CROSSING THE POND: HOW GENERAL WINFIELD SCOTT IMPORTED THE BRITISH MODEL OF MILITARY OCCUPATION FOR USE IN THE UNITED STATES ARMY IN THE EARLY NINETEENTH CENTURY

by

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ABSTRACT

JOHN T. BERDUSIS. CROSSING THE POND: HOW GENERAL WINFIELD SCOTT IMPORTED THE BRITISH MODEL OF MILITARY OCCUPATION FOR USE IN THE UNITED STATES ARMY IN THE EARLY NINETEENTH CENTURY.
(Under the direction of DR. CHRISTINE HAYNES)

General Winfield Scott's occupation of Mexican territory during the Mexican American War from 1846-48 is credited as the progenitor of US Army military occupation doctrine, yet historians have not investigated where and how Scott developed these policies. This thesis examines the possible origins of Scott's perspectives on occupation. It argues that Scott's observations in France during the occupation of guarantee in 1815-1816, combined with his military experience and education over the ensuing decades allowed him to formulate the occupation policies he instated during the Mexican American war – especially in Mexico from 1847-48. The US Army of the time period may have adopted French military tactics for war, however the army adopted the British model of military occupation because of Winfield Scott.

During 1815-18, the Duke of Wellington led the Quadruple Alliance in the occupation of France after the second defeat of Napoleon. Attempting to break from the continuous cycle of conquest and war, Wellington, along with Viscount Castlereagh and Lord Liverpool enacted an occupation set to ensure future peace. Their benevolent occupation tactics intended to gain the cooperation of the locals by respecting the rule of law, continuing operations of local and civil governments, ensuring the freedom of the Catholic Church, and levying fair reparations.

Scott witnessed this during his visit to France in 1815-16, and it arguably left a lasting impression on him. The principles of the occupation of guarantee (even the language Wellington used during the occupation) echo throughout Scott's career and reappeared in his occupation of Mexico thirty years later. Through his orders and directives in Mexico, Scott attempted to shield

Mexicans from violence at the hands of US troops, respected the Catholic Church, demanded fair levies, and maintained the operations of local municipal governments. This thesis does not ignore that Wellington's occupation of guarantee in France and Scott's occupation of Mexico thirty years later were different in size, scale, and objectives. However, this thesis does argue that Scott's unique experiences in France during the occupation of guarantee, combined with his military acumen, and his position at the head of the US Army allowed him to promulgate the progressive military occupation policies seen in Mexico.

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To Indeg

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INTRODUCTION

In 1961, soldiers reporting to the US Army Military Provost Marshal's School at Camp Gordon, Georgia, received training packet no. 58 entitled *Military Government under General Winfield Scott.* Along with brief commentary, the packet is a transcription of Major General Winfield Scott's most notable general orders issued during the Mexican American War from 1846 – 1848, especially his orders to his soldiers regarding the rules for governing occupied Mexican territory and cities. The purpose of the packet was so "the reader can instruct himself by the study of this historically famous instance of successful administration of an occupied people by a United States Commander. From it he can learn the principles we apply today."[1] As this packet suggests, the genesis and lineage of United States military occupation principles may be traced back through World War II, World War I, the US Civil War, and finally to General Winfield Scott during his occupation of Mexico City. Historiographical consensus concurs in tracing modern US Army occupation doctrines back to Scott during the occupation of Mexican territory. However, going further back than 1846, the trail runs cold – no historian has given serious attention to how Scott developed his policy, specifically what education, experiences, and influences informed his orders? This thesis picks up where other historians left off, to explore the origins of Scott's polices for martial law and military occupation developed between 1815 and 1848, the same doctrines that became the defacto policy of the United States Army well into the twentieth century.

Martial law and military occupation were ill-defined and immature concepts in the early nineteenth century United States. In this thesis, the terms martial law, military law, military

[1] Training Packet 58, *Military Government Under General Winfield Scott.* (Georgia: The Provost Marshal General's School Military Government Department for ORC Units, n.d., handwritten date 1961). This publication contains transcriptions of all of Scott's major orders, directives, and proclamations while in Mexico, along with editorial and instructional comments.

occupation, laws of war, and laws of armed conflict might seem as though they are used interchangeably. Although they are closely linked, some clarification is necessary.[2]

Martial Law: The suspension of civil government superseded by a military authority. The will of the military commander imposed within occupied territory.

Military Law: The regulations governing the conduct of military service members.

Military Occupation: An interim state of hostilities in which an area is ruled through military governance.

Law of War / Law of Armed Conflict / Law of Belligerent Warfare: The rules, behaviors, and norms (either written or by tradition) followed by an army during the conduct of hostilities.

This distinct terminology evolved in the United States from 1815 to 1862, and through each refinement, the terms became more succinct in their meaning and application.

Historical events defined these terms much more than legal scholars or legislatures of the time. Prior to these terms being codified in law, Major General Andrew Jackson imposed martial law in New Orleans in 1815 and again in the Florida Territory in 1818, where he tried and executed two British nationals – Alexander George Arbuthnot and Robert C. Ambrister – under his declared authorities. During the Patriot War in 1837, Canadian revolutionaries, with the help of American sympathizers, used the American side of the border as a base of operations for launching attacks into Canada. Scott requested guidance for the conduct of martial law in New York, Secretary of War Joel Roberts Poinsett obviated the request, and hoped Scott's diplomacy skills could avoid such a situation. Meanwhile, in the court system, cases related to belligerent warfare – prize law cases – worked their way through the system, adjudicating claims by

[2] Will Smiley, and John Fabian Witt, ed., *To Save the Country: A Lost Treatise on Martial Law* (New Haven: Yale University Press, 2019) 73-108.

civilians whose property was seized during time of war. Events of the time spurred fiery debates in Congress and the public square yet produced no laws or rules governing military officers in the matter.

In the international sphere, jurists Robert Ward, Hugo Grotius, and Emmerich de Vattel published treatises on the perceived international norms of nations involved in war. These were non-binding documents followed by custom, rather than treaty or convention, and might inform officers, congressmen, and the presidential administration on European norms in warfare. Yet these publications were never actually incorporated into US law until the Civil War. Between the years 1815 and 1848, if an army officer found himself administering martial law during a military occupation, his actions were most likely guided by self-education, rather than guidance from superiors or by US law. This provided a dangerous scenario is which an officer – potentially unmoored from any legal rationale – could literally declare and rule under the authority of martial law whichever way he saw fit. By 1846, after decades of ambiguity regarding military occupation and martial law, the sophisticated occupation doctrines Scott presented for the campaign in Mexico might seem to have appeared spontaneously, yet in fact they resulted from a career of self-education and military experience.

If the nascent US Army was a tribe, then Winfield Scott was certainly its chieftain, not only in rank, but by his intellectual gravitas and military bonafides. First trained as a lawyer, Scott later entered the army in 1808, and by 1815 – propelled by his victories in the War of 1812 – was one of five generals authorized in the newly formed regular army. By 1821, after army reductions, he was one of only three generals in the army. For the next twenty years, Scott found himself at the head of every major military campaign within the United States, and by 1841, Scott was general-in-chief of the Army. During his tenure in leadership as a general officer from

1815 to 1861, he unilaterally wrote the official army regulations multiple times, and promulgated all rules and regulations for the structure, supply, organization, and administration of the army. He constantly occupied print space in newspapers and professional journals because his actions on campaign and his official (and sometimes private) correspondence were regularly published. Military journals were only one source of Scott's notoriety; officers could read about Scott in *Niles Weekly Register, The New York Post,* and other weekly papers. His repeated success amplified his reputation within the army, in Washington, and in the public's eye, and by 1839, his notoriety in the public eye reached a pitch when he contended for the Whig nomination for president.[3] While most of Scott's peers, subordinates, and politicians looked upon him with distaste or derision, while most presidents looked to him as a commander who could always deliver victory. During Scott's fifty-three-year career, no other general in the army matched his military acumen, and the majority of his peers did not share his dream of making the army a professional organization on par with Britain or France.

Between 1815 and 1848, Scott was likely the most knowledgeable and skilled officer of his time – qualities that positioned him as the head of a professional military intellectual movement. Scott constantly read all military publications he could acquire – American, British, and French – in addition to numerous local and national papers. His aides remarked about Scott's insatiable appetite for literature, histories, scientific journals and political newspapers: "In 1826, he read each volume of Thiers' monumental 'History of the French revolution' – in the original French."[4] His personal library – especially his impressive field library – contained the latest

[3] Elliot, *The Soldier*, 367-69, 374-79. Due to Scott's public popularity, some Whig party officials had approached Scott with the idea running for president in the election of 1840. He declined their offer and made an effort to avoid invitations to political party meetings, dinners, and speaking engagements. This came to a head in the 1839 Whig Convention in which Scott did not receive enough votes to secure the Whig nomination for president.
[4] Ibid., 390.

military publications of the day. Not only did Scott imbue himself with a rich military education, but also directed it through to the rest of the army.[5]

Although his military education provided a sound foundation for Scott to deliberately structure the army, his larger than life personality, legendary bravado, ego, and bullying forced and propelled change within the institution. Arrogant, brash, condescending, and narcissistic are all appropriate adjectives for Scott, yet so too are intellectual, deliberate, driven, and professional. Scott lorded his intellectual prowess over his staff and subordinates, and there was hardly space for anyone else when Scott's ego was in the room. One evening, a young officer made the mistake of misquoting literary greats, and Scott seized on the opportunity. "I am ashamed to think that a member of my staff should confuse Dryden with Shakespeare!" Scott exclaimed as he shamed and dismissed the officer from the mess.[6] During a dinner party held at William Kemble's home near West Point, Scott leaped at the opportunity to deride two guests who dared to have a sidebar conversation while Scott was the center of attention. His "pomposity and conceit" were always on display, and Charles Wilkes, a naval officer who attended one of these West Point gatherings, described Scott's lasting impression as something "I have never been able to overcome."[7]

Scott's keen military mind, sharp interactions, and voluminous correspondence were legendary, and manifested often in ponderous letters or directives to his seniors, peers, and subordinates. Scott's argumentative and arrogant letter writing began in 1818 in his feud with Andrew Jackson – resulting in Jackson challenging Scott to a duel. In 1827, as he argued again for the role of commanding general of the army, Scott sent a 150-page letter to President John

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[5] Michael A. Bonura, "A French Inspired Way of War: French Influence on the American Army from 1812 to the Mexican War" *Army History* 90, (Winter 2014): 19-20.
[6] Elliot, *The Soldier*, 391.
[7] Johnson, *Quest for Military Glory*, 140.

Quincy Adams filled with tortuous legal arguments as to why he should be the army's top general – a document later turned into a published pamphlet for the larger Washington audience.[8] In 1846, Scott provided Secretary of War William Marcy and President James Polk his legal rationale for imposing the British model of martial law in Mexico, and in turn sent prescriptive directions to General Zachary Taylor. In these numerous instances, the response was the same – Scott may have been criticized for his painfully long and condescending letters, yet no one challenged him by producing an alternative, more well-argued or reasoned course of action. They may have despised Scott for his delivery, but could not disagree with his logic and reasoning. By brute force of will and intelligence, Scott forged ahead in directing the army's actions.

In 1846, when Scott packed his bags for Mexico, the United States military had no formal policy for the US Army to conduct military occupation under martial law. The evidence suggests Scott crafted his doctrine from British common law, international custom, and historical case study. His ideas about this originated in 1815, when while in France, Scott observed the Duke of Wellington's Occupation of Guarantee. The Grand Duke governed the military occupation in a progressive way that broke from the previous historical custom of punitive conquests. During the following decades of Scott's army career, the language of humanity and restraint in the Duke's correspondence during the Occupation of Guarantee reappeared in Scott's orders and directives to his troops on occupation duty. In his orders, Scott emphasized a temporary and benevolent occupation intent on accomplishing specific military and strategic national objectives. He left in place local governments, respected religious authorities, and imposed levies which balanced military necessity with the economic well-being of the local population. He brought a sense of

[8] Edward M. Coffman, *The Old Army: A Portrait of the American Army in Peacetime, 1784-1898* (New York: Oxford University Press, 1986), 68.

humanity to military occupation that is heavily reminiscent of the British model of occupation in France. While the United States Army adopted a French method of combat, it developed a distinctly British doctrine for martial law and military occupation.

Scott's principles of military occupation during the Mexican American War were embedded into a generation of officers who later became the military leaders in the Union Army (and Confederacy) during the Civil War. Ulysses S. Grant, William T. Sherman, Henry W. Halleck, Ambrose E. Burnside, George B. McClellan, Joseph Hooker, Winfield Scott Hancock, and many more were young officers in their formative years during the Mexican campaign. Many saw their experiences during the war as preparedness for the Civil War, and some would later bring their experiences to bear as military governors in an occupied South. As young officers, they were commissioned into an army whose structure, tactics, culture, and language can be largely attributed to Scott. Inculcated in these principles, these officers carried forward to future generations Scott's way of war and cemented his legacy as the progenitor of modern day military occupation. [9] In recent years, military occupation has secured a place for itself in military history as evidenced by the works of James E. Sefton, Mark Grimsley, Gregory P. Downs, and Andrew F. Lang on the post-Civil War military occupation of the south.[10] Their works give a nod to the occupation experience in the Mexican-American war as the initial foundation for Civil War occupation policy, but perhaps underplay its significance.

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[9] Major General Halleck's magnum opus, *International Law: Or, Rules Regulating the Intercourse of States in Peace and War,* published in 1861 referenced the military tribunals Scott established in Mexico. Halleck did not mention the occupation of France from 1815 - 1818 under the Duke of Wellington.

[10] James E. Sefton, *The United States Army and Reconstruction 1865 – 1877* (Baton Rouge: Louisiana State University Press, 1967); Mark Grimsley, *The Hard Hand of War: Union Military Policy Toward Southern Civilians 1861 – 1865* (Cambridge: Cambridge University Press, 1996). Gregory P. Downs, *After Appomattox: Military Occupation and the Ends of War* (Cambridge: Harvard University Press, 2015); Andrew F. Lang, *In the Wake of War: Military Occupation, Emancipation, and Civil Was America* (Baton Rouge: Louisiana State University Press, 2017).

Historiography

The historiographical content for this work spans four decades and two continents and documents the flow of ideas from Europe to the United States. This thesis connects events and actors from different continents and shows how the ideas of military occupation which originated with the occupation of guarantee traveled to the United States via Winfield Scott and spread across the US Army. The best way to follow the scholarly trail is chronologically, beginning with the War of 1812 and ending with the Mexican American War.

General Andrew Jackson introduced Americans to martial law in 1815 and again in 1818. The scholarly work on this topic is sparse, however the renewed interest in the topic is sure to spur more work in the years to come. Matthew Warshauer broke new ground in *Andrew Jackson and the Politics of Martial Law* (2006), with his extensive analysis of Andrew Jackson's declaration of martial law in New Orleans, and documented the congressional debates surrounding its legality. Deborah A. Rosen's "Wartime Prisoners and the Rule of Law: Andrew Jackson's Military Tribunals during the First Seminole War" (2008) addressed Jackson's conduct during the First Seminole War in 1818, when he seized and executed two British nationals in the Florida territory. Warshauer and Rosen both recognized that neither Jackson's actions in 1815 nor in 1818 resulted in any new laws or rules for the army. However, Rosen's work identified that the United States was a militarily immature country in relation to its European counterparts – especially regarding the doctrines of martial law and military occupation.[11]

[11] Matthew Warshauer, *Andrew Jackson and the Politics of Martial Law* (Knoxville: University of Tennessee Press, 2006), 45; Deborah A. Rosen, "Wartime Prisoners and the Rule of Law: Andrew Jackson's Military Tribunals during the First Seminole War," *Journal of the Early Republic* 28, no. 4 (Winter 2008).

Occurring simultaneously on the other side of the Atlantic, the Duke of Wellington led the occupation of France, otherwise known as the Occupation of Guarantee. Peter Stirk provided excellent background on late eighteenth-century and early nineteenth-century European military occupation. Prior to the occupation of guarantee, there was no deliberate thought devoted to a military occupation intent on securing a future peace. Historians Thomas Veve and Christine Haynes argued that military occupation changed in 1815 with the leadership of Lord Liverpool and the Duke of Wellington in France. In *The Duke of Wellington and the British Army of Occupation in France, 1815-1818* (1992), Veve's micro-tactical study of British troops during the occupation emphasized Wellington's desire for a successful return to a balance of power through the positive interactions of every Allied soldier in France. Haynes' *Our Friends the Enemies: The Occupation of France after Napoleon* (2018) focused more on Wellington's efforts for a deliberate and tactful military occupation through a collaborative effort with Allied armies, French officials, and ordinary citizens.[12] Recent scholarship by Beatrice De Graff examined the occupation of France after Napoleon as a form a strategic security for Europe, denying revolutionary groups a foothold and reinstating the balance of power.

Scott had a front row seat to the occupation of guarantee during his career-broadening tour in Europe from 1815 to 1816. Historians have largely overlooked the significance of Scott's tour in France, treating it more as a formality. Scott biographer John S. D. Eisenhower in *Agent of Destiny: The Life and Times of General Winfield Scott* (1997) devoted three pages to Scott's tour of France, while Allan Peskin's *Winfield Scott and the Profession of Arms* (2003) only offered a half page; both historians assigned no particular significance to the event and offered

[12] Thomas Dwight Veve, *The Duke of Wellington and the British army of occupation in France, 1815-1818* (Westport: Greenwood Press, 1992); Christine Haynes, *Our Friends, the Enemies: The Occupation of France After Napoleon* (Cambridge: Harvard University Press, 2018).

no synthesis or analysis. Of the recent historians, Timothy Johnson provided some analysis in *Winfield Scott: The Quest for Military Glory* (1998), which emphasized Scott's bumbling political wranglings in Europe as young officer, and contrasted them with his growth and maturity as an officer and political player in later years. Charles Winslow Elliot's *Winfield Scott: The Soldier and the Man* (1937) still remains the definitive Scott biography – regardless of its slightly adulatory tone and tactful criticism, it is well researched and extremely descriptive. Elliot offers more details of Scott's itinerary in Europe than any other biographer.[13]

In his multi-volume autobiography, Scott wrote several pages about his trip to Europe in 1815 and 1816. His rationale for writing so few words about his trip was that he believed the public did not want to read a European travelogue. He might not have realized the significance of his experiences in Europe, and how they would factor into his later campaigns.[14] Moreover, military occupation did not make for a successful career; only battlefield heroics did. At the time Scott wrote his biography, which was published in 1864, there was no less glamorous duty than military occupation, so it is understandable that Scott would underplay this aspect of soldiering. He was also seeking relevance – the US Civil War threatened to overshadow the old warrior's career, and he sought to refresh the public's memory of his accomplishments in Mexico.

In the interwar years between the War of 1812 and the Mexican-American war, the ideas of martial law and military occupation slowly matured within the United States. The development of the law of armed conflict within the US Army was largely neglected by historians through the 1990s. Russell F. Weigley's *The American Way of War: A History of the*

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[13] John S.D. Eisenhower, *Agent of Destiny: The Life and Times of General Winfield Scott* (New York: The Free Press, 1997); Allan Peskin, *Winfield Scott and the Profession of Arms* (Kent: Kent State University Press, 2003); Timothy D. Johnson, *Winfield Scott: The Quest for Military Glory* (Lawrence: University Press of Kansas, 1998); Charles Winslow Elliot, *Winfield Scott: The Soldier and the Man* (New York: The Macmillan Company, 1937).
[14] Winfield Scott, *Memoirs of Lieut.-General Scott, LL.D.* (New York: Sheldon & Company Publishers, 1864).

United States Military Strategy and Policy (1977), Allan R. Millet and Peter Maslowski's *For the Common Defense: A Military History of the United Stated of America* (1994), and Edward M. Coffman's social history of the US Army *The Old Army: A Portrait of the American Army in Peacetime, 1784-1898* (1986) emphasized army tactics, strategy, organization, and structure. These scholars pointed to proficiency in French military tactics and military technology as the hallmarks of a professional army, while the doctrinal development of martial law and military occupation remained absent in their work.[15]

The topic of early-to mid-nineteenth century US Army military occupation was rediscovered by historians in the early 2000s, primarily spurred on by the wars in Iraq and Afghanistan. The study of the law of armed conflict gained meaningful relevance in the modern-day conflict termed the global war on terror. John Fabian Witt *Lincoln's Code: The Law of War in American History* (2012) closely followed the legal evolution of the laws of land warfare within the United States in the early nineteenth century, tracing the European influences on US law and relevant case law in the decades leading up to the Civil War. Witt, along with Will Smiley in *To Save the Country: A Lost Treatise on Martial Law* (2019), edited Francis Lieber's famous yet unfinished treatise on the laws of belligerent warfare. Smiley and Witt focused their work on the more robust treatise developed by General Henry Halleck and Lieber. Witt gave Scott credit for creating the predecessor of the modern-day military commission to try foreign nationals for offenses during war.[16]

American military historians of the Civil War traced the lineage of modern military occupation policy to Scott in Mexico City, and writing on the Mexican-American War is well-

[15] Russell F. Weigley, *History of the United States Army* (New York: Macmillan Publishing Co., Inc. 1967); Alan R. Millett, and Peter Maslowski, *For the Common Defense: A Military History of the United Stated of America* (New York: The Free Press, 1994).
[16] John Fabian Witt, *Lincoln's Code: The Laws of War in American History* (New York: Free Press, 2012), 123-32.

tread ground. Historians documented Scott's military occupation policies and actions in Mexico – albeit to a much lesser extent than the conventional warfare side of the conflict – yet they have not attempted to trace the lineage back further. Scott was a military professional always consuming the latest military professional publications. Historian Timothy Johnson believed Scott's policies were informed by Sir William Francis Napier's cautionary tale in *History of the War in the Peninsula and the South of France from the Year 1807 to the Year 1814* (1839), in which Bonaparte's mismanagement of Spanish occupation led to hundreds of thousands of French casualties. Johnson's analysis is superficial at best and lacks any critical analysis. Scott biographers Alan Peskin and John S.D. Eisenhower each passed on the opportunity to examine Scott's occupation polices while in Mexican territory, offering only an obligatory mention of the event. Until recently, historians have chosen to focus on the more glamorous battlefield actions rather than occupation policy.[17]

Historians Paul Foos' *A Short, Offhand, Killing Affair: Soldiers and Social Conflict During the Mexican-American War* (2002), Irving W. Levinson's, *Wars Within Wars: Mexican Guerrillas, Domestic Elites, and the United States of America 1846-1848*, John C. Pinheiro's *Manifest Ambition: James K. Polk and the Civil-Military Relations during the Mexican American War* (2007), Brian DeLay's *War of a Thousand Deserts* (2008), and Peter Guardino's *The Dead March: A History of the Mexican-American War* (2017) have addressed the social conflict in Mexico prior to and during the war, and the societal cost of US Army soldiers' atrocities in Mexico. Foos and Guardino provide more depth in comparing Taylor's absence of a policy (and discipline) in the north and Scott's disciplined policies in the south. Even with recent scholarship on the Mexican-American War, however, historians still have not delved into the

[17] Francis William Napier, *History of the War in the Peninsula and in the South of France from the Year 1807 to the Year 1814* (Oxford: J.A. James & CO. Cincinnati, 1836).

source of Scott's progressive occupation policies in Mexico. They give Scott short shrift – it's as if Scott's policies spontaneously appeared on the scene in Mexico.[18]

Historians have not linked military occupation precedent in Europe during the occupation of guarantee to the US Army policy in the early 1800's, and have not explored how Scott developed his policy, specifically what education, experiences, and influences informed his point of view, and this is a lost opportunity. This thesis will show how Scott's experiences in France during the occupation of guarantee embedded within him the principles of military occupation, something he would carry forward and demonstrate in the following forty years of his career.

The importance of understanding where and how the United States developed its military policies for martial law, military occupation, and the laws of armed conflict have present-day relevance. In 2005, the George W. Bush administration presented "briefs to the US Supreme Court and to the Circuit Court of Appeals cit[ing] the Arbuthnot/Ambrister tribunal to justify using a military commission to try Salim Ahmed Hamdan, a citizen of Yemen captured during the 2002 invasion of Afghanistan."[19] In 1847, Scott set new precedent when he created military commissions to try Mexican guerillas as criminals, rather than afford them the same rights as uniformed Mexican soldiers. This opened the door for the United States to wipe away any protections for individuals not enlisted in the armed forces of a foreign adversary, and who fell into the legally murky area of irregular warfare.

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[18] Paul Foos, *A Short, Offhand, Killing Affair: Soldiers and Social Conflict During the Mexican-American War* (Chapel Hill: The University of North Carolina Press, 2002); Irving W. Levinson, *Wars Within Wars: Mexican Guerrillas, Domestic Elites, and the United States of America 1846-1848* (Fort Worth: Texas Christian University Press, 2005). John C. Pinheiro, *Manifest Ambition: James K. Polk and the Civil-Military Relations during the Mexican American War* (Connecticut: Praeger Security International, 2007); Brian DeLay, *War of A Thousand Deserts: Indian Raids and the US-Mexican War* (New Haven: Yale University Press, 2008.; Peter Guardino, *The Dead March: A History of the Mexican-American War* (Cambridge: Harvard University Press, 2017).
[19] Deborah A. Rosen, Wartime Prisoners, n591.

The modern-day applications of early nineteenth-century martial law as pointed out by Smiley, Witt, Rosen, and Warshauer are beyond the scope of this thesis. Rather the emphasis is on Scott, who established norms for military occupation based on the early nineteenth-century British European model of military occupation that the United States has been using it ever since. Had Scott been so enamored with Napoleonic warfare as to adopt the French way of occupation, the results in Mexico from 1846 – 1848 might have mirrored Napoleon's deleterious occupation of Spain – a disastrous outcome for the United States *and* Mexico. Since Scott's exploits in Mexico, the US has struggled with how to classify, adjudicate, and address non-state actors during war. Scott's policies in Mexico formed an (imperfect) solution to these legally murky and ambiguous questions. Understanding where this policy came from might allow future historians to explore why it is problematic for the United States to apply a 200-year-old Anglo-centric model of military occupation in a modern world of terrorism and irregular warfare.

CHAPTER 1: AN AMERICAN IN PARIS: SCOTT'S FRONT ROW SEAT TO MILITARY OCCUPATION

Introduction

In June 1815, the newly minted Brigadier General Winfield Scott embarked on what he believed to be the premier professional military education of his lifetime: a grand review of European militaries engaged on the field of battle. Major Sylvanus Thayer, the superintendent of the United States Military Academy and a confrere of Scott, also ventured to France on a career broadening tour. Thayer traveled to France to study French military education, in hopes of returning and establishing a similar program for the US Army. However, Bonaparte's return from exile in March 1815 threatened the tenuous peace in Europe and prompted Britain, Russia, Prussia, and Austria to each put 150,000 soldiers into the field against him. Scott's dream of witnessing the massive clash between professional European armies was quickly dashed, however, as he arrived in Liverpool in July 1815 to hear the news of Bonaparte's defeat at Waterloo and the Allied Powers' occupation of France. While Scott and Thayer missed out on observing large armies on campaign, they witnessed first-hand the largest and most significant military occupation in European history to date. Scott's martial education in France from July 1815 to January 1816 influenced the rest of his career and informed his concept of military occupation in his later years.

Scott arrived in France as Europe entered its second decade of the Napoleonic Wars. Napoleon brutalized Europe, and Allied armies readied for revenge as they closed in for his (second) defeat. As per custom and tradition, victorious nations occupied and plundered defeated countries, and if unchecked, the continuous cycle of revenge and conflict in European history

would continue after Napoleon's defeat. By summer 1815, war weary European nations had the opportunity to break the cycle and attempt to secure future peace.

In 1815, Viscount Castlereagh, Lord Liverpool, and the Duke of Wellington fundamentally changed the concept of military occupation. Castlereagh as Foreign Minister and Liverpool as Prime Minister were the statesmen, crafting and negotiating the First and Second Treaties of Paris for a future European peace. Wellington was an unusual combination of military commander and statesman who understood the nuances of applying military force to achieve political goals. Between 1815 – 1818, Wellington led a coalition of Allies in a reparative occupation of France intended to garner a future peace instead of guaranteeing a future war. Terming it the "occupation of guarantee," Wellington sought to replace rampant pillaging and appropriation with a rigid structure of levies formalized by the French War Ministry for military occupation force sustainment. He established and enforced a code of conduct for soldiers on occupation duty in an effort to prevent a guerilla war in France. The desired outcome relieved the burden on the French people while still forcing them to pay for an occupation force. Wellington's approach signaled a significant change in concept of military occupation from a punitive conquest to a bridge for peaceful and diplomatic cessation of hostilities.[20]

This chapter identifies the tenets of British military occupation in France in 1815-1816, and Scott's observations while on his European tour. Scott witnessed this incredible watershed in military occupation first-hand, and in his letters to Secretary of State James Monroe, he observed and commented on different aspects of the occupation. The reinstallation and illegitimacy of the Bourbon regime, soldiers' engagement with the locals, rule of law, reparative levies and other topics found their way into Scott's letters. As he landed in France, Scott was seven years into his

[20] Haynes, *Our Friends,* 4-5.

fifty-three-year army career, and the lawyer-turned-professional soldier provided profound and prophetic commentary on military occupation. These were some of the most formative years of his military education, and the lessons he learned from Wellington's occupation of France echoed throughout his career, especially thirty years later in Mexico.

Prior Military Occupations in Europe

Prior to and during Winfield Scott's visit in 1815, the concept of military occupation was changing in Europe. To understand why the military occupation of France from 1815-1818 was revolutionary, it is important to understand previous precedent in Europe for military occupation. Until the time of the French Revolution, invading armies and victorious governments invoked the right of conquest, giving the victor every right to seize and make use of all captured persons and properties. Beginning with the French Revolution, leaders of the new regime deviated from tradition and renounced the idea of conquest, vowing not to invade another country or violate the sovereignty of another people through subjugation and occupation. Of course, there were exceptions to the rule. Expanding to France's "natural frontiers," "just recompense" for France freeing its people, liberating territories that "yearned" to be French, and creating "friendly republics" were all ways in which the French obviated the concept of renunciation and provided rationale for their actions.[21] In 1794 the first glimpse of an orderly policy of benevolent occupation emerged in France. The Committee of Public Safety issued instructions for the occupation of a portion of terrotory, providing articles to guide the administration of military,

[21] Peter M.R. Stirk, "The Concept of Military Occupation in the Era of the French Revolutionary and Napoleonic Wars." *Comparative Legal History* 3, no.1 (June 2015): 65-66.

police, judicial, trade, and other civil matters for a portion of occupied Belgium, thereby signaling a maturation in warfare and occupation.[22]

In its treaties with Belgium, the Netherlands, Prussia, Westphalia, Venice, and other occupied areas from 1795 to 1801, France sought a benevolent occupation enforced through diplomatic means, terms agreed upon by both nations, with the French military as leverage for enforcement in occupied territories. The military supported civil government and intervened by exception, either when called upon by the native civil authorities or to enforce the terms of the treaties.[23]

In stark contrast, once Napoleon Bonaparte became Emperor, he used the military as the primary enforcement tool of occupation, as in Holland and Spain after 1808. Military authority often superseded civil authority, as parts of Spain were brutally subdued to enforce the terms of occupation.[24] The occupation of Spain was an example of the traditional model of conquest, as the military seized property and wantonly killed civilians, tying up hundreds of thousands of French troops and creating tens of thousands of casualties. With the impending defeat of Bonaparte in 1814, the victorious nations had to decide whether to continue with the previously established precedent of conquest in defeated France. Bonaparte had brutally conquered portions of Europe; would the French people reap what Bonaparte had sown? The answer was initially and briefly, yes. After the first defeat of Bonaparte in 1814, France found itself under military occupation by multiple European countries, all exacting revenge on France by means of heavy levies, pillage, theft, rape and murder—but only very briefly, between March and May 1814.

[22] Stirk, *Military Occupation*, 71-72.
[23] Ibid., 74-75.
[24] Ibid., 77.

The first Treaty of Paris at the end of May 1814, negotiated primarily by the British, Austrians, Russians, and Prussians (known as the Quadruple Alliance) ended hostilities and offered relatively lenient terms to the French. The treaty was partially an extension of the Treaty of Chaumont brokered earlier that year in March 1814. The base terms were for a Bourbon restoration – the return of Louis XVIII, a return to the boundaries of 1792, and an agreement by which each of the Allied nations would put 150,000 troops into the field against Bonaparte should he reject the peace terms. France would not have to suffer military occupation or the great indemnity she would have to face later in the Second Treaty of Paris. By negotiating these terms, France was spared military occupation, negating the possibility of conquest and the associated deleterious effects on the French people. By the same turn, the Allies were spared the cost of an expensive and potentially deadly military occupation.

The terms of the first Treaty of Paris were reflective of Robert Stewart's (Viscount Castlereagh) enlightened view of maintaining the balance of power and securing future peace in Europe. Castlereagh served as British secretary of state for foreign affairs from 1812 – 1822 and worked in tandem with Robert Jenkins (2nd Lord Liverpool), British prime minister from 1812 – 1815. While Castlereagh negotiated with the Allies, Liverpool negotiated with Parliament. Throughout 1813, Liverpool stressed to Parliament a message of "moderation and justice" and that Britain "should not ask from our enemies such terms, as in their situation we should not think reasonable to concede."[25]

If not for Castlereagh leading peace negotiations for the Treaty of Chaumont in March 1814, the peace with France could have been drastically different. He keenly understood the world had changed, and by the time of the Napoleonic Wars of the early nineteenth century,

[25] William Anthony Hay, *Lord Liverpool: A Political Life* (Woodbridge: The Boydell Press, 2018), 155.

Britain was no longer isolated – economically, militarily, or societally – from the rest of Europe. His sincere desire to connect Britain's "interests with those of the continent" meant that Castlereagh was not only willing to take the lead role in negotiations, but also to make larger concessions on behalf of Britain to ensure peace.[26]

Castlereagh's delicate yet firm negotiations among Europe's power players was rooted in his vision of a European balance of power: a deliberate, measured, and orderly approach towards establishing France's government in parity with its neighbors. Castlereagh was a monarchist, who perceived that monarchies imparted value through order across Europe. His desire to see the Bourbon restoration was founded in his belief that government anchored by a monarchy provided stability – especially the British system which balanced power between the King and Parliament. According to his biographer John Bew, "For Castlereagh, both reactionary and revolutionary regimes were likely to disturb European peace and both, therefore, should be equally discouraged." [27] In Bonaparte's absence, a power vacuum provided opportunity for another revolutionary regime to hold France hostage and disrupt peace in Europe. In Castlereagh's opinion, the ultra-royalist "White Jacobins" and revolutionary "Red Jacobins" were equally dangerous to France's future and lasting peace.[28] The solution for France's future and peace in Europe could not be a punitive and reparative conquest of France but rather only a stable monarchy to provide familiar and steady rule for the French people. However, as conditions deteriorated in France through the remainder of 1814, the Allied plans for restoring the French monarchy were foiled by Napoleon's return in the beginning of 1815.

[26] John Bew, *Castlereagh: A Life* (Oxford: Oxford University Press, 2012), 341.
[27] Ibid., 359.
[28] Ibid., 348.

On February 26, 1815, Bonaparte slipped captivity off the island of Elba and landed on the French coast two days later. Bonaparte's Hundred Day march to regain power at the end of February 1815, even aided with a groundswell of French support, was short-lived. The enraged Allies immediately honored the terms of Chaumont and put hundreds of thousands of troops in the field. By the end of June 1815, Bonaparte was defeated at Waterloo and hundreds of thousands of Allied troops occupied French soil. Bonaparte's return voided the terms of the First Treaty of Paris, and the infuriated Allies.

The return of Bonaparte reinforced Castlereagh's belief that the French "people had been guilty of no more than 'levity' and excessive 'submissiveness' to successive regimes" and with proper guidance and social reconstitution, France would be a peaceful and productive nation in Europe.[29] This meant after the second defeat of Bonaparte, the Allies must restore the monarchy and stabilize France through more forceful means than the terms of the first Treaty of Paris. Bourbon restoration – accompanied with an occupation force to stabilize the monarchy – was the only logical choice in a post-Bonaparte France.[30]

By July 1815, 1.2 million Allied troops occupied approximately two thirds of France.[31] Some of the more vengeful Allies, mainly the Austrians and Prussians, had no intention of honoring the lenient terms of the first Treaty of Paris. France would have to pay a much steeper price, and according to Beatrice De Graaf, "once again, Paris had to bow to the Allies' superiority – but this time much deeper than the previous year."[32] After the second defeat of

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[29] Mark Jeffrey Jarrett, "Castlereagh, Ireland and the French Restorations of 1815-1815" (PhD diss., Stanford University, 2006), 687.
[30] Castlereagh's subsequent negotiations during the Congress of Vienna were a desire to return to the *Ancien Regime*, a pre-revolutionary time in which the European powers achieved a balance of power through monarchical stability. This attempted to push back the tide of enlightenment principles and ebb the tide of nationalist movements.
[31] Beatrice De Graaf, *Fighting Terror After Napoleon: How Europe Became Secure After 1815*, (Cambridge: Cambridge University Press, 2020), 90.
[32] Beatrice De Graaf, *Fighting Terror*, 89.

Bonaparte, as Allied armies occupied France, the potential existed for the continued cycle of conquest, violence, and future war, as was the precedent in Europe. After all, the leniency Allies showed in the First Treaty of Paris was repaid by the French with a re-embrace of Bonaparte and war against Louis XVIII and the Allies.

Even with the French turning on the Allies again in the beginning of 1815, Britain and Russia, the less myopic nations continued to seek a more benevolent "occupation of guarantee," to ensure future peace. Through the summer and fall 1815, the Allies and Louis XVIII renegotiated the first Treaty of Paris. In what became the second Treaty of Paris, signed in November 1815, the French paid reparations to the Allies and returned to her boundaries of 1790, but most importantly, this treaty set the conditions for future peace in Europe, through an orderly and peaceful occupation that was limited in duration. The occupation attempted to ensure a smooth transition to security through monarchical reign and return of the balance of power in Europe.[33]

However, the Allied plans could only be successful with the support of the French. As Castlereagh and Liverpool negotiated the peace treaty at the national, strategic, and diplomatic level – now it fell upon Arthur Wellesley (1st Duke of Wellington), to lead the military solution on the ground and bring the terms of the treaty to fruition. Wellington was the hero of Europe, who built a military reputation for himself on his campaign up the Iberian Peninsula and triumphantly at Waterloo. He was a seasoned soldier and diplomat, having spent the last eight years either negotiating for peace or fighting the French. Prior to his exploits in the war against Napoleon, he spent years in India, crafting his skills on how to interact with occupied peoples. He had the utmost respect from the other members of the Quadruple Alliance, but more

[33] Haynes, *Our Friends*, 39.

importantly, among most French leaders as well. There were no objections when Wellington was named the head of the Quadruple Alliance in France, and placed in charge of military affairs.

Until the second Treaty of Paris was ratified in November, Castlereagh and Wellington set the framework for the interim occupation over the summer. In July 1815, the Allies established the Allied Council, Military Council, and Administrative Council (as well as other sub-councils) to govern the occupation. The Allied Council was composed of delegates from the Allied powers and governed the strategic and diplomatic aspects of the occupation. The Military and Administrative Councils were more tactical organizations dealing with all issues military, such as troop movements, discipline, requisitions, and the administrative regulations for the French. The three councils provided the bureaucratic framework necessary to manage such a large and complex occupation. In the Allied Council's first memorandum, in July, they set out four objectives for the occupation: demilitarize the nation, remove the last vestiges of Napoleon's regime, stabilize the country, and settle the issue of reparations.[34]

Wellington was the head of the Military council with martial authority over all Allied troops. He also had the unenviable task of enforcing a peace in summer 1815 while trying to regulate the behavior of Allied armies. During the summer and fall of 1815, the Alliance's mission was peacekeeping as the terms of the treaty were enforced.[35] Wellington knew he could not allow the Prussian and Austrian excesses during the occupation of France. As an example of Wellington's magnanimity and tact, he successfully kept the Prussians from destroying the Pont

[34] De Graaf, *Fighting Terror,* 163.
[35] Haynes, *Our Friends*, 39-40.

de Jena bridge in Paris simply out of spiteful revenge.[36] Had Wellington been any other commander, the end result of the occupation of guarantee might have been drastically different.

Fresh in his memory must have been his fight in the Peninsular Campaign in Spain less than two years prior. He saw firsthand the deleterious effects of Bonaparte's occupation on the Spanish people and witnessed how an oppressed population under military occupation can bleed occupying forces to death through a thousand cuts. The occupying French army in Spain fomented such hatred, creating a deadly guerilla resistance force – a group Wellington had partnered with to defeat the French in Spain.[37] Now in France, reading a report from Joseph Fouché, interior minister, to Louis XVIII on the deteriorating conditions, Wellington responded that "if the system followed by the Prussians and now imitated by the Bavarians is not rejected, the Allies will soon find themselves in the situation as the French were in Spain. In other words, in a state of guerrilla warfare."[38] He knew that a poorly conducted military occupation equated to prolonged warfare, higher casualties, and a resentful population.

To gain French support, Wellington approached military governance with an "indirect rule." He intended for the French (under the watchful eye and direction of the Allies) to govern themselves, returning France to peace and order while the Allies provided security. Wellington learned from his time on duty in India to shift the burden of local governance from the military to the local population. City and village municipal authorities remained in place to govern towns and maintain civil services.[39] Because the French Imperial army could not be trusted, Allied

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[36] Hay, *Lord Liverpool,* 169.
[37] Napier, *War in the Peninsula*, 235.
[38] Haynes, *Our Friends*, 36.
[39] De Graaf, *Fighting Terror,* 144-46. Will Smiley and John Fabian Witt, ed., *To Save the Country: A Lost Treatise on Martial Law* (New Haven: Yale University Press, 2019) 221. In 1817 and 1818, the British used the method of leaving a functioning local government in place when martial law was declared in Ceylon.

forces initially provided security in the summer and autumn of 1815, and allowed protection for Louis XVIII to "legitimize and stabilize his regime."[40]

In place of pillage, Wellington sought to emplace and enforce a regulated and equitable levy system, disciplining his troops, and peaceful governance. The Military Council directed troop placement and requisitioned supplies for Allied soldiers. Troops were quartered in towns with civilians. Even with directives from the Council on the appropriate methods for requisitioning supplies, Allied troops helped themselves to most anything they desired that summer. Occupying armies regularly violated the terms of the convention and appropriated materials, raped, murdered, pillaged, and make excessive demands on the French. The Prussians were the most infamous for their excesses and transgressions against the French. In an attempt to combat these aggressions, the Council issued a directive in July ordering troops to be quartered outside towns instead of in people's homes when feasible, and for soldiers to stop confiscating cash or appropriating their own supplies outside official Council requisitions.[41] In summer 1815, Wellington outlawed extortion of the French at the hands of occupation troops, and ordered commissary officials to issue receipts for any goods appropriated outside official requisition channels.[42] It took several months for the bureaucratic machinery to begin moving, however by November, troops began obeying Military Council directives. Violations against the French never subsided but were less institutionalized and more individualized going into winter 1815.

Wellington (strongly backed by Tsar Alexander) attempted to keep these transgressions in check through military courts martial and punishments. Christine Haynes argued that the Allies rendered justice "to a remarkable extent under the occupation of guarantee. To ensure that

[40] Jarrett, "Castlereagh*"*, 688.
[41] De Graaf, *Fighting Terror,* 200.
[42] Veve, *Occupation in France,* 69.

the French, as well as Allies, obtained satisfaction, Wellington himself often intervened in cases of crimes committed by Allied troops, approving or increasing penalties."[43] Soldiers were court martialed, hung, lashed, imprisoned and forced to pay indemnities to French citizens based on the specific crime committed. Some soldiers were even sent back to Britain under courts martial. This signaled a significant change in the concept of a military occupation from a punitive conquest to a peacekeeping mission with the goal of a peaceful and diplomatic cessation of hostilities.[44]

One of the fastest ways to relieve the French people from soldierly transgressions was to remove the troops. By July, the Allies asked Wellington to reduce troop numbers in France from the current 1.2 million to 300,000. The reduced troops strength was concentrated in and around Paris – the hub of all Allied activity. In December, a month after the second treaty was signed, troop numbers reduced to 150,000 and the Allies moved their soldiers out of Paris and to the north and east of France.[45]

Monetarily, the French paid a much steeper price in the Second Treaty of Paris than the previous year in May 1814. The second Treaty of Paris required France pay 700 million francs of indemnity to the Allies, and for the privilege of hosting Allied troops, the French had to pay "50 million francs per year, in quarterly installments, plus provide daily rations for two hundred thousand men and fifty thousand horses, totaling another 100 million francs annually."[46] The troops would maintain a persistent presence until Louis XVIII's regime normalized, and ensure France paid the 700 million francs in reparations due to the Allies per the treaty terms.

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[43] Haynes, *Our Friends*, 131.
[44] Ibid., 129-30.
[45] De Graaf, *Fighting Terror*, 193.
[46] Haynes, *Our Friends*, 42.

Watching all of this unfold were officers from the United States Army, on a career broadening tour in France with the purpose of observing and learning from European militaries. In particular, Brigadier General Winfield Scott and Brevet Major Sylvanus Thayer arrived in the chaos of France under military occupation. Thayer's mission was to secure publications for the nascent library at the United States Military Academy at West Point, New York. Scott imagined a grander trip filled with observing armies on the move, diplomatic galas, and sociable dinner parties. In letters and official correspondence, both officers observed the political and economic conditions in France during the occupation. Scott and Thayer identified and analyzed the exact issues which can make a military occupation a success or failure: rule of law, regime change, establishment of civil authority, treatment of former military members, wartime reparations, and many more topics. Scott shows an opinion on each topic – either by agreement or condemnation – and would carry these experiences back with him. The new approach to occupation he observed in France would, through Scott, influence US army policy.

An American in Paris

Scott stepped aboard the *Ann Maria* in New York City on July 9th, 1815, shortly before she set sail.[47] After deliberating whether to embark for England or France first, Scott chose to land in Liverpool to avoid the possibility of an English blockade of French ports. During his transatlantic journey, one can only imagine Scott's eager anticipation of his grand European adventure. He was well informed of the situation in Europe, since *Niles Weekly Register* in Philadelphia published detailed weekly accounts of the battles, wartime trade and commerce, and political wranglings unfolding on the continent. Wellington, Bonaparte, Louis, Alexander, and

[47] *Niles Weekly Register*, Saturday, July 15, 1815.

many other European actors were common names in American papers. Scott daydreamed about meeting and observing these larger-than-life figures as he pored over the letters of introduction received from political allies, friends, and benefactors from "Richmond, Washington, Philadelphia, and New York."[48] A month earlier, in his musings to Secretary of War Alexander J. Dallas, "Scott was prepared to present himself to the Duke of Wellington 'should chance or inclination throw me in his neighborhood'."[49] From Scott's perspective, the European tour was a homecoming of sorts. He admired and emulated the aristocratic professional military systems of France, England, and Prussia, and believed himself a continuation of that cultural elite in the United States.

Scott embarked for Europe with the intent of observing the organization and practices of European armies and replicating them in the United States Army upon his return.[50] Like most professional officers of his day, he was well acquainted with French military tactics. The prior year he completed the publication of *Rules and Regulations for the Field Exercise and Manoeuvres of Infantry,* an infantry tactics manual for the US Army adapted from French army manuals.[51] His second stated goal of the tour was to collect information on political intrigue and intelligence in Europe, a light diplomatic mission which Scott took upon himself but which Secretaries Monroe and Dallas strongly cautioned against. Scott was a soldier – not a diplomat representing the United States – but he was a strategic thinker with a keen understanding of where in the politisphere the political and military meet, and how each influences the other.[52]

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[48] Elliot, *The Soldier,* 196.
[49] Ibid.,196.
[50] Johnson, *Quest for Military Glory,* 69.
[51] *Rules and Regulations for the Field Exercise and Manoeuvres of Infantry Compiled and Adapted to the Organization of the Army of the United States, Agreeably to a resolve of Congress*, Dated December, 1814. Published by Order of the War Department.
[52] Elliot, *The Soldier*,195, 208.

Stepping onto the pier in Liverpool on July 27th, 1815, Scott was shocked to hear what had transpired during his eighteen days aboard ship. Prior to his departure from New York City in July, *Niles Weekly Register* reported Bonaparte's resurgence and war between France and Britain.[53] Three weeks later, the Allies defeated Bonaparte – imprisoning him aboard the *Bellerophon* – and Allied armies occupied Paris. Scott spent only a few days in Liverpool, then dashed across the channel to Paris to see the French defeat unfold.[54] When Scott left the United States, he was one of the highest-ranking and perhaps the most influential officers in the army. Now, with Paris awash in seasoned generals from Europe's militaries, Scott was but one of many foreign military officers in France. He was also an American without a minister in France, leaving him more anonymous and less consequential in relation to the larger political and military events unfolding there.

Major Sylvanus Thayer, a US Army officer, was also in Paris on tour at the same time as Scott and for the same reason: to learn and bring back valuable knowledge of European armies. Scott and Thayer socialized together in Paris and would work together later in their careers. Thayer wrote letters to his superior, Brigadier General Joseph Swift, including observations about occupied France and the conditions in Paris. Thayer's letters affirmed many of Scott's observations.

Paris in summer 1815 must have been overcrowded, as over a hundred thousand troops from Austria, Prussia, Russia, Britain, and other European armies flooded the city. Scott and Thayer were shocked at Allied militaries parading daily through the capital, wantonly seizing and destroying anything of value. Thayer observed the conquering armies carrying away thousands of paintings and other art treasures from the Louvre, and "every day witnesses some

[53] *Niles Weekly Register*, Saturday, July 1, 1815.
[54] Elliot, *The Soldier*, 197-98.

new act of robbery or destruction," while Scott noted "England comes in for the larger share of the plunder, and among others, has taken to herself, the Venus and Apollo." [55] Street fights ensued nightly between monarchists and Bonapartists. Shouts of "Vive l'Empereur" and "Vive Napoleon" echoed through Parisian streets, to the horror of the newly reinstated Louis XVIII. Allied armies fared no better as the Duke of Wellington was shouted out of the theater to choruses of "à bas les Anglais" and "Vive le Roi."[56] Allied armies vacillated wantonly between pillaging the city and keeping the peace. Scott and Thayer had landed in the chaotic cauldron of a city under military occupation.

In total, Scott spent only six months in France and three months in England between July 1815 to April 1816. Originally, he intended a three-year tour of Europe, but his belief in an imminent conflict between Spain and the US curtailed his trip and he returned to the United States.[57] From August through early January, Scott's time in Paris was dedicated to social calls, military education, and gastronomic adventures. Biographer Edward Mansfield summed up Scott's trip as associating "with the distinguished men of letters and of science in Paris. He attended courses of public lectures, visited the fortresses and naval establishments in the west of Europe."[58] He called upon American Revolutionary War heroes Tadeusz Kosciusko and ventured out of Paris to La Grange to meet with the Marquis de LaFayette, however both old heroes were too infirm for proper social calls. Scott was able to socialize with the traveler and

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[55] Sylvanus Thayer, *Letter from Major Sylvanus Thayer to Brigadier General Joseph Swift*, October 10, 1815, Thayer Collection, Volume II, US. Military Academy, West Point, New York. 63. Winfield Scott, *Letter from General Winfield Scott to Secretary of State James Monroe*, September 28, 1815, US State Department Archives, National Archives at College Park, MD, Item 66539095, Drawer M179, Microfilm Roll 32, Miscellaneous Letters of the Department of State, 1789-1906.

[56] Sylvanus Thayer, *Letter to Swift*, 63.

[57] In his letter to Secretary Monroe in November, 1815, Scott voiced his support for South American independence from Spanish and British colonization. If the British or Spanish were to press the issue, Scott thought a war between the United States and either of these countries might be possible.

[58] Edward D. Mansfield, Esq., *The Life of General Winfield Scott* (New York: A.S. Barnes & Co., 1846), 149.

renaissance man Baron von Humboldt, the French Minister of Justice Marquis Barbe-Marbois, and world-famous banker and financier Baron Hottinguer. For his military enrichment, Scott took part in the pomp and circumstance of military parades and even had multiple meetings with Nicolas Léonard Sadi Carnot, considered the greatest military engineer of the time. When he was not dining at his three favorite restaurants (Very's, The Trois Frères Provençaux, or Au Rocher de Cancale), he attended lectures at the École Polytechnique , and the Collège de la Sorbonne in Paris.[59] In addition to this full schedule of socializing and military enlightenment, Scott experienced historical events as they unfolded.

By January 1816, Scott traveled across the Channel to visit Bath, London, and Liverpool, before embarking for the United States in April 1816. Again, he paid social visits to John Quincy Adams, Lord and Lady Holland, Sir Henry Johnson, the Earl of Lauderdale and other notables with Whig sympathies. At the Hollands', he even met with General Francisco Javier Mina – the future Mexican revolutionary. He toured all the sights of London, even sitting in the Stranger's Gallery at Parliament, listening to the debates. But by April, his tour was over and he headed back to the United States from Liverpool.

In his six months in France, Scott witnessed the aftermath of Bonaparte's defeat, the negotiation and signing of the Second Treaty of Paris, and Wellington's military occupation. He was mostly in Paris, the hub of Allied activity and the epicenter of the Allied occupation apparatus, but had the opportunity to travel out to La Grange for a social call and to experience travel restrictions in a country under occupation. Scott's home base in Paris was under Prussian control – he saw the most egregious acts of soldierly violence from Prussian occupiers. Scott

[59] E.D. Keyes, *Fifty Years' Observation of Men and Events Civil and Military* (New York: Charles Scribner's Sons, 1884), 65.

traveled through Prussian, Russian, and Austrian checkpoints within the country, and saw the troops in every town and city he passed through.

Figure 1: General Winfield Scott's Itinerary and map of travel in 1815-1816

Date	**Place**	**Event / Met With**
July 9-27 1815	New York to Liverpool	Travel to Europe
August 1815 to January 1816	Paris	Tsar Nicholas (saw, did not meet), Mikhail Woronsow Baron von Humboldt, Baron Barbe-Marbois, Elizabeth Patterson, Baron Hottinguer, T. Kosciusko, Nicolas Léonard Sadi Carnot, Thomas Bolling Robertson, Colonels William Drayton, William McRae, Major Sylvanus Thayer, Archer, Mr. Henry Jackson,
	LaGrange	Marquis de Lafayette
Late January 1816 to April 1816	London	John Quincy Adams, Lord and Lady Holland, General Francisco Javier Mina, Sir Henry Johnson, Charles James Fox, Sir James Mackintosh. Sir Samuel Romilly, Earl of Lauderdale
	Bath	John Parish, Esq
April to May 10, 1816	Liverpool to Baltimore	Travel from Europe

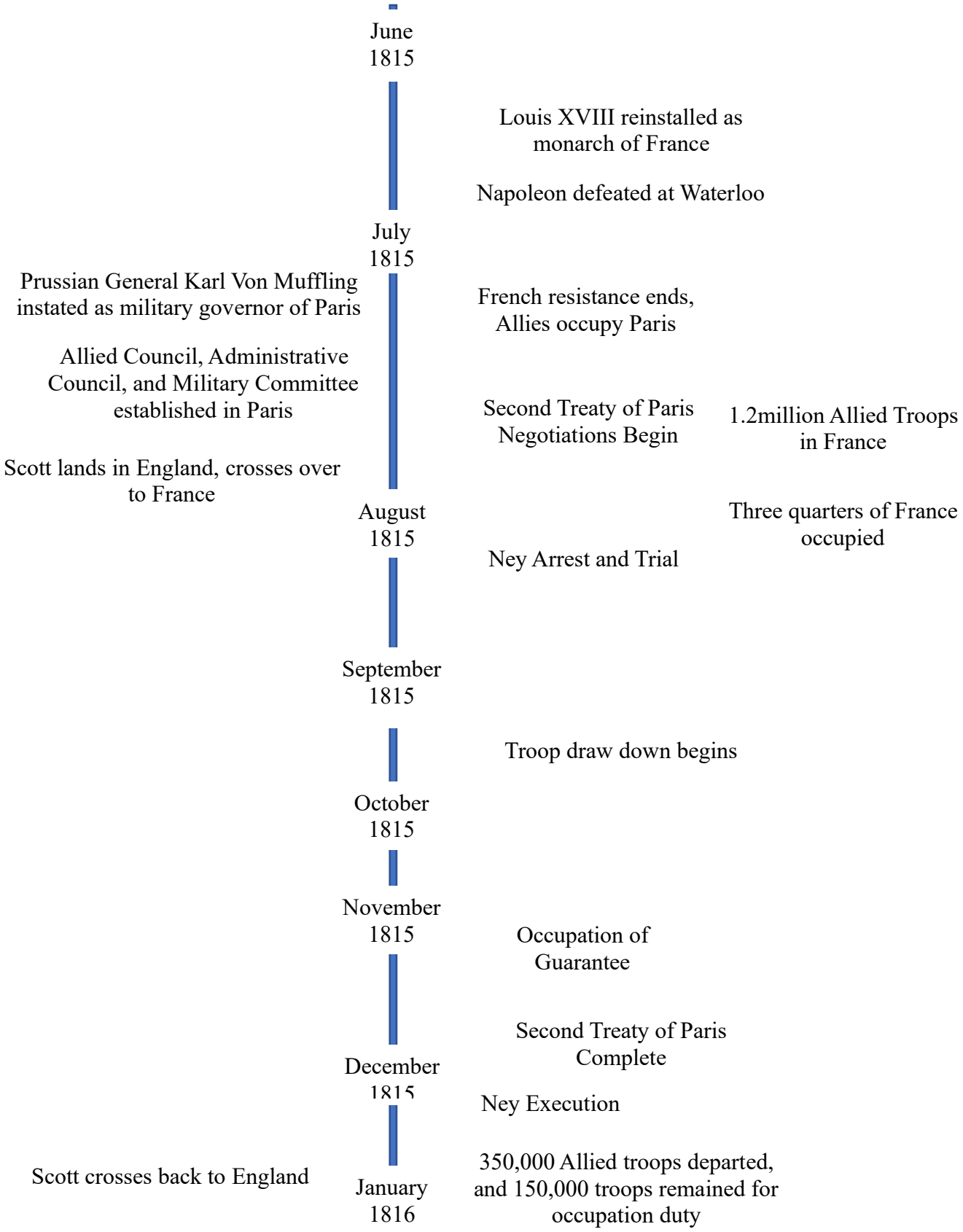

Figure 2: Key Events During General Winfield Scott's Time in France 1815

Scott's Lessons

In his dispatches to Secretary of State Monroe, Scott did not make any observations on his first stated goal, the structure and operation of European armies. The surviving letters from Scott to Monroe describe the military and political conditions of France under the Allied occupation. In his correspondence, Scott mentioned several key areas critical to the success or failure of any military occupation: the rule of law, a legitimate government, civil-military relations, military governance, free press, and the treatment of civilians at the hands of foreign soldiers. Scott was unfamiliar with military occupation because he never learned about it in his military studies. It is doubtful he would have known his observations of the Allied occupation precisely identified the most critical and important factors involved in military occupation – principles taught in modern military occupation doctrine and policy.

Scott's timing in France is key to understanding his observations. At the time of his arrival in Paris around the beginning of August 1815, the Allied Council, Administrative Council, and Military Committee had been established the month prior. They issued rules and announcements for the administrative governance of the occupation. Living in Paris, Scott saw the actual mechanics of occupation on a large scale, and how Wellington managed the objectives of the Allies.

Regime Change

Scott's first observation on military occupation regards what is now called regime change. In the post-conflict military occupation, the Allies had the challenge of replacing Emperor Bonaparte with a government legitimate in the eyes of the Allies and the French people. In 1815, the French had two masters – the occupying armies and King Louis XVIII. In terms of

legitimacy, the Allied armies had none – they were the conquerors, the foreigners whose punitive occupation the French resented at every level. Louis XVIII's credibility fared no better since he had been restored to power by the Allied governments, whose foreign armies enforced his authority. Scott, whose republican ideology was repulsed by the lack of freedom in the people's choice of government, seized the opportunity to comment. From his perspective, only the French could empower the government to act on their behalf, and Scott believed that a government forced upon the French lacked legitimacy. Even more worrisome to Scott was that the Bourbons claimed rightful rule over France after being deposed years earlier. If that set precedent, could the English also "reclaim" their right to the United States since the revolution thirty-five years prior?[60]

The Bourbon regime reestablished by the Allies also negotiated with the Allies for the Second Treaty of Paris. According to Scott, a regime less credible and more pliable to Allied interests would have been impossible to construct. The Bourbon regime was also unpopular with the French, whose control was secured by Allied martial authority. The Prussian Governor of Paris placed an artillery battery at "des Tuilleries (opposite to the palace)" which Scott noticed was "to protect the King against the indignation of his own people, and to secure his compliance to the will of the allies. The treaty is negotiated within the range of those guns."[61]

Scott articulated Louis XVIII's precarious position: if he championed the cause of the French people, he would defy the Allies who kept him in power, yet if he acquiesced to the Allies, he was complicit with them in transgressions against the French people. Louis XVIII's desire to stay in power led him to side with the Allies, securing his monarchy through Allied military force. Scott's observations to Monroe in late September and November 1815 were prior

[60] Scott, *Letter*, September 28, 1815.
[61] Scott, *Letter*, September 28, 1815.

to the signing of the Second Treaty of Paris. At the time of his writing, he would have seen the Allied and Bourbon powers at play in the chaotic transitional period after post conflict military occupation and before the beginning of peacekeeping operations.

From this regime change, Scott could have taken away several valuable lessons. The Allies imprisoned Bonaparte to remove the cause of agitation, and the Bourbon restoration was, according to Liverpool, to assist France in playing a "responsible and pacific role in the future of Europe."[62] Scott was a republican and proud of his native country and system of government. A return to the *Ancien Regime* through the Congress of Vienna would have offended his sensibilities, and he might have had difficulty reconciling the need for peace with the adoption of a monarchical system. Scott might have supported a Bonaparte regime for no other reason than it seemingly had the support of the French people – a principle with which Scott could identify. Regime change in France had an interesting twist: the return of Bonaparte in 1815.[63] The Allies, in conjunction with Louis XVIII, had to decide whether to punish those who had abandoned Louis XVIII for Bonaparte's return? Most importantly for the future of France, what transgression should or could be forgiven in order for the nation to heal and continue on the path towards peace? Scott would have seen consideration of these questions play out before his eyes in Paris.

Napoleon's Soldiers

Scott's second reflection on military occupation was what should the victors do with soldiers of the former regime? As one soldier to another, Scott sympathized with the plight of former officers of the Bonaparte regime. One of the Military Council's first priorities under

[62] Norman Gash, *Lord Liverpool: The Life and Political Career of Robert Banks Jenkinson Second Earl of Liverpool 1770 – 1828* (Cambridge: Harvard University Press, 1984), 123.

Wellington was to disband the Imperial Army, and force soldiers out of Paris. Officers of Bonaparte's army were not allowed in Paris or even to serve in the new Bourbon Army. Disgruntled former soldiers were prime candidates to foment guerilla resistance in occupied France. Some veteran officers were so despondent that they committed suicide, an action that usually went unreported amongst the censored French newspapers.[64]

Scott's lesson on how to treat former military officials of the defeated army came with the arrest and trial of Marshal Michel Ney. The trial lasted through November 1815 and ended with Ney's execution on December 5th, 1815. Initially siding with the King and Allies against Bonaparte, Ney then turned and sided with Bonaparte in the Hundred Day march. Ney was tried for treason and appealed to Wellington – the highest military authority of the occupation force – citing the 12th Article of the Capitulation of Paris in 1814 as his defense.[65] Article 12 of the terms of the capitulation of Paris offers that former French Army officers would not be punished for their former roles while serving in Bonaparte's army. This article signed by English, French, and Prussian militaries was restricted to Paris, and never intended to address the actions of the French military during the Hundred Days.

The trial was a public spectacle, on both sides of the Channel, with Ney appealing to Wellington and Lord Liverpool. Even Ney's wife wrote to Wellington and Liverpool asking for clemency on behalf of her husband. The Ney trial was international news reported in detail on both sides of the Atlantic. The day after Ney's execution, papers reported that the Duke de Richelieu introduced an amnesty bill for those soldiers and officials who had participated in the return of Bonaparte.

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[64] Scott, *Letter*, November 18, 1815.
[65] Sir Archibald Alison, 1st Baronet, *History of Europe from the Commencement of the French Revolution in MDCCLXXXIX to the Restoration of the Bourbons in MDCCXV*, Ninth Ed, Vol XII (London: William Blackwood and Sons 1855), 291-93.

The Ney trial represented the deep legal complexities in a post conflict, occupation environment, which occupying militaries are forced to reconcile. As a lawyer-turned-soldier, Scott took great pleasure in legal arguments, and followed Ney's trial closely. Scott sympathized openly with Ney, and with Brigadier General Charles de la Bédoyère, aide to Bonaparte at Waterloo, who had been executed for treason in August 1815. Scott was convinced that Ney could find refuge in Article 12, and clemency with Wellington and Parliament. If "there be faith or honour remaining in Europe he is safe," wrote Scott to Monroe, in his steadfast hope that dignity would prevail.[66] But Scott knew that there could be no fair trial for Ney, because "all the ministers & generals of the allies attend the trial, to overawe the accused, & the better to ensure his conviction. To witness the execution, tickets for places are already granted."[67]

Scott's biases might have skewed his views on what to do with former military members. He came from a country and a military system in which the officers were (at least through outward appearance) apolitical and served at the pleasure of the President. The United States never had to deal with a power struggle like that between Bonaparte and Louis XVIII, and Scott may have not appreciated the complexities at play in France at the time. His only reference point in dealing with prisoners of war had been in 1813, when Scott had the honor of being both a prisoner and captor of the British. Scott's experience as both captive and captor was gentlemanly and civilized, based on a code of conduct between professional soldiers.[68] Scott may have viewed professionals like Ney and Bédoyère as unfortunate victims of regime change and vengeful Allied nations. He opposed punishing those who had switched loyalties upon Bonaparte's return, but rather would have sought a more peaceful solution through clemency.

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[66] Scott. *Letter*, November 18, 1815.
[67] Ibid.
[68] Johnson, *Quest for Military Glory*, 27-28.

Rule of Law and Civil-Military Relationships

Scott's third lesson – and perhaps most relevant to his future in Mexico – was how occupying soldiers interacted directly with the civilian population and civil government. Wellington's Quadruple Alliance was charged with enforcing the terms of the Second Treaty of Paris; however, for the preponderance of the time Scott was in France, the terms of the treaty had not been established yet. Soldiers were left relatively ungoverned and abuses were rampant. Scott may have learned what to do, but also what *not* to do as an occupying force.

Establishing and enforcing the rule of law is the primary purpose of the military immediately post occupation. Rule of law in Paris favored the conquering armies. Scott denounced the daily abuses when he wrote in September 1815 to Secretary of State James Monroe: "a Frenchman is the only European who is without protection in Paris, or indeed without a home in France, unless it be in Cherbourg and a few other places…"[69] Scott relayed the case of a Frenchmen who assaulted an Englishman in a neighborhood adjacent to Scott's residence. In self-defense, the Frenchman fought back and killed the Englishman. Subsequently hunted down by the police, the officer was branded a coward and assassin by the complicit French newspapers. The city's Prussian Governor, Karl Freiherr von Müffling, levied punitive fines against the residences along the boulevard where the incident occurred.[70]

The severe tone with which Scott writes showed he held high standards of soldierly conduct and recoiled at instances of occupying armies abusing local inhabitants. He detested that France had been drained by the armies of Europe who "have been marched hither to glut & fatten on her soil."[71] Scott was fresh from war with America's historic oppressor, Britain. From

[69] Scott, *Letter*, September 28, 1815.
[70] Ibid.
[71] Elliot, *The Soldier*, 199.

his vantage point, people oppressed by foreign rule would not tolerate these violations indefinitely before revolting. Gross violations of the French people fomented hatred and for the occupiers was a short road to a partisan resistance or guerilla war.

The French press censored or omitted entirely these violations. As an American accustomed to a free press, Scott observed the disconnect between the state of France and what was reported in *The Independent Courier* – a French newspaper Scott took while in Paris.[72] The newspapers were anything but independent, censoring news or articles critical of the Allies or the Court of Louis XVIII.[73] Scott found it equally distressing when Louis XVIII signed the New Law Against Seditious Cries on November 9th, 1815, that was only enforceable with the help of Allied bayonets. The lack of a free press only emboldened the cries against an illegitimate ruling body – either Allied or Monarch – in France.

The dire conditions Scott observed and the uncertain fate of France in the late summer and autumn of 1815 resulted from the ongoing negotiations surrounding the Second Treaty of Paris. In the summer and autumn of 1815, the air in Paris was thick with debates and gossip over how punitive the terms would be in the second treaty. How many hundreds of millions of francs in reparations? How many hundreds of thousands of soldiers quartered in French homes? What rights or privileges did the French enjoy? Scott thus stood at the epicenter of these conversations every day with French citizens in Paris. He benefitted from both sides of the conversation, discussing the issue with local Frenchmen and Allied military officers. Fortuitously, while in Paris, Scott struck up a personal friendship with Count Worontsov, Aide to the Tsar and Commander of Russian occupation forces.[74] One can imagine Scott's voracious appetite for

[72] Elliot, *The Soldier*, 201.
[73] Scott, *Letter*, November 18, 1815.
[74] Scott, *Memoirs*, 164-165.

military knowledge leading him to pepper Worontsov with questions about the Russian military and the tribulations of occupation duty.

Scott witnessed the role military governance played in keeping the peace immediately following the cessation of hostilities, and the role the military played in leveraging peace treaty terms. Very critical in Scott's formation as a general officer was that he saw how a diplomatic solution translated into military operations and how the application of military force was used to secure a strategic or diplomatic goal.

By November 1815, the Second Treaty of Paris was signed and the Allied occupation began to shape up into something other than a free for all. Military occupation transitioned to peacekeeping operations according to the terms of the treaty. By January 1816, the Allied forces martialed for departure, assumed positions in their respective occupation zones, and the approximately 350,000 extra troops returned to their home countries. Across France the people "welcomed the departure of the large Allied force," and the "public spirit was improving."[75] Wellington's occupation of guarantee as he envisioned it was starting to take form.

Wellington's occupation of guarantee emphasized good soldierly conduct while interacting with the civilian population. Strict codes of conduct, punishment for soldiers who violated the regulations, and clear terms for levies and indemnities defined a successful occupation. One can imagine Scott's enthusiasm about a strict code of conduct. He demanded the highest professional skill and moral conduct of soldiers under his command. A year prior to his trip to Paris, Scott spent early 1814 rigorously drilling and professionalizing the soldiers he received for his command before the battle of Fort Eerie in August.[76] Success at Fort Eerie convinced Scott of the value of a professional and disciplined army in the execution of military

[75] Haynes, *Our Friends*, 43, 45.
[76] Johnson, *Quest for Military Glory*, 45-47.

operations. Departing for England in January 1816, Scott saw the beginning of the "occupation of guarantee" but did not stay long enough to see its eventual effectiveness. What he saw by the time of his departure from France was the blueprint for a military occupation on a grand scale, and an education in the vast complexities of military occupation and governance.

After nine months in Europe, Scott stepped off the *Franklin* in Baltimore on Friday, May 10, 1816.[77] He returned with a stronger conviction in the republican system of government and US foreign policy and "a little improved both in knowledge and in patriotism."[78] During his trans-Atlantic journey, one can imagine Scott reflecting on his experiences in Europe. He probably reviewed his journals and the voluminous notes he took from his meetings and musings with European notables.[79] Most likely his thoughts turned to the rebuilding of the US Army in the image of European armies—a task he would undertake in earnest in less than a year. For the technical underpinnings of the new army, Scott acquired numerous volumes on military science while in Paris, to add to the already impressive library he carried with him on military campaigns. Although the allure of the aristocratic officer corps of European armies appealed to Scott's elitist tendencies, he returned home with a renewed appreciation for his native republic, having drastically broadened his knowledge and experience of military occupation.

[77] *Niles Weekly Register*, Saturday, May 16,1816.
[78] Elliot, *The Soldier*, 207.
[79] Johnson, *Quest for Military Glory,* 143. Sadly lost to history are many of Scott's journals. In 1841, one of the Mayo family homes (Scott's wife's family), Belleville, burned down. Some of Scott's journals, correspondence, and prized books were among those items lost.

Conclusion

The occupation of guarantee Scott witnessed involved deliberate, thoughtful and mature political and military planning. Scott's experience in France at the start of the occupation of guarantee was the first exposure the US Army had to military occupation. Up to that point in Scott's career, neither he nor any other US Army officers received training or experience in military occupation. Neither the 1806 Articles of War nor the 1814 Rules and Regulations for the Army addressed military occupation as a military function or operation.[80] Nor did they address the authorities by which US Army Officers could impose martial law. It would be almost fifty years later when Professor Francis Lieber and Major General Henry Halleck published treatises concerning what is now known as the law of war.[81] In fact, Halleck's publication in 1861 referenced Scott's policies during the occupation of Mexico City in 1847 to 1848.

Scott's occupation of Mexico City thirty years after his tour in Europe is credited as the progenitor of modern military occupation policy and doctrine – yet the question remains how did Scott develop his policies for Mexico City? It started with his observations in France between 1815 to 1816 and matured over his lengthy army career.

The principles Scott observed in Wellington's occupation of guarantee ring too familiar to the occupation of Mexico City thirty years later. Scott's demand for good soldierly conduct from occupation forces, respect for civil authorities and the Catholic Church, indemnities to pay for occupation, fair treatment of former military members, military policing of occupied territories, set goals and limited duration for occupation – are all too reminiscent of the

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[80] Articles of War, United States Statutes at Large 2 (1789-1848) 359-372. Ninth Congress, first session. Chapter 20; *Rules and Regulations for the Field Exercise and Manoeuvres of Infantry Compiled and Adapted to the Organization of the Army of the United States*, Agreeably to a resolve of Congress, Dated December, 1814. Published by Order of the War Department.

[81] Henry Wager Halleck, *International Law, Or, Rules Regulating the Intercourse of States in Peace* (New York: D. Van Nostrand, 1861); Francis Lieber, *Instructions for the Government of Armies of the United States, in the Field* (New York: D. Van Nostrand, 1863).

occupation of guarantee to be coincidence. Scott's primary goal of observing and importing practices of European armies ensured that knowledge of military occupation gained while in France returned with him back to the US and became embedded in the collective memory of the US Army.

Could officers other than Scott have been responsible for bringing concepts of the occupation of guarantee to the US Army? Most likely not – only a select few officers were able to witness the occupation of guarantee first hand from 1815 to 1818. US Army officers Major Sylvanus Thayer and Colonel William McCree received permission in 1815 to conduct the same mission as Scott – to observe European armies and bring that knowledge of European army tactics back to enrich the US army. Thayer and McCree were engineers and staff officers at the fledgling US Military Academy at West Point, NY. Their goal in Europe was to consult with French engineering officers, visit military schools, view military fortifications, but most importantly, secure books and technical manuals for the nascent library at West Point. Their diligent negotiating secured almost a thousand publications for the library. Almost all publications Thayer and McCree brought back were engineering, mathematical, or technical manuals for use in military academy curriculum.[82] Both Thayer and McCree went on to relatively obscure military careers, while Scott became the commanding general of the army.

Besides having been one of the only officers with the opportunity to visit France, Scott was anomalous among his peers by his sincere and overzealous desire to professionalize the army. Scott returned from Europe with a renewed zeal to rewrite army publications, courting Secretary of War John C. Calhoun in 1818 to let him take on the task: "When in Europe I collected every work, in French or in English, (not obsolete) on the service, police, discipline,

[82] Sylvanus Thayer, *Receipt of Purchase from French Bookbinder circa 1817*, Thayer Collection, Volume II, US. Military Academy, West Point, New York, 63.

instructions, and administration of an army."[83] Scott referenced his trip to France, extensive military library, and military experience as *bonafides*. He implicitly stated that none of his peers had this experience or rank; they were not qualified to co-author the regulations.[84] Calhoun selected Scott to rewrite the army manual, and the *General Army Regulations* published three years later showed a more mature, detailed, and professional code of instruction for the US Army than any previous versions.[85] Scott would go on to author other rules and regulations impacting the entire US Army. How the entire US Army marched, trained, operated in the field or in garrison, how each soldier was promoted or punished – by 1821, every minute aspect of soldierly life in the army – is directly attributed to Scott through his authorship of army manuals. His ability to influence larger portions of the army through his command as a field general would prove significant in the decades to come.

[83] Winfield Scott, *Letter from General Winfield Scott to Secretary of War John C. Calhoun*, September 2, 1818, US Library of Congress, American State Papers, House of Representatives, 16th Congress, 2nd Session, Military Affairs, Vol 2, 199-200.
[84] Ibid.
[85] *General Regulations for the Army; or, Military Institutes* (Philadelphia: M. Carey and Sons, 1821).

CHAPTER 2: TRIBAL CHIEFTAN: THE ARMY ACCORDING TO GENERAL WINFIELD SCOTT

Introduction

In May 1816, Brigadier General Winfield Scott returned to the United States to assume command of the Third Military District headquartered in New York City. Since no threats of war loomed on the horizon, he believed that he would enjoy relative peace. Instead, in the next several decades Scott found himself engaged militarily and diplomatically in every corner of the United States. Between Florida, Georgia, Illinois, and the Canadian border, Scott was at the head of most major military campaigns until the Civil War. In each engagement – military or political – Scott emerged the victor and gained rank and influence within the US Army.

In the years in between the War of 1815 and the Mexican American War (the inter-war period), the US Army demonstrated professional growth under Scott's leadership. The army gained experience on campaign against the Seminole and Cherokee Indians, formalized training, organization and structure, created professional journals and institutions, and developed informal networks of knowledge and communication among its officers. It was within these channels that Scott influenced the army at large. To put it into perspective, a West Point Lieutenant graduating in 1820 had General Winfield Scott in his chain of command for his entire army career.

Between 1815 to 1846, the concepts of martial law and military occupation also matured – albeit very slowly – in the US Army. The constitutionally ambiguous question of soldiers governing civilians first arose in December 1814 when Brevet Major General Andrew Jackson imposed martial law shortly before the Battle of New Orleans. He imposed it again in the Florida territory in 1818 and tried and executed two British nationals, Alexander George Arbuthnot and Robert C. Ambrister under his declared authorities. The latter incident sparked a decades-long

debate over the legality of civilians under martial law and how they were to be treated while in that condition – a debate that remained unsettled until the Civil War. The US Army used martial law as a tool to relocate civilian Native Americans within the United States, and during the Seminole Wars outside the United States, yet these incidents – for all their controversy within the public square – yielded no new rules or regulations regarding martial law. In the decades following the War of 1812, a bifurcated approach for army officers began to form – apply French tactics for warfare, and British models for dealing with civilians. By 1862, the Civil War settled the debates over soldiers governing civilians, as an amalgam of English common law, European laws of armed conflict, and US prize case law precedents merged into prescriptive rules and regulations for the United States Army code of conduct.

However, in 1846 as Scott marched into Mexico at the head of the US Army, no official policy existed surrounding martial law. What is evident is that in the inter-war years, little or no attention was given to laws of martial law and military occupation. The rules Scott promulgated in Mexico were those he developed, without guidance from the secretary of war or president. Scott's legal background, previous experience of military occupation in Europe, and his study of military history provided the foundational elements for an occupation policy. He was also a larger than life military and political figure, whose rank and relationships allowed him to exert influence over the entire army.

The Introduction of Martial Law to America

Shortly before Scott's European tour began in July 1815, he sat recovering at his temporary headquarters in Baltimore, Maryland. The battle of Lundy's Lane in July 1814 earned him the rank of Brevet Major General, the accolades of the nation, and a shattered shoulder.

Temporarily unable to return to full duty, Scott convalesced in Baltimore in order to conduct future war planning with the secretary of war and president in Washington. Additionally, from fall 1814 to spring 1815, Scott was assigned the presidency of two review boards. The first board established standardized military tactics for the army, and the second board managed the reduction in size and composition of the army. While Scott was in constant contact with President James Madison and Secretary of War John Armstrong Jr. (and later Secretary James Monroe) working on his assignment, his peer brevet Major General Andrew Jackson prepared for renewed hostilities with the British in New Orleans. Britain and the US negotiated the Treaty of Ghent in August 1814, but its ratification was not completed until February 1815. Until its approval, hostilities still existed between the two belligerents, and Jackson continued to prepare for the British invasion of the city. While in New Orleans, Jackson introduced the country to the first instance of martial law. From Washington, Scott followed the conversations and debates surrounding Jackson's actions and military operations.

At the prompting of C.C. Claiborne, the governor of Louisiana, Jackson declared martial law in the city of New Orleans on December 16, 1814. Immediately, questions – and outrage – arose regarding the legality of his actions. especially from congress, which believed that the authority to declare martial law rested with them. Initially most of Louisianans and their elected officials were silent or reluctant to contradict Jackson. President James Madison – Jackson's commander in chief – avoided weighing in on the constitutionality of Jackson's actions or forbidding him from declaring martial law. From December through March 1815, Jackson suspended the writ of habeus corpus, and jailed anyone whom he thought a threat to his mission to defeat the British. After all, the City of New Orleans lay days away from a British invasion. In an attempt to raise a militia, shore up the city defenses, and restrict the access of spies and

saboteurs, Jackson declared and strictly enforced martial law. Arguably, his actions successfully defended the city and defeated the British. By January 8th, 1815, Jackson defeated the enemy, and by January 18th, they loaded back into ships to rejoin the British fleet. Even after the British defeat, Jackson feared a counterattack, and did not rescind his martial law order until March 13th, 1815, when he received news of a peace treaty between the United States and Britain.

During the period of martial law within the city, Jackson summarily imprisoned Federal District Judge Dominick Augustan Hall, believing Hall was part of a larger conspiracy to foment dissent among the troops. With martial law lifted in the city, the tables turned when on March 27th, 1815, Jackson appeared in court before Judge Hall. The charges read that Jackson illegally interfered with the judiciary by suspending the court system. On March 31st, Hall found Jackson in contempt of court for refusing to answer questions, and fined Jackson one thousand dollars. The hero of the Battle of New Orleans paid the fine and left the city a week later, returning home to Tennessee.

The debates over Jackson's actions regarded his authority to declare martial law, and if he overstepped his authority by extending martial law in the city well beyond rational necessity. Historian Matthew Warshauer charged that President Madison erred by not immediately weighing in on the matter of Jackson's declaration of martial law: "He could have made a statement or even sent a letter to Congress expressing his concerns over martial law and the dangers of the military overriding the civil government but at the same time exonerated Jackson for any evil intentions."[86] Warshauer's argument suggested that if President Madison quickly addressed the issue with Jackson, he might have established a precedent and immediately disarmed some of the arguments for the legality of martial law decades later in Congress.[87]

[86] Warshauer, *Politics of Martial Law*, 45.
[87] Ibid., 45.

In fact, Jackson's actions stirred a national debate in 1815 about the excesses of military authority, especially with the American Revolution so fresh in the cultural memory of most Americans. If Scott commented on Jackson's governance in New Orleans, it is lost to history. Scott had a low opinion of Jackson and believed himself to be Jackson's superior both intellectually and militarily. Jackson represented the militia man, the type whom Scott believed to be boorish and uneducated. In July, Scott sailed off to France, most likely oblivious to any fallout from the incident in New Orleans. When he returned to the United States in spring 1816, Scott would not have found any new laws addressing martial law or military occupation.

In 1818, Jackson tested the limits of his military authorities again when he declared martial law in a portion of the Florida territory. In November 1817, the conflict with the Seminole Indians reached a pitch after the Creek and Seminole Indians attacked and killed fourty-three men, women, and children who were part of a resupply party traveling up the Apalachicola River. In what was later known as the Lieutenant Scott Massacre, President James Monroe ordered Jackson into the Florida territory to defeat the Seminoles. While in Florida, Jackson seized, put on trial, and executed two British nationals – Robert Ambrister and Alexander Arbuthnot – and asserted his authorities under martial law as justification for such actions. Deborah A. Rosen described this particularly polarizing incident during the war, Jackson's "invasion of Florida, of Spanish forts, and treatment of prisoners – occasioned the first major investigation by Congress, as well as the lengthiest debate in the House of Representatives up to that date."[88] Congress hotly debated whether Jackson possessed the authority to try and execute Ambrister and Arbuthnot and the status of the two civilians. Were they civilians or combatants? The legally cloudy debates in Congress did not reference US laws, rules, or

[88] Rosen, Wartime Prisoners, 559.

regulations – there were none in existence to govern these situations. During the debates of 1818-1819, congressmen referenced *The Law of Nations* (1797), published by the Swiss jurist Emmerich de Vattel, and to a lesser extent the English jurist Robert Ward, to justify the legality (or illegality) of Jackson's actions in Florida.[89] Like other nations, the US adhered to this international code governing the acts of belligerents by custom rather than by convention. Yet for the second time in five years, all the debate surrounding Jackson and martial law failed to produce any new laws, rules, or regulations.[90]

While Jackson stirred national sentiments with his actions in Florida, Scott was in Washington presiding over his second unilateral undertaking to rewrite US Army regulations. With his close proximity to influential members of congress, the president, and secretary of war, Scott was most likely intrigued by the debates, given his legal and military background. Scott's high opinion and familiarity with Vattel was apparent – he quoted him on the first page of the 1821 *General Regulations for the Army*. In the same publication, Scott devoted two pages to the humane treatment of prisoners of war; his sentiments of proper treatment of combatants and non-combatants mirrored Vattel's language in the *Law of Nations*.[91]

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[89] *Niles Weekly Register*, Extract from supplement to volume 15, March 1819. In Spring 1819, Niles Weekly Register printed a supplement to Vol XV addressing the topic of the Seminole Wars. The supplement summarized the congressional debates between January and February of 1819. Congressmen referenced the work of Emmerich de Vattel, and also referenced the British jurist Robert Ward. Vattel's work *Law of Nations* was republished in English in 1797 from its original French in 1763, and Ward published *An Enquiry into the Foundation and History of the Law of Nations in Europe from the Time of the Greeks and Romans to the Age of Grotius* in 1795.

[90] Rosen, "Wartime Prisoners", 589 n37. "Votes on the resolutions pertaining to Arbuthnot and Ambrister took place in the House of Representatives on Feb. 8, 1819. One resolution would have disapproved of the trial and execution of Arbuthnot (lost by a vote of 108 to 62), while a separate resolution would have condemned the trial and execution of Ambrister (lost by a vote of 107 to 63)."

[91] Emmerich de Vattel, *The Law of Nations, or, Principles of the Law of Nature, Applied to the Conduct and Affairs of Nations and Sovereigns* (London: G.G. and J. Robinson, Paternoster-Row, 1797), 354; *General Regulations for the Army; or, Military Institutes* (Philadelphia: M. Carey and Sons, 1821), 139-41.

It is doubtful Scott thought Jackson's actions were well thought out, or even legal.[92] Scott and Jackson had a very public and caustic feud that began in 1817. The two had never met each other in person yet thrashed each other through private correspondence Jackson later published. The feud simmered for years until their first meeting in Washington in 1823 – after which they did not become friends, but at least agreed to act with cool and professional civility towards each other.[93] Scott believed Jackson represented the untrained, uneducated, and boorish militia mentality that had failed the nation on multiple occasions. It is unclear whether the Arbuthnot and Ambrister affair influenced Scott to include a section on prisoners of war in the 1821 version of army regulations. The time between Jackson's declaration of martial law, the subsequent debates in Congress, and the publication of *General Regulations for the Army* is too close, making it unlikely Scott included that section as a rebuke of Jackson. Most likely, Scott included that section because of his deep knowledge of European publications regarding the topic of warfare, and in his attempt to move the US Army closer to a European military model.

Scott was within his purview to publish a section on the treatment of prisoners of war in army regulations. There were precedents, custom, and international military publications of the day to inform his writings. After all, Scott had been a prisoner of war during the War of 1812, so perhaps the topic was especially close to his heart. Scott effectively made policy by mandating the humane treatment of prisoners of war and civilians when he published the section within army regulations. Scott did not include a section in the army rules regarding the declaration and

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[92] Robert V. Remini, *The Life of Andrew Jackson* (New York: Harper & Row, Publishers, 1988) 50-51. Although Jackson trained as a lawyer, the incident in Florida was a significant departure from his previous experience arguing land titles along the western frontier. Jacksons legal training was typical of his day, limited to the specific type of law he practiced. There is no indication he ventured into other areas of law, especially the law of belligerent warfare, and according to his biographer Robert V. Remini, Jackson effectively ended his law career in 1796.
[93] Johnson, *Quest for Military Glory*, 87-91.

implementation of martial law and military occupation. At least in the 1820s, this was still unsettled law – even though Jackson raised the issue twice in five years.

If Congress Fails, Bring in the Courts

If Congressional machinations did not provide definitive guidance on martial law, cases working their way through the judiciary might have provided some clarity. In the early nineteenth century, a small cadre of jurists – so called "Prize Lawyers" – along the eastern seaboard expertly debated maritime laws of war, in which large sums of prize money were at stake. They argued in court the rightful ownership to captured war prizes. These were civilian lawyers – not military judge advocates – using international legal codes as precedent to decide the outcome in US cases.[94] As federal courts and the US Supreme Court adjudicated more cases, judgments solidified case law governing the acts of belligerents.

However, the civilian knowledge of belligerent case law did not permeate into the US Army code of conduct until decades later. In the 1820s – at least a decade after the prize law cases – the US Military Academy at West Point incorporated the law of war into the course of study, and by 1826, West Point used Kent's *Commentaries on American Law* (1826) in the curriculum. West Point relegated legal electives to the periphery of military professional education, not just in the Academy, but in the army at large. In the 1830s and 1840s, the *Army and Navy Chronicle Magazine* – the professional journal of military officers – did not publish any articles addressing the laws of war.[95] Because of the small size of the officer corps, and the lack of importance placed on the subject, the army at large had no formal knowledge or training on the laws of armed conflict. In the 1830s – 40s, the army emphasized military proficiency

[94] Witt, *Lincoln's Code*, 81-83.
[95] Ibid., 85-86.

grounded in French military tactics, and the ability to wage conventional warfare relative to their European counterparts.

Prize law cases codified rules for waging war, especially circumstances involving civilians, in ways that Congress had not. Although these cases mostly involved property in maritime disputes, they signaled to soldiers that there were now rules for warfare that were enforceable in a court of law – a more significant restraint than the loose customs followed by armies during the Revolutionary War and the War of 1812. Additionally, officers could be held personally liable for their actions in court, even if they were acting under the orders of their superiors. If plaintiffs successfully challenged the constitutionality of such military actions in federal court, the officers could be held personally liable.[96] Jackson was hauled into court by Judge Hall in 1815, and so could any other officer.

The Army According to Scott

In 1828, after Congress reduced the size of the army for the second time in ten years, Scott and Brigadier General Edmund P. Gaines were the only two brigadier generals left in the Army, their ranks second only to Major General Jacob Brown, the commanding general of the army. That same year, Scott lost his bid for commanding general of the army. Scott and Gaines were fierce rivals in competition for the role of general-in-chief, and both waged a public campaign to discredit the other and offered brash arguments to President John Quincy Adams on why they should be the next general of the army. Adams, weary of the Scott–Gaines rivalry over the last decade, chose the number four man in the army – Colonel Alexander Macomb. Adams

[96] Burrus M. Carnahan, *Act of Justice: Lincoln's Emancipation Proclamation and the Law of War* (Lexington: University Press of Kentucky, 2007), 140-41.

elevated Macomb above Scott and Gaines, promoting him to major general and commanding general of the army. Macomb served in the role for thirteen years until his death in 1841.

Scott was devastated at Macomb's promotion, and his arrogance got the better of him. Scott refused to acknowledge Macomb as his senior, and this abrasive relationship would lead to multiple confrontations between Scott, Macomb, and Gaines in the years to come. At the time, Scott might not have appreciated the loss of promotion as an open door to greater opportunities; however the years 1828-1841 kept Scott busy on campaigns and helped shape his career. Scott led two critical campaigns in the years 1832 – 1841 that helped shaped his perspectives on soldiers governing civilians: The Patriot War and Cherokee removal. Experience in these campaigns increased Scott's military acumen and positioned him to later become the most influential figure in the US Army in the decades leading up to the Civil War.

Having lost the fight for promotion to general-in-chief, Scott might have thought his fate was sealed with the election of Jackson as president in 1829. To Scott's great surprise, Jackson handpicked Scott to lead military efforts in the Black Hawk War in 1832. Displeased with brevet Brigadier General Henry Atkinson's conduct of the war, Jackson sent Scott to Illinois and Wisconsin to take charge of military operations and bring a swift conclusion to the war with the Black Hawk Indians. The territories of Illinois and Wisconsin fell within Gaines' Western Department, and Atkinson was his subordinate. Appointing Scott to lead military operations within the Western Department infuriated Gaines. Jackson questioned Gaines' loyalties because the two had drastically different sentiments toward Native Americans. Gaines expressed sympathy, patience, and affinity for Native Americans, while Jackson advocated for a strict removal policy. Their estrangement regarding the topic of Native Americans and sending Scott

to lead military operations in the Black Hawk War signaled the end of Gaines' relevance (and Scott's only peer) in the US Army.[97]

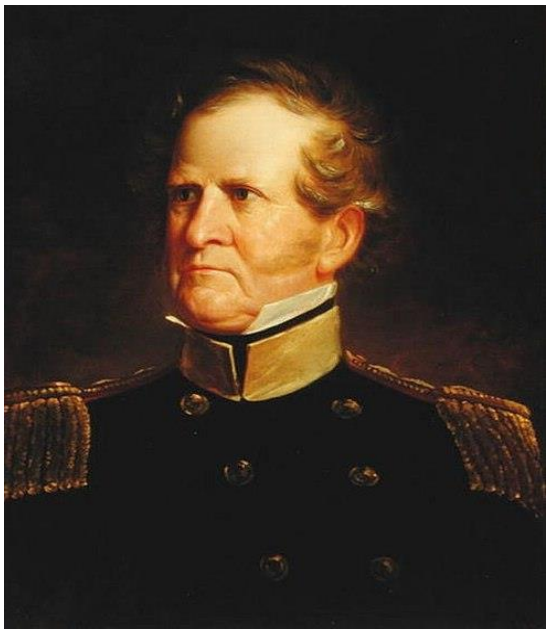

Figure 3: Major General Winfield Scott c. 1835. Painting by George Catlin. Public domain.

Figure 4: Brevet Major General Edmund Pendleton Gaines c. 1820. Painting by John Wesley Jarvis. Public domain.

The election of 1836 presented Scott with a new commander in chief, Martin Van Buren, and new operational challenges. By 1837, the Patriot War flared up, and Canadian revolutionaries had taken refuge on the American side of the border in New York as a safe place to wage attacks on Canadian soil. Aided by American sympathizers, arms and munitions flowed across the American border into Canada to assist the revolutionaries. In response, British soldiers counterattacked, crossing the border into New York. The British were poised to begin military operations against the coastal region of New York to root out the resistance movement. Scott staved off another possible war with Great Britain when he dealt diplomatically with cross-

[97] James W. Silver, *Edmund Pendleton Gaines: Frontier General* (Baton Rouge: Louisiana State University Press, 1949) 104-105.

border incursions along the Canadian – U.S border. Van Buren and Scott had known each other since the War of 1812, and the president personally chose Scott to lead the delicate military – diplomatic mission.

Scott requested guidance as to the authority he had to detain civilians in the region where he believed they were engaged in lawlessness. The lack of attention to the subject of martial law in the world of military academia or the halls of congress was made apparent to Scott while on campaign. To Scott's request, the Secretary of War Joel Roberts Poinsett replied, "The Executive possesses no legal authority to employ the military force to restrain persons within our jurisdictions….I can give you, therefore, no instructions on that subject; but request that you use your influence to prevent such excesses."[98] Poinsett did not mention where he believed that authority lay – arguably because the matter of martial law still remained unsettled. Scott successfully defused the escalation of events and reaffirmed US border sovereignty. The lack of guidance from the president or the secretary of war left a problematic gap in military operations in which individual commanders decided when, where, and how they would employ martial law.

In May 1838, Van Buren tasked Scott with probably his most difficult challenge yet, the forcible removal of the Cherokee from areas of Georgia, North Carolina, Tennessee and Alabama. Van Buren inherited the treaties with the Cherokee from previous administrations, and one of the conditions was that the Cherokee would self-relocate by May 31, 1838. As the deadline approached, the Cherokee remained in place, and Van Buren turned to Scott and the US Army for the forcible removal of the Cherokee out of Tennessee to west of the Mississippi. Van Buren's predecessor, Andrew Jackson, viewed the Cherokee as sub-human residents of

[98] Secretary of War Joel Roberts Poinsett to Brevet Major General Winfield Scott, January 5th, 1838. *The Army and Navy Chronicle*, Volume VI, New Edition, From January 1 to June 30th, 1838. Edited and published by B. Homans, Washington City, 1838., 37.

American territory – obstructing westward expansion, and viewed negotiating treaties with Native Americans as "absurd."[99] Scott and Van Buren had a higher opinion of Native Americans and approached the abhorrent and unpopular task with reluctance and a semblance of humanity.

Scott gained experience in dealing with Native Americans in the Seminole Wars, the Black Hawk Wars, and his time as head of the Western Department. Yet for all the frustrations Scott encountered on those campaigns, his opinion of Native Americans did not degenerate into a Jacksonian perspective. In his autobiography, Scott noted he viewed the task of forcibly removing Indians as "painful duty – with the firm resolve that it should be done judiciously, if possible, and certainly in mercy."[100] Native Americans were not citizens and did not enjoy the rights afforded by the Constitution, yet since this was a military operation, their removal was under the auspices of martial law. Scott was solely responsible for the details of their removal, treatment, and relocation.

Having fought Indians before, his initial intent may have been to avoid an all-out guerilla war with the estimated 15,000 Cherokee residents in the eastern Tennessee, Western Northern Carolina, and northern Georgia areas. Setting the expectations for soldierly behavior for the Indian removal campaign, Scott published General Orders, No. 25 on May 17, 1838. Scott's strict orders were typically tempered with a rationale for his actions, and cautioned troops that "simple indiscretions – acts of harshness and cruelty, on the part of our troops, may lead, step by step, to delays, to impatience and exasperation, and in the end, to a general war and carnage – a result, in the case of those particular Indians, utterly abhorrent to the generous sympathies of the whole American people."[101] When Scott published the order, his caution also extended to the

[99] Remini, *The Life of Andrew Jackson*, 112.
[100] Scott, *Memoirs*, 318.
[101] Major General Winfield Scott, *General Orders, No. 25*, Headquarters, Eastern Division, Cherokee Agency, Tennessee, May 17, 1838.

local white population who resided in the area, and those contracted by the army to assist in the removal. Scott's directive in General Orders, No. 25 was clear in that "every possible kindness, compatible with the necessity of removal, must, therefore, be shown by the troops, and, if, in the ranks, a despicable individual should be found, capable of inflicting a wanton injury or insult on any Cherokee man, woman, or child, it is hereby made the special duty of the nearest good officer or man, instantly to impose, and seize and consign the guilty wretch to the severest penalty of the laws."[102]

That same month, Scott addressed the Cherokee, appealing to their interest in self-preservation. Scott first appealed to their commitment to the treaty terms of 1835, according to which the Cherokee were obliged to self-relocate west of the Mississippi to northern Arkansas. He implored them to begin moving west, during which all the comforts of food, clothing, medical care, and transportation would be provided, and assured that they would be treated most humanely by the troops and government agents assigned the task. In typical Scott fashion, he closed his correspondence with the option of last resort, warning them "warrior to warriors," that if they did not begin movement, he threatened the reluctant "destruction of the Cherokees."[103]

By summer 1838, the heat and drought in parts of Tennessee, Georgia, North Carolina, and Alabama had taken the lives of hundreds of Cherokees. Crowded conditions in the relocation centers of Ross' Landing and Gunter's Landing added to deaths from disease. Scott's soldiers and local whites brutally and inhumanely removed the Indians from their homesteads – in spite of Scott's directives. By November, the relocation was complete, though approximately 20% of the Cherokee had died from disease, starvation, and heat while in the custody of soldiers. With

[102] Scott, *General Orders, No. 25*, 1838.
[103] Scott, *Memoirs*, 323-25.

the mission nearing completion by November, Van Buren ordered Scott north to Detroit, where American and Canadian border skirmishes flared up again.

Presidential administrations favored Scott, and the Black Hawk War, the Patriot War, and the Cherokee removal were examples. He was trusted with missions requiring military means tempered by peaceful negotiations and diplomacy. What separated Scott from his peers is that he knew that in some circumstances brute military force was not the right answer. When possible, Scott attempted a peaceful solution, as witnessed by his diplomacy during the Patriot War, and his appeal to a sense of humanity in his orders during the Cherokee removal.

With each successful campaign, Scott's popularity in the public eye grew to the point of heroic proportions. He quickly overshadowed his rival Gaines, and upon Macomb's death in 1841, was logically selected as the commanding general of the army – a role he held until 1861. Scott's role allowed him to grow his already numerous relationships with elected officials in Washington. The role of general-in-chief cemented his ability to unilaterally determine the army's organization, structure, and regulations. It included the opportunity to influence officer promotions and punishments – further shaping the officer corps with those he believed reflected his ideals of a professional officer. With Scott as General-in-chief, it would be nearly impossible for a President to remove him, assuring a long career of influence over the army.

Networks of Knowledge

In the years between the War of 1812 and the Mexican American War in 1846, the US Army underwent structural and cultural changes – primarily influenced by Winfield Scott. He was a militarily and intellectually imposing figure who could coerce, bully, and legalistically argue his opposition into submission. In the same respect, he was a politically savvy officer who

cultivated relationships around Washington and within the Whig Party. The military infrastructure Scott created enabled networks of knowledge to flourish across the army. Ideas were transmitted either formally or informally through a small, tight knit group of officers.

Historian Michael A. Bonura credits Scott with single handedly adopting the "French combat method" for the US Army during the period. During the War of 1812, Scott drilled his troops in French tactics from the pages of manuals found in his personal military library. When he went on to unilaterally publish army manuals in 1821, 1825, and 1835, all were French-inspired, if not merely a direct translation into English. Scott's official regulations addressed tactics, administration, supply, and discipline of the army.[104] He also promulgated orders for the formation of dragoons and artillery in the same formations as Napoleonic armies.

In tandem to Scott's army regulations, the US Military Academy exclusively taught French tactics. The Academy's library held almost exclusively French military texts, and its course curriculum reflected Napoleonic tactics. This infused generations of officers with a standardized way of war across the Army. Scott strongly supported the academy since the War of 1812 and his ascendancy to Brigadier General. The academy's superintendents and staff were his lifelong friends and confreres. In contrast, Scott's primary peer in the army, General Edmund P. Gaines, had no such fondness for the military academy and West Point Officers, who, he wrote, "have never seen the flash of the Enemy's Cannon – who have acquired distinction only in the mazes of French books, with only that imperfect knowledge of the French language which is better adapted to the Quackery of Charlatans, than the common-sense science of war."[105] The contrast between Scott and Gaines signified the struggle between the older generation of officers

[104] Bonura, *French Inspired*, 16.
[105] William B. Skelton, "Professionalization in the US Army Officer Corps During the Age of Jackson" *Armed Forces and Society* 1, no. 4 (August 1975): 16.

from the Revolutionary War and the War of 1812, and the newer professional officers of the post-war period. Scott was the only general officer from the older generation who championed this new way of thinking.

The lack of mobility, small size of the army – especially its officer corps – and its burgeoning efforts at professionalism developed familiarity amongst officers and created a close military network across the army in which knowledge was shared. In the 1820s and 1830s, a career in the army life guaranteed a life of isolation. In the western department, army outposts dotted the western frontier of what is now Minnesota, Missouri, Illinois, Oklahoma, and Arkansas. Only the soldiers who were part of the corps of engineers interacted with their fellow citizens. These soldiers were relegated to the wilds, subduing nature, and building forts, roads, and other infrastructure projects. Russell Weigley described that "the Regular Army was sufficiently isolated to resemble sometimes a monastic order, isolated physically as it patrolled the distant Indian frontiers, and isolated still more in mind and spirit as it cultivated special skills."[106]

Prior to Scott's ascension to commanding general of the army, Scott and Gaines rotated roles between the Western and Eastern departments every two years – giving Scott the additional opportunity to work with and influence army officers across the army. Scott made annual inspections of the posts under his purview as the department head. The officer corps in the 1820s to 1830s numbered approximately 600, and Scott had the ability to influence each officer in this relatively close-knit group.[107] Even though Scott did not have an enduring physical presence at each of these posts, his influence on the daily lives of soldiers was very real. His military regulations governed the tactics they drilled, the discipline soldiers faced, the structure of their

[106] Weigley, *History*, 158.
[107] Witt, *Lincoln's Code*, 85.

regiments, even down to the way they baked bread or implemented sanitation protocols at each fort. With such a regimented lifestyle, a unique culture formed, separate and apart from the rest of society.

As the identity and culture of the army grew, the most pronounced way army officers shared knowledge was through professional journals and military societies. The short lived United States Military Philosophical Society (1802-1813) began at the US Military Academy and dealt with topics of military policy.[108] *The Army and Navy Chronicle*, *The Military and Naval Magazine of the United States*, *The United Service Journal and Naval and Military Magazine*, *The Naval and Military Magazine* are only several of the publications of military literature which grew in the 1820s – 1830s.[109] Within these pages lay intellectually dense and philosophically rich articles surrounding the latest military topics of the day, analyzing battles and tactics from the recent past, and current news of military operations around the globe. These periodicals also offered the latest national and international news. One can imagine officers in the mess discussing the military merits of Wellington's Peninsular Campaign, or the latest news of Scott's exploits along the Canadian border, after receiving the latest copy of one of these papers.

Non-official military publications were common for the day and meant to inform and supplement military regulations. These were not published by the United States government as official regulations yet might inform an officer's opinion or provide perspective when making a decision not covered by military instruction. For example, in 1809 at the request of the Military Philosophical Society, Major Alexander Macomb published a treatise on courts martial. Macomb's book provided instruction on the conditions and the protocols surrounding a court

[108] Sidney Forman, The United States Military Philosophical Society, 1802-1813, *William and Mary Quarterly* 2, no. 3 (July 1945): 273.
[109] Weigley, *History*, 152.

martial of a member of the army. Official military regulations in 1809 did not address military court proceedings, so Macomb provided his opinion on how officers should proceed. Macomb's rules remained relatively unquestioned until 1846, when Lieutenant John P. O'Brien published another treatise on military law and courts martial.[110] Neither were official military publications yet added color to areas not covered by army regulations.

Publications are the most visible historical record of information sharing, yet the less visible social and cultural networks of the army were just as binding. Historian Huw J. Davies had explored the knowledge networks of the British Army in the early to mid-nineteenth century. Soldiers of one campaign shared the knowledge of geography, terrain, and warfare with soldiers from other parts of the empire. His research concluded that "all of this indicates knowledge exchange taking place in a variety of ways within an army that had wide ranging experience of military operations across the globe. These included personal contact with experienced veterans of conflict, physically visiting battlefields and fortresses, and reading and engaging with military history in an innovative fashion."[111] The networks of knowledge Davies portrayed in the British Army were most certainly applicable to the US Army at the time, and Scott was the biggest advocate of this methodology – using the military experience of soldiers and other armies as lessons for future operations. Just as knowledge exchange happened organically in the British army, it happened in the same way in the US Army.

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[110] Alexander Macomb, *A Treatise on Martial Law, and Courts-Martial; as Practised in the United States of America*, Published by Order of the United States Philosophical Society, Charleston, (SC.) Printed and Published for the Author, By J. Hoff, No. 6 Broad-Street. 1809.; John P. O'Brien, *A Treatise on American Military Laws, and the Practice of Courts Martial with Suggestions for their Improvement.* Philadelphia: Lea & Blanchard, 1846.
[111] Huw J. Davies, "Networks of Knowledge Exchange: The British Army, Military History and Geography in the Late Eighteenth Century", King's College London, 23.

Conclusion

Scott had the singular ability to influence officers across the army during his campaigns in the 1820s and 1830s. Scott led the most notable military operations of the time – the Seminole Wars, Cherokee removal, and the Patriot War. The operations took him across the United States and into the Western and Southern military departments, working with officers in an operational capacity. While these soldiers were in garrison, Scott's rules and regulations governed their daily existence. If, according to Weigley, the military at this time was a monastic order, then Scott was the Abbott, developing the culture, rituals, language, and rules of the religion. From his bully pulpit at the head of the army, Scott made clear his position on military matters, micro-managed the daily army's daily operations, and did not allow disobedience to orders.

The accessibility to information, and the speed at which information flow progressed, during the 1820s to 1840s allowed networks of knowledge to grow among the officer corps, not only through informal social and professional networks, but by physical medium through which information traveled. Prior to the proliferation of printed periodicals, officers could have a heated philosophical discussion face to face at some western outpost based on their limited knowledge and experience at the time. However, when an officer in St. Louis read an article in *The Army and Navy Chronicle*, published by an officer stationed in Philadelphia, a "virtual" exchange of ideas occurred not limited by geography or time. They could "discuss" their views with their peers from afar. This information was not limited to military matters in military publications, but soldiers had access to the proliferation of newspapers which published news of interest from across the United States and the world. Publishers from Boston to Charleston printed military texts for general consumption or reprinted European military texts. By the 1830s, hundreds of steamboats ran American rivers, and by the by 1860, there were 30,000 miles of railroad tracks

across the United States. In 1844, the telegraph ran information between Baltimore and Washington, D.C., at a rate never contemplated before. Information and goods moved faster than ever before. The world was getting smaller, and greater accessibility to information enabled officers to better their profession.[112]

In the inter-war period, there were scant examples of how the army should conduct a military occupation, and how civilians under martial law should be treated. Slowly, the professional army of the 1820s-1840s adopted a set of customs, and later the prize law cases codified practices on conducting war in relation to civilians. However, the prize law cases were confined to the topic of reimbursing civilians for wartime injury. In the absence of laws and case precedent, American lawyers and courts used European jurists like Grotius, Vattel, and Ward for context regarding belligerent warfare. However, English Common Law provided the backdrop of the American court system, and any judicial decisions were an amalgam of the two.

Although Scott had set the bar for standards in conventional warfare, the application of martial law fell to the periphery. Being the loyal republican he was, Scott believed that such guidance should come from congress, the president, or the secretary of war. Yet in searching for their guidance, he was frustrated at each turn. Debates on martial law stretched from the War of 1812 into the 1840s, when Democrats introduced the Refund Bill into Congress. The bill sought to reimburse Andrew Jackson one thousand dollars – the fine Judge Hall imposed on Jackson in 1815. Repaying Jackson for the fine would be a defacto affirmation of his conduct and actions during his time in New Orleans. From 1842 to 1844, Congress hotly debated the Refund Bill. In the end, the Refund Bill – which lacked any commentary on the legality of Jackson's actions – signified a purely political play intent on coalescing a fractured Democratic Party after its 1840

[112] Millett and Maslowski, *For the Common Defense*, 128-29.

presidential election loss. With all the debate surrounding the martial law controversy, absent in legal commentaries from the 1820s and 1830s were the differences between military law, martial law, and any precedent set by Jackson in New Orleans or Florida.[113] None of the actions by the US Army beyond the borders of the country resulted in new legal statutes, rules, or regulations for the imposition of martial law within the United States or abroad. In 1847, Scott marched into Mexico City with no legal guidance from President James K. Polk or Secretary of War William Marcy on the conduct of martial law or military occupation. He would have to form his own rules and regulations for governing occupied Mexican territory and for the treatment of US and Mexican nationals.

[113] Warshauer, *Politics of Martial Law*, 181,193.

CHAPTER 3: WINFIELD SCOTT'S "OCCUPATION OF GUARANTEE" IN MEXICO

Introduction

In May 1846, Congress declared war against Mexico after a border skirmish the previous month, setting off the chain of events now known as the Mexican American War. The war served the purposes of President James K. Polk's expansionist policies and was a conflict of conquest as the US unlawfully expanded its territory at the expense of its southern neighbor. The Mexican American War represented the largest conflict since the War of 1812, and the first time the US deployed its army outside the country's boundaries.

By 1846, after thirty-one years in the Army and serving as commanding general of the army since 1841, General Winfield Scott distinguished himself far beyond his peers through military professionalism, education, and bonafides. He was in a position to advise the president and secretary of war, and to lead the US Army into the largest military campaign the United States had undertaken since the country's founding. Drawing on decades of experience, Scott based his campaign plan to defeat the Mexican army using French tactics of warfare for the period, yet his ideas about military occupation relied on a British model. The language, tone, and directives to his men are reminiscent of the principles of the Duke of Wellington's occupation of guarantee in France thirty years prior. Scott's campaign, especially his policies and directives on military occupation, led to success on the ground in Mexico while simultaneously placing him in continuous conflict with his superiors, peers, and subordinates.

Scott's initial plan for Mexico called for an amphibious landing at Veracruz with a push inland towards Mexico City, following much the same route as Spanish Conquistador Hernán Cortés in 1519. The intent was not to occupy territory or even the capital, but rather to place enough pressure on the Mexican government to acquiesce to the terms posed by the United

States – later embodied in the Treaty of Guadalupe Hidalgo. With Scott's keen understanding of the war's strategic goal, he submitted to the president a carefully worded campaign plan. Scott avoided terms like "siege" and "occupation." Those terms denoted a military campaign far too long in duration for Polk's patience. However, in his plan, Scott did not anticipate deep political instability in Mexico that made a quick victory elusive. Throughout Scott's march inland towards Mexico City, representatives of the Mexican Federal Government abandoned their posts, making it difficult to pressure it into accepting peace terms. Scott's army occupied Mexican territory and towns, even Mexico City itself, until legitimate Mexican Federal Government representation reappeared and could negotiate on the nation's behalf.

The practices Scott employed in occupied Mexican territory set him apart from his army peers and subordinates and was reminiscent of the Occupation of Guarantee he witnessed thirty years earlier in 1815 to 1816. Scott approached the occupation much like the Duke of Wellington's occupation of France – both were limited in duration and geography, were to achieve specific goals, done with and through the occupied people, and used a disciplined military force. In Mexico, Scott promised to respect the civil status quo and not interrupt the city's operations in exchange for a levy to support the presence of the American Army. Scott commanded his soldiers that all civil, property, religious and legal rights would be upheld and respected, and every soldier would face a harsh penalty if found in violation of Scott's orders. Scott allied himself with the Catholic Church, the only form of civil control in the absence of the government. For Scott, a benevolent occupation would obviate a costly guerilla war, something he could not afford with his long army supply lines stretched almost two hundred miles back to the port of Veracruz. Yet, because of this approach, Scott soon found himself fighting a two-

front war – one with the Mexicans, and one with his peers and subordinates, who bristled at Scott's military occupation policies in Mexican territory.

Scott's military professionalism and oversized ego clashed with President James K. Polk's political opportunism, and the infighting between the two almost ended Scott's military career. Polk wanted a quick and inexpensive war of territorial expansion – just enough to pressure Mexico to cede Texas and California – and in Polk's opinion, Scott's plan for intervention in Mexico was too costly, too lengthy, and too slow. Scott's primary peer in the Mexico campaign was General Zachary Taylor. When Scott sent Taylor a directive for the conduct and discipline of soldiers during occupation, Taylor quickly brushed it aside as one of "Scott's lessons." Taylor was a political general who lacked military acumen, professionalism, and strategic thought. Half of Taylor's forces were undisciplined volunteers who left a trail of atrocities across the Mexican desert. Some US Army soldiers in the Mexican campaign brought an attitude of racial, religious, and national superiority with them to Mexico that resulted in senseless acts of violence. Many of these soldiers and officers disregarded Scott's directives until severe punishment forced them to behave otherwise.

The purpose of this chapter is neither to delve into battlefield tactics of the Mexican American war, nor to assign success or failure to military operations – historians have already explored those topics in depth. This chapter attempts to show the lineage of French and British military thought as applied in the US Army by the 1840s. French military tactics were the standard of warfare because of their success on the battlefield, but French military manuals lacked mention of military occupation. Adopting a French way of war for military occupation – as seen in the French occupation in Spain – would be disastrous. Using the British example of occupation – as seen in the British occupation of France – was the best and most benevolent

example of the time to achieve US goals. Taylor's Army in northern Mexico along the Nueces and Rio Grande rivers resembled France's occupation of Spain, while Scott's occupation in central Mexico (especially Mexico City) attempted to emulate the British occupation of France. Scott's policy ran counter to the prevalent and default stance of abuse and lawlessness for US military occupation as seen in Taylor's army. Had Scott chosen the French example of occupation, things in Mexico might have been disastrously worse for Mexicans and the US Army.

The Hero Who Almost Never Was

In summer 1846, Scott met with President Polk and Secretary of War William Marcy to plan for war with Mexico. Polk remained unimpressed with Scott's plan for at least 20,000 soldiers and three months to mobilize forces before moving south. Polk knew that prolonged conflict cost money and stole lives and, over time, public opinion would turn against him. Polk desired a conflict just quick and painful enough to coerce Mexico into negotiations. The mindset of a quick, cheap war did not reconcile itself with Scott's concept of a supportable invasion of Mexico and potential occupation.[114] The political infighting between the president and his general-in-chief of the army that summer would cost Scott his job, but his military proficiency would gain it back.

The efficacy of Scott's plan was almost lost in the fierce political in-fighting between Whigs and Democrats in the summer of 1846. Polk's anxiety over Whig competitors for the Presidency – Taylor and Scott – instilled in him deep distrust of the two military leaders.[115] Polk

[114] Timothy D. Johnson, *A Gallant Little Army: The Mexico City Campaign* (Lawrence: University Press of Kansas, 2007), 12-13.

hoped Taylor could deliver a few more tactical victories – enough to secure peace with Mexico – without Scott's leadership. To replace Scott as the head of the army for the Mexican campaign, Polk attempted legislation to create politically appointed Democratic generals to lead the army in Mexico. Scott caught wind of these plans, and his seething private rebukes on the matter quickly leaked to Marcy and Polk. Scott's arrogance and hubris played right into Polk's hand, providing him with the perfect excuse to find a suitable Democratic replacement for Scott. On May 25th, 1846, Polk (through Marcy) relieved Scott of his command, ordering him to continue his duties in Washington instead of marching forward to Mexico.[116]

By the end of the summer, both attempts by Polk to manipulate generalships failed, and three months into the conflict Taylor had made no further progress in Mexico. Scott, having had three months in Washington to cool his ego, approached the president with a humbler and more contrite demeanor to try and get his job back. Polk's attempts to replace Scott failed, and his only and best bet to win the war was to reappoint the man who had been the stalwart of the army for the last forty years – Winfield Scott. Thus, in November 1846, Polk grudgingly reinstated Scott. The tumultuous relationship between Polk and Scott endured for the next two years of the war. In Scott's words, he successfully fended off "a fire upon my rear from Washington, and the fire in front from the Mexicans."[117] Scott successfully executed his campaign plan in Mexico not because of Polk's support, but in spite of it.

It took almost a year of planning, preparation, embarkation, and travel time between the tumultuous plan review with Polk in Washington and Scott's arrival in Mexico. In March 1847, the first landing craft in Scott's army splashed into the water off the coast of Vera Cruz. Scott's

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[116] Elliot, *The Soldier*, 425-31.
[117] Allan Nevins, ed. *James K. Polk, the Diary of a President; Covering the Mexican War, the Acquisition of Oregon, and the Conquest of California and the Southwest,* (New York: Longmans, Green, and Co., 1929), 101.

plan to strike at the seat of the Mexican government in Mexico City began with the amphibious landing at Vera Cruz. Once he secured a foothold, Scott moved inland, pressing into the highlands and fighting through Jalapa and Puebla. After a week of pitched battles, first in Chapultepec and then Molina Del Rey, the US Army secured the Mexican seat of government. On September 14, 1847, Scott and his staff rode into the main plaza in the center of Mexico City.[118]

Figure 5: The Invasion of Mexico – Eastern and Northern Invasion Routes of March.
Adapted from Kaidor, CC BY-SA 3.0 <https://creativecommons.org/licenses/by-sa/3.0>, via Wikimedia Commons. https://commons.wikimedia.org/wiki/File:Mexican–American_War-en.svg

[118] Johnson, *Gallant*, 239.

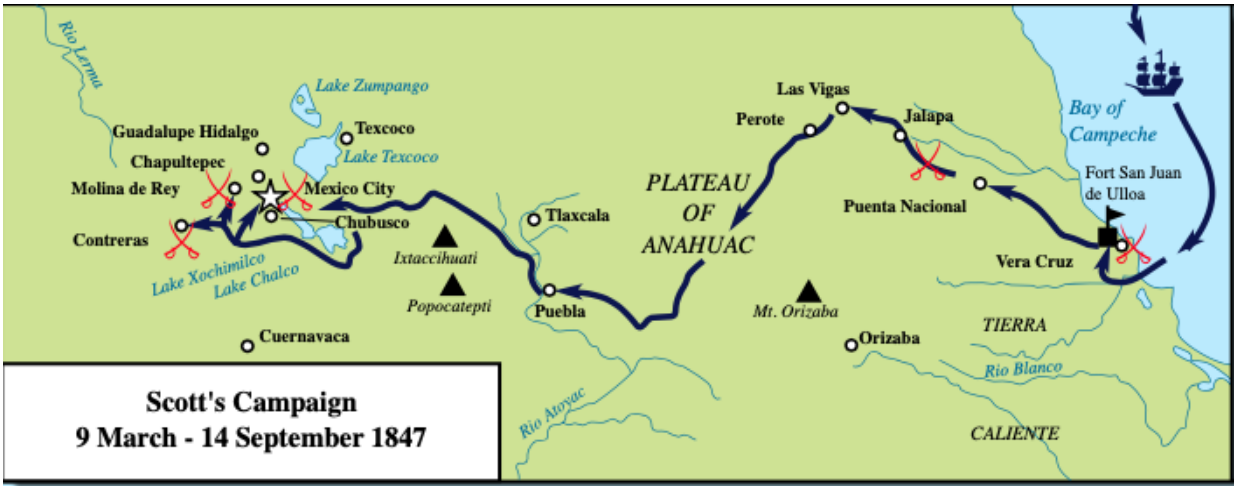

Figure 6: Winfield Scott's Advance to Mexico City from Vera Cruz.
Adapted from Kaidor, CC BY-SA 3.0 <https://creativecommons.org/licenses/by-sa/3.0>, via Wikimedia Commons. https://commons.wikimedia.org/wiki/File:Mexican–American_War-en.svg

Scott's Lessons Applied

Soldierly Conduct

Scott knew the key to success in Mexico was a proficient and disciplined army capable of conducting operations – ensuring peace. Historically, good soldierly conduct was instrumental to military success, and Scott learned these lessons from experiences in the War of 1812, observations during the Occupation of Guarantee, from the Seminole Wars, and his extensive military education. Prior to 1846, the US Government had no policy on how to discipline soldiers or civilians during a military campaign outside the US, and Scott's plan to impose martial law on all persons in occupied areas met with resistance from Marcy and Taylor. Nonetheless, his strict measures had a decisive effect on the success of the occupation.

By October 1846, Taylor had been on campaign in Mexico for five months and the US was no closer to victory than when he started. His mission to invade and hold the disputed territory between the Nueces and Rio Grande rivers could never pressure the Mexican government into ceding northern Mexican soil. Taylor could not advance into Mexico – he had

neither the troops nor the supply lines long enough for a mission to Mexico City. Sitting in northern Mexico, he faced the difficulty of disciplining his troops on occupation duty. The majority of his troops were undisciplined volunteers with little military training or leadership. The troops left a trail of murder, rape, theft, and destruction across the northern Mexican desert – all justified as within their rights as the troops perceived themselves as a racially, religiously, and nationalistically superior invaders. By mid-June, Taylor remarked that there was "scarcely a form of crime that has not been reported to me as committed by them . . . .Were it possible to rouse the Mexican people to resistance, no more effectual plan could be devised than the very one pursued by some of our volunteer regiments now about to be discharged."[119] Historian Brian DeLay recounted the atrocities in northern Mexico in September 1846: "Ohio volunteers burned sixty to eighty dwellings near Camargo in retaliation for guerrilla attacks in the region. Sometimes collective retaliation became so divorced from tactics or specific grievances that it seemed more like simple hatred and bloodlust. Following Taylor's victory at Monterrey, volunteer Texas rangers stormed through the city and murdered scores of civilians, more than one hundred according to a disgusted American regular."[120]

Many volunteer units committed egregious offences, but arguably the worst were the Arkansas Volunteers led by Colonel Archibald Yell. Robbery, theft, rape, and murder were common occurrences, and the officers of his regiment did nothing to stop the soldiers from preying upon the local civilians. Taylor's threats to send the Arkansas regiment back to the United States – a curious form of punishment – went unheeded as the soldiers and elected officers with little or no military training continued to rampage through Mexican villages and

[119] Thomas W. Spahr, "Occupying for Peace, The US Army in Mexico, 1846-1848" (PhD diss., The Ohio State University, 2011), 127.
[120] Brian DeLay, *War of A Thousand Deserts: Indian Raids and the US-Mexican War* (New Haven: Yale University Press, 2008), 280.

farms.[121] The volunteer troops committed the majority of the offenses and their officers covered up the crimes. In their correspondence, the officers used evasive words like "excesses," "outrages," and "depredations" to avoid calling themselves thieves, rapists, and murderers.[122] Lieutenant George Gordon Meade, an army regular, remarked that "you will hear any Mexican in the street descanting on the conduct of the 'tropas de linea' as they call us, [and] the dread of the 'voluntarios.' And with reason, they have killed five or six innocent persons walking the streets, for no other reason than their own amusement; to be sure; they are always drunk and in a measure responsible for their conduct."[123]

The soldiers compounded other problems for the Mexican people. Lawless soldiers, partisan fighters, and common criminals took advantage of the absence of authority and all preyed upon the civilian population.[124] At best, the central government in Mexico had tenuous control over northern Mexico prior to the invasion, and Taylor's mismanagement of the occupation made it worse. Historian Irving Levinson described the plight of the locals: "between the Rangers and the guerrillas, the unfortunate inhabitants of the states of Nuevo León and Tamaulipas had a hard time of it during the summer of 1847. Plundered by both sides, their lives often taken, and their wives and daughters outraged and carried off, they realized fully how terrible war is. These events in the Mexican provinces bordering Texas during the first year of the conflict resulted in an escalating cycle of reprisal and counter-reprisal."[125]

In June 1846, Taylor felt powerless to discipline his troops, writing to his friend Dr. R.C. Wood, "I have not the power to remedy it, or apply corrective, I fear they are a lawless set."[126]

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[121] Irving W. Levinson, *Wars Within Wars: Mexican Guerrillas, Domestic Elites, and the United States of America 1846-1848* (Fort Worth: Texas Christian University Press, 2005), 32.
[122] Guardino, *The Dead March*, 109-11.
[123] Quoted in Levinson, *Wars*, 27.
[124] Levinson, *Wars*, 32-33.
[125] Ibid., 32.
[126] Quoted in Spahr, "Occupying for Peace", 128.

Taylor obviated the chain of command and wrote directly to Marcy asking guidance for the discipline of his troops. There was no precedent or guidance in US law or any of the previously published Articles of War on how to legally punish soldiers when the army operated outside the boundaries of the US. Marcy turned to Scott in his role as commanding general of the army for recommendations on the matter. Without hesitation and in his typically thorough and legalistic detail, Scott recommended the British model of military discipline. Citing British law, Scott opined that since "our articles of war are borrowed *in extenso*....abroad and in hostile countries, it is believed that the commanders of our armies, like those in Great Britain, may, *ex necessitate rei,* enforce martial law" on occupied territories, making soldiers and civilians subject to military justice through appointed military commissions.[127] The Duke of Wellington implemented this same model of military discipline during the Occupation of Guarantee in France in 1815, to which Scott had a front row seat.[128]

The thought that volunteer troops would face harsh military discipline shocked Marcy and US Attorney General John Y. Mason, and was an affront to most volunteer troops. Military justice was swift, severe, and harsher than most civilian punishment. In spite of Marcy and Mason's apprehension with imposing martial law, neither commented on Scott implementing his policy.[129] Scott labeled this unwillingness to address the subject "cowardice" on the part of his superiors.[130] In his role and responsibility as general-in-chief of the Army, Scott sent a copy of the policy to Taylor as a solution for restoring discipline in the occupied territories. Taylor instantly brushed it aside as another of "Scott's Lessons."[131] However, the lawlessness that

[127] Scott to Marcy, October 1856, in *30th Congress, 1st Session, House Executive Document 59, Correspondence between the Secretary of War and General Scott* (Washington, April 26, 1848), 52.
[128] It is important to note that Taylor believed he had no grounds to discipline his soldiers, yet in contrast, Scott offered a researched policy for discipline.
[129] Johnson, *Quest for Military Glory*, 165.
[130] Scott, *Memoirs*, 395.
[131] Johnson, *Quest for Military Glory*, 165; Scott, *Memoirs*, 392-96.

resulted from a lack of discipline in Taylor's command fomented partisan resistance in northern Mexico from which Taylor's army never recovered.

Martial Law in Mexico

Scott's primary goal to pacify the Mexican people through benevolent occupation policies was to avoid a costly partisan or guerilla war. In attempting to avoid a guerilla war, Scott pulled from lessons learned from previous military occupations. Keeping soldiers disciplined, focused, and positively interacting with the local populace was a step towards avoiding a guerilla war. The lessons of France's costly occupation of Spain, the Occupation of Guarantee, and the Seminole Wars were most likely atop of Scott's mind when crafting his policy on military discipline.

Scott may have referenced the writings and dispatches of the famous military hero of the day: The Duke of Wellington. In 1838, Lieutenant Colonel John Gurwood published the official dispatches of The Duke of Wellington.[132] Because of Wellington's contemporary larger than life status, Scott revered Wellington's military exploits and likely would have added Gurwood's book to his comprehensive military library.[133] In July 1815, after the defeat of Bonaparte and prior to an established treaty for occupation, Wellington wrote to Castlereagh pleading that "we shall set the whole country against us, and excite a national war if the troops of the several armies are not prevented from plundering the country, and the useless destruction of the houses and property; and if the requisitions and all the contributions levied from the country are not

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[132] Colonel John Gurwood served as a career officer in the British army and made it his life's work to edit and publish the Duke of Wellington's dispatches. As the Duke's editor, Gurwood enjoyed a close professional relationship with Wellington.

[133] Scott, *Memoirs*, 466n. Scott claimed to be "slightly acquainted" with The Duke of Wellington and claimed that Wellington was interested in Scott's campaign in Mexico, tracking it on a map as updates reached England. Scott admired Wellington since the Duke's successes against Bonaparte.

regulated."[134] Wellington had lived through and experienced the toll of guerilla warfare as he campaigned up the Iberian Peninsula, and did not want to repeat Bonaparte's mistake – and neither did Scott.

Scott read Taylor's dispatches from northern Mexico reporting how the lawlessness of his troops stirred resistance among the local population. The policy Scott crafted appeared to follow Wellington's example and differed significantly from Taylor's military occupation in the north. Scott's imposition of martial law first appeared in General Orders, No. 20 published at Tampico on February 19, 1847, and subsequently in Veracruz, Puebla, and Mexico City as his army marched inland. In Scott's order, soldiers would face the harshest and swiftest justice under established military commissions. Civilians who found themselves a party to a criminal act involving soldiers - as either the plaintiff or defendant - would appear before the military commission. The order did not interfere with the civilian criminal justice system or the functions of municipal governments.[135]

On April 11, 1847, following the battle of Veracruz, Scott again appealed to soldierly virtue in General Orders, No. 87, issuing strict orders to his soldiers that the inhabitants of the town, priests and religious, and civil office holders be respected.[136] When Scott's army marched into Mexico City, he published the order again, General Orders, No. 287, but with more zealous language, emphasizing the strict discipline and punishment for crimes committed. He urged exemplary conduct of every soldier, arguing "the good of the service, the honor of the United States and the interests of humanity, imperiously demand that every crime…should be severely

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[134] John Gurwood, *The Dispatches of Field Marshal The Duke of Wellington During His Various Campaigns in India, Denmark, Portugal, Spain, The Low Countries, and France from 1799 to 1815*, vol. 12 (London: William Clowes and Sons, 1838), 558.
[135] Scott, General Orders, No. 20, Tampico, Mexico, February 19, 1847, Training Packet 58, 15-17; Scott, *Memoirs*, 395-6.
[136] Scott, General Orders, No. 87, Veracruz, April 11, 1847, Training Packet 58, 19-20.

punished."[137] Scott's language in General Orders, No. 287 is reminiscent of Wellington's language during the occupation of 1815. In a dispatch dated September 1815, Wellington chastised one of his regimental commanders for not disciplining soldiers. The troops in the English cavalry regiment stationed in Beauvais had terrorized French residents on the roads surrounding the town. "I must hold you responsible" – Wellington scolded his subordinate – "that this practice shall be put a stop to…and that the most active measures shall be taken to discover those soldiers who have disgraced the army and their country by being guilty of it."[138]

Both Wellington and Scott employed an economy of force mission.[139] Even though Scott would defeat the Mexican Army and seize Mexico City – the second largest city in North America – his troops and supply lines were stretched to the breaking point. The effectiveness of every soldier meant success or failure to the mission. Recklessness on the part of his soldiers could cost precious lives and supplies and foment acts of revenge by the native population.

When soldiers failed to comply with orders, officers and non-commissioned officers doled punishments. Historian Timothy Johnson chronicled Scott's policy of discipline *and* punishment: "one soldier got drunk and beat a Mexican woman, for which he received twelve lashes…two soldiers were sent to the dungeon of the castle for stealing" and another man was hanged after being found guilty of rape and murder.[140] These were the first of many soldiers punished for crimes committed upon the Mexican people while being part of the invading and occupying army.

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[137] Scott, General Orders, No. 287, Mexico City, September 17, 1847, Training Packet 58, 48-49.
[138] Gurwood, *Dispatches*, 647-48.
[139] The term economy of force was coined by Carl von Clausewitz in *On War* (1835), and codified in US Army *Field Manual 3-0 Operations*. This is the principle of taking a limited amount of combat power and employing it in the most effective way possible.
[140] Johnson, *Quest for Military Glory*, 179.

Scott's orders for soldierly conduct permeated down into the rank and file only where there were officers willing to enforce them. There was a clear distinction between volunteer and regular troops. The military professionalism displayed by regular troops in the execution of their soldierly duties was more easily transferable towards discipline while interacting with the Mexican populace – a foundation that the volunteer units did not have. Peter Guardino observed that Scott faced the same issues as Taylor, writing that "volunteers in Scott's army also stole from and sometimes murdered Mexicans, and they got away with those crimes for the same reasons volunteers in Taylor's forces had: volunteers refused to testify against each other, and Mexican witnesses rarely came forward for fear of reprisals."[141]

Volunteer officers set the tone for their soldiers by refusing to obey orders – especially Scott's directives respecting all religious property, practices, and priests. Much to the dismay of the predominantly anti-Catholic soldiers in the ranks, Scott went on a "charm offensive" to coopt the Catholic Church in Mexico and to convince the Mexicans to cooperate with his army. This included saluting priests, attending Mass with the Mexican people, participating in religious processions, and severely punishing troops for desecrations or theft of church property. The regular soldiers mostly complied with the order, but volunteers like those from Pennsylvania "flatly refused," preferring punishment over subordinating themselves to what they believed to be an inferior people and religion.[142]

Civil – Military Relationships

From 1846 to 1848 Scott faced withering criticism from President Polk for wanting too many troops, not moving fast enough into Mexico City, not supporting monetary levies against the

[141] Guardino, *The Dead March*, 224.
[142] Ibid., 222-25.

Mexicans, and numerous other instances that he considered were delaying and increasing the cost of the war.[143] Polk wanted to replace Scott for political purposes but could not do so because of Scott's military proficiency and popularity. Scott's deliberate strategy to pressure the Mexican Government into peace terms was at odds with Polk's desire to end the war quickly.[144] Scott observed the tenuous hold the Mexican National Government had on the Mexican people and thought too much pressure might cause the government to collapse. This unintended regime change would only complicate Scott's mission of securing a peace treaty.

Neither Polk nor Scott sought regime change. A partially functional Mexican government was more desirable, in that it was solvent enough to sign a peace treaty with the US, yet not strong enough to oppose invading armies. Besides, Scott's army was already stretched too thin and could not take on the additional role of providing all the functions of municipal or federal government. For the US Army in Mexico, success could only be achieved with the Mexican people, and Scott's goal was to support the existing civil and religious authorities and provide security and stability for the areas under military occupation. The people of Mexico had experienced unrest from the invasion and were fighting back; Scott did not need a lack of functioning government to exacerbate the situation.

One of the attributes to a successful military occupation is that the occupiers must have some form of legitimacy – either by mandate or by reputation. Scott had voiced that opinion in 1815 when he referenced the dealings of Wellington's occupation force.[145] Wellington desired the occupation of France to be seen as a legitimate means to an end, and this was only possible through the discipline of his troops and the reputation of the army. "We should avoid the evil of

[143] Polk, *Diary of a President.*
[144] Scott, *Memoirs*, 247.
[145] Scott, *Letter,* September 28, 1815.

seizing the public treasures in France; an evil which it will be very difficult to avoid…and which will be fatal to the discipline and reputation of the allied armies," Wellington wrote to Prince Metternich in June 1815.[146] Wellington's language surrounding the intent of the occupation, and the way he conducted it, reappeared in Scott's statements to his soldiers and the Mexican people in his proclamation on April 11, 1847, at Veracruz. He announced that Americans were not the enemies of the Mexican people, but only enemies to the government of Mexico – the culprit for the Mexicans' current predicament. He also redoubled his language of respect for and protection of the Catholic church in Mexico, invoking a kinship to Catholics in the US. Citing punishment of soldiers in Veracruz as proof of his honorable intentions to the Mexican people, he invited them to partner with the US Army in the conduct of its business in Mexico.[147]

Scott published a lengthier and more philosophically inviting proclamation to the Mexican people, when the army marched into Jalapa in May 1847, and another following the capitulation of Mexico City in September. He implored Mexicans to consider the current state of conflict as a result of the misgovernment of the Mexican people, emphasizing that the US desired a swift end to the conflict. Reiterating the honorable intentions of the army, and the swift and severe punishment of soldiers who violated his special orders, Scott again tried to convince the Mexican people that their religious institutions and private property would be secure, and honorable business dealings with the US army. He closed with the firm but fair threat to the Mexicans: "We desire peace, friendship, and union; it is for you to choose whether you prefer continued hostilities. In either case, be assured I will keep my word."[148] Wellington had issued a similar proclamation to the French on June 21, 1815: "I announce to the French, that I enter their

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[146] Gurwood, *Dispatches*, 468.
[147] Scott's Proclamation to the Mexican Nation, Veracruz, April 11, 1847, Veracruz; General Orders, No. 287, National Palace of Mexico, September 17, 1847, Training Packet 58, 30-34, 48-51.
[148] Scott's Proclamation to the Mexican Nation, Jalapa, May 11, 1847, Training Packet 58, 30-34

territory at the head of an army already victorious, not as an enemy (except of the usurper of the enemy of the human race, with whom there can neither be peace nor truce) but to aid them to shake off the iron yoke by which they are oppressed. I therefore give to my army the subjoined orders, and I desire that everyone who violates them may be made known to me…I have a right to require that they conduct themselves in such a manner, that I may be able to protect them against those who would seek to do them evil."[149] Scott arrived in France a little over a month after Wellington's proclamation, but undoubtedly it would have been widely disseminated, appearing in newspapers and hand bills. As Wellington tried to convince the French that Bonaparte was the true enemy, Scott tried to convince the Mexicans that their government was the true culprit. Both Scott and Wellington assured the people under occupation that they would be reimbursed for goods the armies acquired, and threatened dire consequences for those who attempted to fight the occupying armies.

While Scott insisted upon strict discipline within his army, he demanded the cooperation of local authorities to keep law and order. In April 1847, on his march toward Mexico City, Scott held the Alcaldes – the local magistrates or mayors – along the route of march accountable, insisting that they "cannot fail in any instance to detect and punish the murderers and banditti that infest those highways."[150] Criminals indiscriminately preyed on soldiers and civilians alike. If the Alcaldes were complicit in either ignoring criminal acts against American soldiers or even protecting the banditti, they would be punished by fines or have their property seized. Wellington had used the same firm approach in France: "Any act of violence by the inhabitants against the soldiers is to be immediately noticed, and the offenders are to be secured. The service must be

[149] *Niles Weekly Register*, September 2, 1815. Wellington's proclamation was so newsworthy that the editor of the *Niles Weekly Register* published the proclamation for an American audience in September 1815. The "*enemy of the human race*" which Wellington refers to was Napoleon Bonaparte.
[150] Scott, General Orders, No. 127, Jalapa, Mexico, April 29, 1847, Training Packet 58, 25.

respected….The Mayors are to be informed of the measure that will be taken, and are to be desired to warn the inhabitants against taking part in the disturbances that may subject them to military punishment."[151] Security and stability in Mexico (like France) was predicated upon soldiers and civilians abstaining from criminal acts against each other. A party who could not restrain himself faced harsh punishment and even death.

Scott drew a hard line against those he considered *guerillas* and *rancheros*. In December 1847, Scott issued General Orders, No. 372, directing that "No quarter will be given to known murderers, robbers, whether called guerillas or rancheros, and whether serving under Mexican commissions or not. They are equally pests to unguarded Mexicans, foreigners and small parties of Americans, and ought to be exterminated."[152] Scott directed that those suspected of falling into this group would be instantly tried by a council of war – composed of at least three officers – and punishment awarded immediately. Soldiers took this directive with wide latitude, often foregoing the second part of Scott's order to have a council of war to adjudicate the matter, and immediately executed prisoners whom they considered guerillas or rancheros. By parsing out the difference between criminals and enemy combatants, Scott created a new category of individual unprotected from the laws and customs of war. These individual actors were branded as criminal and faced almost certain death.[153] John Fabian Witt credits Scott with the conceptual invention of a war crime and fabricating a new class of offender.

The messaging Scott sent had limited effectiveness until backed up by force. By September 1847, Scott's army had reached Mexico City. The city council sent a dispatch to Scott, asking that in return for the surrender of the city, Scott hold his soldiers in check – avoiding the tradition

[151] Gudrow, *Dispatches*, 676.
[152] Scott, General Orders, No. 372, Mexico City, December 12, 1847, Training Packet 58, 64.
[153] Witt, *Lincoln's Code*, 130.

that victors could loot and sack the city if the battle had been hard fought. Scott made his best assurances and the army entered the city on September 14, 1847. For the next two days, the city was anything but peaceful. As the city council pleaded with the civilian residents to refrain from violence, Scott's army faced partisan resistance as Mexicans shot at his soldiers from windows, and crowds pelted them with rocks and bricks. If Scott's soldiers were fired upon, the response was to fire cannons into any building – or any crowd for that matter – from where the assault came. Mexicans who were caught in the fighting were immediately killed, their bodies sometimes publicly displayed as examples of what would happen to those who resisted. Vicious urban combat ensued and after two days the resistance declined drastically, but it never completely subsided.[154]

Scott leveraged a tool that Taylor had not – the social elite and aristocracy who had a vested interest in maintaining the status quo. Mexico City's upper class used the city council as a mouthpiece to convey their concerns to Scott. During the invasion of Mexico City, Scott relayed to the city council that he could not guarantee the safety or property of Mexican citizens should resistance continue. Mayor Manuel Reyes Veramendi "wrote back immediately…representing the wealthy and respectable…'the various families that form the sensible part of society.'"[155] From that point on, Scott worked with and through the local elites to influence the behavior of the poorer populations in the city, putting a wedge between the two classes in Mexican society. The city council distributed declarations and directives to local neighborhood block captains to cease opposition and cut any support to localized resistance. In turn, Scott's army provided protection for the wealthy class as a quid pro quo for the sake of his own soldiers, because these

[154] Guardino, *The Dead March*, 281.
[155] Ibid., 284-85.

were the people who would keep civil government functioning, industry running, and overall commerce flowing in the occupied areas.

The Catholic Church

Scott knew a key to relative civil peace was through appeasing the Catholic Church. The Catholic Church and Mexican society were inseparable. Knowing this, Scott went on an offensive to win over local clergy. When entering Puebla in 1847, Captain Edmund Kirby Smith, wrote to his wife, "for if we can only get the clergy on our side peace must ensue. Their influence, which is unbounded, can alone control the lower orders in this densely populated district."[156] At best, the clergy might remain relatively neutral; however, Scott desired the Church as his proponent. In France in 1815-1816, Scott noticed the relationships between the Church and the occupying armies. Allied troops and the French people considered themselves "Brothers in Christ" with Catholics, Orthodox, and Protestants of the occupation forces.[157] This Christian familiarity and civil relationships between soldiers and civilians created an environment less hostile to both parties. In his orders and proclamations, Scott emphasized the fraternity between US and Mexican Catholics, perhaps trying to imitate the religious relations between soldiers and civilians he witnessed in 1815.

The Catholic Church in Mexico could be Scott's greatest ally or worst enemy. Scott deployed to Mexico with a robust library of military texts, including Francis William Napier's *History of the War in the Peninsula and in the South of France from the Year 1807 to the Year 1814* (1836). Napier's chronicle taught Scott that, under the right conditions, priests and bishops in Spain fomented and led a strong guerrilla resistance in Spain – to the detriment of Bonaparte's soldiers.

[156] Quoted in Spahr, "Occupying for Peace", 204.
[157] Haynes, *Our Friends*, 146-48.

In some locations in Spain, the church provided an extra-legal and quasi form of government in the absence of Spanish municipal governments. As the British under Wellington marched up the Spanish peninsula, they collaborated with the Church to defeat Bonaparte. Wellington supported the authority of Church officials and maintained the power of the Church and the legitimate royal family in Spain.[158] Napier chronicled Wellington's approach to the Church in Spain, and Scott may have taken Napier's lessons to heart when crafting a more conciliatory policy towards the Church in Mexico.

Scott's plan to coopt the Catholic Church seemed logical, however US Evangelical Protestantism would be Scott's greatest threat to Catholicism in Mexico – and to his own army while on campaign. Conciliatory overtures by Scott and his army would be a tall order. The United States was an Evangelically Protestant nation, and the influx of Catholic immigrants from Ireland and Germany in the 1830s and 1840s sparked violent anti-Catholic bigotry in northeastern US cities. Most Protestant soldiers strongly voiced their opinions that Catholicism was idolatrous, primitive, and the reason for Mexico's state of disarray. Scott's soldiers – especially the western volunteers – strongly resented his orders, either refusing to defer to the Church, or even stealing and desecrating Church property. If Scott did not rein in his men and convince the Church of his army's noble intentions, the conflict in Mexico could turn into an all-out religious war.[159]

Scott attempted to assure Catholic priests and bishops, through announcements, proclamations, and orders to his men, that the Church's authority and property would remain intact and respected. Scott's conciliatory strategy towards the Church was the one thing he and

[158] Napier, *War in the Peninsula*, 412.
[159] Alan Taylor, *American Republics: A Continental History of the United States 1783 – 1850* (New York: W. W. Norton & Company, 2021), 240-41.

Polk agreed on. Polk had issued a clumsy directive to the armies in Mexico – more like a suggestion – to offer a deferential approach to dealings with the Catholic Church in Mexico. Polk had no affinity for the Catholic Church, but perhaps did not want to appear anti-Catholic to a new set of potential voters in the northeast US and the upper South. "We are the friends of the peaceful inhabitants of the country we occupy, and the friends of your Holy Religion, its Hierarchy and its Priesthood," Scott announced on April 8, 1847, as he moved towards Mexico City.[160] Valentín Gómez Farías, acting President of the Mexican National Government, had intended to tax the Church to pay for the war, but in a conciliatory overture, Scott assured church officials he would not attempt to take any of the Church wealth.[161] In addition to financial incentives, Scott engaged in cordial overtures, having himself and his staff attend Mass every Sunday in full dress uniform, and attending Church processions through the streets. US flags flew over churches to show they had the protection of the US Army. When the clergy threatened to close churches, blaming the invading army, all it took was the threat of removing American protections; the churches remained open. [162] Scott was able to appease the Catholic Church and achieve the best outcome he could have hoped for – although he never gained its advocacy, the Church sidelined itself and did not foment resistance against the occupying army as was seen in Spain nearly four decades earlier.

The Levy System

Scott went into Mexico having to provide a delicate balance between following his commander-in-chief's direction and achieving the strategic goals of the war: Often the two were

[160] Johnson, *Gallant*, 62.
[161] Ibid., 34.
[162] Guardino, *The Dead March*, 281.

conflicted. The limited instruction Scott received from Polk demanded a tempered form of conquest. In a special message to Congress on July 24, 1848, Polk stated "military occupation permits the occupant, during the war, to exercise the fullest rights of sovereignty over the occupied territory."[163] In 1847 to 1848, Polk instructed Secretary of the Treasury Robert J. Waler, and addressed the Congress and Senate, as to the right of "contributions" from the conquered. He believed that the US was within its rights, in the tradition of military conquest, to seek monetary and material support from Mexico to support its armies and as a punitive measure for starting the war. But Polk did not support a forage and pillage system. Foraging and pillaging were unsustainable, would quickly exhaust locally available supplies, and alienate the local population. Polk supported a levy system on Mexicans to raise money for the Army and to buy supplies locally.

Beginning in Veracruz and continuing through the occupation of Mexico City, Scott established a comprehensive levy system. Founded on common practice in military occupation, and reminiscent of the military occupation in France thirty years earlier, Scott placed a monetary levy on municipalities to pay for the occupying forces. Scott collected the net amount paid in 1843 by states and localities to the Mexican National Government. The local governments could either comply with the order regarding levy collections, or Scott would take the revenues by force.[164] Scott's challenge was the delicate application of Polk's guidance. Too many levies would bleed local governments dry, further alienating the population and not enough levies meant Scott's army could not sustain itself logistically.[165] Polk pushed Scott to collect levies to pay for the war; in turn, Scott initially ignored Polk. Scott did not want to take from a destroyed

[163] Doris A. Graber, *The Development of the Law of Belligerent Occupation, 1863-1914: A Historical Survey* (New York: Columbia University Press, 1949) 39.
[164] Scott, *Memoirs*, 558-60.
[165] Graber, *Belligerent Occupation*, 222-23.

and destitute population what little it had left. He also believed he would build a better rapport with the locals if he was pragmatic and magnanimous in the amount of levies collected.

Scott placed tariffs on goods flowing through the port of Veracruz, and his officers ran the custom houses in the cities. Soldiers under his direction seized the gold and silver currency in Mexican National mints. Scott collected what states paid to the Mexican Federal Government and in turn used the revenues to buy goods and services in the local Mexican economy necessary to sustain his troops.[166] When Scott's soldiers actually did get paid – sometimes only as little as once every several months – they too used their pay to buy local goods. The Mexicans received these practices positively, because it put more money in the local economy than previously seen.[167]

The levies Scott collected in Mexico and how he spent the money caused debate in later years. In the mid-1850s, Scott and Secretary of War Jefferson Davis clashed egos. Davis attempted to impugn Scott's reputation over how Scott spent the levies collected during the war. The point of contention was $6,400 Scott set aside for himself, claiming his right to the money according to military custom of the time, and the precedent as set by Wellington. In a lengthy and condescending rebuke to Davis in January 1856, Scott replied that if he followed "the British scale alone, it would have been more than that sum. In Wellington's campaigns, beginning in Portugal and terminating in Paris, for every schilling received by a private in his army, a colonel had 150, the duke 2,000, and intermediates proportionally."[168] Forty years after the occupation of France, Scott continued to turn to Wellington's examples on matters of military occupation.

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[166] Scott's levy system to generate revenues to pay for his Army is reminiscent of what the Allies did in 1815 prior to the signing of the Second Treaty of Paris (the time Scott was in France and observed the occupation). After the treaty in November 1815, levies were collected by the French Federal Government and paid to the Allies.
[167] Scott, General Orders, No. 376, Mexico City, December 15, 1847, Scott, General Orders, No. 395, Mexico City, December 31, 1847, Training Packet 58, 66-68, 69-73.
[168] Scott to Davis. January 31, 1856, in *34th Congress, 3rd Session, House Executive Document 34, Message from the President of the United States, communicating, In compliance with resolutions of the Senate of December 23 and*

Conclusions

The Mexican American War witnessed two drastically different styles of military occupation. Setting aside judgment about the success or failure, effectiveness or not, of each policy, Taylor's policy seemed uninformed and unenforced, while Scott's policy drew upon prevailing European military thought. Both Taylor and Scott faced different challenges in northern and southern Mexico, obstacles of geography, class, race, economy, religion and military logistics. For the formidable task of military occupation, each commander crafted their own policy they believed would achieve the US goal of Mexican acquiescence to the peace treaty terms.

Taylor lacked a military intellect beyond smaller tactical engagements. After the War of 1812, he spent most of his career on the western frontier, commanding military forts and departments, and fighting against Native Americans. His level of military proficiency never stretched beyond the micro-tactical affairs of a soldier relegated to the edge of the empire. For Taylor's entire career, he split his interests between soldiering and plantations, and most likely was never more than half good at either.[169] "If my private affairs was not in some measure embarrassed, I would not remain in the army another moment on any terms" Taylor wrote to a friend in 1821.[170] Taylor was unable or uninterested in following Scott's recommendations on military occupation. Nor was Taylor able to implement the instructions coming from the president and Senator Thomas Hart Benton "to ingratiate the United States to northern Mexicans and to play upon the many divisions he was bound to discover, divisions between races, castes,

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30, 1856, certain information respecting the pay and emoluments of Lieutenant General Scott (District of Columbia, 1857), 231.

[169] Hamilton Holman, *Zachary Taylor: Soldier of the Republic*, Volume I (Indianapolis: The Bobbs-Merrill Company, 1941), 69, 143. Taylor's plantations were a constant source of distraction, embarrassment, and financial concern. Several times Taylor bought land and slaves, and due to market conditions and his inability to oversee the plantations from afar, the investments often performed poorly.

[170] Quoted in Coffman, *The Old Army*, 85.

classes, between high and low priests, between regional rivals and local adversaries. Most important, Taylor was to cultivate northern Mexicans' disaffection with their leaders in Mexico City."[171] In an area in which the Mexican Federal Government had a tenuous hold prior to the war, and where Commanche attacks were common, Taylor quickly put himself into an unwinnable military occupation. He placed himself into a guerilla war he was unable and unwilling to fight and lacked the disciplined soldiers to accomplish the task. In his own right, Taylor was competent to fight small skirmishes with common military tactics of the day and was unprepared to engage in combat on the enemy's terms. This was unfortunate, but not surprising, because Taylor and his soldiers represented the prevailing attitudes of racism, national superiority, and religious intolerance.

To be fair to Taylor, almost half of his force was comprised of undisciplined and untrained volunteers who enlisted under short term contracts. This proportion grew larger when Scott deployed to Mexico and took most of Taylor's trained and disciplined regular troops with him south to Veracruz. Taylor's mission was a secondary effort in the war. The strategic goal of forcing Mexico to agree to a peace treaty could not be achieved by any military success on Taylor's part, but only by Scott proceeding south to strike at the seat of the Mexican government in Mexico City. At best, Taylor could enforce the peace in Mexican territory that would soon become part of the United States.

Scott's ability to craft a military strategy that involved both peaceful and violent measures came from his decades' long study of the profession of arms. Scott addressed the threat from the Mexican military through tactics on the battlefield. By defeating the Mexican Army, and reducing the threat from the Mexican populace, Scott achieved the strategic goal of

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[171] Brian DeLay, *War of A Thousand Deserts: Indian Raids and the US-Mexican War* (New Haven: Yale University Press, 2008), 262.

pressuring the Mexican government into accepting the terms of the treaty. His formula was, for the time, a progressive approach towards military occupation and often against the grain of the prevailing views of society at large and Polk's preference. In a military occupation, the enemy's base of power is the people, and Scott was acutely aware of how formidable an enemy the Mexicans could be. He attempted to limit or eliminate the ways in which natives could turn against his soldiers. By applying a levy system instead of pillaging, respecting religious and civil authorities, protecting business and personal property, and overtures to Mexican elites, Scott attempted to limit the threat from the Mexicans as much as possible.

Scott's policies in Mexico were mature, detailed, and deliberate, yet few historians have speculated on where or how Scott developed them. In a passing glance, historian Timothy Johnson offered that Scott's reading of Napier's story of the peninsular campaign provided the foundation of his military occupation policies.[172] Scott may have read Napier's account and learned what to do and *what not to do* as an occupier. Johnson's point is fair. But his explanation is too elementary to explain the comprehensive strategy Scott developed. Scott's policies would have been shallow and disconnected had he only referenced Napier's work. Where did the depth in his policies originate?

Arguably the depth of Scott's policies came from his decades' long military experience and education. Beginning with his observations in France, a policy emerged similar in intent and execution to Wellington's occupation of Guarantee in France. In 1815-1816, Scott witnessed and learned about military occupation and its associated civil-military relationships, military governance, levy systems, and the strategic goals of the occupation. By the time Scott left for Mexico, the flow of news across the Atlantic would have provided him with deeper knowledge

[172] Johnson, *Quest for Military Glory*, 168. Johnson is the only historian to offer an explanation – albeit a cursory one – of where and how Scott developed his policy for military occupation in Mexico.

of the occupation. Carl von Clausewitz's *On War* (1835), and Antoine-Henrie Jomini's *Art of War* (1838) – two of the cornerstones of modern military thought – would have been fresh off the presses and in vogue. Scott absorbed knowledge of the Clausewitzian "people's war" and Napier's "partisan warfare" where others in his profession and at his level did not. Military occupation had much less appeal than the glories of conventional warfare and would have been neglected in military studies. However, Scott studied military occupation as part of the larger body of military knowledge. It was this layered knowledge, built over time, that allowed Scott to publish his orders on military discipline and justice, the comprehensive and detailed levy system, and religious accommodations. This is where Taylor and Scott diverged in their approaches in Mexico. Both identified the factors at play in their respective occupations but Taylor was neither capable of developing an informed strategy nor willing to enforce it.[173]

Scott's policies in Mexico were robust and detailed, developed with a deep knowledge of military history and experience *and* the agility to translate that into a set of policies specific to the situation faced in Mexico. Scott must have turned to the only prevailing military history of the time, from 1815 – 1846, which would have been applicable to the military occupation in Mexico: British military thought. In Scott's official correspondence to the secretaries of war, references provided for his justifications are almost singularly British. His policies mirrored Wellington's examples of what to do, and Bonaparte's examples of what not to do. Scott's application of the British model of occupation, and his subsequent sowing of these ideas in the

[173] Millett and Maslowski, *For the Common Defense*, 148. Taylor's "interest in military intelligence and planning for campaigns was so deficient that Scott assigned Captain William W.S. Bliss as his chief staff officer….Bliss would compensate for Taylor's own conception of warfare which rarely went beyond marching, firing, and charging." Throughout his career, Taylor's critics described him as ill-educated and unsophisticated – especially in relation to the profession of arms. Taylor biographer Holman Hamilton unsuccessfully refuted these claims, citing Taylor's sincerity, good moral character, and strong work ethic as evidence.

US Army breaks modern conventional wisdom that army of the early nineteenth century only modeled itself on French military practices.

CONCLUSION

Scott's principles of military occupation reappeared during the Civil War, and there were multiple avenues through which his policies traveled to become embedded in the US Army policy to today. First was Scott's use of the British model of military occupation, during the campaign in Mexico. Scott's policy and approach to military occupation became legitimized through official orders and directives to his army. By the time of the Civil War, Scott's Mexican campaign was the largest, and most formal, example of military occupation the army could reference when determining how to occupy territory in the defeated Confederacy. Secondly were the informal knowledge networks in which the future general officers of the Civil War, then junior officers in the Mexican campaign lived out their careers. The example they saw in Mexico, embedded in their minds through experience, would establish a template they could refine and mature.

Prior to the founding of the nation and through the War of 1812, the tactics and structure of the US Army were distinctly British. Born out of the British colonial system, the United States Army was formed with British military tactics. This endured through the War of 1812, when militias – who had drilled in British tactics since before the Revolution – were called into service against the British. Up until the War of 1812, local militias were not prescribed a standardized set of military drill tactics, but rather the training was left to the discretion of the local militia commander. The result was a patchwork quilt of tactics and standards that varied between states and localities. However, the pendulum shift from British to French tactics turned shortly after War of 1812.

During the period surrounding the War of 1812, several key factors emerged that shifted tactics from British to French. First, Napoleon and his martial prowess gained world renown.

Second, key figures – notably Winfield Scott and Sylvanus Thayer – visited France for the sole purpose of bringing back knowledge of French tactics for use within the US Army, and third, Scott republished the French infantry tactics manual for prescriptive use across the army and republished it again several more times throughout his career. Scott's ascendancy to the number two position in the army (and eventually number one) secured his influence over the selection and use of French military tactics. Scott had no competition in rewriting army manuals based on French tactics – no one besides Scott offered to take on the task or challenged the publications he produced.

After the heavy inculcation of French military tactics within the US Army, how did the British way of military occupation enter the US Army's military cognition? Scott is the only possible explanation for the introduction of the British model of military occupation into the US Army. Prior to Scott's entrance into the army, he trained as a lawyer in Virginia, and his legal schooling and case law practice were grounded in English Common Law – a holdover and legacy from the US being a former British colony. He approached most things legalistically, as witnessed in his prolific and voluminous correspondence that often read like legal treatises. Military occupation was absent in French texts, so Scott referred to his experiences in France during Wellington's occupation of guarantee, English Common Law, and the principles provided by international jurists (that the British adhered to) to generate his position on martial law and military occupation.

In the constitutionally ambiguous questions of martial law and military occupation, Scott sought guidance from his superiors. During the Van Buren and Polk administrations, Scott requested their guidance, yet their silence on Scott's authorities relating to martial law provided him with a fait accompli. He was able to craft his own policies in the absence of their orders.

Over the course of his career, Scott's most notable fellow generals and competitors – Gaines, Taylor, Jackson – had no such legal training nor the level of Scott's military proficiency to produce a comprehensive policy directing martial law and military occupation. They could not reference the same experiences as Scott had in France from 1815 – 1816. Nor did these generals share the same desire as Scott to turn the regular army into professionals on par with European armies.

The way that Scott unilaterally promulgated his policies for martial law and military occupation were through the networks he helped create. In his perch at the top of the hierarchy, he was able to create the rules, regulations, structure, and organization for the army. He influenced every aspect of soldierly life. The structure of the army created a culture and formal and informal networks within the service by which knowledge was transferred. Orders directing the behavior and conduct of his troops in Mexico were issued. And through unofficial channels of communication – informal officer networks – his soldiers gleaned Scott's temperament, opinions, and intolerance of certain behaviors and actions. Through countless conversations with his subordinates, these same informal networks conveyed Scott's intent and purpose of the mission in Mexico down to the lowest ranking troops. Scott never passed up an opportunity to overexplain his intellectual position on a topic, especially to subordinates. The junior officers that grew up in Scott's army went on to be the generals in the Civil War and were able to carry on the principles of Scott's "occupation of guarantee."

Even with his knowledge of British and French military experience, Scott could not simply overlay Wellington's approach in France onto the challenges in Mexico. Beginning with size and scale, Mexico was three and a half times larger than France, and approximately 79,000 American soldiers served in the Mexican American war – as opposed to Wellington's initial 1.2

million soldier peace keeping force in 1815. The strategic objectives of the two occupations were very different. The US started the war with the goal of territorial conquest, and the occupation in Mexico by US troops provided the leverage to achieve that goal. Wellington had no such desire in the occupation of France, but rather occupied France for a predetermined period of time with the goal of eventual departure after the reinstalled Bourbon monarch and his government were firmly rooted in France. The French government and its occupiers were keenly interested in each other's success – not true for Scott in Mexico.

Wellington sat on the powder keg of civil war, and keeping the peace was integral to his success. He sought to find a middle ground long enough for a Bourbon government to take hold in France and indemnities repaid to the Allies. Scott too marched into a Mexico in which the conditions were ripe for a civil war. His stay was temporary – months, not years – and his goal was only to secure peace treaty terms, not to lay the foundations for the future government of Mexico. He wrote to Polk and Marcy that a prolonged occupation would generate a national resistance movement: to make matters more complicated, the possibility for civil war loomed in Mexico as the elites fought to keep their control of Mexican society.[174] Peter Guardino also has referenced the nuances of the situation in Mexico in which the Federal Government promoted a fledgling national and religious identity as a rallying point in fighting the US Army. Running counter to the federal government's nationalistic push were local elites trying to broker peace with Scott as a way of preserving their status and wealth.[175]

The similarities between Wellington's and Scott's occupations are how they interacted with the local people to achieve their military and strategic goals. Both believed they could accomplish their goals by gaining the acceptance and legitimacy in the eyes of the occupied

[174] Levinson, *Wars*, 116-18.
[175] Guardino, *The Dead March*, 277-84.

population. The success or failure of that strategy is outside the scoped of this thesis, however what can be shown is that Scott championed the British model of occupation used by Wellington thirty years earlier.

Perhaps more relevant to modern day scholars is Scott's invention of a military tribunal, or commission, to try offenders whose actions are considered criminal instead of lawful combat. Scott's fixation on emulating conventional, nineteenth-century European warfare left no room for recognizing guerilla activities and its participants as another means of legitimate warfare. His ability to tenuously link together the ideas that war crimes were committed by criminals, created a comfort to officers in search of precedent as a way of justifying their violent actions while on campaign. Scott's larger than life presence, combined with his extensively researched and legally reasoned policy positions – along with his bully pulpit at the head of the army – ensured his policies were rammed through and followed by his officers for decades.

The legacy of Scott's military tribunals followed into the Civil War, Spanish American War, and to the current post 9/11 world in the "global war on terror." At some point during or after the Mexican American War, Scott's tribunals for those he declared as criminals instead of prisoners of war became precedent and followed without question by the army. The character of warfare may have changed in the years since the Mexican American war, but the nature of it has not. As irregular warfare in the twenty-first century seems more normalized as a form of conflict, the way in which combatants are treated becomes an even more import issue for nations to address. Understanding how an early nineteenth-century British model for military occupation embedded itself into the US Army's paradigm for martial law and military occupation, might explain the difficulties surrounding applying that model to cases of irregular warfare in conflicts in the proceeding decades since the early nineteenth century.

REFERENCES

Primary Sources:

Alison, Sir Archibald, 1st Baronet. *History of Europe from the Commencement of the French Revolution in MDCCLXXXIX to the Restoration of the Bourbons in MDCCXV*, Ninth Ed, Vol. XII. London: William Blackwood and Sons,1855.

Articles of War, United States Statutes at Large 2 (1789-1848). Ninth Congress, first session. Chapter 20.

DeHart, William C. *Observations on Military Law and the Constitutions and Practice of Courts Martial with a Summary of the Law of Evidence as Applicable to Military Trials, adapted to the laws, regulations, and customs of the Army and Navy of the United States.* New York: Wiley and Hudson, 1859.

General Regulations for the Army; or Military Institutes. Philadelphia: M. Carey and Sons, 1821.

Gurwood, John. *The Dispatches of Field Marshal The Duke of Wellington During His Various Campaigns in India, Denmark, Portugal, Spain, The Low Countries, and France from 1799 to 1815*. London: William Clowes and Sons, 1838.

Halleck, Henry Wager. *International Law, Or, Rules Regulating the Intercourse of States in Peace.* New York: D. Van Nostrand, 1861.

Lieber, Francis. *Instructions for the Government of Armies of the United States, in the Field.* New York: D. Van Nostrand, 1863.

MaComb, Alexander. Esq. *A Treatise on Martial Law and Courts-Martial; as practiced in the United States of America.* Published by Order of the United States Philosophical Society, Charleston, (SC.) Printed and Published for the Author, By J. Hoff, No. 6 Broad-Street, 1809.

Mansfield, Edward D. Esq. *The Life of General Winfield Scott.* New York: A.S. Barnes & Co., 1846.

Napier, Francis William. *History of the War in the Peninsula and in the South of France from the Year 1807 to the Year 1814.* Oxford: J.A. James & CO. Cincinnati, 1836.

Niles Weekly Register, Saturday, September 2, 1815. https://babel.hathitrust.org/cgi/pt?id=nnc1.cu04016548&view=1up&seq=24&skin=2021

Niles Weekly Register, Saturday, July 15, 1815. https://babel.hathitrust.org/cgi/pt?id=njp.32101042849834&view=1up&seq=366&skin=2021

Niles Weekly Register, Saturday, May 16, 1816. https://babel.hathitrust.org/cgi/pt?id=pst.000055571135&view=1up&seq=214&skin=2021

Niles Weekly Register, Supplement to Volume 15, 1819. https://babel.hathitrust.org/cgi/pt?id=pst.000055571197&view=1up&seq=491&skin=2021

O'Brien, John P. *A Treatise on American Military Laws, and the Practice of Courts Martial with Suggestions for their Improvement.* Philadelphia: Lea & Blanchard, 1846.

Poinsett, Joel Roberts. *Letter from Secretary of War Joel Roberts Poinsett to Brevet Major General Winfield Scott*, January 5th, 1838. *The Army and Navy Chronicle*, Vol VI, New Edition, From January 1 to June 30th, 1838. Edited and published by B. Homans, Washington City, 1838.

Richards, George H. Esq. *Memoir of Alexander Macomb; The Major General Commanding the Army of the United States*. New York: McElrath, Bangs & Co., 1833.

Rules and Regulations for the Field Exercise and Manoeuvres of Infantry Compiled and Adapted to the Organization of the Army of the United States, Agreeably to a resolve of Congress, Dated December, 1814. Published by Order of the War Department.

Scott, Winfield. *Memoirs of Lieut.-General Scott, LLD*. New York: Sheldon & Company Publishers, 1864.

———. *Letter from General Winfield Scott to Secretary of State James Monroe*, September 28, 1815, US State Department Archives. National Archives at College Park, MD, Item 66539095, Drawer M179, Microfilm Roll 32, Miscellaneous Letters of the Department of State, 1789-1906.

———. *Letter from General Winfield Scott to Secretary of State James Monroe*, November 18, 1815, US State Department Archives. National Archives at College Park, MD, Item 80607295, Record Group 59, General Records of the State Department, 1763-2002.

———. *Letter from General Winfield Scott to Secretary of War John C. Calhoun*, September 2, 1818, US Library of Congress, American State Papers, House of Representatives, 16th Congress, 2nd Session, Military Affairs, Vol 2.

———. *General Orders, No. 25*, Headquarters, Eastern Division, Cherokee Agency, Tennessee, May 17, 1838.

———. *Letter from Winfield Scott to Secretary of War Jefferson Davis*. January 31, 1856, in *34th Congress, 3rd Session, House Executive Document 34, Message from the President of the United States, communicating, In compliance with resolutions of the Senate of December 23 and 30, 1856, certain information respecting the pay and emoluments of Lieutenant General Scott.* District of Columbia, 1857.

Thayer, Sylvanus. *Letter from Major Sylvanus Thayer to Brigadier General Joseph Swift,* October 10, 1815, Thayer Collection, Volume II, US. Military Academy, West Point, New York.

De Vattel, Emmerich. *The Law of Nations, or, Principles of the Law of Nature, Applied to the Conduct and Affairs of Nations and Sovereigns.* London: G.G. and J. Robinson, Paternoster-Row, 1797.

Secondary Sources:

Bew, John. *Castlereagh: A Life.* Oxford: Oxford University Press, 2012.

Bonura, Michael A. "A French Inspired ay of War: French Influence on the American Army from 1812 to the Mexican War" *Army History* 90, (Winter 2014): 6-22.

Carnahan, Burrus M. *Act of Justice: Lincoln's Emancipation Proclamation and the Law of War.* Lexington: University Press of Kentucky, 2007.

Coffman, Edward M. *The Old Army: A Portrait of the American Army in Peacetime, 1784-1898.* New York: Oxford University Press, 1986.

De Graaf, Beatrice. *Fighting Terror after Napoleon: How Europe Became Secure after 1815.* Cambridge: Cambridge University Press, 2020.

DeLay, Brian. *War of A Thousand Deserts: Indian Raids and the US-Mexican War.* New Haven: Yale University Press, 2008.

Downs, Gregory P. *After Appomattox: Military Occupation and the Ends of War.* Cambridge: Harvard University Press, 2015.

Eisenhower, John S.D. *Agent of Destiny: The Life and Times of General Winfield Scott.* New York: The Free Press, 1997.

Elliot, Charles Winslow. *Winfield Scott: The Soldier and the Man*. New York: The MacMillan Company, 1937.

Fleming, Thomas. "The Father of West Point" *MHQ: The Quarterly Journal of Military History* 20 (Autumn 2007): 84-94.

Foos, Paul. *A Short, Offhand, Killing Affair: Soldiers and Social Conflict During the Mexican-American War.* Chapel Hill: The University of North Carolina Press, 2002.

Forman, Sidney. "The United States Military Philosophical Society, 1802-1813." *William and Mary Quarterly* 2, no. 3 (July 1945): 273-85.

Gash, Norman, *Lord Liverpool: The Life and Political Career of Robert Banks Jenkinson Second Earl of Liverpool 1770 – 1828.* Cambridge: Harvard University Press, 1984.

Gates, John M. Review of *The Old Army: A Portrait of the American Army in Peacetime, 1784-1898* by Edward M. Coffman. *Civil War History* 33, no. 1 (March 1987): 91-92.

Graber, Doris A. *The Development of the Law of Belligerent Occupation, 1863-1914: A Historical Survey*. New York: Columbia University Press, 1949.

Guardino, Peter. *The Dead March: A History of the Mexican-American War*. Cambridge: Harvard University Press, 2017.

Grimsley, Mark. *The Hard Hand of War: Union Military Policy Toward Southern Civilians 1861 – 1865.* New York: Cambridge University Press, 1996.

Hamilton, Holman. *Zachary Taylor: Soldier of the Republic.* Indianapolis: The Bobbs-Merrill Company, 1941.

Hay, William Anthony. *Lord Liverpool: A Political Life.* Woodbridge: The Boydell Press, 2018.

Haynes, Christine. *Our Friends the Enemies: The Occupation of France after Napoleon.* Cambridge: Harvard University Press, 2018.

Johnson, Timothy D. *Winfield Scott: The Quest for Military Glory*. Lawrence: University Press of Kansas, 1998.

———. *A Gallant Little Army: The Mexico City Campaign*. Lawrence: University Press of Kansas, 2007.

Keyes, E.D. *Fifty Years' Observation of Men and Events Civil and Military.* New York: Charles Scribner's Sons, 1884.

Lang, Andrew F. *In the Wake of War: Military Occupation, Emancipation, and Civil War America*. Baton Rough: Louisiana State University Press, 2017.

Levinson, Irving W. *Wars Within Wars: Mexican Guerrillas, Domestic Elites, and the United States of America 1846-1848.* Fort Worth: Texas Christian University Press, 2005.

Millett, Alan R. and Maslowski, Peter. *For the Common Defense: A Military History of the United Stated of America.* New York: The Free Press, 1994.

Nevins, Allan, ed. *James K. Polk, the Diary of a President; Covering the Mexican War, the Acquisition of Oregon, and the Conquest of California and the Southwest.* New York: Longmans, Green, and Co., 1929.

Peskin, Allan. *Winfield Scott and the Profession of Arms*. Kent: Kent State University Press, 2003.

Pinheiro, John C. *Manifest Ambition: James K. Polk and the Civil-Military Relations during the Mexican American War*. Connecticut: Praeger Security International, 2007.

Remini Robert V. *The Life of Andrew Jackson.* New York: Harper & Row, Publishers, 1988.

Rosen, Deborah A. "Wartime Prisoners and the Rule of Law: Andrew Jackson's Military Tribunals during the First Seminole War." *Journal of the Early Republic* 28, no. 4 (Winter 2008): 559-95.

Sefton, James E. *The United States Army and Reconstruction 1865-1877.* Westport: Greenwood Press, 1967.

Silver, James W. *Edmund Pendleton Gaines: Frontier General*. Baton Rouge: Louisiana State University Press: 1949.

Skelton, William B. "The Commanding General and the Problem of Command in the United States Army 1821-1841." *Military Affairs* 34 (Dec 1970): 117-22.

———. "Professionalization in the US Army Officer Corps During the Age of Jackson." *Armed Forces and Society* 1, no. 4 (August 1975): 443-71.

———. "High Army Leadership in the Era of the War of 1812: The Making and Remaking of the Officer Corps." *William and Mary Quarterly* 51, no. 2, (April 1994): 253-74.

———. "The Commanding Generals and the Question of Civil Control in the Antebellum US Army." *American Nineteenth Century History* 7, no. 2, (June 2006): 153-72.

Smiley, Will and Witt, John Fabian, eds. *To Save the Country: A Lost Treatise on Martial Law.* New Haven: Yale University Press, 2019.

Stirk Peter M.R. "The Concept of Military Occupation in the Era of the French Revolutionary and Napoleonic Wars." *Comparative Legal History* 3, no. 1, (June 2015): 60-84.

Taylor, Alan. *American Republics: A Continental History of the United States, 1783-1850.* New York: W. W. Norton & Company, Inc., 2021.

Training Packet 58, *Military Government Under General Winfield Scott.* Camp Gordon: The Provost Marshal General's School Military Government Department for ORC Units, n.d., 1961.

Veve, Thomas Dwight. *The Duke of Wellington and the British army of occupation in France, 1815-1818.* Westport: Greenwood Press, 1992.

Warshauer, Matthew. *Andrew Jackson and the Politics of Martial Law.* Knoxville: University of Tennessee Press, 2006.

Weigley, Russell F. *History of the United States Army.* New York: Macmillan Publishing Co., Inc. 1967.

———. *The American Way of War: A History of the United States Military Strategy and Policy.* Bloomington: Indiana University Press, 1977.

Witt, John Fabian. *Lincoln's Code: The Law of War in American History.* New York: Free Press, 2012.

Unpublished Sources:

Bonura, Michael A. "French Thought and the American Military Mind: A History of French Influence on the American Warfare from 1814 through 1941." PhD diss., Florida State University, 2008.

Davies, Huw J. "Networks of Knowledge Exchange: The British Army, Military History and Geography in the Late Eighteenth Century", King's College London. https://www.academia.edu/23419410/Networks_of_Knowledge_Exchange_The_British_Army_military_history_and_geography_in_the_late_eighteenth_century?email_work_card=title.

Jarrett, Mark Jeffrey. "Castlereagh, Ireland and the French Restorations of 1814-1815." PhD diss., Stanford University, 2006.

Spahr, Thomas W. "Occupying for Peace, The US Army in Mexico, 1846-1848." PhD diss., The Ohio State University, 2011.