

Carlos Bosch García

*Documentos de la relación
de México con los Estados Unidos.
Volumen V. Tomo II. Documentos desde
la caída de la concesión de Garay hasta
la entrega a la empresa privada, 1848-1853*

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INSTITUTO
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as this despatch is to leave here at 4 o'clock tomorrow morning, & is yet to be copied, I must close it here.

Caja 97, rollo 17, vol. 16, p. 157-60.

9 de febrero de 1853. J. Miguel Arroyo a Alfred Conkling.

Le comunica que le envía tres ejemplares de los documentos oficiales que explican lo que ha sucedido en la Capital, los comenta diciendo:

“Éstos se reducen substancialmente a que habiendo llegado a Méjico el Sor General Dn. José López Uruga, General en jefe de las fuerzas que han sostenido el Plan proclamado en Jalisco, acompañado del Sor Coronel Dn. Manuel Robles a cuyo mando se halla otra sección de tropas, trayendo ambos un arreglo que juzgaron a propósito para dar fin a la revolución y restablecer la paz en la República, al cual con algunas modificaciones, se adirió [sic] la Guarnición de esta Capital, se propuso al E. S. Dn. Juan B. Ceballos, que desempeñaba la Presidencia de la Republica, continuase en ella, bajo las bases de tal convenio; y no estando S. E. conforme, reusó [sic] aceptar ese cargo por las razones que expuso en la nota respectiva, a consecuencia de lo cual se procedió según el mismo plan, a elegir la persona que temporalmente ha de ejercer el Supremo poder ejecutivo de la Nación, recayó la elección [sic] en el E. S. General D. Manuel Maria Lombardini, quien en la noche del 7 del actual prestó el juramento prevenido en el plan adoptado, y entró a ejercer sus altas atribuciones que desempeñará por el tiempo y modo que en ese mismo se expresan.”

Agrega que todos estos acontecimientos se verificaron sin “que en lo más leve se alterase el orden público”.

Caja 97, rollo 17, vol. 16, p. 160-1.

19. El nuevo tema de la Mesilla

5 de febrero de 1853. México. Texto del contrato para la apertura y comunicación del Istmo de Tehuantepec.

Contrato

Que para la apertura y comunicación del Istmo de Tehuantepec, forman por una parte, a nombre del Supremo Gobierno de la República Mexicana, el Exmo. Sr. D. José Miguel Arroyo, oficial mayor con ejercicio de decretos del Ministerio de Relaciones interiores y exteriores, y encargado actualmente del despacho del mismo; y por otra parte el Sr. D. Guillermo D. Lee, apoderado de los Sres. A. G. Sloo y asociados, y los Sres. D. Ramón Olarte, D. Manuel Payno y D. José Joaquín Pesado, por los socios y empresarios mexicanos interesados en la empresa de la comunicación interoceánica de Tehuantepec y representantes de toda la sociedad, que con el nombre de Compañía Mixta, se encarga de la apertura y comunicación espresada, de acuerdo con las Compañías llamadas de Oaxaca, y de D. Felipe García y socios, y en los apoderados de los Estados de Chiapas, Tabasco y Oajaca, bajo los artículos siguientes en que han convenido, usando el Supremo Gobierno de la facultad que le da la ley de 14 de Mayo de 1852, y de las amplias que le concede el decreto de 11 del próximo pasado Enero.

1º. La vía de comunicación se hará por agua en la parte navegable que existe, y en donde ésta concluya en el río Goatzacoalcos principiarán los caminos de que habla el artículo 2º.

2º. Los contratistas se comprometen a comenzar un camino de madera, desde el punto en que ya no sea navegable el río Goatzacoalcos, en dirección al Pacífico, al año de haberse celebrado este contrato; y a concluirlo a los tres años de haberlo comenzado. A comenzar la construcción de un ferrocarril, al año, contado de esta última fecha, y a concluir dicho ferrocarril con todos los trenes y máquinas necesarias, dentro de los cuatro años siguientes, dando aviso al Supremo Gobierno en uno y otro caso de haber comenzado las obras, y de quedar concluidas.

3º. La dirección del camino será la que designen ingenieros competentes, como la más practicable por lo corto de la distancia y por la facilidad en la construcción, debiendo partir

desde el punto en que, previo examen, se encuentre no ser ya navegable el río Goatzacoalcos.

4°. La empresa hará por su cuenta los muelles y diques necesarios para el uso de la vía de comunicación, en los nuevos puertos que habilite el Gobierno en los dos extremos del camino.

5°. El Gobierno concede a la Compañía el terreno necesario para la carretera y ferrocarril, muelles, diques, almacenes, depósitos, estaciones, cobertizos para diligencias, y demás carruajes y hoteles para transeúntes; pero si las tierras del dominio público no fueren suficientes para todas las atenciones antedichas, se tomará del de los particulares, indemnizando a los dueños conforme a las leyes.

6°. La empresa podrá tomar gratis, de las tierras del dominio público, cualquier material que sea necesario para la construcción del camino o de sus pertenencias, y para su conservación.

7°. De los terrenos de particulares, también podrá tomar esos materiales; pero indemnizando a los dueños conforme a las leyes.

8°. En el tiempo que dure este contrato, la empresa gozará del privilegio exclusivo de transporte, por la vía de comunicación, pudiendo en consecuencia cobrar peajes, derechos de tránsito y de almacenaje, cualquier otro derecho por fletes de mercancías, o costos de pasaje, conforme a la tarifa que aprobará el Gobierno, quien no podrá exigir impuesto ni contribución de ningún género, ni sobre el tránsito de mercancías, ni sobre los pasajeros, ni sobre los capitales invertidos por la empresa; pero si se reserva el derecho que le da el artículo 32 de la convocatoria, que a la letra dice: "El Gobierno se obliga a no imponer contribución ni gabela alguna sobre el camino, mercancías o pasajeros que por él pasen, no sobre los capitales invertidos en él; pero podrá imponer un derecho adicional sobre bultos y pasajeros, en una cuota que no excederá de un real, aplicándose íntegramente su producto."

9°. La empresa podrá importar, libres de derechos, los materiales y útiles necesarios para la construcción y conservación

del camino y de sus pertenencias, recabando del Gobierno previamente, el permiso, por conducto del inspector del mismo Gobierno, con nota de los artículos que se propone importar. También podrá introducir, bajo las mismas condiciones, los objetos que no puedan obtenerse en el Istmo, y que para su manutención y vestuario puedan necesitar los trabajadores y peones empleados en las obras del camino.

10°. La libertad concedida a la empresa para el transporte de mercancías, se sujetará a los reglamentos que espida el Gobierno; no entendiéndose que por aquélla se le concede también la de abrir su expendio en ningún punto del Istmo.

11°. El Supremo Gobierno abrirá los puertos de altura y cabotaje que sean necesarios para el mejor servicio de la vía de comunicación, no quedando por ahora más que el de Veracruz en el Golfo de México, y el de la Ventosa en el Pacífico; este último puerto será únicamente para el tránsito recíproco de pasajeros y mercancías.

12°. Los privilegios que el Gobierno concede serán valederos y exclusivos para la empresa en todo el tiempo que dure este contrato.

13°. El Gobierno protegerá con todo su poder la prosecución, conservación y seguridad de los trabajos.

14°. Se garantiza a satisfacción del Supremo Gobierno, el cumplimiento de este contrato con la suma [\$300.000] trescientos mil pesos en dinero efectivo que exhibirán los representantes de la compañía, al contado, en los términos que disponga el mismo Supremo Gobierno; y además [\$50.000] cincuenta mil pesos mensuales hasta completar la suma total de (\$ 600.000) seiscientos mil pesos. Los últimos (\$ 300.000) trescientos mil pesos ganarán el rédito de seis por ciento anual, pues los trescientos mil primeros se entregarán sin rédito alguno como garantía del presente contrato. Pero ambas sumas, son los intereses que venzan los segundos trescientos mil pesos, desde la fecha de sus respectivas entregas hasta extinguir el capital y los réditos que devengue, serán pagados a la compañía con la mitad de los primeros productos que correspondan al Gobierno, dándosele a la compañía dicha,

para su seguridad, por la tesorería general, los certificados, bonos o documentos necesarios por la referida suma de (\$600.000), seiscientos mil pesos. Los términos estipulados en los arts. 14 y 15 de la convocatoria, serán ampliados prudentemente por el Gobierno en los casos de naufragio u otra fuerza mayor; cuyos artículos son del tenor siguiente:

“14. Se garantiza a satisfacción del Gobierno el cumplimiento del contrato bajo una pena convencional, que no bajará de doscientos mil pesos. Esta cantidad se asegurará con el depósito del dinero o especies valiosas, o con hipotecas, o con fianzas abonadas conforme a la ley. El empresario incurrirá en la pena de perder los gastos hechos, los materiales y herramientas acopiadas en el territorio de la República, y lo derechos que le da el contrato, si no comienza y concluye la carretera y si no comienza el ferrocarril dentro de los términos estipulados.—Art. 15. Comenzado que sea el ferrocarril, se devolverá al empresario el depósito, o cancelará la obligación en que consista la pena convencional; mas si después de comenzado no lo concluye dentro de sus términos, incurrirá en las penas expresadas, excepto la multa, y sólo tendrá derecho a que se le considere como socio por el valor de los rieles, trenes, carros y demas materiales importados del extranjero, siempre que su costo original con los gastos exceda de doscientos mil pesos, pues si fuere menor, caerá también en la pena.”

15°. La empresa se compromete a llevar a cualquier punto, a orillas del camino, libre de gastos, la correspondencia que debe transitar por dicho camino, recibéndola y entregándola con las formalidades de estilo. De la misma manera transportará todos los efectos y objetos que sean propiedad del Gobierno, por la cuarta parte de la tarifa; igualmente conducirá sin estipendio alguno, en ida y vuelta, los oficiales, tropas, empleados o agentes del Gobierno general o de los Estados. Los metales, productos agrícolas e industriales de la República, serán transportados por un veinticinco por ciento menos del precio de tarifa.

16°. Durante cincuenta años, contados desde el día en que se ponga en ejecución la tarifa de que habla el artículo

8º, el Gobierno de México recibirá veinte por ciento de los rendimientos líquidos del camino. En todo este periodo, todos los privilegios contenidos en esta contrata, serán valederos y exclusivos, sin que puedan alterarse, excepto por mutuo consentimiento, y al fin del tiempo señalado el gobierno entrará en la plena y absoluta posesión del camino, con todos sus trenes (que cuando menos deberán ser los necesarios para poder transportar al día quinientos pasajeros y diez mil arrobas de carga), útiles y pertenencias; entiendo que tanto aquellos como el camino deben entregarse en corriente, y en perfecto estado de servicio; debiendo hallarse los rieles, carros máquinas y utensilios, cuando menos de medio uso, sin que se entiendan incluso los buques y vapores. Para no hacer ilusoria la entrega del camino y demás útiles que expresa la cláusula anterior, la compañía se compromete a poner en depósito en los diez últimos años, el diez por ciento de los productos líquidos que le corresponden, cuyo depósito se devolverá a la empresa luego que el Gobierno haya recibido a su satisfacción, todo lo contenido en la espresada cláusula anterior.

17º. Siendo de suma necesidad el que para los buques que naveguen hacia la vía de comunicación, haya faro en los dos extremos de ella, y también en el Banco de los Alacranes, y otro más en el puerto de Acapulco; y siendo igualmente necesario para el desarrollo de los recursos de la República y para la construcción de buques que, si fuere practicable, la barra de Goatzacoalcos se ahondare, así como también el cauce de dicho río, se separarán anualmente por la empresa para llevar a efecto esas mejoras bajo planes que el Gobierno apruebe, dos y medio por ciento de los rendimientos líquidos del camino hasta que esas obras hayan sido terminadas. Los faros una vez concluidos, pertenecerán exclusivamente al Gobierno.

18º. El Gobierno y la empresa, cada uno por su parte, podrán nombrar interventores en proporción a los intereses que respectivamente representen, para que vigilen e inspeccionen y glosen las cuentas del camino durante el tiempo que dure este contrato. No representando el Supremo Gobierno

más que la quinta parte del producto total, se le considerará para su representación cual lo fija la cláusula 24 de la convocatoria, que dice así: "El Gobierno será considerado como accionista por una cuota, cuando menos de la tercera parte del total de las acciones en que se distribuya la empresa."

19°. La empresa se obliga a observar las restricciones siguientes: 1° La compañía no podrá construir fortalezas en el Istmo, ni organizar fuerzas militares de ninguna clase. No dará pasaje a ninguna fuerza armada, ya sea nacional o extranjera, sin expresa autorización del Gobierno. 2° La compañía no admitirá en los terrenos que ocupe, para todo lo dicho en el art. 5°, a más personas que las que fueren necesarias para la negociación en todos sus ramos. 3° La compañía despedirá inmediatamente de su servicio a cualquiera de sus dependientes que haga o proteja el contrabando, o cometa cualquier otro delito, y auxiliará al Gobierno para su persecución. 4° La compañía procurará que todo pasajero observe las leyes aduanales de la República.

20°. Los extranjeros que tomen parte en la empresa se sujetarán a lo que previenen los artículos 21 y 22 de la convocatoria, que a la letra dicen : Art. 21: "Los extranjeros que tomaren parte en la compañía mixta, ya sea como accionistas o con cualquier otro título que les diere derecho para intervenir en ella, participar de sus productos o reclamar alguna de sus concesiones, no tendrán más derechos que los mexicanos, ni otros medios de hacerlos valer que los que a éstos concedan las leyes de la República. Todas las cuestiones de esta naturaleza, y las que se susciten sobre la adquisición, conservación o pérdida de las acciones o derechos sobre el indicado camino, se decidirán por los tribunales nacionales competentes, conforme a las leyes. A las mismas condiciones se sujetarán los empleados y dependientes de la empresa. Artículo 22°. La persona o personas con quienes se contrate la apertura del camino, no podrán traspasar ni enajenar la concesion sin previo consentimiento del Gobierno, ni admitir como socio a un Gobierno o Estado extranjero. La violacion de cualquiera de estas condiciones dejará sin

efecto la concesión, y el Gobierno mexicano no podrá disponer de ella a su voluntad, salvo las acciones legítimamente adquiridas por los accionistas particulares.”

21°. El tránsito por la vía de comunicación será libre para todos los habitantes del globo; pero se aumentará un veinticinco por ciento a las mercancías de las naciones que no hayan celebrado tratado de neutralidad con México.

22°. Tan pronto como se organice la compañía para construir el ferrocarril, se establecerá en México un expendio de bonos, e igualmente se abrirá otro en Londres o en otra plaza de Europa, y durante un periodo, que no bajará de seis meses, una tercera parte al menos de todas las acciones se mantendrá a disposición de los ciudadanos de México que deseen ser suscritores.

23°. La empresa, en valijas cerradas, que no podrán abrirse, tendrá la facultad de transportar la correspondencia extranjera por la vía de comunicación, y estas valijas podrán ser selladas por los administradores de correos o de las aduanas respectivas.

24°. La compañía no podrá vender o enajenar acciones a los Estados de la Federación, en cambio de terrenos baldíos o de servidumbre de indios.

25°. La compañía admite como condición indispensable todos los artículos de la convocatoria, publicada por el Supremo Gobierno con fecha 29 de Julio del año próximo pasado, que no choquen ni estén en contradicción con el espíritu, texto y letra de esta contrata.

Navegación

Art. 1°. El Supremo Gobierno concede a los contratistas y a sus asociados, el privilegio exclusivo de navegar por el río Goatzacoalcos, durante todo el tiempo que se fija al presente contrato; pero todos los habitantes y dueños de haciendas o de otra propiedad situada sobre las orillas del río, podrán importar los artículos de que tengan necesidad, y exportar sus productos agrícolas o industriales por los buques de construcción mexicana.

Art. 2º. El gobierno exime del derecho de toneladas a los buques de vapor de la compañía que sean destinados a conducir la correspondencia y mercancías de tránsito.

Art. 3º. La empresa se compromete a establecer una línea de vapores suficiente para el servicio de la vía de comunicación, con bandera mexicana con arreglo a las leyes del país, para navegar desde Veracruz hasta el punto en que sea navegable el río de Goatzacoalcos, en donde comenzará el camino o ferrocarril.

Art. 4º. La compañía se compromete a transportar, libre de gastos, la correspondencia que venga para cualquier punto de México, y la que de él se envíe a los otros donde tocaren sus vapores, recibéndola y entregándola con la formalidades de estilo; de la misma manera transportará todos los efectos y objetos que sean propiedad del Gobierno, por la cuarta parte de la tarifa; igualmente conducirá sin estipendio alguno, en ida y vuelta, los oficiales, tropas, empleados o agentes del Gobierno general o de los Estados. Los metales, productos agrícolas e industriales de la República, serán transportados por un veinticinco por ciento menos del precio de la tarifa.

Art. 5º. La compañía procurará que los vapores del Pacífico continúen haciendo su depósito de carbón de piedra en Acapulco, y se compromete a reconocer, tan pronto como sea posible, los criaderos de ese mineral en el Estado de Guerrero, a fin de poderlos explotar por medio de convenios con sus respectivos dueños.

Art. 6º. Para el cumplimiento de cuanto comprende y abarca este contrato, el Supremo Gobierno se entenderá por medio de sus agentes o apoderados, con los representantes de la compañía mixta, mencionados al principio de esta escritura, o los que en lo sucesivo lo fueren.

México, Febrero 5 de 1853.

J. Miguel Arroyo.

M. Payno.

W.D.Sloo.

J. Joaquín Pesado.

Ramón Olarte.

Caja 97, rollo 17, vol. 16, p. 162-3.

9 de febrero de 1853. Washington. Edward Everett a Alfred Conkling.

Sir:

I transmit, herewith, copy of a despatch just received from Consul Chase, dated Tampico, the 4th, ultimo. It details the circumstances under which a gross outrage upon the persons and property of three citizens of the United States is alleged to have been committed by certain officials at that place. You will be pleased immediately to institute an investigation of this matter, and if you find the statements made by Consul Chase to be sustained by the facts in the case, you will demand prompt restitution of the amount of money of which these citizens have been plundered, together with the payment of such interest and damages, as should, in business transactions, be deemed just and proper in view of the illegal detention of the same.

Your despatches to N° 12, inclusive have been received.

I am...

National Archives. Records of the Department of State. *Diplomatic Instructions. Mexico*. Vol. 16, doc. núm. 11, p. 359-360.

11 de febrero de 1853. Washington. Edward Everett a G.G. Goss.

Sir:

Your letter of the 7th. instant has been received. In answer to that part of it which expresses an opinion that your personal expenses while in the City of Mexico should be allowed you, I have to state that I do not feel warranted in altering the conditions on this point upon which your former appointment was made by my predecessor and accepted by you.

I am...

National Archives, Records of the Department of State. *Diplomatic Instructions. Mexico*. Vol. 16, p. 385.

19 de febrero de 1853. México. Alfred Conkling a Edward Everett. (Despacho 22.)

Mr. William R. Glover Consul at Vera Cruz, having been long absent from his post, and Mr. Benj. C. Brown whom he left in charge of the Consulate being also absent, and I am credibly informed, sick at New Orleans; and Mr. L. Escher whom Mr. Brown left in charge of the Consulate, having, as I am credibly informed, also become incapable by disease, of executing the duties thereof, I have, with the consent of the Government of Mexico, appointed Mr. F. Sosos as a fit person temporarily to perform the said duties.

Caja 97, rollo 17, vol. 16, p. 169.

22 de febrero de 1853. México. Alfred Conkling a su gobierno. (Despacho 23.)

I have the honor to acknowledge the receipt, last evening, of your dispatches, Nos. 9 & 10.

The accompanying copy of Mr. Howard's letter, has already, at my request, been placed in the hands of the keeper of Archives, who as I am assured, can and will find and furnish copies of the records mentioned by Mr. Howard, if it is possible to do so. He undertook to make the requisite search with alacrity, but spoke of it as likely to be protracted.- will not lose sight of the matter nor permit him to do so, and will forward the desired copies as soon as they can be obtained.

Political Conditions of the Country.

The Mexican people continue to acquiesce in the political change mentioned in my despatch No. 21. [ilegible] of note that in the official acts of Genl. Lombardini he is styled, not President, but "Depositary of the Supreme Executive power of the Republic".

At a conference of the members of the Diplomatic body held today, we agreed to accept an invitation given yesterday

to offer our "felicitations" at one o'clock tomorrow to Genl. Lombardini on his accession to power.

The Presidential Election, ordained by the same military commanders to whom he owes his elevation, is in progress in the several States, and the results thus far ascertained appear clearly to foreshadow the election of Genl. Santa Anna, by a very large majority, his real friends are numerous, many others are overawed by the prestige coupled with his name, and most of the rest will abstain from any opposition to him from the belief that he would still be elected in spite of it.

Tehuantepec.

Last evening I received from the acting Minister of Relations a note, of which I have the honor to enclose herewith a copy marked A, and to which I this morning returned an answer of which I transmit a copy also marked A.

I earnestly hope, & with considerable confidence, trust, that in the line of conduct I have deemed it be my duty to adopt relative to the projected transit-way across the isthmus of Tehuantepec, I have not had the misfortune to contravene the sentiments of my Government, nor to appear to you to have assumed an undue degree of responsibility.

The considerations by which I have been governed will have been already sufficiently indicated in my former despatches, and I will only add that if I have ened, it has not been for want of deliberate and mature reflection, or of an anxious desire to discern and follow the path of duty.

The prospect of being able to conclude a favorable Treaty continues to be propitious : & with respect to the propriety of adopting the policy I have taken the liberty in my former despatches to recommend, of fully empowering me at once, under such additional instructions as may be thought necessary, to act in the premises, I may be permitted to mention the fact, in addition to the considerations I have already had the honor to suggest, that I am informed directly and indirectly, of an earnest wish on the part of the Mexican Govt. that the negotiation may be consummated before my departure from the Country.

UNAM - IIH

To guard against the misconstruction, I beg leave to observe that in making this statement at the risk of incurring the imputation of egotism, I do it merely because I deem it to be my duty to apprise you of this circumstance as one of the essential elements of the question to be determined; for that, independently of my desire to see the Tehuantepec controversy advantageously adjusted, and if possible a treaty relieving the U.S. from the harassing obligations of the 11th. article of the Treaty of Guadalupe concluded, (for which I have also reason to believe that a favorable time is at hand), I have not the slightest wish to prolong my residence in this capital. Indeed, I cherish the hope that both these objects may be accomplished by the time that I should otherwise be likely to be superceded, (about the first of May, I suppose) in consequence of the charge of administration.

On the 15th, Inst. his Britanic Majesty's Minister called to inform me that a memorial signed by persons of influence interested in the manufacture of cotton had the day before been presented to Genl. Lombardini through Genl. Uruga, asking a return to the old system of prohibition & exorbitant duties, which in accordance with the wishes of a vast majority of the Mexican people had been abolished by a decree of Mr. Cevallos; & to propose that we should without delay ask an interview with Genl. Lombardini for the purpose of ascertaining whether there was any danger of his gratifying the memorialists, & in that case, of endeavoring to dissuade him from doing so, in consideration of my having at the request of Mr. Cevallos given him my opinion very freely on this subject, in conformity with which he had acted, & of the great value of the Mexican market to our citizens, I did not hesitate to accompany Mr. Doyle at once to the Palace where we held with Genl. Lombardini the proposed conversation in the presence of the acting Minister of Relations, a memorandum of the substance of this conversation, herewith enclosed marked B, even the next morning drawn up by Mr. Doyle & with some slight modifications agreed upon between us for the purpose of obtaining Mr. Arroyo's assent to its accuracy, so as to leave no room for dispute with respect

to the assurances given to us by Genl. Lombardini-- It was immediately handed to Mr. Arroyo who assented to its truth, but Mr. Doyles informed me at the conference this morning that it had not yet been returned.

As the close of my despatch No. 21. I referred to a note from the Actg. Minister of Relations, containing an official notification of the appointment of Genl. Lombardini and the consequent retirement of Mr. Cevallos, a copy whereof was transmitted.

I now have the honor to inclose herewith a copy marked C. of my answer to this note, & beg leave to respectfully invite your attention to it as indicative of the opinions that as an impartial observer on the spot I have been constrained to form of passing event, and of the chief actors therein.

Caja 97, rollo 17, vol. 16, p. 170-3.

21 de febrero de 1853. México. J. Miguel Arroyo a Alfred Conkling.

El infrascrito Oficial Mayor encargado del Ministerio de Relaciones, recibió oportunamente la nota que S.E. el Sôr Alfredo Conkling, Env^o. Extr^o y Min^o Plen^o de los E.U. de Am^a le hizo el honor de dirigirle con fecha 6 del actual, en que contestando la de este Departamento del día anterior, referente al decreto expedido y contrato celebrado para la apertura de una vía de comunicación por el Ystmo de Tehuantepec, manifestó S.E. que, de conformidad con las instrucciones que tenía y con la invitación del infrascrito, tendría gusto en proceder a una negociación para la celebración de un Tratado que garantizando la neutralidad del paso por dicha vía, asegurase los copiosos frutos que debe proporcionar al mundo.

El que suscribe puso en conocimiento del E.S. General Depositario del Supremo Poder Ejecutivo la expresada nota, y S. E., deseoso a la vez de alcanzar aquel laudable fin, y de

promover cuanto pueda contribuir a cimentar las buenas relaciones que felizmente existen entre Mexico y los Estados Unidos sobre bases sólidas y durables, como lo son las que se fundan en la conveniencia y mutua utilidad, ha nombrado a los Exmos. Sres. General de División D. José María Tornel y D. Joaquín María de Castillo y Lanzas, Pleniponteciaros de la Republica, para que procedan a negociar con el Sôr. Conkling, el tratado a que se ha hecho referencia.

El infrascrito se lisonjea que S. E. verá en esa medida, una nueva prueba [*sic*] de los amistosos sentimientos que animan a México hacia los Estados Unidos, y que igualmente poseído de ellos S. E.; se complacerá en llevar a feliz término una negociacion tan importante en sus resultados para ambos países, por las ventajas que debe proporcionarles.

El infrascrito tiene la honra de reiterar a S. E. su muy distinguida consideración.

Caja 97, rollo 17, vol. 16, p. 173-4.

Sin fecha. México. Memorándum de Alfred Conkling y Percy W. Doyle. Ministros americano e inglés.

Memorandum

The American and English Ministers stated to H.E. Lombardini that they had cognizance of a document which had been signed by certain persons in this Capital and addressed to Genl. Uruga, the design of which was to induce the Genl. Governnt. to suspend the Decree issued by the late President of the Republic Dn. Juan Bautista Ceballos, for the purpose of abolishing the prohibitions and remodelling in part the Tariff, on the idea that he was not authorized to take such a step.

The Amn. & Engh. Ministers entered into full explanations with respect to perfect legality of the act in question amounting as it did from a President invested with full powers to carry on the Administration of the Government of the

country, and whom the Diplomatic Body had recognized as such: and the serious complications which must ensue with Foreign Governnts, if such a principle were for one moment to be admitted by them and that, were one act of Señor Ceballos declared to be invalid on such grounds, every act of his administration must be regarded as equally so.

They further explained the difficulties which would arise from such a step being taken, both with respect to the line of conduct which must under such circumstances, be adopted by Foreign Governnt., whose subjects and citizens would be thereby seriously prejudiced, as well as from the internal commotions which would take place in the Republic immediately that such a decision were made known.

H. E. Genl. Lombardini then stated that the Amer. & Eng. Ministers might feel at ease on this subject because he had resolved in no way to interfere with the Decree in question issued by Señor Ceballos, or to put for an instant in doubt the authority he had exercised as President of the Republic; but that, in accordance with the request made to him by the persons who had signed the document in question, he had no objection to their making use of the right they enjoyed in common with every other citizen of the Republic, to make any representation they chose to the Genl. Governnt. on any subject whatever; that with this view they might appoint such persons as they chose to draw up a representation which he would, on his part, have examined by persons duly authorized for that purpose, and that the whole case would then be laid before the President about to be elected by the votes of the several states, but that he would take no steps whatever to annul the Decree issued by Señor Ceballos.

Upon receiving the assurance from H.E. the American & English Ministers took then leave, considering it to be perfectly satisfactory.

Caja 97, rollo 17, vol. 16, p. 176-8.

5 de febrero de 1853. México. Decreto de Juan Bautista Ceballos para la apertura del Istmo de Tehuantepec.

Ministerio de relaciones interiores y exteriores.—El Exmo. Sr. Presidente interino de la República mexicana, se ha servido dirigirme el decreto que sigue:

El presidente interino de los Estados Unidos Mexicanos a los habitantes de la República sabed: Que considerando que la apertura del Istmo de Tehuantepec, ha llegado a ser ya, no sólo una exigencia comercial del mundo todo, sino una necesidad política para conservar la integridad y soberanía de nuestro territorio; que de no resolverse esta cuestión en el angustiado plazo que acaso queda para terminarla con toda independencia y dignidad, se vería tal vez envuelta y complicada con las cuestiones políticas, y la República en graves compromisos que redundarán en perjuicio de todos los habitantes; y considerando por último, que aprobándose las proposiciones de la Compañía Mixta, a la cual se han unido las de Oajaca y García, y los Estados de Oajaca, Tabasco y Chiapas, no solo resultarán grandes bienes materiales a la nación, sino que quedarán resueltas pacífica, tranquila y honrosamente las cuestiones que ha ocasionado este negocio; he tenido a bien decretar, usando de las facultades con que me hallo investido, y de conformidad con la ley de 14 de Mayo de 1852, y la convocatoria publicada en su consecuencia en 29 de Julio, lo siguiente:

Artículo único. Se aprueba con las modificaciones y aclaraciones que constan en la escritura de esta fecha, y que se hará pública, las proposiciones que para la apertura de la comunicación interoceánica por el Istmo de Tehuantepec, presentó la compañía mixta nacional y extranjera, bajo el nombre de A. G. Sloo.

Por tanto, mando se imprima, publique, circule y se le dé el debido cumplimiento. Palacio del gobierno general, en México a 5 de febrero de 1853.—Juan Bautista Ceballos.

Caja 97, rollo 17, vol. 16, p. 261.

5 de febrero de 1853. México. Contrato para la apertura del Istmo de Tehuantepec.

Sigue el texto del contrato que ya le ha sido enviado a Alfred Conkling y ha quedado transcrito.

26 de febrero de 1853. México. Alfred Conkling al Secretario de Estado.

I avail myself of the opportunity afforded by the immediate return of Lieutenant Williamson to the United States, though without any pressing need of doing so, to acquaint the Department with a few matters which it is my duty to communicate.

In my despatch 11th. I mentioned the imprisonment of Boon at Acapulco and transmitted a copy of a correspondence between the Minister of Relations and myself on the subject I heard nothing further in regard to it until the 11th. instant, when I received a letter from Mr. Ames the newly appointed consul at Acapulco, informing me that Boon had not yet been brought to trial or liberated. I thereupon in my answer to his letter informed him of the actual predicament of the case, and suggested the propriety of his making an effort on the spot by a personal application to the proper authorities to obtain the desired relief: and on the 11th. inst. I had the pleasure to receive a letter from him informing me of the liberation of Boon, an extract from which marked A, is herewith transmitted.

This evening I received from the Minister of Relations a note which I have the honor to enclose a copy marked B, accompanied by printed copies of a recent decree one of which also marked B I herewith transmit, by which as it will be seen that the ports of Huatulco and Altata are declared to be no longer open to foreign commerce.

With my last despatch I transmitted a copy of the memorandum of a conversation between General Lombardini, and Her Britanic Majesty's, Minister and myself, relative to certain

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recent commercial reforms, in the maintenance of which our countrymen have a deep interest. I have since received a note from the Minister of Relations acknowledging the accuracy of the memorandum, a copy whereof I have the honor herewith to transmit marked C.

In my last despatch I apprized the Department of the appointment of commissioners to treat respecting the transitway across the Isthmus of Tehuantepec. During the few days since this appointment I have not received any communication from the commissioners; but I learn that this delay has been occasioned by the unforeseen necessity of sending General Tornel to Puebla for the purpose of endeavoring to quiet certain political discontents in that quarter. I am informed also that Mr. Yañez late Minister of Relations has undertaken, at the request of the Executive Government, to prepare instructions for the commissioners, and this may be an additional cause of delay, though I have reason to believe that I shall receive a programme of a convention very soon after the return of General Tornel, who is expected in two or three days.

Under these circumstances and those mentioned in my recent despatches on this subject, all of which I trust will have been received, I need not add, that I shall expect with some impatience, the further instructions of the Department, to relieve me from a position of no little embarrassment, and to enable me to fulfill the wishes of the Government.

Caja 97, rollo 17, vol. 16, p. 268-70.

26 de febrero de 1853. México. Boletín Oficial del Supremo Gobierno.

MINISTERIO DE RELACIONES INTERIORES Y EXTERIORES. Debiendo procederse a la celebración de un tratado con los Estados Unidos de América para el reconocimiento expreso de la neutralidad del paso por el istmo de Tehuantepec, en caso de guerra, con arreglo a la 4^a de las bases del artículo

2º de la ley del congreso general del 14 de Mayo último; deseando el Exmo. Sr. general depositario del supremo poder ejecutivo, confiar tan importante negociación a personas cuyas luces, honradez y patriotismo aseguren su feliz término, y concurriendo tan apreciables circunstancias en V. S., según lo ha acreditado en los distinguidos puestos que ha desempeñado con tanto provecho para la República, S. E. se ha servido nombrar a V. S. plenipotenciario, para que en unión del Exmo. Sr. general de división D. José María Tornel, investido con igual carácter, proceda a negociar el tratado referido, con el Sr. Alfredo Conkling, enviado extraordinario y ministro plenipotenciario de los Estados Unidos, a cuyo fin se remitirán a V. S. oportunamente, el pleno poder e instrucciones necesarias.

S. E. espera que gustosamente prestará V. S. este nuevo servicio a la República, admitiendo tan interesante comisión; y al comunicárselo tengo la honra de reproducir a V. S. mi distinguido aprecio y consideración.

Dios y libertad. México, Febrero 19 de 1853.—J. Miguel Arroyo.—Sr. D. Joaquín Castillo y Lanzas.

[Respuesta de J. M. de Castillo y Lanzas.]

Exmo. Sr. Por la atenta comunicación oficial de V. E. de 19 del presente mes, me he impuesto de que el Exmo. Sr. general depositario del supremo poder ejecutivo, se ha dignado nombrarme plenipotenciario, con el fin de que, en unión del Exmo. Sr. general de división D. José María Tornel, investido del mismo carácter se proceda a negociar con el Sr. Alfredo Conkling, enviado extraordinario y ministro plenipotenciario de los Estados Unidos de América, el tratado que se ha de celebrar con los referidos Estados para el reconocimiento expreso de la neutralidad del paso por el Istmo de Tehuantepec en caso de guerra.

Si yo atendiera solamente a la gravedad del negociado, desconfiando de mi suficiencia, debería suplicar que se tuviese a bien eximirme del desempeño de tan ardua comisión; mas siguiendo el sistema, a que siempre me he atenido, de obsequiar las órdenes del gobierno supremo, especialmente en lo

que se refiera a intereses generales de la nación, admito gustoso el presente cargo.

En cuanto de mí dependa, procuraré corresponder a la nueva muestra de confianza que en él se ha servido dispensarme la superioridad, animado con la satisfacción que me inspira el contar para ello con el apreciable auxilio del ilustrado Sr. General Tornel.

Al manifestarlo a V. E. en contestación, tengo la honra de reproducirle las protestas de mi atenta consideración y personal aprecio.

Dios y libertad. México, Febrero 21 de 1853.- J. M. de Castillo y Lanzas.- Exmo. Sr. D. J. Miguel Arroyo, oficial mayor encargado del despacho del ministerio de relaciones.

[Sigue la respuesta de José María Tornel.]

Habiendo la Compañía Mixta autorizada para la apertura de la vía de comunicación inter-oceánica por el Istmo de Tehuantepec, manifestado en 7 de Febrero sus deseos de comenzar a la mayor posible brevedad las obras del camino, y que en consecuencia había nombrado a los Sres. D. Bonifacio Gutiérrez, Lic. D. José González de la Torre e ingeniero Mr. John Williams, para que pasasen al terreno de la espresada vía de comunicación, con objeto de que por las autoridades se les diese la posesión correspondiente, en cuya virtud solicitó se espidiesen las órdenes necesarias al efecto, y se nombrase por el supremo gobierno, y por la parte que tiene en la empresa, la persona que debiera representarle, el mismo gobierno supremo nombró en aquella fecha, interventor, al Sr. general D. Ignacio de Mora y Villamil, de conformidad con el artículo 18 del contrato celebrado en 5 del propio mes, con la referida Compañía Mixta.

AVISO

Habiendo el Sr. ministro de los Estados Unidos de América en esta capital nombrado al Sr. F. Sisos para que interinamente se encargue del consulado de su nación en el puerto de Veracruz, y concedídose a su patente el *exequetur* de estilo, se le han librado las órdenes correspondientes para

que el Sr. Sisos sea reconocido con el espresado carácter, y pueda ejercer las funciones a él anexas.

México, Febrero 23 de 1853.

Caja 97, rollo 17, vol. 16, p. 272-3.

24 de febrero de 1853. México. J. Miguel Arroyo a Alfredo Conkling y Percy W. Doyle.

Les notifica que recibió la nota del 16 de febrero, así como el memorándum, que contiene la conferencia sostenida entre ellos y el encargado del Poder Ejecutivo en la que trataron sobre reformas de aranceles.

Caja 97, rollo 17, vol. 16, p. 274.

11 de febrero de 1853. Washington. Edward Everett a G.G. Goss.

Sir:

The President being favorably impressed with the manner in which you carried into effect the instructions of this Department of the 20th. December, 1850, relative to a cemetery in the neighborhood of the City of Mexico, has directed me to employ you for completing the work as provided for in the Civil and Diplomatic Appropriation Act approved 31st. August, last. You will accordingly proceed to Mexico for that purpose and will consider your former instructions in force with the exception that your compensation will be eight instead of six dollars a day from the time of your departure from until your return to this City. The sum of one thousand dollars is now advanced to you on account of your expenses.

I am...

National Archives. Records of the Department of State. *Diplomatic Instructions. Mexico*. Vol. 16, p. 360-361.¹

¹ Al final de la carta una nota dice que para la carta de la misma fecha a Mr. Goss debe verse la página 385.

17 de febrero de 1853. Washington. Edward Everett a Alfred Conkling.

Sir:

I beg leave to introduce to your personal acquaintance Mr. G. G. Goss, a gentleman engaged, on behalf of the United States, in the purchase and arrangement of a cemetery near the City of Mexico, and in superintending the re-internment therein of the remains of such officers and soldiers of our army as died or were killed during the operations before the City, and its vicinity.

Mr. Goss has hitherto discharged the duties devolved upon him in such a manner as to merit the approbation of this Department, and of the President, and in the further prosecution of this work I am confident that he will derive much advantage and gratification from your kind cooperation.

I am...

National Archives. Records of the Department of State. *Diplomatic Instructions. Mexico*. Vol. 16, p. 361-362.

17 de febrero de 1853. Washington. Edward Everett a Alfred Conkling.

Sir:

You are doubtless aware that under provisions of an act of Congress a cemetery has been purchased and laid out in the vicinity of the City of Mexico, in which the bodies of American officers and soldiers who lost their lives in the operations near that city have been reinterred, and which, it is intended, shall be reserved for a burial place for such of our fellow citizens as may hereafter die in Mexico.

This work has been under the supervision of G. G. Goss, Esquire, a gentleman who possesses the confidence of the President, and who has just been reappointed by him to return to Mexico to complete the arrangements already projected. He will be guided by your counsel and directions in the

premises subject of course to the instructions originally issued to him from this Department, a copy of which you will find annexed to despatch N° 48 of the 20th. December 1850, addressed to your predecessor.

In a memoir to this subject which has been presented to the Department by Mr. Goss, he suggested "that the Consul acting in concert with our Minister resident at the City of Mexico, have charge of the cemetery, and be allowed to charge burial fees to defray all necessary expenses and keep the grounds in order.

For each interment of American citizens twenty five dollars.

All foreigners thirty five dollars.

Five dollars in every case be allowed the sexton.

Consul to keep a register of all interments with an account of monies received and expended and report once year".

These suggestions appear to be judicious. With your better opportunities of obtaining all necessary information upon the subject, however they are referred to you, and if they meet the approval of your judgement you will take the necessary measures for carrying them into effect.

Your despatches to N° 12 inclusive, have been received. This despatch will be handed to you by Mr. Goss, who bears also a personal letter of introduction from me.

National Archives. Records of the Department of State. *Diplomatic Instructions. Mexico*. Vol. 16, doc. núm. 12, p. 362-364.

19 de febrero de 1853. Washington. Edward Everett a Alfred Conkling.

Sir:

Mrs. Porter, the widow of the late Commodore Porter has requested that you might be instructed to endeavor to enable here to realize something from a grant of land by the Mexican Government to the Commodore, the original of

which is understood to be in your possession. If, therefore, your personal good offices can be made useful towards accomplishing the object which Mrs. Porter has in view, you are authorized to employ them for that purpose. It is not customary for the Department to instruct the diplomatic agents of the United States abroad to present officially to the Governments to which they may be accredited any other claims of citizens of the United States upon those governments than those which may have originated in injuries to the persons or property of those citizens by authorities of the foreign governments.

I am...

National Archives. Records of the Department of State. *Diplomatic Instructions. Mexico*. Vol. 16, doc. núm. 13, p. 364-365.

8 de marzo de 1853. Washington. William L. Marcy a Alfred Conkling.

Sir:

I have the honor to inform you that the President has appointed me Secretary of State of the United States and that I have this day entered upon the duties of that office.

I am...

National Archives. Records of the Department of State. *Diplomatic Instructions. Mexico*. Vol. 16, p. 366.

22 de marzo de 1853. México. Alfred Conkling a su Secretario de Estado.

I had the honor several days ago to receive the dispatches from the Department of State, N° 11, relative to an outrage committed at Tampico on three american citizens; and N° 13 relative to the claim of Mrs. Porter against Mexico

to remuneration for the services rendered to the Republic by her late husband. But I have not yet received any despatch from the Department numbered 12.

In pursuance of the instructions contained in despatch N° 11, I immediately addressed to the Mexican Minister of Foreign Relations, a note, a copy of which marked A, I have the honor to inclose. To this note, I received last evening, an answer, a copy of which, also marked A is herewith transmitted.

In accordance with the request contained in Mrs. Porter's letter accompanying despatch N° 11, I herewith inclose a letter to her containing a certified copy of a grant of land to Commodore Porter.

On the 12th. instant I received from the Minister of Foreign Relations a note, a copy whereof I have the honor to inclose herewith marked B, complaining of the contenance given to the notorious Carbajal, by American citizens, in his lawless incursions from Texas into the Mexican territory; to which I returned an answer, a copy of which I herewith transmit also marked B.

Caja 97, rollo 17, vol. 16, p. 274-5.

15 de marzo de 1853. México. Alfred Conkling a J. Miguel Arroyo.

The undersigned Envoy Extraordinary and Minister Plenipoten^o of the U. S. of America, has the honor to transmit herewith to H. E. Mr. Arroyo acting Minister of Foreign Relations -- 1st. a copy of a letter from the American Consul at Tampico, marked A; 2nd. the protest of John A. Tyler, M. E. Milner and Jesse Jones citizens of the U. S., marked B; 3rd. the deposition of three persons just named relative to the violent seizure of their persons and property at Tampico in December last, and the unlawful exaction from them of the sum of \$ 3.208.50. These papers were received by the last evening mail; and the same mail brought also a despatch from

the Secretary of State of the U. S. to whom the facts had been communicated by the Consul, peremptorily instructing the undersigned to.—“demand prompt restitution of the amount of money of which these citizens have been plundered together with the payment of such interest and damages as would in business transactions be deemed just and proper in view of the illegal detention of the same”.

The undersigned has the honor.

Caja 97, rollo 17, vol. 16, p. 276.

22 de marzo de 1853. México. J. Miguel Arroyo a Alfred Conkling.

Le informa que ha recibido su nota del día 15 “relativa a la confiscación de \$ 3.208.50 que se dice haber sido ilegalmente hecha en Tampico” a los ciudadanos americanos John A. Tyler, Moses E. Milner y Jesse Jones.

Le responde que se han pedido los informes necesarios sobre este asunto.

Caja 97, rollo 17, vol. 16, p. 277.

12 de marzo de 1853. México. Miguel Arroyo a Alfred Conkling.

El infrascrito Oficial Mayor Encargado del Ministerio de relaciones, tiene el honor de poner en conocimiento de S. E. el Señor Alfredo Conkling Enviado Ext^o y Ministro Plenipot^o de los E. U. de América que por comunicaciones oficiales dirigidas al Ministerio de la Guerra, se halla instruido el Supremo Gobierno de que habiendo mandado el General en Jefe del Ejército Mejicano del Norte una partida de tropas en persecución de Carbajal, éste con 70 u 80 de los suyos, se acogió al territorio de los Estados Unidos, en el que otras veces ha preparado y prepara sus expediciones para introducirse al de la República a ejercer las depredaciones que tiene

de costumbre y apoderarse de los intereses y propiedades de Ciudadanos Mejicanos.

Con tal motivo el E. S. General Depositario del Supremo Poder Ejecutivo ha ordenado al infrascrito llame la atención de S. E. el Señor Conkling a esos hechos a fin de que comunicándolos a su Gobierno se sirva dictar las prontas y eficaces medidas que demandan para impedir que en el territorio Americano se preparen expediciones como las de que se trata, y que a él se acoja con sus secuaces el principal motor de ellas con infracción del Derecho de gentes, de los Tratados entre ambos países y de la amistad buena armonía que felizmente existe [sic] entre ellos.

Contando con la equidad y buena disposición que animan a S. E. el infrascrito se promete que sin pérdida de momento lo pondrá en conocimiento de su Gobierno, y se tomarán por él las providencias correspondientes; y a la vez tiene la honra de reiterarle su muy distinguida consideración.

Caja 97, rollo 17, vol. 16, p. 277-8.

14 de marzo de 1853. México. Alfred Conkling a J. Miguel Arroyo.

The undersigned Envoy Extraordinary and Minister Plenip^o of the U. S. of America has the honor to acknowledge the receipt of the note of his Excellency Mr. Arroyo acting Minister of Foreign Relations, under date of the 12th. inst. in which H. E. informs the undersigned of renewed incursions by marauders led on by Carbajal into the Territory of Mexico, and of their escape into the adjacent territory of the U. S. when pursued by the troops of the Republic.

The note of H. E. seems also to infer an opinion on the part of the Govrnt. of Mexico that these lawless and parasitical enterprises are begun or set on foot by the notorious traitor above referred to, in the U. S. in violation of the laws thereof. That there should be ground for such an opinion is a circumstance not less deplored by the undersigned, than by

the Governmt. of Mexico, and H. E. Mr. Arroyo may rest assured that no time will be last by the undersigned in communicating to his government his Excellency's note to the end that the necessary inquiries may be promptly made and the proper steps taken to remove all ground for complaint or dissatisfaction on the part of the mexican Government.

Caja 97, rollo 17, vol. 16, p. 278-9.

24 de marzo de 1853. México. Alfred Conkling al Secretario de Estado. (Despacho 26.)

I have the honor to transmit to you herewith a convention between the United States and Mexico relative to the contemplated transit-way across the Isthmus of Tehuantepec. It was signed, as you will observe, on the 21st. instant, by the Mexican Plenipotentiaries and myself, and will without delay, be ratified by Genl. Lombardini who, under the title of the General in chief Depositary of the Supreme Executive Power, is now, with the acquiescence and express recognition of the Mexican people exercising all the powers of Government in the Republic except those which are strictly judicial. My recent correspondence with the Department will show that in taking the step I have mentioned, I acted under a full sense of its responsibility. But even though it should appear to you not to admit of complete justification, I trust that the extraordinary circumstances in which I found myself placed, will at least be deemed sufficient to excuse it. To narrate these circumstances and accompany them with explanations sufficiently minute to enable you accurately to intimate their force, would swell my despatch to a volume. Some of them, moreover, are of a nature so delicate as to preclude their communication in this form. I shall therefore content myself with little more than a mere statement of the conclusion to which, in my judgement, they indisputably lead; and it is this: that if I had shrunk from the weighty responsibility of signing this

convention without delay, the United States would have lost an opportunity far more favorable than any we should ever have had again to obtain terms so advantageous, and the only one, there was any reasonable prospect of our soon having to obtain terms that we should have deemed admissible at all. Had it not been for one of the circumstances to which I have alluded, I might, indeed, have insisted on deferring the signing of the Convention for two or three weeks.

This, the hope of receiving instructions and full powers which I could not but flatter myself were already on their way, I was very desirous of doing; and until I became apprised, almost at the last moment, of what seemed to me to be a conclusive objection, I had determined to do.

But, when, by dint of strenuous efforts, the formidable obstacles to an agreement between the Mexican Plenipotentiaries and myself were at length nearly surmounted, one of the gentlemen, General Tornel, announced his determination, in a very few days, to set out on a journey to the coast, to prepare for and meet General Santa Anna, on his return, and with the intention of remaining in the Capital, probably about the middle next month. General Tornel was therefore desirous of having the Convention signed before his departure. He is, as this step indicates, a jealous partizan and friend of General Santa Anna who is well known to indulge a hostile spirit towards the United States. Of this you will probably have seen conclusive evidence in his answer to one of the commissioners sent to Carthagená to announce to him his recall and invite his return. In these facts I saw strong grounds for the apprehension that if the signature of General Tornel should be deferred until his return, it would never be obtained. Such was also the decided opinion of a gentleman whom I have considered it proper freely to consult throughout the negotiation, and whose invaluable assistance in allaying jealousies and removing impediments, it affords me sincere pleasure to acknowledge. I refer to Mr. William D. Lee. I found this gentleman here on my arrival, attached to the Legation, and acting also as the agent and Attorney of Mr. Sloo as an applicant for the grant which has at length been obtained

for himself and others, of the privilege of constructing the projected transit-way, and which forms the basis of this Convention. Mr. Lee is a gentleman of great intelligence, of indomitable energy and perseverance, and of extensive and varied experience in affairs. He possesses a large acquaintance with mankind, and an intimate personal acquaintance with many of the most intelligent and influential men of this Capital, having the advantage of speaking their language with ease and fluency. He is therefore thoroughly versed in Mexican affairs, opinions and feelings. It was for these reasons that, as I have already observed, I saw fit to confer with him without reserve: and I do not scruple to add that in finally resolving to sign the Convention at once, I was in no slight degree influenced by his strong and decided convictions in accordance with my own, that a golden opportunity would otherwise be irretrievably lost.

I have now, Sir, said all that I deem it proper to trouble you with in explanation of my motives for presuming to affix my signature to this Convention. If, instead of having thereby secured the approbation of my Government, I am in the sequel to learn that I have incurred its displeasure, and especially if I am doomed to see the fruit of my labors repudiated, I shall certainly regard this result as a calamity; but I hope to be pardoned for adding, that I shall nevertheless continue to enjoy the approbation of my own conscience.

It remains only to speak briefly of the provisions of the Convention: and I have in the first place to observe, that they are the most favorable it was possible for me to obtain.

On referring to the grant, it will be seen that Mexico has been careful to exact substantial advantages to herself. For these, however, being *res inter alios acta*, it is needless to say, I am in no respect answerable. It will not fail to be observed, moreover that they concern rather the grantees than the United States, and these gentlemen are understood to be well satisfied with their contract as it is.

The grant, however, imposes a limitation to which it is proper for me to advert. It forbids the conveyance of armed forces without express authority from the Mexican Government.

This restriction has proved one of the most stubborn of the obstacles I have had to overcome. I can not pretend to form an accurate estimate of the value the American Government will attach to the right of using the transit-way for the transportation of troops, to and fro, from opposite sides of the Isthmus; and it may be that I have overrated it. But I was of opinion that a stipulation on the subject in some form, was indispensable. The subject, however, was environed with difficulties. In addition to the prohibition contained in the grant, which was understood to require an application to the Supreme Government in each case, the power to permit or forbid the entrance of foreign troops into the Republic, was by one of the articles of the constitution confided exclusively to congress.

This made the Mexican Plenipotentiaries extremely reluctant to meddle with the subject at all.

They could not, with propriety, and did not, deny that the constitution had, by recent events, been rendered obsolete, that the very powers under which they were acting had been conferred by no authority derived from it, and that all expectation even of its revival had been abandoned: but they said that every constitution that had been framed, contained the above mentioned provisions, and that they dreaded the public censure they might and probably would incur by disregarding a pervading public sentiment in accordance with this provision, and of which it was the fruit.

Finding, however, that I did not feel myself warranted in yielding to these scruples they at length consented to the article (the Eighth) providing for the case, and which I trust will be satisfactory.

With respect to the Second and Third Articles, binding the contracting parties to protect persons and property during the progress of the work and after it shall have been completed, and to guarantee its neutrality; which ought doubtless to be regarded as the most important parts of the convention, I have to observe, that, although I could not succeed in obtaining the assent of the Mexican Commissioners to all the forms of expression which I preferred in

framing these articles, but on the contrary, met with sufficient difficulty in getting them agreed to as they are, if I am not wholly mistaken they will be found to be, in substance, exactly adapted to the objects in view. Recollecting the difficulties, so great as in the end to prove insurmountable, encountered in the efforts to conclude a Convention relative to the Garay grant, arising from the inability of the two Governments to come to any mutually satisfactory agreement with respect to the circumstances under which, and the mode in which, the United States should interfere for the purpose of affording the required protection, and clearly foreseeing that any regulations for this purpose acceptable to both parties, which could possibly be devised, would be likely to render our guaranty measurably nugatory, I have been of opinion from the moment I first directed my attention strongly to the subject, that it was of the last importance, if possible to avoid this rock, by the use only of general terms in providing the necessary guarantees. This, will you perceive, has been done; the Mexican Plenipotentiaries finally agreeing to waive a proposition offered by them, forbidding any forcible interposition by the United States under whatever circumstances, except upon the invitation of Mexico, and requiring that any troops or ships of war furnished by the United States under the Convention, should be placed under the command of Mexican officers while so employed a proposition that, I need hardly say, I deemed wholly inadmissible. As the articles in question now stand, the contracting parties are at liberty to act in concert or separately according to circumstances, and each will be, as, for the convenience and advantage of all parties concerned, they ought to be, the judge of the occasions and modes of their interposition in discharge of the obligations they have assumed. Thus will the duty of the United States, as well as that of Mexico, be rendered comparatively simple, and its performance effective. I hope I do not err in ascribing very high value to this feature of the Convention.

The provision contained in the Third Article giving to the United States a qualified right to withdraw their protection

and guaranty, met with determined opposition from the Mexican negotiators, unreasonably, as I thought, but after some modifications of the stipulation and further discussion, the point was gracefully yielded by these enlightened and honorable gentlemen, in a genuine spirit of conciliation.

The remaining Articles do not appear to me to require any particular notice from me on this occasion. They speak for themselves, & all of them seem to me pertinent and unobjectionable.

I trust it will not be deemed arrogant for me in conclusion to give utterance to an earnest hope, that for the reasons I have already mentioned and for many others this Convention may be ratified by my Government. Though it should be found wanting in some things which it ought to contain, and even though it should appear to be, to some extent, objectionable on other accounts, it would, in my judgement be infinitely better to adopt it as it is, and trust to future negotiation to remedy these defects, than to return it for amendment. This latter policy it will be remembered, was the shoal on which the Convention in the case of the Garay grant was stranded.

Whether its failure ought now to be regarded as a misfortune or not, it may at least serve as a beacon of warning for the future. It will be seen that, although I have as yet received no certain information on the subject, I have ventured to assume that the new grant will have proved an acceptable substitute, so far as the Government is concerned, for the grant to Garay. Having during my brief residence in this Capital, become thoroughly convinced that the latter can be enforced only at the point of the bayonet, I have naturally been led to the conclusion that under existing circumstances, sound policy, a just regard for the enlightened opinion of mankind and the claims of humanity all conspire to dissuade us from any longer insisting upon its fulfillment.

P. S. By accident & inadvertance, on the separation of the negotiation at a late hour of the night, after signing the Convention that part of it having the spanish column on

the left hand, was brought away by me, & I have not thought worth while to propose an exchange.

I transmit this dispatch and others, by the hand of Major Yturvide, a highly respectable mexican gentleman, whom I have appointed bearer of dispatches for that purpose.

With great respect...

Caja 97, rollo 17, vol. 16, p. 279-87.

24 de marzo de 1853. México. Alfred Conkling al Secretario de Estado de su gobierno. (Despacho número 27.)

In despatch N^o 23, I ventured to intimate an opinion that the time was near at hand when a negotiation might be opened with the Mexican Government touching the 11th. article of the Treaty of Guadalupe Hidalgo, with some prospect of success. The Tehuantepec negotiation having been disposed of, for the present at least, I now believe that this time has arrived, and I propose very soon to sound this Government with respect to the new subject I have mentioned. In a conversation I had last evening with a gentleman who possesses rare opportunities for the acquisition of authentic information, as to the views and feelings of the men now in power here, he asked me with an air of great significance what substitute was to be proposed for the stipulations of the article in question. The idea of a substitute was new to me. My instructions speak only of a simple release of our obligation under that article to restrain and prevent indian depredations, and it had not occurred to me, nor do I now perceive, that the subject admits of compromise, except in the simple form of a pecuniary indemnity. But there is one element in the case, german [*sic*] to this idea, not noticed in my instructions, to which I take the liberty of inviting your attention. The 33rd. article of the treaty of 5th. April 1851, also, in express terms, obliges us "to restrain, by force, all hostilities and incursions on the part of the Indian Natives" living within our boundaries, and not "to suffer" them "to

attack the citizens" of the United Mexican States, not "the Indians inhabiting their territory".

Now, although there is in the 11th. article of the treaty of Guadalupe Hidalgo a studious multiplication of words indicative of a greater intensity of purpose, in imposing this obligation, yet the obligation created by the former treaty is substantially the same as that incurred by the latter. It is true the latter, in terms, requires the United States to punish the Indians for depredations which cannot be prevented, and to exact satisfaction therefore. But these requirements are little else than a specification of means of secondary efficacy for the attainment of the end in view, and do not, as I have already observed, essentially vary the principal obligation. Neither of the treaties bind us, in terms, to make reparation, both alike, leaving this obligation to rest on the general principle obliging a delinquent party to a contract to make reparation in damages for its nonfulfillment. By the 9th. article of the treaty of Guadalupe, the treaty of 1831 is continued in force absolutely for 8 years, and in perpetuity subject only to the right of terminating it by giving one year's notice. It is true these stipulations in the two treaties are in *pari materia*; but there is no inconsistency between them and both, I presume, are to be considered as still operative; and even if this were otherwise, if the rule that, as you are aware, governs in the case of statutes is, as I suppose, applicable also to treaties, the 33rd. article of the treaty of 1831 would be revived by the abrogation of the 11th. article of the treaty of Guadalupe. The question then presents itself whether the proposed treaty, if one can be obtained, ought not, either in specific terms, or by general language sufficiently comprehensive for the purpose, release us as well from the stipulations in question in the former as in the latter treaty. I foresee that a proposition to this effect would probably jeopard the success of the negotiation, and for this among other reasons it is that I have deemed it proper to trouble you with this detail, to the end that you may consider whether it is not advisable to give additional instructions on this point, should the negotiation be delayed or protracted for a time sufficient to admit of it.

In the absence of such instructions, I propose, to be governed by circumstances, and to do the best I can.

Caja 97, rollo 17, vol. 16, p. 288-9.

29 de marzo de 1853. México. Alfredo Conkling al Secretario de Estado. (Despacho 29.)

I avail myself of the opportunity furnished by the intended departure at an early hour tomorrow morning for Washington of Don Ramon Olarte, to transmit to you herewith inclosed a copy of a note received this evening from the Mexican Minister of Relations communicating the fact of the ratification of the treaty between the United States & Mexico, signed in this city on the 21st. instant, & which I have already had the honor to transmit to the Department of State.

Caja 97, rollo 17, vol. 16, p. 293.

29 de marzo de 1853. México. J. Miguel Arroyo a Alfred Conkling.

El Ynfrascrito Oficial Mayor Encargado del Ministerio de relaciones tiene el honor de comunicar a S. E. el S. Alfredo Conkling Enviado Extraordinario y Ministro Plenipotenciario de los E.E.U.U. de América, que habiéndose sometido a la consideración del E. S. General Depositario del Spmo. Poder Ejecutivo, el tratado de neutralidad en el paso por la vía de comunicacion por el Ystmo de Tehuantepec, firmado por S. E. el Sor. Conkling y los Exmos. Sres. Plenipotenciarios D. José María Tornel y D. Joaquín María Castillo y Lanzas, con fecha 21, del corriente, ha sido ratificado hoy por S. E.

El infrascrito al poner en conocimiento de S. E. el Sor. Alfredo Conkling lo que lleva expuesto, le reitera las seguridades de su muy distinguida consideración.

Caja 97, rollo 17, vol. 16, p. 293.

7 de abril de 1853. Washington. William L. Marcy al representante diplomático y a los agentes consulares de los Estados Unidos en México.

Gentlemen:

The Honorable Volney E. Howard, of Texas, late a distinguished member of Congress, having been appointed Law Agent to the Commissioners for adjusting land claims in California, is about to repair to his post in that State, and finds it convenient to prosecute his journey thro' the territory of Mexico.

In affording to Mr. Howard such facilities as he may from time to time require, and in extending to him such courtesies as you may be enabled to bestow, you will materially advance the objects of an eminent officer of the Government, and at the same time confer a favor which will be duly appreciated by an accomplished gentleman, and by our obedient servant.

National Archives. Records of the Department of State. *Diplomatic Instructions. México*. Vol. 16, p. 366-367.

9 de abril de 1853. México. Alfred Conkling a William L. Marcy, Secretario de Estado.

I have the honor to acknowledge the receipt of your despatch No. 14.

Last evening I received from the acting Minister of Relations a note of which I have the honor to inclose, herewith, a copy, marked A. Accompanying the note were the printed documents referred to therein, and herewith inclosed, likewise marked A. This morning I returned an answer, a copy whereof I also have the honor to inclose marked B.

Being at the Palace yesterday I happened to encounter Mr. Arroyo, the Minister of Relations, and he availed himself of the opportunity to speak to me with great earnestness of the conduct of Governor Lane, of which the Government had but a few hours before been informed by a courier from the

Governor of Chihuahua. He informed me that he had prepared a note to me which was in the hands of a copyist, that he intended to despatch a courier to the Governor of Chihuahua in the course of the night and he proposed that I should also write to Governor Lane. To this I answered that such a step on my part would be unusual, but that I would consider of it after the receipt of his note. The note was not received until five o'clock in the afternoon, and in it, as you will perceive, the proposal I have mentioned is reiterated. After a careful perusal of it and of the accompanying documents, not doubting that Governor Lane, acting, probably, under misapprehensions, had committed a grave error, I determined, on account of what appeared to me the pressing emergency of the case, and the gravity of impending consequences, frankly, but courteously, to apprise him of the opinion I entertained of the line of conduct he had seen fit to adopt; and I accordingly addressed a letter to him, of which I inclose a copy marked C.

The Mexican Government is fully determined to resist to its uttermost the pretensions of Governor Lane, and I cannot but hope that he will, upon further reflection, desist from the violent measures to which he seems, at the outset, to have determined to resort, if necessary to the accomplishment of his purpose. But as this may be otherwise, I respectfully suggest, should the views of the President on the subject coincide with those I have expressed to Governor Lane, the propriety of the most prompt and effectual measures to prevent the disastrous results that may otherwise ensue.

On the first day of March I received from Mr. C. Markoe, a merchant and planter residing at Veracruz, a letter, of which I transmit herewith a copy marked D, and also a copy of my answer thereto, also marked D, which narrates my conduct relative to the painful subject of the correspondence. Subsequent to the conversation between Mr. Arroyo and myself, mentioned in my letter, he informed me that he had received a letter from the Governor of Veracruz informing him that the assassins were on trial, with every prospect of their meeting condign punishment, and that, in order the

more effectually to ensure justice, he had required full reports to be made to him from time to time of the proceedings. It was not without surprise, therefore, that I received from Mr. Markoe on the fifteenth day of last month, a very censorious reply to my above mentioned letter to him, in which, after expressing at great length his dissatisfaction with my conduct, he informed me of his intention to bring the case directly to the notice of the Government of the United States. It is for this reason only that I deem it necessary, now, at this late day, to trouble you with the affair at all.

Sunday morning April 10th. you will doubtless have been already apprised of the arrival of General Santa Anna at Veracruz on the first day of the present month. He is understood now to be at his Hacienda del Encero, having announced to the acting Minister of Relations his determination to leave Veracruz on his way thither on the 6th. instant, adding that he designed to depart thence and repair to the Capital as soon as possible. It is positively stated in one of the City papers of this morning, that he will arrive here on the fifteenth.

Caja 97, rollo 17, vol. 16, p. 294-6.

29 de marzo de 1853. Chihuahua, México. Alcance al Centinela, número 13, periódico oficial del gobierno.

ATENCIÓN
Muy Importante.

Doña Anna.—Territorio de Nuevo México, Marzo 13 de 1853.- A su Excelencia D. Ángel Trías Gobernador y Comandante general. Chihuahua.

Señor.—Sírvasse V. recibir una copia de la proclama relativa al territorio en cuestión realizada en las márgenes del río Bravo.

El gabinete de Washington ha desaprobado el procedimiento de la comisión de límites tocante al punto inicial sobre el río Bravo a los 32 grados 22 minutos L. O. y es

por consiguiente el deber de las autoridades constituidas de este territorio ejercer jurisdicción en esta parte integrante del territorio de Nuevo México hasta que la cuestión de límites sea arreglada; y suplica a V. de orden para que el terreno sea entregado en conformidad.

Tengo el honor de ser señor su más obediente servidor.-
Wm. Carr Lane, gobernador de N. México.

PROCLAMACIÓN

En cuanto, una porción de territorio, sobre la banda del poniente del Río Bravo del Norte, treinta y cuatro millas de ancho, por ciento setenta y ocho millas de largo, siendo el mismo más o menos, es ahora reclamado por los Estados Unidos de América, y por la República Mejicana, respectivamente, bajo las provisiones de los tratados de Guadalupe Hidalgo.

2. Desde el año de 1824, y anteriormente a esta fecha, hasta el año de 1851, esta porción de territorio fue reconocido de estar dentro los límites de Nuevo Méjico; mas en el año de 1851 el estado de Chihuahua arrogó jurisdicción sobre aquel territorio, sin manifestar autoridad alguna por este acto, de la República Mejicana, y sin haber obtenido la aprobación de los Estados Unidos, o la del Territorio de Nuevo Méjico, y en despecho de los reclamos de una porción grande de los habitantes del territorio disputado, el número de los cuales entonces eran cerca de dos mil almas.

3. Durante la discusión de la cuestión de límites, bajo los tratados de paz, los comisionados de Méjico, propusieron abandonar una parte de este territorio disputado, por medio de dividirlo entre las dos Repúblicas. Y durante el año de 1852, los Estados Unidos virtualmente alegó un derecho de soberanía, sobre todo el Territorio en disputa.

4. El reclamo de Chihuahua a este Territorio litigado, es creído de ser fundado, sobre la asunción insostenible que la Junta de los Comisionados de límites había convenido sobre la línea entre Chihuahua y Nuevo Méjico; y el convenio de ellos en las premisas, era obligatorio tanto sobre los Estados Unidos, como sobre la República Mejicana, y por lo

consiguiente conclusivo; por cuanto un convenio válido, no había sido hecho, y no ha sido hecho todavía, por dicha Comisión, mas la acción de la Comisión ha sido virtualmente repudiada y nulificada por los Estados Unidos.

5. Las dos Altas partes contratantes a los Tratados de Guadalupe, "ex re necessitate", tácitamente reservaron el derecho; de aceptar o rechazar, la decisión de la Junta de Comisionados de Límites, y si la Junta hubiese asignado la Ciudad de Chihuahua y el país al Norte de ella a los Estados Unidos o a la Ciudad de Santa Fe y el Territorio al Sud de ella, a la República Mejicana, la acción de la Junta por cierto no hubiera sido considerada como conclusiva.

6. Desde que el Territorio en cuestión, fue así por fuerza ilegalmente agregado al Estado de Chihuahua, aquel Estado ha notablemente faltado, en la protección de los habitantes del Territorio, en su derecho de persona, de propiedad, y de conciencia, y más, no ha hecho una defensa razonable contra las incursiones de los indios fronterizos y en ella, evitado reclamos contra los Estados Unidos, por propiedad llevada por los indios.

7. La actual condición revolucionaria de la República Mejicana impide la esperanza de una protección adecuada que pudiera ser hecha por aquella República a los habitantes en este Territorio litigado, al tiempo presente; y una parte considerable de los habitantes ahora reclaman la protección de los Estados Unidos y solicitan la re-agregación de su Territorio a Nuevo Méjico, del cual fue ilegalmente quitado por el Estado de Chihuahua.

Ahora, por lo tanto, como los Estados Unidos han sido injustamente despojados de la porción del Territorio en cuestión, aun si tuviera la República Mejicana un reclamo justo a él, el cual está negado, y como por las Leyes de Naciones, los Estados Unidos tienen un derecho justo de ejercer jurisdicción sobre él, y proteger los habitantes del mismo en todos sus derechos, hasta que el reclamo de la República Mejicana sea formalmente reconocido por los Estados Unidos. Y como el tiempo probable del arreglo de la cuestión de Límites, indifidamente diferido, y los intereses de los Estados

Unidos y el derecho de los habitantes del Territorio son inadecuadamente protegidos.- Yo, William Carr Lane Gobernador del Territorio de Nuevo Méjico (sin órdenes del Gabinete de Washington y sobre mi propia responsabilidad oficial) por éste, en nombre de los Estados Unidos, vuelvo a tomar posesión de dicho Territorio en litigio, de ser retenido provisionalmente por los Estados Unidos hasta que la cuestión de Límites sea determinada, por los Estados Unidos y la República Mejicana. Y, por esto requiero todo oficial de los Estados Unidos y del Territorio de Nuevo Méjico, a quien perteneciere tanto en lo Civil como en lo Militar de ejecutar las Leyes de los Estados Unidos y del Territorio de Nuevo Méjico, en, y sobre el Territorio antedicho, que es provisionalmente agregado a, y hecha una parte del Condado de Doña Ana del Territorio de Nuevo Méjico.

Y, al fin que todo sea bien entendido por parte de los Ciudadanos de Nuevo Méjico, en cuanto a la Línea de Límites, dentro del Territorio de Nuevo Méjico y el Estado de Chihuahua, el verdadero y bien conocido Límite entre este Estado y el Territorio, como establecido por un Decreto del Congreso Mejicano el 27 de Julio de 1824 y como es delineado en el Mapa de los Tratados Disturnell, está por esto provisionalmente establecido, cuyo Límite tiene su punto inicial en el canal principal del Río Grande arriba de la Presa de la Acequia Madre del Paso del Norte y abajo del punto Frontera, ocho millas más o menos al Norte del Pueblo del Paso, dicha línea de ser tirada desde el Río Grande, primeramente inclinándose y después hacia Occidental al Norte hasta que toca el Río de Gila, según las provisiones de los Tratados antedichos.

En testimonio de lo cual, a esto suscribo a mi nombre, y hago que se ponga el sello ejecutivo del Territorio de Nuevo Méjico, en Doña Ana 13 de Marzo A. D. de 1853, y en los setenta y siete años de la Independencia de los Estados Unidos.—Wm. Carr Lane.—Por el Gobernador.—John Greiner, Secretary...

Caja 97, rollo 17, vol. 16, p. 296-7.

29 de marzo de 1853. Chihuahua, México. Alcance al Centinela, no. 13. Respuesta de Ángel Trías, gobernador del estado, a William Carr Lane, gobernador de Nuevo México.

GOBIERNO DEL ESTADO DE CHIHUAHUA

-A S. E. Mr. Wm. Carr Lane Gobernador del Nuevo México.- Exmo. Sr.- Con la carta de V. E. de 13 del actual, recibí la proclama que ha publicado V. E. declarando agregado a los Estados Unidos del Norte, el territorio mexicano situado sobre la margen derecha del Río Bravo y comprendido dentro de los límites de Méjico, trazados por las comisiones unidas de las dos Repúblicas.

Ya con anterioridad, habían llegado a mi noticia, algunas especies relativas a ese hecho; mas debo confesar a V. E. que jamás les di ascenso por honor de los Estados Unidos y por que para persuadirme de una violación tan manifiesta del derecho de gentes, necesitaba nada menos que la prueba irrefragable que ha venido a suministrarme la comunicación de V. E.

Asegura V. E. en su proclama, que desde 1824 formaba parte del Nuevo Méjico, el territorio que hoy pretende ocupar, sin que yo alcance, ni V. E. se haya dignado citar los datos o autoridades en que se funde tal aserto. Por el contrario, el Estado de Chihuahua, ha reconocido siempre, que sus límites se extendían mucho más allá del territorio citado y que fueron menoscabados considerablemente por el tratado de Guadalupe Hidalgo, pues no se arrogó jurisdicción alguna en territorio ageno; se ha reducido a reconocer el suyo, no solamente porque está comprendido dentro de sus antiguos linderos; sino porque lo está también dentro de los que acaban de trazar las comisiones de límites.

Pero quiero suponer, por un momento, que fuera dudoso el dominio de ese territorio, ¿qué derecho tienen los Estados Unidos para apropiárselo, estando, como está Méjico en posesión de él? Si fuera cierto lo que asegura V. E. sobre el silencio de los Estados Unidos, al ocupar Méjico ese terreno, ese silencio probaría en favor de Méjico, porque no es creíble que los Estados Unidos hubieran callado si no fuera evidente

el derecho de Méjico, mucho menos si se considera que los Estados Unidos, son una nación fuerte y que no tienen costumbre de callar; no ya sobre derechos evidentes que les pertenecan; pero ni cuando los han tenido dudosos.

El argumento que forma V. E. de que ni Méjico ni los Estados Unidos estarían obligados a pasar por una decisión de las comisiones de límites, que adjudicara, por, ejemplo, a aquél la Ciudad de Santa Fe, o a éstos la Capital de Chihuahua, carece absolutamente de fuerza para probar que debe desecharse, de la misma manera, la decisión de las comisiones respecto del territorio de que se trata. Esas comisiones no se establecieron para contratar, reformar ni modificar en manera alguna las estipulaciones del tratado de paz; sino para darles complemento en todos aquellos puntos en que no pudo dárseles al tiempo de su celebración. Chihuahua fue asignado a Méjico por el tratado de paz, de la misma manera que lo fue Santa Fe a los Estados Unidos y contra esta asignación espresa, nada podría el fallo de las comisiones. No sucede así con los puntos indefinidos a la celebración del tratado y cuya designación se reservó por el mismo a las repetidas comisiones. Esos puntos no era posible trazarlos sino sobre las localidades y por eso se estipuló que, al recorrerlas, se fijara lo que no era posible de otra manera y que ambas naciones pasaran y se sometieran a esa designación. Infiérese de esto, que todo el terreno que no fue expresamente cedido a los Estados Unidos, por los tratados de paz, se entiende que permanece en el dominio de Méjico, hasta que sea designado por las comisiones de límites, porque Méjico ha estado en posesión de él y por lo mismo reteniéndolo con derecho, hasta que se designe con precisión cual es el que deba entregar a los Estados Unidos.

Tiene, pues, México en su favor la posesión inmemorial en que ha estado de ese terreno, la ocupación pacífica de él, a vista de las autoridades de los Estados Unidos no acostumbradas a callar ni aun en casos en que sus derechos han sido oscuros, la comprensión del mismo territorio dentro de los límites de Méjico, trazados últimamente por las comisiones de ambas Repúblicas, el establecimiento en el mismo terreno,

de los emigrados de Nuevo Méjico por salir del territorio americano. Este hecho, prueba en contra del aserto de V. E. de que los habitantes de ese terreno reclamaron y pidieron su agregación a los Estados Unidos. V. E. olvida, sin duda, que ese terreno se hallaba despoblado y que fue ocupado por los emigrados de Nuevo Méjico, que deseando conservar su calidad de megicanos y vivir sugetos a las leyes y al Gobierno de México, vinieron a establecerse en terreno de esta República, ¿cómo, pues, sería cierto que los habitantes de ese terreno pidieran su agregación a los Estados Unidos, cuando su hecho y su intención explícitamente declarada, prueba precisamente lo contrario?

Los motivos de queja que esos habitantes pudieran tener contra el Gobierno de Méjico, aun en el supuesto de que fueran ciertos, no los autorizan en manera alguna, para separarse de la República, ni está bien en V. E. el alegarlos en apoyo de su proceder. Méjico protege a sus ciudadanos con cuanto está en su poder y a los habitantes de la Mesilla los llama a participar de iguales derechos y de iguales goces que a los del resto de la República. Si siempre que a un pueblo se le ocurriera decir que su Gobierno no lo protege suficientemente, le fuera lícito separarse de él, la disolución social sería consiguiente y no habría nación que pudiera conservar su unidad, una vez admitida tan perniciosa doctrina.

Prescindiendo de que los Estados Unidos no han logrado hasta ahora más que Méjico, en cuanto a contener las incursiones de los bárbaros y sugetarlos, no es a V. E. a quien toca alegar ese pretesto en apoyo de su proceder, porque ¿dónde está el derecho de los Estados Unidos para proteger a pueblos que les son extranjeros, separándolos de la nación a que pertenecen? Considere V. E. que la voz que ha dirigido a los habitantes del territorio mexicano, es una voz de alarma para Méjico, que puede considerarse esa voz como una provocación a la revolución y por consiguiente como una trasgresión al derecho de gentes. Considere V. E. que cuando una nación atropella la justicia y viola a su capricho el derecho natural, todas las demás pueden y deben hacerla entrar al orden, tomando parte en favor del ofendido y que el proceder

de V. E. puede colocar a los Estados Unidos en esa posición, y por fuerte y cualesquiera que sean los recursos de su Gobierno, gravísima será la responsabilidad de V. E. ante el mundo civilizado y ante los mismos Estados Unidos, si los arrastra a una guerra infructuosa e injusta, que es la peor de las plagas que puedan pesar sobre las naciones. Por lo demás, Méjico ha dado repetidas pruebas de que desea conservar la paz, aun a costa de sus derechos frecuentemente menospreciados; pero sería indigno del título de nación, si permitiera atropellar su dignidad violentamente y sin visos de razón.

Hasta aquí ha visto V. E. que solamente le he indicado algunas razones generales que reprueban el proceder de V. E. Me tomaré ahora la libertad de hacerle otras reflexiones que corroboren mis asertos.

El territorio que V. E. pretende ocupar, nunca ha sido disputado ni en manera alguna litigioso ¿dónde existen esas disputas que V. E. alega, en qué tiempo y entre qué autoridades se han promovido? ¿Cuál es esa fuerza, que V. E. afirma ha empleado Chihuahua para ocuparlo? En materia tan grave como la presente, los hechos deben presentarse tales cuales son, por que la paz de dos naciones es negocio demasiado importante para esponerla a un rompimiento sin prudencia y sin razón. La naturaleza del asunto exige que se rectifique el aserto de V. E., sobre que el territorio que reclama ha sido disputado y que la ocupación de él, por parte de Méjico, ha sido obra de la fuerza.

Cuanto más medito acerca del proceder de V. E. tantas más razones encuentro para combatirlo. Aun cuando se supusiera que los E. Unidos tuvieran un derecho evidente al territorio, en cuya posesión está Méjico, no es sin duda a V. E. a quien tocaría perseguir ese derecho, ni menos por medio de actos violentos, que importan una verdadera declaración de guerra, porque ésta no es otra cosa que la persecución por la fuerza de un derecho que corresponde a un pueblo y que no ha podido obtener de otro modo. Esto supone, y lo exige la ley natural, que no se apela a la fuerza sino después de agotados todos los medios pacíficos para obtener justicia y supone también que ni aun en ese último extremo, debe

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ocurrirse a las armas sino por el soberano legítimo de la nación, porque éstas no podrían subsistir, si cada uno de sus ciudadanos tuviera facultad para decidir en qué casos debiera usarse de la fuerza para obtener reparación de supuestos o verdaderos agravios.

Estos principios están universalmente reconocidos por todos los pueblos cultos, y el tratado de paz de Guadalupe, estableció solemnemente en su artículo 21 que, si desgraciadamente se suscitaren en lo futuro algunas diferencias entre los Gobiernos de ambas Repúblicas, bien sobre la inteligencia del mismo tratado, bien sobre cualesquiera otra materia, procurarían de la manera más sincera y empeñosa, allanar esas diferencias y conservar el estado de paz, usando de representaciones mutuas y de negociaciones pacíficas, y si por tales medios, no lograran ponerse de acuerdo, no por eso se ocurriría a represalias, agresiones ni hostilidades de ningún género de una República contra otra, hasta que el gobierno de la que se creyere agraviada, haya deliberado maduramente y en espíritu de paz y buena vecindad, si no sería mejor que la diferencia se terminara por medio de un arbitramento de comisarios nombrados por ambas partes, o de una nación amiga, y si tal medio fuere propuesto por una de las dos partes, la otra accederá a él. La disposición de este artículo es bastante terminante y tan expresa, que aun cuando los Estados Unidos tuvieran un derecho incuestionable y evidente al territorio que V. E. pretende ocupar, tendrían que hacer valer ese derecho, por medio de negociaciones pacíficas, sin que les fuera lícito ocurrir a las armas ni usar de represalias, antes de poner en práctica esas negociaciones de paz.

Esto es cierto respecto del Gobierno General de los E. Unidos, que es el que tiene la facultad de hacer tales reclamaciones, y de celebrar tratados y declarar la guerra en los términos prevenidos por su constitución; pero V. E. ¿qué facultad tiene para hacer esas reclamaciones y para permitirse lo que no es concedido, ni aun al mismo Gobierno General de la República del Norte? Tomándose V. E. esa facultad, se atribuye una prerrogativa que no le corresponde y atenta contra la soberanía del pueblo americano, arrogándose lo que su

constitución ha concedido únicamente a las cámaras, representantes de la nación: atentado que el pueblo de los E. Unidos y su gobierno ilustrado, no permitirán que quede desapercibido y del que pedirá a V. E. estrecha cuenta.

Demostrado, como está, que no es a V. E. a quien corresponde reclamar los derechos de los Estados Unidos, ni mucho menos perseguirlos por la fuerza y por la violencia y que ni aún al mismo Gobierno General le es lícito recurrir a ese último extremo, sino después de agotados los medios pacíficos, parecerá inútil hacer a V. E. presente, que la designación de límites hecha por las comisiones de México y los Estados Unidos, tiene según el art. 5º del tratado de paz la misma fuerza que si estuviera inserta en él. Pero como deseo patentizar la justicia de México, me será permitido llamar la atención de V. E. sobre el referido art. 5º y repetir, que el territorio que V. E. reclama, se encuentra como V. E. mismo lo confiesa, dentro de los límites de México, trazados por las comisiones unidas y en consecuencia debe reputarse como adjudicado expresamente a México por el tratado de paz.

Aun en el evento que V. E. asegura de haberse declarado nulos, por el gabinete de Washington, los actos de la comisión de límites, la legalidad o validez de semejante declaración y el arreglo de tal cuestión, debe reservarse a los Gobiernos Generales de ambas naciones, que para lograrlo, ocurrirán antes que a la guerra, a los medios pacíficos pactados en el tratado de paz y aconsejados por la recta razón y por el derecho de gentes.

Pero aun cuando supusiéramos que ambos Gobiernos convinieran en la nulidad de los actos de las comisiones, ¿puede asegurar V. E., que el territorio que pretende, se comprenderá dentro de los nuevos límites que se trazarán a los Estados Unidos, con arreglo al tratado de paz? ¿Puede asegurar V. E. en qué punto se han desviado de ese tratado, los trabajos de la comisión? ¿Es facultad de V. E. declararlo y sostenerlo, agrediendo a México? ¿Es facultad de V. E. declarar a éste la guerra, contra todo lo estipulado expresamente en el tratado de paz, sin recurrir antes a negociaciones de ningún género?

Me prometo, pues, del buen juicio de V. E. que tomando en consideración las razones que le he indicado y otras muchas que omito, porque ya bastante me he extendido en esta nota, desistirá de ocupar el territorio mejicano y acatando los principios de la razón y de la justicia, no menos que las estipulaciones del tratado de paz y las disposiciones de las leyes y Constitución de los E. Unidos, se abstendrá de hostilizar a la República mejicana y de comprometer la paz y turbar la armonía de ambas Naciones, por medio de violencias a que México ni ha dado lugar ni puede dejar de rechazar, por que si firme en sus principios de justicia y equidad, no se permite hollar derechos ajenos, usará de los que incuestionablemente le corresponden en su defensa y conservación, si es atacado y sobre V. E. sólo pesará la responsabilidad de las consecuencias a que su procedimiento diere lugar.

Protesto a V. E. las seguridades de mi consideración.

Dios y libertad. Chihuahua, Marzo 23 de 1853.—Ángel Trías.—José del Avellano, Secretario.

Caja 97, rollo 17, vol. 16, p. 296-7.

19 de marzo de 1853. Paso, Chihuahua. México. Antonio Jaquez y Tomás de Zuloaga a Ángel Trías, gobernador del estado. (Comunicación publicada en alcance al Centinela de 29 de marzo de 1853.)

Comisión del Supremo Gobierno del Estado de Chihuahua.—Exmo. Sr.—Como dijimos a V. E. de la Colonia de Guadalupe, ayer emprendimos nuestra vuelta a esta Villa y en el mismo día llegamos: de momento nos informó el Sr. Gefe Político que el Gobernador del Nuevo Méjico se hallaba al frente de esta Villa en la casa del ciudadano americano Estivinson, y que el Cónsul americano le había informado también, que si hasta ahora no se había posesionado de la Mesilla el referido Gobernador, había sido porque el Coronel Comandante del fuerte de Filmore, le

había negado el auxilio de fuerza que le pidió para ejecutarlo; pero que lo haría con voluntarios, que contaba con ciento cincuenta o doscientos. Nosotros, en el acto, dispusimos la marcha para la Mesilla de toda la fuerza permanente, que en menos de dos horas pudo emprenderla, asimismo, en el acto preparamos la fuerza de vecinos armados que hay en el Cantón, y se hallan listos y bien dispuestos a marchar, luego que sea necesario, pues hasta ahora hemos creído bastante la fuerza permanente que está en la Mesilla, unida a la de vecinos, que el mismo Sr. Gefe Político en persona, debe tener preparada, y obrando en todo conforme a las instrucciones que anticipadamente le habíamos dado, y conforme la comunicación que en copia, marcada con el número 1, acompañamos a V. E.

Tomadas estas disposiciones, nos quedamos en esta Villa porque cerca del mencionado Gobernador podíamos imponernos mejor de sus designios: y anoche a las siete, nos presentó el Sr. Gefe Político suplente, una proclamación, en que manifiesta las razones por que va a tomar posesión de la Mesilla. En el acto nos pareció conveniente pasarle una comunicación: que marcada con el número 2 acompañamos a V. E. en unión de dicha proclamación, nuestra comunicación nos pareció también conveniente transcribirla al Coronel Comandante del Fuerte y a las primeras autoridades de la otra banda del Río: asimismo, como estamos casi seguros de que el Gobernador por ahora, en virtud de no poder reunir fuerzas suficientes para repeler la que hay en la Mesilla y la demás que está lista en el Cánton para marchar en caso necesario, ha desistido de formarla y hoy regresa para Nuevo Méjico a reunir una fuerza competente para realizar su propósito, razón por que nos ha parecido conveniente comunicarlo a V. E. por extraordinario, para que si lo creyere necesario disponga con anticipación una fuerza respetable, capaz de contener y reprimir las pretensiones de unos aventureros, porque obrando como el mismo Gobernador asegura, sin órdenes de su Gobierno, no pueden considerarse de otra manera.

En este momento salimos para la Mesilla siguiendo al repetido Gobernador porque tememos que a su paso en las

Cruces o Doña Anna, haga el último esfuerzo para ocupar la Mesilla, pero estamos seguros de que nada conseguirá, porque los vecinos de dichos pueblos, no se hallan dispuestos a pelear con sus hermanos de la Mesilla, y mucho menos cuando han visto y están desengañados de que las tropas americanas no lo harán.

Notará V. E. que nuestra comunicación, no esté en los términos fuertes que merece ese funcionario, porque, obrando sin órdenes de su Gobierno, legalmente no se debe tratar de otra manera, y mucho hemos tenido que sofocar nuestros sentimientos para no hacerlo, pero hemos creído conveniente tratarlo así, porque nuestro objeto sólo ha sido enerbarlo por ahora para no comprometer un lance dudoso en todos aspectos, y que quede reservado el tratarlo como merece, a V. E. o al jefe militar, que venga con fuerzas y elementos con que nosotros no hemos contado.

Para cerciorarnos cuándo y en qué términos emprende su marcha, el tantas veces repetido Gobernador con sus voluntarios, antes de nuestra salida, que será luego que se verifique la suya, dejaremos relaciones establecidas, para saberlo en esa Ciudad y evitar así hacer un movimiento inútil y gravoso a la Nación y al Estado.

Entre tanto permanezcamos aquí, daremos a V. E. por extraordinario todas las noticias que creamos de importancia. Está saliendo el correo y nosotros para la Mesilla, así es que no tenemos tiempo para hacer a V. E. algunas otras manifestaciones que no sería inútil estuviera en su conocimiento; pero esté seguro V. E. que obraremos en todo, con la actividad que nos inspiran nuestros sentimientos en pro del buen nombre de la Nación. Protestamos a V. E. nuestros respetos y alta consideración.

Dios y libertad. Paso, Marzo 19 de 1853. Antonio Jaquez. Tomás de Zuloaga.

Caja 97, rollo 17, vol. 16, p. 297-8.

17 de marzo de 1853. Paso, Chihuahua. México. Antonio Jaquez. Anexo 1 del documento anterior, publicado en alcance al Centinela de 29 de marzo de 1853.

Número 1

Ayer a las ocho de la mañana, salió el Sr. Cura Ortiz, de Santo Tomás, y a las diez de la noche llegó a Guadalupe en donde me hallaba, manifestándome que en esa Colonia había reunido al Pueblo, el Jucz, para determinar lo que debían hacer en el caso de que el Gobernador de Nuevo México, según se asegura, pretendiera tomar posesión de dicha Colonia; y aunque en dicha Junta los Ciudadanos manifestaron sus loables y patrióticos deseos de resisitir a tan injusta pretensión aun con la fuerza, si fuere necesario, pero un mal Ciudadano, un traidor que es el verdadero y degradante título que le corresponde, D. Nicolás Varela, ponderando nuestra debilidad y los pocos recursos con que contamos consiguió determinar a la mayoría de los vecinos a que a cualesquiera indicación que se les hiciera manifestarán su conformidad.

Este acontecimiento desagradable y vergonzoso, por extraordinario y violento, lo puse en conocimiento del Exmo. Sr. Gobernador y Comandante general del Estado, así como otros informes que también recibí de dicho Sr. Cura y que manifiestan muy claramente que el mencionado Sr. Gobernador de Nuevo México, está resuelto a intimar a la Autoridad Política para que le entregue la Mesilla, y en el caso de que no lo hiciera, ocurrir a la fuerza para posesionarse de ella, por lo que es preciso e indispensable que V. S., con la mayor reserva, mande practicar una información para averiguar si es cierto que D. Nicolás Varela u otros Ciudadanos virtieron en la repetida Junta o de otro modo determinaron a algunos incautos Ciudadanos a acceder a las inicuas pretensiones del repetido Gobernador: asimismo hará V.S. que dicha información se estienda a averiguar qué Ciudadanos fueron los que pretendieron anecarse a los Estados-Unidos, en qué número y quiénes fueron los promovedores de tal solicitud.

En el caso de que de dicha información resulten vehementes presunciones en contra de algunos vecinos, procederá V. S. a aprenderlos, remitiéndolos inmediatamente a esta Villa. Si V. S. teme que por tales prisiones se altere la tranquilidad pública, esperará para hacerlas al Sr. Comandante de la frontera, que debe salir mañana, con la fuerza permanente que hay en esta plaza, quedando preparada, por si fuere necesario, la del vecindario.

Espero del patriotismo de V. S. que obrará en este grave asunto con la prudencia y energía que en estos casos se requiere, así como también que no se separará de esa Colonia hasta que hayan desaparecido aun los temores que hoy existen con relación a este asunto y si acaso ignorando el estado que hoy guarda, ha emprendido su marcha, se vuelva de donde quiera que lo encuentre el que conduce este pliego, pues así es conveniente a mis propósitos.

Participo a V. S. que si el Gobernador emprende su marcha como se dice, para esa Colonia, el día de mañana, sin tener una entrevista conmigo como lo espero, lo haré yo también y lo mismo haré en cualquier día que la emprenda, entretanto espero que V. S. reanimará el espíritu público sofocado por las persuaciones de algunos malos ciudadanos.

Protesto a V. S. mi aprecio y consideración.

Dios y libertad. Paso, Marzo 17 de 1853.—Antonio Jaquez.—Sr. Gefe Político D. Juan José Sánchez.

Caja 97, rollo 17, vol. 16, p. 298.

19 de marzo de 1853. Paso, Chihuahua. México. Antonio Jaquez al Gobernador del territorio de Nuevo México. Publicado en alcance al Centinela de 29 de marzo de 1853.

Número 2

Encontrándome en esta Villa plenamente autorizado por el Exmo. Sr. Gobernador y Comandante general del Estado de Chihuahua, a que pertenece este Cantón, para arreglar en él algunos negocios, de su gobierno interior, el Sr. gefe político

me presentó a las siete de la noche de hoy una manifestación de V. E., su fecha en Doña Anna a 13 de Marzo de 1853, que recibió por conducto del Cónsul americano. Ya se decía en el público hace algunos días del contenido de ella, pero a la verdad no pude creerlo por las razones que brevemente expondré, y porque tampoco podía convencerme que por un negocio, en mi concepto, de poco interés se quebrantara el Tratado de paz entre las dos Repúblicas, lo que no sería honroso al Gobierno de los Estados Unidos, porque de la manera más explícita está comprometido a cumplirlo religiosamente; pero he visto consignado en dicha manifestación lo que se decía, y tengo el deber de dirigirme a V. E. con el fin de imponerle cuál es la conducta que observa en este negocio. Asegura V. E. que el Gobierno de los Estados Unidos ha reclamado de México una porción de territorio situado en la rivera derecha del Río Bravo; puedo afirmar de la mejor buena fe que nada sé de tal reclamación, pero suponiendo que se haya hecho y suponiendo también por un momento que sea justa e incuestionable, siempre las pretensiones de V. E. de ocupar la Mesilla, despojando de ella al de Méjico sería contra el art. 21 del Tratado de paz que copio. "Si desgraciadamente en el tiempo futuro se suscitare algún punto de desacuerdo entre los Gobiernos de las dos Repúblicas, bien sea sobre la inteligencia de alguna estipulación de ese Tratado, bien sobre cualquier otra materia de las relaciones políticas o comerciales de las dos naciones, los mismos Gobiernos a nombre de ellas, se comprometen a procurar de la manera más sincera y empeñosa allanar las diferencias que se presenten y conservar el estado de paz y amistad en que ahora se ponen los dos países, usando al efecto de representaciones mutuas y de negociaciones pacíficas. Y si por estos medios no se lograre todavía ponerse de acuerdo, no por eso se apelará a represalia, agresión ni hostilidad de ningún género de una República contra otra, hasta que el Gobierno de la que se crea agraviada haya considerado maduramente y en espíritu de paz y buena vecindad, si no sería mejor que la diferencia se terminara por un arbitramento de comisarios nombrados por ambas partes, o de una nación amiga. Y si tal medio fuere

propuesto por cualquiera de las dos partes, la otra accederá a él, a no ser que los juzgue absolutamente incompatibles con la naturaleza y circunstancias del caso.” En el art. 2º asegura también V. E. que desde 1824 hasta 1851 la porción de territorio, de que V. E. quiere posesionarse, fue reconocida estar dentro de los límites del Nuevo Méjico, mas todas las Constituciones, leyes y estadísticas dadas en esa época, muy claramente y sin dar lugar a interpretaciones, prueban que los límites reconocidos del Estado de Chihuahua comprenden hasta el punto de San Diego, de manera que determinados y fijados como están muy claramente y fijada ya también como lo está, ya hace tiempo, la línea divisoria de las dos naciones según el art. 5º del tratado citado por las comisiones de ambos Gobiernos con las solemnidades prescritas en él, el Gobierno de Chihuahua a nombre de la Nación con un derecho justo tomó posesión de la Mesilla y cuyo derecho es ya reconocido por el Gobierno de los Estados Unidos, porque siendo la línea divisoria convenida por ambas comisiones, este convenio es una parte del tratado y debe guardarse religiosamente, no tocándonos a nosotros hacer otra cosa por honor de nuestras respectivas naciones, según el espíritu y letra del art. 5º de dicho Tratado en su penúltima y última parte que dice así: “Para consignar la línea divisoria con la precisión debida en mapas fehacientes y para establecer sobre la tierra mojones que pongan a la vista los límites de ambas Repúblicas según quedan descriptos en el presente artículo, nombrará cada uno de los dos Gobiernos un Comisario y un Agrimensor que se juntarán antes del término de un año contado desde la fecha del cange de las ratificaciones de este Tratado, en el puesto de San Diego y procederán a señalar y demarcar la espesada línea divisoria en todo su curso hasta la desembocadura del Río Bravo del Norte. Llevarán diarios y levantarán planos de sus operaciones y el resultado convenido por ellos se tendrá por parte de este Tratado y tendrá la misma fuerza que si estuviese en él, debiendo convenir amistosamente los dos Gobiernos en el arreglo de cuanto necesiten estos individuos y en la escolta respectiva que deben llevar siempre que se crea necesaria. La línea divisoria que se establece por este artículo

será religiosamente respetada por cada una de las dos Repúblicas y ninguna variación se hará jamás en ella sino de espreso y libre consentimiento de ambas Naciones otorgado legalmente por el Gobierno General de cada una de ellas con arreglo a su propia Constitución.”

En cuanto a la aserción que contiene el artículo 3º me permitirá V. E. le manifieste, que en el año de 51 no había ni sobre qué recayese una división de territorio poblado, pues sólo existía la Mesilla con un insignificante número de habitantes que habían emigrado de Doña Anna malversando sus propiedades por situarse en el territorio mexicano: esto contradice terminantemente la parte 1ª del art 7º porque, si es cierto que algunos ingratos y malos ciudadanos han reclamado o solicitado la protección de los Estados Unidos, será un corto número y de aquellos hombres que son la deshonra de cualquiera nación a que pertenezcan, pero afortunadamente estoy informado que la mayor parte de ese corto número ya no existe en la Mesilla. Ya que he hablado del artículo 7º en este lugar no pasaré en silencio lo que dice V. E. con relación a nuestro actual estado contestando sólo, que nuestra situación la conocemos y la lamentamos como es debido; pero que darnos en el rostro con ella no es conveniente ni debido, y yo por mi parte obrando en contrario ruego al Todo Poderoso por la paz de las Naciones.

Los artículos 4º y 5º son abiertamente contra el 5º del tratado citado y copiado a la letra, y no me ocupo de rebatir sus fundamentos por no ser más largo ni fastidioso, repitiendo especies que si no están bien desarrolladas, están ya bastante indicadas para que puedan entenderse por todos.

En el 6º asienta V. E. que el Estado de Chihuahua ha faltado notablemente a la protección debida en los derechos de propiedad a los ciudadanos de la Mesilla y no ha hecho una defensa razonable en las incursiones de los indios bárbaros: en cuanto a esto último creído como lo estoy de que el Gobierno de los Estados Unidos y sus agentes han hecho lo posible para reprimirlos, puedo asegurar, sin temor de equivocarme, que en esa frontera no han sido más afortunados que nosotros para castigarlos. En la última parte del 7º dice

V. E. que los Estados Unidos han sido injustamente despojados de la porción del territorio citado; pero los habitantes todos de la frontera son unos testigos que desde el Tratado de paz de Guadalupe por respecto al mismo Tratado, Méjico no hizo ningún uso de él, a pesar de que sus habitantes pidieron al Gobierno estableciera allí autoridades, sino hasta que las Comisiones de límites, conforme al referido Tratado declararon pertenecerle, y entonces a ciencia y consentimiento del Gobierno de los Estados Unidos la hicieron también, y no debe pasarse en silencio porque es cierto y robustece nuestro derecho y honra a las autoridades americanas que respetaran y no hicieran uso de ese territorio sino que aguardaban como nosotros la decisión de las Comisiones, así es que Méjico no pudo hacer el despojo que reclama V. E. y realmente lo sufriría si permitiera la ocupación que intenta hacer sin órdenes ningunas de su Gobierno.

Por último me dispensará V. E. le diga que considere maduramente y en el espíritu de paz y buena vecindad que previene el tratado su resolución y desista de ella, porque de lo contrario como Comisionado del Gobierno Mexicano no permitiré tal ocupación que sería en mengua del honor nacional.

Protesto a V. E. mi aprecio y consideración.

Dios y libertad. Paso del Norte, Marzo 19 de 1853. Antonio Jaquez.

Caja 97, rollo 17, vol. 16, p. 298-9.

5 de abril de 1853. México. J. Miguel Arroyo a Alfred Conkling.

El Ynfrascrito Oficial Mayor Encargado del Ministerio de Relaciones, tiene el sentimiento de dirigirse a S. E. el Sr. Alfredo Conkling, Envi^o Extr^o y Ministro Plenip^o de los Estados Unidos de América, para remitirle al adjunto Alcance al "Centinela" Num^o 13, Periódico Oficial de Chihuahua, en el cual constan las comunicaciones que han mediado entre el

Sr. Gobernador de aquel Estado de la República y el de Nuevo México de los Estados Unidos de América, por haber éste declarado por sí agregado a ellos, el territorio en que se halla situada la colonia de la Mesilla, territorio que constantemente ha pertenecido y poseído Méjico, y que se encuentra comprendido dentro de sus límites trazados por las comisiones de ambos países con arreglo al tratado de Guadalupe.- Dicho impreso se halla comprobado por las comunicaciones oficiales que el Gobierno ha recibido y de ellas aparece que el expresado Sr. Gobernador de Nuevo Méjico, intentaba reunir voluntarios para hacer efectiva la ocupación del Territorio indicado.

El E. S. Gral. Depositario del Supremo Poder Ejecutivo, no ha podido menos de ver con tanta sorpresa como disgusto, la conducta a todas luces irregular y atentatoria del expresado Gobernador de Nuevo México, que, sin tener órdenes de su Gobierno, asume la grave responsabilidad de provocar una guerra entre dos naciones amigas, violando los solemnes pactos que las unen, y abrogándose la facultad de dirimir cuestiones que, supuesto que existiesen, no son de su competencia, faltando en esto tanto a la consideración que debe a su propio Gobierno como al de la nación vecina.

En tal virtud, S. E. ha ordenado al infrascrito proteste desde luego, como solemnemente protesta contra tales atentados haciendo al que los causa responsable de ellos, y de los daños y perjuicios que originen tanto a la República como a sus ciudadanos.

S. E. por último, ha ordenado al infrascrito manifieste al E. S. Enviado de los E.E.U.U. que S. E. se promete de su rectitud y justificación que por primera oportunidad presentará a su Gobierno los hechos referidos bajo su verdadero punto de vista y se servirá instar a fin de que se dicten las órdenes conducentes para reprimirlo y evitar su repetición; y entre tanto, si el mismo Sr. Conkling quisiere, en obsequio de la conservación de las buenas relaciones que felizmente existen entre Méjico y los E.E.U.U. dirigir directamente una comunicación al repetido Gobernador de Nuevo Méjico, para evitar un conflicto, será conducida por un correo

extraordinario que el Gobierno va a mandar a sus autoridades a Chihuahua.

En espera de la respuesta de S. E., el infrascrito tiene la honra de reiterarle su muy distinguida consideración.

Caja 97, rollo 17, vol. 16, p. 301-3.

9 de abril de 1853. México. Alfred Conkling a J. Miguel Arroyo.

The Unders^o Envoy Extr^o and Minister Plenip^o of the U. S. of America has the honor to acknowledge the receipt, last evening, of the note of H. E. J. Miguel Arroyo acting Minister of Relations of the United Mexican States and also of several printed documents making known to the Unders^o and earnestly protesting against the steps recently taken by the Governor of the Territory of New Mexico acting on his responsibility, for the purpose of acquiring possession of certain lands claimed by him as a part of the said Territory.

Desirous, as the Unders^o at all time is, of the uninterrupted continuance of the most friendly relations between the two nations, he can not regard this new and unexpected cause of discord without concern; and H. E. Mr. Arroyo may rest assured that he will loose no time in acquainting his Government with the facts and circumstances of the case, to the end that the proper measures may be resorted to without delay, of mitigating, and, as far as possible, preventing the deplorable consequences which there would otherwise be but too much reason to apprehend.

The undersigned avails himself...

Caja 97, rollo 17, vol. 16, p. 303-4.

8 de abril de 1853. Alfred Conkling a William Carr Lane, gobernador de Nuevo México.

I have just received an official note from Mr. Arroyo, the Mexican Minister of Foreign Relations, protesting in

very strong terms against the steps resorted to by Your Excellency for the purpose of acquiring possession of a portion of territory formerly, and, as Mr. Arroyo insists, still forming a part of the State of Chihuahua. Accompanying the note of the Mexican Minister are printed copies of your proclamation, and of the answers thereto by the authorities of Chihuahua.

You are aware that it is my duty to lose no time in transmitting copies of Mr. Arroyo's note and of the documents accompanying it, to the Secretary of State of the United States, and in doing this perhaps my whole official duty would be sufficiently discharged. But as you seem to contemplate the employment of Military force, and are, as I understand in that case, certain to meet with resistance in the same form, I can but regard the affair as one of extreme gravity, and the attitude you have deemed it your duty to assume in respect to it, as one of very serious responsibility.

I trust therefore that you will take no exception to my availing myself of the express which, I am informed by the Ministers note, is just about to depart with despatches to the Governor of Chihuahua, to make known to you with perfect frankness, the opinions I feel constrained to entertain touching the measures you have seen fit to adopt; and I do this with the less hesitancy, because while, if persisted in, they cannot fail to lead to consequences greatly to be deplored, I can discern no necessity for them, even admitting what you assume, that the territory in question belongs of right to the United States; and I am persuaded your Excellency will, on reflection, agree with me in the opinion that nothing short of the two conditions of indubitable right and of necessity could justify the means your Excellency proposes to employ; or indeed, the employment, under existing circumstances of any means to dispossess Mexico, against its will, of this territory. But I have already stated my inability to discover this necessity, and I now beg leave to add, that the other requisite element I have mentioned, appears to me to be also wanting. In your letter to the Governor and Commandant

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General you say that the Government has disapproved of a decision made by the surveyors, and in your proclamation you intimate that the United States in 1852 virtually assumed jurisdiction over the territory in question. If your Excellency is right in these particulars, there must have been acts on the part of our Government of which I remain ignorant. I am aware that the appropriation made by Congress in 1852 to defray the expenses of the survey, was accompanied by a condition which proved upon examination to be, in the opinion of the Executive, an insuperable obstacle to the appropriation of the money appropriated, and that the survey was discontinued for this reason. But when I came here last fall I was expressly instructed to lose no time in explaining the matter to the Mexican Government, and in assuring it that what was regarded as an error arising from inadvertence, would unquestionably be corrected at the approaching Session of Congress, which, as I understand, was accordingly done, and the survey resumed. Beyond what I have related, I am unapprised, except by your letter and proclamation, of any act on the part of our Government, partaking in the slightest degree of the acts attributed to it by Your Excellency.

But conceding that Your Excellency is not mistaken in this respect. I find myself altogether unable to concur in the opinions you express that it follows of consequence that the authorities of the Territory of New Mexico are bound to exercise jurisdiction over the disputed territory, during the pendency of the dispute. On the contrary I am clearly of opinion that the existing possession should be undisturbed, until the question shall have been definitively settled by the two National Governments, in favor of the United States.

I regret extremely that time is not afforded to me to state at large the reasons which lead me to the conclusion I have expressed, and which, if wellfounded, point so clearly and unequivocally to the propriety and necessity of gracefully changing the attitude which Your Excellency has believed it to be incumbent on you to assume in the premises.

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Frustrating that Your Excellency, in consideration of the motives by which alone, as you will not doubt, I am actuated, will excuse the liberty I am taking.

I have the honor...

Caja 97, rollo 17, vol. 16, p. 304-6.

24 de febrero de 1853. Veracruz, México. C. Markoe a Alfred Conkling.

You will no doubt be able readily to call to mind that in the interview which I had with you here when on your way to Mexico I expressed to you the fear that I should find myself compelled to appeal to you for the protection in my property against the infamies of certain civil and judicial officers in this State. I at that time still entertained hopes that by untiring perseverance & patience I should eventually succeed in my endeavours to obtain justice and protection from the laws of the country, but little did I expect that if compelled finally to appeal to you it would be under the tragic circumstances which I now do so.

On the night of the 2nd. inst. Dr. M. Bayly a native of Baltimore who was managing my sugar Estate called "Hueyapam" situate in the Canton de las Tuxtlas in this State, while in the dwelling house of the Estate was shot dead by some villain who aided by the obscurity approached the house and shot him through a back door or window.

Before further I must here accuse the actual civil & judicial authorities of San Andrés Tuxtla and Santiago Tuxtla of being morally (if not otherwise) responsible for this act in as much as they have all for a long time given openly every protection to the rascals whom they have forcibly and in the most notoriously illegal manner compelled me to permit to remain upon the lands of my Estate neglecting repeatedly to punish such as have been repeatedly brought up before them by my manager for theft & other misdemeanors & also inciting them, as I stand ready to prove, to trample upon my rights

of property & do me all the harm possible, these persons are José Aurelio García, Prefect of the Canton Antonio Neyra 1st. Alcalde of San Andrés Tuxtla (officiating as Juez de Letras) Pedro García Ortiz Alcalde of Santiago Tuxtla & Dionisio Vicente Corro, Juez de Paz de Hueyapam & the instrument of the aforementioned.

The murder of Dr. Bayly took place on the evening of the 2nd. instant if thus far nothing has been done by the Judge Neyra of Tuxtla but to do everything in his power first to allow the assassin and his complices to get out of reach, and when by the threats of my attorney in Tuxtla to make him responsible for their escape he found himself compelled to order their arrest the armed forces necessary to execute the order could only be had through the activity of my attorney & at an expense to me of nearly \$100 for the hire of the men and horses upon which to mount them, for the Judge in his unwillingness to act against the villains, his friends, found nothing but obstacles to the course of Justice. But for the activity of my attorney the assassin would have escaped and his complices also which was what the Judge Neyra & his Secretary Crispín García (son of the Prefect) wanted.

Among the complices (formally denounced) are Vicente Corro or Dionisio Vicente Corro Juez de Paz of Hueyapam & the father is accused of having promised the assassin \$20, if he killed Dr. Bayly. These villains and through these all the rascals they have laboured on my Estate contrary to my wish & despite of law are the protegies of the Prefect & of the Judges of San Andrés & Santiago Tuxtla whose names I have already stated, & Crispín García (son of the Prefect) who is clerk of the Court of the Judge Neyra.

The Judge no longer being able to avoid the arrest one would suppose that justice could not fail to be done. But it was not so and I have now to relate facts which are enough to make any honest man shudder.

The case was so clear & the proofs against the assassin so strong that when he was brought face to face with one of the the witnesses (his own wife) he was so completely

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confounded by her evidence that he commenced to stammer out a sort of confession of the truth of what the witness accused him of viz: of being the assassin & that Vicente Corro his son & others who were the instigators to the crime, when the Judge to save his friend [& perhaps complice] Corro, throwing off all mask stopped the prisoner short and literally placed in his mouth a flat denial of the truth which he had already commenced to confess.

Up to that time the prisoner had been kept in close and solitary confinement but it became from that moment necessary in order to further the view of the Judge & defeat the ends of justice to allow him to have communication with his complices & he was removed to the public prison where he has been allowed to have long & secret interviews with a brother of the Juez de Paz Corro who is accused of having bribed the prisoner to assassinate Dr. Bayly.

Thus stood the affair at my last accounts & I would ask what hope there is of obtaining justice at the hands of such villians as these authorities have proved themselves to be.

I will now take the liberty of calling your attention to my property which in consequence of the protection given by the aforementioned authorities to these villians & then partizans is at this moment not only exposed to be pillaged & burnt but the lives of 5 Americans in my employ on the Estate [are] in the greatest danger and at this precise moment while I write to you some terrible disaster may have already taken place here through the instigation of two of accused complices having been allowed to go at liberty on bail, by the same Judge, & at the last accounts were on the estate exciting the laborers to mob & rebellion. One of these is a Spaniard by the name of Pedro Mimendi (a countryman of the Judge Neyra who is also spaniard) a man of bad reputation, & Agapito Corro a son of the Juez de Paz Dionisio Vicente Corro.

In view of all these facts all of which and more to I am fully prepared to prove by *documentary evidence existing in the archives of this State Government, by the same kind of evidence existing in the very Court of San Andres Tuxtla and by legal testimony of the most respectable inhabitants of San*

Andres Tuxtla itself. I have deemed both prudent and necessary to note before the U. S. Consul here a formal protest against the Mexican Government for all losses and damages which may have arisen or may result to me in this matter in consequence of the denial to me by the aforesaid authorities or any other Mexican authorities of that protection which is guaranteed by the laws of Mexico and the Treaty with the U. States.

As however I see that it will be next to impossible after all that has passed for me ever to be left to the peaceable enjoyment of my aforesaid property and its benefits I have to request that you will authorize me in the name of the Government of the United States to make a formal abandonment of the whole property to the Government of Mexico and claim from it its value; which I take occasion to state with actual crop on the land according to inventory & appraisement I had made some few months since will now exceed \$200,000 & damages. I have had able legal advice from some of the best lawyers in the Republic to this effect, but before taking such a step I wish to have the guarantee of my Government through its Minister to support me for as you will readily see the amount at stake is not one which any prudent man can risk upon the cast of a dice: This step I fear I shall be compelled to take for my new manager, my sugar master & all my mechanics all Americans have notified me that they can no longer remain on the estate because the lives & the property itself are in great danger, & I only await your reply & advice before giving them any answer.

I have a copy of sugar cane in the fields which I have just commenced working up which should produce me at the lowest calculation from \$30,000 to \$35,000 which I shall not only lose but also the whole cane plantation for next and other years if these hands leave me & I do not see how I can insist upon their remaining so long as I cannot afford them any protection in the laws of Mexico or rather her authorities.

This case is truly an urgent one and for me of the deepest importance & I would respectfully beg an answer and advice from you in this matter at your earliest possible convenience.

Caja 97, rollo 17, vol. 16, p. 306-10.

1 de marzo de 1853. México. Alfred Conkling a C. Markoe Esq.

My Dear Sir:

Your letter of the 24th. did not come to hand until last evening. About 8 days ago as nearly as I can recollect, Mr. Ducoigne called at the Legation and read to me extract from 2 letters recently received by him from you relating to the shocking murder of Dr. Bayley, and expressing your apprehensions that its perpetrators might escape condign punishment.

On the same or the next day, I waited on the acting Minister of relations and stated and explained the case to him. He promised to write at once to the Governor of the State and also to the local Judiciary, and to urge them to a vigilant and energetic effort to find out the criminals, and to omit no proper means to bring them to speedy justice. This morning, for the purpose of learning from him whether he had done this, and for your better satisfaction, I called on him again with your letter, the contents of which I narrated. He seemed incredulous as to your suspicious of infidelity on the part of the judicial authorities, and intimated that you had probably been misled by your strongly excited feelings. I sincerely hope he was right in this, and that ample justice will be done. But whether such shall be, the event or not, you will see that this Government can do nothing more than to urge the State Officers and tribunals to do their duty. If from apathy or even from knavery, they suffer the guilty to escape, great as the wrong done to society is, it must be submitted to. Such things sometimes occur in the most highly civilized and best governed countries, in our own among the rest, though generally from the want of intelligence, firmness or honesty on the part of juries.

With respect to your apprehensions, which I am sorry to say, seem to me to be but too reasonable, of serious losses by reason of injury to your sugar crop, and estate, gratyfing as it would be to me to shield you from this misfortune or mitigate its severity, if I could, I am constrained

to inform you that I know of no means by which I can do it; and the best advice I can give you is to dispose of your property on the best terms you can and quit a country where the rights of persons and property are notoriously and unavoidably so insecure. Your proposal to abandon your property and then look to the Mexican Government for indemnity is certainly ill founded and unwise. It is true, as you intimate, we have a treaty of amity with Mexico by which the parties mutually stipulate to afford protection to the persons and property of the citizens of each other respectively, and that, to that end, the tribunals of justice shall be opened to them; and for any violation of this stipulation by either party it may justly be held responsible by the other. But the injuries you complain of and apprehend are not of this nature. They are not acts of governmental persecution by means of unequal laws or executive oppression, but of private individuals incited by private malice, and whom the Mexican Government would gladly restrain if it could. But such individuals are to be found in all communities, and so long as Mexico affords to our countrymen the same means of restraining persons of this description, and of obtaining redress for injuries inflicted by them, that the citizens of Mexico enjoy, there is no violation of the treaty stipulations in question, however inadequate these means may prove. To guard against misapprehension, however, I ought to add, that the judiciary are no less bound by the treaty stipulations than the legislative and executive branches of the government. and that a willful prevention of justice by the judicial tribunals of the country connived at by the Executive would be an infraction of the treaty. I trust that, on reflection, you will see the reason of the view of the subject, I have [ilegible] and will not lose sight of it in making up your mind as to the steps you ought to take.

Regretting most sincerely my inability to relieve you from the difficulties which beset you. I remain...

Caja 97, rollo 17, vol. 16, p. 310-12.

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13 de abril de 1853. México. Alfred Conkling a William L. Marcy.

Yesterday, Mr. Adolph Blumenkren, an american citizen as he states, and a merchant in the city of Puebla, called at the Legation to ask information relative to an application made by him to my immediate predecessor for his assistance in obtaining indemnity for what he conceives to have been unjust and oppressive conduct towards him by a Mexican judicial officer. He alleges vexation and loss of time, he has in consequence of these unwarrantable proceedings, been subjected to expenditures amounting to the sum of \$2,000. As appears by the records of the Legation, Mr. Letcher, entertaining doubts of the propriety of any interference on his part without express instructions from the Department of State, on the 5th. of January 1851, transmitted the papers furnished by Mr. Blumenkren to the Department, requesting instructions relative thereto Mr. Blumenkren stated that he had made the journey from Puebla to this city for the express purpose of obtaining the information he now sought, and that he had made the same journey three times before upon the like errand. Under these circumstances I deemed it to be my duty to promise him that I would at once invite your attention to his case, which I now beg leave to do.

Caja 97, rollo 17, vol. 16, p. 316-7.

8 de mayo de 1854 (se refiere a sucesos de 1853). Veracruz, México. C. Markoe a William L. Marcy.

Under circumstances of no ordinary distress: at a time when after an application to the Minister of my Country to Mexico for redress had been replied to in language bordering only on ridicule: after an appeal to the President of the United States had received no other than a silence of more than one year & I had been forced to the cried conclusion that my Government had resolved to abandon me to the

most atrocious of persecutions without any other hope remaining for me but in that success which any other hope remaining for against fearful odds I might b[u]ly for determined purpose meet with; I had the honor of receiving at the hands of the U. S. Consul at this place your communication of 7th. april last which has conveyed to me the consoling certainly that as a true citizen of the U. States I shall not be abandoned to persecution in a foreign land and be sustained in my just rights by the strong arm of the Noblest Government on earth.

You are pleased to invite me to furnish you with such further facts as I may have to communicate in relation to my case, which I will do, but before entering upon a brief recital of them. May I be permitted to call your attention to the fact that the censorious letter addressed by me to Mr. Conkling which, I perceive by the extract of his communication to the department caused that gentleman so much surprise, was written in reply to a letter from him, still in my possession, in which as the only adress he could offer me he makes use of the following language "the best advice I can give you is to dispose of your property on the best terms you can & quit a Country when the rights of person & property are notoriously & unavoidably so insecure".

I cannot but think, Sir, that I shall not be found in error in the belief that the above is not the advice which the Government of the U. States would expect its Minister to Foreign Countries to give to their fellow citizens who may appeal to them for redress for positive wrongs.

I will now proceed to give you the result of the mock trial of the murderer of my manager Dr. J. Bayly, & his complices & the consequent almost total loss to me of my estate in which I have invested a fortune of over two hundred thousand Dollars. To give you particulars at length would not only occupy more of your time than I deem it prudent to do, but would moreover embrace a recital of a continued series of persecutions & atrocious injustices extending over a number of years such as would appear to you almost fabulous & consequently I withhold them [so] that they may be brought to

your notice through an official channel after they have been fully substantiated & as it is my intention to bring a claim against the Mex. Govt. for damages & losses sustained through the culpability of its authorities, which have well nigh as you will hereinafter see reduced my very numerous family from a position of affluence to one bordering closely on beggary. I would respectfully request that the Minister of the U. States to Mexico may be instructed to the effect that on presentation of my [request] shall investigate fully the truth of the charge which I shall make & the actual damages & losses which I have sustained; & as residence of upwards of 20 years in this country enable me to foresee the polite deceit & quibble, so characteristic of the Mexican Diplomat, which will be employed against me, I would also beg that I may be allowed to see what is brought by the Mexn. Government in defense of its authorities that I may have the opportunity of confounding it with such proofs as they will hardly dare to question.

The Murderer of Dr. Bayly & his complices were denounced by a woman residing on the lands of my estate & the former was arrested upon his own authority by my manager, who succeeded temporarily to Bayly, to avoid an opportunity of escape which was propitiously afforded by the very Judge himself by his dilatory procedures. The murderer was afterwards conveyed to the Country prison by order of the same Judge only upon my providing at my expence the necessary escort for his custody. This was a thing notoriously illegal but the object was to defeat the ends of Justice by causing delays in order to give the prisoner time to escape the Judge being at the time ignorant of his having been arrested. The trial was commenced by taking the evidence of the witnesses for & against the prisoner publicly & in his presence as well as that of all those who were accused of being his complices. During the trial they were all allowed to communicate freely with each other & with their secret agents out of doors.

When the time arrived for the Murderer to be examined in the presence of his accuser alone he was so confounded

that he commenced stammering out a confession of the truth of all he had been accused of when he was stopped short by the Judge & a flat denial of every thing drawn from him in a most ingenious manner. In a few words such was the unheard of manner in which this trial was conducted that instead of the murderer & his complices being condemned they were accounted, the former was turned into an acuser of the female who had denounced him, on the charge of adultery & she was condemned to 4 years confinements.

The acquittal & release of these prisoners gave new impulse to the depredations on my property & the impunity in which this crime had been allowed to go created such alarm among my good labourers that it became impossible to obtain a sufficient number of them to carry on properly the work of the estate owing to the fear that by working for their lives would also be endangered. My sugar master who was then also my Manager left me for this reason before the crop of 1853 was half taken in & I sustained thereby a loss of all that part which remained in the fields. I after that found it impossible to obtain a further Sugar Master for the present crop of 1854 notwithstanding my offers of a heavy salary until last month at which time I commenced working off my crop instead of doing so in January which makes it impossible for more than one third of the crop to be worked off before the rainy season sets in at which time the work must stop.

In conclusion, Sir, the result of all this has been that instead of the Estate bringing me in a net income of \$35,000 or \$40,000 pesos American as it would have done but for these persecutions, it has not been able to pay the interest upon a mortgage which exists on it, in consequence of which the mortgage has been foreclosed & the property will no doubt be brought under the hammer & sold according to law at 2/3 of it appraisement.

This then, Sir, is the present state of my case & I trust that in making a claim for losses & damages from the Government of Mexico I may count upon further full support of my own Government so soon as the Justice of my claims is evident to it.

I also must say that in appealing to my Government for support it may not be deemed out of place for me to say that I have been a resident of Mexico now more than 20 years & that during this period my name does not appear in the archives of the U. S. Legation in Mexico as connected either directly or indirectly with any claim of whatever kind against Mexico & this statement I make with the view that I may not be confused in the offset with that class of persons who make it apart of their business to get up claims against foreign governments to be supported by Ministers, more than one instance of which I might cite in which claims against Mexico of a more than doubtfull nature have been prosecuted to successfull issue by some of our former Ministers.

I have the honor...

Caja 97, rollo 17, vol. 16, p. 313-316.

15 de abril de 1853. Washington. William L. Marcy a Alfred Conkling.

Sir:

I transmit herewith the Commission of J. Alexander Pleasants, appointed Consul of the United States at Minatitlán. You will be pleased to enclose it to the Minister of Foreign Relations with a note requesting the usual Exequatur, which when received you will forward with the Commission to Mr. Pleasants.

Your despatches to N^o 24 inclusive, have been recived.
I am...

National Archives. Records of the Department of State.
Diplomatic Instructions. Mexico. Vol. 16, doc. núm. 15, p. 368.

22 de abril de 1853. México. Alfred Conkling a W. L. Marcy.

Indica haber sostenido una conversación con el Sr. Goss sobre el cementerio americano y también iba a hablar con el

cónsul y con él en otra reunión. Consideraba que no habría ningún peligro en contra de la ejecución de su misión.

After a sojourn of three days at Guadalupe Hidalgo, during which he formed his ministry, General Santa Anna entered the capital, took his oath of office, and received the felicitations of the diplomatic body on the 20th. instant. The Government, i. e. General Lombardini, the temporary "Depositary of the Supreme Power of the Republic", having appropriated \$20,000 from the national treasury to defray the expenses of the reception of the new President, it was brilliant and noisy; but there were no vivas, nor any manifestations in any form of popular enthusiasm.

To my inquiry of a Mexican gentleman how he accounted for this fact, seeing that General Santa Anna had been elected by a nearly unanimous vote, he answered that his countrymen had been too often deceived by him. There is to be a council of twenty persons to be appointed by him, but these names are not yet announced; and it is understood that a new constitution is to be framed, though by what agency seems yet undetermined. I am sorry to find that there appears to be among the best informed men here, a general feeling of a distrust of the future.

I have the honor to transmit herewith copies of three notes received last evening; one from the chief clerk of the Ministry of Foreign Relations, communicating the names of the several newly appointed ministers, marked A; one from His Excellency the Minister of Relations announcing his appointment as such marked b; and another, marked C. I have also the honor to forward herewith a copy of my answers to each of these notes marked with corresponding letters.

Last evening I received a letter bearing date at Van Buren, Arkansas, from a Mr. Vami asking for information respecting the surrender of fugitive slaves, a copy whereof, and of my answer thereto, marked D. I have the honor herewith to transmit.

At a very handsome dinner given at the Palace by General Lombardini, on the evening of the 20th. instant, to the new

president (who, however, failed to be present on account, as it was said, of fatigue and indisposition) and about eighty guests, being seated next to Mr. Alamán, the newly appointed minister of Relations I had considerable conversation with him. He is reputed to be a man of ability and learning, and has recently completed the publication of a history of Mexico in five volumes. He is affable, wholly unaffected, and seems reasonable and sincere. He expressed the hope and belief that our official intercourse would be of the most agreeable character, to which observation I made a suitable response; and we parted at a late hour, with, I trust, mutual respect and goodwill.

It is my intention very soon, to endeavor to ascertain what probability there may be of my being able to negotiate a treaty to exonerate the United States from the obligation incurred by the 11th. article of the Treaty of Peace. I greatly fear however, indeed, I am nearly certain, that this cannot be done on the terms presecuted in my instructions. I doubt whether Mexico will consent to release us for less than ten or twelve millions of dollars, especially if provision is made for the payment of the claims of american citizens out of the stipulated sum. The national resources have been exhausted and large debts incurred in the fruitless struggles of an unworthy Government against the spirit of revolt which has so long pervaded the Republic, and which is at length triumphant. With the aid of sufficient public funds, wise and honest rulers might soon renovate the country, and greatly improve its condition. Notwithstanding the general distrust I have mentioned, there are not wanting many intelligent Mexicans who confidently ascribe these qualities to those to whom political destinies of the country are now committed. If we could with safety, fully participate in their confidence, the interest the United States have in the exemption, for the present at least, of this nation from what and hopeless political disorganization might alone, perhaps, more than justify the government in acquiescing in an exorbitant demand as the price of our release from the obligation in question. I have the honor...

Caja 97, rollo 18, vol. 12, p. 303-305.

27 de marzo de 1853. Van Beuren, Arkansas. Clement N. Vann al ministro de los Estados Unidos en México.

Dear Sir:

About three years ago Wild Cat, who was a sort of chief among the seminoles ran away from the Creek Nation of Indians (which lies just west of Arkansas) taking with him about one hundred negroes belonging to individual Creeks and Cherokees, and some of them to white citizens of the state of Arkansas. But most of them were Creek or Seminole negroes-speaking very indifferent English.—They are all in Mexico.

I am ignorant whether or not there is any efficient arrangement between the limited States and the Government of Mexico in relation to fugitive slaves.

I therefore beg of you information on the following points.

First: Whether or not there be any treaty stipulation the United states and Mexico that would enable citizens of this Government to recover fugitive slaves escaping into the Mexican dominios.

Secondly: What such stipulation is, and what would be the proper course to persue in order to effect the recovery of such slaves.

If there be no treaty stipulation on the matter, perhaps the Government of Mexico would consent through her police to deliver said slaves to the proper owners or their authorized agents. For this Indian is the notorious Wild Cat of the Florida War—and will be apt with his sable band of seconds to render both himself and them trouble some citizens, if he has not already done so. Should the latter course be necessary, and should they be delivered back through your interposition you shall (if you require it) be amply rewarded.

Please answer this immediately and you will very much oblige.

Your Obdt. Servt.

Clement N. Vann.

P. S. I am not at present able to give the precise part of Mexico in which Wild Cat and the above mentioned negroes

are at present living. But somewhere not far from the Texan border I presume.

C. N. Vann

P. S. I do not know who is Minister at present—not having seen the recent appointments—But I have not time to wait for that information—since it is very important that I should hear from you as quick as possible.

Your...

Caja 97, rollo 18, vol. 17, p. 11-12.

22 de abril de 1853. México. Alfred Conkling a Clement N. Vann.

Your letter of the 27 of last month was received last evening.

There is no stipulation in any treaty between the United States and Mexico, by which the latter has agreed to deliver up fugitive slaves to their American owners, and it is certain that no request to that effect would be listened to for a moment. Indced there is no law of the Republic which would warrant any of its public functionaries to comply with such a request.

I am...

Caja 97, rollo 18, vol. 17, p. 13

12 de mayo de 1853. México. Alfred Conkling a William L. Marcy, Secretario de Estado norteamericano.

Accompanying my last despatch N^o 33 and dated on the 22nd. ultimo, I had the honor to transmit copies of notes from the Ministry of Relations announcing the organization of the new Government of the Republic; and I have now the honor to send herewith two newspapers containing, the one what are denominated the bases of the administration; and the

other, a decree imposing restrictions on the public press. In these documents you will not fail to discern evidence that the present rulers are proceeding with great activity and energy. The eleventh article of the "bases", it will be noticed; proposes a revision of the acts of the Government since the forcible dismissal of Congress by President Cevallos. In reference to this article, Mr. Alamán took occasion the other day spontaneously to assure me that nothing could be further from the intentions of the President than any interference whatever with the Tehuantepec grant; that, on the contrary, he wished and designed to cooperate with the grantees in the prosecution of their enterprise; and he earnestly requested me to communicate this assurance to my government. I answered that I should feel great pleasure in complying with this request, although I had not entertained the slightest apprehension of any manifestation of opposite sentiments on the part of his government. This last observation was strictly true; and I was induced to make it by having learned, as I had no doubt Mr. Alamán had, that such apprehensions had been entertained in the United States and by parties here interested, directly or indirectly, in the grant, and I was unwilling he should imagine that I had participated in suppositions so little creditable either to the Mexican Government, or to those by whom they were entertained, because so discordant with the dictates of common sense. It affords me no little satisfaction, however; to add, that not a single voice has been raised here against the grant or treaty, and that General Santa Anna is known to have expressed, in strong terms, his entire satisfaction therewith. General Tornel, one of the Mexican negociators, has been appointed Minister of War, and the other, Mr. Castillo y Lanzas, minister to England.

In estimating the measure of disapprobation which the decree against the press ought to inspire, it is due to this Government not to overlook the fact, as one of the elements of the question, that two of the four leading political newspapers published here, displayed in advance a rancorous hostility, and that the Mexican people are habitually factious,

and unaccustomed to the deliberate exercise of independent judgment; in so much that the most meritorious Administration might be brought into disrepute, and its stability endangered, by unchecked daily assaults from a vindictive and unscrupulous press. The most discouraging indication I see in the policy of General Santa Anna's thus far developed, is his apparent disposition to coalesce with the clergy the scourge and opprobrium of the country. He has placed a bishop at the head of the Council of twenty one. His desire to secure the support of this influential and numerous body of men is doubtless the motive of this policy; and it would be difficult to convince any one here, out of the circle of his devoted personal friends, that he would not much prefer to levy contributions on the church if he dared to do it. It seems to be understood by the Army and the multitude that he entertains a hostile spirit against our country, and we hear of strong language used by him indicative of such a temper. My own opinion, however, is that these manifestations are dictated by motives of policy for the purpose of acquiring popularity or of averting criticism from his own conduct during the late war. Tomorrow, really at his own instance indirectly signified, though ostensibly at mine.

I am to have an informal personal interview with him at the Palace.

I hope to receive despatches by the Texas, expected to arrive at Veracruz on or about the 4th. instant; and by which I expect to forward this. But to this day, I have no advices from later than despatch N^o 14. These unhappy delays are enough to break one's heart, and call loudly for some more certain and expeditions means of intercommunication.

I have the honor to transmit herewith a copy of a note from the Minister of Relations announcing the appointment of General Almonte as Envoy Extraordinary and Minister Plenipotentiary from Mexico to the United States.

I have the honor...

Caja 97, rollo 18, vol. 17, p. 113-5.

3 de mayo de 1853. México. Alfred Conkling a William L. Marcy. (Despacho núm. 35.)

In my despatch N^o 34, dated yesterday, and forwarded at an early hour this morning to Veracruz, by the British Express, I mentioned that I was, today, to have an interview with the President. I accordingly repaired to the palace at the hour appointed for this purpose. General Santa Anna received me politely, but with considerable gravity of manner; and in answer to the expression of a hope on my part that he was quite recovered from the fatigues of his voyage and journey, he complained of a pulmonary uncasiness which he ascribed to change of climate. His countenance wore an expression rather of oppression and sadness than of exultation, and this confirmed me in a partially formed resolution that I intended to execute or abandon, according to circumstances, to congratulate him on his auspicious return to his country after so long an absence; to assure him of the pain with which I had witnessed the discord and anarchy that, ever since my arrival here, had pervaded the Republic, (so they stile call it,) until, at length, I had come almost to despair of it; of my earnest hope that these troubles would now cease; that his administration would not fail to be conducive to prosperity of his country; and especially that he would meet with no factious opposition to the measures he might see fit to adopt for the accomplishment of these ends. He thanked me for my good wishes, and declared it to be his wish and determination to devote himself perseveringly, and without regard to personal consequences, to the welfare of the Republic, and said that, with this view he was especially desirous of cultivating friendly relations with other nations; a desire which he hoped I would avail myself of the first opportunity to communicate to my Government. I answered that it would afford me pleasure to do so.

He next spoke of the recent arrest and reported liberation of Brownsville, of the traitor Carvajal relative to which I will observe in passing, the Minister of Relations has, within the last three days twice informed me that he was only waiting to

find time to address a note to me. I told the President that, as the depredations of this man had been the subject of a correspondence between the Mexican Government and me, soon after my arrival here, copies of which had been transmitted to my Government, I had no doubt that it was in pursuance of its order that Carvajal had been arrested for a violation of a statute of the United States making it penal to set on foot a military expedition against a friendly power; nor that, if it was true that Carvajal had been liberated, it was for want of sufficient evidence seasonably offered, to justify his further detention.

Lastly, he adverted to the boundary survey, complaining of the interruption of the work on account of the want of an appropriation by the American Congress to defray the expenses of its prosecution and especially of the failure of the American Commissioners to meet the Mexican Commissioners, at the eastern extremity of the line, according to appointment, in March last. The failure of the appropriation I explained, referring to my instructions on the subject, and informing him that very soon after my arrival, I had addressed an explanatory note on the subject to the Minister of Relations. He said he was very desirous of having the work completed, so as to preclude all further dispute, as soon as possible, and desired to inform my Government by the earliest opportunity, of his wishes in this respect; which I engage to do.

On taking leave of him, he addressed me in terms highly complimentary, and assured me of the pleasure he should have in seeing and conversing with me often.

General Arista, who, on his compulsory resignation, retired to one of his estates about forty miles from the capital, has just been sent into banishment, lest his presence should encourage hostility and resistance to the Government. He was, it is said, civilly informed that his longer residence in the country was deemed incompatible with its safety: a military guard of eighty men, was sent to conduct him without delay, to Veracruz, where it is understood he is to embark on board the British packet to sail a day or two hence.

Mr. Toscano's papers.

Some days ago Mr. José María Toscano called at the Legation to inquire concerning certain papers transmitted at his request, by my immediate predecessor, to Washington, "to be laid before the board of Commissioners in support of a claim". The claim not having been allowed he has ever since been desirous of having the papers returned to him, and this wish was made known to the Secretary of State, by my predecessor. But Mr. Toscano's request has not yet been complied with, and he feels himself aggrieved by this omission. I beg leave to ask your early attention to the matter. Mr. T. represents these papers as important to his rights and interests.

Caja 97, rollo 18, vol. 17, p. 22-4.

4 de mayo de 1853. México. Alfred Conkling a William L. Marcy. (Despacho núm. 36.)

After closing the accompanying despatch, I was visited by a young man of interesting mind and manners, who presented to me, in duplicate, the paper which I have the honor herewith to inclose. One of the first acts of General Santa Anna, on his accession to the Supreme power, was to direct the dismissal from the army, of all those who voluntarily gave their parole of honor no longer to bear arms against the United States in the late war. This young man, it seems, finds himself subjected to this decree, and as he alleges, unjustly; and supposing that a list was kept and deposited in the War Office at Washington, of the names of those who gave their parole; he requests, it will be seen, to be furnished with a certificate that his name is not to be found thereon. I understand that his case is not singular; and if it should be thought proper to comply with his request, I take the liberty of suggesting the expediency, as an act of justice to which this Government can take no exception, but will be inclined, I think, rather to look upon with favor, of sending to me a

complete transcript of the list, duly certified, if there be one, such as this applicant supposes. But whatever opinion may be formed of the propriety of my suggestion, I should be very sorry to see this young gentleman disappointed in the hope he entertains, of obtaining the certificate he desires.

I have the honor...

Caja 97, rollo 18, vol. 17, p. 71-2.

5 de mayo de 1853. México. Alfred Conkling a William L. Marcy. (Despacho núm. 37.)

In my despatch of yesterday, N^o 36, I gave you reason to expect that I should soon receive a note from the Minister of Relations informing me of the apprehended escape of the notorious robber Carbajal from punishment, though at length arrested by the authorities of the United States. Last evening the expected note was received, and I have the honor herewith to transmit a copy of it together with a copy of my answer thereto. It will be seen also that Mr. Alaman's note contains another complaint of no little gravity, of wanton outrages committed by a band of American citizens, on the 26th. of March last, at the town of Reinosá, and that, in my answer, I have not hesitated to assure His Excellency that this alleged atrocity will receive, at the hands of the Executive Government of the United States, the attention it deserves.

I have the honor to be...

Caja 97, rollo 18, vol. 17, p. 73.

3 de mayo de 1853. México. Lucas Alamán a Alfred Conkling.

Le envía la copia adjunta de una comunicación dirigida por el alcalde de la Villa de Reinosá al gobernador de Tamaulipas, y que éste ha transmitido al gobierno de la República; en ella hacen del conocimiento de dichas autoridades

los atentados cometidos en Reinosá por una partida de norteamericanos bajo el mando de Mr. A. N. Norton, juez de paz del condado "Davis".

Manifiesta su sentimiento al comunicarle que, no obstante haber sido aprehendido el faccioso Carbajal por orden del Mayor Paul en Río Grande City, fue puesto en libertad junto con dos de sus cómplices por orden de la autoridad civil de Brownsville; agrega que, aunque han sido aprehendidos de nuevo, se teme que sean puestos en libertad.

Expresa el desagrado del presidente de la República por los sucesos de Reinosá, añadiendo que reprueba las bandas de aventureros organizadas en el territorio de Texas que realizan depredaciones en el área de Tamaulipas, lo que ya ha sido motivo de queja; y que cuando alguno de ellos haya sido aprehendido, sea puesto en libertad.

Le solicita a Conkling que pida a su gobierno tomar las providencias para que a los expresados delincuentes se apliquen las penas que la ley establece; asimismo, que se instruya a las autoridades militares de la orilla izquierda del Bravo para que, en cumplimiento de los tratados de ambas naciones, se persiga a los aventureros relacionados.

Caja 97, rollo 18, vol. 17, p. 75.

3 de mayo de 1853. J. Miguel Arroyo a Alfred Conkling. Copia certificada del informe rendido por el alcalde de Reinosá al gobernador de Tamaulipas.

Gob. del Estado de Tamaulipas.—E. S.—Con grande sentimiento dolor y sorpresa me apresuro a poner en conocimiento de V. E. los males que por una gavilla de nuestros vecinos del Norte, han sufrido los habitantes de esta Villa, cuando se creían gozar de la mejor paz y tranquilidad.—El 26 del corriente al esclarecer; se hicieron de las casas consistoriales, armas, y parque, una partida de cincuenta Americanos, las mandan abrir, las toman por cuartel y comienzan a aprehender a los Señores más principales; pero sólo lograron

efectuarlo con Dn. Francisco García Treviño y D. Trinidad Flores alcalde primero, salvándose los demás afortunadamente. Puestos los presos a la orden del capitán de la cuadrilla les pide la cantidad de treinta mil pesos, disponible en menos de un cuarto de hora: le contestaron por la negativa y los amenaza que serían pasados por las armas: se niegan por segunda vez, como que les era imposible reunir tan grande cantidad, y manda seis de los suyos golpeen, injurien y castiguen con tormentos crueles al Señor García. En tal posición lo tienen hasta las tres de la tarde, ya mandando que lo asesinen, ya que no lo hiciesen, mas al fin se conformó con que le diesen dos mil pesos que para su completo del efectivo reunido se le otorgó un pagaré de quinientos ochenta y dos pesos bajo la responsiva de un extranjero residente en la izquierda del Bravo frente a esta población. Tomaron también por la fuerza todo lo que consta en la adjunta lista ascendiendo todos los perjuicios a la cantidad de cuatro mil trescientos sesenta y un pesos, habiendo evacuado la plaza la partida como a las tres y media de la tarde del mismo día dejando en libertad a los expresados Señores. El que la comandaba lo era Mr. A. N. Nortor, Juez de Paz del Condado Davis: Los más que lo acompañaban montaban caballos frisonos con la marca de los Estados Unidos del Norte.—Un cuarto de hora después de haber salido de ésta la partida de facciones, llegaron de Camargo en auxilio fuerzas del ejército: y aunque se pasaron en su persecución, lograron no más tirotearla en un espeso bosque, cuatro leguas al sur de esta Villa, de cuyo encuentro se sufrió la pérdida del vecino de esta Juan García Galván muerto y un soldado herido cerrando la noche sin poderlos perseguir, de manera que tuvieron lugar de repasar el río al amanecer del 2º día, dejando en el paraje que se les atacó caballos, armas y señales de un muerto y huidos.—Dígnese V. E. aceptar mi particular aprecio y respeto.—Dios y Libertad, Reinosa, marzo 28 de 1853.—Severiano Medrano.

Lista del robo hecho a los habitantes de esta villa en la entrada de cincuenta americanos al mando de Mr. A. N. Nortor, el 26 del corriente.

A saver:

(\$2,000) dos mil pesos incluso un documento de (\$582) quinientos ochenta y dos.	\$2,000
Una silla plateada.	350
Un caballo tordillo frisón, en	200
Dos ídem del país, en	50
Dos Frasadas de Molote, en	40
Un fusil de primer orden, en	50
Una carabina en	25
20 rifles del Juzgado por	400
40 caballos de varios dueños	630
12 mulas de varios vecinos	230
Un bucy gordo	12
Un caballo alazán de estima	100
210 ps. qe. en depósito tenía el Juzgado	210
Dos fusiles de dos tiros, en	50
Tres de chispa	24
Suma	\$4,371

Juzgado primero Constitucional en turno de Reinosá, marzo 28 de 1853.

Caja 97, rollo 18, vol. 17, p. 76-8.

5 de mayo de 1853. México. Alfred Conkling a Lucas Alamán.

The undersigned, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, has the honor to acknowledge the receipt of the note of His Excellency Don Lucas Alamán, Minister of Relations, accompanied by a copy of a communication from an Alcalde of the town of Reinosá to the Governor of the State of Tamaulipas, and by the latter functionary transmitted to the Supreme Government, in which the above named town is stated to have been miraded on the 26' of March last by a lawless band of Americans, who, while there, committed many wanton and outrageous acts of violence and robbery. The Undersigned cannot conceal the pain and mortification with which he has read this statement.

He will lose no time in communicating it to the Executive Government of the United States, where, he does not hesitate to assure H. E. Mr. Alamán, it will receive the attention due to a friendly neighboring nation complaining of so atrocious a crime.

With regard to the further information also conveyed to the undersigned by His Excellency's note, of the apprehension and subsequent release of the traitor Carbajal and two of his associates at Río Grande City by the authorities of the United States, of his arrest a second time by the same authorities, and of the fears entertained that he may again be set at liberty, the undersigned begs leave to remind Mr. Alaman, that by the laws of the United States, which in this respect are only a part of the Common Law of England, a person arrested on a criminal charge is entitled to a speedy examination, and to be confronted with his witnesses; and that unless the witnesses are forthcoming; he must be discharged. The undersigned hopes therefore, that H. E. Mr. Alaman will discern in this fundamental principle of law what will appear to him, as it does to the, undersigned, the most probable solution of what would otherwise appear unaccountable and therefore censurable in the conduct of the official parties concerned in the transaction past and apprehended, mentioned in His Excellency's note. The undersigned will nevertheless, at once make known to his Government the contents of Mr. Alaman's note on this subject, and in the meantime will cherish the hope, and most sincerely rejoice in its fulfillment, that this notorious robber and his associates, of whatever nation will soon be brought to condign punishment.

The undersigned avail himself...

Caja 97, rollo 18, vol. 17, p. 78-9.

5 de mayo de 1853. Washington. William L. Marcy a Alfred Conkling.

Sir:

I enclose, herewith, extracts from a letter addressed to this Department, by I. M. Cazneau, of Texas, in relation to

the violent abduction of Manuel Ríos, by a party of Mexicans who entered the American territory for that purpose.

By reference to despatch N° 59, addressed by this Department, under date of 1st. March, 1851, to the Acting Chargé d'Affaires of the United States in Mexico, you will observe that the attention of the Legation was then, for the first time, invited to this subject. In the correspondence of the Legation subsequent to the date mentioned the subject has been referred to in despatches numbered 57, 64 and 95, but although it appears from N° 64 that the Mexican government has been solicited to investigate the case with a view to such reparation as the facts might warrant, and that it has promised (*vide* N° 95). To institute the proper enquire, yet the Department has not been advised of the result of the proposed investigation.

This and similar events tend to irritate the people of the frontiers and excite them to retaliatory measures. The government of Mexico has unfortunately discovered the readiness with which border incursions are provoked and the difficulty if not impracticability of effectually restrainig and punishing those who engage in them. The people of Texas, as Mr. Cazneau represents, have doubtless exercised much forbearance which, it is hoped, may not be further tested; at the same time it is not improbable that the residents on the Mexican side of the line may also have had causes of complaint. There is a propriety therefore in presenting this subject to the Mexican government in such a light as to induce it to exert its authority for the prevention of these outrages and the prompt and exemplary punishment of those committing them. Without the manifestation of such a disposition on its part, the prudent and pacific intentions of the government of the United States, may unfortunately be frustrated by a violent and designing adventurers.

I am...

National Archives. Records of the Department of State.
Diplomatic Instructions. Mexico. Vol. 16, doc. núm. 16, p. 369-370.

6 de mayo de 1853. Washington. William L. Marcy a Alfred Conkling.

Sir:

Herewith I transmit copies of papers recently received at this Department under cover from the Hon. Tho's J. Rusk, a Senator from the United States from Texas. They relate to the alleged murder of an American citizen whilst pursuing a journey through Mexico with his brother (protected by proper passports) and the seizure and plunder of their joint property consisting of horses, mules baggage, etc. by the attacking party, under circumstances of apparently, great aggravation.

The person making complaint of this outrage, Mr. Daniel A. Ogle, details the incidents of the attack with considerable minuteness and substantiates his statement by an oath, as he and his brother appear to have been travelling without other companions, it is impracticable to arrive at the facts from any other testimony than his own. But as he identifies and furnishes the names of the attacking party, it is presumed, that, without any difficulty this statement may be corroborated; and I have to request you to invite the attention of the Government of Mexico to a careful and prompt investigation of this case with reference to such ulterior massacres as the facts may seem to demand.

Referring to the course of remark with which my despatch of yesterday's date (Nº 16) closed, it is unnecessary for me to repeat any of the observations or suggestions contained therein. There will equally apply to this case, if the allegations be sustained; and the frequent recurrence of these outrages will inevitably lead to disastrous consequences if prompt and vigorous punishment be not visited upon offenders.

Your despatches to Nº 30 inclusive have been received.
I am...

National Archives. Records of the Department of State. *Diplomatic Instructions. Mexico*. Vol. 16, doc. núm. 17, p. 371-372.

6 de mayo de 1853. Washington. William L. Marcy a Alfred Conkling.¹

Dear Sir:

Your letter marked "not official", dated March 29, has just been received.

As you are desirous of information upon the subject, I may state that your sucesor will be appointed in two or three days; but I am not prepared, at present, to designate the time of his departure for Mexico.

There has not yet been time to examine the questions which are raised having connection with the Convention recently entered into by you, or the articles of that instrument, but frankness requires me to apprise you that I have apprehensions that your proceedings in that matter will not be approved. I shall take as early an occasion as I can find to submit the subject to the consideration of the President.

Sincerely thankful for the kindly sentiments which you entertain for me and fully reciprocating them.

I am...

National Archives. Records of the Department of State. *Diplomatic Instructions. Mexico*. Vol. 16, p. 415-416.

10 de mayo de 1853. Washington. William L. Marcy a Alfred Conkling.

Sir:

In your despatch N° 32 reference is made to the claim of Mr. Adolph Blumenkren upon the government of Mexico. You allude to the vouchers in support of this claim transmitted by Mr. Letcher to the Department of State on the 5th. of January, 1852 and state that Mr. Blumenkren has repeatedly, at great inconvienience and expense, visited Mexico for the purpose of learning the progress of his claim and is now

¹ Al principio del documento se indica que la carta es privada.

in that city, with the object of obtaining some information upon the subject.

Upon examining the papers which you refer, it is found that they are very voluminous, and are besides written in the Spanish language. It would therefore require a much longer time to examine and understand the merits of the case, than under the peculiar pressure or urgent business, the Department can bestow upon its consideration, apart from this condition of things, which may be regarded as only temporary, you are well aware of the accumulation of claims of citizens of the United States against the government of Mexico; for the adjustment of which there seems, unfortunately, no immediate prospect. This government trusts however, that it will be enabled to arrange the terms of a Convention with Mexico, which will embrace all the claims of its citizens yet unliquidated.

I am...

National Archives. Records of the Department of State. *Diplomatic Instructions. Mexico*. Vol. 16, doc. núm. 18, p. 373-374.

12 de mayo de 1853. Washington. William L. Marcy a James Gadsden.

Sir:

I have been requested by the President to inform you that he has determined to offer for your acceptance the Mission to Mexico. A Commission will speedily follow this notification.

Our relations with Mexico require immediate attention. The President is not only desirous that you will accept the appointment but that you will be prepared without submitting yourself to inconvenience to proceed to your destination at an early day.

You will oblige me if you will indicate upon the receipt of your commission if you accept it the probable time at which you will be ready to repair to Mexico.

Very respectfully.
Yor obedient servant.

National Archives. Records of the Department of State.
Diplomatic Instructions. Mexico. Vol. 16, p. 367-368.

*14 de mayo de 1853. Washington. William L. Marcy a John Crips.*¹

Sir:

I herewith enclosed you a Commission as Secretary of the Legation of the United States at Mexico. The Hon. James Gadsden, of South Carolina, has been selected as Minister to that Republic, and you have been appointed at his request. It is the wish of the President that he should repair to his post as soon as he conveniently can. It is presumed that if you accept the office tendered to you, you will proceed from California directly to the City of Mexico without delay and reach there as soon as the Minister.

Very respectfully
Yours...

National Archives. Records of the Department of State.
Diplomatic Instructions. Mexico. Vol. 16, p. 374-375.

14 de mayo de 1853. Washington. William L. Marcy a Alfred Conkling.

Sir:

In accordance with the request presented in your N° 28, on behalf of the Executor of Don Javier Echeverría, I have withdrawn from the Treasury Department, and herewith enclose to you, the original certificate, in favor of said Echeverria, on the Mexican Treasury for fifty thousand dollars; which was forwarded to this Department with Mr. Letcher's N° 105.

¹ La carta fue enviada a California.

Before surrendering this certificate, however, you will be careful to obtain a substitute for it, to cover the amount already paid by the Treasury of the United States.

I am...

National Archives. Records of the Department of State. *Diplomatic Instructions. Mexico*. Vol. 16, doc. núm. 19, p. 375-376.

14 de mayo de 1853. México. Alfred Conkling a William L. Marcy.

Exequatur to Mr. Pleasants.

I had the honor on the sixth instant, to receive your despatch N^o 15, inclosing a commission to Mr. Pleasants as consul at Minatitlan, and, in accordance with your directions I immediately sent it to the Minister of Relations with a request that the usual Exequatur might be granted. I have since received a letter from Mr. Pleasants dated at Veracruz, simply apprising me of his arrival at that place on his way to his post. On the receipt of this letter, not having received any answer to my note requesting an Exequatur, I addressed to the Minister of Relations another note recalling the subject to his recollection.

Conversation with the Prussian Minister.

On the ninth instant, the Prussian minister Resident, Baron de Richthofen, paid me a visit, for the purpose, as he said, of communicating to me frankly but *confidentially*, what had recently passed between the existing Government of Mexico and himself, and what he had in consequence, written to his own Government.

His statement was in substance as follows previous to the departure of General Uraga, the newly appointed Mexican Minister to Prussia, the Minister of Relations informed Baron de Richthofen that it was the wish of the Mexican Government, for the purpose of increasing the efficiency of the army, to obtain from Prussia, a number of Military officers and privates, to be employed as instructors in the military art & disciplinarians.

The Baron answered that he did not feel authorized to enter into any stipulations, or give any assurances on the subject; but that he would at once make known the wish of this Government to his own, and should his Sovereign deem it advisable to enter into negotiation relative thereto, this in his opinion, could better be done at Berlin, through General Uraga, than here. Instructions to this effect, he added, had accordingly been given to this gentleman.

Baron de Richthofen had written fully to his Government on the subject, describing the condition of Mexico advising caution in dealing with its Government, and especially with respect to the security it would be necessary to require for the fulfillment of its engagements; expressing the opinion, moreover, that should the Prussian Government see fit to entertain the proposition of this Government for a supply of troops, this supply ought to consist, not of a small number of men to be blended with the native soldiery, and for the mere purposes suggested by the Mexican Government, but of an army of not less than three thousand men, to constitute a distinct corps, under the immediate command, exclusively, of Prussian officers, for the suppression of the factious spirit so ripe in the country, and so ready at all times to break out into open rebellion against the Government, and for the general defense of the Republic against border incursions etc.

Such is the outline, as given by Baron de Richthofen, of his communication to his Government, despatched by the last British Mail Steamer.

The Baron observed that he gave me this information in a spirit of undissembled frankness, because he thought it due to other nation, and especially to the United States, that; from the outset, there should be no concealment on the subject, and because he was quite sure that such would be the view of it entertained & acted upon by his Government; which would without doubt, be ready to head any reasonable objections that might be surged against the project. Baron de Richthofen added, also, that although he had little expectation that his Sovereign would lend a favorable ear to this Mexican proposal, he would be glad to have me communicate what he

had said to my Government, while at the same time, he desired me to treat it in other respects, as confidential.

In the course of the conversation which ensued, and in answer to an observation of the Baron inferring an apprehension on his part, that this proposal, or rather his proposed substitute for it, if adopted, might be regarded with jealousy by the Government of the United States, I told him that I considered it to be the interest of the United States, in common with other commercial nations, that there should be stable Government in Mexico, & that since my arrival here I had seen much tending to convince me that no such Government could be expected except through the instrumentality of a body of foreign troops sufficiently strong to overawe the love of insurrection which had become a chronic disease of the Mexican mind, and, if necessary, forcibly & promptly to repress its eruptions; and I was of opinion, therefore, that no exception was likely to be taken by the United States to such a convention as he had described, between Prussia & Mexico, provided it was limited to the conditions and objects he had mentioned.

It is too obvious to require remark, that the scheme proposed by Baron de Richthofen contemplates a military despotism; but even such a government, except in very bad hands would be preferable to alternate and constantly recurring usurpation, civil war and anarchy; and to such a government every thing here at present seems to be tending with no tardy steps. Indeed, the man now in power frankly avow it to be their purpose to establish it as the only remedy for still greater evils; but they assert that it is to be relaxed and finally abandoned as soon as this can be done with safety to the nation; and such I am sure are the intentions of some, and I think of all of them.

Supposed symptom of hostility to the U. S.

I deem it proper briefly to advert to the supposed indications which I see have become the subject of comment by the American press, of a hostile disposition on the part of the present Government of Mexico toward the United States. There are also what some regard as further indications of a

like nature of more recent date. A law which had become virtually obsolete, has been revived by a decree forbidding the circulation of foreign coin; by another decree prosecutions are to be instituted for treasonable acts committed in the war with the United States; and those officers who voluntarily gave their parole not to bear arms against us are dismissed from the army. From all these circumstances, the inference has been drawn by so many persons here as to have given rise to a public rumor that General Santa Anna is deliberately seeking to provoke a quarrel with us. But, in addition to the obvious improbability of such a design, I constantly receive from the highest sources, the most positive and earnest assurances, that nothing can be further from the truth, and that General Santa Anna and his advisers, on the contrary, are especially desirous of cultivating the most friendly relations with the United States; and I will only add; that I see no reason whatever to doubt, nor do I doubt the sincerity and truth of these assurances.

By the Steamer Texas which arrived at Veracruz on the third instant, news was received of the failure of Mr. Sloo to pay the bills drawn by his agent here in favor of the bankers who advanced the money due to the Mexican Government under its grant and contract for the construction of a transit-way across the Isthmus of Tehuantepec. It is out of my power adequately to describe the surprise and chagrin occasioned here by these evil tidings. Nothing could have been more unexpected or unaccountable, the news was brought from Vera Cruz by an express in advance of the mail. The letters received by the latter gave information of Mr. Sloo's inability to raise the funds requisite to meet his engagements, but they shed little light upon the causes of his ill success. The true explanation is now supposed to have been found in certain insidious articles contained in a venal print of the city of New York, made up of false insidencies and insinuations obviously designed and artfully adapted to excite distrust. I deeply share the regret felt by so many others in this city and country, at a result so entirely irreconcilable with the unequivocal assurances given and constantly reiterated Mr. Sloo and others

speaking by his authority, to his able; zealous and faithful agent. Hopes are still entertained that this unfortunate delinquency will be repaired; but as the grant has been hypothecated to the bankers as the only condition on which they would consent to advance their money, as they are men of ample means, and as the treaty is believed by them, as it is by or others here interested in the grant, (and I need not say by me, or I should not have signed it), to contain every thing desirable and nothing objectionable, the great enterprise in question already begun, will doubtless be consummated, in conjunction, however, with American citizens and by the aid of a liberal supply of American or other foreign capital.

I have...

Caja 97, rollo 18, vol. 17, p. 80-3.

17 de mayo de 1853. México. Alfred Conkling a William L. Marcy. (Despacho núm. 39.)

I haste to inform you that having been informed on the twelfth instant, of the grievous sickness and probable death of Mr. Germaine Musson, at Perote, on the 9th. instant, and having also learned that he had spoken of being changed with despatches from the Department of State to this Legation, I immediately, in conjunction with the attorney of Mr. Musson despatched a messenger to Perote, to take possession of his effects and bring them hither. The messenger, almost trustworthy man, has just now, at the last moment for communicating with you by the Texas Steamer, returned, with a pasport to Mr. Musson bearing your signature, and another document from the Mexican Consul at New Orleans in each of which he is described as bearer of despatches, but without any despatches.

If therefore, Mr. Musson was in truth the bearer of despatches they seem, by some unaccountable accident to have been lost.

I have...

Caja 97, rollo 18, vol. 17, p. 84.

18 de mayo de 1853. Washington. William L. Marcy a Alfred Conkling.

Sir:

Your despatch N° 31, of the 9th. ultimo, enclosing copies of the letter addressed to you by the Minister of Foreign Relations of Mexico on the preceding day, of your reply thereto, and of your letter to Governor Lane of New-Mexico-, has been received at this Department.

These communications have been laid before the President, and I am directed by him to make you acquainted with his views thereon, to the end, that, so far as they relate to our relations with Mexico, they should be communicated to the government of that Republic.

Very little doubt exists here as to the fact that the disputed territory alluded to in the correspondence was within the limits of New-Mexico at the date of the Treaty of Guadalupe Hidalgo; and that nothing has since taken place to transfer it to the State of Chihuahua. By that treaty it became the territory of the United States and now rightfully belongs to it. It is not proposed in the present communication to do more than state this fact. On some future occasion the views of the President on the subject will be presented more fully to the Mexican Government.

Where a dispute as to territorial limits arise between two nations, the ordinary course is to leave the territory claimed by them, respectively, in the same condition (or as nearly so as possible), in which it was when the difficulty first occurred, until an amicable arrangement can be made in regard to conflicting pretensions to it. It has not been the intention of the United States to deviate from this course, nor has any notice been given by Mexico that she proposed to assume jurisdiction over it, or change the possession as it was held at the conclusion of the Treaty of Peace and limits between the two Republics.

Governor Lane is justified in claiming the disputed territory as a part of New-Mexico and in denying that the acts of the boundary commission had in any manner effected a transfer

of that territory from New Mexico to Chihuahua; but his proceeding to enter the territory and hold it by force of arms is not approved and will not be, unless it shall appear that the authorities of Chihuahua had changed or were attempting to change the state of things in the disputed territory from the condition in which they were before the action of the boundary commission on that part of the line. The successor to Governor Lane will proceed without delay to New-Mexico with instructions to pursue a course fair towards Mexico and usual in such cases.

You are instructed to assure the Government of Mexico of the willingness of the Government of the United States to have the territory remain as it was when the Treaty of Guadalupe-Hidalgo was concluded, without prejudice to the rights of either party, until the line shall be definitely settled by the Boundary Commission or by negotiation.

A successor to yourself, as Minister to Mexico, has been appointed and he will repair to his post with full instructions to arrange this matter in such a manner as, it is hoped, will be satisfactory to both Governments.

The President sincerely regrets that there is a necessity of making any disapproving comment upon your course on this subject. You seem to be yourself conscious that it was quite unusual—not to say irregular—for you to address an official communication, without being instructed to do so to Governor Lane, in regard to his official conduct. This course might not perhaps have been the subject of animadversion, had you not assumed a position which, if well founded, would impair the claim of the United to the territory in dispute.

It may have escaped your notice—yet such is the fact—that Mr. Arroyo, the Mexican Minister of Foreign Affairs, does not, in his note to you pretend that the disputed territory was not a part of New-Mexico when the Treaty of Guadalupe Hidalgo was concluded; nor does he venture to assert that it was ever a part of Chihuahua until the line was run (erroneously as it is contended) by the Boundary Commission). Speaking of the section of country which Governor Lane proposed to take possession of, he says

—this territory has always been in possession of Mexico, and is comprised within the boundary line drawn by the Commissioners”, etc. He cautiously avoids asserting that it was formerly a part of the latter State, In the very first sentence of it there is a concession, or what may be regarded by the Mexican Government as a concession, which, if sanctioned by the United States would take from it all pretence to any right to the disputed territory. If indeed this territory formerly formed a part of Chihuahua and did so when the Treaty of Guadalupe-Hidalgo was concluded, then the United States has no claim to it; but the Mexican Minister of Foreign Relations does not either in his note to you, or in his communication to this Department on the same subject assume that position. It may be that you intended to present to Governor Lane only what that Minister had stated to you and not your own opinion of the point in controversy; and this construction I should be disposed to put upon your language, if his note to you contained what you stated to Governor Lane, that is the steps resorted to by him were “for the purpose of acquiring possession of a portion of territory, formerly, and, as Mr. Arroyo persists, still forming a part of the State of Chihuahua”. But no such assertion is contained in the copy of his communication to you.

As you probably have furnished the Mexican Government with a copy of your letter to Governor Lane, the President expects that you will seek an early occasion to give to that letter such an explanation as will prevent it from being used hereafter as concession against the rights of the United States to the Territory in dispute. The opinion entertained here is that the disputed territory never was within the limits of the State of Chihuahua, but always was a part of New-Mexico, and being such was transferred to the United States by the Treaty of Guadalupe-Hidalgo.

It is proper also to say that the views presented by you to Governor Lane of the action of Congress in regard to the conduct of the Boundary Commission differ essentially from those entertained by the President, and you are requested to

notify the Mexican Government that the views in this respect expressed in your letter are not concurred in by the Government of the United States.

I am...

National Archives. Records of the Department of State. *Diplomatic Instructions. Mexico*. Vol. 16, doc. núm. 20, p. 376-382.

19 de mayo de 1853. México. Alfred Conkling a William L. Marcy. (Despacho núm. 40.)

At a late hour day before yesterday, I received from the Minister of Foreign Relations a note, a copy whereof marked A, I have the honor herewith to enclose, relative to an apprehended invasion of the State of Sonora by a large body of armed men composed of Americans and Frenchmen, and under the direction of Count Raousset de Boulbon. To this note I immediately prepared, and this morning caused to be delivered, an answer, a copy whereof is also herewith transmitted, bearing the above mentioned mark. In the Government paper, the Universal, of this morning, however it is stated that the apprehended danger, if indeed it was real, has ceased to exist, that Count Raousset has offered his military services to the Mexican Government, and that he has in consequence received a safe conduct to this city. In explanation of the allusion in my note, to the treatment Count Raousset had met with from the Mexican Government, an allusion which I was not sorry to have so good an opportunity to make, it may not be amiss to observe that I received, a few weeks ago from the French Minister, a full statement, which he made of his own accord, of the origin, progress, incidents, and termination of what, at the time, was represented as an unlawful invasion; by Count Raousset of the State of Sonora; but which, in reality, was only an enterprise of the character described in my note—I do not propose to trouble you with details, but will content myself with adding that the statement of Mr. Levasseur very clearly

demonstrated that Count Raousset was the victim of shameful duplicity and the most revolting perfidy.

You will observe that my direct interposition is invoked for the purpose of aiding in the suppression of the apprehended invasion; and that in my answer, I have engaged to consider whether I can with propriety take any step of this nature. It may therefore, be due to myself; lest I should be suspected of a disposition to transcend the just limits of my authority and duty, to say, that even if the news of the morning, to which I have referred, should prove to be unfounded, the utmost I have thought of doing, is to address a friendly letter to the District Judge of California, apprising him of the sensibility felt here on the subject; and inviting his attention to the authority conferred, and to, the duties imposed by the 6th, section of the neutrality act of 1818, with which it was my duty to become very familiar, as you may remember, in the years 1836-7 and 8, in consequence of the troubles on the frontier of my Judicial District in those years. Even this step, however, would probably be an act of supererogation, and it is not likely that I shall adopt it. As it regards the protest with which Mr. Alamán's note concludes, I did not deem it advisable particularly to notice it, not doubting that he would readily infer my opinion of it from the general tenor of my note.

By the despatch N° 11 from the Department of State, I was instructed to "demand the restoration to Tyler and two others, American citizens, of the value of a quantity of gold dust and coin, found in their possession and subjected to forfeiture by the Mexican authorities at Tampico, for non-payment of export duties. I accordingly, immediately brought the case to the notice of the Minister of Relations, in a note, a copy of which, together with a copy of the answer thereto, was transmitted to the Department with my despatch N° 25.—The answer asserts, in substance, as you will observe, that these American citizens committed a palpable infraction of a law of Mexico; that what they complain of was but the prescribed penalty of their offence; and that the restoration to them of a portion of their money was an act of grace which they had no right to expect, nor the collector, in reality, any right to

accord. This adverse decision was founded on a report made by the Minister of Hacienda to whom my note had been referred. This Minister is, however, clothed with authority to entertain applications for the remission of forfeitures, analogous to that confided to the American Secretary of Treasury, and, in the hope of obtaining relief in this form, I first called at his office, and not having that good fortune to find him, I addressed a note to him, a copy whereof, marked B, I have the honor herewith to enclose. To this note I regret to say I have not yet received any answer.

A probable and, I hope, the true reason of this delay may be found in the change of administration which has intervened, and the constant occupation of the new ministry in striving to provide "for the common defence and general welfare" of the nation.

The Minister of Relations having, however a few days ago requested me to furnish him with an informal memorandum of the pending cases, in which I was most desirous of obtaining speedy answers, I included this among them.

With regard to one application I have deemed it my duty to make, I have reason, I regret to say, to feel strong dissatisfaction. It is in behalf of two Americans who have been imprisoned eighteen or nineteen days on a charge of larceny, of which offence I am thoroughly convinced they are innocent. Indeed, I do not understand that a different opinion is entertained by the Mexican authorities. These men have at length been liberated on bail: but at the time of their arrest, more than three weeks ago, they were deprived of all their money to the amount of more than \$400; and in spite of all the efforts I have been able to make, It is still withheld from them; and being strangers here, they are subjected to painful embarrassments for want of it. Both of them moreover, are suffering considerably from impaired health occasioned, I have no doubt, by the imprisonment, privations and troubles they have endured. I obtained, several days ago, from the Minister of Foreign Relations, the promise of a final decision of the case before this time. In the hope that it may soon be given, I abstain for the present from further details.

With my despatch N^o 36 I sent a communication, handed to me in duplicate, from José María Pevedilla, asking to be furnished with evidence to exonerate him from the charge of having voluntarily pledged himself not to bear arms against the United States in the late war. I now have the honor to transmit a like request from his two brothers. They state it to be their object, not to obtain a restoration to the army, with which they declare themselves to have become thoroughly disgusted, but only to exonerate themselves from a false and injurious charge. I beg leave to commend their applications to your favorable attention.

I have the honor...

Caja 97, rollo 18, vol. 17, p. 85-7.

17 de mayo de 1853. México. Lucas Alamán a Alfred Conkling. (Anexo al despacho núm. 40.)

El infrascrito, Ministro de Relaciones Exteriores, después de haber cumplido pocos días ha con el penoso deber de dirigirse a S. E. el Sor Alfredo Conkling, Enviado Extraordinario y Ministro Plenipotenciario de los Estados Unidos de América, con el motivo de los desagradables sucesos ocurridos en las fronteras del Bravo, no puede, sin muy sincero pesar, verse de nuevo forzado a comunicar a S. E. un hecho de tan grave carácter como lo es el que se halla referido en el primer artículo del periódico "Suplemento al Diario de la tarde de San Francisco" de 30 del último abril, que es adjunto, que suplica a S. E. se sirva devolverle cuando haya tomado conocimiento de él, y cuyo contenido se halla corroborado por noticias oficiales que por diversos conductos ha recibido el Gobierno. S. E. el Sor Conkling verá por ese impreso, que en San Francisco de la Alta California, y a las órdenes del Conde de Raousset Boulbon, se ha preparado una expedición de dos mil hombres con el fin de invadir el Estado de Sonora; que esa expedición ha sido organizada y dispuesta sin reserva alguna, a ciencia de las autoridades, sin que éstas la hayan sofocado

como fácilmente podían haberlo hecho en su origen, y sin que, según parece, la autoridad militar haya tomado las medidas necesarias para desbaratarla e impedir su realización, pues sólo se indica por un párrafo adicional que S. E. encontrará unido al mismo periódico, que el General Hitchcock había recibido órdenes para impedir su salida, en caso de que la mencionada expedición tubiese por objeto la conquista u ocupación a mano armada de alguna provincia mexicana, y esto cuando esa expedición se compone en su mayor parte de aventureros franceses, cuya conducta ha sido reprobada por su gobierno, y declarados fuera de la protección de él, por las manifestaciones hechas al gobierno de la República por el E. S. Ministro de aquella Nación residente en ésta, y su intención al reunirse en San Francisco no podía ser desconocida.

El gobierno de la República ha dictado desde luego las providencias que el caso exige, mandando avanzar tropas al referido Estado de Sonora, a fin de que si llega la expresada expedición, sea debidamente reprimida, y previniendo que los individuos de ella que fueran aprehendidos, sean tratados con todo el rigor de las leyes como piratas, cualquiera que fuera su nacionalidad; porque estando México en paz con todo el mundo, no puede reconocer ninguna en unos hombres que, con designios tan torcidos como notorios, pretenden introducirse a la República para apoderarse de una parte de su Territorio; y del mismo ha dispuesto el gobierno que, si desgraciadamente y contra su esperanza, algunos mexicanos se adhieren o auxilian esa invasión, sean también considerados y castigados como Traidores a su Patria.

El infrascrito al cumplir con el deber de poner esta nueva tentativa contra el Territorio Nacional en conocimiento de S. E. el Sr. Cokling, no duda que S. E. tomará por sí mismo las providencias convenientes, sirviéndose darlo a conocer a su gobierno con la prontitud posible, a fin de que por uno y otro medio se impida, si aún fuera tiempo, la realización de tan reprobada empresa; pero no cumpliría el infrascrito con las órdenes que ha recibido del E. S. Presidente de la República, si al mismo tiempo no protestara a salvo, como lo hace de la manera más solemne, los daños y perjuicios que puedan resultar

a esta Nación y a sus ciudadanos; y que ya han resultado a aquélla por el envío de tropas para hacer frente a dicha expedición, cuando contra el derecho de gentes y los deberes de una buena vecindad, ha sido públicamente combinada, armada y no reprimida en el Territorio de una nación amiga, en plena paz y buena armonía con ella.

El infrascrito repite su sentimiento por tener que ocupar la atención de S. E. el Sor. Conkling con este asunto, por su naturaleza tan desagradable; prometiéndose que las medidas que acerca de él dicte el gobierno de los Estados Unidos, serán un motivo que estreche más los lazos que unen a ambos países, como el gobierno de México desca.

El infrascrito...

Caja 97, rollo 18, vol. 17, p. 91-3.

18 de mayo de 1853. México. Alfred Conkling a Lucas Alamán. (Anexo al despacho núm. 40.)

In thus promptly acknowledging the receipt of the note of H. E. Don Lucas Alamán Minister of Foreign Relations, of the 17, instant, as the undersigned, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, now has the honor to do, he can not refrain from expressing his unfeigned regret at learning from H. E.'s note the occurrence of a new source of disquietude to the Mexican Government, while assiduously engaged in the patriotic task of endeavoring to restore public order, so long disturbed and so necessary to the prosperity of the country; and the regret felt only by the undersigned is increased by the circumstance that some of his own countrymen are supposed to have become parties to the unlawful enterprise mentioned in His Excellency's note.

The undersigned saw, about three or four weeks ago, an article copied from a San Francisco newspaper, very similar in its tenor to that contained in the paper which accompanied His Excellency's note; and having understood from good authority

that Count Raousset de Boulbon was smarting under a very deep sense of injury on account of the treatment he had met with from the Mexican Government, when, some months ago, he visited Sonora with a small number of his countrymen, for a lawful and even praise worthy purpose, and as he understood, with the express sanction of this Government, the undersigned could not but discern in this circumstance, a very strong probability that Count Raousset did not lack the disposition to engage in an enterprise of the nature of that in question, nor could the undersigned be insensible to the danger that a sufficient number of adventures might be found willing to become his followers. But not long after reading the account to which the undersigned has referred, he said its statements flatly contradicted in another newspaper. If therefore the article contained in the San Francisco Evening Journal of the 30th. ulto. were uncorroborated by any additional evidence, the undersigned would feel warranted in regarding it, like the former article, as but advice to allure adventures; and though H. E. Don Lucas Alamán, assures the undersigned that information to the like effect has been received from other sources, still the undersigned would fair believe that it is not of a nature so convincing as to preclude the hope of its proving equally fallacious. The undersigned is the less disposed to give credit to this newspaper statement on account of the extreme vagueness of the language in which it is couched. It purports to give information concerning "an expedition now fitting out for Sonora"; and it is said that by time the expedition leaves California "it will probably number 2,000 men". But no time is designated by which the pretended expedition is likely to set out, nor does the writer venture to assert that so many as twenty men have yet been found willing to embark in it.

In answer therefore to that part of the note of H. E. Don Lucas Alamán, which seems to infer an opinion on his part that there has been censurable remissness on the part of the Government of the undersigned or of its local functionaries because no effectual steps have yet been taken to suppress

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this supposed expedition, the undersigned deems it pertinent to observe, that, by the constitution and laws of the United States, it is only upon proof that a hostile military expedition against the territory of a friendly power, has been begun or set fort, or that the means for such an expedition have been provided or prepared, that any measures can be resorted to for the purpose of repressing it; and from what the undersigned has already said, H. E. will not fail to perceive that the undersigned is very far from being convinced that the criminal acts he has indicated have, in this instance been committed, or if they have, that they are yet susceptible of proof.

In another newspaper paragraph with which H. E. Don Lucas Alamán has been pleased to favor the undersigned, it is stated, that orders have been sent to the chief commander of the military forces of the United States on the Coast of California, "to use all precautions to prevent the successful departure of any expedition" of the nature of that apprehended. If this be so, the undersigned assures H. E. that, in giving this order, the Executive Government of the United States has gone to the extreme limits of its lawful authority, thereby evincing its earnest desire to fulfill, to the utmost, its international obligations.

Touching that part of H. E. Don Lucas Alamán's note by which he informs the undersigned that it is proposed to treat those persons, of whatever nation, who, having engaged in the unlawful enterprise in question, shall be apprehended, as *hostes humani generis*, the undersigned will for the present, content himself with observing that he sincerely hopes there may be no occasion to execute a purpose which nothing but the most cogent necessity could justify, and the execution of which could not fail to awaken the profoundest sensibility.

The undersigned assures H. E. Don Lucas Alamán that he will not lose time in transmitting to his Government a copy of His Excellency's note; and that, in accordance with the expectation expressed by H. E., the undersigned will consider whether that by any other step, likely to be useful, that he can to the same end, with propriety adopt.

The undersigned avails himself...

Caja 97, rollo 18, vol. 17, p. 93-5.

6 de abril de 1853. México. Alfred Conkling a Manuel Merino, Ministro de Hacienda. (Anexo al despacho núm. 40.)

The undersigned, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, having been informed by a note from His Excellency the Minister of Relations that the seizure and confiscation at Tampico, in the month of December last, of a quantity of gold dust and American gold coin, belonging to John A. Tyler and others, citizens of the United States, were deemed by the Mexican Government to have been fully warranted by the laws of the Republic, the undersigned, acquiescing in the soundness of this decision, has the honor now to request H. E. the acting Minister of Hacienda to lay the case, with all the documents transmitted by the undersigned to H. E. the Minister of Relations, before the Junta de Aranceles, who, he is informed, have authority to remit the forfeiture of the property in question, provided it shall appear to have been incurred, as the undersigned is well assured it was, through ignorance on the part of the owners, and without any intention to violate the laws of the Republic.

The undersigned avails himself...

Caja 97, rollo 18, vol. 17, p. 96.

5 de mayo de 1853. México. Joaquín Peredillo a Alfred Conkling. (Anexo al despacho núm. 40.)

Exmo. Sor. Presidente de los Estados Unidos del Norte.

Joaquín Peredillo, Capitán de Caballería Permanente de la República Mexicana, ante V. E. con el respeto debido hace presente que apareciendo su nombre y empleo en la lista que el Sr. Gral. en Jefe del Ejército del Norte de los Estados

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Unidos dio a ese Supremo Gobierno cuando se hallaba en esta Capital en el mes de Septiembre del año de mil novecientos cuarenta y siete; como prisionero voluntario lo que no verificó, como debe obrar en la relación original que dicho Jefe dio a ese Supremo Gobierno de los S. S. Jefes y oficiales que firmaron tal compromiso. Por tanto, a V. E. encarecidamente suplico en obsequio a la justicia, se sirva mandar se le de un certificado en que se acredite no se presentó a juramentarse como se le ha imputado, ni mucho menos haber firmado tal compromiso, ni puesto de su letra su nombre, apellido y cumplió en la expresada relación, cuya gracia espera alcanzar de V. E. en justicia.

Caja 97, rollo 18, vol. 17, p. 98.

6 de mayo de 1853. México. Carlos Peredillo a Alfred Conkling. (Anexo al despacho núm. 40.)

Documento redactado en los mismos términos que el de Joaquín Peredillo de fecha 5 de mayo.

Caja 97, rollo 18, vol. 17, p. 99.

4 de mayo de 1853. México. Alfred Conkling a William L. Marcy. (Despacho núm. 41.)

I have the honor to transmit to you herewith enclosed, a copy of a note received day before yesterday from the Mexican Minister of Relations concerning the apprehended invasion of Sonora, in answer to my note to him, already transmitted with my last despatch.

The official Gazette of this morning contains a decree providing for the organization and increase of the military force of the country. This has given new currency & may seem to afford some color to the rumors to which I alluded in my last; of a design on the part of General Santa Anna to engage in a War with the United States. A suspicion is also entertained in some quarters, founded on the recent changes of the

diplomatic representatives of the two countries, that he is counting an alliance, and for this reason, with Spain.

Caja 97, rollo 18, vol. 17, p. 100.

20 de mayo de 1853. México. Lucas Alamán a Alfred Conkling. (Anexo al despacho núm. 41.)

El infrascrito, Ministro de Relaciones Exteriores, ha recibido la nota que con fecha 18 del actual, le ha hecho el honor de escribirle el E. S. Alfredo Conkling, Enviado Extraordinario y Ministro Plenipotenciario de los Estados Unidos de América, en respuesta a la suya del 16, relativa a la expedición que en la Alta California se prepara contra el Estado de Sonora. En dicha nota manifiesta S. E. su pesar por ese nuevo motivo de inquietud para el Gobierno de México cuando asiduamente se ocupa en la empresa que tan honrosamente califica de restablecer el orden público; expresa su esperanza de que dicha expedición, como las que otras veces han solido anunciarse por los periódicos, resulte ser falsa; expone las disposiciones que por la constitución y leyes rigen a este respecto en los Estados Unidos y concluye manifestando que además de dar parte a su Gobierno, meditará si hay alguna otra medida que por sí puede adoptar, conducente al fin que se desca.

El infrascrito no esperaba menos de la acreditada lealtad y justificación del Sr. Enviado de los Estados Unidos, y con satisfacción ve exactamente comprendidos por S. E., las intenciones y deseos del Gobierno de México, que no son otros que los de restablecer el orden público en el interior, y los de cimentar sobre bases sólidas y recíprocamente ventajosas, sus relaciones con todas las potencias, y muy particularmente con los Estados Unidos, por su vecindad, y por las circunstancias especiales que median entre ambos países. Allanar todo obstáculo a ese fin, promover entre ellos sentimientos de benevolencia, y remover cuanto pueda ser origen de diferencias y disgustos, es el deseo del Gobierno de México, y la causa que

motiva la queja que el infrascrito ha debido dirigir a S. E. sobre el asunto de la expedición de Sonora.

La evidencia de que existía, y existe, el plan de ejecutarla y de que se cuenta para ello con los medios necesarios, resulta de las publicaciones de los periódicos; de las noticias particulares que han circulado; de las oficiales que tiene el Gobierno, y de las invitaciones hechas al Conde Raousset, para ponerse a la cabeza de ella, lo que parece no haber admitido; sabiéndose además, que en esa misma expedición, o en otra que con el propio objeto se fragua, tienen interés y parte diversos comerciantes y otras personas de S. Francisco California, lo cual da motivo para temer que si bien acaso se diferirá, no por eso se desiste de intento de realizarla.

El Gobierno de México no pretende que se tome medida alguna contra los individuos de que se trata persiguiéndolos en contravención de las leyes, o sometiéndolos a los Tribunales, cuando, como S. E. el Sr. Conkling justamente manifiesta, son tan difíciles las pruebas en ese género de delitos; sino que para sofocar en un principio esas tentativas, se tomen medidas de precaución y policía que las autoridades civiles impidan las reuniones de gente para alistarse, el acopio de armas y municiones, el embarque de éstas; y con anticipación se dicten por la Militar, providencias eficaces y bastantes, para que si llega el caso, sean debidamente reprimidas, como ha comenzado ya a practicarse, según la noticia inserta en otra Gaceta a que S. E. el Sr. Conkling hace referencia, las que continuadas con el mismo empeño no hay duda que conducirán al deseado resultado de impedir la formación y salida de la expedición.

Con tales fines y para que, a los que desconociendo las leyes divinas y humanas no vacilan en turbar la paz de dos pueblos amigos, hollando sus pactos y comprometiendo sus relaciones, se le hagan entender las medidas que el Gobierno de México, con mucho sentimiento pero por la imperiosa necesidad de hacer que se respete su Territorio y sus derechos, se ha visto obligado a dictar y hará efectivas en ellos, el infrascrito espera que S. E. el Sr. Conkling se servirá hacer a su Gobierno la comunicación que ofrece, y dar por sí los pasos que

estime convenientes para evitar que se realice la invasión de que se ha hecho mérito, y que sin esta advertencia, podría creerse disuelta, mientras que por el contrario todavía hay fundados motivos de temerla.

El infrascrito...

Caja 97, rollo 18, vol. 17, p. 105-7.

*24 de mayo de 1853. Washington. William L. Marcy a James Gadsden.*²

Sir:

Your letter of the 17th. instant, with the memoranda annexed thereto, was duly received at this Department.

The President is gratified at your prompt acceptance of the important trust which he has confided to you, and he is pleased to be informed that you will be in readiness to repair to Mexico early in July.

It is desirable that you should visit Washington prior to your departure from the United States to receive your instructions, an outline of which will be prepared for your examination upon your arrival.

I am now engaged in arranging new Personal Instructions to our Ministers and Chargés d'Affaires which will contain answers to several of your questions, a copy of which, when completed, I will transmit to you. But I may now state for your information that there is no such office as that of private Secretary at an American Legation.

Herewith I transmit according to your request, a Treasury warrant for \$9,000, the sum provided by law for your outfit. I also forward your Commission.

The Commission of Mr. Cripps has been forwarded to him; and in the notification of his appointment he was requested to proceed from California, with as little delay as possible, to join you in the City of Mexico.

² La carta fue enviada a Charleston, Carolina del Sur.

I am...

National Archives. Records of the Department of State. *Diplomatic Instructions. Mexico*. Vol. 16, doc. núm. 1, p. 382-384.

28 de mayo de 1853. Washington. William L. Marcy a Alfred Conkling.

Sir:

I transmit a copy of the reply of the Secretary of War to the inquiries respecting José María Peredilla, contained in your N^o 36.

Your despatches to N^o 36, inclusive, have been received at the Department.

I am...

National Archives. Records of the Department of State. *Diplomatic Instructions. Mexico*. Vol. 16, doc. núm. 21, p. 384.

1 de junio de 1853. México. Alfred Conkling a William L. Marcy. (Despacho núm. 42.)

It has become my painful duty to inform you of the death of Hector C. Ames. Esquire, American Consul at Acapulco. This information was communicated to me by Mr. D. B. Van Brunt, in a letter, a copy whereof I transmit herewith marked A. I had no personal acquaintance with Mr. Ames, but from his letters and all that I have heard said of him by persons who knew him and had been witnesses of his official conduct, I have been led to regard him as a very amiable young man, and an intelligent and faithful officer. Acting upon the information contained in Mr. Van Brunt's letter. I have appointed Dr. E. H. Billings Consul ad interim in place of Mr. Ames. It is proper to add however, that I am very far indeed from having any certain knowledge of his fitness for the station, and would recommend

the immediate appointment of some person known to possess the requisite qualifications.

In my despatch N^o 40, I spoke in censorious terms of the treatment to which two American Citizens, James Campbell & Oliver H. Dewey, had been subjected in this city, in having been imprisoned 18 or 19 days on what I considered a groundless charge, & in having had all their money taken from them and still withheld from them. My attention was first called to the situation of these men by a communication dated the 9th. ultimo, from Mr. Black, our consul in this city.

Upon the receipt of this communication I immediately called on the Minister of Foreign Relations, narrated to him the circumstances of the case, one of which was the voluntary departure of the man who pretended to have lost his gold dust, and requested the liberation of these men & the restoration of their money. Mr. Alamán desired information as to a single additional particular which I obtained the same day and conveyed to him in a note, briefly referring to the facts, and again earnestly invoking his immediate attention to the case. Two days afterwards, I received from him a note, a copy of which marked B, I have the honor herewith to enclose. On the next day, I addressed a note to him, a copy whereof is also herewith transmitted marked C.

After the lapse of several days, no answer to my last mentioned note having in the mean time been received, and Campbell and Dewey having become greatly distressed for want of their money, I called again at the Palace, not finding Mr. Alamán, I addressed the exhortation I designed from him, to Mr. Arroyo, chief clerk of the Ministry of Relations and received his promise to repeat it to his principal. After waiting in vain several days longer for a decision, addressed another note to the Minister of Foreign Relations a copy whereof marked D, is herewith transmitted. Finally, on the 26th. ultimo, I received from him a note, of which I have the honor to enclose herewith a copy marked E.

The money has at length been restored, as you will see, by order of the President in accordance with the advice of the

Secretary of War founded on a report of the proceedings comprising 44 pages!

In the United States or in England, the case would have occupied a single magistrate one or two hours, when the accused would have been discharged for want of sufficient evidence to warrant their commitment, and as to their money; as it was in no way connected with the charge against them, I need no add that no American or English magistrate would have thought of depriving them of it. But I am not sure that if they had been Mexican Citizens they would have found any better.

One of the political reforms in contemplation (and they are many and are prosecuted apparently with great zeal) by the man now in power, is the revision and modification of the laws, the reorganization of the judicial tribunals, and the simplification of the forms of judicial proceedings. Every wellwisher to the country must desire to see this great undertaking crowned with success.

The rumors I have heretofore mentioned of hostile designs on the part of this Government towards the United States, seem to be dying away, and my conviction of their falsehood remains unshaken. By a note from the Minister of Foreign Relations under date of the 23d. ultimo I am informed that the Port of Soto la Marina is no longer open to foreign commerce.

A mistake has been discovered in one of the references contained in my despatch N^o 40. It describes a brief note transmitted with my despatch N^o 25 from the Minister of Relations, merely acknowledging the receipt of my note relative to the case of Tyler and others, as a full answer thereto: whereas no such answer had then been received. But on the 3rd. of April such a one was received and a copy of it ought to have been sent with the despatch N^o 40, in which its import is correctly described. A copy is therefore now transmitted marked F.

I have the honor...

Caja 97, rollo 18, vol. 17, p. 107-9.

*11 de mayo de 1853. México. Lucas Alamán a Alfred Conkling.
(Anexo B al despacho núm. 42.)*

Muy Sor. Mío de mi aprecio:

La recomendación que se sirvió V. hacerme a fin de que se pusiere en libertad a los dos americanos que se hallaban detenidos en la Acordada, queda ya obsequiada; y al tener la satisfacción de manifestarlo a V., disfruto la de remitirle la Memoria de 1845, de la Dirección de Industria que le había ofrecido.

Firmado Lucas Alamán.

Caja 97, rollo 18, vol. 17, p. 111.

*12 de mayo de 1853. México. Alfred Conkling a Lucas Alamán.
(Anexo C al despacho núm. 42.)*

The undersigned, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, has the pleasure to acknowledge the receipt of the pamphlet which His Excellency Don Lucas Alamán, Minister of Relations, had the kindness to send him yesterday and to return his thanks therefor. Though in a language with which he has little acquaintance, the undersigned intends nevertheless to read it, not less out of respect to the donor, than on account of the importance of the subject of which it treats.

With regard to that part of His Excellency's note which informs the undersigned of the liberation of his countrymen, Oliver H. Dewey and James T. Campbell, he has to express to His Excellency his extreme surprise and regret at learning from these men at a late hour yesterday, not only that bail had been exacted of them as the condition of their release from close confinement, but that their money, to the amount of four hundred and thirty three dollars, taken from them at the time of their arrest about twenty days ago, is still withheld from them to be restored only on the condition of giving further security, although, as they are credibly informed, they

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have been expressly exonerated from the criminal charge against them by the several decisions of two Fiscals, successively designated to examine and decide upon the case. The undersigned makes no pretensions to an exact acquaintance with the laws of Mexico pertaining to such cases, but, judging of the present case according to those codes with which he is conversant, and according to those principles of justice and of common sense by which he conceives the case ought clearly to be governed, he cannot but feel most sensibly that the rights of liberty and property of his countrymen have been wantonly trifled with. However lightly these rights may be estimated elsewhere they are held sacred in the country of the undersigned, and it is his duty, in dealing with them in his representative character, so to regard and treat them. The undersigned will not again trouble His Excellency with a recapitulation of the facts elicited by the evidence in this case, but will content himself with assuring His Excellency that his further inquiries into the affair have convinced him, not only that these men are entitled by law to an unconditional discharge, and the unconditional restoration of their property, but that they are in fact, entirely innocent of the offence imputed to them: and yet within twenty four hours after their arrival in this city, perfect strangers and ignorant of the language of the country, they were arrested, dragged through the streets with their limbs manacled, incarcerated, subjected to the payment of sixteen dollars for the privilege of occupying an apartment in their prison a little less loathsome than that into which they were first thrown, kept in close confinement eighteen days, and deprived of a considerable sum of money on which alone they relied for subsistence!

The undersigned is persuaded that it will afford pleasure to H. E. Don Lucas Alaman, to take the proper measures, without loss of time, to relieve these injured men from further injustice.

The undersigned in conclusion begs leave to remind His Excellency that several days have now elapsed since the undersigned had the honor to transmit to His Excellency a commission to J. A. Pleasants as consul of the United States of

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America at the port of Minatitlan and to request the usual Exequatur: Mr. Pleasants is understood to be already at his post, awaiting his Commission and Exequatur.

The undersigned...

Caja 97, rollo 18, vol. 17, p. 112-3.

21 de mayo de 1853. México. Alfred Conkling a Lucas Alamán. (Anexo al despacho núm. 42.)

The undersigned, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, is extremely sorry to find himself obliged once more to address himself to H. E. Don Lucas Alamán, Minister of Foreign Relations, touching the previous injuries, which, under the forms of law, but, as it now appears to the undersigned, without the semblance of justice, have been inflicted on his fellow citizens James Campbell & Oliver H. Dewey. The undersigned does not however, propose to trouble H. E. with any further complaint, argument or request in their behalf; for after the assurance given to him by H. E. just one week ago, that a decision of the case would be made on 2 or 3 days: and after receiving, yesterday, from the chief clerk of the Ministry of Relations, in the absence of H. E. Don Lucas Alamán, a promise that he would not fail at once to inform H. E. of the visit to the undersigned to the Palace in the hope of at length obtaining relief for his suffering countrymen, and that the undersigned might confidently expect an immediate answer, he does not permit himself any longer to hope for such relief. Indeed nothing short of the extremity to which these unfortunate men were reduced, could have reconciled it to his sense of the respect due either to H. E. or to himself, to persevere to the extent he has already done, in soliciting what at the outset he felt himself so well entitled to expect would at once be granted, as an unquestionable act of justice. But it has now become the imperative duty of the undersigned, as H. E. Mr.

Alamán is well aware, to represent this case to his Government, to the end that it may decide upon the line of conduct on its part, enjoined by the sacred duty it owes to all American citizens, to shield them from oppression in foreign Countries.- The sole purpose therefore, for which the undersigned now addresses himself to H. E. Don Lucas Alamán, is to invite him to make known to the undersigned, should he see fit, the grounds on which, in addition to the other severities which have been visited upon these two persons, they have also been forcibly deprived of their money to the amount of \$433, being all that they possessed, and without which they have no means of subsistence how, or of returning to their homes. This invitation the undersigned considers due to the government of Mexico, lest, on writing to his own government under his present impressions, he should, for want of the information he has mentioned, unintentionally do injustice to the Mexican Government.

The undersigned avails...

Caja 97, rollo 18, vol. 17, p. 113-4.

19 de mayo de 1853. Charleston, Carolina del Sur, Estados Unidos. James Gadsden a William L. Marcy.

Although the journals of the day; have for some time past associated my name with a Ministerial appointment still a communication from Secretary Davies, and Your Official Advisement of my appointment to Mexico; have taken me by surprise - This unsought for manifestation of Confidence on the part of the President is *his desire that I should accept* leaves it, as the only alternative, however distrustful of my ability to fill his and the public expectation in this responsible mission—I fear however that it will not be in power to proceed to my destination at as early date, as the Executive may consider important. As you desire however that I should name the probable time, at which I will

be ready to repair to Mexico, without submitting myself to inconvenience I would designate the last June, so as to take the earliest July Steamer for Vera Cruz.

Very respectfully.

Caja 97, rollo 19, vol. 18, p. 3.

19 de mayo de 1853. Charleston. Memoranda de James Gadsden, que acompaña a su aceptación para el cargo al que se le designa.

Memoranda accompanying acceptance of Mission to Mexico.

It is hoped that the period named for my departure [will] not conflict with the public interest for it will most probable require that time for the Executive, and Cabinet to arrange the detailed instructions defining the policy in our relations with Mexico. With all due deference it is asked; whether it be important to have a Minister accredited at Mexico before Santa Anna is firmly seated in place; and has organized his Government. Any suspicion of interference in the internal political arrangements of that Country (as on a former occasion) the American executive it is presumed would be pleased to avoid—With the Government *de facto*, we will have to negotiate. In the mean while the Documents; Maps, etc. etc. which may be important to enlighten me in my mission could be collected and arranged in your department for my study and examination so as to be prepared to act as early a date as practicable, after my arrival at the City of Mexico. Besides the services and counsel of the secretary of Legation will be important to me; and Mr. Cripps could not be advised of his appointment in California, and receive instructions to join me in Mexico at a date earlier than that named. His address is Napppa California and it is hoped that you have forwarded his letter of appointment, with orders to join me without delay in Mexico.

As I am a novice in the Diplomatic Department it would be gratifying to have all the relations of my place well defined,

and particularly those with disbursement of moneys; and to the extent in which they would revolve on me. Will all the expenses of the Mission over and above my outfit and salary have to be arranged through the Minister. Is a private Secretary entitled to compensation and to what amount. Are there any allowan[ces] for Quarters; or House and Office accommodations. Indeed the most minute instructions on these and other points which may be more familiar to you, would be important, as I am and have always been very exact in the monied arrangements with the Government. Anxious to adhere to the appropriation and rule of action with redistribution.

The outfit I presume I should be entitle to draw for from the place before my departure. If so you will oblige me by a draft on the subtresury of Charleston at your convenience in the future my drafts for mission expenditures in Mexico will be duly honored. Or has the treasury Department an Agent there on whom I may check. Minute information on all these points will enable me to meet my public obligations to the satisfaction of myself and of the Departments in Charleston. My compensation as Minister commences with my acceptance as is the case in all public employment.

Do you expect a personal conference before I take my departure, if so I can proceed to Washington in anticipation of the July Steamer from New York. Otherwise if you could best to transmit my instructions to this city, i may intercept the Vera Cruz Steamer at Havannah or at N. Orleans as I find most expeditious or convenient. I could send a reliable Attaché for the Documents to Washington as you may direct.

Caja 97, rollo 19, vol. 18, p. 5.

25 de mayo de 1853. México. Lucas Alamán a Alfred Conkling.

El infrascrito ministro de Relaciones Exteriores, tiene el honor de acompañar a S. E. el Sor. Alfredo Conkling Enviado Extraordinario y Ministro Plenipotenciario de los Estados Unidos de América, copia de la comunicación dirigida por el Ministerio de Guerra, en que comunica haber librado sus

órdenes para que se sobresea en la causa seguida a los Ciudadanos Americanos Campbell & Dewey. Al manifestarlo a S. E. el Sor. Conkling, como resultado de su nota de 12 del corriente sobre este asunto, el infrascrito le reitera...

Caja 97, rollo 18, vol. 17, p. 115.

2 de abril de 1853. México. J. Miguel Arroyo a Alfred Conkling.

El infrascrito Oficial Mayor Encargado del Ministerio de Relaciones Exteriores tiene el honor de acompañar a S. E. el Sor. Alfredo Conkling, Enviado Extraordinario y Ministro Plenipotenciario de los Estados Unidos de América, copia de la comunicación que con fecha 31 de marzo último le ha dirigido el Ministerio de Hacienda relativa a la reclamación que hacen los ciudadanos de su Nación Juan A. Tyler, Moisés E. Milner y José Jones por la detención que sufrieron por el resguardo de Tampico y confiscación que se les impuso por la cantidad que conducían en moneda acuñada y oro en polvo.

El infrascrito al comunicarlo a S. E. en contestación y como resultado de su nota relativa a este asunto, llama su atención a que habiéndose cometido una infracción terminante de ley, a la que va anexa la pena, el Gobierno nada debe ni puede hacer en el presente caso, lo mismo que sucedería en otro idéntico en los Estados Unidos, y S. E. el Señor Conkling con su recto juicio y reconocida justificación, convendrá en la legalidad de lo ocurrido.

Al tener el honor de manifestar a S. E. el Sor. Enviado de los Estados Unidos de América lo que lleva expuesto, el infrascrito le reitera las seguridades de su muy distinguida consideración.

J. Miguel Arroyo.

Secretaría de Estado y del Despacho de Hacienda.—Sección 1^a—Me he impuesto del oficio de V. S. fecha 22 del que cursa, y copias que a él acompaña, en que inserta la nota que le pasó el E. S. Ministro de los Estados Unidos, relativa a la reclamación que hacen los ciudadanos de aquella Nación

Juan A. Tyler, Moisés E. Milner y José Jones, por la detención que sufrieron por el resguardo de Tampico, y confiscación que se les impuso, de la cantidad que conducían en moneda americana y oro en polvo, por no haberla presentado a la aduana para satisfacer los correspondientes derechos de exportación: y en contestación tengo el honor de manifestar a V. S. que el artículo 113 del arancel de 4 de octubre de 1845, prohíbe bajo la pena de comiso la exportación de oro y plata en pasta o en piedra: que desde 19 de abril de 1851 está dispuesto que a la moneda extranjera, se le exijan los correspondientes derechos de exportación; deduciéndose claramente de estos antecedentes, que los ciudadanos americanos de que se trata no pudieron exportar la moneda de su pertenencia sin satisfacer los mencionados derechos, ni la aduana pudo tampoco permitirles la exportación del oro en polvo de su propiedad, siendo también claro que, pues una y otro se encontraron al reconocer sus equipajes sin que la primera hubiese sido presentada a la aduana según queda dicho para satisfacer los mencionados derechos de exportación, debieron caer ambas cosas en la pena de comiso.

Por lo tanto, y apoyándose la reclamación presentada por el Sor. Ministro Americano en el concepto equivocado, según se expresa en su oficio que V. S. inserta, de haber sido ilegal la detención de la moneda y oro en polvo en cuestión, y fundándose lo contrario en las disposiciones citadas, parece inconcuso que no hay una razón justa en qué apoyar el reclamo; añadiéndose a este concepto que del caso forma este Ministerio, que la circunstancia de haber ofrecido los empleados de la aduana de Tampico, la devolución a los interesados de una parte del valor que perdieron por el comiso, que un acto de generosidad o de gracia por su parte, y por el cual nada se puede argüir en contra de su proceder.—Lo expuesto es cuanto este Ministerio cree deber manifesta acerca de este asunto, para que en vista de ello se acuerde por ése del cargo de V. S. lo que se tenga por conveniente.

Renuedo a V. S. mi consideración...

Caja 97, rollo 18, vol. 17, p. 116-8.

2 de junio de 1853. México. Alfred Conkling a William L. Marcy. (Despacho núm. 43.)

It is with sincere regret that I announce to you the death of His Excellency, Don Lucas Alamán, the late Minister of Foreign Relations. He died last night after an illness of about 12 days. I spoke of this distinguished gentleman in a former despatch, and the favorable impression I then entertained of his character have since been confirmed by the more thorough acquaintance with him resulting from our subsequent intercourse, official and private. His death seems likely to prove a severe misfortune to this illfated country. He was by far the ablest and best informed man in the present Cabinet, if not in the Republic; and though not popular. I think he was universally believed to be honest and patriotic. The principles by which he professed to be guided were well defined and sincerely entertained, and they were carried out with boldness and consistency; and considering the anomalous condition of this country, I am far from feeling authorized to pronounce them erroneous. It is openly said by well informed persons that his place can not be supplied.

His death is to be regretted also on account of the interests of the United States. At his suggestion, I had just prepared, when he fell sick, an informal memorandum of the remaining claims on the Government of Mexico in favor of American citizens with which I considered myself charged and which I had before been looking in vain for an opportunity worth improving, to bring to the notice of the Government. He seemed sincerely desirous of the speedy adjustment of all differences between the two countries. We were to discuss them orally, and, at his suggestion; where we could not concur, we were to endeavor to agree upon the tenor of any official notes that might become necessary. In expressing his desire for the settlement of all controversies with us, he spoke of the 11th. Article of the treaty of peace, and in terms which gave me hopes of being able before long to obtain a release from its obligations on admissible terms; and but for his illness recent as is the date of its commencement, I am persuaded

further progress would already have been made towards the adjustment of this as well of the other subjects I have mentioned. How much time it will now require, in dealing with a Government so justly proverbial for procrastination, even to recover the ground thus lost, to say nothing of further advances, it is impossible to foresee.

I avail myself of this opportunity to revert to a subject of which I desired and perhaps ought to have spoken long ago.

Accompanying my instruction there was a list of the papers with which I was furnished, in which there was mentioned a list of the pending claims on this Government in behalf of American citizens; when in reality, no such list was found among these papers. In fact, my instructions contained a direction or request rather inconsistent with this statement, viz: that I should, on my arrival here, prepare such a list of claims, and transmit it to the Department of State, with my opinion thereon, i. e. as I understand, upon the validity and just amount of each claim. I was not, on my arrival here, unmindful of this instruction but I soon discovered that a compliance with it would require an amount of labor entirely beyond my power. The papers, generally in the Spanish language, are in many instances immensely voluminous, and, to do properly, what was expected of me, would require the undivided attention of an able man for many months. Besides, in order to ascertain the existing predicament of those claims respectively, it would be necessary to examine the entire correspondence of the Legation through a period of several years; and even when this was done; it might be necessary to apply for further information to the claimant, if it were only to ascertain whether his claim was persisted in. Under these circumstances added to the revolutionary precarious and ever-changing condition of the Country and Government, I have not deemed it to be my duty to undertake so hopeless a task, but have contented myself with investigating such claims only as I have been instructed by the Government or requested by the claimant and to insist upon. Even under this limitation as you can not but be aware, the duties of this Legation are any thing but a sinecure, and there are, moreover, a great many demands

upon the time and attention of the Minister which do not appear in his correspondence. For example, I have obtained the discharge, often with no little difficulty, of many Americans, from the Military service of this country, and, I may be pardoned for adding also, have assisted them to return to the United States.

While engaged in visiting this despatch, I have received a letter from a person personally unknown to me, but apparently highly respectable, representing the need of a Consulate of the United States at Manzanillo, and recommending Mr. Heavy C. Matz as a fit person for the office of Consul. From the geographical situation of this port, about midway between the ports of San Blas & Acapulco, more, I believe, than five hundred miles apart, and without, as I understand, any intermediate Consulate, and from all the information I possess on the subject I infer that this is a reasonable and proper request and beg leave to commend it to your favorable consideration. A copy of this letter is herewith transmitted. I shall immediately inform the writer of my own want of authority to grant the request therein contained, and of its transmission to your department.

I have the honor...

Caja 97, rollo 18, vol. 17, p. 118-21.

23 de mayo de 1853. Colima, México. C. J. Fladerman a Alfred Conkling. (Anexo al despacho núm. 43.)

Sir:

The undersigned a citizen of the U. S. now resident in Colima in the district of the same name of the republic of Mexico, in the interest and behalf of American citizens in general, has the honor to represent to your Excellence.

That between the neighbouring port of Manzanillo on the Pacific which is daily gaining in importance, and California a very active trade is springing up involving multifarious American interests, which, owing to the absence of an

American Consulate, do not receive the degree of development, they are susceptible of, nor are guarded and defended when jeopardized by arbitrary acts of the local authorities, which are perpetrated but too frequently.

Among numerous instances of such arbitrary acts, the illegal confiscation of the freight of the American vessel "Sylvia" by the Mexican authorities (a full statement of which will shortly be submitted to H. E. for redress by Mr. Albert Barney, the American citizens injured by that transaction, will fully illustrate the inconvenience alluded to.

That American citizens, arriving in that port and not finding a competent authority to which to look for advice, assistance or redress, frequently find their interests, health and even lives compromised.

That the interests of the heirs or successors of American citizens, dying in the district, are exposed to the same jeopardy being seized upon and administered by the Mexican authorities, in the absence of some American authority.

The above considerations will fully impress H. E. with the necessity of instituting such an office for the Port of Manzanillo.

The eyes of those deeply interested in this question are fixed upon Mr. Henry C. Motz of the highly respectable mercantile firm "Rucker Motz & Co." Colima; former Consul of Bremen in Mazatlán, who prompted by motives of pure patriotism, would cheerfully serve in that capacity, for which his vast information, business habits and gentlemanly bearing eminently fit him.

This statement of Mr. Motz's character will be confirmed by any respectable mercantile house in Mexico.

Knowing the vigilance and efficacy with which H. E. regards whatever conscious the interests of Americans, this statement is respectfully submitted to Y. E. soliciting said appointment from Y. E. if within your attributes, or requesting that you may be pleased to point out the course to be pursued in order to obtain it...

(signed) C. J. Fladerman.

Caja 97, rollo 18, vol. 17, p. 121-2.

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31 de mayo de 1853. Charleston, Carolina del Sur. James Gadsden a William L. Marcy.

I have the acknowledge Your communication of the 24th. of May accompanied with my Commission as Envoy to Mexico. I am busily engaged in arranging my affairs, so that I may report at Washington the period named for my departure. I should like to be put in possession of all the documents, memoirs, maps, etc. which may be important to the faithfull discharge of my responsibilities; which the Recorders at the City, can afford. The treaties with Mexico referring back to the earliest negotiations after the establishment and recognition of her Nationality, would be indispensable. In addition a Volume or Volumes of all the Treaties made between the U. S. and the other powers of the World: particularly those with Spain, might be valuable to refer to.

Caja 97, rollo 19, vol. 18, p. 6.

13 de junio de 1853. Washington. William L. Marcy a Alfred Conkling.

Sir:

I transmit, herewith, a scaled letter from the President to General Santa Anna, together with an open copy of the same. You will enclose a copy of this letter to the Mexican Minister of relations, requesting him to designate a time for your presentation of the original to the President.

Your despatches to N° 37 inclusive, and that of the 14th. May, unnumbered, have been received.

I am...

National Archives. Records of the Department of State. *Diplomatic Instructions. Mexico*. Vol. 16, doc. núm. 22, p. 384-385.

9 de junio de 1853. México. Alfred Conkling a William L. Marcy. (Despacho núm. 44.)

In my last despatch I informed you of the death of Don Lucas Alaman the Mexican Minister of Foreign Relations; and I have now the honor to transmit to you herewith, a copy of the official annunciation to the Legation of this event, and of my answer, both marked A.

Appointment of Mr. M. Díez de Bonilla.

I inclose also a copy marked B of a note informing me of the appointment of Don M. Díez de Bonilla as the successor of Mr Alaman.

This gentleman is reputed to be a man of considerable ability, and his appointment is not understood to be indicative of any change in the policy of the Government.

You have already been apprised that during the shortlined Presidency of Mr. Cevallos, the system of prohibitions and exorbitant duties which had long marked the commercial policy of Mexico was abandoned, and that the strenuous efforts put forth by the manufacturers during the brief administration of his successor, General Lombardini, to obtain a restoration of that system, were unsuccessful.

Upon the accession of General Santa Anna, these efforts were renamend, and the late Minister of Relations, having long been known to be a very decided advocate of the old system, fears were entertained of a speedy return to it, although it was well known to have been one of the chief elements of the pervading popular discontent which drove General Arista from power, and, in the sequel, led to the elevation of General Santa Anna. The question being of great importance to the people of the United States, I early availed myself of a favorable opportunity to hold a free conversation with Mr. Alaman on the subject, in which I labored, with sincerity to convince him, first, that a high protective system was not adapted to the condition and exigencies of this country, and, secondly that, if it was, it could not possibly be carried into beneficial effect for want of fidelity on the part of the subordinate officers to whom its execution must be entrusted. At

his request I also furnished him with copies of the present and last preceding tariff acts of the United States. He told me that the subject was under the earnest consideration of the Government animated by a sincere desire to regulate it as to leave no just ground for complaint. On my apologising for the frankness with which I had spoken, he assured me that he was glad of it, and he was pleased also to observe that while he remained in office and I continued at my post, there could not possibly be any other than the most cordial official relations between us. The deliberation mentioned by Mr. Alamán resulted in the promulgation, a few days after his death, of a new tariff considerably higher than that established by Mr. Cevallos, but from which prohibitions are excluded. This tariff will be found in the pamphlet herewith transmitted. A return to the former system appears improbable, and an expectation seems to be extensively entertained that the new tariff will, before long, be to a greater or less extent, reduced.

Differences with Mexico. 11th. Article of the Treaty of Peace.

It was, if I rightly remember, in the course of the same conversation to which I have above referred, that as I mentioned in a former despatch, Mr. Alamán expressed his desire to see all the differences between the United States and Mexico satisfactorily settled, and spoke particularly of the 11th. Article of the Treaty of Peace. In regard to this subject, he observed that it was his design to turn his attention to it as soon as possible, and I am of opinion that but for his illness I should ere have ascertained whether or not a release from the obligations imposed by that article could be obtained upon the terms prescribed in my instructions. I have reason however to hope that the desire expressed by Mr. Alamán still animates the Government of Mexico and that I shall shortly be invited to enter into a negociation on the particular subject I have mentioned.

Prosecution against Pac. Mail St. Ship Co.

Early in the month of April I received a letter from Mr. William H. Aspinwell, President of the Pacific Mail Steamship Company, accompanied by a letter from Judge Hall and

another from the Agent of the Company at Acapulco, informing me of a prosecution against the Company for an alleged infraction of the revenue laws of Mexico, and requesting my interposition for their relief. A decree had been obtained against them in the local Court at Acapulco for about \$60,000.00. from which an appeal had been taken to the Circuit Court in this city, and in the expectation that the cause would be carried thence by a further appeal, to the Supreme Court of the Republic. The course adopted by me on the receipt of the letters, and its successful issue are narrated in my letter to Mr. Aspinwall, a copy whereof marked C., I have the honor herewith to transmit, and I inclose also a copy of the note from the Minister of Foreign relations, announcing the decision of the President to direct the immediate discontinuance of the prosecution, Marked D.

Application for the relief of Tyler and others.

In my despatch N^o 40, I mentioned my pending application for the restoration on equitable grounds, to Tyler and others, of money and gold dust seized some months ago by the officers of the customs at Tampico, and condemned as forfeited for non-payment of export duties. The above mentioned note marked D, makes known, as it will be seen, the final adverse decision in this case.

San Antonio.

The same note as it will also be observed, shows the futility of all the information relative to the city of San Antonio which I was requested in despatch N^o 10 from the Department of State, if possible, to procure. My previous application to the Librarian has already been mentioned in a former despatch.

Application for the relief of Mr. Cazneau and others.

Near the close of the last month I received a letter from Mr. William S. Cazneau, dated at Parras, in the State of Coahuila, on the 11th. of that month, requesting my assistance in behalf of his firm, and that of Mcurs. Calhaghan and Gross, in an effort to obtain relief from what he represented as the unjust and oppressive conduct of the Mexican Authorities relative to a large quantity of goods imported into Mexico by

these two firms. The letter being very long I prepared an abstract of its contents which I made the basis of an application to the Minister of Foreign Relations for an order from the Supreme Government to the local authorities whose conduct was complained of, directing them to desist from the further prosecution of their proceedings in the affair. This application was promptly granted, as will appear by the copy of a note received from the Ministry of Foreign Relations herewith inclosed, marked E, and of the spanish version of the abstract incorporated in the order, I inclose a copy thereof in english marked in like manner. The original order I immediately transmitted by mail to General Cazneau, accompanied by a letter, a copy whereof I have the honor also to transmit marked in the same manner.

I have the honor...

Caja 97, rollo 18, vol. 17, p. 123-126.

7 de junio de 1853. México. Manuel Díez de Bonilla a Alfred Conkling. (Anexo al despacho núm. 44.)

Le comunica que ha sido nombrado Secretario de Estado y de Relaciones Exteriores, y que ya ha comenzado a ejercer funciones como tal.

Manifiesta que, al quedar ese ministerio para el único fin de atender las relaciones entre México y las potencias extranjeras, podrá cultivarlas con mayor eficacia.

Caja 97, rollo 18, vol. 17, p. 128.

9 de junio de 1853. México. Alfred Conkling a William H. Aspinwall Esquire, en Nueva York.

Your letter of the 5th. of March accompanied by a letter from Judge Hall and another from Mr. Bill etc. etc. was received through your agents Messrs. Jeker, Torre etc. about

six weeks ago, and would have been acknowledged long since could I have foreseen the delay which has occurred in obtaining a decision of the Executive Government of Mexico upon the application I made to it in your behalf.

Any attempt on my part to influence the decisions of the Judicial, tribunals being out of the question, the only alternative was to apply to the Executive Government to direct the prosecution against you to be discontinued. This alternative I lost no time in adopting; placing my application upon the grounds that the violation of law complained of was the act of subordinate agents and not of their principals, that no actual fraud upon the revenue had been contemplated, and that sound international policy as well as private justice required that you should be relieved from further prosecution in the manner I proposed. The Minister of Foreign Relations answered that the Government had no authority to interfere with judicial proceedings. To this I replied that the principle on which he insisted was unquestionable with respect to suits between private parties, but that it was inapplicable to a suit in behalf of the Government. This distinction appearing to be new to him, I explained it at length and I understood him finally to acquiesce in its soundness. He thought proper, however, to request the judge of the Circuit Court to which an appeal had been taken by Mr. Bill, to furnish him with a statement of the case as it appeared before that Court. This statement when furnished explained the delays that had occurred, and showed very clearly that further delays of great and indefinite length were to be expected unless the course I proposed should be adopted. I therefore again urged its adoption and this I have continued to do from time to time. Owing, however, partly to the inherent difficulties of the case, from which it was not quite so free as you seem to suppose and partly to changes in the Ministry of Relations, it was not until last evening that I was informed by a note from the Minister that the President had decided to direct an immediate discontinuance of the suit against you, and had already given orders to that effect.

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The note also informs me that this decision has been made in the hope and expectation that the laws of the Republic will henceforth be scrupulously respected by your Company and its Agents; and I trust you will excuse me for adding that in this hope I also earnestly share. The success of my application is to be ascribed, I have no doubt, in a considerable degree, if not mainly, to the assurances I ventured to give of the high respectability of the gentlemen composing your company, and of their wish and intention in the prosecution of their business, that all their agents should conform strictly to the laws of Mexico. It was therefore with pain and mortification that I listened to the contents of two letters read to me by Mr. Brissell, and had I known on the receipt of your letter that you knowingly employed agents capable of conceiving such a line of conduct as that traced in these letters, and imprudent enough, withal, to commit to writing, I certainly could not have given the assurances I have mentioned, nor indeed, scarcely have reconciled it either to my own self respect or to that due from me to this Government, to meddle with the affair at all.

Mr. Brissell will doubtless show you the letters in question, and I leave you to judge whether I have erred in my estimate of their contents.

It is proper to add, that at my very first interview with the Minister of Relations relative to this subject, I finally apprised him of your complaints verified by the letter of judge Hall, of illiberal and vexatious treatment by the Mexican Officers of the Customs at Acapulco, and that he readily promised to write without delay in very peremptory terms to these officers enjoining it upon them to desist from all such annoyances. This I have no doubt he did; and, indeed, I think he afterwards informed me that he had done it.

I have already this morning apprised Messrs. Jeker Torre etc. of this decision, and they without doubt will communicate it without delay to Mr. Bill.

Caja 97, rollo 18, vol. 17, p. 129-131.

8 de junio de 1853. México. Ministro de Relaciones Exteriores de México a Alfred Conkling. (Anexo al despacho núm. 44.)

El inf^o, Ministro de Relaciones Exteriores, se ha impuesto del Memorándum que S. E. el Sr. Conkling, Env^o Est^o y Ministro Plenip^o de los Estados Unidos de América, pasó con anterioridad a este Departamento sobre los asuntos siguientes: 1^o el de Campbell y Dewy, 2^o el del Exequátur del Sr. Pleasants, 3^o el de los títulos y documentos relativos a la fundación de la ciudad de San Antonio, 4^o el de la Compañía de Vapores del Pacífico, y 5^o el del comiso hecho en Tampico a Tyler y otros.

Despachados los dos primeros de conformidad con los deseos expresados por S. E. el Sr. Enviado de los Estados Unidos, nada tiene el inf^o que añadir acerca de ellos.

Respecto del 3^o debe manifestar a S. E. que después de haberse hecho la busca correspondiente en el Archivo General, no se han encontrado en él los documentos que solicitaba sobre la Ciudad de San Antonio.

Habiendo tomado en consideración el Exmo. Sr. Presidente lo que el Sr. Conkling expone relativamente a la causa que se sigue a la Compañía de Vapores del Pacífico, S. E., deseando fomentar el Puerto de Acapulco, así como las relaciones comerciales de la República con los Estados Unidos, y considerando que dicha causa se prosigue en beneficio del erario público, ha acordado se sobresea en ella, y de conformidad se dirigen las comunicaciones conducentes al Ministro de Hacienda y al Juzgado de Circuito; prometiéndose S. E. que esta gracia que concede a la expresada Compañía, será un nuevo motivo para que haga que sus Agentes, y los Capitanes de sus buques, cumplan con la religiosa puntualidad que deben con las leyes del país.

Encontrando S. E. enteramente arreglado a ellas el comiso hecho en Tampico a Tyler y otros, y no hallando razón alguna de conveniencia o interés público que le autorice para variar la determinación que sobre el particular se comunicó al Sr. Conkling, el mismo Exmo. Sr. Presidente se ha servido declararla subsistente.

Al manifestar todo lo expuesto a S. E. el Sr. Enviado de los Estados Unidos como resultado de su referido Memorándum, y dejar obsequiados sus deseos en la parte que ha estado al alcance del Gobierno Mexicano, el inf^o tiene la honra de reiterarle su muy distinguida consideración.

Caja 97, rollo 18, vol. 17, p. 132-3.

9 de junio de 1853. México. Alfred Conkling a Dfiez Bonilla.

Informa que ha recibido su nota fechada el día de ayer, relativa a asuntos diversos que han sido detallados en el memorándum a que se refiere la nota.

The undersigned begs leave to tender his thanks to H. E. for the promptitude with which, in the midst of pressing engagements, he has been pleased to attend to the request of the Undersigned, and especially to express his great satisfaction with the decision of H. E. the President in the case of the Pacific Mail Steamship Company; a decision which the Undersigned fully believes to be in accordance, not less with the dictates of sound international policy, than with the claims of justice.

In performing the duty which remains to the Undersigned, of immediately communicating this decision to the parties concerned, he will not fail to make known to them the just expectation of H. E. the President, that they will henceforth take care to observe with scrupulous exactness, the laws of Mexico, nor will he fail to enjoin it upon them to see that this expectation is fulfilled.

The undersigned...

Caja 97, rollo 18, vol. 17, p. 133-4.

28 de mayo de 1853. Alfred Conkling. Sumario de la carta de fecha 11 de mayo de 1853, firmada en Parras, Coahuila, México, por William L. Cazneau. (Anexa al despacho núm. 44.)

Summary of the contents of a letter dated at Parras, Coahuila, May 11th. 1853, from William L. Cazneau, written in behalf of the firm of Will. L. Cazneau and Co. and the firm of Callaghan and Groofs, citizens of the U. S.

The above named persons being desirous of importing goods into Río Grande, applied to the Administrator or chief officer of customs at that place, for information concerning the duties which they would be required to pay, at the same time submitting to his inspection invoices of the goods they desired to import. Having obtained the desired information and papers, the goods were, on the 13th. of March last, brought over the river, and carried to the custom house under the escort of the guard. Here they were examined and compared with the invoices, with which they were found to agree, and the full amount of duties charged thereon were paid in cash to the Administrator, who gave receipts in full therefor attaching the same to the invoices. *Guids* were taken for Parras, in the state of Coahuila, the same state into which the goods had been imported under an assurance from the Administrator that the goods would be there subject to an additional duty of no more than 2 per cent Mr. Cazneau and Mr. Groofs accompanied the goods into the interior. On their arrival at Monclova they exhibited their *guias* and Inventories to the Administrator, and finding them correct, he granted a permit to proceed. On their arrival at Parras their papers were deposited in the Customs house, and the Recaudador certifies to their correctness. This officer informed them that the *Consumo* duty had just been increased to 5 per cent, but told them also, that as their goods had been imported before the receipt of the new regulation no more than two per cent would be exacted, and that upon payment of that sum, he would give them *salvo conductas*. Before the papers were made out, however, orders came from Saltillo to require the payment of $16 \frac{2}{3}$ per cent. This they protested against, but at length offered to pay 2 per cent and to deposit the balance under protest. This offer was at first accepted; but, after a delay of several days, they were informed that new orders had come from Saltillo requiring the payment of an additional sum of

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nearly \$5,000. and directing the seizure of the goods unless it was paid. This sum they peremptorily refused to pay and having locked the doors of the warehouses in which their goods were deposited, they told the officer of the Customs that they would yield only to force. They were then summoned before the Alcalde, who, as they state, declined to furnish them with any statement of the circumstances of the case. Such was the actual posture of the affair on the 11th. inst. the date of Mr. Cazneau's letter.

They ask from the Supreme Government an order, which it is very desirable should be granted with as little delay as possible, for their relief from what they regard as the gross oppression to which they have been subjected, and with which they are threatened.

Caja 97, rollo 18, vol. 17, p. 135-7.

1 de junio de 1853. Haro y Tamariz, Secretario de Hacienda y Crédito Público, a Marcos G. Ramos, Interventor del derecho de consumo en el estado de Coahuila en Saltillo. (Anexo al despacho núm. 44.)

El E. S. Ministro de Relaciones con fecha de ayer me dice lo siguiente:

E. S. el S. Enviado de los Estados Unidos ha dirigido a este Ministerio con fecha 28 del actual, la exposición siguiente [Here follows a Spanish version of the Summary of the Contents of General Cazneau's letter].¹

Y habiéndose dado cuenta al E. S. Presidente con la inserta exposición, S. E. ha acordado que por el Ministerio del digno cargo de V. E. se libre orden al Jefe de Hacienda y Administración de Parras, que haya dispuesto la detención de los efectos que se mencionan a fin de que si fuere exacta la relación que se hace del caso, se entreguen inmediatamente los expresados efectos detenidos a sus dueños, dando

¹ Nota de Alfred Conkling.

circunstanciadamente cuenta de todo al Ministerio respectivo, y conformándose con los derechos ya pagados. S. E. ha dispuesto además, que hoy mismo se sirva V. E. remitirme las órdenes precitadas, para que se entreguen al referido Sr. Ministro Americano, y que éste pueda hoy precisamente darles dirección según desea el mencionado E. S. Presidente.

Insértolo a V. de suprema orden para que haga tenor a su cumplimiento lo dispuesto por S. E. *en los términos que quedan expresados.*

etc. etc. etc...

junio 1º de 1853.

(firma Haro y Tamariz)

Caja 97, rollo 18, vol. 17, p. 137-8.

1 de junio de 1853. México. Alfred Conkling a William L. Cazneau. (Anexo al despacho núm. 44.)

On the receipt of your letter of the 11th. of last month, I prepared an abstract of it with which I called on the Minister of Relations and requested that an order might be despatched, without delay, to the proper authorities at Saltillo, for your relief and that of Messrs. Callaghan and Gross. An order has accordingly been obingly sent to me this evening to be frowarded to you and which you will find herewith inclosed.

Unless the truth of your statement should be controverted, I trust you will find the order sufficient.

I am...

Caja 97, rollo 18, vol. 17, p. 134.

14 de junio de 1853. México. Alfred Conkling a William L. Marcy. (Despacho núm. 45.)

I have the honor to acknowledge the receipt, by the last mail packet, of your despatches Nos. 16, 17, 18, 19 and 20. Owing, however, to their unaccountable detention, one day

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on board the Texas after her arrival at Veracruz, and another day at the Consulate, they did not come to hand until the evening of the 10th. instant.

Conceiving your instructions contained in N° 20, relative to the disputed boundary line between the United States and Mexico, to be the most important, I lost no time in preparing and transmitting a note in conformity therewith, so far as they were adapted to the facts of the case. A copy of this note I have the honor herewith to transmit.

You will see that I have confined myself exclusively to the general views entertained by the President relative to the ownership of the territory in dispute, omitting all allusion to the contents of my letter to Governor Lane. I trust you will not only approve this omission, but that you will be glad to learn, as it affords me sincere satisfaction to make known to you, the reason of it. Your instructions to explain to the Mexican Government certain passages in that letter, lest they should have been interpreted and hereafter used as a concession against the rights of the United States to the territory in dispute, are founded on an assumption which I am happy to assure you is entirely groundless. I did not furnish the Mexican Government with any copy of my letter. None was requested, and as, in a conversation with Mr. Arroyo mentioned in my former despatch, I frankly told him that I considered the conduct of the Governor rash and unwarrantable, I should have been sorry to suppose that my reputation for candor and fair dealing was at so low an ebb with the Mexican Government as to leave it any motive for desiring a copy, and I accordingly offered none. I will add, also, that I have not, in any of the conversations I have held on this subject with the representatives of this Government, intimated any opinion whatever with respect to the merits of the controversy or the question whether or not the valley of Mesilla formed a part of the State of Chihuahua, prior to the treaty of peace. All my observations have been directed exclusively to what I conceived to be the indefensible character of the means adopted by the Governor, to enforce what he supposed to be the rights of the United States.

I do not understand that any exception is taken to my answer to Mr. Arroyo's note complaining of the conduct of Governor Lanc; and it follows, therefore, whatever may be the just estimate of my letter on other accounts, that I have done nothing which can possibly embarrass the Government of the United States in the further prosecution of what it conceives to be its rights relative to the territory in dispute. I might accordingly here dismiss the subject altogether: but I consider it proper, nevertheless, to trouble you with a few explanatory observations touching those passages in my letter to Governor Lane which you inform me appeared to the President to be exceptionable, and your strictures thereupon. Had your supposition that I had furnished a copy of my letter to the Mexican Government, been well founded, these observations would have been imperatively required by the duty of self vindication, and I do not consider myself wholly absolved from this duty, by the error of that supposition. I beg leave, therefore, in the first place, to advert very briefly to the circumstances under which I wrote the letter in question. A courier had been sent in great haste by the Governor of Chihuahua to the Supreme Government, to inform it of the state of affairs. The courier had, as I understood, arrived in the night preceding the date of my letter. In the afternoon of that day, while I was yet ignorant of what had happened, meeting Mr. Arroyo, the acting Minister of Foreign Relations, he immediately began to speak to me on the subject in a tone of great animation, saying that he had just prepared a note to me relative thereto, which would be sent as soon as it could be copied. His language and manner were such as to leave me no room to doubt that the news brought by the courier had aroused a very strong feeling of indignation as well as of painful apprehension, and he assured me of the determination of the Government to resist the threatened movement of Governor Lane to the utmost extent of its power. In his note subsequently received, as you have seen, he merely invites me to write to the Governor; but in the informal conversation I have mentioned, he strongly urged me to do

it. It was then that I used the expression that you have seen fit to recall to my recollection, viz: that such an act on my part would be "unusual". In spontaneously communicating to you this remark, I took it for granted that its purpose would be readily understood; and not then imagining that I was to encounter a censorious spirit on the part of my Government, I was far from apprehending that this expression would be brought up in judgement against me. But I have referred to it chiefly for the purpose of saying, that deeply regretting, as I did, the proceedings of the Governor of New Mexico, participating in the apprehension of bloodshed, and really anxious, if possible, to do something toward preventing so deplorable a consequence, while, at the same time, the whole subject being new to me, I thought it possible that I might not, on reflection, be able to bring myself to the resolution of complying with the request that had been made to me, I gave the response in question according to the impression I then entertained, merely for the purpose of preparing the Minister before hand, for my subsequent refusal, in the possible event I have mentioned. After parting with Mr. Arroyo I reflected anxiously on the subject, and ultimately became satisfied not only that there was no valid objection to my writing to Governor Lane, but that I was under a moral obligation to do it. Mr. Arroyo's note and the voluminous documents therein referred to, all in the Spanish language, were not received until 5 o'clock, and but 4 hours remained for their perusal, and the preparation of my letter. If its language is wanting in perfect precision, the haste with which it was unavoidably written will account for the defect. The part of it to which you most strongly object is the first sentence. Speaking of this, you concede that were it not for its discordance with the statements of Mr. Arroyo's note, it might reasonably be supposed to have been intended to be but a representation to Governor Lane, of the contents of that note. That certainly was its design; and I purpose, in a few words, to demonstrate that the reason you assign for putting the opposite construction upon it is entirely fallacious in point of fact. To show the supposed discrepancy between the language of the

Minister's note and that of my letter, you give a quotation from each. Your version of Mr. Arroyo's language is as follows: "this territory has always been in possession of Mexico, and is comprised within the boundary line drawn by the Commissioners." Your quotation from my letter is as follows: "for the purpose of acquiring possession of territory, formerly, and, as Mr. Arroyo persists [insists is the word I used] still forming a part of the State of Chihuahua." The apparent difference, at first blush, between these two statements must be conceded to be considerable; though I think it would not be difficult to show, from the nature and circumstances of the case, that if the Minister had really used the language attributed to him he could not fairly be presumed to have intended to express any thing at variance with the just import of the language of my letter. But in reality, the version given in your despatch of Mr. Arroyo's language is surprisingly defective. The correct translation of his language is this "a territory which has always belonged to and been possessed by Mexico and which is included within its boundaries as traced by the Commissioners of both nations in conformity with the Treaty of Guadalupe." Here, then, is an explicit assertion that the territory in dispute "always", that is, as well during the years which have elapsed since, as before the treaty, "belonged" to Mexico, and as also that it is included as such, by lines drawn in conformity with the Treaty. Now I suppose it would be little better that a waste of words for me to enter into any commentary upon this language of the Minister, for the purpose of showing that his assertion of title is fully equivalent to that which I have ascribed to. It is time I represent him as saying that the territory formed a part of Chihuahua, while, he, speaking in behalf of the Supreme Government, and for Mexico, and not in behalf of the State, very naturally describes it as belonging to Mexico. Certainly, no distinction of this nature was present to my mind when I wrote to Governor Lane; I wrote hastily under the impressions derived from the perusal of Mr. Arroyo's note followed by that of the accompanying documents, having no time to recur to them for the purpose of minutely scanning

the correctness of those impressions. Had I recollected that "Mexico" was the word used by the Minister instead of "Chihuahua", I should doubtless for that reason, have used it also. I could not have had any other reason for doing so, because, whichever word was used, the sense would have been the same. If the territory formed a part of Mexico it was because it formed a part of Chihuahua; and if it formed a part of Chihuahua, it thereby became a part of Mexico.

You assure that Mr. Arroyo abstained, *ex industria*, from claiming the valley of Mesilla as a part of Chihuahua, supposing such a claim to be untenable. The correct translation I have given of his language, I trust, will go far to correct this error, and if other evidence be wanting, I can assure you of my thorough conviction derived from all that I have heard from him on the subject, that his note, written as it must have been in great haste, was framed without a thought of what you attribute to him.

The remaining passage in my letter which I am informed has given dissatisfaction to the President, is that in which I speak of the proviso subjoined to an appropriation made in 1852, to defray the expenses of the boundary survey. At the date of my letter I knew little of the history or motive of that proviso, except what I had learned from my brief instructions to make an explanation on the subject to the Mexican Government. It had so happened that I had seen nothing before I left the United States of the proceedings of Congress in regard to it, and the impression I derived from my instructions was that the proviso was passed under some misapprehension, and that the difficulties to which it had given rise would be removed at the next session of Congress. This impression was confirmed by seeing it stated not long before the date of my letter, that the survey was to be resumed in pursuance of recent legislation. Supposing it possible that in what Governor Lane said of the jurisdiction over the valley of Mesilla, he referred exclusively to this proviso and not in the least doubting that he had greatly overrated its importance, I thought error under which he might be laboring, and this conclusion resulted in the very hastily framed, and imperfect

statement in my letter. Since that time, the subject having lately led to news paper discussion, I have seen that an elaborate report upon it was made in the Senate, and that the subsequent enactment of the proviso savored much more of a legislation condemnation of the line agreed upon than I had imagined; though I am happy to learn from your despatch that I was not mistaken in believing that it could afford no warrant to the Governor of New Mexico for the violent measures he had resolved to pursue.

There is still one remaining assumption in your despatch which I deem it incumbent on me to notice, and which I will add, has filled me with surprise: it is that in addressing Governor Lane relative to his official conduct, I was to be considered as acting or assuming to act in my official capacity. As I am ignorant of the grounds on which you have come to this conclusion, it is out of my power to combat them. Certainly nothing could possibly have been more remote from my own thoughts at the time, and this I cannot but think is sufficiently apparent from the language of my letter. Such an assumption on my part would imply that I supposed myself clothed with authority to dictate to Governor Lane the line of official conduct he was to pursue.

Is there a single expression in my letter that savors in the least of such a belief? Had not the theatre of this gentleman's operations been so remote from the seat of Government and comparatively so much less distant from this capital, it is, I trust, needless to observe that I should not have presumed to address him at all. But there was at least, one piece of information I had it in my power to give him, which he was not likely reasonably to obtain from any other authentic source, and which I deemed it so essential for him to possess, that under the view I then entertained of the subject, I should scarcely have held myself guiltless if I had abstained from communicating it. I refer to the firm resolution I knew had been formed by General Lombardini then at the head of the Mexican Government, to fight to the last extremity rather than yield to the pretensions put forth by Governor Lane, and to the correspondent orders and assurances of support sent to

the Governor of Chihuahua. What I designed to do was to address to the former a frank, respectfull and by no means an unfriendly private letter, to dissuade him, if I could, from the perpetration of a great crime and my country from dishonor. That I hoped my official character might give additional weight to my advice, I readily acknowledge; but that I took it upon myself to address to him an official letter, I respectfully deny.

I can hardly suppose that I am in any degree to be prejudiced by certain news paper articles I have met with, to the effect that I had been waited on by the Mexican authorities in relation to the proceedings of Governor Lane and that I have answers etc. etc. There is not a syllable of truth in these statements and I am in no respect answerable for them.

All that I have done, and the substance of all that I have said on the subject has been communicated to your Department.

I have the honor...

Caja 97, rollo 18, vol. 17, p. 177-184.

11 de junio de 1853. México. Alfred Conkling a Manuel Díez de Bonilla.

The undersigned Envoy Extraordinary and Minister Plenipotentiary of the U. S. A. reminding His Excy. Don M. Díez de Bonilla, Secretary of State and Foreign Relations, of a note addressed on the 8th. day of April last by the Actg. Minister of Relations to the undersigned relative to certain proceedings of the Gov. of New Mexico, has the honor, in obedience to instructions just received from his Govt. now to make known to His Excy. Mr. Bonilla the view of the President relative to the subject of that note.

The President entertains little doubt that the disputed territory in question was within the limits of New Mexico at the date of the Treaty of Guadalupe Hidalgo; and that nothing has since occurred to transfer this Territory to the State of Chihuahua; and he is therefore of opinion that by this Treaty it became the territory of the U. S.

For the present the Govt. of the United States contents itself with merely stating this fact designing on some future occasion to cause the views of the President in the subject to be presented more fully to the Mexican Govt.

It is conceded, however that where a dispute as to territorial limits arises between two Nations, the ordinary course is to leave the territory claimed by them, respectively in the same constitution (as nearly so as possible) in which it was when the difficulty just occurred, until an amicable arrangement can be made in regard to the conflicting pretension to it. It has not been the intention of the U. S. to deviate from this course nor has any notice been given by Mexico that they proposed to assume jurisdiction over the territory in dispute or charge the possession as it was held at the conclusion of the treaty of peace and limits between the two Republics.

Which therefore Govr. Lane is justified in claiming the disputed territory as a part of New Mexico, and in denying that the acts of the Boundary Commission had in any manner effected a transfer of this Territory from New Mexico to Chihuahua; his proceeding to enter the territory and hold it by force of army is not approved and will not be unless it shall appear that the authorities of Chihuahua had charged or were attempting to charge the state of things in the disputed territory from the condition in which they were before the action of the Boundary Commission on that part of the line. The successor of Govr. Lane will proceed without delay to New Mexico with instructions to pursue a course fair towards Mexico and usual in such cases.

The undersigned is accordingly instructed to assure the Govt. of Mexico of the willingness of the Govt. of the U. S. to have the territory remain as it was when the Treaty of Guadalupe Hidalgo was concluded, without prejudice to the right of either party, until the line shall be definitively settled by the Boundary Commission or negotiation.

A successor to the Undersigned as Minister to Mexico has been appointed, and he will be repair to his post with full

instructions to arrange this matter in such a manner as, it is hoped, will be satisfactory to both Govts.

The undersigned...

Caja 97, rollo 18, vol. 17, p. 185-187.

15 de junio de 1853. México. Alfred Conkling a William L. Marcy. (Despacho núm. 46.)

Le transmite una copia de la nota que le dirigió al secretario de relaciones respecto al cruel asesinato de uno de los hermanos Ogle y el secuestro de Manuel Ríos; la nota fue enviada conforme con lo ordenado en los despachos 16 y 17.

On examining the previous correspondence relative to the abduction of Ríos, I found it rather an embarrassing case to deal with. It is true that in his letter of March last, Mr. Cazneau states that Mead was assisted by a party of Mexicans, but from all that appears among the antecedent archives of the Legation, I infer that he is mistaken in supposing that any mexican had any concern in the outrage. The original papers, indeed, confine the charge exclusively to Mead. But he is to be punished, if at all, by the civil authorities of Texas, where the crime, in its inscription, at least was committed, and where alone he can be prosecuted: and if by the laws of Mexico Ríos is entitled to his liberty, he should seek redress in the Mexican tribunals.

Under these circumstances, not well knowing what else to ask, I have requested as you will observe, that Ríos may be liberated, to the end that he may return to his family in Texas, awaiting myself of this and as well as of the unhappy case of the Ogles, to point out the necessity of additional vigilance for the prevention of border troubles.

I have the honor...

Caja 97, rollo 18, vol. 17, p. 187-8.

13 de junio de 1853. México. Alfred Conkling al gobierno de México.

The Undersigned Envoy Extraordinary and Minister plenipotentiary of the United States of A. regrets the necessity to find himself under of requesting the immediate attention of the Govt. of Mexico to certain acts of violence and wanton outrage alledged to have been lately perpetrated by Mexican Citizens against citizens of the United States of A.

These, in the opinion of the Govt. of the undersigned, are of too serious a nature to be passed over in silence. It has seen therefore to instruct the undersigned to bring them to the notice of this Govt. One of the occurrences to which the undersigned refers is narrated in a communication from Daniel A. Ogle to the Secry. of State of the U. S. dated Roma Stan country Texas jany. 24th. 1853. and verified by his oath. The facts as related by him are as follows.

Mr. Ogle and his Brother John James Ogle are citizens of the United States and of the State of California. On the 24th. of Nov. last they landed at Acapulco with five other Americans on their way to the United States. They obtained passports at that place and proceded through this Capital where their passports were renewed to Tampico. At that place they parted with their companions and proceded thence by land toward the Río Grande on their way to San Antonio, Texas.

While making this journey they purchased horses and mules to the amount of about \$1,400 for the Texas market and for agricultural purposes. On the 7th. of January they arrived at Aldama in the State of Tamaulipas where they remained one day. On the 8th. having proceded thence about six miles on their journey, they were attacked and fired upon by a party of Mexicans. One of the Brothers John James Ogle was killed upon the spot and the other severely wounded. The murderers took and carried off all their horses, mules and other property consisting of a pair of saddle bags containing valuable papers and a colt pistol. The surviving Brother Daniel A. Ogle succeeded in making his escape and

on his arrival at Mier he made an application to the public authorities at that place for assistance and redress. *But those Gentlemen refused to lend him any aid whatever.* He next proceeded to Roma in Texas where on relating the violence to which he and his Brother had been subjected the citizens volunteered their services in his behalf, and five of them having obtained from an Alcalde and Judge of Mier, Louis Martínez, an instrument in writing permitting them to carry arms for their defense, and requesting all persons to assist them, they went to Aldama and applied for aid in seeking the recovery of the property of which the murderers had possessed themselves, and bring them to punishment. Their application was denied and they were themselves *personally ill treated.* Here the undersigned would fair terminate this painful narrative; but there remains a single fact which he is bound to state, and which he regrets to say, adds yet a darker shade to the picture he has been compelled to sketch. The gently parties are said to be well known and Domingo Reséndis and Santos González are named as theiringleaders.

These facts do not appear to the undersigned to require any commentary; they speak for themselves; and the undersigned is well persuaded that they cannot fail to awaken on the part of the Mexican Govt. an earnest desire to be followed by the most prompt and energetic steps to ascertain the truth; and if this great violence has been committed, to bring the perpetrators to condign punishment, and at the same time to cause the restoration to the surviving victim of the property of which he has been robbed. Whether this Govt. is not also called upon to punish those whose duty it was to bring the chief criminals to justice at once and who so flagrantly violated that duty is a question which the undersigned is willing to leave to its own unbiassed decision.

It cannot be doubted that the conduct of those persons add a feature of great aggravation to the case, and is eminently calculated to excite just indignation, tending to acts of retaliation, to be followed in turn by other acts of a like nature, and to the consequent insecurity of life and property along the frontier. With respect to the murder and robbery,

the undersigned is fully aware that it is but one in a long series of similar atrocities occurring both before and since in all parts of the Republic, in which Mexican citizens in common with foreigners have been the unhappy sufferers. The undersigned is not informed what measures have been taken by the present Supreme Govt. for the repression of so monstrous an evil and he would by no means be understood to intimate that a duty so obvious and imperative has been neglected; but he begs leave nevertheless respectfully to remind His Excy. Don M. D. de Bonilla that security to the rights of person and property is among the most essential elements of national prosperity and greatness.

In the same despatch by which the undersigned had been directed to bring the above mentioned case to the notice of His Excy. Dn. M. D. de Bonilla, another instance of lawless violence of an earlier date is also mentioned as proper to be recalled to the recollection of this Govt. not only for the purpose of requesting its attention thereto in particular but also for the purpose of illustrating the necessity of greater vigilance for the prevention in future of greater outrages and the consequential evils likely to result from them to which the undersigned has already referred. The case to which the undersigned alludes, as stated in a letter from Mr. Cazneau to the American Secy. of State dated at Washington in Texas March 28th. 1853 is as follows. In the month of September 1850 Manuel Rios who with his family was residing peaceably at Eagle pass on Texas, was forcibly seized in the high way at Piedras Negras, bound carried across the Rio Grande to San Juan in Mexico and there left under pretense that he was a Peón. His wife and children remain at Eagle pass in great distress on account of his abduction. It is understood that Ríos was again reduced to bondage and servitude by his former Master and if yet alive still remains in that condition.

In pursuance of instructions from the American Secy. of State to the Acting Chargé d'Affaires the attention of the Mexican Govt. was invited to this subject by a note from him to the Minister of foreign relations dated April 24th. 1851 and it appears by the subsequent correspondence of the Chargé

that he had been led to expect an investigation of the case; but it does not appear that any thing effectual was in fact done. The undersigned is instructed to present the case again to the consideration of the Mexican Govt. in the hope that it may see fit to direct an enquiry into the circumstance and as the Govt. of the undersigned supposes, to order the liberation of Ríos so that he may return to his suffering family.

The undersigned...

Caja 97, rollo 18, vol. 17, p. 189-192.

20 de junio de 1853. México. Alfred Conkling a William L. Marcy.

Having been expressly instructed to negotiate and conclude a Convention with the Mexican Government exonerating the United States from all obligation to restrain Indians inhabiting our territory from making hostile incursions into Mexico, provided this could be done on the terms prescribed by my instructions, I have, from the outset, been anxious to fulfill the hopes of the Government in this as in all other respects. My former despatches have informed you of the reason why no steps had been openly taken by me for the accomplishment of this object until since the accession to power of the present ruler of Mexico; while my despatches of later date have afforded some reason to expect that I should, before long, be able to ascertain whether or not it would be possible for me to obtain the desired release for the sum I was authorized to engage to pay, they have also indicated the probable rejection of any proposal I was empowered to make. I have now to perform the disagreeable task of communicating to you the result I had reason to anticipate.

On the 16th. instant, having received an informal invitation from the Secretary of State and Minister of Foreign Relations, to meet him at this house, at an early hour in the morning of that day, for the purpose of holding a conversation with him on this subject, I met him accordingly. Our

conference lasted about an hour and a half. On my return to the Legation I concluded to address to him the note a copy whereof I have the honor here to inclose. It is what it purports to be, the substance of the conversation on my part, and supercedes the necessity, therefore, of any other recital of the observation addressed by me to his Excellency. On his part he assured me of the willingness of his Government to abrogate the treaty stipulations in question; but he dwelt in strong terms upon the cost, which he represented as certain to be very great, to Mexico, of organizing and maintaining on the frontier, a sufficient force to afford adequate protection to its Mexican inhabitants. The conference was adjourned to be resumed this morning Mr. Bonilla expressing an intention to hold further consultations, in the mean time, with the President and with the other members of the Cabinet.

This second conference is just terminated His Excellency began by acknowledging the receipt of my note and assuring me that the Mexican Government was animated by the same desire that I had therein expressed on the part of my own Government, and would most cheerfully agree to absolve the United States from its engagements, provided the United States would agree to indemnify Mexico for the proposed surrender; but referring again to the large outlay and amount of annual expenditure it would impose on Mexico, he said that if it was proposed to offer only an insignificant sum, \$ 8,000,000, or \$ 10,000,000, for example, it was impossible for Mexico to accept it. To this I answered that if such was the settled determination of his Government, it was useless to pursue the negotiation, as the maximum sum I was permitted to offer fell far short of the smaller of the two sums he had named. He then observed that he desired to treat the subject frankly, and that he would therefore assure me that the President had been of opinion that the Mexican Government might reasonably insist on \$35,000,000, or \$40,000,000, and that \$20,000,000 was the very lowest sum that she could ever seriously think of consenting to accept. Such was the main thread and the issue of this conversation. It was, however, on the part of His Excellency, who was principal speaker, somewhat

desultory and embraced other topics. He stated among other things, that my immediate predecessor had offered 8 or 10 millions. I told him I was confident he must have been misinformed on this point, for that Mr. Letcher's instructions limited him to the same maximum sum specified in mine. He spoke also strongly, as he had done in the first conversation, of the defective execution of the treaty by the United States, observing that the incursions of the Indians had since the treaty, been more destructive, and had especially extended farther into the Mexican territory, than ever before. In answer to these observations, I assured him that I understood my Government to entertain, very decidedly, the opposite opinion with respect to its fidelity to its engagements, and I observed that if experience had shown that Mexico could take better care of herself than the United States could take of her in this respect, it was worth while for her Government to consider whether it would not for this reason be advisable for her to resume the guardianship of her frontier. Referring to the mention in my note, of the claims of American citizens, Mr. Bonilla said there were claims of Mexican citizens on the Government of the United States equally entitled to consideration, and I thought he manifested some feeling that while, as I felt myself bound to do, I had put forth the former prominently, I had not made, as I did not feel warranted in making, any allusion to the latter.

Upon my expressing, in conclusion, my regret at the slender prospect there seemed to be of any amicable adjustment of this controversy, Mr. Bonilla assured me that he also regretted it, but he added that he trusted our efforts would not be wholly fruitless, for that having led to a clearer mutual understanding between the two Governments of their respective views and pretensions, the discussion might prove the way for ultimate success.

After what I have already said, I need not add, anxious as I was for the success of this negotiation, that I am not much disappointed at its result.

Indeed, I am at a loss to understand how success could have been expected under the instruction given to me; for

while Mr. Letcher was authorized to offer the same sum, (and, if I am correctly informed, in fact allowed the Mexican Government to expect an additional million), he was also empowered to stipulate for the assumption by the United States, of all American claims, whereas I was required to insist upon the payment of all such claims originating in wrongs, out of this sum.

Soon after my arrival here I was apprised that whenever I should undertake a negotiation on this subject, I must expect to meet with serious embarrassments, if not insuperable obstacles, from the intrigues of unscrupulous persons having, or supposing themselves to have, an interest in the result. It was for this reason that I preferred to have the conferences between the Minister and myself take place at his house, under a mutual understanding that they were to be kept secret. I think they were so substantially. I refer to this precaution for the purpose of recommending the adoption of it in any future negotiation it may be deemed expedient to open on the subject.

I have the honor...

Caja 97, rollo 18, vol. 17, p. 193-8.

16 de junio de 1853. Jueves por la tarde. México. Alfred Conkling a M. Díez de Bonilla.

Mr. Conkling presents his compliments to His Excellency Don M. Díez de Bonilla, and lest, in the conversation which he had the honor to hold with him this morning relative to the obligation of the United States to restrain the Indians from hostile incursions into Mexico, he may possibly have failed to make himself perfectly understood by His Excellency, Mr. Conkling begs leave very briefly to recapitulate in writing, the main points comprised in what he designed to say.

Animated by the same spirit of candor and fair dealing which has marked all the negotiations and official intercourse he has hitherto had the pleasure to hold with the Government

of Mexico, Mr. Conkling has no desire to conceal from his Excellency Mr. Bonilla the wish of his Government to be relieved from the treaty obligations which formed the subject of this morning's conference. There are strong reasons for this wish. The Government of the United States is sincerely desirous of maintaining the most friendly relations with Mexico, and, to this end, of removing, as far as possible, all causes of irritation between the two nations. But in the obligations it has assumed to restrain the inroads of the nomadic tribes along a sparsely peopled line of great extent through a rugged country it sees with concern, a fruitful source of dissatisfaction and discord. Effectually to prevent these barbarous tribes from stealthily crossing this line and molesting the inhabitants on the Mexican side of it, is not possible. The United States have never been able to afford perfect security to their own frontier inhabitants; and in the present case the difficulty is greatly enhanced by the want of lawful power on the part of the United States, to pursue and chastise the Indians on Mexican soil. And yet, considering the antagonistic positions occupied by the two nations with respect to the fulfilment of this obligation, it is next to impossible that it should not give rise to irreconcilable disagreement; for after the United States have done all they suppose themselves bound to do, all they can by the use of all the means they can be reasonably expected to employ, to discharge the obligation in question; the well known principles of human nature forbid the expectation that Mexico will not still believe that they have fallen short of their duty. Indeed, this has happened already; for, while Mr. Conkling is expressly instructed to insist that his Government has thus far fulfilled its engagements in this respect, it is understood that Mexico entertains the opposite opinion. So it will always, unavoidably be, as long as the cause of this unhappy difference is allowed to continue. Hence the strong desire of the United States for its removal. It is true, the Government of the United States does not understand that the Government of Mexico designs to claim amends for all losses and injuries inflicted by the Indians on Mexican citizens; and it is true, also, that many of the claims

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put forth by individuals are mutually understood to be fictitious or fraudulent but conceding the liability of the United States in some cases, where is the line defining their responsibility to be drawn?

If Mr. Conkling correctly understood H. E. Mr. Bonilla, he was not insensible to the force of these considerations, but concurred with Mr. Conkling in the opinion that it was highly desirable that this engagement on the part of the United States, so pregnant with discord, should be abrogated on just and honorable terms. The only equivalent the United States can offer is a pecuniary indemnity for its surrender. With respect to the principle which ought to govern in determining the amount to be paid, Mr. Conkling supposes there can be no disagreement between H. E. Mr. Bonilla and himself. The sum to be paid by the United States should be the actual value of the concession to be made by Mexico. Unfortunately from the very nature of the case, this value can not, with any near approach to precision, be ascertained. His Excellency Mr. Bonilla suggested that an approximation might be attained by computing the probable expense of maintaining on the Mexico frontier, such a force as may be supposed necessary for the purpose of adequate protection to its inhabitants.

Mr. Conkling can not be supposed to possess the information requisite to enable him to make, or, correctly to judge of, such an estimate; and if this method of determining the sum to be exacted, shall be adopted by the Mexican Government, he can only hope that it will lead to no result that will put it out of his power in cooperation with H. E. Mr. Bonilla to render what he conceived would be an invaluable service not less to Mexico than to his own country, by removing forever, a fruitful source of mutual animosity between the two countries. His instructions on the subject are the result of mature consideration on the part of his Government: they are explicit, and he can not transcend them a hair's breadth.

There is another point on which Mr. Conkling is desirous of being perfectly understood. H. E. Mr. Bonilla is aware that there are several pending claims against Mexico in behalf of American citizens, for alleged wrongs. With respect to these,

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Mr. Conkling is obliged by his instructions to take care to provide for their satisfaction, either by securing to the claimants a right of payment out of the sum to be paid by the United States to Mexico, or else, by giving to them a right to resort to their own Government for reparation, by surrendering their claims upon Mexico in consideration of her consenting to accept a smaller sum than Mr. Conkling could otherwise agree to pay. He will, therefore, at the proper time, present to the consideration of the Mexican Government, the two following alternative propositions, viz: 1. That the United States shall pay to Mexico dollars, Mexico agreeing that the claims above mentioned, to be ascertained by a joint Commission, shall be paid out of that sum; or, 2. That the United States shall pay to Mexico the sum of dollars and release her from all responsibility on account of these claims.

Mr. Conkling, in conclusion, will only remind Mr. Bonilla that the stipulations in question are becoming, from year to year, of less and less value to the people of Mexico, by the increase of American population along the frontier, the effect of which must there be, as it has elsewhere been, to overawe the Indian tribes, to diminish their numbers, and to tame their savage spirit.

Caja 97, rollo 18, vol. 17, p. 198-201.

21 de junio de 1853. Charleston, Carolina del Sur. James Gadsden a William L. Marcy.

At much labor: and many sacrifices my affairs have been so arranged as to justify my leaving this City for Washington; preparatory to my departure for Mexico on Saturday the 25th instant, so as to reach the Capital by Monday evening - If it is still deemed important that I should repair to the destination of my mission at the earliest practicable date; I have to express a hope that you will have so matured the instructions under which I am to act; so as to enable me to retrace my steps in time to avail of the Steamer from New Orleans to Vera Cruz

on the 14 of July—There are considerations which might make it an accomodation to me to postpone my departure for the Steamer of the 1, or 14 of August. On which we can confer on my arrival at Washington.

Caja 97, rollo 19, vol. 18, p. 6.

20 de junio de 1853. Department of State. W. Hunter. Observaciones generales, Tehuantepec, The Garay Grant.

The necessity for an easier route to California than that by Cape Horn or even the Isthmus of Panamá probably suggested the paragraph in the instructions to Mr. Trist, by which he was authorized to offer the Mexican Government a large sum of money for the mere right of way across the Isthmus of Tehuantepec. The Draft of a treaty of peace which Mr. Trist communicated to the Mexican Commissioners after the Battle of Churubusco contained an article on this subject. This draft was maturely deliberated upon the Mexican Council of Ministers. The answer which the Mexican Commissioners gave to Mr. Trist's proposition, should therefore be considered as peculiarly binding on their Government. It is understood that Mr. Trist renewed the proposition in some form, at the conferences which resulted in the Treaty of Guadalupe Hidalgo. The papers containing his proceedings with reference thereto, however, have never been on file in the Department.

In the course of the sessions of Congress of 1848, 49, when contracts for carrying the mail to California were under consideration Mr. P. A. Hargous addressed a petition to that body which, according to the journal, was presented to the Senate by Mr. Foote of Mississippi, setting forth that he (Hargous) had become interested in the Tehuantepec privileges, and suggesting that it would not be advisable for Congress to commit itself in favor of Panamá or any other route. It is quite probable that Mr. La Rosa, then the Mexican minister here, informed his government respecting the petition referred to; that they at once became alarmed at the idea of the Tehuantepec

privileges falling into the hands of citizens of the United States, and therefore resolved to annul the Garay Grant. The American Signee of the grant was informed by his friends in Mexico of these supposed views of the Government of that Republic, and applied to the Department for an instruction to Mr. Clifford on the subject. Mr. Clayton, accordingly wrote the instruction mentioned in the synopsis.

When Mr. Letcher went to Mexico, Mr. Clayton instructed him especially in regard to the Tehuantepec communication. The instructions bore principally upon the point that that communication would never be opened except through the agency of foreign capitalists and that these would not embark in the enterprise without a treaty with Mexico guarantying protection thereto. The treaty upon this subject which Mr. Letcher concluded in January 1850 although it contained no express reference to the Garay Grant, appears from its terms to have been intended to protect the interests of the holding of the grant. This is particularly obvious from the 12th. article, which stipulated that the actual holder of the privilege should give his consent in writing before the treaty could be submitted to the Senate of the United States or the Mexican Congress.

The purport of several articles of the Treaty, however, was deemed so obscure that it was thought advisable to return it to Mexico for amendment, which was done. Few of the amendments desired, however, were obtained and a storm of opposition was excited in Mexico against any Treaty with the United States on the subject. Mr. Letcher, however, succeeded in concluding a new treaty, which was ratified by us. Immediately after taking this step, Mr. Letcher returned to the United States on leave of absence. He had not arrived on this country when intelligence was received of the repeal of the Garay Grant by the Mexican Congress. This was believed to have been brought about principally through the influence of the Spanish and English minister at Mexico. The repeal was preceded by elaborate reports from a Committee of each house of Congress reviewing the history of the Grant and attempting to justify the repeal. These reports, while they suppress

some important facts, misrepresent others which might be supposed to have a tendency in favor of the Grant. The author of the Report of the Committee of the Senate was Mr. Larrainzar, the Mexican Minister here. The report contains a paragraph which states, in substance, that at the conferences which took place between the Mexican commissioners and Mr. Trist after the Battle of Churubusco, the United States sought to get the isthmus of Tehuantepec into their power. The subscriber considered this so gross an offensive a misrepresentation that, as acting Secretary of State, he strenuously objected to the reception of Mr. Larrainzar as the representative of Mexico here, but the objections were overruled.

The opposition of the British Minister and especially of the agent of the British bondholders to the policy of the last administration in regard to Tehuantepec may chiefly perhaps be imputed to a hope that this government would ultimately be induced to make another offer of a large sum of money to Mexico for the privilege of crossing that Isthmus. In case the money should be paid pursuant to such offer, it was no doubt taken for granted that British Creditors would obtain as large a share of it as they did of the instalments under the Treaty of Guadalupe Hidalgo.

The ratification of President Fillmore to the Treaty on the subject of Tehuantepec, was sent to Mr. Buckingham Smith, Secretary of Legation and chargé d'Affaires ad interim, to be exchanged for that of Mexico. Much cleverness and hearty good will toward the treaty itself were necessary to give it even a chance of success with the Mexican Congress. Mr. Smith had neither of these. Indeed President Fillmore having received authentic information that he was doing everything in his power to defeat the Treaty removed him from office.

Another cause for the defeat of the treaty, was the jealousy and interference of citizens of the United States interested not only in Panama and Nicaragua routes, but in other routes through Mexico itself. Mr. Letcher sent to the Department a copy of a letter addressed to president Arista by a Mr. Jonas P. Levy, one of these persons. In Mr. Webster's

opinion, this letter brought its author plainly within the United States Law which make it penal for an unauthorized person to meddle in negotiations with foreign powers. The copy sent by Mr. Letcher was made use of for arresting Levy under the statute referred to, and he was indicted by the Grand Jury of this District. President Arista, however, refused to give up the original of Levy's letter, and the district attorney ultimately entered a *nolle prosequi* in the case.

The adjustment of the Tehuantepec question may be considered to have been great object of diplomatic ambition with the last administration. The administration of President Polk having failed to have embodied in the Treaty of Peace very limited privileges in regard to that route, despite the offer of a large sum of money, it was considered fair game to patronize the Garay Grant when our citizens became holders of it. This grant bestowed much greater privileges than those sought by Mr. Trist, and if Mexico had ratified the Treaty they would have been obtained without costing the government anything. Some of the causes for the rejection of the Treaty are adverted to above but none of them or all combined would probably have led to that result, if leading Mexican statesmen had had any regard to national honor or common honesty.

A principal objection urged by Mexico against the Garay Grant is, that it several times expired by lapse of the time limited for the commencement of the works under the Grant. To this the holders of the privilege answer, that as soon as the first survey was completed Garay went to Europe for the purpose of raising capital for the work, but that while he was there, the revolution in Mexico, which overthrew Santa Anna and raised Herrera to the Presidency, took place and so alarmed capitalists, that they refused to take any part in the enterprise. The holders say further, that these circumstances were appreciated by the Mexican Government itself, that while a bill was before the Congress (Dec. 1848) for renewing the grant, that body was dissolved and dispersed by the revolution which placed Paredes at the head of the government. That the Decree of Salas by which the grant was revived, confirmed and extended was in point of fact, merely a copy of the

bill aforesaid which was pending in the mexican Congress, which bill had passed the House of Representatives and had been favorably reported upon by a committee of the Senate. The holders of the grant further alleged that the works on the Isthmus were resumed on the 10th. October, 1848, a month before the expiration of the extention of the time for the purpose allowed by the Decree of Salas, and that the Mexican Government was officially informed of this by the prefect of Acayacon on the Isthmus.

W. Hunter, Department of State.

20 de junio de 1853.

A continuación se lee:

It was contended by Mr. Webster that the reason assigned for the repeal, namely that Salas, by whose decree of november 1846 the grant had been revised, had no authority to issue such a decree, was incorrect in point of fact. When therefore the Sloo Grant was made in february 1853, although the Garay Grant had been formaly cancelled, those interested in it claimed that the reasons assigned for the repeals in-habilitated the act.

Caja 97, rollo 16, vol. 15, p. 33-8.

¿Escrito en 1853? James Mackie. The Garay Grant, Synopsis of the official correspondence relative thereto.

1. On the 25th. February 1842, José de Garay solicited by memorial to President Santa Anna, the privilege of opening a communication between the Atlantic and Pacific, through the Isthmus of Tehuantepec.

2. On March 1st. 1842 this grant privilege was granted by President Santa Anna in substance as follows:

3. Art. 1. A communication shall be opened between the Atlantic and Pacific through the Isthmus of Tehuantepec.

4. Art. 2. This shall be by water were practicable, otherwise by railway.

5. Art. 3. When opened, this passage to be neutral and common to all nations at peace with Mexico.

6. Art 4. Its execution confided to José de Garay, to whom is granted an exclusive privilege, with the following obligations and indemnifications.

7. First Garay shall make at his own expense surveys of the ground route and ports which shall be concluded within eighteen months of the date of this decree, "and the works shall be commenced within the space of ten months next hereafter". In case of failure to fulfill this condition the exclusive privilege is forfeited:

8. Second. Garay shall erect all necessary works for shelter or utility at the ports, he shall construct in each port forts and warehouses, and the communication between the ports shall be by steam with as many boats or trains as may be necessary:

9. Third: the grantee to pay a just valuation for private property on the route, but shall not occupy for public utility more than a quarter of a league on either side of the line, which is all he can require proprietors to sell.

10. Art. 5. The privileges accorded to Garay and to those who acquire his rights or any part of them are

11. The right of collecting passage dues for fifty years, after which they revert to the government.

The privilege of transportation and of fixing the rates of the same for the same fifty years: but the government shall from the time the line is open for the transportation of effects, receive one fourth of the receipts for this purpose, after deducting expenses. The government to give one fourth of the net profits to the grantee during fifty years when it shall enter into possession of its before mentioned rights "Both parties may name agents to examine the accounts etc." All unoccupied lands as far as ten leagues in either side of the line are conceded in fee simple to the grantee.

12. Art. 6. All foreigners are permitted to acquire real property and to exercise any trade or calling without exception within fifty leagues of either side of the line. That territory shall be the country of all who establish themselves there subject to the laws of the Republic.

13. Art. 7. The government to give every protection and aid in surveying and carrying on the works, but the grantee shall remunerate the services of the inhabitants. The government will not impose taxes upon travellers or effects *in transitu* until the expiration of the fifty years, nor will it levy upon the negotiation or its funds any imports or forced loans:

14. Art. 8. The Government to have the right to appoint custom house officers in the ports and other places on the line, for the purpose of receiving duties on importation of articles which do not come and go merely for the purposes of transport, and to prevent smuggling but they shall not interfere in the collection of freights, lighterage etc. etc.

15. Art. 9. At the completion of the works they shall be examined by the surveyors chosen respectively by the government and the grantee in order to declare whether the terms of the contract have been fulfilled. Should they disagree, they are to choose an umpire who shall decide. "But no kind of question or difference shall prevent the lines of communication from coming into operation as soon as it shall be ready; and the grantee is always bound to fulfill the contract in every particular."

16. Art. 10. Should it be found practicable hereafter to join the two seas by a cut, no proposition to this effect from any individual or company shall be admitted during the fifty years for which the privilege is granted to Garay without his consent, or that of those who may have acquired his rights:

17. Art. 11. The contract between the Government and Garay to be drawn up in writing according to the bases of these articles:

Accordingly,

18. In continuation and for confirmation the fulfillment of the preceding decree and in accordance with the enactments of the Supreme Government, it was determined to draw up

and execute the title deeds to which it refers, effecting them in the best and most binding form: "Therefore by virtue of the authority vested in him by the 7th. clause of the Convention of Tacubaya, the President grants the exclusive privileges already recounted, with all the rights, obligations and advantages inserted in the preceding decree. And he declares and promises that all and every one of the concessions mentioned in the preinserted decree shall be honorably fulfilled now and at all times pledging the honor and public faith of the nation to maintain the projector, D. José de Garay as well as any private individual or company succeeding or representing him; either natives or foreigners in the undisturbed enjoyment of all the concessions granted holding the national administration responsible for any acts of its own agents, which, from want of proper fulfilment of the covenant, might injure the interest of the proprietors. Signed by J. M. de Bocanegra and Jose Garay.

19. On the 8th. February 1843. Garay addressed a communication to the minister of Foreign Affairs in which he represents that he had fulfilled the first condition of Art. 4, that of "investigating the locality". That he may be enabled to perform the *second*, he asks that the Government will direct the lands thro' which the road must pass to be placed at his disposal, according to the obligation incurred by the last clause of Art. 5. He also requests that all lands upon the line which have been granted to colonists, but which have not been cultivated nor peopled by them, may *be considered as forfeited and liable* to the occupancy.

20. The decree asked was issued on the 9th. February 1843. It granted protection to the agents of the road which was to extend from the bar of Coatzacoalcos on the north to that of San Francisco on the south. It authorized him to appoint land surveyor and to direct the course of the Coatzacoalcos and its tributaries and to use the timber on its borders etc. etc.

21. On the same day another decree was issued from the Foreign Office which conceded to Garay all the lands already granted, but which remained inhabited and uncultivated. (This decree was in the name of President Bravo.)

22. On the 4th. October 1843, President Santa Anna issued a decree establishing a convict station of 300 convicts to be employed on the works of the canal.

23. On the 21st. December 1843, Garay petitioned Government for an extension of the time within which he was bound to commence the work, for one year beyond the term previously designated.

24. The President *ad interim* granted this petition by a decree of 28 December 1843. (It extended the operation of the original grant to 1st. July 1845.)

25. On the 5th. November 1846 General Salas then exercising supreme executive power, issued a decree in substance as follows.

26. Art. 1. Confirms decree of 1 March 42.

27. Art. 2. Confirms decree of 9th. Feb. 43.

28. Art. 3. Confirms decree of 6 Oct. 43.

29. Art. 4. Extends the term commencing the works for two years more, dating from publication of this decree.

30. Art. 5. Rates for light houses, pilotage and postage to be fixed by a special law.

31. Art. 6. All lands belonging to individuals, companies etc. within 10 leagues on either side of the line shall be compensated to the enterprise by other waste lands.

32. Art. 7. All colonists, settling under the enterprise with a view to aid it, shall be exempt from military service for 20 years, except in case of invasion of the Isthmus.

33. Art. 8. Exempts the same class for the same period from all contributions except municipal taxes.

34. Art. 9. Exempts all agricultural implements and instruments for the arts from duties.

35. Art. 10. Exempts from duties all articles of subsistence, clothing etc. for personal use.

36. Art. 11. Exempts all articles intended for construction etc. repair of the road.

37. Art. 12. Forbids colonists who are citizens of a state at war with the Republic from settling.

38. Art. 13. Colonists shall renounce all privileges of original domicil whilst residing in the country.

39. Art. 14. All contracts for the introduction of families and laborers shall be submitted for approval of Government. Art. 15. The waters of rivers and streams emptying into the canal and feeding it not to be disturbed nor diverted.

Note. For the grounds upon which the Mexican Government invalidates this decree of Salas, vide *Post* parrafo 154, 156, 157, 158, 209.

Mr. Letcher argues its validity from the acknowledgement by Mexico of all the other official acts of Salas. See Sen. Doc. pp. 136, 137.

40. On the 28th. of September 1848, Garay appeared before Ramón de la Cueva, Notary Public and affirmed that he had heretofore entered into various contracts with Messes. Manning and Mackintosh in relation to the privileges granted to him for opening communication on the Isthmus of Tehuantepec and for the colonization of the lands ceded him:

41. That one of these contracts was of the 7th. January 1847*

Aquí nota al margen:

* The mexican minister allows that Garay had already, by a deed of 21 August 1846, transfered to the house of Schneider and Mackintosh, the privileges granted by the decree of 5 Nov. 1846—that is two and a half months before the decree was issued— thus converting the grant into a speculation of brokerage. See Memorial, pp. 14vc.

The Mexican minister asserts that this contract of the 7th. January 1847 did not include the cession of the right of *navigation* etc., but only that of *colonization*, the privilege for the former object being reserved by Garay. See Memorial p. 16. [*Termina la nota.*]

in which Messrs. John Schneider and Co. of London were interested, and that evidence thereof was transmitted to the supreme government for its approvals, which was granted:

42. That another of these contracts was on 1st. March 1847, and the last on 10th. June 1848, in consequence of

which contracts said Garay's privileges were granted to Manning and Mack Intosh with certain conditions.

43. The said M. and M. having resumed the representation of the interests of Scheider and Co. in the aforesaid contract of 7 January 1847, it is now for the interest both of M. and M., and of Garay, to make public the cession and sale by Garay to Manning and Mackintosh of the whole understating which they are about to execute on the Isthmus of Tehuantepec.*

Nota al margen:

* On the 13 Jan. 1849 Manning and Mackintosh informed the Mexican Government that Garay had transferred to their house the privilege of constructing a way of communication between the seas etc., to which the government replied that Garay had not obtained the consent of Mexico to this transfer, that it did not recognize them as Garay's transferees, and that as the two years granted for the extension of the decree of 5 Nov. 1846 has expired it considered the privilege claimed as having likewise become extinct. Memorial p. 20. [*Termina la nota.*]

(Here follows the formal legal and unlimited cession sale and transfer of all the property and rights conceded to Garay by the several decrees of 1st. March 42. 9th. Feb. and 6 Oct. 43: 5 and 26 November 46, for the construction of the way and colonization of the lands.)

44. On the 26th. October 1848, Manning and MackIntosh executed a power of attorney in favor of Hargous Brothers of New York authorizing them to transfer the rights and privileges ceded by Garay's instrument of the 28th. September 1848.

45. On the 5th. February 1849, Manning and MackIntosh by their attorneys (Hargous Brothers) conveyed to Peter A. Hargous of New York all their right title and interest in the privileges and immunities of every nature and kind in the Isthmus of Tehuantepec, conformably with the several decrees already quoted.

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46. On the 25th. March 1850, Mariano Gálvez, conveyed all his interest in the Tehuantepec privileges to P. A. Hargous. "a" (en nota "a" a pie de página dice Gálvez y Manuel Escandón cada uno con una sexta parte.)

47. On the 25th. March 1850, Garay confirmed to P. A. Hargous all the rights, privileges etc. etc. originally conveyed to him.

48. On the 2nd. May 1850; Gálvez and Garay approved and confirmed the agreement that had been or was about to be made between P. A. Hargous and a committee of citizens of New Orleans.

49. Manning and Macintosh, and Manuel Escandón, executed an instrument declaring that in company with Inc. Schneider and Co. (although the name of Escandón was not mentioned) they had made a contract with Garay in regard to the felling of timber on the Isthmus, and the colonization of lands from the confluence of the Malatengo to the mouth of the Coatzacoalcos: that by a subsequent instrument this contract was merged in one of tranfer which Garay had executed to them (M. and M.) of the privileges conceded by the mexican Government, and notice thereof having been given to Schneider and Co.: They renounced the first and second contracts, leaving to the declarants their interests therein. (This instrument is without date, Consul Black however officially certifies to the signatures of Escandon and Manning and Macintosh on the 12th. June 1850.)

50. On or about the 18th. April, 1850 G. A. Hargous conveyed all the right title and interest of José de Garay and his assigns etc. etc. to three persons, at least citizens of New Orleans to be held by them in full title, upon certain agreements and condituous therein expressed.

2

The Garay Grant

51. Having thus traced the history of this grant from its first concession to Garay in 1842, thro' its several assignments, until it is rested in the New Orleans Company, in 1850, it appears to be proper to follow the action of the Government of

the United States in reference thereto, as this action has been, from time to time officially developed

52. With the instructions to Nicolas P. Trist, of 15 April 1847, he was furnished with the project of a Treaty "founded upon just and liberal principles towards Mexico". In these instructions he "was authorized to stipulate for the payment of any sum not exceeding 25 millions of dollars, for New Mexico and Upper California without lower California, provided the stipulation securing the right of passage and transit across the Isthmus of Tehuantepec shall be retained in the Treaty, or if this should be stricken out (he was) authorised to stipulate for the payment of the like sum of twenty five millions of dollars for Lower California in addition to New Mexico and upper California".

53. The Eighth article of the project referred to proposes in substance: That the Mexican Government should guarantee forever to the Government and citizens of the United States the right to transport across the Isthmus of T. by any modes of communication non existing: whether by land or water, all articles the growth etc. of the U. S. or of any foreign country belonging to it or to its citizens; and also the right of free passage across the same to all citizens of the U. S. Mexico was also to guarantee to the Government and citizens of the U. S. the same right of passage for their merchandize etc. and for the citizens over any railroad or canal which might thereafter be constructed across said Isthmus by the Government of Mexico, or by its authority paying fair tolls for the same. And no higher tolls or charges to be imposed upon the citizens or merchandize of the U. S. passing over this route than upon the persons etc. of Mexican citizens. None of the articles of the Government or citizens of the U. S. in transit to be liable to import or export duty. The two Governments to agree upon such regulations as are necessary to prevent smuggling.

54. With Mr. Trist's despatch n. 16, dated 27 Sept. 1847, he transmits a pamphlet entitled "Contestaciones" etc. etc. (Translations)—"Discussions between the Supreme Mexican Government, the general in Chief of the American army, and

the commissioner of the United States”—in which, following a Mexican translation of Mr. Trist's project is found the “Instructions to the commissioners of the Mexican Government, agreed upon in the council of ministers on 29th. August 1847. No view of the proposition made by the commt. from the United States”. The 7th. of these instructions is as follows:

55. “With regard to the privileges which the Government of the United States requires for the navigation of the river Tehuantepec or for carrying on commerce by any road or way which may be established between the two seas, the Mexican Government absolutely refuses all concession in this respect; but as last resort (en último caso) you may, at the most, promise that the Mexican Government will take into consideration the good relations which the government of the U. S. desires to maintain with the Mexican Republic, and in view of the confidence which its conduct may inspire, the Government of the United States ought not to doubt that its citizens will be placed upon the same footing as the citizens of other nations, but never upon the same footing as those of Mexico.

56. The Mexican Comissioners presented a counter-project in which no provision relating to the Isthmus is made. But in their note to Mr. Trist accompanying this counter-project, the following paragraph occurs:

57. “In the 8th. article of Your Excy.'s project the concession is Trist's despatch, already quoted, claimed of a free transit thro' the Isthmus of Tehuantepec to the Southern Sea, in favor of citizens of North America. Verbally we have declared to your excellency, that some years ago, a privilege in connection with this matter was conceded by the Government of the Republic to a private speculator, which was soon after assigned by authority of the same Government to English subjects, whose rights Mexico cannot dispose of. Your Excellency, therefore, will not wonder that, upon this point, we cannot accede to the wishes of your Government.”

58. In Mr. Trist's last despatch received N° 28 he alludes to many memoranda and explanations respecting the Treaty

and his conferences with the Mexican Commissioners, but these appear not to have been received at the Department. (They would probably have thrown much light upon the Mexican view of this subject.)

59. On the 30th. April 1849 Mr. Clayton addressed an instruction to Mr. Clifford, in which referring to the existing apprehension that Mexico would annul Garay contract, on the ground that it was now under control of citizens of the U. S. he directs him to address a note to the Minister of Foreign Affairs, and informs him that if citizens of the U. S. tempted by Mexican decrees, should have acquired rights under those decrees, any infringement of those rights would be regarded with just dissatisfaction by the Government of the U. S.

60. Mr. Clifford addressed his note on this subject to Mr. Lacunza, on the 20 June 1849: in it he assumes as unquestionable: (1) The existence of the contract of 2nd. March 1842. (2) Its assignability (3) Its confirmation by various subsequent acts of the Mexican Government.

61. Mr. Lacunza in reply, 11 July 1849, "declares that the privilege in question is not annulled" altho' "it is not yet determined that the privilege shall subsist", but supposing the contract should be annulled, he thinks it could only be accomplished either: (1) From hostility to American citizens undertaking the enterprize; or (2) from the failure of grantees to fulfil the conditions of the contract. On the first ground the Government of the United States might regard to act with dissatisfaction. In the second contingency nothing could legalize the intervention of the Government of the U. S. inasmuch as all "questions concerning its validity, the compliance with its conditions, its forfeiture etc., are to be discussed, decided and determined according to the laws and by the constitutionally competent authorities of Mexico". In conclusion Mr. Lacunza declares "that if, in the end the privilege granted to Garay should be annulled, it would be from such causes as would not justify the intervention of the government of the United States".

62. On the 18th. September 1849 Mr. Clayton addressed an instruction to Mr. Letcher, referring to the 8th. article

which Mr. Trist was authorized to offer, and to the objections of the Mexican Commissioners to receive it. A draft of a convention upon this subject was enclosed with power to sign: The convention was in substance as follows:

63. Art. 1. Individuals to whom Mexico had granted privileges, and those employed by them to be protected.

64. Art. 2. Military or naval forces to be employed by either party for this purpose.

65. Art. 3. Protection of the work where completed.

66. Art. 4. Disavowal by the U. S. of any attempt to acquire sovereignty over the Isthmus.

67. Art. 5. Forfeiture of rights on the failure of grantees to fulfil conditions.

68. Art. 6. No foreign Government or corporation to purchase the property.

67. Art. 7. When the privileges have been forfeited under the 5th. article, the protection stipulated under the 1st. and 2nd. articles to be suspended until the work be resumed.

68. Art. 8. Citizens of the U. S., their property as well as the Government of the United States, to be on the same footing as citizens and government of Mexico.

69. On the 20th. February 1850, Mr. Clayton enclosed to Mr. Letcher copy of a letter from Mr. Hargous asking for protection from the Mexican Government for a body of engineers destined for the survey of the route, Mr. Letcher was instructed to ask the necessary measures of the Mexican Government.

70. On the 11th. April 1850, Mr. Letcher enclosed the passports; which the same, Mr. L. transmitted copy of a letter from Mexican Secretary of State (Lacunza 5th. April) to the Governor of Oaxaca, instructing him to receive and treat the American Engineers destined for the survey with all hospitality, and to avoid all embarrassment of their object.

71. On the 16th. March 1850, Mr. Letcher stated that he had placed with the Mexican Minister a rough draft of a treaty. The Minister had shown it to the British Minister who wished to join in the guarantee of protection. The British Minister also stated that France and Spain would wish to join in the guarantee. He asks for instructions on this point.

72. Mr. Clayton in reply (23. April 1850) disclaimed all selfishness in the part of the U. S. and allowed that all nations which would agree with the U. S. or Mexico, to protect the road or canal from seizure or violence, might enjoy the same right on the same terms with ourselves.

73. On the 12 June 1850, Mr. Letcher informed the Department, that, after all the points of his treaty were definitively arranged, and the instrument ready for signature (on the 3rd. instant) amendments had been offered by Mexico which were entirely inadmissible.

74. On the 24th. June 1850 he transmits the treaty as signed. He says that it carefully excludes all idea of a guarantee on our part of the sovereignty to Mexico. The convention is substantially as follows:

75. Art. 1. The grantees (present or future) of the privilege to be protected in their persons and property, during the progress of the work, and the existence of the privilege.

76. Art. 2. The U. S. to lend assistance to Mexico, when necessary, to guarantee the protection of the work.

77. Art. 3. Either party to employ such naval or military forces as it may judge necessary to insure protection: and if these forces belong to U. S. they are to be hospitably received and allowed to occupy the line of the route.

78. Art. 4. The United States to tender this assistance only when requested to do so by the Government of Mexico or by her commissioner.

79. Art. 5. Provides for arbitration of differences arising between the grantees and the government all other questions to be decided by Mexican tribunals.

80. Art. 6. Provides for the sale at public auction, under such conditions as the Mexican Government may impose, of the privilege, in case the arbiters decide against its continuance.

81. Art. 7. No Government or foreign corporation to become the purchaser; and the purchaser to fulfil the condition imposed by Mexico on the original grantees.

82. Art. 8. The tolls on citizens etc. of the U. S. and of Mexico to be the same; *but* the productions of the soil or

industry of Mexico to be transported for one-fifth less than those of the U. S.

83. Art. 9. Mexico to have the privilege of granting the same advantages to other nations and their citizens as are herein guaranteed to her own and those of the U. S. but, on the condition, that every such nation shall bind itself by treaty to give the same guarantee as the U. S.

84. Art. 10. The two governments will exert themselves to maintain the neutrality of the route, even in times of war, and altho' the war be between themselves; in this event the passage to be free to all articles excepting munitions of war and contraband effects. México, however to preserve her sovereignty over the communication and adjoining territory.

85. Art. 11. The holders of the privilege to forfeit the guarantee of protection of within twelve months from the date of this convention they should refuse to arrange for the regulation of the prices of transportation. The Government of Mexico to approve all alterations of prices which shall include both Mexico and the U. S. according to the terms of the 8th. article, preserving the discrimination of one fifth in favor of Mexican productions.

86. Art. 12. The actual holder of the privilege to give his consent to this treaty within four months; and until this is done the treaty is not to be submitted to the Congress of Mexico, or the Senate of the U. S.

87. Art. 13. Exchange of ratifications within 9 or 12 months.

88. On the 13th. July 1850. Mr. Letcher enclosed to Mr. Clayton a copy of the circular addressed by the Mexican Minister to the foreign diplomatic agents in Mexico, inviting their cooperation in the objects of the treaty. The opposition to the treaty was very violent.

89. On the 12th. August 1850, Mr. Hargous addressed Mr. Webster upon the subject of the convention received from Mr. Letcher, and enquired whether it would sufficiently protect the capital invested by himself and others in the enterprise. He mentions several points upon which it appeared ambiguous.

90. Mr. Webster explained the points referred to and advised the acceptance of the treaty as it stands.

91. Mr. Hargous (26 Aug. 1850) differs with regard to expediency of acceptance, and asks that the treaty may be returned to Mexico, with the requirement that it "be so amended that it may inspire confidence in the holders of the grant. Such a course would relieve him from the necessity of accepting or rejecting the treaty as concluded".

92. On the 24 August, 1850 Mr. Webster transmitted a new draft to Mr. Letcher upon the Tehuantepec enterprise. It differed from that negotiated by Mr. Letcher only in the following points:

93. In the preamble, instead of the word company it was proposed to say "company of citizens of the U. S. "

94. In Art. 1, protection is extended over all persons residing within the limits of the grant not limiting this protection as in Mr. Letchers convention, to the *grantees* and *those engaged on the work*.

95. In Art. 2, protection is guaranteed to the *work* and to all *persons* and *interests* connected therewith.

96. In Art. 3, the forces intended for protection are allowed to operate anywhere within the limits of neutral territory. (Not confining them to the line of the route, as in Letcher's convention.)

97. Art. 4. Provides, that, in case of the neglect of Mexico to ask the aid of the U. S. when necessary, a commissioner of the U. S. who is to be associated with one from Mexico may apply directly to the Government of the U. S. for the assistance necessary.

98. Art. 5 unchanged

99. Art. 6. Limits the conditions of the sale to the restrictions of "the law *now in force* upon the subject of seizure of forfeiture." (There was nothing in Letcher's convention to prevent the passage of an *ex post facto* law.)

100. Art. 7. Substitutes "no foreign government or body politic" for "no government or foreign corporation as in Letcher's convention".

101. Arts. 8 and 9 unchanged.

102. Art. 10. Extends the neutral territory within which vessels may not be captured to sixty miles from the termini.

103. Art. 11. Requires the approval of the Government of the U. S. as well as of Mexico, to proposed alterations of rates of toll.

104. Arts. 12 and 13 unchanged.

105. (N. 13. Wherever the word privilege is used in the Letcher Convention, the plural of the same word is substituted in the last. This, to guard against any pretext on the part of Mexico to confine the operations of the treaty to any one of the several decrees she had granted.)

106. With the dispatch accompanying this draft, Mr. Webster reminds Mr. Letcher that when in a former occasion, the Government of the U. S. intimated a desire to acquire for itself this right of way it was answered that Mexico had some years previously granted this privilege to an individual who had assigned it to British subjects, whose assignees the present holders are. "Hence the validity of their title is conceived to have derived a peculiar sanction, which the honor of this government demands should be maintained unimpaired."

107. After receiving the above draft and instruction, Mr. Letcher having communicated with the Mexican Government addressed Mr. Webster, (22 October 1850) detailing circumstances of his unsuccessful efforts to obtain the assent of Mexico. The grounds and reasons for refusal appear in Mr. Lacunza's note to Mr. Letcher of the 23 October 1850. The three points of objection are:

108. 1. The restriction of protection to a "company of citizens of the United States". See preamble. (The reason of this objection is that Mexico cannot consent that the benefits of the treaty are to accrue solely to American Citizens.)

109. 2. Mexico cannot consent the appointment of a commissioner of the U. S. having power to call on his government for troops.

110. 3. She refuses that the U. S. should participate in the assignment (imposition?) of duties or tolls. (Art. 11. Objection: it would affect her sovereignty.)

111. Mr. Lacunza expresses the readiness of Mexico to adopt the other amendments if the U. S. will recede from these three.

112. Mr. Webster on the 4 December 1850, by consent of the holders of the grant, authorized Mr. Letcher to recede from the amendments proposed to the 4th. and 11th. articles.

113. On the 25th. of January, 1851 a Convention was signed at Mexico in regard to Tehuantepec. Its provisions were accepted by Mr. Hargous, and ratified by the U. S. Senate. Its terms are combined from the Letcher and the Webster treaties, in substance as follows:

114. The preamble follows the Letcher treaty, not adopting the amendment *citizens of the United States*.

115. Its 1st. Article follows the Webster treaty. Ante 94.

116. Its 2nd. The Letcher. Ante 76.

117. Its 3rd. The same ante 77.

118. Its 4th. The same ante 78.

119. Its 5th. Coinciding with both 79 and 98.

120. Its 6th. The Webster ante 99.

121. Its. 7th. Combines the expressions of both "foreign government, corporation, or body politic". Ante 81 and 100.

122. Its 8th. Coincides with both 82 and 101.

123. Its 9th. The same. 83 and 101.

124. Its 10th. The Webster 102.

125. Its 11th. The Letcher 85.

126. Its 12th. Agrees with both, 86 and 104.

127. Its 13th. The same 87 and 104.

128. Additional article extending the period fixed by articles 11, 12, 13. of the Letcher Treaty.

3

The Garay Grant

129. On the 15th. April 1851 Mr. J. P. Benjamín of New Orleans, representing the company holding the Garay privileges, addressed Mr. Webster on behalf of the rights of the Company. Mr. Benjamín alleges that they engaged in the work with the sanction and consent of Mexico, and that in the

surveys they had expended more than 60,000 dollars. That they obtained permission from the Mexican Government for a steam vessel, intended to keep up the communication between the company and their surveying party to proceed to the isthmus via Veracruz, but that every embarrassment had been wantonly thrown in their way by the mexican officials, and that the necessary clearances had been refused to their vessels.

130. On the 7th. March 1851, Mr. de la Rosa (Mexican Minister in Washington) addresssed Mr. Webster, under instructions from his Government, in relation to the treaty just concluded. The treaty had not been sent to Congress for ratification, because it was feared that its rejection was almost certain Mr. de la Rosa says that his Government consideres as quite independent of each other these two points:

131. 1st. The treaty between the U. S. and Mexico.

132. 2nd. The grants to, and contract with Garay.

133. A treaty with the U. S. will not, the mexican Government maintains, be any recognition of the rights of Garay, which are to be determined by the Supreme Court of Mexico, to which the matter has been referreed. The privileges conceded to Garay have become extinct, according to the view of the Mexican Government which never recognized the existence of any right either as vested in himself or in those who have succeeded him.

134. Besides this point the Mexican Government has referred (or will refer) to the same tribunal the decision of the question whther the extensions of time to Garay were valid.

135. If the United States will acknowledge the right of Mexico to make this declaration, every opposition to the treaty will doubtless be quieted.

136. Mexico also denies the existence of any rights acquired by the transfer of Garay.

137. Even if Mexico should pronounce Garay's contract to be in force, she would require all colonists to the Isthmus to comply with the provisions contained in the 13th. and 14th. articles of the decree of november 5, 1846.

137. On the 30th. April Mr. Webster replied:

138. He denies that the idea of guarantee to the holders of the grant can be separated from the treaty, and maintains that the judicial authority has no cognizance of the matter: Indeed the 5th. article itself expressly stipulates that the settlement of differences between the undertakers (either present or future) and the government must be by arbitration.

139. After referring to the expenditure by citizens of the U. S. of large sums of money in advancing this enterprise, relying upon the good faith of Mexico Mr. Webster refers to those acts of Mexico which clearly prove:

140. First. The validity of Garay's grant.

141. Second. Its assignable nature.

142. Third. That at the date of the Treaty Mexico knew that the holder of the grant was a citizen of the U. S.

143. This proof is:

1. Decree of 1st. March 1842.

2. Contract between Bocanegra and Garay of March 2 1842.

3. Decree of 9 February 1843.

4. Decree of 4 October 1843.

5. Decree of 28 December 1843.

6. Decree of 5 November 1846.

7. Note of commissioners to Mr. Trist, 6 September 1847.

8. Mr. Clifford to Lacunza, 20 June 1849.

9. Manning and MackIntosh to Mr. Lacunza, 25 July 1849.

10. Mr. Lacunza to Mr. Letcher 5 April 1850. with enclosure, ante 70.

11. 1st. 5th. 11th. and 12th. articles of the treaties of 2nd. June and 25 January. Ante 75, 79, 85, and 86.

144. In conclusion Mr. Webster calls the attending of Mr. Rosa and his Government to the serious embarrassment that would result from a rejection of the treaty.

145. On the 6th. of April 1851, the steamer "Gold Hunter" bound from San Francisco to Ventosa, in Tehuantepec, having on board a party destined for the service of the Tehuantepec Company with their tools and implements, arrived at Ventosa, but was refused permission to land her

passengers, or crew to deposit the tools in the custom house, subject to the decision of the two Governments, etc. was peremptorily ordered to leave the port.

146. Formal protest was made before the U. S. Consul at Tehuantepec.

147. Mr. Smith (U. S. Ch. d'Aff. in Mexico) was instructed to remonstrate to the Mexican Government against this proceeding; as any prohibition by Mexico against Citizens of the U. S. crossing the Isthmus would be tantamount to a repeal of the decree of March 1842.

148. On the 13 June 1851, Mr. Smith informs Mr. Webster that on the 17th. March 51, he had informed the Mexican Minister of Relations of Mr. Hargous' acceptance of the treaty of 25 February, and of its communication to the Senate by the President, thus fulfilling the 12th. article of the same.

149. On 3 July 1851 Mr. de la Rosa communicates to Mr. Webster the law of the Mexican Congress 22 may, annulling* the decree of 5 November 1846.

Al margen una larga nota que dice:

* Párrafo 149. The decree of 5 Nov. 1846 was annulled, the Mexican Minister says¹ because the Federal Constitution was in force when Salas granted it, and therefore his exercise of power was illegal because all his acts were subject to the revision of Congress² because the transfer of Garay to Manning and Mackintosh was null and illegal, since it was done clandestinely³ and so was the transfer of M and M to Americans illegal, since it was fraudulent, inasmuch as it was perpetrated only by trampling on the rights of the Government: and finally, because admitting the illegal extension of 28 Dec. 1843 (Sect. 24 ante) and the still more illegal one of 5 Nov. 1846, (sect. 25 ante) the transfer to americans would

¹ This is not the reason alleged in the act of repeal itself, which declared that the Decree of Salas was annulled because he had no power to enact it.

² The Mexican Congress, however, did not take into consideration the decree of Salas until it was known at Mexico that the United States citizens had become assigned of the Garay Grant.

³ There is nothing in the Garay Grant which required that the assignment of the privilege to foreigners should be formally made known to the Mexican Government or made a matter of public record.

still be illegal, because when it was effected the privilege was extinct.⁴ (Memorial p. 22.)

Mr. Rosa says that this was done inasmuch as the provisional Government of that period had no power to promulgate the same. The Government of Mexico had also ordered the suspension of work on the Isthmus route, and all persons engaged thereon to quit, excepting such as would subject themselves to the laws of Mexico.

150. Mr. Rosa says that on the 8 April 1849, Garay was informed by his (the mexican) legation that, inasmuch as the period of extension had transpired without any compliance with the terms of the grant, all the concessions contained in the decree of March 1842 had ceased to exist.

151. That, notwithstanding this notification the successors of Garay had persisted in their operations, had disposed of the lands and property of the Republic and had organized a company for the purpose of obtaining funds.

152. That this course had alarmed Mexico and her citizens, who apprehended a system of colonization and subjugation, similar to that which had occurred in Texas.

153. Hence the necessity of this decree, in view of the jeopardy to which the integrity of her territory was liable.

154. Mr. Rosa assumes as incontestable the power of a Mexican congress to annul the decree of November 5, 1846, inasmuch as it was the doing of an usurper.

155. When the dictatorship of Santa Anna had ceased, all his acts were subjected to the revision of Congress among these was the decree of March 1842. Whilst progressing with this revision, Congress was dissolved by another revolution, which had for its paramount object to prevent Congress from revising and perhaps annulling the laws, grants etc. etc. of Santa Anna, among which was the Garay Grant.

156. In 1846 Santa Anna was called to the head of government and whilst preparing to come forward, a provisional

⁴ This is not accurate in point of fact say the American holders if the grant because the works on the Isthmus had been resumed by Manning and Mackintosh more than a month prior to the 5th. November, 1848, the period, according to the decree of Salas within which they were required to be resumed.

government was organized under general Salas by a military plan of August 4, 1846. This plan only employed him to act ad interim until Congress should assemble, to devise such measures as it might think most urgent in order to repel the foreign invasion, as war with the U. S. had then commenced.

157. The decree of 5 november 1846 was not for the purpose of repelling invasion, hence its nullity is unquestionable.

158. Besides, Salas had declared that the Constitution of 1824 was in full force; after thus renouncing the right of exercising legislative powers, he issued the decree of 1846.

159. In replying to Mr. de la Rosa's note —25 August 1851—, Mr. Webster, by direction of the President, contends, that the fact of negotiating the treaty with the U. S. of 25 January 1851, proves that Mexico waived the consideration of the validity of the Grant, even as a judicial question*

En nota aparte se intercala lo siguiente:

* but that he also enacted several legislative measures of importance, which had at least as little relation to the war with this country as the decree in regard to Tehuantepec; and that it misunderstood that the very Mexican Congress which had repealed his decree relative to Tehuantepec had refused its assent to another bill on the ground of its interfering with a general law of colonization which was passed during the rule of Salas. That as the Garay grant authorized the grantee to associate foreigners with him it showed that the grantor was conscious the work could not be completed without their agency. That in a country where the Government has been so changeable as in Mexico it was particularly necessary for the public zeal that duties undertaken to be performed by the grantees of a charter, instead of being strictly and harshly judged, should be viewed in a spirit of equity and even indulgence.

Termina la nota al margen y sigue el texto interrumpido.

That the Government of Salas was *de facto* and as such submitted to by Mexico and recognized by other nations, that

his acts were not exclusively *executive*, but that he exercised legislative authority without his right being objected to, or the expediency of his decree of 5th November 1846, questioned until it was known in Mexico. That citizens of the United States had become possessed of Garay's privileges:

160. That the preamble of his decree shows he believed he was acting in accordance with public sentiment.

161. And that the imputation of ulterior designs on the part of the U. S. or her citizens with reference to the acquisition of Mexican Territory is unnecessary and unfounded.

162. On the 11 June 1851 Major G. G. Barnard U. S. army, and Wm. H. Sidell [*sic*] civil engineer (employed with their party in the survey of the route), protested before the U. S. consul at Tehuantepec against their expulsion and the discontinuance of the work under the law of Mexican Congress, of 22nd. May 1851.

163. On the 16th. August 1851, Mr. Webster instructed Mr. Letcher to remonstrate against this expulsion.

164. On the 8th August W. H. Sidell, Engineer of Tehuantepec company, protested against the seizure of two vessels, the Sarabia and the Almagres (in the employ of the company as provision barges) by the mexican authorities.

165. On the 29th. October 1851 Mr. Letcher informed Mr. Webster that the prejudice in Mexico, adverse to the Garay grant was fixed and universal; That this feeling was especially hostile towards the New Orleans Company because, as was alleged, it had threatened war on Mexico if she should reject the treaty and had avowed its intention to take forcible possession of the Isthmus and construct the road in defiance of Mexico.

166. The recent revolt on the Río Grande had furnished additional cause of hostility. When information of this revolt had reached the city, Congress immediately called upon the President to lay the treaty before them; the President refused to comply and knowing that the treaty would be unanimously rejected, and to afford the government an apology for

disobeying this call for a longer period, in order to gain time, Mr. Letcher agreed to reopen the negotiation.

167. In an interview with the Minister of Relations on the subject, the Minister, Mr. Ramírez, said that Mexico would “grant the privilege to the U. S. upon fair terms in almost any shape,—“but she never will part with her sovereign rights to a mere corporation”.

168. With this despatch is enclosed a copy of a communication addressed to Mr. Letcher by Mr. Ramírez the preceding day, in which the Minister says “that Mexico will put no obstacle against the interoceanic communication; and that it will even be just to private interests always when such things can be done without injury or danger to itself, in all cases preserving the inviolability of the rights and prerogatives as a free and independent nation”.

169. These rights etc. the Government had thought compromised by the pending treaty, on seeing that Mr. Webster had used parts of it in support of the positions assumed in his notes to Mr. de la Rosa of the 30th. April and 25 August. That these positions were founded on phrases of the treaty which were evidently obscure, since the government of Mexico never could have yielded the concessions claimed by him.

On the 14th. December 1851, Mr. Letcher informs Mr. Webster of the interference by citizens of the U. S. to prevent the ratification of the Treaty. In a conversation with Mr. Ramírez the latter had said that Mexico was ready and willing to make a treaty conceding “to the U. S., in preference to every other power, all the privileges which might be necessary to accomplish the greatest enterprise of the age, but that in the event of such a concession, no allusion must be made to the Garay Grant”.

170. In the same interim Mr. L. understood the minister to say that “in case the treaty shall be rejected, Mexico is willing to indemnify the holders of the Garay Grant, and also the New Orleans Company, for the money they have therefore expended in the enterprise”.

171. In an instruction of 22 December 1851, Mr. Webster requests Mr. Letcher to inform the Mexican government that

while the U. S. does not desire dominion on the Ithmus nor contemplate the construction of a road or a canal by the government: it would not see with indifference the Isthmus, or any part of it pass under the sway of any European State, or that the railroad or canal should be controlled by the Government of such state.

172. Mr. Webster, 31 January 1852 intimated to Mr. Letcher the probability that Mexico was influenced, in her opposition to the treaty, by the expectation that the U. S. would renew the offer made by Mr. Trist, of fifteen millions for the right of way. Mr. Letcher was instructed to undeceive the Government, and to assure them "that that sum will not in any event again be offered for the purpose".

173. On the 14th. February 1852, Mr. Letcher informed Mr. Webster, that the proposition introduced into the Mexican Senate for the cession of the Tehuantepec privilege to Great Britain "was received with universal ridicule".

174. With this despatch he transmits a copy of a protocol (dated 24 Jan. 1852) with the Mexican Minister provoquing, until the 8th. of April, the further consideration of the matter.

175. With the same despatch Mr. Letcher encloses copy of a letter addressed to him by Mr. Ramírez, of date 3rd. January, proposing project of a convention upon the subject of Tehuantepec. Mr. Ramírez says that he has taken for his guide two documents of undoubted authority: First the treaty between the U. S. and Great Britain for opening communication between the oceans via the Nicaragua River; with the stipulations of which his own project entirely coincides; and Secondly, the message of the President of the U. S. to Congress on the 2nd. December 1852, which declares that "upon this important subject this government has had in view one, *and only one object*, that object *has been and is* the construction or attainment of a passage from ocean to ocean, the shortest and best for travellers and merchandize and equally open to all the world.

Mr. Ramírez discovers a discrepancy between this approval of the President, and the treaty in question since, any further persistence in the determination to support the contract

would jeopard the negotiation, because in it, the public interest, which the President has declared to be his *sole and only object*, would be made subordinate or sacrificed to the private interest of individuals.

176. Mr. Ramírez says that if the question should be brought to this point, the negotiation must be brought to a close because:

177. First: The Mexican Government is denied the power exercised by the Government of the U. S. when the latter refused to ratify the first convention, that of 22 June 1850, having proposed several modifications thereto.

178. Second: Because the Mexican Congress is denied the right of changing and modifying the provision of this treaty, which the Senate of the U. S. exercised in regard to the Treaty of Guadalupe Hidalgo.

179. Third: Because it is a question of occupancy of territory entirely mexican, and yet that Government is denied the right of determining the conditions of occupation.

180. Fourth: Because by making it a difference between private individuals and the Government, upon points of possession under the Garay Grant, it is pretended that neither the Mexican Congress, tribunals, nor laws can decide the difference but only the Government of the U. S.

181. The project submitted by Mr. Ramírez is in substance as follows:

182. Art. 1. A way to be opened by a road or canal, by the company or persons who may undertake its execution, free to all nations.

183. Art. 2. Protection to persons and property to all engaged on the work.

184. Mexico to furnish troops for this purpose, at the request and expense of the contractors.

185. Protection of the work and guarantee of neutrality when complete.

186. Art. 3. The Government of the United States and any other Government at liberty to favor the formation of companies for the opening of the route; protection being secured to them provided they prove their ability to carry the work.

If in the course of competition any other company proves that it has prepared material and funds, and invested time and money to execute the work, the Government of Mexico pledges itself to give that company the preference, provided it possesses the necessary capital and accept, the conditions imposed upon all applicants.

187. Art. 4. Mexico reserves one fourth part of the shares.

188. Art. 5. The concession etc. thus offered to be liable to the following restrictions:

189. 1. Protection to those engaged on the work shall be stipulated in the special contract they may make with the Mexican Government and such as they may obtain by international law.

190. 2. The protection promised by the Government of U. S. and by other governments which may accede to this treaty shall only be for the purposes expressed in the last paragraph of Art. 2, and never for the defence of individuals, in as much as the latter are placed under the immediate protection of the laws of Mexico.

191. 3. The protection guaranteed may be withdrawn, under certain contingencies, by one or both Governments.

192. Art. 6. The Mexican Government preserves intact all her rights of sovereignty over the route. The Government of the U. S. having no other superintendence than that expressly granted by this convention and forbidden to erect fortresses, to acquire or colonize territory; nor to introduce forces except in the case provided for in this convention.

193. Art. 7. In case of war, the route, its vessels and trains, its ports and outlets to be free from all obstruction or hindrance, except in case of articles contraband of war.

194. Art. 8. The contracting parties to invite the cooperation of friendly powers.

195. Art. 9. The government of U. S. guarantees the perpetual sovereignty of Mexico over the territory of the way of communication. Mexico to exercise the same jurisdiction therein as is allowed by international law, in any of her ports and territories.

196. Art. 10. The absolute equality or rights secured herein only to extend those governments who accede to this convention, or conclude another upon the basis of the 8th. article.

197. On the 16th. March 1852. Mr. Webster instructed Mr. Letcher to inform the Mexican Minister, that if the subject shall not have been satisfactorily disposed of by the time mentioned in the protocol of 21st. January, the President cannot withhold from Congress the official correspondence in regard to this matter.

198. On 8 April 1852d. Mr. Letcher informed Mr. Webster that the treaty had been rejected by Congress the preceding night by a vote of 71 to 1. That it was altogether impossible to make a treaty in connection with the Garay Grant, as the Government, the nation, and Congress were deadly hostile to it.

199. On the 15th. March 1852, Mr. Webster addressed Mr. La Vega Chargé d’Affaires of Mexico in Washington asking him to communicate without delay “the ultimate decision of Mexico”.

200. Mr. La Vega on the 25 March declined responding, without positive instruction from his Government declaring however, that his Government never had acquiesced in the principles laid down in Mr. Webster’s note of 30 April but that she would deal honestly with private interests, so far as was compatible with her own rights.

201. Mr. Larrainzar, Mexican Minister in Washington, on 31 May 1852 explains the grounds for rejecting the treaty, (they are not dissimilar from those which have frequently appeared in the course of this memoir) but repeats that his Government is ready at all times to facilitate the construction of the road or canal, without excepting the citizens of any nation, and without refusing the cooperation of the Government of the U. S.

202. On the 31st. May, Mr. Hargous files with the Department of State, the protest of the Tehuantepec Company against the act of Mexico confiscating the charter held by them as assignee of Garay. He also files a statement of

damages, amounting to five millions two hundred and eighty three thousand dollars (5,283.00).

203. On the 30th. June 1852, Mr. Webster addressed Mr. Larrainzar, and informed him that the U. S. wished to be distinctly and clearly understood on three points.

204. First: That in its interest on behalf of the Tehuantepec enterprise it sought no exclusive advantage for itself:

205. Second: that the Government of the U. S. doubted whether Mexico or her citizens could within reasonable time, by their unaided resources accomplish this project.

206. Third: That the Government of the U. S. would never consent that this communication should ever be controlled by a third power.

207. Mr. Webster adds that the Government of the U. S. cannot be indifferent to the claims of its citizens, the assignees of the grant to Garay.

208. In his reply, 10. July 1852, Mr. Larrainzar acknowledges the honorable disinterestedness of the U. S. as referred to in Mr. Websters first proposition: he thinks that the embarrassment alluded to in the second, will be readily overcome; and declares, in regard to the third, that, Mexico neither grants nor allows of any influence or intervention on the part of foreign powers, in her interior management.

209. With respect to the claim of the holders of the Garay Grant, he finds his argument in opposition to their pretensions, upon the (often mentioned) limited nature of Salas' powers- subject to restriction and liable to be set aside. This had been done in regard to the decree of extension by the legislative body qualified to perform this act.

210. He complains that the assignees, instead of claiming redress and aid thro' the laws of Mexico, and by her tribunals, had attached and vituperated her thro' the presses of the U. S. that the Mexican Government had sought to obtain applications to be made to it for redress but its efforts had been unavailing; He thinks that pride, honor, and self respect, have dictated the course of Mexico, and that the United States will find her course to conform to principles of reason and universal justice.

211. On the 19th. March 1852, President Fillmore addressed President Arista, upon the subject of this communication by way of the Isthmus. He shows the importance of the enterprise to the commerce of the world. Independently of the sight which some of her citizens claim under the Garay Grant, the U. S. would be indifferent, as to the nation or company by whom the route is opened. Mr. Fillmore shows what immense advantage would result to Mexico by the ratification of the Treaty.

212. He invokes the President's attention to the difficulties that may arise, should Mexico brake her faith in the Garay Grant. Our citizens relying upon that faith pledged, have expended large sums of money, have surveyed the route and they cannot now be deprived of their privileges without appealing to their Government to enforce their rights. Mr. Fillmore earnestly invoked the President of Mexico to endeavor to avert threatened calamities by lending his influence to the adjustment of this question.

President Arista, on the 15th. April 1852 replies to the above letter. He says that Mexico has always proven her disposition to open a communication thro' Tehuantepec, free to the commerce of the world. That the only difficultes arise from the pretensions of those persons who are determined that the communication shall not be opened in any *other way* than under the privilege granted to Garay. That Mr. Letcher had been urged to abandon the pretensions of Garay and that the New Orleans company should, thro' their agents, apply to the Mexican Government but that the favorable prospect of an adjustment by this course had been dispelled by the instructions from the U. S. to Mr. Letcher to bring negotiations to a close.

President Arista dwells upon the singular fact that the New Orleans Company preferred to found their claims upon the Garay grant and insist upon their pretensions derived thence, than to accept the proposition of the Mexican Government which would have reconciled the interests of the company with those of Mexico. In this course he sees an intention of designing men to bring the two nations into conflict for the promotion of their own ends.

General Arista thinks that the necessity of conflict which the president of the U. S. apprehends, in case Mexico refuses to ratify the treaty, is groundless by the very tenor of the decree of Salas, the contractors for the work were bound. *Aquí entra la nota al margen* (This is an error. It is only the *colonists* on the Isthmus who were required to renounce a right of appeal to the Government of the countries from which they came. See. p. 60) to renounce their national allegiance as the only condition upon which the right could be acquired. Without this renunciation, they could not acquire the rights of Garay without these rights, they have no claim on the Government of the United States for its intervention.

General Arista complains of Mr. Letcher's acerbity of manner as tending to the very result which he seemed anxious to avert. He closes with insisting that Mexico cannot yield to the pretensions of Garay's representatives without sacrificing her own dignity.

In Mr. Letchers despatch N^o 8. (without date, received at Department of State 9 July 1852) he encloses copy of a decree which had passed the mexican congress, and had been approved by the President: authorising the Executive to open a way of communication thro' the Isthmus of Tehuantepec, either by forming a company of Mexicans or Foreigners, or of both, or by contract subject to approval of congress.

Col. Sloo, an American, had by his agents, who were mexicans, offered proposals to undertake the work.

Mr. Letcher had been informed by the British Minister that he would prorn upon any effort made by his countrymen to obtain the privilege, as he thought its performance exposed to too many risks. Mr. Letcher had heard that a *secret* article of the treaty bound Sloo to stand between Mexico and the N. O. Company.

Mr. Conkling, 23 November 1852, states that Mexico had not yet contracted for the Tehuantepec communication, and that it was generally believed that the New Orleans Company was endeavoring to thwart all her efforts, in hopes that their own pretensions would be sustained by the U. S. by force of arms.

On the 24th. December, 1852, (Nº 7) Mr. Conkling relates a conversation which he had held with the French Minister, Mr. Levasseur, in which Mr. L. states as unquestionable, that the English Government, was conducting covert intrigues to prevent any adjustment of the Tehuantepec question. The motives Mr. L. ascribed were, that England had long desired, and steadily pursued the acquisition of Yucatan, an object which would be frustrated by the creation of any new interests of the U. S. in that region. That it was only upon this theory he could account for the fact that England had persisted in furnishing arms and provisions to the Indians of Yucatan to enable them to maintain their hostility to Mexico. He did not suppose that England meditated a forcible conquest of the country, but would await an opportunity when the U. S. would be indisposed or unable to interfere.

On the 6th. February 1853, Mr. Conkling transmits copy of the decree of the President Ceballos approving the offer made by A. G. Sloo, for the construction of the interoceanic way.

Respectfully submitted. James S. Mackie, Robert P. Letcher, from 1st. December 1851 to 1st. August 1852. N. 17, 20, 21 missing.

Wm. Rich from 1st. October 1852 to 20th. November 1852.

Las observaciones generales son de 20 de junio de 1853 y escritas por Hunter. La sinopsis de la correspondencia no dice quien las escribió sino quien las sometió.

Caja 97, rollo 16, vol. 15, p. 38-87.

1856. Sin fecha ni nombres, hay una nota que dice Mr. Mackie will please preserve this.

Cuando se hizo por parte del gobierno mexicano la concesión a la compañía mixta compuesta por A. G. Sloo y sus asociados en 5 de febrero de 1853, la compañía entregó al gobierno mexicano la cantidad de 600,000, de los cuales

300,000 serían pagados en efectivo y el resto en seis pagos mensuales de 50,000 cada uno.

Este dinero lo pagó a la tesorería mexicana el señor W. D. Lee, quien era abogado de A. G. Sloo. Para poder pagar este dinero, Sloo vendió sus órdenes de pago por 615,000 al señor F. de P. Falconet, mismas que eran deducibles en un lugar de Nueva Orleans. Las notas eran por cantidades variables y tenían fechas diferentes. Para asegurar los pagos, Lee dio como garantía la propia concesión y también hipotecó las obligaciones del gobierno mexicano por 600,000, que entregó como adelanto.

Por las leyes mexicanas una franquicia no era susceptible de tal hipoteca y ésta no podía hacerse efectiva en ningún tribunal de la república.

La compañía no se proponía servirse de sus derechos legales en este asunto y se mencionaba simplemente para hacer notar la imposibilidad que había de transferir legalmente los derechos a Falconet sin su consentimiento, que hasta ese momento no había sido otorgado.

Se sabía de la existencia de grupos interesados, incluyendo a Falconet, que se interesaban en la concesión llamada de Garay, cuyos participantes eran hostiles a Sloo y a su concesión, y habían trabajado consistentemente para evitar que la compañía de Tehuantepec se formara bajo una concesión a Sloo, si ésta obtenía los medios para pagar los giros y para construir la comunicación.

Los giros no se presentaron para su cobro en el lugar indicado de Nueva Orleans, pero en cambio se protestó en contra del pago de ellos en la oficina de una persona que no tenía interés ni autoridad para llevar ese asunto.

Falconet sostuvo que, al protestar contra el pago de los giros, el privilegio y los bonos del gobierno mexicano por los 600,000 que fueron hipotecados resultaban falsos, porque se había pedido una hipoteca en el mismo momento en que se presentaba la protesta en contra del primer giro, y se pedía a Lee que lo transfiriera sin considerar el valor estimado que tuviera.

Como Lee rehusó la petición de Falconet, éste le formó causa, haciendo que lo citaran al tribunal especializado, lo que sucedió en 27 de mayo de 1853.

El tribunal no sostuvo la acusación de Falconet y sus asociados, quienes empezaron a intrigar para obtener un decreto arbitrario del gobierno que les transfiriera los privilegios a ellos.

Hasta ese momento habían fracasado en el esfuerzo de inducir al gobierno para que perpetrara semejante abuso, que hubiera sido una violación directa de una de las condiciones de la concesión que establecía que todo lo que surgiera en relación con la adquisición, conservación o pérdida de las acciones o derechos sobre la línea de comunicación sería decidido por juzgados nacionales competentes, de acuerdo con las leyes.

La compañía de Monterrey siempre estuvo dispuesta a conceder justicia a las reclamaciones legítimas de Falconet y el artículo 19 del convenio asentaba que los 600,000 dólares adelantados al gobierno mexicano, junto con los cargos legales y los intereses que establecía el contrato, serían pagados con el primer dinero que recibiera la compañía.

De acuerdo con los términos de ese contrato, la compañía trataría de cumplir estrictamente.

Era la falla de Falconet y sus asociados el que por largo tiempo no hubieran recibido su dinero, y también eran responsables de que el camino de Tehuantepec no se hubiera abierto aún al tránsito y al comercio.

En las ciudades comerciales de los Estados Unidos se había prohibido a los capitalistas que invirtieran en empresas que representaban poco valor al atacar el crédito moral y financiero, así como la responsabilidad de los funcionarios de la compañía, de la misma manera que se asumió que el privilegio había sido falso para Falconet.

También se habían mezclado de la misma manera en las negociaciones de la compañía para encontrar fondos en Europa.

Con estas prácticas se habían molestado y retrasado las operaciones de la compañía y trataron de hacer ver al gobierno y al pueblo de México que los retrasos de la construcción eran el resultado de la falta de buena fe moral y financiera de los receptores de la concesión para llevar a cabo el contrato,

lo que también aumentaba la operación de la compañía en México.

La compañía avanzaba con perseverancia en el cumplimiento del contrato y para demostrarlo se exhibían los extractos de periódicos procedentes de Nueva Orleáns.

El señor Pratt, autor de la carta de Minatitlán, era un constructor de carreteras experimentado de Nueva York y hacía ya seis meses que estaba empleado por la compañía.

En el último correo de Nueva Orleáns, uno de los directores decía que el vapor comprado por la compañía para la navegación en el Coatzacoalcos estaba casi construido, que se despacharía durante la semana cargado con material para el trabajo de la carretera y que el agente en el Istmo tendría suficientes fondos para empujar con vigor el trabajo.

La compañía aseguraba al gobierno de los Estados Unidos que, si no se interponían al progreso con poderes arbitrarios que violaran sus derechos, la carretera estaría lista para el transporte de correos antes del tiempo establecido para que se terminara la carretera de carretas.

Caja 97, rollo 16, vol. 15, p. 401-411.

¿15 de julio? de 1853. Sumario de las instrucciones dadas a la legación de México sobre el asunto del canal de Tehuantepec.

Temas de las instrucciones al ministro de México.

1. The Tehuantepec route.
2. The Mesilla valley dispute.
3. The 11th. article Treaty Guadalupe.
4. Claims of citizens of the U. S.

1. A complete memoir upon the subject of the inter-oceanic communication has been prepared for the Secretary of State.

2. The correspondence upon this point is of so recent date that no explanations are deemed necessary.

3. On the 19th. August 1851, Mr. Letcher was instructed to seek from the mexican government a release from the 11th. article of the treaty of Guadalupe Hidalgo which is as follows.

Cita el artículo XI del tratado, en el que se dice que las incursiones de los indios de los territorios que iban a pertenecer a los Estados Unidos serían detenidas por el gobierno americano cuando fuera necesario y que, si no podían evitarlas, las castigarían dando satisfacciones con la misma energía y fuerza que si ocurrieran dentro del territorio de los Estados Unidos. Al margen se comenta:

Mr. Webster maintained that the U. S. had strictly complied with this stipulation. See Instructions to Mexico p. 248. [Y continúa el artículo en la totalidad de su texto.]

The convention which Mr. Letcher was authorized to negotiate on this subject, was intended to embrace, also, provision for a mutual release of the obligations imposed by the 33d. article of the Treaty of 1831.

As inducements to acquiesce on this proposition Mr. Letcher was authorized to offer Mexico (3) millions of dollars to promise on the part of the U. S. its assumption of the 3rd. and 4th. instalments due under the convention of 1843, and to assume the payment of such claims of citizens of the U. S. as may have originated since the date of the Treaty of Guadalupe.

A draft of a convention embracing these points was transmitted to Mr. Letcher.

On the 24th. January 1852 Mr. Letcher informed the Secretary of State, that he thought he could accomplish the object if the sum offered was increased.

Accordingly, on the 27th. February he was authorized to add one, or even two millions to the amount already offered, for the purpose of freeing the U. S. from all liability under the 11th. article.

On the 18th. March 1852, Mr. Letcher informed the Department that he had offered, for a release of the 11th. article.

1st. That the U. S. would pay the just claims due by Mexico to her own citizens, and

2nd. Two millions of dollars. To this offer, the Mexican minister in due time responded by order of the Cabinet, that Mexico could not take less than twelve millions, exclusive of the payment of the debt due by Mexico to citizens of the U. S. And that American capitalists had offered for a small premium to guarantee to Mexico from the U. S. *twenty five millions for Indian depredations.*

On the 22 March 52, Mr. Letcher was instructed to inform the Mex. Govt. that their unreasonable expectations on this point could never be fulfilled.

On the 20th. June 1852 Mr. Letcher informed the Department that the President of Mexico had told the agent of the British Bond Holders that he expected to receive some money from the U. S. in consideration of annulling the 11th. article.

Mr. Conkling was instructed, 14 October 1852 to regard the instructions to Mr. Letcher of 19th. August 1851 and 27 Feb. 1852 as addressed to himself except that the sum offered is to include the claims of our citizens, which are to be deducted therefrom. Mr. Conkling was instructed to make known to Mexico, that the 11th. article does not (in opinion of this government), bind the U. S. "to indemnify México for all losses sustained by the citizens in consequence of incursions by the Indians".

3. On the 24th December 1852, Mr. Conkling informed the Department that a bill had recently passed the Mexican Congress conferring powers on the Executive to raise money, one of the conditions of which was "that no treaty should be made with the U. S. absolving them from the obligations of the 11th. article". The acting minister of Relations had also informed Mr. Conkling that Mexico would never release the U. S. from that article.

On the 22 April 1850, Mr. Conkling expresses a hope to be able soon to negotiate a treaty in this subject, but doubts whether any thing can be agreed for less than ten or twelve millions, especially, if from this sum, Mexico is to pay the claims of citizens of the U. S.

4. The claims of citizens of the U. S. upon Mexico originate, part, in a violation by the Mexican authorities of the

stipulations of the 19th. article of the treaty of Guadalupe Hidalgo (respecting commercial intercourse). Others are consequent upon the wrongful acts of Mexico or her agents and some also arise from the acts of violence, in some instances of robbery and murder, committed upon peaceful citizens of the U. S. journeying thro' Mexico or pursuing business within her territory.

Mr. Conkling took with him a list of the unadjusted claims upon Mexico, with instructions to connect if possible, the question of their liquidation with that of the 11th. article.

Intimately connected with the last specification of the 4th. series of instructions, just mentioned, is the subject of frontier violence and outrage, Mexico is in no complaisant mood with the U. S. in respect to Carbajal's revolutionary schemes, Americans have to a considerable number formed his forces. That leader had been arrested on the U. S. for violation of neutrality laws and allowed to escape punished. He had been re-arrested but at the date of Mr. Conkling's despatch 5 May, had not been brought to trial. The Mexican Minister was exceedingly anxious lest he would be set free.

On the 26th. March, a party of Americans —it is alleged— entered Reinosá, in Mexico and committed many outrages of a most wanton character of this the Mexican Minister complains.

Similar occurrences are charged by the citizens of U. S. on Mexicans. The case of Manuel Rios, a servant to a citizen of the U. S. who was violently abducted, and carried into Mexico has been the subject of correspondence between this Department and our minister, and between him and the Mexican authorities, but no satisfactory result has been attained.

Caja 97, rollo 16, vol. 15, p. 405-411.

21 de junio de 1853. México. Alfred Conkling a William L. Marcy. (Despacho núm. 48.)

Informa que ha recibido los despachos 21 y 22.

In accordance with your direction I have transmitted to H. E. Mr. Bonilla the copy of the sealed letter addressed by the President to General Santa Anna, with a note requesting the designation of a time for the delivery of the original.

I have delivered the certificate accompanying your despatch N^o 19, to Mr. Echeverría and permit herewith, the required "substitute".

Concluye diciendo que ha firmado para recibir la cantidad de quinientos dólares, que es el resto de su avío como Enviado Extraordinario a México.

Caja 97, rollo 18, vol. 17, p. 203.

22 de junio de 1853. México. Alfred Conkling a William L. Marcy. (Despacho núm. 49.)

With my despatch N^o 45, acknowledging the receipt of your despatch relative to the disputed boundary, I had the honor to transmit to you a copy of my note to the Minister of Foreign Relations, written in pursuance of your instructions, on that subject. This morning, I received from His Excellency a note in answer thereto, a copy whereof, together with a copy of my immediate reply thereto, I have the honor herewith to inclose.

I have the honor to be...

Caja 97, rollo 18, vol. 17, p. 203.

21 de junio de 1853. México. Manuel Díez de Bonilla a Alfred Conkling.

El infrascrito Ministro de Relaciones Exteriores, tiene la honra de acusar recibo de la nota que S. E. el señor Alfredo Conkling, Envdo. Extraordo. y Ministro Plenip^o de los Estados Unidos de América, le ha escrito con fecha 11 del actual, en que cumpliendo con las instrucciones de su Gobierno, y

refiriéndose a la comunicación que por este Departamento se dirigió a S. E. en 8 de abril último con motivo de la conducta observada por el Gobernador que recientemente era de Nuevo México, manifiesta al infrascrito las ideas de su gobierno con relación a este asunto. S. E. expone que el E. S. Presidente de los Estados Unidos abriga pocas dudas de que el territorio disputado se hallaba entre los límites de Nuevo México a la fecha del Tratado de Guadalupe, y considera que nada ha ocurrido desde entonces que transfiera ese territorio a Chihuahua; conceptuando por lo mismo, que en virtud de dicho Tratado fue hecho parte de los Estados Unidos; que el Gobierno de los mismos se contenta por ahora, con exponer sencillamente ese hecho, reservándose para otra ocasión esplanar sus ideas; no obstante lo cual admite, que, cuando se suscita disputa sobre límites territoriales, el uso de las Naciones es dejar el Territorio reclamado en el estado en que se hallaba cuando aquélla se promueve hasta poder llegar a un amistoso arreglo; que no ha sido la intención de los Estados Unidos desviarse de ese sistema, ni México les ha dado aviso de que se proponía arrogarse jurisdicción sobre el Territorio en disputa, o variar su posesión cual la tenía a la conclusión del Tratado referido; en cuya virtud, a la vez que el Gobernador Lane procedía justificadamente reclamando el Territorio en cuestión, y negando que los actos de la Comisión de límites hubiesen en manera alguna efectuado la cesión, su proceder violento no se aprobaría, a menos que resultase que se había variado o intentaba variar el estado de las cosas en dicho Territorio, cambiando el que tenía antes de los procedimientos de la Comisión de Límites; y por último, el propio Gobierno asegura al de México de la buena voluntad que tiene a fin de que el repetido Territorio permanezca como se hallaba cuando se concluyó el Tratado, sin perjuicio de los derechos de una ni otra parte, hasta que la línea se fije definitivamente por la Comisión de Límites, o por medio de negociación.

El infrascrito ha dado cuenta con esa comunicación al E. S. Presidente de la República, y S. E. le ha ordenado rectifique, como pasa a hacerlo, los equivocados conceptos que ella

envuelve, y en vista de los cuales no puede menos de inferir que ha sido sorprendida la fe del Gobierno de los Estados Unidos.

El Territorio en que se halla situada La Mesilla, ha pertenecido de hecho y de derecho a México desde tiempo inmemorial, y ha constituido parte de la antigua Provincia, hoy Estado de Chihuahua, bajo cuya jurisdicción, y en cuya posesión pacífica, perfecta y no interrumpida, ha estado constantemente desde que México dependía de la España hasta la fecha. Este hecho es notorio, y se halla comprobado por los documentos y mapas de la época; consiguientemente, no admite duda de ningún género, y México la rechaza.

Pero cualquiera que fuese la demarcación a que antes correspondiera el Territorio de que se habla, y suponiendo sin conceder, que nunca hubiera pertenecido a la de Chihuahua; y más aún, que hubiera sido parte de Nuevo México, no variarí­a en manera alguna la cuestión, ni daría sobre ese Territorio Mexicano derecho alguno a los Estados Unidos; por cuanto el que adquirieron a los cedidos por México, se deriva, no de la división territorial al que tuvieron bajo el dominio de la República, sino de la demarcación que se hizo por el artículo 5º del Tratado de Paz, que con la más perfecta claridad fijó los Límites entre ambas Naciones, y muy especialmente los de Nuevo México; y en consecuencia, no se alcanza cómo sea posible que se considere el que por dicho Tratado hubicse pasado a los Estados Unidos el Territorio referido, cuando en el Tratado se estipuló expresa y terminantemente lo contrario. El Gobierno de México, que no reconoce en los Estados Unidos otro título ni otro derecho que el que les dio aquel Pacto, niega pues el supuesto que en él pretende fundarse, tan solemnemente como el anterior.

El derecho y posesión inmemorial y no interrumpida de México en el Territorio de que se trata: ese derecho afianzado a México, y reconocido por los Estados Unidos en el Tratado de Paz, lo fue nuevamente por las operaciones de la Comisión de Límites de ambos Países; y eso sólo bastaría, porque el resultado convenido por ella es irrevocable, es parte del Tratado, y tiene la misma fuerza que si estuviera inserto en él. Por

efecto de esas operaciones, repite el infrascrito, se confirmó a México en su dominio y posesión jamás interrumpida sobre dicho territorio, y si bien es cierto que se intentó obstruir esos trabajos en el Cuerpo Legislativo de los Estados Unidos, también lo es que el Gobierno de los propios estados los sostuvo con la lealtad que se debía a sí mismo, y que el propio Cuerpo Legislativo los reconoció después tácitamente, derogando la condición que había impuesto al decretar el presupuesto relativo, y asignando fondos para la continuación de los que faltaban, sin desaprobando los practicados. Ni podía ser de otro modo, porque ellos no están sujetos a la revisión del Gobierno o Cuerpo Legislativo de uno ni otro País, sino que son concluyentes, definitivos, e irrevocables. México pues, con arreglo al Tratado, niega toda idea que envuelva la contraria.

Colocado Chihuahua en el centro de otros Estados que igualmente pertenecían a la República Mexicana hasta el año de 1848, es tan claro como notorio, que hasta entonces ninguna Nación extranjera alegó derecho al Territorio de que se hable, y que por lo mismo no podía estar en disputa. Asegurado a México por el Tratado de Paz de dicho año, continuó en su posesión y dominio perfecto, sin que Nación ninguna se lo disputase; consumado el Tratado por las operaciones de la Comisión de Límites, esa posesión y ese dominio recibieron su sanción definitiva, y desde entonces jamás tampoco hasta ahora, se ha puesto en duda el derecho de México a ese Territorio. ¿Cómo pues puede insinuarse que ha variado o pretende variar el estado de las cosas en él? ¿Cómo puede suponerse que se arrogó o pretende arrogarse una jurisdicción que no tenía, cuando constantemente la ha ejercido? ¿Cómo, en fin, puede decirse que está en disputa ese Territorio? El Gobierno de México repele por tanto esa suposición como las anteriores, porque no alcanza los hechos más notorios, y las verdades mejor sentadas y más explícitamente reconocidas.

Por lo mismo, la conducta del Gobernador Lane no ha sido justificada, como no lo habría sido aun en el caso de que cierta y evidentemente, hubiera estado en cuestión el Territorio referido; porque sería contraria al uso de las Naciones, no menos que a las terminantes estipulaciones del Tratado entre

ambos Países; y así el Gobierno de México ve con satisfacción que en el particular hace S. E. el Sr. Conkling, de que, “El Gobierno de los Estados Unidos reconoce que en tales casos el Territorio en disputa queda en posesión de la Nación que lo tenía, hasta llegar a un arreglo, sistema de que no ha sido la intención de los Estados Unidos desviarse”; y ve también el Gobierno de México que el de los Estados Unidos reprueba la conducta de dicho Gobernador, como no podía menos de esperarse de su fe y propio decoro.

En resumen, México no reconoce ni admite duda, ni disputa alguna sobre aquella parte de su Territorio en que está situada La Mesilla, porque no reconoce ni admite otros derechos ni otras obligaciones que las que emanan del Tratado de Guadalupe, ni otra línea divisoria que la prescrita por él, y demarcada, como lo está ya en gran parte, por la Comisión que creó y cuyas operaciones son irrevocables conforme al propio Tratado.

Pero si bien el infrascrito ha debido en obediencia de las órdenes del E. S. Presidente de la República, hacer esa formal declaración en respuesta a la nota, no esperada, que la provoca S. E. el Sr. Conkling, y repeler y protestar, como protesta, contra los conceptos que en contrario envuelve, o que de algún modo tiendan a menoscabar los incontrovertibles derechos de la Nación, no ha sido tampoco el ánimo de S. E. entrar en la cuestión, sino consignar a su vez, lisa y llanamente los hechos que quedan referidos.

S. E. estima en lo que debe la buena voluntad manifestada en el particular por el Gobierno de los Estados Unidos, y ella le persuade que mejor informado, no llegará a suscitarse cuestión a ese respecto, ni con relación a ningún otro; y se lisonjea con esa esperanza, porque sabe lo que las Naciones deben a su propio nombre; porque cree en la santidad de los Tratados; y porque dispuesto México a guardar, como fielmente ha guardado, el de Guadalupe Hidalgo en la parte adversa lo mismo que en la favorable, y animado de la más cordial benevolencia hacia los Estados Unidos, de lo que ha dado las más relevantes e inequívocas pruebas que constan al S. Enviado de los mismos Estados, no puede hacer a su Gobierno la injuria de suponerle animado de opuestas miras y diversos sentimientos.

Al decirlo a S. E., el infrascrito tiene...

Caja 97, rollo 18, vol. 17, p. 204-208.

22 de junio de 1853. México. Alfred Conkling a Manuel Díez Bonilla.

The Undersigned, Envoy Extraordinary and Minister Plenipotentiary of the United States, has the honor to acknowledge the receipt this morning of the note of H. E. D. M. Díez de Bonilla Minister of Foreign Relations, in answer to the note of the Undersigned of the 11th. instant, making known to H. E. the opinions of the President of the U. S. relative to the territory in dispute between the two Governments.

In making this acknowledgement the Unders^d deems it incumbent on him, for the purpose of precluding missapprehension, distinctly to inform H. E. Mr. Bonilla, that it has not been the pleasure of the Government of the U. S. to require or authorize the Undersd. to enter into any argument or discussion with the Mexican Govern^t. relative to the merits of the existing controversy between them touching the boundary in question.

H. E. will therefore, readily perceive, that in addressing to him the above mentioned note of the 11th. inst. the Undersd. has already discharged the only duty relative to this subject, with which his Government has seen fit to charge him, except that if transmitting to it a copy of H. Ex's note, which he will lose no time in doing.

The Undersd. has the honor...

Caja 97, rollo 18, vol. 17, p. 209.

24 de junio de 1853. México. Alfred Conkling a William L. Marcy. (Despacho núm. 50.)

My despatch N^o 48 apprised you of the transmission by me to the Minister of Foreign Relations, of the open copy of the

sealed letter from the President to General Santa Anna, with a note requesting the designation of a time for the delivery of the original. On the 22nd. instant I received an answer, a copy whereof, as also of my own note, I have the honor herewith to inclose.

Yesterday being the day designated, I repaired to Tacubaya, in company with the Secretary of legation and Mr. Lee, the Attaché of the Legation, to perform my remaining duty in the premises. General Santa Anna occupies what is called the Bishop's Palace, which has been homely fitted up for his use. I found him attended by his ministers and a numerous and brilliant staff all in full dress, according to the uniform practice here.

On presenting the letter I accompanied its delivery with a few observations which I deemed suitable to the occasion. General Santa Anna returned a brief answer expressive of the pleasure and satisfaction with which he received the assurances of good will contained as to be sealed, and, after a brief conversation, rose and thus terminated the audience.

Caja 97, rollo 18, vol. 17, p. 216.

21 de junio de 1853. México. Alfred Conkling a Manuel Díez Bonilla. (Anexo al despacho núm. 50.)

Informa que acaba de recibir una carta sellada dirigida por el presidente de los Estados Unidos al presidente de México, y una copia abierta que acompaña a su nota. Asimismo recibió instrucciones para solicitar al Ministro Manuel Díez de Bonilla una fecha para presentarle la carta al Presidente.

Caja 97, rollo 18, vol. 17, p. 217.

22 de junio de 1853. México. Manuel Díez de Bonilla a Alfred Conkling. (Anexo al despacho núm. 50.)

Comunica que el presidente de México recibirá la carta autógrafa que le envía el presidente de los Estados Unidos el

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día de mañana jueves 23 de junio, a la una y media de la tarde, en Tacubaya.

Caja 97, rollo 18, vol. 17, p. 218.

21 de junio de 1853. México. Alfred Conkling a William L. Marcy. (Despacho núm. 51.)

It is proper that I should make known to you the receipt of a letter from Dr. Clement Remes in which he states his ability to give important evidence against Gardner, and his expectation of being summoned as a witness for that purpose. I have the honor to transmit herewith a copy thereof. I have answered him to the effect that his letter conveyed to me the first information I had received on the subject; but that, as Mr. Wright had been employed by Mr. May, the chief of the Commission, and held his communications mainly with him, it was possible, though it seemed to me highly improbable, that Mr. May had received this information; and that if his attendance as a witness should be desired, he would doubtless be so informed, either directly or through this Legation.

In my hastily written, though not ill considered despatch N° 45, I have reason to suppose an error occurred from inadvertence on my part, in the last paragraph but one, consisting in the omission of the word *save* before the words "my country". As the use of this or of some equivalent word is essential to the sense, I shall esteem it a favor if you will direct it to be supplied, and beg leave, therefore, to request that it may be done.

I have the honor...

Caja 97, rollo 18, vol. 17, p. 218-219.

16 de junio de 1853. Guanajuato, México. Clement Remes, cirujano del ejército norteamericano, a Alfred Conkling.

Towards the end of the last year, being then a resident of the city of Guadalajara in this Republic, I had the occasion to

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speak [with] and receive in my house Mr. James G. Wright who was commissioned by the Amn. Legation to seek witnesses against the scandalous claim made against the U. S. Government by the dentist D. Geo. A. Gardiner.

Being myself aware if very near every thing that happened in this affair, having been for ten months a resident of the very district in which D. Geo. A. Gardiner falsely pretends to have owned a mine, for the good cause of the Government of the U. S. to which I am indebted for my education and social position, and for the sake of justice, I offered my testimony to said Mr. James G. Wright, in order that he should transmit it to the Amn. Legation, supposing that I would be called for.

Knowing as I do the persons who raised this scandalous and false claim, as well as the country where they pretended it to exist (*which I know not to be*), I was astonished that my testimony was not called upon, and the doubt entered my mind, whether Mr. Wright had or not, made present my offer to the Legation.

Under such circumstances I beg your honor to let me know if my testimony was offered and not judged necessary to confound falsehood, or whether it was not made known to the Legation.

In this last instance, I offer my services to the Government of the U. S. and place my humble self at your disposition.

I remain Sir with great respect...

Caja 97, rollo 18, vol. 17, p. 219-220.

25 de junio de 1853. Washington. William L. Marcy a Alfred Conkling.

Sir:

Your despatches to N^o 40 have been received.

General James Gadsden, of South Carolina, has been appointed your successor in the mission to Mexico, and Mr. John Crips, of California, Secretary of Legation in the place of Mr. Rich.

The period for the departure of General Gadsden has not been determined, but, it is probable that if he should not embark at New Orleans in the steamer for Veracruz of the 14th. of next month, he will start in the steamer of the 14th. of August.

I am...

National Archives. Records of the Department of State. *Diplomatic Instructions. Mexico*. Vol. 16, doc. núm. 23, p. 386.

1 de julio de 1853. Washington. William L. Marcy a James Gadsden.

Sir:

You have received your Commission as Envoy Extraordinary and Minister Plenipotentiary of the United States to the Republic of Mexico. Herewith are communicated to you the following documents, which will be necessary or useful in the discharge of the duties of your mission.

1. A sealed letter accrediting you to the President of Mexico and an open copy of the same.

2. A special Passport.

3. Printed personal instructions and supplement.

4. List of the diplomatic agents and Consuls of the United States.

5. A Circular relative to the contingent expenses of the missions abroad.

6. A Circular relative to drafts of diplomatic agents.

7. A Circular relative to the salaries of those agents who may be absent from their posts with permission.

Your salary will be at the rate of nine thousand dollars a year. Your outfit, equal to one year's salary, has been, already, remitted to you. A quarter's salary will also be allowed you towards defraying the expenses of your return to the United States at the close of your mission. Your salary will begin with the date of your Commission, and will cease on your taking leave from the government to which you are accredited, after

the receipt of orders or permission to return. You will draw on this department for it as it may become due, and also for the contingent expenses of the Legation which must not exceed twelve hundred dollars a year, without special authority.

I am...

National Archives. Records of the Department of State. *Diplomatic Instructions. Mexico*. Vol. 16, doc. núm. 2, p. 387-388.

3 de julio de 1853. México. Alfred Conkling a William L. Marcy. (Despacho núm. 53.)

I have received under cover from the Consul at Tampico, a letter dated the 18th. of last month, from Major Mordicai, informing me of his arrival, with surgeon Cooper and Mr. Bows, at that place; of the occurrence of an accident on board the Tuxpan, in which he came, which rendered it necessary to stop at Havana for repairs; of scruples entertained by the Commanding General and Governor, Woll, about granting passports to the party composed partly of military officers in the service of the United States and coming in a vessel of war; of these scruples having, at length, upon proper explanation, been removed, and the requisite passports granted; and of his design to proceed at once to the interior in execution of the duties of his mission.

Accompanying the letter of Major Mordicai, were copies of a letter from you to the Mexican Minister of Foreign Relations and of another from you to me, explanatory of the objects of the Commission. Major Mordicai also states that he had no present intention of visiting this capital, and that his object in addressing me was to enable me to make to the Mexican Government any explanatory note which might be due to General Woll or otherwise suitable to the occasion, and, in conclusion, he requests me to write to him under cover to the Consul at Tampico.

On the receipt of his letter I called at the Ministry of Foreign Relations, and on stating the circumstances of the case was

assured that no exertion was likely to be taken to the proceedings of General Woll in the premises, and, the next morning I received an informal note informing me that these proceedings had been made known to the President, and were approved by him.

I have written to major Mordicai, and have also inclosed to him a copy of Mr. Remes's letter to me, of which my despatch Nr. 51, so as to afford him an opportunity, on his return to Tampico; to write to Mr. Remes, requesting his attendance as a witness, should he considered himself empowered, and deem it advisable to do so.

The vomito has broken out with extraordinary virulence at Veracruz carrying off not less than twenty persons daily, and not more than one in ten surviving its attack.

Caja 97, rollo 18, vol. 17, p. 220-221.

12 de julio de 1853. Charleston, Carolina del Sur. James Gadsden a William L. Marcy.

From information received from Montgomery it will be hazardeous to remain here later than the 22 instant. The Alabama is very low, and if I have to take the Stages from Montgomey to Mobile; at least 8 days are necessary to ensure my connection with the Veracruz Steamer, which leaves N. Orleans on the 1 August. I will expect therefore any further communication you may have for me by the 21 of the month.

The more that I have examined into the boundary question; and the importance of securing the right of way for a road, within any line which may, by Treaty Stipulations, be secured; the more am I impressed with the importance of employing Mr. Gray as suggested in my note to you to verify and extend his observations through the disputed territory to the Gulf of California. If you accord to these views Mr. Gray should be instructed to confer with me and to direct his examinations to the point which may be indicated by me. You will redily perceive the force of my suggestion; in being well

prepared with that Geographical information which will aid in fixing a boundary securing to this Country all that we may require in that quarter. If Mr. Gray is employed as you propose it will be found most advisable for him to proceed to El Paso vía San Antonio, Texas; and if so if he may join me at Charleston and we can confer freely on the objects of his examination on our joint journey as far as New Orleans.

Caja 97, rollo 19, vol. 18, p. 6-8.

15 de julio de 1853. Washington. William L. Marcy a James Gadsden.

Sir:

The relations between the United States and Mexico are in an unsettled state. There are several questions now pending between the two countries of grave importance and concede difficulty; and it is apprehended that you will find the government and people of Mexico not favorably disposed to a fair adjustment of them. The hostile feelings engendered by the late war with Mexico imbittered by the severe wounds inflicted on her national pride have not wholly subsided; and it is feared that the degree of irritation yet remaining will embarrass our negotiations with her. It is the earnest wish of this government to cultivate friendly relations with that Republic, and you are requested to impress this sentiment upon the government and people of that Country in the most effective way; and, if it be possible, to inspire them with a reciprocal feeling towards the United States.

The President is determined, in treating the questions of difference with her, to take a liberal course. While insisting upon our fair intentions towards her, and our sincere desire for amicable relations and a free commercial intercourse are manifested, it is hoped that all existing prejudices on the part of Mexico will give way; and that you will be enabled to accomplish the objects of your mission in a manner beneficial alike to both countries.

During the last administration, this Government interested itself in behalf of the assignees of a grant made by Mexico of the right of way from the Atlantic to the Pacific across the Isthmus of Tehuantepec. The privileges of the original grantee had passed by assignement to citizens of the United States. A deep interest was felt by our people generally in the object of this States. A deep interest was felt by our people generally in the object of this grant, and our government interposed to give effect. It is urged Mexico to respect the rights of the present proprietors of the Grant; but she has denied the validity of that grant, and by a formal decree of her legislature declared it null and void. There is in the archives of the Legation an extensive correspondence on the subject, which will enable you, should it come up for your consideration, to understand the condition of that question. It is not proposed to instruct you at this time to resume this negotiation. Should the President hereafter conclude to do so, his views will be fully made known to you.

Within a few months past the Mexican government has made another grant of the right of way through the same route. The latter grant is in direct conflict with the former one to Garay. Our Minister at Mexico, your immediate predecessor, without instructions from his government entered into a convention guarantying protection to the latter grant, and has transmitted it hither for the purpose of ratification. Any favorable action by the President on the convention would seem to imply an abandonment on his part of any further attempt to induce Mexico to respect the rights of the assignees under the Garay contract. You are not authorized, therefore, to give any assurance to Mexico that this convention will be approved by this government. The President is not yet prepared to announce the course he may deem it his duty to take in regard to the Garay grant or the proposed convention for the guaranty of the one recently made.

I will now direct your attention to a very serious difficulty which has arisen in relation to the boundary line between the United States and Mexico. The part of the line, in regard to which the dispute has arisen, is that along the southern

boundary of New Mexico. The first question to be settled is, whether this line has been actually traced by the boundary commission according to the provisions of the Treaty of Guadalupe Hidalgo of the 2nd. of February '48. The mode of running and marking the line between the United States and Mexico is clearly prescribed by the 5th. Article of that Treaty. That article provides a commission for that purpose. Each government is required "to appoint a commissioner and a surveyor, who shall meet at the port of San Diego, and proceed to run and mark the said boundary in its whole course to the mouth of the Rio Bravo del Norte. They shall keep Journals and make out plans of their operations: and *the result agreed upon by them shall be deemed a part of this treaty*".

The language I have quoted clearly requires that, not only the commissioners appointed by the two governments, but the surveyors also, must concur in the result before the line run and marked will become a part of the Treaty, that is, the fixed boundary between the two countries. They *all* must agree in the result. The Commissioner and Surveyor appointed by each government are its agents, and are to act in this business, in conjunction with the Commissioner and Surveyor of the other, and their determination all agreeing, is necessary to establish the boundary line, and nothing less can do it. This was no board which could decide any thing by a majority of votes. Two could conclude nothing when three only were present, nor could three concurring opinion of the fourth. This was evidently the view of the matter taken not only by the American Commissioner, but by the Mexican Commissioner and Surveyor, at the time this part of the line was under consideration. Hence the great anxiety to have the American Surveyor concur in their regard to the initial point. The fixing of that point has never been concurred in by the American Surveyor. Mr. Gray who held that position was not present when the initial point was attempted to be fixed, and as soon as he was informed of what was proposed with respect to it, he declared his dissent, and clearly exposed the error. Lieutenant Whipple who, until the arrival of Mr. Gray, acted as Surveyor

under a void appointment from the American Commissioner, also thought it was a mistake to fix that point at $32^{\circ} 22'$, but his concurrence, had it been given in the most formal manner, could be of no avail for he was not a Surveyor. Mr. Bartlett, the American Commissioner had no authority, nor the colour of an authority, to appoint a surveyor, and this was well understood at the time by the Mexican Commissioner and Surveyor. As to the mode of appointing these agents to trace and mark the boundary line Treaty is clear and explicit. "The two governments shall each appoint a commissioner and a surveyor" etc. The government of the United States had nothing to do with designating Lieutenant Ehipple. Mr. Gray the first appointed surveyor on the part of the United States was the incumbent of that office when Lieutenant Whipple was designated to act as Surveyor but if it had been vacant Mr. Bartlett had no power to fill it. Mr. Gray was superseded by Colonel Graham. No sooner did Colonel Graham look into this matter that he discovered the error in regarding $32^{\circ} 22'$ as the true initial point on the Río Bravo del Norte, and not only refused to give his sanction to it, but showed conclusively that it would be palpable mistake to fix it there. He was subsequently removed and Major Emory put in his place as American Surveyor, but Major Emory never concurred in fixing the initial point, at the place selected by the two Commissioners and the Mexican Surveyor. He afterwards merely certified the fact that the Commissioners had fixed the initial point at $32^{\circ} 22'$. An attempt has been made, and may be repeated, to pervert this certificate into a distinctive act of approval, but it was not so regarded by Major Emory nor can it justly be so regarded by any one.

I have gone into this detail of the proceedings in regard to the initial point to show that it has not yet been fixed, according to the requirements of the Treaty, and notwithstanding all that has been done in that matter, the United States can fairly consider the Southern line along the Territory of New Mexico yet unestablished. I hope you will find the government of Mexico disposed to acquiesce in this view of the subject.

I apprehend that Mexico may be the more tenacious in holding on to the erroneous line in consequence of the

opinions and action of the late Secretaries of the Interior and of the State departments on this subject. They both appear to have approved of the course of our Commissioner, or at least to have been disposed to acquiesce in his decision and to regard it as obligatory upon the United States.

It is quite natural that Mexico should attach more importance to the acts and opinion of these members of the late administration than can be properly ascribed to them in a matter of this kind. By recurring to the treaty, it will be perceived that the Executive department of the respective governments had no control over the conduct of the Commissioner and Surveyor appointed by them, nor was there reserved to either the duty or the right to approve of their proceedings, and no approval or sanction by either or both is required to give them validity. The boundary commission was placed beyond the power of either Mexico or the United States, while acting in good faith in the matter committed to them by the Treaty. Their decisions, when made conformably thereto, were valid and effective to bind the two governments without the approval of the executive department of either, and, when not in conformity to the Treaty, such approval could give them no validity. Whatever may have been the opinion of the Secretary of the American Commissioner those acts are not now the less open to question as to their binding effect on the United States. Such approval no more corrects an error, if error there be, than a like Executive approval would correct an error, if error there be, than a like Executive approval would correct an error committed by any judicial tribunal of the United States. If indeed there had been an explicit approval by the late executive officers of the decision was not made by competent authority and was not a matter at all depending upon executive sanction, the President is in no way released from his duty of seeing that the boundary line had been run and marked by those who were selected for that purpose, and he cannot without disregarding that duty acquiesce in a line which has not been thus established.

However desirable it may be to Mexico to have the line she now claims recognized, I think she will not contend that a

line which has not in fact been run and marked by the Commissioners and Surveyors of each government is to be regarded as established according to the requirements of the treaty. You will therefore urge upon Mexico as the view of this government that the line along the Southern boundary has not been established in the way required by the treaty and obtain her consent, if it can be done, to have it thus run and marked.

That the line claimed by Mexico has not been run and marked in the only manner it could have been run and marked, according to the Treaty, is very clear, and it is equally clear that in tracing it the provisions of the treaty have been strangely disregarded. Instead of giving the whole of New Mexico to the United States as was the obvious intention of the negotiations of the treaty, and as is clearly expressed by the language they used, a large district of that Territory is cut off by the Commissioners' line. Their line is thirty four miles too far north, and, by the regarding it as the true line, a district of country of that width along the whole southern extent of New Mexico would be lost to the United States. If the boundary commission had established, in the manner prescribed by the Treaty, a line so variant from the one intended by the parties it can hardly be supposed that the party which had thus obtained an accidental advantage would insist upon holding on to it; but the question is not been run and marked in the mode required by the Treaty.

It will appear by an examination of the 5th. Article that the true initial point is only a few miles (probably about eight) north of the Town El Paso, that the error (hardly excusable) has occurred by disregarding the Map referred to in, and made a part of the treaty, and substituting for it the figures on its margin, placed there to indicate the parallels of latitude.

I do not propose in this communication to reproduce the arguments which have been put forth by the American Surveyors and in the Senate of the United States, showing, as I think they do, conclusively, the error of the commissioners, nor shall I on the other hand discuss those which have been adduced to sustain the line claimed by Mexico. You will be

furnished with them; and should it become necessary for you to present to Mexico, the views of your government on this point, you will have ample means in your possession to sustain them. The treaty furnishes a basis of an argument, indeed it is in itself an irrefragable argument for the line claimed by the United States. Mexico ought to be willing, as the United States are, to have the line run and marked in the mode designated in the treaty and to acquiesce in the result. Until it is thus run and marked she ought not to expect acquiescence on the part of this government, in that which she now claims upon no better ground than a mistake, and which if allowed would sever from New Mexico a large district of country which was a part of it when the treaty of Peace and Limits was made, and has ever belonged to it.

While this dispute as to the southern boundary of new Mexico remains unadjusted it is expected that each party will abstain from taking possession of the district in question or doing any act which indicates an exclusive appropriation thereof to itself. The late Governor of new Mexico it seems entertained an intention of taking actual possession of it and so announced his purpose in a proclamation, but at the same time he declared that he was acting in the matter without instructions from his government. His intention was never executed, his purpose was disapproved, and Mexico has been distinctly apprised that the United States will abstain from taking possession of the disputed territory in the belief that the difficulty will be settled by negotiation, and this government expects that Mexico will on her part take the same course. Should she however contrary to our reasonable expectation have acted otherwise you will urge upon her the propriety and reasonableness of the proposition of this government, and insist upon her acting in conformity to it. Our proposition is that the district in question should be left precisely in the situation it was when the dispute first arose until all efforts to adjust it shall have been exhausted. I cannot doubt that Mexico will conform to this suggestion.

I will now direct your attention to the second paragraph of the 6th. article of the Treaty of Guadalupe Hidalgo with a

view to a subject which is deemed of great importance to both countries. By that clause in the Treaty you will perceive that either party wishing to construct a canal or railroad along the Gila River may, under an agreement, use for that purpose the bank on either side of that River to the extent of a marine league. It was contemplated that a canal or railroad should be constructed near this boundary and neither government can be unapprised of the vast importance to both of such a work. A canal from the Rio Grande to the Pacific through that route is now considered impracticable. A better knowledge of the country in the vicinity of the Gila has demonstrated the great difficulty—not to say, impossibility—of constructing a railroad along its banks or within the space on either side mentioned in the Treaty; yet a very eligible route for such a road is found at a further distance than a marine league on the Mexican side of the line but not on the American side of it.

In view of the many advantages Mexico would derive from such a road it is presumed she would readily accept of a proposition to alter the boundary on that part of the line and cede to the United States such a strip of country as may be necessary to bring within our territory a feasible route for such a railroad. It is difficult to tell, without an actual survey, the extent of the alteration required for such a purpose. It would be important particularly to the interests of Mexico that such a railroad should connect with the navigable waters of the Gulf of California. For this purpose it is desirable that the true line—as we contend—the line commencing on the Río Grande a few miles north of El Paso, should be continued for a considerable distance west beyond the treaty line, then run South about 30' and then again west to that Gulf. Should Mexico be unwilling to make so large cession of country as such a line would require she might agree to have the line on the Southern border of New Mexico continued until it shall strike the River San Pedro and thence down that river to its junction with the Gila. It is believed that if the United States could acquire this latter line they would then have within their territory a good route for a railroad.

If you should find a disposition on the part of Mexico to treat for either of these lines or indeed any other, in order to give the United States a practicable rout for a railroad, no time will be lost in getting such information of the Country as to make it sure that the United States shall accomplish the sole object they have in desiring, a change in the treaty line on this frontier, an eligible route for a railroad.

Not knowing what extent of country would be required I cannot inform you at this time what consideration this government would offer for such a cession. The country which would, by such a change of line, fall within our limits, is not as I understand much settled nor is it at all inviting to settlers; it is therefore presumed that it may be acquired for a moderate sum. You will, at as early a period as practicable, embrace a fair occasion to bring this matter to the consideration of the Mexican Government, and should you find that it can be induced to treat on this subject you will notify this department.

Herewith you will furnished with a copy of a map made by A. B. Gray, Esquire, the American Surveyor of the Boundary Commission, as it was first organized. By this map you will be able to designate with some degree of accuracy the section of country which is desired for facilitating the construction of the Railroad to the Pacific.

The suggestion for increasing our territory in the way proposed for a special object, and that object be in which Mexico is deeply interested, and one too contemplated by the Treaty of Peace and Limits with her, will not I trust be misinterpreted, and cannot therefore wound her national pride. She ought not to suspect any sinister design on our part for she must know that such a road will be very expensive work which our government would not patronize, nor our citizens embark their capital in to the amount of many millions, if in any part of the way it were to run through a foreign territory.

Should you find Mexico disposed to treat for a new line you are instructed not to press a discussion of our claim -after having clearly stated it- for the disputed territory. It is probably the expedient way of disposing of that question to let it be

merged in the negotiation for an alteration of the boundary. With this negotiation for a change of the line it may also be proper to embrace the settlement of the claims of our citizens against Mexico and the pretended claims of her citizens against the United States arising under the 11th. Article of the Treaty of Guadalupe Hidalgo. In these general instructions it is not proposed to give you the views of the government of the United States upon any of these respective claims. You will find much in the archives of the Legation at Mexico in relation to them. In the instructions to your immediate predecessor you will find the position laid down—and I am inclined to think correctly laid down—that neither Mexico nor any of her citizens have really any claim upon this government for not having fulfilled the obligations imposed upon it by the 11th. Article of that treaty, and yet previous to that time and also in those very instructions our minister was authorized to offer several millions for release from the obligations imposed on this government by that article and to quiet the claims under it. The government of Mexico seems to have considered the stipulation on the part of the United States as an absolute engagement on our part to restrain all Indian incursions into its Territory, and when they do take place, to pay all damage resulting from them, but there is as you will perceive by that article a very important qualification to the undertaking by this govt. The United States are only to restrain these incursions “in the same way meditated or committed within its own territory, against its own citizens”. This government has, as it can show, used the diligence and thus discharged its obligations to Mexico in this respect. Since the treaty with Mexico of the 2nd. of February 1848, a considerable part of our military force has been stationed along the Mexican frontier, and almost exclusively employed in keeping the Indians in order and restraining incursions into Mexican Territory. That better success has not attended our efforts and, all incursions prevented, is in a great measure owing to the entirely defenceless condition in which Mexico has left her whole frontier. She has, as we understand employed very little or no force in protesting it, and the sparse settlements along the line have

not been in a condition to defend themselves. The weakness of the Mexican border —the consequence of the neglect of the duty of protection—, has invited incursions and opposes no obstacles to extensive depredations. It would be singular indeed if the United States could be held liable to indemnify Mexico or her citizens for injuries which she invited or at least might have prevented, and in virtue of being a government was bound to her citizens to prevent. The President approves of the position taken in the instructions to your immediate predecessor that the United States has fulfilled the obligations contained in the 11th. Article of the Treaty of Guadalupe Hidalgo. If this subject is pressed upon your consideration it will be proper for you to present the foregoing views to the government of Mexico. While we deny the justice of the claims on account of the infraction of that article we admit that it would gladly be released. You are therefore instructed to ascertain whether there be on the part of Mexico a disposition to enter into an arrangement embracing a final adjustment of all the matter to which I have alluded, viz a new line giving to this government additional territory for a feasible route for a railroad; a release from the obligations of the 11th. Article of the Treaty of Peace and Limits; and a settlement of claims upon the respective governments by the citizens of each. For such an adjustment the United States would be willing to pay liberally. The sum which has already been offered for the two latter objects ought to be satisfactory for all; it might however, be considerably increased if the proposed new line could be embraced in the settlement, but the amount claimed by Mexico for damages under the 11th. article of the Treaty is so exorbitant that it can hardly be believed she expects any thing like it will be acceded to. The claims of our citizens upon Mexico will hereafter be presented to you more at large with further instructions for arranging them. As soon as you can ascertain the general views and expectations of Mexico on these several subjects you will communicate them to this Department and if there be a fair prospect of coming to any conclusion thereon you will be furnished with more definite instructions.

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An important object of your mission is to place the commercial intercourse between the two countries on a better footing. The unsettled condition of affairs in Mexico for many years past has very much diminished our trade with that country. The constantly occurring political revolutions there rendered commercial intercourse unsafe; the frequent changes in the tariff and the severe penalties for the non-compliance with it even when imperfectly promulgated, was vexatious and often ruinous to our merchants. The Department is not accurately informed of the recent changes which have been made in the laws regulating her foreign commerce; nor has there yet been time to show how the present system will affect her foreign trade. You are directed to furnish this government with early information not only in regard to the system but its operations. You will make known to Mexico the desire of the United States to establish with her intimate commercial relations on liberal terms. Such relations would in every respect, be advantageous to both countries.

I am...

National Archives. Records of the Department of State. *Diplomatic Instructions. Mexico*. Vol. 16, doc. núm. 3, p. 389-413.

16 de julio de 1853. Washington. William L. Marcy a James Gadsden.

Sir:

I have just received your letter of the 12th. instant. Your instructions [signo indescifrable] are all ready to be forwarded; but I have concluded to retain them until Monday that I may submit them to the President who has not yet, by reason of his absence examined them. He is expected here in the course of today and may have time to look at them in season for Monday morning's mail.

The Map is not yet completed but will be in the course of this day. It will be transmitted along with the Instructions.

I do not think Mr. Gray can be sent on in season to join you at Charleston. I have not yet consulted the President in relation to sending him on to the line to make the proposed explanation, and I do not feel at liberty to take that step without his sanction.

I have not yet conversed with General Almonte on public affairs. A day or two after his presentation he went to New York for his family and has not yet returned.

I am with great respect.

Your obedient servant...

N. B. The map above referred to is herewith transmitted. You will please acknowledge receipt.

National Archives. Records of the Department of State. *Diplomatic Instructions. Mexico*. Vol. 16, doc. núm. 4, p. 413-414.

16 de julio de 1853. México. Alfred Conkling a William L. Marcy. (Despacho núm. 54.)

Sir:

With my despatch N^o 45, I had the honor to transmit a copy of my note relative to the murderous assault upon the brother Ogle and the abduction of Manuel Ríos. To this note an answer was received only a few days ago. A copy of it is herewith transmitted marked A.

Consulate at Minatitlán

On the 7th. instant I received a letter from Mr. A. C. Allen informing me of the departure for the United States of Mr. Pleasants lately appointed Consul at Minatitlán; of the appointment of the powers and duties of the Consulate in his absence; of the refusal of the commandant at that place to recognize his authority, and of his embarrassment on that account. I deemed it necessary, under all the circumstance, to appoint him consul ad interim. A copy of his letter together with one of my answer thereto, both marked B is herewith transmitted.

Refusal of passports to emigrants

On the 7th. instant I also received a communication, bearing date the 13th. of April last, at Eagle Pass, relative to the refusal by the Mexican authorities, of passports to emigrants to California, unless they came provided with passports from a Mexican Consul in the United States. Of this communication I have the honor to transmit a copy marked C. I availed myself of the earlier opportunity to read it to the Minister of Relations, and to request such relief in behalf of our countrymen as the exigencies of the case required. At the instance of the Minister I left the communication in his hands, receiving his promise to return it. He did so two days ago with a note, a copy whereof marked C, I also have the honor herewith to inclose. I have written to the persons whose names are subscribed to the communication inclosing a copy of so much of the note as pertains to the subject.

Mr. Cazneau's case

At the conclusion of the minister's note there is a reference to my application mentioned in a former despatch in behalf of Mr. William Cazneau, on account of the detention of his goods at Paras. Shortly after receiving the order granted for his relief, a copy whereof I have already had the honor to transmit to you, he wrote to me that the authorities declined to deliver up his goods, insisting that his statement of the case was erroneous, and he requested time to fortify it by proofs. This was readily granted; and a few days later I received another letter from him accompanied by corroborative documents, which are voluminous and in the Spanish language. The case is still pending before the Mexican Government.

Appointment of Mr. Moses consul ad interim at Monterey

On the 11th. instant, I received a letter from Mr. Joseph Moses, an American citizen, accompanied by a communication from a large number of other Americans residing at Monterey representing the necessity of having an American Consul at that place, and requesting the appointment of Mr. Moses.

Finding by reference to the list of consuls furnished to me by the Government on my departure from home, that there was an established consulate at Monterey, I complied with this request, and have already transmitted to Mr. Moses an appointment and exequatur. I inclose a copy of these communication marked D.

On the 12th. instant I received a note from the minister of Foreign Relations relative to the alledged supply, by an American citizen, of powder and lead, to the rebellious Indians in the state of Yucatán; a copy whereof, together with a copy of my answer thereto. both marked E, I have the honor herewith to transmit.

I have the honor...

Caja 97, rollo 18, vol. 17, p. 223-225.

6 de julio de 1853. México. Manuel Díez de Bonilla a Alfred Conkling. (Anexo al despacho 54.)

Informa que trasladó al Ministro de Justicia la nota que le fue enviada por la embajada de los Estados Unidos de fecha 13 de junio con respecto a los sucesos de Daniel y Santiago Ogle y Manuel Ríos, para que aquel ministerio dicte las medidas que estime convenientes para administrar justicia a los interesados.

Además ofrecía que le comunicaría los resultados una vez le fueran informados por el Ministerio de Justicia.

Caja 97, rollo 18, vol. 17, p. 225-226.

23 de junio de 1853. Minatitlán, México. A. C. Allen, agente consular, a Alfred Conkling. (Anexo al despacho 54.)

Sir:

On the 1st. of June I received the appointment of consular Agent for Minatitlan from S. A. Pleasants U. S. Consul

for this place, who left immediately after for the U. S. leaving the entire charge of the Consulate in my hands.

On receiving the appointment I immediately communicated the same to the authorities of this place, which the Alcalde duly acknowledged. The Administrador of Customs however refused to recognize me, and enclosed I send you a copy of his reply. It is important, as you are aware, that my appointment should be recognized by the Mexican Government, and trust that you in your official capacity may be able to regulate the same.

The very first American vessel, the "Bark James Hall" of New York; Capt. Jo Tames, which has come under my jurisdiction, had a revolt on board, the ring leader of which threatened the life of the Captain, and refused duty, and I sent him to prison, he afterwards broke out, and attempted the life of the Captain, I had to put him in irons, and now have him in prison until the Bark sails, when I shall order him home in irons, he had terrible fight with the Capt. and got badly wounded in the head, and had it not been for my friendly relations with the authorities and the fact that the Alcalde upon whom I called for assistance recognized my appointment, I could not have rendered the necessary assistance the duties of the office requires. At your earliest convenience please address me upon the subject, in order that I may be properly recognized by the authorities here.

Caja 97, rollo 18, vol. 17, p. 226-227.

*7 de junio de 1853. Aduana de Cabotaje, Coatzacoalcos.
Manuel Castellanos a A. C. Allen.*

Manifiesta que recibió su nota del día 4 informando de su nombramiento como agente consular; pero que, en virtud de no haber sido ratificado ese nombramiento por el Supremo Gobierno de México ni de haberse expedido el *exequatur* correspondiente, no puede reconocerlo con el carácter de agente consular.

Caja 97, rollo 18, vol. 17, p. 227.

14 de julio de 1853. México. Alfred Conkling a A. C. Allen. (Anexo al despacho 54.)

Sir:

Your letter of the 20th. of last month was duly received several days ago. The only course for me to adopt in the case if I acted at all, was to treat the absence of Mr. Pleasants as a vacancy in the office, and to fill the vacancy by your appointment, with the consent of the Mexican Government from which I had so recently received an exequatur in favor of Mr. Pleasants. This I have done and herewith transmit the commission and exequatur. Whether his return, should he come back, will supercede your appointment, and reinstate him, is a question upon which it is not necessary for me at present to give an opinion. I shall of course, report the case to the Government.

Caja 97, rollo 18, vol. 17, p. 228.

13 de abril de 1853. Eagle Pass, Texas, en Río Grande. T. Morris, E. W. Wallace, All Urban, H. Matson y otros a Alfred Conkling. (Anexo al despacho 54.)

Sir:

Under ordinary circumstances we should address ourselves to Washington City on the subject to which we now beg to draw your attention. In the present instance we consider ourselves warranted in communicating directly with you in the belief that through your interposition near the Mexican Executive a prompt removal of the grievance will be obtained and many of our countrymen now travelling towards this point escape the serious inconvenience and loss which they must otherwise suffer on arrival here.

Last week two parties of emigrants for California reached this town from Eastern Texas on their way towards Durango and Mazatlán; on their applying for a passport to the Mexican Commanding Officer at the town of "Piedras

Négras", on the opposite bank of the river, he refused it and stated that he had received positive orders not to give such document to any American citizen who should come unprovided with a passport from a Mexican Consul resident in the United States. The citizens of this town in consequence requested Henry Matson Esq. our Justice of the Peace to apply for a copy of the orders which the Mexican Commd. Officer yesterday sent to him with the enclosed letter, which, as well as said orders, we transmit to you, earnestly soliciting your interference in the matter.

The former Mex. Comms. Officer Col. Maldonado did not enforce compliance with the strict letter of the law, but invariably gave passports to all our citizens, on presentation of a certificate, either of the commanding officer of the adjoining Military Post at Fort Duncan, or of our principal civil authority. We can not see any reasonable grounds why such observance should not time as the Mexican Government may think proper to increase its consular establishment in Texas, for at present there is only one Consular Agent of that Government in this state and who resides 800 miles distant from any of the overland routes to California.

Caja 97, rollo 18, vol. 17, p. 228-229.

14 de julio de 1853. México. Alfred Conkling a Edmund W. Wallace y otros.

Gentlemen: your communication under date of Apl. 13, did not come to hand until the 7th. inst. On the receipt of it I lost no time in bringing the subject of it to the notice of the Mex. Min. of Foreign Relations, and requesting the removal of the grievances arising from the refusal of passports to our countrymen emigrating to California of which you complain. The answer to my application was recd. this morning and I send you herewith a copy of it.

Caja 97, rollo 18, vol. 17, p. 229.

13 de julio de 1853. México. Manuel Díez de Bonilla a Alfred Conkling. (Anexo al despacho 54.)

Tengo el honor de devolver a V. E. los documentos que confidencialmente se sirvió dejar en mi poder antes de ayer, acerca de las dificultades que las Autoridades de Chihuahua oponían, por falta de requisitos, a visar o expedir pasaportes a los ciudadanos de los Estados Unidos, que pasaban a aquel Estado con destino a California y a la vez debo manifestarle, que atendiendo a lo expuesto verbalmente por V. E. se libran con esta fecha las órdenes conducentes para que a los expresados transeúntes se les vise o expida el documento de que se trata siempre que aquellos vengan expedidos por el Cónsul de México, si lo hubiere en el punto de su procedencia y en caso contrario por la autoridad civil o militar Norte Americana más inmediata a la frontera de la República; en la inteligencia de que esta disposición es provisional, entre tanto se dicta la respectiva que convenga. También se previene a dichas Autoridades que si algún Ciudadano de los Estados Unidos estuviere detenido por la causa referida, se le permita continuar a su destino en los términos indicados.

Caja 97, rollo 18, vol. 17, p. 230.

27 de junio de 1853. Monterrey, México. J. Morrel, J. O'Farrell, Moritz Speyers y otros a Alfred Conkling. (Anexo al despacho 54.)

Dicen que son ciudadanos norteamericanos residentes en Monterrey (México), y declaran la necesidad de un agente consular de los Estados Unidos en esa ciudad, que es una de las más grandes sobre la frontera con los Estados Unidos y, consecuentemente, con trato comercial directo con ese país; y al no tener un agente regular autorizado para representar sus intereses, es urgente el nombramiento de uno Ad interim.

The amount of merchandise imported into this city, as debenture goods, requiring the certificate of the same from a

commercial agent, and the constant thoroughfare and travel of American citizens through this to the interior, and thence to California, as well as the agitated, conflicting, and unsettled state of affairs now existing in a political manner throughout this Republic, and more particularly on this frontier, makes it an imperative necessity of an immediate appointment.

The only consular agent in this city is that of Spain, of which we can not expect to receive the cooperation necessary to our interests, and consequently have no protection whatever, except that granted to us from our social and private relations, and that *promised* by the treaty between the U. S. and Mexico.

The recent general laws of Mexico having a tendency to disseminate a spirit of discord unfavorable to our interests, we respectfully ask, that this our petition may be immediately taken into consideration, and recommend to you the person of Joseph Moses esq. a respectable resident and merchant of this city, as having all the necessary requirements and qualifications for the appointment, until the same be approved-officially by the Government of the U. States.

Caja 97, rollo 18, vol. 17, p. 230.

28 de junio de 1853. Monterrey, México. Joseph Moses a Alfred Conkling. (Anexo al despacho 54.)

Le comunica que acepta la recomendación que de su nombre hace un grupo de comerciantes americanos residentes en esa ciudad, para ocupar el cargo de agente consular de los Estados Unidos, al ser consciente de la importancia que, para el comercio norteamericano, tiene ese nombramiento.

The amount of merchandise passing through and entering this place amounts annually to several million dollars, and often a stranger who is unacquainted, will find himself surrounded with difficulties and annoyances that require some representative of his Government upon whom he can call for advice and assistance.

Not only this, but the difficulties likely to grow out of all the new changes in Government and laws of the Country, will still more strongly urge the necessity of such an appointment, as well as those that would arise in case of difficulties in regard to the "Mesilla Valley".

I would state that I have lived on the frontier several years and am well known by both Mexicans and foreigners.

I am a native of the city of New York and well known there.

Caja 97, rollo 18, vol. 17, p. 231-232.

9 de julio de 1853. México. Manuel Díez de Bonilla a Alfred Conkling. (Anexo al despacho 54.)

El infrascrito Ministro de Relaciones Exteriores, tiene el honor de dirigirse a S. E. el Sr. Enviado Extrao. de los Estados Unidos de América para manifestarle, que según una comunicación que ha recibido del ministerio de la Guerra, aparece que habiéndose presentado en 27 de mayo último en el Cuartel general de Peto, Estado de Yucatán, el ciudadano Manuel Cardaña procedente de puntos que ocupan los indígenas sublevados, se le tomaron las declaraciones necesarias sobre cuanto supiese con relación a esa guerra, y entre lo que manifestó expuso: que un individuo Norte Americano llamado Juan Andruz [John Andrews] que reside en la Isla de Cozumel, y un inglés que se apellida Jenson, han estado varias veces en el puerto de la Ascención, procedentes de Belice, con objeto de vender a los rebeldes sal y otros efectos cambiándose los por tabaco: que el citado Andruz contrató hace poco con los indígenas sesenta arrobas de pólvora, y después pidió a los cabecillas cincuenta hombres de los que están a sus órdenes para emplearlos en el corte de madera, pagándoles su trabajo con pólvora y plomo que situaría en el mencionado puerto de la Ascención.

Como esos procedimientos contribuyen a formar y mantener la guerra salvaje que los indígenas hacen en Yucatán,

guerra en cuya conclusión tanto se interesa la humanidad, no duda el infrascrito que S. E. el Sor. Conkling se servirá acordar las providencias para que tanto el ciudadano americano referido como cualquiera otros de sus nacionales se abstengan de prestar auxilios de ninguna clase a los indígenas sublevados en Yucatán, como lo exige la fe de los Tratados concluidos por México y los Estados Unidos, así como el mantenimiento de las buenas relaciones que felizmente existen entre los dos países.

Caja 97, rollo 18, vol. 17, p. 233.

13 de julio de 1853. México. Alfred Conkling a Manuel Díez Bonilla. (Anexo al despacho 54.)

The undersd. Envoy Extrao. and minister Plenipo. of the U. S. of America has the honor to acknowledge the receipt, yesterday, of the note of H. E. the Minister of Foreign Relations, informing the Undersd. that a communication has been received by the Minister of War charging an American citizen named John Andrews residing in the Island of Cozumel with having contracted with a rebel indian chief in the States of Yucatan to furnish him with gunpowder and lead in the payment for the labor of 50 men employed by the said Andrews in cutting wood; and requesting the Undersd. to take measures to restrain him and other American citizens from acts so injurious to Mexico, so repugnant to humanity and justice, and so little in accordance with the friendly relations and mutual obligations subsisting between the two nations.

This charge being, as the Undersd. understands, verified by oath; and there beeing found in all countries men capable of committing the most atrocious crimes to gratify their thirst for gold, it would not become the Undersd. to question the truth of the statement. He would, on the contrary, do himself great injustice if he feels on account of the information conveyed by H. E's note. It would moreover, afford him great satisfaction to comply with the request of

H. E. if he had power to do it, and if H. E. will point out to him any means which he can properly with a reasonable hope of success, he will not hesitate to adopt them. It can not however, have escaped the penetration of H. E. that foreigners, of whatever nation while sojourning in this Republic are no less amenable to its laws than its own citizens; and that if it can be satisfactorily proved by competent evidence, that the person above named or any other person has violated any penal law of the Republic, he may lawfully be subjected to the punishment prescribed by such law in like manner as a Mexican citizen.

Caja 97, rollo 18, vol. 17, p. 233-234.

16 de julio de 1853. México. Alfred Conkling a William L. Marcy. (Despacho núm. 55.)

This evening, after closing my despatch N° 54, I received from the Minister of foreign Relations a note of which I have the honor to inclose herewith a copy. Its object, it will be seen, is to define and make known to the members of the diplomatic body at this capital, the descriptions of wrongs for which foreigners may seek redress by application through the diplomatic representatives of their respective countries, to the Executive Government. It appears to me that it behooves acquiescing in the rules laid down in this note, to consider that a very large proportion of the injuries complained of by our countrymen, consist in alledged vexation acts of injustice and oppressive by the Mexican Judicial Tribunals.

It will probably be deemed expedient by all the foreign ministers that they hold a joint consultation what respects to the tenor of the answer, if any, to be returned to this note.

I have the honor...

Caja 97, rollo 18, vol. 17, p. 234.

15 de julio de 1853. México. Manuel Díez de Bonilla a Alfred Conkling. (Anexo al despacho núm. 55).

El inf^o Ministro de Relaciones tiene la honra de dirigirse a S. E. Sor. Alfred Conkling Envo. Exto. y Ministro Plenipo. de los Estados Unidos de América, con el fin de exponer a su ilustrada consideración los principios que el Gobierno de S. E. el Sor. Gral. Presidente desea hacer conocer como puntos fijos e invariables en materia de reclamaciones, para mejor conservar las buenas relaciones, con las potencias amigas. Animado de los mayores deseos por cultivar y consolidar éstas, al grado de evitar el más pequeño disgusto, el Exmo. S. Presidente cuenta con que para el logro de tan interesantes objetos, los Señores representantes de aquellas Naciones convendrán en seguir los Tratados existentes y los principios de derecho internacional, no deben hacerse reclamaciones en favor de particulares extranjeros, sino en los casos o de una denegación abierta de justicia por no quererles oír, o no permitirles el acceso a los Tribunales, o por no convenirse en la ejecución de sentencias ejecutoriadas y debidamente pronunciadas o finalmente por violaciones de las tratadas por hechos que no deben someterse al juicio del poder judicial. Fuera de estos casos en que las reclamaciones pueden ser directas y propuestas por los representantes diplomáticos, S. E. espera que, según las prácticas y doctrinas más comunes del derecho de gentes, no se harán las que son propias y peculiares de los Tribunales de la Nación.

El Gobierno por su parte cuidará de que las que legítimamente deba admitir sean atendidas cual exigen la justicia, la buena fe y el deseo enunciado al principio de esta nota, para por estos medios estrechar más fuertemente las relaciones de México con las potencias amigas.

Prometiéndose el infrascrito que las ideas indicadas se estimen por S. E. el Sor. Conkling en tal sentido leal y franco que las dicta, aprovecha la ocasión de reiterarle...

Caja 97, rollo 18, vol. 17, p. 234-5.

18 de julio de 1853. México. Alfred Conkling a William L. Marcy. (Despacho núm. 56.)

In my despatch N° 55, of saturday evening, the 16th. instant, and which is already on its way to the coast, I mentioned a note then just received from the Minister of Relations enumerating the descriptions of case in which applications for redress in behalf of foreigners would be entertained by the Executive Government, a copy of which note I also inclosed. As my despatch inferred, a like note was addressed to the other foreign ministers; but contrary to my expectation, I found, this morning, that it was not to be made the subject of a joint conference, as one or more of these gentlemen had already acknowledged it in a separate note merely mentioning its receipt, and this tacitly acquiescing in the principles it announced. Such at least, was the tenor of the answer of Her Britannic Majesty's Minister, a copy of which he read to me. Considering it to be my duty to express my dissent from the statement of this note I have just despatched to the Palace an answer, a copy whereof I have the honor herewith to inclose, marked A.

I write this in the hope that it will still reach Veracruz in season to go by the steamer Texas, and thus get to Washington simultaneously with Nos. 54 and 55.

In pursuance of an application made to me several days ago by Mr. A. Legrand, I prepared a note to the Minister of Foreign Relations, which was this day delivered to Mr. Legrand, and a copy of which, together with a copy of his letter to me, I have the honor herewith to inclose. It relates to documents touching the seizure, long ago, of the schooner Hitchcock. These copies are marked B.

In my despatch N° 35 *under date of May 3d.* I earnestly requested, in behalf of Mr. José María Toscano, an amicable and worthy gentleman, that certain papers which he represents as of great value to him, should be sent to him through this Legation. A like request has made Mr. Letcher. Today Mr. Toscano called to inquire concerning these papers, and it gave me no little pain to inform him that I had not yet

received them. Even if they should have been last, it would be better, at once, so to inform him.

Caja 97, rollo 18, vol. 17, p. 238-9.

18 de julio de 1853. México. Alfred Conkling a Manuel Díez de Bonilla. (Anexo al despacho 56.)

The Undersigned Envoy Extraordinary and Minister Plenipotentiary of the United States of America has the honor to acknowledge the receipt on Saturday evening of the note of His Excellency Don Manuel Díez de Bonilla, Minister of foreign relations, purporting to define and make nature of those wrongs for which, alone, foreigners are henceforth to be permitted to seek reparation by application to the Executive Government of the Republic. For all other injuries except those enumerated in His Excellency's note, if the undersigned correctly understands its import, it is proposed that redress shall, in future be sought, if at all in the judicial tribunals, whose decisions are to be final.

The undersigned is very far from being disposed to question the sufficiency of those remedies afforded by well constituted courts, where the forms of procedure are simple and easily understood; where justice is speedily administered and where, above all, its ministry of every grade, are men of intelligence learning and unquestionable integrity. But the undersigned is constrained to remind His Excellency that it is the duty of every civilized nation to provide such tribunals before it can rightfully compel foreigners to look to its judiciary for redress. Nor does the undersigned feel himself at liberty to overlook or disguise the fact that a very large proportion of the existing claims in behalf of American Citizens against Mexico, had their sole origins in alleged acts of wanton injustice and oppression not enumerated in His Excellency's note, perpetrated, it is true, under the forms of law, but an utter disregard and violation of the plainest principles of justice, by *judicial officers*.

The undersigned regrets to find himself under the necessity, therefore, of withholding his assent to the principles laid down His Excellency's note.

At the same time, he earnestly desires His Excellency to understand to him to believe that this frank expression of his disapprobation of those principles could be supposed to infer any want of cordial concurrence on his part, in the desire manifested by H. E., that the friendly relations now so happily subsisting between Mexico and the United States, may be preserved and strenghtened.

The Undersigned gladly siezes...

Caja 97, rollo 18, vol. 17, p. 241-2.

11 de julio de 1853. A. Legrand a Alfred Conkling. (Anexo al despacho 56.)

A. Legrand, como apoderado de Gabriel Lacarde, pide que le remitan los autos correspondientes a la reclamación que sigue contra el gobierno mexicano, por la aprehensión de la goleta *Hitchcock* en la isla de Lobos, con el fin de entregárselos a su abogado.

Informa que los documentos fueron remitidos por el ministro Letcher al señor Payno, ministro de Hacienda, en marzo de 1850. Y como es muy probable que aún estén en el ministerio, pide a Conkling que los reclame o que le dé una carta para ir a solicitarlos.

Caja 97, rollo 18, vol. 17, p. 242.

12 de julio de 1853. México. Alfred Conkling a Manuel Díez de Bonilla. (Anexo al despacho 56.)

Informa de la reclamación de A. Legrand relativa a la goleta *Hitchcock* y pide que se le entreguen los documentos

solicitados por Legrand, si es que todavía se encuentran en los archivos del ministerio de Hacienda.

Caja 97, rollo 18, vol. 17, p. 442.

19 de julio de 1853. Charleston, Carolina del Sur. James Gadsden a William L. Marcy.

In the absence of all communications from you, I have to report that my arrangements are made for leaving Charleston on Saturday the 23 July, so as to reach N. Orleans in time for the Vera cruz steamer of the first.

Any further communication you may have to make me it would be most advisable to address to that place I hope you have given a favourable consideration to my suggestions in relation to the services of Mr. Gray It may be very important to me that he should not only verify his former examinations of the Country but extend his observations to the Gulf of California. There are some points on the latter Inland sea: connected with the access to, and navigation of the Colorado on which I would much desire information. Any settlement of the boundary question which may involve a change from that defined (or rather so undefined), in the Treaty of Guadalupe; should be made so discreetly, and advisably as to preclude the necessity of a revisal hereafter.

We must settle on a *line* which will give satisfaction to both parties; preclude steep blowhood fends by securing to the U. States what she requires, and as you probably know she will have.

Caja 97, rollo 19, vol. 18, p. 8.

23 de julio de 1853. Charleston, Carolina del Sur. James Gadsden a William L. Marcy.

Informa que ha recibido las cartas 3 y 4 con el mapa preparado por Gray.

Está listo para dejar la ciudad al día siguiente, con rumbo a Nueva Orleáns, y embarcarse el día primero hacia Veracruz.

Caja 97, rollo 19, vol. 18, p. 9.

23 de julio de 1853. Washington. William L. Marcy a Alfred Conkling.

Sir:

You were informed by N° 23 that General James Gadsden, of south Carolina, had been appointed by the President to succeed you as Minister of the United States in Mexico.

As General Gadsden is about to set out for his mission, it is deemed advisable to transmit by him your letter of recall. Enclosed, therefore, you will find a sealed letter addressed by the President to General Santa Anna, and an open copy of the same. You will communicate the latter to the Minister of Foreign Relations, requesting him to inform you of the time when the President will receive you for the purpose delivering the original.

Your despatches to N° 59, inclusive, had been received.
I am...

National Archives. Records of the Department of State. *Diplomatic Instructions. Mexico*. Vol. 16, doc. núm. 24, p. 414-415.

30 de julio de 1853. México. Alfred Conkling a William L. Marcy.

On the 20th. instant I had the pleasure to receive a note from the Mexican Minister of Foreign Relations informing me of the favorable decision by the President, upon the applications made by me and mentioned in my former despatches, in behalf of Mr. Cazneau & Gross. In my despatch N° 54 I mentioned two letters received from Mr. Cazneau, the latter of

which was accompanied by documentary evidence and deposition designed to establish the truth of the original statement of these cases made by Mr. Cazneau to the Department of State and this legation. These letters are long and the evidence, voluminous, and I therefore take the liberty, for that present, at least, of omitting to send copies. A copy of the minister's note announcing the decision is herewith inclosed, marked A. It did not, perhaps, require an answer, but it appeared to me both just and expedient to respond to it in the brief note, a copy whereof, also marked A, I have the honor herewith to transmit.

On the 18th. instant I received a letter from Juan A. Robinson Esquire, American Consul at Guaymas, accompanied by copies of communication from official persons at that port to him, relative to the apprehended invasion of Sonora and his answer thereto. Of all these, and of my answer to the Consul, I have the honor herewith to transmit copies marked B.

With my despatches Nos. 55 and 56 I transmitted copies of notes relative to certain principles which this Government had seen fit to adopt with respect to claims in behalf of foreigners against Mexico. On the 24th. instant I received from His Excellency the Minister of Relations a reply to my note mentioned in my despatch N^o 56, of which I have the honor herewith to transmit a copy marked C., from which it will be seen that some offence has been taken by this Government at one of the observations contained in my note to which the last mentioned note of His Excellency, the Minister of Relations, is a reply. For the purpose of vindicating myself and removing the dissatisfaction I had unintentionally exacted, I have rejoined in a note under date of the 26th. instant a copy whereof, also marked C, is herewith inclosed.

Among the claims pending in behalf of American citizens against the Government of Mexico, there is one for the value of a quantity of flour destroyed several years ago by the Mexican authorities at Tabasco, and belonging to Messrs Butterfield and Huntington. My predecessors have twice been instructed in very decided terms, to demand remuneration for

the losses to which the above named persons were thus subjected and Mr. Butterfield, being nowhere, requested me again to call the attention of this Government to his claim, which I have accordingly done, by a note to H. E. the Minister of Foreign Relations, a copy whereof I have the honor herewith to transmit; marked D. To this note I have received an answer under date of the 28th. instant, to which I have this day replied. Copies of the answer and reply are herewith inclosed also marked D.

Caja 97, rollo 18, vol. 17, p. 258-260.

18 de julio de 1853. México. Manuel Díez de Bonilla a Alfred Conkling. (Anexo al despacho 57, marcado "Confidencial").

Según ofrecí a V. E. en mi nota confidencial de 13 de éste, he dado cuenta al Exmo. Sr. Presidente de los documentos que me confió sobre el asunto de la detención de las mercancías de los Sres. Cazneau y Groofs en Parras, Estado de Coahuila, así como de dos comunicaciones que de aquellas autoridades ha trasmitido a este Ministro el de Hacienda sobre el mismo negocio.

De todos esos documentos aparece con evidencia, que las referidas Autoridades procedieron bien exigiendo el pago de que se quejan los Sres. Cazneau y Groofs, por cuanto éstos introdujeron sus mercancías trece días después de publicada en la Villa de Guerrero la ley de 24 de enero, a que todos deben sujetarse desde el día mismo de su publicación, como en él se previene.

Mas como aparece que esa importación ha sido hecha de buena fe, y por dar a los Estados Unidos cuantas pruebas están al alcance de México del empeño con que desea cultivar sus relaciones, el mismo Exmo. señor Presidente, usando de las facultades con que se halla investido, se ha servido resolver que se esté a su primer acuerdo de 31 de mayo último, no exigiendo a los individuos de que se trata la diferencia de derechos;

entendiéndose sin embargo esta disposición como una gracia que no establece precedente.

Al tener la honra de manifestar a V. E...

Caja 97, rollo 18, vol. 17, p. 261-2.

19 de julio de 1853. México. Alfred Conkling a Juan H. Robinson. (Cónsul en Guaymas.)

Your letter of the 13th. of June with the Bando and correspondence therein mentioned was received last night.

Your answers to the communications made to you, the one relating to the apprehended invasion of Sonora, and the other to the visit of the Brig Genl. Patterson, seem to me to have been discreet and unexceptionable.

With respect to your request that I will in my answer to your letter "state what rules should be observed by the Consulate with respect to such vessels", as the Genl. Patterson, I can only say that if you are right in the supposition that vessels of this description are not embraced either by the laws relating to vessels employed in the merchant service or by your instructions, you have no official duty to perform in regard to them. The terms of the act of Feby. 23, 1803 section 2d., are however, broad enough, I think, to embrace vessels belonging to private citizens, and employed by their owners under contracts with the Govrnt. in transporting supplies. If so, it follows that the masters of such vessels are bound, on their arrival at any foreign port, to deliver their registers to the Consul. It may be, however, that such vessels are not considered as embraced by the spirit of this requirement, and that in practice it is not customary for their masters to observe it. The design of the regulation doubtless is to prevent frauds against the navigation and revenue laws of the U. S.; as that if the instruction with respect to ships of war is, to ensure a becoming and mutually beneficial comity between the Civil and Military representatives of our Country in foreign ports. I am informed also that most of the vessels employed in the Pacific

as transports are not the property of private citizens, but of the U. S., and I infer from your answer relative to the "Genl. Patterson" that she is probably a vessel of this character. I shall not fail to forward a copy of your communication to the Secretary of State by the first opportunity.

I am...

Caja 97, rollo 18, vol. 17, p. 263.

13 de junio de 1853. Guaymas, Sonora, México. Juan H. Robinson (cónsul) a Alfred Conkling.

Although I have not had the honor of receiving my communication from you, since your arrival in Mexico, from notices in the papers I am induced to believe that this will reach you at that city.

Great alarm has been caused in this state, by reports from Upper California that expeditions are forming there for the purpose of taking possession of Sonora. Every person capable of carrying (arms) them have been put under arms, by order of the authorities of this State; I enclose a copy of a "Bando" published in this Port by the Prefect (in which he styles the supposed invaders "Aventureros Norte Americanos"), ordering all Mexican citizens from 16 to 50 years, to enlist themselves, and inviting the Citizens of all friendly nations to join in the defense. I also inclose copies of official note from the Prefect to this Consulate and my answer to the same.

From my private correspondence from Upper California, I do not think there is a probability of the expeditions being carried into effect, although mention is made of the same in most of the papers published in San Francisco; but the fact of Count Raousset with two hundred Frenchmen having only a few months once marched through this State, taking by storm and holding for ten days, Hermosillo (a town of fifteen thousand inhabitants) in defiance of the combined forces commanded by Genl. Don Miguel Blanco, and the Militia of

this State, causes the peaceable part of the population, to be in constant dread of a new invasion.

It would be extremely satisfactory if our Governmnet would order some of the vessels of war on this station to call into our port occasionally; as the presence of such vessels, would give security and protection to all foreign residents here, and particularly to American citizens, who are looked on with most jealous eyes, since the possession of Upper California by our Government.

A day or two ago a U. S. transport Brig. the "Genl. Patterson", from San Francisco and San Diego, touched here on her way to the River Colorado with provisions for the station at Fort Guma; the Captain, who presented no official despatch whatever to this Consulate, reported to the Captain of the Port that he had put in for water, but the next day having got under way without taking any in, caused a great alarm in the place; and the Capt. of the Port passed me an official note of which I inclose a copy as also of my answer.

The form of intercourse between Officers of our Navy and of Consuls residing abroad are prescribed by a circular from the Navy Department, and the duties of Captains of Merchant vessels are prescribed by law; but no mention is made of transport vessels belonging or hired by the U. S. Government, commanded by Captains not belonging to the Navy. I would feel greatly obliged, if in your reply to this note, you would state what rules should be observed by this Consulate with respect to such vessels.

The Capt of the "Genl. Patterson" reported that in Venecia in Upper California, a company of four hundred Americans, well armed, was forming for the purpose of marching by land into the northern part of this state, with the object of working the Mines and fighting the Indians; that a vessel with provisions, was to be sent from San Francisco to meet them in some part of this Gulf of California.

Hoping that you pass this communication to the Department of State.

I remain your...

Caja 97, rollo 18, vol. 17, p. 264-5.

Sin fecha. Comandancia General y Capitanía del Puerto de Guaymas. Antonio Campuzano al vicecónsul de los Estados Unidos.

Debiendo haberse examinado [sic] en el Vice Consulado del cargo de Usted los documentos con que ha llegado a este Puerto el Bergantín de los E. U. "General Patterson" le mereceré se sirva informarme ejecutivamente si aquéllos son legales, así como si sabe las causas porque dicho buque se ha ido tan repentinamente sin haber llevado el objeto que lo condujo aquí, que fue el de hacer aguada según me manifestó su Capitán.

Ofrezco a Ud...

Caja 97, rollo 18, vol. 17, p. 266.

12 de junio de 1853. Guaymas. Juan A. Robinson a Antonio Campuzano.

Anoche recibí la atenta nota de Ud. y en contestación le diré; que no han sido presentados en este Consulado los papeles del Bergantín de los E. U. de Am^a "Genl. Patterson", pues no siendo de costumbre que los buques del gobierno depositen sus papeles en la oficina de mi cargo, no pedí al Capitán del Bergantín.

En mi concepto, el Berg. "General Patterson" es transporte del Gobierno de los E. U. de América y está despachado en toda forma por el Cuartel Maestro General de las tropas del Gobierno en el Alta California, con provisiones para el destacamento que tiene en el Río Colorado.

El Capitán me indicó que tenía agua en la bodega, pero para poder hacer uso de él, necesitaba sacar una cantidad considerable de su carga, y más bien quería tomar agua de tierra que no hacer ese trabajo; mas me han informado después que el Capitán habiendo visto que tendría que demorar más tiempo que suponía al entrar en el puerto, para hacer la aguada en tierra, se resolvió echar su carga sobre cubierta y sacar el agua

que tenía en la bodega. Sobre esto no habló el Capitán con el que suscribe, ni lo vio cuando se despidió.

Es cuanto puedo decir a U. en contestación de su atenta de ayer...

Caja 97, rollo 18, vol. 17, p. 266.

7 de junio de 1853. Guaymas. Cayetano Navarro, prefecto del Partido de Salvación, al cónsul de los Estados Unidos.

El día de ayer he publicado el bando de que acompaño a V. E. una copia, de este documento deducirá U. que está esta población muy próxima a ser invadida por una horda de aventureros, procedente de San Francisco en el Alta California, que sin bandera reconocida pretende bajo su propia cuenta llevar a cabo sus depredaciones.

Vd. comprenderá que estando la República Mexicana en paz con todas las naciones del Globo, no debe esperarse que la invasión que se teme, lleva la bandera de ninguna de esas naciones, y que por consiguiente este solo hecho declara piratas a los invasores.

Esta circunstancia que las pone fuera de ley y fuera del carácter de su nacionalidad cualquiera que sea, me hace esperar de U. que hará alistar y poner sobre las armas a los ciudadanos de su nación, residentes en este puerto, para defender los hogares e intereses de esta misma población.

Protesto a Vd.

Caja 97, rollo 18, vol. 17, p. 267-8.

6 de junio de 1853. Guaymas. Copia del documento de Cayetano Navarro al cónsul de los Estados Unidos en Guaymas.

Cayetano Navarro, Prefecto del Partido de Salvación a todos los estantes y habitantes del mismo haré saber:

Que las noticias recibidas en el Pailebot Nacl. "Alerta" salido de San Franc^o el 13 de mayo último confirman las que se han recibido anteriormente sobre invasión a Sonora de gente armada muy próximamente, y que se designa este puerto como punto de desembarcar; que compuesta esa expedición de aventureros (alias) Norte Americanos, sin ser caracterizada sin bandera de alguna nación, que respondiëra ante el mundo civilizado de las consecuencias [sic] de una injusta agresión.

Considerando que este solo hecho la declara pirática, que toma bajo su cuenta los robos, asesinatos y los más sucesos consiguientes; considerando que todo habitante, sea nacional o extranjero, se halla en el deber de repeler con las armas esa invasión, unos llamados por la ley civil y los últimos por la natural defensa de sus personas e intereses amenazados; considerando que la proximidad del desembarco puede efectuarse antes de la remisión de fuerzas en este puerto; para impedirlo he tenido a bien disponer de acuerdo con las órdenes supremas:

1^o Desde el día de mañana se convoca a tomar las armas a todos los C. C. Mexicanos de la edad de 16 a 50 años y tomarán cuerpo en la Guardia Nacional del partido que desde luego se pone en cuartel a la disposición del Sr. Comandante Militar. El punto de reunión lo será la casa del mismo Sr. Comandante.

2^o Yguualmente se convoca a tomar las armas a todos los ciudadanos de las Naciones Amigas para la defensa de sus hogares y formando cuerpo observen en consonancia las órdenes del Comandante Militar.

3^o Todo individuo que se halla en el caso de tomar las armas no podrá salir fuera de este Puerto si no es con pasaporte de la Comandancia Militar; en concepto que la contravención a esta disposición, sea castigado irremisiblemente conforme a las leyes.

4^o Todo individuo sea nacional o extranjero que debiendo tomar las armas para la defensa de la población que se diere lugar a hallar con los piratas o que directa o indirectamente favorezca sus miras será juzgado como traidor conforme a las supremas disposiciones.

5º Para que la existencia en el puerto de las familias e intereses no sea un obstáculo para las operaciones contra el enemigo podrán los interesados ponerlas oportunamente en salvo, para lo cual las autoridades les facilitarán los hombres necesarios.

Y para que llegue a noticia de todos, mando se publique por bando en Guaymas...

Caja 97, rollo 18, vol. 17, p. 268-9.

10 de junio de 1853. Guaymas. Juan A. Robinson a Cayetano Navarro.

Con la nota oficial de V. S. del 7 del presente, que llegó a mis manos en la tarde de hoy, recibí copia del Bando publicado por orden de esa Prefectura el día 6 del presente; de la cual me he impuesto, y lo haré saber a los ciudadanos de los Estados Unidos de América. residentes en este Puerto, para que se prevengan para la defensa, en el caso de ser amagada esta población por un "enemigo común" y en cuyo evento, contará V. S. con los mayores esfuerzos, de quien tiene el honor de reiterar sus...

Caja 97, rollo 18, vol. 17, p. 269.

23 de julio de 1853. México. Manuel Díez de Bonilla a Alfred Conkling.

El infrascrito, Ministro de Relaciones Exteriores, ha tenido la honra de recibir la nota que S. E. el Sr. Alfredo Conkling, Enviado Extraordinario y Ministro Plenipotenciario de los Estados Unidos de América, le ha dirigido con fecha 18 del actual, en que manifiesta su no conformidad con la que el infrascrito le escribió el 16, así como a los demás Sres. Agentes Diplomáticos de las Naciones amigas residentes en esta capital, asentando los principios que al Gobierno de México sirven

de regla en materia de reclamaciones; con cuyo motivo hace S. E. la calificación que tiene a bien de los tribunales y administradores de justicia de la Nación.

El infrascrito debe por tanto decir a S. E. en respuesta, que sin pretender que la legislación de México en materia judicial sea perfecta, y ni aun igual a la de algunos países antiguos, sólidamente constituidos, y más adelantados que él en la ciencia de Gobierno, merced a la misma experiencia, y a las tremendas revoluciones y cambios que han sufrido esos países, esa legislación es, sin embargo, la de una nación civilizada, como derivada de la Romana y la Española, que más o menos han servido de base a las de los principales de la tierra. Si es lenta en sus procedimientos, si éstos son complicados, o si tiene vacíos y exige modificaciones consiguientes al sistema político, al tiempo, y a las necesidades que él engendra, sucesivamente han ido haciéndose en todos aquellos países; y S. E. mismo sabe que hoy se ocupa el Gobierno de México en revisar su legislación; pero en ningún caso puede decirse que, tal cual es, no ha garantizado la consecución de los fines que tiene por objeto la justicia. Ahora, que legislación u otra cualquiera no sea perfecta, o conforme a las ideas que en la materia tenga otra nación extranjera, no es razón para querer abstraer de ella a sus Ciudadanos, a menos que se crea con el derecho de dictar a los demás la legislación a que hayan de sujetarse; pretensión que ciertamente ha de ser tan ajena de los sentimientos de S. E. como infundada e inadmisibles sería.

Las personas encargadas de la administración de justicia en la República reúnen, generalmente hablando, en las posiciones que respectivamente ocupan, las tres cualidades que indica S. E. de inteligencia, saber e incuestionable probidad; sin que tal o cual excepción que pueda verse en éste, como en cualquier otro ramo, y en todas las Naciones del mundo, y que son efecto de la condición humana y de las vicisitudes por que todas pasan, pruebe nada en contrario. Si algún caso particular se ha ofrecido u ofreciere a S. E. en que pueda comprobar que ha habido mal manejo, se reparará y castigará en el acto por esa propia legislación, y por esos mismos Tribunales que deturpa [*sic*], con la buena fe y empeño que sabe

S. E. que animan a la administración, y que debe a su propio respeto. Pero aún tal o cual caso, si lo hubiese, no autorizaría ciertamente la calificación que S. E. el Sr. Enviado de los Estados Unidos ha tenido a bien hacer y de ellos se convencería si, en lugar de informes interesados y de hechos más o menos exagerados e inexactos que se hayan presentado a S. E. tuviese en la legislación y Tribunales del país, la práctica que se requiere para calificarlos con justicia, y que ni la corta residencia de S. E. en él, ni su elevada posición le permiten.

Esa legislación y esos Tribunales, no obstante el concepto que S. E. se ha servido expresar, merecen el respeto que entre sí se dispensa las Naciones: ellos están reconocidos y acatados por los mismos Tratados que unen a México y los Estados Unidos, celebrados en 1831, y hechos parte del de 1848; y a ellos por último, se someten los Ciudadanos de aquellos Estados, como los de otro cualquiera, cuando libremente ingresan al país y se establecen en él sujetándose así por su voluntad a las ventajas y a los inconvenientes que ofrece, como todos los países del orbe; a menos que se pretenda contra razón, contra la justicia y contra los Tratados, que son de condición mejor que los nacionales.

Los principios que S. E. repele, y que el infrascrito ha asentado en su precitada nota, como los que México profesa en materia de reclamaciones, no son pues otros que los mismos que están consagrados por el derecho internacional, por la práctica de las Naciones cultas, y muy particularmente por las estipulaciones de dichos Tratados entre México y los Estados Unidos, y por el uso de aquellos mismos Estados. Obrando el Gobierno de la República de conformidad con esos principios, está pues en su derecho; derecho tan generalmente reconocido, que si no es la Legación del digno cargo de S. E. el Sr. Conkling, todas las demás cerca de este Gobierno han manifestado su entera conformidad, como axiomas de indisputable evidencia; y al usar México de ese derecho, sólo desea remover motivos de disgusto, y estrechar con todas las Naciones la buena inteligencia y armonía; sentimientos que tampoco en esta ocasión desmentirá el infrascrito.

Estampando pues S. E. el Sr. Enviado de los Estados Unidos que la legislación y Tribunales de la República no son los de una Nación civilizada, S. E. ha inferido un agravio sin justicia y sin razón, y sería motivo muy suficiente para que se le devolviese la nota oficial en que consignó esos conceptos; pero persuadido de que no pudo ser esa la meta de S. E. y por respeto a su persona, no lo hará el infrascrito, como se vería en la precisión de verificarlo en cualquiera otra ocasión semejante, en cumplimiento de su deber.

Al propio tiempo reitera...

Caja 97, rollo 18, vol. 17, p. 270-3.

26 de julio de 1853. México. Alfred Conkling a Manuel Díez de Bonilla.

The Undersigned, Envoy Extraordinary and Minister Plenipotentiary of the United States, has had the honor to receive the note of His Excellency the Minister of Foreign Relations under date of the 23d. instant, from which he learns with deep regret and not without surprise that he has the misfortune to have unintentionally given offence to the Mexican Government by his note to which that of His Excellency is a reply. The undersigned is however, left somewhat in doubt with respect to the just interpretation of the language of His Excellency's note, not being able with certainty to determine whether it was designed to represent the undersigned as calling in question the claims of Mexico to the rank of a civilized nation, or only as intimating an opinion that her jurisprudence is unsuitable to her character as such.

If the former ought to be considered as the sure interpretation of His Excellency's note. the undersigned would feel constrained to regard it as an impeachment of his common sense, and would consider it due to himself to complain of it as such. The undersigned does not require to be informed that of the mass of individuals composing most of those nations denominated civilized, a very large proportion have but slender

claims to that character. The undersigned is well aware that the character of nations in this respect is determined by that of the most enlightened class, whether, comparatively, more or less numerous, of the persons, of whom it consists.

If, therefore, after a residence of many months in this capital, during which he has enjoyed the pleasure of familiar personal intercourse, official and otherwise, with men of large endowments, highly cultivated minds, and polished manners, he could have fallen into so egregious an error as to doubt the just claims of Mexico to the character of a civilized nation, he must himself have been very deficient in discernment. But with regard to the jurisprudence of this country including the structure of its judicial tribunals and their adaptation to the great end of affording security to the rights of person and property, the undersigned frankly acknowledges that his impressions are by no means favorable. His Excellency the Minister of Relations has been led, very naturally, to ascribe these impressions to the very limited acquaintance of the undersigned with the subject. The undersigned with equal frankness admits that he has no pretensions to an exact knowledge of it. At the same time however, he begs leave to assure H. E. that he is not wholly uninformed with respect to it. If H. E. will take the trouble to refer to correspondence which took place between his immediate predecessor, shortly before his decease, and the undersigned, respecting the imprisonment in this capital, of two young americans, the one named Campbell and the other Davey, he will perceive that the undersigned has had an opportunity to become acquainted to some extent at least with the practical operation of the Mexican judicial system. His Excellency will find by this correspondence and the development to which it led, that the persons above named, on the day after their arrival in this city, perfect strangers and ignorant of the language of the country, were arrested by virtue of judicial process, on a vague suspicion of having taken a considerable sum of money, in the absence of the owner, an Englishman, from a room occupied by him in this city: that the only evidence tending to criminate them, was

that of this person, which was wholly insufficient to establish their guilt, because, assuming that the witness really had the money when he came here, and that it had been stolen by somebody, it was, to say the least, quite as likely to have been stolen by some other persons as by Campbell and Dewey; and when, upon being arrested without any previous knowledge of the asserted larceny, & searched, no part of the money was found in the possession of either of them, & no effort was made by either at concealment, it became perfectly evident, according to the clearest dictates of common sense, & to every principle of law applicable to the case, that they were, of right, entitled to an immediate and unconditional discharge, for want of sufficient evidence to justify their further detention; and such the undersigned takes it upon himself, without hesitation, to assert, would have been the result before any American or English magistrate, where the whole proceeding would have occupied, at most, only a few hours, and would not have occasioned an expense exceeding two or three dollars. But His Excellency may find by the correspondence already mentioned, that these men were, by Mexican Ministers of justice, first forcibly deprived of all their own money to the amount of more than \$400, and next dragged in claims through the streets to prison, where, in spite of the strenuous efforts, first of the American Consul, and subsequently of the undersigned, to procure their liberation, they were confined nearly three weeks, to the serious injury of their health, and at length, were liberated only on giving bail, through the man who pretended to have lost his money had, in the mean time, after making different and contradictory statements on the subject, gone to the coast, and sailed thence for England. But the wrongs of these men did not end here: their money near still withheld from them, and it was not until after long continued, and, at length, apparently hopeless exertions on the part of the undersigned that it was restored them; they having in the mean time, been subjected to painful privations and sufferings for want of it. Whether this part of the proceedings was in accordance with the laws of Mexico, or, if not, by what motives it was prompted, the undersigned is not informed. He

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must be permitted, however, to assure H. E. that it was without precedent in his own country. As soon would an American magistrate have thought of depriving men thus circumstanced, of their clothing and turning them naked into the street; for he would have had just as little right to do the one as the other. The undersigned can not but indulge the hope that the H. E., the Minister of Relations, will see in this case, what the undersigned himself so clearly discerns, one of those instances alluded to in his note of the 18th. instant, (and the records of this Legation, unhappily furnish evidence of many others), where grievous wrong has been inflicted "under the forms of law, but in utter disregard and violation of the plainest principles of justice, by *judicial officers*". Does his Excellency believe that reparation could have been obtained by these injured parties through the Judiciary? Had the undersigned been of this opinion, he would not have hesitated to advise a resort to this form of remedy. Possibly the undersigned was mistaken, but he was far from entertaining this opinion. He fully believed, however, as he still does, that these men whose liberty and rights of property had been thus trampled under foot, had a valid claim to indemnity from the Mexican Government a claim which it would have been the imperative duty of his own Government to espouse and firmly maintain; and nothing but the repugnance which the undersigned entertained to troubling this Government with it, restrained him from expressing this opinion to his unfortunate countrymen, and making a reclamation in their behalf. They were men of intelligence and sensibility, to whom no trivial sum would have afforded adequate remuneration for the ignominious and painful sufferings to which they had so unjustly been subjected. They were but too glad, however, to be permitted to make their escape from a city where they had met with so inhospitable a reception, and they departed with a deep and abiding sense of the injuries they had endured.

This case presented also another most remarkable feature, to which, as it probably contributed to its aggravation by causing additional delay, the undersigned may be permitted also to advert.

A few days after the institution of the proceeding, the undersigned was informed that it had been removed from a civil to a *military* tribunal. This information was so discordant with all the experience, the previous knowledge, and the ideas of the undersigned, relative to proceedings of this nature, as at first, to seem incredible. It is true the undersigned had understood that a decree had then recently been promulgated, by which *robberies* were declared to be cognizable by a military tribunal; and, considering the frequency of this atrocious crime in the Republic, the undersigned heartily approved of this rigorous decree.

But he had never imagined that it was designed to embrace cases of *simple larcery*; & he can hardly now suppose that the removal of the proceedings in question took place in virtue of that decree. That such removal was made, however, was proved by the sequel; for the final decision of the case was made by His Excellency, the Minister of War and Marine; who, for this purpose, found himself under the necessity, in the midst of his high duties properly pertaining to his elevated station, of examining more than 40 pages of manuscript transmitted to him from the inferior tribunal. Is it reasonable to expect from an American citizen, a favorable estimate of a judicial system productive of results so extraordinary and deplorable, a system which, instead of affording protection to the rights of person and property, becomes, in practice, an engine of oppression and cruelty, destructive of both?

H. E. the Minister of Foreign Relations seems to be of opinion that a foreigner is bound to venerate the institutions of other nations, and to submit without complaint to the decisions of their tribunals, merely because it is the pleasure of such nations to sanction or tolerate them. From the opinion the undersigned begs leave respectfully to express his entire dissent.

In his judgment such a pretention would be wholly inadmissible on the part of a nation which, while it claims equal rank with the most enlightened nations, voluntarily closes its eyes against the lights of the age, and blindly adheres to vicious systems and usages inconsistent with the rights of man,

and injurious to the people of other nations as well as its own. In the opinion of the undersigned, such a nation renders itself justly amenable to criticism and remonstrance, and, instead of feeling displeasure at animadversions emanating from a friendly source and dictated by a sense of duty, ought rather to look the evils complained of in the face, and arouse itself, without delay, to the task of reform. In the country of the undersigned, where the science of jurisprudence is regarded as of paramount importance, this work has been constantly prosecuted with undiminished ardor, and never more jealously than within the last few years. So it has been in England, and the two countries have not disdained eagerly and promptly to borrow from each other many highly useful improvements, especially in the forms of procedure, tending to secure and facilitate the attainment of public and private justice.

The undersigned has now said all that he deems it necessary to say relative to the nature of the Mexican tribunals of justice and the modes of proceeding therein. Whether it is sufficient to justify the intimation contained in his note of the 18th. instant, that these tribunals and their forms of practice were, in his opinion, ill adapted to the speedy and cheap attainment of justice, is a question of H. E., the Minister of relations.

But there is another point on which the undersigned is supposed by H. E. to have intimated an opinion to which H. E. has seen fit to take especial exception.

His Excellency will readily understand the undersigned as alluding to that part of his note in which he is supposed by H. E. to have spoken disparagingly of the qualifications of Mexican Judges and Magistrates, for the able and impartial discharge of their important and responsible duties. The undersigned is fully aware of the delicacy of this point, and that as the event has shown, he was not sufficiently circumspect in what he said concerning it. He must do himself the justice, nevertheless, to add, that he felt fully warranted by the evidence in his possession, in believing all that he intended to intimate. In considering what answer be

ought to return to His Excellency's note of the 15th. instant, the undersigned was naturally led to advert to the nature of the numerous claims of his fellow citizens against the Mexican Government; and when he recollected that "a very large proportion of these claims had their sole origin in alleged acts of wanton injustice and oppression not enumerated in His excellency's note, and perpetrated by *judicial officers*", he feared that even a tacit acquiescence on his part in the principles laid down by H. E., might be construed into a virtual abandonment of all claims of this description. While he felt bound, therefore, to express his dissent from these principles, and to assign his reasons therefor, he hoped that H. E. would see in the circumstance of the case, a sufficient justification for what he deemed it to be his duty to say. But he will not dwell upon this point. It may be that the evil to which he alluded is less prevalent than he supposed, and the assurances contained in His Excellency's note lead him to hope that it is so. Be this, however, as it may, the undersigned, heartily desirous of the prosperity and happiness of the Mexican people, has witnessed with lively satisfaction the efforts alluded to in His Excellency's note, on the part of those to whom the destinies of the Republic are now happily confided, to correct the errors and reform the abuses of the past, wherever they may be found to exist. To the patriotism, wisdom and energy by which the courses of the nation are now guided, the undersigned now looks with confidence for the success of those efforts.

In the undiscutable hope that H. E. the Minister of Foreign Relations, may see in this note, not merely a pardonable attempt by the undersigned to vindicate himself from the imputation of a disposition to calumniate Mexico or any class of its citizens, but evidence also, of sincere and reason regard towards H. E. personally, and towards his country, the undersigned avails himself of this opportunity to renew to H. E. the assurance of his very distinguished consideration.

Caja 97, rollo 18, vol. 17, p. 273-283.

16 de julio de 1853. México. Manuel Díez de Bonilla a Alfred Conkling.

Acusa recibo de la nota del día 13 de julio.

En contestación debe manifestar el infrascrito, que no siendo menos cierto el hecho criminoso del ciudadano americano Andrews sobre prestar auxilios a los Indios sublevados de Yucatán, sobre el cual llamó la atención de S. E., que difícil es dar ante los Tribunales Mexicanos las pruebas bastantes según la legislación del país a que tienen que sujetar sus procedimientos, para castigar el delito de que se inculpa al expresado Andrews, el infrascrito en vista de la justa indignación manifestada por S. E. el S. Conkling en su nota citada, y a la disposición en que asegura se encuentra de obsequiar los deseos del gobierno mexicano tomando las medidas que éste le indique para reprimir tales hechos, espera que será muy eficaz en el caso una amonestación severa de su parte, hecha por medio de los cónsules y agentes americanos en la República, a quienes se encargue vigilen la conducta de sus compatriotas, a fin de que no sean violados por ellos ni los principios del derecho de gentes, ni lo convenido en los tratados que existen entre las dos naciones.

El infrascrito aprovecha...

Caja 97, rollo 18, vol. 17, p. 283-4.

23 de julio de 1853. México. Alfred Conkling a Manuel Díez de Bonilla.

The undersigned, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, not having been able to complete the list of claims in behalf of American Citizens, which, in a conversation he had the honor lately to hold with H. E. the Minister of Foreign Relations, he gave H. E. reason to expect to receive from him before long begs leave, without further delay, to invite the attention of H. E. to one of those claims. The claimants are Messurs. Butterfield and

Huntington, and Mr. Butterfield being at present in this city, is very desirous of obtaining a decision upon the case before his departure hence, now near at hand. This claim, moreover has already long since, been made the subject of special instructions to this Legation, and of diplomatic correpondance with this Government. On these grounds the undersigned has not hesitated, at the request of Mr. Butterfield, at once, to ask the particular attention of the Mexican Government to the subject.

This case was first brought to the notice of this Government by a note from the Minister of the United States under date of June 22d. 1849, accompanied by documents in its support, and afterwards, on the 28th. of August of the same year, another note was addressed to the Minister of Relations, accompanied by suplemental evidence. An authentic copy of all the evidence in the case, having also been presented to the Department of State of the United States, Mr. Letcher was informed by a despatch dated November 20, 1849, that in the opinion of the Secretary of State, "the proof filed in support of the claim conclusively established that the articles seized and destroyed were, at the time, entirely merchantable". Mr. Letcher was therefore instructed to inform this Government, that unless counter evidence should be furnished by the authorities of Tabasco, sufficient to outweigh the evidence of the claimants, it was expected by the Government of the United States that reparation would be made to them for the loss they had sustained. By another despatch dated March 12, 1851, from the American Secretary of State to Mr. Smith, acting chargé d'Affairs, this gentleman was informed that inas-much as no such counter evidence had then yet been brought forward by the Mexican Government, the American Government, after so great a lapse of time, felt justified in taking it for granted that the Mexican Government had no confidence in the adequacy of any testimony it might have to disprove the justice of the claim, which, on the other hand, was considered to have been "amply proved by credible testimony" on the part of the claimants. The instructions above mentioned to Mr. Letcher, were therefore repeated to Mr.

Smith, and the sum of \$11,146, 24%, with interest, at the rate of 12 per cent, per annum, from the date of the seizure, was specified as the amount of the indemnity due to the claimants. Since that date of these last mentioned instructions, considerably more than two years has already elapsed, and the case remains still undecided. The undersigned, in conclusion, respectfully submits it to the consideration of H. E. Mr. Bonilla, whether it is compatible with the elevated principles of justice which actuate the present Government of this Republic, that the wrongs of the claimants should any longer remain unredressed and unacknowledged.

The Undersigned has the honor...

Caja 97, rollo 18, vol. 17, p. 284-6.

28 de julio de 1853. México. Manuel Díez de Bonilla a Alfred Conkling.

Acusa recibo de la nota que Conkling le envió, de fecha 23 de julio, en la que promueve la reclamación "...que en el año de 1849, entablaron los sres. Butterfield y Huntington por cierta cantidad de harina y galleta, que las autoridades municipales de Tabasco les aprehendieron e inutilizaron considerando S. E. que los daños que en consecuencia sufrieron dichos reclamantes, no deben continuar por más tiempo no sólo sin ser reparados, pero ni aun siquiera reconocidos.

El infrascrito debe en consecuencia llamar la atención de S. E. el Sr. Enviado de los Estados Unidos, a las notas que por este Ministerio se dirigieron a la Legación a su digno cargo en 8 de abril y 23 de mayo de 1850 y a los documentos que acompañaban a la primera, en que se encuentra comprobado el justo motivo que obligó a las autoridades de Tabasco a tomar aquella providencia con los efectos de que se trata, y que sirvió de fundamento a la resolución que el gobierno de la República debió tomar en el particular.

Estando prohibida por las leyes de todas las Naciones la importación de víveres dañosos a la salud, y capaces de producir

los efectos de los más activos venenos, S. E. el Sr. Enviado de los Estados Unidos, reconocerá que los Sres. Butterfield y Huntington no tuvieron derecho para introducir a Tabasco la galleta y harina podridos, mereciendo por esto la pena que las leyes tienen señalada para semejante transgresión; y que además, estando sujetos todos los extranjeros desde que pisan el territorio de la República a sus leyes particulares, y siendo una de ellas que cuando se introduzcan a los puertos víveres dañados se califiquen por una junta especial establecida al efecto y su resolución se ejecute sin recurso, el gobierno no puede tomar en cuenta ningunos otros documentos, con pruebas bastantes en contra, ni admitir como queja justa y fundada la que hace S. E. contra una de las leyes del país, y cuando ni remotamente se roza este negocio con la violación de los tratados.

El infrascrito debe por último manifestar a S. E. el Sr. Enviado de los Estados Unidos, que el silencio guardado a intervalos por este Ministerio en el curso del negocio, al principio en espera de los datos que pidió para tomar conocimiento de él y después por haber transmitido a esa Legación los que estima bastantes en el caso, no puede considerarse por ningún principio de razón y de sana legislación, como un argumento para deducir un reconocimiento implícito por parte de este Gobierno de la pretendida justicia del reclamante; y que si la tuviera estimaría como un deber dispensarle desde luego.

Al decirlo el infrascrito, tiene la honra...

Caja 97, rollo 18, vol. 17, p. 287-8.

30 de julio de 1853. México. Alfred Conkling a Manuel Díez de Bonilla.

Acusa recibo de la nota que le fue dirigida de fecha 28 de julio, en contestación a su nota del día 23 relativa a la reclamación de los Butterfield y Huntington respecto a indemnizarlos por la retención y destrucción de harina en Tabasco en el año de 1848.

The undersd. readily acknowledges the right of any nation to determine for itself what articles of commerce it will admit into its ports, and especially the right of peremptorily excluding, under penalties however severe, all articles injurious to health or morals.

With equal readiness the undersd. also concedes another postulate insisted on H. E.'s note, viz: that foreigners residing or only temporarily sojourning in any country, thereby become subject to its laws during their voluntary continuance therein; and the undersd. is not aware that there is any thing in his note of the 13th. inconsistent with these admissions. But the undersd. can not assent to the corollary which H. E. seems to have drawn from the above mentioned principles, that a nation may shield itself against all responsibility to other nations for injuries however gross and wanton, inflicted under color of law, by inferior agents to whom it has seemed fit to entrust the execution of its laws, by merely declaring that it regards the decisions of such agents as final, and thus closing its ears against all complaint. The undersd. is aware that this pretension is not now for the first time advanced by the Mexican Government in opposition to this claim, but that it was insisted upon also in the antecedent notes to which H. E. has seen fit to refer the undersigned. Had the undersd. considered it necessary or even proper for him to combat the reasoning contained in those notes, he would have had much to say in regard to it. But when, by the instructions of his Government under date of March 12th, 1851. referred to in his note of the 23d inst., he said that this reasoning was regarded as altogether fallacious and had been so pronounced by his Government, he thought, not only that it was unnecessary, but that it would also be presumptions for him to take it upon himself to reargue the question. But there was still more conclusive reason why the undersd. deemed it unnecessary to do this a reason furnished by the act of the Mexican Government itself and of which H. E. does not appear by his note to have been aware. In a note from the Mexican Minister of Relations under date of May 30th., 1851, in answer to a note from the Representative of the U.S. founded on the above mentioned

instructions, he was informed *that for the determination of this case, it was necessary to have further information which the govrnt. was still engaged in procuring.*

This note, so far as the undersd. has been able to discover, is the last communication received from the Mexican Govrnt. on this subject. The undersigned believes that he can not possibly be mistaken in supposing that the further information sought related only to the question of fact on the just decision of which it had at all times been insisted by the Government of the undersigned, that the validity of the claim depended, viz: whether the flour in question, on its arrival in port, before its seizure, its exposure to rain on the dock, and its detention for many days, *without previous examination*, was, or was not, in a sound and healthy state. The undersd. therefore, most respectfully but confidently asks H. E. to consider whether this note was not a clearly implied waiver and abandonment of the grounds of defence originally assumed by the Mexican Government, and now reiterated by H. E. Such is the light in which the unders^o considers himself entitled to regard it, and he must add also that the records of the Legation furnish additional reason for believing that the Mexican Govrnt. itself intended that it should so be understood. it appears to the undersd. also to be a virtual admission that the evidence adduced by the claimants was, in fact, as it was held by his Government to be. of so decisive a character as to outweigh all legal presumptions, and all the evidence that had been adduced, in favor of the decision of the Junta of Tabasco; and, consequently, unless further evidence should be obtained sufficient to neutralize the existing preponderance on the side of the claimants, that their claim ought to be allowed. The undersd., therefore, respectfully insists that his Government had a right to expect that the Mexican Govrnt. would, within a reasonable time, of its own accord, communicate the result of its efforts to procure supplemental evidence. But, conceding that the Government of Mexico was under no obligation to do this, the undersd. could not doubt that if these efforts had been succesful, this Government would, for its own

sake, have lost no time in making it known. The unders^o consequently felt himself fully warranted in regarding the silence of the Mexican Government, for more than two years, as equivalent to a final admission on its part, of the validity of the claim.

The undersd. was of opinion, therefore, that there was good ground for his appeal to the justice of the Mexican Government, which H. E. has nevertheless seen fit so pointedly to repudiate and repel.

The undersigned avails himself...

Caja 97, rollo 18, vol. 17, p. 289-292.

2 de agosto de 1853. México. Alfred Conkling a William L. Marcy. (Despacho núm. 58.)

Your despatch N^o 23, under date of June 25th. has been received, but not until the 26th. ultimo.

Mr. Cripps arrived here about a week ago, and set out yesterday morning for Vera Cruz in the expectation of meeting General Gádsden there, believing, but without any certain information, that the latter would come in the packet to leave New Orleans on the 1st. instant.

I have received a letter under date of the 15th. ultimo from Mr. Henrique G. Forster announcing the decease of Edward Porter, Esquire, long Consul at Tabasco. You will see by his letter, a copy whereof I have honor to inclose, that he has executed the duties of the office for a considerable length of time before Mr. Porter's death, and that he has continued to do so since. Considering it to be my duty to fill the vacancy temporarily, I have determined to appoint Mr. Forster ad interim and applied for an Exequatur which I propose to transmit to him as soon as it is received, which I presume will be within a day or two.

I have the honor...

Caja 97, rollo 18, vol. 17, p. 292-3.

15 de julio de 1853. Frontera de Tabasco. Henrique G. Foster a Alfred Conkling. (Anexo al despacho 58.)

This day I have the painful duty to communicate to your Excellency, the death of Edward Porter Esq. Consul of the U.S. of America at this port, he died on the 13th. instant at about 3 o'clock p. m. at his residence in this place.

Having been in his employ to assist him in his official duties for about two years, he thought proper to deliver to me, about two months ago, the Consulate, entirely; he, himself being unable to attend to the duties of said office owing to his sickness; in consequence of which I shall therefore continue in doing so, until your Excellency's further orders, which I herewith request your Excellency, respectfully, to remit me at your earliest convenience.

I have the honor...

Caja 97, rollo 18, vol. 17, p. 293.

3 de agosto de 1853. México. Alfred Conkling a William L. Marcy. (Despacho núm. 59.)

I have the honor to make known to you that I yesterday called the attention of the Mexican Government to the claims of *Samuel Belden, Turner and Renshaw*, and *Wilkinson and Montgomery*, by a note to the Minister of Foreign Relation of which a copy is herewith inclosed.

I have the honor...

Caja 97, rollo 18, vol. 17, p. 294.

2 de agosto de 1853. México. Alfred Conkling a Manuel Díez de Bonilla. (Anexo al despacho 59.)

Alfred Conkling, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, presents his

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respectful compliments to H. E. Mr. Bonilla, Minister of Foreign Relations, and has the honor to send to H. E. herewith, informal summary statements of three several claims in behalf of American citizens for indemnity on account of alledged injuries long since sustained. These cases form only a part of those concerning which Mr. Conkling had the honor lately to speak to H. E. Mr. Bonilla.

They are those, however, to which his attention has been more especially directed by his Government and by the claimants; and finding that considerable more time will be required to prepare suitable statements of the rest, he prefers to present these without further delay, and earnestly requests the earliest attention to them on the part of H. E. that his other engagements will permit.

Summary Statements referred to in the accompanying note.

Samuel A. Belden

Between the months of December 1847 and June 1848, Robert B. Kingsbury, as agent of the firm of Turner and Renshaw, merchants, of New Orleans, imported into the port of Matamoros, a quantity of leaf tobacco. Matamoros was at that time occupied by the military forces of the United States. Upon this tobacco a duty of 30 per cent was paid to the United States.

In September 1848, the above named Samuel A. Belden, having for several years been, and still then being an established merchant at Matamoros, purchased from Renshaw and Turner the greater part of this tobacco. Upon the evacuation of Matamoros by the troops of the United States, and the reestablishment of the Mexican authority, Mr. Belden rendered a true account of his whole stock of tobacco remaining on hand, to Don Pedro José de la García, the administrator of the Tobacco monopoly at Matamoros, who examined the same and stamped each particular bale with his official seal. At that time a portion of the tobacco was stored in the ware house of Juan Barota, but it was subsequently removed, with the knowledge and consent of the adminisarator, to the ware house of Mr. Belden.

During the next succeeding ten months Mr. Belden made repeated applications to the administrator for *guias*, to enable him to make sale of the tobacco, or, if he saw fit, to send it into the interior for sale; but all his applications were denied, the administrator constantly arresting that he has positive orders from the chief of the tobacco monopoly at Mexico not to allow the transportation or sale of a pound of the said tobacco. By this detention of the tobacco at Matamoros, Mr. Belden was deprived of the benefit of opportunities to sell it at a large profit, and its value was, moreover, greatly impaired by would and the depredations of worms. In July or August 1849, however, the administrator gave official notice to the American Consul at Matamoros, that *guias* would be granted for the sale and transmission to other places of all the tobacco imported into Matamoros during its occupancy by the Military forces of the United States, and *guias* were accordingly granted to Mr. Belden on his application to the administrator therefor. A portion of the tobacco was sold at Matamoros, and, on the 19th. of September 1849, Mr. Belden having obtained *guias* for the transportation of the residue, being 300 bales, by waggons to the cities of Zacatecaz, San Juan de los Lagos and Mexico these 300 bales, in the presence of the chief clerk of the administrator, and bearing the mark used by Mr. Belden, viz: the letter B pierced by an arrow, were put into waggons and sent off under the charge of Juan Harambourne. On passing out of the city it was again inspected according to custom. On the arrival of Harambourne, on or about the 20th. of October, 1849, with the waggons, at Saltillo, in the state of Coahuila, about 400 miles distant from Matamoros, and where he was obliged to stop to repair his waggons, he exhibited his *guias* to the proper officer, when, to his amazement the tobacco was ordered into the ware houses of the tobacco monopolists, and there detained, and this without any reason assigned. Harambourne returned to Matamoros and received from Mr. Belden the sum of \$1,000 as a just compensation for his services.

This seizure was followed by a decree of the District Court of Saltillo, declaring the tobacco forfeited, imposing a fine on

Mr. Belden of \$26,300 and directing the seizure of his store and entire stock of goods, and the arrest of imprisonment of his person.

Forcible possession was taken of his store and all the goods therein, he was turned into the street, and only escaped imprisonment by feeling out of the country. Having been engaged in an extensive business, debts to a large amount were due to him, which, in consequence of these acts of violence, he has been unable to collect and which, as well as his goods, are consequently probably lost.

For these injuries, Mr. Belden claims damages to the amount of \$314,684, 12 1/2. The evidence in support of his claims plenary and apparently conclusive, and the case is supposed to fall clearly within the 19th. article of the treaty of peace.

This case has long since been brought to the notice of the Mexican Government, through this Legation, but Mr. Belden, at length, despairing of obtaining redress by that means, last year presented a petition for relief to the Congress of the United States, and the Senate Committee on Foreign relations, to whom the petition was referred, made a report thereon which the undersigned will show to H. E. Mr. Bonilla, should be desire it. The undersigned has express instructions to ask from this Government redress to Mr. Belden, for the very serious injuries of which he complains.

A large proportion of this claim is for what may be denominated *speculative* damages, and may possibly be exaggerated.

Turner and Renshaw

This is the New Orleans firm named in the foregoing memorandum, by whom, through their agent Robert B. Kingsbury, the tobacco therein mentioned, was imported into Matamoros. After having made many vain applications for *guías* authorizing its removal into the interior for sale, despairing at length, of success, they sold it at Matamoros for what they could get, and now claim indemnity for the loss to which they were thus subjected, amounting to above \$14,000.

Another large quantity of tobacco was imported by Meurs. Turner and Renshaw into Tampico, on which they alledge that ther have sustained a further loss, from the like causes of about \$11,000, making in the aggregate about \$25,000.

These importations were made during the occupancy of the above mentioned places by the military forces of the United States, and are supposed to fall clearly within the provision of the 19th. article of the Treaty of Peace.

Wilkinson and Montgomery

In november, 1849, Meurs. Wilkinson and Montgomery imported from Roma, in the State of Texas 571 packages of assorted merchandize in conformity with the laws of the Mexican Congress, passed October 4th., 1845. Previous to the introduction of the merchandize, they caused to be delivered to the collector of customs at Camargo, manifest and invoice thereof in triplicate, duty certified. Duplicate copies of the manifest and invoice were inclosed in an envelope sealed and addressed to the Minister of Hacienda at Mexico and delivered to the collector to be forwarded, copies being furnished to Meurs. Wilkinson and Montgomery. These forms of law having been complied with, a permit was granted by the collector, for the introduction of the goods, and delivered to the commanding officer of the Custom House guards.

The goods were then brought across the river in boats, in full view of the officers of the customs and the guards, and without any objection on their part. Thé transportation across the river, which occupied several hours, being completed, the goods were placed in waggons which had been hired by Meurs, Wilkinson and Montgomery, for the purpose; but at the instant to hen the waggons were aboil to be driven off, a party of soldiers headed by two officers, took forcible possession of the waggons and goods. The goods have never been restored, and no reason for their seizure is known. Meurs. Wilkinson and Montgomery arrest their belief that they were the victims of a previously concerted fraud on the part of the public officers concerned in the transaction. They state their goods to have been worth \$47,366, which sum, with damages

and intended, they claim to be justly due to them, from the Mexican Government.

Alfred Conkling

Caja 97, rollo 18, vol. 17, p. 295-8.

3 de agosto de 1853. México. Alfred Conkling a William L. Marcy.

In my despatch N° 33, I acknowledged the receipt, by the hand of Mr. G. G. Goss, of a despatch, N° 12, from the Department of State, informing me of the appointment of the bearer to complete the American Cemetery near this city and the internment of the remains of the American officers and soldiers who lost their lives in this vicinity in the late war; and informing me also that Mr. Goss would “be guided by” any “counsel and directions in the premises”. I accordingly considered myself charged with the general superintendance of the work to such extent as might seem to be necessary, and, of course, as having authority to give “directions” with respect to it: and if I had required any incentive, in addition to my sense of official obligation, to the faithful execution of my duty, I should have found it in the lively interest I took in the work. I very soon discovered, however, what seemed to me an almost invalid aversion on the part of Mr. Goss, to my interference on my part.

There was one point nevertheless on which I resolved not to yield to him, and that was the form of the epitaph to be engraven on the monument. I was impelled to this resolution by the early discovery of a remarkable deficiency of refinement and good taste on the part of Mr. Goss, and by some suggestions of his own on this point. For example, he proposed to commence the inscription with the words, “In memory of the *dead* who *fell*” andc. I accordingly prepared an inscription in the form following, which I copy, not on account of any merit that I am disposed to ascribe to it, but merely as a matter of justice both to Mr. Goss and

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myself, and to the end that you may the more perfectly understand the case.

“To the memory of the American soldiers who perished in battle and by disease, in this vicinity, during the years 1847 and 1848, and whose bones, collected by order of their Government are here interred.

Requiescat in pace.
1853”

Of this I banded a fair copy to Mr. Goss, and told him distinctly that I must insist on his adopting it, without change, unless by the insertion of the words “officers and” before the word “soldiers”, which, however, I did not consider advisable. Although Mr. Goss received this “direction” with evident marks of displeasure, Y really entertained scarcely a doubt that he would follow it. But the work having been completed within a day or two past, and this being the last opportunity I was likely to have, during the continuance of my mission, to communicate with the Department on the subject, I deemed it advisable this afternoon, to drive to the cemetery for the purpose of inspecting the work, and regret to say, I found the inscription on it of so objectionable a character, as, in my judgement, to render it my duty to give you a description of them, in the hope that for the credit of the country, my successor may be instructed to have them effaced, and their place supplied by a more suitable epitaph. They are in very respect discreditable. In point of mechanical execution and of arrangement they are by far the worst I ever saw. But the most serious objection is to the form of the inscriptions. They are on opposite sides of the monumnet, and one of them is as follows: “The remains of 750 are here interred under an Act of the American Congress. 1853”. In addition to the evident impropriety of this language, there is, in my judgement, a strong extrinsic objections, in the fact that for reasons which Mr. Goss will doubtless explain, the number mentioned forms but a small proportion of those to whom it refers; in so much that I advised Mr. Goss not to mention the number of skeletons collected, even in his report.

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In the United States the cost of the required alteration would not, I presume, exceed 8 or 10 dollars, but I learned on my return from the cemetery, this afternoon, my inquiry of a stone cutter, that it would cost here 45 or 50 dollars; a quarter dollar per letter being the charge for engraving.

I have the honor...

Caja 97, rollo 18, vol. 17, p. 299-301.

4 de agosto de 1853. México. Veracruz, México. James Gadsden a William L. Marcy.

Le comunica de su llegada al puerto, después de un confortable y tranquilo viaje de 70 horas desde Nueva Orleans. Esa misma tarde (cinco en punto) abordarán la diligencia para la ciudad de México. Desea aprovechar la primera oportunidad para ser acreditado y entrar en el ejercicio de las responsabilidades de su misión. El secretario Cripps ha llegado a la capital, según se le ha informado.

Caja 97, rollo 19, vol. 18, p. 9.

8 de agosto de 1853. México. Alfred Conkling a William L. Marcy.

With my despatch N° 45 I had the honor to transmit a copy of my note to the Minister of Foreign Relations written in pursuance of instructions contained in your despatch N°16 relative to an alledged act of murder and robbery committed upon the brothers Ogle; and with my despatch N° 54, I forwarded a copy of the answer of His Excellency, promising investigation.

I have now received from him an additional note on the subject, a copy whereof I have the honor herewith to inclose.

With great respect...

Caja 97, rollo 18, vol. 17, p. 301.

6 de agosto de 1853. México. Manuel Díez de Bonilla a Alfred Conkling. (Anexo al despacho 61.)

El infrascrito Ministro de Relaciones Extr., tiene el honor de acompañar a S. E. el S. Alfredo Conkling Enviado Exto. y Ministro Plenipo de los Estados Unidos de América, copia de la comunicación que con fecha 3 del actual le ha sido dirigida por el Ministro de Justicia, con respecto a las diligencias practicadas por el Sor. Gobernador del Estado de Tamaulipas, en averiguaciones de los hechos relativos a los Ciudadanos de su Nación Daniel A. Ogle y Juan Santiago su hermano.

El infrascrito al poner lo expuesto en conocimiento...

Caja 97, rollo 18, vol. 17, p. 302.

23 de julio de 1853. México. Comunicado del Ministerio de Justicia, Negocios Eclesiásticos e Instrucción Pública al Ministerio de Relaciones.

E. S. por el Gobierno del Estado de Tamaulipas con fecha 23 de julio anterior se dice a este Minist^o lo que copio.

E. S.—Obsequiando la nota de V. E. fecha 11 del corriente en que se sirvió transcribirme la que en 6 del mismo le dirigió el E. S. Ministro de Relaciones, y en ella la del Env^a Ext^a y Ministro Plenip^o de los Estados Unidos de Norte América, sobre el robo que se dice hecho a los Ciudadanos de su Nación Daniel A. Ogle y Juan Santiago del mismo apellido, y homicidio perpetrado en la persona del último en el mes de enero del presente año y a seis leguas de distancia de la Villa de Aldama de este Estado, he dispuesto en uso de la facultad que concede a este Gobierno la ley de 11 de mayo último, que por el S. Prefecto del Distrito del Sud se levante la información sumaria correspondiente a los hechos relativos a la Villa de Aldama y que lo mismo se haga por el del Norte respecto de los de la Villa de Mier y la Frontera procediendo ambos con la

mayor brevedad y reserva a la indagación de los delitos y delincuentes y responsabilidad en que hayan incurrido las autoridades de las mismas poblaciones por su apatía o tolerancia, dando cuenta a este Gobierno con las informaciones, para que en su vista ponga a los delincuentes a disposición de sus respectivos jueces, en la inteligencia de que este Gobierno cuidará de que administren pronta y cumplida justicia, imponiendo en su caso el con [sic] digno castigo, y exigiendo la restitución e indemnización que piden los interesados, si hubiere lugar. Al contestar a V. E. debo asegurarle que este Gobierno no había tenido noticia alguna de aquellos acontecimientos, hasta hoy que ha recibido la respetable comunicación de V. E. y que si antes la hubiese tenido, ya hubiera procedido como hoy lo verifico. Y tengo el honor de trasladarlo a V. E. como resultado en parte de su nota de 6 de julio ppº.— Dios y Libertad. México. Agosto 3 de 1853.— Larres. E. S. Ministro de Relaciones.

Caja 97, rollo 18, vol. 17, p. 302-303.

9 de agosto de 1853. México. Alfred Conkling a William L. Marcy.

Yesterday I received a note from his Excellency the Minister of Foreign Relations in which he assures me of the receipt of certain information that active preparations are on foot and going forward at San Francisco for the unlawful invasion of Sonora, one of the States of the Mexican Republic. Of this note I have the honor herewith to inclose a copy from which you will see that this news has excited no little sensibility on the part of the mexican Government. I returned an answer to the note without delay, a copy of which is also herewith transmitted.

I have the honor to be...

Caja 97, rollo 18, vol. 17, p. 306.

8 de agosto de 1853. México. Manuel Díez de Bonilla a Alfred Conkling.

El inf^o ministro de Relaciones Exts. tiene la honra de dirigirse a S. E. el S. Alfredo Conkling, Enviado Ext^o y Ministro Plenip^o de los Estados Unidos de América, para poner en su conocimiento que acaba de recibir de Sn Francisco de California, la noticia, de un origen seguro y fidedigno, de que en aquel fuerte, muy lejos de abandonarse los preparativos de una nueva expedición contra Sonora, siguen haciéndose con la mayor actividad habiéndose ya reunido para ella, en una casa de comercio del mismo Sn. Francisco, un fondo de más de docientos mil pesos, que se dice será muy pronto aumentado hasta el doble de esa suma, y continuándose del mismo modo el alistamiento de gente.

En tal virtud el inf^o cumple, sin pérdida de momento, con el deber de comunicarle a S. E. el Sor. Enviado de los Estados Unidos, con la viva esperanza, de que siendo los fines que tiene por objeto dicha expedición tan contrarios al derecho internacional y a los tratados de amistad que unen a ambas naciones, como ciertamente lo serán a los leales sentimientos del Gobierno de los Estados Unidos, a quien el inf^o suplica a S. E. lo comunique por primera oportunidad, se servirá dictar las órdenes que el caso demanda para desbaratar esos planes que contra una nación amiga se fraguan en su territorio, y que, si bien por lo relativo a la reunión y depósito de fondos, es posible se conserven en sigilo, no sucede lo propio con el alistamiento de gente, su armamento y su equipo. Como en ello se interesa la humanidad y la conservación de la paz y benévolos [*sic*] que felizmente existen entre ambos países, y que por parte de México jamás serán relajados [*sic*], el inf^o espera igualmente que, atendida la justicia de los motivos y para utilizar el tiempo, S. E. el S. Enviado de los Estados Unidos tendrá también la bondad de dirigir sobre el asunto la comunicación que estime oportuna al S. Gobernador de California, a quien desde luego la remitirá este Ministerio por un correo extraordinario, si el Sor. Conkling no tubiere [*sic*] en ellos inconveniente.

Al decirlo a S. E. el inf^o tiene la honra...

Caja 97, rollo 18, vol. 17, p. 306-7.

8 de agosto de 1853. México. Alfred Conkling a Manuel Díez de Bonilla.

The undersigned has had the honor to receive the note of His Excellency under this day date and assures His Excellency that he has read it with no little concern. It conveys to the undersigned the first information he has received of the preparations therein mentioned for the unlawful invasion of Sonora by his countrymen. The undersigned will certainly lose no time in transmitting this information to his Government in the full assurance that it will not fail to exert, if necessary all the powers with which it is invested by the constitution and laws of the Union to cause its neutral obligations to be faithfully fulfilled.

With respect to the request contained in His Excellency's note, that the undersigned will immediately address a letter to the Governor of California relative to his duties in the premises the undersigned begs leave to observe, that he entertains no doubt that all the public functionaries in that State whole duty it is to enforce the laws of the United States for the prevention of this criminal enterprise, are already fully aware of that duty and duly impressed with the obligation it imposes.

If they had not yet interposed at the date of the communication from California mentioned by His Excellency the undersigned is of opinion that it was because no overt act had been committed sufficient to justify such interposition, and that they will not fail, at the proper time, to exert their authority to defeat the apprehended enterprize to punish those by whom it was undertaken, His Excellency is moreover, probably aware that the undersigned is to be directed of his public character in the course of a few days by the arrival in the mean time of his successor. under these circumstances the

undersigned is of opinion not only that it is necessary for him to interfere directly in the manner suggested by His Excellency, but that it would be indiscret in him to do so. his Excellency may not assumed, however, that the undersigned will not fail to call the attention of General Gadsden to the subject on his arrival in this Capital, which the undersigned expects this evening or at latest tomorrow.

The undersigned avails himself...

Caja 97, rollo 18, vol. 17, p. 309-310.

12 de agosto de 1853. México. Alfred Conkling a William L. Marcy. (Despacho núm. 63.)

On the eight instant I received from Mr. Charles L. Denman a letter in which he informed me of his appointment as Consul of the United States at Acapulco, and requested me to obtain for him the usual exequatur, for which, however, not having been furnished with his commission, I did not feel myself warranted in making an application. I therefore answered his letter to this effect. I have the honor to transmit herewith, a copy of his letter and of my answer thereto.

I have the honor...

Caja 97, rollo 18, vol. 17, p. 311.

28 de julio de 1853. Acapulco. Charles L. Denman (cónsul en Acapulco) a Alfred Conkling. (Anexo al despacho núm. 63.)

Le informa de su llegada a Acapulco y le pide que obtenga y envíe, tan pronto como sea posible, el *exequatur* correspondiente para asumir su cargo a la brevedad.

Caja 97, rollo 18, vol. 17, p. 311.

11 de agosto de 1853. México. Alfred Conkling a Charles L. Denman. (Anexo al despacho 63.)

Your letter of the 28th. of last month came duly to hand on the 8th. instant. Being then in the daily expectation of the arrival of my successor, I deferred my answer in the expectation that he would bring your commission as Consul at Acapulco. He arrived last evening and informs me that it has not been sent. It has been usual, and, as I supposed the uniform practice of the Government to send Consular Commissions to the Minister to be by him forwarded to the Consul with the Exequatur indorsed thereon. I imagine, indeed, that it is only on the exhibition that an exequatur is ever granted. Possibly, as I suppose, the commission may have been inadvertently handed or sent to you. If so, you would do well to send it to Genl. Gadsden.

I have the honor...

Caja 97, rollo 18, vol. 17, p. 312.

17 de agosto de 1853. México. Alfred Conkling a William L. Marcy. (Despacho núm. 64.)

I have the honor to acknowledge the receipt of your despatch N^o 24, together with the sealed and open letter of recall therein mentioned. The next morning, I addressed a note to H. E. the minister of Foreign Relations in pursuance of your instructions, to which H. E. returned an answer a copy whereof, and also of my note, are herewith inclosed. This being the day appointed for my audience of leave, I repaired to Tacubaya with the Secretary of Legation and Mr. Lec, and presented my letter of recall to His Excellency the President, accompanying its delivery with an address, to which he made a suitable response.

Caja 97, rollo 18, vol 17, p. 312.

11 de agosto de 1853. México. Alfred Conkling a Manuel Díez de Bonilla. (Anexo al despacho 64.)

The Undersigned has the honor to transmit herewith to His Excellency the Minister of Relations, an open copy of a letter of recall, and, in obedience to the orders of his Government, to request that he may be informed at what time His Excellency the President will receive the undersigned for the purpose of delivering the original letter.

The undersigned avails himself of this opportunity to reiterate...

Caja 97, rollo 18, vol. 17, p. 313.

17 de agosto de 1853. México. James Gadsden a William L. Marcy.

Owing to the interposition of feast and Festival days since my arrival in Mexico; the President deferred the audience for my reception as American Minister to this day- Herewith You have a Copy of My brief address on the occasion with the President Santa Anna response.

Having had no official conference with any of the high functionaries of this Government it would be difficult even to speculate on what may be the influences of My Mission, on a favourable adjustment of the pending issues between the two Republics. Could any reliance be placed on the information of Private individuals professing to be in the confidence of the Governing Authorities. The United States hold the lever of satisfaction arrangement in their own hands. These intimation however may be but feelers to penetrate the probable designs: and the extent of liberality the American Government may be disposed to exercise for the attainment- From all quarters however there is but one Report that the Mexican pretensions will be high; and that the opposition will not be so much against the surrender of additional Territory; as to the amount to be paid- The Mexican Executive however, on the contrary,

it is believed in the extremities of the Treasury and the withdrawal of the late Minister of Finance would seem to Justify the opinion relies for immediate relief, more on other sources than on any liberal change in its commercial policy. Although this may possibly be favourable to an early adjustment of one border disagreement. It only imposes the greater discretion on the part of the American Minister: to avoid, by precipitancy the exposing of any great anxiety on the subject. I was gratified at your having suspended for the present, all instructions on the Hargous and Sloo Grants, as I am satisfied that those private claims, should not be permitted to interfere with the more important public matters of the adjustment of Boundaries: and of getting exonerated from the responsibilities of the 11th. article of the Treaty of Guadalupe.

With a hope of being able by the next Steamer to communicate more fully on matter of interest connected with My Mission.

I remain...

Caja 97, rollo 19, vol. 18, p. 10-11.

19 de mayo de 1853. Charleston, Carolina del Sur, Estados Unidos. James Gadsden a William L. Marcy.

Although the journals of the day; have for some time past associated my name with a Ministerial appointment still a communication from Secretary Davies, and Your Official Advisement of my appointment to Mexico; have taken me by surprise. This unsought for manifestation of Confidence on the part of the President is *his desire that I should accept* leaves it, as the only alternative, however distrustful of my ability to fill his and the public expectation in this responsible mission. I fear however that it will not be in my power to proceed to my destination at as early date, as the Executive may consider important. As You desire however that I should name the probable time, at which I will be ready to repair to

Mexico, without submitting myself to inconvenience I would designate the last June, so as to take the earliest July Steamer for Vera Cruz.

Very respectfully.

Caja 97, rollo 19, vol. 18, p. 3.

19 de mayo de 1853. Charleston. Memoranda de James Gadsden, que acompaña a su aceptación para el cargo al que se le designa.

With Mr. Gadsden's letter of the 19th. of May 1853.

Memoranda accompanying acceptance of Mission to Mexico.

It is hoped that the period named for my departure will not conflict with the public interest for it will most probable require that time for the Executive, and Cabinet to arrange the detailed instructions, defining the policy in our relations with Mexico. With all due deference it is asked; whether it be important to have a Minister accredited at Mexico before Santa Anna is firmly seated in place; and has organized his Government. Any suspicion of interference in the internal political arrangements of that Country (as on a former occasion) the American executive it is presumed would be pleased to avoid. With the Government *de facto*, we will have to negotiate in the mean while the Documents: Maps, etc. etc. which may be important to enlighten me in my mission could be collected and arranged in your department for my study and examination so as to be prepared to act as early a date as practiceble, after my arrival at the City of Mexico. Besides the services and counsel of the secretary of Legation will be important to me; and Mr. Cripps could not be advised of his appointment in California, and receive instructions to join me in Mexico at a date earlier than that named. His address is Nappa California and it is hoped that you have forwarded his letter of appointment, with orders to join me without delay in Mexico.

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As I am a novice in the Diplomatic Department it would be gratifying to have all the relations of my place well defined, and particularly those disbursement of moneys; and to the extent in which they would dwolve on me. Will all the expenses of the Mission over and above my outfit and salary have to be arranged through the Minister. Is a private Secretary entitled to compensation and to what amount. Are there any allowances for Quarters; or House and Office accomodations. Indeed the most minute instructions on these and other points which may be more familiar to you, would be important, as to me and have always been very exact in the named arrangements with the Government. Anxious to adhere to the appropriation and rule of action [ilegible] the distribution.

The outfit I presume I should be entitled to draw for from that place before my departure. If so you will oblige me by a draft on the subtreasury of Charleston at your convenience in the future my drafts for mission expenditures in Mexico will be duly honored. Or has the treasury Department an Agent there on whom I may check. Minute information on all these points will enable me to meet my public obligations to the satisfaction of myself and of the Department in Charleston. My compensation as Minister commences with my acceptance as is the case in all public employment.

Do you expect a personal conference before I take my departure, if so I can proceed to Washington in anticipation of the July Steamer from New York. Otherwise if you could be kind to transmit my instructions to this city, I may intercept the Vera Cruz Steamer at Havannah or at N. Orleans as I find most expeditions or convenient. I could send a letter with the Attachè for the Documents to Washington as you may direct.

I trust there is no costume prescribed for a minister at court, but that each may be dessed in the simplicity of this own tastes.

James Gadsden

Caja 97, rollo 19, vol. 18, p. 5.

31 de mayo de 1853. Charleston, Carolina del Sur. James Gadsden a William L. Marcy.

I have the acknowledge Your communication of the 24th of may accompanied with my Commission as Envoy to Mexico I am busily engaged in arranging my affairs, so that I may report at Washington the period named for my departure. I should like to be put in possession of all the documents, memours, maps etc. which may be important to the faith full discharge of my responsibilities; which the Becorous at the City, can afford. The treaties with Mexico referring back to the earliest negotiations after the establishment and recognition of her Nationality, would be indispensable. In addition a Volume or Volume's of all the Treaties made between the U. S. and the other powers of the World: particularly those with Spain, might be valuable to refer to.

Caja 97, rollo 19, vol. 18, p. 6.

21 de junio de 1853. Charleston, Carolina del Sur. James Gadsden a William L. Marcy.

At much labor and many sacrifices my affairs have been so arranged as to justify my leaving this City for Washington; preparatory to my departure for Mexico on Saturday the 25th. instant, so as to reach the Capital by Monday evening. If it is still deemed important that I should repair to the destination of my mission at the earlies practicable date; I have to express a hope that you will have so matured the instructions under which I am to act; so as to enable me to retrace my steps in time to avail of the Steamer from New Orleans to Vera Cruz on the 14 of july. There are considerations which might make it an accommodation to me to pospone my departure for the Steamer of the 1, or 14 of August. On th which we can confer on my arrival at Washington.

Caja 97, rollo 19, vol. 18, p. 6.

12 de julio de 1853. Charleston, Carolina del Sur. James Gadsden a William L. Marcy.

From information received from Montgomery it will be hazardous to remain here later than the 22 instant. The Alabama is very low, and if I have to take the Stages from Montgomery to Mobile; at least 8 days are necessary to ensure my connection with the Vera Cruz Steamer, which leaves N. Orleans on the 1 August. I will expect therefore any further communication you may have for me by the 21 of the month.

The more that I have examined into the boundary question; and the importance of securing the right of way for a road, written any line which may, by Treaty Stipulations, be secured; the more am I impressed with the importance of employing Mr. Gray as suggested in my note to you to verify & extend his observations through the disputed territory to the Gulf of California. If you accord to these views Mr. Gray should be instructed to confer with me and to direct his examinations to the point which may be indicated by me - You will readily perceive the force of my suggestion; in being well prepared with that Geographical information which will aid in fixing a boundary securing to this Country all that we may require in that quarter. If Mr. Gray is employed as you propose it will be found most advisable for him to proceed to El Paso via San Antonio, Texas; & if so if he may join me at Charleston & we can confer freely on the object of his examination on our joint journey as far as New Orleans.

Caja 97, rollo 19, vol. 18, p. 6-8.

19 de julio de 1853. Charleston, Carolina del Sur. James Gadsden a William L. Marcy.

In the absence of all communications from you, I have to report that my arrangements are made for leaving Charleston on Saturday the 23 July, so as to reach N. Orleans in time for the Vera Cruz Steamer of the first.

Any further communication you may have to make me it would be most advisable to address to that place. I hope you have given a favourable consideration to my suggestions in relation to the services of Mr. Gray. It may be very important to me that he should not only verify his former examinations of the Country but extend his observations to the Gulf of California. There are some points on the latter Inland sea: connected with the access to, and navigation of the Colorado on which I would much desire information. Any settlement of the boundary question which may involve a change from that defined (or rather so indefined), in the Treaty of Guadalupe; should be made so discreetly, and advisably as to preclude the necessity of a revisal hereafter.

We must settle on a *Line* which will give satisfaction to both parties: preclude steep blowhood fends by securing to the U. States what she requires, and as you probably know she will have.

Caja 97, rollo 19, vol. 18, p. 8.

23 de julio de 1853. Charleston, Carolina del Sur. James Gadsden a William L. Marcy.

Informa que ha recibido las cartas 3 y 4 con el mapa preparado por Gray.

Está listo para dejar la ciudad el día de mañana, rumbo a Nueva Orleáns y embarcarse el día primero hacia Veracruz.

Caja 97, rollo 19, vol. 18, p. 9.

4 de agosto de 1853. Veracruz, México. James Gadsden a William L. Marcy.

Le comunica de su llegada al puerto después de un confortable y tranquilo viaje de 70 horas desde Nueva Orleáns. Esa misma tarde (cinco en punto) abordarán la diligencia para

la ciudad de México. Desea aprovechar la primera oportunidad, para ser acreditado y entrar en el ejercicio de las responsabilidades de su misión. El secretario Cripps ha llegado a la capital, según se le ha informado.

Caja 97, rollo 19, vol. 18, p. 9.

17 de agosto de 1853. México. James Gadsden a William L. Marcy.

Owing to the interposition of Feast and Festival days since my arrival in Mexico; the President deferred the audience for My reception as American Minister to this day. Herewith You have a copy of My brief address on the occasion with the President Santa Anna Response.

Having had no official conferences with any of the high functionaries of this Government it would be difficult even to speculate on what may be the influences of My Mission, on a favourable adjustment of the pending issues between the two Republics. Could any reliance be placed on the information of Private Individuals professing to be in the confidence of the Governing Authorities. The United States hold the lever of satisfaction arrangement in their own hands. These intimations however may be but feelers to penetrate the probable designs: and the extent of liberality the American Government may be disposed to exercise for the attainment. From all quarters however there is but one Report that the Mexicans pretensions will be high; and that the opposition will not be so much against the surrender of additional Territory; as to the amount to be paid. The Mexican Executive however, on the contrary, it is believed in the extremities of the Treasury and the withdraw of the late Minister of Finance would seem to Justify the opinion relies for immediate relief, more on other sources than on any liberal change in its commercial policy. Although this may possibly be favourable to an early adjustment of one border disagreements: it only imposes the greater discretion on the part of the American Minister: to avoid, by

precipitancy the exposing of any great anxiety on the subject. I was gratified at your having suspended for the present, all instructions on the Hargous and Sloo Grants, as I am satisfied that those private claims, should not be permitted to interfere with the more important public matters of the adjustment of Boundaries: and of getting exonerated from the responsibilities of the 11th. article of the Treaty of Guadalupe.

With a hope of being able by the next Steamer to communicate more fully on matter of interest connected with My Mission.

I remain...

Caja 97, rollo 19, vol. 18, p. 10-11.

17 de agosto de 1853. México. Observaciones hechas por James Gadsden durante la presentación de sus credenciales. (Anexo al despacho de la fecha.)

Copy of Remarks made by Minister on Presentation of Credentials.

It is with high satisfaction that I present My Credentials as Envoy and Minister from the United States of North America to the Republic of Mexico. Familiar as is Your Excellency with the history and composition of the Government which I have the honor to represent. Federal in the relations of the Sovereign States which constitute it: and popular in the influences which convey the official Authority to declare that popular will: it is appropriate on this occasion, that I place at Your disposal the Inaugural of Our late elected President, who with an unanimity; contemporaneous to that which recalled You to preside over the Nationality of Mexico; has been charged with the high responsibilities in the Government of a Sister Republic. That Inaugural, with the letter of Credence herewith presented, affirms in language neither to be mistaken on distrusted the Friendly relations which it is the desire of President Pierce to promote with the Nations of the Earth.

IN a mutual respect for each other Nationality. In a just observance in their Spirit and letter of compacts and Treaties. In the reciprocations of a Free and Progressive Commerce; and in the Kindred alliances which invariably follow in the train of enlightnened intercourse; does the Government of the United States recognize the most reliable guarantees of harmony at home and Peace abroad. These Relations of Good Will and Fellowship it is the peculiar interests of the Neighbouring Republics of North america to maintain; whose very contiguity may prove the stimulating causes of border irregularities; threatening an interruption which it is the policy of both powers to anticipate. What would be the higher destinies of these Two Sister Republics so gifted with all the elements which can establish Rational Liberty.

Individual prosperity, and National Greatness, Animated by the Kindred pulses of fraternal neighbourhood; no Sagacity can foreshadow and no obstacles impede.

The United States of North America therefore, through its accredited Representative avails himself of this opportunity to Greet the Republic of Mexico in a Spirit of Amity of Justice, and of Peace.

Comentario al final

The Secretary of Foreign Relations did not send me as expected a copy of the Presidents response in time for Mr. Conkling's departure. I presume it will appear in the Universal of Tomorrow but not on time probably for the Steamer.

J. Gadsden

Caja 97, rollo 19, vol. 18, p. 11-12.

22 de agosto de 1853. Washington. William L. Marcy a James Gadsden.

Sir:

In the despatch N^o 35 of your predecessor, a request was presented on behalf of Mr. José María Toscano, a citizen of the United States, for the return of certain valuable papers

which were entrusted by him to Mr. Letcher while Minister at Mexico; and by the same used as vouchers in support of a certain claim held by Mr. Toscano and presented to the Board of Commissioners on claims against Mexico.

The files and records of the late Board have been examined but no mention of Mr. Toscano's name or claim appears. Possibly his case was involved with that of some other person, and the name of the latter if made known to the Department may be found. Should Mr. Toscano be enabled to furnish any additional information, the search for his documents will be renewed.

Your letter announcing your arrival at Vera Cruz, and the despatches from the Legations numbered to 60 inclusive have been received.

I am...

National Archives. Records of the Department of State. *Diplomatic Instructions. Mexico*. Vol. 16, doc. núm. 5, p. 417-418.

23 de agosto de 1853. Washington. William L. Marcy a James Gadsden.

Sir:

I transmit, herewith, the Commission of Charles L. Denman, Esquire, appointed United States Consul for the port of Acapulco. You will enclose the same to the Mexican Minister for Foreign Relations and request from him the usual Exequatur, which, when received, you will forward to Mr. Denman with his Commission.

I am...

National Archives. Records of the Department of State. *Diplomatic Instructions. Mexico*. Vol. 16, doc. núm. 6, p. 418.

23 de agosto de 1853. Washington. William L. Marcy a James Gadsden.

Sir:

I transmit, herewith, the Commission of I. T. Pickett, Esquire, appointed United States Consul for the port of Vera

Cruz. You will enclose the same to the Mexican Minister for Foreign Relations, and request from him the usual Exequatur, which when received, you will forward to Mr. Pickett with his Commission.

I am...

National Archives. Records of the Department of State. *Diplomatic Instructions. Mexico*. Vol. 16, doc. núm. 7, p. 419.

31 de agosto de 1853. México. James Gadsden a William L. Marcy. (Despacho núm. 2.)

Sir:

I have now the honor of enclosing you the Original of President Santa Anna Response on the presentation of My Credentials which was not received in time for las Steamer Accompanied you have enclose.

- Document A. Being an Inventory of the Archives and property of the Legation with a Copy of the Secretary receipt.
- B. Contains a Copy of a letter from the Mexican Minister of Foreign Relations: with the reply of this Legation on the subject of unlawful design on Sonora.
- C. Contains a communication from Manuel Díez de Bonilla on the reponsabilities of Consuls with a reply.

Document D. Contains a correspondence of this Legations with the Mexican Minister of Foreign Relations: also the Report and Statecmts of the Consul at Acapulco; on alledged violence on the property and person of the Captian and Crew of the American Scooner B. J. Allen; with a correspondence with the Consul on the same subject.

This correspondence seems unnecessarily voluminous but I was committed into it by statements form the Consul: which seemed so violent and extra Judicial in the require the immediate interposition of the American Minister to arrest any further outrage on the Person of American Citizens. The result has been to bring us back to the legal investigations of the whole affair civil and criminal and where the Consul should

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have commenced before an appeal to the Minister. In the last communication of His Excellency's Manuel Díez de Bonilla; you will see that every assurance was given that Justice should be awarded and that should it appear from the investigation that the Commandant in the process of arrest, had in any degree resorted to violence and personal abuse that he will be made to atone. Orders have been transmitted to remove the confined to a more appropriate appointment and to extend to them the comforts than situation may need- The Minister would have released them under the Consular Security for their appearance at Const. bu the last offence comitted of fleeing from trial; and carrying with them a Mexican Official (Celador) in charge of the Vessel; involves corporal punishments, which precludes under the Mexican Laws the privilege of Bail.

Document E. Contains a Communication of the Mexican Minister of Relations on a very unpleasant occurrence which is reprinted to have taken place at Passo del Norte; in an attempt of several Citizens of the U. States headed by an American Judge on Justice of the Peace to rescue a comrade confined in the Guard House of a Mexican Fort. Also my response to the same.

There seems to be an increasing disposition on the part of lawless trespassers to disturb the tranquility of our Frontier; and to commit the Government of the U. States into acts of hostility with the Mexican Authorities. The Higher Authorities in this Capital manifest much sensibility on these unauthorized designs of Private Individuals: and on the depredations committed by Indians. Exaggerated accounts of the disolation of Chihuahua and parts of Coahuila by the savages are circulated daily so as to reach the American Minister Office.

The Mexican President pretensions: are reported by those near his person to be very extravagant. I have not in accordance with my Judgement seen the opportunity as yet to take the initiatory in any negotiations promising a satisfactory adjustment of the issues between the two Governments.

Precipitancy as intimated in my communication N^o 1, may complicate the whole negotiation. United therefore better fortified with reliable information it has been deemed advisable that the opposite party first betray or indicate their views and expectations. The occurrences recited above, though to be requitted; may possibly be made available in the negotiations for extension of Territory; on a consideration paid; as the most effectual measure to settle past differences and to place the friendly relations of the two Republics on the most durable foundation.

I have found the duties of this Mission for the brief period they have devolved on me very onerous; and greatly complicated by the multiplicity of private claims which had engaged the attention of my Predecessor; and of *many others*, of which I have had the intimation and advocacy the practice which seems to have attained at this Mission. Whether from personal sympathies towards supposed aggrieved fellow Countrymen; or from an erroneous sense of official obligation to receive and advocate private claims, before they have passed the examination; or received the confirmation; or condemnation of a Tribunal of first resort, has transformed the Minister into a mere Counsellor and attorney at Law.

It has exercised, in my Judgement and therefore it is that I have brought the subject to your notice: a very *injurious* and *suspicious* influence on the higher relations between the Representative of one Government and those who are charged with the responsibilities of the other, where he is accredited.

It has already gathered around this Mission a swarm of importunate and complaining sufferers; and who seem to be increasing in a geometrical ratio, as fortunate Predecessors have been recognized and received in the ratio arithmetically. On the present occasion there are indications exteriorally of a multiplication of these claims to a fearful extent under an expectation that the Government at Washington is well advised of their existence, and that liberal provision will be made for their payment in any new treaty of adjustment, which the Minister may have the good fortune to conclude. You may this recognize the embarrassments which even American Citizens

may thus throw in the path of an early and satisfactory adjustment of the pending issues with the Government of Mexico.

There seems therefore a propriety and even necessity of a discrimination to be made between the private claims of Indiudlas which should demand the interference of Ministers and those to be adjudicated by authorized Tribunals; and what *class of even these*, so disposed of involves the responsibility of Ministerial interposition. I should be pleased to have the view of the Attorney Genl. of the U. States on this subject not as a matter of possible releif to myself, but as to the appropriate Ministerial Relations to be maintained with the Government where accredited.

Before closing this communication another noteo from the MInister of Foreign Relations on the disposition of an additional force on the Frontier; was received a copy of which with My reply will be found in document F. This document with another from the same source; on the obligations and claims under the 11th. article of the Treaty of Guadalupe Hidalgo; but which wwill require some time to consider and respond to; will open the negotiation with which I am charged; and which although somewhat complicated; I trust I may bring to an early termination to the satisfaction of both Parties.

Respectfully...

Caja 97, rollo 19, vol. 18, p. 12-16.

17 de agosto de 1853. México. Discurso de Santa Anna pronunciado durante la presentación de las credenciales de James Gadsden.

Con satisfacción recibo la carta del Exmó. Sr. Presidente de los Estados Unidos de América en que acredita a V. E. como su Enviado Extraordinario y Ministro Plenipotenciario. Veo en ello una prueba de los deseos que animan a S. E. de cultivar las buenas rellaciones que felizmente existen entre ambos países y que tan apreciables son a este Gobierno.

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Ni puede dejar de serle igualmente muy satisfactorio el discurso del digno Jefe que hoy rige los destinos de una República amiga, y V. E. se sirve presentarme, cuando en tan grave y solemne documento se ven expresos los sentimientos de tan sincera y leal amistad de tan juiciosa política, y de una benevolencia, que en los cálculos de la prudencia debe ser por precisión una fuente de los más fecundos resultados para la paz continental. Esta manifestación, junto con la de los sanos principios que V. E. asienta, así como el modo tan acertado con que esas relaciones hayan de ser conducidas, habrán por precisión de añadir nuevos vínculos a los que hoy, por un favor del cielo, ligan tan estrechamente al país que V. E. representa con la República Mexicana. Reconociendo yo esos principios como los únicos capaces de afirmar sólidamente las relaciones internacionales, penetrado de su conveniencia entre pueblos limítrofes y que como hijos de un mismo continente deben reputarse como hermanos; y persuadido de la inmensa influencia que en sus destinos ejercería la fiel observancia de tan sana doctrina. México ciertamente no se apartará de ellas y por lo mismo, me complazco en asegurar a V. E. que hallará cerca de este Gobierno todas las facilidades que su misión demanda a la vez que una perfecta buena fe en la mas estricta adhesión a la justicia y a los tratados, y el muy sincero empeño de precaver cuanto pueda dar margen a diferencias, haciendo que cada día sean mas íntimas y fructuosas las relaciones entre ambos países; relaciones que me prometo serán afianzadas sobre bases indesquiciables de amistad constante, de mutuo respeto y recíproca conveniencia, a cuyo fin se dirigirán mis incesantes desvelos. Tal es la política que mi administración profesa respecto de todas las naciones, y la observará gustosa con la República hermana que V. E. dignamente representa, según lo exigen las necesidades de una inmediata vecindad y sus bien entendidos intereses.

México pues por mi medio, se complace en corresponder el saludo que le hacen los Estados Unidos de América por conducto de V. E. con el mismo espíritu de amistad y justicia.

Caja 97, rollo 19, vol. 18, p. 16.

Se anexa al documento anterior el inventario de los archivos y las propiedades de la Legación de los E.E.U.U. en México, formulado el 18 de agosto de 1853.

Aparece la lista de libros, informes de periódicos con documentos de comisiones, documentos ejecutivos, anales del Congreso, observaciones magnéticas y meteorológicas, un compendio del VI censo de población. Todos ellos abarcan la fecha desde 1826 a 1851. Se incluye el recibo de dos mesas, el sello oficial, las bases de archivo, papelería y cifra de la legación.

Caja 97, rollo 19, vol. 18, p. 16-19.

20 de agosto de 1853. México. Manuel Díez de Bonilla a James Gadsden.

El infrascrito, Ministro de Relaciones Exteriores, tiene la honra de informar a S. E. el Sr. Santiago Gadsden, Enviado Extraordinario y Ministro Plenipotenciario de los Estados Unidos de América, que por comunicaciones oficiales del Sr. Gobernador del Estado de Sonora y del Capitan del puerto de Guaymas, se halla instruido este Gobierno de que el 30 de junio último llegó a dicho puerto el Bergantín Goleta Inglesa *Arrow*, procedente de S. Francisco de California que movido el expresado Capitán del puerto de Guaymas por la gravedad de las noticias que por conducto seguro se tienen tiempo ha, de la expedición que en el referido de S. Francisco se prepara contra Sonora, practicó una información al arribo de dicho Bergantín, de la cual ha resultado la confirmación, fuera de toda duda, de la intención que se tiene de invadir aquella parte del territorio nacional, y que uno de los principales promovedores de ella, es William Walker, quien juntamente con Enrique Watkins y algunos otros sospechosos, venían de pasajeros en el mismo Bergantín. Formando esa averiguación, en conjunto con los antecedentes que se tenían, una evidencia bastante para considerar pernicioso su permanencia en la

República, las autoridades de Guaymas, con arreglo a las leyes de ella, han rehusado permitirles que se internen, hasta obtener una resolución superior.

Siendo uno de los primeros y más sagrados deberes de todo gobierno, el de conservar la tranquilidad en el interior, no menos que la seguridad del territorio confiado a su celo, siempre que en el exterior se viese amagada de alguna manera, de conformidad con las leyes de esta República, su gobierno ha aprobado la conducta de dichas autoridades, y prevenídoles que inmediatamente hagan salir del país a los precitados individuos, por haber razones bastantes para considerarlos como sospechosos de complicidad con los aventureros que intentan invadir a Sonora; cuya resolución comunica el infrascrito debidamente a S. E. el Sr. Enviado de los Estados Unidos de América, para su conocimiento.

El que suscribe debe al propio tiempo llamar la atención de S. E. a las notas dirigidas por este Ministerio en 17 y 20 de mayo, y 8 del presente, a la legación que es hoy a su digno cargo, relativas a esta misma expedición, reprobada por todo principio de moral y derecho, que lejos de abandonarse continúa robusteciéndose, según los informes diversos y seguros que se reciben. El infrascrito espera que, según manifestó a este Departamento en nota de 8 del actual el antecesor del Exmo. Sr. Gadsden llamaría también su atención a este negocio; y el que suscribe se promete que penetrado S. E. de su urgencia y gravedad instruirá de él a su gobierno, a fin de que se sirva dar las órdenes que estime oportunas a las autoridades de la Alta California para que vigilen y eviten todo motivo de queja, impidiendo las reuniones y preparativos que para formar expediciones con objeto de invadir las fronteras y territorio de una República amiga, se hacen en el de los Estados Unidos; cuyas medidas espera México de la rectitud, buena fe y amistad del gobierno de los mismos Estados.

El infrascrito...

Caja 97, rollo 19, vol. 18, p. 20-1.

22 de agosto de 1853. México. James Gadsden a Manuel Díez de Bonilla.

The Undersigned Envoy and Minister from the United States of America: in acknowledging the receipt of the note of the 20th. of August, from his Excellency M. D. Bonilla Minister of Foreign Relations: deeply regrets the additional information received from the authorities of Sonora of the suspected designs of certain Individuals, supposed to be Citizens of the United States, and who had recently landed from the British Brigantine *Arrow* at the Port of Guaymas, against the tranquility and Peace of the Territory of Mexico.

The Undersigned takes pleasure in confirming the assurance of his Predecessor, in a previous correspondence on this unpleasant subject, that the President of the United States, on the advises which have already been transmitted to him, will act promptly in the premises as a further evidence of the disposition of the Government of the United States to maintain unimpaired its neutral, and friendly relations with the Republic of Mexico: The Undersigned has forwarded the substance of His Excellency's communication to the Federal Authorities in California and has every confidence: that on the receipt of the same they will resort to all Legal and Effectual means to arrest any combinations, or movements of a hostiles character by lawless Individuals from that State of the Union.

With high consideration
James Gadsden

Caja 97, rollo 19, vol. 18, p. 22-3.

20 de agosto de 1853. México. Manuel Díez de Bonilla a James Gadsden.

En vista de diversas comunicaciones que se han dirigido al inf^o Ministro de Relaciones Exteriores, relativas a que algunos individuos pretenden se les tenga por cónsules extranjeros, siendo así que no están dados a reconocer por este

Ministero, lo cual solo puede tener origen de que los propietarios de tales destinos los hayan encargado interinamente de sus funciones, ha resuelto el Exmo. Sr. Presidente a fin de cortar este abuso que se circulen órdenes para que en lo sucesivo no se consideren como Agentes Consulares de las Naciones amigas sino aquellos que expresamente estén admitidos por el Supremo Gobierno y cuyos nombramientos se comuniquen oficialmente por esta Secretaría a los Sres. Gobernadores de los Estados para que lo hagan a las autoridades respectivas; no permitiéndose que nadie ejerza esos destinos por sustitución sino es con permiso expreso del Supremo Gobierno.

Como esta medida debe contribuir eficazmente a la conservación de las buenas relaciones de los Cónsules extranjeros por las autoridades locales y al más expedito ejercicio de las funciones de aquellos se promete el inf^o que será secundada por los Señores Representantes en las Naciones amigas, librando sus órdenes en el mismo sentido a los Cónsules y Vice Cónsules de ellas en la República; y para que este punto quede perfectamente arreglado, el inf^o tiene la honra de suplicar a S. E. el Sr. Santiago Gadsden, Enviado Ext^o y Ministro Plenip^o de los Estados Unidos de América se sirva remitirle una lista de los Agentes Consulares de su Nación, cuyos nombramientos se estiman vigentes en la actualidad, para que se hagan las comunicaciones respectivas, a fin de que solo a esos individuos se les reconozca en su carácter Consular.

Concluye diciendo que si hubiera algún cambio en el nombramiento de cónsules o sea suprimido cualquier consulado americano se le haga saber.

Caja 97, rollo 19, vol. 18.

22 de agosto de 1853. México. James Gadsden a Manuel Díez de Bonilla.

Le envía una copia de la lista de cónsules nombrados y acreditados ante el gobierno de México, según se le había pedido.

Considera que los cónsules deben ser advertidos, por medio de una circular, de las providencias tomadas por el Presidente respecto de las obligaciones consulares.

While the Undersigned recognizes the propriety against any irregularities in the commercial Relations of the Two Republics which may originate with unauthorized Individuals; He presumes that this precaution is not designed to operate to the exclusion of those Consular Agents whom it is made the "duty of American Consuls to appoint at other Sea Ports in their respective Consular Districts to which American Vessels resort" Provided, that in compliance with the duty so imposed. "The Consul is to be responsible for the Official act of the Consular Agent thus appointed, and that he gives notice to the Minister of the U. States near the Government of the Country where he resides: to the local Authority of the place, and to the State Department at Washington of such appointment."

The importance of this class of Consular Agents, at the subordinate Ports of a Consular District to which American Vessel may resort His Excellency Don Manuel Díez de Bonilla cannot but recognize.

With High consideration James Gadsden.

Caja 97, rollo 19, vol. 18, p. 24-5.

23 de agosto de 1853. México. James Gadsden a Manuel Díez de Bonilla.

The Undersigned Envoy Extraordinary and Minister Plenipotentiary from the U. States of America has been most unexpectedly called upon to present to His Excellency Manuel Díez de Bonilla Minister of Foreign Relations an act of violence on the Person of the Captain and Crew of an American Vessel by a subordinate official at the Port of Acapulco, which he feels a confidence will command the earliest notice, and reprehension from the Higher Authorities of the Mexican Government.

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The acting and accredited Consul of the U. States in a report, which is sustained in a copy of a correspondence with Thomas Moreno, Military Commander at Acapulco; and by a statement signed by many of the most Respectable American Residents at the same Port Represents that the American schooner B. L. Allese bound from Realigo [*sic*], from whence he had a regular clearance for San Francisco in California put into the Port of Acapulco, on or about the 13th. instant to land several Passangers; received on board for said purpose; and which agreement indicated the declared intent of the Master of said Vessles (though from the ignorance of the Captain, and probable neglect of a Mexican Official; it had been omitted to be endorsed on the clearence issued at the Mexican Port of Realejo) to *touch at the intermediate Port of Acapulco*; and which of late has become a common resort for most of the Steamers and American Vessels navigation the Pacific. It further appears that the Schooner B. L. Allen encountered severe weather on her voyage and was so disabled on approaching the aforesaid Port as would have fully justified the Captain (independent of his obligations to the Passangers) to seek the security and hospitality of even a hostile harbor of Refuge which undert the imperative circumstances named have been invariably respected by every Maritime Country. After a visit from the Captain of the port; and the reconciling on Board of an unpleasant disagreement between the Captain and Passengers in the presence and through the interposition of the Alcalde and Consul the Passenger were permitted to land.

Immediately afterwards threatening reports were set in circulation, and communicated from several sources (apparently with design) to the Captain, of the intent of the Mexican Authorities, to proceed against the Vessel and crew accompanied with a recommendation to avail of an opportunity (however hazardous in the disabled condition of his Vessel) to *escape from menaced and sever personal penalties*. That the Captain thus terrified left the Port in continuation of his original voyage; with all the hazardous of a disabled Vessel was pursued by a force previously held in readiness by the Commandant captured beyond the harbor in the language of

the Commandant. "*Fuera esta de Bahía*" forced back taken possession of the Captain confined on board and the Mate and Crew incarcerated in common with state criminals in a contracted dungeon in the Castle, with no comforts, with restricted and inadequate subsistence and denied all communication with the Consul.

A further appear that this denial was given with the full knowledge of the fact that many of the Crew were laboring under diseases incident to the climate, and which required immediate Medical relief. That on a repeated application from the Consul to the Commandant Thomas Moreno, to have the liberty to confer with those of his fellow Citizens thus incarcerated and suffering the privilege as an act of delayed humanity was conceded to the Professional vocation as medical attendant but still absolutely and arbitrarily denied in his official relations as Consul. However indidious may be the precautionary regulations of the Mexican Government, in the Port frequented by foreign shipping; and which it is not the wish or intent of the Undersigned at this time to question, but on the contrary rather to aid in their appropriate observance on the part of the American Mariners. Yet the Undersigned feels constrained on the present occasion to affirm that no infraction through ignorance or neglect of a mere form of Respect for a Port regulation, where no intention of fraud was meditated can justify the violent arrest, and incarceration of American Citizens as criminals, without even a hearing before a recognized Judicial Tribunal; or an opportunity afforded an American Official to examine the Charges, or confer with the arraigned and who was appointed on the part of the U. States and accredit at the Port where the outrage has been committed for the avowed object of protecting the American commerce and American Citizens engaged in the same, against *unlawful* unusual and arbitrary Military proscription.

Under these proceedings and with the solemn obligation imposed by the Public declaration of the President of the United States. That every Citizen of the U. States in the peaceful pursuit of his lawful vocation has a claim on his Government for protection from personal violence *abroad* as

well as at home The Undersigned Envoy Extraordinary and Minister Plenipotentiary feels called upon to demand of the Government of Mexico the immediate release of the Captain and Crew of the Schooner B. L. Allen from the lawless incarceration inflicted on them. That the Vessel be discharged from seizure and be permitted to depart on her Legitimate Voyage for San Francisco, and that ample pecuniary retribution be awarded for any injury to the property and persons sustained by the parties aggrieved.

The Undersigned feels more justified and emboldened in the expectation of a favourable response to this appeal to the High Authorities of the Government of Mexico as in accordance with the recent reciprocations of friendly professions, that its future relations with a Sister Republic will be regulate and maintained in a spirit of Amity Justice and Peace.

Caja 97, rollo 19, vol. 18, p. 25-8.

13 de agosto de 1853. Acapulco, México. Copia de la nota del capitán del B. L. Allen, antes de ser tomado prisionero y tres notas de la tripulación detenida en el Castillo. (Anexo al despacho 2.)

Dr. Billings. Sir: You will please call on board the schooner B. L. Allen to see a couple of sick seamen I have on board. Charles Hill.

U. S. Consul. Sir, I am under the painful necessity of informing you that the crew and myself are cast in prison and we have not had anything to eat since yesterday noon, and which is more, we are put in the Fort for nothing. We have not killed any one, nor have we fought any one, and I should like to know why we are treated in this manner.

Here we are put in a small suffocating place along with about one hundred nations, we have not a place to lay ourselves, excepting a nasty dirty, filthy ground floor, and we would

be extremely obliged to you if you would try to remove us in a little comfortable quarte and give us a little nourishment.

Signed C. Hill.

Mate of the Schooner B. L. Allen.

Castle of Acapulco, 15th. August 1853.

U. S. Consul. Sir. I am sorry to enter so many complaints to you, and I hope you will pardon me for so doing. Sir I am well aware that you have great deal to attend to. One of the men is very sick and I think he sould be removed.

I. Hill.

Castle of Acapulco. 15 august 1853.

U. S. Consul Sir. One of our men is very sick at present and can get no attendacne & mercy knows how soon we all may be in the same condition if not removed from here soon. There are abou hundred men in this arched prison about fifty feet long by fifteen wide, and if all the ventilation were summed up we should have a hole of about 8 square feet through a 7 foot wall. We have committed no depredation to deserve this, to be put in a place where we can breathe nothing but putrified air. If our Captain has forfeited a breach of law by coming in here wihtout making out a protest we are not to suffer for that.

Isaac Wilson.

Caja 97, rollo 19, vol. 18, p. 29-30.

14 de agosto de 1853. Acapulco. E. S. Billings a Tomás Moreno, Comandante Militar.

Solicita permiso para abordar la goleta *Allen* y entrevistar-se con el capitán.

Asimismo, pide autorización para visitar a la tripulación presa en el Castillo.

Caja 97, rollo 19, vol. 18, p. 29.

Sin fecha. Acapulco. Tomás Moreno a E. S. Billings.

Le niega el permiso para entrevistarse con el capitán y la tripulación del *Allen*, pues el Capitán de puerto los puso inco-
municados, y hasta que no se les tome declaración no se pue-
de hablar con ellos; ofrece que “cuando ya estén
comunicados” le dará aviso.

Caja 97, rollo 19, vol. 18, p. 29.

14 de agosto de 1853. Acapulco. Billings a Tomás Moreno.

*Le informa que ha recibido su nota del mismo día 14 en
respuesta a su solicitud para entrevistarse con el capitán y la tri-
pulación del Allen, solicitud que es negada.*

Es necesario el decir a V. E. que insisto sobre este dere-
cho que tengo como Cónsul de los E. U. para hacer visitas a los
ciudadanos de mi nación, cuando requieren estos mis consejos
como es el caso en este particular y protesto solemnemente en
nombre de mi gobierno en contra de toda declaración que
sea tomada de estos señores no estando yo presente.

Caja 97, rollo 19, vol. 18, p. 29-30.

15 de agosto de 1853. Acapulco. Tomás Moreno a Billings.

Informa haber recibido la nota del día 14 donde Billings
insiste en entrevistarse con la tripulación del *Allen*, le contesta
que “estando prevenido por las leyes de mi nación que toda
persona encauzada permanezca incomunicada mientras no
rinda su declaración, le repito que no es conveniente acceder
a su pretención, [*sic*] porque sería incurrir en responsabilidad
si lo verificara.

Le expreso de nuevo, que terminada la práctica de las ci-
tadas declaraciones, será obsequiado su pedido...”

Caja 97, rollo 19, vol. 18, p. 30.

15 de agosto de 1853. Acapulco. Billings a Moreno.

Comunica que del Castillo le vuelven a dar aviso que uno de los tripulantes del *Allen* está gravemente enfermo y requiere de un médico; pidiendo, “en nombre de la humanidad” que se den los pasos correspondientes para que se le administre atención médica.

Caja 97, rollo 19, vol. 18, p. 30.

15 de agosto de 1853. Acapulco. Tomás Moreno a Billings.

Le dice que ya ha prevenido al fiscal que pase a ver al marinero que se encuentra enfermo en el Castillo, pues es el único que puede hablar con los incomunicados.

Caja 97, rollo 19, vol. 18, p. 30.

16 de agosto de 1853. Acapulco. Billings a Gadsden.

Le envía los siguientes documentos:

1. *Acta de hechos concerniente a la goleta B. L. Allen, firmada por ciudadanos americanos del lugar, dirigida a James Gadsden.*

2. *Copia de las notas, oficiales y privadas, intercambiadas entre el consulado y el comandante general del puerto; así como de las cartas que le fueron dirigidas por los tripulantes de la embarcación.*

These documents will give you a true insight into the case and so I abstain from any further remarks, only I would call you your attention upon the fact that the enforcement of the law of this country at this port are always bearing the stam of hostility, persecution & arbitrarily against all foreigners in general, but particularly agaisnt American Citizens.

I have the honor to be...

e. S. It is now the third day that the Captain and crew are in prison and I am still denied the privilege to communicate with them.

Caja 97, rollo 19, vol. 18, p. 31.

16 de agosto de 1853. Acapulco. Mann, Van Brunt, Huston, Payne y Leverger, ciudadanos norteamericanos residentes en Acapulco, a James Gadsden.

The undersigned citizens of the U. S. resident in this port, solicit the attention of your Excy. to the outrageous proceedings of the authorities of this place respecting, the seizure of the American Schr. B. L. Allen bound from Realejo to San Francisco.

The said Schr. registers from Massachusetts and her owners are well known as most respectable citizens & merchants in that state and have their authorized agents in San Francisco.

She sailed from Realejo on this voyage with some passengers which the Captain had agreed to land at Acapulco, but by some mistake his papers were taken out there for San Francisco direct, and on his arrival here the Schooner was seized for the informality in his shipping documents arising entirely from the Captain's ignorance of the stringent laws of this Republic.

Notwithstanding this agreement with the passengers on board (the bad weather he had encountered destroying his sails particularly losing his jib and foresail & having neither sail cloth nor twine on board to repair or renew them) He was obliged in every event or circumstance to resort to the nearest port to refit and repair. on his entrance the vessel received the customary visit and the passenger having some dispute with the Captain the same was satisfactorily adjusted before the Alcalde in presence of our Consul.

The morning following the Captain of the Port demanded the presence of the Captain and his crew to give declaration

in reference to the entrance of the vessel into this Port when it became immediately known by means of the Inspector of the port, a German named Hotzinger; that it was the intention of the authorities to seize the said Schooner. making the following declaration to the U.S. Consul. "This Capt. is in a bad fix & his vessel will be seized, and the only way he can get out of is by shipping his cable and proceeding to sea".

The same reports became current in the town and it was evident that the wish of the authorities was to frighten the Captain and induce him to take this illegal step. Being thus frightened and undoubtedly having received advice from the intelligent community that the only chance to save his vessel was by immediate flight, and that he could not expect sympathy or justice from the officials here, he get under weigh. From the very want of sails which he had put in here to obtain, he was not able to accomplish this object, & the Captain of the Port with the armed force which to the knowledge of the undersigned, he had in readiness did proceed and capture her.

Since which the Captain is a prisoner on board the mate and crew imprisoned in the fortress of this place, and deprived of all communication with our consul & their compatriots and a portion if not all of them are in ill health and deprived of medical attendance asked for. The captain & crew of this Schooner being thus in confinement and unable to address your Excellency; We the undersigned make this representation in their behalf.

The declaration which will probably go forward *extorted* from the Captain and crew is not entitled to credence.

Very Respectfully...

Caja 97, rollo 19, vol. 18, p. 32-3.

26 de agosto de 1853. México. James Gadsden a Manuel Díez de Bonilla.

The Undersigned had hoped to have received, ere [*sic*] this, a favourable reponse from His Excellency Manuel Díez

de Bonilla Minister of Foreign Relations; to the note he had occasion to address him on the 23rd. instant in relation to the violent proceedings against the American Schooner L. B. Allen and crew in the Port of Acapulco. Subsequent information from equally reliable sources, but with the details of more aggravated personal abuse, confirm all the statements then submitted on the *unusual* and *arbitrary* military inflictions, on the part of the Commandant Moreno, in virtue of the brief authority with which he is charged in that Port.

The outrage against the Persons of the Captain and crew, it appears was committed on or about the 14th. of the month, and although the Vessel and cargo are in possession of the Mexican Authorities, and threatened with confiscation, for alleged infractions of a Port regulation, which were committed under forced circumstances, recognized by even countries at open war, and solemnly ratified in the 10th. Article of the Treaty of the year 1851 between Mexico and the United States. Yet the Captain, and crew still remain in confinement as felons, and are denied all communication with the Consul. On the 19th. instant the Consul writes, I have the honor to inform Your Excellency that the declaration of the Crew of the Schooner B.L. Allen was not taken until the *fifth day* of their confinement in the fortress, during which time they were deprived of all communication, and the Captain who was under the same circumstances, not interrogated until the 6th. day. They are still prisoners, but now allowed to have intercourse with their friends. I was this morning requested to attend at the Custom House, to hear read a document containing the confiscation of the Vessel, and Cargo, and was asked if I had any objections to the property being divided according to the laws of the Country. My answer was that I protested against any such act, upon which I was informed that I had no right to protest, but merely to refuse my consent, upon which they replied that the affair in that case would be sent before a competent Tribunal that is the District Judge. In this state the affair at present remains, and I earnestly request the advice of Your Excellency as to how I shall proceed. It can be proved beyond doubt, that in boarding the Vessel by

armed force, without the slightest sign of resistance, on the part of the Captain and Crew, they were ill treated and beaten with swords, one of them receiving a severe wound on the arm. I forgot to mention that I was allowed to be present when the declarations were taken, as a friend and not as U.States Consul”.

In another letter the Undersigned is advised that a portion of the Cargo, of the Allen is British property, and the writer says “the affair must become seroius”. The Captain of the Port it appears presented, and snapped a pistol at the Masters head, fortunatley it did not go sevear that he said afterwards. “That he might thank heaven, it did not, or he would have blown out his brains. The Master, Mate, and all were struck several times with swords, although there were no arms on deck, and not a shadow of resistance, on the contrary they threw out a rope for the Boat when she came along side They are still all Prisoners”.

These extraordinary proceedings, independent of their unusual violence and inhumanity are directly at variance with the 14th. article of the Treaty of 1831, to which reference has been made above in evidence of another infraction of the same instrument in this aggravated case of outrage against the person and property of American Citizens, and which from the tenor of a previous remonstrance the Undersigned had felt confident would have been promptly, and satisfactorily redressed by the Higher Authorities of the Mexican Republic, even to the inflictin of a merited reproof on the Officer thus comprometting the friendly relations between the two Governments.

On a former occasion, when a highly respected Governor of a Border Territory presumed in over treat , and on his own responsibility in the assertion of an undoubted claim under the Treaty of Guadalupe, to threaten the interposition of Military power, the President of the United States promptly reproved the interference, and thus anticipated the complaints of the Mexican Government as to unlawful proceedings so well calculated to interrupt the peaceble relations between two friendly powers, which it has been the desire of the President of the United States to maintain.

The Undersigned feel therefore a renewed assurance therefore that the Government of Mexico will no longer hesitate in applying the appropriate remedy to the unlawful and summary proceedings against the Captain, the crew and the property of the American Vessel L. B. Allen as suggested in his communication of the 23rd. instant to his Excellency Manuel Díez de Bonilla, and thus arrest any probable disturbance of the friendly relations subsisting between two neighbouring Republics which has been so alarmed by this unusual and usurped instance of violence on the part of s Subordinate Functionary of the Mexican Government.

Caja 97, rollo 19, vol. 18, p. 34-36.

27 de agosto de 1853. México. Manuel Díez de Bonilla a Santiago Gadsden.

El infrascrito, Ministro de Relaciones Exteriores ha tenido la honra de recibir la nota que S. E. el Sr. Santiago Gadsden, Enviado Extraordinario y Ministro Plenipotenciario de los Estados Unidos de América, le ha dirgido con fecha 23 del que rige, relativamente al caso de la Goleta Americana B. L. Allen; y habiéndola visto con el interés que merece, se ocupaba ayer en darle la respuesta debida, cuando llegó a sus manos la posterior nota de S. E. del 26, sobre el mismo asunto, con cuyo motivo suspendió aquella hasta manifestar verbalmente en la conferencia de esta mañana las razones que sobre dicho asunto reproducirá en la presente nota.

Por la que en copia se acompaña del Capitán del puerto de Acapulco verá S. E. que cuando se practicaba por aquella Aduana una información sumaria al fin de que debidamente legalizase el Capitán de la Allen los motivos de su arribada a aquel puerto se fugó con su buque, llevándose a su bordo al Celador puesto en él para su custodia; los efectos de unos pasajeros que iban a S. Francisco y a quienes dejó en tierra, lo mismo que los documentos y facturas de su carga y el Rol y Patente de sanidad.

Algunos de los hechos que acaban de mencionarse, se hallan corroborados por el contenido de la misma nota del Exmo. Sr. Gadsden, primeramente citada, y aunque se alega ignorancia por parte del Capitán referido para justificar la comisión de ellos, S. E. sabe bien que esa ignorancia no puede presumirse en un marino que intenta pasar de un puesto a otro de una misma Nación, y que no excusa legalmente, supuesto que existiese; lo cual hay motivo para dudar atendida la criminal conducta observada después.

Pero sea de ellos lo que fuere, y sin pretender el infrascrito calificar esos hechos, por ser ajeno de sus atribuciones si debe decir que importando todos ellos infracciones a la ley y algunas de muy grave carácter; solo pueden conocer en ellos los tribunales de justicia a que están sometidos, y ante los cuales deben hacer valer los interesados todos sus descargos, y que por tanto, no está al alcance del Gobierno substraer de su jurisdicción el caso de que se trata. Pero con arreglo a sus facultades, ha hecho las excitativas que corresponden a fin de que se administre pronta y cumplida justicia; teniendo en ello tanto mayor empeño, para que si se ha incurrido en alguna demasía por parte de las autoridades de la República que en el asunto hayan intervenido, se repare cumplidamente y de conformidad se han transcrito las notas del Exmo. Sr. Enviado de los Estados Unidos al Ministerio de la Guerra, para que por él se mande practicar una información sobre los hechos a que en ellos se hace referencia.

El infrascrito, al concluir esta nota, no puede dispensarse de añadir una observación para contestar la que se ha servido hacerle el propio Sr. Enviado de los Estados Unidos, comparando el hecho que da lugar a esta nota con otro ocurrido en un punto de la frontera de que pretende S. E. deducir una conclusión desfavorable para el Gobierno de Mexico. Mejor meditado S. E. advertirá que no hay paridad alguna en el origen y objeto de uno y otro caso, siendo el de Acapulco, por lo que hasta ahora aparece, tan conforme al derecho internacional y a los tratados entre México y los Estados Unidos, como contrario fue el primero a aquel y a éstos, según se demostró a su debido tiempo. Pero de todos modos, Mexico hace

la justicia debida al Gobierno de los Estados Unidos en aquel asunto, y el infrascrito asegura a S. E. que si por la secuela del juicio que se sigue en Acapulco, o por la información mandada practicar, resultare que ha habido culpabilidad en alguno de sus funcionarios, cualesquiera que fuere su categoría, será, no solo reprendido como indica S. E. sino castigado con todo el rigor de las leyes.

El infrascrito se promete de la rectitud y justicia del Exmo. Sr. Enviado de los Estados Unidos de América, que se persuadirá de la que guía al Gobierno de la República en este negocio, y al manifestarle...

Caja 97, rollo 19, vol. 18, p. 36-7.

14 de agosto de 1853. Acapulco. Informe del capitán de puerto de Acapulco al Secretario de Relaciones Exteriores sobre el asunto de la Goleta Allen.

Tengo el honor de elevar al superior conocimiento de V. E. que a las cuatro y media de la tarde del día 13 en el acto de sentarme a comer se me presentó en la casa de mi habitación el 2º Comandante de Celadores D. Joaquín Moreno, participándome que el Pailebot Americano B. L. Allen a la ancla en este puerto de arriba procedente de Realejo, su Capitán Charles Gill, se fugaba dando a la vela llevándose a su bordo el Celador Don Carlos Rodríguez empleado puesto por la Aduana marítima para custodia de este buque, dejando en esta Aduana los documentos y facturas de su carga; en esta Capitanía su Rol y Patente de sanidad y en tierra un pasajero con su esposa que iban para San Francisco, cuyos efectos se llevaba. Acto continuo al parte del Comandante de Celadores, pasé a la playa, heché [sic] mi bote a la agua y tripulado de la mejor manera posible, marché seguido de otro bote bien equipado a dar caza a este buque lo que conseguí merced a la poca brisa que soplabá tomándolo fuera de la punta del grifo sobre el bajo grande, evitando con esto que este Capitán con su buque, regular velero, dejase burladas las leyes del país y

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autoridades de este Puerto. Esta fuga la emprendía este Capitán con su buque en circunstancias de estársele practicando una información sumaria mandada practicar por el Sr. Admor. para legalizarse debidamente los motivos de su arribada a este puerto, que aunque estaba a la vista el mal estado de su velamen, cuya causa única alegaba para su arribada se encontraban a bordo tres pasajeros sin más destino que el de este puerto lo cual acreditaron ellos con sus recibos firmados por el capitán los que fueron presentados al Admor. por los interesados, causa suficiente para que el Sr. Admor. hubiese pedido a esta Capitanía levantar la información que trató de frustrar. Inmediatamente que fondié este buque a las ocho horas de la noche di un parte semejante a ése al Sr. Gral. D. Tomás Moreno, Comandante General y Gobernador de esta plaza poniendo a su disposición la marinería con su capitán pasando los primeros al Castillo quedando el Capitán a bordo custodiado por diez hombres y el mismo guarda que se llevaba quedando el buque a disposición del Sr. Admor. de la Aduana por este cargo con objeto de que el Sr. Gral. como Gefe superior ordenase lo que debiera hacerse en tales circunstancias. En su consecuencia ha resuelto se practique inmediatamente por el 2º Teniente de la Armada Don Guadalupe Aquileta la correspondiente sumaria al Capitán y Marineros y que se le dé cuenta con lo que resulte.

Caja 97, rollo 19, vol. 18, p. 38.

27 de agosto de 1853. México. Manuel Díez de Bonilla a James Gadsden.

El infrascrito, Ministro de Relaciones Exteriores, cumple con el deber de incluir a S. E. el Sr. Santiago Gadsden, Enviado Extraordinario y Ministro Plenipotenciario de los Estados Unidos de América, las copias adjuntas de dos comunicaciones que los Sres. Jefe Político del Cantón Bravos y Comandante Militar de aquella frontera, dirigieron al Sr. Gobernador del Estado de Chihuahua, quien las ha transmitido a este Gobierno.

Por ellas se impondrá S. E. del suceso que ha tenido lugar en la Villa del Paso del Norte, donde una partida de cincuenta americanos asaltó la guardia de la cárcel para sacar de ella violentamente a un paisano suyo que se hallaba preso.

Uniéndose a la gravedad del hecho mismo, la notable circunstancia de que una autoridad americana, como lo era el Juez Henders, fuese uno de los que componía la partida que perpetró aquel atentado; y habiendo por otra parte fundadas razones para temer que se repita, el infrascrito considera que la basta poner sencillamente lo ocurrido en conocimiento de S. E. el Sr. Enviado de los Estados Unidos para que dándolo a su gobierno se sirva dictar las órdenes que estime oportunas, a fin de evitar que en la frontera se repitan tan graves y sensibles sucesos y que ellos sean causa de que en manera alguna se altere en ella la buena armonía que México desea cimentar sólidamente con los Estados Unidos de América.

El infrascrito...

Caja 97, rollo 19, vol. 18, p. 39.

18 de julio de 1853. Paso del Norte, Chihuahua, México. Jefe político del cantón Bravos y comandante militar de la zona al gobierno del Estado de Chihuahua.

Las autoridades de esta Villa consignaron a un americano a la cárcel y como la guardia es cubierta en ésta por la tropa de mi mando, se me avisó por el Alcaide que le decía uno de los presos Mexicanos que entiende el inglés que habían estado unos americanos hablando con el preso y le habían ofrecido hecharlos fuera en la noche; y aunque dudé mucho de tamaño atentado, siempre le ordené así se lo manifestase al Sr. Jefe Político yéndome para el cuartel y guardia para ponerlos con vigilancia. Así que estuve asegurado de estar en buen orden, me retiré a mi casa y a cosa de las dos de la mañana se me presentó uno de los guardas montado, dándome parte de que una partida de americanos se dirigía a la guardia; aun no se me acababa de dar el parte, cuando oí los tiros y corriendo hacia el

punto de donde salían, llegué y me encontré con una partida; la misma que me había anunciado el referido guarda, en ambas puertas del cuartel y la guardia, roto el fuego por éstos y la tropa duró muy poco por que los agresores emprendieron la fuga, quedando uno muerto frente del cuartel y otro gravemente herido a distancia de ochenta pasos, suponiéndome que como es natural haya algunos heridos y aun esto se confirma porque el guarda D. Cipriano Aguilar me dió parte de que pasaron cinco heridos y un muerto a más de los dos antes dichos. Es muy probable Exmo. Sr. que no pare aquí lo que acaba de suceder pues capitaneaba una partida el Lic. Henders, Juez de Distrito de la otra banda y como éste fue el muerto por haber sido quien se aproximó más, con una hacha que al efecto traía para deserrajar las puertas del cuartel y cárcel, es muy probable que esto traiga otras consecuencias más funestas. Sé a no dudar que pasan de cuatrocientos los americanos que hay en la otra banda desde el Brazito hasta el Fuerte frente a esta población, todos de los que marchan a Californias y, como si éstos han sido, en su mayor parte, los que dieron el asalto a la Guardia, casi es seguro que si ahora vinieron cincuenta, vuelvan los que consideren necesarios.

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Caja 97, rollo 19, vol. 18, p. 40-41.

31 de agosto de 1853. México. James Gadsden a Manuel Díez de Bonilla.

The undersigned in acknowledging the receipt of His Excellency Manuel Díez de Bonilla's communication of the 27th. instant, has to express his deep regret at the occurrence at Passo del Norte which His Excellency recites and which seems to have terminated so fatally to two of the Party concerned. The information shall be conveyed to the President of the U. States at the earliest date, and the Undersigned avails of this occasion to renew the assurance given by himself as well as by

his Predecessor, that all legal means will be adopted by the Executive of the U. States to preserve peace and friendly neighbourhood on the Frontiers.

The recently appointed Governor of Mexico with an additional Military Force must have arrived at his destination with full authority and power to overawe the lawlessness of Individuals and to enforce a policy which it is the interest of both Contiguous Republics to observe and promote.

Caja 97, rollo 19, vol. 18, p. 42.

31 de agosto de 1853. México. Manuel Díez de Bonilla a Gadsden.

Habiendo este gobierno recibido aviso por conducto seguro y fidedigno de que una División Militar de los Estados Unidos compuesta de dos mil hombres de línea se dirige a la frontera de esta República con el fin de ocupar una parte de su territorio de que ha estado constantemente en posesión hasta el presente, el Exmo. Sr. Presidente aunque sin poder dar excusa en informe en medio de la paz y buena inteligencia que felizmente reina entre ambas Naciones y sus respectivos Gobiernos, ha creído deber ordenar al infrascrito Ministro de Relaciones Exteriores, diriga a S. E. el Sr. Santiago Gadsden, Enviado Extraordinario y Ministro Pleipotenciario de los Estados Unidos de América la presente nota, suplicándole se sirva darle sobre el particular las explicaciones conducentes.

El infrascrito se lisonjea que ellas servirán para estrechar...

Caja 97, rollo 19, vol. 18, p. 42-43.

1 de septiembre de 1853. México. James Gadsden a Díez de Bonilla.

The undersigned has the honor to acknowledge the receipt pf his Excellency Manuel Díez de Bonilla's note of the

31st. ultimo and perceives with surprise the apprehensions conveyed by his Excellency in his supposition us to the object of the U. States in reinforcing at this perios the Army of the frontier.

It is presumed, when His Excellency addressed the above, he had not received the communication of some date from the undersigned in which; and in anticipation of the information received by His Excellency from another but not more reliable source, mention is made of an additional military force; from the peace establishment of the United States; to accompany the Governor of New Mexico, so as to strengthen his ability to preserve order on the Frontier, and to aid in the fulfilment of other obligations imposed by the Treaty of Guadalupe.

His Excellency can not require any repetition of the past assurances of the undersigned of the desire and dtermination of the President of the United States to preserve the most friendly relations with the Republic of Mexico. That reposing in full faith on the recent response, to the same kindred sentiments from the President of Mexico, an increasing confidence is encouraged that no distrust can induce a change of policy on the part of His High Excellency which could impose justification of any other disposition of the American Troops, now on their march to the Frontier, that there for which they were designed, and to the accomplishment of which friendly relations they are to be most effectually be directed.

Caja 97, rollo 19, vol. 18, p. 44-5.

1 de septiembre de 1853. Washington. William L. Marcy a James Gadsden.

Sir:

Herewith I transmit to you, an extract from a despatch recently received at this Department from the Consul of the United States at Paso del Norte. It details the circumstances under which an act of great wrong and oppression was perpetrated by Mexican officials upon a California emigrant and

who, at the date of the Consul's letter is still incarcerated, upon the most trifling pretext.

In communicating the subject of this note to the Mexican government you will demand the prompt release of the prisoner unless serious and just grounds of accusation are preferred against him, in which event you will urge that a speedy and impartial be granted to him.

I am...

National Archives. Records of the Department of State. *Diplomatic Instructions. Mexico*. Vol. 16, doc. núm. 8, p. 419-420.

2 de septiembre de 1853. México. James Gadsden a William L. Marcy. (Despacho núm. 3).

Sir:

Herewith you have enclosed an application from Dr. William Foster of Saltillo, for the appointment of a U. S. Consul for the State of Coahuila. The petition which accompanies it and which is signed by many American and Foreign citizens endorse the importance of such a Representative and Protector of American interests in that quarter. I am inclined to favor the location of a Consul in all the States bordering on Texas and particularly since the decree reviving and imposing, under severe exactions; the interior duties. In the State of Chihuahua, such an officer may soe be found very important.

It would be more favourable however to our commercial Relations to dispense with all Consular appointments unless Americans of Firmness Character and Capacity, well informed on the obligations imposed by their Commissions can be secured. Our Commercial intercourse with Mexico under the New Tariff of high duties, and prohibitions, with the restraining regulations to enforce them, must for a time be embarrassing and promotive of litigations. The Mexican Government cannot or will not recognize the tendency of all high duties and particularly *prohibitions* to smuggling or contraband attempts in which American Citizens or Mariners claiming to be such, are tempted to participate to their full

share, in common with the subjects of other commercial nations. In the hazards of the enterprize, they all seem to claim protection against the responsibilities incurred on detection, and our Consuls in not exercising a proper discrimination, too frequently commit the Government in opposition to a las, instead of in those cases only of unjust administration of the law. The only remedy is in the *intelligence* and *firmness* of the Consul in extending the shield of protection to those American Citizens alone, who have been aggrieved and denied justice. Dr. Wm. Foster's references to the Hon. Preston King and Hon. B. Perkins with the letter herewith from D. N. Couch of the U.S. Army may prove a satisfactory recommendation to the State Department of his claims for the responsible place sought.

I avail of this occasion to draw your attention to the importance of forwarding to this Mission all the Commissions of recently appointed Consuls that their Execuadors [sic] may be obtained from the Mexican authorities.

Mr. Denman has been at Acapulco for some time but has not as yet been recognized for the want of the indispensable document on which application can be made for his recognition at this Port.

Caja 97, rollo 19, vol. 18, p. 45-6.

17 de septiembre de 1853. México. James Gadsden a William L. Marcy.

Herewith you have a Pronunciamiento proclaimed under the thunder of Cannon General Santa Anna and other *Benemérito* [ilegible] proclaimed "Serenísima Alteza" most Serene Highness with dictatorial powers. On the 19th. he is to be installed and sanctified by the Popes Nuncio, at Guadalupe; with 125 Grand Cruses. Commanderes and Caballeroes of the Order of Guadalupe as Great Grand Cross. The reestablishment of the Plan of Equala, and the Empire is to fellow the English Minister is quite decreture on

the occasion and Enquires whether I am to recognize the "Serenísima Alteza" without reference for instructions from our Government My reply was that the [Roza] could not be directed by any other name and that I did not feel the least interest or the least repugnance in his *tones* on the Chief whatever denomination His People or Governmnet thought to his town, provided he was sufficiently pleased with the joy as not to permit to disturb his peaceful relations between the two contiguous Governments. The little richman who attempted to interfere on a recent occasion seems disposed to make the recognition of "His Most Serene Highness" a legitimacy which he cannot with all his inimagined Diplomacy involve a plain Republican of neither the Hardor Soft Shell Dinasty.

Caja 97, rollo 19, vol. 18, p. 47.

Documento con fecha 16 de diciembre de 1853. México. Decreto que otorga poderes extraordinarios al Ejecutivo, firmado por Bonilla.

El Exmo. Sr. general Presidente se ha servido dirigirme el decreto que sigue:

"Antonio López de Santa-Anna, Benemérito de la Patria, General de División, Gran Maestre de la nacional y distinguida Orden de Guadalupe, Caballero Gran Cruz de la Real y distinguida Orden Española de Carlos III, y Presidente de la República Mexicana,

A TODOS LOS QUE EL PRESENTE VIEREN SABED:

Que con presencia de todas las actas remitidas por las autoridades, corporaciones y personas más notables de todos los Departamentos y pueblos de la República, en apoyo de la declaración hecha en la ciudad de Guadalajara, en 17 del mes anterior, y oído en el particular al Consejo de Estado, de conformidad con lo que él ha propuesto en su mayor parte, y en uso de las facultades que la nacion se ha servido conferirme, he decretado lo siguiente.

Artículo 1º. Se declara que por voluntad de la Nación, el actual presidente de ella continuará con las facultades de que se halla investido, por todo el tiempo que lo juzgare necesario para la consolidación del orden público, el aseguramiento de la integridad territorial y el completo arreglo de los ramos de la administración.

Artículo 2º. Que para el caso de fallecimiento o imposibilidad física y moral del mismo actual Presidente, podrá escojer sucesor, asentado su nombre en pliego cerrado y sellado, y con las restricciones que creyere oportunas, y cuyo documento con las debidas precauciones y formalidades se depositará en el Ministerio de Relaciones.

Artículo 3º. El tratamiento de Alteza Serenísima será para lo sucesivo anexo al cargo de Presidente de la República.

Por tanto, mando se imprima, publique, circule y se le dé el debido cumplimiento. Palacio del gobierno general en México, a 16 de Diciembre de 1853. *Antonio López de Santa-Anna*. Al ministro de Relaciones Exteriores.”

Y lo comunico a V. para su cumplimiento, advirtiéndole que el tratamiento que en adelante deberá darse al primer magistrado de la Nación, será como se expresa en este decreto, y que en las instancias o comunicaciones que se le dirijan directamente, se antepondrá el tratamiento de “Serenísimo señor”, y lo mismo como antefirma.

Dios y libertad.—México, Diciembre 16 de 1853.

Caja 97, rollo 19, vol. 18, p. 48.

5 de septiembre de 1853. México. Documento privado de James Gadsden a William L. Marcy.

Memoranda of facts and speculations on the present and probable future condition of Mexico.

The History of Mexico since it independence of Spain has been a narrative of Revolutions. They have been so frequent and so little productive of important results as to scarcely merit the name. From the change which have followed in quick succession. The French *Eméites* are more applicable.

The Government of the Viceroy was one of power *absolute* and *obedience implicit*. No individual dreamt of resistance and for so many centuries had the system of resignation submission to Church and State been recognized and it became a habit which no example or teme has inspired the People (if there be such a class in the Population) to shake off. In achieving a treample over the power which animated from Madrid it was only with the design of substituting one equally as *strong* and of its own creation at home. Independence of Spain was all that was accomplished in 1822 or 1823. An Iturbide was mere instrument in the hands of the Triple Alliance between Church, the *Old* or Native *Spaniards* and the *Creoles*, to carry out their behests. This change effected: the command of this Vice Roy power soon became the lone of contention among those who had by union alone, rescued it from Spain. There was no portion of this combination, that had the least glimmerings of *political equality*, and *liberty* or of the knowledge of *self government*. The *few* who had read the history of the U. States and been inspired by the success had not the early anglo saxon education into the arca of Constitutional Liberty; and hence thought that in uniting to cast off the Spanish Yoke; they had achieved what they aspered to Unlightened themselves, they have been unable, after an interval of 30 years; they enlighten others on the principles of originating, establishing, and perpetuating Free and Representative Government. The Revolution therefore of the Tripple Alliance has been to divide the governing interests into three (3) Parties or Factions. The Conservative and Old Monarchical influence consisting of the Church, and the largest portion of the Old Spanish Inhabitants. The *Moderates* or as sometimes called the Constitutional or Federal Party, and the Puros, the extreme of democracy, under the delusion of acquiring an influence through the Indian and Mixed races, misnamed the People, and which have about as much influence on the Government as our affrican slaves. They belong to the Church. The Puros proper are a mere faction, that coalesce at times with the moderates, but whenever in power, distract through the Legislature and in the end con-

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tribute to upset those who they are part united with. The Government therefore and which power alone can sustained, has introduced an essential element the Army, which becomes the instrument in succession of upsetting every willing power, by enlisting in the service of every disaffected party or faction who can pay *best*; or with *certainly*. For the Army, as strange as it may seem, is the least ambitious or avarateous portion of this strange community, and very subservient to those who meet out their regular pay and rations. The materials of which composed are the most controllable race, I have ever met with. Give them punctually their 2 a 3 Reals a day, their cloathing, their Tortillas, and their Chocolate, with a glass of pulque and you fend no aspirations among the rank and file to be promoted. They have but one instruct, to adhere to those who administer to their comforts and wants.

The predominant power is still in the Priesthood and the Church, and for the reason that they are in possession of 2/3 if not 3/4 of the productive or available property of Mexico, and can alone on emergences raise the amount necessary to stimulate or appress a revolution. Through openly and aroundedly in favor of a Vice Royalty of their own creation, the slumshering element of that Mexican phantom, Liberty, and the Constitution, had still been so strong as to prevent their confirming that absolute & way on any, who in the frequent changes here they may have placed in power. The Government of the day, like the Vice Roy alby of old, has become an odious monopoly: held togetherby the cohesive influence of plunder and for which each faction, in succession is contending. All the old system of extortion from the masses, for distribution among these who can hold the control as in fill force, and a regular bargaining for the spoil. *Is the Government*, while there is enough to satisfy the hungry digestion of those who claim a share, and to keep the army true. The adverse public sentiment is overamed, and for a time the Car of State moves on in proportion to the supply of steam to the political locomotive. This is, when this fails the signal of revolt is raised. There are constant elements for contention and strife at work in this truly distracted Mexico. The fires of dicontent

smothered; extinguished and ready to burst into a flame whenever fuel is supplied. Like the realities which too frequently lay our cities in ashes. These are ignited by a every breeze without an *object*, and in their time destroy those who have formed the elements into a Rage. Every Revolution or change has been the foreshadowing of another in embryo and made with so little designs that the alternations are in harmony with the rebellions of a College, because Master and Professors hold the Rod. Money the object is the controlling power. It effects changes, and is essential to the presentation of those who by it are placed at the helm.

The Moderate party sincere in their political objects, and most exempt from individual selfishness, would be pleased to take the U. States as a guide but they are incapable of comprehending the elements and strength of our system. Like a ship on the sea, and with a misterious crew below, when single and alone on searching the quarter deck, they are without a helm. The numerical strenght and the moned power, the Priesthood and the monopolists are all in opposition. Through by the civil distractions and political ebullition of the day, they fired themselves at one period on the surface; another month or year places them at the depths below of the error revolving currents of anarchy, and discord. If supported in power. could command the revenue whciich would secure power. They would in time accomplish the political redemption of this otherwise truky favored land.

The last emeete which has placed Santa Anna at the head of affairs, was as character with those which had preceeded It did not originate with the old party of Santa Anistists, now almost extenct but from a *fretful* discontent in the Legislature, in want of revenue and who would not support the President Arista rather than proving treacherous to the Constitution ; by dissolving the Legislature and throwing himself into the hands of those who would have given been the means preferred to abdicate. Cevallos, the Supreme Judge of the Court filled constitutionally the vacancy, but in the condition of his Predecessor could do nothing. The Army was made use to place General Lombardini as the locume tenerous of the

power which would prevail. The Army was then influenced to declare for Santa Anna, but the other interests came in gradually and reluctantly. The Republican & Puros remained quiet, never acquiesced, Holding themselves in reserve for another opportunity in the turning of the wheel.

Santa Anna's position therefore is one of power, and can only be maintained by a Military force. Hence his policy has been to strengthen his Army; and has to resort to conscription to fill its ranks, and to quiet them by the accustomed pay, death and valour. To accomplish this he has thrown himself into the hands of Conservative; & moved power. Thus far he has raised a sufficient force, to give to each city the appearance of a garrisoned town. Here the show is largest. Ten thousand the estimated forces; and parades on the squares & exhibitions on the street frequent. The Ministerial Residence is not overlooked, and the member enjoys the opportunity of a daily inspection. The first organization was for 90 to 100,000 thousand. The Secretary of War has been forced draw 45,000 of which not to exceed 30,000 are as yet embodied. As the Revenues has fallen below expectations, and the late Minister of Finance reports 17 millions deficiency for the year, and has retired as is well understood from disagreements in the Cabinet on the measures of replenishing, it is probable that the other, and expected sources of private supply have failed. One of the projects, to borrow the credit of the Church was instantly rejected, and that predominating influence remains quiet, and can only be made to disgorge by force. The President is not the man to attempt it, and as threats have been tried without effect; it is most probable that the Church have no apprehensions. The monied men have all their accumulations in safe keeping. Many it is thought availed of the last conducta to place their friends beyond the grasp of violence. The Conducta had 4 millions: and smaller shipments of Gold & Silver is going off to the U. States; by every opportunity. This class of the Conservative interest, have no idea of being taxed, they are the great sharers in the sport party, and go for a division of the plunder, and though able to raise any amount they don't

comprehend the policy of sustain the power, that manufactures the spoil.

The President's high qualities are, first selfishness and inordinate love of money without restraint. He has no lofty ambition for he has the position now to gratify it. All his policy in the Government of the State is directed to the taking care himself. In common language but expressive. "To make Hay while the sun shines" All his Counsellors and advisers have the same contract to take care of self in plundering others. They cannot be made to appreciate any other rate of action. They consider Americans as peculiarly influenced by such motives; and have no more trust in an American Minister's coming here to represent his Country's interests than they have in Santa Anna' resuming political power or in their sustaining him; but under a cooperation and fraternization on a division of the public spoil *domestic* and *foreign*.

Second the President is said to be *Treacherous* and that he is capable to sacrificing friends to the higher quality selfishness Hence the Party of Santa Anistists has disappeared. Its members absolved in the other parties- most of them in communion with the moderates and for the reason that they have been sacrificed by the President in his efforts to coalesce with the stronger party of "Conservatists". These however distrust and will be cautious for the cause, which has occasioned the dispersion of the Santa Anistists. His treachoury has destroyed a party which he once could rely on, mad has not as yet conciliated another which has a quarter ability yo serve and protect. If they could be induced to confide ans aid to the extent of their menas, Santa Anna's power might be consolidate & established for a time. But not having come as yet to his Cordial support, his position is becoming weaken daily, and whenever the means of subsisting and of enlarging his Army, falters it will be the signal of an outbreaks and the force he has raised employed as the instrument of his destruction. On the suspicion that the one thing needful is failing spasmodic symptoms of a new emute has excited alarm. At least the Government has given evidence in the arrest of Col. Robles, and his person confided to a guard that left the City the same

evening. He is a moderate, of intelligence, firm as an officer of engineers, and said to exercise a powerful influence over the Regements of Sappers & Minters The one stationed at this city was sent to Chihuahua, simultaneously with his arrest.

An edict of exile or rustication was signed against others on the same day. Among these Rosas (the former Minister to Washington) and his family. Many others have received intimations to take leave and the late Minister of Finance is watched with a suspicious eye. There is no informations at present more reliable than that the elements of disaffection are at work preparing to avail of the first favourable opportunity to dismiss the present dynasty. The want of organization under an efficient leader may delay the move and hence the probable arrest of those to whom the disaffected were turning. A storm is certainly brewing, whether it will appear on the [ilegible] and with what effect remains to be seen at Puebla & Jalapa, demonstrations have been observed and the late Governor of the first place is under arrest. The President, is reported as Revengeful, Tyraniccal and blood thirsty, without the nerve to exercise, even where the Military power to execute is at hand. The fate of Iturbiedie die is supposed to admonition. What the most dreads is retaliation. It is the common language among the friends (and which explains his seclusion sorrounded by aid & a Guard) that this is the President's last chance, that if he now betrays his country, or fails in mantaning his power that his days are numbered. Like Luis Napoleón, he has to overame oppositon and revolution, or he will meet with a forwith disposition, without the opportunity of a flight or of a retreat untill another recall.

The continuance of Santa Anna's power, is by Military force, the means to conciliate it and the will to apply it an overawing. The first ans Army is easily recruited, if the secind is at command. The reliance on the Church and Capitalists who submitted on the recall, has faltered if not failed and a Revenue from Rents anda a new Tariff if it should prove sufficient must come in too slowly for the immediate necessity watchful of that occasion for an emute, as the President knows; in his immediate necessities, he may be more dispose

to look to the U. States; and her liberality. His pretensions have hitherto been high, on indemnity under the 11 article and for a recognition of the Baitlell Boundary. His necessities therefore will alone induce him to favor an adjustment of both by a consideration to be paid in an extension of Territory. These impressions have influenced me in avoiding any immediate discussion on our issues or negotiations for settlement until the same were pressed on the party of the Mexican Minister. A communication received, and under consideration, I think opens the path, but must be so managed as to force propositions from their side, based on their necessities. The amount required for immediate proposes it is believed cannot fall short of the Ministers report of defences to be provided for, but it will require a much larger sum to establish the Government, and portrait its existance to a perios necessary for its more perfect organization; and consolidation. An amount which may involve a much larger extension of Territory than was contemplated by the Executive. Sonora and Chihuahua; may be necessary to meet the smaller amount, and all the states bordering on the Rio Grande the latter, so as to establish a more perfect, and durable boundary, along a line of mountains called by some the Sierra Madre, but properly a spur from it known as the *Sierra Verde*, and which expires or depresses on a sandridge on the coast near Victoria in Tamaulipas. Santa Anna's necessities as to amount and immediate relief; will be the only considerations on his part to conclude a negotiation on any terms involving sale of territory. He has blustered much on the subject, and has manifested great sense [ilegible] untill of late; whenever mentioned and has even exhibited (which he now intimates was [ilegible]) hostility to the U. States. His Minister has on all occasions expressed alarm on the unauthorized invasions of the Territory. Hence the necessity of being discret in developing any wish to expand and to bring out a proposition from the opposite side.

His immediate necessity will be the only stimulus to him, and preparation to meet on my part the security of success. Though instructed to refer this matter for further instructions; if should be wanting in my obligations to my position; if should

not avail of any occasion, imposing immediate action to secure our object. assured that whatever amount or conditions my judgement may sanction; for the two or the five states bordering on the Rio Grande, the Geela & the Gulf of California, will be sanctioned by the Executive. But the embarrassment on my path of success may be on the inability to guarantice the immediate payment of a portion of the purchase money; and which Santa Anna's immediate necessities may require. Has not the President a contingent found of some 10 millions. To what amit may I draw against it. I would be pleased to have your views in time, as to the conditions to be paid for each of the states named, including South California if it is though advisable to embrace it in the purchase. I have been somewhat pretext that you may the better comprehend what I consider the [moving] springs of succesful action in my mission and how necessary it may be to the prepared to meet & adjust the assures, without reference for larger instructions; relying more on an approval of the responsibilities I may asume, than hazard a failure, in awaiting for authority explicit & not general. There is one corelengency which however seemngly improbable may be nearer at hand than any at Washington may have dreampt of. The fact of Santa Anna's final resort in his extremities to the U. S. and the probable approximation to relief, from that quarter, may be the approved occasion of the Moderates; to anticipate him by an execute, which may again cast them on the surface of the troubled waters, and make the, the controlling influence for a new treaty, or the confirmation of that Programme, which may be in progress. If the achieve a triumph. as the Government de facto, the Minister will recognize and being again accredited; transfer the ourchase in progress or open new negotiations. But a higher responsibility under the latter a renewal of negotiations with a new Party may be involved. They may tender as more to be preferred on their part, the surrender of the whole Country to be annexed hereafter under our Constitutional requirements as States our Federation. The possibilities should not take you by surprise. The Moderate or Federal Party to which is now attached the Legal ability of Mexico and has in accession the Santa Anists;

disappointed and discouraged onn their repeated efforts to establish Constitutional Republic of their own; assimilated to that of the U. S. are awakening to the opinion that ho process of accomplishing their designed object, remains but by *ultimate annexation* by the U. States, with the immediate protection as a Territory, untill they are tutored and prepared for a final consummation of a Union of all the States of North America under one *Continental Federation*. At this Creses How Should your Minister act. His instruct is to receive and protect.

Caja 97, rollo 19, vol. 18, p. 48-53.

18 de septiembre de 1853. México. James Gadsden a William L. Marcy. (Despacho núm. 4.)

I have the honor to enclose herewith a copy of a letter marked G from the Mexican Minister of Foreign Relations to which reference was made un communication N° 3 with my reply. His correspondence I consider the initiatory to a negotiation on the vexed questions which at present disturb the relations between the two countries. My replt with the references to the correpondence of Predecessors on the indemnity asserted ti be imposed under a forced interpretation of the 11th. Article of the Treaty of Hidalgo; will be found to correspon with your instructions and the interpretation of that Instrument by the Attorney General of the United States. So far as connected with the disagreements originating in the supposed obligations imposed by the pretensions and action of the Mexican Authorities under the 5th. article of the same Treaty.- I have reserved the discussion on the merits of that question when presented by the Mexican Minister. The exclusion of the American Posts and Troops from an important portion of New Mexico, asceded by the Treaty, has certainly interposed great-obstacles to the restraining of Indian incursions uin the quarter and therefore the restriction has been urged, with great propriety and force, on the consideration of the Mexican Government.

The participation in the funeral ceremonies of Genl. Tornel Minister of War, who was interred on the 13th. of September

and the celebration of the anniversary of the declaration of Mexican Independence on the 16th. Inst. have probably occasioned the postponement of a response on the part of the Minister to my letter. If reliance can be had however on information from various unofficial sources, and it seems confirmed by speculations in all the Mexican papers on an article (as to my instructions) which appears in the Freeman's Journal in the United States it is most probable that I will receive propositions for a convention to arrange all the disagreement between the two countries, which may involve the cession of additional territory on the one part; and the payment of an adequate compensation on the other. The amount to be paid will probably be the issue most difficult of adjustment as it is certain that the necessities of this Governmnet, will raise their pretensions very high. In this you will recognize the impertunity with which claims for Indian depredations have on all occasions been pressed and the extent to which they have been exaggerated in all the statements presented. In this mode of probable adjustment I have no idea that the 32° of latitude can possibly meet the views of Our Government in seeking an extension of Territory on the Mexican Border at this time- Had you acceded to my proposition of placing the services of Mr. Gray at my disposal I should have been better prepared to act advisedly on the subject when under consideration- I have endeavored to be informed from various other sources as to the Topography and character of Northern Sonora, and feel convinced that no latitude north of the 31° will answer the purposes of the U. States Government. A *natural line* further South embracing better ground for a road and greater inducements in the climate: soil and mineral resources for settlement will be found to better subserve the objects of both Governments, in *restraining Indian incursions* and in *promoting the harmony of border neighbourhood*. It is most probable that in the adjustments by convention proposed; the settlements of the claims of our citizens on Mexico and the relinquishments of claims on the Tehuantepec grants may be involved. The articles in the Public Journals referred to make mention of such an arrangement as desirable. You promised further instructions in

these matters and in the absence of them I may feel embarrassed unless I act on my own responsibility on propositions which may be favorable to the interests of all parties.

Respectfully.

Caja 97, rollo 19. vol. 18, p. 54-6.

30 de agosto de 1853. México. Manuel Díez de Bonilla a James Gadsden. (Anexo G al despacho 4.)

Las incursiones incesantes y cada día mas desoladoras por parte de los Yndios Bárbaros de que son víctimas los Estados de esta República fronterizos de los del Norte de América han obligado al Sor. Presidente a prevenir al inf^o Ministro de Relaciones Exteriores dirige esta nota a S. E. el Sor. Santiago Gadsden, Enviado Extraordinario y Ministro Plenip^o de los Estados Unidos de América, para llamar su atención a ese asunto que interesa tan profundamente al bien estar de esta nación al decoro y buen nombre de la Unión Americana empeñada en el más eficaz cumplimiento de pactos que se reputan por su trascendencia como santos entre las naciones, y en que la humanidad reclama una parte muy principal.

En los diversos periódicos que se publican, y entre ellos en el Diario Oficial habrá visto referida S. E. el Sor. Gadsden, desde que se encuentra en México, una parte de aquellas incursiones, cada vez más repetidas, mayores y más asoladoras, que las ocurridas desde el año 1848. Puede comprobarse con documentos fehacientes, que en el breve período corrido desde la paz de Guadalupe han sido más seguras para los Bárbaros y más frecuentes y destructoras pas los referidos Estados fronterizos de lo que lo fueron en un siglo atrás, por no haberse reprimido a aquellos como era debido en el territorio americano, y por la facilidad con que a él se acogen luego que se les persigue por México, haciendo así infructuosos los gastos que al efecto se erogan con tanto sacrificio por su parte. El resultado natural y preciso de este estado de cosas, es el mayor aliento con que los Salvajes repiten sus feroces depredaciones hasta haber llegado a introducirse alguna vez al corazón de la

República el asesinato o cautividad de cuantas personas tienen la desgracia de caer en sus manos, sin distinción de sexo o edad, el robo y pillaje de ganados y de cuantos bienes encuentran; el asolamiento de pueblos y haciendas valiosísimas, que quedan yermas y desiertas, y la continuada decadencia de dichos Estados, antes tan florecientes, y que hoy apenas pueden sostenerse por su rápida despoblación y consiguiente abandono de su agricultura, comercio y demás fuentes de prosperidad, debido exclusivamente a esa causa perenne de aniquilamiento.

Tan deplorables sucesos, que a la vez que afectan a los particulares socaban [*sic*] por sus cimientos el poder y riqueza pública, son efecto, y el inf^o siente mucho decirlo, de la falta de cumplimiento de los compromisos que los Estados Unidos contrajeron con México por el artículo 11vo. del Tratado de Guadalupe y provienen de no haberse cubierto la frontera con suficiente número de tropas, y de no haberse dictado todas las demás medidas necesarias a que están obligados, para reprimir perseguir y castigar a los Bárbaros. Por lo mismo, ya directamente por esa Legación, ya por medio de la suya en Washington, México ha dirigido sus quejas al Gobierno de los Estados Unidos llamando su atención a este vital asunto que tan ingentemente la demanda; y el Sor. Gral. Amonte ha llevado orden especial de hacerlo así y de presentarle varias de las muchas y cuantiosas reclamaciones sometidas a este Departamento por ciudadanos que han sufrido los desastres que se lamentan y sucesivamente se le enviarán con el propio objeto las de los demás, así como las que corresponde hacer a la Nación por sí, todas debidamente comprobadas, y el Gobierno de México se promete de la equidad y justicia del de los Estados Unidos que les hará la que por derecho les es debida.

Pero al paso que desea que no se multipliquen esas reclamaciones, aquellas incursiones devastadoras se repiten sin intermisión [*sic*] y como nada compensa la pérdida de buenos y pacíficos Ciudadanos, en la desolación y exterminio de las familias, el inf^o, cumpliendo con la orden que ha recibido del Exmo. Sor. Presidente de la República tiene la honra de dirigirse a S. E. el Sor. Enviado de los Estados Unidos, suplicándoles se

sirva dar a su Gobierno cuenta con esta nota, y con los hechos públicos y notorios que la motivan, a fin de que penetrado de la inmensa gravedad de este negocio, se sirva hacer efectivas las estipulaciones del Tratado de Guadalupe acerca de él tomando todas las medidas necesarias para el cumplimiento reintegro de todos los daños causados y para el castigo y represión de los Bárbaros, como lo exigen las sagradas obligaciones que por dicho Tratado se impuso, y los derechos no menos sagrados de la humanidad.

Seguro de que ellos hallarán un eco en los filantrópicos sentimientos del Gobierno de los Estados Unidos de América, el inf^o tiene la honra..., etc.

Caja 97, rollo 19, vol. 18, p. 59-61.

9 de septiembre de 1853. México. James Gadsden a Manuel Díez de Bonilla.

Le informa de la recepción de su nota de fecha 30 de agosto.

The Undersigned was not prepared for a renewal of the very extraordinary claims in behalf of Mexican Citizens reported to have suffered from the Incursions of Indians in the frontier States: as his Predecessor in Office (after full consideration of the stipulations *which it is now reaffirmed as imposing the payment of damages resulting from depredations committed by Savages*) had disposed of the subject and in a manner to have satisfied the Mexican Government that the U.States has never recognized any *penalty* incurred or imposed by the 11th. Article of the Treaty of Guadalupe Hidalgo. If these incursions (the recital of which the Undersigned has read with deep sympathy for the sufferers) have been repeated to a greater extent; and have become more destructive of late in the "robbery and pillage" of deserted towns private habitations and estates; the defenceless condition of which invited attack. The United States, through its accredited Minister; early denied any obligation to pay for property destroyed; *which was not within their ability or province to protect*, and which was communicated in full time for the

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threatened sufferers; who have since been the victims of savage barbarity, to have sought security for property and life; from the Government which claimed jurisdiction and sovereignty over them. The necessity of making reference to correspondence in some degree voluminous and to conferences held with Predecessors of an old date, and on record on this office will explain the post ponement of an earlier reply to His Excellency's communication, on a subject now renewed on his part. The demand for payment of losses by Mexican Citizens, thus repeated, imposes the additional obligation on the Undersigned, of submitting the Treaty of Hidalgo to a rereading in justification of the interpretation given to some of its provisions by the United States, and which are found to be so much in conflict with those, which first originated, evidently in error on the part of Mexican authorities and expounders.

The Government of the United States have ever recognized in the highest degree the sacredness of obligations imposed by Treaties and conventions with friendly nations and particularly as to those provisions which involve appeals to the *sympathies of humanity* and to *kindred offices*; which in their higher claims, rather transcend, than are imposed by the international laws of agreement. In like good faith has my Government ever reposed a corresponding confidence; in the enlightened and human disposition of all other contracting powers to refer with similar solemnity stipulations, by which the friendly relations, they were designed to promote shall not be interrupted, but rather be strengthened, and preserved. All the obligations of the Treaty of Hidalgo have in good faith and to the extent of its ability been respected and fulfilled by the U. States. The Government of Mexico however, and we advert with regret to the pertinacity with which it is enforced seem to have considered the stipulation in the 11th. article as an absolute engagement not only to restrain all Indian incursions into its territory; but when these do occur to remunerate for all damages resulting from them. Your Excellency however will perceive in that Article a very important qualification to the undertaking on the part of the U. States Government. The incursions which possibly may result injuriously on the

settlements against which they are directed, are only to be *restrained* in the same way, and "with equal diligence and energy as if the same incursions were meditated and committed within its own Territory against its own Citizens". Here will be found the restriction interpretation explaining what the obliged undertook to perform and did not involve a *penalty* for property destroyed. For the relations between the U. States and its own citizens in cases of Savage warfare are all matter of history and where the efforts of the former to shield settlements from Indian incursions have failed the claim of Citizens sufferers for depredations committed have never been presumed. The provision in the treaty of Hidalgo to restrain Indian incursions has been strictly complied with. At Great expense a chain of Military Posts along the boundary of Mexico has been maintained and the officers commanding, those Posts have been directed to consider the Mexican Territory as equally with our own entitled to protection to chastise the Indians for any acts of hostility against Mexico and to exact satisfaction therefor to the same extent as if committed against the U. States. In all treaties made with the Indian tribes in that region the Government has always insisted on the same stipulations for the protection of Mexican Citizens and their property as for their own, without however repeating much of what has already been forcibly presented to the consideration of the Mexican authorities on this subject by Ministers who have proceeded the undersigned: he would respectfully refer his Excellency of the 28th. of Nov 1851 to the then Minister (Mr. Ramírez) of Foreign Relations and to that of Mr. Conkling of the later date 16th. June 1853 to his Excellency himself being the substance of a conference they had previously had on the matter of disagreement.

It is well understood and so explained by all expounders on the elements of International Law: That when the sense and intention of the contracting party agrees it is not legitimate to pervert his words to a contrary meaning. That every interpretation which leads to an *absurdity* ought to be rejected and that that is deemed absurd which is not only physically but morally impossible. That where the Obligee

could not have anticipated or thought of unforeseen cases the intention of the bound rather than his words, should be the just interpretation of the instrument executed, or that the interpretation should be made to conform to what he would have done, could he have foreseen the circumstances which afterwards became known. Everything containing a penalty is valious Penal claims in treaties which impose a burthen upon on of the parties are odious. Every thing which inerates inly one of the parties or which onerates one more than the other or that tends to *destroy the equality of a contract is odious*.

The interpretation on the part of the Mexican Authorities of the 11th. article of the treaty of Hidalgo is in conflict with every one of the above well recognized expositions or maxims of international law. The U. States in the provision of the article to restrain the incursions of Indians into the Mexican Territories cintemplated no other restraint than it endeavored to impose on svages meditating hostility against its own Citizens, no failure to prevent these incursions ever imposed the obligation to pay for depredations committed. It is physically impossible in Indian war fare to restrain every incursion which may be made. It was absurd therefore to expect the U. States could prevent in all cases destruction of property or life inflicted by such invoads or to exact indemnity for what could not be prevented.

It was impossible in a stipulation to restrain the Indians to forsee the probable demand of the opposite party for payment or indemnity, when the stipulation was qualified by the language to do for the Mexicans what was done under similar invoads for the Citizens of the U. States. The Treaty of 1795 between Spain and the U.States and the Treaty of 1831 between Mexico and the U. States bothe contain similar provisions to that of the 11th. article of Hidalgo and not withstanding the invoads and incursions for years of the Indians, of each power into the territories of each respectively involving the destruction of property and life to a large amount no demand for indemnity was ever preferred by either part or ever asserted as an obligation imposed. The Penalty now demanded by the Mexican Government is imposed but

on one of the parties. The other enjoys or realizes and this un-equality under the laws becomes odious. *Equality in all international contracts is the only element of respect for obligations incurred.*

It is unreasonable and absurd to expect that stipulations which are unequal which bear harder on one party than on the other which may be so perverted as to inflict penalties on one and confer possible benefits on the other can otherwise (as we have the example now presented) than originate distrust and disagreement's demand and denials all tending to loosen, instead of to strengthen the Boards of amity which the deed or compact was designed to perpetuate. Reciprocity and equality are the binding and preserving elements of all agreements whether between individuals or States and where one part is bound to do or perform any stipulation, there is a corresponding obligation on the other not only to extend every facility to execute but furthermore no to cast obstacles in the way of performance. If better success has not attended all the diligent efforts of the Government of the U. States to restrain the Indians and arrest incursions so complained of by the Mexican Authorities it is in a great measure owing to the entirely defenceless condition in which Mexico has left her whole frontier. She has as we understand very little or no force engaged in protecting it and that the sparse settlements along the line have not been in a condition to defend themselves. The Citizens generally at Haciendas Towns and other places of refuge and defence have been deprived of all arms and the recent decree of the Mexican President to restore them so as to enable the threatened frontier to protect itself is a commentary on the fact. The weakness of the Mexican border, the consequences of the necessity of the duty of protection has invited incursions and opposed no obstacles to extensive depredations. No disposition of the American troops however wealous and however adequate could have prevented the committal of depredations in another Territory, where the invading Indians anoyed the facilities to *elude vigilance*; and the restraining party were *denied the right of pursuit*.

The recent note of Your Excellency on a mere supposition that the reinforcement of Troops now on their march to the frontier were possibly intended to occupy a part of the Mexican domain, foreshadows what would have been the sensation manifested had the U. States Garrisons on the border constrained their orders to *restrain* the *Indians*, into *pursuit* whenever they could extend their depredations. It may here be appropriately observed that the stipulations to restrain has reference only to the Indians within the U. States and that there was no greater obligation or power imposed or acquired by the 11th. of the Treaty to restrain or punish the outbreaks of *Mexican Indians* within the *Mexican territories* than there was to protect the citizens of the same neighborhood, who had been disarmed from distrust and thus incapacitated from defending themselves. It is well known that the Indians who have remained within the Mexican domain not ceded by the Treaty of Hidalgo are as numerous as erratic and as ill disposed as those who have fallen under the jurisdiction of the U. States, They requires to be watched and punished as the only means of being controlled. These in Chihuahua and on the borders of Durango, Coahuila and Sonora; where the depredations complained of have principally occurs, have always been an unruly and lawless band of Savages and stimulated by the same barborous instincts for war with all its inflictions of conflagrations plunder and murder. The Governor of the first named State an energetic and gallant General has never been provided with an adequate Military force to restrain those Indians or prevent their depredations. Unsupported by citizens who were deprived of their arms, the only means of shielding their habitations from the midnight stealth of the extermination tomahawk. The responsible Commandant had been forced on occasions (and the undesigned speaks from authority in which he reposes implicit confidence) to avail of the better provided force of Texan volunteers and always prompt at command, to embark in such forays, to pursue to overtake and with the will and ability to chastise. These are the efficient and daring spirits to which even a Mexican General has been compelled to resort to

shield a defenceless and neglected country and abandoned population confided to his charge, from the brutal depredations of its own Indians. It would be singular indeed therefore, under all these facts and disabilities, that the U. States could be held to indemnify Mexico or her citizens for injuries committed in part by Indians within the heart of their own domain which she invited or at least might have averted and in virtue of being a Government was bound to her own citizens to prevent.

There was another obstacle and not the least in its influences adverse to the fulfilment of the stipulations of the extent of the interpretation asserted by the Mexican Government and for which the Government which the undersigned represents, cannot be held responsible. Your Excellency will recognize in this the difficulties unexpectedly thrown in the way by the Mexican Officials to the early and satisfactory adjustment of the 5th. Article of the Treaty of Hidalgo and in the attempt on the part of the Mexican Commissioners to fix the initial point and to run and mark a line in entire disregard of the requirements of the Treaty. In the anxiety and sensibility on the part of Mexico, to have the line thus claimed, recognized and in the respect on the contrary which the American Government had for maintaining the neutrality of the district thus disputed, by bearing *it in the situation in which it was*, when the assertion to it on the part of the Mexican Government first arose, the question of boundary has still been left *open* and *unsettled*. By this unlooked for claim, the U. States has not only been kept out of the possession since the Year 1848 of an important and valuable district of New Mexico evidently included in the surrender under the Treaty of Hidalgo, but has been thus denied those facilities expected and to be found alone on a line of frontier and its passes, more susceptible of protection than the one to which the Mexican Government would now restrict the U. States. Indeed the efficiency and activity of Troops stationed on the border to which they have been thus limited, have been greatly impaired from the want of the means of transportation of munitions of war, and supplies all of which have been serious impediments in the way of

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exerting, to its full extent, that vigilance and energy is indispensable to the restraining or guarding against Indian excursions. To have crossed beyond the limit fixed and asserted by the Mexican Government, though not ascertained and defined according to the provisions of the Treaty, would have been deemed an invasion and the cause of another complaint, which the Government of the U. States, in good faith has most studiously avoided though in the fulfilment of that higher obligation *self preservation* both for her own citizens and those of Mexico who had a claim for similar protection, she would have been fully justified by the *law* and *practices* of nations to have occupied the military positions within the disputed territory which her engagement under the stipulations of the 11th. article of the Treaty had rendered absolutely necessary. It would be a want of candor in a Government whose policy and obligations to its own citizens have never been disguised or overshadowed with the hope of acquiring an advantage in tis negotiations with other powers, not here to affirm, and in all sincerity that if confined in its boundary to the Gila river, it will be impossible for the U.States to shield the Mexican Frontiers from the Apaches, the Navajoes, the Utahs and the Jiccorias, *short of absolute extermination*. Some if not all of these tribes and who are among the most evil disposed, claim the disputed Territory and all of them have been roaming unrestrained for centuries, through the *unoccupied* and unprotected plains and hunting grounds south of the Gila, when the game fails they have been in the habit, as is well known to Your Excellency, to annoy and depredate on the Mexican settlements in the interior. The responsibilities to restrain those within the disputed territory has been removed by the exclusion of the U. States from it on the part of the Mexican Government, and by restricting the boundary to aline far north of that *defined* and *intended* by the 5th. Article of the Treaty of Hidalgo. To increase the posts and regular army on the frontier with a hope of intimidation and to employ, as will become necessary, the more ardent and efficient volunteer for the work of pursuit and extermination, will unavoidably inflict greater losses and sufferings on the interior of

the Mexican Territory by forcing all who may elude or escape; thus initiated, to gratify their savage vengeance by finishing their work of depredations on the unprotected and defenceless settlements which from the representation of Your Excellency have already been made to suffer.

The negotiations on the part of the U. States were will informed on this subject when they placed their signature to a Treaty, which did in the 5th. Article secure a line with substantial advantages to both parties in its capacity for settlement as well as for defence. But for these convictions they never would have subscribed to the other provisions of a Treaty which the Government of the U. States is thus prevented from executing to its full extent by the opportunity and difficulties thrown in the way by the other contracting party.

The pertinacity with which the Mexican Government has on all occasions manifested in its remonstrances against the movements of American troops into or through the country which has been so unjustly withheld or denied to the U. States, in disregard of the 5th. article of the Treaty which surrendered it, is a full justification of the undersigned's affirmation that the responsibility of non fulfilment and with more success, the stipulation to restrain the Indians within the American Territory devolves on the Mexican and not the U. States Government.

All these issues and to which the undersigned has most reluctantly been compelled to bring to the notice of His Excellency did not originate with the U. States: on the contrary they have to this time abstained form the assertion of undoubted claims; under a sacred respect for that Instrument by which both parties were bound and which in the preamble had proclaimed the desire and intent: "To establish a solid basis relations of peace and friendship which shall confer reciprocal benefits upon the citizens of both and assure the concord, harmony, and mutual confidence wherein the two people should live as good neighbors". Stimulated by these sentiments the Government of the U. States was prompt in tendering, at an early date, a liberal adjustment of these vexed

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questions, which had become the subject of irreconcilable interpretations, through its accredited Minister, Mr. Letcher and Mr. Conkling. In this proposed arrangement was embraced a satisfaction of claims to a large amount of citizens of the U. States against the Mexican Government, many of which had been recognized as valid, and the satisfactory adjustment of all, had been repeatedly pressed on the justice of that Government.

In this state of perplexing difficulties and disagreements in the relations between two sister Republics it would scarcely seem appropriate, which did not originate them and has been in a spirit of amity and good neighborhood, to now suggest the mode by which that important arrangement, advantageous to both interests, can be consummated: fortunately however the spirit in which the Treaty of Guadalupe Hidalgo was conceived infused itself into the provisions and obligations imposed by the 21st. Article:

“That if unhappily any disagreements should hereafter arise between the Governments of the Two Republics, that mutual representations and pacific negotiations shall be again invoked to preserve the State of Peace and friendship in which it was the design of that treaty to place the Two Countries.” The undersigned, in behalf of the U. States would be pleased to entertain any propositions influenced by the same spirit from the Government of Mexico.

Caja 97, rollo 19, vol. 18, p. 62-71.