

THE LAST DAYS OF THE DUEL IN CALIFORNIA

"You are a Kentuckian, sir?" asked the gentleman from Monterey, after a significant halt in the aisle beside Johnston's desk.

"I have that honor," returned the young legislator, smiling up at the heavily crowning face of the questioner. The gentleman from Monterey guffawed like a winded runner and glared disparagingly.

"Then I may say, sir, that—er—you seem to have forgotten the best and most sacred traditions of that noble State," he declared. "Without the desire to attach a reproach to your motives, I find it necessary to remonstrate against your introduction of this—er—most lamentable bill, as I shall find it necessary to oppose it to the best of my ability."

"You mean my anti-duelling measure?"

"The same, sir," said the gentleman from Monterey severely. "You seek to attack the exalted tribunal of honor, sanctified by tradition and justified by the sternness and approval of—"

"—of the greatest sons of your noble State. For I, I repeat to you, sir, do I make myself plain?"

"Perfectly," said Johnston, with his usual smile. "I can see your point of view perfectly, Major Sweet. I should have thought it strange if you had taken any other attitude. But I absolutely refuse to allow you to draw me into a personal controversy, both because of my high regard for yourself and because, as the professional man of peace, I should have to invoke my own bill for my protection."

The gentleman from Monterey snorted and puffed still more vigorously,

but Johnston's manner was disarming and the little compliment soothing. He contented himself with waving a stout finger warningly and delivering one more pronouncement.

"Mark my words, sir. Race will tell, it is not permitted that a man, bred from the blood and bone of heroes, in the home of chivalry and honor, should so lightly divest himself of the—er—spirit of Kentucky. It is unthinkable, sir, quite unthinkable."

And the gentleman from Monterey stalked ponderously away down the aisle to his own seat in the chamber of the California Assembly.

An hour later George Peckleton Johnston, the author and principal supporter of the anti-duelling bill, rose to speak. He was known as a fluent and impassioned orator, and there was no tendency among the gentlemen in attendance to seek eulogium and refreshment in the outer regions when he was accorded the floor. He did not expect much opposition. The bill was not a party measure and was regarded as a part of the "introductory business" legitimately belonging to any Assemblyman. There was a constitutional provision against duelling, but it had never been other than a dead letter. Johnston's plea was that his bill would make the inhibition effective.

He took the occasion to "spread himself" as his admiring colleagues phrased it, and ran through the recent history of the code in California with ready anecdote and nimble tongue, calling upon the Legislature to remove the reproach that had been fastened upon the State by the prevalence of

affairs of honor.

"That is what they call these primitive struggles between man and man, affairs of honor," he said. "How shall a private conception of personal honor stand between society at large and society's firm and righteous wish for law and order? If we find two Mexicans knifing each other in the street we are prompt to arrest and punish them. Yet they could as truly urge that their quarrel was an 'affair of honor,' and therefore none of our business. The fact that the code prescribes certain formalities does not make a recognized duel more dignified or less criminal."

He paused a moment to glance at the rumppled face and puffing lips of the gentleman from Monterey.

"It has been suggested to me by an honorable member of this body," he went on, "that as a native son of Kentucky I must feel an inborn sympathy with the practice of duelling. That, should the impulse arise, I myself would appeal to its barbarous code. I reply by inviting that honorable member to smite me on the right cheek if he so desires. I shall promptly turn the left and then proceed against him by the legal civil and criminal machinery."

After the laughter had subsided he continued in a more serious vein to explain the necessity for his bill. He finally resumed his seat amid applause. The bill was passed with few dissenting votes, among them that of the gentleman from Monterey. The Senate made no fight on the measure, and two weeks later it became a law by the signature of the Governor.

One result of the bill, happily unsuspected at its passage by his contemporaries, was to bring Johnston prominently to public notice. The term "Anti-Dueller" recommended him to the citizens who had become weary of the slaughter invoked in the name of honor and lifted him for a moment above the heads of party leaders and partisan legislators. He was quick to take his opportunity, and his good presence and ardent oratory became familiar to political gatherings in many parts of the State. He possessed real ability and with the favorable impression created by his advocacy of order in the wild chaos of the new West was able to make influential friends. The result was an appointment as United States Court Commissioner, in which position he was called upon to decide the case of the negro "Archie" which became historically famous.

California in the 50s rocked and trembled under the preliminary vibrations of the slavery upheaval. The incident that had a bearing upon the case of Archie came within the full glare of publicity and formed material for a heated discussion. When Johnston, a Southerner, tendered a decision favorable to the negro under one application of the fugitive slave law he found himself as heartily supported and condemned as any official could have wished.

The decision was the more remarkable because of his affiliation with the democratic party. He had been a warm adherent of the Lecompton wing of the organization, which upheld the Southern slave holding oligarchy, and a friend of Dr. William Guth and Judge David S. Terry. His loyalty was either too real or too valuable, for he was not visited with the wrath of his associates following the "Archie" case, and he was able to continue as an active opponent to David C. Broderick, and the anti-Lecompton wing, which followed Stephen A. Douglas. In an interval of the Political struggle he was made clerk of the United States Circuit Court in San Francisco.

The year 1855 saw with the mushroom rise of the American, or "Know Nothing" party in power in California. This movement, ostensibly based upon religious antagonism and jealous guardianship of the franchise, was in fact an attempt to divert attention from the pressing slavery issue. It had brought, however, some few remarkable men toward the centre of the public stage. Among them was Wm. F. Ferguson, who was elected to the State senate.

Ferguson, a native of Pennsylvania, was the son of a carpenter. Having removed to Springfield, Ill. as a young man, he studied law under Colonel E. D. Baker and came to the Bar, where one of his associates was Abraham Lincoln. After his arrival in California he became one of the leading criminal lawyers of the State and soon pushed his way into politics. He was a brilliant and talented speaker, and toward the end of the session it became apparent that the Know Nothings had a scant majority on a joint ballot. The situation began to tighten with a "Know-Nothing" victory as the probable outcome. The Lecompton democrats, first and always opposed to the ambition of Broderick, looked complacently upon their own probable defeat. They were the more potent with the "situation" by the fact that their relations with the "Know

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Harry W. Frost

For Your Dough Hadn't the Courage to Rise

You remember, Madam, that bakeday a week back—or was it a month—when *his* folks were coming to dinner self-invited. And you arose bright and early, and ran over to your rising bowl to knead that glorious batch of shapely golden-domed loaves. And astonish *his* folks with his wife's breadmaking. You remember: that was before you bought FIVE ROSES.

And how the dough had forgotten to rise?

Or had quickly risen overnight and fallen again, to rise nevermore.

How aggravating to be sure.

And how *his* mother gazed solemnly at *his*, saying in a stage whisper:

"Poor John! Don't you think he looks a little first, unraised?"

And John's father replied: "No wonder—such bread—such eating, now!"

Don't you remember?

But the explanation is most simple, Madam.

Your flour was weak in gluten, weak in strength, may be.

Shower with FIVE ROSES because it's consistent flour, stronger as the sun or a mother's love.

It surely possesses that gluten strength which makes it rise to the height of its own destiny.

and stay risen, because it has the necessary consistency and elasticity.

And when you begin to knead it, Madam, you find the dough quite springy and you hear it squeak and crack as you work.

And it gets stiffer and stiffer under your hand till at last it rivals our own dazzling Canadian snows.

Then think of it, Mistress Housewife, YOUR bread is never sour, never lumpy, never dark or discolored, nor soggy nor heavy.

No baking accidents when you meet sweet success.

Because you are using FIVE ROSES, and cannot help it.

And it keeps fresh for days—its gluten holds the flour grains and so it stays sweet and soft.

What, Madam, you say? Well, FIVE ROSES? Well, yes, Madam, it's our aim to make

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