

THE UNFORTUNATE LIEUTENANT JOSEPH CROWTHER: HONOUR, FAMILY AND THE COURTS IN GEORGIAN BRITAIN

Introduction

Some years ago my curiosity was aroused by what was said on a plaque in the Lady Chapel of St Nicholas Church, Thanington. It referred to the falling of a Lieutenant Joseph Crowther in Boulogne in 1829. To me 'falling' is something that soldiers do in battle but, having just written a book on the Revolutions of 1830 in Europe I was more aware than most that the British army had not then been fighting on the Continent. So my first thoughts were why was the plaque there, given that Thanington has no obvious connection with Boulogne, and how had Crowther died, given that authorities on the period advised me that it was unlikely to have been as a result of a duel.

Some while later, serendipity led me first to the pages of the Kentish Gazette which showed that there had indeed been a duel, and a tragi-comic one at that, and then to the work of an English historian living in Ireland.¹ He provided valuable information on the Anglo-Irish victor in the conflict. This was Captain George Paul Helsham of Kilkenny. So I wrote this up in the parish magazine and thereafter thought no more about it.²

However, some years later, I came to learn that the duel had had legal ramifications and had been widely followed in the press. Much more information also came to light about the two families involved and their sometimes colourful histories. So what follows here is a longer account of the duel, the participants and their families, and the aftermaths, legal and general.³ What it shows was how strong ideas of honour still were on the eve of the Victorian Age and how these rendered the poor Lieutenant so unfortunate. Indeed, the fact that his death may have served to change legal attitudes to duelling would have been scant consolation to him and his family.

Why was there a duel ?

Seen from today's perspective the cause of the duel was mind-blowingly silly, and doubly so. On the one hand, the issue seems nonsensical today. And, at the time, one of those involved is alleged to have called the issue over which the duel was fought, 'trifling'. The fact is that when Lieutenant Crowther applied to join the pigeon shooting club in Boulogne, run by the many British officers living there – where their half pay went further – his application was blackballed by a fellow officer, Captain Helsham. It seems that pigeon shooting was a socially respected entertainment which, along with billiards, helped the expats to while away the hours. Hence, it often involving large sums in prize money. And it was the only club to require a members' vote to secure entry, whereas the parallel billiards' club was open to all. So it mattered.

The reason for the blackballing was that, in 1823 or thereabouts Crowther had tried to elope with a young lady from Cheltenham. However, he was stopped and he was either horse-whipped by the girl's father or, more probably, assaulted by someone else associated with the family. In fact, Crowther denied horse-whipping but admitted some kind of assault and this makes the lack of

¹ Edward J Law 'A Kilkenny Gentleman?' (2001) <http://homepage.eircom.net/~lawekk/KKGENTLEMAN.htm>

² 'A Mystery Solved' St Nicholas Thanington Parish Magazine, March 2005

³ A shorter version is also in press with the Parish Magazine under the title 'New light on the unfortunate Joseph Crowther'

certainty about the perpetrators of the affray more comprehensible. By the sound of it, he had been pursued, perhaps to Aylesbury, caught and was then roughed up in a scuffle resulting from the family's attempt to free the young lady.

In any case, getting stopped from eloping and being attacked were not the actual 'offence' with which Crowther was accused before what we might call the 'court of honour'. Rather it was the fact that he had not sought 'satisfaction' from whoever had assaulted him, that is to say demanded a duel with his attacker as a true gentleman would have done.⁴ As a result, he was a coward. Moreover, and this was perhaps the gravest accusation, he was not the sort of person with whom the honourable members of the Pigeon Shooting Club could be seen to associate if they did they would themselves lose face. So the problem was not just what Crowther failed to do, but the effect that this could have on others. Hence Helsham claimed that he felt he had to denounce Crowther out of duty to the Club and his friends. In fact, he claimed neither to know Crowther nor to have any personal animus against him. This shows how wide the idea of honour, and the ease with which it could be lost, then went. And it explains, if it does not justify, why Helsham made so much of an insignificant affair.

On the other hand, the whole affair seems silly because it was often on the point of being called off. Obviously, faced with this charge of cowardice, Crowther had had to respond, so he demanded satisfaction of Helsham. However, right up to the last minute, negotiations went on because Crowther claimed that he had tried to obtain satisfaction after he had been assaulted. But he said that he had done this through an advert in the Morning Post because he did not know the name of his attacker. This rather suggests that he was not horse whipped by the aggrieved father as it is hardly credible that he did not know the family name of the girl with whom he was seeking to elope.

Helsham offered an apology, or something like it, if Crowther could justify his behaviour. However, he would not accept Crowther's own word that things were as he said. This, of course, was a further slight on Crowther, suggesting that his word was not considered 'his bond'. At one stage Helsham was reported as saying when Crowther said he had followed the code, that 'He would say that would he not, but who would believe him?'. He also refused to meet Crowther 'as a gentleman'. And he made it clear that he was serious in his charge against Crowther.

Moreover, the fact that Crowther had not appointed a second to help him in the search for satisfaction meant that he had nobody to back him up. Had there been a second, the claim that he had sought satisfaction would not have depended on his own say so. It also implied that he had not proceeded according to the code of honour. However, how could someone 'second' an advert in the daily papers? This could only have happened after the attacker had been identified.

So, while Crowther initially offered to go back to England to somewhere where he could get copies of the papers to show the veracity of his claim but, for whatever reason (possibly on the urging of his second), this did not happen.⁵ It was also suggested that Helsham should write to three

⁴ One of the mysteries of the affair is how Helsham came to know of the 1823 affair. He seemed to suggest that he had heard about in Cheltenham., it being said that the horse-whipping affair was 'a matter of notoriety', though this may not have been true. He also said that he had read about it in the press, and this is more likely. It would certainly explain why he had a garbled version of it, which averred that Crowther had been horse-whipped. Clearly though, whatever the origin of the information, it was Helsham's decision to act on it out of an exaggerated sense of loyalty to his friends, as there is no record of any other members of the club denouncing Crowther. However, his proposer allegedly withdrew his nomination on hearing of it. Was he, in fact, trying to curry favour?

⁵ Certainly something must have happened to lead Crowther to fight at the time he was supposed to be embarking for England. And Lambert seems to have been the only person likely to have done this, for whatever reason. He may not have been the messenger of peace he claimed. We do not know much about him. According to the London Gazette he had bought a cornetcy in the Dragoons in 181. And he was probably

well known residents of Cheltenham, including a Mr St George, to provide supporting statements. This too seems to have led nowhere. And had it happened there might have been more time to allow reconciliation. So Crowther was unable to provide the answers demanded of him, and the charges stood.

There is some suggestion that Helsham tried to dissuade Crowther from fighting by warning everybody that, if he, Helsham, did fight, it would be for real and he would not merely fire, symbolically, over his opponent's head. But this failed to deter his adversary and his second who, by then, may have concluded that nothing would satisfy Helsham. And the latter, having brought up the charge, may have found it hard to back down, especially as he was himself was apparently threatened with horsewhipping if he did not do so. It may also have been that Crowther's (or Maloney's) second thoughts that threatening Helsham would force him to apologize. This did not work. So miscalculations and the absurdities of the so-called code of honour, possibly combined with prickly personalities, drove them to fight.

The Participants

So who were these two personalities who agreed, so misguidedly, to fight on that fateful April Fools' Day? **Joseph Crowther** was (probably), the third son of Paul Crowther the former Comptroller (or Chief Financial Officer) of the City of London Corporation. He was born at Highbury Place in 1792. His father died in about 1822 by when Joseph could have been in his 30s. We know nothing about his education but it is likely that he did not go immediately into the army, and could have lived a life of leisure for a while. Or he may possibly have been in education for a while as he only entered the army when he was 21, which is older than normal.

In fact, the first thing we really know about him was that, in late April 1813, he was described as a gentleman when made an Ensign, the lowest rank of officer in the East Essex Militia in succession to one Osborn who was promoted Lieutenant.⁶ Less than a year later, in mid-February 1814, he was transferred as an ensign to the 1st Regiment of Foot (also known as the Royals and the ancestor formation of the Royal Scots) thanks to purchase. And in November 1815 he was elevated to a Lieutenantancy in the same regiment, this time by ordinary promotion, replacing one Midgeley who had resigned.⁷ We do not know if he served at Waterloo but it seems he may later have gone to India with a regiment commanded by a brother in law, Lieutenant Colonel Muller. As such he may have fought in the Maratha Wars of 1817-18.

However, he was put on half pay in October 1817 when the 4th Battalion of the Royals was stood down as part of the post-Waterloo winding down of the army. He was certainly back in Europe by the mid-1820s, still only a Lieutenant and on half pay. The War Office credited him with 3 years' full pay service and 12 years half pay. In 1828 he made it clear that he was still desirous of serving, having lived for the last five years in England and the continent. He still described himself as a Lieutenant in the Royals. He seems to have come and gone to Boulogne and only finally arrived in mid-March. Had he been a long term resident he would have applied to join the club long before. At all events he seems to have been a proper professional soldier, and one who clearly wanted to go on serving despite apparently being short sighted and prone to carry a glass. He was unmarried.

married, with a son called Chidley, who was christened in Cheltenham in 1811. But there is no other record of him, apart from the duel, that is all we know of him.

⁶ WO 25/754 ff 00360/00361

⁷ London Gazette 21 November 1815 p. 2325

Neither of these things seem to have applied to **George Paul Helsham**. Born in Kilkenny City in 1802, the son of a senior Church of Ireland priest, he was educated privately at home. He went up to Trinity College, Dublin in 1816 when he was only 14. Ortraits of him then show him as somewhat cherubic. He gained his BA in 1820 and an MA, which did not require attending courses, in 1824. In May of that year he was commissioned as a Captain in the Kilkenny Militia, a 500 strong force, which worked alongside the regulars who were stationed in the city barracks. This may have come by purchase but it brought him only half pay. In fact, Irish militia captains then were normally required to have an income of £200 and they normally went unpaid. He claimed that he had left the UK for non-military reasons early in the 1820s and came to Boulogne in 1825.

There is no evidence that he ever served in the field although many militiamen did. So he seems to have been something of a 'social' soldier. This did not stop him saying that he had had to fight because be hand, above all things, to avoid 'dishonour' He also got married soon after the duel, to Elizabeth Ann, the daughter of a Lieutenant- Colonel James Robert Conway of the 51st Regiment, another Irishman, who, although normally living in Horndean in Hampshire, was also a longish term resident in Boulogne in 1829. Helsham had a son with her, called George Macklin Helsham who was born in late November 1830. The marriage took place sometime before the trial but it would seem that his wife died some time afterwards. However, before this, there could have been a second son, Paul, who eventually died in Hawaii.

Helsham eventually returned to Kilkenny in 1837 where he quickly became a pillar of the community. He was made a Freeman and Alderman of Kilkenny City around 1840. Five years later he seems to have married for a second time to Anne St Leger Burton (née Dimbleton), the presumably daughter of Lt General W C St Leger of Waterford, with whom he has two sons and two or three daughters according to Law. He lived in John Street next to his mother though he also had a country property at nearby Mallardstown.

It seems that he remained a nominal soldier, being so described in 1854, when he was apparently still in service with the Militia. In fact, in the late 1850s the militia was transformed into the 127th Regiment of Foot, or the Kilkenny Fusiliers. He was also described as ~~the~~ spokesperson for the local military, probably because he was also apparently the editor of the Kilkenny Moderator, the often aggressive voice of the Protestant Anglo-Irish Ascendancy.⁸ He also became a member of the Council of the Royal Irish Academy before 1858 possibly reflecting the fact that he may have developed legal and intellectual pursuits.⁹ However¹, about this time, he seems to have left Kilkenny for the Isle of Man (where there was another branch of the Helsham family which also developed a link with Australia), dying in Douglas in 1861 He may have departed because of the heated atmosphere caused by the rise of Irish nationalism which was strong in the county. It seems that he was a supporter of the repeal of the Corn laws and may, just possibly, have had some sympathy for Home Rule.

The Duel and its immediate aftermath

It seems that there was a meeting between the seconds on 31 March, the day before the duel. Crowther had written to Helsham, and his prospective father in law, Lt Colonel Conway, seeking redress. Although Conway produced a letter in which it he said he wished no further correspondence with Crowther because he was not a fit person to be dealt with by a gentleman. deals with

⁸ L. Bolger The Military in Kilkenny 1800-1870 (2005) Available at http://eprints.maynoothuniversity.ie/5279/1/Liam_Bolger_20140722145036.pdf

⁹ Journal of the Royal Irish Academy 1858 Vol 7 pp 29-32

Crowther, there were a series of meetings that day. To begin with a Captain Richard Siegg of the 22nd Dragoons, was sent by Conway. Later Lambert Maloney arrived as Crowther's second, allegedly as a conciliator. He claimed to have known Crowther for some ten years though not through the Army. Helsham is said to have expressed surprise that Maloney should have come.

Discussions went on between Conway, Helsham and then Grady, who acted as Helsham's second. They averred that Crowther was not a fit person to fight because of the alleged horse whipping. And when Maloney called for an apology Helsham is said to have said 'nonsense'. Given this refusal Maloney insisted that Helsham must fight though he denied that he threatened Helsham with horse whipping if he did not. And without resolution the duel went ahead.

It actually took place just after 11 am on the morning of 1 April 1829, about a mile and a half outside Boulogne town, and in front of the huge column erected to celebrate the Grand Army's mobilization against England in 1805. Although there were few houses around, it seems to have been a fairly public affair, attended by anything up to 50 people, who came on horse or on foot. According to witnesses they came from the lower classes and the curious. At the trial the prosecution alleged that Helsham had encouraged people to come. However, the combatants both arrived in carriages, Crowther with his second Lambert Moloney, a Captain in the 5th Dragoon Guards, and Helsham in a group of five people. They included his second, one Grady, and Lt Colonel Conway. A doctor, called Donnon, was also present.

Things started with discussions between the seconds, and though the prosecution was later to claim that Helsham and Conway ran things, there were apparently no verbal exchanges between him and Crowther. The former was allegedly in a ditch when the pistols were loaded. Both seconds brought a brace of pistols, and Grady's, which belonged to Conway, were used. They may have been hair triggered though Crowther was urged to use a normal trigger because he was not a practised duellist.

The Kentish Gazette reported that the two were apparently very set on fighting as they wanted to shoot at six paces. However, their seconds persuaded them to make it 12, though other sources say it was 15. The distance was significant because Crowther was near sighted. In any case it was still too close for poor Joseph Crowther. And a final attempt to get Crowther to provide the detail which would have let Helsham apologize failed. Weapons were then given to the participants.

Grady gave the signal – 'Now Gentlemen', at which the duellists were supposed to raise their arms and fire. It seems that as soon as his second had given him his pistol, Crowther fired although his barrel was apparently pointing downward. He obviously missed whereas Helsham was then able to shoot at will. In fact, it was said that Helsham raised his arm gradually until he had Crowther in his sights allowing him to take deliberate aim even though he could have missed. He then fired, hitting Crowther who was shot in the neck, under the ear, the bullet probably exiting the other side. It left an inch-wide entry wound. The Gazette reported that Grady told Helsham that he had killed Crowther to which the latter is said to have replied. 'God, I hope not' which is unconvincing, given the deliberate way he is supposed to have fired.

Although the Gazette also said Crowther 'breathed his last almost instantly', this was apparently not so. Other reports say he fell and spectators then ran to him and found him still living. Dr Donnon then examined him and he was put in the carriage which had brought him to the fateful scene and taken back towards his lodgings in the Rue du Mont à Cordens. However, he is said to have actually died in an inn on route, expiring some twenty minutes after the duel. And he never spoke during this time. It could, of course, have been that he had rooms in an inn.

The body then remained in his lodgings until Rev James arrived on 5 April, followed by Francis Crowther. It was his role to take the body it back home to England, although we don't know how, when or where this happened. The police came sometime afterward and interrogated several people. Helsham himself was held for seven weeks before being released uncharged.

The Gazette further claims that two people, presumably the victorious captain and his second, rode desperately to Calais to get a passage to England, no doubt before the gendarmerie came calling. Failing to find a scheduled crossing they hired a boat and returned to the UK. However, other

sources suggest that he stayed in France because he seems to have been interrogated and tried by the French authorities, although he emerged unpunished. There is also a suggestion that he did go to Hampshire sometime after the duel, only to flee back to Boulogne when he was the subject of a Hue and cry in England.

The Crowther Family

Once the duel was over the Crowther family as such came into the act. The father being long dead by 1829 it fell to his brothers to take up Joseph's case. We assume that they felt that he, and family honour, demanded protection, not to say satisfaction. Again, oddly to our ears, they seem not abashed by the fact that their brother had been duelling, even though this was nominally illegal. The fact that James was a man of the cloth does not seem to have changed this. Clearly codes of honour remained deeply rooted.

Only two of his brothers who came to Boulogne and then pursued the family's interests. One was James Crowther, a clergyman, born in 1783. He had been ordained in 1810 and, after other posts, he finished as Vicar of Kingsbury Episcopii in Somerset where he served from 1820. Unfortunately, we know nothing of his later life. They obviously felt that their brother had been badly treated.

The other brother was a younger brother Francis, born around the mid-1790s. He was also a soldier, having become an ensign by purchase in 1814 in the 1st Regt of Foot. He later served in the 80th (or East Essex) foot, and the 44th which he joined in 1830. He had lived in Pimlico but was living in Deal at the time of the duel. . The most significant thing was that, in about 18 he eloped, or more likely abducted, with one Palmyra Both whom he married in Berne in 1825. This had caused a breach with his mother. But by 1833 he was in the military asylum at Chatham. He died that same year, leaving debts.

The business of abduction is part of an amazing story in itself, affecting a six strong group of sisters called Both.¹⁰ They were the children of Hermann Christoph Both, the fencing master to the Court of Hanover, which was until 1837 linked to the British crown. He had retired to Berne to live cheaply and escape his wife's debts. He also had a government pension of £150 due, some journalists suggested, to the daughters' 'intimate' relationships to the royal family, as apparently two of the six were 'adopted', in other words they were allegedly royal 'by-blows'.

The abduction was apparently planned by a young English fortune hunter, then living in Berne, which was presumably Francis Crowther.¹¹ Apparently not put off by Joseph's failure to elope, he apparently, according to the Illustrated Magazine, manufactured an acquaintanceship with the six girls, often taking them for rides.¹² When it came to the youngest he contrived to ride off with her, only to be brought back with her three days later. To avoid further punishment, he accepted the option available under Bernese law of marrying the girl, though she seems not to have wanted this. The two then disappeared from the Both family's lives and they had no idea where she was.

Two of the other daughters, probably inspired by what had just happened to Palmyra, committed suicide, leading the other three to go to he died in Florence, and some voices accused the girls of his murder. Moreover, his widow's pension was reduced to a mere £30. The three sisters after colourful escapades in Vienna and elsewhere finished up going to London in the autumn of 1828 to plead for more financial aid. But they only got an ex gratia payment which was soon used

¹⁰ 'A Hanoverian Tragedy' 29 September 2014. Available at <https://pottoingaround.wordpress.com/2014/09/>

¹¹ Nobody seems to have either picked up on the family pattern or explained what Francis was doing in Switzerland then. It merits more examination.

¹² The Illustrated Magazine Volume 1 (1843) Available at <https://books.google.co.uk/books?pg=PA71&lpg=PA71&dq=sisters+of+berne&sig=E6KcKx3zNmU0iQiNeuXS5kf4agg&ei=4O2rVOXdBomU7Aa53YHQAAQ&id=DFIDAQAAMAAJ&output=tex>

up, leaving them destitute. After a period in a debtors' prison they were again destitute and had nowhere to live. So in late June 1829 all three jumped into the Thames at Greenwich but two were saved, leaving Hermandine to die. Unfortunately finding themselves homeless again the two remaining sisters took overdoses from which Charlotte died, leaving only Adolphine.

At this point, Francis Crowther arrived from Deal to arrange the funeral and to defend himself against charges that he had neglected the sisters. His defence was that he had only got his army pay and that his alienated mother would not help. However, he had paid for the funeral and accommodation. The coroner at Charlotte's inquest said that 'the whole family appeared to be in a state of insanity' which turned out to be prescient. However, Adolphine seemed to have found a Prince Charming in the shape of a Hanoverian officer called Sutherland who came over from Germany and married her on 18 March 1830. The marriage did not last and Sutherland was living with someone else by the early 1840s¹³ Adolphine died in Paris in 1846, aged 45, after which Sutherland officially married her successor. One of their descendants married into a family distantly related to Jane Austen.

Palmyra herself seems to have settled down to marriage and had a son with Francis. This was Francis Vivian who joined the Army as an ensign in the 15th Foot. He later emigrated to Australia and settled in Bendigo, Victoria. He was the origin of another long lasting Australian family. Palmyra herself died in Brussels in 1847.

This ill-starred family were the children of Philip Wyatt Crowther, originally from a mill owning family in Stockport. He was born in Lancashire in 1753. He married Mary Lewis (1757-1804) who had, as seen, become a senior financial officer for the City of London Corporation. They lived in Basinghall Steet, near the Guildhall, thus in the heart of the City. He was also a writer of legal and Christian texts. He died in Clifton in 1804. Presumably he left a substantial estate which was able to support the purchase of officerships for at least one of his sons. James was his eldest son, of four or six, and Francis the third.

The youngest son, William (1788-1839) became a doctor and, in 1825, moved to Hobart in Tasmania as Surgeon in Chief, after suing the captain of the Cumberland, the ship in which he had travelled, for assault. He was obviously kept fully informed of what had happened to Joseph and clearly took it very badly. However, he went on to enjoy a respected position in Tasmanian society. Indeed, his son, William L Crowther (1817—1885) later became the 14th State Premier of Tasmania. A major Library is named after him. So the family expanded and became important and respected in Australia.¹⁴ Obviously distance did not prevent the family from working together to support their unfortunate sibling.

The Helshams

The Helshams were somewhat less colourful and also of longer standing. Indeed Helsham himself described them as old and of unsullied honour. In fact, they were part of a large landowning planter family (originally from Sussex), established in the county from the early 17th century. One ancestor was Arthur Helsham who was a captain of foot in Cromwell's army and who was given a grant of land in the area under the Commonwealth. The family also included Richard, a distinguished science Professor at Trinity College Dublin. Until the early 19th century they also occupied an imposing mansion in the city, Hebron House, now very neglected and run down.

¹³ A Hanoverian Tragedy Part 2: The Jane Austen Connection. Available at <https://pottoingaround.wordpress.com/2014/10/13/a-hanoverian-tragedy-part-2-the-jane-austen-connection/>

¹⁴ There is obviously a lot of information to be gleaned from paid for Australia and other genealogical sites but I have held back from going into all this, for reasons of time, cost and other engagements.

George Paul's father the Rev Paul Helsham was born in Killkenny in 1759. He was married to Rachel Blunt (1764-1837) who came from well to do trading stock. After a series of local ecclesiastical posts, he ended his career as non-resident Vicar of Tulliherin, south east of Killkenny, and also as both Archdeacon of Ossory and Vicar General and chairman of the Diocesan Consistory Court. Hence he was referred to as the Right Worshipful Paul Helsham. He died in 1822, having left two sons, George Paul and a Joseph Blunt Helsham, and a daughter, Frances Augusta.

The brother, whose middle name was his mother's maiden name, had been born in Killkenny in 1804. Apparently he came over to France to support his elder sibling, showing the same kind of solidarity as the Crowthers. Unfortunately he was caught up in the French police investigation and then died, though we do not know why. The sister's husband, a local magistrate W.H Hunt gave George Paul a character reference at the time of the trial but without admitting to his family connections.

As we have seen, the family continued to be active in Kilkenny Protestant society long after George Paul Helsham had left the town. However, they were not perhaps as prominent as they had been. Nonetheless, one relative, of the Hunt branch, was Lt Colonel of the Kilkenny Fusiliers and is celebrated in stained glass in the Anglican Cathedral of St Canice. And the family remained important enough to generate a history in the 1980s. Some of the family also seem to have moved to Dublin. Much would have changed for them after the events of 1916 and 1921-22 so that they might now be simply a forgotten element of Ireland's distant past, rather than of its ongoing history and present.

However, the family continued elsewhere since Helsham's son by his first wife Elizabeth, George Macklin Helsham, became an officer in the merchant marine, qualifying in 1854. He died in Brisbane in 1870, leaving an estate of only £50. He may also have been Town Clerk of Dalby and guilty of some crime there.¹⁵ He had three sons and two daughters, one of the former being given his name. But the family expanded and assumed an important place in Queensland society. Duels probably did not matter much in colonial society.

Why the Plaque ?

Having been brought back to England, Joseph Crowther's sad body somehow it finished up in St Nicholas. Thanks to James and Francis it was buried in a vault underneath the plaque they commissioned from Longley of Canterbury. Other sources say it was done by Thomas White of the city.¹⁶ The plaque read '*To the memory of Lieut Joseph Crowther of His Majesty's 1st or Royal Regiment of Foot whose remains are deposited in the vault beneath. He fell at Boulogne on 1st April 1829 aged 37 years deeply lamented by his brothers by whom this monument was erected*'. We do not know whether there was any ceremony accompanying the burial.

But why here, in Kent ? It may be that Canterbury was chosen because of a family or Church connection, (and Crowther's brother was, as noted, a Vicar though not of Thanington, the incumbent of which was then the Rev. John White). The fact that Francis was living in Deal at the time may have been significant here. The fact that the Charles Abbott, Baron Tenterden and Lord Chief Justice till his death in 1832 and who was born and educated in Canterbury, was involved in bringing the prosecution against Helsham may be relevant here. So too is the *Gazette's* interest in the duel.

If there were reasons for burying the unfortunate Joseph in Canterbury, why chose St Nicholas? Again there might have been a connection we do not know about. Arguably what is more likely that it could have been because Thanington was then a small and unfashionable Parish,

¹⁵ <http://www.archives.qld.gov.au/Researchers/CollectionsDownloads/Documents/Index-to-Court-book-1864-1903.pdf>

¹⁶ <http://217.204.55.158/henrymoore/works/browserecord.php?-action=browse&-recid=35387&x=1>

erecting the memorial of a fallen duellist there would not cause the scandal it might have done had it been in the cathedral or a city centre church. Equally, it might have been because the Rev White was willing to accept the burial (and any associated payment?) where other Canterbury clergy refused.

Or it may have been just because it was not far from the coast. Or it may have been because the Royal Regiment (or the regiment in which Francis Crowther served) had been in barracks in the city not long before. However, the fact that it was his brothers and not his brother officers who erected the plaque, argues against this. In other words, we just do not know why it is here.

The Lawsuit against Helsham and the Old Bailey Case

Putting up the plaque was not the end of the affair. Joseph's elder brother James and his second, Maloney, took action, pressing the government to act and contact the French authorities but they decided not to get involved. Francis Crowther wrote to the French Attorney General calling on him calling on him to arrest Helsham under the dispositions of Article 229 of the Criminal Code. This did not happen but it seems that Helsham had already been arrested, held for seven weeks and was tried at Douai, only to be acquitted.

So the family launched a law suit themselves, and gained judicial backing. They did this because the duel had not been conducted in the way it should have been. Hence, a warrant was issued for his arrest, a process of hue and cry launched and a reward was offered for his capture by a firm of solicitors called Alliston & Locke. Moloney also wrote to the press about it. So, after a time in Hampshire, and a rapid return to France, he finally gave himself up. The fact that the family and others took up Joseph Crowther's case, and obtained the support of others, suggests he was well respected. It also shows how strong ideas of honour were.

Helsham was committed by Bow Street Magistrates, backed by Lord Chief Justice Tenterden who issued a special commission for the trial. To begin with there was a Grand Jury hearing which rejected the initial indictment as it said that Crowther died in Boulogne and St Marylebone. The latter was struck out and mention made that Crowther was an English subject so the court had jurisdiction, thanks to a law of 1828 which extended jurisdiction to affairs which took place abroad.

He was finally arraigned at the Old Bailey on 7-8 August 1830 before Lord Justice Bayley and other judges.¹⁷ Oddly, to our mind, the charge was not one of unlawful killing but of unfair practice. Helsham was suspected of having practised the night before – although he was apparently then, along with others, dining (along with others) with a welcoming English lady called Madame French – and then of having delayed his shot until Crowther's rushed firing had missed him. This was said to have breached the agreement about the duel. In other words, it was not because of the death by duel but because of accusations by Crowther's friends that Helsham had not behaved in a gentlemanly way during the duel.

The prosecution in Rex vs Helsham tried to show that Helsham was a violent and rude man, refusing the chance to apologize for hurting Crowther's feelings, which he could have done without making a formal retraction. He was also accused of having said 'he was all Irishman', implying a trigger happy type. And he was accused of saying, at one stage, that he wished to quarrel with Maloney as well as with Crowther. He was also said to have appeared with a bodyguard and to have, irregularly, taken part in discussions with seconds. And, as well as having practiced beforehand, he had demanded sequential not simultaneous firing. The Judges ruled that there was no real evidence behind such charges.

¹⁷ Anonymous A Report of the Trial of Captain Helsham, for the Murder of Lieutenant Crowther London Making of Modern Law: Trials 1600-1926 nd. Originally published by G Herbert, Cheapside in London 1830

There was also an odd passage about Lt Colonel Conway's role in all this. He was said by one witness to have urged Helsham to fight Maloney because Crowther was not a gentleman. He denied this. There was also argument as to whether Conway had said it was a trifling affair. He said he did, others disagreed. He also argued that he had regretted the quarrel and had sought compromise. The evidence does not really support this.

After the witnesses had finished, Helsham made a long statement in which he claimed that he had been unfairly treated in the press and that he was esteemed in his own circle. And he denied that he had felt no animosity towards Crowther. He had only acted out of honour and duty. Thus he had had to set aside the laws of God and Man and had to fight to maintain his honour, because once lost it could never be recovered. He pointed out that Wellington, then Prime Minister, had felt the same when, in March 1829, he fought the Earl of Winchelsea who had accused him of pandering to Popery.

In his summing up, Lord Justice Bayley said that Helsham stood accused of 'feloniously, wilfully and with malice aforethought' shooting Joseph Crowther. The questions for the jury were firstly, whether the two were British subjects and thus within the jurisdiction of the court. He then warned the Jury that all the talk of the fairness or otherwise of the duel was irrelevant because the law of honour was a wicked imposture, contrary to the law of God and England. Irrespective of such claims, anyone who went into a duel, in which someone died was guilty of murder. So there could be no question of either 'a fair killing' or of degrees of murder. The latter is said to have blanched when he heard all this, although otherwise he was said to have been as firm as a rock.

Bayley accepted that there was good evidence that Helsham, was a mild mannered man but nevertheless he implied that the evidence pointed to murder. However, if the jury did not accept this, they would have to give him the benefit of the doubt. And this is what they did, disregarding the judge's direction, coming back after somewhere between 25 and 100 minutes to declare Helsham not guilty. At which, a lady in the audience, no doubt his new wife, called out 'Thank God'. In other words, the jury seem to have accepted the code of honour rather than the law of the land. This was just as well as the Judge, whose summing up had not convinced the jury, said that had this not been so he would have sentenced Helsham to execution for cold blooded murder.¹⁸ Because of this ruling on killing by duel, the trial was later described as remarkable.

The 1851 Hearing

Some 20 years after this the affair came back centre stage when Helsham, then in his late forties and, as we have seen, well established in Kilkenny, as we have seen, sued Blackwood's Edinburgh Magazine and others for libel. They had accused him of feloniously murdering Crowther and claimed damning evidence that he had acted unfairly, notably because he had practiced with pistols the night before¹⁹ They also noted that the judge had been very critical of the killing. In suing them, Helsham once again acted to protect his honour and his standing in Anglo-Irish society

The judges dismissed the magazine's defence because it did not satisfactorily address all the points it had made. They felt that the magazine had to justify all its claims to show that Helsham had

¹⁸ A Selection of cases illustrative of the English law of Tort/Court of Common Pleas 1851. Available at https://books.google.co.uk/books?id=qP08AAAAIAAJ&pg=PA352&lpg=PA352&dq=Helsham+v+Blackwood+and+another&source=bl&ots=Zpj3WGN2XM&sig=V35iXGy6MtA8Dun1nCELR7yzaFw&hl=en&sa=X&ved=0ahUKEwj28vCI_5XLAhXKshQKHf4tAkoQ6AEIHTAA#v=onepage&q=Helsham%20v%20Blackwood%20and%20another&f=false.

¹⁹ The Law Times Vol 17 (21 June 1851) No 429 pp. 166-7. Available at https://books.google.co.uk/books?id=348DAAAAQAAJ&pg=PA166&lpg=PA166&dq=helsham+vs+blackwood&source=bl&ots=2DR_zpqVLm&sig=VWYKITY-45j3xJA6Nkj1GRFegSk&hl=en&sa=X&ved=0ahUKEwj0JPBgJbLahXMOxQKHUQQBakQ6AEIjAB#v=onepage&q=helsham%20vs%20blackwood&f=false

not behaved in an ungentlemanly way. It had not done so. And it was not for the court to decide whether the duel had been fair or not because, in English law, there were no degrees of murder. And they were unconvinced of the gravity of the practising business. However, they were obviously impressed by Lord Justice Bayley's views.

Moreover, as Helsham pointed out, they were ignoring the fact that he had surrendered himself to the law, been tried and, more importantly, had been declared not guilty. So he could not be tried again for the same offence. In any case, the court could only decide whether a libel had been committed, which it did. It may well have awarded costs to Helsham.

Publicity

The fact that Helsham sued a magazine is a testimony to the fact that the whole Crowther affair seems to have been affected by the press, limited though we may think it then was. Helsham thus may have picked up the idea of the horse-whipping from the press. And he was pursued through the press before the Old Bailey trial. Moreover, the press clearly followed the affair because it sold papers. Obviously duels were of great interest to contemporaries, even though they must have strained popular budgets. They no doubt attracted the same sort of people who attended executions.

This had two effects. On the one hand, all kinds of newspapers carried stories about it, as did a series of Kentish papers including the Kentish Gazette. It even got as far as colonies such as Tasmania, although there were personal reasons for this.²⁰ However, the press was just as likely then to get hold of the wrong end of the stick, just as it seems to have done with the idea that Crowther was horse-whipped. On the other hand, because the trial caused a sensation, people were willing to buy the short hand writer's notes. This must have been printed in large numbers. Here too, buying them must have cost many a goodly sum. And, as already noted, the account was considered sufficiently interesting to merit a modern reprint. This is probably more because of the influence the cases had on the laws relating to duelling than because of their sensationalist appeal.

At the same time the Crowther side were happy to use the press to advance their cause. Thus, Maloney wrote several letters to the press after Helsham failed to give himself up. These were, apparently, acrimoniously answered. Helsham obviously felt that the coverage had been unfair to him, ignoring the fact that he had been cleared by French authorities. And the notice of hue and cry must have been carried by the press. All this must have made the affair better known and more sensational.

The trials were also written up in the various records of judicial proceedings in the English courts. And these throw a good deal of light on the actual events of April 1829. Without them we would know even less of events than we do. They also provide further evidence of the significance of the cases and their appeal to general readers.

Conclusions

Even if the role of the press is surprisingly modern, the rest seems very foreign to us. It shows what changes in mores there can be over the years. It is hard to conceive that such a silly issue could lead to such a formal clash today when social status is so much more fluid and less reinforced by corporate conventions and consciousness. Nobody could prove that Crowther was not a gentleman.

²⁰ 'A Fatal Duel' Colonial Times 4 September 1829. Available at <http://trove.nla.gov.au/newspaper/article/8644475>

Indeed, he was referred to as a gentleman in the trial. And the plaque seems to reinforce this. Yet, the hold which Georgian codes of honour had on people in the 'quality', may not be so different from the Gadarene rush to condemn somebody on social media today. And such a grotesque failure to resolve what should have been, and indeed nearly was, easily resolved is quite possible today.

Moreover, we cannot help being struck by how rushed it all was. Crowther died only a fortnight after he had arrived in Boulogne. As one prosecutor said Helsham acted hastily and because of erroneous information. It also shows how slow communications were. Had Crowther been able to call up the Morning Post on the internet, it might not have happened!

Obviously, there are many uncertainties about what actually happened whether in negotiation, on the field or in the law courts. Some of these might be resolved by more digging around, but many more will for ever escape us. So there are many questions left unanswered. Thus, did a taste for abduction run in the Crowther family genes? Nonetheless, what we have makes a fascinating story.

Moreover, it seems to have been legally significant. For, although Canterbury may have hosted the last English duel, it may also have played another part in bringing about the demise of the process.²¹ The emphatic judgement of Lord Justice Bayley, reinforced in 1851, may well have encouraged people to turn away from the process. Whether this would have impressed Conway, Crowther, Helsham and Mahoney is doubtful. They were as wedded to their beliefs as we are to ours and they have to be understood in this context. Family and honour were viewed very differently then.

²¹ CANTERBURY AND THE DUEL *David R Lewis 2016*