Military Influence on the Texas-New Mexico Boundary Settlement

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HISTORIANS HAVE FREQUENTLY CHOSEN the word preposterous to describe the Texan claim to eastern New Mexico (1836–50), and even President Mirabeau B. Lamar admitted the weakness of the claim when he offered to purchase the disputed territory from Mexico. But after Texas became a state and the United States Army conquered New Mexico, New Mexicans and Texans alike thought that the issue had been settled in favor of Texas, no matter how unjust the original claim. After all, Col. Stephen W. Kearny, just prior to entering New Mexico in August of 1846, announced that he was coming to take possession of country that by the annexation of Texas was actually within the boundaries of the United States.¹ Two years later the secretary of war informed the military commander at Santa Fe that the U.S. Army should lend aid in sustaining the civil authority of Texas.²

As things turned out, however, the military authorities in Santa Fe were in large measure responsible for that region’s not becoming a part of Texas. Despite Kearny’s invocation of the Texan claim when he invaded New Mexico, he and his successors to the military governorship were, in fact, major obstacles to the confirmation of the claim.

The origins of the Texan claim lay in the two-part Treaty of Velasco, signed by General (and President) Antonio López de Santa Anna after his capture at San Jacinto. Neither part of the treaty explicitly defined boundaries, however. The first merely called for the evacuation of the Mexican army to the other side of the Rio Grande, and the second, a secret agreement not to be revealed so long as there was no infraction, stated only that the territory of
Texas would not extend beyond the Río Bravo del Norte [Río Grande].

Nor were Texan officials totally unrealistic in their view of the legal precedence of the Treaty of Velasco. Secretary of State James Webb wrote in February 1839 that "it is not contended by this government that the agreement made with Genl. Santa Anna, while in this country and as a prisoner of war, is legally binding on the Mexican Government." Even so, he also made clear that the boundary the Texan congress prescribed in December 1836 (the Río Grande from its mouth to its source) was a sine qua non to any permanent treaty.

Mexico showed no interest in negotiating peace or boundaries, and by the time the United States annexed Texas, hostilities had reached into New Mexico. The Santa Fe expedition of 1841 ended with the capture of the participants and their imprisonment in Mexico City, which in turn led to Texan retaliation and clashes with Mexican troops at two points on the Santa Fe Trail. What mattered in 1845, however, was whether the United States supported the Texan claim or, more specifically, what the United States considered annexed. When Congress asked, prior to passage of the resolution on annexation, for information on the Texas boundary, the president provided a copy of the Emory map ("Texas and the Countries Adjacent," 1844) and its memoir, which said only that the Texan congress defined the boundaries of Texas to be the Río Grande from its mouth to its source. The executive branch offered no opinion of its own.

Accordingly, the resolution on annexation was written without specification of the boundary. The document stated, however, that as many as four additional states, with the consent of Texas, could be formed out of the territory thereof and that the federal government would adjust all questions of boundary that might arise with other governments. Texans would later argue that this wording was not only implicit recognition of the limits specified by the congress of the Republic of Texas but also a pledge that the United States would assume the role of advocate of the claim against Mexico.

Two weeks after the president signed the annexation act, Gen. Zachary Taylor was ordered to move troops to the mouth of the
Rio Grande. He arrived in March 1846, and hostilities commenced the next month. When President Polk announced that American blood had been shed on American soil, Congress promptly declared war.

A western operation under the command of Col. Stephen W. Kearny was launched from Fort Leavenworth in late June. Kearny's orders were to take Santa Fe, garrison it with part of his 1700-man army, and move with the remainder to California.7

From Bent's Fort, on the Arkansas River, Kearny issued a proclamation that he was entering New Mexico "with a large military force, for the purpose of seeking union with and ameliorating the condition of its inhabitants." The people were enjoined to remain quietly in their homes and pursue peaceful avocations, whereupon their civil and religious rights would be protected.8

New Mexico's Governor and Commandant-General Manuel Armijo responded to the proposition with a lengthy and passionate appeal to the citizens to prepare for battle.9 He then proceeded to assemble a force variously reported to have numbered from 1,800 to more than 4,000 at Apache Pass, a readily defensible location on the Santa Fe Trail about fifteen miles southeast of the town of Santa Fe. Before Kearny's arrival, however, Armijo released his troops, and the Army of the West was allowed to march into the New Mexican capital without opposition.

The bloodless conquest of New Mexico was thus accomplished, but how it happened that Armijo's army made no resistance is an interesting story and one of considerable relevance to the boundary controversy. On 1 August, the day after he issued the proclamation from Bent's Fort, Colonel Kearny sent a personal communication to Governor Armijo, which began:

Sir: By the annexation of Texas to the States, the Rio Grande from its mouth to its source is the present dividing line between them and Mexico, and I come by order of my Government to take possession of the Country over a part of which Your Excellency is presiding as governor.10

Armijo replied on 12 August:

Your Lordship's note . . . has informed me . . . that by virtue of
the annexation of the Department of Texas, the Rio Bravo del Norte from its mouth to its source has been declared by your Government to be the dividing line between that Republic and this....

I cannot agree under any condition as that line, which has been recognized by both countries ever since the time of the Spanish Government, is at another very distant place. . . .

The contrast between Kearny’s public proclamation and his letter to Armijo—namely that the Texan claim was not mentioned in the former yet was central to the latter—was connected with a subterfuge aimed at New Mexico’s military leaders.

James Magoffin, a U.S. citizen but long-time resident of New Mexico and whose wife was Armijo’s cousin, had been enlisted in Washington to accompany Kearny to Santa Fe to render certain services, one of which was to induce Armijo not to fight. Toward that end Magoffin assured the New Mexican military officers that the only object of his government was to take possession of that part of New Mexico annexed to the United States as Texas. This area included the capital and the majority of the population, but at least it would not put the government and the army out of business. Controversy still exists about how much of the credit is due Magoffin, but the fact is that Armijo’s army did not fight, and Armijo himself fled to Chihuahua.12

Texans were apparently unaware of Kearny’s use of their claim in accomplishing his bloodless conquest; otherwise, that fact would surely have become a point in the case subsequently presented to Congress. Armijo’s reply to Kearny’s letter of 1 August was mentioned in the well-known report of Lieutenant Emory published as a Senate Executive Document in 1847, but Emory neither mentioned Kearny’s letter nor said enough about Armijo’s reply to indicate that the Texas boundary was a matter of contention.13 The common interpretation has been that Armijo’s reply was a response to Kearny’s proclamation of 31 July rather than, as is apparent from the complete text, an answer to the letter of 1 August.

Emory did, however, record a speech made by Kearny (who incidentally had just received his promotion to brigadier general) to the residents of Las Vegas on 15 August. It opened with:

Mr. Alcalde and people of New Mexico: I have come amongst you
by the orders of my government, to take possession of your country, and extend over it the laws of the United States. We consider it, and have for some time, a part of the United States. 14

The second sentence is an obvious reference to the Texan claim. Kearny's statements about the boundary are important not because they had a direct effect on the validity of the Texan claim, but because they prepared the people of New Mexico for Texan jurisdiction. A letter sent by the citizens to the president of Mexico indicates they understood Kearny was taking only eastern New Mexico, and that that was being done on the basis of the Texan claim. 15 The letter was signed by 105 of New Mexico's foremost citizens, including the man who would, a few months later, become the territory's chief civil officer.

Once the U.S. army occupied Santa Fe and New Mexican forces had disbanded, General Kearny had no further use for the Texan claim. On 19 August, the day after his arrival, Kearny told the people of Santa Fe simply that he had come among them "to take possession of New Mexico." 16 And if that statement was too subtle, he issued a written proclamation on 22 August that stated his intention to "hold the department, with its original boundaries, (on both sides of the Del Norte,) as part of the United States, and under the name of 'the Territory of New Mexico.'" 17

A month later Kearny announced his Organic Law of the Territory of New Mexico, better known as the Kearny Code, and the appointment of civil officers including a governor and three judges of the superior court. 18 This action caused a stir in Congress and drew a reprimand from the secretary of war; 19 however, in fairness to Kearny, consideration must be given to his orders that the War Department issued on 3 June:

Should you conquer and take possession of New Mexico and Upper California, . . . you will establish temporary civil governments therein. . . . It is foreseen that what relates to the civil government will be a difficult and unpleasant part of your duty, and much must be left to your own discretion. 20

The distress in Congress had to do with the executive branch's
and the military's misuse of power in creating a territorial government; the Texas boundary came up only as a peripheral matter. Congressman Timothy Pilsbury of Texas, indicating that he, for one, was not greatly concerned with either issue, stated that he believed there had been some little disorder in the proceeding, but that he was not very particular as to what form of government had been established.

Governor J. Pinckney Henderson, on the other hand, was at least a little uneasy. In a letter dated 4 January 1847 to Secretary of State James Buchanan, he wrote:

Sir: Having seen it stated in various newspapers of the country that General Kearny has organized a territorial government in Santa Fe, I deem it my duty as chief Executive of the State of Texas to inquire respectfully of the President, through you, whether that proceeding of General Kearny was authorized, or has it been sanctioned by the general government? I desire, in like manner, to be informed if the general government claims any portion of the territory lying east of the Rio Grande, and embraced within the limits of Texas.

Inasmuch as it is not convenient for the State at this time to exercise jurisdiction over Santa Fe, I presume no objection will be made on the part of the government of the State of Texas to the establishment of a territorial government over that country by the United States, provided it is done with the express admission on their part that the State of Texas is entitled to the soil and jurisdiction over the same, and may exercise her right whenever she regards it expedient.

The reassurances of the general government came back promptly. Secretary Buchanan wrote on 12 February:

Nothing can be more certain than that this temporary government, resulting from necessity, can never injuriously affect the right which the President believes to be justly asserted by Texas to the whole territory on this side of the Rio Grande, whenever the Mexican claim to it shall have been extinguished by treaty.

The secretary closed with the foreboding statement that “this is a subject which more properly belongs to the legislative than to the
executive branch of government," but for the time being, the Texan claim seemed reasonably secure.

Shortly after the signing of the Treaty of Guadalupe Hidalgo on 2 February 1848, the Texas legislature began work on the matter of jurisdiction. Santa Fe County, which included the territory between the Pecos and the Rio Grande as well as all of the Texan claim north of the Red River, was created on 15 March. On 23 March, George T. Wood, who had succeeded Henderson as governor of Texas, wrote to President Polk requesting that orders be issued to the military officers at Santa Fe directing them to aid the officials of Texas in the organization of the County of Santa Fe and the Eleventh Judicial District of the State of Texas. Polk complied, but with notable tardiness.

The man appointed judge of the Eleventh District, and whose job it was to organize Santa Fe County, was Spruce M. Baird, a practicing lawyer from Nacogdoches and veteran of the War with Mexico. It is unlikely that Baird, or anyone else in Texas, understood the political situation in New Mexico or just how awkward and difficult his task would be. Already a great deal of dissidence existed in Santa Fe, and the presence of a Texan commissioner was certain to make matters worse. Not only did the native New Mexicans remain hostile to their conquerors, but Americans in New Mexico had begun to complain that the military commanders were imposing a capricious form of martial law, with no regard for the civil government established by the Kearny Code.

An unsigned letter from New Mexico published in the St. Louis Republican in June 1847 complained that the military authorities had "most signally failed of redeeming any of the promises made by General Kearny. . . . The want of ability and military knowledge in the present commander [Col. Sterling Price] can only produce the strongest feelings of disgust and hatred." A few months later, the cry was picked up by Santa Fe's own newspaper. In one of several editorials condemning the military establishment, George R. Gibson wrote:

When General Kearney first entered this territory, he declared it annexed to the U.S., as a part of Texas, and under instructions
from the President, established organic laws for the government thereof.

Recently the American citizens here have seen the powers falling under the jurisdiction of the Civil tribunals, arrogated by the military, bringing the former into contempt and disrepute. ... The will of the Commanding-officer is law.

Why have Judges and Courts if they can only act at the pleasure of the Military authorities?  

That issue of the *Santa Fe Republican* also carried a “Grand Jury Report” to the judge of the Civil Court for the County of Santa Fe, which, in addition to making similar complaints against the military commander, went on to accuse the court of acknowledging the existence of a superior authority (when it refused to issue a writ of habeus corpus in behalf of a local citizen).  

The court in question was that of Joab Houghton, one of Kearny’s original appointees, who was emerging as the leader of the political faction that supported the status quo. Opposition was growing, but the military commander and Judge Houghton represented a solid establishment that, among other things, had control of the territory’s only printing press.  

Thus it was not George Gibson, the outspoken critic of the military government (who left the editor’s job in December 1847), but another journalist, who, with the approval if not encouragement of the military commander (General Price), had the following to say about the Texan claim in an August issue of the *Santa Fe Republican*:

> We would inform our Texian friends that it is not necessary to send us a Judge nor a District Attorney to settle our affairs or to put ‘things to rights,’ for there is not a citizen, either American or Mexican, that will ever acknowledge themselves as citizens of Texas, until it comes from higher authorities. ...  

Oh Texas, do show some little sense and drop this question, and not have it publicly announced that Texas’ smartest men were tarred and feathered by attempting to fill the office assigned them.  

If Texan officials were aware of the warning, they ignored it. On 10 November 1848, Spruce Baird, judge of the Eleventh Judicial
District, arrived in Santa Fe for the purpose of asserting jurisdiction. After spending some time acquainting himself with the political situation in New Mexico, Baird sent a letter to the new commander, Bvt. Lt. Col. John M. Washington, expressing some surprise at finding the military government still in effect, now that the treaty with Mexico had been signed. He attached his commission and certain other documents and offered to meet with the colonel to provide any explanations that might be desired. While the tone of the letter was generally polite, Baird closed with the blunt statement that "for the future the State of Texas must regard all judicial proceedings and the exercise of all civil functions inconsistent with her laws and Constitution null and void."

Colonel Washington, who had arrived in Santa Fe in September and had assumed the position of territorial governor on 11 October, replied immediately and curtly that the government General Kearny established still existed and that it would be maintained "at every peril," until the U.S. government ordered otherwise.

But the government had already ordered otherwise. Not for another month, however, did the letter from the secretary of war reach Santa Fe.

In regard to that part of what the Mexicans called New Mexico lying east of the Rio Grande, the civil authority which Texas has established or may establish there is to be respected, and in no manner whatever interfered with by the military force in that department otherwise than to lend aid on proper occasions in sustaining it.

Washington must have felt more than a little discomfited by these orders, inasmuch as he went to considerable lengths to contrive a reason for not complying.

The colonel acknowledged the orders of Secretary Marcy in a letter to the adjutant general dated 3 February 1849, stating that they would be duly observed. He added, however, the dissembling comment that to "avoid embarrassment in recognizing the jurisdiction of Texas . . . it is very desirable that Congress should act in the matter before the demand is made." No mention was made of the presence of Judge Baird!
To establish a basis for his implication that Texas had not yet made the demand, Washington struck a deal with Baird: He would stop the Santa Fe Republican from printing anti-Texas propaganda in return for Baird's promise to delay a formal claim to jurisdiction. 39

Washington's discourtesy slightly offended Judge Baird, but the judge showed little concern for the outcome of his mission. On 10 December he reported to the Texan secretary of state, William D. Miller, that since Colonel Washington intended to maintain the military government, he (Baird) would wait until either Congress acted or Washington got orders from the president to resume efforts toward establishing jurisdiction. He wrote that there would be no difficulty in organizing once the sanction of the general government was announced and that many of the Mexicans as well as Americans were eager to come under the jurisdiction of Texas. 40 A week later, Baird cheerfully informed the governor that "Texas stock is rising rapidly." 41

Shortly after the change of administration in March, the new secretary of war, George W. Crawford, sent instructions of his own to Santa Fe. Indicating that he, like his predecessor, was unaware of Baird's presence in New Mexico, and referring to Marcy's orders of 12 October (which were attached), Crawford directed the commanding officer as follows:

With respect to that portion of the instructions which is the following words—'in regard to that portion of what the New Mexicans called New Mexico, lying east of the Rio Grande, the civil authority which Texas has established, or may establish there, is to be respected, and in no manner interfered with by the military force in that department, otherwise than to lend aid on proper occasions in sustaining it,'—I have to remark that it is not anticipated that Texas will undertake to extend her civil government over the remote region designated; but should she do so, you will confine your action, under the clause above cited, to arranging your command in such a manner as not to come into conflict with the authorities so constituted. 42

Washington was now on firmer ground with his decision not to support Baird's efforts. When for at least the third time, on 3 July,
Baird approached the colonel for assistance in accomplishing the organization, Washington replied that he would cooperate when he could do so without violating his duty.43

Judge Baird soon thereafter departed New Mexico, taking with him bitter feelings—not directed so much toward Colonel Washington as toward General Kearny and New Mexicans in general. About the local citizenry, Baird wrote that Texas would do well to adjust her western boundary so as to get rid of that "troublesome and worthless set of customers."44 And what he saw as the root of the problem was the "strange chimera" that induced Kearny to organize a government independent of the claims of Texas. "A most ridiculous thing for an American general to do."45

Another adversary to the Texan claim came forth when Zachary Taylor assumed the presidency on 4 March 1849. Recognizing that the real boundary issue had to do with free soil, Taylor attempted to use means available to the executive branch to head off the bitter congressional debates now in the offing. His strategy was to encourage the residents of the territories to seek statehood, which, if Congress granted, would mean that each new state would establish its domestic institutions. The president also suggested that if New Mexico were a state, the boundary with Texas could be adjusted by judicial decision.46 Although he was a Southerner and a slaveholder, Taylor opposed the extension of slavery and apparently harbored ill feelings toward Texas and Texans.47

At least three individuals were enlisted to carry the president's plan to the citizens of New Mexico. The first, Thomas Butler King, was designated an agent to California and was instructed to inform the residents of the territories (including New Mexico) of the "sincere desire of the Executive of the United States to protect and defend them in the formation of any government, republican in its character, hereafter to be submitted to Congress, which shall be the result of their own deliberate choice."48

Another, James S. Calhoun, was sent to New Mexico in July 1849 as Indian agent but with secret instructions to induce the people to form a state government.49 And the third, Bvt. Lt. Col. George A. McCall, prior to assuming command of the Third Infantry Regiment at Santa Fe (in March 1850), was instructed by Secretary Crawford as follows:
John Munroe, military governor of New Mexico, 1849–51. Courtesy of West Point Museum Collections, United States Military Academy.

John M. Washington, military governor of New Mexico, 1848–49. Courtesy of Museum of New Mexico.
Should the people of New Mexico wish to take any steps towards statehood, it will be your duty, and the duty of others with whom you are associated, not to thwart but advance their wishes. It is their right to appear before Congress to ask for admission into the Union.\footnote{50}

New Mexicans had already made two attempts to secure a civil government, but their objective had been territorial status rather than statehood. First, in October of 1848, a convention called by Donaciano Vigil, whom General Price appointed civil governor, drafted a petition to Congress, which asked for the speedy organization of a territorial government and protested against the “dismemberment of our Territory in favor of Texas.” Seeking the support of free-soilers, the authors added the statement that “we do not desire to have domestic slavery within our borders.”\footnote{51} Congress responded with predictable heated oratory, but no action.

A second convention, held in December 1849, went so far as to adopt a plan for territorial government and to elect a delegate to Congress, namely Hugh N. Smith. Inflammatory statements about slavery and Texas were carefully avoided, but again the effort failed in Congress—this time when the House, by a close vote, refused to seat Smith.\footnote{52}

Despite the widespread desire to be rid of the military government, the president’s scheme for statehood met opposition in New Mexico. The reason was not that the citizens preferred a territorial government but that certain leaders were put in an awkward position. New Mexico’s politicians had divided themselves into two hostile factions, which in reality were the office holders on one hand and the outsiders on the other, but which called themselves the Territorial and Statehood Parties, respectively. The more powerful Territorial Party, led by Judge Houghton and the military clique, was naturally reluctant to support the cause of its opposition. However, in view of the president’s wishes, as conveyed by Colonel McCall, there was no real choice.\footnote{53} A convention for the purpose of drafting a state constitution was announced on 23 April 1850 by Bvt. Col. John Munroe, who, in October of the previous year, had replaced Colonel Washington as military and civil governor.\footnote{54}

Meanwhile, the state of Texas had begun another effort to extend
its jurisdiction to New Mexico. In January of 1850, the legislature partitioned the southern part of Santa Fe County into the three new counties of Worth, El Paso, and Presidio; and a new commissioner, Maj. Robert S. Neighbors, was given the task of organizing the four county governments.

Neighbors chose to begin with El Paso County, an area with which he was already familiar by virtue of having spent time there during the previous year. Several months prior to the commissioner’s arrival, the commander of the military post at El Paso, Bvt. Maj. Jefferson Van Horne, had asked the department commander, Colonel Munroe, to tell him which laws should be enforced in that part of the country. Van Horne had been called upon by different individuals to sustain the laws of both Texas and New Mexico, and since his orders designated his post in New Mexico, despite its lying fifteen miles south of what was generally understood to be the New Mexican border, he found himself in a confusing situation. Munroe replied that in order that inhabitants have the protection of civil laws, Van Horne should sustain the jurisdiction of New Mexico, namely the Kearny Code; until Texas officially assumed civil jurisdiction, or Congress acted on the matter of boundaries.

Major Neighbors arrived in Franklin (present-day El Paso) on 17 February 1850, and with the cooperation of Major Van Horne, accomplished without difficulty the organization of El Paso County. The commissioner then traveled to Santa Fe, passing through Worth County on his way, but making no effort to organize a county government because that area had only a small population entirely under the control of the authorities at Santa Fe.

Neighbors, while still at Franklin, had written to Colonel Munroe asking for his “friendly co-operation in organizing all territory properly belonging to the State of Texas into counties.” Munroe responded by ordering “the several officers commanding posts in and near the territory claimed by Texas” to “observe a rigid non-interference with [Major Neighbors] in the exercise of his functions, and equally avoid coming into conflict with the judicial authorities created by that State.” Then, unlike his predecessor, Munroe informed the adjutant general of the Texan commissioner’s presence and of his own orders for noninterference.
Munroe’s orders were dated 12 March. On the following day, Judge Houghton published a circular (in Spanish) advising his fellow citizens that they owed no loyalty or obedience to Texas, that encroachments by that government on their ancient limits should be resisted, and that since the army would not interfere, the matter was in the hands of the people. The near coincidence of Houghton’s circular and Munroe’s orders suggests that the two men coordinated their actions before either document was circulated.

Nevertheless, Neighbors reported that on his arrival at Santa Fe on 8 April, he “was well and courteously received by the inhabitants.” Some even offered encouragement, which, taken together with Munroe’s orders for noninterference, gave the commissioner hope for the success of his mission. That changed, however, when Neighbors called on Colonel Munroe and learned that noninterference meant nonsupport. Munroe explained that because the U.S. government commissioned the presiding judges and other officials, he had no power to remove them. When Neighbors suggested that if his mission failed, Texas would probably enforce her laws by military means, Colonel Munroe replied (according to Neighbors), “That would be the proper course for Texas to pursue, there will in that case be no opposition.”

Neighbors next called on Judge Houghton, who not only expressed his determination to maintain the existing government, but went on to say that he would imprison any person who should attempt to impose the laws of Texas. Since Houghton and the other two senior judges (Antonio Otero and Charles Beaubien) controlled the lesser-ranking officials—as well as the Mexican population and the territory’s only printing press—the threat could not be taken lightly. When on 23 April Colonel Munroe, in accordance with McCall’s instructions from Washington, called a convention for the purpose of forming a state government, Neighbors concluded that it was unnecessary to remain in New Mexico.

Shortly thereafter, Texas Governor P. Hansborough Bell wrote directly to the president to find out whether Munroe had acted under the orders of the government and whether the proclamation (that called the convention) met with his approval. By reason of Taylor’s death on 9 July, Bell’s letter was passed to Millard Fillmore, who directed his newly appointed secretary of state, Daniel
Webster, to write a reply. Webster's lengthy response gave an affirmative answer to Bell's two questions but suggested that the statehood movement should not cause great concern because the dispute over the boundary was with the United States, not with the inhabitants of New Mexico, and the actions of New Mexicans could not deprive either Texas or the United States of rights to that territory. Furthermore, and in disagreement with the former president, Webster said that no government, either territorial or state, could be formed for New Mexico without first settling the boundary matter.

On 6 August, President Fillmore sent the Bell and Webster letters, together with his opinions on the subject, to Congress with a plea for legislative action. The president said he believed that New Mexico was a territory of the United States with the same boundaries it had when a possession of the Republic of Mexico, but that if Congress believed the Texas claim to be well founded, an indemnity could be offered for its surrender. He also stated that further delay by the Congress could result in war. If Texan militia entered New Mexico to enforce the laws of Texas, the president said he would have no option but to employ military forces of the United States to resist the invasion.

On the same day, acting Secretary of War Winfield Scott sent word to Colonel Munroe that 750 recruits had been dispatched to fill the regiments and companies of his command and that the Seventh Infantry Regiment would soon follow. Whereas these reinforcements were deemed necessary to protect against incursions of hostile Indians, "another and more painful contingency was apprehended," namely, an invasion from Texas. Munroe was instructed,

in the case of any military invasion of New Mexico, from Texas . . . for the purpose of overturning the order of civil government that may exist in New Mexico at the time, or of subjugating New Mexico to Texas, to interpose, as far as practicable, the troops under [his] . . . command against any such act of violence.

In Texas, events were moving so as to bring the "painful contingency" closer to reality. On 13 August a special session of the Texas
legislature assembled to hear Governor Bell explain the outcome of the mission of Major Neighbors and then express his own conviction that Texas must assert her rights “at all hazards and to the last extremity.” Accordingly, Bell asked for authorization to raise at least two regiments of mounted volunteers for the “contemplated move to and occupancy of Santa Fe.”

The legislature supported the governor’s views by unanimous resolution, and when the news reached the public, volunteers came forward in substantial numbers—not just from Texas but other southern states as well. As Alexander Stephens of Georgia had already said (when someone scoffed at the idea of Texas invading a territory of the United States):

> The cause of Texas in such a conflict will be the cause of the entire South. And whether you consider Santa Fe in danger or not, you may yet live to see that fifteen states of the Union with seven millions of people who, knowing their rights, dare maintain them, cannot be easily conquered! *Sapientibus verbum sat.*

War was postponed for more than a decade, however, when on 9 August, three days after Scott signed the orders to Munroe and the president made his plea for congressional action, the Senate voted 30 to 20 in favor of the boundary bill that James A. Pearce of Maryland introduced on 5 August. The House passed the bill on 6 September (with amendments providing for a territorial government for New Mexico) by a vote of 108 to 97. The Senate accepted the amendments, and the president signed the act on 9 September.

It remained for the Texas legislature to give its assent to the boundary provisions, but that was fairly well assured since the state’s senators and both representatives had voted aye. Opposition had come from extremists on both sides of the issue, with Northerners casting the majority of noes.

A succession of boundary proposals had been offered and rejected before Pearce’s plan finally became law. Part of the reason for the success of that bill was no doubt the urgency of the situation and the weariness of Congress, but despite the ungainly shape of the Texas map, with its panhandle and trans-Pecos appendages, the bill had its own simple logic. The northern boundary of Texas was drawn at the Missouri Compromise line of 36°30’; the southern
Texas and New Mexico, 1848 (House Executive Documents).
boundary of New Mexico was put at 32°, which was consistent with the line previously established by Mexico and also was far enough north that El Paso, with its newly established county government, would remain in Texas. It was then left only to designate a meridian for the east-west boundary between those two latitudes; and the choice of the 103rd, near the middle of the vast unsettled plains, was not at all unreasonable. In addition, the indemnity to be paid Texas was set at ten million dollars.

So after almost ten years as a republic and five as a state, Texas finally had an uncontested western boundary. The compromise settlement was the work of the renowned Thirty-first Congress; yet it may be that the fate of the disputed territory was no less determined by officers of the U.S. Army, whose actions were responsible for the controversy reaching Union-shaking proportions in the first place. Not only was Judge Baird at least partially correct in his assessment that General Kearny created the jurisdictional problem by way of his code of law and the appointment of civil officials, but two of Kearny's successors to the office of military governor, Colonels Washington and Munroe, squelched the efforts of a Texan commissioner, and Colonel McCall, carrying out a special assignment, caused New Mexico's political leaders to join efforts in support of a separate state government.

Colonel Washington's role is especially significant in that the other three men acted largely in accordance with the instructions of the administration, whereas Washington took matters into his own hands. Kearny may have overstepped his authority, but Washington was plainly insubordinate when, after he received orders from Secretary Marcy to cooperate with Texas, he stuck with his decision to resist. He persuaded the apparently outwitted Judge Baird to delay making a "formal" claim to jurisdiction (in return for suppression of anti-Texas propaganda in the Santa Fe newspaper) and then led his superiors to believe that Texas had made no effort to assert control.

It may be fair to say, therefore, that the U.S. Army, although it used the Texan claim as a pretext for invading New Mexico, was the predominant obstacle to the confirmation of that claim. And if there was one individual who scuttled Santa Fe County, Texas, that distinction may belong to John M. Washington, Bvt. Lt. Col., U.S.A.\textsuperscript{72}
NOTES

1. Colonel Stephen W. Kearny to Governor Manuel Armijo, 1 August 1846, New Mexico Historical Review (NMHR) 26 (January 1951): 80.
11. Armijo to Kearny, 12 August 1846, NMHR 26 (January 1951): 81.
14. U.S., Congress, Senate, Notes of a Military Reconnaissance, Senate Ex. Doc. 7 (Serial 505), 30th Cong., 1st Sess., 1847, p. 27.
15. Report of the Citizens of New Mexico to the President of Mexico, 21 September 1846, NMHR 26 (January 1951): 74.
25. Spruce M. Baird, Proclamation, 18 June 1849, Santa Fe Papers (SFP), folder 21, Texas State Library (TSL), Austin, Tex.
26. George T. Wood to President James K. Polk, 23 March 1848, SFP, folder 1, TSL.
32. *Santa Fe Republican*, 31 August 1848.
33. Baird to William D. Miller, 10 November 1848, SFP, folder 4, TSL.
34. Baird to Washington, 22 November 1848, SFP, folder 5, TSL.
35. Washington to Baird, 22 November 1848, SFP, folder 6, TSL.
40. Baird to Miller, 10 December 1848, SFP, folder 4, TSL.
41. Baird to Governor, 18 December 1848, SFP, folder 10, TSL.
42. U.S., Congress, Senate, George W. Crawford to Commanding Officer, Santa Fe, 26 March 1849, Senate Ex. Doc. 24 (Serial 554), 31st Cong., 1st Sess., 1850, p. 4.
43. Baird to Washington, 3 July 1849, SFP, folder 23, TSL; Baird to Miller, 6 November 1849, SFP, folder 33, TSL.
44. Baird to Miller, 20 October 1849, SFP, folder 32, TSL.
45. Baird to Miller, 23 September 1849, SFP, folder 28, TSL.
46. U.S., Congress, Senate, Message from President Zachary Taylor to the


58. Robert S. Neighbors to Governor P. Hansborough Bell, 14 April 1850, Governors' Papers (GP), folder 8, TSL.


60. U.S., Congress, House, Munroe to several military officers commanding posts in and near the territory claimed by the State of Texas, 12 March 1850, House Ex. Doc. 66 (Serial 577), 31st Cong., 1st Sess., 1850, p. 2.


62. Judge Joab Houghton to Muy Apreciable Amigo, 13 March 1850, GP, folder 8, TSL.

63. Neighbors to Bell, 4 June 1850, GP, folder 10, TSL.

64. Neighbors to Bell, 4 June 1850, GP, folder 10, TSL.


72. Epilogue: After leaving New Mexico, Washington served at Fort Constitution, N.H., and in 1853 died in a storm at sea. Munroe commanded the Departments of Florida and the Platte in the 1850s and died in New Jersey in April 1861. Kearny, subsequent to the conquest of California, served a short time in Vera Cruz (where he contracted yellow fever) and died in St. Louis in October 1848. Only McCall, of this foursome, lived to participate in the Civil War and see the day when Texan (Confederate) troops would occupy Santa Fe. The colonel resigned his commission in 1853 but volunteered in 1861 and became commander of a division of the Army of the Potomac.