March 6th 1858

His Excelency Joyette McMullen

Governor of Washington Territory

Sir. At your request I proced to make a plain ~~Brief~~ brief Statement of the part I took in the exciting Matter of Martial Law It is true as has been suggested the whole truth does not appear in the published accounts of that transaction The only promonent preps of the Territory at that time was under the control and in the interest of the governor and gave but one side of the case. The facts then are briefly these I was sick at home at the time My court was to have been held at Steilacoom I requested judge Lander to hold my court which he did or attempted to do And as to how his court court was broken up and he made a prisner you have already learned But as you are anxious to know the particular part I took in the transaction I will say that at the request of the members of the bar I went to Steilacoom as soon as My health allowed me and did up such business as could be done at "Chambers" while Mortial Law was still in force On arriving at Steilacoom I learned that an effort would be Mode to arrest me and break up My court and make me a prisner as was done with judge Lander but I determined to stand upon my rights and prosecute

by duty regardless of consequences & accordingly ordered the Sheriff to summon from the body of the county fifty men to protect the court which was done The men appeared in court in obedience to the summons. ~~but~~ as to how well they were armed or whether they were armed at all I could not tell they had no arms that were visable but I was assured by one of the Dept Marshals that they were armed and I had no reason to doubt but what a pitch battle would take place and I was fully determined to depend my self with My life & believed I was in the discharge of my duty and was willing to risk My life in it Capt Curtis with thirty Men were sent from Camp Monomery to arrest me Capt Curtis on finding that I had a strong posse sent back for a reinforcement. and I applied to Col Cozzy of U. S. A. for troops to protect me The Col declined to furnish them at that time but intimated that a state of things might arise in which he should interfere and remarked that he would go and talk with Capt Curtis which he did and the result was Capt Curtis withdrew his men and the court was not disturbed and on that night Martial Law was abrogated The business transacted that day was the hearing of a cause in Admiralty Dunn and others vs the Steamer Waterlily and the granting attachments in the Matter of the Habeas for the body of Edward Lander the justice and others the opinion given in that case you have seen

on the following day the attachments were returned
by him Col Benjamin F Shaw before me and as
he refused to make the return according to law
I committed him to Prison and ordered the Marshal
to Keep him in close confinement without bail until
he made the return As Martial law had now been
abrogated and ~~as~~ Gov Stevens seeing I was determined
to enforce the law he addressed me a respectful
note asking me to dispose of the matter by a fine or
accept bail in Col Shaws case and allow him
to return to his command This letter was so different
from the haughty and dictatorial language that had
been held ~~to the Chief justice and in relation~~
~~to the courts~~ up to that Time that I determined
do what I could to comply with the request
for which I was determined to do my duty I did
not wish to widen the breech between the
judiciary and the executive So I informed Col
Shaw that if he would order the prisners to be
turned over to me and give Me his parole of honor
to appear at the next term of the District Court
and submit to such orders as I might then make
I would discharge him to which he agreed and was
discharged I May be allowed here to State briefly the
reasons why I think and have alway thought there was
no Manner of necessity for Martial Law As far as I
could see the Indians were conquered at the time especially
those on the west side of the Mountains The people had
began to feed Grain and return to their farming and
other occupations in the Country

the reasons assigned by Governor Stevens for this extreme measure have been so various and contradictory as to show clearly that it was a desperate struggle to save a sinking cause The reason that has figured most prominent is that previous to Martial law the enemy could not be found but that afterwards they were "frequently struck and readily subdued." Now where are the facts to support any such argument as this The only two battles that were ever fought in Pierce or Thurston Counties were the battles of White River & the one on Connells prairie both of which were fought before the proclamation of Martial law (I respectfully call your attention to Governor Stevens report of these battles) No engagement of any description took place after the proclamation of Martial law except the little party Met by Major Maxon that only numbered 5 or 6 men & some women in which the Major killed a portion of this small party and took the remainder prisoners whether this argument is good for any thing or not I will not pretend to say but one thing I can say that the facts on which it proposes to be founded are not true Again at the time Martial law was proclaimed these suspected persons were in prison at Steilacoom -five in number- Pierce & Thurston Counties are both placed under Martial Law both boys and populous counties embracing at least one third of all the inhabitants of the Territory Now why could not these prisoners have been taken to the head quarters at Camp Montgomery

and have been placed with the same Guard ~~over them~~ that was placed over Judge Lander and other Citizens that were held as prisons and if Martial Law was necessary for the safe keeping of those prisons it could have been confined to the camp & need not have interfered with the people Generally There was a large number of troops employed in enforcing Martial law in the two counties for no other purpose than to prevent the escape of these prisons Now who can honestly say that this was necessary! Who will say that these men could not have been just as safely kept at Camp Mayonney's And that if Martial law was necessary at all it was only necessary to extend over the camp that contained the prisons

Again did Governor Stevens Know that these suspicious persons would be released! he surely had no reason to think so if there was evidence of their guilt would it not have been better to have waited and seen whether the District court was likely to discharge them He could have had his troops near the court house door and if they were improperly discharged could have arrested them again The Governor complains of no distemper in the community at large or any general treasonable plott Simply these five persons labored under suspition The people did not seek to screen them if guilty The people all had one common interest in subduing the Indians and

and in protecting themselves Those six are the principal facts of case

~~the deborment stand I took note~~

~~the Lawyer~~ My determined enemy & one told he solemnly swore he would hoist me to the counter and shoot me where potts & crapied And the manner he has followed me since shows how sincere he was when he said it

I might refer you to the correspondence with the Secretary of State under the former administration for a more full exposition of the matter

I am Sir very respectfully
your obedient Servant
T A, Chenoweth

From
T A Chenoweth
Expelled by Brattleboro
March 1838

205

Chenoweth

Transcription

Letter from Judge F. A. Chenoweth to Governor Fayette McMullen, March 6, 1858.

Words or letters in ( ) indicate uncertainty of transcription.
Words with ~~strikethrough~~ indicate that the words were crossed out in the original.

Leaf 1 – blank
Leaf 2 - blank
Leaf 3

March 6th 1858

His Excellency Fayette McMullen
Governor of Washington Territory

Sir. At your request I proceed to make
A plain ~~Brief~~ brief, statement of the part
I took in the exciting Matter of Martial
Law It is true as has been suggested the whole
truth does not appear in the published accounts
of that transaction The only permanent press of
the Territory at that time was under the control
and in the interest of the Governor and gave
but one side of the case. The facts then are
briefly these I was sick at home at the time
my court was to have been held at Steilacoom
I requested Judge Lander to hold my court which
he did or attempted to do and as to how his court
court was broken up and he made a prisoner you
have already learned But as you are anxious
to know the particular part I took in the transaction
I will say that at the request of the members
of the bar I went to Steilacoom as soon as
my health allowed me and did up such business
as could be done at "Chambers" while Martial Law
was still in force On arriving at Steilacoom
I learned that an effort would be made to
arrest me and break up my court and make me
a prisoner as was done with Judge Lander but I
determined to stand upon my rights and (pursue)

Leaf 4

my duty gardless of consequences ~~so~~ I accordingly ordered the Sheriff to summon
from the body of the county fifty men to protect
the court which was done The men appeared in
court in obedience to the summons. ~~And~~ as to how
well they were armed or whether they were armed
at all I could not tell They had arms that
were visible but I was assured (by) one of the Dept
Marshals that they were armed and I had no
reason to doubt but what a pitch battle would take
place and I was fully determined to defend my self
with my life I believed I was in the discharge
of my duty and was willing to (risk? wrisk?) my life in it
Capt Curtis with thirty men were sent from
Camp Montgomery to arrest me Capt Curtis on
finding that I had a Strong posse sent back
for a reinforcement. And I applied to Col Casey
of U.S.A. for troops to protect me The Col declined
to furnish them at that time but intimated that
a state of things might arise in which he should
interfere and remarked that he would go and
talk with Capt Curtis which he did and the result
was Capt Curtis withdrew his men and the court
was not disturbed and an that night Martial
Law was abrogated The business transacted
that day was the hearing of a cause in Admiralty
Dun and others vs the Steamer (Waterlily) and the
granting attachments on the matter of the Habeas
for the body of Edward Lander (to) justice and others
The opinion given in that case you have seen

Leaf 5

an the following day the attachments were returned
(by him?) Col Benjamin F Shaw before me and as
he refused to make the return according to law
I commited him to prison and ordered the Marshal
to keep him in close confinement without bail until
he made the return As Martial law had now been
abrogated and ~~as~~ Gov Stevens ~~saw~~ seeing I was determined
to enforce the law he addressed me a respectful
note asking me to dispose of the matter by a fine or
accept bail in Col Shaws case and allow him

to return to his command This letter was so different
from the haughty and dictatorial language that had
been held ~~to the chief justice and in (relation)~~
~~to the courts~~ up to that time that I determined
do what I could to comply with the request
for while I was determined to do my duty I did
not wish to widen the breech between the
judiciary and the executive So I informed Col
Shaw that if he would order the prisoners to be
Turned over to me and give me his parole of honor
to appear at the next term of the District Court
and submit to such orders as I might then make
I would discharge him to which he agreed and was
discharged I may be allowed here to state briefly the
reasons why I think and have always thought there was
no manner of necessity for Martial Law As far as I
could see the Indians were conquered at the time especially
those on the west side of the mountains The people had
began to feel secure and return to their farming and
other occupations in the county

Leaf 6
The reasons assigned by Governor Stevens for
this extreme measure have been so various and
contradictory as to show clearly that it was a desperate
struggle to save a sinking cause The reason that
has figured most prominent is that previous to
Martial law the enemy could not be found but
that afterwards they were "frequently struck and readily
subdued" Now where are the facts to support any
such argument as this The only two battles that
were ever fought in Pierce or Thurston Counties
were the battles of White River & the one on
Connels Prairie both of which were fought before
the proclamation of martial law (I respectfully call your
attention to Governor Stevens report of these battles)
No engagement of any description took place
after the proclamation of martial law except the
little party met by Major Moxon that only
numbered 5 or 6 men & some women in which
the major killed a portion of this small party and
took the remainder prisoners Whether this

argument is good for anything or not I will not
pretend to say but one thing I can say that the facts
on which it ~~is~~ professes to be founded are not true
Again at the time martial law was proclaimed these
suspected persons were in prison at Steilacoom
- five in number - Pierce & Thurston counties were
both placed under martial law both large and populous
counties embracing at least one third of all the inhabitants
of the territory Now why could not these prisoners have
been taken to the head quarters at Camp Montgomery

Leaf 7

5th page

and been placed under the same guard ~~over there~~
~~this~~ that was placed over Judge Lander and
after citizens that were held as prisoners and
if martial law was necessary for the safe keeping
of the prisoners it could have been confined
to the camp & need not have interfered with
the people generally There was a large number of
troops employed in enforcing martial law in the two
counties for no other purpose than to prevent the
release of these prisoners Now who can seriously say
that this was necessary! Who will say that these men
could not have been just as safely kept at
Camp Montgomery! And that if martial law was
necessary at all it was only necessary to extend over
the camp that contained the prisoners
Again did Governor Stevens know that these suspected
persons would be released! He surely had no reason
to think so if there was evidence of their guilt
would it not have been better to have waited and
seen whether the District Court was likely to discharge
them He could have had his troops near the court
house door and if they were improperly discharged
could have arrested them again The Governor complains
of no distemper in the community at large or any
general treasonable plot Simply these five persons
labored under <u>suspition</u> The people did not seek to
screen them if guilty The people all had one
common interest in subduing the Indians and

Leaf 8

and in protecting themselves These sir are the (?)
facts of the case ~~The determined stand I took made the Governor my determined enemy I am told he solemnly swore he would "nail me to the counter and show me whose path I crossed" And the manner he has followed me since shows how sincere he was when he said it~~

I might refer you to the correspond-
dence with the Secretary of state under the former
administration for a more full exposition of the
matter I am Sir very respectfully
your obedient servant
F. A. Chenoweth

From
F. A. Chenoweth
regard to Martial Law
March 1858