"No Propriety in the Late Course of the Governor":
The Geary-Sherrard Affair Reexamined

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At 2:00 P.M. on Wednesday, February 18, 1857, a crowd estimated at 200 to 300 people assembled on Capitol Hill, Lecompton, seat of the government of territorial Kansas. Assembled in response to public notices addressed "to all good citizens of Lecompton and vicinity," the crowd was a curious mixture. There were official delegates elected by public meetings, editors of the local newspaper, the former sheriff of the county, at least one former justice of the peace, some federal officials, and a group of prisoners, taken there by the territorial master of convicts, Kentuckian Levi J. Hampton.

Regardless of the diversity of their backgrounds or political preferences, all knew that the purpose of the meeting was to take some action in regard to recent insults offered by 28-year-old William T. Sherrard, recently appointed sheriff of Douglas county, to 38-year-old John W. Geary, Mexican War hero, first American mayor of San Francisco, and, until his appointment as territorial governor, operator of coal mines in his native Pennsylvania and the Kanawha region of (West) Virginia, Sherrard's native state. Sherrard's insults, which had escalated to the level of an attempt at the governor's assassination, stemmed from Geary's refusal to issue the official commission entitling Sherrard to exercise the office to which the board of county commissioners had appointed him.¹

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But as the crowd gathered, one key individual was absent: the man scheduled to serve as presiding officer, James Skaggs, reputedly the largest slaveowner in the territory. In light of Skaggs’ absence and because some trouble was anticipated, A. W. Jones, one of the editors of the Lecompton Union, and Dr. John P. Wood, who held the dual offices of United States commissioner for Kansas territory and of probate judge for Douglas county, prevailed on Mayor Owen C. Stewart to take the chair. After securing the services of James Cook of Lawrence, as secretary, Stewart called the meeting to order, and, in response to a motion, appointed a five-man resolutions committee. The committee moved to nearby stores to perform their duties; in its absence, Stewart carefully “farmed out” the floor to speakers on both sides of the issue. Hampton, master of convicts, spoke first, praising Governor Geary. Stewart then recognized the Union’s other editor, R. H. Bennett. But Bennett, a friend of Sherrard, was drunk, and his speech brought forth catcalls and derision. Succeeding Bennett was Richard McAllister, one of Governor Geary’s secretaries.

McAllister’s speech was interrupted by the return of three members of the resolutions committee with their majority report, consisting of a preamble and three resolutions. Upon concluding the reading of their report, the majority spokesman made a few remarks, when a motion was put to adopt the majority report. Sherrard, who was in the crowd, secured Stewart’s permission to address the crowd, and took the stand. In the course of his remarks, Sherrard declared that anyone who would vote to sustain the resolutions was “a liar, a coward, and a scoundrel.” In the crowd about the stand was Joseph W. Sheppard, who was heard to say that he endorsed the resolutions. With an oath, Sherrard drew his revolver and commenced firing. Sheppard replied, wounding Sherrard once, while suffering two wounds himself, none of which were serious. This was the signal for a general outbreak of shooting in the crowd, with perhaps as many as 50 shots being fired.

In light of the large numbers in attendance and the volume of fire, the small number and limited nature of wounds suffered is somewhat surprising, but may have been due to the quick actions

2. The best account of Stewart’s role in the meeting is his own, to be found in his testimony at J. A. W. Jones’s arraignment, in “Records of the United States District Court for the Second District of Kansas Territory, 1854-1861,” Archives division, Kansas State Historical Society: Case File, Case of J. A. W. Jones, 1857. The arraignment testimony of Stewart and others was published, with significant deletions, in the Kansas Weekly Herald, Leavenworth, March 21, 22, 1857. On Skaggs’ intended position as presiding officer, see “A National Democrat’s” account, Missouri Republican, February 28, 1857.

3. Herald of Freedom, February 28, 1857; “A National Democrat” in Missouri Republican, February 28, 1857; S. P. Hand to Thaddeus Hyatt, February 19, 1857, “Hyatt Ms.” KSHS. The accounts differ widely as to the number of shots fired; I have accepted Hand’s statement.
of the officials of the meeting. As soon as the firing commenced Stewart plunged off the platform, calling on the crowd generally to help him keep the peace, while striking about with a heavy cane to deflect the aim of those shooting. Stewart, ex-Sheriff Samuel J. Jones, and others separated Sheppard and Sherrard, who had exhausted the load in his revolver. Sherrard parted from those who restrained him, and Stewart, at least, turned away to bring an end to outbursts of firing elsewhere.4

Up to this point no serious personal damage had resulted. But then occurred the incident which supposedly transformed a frontier gunfight into a major political event. Sherrard, in turning away, confronted John A. W. Jones, yet another of Governor Geary’s secretaries and a man with whom Sherrard had had a personal difficulty three weeks before. A shot rang out and, in the words of a witness, “I saw Sherrard leap into the air as a bullet struck him in the forehead.” Fatally wounded, his brains oozing from the bullet hole, Sherrard was carried off to die; surprisingly, he clung to life for more than two days, expiring on the morning of February 21, 1857.5

This “Sherrard affair” figures in most histories of Kansas. Among historical accounts it generally is represented as part of the efforts of those desirous of seeing Kansas become a slave state to thwart or eliminate the influence of Gov. John W. Geary. Geary, generally hailed as the best of the six territorial governors, is described as an able, efficient, and initially impartial administrator who “pacified” Kansas in late 1856 and thus made possible the victory of the Democratic presidential candidate, James Buchanan.

But once the election was over, Geary discovered the real purpose of the Proslavery forces, entrenched in the territorial legislature and judiciary, to make a last desperate gamble to preserve Kansas for slavery. Although standing virtually alone, faced with the hostility of every other federal official in the territory, and with a legislature every one of whose members was selected as a Proslavery supporter, abandoned by the national administration which

4. On Stewart’s role in attempting to quell the outbreak of firing, see his testimony, corroborated by that of ex-Sheriff Jones, in J. A. W. Jones arraignment record, as printed in Leavenworth Herald, March 21, 1857, and account of “Kent,” Lawrence, February 18, 1857, in N. Y. Evening Post, March 7, 1857. The slight physical damage and small number of superficial wounds are indicated in all accounts, but see especially Herald of Freedom, February 28, 1857.

5. The spectator’s account is from Leverett W. Spring, Kansas: The Prelude to the War for the Union (Boston, 1885), p. 207, and reprinted in Allan Nevins, The Emergence of Lincoln (2 vols., New York, 1950), v. 1, p. 138. The previous difficulty between Jones and Sherrard is mentioned in Lecompton Union, February 25, 1857; N. Y. Evening Post, February 27, 1857; and in testimony of Wm. A. B. Goddard at J. A. W. Jones arraignment, as printed in Leavenworth Herald, March 21, 1857. Sherrard’s death is detailed in the grand jury presentment against Jones, May 15, 1857, in Case File, Case of John A. W. Jones, “U. S. District Court Records,” Archives division, KSHS.
had appointed him, and deprived of his authority to call out the
troops of the U. S. army to maintain peace in the territory, Geary
nevertheless struggled on. But as do most heroes of this nature,
Geary effectively wielded the few weapons left him, primarily his
vetoes of blatantly Proslavery legislation, to arouse public opinon
in the free states. With their schemes exposed, the Proslavery
forces resorted to personal violence, in the Sherrard affair, to
eliminate Geary. In the short run they succeeded: 10 days after
Sherrard’s death, Geary resigned his gubernatorial honors and
returned to the East. But in the long run the Proslavery forces
failed: the “toosin” that Geary sounded on his return aroused the
nation, and the Proslavery efforts, embodied in the Lecompton
constitution, proved subsequently abortive.\textsuperscript{6}

It is not surprising that this view of Geary’s role in territorial
affairs generally, and in the Sherrard affair in particular, should
prevail in historical writing, since most historians have based their
accounts upon John H. Gihon’s \textit{Geary and Kansas} (Philadelphia,
1857). Gihon, who styled himself, “Private Secretary of Governor
Geary,” had the advantage of participating in the events he
described. Additionally, he claimed access to wide varieties of official
and private papers, including Geary’s confidential correspondence.
Moreover, Gihon admitted going to Kansas a firm supporter of the
Proslavery position, but asserted his experiences converted him
into an opponent of that faction. Taking at face value this con-
fession of conversion as evidence of objectivity, and adding the
advantage of being an eyewitness with access to private intelligence,
historians have been content to rely heavily upon Gihon.\textsuperscript{7}
But by so doing they have left the personality, character, and motivation
of Geary’s protagonist, William T. Sherrard, to be painted by his
antagonists. More importantly, by such reliance they have allowed

\textsuperscript{6} Spring, \textit{Kansas}, pp. 197-208; Nevins, \textit{Emergence}, v. 1, pp. 138-144; Alice Nichols,
and Politics, “Bleeding Kansas” and the Coming of the Civil War} (Philadelphia, 1969),
pp. 159-160, 167, 176-179; David Potter, \textit{The Impending Crisis, 1848-1861} (New York,

\textsuperscript{7} John H. Gihon, \textit{Geary and Kansas, Governor Geary’s Administration in Kansas:}
Gihon’s statement of his conversion is to be found on pp. iii-iv. For the general reliance
upon Gihon, see Nichols, \textit{Bleeding Kansas}, pp. 286-293; Nevins, \textit{Emergence}, v. 1, pp. 185-
186; Potter, \textit{Impending Crisis}, p. 215. Spring, \textit{Kansas}, p. 205, while declaring Gihon’s
account “unintemperate and heavily-colored,” still concludes that it “retains large
elements of historic fidelity.” A comparison of Gihon’s account with “Governor Geary’s
Private Diary Kept by His Secretary,” “Geary MSS,” Yale, indicates it to have been the
“private papers” to which Gihon had access in writing his volume. The “Diary” consists
primarily of letters sent by Geary to President Pierce and President-elect Buchanan; com-
parison of the “Diary” versions with originals of the extant letters in the “Franklin Pierce
Manuscripts,” Library of Congress (microfilm edition), and the “Buchanan MSS,” HSP,
indicates that they are faithful copies. This makes Gihon’s account, in fact, Geary’s; on
some occasions, as for example the Sherrard affair, Gihon’s accounts are almost \textit{verbatim}
copies from the “Diary.” Gihon did not, however, apparently have the use of Geary’s
incoming correspondence. For Gihon’s relations with Geary while writing and publishing
Yale.
SAMUEL J. JONES, notorious Proslavery advocate, whose resignation in December, 1856, opened the way for William Sherrard's appointment as sheriff of Douglas county.
Both sought Washington approval to wipe the governmental slate clean in Kansas and to begin state-building afresh.
A Lawrence Free-Stater who presented the pro-Geary majority report to the Capitol Hill meeting.

Brig. Gen. of Kansas militia and author of a resolution condemning Sherrard for grossly insulting Geary.
Although charged by Geary with being members of a Proslavery conspiracy, not all behaved that way.
Geary to describe his own motivations and policies without subjecting that description and analysis to customary historical evaluation.

William T. Sherrard was born in Winchester, Va., July 28, 1828. His father, Joseph H., was a merchant-banker and, at the time of his son’s death, cashier of the Farmer’s Bank of Winchester. Although the Sherrard family was large, educational opportunities were provided for the children, including, in William’s case, collegiate instruction. But illness, which “in some degree paralyzed his great energy of will,” prevented William from completing his formal education. Nevertheless, he was described as a man whose mind was “acute, ready, and vigorous,” who was affectionate, and whose manners were frank and manly. It was also acknowledged that he was “sensitive,” had “quick passions” and an “impulsive” temper, and was “uncompromising” in his sense of right and wrong.8

To recover his health William Sherrard left home at the end of 1855 and traveled westward to Illinois, where he settled in Quincy. There he quickly involved himself in local politics, becoming a Democratic party activist, not a difficult thing to do in the hometown of William A. Richardson, house leader in the fight to pass the Kansas-Nebraska bill of 1854 and Democratic gubernatorial nominee in 1856. Democratic Congressman Isaac N. Morris also hailed from Quincy, which was the former home of the state’s leading Democratic politician, Sen. Stephen A. Douglas. Despite his political activities, however, Sherrard did not remain in Quincy for much more than six months before departing for points farther west. From St. Louis, where he had relatives, Sherrard moved on to Kansas, settling in Douglas county in September, 1856. After only two months in the territory, this Virginian-turned-Illini was appointed sheriff of Douglas county on December 16, 1856.9

The agency which appointed Sherrard was the board of county commissioners of Douglas county, whose status, by December, 1856, was legally somewhat questionable. Under the territorial laws of 1855 the board consisted of three men, a judge of probate and two county commissioners. None of these officials were elected, all

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8. Biographical information on William T. Sherrard and his family is to be found in the resolutions of a public meeting held in Winchester, Va., on March 7, 1857. These resolutions were widely reprinted.—See Missouri Republican, March 25, 1857; New York Herald, March 15, 1857; Richmond Enquirer, March 19, 1857; and Quincy (Ill.) Herald, April 6, 1857. For other biographical information see Richmond Enquirer, March 7, 1857, and the statement of John M. Sherrard and three others in Missouri Republican, March 3, 1857.

9. Sherrard’s career in Quincy politics is outlined in Quincy Herald, February 9, 16, March 9, 23, April 6, 1857. The Herald undertook the difficult task of asserting that Sherrard never touched a drop of liquor during his entire residence in Kansas, but otherwise its statements of his political activity seem veracious.
being appointed by the territorial legislature to serve until territorial elections in October, 1857. Subsequent legislation provided that if the office of judge of probate became vacant during a legislative recess, the commissioners could appoint a new judge. But no such provision concerning a county commissioner vacancy was made.

The legislature of 1855 appointed John P. Wood probate judge of Douglas county, and John M. Banks and George W. Johnston county commissioners. The board went about its business of naming other county officers, including Joseph W. Sheppard a justice of the peace for Lecompton township. But then the situation not covered by existing laws arose: sometime in the summer of 1856 G. W. Johnston departed from Kansas. On September 26, 1856, Judge Wood and Commissioner Banks appointed John Spicer to fill the vacant office; on the following day, Governor Geary, who had been in the territory only 18 days, duly issued Spicer his formal commission. Then, to complicate matters still further, Commissioner Banks also left the territory. On the same day on which Sheriff Jones's resignation was received, Wood and Spicer proceeded to declare Banks's seat vacant and appoint James M. Tuton to fill the vacancy. Tuton not being present, it was thus Judge Wood, whose position was legally unquestioned, and Commissioner Spicer, whose position was legally questionable, that constituted the appointing power which named William T. Sherrard to fill Jones's place.

In making such an appointment, Spicer and Wood were engaging, however, in an action of some dubious legality. Like Wood, Jones had been appointed to his post by the 1855 territorial legislature. The legislation describing the sheriff's duties provided that the board of county commissioners filled vacancies in the office of sheriff. But left unclear was whether the sheriff's resignation creating such a vacancy should be directed to the county board or to the territorial legislature. From all of this certain conclusions emerge. As the actions of Geary, Wood, Banks, and Spicer indicate, in the fluid frontier situation there was more concern with getting a job done than in legal niceties. But, in a situation of some legal dubiousness, the personality of the officeholder would have as much to do with effective law enforcement as the commission he carried. Finally, for someone who wished to impede the workings of

10. The foregoing paragraph is based primarily on the report of the judiciary committee of the council of Kansas territory, published originally, together with all of the other documentation on Sherrard's legal and legislative efforts, in Journal of the Council of the Territory of Kansas at Their Second Session... (Lecompton, 1857), pp. 289-303 (hereinafter cited as Council Journal) and reprinted in the Transactions of the Kansas State Historical Society, v. 8 (1899-1896), pp. 277-286 (known by its more popular cover title of Kansas Historical Collections, cited hereinafter as KHC).
Sherrard’s office there were ample legal grounds on which to make the effort.

Unfortunately, no extant evidence clearly indicates why Samuel J. Jones, notorious for his Proslavery sympathies as evidenced by his involvement in the “sack of Lawrence,” chose this particular moment to resign as sheriff of Douglas county. But the resignation may not have been unrelated to the policies which Governor Geary was formulating for the political future of the territory, and his own future therein. Almost from the day of his arrival in the territory, Geary had denounced the other federal officials in Kansas. Their Proslavery sympathies, Geary declared, made them useless to him in his initial efforts to restore peace in Kansas by winning Free-State confidence in the impartiality of federal administration. Initially condemning the federal justices, marshal, and district attorney, for failure to enforce the law and keep the courts operating to prosecute criminals, Geary soon broadened his attack.

“There is not a Sheriff, County or Probate Judge or Clerk, County Commissioner, justice of the Peace, Constable, Military officer from Major General to Lieutenant,” Geary informed Pres. Franklin Pierce, “in a word there is not an officer high or low [who does not] have the same predilections and prejudices of the government officials.”

Geary called on the President and Secretary of State William L. Marcy to remove the existing federal officials and replace them with men who “with their official influence will sustain me.” And, to give weight to the sense of urgency with which he desired Washington officials to act, he added:

I am now made aware of a most insidious and foul conspiracy formed for the purpose of dissolving this Union and of defeating my policy as the means by which it will be cemented and perpetuated. This conspiracy includes among its members [David R.] Atchison, [Benjamin F.] Stringfellow, the two Territorial Judges [Samuel D. Lecompte and Sterling C. Cato], Secretary of State [Daniel H. Woodson], District Attorney [A. J. Isacks], Marshal [Israel B. Donalson], Surveyor General [John Calhoun], [George W.] Clark [sic] the agent for the Pottawatomie Indians, the last named is stained with murder and arson and all the rest aiding, abetting and giving official countenance to crimes and enormities of the deepest dye not excepting murder.11

11. For the gradual broadening of Geary’s charges, from an initial demand for a new territorial secretary and new territorial judicial officers, to include all those named in the quoted statements, see John W. Geary to Franklin Pierce, September 16, 19, November 9, 24, December 8, 20, 1856, in “Diary,” “Geary MSS,” Yale. This broadening is in marked contrast to Gihon’s account, which places the description of the total submission of all territorial officials, both federal and local, to the “slave power,” immediately following Geary’s inaugural address. Gihon also declares at this point that U. S. Surveyor General John Calhoun was the head of this anti-Geary conspiracy, a position which Geary did not advance until the time of the Sherrard affair, although he had included Calhoun as one whose removal would be desirable in the November 9, 1856, letter cited above.
Geary's charges had their effect on Washington officials. The President acted first by appointing a Pennsylvanian, Thomas F. Cunningham, to fill the vacant federal judgeship in the third judicial district. Then he accepted Donelson's resignation of the marshalship, appointing an Ohioan, William Spencer, in his stead. He removed Indian Agent George W. Clarke, and replaced him with Isaac Winston of Virginia. Finally, Pierce nominated a successor to Justice Lecompte, Kentuckian C. O. Harrison. A special messenger bearing the news to Donelson and Clarke, and news of Harrison's nomination, arrived in Lecompton on December 10, 1856.12

As the governor wrote to the President, "the removal of Donaldson [sic], Clark [sic], and Lecompte has been received here with general acclamation by the people, and men recently disposed to vilify and abuse you are loud in your praise." Those men were the leaders of the Free-State party in the territory, who looked upon the removals as evidence of Washington support for Geary's policy. They also considered it as evidence supporting Geary's promises that an impartial, even-handed course in administering territorial affairs would be carried out. It is not implausible to assume that men on the Proslavery side considered the removals and appointments in the same light. Such an impartial course would seem to some to be the doom of their hopes; other Proslavery supporters, however, might have tried to garner what credit they could by clearing the way for the appointment of county officers more amenable to the governor's way of thinking. And, at least in the case of Douglas county, it seems evident that some local officials were sympathetic to Geary's policy and were moving to make local administration less one-sided than it had been.13 Viewed in this light, a recent arrival in the territory, not identified with the previous territorial troubles, a Virginian, but resident lately of Illinois, with some connection to political leaders very important in congressional control of territorial affairs, may have seemed an


13. John W. Geary to Franklin Pierce, Lecompton, December 20, 1857. "Diary," "Geary Mss," Yale. The evidence for the shift of the Douglas county commissioners to a more neutral position is circumstantial, but strong. One of the two commissioners, John Spicer, was reportedly warned by a secret Proslavery group known as the "Regulators" to leave the territory, warnings which Spicer ignored. See Geary's letter to Spicer, Lecompton, December 20, 1856, concerning these warnings, and Spicer's reply, Wheatland, December 20, 1856, in KHC, v. 4, pp. 660-661. On February 19, 1857, the territorial legislature filled vacancies among the county offices. Both county commissioners' seats for Douglas county were declared vacant and filled with two men other than Spicer and Tuton: Journal of the House of Representatives of the Territory of Kansas (Lecompton, 1857), p. 279 (hereinafter cited as House Journal). This action of the legislature was a recognition of the irregularity of Spicer's and Tuton's appointments; but the significance lies in the failure of the legislature, a body supposedly dominated by the 'slave power' conspirators, to reappoint the two commissioners.
ideal candidate to implement this policy in Douglas county. Certainly a large number of men, more ardently and publicly identified with the Proslavery cause, could have been selected to fill Jones's place.

But by December, 1856, Governor Geary had developed plans for a solution to Kansas' problems which went far beyond simply making the federal and local officials a unit behind him and in favor of an impartial administration of existing territorial laws. Geary believed that most of the extreme Proslavery laws of the 1855 legislature were based on deliberate or accidental discrepancies between the Washington and Lecompton versions of the Kansas-Nebraska bill of 1854, the territory's organic law. These discrepancies, Geary believed, would justify congress in declaring all actions of the territorial legislature invalid.14 Wiping the legal Kansas slate clean by congressional action would open the way for a new governmental organization in the territory. Adherents of both former political groups could support this new government without having to admit to any errors in their former actions. And, obviously, the man responsible for implementing this face-saving scheme could expect an ample reward.

Geary realized that the Democratically controlled federal senate would be unwilling to undertake this action if either the federal house of representatives or the Free-State Topeka organization attempted to substitute either the Topeka state "constitution" or a code of "state" laws for the congressionally eliminated territorial legislation. Such a code could be enacted by the Topeka legislature, due to assemble on January 5, 1857, unless Geary could persuade Free-State leaders to render law-making by that body difficult if not impossible. Admittedly a deep and somewhat devious game was being asked of Free-State leaders by Geary, that they could play with extreme difficulty if federal or territorial officials overtly interfered with the Topeka legislature's meeting. Free-State leaders could hardly hope to maintain their positions if they appeared to bow to Proslavery pressure. Geary had the two-step task, then, of persuading Free-State leaders to support his plans by preventing Proslavery interference with the Topeka organization so far as it lay in his power to do so.

Geary was eminently successful with the first step of the process. Not only did "Governor" Charles Robinson resign his post, but,

14. In urging upon Pierce the propriety of recommending to congress the repeal of all the Kansas legislative acts, Geary declared that he found "some 67 interpolations, omissions, and additions," which threw "strong suspicion of fraud over the publication of the entire Kansas Statutes."—Geary to Pierce, Lecompton, December 8, 1856, "Diary," "Geary Mss.," Yale.
with a promise that if Kansas were admitted to the Union, "I shall be most happy to aid in placing you [Geary] in the Executive Chair" of the new state, he departed for Washington to use his influence with Republican members of the house of representatives to accept the senate actions.\(^{15}\) He placed his resignation in the hands of W. Y. Roberts, "lieutenant governor" of the Topeka organization. Roberts also made preparations to depart for his native Pennsylvania. With both executive officers absent, the Topeka organization, it was anticipated, would be unable to legislate or to function.\(^{16}\)

The second stage of Geary's task, that of winning Free-State confidence by preventing Proslavery interference with the Topeka meeting, involved territorial law-enforcement agencies. There were still outstanding many judicial writs against Free-State leaders. If these writs, from both the federal and county courts, were used to arrest and imprison Topeka legislators, as Charles Robinson and others had been imprisoned in 1856 before Geary's arrival, trust in Geary's leadership would be seriously affected. With Spencer replacing Donelson as marshal, the likelihood of federal writs being served was lessened. But there remained the county writs that the county sheriff could serve to prevent the Douglas county representatives from attending the "legislature's" meeting.\(^{17}\) Thus it became essential that whoever took Jones's place should be willing to follow a hands-off policy with regards to the writs.

Thus, when William T. Sherrard appeared at Geary's office on December 18, 1856, to ask for the commission that would permit him to enter upon his official duties, Geary questioned him closely and apparently explained enough of his policy to Sherrard to

\(^{15}\) Exactly what Geary promised Robinson has been a point of some historical controversy. Robinson, in his "Topeka and Her Constitution," \textit{KHC}, v. 6 (1897-1900), p. 300, and Spring, \textit{Kansas}, p. 204, give a dramatic tale of the two meeting in the attic of Geary's house in Lecompton, where Geary supposedly promised Robinson to support admission under the Topeka constitution. Nichols, \textit{Bleeding Kansas}, p. 291, dismisses the story as lacking contemporary substantiation, but Don W. Wilson, \textit{Governor Charles Robinson of Kansas} (Lawrence, 1975), p. 49, accepts it. There is much documentary evidence that Geary made proposals to Robinson that led the latter to believe the former would accept congressional admission of the territory under the Topeka constitution.—Charles Robinson to John W. Geary, Lawrence, December 20, 1856, "Geary Mss.," Yale; Robinson to Amos A. Lawrence, Lawrence, December 2, 1856, and Robinson to C. L. Stearns, n. d., in Samuel C. Smith to A. A. Lawrence, Lawrence, December 4, 1856, "Amos A. Lawrence Manuscripts," Massachusetts Historical Society. But other sources question the sincerity of Geary's support for the Topeka constitution as anything more than a means to secure Robinson's support of Geary's proposals.—Edward Hoogland to Geary, Washington, January 8-10, 1857, "Geary Mss.," Yale.

\(^{16}\) Robinson later stated that he did not know that Roberts also intended to be absent from the territory.—Charles Robinson to [?], Boston, January 28, 1857, in \textit{New York Times}, March 27, 1857. In support of his contention, see Robinson to Amos A. Lawrence, Lawrence, December 18, 1856, "Lawrence Mss.," MHS. Geary may well have made separate arrangements with Roberts, a fellow Pennsylvanian, concerning his absence.

\(^{17}\) On the importance to Free-State men of the writs, see Thaddeus Hyatt to John W. Geary, Lawrence, December 5, 1856, "Geary Mss.," Yale. According to Robinson, "Gov. Geary promises us protection in [the] meeting [of the Topeka legislature]." Robinson to Amos A. Lawrence, Lawrence, December 19, 1856, "Lawrence Mss.," MHS.
make him understand why it was not desirable to have the writs served. And, Geary asked, "'would [Sherrard] act inimicable to [me] or not?" Sherrard's reply was that he would "'see that the laws are faithfully executed.'" This was hardly what Geary wanted or expected, and he resorted to stalling tactics. He assured Sherrard that the commission would be given to him the next day. Sherrard waited not one but three days and then prepared a letter to Geary threatening legal action. But before the letter could be dispatched, Geary changed his stalling tactics, calling in Sherrard's friend R. H. Bennett of the Lecompton Union to say that the absence of Territorial Secretary Daniel Woodson, who had to cosign the commission, was holding up the issuance. According to Sherrard's statements, never contradicted by Geary, the governor also declared that he "never [had] any intention of refusing to make out [Sherrard's] commission." Mollified, Sherrard again waited. But Woodson returned, and still no commission was forthcoming. On December 29, 1856, Sherrard informed Geary that he would seek a federal mandamus to secure his commission.\(^{18}\)

On January 2, 1857, Sherrard appeared before Justice Samuel D. Lecompte seeking his writ. According to Geary, Gihon, and most subsequent writers, Lecompte was also a part of the anti-Geary conspiracy. Therefore, Sherrard should have secured the desired writ without difficulty, bringing on a confrontation between the federal judiciary and the governor. Lecompte, however, failed to act in accordance with this conspiracy theory. He denied Sherrard's initial application, but did permit him until January 13, 1857, to file an amended plea.\(^{19}\)

The date chosen for Sherrard to file his amended application was not an unimportant one. On January 12, 1857, the territorial legislature assembled at Lecompton to begin its second session. And on the same day a convention of the Proslavery "law and order" party was scheduled to meet in Lecompton. Many of the members of the legislature were also delegates to the convention, and the interchangeability of the two groups was further emphasized by the fact that the convention used the legislative hall for its meetings while the legislature was in recess. Both Samuel Jones

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18. Sherrard's personal account of the interview is to be found in William T. Sherrard to John W. Geary, Lecompton, December 22, 1856, with postscript dated December 29, 1856, "Geary MSS," Yale. The conversation is related in the letter of A. W. Jones to the editor, Missouri Republican, March 6, 1857. The Lecompton Union, February 25, 1857, charged that Sherrard, when he went to see Geary to secure his commission, had writs in his possession "for the arrest of men whom Geary had taken under his especial wing of protection."

and William Sherrard were among the large Douglas county delegation in the convention. The convention, which lasted for three days, took a number of important steps, both official and unofficial. Officially, it changed the name of the Proslavery organization to the “National Democratic” party, thus formally affiliating itself with the state-side Democratic party. Unofficially, leaders of the convention sounded out Geary on a possible U. S. senate nomination, contingent upon Geary’s public identification with the newly named organization. This offer, Geary reported, he indignantly spurned, and refused even to attend the convention’s meetings. If Geary spoke to convention leaders as he wrote of the interview to President Pierce, they could not have doubted Geary’s hostility. Even if he did not so speak, his refusal to attend their sessions could not have improved his relations with members of that body. Nevertheless, the opportunity or excuse to denounce the governor and side with one of their own members was not taken by the convention.

A resolution expressing regret at Donalson’s resignation was adopted. But the convention was mum on Sherrard’s case, and when referring to an earlier controversy between Geary and Judge Lecompte, limited itself to praising the judges as “honest and impartial,” and to reaffirming the necessity for the separation and independence of the judiciary and executive branches. Sherrard contented himself with offering a resolution to send a copy of the convention’s proceedings to the U. S. senate.

The “hands-off” attitude of the convention may have contributed to Sherrard’s next setback. Although Judge Lecompte had instructed him to file his amended application for a mandamus by January 13th, and although Sherrard had in fact done so on the preceding day, Lecompte now refused to issue the mandamus on the grounds that his court was “in vacation,” and the judge doubted his power to issue the writ when his court was not in session.

This use of a technical point to deny Sherrard legal recourse hardly


21. The importance of the name change was that it officially repudiated a resolution adopted by the 1855 territorial legislature declaring the creation of a National Democratic party to be “fraught with more danger to the interests of the pro-slavery party, and to the Union, than any which has yet been agitated,” and resolving “to know but one issue, SLAVERY,” in party affairs. On this 1855 resolution, see Gihon, Geary and Kansas, pp. 254-255. On the offer of the senate seat see Gihon to James Buchanan, Lecompton, February 10 [sic], 1857, “Diary.” “Geary MSS.” Yale. The earlier controversy between Geary and Lecompte involved the judge’s granting bail, in November, 1856, to Charles Hayes, indicted for the murder of Free-State settler David Buffum. For a fuller discussion of this issue, see below, p. 255.

22. Council Journal, p. 296. KHC, v. 5, p. 232. The conclusion must be tentative about the chronological relation of events, because the exact date of Lecompte’s decision cannot be determined. It seems unlikely, however, that Lecompte would have deliberately chosen as a return date for the amended petition a day when his court would be “in vacation,” and then use that as an excuse to deny the writ.
squares with the charges of Geary that the judiciary, legislature, and territorial officials were all part of a conspiracy against him or that the judiciary was willing to bend and twist the law to advance the conspirators’ cause.  

Blocked in his efforts to secure judicial redress, Sherrard turned to the legislature. On January 19, 1857, D. J. Johnson of Leavenworth county introduced a bill into the house “to declare valid the official acts of W. T. Sherrard, and to make valid his appointment.” This bill was referred to the judiciary committee with instructions to request Geary’s reasons for his refusal to issue the commission. To the committee’s inquiry Geary replied that he believed the controversy a matter for judicial adjudication. But, deferring to the legislative request, the governor set forth two grounds for his action. Before he was informed of Sherrard’s appointment, Geary stated, “many good citizens of Lecompton and Douglas county” had described Sherrard as a person whose “habits and passions rendered him entirely unfit” to perform the sheriff's duties. Secondly, while awaiting Secretary Woodson’s return, “many respectable gentlemen, among whom were those of the county tribunal from which he derived his appointment,” informed the governor that Sherrard “had been engaged in several drunken brawls, fighting and shooting at persons with pistols, and threatening others.” Under instructions from Washington to do nothing which might “in any manner endanger the peace of the Territory,” Geary concluded that he would “commission no one laboring under such charges” as those brought against Sherrard.

What prompted Geary to abandon his earlier delaying tactics and assert his determination not to commission Sherrard, and to change his grounds for this refusal to those of Sherrard’s personal habits and character? Since little documentary evidence remains, it can only be speculated that the message and its rationale was the governor’s way of publicly signaling to the Topeka leaders his continued adherence to his plans for a political settlement. Geary’s hopes for a peaceful dissolution of the Topeka organization had been threatened by events partially beyond his control. Despite Geary’s entreaties to come to Kansas, the new U. S. marshal, William Spencer, remained in Ohio awaiting senate confirmation of his appointment. Accordingly, Donalson’s deputies continued

23. It could be argued, of course, that with Donalson’s resignation, the conspirators could no longer rely on the judiciary’s executive arm to carry out the conspirators’ will, and so had to shift the case into the legislature, where they were sure of their control. Such an argument from “uncertainty” is inconsistent both with the action of federal deputy marshals in serving federal writs on the members of the Topeka legislature without the marshal’s presence, as well as inconsistent with Gihon’s account of the refusal of officials to serve Geary’s writ against Sherrard in February, 1857.

to function and, when the Topeka legislature convened on January 5, 1857, one of the deputies appeared with writs and arrested several of the members. The unexpected absence of both Charles Robinson and W. Y. Roberts, instead of preventing action, only intensified the anger of the Topekans and their feeling of betrayal. Quick action in binding those arrested to appear at the May term of the district court and their immediate release on bail by Judge Sterling Cato helped to cool tempers somewhat. But more assurance of the governor’s good intentions was needed, and the published assault on Sherrard’s character may have been Geary’s way of asserting that if federal officials were not yet firmly under his control, he was still determined to control the Douglas county sheriff.25

But in taking this public position, Geary left himself open to the charge of over-exaggerating Sherrard’s faults, of making an official charge that Sherrard could refute with difficulty in an equally public way, and of setting up a double standard for judging officials. Soon after his arrival in the territory, Geary had appointed as his military aides men whose reputation for involvement in the recent bloodshed in the territory was much more publicly and authentically established than Sherrard’s.26 Geary, in other words, had contradicted his assertions about the need of a public official for an unblemished character by his own earlier actions. This contributed to the impression that his statements did not contain the real basis for his refusal to commission. Secondly, and more importantly, Geary asserted a questionable executive discretionary power, questionable both in terms of territorial law and national judicial determination. The Kansas statutes concerning the governor’s commissioning powers state that the executive “shall” issue commissions, leaving the governor no such discretionary power as he had asserted. And the United States supreme court, in the famous 1803 Marbury vs. Madison case, involving similar circumstances, had held that the executive’s function in such cases was “purely ministerial.”27


26. See KHC, v. 4, p. 559, for Geary’s own description of his two military aides, Henry T. Titus and Samuel Walker. It was Titus, the proslavery partisan, who arrested Charles Hayes on Geary’s order.

27. Geary’s exercise of a discretionary power which he did not have was condemned by the judiciary committee of the territorial council.—Council Journal, p. 291; KHC, v. 5, p. 278. But it also dismayed his supporters in the East. The New York Times, which supported Geary’s proposals for a congressional invalidation of the territorial statutes, admitted that the governor had committed a technical violation of the law by refusing to issue the commission, and later noted that his “interference with judicial forms” was being used by his opponents to secure the governor’s removal.—New York Times, March 13, 17, 1857. Both the New York Herald, March 22, 1857, and the Louisville (Ky.) Democrat, March 27, 1857, noted the Marbury vs. Madison decision.
Sherrard and his friends in the house were not slow to take advantage of the opportunity offered them. Sherrard admitted his involvement in two incidents of personal violence, but pointed to their irrelevance to Geary’s arguments for his refusal to commission. After outlining Geary’s own less-than-straightforward course in the commissioning matter, Sherrard stated that he did not fear a legal investigation of his conduct in the two incidents and was willing to abide by a jury’s verdict of his responsibility in them. And the house judiciary committee, invoking the Marbury vs. Madison precedent, reported back Johnson’s bill with a positive recommendation. On January 26, 1857, with eight members absent or abstaining, the house by a vote of 18 to eight, passed the bill and sent it to the council for action.28

Sherrard strengthened his case before the council judiciary committee by securing statements from two members of the Douglas county board averring that they had not recommended to Geary that he refuse Sherrard’s commission. Probate Judge Wood did admit, however, that he had discussed with the governor the accounts of the brawls in which Sherrard reportedly engaged.29 In its report of February 5, 1857, the council judiciary committee argued that there was no valid board of county commissioners of Douglas county at the time of Jones’s attempted resignation, since the board had no authority under territorial law to fill vacancies in its own ranks. Therefore, neither the acceptance of Jones’s resignation nor the appointment of Sherrard was valid. Moreover, Jones’s resignation should have been directed to the legislature that appointed him and not to the board. Thus the committee concluded there were legal although admittedly ambiguous grounds on which the governor might have withheld Sherrard’s commission.

To clear up some of the ambiguities the committee recommended that additional legislation on the subject of filling vacancies be prepared. But, the committee went on, relief from the governor’s refusal was properly the province of the judiciary, not of the legislature, and therefore recommended that the house bill not pass. But, the committee concluded, they could not condone Geary’s

28. *House Journal*, pp. 76-80, 87-88. Of the five-member Douglas county delegation in the house, four voted in favor of the bill, while one, James Garvin, was absent. This was a consistent voting pattern for the Douglas county delegation throughout the legislative session.

29. *Council Journal*, pp. 301-303; *KHC*, v. 5, pp. 283-286. In addition to Probate Judge Wood, the commissioner who gave Sherrard an affidavit was Tuton who, of course, had not been involved in his original appointment. These affidavits destroyed the implication of Geary’s message to the house that a majority of the board had reversed their earlier opinion of Sherrard’s fitness for office. An examination of the “County and Township Affairs” portion of the executive correspondence at the Kansas State Historical Society fails to yield any written evidence substantiating Geary’s assertion that “many citizens” protested the appointment.
reasons for refusing to commission Sherrard, for they agreed with the house that neither territorial law nor judicial precedent allowed the governor any discretionary power in performing "the exercise of a duty enjoined on him by law." 30

Upon the receipt of the report the council undertook to vote on the parts separately. Consideration was first given to the committee's assertions that the vacancies on the Douglas county board were filled irregularly and that Jones's resignation to the board was irregular. Motions approving these statements both failed by a tie vote, six to six. Then the council adopted the committee's statement that the method of redress properly belonged to the judiciary, by a nine to three vote, and approved the recommendation for additional legislation on filling vacancies by a vote of 10 to two. Next the council unanimously adopted "that portion of the report respecting the inefficiency [sic] of the reasons assigned by the Governor for withholding his commission from Wm. T. Sherrard." Finally, the council rejected, by a vote of nine to three, the house bill. 31 Thus the council unanimously reproved Geary for assailing Sherrard's personal character and for exercising discretionary power where he had none. But that reproof was a hollow one, for the council simultaneously denied Sherrard any legislative relief from the actions which it condemned. Sherrard was left dependent on the future action of a judiciary which had already shown itself unsympathetic to his cause.

After waiting four days, Sherrard responded to his defeat by taking an action out of character with his previous behavior in the case, and one which was to color all future explanations of his actions. On February 9, 1857, Geary, accompanied by his secretaries, Richard McAllister and John H. Gihon, visited both the house and council chambers. Sherrard was sitting in the house; as soon as Geary and his entourage entered, Sherrard became excited and departed. The governor, upon leaving the house chamber through a narrow hallway, was suddenly confronted by Sherrard, who was armed. Accounts of what Sherrard said to the governor differ; a source favorable to Sherrard asserts that he declared Geary "had rudely assailed his character," while Geary swore that "Sherrard remarked, in a peculiarly deliberate manner, 'you have treated me as a damn'd [sic] scoundrel.'" All agree, however, as to what happened next: Sherrard spit at the governor,

31. *Ibid.*, pp. 139-141. The house received the report of the rejection of the bill calmly, and from then until Sherrard's assassination on February 18, 1857, took no further action to afford him relief.—*House Journal*, p. 178, and *passim*. 
which was, as a Southern newspaper noted, "the grossest indignity which can be offered to a gentleman." Geary and his followers were probably correct in assuming that Sherrard hoped to provoke a response from Geary that would result in bloodshed. But displaying the personal courage which has never been challenged, Geary ignored Sherrard, walked past him without a word, and left the building, still followed by McAllister and Gihon. There were a few tense moments as Sherrard followed the party outside the building, still fingering the pistol in his belt. But then Sherrard turned away and the incident was over.32

The news of the incident spread swiftly, and both the immediacy and nature of the responses throw light upon the relationship of Sherrard to the supposed Proslavery conspiracy against Geary. On the very day of the attempted assassination, Martin White of Lykins county offered in the house a resolution labeling the attack as "atrocious," denouncing it "indignantly," ordering Sherrard brought to the bar of the house to answer for his conduct, and excluding him "hereafter" from the house. Efforts of Sherrard's friends to lay this motion on the table failed, by a vote of 18 to 10 with five abstentions, as did their counterproposal that no action be taken, by a vote of 16 to 14. Then a substitute motion, reducing "atrocity" to "indignation" and "indignation" to "disapproval," and deleting any reference to exclusion from the house or penance before its bar, prevailed by a vote of 17 to 11. The council delayed action until the day following the incident, when a vote was taken on a resolution offered by William P. Richardson which declared that the council "utterly condemn and discountenance" the act by which Sherrard had "grossly insulted" Geary. Furthermore, Sherrard was to be barred from the council chamber for the remainder of the session. The council unanimously passed the first part of the resolution, but, like the house, declined to penalize Sherrard for his action.33 Nevertheless, both houses of the legislature were formally on record as condemning Sherrard's conduct.

Nor was it only the legislature which publicly censured Sherrard. A. W. Jones, coeditor of the Proslavery organ, the Lecompton


Union, and an apologist for Sherrard, stated that the incident was universally regretted. Not even Sherrard’s best friends sustained him. They thought it imprudent, (notwithstanding the cause and insult,) untimed and out of place. . . . Your correspondant is a personal friend of Mr. Sherrard’s yet he regrets deeply—even condemns the act as rash and imprudent.

It may well have been that Sherrard’s friends recognized the point of Councilor Richardson’s comment: How long is our cause to be placed in jeopardy by irresponsible young men who have no interest in this or any other country? I am satisfied that we have far more to fear from our pretended friends than from our open enemies.94

Geary’s actions, in response to the assassination attempt, indicate his realization that the attempt on his life afforded him the opportunity to strengthen his position and influence in Washington. As soon as he left the legislative hall, Geary went to Judge Cato, gave a deposition describing the assault, and asked that Sherrard be arrested and required to post bonds to keep the peace. Cato immediately issued the writ requested. In Gihon’s later account, the subsequent history of Cato’s writ becomes additional evidence of the monolithic nature of the Proslavery conspiracy in the territory against Geary:

This warrant was unserved for two days. . . . A messenger was at length sent to the judge, requesting him to have the warrant executed at once, who found Cato within the bar of the house, together with Sherrard and S. J. Jones, who, notwithstanding his pretended resignation, has always continued to exercise the functions of his office. Cato said the marshal was absent, and the writ could not therefore be served. This was clearly the duty of Sheriff Jones, then in the company of the accused and the judge. Discovering his entire indisposition to have any legal action in the matter, the governor obtained and destroyed the warrant, and took no further notice of the subject.

Aside from the falsity of Gihon’s final sentence (the unserved writ reposes today among Geary’s papers),95 his statement raises certain questions, most notably about Sheriff Jones’s responsibility to execute the writ. Aside from the fact that Jones had not, Gihon to the contrary notwithstanding, undertaken to exercise the functions of sheriff after his resignation, it is not clear why it was the Douglas county sheriff’s responsibility to execute a federal judge’s writ in the absence of the federal marshal. During the hiatus in the marshalship subsequent to Donalson’s resignation and before

94. A. W. Jones to the editor, Missouri Republican, March 6, 1857; William P. Richardson to Nathaniel Paschal, Le Compton, February 10, 1857, in Leavenworth Herald, March 7, 1857. In his “Executive Minutes” account of the affair, Geary noted that “while a few defend Sherrard, the community generally denounce him in the severest terms”—KHC, v. 4, p. 709. For other condemnations of Sherrard’s act, see Missouri Republican, February 28, 1857, and M. McCaslin to John W. Geary, Paola, February 19, 1857, “Geary MSS,” Yale. For Southern praise for Geary’s “manly and brave conduct” in refusing to fight Sherrard, see Richmond Enquirer, March 7, 1857.

Spencer's appearance in the territory, it was a deputy United States marshal who arrested the members of the Topeka legislature under the outstanding federal writs. Moreover, if it was a refusal of one of Donalson's deputies to act, Geary's passivity in the light of such a refusal is in sharp contrast to his earlier actions. In October, 1856, Geary had gone to great lengths to secure the arrest of Charles Hayes for the murder of a Free-State settler, David Buffum. Hayes had been arrested, but then freed on bail by Justice Lecompte. Geary had immediately written out a directive to Marshal Donalson, ordering him to rearrest Hayes. This Donalson declined to do, and submitted his resignation. Geary immediately gave the writ to one of his military aides, Col. Henry Titus, who carried out the governor's directive and rearrested Hayes.

The legality of Geary's action was questionable, but he defended it as necessary to preserve the peace of the territory. With a better legal basis for directing the arrest of Sherrard, the governor took no action. If a deputy marshal were needed to make a legal arrest, it should not be overlooked that one of Geary's aides, John A. W. Jones, had been deputized and, presumably, could still perform the functions of the office.\textsuperscript{36} Taken altogether, it seems evident that the reason for the failure to serve Cato's writ and to arrest Sherrard lay less with a Proslavery effort to prevent justice from being done than it did with Geary's desire to have an unserved writ as additional evidence of the need for a thorough overhaul of the territory's federal judiciary.\textsuperscript{37}

Such additional evidence was necessary because of a change in Washington attitudes toward the Kansas governor. Federal executive officers, as their terms approached expiration, lost their enthusiasm for Kansas reforms. Congress was especially dubious. Leading Democratic senators had vetoed Geary's plans for a whole-

\textsuperscript{36} On the Hayes-Buffum affair, see \textit{KHC}, v. 4, pp. 629-631, 639, and Gihon, \textit{Geary and Kansas}, pp. 166-168. Geary's versions of the affair are to be found in his letters to Pierce, Lecompton, November 9, 1856, and to Buchanan, Lecompton, February 10 \textit{[sic]}, 1857, "Diary," "Geary Mss," Yale. On Jones's deputization, see \textit{KHC}, v. 4, p. 653.

\textsuperscript{37} It is important to note that Geary appealed to Justice Cato for the writ, rather than Lecompte. This was due to the change in the boundaries of the territorial judicial districts, as reflected in the "Act to Define the Several Judicial Districts of Kansas," \textit{Law of the Territory of Kansas, Passed at the Second Session of the General Legislative Assembly} \textit{(Lecompton, 1857)}, pp. 71-72. The major purpose of this act was to transfer Douglas county from the first (Lecompte's) to the second (Cato's) judicial district. It is difficult to trace the legislative history of this bill because of inadequacies in the published versions of both the house and council journals. Introduced originally as a council bill on January 22, 1857, the measure passed that body on the same day, and went to the house where, after amendments, it passed on February 4, 1857. The bill was returned to the council on February 6, 1857. Sometime between that date and February 11, 1857, when the bill was reported as correctly enrolled, the council accepted the house amendments. Geary signed the bill on the same day. Since Sherrard's assault took place on February 9, 1857, service of Cato's writ might have been refused by a deputy on the grounds that his court had no jurisdiction. But this excuse would no longer have validity after February 11. The act also, of course, gave Cato jurisdiction over Sherrard's request for a \textit{mandamus} against Geary.
sale repudiation of the territorial laws. The senate had also refused to approve Pierce's nomination of a successor to Lecompte, and Secretary of State W. L. Marcy had sent Geary a copy of Lecompte's "defense," with a request for explanations. Clearly Geary's earlier success in convincing Washington to follow his lead was beginning to wane.38

Even where Washington had tried to improve the administration of justice in Kansas, however, these efforts had been less than successful because of the governor's actions. To fill the vacant third federal judgeship, Pierce had appointed a Pennsylvanian, Thomas Cunningham, and the senate had approved the nomination without controversy. Cunningham had come to Kansas, taken his oath, but never left Lecompton for the seat of his judicial labors, Fort Scott, because he had been co-opted by Geary into the second phase of his plan to exploit the opportunity that Sherrard's attack afforded him.39

Capitalizing on the wide public sympathy for the governor which Sherrard's attack had created, plans were set afoot to bring into the open the new political movement, a coalition of moderates from both the Proslavery and Free-State ranks, which Geary had labored to form as the instrument for running the new governmental structure he hoped Washington would create.40 The governor publicized the actions of a meeting held at Big Springs, symbolic site of the origin of the Topeka constitution, chaired by a Proslavery

38. Charles Robinson to Sara D. T. Robinson, Washington, January 15, 1857, "Charles Robinson Manuscripts," KSHS, shows Robinson's acceptance of the failure of his mission. Geary's special agent sent similar news to him at the same time.—Edward Hoagland to Geary, Dundee, N. Y., January 13, 1857, "Geary MSS." Yale. William L. Marcy to Geary, Washington, February 4, 1857, in KHC, v. 4, pp. 726-729. The possibilities of capitalizing on Sherrard's assault to further Geary's proposals through bipartisan political efforts was recognized by one of the governor's Eastern press supporters. In reporting the Sherrard assault, the New York Times, February 27, 1857, declared that "if the Democratic party at Washington shall now bring forward at once, (as in common decency they must), a bill so framed as mainly to ignore the past, while it provides ample security for the future of Kansas, we trust that the Republicans will give to such a bill their hearty and unanimous support, without questioning the quarter from which it comes."

39. Cunningham arrived at Lecompton on December 26, 1856, and took the oath of office on January 10, 1857.—KHC, v. 4, pp. 694 708. Cunningham immediately immersed himself in territorial controversies, declaring, as one Free-State settler reported, "all the laws [of the 1855 legislature] void, except the law adjoining to Shawnee Mission, because there is no record of any of the subsequent laws having been presented to the Governor [A. H. Reeder] for his signature."—Edward Clark to Amos A. Lawrence, Lawrence, January 28, 1857, "Lawrence MSS." MHS. Cunningham's position, if correctly reported, was not in keeping with Geary's, for the governor had devoted much effort to securing from the 1855 legislature at least some of the laws which Cunningham declared valid. But Cunningham's position was very similar to that of many of the Free-State settlers as to validity of the 1855 laws, which would have made him an invaluable communicator between the governor and the Free-State group.

40. In describing these events, Geary declared that the meetings had been called "without my knowledge, and contrary to my wishes." Geary to James Buchanan, Lecompton, February 10 [sic], 1857, "Diary," "Geary MSS." Yale. Geary's opponents charged him, however, with both organizing them and with providing money to see that people attended. Geary's supporters admitted the latter part of the charge.—N. Y. Evening Post, March 7, 1857; S. F. Hand to Thaddeus Hyatt, Lawrence, February 19, 1857, "Hyatt MSS.," KSHE. The number of meetings, their organizational structure, and the uniformity of the resolutions suggest that someone was responsible for them. If it were not Geary, he certainly gave written encouragement to those leading the "punishment-Sherrard" movement.—See Thomas J. Key to Geary, Doniphan, February 20, 1857, "Geary MSS.," Yale.
man but with a Free-State secretary, which carefully focused on the Sherrard assault and the house resolutions “virtually approving the deed.” But this meeting also went on to express its “hearty approval” of Geary’s “general course of policy.”

At Lawrence, Geary’s supporters among the Free-State leaders arranged for 150 of the townsmen to attend a mass rally at Lecompton on February 14, 1857. News of the Lawrence action brought Judge Cunningham posthaste from Lecompton to warn that such a sizeable contingent might dispel the impression of equality between the old factions in the new movement. And at another meeting, on the “California Road 6 miles South West of Big Springs,” the citizens “without any distinction of party” met “to express their sentiments in regard to Gov. Geary’s past course.” Making no mention of Sherrard or the legislature, those assembled also “cordially approved” Geary’s past conduct and resolved “that Hiram Shields be a delegate to attend the Convention to be held on the 18th and that he present these resolutions.”

A number of often overlooked incidents associated with the assemblage at Lecompton underline the original political objectives of the meeting at which Sherrard lost his life.

(1) The presiding officers were divided equally between Proslavery and Free-State adherents.42

(2) The resolutions committee appointed by Mayor Stewart was composed of Probate Judge Wood; James G. Bailey, a well-to-do Lecompton merchant and banker; James F. Legate, Massachusetts native, former Mississippi schoolteacher, and acquaintance of Secretary of War Jefferson Davis, and a Lawrence resident since 1854; Lucius S. Boling, a young Lecompton attorney involved in townsite speculation; and Wesley Garrett, recently appointed coroner of Douglas county. This committee split three to two, with Bailey, Legate, and Garrett offering the majority report.43

41 KHC, v. 4, p. 712, and Gibson, Geary and Kansas, pp. 236-237. C. W. Babcock to Richard McAllister, Lawrence, February 16, 1857; “Resolutions of a Meeting at the California Road,” February 17, 1857, “Geary MSS.” Yale. Hiram Shields was elected a Free-State county commissioner of Shawnee county at the October, 1857, territorial elections. KHC, v. 5, p. 452. The Lecompton meeting was originally scheduled to meet on February 14th, but was postponed until the 18th, ostensibly because of the death of Councillor W. P. Richardson.

42 Mayor Stewart was identified with the Proslavery interests, but was personally friendly to Geary, writing the governor after his departure from Kansas, “I earnestly hope you will return if not I have no further use for the Territory.”—Stewart to Geary, Independence, [March] 18, 1857, “Geary MSS.” Yale. Gibson, Geary and Kansas, p. 205, paints Stewart as Geary’s enemy because the governor took a lucrative government sinecure from the mayor. The foregoing letter indicates the fallacy of this characterization. The secretary of the February 18th meeting was John E. Cook, a Lawrence newspaperman. It is probably Cook’s account of the meeting which appeared in the Herald of Freedom, February 28, 1857.

43 Sources for biographical information about the members of the resolutions committee are as follows: KHC, v. 13 (1895-1910), pp. 473, 475 (Bailey); v. 10 (1907-1908), p. 250 (Legate); v. 11, pp. 475, 475, v. 12 (1911-1912), p. 474 (Boling); v. 4, p. 702 (Garrett). One of Geary’s opponents labeled Bailey as an “arch Abolition hypocrite.”—Missouri Republican, February 27, 1857.
(3) The majority report, while mentioning the "recent personal assault" upon Geary, did not refer to Sherrard by name, and went on to resolve nothing with respect to the incident whatsoever, but much with respect to political matters. Expressing "unqualified approbation" of Geary's "official action," the majority lauded him for his "impartial and vigorous administration" which was responsible for "the present peace and prosperity of the Territory," and for saving Kansas from "destructive domestic feuds" and the nation from "a bloody civil war." Then the majority proposed to "cordially adopt" and "cheerfully maintain" the major recommendations of the governor in his message to the legislature, which were rehearsed at length, as a "platform . . . admirably adapted to the present condition of Kansas." And the report concluded with a pledge of "the support of all the actual bona fide settlers of Kansas, without distinction of party" to Geary, "the people's friend," so long as "he shall continue to administer the government upon the principles above declared." Had it not been for subsequent events, this report could have come from any regular, stateside political rally.

(4) When these resolutions were presented, James Legate, spokesman for the majority, remarked "that he was personally unacquainted with Mr. S[herrard], and therefore could not be accused of personal feeling in bringing in those resolutions." Legate's remark was another way of emphasizing the political objective of the meeting, and denying any effort to censure past acts or condemn personalities.44

These strong political overtones at the commencement of the meeting raise an important question: why did Sherrard lose his life? Although the executive household had been unarmed at the time of Sherrard's assassination attempt, such was no longer the case. As one observer, visiting Geary shortly before the February 18th meeting, noted, rumors of attacks on himself only made the governor smile. But "I noticed that in the draw before which he was sitting a large 'Navy Revolver' loaded & prepared for action. He opened this draw frequently for the purpose apparently of letting me see his 'fix.'" The governor's expectation that violence might be included in the anticipated efforts to break up the meeting was shared by his followers. Those coming to the meeting from Lawrence were persuaded to reduce their presence from 150 men to 40 partly by Judge Cunningham's argument that, while a sizeable body would have no difficulty in maintaining order, it

44. The resolutions of the majority were printed in full only in the account of "A National Democrat," Lecompton, February 20, 1857, Missouri Republican, February 28, 1857. Legate's remarks are quoted in Herald of Freedom, February 28, 1857.
also would cause an overreaction against the governor "and after we left they might give the Gov more trouble than they otherwise would." Anticipated trouble should be met with just enough counterforce to deter but not to produce an escalation of violence.\textsuperscript{45}

Yet violence could have its useful nature also, especially for those against whom violence was directed. Thus, while anticipating violence, great care was exercised by Geary and his supporters to avoid any action which could be interpreted as provoking or inciting violence. Those who came to the Lecompton meeting from Lawrence brought arms with them, but no ammunition, "the Govr intending to arm them with the necessary munitions of which he has an abundance." Also, one company of U.S. soldiers were stationed near Lecompton. In addition, 18 soldiers were in the capital itself, some of whom had been requisitioned from another U.S. company stationed at Tecumseh, six miles distant from Lecompton. After Sherrard's assault on Geary on February 9 the governor wrote Gen. Persifor F. Smith, commander of the Department of the West, requesting that additional companies be sent from Fort Leavenworth to Lecompton. Yet Geary did not order the company near Lecompton to cross the Kansas river and enter the town itself until after the shooting of Sherrard. That is, he did not use any of the federal troops locally available to prevent violence from occurring. Finally, when the shooting broke out on Capitol Hill, the Lawrence men enrolled themselves as a company under the captancy of James Legate of the resolutions committee and marched "to the Govrs residence to defend his Excellency if he should be attacked, which was expected."\textsuperscript{46}

Geary's supporters apparently desired to postpone any violence until after the minority report of the resolutions committee had been presented. This would give any subsequent conflict the appearance of a struggle of opposing principles. And, surprisingly, they had the support of William T. Sherrard himself. As soon as Legate read the majority report Sherrard asked to make an explanation. Mayor Stewart, however, "wished him to wait until the minority report was read." But Sherrard mounted the stand and

\textsuperscript{45} Apparently some consideration was given to using these threats of violence as a part of John A. W. Jones's legal defense.—See [testimony? of "Tennessee" Caldwell, February 28, 1857, "Geary Miss," Yale. The governor's arms are described in S. P. Hand to Thaddeus Hyatt, Lawrence, February 19, 1857. "Hyatt Miss," KSCH. The arguments to the Lawrence contingent are indicated in C. W. Babcock to Richard McAllister, Lawrence, February 16, 1857, "Geary Miss," Yale.

declared that "the difficulty between Gov. Geary and myself is a personal matter, and I have offered satisfaction. Any man who imputes anything dishonorable to me in that affair, is a liar and a coward, and I stand ready at all times to back up my words." 47

If correctly reported, there is nothing in this speech which relates to the majority report just presented, or which endeavors to make a personal issue of that report. And, adhering to the duality, Sherrard then went on to add that "any person sustaining the resolutions and condemning him [italics added] was a liar and a scoundrel." At this point Mayor Stewart, according to his own account, asked Sherrard to desist, which Sherrard did, leaving the stand to take a position in the crowd, where he was immediately subjected to a number of hostile questions and comments. At this moment, Joseph Sheppard, apparently hoping to keep the meeting on the track, made the remark that "the resolutions were just," and began to move toward Sherrard. Sheppard's comment tried to adhere to the separation set out in the speeches between Sherrard's personal honor and the general nature of the resolutions. But whether he had not heard Sheppard correctly, or whether the questioning and crowd commentary had irritated him, or whether he misinterpreted Sheppard's movement, at any rate Sherrard's temper snapped. He yelled at Sheppard "You are a G-- d-d liar, a coward and a scoundrel," and, drawing his pistol, began firing. Sheppard returned Sherrard's shots but, after three rounds, had presence of mind enough to club his revolver and try to knock Sherrard down. Almost immediately Stewart, aided by ex-Sheriff Jones and others, intervened and separated the two. 48

With Sherrard's first shots firing became general and, as a Free-State account noted, "the crowd . . . scattered, leaving about a dozen persons." With the crowd went the expectation that the disturbance could be presented as a difference over principle. Lacking the minority report, the actions of any reassembled group could be dismissed as those of a one-sided rump, from whom opposition had been violently purged. With the hoped-for initiation of a new political organization thwarted, other tempers snapped. Two witnesses testified that they heard Geary's secretary, Richard McAllister say "Why don't somebody shoot Sherrard?" And, as Sherrard turned upon Geary's other secretary, John A. W. Jones,

47. Sherrard's speech and Stewart's request are in Herald of Freedom, February 28, 1857.
48. Stewart testimony, J. A. W. Jones arraignment record, printed in Leavenworth Herald, March 21, 1857. The questioning of Sherrard by the crowd is indicated both in the Stewart testimony and in the account of A. W. Jones in his letter to the editor, Missouri Republican, February 28, 1857. Sheppard's remark is quoted in Herald of Freedom, February 28, 1857, as is Sherrard's reply.
with a second drawn pistol, Jones, in the best Western tradition, whipped out his own pistol and shot Sherrard in the forehead, almost literally between the eyes. Sherrard’s gun did not fire as he fell.49

This was not what Geary and his supporters had anticipated, as shown by their response to the outbreak on Capitol Hill. Mayor Stewart sent a note to Geary requesting 10 soldiers to keep the peace, fewer than were already in the town. But Geary at once ordered the 32-man company across the Kansas river to enter Lecompton, he accepted the services of Legate’s Lawrence party, numbering approximately 40, and he dispatched a messenger to Lawrence to assemble yet another company and march it to Lecompton. During all this, as a sympathetic observer noted, “the Gour was very much agitated . . . He attempted however to put on airs of self command.” But no mob assembled to take Jones from the authorities and lynch him at the convenient tree, nor were there any mass assaults upon the governor’s headquarters. As it became evident that there would be no response, Geary’s defense measures took on another cast. New dispatches went off to Lawrence to countermand the request for additional help. Legate’s Lawrence company was sent to the residence of a Free-State settler about five miles outside Lecompton, in order “that any appearance of war might be destroyed.” 50

But it was too late. The bullet which felled Sherrard also destroyed John W. Geary’s carefully nurtured image as the man who had pacified “Bleeding Kansas” without violence or bloodshed. Although not personally the assassin, the “smoking gun” was held by one too close to the governor for Geary to escape unscathed.51 Sherrard’s death made men in both the Free-State and Proslavery ranks draw back from their support for Geary and his plans for a political solution to Kansas’ problems. Most importantly, instead of enhancing Geary’s stateside reputation as the man who had


51. Not only was Jones a private secretary to the governor but, when set free on bail, he fled the territory. This destroyed any effort to make a legal issue on the grounds that he fired in self-defense, and raised strong suspicions that there was an element of truth in the charges of Sherrard’s defenders that there was a deliberate plot among the members of the governor’s household to murder Sherrard.—Missouri Republican, February 28, 1857. One Free-Stater, who had approved Geary’s actions before the shooting because “I believe the Gour wants to do just right,” remarked following the shooting, “I can see no propriety in the late course of the Gour in allowing an indignation meeting to be called.”—S. P. Hand to Thaddeus Hyatt, Lawrence, February 19, 1857, “Hyatt Miss,” KSHS.
“solved” the Kansas imbroglio, the opposite impression was created. As an Illinois paper remarked, “The murder of Sherrard has added nothing to the fame of Governor Geary.” No less a personage than Gov. Henry A. Wise of Virginia declared “the death of young Sherrard affected Govr. Geary’s reputation very seriously here.”

Far from being a key figure in a Proslavery conspiracy, William T. Sherrard was a pawn in a game being played for high national political stakes by John W. Geary. Winning those stakes seemed to require that Geary prove the existence of a Proslavery conspiracy, and the governor needed an act of organized, mass political violence at the February 18th meeting to establish that proof. Instead, one individual lost his life, and John W. Geary lost his gamble, as was underlined by the events surrounding the disposition of Sherrard’s body. On the day of his death a meeting was called at Lecompton to condemn “the foul and cowardly character of [Sherrard’s] murder” and to make arrangements for the transmission of his body to Virginia. The meeting was presided over by a land office clerk, who appointed two nonentities to convey the body to his parents’ home. In death, as in life, no one more prominent than his predecessor, ex-Sheriff Jones, sustained William T. Sherrard.