

“Thou Shalt Not Duel: The Impotency of Dueling Laws in the United States”

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During the latter part of the eighteenth century and the early decades of the proceeding century, the United States witnessed the emergence of honor culture’s ritualistic practice of dueling on an alarming scale. The sheer quantity of duels between 1800 and 1810 alone, nearly eclipsed the total number of recorded duels in American history prior to 1800.¹ As a result, a number of Americans attempted to eradicate the practice through various means. Legislators began passing dueling laws with ever increasing punishments. Clergymen took to their pulpits to denounce the sin of dueling as an act of suicide. While others formed organizations and societies designed to oppose the practice of dueling. Yet, despite all the attention given to preventing dueling, the practice continued into the latter decades of the nineteenth century.² This essay will demonstrate the rise and fluctuation of dueling, the legal and civil approaches taken to stop the practice and how honor culture in the form of dueling was above the law.³

The need for dueling laws during the colonial period was nonexistent. As dueling historian William Oliver Stevens wrote, “In contrast with later years there was little dueling in the America of the Colonial Period.”⁴ To be certain, there were duels conducted throughout the

¹ Between 1619 and 1799, a total of 140 duels were recorded within the United States (and the British colonies that formed the United States). Between 1800 and 1809, 113 duels were recorded within the United States.

² In 1898, two duels were recorded in the United States. In February, Herman Necker and Albery Rahm fought in Kossuth County, Iowa. Sometime around April, W.C. Brann and Captain M.T. Davis dueled near Waco, Texas. *Bismarck Daily Tribune*, 9 February 1898; *Stevens Point Journal*, 9 April 1898.

³ In demonstrating these points, this study will utilize statistical data compiled by the author over the past five years. Piecing together recorded evidence of duels from newspapers, journals, letters, government/military records, and genealogical studies, the author has created a database that contains over 1,000 American duels between the years 1619 and 1898. Although not exhaustive, this database provides a solid sample of evidence to draw new conclusions about honor culture in the pre-Civil War United States.

⁴ William Oliver Stevens, *Pistols at Ten Paces: The Story of the Code of Honor in America* (Boston: Houghton Mifflin Company, 1940), 9.

American colonies from their earliest beginnings to the American Revolution. But, between 1619, when the first recorded duel occurred, and 1774, the American colonies witnessed 39 recorded duels.⁵ As Table 1 shows, the number of duels - particularly in the years from 1619 to 1763 - reflect that dueling had not yet become a major part of American honor culture. Only in war years did dueling appear in more regularity. For instance, between 1739 and 1741, the Georgia colony recorded four duels.⁶ All four duels involved British military officers defending the southern colonies from possible Spanish attack during the War of Jenkins' Ear. Ultimately, American colonists began to use the duel with more regularity in the decade leading up to the American Revolution (1765-1774). This increased usage of dueling would become more prevalent during the American Revolution.

Table 1: Number of Duels, 1619-1774

Year		Year	
1619	1	1753	1
1621	1	1757	1
1624	1	1761	3
1715	1	1763	1
1718	1	1765	3

⁵ In 1619 Captain William Eppes killed Captain Edward Stallinge (Stalling) in Virginia. Of course, the limited amount of sources, especially newspaper coverage, must be taken into account for such a low number of duels between 1619 and 1773. Archibald Williams Patterson, *Code Duello: With Special Reference to the State of Virginia* (Richmond: Richmond Press, 1927), 23-24.

⁶ In 1739, Ensign Patrick Sutherland severely wounded Ensign Leman (had leg amputated) outside the military camp at Frederica. The next year, Ensign Tolson killed Dr. Eyles and Cadet Shenton killed Cadet Peter Grant, both near Frederica. Lastly, in 1741, Captain Albert Desbrisay killed Captain Richard Norbury near Frederica. William Stephens, *A Journal of the Proceedings in Georgia*, 483-484, 593; Thomas Gamble, *Savannah Duels and Duellists*, 1-3; *Boston Evening Post*, 22 June 1741.

1728	1	1768	2
1730	1	1769	4
1739	1	1770	4
1740	2	1771	3
1741	1	1773	3
1742	1	1774	1
1752	1		

During the Revolution, dueling increased considerably as military officers in the Continental Army incorporated honor culture into their relationships with one another.⁷ Between 1775 and 1783, 51 duels occurred in the American states – 12 more duels than had occurred over the previous 150 years. This dueling trend continued after the war as well. Between 1784 and 1799, the United States witnessed 60 recorded duels. Thus, between the start of the American Revolution in 1775 and the close of the eighteenth century, the territory that would become the United States of America recorded 111 duels. This growing trend in dueling would continue into the early part of the nineteenth century before dueling laws managed to curtail further growth.

Following the American Revolution, dueling took a firm grasp on American society. As dueling historian Robert Baldick noted, “It was only at the beginning of the nineteenth century, however, that duelling assumed serious proportions in America, becoming a positive scourge in certain states of the Union.”⁸ Baldick was correct in his assertion (although he never provided statistical evidence to support his claim). In the tumultuous first decade of the nineteenth

⁷ According to William Oliver Stevens, the emergence of dueling within the Continental Army was a direct result of the French Army’s influence. However, since the French army did not arrive in New England until 1781 and dueling was already present since 1775, this argument is incorrect. Stevens, *Pistols at Ten Paces*, 9-29.

⁸ Robert Baldick, *The Duel: A History of Duelling* (London: The Hamlyn Publishing Group Limited, 1970), 116.

century, 110 duels were recorded across the United States.⁹ Many of these duels reflected the volatile nature of the political scene as Jeffersonians and Federalists battled for control of the new republic. Over the first four years of the nineteenth century, the United States witnessed a high level of recorded duels per year (Table 2), of which 28% were a result of political fighting.¹⁰

TABLE 2: Number of Recorded Duels within the United States¹¹

Year	
1800	9
1801	9
1802	13
1803	12

As Table 2 demonstrates, the number of duels per year was alarming. Yet, there was cause for greater concern because out of the 43 recorded duels between 1800 and 1803, 42% proved fatal (Table 3).¹²

TABLE 3: Number of Fatal Duels Recorded within the United States

Year	
1800	4
1801	3
1802	4

⁹ If foreign duels involving Americans were added, the number would rise to 118. Only the 1850s saw more duels (147) than the years between 1800 and 1809. In the proceeding charts, the numbers per year will not add up exactly to the 110 number provided above because there are several six duels where the exact year cannot be determined, but enough evidence exists to place the duels between 1800 and 1809.

¹⁰ Between 1800 and 1803, 12 out of the 43 recorded duels were fought over political differences, three were fought over love, three dealt with cards and gambling, five involved military honor, 6 are classified as personal reasons, which may have been political but is not entirely clear, and fourteen duels were fought without specified reasons.

¹¹ If foreign duels involving Americans were added, the numbers would rise a bit more: 9 (1800), 11 (1801), 15 (1802), 14 (1803).

¹² 18 out of 43 (42 %) duels between 1800 and 1803 proved fatal.

The rise in duels, especially fatal ones, demonstrated to legislators that laws pertaining strictly to dueling were necessary where laws did not exist and, where laws did exist, the pre-existing laws were not adequate and revisions were needed.¹³

Prior to the nineteenth century only a few states had laws specifically pertaining to dueling. Massachusetts and Virginia each had a dueling law prior to the American Revolution that continued in effect until nineteenth-century revisions.¹⁴ Both laws provided the death penalty for the survivor of a fatal duel and corporal punishment for participants in a non-fatal duel. The laws were aimed directly at the principals and, as a result, seconds, surgeons and others avoided punishment. The remaining states prosecuted duelists under the murder statutes. Thus, a non-fatal duel was not prosecuted. Yet, the increase in the number of duels at the beginning of the nineteenth century, especially fatal duels involving the death of high profile individuals, led to the creation of new dueling laws in the majority of these states.

For example, on 5 September 1802, John Stanly shot and killed Richard Spaight near New Bern, North Carolina. Spaight, who had recently won election to the state senate over Stanly, was a member of that most elite group of men known as the Founding Fathers.¹⁵ Following the death of Spaight, Stanly was indicted and convicted of murder under North Carolina's murder law. Under the law, Stanly was sentenced to death by hanging. Yet, almost

¹³ Baldick claimed that "few states instituted measures to restrain [dueling];" however, by the end of the first decade of the nineteenth century, nearly every state had a dueling law. Baldick, *The Duel*, 116-117.

¹⁴ Massachusetts passed a colonial dueling law in 1719 and revised it in 1729 following the death of Benjamin Woodbridge the previous year. In 1776, Virginia passed a law against dueling. Lorenzo Sabine, *Notes on Duels and Duelling, Alphabetically Arranged, with a Preliminary Historical Essay* (Boston: Crosby, Nichols, and Company, 1855), 314; Baldick, *The Duel*, 116.

¹⁵ Spaight had been a member of the Constitutional Convention in 1787 and was also a former governor of North Carolina and U.S. Congressman from the same state.

as soon as the verdict was handed down, Stanly found himself a free man as a result of Governor Benjamin Williams' pardon.¹⁶

North Carolina became incensed over the death of Spaight. Feeling the pressure to respond to the recent tragedy, state legislators passed a dueling code by the end of that year.¹⁷ Under the dueling law, not only would the surviving principal face the death penalty, so would the seconds involved and anyone else who had aided, abetted, or even counseled the duelists at any point during the affair. In attempting to punish all the participants of a fatal duel, the North Carolina dueling law was designed to scare away those men who aided the duel. Without the seconds, surgeons, and others who acted as counsel, potential duelists could not properly conduct their affair. Who would deliver the challenge? Who would bandage any wound received? If potential duelists went to the field without these men, they would be acting in a passionate way – a way that society deemed dishonorable.¹⁸ The law, however, did not work in the short term. Throughout the remainder of the first decade, North Carolina witnessed another four duels, one of which proved fatal, as opposed to three duels over the previous century.¹⁹

North Carolina's need for a dueling law in 1802 reflected a trend across the United States. By the end of 1803, at least seven states or territories had laws specifically pertaining to

¹⁶ John H. Wheeler, *Historical Sketches of North Carolina from 1584 to 1851* (Baltimore: Regional Publishing Company, 1964), 112; Guion Griffis Johnson, *Ante-Bellum North Carolina: A Social History* (Chapel Hill: The University of North Carolina Press, 1937), 43; Stephen B. Weeks, "The Code in North Carolina," *Magazine of American History*, Vol. XXVI, No. 5 (November 1891), 449.

¹⁷ In November, the North Carolina Legislature passed "An Act to Prevent the Vile Practice of Dueling Within this State." See Manly Wade Wellman, "The Vile Practice of Dueling: John Stanly and Richard Dobbs Spaight, New Bern, 1802," *The New East: The Family Magazine of North Carolina*, Vol. 4, No. 5 (October 1976), 9-11, 45-56.

¹⁸ The role passion played in southern honor, especially in dueling, is thoroughly detailed in Dickson D. Bruce, Jr., *Violence and Culture in the Antebellum South* (Austin: University of Texas Press, 1979).

¹⁹ The last duel fought in North Carolina prior to the Spaight-Stanly duel in 1802, occurred in 1787 between John Bradley and Samuel Swann, in which Swann was killed. In 1803, Judge Duncan Cameron fought William Duffy near Hillsboro, North Carolina. In 1806, Jarvis Clifton and Prentice Law fought along the state border with Virginia. In 1808, John Woodside fought an unknown opponent. The only other fatal duel in North Carolina during the first decade of the nineteenth century occurred in 1807 when Arthur Smith and Thomas Hutson killed one another. Stephen B. Weeks, "The Code in North Carolina," 446-450; Pat Hendrix, *Murder and Mayhem in the Holy City* (Charleston: History Press, 2006), 49.

dueling.²⁰ Most other states were reluctant to develop laws on dueling independent from the customary murder laws. For many of these states, things would change in 1804.

The year 1804 proved to be a counter to the previous four years. The number of total duels and fatal duels both declined from the previous year. Yet, these numbers were misleading. Although the total number of recorded duels in 1804 (6) declined from the total number recorded in 1803 (12), five out of the six recorded duels proved fatal. Furthermore, among the fatalities was one of the country's leading politicians and founding fathers – Alexander Hamilton.

The animosity that led to the duel between Alexander Hamilton, leader of the Federalist Party, and Vice-President Aaron Burr has been recounted numerous times and need not be repeated here.²¹ What is important for this study was the aftermath when news spread that Hamilton was dead.²² Following the fatal encounter in July 1804, the grand juries of both New York and New Jersey indicted Burr.²³ Following an investigation into Hamilton's death by the Grand Jury of New York's coroner, Burr was indicted for issuing a challenge while residing in the state. In his report, the coroner sought an indictment for murder; however, the Grand Jury declined his request. Why the Grand Jury chose to limit the indictment to the mere issuance of a challenge is not known. Biographer Milton Lomask argued that since the duel occurred in New Jersey, the Grand Jury could not indict Burr for murder.²⁴ Lomask, however, was incorrect.

²⁰ Massachusetts, New York, New Jersey, North Carolina, Tennessee, Virginia, and Mississippi Territory.

²¹ See Joanne B. Freeman, *Affairs of Honor: National Politics in the New Republic* (New Haven: Yale University Press, 2001); W.J. Rorabaugh, "The Political Duel in the Early Republic," *Journal of the Early Republic*, Volume 15, No. 1, (Spring 1995), 1-24; Hamilton Cochran, *Noted American Duels and Hostile Encounters*, (Philadelphia: Chilton Books, 1963); James F. Risher, Jr., *Interview with Honor: The Burr-Hamilton Duel* (Philadelphia: Dorrance & Company, 1975).

²² Burr and Hamilton met on 11 July 1804 at Weehawken, New Jersey. On the first exchange of fire, Hamilton was hit in the abdomen. He was transported to his home in New York, where he died the following day.

²³ New York indicted Burr under its first dueling law enacted in January 1803. New Jersey indicted Burr for murder under its murder law. *Laws of the State of New York Passed at the Twenty-Sixth Session of the Legislature begun and held at the City of Albany, the Twenty-Fifth Day of January, 1803* (Albany: John Barber, 1803).

²⁴ Milton Lomask, *Aaron Burr: The Years from Princeton to Vice President, 1756-1805* (New York: Farrar, Straus, and Giroux, 1979), 357-358.

Under Section 3 of New York's dueling law the Grand Jury could indict Burr for murder.

Section 3 read:

Every offence against this act committed without the limits of this state, by a citizen thereof, shall and may be cognizable in the said courts, in either of the counties of this state, as if the said offence had been committed within such county.²⁵

Yet, New York's Grand Jury refused to do so. There was only one credible reason why the Grand Jury would refuse to indict Burr for murder and that was that the Grand Jury believed the best chance for a successful prosecution was to lower the potential penalty Burr would face. Considering what happened in North Carolina two years prior to the Burr-Hamilton duel, whereby John Stanly was pardoned for killing Richard Spaight, perhaps the Grand Jury did not want something similar happening in New York. Furthermore, it should not be forgotten that by indicting Burr, even with the lesser penalty, the Grand Jury was prosecuting a duelist.

In 1801, by contrast, a similar affair had occurred at Weehawken involving Alexander Hamilton's son, Phillip. That year, Phillip Hamilton fought George Eacker and sustained a fatal wound.²⁶ Eacker, however, never faced an indictment under New York's murder law.²⁷ Thus, under almost identical circumstances, the coroner acted differently by not calling for a Grand Jury investigation. In 1801, New York chose not to prosecute Eacker, while in 1804, it decided an indictment against Burr was necessary. This difference might suggest that attitudes were cautiously turning against dueling with the passage of the state's dueling law.

²⁵ *Laws of the State of New York Passed at the Twenty-Sixth Session of the Legislature begun and held at the City of Albany, the Twenty-Fifth Day of January, 1803* (Albany: John Barber, 1803), 202.

²⁶ Phillip Hamilton was shot in the side and died the next day in New York. Roughly 30 months later, his father would suffer the same result from the same injury from the same pistols at the same location. *New York Evening Post*, 24 November 1801.

²⁷ New York's first dueling law was passed in 1803 and is arguably why Aaron Burr and Alexander Hamilton ventured into New Jersey.

In New Jersey, things were a bit different. Like New York, New Jersey chose to ignore the Hamilton-Eacker duel in 1801, yet issued an indictment against Burr in 1804. Unlike New York, however, New Jersey indicted Burr for murder.²⁸ Yet, less than a month later, the indictment was ruled invalid by the Grand Jury because Hamilton had died in New York and not in New Jersey.²⁹

Through their actions, the grand juries of New York and New Jersey demonstrated one of the fatal flaws in any legislation, but especially in anti-dueling legislation, which was that those with the power to enforce the law could also choose not to do so. This reluctance to enforce the laws led to an outcry from clergy. The tragedy of Hamilton's death sparked countless sermons on the evils of dueling and the sins of duelists.

Less than a month after Hamilton's death, Reverend Samuel Spring stood before the North Congregational Society of Newburyport, Massachusetts and delivered a sermon entitled *A Discourse in Consequence of the Late Duel*.³⁰ Spring chastised a society that put a man's principles above society's principles, claiming: "The murderer has no right to conclude that the gratification of his invidious, proud and malicious heart is of more importance than the public good."³¹ At the heart of Spring's sermon was the message that duelists were denying God's plan. According to the reverend, "When the murderer [i.e. duelist] raises his hand, or directs his shot, he says, that man I am about to destroy has lived long enough, and I will terminate his

²⁸ Burr was indicted on 23 October 1804. Lomask, *Aaron Burr*, 358.

²⁹ New York never repealed its indictment against Burr, nor did it prosecute him when he returned to live out the remainder of his life years later. Perhaps New York ignored its indictment because Burr had suffered enough from the fallout of Hamilton's death and Burr's failed attempt at creating a new empire in Mexico for which he stood before the U.S. Supreme Court accused of treason (he was acquitted). Lomask, *Aaron Burr*, 358.

³⁰ The sermon was given on 5 August 1804. Spring was Aaron Burr's classmate at Princeton and may have known Alexander Hamilton through his time serving as a chaplain for the Continental Army during the American Revolution, while Hamilton served as an aide to General George Washington.

³¹ Samuel Spring, *A Discourse, in Consequence of the Late Duel, Addressed to the North Congregational Society of Newburyport, August 5, 1804* (Newburyport: E.W. Allen, 1804), 8.

breath,” not God.³² Part of Spring’s goal was to utilize the revulsion against Hamilton’s death to end the practice of dueling. As Spring stated, “If it was ever expedient to disapprove duelling in the most public and effectual manner, it is at this time.”³³ With the death of a great figure like Hamilton, Spring believed the example it set was important. Spring hoped to control that example, rather than allow the duelists to use Hamilton’s death as a means to honor and glorify dueling.

Spring was not alone in his attacks on dueling. A month after Spring’s sermon, Reverend Timothy Dwight gave *A Sermon on Duelling* at Yale College, in New Haven, Connecticut.³⁴ In his remarks on the sin of dueling, Dwight highlighted one of the major problems that prevented dueling laws from being effective: public acceptance. Dwight proclaimed that murder was “vindicated, honored and rewarded, by common consent, and undisguised suffrage!”³⁵ The latter portion of Dwight’s sermon reflected the tendency of Americans to vote for duelists despite their illegal actions.³⁶ Both Spring and Dwight emphasized the fact that dueling was a violation of the Ten Commandments, but, furthermore, they put most of the responsibility on the public to stop the practice. Unfortunately, as John Lyde Wilson, Governor of South Carolina and author of *the American handbook on dueling*, would later note in the 1830s, “The preaching of our eloquent Clergy, may do some service, but is wholly inadequate to suppress [dueling].”³⁷ It was, therefore, up to legislators (and law enforcement) to stop the practice.

³² Spring, *A Discourse*, 10.

³³ Spring, *A Discourse*, 21.

³⁴ The sermon was given on 9 September 1804 and an additional sermon on the topic was given to the Old Presbyterian Church of New York on 21 January 1805. Timothy Dwight, *A Sermon on Duelling* (Baltimore: Fryer and Clark, 1805).

³⁵ Dwight, *A Sermon on Duelling*, 6.

³⁶ Dwight contradicts himself later on in the sermon when he proclaims that in the United States the “public voice is wholly against the practice.” Yet, these men are elected by the public, thereby proving that the public is not wholly against the practice. Dwight *A Sermon on Duelling*, 12.

³⁷ John Lyde Wilson, *The Code of Honor, or Rules for the Government of Principals and Seconds in Duelling* (Kessinger Publishing, 2006), 4.

The death of Hamilton, perhaps with help from these sermons, compelled legislators to write new dueling laws. In 1804, Massachusetts, Rhode Island, and Pennsylvania all revised existing or created new dueling laws punishing all the participants in a duel rather than just the principals, as the previous laws had done. These laws had limited impact. In 1805, Pennsylvania witnessed another duel and the following year all three states witnessed a duel.³⁸ In comparison with other existing state laws, the new laws of 1804 cast a wider net to deter not only the principals, but anyone who might assist the principals. Legislators in the South where laws already existed (Tennessee, North Carolina, Virginia, and Mississippi Territory) did not see the need to broaden the scope. This, however, was not a regional issue. New York refrained from revising its laws in the wake of Hamilton's death. It is clear, then, that with the exception of Massachusetts, those states that had pre-existing laws were not about to alter their dueling laws as a result of Hamilton's death. Instead, Hamilton's death awakened states without dueling laws to the need for a law specifically pertaining to dueling.

Why, then, would Massachusetts alter its law? Although no direct evidence exists as to why the law was changed, it seems likely that Massachusetts' dueling law, dating back to the colonial period, was not sufficient to prosecute duelists. Since the colonial law had been written, American duelists had, for the most part, changed the mode of fighting from swords to pistols. The colonial law dealt specifically with duels involving swords. If a duelist in Massachusetts

³⁸ In 1805, John Binns and Samuel Stewart fought a bloodless duel opposite Lewisburg, Pennsylvania despite the arrival of the local authorities. The next year, Massachusetts witnessed a fatal duel between Charles Austin and Thomas Selfridge whereby Austin was killed. Rhode Island saw two residents of Massachusetts, William Austin and James Henderson Elliot, cross into the state to duel. Austin received a wound in the thigh. Pennsylvania witnessed a fatal duel in 1806 between Tarleton Bates and Thomas Stewart. On the banks of the Monongahela River, Bates was mortally wounded and died an hour later. The two duels in Pennsylvania led legislators to revise the law again and a new dueling law was enacted on 31 March 1806. Williamsport *Daily Gazette and Bulletin*, 19 October 1871, 1 September 1877, 17 July 1889. Michael Edward Austin, *Austins of America* (Concord: M.E. Austin, 1997), 13; Charles W. Dahlinger, *Pittsburgh: A Sketch of Its Early Social Life* (New York: G.P. Putnam's Sons, 1916), 148-149.

used a pistol in his affair prior to 1804, he could not be prosecuted under the existing dueling law.³⁹ Thus, a revision to the law incorporating this weapons change was necessary by 1804.

The shock of Hamilton’s death (and the impact of the religious sermons) lasted roughly a year and a half. In that time, the number of recorded duels within the United States plateaued at six in both 1804 and 1805.⁴⁰ The number of fatal duels also declined from five in 1804 to three over the same time span. From these numbers it appeared that Hamilton’s death, the religious sermons, and the laws against dueling, had little impact on the practice. Furthermore, in 1806, dueling spiked again and remained relatively high for the remainder of the decade (Table 4). More ominous was the rise in fatalities (Table 5).

TABLE 4: Number of Recorded Duels within the United States

Year	
1806	12
1807	10
1808	16
1809	12 ⁴¹

TABLE 5: Number of Fatal Duels Recorded within the United States⁴²

Year	
1806	5
1807	5
1808	12

³⁹ Of course, if the duelist killed his opponent, there was still the possibility of his being prosecuted under the murder law.

⁴⁰ Two of the six duels occurred in the North, one in Pennsylvania and the other in New York. Thus, the laws and sermons did little to dissuade either northerners or southerners.

⁴¹ The total number of duels in 1809 is 13 if one includes a foreign duel involving Americans.

⁴² The 12 fatal duels in 1808 were the second highest number of fatalities recorded in a single year in the history of the United States behind the 13 fatalities in 1819; however, the percentage of fatalities was greater in 1808 with 75% (12 of 16) compared to 72% in 1819 (13 of 18).

Obviously, the continuation of dueling and the number of fatalities in the latter half of the first decade of the nineteenth century proved that dueling laws were not effective in deterring duelists. Thus, religious leaders took to the pulpit again to crusade against the practice.

In April 1806, Reverend Lyman Beecher spoke before the Presbytery of Long Island, New York. In his sermon, *Remedy for Duelling*, Beecher followed the same course as Spring and Dwight by condemning dueling as a sin and warning duelists and their supporters that participation in a duel would send them to hell.⁴³ Yet, Beecher's primary target was "public opinion." According to Beecher, the dueling laws already in existence had "severe penalties," but these penalties were ineffective because people did not demand their enforcement. Beecher argued that society could "rescue these laws from contempt, by securing their prompt execution."⁴⁴ Once again, the laws were not the problem, but rather the enforcement of those laws.

Still, the dueling laws were not as entirely ineffective as the various reverends suggested. In 1806, though the number of duels was on the rise again, Pennsylvania's dueling law blocked a potential duel. That year, Thomas McKean, a signer of the Declaration of Independence and Governor of Pennsylvania, and Michael Leib became embroiled in a conflict and, as a result, McKean issued a challenge. Leib, however, had doubts about the impending duel and decided to bring the matter before the courts. Presenting the written challenge to the courts, Leib secured an indictment against McKean for issuing a challenge. McKean then secured an indictment against

⁴³ Lyman Beecher, *Remedy for Duelling: A Sermon Delivered Before the Presbytery of Long Island, At the Opening of Their Session at Aquebogue, April 16, 1806*.

⁴⁴ Beecher, *Remedy for Duelling*, 1.

Leib for accepting the challenge.⁴⁵ Although the indictments were dropped, the law had brought the affair to a close.⁴⁶ It was a victory for the dueling law, albeit a small one.

Although dueling was entrenched by the end of the first decade, it took a sharp downward turn over the next decade. Between 1810 and 1819, the number of recorded duels sank to 87 (see Table 6).⁴⁷

TABLE 6: Number of Recorded Duels within the United States⁴⁸

Year	
1810	11
1811	4
1812	6
1813	10
1814	11
1815	9
1816	5
1817	9
1818	7
1819	14
1810s	1

The reason for this 23 duel decrease from the previous decade could have been that the political scene was cooling off. While over a third of the duels in the first three years of the nineteenth

⁴⁵ How McKean was able to convince the courts to indict Leib for accepting the challenge is not clear. Most likely Leib's possession of the challenge was evidence that he accepted it.

⁴⁶ *Aurora*, 25 July 1807.

⁴⁷ If foreign duels are included, the total number of duels between 1810 and 1819 is 96.

century were politically inspired, the destruction of the Federalist Party following the War of 1812 led to the “Era of Good Feelings.” Between 1810 and 1819 only 5 duels were clearly fought over politics. Furthermore, had the War of 1812 not sparked 22 duels involving military officers, the total number of duels between 1810 and 1819 could have been as low as 65, which would have represented just over half the number of recorded duels in the previous decade. Unfortunately for the various state and territorial legislatures, the enforcement of the dueling laws appeared to have contributed little to the 23 duel decrease. Only twice between 1810 and 1819 were men arrested for dueling. The first occurred in 1815 when William Glassell shot and killed a Mr. Ritchie in Virginia. Virginia authorities arrested, indicted, and tried Glassell for murder; however, the jury acquitted him.⁴⁹

The other example of a dueling law being enforced occurred two years later in South Carolina. In 1817 John Edwards and Dennis O’Driscoll crossed into Georgia to fight. Only Edwards returned alive. South Carolina indicted Edwards and in 1819 Edwards was acquitted.⁵⁰ South Carolina’s attempt to enforce the dueling law seems to have had more success in deterring other duels because no duel was recorded in the state until 1822.

Although Virginia and South Carolina attempted to enforce the dueling law and deter the practice, they were met with limited success. Across the country, dueling laws achieved variable success as the number duels fluctuated from as low as five duels in 1816 to fourteen duels in 1819 (Table 6).⁵¹ Furthermore, looking at the number of fatal duels between 1810 and 1819, a

⁴⁸ The last entry “1810s” refers to the duel between a man named Sykes and his unknown opponent. The duel occurred sometime between 1810 and 1819 in North Carolina. Weeks, “The Code in North Carolina,” 455.

⁴⁹ Robert Howison, “Duelling in Virginia,” *William and Mary Quarterly*, 2nd Ser., Volume 4, No. 4 (October, 1924), 229-230.

⁵⁰ *State v. John Edwards* in Jack Kenny Williams, “The Code of Honor in Ante-Bellum South Caroline,” *The South Carolina Historical Magazine*, Volume 54, No. 3 (July 1953), 123.

⁵¹ From looking at the number in Table 6, it may be argued that in the year following the end of the War of 1812 (i.e. 1816) Americans were less concerned with honor and more concerned with the post-war world; however, as the

similar pattern appears during the middle part of the second decade with a sharp rise in 1819 (Table 7).

TABLE 7: Number of Fatal Duels Recorded within the United States

Year	
1810	7
1811	4
1812	2
1813	6
1814	4
1815	8
1816	3
1817	5
1818	3
1819	12 ⁵²

The laws, therefore, appeared to have had little effect on the number of duels fought. Although the laws were overwhelmingly ineffective against the practice, there was one glaring exception to lackadaisical enforcement.

In 1821 Illinois enforced its dueling law to the extreme on account of a duel fought in 1819. Getting a jury to administer the death penalty to a duelist who killed his opponent was unknown in the history of the United States. Out of the 1,081 duels that occurred within the

war became more distant, the emphasis on personal honor returned and the number of duels by 1819 rose to nearly triple the number in 1816.

⁵² The total number of fatal duels in 1819 is 13 if foreign duels involving Americans were to be included.

United States between 1619 and 1898, of which 445 (41%) proved fatal, only one surviving duelist of a fatal encounter was executed for violation of a dueling law.⁵³

On 8 February 1819 that fatal duel occurred in Belleville, Illinois between Alonzo Stuart and Timothy Bennett. The duel resulted in Stuart's death and Bennett's execution for murder.

Why was this duel so unique that it brought the only recorded execution of a surviving duelist?

Alonzo Stuart and Timothy Bennett were neighbors in Illinois. During the months prior to their deadly duel, the two men had an ongoing argument over Bennett's horse. On several occasions, Bennett's horse had jumped the fence dividing the Stuart and Bennett properties. In the process, Bennett's horse damaged Stuart's crops. Stuart warned Bennett that if he could not control his horse, Stuart would shoot the animal. A few days after Stuart's warning, Bennett's horse jumped the fence again. Stuart, seeing the horse in his fields, grabbed his shotgun and shot the horse. Stuart's shot, a shell casing full of pepper, did little more than scare the horse and the horse fled from Stuart's field. When Bennett received word that Stuart had fired upon his horse, he was incensed and demanded that Stuart give him satisfaction for the insult.

Two locals of Belleville, Nathaniel Fike and Jacob Short, decided to make sport of the affair. According to one source:

Short and Fike, thinking to have some sport out of the affair, advised Bennett to seek satisfaction from Stuart by challenging him to mortal combat. . . .Bennett readily assented to this, and the challenge was sent. In the meantime Short and Fike saw Stuart and told him of their plan to have some sport out of Bennett, and they at once arranged for a sham duel. Short and Fike, who were to act as seconds, promised Stuart that the guns should be loaded with powder only. Although Stuart understood that it was to be a sham duel, and was only intended to enliven the monotony of life

⁵³ The 1,081 duels includes both domestic duels (fought on American soil) and foreign duels (duels involving at least one American fought on foreign soil).

in the small village, Bennett did not so understand it, and with him it was to be no mockery, as the sequel proved.⁵⁴

According to the plan, both men would fire harmlessly at one another and Stuart, Fike and Short would all have a good laugh at Bennett's expense. Unfortunately, things did not go as planned.⁵⁵

When the word was given, Bennett fired and Stuart collapsed to the ground. Upon closer inspection, the seconds found that Stuart had received a bullet from Bennett that proved to be fatal.⁵⁶ The only possible explanation for why Stuart lay dead on the ground was that Bennett had slipped a bullet into his gun just before firing. No evidence exists to explain how Bennett knew his gun was unloaded, but one of two things can be suspected: either Bennett had overheard the men discussing the lack of bullets or Bennett was informed of the sham duel by either Fike or Short.⁵⁷ It is unlikely, however, that Bennett would have been allowed to check his gun after one of the seconds handed it to him because that was a violation of the code of honor.⁵⁸ According to the code, the second hands the loaded pistol to his friend, "informing him that his pistol is loaded and ready for use." The principal was then supposed to hold the pistol down and away from his opponent until the word was given. Therefore, according to the code, there was no allotted time for the principal to check his weapon. And, in most cases, there is no need to. A principal chose his second because he trusted that man with his life and if the second

⁵⁴ James Affleck, "The Stuart-Bennett Duel: The First Duel Fought in Illinois, At Belleville, in St. Clair County, on February 8, 1819," *Transactions of the Illinois State Historical Society* (Springfield, Phillips Bros., 1901).

⁵⁵ Affleck, "The Stuart-Bennett Duel"; Baldick, *The Duel* (1965), 123-4; Lorenzo Sabine, *Notes on Duels and Duelling* (Boston: Crosby, Nichols, and Company, 1859), 289.

⁵⁶ According to James Affleck's account, a witness claimed to have seen the seconds quickly take hold of Stuart's gun and fire it into the air. The witness claimed that the sound of the second gun shot was identical to the first and suggests that both guns were loaded. Could Fike and Short been playing both Stuart and Bennett for fools, hoping that a double fatality would result? It cannot be ascertained from the evidence. Affleck, "The Stuart-Bennett Duel."

⁵⁷ One might argue that Bennett would have known the gun was not loaded by the weight of the gun, however, it would have been highly unlikely that Bennett would have carried a spare bullet to load the weapon.

⁵⁸ John Lyde Wilson, *The Code of Honor, or Rules for the Government of Principals and Seconds in Duelling* (Kessinger Publishing, 2006), 16.

informed him that the pistol was loaded, why would he have any doubt?⁵⁹ Thus, one of the unsolved mysteries of the Stuart-Bennett duel will forever be: how did Bennett know his gun was not loaded?

Immediately following the fatal duel, Illinois issued arrest warrants for Bennett, Fike and Short for murder. Bennett, fearing for his life, fled to Arkansas Territory, where he remained for two and half years. Bennett, most likely would have avoided the death penalty had he stayed in Arkansas Territory because Illinois had given up the search for him within a few short weeks after the duel. Yet Bennett could not stay away from his wife and children. Soon word got out that he was “in communication” with his wife and had arranged for her and the children to join him in Arkansas.⁶⁰ When Bennett re-entered Illinois to rendezvous with his family, the local authorities were waiting and arrested him. Soon after, in July 1821, Bennett was brought to trial to face murder charges.⁶¹ On 28 July 1821 the jury pronounced Bennett guilty of murder and the judge set Bennett’s execution date. On 3 September 1821 Bennett was publicly hanged just outside of Belleville, Illinois.

Why, then, of all the 445 fatal duels that occurred in the United States, was Bennett the only many ever executed? The answer rested on the notion of a “fair fight.” Although no testimonial evidence from the Bennett jury exists, it seems likely that the jury found Bennett’s actions to be reprehensible. According to the *code duello*, the duel was a ritual that ensured a

⁵⁹ According to the testimony of Rachel Tannehill, who was nine or ten years old at the time, Bennett was seen along with the other three men as they set out for the dueling grounds. At some point, within view of Ms. Tannehill, Bennett stopped and slipped something into his gun. Later, at the trials of Fike and Short, the jury construed a bullet for the “something” Ms. Tannehill had testified about. This is, however, highly unlikely. It was customary for the seconds to carry the weapons to the dueling ground, inspect them in front of each other and the principals, load them, and then hand them over to the principals. To allow the principal to carry his own gun, unsupervised, before the duel and, apparently, not check the gun before giving the word, seems highly improbable. Affleck, “The Stuart-Bennett Duel.”

⁶⁰ Affleck, “The Stuart-Bennett Duel.”

⁶¹ Fike and Short had previously been acquitted of murder, thanks in large part to Ms. Tannehill’s testimony. Affleck, “The Stuart-Bennett Duel.”

fair fight between two men of equal status. The weapons, typically pistols in the United States, were chosen to negate any advantage either man might have with physical strength and size. The seconds were chosen to officiate and all participating men agreed to fight by the same rules. This, however, did not happen in the Stuart-Bennett duel. When Bennett loaded his gun, he violated the rules of honor. Bennett's actions, therefore, were dishonorable and required the condemnation of the public.

Furthermore, Bennett's flight into Arkansas Territory served as proof that Bennett's actions during the duel were dishonorable. No man of honor ran from the law. In fact, the opposite was true. Most duelists openly talked of their affairs after the fact to demonstrate that they had behaved honorably and were not afraid of legal retribution. Only common criminals, who lacked honor, ran from the law. Thus, the jury's decision was a statement to the public that Bennett was not a gentleman and would suffer the common man's penalty for murder.

Soon after the decision, Mason Locke Weems took to the pulpit to attack dueling. Weems, famous for creating the George Washington cherry tree myth, warned his readers of God's wrath in his 1821 pamphlet entitled *God's Revenge Against Duelling*.⁶² Chastising dueling as "a practice so unutterably stupid and barbarous," Weems took up the same cudgel against dueling as his predecessors had. There was nothing new in Weems' attacks, nor in the attacks by other preachers during the 1820s; yet, over the course of the 1820s, dueling continued to decline.⁶³ Whether this was in direct correlation to the rise in sermons against dueling is not clear, but it is possible.

⁶² Mason Locke Weems, *God's Revenge Against Duelling: or, The Duellists's Looking Glass* (Philadelphia: J. Bioren, 1821).

⁶³ Walter Colton, *Remarks on Duelling* (New York: Jonathan Leavitt, 1828); Andrew Wylie, *A Sermon on the Sin of Duelling* (Pittsburgh: D. and M. Maclean, 1828).

In the third decade of the nineteenth century, dueling declined even further from 87 duels the previous decade to 73 duels between 1820 and 1829 (Table 8). The number of fatal duels also declined by a margin of eighteen from 54 fatalities between 1810 and 1819 to 36 fatalities between 1820 and 1829 (Table 9).

TABLE 8: Number of Recorded Duels within the United States⁶⁴

Year	
1820	8
1821	7
1822	6
1823	7
1824	6
1825	5
1826	9
1827	7
1828	8
1829	9
1820s	1

⁶⁴ Sometime between 1820 and 1829, William Snelling fought a duel with an officer in the US army in Minnesota. Theodore C. Blegen, *Minnesota: A History of the State* (Minneapolis: University of Minnesota Press, 1963), 103.

TABLE 9: Number of Fatal Duels Recorded within the United States

Year	
1820	6
1821	4
1822	3
1823	2
1824	4
1825	2
1826	4
1827	4
1828	5
1829	2

If the year 1819 is seen as an anomaly perhaps prompted by the economic panic and bitter political and sectional divisions of that year, then, the number of duels witnessed per year between 1810 and 1829 was very consistent. The number of duels never went above eleven in any of the years, which meant that there was less than one recorded duel per month during that span of time. Also, the number of fatalities remained relatively low.

Several things account for the decline in dueling from 1810 to 1829. First, the destruction of the Federalist Party led to a cooling of animosity during the political campaigns of the “Era of Good Feelings.” Second, religious leaders, as part of the larger Second Great Awakening, extolling against the practice had to have deterred some potential duelists with thoughts of sin and spending eternity in hell. Finally, the enforcement of the dueling laws in

places like Illinois, Virginia, and South Carolina deterred duelists; however, dueling laws in general were ineffective in stopping the practice.

By the end of the 1820s the limited effectiveness of the various dueling laws, however, had reached a plateau. The prosecution of duelists was almost non-existent and the execution of Bennett had long been forgotten. In the 1830s, dueling made a strong comeback, rising from 73 duels the previous decade to 97 duels between 1830 and 1839. As a result, legislators began to reassess the punishments prescribed by the various state and territorial dueling laws. In addition to the rise in the number of duels between 1830 and 1839, dueling laws fell under the influence of an emerging reform movement known as the penitentiary movement.

The rise of dueling beginning in the late eighteenth century and first decade of the nineteenth century brought honor culture to the forefront of American society. Politicians, military officers, and elite men across the country came to rely heavily on the ritualistic practice of dueling to stake their claim to honor. Clergymen, legislators, and general reformers vocalized their outrage over this reliance on dueling in newspapers, sermons and legislative acts. Yet, as the statistics demonstrate, the anti-dueling efforts made during the early part of the nineteenth century did little to stop the practice of dueling, therefore showing their impotency against American honor culture.