

FRANKLIN, BENJAMIN C. - Rev. Homer S. Thrall (Pictorial History of Texas, pp. 519, 520, 521) prints a detailed account of the trip made by Captain Robert J. Calder, Judge B. Franklin and two others from the San Jacinto battlefield to Galveston, after the battle.

FRANKLIN, BENJAMIN CROMWELL - Born in Georgia April 25, 1805, the eldest of seven children born to Abedenge and Mary Graves (Cleveland) Franklin. He was educated at Franklin College, Athens, Georgia and was admitted to the bar in 1827, beginning his practice at Macon as a partner of Charles J. McDonald, who in 1839 was elected Governor of Georgia. In 1835 he left for Texas arriving at Velasco April 16th, and shortly afterward joined an expedition against Indians. In December, 1835 at a public meeting at Columbia he was among those who favored the immediate declaration of war against Mexico. On April 7, 1836 he was commissioned a captain in the Texas army by President David G. Burnett but not assigned to the command of any company at San Jacinto he fought as a private in Captain Robert J. Calder's company. For this service he on May 26, 1838 was issued Donation Certificate No. 220 for 640 acres of land. He received Bounty Certificate No. 3124 for 320 acres for having served in the army from March 5 to May 5, 1836.

On April 23, 1836, Secretary of War, Thomas J. Rusk, directed Captain Franklin to proceed to Galveston Island and inform President Burnet and his cabinet of the glorious victory at San Jacinto. He was accompanied by Captain Calder and the two, with two soldiers detailed to accompany them, set out in a skiff propelled by oars. Galveston was not reached until the morning of the fifth day.

Judge Franklin had the distinction of being the first man to hold a judicial position in the Republic of Texas. The "Pocket", a brig owned by a citizen of the United States and sailing under

American colors was in March, 1836 captured by the "Invincible", a Texas armed schooner commanded by Captain Jeremiah Brown. Realizing that the affair might alienate the sympathy of the United States, the Government of Texas took immediate steps to have the matter thoroughly investigated. The judiciary not having been organized, the government created the judicial district of Brazoria in which to try the case and President Burnet appointed Mr. Franklin district judge. The exact date of his appointment has not been ascertained but it was prior to June 15, 1836. The position was tendered to James Collinsworth April 12th but was declined.

The following is quoted from "The Case of the Brig Pocket" by G. T. Neu in the Texas Historical Quarterly, Volume 12: "

"On April 12, Burnet wrote to Collinsworth:

"A Prize has been brought to Galveston by Captain Brown. The government has passed a decree to establish the district court.---- We want an able judge in the district where the trial must take place. Will you then accept the office of district judge for the district of Brazoria?

"But it seems that Collinsworth did not accept the position, for on June 15 we find Burnet writing to Judge Franklin as follows:

"The ordinance establishing the district court for the district of Brazoria and your appointment under that ordinance were measures produced by the present exigency of the country which required the action of a tribunal of admiralty jurisdiction. The capture of the Pocket produced that exigency, and the principal object of the early

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organization of your court was that the questions arising from the capture might be promptly and equitably determined, for it was known that the capture would produce great excitement in the United States. Several weeks have elapsed and no proceedings have as yet been had on that important subject. The character of Texas and her interests are daily suffering and the evils admit of no relief but by a just abjuration at your bar."

On December 20, 1836 Judge Franklin was appointed Judge of the Second (Brazoria) Judicial District by President Houston. A copy of his commission is recorded in the record book of the Harris County District in the County Clerk's office, Houston. This appointment automatically made him a member of the Supreme Court of the Republic, of which James Collinsworth was elected Chief Justice. He held his first court at Brazoria March 27, 1837. He resigned from this position November 29, 1839, and moved to Galveston to practice his profession.

Judge Franklin represented Galveston County four terms in the Legislature, and was chairman of the judiciary committee during the whole of his legislative career. At the outbreak of the Civil War he was too old for military services and was suffering from rheumatism. He retired to a small farm near Livingston, Polk County, until 1870, when he returned to Galveston. Governor E. J. Davis appointed him commissioner to revise the laws of Texas, but the appointment was promptly declined.

Judge Franklin returned to Georgia in 1837 and on October 31st of that year he was married to Eliza Carter Brantly in Milledgeville.

Mrs. Franklin was a daughter of Reverend and Mrs. William T. Brantly, a Baptist minister of Charleston, South Carolina. Mrs. Franklin died September 24, 1844. On November 3, 1847, Judge Franklin was married to Estelle B. Maxwell of Illinois, who was in Galveston visiting at the home of her cousin Michael B. Menard. Judge Franklin died unexpectedly December 25, 1873 after several weeks of illness not thought to be serious. He is buried in a marked grave in City Cemetery No. 1 in Galveston. Franklin County, Texas and Franklin Street in Houston were named in his honor.

After the death of her husband, Mrs. Estelle Franklin returned to her former home in Illinois to live.

Children of Judge Benjamin C. and Eliza C. (Brantly) Franklin were (1) Robert Morris and (2) Sidney Johnston Franklin.

(1) Robert Morris Franklin was married to Sarah F. Shields. Their children were (a) Carrie, (b) Benjamin Robert (c) Sidney Johnston (d) William Brantly (e) Martha Ann, (f) Benjamin (g) Sidney, (h) Eliza, (i) Leonidas Franklin and three children who died in infancy.

(a) Carrie Franklin was married to Charles Milton Kemp, deceased, and resides at 2206 Park Street, Houston. Her children are Franklin Buchanan Kemp, 1614 California Street, Houston; Robert Edwin Kemp, 1612 Wheeler Street, Houston; and Mrs. Sarah Kemp Jackson, 2206 Park Street, Houston.

(b) Benjamin Robert Franklin resides at 7324 Sysamore Street, New Orleans.

(2) Sidney Franklin was never married.

H of R 3rd Congress -- 5th Congress

Dec. 11, 1838 Nomination Chief Justice. Rusk, Birdrall, John
A. Wharton. Joint session. no one elected.

The following was first printed in the Macon (Georgia) Telegraph and reprinted June 14, 1836 in the Southern Recorder. The Southern Recorder is in the files of the University of Georgia. A copy from it was made for Dr. Samuel E. Asbury of College Station Texas.

"Extracts of a letter written by Benjamin C. Franklin, of Texas to a gentleman in this city, dated

Velasco, May 13, 1836.

"Our army numbered seven hundred and eighty men; I believe the enemy about twelve hundred. We lost four killed on the field, and thirteen wounded, of whom four have died. The enemy lost over six hundred killed on the field, the rest of the army taken prisoners - among the killed thirty-eight officers from the General down, including the President of the Mexican Government, General Santa Anna, Gen. Cos, two other Generals, and Col. Almonte, &c. The enemy are retreating from the country. Santa Anna and his aid and secretary, and Col. Almonte, are prisoners at this place, the rest at Galveston Island. The cabinet have not yet determined what shall be done with the prisoners. I have been much in company with Santa Anna, because I wished to know and understand the man who has been of all parties, from the most liberal to the most despotic. He is a consummate flatterer, and readers character at a glance. If he is detained here, or if his execution is ordered; in either event we have nothing to fear from Mexico; they cannot in several years, even if united at home, raise another army to invade Texas. Texas, by the the Constitution, is divided into three Judicial Districts: the three District Judges,

with one Chief Justice, form the Supreme Court of Texas, which has only appellate jurisdiction-- the Judge who decides the case in the Circuit Court not having a voice in the Supreme Court.

Among the volunteers from Macon who were killed were the following:

William Ward, Brad. Fowler, Hunt, Thomas Freeman, Samuel Brown, Marion Vigal, Joseph Stovall, Washington Cummings, James Hughes and his two sons Wiley and Westley Hughes, Robert Pace, Hugh Minor, from Perry, Houston county, Francis Brooks, Joseph Wilson, James McKensey, John Moat, John O. Moore, James Calahan, Capt. Winn, from Gwinnett, Capt. Wadsworth. I am uncertain as to the fate of Watkins Noble. Wm. L. Wilkerson is living, and is kept a prisoner. Pierce Hammack and Stewart have escaped.--"