., *Stuart royal proclamations*, I, p. 304.

quarrelling.<sup>119</sup> Honour, according to Northampton, was both horizontal and reflexive.

The aged counsellor confessed that it was extremely difficult to find any ‘ground of Justice’ for ‘a friend to perswade, or a superiour command one that is wounded, either in his person, or his good name, to passe over the least imputation of discredit, as if it were but the biting of a flea’.<sup>120</sup> Whereas most critics of duelling never tired of disparaging the thin skin of gentlemen, Northampton disagreed, fully accepting a gentleman’s sensitivity about his honour. The difficulty of stopping duelling was compounded by the fact that ‘to end a quarrell between two men of worth and valour’ by any other means was well-nigh impossible. Any conceivable solution was most liable to end in ‘disgrace or wrong to either side’. The reason was not far to seek, ‘considering how pettie circumstances are sufficient to put these clockes both out of temper & true motion, that are wound up with the greatest warinesse’.<sup>121</sup>

It is thus hardly surprising to find Northampton accepting the entire theory of the duel. His great expertise in the duelling code cannot be questioned. Judging by his collectanea, he had studied it with great care. Penning the treatise of 1614 under the king’s name, he had an excellent opportunity to put his extensive learning to use. He began his exposition of duelling theory by arguing that the duel mainly arose from ‘discourtesie’. He observed that ‘the very naturall and kindly seeds of quarrels, commonly brought to the bloodie issue, are such injuries ... [that] touch the person or the reputation of one that stands confidently in the defence of his owne worth’.<sup>122</sup> He went on to distinguish between verbal and real wrongs. Whereas the former consisted of accusations of ‘dishonest fact’, or of giving ‘the Lye’, the latter comprised ‘Blowes, Stripes, or Hurts in all degrees’ as well as ‘all scornefull looks, actes, or figures, that implie contempt, all Libels published in any sort to the disgrace of any Gentleman; or any person, whom that Gentleman is bound in credite to defend, as himselfe’. All these acts, Northampton assured, ‘trench as deeply into reputation, as the Stabbe it selfe doeth into a man that esteems Honour’.<sup>123</sup>

Northampton first treated verbal insults, starting with the general ‘reprochfull termes’ which offered ‘deepe disgrace’ to a gentleman. Closely following duelling manuals and courtesy books, he emphasized that it did not make much difference whether these uncivil words were uttered directly to the gentleman in question or to someone else. In both cases the words insulted gentlemen, because they, as Northampton put it (echoing Annibale Romei), ‘may bee robbed of that reputation, which as a *Birth right* they brought with them into the world, and cannot forfait nor forgoe, without some acte done by themselves unworthily’. If all the terms which injured a gentleman could be

<sup>119</sup> [Howard], *A publication*, p. 14. Cf. [Henry Howard], ‘Of a lie’, in John Gutch, ed., *Collectanea curiosa; or, miscellaneous tracts* (2 vols., Oxford, 1781), 1, pp. 18–19, where he argued in accordance with other critics of duelling that ‘true generosity doth not consist onely in conquering, but in magnanimous suffering, when all power of resisting is taken away’.

<sup>120</sup> [Howard], *A publication*, p. 14.

<sup>121</sup> *Ibid.*, pp. 19–20.

<sup>122</sup> *Ibid.*, pp. 40–1.

<sup>123</sup> *Ibid.*, pp. 42–3.

listed, the whole problem would be easy to solve. But unfortunately these words were 'in number too many, and in nature too different, to be comprised in a List'. One thing was clear, however. Even the least hint of questioning a gentleman's worthiness touched upon his honour and demanded immediate compensation. Exceeding even Philibert's satirical account, Northampton argued that 'whensoever reputation is agreeved, though it be but in the weight of one graine, it ought to be repaired, and as much restored, as hath beene diminished'.<sup>124</sup> Moreover, and again agreeing with courtesy theory, Northampton emphasized that it did not make any difference whether the 'aspersion' which was 'casteth upon another mans reputation' was true or false. In both cases it questioned the gentleman's reputation, and it was this rather than the truth of the aspersion which was at stake. Once uttered, the vilification was beyond a gentleman's control.<sup>125</sup>

As we have seen, most critics of duelling theory not merely questioned the idea of giving the lie but heaped ridicule on it. Northampton was clearly aware of this criticism. First he acknowledged that he was 'not ignorant, that among the *Romanes* ... the Lye was thought to be no other, then an earnest negation of a bold affirmation'. This was most obvious, he noted, in the proceedings of their public assemblies. The senators used the very word 'without displeasure, as a word of course'. He also said that it was conceivable that giving the lie was harmless – 'snakes may be couched in mens bosomes without hazard, if their teeth bee first plucked out'. Having raised these objections, however, Northampton hastily brushed them aside. Whereas other critics of duelling argued that giving the lie was impolite, yet by and large negligible, Northampton disagreed. Given the current state of affairs, he argued, 'which mooves Gentlemen wel borne, rather to endure the racke, then the reproch', it was best 'to ranke this [giving the lie] with the highest *verball* wrongs'.<sup>126</sup> It followed that he who upbraided 'any man with that uncivill tearme' should be severely punished.<sup>127</sup> In all his predilection for gentlemanly honour, Northampton accepted that there were various degrees of the lie, arguing that 'the Lye it selfe admit qualification in sundry cases, and upon very pregnant circumstances, according to the grounds of the *Duellors* themselues'.<sup>128</sup> But whereas for Bacon and other censors of duelling these degrees of the lie amounted to nothing but a source of ridicule, Northampton went to the other extreme. He was convinced that the prevalent duelling theory, with its various degrees of the lie, could be detrimental to gentlemanly honour. According to him, too much weight should not be put on the different degrees of the lie, because this might lead one to belittle the injurious nature of even the smallest of them.

Northampton's views about real wrongs were very similar. He gave other critics of duelling short shrift, stressing the extreme discourtesy of all real wrongs. True, there were 'differences betweene greater and lesser occasions

<sup>124</sup> *Ibid.*, pp. 43–4.

<sup>125</sup> *Ibid.*, pp. 45–6.

<sup>126</sup> *Ibid.*, p. 49.

<sup>127</sup> *Ibid.*, p. 50.

<sup>128</sup> *Ibid.*, pp. 48–9.

and motives'. It was also the case that the civil law distinguished 'betweene Blowes that smart, or smart not'. But again Northampton emphasized that all these arguments used by other critics of duelling were completely misleading and inimical to true notions of honour, courtesy, and gentlemanly behaviour. Irrespective of whether they were 'offences by Blowes with the hand, Stripes with a rod, Bruises with a cudgell, stabbes with a Dagger, or hurts with a Rapier', all these insults, Northampton believed, 'exceede all humanitie'. Moreover, such 'scorne holdes a Gentleman well borne, and sutably [sic] behaved, worthy the chastisement of a dog'. It was only natural therefore that much harsher punishments should be meted out to men who commit such atrocities.<sup>129</sup>

By now it should be clear that in many respects Northampton was much closer to the advocates of the theory of civil courtesy in general, and to the duelling theorists in particular, than to its critics. He wrote

Moreover, though it be true, that the trip of a foote, the thrust of an elbow, the making with the mouth or hand an uncivill signe, doe neither bruise the bone, nor mayme the parts; yet, since the malice, the disgrace, and scorne in these things doe so farre exceede, the fact it selfe (expressing the base reckoning, which they that offer these contempmts, make of the person vpon which they brave them,) is to be taxed, and corrected.<sup>130</sup>

This analysis was almost word for word taken from courtesy and duelling treatises. He began with the supposition that gentlemen behave extremely politely towards each other and that even the least breach of the code was 'an uncivill signe' that touched upon the gentleman's honour. The gentleman was not treated as he could expect to be treated; his 'reckoning' or status as a gentleman was questioned.

Linda Peck has argued that in his contribution to the anti-duelling campaign Northampton's 'end was to rationalise behaviour in the interest of the state'.<sup>131</sup> Perhaps. But Northampton's plans could only appear rational if one accepted his notions of courtesy, honour, and insults. From the point of view of someone like Bacon these notions were closer to 'madnes' than rationality. Moreover, such a statement is unhelpful in gaining an understanding of what was at stake in Northampton's contribution to the duelling debate. Peck has also argued that 'Northampton shared King James's antipathy to duelling and the code of honour which, imported from Italy and France, had become characteristic of Elizabethan and Jacobean England.'<sup>132</sup> While there is little doubt about Northampton's antipathy to duelling, there is no question that rather than feeling antipathy to the code of honour, Northampton was amongst its most ardent supporters in Jacobean England.

<sup>129</sup> Ibid., pp. 51–2.

<sup>130</sup> Ibid., p. 57.

<sup>131</sup> Peck, *Northampton*, p. 163.

<sup>132</sup> Ibid., p. 160.

## VI

Bacon argued that punishments imposed on everyone involved in duelling were not efficient; the best remedy for duelling was to get rid of the concomitant theory of honour and courtesy. In striking contrast, Northampton supported the entire theory, but still wanted to get rid of duelling. So what was his solution? The answer is simple: a court of honour. Northampton thought that the high court of chivalry, or the court of the constable and the marshal, could easily act as a court of honour. Beyond the home counties the same task was to be assigned to 'the charitable and honourable care of the Lords Lieutenants and their Deputies'.<sup>133</sup> During most of James's reign there was a commission who executed the office of earl marshal, and the earl of Northampton was one of these commissioners.

Northampton was not alone in proposing such a solution. Thomas Milles declared that 'the Noble-men for desciding of sutes, concerning their Honors' should turn to 'their Tribunall or proper Martiall Court, which they are wont to call, the Court of Chivalry'.<sup>134</sup> The king himself seems to have accepted Northampton's plan. He thought that 'a solide & sounde definition' of 'all the pointes of gentlemennis honoure' should be made. But he also said that 'a certaine number of persons waire maide choice of, being noble by birth, of honourable reputation' who, following the example of 'the mareshallis of France', should have 'powaire & authoritie to interprete & compounde all questions of honoure'.<sup>135</sup>

These rules found their way into the anti-duelling proclamations. 'And if any man,' the proclamation against reports of duel concluded, 'should finde himselfe grieved with any whisperings, or rumours spread abroad, misreporting the cariage of any such matter, he may resort to our Commissioners Marshall, who shall right him in his Reputation, if they finde he be wronged.'<sup>136</sup> The proclamation against duels followed suit. The king sternly prohibited anyone 'to seeke satisfaction by any other meanes then those, which are made good either by the Lawes of the Kingdome, or the Court of Honour'.<sup>137</sup>

Northampton was convinced, first of all, that this solution offered an apt and proper 'satisfaction for all kinds of offences'.<sup>138</sup> He was hardly less confident that 'the Lords in Commission for the office of *Earle Marshall*' were the best 'to iudge matters of this kinde that touch honor'. This was due to 'their Honour by birth, their endeavour out of an infinite desire to doe good, and their skill in the nature of the Subject'.<sup>139</sup>

<sup>133</sup> [Howard], *A publication*, pp. 21–3, 44–5.

<sup>134</sup> Thomas Milles, *The catalogue of honor* (London, 1610), p. 79.

<sup>135</sup> BL, Cotton MS Titus.C.1, fo. 238v.

<sup>136</sup> Larkin and Hughes, eds., *Stuart royal proclamations*, 1, p. 297. See also G. D. Squibb, *The High Court of Chivalry: a study of the civil law in England* (Oxford, 1959), pp. 37–8.

<sup>137</sup> Larkin and Hughes, eds., *Stuart royal proclamations*, 1, p. 304. See also pp. 306–7, and in general Squibb, *The High Court of Chivalry*, pp. 37–8.

<sup>138</sup> [Howard], *A publication*, pp. 16–18.

<sup>139</sup> *Ibid.*, pp. 15, 20–1.

To commend the earl marshal's court was of course to commend a civil law court. This befitted Northampton, who was trained in the civil law. He thought that the common law was inappropriate to handle questions of honour. Northampton wrote that 'the ordinary courts are not capable of quarrels among the noble, whose proper court is that of the earl marshal of England'.<sup>140</sup> 'The course of the common law', he added, 'is so tedious, and the determination in conclusion referred to the judgement of twelve poor men, that were never sensible, what belongeth scarce to honesty, much less to honour.' All this could easily be avoided in 'an orderly proceeding' in the court of the earl marshal, which 'would mightily reform in sentencing' every insult and in 'seeing these, and the like laws, duly executed'.<sup>141</sup>

What were Bacon's reactions to these plans? On the one hand, he maintained that the king should take 'upon him the honor of all that tooke them selves grieved or interested for not having performed the Combat'. Thus, every man would 'think himselfe acquitted in his reputation, when ... he shal see that the State takes his honor into their hands'.<sup>142</sup> On the other hand, there is little doubt that the main thrust of his argument was directed against Northampton's plans.

Bacon began by reminding his listeners that some have indeed objected that the English law 'hath not provided sufficient punishment, and reparations for contumely of words, as the Lie and the like'. But, Bacon retorted, this was complete nonsense. On the one hand, it was, as we have seen, nothing short of 'madnes' to think that a punishment was needed 'uppon the *lye given*'. On the other hand, if the insult was serious, the English law would of course discharge its duty. As Bacon put it, 'if there be extraordinary circumstances of despight and contumely, as in case of libells and bastanadoes, and the like, this Court taketh them in hand and punisheth them exemplary'.<sup>143</sup>

Second, Bacon remained curiously silent about the solution Northampton had suggested – the earl marshal's court. In fact, he seems to have believed that there was no need for this court at all. We have already seen that, whereas Northampton suggested that duels fought overseas could only be punished in the earl marshal's court, Bacon maintained that Star Chamber could well proceed in these cases, because the planning of the duel had taken place in England. More importantly, his argument that in a case of a serious injury the law would perform its duty implied that there was no need for the earl marshal's court. In his original proposal for a proclamation Bacon did not mention this court at all. In *The charge touching duells* he specifically mentioned that 'the proceedings of the great and noble Commissioners Marshall, I honor and reverence much, & of them I speake not in any sort'.<sup>144</sup> This self-imposed silence just served to emphasize the fact that Bacon clearly disagreed with those who wanted to use the earl marshal's court as a court of honour. In 1616 Bacon

<sup>140</sup> [Henry Howard?], 'Duello foiled', in Hearne, *A collection of curious treatises*, II, pp. 223–42, at p. 233.

<sup>141</sup> [Howard], 'Of a lie', in Gutch, *Collectanea*, p. 16.

<sup>142</sup> Bacon, *The charge*, pp. 15, 43–4.

<sup>143</sup> *Ibid.*, p. 28.

<sup>144</sup> *Ibid.*, p. 16.



again stated that ‘I spare to speak of anything whatsoever appertains to repair the honour or reputation of private persons’, and suggested that the king had told him not to touch upon this issue. But, he said, he reserved ‘the repairing of reputation’ to ‘my Lords, the great personages in commission touching martial affairs’.<sup>145</sup>

How much Bacon’s silence hinged on the fact that he was a common lawyer is difficult to say.<sup>146</sup> But his disparaging remarks that ‘there were two lawes, one a kind of *Gownelaw*, and the other a law of *reputation*, as they tearme it’, and that ‘the year books and statute books must give place to some French and Italian pamphlets, which handle the doctrine of *Duells*’,<sup>147</sup> could have been directed as much against Northampton’s plans for the court of honour and the laws it was supposed to execute as against duelling itself.

Most importantly, Bacon was suggesting that providing an alternative for duelling served only the contrary purpose. To establish a court of honour was tantamount to encouraging duelling. This was so because to establish such a court implied endorsing the theory of courtesy and honour which underlay duelling. The only remedy, Bacon argued, was that ‘this evill bee noe more cockered [i.e. pampered], not the humor of it fed’. What was Bacon’s point? How, in other words, could duelling be favoured? Bacon did not give a straight answer, but immediately after this passage he mentioned that he would remain silent about the earl marshal’s court. The connection seems obvious. To establish a court of honour would amount to taking duelling theory seriously. And to do this would be equivalent to encouraging rather than suppressing duelling. Northampton himself almost admitted the same when he wrote that it was well-nigh impossible to eradicate duelling precisely because even the smallest insults were so grave.

It followed, according to Bacon, that the only way in which duelling could be abolished was to discredit the underlying theory of courtesy and honour. ‘But’, Bacon went on in a passage which we have already quoted, ‘I say the compounding of quarrells, which is other-wise in use, by private noble men and gentlemen, it is so punctuall, and hath such reference and respect unto the receyved conceipts, whats before hand, and whats behinde hand, and I cannot tel what, as without all question it doth, in a fashion, countenance and authorise this practise of *Duells*, as if it had in it some-what of right.’<sup>148</sup> In other words, the theory of civil courtesy, with its refined way of ‘compounding of quarrells’ was simply authorizing duels. Later he reiterated this same connection between the theory of courtesy and duelling: ‘Nay I heare there be

<sup>145</sup> Bacon, *The letters*, vi, pp. 110, 113.

<sup>146</sup> In his schemes for a law reform Bacon was of course inclined to allow a stronger civil law influence on the English legal system, but he never thought to replace the common law by the civil law. For a brief discussion, see Peltonen, ‘Introduction’, pp. 22–3, and the works cited there. In the proclamation against reports or writings of duels, the king proclaimed that anyone publishing ‘any Discourse’ on duelling should be judged in Star Chamber: Larkin and Hughes, eds., *Stuart royal proclamations*, 1, p. 296.

<sup>147</sup> Bacon, *The charge*, p. 10.

<sup>148</sup> *Ibid.*, p. 16.

some Counsell learned of Duells, that tell yong men when they are before hand, and when they are otherwise, and thereby incense and incite them to the Duell, and make an art of it.<sup>149</sup> The conclusion was as clear as it was inevitable: unless the theory was totally degraded, there was no way in which duelling could be stopped. And because to set up a court of honour would entail courtesy theory, it would also corroborate and even strengthen rather than undermine duelling.

Bacon's boldness in expressing his sharp disagreement with Northampton (and thereby with the king) is magnified when one realizes that he was speaking in front of an audience which of course included the earl of Northampton himself. Little wonder, then, that Bacon 'humbly' prayed that 'I may speake my mind freely, and yet be understood aright', for he was not only questioning duelling. He was also arguing that the theory of courtesy and honour endorsed by Northampton and by the king as well was dangerous, for it encouraged duelling. And even more, he was further suggesting that Northampton and James's whole plan for a remedy was utterly wrong and useless.

The complete polarization of views between Bacon and Northampton is graphically attested by two factors. First, they held totally different notions of the difficulty of solving the problem of duelling. Both of them argued that finding a lasting solution was an exceedingly difficult task. But their reasons for this difficulty were completely different. For Northampton the difficulty of ending 'a quarrell between two men of worth and valour, without disgrace or wrong to either side' lay in the fact that merely 'pettie circumstances' were 'sufficient to put these clockes both out of temper'.<sup>150</sup> The solving of the problems of reputation was, in other words, extremely difficult. But Bacon would have none of this. For him the difficulty lay elsewhere. It was to be found in the eradication of the whole theory. According to Bacon, the real obstacle was the fact that those who endorsed the theory of duelling despised death, 'which is the utmost of punishments'. It was thus difficult to find a punishment the fear of which would deter gentlemen from duelling.<sup>151</sup>

Secondly, as we have seen, Bacon thought that it was mad and fantastical to impose a punishment on lies, despising anyone proposing the contrary. Northampton, on the other hand, was not only imposing severe punishments on lies. He even took the duellists' claims utterly seriously, confessing 'that great care and consideration is to be had, and many circumstances are to be enquired of, and looked into with a most sharp eye, and profound judgement: because matters of honour, and esteem of reputation, are of that value, as good men prize them higher than either life or living'.<sup>152</sup>

<sup>149</sup> Ibid., pp. 32–3.

<sup>151</sup> Bacon, *The charge*, p. 18.

<sup>150</sup> [Howard], *A publication*, pp. 19–20.

<sup>152</sup> [Howard], 'Of a lie', in Gutch, *Collectanea*, p. 15.

## VII

We are now in a position to offer an answer to the question with which I began this article. Although Thomas Middleton penned *The peace-maker* (1618) it is reasonable to assume that James approved of its views, bearing as it did the royal arms and the king's initials and addressing 'Our trueloving, and peace-embracing subjects.' But compared with the 1614 proclamation and *A publication of his ma<sup>ties</sup> edict* it meant a sharp volte-face in royal opinion. The tract first and foremost advocated international peace, but it seized the opportunity to denounce duelling as well. The tract started its account of duelling by emphasizing how combats grew out of the smallest things.

The Aggravation of small things, when a sparke shall grow to a flaming Beacon, a Word to a Wound, the Lye to a Life; when every man wil be the Master of his owne Revenge, presuming to give Law to themselves, and in rage, to right their owne wrongs: At which time, the Sword is extorted out of the hand of Magistracie, contrarie to the sacred Ordinance of the Almightye.<sup>153</sup>

Although there was not much of a difference between this statement and those of Northampton's, the passage already contains something which the earl would have found difficult to accept. For the idea that duelling arose from 'small things' implied that the notions of valour, insult, and honour of the duelling theory were chimerical. Little wonder then that a notion of honour which took these small things seriously was now held to be completely fallacious. This 'opinion of Reputation', the tract asserted, was nothing but 'a Satanicall Illusion, and Apparition of Honour, against Religion, Law, Morall Vertue, and against all the honourable Presidents and Examples of the best Times, and valiantest Nations'.<sup>154</sup> Whereas in 1614 the royal view had been that, of course, gentlemen ought to be hypersensitive of their honour and reputation, four years later the same view was held up to extreme ridicule. And the reference to the 'valiantest Nations' clearly referred to the Romans and the Greeks, whose example had been irrelevant four years earlier.

Underlying the misleading notion of honour was an equally skewed view of valour. Indeed, gentlemen were said to have lost 'the true knowledge and understanding of Fortitude and Valour'. Paraphrasing Bacon's charge in Star Chamber, the tract argued that 'true Fortitude distinguished of the grounds of Quarrels' whether they be just and worthy. It also 'sets a better value upon mens lives then to bestow them idly; which are not so to bee trifled away, but offered up and sacrificed to Honourable Services, publike Merits, good Causes, and Noble Adventures'.<sup>155</sup>

In 1614 the royal treatise had argued that reputation was by far the most important thing for gentlemen. Four years later a similar royal tract maintained that it was nothing short of 'Folly' that the 'Gentry' fixed 'their ayme and only

<sup>153</sup> [Middleton], *The peace-maker*, sig. C3v.

<sup>154</sup> *Ibid.*, sig. D2v.

<sup>155</sup> *Ibid.*, sig. D3r.

end upon Reputation'.<sup>156</sup> Whereas reputation was only 'another man Opinion, and Opinion is no substance for thee to consist of', true honour was 'the Rumour of a beautifull and vertuous Action'.<sup>157</sup> The royal opinion about honour had changed from a horizontal to a vertical one. In 1614 'the point of reputation' had guided gentlemen's lives. Now, four years later, the tract found that 'this punctualitie of Reputation is no better then a Bewitching Sorcerie'.<sup>158</sup> Again it paraphrased Bacon:

But now the compounding of Quarrels is growne to a Trade: And as a most worthie Father of Law and Equitie speakes, there bee some Councell learned of Duells, that teach young Gentlemen, when they are before-hand, and when behind-hand, and thereby incense and incite them to the Duell, and make an Arte of it: the spurre & incitement false & erronious imagination of Honor & Credit when most commonly those golden hopes end in a Halter.<sup>159</sup>

When Northampton was in charge of the royal pen even the slightest verbal discourtesies of 'the weight of one graine' were not merely extremely serious, they even demanded immediate reparation. Four years later, with the earl of Northampton in the grave and the whole Howard faction destroyed, the 'words of Contumelie', according to the royal opinion, were 'held so small, and so sleight an injurie, as no wise man complaines, or revengeth himselfe'. Even more, 'neither doe the Lawes themselves prefixe any penaltie therunto, not imagining that they would ever be burthensome'.<sup>160</sup>

Most importantly, the royal strategy to eradicate duelling seemed to have changed from the one upheld by Northampton to that favoured by Bacon. As we have seen, a main aim of the royal proclamation and the appended treatise in 1614 had been to replace duelling by a court of honour. Four years later *The peace-maker* said not a word about a court of honour. Instead, the only conceivable solution to duelling was a complete dismissal of the underlying theory of honour and valour. A gentleman, in short, was now advised simply to ignore or forbear injuries and insults. The tract, as we have already seen, insisted that 'the wise and understanding man is not subject or exposed to any of these Injuries whatsoever'; the 'darts of Malice or Contumelie' could not pierce him. It further insisted that 'the heart of a wise man is solid, & hath gathered ... invincible force', standing 'secure from Injurie'. A wise man should be 'so highly raised above all the attaints of wordly wrongs, that all their violences shalbe frustrate, before a wise man be offended'.<sup>161</sup>

Thomas Middleton penned the tract, but whereas the guiding spirit of the royal views in 1614 had been the earl of Northampton – ('[a] Councell learned of Duells'?), four years later the guiding spirit of the royal opinion was Northampton's rival Francis Bacon – 'a most worthie Father of Law and Equitie'.

<sup>156</sup> Ibid., sig. D1v.

<sup>159</sup> Ibid., sig. D1v.

<sup>157</sup> Ibid., sigs. D3r, D4r.

<sup>160</sup> Ibid., sig. C4r–v.

<sup>158</sup> Ibid., sig. D2r.

<sup>161</sup> Ibid., sigs. C3v–4v.