

The Dispersal of the Topeka Legislature

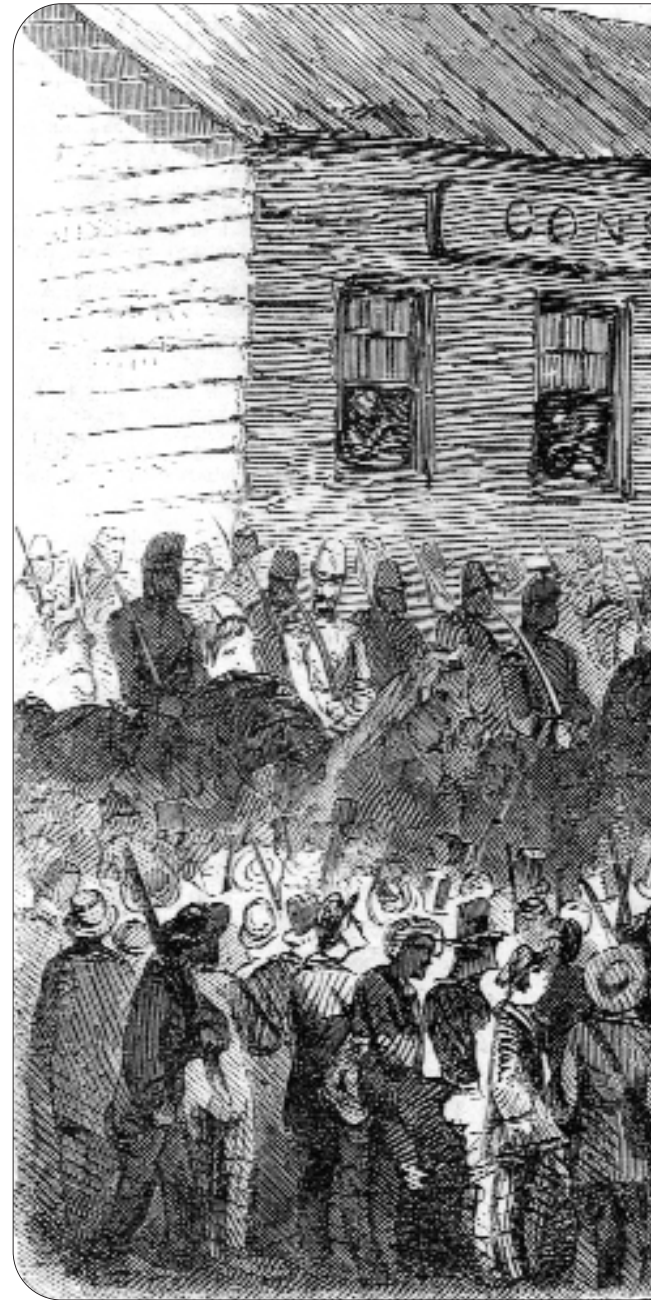
A Look at Command and Control (C2) During Bleeding Kansas

by Tony R. Mullis

This is the most painful duty of my whole life.

—Colonel E.V. Sumner, First Cavalry

Much has been written on the significance of Kansas in understanding the political crises of the 1850s. James Malin, Alice Nichols, James Rawley, and Michael Holt are among the many who have addressed the political, economic, and social issues related to Bleeding Kansas.¹ Francis Paul Prucha, Edward Coffman, Robert Coakley, and Durwood Ball have expanded the discussion to address the army's role in Kansas and its mission on the western frontier. Few, however, have taken a detailed look at how the army functioned as a peacekeeping force during those turbulent years in territorial Kansas.² And no one has offered an explanation

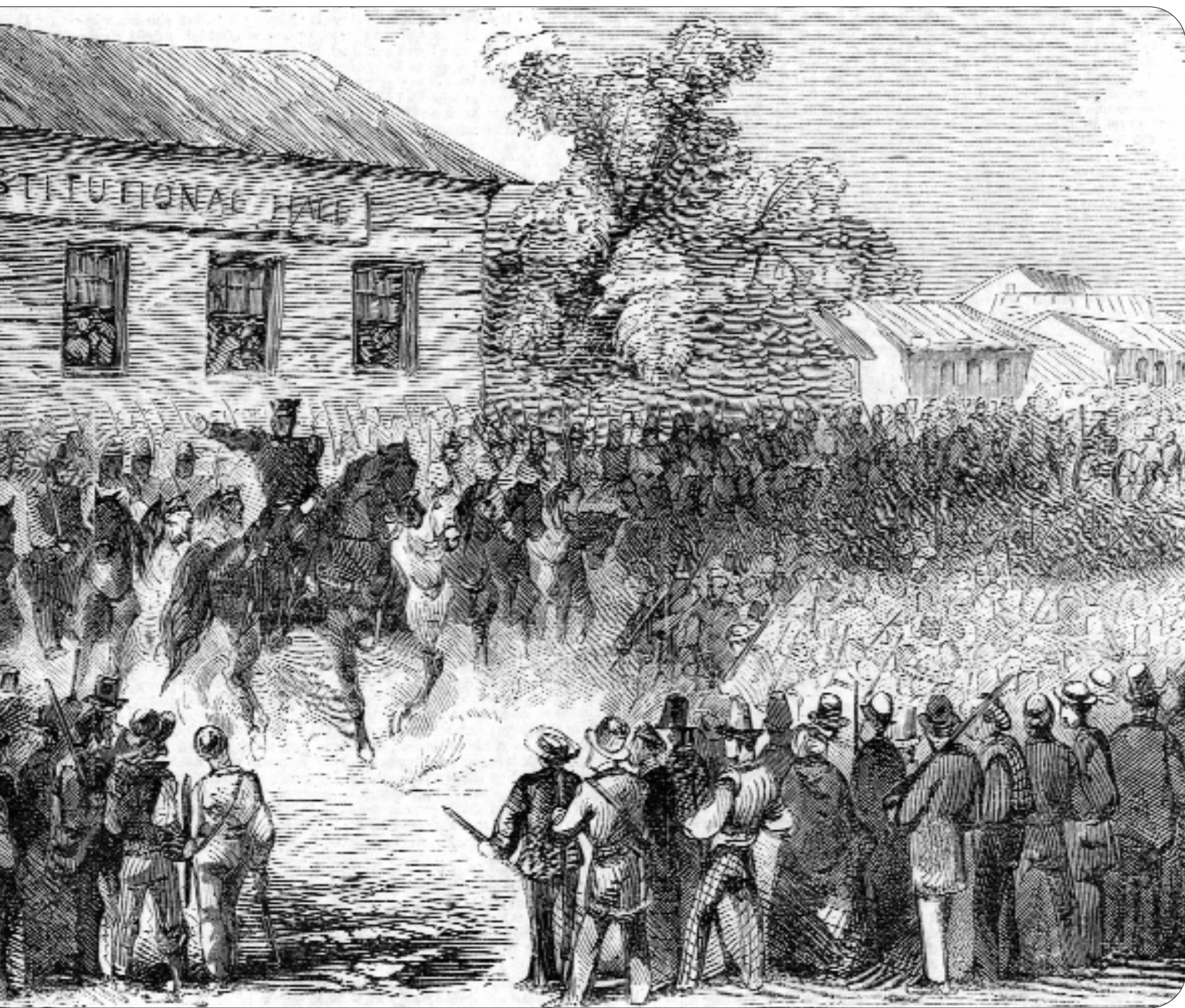


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1. Examples include James C. Malin, *John Brown and the Legend of Fifty-Six* (1942; reprint, New York: Haskell House Publishers, 1971); Michael F. Holt, *The Political Crisis of the 1850s* (New York: W. W. Norton and Co., 1978); James A. Rawley, *Race and Politics: "Bleeding Kansas" and the Coming of the Civil War* (Philadelphia: J.B. Lippincott Co., 1969); Alice Nichols, *Bleeding Kansas* (New York: Oxford University Press, 1954). For an excellent analysis of the ideological and economic issues associated with Bleeding Kansas, see Gunja SenGupta, *For God and Mammon: Evangelicals and Entrepreneurs, Masters and Slaves in Territorial Kansas, 1854–1860* (Athens: University of Georgia Press, 1996); Nichole Etcheson, *Bleeding Kansas: Contested Liberty in the Civil War Era* (Lawrence: University Press of Kansas, 2004). For a superb historiography of Bleeding Kansas, see Gunja SenGupta, "Bleeding Kansas: Review Essay," *Kansas History: A Journal of the Central Plains* 24 (Winter 2001–2002): 318–41.

2. "The role of the military in Kansas territorial history, puzzlingly, has been largely ignored," observes Dale Watts in "Plows and Bibles, Rifles and Revolvers: Guns in Kansas Territory," *Kansas History: A Journal of the Central Plains* 21 (Spring 1998): 42. See Francis Paul Prucha, *Broadax and Bayonet: The Role of the United States Army in the Development of the Northwest, 1815–1860* (Lincoln: University of Nebraska Press, 1953); Prucha, *Sword of the Republic:*

Kansas History: A Journal of the Central Plains 27 (Spring–Summer 2004): 62–75.



Colonel Sumner and troops dispersing the free-state legislature in Topeka, July 4, 1856.

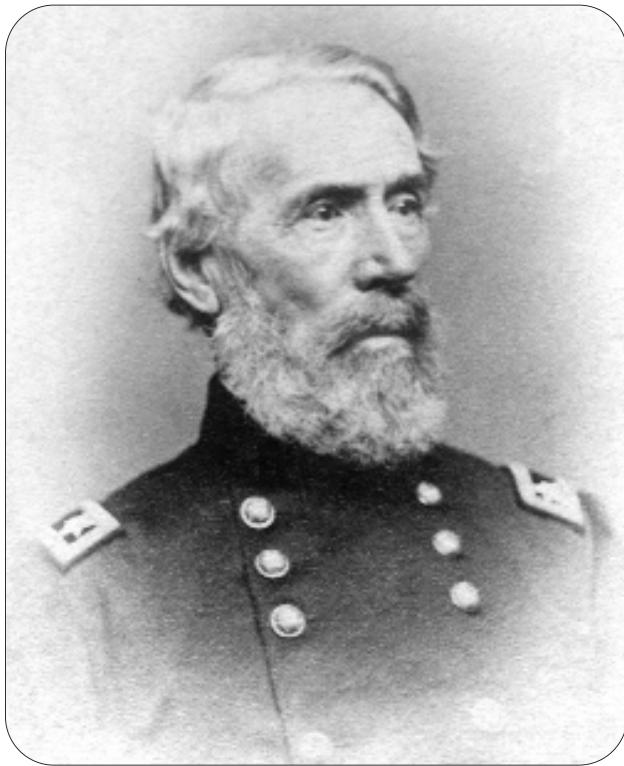
of how the federal government controlled army operations from Washington or how existing communication capabilities helped or hindered President Franklin Pierce's attempt to construct a temporary peace in Kansas. An analy-

The United States Army on the Frontier, 1783–1846 (London: Macmillan Co., 1969); Edward M. Coffman, *The Old Army: A Portrait of the American Army in Peacetime, 1784–1898* (New York: Oxford University Press, 1986); Durwood Ball, *Army Regulars on the Western Frontier, 1848–1861* (Norman: University of Oklahoma Press, 2001). For an excellent example of a historian who has looked at the army's role in peacekeeping, see Robert W. Coakley, *Role of Federal Military Forces in Domestic Disorders, 1789–1878* (Washington, D.C.: U.S. Army, Center of Military History, 1988).

sis of the army's dispersal of the free-state legislature in Topeka on July 4, 1856, sheds light on these issues.

The Topeka dispersal is particularly instructive because it demonstrated many of the frustrations and problems related to the use of federal troops as peacekeepers. Pierce's use of the regular army to enforce what many Americans perceived to be "bogus" territorial laws was politically risky. To use military force to disperse a peaceable assembly of American citizens was even more hazardous. If Franklin Pierce really wanted to make popular sovereignty the preferred solution to the slavery extension

question without blatantly violating his hands-off approach to territorial affairs, why did the army forcibly disperse the Topeka legislature? If Pierce and the Democrats were willing to use the army to pacify Kansas before the 1856 national elections, how did they plan to control those forces? If pacifying Kansas was so critical, why was it so difficult to use existing communication capabilities to fa-



The loyal and dedicated Colonel Edwin V. Sumner became the "man in the middle" of the Topeka incident in July 1856.

ilitate better command and control (C2)? Last, given the political sensitivity associated with Bleeding Kansas, why was the existing communications process not more responsive to political and military necessities?

An examination of the territory's most senior military officer's understanding of the president's intent and an analysis of existing C2 processes offers one explanation.³

3. The phrase "commander's intent" or "president's intent" is used throughout this article to reflect the Pierce administration's desired outcome regarding the Kansas question. Commander's intent usually reflects written or verbal guidance detailing why military force is authorized and for what purpose. The communication means (mails, telegraph, special messengers) employed in relaying that intent constitute part of the command and control (C2) process.

When Colonel Edwin V. Sumner first began moving forces to Topeka on June 28, 1856, he believed that his initiative was justified by the guidance he had received from those civilian authorities empowered to direct his actions—the president, Franklin Pierce; the secretary of war, Jefferson Davis; and the territorial governor, Wilson Shannon. Basing his decision on piecemeal guidance received since the so-called Wakarusa War of December 1855, Sumner concluded it was imperative that he use federal troops to prevent this "illegal legislature" from meeting.⁴ The consequences of this decision, however, generated severe political repercussions. It also illuminated the difficulties civilian officials in Washington had in communicating their political and military objectives to military subordinates, and it highlighted the Pierce administration's failure to employ modern technology to facilitate more effective C2.

Colonel Sumner was the proverbial "man in the middle" of the Topeka incident. The colonel was a loyal, dedicated, yet occasionally petulant officer from Boston, Massachusetts. He received his commission directly from civilian life in 1819 and had served with distinction since. He was brevetted twice for gallant conduct during the Mexican War and served admirably as the military governor of New Mexico in 1852.⁵ Based on his experience, the army could not have chosen a more qualified individual to lead federal troops in Kansas. Unfortunately for Sumner, his vast knowledge of territorial affairs would not serve him well in the politically sensitive and potentially explosive situation that evolved in Kansas between the conclusion of the Wakarusa War in December 1855 and the convening of the Topeka legislature on July 4, 1856.

Sumner's civilian counterpart was Governor Wilson Shannon. The governor was a staunch Democrat, native Ohioan, former congressman, and former minister to Mexico. Shannon's breadth of experience proved fortuitous in December 1855 when he employed his diplomatic skills to prevent a pitched battle between free-state elements and proslavery forces near the free-state stronghold of Lawrence. Before Shannon negotiated the armistice, however, he had asked Colonel Sumner to send the First U.S. Cavalry to separate the opposing factions before hostilities began. Lacking written orders from the president, Sumner

4. Wilson Shannon to Edwin V. Sumner, June 23, 1856, "Governor Geary's Administration," *Kansas Historical Collections, 1886–1888* 4 (1890): 422–23; Sumner to Daniel Woodson, June 28, 1856, *ibid.*, 446; Woodson to Sumner, June 30, 1856, *ibid.*, 447.

5. Memorandum for Mr. Childs, November 29, 1940, Sumner Family Papers, Manuscript Division, Library of Congress, Washington, D.C.

was reluctant to comply with the governor's petition. Without the army to impose peace, Shannon telegraphed the president for authority to use federal troops when conflict appeared likely. Pierce was empathetic but denied the governor his request.⁶ In sum, the Wakarusa War significantly influenced Shannon's and Sumner's views on how to handle future crises in the territory. Now painfully aware of the volatility of the situation they faced, the two concluded it would be necessary to field a strong but impartial police force to avert similar outbreaks of violence.

By January 24, 1856, Pierce had changed his mind regarding the use of the army in Kansas. The president acknowledged that federal force was necessary to uphold the law and suppress insurrectionary activities within the territory. The president's altered policy was no doubt related to his condemnation of the free-state legislature as treasonable.⁷ Subsequently, Pierce issued a proclamation that revealed both his frustration with the Kansas problem and his intent to take action. He insisted "all persons engaged in unlawful combinations against the constituted authority of the Territory of Kansas, or of the United States, to disperse and retire peaceably to their respective abodes." If "unauthorized bodies"—the free-state legislature and the New England Emigrant Aid Society—continued to interfere in the local affairs of Kansas, he threatened the use of local militia and, if necessary, federal troops to maintain the legitimacy of the existing, duly recognized territorial government.⁸ With this proclamation, Pierce had committed himself to a military solution to a largely political problem. If the president and the Democratic Party were to achieve their primary political objective of making popular sovereignty

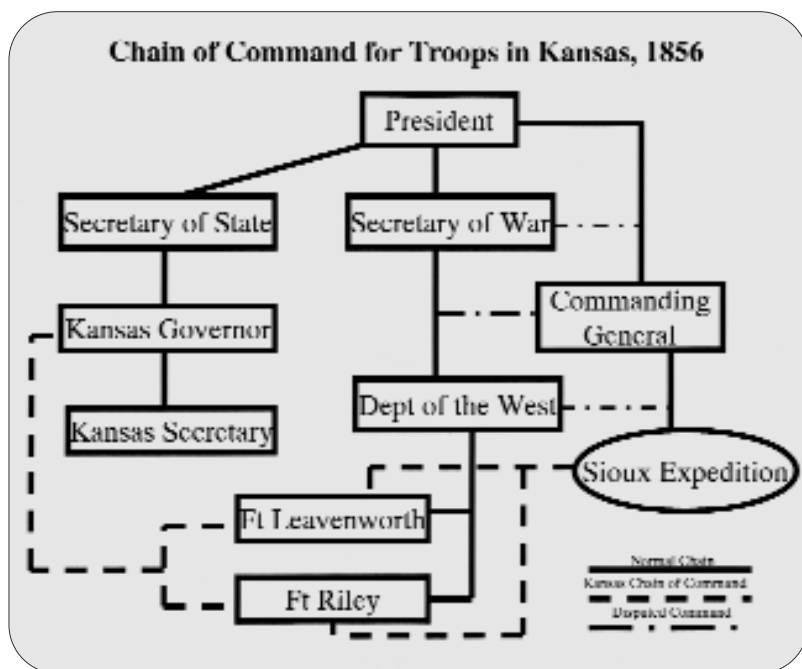
6. Wilson Shannon to Edwin Sumner, December 1, 1855, Daniel Woodson Collection, Library and Archives Division, Kansas State Historical Society; Shannon to Sumner, December 4, 1855, *ibid.*; Coakley, *Role of Federal Military Forces in Domestic Disorders*, 148–49; see also John H. Gihon, *Geary and Kansas* (Philadelphia: C. C. Rhodes, 1857), 59; Shannon to Franklin Pierce, December 11, 1855, 34th Cong., 3d sess., 1855, H. Ex. Doc. 1, serial 893, 63–64. For more on Governor Shannon, see "Biography of Governor Wilson Shannon," *Kansas Historical Collections, 1883–1885* 3 (1886): 279–83.

7. James D. Richardson, ed., *A Compilation of the Messages and Papers of the Presidents, 1789–1897* (Washington D.C.: Government Printing Office, 1897), 5: 358.

8. Coakley, *Role of Federal Military Forces in Domestic Disorders*, 150; see also Allan Nevins, *Ordeal of the Union, vol. 2, A House Dividing, 1852–1857* (New York: Scribner's Sons, 1947), 444; D. W. Wilder, *The Annals of Kansas* (Topeka: Kansas Publishing House, 1886), 91.

work, they realized that federal power, in the form of the army, would be necessary to make it happen.

Four days after Pierce's proclamation, Secretary of War Jefferson Davis dispatched official orders to his field commanders: Colonel Sumner at Fort Leavenworth and Lieutenant Colonel Philip St. George Cooke at Fort Riley. He provided the following guidance:

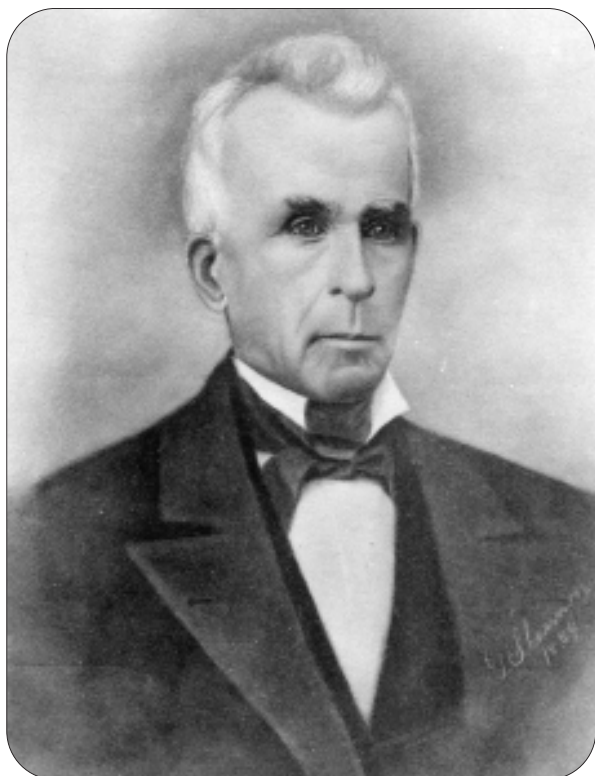


Complicating matters was an uncertain chain of command providing piecemeal, and at times contradictory, guidance for Colonel Sumner.

If, therefore, the governor of the territory, finding the ordinary course of judicial proceedings and powers vested in the United States marshals inadequate for the suppression of insurrectionary combinations or armed resistance to the execution of the laws, should make requisition upon you to furnish a military force to aid him in the performance of that official duty, you are hereby directed to employ for that purpose such part of your command as may in your judgment consistently be detached from their ordinary duty.⁹

9. Jefferson Davis to Edwin Sumner and Philip St. George Cooke, February 15, 1856, 34th Cong., 1st sess., 1856, Sen. Ex. Doc. 97, serial 823, 2; John Baltzly Garver Jr., "The Role of the United States Army in the Colonization of the Trans-Missouri West: Kansas, 1804–1861" (Ph.D. diss., Syracuse University, 1981), 2: 571; see also Coakley, *Role of Federal Military Forces in Domestic Disorders*, 150–51; Marvin Ewy, "The United States Army in Kansas Border Troubles, 1855–1856," *Kansas Historical Quarterly* 32 (Winter 1966): 389; Gihon, *Geary and Kansas*, 72.

Davis's instructions confirmed Shannon's authority to use regular troops but detailed the limits placed on the governor's authority. The governor could only request the army to perform two operations—suppress insurrectionary combinations and counter armed resistance to the execution of law. Davis's intent was clear, but his written guidance was ambiguous. Both Pierce and Davis desired



In June 1856 Governor Wilson Shannon instructed Colonel Sumner to disperse the assembly of an illegal body, "peacefully if you can, forcibly if necessary."

to pacify Kansas and to affirm the popular sovereignty doctrine espoused in the Kansas–Nebraska Act, and both saw the army as a last resort to achieve those objectives. Despite the clarity of the popular sovereignty objective, significant questions remained regarding the army's instructions. What exactly constituted an "insurrectionary combination," and, perhaps more important, who was to make that determination?

Between the mid-February flurry of guidance and the dispersal of the Topeka legislature, several events further complicated Sumner's understanding of what his superiors wanted him to do. In March 1856 the colonel asked the War Department for clarification on what constituted an "insurrectionary combination." More specifically, Sumner

asked if "all armed bodies, coming either from Missouri or from a distance, north or south, are to be resisted whatever their proposed objects may be, and made to relinquish their military organizations, and pass in to the territory as peaceful citizens."¹⁰ If this was Davis's intent, Sumner thought it was a sound policy because it should keep all armed bodies out of the territory and minimize the opportunity for conflict. Davis, however, did not mean for the army to disarm all armed bands entering Kansas. He reminded Sumner that

the question as to where the men may come from, or whether armed or unarmed, is not one for the inquiry or the consideration of the commanding officer. It is only when armed resistance is offered to the laws and against the peace and quiet of the territory, and when under such circumstances, a requisition for military force is made upon the commanding officer by the authority specified in his instructions, that he is empowered to act.¹¹

The message was clear. Under no circumstances was Sumner to take the initiative to disarm armed bodies without direction from higher authorities. The territorial governor could make such a request but only if "armed resistance" occurred. There was to be neither a preemptive assault nor a concerted effort to prevent potentially hostile persons or groups from entering the territory. Further, Sumner was not authorized to determine who or what constituted an insurrectionary combination; only the territorial governor could make that judgment. The army was not to be used as a police force but was to be employed only when appropriate civil authorities had exhausted all other options. Since Shannon possessed the authority to call upon federal troops when he determined an insurrection to exist, Sumner had to defer to the governor's authority in such matters. Civilian control of these delicate peacekeeping operations was paramount.

Such was the state of affairs when the infamous "sack of Lawrence" occurred on May 21, 1856. Shannon did not call upon federal troops to intervene until after Sheriff Samuel Jones and his proslavery posse had destroyed two newspaper facilities and burned the Free State

10. Edwin Sumner to Adjutant General, March 8, 1856, 34th Cong., 3d sess., 1856, Sen. Ex. Doc. 10, serial 878, 1–2; see also Coakley, *Role of Federal Military Forces in Domestic Disorders*, 151.

11. Samuel Cooper to Edwin Sumner, March 26, 1856, 34th Cong., 1st sess., 1856, Sen. Ex. Doc. 97, serial 823, 3.

Hotel. By then, of course, it was too late to use the army. Shortly after the sack of Lawrence, John Brown and his followers perpetrated the massacre of five proslavery settlers near Pottawatomie Creek. As a result of these two incidents, the territory edged closer to the precipice of civil war. On the heels of these territorial crises—and the earlier caning of Senator Charles Sumner—came the Democratic National Convention that convened in early June. Pierce's bid for re-nomination did not withstand Bleeding Kansas and "Bleeding Sumner." The Democrats instead chose a presidential candidate untainted by the recent violence. Although rejected by his party, Pierce remained committed to the Democrats' cause.

While Pierce and the nation awaited additional news from the territory, Congress took the initiative and offered a proposal to resolve the violence in Kansas. The basic strategy of Senator John J. Crittenden's June 10 resolution was to send the army's commanding general, Lieutenant General Winfield Scott, to the beleaguered territory. Legislators hoped that Scott, armed with virtual dictatorial powers, could bring peace. For the Democratic leadership, however, this alternative simply was out of the question. Davis hated Scott and probably resented the suggestion that the irascible old general could handle military affairs in Kansas better than he. Moreover, Pierce could not stomach sending a Whig to Kansas, especially one he had defeated for the presidency in 1852, and it was likely that he resented congressional interference in what was an executive branch concern.¹²

In response to the Crittenden Resolution, Davis offered a rather interesting counterproposal at a June 16 cabinet meeting. He suggested that the army be withdrawn from the territory altogether. Kansas residents could resolve their concerns without federal interference, and the army could do what it was established to do—punish recalcitrant Indians and protect vital lines of communication. Davis's argument was congruent with Pierce's original policy of federal noninterference in territorial affairs; however, the president had long ago abandoned that position. Pierce rejected Davis's proposal and opted to maintain the present course. He was firmly committed to resolving the

Kansas issue with military force, although specifics on when and how much remained undetermined.¹³

While the national leadership debated the territory's fate, Shannon and Sumner pursued a preventative strategy that exceeded the parameters of Davis's original guidance but offered a pragmatic solution to the escalating violence. Representative of this strategy, Sumner advised his military superiors in late June that he had stationed five companies near the proslavery community of Westport, Missouri. Sumner explained his intent to "indicate plainly to all that the orders of the president and the proclamation of the Governor will be maintained."¹⁴ Sumner's "show-of-force" operation clearly was outside the limits of Pierce's and Davis's earlier guidelines. Civilian authorities had not taken the lead in dispersing these armed bands entering Kansas from Missouri nor had they encountered any resistance to the execution of the law. Since Pierce and Davis apparently were pleased with the results, however, Sumner received no reprimand for going beyond the scope of his original instructions.

With territorial affairs relatively calm, Shannon informed Sumner on June 23 that he was leaving the territory for about ten days, heading to St. Louis on official business. He expressed concern over the possibility of the free-state legislature convening in Topeka on July 4 and instructed Sumner to disperse the group if it tried to meet. "Two governments cannot exist at one and the same time in this Territory in practical operation; one or the other must be overthrown; and the struggle between the legal government established by Congress and that by the Topeka convention would result in civil war." Shannon surmised that "[s]hould this body reassemble and enact laws, (and they have no other object in meeting,) they will be an illegal body, threatening the peace of the whole country, and therefore should be dispersed." Shannon told Sumner he should disperse the assembly "peacefully if you can, forcibly if necessary."¹⁵ Shannon also assured Sumner, per

12. "Crittenden Resolution," *Congressional Globe*, 34th Cong., 1st sess., 1856: 1381–95. See Roy F. Nichols, *Franklin Pierce: Young Hickory of the Granite Hills* (Philadelphia: University of Pennsylvania Press, 1958), 474.

13. Nichols, *Franklin Pierce*, 474. For Shannon's views on Davis's suggestion to withdraw the troops from Kansas, see Edwin Sumner to Wilson Shannon, June 23, 1856, "Governor Geary's Administration," 423.

14. Edwin Sumner to Assistant Adjutant General, Department of the West, June 23, 1856, *ibid.*, 444–45; Sumner to Samuel Cooper, June 23, 1856, Letters Received, Adjutant General's Office, roll 547, M567, RG 94, National Archives, Washington, D.C.

15. Wilson Shannon to Edwin Sumner, June 23, 1856, "Governor Geary's Administration," 422–23.

the latter's request, that civil authorities would be present to legitimize his actions. Additionally, if Sumner needed reinforcements, Shannon directed him to ask Acting Governor Daniel Woodson to provide them from Fort Riley. Shannon's orders and intent were clear. The Topeka legislature was an illegal body whose existence threatened the territorial government's legitimacy; it could not be allowed



Even though President Franklin Pierce believed he had given specific guidance regarding military involvement in Kansas politics, he failed to appreciate the complex nature of effective command and control.

to meet. If it did, war between the competing factions might erupt. Given Washington's guidance and Pierce's and Davis's tacit approval of Sumner's preventative strategy, Sumner saw no reason why he should not carry out his orders.

On June 28 Sumner ordered Major John Sedgwick and two companies of the First U.S. Cavalry to Topeka to prevent the scheduled free-state meeting. Sumner notified Acting Governor Woodson of the troop's movement and his sanction of the operation. "[T]hat body of men," Sumner explained, "ought not to be permitted to assemble."

The colonel believed, like Shannon, that if the Topeka legislature convened, civil war could erupt. He also was cognizant of the need for civil authorities to take the lead in dispersing the legislature and advised Woodson of how he wanted to proceed. "In this affair," Sumner instructed Woodson, "it is proper that civil authorities should take the lead."¹⁶

Sumner himself had not planned to go to Topeka but changed his mind when Woodson asked him to participate. Woodson also informed the colonel that he had ordered Lieutenant Colonel Cooke to send forces from Fort Riley to aid in the Topeka operation and to interdict any hostile forces approaching the free-state community from the north. Judge Sterling Cato of the territorial supreme court would be there as well.¹⁷ Additionally, Woodson told Sumner that he had requested the presence of U.S. District Attorney A. J. Isaacs to implement the "necessary legal procedures."¹⁸ As Sumner readied for his journey, he notified the War Department of his plans and sent copies of the acting governor's orders by mail. Two hours before he departed, Sumner sent another note to Washington outlining his course of action for this "difficult and delicate operation." "I shall act very warily," Sumner informed the War Department, "and shall require the civil authorities to take the lead in the matter throughout. If it is possible to disperse [the free-state legislature] without violence it shall be done."¹⁹

Shortly after his arrival, a committee of free-state men asked Sumner his intentions. He responded on July 3, telling them that their assembly would endanger the "peace of the country." Sumner suggested that they not meet on the fourth as planned. If they attempted to do so, "the general government should be compelled to use coercive measures to prevent the assemblage of that Legislature."²⁰ Ironically, as Sumner tried in vain to dissuade the freestaters from meeting, the U.S. House of Representatives voted to admit Kansas into the Union under the free-state

16. Edwin Sumner to Daniel Woodson, June 28, 1856, Letters Received, Adjutant General's Office; see also Leverett W. Spring, *Kansas: The Prelude to the War for the Union* (Boston: Houghton, Mifflin and Co., 1885), 130.

17. Judge Rush Elmore rather than Judge Cato attended the event.

18. Daniel Woodson to Edwin Sumner, June 30, 1856, "Governor Geary's Administration," 447.

19. Edwin Sumner to Samuel Cooper, July 1, 1856, *ibid.*, 446; see also Spring, *Kansas: The Prelude to the War for the Union*, 131.

20. Edwin Sumner to Free State Committee, July 3, 1856, in Gihon, *Geary and Kansas*, 45-46; see also Spring, *Kansas: The Prelude to the War for the Union*, 132.

constitution. The U.S. Senate, dominated by Democrats, rejected the House's action.²¹ Political tensions associated with the Kansas issue threatened the nation's existence on the eve of its eightieth birthday. Sumner's actions in distant Kansas could have grave repercussions if they were not handled appropriately.

Although many of its key leaders were absent for fear of being arrested for treason, the free-state legislature attempted to convene as intended. In response, U.S. Marshal I. B. Donalson read Woodson's proclamation forbidding the illegal assembly. He followed Woodson's edict with a recitation of Pierce's February 11 proclamation. Some freestaters complied, but others ignored Woodson's proclamation and attempted to assemble. Once the legislature tried to convene, Sumner felt obliged, as he explained to the War Department, "to march my command into the town, and draw it up in front of the building in which the Legislature was to meet."²² The colonel first dispersed the free-state house of representatives. He "informed them that under the proclamation of the President, he had come to disperse the Legislature, which duty, though the most painful of his life, he was compelled to perform even if it should demand the employment of all the forces in his command."²³ Once members of the lower house departed peaceably, he then dispersed the upper house. In accordance with his understanding of his commanders' intent, the policy and guidance issued from Washington, and his own preventative strategy, Sumner had accomplished his mission. He had reinforced the legitimacy of the territorial legislature while maintaining peace and preventing civil war. In light of his apparent success, Sumner could not have anticipated the political impact of his actions in Washington when news of the dispersal arrived on July 10.

In his after-action report Sumner recalled how, under Woodson's direction, he had prevented the Topeka government from meeting without spilling the blood of his fellow citizens. With the Topeka issue behind him, he sought additional guidance regarding General William S. Harney's

earlier requisition for troops to support peacekeeping operations along the Oregon Trail. Sumner had heard nothing since his initial May 28 query to the War Department. If he did not receive any guidance soon, he planned to support Harney's manpower request and leave Kansas affairs to the territorial government. Sumner's concluding remarks left the impression that life in the army would return to more traditional activities. He was wrong.

Even before the political fallout of the Topeka incident had reached its climax, the new commander of the Department of the West, Brigadier General Persifor F. Smith, had placed Sumner on extended leave. Although Smith saw nothing improper regarding Sumner's action at Topeka, many perceived the colonel's leave as a punishment for inappropriate conduct. According to Lieutenant Colonel Joseph E. Johnston, commanding officer at Fort Leavenworth, Sumner left the fort "in high dudgeon." And, Johnston stressed, Sumner regarded himself as "ill-used by an ungrateful administration." The colonel's sixty-day holiday began on July 15.²⁴ Davis did not see Sumner's July 7 report on the Topeka incident until the nineteenth. He read Sumner's account of the dispersal and forwarded several questions regarding the incident, expressing concern that the colonel's actions were unauthorized. Davis demanded a solid justification from Sumner in light of his earlier guidance.

Ironically, Sumner answered Davis's query before receiving the secretary's letter. Davis's inquiry did not reach Fort Leavenworth until after Sumner had departed for New York. Either Davis was unaware of Sumner's extended leave and his departure from Kansas, or he intended to delay Sumner's response long enough for the political clamor in Washington to subside. Sumner learned of Davis's concerns by reading an account of the Senate's recent proceedings. He wrote to Davis stressing his complete impartiality during his tour of duty in the territory and vehemently denied having usurped the peoples' right to assemble. His command had targeted only the "illegal" legislature, dispersing it in accordance with the direct orders of the acting governor, the wishes of Governor Shannon, and his interpretation of the president's proclamation.²⁵ Sumner, a loyal and dutiful soldier of thirty-seven years, was only doing what he firmly believed was his profes-

21. Arthur M. Schlesinger Jr., ed., *The Almanac of American History* (New York: G.P. Putnam's Sons, 1983), 269.

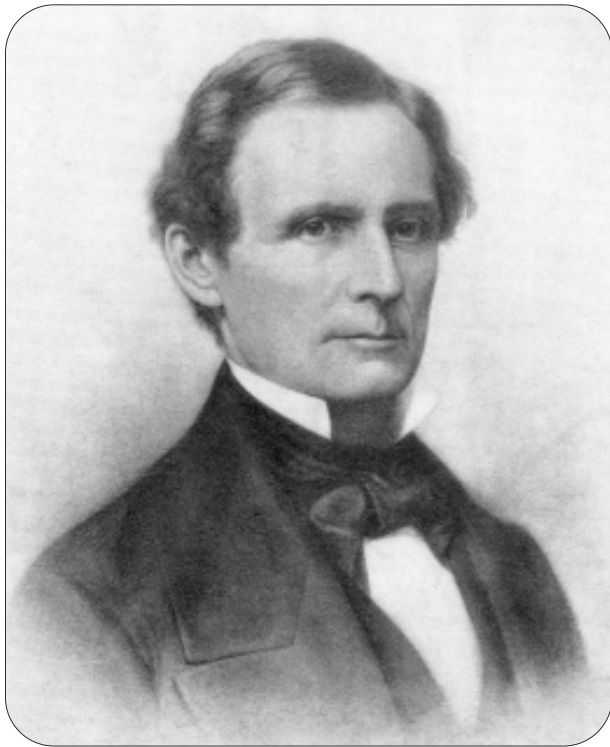
22. Edwin Sumner to Samuel Cooper, July 7, 1856, "Governor Geary's Administration," 448–49.

23. Gihon, *Geary and Kansas*, 46; see also Spring, *Kansas: The Prelude to the War for the Union*, 135; William Phillips, *The Conquest of Kansas by Missouri and Her Allies* (Boston: Phillips, Sampson and Company, 1856), 404.

24. Joseph E. Johnston to George B. McClellan, August 10, 1856, McClellan Papers, Library of Congress; Returns from U.S. Military Posts, 1800–1916, Fort Leavenworth, July 1856, M617, RG 94.

25. Edwin Sumner to Samuel Cooper, August 11, 1856, "Governor Geary's Administration," 450–51.

sional duty. But Sumner's August letter was of little consequence. On July 21 the Senate had asked the president to provide information relative to any instructions "issued to any military officer in command in Kansas to disperse any unarmed meeting of the people of that Territory, or to prevent by military power, any assemblage of the people of that territory."²⁶



Although Secretary of War Jefferson Davis congratulated Colonel Sumner for preserving order, Davis did not explain to the Senate that Sumner acted with the War Department's full approval.

Of course there were no orders from Washington that specifically addressed what the Senate asked. Jefferson Davis forwarded three pieces of correspondence he believed relative to the Senate's request. These were Davis's February 15 letter to Sumner and Cooke, March 26 response to Sumner's request for clarification, and May 23 approval of Sumner's course of action. In sum, the February 15 letter stressed the use of proper civilian authority prior to any army involvement. If resistance to civilian authority occurred—and only after it occurred—then the

26. Franklin Pierce to the Senate of the United States, August 4, 1856, 34th Cong., 1st sess., 1856, Sen. Ex. Doc. 97, serial 823, 1.

territorial governor could call upon the military to aid in the execution of the law or to suppress insurrectionary combinations. The March 26 letter echoed earlier guidance that "only when armed resistance is offered" could federal troops be used. The last letter congratulated Sumner for his zeal to "preserve order and prevent civil strife." But Davis's key point stressed that Sumner had accomplished his mission "in the manner specified in [his] instructions." What Davis's correspondence failed to explain to the Senate was the War Department's implicit approval of Sumner's preventative strategy to disperse armed bodies and to suppress insurrectionary combinations before any violence occurred.

Sumner, Shannon, and Woodson all considered the Topeka legislature to be "insurrectionary." Given their assessment and despite the fact that no "armed resistance" had taken place on July 4, Sumner intervened only when the free-state assembly failed to heed the acting governor's proclamation. Sumner used his soldiers as a last resort to implement the orders of the civilian rulers appointed over him. Nonetheless, Davis's response to the Senate coupled with Sumner's extended leave gave the appearance that the latter had exceeded his authority in Topeka. Moreover, Sumner's extended leave amounted to what appeared to be a "graceful disciplinary action."²⁷ The colonel became the scapegoat for the administration's use of federal troops to disperse a peaceable assembly of American citizens. But were viable alternatives available given the C2 processes of the day? If Pierce and Davis had made known their disapproval of using federal troops to prevent an anticipated crisis, why was Sumner allowed to disperse the free-state legislature? Could Pierce or Davis have used the existing telegraph system more effectively to control military actions in Kansas?

Undoubtedly, Pierce and Davis wanted to pacify Kansas as quickly and as effectively as possible without political liability. The use of government troops to make popular sovereignty work was a risky proposition. In the summer of 1856, however, no other option seemed viable. Pierce and Davis thought they had given specific guidance regarding army involvement in Kansas politics. In many

27. Jefferson Davis to Franklin Pierce, July 30, 1856, *ibid.*; Davis to Edwin Sumner and George Cooke, February 15, 1856, *ibid.*, 2; Samuel Cooper to Sumner, March 26, 1856, *ibid.*, 3; Davis to Sumner, May 23, 1856, *ibid.*, 5; Sumner to Cooper, August 11, 1856, "Governor Geary's Administration," 450–51. See Garver, "The Role of the United States Army," 582 n.130.

respects they were right. What they failed to appreciate, or at least to rectify, was the complex nature of effective command and control processes of the era. Had the government pursued a more aggressive effort to use existing communications technology and capabilities, they could have mitigated some of the misperceptions that contributed to the Topeka incident.

The existing communications network and the processes employed to pass information was far from optimal. Regular mail service and limited telegraphic connectivity severely limited Washington's ability to effectively command or control its people and their respective actions in territorial Kansas. Very simply—as historian Roy Nichols stressed—“[c]ommunication problems made it difficult to deal with the Kansas situation.”²⁸ Nichols's analysis is understated. Had either the War Department or the White House attempted to expedite communications from the territory to Washington and back, some of the confusion associated with Pierce's and Davis's instructions to Sumner and Shannon could have been avoided.

It is interesting that military installations in Kansas and government offices in Washington made only minimal use of telegraph connections. Kansas was void of any telegraphic capability until 1859, and Fort Leavenworth would not have its own capability for at least two more years. Weston, just across the Missouri River from Fort Leavenworth, and Westport, now part of modern Kansas City, boasted telegraph offices by 1852.²⁹ Many, however, were wary of this new technology. When the government used existing telegraph systems to transmit messages to military posts in Kansas, telegrams often arrived no faster than letters had via the fairly efficient regular mail routes. Even though messages transmitted via the telegraph traveled at the speed of sound, the hub-and-spoke infrastructure of various nonstandardized, highly competitive, privately owned telegraph companies rarely reached destinations west of the Mississippi River in a timely manner. Limited operating hours and frequent malfunctions

along the St. Louis and Missouri River telegraph line also slowed telegram transmissions precipitously.³⁰ Even with these shortfalls, however, it was questionable why key decision makers associated with Bleeding Kansas did not more fully exploit the telegraph when it came to time-sensitive military operations. Indeed, all major authorities—Pierce, Davis, Shannon, and Sumner—had used telegraphic dispatches to forward urgent information when they saw the need to do so.

An analysis of the different communication modes between Washington and Kansas provides some enlightening conclusions regarding the government's reluctance or inability to exploit telegraphic communications more effectively. For example, if Pierce or Davis wanted to direct their subordinates in Kansas by written correspondence to perform a specific task, the letter took, on average, 11.3 days to reach them, possibly much longer if weather or other impediments hampered delivery. Even if Sumner received a letter from Davis in 11 days and replied immediately, it took an average of 13.78 days for the reply to reach Washington.³¹ In other words, it took on average 24 to 25 days to send and receive acknowledgment of official correspondence by regular mail. If Sumner had reason to question or seek clarification from Davis, the process would begin anew, taking up to a month and a half to ensure that Davis's direction was received and fully understood. Given the three-week-plus normative communication cycle, the federal government's ability to shape or to respond to crises in Kansas in any timely or meaningful manner was restricted severely. Events in Kansas occurred far too quickly to allow any sort of effective command and control through the regular mails.

Nonetheless, the regular mail served as the preferred means of official communication between Washington and Leecompton and Fort Leavenworth. One reason was cost. Telegrams were expensive.³² Another concern, ironically, was timeliness. Even if a telegram made it from Washing-

28. Nichols, *Franklin Pierce*, 400.

29. The first evidence of a formal request for telegraphic capability at Fort Leavenworth was found in Captain W. E. Prince to Asst. Adj. Gen'l., August 17, 1861, Letters Received, 1853–1861, Records of the United States Continental Command, 1821–1920, Department of the West, entry 5486, box 11, pt. 1, RG 393, National Archives. For more on early attempts to bring the telegraph to Kansas, see “An act to incorporate the Kansas Telegraph Company,” February 12, 1858, Western Union Telegraph Collection, ser., 2, box 50, Archives Center, National Museum of American History, Smithsonian Institution, Washington, D.C.; “Steamboats often snapped wire here but early telegraph lines prospered,” *Kansas City Star*, April 25, 1950.

30. For other challenges, see “An Early Telegrapher,” *Kansas City Journal*, April 5, 1905. For more on the financial aspects, see “To the Stockholders of the Telegraph Line,” *Jefferson (Mo.) Inquirer*, July 25, 1856.

31. These averages are based on dates letters were sent from Washington and on notations of when they were received at Fort Leavenworth as listed on post returns from November 1855 through July 1856. The average travel time from Fort Leavenworth to Washington was based on information noted on Adjutant General's Office correspondence to the secretary of war. See Letters Received, Adjutant General's Office.

32. See Robert Luther Thompson, *Wiring a Continent: The History of the Telegraph Industry in the United States, 1832–1866* (Princeton: Princeton University Press, 1947), 243–45, for a discussion of telegraph rates during the early 1850s.

ton to a functioning telegraphic office in Missouri, it would then require a special messenger or agent to deliver it to its intended recipient. Moreover, once a message reached St. Louis, it might still face the threat of a single point failure along the Missouri telegraph network since only a single wire connected St. Louis and its terminus at St. Joseph. Several other factors also inhibited reliable telegraphic

Pierce's urgent plea for information very well could have reached Lexington or Kansas City within twenty-four hours. The telegrams Pierce sent, however, did not reach Shannon until May 31—eight days after their original transmission. One can only speculate why the two May 23 telegrams took so long. The fact that they required eight days to reach Shannon demonstrated that they could have

arrived at Lecompton through the mail with only a few extra days' delay.

An even more perplexing example of the telegraph's potential problems was Secretary of State William L. Marcy's February 25, 1856, telegram to territorial secretary Daniel Woodson. Woodson informed Marcy in a March 28 letter that he had just received the secretary's dispatch. He explained that the Weston office sent the dispatch to his address at Leavenworth by mail. Since Woodson was in Westport at the time, the message was forwarded once again. In the end, it took more than a month for Woodson to receive his telegram. Granted, obvious extenuating circumstances complicated this incident, but it further

demonstrates that even when the telegraph system worked, significant obstacles delayed actually delivering the message into the hands of an intended recipient.

Despite the problems posed by telegraphic messaging, the telegraph worked amazingly well in some situations. During the Wakarusa War, for example, Shannon sent a telegram to Pierce on December 1, 1855, asking for authority to use federal troops at Fort Leavenworth. Based on Shannon's December 4 letter to Colonel Sumner, the governor claimed to have received a response to his telegraphic request.³⁴ Why did Shannon receive a response

34. Wilson Shannon to Edwin Sumner, December 1, 1855, Woodson Collection; Shannon to Sumner, December 4, 1855, *ibid.* A more impressive example of how effective the telegraph could work occurred in 1851. As an American Indian named See-see-sah-ma awaited execution for the murder of a mail carrier, local authorities discovered that he had not committed the crime. He had lied to protect the real murderer—his father. Missouri had scheduled the execution for noon on March 14, 1851. Since

HEADQUARTERS 1st CAVALRY,
Fort Leavenworth, K. T., July 1, 1856.

DEAR SIR: I have received your letter, dated yesterday. I shall march in a few hours for Topeka, with a company of cavalry, and shall have another company march from the camp at Cedar creek, making four companies in all that will be concentrated at Topeka.

I shall move up on the north side of the Kansas river, to intercept any bodies of men that may be coming from the north. I shall be in camp at Topeka on the 3^d instant. I deem it very important that the civil authorities should take the lead in this matter, and I will sustain them in all that is right. I should wish Mr. Donaldson, the marshal, to be there in person.

Very respectfully, your obedient servant,
E. V. SUMNER,
Colonel 1st Cavalry, Commanding.

D. WOODSON, Esq.,
Acting Governor.

Believing his civilian commanders had given him orders to take action against the Topeka assembly, Colonel Sumner responded to a letter from Acting Governor Daniel Woodson that he would "march in a few hours for Topeka, with a company of cavalry."

communications. These included but were not limited to downed wires, cut wires, poor repair capabilities, and the possibility of poorly trained operators. Even if the system worked optimally, transmissions could be delayed for a multitude of reasons.

President Pierce's two May 23 telegrams to Governor Shannon regarding territorial affairs exemplified some of these other difficulties. Prior to transmission, the White House instructed the telegraph operator in Washington to send the communiqués to the operator in Kansas City. Knowing the problems related to telegraphic communications within Missouri, the instructions included a caveat directing the operator to send the message to Lexington, Missouri, if the Kansas City office was inoperative. If the messages went to Lexington, special messengers were to personally deliver them to the governor.³³ If all went well,

33. Franklin Pierce to Wilson Shannon, May 23, 1856, "Governor Geary's Administration," 414.

within three days? In December the territorial government resided in Shawnee Mission in close proximity to Kansas City. Perhaps the location aided the speed of telegraphic communications. Or maybe the system had worked as advertised. Most important was that the telegraph could work in a more timely fashion. The three-day turn-around indeed was impressive, but certainly it was not a unique phenomenon.³⁵

If the telegraph could aid decision makers in time-sensitive situations, why was there an apparent reluctance to use it prior to Sumner's dispersal of the Topeka legislature? Four reasons stand out. One was location. A telegraph office in Weston or Westport worked relatively well for local residents, but it still required time to deliver messages from those locations to points within Kansas. The Marcy telegram to Woodson illustrates how long it could take a message to travel from Weston to Kansas. Cost was a second concern. A nineteen-word message from Washington to Fort Leavenworth could cost up to 27.8 cents per word, or \$5.30, an amount roughly equivalent to one day's salary for a justice of the territorial supreme court.³⁶

A third problem was simple inertia. Resistance to change or to new technology was and is fairly common. "In military doctrine no less than in the natural sciences, . . . the triumph of new ideas must invariably contend along the way with 'lifelong resistance, particularly from those whose productive careers have committed them to an older tradition.'" ³⁷ Why use the telegraph when the old system has worked for decades? Last, what is known today as commander's intent contributed to the reluctance to use the telegraph either to inform Washington of planned operations or to seek permission to conduct day-to-day military missions. Based on their actions and their correspon-

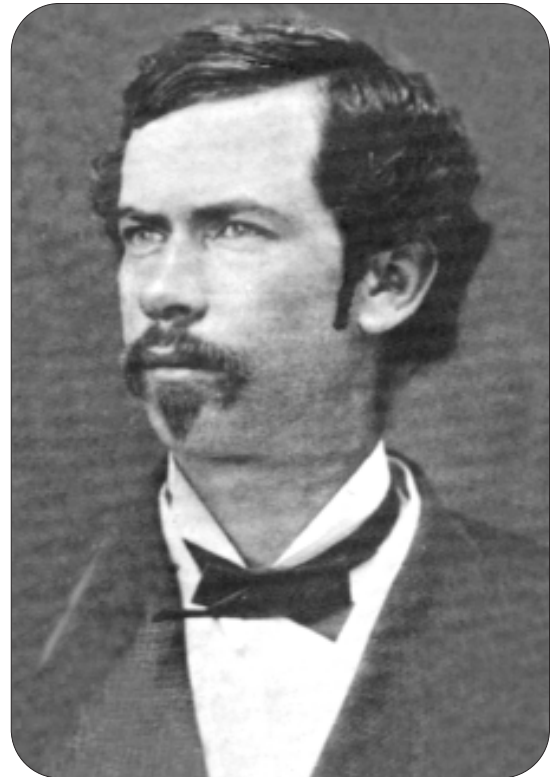
See-see-sah-ma had no time to petition the death sentence through regular channels, officials opted to try a telegraphic appeal to the president on March 13. President Millard Fillmore approved the stay, and it was transmitted the following day. Fortunately, the president's telegram reached the marshal's office in Saint Louis at 10:00 A.M., two hours before the scheduled execution. The marshal immediately relayed the message to the deputy marshal in Jefferson City. He received it in good order and an innocent man was spared an unjust punishment because of the telegraph's speed.

35. Phil Ault, *Wires West* (New York: Dodd, Mead and Co., 1974), 142–43.

36. B. F. Larned to Major H. Prince, Fort Leavenworth, telegram, March 31, 1856, 34th Cong., 3d sess., 1856, Sen. Ex. Doc. 39, serial 881, 51. A territorial justice received \$2,000 per year or \$5.48 per day.

37. Quotation in Benjamin S. Lambeth, *The Transformation of American Air Power* (Ithaca: Cornell University Press, 2000), 304.

dence, both Shannon and Sumner believed they were operating within their established guidelines when Shannon ordered and Sumner commanded the operation to disperse the free-state legislature if it attempted to convene in Topeka. In other words, both key decision makers in Kansas based their decisions and actions on what they thought was their superiors' intent.



An example of the telegraph's potential problems occurred early in 1856 when territorial secretary Daniel Woodson (above) failed to receive a critical telegram from Washington until more than a month after it was sent.

Shannon had met with Pierce personally in February to discuss territorial matters. The president's and the secretary of state's guidance further reinforced Shannon's approach to resolving territorial issues. The governor firmly believed that Pierce's February 11 proclamation outlawed the free-state legislature. Consequently, he believed it was his sworn duty to prevent it from meeting. Colonel Sumner agreed. If the Topeka legislature convened and attempted to enact and enforce its legislation, civil war in Kansas was almost certain. Surely the president and the secretary of war did not want civil war. Although Davis's

instructions to disperse the free-state legislature were not specific *per se*, Sumner followed direct orders from his civilian authorities: Governor Shannon and Acting Governor Woodson. Had Sumner disobeyed his civilian masters' orders, he could have been charged with failure to obey.

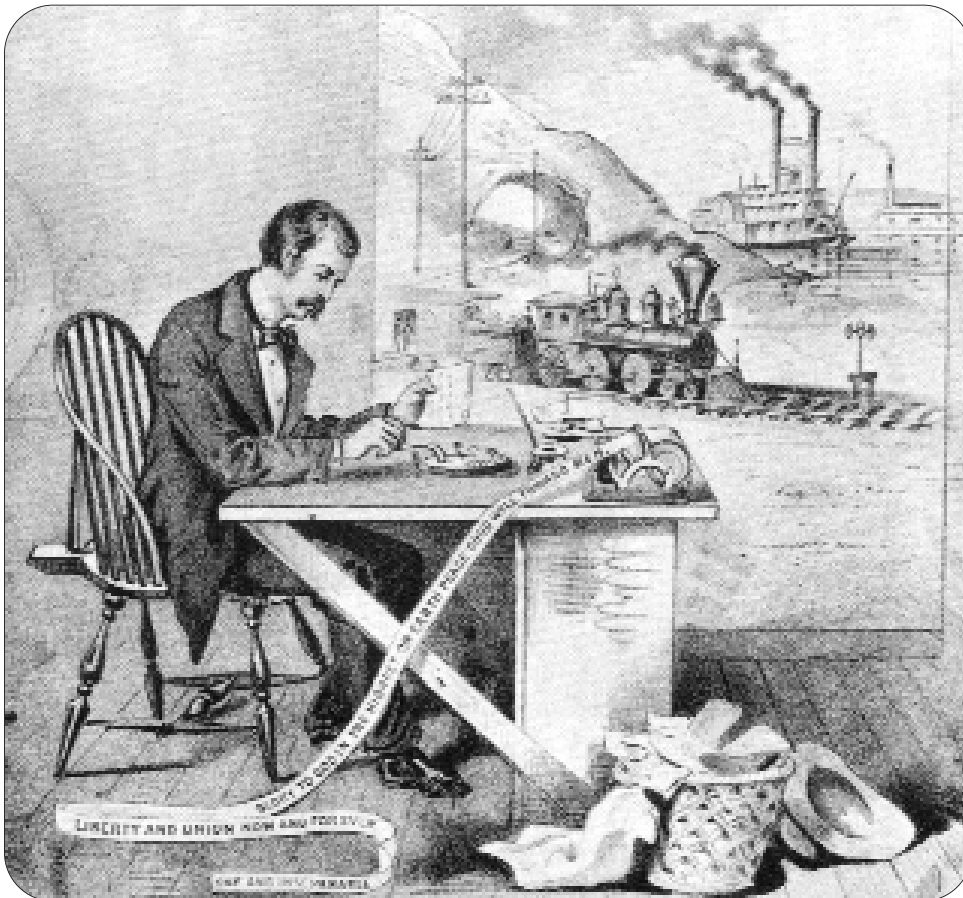
If complying with Shannon's and Woodson's orders was questionable in the least, why not send a telegram to

letter and other materials associated with the Topeka operation via mail on June 30 and July 1, but those dispatches did not reach Washington until July 10—six days after the incident. Based on his actions and his proven record of following orders, Sumner saw no requirement to clarify his instructions from Shannon and Woodson. Had he anticipated the political fallout, Sumner probably would have

sought permission from Davis. Under the circumstances and given the information he knew at the time, however, Sumner made his decision without hesitation and without remorse. He returned to Fort Leavenworth confident he had performed his duty, regardless of how painful he found it personally.

Sumner's personal agony about using federal troops to disperse fellow citizens undoubtedly was compounded by the frustration he encountered in the aftermath of the Topeka incident. News of the event had severe political repercussions for the Pierce administration and the Democratic Party. Coupled with the sacking of Lawrence, the caning of Charles Sumner, and the Pottawatomie Massacre in May, the use of federal troops to disperse unarmed citizens appalled many Americans. How could the government condone the use of force to deny the constitutional right of peaceable assembly?

Colonel Sumner had no intention of violating the First Amendment or any other law or policy. Based on the available evidence and Sumner's ac-



If all major authorities had utilized the telegraph to dispatch urgent information, the Topeka incident might well have been better handled. The above lithograph, entitled The Progress of the Century, depicts some primary forms of communication, including the telegraph, prominent in the 1850s.

Washington for additional guidance? Sumner probably saw no need to do so; he had his guidance from Washington and his orders from Shannon and Woodson. Theoretically, he could have dispatched a telegram from Weston as early as June 25 requesting additional direction on Shannon's June 23 order. Had the telegraph system worked as it had on occasion, Sumner could have received a response from Davis within four to five days allowing for a day or two in Washington to coordinate between the War Department and the White House. He did forward the governor's

tions prior to July 4, Sumner should not be suspected of having made his decision to use federal troops for any reason other than what he believed to be his commanders' intent. Sumner understood that he and he alone was responsible for his actions and those of his troops. He also knew that he did not have the authority to act unilaterally. Only his civilian masters—the president, the secretary of war, and the territorial governor—possessed the authority to order the use of his forces against American citizens. Given the guidance and policy issued by the War Department

and the White House since January 1856, Pierce and Davis clearly understood the delicacy and sensitivity of using federal power to sustain a territorial government viewed to be illegitimate by a large number of its constituents.

From the Pierce administration's perspective, however, few politically acceptable options were available. The House of Representatives, dominated by non-Democrats, wanted Kansas to enter the Union as a free state. The Senate—because of the proslavery South's countervailing power—did not. A divided Congress could not stop Kansas from bleeding, and the Supreme Court would not make its attempt at resolution until the Dred Scott decision of 1857. Moreover, on June 19 the upstart Republican Party had nominated John C. Frémont for president on a platform to make Kansas a free-soil state. Further complicating the political scene in 1856, the remnants of the Whig Party joined with the nativist-based American Party and supported former president Millard Fillmore for the White House. By the end of the summer Bleeding Kansas alone had provided the lion's share of the political ammunition needed to bash the Democrats. Additionally, Bleeding Kansas had caused at least two national political casualties. The Democrats had repudiated Pierce and rejected Stephen A. Douglas, the author of the Kansas–Nebraska Act, as possible candidates. In place of Pierce and Douglas, the Democrats selected James Buchanan of Pennsylvania. Buchanan was a desirable candidate largely because he had no direct ties to the events related to Kansas.

The dispersal of the Topeka legislature in itself was not responsible for the Democrats' problems in 1856. It was, however, representative of the difficulties associated with using military force to achieve complicated political objectives in an emotionally charged environment. Neither Colonel Sumner nor Governor Shannon was trained to handle such delicate civil–military matters that required the use of federal troops to resolve domestic disputes. Lastly, the existing command and control processes further

compounded the difficulties in communicating commanders' intent from Washington to Kansas.

The Topeka incident provided an opportunity for the United States government and the army to learn more about the ramifications of using military force to resolve delicate political issues in an impassioned, politically charged environment. To control the army's operations from distant Washington proved nearly impossible given the means of communication employed. Had the federal government supported or subsidized telegraph operations in the West, perhaps communications between Washington and the West could have been more timely and useful. Without such a commitment, the best Pierce and Davis could have hoped for was a better understanding of their intent. A clearer commanders' intent, however, would have necessitated more latitude at the local level. The Pierce administration was reluctant to leave the future of the Democratic Party and the nation in the hands of Edwin Sumner or Wilson Shannon. The political costs simply were too great.

Given the decentralized nature of command relationships in the antebellum army, it probably was too much to have expected Franklin Pierce or Jefferson Davis to try to establish a more centralized C2 process. Neither the army nor its civilian masters were prepared to integrate new technologies into existing C2 arrangements. The old paradigm of federal non-interference in territorial affairs and the reliance on traditional mail processes was too difficult to overcome. The means necessary to better command and control sensitive military operations, however, was on the threshold of a revolution in military affairs. The telegraph, with its speedy information capabilities, would be more fully utilized in the American Civil War. There was little question, however, that the Pierce administration missed an excellent opportunity to exploit the telegraph's inherent speed in accomplishing its domestic political objectives in Kansas Territory through enhanced command and control procedures. 