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ARIZONA POLITICS
AND
THE CODE DUELLO

by

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for Research Seminar,
Dr. Ray Grande, Professor,
December 5, 1974.

ARKANSAS POLITICS

AND

THE CODE DUELLO

Many methods have been found by which two men may solve a dispute between them. The methods can be broadly divided as either violent or nonviolent. Among the violent methods, duelling was considered in the nineteenth century in Arkansas as a proper means of solving disputes concerning politics, honor, and family, as well as trivial matters.

Duelling was not common in Arkansas alone. People practiced it in many states.¹ By 1819 duelling had become a Southern institution.² As an institution, duelling had certain rules and regulations. Several books were published on the subject. Among these were An Essay on the Practice of Duelling by Giacomo Sega and John Lyde Wilson's The Code of Honor. The former was printed in Philadelphia in 1830, the latter in Charleston, South Carolina, in 1858.

In his book, Wilson gave the rules to be followed in a duel. A principal was a person from whom an agent derived his authority to act on the principal's behalf. A second was the agent who acted on the principal's behalf.

When a real or imagined slander or insult occurred, the seconds attempted a reconciliation. This included an apology or other explanation to the offended party. This often ended the affair and the principals had to accept their seconds' decisions concerning these agreements. If the explanation was not satisfactory, a duel resulted. The offended principal's second would transmit a written note to the second of the other party challenging the principal of that party to a duel with his principal.³

As soon as possible after the challenge, for wills and other arrangements had to be made, the men fought the duel. One of the seconds' tasks was to find the place for the duel. The place for the duel was an isolated glade or clearing considered appropriate for such contests. The seconds then determined the distance at which the principals stood from each other, usually between ten and twenty paces. A nine inch smoothbore flintlock pistol was the required weapon. On the field of honor the seconds loaded the pistols before each other for fair play. Before doing this, however, they placed the principals after stepping off the distance and determined which of themselves had choice of position and which had the saying of the word. Chance determined who had the choice of place and word. The principals held the weapons pointed down before firing.

The opponent's second shot the principal, second, and/or friend who broke a rule.⁴

It was considered dishonorable to break a rule or back down from a duel. Duels were serious matters. Duelling was the process by which a gentleman protected his honor. Honor was a serious matter. Despite the abstraction of the noun honor, several things could compel a man to protect his honor by such a violent means as duelling. To assault a lady was a grievous offense. The lady's male friend, father, or brother would rectify such an affront. If a man touched or hit a gentleman in a provocative manner, he could expect a challenge from that gentleman's second. Physical assaults would almost always induce a duelling challenge. Verbal assaults did not always result in a challenge. However, when a verbal assault did occur, it consisted of questioning one's word, one's integrity, or in some other way slandering or insulting one's character to the point of slandering one's honor.

Politics gives many opportunities to question one's honor. Arkansas politics in the nineteenth century was no exception. In the first half of that century, several politically prominent people fought and in other ways participated in duels. This practice hurt Arkansas politics in at least two ways. A politician or his critic might have

been frightened into silence, fearful of having to defend any construction of their arguments with a pistol. In the event of death by duel, to the detriment of Arkansas, the state might lose a valuable public servant.

What was probably the first duel in Arkansas robbed the state of William O. Allen. A soldier of the United States Army during the War of 1812, he was the brigadier-general of the Arkansas militia. Allen was a member of the first Territorial Legislature, convened in February, 1820. He has been described as "the ablest man in the territory of Arkansas in 1819 and 1820."⁵ The people and the territorial governor, General James Miller, liked him.⁶

Robert C. Oden, Allen's opponent in the duel, was a friend of Allen. Oden was a lawyer at Arkansas Post and in the militia, like Allen. They knew each other well enough to have dinner together. In fact, it was at dinner that the incident which necessitated a duel took place.

While at dinner at the home of Frederick Notrebe, an argument developed over a speech Allen had made in a session of the Territorial Legislature. Oden criticized Allen's speech. When, in the opinion of Oden, Allen questioned the word of Oden, Oden charged him with this. Oden then took Allen's cane and struck him with it. Allen challenged Oden to a duel.⁷ Allen's second was George W. Scott.

Elijah Morton was Robert Oden's second. On March 10, 1820, they fought the duel on an island in the Arkansas River.⁸ At ten paces from Oden, Allen fired first, striking a coat or suspender button. As Oden fell semiconsciously or lost his balance, he shot wild. His bullet collided with Allen's head. The ball cracked Allen's skull but did not enter it. William Allen lingered over a week at Judge Andrew Scott's before dying.⁹

Anti-duelling feeling arose over Allen's death by duel. The Arkansas Gazette condemned the practice. The grand jury of Arkansas county indicted Oden for receiving a challenge, and George Scott and Elijah Morton for acting as seconds. Under the law in Arkansas, these were the only acts declared illegal concerning duels. Oden's defense rested on the fact that the prosecution could not prove that the written challenge was lost. Under the law if the challenge could not be found, the testimony of the seconds as evidence could be used. The prosecution could not use the testimony of Scott and Morton to prove that Oden received and accepted a challenge to duel. Robert Oden was found not guilty. The petit jury found Scott and Morton "not guilty under indictment."¹⁰

In an apparent attempt to strengthen the duelling law, the Territorial Legislature in October, 1820, passed

a law by which death by duel was declared murder. By this law the courts were required to accept the testimony of the seconds and give them immunity from prosecution for their part in the duel.¹¹ This law stopped duelling in the territory controlled by the Arkansas legislature. But it did not stop Arkansans from duelling.¹²

One would think the judiciary, sworn to uphold the law, and being men who work and believe in the law, would be above duelling. Unfortunately, in Arkansas' history there is a case where two judges of the Superior Court of Arkansas Territory fought a duel over an insult to a lady during a card game of whist. Judge Joseph Selden and Judge Andrew Scott were the two duellists.¹³

The two judges became involved in a game of cards with two ladies at Arkansas Post. Each judge had a female partner. Judge Scott's partner made the remark that she and Scott had "the tricks and the honors," and that therefore Judge Selden and his partner would lose. Judge Selden simply replied, "That is not so, madam." The lady remarked that she had not known that she would be insulted. Judge Scott demanded an apology from Selden. When he refused, Scott threw a candlestick at him. A little later Selden did apologize to the lady by a note through Scott. By all accounts, intermeddling friends kept the quarrel alive and

resulted in a challenge sent to Judge Selden.¹⁴

Whether the card game was the actual cause or just an example of the tension building between the judges is not clear. The reason for this uncertainty is that the Arkansas Gazette took a paragraph from the Nashville Whig which reported that the duel resulted from a disagreement on the bench. William Woodruff, the editor of the Arkansas Gazette, made no comment as to the reliability of the article.¹⁵

The duel between these two prominent jurists occurred on a sandbar in the Mississippi River near Helena. On that sandbar were Judge Seldon, his second, Robert C. Oden, and friend James Woodson Bates, and Judge Scott, and his second and surgeon, Doctor Nimrod Menifee.¹⁶ On May 26, 1824, Scott killed Seldon with the first shot. Seldon died intestate and left his wife and child without support.¹⁷

The duel had other effects than just killing the young judge. Arkansas lost a promising young jurist to death and lost the experience of Judge Scott on the Superior Court. In 1827 when Judge Scott was reappointed by President Adams to the Superior Court of the Territory, the United States Senate refused to confirm him. Judge Scott distinguished himself on the court bench from 1819 to 1827, yet he lost his seat because the Senate did not approve of the duel.¹⁸

In the same year that the United States Senate rejected Judge Scott's reappointment, 1827, two duels took place. Both duels emanated from the political contest between Robert C. Oden and Henry Conway for a seat in the House of Representatives in 1827. The first duellists were Ambrose Sevier and Thomas Newton.

Sevier was a leader of the political faction which supported Henry Conway, a first cousin of his. He had been a delegate to the lower house of the Territorial Legislature in 1825 and 1827. He went on to take Conway's place, after Conway's death, in the House of Representatives. Before the 1827 election, however, he and Thomas Newton were personal friends and law partners.¹⁹

Newton was also a friend of Robert Crittenden who supported Robert Oden for Representative and who was the leader of the other political faction. He had been a clerk of the council of the Territorial Legislature of 1825 and 1827. He went on to be a state senator and a national Representative for Arkansas.²⁰

Despite their friendship, Newton and Sevier allowed their politics and pride come between them. In a speech at a barbecue, Sevier stated his willingness to fight the man who had written a derogatory letter in the Arkansas Gazette under a pseudonym. He discovered that it was

Thomas Newton who was the author of the article. A duel soon followed.²¹

They met in the first week of September, 1827, a few miles above Point Remove in what is now Conway County. At that time it was Cherokee country. Newton's second was George W. Jones while Doctor William Reyburn was his surgeon. Robert Oden, the unsuccessful candidate, was the friend of Newton in the duel to help insure fair play. Sevier had Wharton Rector for his second and Doctor Nimrod Menifee for his surgeon.²² The record of the duel as given by George Jones in a letter to Fay Hempstead is as follows:

The parties stood side by side at ten paces apart, holding the muzzles down at a perpendicular. I drew the giving of the nod and Rector the choice of positions. The words were, 'Gentlemen, are you ready; fire! One, two, three, stop.' Each fired at about the word 'two.' I asked, 'Col. Rector, are you satisfied?' He replied, 'We'll have another shot,' when we met again and loaded our pistols in the presence of each other & we placed the pistols in the hands of the principals & we took our positions.²³

At that time Doctor Menifee jumped between the principals, threw down his cap and stopped the duel. After a consultation between the doctors and friends, Doctor Menifee said, "It is agreed that these gentlemen never having had any quarrel & always being on good terms, that they now shake hands & be friends."²⁴ According to Jones, they remained friends everafter.

The second duel which developed from the same political contest, overshadowed the Newton-Sevier duel. It did not end on a happy note as did that duel. In this second duel the two leaders of the political factions, Henry Conway and Robert Crittenden, were the principals. When Conway, in 1824, was given seven thousand dollars by the federal treasury to give to the governor of Arkansas to pay the Quapaw Indians, he ran out of his personal money before reaching Little Rock from Washington. He 'borrowed' one thousand dollars to pay his expenses. Crittenden, the acting governor at the time, only needed six thousand dollars and gave a receipt to Conway for that amount. Some time later, Conway repaid the money he had used for his personal expenses.

In the 1827 election, Oden brought this use of public funds for private use up during his campaign. Conway rebutted by reminding the voters that the treasurer was the proper authority to object. He also stated that Crittenden had consented to his use of the funds. Crittenden denied this charge. After his victory, Conway wrote an article excoriating Crittenden, which resulted in a challenge to a duel from Crittenden.²⁵

This duel took place on an island where the White and the Mississippi Rivers merge. On that island with Conway was Wharton Rector, his second. Crittenden's second

was Colonel Benjamin Desha. Though Conway was considered the better shot, on October 29, 1827, Crittenden dispelled any misgivings of his skill with a gun. Although he could not hit a large tree after three shots and so quit practicing to kill a friend, Crittenden's first shot of the duel hit its mark. Henry Conway, Representative-elect, died eleven days later.²⁶ Ironically, the pistol Robert Crittenden used was the same pistol that George Jones gave to Thomas Newton for his duel with Ambrose Sevier.²⁷

This duel besides necessitating another election, cost the territory a valuable citizen. Henry Conway had just been elected to his third term as Representative. That experience and seniority and prestige of a three-time winner in the House of Representatives was lost. In both the Conway-Crittenden and the Newton-Sevier duels, the cause was the criticism of a person exercising his right of free speech. This criticism often caused duels.

For example, when a Doctor Cocke wrote a letter in the Advocate of Little Rock reflecting poorly on the character of Governor John Pope, he signed it "Dimwiddie." When the governor's nephew found out who "Dimwiddie" was, he challenged Cocke to a duel. Fontaine Pope and Doctor John Cocke met opposite the mouth of the White River in Mississippi. Major Rector was Pope's second and Doctor

Robert Watkins was his surgeon. Cocke's second was James Keatts, his surgeon was Doctor Bushrod Lee. Three exchanges of lead occurred. There were no hits. At this time the duel was halted by the friends of the duellists.²⁸

In his second, and last, duel, Fontaine Pope fought Charles Noland. Noland, like Doctor Cocke, criticized Fontaine Pope's uncle, the governor, in the Advocate. He also referred to Fontaine Pope insultingly in the letter. Using the name "Deveraux," Pope wrote an exceedingly harsh letter back to Noland in the Arkansas Gazette. Noland challenged Pope to a duel. On February 5, 1831, Pope and Noland, and their parties, crossed into Texas to fight their duel. At a distance of seven paces, the duellists fired. Noland's first shot hit Pope in the hip. Pope was taken to Washington, Arkansas, and finally to Little Rock, where he died from the effects of the wound. He died less than a year after his first duel.²⁹

General Albert Pike and Governor Roane fought the last known political duel in 1848. During the Mexican War, some differences of opinions concerning Roane's behavior caused the two prominent Arkansans to fight. Roane challenged Pike to a duel because of his statements about this difference. They arranged to fight on a sandbar in Indian Territory across from Fort Smith. The day of the duel was in August

of 1848. Besides a few Indians, Pike, Luther Chase, his second, and Doctor R. Thurston, his surgeon, and Roane, with Robert Johnson and Henry Rector as his seconds, and his surgeon, Doctor Phillip Burton, were there on the island that day. Both men were expert shots. Pike seemed especially confident as he smoked a cigar until he was asked if he was ready. In spite of their reputations, both men missed. Roane demanded another fire. Again, both marksmen missed. Roane asked for a third chance, but Rector, his second, persuaded him to submit to a reconciliation.³⁰ As Pike's second shot had just missed Roane's ear, while Roane's second shot was no better than his first, Rector may have come to a decision. Since Pike had made an improvement over his first shot and Roane had not, Rector may have feared that if Pike made an obvious improvement over his second shot, he would be without a principal and a friend.

This was the purpose of duelling, then, to defend one's honor by a show of courage. However, duelling had certain detrimental effects. It probably intimidated several people into silence when they had something worthwhile to say. Who would want to end up like Henry Conway or Fontaine Pope? The truly tragic effect was the loss of promising young leaders in a new and promising area of the country. Arkansas' loss was the South's loss and, inevitably, the nation's loss.

BACKNOTES

¹Dallas Herndon, Centennial History of Arkansas. (Chicago: S. J. Clarke Pub. Co., 1922), p. 975.

²Ray Granade, "Coffee and Pistols for Two: America and the Code Duello" (Paper for Social and Intellectual History, Florida State University, 1967), p. 3.

³John Lyde Wilson, The Code of Honor; or Rules for the Government of Principals and Seconds in Duelling (Charleston: J. Phinney, Printer; Chicago: Library Resources, Inc., LAC 40027, 1972), p. 21.

⁴Ibid., passim.

⁵Josiah Shinn, Pioneers and Makers of Arkansas (Little Rock: Democrat Printing and Lithographing Co., 1908), p. 60.

⁶Ibid., p. 62; Diana Sherwood, "The Code Duello in Arkansas" Arkansas Historical Quarterly 6 (Summer 1947): 138.

⁷David Thomas, Arkansas and Its People (New York: American Historical Society, 1930), p. 67.

⁸It has been reported that the duel was fought on the south bank of the Arkansas River.

⁹Charles Noland in his "Notes on Arkansas," explained how Allen lived for eleven days, which contradicts Shinn and others who stated he died instantly. These "Notes" were published in the Arkansas State Gazette and Democrat, 1857. Incidentally, the first steamship up the Arkansas River, the Comet, came because the wife of the captain, Captain Byrn, was the sister of William Allen.

¹⁰Herndon, Centennial History, p. 980.

¹¹Duelling, Arkansas Criminal Code, secs. 41-1501, 41-1502, 41-1503, 41-1504, 41-1505, 41-1506, 41-2213, 41-2404.

¹²Herndon, Centennial History, p. 980.

- ¹³ Thomas, Arkansas and Its People, p. 68.
William O. Allen died in Judge Scott's home.
- ¹⁴ William Pope, Early Days in Arkansas (Little Rock: Frederick Allsopp, Pub., 1895), p. 38. Told to Pope by J. H. R. Scott, son of Judge Andrew Scott.
- ¹⁵ Margaret Ross, "Chronicles of Arkansas" Little Rock Arkansas Gazette, 2 July 1967, 6E:4.
- ¹⁶ Pope, Early Days, p. 37. Bates may have been Selden's second.
- ¹⁷ Ibid., p. 37; Ross, "Chronicles of Arkansas" Little Rock Arkansas Gazette, 13 October 1958, 4A:7.
- ¹⁸ Shinn, Pioneers and Makers, p. 200.
- ¹⁹ Herndon, Centennial History, p. 980; Pope, Early Days, p. 38; Ross, "Chronicles of Arkansas" Little Rock Arkansas Gazette, 2 July 1967, 6E:4; Shinn, Pioneers and Makers, p. 208.
- ²⁰ Shinn, Pioneers and Makers, p. 192.
- ²¹ Herndon, Centennial History, p. 980.
- ²² Ibid., p. 980.
- ²³ George Jones to Fay Hempstead, 9 April 1888, Subject file Sevier-Newton, Arkansas History Commission, Little Rock.
- ²⁴ Ibid.
- ²⁵ Shinn, Pioneers and Makers, pp. 176-77.
- ²⁶ Pope, Early Days, pp. 37, 38.
- ²⁷ George Jones to Fay Hempstead, 9 April 1888.
- ²⁸ Herndon, Centennial History, p. 981.
- ²⁹ Ibid., p. 982.
- ³⁰ John Hallum, Biographical and Pictorial History of Arkansas (Chicago: Weed, Parsons and Co., 1887), p. 230.

SELECTED BIBLIOGRAPHY

PRIMARY:

Newspapers

Little Rock Arkansas Gazette, 1819 through 1860.
 (Several articles on the various duels, they often do not give enough information surrounding the duels.)

Correspondence

Letter of George Jones to Fay Hempstead, 9 April 1888.
 (Complete account of the Sevier-Newton duel by a second at the duel.)

Books

Sega, Giacomo. An Essay on the Practice of Duelling.
 Philadelphia, 1850. No publisher given. (A general work good only if one is ignorant of the practice of duelling.)

Wilson, John Lyde. The Code of Honor: or Rules for the Government of Principals and Seconds in Duelling. Charleston; J. Phinney, printer, 1858. (The rules and regulations of duelling.)

SECONDARY:

Newspapers

"Chronicles of Arkansas." Little Rock Arkansas Gazette, 1958 through 1967. (Gives excellent accounts of duels and history of Arkansas, does not have enough depth or insight.)

Books

Hallum, John. Biographical and Pictorial History of Arkansas. Chicago: Weed, Parsons and Co. 1887. (Almost a primary source in itself because of the almost contemporaneous sources used in the book. Several participants of duels were still alive at the time.)

- Hempstead, Fay. History of Arkansas. Chicago: Lewis Pub., 1911. (A good general history with some good background on Arkansas duels.)
- Herridon, Dallas, Centennial History of Arkansas. Chicago: S. S. Clarke Pub. Co., 1922. (General history of Arkansas which has specific sections on the duels mentioned in the paper.)
- Pope, John. Early Days in Arkansas. Little Rock: Frederick Allsopp, Pub., 1895. (Although the work has no index, a chapter is devoted specifically to duelling in Arkansas.)
- Shinn, Josiah. Pioneers and Makers of Arkansas History. Little Rock: Democrat Printing and Lithographing Co., 1908. (Not too much on duelling, but it gives some good background on the participants, especially the more prominent men.)
- Thomas, David. Arkansas and Its People. New York: American Historical Society, 1930. (Gives more detail to the Allen-Oden and Scott-Selden duels than could be found elsewhere.)

Other

- Granade, Ray. "Coffee and Pistols for Two: America and the Code Duello." Paper for Social and Intellectual History. Florida State University, 1967. (Paper concentrates on South and gives a good background of duelling in America.)
- Sherwood, Diana. "The Code Duello in Arkansas." Arkansas Historical Quarterly 6 (Summer 1947): 186-197. Touches all the major duels but leaves out some minor ones. No analysis of duels, rather it is an accounting of them.)