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## KEARNY AND "KIT" CARSON

AS INTERPRETED BY STANLEY VESTAL<sup>1</sup>

THOMAS KEARNY

Having read recently the brilliantly entertaining, but apparently un factual life of a supposedly famous "foe" of Maj-Gen. Stephen Watts Kearny,<sup>2</sup> the writer studied the original records of the court-martial of Lieut-Col. John C. Fremont<sup>3</sup> and other original material to investigate the truth of these alleged "facts" presented as historical by Mr. Vestal; and he turned also to tradition in the Kearny family to interpret the relations of Kearny with Carson and Fremont. Just *what were* the relations between Kearny and Carson in their famous march from Socorro, New Mexico, to San Diego, California, in the summer and fall of 1846? Upon the basis of these authoritative sources the writer must disagree with Mr. Vestal's statement and interpretation in many historical essentials.

In the first place, Mr. Vestal asserts that Kearny, when he met Carson coming from California (at Socorro on October 6) with intelligence of the conquest of California, *already* bore enmity to Carson; placing this dislike upon the grounds that "the West Pointers did not love

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1. Stanley Vestal, *Kit Carson, a Happy Warrior of the Old West*.

2. Often mis-spelled as "Kearney," and also often mispronounced. The right pronunciation has ever been "Karny." For geneological data supplied by the author, see the introduction to the letters following.—Editor.

3. Senate Ex. Doc. no. 33, 30th Congress, 1st Session.

Fremont," and again, that "Kearny's dislike for Fremont probably extended to his right-hand man 'Kit' Carson."<sup>4</sup>

Now *at that time* no friendship could have been firmer and more intimate than the friendship between Kearny and Fremont, his wife Jessie and Senator Benton (Fremont's father-in-law), or between their families; and there is no record anywhere of Kearny then bearing anything but personal regard for Carson, or Carson for Kearny.

The S. W. Kearny family were really St. Louis residents, and had been there since 1820 when Kearny, a New Jerseyman, had marched with the 6th Infantry from Plattsburgh, New York, to St. Louis and from there to Council Bluff, Nebraska; proceeding thence in 1820 to make the first journey of white men from the Upper Missouri to Camp Cold Water (later Fort Snelling, near the present St. Paul); and thence down the Mississippi River and so back to St. Louis.<sup>5</sup>

Kearny had married the step-daughter of the governor of Missouri Territory, William Clark (of the Lewis and Clark Expedition); and the Bentons, the Kearnys and the Clarks and (later, after his marriage) Fremont, during his visits to St. Louis, formed part of an intimate aristocratic society in the "capitol of the trans-Mississippi west."

Moreover, at the very moment when Kearny met Carson, the former was in the position of high command that he occupied principally because the all-powerful democratic leader, Senator Benton, had urged President Polk to appoint Kearny to the command of the "Army of the West," planned by Polk to occupy New Mexico and California; and this, despite the fact that Kearny was a whig!

And then too, Kearny was *not* a "West Pointer"! Not one of the three commanders of highest rank in the Mexican War was a West Pointer, — Taylor, Scott, nor Kearny;

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4. *op. cit.*, p. 231.

5. Kearny's *Journal*, Mo. Hist. Soc. Coll.

and the tradition of the army at that time was embodied in the persons of its chief officers.

Hence the reasons *in fact* upon which Mr. Vestal bases the alleged enmity of Kearny to Carson were unreal. Let me repeat that *at that period* the Kearnys, the Fremonts and the Bentons were bound by ties of family and personal intimacy. *Later* when Kearny lay dying in 1848 he asked Jessie to visit him, and she denied his dying request.<sup>6</sup>

Mr. Vestal then proceeds to assert that Kearny was disappointed to learn from Carson that California had already been pacified.<sup>7</sup> No word from Captain Abraham Johnston,<sup>8</sup> none from Lieutenant Emory<sup>9</sup> (the sole scribes of the expedition), and none from any other member of the expedition supports this assertion; Carson is simply represented as *so interpreting* Kearny's mind without the author stating any facts upon which Kearny, a trained army officer who had been urgently commanded by Polk, his commander-in-chief, to fulfill Polk's *dominant desire in the war* (namely, to occupy Alta California if possible before the fall of the year), is said to have felt disappointment that this dominant desire of the president had been accomplished! At least, on the record, one interpretation is as good as another; and if Kearny was true to the president's plan, he must have gone forward to fulfill the *balance of his mission*, to "take possession and to govern" the conquered province<sup>10</sup> with alacrity and resolution; and without the least scintilla of that dejection ascribed to him by Carson (in this book) who, when commandeered by Kearny, is represented as trying to escape the duty of guiding Kearny's command to California.<sup>11</sup>

Mr. Vestal now advances with Kearny and Carson to

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6. Nevins, *Fremont*.

7. *op. cit.*, p. 233.

8. Capt. Abraham R. Johnston, *Journal*, 1846 (in Emory, *Notes*.)

9. Lieut. Wm. H. Emory, *Notes of a Military Reconnaissance* (Senate Ex. Doc. no. 41, 30th Cong., 1st Sess.)

10. Kearny's orders of June 3 and 18, 1846.

11. Grant, *Kit Carson's Own Story*.

the capture "late in November," 1846, of despatches which told Kearny that "it [the conquest of California] had to be done all over again";<sup>12</sup> at this point remarking that "on first hearing of the conquest [at Socorro, October 6] Kearny had reduced his 'Army of the West' to little more than 100 men", and adding, "now he had leisure to reflect upon his folly. But Kearny pushed on. *He was as rash as he was unprepared*"!

"Late in November" Kearny was two months of forced marching from Santa Fe; and within ten days of San Pasqual where he fought *undefeated* the Mexicans under General Pico; and within twelve days' journey of Commodore Stockton at San Diego. The "folly" of Kearny would have been in *not* pushing on; and inasmuch as Kearny actually *did* arrive at San Diego, and *did* receive support from Stockton, and *did* therefore fulfill his orders by arriving in California "by the fall" (December 12), and by later commanding the forces that conquered California, and by governing the province as his peremptory, insistent and unconditional orders from President Polk directed him to do—Kearny's "folly" in not retraversing the vast stretches of territory (900 miles), bare, waterless in part, and destructive of the morale of his men, is converted into a judgment against Mr. Vestal's thought that it was "folly" in Kearny not to retreat!

But upon whose shoulders falls the "folly" of compelling a decision as to whether Kearny should, or should not, have pushed on in his "unprepared" condition? On this question there can be no doubt, for the situation was due, first, to the despatches and letters (read by Kearny at Socorro) alike of Stockton and Fremont, both then naval officers—those of the former being official and directed to the president in the person of his secretary of the navy, Mr. Bancroft, and those of Fremont addressed to Senator Benton, chairman of the foreign relations and military

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12. *op. cit.*, p. 233.

committees of the senate, and therefore quasi-official; and next, to the statements of *Kit Carson himself*.<sup>13</sup> Both the documents and the statements announced in unconditional terms that California had been conquered, the war in California ended, and a civil government established;<sup>14</sup> and it was these despatches and statements which caused Kearny to proceed to California as to a conquered province.

Only on the assumption (not to be entertained) that Carson, Stockton and Fremont had deliberately falsified the record so as to prevent Kearny from going to California and so that the sole honor might fall to Stockton and Fremont (Carson's great and staunch companions in the earlier California campaign),-only on such an assumption *should* Kearny have taken his whole command to the Pacific, and thus have disregarded his unconditional orders referred to below (but *not* referred to by Mr. Vestal).

Kearny's orders told him to take from Santa Fé only that portion of his army necessary to the objects of conquest and occupation and government, and to leave all troops not thus necessary upon the eastern front of action to hold New Mexico; Kearny being assured by his orders that troops coming around Cape Horn would await him in California.<sup>15</sup>

No one who has read the bombastic text of Stockton's despatches of August, 1846 (read by Kearny at Socorro)<sup>16</sup> can imagine the possibility of Kearny's needing to go to California "prepared" for conquest; and when Carson verbally and unconditionally confirmed to Kearny what the

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13. Kit Carson's statement as quoted by Bashford and Wagner.

14. Kearny's order of October 6, sending back two-thirds of his command. Johnston's Diary, and Kearny's report to the president, Dec. 12, 1846. Kearny writes: "Information having this day been received the necessity no longer exists for taking a considerable force to California." See also Hunt, *Hist. of Calif.*, p. 363.

15. See his orders of June 3 and 18.

16. Stockton had written these despatches after he had failed to make contact with the Mexicans with his horseless and partially clad sailors and marines. The Mexicans had fled to the hills, driving off all cattle and horses, the former the sole means of sustenance and the latter the sole means of transport on an inland campaign. Bayard, *Life of Stockton*.

wholly responsible *official* documents of Stockton and Fremont had stated, it was not a choice with Kearny of fulfilling Polk's order other than by going to California with a "mere bodyguard"<sup>17</sup> to hold and to govern the province, assisted by the troops which were to follow him overland and by those which were to await him on the coast.

Where, then, lay the responsibility of "Kearny's having leisure to reflect on his folly"? Clearly upon Carson and Stockton and Fremont who were responsible for the false statements (however innocent) which led Kearny to believe with certainty, as he *ought* to have done, that California had been conquered, a civil government established, and the war ended. As a matter of fact, *no civil government* had ever been established!<sup>18</sup>

Next we come to San Pasqual. It is an astounding fact that Mr. Vestal by implication, if not explicitly, states that there were no horses in the battle of San Pasqual except the solitary horse used by Carson, which, alas! fell, and over which Kearny's command passed, Carson successfully "getting from under"<sup>19</sup>!

But the essence of the cause of the loss of life at San Pasqual was the fact that the advance guard *was mounted on horses*, whereas the balance of the troops were mounted on the jaded mules that had survived the destructive march across the continent; the former outstripped the latter and the fleeing Mexicans, suddenly turning (but without premeditation—Vestal *contra*), attacked the advance guard and wrought the death and disability of a large portion of Kearny's command. But to the reader, not informed of the facts *extrinsic to Mr. Vestal's account*, the inference is absolute that Kearny's command, except for Carson's fallen horse, was exclusively mounted on mules! In fact, the ap-

17. Senator Benton's statement at the court-martial. Mr. Vestal avoids placing the responsibility upon Stockton or Fremont, only indicating that Kearny, in reducing his command, acted only upon the *unofficial* statements of Carson.

18. Thos. Kearny, "The Mexican War and the Conquest of California: Kearny or Stockton Conqueror and First Governor" (Cal. Hist. Soc. Quarterly, viii, no. 3).

19. Vestal, *op. cit.*, pp. 232, 234.

appropriation of this horse leaves an impression entirely unfavorable to Carson!

Mr. Vestal then goes on to say that Kit Carson was now placed in command of "the advance guard" and drove the Mexicans from the hill of San Bernardo on the day following the attack at San Pasqual. But Carson himself, who took part in both battles, state that "Captains Emory and Turner took command and charged the enemy [on the hill of San Bernardo] and routed them giving us full possession of the position."<sup>20</sup> Hence Mr. Vestal's statement that Carson *after San Pasqual* commanded the advance guard and "fought any battles thereafter that were in any way successful" does not agree with the facts, for San Bernardo was the only other battle *then* fought, and Carson says that Emory and Turner commanded! Later, in January 1847, the joint forces of Kearny and Stockton fought the batties completing the conquest, but no pretence may be made that Carson commanded at those engagements.

Mr. Vestal (following others) now remarks as evidence of Kearny's impotence to conquer, that his command was without water at San Bernardo.<sup>21</sup> But Kearny's testimony at the court-martial is undisputed on this point, and is supported by Emory. Kearny testified, "we did not have plenty of grass; but we had plenty of water which we dug for, the animals being watered once or twice a day."<sup>22</sup>

Again, Mr. Vestal claims that Carson would, if consulted, have advised against Kearny's attacking the Mexicans at San Pasqual, saying "Carson would not have walked into such a trap." The writer has examined the authorities upon which this statement is supposed to rest, and neither in Benton's quotation from Carson in his speech for days in the senate,<sup>23</sup> opposing the nomination of Kearny as brevet major-general for gallantry at San Pasqual, nor

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20. Grant, *op. cit.*, p. 81

21. Vestal, *op. cit.*, p. 236.

22. Kearny, at the court-martial.

23. Benton's speech in the senate.

in "Kit" Carson's dictated statement, recently published,<sup>24</sup> is there reference to any such attitude to Kearny being taken by Carson. On the contrary, Gillespie, recently with Carson and who had just come from Stockton, was eager to attack;<sup>25</sup> and consonant with Carson's well known contempt for the Californias,<sup>26</sup> predicated upon his recent experiences in California, basis is given for Dr. Hunt's judgment that Carson *concurred* in Gillespie's opinion and in the unanimous voice of Kearny's and Stockton's officers that an attack should be made.<sup>27</sup>

We now turn to Mr. Vestal's implicit judgment upon the unwisdom of Kearny's sending back two-thirds of his command to Santa Fé, for he speaks of the inadequacy of Kearny's preparation to hold New Mexico, resulting in the revolution at Taos. But had not Kearny, learning *officially* of the conquest and government of California, sent back Captain Sumner with 200 of the crack cavalry regiment of the army to hold that province, the troops used in speedily quelling that rebellion would not have been available. Kearny's judgment, then, in executing the president's orders, was vindicated by the events, alike in the conquest of California and in maintaining possession of New Mexico.

Mr. Vestal accords to Stockton the command of the troops which completed the conquest of California; and to Stockton and Fremont respectively the first and second governorships. Without commenting in detail upon his narrative of the events, it is to be observed that had Stockton conquered California *prior to Kearny's arrival*, undoubtedly the authority would have vested in Stockton, without orders (under the law of nations, solely governing our military and naval commanders prior to the treaty of peace) to

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24. Grant, *op. cit.*

25. Hunt, *op. cit.*, "San Pasqual;" Sabin, *Kit Carson Days*, p. 281. Stockton to Kearny. "If you see fit, surprize them."

26. Sabin, *op. cit.*, p. 281; *Bancroft's Works*, xxii, 341.

27. Sabin, *loc cit.*, Hunt, *ut supra*. Emory says: "Necessity to attack."



“KIT” CARSON

form a civil government, and to act as governor, or so to appoint Fremont.

But it is equally certain from the messages of the president and the orders to his commanders in the field that conquest and government depended upon the *actual occupation* of the enemy's territory.<sup>28</sup> This rule of international law is epitomized by the authoritative publicist Halleck in the proposition that government depends on conquest, and conquest depends on "actual occupation" and ends (as does government) immediately upon the "expulsion of the invaders."<sup>29</sup> Kearny's conquest of New Mexico was upheld on this hypothesis.<sup>30</sup> Now what were the facts as to California?

Prior to Kearny's arrival, Stockton occupied no portion of the interior south of Monterey save Los Angeles; but from that half of the province south of Monterey, including the ports and Los Angeles he was, in September, expelled by the Mexicans who, for three months, occupied it and exercised civil as well as military sovereignty. This was the situation until six weeks after Kearny's arrival, when the battles of the Mesa and San Gabriel were fought in January, 1847, which resulted in the capitulation of Coahuenga consummating the conquest.

Hence, neither conquest nor government *under our system of law* came into being until after the arrival of the expedition commanded by Kearny; and Kearny then, as the commander of the conquering forces, exercising the conqueror's right, established the *first government*, and so (with the assistance of Stockton and Fremont) became the conqueror, and the first governor, of California,<sup>31</sup>—which contravenes the thesis proposed to us by Mr. Vestal.

28. Thos. Kearny, *op. cit.*, Stockton testified: "I governed by martial law."

29. Halleck, *International Law*.

30. Ward, *In Mexico*, pp. 75, 78; *Leitensdorfer v. Houghton*, xx Howard 176 (Supreme Court); *Mechanics Bank etc.*, 89 U. S., p. 246.

31. *Cross v. Harrison* (U. S. Supreme Court). "Shortly thereafter (1846) the U. S. had military possession of all of upper California and early in 1847 the President authorized the military and naval commanders (Kearny and Schubrick) to form a civil government."

But obviously Mr. Vestal disputes<sup>32</sup> the authority of Kearny to command the expedition from San Diego to Los Angeles (December 29, 1846 to January 10, 1847) which resulted in the capitulation; a command accorded to Kearny by McElroy and other historians.<sup>33</sup>

Yet Kearny's orders read that he should "conquer and govern," and Stockton's orders *explicitly* limited him to the "occupation of the ports only."<sup>34</sup> The grave error is made by historians in *assuming* that all of Stockton's orders reached California, particularly the order upon which Professor Nevins predicates in part his justification of Fremont's court-martial,<sup>35</sup> namely, the order of July, 1846, which *did* authorize Stockton, should he conquer, to govern; but this order never reached California; therefore the only orders *then controlling* limited Stockton to the ports without authority to govern, whereas Kearny was directed to "lead an expedition to conquer and govern, and to command all the troops organized in California." It will thus be seen that Kearny, on December 29 when he claimed command of the expedition, did so with Polk's authority which excluded Stockton from inland operations and from government. And since "no officer can put himself on duty except by commission from the president" and "an army officer cannot delegate his power to a naval officer,"<sup>36</sup> Stockton's pretenses to the conquest and to the government,

32. As do Nevins (p. 326) and Bashford and Wagner (p. 251) in their recent "Lives" of Fremont, and Prof. Justin Smith, *Mexican War*. Vestal writes: "Stockton appointed Fremont, and Kearny had to yield."

33. McElroy, *Winning of the Far West*, p. 201.

34. Stockton's and Sloat's orders were dated March 21, May 5, June 24 and Oct. 17, 1845, and June 13 and 15, 1846. The July order arrived after Stockton's departure. (Commander Wainwright, Bureau of Naval Archives).

35. Prof. Nevins, and Bashford and Wagner, in saying that Fremont was *technically* in the *navy* in January, 1847, fail to distinguish between the "California Battalion of Mounted Riflemen," a *naval* organization of which Fremont was *major*, and the "Regiment of Mounted Rifles," an *army* organization of which he was lieutenant-colonel! Fremont *abandoned* the navy upon receiving his army commission in *October*, 1846; and so wrote Kearny on January 13, 1847, saying he was present with 400 "Mounted Rifles," signing himself "Lt-Col., Regiment of Mounted Rifles." (See record of court-martial, *ut supra*).

36. Letter of Adj. Gen'l Robert C. Davis to the author.

as well as Fremont's claims to government based on Stockton's delegation to him of void powers, are without foundation in the law of nations or in military or naval law which alone governed the situation affecting these officers. Kearny commanded the expedition which completed the conquest.<sup>37</sup>

The Smithsonian Institution at Washington finely celebrates in a tablet presented by a relative of Past Midshipman Beale the "defeat" of Kearny at San Pasqual and the rescue of Kearny's beleaguered command on the hill of San Bernardo; and the legend on the tablet exalts Beale and Carson as Kearny's saviors from annihilation when these two heroic men (and an Indian not named in the legend or in the exploit!) passed thru the Mexican lines and told Stockton at San Diego of Kearny's predicament.<sup>38</sup> Evidently Mr. Vestal concurs in this judgment, alike of defeat and of rescue, but he goes beyond the epitomized account as given by the narrative on the tablet and pronounces repeatedly that Lieutenant Godey, sent by Kearny on the day of the battle of San Pasqual to seek reinforcements from Stockton (the "conqueror" and "governor" as his and Fremont's despatches had informed Kearny, confirmed by Carson who must *now* have seen the "folly" of his false prophecy!)—that Godey "failed" in his mission. Mr. Vestal's words are: "Godey *and others* had failed; maybe Kit would make it," and Mr. Vestal does make Kit "make it," but in so doing he contradicts the facts of history.<sup>39</sup> For Carson *did not cause* the despatch of the relief expedition; it had already left when Carson reached San Diego! and it was the heroic Godey who *did*, reach Stockton, and *did* communicate to him Kearny's plight, and *did cause* Stockton to set in motion the forwarding of the relief force; and

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37. McElroy, *op. cit.*, p. 201; Latané, *American Foreign Policy* (ed. 1929): "Kearny completed the conquest." As to Kearny commanding the combined forces, see *War Dept. Records*. The *Naval Records* are silent.

38. The inscription by the donor may be changed to meet modern opinion.

39. Vestal, *op. cit.*, p. 236; he also says that Godey "was captured within sight of the hill" en route to San Diego.

then it was the Indian who, arriving at San Diego hours before Beale or Carson, quickened Stockton to hurry forward the relief already set in motion thru Godey's arrival two days before; leaving to Beale the office of accelerating Stockton's action. So that when Carson arrived, the command had already left San Diego several hours earlier. So much for Godey's "failure".

Neither Carson, Beale nor the Indian returned to Kearny. Neither did Godey. But if the return constitutes the test of "failure," the mission of Carson, Beale and the Indian was likewise a failure. But the preparation and sending of a relief expedition was the object of success, and, Mr. Vestal to the contrary notwithstanding, Lieutenant Godey, the Indian and Beale succeeded where Carson "failed" — to use Mr. Vestal's term and interpretation. But it is eminently unfair so to treat Carson's mission, for it was he who allocated to himself and to the Indian, expert mountainmen, the most difficult route, leaving to Beale the "easier way", — a way which required, even in Beale, unparalleled heroism!

Stockton's sworn testimony<sup>40</sup> supporting these historical facts, states that Mr. Stokes, sent by Kearny, "returned to San Diego on December 6th and reported that early on the morning of that day Kearny had been worsted at San Pasqual. The next day (Dec. 7th) Lieut. Godey 'came in express' from Kearny . . . suggesting the propriety of despatching, without delay,<sup>41</sup> a considerable force. I supposed I would be obliged to send the whole force I could spare. My preparations were accordingly made, and the advance was directed to leave San Diego with two pieces of artillery for the mission at seven o'clock on the evening of Dec. 9th where I intended to join them next day. About the time the advance was ready to start,<sup>42</sup> an Indian coming from Kearny's camp stated that he left there in com-

40. Stockton's despatches, in 29 *Cong. H. Ex. Doc.* 4.

41. Stockton delayed for three days. Why?

42. Ready, therefore, thru Lieut. Godey's action.

pany with Carson and Beale, and the intelligence brought me by the Indian as to Kearny's condition was such that I thought it was necessary to send him immediate aid;<sup>43</sup> and at ten o'clock Mr. Beale (*sic*) came to San Diego, and as he confirmed the worst accounts Capt. Gray hurried off to Kearny's aid."<sup>44</sup> Carson did not arrive until several hours later, after its departure. It is plain that not only had Stokes and Godey succeeded (and Godey's two companions, as Stockton swore), but also the Indian and Beale had succeeded where the great Carson, by his act of generosity had "failed," as Mr. Vestal would measure it by his test. In justice to Godey and the Indian these facts of history should be vindicated!

Many historians, not differentiating between two localities ten miles apart, have fallen into the error made by Mr. Vestal in pronouncing San Pasqual a defeat. But the official reports of the engagement at San Pasqual must force upon us the correctness of the dicta by Professor McElroy and Professor McCormac that San Pasqual was a victory with severe losses for Kearny's "bodyguard."<sup>45</sup> For after the sudden right-about face and attack by the Mexicans resulting in a great loss of life and in many casualties, the balance of Kearny's force with two pieces of artillery came into action, and the Mexicans fled from the field.

Quoting from Kearny's report from San Diego on December 12 and from his testimony at the court-martial and from Emory's history of the engagement, Kearny remained in possession of the field and buried the dead; Dr. Griffin succored the wounded and prepared crude ambulances to transport them; Lieutenant Godey was despatched to Stockton; and on the next day Kearny, accompanied by the wounded, advanced *ten miles* to the hill of San Bernardo, which he occupied after driving off the forces of

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43. All, so far, done on the news conveyed by the "failure" of Godey.

44. With the whole relief force.

45. McElroy, *op. cit.*, p. 200; Hunt, *ut supra*; McCormac, *Polk*, 443; and to like effect see Channing, McMaster, Schlesinger.

the enemy. It is plain, therefore, that the engagements at both these points were certainly not defeats; indeed, since the objectives were achieved, they must be held to have been victories.

And it will never be known whether Kearny could have reached San Diego without aid from Stockton; for aid did arrive. But if we may give weight to General Pico's statement after the battle of San Pasqual, there is abundant evidence that the Mexicans had not the least intention, as Mr. Vestal would have it, of "ambushing" or luring into a false position the American forces, or even of attacking them at all, either at San Pasqual or at San Bernardo; for General Pico "a few weeks after the battle stated that he had *not intended* to make a fight; that his charge was a *pure accident*,"<sup>46</sup> and Bancroft adds: "that no attack was made on Kearny's camp at San Bernardo is easily understood; the Californians being averse to charging up hill against cannon ball!" Kearny having advanced without opposition on the 7th, the evidence points to a like advance to San Diego as reasonably to be expected.

However, Kearny did remain (whether compelled to do so, or voluntarily, to protect his wounded) on the hill of San Bernardo until the arrival of Stockton's relief command, — under the following conditions (rarely mentioned) as sworn to by Kearny and uncontradicted by any witness, altho the most determined effort was made to show that Kearny was powerless to reach San Diego or to conquer California, thus leaving the conquest to Fremont and Stockton, — an effort illustrated by Mr. Vestal who asserts (against Kearny's testimony) that Kearny had no water on that famous hill<sup>47</sup> and illustrated, too, in the efforts of many of the earlier writers to adjudge San Pasqual a defeat.

"The battle of San Pasqual," swore Kearny, "was

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46. *Bancroft's Works*, xxii, 353, citing Botello, *Anales del Sur*, MS. 154-156.

47. Vestal, p. 236.

fought on the 6th. We proceeded on the 7th *on the march to San Diego*. When near San Bernardo, the enemy attempted to get possession of a hill. We marched towards it to prevent them getting it, and drove them from it and occupied it."<sup>48</sup>

Continuing to show that Kearny felt that his ten mile advance of the 7th towards Stockton (who was now less than 3 miles away) could be duplicated and the enemy caught between the two commands, Kearny swore: "On the morning of the 8th when we were *nearly ready to move*, the mules being placed in front of the rough ambulances upon which we were to carry our wounded, the doctor"<sup>49</sup> reported to me that proceeding at that time and in that way before the wounded could be placed in the saddle would endanger the lives of the wounded. I accordingly gave directions that we should remain there. On the 10th I stated to the doctor and others that we would leave the next day, the wounded being able to go in the saddle, *which we accordingly did*, Lieutenant Gray of the Navy with a gallant detachment of sailors and marines having come into camp the night of the 10th," the enemy nowhere appearing, and "arriving at San Diego on the 12th."

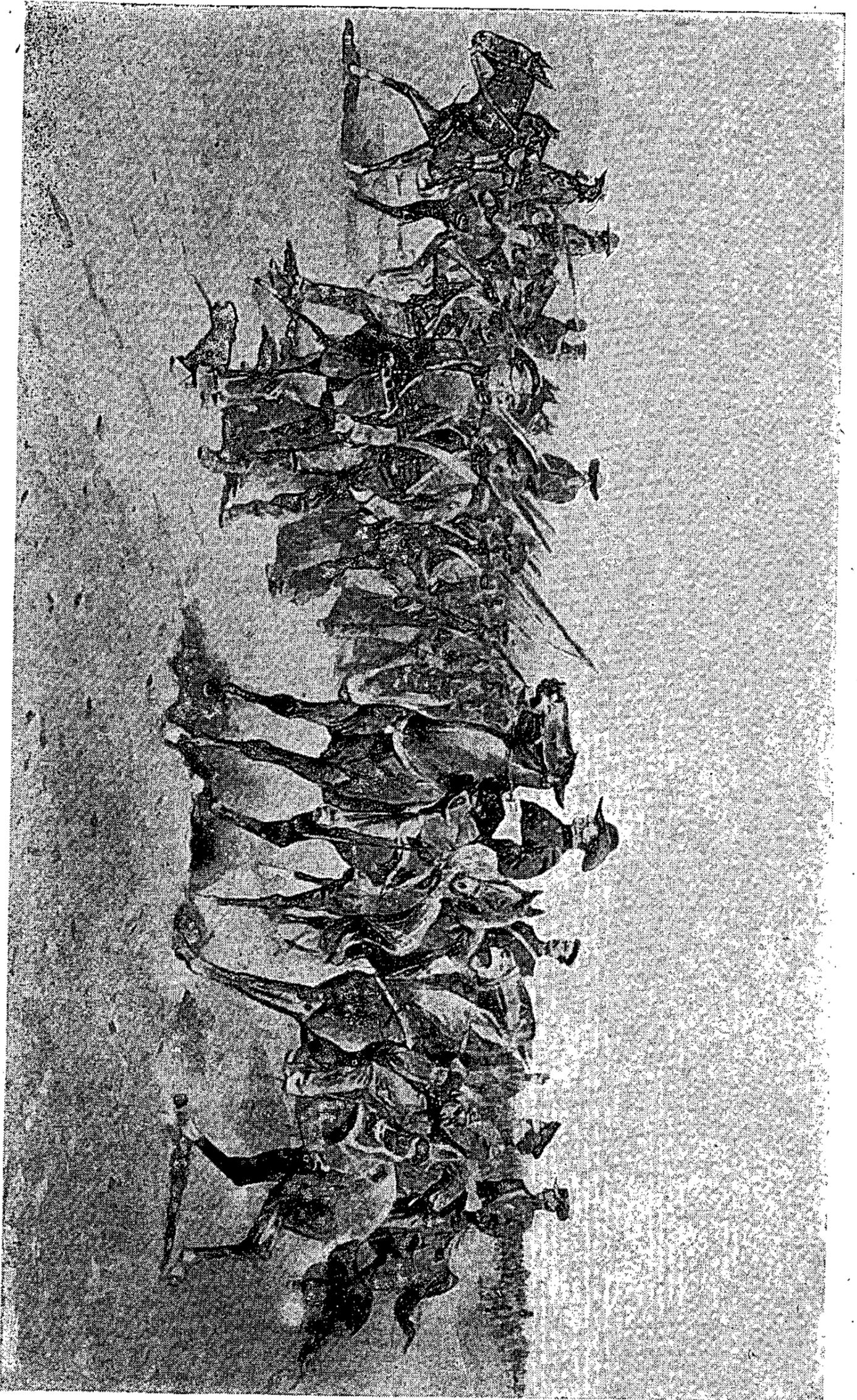
Thus from the narrative taken from the *uncontradicted* sworn reports in one of the bitterest trials in American legal history, no support can be found for the alleged facts that Kearny was defeated at San Pasqual or at San Bernardo; on the contrary he was victorious, or certainly undefeated, in each of these engagements. The evidence shows that not only was Kearny *ready* to advance on the 8th (as he had advanced ten miles on the 7th) but he had actually *given orders so to do*, deferring them only at the advice of the doctor to protect the wounded, and when that protection had been made effective and without knowing that Beale's mission had been successful and that Stockton's re-

48. Senate Ex. Doc., *ut supra*.

49. Dr. Griffin; also Emory (entry of Dec. 8th): "Decided to wait till wounded could be placed on horse back."

lief force was approaching, Kearny gave orders to advance against a foe which (if Pico's statement is true in principle for that point of time, as it had been true at San Pasqual) did not intend to impede his progress. Both Kearny and Emory swore that they thought, as did the other officers, that the force could have "cut its way through to San Diego."

Mr. Vestal attacks Kearny's "folly," "rashness" and "incompetence" in a most vitriolic fashion. Recognizing that the facts alone could substantiate his characterizations or negative them, the writer has placed the original records beside the facts as Mr. Vestal has presented them. Alike Carson and Beale and Kearny will suffer nothing from the real facts of history, and they would want nothing else; and in the case of that honorable man and brave soldier, General Stephen Watts Kearny, the "defeat of fame" — the inevitable consequence to him if Mr. Vestal's version of events were to stand unchallenged — will be obviated by the facts; in short by *history!* Incidentally, the lowly Indian and the brave Godey may also be given the credit which is rightly their due — also by history, as distinct from partisanship or historical fiction.



KEARNY CROSSING THE PLAINS