Legal Points and Pistols

THE LAWYER for the defense considered a courtly-looking, bobbin-tongued prosecuting attorney offensive and struck him on the spot. The prosecuting lawyer challenged the defense attorney to a duel.

It happened in Brandon, Rankin county, Miss., in 1833. Attorney for the defense was the celebrated orator Sergeant Smith Prentiss. The prosecuting attorney was Gen. H. S. Foote.

The result was that on Oct. 5 the two men, accompanied by their seconds and friends, met on a field in Louisiana directly across the Mississippi river from Vicksburg. Prentiss, 25, a handsome man with piercing black eyes, was an expert shot. He had long since lost his anger at Foote and decided to shoot over the other man's head.

But Gen. Foote fired almost immediately after the command and missed Prentiss completely. This shot caused Prentiss to fire by reflex action, before he had managed to raise his pistol sight over Foote's head. His ball cut the shoulder of Foote's coat without, however, wounding the general.

The honor of both combatants was satisfied and they left the field, believing mistakenly that the affair was ended. A friend of Prentiss said that when he met the lawyer after the duel and congratulated him on not having a man's blood on his hands, Prentiss was so overcome that he burst into tears.

Prentiss had been born in Portland, Me., in 1838. He had come to Natchez, Miss., in 1857 with $5 in his pocket. He soon built a large law practice but moved to New Orleans after a series of financial reverses. In Louisiana he built another large practice. He earned the reputation of being an orator equaling Henry Clay and Daniel Webster, both close friends of his.

As a child he was attacked by polio, which left his right leg badly crippled. He always had to use a cane and was extremely sensitive about his infirmity.

The cane was to play a major role in his relationship with Gen. Foote in Mississippi.

Some time after the duel rumors began to circulate that, by using his cane as a support for his lame leg, Prentiss had fired with the advantage of a "rest." Finally these rumors came to Prentiss' ears.

"Did you ever hear whether or not Foote made the insinuation?" the lawyer asked a friend.

"I've heard nothing of the kind," the friend said.

"Well, I have—from what I believe to be good authority," Prentiss said. "I had no animosity against him when I fought him, but the next time he shall not come off so lightly."

Rumors and counter-rumors grew until at last Prentiss sent his friend, Maj. C. B. Shields, to Gen. Foote with the word that Prentiss was willing to receive another call from the general.

Gen. Foote now was living in Clinton, Miss., with his wife and family. Maj. Shields reached the general's home at nightfall with the message. Mrs. Foote was of heroic mold and would brave anything rather than see her husband branded a coward. Foote politely told the messenger he would send his reply in the morning. He did and soon the preliminaries were arranged.

Rumors of the impending duel filled the air. The authorities were determined to arrest both parties. Prentiss and his two seconds hid out but the orator-lawyer managed to get in some practice shooting. The other duel had been about a few idle words and a blow, but this one concerned a supposed slur on a man's honor, so both combatants were in deadly earnest.

The duel was to be held at the same spot as the first. The night before it Prentiss and his seconds, out for an airing incognito, happened to stumble upon a cock fighting pit. Just before the roughs tossed the cocks into the pit, one was named after each of the principals in the coming duel. Within seconds the cock named after Prentiss fell dead at the feet of his adversary. Prentiss and his seconds hurried out into the night. The orator regarded the incident as a bad omen.

The next morning, as he approached the dueling ground, Prentiss saw some youths in a tree. He called up to them, "Boys, you'd better come down. Gen. Foote shoots wild, you know.

When the two parties took their positions, Prentiss with a smile tossed his cane aside. At the command Gen. Foote again fired first, his ball striking the ground directly in front of Prentiss. The orator took careful aim and squeezed the trigger. The pistol failed to fire.

Honor was not yet satisfied and the parties again took their stand. At the command of fire Prentiss escaped unscathed. But Foote was wounded. Honor was at last satisfied. And later the two mortal foes became fast friends.

—Submitted by Sue Sparks,
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