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David S. Terry owned the Lone Star Mill near Clements, the site of which is now a California Historical Landmark. We have here an interesting story of his life.

JUDGE DAVID S. TERRY

By Glenn A. Kennedy

Cradled in the midst of the most violent turmoils and dissensions of the Texas frontier, without the counsel of a mother or the example of a father to guide and direct, his character was moulded in a tempest and possibly that accounts for his sometimes well known temper.

He was born in Kentucky in 1823. His grandfather Terry was a native of North Ireland, and came to Virginia in pre-revolution years. His grandfather Smith came to Virginia in 1746, and was a Colonel in the Revolutionary forces.

In 1824 the family moved to Mississippi and became cotton growers. Governor Runnels of that State was one of the relatives. In 1835 the father and mother separated, and the mother and the four sons moved to Texas on the Brazo River (near Houston) where they raised cotton.

The mother died in 1836 and two of the sons ran the plantation. David was large and strong, and at the age of thirteen, joined the Texas forces and was conspicuous for bravery. A Mexican officer hit him over the head with a sapor and was rewarded with a bowie knife in his throat. He was in the Battle of San Jacinto and was nearby when Santa Ana was captured in the battle. He then returned to the plantation.

He entered the law office of his uncle in Houston in 1841. He didn't have to do much studying as he had a remarkable memory and absorbed knowledge very quickly. Two years later in 1843 he was admitted to the bar and opened an office in Galveston. During this time he joined the Baptist Church, and being more or less radical on the subject, his friends thought he might turn to the ministry. During this time he joined the Masonic fraternity.

He was one of the first to enlist on the three month limit basis in the war with Mexico in 1846. He was a 2nd Lieutenant in the Texas Rangers and battled in the city of Monterey.

In 1849 the gold fever swept the country and Terry formed a small company of Texas Ranger comrades in the Mexican War and headed for California. He brought some of his slaves with him. They came by way of New Mexico and Arizona and twice battled with Indians along the way. He tried mining in Calaveras County, then moved to Stockton.

where he opened a law office. He ran for mayor and lost. He had an argument with George Belt, a fiery Southerner, and they decided to have a duel. Due to confusion over the rules, the duel was called off.

In 1850 he returned to Texas for a short stay, and made a second trip in 1852, going on to Mississippi, where he married Cornelia Runnels. She was the daughter of Hiram Runnels, two times in Congress, a Governor of Mississippi and a Governor of Texas. The young married couple returned to California. His wife was a very loving person and had a lot of influence over him and he simmered down for some years.

They had six sons. Frank was born in 1853 but died 7 months later. Samuel came in 1854 and was an attorney and an Assemblyman. David was born in 1856 and lost his life when accidentally shot at the age of seventeen years. Clinton, born in 1858, was an engineer at the U. S. Mint in San Francisco and was later affiliated with a river navigation Company sailing on the San Joaquin and Sacramento Rivers. The other two sons, Frank and Jeff Davis, died in infancy.

In 1854 he bought a farm on Mokelumne River north of Clements in San Joaquin County. The ruins of an old flour mill - the Lone Star Mill named after Texas, is now a California Historical Landmark, on the former Terry property.

He became very much disgusted with the political parties of 1855 and advocated a number of reforms. He was elected to the State Supreme Court and later became the Chief Justice of that Court.

The following year in 1856 he opposed the Vigilance Committee of San Francisco. There are several versions as to what happened, but in the confusion he stabbed police officer Hopkins of the Vigilance Committee in the neck with a bowie knife. It had the appearances of a street fight with shooting adding to the confusion.

He surrendered to the Vigilance Committee and was held for six weeks in Fort Gunny Bags. His friends tried to release him by letter and influence, and his friend Broderick paid \$200 a week to support his cause in the press. Hopkins was reported dying, the U. S. Circuit Judge refused to act, and appeal was sent to Congress with no success. Finally Hopkins was on the road to recovery and Terry was released. He was then tried and given three months in jail.

He was disgusted with political methods, had strong Southern views and was radical on slavery. In 1859 he had a bad political fight in disagreeing with Broderick on politics. Broderick was elected United States Senator. Broderick presumably made some derogative remarks about Terry who demanded an apology, but Broderick refused. It was decided that the only settlement of differences should be by duel, then unlawful in California.

The opponents and their aids met on the San Francisco-San Mateo Counties line early one morning. The San Francisco Chief of Police showed up with warrants from each county. Terry and Broderick were arrested but were immediately released by the police court.

By secret arrangements, they met early the next morning on the shores of Lake Merced in the southern part of San Francisco. The spot is now a California Historical Landmark. There were about fifty present when the duel took place. Broderick's bullet evidently went wild, but Terry's bullet hit its mark. Broderick died four days later. Terry had his resignation to the Supreme Court signed prior to the duel, and gave it to an aid for immediate delivery. He then left for Sacramento and then to his farm near Stockton.

He surrendered and was placed on a \$10,000 bond. The trial was transferred to Marin County in the Seventh District Court. Someone set the clock in the court room ahead one hour. The witnesses were on the way over from San Francisco by boat. There being

no witnesses, at the appointed time, without comment a few facts of the case were given the jury who made an immediate verdict of "Not Guilty". When the witnesses arrived, the trial was over - considered by all a complete farce. It was later ruled that a duel was not a murder.

Feeling that public sentiment was against him, Terry went to Virginia City in 1862 on a mining expedition for a short stay. He then returned to Stockton and sold his ranch.

The Civil War had started, and in 1862 he left San Francisco and went to Matzatlan, Durango and Monterey in Mexico. He was surprised shortly after arriving there to see two of the slaves he had brought to California seeking for him. They wanted to follow their master and stayed with him until the end of the War. From Monterey he went to the brother's plantation on the Brazo River in Texas.

He then went to Jackson, Mississippi, and was invited to join the staff of General J. Johnson of the Confederate Army, and was with him at Vicksburg. He was in the siege of Jackson and evacuated with the others. Then he went to Richmond, Virginia and asked to serve as a Major General. He visited with President Davis of the Confederacy, a man he knew in the Mexican War. He was granted authority to raise a regiment in Texas.

On the way to Texas he was at the Battle of Chickamauga under Bragg. He soon arrived in Texas and formed a regiment and was chosen Colonel. He remained in command of the brigade in Texas until the close of the War acting unofficially as a Brigadier General.

His command was included in the surrender of troops under General E. Kirby Smith.

His proud spirit revolted the idea of return to his adopted State - California. Together with about 150 ex-Confederate soldiers, in 1865 they headed for Mexico. The outfit included a number of ex-generals and two ex-governors of Southern states. He was warned by the French not to proceed too far to the south. It is said that Emperor Maximilian offered him a high command but he refused. He purchased a hacienda near Guadalajara and farmed there for several years. His wife had joined him.

In 1868 he sailed from Mexico to California and returned to Stockton and again opened his law practice. He spent some time in White Pine County, Nevada, for business reasons.

In 1878 he was a member of the Constitutional Convention of California and during that year and the one following, became a challenger for the common people of the State. He controlled the convention with his brilliant oratory and knowledge. He argued against stock speculations, revenues and taxation. He and his followers won their points. He helped to reframe the judicial system. He had great faith in the new State Constitution. He was defeated as a candidate for Presidential elector.

He took part in the political conventions in 1882 at San Jose as a delegate, and was a notorious person in the Stockton Convention in 1884. A man named Field was an aspirant for President at the time. He spoke out strongly against encroaching wealth and its great power, and still was strong minded on slavery.

In 1883 Sarah Althea Hill declared she was the wife of millionaire Sharon of San Francisco, claiming a secret marriage contract in 1880. This Sharon denied which led to a long legal process of proving the legality of the marriage contract. Terry was hired as a counsel. He disliked Sharon due to a difference dating from 1865. In 1884 Sarah Hill was ruled the wife of Sharon. In 1885 Mrs. Terry died, and later the Judge married Sarah Hill Sharon.

In 1888 the decision was appealed. U. S. Supreme Justice Field was the Circuit Justice to hear the appeal. He ruled against Sarah Hill. Mrs. Terry interrupted, and Terry

came to the support of his wife. Terry struck the court marshall, and threatened Judge Field. Mrs. Terry was sentenced to 30 days in jail, became ill, and lost a child. Terry was sent to Alameda County jail for six months. The President of the United States refused to pardon Terry. Other petitions to release him were denied, and many times he lost control of his temper while in jail.

After he was released in 1889, he moved to Fresno where he had large land holdings. He opened a law office there. He prepared a petition to rehear the Sharon vs Sharon case and it is referred to as a remarkable document.

Terry did not like Justice Field and was very outspoken about him. Justice Field and his bodyguard were on the way from Los Angeles to San Francisco by train. Terry and his wife boarded the same train in Fresno, also headed for San Francisco. Neither Justice Field or Terry knew the other was aboard. The train stopped at Lathrop for a meal stop. Justice Field went into the lunch room. Terry and his wife entered shortly after. The wife recognized Justice Field and told Terry. He told her to leave the room which she did. He approached Justice Field and what he said and did has never been proven. Whatever happened, the guard with the Justice drew his gun and shot Terry.

His body was sent to Stockton by train. It was a very quiet funeral with Mrs. Terry and the son Clinton representing the family. Prominent people from all over the State were on hand for the occasion. Today his remains lie in his family plot in Rural Cemetery in Stockton, California. People from all walks of life, from near and far, come to his grave today, maybe just as the curious, or maybe to pay a silent tribute.

He was a thorough lawyer and a faithful attorney. A good pleader, he handled some large and complicated suits with success. He did not believe in praise for the performance of duty.

He was domineering and rough, yet generous with charity toward the weak in intellect and courage. He had no patience with the compromising man. He treasured the principle of honor and dignity, and he displayed great ability and indomitable courage.

Let us be charitable as self appointed critics in reviewing his full and interesting life.