



The DAY of the DUEL

AN EYE FOR AN EYE

(A TRUE STORY)



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HE broad shouldered, strong faced man who entered the hotel dining room with assured step had about him the subtle something of distinction, of power, of magnetism that marked a leader. Glances and whispered comments among those who were at breakfast showed that he was known and that he was worth knowing. It was David C. Broderick, United States Senator from California, son of an Irish laborer, newsboy of the New York streets, ward politician by grace of heavy fist and high courage, stone cutter and, finally, one of the dominant figures of the new golden state.

As he took his seat he opened a newspaper and began to read the account of the convention held at Sacramento the day before by the branch of the democratic party that was bitterly opposing him. While he read his brows gathered and knotted. It was one of those quick flashes of anger beyond the control of strong minds, sober and well balanced though they be, that brought his eyes from a certain passage in the paper to the face of a man seated opposite him. The other man had been reading that same account and there was an unspoken question in his glance.

"I see that your friend Terry has been abusing me at Sacramento, Mr. Perley," he said. His hearer smiled.

"What is it, Mr. Broderick?"

"I defended that man when all others deserted him," Broderick went on, emphatically. "I paid and supported three newspapers to defend him during the Vigilance Committee days, two hundred dollars a week I paid. I have hitherto spoken of him as an honest man, as the only honest man of a corrupt Supreme Court, but now I find that I was mistaken. I take it all back."

"I am a warm admirer of Judge Terry," said Perley, leaning over the table. "You would not dare to use such language to him."

"Would not dare?" echoed Broderick.

"No, sir. And you shall not use it to me concerning him. I shall hold you personally responsible for the language you have used."

Broderick looked at Perley with a slow smile of contempt and superiority. "My dear sir," he said, "I fight only with gentlemen of my own position." Thereupon he placidly resumed the reading of his paper, and Perley, fuming with rage and exasperation, left the table.

The local situation, like the national one, was ripe for trouble. It was a time of tense, unbridled political passion in California, when the hurrying war clouds were drawing toward a vortex and men hated rather than believed. Broderick's position was critical. He was a supporter of Stephen A. Douglas and leader of the section of the State democratic party which was opposed to the further extension of slavery. His fellow Senator, William M. Gwin, was his direct adversary and champion of the slavery wing.

Broderick had won his seat after a terrific struggle, during which he had displayed unexpected strength. In an attempt to conciliate the Broderick element Gwin had pledged himself in writing to give over part of his political patronage. Broderick had profited by the error. Waving this document, the "scared letter," as an orillanome, he had called for the suppression of a man who would thus openly admit the corruption he practised. From that moment Broderick had been marked for sacrifice. It had been war then, with the elimination of Broderick as the first step essential to his enemies.

David S. Terry.

David S. Terry, Chief Judge of the Supreme Court of California, was one of Gwin's most devoted followers. A man of undoubted gifts, he was passionate and quarrelsome, a duellist, remorseless as he was fearless. Before the split in the party he had been friendly with Broderick. During the time of the vigilantes he had taken part in an attempt to rescue a prisoner from the custody of those volunteer advocates of law and order and in the fracas had stabbed Sterling A. Hopkins, a vigilante. He had been thrown into jail and Broderick had saved him by bringing press influence to bear in his favor.

The obligations which Terry owed him had moved Broderick's outburst at the hotel dining table. Terry had been protected from death or banishment; Terry, his former friend, had risen at the Gwin controversy and attacked him as a traitor. Referring to the anti-slavery Democrats, Terry had said:

"They are the followers of one man, the personal hatreds of a single individual whom they are ashamed of. They belong, heart, soul, body and breeches, to David C. Broderick. Yet they are ashamed to acknowledge their leader."

More than two months passed before Broderick's may exchange of words with Perley bore their fruit. Then, early in September, 1859, the Senator received the following communication:

"Sir—Some two months ago, at the public table of the International Hotel, in San Francisco, you saw fit to indulge in certain remarks concerning me which were offensive in their nature. Before I heard of the circumstances your note of the 25th of June in which you declared that you would not respond to any call of a personal character during the political canvass, had been published. I have, therefore, not been permitted to take any notice of those remarks until the expiration of the limit fixed by your self. I now take the earliest opportunity to require of you a retraction of those remarks. This note will be handed to you by my friend, Calhoun Denham, Esq., who is acquainted with its contents and will receive your reply."

Broderick was no devotee of the code, though he was regarded as an expert with the pistol. In his New York days, when he had led a phalanx of thumping patriots, he had had no experience with the niceties of personal combat. In his rise to a loftier plane of political effort after moving West he had shown



HE RAN HIS HANDS CLOSELY OVER THE SENATOR'S BODY.

himself possessed of excellent qualities, resourceful, a good speaker, a strong executive. But he had never sought to enforce his great popularity or his reputation by threats of personal reprisal. At the same time there was nothing of the coward in him and he was not the one to retract.

In his reply to Terry he recalled his remarks to Perley and said that they were occasioned by allusions to him made by Terry at the Sacramento Convention. "You are the proper judge as to whether this language affords good ground for offence," he concluded. There was no delay in the decision. Terry immediately resigned his position and challenged. It was at first arranged that the meeting should take place at sunrise on September 12 near the San Francisco county line. Word of this reached the chief of police, however, and the principals with their seconds were arrested on arriving at the designated spot. They were discharged from custody the same day and the subsequent arrangements were made more secretly. The conditions were as follows:—

1—Principals to be attended by two seconds and a surgeon each; also by a person to load the weapons. This article not to exclude the drivers of the vehicles. If other parties obstruct the time and place may be changed at the instance of either party.

2—Place of meeting—On the farm adjoining the Lake House Ranch, Laguna Merced.

3—Weapons—Duellist pistols.

4—Distance—Ten paces, parties facing each other; pistols to be held with the muzzle vertically downward.

5—Word to be given as follows, to wit:—"Gentlemen, are you ready?" Upon each party replying "Ready" the word "fire" shall be given, to be followed by the words, "one, two." Neither party to raise his pistol before the word "fire" nor to discharge it after the word "two." Intervals between the words "fire, one two," to be exemplified by the party winning the word, as near as may be.

6—Weapons to be loaded on the ground in the presence of a second of each party.

7—Choice of position and the giving of the word to be determined by chance—throwing of a coin, as usual.

8—Choice of the two weapons to be determined by chance, as in article 7.

9—Choice of the respective weapons of parties to be determined on the ground by throwing of a coin, as usual—that is to say, each party bringing their own pistols and the pair to be used to be determined by chance, as in article 7.

The Place Selected.

On the morning of September 13 the principals and their respective attendants were on the ground in a valley near Laguna de la Merced, a mile about twelve miles from San Francisco. It was a cold, clear day with little wind stirring. In spite of all efforts word of the meeting had been whispered in certain quarters and about eighty spectators were present.

Judge Terry had chosen as members of his party three men who were familiar with the operations of the code and the necessary arrangements on the field. Broderick's supporters, on the other hand, knew little

of the matter in hand and it was evident as the preparations progressed that they were unable to calculate the cool composure that marked the attitude of the opposing group. Their nervousness did not tend to set their principal at his ease. One of them, Leonidas Haskell, approached Broderick to untie his cravat. In the midst of his operation he stopped, overcome by emotion, and walked away a few paces wringing his hands. It was with difficulty that he could bring himself to complete the office with his friend.

It was now time for the preliminaries when the little details of the duel were to be submitted to chance. It may have been that Broderick read in the result an ill omen, for he lost every toss. Judge Terry selected his own pistols, the weapon he preferred of the pair, the position and the right for his own second to give the word.

When Broderick took his stand he was pale, with his features hard set. He was clad, as was his opponent, in a long, black overcoat, light in weight and unbuttoned. Both men also wore soft felt hats pulled low over their eyes. It was apparent to all that Terry was more at ease than the Senator. Broderick fumbled with the skirts of his coat, pulling them away from his knees and apparently feeling that his clothing hampered him. Terry, on the other hand, was obviously in full command of himself, concentrating every faculty upon the success of his shot.

In observance of the extreme punctilio of the code the chief second for each party then advanced to examine the principals for concealed mail or breast plates. Calhoun Benham, who acted for Judge Terry, performed this duty most thoroughly and in a manner that brought a twitching frown to Broderick's face. He ran his hands closely over the Senator's body, pressing and feeling with great care and deliberation. Congressman Joseph C. McKilhen, who examined Terry, merely laid the tips of his fingers upon the breast of the Judge, bowed and withdrew. Broderick drew several cuts from a waistcoat pocket and passed them to one of his attendants. Terry initiated his adversary and handed some silver to Calhoun Benham, who dropped them with superior gesture to the ground.

One more incident disturbed Broderick's poise, the exact adjustment of thought and person so valuable to the man about to venture deadly combat when his own second, McKilhen, corrected him as to the position he had taken. He made no remark, however, and moving to the spot pointed out settled himself firmly for the ordeal. Benham now stepped forward and read aloud the conditions of the duel. David D. Colton, another of Terry's seconds, repeated the instructions as to the firing. During these final moments Broderick was measuring the ground between himself and his adversary with quick, uneasy glances. Terry stood erect and motionless, conserving every energy and never removing his keen eyes from the Senator. The spectators were warned to stand aside from the line of fire and the little valley fell suddenly silent. Colton's voice came loud and clear:—

"Are you ready, gentlemen?"

"Ready," said Terry, instantly. Broderick delayed

an appreciable space, then answered steadily, "I am ready."

"Fire!"

"One!"

Both men had brought their pistols swiftly to a level and at this point Broderick's weapon rang out.

"Two!"

Shot Not Mortal.

Terry's pistol spoke as Colton pronounced the word. Through the floating cloud of smoke that shifted slowly to one side eager eyes sought the result. Broderick had taken a step backward just after Terry's fire. He reeled and turned a little on his heels. It was evident that he was making a desperate effort to keep his feet. He sank suddenly to one knee, then pitched backward at full length. His seconds and surgeon ran to his aid and supported his head while a hasty examination was made. The bullet had entered the right breast, taking a tortuous course to the left arm-pit.

Terry held his place, watching the excited group opposite him with calm eyes, his arms folded and the barrel of his pistol hugged close. His first words were, "The shot is not mortal. I have struck two inches to the right." Broderick's bullet, it was found, had plunged the ground about two paces in front of his antagonist. It was thus evident that he had discharged his weapon prematurely—a fact which was laid to his nervousness or to his unfamiliarity with the hair trigger.

One of the spectators of the affair was Davis, the owner of the dairy ranch upon which the meeting took place. He was one of the first to move in the tense instant when Broderick fell. Starting from his seat he rushed toward Terry, crying as he ran, "This is murder, by God!" Several men threw themselves upon him. He struggled to free himself. "Let me go," he cried. "Broderick has been murdered and I'm Broderick's friend. Are there any men here? Then come on and see this matter out." He was restrained and pushed back from the field. It was the opinion of many present that if a word of his threat had reached Terry or any of Terry's seconds the result would have been a pitched battle between the sympathizers of the respective opponents.

Broderick was carried from the ground to the Haskell house at Black Point. He suffered greatly and was conscious during most of the time up to his death, three days later. One of his last remarks was, "I tried to stand firm when I was struck, but I could not. The blow blinded me." His comment on the affair was, "They have killed me because I was opposed to slavery and a corrupt administration." A sentence which had in it something of prophecy.

Broderick's funeral was one of the most impressive events in the history of San Francisco. He had been greatly admired and with his intimate knowledge of the people who made up the strength of his following had contrived to stand in the light of a personal friend to his supporters. The manner of his death aroused feeling to a high pitch and the entire city went into mourning. The political significance of the event was not lost sight of and the man served the anti-slavery cause in death as he had in life. Broderick had suf-

fered for his defence of human liberty and the lesson was writ so that all might read.

Now was California the only section to mourn the strong, brilliant and able statesman. The affair produced a profound emotion throughout the country, serving as one of those striking and tragic incidents, like the John Brown raid, that engaged public sentiment into definite form. The ceremonies held in San Francisco were repeated in New York on the same day, the procession being two miles long.

Judge Terry was arrested after the death of Broderick, was tried and acquitted. All the influence of the train branch of the democratic party was thrown into the scales to aid him. It was a period in the development of the West, moreover, when duels were almost every day occurrences and when public opinion, when not openly supporting the code, felt no particular desire to check its free operation. The man who had killed Broderick was set at liberty and went his way. In the tragic sequel he was to play a part that was to make his life one of the strangest of all strange stories.

At the outbreak of the civil war Terry made his way overland, through great hardships, into Texas. He had fought under General Sam Houston in the war for independence against Mexico and his claims to a command were at once recognized. He raised a company and saw active service throughout the struggle. At the conclusion of hostilities he returned to San Francisco and resumed the practice of law, in which he was notably successful.

In 1881 Terry became one of the counsel for Sarah Althea Hill, who fought a long and desperate legal battle through many years, first for recognition as the wife of William Sharon, United States Senator, and later for a share in his large estate. This case was the cause celebre of the decade, and Terry attracted country wide attention through his conduct of it. During the hearings after the death of Sharon the former judge became the husband of Sarah Althea.

When the woman's claims came up for final settlement Stephen J. Field, Associate Justice of the Supreme Court of the United States, read the opinion. By a curious twist of fate Field had been one of the warmest personal and political friends of David C. Broderick. With Terry and his wife seated in court Field pronounced the words that meant absolute failure for their case. The Justice was interrupted toward the end by the hysterical shrieks of Sarah Althea, who declared that the decision had been purchased. Court officers advanced to silence her and Terry sprang to her aid, drawing a long, broad bladed knife.

Battle in Court.

Drawing the woman behind him he held the officers at bay, swearing that he would kill the first man who laid hands on him. The court room was in an uproar and a dozen men threw themselves upon the raging Terry. He was disarmed by a United States Deputy Marshal, David Nagle. Justice Field sentenced him to six months and his wife to thirty days in the county jail as a result of the outbreak.

After his release Terry made no secret of his intention of killing Field. Word of his threats reached the Department of Justice in Washington and Nagle was assigned as a bodyguard to accompany the Justice. By a curious twist of fate Nagle had been one of the warmest personal and political friends of David C. Broderick. With Terry and his wife seated in court Field pronounced the words that meant absolute failure for their case. The Justice was interrupted toward the end by the hysterical shrieks of Sarah Althea, who declared that the decision had been purchased. Court officers advanced to silence her and Terry sprang to her aid, drawing a long, broad bladed knife.

"Sam," he said, "it was one of the proudest moments of my life when I saw Broderick fall. I did a great public service in removing that man and it has never been recognized."

"Then you've never been sorry for it?"

"Sorry? Why should I be? I went to breakfast just afterward, you may remember, and ate it with a good appetite and a clear conscience."

"You always did have nerves of steel," said Turner, shaking his head in awe.

"Just one thing is lacking, Sam, to make me completely satisfied. Field is still alive and I'm going to get him. You can tell any one I said so if you feel like it. Broderick and Field—they've been the two stumbling blocks in my life. I'm getting to be a pretty old man, Sam, but when I get ready to go I'm going to take Stephen Field with me."

"You're nothing if not a good fighter," murmured Turner. Terry's eyes narrowed and his face hardened.

"A good fighter. Yes, I have been. I come from a race of good fighters. Most the men of my family have died with their boots on, Sam. If I ask one more thing beyond hauling Field in that I may die that way myself. And the brave old man, almost a forgotten type in the newer civilization of the West, strode from the place."

On August 14, 1880, Justice Field, accompanied by Nagle, boarded a Southern Pacific train at San Francisco. On the same train were Terry and his wife. They attempted to obtain seats in the same car with Field but were prevented. The train stopped for twenty minutes at Lathrop, a small town near Stockton, and the passengers entered the dining room of the railroad station for luncheon. Field and Nagle were seated at one table, and the Terrys who did not see the Justice on entering the room, proceeded to another.

During the meal Sarah Althea caught sight of Field and called the attention of Terry to his presence. Their actions and whispered conversation did not pass unobserved, and when the woman rose and left the room, with a threatening glance at Field, one of the proprietors of the restaurant approached Terry.

"I hope your wife does not intend to make a scene," he said, indicating Field.

"My wife could not remain in the same room with that man," returned Terry, stiffly.

"Well, I hope you will make us a private party. We don't want to have any trouble in this place."

"I don't know, there may be trouble," answered Terry, without raising his voice. When the other turned away from him he left his chair and walked to the table at which Field was seated, leaning across the board, without uttering a word to disturb the Justice across the face with his right hand.

Nagle, who had been watching Terry closely, whipped a revolver from his pocket and threatened to shoot if Terry did not desist. Terry paid no attention to Nagle but with his eyes fixed upon Field raised his hand for another blow.

In that instant Nagle fired. Terry staggered and fell while Nagle fired again. The next bullet passed through Terry's heart. The man of blood and steel scored a deep furrow in the floor. At the same instant that Terry fell his wife appeared in the doorway of the room with a scream in her throat. She advanced and started toward her husband, crying out to him to be murdered. She was seized and the stricken body taken from her. A revolver was discovered in the train to which it had been taken.

Terry had been instantly killed. Nagle was arrested, but was later released. Sarah Althea was removed to her home and was kept under guard for some time.