

## **Kentucky and the Code Duello**

In Kentucky dueling remains a serious matter. In Section 228 of the state's constitution there remains a link with Kentucky's violent past. That link is the famous "dueling clause." Since 1891, the commonwealth's officials have had to swear or affirm that "since the adoption of the present Constitution, I being a citizen of the state, have not fought a duel with deadly weapons within the State or nor out of it, nor have I sent or accepted a challenge to fight a duel with deadly weapons, nor have I acted as a second in carrying a challenge nor aided or assisted any person thus offending, so help me God."

In some instances dueling and the Code Duello sounds as romantic as a moonlit, magnolia scented Southern night. In reality, adherence to this code of honorable conduct cost the lives of many men. Dueling has been around in one form or the other for centuries. The nobility of Europe spilt large quantities of their blue blood on the field of honor. For them honor meant more than life itself.

To accommodate the nobility, who wished to infuse some sense of order to their fights, a strict code of dueling conduct was created. The codification of rules pertaining to affairs of honor became a primary goal of the aristocracy. After all, it was better to have some rules and regulations when preparing to commit mayhem on one's enemies.

Through the years, dueling had evolved from savage vendettas and trial by combat, to a gentleman's civilized, yet deadly art. The first rulebook for dueling came out in Renaissance Italy in 1410. The *Flos Duelatorum* became a standard for European duelists. The French came out with another work on the proprieties of dueling during the same period. However, not until 1777 did the seminal rulebook on dueling see publication.

In 1777 a group of Irishmen decided that the various rules and regulations of dueling be brought together in an updated manual. Gentlemen from Galway, Mayo, Rosecommon, Sligo, and Tipperary, created the now famous, Code Duello. Twenty-six rules are laid down as the basis for a civilized duel. Although meant for use in Ireland, the Code caught on in England, and with some modifications, throughout Europe and America.

The Code explains in detail how an offense may be answered in an affair of honor. The way in which a challenge may be issued, the "seconds" chosen, and how weapons could be used, and how many shots could be fired were carefully noted. The etiquette of the Code often belied the end result of a duel—death or wounding of one or both of the participants.

Dueling came early to America. The first recorded duel on American soil took place in 1621 in Massachusetts. Edward Doty and Edward Lester, two servants, fought a duel with swords. Both men received wounds, but both survived the encounter. The use of swords by Doty and Lester proved to be less popular than guns in a duel. Americans liked their firearms and wanted to use them whenever possible. A smoothbore flintlock pistol became the weapon of choice for American duelists.

After America won its independence from Great Britain in 1783, the newly formed United States took a dim view of dueling. George Washington abhorred the practice. Benjamin Franklin said duels constituted a “murderous practice.” Parson Weems, Washington’s famous, if not so accurate, biographer published a pamphlet entitled *God’s Revenge Against Dueling*. Yet the practice did not stop.

Button Gwinett (1732-1777) of Georgia, a signer of the Declaration of Independence, died in 1777 from wounds received in a duel. Alexander Hamilton, one of the brightest and most promising of the Founding Fathers died in a duel with Aaron Burr. Andrew Jackson had a reputation as an avid and murderous duelist.

By the first decades of the nineteenth century, dueling increased among America’s upper classes. A new, and more American version of the *Code Duello*, written by South Carolina governor Lyde Wilson, appeared in 1838. Knowledge of the Code and how to use dueling pistols became a part of a fashionable young gentleman’s life. Religious leaders frowned upon dueling, as did many states. Laws passed by state legislatures found little compliance among the gentleman class of the United States.

In Kentucky and Tennessee where the frontier had just recently vanished, formal dueling seemed preferable to the “rough and tumbles” of an earlier time. On the frontier men had settled their differences with knives, guns, fists, and teeth. Having two gentlemen try to wound or kill each other in an orderly fashion seemed an infinite improvement over unsupervised violence. Unfortunately for the peace of Kentucky’s citizenry, the formal duel had a less than gentlemanly alternative. The street fight, with knives slashing and pistols blazing, became the way in which an insult could be avenged.

Known as the *de facto* duel, this method of fighting constituted nothing but a free-for-all brawl. Opponents did not bother with the niceties of issuing a challenge or worrying about protocol. They would simply begin shooting or stabbing at their foe with bloodthirsty abandon. One reason that the *de facto* duel became so popular in Kentucky was to skirt the laws against formal dueling. As early as 1799 the Kentucky General Assembly enacted laws against dueling. Fines, along with a disqualification to hold public office for a period of time were imposed. Ambitious politicians dreaded the possibility of being barred from public office.

By 1849, lawmakers demanded that the third constitution of the commonwealth have a provision stating that no elected Kentucky official could have been a participant in a duel. The elected official had to swear that he had not fought in a duel, issued a challenge, or served as a second in a duel. Instead of helping end the problem of dueling in Kentucky, many would-be duelists resorted to the *de facto* duel.

Throughout the first half of the nineteenth century Kentuckians remained quick to defend their honor. Between 1790 and 1867, forty-one formal duels took place in the commonwealth. Some of the most famous figures in the state participated in affairs of honor. Some Kentucky duelists crossed state lines to avoid the letter, if not the intent of

the law. Henry Clay (1770-1852), one of the greatest of the nation's statesmen fought duels. Kentucky historian and statesman Humphrey Marshall (1760-1841) of Frankfort fought a duel with Clay over an insult delivered by Marshall while both men served in the Kentucky legislature. The duelists crossed the Ohio River, fought, and were both wounded.

Clay fought another famous duel with the eccentric John Randolph of Roanoke (1773-1833). Randolph insulted Clay over the latter's support of John Q. Adams for president. Randolph called Clay a "blackleg" and implicated the Kentuckian in a "corrupt bargain" with Adams. Clay challenged Randolph to a duel. Randolph, a crack shot, could have easily killed Clay on the field of honor. Most of official Washington felt that Clay would not survive the duel and tried to dissuade Randolph from exterminating such a valuable public servant.

The two men met on Virginia soil (Randolph had insisted on the Virginia site since his native state was the only place worthy to receive his blood). On Saturday, April 8, 1825, Clay and Randolph crossed the Potomac River at Little Falls Bridge. What followed was one of the most ludicrous exchanges in the annals of dueling.

Randolph's pistol went off due to a hare-trigger before the duel even started. Clay demanded that the duel continue. After pacing off thirty steps, the two men turned and fired at each other. Clay's bullet hit the ground near Randolph, and Randolph's bullet hit a stump behind Clay. Thomas Hart Benton of Missouri tried to stop the proceedings but to no avail. Clay asked for another shot remarking, "This is child's play." The two men prepared to fire again. One of Clay's bullets had pierced Randolph's coat. Clay, by the rules of the Code Duello, now had to stand and receive his opponent's fire.

For what seemed like an eternity, Clay and the horrified onlookers waited for Randolph to shoot. Known for his eccentricities and unpredictable nature, Randolph raised his pistol above his head and fired. The Virginia had spared Kentucky's gallant "Harry of the West."

Clay, totally relieved that he had not been killed, moved toward Randolph and asked, "Mr. Randolph are you hurt?" No, Mr. Clay." replied Randolph, "But you owe me a new coat." "I am thankful the debt is no greater." exclaimed Clay. Thomas Hart Benton later said the Clay-Randolph duel was the "last high-toned affair" he ever witnessed.

Randolph did not rise to every challenge. He refused to meet General James Wilkinson in a duel. Wilkinson, the founder of Frankfort, had an unsavory reputation due to his role in Aaron Burr's treason plot and with his questionable dealings with Spain in the so-called "Spanish Conspiracy." He demanded of Randolph that his honor be satisfied. The sharp-tongued Randolph had offended the general's already prickly sense of honor in some of his remarks. When Randolph refused Wilkinson's challenge the outraged general "posted" Randolph.

“Posting” a person meant to try and publicly humiliate them. The denunciation of the individual would be printed in the local newspaper. Wilkinson declared Randolph to be a “prevaricating, base, calumniating scoundrel, poltroon, and coward.” In most instances such strong language would have been enough to cause an immediate duel. Randolph as unpredictable as ever, shrugged off the offense.

Other famous Kentucky duels included the Rowan-Chambers Duel in 1801. John Rowan (1773-1843), builder of “Federal Hill” (better known as “My Old Kentucky Home”), fought a duel with Dr. James Chambers over an argument dealing with who had the best mastery of classical languages. Chambers was killed and Rowan was arrested and tried on murder charges. He won acquittal and later became a judge on the Kentucky Court of appeals. On February 24, 1838, Congressman William Jordan Graves of Henry County, Kentucky (1805-1848) fought a duel with fellow congressman Jonathan Cilley of Maine and killed him.

Not only Kentucky politicians evoked the Code Duello. Kentucky historian Richard Henry Collins (1824-1888) killed a man in a de facto duel in northern Kentucky. William Goebel (1856-1900) did not suffer prosecution for killing John L. Sanford on the streets of Covington due to the law protecting participants in affairs of honor.

With such a history of violence it is no wonder that the state’s fourth and present constitution (1890) retained the seemingly archaic clause against dueling (ratified August 3, 1891). Kentucky lawmakers felt that an official statement in the commonwealth’s highest legal document banning would-be elected officials from participating in duels would send a powerful message to those who still might resort to violence to settle disputes.