

THOMAS HART BENTON AND HIS PUBLIC LAND POLICY

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FINAS GUTHRIE SANDLIN

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TO MY MOTHER, VIRGINIA ANN SANDLIN

PREFACE

In the summer of 1868 there was unveiled in St. Louis, in Lafayette Park, a statue to Thomas Hart Benton. A holiday crowd of forty thousand filled the park and thousands of school children carried roses to the pedestal. A band played in the hot afternoon sun. An outgoing train to San Francisco halted and saluted with whistle and waving flags.

As Jessie Benton Fremont pulled the cord, the white cloth fell away and she gazed through a mist of tears at the bronze image of her father, pointing westward, with the words carved below:

There is the East,
There lies the Road to India.

This is a study of the life of that man of vision.

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CHAPTER I

EARLY LIFE OF THOMAS HART BENTON

Thomas Hart Benton was born on March 14, 1782, near Hillsborough, in Orange County, North Carolina. This was the same state that fifteen years before had seen the birth of the great political chief whose most prominent supporter he in after life became. Benton, however, came of good colonial stock. His early surroundings were not characterized by the squalid poverty that marked Jackson's. The difference in social conditions of the two families was of small consequence on the frontier where caste was unknown.¹

The home in which he was brought up was, for that time and for that part of the country, straightlaced. His father, Jesse Benton, was a lawyer in good standing at the North Carolina bar, and had served as secretary to Governor Tryon. His mother, Ann Gooch Benton, was the niece of Colonel Thomas Hart, head of the numerous Hart family of Lexington, Kentucky, from whom Thomas took his name.² She was a woman of force, and for her time, of much education. Though a Virginian, she had many traits which belonged to the descendants of the Puritans and

¹Theodore Roosevelt, Thomas Hart Benton, (American Statesmen Series, ed. by John T. Morse, Jr.), N. Y., 1892, p. 23.

²Louis M. Sears, "Thomas Hart Benton", Dictionary of American Biography, (ed. by Allen Johnson), N. Y., 1928, II, 210.

would never permit a pack of cards to be brought into her house. Thomas studied history and biography with her, and also had access to his father's law library. She was greatly beloved and respected by her son, and living a widow over fifty, saw him become one of the foremost statesmen of the country.³

Upon the death of his father, Thomas became at the age of eight the head of the family. After a short term in grammar school, and a partial course at Chapel Hill, the University of North Carolina, he undertook the supervision of the "Widow Benton's Settlement," a farm of 3,000 acres with a claim to some 40,000 acres near Nashville, Tennessee. Every morning Benton rose before six o'clock, lit his fire, took a cold bath, curried himself, as he put it, with some stiff brushes and sat down in his dressing gown of white flannels to his writing.⁴ He has been heard to say that, in no period of his life, had he ever read so much, nor with as much system and regularity as while living at "Benton Town."⁵ He was such an insatiable student and reader that he rapidly acquired a very extensive knowledge of history, Latin, English literature, geography, national law, civil law, and finally, the law itself, as usually

³Thomas Hart Benton, Thirty Years' View; or A History of the Working of the American Government for Thirty Years from 1820 to 1850, N. Y., 1926, I, Pt. I, i. Benton was Cousin to Mrs. Clay, born Lucretia Hart, the wife of Henry Clay, and by an easy mistake, was often quoted during his public life as the relative of Mr. Clay himself.

⁴Jesse Benton Fremont, Fremont, The West's Greatest Adventurer, (ed. by Allan Nevins), N. Y., 1928, I, 678.

⁵Benton, op. cit., I, Pt. I, i.

read by law students. All this reading and study was carried on during the active personal exertions which he gave to the operation of the farm. The work hardened and developed him, and he readily enough turned into a regular frontiersman of the better and richer sort. When a young man of twenty, Benton saw ruin brought upon himself and his neighbors by the closing of the port of New Orleans.⁶ The Bentons soon identified themselves completely with the life and interests of the people around them. They even abandoned the Episcopalianism of their old home, and became Methodists, like their neighbors.⁷

Then came the law license, indulgently granted by the three Superior Court Judges--White, Overton, and Campbell with the old heads of the community giving him their support as a young man that might become useful to the State.⁸

In 1811, Benton was elected to the General Assembly of the State of Tennessee for a single term. Here he had a bill passed introducing the circuit system into the state judiciary, a reform of much importance, especially to the poorer class of litigants. He also introduced, and had enacted into a law, a bill providing that a slave should have the same right to the full benefit of a jury trial as would a white man suffering under the same accusation. This last measure is important as foreshadowing the position which Benton afterwards took in national politics, where he appeared as a slave-holder of the most en-

⁶Clarence Henry McClure, Opposition in Missouri to Thomas Hart Benton, Nashville, Tenn., 1927, Appendix I, 221.

⁷Roosevelt, op. cit., p. 25.

⁸Benton, op. cit., I, Pt. I, **ii**

lightened and least radical of his class.⁹

Shortly after he left the legislature the War of 1812 broke out. The war was brought on by the South and West with the Democrats all favoring it. The Federalists opposed the war, and finally their more extreme members, at the famous Hartford Convention, passed resolutions supposed to tend toward the dissolution of the Union. This act brought upon the party the bitter condemnation of their antagonists. Benton says,

At the time of its first appearance the right of secession was repulsed and repudiated by the Democracy generally....The leading language in respect to it south of the Potomac was that no state had a right to withdraw from the Union....and that any attempt to dissolve it, or to obstruct the action of constitutional laws, was treason. If since that time political parties and sectional localities have exchanged attitudes on this question, it cannot alter the question of right. ¹⁰

Thus Benton's early political character became moulded into the shape which it ever afterwards retained. He remained to a certain extent a Southerner, but his Southernism was of the type prevalent immediately after the Revolution, and not of the kind that came to the fore prior to the Rebellion. He was much more a Westerner in his feelings, and more than all else he was a Union man.¹¹

Like every other hot spirit of the West, Benton heartily favored the War of 1812. On January 30, 1812, we find him writing from Nashville to Andrew Jackson and telling him of the intentions to quit the gown for the sword. "I can and will

⁹Roosevelt, *op. cit.*, p. 29.

¹⁰*Ibid.*, p. 31.

¹¹*Ibid.*, pp. 31,32.

raise a company from my own county," declared Benton, "but a more eligible situation would be that of Aid to the General." His intentions were to keep a journal of the operations of the army, and to give a history of the more worthy transactions.¹²

Benton received the appointment as aide-de-camp to Jackson, though later, as colonel of volunteers, he could not hold the place. He never saw active fighting, and his short term of soldiership was of no further account than to furnish an excuse to Polk, thirty-five years later, for nominating him commanding general in the time of the Mexican War. The effect upon his health, however, was good. Five of his seven brothers and sisters succumbed to tuberculosis, and Benton himself was in the incipient stages when the regime of camp life during the war rebuilt his vigor. Throughout all his life, Benton had to be careful of undue exertion of his throat in order to prevent a hemorrhage.¹³

He was of genuine use, however, in calling on and exciting volunteers to come forward. His force, energy, and earnestness commanded the respect of the frontiersmen. He also, when Jackson's recklessness got him into a snarl with the national administration, went to Washington, and there finally extricated his chief by threatening that, if justice was not done to him, Tennessee would, in future political contests, be found ranged with the administration's foes. Benton already had political influence, and being Democratic in sentiment, was therefore of the

¹²John Spencer Bassett, (editor), Correspondence of Andrew Jackson, Washington, 1926, I, 215.

¹³Sears, op. cit., II, 210.

same party as the people at Washington, and a man whose representations would have some weight with them.¹⁴

When the British failed to come into the Lower Mississippi Valley, the volunteers under Benton's command returned to Tennessee, but were called again into service by General Jackson at the outbreak of the Creek war. With the volunteers disbanded, Colonel Benton went to Washington, and was appointed by Mr. Madison a lieutenant-colonel of infantry in the army in 1813. Proceeding to Canada in 1814 and 1815 he met the news of peace.¹⁵ Desiring no service in time of peace, he returned to St. Louis. Here, as editor of the Missouri Enquirer and in the enjoyment of a lucrative law practice, he speedily identified himself with his adopted state.¹⁶ Benton arrived in Missouri at the psychological moment. The territory was yearning for statehood. The population was miscellaneous and in need of leadership.¹⁷

While Missouri was still a territory, and when Benton was a prominent member of the St. Louis bar, the treaty with Spain, by which we secured Florida, was brought before the Senate. The bounds it gave us were far too narrow to suit the West. In attacking it, Benton claims that the "magnificent valley of the

¹⁴Roosevelt, op. cit., p. 33.

¹⁵Benton, op. cit., I, Pt. I, iv.

¹⁶McClure, op. cit., Appendix II, 230. Benton was editor of this paper from 1817 to 1820. Therein he published his views on the Southwest boundary question and the treaty of 1819.

¹⁷Joseph M. Rogers, Thomas Hart Benton, (American Crisis Biographies, ed. by Ellis Paxson Oberholtzer), Philadelphia, 1905, pp. 37,38.

Mississippi is ours, with all its fountains, springs, and floods; and woe to the statesman who shall undertake to surrender one drop of its water, one inch of its soil to any foreign power."¹⁸ Nevertheless, the treaty was ratified in the Senate, and the only effect of Benton's speech was to give rise to the idea that he was hostile to the Southern and Democratic administration at Washington. It was against this feeling that he had to contend in his successful candidacy for the United States senatorship in 1820.¹⁹

It was in reference to the admission of Missouri that the slavery question made its appearance for the first time in national politics. The Northerners, as a whole desiring to restrict the growth of slavery and the slave-power, demanded that Missouri, before being admitted as a state, should abolish slavery within her boundaries. The South was equally determined that she should be admitted as a slave state. For the first time the politicians of the country divided on geographical rather than on party lines. Within the territory itself the same contest was carried on with violence. Benton was himself a slave-holder, and as the question was in no way one between the East and the West, or between the Union as a whole and any part of it, he gave full support to his Southern feelings and entered the contest on the anti-restriction side. So successful were his efforts, and so great was the majority of the Missourians who sympathized with him, that the restrictionists were

¹⁸Benton, op. cit., I, 15.

¹⁹Roosevelt, op. cit., p. 41.

completely routed and succeeded in electing but one delegate to the constitutional convention.²⁰

In Congress the matter was finally settled by the passage of the Missouri Compromise bill, admitting Maine as a free state, Missouri as a slave state, and abolishing slavery in all the rest of the old province of Louisiana lying north of 36°30'. Owing to an objectionable clause in its Constitution, the admission of Missouri was not fully completed until 1821, and then only through the instrumentality of Henry Clay. But Benton took his seat immediately, and entered upon his thirty years of service in the United States Senate.

²⁰Roosevelt, op. cit., p. 43.

²¹Ibid., p. 44.

CHAPTER II

BENTON'S SOCIAL ENVIRONMENT

In order to clarify and make intelligible the work of a statesman, it is important to reconstruct, at least in part, the stage upon which he is called to play. Benton's long political career can never be thoroughly understood unless it is kept in mind that he was first of all a Western and not a Southern statesman. He was not one of the few statesmen who left the indelible marks of their own individuality upon our history; but he was, perhaps, the most typical representative of the statesmanship of the Middle West at the time when the latter gave the tone to the political thought of the entire Mississippi valley.¹

The early settlers of the territory lying west of the Alleghanies were all of the same kind. The common qualities and experiences inherent in a struggle for livelihood in the wilderness built up for them a universal background of immediate needs. The divergent and contradictory traits with which the colonials came into the melting pot of the interior were speedily submerged in the common nationality. Here with the mingling of the social streams, the American character seems to have been born. Before any settlement was a generation old

¹Roosevelt, op. cit., p. 13.

it had begun to react upon the classes in control of the colony and resident in the older regions. It was the perennial struggle between the landless and the well-established.²

It happened constantly, as the area of agricultural occupation advanced westward, that settlers found themselves living on farms that they had improved, but to which they had neither title nor prospect of getting one. There was no legal way for a farmer to get upon a farm in the public domain until after the Indian title had been quieted by the United States and the land surveyed, and the area opened to sale following the regular period of advertisement and proclamation. They often entered this precarious status with eyes open, trusting to luck or politics to relieve them. At times they found themselves in it because of the defects of the land laws. In either case the frontier farmers did not surrender without a fight the lands upon which they were trespassers before the law.³

One of the characteristics of the people of the West was the slowness and suspicion with which they received a new idea, and the tenacity with which they clung to the one that had at last been adopted. They were a race of masterful spirit, and accustomed to regard with easy tolerance any but the most flagrant violations of law. They prized highly such qualities as courage, loyalty, truth, and patriotism, but they were, as a whole, poor and not over-scrupulous of the rights of others,

²Frederic L. Paxson, History of the American Frontier from 1763 to 1893, N. Y., 1924, p. 7.

³Ibid., pp. 386,387.

nor with the sense of money obligations. The history of their state legislation affecting the rights of debtor and creditor, whether public or private, in hard times, is not pleasant reading for an American who is proud of his country.

There was little that was soft or outwardly attractive in their character. It was stern, rude, and hard, like the lives they led. Such a people, in choosing men to represent them in the national councils, would naturally pay small heed to refined, graceful, and cultivated statesmanship. Their allegiance would be given to men of abounding vitality, of rugged intellect, and of indomitable will. No better or more characteristic possessor of these attributes could be imagined than Thomas Benton.⁴

Benton, in his mental training, came much nearer to the statesmen of the sea-board, and was far better bred and educated, than the rest of the men around him. He was, however, and was felt by them to be, thoroughly one of their number, and the most able expounder of their views. His vanity and boastfulness were faults which he shared with almost all his people. When the publishers of his Thirty Years' View asked him what he supposed would be the number of copies required, he remarked, "Sir, I believe that the census tells you how many families there are in the United States." When complimented upon having made a striking impression by a stump speech he answered, "always the case, sir--always the case."⁵

⁴Roosevelt, op. cit., pp. 19-22.

⁵Fremont, Jesse, op. cit., I, 51.

Benton was deeply imbued with the masterful, overbearing spirit of the West,--a spirit whose manifestations are not always agreeable, but the possession of which is certainly a most healthy sign of the virile strength of a young community.⁶

Nashville, Tennessee, near Benton Town, was a raw, pretentious place, where horse-racing, cock-fighting, gambling, whiskey-drinking, and the various coarse vices which masquerade as pleasures in frontier towns, all thrived in rank luxuriance. Though never a vicious or debauched man, Benton bore his full share in the savage brawls, the shooting and stabbing affrays, which went to make up the leading features in the social life of the place.⁷

It was not in Tennessee, however, that Benton rose to political prominence, for shortly after the close of the war he crossed the Mississippi and made his permanent home in the territory of Missouri.⁸ Missouri was located in the vast plain-country of the Far West, and except on the river-front was completely isolated. It was flanked on every side by great stretches of level wilderness that were inhabited by roaming tribes of warlike Indians. In such a community there were sure to be numbers of men anxious to take part in any enterprise that combined the chance of great gain in wealth and the certainty of even greater personal risk. Both of these

⁶Roosevelt, op. cit., p. 34.

⁷Ibid., p. 27.

⁸Ibid., p. 35.

conditions were fulfilled in the trading expeditions pushing out from Missouri across the wastes lying between it and the Mexican settlements on the Rio del Norte.

Among such people Benton's views and habits of thought became more markedly Western than ever. Especially was this true in regard to our encroachments upon the territory of neighboring powers. The general feeling in the West on this subject afterwards crystallized into what became known as the "Manifest Destiny" idea. This stated that it was our manifest destiny to swallow up the land of all adjoining nations who were too weak to withstand us. It cannot be too often repeated that no one can understand even the domestic, and more especially the foreign, policy of Benton and his school without first understanding their early surroundings and the people who chose them as representatives.⁹ The West did not support the South's grasping after territory in the Southwest because of the desire to acquire lands out of which to carve new slaveholding states. The chief of Western reasons for expansion in the Southwest was that the Westerners believed themselves to be created the heirs of the earth, or at least so much of it as was known by the name of North America. They were ready to struggle for the immediate possession of their heritage.

A distinct feature of Western thought was the attitude of distaste for the Eastern viewpoint, especially the Northeast.¹⁰

⁹Roosevelt, op. cit., p. 40.

¹⁰Philip Ashton Rollins, The Cowboy, N. Y., 1924. About the only thing for which the Westerner would acknowledge the superiority of the East was in the production of hen eggs. They were commonly called "States" eggs.

New England was not only the most advanced part of the Union, as regards intelligence, culture, and general prosperity, but was also most disagreeably aware of the fact. This self-conscious virtue was irritating to the Westerners, who knew that they were looked down upon, and resented it on every occasion. Several of Benton's speeches, at this time, show this irritation against the Northeast and bring out the solidarity of interest felt throughout the West. In a long speech, favoring the repeal of the salt tax, or high duty on imported salt, he brought out the feeling very strongly, and further complained of the disproportionate lightness of the burden imposed upon the Northeast by the high tariff, of which he announced himself to be but a moderate adherent. In common with all other Western statesmen, he resented keenly the suspicion with which the Northeast was then only too apt to regard the West. In one of his speeches he quoted with angry resentment a prevalent New England sneer at "the savages beyond the Alleghanies."¹¹

Among the gentlemen of the West the duel played an important part. On the frontier, not only did every man of spirit expect now and then to be called on to engage in a duel, but he also had to make up his mind to take occasional part in bloody street-fights. Tennessee was famous for the affrays that took place within its borders. That they were common enough among the people at large may be gathered from the fact that they were of continual occurrence among judges, high state officials, and in the very legislature itself. Here senators

¹¹Roosevelt, op. cit., p. 75.

and assembly men were always becoming involved in undignified rows and foolish squabbles, apparently without fear of exciting any unfavorable comment.¹²

The most famous of Benton's affrays was that with Jackson himself, in 1813. This rose out of a duel of laughable rather than serious character, in which Benton's brother Jesse was worsted by General Carroll, afterwards one of Jackson's lieutenants at New Orleans.

At the time of Colonel William Carroll's duel with Jesse, in which Jackson acted as Carroll's second, Thomas Benton was in Washington trying to get the affairs of Jackson settled in regard to payment of his waggoners in the army. On June 15th, the day after Jesse's duel, Thomas wrote Jackson a letter stating that Jackson's accounts had been settled. This required much effort on the part of Benton to get such an irregularity through the government's red tape. The Secretary of War was particular in his inquiry whether the Deputy Quarter Master General at New Orleans had refused the payment of the draughts which Jackson had drawn in favor of the waggoners. Benton detailed to him the reasons which he had for knowing that, notwithstanding those draughts had not been presented to him, yet that Mr. Andrews in refusing to pay them was acting in conformity to instructions which he had received from Colonel Shambourg. The Secretary decided that the claims would have to be transmitted to Washington, and to pass through the Accountants office. This delay to both Jackson and Benton would have been far from

¹²Roosevelt, op. cit., p. 27.

satisfactory, and Benton determined to get a better mode of adjustment. He addressed the Secretary a formal note, stating his objections to the mode he had proposed, and suggested another, which would keep clear of the accountants office. The Secretary took the note out to his home to consider it at his leisure on Sunday and as a result the war office was ordered to pay the account. Such was Benton's efforts for his friend Jackson. At the same time Benton was concerned with the raising of a new regiment for the War of 1812 of which he was to be Lieutenant Colonel and Carroll a Major.¹³

When Benton learned of Jackson's part in his brother's duel, he became very angry. He felt that Jackson should not have taken part against Jesse while he, Thomas, was trying to get Jackson's accounts settled in Washington. He expressed himself freely. Gossip carried his utterances to Jackson and it was concerning this that he addressed a rebuke to Benton on July 19th. Jackson regretted that he had to substitute the language of reproach instead of friendship, but that he could not overlook the late rumors and information that had reached him of some expressions and threats of the basest sort that Benton had made. He called upon Benton to say whether he did not leave the Hermitage on the 10th of May in perfect friendship and carrying letters from Jackson to the Secretary of War to promote Benton's welfare and views. Had Benton spoken disrespectful of Jackson, and when chided by a friend of Jackson who said that he would inform the latter, stated that he rode

¹³ Bassett, op. cit., I, 308.

a good horse, would soon be with Jackson and give him personally the information to save the friend the trouble? Had Benton given him any such information since his return? Had Benton threatened to make a publication against Jackson since leaving the house on the 10th of May? Jackson wished to know if any act of his life towards Benton since taking him by the hand and appointing him as Aid-de-Camp had been inconsistent with the strictest principles of friendship? If so, in what did they consist. Finally, and inserted in Jackson's own handwriting into the letter in the handwriting of a clerk, had Benton threatened to challenge Jackson to a duel.¹⁴

Benton replied to these charges from Franklin, Tennessee on July 25th. Benton claimed that it was at Jackson's request that he stopped on his way to Washington, and received, unsolicited, a letter of introduction to the Secretary of War more honorable to him than his merits had deserved. That Thomas was friendly to Jackson was evidenced by the fact that on Monday the 14th day of June, the day on which Jackson superintended the shooting of Jesse, he was in the war office in Washington exerting his abilities on a subject which lay very near to Jackson's heart.¹⁵

Benton objected to the duel on four points. First, he thought it very poor business in a man of Jackson's age and standing to be conducting a duel about nothing between young men who had no harm against each other. Second, that it was

¹⁴Bassett, op. cit., I, 310.

¹⁵Ibid., I, 311.

mean in Jackson to draw a challenge from Jesse by carrying him a bullying note from Mr. Carroll dictated by himself, and which left Jesse no alternative but a duel or disgrace. Third, if Jackson could not have prevented a duel he ought at least to have conducted it in the usual mode, and on terms equal to both parties. And fourth, that the manner of fighting the duel was savage, unequal, unfair, and base. Savage because the young men were made to fight at ten feet distance, contrary to Jackson's own mode, and against the remonstrance of Jesse. Unequal because the parties were made to wheel, an evolution which Mr. Carroll understood, but which Jesse knew nothing about. Unfair, because the mode of fighting was concealed from Jesse, the time was changed from Friday to Monday on a frivolous pretext, and in the meantime Mr. Carroll was practised by Jackson to whirl and fire ten feet at a small saplin, until he could strike the center of it at every shot. Base, because Jackson had avowed himself to be the friend of Jesse while giving to his adversary all these advantages over him.

Benton's complaints against Jackson were two: his conduct toward Jesse, and the communication which Benton believed that Jackson made to the war office, in which, as one of the Tennessee volunteers, Benton was implicated in a charge of mutiny. If Jackson had represented these troops as unwilling to fight under Wilkinson, without making an exception in favor of Benton, the latter claimed a serious injury. Benton says: "For it was known to you that notwithstanding my prejudices against General Wilkinson and the evil I had spoken of him, that yet I was sat-

isfied of his right to command us." As a military subaltern,¹⁶ Benton realized his duty of respect and obedience.

Benton stated that he had not threatened to tell Jackson of his sentiments, except in the event of Jackson calling upon him. He had not threatened to make any publication, except in the case of his brother Jesse, and that idea had been given up from a distaste of going into the newspapers. He had not threatened to challenge Jackson and on the contrary had said that he would not do so. As an insight into the real courage of Benton we find him ending the reply to Jackson with,

At the same time the terror of your pistols is not to seal up my lips. What I believe to be true, I shall speak; and if for this I am called to account, it must even be so. I shall neither seek, nor decline, a duel with you.¹⁷

In a reply to Benton on July 28th, Jackson defends his part in the Jesse Benton duel. Jackson stated that he did act as the friend of Major Carroll and that Jesse knew this at every stage of the affair. When Jesse challenged Major Carroll according to the universal law of honor, the latter had the right to choose his mode, time and place of fighting and he did this without the agency of Jackson. Jackson expressed surprise that a challenger would complain of the manner his adversary had chosen to fight, or that he could not get round to meet his enemy. The range of the ball, the fire of the pistol at the same time, Major Carroll being wounded, all show he did get round. They had stood back to back before the word was given, a manner not unusual and a precaution thought neces-

¹⁶Bassett, loc. cit.

¹⁷Ibid.

sary to prevent firing before the word was given. The distance is as variable as the different qualifications of the person challenged. Had Major Carroll left the distance to Jackson he would have recommended him to have fought at a short distance for it was acknowledged that Jesse Benton was a first rate marksman at the distance of ten paces. Major Carroll was defective at this distance. The quarrel grows more heated with the ending of this letter with: "This sir comports with the magnanimity of a soldier, if in error to say, or promptly to demand of me satisfaction for any injury you may think I have done you."¹⁸

Thomas Benton probably did accuse General Jackson unjustly, but he was biased by the fact that his brother's life had been at stake. Between two men of such temperament it was easier to protect each others honor by means of the duel rather than diplomatic consideration of the question.

Out of these disagreements grew Benton's duel with Jackson. The encounter itself took place between the Benton brothers on one side, and on the other, Jackson, General Coffee, also of New Orleans fame, and another friend. The place was a great rambling Nashville inn. Jackson was shot and Benton was pitched headlong down-stairs. All the other combatants were more or less damaged. It ended in Jackson being carried off by his friends, leaving the Bentons masters of the field, where they strutted up and down and indulged in a good deal of loud bravado.

¹⁸Bassett, *op. cit.*, I, pp. 314,315. This is only a fragment of a letter. It seems to be part of Jackson's reply to Benton's letter of July 25, and was probably written late in that month. The original is in the possession of Mrs. Rachael J. Lawrence.

The actual fighting is described by James Sitler who viewed the affair from the steps of Talbots Hotel when General Jackson and Colonel Coffee passed by.¹⁹ They went to the post office and on their return, passed Jesse Benton on the pavement in front of Talbots house. Jesse stepped into the Bar-room-door. General Jackson went into the passage door and called Colonel Thomas Benton, who was either in the passage or on the back portico, a damned rascal and told him to defend himself. At the same time Jackson drew a pistol from under his coat. Jesse Benton had passed through the bar-room to the door that opens into the passage and three or four pistols fired in quick succession, by the Bentons and Jackson. Sitler ran into the passage and found Jackson lying in the back-door, and Jesse with a pistol in his hand in the act of shooting or striking. Sitler caught hold of Jackson and drew him from under the pistol, placing him on his feet. By this time Mr. Hays was holding Jesse. Colonel Coffee did not fire till General Jackson had been shot down, but he then fired at Colonel Benton who was standing on the back portico.²⁰

In Thomas Benton's printed account of the affair, he refers to it as the most outrageous affray ever witnessed in a civilized country.²¹ Arriving in Nashville on the morning of the

¹⁹Fremont, Jesse, *op. cit.*, I, 7. Jackson had threatened to horsewhip Benton on sight.

²⁰Bassett, *op. cit.*, I, 317.

²¹*Ibid.* The printed original of Thomas H. Benton's Account of his duel with Jackson is in the files of papers in the Tenn. Hist. Soc. Coll., Doc. B1, no. 107, B. Franklin, Tenn.

affray, and knowing of General Jackson's threats, Thomas and his brother Jesse took lodging in a different house from the one in which Jackson was staying, in order to avoid meeting him.

General Jackson, according to Benton, and some of his friends came to the house where the Bentons were staying and commenced the attack by levelling a pistol at Thomas. Thomas had no weapon drawn and Jackson was advancing at such a rapid pace as not to give him time to draw one. Jesse saw this and fired upon General Jackson when he was within eight or ten feet of his brother. Four other pistols were fired in quick succession: one by Jackson at Thomas, two by Thomas at Jackson, and one by Colonel Coffee at Thomas. In the course of the firing, Jackson was brought to the floor but Thomas was uninjured. Then daggers were drawn. Colonel Coffee and Mr. Alexander Donaldson made at Thomas, giving him five slight wounds. Captain Hammond and Mr. Stokley Hays engaged Jesse, who was still weak from his duel with Carroll. Jesse went down, and while Captain Hammond beat him on the head to make him lie still, Mr. Hays attempted to stab him. Jesse was wounded in both arms before he was relieved by Mr. Sumner, a citizen of Nashville. Jesse had attempted, before his fall, to shoot Mr. Hays but the pistol missed fire. The pistols fired at Thomas were so near that the blaze of the muzzle burned the sleeve of his coat. Of the Benton brother's intentions Thomas says, "My own and my brothers pistols carried two balls each; for it was our intention, if driven to our arms, to have no child's play." ²²

²²Bassett, op. cit., I, 317.

Captain Carroll was to have taken part in the affray, but he was absent by permission of General Jackson. The attack was made in the house where the judge of the district, Mr. Searcy, had his lodging.²³ Thus were the laws and their representatives respected.²⁴

Concerning his views on duels, Benton said that he would never attempt to gain the name of courage by becoming a bully. He would "give a thousand times more for the reputation of Croghan in defending his fort, than for the reputation of all the duellists and gladiators that ever appeared upon the face of the earth."²⁵

There was naturally a temporary break in Jackson's and Thomas Benton's friendship, yet it proved strong enough in the end to stand even this almost fatal blow. They not only became completely reconciled, but even the closest and warmest of personal and political friends. Benton was as generous and forgiving as he was hot-tempered, and Jackson was at any rate free from any small meanness or malice.²⁶ It was not until the winter of 1831-32, however, that Jackson was able to take advantage of the presence of Dr. Harris, an eminent Philadelphia surgeon, to have the bullet from Benton's pistol, long lodged in his shoulder, removed.²⁷

²³Fremont, Jesse, op. cit., I, 8. Benton's later son-in-law, John C. Fremont, was at the inn with his parents. He was about one year old at the time. It is reported that some of the bullets went through their room.

²⁴Bassett, op. cit., I, 317.

²⁵Ibid.

²⁶Roosevelt, op. cit., p. 28.

²⁷Claude G. Bowers, The Party Battles of the Jackson Period, N. Y., 1922, p. 246.

The most regrettable incident of Benton's career occurred on September 27, 1817, when, in the second of two duels with Charles Lucas, a young United States District Attorney, he shot down and killed his opponent. They fought twice on Bloody Island, near St. Louis.²⁸ The record in the case is not favorable to Benton. Contrary to the wishes of the seconds and in violation of the accepted duelling code, he forced a second meeting after he had already wounded his antagonist, by whom he had been challenged. As the inferior marksman, Lucas was almost certain to be killed.²⁹ In the second duel, both men fired simultaneously and Lucas fell. Benton then expressed regret and asked forgiveness to which Lucas at first replied, "O Benton, you have persecuted me and murdered me. I do not and cannot forgive you." Later, however, when nearly gone, Lucas said, "I can forgive you, I do forgive you," and died. Colonel Benton destroyed all the papers connected with the duel.³⁰ He was not heard to speak of this duel except among intimate friends and then to tell of the pang which went through his heart when he saw the young man fall. He would have given the world to see him restored to life.³¹

Thomas Benton was a spectator at the duel between Clay and Randolph. Clay was in dead earnest. Randolph was undecided until the accidental discharge of his own weapon while they

²⁸Roosevelt, op. cit., p. 27.

²⁹Sears, op. cit., II, 210,211.

³⁰Rogers, op. cit., pp. 25,26.

³¹Benton, op. cit., I, Pt. I, v.

were taking position, embarrassed him and he determined to return his antagonist's fire. Shots were exchanged without personal injury and the duel ended in the exchanging of cards a day or two later. Their social relations were courteously restored.³²

Benton's criticism of the anti-duelling act of 1839 is that it looked to one evil, and saw nothing else.³³ It did not look to the assassinations, under the pretext of self-defence, which were to rise up in place of the regular duel. In the duel, there is at least consent on both sides, a preliminary opportunity for settlement, a chance for the law to arrest them, room for the interposition of friends as the affair goes on, and usually equality of terms. It did not suppress the homicidal intent, but gave it a new form. Prior to the Civil War, many members of Congress went to their seats with pistols under their coats. They were ready to insult with foul language and prepared to kill if the language was resented.³⁴

The law was also mistaken in the nature of its penalties. They were not of a kind to be enforced, if incurred. It was

³²James Schouler, History of the United States of America, N. Y., 1885, III, 367; Niles Weekly Register, Philadelphia, 1826, XXX, 115, 116.

³³Benton, op. cit., II, 148. The death of Mr. Jonathan Cilley, a representative in Congress from the State of Maine, killed in a duel with rifles, with Mr. Graves of Kentucky, led to the passage of an act in 1839 with severe penalties against duelling. This applied to the District of Columbia, or out of it upon agreement within the District. The penalties were--death to all the survivors, when any one was killed and a five year imprisonment in the penitentiary for giving or accepting a challenge.

³⁴Ibid., II, 149.

also defective in not giving damages to a bereaved family. Benton is later to have his life endangered by senatorial pistols, but in 1839 he believed that to carry pistols in the Halls of Congress should be an offense, in itself, whether drawn or not. He would subject the offender to all the penalties for a high misdemeanor, removal from office, disqualification to hold any office of trust or profit under the United States, and indictment at law besides.³⁵

³⁵ Benton, op. cit., II, 149.

CHAPTER III
SENATORIAL CAREER

Nominated by the son of Daniel Boone and with the support of David Barton, his co-senator, Benton was first elected to the United States Senate in 1820, and took his seat in 1821.¹

The people of Missouri elected their own representatives to Congress but, the two United States senators had to be chosen by the Legislature. David Barton was made one senator without opposition; but over the second senatorship there arose a bitter contest. The rivals of Benton for the office were Judge John B. C. Lucas, Henry Elliott, John R. Jones, and Nathaniel Cook. Judge Lucas was not only a political, but also a personal enemy of Colonel Benton. Only three years before, his son, Charles Lucas, had been killed by Benton in a duel. Meeting at the Missouri Hotel, corner of Main and Morgan streets, in St. Louis, September 19, 1820, the Legislature voted again and again, day after day, on the second senator with still no one candidate receiving a majority necessary to be elected. Mr. Barton supported Benton but yet they lacked one deciding vote for a majority. The friends of Benton determined to win over Marie Le Duc, a Frenchman of considerable prominence who was strongly opposed to Benton's election, and had publicly vowed to cut off his right hand before it should ever cast a

¹Sears, op. cit., II, 211.

vote for him. The pet idea of Le Duc was to secure from Congress the confirmation of the French and Spanish land claims. He was assured that the race lay between Benton and Lucas, and that the senator chosen would surely decide the fate of the land grants. Benton was in favor of confirming them, while Lucas wanted them declared invalid. Le Duc spent most of one night arguing with Benton's friends, among them Colonel Auguste Chouteau, one of the founders of St. Louis, and ended by consenting to act with them. Even now there was still trouble, for the friends of Benton remembered that Daniel Ralls, one of their number was dangerously sick, and his vote was necessary for their victory. Mr. Rall's room was upstairs in the hotel where the Legislature met, but that day he was too sick to sit in a chair. A vote was called for and at the proper time, four negroes carried him into the assembly room just as he lay on his bed. He voted for Thomas H. Benton and this vote elected Benton to the United States Senate, of which he was a member for thirty years. Mr. Ralls died a few days after the election of Benton, that vote being his last official act.²

Colonel Benton was married, after becoming Senator, to Elizabeth,³ daughter of Colonel James McDowell, of Rockbridge County, Virginia, and of Sarah his wife, born Sarah Preston. He has a surviving issue of four daughters: Mrs. William Carey

² John Roy Musick, Stories of Missouri, N. Y., 1897, pp. 171,175.

³ Recollections, of Elizabeth Benton Fremont, (ed. by J. T. Martin. Hereafter referred to as Elizabeth Fremont. Mrs. Benton was a member of the Colonization Society of Virginia and after the death of her father immediately freed all the slaves he had left her.

Jones, Mrs. Jessie Ann Benton Fremont,⁴ Mrs. Sarah Benton Jacob, and Madame Susan Benton Boillear, wife of the French consul general at Calcutta. Mrs. Benton died in 1854, having been struck with paralysis in 1844. From the time of that calamity her husband was never known to go to any place of festivity or amusement.⁵

Before entering the Senate, Benton did something which well illustrates the care which he took to keep his public acts free from the least suspicion of improper influence. When he was at the bar in St. Louis, real estate litigation was the most important part of the legal business. The condition of Missouri land-titles was very mixed. Many of them were based upon the concessions of land made by the old French and Spanish governments, which had been ratified by Congress, but subject to certain conditions which the Creole inhabitants, being ignorant and lawless, had generally failed to fulfill.⁶ By an act of Congress, these claims were to be brought before the United States recorder of land titles. The Missouri bar were divided as to what action should be taken on them, the majority insisting that they should be held void. Benton headed the opposite party, which objected to forfeiting property on technical grounds, and advocated the confirmation of every honest claim. Further legislation was needed to provide for these claims. Benton was the favorite counsel of the claimants and had hundreds of their

⁴John C. Fremont, Memoir of the Life and Services of John C. Fremont, (ed. by John Bigelow), Cincinnati, 1856, p.34. To the marriage of their daughter with an officer, both Mr. and Mrs. Benton were opposed. Benton did not consider the army a profession and his wife objected to Jessie's age of fifteen years.

⁵Benton, op. cit., I, Pt. I, v.

⁶Rogers, op. cit., p.23.

titles under his professional care. Compensation to the lawyer depended solely upon his success. Nevertheless, the first thing he did when elected senator was to convene his clients and tell them that he could have nothing more to do with the prosecution of their claims. He gave as his reason that their success largely depended upon the action of Congress, of which he was now a member and he was bound to consult, not any private interest, but the good of the community as a whole. He even refused to name his successor, saying that he was determined not to have, nor to be suspected of having, any personal interest in the fate of any of them.⁷

For thirty years Benton was a constructive force in legislation, associating his name with more important measures written into law than Clay, Webster, and Calhoun combined. In the Senate his faults of mannerism, his arrogance, his conceit, together with the length of his speeches and his diffusive tendencies, served to overshadow his substantial contributions to the discussions. The fact that the Chamber emptied and the galleries cleared when he arose did not disturb him in the least. He spoke from the Chamber to the country, and his carefully prepared speeches were intended for the education of the people.⁸ His manner was earnest and confident. His style was direct and he used many ancient and modern illustrations of his subject, which he could apply or misapply as suited his argument. His skill was great in bringing out the strong points of his side,

⁷Roosevelt, op. cit., pp. 45,46.

⁸Bowers, op. cit., p. 319.

and so arranged his matter as to produce the best popular effect. His oratory was positive, real, and thoroughly partisan.⁹ His imposing dignity discouraged attempts at intimacy in a day when men loved conviviality and were a trifle lax in their morals.¹⁰

Benton never had a clerk, nor even a copyist. He did his own writing, and made his own copies. He never had an office, or contract, for himself, or any one of his blood. He detested office seeking, and office hunting, and all changes in politics followed by a demand for office.¹¹ We see a report, May 4, 1826, of a committee on executive patronage, of which both Benton and Van Buren were members, inveighed against the system which vested so great an appointing power in the hands of the president. It shows Benton's idea of the spoils system as it recommended a constitutional amendment prohibiting the appointment to office of senators and representatives during the period for which they were elected. No action was seriously expected or desired, and none was taken on this report.¹²

He refused many offices which were pressed upon him--the mission to Russia, by President Jackson; war minister, by Mr. Van Buren; minister to France, by Mr. Polk. Three appointments were intended for him, which he would have accepted if the occasions had occurred--command of the army by General Jackson, if war took place with Mexico during his administration; the

⁹Schouler, op. cit., III, 474.

¹⁰Bower, op. cit., p. 519.

¹¹Benton, op. cit., I, Pt. I, iv.

¹²Albert Bushnell Hart, (editor), The American Nation A History from Original Sources, N. Y., 1906, XV, 56.

same command by the same President, if war had taken place with France, in 1836; the command of the army in Mexico, by President Polk, with the rank of lieutenant-general, if the bill for the rank had not been defeated in the Senate after having passed the House by a majority vote.¹³

One of the first subjects that attracted Benton's attention in the Senate was the Oregon question. On this he showed his true character as a Western man, desirous of seeing the West extended in a northerly as in a southerly direction. He introduced a bill to enable the president to terminate the arrangement with Great Britain and make a definite settlement in our favor. The Senate refused to pass it, but he had the satisfaction of bringing the subject before the people, and of outlining the way in which it was finally settled.¹⁴

Better success attended a bill he introduced to establish a trading-road from Missouri through the Indian country to New Mexico. After much debate this bill passed both houses and was signed by President Monroe. The road thus marked out and established became a great thoroughfare.¹⁵

Another question, on which Benton showed himself to be a representative of Western sentiment, was the removal of the Indian tribes. He took an active part in reporting and favoring the bills, and in advocating the treaties, by which the Indian tribes of the South and West were forced to abandon

¹³Benton, *op. cit.*, I, Pt. I, iv.

¹⁴Roosevelt, *op. cit.*, p. 52.

¹⁵*Ibid.*, p. 53.

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great tracts of territory to the whites and to move farther away from the white man's civilization. Benton always tried to have them treated humanely. His policy was much the same as that followed by other Western men. It worked harshly in many instances, but it was more just and merciful, than it would have been to attempt following any of the visionary schemes which the more impracticable Indian enthusiasts recommended.¹⁶

It was during Monroe's last term that Henry Clay brought in the first protective tariff bill, as distinguished from tariff bills to raise revenue with protection as an incident only. Benton voted for it, but on the question of internal improvements he stood out for the views that he ever after held. This was first brought up by the veto, on constitutional grounds, of the Cumberland Road bill, which had passed both houses by large majorities. Benton's vote was one of the few recorded against it. In regard to all such matters Benton was strongly in favor of a strict construction of the Constitution and of guarding the rights of the states, in spite of his devoted attachment to the Union. While voting against this bill, and denying the right of the federal government to take charge of improvements which would benefit one state only, Benton was nevertheless careful to reserve to himself the right to support measures for improving national rivers or harbors yielding revenues.¹⁷

In 1824 the presidential election was a scramble between four candidates,--Jackson, Adams, Clay, and Crawford. Jackson

¹⁶Roosevelt, op. cit., p. 55.

¹⁷Ibid., p. 58.

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had the greatest number of votes, but as no one had a majority, the election was thrown into the House of Representatives, where the Clay men, since their candidate was out of the race, went over to Adams and elected him. Benton declared that the election of Mr. Adams was perfectly constitutional, and as such fully subjected to by the people; but it was also a violation of the *demos drateo* principle.¹⁸ It was not against the election of Adams, as such, that either Jackson or the people at heart protested, and least of all against a corrupt bargain, but against a political system which made such an election and such a bargain possible.¹⁹

Benton insisted that, as Jackson had secured the plurality of electoral votes, it was the duty of the House of Representatives to ratify this choice of the people. The Constitution expressly provided that this need not be done. Here we find that Benton, who is for strict construction of the Constitution on the questions of state rights and internal improvements, assumes that the Constitution is wrong on this particular point. That it should be disregarded on the ground that there was a struggle between the theory of the Constitution and the democratic principle.²⁰

At this period every one was floundering about in efforts to establish political relations. Benton had begun the canvass as a supporter of Clay and had then gone over to Crawford. Van

¹⁸Benton, *op. cit.*, I, 47.

¹⁹Hart, *op. cit.*, XV, 32.

²⁰Roosevelt, *op. cit.*, 60.

Buren himself, afterwards Jackson's favorite, was a Crawford man during this campaign. Benton at the end became a Jacksonian Democrat, and during the rest of his political career figured as the most prominent representative of the Jacksonian Democracy in the Senate.²¹

After his election, Adams gave Clay the position of secretary of state in his cabinet. The affair unquestionably had an unfortunate look, and the Jacksonians raised the cry that there had been a corrupt bargain. Benton, much to his credit, refused to join in the outcry, stating that he had good and sufficient reasons to be sure of its falsity. This brought him into temporary disfavor with many of his party associates. It was a hard stand to take for a man of Benton's ambition and partisanship. Randolph of Roanoke referred to the Clay-Adams coalition as an alliance of the blackleg and the Puritan. Clay promptly challenged him to a duel. Benton was on the field as the friend to both parties. As already accounted, only a harmless exchange of shots took place.²²

Two parties now emerged from the election of 1824. One was the party of the administration, whose members called themselves National Republicans, and later on Whigs. The other was the Jacksonian Democracy. Adam's inaugural address and first message outlined the Whig policy as favoring a protective tariff, internal improvements, and a free construction of the Constitution generally. The Jacksonians accordingly took the opposite side

²¹Roosevelt, op. cit., p. 60.

²²Ibid., pp. 61,62.

on all these points. In the Senate they assailed administration measures with little discrimination as to whether they were good or bad. It was a time of rabid, objectless, and unscrupulous partisanship. Benton, little to his credit, was a leader in these conflicts.²³

Clay's idea of a foreign policy was to make the United States the head of an American league of free republics as a cis-Atlantic offset to the Holy Alliance in Europe. Adams nominated ministers to the Panama Congress, and gave his reasons for this course in a special message to the Senate. The plan was attacked by the Jacksonians. The Spanish States had freed their small negro populations and did not have a very strong caste feeling against the blacks. Some of the negroes had risen to high civic and military rank. It was also proposed to admit to the congress the negro republic of Hayti. Some of the slaveholders of the South objected to this association. Benton led the Southern feeling on the subject, announcing in his speech that diplomatic intercourse with Hayti should not even be discussed in the senate chamber. It was inadmissible that our fixed policy as to Hayti should be discussed in a foreign assembly, and especially in that proposed for Panama. That conference was made up of five nations who had already put the black man upon an equality with the white, not only in their constitutions but in real life at least one of the five nations had black generals in their armies and mulatto senators in their congresses.²⁴

²³Roosevelt, *op. cit.*, p. 62.

²⁴Benton, *op. cit.*, I, 69.; Niles Weekly Register, XXX, 98-115.

In the presidential election of 1828 Jackson and Adams were pitted against each other as the only candidates before the people, and Jackson won an overwhelming victory. The Jacksonian Democracy stood for the revolt against rulers of inherited wealth and refinement of the country. Its leaders, as well as their followers, all came from the mass of the people. The majority of the voters supported Jackson because they felt he was one of themselves, and because they understood that his election would mean the complete overthrow of the classes in power. This was such an absurd feeling that the men who, like Benton, shaped and guided it, were ashamed to confess the true reason of their actions. They tried to cloak it behind an outcry against aristocratic corruption and other shadowy evils. Benton even talked of retrieving the country from the deplorable condition in which the enlightened classes had sunk it, although the country was perfectly prosperous and in its usual healthy growth. In the West itself, the people were still too much on the same plane of material prosperity and the wealthy class was too limited to develop much caste feeling toward the latter. Therefore, instead of hostility to them, the Western caste spirit took the form of hostility to the more numerous representatives who had been the rulers of politics from the East.²⁵

The vote on the protective tariff law of 1828 is an illustration of the solidarity of the West. New England had abandoned her free trade position since 1824, and the North went

²⁵Roosevelt, op. cit., pp. 71-75.

strongly for the new tariff. The Southern sea-coast states, except Louisiana, opposed it. The bill was carried by the support of the Western States, both the free and the slave. This tariff bill was the first of the immediate causes which induced South Carolina to go into the nullification movement. Benton's attitude on the measure was that of disbelief and opposition but as it had bid for the interest of Missouri by a heavy duty on lead, he felt himself forced to support it. He so announced his position. He went with his state, just as did Webster in following Massachusetts' change of front and supporting the tariff of 1828.²⁶

In the famous debate of Webster and Hayne on the doctrine of nullification, Benton took the part of Hayne. Benton admits that it was not until the story of the Jacksonian toast to the effect that the Union must and shall be preserved spread over the country, that he realized the importance of Webster's words.²⁷ He, like many of the people, was slow to believe that a conspiracy against the Union existed. After this, he repudiated the company of the nullifiers. Benton remained through his long public career a Southern Unionist.²⁸ He was a type of statesman who loved the Union as it was and liked its compromises. He was devoted to the slave interests but more to the Union. When slavery finally brought about a break between the States, the Democrats of the stamp of Jackson and Benton disappeared as completely from public life as did the Whigs of the stamp of Clay.²⁹

²⁶Roosevelt, op. cit., p. 66.

²⁷Bowers, op. cit., p. 103.

²⁸Schouler, op. cit., III, 488.

²⁹Roosevelt, op. cit., p. 13.

Benton was now rising in renown as the advocate not only of western settlers but of a new theory that the public lands should be given away instead of sold to them. He joined Hayne in trying to detach the West from the East, and restore the old co-operation of the West and the South against New England.³⁰

The public land question shortly became involved with the question of the currency. Down to the time of the removal of the deposits, Jackson had been supposed to favor paper money. Benton, as Jackson's chief spokesman in Congress, earned the title of "Old Bullion" for his insistent advocacy of hard money.³¹ The one measure which may be said to have been peculiarly his own, and upon which he prided himself, was the Expunging Resolution. This was unworthy of Benton and beneath the dignity of Congress for consideration.³² On January 16, 1837 came the memorable occasion, in the Senate, on which the censure of Jackson, for ordering the removal of the deposits, was expunged from the Journal, by a vote of 24 to 19.³³

It was in the effort to divorce the government from the bank that Benton really stood out for Jackson. On this question his speeches were read outside of Congress, and at last a ground swell set in which slowly shifted the Jackson Democracy into the position Jackson desired.³⁴ On one occasion, Benton met Clay in leaving the Capitol after the former's Bank speech. Clay was suspected of having instigated the gallery disturbance during

³⁰Schouler, op. cit., III, 483.

³¹Hart, op. cit., XV, 284.

³²Lucien Carr, Missouri, A Bone of Contention, N.Y., 1894, p. 232.

³³Frederick Jackson Turner, The United States 1830 to 1850, N. Y., 1935, p. 446.

³⁴Schouler, op. cit., III, 475.

the speech and a bitter altercation resulted. But after the two men, personally not unfriendly and related by marriage, had exercised their vituperative vocabulary, Benton insisted on seeing Clay home. He did not leave until Clay had gone to bed at three in the morning.³⁵

Benton was with Jackson on the afternoon of the day before the latter's death. On this event, Benton himself was mysteriously silent, nor did he furnish any enlightenment in his Thirty Years' View. Blair and William Allen, then Senator from Ohio, told the story to one of the President's biographers. Jackson talked, and the others listened. He told them of his two principal regrets--that he had never had an opportunity to shoot Clay or to hang Calhoun. To his loyal supporters he left one admonition that afternoon. Jackson said, "Of all things, never once take your eyes off Texas, and never let go of fifty-four-forty."³⁶

Benton refused to participate in the Senate debate on Van Buren's appointment as Minister to England. He felt that, though rejection was a bitter medicine, there was health at the bottom of the draught. He alone among the senatorial friends of the rejected Minister appears to have had the ultimate advantage in view. To one Senator, rejoicing over the rejection, he turned and said, "You have broken a Minister and made a President."³⁷

As a Democrat, Benton was naturally a Van Buren man in 1840. Again as a Democrat, he took sides with Tyler in the

³⁵Bowers, op. cit., p. 471.

³⁶Ibid., p. 480.

³⁷Ibid., p. 181.

latter's conflict with the Whigs. But when his ancient enemy Calhoun, received the State portfolio, and the acquisition of Texas became an avowed political policy, Benton was opposed. He seems to have felt that the time for Texas annexation had been in 1819, and that the Spanish treaty of that year sacrificed the interests of the West.³⁸ Another reason for opposition was his fear of a war with Mexico. He fought the friends of Calhoun in Missouri on the issue of opening the Western lands to slavery. In spite of his early opposition to the attempts to restrain the expansion of slavery, he became one of the Western leaders who made difficult the path of this expansion.³⁹

Benton came to be as severe in his criticism of Polk's administration as were the Whigs. After the President's failure to secure for him the supreme command in the war and more particularly when the administration favored the court-martialing of his son-in-law, Fremont because of his activities of assuming command in California, Benton broke with Polk and turned upon him the vials of his wrath.⁴⁰

Discontented with Taylor and perhaps influenced by his growing popularity as a possible nominee for the Presidency, Polk decided to supersede him by the appointment of General Scott. But, even before Polk had considered replacing Taylor by Scott, another Whig, he was holding conversations with the

³⁸Sears, op. cit., II, 212.

³⁹Turner, op. cit., p. 331.

⁴⁰Ibid., p. 561.

Democratic Senator Benton. Benton suggested that he himself be made Lieutenant General, with diplomatic powers and the rank of commander-in-chief.⁴¹ He does claim responsibility for persuading Polk to substitute, for the plan of a sedentary occupation of the conquered part of the north of Mexico until the nation came to terms, a plan of operations, with a large and overpowering force. This was designed to push an advance against the Mexican capital by co-operative armies from the north and from the eastern seaboard.⁴² The day before Polk had informed Scott of his appointment, he had assured Benton that, if he could induce Congress to create the office of Lieutenant General, he would name him "to command the whole forces."⁴³ Polk repeated this promise of the chief command to Benton a fortnight after Scott had accepted the command of the expedition, by way of Vera Cruz, against the city of Mexico.⁴⁴ On December 29, 1846, he sent a message to Congress recommending the appointment of such a general officer, but the Senate tabled the proposal.⁴⁵ Benton believed that the defeat of this measure was due to the influence of Marcy, Walker, and Buchanan, members of Polk's cabinet.⁴⁶

In 1850 there was an altercation between Benton and Senator H. S. Foote. For some time there had been a bitter personal feeling between the two men. The Southerners looked on Benton

⁴¹James K. Polk, The Diary of a President, 1845-1849, (ed. by Allan Nevins), N.Y., 1929, p. 163.

⁴²Benton, op. cit., II, 678 and 693, 694.

⁴³Polk, op. cit., p. 170.

⁴⁴Ibid., p. 175.

⁴⁵James D. Richardson, A Compilation of the Messages and Papers of the Presidents, IV, 508.

⁴⁶Benton, op. cit., II, 678, 679.

as a renegade, for although a slave-holder from a slave-holding State, he was opposed to their object. Foote was selected to taunt Benton whenever the opportunity offered.⁴⁷ In the latter part of March he had a spirited controversy with Foote, demanding that the admission of California should have first consideration over the territorial bills. To this, Foote replied with:

The Senator need not think of frightening anybody by a blustering and dogmatic demeanor. We have rights here, as well as the senator from Missouri, and we mean to maintain them at all hazards and to the last extremity....The honorable senator now says, 'I am the friend of California....I announce--I, sir--I announce--that I will from this day henceforward insist--I, the Caesar, the Napoleon of the Senate--I announce that I have now come into the war with sword and buckler.'⁴⁸

Foote insinuated that Benton's zeal for the State was not from high public reasons, but from personal and domestic considerations since Fremont, one of the senators-elect from California, was the son-in-law of Benton. Benton retorted that he believed personalities were forbidden by the laws of the Senate. He said, "I know that the attacks made upon my motives to-day, and heretofore in this chamber, are false and cowardly. I pronounce it cowardly to give insults where they cannot be chastised. Can I take a cudgel to him here?"⁴⁹

On the 17th of April, Benton made the charge that the whole excitement under which the country had labored was due to the

⁴⁷James Ford Rhodes, History of the United States, 1850-1854, N.Y., 1896, I, 169. Rhodes was indebted to James W Bradbury, Senator from Maine, for this statement.

⁴⁸Ibid., I, 169.

⁴⁹Ibid., I, 170.

address of the Southern members of Congress. Foote, in reply, defended the signers of the Southern address, and said that they would be held in veneration when their "calumniators," no matter who they may be, will be objects of general contempt. When the word "calumniators," was uttered, Benton rose from his seat, pushed his chair from him, and strode toward the seat of Foote, which was about twenty feet distant from his own. Foote left his place on the floor and ran towards the secretary's table and at the same time drew a five-chambered revolver, fully loaded and cocked. He took a position in front of the secretary's table. Senator Dodge grasped Benton by the arm and the latter was on the point of going back to his seat when he happened to see the pistol in Foote's hands. He struggled with the senators who were holding him and dramatically throwing open his coat, exclaimed, "I am not armed; I have no pistols; I disdain to carry arms. Let him fire. Stand out of the way and let the assassin fire."⁵⁰ In the meantime, Foote was disarmed and Benton was led back to his seat.

The Senators considered the scene an outrage to the dignity of the Senate, and a committee was appointed to investigate the affair and take proper action. Three months and a half later they reported, reciting fully the facts, but failed to recommend any action to the Senate. They made one statement of historical interest; namely, that they had searched the precedents, and found that no similar scene had ever been witnessed in the

⁵⁰Rhodes, op. cit., I, 171.

Senate of the United States.⁵¹

Benton was retired from the Senate by the people of Missouri who were opposed to legislation prohibiting the introduction of slavery into any part of California and New Mexico. Not that they were necessarily in favor of the extension of the area of slavery, but for the reason that they either did not believe that Congress had the power, or admitting the power, did not believe its exercise advisable. They thought the people ought to be allowed to decide as to the institutions under which they were to live. Upon this point, in January, 1849, the legislature embodied their ideas in a series known as the Jackson resolutions, named from the fact that Governor C. F. Jackson was chairman of the committee that reported them. They were intended for the guidance of their members of Congress. Benton, in open Senate, refused to be bound by them on the ground that they contemplated secession and did not truly represent the opinions of the people of the State. It was this refusal that led to the split in his party and brought about his defeat. So far as these resolutions can be said to have threatened disunion, there can be little question that Benton was right, and that they did not reflect the sentiments of the people of the State.⁵²

Benton appealed from the Legislature to the people and conducted a vigorous campaign throughout the State in the election of the next Legislature. His speeches were a mixture of

⁵¹ Congressional Globe, (ed. by J. C. Rives) Washington, D. C., 1850, 31st Congress, 1st Session, p. 1481. The report of the committee on July 30, 1850 gives a complete resume of the incident.

⁵² Carr, op. cit., p.222.

sound political sense and denunciations characteristic of the man. But a generation of voters had grown up who knew not Joseph. When Benton asserted that an adherence to these resolutions would lead to secession, the charge was met by denial. The democratic majority in the Legislature of 1851 was divided into two factions, for and against Benton, so that the Whigs were holding the balance of power. The anti-Benton Democrats joined the Whigs and succeeded in returning sixty-four members to the Legislature. Henry S. Geyer, the Whig candidate, was chosen as United States Senator in place of Benton.⁵³

His valedictory of farewell was made at St. Louis on March 4, 1850. Some of his words were:

I have been Senator for thirty years--a continuance in service more honorable to the people, and to our republican institutions than to me. I have done some service to the state, but I put no claim on that account. I give up the past, and look only to the present, and want no issue joined before the election, no appeal from the decision. I have never solicited office and have refused many. My Senatorial elections have been a free fight of the people. I claim nothing. But I object to being put down by a conspiracy; and especially to be sold to those whom I have whipped, and paid for in offices which belong to the people.⁵⁴

With this defeat Benton's official career may be said to have been brought to a close. Although he represented the St. Louis district in the Congress of 1854-55, during which the Kansas-Nebraska bill was passed, and was conspicuous in his opposition to the measure, he was steadily losing ground in his own State. At the next election Benton was beaten by Luther M. Kennett of the Know Nothing party. In 1856 he again came

⁵³Carr, op. cit., pp. 228-231.

⁵⁴McClure, op. cit., p. 213.

before the public as candidate for the office of governor. At seventy-four years of age, and suffering from an incurable disease, Benton was still able to travel over the state, a distance of some twelve hundred miles, and made forty speeches, each one of which was one or two hours in length. He received less than twenty-eight thousand votes, out of a total of one hundred and fifteen thousand. In the senatorial election, or elections, for, owing to a failure to elect at the previous session, two of them came off during the ensuing winter, his friends once more brought him forward, but with no better success.⁵⁵

This was his last appearance in the political arena, though in the autumn of 1856 he made, by request, a lecturing tour in New England, speaking on the danger of the political situation and necessity of preserving the Union.⁵⁶ In April, 1858, he quietly passed away at his house in Washington, busy to the last upon the literary work to which he devoted himself when he first lost his seat in Congress. His supporters were divided among the Americans, the Union Democrats, and the Republicans.⁵⁷

⁵⁵ Carr, op. cit., p. 232.

⁵⁶ Fremont, Jesse, op. cit., II, 505. Benton stayed by his principles even to the opposition of his son-in-law for the presidency. Denouncing any political party which tried to elect candidates from any one part of the Union to rule over the whole of it, he asked if the people believed that the South would submit to such a President as Fremont. He added, "We are treading upon a volcano that is liable to burst forth any moment and overwhelm the nation."

⁵⁷ Walter Williams, The State of Missouri, Columbia, Missouri, 1904, p. 24.

As a Senator and in matters of national concern Benton was overshadowed by some of his compeers. He cannot justly be credited with originality even in bringing forward and advocating measures like the bills to repeal the salt tax or graduate the price of the public lands as he was but following in paths that were by no means new. Benton was one of those public men who formulate and express, rather than shape, the thought of the people who stand behind them and who they represent.

All in all, Benton is the greatest man Missouri has produced. At Washington he stood in the front rank in the Senate which included Clay, Webster and Calhoun. At home he dominated the democratic party until his retirement, and was one of the best types of the rugged western democracy. His strength lay rather in his unwearied industry, and his natural sound sense than in eloquence or learning. Throughout his long career he was the steadfast advocate of specie currency and a liberal land policy--both essential to the development of his State. He was the champion of the rights of the squatter on the public lands and supported the demands of the pioneer for graduation of the price of those lands and for pre-emption. In the proposal to give the refuse lands to the needy actual settler, he was in a sense a prophet of the later homestead agitation.⁵⁸

⁵⁸Turner, op. cit., p. 331.

CHAPTER IV
BENTON'S PUBLIC LAND POLICY

An economic issue on which Benton held strong views was the distribution of the public lands. It was a vital concern in the days when the Government was doing a land office business. On this question, as on that of the Bank, Benton's position was democratic. He favored reduction in the cash price of land and advocated the grant of free homesteads of one hundred and sixty acres, based on five years' settlement and improvement. He was the father of the cheap land system, thus anticipating Abraham Lincoln in one respect at least.¹

The public domain was in process of creation between 1780 and 1802 when New York, Virginia, Massachusetts, Connecticut, South Carolina, North Carolina, and Georgia made cessions of their western lands to Congress. The principle of rectangular surveys was established in our national land system by the Ordinance of May 20, 1785. The Ordinance of 1787 provided a plan of government from the early stages of territorial government to election of a legisla-

¹Sears, op. cit., II, p. 211.

ture when the population reached five thousand and ultimate entrance into the Union when the number of people exceeded sixty thousand and the proper basic laws had been made.² The land law of May 10, 1800 altered the public land system a little in the direction of the wishers of the West. It cut the minimum tract sold by the government to three hundred and twenty acres, and allowed a reasonably long credit to the purchaser. After public auction, land could be bought for the regular price of two dollars an acre with a minimum amount of acreage set at one-half section. There was a six dollar survey fee on each section and one-twentieth the purchase price had to be paid down. One-fourth was due in forty days, another fourth within two years, and another fourth for each of the next two years. Interest of six per cent was charged and a discount of eight per cent was given on the last three payments. For lack of any one payment, the property reverted back to the United States Government.³ An act of 1804 further reduced the minimum purchase to one-fourth of a section. The weakness of this arrangement was in the large unit, credit, and the high price per acre. By 1807 Congress began to pass relief acts extending the time of settlement for later installments; and in 1820 the twelfth such act had been passed. The normal tendency of the Harrison Act

²Faxson, op. cit., pp. 67-68.

³T. C. Pease and A. S. Roberts, Selected Readings in American History, N. Y., 1928, p. 229.

of 1800 was to create a region in which every citizen was in debt to the United States for a period of four years or more.⁴

Distress was the cry of the day and relief the general demand. State legislatures were occupied in devising measures of local relief and Congress was granting it to national debtors. The debt to the government had accumulated to twenty-three million dollars. In the eagerness to get fresh lands, and stimulated by the delusive prosperity which the banks created after the war, there was no limit to purchasers except in the ability to make the first payment. Whenever the banks failed money vanished, with instalments coming due which could not be met. The opening of Congress in November, 1820, was saluted by the arrival of memorials from all the new States praying for relief to the purchasers of the public lands.⁵

The principle of the relief was to change all future sales from the credit to the cash system, reduce the minimum price of the lands to one dollar and twenty-five cents an acre, making the public land purchasable henceforth in tracts as small as half-quarter sections of eighty acres, and giving present debtors the benefit of the new system. This was done by allowing them to consolidate payments already made on different tracts to any particular one.

⁴ Paxson, op. cit., p. 222.

⁵ Benton, op. cit., I, 11.

relinquishing the rest. It allowed a discount for ready pay on all that had been entered, equal to the difference between the former and present price. That the indirect resource accruing from the honest cultivation of the public tracts is of more consequence to the government than any immediate revenue to be derived from their sale as wild land by the acre was an idea not yet developed. That was the job for Thomas H. Benton. Upon that idea are based our later pre-emption and homestead acts, which give the land away, or nearly so, to the squatter who will improve it.⁶

Of the 1820 land act, Benton says:

It was an equitable arrangement of a difficult subject, and lacked but two features to make it perfect; first, a pre-emptive right to all first settlers; and, secondly, a periodical reduction of price according to the length of time the land should have been in market, so as to allow of different prices for different qualities, and to accomplish in a reasonable time the sale of the whole.⁷

About the year 1785 Edmund Burke, an English statesman, came forth with the theory that the principal revenue to be derived from the English colonies was the improvement and population of the English kingdom. He would throw them into the mass of private property and through the course of cultivation reap a well regulated revenue.⁸

⁶Schouler, op. cit., III, 191.

⁷Benton, op. cit., I, 11.

⁸Ibid., I, 102.

Benton states that he does not know how young he was when he first took up the notion that sales of land by a government to its own citizens, and to the highest bidder, was false policy. When a young member of the General Assembly of Tennessee, he was fully imbued with the doctrine of donations to settlers and acted as far as the case admitted, in advocating the pre-emption claims of the settlers on Big and Little Pigeon, French Broad, and Nolichucky. When he moved to the Territory of Missouri in 1815, and saw land offered for sale to the highest bidder and lead mines and salt spring reserved from sale, and rented out for the profit of the federal treasury, he resolved forthwith to make war upon it whenever he should have the power.⁹

The theory of Edmund Burke is taken by Benton as a basis for his land policy. Benton's argument for his free land policy was that the sale of land is a single operation. Some money is received, and the cultivation is disabled to that extent from its improvement. The cultivation is perennial, and the improved condition of the farmer enables him to pay taxes, consume goods, and sell products which pay duties to the government. This is the well-regulated revenue which comes through the course of circulation.

⁹Benton, op. cit., I, 102.

In Alabama in 1828 the duties paid on imports purchased with the exports derived from her soil exceeded the price of lands sold within her limits ten times over. In 1850 the whole annual receipts from land sales were about two million dollars: the annual receipts from customs, founded almost entirely upon the direct or indirect production of the earth, exceeded fifty million dollars, giving a comparative difference of twenty-five to one for cultivation over sales.

Another aspect of Benton's land policy is that of population. The sale of land brings no people: cultivation produces population, and the people are the true wealth and strength of the nation. Tenantry is unfavorable to freedom. It lays the foundation for separate orders in society and weakens the spirit of independence. Benton says, "It should be the policy of republics to multiply their freeholders, as it is the policy of monarchies to multiply tenants."¹⁰

Benton was in favor of passing the public lands cheaply and easily into the hands of the people. Sell it for a reasonable price to those who are able to pay, and give, without price, to those who are not. The Atlantic States were donations from the British crown and the great proprietors distributed out of their possessions with a generous hand. Their terms were a few shillings for a

¹⁰ Benton, op. cit., I, 104.

hundred acres and gifts of a hundred to a thousand acres to actual settlers.

The star case used by Benton in illustrating the advantage of giving land to those who would settle and cultivate it, is that of Granny White--well known in her time to the population of Middle Tennessee.¹¹ At the age of sixty, she had been left a widow, in one of the counties in the tide-water region of North Carolina. Failing because of poverty, to get two orphan children bound to her, she was compelled to emigrate eight or nine hundred miles to the Cumberland Settlement with her two grandchildren. Arriving in the neighborhood of Nashville, a generous-hearted Irishman, Thomas McGrory, let her have fifty acres of his land on her own terms,--a nominal price and indefinite credit. From this rough land she advanced herself to comparative wealth: money, slaves, horses, cattle, and her fields extended into the valley below. But if the federal government would have demanded sixty-two dollars and fifty cents for that land, cash in hand; old Grammy White and her grandchildren might have lived in misery and sunk into vice.

Argument by Benton had some effect, in relation to the mineral and saline reserves in his own state of Missouri. By an act of 1828, they were thrown into the mass of private property to sell them like other public lands.

¹¹ Benton, op. cit., I, 105.

On December 29, 1829, Senator Samuel A. Foot, of Connecticut, offered the following resolution:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of limiting for a certain period the sales of the public lands to such lands only as have heretofore been offered for sale, and are subject to entry at the minimum price. And also, whether the office of Surveyor General may not be abolished without detriment to the public interest.¹²

As explained by Foot, the reasons for offering the resolution were to be found in certain statements in recent reports of the commissioner of the land office, to the effect that the quantity of land which remained unsold, at the minimum price of one dollar and twenty-five cents per acre, exceeded seventy-two million acres, subject to increase with the population. The distribution of the sales, however, seemed to be very unequal. In one district of Ohio, where there were not more than three or four hundred thousand acres for sale, the cash sales amounted to thirty-five thousand dollars, while in other places, where great amounts of superior land were available, the sales, during 1828, amounted to only two thousand dollars. Since every state was deeply interested in the disposition of the public lands, Foot thought it reasonable to inquire whether the indiscriminate sale of the public lands should not be stopped for a time, or confined to the lands already on the market.¹³

¹²Debates of Congress, VI, Pt. I, 3,4.

¹³Ibid., VI, Pt. I, 4.

Benton's principal objection to limiting the sale to lands then in market, was that emigration would stop. These lands were not of a character to attract people from a distance. In Missouri they were the refuse of forty years picking under the Spanish Government, and twenty more under the Government of the United States. Advocates of the bill reasoned that seventy-two million acres were on the market; one million a year was sold; therefore, there was enough to supply the demand for seventy-two years. The lands in Missouri only amounted to one third of the state resulting in two thirds of the state having to remain without inhabitants for a period of seventy-two years. Going to the extreme he argued that two thirds of Missouri would be delivered up to wild beasts: for the Indian title was extinguished. With the Indians gone, the white people would be excluded from it and beasts alone would take it.¹⁴

The reasons given in the debate for abolishing all five offices of the Surveyors General was that they were sinecures; or offices which have revenues and no employment. The abolition of these offices would involve the necessity of removing all their records, and depriving the country of all the evidences of the foundations of all the land titles. It would even eliminate the General Land Office in Washington because its principal business was to

¹⁴Benton, op. cit., I, 130.

superintend the five Surveyor Generals' offices.

The debate spread and took a sectional turn, inquiring into the quarter of the Union from which came the early policy to check the growth of the West at the outset by proposing to limit the sale of the western lands to a clean riddance as they went, or selling no tract in advance until all in the rear was sold.

The first ordinance reported for the sale and survey of western lands in 1785 contained a provision that each township should be sold out complete before any land could be offered in the next one. This was made by a committee strongly Northern, eight against four, and was struck out in the House on the motion of Southern members, supported by the whole power of the South. It is certain that every township, or almost every one, would contain land unfit for cultivation, and for which no one would pay six hundred and forty dollars for six hundred and forty acres.¹⁵

Still enlarging its circle, but as yet still confined to the sale and disposition of the public lands, the debate went on to discuss the propriety of selling them to settlers at auction prices, an arbitrary minimum for all qualities, and a refusal of donations. The North was here considered as the exacting part of the Union; the South as the favorer of liberal terms, and the generous dispenser of gratuitous grants to the settlers in the new States and

¹⁵Benton, op. cit., I. 132.

Territories.

The debate was taking a turn which was foreign to the expectations of the mover of the resolution. It was leading to sectional criminations which would only inflame feeling without leading to any practical result. Mr. Webster saw this. To get rid of the whole subject he moved its indefinite postponement. In arguing his motion he delivered a speech which introduced new topics, greatly enlarging the scope and extending the debate he proposed to terminate.

He stated that Mr. Dane was the author of the ordinance, and that the measure was carried by the North and the North alone. This was shown by Benton to be erroneous as it was first drawn by Thomas Jefferson nearly two years before Dane came into Congress. The ordinance was not passed by the North alone, but equally by the South--there being but eight States present at the passing, and they equally of the North and the South. The South voted unanimously for it, both as States and as individual members, while the North had one member against it. This led into the famous Webster reply to Hayne on the doctrine of nullification.

Foot's original resolution remained before the Senate, and was nominally the theme of discussion. Thence forward, however, it was the opposing interests of the different sections of the Union, and not the public land system, that were debated. A modification of the resolution, adding to it a clause instructing the committee on public lands to

inquire and report the quantity of the public lands remaining unsold within each State and Territory and raising the alternative question of whether it be expedient to adopt measures to hasten the sales, and extend the surveys more rapidly, did not change the character of the discussion.¹⁶

Of this debate Benton states, "I was slow to believe in any design to subvert this Union--that at the time of this great debate (February and March, 1830) I positively discredited it, and publicly proclaimed my incredulity."¹⁷ He was still too excited over the subject matter of the bill and the original discussion over it to understand that the debate had ranged off upon what later proved to be matters of more importance. Encouraged by his success earlier in the debate, he attempted a reply to Webster, taunting him with the memory of the Hartford Convention to which Webster himself had once belonged. Heated by his original grievance, as a Western man against New England, he failed entirely to understand the true drift of Hayne's speech.

By 1832, a bill had progressed to the third reading in the Senate reducing the price of lands which had been long on the market less than one half--to fifty cents per acre--and with the pre-emption principles firmly established. Bills for donations to actual settlers and of the cession to

¹⁶Debates of Congress, VI, 35.

¹⁷Benton, op. cit., I, 142.

the States in which they lie of all land not sold within a reasonable and limited period were progressing. The extinction of the public debt within two years was authentically announced. This would remove the objection of many to interfering with the land system pledged to that objective. But here Benton's plans for land reform were stopped for the time being.

On March 23, 1832, Clayton presented a resolution directing the committee on manufactures to inquire into the expediency of distributing the public lands, or the proceeds of their sale, among the states, on principles of equality.¹⁸ This session, preceding the presidential election, and gathering up subjects to go into the canvass, had fallen upon the lands for distribution.

The reference of the resolution to the committee on manufactures, which had in charge the tariff bill, was embarrassing to Clay, who was chairman of that committee. Clay's party had been placed in the position of deliberately holding land from the West in the interest of a large labor market in the East. This was due to the wording of an official report of Richard Rush, a colleague of Clay's in the Cabinet of Adams, in which he lamented the preference of the American people for agricultural over manufacturing pursuits.¹⁹ The question also had a direct bearing

¹⁸Debates of Congress, VIII, Pt. I, 638.

¹⁹Bower, op. cit., p. 196.

upon the revenue from the tariff. Clay said, "It was to affect me personally, by placing me in a situation in which I must report unfavorably to the Western and South Western States, which are desirous of possessing themselves of the public lands."²⁰

In a report on the resolution, April 16, Clay recommended that, since the revenue from customs was sufficient for ordinary purposes, the revenue from the public lands, after deducting fifteen per cent as a dividend for the states in which the lands were situated, be divided for five years among the states. This was to be according to their federal representative population, and applied to education, internal improvement, or colonization.²¹ A portion of the committee favored, in addition to internal improvements, a colonization of the free blacks, under the direction of the general government. The estimated amount of such annual distribution was two million, five hundred and fifty thousand dollars.

His report was then referred to the Committee on Public Lands, headed by Senator King of Alabama. Clay, however, was right in ascribing the authorship of the report to Thomas Hart Benton. In Clay's speech of June 20, 1832, he remarked, "He (King) has availed himself of another's aid, and the hand of the Senator from Missouri is as visible in

²⁰ Calvin Colton (editor), Works of Henry Clay, N. Y., 1904, IV, 331.

²¹ Debates of Congress, VIII, Appendix Pt. III, 117.

the composition, as if his name had been subscribed to the instrument."²² King's report objected to that of Clay's on the following points: First, the rule of distribution made no distinction between those States which did or did not make cessions of their vacant land to the government. Second, several States deny the power of the federal government to appropriate the public moneys to objects of internal improvement or to colonization. Third, it was unjust to the donors of the land, after having taxed them by duties on imported goods to pay the debt of the Revolutionary War, that the land should go in relief of their present taxes. Fourth, the colonization of free people of color is a delicate question for Congress to touch. And finally, the term net, as applied by Clay's committee to revenue from land offices, meant gross proceeds, for the expenses of the land system are defrayed by appropriations out of the treasury. If the whole sum received from the land offices was made a fund for distribution, it would place the heavy expenses of the land system upon the custom-house revenue.²³ The report recommended a reduction of the price of new land to one dollar per acre, and of land which had been on the market five years, to fifty cents per acre. It also favored an increase of the allowance to the new states to twenty instead of fifteen per cent.²⁴

²² Debates of Congress, VIII, Appendix Pt. I, 1111.

²³ Benton, op. cit., I, 278.

²⁴ Debates of Congress, VIII, Appendix, p. 126.

The two sets of reports were printed in extra numbers, but the Senate passed Clay's bill. The House by postponement declined to consider it. Thus this first attempt to make distribution of public property, was, for the time, defeated.²⁵ Clay's friends flattered themselves that Clay had scored a triumph, gauging public opinion by the roll call. The new school, of which Benton was a member interested themselves with the plain voters who wanted Benton's plan of reduced prices and pre-emption for actual settlers.²⁶

The opinion of the administration was probably represented by McLane, the Secretary of the Treasury, in his annual report in December, 1831, in which he suggested the sale of the public lands to the states in which they lay, and the apportionment of the proceeds among the states, "according to such equitable ratio as may be consistent with the objects of the original cession". The reasons for the proposal were that the revenue would thereby be reduced and all causes of difficulty between the states and the general government removed.²⁷ In his message of December 4, 1832, Jackson expressed the opinion that the true policy was

that the public lands shall cease as soon as practicable to be a source of revenue, and that they be sold to settlers, in limited parcels at a

²⁵Benton, op. cit., I, 279.

²⁶Bower, op. cit., p. 199.

²⁷Debates of Congress, VIII, Appendix Pt. III, 30.

price barely sufficient to reimburse to the United States the expense of the present system and the cost arising under our Indian compacts.²⁸

Clay renewed at the session of 1832-'33, the bill to divide the net proceeds of the sales of public lands among the States, to be applied to such purposes as the legislature of the respective States should think proper. His reasons were to aid the States and settle the question on the mode of disposing of the public lands.

The new bill changed the benefit of the new States, to twelve and a half per cent, out of the aggregate proceeds, in addition to the five per cent, which was now allowed to them by compact, before any division took place among the twenty-four States generally. In order to do away with any inequality among the new States, grants were to be made to those that had not received, heretofore, as much lands as the rest of the new States, from the general government, so as to put all the new States on equal footing. Calhoun attacked this distribution of the land money as being dangerous and unconstitutional, and as leading to the distribution of other revenue--in which he was prophetic.²⁹

The bill was debated at length until January 25, when it passed the Senate by a vote of 24 to 20. The bill went to the House and received amendments, which did not obtain the concurrence of the Senate until midnight of March 1. This would allow President Jackson but half a day in which

²⁸James D. Richardson, Messages and Papers of the Presidents, II, 601.

²⁹Benton, op. cit., I, 364.

to consider it. The next evening, the President attended in a room adjoining the Senate chamber, to be on hand to sign bills and make nominations. It was some hours in the night when Jackson sent for Benton, and told him that the veto message on the land bill was ready, but doubted about sending it in, lest there should not be a full Senate. After looking over the Senate chamber, Benton returned and told Jackson that Calhoun and his immediate friends were absent, Jackson then decided to keep the bill until the next session and then return it with a fully considered message. It was so, but during the nine months intervening, the opposition severely denounced Jackson for his conduct in pocketing the bill.³⁰

On December 4, 1833, Jackson returned the bill with his criticisms. His objections to the bill were that "It treats the subject of the compacts by which the United States became possessed of their western domain as if they never had existence and as if the United States were the original and unconditional owners of all the public lands." The bill appropriated money to objects of a local character within the states and reasserted the principle of the Maysville turnpike bill which Jackson had vetoed. Instead of returning to the people an unavoidable surplus of revenue paid in by them, it created a surplus for distribution. Jackson states, "A more direct road to consoli-

³⁰Benton, op. cit., I, 364.

dition cannot be devised."³¹

Jackson's plan was similar to Benton's. He said that he did not doubt that it was the real interest of all the States in the Union, and particularly of the new States, that the price of these lands should be reduced and graduated, after they have been offered for a certain number of years, the refuse, remaining unsold, was to be abandoned to the States, and the machinery of the land system entirely withdrawn. "This plan for disposing of the public lands impairs no principle, violates no compact, and deranges no system", said Jackson.³²

Clay denounced the action of the President as being unprecedented.³³ The bill had been made the subject of comment in the annual message at the beginning of the previous session, and presumably the President had had sufficient opportunity to make up his mind as to its merits. It was not to be expected that he would take advantage of the shortness of time to retain the bill so long. Instead of promptly approving or vetoing it he had kept silent. To Jackson's defense, Benton stated that the number of bills passed on the last day of the session was so great as to preclude proper consideration of them, much less the preparation of a statement of reasons. Clay declared that the

³¹Richardson, op. cit., III, 67.

³²Benton, op. cit., I, 368.

³³Debates of Congress, X, Pt. I, 15-18.

President had apparently found time to approve most of the bills so presented, and that his course in withholding the land bill was unconstitutional.

On December 10, Clay again introduced the bill, modified by removing the restrictions on the states in the application of the proceeds of the lands. On May 2, 1834, the committee to which the bill was referred reported. They contended that there was nothing in the acts of cession, or in the treaties under which still larger tracts of land had been acquired, which interfered with the right of Congress to dispose of the public lands. Such disposition had been, in practice, unrestricted. If Jackson's proposal to grant all the lands to the states was constitutional, might not Congress also grant, for a limited time, one-eighth of the net proceeds of the lands to the states in which they were situated? A committee of the House had already reported, December 27, in favor of reducing and graduating the price of such lands as had been offered at public sale, and remained unsold, in proportion to the time the lands had been on the market.³⁴ Benton got some memorials and statistics relating to the subject printed by the Senate. No further action was taken by either house, however, and the matter dropped.

Clay brought forward the distribution bill once more, in December, 1835.³⁵ The proposition now was to distribute

³⁴ Debates of Congress, X, Appendix Pt. Iv, 213-215.

³⁵ Ibid., XII, Pt. I, 48.

the proceeds of the land sales for the years 1833 to 1837 inclusive. The amount for the years 1833, 1834, and 1835 aggregated a little over twenty one million dollars. The bill passed the Senate, May 4, by a vote of 25 to 20. The House laid the bill on the table. It was at this point that Calhoun successfully urged his scheme for the distribution of the surplus revenue as a whole, embodied in the deposit act of June 23, 1836.

This act was only a temporary expedient for meeting a troublesome situation. The volume of the surplus, now that the debt was paid, was estimated at nine million dollars annually for eight years. They did not want to disturb the compromise tariff, but it was clear that the tariff was the cause of the surplus. A large surplus with no debt was bad public finance, a drain on the wealth of the people, and an incitement to speculation. Benton argued in favor of devoting the temporary surplus to public works, especially fortifications and coast defences, but no one would listen to him. He introduced an antagonistic bill, showing by reports from the war and navy departments that seven millions a year for fifteen years would be required for the completion of the naval defences, and thirty millions to complete the military defences; of which nine millions a year could be usefully expended. Thinking of his own state he said, "It is in vain to say that the navy is on the sea, and the fortifications on the seaboard, and that the citizens in

the interior States, or in the valley of the Mississippi, had no interest in these remote defences." The inhabitants of Missouri and of Indiana had a direct interest in keeping open the mouths of the rivers, defending the seaport towns, and preserving a naval force to protect the produce in crossing the ocean.³⁶

By the following paragraph, Benton connects the Bank of the United States with all the plans for distributing the public land money among the States, either in the shape of a direct distribution, or in the disguise of a deposit of the surplus revenue. The paragraph appeared in the Philadelphia National Gazette and was attributed to Mr. Biddle, President of the Bank. It states

The great loss of the bank has been in the depreciation of the securities; and the only way to regain a capital is to restore their value. A large portion of them consists of State stocks, which are so far below their intrinsic worth that the present prices could not have been anticipated by any reasonable man. No doubt can be entertained of their ultimate payment. The States themselves, unaided, can satisfy every claim against them; they will do it speedily, if Congress adopts the measures contemplated for their relief. A division of the public lands among the States, which would enable them all to pay their debts--or a pledge of the proceeds of sales for that purpose--would be abundant security. Either of these acts would inspire confidence, and enhance the value of all kinds of property.³⁷

The bill was passed in the Senate by a vote of 25 to 20. Being sent to the House for concurrence it became evident that it could not pass that body. Then the friends

³⁶Benton, op. cit., I, 650.

³⁷Ibid., I, 649.

of the bill fell upon a new mode to gain their object. The other bill to which Biddle referred in the paragraph was one before the Senate to regulate the keeping of the public moneys in the deposit banks. This was turned into distribution of the surplus public moneys to the States in the form of a deposit. It was in a form to gain the votes of many members who held distribution to be a violation of the constitution--among them Mr. Calhoun, who took the lead in the movement. The deposit was defended on the same argument on which Calhoun had proposed to amend the constitution two years before; namely that there was no other way to get rid of the surplus.³⁸

The bill was ordered to its third reading with only six dissenting votes, including Benton's. He made a speech in an effort to make it odious to the people as a distribution in disguise. His prophesy was that it would last only till the presidential election was over, for there was no money to deposit after the first or second quarter. It would have the effect of breaking the deposit banks. Finally, that it would be disappointing to its authors in their schemes of popularity. Out of a half a dozen aspirants to the presidency, who voted for it, not one of them ever attained that place. He saw no reason for acting upon the question at that session of Congress. Why not wait until the true state of the treasury is known at the

³⁸Benton, op. cit., I, 651.

next session? Raising the question of past surpluses he states that we had forty millions of income in the year 1817 and an empty treasury in 1819. Many appropriations were yet behind. They had set out to divide the surplus, and had now divided the appropriated funds. Benton found the evil in the unbridled state of the paper system, and in the unchecked receivability of paper for federal dues. Reduction of the tariff; reduction of the price of land to actual settlers; rejection of bank paper from universal receivability for public dues; these were Benton's remedies.³⁹

The plan finally agreed upon provided that the surplus in the treasury January 1, 1837, in excess of five million dollars, should be distributed among the states as a loan, in proportion to their representation in Congress. No one expected, however, that the money so distributed would ever be recalled. Benton put the case very plainly when he said, "It is, in name, a deposit; in form, a loan, in essence and design, a distribution." He claimed that it was known to be so, and all this verbiage about a deposit was nothing but the device and contrivance of those who had been for years endeavoring to distribute the revenues. This had been attempted sometimes by the land bill, sometimes by direct propositions, and sometimes by proposed amendments to the constitution.⁴⁰

³⁹Benton, op. cit., I, 656-657.

⁴⁰Ibid., I, 652.

The bill went to the House, and was concurred in by a large majority--155 to 38--although, under the name of distribution it could not have done so. Jackson had repeatedly urged the distribution of the surplus revenue among the states as the most equitable method of getting rid of it; but he now signed the act, according to Benton, "with a repugnance of feeling, and a recoil of judgment, which it required great efforts of friends to overcome; and with a regret for it afterwards which he often and publicly expressed."⁴¹ This was the beginning of calamities from a party viewpoint. It quickly brought general suspension of specie payments and ended in the great democratic defeat of 1840.

Within the first week of the next session of Congress, Mr. Mercer, a representative from Virginia, moved a resolution that the Committee of Ways and Means be directed to bring in a bill to release the States from all obligation ever to return the dividends they should receive under the deposit act. The motion was defeated. At the same time Clay was trying to revive his land-money distribution bill, give it immediate effect, and continue its operation for five years. The bill was referred to the Committee on Public Lands that recommended an amendment, proposing to strike out the entire bill, and substitute for it a new one, to restrict the sale of the lands to actual settlers in

⁴¹Benton, op. cit., I, 657.

limited quantities. This was adopted 24 to 16. In the course of the discussion of the bill, Benton offered an amendment, securing to any head of a family, any young man over the age of eighteen, and any widow, a settlement right in 160 acres at reduced prices, and inhabitation and cultivation for five years. This was lost by a close vote of 18 to 20.⁴²

In his Annual Message to the last Congress under Jackson which began on December 5, 1836, the President called attention to the higher price of public lands and to the receipts of the government from their sale. At the same time he noted that these receipts amounted to nothing more than credits in banks that loaned out their notes to speculators. Under this view he had issued the Specie Circular which was checking the career of Western banks, retarding the spirit of speculation, and saving the new states from a nonresident proprietorship.

On July 11, 1836 the Specie Circular was addressed to receivers of public money and to the deposit banks. The order forbade the receipt, after August 15, in payment for public lands, of anything save what was directed by existing laws--that is, gold and silver, and in certain cases Virginia land-warrants. Exception was made, until December 15, of payments for parcels of land not exceeding 320 acres to each purchaser, who is an actual settler or bona fide resident in the State where the sales are made. The re-

⁴²Benton, op. cit., I, 708.

ceipt of drafts or certificates of money or deposits, instead of specie, was prohibited unless they bore the signature of the treasurer of the United States. The purposes of the circular were to repress the alleged frauds, withhold facilities in the power of the government from the monopoly of the public lands in the hands of speculators to the injury of the actual settlers in the new States, and to discourage the ruinous extension of bank issues and bank credits by which those results were generally supposed to be promoted.⁴³

Benton is authority for the statement that he himself drew the rough draught of the circular. After Congress was gone, President Jackson summoned his cabinet, laid the case before them, heard the majority of adverse opinions--and directed the order to be issued. His private Secretary, Mr. Donelson, was directed to prepare a draught of the order. Mr. Donelson went to Benton, who was waiting in the office of the Secretary, with the President's decision, and requested him to draw up the order. He states

....the rough draught was carried back to the council--put into official form--signed--issued. Congress was considered insulted, the cabinet defied, the banks disgraced. But the vindication of the measure soon came, in the discovery of the fact, that some tens of millions of this bank paper was on its way to the land-offices to be changed into land--when overtaken by this fatal Specie Circular, and turned back to the sources from which it came.^{43a}

Before the adjournment of Congress, Benton and Jackson had attempted to get an act of Congress to stop the evil at

⁴³ Benton, op. cit., I, 676-678.

^{43a} Ibid., I, 677-678.

which the Specie Circular was aimed. The opposition senators stood out in unbroken front against it. There were many members of Congress engaged in land speculations, upon loans of bank paper. They were unwilling to see stopped such a profitable business. The rejection of the bill was thought sufficient and the news of it caused the speculators to increase their activities. The Specie Circular would have been issued before the adjournment of Congress, except for the fear that it would be counteracted by law. It was issued under the authority of the resolution of the year 1816 which, in giving the Secretary of the Treasury discretionary authority to receive the notes of specie paying banks in revenue payments, gave him also the right to reject them.⁴⁴

The Circular added greatly to the difficulties of the banks, particularly in the West, where banks were numerous, paper money plentiful, and specie scarce. Most of the banks whose notes had provoked the circular did not pay specie. The deposit banks were under further obligation to pay out to the states on January 1 the first instalments of the surplus revenue to be distributed under the act of June 23. The specie circular was only one of the causes of the panic of 1837. The progress of speculation and inflation had about reached its limit, and the circular did little more

⁴⁴Benton, op. cit., I, 676.

than administer the blow that brought on collapse.⁴⁵

Ewing of Ohio introduced a resolution in the Senate, December 12, to annul the Circular, and to prohibit the secretary of the treasury from directing what funds should be receivable in payment for public lands, and from making any discrimination in the funds so receivable, between different individuals, or between different branches of the public service.⁴⁶

Benton defended Jackson in the debate which followed. The resolution had passed to the third reading when Senator W. C. Rives, of Virginia, presented an amendment substituting a proposition to receive for public dues bills of banks not issuing notes under certain denominations. This ran from five dollars, in 1839, to twenty dollars, after 1841. The followers of Jackson favored this view. Jackson, however, made it a condition that the passage of Rives' measure should be accompanied by a provision in the land bill for restricting the sale of land to actual settlers. He believed this to be sufficient to stop the land speculation that had made the Specie Circular necessary. The Committee on Public Lands presented the bill in a revised form but, before it could be passed by the Senate, the Whigs succeeded in adding an amendment rescinding the Circular. In the House of Representatives, Rives' bill, separate

⁴⁵Hart, op. cit., XV, 288.

⁴⁶Debates of Congress, XIII, Pt. I, 8.

from the land bill was passed, following which the land bill was killed.⁴⁷ It was the opinion of Jackson that this had resulted from the antagonism of a combined group of Whigs and Eastern Democrats, to which the followers of Rives had not made effective opposition. In retaliation, Jackson pocket-vetoes Rives' bill.⁴⁸

The Specie Circular was finally disposed of by a joint resolution of May 21, 1838, which forbade the secretary of the treasury, "to make or to continue in force, any general order, which shall create any difference between the different branches of revenue, as to the money or medium of payment, in which debts or dues, accruing to the United States, may be paid."⁴⁹

On February 7, 1837 Calhoun brought to the fore a plan for the cession of all the public lands to the States in which they lay. They were to be sold by them on graduated prices, extending to thirty-five years, on condition that the States should take the expenses of the land system on themselves, and pay thirty-three and a third per cent of the sales, to the federal treasury.⁵⁰ Benton objected to any property or moneyed transactions between the States and the federal government, leading to dissention. Also, the

⁴⁷Debates of Congress, XIII, Pt. I, 778; Pt. II, 2090.

⁴⁸Richardson, op. cit., III, 282-283.

⁴⁹Hart, op. cit., XV, 291.

⁵⁰Debates of Congress, XIII, Pt. I, 729-730.

graduation was extended beyond a period when the new States would be strong enough to obtain better terms, without the complication of a contract, and the condition of a purchase.⁵¹ Senator James Buchanan, of Pennsylvania, openly assailed Calhoun's proposition as a bid for the presidency.⁵² Calhoun intended, through this measure, to effect a combination between the South and the West and to weaken the power of the federal government by giving to the states a means of making their own internal improvements and of promoting their own banking enterprises.⁵³ The proposition was rejected, only six senators besides Calhoun voting for it.

Between 1820 and the panic of 1837 the frontier crystallized its opinion that any price for the land was an imposition and the public auction was unnecessary. Special pre-emption acts became more common, and claims clubs were resorted to in many cases. The squatters, in order to meet the situation produced by the fact that Eastern speculators, or their agents, and newly arrived seekers after land, could outbid them in the auction sales, and to insure their purchase of their farms at the minimum price, banded together into Claim Associations. Here they settled their own disputes by referring them to a committee of their members, appointed one of their number to buy their claims, and, by threat of violence, prevented rivals from getting their

⁵¹Benton, op. cit., I, 708.

⁵²Debates of Congress, XIII, Pt. I, 731.

⁵³Turner, op. cit., p. 448.

land through higher bids. In a sense, the settler himself was a speculator, for he bought more land than he could farm hoping for the increase in value that would benefit his children if not himself.⁵⁴

Benton succeeded in getting his log-cabin bill through the Senate in February, 1841. It provided for general pre-emption, but was killed in the House by the Whigs. The session ended, Harrison was inaugurated and died, and John Tyler who had disapproved of both pre-emption and graduation, became President. Tyler, however, knew the financial needs of the States since the panic of 1837 and advised Congress that he would favor a distribution scheme, for the proceeds of the land sales. This was on the condition that Congress would not have to raise money in excess of the amount provided by the Compromise Tariff of 1833. Under this act the rates were to be reduced to a flat twenty per cent ad valorem after June, 1842. A resulting Distribution-Pre-emption Bill was passed 28 to 23 in the Senate and 116 to 108 in the House on September 4, 1841.⁵⁵

The western representatives demanded and secured a pre-emption amendment in much the same terms as Benton's bill that failed earlier in the year. To the settlers in the new States, including foreigners who had made the declaration

⁵⁴Turner, op. cit., p. 291.

⁵⁵Benton, op. cit., II, 243.

of their intentions to become naturalized citizens, it gave a pre-emption right in the public lands, to the amount of one quarter section, or one hundred and sixty acres. Every new State was to make a preliminary distribution of ten per cent, in addition to the five per cent allowed by compact, on the amount of the sales within the State. Then it came in for a full share of all the rest in proportion to its population. To the same new States it gave also five hundred thousand acres of land; or a quantity sufficient to make up that amount where less had been granted. Then it distributed the remainder of the land revenue to the old States and new States together in proportion to their population. It included all the States yet to be created, the territories, and the District of Columbia. With so many inducements to all sections of the country, it was assured of adoption.

Of his second principle in land legislation, that of price graduation for lands of different value and length of years in market, Benton said in his memoirs, ". . . though much pressed, graduation has not yet been established, but its justice and policy are self-evident, and the exertions to procure it should not be intermitted until successful."⁵⁶ Even when his plans for pre-emption were finally adopted, we find that he is not satisfied with the mode of accomplishing the goal.

⁵⁶Benton, op. cit., I, 11.

Benton opposed the act of 1841 because of its distribution of the public land revenues. Congress was called together to raise revenue and it seemed to him that it had begun by throwing away what it had. They had just passed a bill to borrow twelve millions, which would cost the people sixteen millions to pay and the next bill in order on the calendar was to raise by taxation eight or ten millions for the government, at the cost of eighteen or twenty to the people.

A second objection was the presence of foreign house representatives, Wilson, Palmer, Cryder, Bates, Willinck, Hope, Jaudon, etc., as lobbyists to forward the measure.⁵⁷ About two hundred million dollars were due from States and corporations to creditors in Europe. These creditors became uneasy, and wished the federal government to assume their debts. Direct assumption was not urged, but indirect, by giving the public land revenue to the States.

A clause ran in the bill that if at any time during the existence of the act, duties on imported goods should be raised above the rate of the twenty per cent on the value as provided in the compromise act of 1833, then the distribution of the land revenue should be suspended, and continue so until reduced to that rate. Then they were to be resumed. The new tariff bill of this same session con-

⁵⁷Benton, op. cit., II, 243.

tained this provision that if any duty exceeding twenty per cent of the value should be levied before the 30th day of June, 1842, it would not stop the distribution of the land revenue, as provided for in the distribution act.⁵⁸ Thus the two acts were made mutual assurers, each stipulating for the life of the other. Some Southern anti-tariff men would not vote for the distribution bill unless the compromise of 1833 was protected; and some distribution men of the West would not vote for the anti-tariff act unless the distribution bill was protected. Both acts were gone in a year. Congress was driven to raise the rates and abandon the Compromise Tariff of 1833 because of the Treasury deficits that came after the panic of 1837. A new high tariff was passed in 1842, and the distribution clauses therefore elapsed. The only part of the 1841 bill that lasted was the principle of pre-emption.⁵⁹

The act passed in 1841 put the well established practice of the pioneer into the form of law.⁶⁰ This act, however, did not satisfy the Western pioneers, who urged upon Congress the free grant of a homestead. The issue thus raised became so involved in sectional jealousies that it was not until the Civil War that the Homestead Act of May 20, 1862 was passed. This was the natural culmination of Benton's struggle for free land to the actual settler.

⁵⁸Benton, op. cit., II, 247.

⁵⁹Paxson, op. cit., p. 391.

⁶⁰R. M. Robbins, Pre-emption--A Frontier Triumph, Mississippi Valley Historical Review, XVIII, 331-349.

The Pre-emption law, however liberal it may look in retrospect, fell short of pleasing all parties concerned. One item of complaint was on the provision of the act restricting the privileges to citizens or those having declared their intentions of becoming such. Second, Pre-emption privileges were restricted to those settling on surveyed land. Third, was the exclusion from the pre-emption right of those having in their possession 320 or more acres of land in any state or territory. A bill designed to remove these restrictions was introduced in 1842. It passed the Senate by a vote of 20 to 23, but failed in the House.

One weakness in pre-emption was the advantage taken by purchasers of the opportunity to file on a piece of land, and, without payment, hold it off the market. In the act of 1843 it was provided that one person could not after once exercising the right of preemption file on a second tract.

In 1853 and 1854 acts were passed providing for the pre-emption of land previously to surveys. These acts were at the same time retroactive, but applied only to the newer states, six in number.

Not many fundamental changes were made in the pre-emption law after 1854. In 1862 it was made generally applicable, whereas up to that time it had been necessary to designate the states and territories to which it applied.

Congress in 1891 repealed the pre-emption law. The commissioner during these years was overimpressed by the fraudulent entries, and hence exaggerated the matter.

That the pre-emption act was a very important one up to the time of the homestead act there is no room for doubt. It secured the settler in his rights.⁶¹

The land question showed itself to be intimately connected with American social ideals, as well as with the economic and political interests of the rival sections.

As a whole, Benton's theory of a liberal system of land distribution was undoubtedly the correct one, and he deserves the greatest credit for having pushed it as he did.

⁶¹ Benjamin Horace Hibbard, A History of the Public Land Policies, N. Y., 1924, pp. 164-170.

SUMMARY

Although a Southerner and a slaveholder, Benton was essentially a Westerner. His statesmanship was based on the theory of a Unionist.

Benton was a pioneer in colonizing in Tennessee. He championed the settlement of the incomplete land claims, protection of the fur trade in the New Northwest, the sale of Missouri salt and mineral reserves, and a repeal of the salt tax. He advocated licensed Indian traders, trade with Mexico, the acquisition of California, and a peaceful annexation of Texas. He encouraged western roads, the removal of the Five Civilized Tribes, and the Fremont expeditions.

He fought Clay's distribution bills primarily because they were antagonistic to his Public Land Policy. He frowned upon the manipulation of the frontier land sharks and bank-note speculation.

His solution of the problem of Banking and Currency was hard money, a ratio of 16 to 1, branch mints, and an independent treasury system.

He opposed slavery because it would eventually weaken the powers of the Federal government.

In Benton, his enemies found egotism, partisanship, and a lack of any semblance to humor. His friends found gentleness, patience, and courtesy.

Benton was a leader among men, at a time when it took real men to gain the confidence of the people.

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Typists

Ysleta Bower

Geneva Carberry

Finas Sandlin