

THE GOSPORT DUEL

This account of a duel, which was a *cause-cellebr* in its time, has been compiled from reports written in the "Times" over a period of years beginning in May 1845. Rather like foxhunting in the 21st Century the practice of duelling was widely disliked by many but defended by others. Newspapers showed great interest in duelling. This event was reported in the "Times" on at least 15 occasions. An article from the "Spectator" voices the moral dilemma, which the jury faced. To preserve the flavour of what was said, much of the evidence is reproduced as it was given but some alterations have been made for clarity.

We first discovered this interesting branch of the Hawkey family in 1990. Maura Hawkey, ne Ferriter was in Dingle, Co. Kerry staying in her grandfather's house in Main Street. Close by was the Protestant church from where her Aunt Joan was buried. Maura went into this church for a quiet moment and to remember her aunt. The Ferriter family were Catholic but the funeral took place in this church when the Catholic church was being renovated, so Maura had never been in the church before. Her gaze was drawn to an inscription on the wall. The inscription read "In remembrance of Charles Dayrolles Hawkey". Later enquiries from the Vicar revealed, that Charles's niece paid for the inscription. Charles, it seems was an officer in the Royal Navy. His ship came to Ireland and dropped anchor in Dingle Bay. Lord Ventry of Burnham, Dingle, entertained the officers. Charles met and soon married Christabella De Moulines, Lord Ventry's daughter. Their marriage took place on 9th June 1844.

We were of course, interested in this earlier instance of a member of the Hawkey family being married to a Dingle woman.

Actually, the De Moulines family could nor be said to be a Dingle family; they were English (what local people would refer to as "blow-ins".) Records show that the family came from Yorkshire, where they were known by the slightly less pretentious name of "Mullins".

Many years later Maura was attracted to a letter to the "Times" from a descendant of Alexander Seton. The letter posed the question,

"Was the duel, fought between my ancestor, Alexander Seton, and Henry Hawkey, the last duel fought on English soil? "

Bob Hawkey of Calgary, Canada responded to my query about our common ancestry by sending copies of articles from the "Times" which covered the incident. I followed this by searching the computer in the Worthing library, which has access to the "Times" archives. I found that Charles and Henry were brothers, as Bob Hawkey had indicated.

Charles Hawkey's career is briefly plotted in newspaper reports. -

Naval Intelligence reported his promotion to Lieutenant on Dec. 4th, 1843

Appointments, announced in Naval Intelligence, showed that he had been sent to the RN ship "Hecate" on Jan 8th, 1844.

Shortly after, Charles was promoted to Mate.

On Friday, August 7th, 1846, Charles was serving on the "Retribution". From this ship he was granted three weeks leave to attend the trial of his brother Henry.

Charles was then appointed to the "**VICTORY**" to await passage back to his ship. On September 22nd, 1846 he took passage aboard the "Bulldog" to rejoin the "Retribution"

In 1846, on October 16th. Lieutenant Charles Hawkey went to the ship "Vengeance"

On 18th October 1847 a report from Sir Charles Napier's Squadron he returned with invalids from the "Vengeance."

Duelling

Duelling was at its peak in France at the beginning of the 17th century, although the practice was illegal. Henry II forbade it. Charles IX issued ordinance at Moulins in 1566 forbidding single combat under pain of death and Henry IV issued a statement that duelists were subject to confiscation of body and or goods whether dead or alive. The duelist, in France was a romantic figure, ready to risk his life for the sake of his honour, and often for the sake of someone else's honour! To put oneself at the risk of death was considered proof that one considered oneself to be in the right, and to be following an honourable course. It permitted a gentleman who felt slighted an opportunity to demonstrate in public that he possessed the total absence of fear in defending his honour. In a duel, no one is dishonoured.

In England sword Duelling became unpopular in the 1770s. At that time there had been a highly publicized account of a very messy and bloody encounter between a Captain Matthews and a Mr Sheridan over a lady. However, the abandonment of fencing and swordplay from the education of English gentlemen and the advent of the pistol was more likely the reasons for its decline. The pistol changed things. Not only did it make Duelling more deadly but it also made it more democratic in that the practice became accessible to those who did not have military training or expertise with swords. Also, it put less affluent members of the middle class on an equal footing with the wealthy upper class gentleman.

All members of the genteel and professional classes took part in Duelling, including army officers, judges, politicians and surgeons. Even reverend gentlemen of the cloth were not averse to calling out a man to gain "satisfaction".

The British Code of Duel decreed "If a gentleman evades a justifiable call he puts himself outside the pale of honour and notification of this fact to honourable society produces his expulsion from it. The refusal of a challenge would lead to ostracization from society and the posting of notices proclaiming the person to be a coward.

The duel was also a way of achieving upward movement in society. Ambitious young men who wished to improve their status in the officers' mess or the club believed that one way to do this was to "call out" a man and kill him. Between 1785 and 1850 there were 840 duels reported involving Britons at home or overseas, although the actual number fought may have been much higher. Of these, 229 were fatal.

The Irish were also keen duelists. Sir Jonah Barrington, magistrate and duelist, stated in his memoirs that he had personal knowledge of 227 duels that had occurred in that country in the single year of 1823.

Duelling was outlawed in the 1840s due to a number of factors. The press became very critical, and cartoonists lampooned it. Despite this, a number of duels continued to be fought by Britons, some of whom would travel to France for the purpose.

The Scandinavian countries, Italy, Spain and Russia stopped the practice of Duelling by the middle of the 19th century. The French continued, but critics have said that

engagements were more of a "gay romp" than a mortal combat. The Germans were the most tenacious and serious duelists and this was related to the dynamics of the imperial German society.

SEVERAL FAMOUS DUELISTS

The Duke of Wellington fought with the Earl of Winchilsea in 1829 over Catholic emancipation. Neither was hurt.

Prime Minister William Pitt fought George Tierney MP in 1728 over a bill introduced by Pitt to improve the conditions in the Royal Navy. Neither was hurt.

Disraeli challenged a man in 1837 and was hauled into court. He was forced to apologize but this did not deter him from attempting to fight a duel 4 years later

THE LAST RECORDED DUEL between Englishmen in England.

On the 20th May 1845, **Henry Charles Moorhead HAWKEY** shot and wounded a man in a duel. The duel happened in the way that we recognise from literature. One party gave the other cause to think that his honour was in question. There was the usual demonstration of bravado and a challenge was given. **James Alexander SETON** was the challenger. His second, Lieutenant Rowles, came to Hawkey's residence to issue the challenge. Hawkey appointed his friend, Lieutenant Pym as his second and the duel took place in the evening of the same day. Where this duel was exceptional was in the fact that it was the last recorded duel fought on English soil by Englishmen. Lieutenant Rowles was never indicted, neither did he appear as a witness. Why this was, is never explained, perhaps he had a powerful relative or friend, or possibly the Navy authorities kept him out of the way.

Lieutenant Hawkey's pistol was loaded with powder and a leaden bullet. So was the pistol of his opponent. They faced each other and each man aimed and pulled the trigger of his weapon. Hawkey's pistol had been placed in his hand at half cock. It failed to fire. Seton fired and missed. New weapons were produced. Seton again fired and missed, but Hawkey's bullet found its mark. Seton fell, wounded in the abdomen, just above the right hip.

The Coroner's Inquest was widely reported and caused some interest after the initial reports of the event. From the start the two accused men had a good defence team. The Inquest was adjourned to allow police to gather more evidence and at this adjournment the defence successfully proffered the statement of Mrs. Hawkey. They knew that her evidence could not be taken at the trial of her husband and so brought it into the public arena at a hearing, which was simply a court of inquiry – the Inquest.

The first trial was of Edward Lawes Pym, who had acted as second to Lieutenant Hawkey. He was indicted at the Spring Assizes at Winchester on March 6th, 1846, before Justice Earle, charged with aiding and abetting and assisting Hawkey to commit murder. .

The trial of Lieutenant Hawkey took place at the Summer Assizes of the Western Circuit, Winchester on Thursday, July 16th 1846, before Mr Baron Platt.

SETON'S MEDICAL CARE

On Saturday 30th May two surgeons, Mr Liston of London and Mr Rundle of Gosport carried out an operation to suppress the pulsation in a tumour, which had formed within the last few days, at the bottom of the abdomen in front, which distressed the

sufferer very much. The operation consisted of taking up of the external iliac artery. No sooner was the artery taken up, than the throbbing sensation in the tumour ceased, and gave the patient much relief. By Saturday night the sufferer was in dreadful pain once more, and it was found necessary to administer opium to give him rest, which had the desired effect. On Monday morning at 2am a decided change for the worse took place. At 5am Dr Stewart administered cod liver oil but the patient frequently vomited after this, more or less for the whole of the day. At about 7 pm that evening the patient's mother and sister took leave of him as did Mrs Seton. Seton died at 25 minutes to eight pm. The cause of death was later stated by Dr. Mortimer to have been " a torn artery, necessitating an operation, which induced peritoneal inflammation being the proximate cause of death." However, Dr Mortimer admitted that he could not declare, that if the operation had been dispensed with the death of the patient was inevitable. Dr Stewart said in evidence that the case has been known, was known to him - for a man with a pulsating tumour to live for eight months. Why, if a man has been known to survive the dangers of such a tumour for eight months, should we affirm he might not possibly survive for one year and a day?

ABSENT WITHOUT LEAVE

The duel took place on the evening of the 20th May at 5 o'clock. The report from Portsmouth of Wednesday was printed in the Times of Thursday 22 May. -

SANGUINARY DUEL. NEAR GOSPORT.

A duel was fought last night, near Gosport, under the following circumstances. -

The combatants were Mr. Seton, late of the 11th Hussars, and Second Lieutenant H.C.M. Hawkey, of the Royal Marines; the former residing at Queen's Terrace and the latter at King's Terrace, Southsea

From all we can glean, it appears that at a *soiree* held at the King's rooms, on Southsea beach, on Monday evening last, Mr. Seton paid somewhat marked attention to the wife of Lieutenant Hawkey, and was afterwards, in the public room, most grossly insulted by Mr. Hawkey, who called him a blackguard and a villain, and told him that if he would not fight him, he would horsewhip him down the High Street of Portsmouth. At the time these words were used Mr. Seton was endeavouring to leave the ballroom, when Lieutenant Hawkey, who was sitting upon a sofa, rose, and attempted to kick him as he passed. The consequence may be anticipated. A meeting was arranged, and at 5 o'clock last evening the combatants met at Stokes Bay, near Fort Monckton, opposite Ryde, on the Gosport Shore. Lieutenant Brian G. Rowles, RN acted as second to Mr Seton; and Lieutenant Edward L. Pym, of the Royal Marines, acted as second to Lieutenant. Hawkey.

The combatants having arrived, the ground (15 paces) was measured, and the principals having been placed, the word was given, when Mr. Seton fired and missed his antagonist. The pistol of Lieutenant Hawkey was placed in his hand by his second at half-cock, and consequently Lieutenant Hawkey did not have his shot. (Other pistols were, however, supplied to the combatants.) The word was again given,



**Isabella would have been dressed rather like this –
Hair style is the Apollo Top Knot, popular in the Regency period**

and both fired. Mr. Seton immediately fell. Lieutenant Hawkey, without waiting to see the result of his fire, or going to his antagonist, immediately fled with his second, saying "I'm off to France." Mr. Seton was conveyed on a shutter on board a yacht in waiting, and brought about 9 o'clock last night to the Quebec Hotel, on the water's edge. Surgical assistance was called in and it was discovered that Mr. Seton had been wounded dangerously on the right side of the abdomen, the ball passing through and coming out on the left side. Whether the wound is mortal or not, the surgeons (Messrs Mortimer and Jenkins, of Gosport) have not yet given an opinion, but the patient has had a night of agonising pain, accompanied by frequent vomiting. Mr. Seton is married, and has four children.

It appeared that the seconds never interfered after the first fire to adjust the cause of quarrel.

Mr. Seton is a very fine- looking man, aged 28. Lieutenant Hawkey is about 26. Mr Seton was retired from the 11th Hussars about eight years.

Lieutenant Hawkey and his second (Lieutenant Pym) are said to have practised about an hour before the duel, at Sherwood's Shooting Gallery, in High Street, Portsmouth.

Mr. Hills, chymist, of Broad Street, Portsmouth, sat up with Mr. Seton the whole of last night. The flow of blood was very great. Mrs Seton has been with her husband the whole of the day.

About 5 o'clock this evening Mr. Seton was pronounced rather easier, although but slight hopes are entertained of his recovery. He was at that time lying in a very dangerous state.

THE INQUEST

Lieutenant Hawkey and Edward Pym employed the best legal representatives from the start. Mr. Payne was a barrister-at-law and coroner of the city of London. His main object was to bring Mrs Hawkey before the court to give evidence. Although Mr. Hawkey is suspected of killing the deceased, he said, the evidence of Mrs. Hawkey would throw off that suspicion. The judge said that a wife could not give evidence for or against her husband. He, (Mr. Payne) explained that a recent act of Parliament had materially altered the position of these matters. Since the Inquest was merely a court of inquiry, and there were no plaintiff or defendant or prosecutor or prisoner, it was for the Coroner to hear all the evidence that can be adduced before you. If the evidence arises against any particular person the Coroner has the power on the evidence to commit him to his trial. He quoted the "Act for improving the Law of Evidence" and the case of "The King versus Holdane" If this were an indictment, he said, and Hawkey was on trial and was a person named on the record, his wife would not then be eligible to give evidence. The evidence of Mrs Hawkey was most material, he said, because she would prove that if Mr. Hawkey were guilty, there was such provocation that even if he committed the crime it amounted only to manslaughter.

THE EVIDENCE OF MRS. HAWKEY

Isabella Frances Hawkey - I am the wife of Henry Charles Moorhead Hawkey. I know Mr. Seton. I saw him first about the month of April last and was introduced to him in the month of May. In introducing me to Mr. Seton, my husband said that all Mr. Seton's acquaintances had left the room and he wished Mr. Hawkey to introduce me to him (Mr. Seton). My husband performed the introduction and I danced with Mr. Seton. I afterwards met Mr. and Mrs. Seton in the street but did not then know Mrs. Seton.

Mr. Seton visited our house a few nights subsequently. On leaving, Mr Seton said to me, aside, "I am going into Elm Grove." On the night of the ball Mr Seton expressed a wish for me to be introduced to Mrs. Seton. I saw Mr. Seton once afterwards, when I went to hear the band play.

On a Monday soon after that I went over to Gosport with Mr. Hawkey and on our return we met Mr Seton. Mr. Seton crossed over from the club and said he had called on me with his friend Mr. Pitt and left a music book. He said he would call again in half an hour. My husband was going out for a ride, but he did not go as he wished to be at home when Mr. Seton called. We were under an engagement to visit Mr. Seton's house after that, at 8 o'clock in the evening. On that occasion as I was sitting by a chair near the sofa, Mr. Seton opened a desk (this was between a week and a fortnight after my first introduction to him), and showed Mr. Hawkey some dice. Mr. Seton showed me a ring, but I forget what he said in doing so. We stayed and spent the evening there. In handing me a glass of wine, he, (Mr. Seton) asked me if I would be at home the next day, at 12 o'clock, when he would bring me the book. I was always at home until 2 o'clock, as until that hour, Mr. Hawkey was out at drill. Mr. Seton asked my husband to let me go to see the drill on the next day. My husband consented.

On the next day Mr. Seton called at my house at about half past one, or two o'clock and remained nearly an hour before I went to the drill with him. This was a Thursday but I cannot recall the date. I made observation to Mr. Seton, that Mrs. Seton would be waiting for us. His reply to that was he did not care. I never took Mr. Seton's arm. It came on to rain, and I returned instead of going to the drill. They engaged me to dine with them on the following Saturday.

On meeting Mr. Seton on the Thursday, Mr. Seton offered me his arm. I declined it. He said, "If one lady takes it, another may. You see my wife is walking with Mr. Mauginn." I said, that my husband did not like it. I know Mr. Tattnall and Mr. Cleaveland. When I met these two gentlemen, Mr. Seton left us because there was not room for us all to walk together. He said nothing.

I cannot recollect seeing Mr. Seton the next morning, but I believe I saw him on the following afternoon at my own house. He said then that he had been quizzed, and that he ought not to be turned out, much less by a naval man, by which I imagine he alluded to my speaking to Mr. Tattnall.

A day after the last transaction Mr Seton came to our house, but I did not see him. On the Monday following he came in while Mr. Hawkey was on the Common. He said he knew that my husband was out, but did not say what his object was in coming. At that time Mr. Tattnall came in. Mr Seton told him that he was not wanted there and he might go. They soon after left and my husband came home.

On Sunday (the date of which I cannot tell) Mr. Seton met me going to church and said something I cannot recollect. On the Tuesday, Mr. Seton asked me if my husband was going to Somerton races. I said, "Yes". He said he intended to go, but if Mr.

Hawkey were going, he would not go. He had a great deal to say to me he said and he would come that day.

The races were to have taken place on the Thursday but it rained and my husband did not go out. Mr. Pym came and lunched with us on that day (of the races.) Mr Seton came in while Mr. Pym and my husband was in the room. The servant did not announce him before he entered. At that time Mr. Hawkey and Mr. Pym were sitting behind the door. I don't think Mr. Seton saw them when he entered. When Mr. Seton perceived them, he started back. This circumstance I think, attracted the notice of my husband and Mr. Pym.

I saw Mr. Seton on the following Monday at the *soirée* (at the King's Rooms) Where Mr. Seton presented me with a bouquet of beautiful flowers, for which my husband thanked him. On that evening, nothing particular occurred.

On the following Monday, Mr. Hawkey was at drill. Mr. Seton called and said, "It's no use me humbugging with you any longer- Do you mean to give me an opportunity or not?" He said that he knew Mr. Hawkey was a quarrelsome fellow, and said he knew he would have to go out with Mr. Hawkey in the end, and he added he should not go out on the Common for nothing. He said, if he gained his point, he would not mind it. I cannot tell the date. A knock at the door occurred at that time when he was talking to me and he exclaimed, "Good God, here's Hawkey! He ran to the table for his hat, and said, "Can't you let me out!" It was not Mr. Hawkey who came in at that time, but Mr. Pym.

On that afternoon, seeing me depressed, my husband asked me if Mr. Seton had annoyed me. The next occasion of my seeing Mr. Seton he offered me something in his hand which I could not see, and said that if I did not accept what he offered me, he should not have any tie upon me. He said, "Perhaps you do not think it sufficiently valuable." I told him not to insult me any more with such offers. He mentioned the name of Lord Cardigan, and said, "Place yourself in the position of (someone I do not know) and the Colonel of your regiment, and added that he (Lord Cardigan) had given that person £1000 worth of jewellery. Then he said, "Would that be any inducement to you?" I said, "No". Then he said, "If those are your ideas, a man has no choice." I remonstrated with him about his being a married man, when he said, "I don't care about her, nor she about me; we both please ourselves." I forget whether I did not mention this to my husband when he came in.

I told Mr. Seton that if he persisted in that conduct, I should go home (meaning to my mother's, at Rochester.) He (Mr. Seton) said, "I wish you would; it's all on my road to Maidstone." I knew my husband was very "tenacious" and therefore I did not tell him this.

I afterwards saw Mr. Seton at my house, when Mrs. Seton was gone to London. He told me he had been seeing Mrs. Seton off. There was a *soirée* On that evening, to which I went. Mr. Seton was there and said he was very unhappy, and if nothing else would make me like him, sympathy ought.

I saw Mr. Seton the day but one following the *soirée*, when he called at my house with Mrs. Seton. I recollect going to the rooms with Mr. and Mrs. Seton. Mr. Hawkey and

Mr. Pym joined us there, when my husband was much displeased at seeing me with them.

I did not know my husband was acquainted with Mr. Seton's attentions to me until the Sunday preceding the day on which the duel was fought, when my husband said that he had something to say to me. On that day I went to Anglesey with my husband. He told me that he was very angry with me for not telling him what I had told Mr. Pym. He said that if I would tell him all, he would not take any notice of it. I consequently told him several things about Mr. Seton's conduct towards me. He did not say much to me and did not seem at all pleased, and went to Mr. Pym.

On the day following (Monday 19th May) I met Mr. Seton when I was walking with my husband. I bowed to him, and he offered to speak to me, but my husband would not let him. I saw Mr. Seton afterwards at the siorée on the evening of the same day. A week before that I had promised to dance **with** Mr. Seton, and on that evening Mr. Seton wished me to fulfil that promise.

I said that I could not. He said, "Then it must be Hawkey's fault." And that he should seek an explanation. I replied that he (my husband) would give him one.

I went afterwards to my husband, and asked him what I should do. He said that I might dance one quadrille with Mr. Seton.

I did accordingly dance one quadrille with Mr. Seton, who asked me why I had passed without noticing Mrs. Hawkey, and added, "If you don't know her, you don't know me." On that occasion Mr. Seton also said, "Whatever your husband does to me, I shall not go out with him; it's quite impossible that a light cavalry man can ever mix himself up with an infantry man."

After that dance, I sat down when my husband came and wished to sit down by me. Mr. Seton had already seated himself and would not move. My husband said, "I should like to have a few private words with you." Mr. Seton replied, "An explanation I have long wished." They went into a private room, and on his coming out, Mr. Seton asked me to take his arm, and said, "For God's sake let's settle this matter, or there will be such an exposure." I went away with Mr. Pym.

I recollect being present at a review of the 59th Regiment, when Colonel Jones offered me his arm. Mr. Seton came up and said that I was under his protection. I said, "It's no such thing." I then went home with Mr. Pym, a friend of my husband.

On the occasion of the mention of the £1000 worth of jewels, Mr. Seton never took hold of me. He said he should like to drive me in a cab in London and asked me if there was any chance of such a thing. My object in not telling my husband was because I was afraid of the consequences. When my husband gave me permission to dance with Mr. Seton it was on the understanding that I was not to dance a polka, only a quadrille.

LETTER TO THE "TIMES"

In an anonymous letter signed "A near connection of Mr. Seaton's London May 27th, 1845, the writer said that he could not allow any misrepresentations to this affair to be made to Mr. Seton's prejudice in his present dangerous state without giving them the most prompt and unqualified contradiction. He said. -

"I imagine that the *Hampshire Advertiser* must have made a mistake in reporting the information given. Mr Seton has solemnly declared to me that he did not make use of any improper expression respecting Mrs. Hawkey or any expression disrespectful of Mr. Hawkey and his profession"

The writer said that he could adduce facts, notorious to many, in corroboration of what I assert, were he not reluctant unnecessarily to bring the name of a lady before the public.

MRS HAWKEY'S LETTER TO THE MORNING POST

On 24th June 1845, fulfilled a promise made to the editor of that paper to put her side of the case. By this time the Hawkey/Pym side for their defence employed a team of lawyers. One feels that they probably dictated the letter. The letter made three points.

1. That the challenge emanated from Seton and not from her husband, in response to a kick from Mr Hawkey, which was in turn in response to Mr. Seton's remark "light cavalry man could never give satisfaction or mix himself up with an infantry one."
2. The challenge was brought to Mr. Hawkey by Lieutenant Rowles early next morning. Lieutenant Rowles then wrote to Lieutenant Ward, Royal Marines. The letter was acquired by a member of the medical team and made public. Mrs Hawkey leaves to the opinion and judgement of every impartial reader, whether this should have been done.
3. Mr. Seton's antagonist, received but did not return, that gentleman's first fire. A second pistol was put into the hands of both principals. Both fired, without any effort made to arrest the affair. Seton was wounded by this second exchange and died two weeks later after skilled surgery. Mrs Hawkey left it to others to judge how far the second of Mr. Seton, by the rules of duelling, to allow his friend to deliver a second shot.

According to the opinion of the many officers with whom she had spoken to about this point, Mr. Seton's second, instead of allowing the second shot, ought to have immediately withdrawn his friend from the ground. His failure to do this was a dereliction of duty and was the cause of the fatal consequence. The verdict of "Wilful murder" against her husband and his second left Mr. Rowles untouched.

The matter was at then sub-judicae. Mrs. Hawkey confined herself to mentioning that certain persons had pursued Mr Hawkey and Mr Pym, in their absence. She would not comment of the various means (due and undue) employed by the prosecution to procure witnesses

BOTH WIVES SPEAK TO THE PRESS

On Monday 26th May 1845, The "Times" reported an interview at the Quebec Hotel. - **Mrs Seton** said, that at about 11 o'clock on the night of Monday, whilst at the *soirée* at the King's-rooms, Mr Seton was most grossly insulted by Mr. Hawkey, who called Mr. Seton a blackguard and a villain, and told him, that if he would not fight him, he would horsewhip him down the High Street of Portsmouth. At this time Mr. Hawkey aimed a kick as Mr. Seton passed him. It was this conduct, which compelled Mr. Seton to seek an explanation. Mr Hawkey would not give one and repeated his language; upon which a meeting was resolved.

Mr. Pym, she said, was second to Mr. Hawkey. At the first fire Mr. Hawkey's shot missed Seton, upon which he demanded another shot, which was not opposed by the seconds.

Mrs Hawkey, the report continues, gives an unequivocal denial, and states that Mr Seton had grossly insulted her (Mrs. Hawkey), Mr Hawkey and his profession, which will be fully proved should a trial take place.

THE ROYAL YACHT.

Willam Ellis, master, RN, of the Royal yacht Victoria and Albert, residing at Hope Cottage, Stoke road, Gosport gave his evidence. -

I am the master of the Royal yacht. (The coroner cautioned this witness, not to criminate himself.) I had no knowledge of any duel until after it had taken place. I had reason to believe a duel had taken place by Mr. Hawkey and Mr. Pym coming to my house on the evening of Tuesday 20th May, between 7 and 8 o'clock. Mr. Pym wished to see me in a private parlour, at which time Mr. Hawkey came in without my knowledge. Mr. Pym told me that an unfortunate affair had taken place between his friend Mr. Hawkey and Mr. Seton. A gentleman had been wounded, at Stoke's Bay, he said, and asked me to give any assistance I could to that gentleman, who was wounded. He had left persons with him, and had sent for a surgeon. I went immediately down to the spot as soon as I could and found no one there. I returned to my house. Mr. Hawkey and Mr. Pym remained in my house until between 11 and 12, when they retired to their lodgings a short distance from my house. I saw no more of them until the morning, about half-past 9. They took breakfast and then left my house, and I have seen no more of them. I have known Mr. Pym from a child, and for that reason he came to my house, as he considered it a second home.

Mr. Pym told me he had been the friend, by which I understood he had been the second. He told me none of the circumstances connected with that affair respecting himself personally. I understood from Mr. Hawkey on that evening that Mrs. Hawkey had been grossly insulted several times by Mr. Seton. I never saw Mr. Seton in my life and I know nothing of him. Mr. Hawkey said, that Mr. Seton had challenged him, and that they had met. That is all I know.

THE VERDICT OF THE JURY AT THE INQUEST

The jury retired for 35 minutes. On their return the foreman read the following verdict. -

"We find that the immediate cause of Mr. Seton's death was the result of a surgical operation, rendered imperatively necessary by the imminent danger in which he was placed by the infliction of a gunshot wound. He received the wound on 20th May last in a duel with Lieutenant Henry Charles Moorhead Hawkey, of the Royal Marines. We therefore find that the said Lieutenant Hawkey and Edward Lawes Pym, as well as all the parties concerned in the said duel, **guilty of Wilful Murder**. The jury would further express their unanimous conviction that everything, which the best professional skill, the greatest attention, and the utmost kindness could suggest, was rendered to Mr. Seton by his respective medical attendants.

THE CASE FOR THE PROSECUTION

At The Winchester Summer Assizes in July 1846, Lieutenant Hawkey was indicted for the wilful murder of Seton. Mr. Rawlinson and Mr. Smith were counsel for the

prosecution. Mr. Rawlinson told the jury, that he believed there could be no doubt, and their own moral sense and religious feelings would tell them, that the law was this - that if a man went out deliberately to fight a fellow man, and killed that man, he was guilty of murder. Whether the law was right or whether the law was wrong, their own sense would tell them that they had nothing to do with that - they were there to administer the law as it at present stood. If that law was wrong, it ought to be amended by the competent authorities. They, the jury, would agree that it would be a most serious thing to tamper with their oaths. If the law were to be carried into execution as it might suit the feelings or prejudices of 12 men, no one would feel that security he now did feel as to the due administration of the law.

At the trial of Pym, Mr. Rawlinson put before the jury a short outline of the facts, which he intended to prove by evidence: -

On the 20th May, 1845, Pym went with his brother officer, Lieutenant Hawkey of the Marines, as second in a duel, in which the deceased, Mr. Seton, the principal of the other side, fell, on Brown Down, leading to Alverstoke and Titchfield, three or four miles from Gosport. On the evening of 19th of May, Mr. and Mrs. Seton were residing at Southsea, and Mr. and Mrs. Hawkey and the prisoner Pym were attending a ball, or *soiree* at the King's Rooms at Southsea, this ball being held every other Monday in the season. In the course of the evening a misunderstanding or quarrel occurred between Mr. Seton and Lieutenant Hawkey; they retired to a card room, the door was closed, and after some minutes they came out of the room. Lieutenant Hawkey sat near the door of the ballroom, with the prisoner, and, as Mr Seton left the ballroom, words passed between them, but what they were was not known. Early next morning a person called upon Lieutenant Hawkey, a card was sent up from Lieutenant Rowles, who was the second to Mr Seton on the occasion. As early as 10 o'clock in the morning of 20th, two persons, one of whom would be spoken to as Lieutenant Hawkey, and the other he believed would turn out to be the prisoner at the bar, were seen proceeding to Portsmouth from Southsea, and words fell from them.

OVERHEARD CONVERSATION

He referred to the evidence of the merchant, John Lewes Thorne, given at the Coroner's Inquest.-

I reside at Elm Grove, Southsea. I know nothing relative to the death of the deceased. I only heard a conversation on Tuesday, 20th May, between Lieutenant Hawkey and another gentleman. It was between 10 and 11 o'clock in the morning. The two gentlemen were preceding me coming down the road, and were holding an exciting conversation. Both were dressed alike, - I think in uniform. I do not know who the other was. He was rather taller than Lieutenant Hawkey was and broader across the shoulders. I considered he was an officer. He was what might be called a good-looking young man and had a light complexion. I was about to pass them, when Lieutenant Hawkey drew his arm from that of his friend, and with much emphasis said, "I will shoot him as I would a partridge." I heard nothing more. I have not seen the person I saw with Mr. Hawkey, but I think I should be able to identify him. His hair was long and brown. I think he was in uniform. The second time I saw them (Mr. Hawkey and the person I have described) that day, was about 5 o'clock in the afternoon, and they were in a still more excited state. I had known Lieutenant Hawkey for about 12 or 18 months. I saw Lieutenant Hawkey's face on the occasion of his using the language I alluded to.

THE DEATH BED STATEMENT

The prosecution gave some weight to a statement made to James Stewart, M.D. of St Thomas Street, Portsmouth. -

I am a surgeon, and was called in to attend Mr. Seton. I have seen 146 gunshot wounds in one night. I thought him in imminent danger from the first moment and so told his friends. I had no doubt an artery had been wounded. After the operation he went on very well for several hours, when a considerable change for the worse took place. I communicated to the deceased on the Friday and Saturday the danger he was in. He took leave of his friends on Monday morning. On the Sunday I told him particularly of his danger. I sat up with him the whole of that night. During that night he pressed me to tell him of his state. He said, "I am not afraid to die; do you think there is the least chance?" I said, "None in the world." He said he was thankful to me, and to the other medical gentlemen for our attention. He wept bitterly. He had previously received the sacrament, and made his will. In my judgement he believed he would very soon die.

Questioned by the defence he said that the deceased had asked again in the day what I thought of him. I told him that I thought no more favourably than before. I did not think he had the slightest hope.

Questioned by Mr. Rawlinson, for the prosecution he said that Mr Seton had told him, "If the arrangement with Mr. Hawkey had been at six paces instead of 12, he would have been in my situation and I in his. I am perfectly innocent, and if I were to die this moment, I know not why I was shot. I distinctly saw Mr. Hawkey present his pistol, which did not go off. I saw him the second time present his pistol, which did go off and the ball from which passed through my body. I fired myself on both occasions." I asked him if he was sure that it was Mr. Hawkey who fired the pistol and he said that he was.

THE ARGUMENT FOR THE DEFENCE

The law was clear on the subject of duelling. The fact that the deceased person was equally willing to take part in the duel and would attempt to kill his assailant did not detract from the fact that he was wilfully murdered. The fact that they met after the usual preliminary etiquette was proof of premeditation. Mr Cockburn put it in more detail in his address to the jury at the trial of Edward Lawes **Pym** at the Spring Assizes in Winchester in 1846, **then, having stated the law; he urged the jury to disregard it.** Pym was charged with aiding and abetting Hawkey in shooting, of his wilful malice, the late Mr. Seton.

Though the law might say he was guilty, said Mr. Cockburn, gentlemen and men of honour would pause before they said so. But the jury, he said, were called upon by this indictment not only to do this and to blast all his prospects in any profession, but to find him guilty of the crime of wilful murder. They would put him in the same category as the midnight assassin; with those who stab in the dark, or shoot from behind places where they cannot be seen, or mix deadly poison in the food of their innocent victims, to satisfy some base or criminal passion.

His learned friend, he said, had told them, that by the law of the land all participators in a duel were guilty of murder. The law of the land had so stood in the statute book for many centuries, and yet the practice of duelling had long existed in this country, as

well as in others. Instance after instance was recorded, case after case had been brought before the cognizance of juries, and it would be very difficult for his learned friend to point any instance in which a jury had found a verdict of wilful murder. It was the jury who were to find the verdict and upon their hearts and consciences would rest the whole responsibility. He said further, that the uniform course had been for the jury to determine, under the circumstances of the case, whether the party charged had been guilty of what the law recognised under the term of "wilful murder," It was idle to shut their eyes to the fact, that juries called to administer the law had thought themselves in these cases, justified in considering all the circumstances, and if they deemed the law not fairly applicable to the case, had stood between the law and the accused, and refused to convict him of the crime so designated. It was vain to deny that in this country, the practice of duelling had been not only tolerated by society, but had been sanctioned and upheld by what, with a certain class, was received as a code of honour, by which all were called upon, nay, compelled to measure their actions, unless the individual was prepared to sacrifice all that made his life worth having. In vain were we told that the law of this country pronounced the fatal act of the duellist to be wilful murder; strictly, according to the letter of the law, which killeth, it was so.

It was equally true that the law of society was in direct opposition to that harsher and sterner law which was administered in courts of justice. The history of this country teemed with instances in which men of the highest qualities that could adorn society had been participants in duels, as principals or seconds. The names of these men we were accustomed to pronounce with respect and veneration-Mr Pitt, Mr Tierney, Lord Londonderry and other statesmen now dead; and of living Ministers, statesmen and warriors who had extended the renown of their country, how many had been engaged in similar transactions! There was no profession (one alone excepted), in which numerous individuals, enjoying the respect of all, had not been connected with duels, nor had this been considered a barrier in any department of the state or the law. Some of the best and greatest of men had complied with this law which society had imposed, rather than submit their honour to a taint and tarnish which would rob them of the esteem of those amongst whom they moved. If, then, the refusing satisfaction, and declining an appeal to arms, subjected the individual to be held up to obloquy, odium, contempt and scorn, what was the result of such a state of things? Why, that the written law was utterly at variance with the law of society, the law by which all men who moved in that society were more or less influenced.

The jury, he said, were not to administer the law in all its vigour, a law inscribed in blood, inhuman in its enactment, and which, in the generality of these cases had become obsolete and a dead letter. They must modify it, so as to reconcile it with the existing state of society. He was aware that a strong feeling was growing up in this country against the practice of Duelling and he rejoiced at that growing feeling: but he believed that this feeling was of a qualified nature, and that the law of society would still recognize for some acts the vindication of a persons honour by the arbitrament of arms; though the practice must be narrowly watched, and under circumstances of trifling provocation rigidly prohibited. Though many desired the discontinuance of duelling, let it never be forgotten that, the rules of society uphold the practice.

Many of our writers, even that stern moralist, Dr Johnson, had vindicated it under certain circumstances. Let it not be forgotten that the practice of duelling of a fair and manly meeting of man with man, had banished from this country the treachery and

lawless violence which characterised the age preceding that in which duelling was first established. The practice excluded crimes of a base and malignant character; such as assassination, murder, poison which need not be resorted to where man could meet man upon the bright and chivalrous ground of vindicating their honour. There were countries where the practice of duelling was almost unknown; in Italy, Spain, and Portugal it rarely occurred; but they had, instead, the knife or the stiletto of the assassin, or the poison of the clandestine murderer. What? Should we be the better for the change? The code of our society grew out of that nice and delicate sense of honour, which was the distinguishing feature of the English gentleman. To abrogate it would strip Englishmen of every class of those high qualities of manliness and fairness in dealing with each other, which, with some few and sad exceptions, they now exhibited, whilst some other nations presented the contrast of meanness, baseness, treachery and cowardice. Judges in a court of justice knew only the letter of the law. They were so exalted above the reach of human passions that they were not cognizant of human frailties. Juries, however, selected as they were from the great body of mankind, reflected the feelings of society. and brought those feelings to bear upon the circumstances of the case before them, interposing between the accused and the rigid letter of the law, so as not to kill, but to save.. He asked them therefore to come to the consideration of this case, not to prevent duelling, but to look at the circumstances under which the parties met and, if possible, to pronounce a verdict that would exonerate the prisoner from the charge of wilful murder. He asked them to recollect that he was a member of the military profession, and if his (Mr. Cockburn's) observations had any force at all, they had tenfold force where the party was a member of that profession. In this profession, a refusal to give or claim satisfaction would stamp the individual with an ignominy and a disgrace, which no after conduct could obliterate. He would be banished from the society of his brother officers, become an object of disgust and scorn, and if not driven from his regiment, life would be burdensome and odious to him.

Now, in this case, in the first case, he asked, who was the aggressor? Who was the challenger? It appeared now, on the evidence for the prosecution, that the deceased himself was the challenger. It was clear that early in the morning after the unfortunate quarrel between the two parties, when Lieutenant Hawkey was in bed, Lieutenant Rowles called upon him with a message from Mr. Seton. It did not appear that any opportunity was given for apology or explanation. Suppose the message to have been, "Name your friend and meet me at once." It was alleged that Mr. Hawkey named Mr. Pym. Lieutenant Rowles would then proceed to Lieutenant Pym, and say "Sir, I am referred to you by Lieutenant Hawkey, and I am come to arrange the time and place of a meeting." He (Mr. Cockburn) could not produce Mr. Hawkey to prove this, (He is speaking at Pym's trial) He could not examine Mr. Pym for he was on his trial, nor could he examine Lieutenant Rowles, for he was absent. Why, he knew not. It seemed extraordinary that Lieutenant Rowles was not included in this indictment. If Mr. Pym was guilty, Mr Rowles was equally so, but it was thought proper, on behalf of the prosecution, not to include him in the indictment, or to call him as a witness.

THE CAUSES OF THE DUEL.

The circumstances, which brought about the duel, were gradually revealed, in as much as witnesses can reveal things after an event, at the trials of Lieutenant Hawkey and of his second, Lieutenant Pym

Mr. Cockburn, representing Pym at the Spring Assizes, and again at Lieutenant Hawkey's trial at the Summer Assizes, outlined the background of the enmity between the duellists. He said that Hawkey was a married man; was the happy husband of a wife, whom he tenderly and fondly loved- a lady of great personal attractions. He (Mr Cockburn) had been told that sorrow and anxiety had worked a grievous change in one whose beauty was once the theme of every tongue. In the month of April, Mr and Mrs Hawkey had met Mr and Mrs Seton at a ball. . Mr.and Mrs. Seton invited the Hawkeys to dine. During the evening Mr. Seton made remarks to Mrs Hawkey which showed that, even at that time, he had conceived the intention of cultivating an intimacy of an improper nature. He made certain observations respecting a ring and Mr. Seton made frequent calls upon Mrs. Hawkey. Mr Hawkey being absent on military duty, Mr. Seton; on various occasions took the opportunity of his absence to call upon Mrs. Hawkey. About the 3rd May, Lieutenant Hawkey expected to have been absent at some races, but did not go. He and he and Mr. Pym remained at the house. When Mr Seton called, was shown in, and, became aware of Mr. Hawkey's presence, he started in such a manner as to excite the observation of Mr. Pym. The matter, however, passed off, and nothing further happened until the evening of a Monday. All the parties were present at a ball or *soirée*, where Mr. Seton's attention to Mrs. Hawkey again attracted the observation of Mr. Pym, who spoke to Mrs. Hawkey upon the subject and said he felt disposed to communicate the circumstance to her husband. Mrs Hawkey urged him not to do so as she knew he would not brook any improper attentions paid to his wife, and she felt a natural anxiety not to produce a quarrel. On the day after Mr Seton called and the jury would hear from Mrs. Hawkey herself (**if the judge did not exclude her testimony**) what had passed on that occasion.

MR JUSTICE EARLE at the Spring Assizes

Upheld the objection from the prosecution. He said that Mrs. Hawkey could not give evidence for or against her husband. He said he was at a loss to see how her evidence could be received in this case.

Mr. Cockburn continued. She will speak to the facts, which are important in this case, especially to show that the prisoner was not actuated by malice towards the deceased. He did not wonder at the anxiety of his learned friend that the conduct of Mr. Seton should be covered with the veil of oblivion. His learned friend would lay the statements of a dying man before the jury, and was he (Mr. Cockburn) not at liberty to show that his dying declaration was not true, because the facts were not strictly relevant to the issue?

He went back to the history of the case. On Tuesday Mr. Seton called on Mrs. Hawkey and put a proposition to her in plain, distinct and unambiguous terms. A knock was heard at the door, and Mr. Seton thought it was Mr. Hawkey; it was not; it was Mr. Pym, who had called expecting to find Mr. Hawkey. The interview was interrupted. Mr Seton came repeatedly again, and distinctly made to Mrs Hawkey the offer of a ring, and adverted to the offer of £1000, as the purchase of her person and virtue. She was alarmed; she dared not tell her husband, as she was fearful of the consequences. She declared she would go to her mother's house in Maidstone. Mr. Seton said he would see her there. When Mr. Seton left Mr. Pym came in; he observed her alarm and anxiety. She stated to him the cause and some of the circumstances, though from motives of delicacy not the whole, but the details she gave him, as to the cause of her annoyance, led Mr. Pym to feel that it was his duty to communicate the facts to Lieutenant Hawkey. Again, however a woman's fears

interposed, and she exhorted from him a promise to say nothing. On the ensuing Monday he called again, and on the evening of that day was the *soirée*. Mr. Pym dined with Mr. and Mrs. Hawkey, and whilst Mr. Hawkey was dressing for the soiree, Mr. Pym spoke to her regarding Mr. Seton. He advised her to dance as little as possible; she promised that she would and requested Mr. Pym to dance with her as often as he could. She danced once or twice with Mr. Seton, who made some observation to her, which he should not mention now, but it was utterly inconsistent with the position of a married man. Mr Seton called upon Mrs. Hawkey again, and on the occasion when Mr. and Mrs. Hawkey and Mr Pym went out to hear the band play, Mr. Hawkey's own observation was called to the attentions of Mr. Seton to his wife. Although up to that time he had been made acquainted with nothing that would warrant him interposing with a husband's authority, he asked Mr. Pym to keep with his wife so as to prevent the importunity and attentions of Mr. Seton.

On Saturday Lieutenant Hawkey had some conversation with Mr. Pym; he had heard something and was extremely uneasy, and it was obvious to his wife that his mind was not at rest.

Next day, (Sunday) Mr. and Mrs. Hawkey went to church, and after church they took a long walk in the country together, and after a time Mr Hawkey's agitated feelings took utterance in words. He taxed his wife with being wanting in the confidence, which a wife should repose in her husband, and told her he was aware that something had passed between her and Mr. Seton which ought to have been communicated to him. However anxious she was to keep the matter from his knowledge, when she found her husband's feelings were alive to Mr. Seton's attentions to her, she felt the appeal Mr. Hawkey had made to her irresistible. Having first obtained a promise from him that he would do nothing in response to her communication, she told her husband of Mr. Seton's importunities, of the language he had used, and the unequivocal offers he had made to her. Lieutenant Hawkey sought his friend Mr. Pym, and passed in review before him, all the circumstances which had attracted his own observation, and which bore out the representations of his wife. However the determination of Lieutenant Hawkey was to watch, and take care that Mr. Seton should not have access to his wife, and he requested Mr. Pym, as his friend and brother officer to assist him in guarding the honour and virtue of his wife. Next day they went to the *soirée*, where they found Mr. and Mrs. Seton whom they passed without any other recognition than bowing, and it must have been quite obvious to Mr. Seton, that right or wrong, Mr. Hawkey had taken umbrage at his attentions to his wife. Mr. Seton was a married man and should have felt it to be his duty at once to do nothing further that might offend or irritate a husband. A husband to whom he must have been conscious he had given occasion of jealousy, a feeling which, whether well founded or not, had a most maddening effect upon the human breast. Mr Seton adopted no such course. He sought Mr. Hawkey and his wife and he invited her to dance with him in a dance, which brings the parties into the closest and most familiar contact, - he meant the Polka. She declined. He pressed her to dance one dance, and having danced with him on former occasions she applied to her husband to know what to do. He said, " If it must be, dance one dance, a quadrille;" but this he said with reluctance and on ill grace, and would have recalled his permission if he could. He sat by with his eyes fixed upon the couple as they were dancing. When it was ended Mr. Seton led Mrs. Hawkey to her seat and seated himself by her side, entering into conversation with her. Mr. Hawkey went up to his wife and said, " I want to speak to you." Mrs. Hawkey, alarmed and afraid of exposure, replied, "I am tired." and Mr. Hawkey said, "Then let me sit beside you." Mr. Seton was sitting by her. He had seen Mr. Hawkey

watching them; he had noticed his anxiety; yet he kept his seat immovable, and fixed his eyes upon Mr. Hawkey - He stared him in the face. Mr. Hawkey, his blood boiling within him, turned and said, "Sir, I shall be glad to have some conversation with you in a private room." Mr. Seton's reply was, "That is what I wish myself." No one heard what passed in that room, save the two then present, but the jury might readily imagine what passed. - Could they wonder if exasperated feeling, indignation boiling over, led Mr. Hawkey to apply to Mr. Seton strong terms, which according to the rules of society one gentleman was entitled to apply to another? Mr. Hawkey is made to affix the terms, "villain" and "scoundrel" to Mr. Seton. Could they wonder at this? If all Mrs. Hawkey had said was false, but he believed it, Mr. Hawkey was face to face with the man, who he believed, had grossly insulted his wife's chastity and honour. They left the private room. Did Mr. Seton take care to give no other cause of offence to the husband? Why, he would show, that Mr. Seton, when he returned to the ballroom, sought Mrs. Hawkey again, walked with her and talked with her. Mr. Hawkey had placed himself beside Mr. Pym, on a sofa near the door, and Mr. Seton insulted him as he left the room by saying, "You know I can't meet you, as a Light Cavalry man cannot meet an Infantry man." Could the jury wonder at Mr. Hawkey spurning such a man with his foot? A challenge was the necessary consequence, and now, he asked again, did Mr. Seton know or not, for what he had been shot? Mr. Seton said he did not, but most undoubtedly he did. Know. He was the challenger. If Mr Pym had been the person to take the challenge, his position might have been different, though he (Mr. Cockburn), knew what, without the walls of the court, considering the relations between Mr. Hawkey and Mr. Pym, if the former had asked him to stand by him as his only friend, and take a message to one, who had attempted the honour of his wife, and he had said, "No, I will not do it," - He knew what would be said of his "discretion", and his careful of consequences. It might be said that Mr. Hawkey ought not, under the circumstances, to have sought Mr. Seton's life, that he ought to have received his fire, and not returned it. See the situation of Mr. Hawkey. If a man succeeds in seducing the wife of another, the law affords him a remedy, an adequate one, in pounds, shillings and pence; but if he fails in his attempt to do him this great wrong, the offender is beyond the reach of the law. Where the very want of success of the tempter proves the immediate worth of the woman, there, although the offence is one of the most grievous that one man can offer to another, the law affords no remedy. All the injured husband can do is to put the wrong and the affront into his pocket, whilst the world will point at him as the easy, fond and forbearing man!

The learned council then entered upon an examination of the evidence for the prosecution. He contended that Mr. Hawkey's going to the shooting gallery was not with a view to practice, but to try his pistols, otherwise he would not have carried three dozen bullets away after firing four bad shots, when he could have had three dozen for one and sixpence

BACKGROUND EVIDENCE CHALLENGED.

In response to an objection against this background evidence, Mr Cockburn successfully argued that the jury needed to know more than that one party received a challenge, and went on to fight, and the other party fell. The jury could not do justice by merely taking that isolated chapter in the action, instead of looking at the whole.

THE LANDLADY'S EVIDENCE.

Both trials took the evidence of a Mrs Stanmore, but her most comprehensive statement was made at the Coroner's Inquest. -

"My husband keeps a lodging -house at 8,King's Terrace, Southsea. Mr Hawkey lodged at my house. He returned from drill at 4pm on Tuesday the 20th May. He asked if Mrs Hawkey was at home. I told him that she was gone to the King's rooms. She had left word that when he came home he was to come and meet her. He pulled off his sash in the parlour and went upstairs to his dressing room, and then he came to me in his bedroom where I was engaged. I remarked to him what a bustle moving made and I said, "In another month I shall have to remove your things again," as he expected to go on leave in a month's time. When he came downstairs he was dressed in plain clothes, with a black satin stock with spots on it; he wore no shirt collar. When I told him I should have to remove his things within a month, he looked very solemn and said, "Yes Mrs. Stanmore, you'll have to march me up the road in less time than that." I went into another bedroom below stairs that he used to occupy, when he came in and arranged his neckerchief, when I said, "You have come then to bid the room goodbye," He said, "Goodbye" and left the house about 4 o'clock. On getting to the door he again said "Goodbye." I have never seen him since. Mrs Hawkey was fetched away that evening about 10 o'clock. I don't know who that person was. She returned the next day, and remained about a week afterwards." He had not given me prior notice that he was about to quit his lodgings.

"On Monday May 19, Mr Hawkey said he had a favour to ask; he said do you know Captain Seton? This was between ten and eleven in the morning. "I expect that gentleman to call, and I wish you would come frequently into the room, and don't leave Mrs. Hawkey and Mr. Seton alone, for he has insulted Mrs. Hawkey very much and she is dreadfully afeared of him." I told him that if Captain Seton came, and Mrs. Hawkey rang the bell I would instantly come to her assistance. He said, "You can manage to come in and out without that, and (pointing towards the piano and sideboard) as if you wanted something there." His manservant came into the room and prevented any more conversation, only as I left the room he said, "Mrs Stanmore, you'll bear what I've said in mind." When he had dispatched his manservant he came to me again in the garden. I made a remark to him about a plant I held in my hand. He said, "Mrs Stanmore, bear in mind what I have said, - Take care of my plant, Mrs Hawkey." That was all he said. Mr Seton did not come. I have seen him but once at the house, when I was desired by Mrs. Hawkey to go to the door and deny her (Mrs Hawkey) to Mr. Seton. She saw him passing the window and said, "There goes that horrible old Seton." I was not in the habit of answering the door. I have seen Mr. Pym, whom I knew. He was a frequent visitor to the house. He was there once or twice a day. I last saw him at the house on Monday the 19th May. He dressed there to go to the *soirée*, and accompanied Mr. and Mrs. Hawkey there. A gentleman came in disguise on the Tuesday evening, about nine or ten o'clock. I did not know who he was. I asked him his name but he said it did not matter, Mrs. Hawkey would see him. By the Coroner. - Mrs Hawkey went away that night with the gentleman. I was surprised Mr. Hawkey did not return for dinner on the day he left. Mrs. Hawkey remained a week afterwards. I did not see Mr. Pym on the Tuesday morning. I have never seen any pistols or pistol case in the possession of Mr. Hawkey.

THE EVIDENCE OF THE BALLROOM STEWARD.

At the trial of Mr. Pym at the Spring Assizes, Andrew Robert Savage, the acting-adjutant of Artillery at Portsmouth, acted as steward at the ballroom. He gave evidence, that in the course of the evening he had communication with Lieutenant Hawkey. - He made a complaint to me. I stated that I had been told that he called Mr. Seton a 'blackguard and a scoundrel;' and I had been requested to endeavour to arrange it. I told him I had refused to interfere, but in my capacity of steward, I had no objection to do so. He told me no arrangement could be entered into, for he had received an injury and not an insult. I expressed my regret that it could not be arranged. Mr. Hawkey also said, that Mr Seton had told him, that light cavalry could not meet infantry.

The language conveyed to my understanding a duel. The next morning Mr Hawkey told me Lieutenant Rowles had been sent to him to arrange a hostile meeting with Mr. Seton. He said arrangements had been made for the meeting. He said he had chosen Mr. Pym as second. I said I was sorry he had chosen so young and inexperienced a person. He said he did not know whom else to ask. I had observed Mr. Seton dance with Mrs. Hawkey that evening."

Cross-examined Andrew Savage said, -I had seen Mr Seton dance with Mrs Hawkey before I had the communication with Mr. Hawkey. Mr. Rowles told me Mr. Hawkey had called Mr. Seton a blackguard and a scoundrel. I would not allow Mr. Hawkey to tell me the reason of his having called Mr Seton those names. He was about to give me an explanation. **I had seen Mr. Seton and Mrs Hawkey walk together in Portsmouth, but whether they were alone or not, I cannot recollect.** Mr. Hawkey was in the marines. Mr. Hawkey told me that Mr. Rowles was to be the second of Mr. Seton.

BUYING THE PISTOLS.

When Thomas Hammond Fiske was sworn, he said, that he was a silversmith residing in the Portsmouth High Street. He knew Lieutenant Hawkey of the Marines. I saw him last on 20th May when he came into my shop and asked for a pair of pistols; this was between the hours of 11am and 2pm. He was alone. I showed him some pistols, and he purchased a pair in a case about nine inches long in the barrel. They are the usual description of pistols with a hair trigger. He did not take them away himself. I locked the case up and gave him the key. A boy, who was in the shop, took them away. Lieutenant Hawkey directed them to be taken to Mr. Sherwood's. I have not seen the pistols since. He selected the pistols and then asked me to lend them to him. I said I could not as they were new. He then agreed to pay 10 guineas for them. He said that on the previous evening he had laid a wager with Mr. Pym to shoot with him for £5. I told him that Sherwood would lend him pistols but he replied that Sherwood had none good enough for him.

TRYING OUT THE PISTOLS.

George Sherwood deposed. - I am a gun-maker, and reside at 68, High Street, in the parish of Portsmouth. Lieutenant Hawkey came into my shop at about 11 o'clock on Tuesday 20th and asked if I had a shooting gallery. He asked to have a few shots to practice as he had a match to shoot. He went to the gallery with my man, George Powell. I heard some shots. He came down again and asked to borrow some pistols. I told him that I never was in the habit of lending pistols. He was in my gallery again the same day at about 3'clock. Accompanied by a gentleman whom I do not know.

George Powell, at the Inquest said, - I am a gunsmith, and reside in St. Thomas's Street, Portsmouth, and work for Mr. G. Sherwood. Some persons came into the gallery on 20th May, last, to practice. A gentleman in plain clothes came about 11 o'clock in the morning. I was at the Wellington taking some beer when I was called for as someone in the gallery wanted to shoot. I went directly. I went into the shooting gallery with the gentleman. He had three shots with the pistol belonging to the gallery. He shot at the target. He was not what I would call a good shot. He struck the target, which was three feet over. He was alone at that time. He then went away and told me he would return again and finish the dozen shots, of which he asked me the price. He came again about an hour and a quarter after his first visit. He was not alone the second time. He went into the gallery. I took a case of pistols from the shop into the gallery. I saw no direction on the case; no name met my observation. Four shots were fired from the case of pistols. Three by the person I understood to be Lieutenant Hawkey. Mr. Hewitt told me it was Lieutenant Hawkey. Mr. Hawkey measured the paces in the gallery (12 paces). He then went to the target. The last time Mr. Hawkey shot he said "That's a d----- good pistol," and took up a small tool from the bench, and marked it with a small cross, between the stock and the break-off; what we call the head of the lock. I do not know who the gentleman was who accompanied him. Mr. Hawkey said, "You'll allow my friend to see you load the pistol." I usually load the pistols and loaded them each time they fired. The gentleman who was with him fired the pistol he saw me load. I received from Mr. Hawkey 3shillings - 2 and 6 pence for my master and 6 pence for myself. 6d of the 2s 6d was paid for shooting and 2s. for powder and ball. We charge 1s6d for a dozen shots. Three shots were left unpaid for. Mr. Hawkey. walked up to the target with his friend. He said something, pointing to the last perforation in the target, which I understood to be, "That would have done -----." The remainder of the sentence I could not catch. Mr. Hawkey then ordered the pistols to be cleaned and said that his servant would call to collect them. I wiped them out, and took them to the front shop. Questioned by a juror, Mr. Powell added, - The mark upon the pistol was a small cross. The pistols were both fired off. Lieutenant Hawkey loaded them from his own flask. He did not ask me the distance parties stood from each other when opposed in a hostile manner. I could not from the partial observation I overheard, infer that the parties were about to meet anyone.

When Mr. Hawkey came in the second time he said that it would be as well to flash the pistols off as he had a match to shoot with a friend for £5. I heard nothing further material Mr. Hawkey was not practising snapshooting, but taking steady aim.

I had never seen that gentleman before that morning to my knowledge. I had no other reason for knowing it was Mr. Hawkey but that Mr. Hewitt told me. Mr. Hewitt had been frequently there before. Gentlemen who practice duel shooting do so to time, as one, two, three; that we call snap shooting. It appeared to me to be the common practice firing.

THE SERVANTS GIVE EVIDENCE.

Both the servant of Lieutenant Hawkey and the servant of Edward Lawes Pym gave evidence at the inquest and at both trials. -

William Bearman - I am a private of the Portsmouth division of the Royal Marines, and acted as a servant to Mr. Hawkey who held the rank of First Lieutenant,

Portsmouth division. I last saw my master on Tuesday 20th May at about half past 4pm. He was in plain clothes. I met him as I was going from barracks to Southsea, near King William's Gate. He was alone. He called me over to say "You go home and stop there until I come back." I replied, "If you want me before my dinner hour you'll find me at my house." He said, "Do you as I order you and stop there until I come back." I never saw him afterwards. He sent me on a message that day. A gentleman came to see my master about five past eight o'clock in the morning. The maidservant answered the door. The gentleman who called sent up his card. - Lieutenant Rowles, RN, was on the card. I took it up to Mr. Hawkey's bedroom door, Mr. Hawkey being in bed. He opened the door and took the card out of my hand. He sent his compliments down to the gentleman and said he would come down directly. He came down in about five or six minutes and went into the parlour to Mr. Rowles. I did not hear their conversation.

I saw Mr. Pym, who was with my master to lunch, at about 1pm. I saw no pistols on that day. I have not seen Mr. Hawkey with any pistols for the last four or five years. I have lived with my master about eight years. I did not live in the house, and did not open the door frequently. I was not at Gosport on that day. Mr. Rowles was not with my master above one minute.

William Marsh. - I am a private of the Portsmouth division of the Royal Marines. I was a servant to Mr. Edward Pym who held the rank of second Lieutenant in the division. I last saw my master on 20th May at half past six o'clock. On the other side of Gosport but I cannot say where. No one was with him. When I saw him before that time, he was with Mr. Hawkey, just past the preventative houses on the other side of the water. This was about six o'clock on the evening of the same day. I saw no one else near at that time.

My master and Mr. Hawkey went to Gosport together on that evening. They went, as near as I can say, at a little after 5 o'clock in the afternoon. They crossed the harbour in a boat from the point. I do not know the name of the waterman who owned the boat. I went with them in that boat. No one else but the waterman was in that boat. My master and Mr. Hawkey were both in plain clothes. I had a parcel in the boat with me - a square parcel, wrapped up. My master gave me that parcel near the Salleyport. I did not know where I was going when my master gave me that parcel. I obeyed the orders of my master. I do not know where my master got the parcel. I received orders from my master about half past four o'clock at barracks, to take my belt off and follow him. I did so. My master went out of barracks and towards the point. I cannot say where my master met Mr. Hawkey. We landed at Gosport beach, and went up High Street, and from High street out of Gosport about four miles, it might be three, I cannot say. We came to some palings. Mr. Pym took the parcel from me. He told me to remain by the beach. My master and Mr. Hawkey went on together. I do not know where they went. I saw no other gentlemen about there. In about three-quarters of an hour Mr. Pym called me. I went to him and we went to a spot where there were two gentlemen standing, and one lying down, bleeding. I can't say who those gentlemen were. One of the gentlemen told me to fetch a surgeon. I got a fly and got Dr. Jenkins, and we went to the spot. The wounded gentleman was on board a yacht. I then went back to the barracks. The next morning, according to orders given to me, I went to the Fountain Inn and received a similar parcel to the one I had the day before. I took it to Lieutenant Hocking's room. I did not do so by the direction of Mr. Hawkey.

I had never seen the gentleman before who sent me for the surgeon. I did not see Lieutenant Hawkey on the ground. I left the parcel at Lieutenant Hocking's room, not Lieutenant Hawkey's. Lieutenant Hawkey is the adjutant of the regiment.

THE POST MORTEM.

At the Inquest, the witness, James Allan, M.D., deputy medical inspector, and first surgeon at Haslar Hospital, stated, -

I made a post mortem examination of the body of the late James Alexander Seton, in consequence of an order I received from the coroner. I made the examination yesterday at eight o'clock. I found three wounds, one upon the upper part of the right hip, another upon the opposite groin and a third in a position in which it is usual to perform the operation of tying up the external iliac artery. The latter was an incised wound about six inches in length. I traced the wound from the right hip to the left groin, and found an effusion of coagulated blood which had caused a tumour on the right side of the pubes, and which extended down into the scrotum. I saw a blood vessel, an artery, which had thrown out the blood and formed that tumour, and which was one of the superficial branches of the femoral artery. The rupture of that vessel was nearly an inch from the femoral artery. I saw no other wounded vessel. The spermatic chord and artery were perfectly sound. There was a small quantity of blood effused and coagulated into the upper part and inside of the thigh. The wounds between the two extremes were traced through a body of fat, which over the pubes was nearly three inches thick. No muscular substance whatever had been wounded. The right limb from the groin downward was slightly swollen and not coloured. I examined the abdomen and found on the walls a great depth of fat, in some parts two inches. On cutting into the cavity of the abdomen I found that several pints of sero-pululent matter had been infused, and the intestines much inflated with flatus. There were several patches of inflammation on the large and small intestines, some of them close to the wound where the operation had been performed. The peritonium, or sack in which the bowels are contained, and which is the lining membrane of the abdomen, was discoloured and was approaching to gangrene. The lips of the wound, after the operation, externally had put on a sloughing appearance. I examined the artery, which had been tied and found that it had been properly secured. I removed it. The vein had not been tied in with the artery. The operation was well performed. The depth of the incision was fully five inches, as I had difficulty in reaching the artery with my fingers. In the chest, the right lung adhered firmly to the walls of the chest, and the lung was full of dark coloured blood. The adhesions of that lung were evidently of long standing. The wound from the right hip to the left groin was about 14 inches in extent and about two inches in depth, on average. I have no doubt the wound was caused by a pistol ball. I have seen pistol wounds often. I am certain that the artery, which was wounded, arose from the femoral artery. I cannot say precisely what branch it was. I consider that the wound of that artery was dangerous to life, in forming an aneurysm, which was likely to burst at any time, and render the operation of tying the artery necessary. I cannot say that the wound of the artery described, and which was the wound of a pistol-ball, would have inevitably produced death, as wounded arteries frequently close from a coagulation of blood forming in mouth of the artery becoming perfectly cured. I think the operation performed by Mr. Liston was absolutely necessary, under the circumstances of the aneurysm and tumour existing. The existence of an aneurysmal tumour rendered it necessary to perform the operation of tying up the external iliac for the security of the patient. The deceased was in a state of danger during the existence of that aneurysmal tumour, although they frequently heal of themselves; and therefore I consider the operation called for. I think the cause of death was inflammation of the peritonium following the operation.

There was no appearance of inflammation in those parts of the peritonium, which were in the path of the course taken by the pistol-ball. The bladder appeared perfectly sound, nor was there any inflammation extending along the line of the pistol-ball wound. There was a small abscess in the left groin but of no importance. My decided opinion is that the deceased died of peritoneal inflammation following the operation. By following the operation I mean consequent on the operation. I cannot say that death would have ensued if the operation had not been performed. All the inflammation I discovered in the peritonium was connected with the operation and not the pistol wound. It is not unusual for inflammation to follow that operation which is one of the most formidable in surgery. I cannot form an opinion whether the result would have been different if the operation had been performed at an earlier period.

THE EVIDENCE OF THE DOCTORS

Much emphasis was placed on the fact that the immediate cause of death was the surgery and not the pistol wound. The evidence of the doctors who attended was drawn from them to underline this point. -

John Mortimer, M.D., deposed at the Inquest- I reside at Upper South Street, Gosport. I did not know James Alexander Seton until I saw him wounded. On Tuesday evening, 20th May I received a message from Mr. Jenkins requesting I would meet him at the Quebec Hotel to see a gentleman who had been wounded at Browns Down. I found he had been landed from a vessel a few minutes before my arrival. The bier on which he was carried in was too wide to enable access to the bedroom. He had been placed at the top of the stairs. From the shock given to his frame and from the influence of the wound he had received and the bleeding that had supervened, he was in a state of great bodily prostration. I examined the wound and found that the ball or foreign body had entered had passed in great velocity and without any interruption, entering low down the coverings of the belly and passing through outwards without any obstruction. It had entered on the right. Having done this, Mr. Jenkins and myself assisted in carrying the body, and placing it on the bed in which Mr. Seton died. There was no bleeding but the cellular tissue was loaded with blood. We recommended a little hot brandy and water, and applied blankets to the extremities, which were equally cold and he soon revived. At this stage I said to him, "Sir, you must have stood well up to your man, or you would have been shot dead !" There was an oblong tumour on the right of the symphysis pubes. We waited a considerable time to see if there was a recurrence of bleeding, and when the natural warmth of the extremities appeared to be restored; we united in thinking that a tepid application would be soothing to him. Finding a Mr. Hill living close by, who could bring at once the application we recommended, we desired him to see that it was applied, and if there was no objection on his part, that he would stay and see it repeated during the night. Mr. Jenkins renewed his visit at about half past twelve that night and found the patient as he left him, comfortable, (I had agreed with Mr. Jenkins that he would return and visit the patient), and thus ended the first day.

On the following morning we met at the Quebec again at 11 o'clock, and found that the patient had passed the night free from all disorder except that uneasiness which is inseparable from such a condition. We left him and proposed to meet again at 8 o'clock, which we did. The patient was doing well up to Monday 26th of May, on the evening of which day we met again. There had been no bleeding anywhere up to that time. On the Tuesday morning we met again at eleven. Dr. Stewart was then with us. On that morning, my mind being anxiously alive to the probability of renewed

bleeding from the wound, as I had been told he had lost much blood on the ground, I anxiously surveyed the oblong tumour. I made the observation that nearly seven complete days having passed since the reception of the wound, in all probability a vessel had been torn, and that it had communication with the tumour. I did not consider the patient in a safe state when I discovered the pulsation. I did not consider the patient in danger prior to the pulsation of the tumour, excepting the possibility, nay probability of recurrence of bleeding. We united in opinion that the most continued attention should be paid to this pulsatory action. And I was deputed to name as well as to the patient the probable consequences attendant upon this change. I knew from experience that such a pulsation, once commenced, would increase. On Thursday 29th May last, finding the tumour with a greater impetus pervading the whole, I then for the first time named to the patient, as well as to his wife, that further measures would soon be necessary for his relief and safety. I said to her, "The life of your husband, must be a source of deep interest to you; we are ready to do what the necessity of the case may call for; have you any wish to have a further opinion." And they both, (the deceased and Mrs. Seton) yielded with a becoming acquiescence. On the same morning there comes a letter from Mr. Wakefield, a relative of the deceased, previous to our visit, requiring from Dr. Stewart, a candid opinion whether it would add to the consolation of the sufferer if a person was added to us in consultation from London. Under such circumstances Dr. Stewart and Mr. Jenkins, both wrote, unknown to each other, requesting Mr. Wakefield would send down Sir B. Brodie or Mr. Liston.

Mr. Liston arrived by the nine o'clock train on the Friday evening, and having, with his usual skill, examined the seat of the injury, gave it as his opinion that the safety of the patient required a ligature to be placed on the external iliac artery. I considered that such an operation was absolutely required for the safety of the patient. Mr. Potter, late house surgeon to the London University, and his (Mr. Liston's) former pupil, accompanied him. A Mr. Sampson was also present at the operation, which was excellently performed on the following morning by Mr. Liston. The instant the artery was occluded the pulsation in the tumour ceased. The operation might have been postponed with safety for several days. I cannot say whether the original wound of the deceased was occasioned by a pistol-ball or not. I consider the wound a gunshot wound. I have no doubt of that. There was no mark of powder or burning about the wound. I believe it impossible that the wound could have been self-inflicted. During the whole time I attended him, the deceased never hinted at the cause of the wound. When I first examined the wound I considered it might have fatal consequences. I have no doubt that the rupture of the artery was caused by the entry of the foreign body. It was the rupture of the artery that ultimately rendered the necessity of tying up the external iliac artery. I attended the post-mortem examination of the deceased, made by Dr. Allen. In my opinion the cause of death was the torn condition of an artery, which had become a false aneurysm, and by which, if the blood was not intercepted, an aneurysm of any extent might have formed. The aneurysm was accompanied by peritoneal inflammation, from which the patient died. - which was I believe the immediate cause of death. Ultimately he would have died if the operation had not been performed.

James Stewart, M.D., of St Thomas Street, Portsmouth gave evidence, which corroborated the previous witness. In addition he mentioned the deathbed statement of the deceased. "I am aware of my danger, from your opinion and from that of the other medical gentlemen, and were I to die tomorrow, I know not why I was shot," a statement the deceased repeated several days later. " Dr. Stewart also added that he sat

up on the Sunday night, 1st June, and on several occasions during that night I conversed with him on this unpleasant affair. The deceased also made the statement, "I saw Lieutenant Hawkey present the pistol, which did not go off the first time. He was then standing in his proper position as an opponent, somewhat near Stoke's Bay. I distinctly saw Hawkey present the pistol the second time, the ball from which pistol went through my body." Later the deceased told Dr. Stewart, "Had we stood at the distance he wanted (namely, six paces) he would now be in my place and I in his. I fired twice."

THE JUDGE'S SUMMARY. AT THE TRIAL OF PYM.

Mr. Justice Earle summed up. - The Jury had to find whether Mr. Seton died of a bullet wound; whether Mr. Hawkey had fired off the pistol which gave the bullet wound of his malice aforethought, and whether the prisoner was present aiding and abetting Mr. Hawkey in committing that crime.

With respect to the first part, whether Mr. Seton died of the bullet wound, - It appeared in evidence that he was seen on 20th May with such a wound in the lower part of his belly; that the artery which had been wounded had begun to pulsate; that the best medical advice in Portsmouth was resorted to, and that one of the best surgeons in London was sent for. That surgeon performed an operation on the deceased, which would have had the effect of arresting the consequences had it prospered but inflammation followed. Mr. Seton died of the effects of that inflammation. The judge was of the opinion that if a party received a wound, and recourse was made to medical treatment from which he died. The man who gave the wound was responsible for his death, the death being the consequence of the wound.

The two next steps were, first whether Mr. Hawkey let off the pistol, which occasioned the wound, and did so of his malice aforethought, and secondly whether the prisoner was present aiding and abetting him. The prosecution charged, that as a consequence of a quarrel in the night of the 19th May, or the morning of the 20th, Lieutenant Rowles called upon Mr. Hawkey. The latter accepted a challenge from Mr. Seton to meet him in what was called a duel, and was well known by that name; that they deliberately met in cool blood; that an exchange of shots took place, and that Mr. Hawkey shot Mr. Seton. The indictment charged Mr. Pym with being the second of Mr. Hawkey.

Now, said the judge, it was his province to lay down to the jury the law and he stated the law of England to be this: - Where a challenge was so sent and accepted, if one party died by reason of a shot from the other, all who were present at the duel, the person who fired the shot and the second of either party, were in law guilty of the crime of murder. He stated this to be the clear rule of the law of England, admitted to be such by both the learned counsel. He stated it to them upon his responsibility as judge. If they were of the opinion that the evidence established the fact that the parties so met in a duel, **the jury was bound by their oaths to find the prisoner guilty of the offence charged in the indictment.**

He had heard, he said, with some regret, some observations made by the learned counsel for the prisoner. They tended, as far as he understood them, to disparage the law, and to endeavour to persuade them, the jury, to find a verdict in favour of his client, contrary to the law as laid down by the judge. He knew it was unnecessary to caution the jury, **not to yield to any such entreaties, as a counsel in his zeal would**

offer on behalf of his client. If such considerations were introduced into the jury box, and juries were led to bestow their verdicts as matter of favour and indulgence, the consequences would be most dangerous and pernicious. He had far too great a respect for the jury to suppose that they would be influenced by such considerations. It was an unquestioned rule of our law, that if parties went out to fight a duel, and anyone died in that duel, **all who went out to be present at the fighting of the duel were guilty of murder. He should not detain them by any remarks upon what had fallen from the learned counsel, as to the feelings of society upon this subject. They were not to consider this matter. If the law ought to be altered, those, whose business it was to make laws should have their attention directed to it. In the eye of many, duelling was a most pernicious practice. Some, according to the learned counsel, entertained a different opinion. The jury had nothing to do with those conflicting opinions. They had not to determine which was correct. The law was as he had stated it, and they would tell him, after having heard the evidence, whether Mr. Hawkey, in their judgement, went out to meet Mr. Seton in a duel, and shot him in that duel, and whether the prisoner was second to Mr. Hawkey. If they could answer both these questions in the affirmative, their verdict must be "GUILTY"**

The judge then went through the evidence again. He put emphasis upon the deathbed statement of Seton. He said that the provocation Mr. Hawkey received was only evidence of his motive for killing, which would be a malicious motive. He said that it was not for the judge or the jury to be swayed by feelings of favour towards the accused. A good deal had been said about Mr. Hawkey not having fired in the first instance. He (the judge) did not know how that was. The only questions the jury had to decide were, whether the parties met deliberately, in pursuance of a challenge, and Seton was injured in a duel, and the prisoner was second in that duel. **If the answer to those questions was "Yes", they were bound to find the prisoner "Guilty"**

The verdict of the Pym trial.

The jury consulted in their box for a few minutes and returned a verdict of "Not Guilty." This verdict was followed by an instantaneous burst of applause, clapping of hands and huzzas.

THE JUDGES SUMMARY AT THE TRIAL OF Lieutenant HAWKEY

Mr Justice Barron-Platt summed up to the jury with different emphasis to those used by Mr. Justice Earle.

He urged the jury to pronounce their verdict upon the facts according to their oaths. He (the learned judge had not interrupted the eloquent speech of the defence in the interest of freedom of speech, consistent with decency. He told them that what they had to try was this. - Did the prisoner at the bar deliberately, by shooting Mr. Seton, with a pistol loaded with gunpowder and bullet, inflict upon Mr. Seton a wound, and was that the cause of his death?

Mr. Barron-Platt then read the evidence with great care commenting upon it as he proceeded very favourably towards the prisoner. He thought that Mr. Cockburn had put a reasonable construction upon the answer given by the prisoner to Mr. Savage. If Mr. Hawkey knew that a gross insult had been offered to his wife, which no man could endure, and had applied, as many men would do, the terms "scoundrel" and "blackguard" to the author, and was then called upon to apologise for so doing, who would have advised him to consent? If therefore the learned counsel was right in his supposition, Mr. Hawkey was right in his refusal to withdraw the epithets he has

applied to Mr. Seton without satisfaction, - not the satisfaction of a duel, but of an explanation and an apology. This hypothesis was fortified by the statement of Mr. Hawkey, that Mr. Seton had told him that a Light-Cavalry man could not meet an Infantryman, which showed that no duel was then in contemplation. The learned judge thought the jury could not place much reliance upon the expression imputed to the prisoner by Mr. Town, who had spoken to a conversation between two gentlemen which he had overheard, though it was not intended for his hearing. Mr Town had stated in his examination in chief an expression, which was certainly exceedingly different from that which appeared in his cross-examination. It was only part of a conversation, and it was always dangerous to trust pieces of conversation. The learned judge pointed out the loose and dubious expressions, which were used by other witnesses. With regard to Mr. Seton's death-bed declaration, the jury, he said, must be satisfied that the deceased had in his mind a moral certainty of approaching death, and that the declaration bore that collected character which showed that he knew what he said. If, notwithstanding the opinion of the medical man, he entertained a hope of recovery; they would be justified in rejecting that declaration. If the jury shut out what was said by Mr. Seton on his deathbed, there was very little evidence to show the identity of Mr. Hawkey as the party who killed Mr. Seton. Leaving out of consideration all they had heard, the jury would pronounce upon the evidence and the evidence alone, whether the prisoner was guilty or not guilty. If upon an honest consideration of the evidence the jury were led to the former conclusion, they would have the firmness to do their duty. If the facts did not bring them to a satisfactory conclusion of the prisoner's guilt, - if the scales were even, and they felt a doubt, then they would consider again. They would place that doubt and the high character, which Mr. Hawkey had received, in the same scale, and give him the benefit of both. Let the jury not swerve from their duty, but "be just, and fear not."

THE VERDICT.

The jury considered for a few seconds only, and delivered a verdict of NOT GUILTY.

THE "SPECTATOR'S" APPRAISAL

From the 1846 archive of the Spectator came the following. -
"ABSURD" VERDICTS - THE GOSPORT DUEL

Mr. Pym, second to Lieutenant Hawkey, who shot Mr. Seton at Gosport, has been tried, and has been acquitted, in the teeth of the facts, the evidence, and the Judge's charge to the Jury. People are outraged at the "stupidity" of the Jury, and the monstrous incompetency of jurymen in general. But were these jurymen so very absurd?

Mrs. Hawkey was insulted by Mr. Seton. Her husband resented it. A challenge followed. Mr. Seton was shot and wounded. The medical treatment seemed at first successful, but an arterial aneurysm appeared in the wound. An operation was performed and the patient died. He must have died of the aneurysm if that had been neglected, but probably the immediate cause of death was the irritating effect of the operation.

In these facts, counsel for the defence detected a point, on which, by a process of refinement to raise a technical doubt. - Could Mr. Seton be said to die of the wound, or of the operation? If of the operation, who killed him, the challenger or the

surgeon? Furthermore, it was represented to the Jury, that Mr. Hawkey, the principal in the duel, sustained great provocation. Mr. Justice Erle told the Jury that they must not consider provocation an accomplice in "murder" It is evident that to all intents and purposes, by whatever intermediate process the symptoms might have been developed, Mr. Seton died by the act of Mr. Hawkey. No excessive refinements as to the possibility of avoiding the operation can disguise the simple fact.

If the surgeons had been altogether out of the way the suffered must have died. He had the best surgical attendance: surgical skill is not infallible, and granting that error lurked in the advice given for Mr. Seton, the fact of his having that advice, diminished, not increased the chances of his death. Practically, in the ordinary language of common sense, Mr. Pym was an accomplice in the fatal act, and technically, that act was murder: yet the Jury returned a verdict of "Not Guilty"

You say, the verdict is preposterous, and those who give it must be dullards. But again we ask, is that so sure? It is very easy for you, reading the newspaper, to say that the facts were plain, that the facts alleged were proved, that the explanation of the law was clear and that the sole logical conclusion was a conviction for murder. It is quite competent for you to remind us that in law duelling is murder and that the Jury were expressly told not to meddle with the subject of provocation - all that is easy for you, because no immediate result follows your confident assertion and contemptuous chuckle.

But suppose that, instead of being a mere newspaper reader, you had been set down in a court with eleven other men, sworn to examine minutely into all the facts. Suppose that you heard the ablest professional controversy, medical as well as legal, on the complicated history of the wound. Suppose that you perceive, on close scrutiny, distinctions which escaped in the free broad view of a more unconcerned spectator - doubts, as to the *perfect* certainty, whether the fatal access of disease which terminated in the article of death, was the direct consequence of the shot or of the knife. Nay, more the Judge tells you that death inflicted by duel is murder; but you know better. You know, that the two phrases of language mean things very different. You know too, that the Jury is to judge of the law as well as the fact. You know that in this particular instance, professional and fashionable etiquette's almost compelled Mr Hawkey to give the challenge as he did. And suppose that, knowing all these things, you reflect that you are responsible for inflicting a most awful decision - that on your judgement, right or wrong hangs the life of a fellow creature. You are full of doubts-as to the facts, for all the witnesses speak so confidently - as to the law, for all Mr. Justice Erle is so infallible. Society has not made up its mind about duelling, then how *can* the law be settled on the point? Parliament and Judge made law is very peremptory in its mandates, but very inconsistent and quite capricious in its assertion of principles. And now you, an erring mortal, oppressed with a sense of doubts all round, without and within, are called upon to utter, in one single word, an inevitable decree of death. You are certain of only one thing - which the word "Guilty" means that you, thus doubting, pronounce that inevitable decree of death. By saying "Not Guilty," you may make a mistake, but at all events not at the cost of blood.

Are you now prepared to sit and pronounce your judgement as promptly and gaily as when you sat reading the newspaper, passing censures on the stupid Jury? No, you confess that the position makes the same man quite a different being.

We come back to the old story. It is because the law is so imperfect in all its processes, so arbitrary in its conclusions, that jurymen fly from an oppressive and undue sense of responsibility by refinements and evasions; making one imperfection of the law compensate another. Let erring law no longer require mortal man to utter

irrevocable decrees, the proper function only of omniscience, and juries would no longer be terrified at the contemplation of their own act. They would be content to fill up the round of doubts, and to utter the expected decree, even though it should involve an error. Improve the code of criminal discipline; make it milder, more apposite to its purpose, more suitable to the humble insight of human nature; and the dozens of men taken from society would administer the law with more confidence and consistency.

WHAT HAPPENED TO THEM ALL.

Mrs. Hawkey's son. -The "Times" of June 4th, 1846, announced that the wife of Henry C.M. Hawkey had given birth to a son. That child was only six weeks old when his father stood trial.

Return to duty.- On August 10th, 1846, it is announced that 1st Lieutenant Hawkey joined the division of the Prince De Joinville at Malta for duty.

Leave. - On August 17th, 1846, 1st. Lieutenant Hawkey of Portsmouth division has gone on Admiralty Leave for three months.

Appointments On July 12th, 1849, 1st Lieutenant H.C.M. Hawkey to be Captain vice Capt. Edward Walter to half pay.

On Thursday, March 27th, 1851 an announcement appeared in the "Times" Her Majesty's Levee- **Captain Hawkey**, Royal Marines on promotion by Colonel Parks CB.

**On Monday, 24th May, 1852, the following article appeared in the "Times"-
The Court Martial on Captain Hawkey, R.M. - Woolwich, May 22nd.**

The Court Martial on Captain Henry Charles Moorhead Hawkey of the Woolwich Division of the Royal Marines, having concluded its sittings, and the finding and sentence having been confirmed by the Lords of the Admiralty, we are now permitted to promulgate them.

The following is the charge on which Captain Henry Charles Moorhead Hawkey was tried by a Court-Martial, of which Colonel George Batt Bury, was president. -

"For conduct unbecoming the character of an officer and a gentleman, in having, on 26th April, 1852, in the public road between Woolwich and Charlton, in the county of Kent, violently assaulted and struck, First Lieutenant Henry Thomas Swain, of the Woolwich division of the Royal Marines, such conduct being in breach of the articles of war. "

The evidence for the prosecution occupied the court one day, and for the defence, two days. It extended to a great length and is of such a nature, that

It would not be justice to either party to give an abstract only of it. The following is the finding and sentence of the court. -

"The Court, having maturely weighed and considered the evidence, in support of the prosecution, together with what the prisoner has urged in his defence, and the evidence in support of it. It has also taken into consideration the great and long provocation he has received, and the very peculiar nature of that provocation. The Court is of the opinion that he, the prisoner, Captain Henry Charles Moorhead Hawkey, of the Woolwich division of the Royal Marines, is guilty of having assaulted First Lieutenant Swain, at the time and place stated in the charge. He is not guilty of conduct unbecoming of an officer and a gentleman, and the Court therefore most fully and honourably acquit him of that part of the charge"

"Sentence"

"The Court having found the prisoner guilty of part of the charge preferred against him, which, being in breach of the Articles of War, and taking into consideration the very high character given of the prisoner, do now sentence him, the prisoner, Captain Henry Charles Moorhead Hawkey, of the Woolwich division to be reprimanded.

"Royal Marine Barracks, Woolwich, May 17th, 1852"

Lieutenant Swain was also charged.

Lieutenant Henry Thomas Swain was charged with behaving with contempt and disrespect to his superior officer, Captain Hawkey, and saying to him, "I don't care that for you," such conduct being in breach of the Articles of War.

Swain was found "Not Guilty"

Swords returned

On Saturday, 22nd May, Colonel Mercer assembled his officers of the division in the mess room, when the finding and sentence of the Court- Martial were read by Lieutenant and Adjutant Stewart. Captain Hawkey was presented with his sword by Colonel Mercer, saying that he had much pleasure in doing so. Captain Hawkey said he trusted he would wear it long and with honour in Her Majesty's service.

Several of the officers then shook him warmly by the hand and congratulated him.

On Thursday 27th May the officers were again assembled and Lieutenant Swain's sword was returned in the same manner.

Edward Lawes Pym

There was no mention of this prominent figure in the story of the duel for many years. However, in 1886, some forty years after the event, one finds a report of an extraordinary general meeting of the Army and Navy Auxiliary Co-operative Supply (Limited), held at the Westminster Town Hall, Caxton Street. The purpose of the meeting was to wind up the company voluntarily and to appoint a liquidator. **This person was Lieutenant-General Edward Lawes Pym.** He was authorised to sell the assets to a new company of the same name, which had a capital of £100,000 in shares of £1 each. The Chairman of the meeting said that the progress of the new company had been smooth and prosperous since General Pym assumed control.

The London Gazette, June 22, 1887.

It was announced that Lieutenant- General Edward Lawes Pym was appointed General in place of Penrose.

Henry Charles Moorhead Hawkey died in 1859 at Cricklewood London

Isabella Frances Hawkey went home to her mother.

The 1861 census shows Isabella at home with her mother, Elizabeth Coltey aged 76. Elizabeth, now 39, has her three children with her. Alice is 17, Charles R. Hawkey is 12, and Isabel C. Hawkey is 11. Alice, it seems, would have been a baby when the duel took place, yet there was no mention of her in any of the reportage of the event.

Lieutenant Rowles

In the 1851 Census Lieutenant B.S. Rowles Royal Navy, now aged 31 is living in the house of Thomas L Casey, Portugal Cottage, Kingswear Totnes, Devonshire. Rowles is described as unmarried and a lodger, born in.....Mid.. Recorded in the same house is a visitor, also aged 31 and unmarried, a gentleman, born in Dublin, Ireland. Looking back at the testimony of Mrs. Isabella Hawkey there is a Mr. Maugin, whose arm, Mrs Seton has taken whilst they were walking in Portsmouth. Since Lt. Rowles was a member of the Seton entourage it is likely that the Maugin visiting Portugal Cottage on the date of the census was the same man. Also lodging in the house is a married lady, Mrs. S. E. Wagland, described as a gentlewoman, born in Durham-Ntk. Lt. Rowles is at this time, Lieutenant RN Half Pay. It could be that the Royal Navy took a different attitude to the Royal Marines authorities. Perhaps he was retired as the scandal developed and that is why he was never brought to trial.