

# Unsafe Practice and Dangerous Play: Accidental Deaths with Weapons in English Coroner Reports of the Sixteenth Century

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**Abstract** – The records of English legal history are recognised as a major source of study for the materiality of everyday life. Public inquiries into the circumstances of accidental deaths, recorded in the reports of coroners' juries and collected by the central court of King's Bench, are particularly valuable for scholars of armed violence, martial training, and sport. This article presents and discusses several case studies from the extant coroners' rolls, collected as part of a larger project on Tudor period accidents. The selections here concern the use or misuse of various personal arms resulting in death in sixteenth-century England.

**Keywords** – accidental deaths, English legal records, coroners

## I. ENGLISH CORONER'S ROLLS AS A HISTORICAL SOURCE

### I.1. The Tudor Accidents Survey

In 2011 the UK Economic and Social Research Council approved funding for Professor Steven Gunn's four-year project to search sixteenth-century records of England's coroners' inquests, collected and archived by the central court of King's Bench, for accidental deaths. Assisted by Dr Tomasz Gromelski, the project sifted through more than a century's worth of records, producing a database of accidental deaths which was made publicly accessible in 2017.<sup>1</sup> Gunn and Gromelski found more than 6,000 records of accidental deaths across the sixteenth century and they reveal much about the lives of early modern English peasants, the gentry, and nobility.<sup>2</sup> Historians of English history have long recognised the potential that legal records hold for the study of all manner of legal, political, economic, and social history but comprehensive studies of a single category of record are rare. As legal historian and editor of several volumes of King's Bench records G. O. Sayles explained 'there is no doubt about their fascination, a fascination which in its variety cannot be rivalled by that of any other group of mediaeval records'.<sup>3</sup> Not surprisingly, given the scope of the records, fatal accidents involving the use (or misuse) of personal arms, or in the performance of martial activities, are present. They are not, however, represented in significant numbers. While there is an opportunity to make some quantitative studies of this material, this article

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<sup>1</sup> Gunn, 'Sixteenth-century English accident inquests'.

<sup>2</sup> Preliminary results of the survey were published in Gunn and Gromelski, 'For Whom the Bell Tolls' pp. 1222–23. A more comprehensive study of the records is in Gunn and Gromelski, *An Accidental History of Tudor England*.

<sup>3</sup> *Select Cases in the Court of King's Bench* III, p. xc.

presents a qualitative analysis of many, but not all, coroners' reports mentioning fatal accidents involving personal arms, and related activities.

## **I.2. A note on interpreting coroners' reports and the purpose of deodand**

The English coroner was a legal official tasked (amongst other duties) with the investigation of sudden, suspicious, or accidental deaths, suicides, and deaths of prisoners in custody. When a death was reported the coroner's procedure was to gather a jury from the local community, view the body, and establish with the jury the accepted circumstances, causes, and (if relevant) identify those responsible. The decision of the jury was then recorded and sent to the central court of King's Bench at Westminster where legal authority for further actions would be issued, as needed.<sup>4</sup> In practice, all unnatural deaths required an investigation by the coroner because there was a financial interest on the part of the Crown, particularly through a legal mechanism called deodand, discussed later, even in accidental deaths.

Jurors assembled by the coroner were tasked only with defining causal relationships between events or actions (or inaction) and the death in question which means that the details selected for inclusion are based on the pragmatic needs of the legal system and not any kind of broadly historical purpose. This limiting aspect of the legal record means that many cases give only limited context for events.<sup>5</sup> Readers must, therefore, exercise restraint in interpreting the meaning or significance of what few details are available while also accepting that some degree of informed speculation is unavoidable. The result is often an exercise in formulating several possible scenarios that fit the given facts, any one of which is plausible, but not determinable.<sup>6</sup>

Thankfully, the language itself (once rendered from the original Latin) is usually straightforward in that the vocabulary shared with criminal indictments and other legal records produced by coroners, sheriffs, and justices of the peace are all of a kind. There was a well-established, if still informally defined, 'controlled' language used in legal documents with a few technically specific exceptions. One such term is deodand. This was a peculiar English legal device that identifies and gives a monetary value to the object (objects, or animal) considered materially responsible for the death of a king's subject. The legal reasoning was that since the accident has caused a harm to the Crown that loss must be compensated. Deodand identifies the offending object or entity and takes its value as the compensation (through its sale, for the collection of the stated value) from owners,

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<sup>4</sup> For a comprehensive overview of the origins and duties of the English coroner see Hunnisett, *The Medieval Coroner*.

<sup>5</sup> A good general discussion of the controlled language of legal documents is Post, 'Crime in Later Medieval England'.

<sup>6</sup> This issue is shared with the related study of the archaeology of violence and its performance: see Geldof, "And Describe the Shapes of the Dead...".

community members, or local legal authorities.<sup>7</sup> Typically, the funds collected from deodand were given to the King's Almoner who would use them for charitable causes and, in certain circumstances, that charity could benefit the accident victim's survivors.<sup>8</sup> However, the system could cause serious and unexpected financial burdens. Deodand was supposed to only apply to 'chattels' and not 'real property' (movable property, rather than real estate or 'immovable' property such as buildings and structures) but differentiation of the two was vague. A beam falling from a roof, and fatally injuring someone, would be called deodand while the roof itself would not. But a cart, along with the goods it carried, could be declared deodand if the jury believed that the empty cart alone would not have caused fatal injury. English law as written was unimaginatively rigid in its definitions but the application of the law was far more flexible, especially in the hands of a self-informing jury drawn from the local population. There are, it turns out, a surprising number of deaths involving fatal falls into grinding mills that coroner's juries found to be suicides and not accidents. While some interpretations of the law would only consider the moving parts of a mill as potential deodand (such as a mill wheel) that reading was not universal.<sup>9</sup> Under certain conditions, a mill could be considered a chattel, and since the entire assembly was necessary to cause the death of one who fell in it, it was always fortunate for a jury to find that the victim caused their own death intentionally.<sup>10</sup>

Because of the potential for creative interpretations of events by a jury, one must remember that some genuine accidents may not appear in this survey as it only collects those cases where the jury explicitly declared the death accidental. An example of what may be left out by the technical language is the death of Thomas Brynckwell (or Brinckwell), an 'undercook' of William Cecil, Lord Burghley. Brynckwell died from a stab wound from a sword at Burghley's manor near Stanford, Lincolnshire. The sword happened to be held by the teenaged Edward de Vere, 17<sup>th</sup> Earl of Oxford, at the time of the accident. The young Earl was evidently engaged in some sword practise and, according to the inquest jury, Brinckwell was drunk, suffered poor eyesight, and caused his fatal injury through his own intentional actions. Therefore, the jury determined that this was not an accident but an act of self-murder perpetrated by Brinckwell against himself. Therefore, the coroner recorded the verdict as death 'felo de se'. This was convenient for all involved as this decision meant there was no financial burden on the Earl or his guardian and no undesirable legal

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<sup>7</sup> Sutton, 'The Deodand and Responsibility for Death'.

<sup>8</sup> Although some jurisdictions were entitled to collect the *deodand* for their own uses (see Hunnisett, *The Medieval Coroner*, p. 32).

<sup>9</sup> See the discussion in the late thirteenth-century collection of laws called *Britton* where the moving parts of a mill are considered distinct from its non-moving parts: Nichols (ed.), *Britton*, pp. 11-12.

<sup>10</sup> This issue is mentioned but not explicitly addressed in Butler, 'Local Concerns'.

inconveniences would result.<sup>11</sup> However, given the later career of the Earl, many historians mention this incident as an early manifestation of his violent tendencies.<sup>12</sup>

## II. CASE STUDIES FROM THE ACCIDENTS SURVEY

The cases discussed here represent all accidents identifiably related to the handling, mishandling, use, storage, transportation, or the wearing of personal arms (excluding projectile weapons such as bows, crossbows, and firearms).<sup>13</sup> Accidental deaths caused by knives, which are clearly not ‘combative’ in style, purpose, or usage, are also excluded.<sup>14</sup> This is a qualitative rather than quantitative discussion, although both methods are worth applying to this material. There are several themes that come to light in these records, namely demographics (social or economic status, gender, and age) as well as contextual (place, time, and circumstance) that are informative. Finally, there is the question of what, if anything, these reports tell us about the training or martial education in the early modern period. This provides a small but incremental addition to our knowledge of the historical experience of martial activities.

Careless handling of sharp weapons, or inattentive movement around them, is a familiar risk to modern collectors, and similar accidents caused by innocent mishandling or inattention naturally appear in the records. For example, John Bartlet and John Trevet, both husbandmen of Wendon in Somerset, met on 18 April 1517, and drew their swords to compare them (both, apparently, new and worth examination). Trevet drew his sword without incident but Bartlet, who also carried a buckler (and may have worn it hooked onto a scabbard) dropped it while drawing his sword. A comedy of errors ensued where Trevet reached down to pick up the buckler just as Bartlet moved to do the same. In the process, Bartlet impaled his lower leg on the point of the sword Trevet still held in his hand. It was a serious wound and one with complications from which Bartlet died four days later. Trevet’s sword is not valued in the inquest, which is an oversight for which the coroner could have been fined, but there is no evidence that officialdom was concerned (this time).<sup>15</sup>

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<sup>11</sup> KB 9/619a m. 13. The case is transcribed in Feldman, *Hamlet Himself*. See also Nelson, *Monstrous Adversary*.

<sup>12</sup> For example, Stone, *The Crisis of the Aristocracy*, p. 243, where Stone implies the victim was the Earl’s training partner and that his death was a direct result of the Earl’s mercurial temper.

<sup>13</sup> On archery accidents see Gunn, ‘Archery Practice in Early Tudor England’. On firearms see Gunn and Gromelski, ‘Firearms Accidents in Sixteenth-Century England’.

<sup>14</sup> Given that everyday utility knives were as common in the medieval and early modern period as housekeys and mobile phones are now, there are many such cases but they are only counted here if the jury describes a context that suggests a combat-related action or identifies the knife as a martial variety.

<sup>15</sup> KB 9/474 m. 47. On the obligations of coroners to make their reports in a set fashion, violation of which could lead to fines, see Hunnisett, *The Medieval Coroner*, pp. 106-07, 121-26. The accidental

Poorly maintained scabbards are a risk factor when swords were commonly worn in public and an incident from 24 August 1530 supports the belief that swords were a common feature of dress, even if the equipment was in poor repair. On this day a large crowd had gathered on Hurst Common in St. Ives, Cambridgeshire, to watch a game ‘and other mysteries’ (probably religious themed pageants like those held annually in York).<sup>16</sup> In the crowd was one Thomas Ive who found himself behind an unknown man who wore a sword at his side in a poorly maintained scabbard. The press of the crowd pushed Ive and the stranger over and, in falling to the ground, Ive received a serious wound to his leg from the exposed point, or edge, of the stranger’s sword. The unknown man was lost in the crowd but Ive’s wound was serious enough that he died from it on 10 September.<sup>17</sup>

Crowded situations and drawn swords do not mix well, and there are several examples of fatalities stemming from inattentive bearers of swords, or clumsy bystanders. In an incident similar to that involving the Earl of Oxford, John Hyll impaled himself on a sword held by one John Large. The jurors were keen to spell out that this occurred contrary to the will of Large, and through Hyll’s own negligence.<sup>18</sup> Notable is that Large is identified as a labourer (a very low social position for someone owning a sword) but the value is not given.<sup>19</sup>

Self-inflicted injuries are also common, especially with knives, but one does not expect a fatal accident during a hunt involving a sword. Yet such was the fate of John Massie of Leicester who was (perhaps) participating in a deer hunt at Bagworth Park, Leicestershire. On 21 July 1541, Massie was chasing a doe but tripped on a mole hill and fell on his own sword, cutting himself on the ‘[inner or upper] syde of the same legge above the knee’ and died in half an hour.<sup>20</sup> This may have been a case of poorly maintained equipment, as with the death of Ive. Is it possible Massie was running with a drawn sword? The limitations of the controlled language of legal records deprives us of many details.<sup>21</sup>

stabbing of Alan de Stables in 1509 may have occurred in similar circumstances, but there is too little detail in the record (KB 9/450 m. 28).

<sup>16</sup> See King and Beadle (eds), *York Mystery Plays*.

<sup>17</sup> KB 9/975 m. 209.

<sup>18</sup> KB 9/1013b m. 185.

<sup>19</sup> A similar incident involved a York armourer named Edward Brathwaite, who was carrying a sword when a pedestrian ran into it: KB 9/661a m. 71.

<sup>20</sup> KB 9/979 m. 102. The uncertainty as to Massie’s role in a hunt is based on his stated social rank. Yeoman is often considered a marginal step above common laborer but in the early modern period the term embraced a wide range of sub-gentle status. Given that Massie’s sword is valued in the mid-range for the inquests (20d.), we can assume he rested near the top of the social ladder for this class.

<sup>21</sup> There is no explanation for how one William Wodruffe happened to stab himself with his own sword, but he succumbed a month later: KB 9/600b m. 120. Self-harm due to drunkenness appears

Next to bodies of water, horses were one of the most dangerous environmental factors in Tudor England.<sup>22</sup> Riding while wearing or handling arms only added to the dangers. Thomas Cragge, Yeoman, learned how dangerous this could be, but did not live to benefit from the lesson when his horse stumbled and fell while on the king's road from Leystone to Leyton in Essex. Cragge's sword fell out of its scabbard during the fall, and as the horse struggled to regain its footing, Cragge lost his seat on the horse and fell onto the sword. The vagaries of the deodand system meant that both the horse and the sword were considered responsible objects and therefore William Otye, deputy of the King's Almoner, was on the hook for a 20s. horse and a 2s. 4d. sword.<sup>23</sup> Henry Olyve had a similar accident while riding a horse at full gallop, causing his own sword to work its way out of the scabbard, and in falling, cut his leg such that he quickly bled to death.<sup>24</sup>

Accidents could happen in the workplace since swords are inherently dangerous, if kept sharp and handled or stored poorly. A fatal accident involving a craftsman making swords occurred in Coventry, 27 January 1540, when John Wall, apprentice to Richard Skott, cutler, was at Skott's Broadgate shop. He climbed onto a chest to reach a piece of brass from a workshop shelf. He fell from the chest and stuck himself on the blade of a sword (worth 12d.) which was sitting, point upwards, next to the chest. The sword passed through his leg and into his abdomen, killing him on the spot.<sup>25</sup> Wall's death is unique in the survey.

At this point one may be wondering where are the fatal accidents we would expect to see stemming from training or sparring. The survey suggests that such injuries were no more common than the kind of clumsy accidents mentioned already. This could be a result of the language used in the records, particularly the term 'play', which embraces sportive activities, amusement, and learning. Telling one from the rest is not easy and, so far as coroners' juries were concerned, such a distinction had no great legal significance. Ambiguous incidents include the death of Richard Chelliffeld. On 23 April 1521, John Coksegge and Richard Chelliffeld, labourers living in Gillingham, Kent, were 'playing' with swords at a place called 'churcheplayn' (safely read as 'church-field'). During the course of this 'play' Chelliffeld dropped his sword, likely point-down, onto his right leg, giving himself a wound from which blood *copiose effluxis* (flowed copiously). In fact, this likely severed Chelliffeld's femoral artery as he is said to have died instantly (*instantis*). Chelliffeld's sword was valued at 12d.<sup>26</sup> Here, 'play' could indicate practise sparring to improve, test, or exhibit

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in the records as when Richard Eliott, in a drunken fury, brandished his sword at onlookers before injuring himself in the face, fatally (KB 9/571 m. 51).

<sup>22</sup> For a statistical overview see Gunn and Gromelski, 'For Whom the Bell Tolls'.

<sup>23</sup> KB 9/550 m. 55.

<sup>24</sup> KB 9/595/1 m. 19 (6 June, 1558).

<sup>25</sup> KB 9/544 m. 82.

<sup>26</sup> KB 9/486 m. 46.

skill, but could equally indicate a performance for an audience or a game with solely 'ludic' intent.

The use of wooden weapons is a more overt indication that the users are practising or training in their use, but even with these precautions, fatal injury can occur. On 9 September 1588, Andrew Cowper and Henry Dickinson were indoors, 'playing at y[e] cogils' like 'gladitor[um]'. Dickinson was armed with a wooden sword and shield while Cowper was armed with a staff with an iron point. The two took turns attacking and defending but, in the course of one exchange, Cowper accidentally struck Dickinson on the head with his staff, causing a fatal injury from which he succumbed sometime within the following week. Dickinson was buried before the coroner could make view of the body, thus there is no description of the wound.<sup>27</sup>

The death of one John Smyth, a servant of William Herbert, 1<sup>st</sup> Earl of Pembroke (1501-70), could have been caused while Smyth was engaged in solo practise with arms. Smyth was fatally injured on 1 May 1555 at one of the Earl's properties at Wilton, Wiltshire, while he was handling a 'partesetten staf' or partisan. Smyth was sharing his practise space with a horse belonging to the Earl, and inadvertently wounded the animal.<sup>28</sup> The horse kicked Smyth, breaking his right leg. It was a bad break, and possibly complicated by other health issues, Smyth died twenty-seven days later. The partisan was only valued at 3s. 4d., but the Earl's gelding was valued at £20. To place this in perspective, the range of values for horses in this survey fall within a wide margin of just pennies to a common average of 20s. After the Earl's horse, the next most expensive animal in the survey was valued at 100s., or £5.<sup>29</sup>

Weapon practise was also a threat to the safety of bystanders who could wander into danger or otherwise suffer injury from the presence of weapons (a problem that seemed to plague archery ranges at the time). The accidental death of Alice Wyse of Highworth, Wiltshire, in August 1530, happened in this way. Robert Wyse, Alice's husband, and an unnamed stranger were practising with mock weapons (identified in the record as bucklers

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<sup>27</sup> KB 9/673b m. 214. Burying a corpse before an inquest was held was a finable offence and, so far as the law was concerned, the coroner was expected to exhume the body so that the jury could literally make their verdict 'in view of the corpse'. Hunnisett, *The Medieval Coroner*, pp. 10-13, 20-22.

<sup>28</sup> KB 9/588a m. 94. On the partisan see Waldman, *Hafted Weapons*, pp. 125-35.

<sup>29</sup> Horse drawing a harrow (18s.), KB 9/613a m. 132; bay horse (5s.), KB 9/529 m. 166; riding horse (10s.), KB 9/621 m. 46; horse being shod (2s.), KB 9/423 m. 19; grey horse (4s.), KB 9/445 m. 46; horse (13s.), KB 9/458 m. 75; horse (20s.), KB 9/475a m. 27; horse (26s. 8d.), KB 9/495 m. 151; horse (33s.), KB 9/550 m. 57; horse (100s., or £5), KB 8/18a m. 68; horse (40s.), KB 9/578 m. 90; sorrel bay horse (£4), KB 9/1004 m. 124.

and ‘wasters lansas’), leaving their regular weapons on the ground nearby.<sup>30</sup> However, Alice picked up her husband’s unsheathed sword and walked off with it, tripped, and gave herself a serious wound to the thigh near the ‘shere.’ She died that same day.<sup>31</sup>

The death of John Kendall stands out as a possible example of practising disarms gone wrong. The inquest explains that Kendall and one Henry Turnor, both yeomen of Landwade, Suffolk, were both gripped in a hold when a dagger (identified as an *armaguidum*) fell from under Turnor’s left arm and stabbed Kendall in his right thigh.<sup>32</sup> As expected of a fatal injury, this one involved a parted femoral artery and, so the coroner’s jury reports, Kendall died instantly.<sup>33</sup> The language of the inquest suggests that the dagger was drawn and in-hand at the time of the accident and, conceivably, we have an accident occurring during practise at wrestling an armed opponent, attempts at disarms, or similar activity.

### III. CONCLUSIONS

Perhaps the most interesting finding is how often coroners’ juries explicitly state that those responsible for accidental deaths meant no harm, and that the incident was a genuine and deeply regretted tragedy. The jurors who sat on the investigation of the death of Richard Chelliffeld were explicit in their finding that John Coksege meant no injury and that the two were engaged in a purely innocent and self-improving exercise. Since there was always the risk that the person found responsible for even an accidental death could suffer legal punishments, it is clear in this case that the jury made every effort to avoid any additional suffering for those involved.

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<sup>30</sup> While this is an odd construction combining *waster* (a practise sword, usually wood) with ‘lansas’ (medieval Latin term for lance) this was likely because of the recording clerk’s need to render the language in some form of acceptable Latin.

<sup>31</sup> KB 9/975 m. 118. Robert’s sword is not valued, which is a deviation from the rules. Given the context, ‘shere’ probably refers to a place near the groin, invoking the point where the two parts of a set of scissors are pinned together. Evidently, this coroner’s clerk had a creative vocabulary.

<sup>32</sup> At the time, Ladwade was in the county of Cambridgeshire.

<sup>33</sup> KB 9/580 m. 141.

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