

# SENATOR BENTON LAYS HIS PLANS

## SOME NEWLY-DISCOVERED MATERIAL ON THE FRÉMONT COURT-MARTIAL

*By Francis M. Wheat*

Among the many documents, letters and scraps of family papers which Jessie Benton Frémont turned over to Charles F. Lummis for use in his literary efforts, and which Lummis gave to the Southwest Museum at Los Angeles before his death, are the letters here published.

On his way to Washington, with the impending court-martial of his son-in-law on his mind, Senator Thomas H. Benton stopped in Kentucky on business. While there his temper had time to smolder and burst into flame, and it was then that he wrote these letters. He was outraged at the exhibition of military discipline of which Frémont was being made the victim, and he was angry at Kearny's treatment of the explorer, both in California and *en route* from there to St. Louis. The fact that the Senator had in the past befriended Kearny served only to stimulate his fiery temper—until he could write of Kearny and his supporters, "May the Lord have mercy upon them, for I fear that I cannot."

The excitements of the forties have now been largely forgotten, and all of the actors in this particular *opera bouffe* have long since passed into history. As a chapter in the conquest of California, however, the Frémont-Stockton-Kearny episode seems of sufficient importance to warrant the preservation of these letters.

One other item in the same group of documents is a small scrap of paper on which Frémont scribbled in his characteristic hand a few notes respecting the situation and his reactions to it. It reads:

Genl. Kearney for 33 years befriended by Mr. Benton—got him made Brigadier Genl. in order that he might have the California [assignment(?)].

Disobeyed the Presidents order that I might remain in Cal<sup>a</sup>. or come home.

Turned Carson back & gave my dispatches to other hands.

Refused to let me join my regiment in Mexico.

Stockton had made all the arrangements for me to remain Governor of California—had informed the Govt. wh[ich] acquiesced.

There was no reason for his setting these things aside, as he did. He should, for himself, and by himself, as a brave man have settled his quarrel with Stockton. Not devolved it upon me, and then charge me with disobedience to a superior officer because I declined to settle it in his favor.

I am indebted to Dr. Frederick W. Hodge, Director of the Southwest Museum, for permission to publish this material from the collection of that institution.

## THE BENTON LETTERS

Woodford Co. Ken. Oct. 3<sup>d</sup>. 1847.

Dear Sir,

Letters from Jessie of the 28<sup>th</sup>. arrived this morning, containing the order for your trial at Fortress Monroe. The place will not prevent me from attending, tho inconvenient to both of us; I shall therefore hasten the conclusion of my business to this State, and propose to start back in a week.

With respect to the trial upon Kearneys charges, they are absurd, as he did not assume the command until after the 1<sup>st</sup>. of March, and did not go to California by *virtue* of his orders, and acted under Stockton when he got there, and gave you mere orders of contradiction over the California Battalion, raised under Stockton, of which he did not assume the command until he settled the question of authority with Stockton's superior (Com. Shubrick).

With respect to the newspaper publications, they cannot be considered as anonymous, Capt. Emory being mentioned by me as the imputed author (which he has not denied) and besides the editors of the Picayune, Louisville Journal, St. Louis Republican & Pittsburg [sic] Gazette, all vouch the respectability of the informant, and they are not anonymous.<sup>1</sup>

The court is a very respectable one. The acquittal upon the charges is easy enough, but you are entitled to credit for your conduct in California, and the misconduct of others deserves to be exposed. These gentry shall all have their conduct brought out. The drawing up of the written defense will afford a proper occasion for an ample view of your conduct, and will become a great historical document. The authentic & formal demand which you have made for a trial on all the publications against you, and no one appearing to sustain them, is viewed by the public as a vindication, and the publication of the letter in [the] Union, and thence into other papers, covers all the authors of these publications, Emory especially, with the apprehension of calumniators. That publication has given the course to public opinion on the whole subject.

I conceive that you have a *right* to a court of inquiry on the newspaper publications, and I look upon it as the duty of congress to enquire into the conduct of all the officers in the California conquest. This I will attend to myself: as to the court of Inquiry, it has not yet been refused, and it would be easy for some members of the court martial to constitute it. Will write frequently.

THOMAS H. BENTON.

Woodford Co. Ken. Oct. 7, 1847.

Dear Sir,

The copy of the Judge Advocates<sup>2</sup> letter of the 1<sup>st</sup> ins. to you, came to hand today, and in looking over the ten specifications, I find all of them to be anterior to the settlement of the question of rank with Shubrick, and conse-

quently all amounting to the same thing. I do not know when the settlement of the question was militarily, or regularly, communicated to you, but *if so communicated at all*, it must have been late in March; consequently all the specifications refer to acts done before Kearney had [been] relieved of the land command, and made that change known to you. We shall demolish him with all ease, & overwhelm him with disgrace.

The newspaper article from the Louisville Journal being put into the hands of the Judge Advocate, without instructions what to do with it, seems to leave it to your option to require charges upon it, and will be so considered if you do not. I, therefore, recommend you to require charges and specifications to be made out on all the points they contain, and even take the charge without specification: Emory, of course, to be a witness. To make sure, I recommend you to specify the points, by no means omitting one which you will find in some of the publications, that you and Stockton had mismanaged it [?] until Kearney arrived to set all right.

The fellow Bryant<sup>3</sup> is in Lexington, and to meet him summon \_\_\_\_\_ Brennan, of the same neighborhood who is well spoken of by our friends for his faithful conduct towards you.

I wanted Hall to be summoned: we will finish his career in Mai [?]. He has been making speeches against you. I will write to my friends in the Platte country for a statement of what he has said.

Kearny brought all his witnesses from California with him, and all of them your enemies, & most of them engaged with him against you. He little knows how this will be turned against him. A military superior, perfidious by concealing his design, collects charges and witnesses to be used against a person ignorant of his design, conducted by him as a prisoner 3000 miles, without giving him a chance to defend himself by bringing testimony from the scene of operations. It is not only base, but shows a design to convict you by unfair & foul means.

You will have to employ counsel: it will be more nominal than otherwise, as I shall do the work. I would suggest Fendall [?], who has been employed for the family in Sally McDowell's case. It will be hard for you to get counsel to go to Fortress Monroe to be gone, only two [or] three months. This will be a reason for a change of place. It will be a new case if, after Kearny has brought you [from] California without witnesses, the government shall send you to a fort in the sea, to be tried without counsel! It will be a case for the interference of your friends, & for accepting the *aid* from Charleston which will pay counsel fees. I shall be with you to the end, if it takes up the whole session of Congress.

If the place of trial is not changed before I get there, I will make a formal point of it.

I repeat: I wish you to require the judge advocate<sup>s</sup> to make our charges on all the points of accusation, or insinuation against you, in the publications,

even dispensing with specifications where the charge was only in general terms, and for that purpose to name each point yourself in the words of the publications. The pardon of Jesus Pico—the capitulation granted Andres Pico—the duel affair with Mason must all be in.

Use your privilege of summoning witnesses without stint.

You will want copies of all orders to the Naval commanders in Cal. & to Kearny also.

Yours,

B.

Woodford Co. Ken.

[No date]

Dear Sir,

This Friday, and setting out on our return on Monday, this is the last letter I shall write you on the subject of the trial. I have a full view of the whole case—Kearney's as well as yours—and am perfectly at ease. You will be justified, and exalted: your persecutors will be covered with shame & confusion. The process through which you have gone is bitter; but it will have its Sweet. You will realize what Lord Palmerston said to Mr. Van Buren when he was rejected by the Senate, "that it was an advantage to a public man to be, in the course of his life, the subject of an outrage."

I mentioned yesterday the subject of counsel, nominal only, for I should do the main work. You had as well let this rest until I arrive. I shall make advantage out of it. It would probably be impossible to get suitable counsel to go to Old Point Comfort for an indefinite period, & study a new subject, and if you could find one the fee would be such as you could not pay<sup>4</sup>. I should not propose less than \$2000. If, therefore, the War Dept. perseveres in sending you to a fortress in the Atlantic ocean to be tried, for acts done on the Pacific, it will be sending you to be tried without counsel after bringing you across the continent to be tried without knowing it, & without a chance of getting testimony from California. I shall know how to make advantage out of all this, and it will force me, if it was not my previous attention [sic] to act as your counsel.

You may be at ease. The enemy is now in our hands, and may the Lord have mercy upon them; for I feel as if I could not.

Love to all, & yours truly.

THOMAS H. BENTON.

You will want Commodore Sloat to shew the commencement of your Service under the Naval officers, and McLane<sup>5</sup> who was a naval officer & one of your commissioners. Your Service under Naval officers commenced under Sloat & finished under Shubrick, when Kearny relieved him, & made known the change regularly to you.

Frankfort, Ken.  
Oct 14, 1847.

Dear Sir,

We were delayed two days in closing a contract for the sale of our small tract of land, 300 acres, adjoining the Saw tract, which was only concluded yesterday, and in an hour after we were on the way. The price was \$20,100, which was fair enough, but I should have had more prompt payments if we had been able to stay longer, & probably also have sold the main tract, as we wish to transfer all to Missouri.

We leave this place in the morning (Friday) arrive at Cincinnati tomorrow night—leave that Saturday morning for Washington—and expect to get there on Wednesday, or Thursday.

Mrs. B. and all as usual, and love to all.

Yours affectionally,

THOMAS H. BENTON

#### NOTES

1. Lieutenant W. H. Emory, author of *Notes of a Military Reconnoissance from Fort Leavenworth . . . to San Diego* (1848) appears to have been particularly jealous of Frémont. He wrote a long letter from Panama (while en route from California with Kearny's dispatches) viciously attacking Frémont and Stockton. This letter was published in the *New York Courier and Enquirer* on April 23, 1847, and presumably served as the basis for certain misleading articles which appeared in the *New Orleans Picayune* (April 22 and 27), the *Louisville Journal* (May 1) and the *St. Louis Republican* (May 4). Benton believed several other officers to be equally responsible with Emory for these prejudiced articles, and he attacked them savagely. (See Nevins, Allan, *Frémont, the West's Greatest Adventurer*, N. Y., 1928, Vol. 2, pp. 370-1.)

2. Col. John H. Lee, of the Army Ordnance Department, was appointed judge advocate of the Frémont court martial.

3. Edwin Bryant, of Kentucky, author of *What I Saw in California* (N. Y., 1848), was a witness at the court-martial. He had been a member of Frémont's California Battalion.

4. In addition to Benton, Frémont's brother-in-law, William Carey Jones, acted as counsel for the accused.

5. Louis McLane, who commanded the artillery of Frémont's California Battalion, afterwards a prominent banker and resident of San Francisco.