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### James Montgomery in Kansas, 1854-1863

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**JAMES MONTGOMERY IN KANSAS**

**1854-1863**

**A Thesis Submitted to the Graduate Division in Partial  
Fulfillment of the Requirements for the Degree**

**APPROVED:**

**of Master of Science**

**Thesis Adviser**

**Chairman of Thesis Committee**

**Chairman of Graduate Division**

**by**

**Tommy L. Holman**

**KANSAS STATE COLLEGE OF PITTSBURG**

**Pittsburg, Kansas**

**July, 1959**

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restitution. These, and other more unsavory bands of men, were called "jayhawkers," for they had to arm and feed themselves by foraging upon the enemy when in action and



replenish their arms, ammunition, and horses from the  
enemy's stores.

## ABSTRACT

Claim disputes, property losses, and fugitive slaves were a constant cause of trouble and offered a pretext for aggression and retaliation. However, as the free-state people began to outnumber the pro-slavery forces, peace in Kansas was created and hurled, by the doctrine of popular sovereignty, into the turbulent issue of slavery. The pro-slavery forces dominated Congress and the Kansas-Missouri border, and the people of the South felt that Kansas was already theirs. The pro-slavery settlers, not sure of their own strength, felt that they must use fraud at the polls and intimidation of the free-state settlers in their homes. This practice was carried out with success in Linn and Bourbon counties in the Legislative election of March 1, 1855, with illegal voters being brought over from Missouri. This coup d'etat drew a distinct line between the free-state and pro-slavery people in Kansas Territory. City, where he died in 1871. He was buried in the small

The cause of freedom rarely lacks a leader, and to the aid of these free-state men came their friend and neighbor James Montgomery with a heritage of bravery and a good education. Montgomery organized his friends among the free-state people for defense and, at times, retaliation and restitution. These, and other more unsavory bands of men, were called "jayhawkers," for they had to arm and feed themselves by foraging upon the enemy when in action and



replenish their arms, ammunition, and horses from the enemy's stores. ~~upon counties, riding with Montgomery and~~  
~~also~~ Claim disputes, property losses, and fugitive slaves of were a constant cause of trouble and offered a pretext for aggression and retaliation. However, as the free-state people began to outnumber the pro-slavery forces, peace in southeast Kansas Territory was slowly restored. ~~ry's family~~

~~back~~ No sooner was the Kansas issue resolved, then the slavery question catapulted to national and even world-wide significance and came rapidly to a climax resulting in the Civil War. Upon the outbreak of war, Montgomery organized the Third Kansas Regiment and was commissioned colonel. When this regiment was disbanded Montgomery was given charge of a Negro regiment in South Carolina. Just before the end of the war, Montgomery was ordered back to Kansas where he participated in repelling the Price Raid. At the close of the war he returned to his farm in Linn County, near Mound City, where he died in 1871. He was buried in the small National Cemetery in Mound City.

The principal sources used in the preparation of this paper are to be found in the Kansas State Historical Society at Topeka. Their outstanding collection of early Territorial newspapers, especially the Leavenworth Herald of Freedom and the Lawrence Republican plus the numerous collections of original papers of early Kansas settlers were of invaluable aid. William P. Tomlinson, who spent several months in 1858



in Linn and Bourbon counties, riding with Montgomery and associating with the free-state men, published an account of his experiences which contain valuable information about Montgomery not found in any other source. William Ansel Mitchell, an expert in geneology of early Kansas pioneers, was the main source of information for Montgomery's family background. The various collections, transactions and quarterlies of the Kansas State Historical Society, D. W. Wilder's Annals, and A. T. Andreas' History of Kansas were most helpful in providing a general history of Kansas, especially concerning the Territorial governors.



COLONEL JAMES MONTGOMERY

Descendant of the family of Montgomery who was married to Mary Smith, whose name is on the French and Indian war "Banner of St. Bartholomew's Day" in 1755.

Grandson of General Richard Montgomery, the Hero of Quebec, 1775. First American to enter St. Louis, Missouri, in 1764.

Born in 1755, died in 1835. Buried in the cemetery at St. Louis, Mo.



### COLONEL JAMES MONTGOMERY

Descendant of the Count de Montgomery who was personal attendant upon Mary Stuart when Queen of the French and hero of the Massacre of St. Bartholomew's Day in 1572.

Nephew of General Richard Montgomery, the Hero of Quebec in 1775, first American to have a National Monument in his honor.

Hero in his own right in Linn County, Kansas, in 1854.



## CHAPTER I

On May 30, 1854, INTRODUCTION Franklin Pierce signed the

One morning bright, by early light, this bill thus  
Word ran from youth to age,  
That Brocket then, with all his men halls of Congress  
Was on the Little Osage.

Chorus:  
O, the Little Osage,  
The Little Osage, this decision as the  
We'll fight the foe where'er they go,  
Upon the Little Osage. state: The portion

Montgomery heard full soon the word, was is contained  
And came, the foe to engage,  
But they took flight, without a fight, Missouri Compromise.  
From the Little Osage.

Chorus:  
Every man of Montgomery's band within the said territorial  
Shall live on history's page, States, except the  
And Montgomery's name have deathless fame he admin-  
Upon the Little Osage. the Union, approved March 6,

Chorus:  
The Fort Scott band tried to Command, by the legis-  
But found birds hard to cage, ed the compromise meas-  
When cannon was about, who would dig out, old, it served  
When taken from Little Osage. sing of this act not to

Chorus:  
Pro-Slavery men of every-den, regulate their domestic  
Now fear Montgomery's rage, are subject only to the  
Who would not cease till he made peace. The bill was  
Upon the Little Osage.

Chorus: on is established the doctrine of "popular

To free our land from a tyrant band, supporter Stephen A.  
Our sires did once engage,  
And liberty does Montgomery Committee on Territories.  
Preserve on Little Osage.

The Chorus: that followed led first to an immediate

civil war in Kansas between the SONG OF MONTGOMERY'S MEN  
(Air--Banks of the Rio Grande)  
state elements and secondly, in 1861, to a nation wide civil  
conflict.



On May 30, 1854, President Franklin Pierce signed the Kansas-Nebraska Bill. The provisions of this bill thus ending the long, bitter struggle in the halls of Congress concerning the free or slave status of new states entering the Union, and placed the burden of this decision on the people who would settle the prospective state. The portion of the bill that caused a civil war in Kansas is contained in section thirty-two, the repeal of the Missouri Compromise.

The Constitution and all laws of the United States, which are not locally inapplicable, shall have the same force and effect within the said territory as elsewhere in the United States, except the eighth section of the act prepatory to the admission of Missouri into the Union, approved March 6, 1820, which being inconsistent with the principles of non-intervention by Congress with slavery in the states and territories as recognized by the legislature of 1850, commonly called the compromise measures is hereby declared inoperative and void, it being the true intent and meaning of this act not to legislate slavery into any territory or state nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own ways subject only to the Constitution of the United States . . . .

Within this section is established the doctrine of "popular sovereignty" as it was so termed by its supporter Stephen A. Douglas, Chairman of the Senate Committee on Territories.

The uproar that followed led first to an immediate civil war in Kansas between the pro-slavery and the free-state elements and secondly, in 1861, to a nation wide civil conflict.

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<sup>1</sup>Henry Steele Commager, (ed.), Documents of American History, 332.

May	11,031	2,989
Lafayette	9,075	4,615
Salina	6,124	2,719
TOTAL	56,728	37,357



Kansas Territory extended westward to the Continental Divide and contained much of what is now Colorado. Altogether it covered 126,283 square miles.<sup>2</sup> Only a small portion of this wide expanse was inhabited by white settlers in 1854, and this was in the eastern part of the territory. The population was centered around missions, trading posts, and military posts. In all there were less than 1,400 white inhabitants, half of these being soldiers and armed attaches stationed at Fort Leavenworth, Fort Riley and at Walnut Creek Post Office. Out of the civilian population it is estimated that there were only one hundred legal voters in Kansas Territory in 1854.<sup>3</sup> The reason for the relatively small white population is due to the fact that the territory, known as Nebraska Territory, was not open to settlers but reserved for the various Indian tribes driven from the East.

In contrast, the population of Missouri, along the Kansas border was approximately 80,000 whites who held some 12,000 slaves.<sup>4</sup> These figures alone would indicate the

<sup>2</sup> Statistics of the Population of the United States at the Ninth Census (June 1, 1870), 3 volumes, I, 578.

<sup>3</sup> A. T. Andreas, History of the State of Kansas, 82. Cited hereafter, Andreas, History of Kansas.

<sup>4</sup> Ibid. The Lawrence Herald of Freedom of March 19, 1855, reports that the legal voters in Kansas Territory total 3,036. Also reported on the same date the population of five counties in Missouri, on or near the Kansas border, as follows:

	FREE	SLAVE
Platte.....	14,074.....	2,798
Clay.....	7,590.....	2,742
Ray.....	11,031.....	2,969
Lafayette..	9,075.....	4,615
Saline.....	6,124.....	2,719
TOTAL.....	56,726.....	17,357



reason for the general feeling that Kansas, under the provisions of the Kansas-Nebraska Bill, would become a slave state by popular vote as a result of "squatter sovereignty."

California was admitted to the Union in 1850 as a free state. This upset the balance of power between the free and slave states because there was no other southern territory ready for admission as a slave state. Nebraska Territory was organized and asked to be admitted to the Union. Southern Senators and those in the North who sympathized with them voted against organizing Nebraska unless a plan was formed by which it might become a slave state. It was not only important to Missouri who would be surrounded on three sides by free states if Kansas became free, but to all the slave states. The Missouri Compromise had admitted Missouri as a slave state with the provision that, in what remained of the Louisiana Purchase, slavery should be prohibited north of 36° 30' north latitude. This, of course, would have made Kansas automatically a free state. The South had indeed won its greatest victory in 1854 when the Missouri Compromise was made null and void.

The key words that described Kansas politics in 1854 were "squatter sovereignty," which meant that the squatters, or actual residents, of the territory had the right to make their own laws. It was up to the settlers or squatters to determine whether or not Kansas would draw up a constitution permitting slavery. Missourians, immediately after Kansas



Territory was opened up, began organizing the first political groups in Kansas. Perhaps the first group to organize was the Squatters Claim Association which met July 10, 1854, only ten days after the territory opened. This group met near Fort Leavenworth and adopted rules to govern future settlements. Some of these rules were:

- (8) That we recognize the institution of slavery as already existing in this territory, and recommend slaveholders to introduce their property as early as possible.
- (9) That we will afford no protection to abolitionists as settlers of Kansas Territory.
- (10) That a vigilance committee of thirteen be appointed to decide upon all disputes.<sup>5</sup>

Many other such organizations were formed both in Kansas and Missouri.<sup>6</sup> From the very beginning the pro-slavery party was in the majority in Kansas Territory. President Pierce appointed Andrew H. Reeder of Pennsylvania as governor. A lawyer and highly regarded in his own state, he was a friend of the South and was in full accord with the prospects that Kansas would become a slave state. Reeder opened his office at Fort Leavenworth and called an election for November 29, 1854, to choose a delegate to represent Kansas in Congress.<sup>7</sup>

On November 29, 1854, Missourians came over into Kansas

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<sup>5</sup>James Hanway, Kansas Biography Scrap Book, Kansas State Historical Society, IV, 7.

<sup>6</sup>Andreas, History of Kansas, 86.

<sup>7</sup>Allan Nevins, Ordeal of the Union: A House Dividing 1852-1857, 2 volumes, II, 312. Cited hereafter, Nevins, A House Dividing.



and increased the pro-slavery vote by more than one thousand.<sup>8</sup> The additional votes, however, were not necessary because the pro-slavery forces in Kansas Territory would have won without them; they only served to irritate the free-state settlers.<sup>9</sup>

There were many in the East who felt that the destiny of Kansas Territory should not be left entirely to those residing in Kansas. To counteract the actions of the Missourians, there was established an organization to sponsor emigrants from the East to settle in Kansas and make it a free state. The leader of this movement was Eli Thayer who organized, in 1854, the New England Emigrant Aid Company whose aim was to make Kansas a free state.<sup>10</sup> He feared what would happen as a result of the repeal of the Missouri Compromise, but he did not give it up as a lost cause.

As the winter wore away, I began to have a conviction which came to be ever present, that something must be done to end the domination of slavery. . . . Suddenly, it came upon me like a revelation. It was ORGANIZED AND ASSISTED EMIGRATION.<sup>11</sup>

By August 1, 1854, the Emigrant Aid Company had founded the first free-state town in Kansas Territory. This town, named Lawrence in honor of Amos A. Lawrence of Massachusetts, treasurer of the Emigrant Aid Company, was established under

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<sup>8</sup>Ibid., 313.

<sup>9</sup>Andreas, History of Kansas, 94.

<sup>10</sup>Eli Thayer, The New England Emigrant Aid Company and Its Influence, Through the Kansas Contest, Upon National History, 46.

<sup>11</sup>Ibid., 13.

Herald of Freedom, October 21, 1854.



the direction of Doctor Charles Robinson, also of Massachusetts, an agent for the company, and later first governor of Kansas.<sup>12</sup>

The first town founded by the Missourians was Leavenworth on June 12, 1854, by a company of thirty-two men.<sup>13</sup> Two opposing camps were thus set up and trouble was already in the making. Missouri offered a reward of two hundred dollars for the delivery of Eli Thayer, President of the Emigrant Aid Company.<sup>14</sup> The Lawrence Herald of Freedom, the first Kansas free-state newspaper, announced that it was authorized to offer a reward of one thousand dollars to Eli Thayer, "... if he will locate in Kansas, and make it his permanent residence. . . ."<sup>15</sup>

The Emigrant Aid Company stimulated emigration of free-state families from the East, but many free-state settlers were arriving in Kansas Territory from the North, mainly from Illinois, Indiana and Ohio. As more and more free-state men entered Kansas Territory the friction between them and the pro-slavery population increased and it became more difficult for known free-state men even to enter the territory let alone exercise their pre-emption rights. Among these men from the North came one James Montgomery who was to play an important part in Kansas history. He has been

<sup>12</sup>D. W. Wilder, The Annals of Kansas, 46. Cited hereafter, Wilder, Annals.

<sup>13</sup>Andreas, History of Kansas, 419.

<sup>14</sup>Wilder, Annals, 48.

<sup>15</sup>Herald of Freedom, October 21, 1854.



the subject of speculation and controversy as to his actions in southeastern Kansas from the time of his arrival in Linn County in August of 1854.<sup>16</sup>

The family history of James Montgomery is outstanding and helps to give a better understanding of his character. More important, it reveals a tradition that James Montgomery continued in his struggle against the pro-slavery forces in Kansas.<sup>18</sup>

As a result Mary Stuart and her husband Francis II He was of Scottish descent which can be traced back to the time of King James V who died in 1542. Gabriel Montgomery was commander of a company of Scottish Highlanders assigned to the retinue of the daughter of James V, Mary Stuart, who was sent to Paris for her education in the household of Henry II, King of France. This colorful Scottish company added an extra touch to the elaborate French court. Montgomery was called Captain of the Scottish Guard and, in this favored position, he became well acquainted with Henry.<sup>17</sup>

When the young son of Henry II, Francis, was pledged to marry Mary Stuart, she was only six years old. The marriage took place on April 24, 1558, followed two months later, on June 29, by a great celebration near the Bastille. The common entertainment of the time was in progress. The knights were

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<sup>16</sup>Wilder, Annals, 48. also Edward T. Blair, Henry of Navarre

<sup>17</sup>William Ansel Mitchell, Linn County, Kansas A History, 15. Cited hereafter, Mitchell, Linn County. See also, Wendell H. Stephenson, "James Montgomery," Dictionary of American Biography, 22 volumes, Dumas Malone (ed.), XIII, 97.



tilting or jousting and Gabriel, who had been knighted by Henry and given the title Count de Montgomery, was asked by Henry to tilt with him. Count de Montgomery was reluctant to this proposal, but the King insisted. During the encounter, Montgomery's lance broke and the splintered end of the lance struck the helmet of the king at his eyes and pierced the brain. Henry II died several days later on July 10, 1559.<sup>18</sup> As a result Mary Stuart and her husband Francis II became the new sovereigns of France and she also became Queen of Scots and a claimant of the English throne. Her husband died in December, 1560, leaving her to be only Queen of Scots. Henry's wife, Catherine de Medici, and her son Charles IX, who became king of France, planned and carried out the massacre of Saint Bartholomew's Day on August 24, 1572, in which a large percentage of the Huguenots in France were murdered. Count de Montgomery, a Presbyterian, was in sympathy with the Huguenots, but he escaped to Scotland. He later returned to France with ships to help the persecuted. This time he was captured and, because of his aid to the Huguenots plus the fact that Catherine de Medici had not forgiven him for being the cause of Henry II's death, he was put to the axe May 27, 1574.<sup>19</sup>

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<sup>18</sup>Ibid., 15-16. See also Edward T. Blair, Henry of Navaree, 35.

<sup>19</sup>Ibid., 16. See also Edward T. Blair, Henry of Navaree, 116.



The Montgomery family again became prominent at Dublin, Ireland in the eighteenth century. Thomas Montgomery, a member of the British parliament, had three sons who graduated from the University of Dublin. One of the sons was Richard Montgomery, a famous general in Washington's army during the Revolutionary War, who was killed while leading the colonial attack on Quebec, December 31, 1775. The other sons fought at Bunker Hill on the American side. One of these two sons lived at New Hampshire where James Montgomery's father was born.<sup>20</sup> The Montgomery family, in typical American tradition, became a part of the westward movement and emigrated from New York to Ashtabula County, Ohio, which is located in the northeast corner of the state. It was here that James Montgomery was born on December 22, 1814.<sup>21</sup> He later continued the westward movement and ventured to Kentucky in 1837.<sup>22</sup> There, in Licking Valley, just south of the Ohio River, he established himself as a school teacher. Being well-educated, he was hired as a tutor on the rich plantations and became well acquainted with the institution of slavery.<sup>23</sup> As a youth he had joined the Campbellite Church, and he became a minister in that faith, continuing

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<sup>20</sup>Franklin B. Sanborn, "Some Notes on the Territorial History of Kansas," Collections of the Kansas State Historical Society 1913-1914, XIII, 258.

<sup>21</sup>Mitchell, Linn County, 15.

<sup>22</sup>Andreas, History of Kansas, 302.

<sup>23</sup>Mitchell, Linn County, 15.

<sup>24</sup>Franklin B. Sanborn, "Some Notes on the Territorial History of Kansas," Collections of the Kansas State Historical Society, 1913-1914, XIII, 258.



to preach for the rest of his life. He first married the daughter of a slave-holder, but she died and left him with two children.<sup>24</sup> In 1833, he married Miss Clarinda Evans who was to live with him during the remainder of his life.<sup>25</sup> He was not satisfied with living in a land where the institution of slavery was so prevalent; in 1852 he again moved west in the hope of finding a new land that was not bound to the institution of slavery.<sup>26</sup> Leaving Licking Valley in a dug-out canoe, the Montgomery family traveled north on the Licking River and then west on the Ohio. They reached Pike County, Missouri, sometime in 1852 and remained there for about a year. Then they moved on west to Jackson County in 1853 to wait for the opening of Kansas Territory to settlers.<sup>27</sup>

While waiting in Jackson County, Montgomery revealed his plans to enter Kansas Territory, when it was open to settlement, to a friend he had recently acquired. This friend, a Doctor Thornton, discovered that Montgomery was an ardent free-state man and advised him to settle in Missouri. Doctor Thornton told Montgomery that it would be a great risk on his part if he tried to cross over into Kansas Territory, because the Missourians were stopping all such

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<sup>24</sup> William P. Tomlinson, Kansas in Eighteen Fifty-eight Being Chiefly A History of the Recent Troubles in the Territory, 165. Cited hereafter, Tomlinson, Kansas in Eighteen Fifty-eight. See also, Mitchell, Linn County, 15.

<sup>25</sup> Mitchell, Linn County, 24.

<sup>26</sup> Ibid., 16.

<sup>27</sup> Franklin B. Sanborn, "Some Notes on the Territorial History of Kansas," Collections of the Kansas State Historical Society, 1913-1914, XIII, 258.



free-state settlers. Kansas was to become a slave state. He also told him that the land in Bates County, Missouri, was much better than any land he could find in Kansas Territory. On the basis of this information, Montgomery took his family, in July of 1854, and moved to Bates County. He was very disappointed. For one reason the land was not so good as he had expected it to be and for another, he was not satisfied with himself for being talked out of his plan to establish his family in a new land free from slavery by mere threats. He wanted to make up his own mind as to where he would settle. He remained in Bates County only a few days and then folded his tent and headed west into Kansas Territory.

He stopped when he reached a small settlement known as Sugar Mound,<sup>28</sup> where he was able to buy the claim of a pro-slavery man located five miles west of what is now Mound City. It was good fertile land on Little Sugar Creek. He paid a pro-slavery man five dollars down payment for his claim and promised to pay the rest of the money at a future date. The amount due was about five dollars. This ten dollars did not include the amount he had to pay the United States Government for the claim at the rate of \$1.25 an acre. This was in August of 1854, and it was upon this land and other nearby

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<sup>28</sup>This town is no longer in existence and Mound City is not just another name for Sugar Mound. Sugar Mound was on the east side of the hill now called Sugar Mound and Mound City is just over this hill on the west side.

property which he later purchased that he was to spend the remainder of his life.

Montgomery was out of money and in debt. He had to leave his family and return immediately to Missouri to work for the man who had advised him to stay out of Kansas Territory, Doctor Thornton. Back in Jackson County, Montgomery set to work and built a barn for the doctor for which he received the very liberal payment of three hundred dollars. With this money he returned to Kansas Territory, paid off his debts, and started building his own home.<sup>29</sup>

The purpose of this paper is to provide an accurate account of Montgomery's activities in Kansas from 1854 to 1862. It is not the purpose of this thesis to justify or condemn him, but only to record and evaluate his actions in the light of his own surroundings and circumstances which existed over one hundred years ago.

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<sup>29</sup>William E. Connelley, A Standard History of Kansas and Kansans, VIII, 1232. See also Andreas, History of Kansas, 302.



## CHAPTER II

### PRO-SLAVERY DOMINATION

The election on November 27, 1854, to select a delegate to represent Kansas Territory in Congress, was carried by the pro-slavery majority, and John W. Whitfield was chosen as the delegate. The free-state partisans protested the election, but Governor Reeder gave Whitfield a certificate of election to represent Kansas in Congress.<sup>1</sup>

During the winter of 1854, the settlers were busy building their claims. Political existence, however, select a election a census

The conditions in 1855 and early 1856 were such that every man was a law unto himself. Without even the shadow of authority, life was taken and property confiscated by the antagonistic elements. The social and political system was unique and peculiar to the country. It had but two phases at that time. If a man was opposed to making Kansas a slave state he was a free-state man, but if he did not contribute himself body and soul to that cause he was a bushwacker with a capital B. There was NO NEUTRAL GROUND.

as revealed by this census of January and February, 1855, was 8,691. Out of this total population W. A. MITCHELL were 2,905 legal voters, 3,383 females, 3,469 minors, 151 free negroes and 192 slaves.<sup>2</sup> The various counties held conventions to select nominees for the legislature. The first convention held in Linn County took place at Sugar Mound under the leadership of James P. Fox, who hoped to be nominated as a pro-slavery candidate. Weeks before the announced date of the convention, he came to Sugar Mound every Saturday and mixed with the local settlers who, for the most part, were

<sup>1</sup>Wilder, Annals, 52-53.

<sup>2</sup>Andreas, History of Kansas, 94.

The election on November 29, 1854, to select a delegate to represent Kansas Territory in Congress, was carried by the pro-slavery majority, and John W. Whitfield was chosen as the delegate. The free-state partisans protested the election, but Governor Reeder gave Whitfield a certificate of election to represent Kansas in Congress.<sup>1</sup>

During the winter of 1854, the settlers were busy building their cabins and securing title to their claims. Political issues had died down and the important problem of existence on the cold Kansas plains became dominant. Reeder, however, next called an election for March 30, 1855, to select a Territorial Legislature. In preparation for this election and in accordance with the Organic Act, he caused a census of the Territory to be taken. The total population as revealed by this census of January and February, 1855, was 8,691. Out of this total population there were 2,905 legal voters, 3,383 females, 3,469 minors, 151 free negroes and 192 slaves.<sup>2</sup> The various counties held conventions to select nominees for the legislature. The first convention held in Linn County took place at Sugar Mound under the leadership of James P. Fox, who hoped to be nominated as a pro-slavery candidate. Weeks before the announced date of the convention, he came to Sugar Mound every Saturday and mixed with the local settlers who, for the most part, were

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<sup>1</sup>Wilder, Annals, 52-53.

<sup>2</sup>Andreas, History of Kansas, 94.



free-state men. He bought them their favorite drink, and became very friendly with them. He waited until three days before the convention before posting the date on the door of the local dram shop. In this way only those who had been informed earlier would know about the meeting. The convention was held February 20, 1855, at the small pro-slavery dram shop and grocery store owned by a man called Miller.<sup>3</sup> James Montgomery, the day before the meeting, had gone to Missouri for provisions. On his return, he got lost in a snow storm and did not reach home until midnight. By this time portions of his ears, face and feet were frozen. The next morning, in spite of his afflictions, he attended the convention.<sup>4</sup>

Because of the short notice, there was a very small crowd in attendance, and Fox dominated the affair. Before the business at hand got under way, a man by the name of Glover was chosen as chairman, and Montgomery as secretary. Montgomery's influence as a free-state settler was already known, and Fox believed that if he were placed in the position of secretary of a pro-slavery group this would destroy his influence in free-state circles and prevent him from wrecking their plans.<sup>5</sup> Pro-slavery names were submitted, and an immediate ballot was called for. Fox then

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<sup>3</sup>Ibid., 1103.

<sup>4</sup>Tomlinson, Kansas in Eighteen Fifty-eight, 166-167.

<sup>5</sup>Ibid., 167.



made a speech without referring to the main issue of slavery and told the people that this issue was not important at the time, but would later be brought up at a convention to frame a state constitution. A hopeful free-state candidate, Turner, seeing that as things stood he did not have a chance of being nominated, moved for postponement until the district could be properly notified. Fox opposed the motion, and it was voted down. Montgomery, understanding the situation, saw that Fox and the other pro-slavery leaders wanted a nomination without committing themselves to any specific principle or action. Montgomery objected and rose to speak to the assembly, saying in effect that the nominations seemed fixed and the candidates, regardless of how they were selected, should first fully define their position by showing clearly where they stood on the great slavery question.<sup>6</sup> He further told the assembled group that Missourians had well organized plans for making Kansas a slave state, and that the Organic Act left this decision up to the people of the Territory, not the residents of Missouri. He proclaimed his own feelings, saying that he was a free-state man and wanted Kansas to be free and the only way to do this was by electing free-state men to the Legislature.

This speech turned the tide, and other men of the same persuasion spoke. Fox realized that his political aspirations were being jeopardized and finally pledged himself to

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<sup>6</sup>Ibid., 168.

<sup>9</sup>Andrews, History of Kansas, 97-93.



The free-state nominees elected in Linn County were the free state cause. Having won this victory, Montgomery defeated by fraudulent votes, and the Miami County pro-slavery delegates won the election. There were two precincts in Linn County. One was called Big Sugar with its voting place at Keokuk, and the other was called Little Sugar with its voting place at Sugar Mound. At Big Sugar there were seventy-four votes cast for the pro-slavery candidates and seventeen for the free-state candidates. Of the seventy-four pro-slavery votes cast, fifty-nine were illegal, leaving only fifteen legal votes, which was less than the free state votes. At Little Sugar, thirty-four votes were cast for the pro-slavery candidates, the free-state candidates receiving seventy votes. All votes at this precinct were legal.<sup>7</sup>

A few weeks later the second convention took place. Colonel John Coffey attended and presented the side of the pro-slavery party in very convincing and high sounding terms. Montgomery easily brought the real issues out in plain language and explained to the assembly the principles of freedom and the reasons for making Kansas a free state. Again Montgomery was the victor, and Fox and M. G. Morris were nominated as free-state representatives.

Despite Governor Reeder's census and registration as required by law, the "border ruffians" poured over the Missouri border as before and in many cases drove away the free-state judges with guns, clubs and knives. A congressional Investigation Committee report in 1856 gave a sworn detailed account of the illegal voting practices in each election district during this election.<sup>8</sup>

On that day, 6,218 votes were cast despite the fact that the census had revealed only 2,905 men of voting age. Of course the pro-slavery candidates were elected to the Legislature; the free-state candidates received only 79 votes.<sup>9</sup>

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<sup>7</sup> Andreas, History of Kansas, 1102.

<sup>8</sup> House Reports, 34th Cong., 1st Sess. No. 200, 101-507  
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<sup>9</sup> Andreas, History of Kansas, 97-98.



The free-state nominees elected in Linn County were defeated by fraudulent votes, and the Miami County pro-slavery delegates won the election. There were two precincts in Linn County. One was called Big Sugar with its voting place at Keokuk, and the other was called Little Sugar with the voting place at Sugar Mound. At Big Sugar there were seventy-four votes cast for the pro-slavery candidates and seventeen for the free-state candidates. Of the seventy-four pro-slavery votes cast, fifty-nine were illegal, leaving only fifteen legal votes, which was less than the free state vote. At Little Sugar, thirty-four votes were cast for the pro-slavery candidates, the free-state candidates receiving seventy votes. All votes at this precinct were legal.<sup>10</sup>

Governor Reeder declared the elections in the first, second, third, seventh, eighth and sixteenth districts to be frauds and called an election to be held in those districts to fill the vacancies, on May 22, 1855.<sup>11</sup> The free-state delegates elected in these various districts, however, were not allowed to be seated in the Legislature when it met at Pawnee, a small town near Fort Riley.<sup>12</sup> At the same time Reeder recognized the Legislature as legal and called it to meet July 2, at Pawnee. Governor Reeder had tried to compromise, but the pro-slavery party was bitter about his action in the foregoing districts. From that time on, the

<sup>10</sup> Ibid., 96.

<sup>11</sup> Ibid., 98.

<sup>12</sup> Ibid., 102.



pro-slavery party, led by Senator David R. Atchison, made every effort to get rid of Governor Reeder. Their chance came when he told them to organize the Legislature at Pawnee, a town where he had considerable land holdings. The Legislature after meeting at Pawnee objected to the lack of adequate living accommodations and adjourned to Shawnee Methodist Mission where the members could live in the mission buildings. Senator Atchison took full advantage of this and gave a complete report to President Pierce, charging that Governor Reeder was using his office to promote his own personal interests.<sup>13</sup> Reeder was removed from office August 10, 1855, and replaced by Wilson Shannon of Ohio. Atchison was the instigator of much trouble in Kansas. He urged Missourians to cross the Missouri-Kansas border and vote in the Kansas elections.<sup>14</sup> This, in itself, was the cause of most of the trouble in Kansas.

The pro-slavery party was now in full power. The Legislature came to be known by the free-state men as the "bogus" Legislature. Accordingly, a free-state movement was officially organized in June of 1855 to oppose the pro-slavery government.<sup>15</sup> The two opposing forces, as mentioned earlier, were centered around the free-state town of Lawrence and the pro-slavery town of Leavenworth. The situation grew

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<sup>13</sup> Nevins, A House Dividing, 389.

<sup>14</sup> Wilder, Annals, 52. See also, Robinson, Kansas Conflict, 93-94. William A. Phillips, The Conquest of Kansas by Missouri and Her Allies; A History of the Troubles in Kansas from the Passage of the Organic Act Until the Close of July, 1856, 148.

<sup>15</sup> Ibid., 65.



steadily worse. Governor Shannon supported the "bogus" Legislature and tried to enforce what the free-state people called "bogus" laws.

Sharp's rifles were to play an important part in Kansas Territorial history. Sharp's rifles began coming in from the east from officers of the New England Emigrant Aid Company to arm the free-state men. The Lawrence Herald of Freedom gave the following descriptive article about the weapon:

This recently invented weapon, if it possesses one half the power and capacity claimed by its proprietor, is destined soon to supersede every other weapon for war-like purposes now in existence. The small carbine now used by the U. S. mounted men, throws a ball with deadly accuracy one quarter of a mile, and can be fired ten times per minute. It is not complicated in structure, is easily cleaned, and suffers no injury from wet weather.

This rifle in the hands of a good marksman, is equal to ten muskets, bayonet and all, for, place a man six rods distance with a musket and bayonet, and before he can bring the bayonet into use, the rifle can be loaded and discharged ten times. They carry balls with great precision and force. Mr. Sharp intends these rifles to become a national weapon, and should Congress, by using a little liberality, purchase the patent, the country would be possessed of a means for warfare unequalled in the world.<sup>16</sup>

Four months later the same paper was boasting:

We are credibly informed that these holy instruments of the Beecher school for evangelizing Kansas are daily arriving in our city. . . . Sharp's rifles are, therefore, indispensable accompaniments with the "plow" and other peaceful implements of agriculture."<sup>17</sup>

Finally, the conflict known as the Wakarusa War broke out northwest of Lawrence. Actually it was only a mild

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<sup>16</sup>Herald of Freedom, January 12, 1856.

<sup>17</sup>Ibid., April 12, 1856.



demonstration against Lawrence which lasted two weeks during November and December of 1855. It was a war without a battle. One free-state man, Thomas Barber, was killed by a band of Missourians.<sup>18</sup> This struggle continued on into 1856 with the sacking of Lawrence, the burning of Osawatomie, the driving off and imprisonment of free-state leaders and the forcing of the free-state Legislature meeting in Topeka on July 4, 1856, to adjourn.<sup>19</sup> With their leaders in prison at Lecompton or fugitives from the territory, the free-state citizens looked to new leaders. By the fall of 1856, the comparatively quiet southeastern part of Kansas Territory was feeling the repercussions of the pro-slavery domination. Montgomery had been observing all the events taking place in the north. He knew about the pro-slavery forces led by John W. Reid heading for Osawatomie. He started in that direction to offer his assistance, but did not arrive in time to be of any use. He returned home and was careful not to start any wild rumors concerning the raid at Osawatomie. A few days later, however, the word was circulated that George W. Clark was arming the Miami Indians, just north of Linn County, giving them whiskey and preparing to send them down on the free-state forces. There was panic in Linn County, and the settlers left the country and their possessions behind for safer territory.<sup>20</sup>

<sup>18</sup>House Reports, 34th Cong., 1st Sess., No. 200, 1121-1127 *passim*.

<sup>19</sup>Wilder, Annals, 127, 140.

<sup>20</sup>Andreas, History of Kansas, 1103.

hereafter as, Battle, History of Kansas.

<sup>25</sup>Andreas, History of Kansas, 1103.



they The free-state settlers were without any kind of protection, and Montgomery was delegated to plead their cause to the new governor, John W. Geary. President Pierce, because of the violence under Governor Shannon, was afraid the Kansas civil war would spread to the other states.<sup>21</sup> Accordingly the President removed Shannon and replaced him with Geary of Pennsylvania, who was authorized to use United States troops. Governor Geary, by using the troops from Fort Leavenworth, disbanded the border ruffian militia, that was advancing on Lawrence and the free-state forces that were prepared to repel the attack.<sup>22</sup> At the same time President Pierce sent word to release on bail the "treason" prisoners held in Lecompton.<sup>23</sup> Although he was unarmed, he threw off

the The governor did not have any confidence in the free-state settlers and would not listen to Montgomery and his appeal for help. Returning from Lecompton, Montgomery visited Lawrence where he had more sympathetic listeners. Here he received some arms and helpful advice.<sup>24</sup> So he went to Miss. While Montgomery was in Lecompton, the Missourians made their first raid into Linn County, headed by George W. Clark, accompanied by Colonel Fox and about four hundred men. Fox and many of the men joined the group at Paris, Kansas, which was six miles north of Mound City, and from this rally point they headed to their objective which was Sugar Mound.<sup>25</sup> Here

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<sup>21</sup> Wilder, Annals, 135-136.

<sup>22</sup> Ibid., 136-137.

<sup>23</sup> Ibid., 136.

<sup>24</sup> Charles R. Tuttle, History of Kansas, 421. Cited hereafter as, Tuttle, History of Kansas.

<sup>25</sup> Andreas, History of Kansas, 1103.



they burned several houses and the grocery store. Fox, remembering his past encounter with James Montgomery, asked Clark to send some of his men to take him prisoner. Upon arrival at his cabin the detachment of men discovered that Montgomery was not at home. This gave them an excellent opportunity to burn the cabin to the ground.<sup>26</sup>

The next day when Montgomery returned home he discovered what had happened to his own cabin as well as to those in Sugar Mound.<sup>27</sup> He immediately went to Clark's headquarters, located in a building near the Mound, which was owned by a free-state settler named Barnes, and demanded justice. Clark ordered him to be taken prisoner and only Montgomery's quick thinking saved him. Although he was unarmed, he threw off the men who grabbed him and escaped into the hills. Clark's orders were to bring Montgomery back dead or alive. Thanks to his first hand knowledge of the region he made his escape successfully.<sup>28</sup>

Montgomery was now unable to return home, so he went to Missouri for the purpose of discovering the names of the members of Clark's band. Montgomery had the ague and he used this for an excuse to stop at the home of a Captain Burnett who was a member of Clark's band and out on the raid. Mrs. Burnett admitted Montgomery and cared for him during his

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<sup>26</sup> Tomlinson, Kansas in Eighteen Fifty-eight, 170.

<sup>27</sup> Tuttle, History of Kansas, 421.

<sup>28</sup> Tomlinson, Kansas in Eighteen Fifty-eight, 171. *the War for the Union*, 24. Hildegrade Herklots, "Jayhawkers in Missouri," Missouri Historical Review, XVII (April, 1923), 270. Cited hereafter, Herklots, "Jayhawkers in Missouri."

sickness. Later Burnett returned home and discovered the sick man, unaware that it was the escaped prisoner. Montgomery told Burnett he was ". . . on his way from New York to Kansas, and desirous of finding a school to teach during the winter!"<sup>29</sup>

Burnett thought he was a very intelligent man and helped him find a school in the vicinity. Montgomery's disguise worked, and for two weeks while teaching school he compiled a list of men involved in Clark's raid. The school then came to an abrupt close and Montgomery returned home with his information.<sup>30</sup>

his operations," says Andreas, "may be classed as defensive, preventive and retaliatory, and it is doubtless true that he did many things which when judged outside of their immediate and remote causes and connections, would not stand the test of the moral code."

Oswald Garrison Villard

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<sup>29</sup>Andreas, History of Kansas, 1103.

<sup>30</sup>Ibid. See also, Spring, Kansas, The Prelude to the War for the Union, 24. Hildegrade Herklotz, "Jayhawkers in Missouri," Missouri Historical Review, XVII (April, 1923), 270. Cited hereafter, Herklotz, "Jayhawkers in Missouri."



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CHAPTER III

Montgomery FREE-STATE RETALIATION. When he reached Linn County he wasted no time in organizing a small group of men to return with him to Missouri to bring back the property, or its equivalent, that Clark's band had captured.<sup>1</sup> They first went to Burnett's house and hid nearby in the timber. Two of the men dressed as Indians rode where they could be seen and their presence reported to Burnett. At

The original incentive for Montgomery's taking to the brush was the pro-slavery outrages of 1856 in Linn County; thereafter his own actions led to frequent efforts to retaliate by the pro-slavery men, who feared and hated him more than anyone else. "His operations," says Andreas, "may be classed as defensive, preventive and retaliatory, and it is doubtless true that he did many things which when judged outside of their immediate and remote causes and connections, would not stand the test of the moral code."

Later, Burnett and his neighbors returned to the house one at a time. It was a simple plan for the free state men to capture and disarm the men as they arrived. Twenty-one prisoners were taken in this manner. Their guns were broken and two hundred and fifty dollars plus eleven horses were taken back to Sugar Mound.

Oswald Garrison Villard

As Montgomery's place was burned down, he went to some of his neighbors for food for himself and his men. The first house he tried belonged to the Barnes family who had not been home since the Clark raid. He next called at Judge

<sup>1</sup>Spring, Kansas, The Prelude, 241.

<sup>2</sup>Tuttle, History of Kansas, 421.



Montgomery was now ready to retaliate. When he reached Linn County he wasted no time in organizing a small group of men to return with him to Missouri to bring back the property, or its equivalent, that Clark's band had captured.<sup>1</sup> They first went to Burnett's house and hid nearby in the timber. Two of the men dressed as Indians rode where they could be seen and their presence reported to Burnett. At this time the Missourians were having trouble with the Miami Indians who were making raids in Missouri to steal horses. Montgomery knew that when Indians were reported in the area the Burnetts left their house. The pseudo-Indians were unsighted and reported, and as Montgomery thought, the Burnetts left the area. This left the place free for Montgomery and his men to take possession.<sup>2</sup>

Later, Burnett and his neighbors returned to the house one at a time. It was a simple task for the free-state men to capture and disarm the men as they arrived. Twenty-one prisoners were taken in this manner. Their guns were broken and two hundred and fifty dollars plus eleven horses were taken back to Sugar Mound.

As Montgomery's place was burned down, he went to some of his neighbors for food for himself and his men. The first house he tried belonged to the Banes family who had not been home since the Clark raid. He next called at Judge

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<sup>1</sup>Spring, Kansas, The Prelude, 241.

<sup>2</sup>Tuttle, History of Kansas, 421.



Cannon's place, a free-state man, where he was refused because the Judge did not want to get involved in such operations as Montgomery had just completed.<sup>3</sup>

The settlers began returning to their claims and those that had been burned-out started rebuilding their cabins. Montgomery relocated his cabin in a more strategic position on the side of a small hill near Little Sugar Creek. It was only about one hundred feet to the top of the hill, which provided an excellent point to station a look-out. Now, no one could approach the cabin without being seen.<sup>4</sup> By the time the cabin was completed it was more of a fort than anything else and was usually referred to as Fort Montgomery. Mitchell, in his book about Linn County, gives this excellent description:

... when his home was burned he assembled a number of friends who went into the timber and cut down good sized oak and walnut trees. From these trees logs eight feet long were cut out and the center section eight inches thick was split out with wedges. A chalk line was snapped on the edge to insure accuracy and a broad-ax made both sides as smooth as a sawed board. . . . With both sides dressed the slab was turned down and a chalk line marked the full width it would be hewed out. When finished a tenon six inches long was cut on each end. . . . A stone foundation was laid and on it were logs twenty-four feet long and mortised to fit the tenons on the timbers dressed out in the woods. Each stick was measured to fit its mortise and numbered for its place. When all was in readiness the various timbers were assembled, stood on end side by side, agur holes bored through mortise and tenon and an oak pin driven through to hold it. A mortised log received the tenons at the

<sup>3</sup>Andreas, History of Kansas, 1104.

<sup>4</sup>Mitchell, Linn County, 19. For in an old lodge building, and being the only known picture of the fort in existence, the author suggested to the Kansas State Historical Society that they try to acquire it for their excellent collection of Kansas paintings.



top which were secured in like manner by pins. Thus Fort Montgomery was a log house with the logs set vertical, so cleverly and accurately put together that there was no where a crevice big enough for a bullet. It was larger than the average log house, being sixteen by twenty four feet. A big fireplace was cut into the end facing the northwest, and there was a door cut on the north into a "lean-to" similarly made and about ten by twelve feet in size.<sup>5</sup> An outside door was set in near the southeast corner and another outside door near the northeast corner, with porches. One little window set higher than a man's head furnished the only light and ventilation on this first floor, and when the thick puncheon doors were closed and barred it was a fort indeed. In the northwest corner a slightly inclined ladder led through a hole two feet by four feet into the room upstairs which had some distinction of its own. Three logs were laid horizontally on the top mortise log with a scallop three inches deep cut out at two places in the log. Similar scallops were cut out of the top log so that when placed in position they made portholes six inches wide and two feet long on the north and south sides, and one in each end, affording ventilation and light and permitting free use of rifles. Rafters carried a roof of shakes rivited out of clear oak and dressed with draw shaves. . . . There was one feature that even few of the friends knew about and that was a crude tunnel that had previously been dug and filled up during the work of building and which was secretly reopened when Montgomery moved in. This enabled him to save his life several times when "posses" came in and searched for him.<sup>6</sup>

Montgomery completed his fort during the winter of 1856. More settlers who abandoned their claims during Clark's raid were now returning. While they were gone, pro-slavery settlers had taken over their claims and disputes

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<sup>5</sup>For a description of this later addition see, William Hutchinson, "Sketches of Kansas Pioneer Experience," Transactions of the Kansas State Historical Society, 1901-1902, VII, 404.

<sup>6</sup>Mitchell, Linn County, 18-19. The author located an old oil painting of the fort, and some older citizens of Mound City told him that it looked very authentic. Since the painting was not being well cared for in an old lodge building, and being the only known picture of the fort in existence, the author suggested to the Kansas State Historical Society that they try to acquire it for their excellent collection of Kansas paintings.



frequently arose that were sometimes quite bloody.<sup>7</sup> The pro-slavery party in Linn County, headed by such men as Colonel Fox, Captain Hamilton and Briscoe Davis, was the ruling force. The pro-slavery element could get away with almost anything while the "law" turned its back. The free-state settlers did not have a chance in a court of law.<sup>8</sup> In desperation the free-state men banded together and formed a "Self-protective Company,"<sup>9</sup> and,

Every man of influence in Linn County, who sustained the Blue Lodge in its secret machinations, and upheld the bogus code and the pro-slavery Lecompton government, whether by fraud, violence or murder, was warned to leave the Territory in a certain time and take with him his property.<sup>10</sup>

On one such occasion, Montgomery and six men called on Briscoe Davis, who was Captain of a company of Territorial militia. He intended to take the man prisoner and confiscate the company's weapons. When they arrived, Davis was not to be found. They did take one prisoner, Brown, and found some arms and ammunition. Brown managed to escape while Montgomery was hiding the military supplies he had acquired.

After this attempt, Montgomery gave up his objective of disarming all the pro-slavery men in the area. On his return trip home he had to detour with his men into Bourbon

<sup>7</sup>Robinson, The Kansas Conflict, 391.

<sup>8</sup>Tomlinson, Kansas in Eighteen Fifty-eight, 173.

<sup>9</sup>Franklin B. Sanborn, "Some Notes on the Territorial History of Kansas," Collections of the Kansas Historical Society, 1913-1914, XIII, 260.

<sup>10</sup>Tomlinson, Kansas in Eighteen Fifty-eight, 175.



County. This southern dip was for the purpose of avoiding a meeting with the Territorial Militia which was on Little Sugar Creek. While riding through Bourbon County they were spotted by some, so called, "Texas Rangers" who fled to Fort Scott and spread such an exaggerated report concerning the size of Montgomery's band that the Fort was immediately deserted.<sup>11</sup>

In general, Montgomery's warnings for the pro-slavery men to leave the country were successful.<sup>12</sup> The Fort Scott incident mentioned above and other reports indicate that the pro-slavery men probably feared and hated Montgomery more than anyone else in the country.<sup>13</sup>

Paris was the county seat of Linn County and the headquarters of the pro-slavery forces in Linn County. Following Montgomery's successful overthrow of these forces, he made a speech in Paris just following the Dred Scott decision by the Supreme Court on March 6, 1857. He said in effect that the free-state men had gained many advantages and the only way to keep these advantages would be to fight for them. Robert Byington Mitchel, a local resident of Paris, who lived only a few miles from Montgomery and often took shelter in his fort, made an opposing speech. He opposed slavery, but wanted to get rid of it through established political procedures. He spoke to the people guaranteeing them that the

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<sup>11</sup> Andreas, History of Kansas, 1104, 1066.

<sup>12</sup> Ibid., 302. See also, R. I. Holcombe, Sketch--History of Vernon County Missouri, 219.

<sup>13</sup> Herklotz, "Jayhawkers in Missouri," 270. See also, R. I. Holcombe, Sketch--History of Vernon County Missouri, 210.



courts would respect and protect their rights and in this way the free-state ideals could be accomplished without warlike tactics. Montgomery violently attacked this approach and on the basis of the recent Supreme Court decision, condemned the courts and the administration at Washington. James Buchanan had just been elected President and had quickly approved the action of the Supreme Court.<sup>14</sup>

The way things were working out it looked as if Mitchel had suggested the right solution. When James Buchanan became President he appointed Robert J. Walker of Mississippi to be territorial governor and Frederick P. Stanton of Tennessee as secretary of state. Both, of course, favored the pro-slavery party, but both resolved to let the squatters decide the question of slavery for themselves in accordance with the Kansas-Nebraska Bill.<sup>15</sup> Before their arrival, the territorial legislature had provided for an election to take place in June, 1857, to choose delegates to a constitutional convention to be held in Lecompton in September, 1857.<sup>16</sup> As far as the free-state people were concerned, the "bogus" legislature could not enact any legal legislation and so they refused to vote for the delegates, and the pro-slavery party won the election. As a result of this convention, what is known as the Lecompton Constitution was drawn up and provided that Kansas should be a slave state.<sup>17</sup>

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<sup>14</sup> Mitchell, Linn County, 100-101.

<sup>15</sup> Andreas, History of Kansas, 157.

<sup>16</sup> Ibid., 156.

<sup>17</sup> Wilder, Annals, 169.



On October 5, 1857, it came time to choose a new territorial legislature, which was two months before the time to vote on the Lecompton Constitution. Governor Walker had continually announced that the election would be as fair as possible. To keep his word he sent the militia out to prevent voters from coming from Missouri into the territory on election day.<sup>18</sup> The free-state partisans went to the polls in high hopes. During the summer many more immigrants had come from the northern states, and the free-state people believed they had a majority. They were now convinced that they could win through the ballot-box.

It was no little surprise when they discovered that the pro-slavery forces had again won the election in both houses of the legislature by a careful manipulation of the votes.<sup>19</sup> The over-all returns showed a free-state majority including all the fraudulent votes. The pro-slavery forces seemed to win in all the districts that contained the most representatives. One district that carried eight representatives and three councilmen, recorded 1,791 democratic votes of which 1,626 votes were from one small town containing not more than twelve houses.<sup>20</sup>

Governor Walker, after inspecting the election returns threw out the fraudulent returns, thereby causing the defeat

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<sup>18</sup> Andreas, History of Kansas, 157.

<sup>19</sup> Wilder, Annals, 192.

<sup>20</sup> Ibid., 195.

<sup>24</sup> Andreas, History of Kansas, 164.



of his own party and the election of a majority of the free-state candidates. This gave control of the territorial legislature to the free-state party.<sup>21</sup>

During 1857, the free-state party had been very active. They had organized a provisional government with Doctor Charles Robinson as Governor and drawn up the Topeka Constitution, which was submitted to Congress as a basis for admitting Kansas as a free state.<sup>22</sup> In the free-state election of August 9, James Montgomery was one of the members elected to the senate.<sup>23</sup>

After the November election and a partial victory by the free-state people in the territorial legislature, there was a move to put the Topeka provisional government in action. Doctor Charles Robinson was influential enough to prevent this from happening and thus averted an uprising on both sides of the slavery issue.<sup>24</sup>

The delegates elected by the pro-slavery election to the Lecompton Constitutional Convention went on with their work of drawing up a constitution in spite of the recent reversal in the legislature. On November 21, the president of the convention, John Calhoun, announced that the vote on the constitution would take place on December 21, 1857. Following that, in accordance with the constitution an

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<sup>21</sup> Ibid.

<sup>22</sup> Andreas, History of Kansas, 154

<sup>23</sup> Wilder, Annals, 174.

<sup>24</sup> Andreas, History of Kansas, 164.



election would be held to select state officers, members of the state legislature and a member of Congress on January 4, 1858.<sup>25</sup>

While the convention was going on, Montgomery was called to Bourbon County. The increasing number of free-state settlers from the northern states were pushing further south into Bourbon County, and a repetition of what had occurred earlier in Linn County. In addition to the new settlers coming in, the free-state men returned to their claims they had left in the wake of George W. Clark's raid in 1856. Claim disputes with the pro-slavery men who had moved in were a common occurrence.

Fort Scott was the stronghold of the pro-slavery party in Bourbon County. The United States District Court in Fort Scott, where the settlers took their claim disputes, opened a term on October 19, 1857. The trio, Judge Joseph Williams, S. A. William, Clerk, and J. H. Little, were all pro-slavery sympathizers. When the claim cases came to this court, the free-state men received very little justice. In this situation the free-state men saw no alternative but to organize their own District Court. This "Squatters Court" was held in a large log house on the Osage River which was built by John Brown and Captain Bain and referred to as "Bain's fort."<sup>26</sup>

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<sup>25</sup>Wilder, Annals, 198.

<sup>26</sup>T. F. Robley, History of Bourbon County, Kansas to the Close of 1865, 83. Cited hereafter as Robley, History of Bourbon County.

Tomlinson, Kansas in Eighteen Fifty-eight, 182-184.  
See also, Mitchell, Linn County, 302-303.



words: In this court the free-state men tried the men who had taken over their claims while they were gone.<sup>27</sup> During December, 1857, Judge Williams at Fort Scott heard about the court and sent Marshal Little and a posse to disband the court. Little advanced upon the court but was fired upon and after a short battle, in which one man was killed, the posse retired and returned the next morning only to find the court had "adjourned."<sup>28</sup>

When Montgomery arrived, he gathered a group of men and drilled them for action. He secured a list of all the pro-slavery men in the area, as he had in Linn County, and then proceeded to warn them to leave the country. If they did not heed the warning then Montgomery and his men moved in, disarmed them, and forced them to leave. When he got things under control on the Little Osage he proceeded to the Marmaton, just north of Fort Scott and established himself at Raysville. The same situation existed here as on the Little Osage, so again Montgomery used the same tactics to settle the claim disputes. He finished his work here by the end of December 1857, and returned home to Linn County.<sup>29</sup>

While Montgomery was in Bourbon County, the voting took place on the Lecompton Constitution. Again the free-state people refused to vote because of the way the ballot was

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<sup>27</sup>Wilder, Annals, 202.

<sup>28</sup>Robley, History of Bourbon County, 84. See also, Tomlinson, Kansas in Eighteen Fifty-eight, 179. Andreas, History of Kansas, 1067.

<sup>29</sup>Tomlinson, Kansas in Eighteen Fifty-eight, 182-184. See also, Mitchell, Linn County, 302-303.



worded it did not matter how they voted because they would be voting for slavery one way or the other. The delegates to the Lecompton Convention had provided for two ballots. One ballot read, "For the Constitution with slavery," which simply meant that slavery would exist in Kansas and that more slaves could be brought into the state. The other ballot read, "For the Constitution with no slavery," which was misleading because the constitution provided that if a majority voted for this ballot, then no more slaves could be brought into Kansas, but those already here and their children should remain slaves. Article VII section one reads: constitution would be submitted to the people. This

then result The right of property is before and higher than any constitutional sanction and the right of the owner of a slave to such slave and its increase is the same and is as inviolable as the right of the owner of any property whatever.<sup>30</sup>

Section seven of the SCHEDULE provided that if vote in December . . . it shall appear that a majority of the legal votes cast at said election be in favor of the "Constitution with no slavery," then the article providing for slavery shall be stricken from this Constitution. . . and slavery shall no longer exist in the state of Kansas, except that the right of property in slaves now in this Territory shall in no manner be interfered with. . . .<sup>31</sup>

Without free-state participation, the pro-slavery ballot carried with an overwhelming majority of 6,226 and "For the Constitution without slavery," 569.<sup>32</sup>

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<sup>30</sup> Wilder, Annals, 183.

<sup>31</sup> Ibid., 189.

<sup>32</sup> Ibid., 202-203.



Free-state confidence in their ability to win through the ballot was greatly shaken. Because of the unfairness of the election procedure, Governor Walker on November 16, 1857, left for Washington to protest to President Buchanan. The President said the free-state people were at fault because they had not voted and he insisted on submitting the Lecompton Constitution to Congress. Walker then resigned on December 17, because he could not carry out the pledge of fairness he had promised the people of Kansas.<sup>33</sup>

A special session of the territorial legislature called a second election for January 4, 1858, at which time the entire constitution would be submitted to the people. This then resulted in two elections for this date: the one already scheduled for the election of state officers, members of state legislature, and one member of Congress.

The pro-slavery party, contending that the vote in December on the Lecompton Constitution was final, took no part in voting on the constitution in this election. The free-state party voted against it and the outcome was 10,226 against the constitution and 138 for the constitution with slavery and 23 for the constitution without slavery.<sup>34</sup>

On the question of voting for representatives under the Lecompton Constitution the free-state party was divided. The Topekans, as they were called, wanted no part in the

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<sup>33</sup>Andreas, History of Kansas, 164-165.

<sup>34</sup>Ibid., 166.



election for this would be recognition of the Lecompton Constitution and abandonment of the Topeka government.

"... rebuke, say they, the infamous Lecompton Constitution with your ballots, but don't sanction it by voting for State Officers under it. . . ."<sup>35</sup>

The other element known as the conservatives, contended that the only way to assure safety for the free-state people would be to keep control of the legislature so that if the Lecompton Constitution was accepted by Congress the free-state people would have a chance to call another constitutional convention.

To resolve this question, a convention was held at Lawrence, December 23, 1857. As a result, a small majority voted that they would not participate in the election of state officers. The conservatives, led by G. W. Brown, editor of the Herald of Freedom, bolted from the convention and met at Brown's office nearby. They reversed the decision and put in nomination a state ticket called the Anti-Usurpation Ticket.<sup>36</sup>

Brown published an extra of the Herald of Freedom in which he published the proceedings of the conservative convention. The published resolution was worded in such a way that it sounded as if this were the decision of the regular convention. The people that received the extra of

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<sup>35</sup>Tomlinson, Kansas in Eighteen Fifty-eight, 186.

<sup>36</sup>Ibid., 187. See also, Andreas, History of Kansas, 165-166. Wilder, Annals, 204.



the Herald of Freedom felt bound to act as they thought the Territorial Convention voted to do--vote for state officers in the coming election. The resolution adopted at the conservative convention was as follows:

WHEREAS, The late Constitutional Convention assembled at LeCompton framed a Constitution and attempted to force it on the people unsubmitted, in violation of the rights and known wishes of an overwhelming majority of the inhabitants of Kansas; and

WHEREAS, An election for State officers and members of the Legislature as provided for in the schedule of said constitution takes place on the 4th of January next; and,

WHEREAS, it is possible Congress may admit Kansas as a State under that constitution so unsubmitted for acceptance or rejection by the people; therefore,

Resolved, That we, the people of Kansas, in favor of voting for State officers and members of the Legislature on the 4th of January next, in convention assembled at Lawrence on this 24th of December, 1857, conceived it to be the duty of the residents of the Territory who are opposed to this attempted usurpation to throw aside for the present all party affiliations, and merge all party interests in the one absorbing issue, and to unite with us in the support of a State ticket to be nominated by this convention.

Resolved, That we call on the people of the several districts, as designated by that constitution, to nominate and vote for Senators and Representatives under it.

Resolved, That candidates nominated by this convention, on accepting such nomination, will be considered as pledged, should the constitution be approved by Congress, to adopt and execute immediate measures for enabling the people, through a new constitutional convention, to obtain such a constitution as the majority shall approve.

Resolved, That should Congress admit Kansas as a State under that unsubmitted constitution, it will commit a gross infraction of the organic law, and of the rights of the people.

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<sup>37</sup> Andreas, History of Kansas, 166.



In Linn County, Sugar Mound was a strong Topeka precinct but the voters there were misled when they received their copy of the extra Herald of Freedom. In support of what they believed was the resolution of the Territorial Convention, they cast ballots for state officers.<sup>38</sup>

The voting station was located in a small combination grocery and post-office building. Here, all the settlers of the area were assembled to participate in the election. It was about noon that day when James Montgomery arrived in town from his tour in Bourbon County. He was a strong Topeka man and had always advocated not voting in the pro-slavery elections, and he continued to do so that day in Sugar Mound. It was also on that day that Montgomery received a copy of the Lawrence Republican which had printed a complete account of the proceedings in which the territorial convention had voted not to take part in the election. Montgomery immediately jumped up before the assembled crowd and read the account from the Lawrence Republican. The votes had already been cast, but when the voters learned the truth they wanted their ballots back. The election judges explained that it would be impossible to let them vote again. At this point Montgomery again addressed the settlers.

Freemen of Linn! I have defended your rights in past time, and I am here to defend your rights

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<sup>38</sup>Tomlinson, Kansas in Eighteen Fifty-eight, 188.

<sup>39</sup>Ibid., 189.

<sup>40</sup>Ibid.



to-day. The ballot-box is sacred only when the ballots therein deposited are given freely and without restraint by those legally entitled to the privileges of freemen. The ballot-box is to express the free sentiments of a free people. When it does not do this, it is no more the exponent of the will of the people it is intended to represent, than it would be if armed invaders surrounded the poll, and deterred the legal voters from exercising the elective franchise. How is it with the ballot-box for State Officers before us. Does it express the sentiments of the voters of Sugar Mound? Then many deluded freemen asking for their ballots, desposited under false impressions, is an unmistakable negative to such a query? No, you have been grossly deceived! There is nothing legal in support of that ballot-box except the Lecompton Constitution, which you deem it a virtue to treat with contempt, and the moral law which would otherwise interfere to protect it has been shorn of its majesty and power by the foul deceit practiced upon you. This ballot-box, falsely expressing your sentiments, I will destroy, and those wishing to vote for State Officers can afterwards proceed as though it were a new election. Thus, freemen of Linn, I right you!<sup>39</sup>

At the end of his speech he grabbed the ballot-box containing the ballots for state officers and slammed it against the floor, breaking it open and scattering the ballots over the floor. No one present interfered in any way with Montgomery's actions. The voting then continued on the Lecompton Constitution, but the election of state officials came to an end.<sup>40</sup>

Because of the action of the pro-slavery court in Fort Scott, many free-state prisoners were being held without bail. Montgomery devised a plan to stop this procedure. He captured a pro-slavery man, who refused to leave the county, and kept him locked up for some time. During his confinement

<sup>39</sup>Ibid., 189.

<sup>40</sup>Ibid.



he was mistreated just enough to leave the impression that his life was in great danger. Montgomery let the prisoner overhear some remarks about going to Fort Scott in full force and releasing the free-state prisoners which the Judge had refused bail.<sup>41</sup> The prisoner was later allowed to escape just after they had threatened to hang him. From all indications, he must have been held prisoner at Fort Montgomery for shortly after his "escape" he reached Sugar Mound and told of his experiences.<sup>42</sup> In a letter dated January 31, 1858, Joseph Trego in Sugar Mound, writing to his wife, said that Montgomery had been in town that day telling about the above incident, but neglected to tell how the man escaped.

. . . Montgomery told us [Trego wrote] that several companies, his among the number, are in readiness to march upon Fort Scott tomorrow for the purpose of destroying the place, scattering the band and perhaps to hang up the leaders of it to prevent them from making similar nests anywhere else. . . .<sup>43</sup>

This plan had its desired effect and the prisoners at Fort Scott were released without bail.<sup>44</sup>

Because of the trouble Montgomery had stirred up in Bourbon County in December, John S. Cummings, Sheriff of Bourbon County, wrote acting governor F. P. Stanton:

Sir: As Sheriff of Bourbon County, I feel it my duty to report to you that, in consequence of an organized and armed resistance to the civil authorities by a body of armed men in this county aided and assisted by men equally lawless, I am unable to

<sup>41</sup> Andreas, History of Kansas, 1067.

<sup>42</sup> Joseph H. Trego to Mrs. Trego, September 5, 1861, Edgar Langsdorf (ed.), Kansas Historical Quarterly (May, 1951), XIX, 290. Cited hereafter Trego to wife.

<sup>43</sup> Ibid.

<sup>44</sup> Andreas, History of Kansas, 1067.



serve processes, make arrests, or otherwise perform my official duties; and I have the honor to ask that you have a body of United States troops sent to this point to aid me in enforcing the laws, and to give quiet to the disturbed state of things in this region. . .<sup>45</sup>

As a result, acting Governor Fredrick P. Stanton sent a portion of the cavalry to Fort Scott. This action encouraged the pro-slavery forces and they again started persecuting the free-state men. Montgomery was again asked to make a trip to Bourbon County by a Mr. Johnson. The border ruffians from Fort Scott had stolen some of his stock, and warned him to leave the country. He gave Montgomery a list of the leaders who, it was believed, were staying at Fort Scott.<sup>46</sup> The cavalry had left Fort Scott on January 10, 1858, and Montgomery was in no danger of running into them. Montgomery with some men entered Bourbon County February 10.<sup>47</sup>

He was able to obtain some writs against the men who had attacked Johnson and was heading toward Fort Scott to execute these writs. The news of his arrival in the county was rapidly forwarded to the fort. The town dispatched a deputation to meet him, and to find out what he wanted. Montgomery told them who he was after, and they replied that they would turn over the men to him on the condition that they be tried in Fort Scott. The only alternative they offered was a fight. Montgomery declined the offer to hold the trial in Fort Scott and prepared to fight. While he was

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<sup>45</sup> Ibid.

<sup>46</sup> Robley, History of Bourbon County, 94. See also, Andreas, History of Kansas, 1068.

<sup>47</sup> Andreas, History of Kansas, 1067-1068.



getting ready, the deputation hurried back to Fort Scott to warn the residents. The leading pro-slavery leaders of the town suddenly had to leave for Missouri, and when Montgomery arrived all those he was seeking had left the town.<sup>48</sup>

When Montgomery's men arrived at Fort Scott they were treated very well and were invited to breakfast at the free-state hotel. After the meal Montgomery and his men quietly left Fort Scott.<sup>49</sup>

Montgomery's return to Bourbon County was again the occasion for a call for the cavalry. They were ordered to Fort Scott February 15, 1858, headed by George T. Anderson. Montgomery, in order to avoid the dragoons, operated in the area surrounding Fort Scott. He hoped to drive the pro-slavery men into the fort for protection, and this is exactly what happened in a good number of cases.<sup>50</sup>

Other men took advantage of this situation and in the name of the free-state cause raided, plundered and stole anything they could get. One such man was a Methodist preacher named Captain or Reverend Stewart. He and his men, who numbered about twenty, claimed to be free-state men and

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<sup>48</sup>Ibid., 1068. Robley, History of Bourbon County, 94, records that when the deputation met Montgomery they told him the men he was looking for had left for Missouri. Montgomery did not believe them and went to the fort to see for himself.

<sup>49</sup>Ibid., See also, Robley, History of Bourbon County, 94.

<sup>50</sup>Wilder, Annals, 212. See also, Andreas, History of Kansas, 1068. Charles R. Tuttle, History of Kansas, 425-426.

History of Kansas, Collections of the Kansas State Historical Society, 1913-1914, XIII, 230. See also, Wilder, Annals, 215. Andreas, History of Kansas, 302.

<sup>55</sup>Robley, History of Bourbon County, 86.



considered anyone with property a pro-slavery man and all horses they saw pro-slavery horses. Even some of the troops that were sent in took to "jayhawking," as it was called.<sup>51</sup>

These activities gave a bad name to such men as Montgomery, and since he was very much disliked by the pro-slavery people an incident of stealing or plundering was always credited to him or his men. Montgomery was well aware of this and openly defied these groups and some, such as the Stewart gang, left Bourbon County.<sup>52</sup>

Because of a claim dispute which resulted in the death of two free-state men, Hardwick and Isaac Denton, a protective society was organized on March 27, 1858, in Bourbon County.<sup>53</sup> Isaac Denton had lived long enough to tell about his murder and made his sons promise to avenge his death. His sons were members of Montgomery's band and had many excellent opportunities to carry out their promise.<sup>54</sup> Montgomery became aware of the protective society but would not join until it passed the following resolution: "Resolved, that we, the members of this organization, pledge ourselves to protect all good citizens in their rights of life and property irrespective of politics."<sup>55</sup> After this resolution, Montgomery joined the group saying, "I am now with you and

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<sup>51</sup>Robley, History of Bourbon County, 100-101.

<sup>52</sup>Ibid., 102.

<sup>53</sup>Ibid., 86.

<sup>54</sup>Franklin B. Sanborn, "Some Notes on the Territorial History of Kansas," Collections of the Kansas State Historical Society, 1913-1914, XIII, 260. See also, Wilder, Annals, 215. Andreas, History of Kansas, 302.

<sup>55</sup>Robley, History of Bourbon County, 86.



will be to the end. Some men must be active in defense while others work. We have a hydra-headed monster to fight, and I for one will fight him with his own weapons, if necessary."<sup>56</sup> The battle Montgomery's men wanted to gather up a few Captain Charles A. Hamilton, the border ruffian leader, was out to get Montgomery, if possible with United States troops. He reported to Captain Anderson at Fort Scott that Montgomery was making a raid in the Marmaton Valley. Anderson and his men immediately took out after the elusive James Montgomery. The dragoons soon sighted Montgomery and his band of about twenty men. Montgomery also saw the dragoons and started to leave the area because he did not want to come in contact with United States troops. The dragoons were drawing closer and Montgomery had to do something. He and his men turned up Yellow Paint Creek and took defensive positions that Montgomery was familiar with and waited for the troops. When the troops arrived they were ordered to halt, but instead, Captain Anderson directed them to open fire. They wounded one man, John Denton. Montgomery and his men retaliated with a volley with which they killed one dragoon, wounded two others and killed a horse which fell pinning a soldier to the ground. Anderson's horse was also killed. After a brief armistice, to free the man pinned down by his

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Ibid.

Anderson, *Kansas in Eighteen Fifty-eight*, 200.  
 Anderson, *History of Kansas*, 626. See also, Herklots, "Jayhawkers in Missouri," 275, which reports Montgomery to be in Bates County, Missouri where he took two horses from a Reverend G. W. Geyer and a saddle from Doctor A. P. Brown.



dead horse, the dragoons retired to Fort Scott. This was the first and last time United States troops were fired on during the Kansas border troubles.<sup>57</sup>

After the battle Montgomery's men wanted to gather up a few souvenirs but he would not allow them because,

It is Uncle Sam's property and they were Uncle Sam's boys themselves, it was not right to steal from the old gentleman, but when the old gentleman got out of his place as he did that afternoon, it was perfectly right to learn him his place.<sup>58</sup>

Following this encounter with the cavalry, Montgomery returned to Linn County but continued his threats to the pro-slavery claim jumpers.

He ventured north, at least on one occasion, to pay a visit to John Evans, a pro-slavery man living in Johnson County near Olathe. On May 14, 1858, Montgomery and some of his men barged into Evan's house and told him to leave the territory within ten days. Evans refused to go. It is reported that Montgomery took some eight-hundred dollars in gold and a gold watch belonging to the local sheriff, Patrick Cosgrove.<sup>59</sup>

Montgomery was busy in Johnson County when, on the morning of May 19, 1858, Captain Charles A. Hamilton and about thirty Missourians descended on the free-state settlers near Trading Post in a retaliatory attack. They rounded up

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<sup>57</sup> Ibid., 102-103. See also, Wilder, Annals, 216. Andreas, History of Kansas, 1068. Tomlinson, Kansas in Eighteen Fifty-eight, 190-191.

<sup>58</sup> Tomlinson, Kansas in Eighteen Fifty-eight, 200.

<sup>59</sup> Andreas, History of Kansas, 626. See also, Herklotz, "Jayhawkers in Missouri," 270, which reports Montgomery to be in Bates County, Missouri where he took two horses from a Reverend G. W. Geyer and a saddle from Doctor A. P. Brown.



eleven men and marched them to an open gully where they murdered five, and left the other six for dead. These were only the first of some sixty or seventy whom Hamilton intended to kill.<sup>60</sup> This event is remembered in Kansas Territorial history as the Marais des Cygnes massacre. Montgomery had earlier heard of Hamilton's plan and was determined to kill him. He had visited his house with the intention of capturing him, but his rifles were useless against the log building, so he called for a howitzer. By this time, United States troops had arrived and Montgomery had retreated.<sup>61</sup> The posse then returned to Trading Post. The Miss Montgomery returned from Johnson County the evening of the Marais des Cygnes massacre. The next afternoon a posse was organized to go to West Point, Missouri, where it was believed Hamilton and his band had fled. At the head of this group were Sheriff McDaniel, Colonel R. B. Mitchell and James Montgomery. As the posse approached West Point they stopped to decide how they would proceed. They decided to send in a delegation to ask the leading citizens to come out and have a conference with them.<sup>62</sup> Montgomery violently protested, saying:

Gentlemen, unless you wish to make this day's work a mere farce, and ourselves the laughing stock of the Missourians, go on and surround the town; then after having done that, not partially, but thoroughly and completely, acquaint the authorities with your purpose; tell them that you meant

<sup>60</sup> Mitchell, Linn County, 202-208. See also, Andreas, History of Kansas, 1105-1106.

<sup>61</sup> Andreas, History of Kansas, 1105.

<sup>62</sup> Ibid.



free them no harm or disrespect, but you must see the face of every man in West Point, to see if the face of a murderer is there; and to assure yourselves of the fact that all are shown you yourselves must conduct the search.<sup>63</sup>

During the delay, while the delegation was in town seeking the leading citizens, several men were seen leaving from the opposite side of town. Montgomery and his men searched the surrounding area but did not find anyone except a brother of one of the men they were after. This man was soon released. Finally a conference was held with some of the citizens of West Point, but, of course, they claimed to know nothing. The posse then returned to Trading Post. The Missouri border thereafter was so closely guarded that Hamilton never returned to Kansas.<sup>64</sup>

Retaliation best describes the activities of Montgomery following the Marais des Cygnes massacre. In a letter to General James H. Lane, Montgomery denied that he was under a commission from the Kansas Territory Military Board and declared that they were not responsible for his conduct.<sup>67</sup>

I am identified [Montgomery wrote] with a popular movement in this section of the country, having for its object, a redress of grievances. Our work is a necessary one; and so soon as it is accomplished we will lay down our arms and submit to the laws.<sup>65</sup>

Governor John W. Denver, of Virginia, appointed Acting Governor, December 21, 1857, in an attempt to prevent any further bloodshed, sent Deputy United States Marshal Samuel Walker of Douglas County to arrest Montgomery and any other

<sup>63</sup> Tomlinson, Kansas in Eighteen Fifty-eight, 82-83.

<sup>64</sup> Andreas, History of Kansas, 1105. See also

<sup>65</sup> Lawrence Republican, June 24, 1858.



free-state leaders that might cause trouble. The Governor put at Marshal Walker's disposal all the troops that he might need to execute the writs.<sup>66</sup> The Marshal refused the troops because he knew Montgomery would not show himself if there were United States troops around. He traveled to Raysville, which was in Bourbon County, accompanied by a Major Williams. They arrived at Raysville, May 20, 1858, where they discovered a free-state assembly in session. Montgomery was making the final speech to a crowd of approximately two hundred men. A Mr. Oakley recognized the Marshal and asked him what he wanted. Walker replied that he was going to arrest Montgomery. Mr. Oakley called to his attention the fact that this was not the time or place to attempt anything like the arrest of Montgomery. After looking the situation over, the Marshal agreed with him and remained to listen to Montgomery's speech in which he was advocating going to Fort Scott to retaliate against the pro-slavery people who were in sympathy with the Hamilton band.<sup>67</sup> Montgomery knew that a United States Marshal was attempting to arrest him and he told this to the group, adding that the authorities always arrested free-state men and never the pro-slavery group. He concluded by saying:

The troops I have the honor to command are of the order called "guerrilla," and are bound by the rules of strict guerrilla warfare. We make not,

<sup>66</sup> Governor J. W. Denver to Marshal Samuel Walker, May 12, 1858, F. G. Adams (ed.), Transactions of the Kansas State Historical Society, 1889-1896, V, 488-489.

<sup>67</sup> Robley, History of Bourbon County, 113. See also Andreas, History of Kansas, 1068.



as falsely charged, a war upon all who differ with us politically, but only on those who have been and are warring upon our people. The quiet, peaceable Pro-Slavery man has nothing to fear from us; he may remain among us, and enjoy his political opinions unmolested. We will protect, and have protected him in his rights. Two of my nearest neighbors are Pro-Slavery men, yet they have lived by me for years and have never been disturbed. But the violent Pro-Slavery man who will not give us the country we have fairly conquered, but still continues to molest, disturb, and kill the peaceable settlers; we go to and say to him this country is ours; you and I have fought which shall have it, and we have fairly conquered you, and mean to have it. In so many days you must leave it. And as the idea of "guerrilla" is self-sustaining, we also say, if you have any money, we must have some of it, and if you have any horses, we must have them for service, etc. Yet I am very careful not to allow my men to take from any but persons of this description. If they do, I expel them immediately from my company, and restore the articles to their rightful possessors. I never allow an outrage to be committed on a woman. Whatever she claims, no matter who or what her husband may be, is sacred. If I have ever taken life, it has been in the heat of battle, and my men are strictly prohibited from taking life in any other manner. I did say in a moment of excitement, while standing over the dead bodies of the men killed at that terrible massacre of the Marais des Cygnes, that for every dead man lying on the ground reddened with his blood, I would require ten of his assassins, and for every wounded man I would have five, but in a short time that feeling passed away. I reflected that man was not to be the avenger, that was an attribute of the Divinity alone, and that He had said, "As a man sows, so shall he reap," and "as he metes, so shall it be meted unto him again."<sup>68</sup>

The expedition to Fort Scott was agreed on and immediately Marshal Walker arose to address the meeting. Without mentioning Montgomery, he told them he was going to Fort Scott and arrest Clark and others who may have been involved in the Marais des Cygnes massacre, but that he



needed a posse to assist him. Although a United States Marshal had no right to serve a writ of arrest issued by a Justice of the Peace, the Marshal could obtain no other kind and said he would make it do the job. The Marshal led the group of some seventy-five men into Fort Scott.<sup>69</sup>

Montgomery, in order to prevent Walker from arresting him on the way to Fort Scott, disguised himself in a large shawl and a Spanish hat that covered most of his face.<sup>70</sup> He rejoined the posse about two miles outside of Fort Scott<sup>71</sup> and entered the town with them on Sunday morning, May 30, 1858. A search immediately took place. One house, the pro-slavery hotel, and the hospital were searched, and this resulted in the arrest of several pro-slavery men. The posse then proceeded to Clark's house.<sup>72</sup> Clark had secured the doors and refused to surrender. By this time a huge crowd had gathered in front of his house. The pro-slavery men stood facing the free-state men not more than ten feet apart with revolvers and rifles ready. Marshal Walker was threatening to break Clark's door down with a wagon tongue, when Clark called out and said that he would surrender if given assurance that the Marshal was in command of the posse. After being given this assurance, Clark walked out of his house with a carbine in his hand and demanded to see Walker's

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<sup>69</sup>Robley, History of Bourbon County, 114. also, Tomlinson,

<sup>70</sup>Tomlinson, Kansas in Eighteen Fifty-eight, 143.

<sup>71</sup>Herald of Freedom, June 26, 1858.

<sup>72</sup>Tomlinson, Kansas in Eighteen Fifty-eight, 144.



writs. Since the writs were not technically legal the Marshal refused to show them to Clark and instead drew a pistol and gave him two minutes to drop his weapon. Clark dropped his carbine and surrendered.<sup>73</sup>

Montgomery was recognized by a Deputy United States Marshal of Fort Scott, Captain Campbell who had a writ for his arrest. At this point, Montgomery and his men decided it was best to leave and avoid being arrested. This left Marshal Walker and his assistant alone with their prisoners in a pro-slavery town. Walker asked Marshal Campbell for a horse in order to overtake Montgomery and persuade him to surrender. Campbell complied and soon the Marshal overtook Montgomery.<sup>74</sup> He explained to Montgomery the situation in Fort Scott and argued that the only safe way that he could return for his prisoners was to bring Montgomery in as one. He said that it would be an unpleasant task to attempt to place him under arrest. Montgomery, however, was agreeable and told the Marshal that he had done nothing to be afraid of if he received a fair jury trial at Leecompton. Montgomery then gave his knife, rifle and revolver to others in his group and delivered himself to the Marshal. Walker returned to Fort Scott with Montgomery where he turned the pro-slavery prisoners over to Captain Nathaniel Lyon stationed there, on

<sup>73</sup> Andreas, History of Kansas, 1069. See also, Tomlinson, Kansas in Eighteen Fifty-eight, 147-148.

<sup>74</sup> Ibid. See also, Robley, History of Bourbon County, 114.

<sup>75</sup> Ibid. See also, Robley, History of Bourbon County, 114.

<sup>76</sup> Tomlinson, Kansas in Eighteen Fifty-eight, 150-151.

<sup>77</sup> Ibid., 161.



the promise that he would send them to Lecompton the next day for trial.<sup>75</sup> When Captain Lyon first saw Montgomery it is recorded that he said:

I have heard of you, (a bow from Montgomery) I have heard a great deal of bad about you, (another bow) and I hope you have given yourself up in good faith, and will stand your trial as a law abiding citizen should, and quietly acquiesce in the decision of the court. You must be sensible, you have done a great deal of mischief. Here in Fort Scott we are a law-loving and law-abiding people. I never saw in a place where there was such peace, such quietude and sociability, and we are sorry that you have plunged the country into such a distracted condition.<sup>76</sup>

Marshal Walker then left Fort Scott with Montgomery as his prisoner. The next day, at Raysville, the pair were overtaken by a courier with a message from Captain Lyon which informed the Marshal that the Captain had released the prisoners at Fort Scott on a writ of habeas corpus. This was the undoing of everything Walker had accomplished. Montgomery had given himself up in order that the Marshal might keep his prisoners at Fort Scott, and now that they had been released, Walker freed Montgomery, saying that if they had broken their promise there was no reason why he should keep Montgomery a prisoner. On releasing Montgomery, the Marshal told him, "to stay and fight it out."<sup>77</sup>

Montgomery soon started making plans for a raid on Fort Scott. In a speech he gave the following reasons for such action:

The people of Fort Scott, in releasing the murderers arrested by Sheriff Walker, without even the

<sup>75</sup>Ibid. See also, Robley, History of Bourbon County, 114.

<sup>76</sup>Tomlinson, Kansas in Eighteen Fifty-eight, 150-151.

<sup>77</sup>Ibid., 161.



farce of a trial, and in utter defiance of public sentiment and the laws of honor, had forfeited all claims on the protection of the freemen of Kansas, and plainly proven that they preferred hostilities to an adjustment of difficulties. If guerrilla warfare was to be continued and the gauntlet had been thrown down by the ruffians of the Fort--he was decidedly in favor of striking a blow at the enemy that would convince them that the Free State party of Southern Kansas was in earnest--that if they provoked war they should have war, and as Fort Scott was the hotbed of villainy and corruption, Fort Scott was the proper point of attack. A well-directed assault on the Fort, convincing the citizens that unless there was a change their town must fall, might possibly induce them to send for the Governor, whose presence could do no harm, and might perchance be productive of good.<sup>78</sup>

With this reasoning in mind, Montgomery and his men left for Fort Scott on June 6, 1858, and because of a rain storm did not reach the fort until about midnight. They entered the town without being seen, and after quietly taking care of the guards, gathered straw to fire the pro-slavery hotel. For some reason, probably the rain, the straw fire did not ignite the building, but people gathered quickly in an attempt to put out the fire. As they arrived at the scene, Montgomery fired at them to prevent their putting out the blazing straw. As the fire burned out, Montgomery and his men retreated from the Fort. They withdrew about five miles to the Big Bend of the Marmaton River where they waited for a retaliatory attack which did not take place.<sup>79</sup>

True to Montgomery's prediction, Governor Denver made

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<sup>78</sup>Ibid., 211.

<sup>79</sup>Ibid., 213-217.



a trip to Linn and Bourbon Counties for the purpose of making a personal effort for the conciliation of the people. He arrived at Moneka, a little over a mile northeast of Mound City, on June 12, where he remained overnight. The next morning the Governor's party stopped at Montgomery's Fort where Montgomery and a few of his men joined the group.<sup>80</sup> The Governor's party, now including Montgomery and some of his men, next stopped at Raysville on their way to Fort Scott. While stopping at a local residence for a meal, a Mr. Babb, one of the Governor's party, was drawn into a conversation with Montgomery. He wrote the following report of this conversation for the Cincinnati Gazette:

At Raysville I found myself seated by the side of the guerrilla chieftain, Montgomery. He is a fine looking man, and in personal appearance strongly resembles John C. Fremont. He is a remarkable person in many respects. There is none of the swagger and bravado of the Jim Lane class of heroes about him. He talks mildly, using good English, and quotes from the Scriptures freely and correctly. He is one of the most intelligent men I ever met with, and I learned more from him in an hour's conversation concerning the political history, the geology and natural resources of the Territory, than I had previously acquired from Prof. Daniels and all the men of science with whom I am acquainted in Kansas.<sup>81</sup>

That afternoon the Governor made a speech in which he first outlined what became widely known as the Denver Peace Treaty. The treaty reflects the influence Montgomery had on the Governor in the short time they had been together.

<sup>80</sup>James W. Denver, "Address of Ex Governor Denver," Transactions of the Kansas State Historical Society, 1883-1885, III, 364.

<sup>81</sup>Tomlinson, Kansas in Eighteen Fifty-eight, 231.



Fellow citizens! I have come to Southern Kansas at your urgent solicitations, to assist by my presence, in removing existing difficulties from your midst. In the prosecution of my purpose, I shall treat the actual settlers without regard to past differences--I shall know no name and know no party. I do not propose to dig up or review the past. I believe both parties have been to blame for by-gone difficulties, but with that I have nothing to do. My mission is to secure peace for the future. I propose as the basis for an agreement, whereby to produce tranquillity throughout the Territory, the following conditions:

1. The withdrawal of the troops from Fort Scott.
2. Election of new county officers in Bourbon County by the citizens of the county, irrespective of party.
3. The stationing of troops along the Missouri Frontier, to protect the settlers of the Territory from future invasions.
4. The suspension of the execution of all old writs until their legitimacy is authenticated before the proper tribunal.
5. The abandonment of the field by Montgomery and his men, and all other parties of armed men, whether Free State or Pro-Slavery.<sup>82</sup>

When Governor Denver finished, Montgomery was called upon to make a speech. Everyone considered him as the person responsible for the Governor's treaty. Denver's timely inter-

Fellow citizens! [he began] I have listened with great attention to the remarks which you have just heard, and it gives me much pleasure to be able to say that I mainly agree with them. On behalf of the citizens of Southern Kansas, I thank the Chief Magistrate of our distracted land for the spirit of justice by which he seems actuated. All the Free State party desires is justice; it has been a stranger to us a long time, and will hail this fair and honorable agreement with delight. That part of the agreement which refers to myself is particularly pleasing. In the last seven months I have not been as much as a fortnight at home, and a return to it will give me sincere pleasure. It has not been choice that has kept me away, but necessity. While my country needed my service I could not leave the field, however great the temptation to do so. To-day three hundred men follow, when needed, the banner and fortunes of Montgomery. When the

<sup>82</sup>Tomlinson, Kansas in Eighteen Fifty-eight, 233-234.



asked Governor redeems his pledges given to-day, I will respect their side of the treaty, I and my party will respect ours.<sup>83</sup>

Following the speeches, the party traveled on to Fort Scott where the next morning the Governor gave practically the same speech. This was not what the pro-slavery forces wanted to hear. Next Governor Denver asked Governor Ransom, ex-governor of Michigan, to express his views as to the cause of the troubles and suggest possible solutions that the territorial government could carry out. Governor Ransom proceeded to condemn Montgomery and other free-state leaders, saying that they should be brought to trial and punished. Judge Wright then made a speech opposing Ransom and condemning the Fort Scott people. Before the Judge finished, Ransom interrupted saying, "That's a g-- d--- lie! and we don't allow anyone to come into Fort Scott and talk as you do! We rule the roost here!"<sup>84</sup> Only Governor Denver's timely interference kept the speakers' platform from becoming a boxing ring.<sup>85</sup>

After this disturbance was settled, the Governor asked all the county officers of Bourbon to resign. Then he explained to the people that he had the power to reappoint anyone to fill the vacancies but would appoint the ones the majority there that day desired. The voters held an unusual election on the spot. The candidates were selected and

<sup>83</sup>Ibid., 234.

<sup>84</sup>Ibid., 238. See also, Andreas, History of Kansas, 1069.

<sup>85</sup>James W. Denver, "Address of Ex Governor Denver," Transactions of the Kansas State Historical Society, 1883-1885, III, 364-365.



asked to stand at one side of the public square. The voters then lined up beside their choice and two men were appointed to count the "votes," and give the name of the majority winner to the Governor. This procedure was carried out for all the vacancies in the county and seemed to be satisfactory to all concerned.<sup>86</sup>

Governor Denver left Fort Scott on June 16, and all factions were at peace. The Governor was well pleased with his success, and he wrote in a report to Secretary of State Lewis Cass that ". . . I flatter myself that these efforts are about to be crowned with complete success."<sup>87</sup>

The Governor's party traveled on to Barnsville, north of Fort Scott, then to Trading Post, where more speeches were made by Governor Denver, Reverend Thomas J. Addis, Governor Robinson, Judge Wright, and James Montgomery.<sup>88</sup>

The sense of peace that followed the Denver tour was expressed in various ways. For one, it gave rise to a new border song:

Now set your flags a-flying,  
And beat the ready drum,  
For joy to Southern Kansas,  
The Governor has come!

He's cowed the Fort Scott ruffians  
He's set the people free,  
And all their brave defenders  
He's treated clemently.<sup>89</sup>

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<sup>86</sup>Ibid., 365.

<sup>87</sup>Governor J. W. Denver to Secretary of State Lewis Cass, June 23, 1855, F. G. Adams (ed.), Transactions of the Kansas State Historical Society, 1889-1896, V, 535. In this report Governor Denver made no mention of his contact with Montgomery and made only derogatory remarks about his activities.

<sup>88</sup>Tomlinson, Kansas in Eighteen Fifty-eight, 266. See also, Lawrence Republican, June 24, 1858.

<sup>89</sup>...



The following Fourth of July celebrations in Linn and Bourbon Counties were also occasions for the expression of gratitude the people felt because of the "Denver peace." As this holiday fell on Sunday in 1858, Linn County held its celebration on the third and Bourbon County on the fifth of July.<sup>90</sup> This gave Montgomery an opportunity to address at least two different celebrations. At Sugar Mound he mentioned the fact that he was making the speech on the same spot where he had escaped from Clark's men in 1856. He gave thanks to the "Great Supreme" for the peace that all enjoyed. He called attention to the fact that the town now needed schools, churches, and a regular ministry.<sup>91</sup>

At Raysville, in Bourbon County, the celebration was more extensive. Here the ladies of the county presented Montgomery with a new fifty-dollar suit of clothing because he had, in their defense, worn out his old clothes.<sup>92</sup> It was also, "... a testimonial of their confidence in his purity of character and manly courage in defense of the country."<sup>93</sup> The Lawrence Republican gave the following description of the festivities at Raysville:

The Captain, on receiving them, [the clothes] responded in a speech evincing deep emotion and feelings of the tenderest kind. The procession formed at 10 O'clock, A. M. under the direction of H. G. Moore as chief marshal, marching to a beautiful grove nearby. Prayer was offered by Rev. J. Marr. The Declaration

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<sup>90</sup>Ibid., 266.

<sup>91</sup>Ibid., 265-266.

<sup>92</sup>Ibid., 267.

<sup>93</sup>Lawrence Republican, July 15, 1858.



of Independence was read by D. B. Jackman, Esq. J. B. Danford, Esq. of Linn county gave the oration, which fully sustained the expectation of his most sanguine admirers. The dinner did credit to the ladies, the committee of arrangements, and all concerned. As a thing noticeable in the dinner procession, we mention that Judge Williams of the 3rd judicial district of Kansas, walked arm in arm with Captain Montgomery. (Don't tell James Buchanan or G. W. Brown of this.) The inner man being well satisfied and the cloth removed, the intellectual man enjoyed a feast which is seldom equaled and never surpassed.<sup>94</sup>

The dance that followed is reported to have lasted till sunrise the next morning.

The tension of past months was over. The peace stimulated business, trade and emigration. The Lawrence Republican ran this notice: A word to emigrants seeking homes. Peace and tranquility reign in Linn and Bourbon Counties. All is quiet."<sup>95</sup> Montgomery returned home after his many months of absence and settled down to farming.

Sometime between June 27 and July 9, 1858, James Montgomery first met John Brown of Osawatimie. On July 9, Brown wrote his son, "I am now writing in the log cabin of the notorious Captain James Montgomery, whom I deem a very brave and talented officer, and, what is infinitely more, a very intelligent, kind, gentlemanly, and most excellent man and lover of freedom."<sup>96</sup> It was signed Shubel Morgan, the name John Brown then was using. Three days later, on July 12,

<sup>94</sup> Ibid.

<sup>95</sup> Ibid., August 5, 1858. On this same date Governor Denver withdrew the troops from Fort Scott.

<sup>96</sup> Quoted in F. B. Sanborn, Life and Letters of John Brown, 473. Cited hereafter, Sanborn, John Brown.

<sup>98</sup> Andreas, History of Kansas, 170.



Montgomery joined Shubel Morgan's Company.<sup>97</sup> This was the beginning of a not too harmonious friendship between James Montgomery and John Brown. 99

Thus The free-state people were now waiting for the opportunity they had been given to vote again on the Lecompton Constitution. In Congress, the Constitution had been passed by the Senate and defeated in the House. The House wanted to send it back to Kansas for another vote. This time the vote was either to accept or reject the constitution in its entirety. The Senate agreed to this arrangement on condition that the English Bill be passed in connection with sending the Constitution back for another vote. The English Bill provided that if the Lecompton Constitution should be accepted by the voters, the state would receive

. . . section 16 and 36 in each township for the use of schools, seventy two sections for a State University, and ten sections for public buildings, amounting in all to 5,500,000 acres of land; also all the salt springs within the Territory, not exceeding twelve in number, and six sections of land with each spring; Also 5 per cent of all public lands for the construction of state roads.<sup>98</sup>

On the other hand, if the voters rejected the Lecompton Constitution the state would have to meet certain stipulated population and census requirements, which could take several years, before they could draw up another state constitution.

The election took place on August 2, 1858, and neither the bribe nor the threat in the English Bill kept the free-

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<sup>97</sup> Oswald Garrison Villard, John Brown, 1800-1859, A Biography Fifty Years After, 666-667. Cited hereafter, Villard, John Brown, 1800-1859.

<sup>98</sup> Andreas, History of Kansas, 170.



## CHAPTER IV

state voters from rejecting the Lecompton Constitution. The official returns showed the free-state party with a majority of 9,512 voters out of a total of 13,088 votes cast.<sup>99</sup> Thus ended the battle of the ballots between the free-state and pro-slavery parties over the issue of slavery in Kansas. The battle was won, but victory was not complete, and "bleeding Kansas" was to bleed some more before she became a State of the Union in 1861.

Montgomery, and from his own declarations, I can say that his position was a high moral one, above all personality or personal revenge. They were not dealing with politics but with principles. They never asked a man his politics, but if any member of his company was found pilfering or looting he was summarily dismissed or threatened with hanging. Some of his cast-off men afterwards became outlaws, of which, no doubt, the captain's shoulders bore the burden.

until the night of October 30, 1855, Montgomery had the

quadrangle of the right and left of the William Hutchinson

along with the other men, it is an attempt to show

Montgomery and his family.

Montgomery, who had recently been a member of the

voluntary company of the Union Army, was with the regiment in

acting between the two sides, and was the only one

to have been with the Union Army in the battle of the

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## CHAPTER IV

The free-state party was in full control of elective positions in **FREE-STATE DOMINATION** Territorial Governor, however, had to favor the pro-slavery party, because President Buchanan favored this party. Governor Denver, because of his treaty with Montgomery, who represented the free-state party, was forced to resign. The concessions that he made to the free-state party met Buchanan's disapproval, and

had not Denver. From my personal relations with Samuel Montgomery, and from his own declarations, I can say that his position Governor Denver's and that of his men was a high moral one, above all personality or personal revenge. They were not dealing with politics but with principles. They never asked a man his politics, but if any member of his company was found pilfering or looting he was summarily dismissed or threatened with hanging. Some of his cast-off men afterwards became outlaws, of which, no doubt, the captain's shoulders bore the burden.

until the night of October 30, 1858. Montgomery had two guests, J. H. Kagi and George Gill, William Hutchinson that night when shots were fired into it in an attempt to assassinate Montgomery and his family.<sup>2</sup>

J. Weaver, who had recently been a captain of a volunteer company in Linn County, reported the incident to Acting Governor Hugh S. Walsh.

We here [quote Weaver] do not credit the report, but believe it a pure fabrication, for the purpose of affording an excuse to commence plunder and murder. He [Montgomery] implicates myself and several other

<sup>1</sup> Andreas, History of Kansas, 1869.

<sup>2</sup> Herald of Freedom, November 13, 1858.

Lawrence: Republican, November 11 and December 9, 1858.

<sup>3</sup> Quoted in, William, 1858-1859, 253.



The free-state party was in full control of elective positions in Kansas Territory. The Territorial Governor, however, had to favor the pro-slavery party, because President Buchanan favored this party. Governor Denver, because of his treaty with Montgomery, who represented the free-state party, was forced to resign. The concessions that he made to the free-state party met Buchanan's disapproval, and had not Denver resigned he would have been removed. Samuel Medary took office on December 20, following Governor Denver's resignation, October 10, 1858.

Many of the pro-slavery people were not satisfied with the Denver compromise and felt that Montgomery and his men, plus other free-state leaders like him, should be tried and punished for their crimes.<sup>1</sup> All remained quiet, however, until the night of October 30, 1858. Montgomery had two guests, J. H. Kagi and George Gill, at his house on that night when shots were fired into it in an attempt to assassinate Montgomery and his family.<sup>2</sup>

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<sup>3</sup> quoted in, Villard, John Brown, 1800-1859, 363.



plunder citizens here and swears he will have our lives.<sup>3</sup> Others also seemed to think that this was just a fabrication to give Montgomery an excuse to resume his "jayhawking" activities.<sup>4</sup> The Lawrence Republican, two months later, reported that "All now concede, however, that there was a cowardly and assassin-like attack upon Montgomery and his family. . . ."<sup>5</sup>

John Brown, on the night of the attack, was staying at the home of Augustus Wattles, a short distance from the Montgomery cabin. Because of this attack, Brown had some of his men strongly fortify the cabin of Montgomery's mother-in-law, which was also nearby.<sup>6</sup> In a letter written two days after the attack, Brown wrote his family that ". . . things at this moment look quite threatening along this line."<sup>7</sup>

This is an important incident because it is the beginning of another round of border troubles involving Montgomery in Linn and Bourbon Counties. This attack may have been instigated by the pro-slavery people who were dissatisfied with the Denver treaty, or there is another possible explanation. Before the Denver treaty there were several bands of men who made their way by robbing and

<sup>3</sup>A. J. Weaver to Acting Governor Hugh S. Walsh, November 15, 1858, F. G. Adams (ed.), Transactions of the Kansas State Historical Society, 1889-1896, V, 548.

<sup>4</sup>Hill P. Wilson, John Brown Soldier of Fortune a Critique, 266. See also, Herald of Freedom, November 20, 1858.

<sup>5</sup>Lawrence Republican, December 30, 1858.

<sup>6</sup>Villard, John Brown, 1800-1859, 363.

<sup>7</sup>Quoted in, Villard, John Brown, 1800-1859, 363.



plundering and using the free-state cause for an excuse. Montgomery had helped drive some of these roving bands out of the county and now, since the treaty, they could no longer use the same old excuse. Several months had passed, and it is probable that these scavenger bands were desperate for food and money. One of the groups could have fired into Montgomery's cabin knowing full well the settlers would believe he would take to the field again. There is no evidence that he took to the field, but there is evidence of other bands. The Reverend Stewart, whom Montgomery had run out of the county earlier, was recognized in Bourbon and Johnson County early in November in different raids. He told those he attacked that he was under Montgomery's orders.<sup>8</sup> Joseph U. Gamble, a special investigator for Acting Governor Walsh, reported that, "The majority of the people seem to think that the crimes of Stewart and others are laid at Montgomery's door."<sup>9</sup>

On the strength of various reports that Montgomery was again "jayhawking," a grand jury on November 12, 1858, indicted Montgomery for destroying the ballot-box at Sugar Mound in January, 1857. Montgomery found out about this and that night entered the house of R. D. Round, a grand juror of Linn County, and made Round tell him the transactions of

<sup>8</sup>J. Williams to Acting Governor Hugh S. Walsh, November 20, 1858, F. G. Adams (ed.), Transactions of the Kansas State Historical Society, 1889-1896, V, 554.

<sup>9</sup>Joseph U. Gamble to Acting Governor Hugh S. Walsh, November 30, 1858, F. G. Adams (ed.), Transactions of the Kansas State Historical Society, 1889-1896, V, 559.



the court.<sup>10</sup> The next day, November 13, Montgomery entered the clerk's office at Paris and demanded to know if there were any indictments filed against him or his men.<sup>11</sup> He found the ballot-box indictment and immediately gave himself up and posted bond. He said, however, that if there were any indictments filed on him or his men for "jayhawking" prior to the Denver treaty he would". . . resist to the death."<sup>12</sup>

The thing that Montgomery had been protesting against happened. Benjamin Rice, one of the men who was with Montgomery when they fired on the United States troops, had evidently joined the Stewart band. He was captured by Captain Hamilton, following a raid of the Stewart band and taken to Fort Scott for safe-keeping. There were no jails or prisons in Kansas Territory at this time, and the free-state hotel in Fort Scott was used for this purpose. Rice was charged with the murder of a man named Travis, an incident that had taken place well before the Denver treaty.<sup>13</sup>

Montgomery contended that the action was contrary to the Denver treaty. Several meetings were held to determine just what the Denver treaty meant. The Governor had said to

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<sup>10</sup> A. J. Weaver to Acting Governor Hugh S. Walsh, November 15, 1858, F. G. Adams (ed.), Transactions of the Kansas State Historical Society, 1889-1896, V, 548. See also Herald of Freedom, November 20, 1858.

<sup>11</sup> Theodosius Botkin, "Among the Sovereign Squats," Transactions of the Kansas State Historical Society, 1901-1902, VII, 403-404.

<sup>12</sup> Weaver to Walsh, November 15, 1858. See also, Herald of Freedom, November 20, 1858.

<sup>13</sup> Williams to Walsh, November 20, 1858.



let by-gones be by-gones and the Montgomery supporters said forcible expelled, shall be compelled to remain away. . . . that they did not understand that the grand jury was to have any jurisdiction on any difficulty previous to the date of said treaty. They said they had to take and use unlawful means to rid the county of Brockett's company, Hamilton's company, besides others, that they protected all honest men, irrespective of parties, and as they had to use unlawful means to drive those men out, they don't intend to be either harassed or hanged for it.<sup>14</sup>

In the meeting held at Osage City on December 2, 1858, a vote was taken as to what the treaty meant. Montgomery won by a vote of 109 to 62.<sup>15</sup>

The next meeting took place at Sugar Mound, December 6, to adopt a resolution or agreement to replace the Denver treaty. This new peace agreement was drawn up by John Brown and James Montgomery and presented by Montgomery at this meeting. It was in effect a renewal of the Denver treaty.

#### AGREEMENT

The citizens of Linn County, assembled in mass meeting at Mound City, being greatly desirous of securing a permanent peace to the people of the Territory generally, and to those along the border of Missouri in particular, have this day entered into the following agreement, and understanding, for our future guidance and action, viz:

Article 1. All criminal processes, against any and all Free-State men, for any action of theirs previous to this date, growing out of difficulties heretofore existing between the Free-State and Pro-Slavery parties, shall be forever discontinued and quashed.

Art. 2. All Free-State men held in confinement for any charges against them, on account of former difficulties, between the Free-State and Pro-Slavery parties, to be immediately released and discharged.

Art. 3. All Pro-Slavery men, known to have been actively and criminally engaged in the former poli-

<sup>14</sup>Gamble to Walsh, November 30, 1858.

<sup>15</sup>Ibid.



tactical difficulties of the Territory, and who have been forcible expelled, shall be compelled to remain away, as a punishment for their oft repeated and aggravated crimes.

Art. 4. No troops, marshal or other officers of the General Government, shall be either sent or called in to enforce or serve criminal processes for any act prior to this date.

Art. 5. All parties shall hereafter in good faith discontinue, and thoroughly discountenance acts of robbery, theft or violence against others, on account of their political differences.

The following recommendation was unanimously agreed to by the meeting: That we earnestly recommend that all those who have recently taken money or other property from peaceable citizens within this county, restore the same to their proper owners.<sup>16</sup>

The agreement was published in the Lawrence Republican December 16, 1858. That night, Captain Lyon was sent out from Fort Scott to capture Montgomery. When he arrived at Mound City he was met by William Hutchinson who knew that Lyon was in sympathy with the free-state cause. Together they rode to Montgomery's cabin discussed the situation, and made plans for the next day. In accordance with these plans, Montgomery left for Osawatimie to be with a friend. Captain Lyon, with his troops, plus others sent for the occasion by General Harney, approached the Montgomery Fort. When they attacked the fort, they discovered that Montgomery was not in it. They were also disappointed in the fortifications, for rumor had made it a formidable position. After a search of the surrounding area the troops returned to Fort Scott.<sup>17</sup>

<sup>16</sup>Lawrence Republican, December 16, 1858.

<sup>17</sup>William Hutchinson, "Sketches of Kansas Pioneer Experiences," Transactions of the Kansas State Historical Society, 1901-1902, VII, 403-404.



Hutchinson described the event in a poem he wrote December 15, 1860: between seventy-five and one hundred, for the purpose of effecting

A KANSAS PARODY Rice. He asked John Brown

In Linn and Bourbon, down below, The night before the  
All breathless came the Kansas foe,  
With martial glory all aglow, It's farm, which is about  
And Williams running rapidly.

Medary saw another sight--  
Five thousand men all armed for fight, Here the important  
with hearts defiant in the right,  
Led on by brave Montgomery.

The troops by Harney fast arrayed  
Were frantic for their bloody trade,  
And furious; every marshal bade  
Them join the royal infamy.

Then shook the camp, with curses riven;  
The Riley boys, to battle driven, That the people of Linn  
Were louder in their oaths to heaven  
Than Williams acting comedy.

But fiercer yet the strife shall glow; present supported  
Missouri adds the seventh woe  
By sending Frost to chill their foe, he assumed command.  
While Williams fiddles merrily

'Tis night; but scarce the dial run  
Ere Campbell cried: "The war's begun!  
Mount! mount, dragoons! Ere morrow's sun  
We'll slay the red Montgomery."

The contest deepens. Lo the braves  
Rush early to the verge of graves.  
Wave, Colby; all they warrants wave, upon another.<sup>20</sup>  
And charge each empty domicile.

The party entered the town just at daybreak. Montgomery  
Few--none--are caught where many meet;  
Disgrace shall be their winding-sheet; for the free-  
And every boy that walks the street  
Will hoot this federal fiddle-dee.<sup>18</sup>

The Sugar Mound Agreement had hardly reached the press  
before it was violated. The authorities at Fort Scott re-  
fused to release Benjamin Rice in accordance with the

<sup>18</sup>Ibid., 404. Historical Society, 1915-1918, IV, 231.  
See also, Andreas, History of Kansas, 1870. Willard, John  
Brown 1800-1859



agreement. Montgomery immediately organized a party of men numbering between seventy-five and one hundred, for the purpose of effecting the release of Rice. He asked John Brown to join the force, and he accepted. The night before the attack, the party met at the Wimsett's farm, which is about three miles west of Fort Scott. They brought with them a small cannon which was called "Betsy."<sup>19</sup> Here the important question of leadership came to a decision. Brown wanted to lead the group. His purpose was to destroy the town and kill all who resisted. Montgomery also declared that he should command. His object was the release of Rice without any killing or burning. He contended that the people of Linn and Bourbon Counties looked to him as their leader and depended on his judgment. A few of the men present supported Brown, but more supported Montgomery, and he assumed command. Brown remained at the Wimsett farm and did not take part in the affair, for it was not his nature to serve under the command of another. Later Montgomery said, "If Brown had been in command of the party instead of myself, not one stone of Fort Scott would have been left upon another."<sup>20</sup> The party entered the town just at daybreak. Montgomery divided his men into three squads and headed for the free-state hotel. The party then broke up into squads and surrounded the hotel. The men in front quickly gained access

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<sup>19</sup> "Betsy" is now on display at the Kansas State Historical Society in Topeka.

<sup>20</sup> A.H. Tanner, "Early Days in Kansas," Collections of the Kansas State Historical Society, 1915-1918, XIV, 231. See also, Andreas, History of Kansas, 1070. Villard, John Brown 1800-1859



to the building and reached the third floor where Rice was being held. They found him chained to the floor, but soon released him by severing the chain with a large axe. dollars. 21

While the release of Rice was taking place, action was quickly developing in a small store just back of the free-state hotel. John Little, the son of the owner, lived with his family in the back of this store. With him also that night was George A. Crawford. The commotion around the hotel woke Little. He grabbed his gun, which was loaded with duck-shot, ran to the front door, and fired at the armed mob. He injured no one but drew their attention. Little had just closed the door when a ball came through it, just above his head. He then went to the side door and climbed on a dry goods box in order to look out the transom to see what was taking place. The window was dusty and Little started to clean it with his handkerchief so he could get a better look. The moving handkerchief was noticed by one of Montgomery's men and he fired at it with his Sharp's rifle, hitting Little directly in the forehead and killing him instantly. The free-state men then thought that there were armed men in the building so "Betsy" was brought to bear on the store.

The doors were finally forced open, and Little was found dead. What was even more important, some of the men, seeing the dry goods, boots and saddles, began helping themselves. Crawford asked Montgomery to stop them from stealing, but once the looting started Montgomery found it impossible



to stop. He was, however, able to confine it to the store and the hotel. The various estimates of articles reported stolen from the store ran from one to seven thousand dollars.<sup>21</sup>

The killing of Little hurt the free-state cause. The pro-slavery forces now had more political ammunition and used it to further influence the new Governor, Medary, against Montgomery. The first official letter received by the Governor was an account of this affair.<sup>22</sup> On December 28, Medary requested four companies of cavalry from Fort Riley to quiet the disturbance in Bourbon County. John Brown.<sup>27</sup>

Another addition to the disturbances of the time was John Brown's trip into Missouri and his liberation of eleven slaves by armed force on December 20, 1858. Brown returned to Linn County with the slaves and two white prisoners and spent the night at the home of Augustus Wattles, two miles north of Mound City. Montgomery and some of his men were staying at the Wattles home that night and were awakened

generally that I have hitherto patiently borne all public prints. There is now an effort being made by a . . . by the chattering and laughing of the darkies as they warmed around the stove while Mrs. Wattles was getting supper. Montgomery put his head down the stairway, exclaiming: "How is this, Capt. Brown? Whom have you here?" Brown replied, waving his hat around the circle, "Allow me to introduce to you a part of my family. Observe I have carried the war into Africa."<sup>23</sup>

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<sup>21</sup> Good accounts of this incident are numerous. See Robley, History of Bourbon County, 129-132. Andreas, History of Kansas, 1070. Herald of Freedom, December 25, 1858.

<sup>22</sup> J. E. Jones, Wm. T. Campbell, Chas. Bull to Governor Medary, F. G. Adams (ed.), Transactions of the Kansas State Historical Society, 1889-1896, V, 562.

<sup>23</sup> Quoted in Villard, John Brown, 1800-1859, 371. Governor Medary to House of Representatives, January 11, 1859, F. G. Adams (ed.), Transactions of the Kansas State Historical Society, 1889-1896, V, 592.

<sup>27</sup> Villard, John Brown, 1800-1859, 371.



The next morning, Brown sent the slaves on to Osawatomie, while he remained near the Missouri border in expectation of a retaliatory raid. He warned Montgomery to be prepared.<sup>24</sup>

Governor Medary's official mail was filled with accounts of Montgomery's, and other free-state leaders' outrages.<sup>25</sup>

As a result, the Governor offered a reward of \$250 for the arrest of Montgomery and a similar amount for John Brown.<sup>26</sup>

President Buchanan had also offered a reward of \$250 for Brown and Montgomery, while Governor R. M. Stewart of Missouri offered a \$3,000 reward for the capture of John Brown.<sup>27</sup>

In spite of the efforts on the part of the Governor to take him prisoner, Montgomery was now actively working for peace. In a long letter written for the Lawrence Republican on January 15, 1859, Montgomery gave a full history of past difficulties and the present situation:

It is known to you and to readers of newspapers generally that I have hitherto patiently borne all sorts of misrepresentation and abuse through the public prints. There is now an effort being made by a certain class of journals to fasten the responsibility of my conduct upon the Republican party. Under these circumstances it becomes my duty to speak out.

We had, in this part of Kansas, from the first, a class of violent pro-slavery men, who came to the country determined to keep out all who were in favor of making Kansas a free State. It was no part of their policy to be peaceable. The plundering and driving of Free State men from the southern part of

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<sup>24</sup>Villard, John Brown, 1800-1859, 373.

<sup>25</sup>See correspondence in "Governor Medary's Administration," F. G. Adams (ed.), Transactions of the Kansas State Historical Society, 1889-1896, V, 560-604 passim.

<sup>26</sup>Governor Medary to House of Representatives, January 11, 1859, F. G. Adams (ed.), Transactions of the Kansas State Historical Society, 1889-1896, V, 592.

<sup>27</sup>Villard, John Brown, 1800-1859, 371.



Kansas in '56 is a matter of history. A sort of truce followed the advent of Geary, during which many of the Free State men returned to their claims; but there was no real peace; outrages were frequent, and in Bourbon County, especially, Free State men were everywhere bullied and insulted. The laws were not made for Free State men; they were made for the benefit of the Pro Slavery party. The courts were controlled by the Blue Lodges. It was impossible to convict a pro-slavery man however guilty; and next to impossible to acquite a Free State man, however innocent. Under these circumstances, revolution was clearly our right.

The beating of Mrs. Stone by preacher Southwood and family, may be considered as the commencement of a new era in the history of Southern Kansas, ending in the forcible expulsion of nearly all the violent pro-slavery men in the troubled district.

From the time of Governor Denver's visit in June, till the session of the court in October, everything was quiet, and so might have continued but for a few interested political and hungry lawyers.

The present difficulty was caused by the violation of the Denver compromise. Judge Williams, in accordance with the compromise, charged the juries of Linn and Bourbon counties to "Let by gones be by gones" and to "do as little as possible." A few indictments were got up in both counties, evidently for the purpose of asserting the right to drag us into the courts. The principle once established, they could do a fine business at another term, when the lawyers and officials would reap a harvest in the way of fees. The attempt to assassinate me was planned in Kansas--a few Missourians being called in for the sake of appearances. Linn and Bourbon counties were both represented in the transaction. For Brown's doings in Missouri, I am not responsible. I knew, nothing of either his plans or intentions. Brown keeps his own counsels and acts on his own responsibility. I hear much said about Montgomery and company, I have no company. We have had no organization since the 5th day of July.

The release of Rice was a popular movement, in which some of our former company were concerned. But many of those who participated in that movement, acted with me for the first time.

.....  
When the pro-slavery bring back the horses they have



We desire peace, and no man will do more than I to obtain it on honorable terms. No possible good can be done by raking up the past and so the people have decided. Let the past be buried, and let the people choose their own officers, and all will go well.

Since writing the foregoing, I have seen an article in the last Herald of Freedom, written by Judge Wright of Wuindaro, which demands attention. Judge Wright says: "I am informed that Capt. Montgomery asserted. . . that I was the instrument that gave him assurances that by gones would be by gones."

Yes, and so you did say, assuming to speak for the Governor. The Governor said the same thing himself, in his speech at Fort Scott, in the presence of a large audience. He said it again at the Trading Post, where I heard him say it myself. He did not promise a general amnesty, he would not agree to that, as it would have shielded the murderers of Denton, Hedrick, and the actors in the Trading Post tragedy.

Judge Wright said this; "If you will lay down your rifles, and use the laws on the pro-slavery scoundrels, the Governor will reform the courts, and place them on a footing that will entitle them to your confidence. He will suspend Judge Williams if you wish, and give you a Free State sheriff and marshal. You shall have for marshal, H. G. William, or Gene McDaniel, and for sheriff any man the people choose."

The promises in reference to the marshal was not redeemed. Mr. Campbell, a man in whom the people had no confidence, received the appointment. We did not consider ourselves in a "bad shape" and did not feel our need of help to get out of it. What the Judge says about defending us if indicted, or expective clemency if convicted, is all stuff; but this he did say; "If you are indicted, it will be the Governor's business to see that the indictment comes to nothing; the officers will have orders to let the writs die in their hands." We were left to disband in our own time, and we did disband on the 5th of July, twenty days after the Governor's visit.

It was not a condition that we should return the stolen property. The Judge asked me what the "boys" would do with their horses. I replied, "The horses are all the boys have got to show for a year of hard service; they may keep them or sell them, as they please. When the pro-slavers bring back the horses they have



taken, they can get an exchange." He said, "Tell the boys to do as they damm please with their horses, they have fairly earned them." I told the Judge I had Farley's horse (the horse of Robinson's report) and that I would exchange him for Ben. Rice's pony, then in the Fort. Farley sent out the pony and the exchange was made.

I am told the Judge has made some strange speeches against me, but as they were not reports, I shall let them pass for what they are worth.

I see the charge that I am acting under a commission from the Military Board is still insisted. Allow me to say, once for all that I never had such commission. A volunteer company of which I had command, was mustered into service by Gen. Lane. I resigned my command after a few days service, and disbanded the company.

J. Montgomery<sup>28</sup>

Two days later, on January 18, Montgomery gave himself up to Judge Elmore at Lawrence. The indictment against him was for robbing a post office at Willow Springs. He posted nearly \$5,000 bail which was paid by a Mr. Lanford and a Mr. Roberts. William Hutchinson was instrumental in getting these men to go Montgomery's bail.<sup>29</sup>

On January 20, Montgomery gave a long speech at the Lawrence Congregational Church again detailing the history of the border troubles. At this meeting he was frequently interrupted by applause, and at the conclusion the crowd gave three cheers for him and John Brown.<sup>30</sup> Montgomery then returned home on January 21, where he continued to work for peace and there persuaded more of his men to give themselves

<sup>28</sup>Lawrence Republican, December 20, 1859.

<sup>29</sup>William Hutchinson to James Montgomery, January 23, 1859, William Hutchinson Collection, Kansas State Historical Society, Topeka.

<sup>30</sup>Herald of Freedom, January 22, 1859.



up to the law. Six men returned with Montgomery to Lawrence on February 2 and surrendered to Judge Elmore.<sup>31</sup> Governor Medary was well pleased with these reports and wrote to President Buchanan that "... the worst is over and peace will soon be generally restored."<sup>32</sup>

The changing attitude of Governor Medary can perhaps be explained by an unpublished event that took place while Montgomery was in Lawrence. Montgomery called at the home of William Hutchinson and asked if he could possibly arrange an interview for him with the Governor. Montgomery knew that the Governor, as a federal executive, for political reasons had to side with the pro-slavery party, but he felt that if he could talk with him he could convince him of the merits of the free-state policy. Hutchinson agreed and called on the Governor who was then staying at the Eldridge House. It was not too easy to persuade the man who had just offered a reward for Montgomery's arrest to agree to meet the man in secret. Finally the Governor consented and asked that Montgomery come to his executive chambers after eleven that evening. According to Hutchinson, "Montgomery told his story in mild but earnest language. He was a fine talker, and his tones were pathetic and his facts convincing, even to a federal officer. They parted friends."<sup>33</sup>

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<sup>31</sup>Villard, John Brown, 1800-1859, 378.

<sup>32</sup>Governor S. Medary to President James Buchanan, February 2, 1859, F. G. Adams (ed.), Transactions of the Kansas State Historical Society, 1889-1896, V, 602.

<sup>33</sup>William Hutchinson, "Sketches of Kansas Pioneer Experiences," Transactions of the Kansas State Historical Society, 1901-1902, VII, 400.



On February 11, Governor Medary signed what was known as the Amnesty Bill which was in effect an approval of the Sugar Mound Agreement, drawn up by Montgomery and Brown. The main provisions were as follows:

Section 1. That no criminal offense, heretofore committed in Bourbon, McGee, Allen, and Anderson, growing out of any political difference of opinion, shall be subject to any prosecution on any complaint or indictment, in any court whatever, in this territory.

Sec. 2. That all criminal actions now commenced, growing out of political differences of opinion, shall be dismissed.<sup>34</sup>

The Governor added, as he signed the bill, "While this is an act of amnesty for the past, it is intended to secure the more certain punishment of crimes for the future."<sup>35</sup>

As a further precaution, Montgomery placed a notice dated February 12, in the Lawrence Republican.

To all whom it may concern. The Legislature has granted an amnesty for all offences growing out of past difficulties in Linn and Bourbon Counties. I hope no man or company of men will be guilty of any breach of the peace, in the future. We have a code of laws of our own making, and they will be enforced to the utmost extent against all offenders.

Respectfully,  
James Montgomery 36

Peace once again was restored in Linn and Bourbon Counties to last until the outbreak of the Civil War. The Lawrence Republican describes the peace that descended on the area:

<sup>34</sup>Governor S. Medary Proclamation of February 11, 1859, F. G. Adams (ed.), Transactions of the Kansas State Historical Society, 1889-1896, V, 604..

<sup>35</sup>Ibid.

<sup>36</sup>Lawrence Republican, March 3, 1859.



The amnesty bill has worked a miracle in Linn County. The lion and the lamb have lain down together, and all seem pleased with the prospect of peace. . . . The Jayhawkers have returned to their farms, and are once more in safety pursuing the business of the season. . . . Marshal Russell and posse arrived safely in Paris, after their visit to Lawrence. They had a pass from Cap. Montgomery, which brought them safely through the perils of the Jayhawkers. The Marshal appeared very thankful that his life had been spared, and thought Montgomery was much of a gentleman, now that peace was restored.<sup>37</sup>

July 4, 1859, was again the occasion for celebrating the new peace under the Amnesty Bill. All the communities of Linn County united in one big celebration near Moneka. There was a military band on hand to furnish the music; the usual Fourth of July orations were made, and a free dinner was served to over eight hundred people. The toastmaster, O. W. Wattles proposed the toast to James Montgomery the ". . . model hero of modern times." Loud cheers followed as did a speech by Montgomery reviewing the struggles in Kansas for freedom. It was granted that there was no one greater in Linn County ". . . than the brave, though persecuted, James Montgomery."<sup>38</sup>

Most of Governor Medary's term in office was relatively peaceful. Probably the most important state-wide event of his administration was the Wyandotte Convention, which met July 4, 1859 at Wyandotte, now Kansas City. Here, the delegates wrote the fourth constitution that had been drawn up for Kansas. In 1858, a Leavenworth Constitution had been

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<sup>37</sup> Ibid.

<sup>38</sup> Lawrence Republican, July 14, 1859.



## CHAPTER V

drawn up providing for a free state, and adopted by the people, May 18, 1859. It was soon forgotten, because Congress would not even consider this constitution. The Wyandotte Constitution provided, of course, that Kansas would be a free state. The convention submitted the constitution to a vote of the people, who adopted it October 4, 1859, by a vote of 10,421 to 5,530.<sup>39</sup>

The door had been closed to pro-slavery power in Kansas prior to the adoption of this constitution, but this election locked the door and terminated an eventful chapter in Kansas Territorial history. The door had been closed to pro-slavery power in Kansas prior to the adoption of this constitution, but this election locked the door and terminated an eventful chapter in Kansas Territorial history. The door had been closed to pro-slavery power in Kansas prior to the adoption of this constitution, but this election locked the door and terminated an eventful chapter in Kansas Territorial history.

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<sup>39</sup>Wilder, Annals, 254, 259, 280.



## CHAPTER V

John Brown was sentenced by the court at Charlestown, Virginia to PRE-CIVIL WAR ACTIVITIES. There was some activity in Kansas, encouraged by George L. Stearns, to attempt the rescue of Brown. Stearns gave Charles Jennison and James Stewart authority to draw funds on him for the rescue.<sup>1</sup> There may have been some preparations made by Montgomery and others, but no action was taken to partici-

pate in the James Montgomery was a primitive patriarch uninhibited by any effete Eastern notions of the rules of civilized warfare, and his Old Testament kind of warfare was completely at odds with the Harvard tradition of fair play. . . . Montgomery, busy with fanatic realism, made his own rules. Higginson, the romantic, had raised money to send Sharp's rifles to Kansas in the fifties. Montgomery, the realist, had used them. His opponent was William R. Wagstaff. Dudley Taylor Cornish, the election, which was to take place November 3, 1859, Montgomery began an active campaign. Prior to this time he had been confident of victory because of his leadership in the free-state cause. Montgomery had always been able to sway a crowd by his speaking ability, so he challenged Wagstaff to a debate at the Miami Mission.

<sup>1</sup>Willard, John Brown, 1800-1859, 513-514. George L. Stearns of Medford, near Boston, was the moving spirit and state chairman of the Kansas Committee organized in June 1856, which, in addition to large contributions of clothing, furnished nearly \$80,000 for the aid of Kansas settlers. This organization was the sub-committee of the Emigrant Aid Company which was responsible for sending many Sharp's rifles to Kansas. Stearns contributed large sums of money to this committee and liberally supported Montgomery and other free-state leaders prior to and during the Civil War. He died April 17, 1867.

<sup>2</sup>Ibid. See pages 511-559 for a detailed account of the attempted rescue of John Brown.



John Brown was sentenced by the court at Charlestown, Virginia to be hanged December 2, 1859. There was some activity in Kansas, encouraged by George L. Stearns, to attempt the rescue of Brown. Stearns gave Charles Jennison and James Stewart authority to draw fund on him for the rescue.<sup>1</sup> There may have been some preparations made by Montgomery and others, but no action was taken to participate in the attempted rescue of Brown. The reason could have been Brown's constant refusal to be rescued.<sup>2</sup>

During October and November, 1859, Montgomery was busy campaigning in the nineteenth district for election to the House of Representatives of the Territorial Legislature. His opponent was William R. Wagstaff. Two weeks before the election, which was to take place November 8, 1859, Montgomery began an active campaign. Prior to this time he had been confident of victory because of his leadership in the free-state cause. Montgomery had always been able to sway a crowd by his speaking ability, so he challenged Wagstaff to a debate at the Miami Mission.

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<sup>1</sup>Villard, John Brown, 1800-1859, 513-514. George L. Stearns of Medford, near Boston, was the moving spirit and state chairman of the Kansas Committee organized in June 1856, which, in addition to large contributions of clothing, furnished nearly \$80,000 for the aid of Kansas settlers. This organization was the sub-committee of the Emigrant Aid Company which was responsible for sending many Sharp's rifles to Kansas. Stearns contributed large sums of money to this committee and liberally supported Montgomery and other free-state leaders prior to and during the Civil War. He died April 17, 1867.

<sup>2</sup>Ibid. See pages 511-559 for a detailed account of the attempted rescue of John Brown.



All might have gone well except for the fact that Charles R. Jennison and Pat Devlin, radical free-state men, were present. These men in the past had gotten Montgomery in trouble by their rash actions. Jennison and Devlin circulated among the crowd and let it be known that Montgomery's tactics would be to "bulldoze" his opponent. Both Montgomery and Wagstaff had about an equal number of supporters present at the debate. Wagstaff's supporters were from Paola, and Montgomery's supporters were from around Mound City and Osawatimie.

Wagstaff opened the debate. His delivery was slow and deliberate. Montgomery thought that he was striving not to alienate the crowd by his carefully picked words. Montgomery suddenly interrupted Wagstaff and denied some of his statements. Immediately, Wagstaff changed his style of delivery and in loud, derogatory terms denounced Montgomery. Jennison and Devlin then jumped to their feet and started toward the platform to seize Wagstaff. Before they could get started, however, the "Mobley boys" drew their revolvers and took aim at Jennison and Devlin, who immediately retreated. Wagstaff continued his speech. Montgomery by this time realized that he had hurt his chances by interrupting Wagstaff. He made his speech without attacking Wagstaff or replying to his charges. Montgomery maintained that Wagstaff could not have known anything about the free-state cause, because he had not fought in this recent struggle.<sup>3</sup>

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<sup>3</sup>B. F. Simpson, Montgomery County Clippings, Kansas State Historical Society, II, 36-39.



When the votes were counted, Wagstaff received 847 votes to Montgomery's 838 votes.<sup>4</sup> Some felt that Montgomery should contest the election because it was so close. Montgomery refused to do so, but promised to attend the sessions of the legislature in regard to a change in county lines.<sup>5</sup>

Although Montgomery did not take part in the attempted rescue of John Brown in November, he did take an active part in an attempt to rescue Aaron D. Stevens, a former Montgomery man, then Brown's lieutenant at Harpers Ferry, and Albert Hazlett, the last of Brown's band. The failure to save John Brown only served to increase the determination of Richard J. Hinton, Thomas Wentworth Higginson and John W. LaBanes to rescue the other members of Brown's band being held in prison at Charlestown, Virginia.<sup>6</sup>

Higginson gave Hinton the job of getting Montgomery to lead the venture. All else failing, Higginson sent Hinton on January 11, 1860, to call on Montgomery in person. Montgomery and Hinton met at Moneka early in February where they made plans to leave for the East.<sup>7</sup> Hinton returned to the East. Montgomery remained to recruit some men to go with him. Silas Soule, Joseph Gardner, J. A. Pike, and S. W. Willis were selected by Montgomery because they had, earlier, successfully delivered Doctor John Day from the St. Joseph, Missouri, jail. Also selected were some of Brown's closest

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<sup>4</sup>Wilder, Annals, 284.

<sup>5</sup>James Montgomery to L. Martin, December 18, 1859, Montgomery Collection, Kansas State Historical Society, Topeka.

<sup>6</sup>Villard, John Brown, 1800-1859, 570.

<sup>7</sup>Ibid., 573.



friends, Augustus Wattles, Henry Carptenter, Henry and Benjamin Seaman and Benjamin Rice.<sup>8</sup> Montgomery assumed the name "Henry Martin" during this rescue attempt. James Montgomery and his "machines," the code word for men, met Higginson at Harrisburg at the home of Doctor William W. Rutherford.<sup>9</sup> About February 17, Montgomery and Soule went on to Charlestown to scout the area. They found roads heavily patrolled and the weather very bad. Montgomery traveled in the open and put to good use his Southern accent. Soule got himself arrested for drunkenness and was fortunate enough to be thrown in jail with Stevens and Hazlett. He told them the plans for the rescue, but they were persuaded that it was impossible and did not desire liberty at the cost of so many of their friends. Before Soule was released, Hazlett sent a personal farewell message by him to Hinton. Montgomery and Hinton returned to Harrisburg where they met with the others in Law Drover's tavern. Soule told the group about Hazlett's and Stevens' desires in the matter. This report, and the weather which made travel practically impossible, persuaded Montgomery to abandon the enterprise. It was with great reluctance that the men returned to their homes, leaving Stevens and Hazlett to their fate.<sup>10</sup>

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<sup>8</sup> Ibid., 575-576.

<sup>9</sup> Ibid., 576.

<sup>10</sup> Ibid., 577-579. See also, O. E. Morse, "An attempted Rescue of John Brown from Charlestown, Va., Jail," Transactions of the Kansas State Historical Society, 1903-1904, VII, 213-226. Original letters concerning this event are printed as footnotes in this article.



Slave Montgomery returned home to Linn County and was soon chosen as a delegate to the Republican Convention held at Lawrence on April 11, 1860, to elect delegates to the Chicago National Convention, and to select Presidential Electors.<sup>11</sup>

While in Lawrence, Montgomery wrote the first of many letters to George L. Stearns. He had not met Stearns, but had heard of him through the rescue attempts of John Brown and his men in which Stearns had helped financially. At the same time, Montgomery wrote to Doctor Samuel Cabot, a director of the Emigrant Aid Company and more or less in charge of getting rifles into Kansas, concerning Sharp's rifles. Montgomery was starting to prepare for another conflict, "If I read the signs correctly, there are stirring times ahead." He asked George L. Stearns to address any letters to him to Mrs. Jane Evans, Box No. 15, Mound City. He took this precaution because his firm stand against the Fugitive Slave Law was considered treasonable, and his mail was sometimes opened on this suspicion of treason.<sup>12</sup>

In this fight against the Fugitive Slave Law, Montgomery organized in Linn County a secret society called the Wide Awakes.<sup>13</sup> They were organized along the Kansas-Missouri border for the specific purpose of opposing the Fugitive

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<sup>11</sup> Andreas, History of Kansas, 302. this trip to the

<sup>12</sup> Montgomery to George L. Stearns, April 14, 1860, Montgomery Collection, Kansas State Historical Society, Topeka. Cited hereafter, Montgomery to Stearns.

<sup>13</sup> Ibid., December 14, 1860.

<sup>14</sup> Ibid., History of Bourbon County, 151.

<sup>15</sup> Ibid., 156-157.



Slave Law. The members were pledged to ". . . forceably his prevent the return of fugitive slaves, and when they got over into Kansas, to give them a bag full of grub and show them the North Star."<sup>14</sup>

Sometime during the summer of 1860, Montgomery decided to take a trip East. The reason for this trip is not clear, but it was probably for several reasons. First, Kansas was suffering a drought. There had been no rain since September, 1859, except for a little on June 16, 1860. The temperature got as high as 132° in July of 1860. For all practical purposes, the crops were failures. Kansas was getting aid from the East and practically all the free-states. Delegations were sent from Kansas to solicit aid for the many families that were in need.<sup>15</sup> Certainly this was one reason for Montgomery's trip, for he did later get substantial aid in the form of seeds and food for the settlers in his area.

Montgomery also knew that the fight with the pro-slavery forces was not over and he was desirous of preparing for an attack from Missouri, Arkansas, or Texas. He wanted to win financial support in the East to buy arms and ammunition.

The urge to visit old friends and relatives and see new lands was also undoubtedly a reason for this trip to the East. He traveled alone, for the most part, leaving home the last of July or the first of August.

<sup>14</sup> Robley, History of Bourbon County, 151. Territorial

<sup>15</sup> Ibid., 156-157. Historical Sketches of the Kansas State Historical Society, XXXI, 299.



His first stop was in Ashtabula, Ohio, the place of his birth. He probably traveled by stage coach to St. Louis and then over the Cumberland Road to Ohio. Here he visited his sister and two of his brothers whom he had not seen in twenty-three years. He left around August 7, and headed for Boston.<sup>16</sup>

In Boston, Montgomery met George L. Stearns who must have introduced him to many of his friends in and near Boston.<sup>17</sup> Sometime during his stay with Stearns he traveled to Concord, Massachusetts, where he visited Franklin B. Sanborn who writes:

Never was I more surprised than in meeting this slender, elegant and cultivated man, a French chevalier rather than the customary Kansas Pioneer, with whose type I had become familiar in the four preceding years. Here was a man, with a gentle voice, and a modest and polite exterior, as much at home in the manners of society as if he had come from a French chateau or Scotch castle; without parade or affection; and meeting Ralph Waldo Emerson, to whose house I took him in the evening, on the frank and equal terms which the training of a gentleman implies. It was evidently in the lines of heredity; he knew his place, and was ready to assert it if questioned; but otherwise, like Sir Lancelot, "the meekest knight and the courtliest that ever ate in hall with ladies; but the sternest knight to his mortal foe that ever laid lance in rest."<sup>18</sup>

Montgomery, no doubt, also visited Bunker Hill where his two grandfathers fought.

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<sup>16</sup> Montgomery to Stearns, August 7, 1860.

<sup>17</sup> The only information available about this trip East is the letters Montgomery wrote to Stearns. As there were, of course, no letters written while he was visiting with Stearns, not too much is known of what took place there.

<sup>18</sup> Franklin B. Sanborn, "Some Notes on the Territorial History of Kansas," Collections of the Kansas State Historical Society, 1913-1914, XIII, 259.



His mission in Boston completed, Montgomery traveled south and west to New York. Here he made many more profitable contacts, even though he saw only a few of those he wanted to see. He had short interviews with Horace Greeley and Thurman Tildon. Before he left, Montgomery had visited many more influential men of that city. At two in the morning of August 29, 1860, Montgomery left New York with a Mr. Davis, by boat, for Philadelphia. Montgomery was very pleased that "The boat took the outward passage around Staten Island, which gave me what I greatly desired: A short trip on the ocean."<sup>19</sup>

After a short visit in Philadelphia, Montgomery returned home to Linn County, September 8, 1860. He found his neighbors excited about the "butchery" taking place in Texas and Arkansas of free-state men. There was also talk of a plot to do likewise in southern Kansas. Montgomery wrote to Stearns that he had "several fugitives on hand and more are expected." and that this could provoke a force from the slave states to come after their property. In preparation for such a force, Montgomery asked Stearns to tell Doctor Samuel G. Howe, a director of the Emigrant Aid Company, that he would be glad to have the "goods" (meaning Sharp's rifles) stored in Lawrence.<sup>20</sup>

These Sharp's rifles were purchased in 1856 by S. C. Pomeroy, purchasing agent of the Emigrant Aid Company in

<sup>19</sup>Montgomery to Stearns, August 29 and 31, 1860.

<sup>20</sup>Ibid., October 6, 1860.



Kansas. The rifles and four breech loading cannon were sent to Kansas with David Starr Hoyt. In St. Louis, after boarding a river boat, the Arabia with his cargo, Hoyt wrote a letter to his mother telling her about his mission. The captain of the ship got hold of the letter and read it to the passengers. As most of the passengers were Missourians, they immediately took possession of the arms and Hoyt. At Lexington, Missouri, the guns were removed and Hoyt was allowed to return to St. Louis. The guns were of no value to the Missourians, however, as the breech-blocks were missing. These had been sent by a different route by Dr. Calvin Cutter. Hoyt sued the Arabia and collected the full value of the arms. Doctor Samuel Cabot, however, wanted the property but hated to bring suit as a member of the Emigrant Aid Company. After a long suit by a law firm in St. Louis, the company finally recovered its property. Later in 1859 the rifles were sent to Kansas, over three years since they were originally purchased, and it was not until 1861 that Montgomery finally took charge of the shipment.<sup>21</sup> The breech-blocks must have still been missing for Montgomery wrote, "The goods, even in their damaged condition would be serviceable."<sup>22</sup>

Charles R. Jennison was again causing trouble for Montgomery. On November 12, 1860, Jennison hanged Russel Hinds

<sup>21</sup>W. H. Isely, "Sharp's Rifle Episode in Kansas," American Historical Review, XII (April, 1907), 558-550. The shipment included 100 carbines, 29 sharp's primers, 20 bullet moulds, 10 boxes and was purchased at the cost of \$2,773.12.

<sup>22</sup>Montgomery to Stearns, October 6, 1860.



on the pretext that he had returned a fugitive slave to his master for the sake of twenty-five dollars reward. The next day, Samuel Scott, a leading pro-slavery man, met the same fate. Montgomery did not take part in these hangings, but did, however, approve of them. He handed Judge Hanoway the following note:

Port Scott Russ Hinds, hung the 12th day of November, 1860, for manstealing. He was a drunken border ruffian, worth a great deal to hang, but good for nothing else. he had caught a fugitive slave, and carried him back to Missouri for the sake of a reward. He was condemned by a jury of twelve men, the law being found in the 16th verse of Exodus XXI. [And he that stealeth a man, and selleth him, or if he be found in his hand, he shall surely be put to death.]<sup>23</sup>

Montgomery also justified the hanging of Scott in a letter to Stearns.<sup>24</sup>

These hangings plus the fact that Fort Scott had been warned that Judge Williams would be killed if the special term of the United States district court called for November 19, 1860, met, led acting Governor George M. Beebe to call out the Militia for the protection of Fort Scott.<sup>25</sup> Because of the threatened attack on Fort Scott, the citizens and Federal authorities alike had fled from the town.<sup>26</sup> Montgomery, on hearing that the military had been called for

<sup>23</sup>Andreas, History of Kansas, 1106.

<sup>24</sup>Montgomery to Stearns, November 20, 1860.

<sup>25</sup>Acting Governor George M. Beebe to President James Buchanan, November 26, 1860, F. G. Adams (ed.), Transactions of the Kansas State Historical Society, 1889-1896, V, 631.

<sup>26</sup>Montgomery to Stearns, November 20, 1860.

<sup>28</sup>Acting Governor George M. Beebe to President James Buchanan, November 26, 1860, F. G. Adams (ed.) Transactions of the Kansas State Historical Society, 1889-1896, V, 632.

<sup>29</sup>Ibid. to Stearns, January 12, 1861.



wrote Stearns, "Please send an order to Mr. C. S. P.

[S. C. Pomeroy] for those goods as we may need them immediately."<sup>27</sup>

Acting Governor Beebe proceeded to Fort Scott in order to settle the disturbances by talking directly with Jennison and Montgomery. He found them in a cabin four miles from Fort Scott, "with a prisoner whom they proposed to deal with in a summary way."<sup>28</sup> Beebe reported his dealings with the men to President Buchanan:

They professed their willingness to surrender themselves to any officer having a warrant for their arrest, and assured me, in addition, that they would immediately disband and cease all further acts of an unlawful character. Upon these assurances I returned to this office, believing that, for the punishment of offences past, the courts alone had power, and that any authority to execute summary punishment extended only to cases of actual open insurrection.

I am just in possession of information to the effect that, so far as observing a peaceful demeanor, these men have, since my return, renewed their outrages, and are again in open rebellion.<sup>29</sup>

The acting Governor's letter was dated November 26, 1860.

On November 27, Montgomery wrote a letter to George L. Stearns describing the same occasion:

The acting Governor, Mr. Beebe, came down to see us a few days since. He had heard strange rumors of our doings, and like a sensible man, as he appears to be, came in person to ascertain the truth in regard to affairs. He soon found where the wrong lay; and finding that we were acting calmly and dispassionately, on well-established precedents, he left us with the assurance that he would do all in his power to protect us in our rights; recommending of course, that we should

<sup>27</sup> Montgomery to Stearns, November 20, 1860.

<sup>28</sup> Acting Governor George L. Beebe to President James Buchanan, November 26, 1860, F. G. Adams (ed.) Transactions of the Kansas State Historical Society, 1889-1896, V, 632.

<sup>29</sup> Ibid.



refere our difficulties to the Federal Court, and promising to do what he could to reform abuses in that department. Times are quiet now, and our lives are as safe as they would be in any country.<sup>30</sup>

Nothing more of this trouble was heard of, probably because the winter months had brought new problems. This was a hard winter for the farmers; their crops had failed, and they were left with very little provisions for the winter. Montgomery kept busy getting supplies of food from the East and distributing them to those in need. In addition, Montgomery was now very active in helping fugitive slaves.<sup>31</sup> His position on slavery was, "If any State wishes to keep slaves, let her keep them at home. If they allow them to come here, they must be free."<sup>32</sup> There were some free-state Democrats, however, who were convinced that Montgomery would not confine his activities to Kansas Territory. "I am pretty confident," said George A. Crawford, "that if Montgomery should make a raid into the State the Missourians would rush into the Territory and perhaps destroy indiscriminately."<sup>33</sup> Crawford would have felt much more secure if he had known Montgomery's intentions in this regard. "I am not in favor of invading the slave state," Montgomery wrote, "so long as they keep their slaves at home. But if they cross the line to interfere with us as Missouri is now threatening to do, then I would consider the war begun."<sup>34</sup>

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<sup>30</sup> Montgomery to Stearns, November 28, 1860.

<sup>31</sup> Ibid., December 14, 1860.

<sup>32</sup> Ibid., November 27, 1860.

<sup>33</sup> George A. Crawford to Sam Smith, January 21, 1861, Charles Robinson Papers, Kansas State Historical Society.

<sup>34</sup> Montgomery to Stearns, January 14, 1861.



General William S. Harney, with his troops, arrived in Fort Scott December 1, 1860.<sup>35</sup> About a week later, General Frost was camped near the state line in Missouri, ordered there by Governor R. M. Stewart.<sup>36</sup> This troop action was an attempt to enforce the Fugitive Slave Law which was being repeatedly violated by Montgomery. A few days later, Montgomery wrote, "the supplies were intended for such 'per-

versions." You [Stearns] are aware that Uncle Sam is making some big splurges out this way. He has let "Old Harry loose," but for all that he is likely to effect, he might as well have been at home. It isn't worth while for Uncle Sam or anybody else to think of enforcing the Fugitive Slave law out here; it can't be done.<sup>37</sup>

Montgomery was given authority to draw funds on Thomas W. Webb of Boston, secretary of the Emigrant Aid Company, and George L. Stearns, one of the directors. Webb directed Montgomery to use the money for refugees, ". . . regardless of race, creed, or color."<sup>38</sup> Montgomery used the money to support the fugitive slaves, destitute families, and to even hire someone to work his farm while ". . . I work for my country."<sup>39</sup> Montgomery informed Stearns, "I do not know of any case of actual death from starvation but the suffering is great enough God knows, and the supplies none too great."<sup>40</sup> In a report to the War Department, General Harney told that

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<sup>35</sup>Robley, History of Bourbon County, 155-156.

<sup>36</sup>Wilder, Annals, 307.

<sup>37</sup>Montgomery to Stearns, December 12, 1860.

<sup>38</sup>Thomas W. Webb to James Montgomery, December 21, 1860, James Montgomery Collection, Kansas State Historical Society.

<sup>39</sup>Montgomery to Stearns, May 1, 1861.

<sup>40</sup>Ibid., March 8, 1861.



## CHAPTER VI

he was

. . . satisfied that the greater part, if not all the donations which are sent to the suffers in Kansas, goes into the hands of the band of Montgomery and Jennison, and the greater part of it is perverted from the use intended, for purchasing arms and ammunition of war for carrying out their plans.<sup>41</sup>

This was not news to the officers of the Emigrant Aid Society, in fact the supplies were intended for such "perversion."

On January 5, 1861, S. C. Pomeroy reported that Kansas had received goods amounting to 867,619 pounds, and again on January 16, the poundage, not counting garments, boots, shoes and cloth, amounted to 1,062,619.<sup>42</sup> Kansas received aid of all kinds from the East and Montgomery had no small part in procuring and distributing it where it could be well used.

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<sup>41</sup>Quoted in Franklin B. Sanborn, "Some Notes on the Territorial History of Kansas," Collections of the Kansas State Historical Society, 1913-1914, XIII, 263.

<sup>42</sup>Wilder, Annals, 308.



## CHAPTER VI

On January 29, 1861, Kansas became a state, and on April 12, 1861, CIVIL WAR ACTIVITIES opened fire on Fort Sumter. On April 16, Richard J. Hinton, Montgomery's Harrisburg, Virginia, friend, wrote Montgomery a pleading letter asking him to start a slave insurrection.

My only reliance is in insurrection, for I give the South credit for being a brave people; and fighting for their rights as they deem true, they will fight to the bitter end. The war may be continued for a long time. But a bloody war full of human cost. I knew James Montgomery at Beautiful So. Car. in 1863 when he had command of colored troops and I was special agent of the Treasury Dept. for Debt of Land: and thought very ill of him. He was lawless and cruel. Had a negro shot as a deserter without court martial and when the poor fellow just conscripted and did not know what he was doing and ordered towns to be burned to the great indignation of Col. R. G. Shaw.

Montgomery opposed to any such idea, "I think our true policy, for the present at least, Edward P. Pierce own doors."<sup>2</sup>

On the political front, Governor Charles Robinson was sworn into office February 9, the same day Jefferson Davis and Alexander H. Stephens were elected provisional president and vice president of the Confederacy.<sup>3</sup> President-elect Lincoln was on his way to Washington.<sup>4</sup>

<sup>1</sup>R. J. Hinton to James Montgomery, April 16, 1861, R. J. Hinton Collection, Kansas State Historical Society, Topeka.

<sup>2</sup>Montgomery to Stearns, May 6, 1861.

<sup>3</sup>Wilder, *Annals*, 312.

<sup>4</sup>It is interesting to note that James Montgomery, sometime early in, 1861, passed through Springfield, Illinois. He wrote to Stearns, "I did not see Mr. Lincoln. I passed through Springfield in the night. I was so short of funds that I feared to risk a halt; and, besides he was so much pressed with campaigning that it would hardly have paid to call on him." It is not clear what Montgomery was doing on this trip. Montgomery to Stearns, March 11, 1861.



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My only reliance is in insurrection, for I give the South credit for being a brave people; and fighting for their rights as they deem true, they will fight to the bitter end. The war may be continued for a long time. But a bloody war full of human concentrated riot for a few days or months would be far preferable to one consuming time, money, lives, and obliging us to maintain an army of 3 or 400 000 troops. 300 000 troops ought to be ordered out now by Presidential proclamation. The Border States will side with the Cotton States and their we have fifteen states of slave holders to fight. Would not slave insurrection make short work of it and destroy all cause for further work?<sup>1</sup>

Montgomery was opposed to any such idea, "I think our true policy, for the present at least, is to defend our own doors."<sup>2</sup>

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County conventions were being held to select nominees for members of Congress. Stearn asked Montgomery to work for Martin F. Conway, president of the Kansas Relief Committee, for nomination. Montgomery replied that he would try to get himself appointed a delegate to the State Convention.<sup>5</sup> Linn County Convention was held May 9, 1861. The next day Montgomery reported the proceedings to Stearns:

Our county convention came off yesterday. We made a clean sweep for Conway, but we had to work for it. The corruptionists had bought out our representatives in the Legislature. They had done the same with the reps. from Allen and several other counties. The representatives there bought out, wrote home to their constituents asking to be appointed "delegates" to the Topeka convention on the 22th stating that expenses would thus be saved, as they were already on the ground.

I have worked in Allen and Linn counties both and I think we have saved both. Bourbon was all right to begin with. I am a delegate.<sup>6</sup>

Not only was Montgomery a delegate, he was on the Committee on Credentials and also on the ballot along with Conway and four others for nomination to Congress. Conway won the votes of thirty-seven of the fifty-five delegates.<sup>7</sup>

Sometime during April and May, Montgomery received the arms from the East that he had been so desperately seeking. More and more fugitives were finding their way to Montgomery's Fort as the weather got warmer.<sup>8</sup> This was an additional burden to his activities. Montgomery's brother-in-law died, leaving him with the responsibility of taking

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<sup>5</sup>Montgomery to Stearns, April 22, 1861.

<sup>6</sup>Ibid., May 10, 1861.

<sup>7</sup>Wilder, Annals, 319.

<sup>8</sup>Montgomery to Stearns, April 22, 1861.



care of the widow's farm which was next to his own. He bought some of the estate, increasing the size of his farm to 320 acres, ". . . making me the best farm on the creek."<sup>9</sup> By May 8, he had organized a regiment and was in hopes of soon having a brigade. He had accepted a position on the Governor's staff that carried with it the rank of colonel.<sup>10</sup> He was promised a staff position on the war council which was not to ". . . interfere with any other command which the people may give me."<sup>11</sup> Montgomery was kept constantly busy with all his various activities and he wrote to Stearns in exhaustion, "I am almost pressed to death with [my] own affairs."<sup>12</sup>

On his way home from the Republican Congressional Convention at Topeka, Colonel Montgomery stopped at Lawrence to draw one hundred and fifty dollars on George L. Stearns to purchase war supplies. George W. Callamon, with whom Montgomery dealt, was also purchasing gun powder to the amount of three hundred kegs and storing it in the Lawrence jail. Callamon wrote Stearns:

To provide for them troops quartered at Lawrence falls to my lot. No money in the treasury, no credit. It would not do to let these men render arms without food, that would be the cause of disheartening the men and breaking up the whole military organization which

<sup>9</sup>Montgomery to Stearns, April 22, 1861.

<sup>10</sup>The official document authorizing Montgomery's rank was dated June 24, 1861, and signed by Governor Charles Robinson. James Montgomery Collection, Kansas State Historical Society.

<sup>11</sup>Montgomery to Stearns, May 8, 1861.

<sup>12</sup>Ibid., April 22, 1861.



as at first organized is no discredit to any state, although attempts have been repeatedly made by such mischevious men as Lane to disarrange and to entirely disorganize the same and if possible to plunge this state into irrevocable ruin. Could we but place [name indistinct], Pomeroy, and Lane in the insane-asylum I am sure that Kansas would be benefited. Judgment they have not.<sup>13</sup>

On June 27, Colonel Montgomery and some one hundred and eighty men marched into Missouri.<sup>14</sup> Missourians had recently been driving Union men out of their state. These men that were driven out had to leave their families behind and flee for their lives. Most of them came to Kansas and prevailed on Montgomery to lead an expedition into Missouri to aid in getting their families out of the state.<sup>15</sup> More recently the Missourians had stopped driving the Union men out of the state and started compelling them to swear their allegiance to Missouri and drafted them into their army. "In this state of things the Union men have called on me [Montgomery] to lead them; and I have promised to do so."<sup>16</sup>

Montgomery was very careful to keep his sponsor, Stearns, informed as to his activities. George L. Stearns was Montgomery's main source of funds to keep his men in arms, ammunition and food. This drive into Missouri was detailed in a letter written from Mound City:

<sup>13</sup>George W. Callamon to George L. Stearns, May 25, 1862, James Montgomery Collection, Kansas State Historical Society.

<sup>14</sup>Montgomery to Stearns, June 27, 1861.

<sup>15</sup>E. R. Smith, "How Quantrill Became an Outlaw," Transactions of the Kansas State Historical Society, 1901-1902, VII, 216.

<sup>16</sup>Montgomery to Stearns, June 27, 1861.

<sup>17</sup>Ibid., July 5, 1861.

<sup>18</sup>Ibid., July 10, 1861.

<sup>19</sup>Ibid.



Entering the state early in the morning of the 26th June, we marched to Bell's Mill (15 miles) where a company of the enemy was posted. They were attacked and quickly routed: but, with the life of one man wounded and one horse killed. The enemy was strongly posted, and under cover. They were so closely packed [?] that they had not time to mount, thus leaving quite a number of horses and mules, ready saddled, which our footmen gladly appropriated.

We took but one prisoner at this place, and can't claim that any of the enemy were hurt.

We had two skirmishes earlier in the day, in which several prisoners, with their horses were taken, and one notorious villain (Bill March Banks) was killed.

At Bell's Mill we learned, from a prisoner and other men (Union men), that we were driving into a force 8,000 strong, under General Rains retreating towards Arkansas before the U. S. forces.

The next day a few of our boys acting with a small force of Union men attacked a superior number of Rebels on Walnut Creek, in Bates County, 11 miles East of this place, killing several men and horses without sustaining any loss themselves. In another skirmish, since, two men of the enemy were killed.

Thus far we have sustained no loss only as before stated. I am engaged in raising a regt. Eleven letters to ans. in an hour. Called at the "Trading Post" to meet a force of the enemy marching on that place.<sup>17</sup>

While in Kansas, Montgomery continued to organize his regiment and fight in minor border skirmishes. He later made one more raid into Missouri and "... offered the enemy battle in his fortified camp, but he 'evacuated' and we burned his works."<sup>18</sup> With disarming frankness, Montgomery admitted, "It has constantly happened to us that our disappointments have been better than successes, and our blunders have been our best moves."<sup>19</sup>

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<sup>17</sup>Ibid., July 5, 1861.

<sup>18</sup>Ibid., July 10, 1861.

<sup>19</sup>Ibid.



Montgomery was also bothered with another problem. "Countraband bipeds" were coming into Kansas in such large numbers that he now did not know what was best to do with them.<sup>20</sup> This problem was perhaps the seed of the plan to organize a Negro regiment.

Finally, on July 15, the Third Kansas, of mixed arms, was organized<sup>21</sup> and the men held a regimental election, ". . . and I am happy to say that I [Montgomery] am now colonel; having received every vote."<sup>22</sup> The Fourth Regiment, the Fifth Kansas Cavalry, and Montgomery's regiment made up Lane's Brigade. The Third remained with Lane's Brigade in the Kansas border campaigns until October, 1861, when they joined Fremont's army at Springfield, Missouri. In December, Montgomery, with his regiment, returned to Kansas and spent the winter near the present location of Pleasanton, on Mine Creek.

Montgomery partially solved his problem of what to do with the Negro fugitives. The event was noteworthy enough for the Leavenworth Daily Conservative to comment:

A train with supplies for Montgomery's troops started out yesterday morning. A rather singular circumstance about it is that all the drivers were negroes! The wagon-master, even was a negro! Nearly all were "countraband" having left their "comfortable

<sup>20</sup> Ibid., July 26, 1861.

<sup>21</sup> Wilder, Annals, 322.

<sup>22</sup> Montgomery to Stearns, July 26, 1861.

<sup>27</sup> Robley, History of Bourbon County, 170, records five killed and twelve wounded. See also, Trego to Wife, September 5, 1861.



homes" within the past ten days and made for Fort Montgomery. Two or three a day have been coming in to him. A cavalry company escorted the train.<sup>23</sup>

Five companies of Montgomery's Third Kansas arrived at Fort Scott on August 20, 1861, which was headquarters for General Lane's Brigade.<sup>24</sup> The pro-slavery sympathizers had left town, in many cases leaving behind their personal possessions. Colonel Montgomery established his headquarters in the house of an old "friend" of his, Judge Williams, who left his house very well provisioned, and furnished with a piano. Montgomery had four soldiers for servants, "and a contraband wench for cook."<sup>25</sup>

On September 3, several companies saw some action in the Battle of Dry Wood.<sup>26</sup> A Rebel scouting party, under the direction of General James S. Rains, captured a corral full of mules two miles from Fort Scott. The troops went out the next day from the Fort and ran into the Rebel force at Drywood Creek. There a battle was fought, with Montgomery in command, until the Union forces fell back for the lack of ammunition.<sup>27</sup> Shortly after this battle, Lane pulled most of his forces out of Fort Scott, leaving it defenseless, and proceeded to Fort Lincoln, on the Osage in northeastern Bourbon County.

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<sup>23</sup>Quoted in footnote, Edgar Langsdorf (ed.), "The Letters of Joseph Trego, 1857-1864, Linn County Pioneer," Kansas Historical Quarterly, XIX (May, 1951), 288.

<sup>24</sup>Robley, History of Bourbon County, 169.

<sup>25</sup>Trego to Wife, September 5, 1861.

<sup>26</sup>Wilder, Annals, 323. 1861.

<sup>27</sup>Robley, History of Bourbon County, 170, records five killed and twelve wounded. See also, Trego to Wife, September 5, 1861.



The Brigade left Fort Lincoln on September 9, and headed north into Missouri. Montgomery, however, was ". . . too unwell to ride," and did not catch up with the brigade until three days later.<sup>28</sup>

After minor skirmishes in Missouri the Brigade joined with Fremont's forces at Springfield, in October.<sup>29</sup> Montgomery's regiment returned to Kansas in December. During this return trip, sometime in November, Montgomery learned that his daughter had eloped with "Squint-eye Veatch. . . .

[Trego reported] the Col. is just boiling about it."<sup>30</sup> Montgomery dispatched his infantry company from Mound City under Major H. H. Williams to Popinsville and Butler, Missouri, to burn the towns and every "secesh" house on the way. On December 14, Major Williams successfully completed his mission, but not before Montgomery became worried because he was a day late. Montgomery sent his cavalry company to meet him for fear he had been cut off by Sterling Price.<sup>31</sup>

The regiment set up winter camp on Mine Creek just eight miles from Mound City on December 28, 1861. It was called Camp Defiance. Here they remained for the rest of the winter where it seems that Montgomery took a well deserved rest. Joseph H. Trego writes:

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<sup>28</sup>Trego to Wife, September 12, 1861.

<sup>29</sup>Ibid., October 28, 1861.

<sup>30</sup>Ibid., November 12, 1861.

<sup>31</sup>Ibid., December 18, 1861. *Kansas Historical Quarterly*, XIX (May, 1931), 287-288.

<sup>32</sup>Wilder, *Annals*, 344.

<sup>33</sup>Andrews, *History of Kansas*, 188.



Col. Mont. has an old Sibley tent, smoky and cheerless, in which he receives all the yahoos from Missouri who are anxious to see him, and there is generally a tent full of them, who will lay around him by the hour, talking about border ruffian times when they supposed that Montgomery was an "awful man" but they had gone right, far enough to vote for Lincoln, and for that they were driven from Missouri. If they had been worth as much as a good cigar they would have defended themselves at home instead of running at the first approach of danger. Why the Col. permits such men to occupy so much of his time is known only to himself.<sup>32</sup>

The Third Kansas saw no further action and was disbanded, as was the Fourth, on February 20, 1862. The companies of these two regiments were consolidated with the Fifth Kansas Cavalry and the Tenth Kansas Infantry.<sup>33</sup> James H. Lane became dissatisfied with his military career and on February 26, 1862 wrote that he was resigning and returning to the Senate.<sup>34</sup> Colonel Charles R. Jennison resigned while his Seventh Kansas Regiment was in Lawrence sometime between March 25 and April 22, 1862.<sup>35</sup> Lane was now in the Senate, and Montgomery and Jennison were plotting against each other to gain favorable positions. Montgomery wanted the position of colonel of a new regiment being formed at Mound City. Montgomery, writing to Governor Charles Robinson to inform him of this recent development, asks for the appointment because "There is perhaps no person, living, who could inspire the blacks with the same amount of courage and confidence, as I can: or who can so easily mold them to honor

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<sup>32</sup>Ibid., December 28, 1861.

<sup>33</sup>Edgar Langsdorf (ed.), "The Letters of Joseph Trego, 1857-1864, Linn County Pioneer," Kansas Historical Quarterly, XIX (May, 1951), 287-288.

<sup>34</sup>Wilder, Annals, 344.

<sup>35</sup>Andreas, History of Kansas, 188.



or dishonor." Montgomery plunged the sword into Jennison by adding, "I charge Jennison. . . with being an unmitigated Liar Black-leg and Robber. . ." <sup>36</sup>

The next day, August 4, Lane opened an office in Leavenworth for the purpose of enlisting white and Negro soldiers. <sup>37</sup> Jennison took immediate advantage of this and started organizing regiments of Negro soldiers through Lane's office. <sup>38</sup> Lane continued to organize Negro regiments in spite of official notification that the Federal Government was not allowing the recruiting of such troops. <sup>39</sup>

By this time, George L. Stearns had become aware of differences in the character of men such as Jennison, Montgomery, and others he had been financing. He marked Jennison out of his book and wrote to his lawyer in Leavenworth, George W. Callamon, asking him if Montgomery should be classed with such men as Jennison. Callamon frankly replied that he had seen nothing to make him believe that Montgomery should be classed with Jennison. "He has risen continually in my estimation and I am in hopes nothing will occur to lessen my respect for him." <sup>40</sup>

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<sup>36</sup> James Montgomery to Charles R. Robinson, August 3, 1862, Charles R. Robinson Papers, Kansas State Historical Society, Topeka.

<sup>37</sup> Wilder, Annals, 350.

<sup>38</sup> Dudley Taylor Cornish, The Sable Arm: Negro Troops in the Union Army, 1861-1865, 73. Cited hereafter, Cornish, The Sable Arm.

<sup>39</sup> Ibid., 74.

<sup>40</sup> George W. Callamon to George L. Stearns, August 28, 1862, James Montgomery Collection, Kansas State Historical Society, Topeka.



Montgomery did not waste time in Kansas fighting against Lane and Jennison. He took his problem to Washington, D. C., where he already had many valuable contacts. His trip East in the summer of 1860 brought him into contact with many influential men. When he reached Washington in December 1862, he went directly to Senator Pomeroy of Kansas to ask for a position. Montgomery knew that only through "Washington" could he get the position he desired; that of organizing and leading a Negro regiment. No lesser official than the Secretary of the War Department had authority to give such a position. Pomeroy promised him his support. Not waiting for things to just happen, Montgomery paid a visit to Eli Thayer, founder of the Emigrant Aid Company. Thayer told Montgomery about a "Florida scheme" in which he might assist him. After this visit, Montgomery sat down and wrote his very influential and wealthy friend, George L. Stearns. He asked Stearns if it would be possible for him to come to Washington, because he knew that this would give him additional assistance. The letter was delivered to Stearns by Senator Pomeroy, who (Montgomery expected) would explain things more fully.<sup>41</sup>

Montgomery needed all the help he could get, for once again he discovered Lane standing in his way. Lane was a member of the nominating committee and had a strong influence on Senator Henry Wilson of Massachusetts, chairman of the

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<sup>41</sup>Montgomery to Stearns, December 24, 1862. *Official Records of the Union and Confederate Armies*, 3 ser., VII, 14.



committee. The only way to stop this influence, Montgomery believed, was pressure from Wilson's home state, and he was depending on Stearns to apply this pressure. Not one to miss any opportunity, Montgomery tried every angle. He called on Representative Conway of Kansas, the man whom Montgomery had given considerable help when he was nominated for Congress in 1861. Conway, however, was not in Washington because he had gone to see his wife who was sick. Montgomery carried his campaign to President Lincoln with whom he had a short, kindly interview. General David Hunter was in Washington preparing to return to South Carolina. When Montgomery contacted Hunter, the General asked him to go south with him, and promised to do what he could for Montgomery to secure him the position he wanted. It is not clear what the others told Montgomery, but he wrote Stearns, "I will not commit myself to anything, or anybody, till I hear from you."<sup>42</sup>

Who finally pulled the right political string is not known, but he was authorized by the War Department on January 13, 1863 "... to raise, subject to the approval of the general commanding the Department of the South [Hunter] and under his direction, a regiment of South Carolina volunteer infantry to be recruited in that State, to serve for three years or during the war."<sup>43</sup> Montgomery did not return to Kansas, but proceeded directly with General Hunter to

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<sup>42</sup>

Ibid., December 26, 1862.

<sup>43</sup>The War of the Rebellion: A Compilation of Official Records of the Union and Confederate Armies, 3 ser., III, 14.



South Carolina. Here Colonel Montgomery quickly recruited the Second Regiment South Carolina Colored Volunteers.<sup>44</sup>

Working his way around Florida to Key West, during February 1863, to recruit volunteers in his Negro regiment, Montgomery discovered that the supply was not so plentiful. On the first of March he still had less than one hundred and fifty men in his regiment.<sup>45</sup> On June 9, on St. Simon Island, Georgia, Montgomery met Colonel Shaw and his Massachusetts men who had been ordered to report to Montgomery. Here Montgomery introduced Shaw to the guerrilla tactics he had learned so well in Kansas and was now using to make amphibious forages along the coast of Georgia and Florida.<sup>46</sup>

A few days later Shaw joined Montgomery in a raid of Darien, Georgia, on the Altamaha River. Gunboats, which met the party on June 11, shelled the town, and when the troops landed they found the town was deserted. The foraging parties then began their work and stripped the town of everything of value. Montgomery then gave the order, as he had previously while with his Third Kansas regiment, to burn the town. He told Shaw that this was necessary in order for the Southerner". . . to feel that this is a real war, and that they are to be swept away by the hand of God like the Jews of old."<sup>47</sup> According to one authority,

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<sup>44</sup>Cornish, The Sable Arm, 104.

<sup>45</sup>Ibid., 138.

<sup>46</sup>Ibid., 148.

<sup>47</sup>Luis F. Emilio, History of the Fifty-Fourth Regiment of Massachusetts Volunteer Infantry, 1863-1865, 102-103.



Seven at James Montgomery was a primitive patriarch, that uninhibited by any effete Eastern notions of the rules of civilized warfare, and his Old Testament kind of warfare was completely at odds with the Harvard tradition of fair play . . . . Montgomery, with fanatic realism, made his own rules.<sup>48</sup>

In spite of his unorthodox military tactics, Montgomery had a high regard for his Negro troops as individuals and a deep respect for their rights as human beings. A fine example of this spirit is found in a letter to a man he met earlier in Washington, D. C. under unfavorable circumstances, Senator Harry S. Wilson. The subject was one Montgomery had spent much time on while in the South, equal pay for all troops regardless of color. He pleaded his case by showing their merits as compared with white soldiers.<sup>49</sup>

In August, 1863, Colonel James Montgomery was put in command of the Fourth Brigade of General Terry's division on Morris Island. Following this assignment, Colonel Montgomery again returned to Kansas in 1864 where he was chosen Colonel of the Sixth Militia Regiment when its commander refused to lead it against General Sterling Price.<sup>50</sup>

At the close of the Civil War, Montgomery returned to his farm near Mound City. The war had taken its toll on the Colonel for he was almost an invalid. He spent the remaining five years of his life reading and preaching. James Montgomery died January 1, 1871, at the age of fifty-

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<sup>48</sup>Cornish, The Sable Arm, 150.

<sup>49</sup>James Montgomery to Senator Harry S. Wilson, January 22, 1864, James Montgomery Collection, Kansas State Historical Society, Topeka.

<sup>50</sup>Wendell H. Stephenson, "James Montgomery," Dictionary of American Biography, Dumas Malone (ed.), 22 volumes, XIII, 97.



Seven at Fort Montgomery. He was buried on his farm that he fought so hard to keep, but his remains were later taken to the National Cemetery at Mound City.<sup>51</sup>

Thus passed into history one of the most colorful figures of Kansas Territorial history. Andreas leaves a warning to all would-be biographers of James Montgomery:

It is at present impossible, and ever will be to present an analysis of his character which will satisfy all classes of people. By his friends he ever has been and is now regarded as a brave, just, truthful, generous, honorable, "square," manly man; by his enemies he was and is regarded as a thief and murder.<sup>52</sup>

Montgomery's life typified the spirit of the westward movement and the search for freedom. He desired freedom for himself, but what was more imminently important he desired freedom for all the oppressed. If this could not be gained by ballots and man-made laws, Montgomery was determined to be guided by God's laws in the struggle for that seemingly innate desire to be free. Montgomery expressed his philosophy many times in his letters, but it can best be summed up by a statement he made to George L. Stearns at a time when he really did not know what he was going to do next:

This much I think I may safely say: It is always right to do right, and I am sure it is right to "Break every yoke, and let the oppressed go free." It is right because God Commanded it, "And shall not the judge of all the earth do right?"<sup>53</sup>

<sup>51</sup>Mitchell, Linn County, 29-30.

<sup>52</sup>Andreas, History of Kansas, 303

<sup>53</sup>Montgomery to Stearns, July 26, 1861.



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