

THE UNITED STATES-MEXICAN BOUNDARY CONTROVERSY, 1848-1853

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by

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A THESIS

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ABSTRACT

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The purpose of this research is to shed some new light on the controversy between the United States and Mexico concerning the boundary between the respective countries. This controversy began in 1845 following the Treaty of Guadalupe Hidalgo which ended the Mexican-American War and lasted until the Gadsden Treaty of 1853. There were several issues which remained unsettled following the signing of the treaty and which almost caused another war between the two countries. The three main issues were: (1) The use of the inaccurate Disturnell map for boundary purposes; (2) The Mesilla Strip by which Mexico was given several thousand square miles of land in New Mexico and Arizona by the Bartlett-Conde Compromise (later declared invalid by President Franklin Pierce); and (3) Article XI of the Treaty of Guadalupe Hidalgo by which terms the United States promised the northern states of Mexico protection from Indian raids from United States territory.

This paper proposes not only to bring the boundary controversy and the issues involved into focus, but also show why the United States did not annex lower California and why the mouth of the Colorado River was not included in the treaty which determined the final boundary. This paper will also discuss the internal arguments among the members of the United States Boundary Commission and how they affected the survey.

Regional differences in the United States and the search for a southern railroad route to the Pacific also affected the final settlement of the boundary.

A re-examination of the issues of the period from 1848 to 1853 will show how the southern boundary was finally determined, and how the final boundary agreed upon was a necessary solution of problems affecting relations between the two countries.

Approved:

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INTRODUCTION

One of the most unusual events in the history of the United States was the surveying of the two-thousand mile boundary this country shares with Mexico. As an outgrowth of the war with Mexico, the determination of the line proved to be as difficult, if not more so, as the treaty which ended the conflict. The final settlement did not come until the Gadsden Purchase in 1853, five years after the cessation of hostilities. During the course of events which elapsed between 1848 and 1853, situations arose which almost provoked a renewal of hostilities. Yet, despite the threats which appeared, and despite political mismanagement on both sides, the menace of war was avoided and the differences peacefully resolved.

John Russell Bartlett, the second United States commissioner on the boundary survey, did more to prolong the final determination of the international boundary than anyone else. After his tenure as commissioner from 1850 through 1853, he was recalled, dismissed, and discredited. Yet his Personal Narratives, which are a journal of his activities as the commissioner, are an invaluable source and form the basis for this paper.

The events of the years 1848 to 1853 should be viewed in the context of the time in which they occurred. Also, a knowledge of the war with Mexico is assumed for a background of the events during this time. This topic is not included in this work. Also omitted are national problems of both the United States and Mexico with the exception of occasional references. The life of Antonio López de Santa Anna is beyond the scope of this paper as are the people and policies of the Democratic and Whig parties in the United States. Therefore, the marking of the boundary and its problems are the theme. This boundary controversy is a topic on which little has been written, and hopefully this paper will answer some questions posed by students of both United States and Latin American history of this period.

In introducing the boundary controversy, one must begin with the Treaty of Guadalupe Hidalgo, signed February 2, 1848, which ended the war between the United States of America and the Republic of Mexico. Article V of this treaty stated that:

The boundary line between the two Republics shall commence in the Gulf of Mexico, three leagues from land, opposite the mouth of the Rio Grande, otherwise called the Rio Bravo del Norte, or opposite the mouth of its deepest branch, if it should have more than one branch emptying directly into the sea; from thence

up the middle of that river following the deepest channel, where it has more than one, to the point where it strikes the southern boundary of New Mexico, thence westward, along the whole southern boundary of New Mexico (which runs north of the town called Paso) to its western termination; thence northward along the western line of New Mexico, until it intersects the first branch of the river Gila; (or if it should not intersect any branch of that river, then to the point on the said line nearest to such branch, and thence in a direct line to the same); thence down the middle of said branch and of the said river, until it empties into the Rio Colorado; thence across the Rio Colorado, following the dividing line between Upper and Lower California, to the Pacific Ocean.¹

It should be noted that the town of Paso, later referred to by Bartlett as El Paso, is the present day town of Juárez in the state of Chihuahua, Mexico.

The second paragraph of Article V stated "The southern and western limits of New Mexico, mentioned in the Article, are those laid down in the Map, entitled 'Map of the United States, as organized and defined by various acts of the Congress of said Republic, and constructed according to the best Authorities. Revised Edition. Published at New York in 1847 by J. Disturnell.'²" This map was not an official government map and inaccurately "showed El Paso at a latitude 34 north and a longitude 100 miles east of the true position of that city on the earth."³ This error later became the center of the difficulty which led to the controversy.

The fifth Article stated that:

In order to designate the boundary line with due precision, upon authoritative maps, and to establish upon the ground landmarks which shall show the limits of both republics, as described in the present article, the two Governments shall each appoint a commissioner and a surveyor, who, before the expiration of one year from the date of the exchange of ratifications of this treaty, shall meet at the port of San Diego, and proceed to run and mark said boundary in its whole course to the mouth of the Rio Bravo del Norte.⁴

As already mentioned, the problem was inherent in the treaty by the use of the Disturnell map. Thus, the problem existed from the outset before the commissioners of either side were appointed.

President James K. Polk, after having the Treaty of Guadalupe-Hidalgo duly ratified and proclaimed in July, 1848, decided to start immediately to get the commission organized and financed. He thought it necessary that "provision be made by law" for the appointment of a commissioner and surveyor on the part of the United States.⁵ However, the bill providing for such a provision, although passing the Senate, was introduced in the House just three days before the close of the session and died in the hands of the Committee on Foreign Affairs.⁶

In the next general appropriation bill, passed by the

same Congress, \$50,000 was provided in order to defray the expenses of the Boundary Commission, and Polk immediately proceeded to the task of making appointments to the Commission. Polk's enemies declared this procedure illegal due to the fact that Congress had yet made no provision "by law" for the appointments themselves.⁷ Since the Senate was Democratic,⁸ Polk had no trouble getting his nominations confirmed.

In the next session of Congress, however, the Whigs held a majority and attempted to nullify Polk's action by confining his appointments to the Topographical Corps, by introducing an amendment to such effect, and in another by "providing that no part of the money appropriated then or thereafter be used to pay the salaries of any officers or persons connected with the boundary survey whose appointment had been without authority of law."⁹ Thus, the first commission started out with some uncertainty in regard to the salaries of its members. The arguments in Congress only added to the problems of the commission which was to begin the survey. The problems now evident not only include the use of an inaccurate map, but also the division among members of Congress, and within a short time, even among members of the commission itself. Therefore, one has a sense of the difficulties and problems the first commission was to en-

counter even before it went into the field.

INTRODUCTION

FOOTNOTES

1

William M. Malloy, Treaties, Conventions, International Acts, Protocols and Agreements Between the United States of America and Other Powers, 1776-1909 (Washington: Government Printing Office, 1937), Vol. 1, 1109-1110.

2

Ibid., p. 1110. Also see Jack D. Rittenhouse, The Story Of Disturnell's Map (Santa Fe: Stagecoach Press, 1965), p. 5.

3

Rittenhouse, Disturnell's Map, p. 6.

4

Malloy, Treaties, p. 1110.

5

Congressional Globe, 30th Congress, 1st Session (Washington: Blair and Rives, 1848), pp. 901-902.

6

Ibid., pp. 1043-1052, 1064.

7

Lewis B. Lesley, "The International Boundary Survey from San Diego to the Gila River, 1848-1850," Quarterly of the California Historical Society, IX (March, 1930), 4.

8

Senate Executive Journal, VIII (Washington: Wendell and Van Benthuyssen, 1848), 24.

9

J. Fred Rippey, "The Boundary of New Mexico and the Gadsden Treaty," Hispanic American Historical Review, IV (November, 1921), 717.

CHAPTER ONE
THE FIRST COMMISSION AND THE
CALIFORNIA SURVEY

President Polk chose for a boundary commissioner, Major William H. Emory, who had been in the southwest during the Mexican War. However, Polk insisted that Emory must resign his commission in the army before he could take the office. Emory, though, declined the appointment because of this stipulation, and therefore "was attached to the commission as chief astronomer and commander of the military escort."¹

Polk next offered the position to ex-Senator Ambrose H. Sevier who had recently been defeated for reelection in 1848. Unfortunately for Polk, Sevier died within a month before the² Senate could act on his nomination. Polk then offered the position of boundary commissioner to John B. Weller of Ohio on January 16, 1849. Weller also had been an unsuccessful candidate for the office of governor of his state. Accepting the offer, he was subsequently confirmed by the Senate. Unfortunately, for Weller, the Whigs, who would take office on March 4, 1849, were angry at Polk's appointment and believed they should be allowed the choice. They introduced bills

trying to block Weller's appointment, which never passed the Senate. However, "they did indicate the strong partisan feelings in Congress and foreshadowed the subsequent attempts to discredit Weller."³ The office of United States Surveyor was given to Andrew B. Gray who was a civil engineer and a person familiar with the southwest.

The Mexican government, meanwhile, had come up with their representatives. The position of commissioner was given to General Pedro Garcia Conde and that of surveyor to José Salazar Ylarregui. The position of interpreter was given to Felipe de Iturbide, son of the late Emperor of Mexico. The Mexican government also appropriated 10,000 pesos to finance its commission.⁴ Their instruments later proved to be useless and both sides used the United States' equipment.

Since the fifth article of the Treaty of Guadalupe-Hidalgo also had provided for the meeting of the commissions of both nations by May 30, 1849, in San Diego, California, little time was left for planning since the United States officials had not been confirmed until January of that year. The running of the survey was under the Department of State, and the Secretary, James Buchanan, in order to speed up the work, wrote Weller stating "No time should be lost in organizing the commission on our part, preparatory to its departure for

the place of destination." ⁵ Before he left for San Diego, Weller received another letter from Secretary Buchanan on February 13 which went into detail on his duties.

He was directed to collect information on quick-silver, precious metals, ores, and other substances in the vicinity of the boundary during the course of the survey; he was to keep full records and make a map of the country traversed; he was to secure scientific data concerning the flora and fauna of the region; and he was to make recommendations concerning the building of a road, canal, or railway on or within one marine league (approximately 3.5 miles) of the Gila River, as provided for in Article V of the Treaty of Guadalupe Hidalgo.⁶

San Diego had been the center of contest during Trist's negotiations in the Treaty of Guadalupe Hidalgo. The Mexicans had contended that the port had always been part of Lower California. To uphold their claim, the Mexican negotiators produced a map which was published in Paris in 1844 which convinced Trist that their claim was valid. However, after a more detailed examination of geographical writings, Trist became convinced that San Diego properly belonged to Upper California. Thus, in dividing Upper from Lower California, the negotiators "proposed a line extending due west from the confluence of the Gila and Colorado to Punta de Arena, situated just south of the harbor of San Diego. In this solution the negotiators referred specifically to the

plan of the Port of San Diego made in 1782 by Juan Pantója,⁷ second sailing master of the Spanish fleet." Weller was given a copy of Pantója's map along with a copy of the treaty. Therefore he was ready to leave. In organizing the commission, D. Gahagan was selected as interpreter and translator. In order to assist Emory in the astronomical work of the survey, the Corps of Topographical Engineers sent along Captain Edmund⁸ LaFollette Hardcastle and Lieutenant Amiel Weeks Whipple.

Unfortunately for Weller and other members of the commission who had arrived in Panama in early March, 1849, the gold rush in California had filled Panama with people looking for transportation to California. He was unable to secure any means of transportation for his party immediately, even though he sought help from the United States Consul. Finally, Weller and his party got passage aboard a steamer about the middle of May. They did not arrive in San Diego, though, until June 1, 1849, one day late for the meeting as set forth in the treaty. Even after their arrival, they had to wait until July 3, over a month, for the Mexican commission to arrive.

After a joint meeting of the commission on July 6, 1849, where credentials were mutually examined, the parties decided to establish a method of procedure for the survey. Within three days of the first meeting, the surveyors had agreed

upon the method. "They reported that each party would proceed when ready to make the necessary surveys, using its own methods; then the two would meet and work out any differences, after which the actual running and marking would commence.⁹ The monuments would be placed afterwards." Emory at once organized his detachment into three parties. He and his party established an observatory just south of San Diego to determine the longitude and latitude of the initial point on the Pacific coast. Lieutenant Whipple and the second party were sent to determine the eastern extremity of the boundary line which was at the junction of the Gila and Colorado rivers. A third party under Captain Hardcastle was sent out to reconnoiter the 145 miles of country between the two extremities of California.¹⁰ Gray, the Surveyor, with the help of Surveyor Ylarregui, was making a new map of the harbor at San Diego.

Meanwhile, before Weller and the commission had reached San Diego, the Whig Administration came into office headed by President Zachary Taylor. Naturally, one of the new administration's first objectives was to declare illegal Polk's nominations to the commission and withhold salaries from them. Neither of these attempted measures were passed by the Senate, but the new Secretary of State, John M. Clayton, did send Weller a letter in which he wrote:

I have to inform you that Congress, at its late session, omitted to pass any act prescribing the amounts of the salaries of the civilians attached to the commission of which you are the head. Consequently, until this omission be remedied, compensation for your services as commissioner, and for those of Mr. Gray as surveyor, cannot be lawfully paid; and no charge for salary, on the part of either of you, can properly form an item in the statement of your account to the Treasury. It will, therefore, be necessary, in any drafts which you may have an occasion to make on this department for the purpose of carrying out your instructions, to make them on their face, chargeable solely to the appropriation for the "expenses of running and marking the boundary between the United States and Mexico"---leaving the salaries to be settled at some future day by Congress.¹¹

This letter from Clayton to Weller was dated March 15, 1849, and was in San Diego when Weller arrived from Panama.

Within a short period of time, the commission had used up all the money appropriated by Congress. Thus, Weller decided in the middle of August, 1849 to make a trip to Monterey to borrow money from General Bennett Riley, the military governor of California. Ironically, Weller boarded the same ship for Monterey on which two letters regarding the boundary commission from Secretary Clayton were carried by a Lieutenant Edward F. Beale. In one of these letters, dated June 20, 1849, John C. Frémont was notified of his appointment as
¹²
 Commissioner in place of Weller. In the second letter, dated June 28, 1849, Weller was notified that he had failed

to forward vouchers for each itemized expenditure of the Commission and it would be necessary to suspend the payments of his drafts.¹³ Weller was also told of Frémont's appointment as his successor. However, Clayton, in the note addressed to Weller, warned Frémont not to deliver the note to Weller unless he not only accepted the position but actually took up the work as Commissioner in the field.¹⁴ Weller, meanwhile, had changed his mind at the last moment when the ship arrived at Monterey and decided to go to San Francisco. Frémont, on receipt of the letters, went at once to San Francisco to find Weller. There, he found him just after he had been refused help from General Bennett Riley and informed him of the changed orders but did not show him the letter, thus, fulfilling Clayton's instructions. Weller, in his meeting with Frémont, told him of all the problems the commission was having. This account convinced Frémont that he did not want the position, and he resigned shortly thereafter to run as a Senator from California.¹⁵ Frémont, however, did help Weller borrow \$10,000 from San Francisco merchants to help the commission pay back salaries. Unfortunately for Weller, the Secretary of State refused to honor his draft, and his private funds and property were seized in March, 1850 as compensation.

By early October, 1849, Weller had returned to San Diego, theoretically still head of the commission. The joint Boundary Commission met at the initial point on the Pacific on October 10, 1849, one marine league south of San Diego, which had been determined in his absence by surveyors Gray and Ylarregui. A statement in both English and Spanish was deposited in a bottle in the ground and a temporary monument later erected. This initial point, both sides agreed, was the one agreed upon at Guadalupe Hidalgo. During the next four months, the survey work went extremely well. The Mexican commission accepted the figures of Emory without correction, "and when the work was put to the test of actual surveying by two parties, one pushing west from San Diego and the other coming west from the Colorado, they met within inches of one another---an error that Emory attributed to the natural inaccuracy of following a straight line over a long distance."¹⁶

Meanwhile, Weller had not received word from Washington concerning salaries. In January, 1850, Weller wrote to Clayton that the \$50,000 appropriated by Congress on August 12, 1848, had long since been used, and that over \$11,000¹⁷ in salaries were due his employees. However, in December, 1849, jurisdiction over the Boundary Survey was transferred

from the Department of State to the Department of the Interior. Thomas Ewing, Secretary of the Interior, in one of his first acts, wrote Weller informing him of his dismissal. All property belonging to the commission was to be turned
¹⁸
 over to Major Emory. This news was received by both Weller and Emory in early February, 1850.

"On February 15, 1850, the Joint Commission held its last formal meeting on the Pacific Coast. Nothing remained to be done on the Pacific Coast side of the boundary except the erection of the monuments, and a survey of the Gila
¹⁹
 seemed inadvisable at that time." Before the commissioners adjourned, they agreed to meet at El Paso del Norte (Juárez, Chihuahua), the first Monday in November 1850. Should either party fail to meet at that time and place, "the one present should commence its operations and push them forward as far as practicable, subject of course, to the examination and
²⁰
 revision of the other party."

Weller left San Diego for San Francisco on February 19, 1850, where he entered into law practice, and later became a Senator from California replacing John C. Frémont. Emory, meanwhile, as temporary head of the commission, wrote Washington for more funds. No money was sent, and Emory left for Washington in October, 1850. Before leaving, he ordered

Lieutenant Amiel W. Whipple to send the surveying instruments to El Paso. Emory and Gray reached New York in November, 1850, and shortly thereafter Emory went to Washington where he was relieved of his connection with the boundary commission. Emory did, however, convince the new Secretary of the Interior, Alexander H.H. Stuart, to send funds to Captain Hardcastle in California to complete the marking of the California boundary. Hardcastle completed the job and returned to Washington in September, 1851.

The work of the first commission was successful in marking the southern boundary of California. But the post of commissioner continued to pose a problem. As already shown by early 1850, "two years after the treaty, the first commissioner was dead, the second discredited, and the third²¹ had resigned before taking up the work." The appointment of the next commissioner was given to a man whose only qualifications were political connections, John Russell Bartlett.

CHAPTER ONE

FOOTNOTES

1

Odie B. Faulk, Too Far North---Too Far South (Los Angeles: Westernlore Press, 1967), p. 8.

2

Robert V. Hine, Bartlett's West (New Haven and London: Yale University Press, 1968), p. 3.

3

Faulk, Too Far North, p. 3.

4

José Salazar Ylarregui, Datos de los trabajos astronómicos y topográficos dispuetos en forma de diario. Practicado durante el año 1849 y principio de 1850 por la Comision de limites Mexicana en la linea que divide esta república de la de los Estados-Unidos (Mexico: Imprenta de Juan R. Navarro, 1850), pp. 8-9.

5

Buchanan to Weller, Washington, January 24, 1849, Senate Executive Document 34, Part I, 2-3.

6

Buchanan to Weller, Washington, February 13, 1849, Senate Executive Document 34, Part I, 3-6.

7

George P. Hammond (ed.), The Treaty of Guadalupe Hidalgo (Berkeley: Friends of the Bancroft Library, 1949), pp. 74-75.

8

Faulk, Too Far North, p. 13.

9

Journal of the Joint Boundary Commission, July 6, 7, 9, 1849, Senate Executive Document 119, 32nd Congress, 1st Session, 56-58.

10

Faulk, Too Far North, p. 22.

11

Senate Executive Documents, 31st Congress, 1st Session, No. 34, 7.

12

Clayton to John C. Fremont, Washington, June 20, 1849, Senate Executive Document 34, Part I, 9.

13

Clayton to Weller, Washington, June 26, 1849, Senate Executive Document 34, Part I, 9.

14

Clayton to Fremont, 31st Congress, 1st Session, Senate Executive Documents 34, 9.

15

Faulk, Too Far North, pp. 27-28.

16

Ibid., p. 31.

17

Weller to Clayton, 31st Congress, 1st Session, Senate Executive Documents 34, 38-39.

18

Senate Executive Documents 34, 31st Congress, 1st Session, 15.

19

Faulk, Too Far North, p. 32.

20

Journal of the Joint Boundary Commission, February 15, 1850, Senate Executive Documents 119, 65.

21

Hine, Bartlett's West, p. 5.

CHAPTER TWO
JOHN RUSSELL BARTLETT AND THE
SECOND COMMISSION

John Russell Bartlett was born on October 23, 1805 in Providence, Rhode Island on the same day Lewis and Clark¹ were making their first descent of the Columbia River. Shortly after his birth, his parents moved to Kingston, Canada, where he grew up acquiring skill with the rifle and rod and an acquaintance with the wilderness. He received an education in the schools at Kingston, at Lowville Academy in upstate New York, and in Montreal.² He proved to be an above-average artist, an able accountant, and well-versed in history and geography. By the time he was eighteen, he had returned to Providence where he worked as a clerk in his uncle's dry goods store. By the time he was twenty-two, he became a bookkeeper in a local bank, and in 1831, was chosen as cashier in another. He had kept up his academic interests and ties by joining the Franklin Society, the Rhode Island Historical Society, and the Providence Athenaeum.³ One of his friends, Doctor Thomas H. Webb, was regarded as one of the founders of the Providence Athenaeum.

In 1834 an event happened which, by chance, changed the

course of Bartlett's life. That year Professor Carl Rafn of the Royal Society of Northern Antiquaries of Copenhagen sent a request to the Rhode Island Historical Society for information about the inscriptions on Dighton Rock, which Rafn hoped to prove were Norse. Bartlett was appointed to a committee to investigate the Rock, along with his friend Dr. Webb. Drawings of the inscriptions were prepared by these two and sent to Professor Rafn. These were published in Antiquitates Americanae, the journal of the Northern Society, of which Bartlett and Webb were made honorary members.⁴ Bartlett also became interested in the study of American Indians and in ethnology through his experience with the Rhode Island Historical Society. His friendship with Rafn interested him in the post of minister to Denmark.

Bartlett moved to New York in 1836, where he became a partner in a book selling business. He also joined and became the corresponding secretary of the New York Historical Society. This position brought him into contact with Albert Gallatin, a former Secretary of the Treasury, with whom he jointly founded the American Ethnological Society in 1842. It was while he was in New York that Bartlett achieved some literary fame for his own writings. In 1847 he published Progress of Ethnology, his account of recent studies on that

subject throughout the world, followed by his Dictionary of Americanisms the next year, and Reminiscences of Albert Gallatin in 1849.

Despite the literary and scholarly reputation he was achieving through his publications, Bartlett found it difficult to support his wife, whom he had married in 1831, and their four children. He, therefore, returned to Providence in 1849 in search of a new and better source of income. Since he was a Whig, and this party won the election of 1848, he decided to travel to Washington and seek employment with the federal government. Because of his friend Gallatin, who had been a member of the diplomatic corps, and possibly because of his friendship with Professor Rafn, he sought the position of minister to Denmark. In 1849, he arrived in Washington with a letter of recommendation from Gallatin to Senator John C. Calhoun. Calhoun in turn introduced him to Senators Jefferson Davis and Thomas Hart Benton. He also received support from Stephen A. Douglas. However, despite the support and backing from both influential Democrats and Whigs, he failed to be appointed to the post.

Fortunately, all was not lost for Bartlett. The position of United States Boundary Commissioner was just vacated, and he was offered the position. He accepted on June 19, 1850,

because it gave him the opportunity to travel and see the object of his interest, the American Indian. The salary of \$3,000 a year was also an incentive.

Along with his appointment as Commissioner came orders directing him, during the course of the survey, to collect information on the possible construction of a road, canal, or railway through the area, as provided by Article VI of the Treaty of Guadalupe Hidalgo; to seek knowledge of quick-silver, precious metals, ores, and other valuable substances; to look for a more practicable route to California for immigrants; and to keep full records and make up a map of the country traversed.⁵

Bartlett's inability as an administrator was quickly shown by his selection of applicants for the commission, though almost anyone could not have avoided the political pressure in hiring. Most of the men he chose for the commission had no qualifications other than political connections. Bartlett even included his brother in the selection. However, some of his choices were creditable such as Dr. Thomas H. Webb who, though a friend, was a competent surgeon. John C. Cremony, because of his previous experience in the area, was made the interpreter. When Bartlett's selection of personnel was completed, it included one hundred and eleven

civilians and eighty-five men of the Third Infantry commanded by Lieutenant Colonel L.S. Craig. Lieutenant Colonel John McClellan of the Topographical Corps was named to replace Emory as the Chief Astronomer. He was not related to General George B. McClellan of Civil War fame.

On August 3, 1850, the second commission, as reorganized by Bartlett, sailed from New York to Indianola, Texas, which they reached on August 30 after an uneventful trip. The trip inland was temporarily delayed until the party could buy mules. The mules bought by the quartermaster were unbroken and unshod and had to be broken in before the commission could move to San Antonio. Bartlett, while waiting for the mules, took time off to visit the towns of Victoria, LaSalle,⁶ and Goliad. Returning to Indianola, after the mules were ready, Bartlett had some minor problems with people in the commission. While the commission was enroute to San Antonio, a member of the party tried to take some wood from a fence belonging to a Mexican. The Mexican defended his property by threatening to stab the man with a knife. The man returned to camp, got a pistol, returned to the Mexican's house and shot him dead. He then fled and was never heard from again⁷ even though Bartlett sent men out to arrest him.

From San Antonio, the party began the long trip to El

Paso. Enroute, Bartlett and the commission passed the town of Fredericksburg, various small streams, the Pecos River, and a tributary of this river, Delaware Creek, where a snow storm almost killed all the mules. Finally, Bartlett and his party reached El Paso on November 13, 1850, late again for the appointment agreed upon in San Diego. However, as with the San Diego meeting, the Mexican Commission arrived late again, arriving at El Paso on December 1, 1850. Two days later, the first formal meeting between members of the Joint Commission was held at Bartlett's headquarters. They decided to alternate meetings on the United States and Mexican side of the Rio Grande. While the initial discussions between the two commissioners were going on, a petty dispute developed between Bartlett and Lieutenant Colonel McClellan, the Chief Astronomer. The nature of this dispute was irrelevant, but it did so anger McClellan that he returned to Washington to file charges against Bartlett. However, this problem proved to be minor in regard to a disagreement between the two Commissioners, that is, where was the dividing line between New Mexico and Chihuahua? The problem was discovered just after the two Commissioners started meeting when they discovered errors in Disturnell's map used at the Treaty of Guadalupe Hidalgo. As mentioned in Article V, the boundary

line would run up the middle of the Rio Grande to the point where it strikes the southern boundary of New Mexico, which runs north of the town called Paso.¹⁰ The Commissioners found that Disturnell's map placed El Paso (Juarez) at 32 degrees and 15 minutes while its actual location, determined by their astronomical observations, placed the true location of the city at 31 degrees 45 minutes. This error, of just half a degree, placed El Paso thirty-four miles too far north of its true location. The Disturnell map also showed the Rio Grande situated at 104 degrees 30 minutes west longitude while its true position was 106 degrees 29 minutes. This error of almost two degrees placed the Rio Grande over one hundred miles too far east of its actual location. The Disturnell map had also shown the southern boundary of New Mexico running westward three degrees, approximately 175 miles, from a point seven minutes, about eight miles, north of El Paso. Thus, since the Treaty of Guadalupe Hidalgo made no mention of latitude and longitude, and since the lines in Disturnell's map proved to be inaccurate, the problem arose¹¹ of just how to determine the boundary. To General Conde, the solution of the problem appeared simple. He stated the boundary

. . . should begin at that point of latitude which was seven minutes north of the indicated location of El Paso--that is, at 32 degrees 22 minutes, just as shown on the map--even though this would establish the line not eight miles north of the actual site of El Paso, but forty-two!¹²

Then,

the length of the boundary should be determined by subtracting from the 175 miles the distance between the Rio Grande as actually located and as it appeared on the map. The resulting difference of two degrees would reduce the length of the boundary by fully one-third.¹³

Conde finished his argument stating that the line should run west three degrees from the Rio Grande, as shown in Disturnell's map, before turning north to intersect the Gila.¹⁴ Thus, Conde wanted an actual site on the Rio Grande for a point of departure for the southern boundary of New Mexico regardless of any errors in the treaty map.

Bartlett disagreed with Conde's proposal stating that the map should be corrected to conform to the latitude and longitude determined by the survey, and that the intent of the negotiators at Guadalupe Hidalgo had been to put the southern boundary of New Mexico just north of El Paso or exactly eight miles as shown in the map. Bartlett then wrote a letter to the Secretary of the Interior explaining his argument and stating that the line eight miles north of El Paso,

as drawn on Disturnell's map, proved his point in regard to
the southern boundary of New Mexico.¹⁵ With this stalemate,
Conde wrote Mexico City for instructions on how to settle
the difference with Bartlett. The reply he received was
most emphatic:

The parallel in the Disturnell map is to be considered absolute relative to the position of El Paso del Norte. The pretensions on the part of the Americans to set the boundary eight miles north of El Paso are incompatible with the latitude that is given to this parallel in the specifications of the treaty.¹⁶

As to the question of longitude, the instructions were equally specific: "The western limit of New Mexico is formed by a line that has been impossible to follow on the ground, and which it is supposed passes across the peaks of the Sierra de los Mimbres. For this reason, it is necessary that you
¹⁷
do not concede this meridian."

Bartlett, anxious not to delay the survey, decided to ask Lieutenant Whipple, also a topographical engineer who was acting as Chief Astronomer after Bartlett had dismissed Colonel McClellan, for an opinion concerning the error in Disturnell's map and if he had a solution. Whipple's reply was that since the boundary had not been laid down in the treaty according to its latitude and longitude, the placing of the initial point would be difficult because Disturnell's

map was full of "wavering lines." However, since El Paso had been specifically named in the treaty, the Commissioners should fix the initial point of the town at seven minutes, or eight miles, as shown in the map. Then, extend the boundary westward three degrees from that point, turning due north there, until reaching the Gila River.¹⁸ Although Bartlett agreed with Whipple at the time, and included his statement in the official papers of the survey, he had worked out an agreement with General Conde in which each side would present its case in writing. Even before Bartlett had received Whipple's analysis, General Conde had expressed the desire to "adopt a means of fulfilling the will of those who made¹⁹ the treaty." Therefore, on December 25, 1850, a compromise was reached called the Bartlett-Conde Compromise.

CHAPTER TWO

FOOTNOTES

1

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CHAPTER THREE

THE BARTLETT-CONDE COMPROMISE

The Bartlett-Conde Compromise of December 25, 1850 was the result of weeks of local field work and discussion. Bartlett, in order to please General Conde, agreed to fix the initial point on the Rio Grande at 32 degrees 22 minutes north latitude as shown on the Disturnell map. This placed the initial point forty-two miles north of El Paso instead of at latitude 31 degrees 52 minutes, or eight miles north of El Paso, which would have been the correct latitude if that city had been used. To satisfy Bartlett, Conde agreed that the line would run westward 175 miles from the actual location of the Rio Grande. That is, from 106 degrees 29 minutes west longitude instead of 104 degrees 30 minutes as erroneously shown on Disturnell's map. From that point, the line would run northward until it reached a branch of the Gila, and then follow that river according to the treaty. Bartlett, in effect, gave up the Mesilla Valley, as the area was called, in exchange for an area to the west which he considered rich in minerals. He believed that General Conde would have never agreed to extending the boundary river point three degrees west from the Rio Grande itself had he not

agreed to fixing the initial point on the Rio Grande at
32 degrees 22 minutes.¹ Bartlett then wrote to the Secretary of the Interior that he had yielded no land of value south of 32 degrees 22 minutes while gaining an area to the west which contained copper and perhaps even gold and silver.² Bartlett later attempted to explain his action declaring the initial point of 32 degrees 22 minutes was justified because the use of the latitudinal markings from the map was "a course that any geographer would have pursued if unbiased by any sinister motives."³ In the same letter, Bartlett, in referring to the treaty map as being wrong by two degrees, asked "Who must lose these two degrees, Mexico or the United States? We throw the loss on Mexico by claiming and obtaining, as I have done, the entire length of the southern boundary of New Mexico, in reality taking from her a considerable portion of Sonora."⁴ Thus, Bartlett thought the United States was taking land from Sonora which rightfully belonged to Mexico.

As for the actual site of El Paso a point of reference in determining the boundary, Bartlett said that the town was but "incidentally mentioned" in the treaty. "If the line should fall one mile or one hundred miles north of El Paso," it would still "conform to the treaty." He pointed out that the map was incorrect in other particulars, and that it mentioned towns which did not exist. The thirty-second parallel actually existed, he said, while El Paso was incorrectly placed.⁵

He summed up his reasoning by saying "Shall we measure from the one known to be correct [the thirty-second parallel], or the one known to be erroneous [El Paso]? Unquestionably, from the correct one."⁶ Bartlett's action was approved by⁷ the Secretary of the Interior and the Secretary of State.

After the compromise had been worked out, Bartlett and Conde decided to start immediately surveying the boundary. Unfortunately for Bartlett, another problem now arose which threatened to wreck the compromise. The treaty had provisions which stated that any business transacted must have the signatures and assent of the Commissioner and the Surveyor of both governments. Andrew B. Gray, the Surveyor in the first commission, had returned to Washington with Emory in November, 1850. Although he was retained as Surveyor, illness delayed his arrival to El Paso. Since he was not with Bartlett when the compromise was reached, Bartlett was without a Surveyor. Moreover, Bartlett did not have the authority to assign that office to anyone, even temporarily, regardless of the circumstances. However, because of Conde's complaints of delaying the survey, Bartlett decided to appoint Lieutenant Whipple as Surveyor ad interim. Bartlett then wrote the Secretary of the Interior in May, 1851 explaining his action and hoping⁸ for approval. Secretary Stuart approved Bartlett's action

and wrote the Secretary of State that such an appointment was necessary because of Gray's illness. Secretary Stuart not only approved of Whipple being named Surveyor ad interim, but also wrote that his official acts were "to be considered binding" on Gray.⁹

With this problem apparently solved, the two Commissioners, with Whipple acting as Surveyor, met on April 24, 1851 at the initial point on the Rio Grande to deposit a document in a monument erected to mark the site. This document testified that both Commissioners, acting on behalf of their respective nations,

do establish this point on the right bank of the river Bravo or Grande del Norte (32 degrees 22 minutes)--which, in accordance with the provisions of the fifth article of said treaty, is "the point where it strikes the southern boundary of New Mexico."

It was signed by Bartlett and Conde as Commissioners, by Ylarregui as Agrimensor (Surveyor), and by Whipple as "Surveyor and Astronomer."¹⁰ This major question apparently settled, the Joint Commission divided the surveying parties into three groups. One group was to survey the Rio Grande southward, another the southern boundary of New Mexico, and a third the Gila westward to the Colorado. All the surveying parties except one, which was instructed to begin the survey

south along the Rio Grande, now moved from El Paso to the¹¹
copper mines at Santa Rita where a camp was established.
Bartlett then instructed Whipple to send a party west to
examine the country south of the Gila "with the view of as-
certaining the practicability of a road, canal, or railway,
as per the 6th article of the treaty."¹² However, since
Bartlett had failed to bring any instruments with him, no
surveying could be done until the arrival of Surveyor Gray
who had them. Therefore, in May and June of 1851, Bartlett
decided to take a trip southward to visit several towns in
Sonora.

Soon after Bartlett returned to Santa Rita, Gray, the
Surveyor, and Lieutenant James D. Graham, the new Chief
Astronomer replacing McClellan, arrived in El Paso. Gray
then proceeded to Santa Rita, arriving on July 19, 1851.
Immediately after his arrival, he was asked to examine the
proceedings which had gone on in his absence and affix his
signature to them.¹³ Gray, after spending several days going
over those proceedings, refused to sign declaring the line
agreed upon was "too far North." In denouncing the compromise,
he wrote that as a member of the Joint Commission, whose
assent was necessary under the provisions of the treaty to
any final agreement fixing the boundary, he had never

authorized anyone to act in his place. Also, when the Joint Commission had adjourned at San Diego, on the Pacific Coast, it had made suitable provision for any delay of either party in reaching El Paso. Seeing that the line of 32 degrees 22 minutes north latitude was not the line prescribed by the treaty, Gray immediately addressed a communication to Bartlett, repudiating the arrangement between the Commissioners made during his absence. He protested against the line they had agreed on for the southern boundary of New Mexico, as too far north, and as retroceding a large and important district of country which was added to the United States by the Treaty of
14
Guadalupe Hidalgo.

Gray, on July 25, 1851, sent a formal communication to Bartlett outlining his reasons for refusing to ratify the initial point agreed upon. First, the treaty gave full powers to the Commissioners and the Surveyors. Second, the Joint Commission had agreed in San Diego that if one party reached El Paso before the other, it could proceed with the surveying. Its work, of course, would be subject to the examination and revision of the other party. Also, the Rio Grande could safely have been surveyed during his absence. There was no urgency to settle the initial point on the Rio Grande when so much remained which could have been surveyed in his absence. Third,

Gray rejected Conde's argument for 32 degrees 22 minutes as being the southern boundary of New Mexico since the real boundary corresponded to the latitude of El Paso, a place shown on Disturnell's map and likewise mentioned in the treaty. If El Paso had been used as the point of reference, the initial point of the southern boundary of New Mexico would have been placed eight miles north of the town, or 31 degrees 52 minutes north latitude. Gray stated that El Paso did not appear below the border of New Mexico as Bartlett had put it, but that the border had been placed just north of El Paso deliberately. Gray reminded Bartlett that Disturnell, in his map of 1849, again placed the town just south of the boundary. The treaty makers had "scrupulously avoided" the use of parallels and meridians, Gray said, since they wisely preferred "natural objects upon the earth's surface to those imaginary and unmarked lines." The result was that the treaty drew a "clear and unmistakable description of the boundary from the Pacific to the Gulf of Mexico." The Bartlett-Conde Compromise, Gray concluded, used as the initial point a parallel not marked on Disturnell's map and not mentioned
15
in the treaty.

Ironically, though both Graham and Whipple had sided with Gray in his refusal to sign the agreement, quarrels had

emerged between them over petty points. Moreover, Bartlett had quarrels with these men as well as his subordinates on the commission. Gray, however, was the angriest because of Whipple's appointment as Surveyor ad interim by Bartlett. Because of these arguments, Gray advised suspension of surveying the land along the Bartlett-Conde Compromise.

Bartlett, angry at Gray for his refusal to sign the agreement, asked him what he thought his actual authority, as Surveyor, to be. Gray's reply was that the head of each commission was the Commissioner, but all maps and papers, to be legal, had to be signed by both Commissioners and Surveyors.¹⁶ Again, in this argument, Graham sided with Gray. Gray, then wrote a letter of protest to the Secretary of the Interior over the Bartlett-Conde Compromise. No argument for 32 degrees 22 minutes, he wrote, could be sustained. Moreover, Bartlett had given away, he continued, a "large piece of territory belonging to New Mexico, a portion of which is of splendid character, and most important to the United States."¹⁷ He went on to inform Secretary Stuart that he had received additional documents from the Senate which confirmed his contentions that the boundary should be placed just north of El Paso. What Gray was saying in essence was that all the land between 31 degrees 52 minutes and 32 degrees

22 minutes rightfully belonged to the United States.

Gray, unfortunately, did not know at the time he was writing to Washington that both the Secretary of the Interior and the Secretary of War had agreed upon the boundary set in the Bartlett-Conde Compromise. Their reasoning was that only Indians lived in this area who made raids into the neighboring Mexican states of Chihuahua and Sonora. The United States, by Article XI of the treaty, was obligated to prevent such raids and indemnify damages from such raids to Mexican citizens. The area, however, was too vast and the Indians too numerous for the United States to keep the Indians on its side of the border. The general belief in Washington, therefore, was that losing this strip of apparently worthless land would somewhat reduce Mexican claims of Indian raids from United States territory. Therefore, on October 31, 1851, Secretary of the Interior Stuart sent Gray a letter ordering¹⁸ him to sign the agreement. Four days later, along with an assistant and long before the order could have reached Gray,¹⁹ he was removed from the position of Surveyor. Colonel Graham, the Chief Astronomer, was likewise recalled and the combined functions of Surveyor and Chief Astronomer were conferred on Major Emory, the former Chief Astronomer on the first commission. The work of surveying by the commission,

meanwhile, had come to a standstill.

Major Emory arrived in El Paso on November 25, 1851, where he began to study the documents of the previous work. His conclusion, after a thorough study, was that Gray's stand was correct. He did sign the documents as ordered, though, but attached a proviso which said that the line was merely the boundary agreed upon by the two Commissioners and
20 nothing else. Emory later said he did this "to leave the government free to act, and repudiate the agreement by the
21 two Commissioners." Thus, by signing the Bartlett-Conde Compromise, the Secretary of the Interior's orders had been obeyed, the Mexican Commissioner was satisfied, and Emory's
22 own career was saved.

CHAPTER THREE

FOOTNOTES

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CHAPTER FOUR

BARTLETT'S RECALL AND DISMISSAL

While the protests were continuing, the survey work halted along the compromise line. Bartlett, in July, 1851, decided to leave one party surveying the Rio Grande and send some other parties to work on the Gila River until a decision was reached in Washington. He assigned Colonel Graham to head the party on the Rio Grande, and Gray and Whipple were sent to head the parties surveying the Gila River. Bartlett thought these rivers could safely be surveyed until a decision was reached by the government. However, due to an oversight on his part, most of the supplies of the commission were at El Paso instead of at Santa Rita. Bartlett then decided to go into Sonora to procure the food he needed instead of sending for them at El Paso. His destination was the Gila River where a rendezvous with General Conde and a Mexican surveying party had been scheduled.

On August 27, 1851, Bartlett, with over fifty men, including Gray and Whipple, left Santa Rita with a fifteen day food supply. Colonel Graham, instead of going to El Paso as ordered, also went with the commission in order to explain¹ his side of the dispute to General Conde. (He had not agreed

with Bartlett on the compromise.) When the parties of Bartlett and Conde met about twenty miles east of the San Pedro River, Conde agreed to the Rio Grande survey and assigned Ylarregui to work with Graham, who decided to stay with the commission in order to have further discussions with General Conde. He therefore accompanied the two commissioners south to Santa Cruz, Sonora, where Graham stayed for a month before returning to El Paso.

No supplies could be procured at Santa Cruz, and Bartlett was forced to journey further south. In the meantime, he had instructed Gray to proceed with the survey of the Gila. Then, Bartlett informed him he would rejoin him there after procuring supplies. Unfortunately for Bartlett, he became ill with typhoid fever at the next town, Ures, while looking for supplies. His illness detained him here for more than two months. Fortunately, there was a doctor from the United States and also a British and German doctor in this town.² By their combined efforts, he recuperated and went to Hermosillo, where he arrived on January 1, 1852. Here he learned of the death of General Conde from the same disease, typhoid fever, which had kept him ill for so long. The news of his death saddened Bartlett considerably for he had always thought of General Conde as an "amiable and estimable

gentleman."³ Ironically, Conde died in Arizpe, Sonora, the same town where he was born, and the state in which he had made its first geographical map.⁴ Bartlett, thus, was temporarily without a counterpart. He left Hermosillo and boarded a vessel at Mazatlan destined for San Diego, arriving on February 9, 1852.

Gray, meanwhile, had returned to survey the Gila, and on October 10, 1851, he began surveying just below the San Carlos branch of that river. By December 24, he had surveyed some 350 miles westward, within sixty miles of the junction⁵ of the Gila and Colorado rivers. At this spot, Gray had to halt the survey because he was out of money and low on supplies. He and his men then walked across the desert to San Diego, arriving in early January, 1852. He had to wait over a month for Bartlett's arrival.

While in San Diego, Bartlett decided to go to San Francisco to purchase supplies necessary for the return trip to El Paso and also visit the area while he had the chance. Before returning to San Diego, Bartlett took some sightseeing trips in northern California at government expense. With his friend and companion, Dr. Webb, they visited the geysers in the Napa Valley, the quicksilver mines at New Almaden, and⁶ the city of Los Angeles. Bartlett returned to San Diego

in the last part of May, 1852, where he met and employed Antoine Leroux as a guide because of his knowledge of the area to be traversed. Besides being hired as a guide, Leroux was also needed "for the services of his Mexican muleteers, his mules, pack saddles, and other equipment."⁷

The party began the trip back to El Paso where the uncompleted sixty miles of the Gila River were surveyed by Whipple. During the return trip, which lasted eighty days, Bartlett and his party passed through Ft. Yuma, several Coco-Maricopa Indian villages, and the ruins of Casas Grandes which were rumored to be built by the Aztec Indians several hundred years before the discovery of America.⁸

Bartlett and his party finally reached El Paso the last part of August, 1852. Since Emory was a good distance from the Rio Grande, Bartlett decided to join him. However, because of the Comanche threat in West Texas, Bartlett chose "to take the route via Chihuahua, Parras, Saltillo, and Monterey, to avoid the Indians . . ."⁹ While in Saltillo Bartlett learned of the election of Franklin Pierce, a Democrat, as President.¹⁰

Emory, meanwhile, who had arrived in El Paso in November, 1851, and learned that Bartlett and Gray were somewhere in the West, decided to survey the Rio Grande. Since he also

succeeded Colonel Graham as Chief Astronomer, he used this position to establish observatories at various sites along the Rio Grande along with his regular survey work.¹¹ It was while Emory was at Ringgold Barracks that Bartlett and his party arrived shortly before Christmas of 1852. At this time, Bartlett received word that he could get no more funds and must disband the commission. Disposing of the animals and equipment in San Antonio, he went to Corpus Christi and took a steamer for New Orleans on January 3, 1853. Unluckily,

because of the compromise line he had accepted, Bartlett was discredited as the head of the American Commission, and the impending change in national administrations meant that he was through as commissioner. The final determination of the southern boundary of New Mexico then had shifted from the hands of the two commissioners and surveyors of the Joint Commission and would be settled by the two governments concerned.¹²

Bartlett returned home to Providence, Rhode Island a discredited man. The government also refused to publish his Personal Narratives. Sadly, just after his return home, his wife, Eliza, died. His youngest child had also died after he left in 1850 as head of the commission. "These two deaths¹³ bracketed his three years on the Mexican border." He remarried ten years later.

CHAPTER FOUR

FOOTNOTES

1

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CHAPTER FIVE

THE MESILLA STRIP AND THE THREAT OF WAR

When Bartlett arrived at Ringgold Barracks near Eagle Pass, Texas, he not only received word of his dismissal, but also that the United States Congress had rejected the Bartlett-Conde Compromise line in the summer of 1852. This action and the disbandment of the commission left the southern boundary of New Mexico undefined and still unsettled. At stake was an area of nearly 6,000 square miles between the compromise line and that claimed by Gray. The Mesilla Strip, as the area was called, contained approximately 3,000 inhabitants. According to Bartlett, the settlers of the town of Mesilla, located in the disputed area, had moved there from Santa Fe and other New Mexican towns after the Treaty of Guadalupe Hidalgo just to escape United States jurisdiction.¹ However, William Carr Lane, Governor of New Mexico Territory, insisted that the people of Mesilla wished to be United States citizens and had petitioned him so. Lane, because of military movements into the area by Governor Angel Trias of Chihuahua and his Trias Brigade of 500 men,² decided to take action. On March 13, 1853, he went into Dona Ana and issued³ a proclamation taking possession of the disputed territory.

Meanwhile, General Trías responded to Lane's proclamation by issuing one of his own in which he asserted that Chihuahua owned that region since time immemorial; that the boundary had legally been set at 32 degrees 22 minutes; that Chihuahua had occupied the area without opposition in 1851 "under the watch of officials of the United States who were not accustomed to remaining silent in cases in which American rights were in doubt"; and that it was the desire of the people of the area to belong to Mexico.⁴ Trías and his brigade then, with the approval of the Mexican government, marched towards El Paso. Trías then sent a note of warning to Lane's proposal of occupying the territory by force saying:

I shall use the means unquestionably necessary for its defense and conservation, in case it is attacked, and upon Your Excellency alone shall rest the responsibility for the consequences to which the procedure may give place.⁵

Prior to receiving this note, Lane had received a letter from a federal commissioner of Chihuahua:

Your Excellency will pardon my recommending that, in the interest of peace and neighborliness, you will maturely reflect and abandon your present resolution; because, if you do not, it becomes my duty as a commissioner of the Mexican government not to permit any occupation of territory which would be prejudicial to the national honor.⁶

Lane immediately replied that neither he nor the United States wanted any territory which rightfully belonged to Mexico.

In the meantime, he and Trias continued to issue bellicose proclamations, and a second war between the United States and Mexico appeared imminent. Lane, after being refused the help of federal troops from General Edwin Sumner, decided to organize a group of New Mexico and Texas volunteers. He also wrote to Washington for assistance. ⁷ Mexico, meanwhile, had instructed its diplomatic agents abroad to seek aid from European nations in the event of war with the United States. Peace between the two nations had been declared four years previously, but the disputed boundary appeared to shatter what good relations had been established between the two and plunge them into battle once again. Fortunately, changes in administration in both countries avoided a confrontation.

Although the loss of land to the United States following the Treaty of Guadalupe Hidalgo had been humiliating to Mexico, she had had no recourse. During the five years following this treaty, there had been an absence of coups against the government, and the democratic process had been allowed to function. Following Santa Anna's resignation in September, 1847 and a couple of provisional Presidents, Jose Joaquin Herrera was constitutionally elected to the office of President in June, 1848. By 1850, Mexico had its first peaceful transfer of authority since independence.

Mariano Arista, the next President, came into office in January, 1850. He was an honest and capable administrator who worked to reduce expenditures and to stabilize the economy. However, the conservative party, which had strong monarchical tendencies and was a potent force, managed to overthrow Arista in January, 1853. They then decided to recall and elect as President the exiled Santa Anna. After a couple of interim Presidents, Santa Anna arrived and was formally proclaimed President in April, 1853. His immediate appraisal of the Mesilla dispute convinced him his most pressing need was money rather than another war with the United States.⁸

Actually, most of the land in the Mesilla Strip was barren and unproductive except for a small area adjacent to the Rio Grande. Consequently, the United States might have accepted the Bartlett-Conde Compromise and overlooked the loss of the Mesilla Valley had not the quest for a transcontinental railroad route been such a vital issue at that time. The most feasible route appeared to be through Texas and the disputed area. After the adjournment of Congress on March 3, 1853, Senator Thomas Jefferson Rusk of Texas made a tour of inspection for a southern route.⁹ Later in the year, Texas Governor Peter Bell recommended to the Texas Legislature the

construction of a railroad through Texas as the best route to the Pacific. His recommendation prompted this body to pass an act on December 21, 1853, providing for such construction.¹⁰ This route had also been Gray's idea and he had discovered in the disputed area "the right of way for a Southern transcontinental railroad."¹¹

While the southerners were voicing their views in Congress, the Democratic administration of Franklin Pierce came into office in March, 1853. Pierce immediately and flatly denounced the Mexican claim to the Mesilla Strip. Fortunately for Pierce, Lane resigned as governor of New Mexico in the summer of 1853 to run (unsuccessfully) as a congressional delegate.¹² President Pierce then appointed David Meriwether to fill Lane's office. He was instructed to improve relations with Mexico since another war might ruin the Democratic party as well as imperil the Union itself. Thus, considering events in both nations, the United States and Mexico were suddenly in a mood to remember the provisions of Article XXI of the Treaty of Guadalupe Hidalgo which stated that the two nations would try to solve peaceably any disagreement which should arise between them.¹³ Therefore, President Pierce, in his first month in office, appointed James Gadsden as minister to Mexico replacing Alfred Conkling.

His objections, as the new United States Minister to Mexico, were to settle the boundary dispute, secure a release from Article XI of the Treaty of Guadalupe Hidalgo (United States responsibility for preventing Indian raids from its territory into Mexico), and secure sufficient land for building a trans-
14
continental railroad.

CHAPTER FIVE

FOOTNOTES

1

Odie B. Faulk, "The Controversial Boundary Survey and the Gadsden Treaty," Arizona and the West, IV (Autumn, 1962), 222.

2

Francisco R. Almada, Gobernadores del Estado de Chihuahua (Mexico, D.F.: H. Camara de Diputados, 1950), pp. 135-136.

3

Calvin Horn, New Mexico's Troubled Years (Albuquerque: Horn and Wallace, 1963), p. 46.

4

Humberto E. Ochoa, Integración y Desintegración de Nuestra Frontera Norte (Mexico, 1949).

5

El Siglo Diez y Nueve, Mexico, March 28, 1853.

6

Ibid., March 19, 1853.

7

Horn, New Mexico's Troubled Years, pp. 47-48.

8

Odie B. Faulk, Too Far North---Too Far South (Los Angeles: Westernlore Press, 1967), p. 123.

9

Texas State Gazette, Austin, Texas, September 24, 1853.

10

Ibid., February 7, 1854.

11

William H. Goetzmann, Exploration and Empire: The Explorer and Scientist in the Winning of the American West (New York: Alfred A. Knopf, 1966), p. 262.

12

Horn, New Mexico's Troubled Years, p. 48.

13

Faulk, Too Far North, p. 124.

14

Ibid., p. 129.

CHAPTER SIX

THE GADSDEN PURCHASE AND AFTERMATH

Immediately following his appointment as United States Minister to Mexico, James Gadsden set out to find as much information as he could about the disputed area. He wanted no further revision after a settlement had been reached. Most of his information was gathered from contacting the former Surveyor, Andrew B. Gray. Their discussions revolved mainly around what land would be necessary for a southern¹ transcontinental railroad.

Then, Gadsden sailed for Mexico arriving at the port of Vera Cruz on August 4, 1853. He proceeded to Mexico City where he arrived on August 17, and had his first meeting with Santa Anna. On August 20, he entered into a series of meetings with the Mexican Minister of Foreign Relations, Manuel Bonilla. In these discussions, Bonilla brought up the subject of indemnification as stipulated in Article XI of the treaty. Gadsden denied obligation on the part of the United States for indemnification to Mexico for damages inflicted by Indian raids. He pointed out that former treaties between the United States and Spain in 1795 and with Mexico in 1831 contained provisions similar to Article XI, and that

no indemnification was ever demanded by either party.²

Bonilla, in response, refused to answer Gadsden. Thus, discussions between the two resulted in a stalemate. However, Gadsden was able to obtain a meeting on September 25 with Santa Anna in which negotiations for a new boundary were discussed as well as agreeing to let the Mesilla area remain as it was until this boundary could be determined. This agreement effectively stopped any threat of war between the countries.³

Gadsden had another conference with Santa Anna on October 2, 1853, in which he stressed the need for a natural boundary between the two countries as a necessity for peaceful relations. Santa Anna rejected his proposal, saying he "would enter into no negotiations other than those which contemplated the settlement of the existing disagreements,"⁴ but he was open to suggestions for an adjustment. Gadsden, therefore, wrote the Secretary of State, William Marcy, stating a treaty could be concluded to end the dispute, but that it "must be paid for."⁵ He further emphasized in his letter to the Secretary of State the political instability in Mexico and "the deficit of \$17,000,000 in the Mexican treasury."⁶

Consequently, on October 22, President Pierce sent

C.L. Ward as a special messenger with secret instructions⁷ which he memorized and repeated to Gadsden. These instructions all centered on a new boundary line between the United States and Mexico. President Pierce, in these instructions, offered five possibilities for the construction of a new line. In the first offer, preferred by Pierce, the United States would pay \$50 million for an area of approximately 120,000 square miles which included the northern part of Coahuila, Chihuahua, Sonora, Tamaulipas, Nuevo Leon, and all of Baja California. In the second offer, he proposed \$35 million for an area of 50,000 square miles with the boundary line farther north and not including Baja California. The third offer proposed \$30 million for an area of 68,000 square miles, with the line still farther north but including Baja California. In the fourth offer, Pierce called for \$20 million for an area of 18,000 square miles with the boundary line the same as in the third offer, but excluding Baja California. The fifth offer, if none of the previous ones were acceptable to Mexico, called for sufficient territory for a transcontinental railroad. This line, the northernmost, was along the parallel of 31 degrees and 48 minutes from the Rio Grande to the Gulf of California. For this and a release from Article XI, Gadsden was authorized to offer

up to \$15 million.

Immediately after receiving these instructions from Ward, Gadsden began negotiations with the Mexican government. However, the Mexican authorities would not accept the sale of any large amount of land, and Gadsden was forced to accept the least desirable of his offers, sufficient land only for⁹ a transcontinental railroad.

Santa Anna, meanwhile, had become enraged at the alleged forced occupation of the Mesilla Strip by United States forces. However, the offer by Gadsden of \$15 million apparently cooled his wrath, and on December 30, 1853, a "Treaty of Boundary and Cession of Territory" was signed in¹⁰ Mexico City by Gadsden and the Mexican plenipotentiaries. By the first article of the treaty, the new international boundary line would run from the juncture of the Gila and Colorado rivers, down the middle of the Colorado to a point six miles above the head of the Gulf of California, a distance of seventy miles. Then, the line would proceed directly eastward to the intersection of the 31st parallel with the 111th degree of longitude, and then in a straight line to the middle of the Rio Grande at 31 degrees 47 minutes 30 seconds, roughly eight miles north of El Paso. Other articles removed the United States from responsibility under

Article XI of the Treaty of Guadalupe Hidalgo, provided for United States navigation of the Gulf of California and the Colorado River, the organization of a claims commission, and the promise of mutual cooperation in suppressing filibuster activities. In exchange for the territory, the United States was obligated to pay \$15 million. Ratifications of this treaty were to be exchanged by the two governments within¹¹ six months. Bonilla, in his negotiations with Gadsden, had convinced him that Mexico would never have agreed upon a sale which did not include a land access route to Baja California.

Unfortunately for Gadsden, when the Senate took up his treaty on February 10, 1854, the Kansas-Nebraska Bill was also under consideration by that body. This bill had already divided them into pro- and anti-slavery factions. Therefore, northern senators could only see the treaty as a means of securing more slave territory. The greatest debate came over the new boundary line as set forth in the first article. Amendments to relocate the line farther south were defeated until one moving the line northward, proposed by Senator James M. Mason of Virginia, was finally adopted. He proposed that the line begin in the middle of the Rio Grande at 31 degrees 47 minutes north latitude, run due west for one

hundred miles, turn due south to 31 degrees 20 minutes, proceed due west to the point where it intersects the 111th meridian, and then in a straight line to a point in the middle of the Colorado River twenty English miles (approximately twenty-eight miles) below its junction with the Gila. Then, it would proceed up the middle of the Colorado until it met the line dividing Upper and Lower California.¹² Other proposals, which were offered and accepted, reduced the payment to \$10 million and included the clause which abrogated Article XI of the Treaty of Guadalupe Hidalgo. This nullified Mexican claims against the United States, but left claims by United States citizens against Mexico intact.

This amended version of Gadsden's treaty was voted on in the Senate on April 17, 1854, in which it failed to pass. However, supporters of the treaty added a new amendment concerning right of transit on the Isthmus of Tehuantepec.

This changed the complexion of the situation since it guaranteed a short route to California until a transcontinental railroad could be built. Therefore, the amended treaty was again put to vote on April 25, 1854, and easily passed.¹³

A shadow of the treaty negotiated by Gadsden was ratified by the Senate. The territory acquired by the original treaty was reduced nine thousand square miles. Territory for a

railroad route had been acquired, but no natural boundary,
nor a port on the Gulf of California was secured.¹⁴

Gadsden was so upset and dissatisfied with the Senate's amended version of his treaty that he went to Mexico to argue against its acceptance by the Mexican government. However, once in Mexico City, he realized that the United States Senate was too divided by the slavery question to consider a new treaty. Santa Anna had no doubts about the amended treaty. His rejection might mean another war with the United States and he was desperately in need of money. Therefore, he quickly signed the amended treaty on May 31, 1854. The treaty was ratified in the United States in June, 1854.

Meanwhile, Emory had been appointed Commissioner in the summer of 1854 to survey and mark the new boundary. His counterpart was the former Mexican Surveyor, José Salazar Ylarregui. The two worked extremely well together, and on December 18, 1855, Emory was able to report to the Secretary
of the Interior that the boundary survey was complete.¹⁵

CHAPTER SIX

FOOTNOTES

1

Paul N. Garber, The Gadsden Treaty (Philadelphia: Press of the University of Pennsylvania, 1923), p. 83.

2

Ibid., p. 86.

3

Ibid., p. 87.

4

Ibid.

5

Ibid., p. 89.

6

Ibid.

7

Louis B. Schmidt, "Manifest Opportunity and the Gadsden Purchase," Arizona and the West, III (Autumn, 1961), 253.

8

Ibid., pp. 253-254.

9

Odie B. Faulk, Too Far North---Too Far South (Los Angeles: Westernlore Press, 1967), p. 131.

10

Ibid., p. 132.

11

David H. Miller, Treaties and Other International Acts of the United States of America (Washington: Government Printing Office, 1937), VI, pp. 318-322.

12

Faulk, Too Far North, p. 133.

13

Ibid., pp. 134-135.

14

Garber, The Gadsden Treaty, p. 131.

15

Odie B. Faulk, "The Controversial Boundary Survey and the Gadsden Treaty," Arizona and the West, IV (Autumn, 1962), 225.

CONCLUSION

The failure of the United States Senate in 1854 to secure a boundary which included a port on the Gulf of California has retarded the development of this region and the whole southwest.¹ The pro- and anti-slavery factions, so extreme in their views, could not understand that slavery could never succeed in the southwest.

Many times during the course of its work, the Boundary Commission was hampered by the firing of its chief personnel simply because they were members of the party in opposition to the one in control of the Congress. This tendency to fire qualified personnel just because they belong to another party continues today in a modified form.

John Russell Bartlett, the discredited Commissioner around whom much of the boundary controversy revolved, returned to Providence, Rhode Island, where he was elected Secretary of State from 1855 until 1872. Among his books were a ten-volume Records of the Colony and State of Rhode Island, 1636-1792; Bibliography of Rhode Island; Index to the Acts, Resolves and Reports of Rhode Island, from 1758 to 1862 (in 12 volumes); The Literature of the Rebellion; and Memoirs of Rhode Island Officers in the Service of the

Country During the Civil War. However, it is his two-volume Personal Narratives published in 1854 for which he is most remembered. Its publication marks a high point in southwestern literature. His failure as Boundary Commissioner was really a failure of the United States political system which made it possible for him to secure the appointment. At his death on May 28, 1886, he was characterized by a friend as a gentleman and a scholar.

Major William H. Emory, who was responsible for the outcome of the survey, was rewarded by promotion to Lieutenant Colonel. During the Civil War, he was promoted to Colonel in the Union forces. He returned from the army in July, 1876 as Brigadier General and established residency in Washington, D.C., dying there on December 1, 1887.

Lietutenant Amiel W. Whipple, after working with other surveying parties, rose to the rank of Major General with the Union forces during the Civil War. He died on May 7, 1863, from wounds received during the Battle of Chancellorsville in Virginia. Fort Whipple, Arizona is named for him.

Andrew B. Gray, the Surveyor fired from the Boundary Commission, was employed in 1853 by the Texas Western Railroad to survey a thirty-second parallel route for a trans-continental railroad. This he successfully completed,

though the road was never built. He joined the Confederate forces during the Civil War and while examining the Mississippi River between Port Hudson and Fort Pillow, was killed by the explosion of a boiler on a steamer. Gray was a responsible and forthright man; one who saw his duty and tried to do it, for which an ungrateful government fired him.

John B. Weller, the first Commissioner, later became governor of California, dying in 1875. Colonel John McClellan, accused by Bartlett of being a drunkard, was placed in charge of surveys of the Tennessee River after his recall and died in 1854. Colonel James D. Graham, McClellan's replacement, was assigned to duty on the Great Lakes superintending harbor improvements. He died in 1865 while in charge of the repair of harbor works from Maine to the Chesapeake area. José Salazar Ylarregui, Surveyor and later Commissioner for Mexico, headed a commission which surveyed the boundary between Mexico and Guatemala. He supported the French adventure which brought Maximilian to the Mexican throne and died in disgrace and poverty in Mexico City in 1892.² Antonio López de Santa Anna, the Mexican President, was forced to resign and flee the country into exile in Venezuela in 1855. He had the misfortune to live another twenty years. Finally, he was permitted to return home in 1872, dying in Mexico City

in 1876 almost penniless.³ James Gadsden was recalled from Mexico in October of 1856 because of animosity between him and Mexican President Ignacio Comonfort.⁴ He died in 1858.

The entire controversial boundary survey, beginning in 1848 and ending in 1853 (there was no controversy on the Gadsden Treaty survey), should serve as a lesson in the folly of political appointment to posts requiring technical and diplomatic skills. The decades which have elapsed since those events have shown, however, that the United States did not profit from the mistakes of that fiasco. It has been said that a politician is a man who wins elections. All too often in the United States experience, ex-politicians, those who have held office and failed to win reelection, become boundary commissioners or receive other posts where they can blunder about in fields in which they have no knowledge or competence. It has been a national delusion in this country that the holding of elective office educates a man in administrative affairs, thus qualifying him to head anything.

Yes, although the controversial boundary survey did not teach any lessons or impart any wisdom to Washington politicians, it did lead to the purchase of an extremely valuable strip of territory, one that has more than paid for

itself in subsequent mineral and agricultural production. The one lasting tragedy of this affair is that the United States did not purchase more territory from Mexico while it had the chance. The history of the Southwest since 1853 would have been far different had this nation secured a port at the mouth of the Colorado River. It is perhaps expecting too much of politicians with an eye on the next election, however, to believe that they actually had in mind the best interests of a region where there were no constituents for those representatives who had a voice in setting the boundary. The Southwest must, therefore, be grateful for what it did gain in this prolonged comedy of errors.⁵ Thus, the result of the boundary dispute and the Gadsden Treaty was a partial victory and a partial loss for the United States. For Mexico, it was a complete loss and left a legacy of hatred for the "Colossus of the North."

CONCLUSION

FOOTNOTES

1

Paul N. Garber, The Gadsden Treaty (Philadelphia: Press of the University of Pennsylvania, 1923), p. 84.

2

Odie B. Faulk, Too Far North---Too Far South (Los Angeles: Westernlore Press, 1967), pp. 157-164.

3

Henry Bamford Parkes, A History of Mexico (Boston: Houghton Mifflin Company, 1969), pp. 228-229.

4

Garber, The Gadsden Treaty, pp. 176-178.

5

Faulk, Too Far North, pp. 165-166.

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APPENDIX A

THE TREATY OF GUADALUPE-HIDALGO
(English Version)

TREATY OF PEACE

BETWEEN THE REPUBLIC OF MEXICO
AND THE UNITED STATES
OF AMERICA

February 2

1848

In the Name of Almighty God

The United States of America, and the United Mexican States, animated by a sincere desire to put an end to the calamities of the war which unhappily exists between the two Republics, and to establish upon 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 peoples should live, as good neighbours, have for that purpose appointed their respective Plenipotentiaries: that is to say, the President of the United States has appointed Nicholas P. Trist, a citizen of the United States, and the President of the Mexican Republic has appointed Don Luis Gonzaga Cuevas, Don Bernardo Couto, and Don Miguel Atristain, citizens of the said Republic; who, after a reciprocal communication of their respective full powers, have, under the protection of Almighty God, the author of Peace, arranged, agreed upon, and signed the following:

Treaty of Peace, Friendship, Limits and Settlement between the United States of America and the Mexican Republic.

ARTICLE I.

There shall be firm and universal peace between the United States of America and the Mexican Republic, and between their respective countries, territories, cities, towns and people, without exception of places or persons.

Treaty of Peace

ARTICLE II.

Immediately upon the signature of this Treaty, a convention shall be entered into between a Commissioner or Commissioners appointed by the General in Chief of the forces of the United States, and such as may be appointed by the Mexican Government, to the end that a provisional suspension of hostilities shall take place, and that, in the places occupied by the said forces, constitutional order may be re-established, as regards the political, administrative, and judicial branches, so far as this shall be permitted by the circumstances of military occupation.

ARTICLE III.

Immediately upon the ratification of the present treaty by the Government of the United States, orders shall be transmitted to the Commanders of their land and naval forces, requiring the latter, (provided this treaty shall then have been ratified by the Government of the Mexican Republic and the ratifications exchanged) immediately to desist from blockading any Mexican ports; and requiring the former (under the same condition) to commence, at the earliest moment practicable, withdrawing all troops of the United States then in the interior of the Mexican Republic, to points, that shall be selected by common agreement, at a distance from the sea-ports, not exceeding thirty leagues; and such evacuation of the interior of the Republic shall be completed with the least possible delay; the Mexican Government hereby binding itself to afford every facility in its power for rendering the same convenient to the troops, on their march and in their new positions, and for promoting a good understanding between them and the inhabitants. In like manner, orders shall be despatched to the persons in charge of the Custom Houses at all ports occupied by the forces of the United States, requiring them (under the same condition) immediately to deliver possession of the same to the persons authorized by the Mexican Government to receive it, together with all bonds and evidences of debt for duties on importations and on exportations, not yet fallen due. Moreover, a faithful and exact account shall be made out, showing the entire amount of all duties on imports and

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on exports, collected at such Custom Houses, or elsewhere in Mexico, by authority of the United States, from and after the day of ratification of this treaty by the Government of the Mexican Republic; and also an account of the cost of collection; and such entire amount, deducting only the cost of collection, shall be delivered to the Mexican Government, at the City of Mexico, within three months after the exchange of ratifications.

The evacuation of the Capital of the Mexican Republic by the troops of the United States, in virtue of the above stipulation, shall be completed in one month after the orders there stipulated for shall have been received by the commander of said troops, or sooner if possible.

ARTICLE IV.

Immediately after the exchange of ratifications of the present treaty, all castles, forts, territories, places and possessions, which have been taken or occupied by the forces of the United States during the present war, within the limits of the Mexican Republic, as about to be established by the following Article, shall be definitively restored to the said Republic, together with all the artillery, arms, apparatus of war, munitions and other public property, which were in the said castles and forts when captured, and which shall remain there at the time when this treaty shall be duly ratified by the Government of the Mexican Republic. To this end, immediately upon the signature of this treaty, orders shall be despatched to the American officers commanding such castles and forts, securing against the removal or destruction of any such artillery, arms, apparatus of war, munitions or other public property. The City of Mexico, within the inner line of intrenchments surrounding the said City, is comprehended in the above stipulations, as regards the restoration of artillery, apparatus of war, &c.

The final evacuation of the territory of the Mexican Republic, by the forces of the United States, shall be completed in three months from the said exchange of ratifications, or sooner, if possible: the Mexican Government hereby engaging, as in the foregoing Article, to use all means in its power for facilitating such evacuation, and rendering it

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convenient to the troops, and for promoting a good understanding between them and the inhabitants.

If, however, the ratification of this treaty by both parties should not take place in time to allow the embarkation of the troops of the United States to be completed before the commencement of the sickly season, at the Mexican Ports on the Gulf of Mexico; in such case a friendly arrangement shall be entered into between the General in Chief of the said troops and the Mexican Government, whereby healthy and otherwise suitable places at a distance from the ports not exceeding thirty leagues shall be designated for the residence of such troops as may not yet have embarked, until the return of the healthy season. And the space of time here referred to, as comprehending the sickly season, shall be understood to extend from the first day of May to the first day of November.

All prisoners of war taken on either side, on land or on sea, shall be restored as soon as practicable after the exchange of ratifications of this treaty. It is also agreed that if any Mexicans should now be held as captives by any savage tribe within the limits of the United States, as about to be established by the following Article, the Government of the said United States will exact the release of such captives, and cause them to be restored to their country.

ARTICLE V.

The Boundary line between the two Republics shall commence in the Gulf of Mexico, three leagues from land, opposite the mouth of the Rio Grande, otherwise called Rio Bravo del Norte, or opposite the mouth of its deepest branch, if it should have more than one branch emptying directly into the sea; from thence, up the middle of that river, following the deepest channel, where it has more than one, to the point where it strikes the southern boundary of New Mexico; thence, westwardly, along the whole southern boundary of New Mexico (which runs north of the town called *Paso*) to its western termination; thence, northward, along the western line of New Mexico, until it intersects

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the first branch of the river Gila; (or if it should not intersect any branch of that river, then, to the point on the said line nearest to such branch, and thence in a direct line to the same;) thence down the middle of the said branch and of the said river, until it empties into the Rio Colorado; thence, across the Rio Colorado, following the division line between Upper and Lower California, to the Pacific Ocean.

The southern and western limits of New Mexico, mentioned in this Article, are those laid down in the Map, entitled "*Map of the United Mexican States, as organized and defined by various acts of the Congress of said Republic, and constructed according to the best Authorities. Revised Edition. Published at New York in 1847 by J. Disturnell:*" of which Map a Copy is added to this treaty, bearing the signatures and seals of the Undersigned Plenipotentiaries. And, in order to preclude all difficulty in tracing upon the ground the limit separating Upper from Lower California, it is agreed that the said limit shall consist of a straight line, drawn from the middle of the Rio Gila, where it unites with the Colorado, to a point on the coast of the Pacific Ocean, distant one marine league due south of the southernmost point of the Port of San Diego, according to the plan of said port, made in the year 1782 by Don Juan Fantoja, second sailing master of the Spanish fleet, and published at Madrid in the year 1802, in the Atlas to the voyage of the schooners *Sutil* and *Mexicana*: of which plan a copy is hereunto added, signed and sealed by the respective plenipotentiaries.

In order to designate the Boundary line with due precision, upon authoritative maps, and to establish upon the ground landmarks which shall show the limits of both Republics, as described in the present Article, the two Governments shall each appoint a Commissioner and a Surveyor, who, before the expiration of one year from the date of the exchange of ratifications of this treaty, 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, and shall have the same force as if it were inserted therein. The two Govern-

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ments will amicably agree regarding what may be necessary to these persons, and also as to their respective escorts, should such be necessary.

The Boundary line established by this Article shall be religiously respected by each of the two Republics, and no change shall ever be made therein, except by the express and free consent of both nations, lawfully given by the General Government of each, in conformity with its own constitution.

ARTICLE VI.

The Vessels and citizens of the United States shall, in all time, have a free and uninterrupted passage by the Gulf of California, and by the River Colorado below its confluence with the Gila, to and from their possessions situated north of the Boundary line defined in the preceding Article: it being understood, that this passage is to be by navigating the Gulf of California and the River Colorado, and not by land, without the express consent of the Mexican Government.

If, by the examinations which may be made, it should be ascertained to be practicable and advantageous to construct a road, canal or railway, which should, in whole or in part, run upon the river Gila, or upon its right or its left bank, within the space of one marine league from either margin of the river, the Governments of both Republics will form an agreement regarding its construction, in order that it may serve equally for the use and advantage of both countries.

ARTICLE VII.

The river Gila, and the part of the Rio Bravo del Norte lying below the southern boundary of New Mexico, being, agreeably to the fifth Article, divided in the middle between the two Republics, the navigation of the Gila and of the Bravo below said boundary shall be free and common to the vessels and citizens of both countries; and neither shall, without the consent of the other, construct any work that may

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impede or interrupt, in whole or in part, the exercise of this right: not even for the purpose of favouring new methods of navigation. Nor shall any tax or contribution, under any denomination or title, be levied upon vessels or persons navigating the same, or upon merchandise or effects transported thereon, except in the case of landing upon one of their shores. If, for the purpose of making the said rivers navigable, or for maintaining them in such state, it should be necessary or advantageous to establish any tax or contribution, this shall not be done without the consent of both Governments.

The stipulations contained in the present Article shall not impair the territorial rights of either Republic, within its established limits.

ARTICLE VIII.

Mexicans now established in territories previously belonging to Mexico, and which remain for the future within the limits of the United States, as defined by the present treaty, shall be free to continue where they now reside, or to remove at any time to the Mexican Republic, retaining the property which they possess in the said territories, or disposing thereof, and removing the proceeds wherever they please; without their being subjected, on this account, to any contribution, tax or charge whatever.

Those who shall prefer to remain in the said territories, may either retain the title and rights of Mexican citizens, or acquire those of citizens of the United States. But they shall be under the obligation to make their election within one year from the date of the exchange of ratifications of this treaty: and those who shall remain in the said territories, after the expiration of that year, without having declared their intention to retain the character of Mexicans, shall be considered to have elected to become citizens of the United States.

In the said territories, property of every kind, now belonging to Mexicans, not established there, shall be inviolably respected. The present owners, the heirs of these, and all Mexicans who may hereafter acquire said property by contract, shall enjoy with respect to it,

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guaranties equally ample as if the same belonged to citizens of the United States.

ARTICLE IX.

The Mexicans who, in the territories aforesaid, shall not preserve the character of citizens of the Mexican Republic, conformably with what is stipulated in the preceding article, shall be incorporated into the Union of the United States and be admitted, at the proper time (to be judged of by the Congress of the United States) to the enjoyment of all the rights of citizens of the United States according to the principles of the Constitution; and in the mean time shall be maintained and protected in the free enjoyment of their liberty and property, and secured in the free exercise of their religion without restriction.

[One of the amendments of the Senate struck out Article 10.]

ARTICLE XI.

Considering that a great part of the territories which, by the present Treaty, are to be comprehended for the future within the limits of the United States, is now occupied by savage tribes, who will hereafter be under the exclusive control of the Government of the United States, and whose incursions within the territory of Mexico would be prejudicial in the extreme; it is solemnly agreed that all such incursions shall be forcibly restrained by the Government of the United States, whensoever this may be necessary; and that when they cannot be prevented, they shall be punished by the said Government, and satisfaction for the same shall be exacted; all in the same way, and with equal diligence and energy, as if the same incursions were meditated or committed within its own territory against its own citizens.

It shall not be lawful, under any pretext whatever, for any inhabitant of the United States, to purchase or acquire any Mexican or any foreigner residing in Mexico, who may have been captured by Indians inhabiting the territory of either of the two Republics, nor to purchase or acquire horses, mules, cattle or property of any kind, stolen within Mexican territory by such Indians.

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And, in the event of any person or persons, captured within Mexican Territory by Indians, being carried into the territory of the United States, the Government of the latter engages and binds itself in the most solemn manner, so soon as it shall know of such captives being within its territory, and shall be able so to do, through the faithful exercise of its influence and power, to rescue them and return them to their country, or deliver them to the agent or representative of the Mexican Government. The Mexican Authorities will, as far as practicable, give to the Government of the United States notice of such captures; and its agent shall pay the expenses incurred in the maintenance and transmission of the rescued captives; who, in the mean time, shall be treated with the utmost hospitality by the American authorities at the place where they may be. But if the Government of the United States, before receiving such notice from Mexico, should obtain intelligence through any other channel, of the existence of Mexican captives within its territory, it will proceed forthwith to effect their release and delivery to the Mexican agent, as above stipulated.

For the purpose of giving to these stipulations the fullest possible efficacy, thereby affording the security and redress demanded by their true spirit and intent, the Government of the United States will now and hereafter pass, without unnecessary delay, and always vigilantly enforce, such laws as the nature of the subject may require. And finally, the sacredness of this obligation shall never be lost sight of by the said Government, when providing for the removal of the Indians from any portion of the said territories, or for its being settled by citizens of the United States; but on the contrary special care shall then be taken not to place its Indian occupants under the necessity of seeking new homes, by committing those invasions which the United States have solemnly obliged themselves to restrain.

ARTICLE XII.

In consideration of the extension acquired by the boundaries of the United States, as defined in the fifth Article of the present Treaty, the

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Government of the United States engages to pay to that of the Mexican Republic the sum of fifteen Millions of Dollars.

Immediately after this treaty shall have been duly ratified by the Government of the Mexican Republic, the sum of three millions of dollars shall be paid to the said Government by that of the United States at the city of Mexico, in the gold or silver coin of Mexico. The remaining twelve millions of dollars shall be paid at the same place and in the same coin, in annual instalments of three millions of dollars each, together with interest on the same at the rate of six per centum per annum. This interest shall begin to run upon the whole sum of twelve millions, from the day of the ratification of the present treaty by the Mexican Government, and the first of the instalments shall be paid at the expiration of one year from the same day. Together with each annual instalment, as it falls due, the whole interest accruing on such instalment from the beginning shall also be paid.

ARTICLE XIII.

The United States engage moreover, to assume and pay to the claimants all the amounts now due them, and those hereafter to become due, by reason of the claims already liquidated and decided against the Mexican Republic, under the conventions* between the two Republics severally concluded on the eleventh day of April eighteen hundred and thirty-nine, and on the thirtieth day of January eighteen hundred and forty three: so that the Mexican Republic shall be absolutely exempt for the future, from all expense whatever on account of the said claims.

ARTICLE XIV.

The United States do furthermore discharge the Mexican Republic from all claims of citizens of the United States, not heretofore decided against the Mexican Government, which may have arisen previously to the date of the signature of this treaty: which discharge shall be final and perpetual, whether the said claims be rejected or be allowed by the Board of Commissioners provided for in the following Article, and whatever shall be the total amount of those allowed.

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ARTICLE XV.

The United States, exonerating Mexico from all demands on account of the claims of their citizens mentioned in the preceding Article, and considering them entirely and forever cancelled, whatever their amount may be, undertake to make satisfaction for the same, to an amount not exceeding three and one quarter millions of Dollars. To ascertain the validity and amount of those claims, a Board of Commissioners shall be established by the Government of the United States, whose awards shall be final and conclusive: provided that in deciding upon the validity of each claim, the board shall be guided and governed by the principles and rules of decision prescribed by the first and fifth Articles* of the unratified convention, concluded at the City of Mexico on the twentieth day of November, one thousand eight hundred and forty-three; and in no case shall an award be made in favour of any claim not embraced by these principles and rules.

If, in the opinion of the said Board of Commissioners, or of the claimants, any books, records or documents in the possession or power of the Government of the Mexican Republic, shall be deemed necessary to the just decision of any claim, the Commissioners or the claimants, through them, shall, within such period as Congress may designate, make an application in writing for the same, addressed to the Mexican Minister for Foreign Affairs, to be transmitted by the Secretary of State of the United States; and the Mexican Government engages, at the earliest possible moment after the receipt of such demand, to cause any of the books, records or documents, so specified, which shall be in their possession or power, (or authenticated Copies or extracts of the same) to be transmitted to the said Secretary of State, who shall immediately deliver them over to the said Board of Commissioners: provided that no such application shall be made, by, or at the instance of, any claimant, until the facts which it is expected to prove by such books, records or documents, shall have been stated under oath or affirmation.

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ARTICLE XVI.

Each of the contracting parties reserves to itself the entire right to fortify whatever point within its territory, it may judge proper so to fortify, for its security.

ARTICLE XVII.

The Treaty* of Amity, Commerce and Navigation, concluded at the city of Mexico on the fifth day of April A.D. 1831, between the United States of America and the United Mexican States, except the additional Article, and except so far as the stipulations of the said treaty may be incompatible with any stipulation contained in the present treaty, is hereby revived for the period of eight years from the day of the exchange of ratifications of this treaty, with the same force and virtue as if incorporated therein; it being understood that each of the contracting parties reserves to itself the right, at any time after the said period of eight years shall have expired, to terminate the same by giving one year's notice of such intention to the other party.

ARTICLE XVIII.

All supplies whatever for troops of the United States in Mexico, arriving at ports in the occupation of such troops, previous to the final evacuation thereof, although subsequently to the restoration of the Custom Houses at such ports, shall be entirely exempt from duties and charges of any kind: the Government of the United States hereby engaging and pledging its faith to establish, and vigilantly to enforce, all possible guards for securing the revenue of Mexico, by preventing the importation, under cover of this stipulation, of any articles, other than such, both in kind and in quantity, as shall really be wanted for the use and consumption of the forces of the United States during the time they may remain in Mexico. To this end, it shall be the duty of all officers and agents of the United States to denounce to the Mexican Authorities at the respective ports, any attempts at a fraudulent abuse of this stipulation, which they may know of or may have reason to suspect, and

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to give to such authorities all the aid in their power with regard thereto: and every such attempt, when duly proved and established by sentence of a competent tribunal, shall be punished by the confiscation of the property so attempted to be fraudulently introduced.

ARTICLE XIX.

With respect to all merchandise, effects and property whatsoever, imported into ports of Mexico whilst in the occupation of the forces of the United States, whether by citizens of either republic, or by citizens or subjects of any neutral nation, the following rules shall be observed:

I. All such merchandise, effects and property, if imported previously to the restoration of the Custom Houses to the Mexican Authorities, as stipulated for in the third Article of this treaty, shall be exempt from confiscation, although the importation of the same be prohibited by the Mexican tariff.

II. The same perfect exemption shall be enjoyed by all such merchandise, effects and property, imported subsequently to the restoration of the Custom Houses, and previously to the sixty days fixed in the following Article for the coming into force of the Mexican tariff at such ports respectively: the said merchandise, effects and property being, however, at the time of their importation, subject to the payment of duties, as provided for in the said following Article.

III. All merchandise, effects and property described in the two rules foregoing, shall, during their continuance at the place of importation, or upon their leaving such place for the interior, be exempt from all duty, tax or impost of every kind, under whatsoever title or denomination. Nor shall they be there subjected to any charge whatsoever upon the sale thereof.

IV. All merchandise, effects and property, described in the first and second rules, which shall have been removed to any place in the interior, whilst such place was in the occupation of the forces of the United States, shall, during their continuance therein, be exempt from all tax

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upon the sale or consumption thereof, and from every kind of impost or contribution, under whatsoever title or denomination.

V. But if any merchandise, effects or property, described in the first and second rules, shall be removed to any place not occupied at the time by the forces of the United States, they shall, upon their introduction into such place, or upon their sale or consumption there, be subject to the same duties, which, under the Mexican laws, they would be required to pay in such cases, if they had been imported in time of peace through the Maritime Custom Houses, and had there paid the duties conformably with the Mexican tariff.

VI. The owners of all merchandise, effects or property, described in the first and second rules, and existing in any port of Mexico, shall have the right to reship the same, exempt from all tax, impost or contribution whatever.

With respect to the metals, or other property exported from any Mexican port, whilst in the occupation of the forces of the United States, and previously to the restoration of the Custom House at such port, no person shall be required by the Mexican Authorities, whether General or State, to pay any tax, duty or contribution upon any such exportation, or in any manner to account for the same to the said Authorities.

ARTICLE XX.

Through consideration for the interests of commerce generally, it is agreed, that if less than sixty days should elapse between the date of the signature of this treaty and the restoration of the Custom Houses, conformably with the stipulation in the third Article, in such case, all merchandise, effects and property whatsoever, arriving at the Mexican ports after the restoration of the said Custom Houses, and previously to the expiration of sixty days after the day of the signature of this treaty, shall be admitted to entry; and no other duties shall be levied thereon than the duties established by the tariff found in force at such Custom Houses, at the time of the restoration of the same. And to all such merchandise, effects and property, the rules established by the preceding Article shall apply.

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ARTICLE XXI.

If unhappily any disagreement should hereafter arise between the Governments of the two Republics, whether with respect to the interpretation of any stipulation in this treaty, or with respect to any other particular concerning the political or commercial relations of the two Nations, the said Governments, in the name of those Nations, do promise to each other, that they will endeavour in the most sincere and earnest manner, to settle the differences so arising, and to preserve the state of peace and friendship, in which the two countries are now placing themselves: using, for this end, mutual representations and pacific negotiations. And, if by these means, they should not be enabled to come to an agreement, a resort shall not, on this account, be had to reprisals, aggression or hostility of any kind, by the one Republic against the other, until the Government of that which deems itself aggrieved, shall have maturely considered, in the spirit of peace and good neighbourship, whether it would not be better that such difference should be settled by the arbitration of Commissioners appointed on each side, or by that of a friendly nation. And should such course be proposed by either party, it shall be acceded to by the other, unless deemed by it altogether incompatible with the nature of the difference, or the circumstances of the case.

ARTICLE XXII.

If (which is not to be expected, and which God forbid!) war should unhappily break out between the two Republics, they do now, with a view to such calamity, solemnly pledge themselves to each other and to the world, to observe the following rules: absolutely, where the nature of the subject permits, and as closely as possible in all cases where such absolute observance shall be impossible.

I. The merchants of either Republic, then residing in the other, shall be allowed to remain twelve months (for those dwelling in the interior) and six months (for those dwelling at the sea-ports) to collect their debts and settle their affairs; during which periods, they shall enjoy the same protection, and be on the same footing, in all respects, as the

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citizens or subjects of the most friendly nations; and, at the expiration thereof, or at any time before, they shall have full liberty to depart, carrying off all their effects, without molestation or hindrance: conforming therein to the same laws, which the citizens or subjects of the most friendly nations are required to conform to. Upon the entrance of the armies of either nation into the territories of the other, women and children, ecclesiastics, scholars of every faculty, cultivators of the earth, merchants, artizans, manufacturers and fishermen, unarmed and inhabiting unfortified towns, villages or places, and in general all persons whose occupations are for the common subsistence and benefit of mankind, shall be allowed to continue their respective employments, unmolested in their persons. Nor shall their houses or goods be burnt or otherwise destroyed: nor their cattle taken, nor, their fields wasted, by the armed force, into whose power, by the events of war, they may happen to fall; but if the necessity arise to take any thing from them for the use of such armed force, the same shall be paid for at an equitable price. All churches, hospitals, schools, colleges, libraries and other establishments for charitable and beneficent purposes, shall be respected, and all persons connected with the same protected in the discharge of their duties and the pursuit of their vocations.

II. In order that the fate of prisoners of war may be alleviated, all such practices as those of sending them into distant, inclement or unwholesome districts, or crowding them into close and noxious places, shall be studiously avoided. They shall not be confined in dungeons, prison-ships or prisons; nor be put in irons, or bound, or otherwise restrained in the use of their limbs. The officers shall enjoy liberty on their paroles, within convenient districts, and have comfortable quarters; and the common soldiers shall be disposed in cantonments, open and extensive enough for air and exercise, and lodged in barracks as roomy and good as are provided by the party in whose power they are for its own troops. But if any officer shall break his parole by leaving the district so assigned him, or any other prisoner shall escape from the limits of his cantonment, after they shall have been designated to him, such individual, officer, or other prisoner shall forfeit so much of the benefit

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of this Article as provides for his liberty on parole or in cantonment. And if an officer so breaking his parole, or any common soldier so escaping from the limits assigned him, shall afterwards be found in arms, previously to his being regularly exchanged, the person so offending shall be dealt with according to the established laws of war. The officers shall be daily furnished by the party in whose power they are, with as many rations, and of the same articles as are allowed either in kind or by commutation, to officers of equal rank in its own army; and all others shall be daily furnished with such ration as is allowed to a common soldier in its own service: the value of all which supplies shall, at the close of the war, or at periods to be agreed upon between the respective commanders, be paid by the other party, on a mutual adjustment of accounts for the subsistence of prisoners; and such accounts shall not be mingled with or set off against any others, nor the balance due on them be withheld, as a compensation or reprisal for any cause whatever, real or pretended. Each party shall be allowed to keep a Commissary of prisoners, appointed by itself, with every cantonment of prisoners, in possession of the other; which Commissary shall see the prisoners as often as he pleases; shall be allowed to receive, exempt from all duties or taxes, and to distribute whatever comforts may be sent to them by their friends; and shall be free to transmit his reports in open letters to the party by whom he is employed.

And it is declared that neither the pretence that war dissolves all treaties, nor any other whatever, shall be considered as annulling or suspending the solemn covenant contained in this Article. On the contrary the state of war is precisely that for which it is provided; and during which its stipulations are to be as sacredly observed as the most acknowledged obligations under the law of nature or nations.

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ARTICLE XXIII.

This Treaty shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof; and by the President of the Mexican Republic, with the previous approbation of its General Congress: and the ratifications shall be exchanged in the city of Washington or at the seat of government of Mexico, in four months from the date of the signature hereof, or sooner if practicable.

In faith whereof, we, the respective Plenipotentiaries, have signed this Treaty of Peace, Friendship, Limits and Settlement, and have hereunto affixed our seals respectively. Done in Quintuplicate at the city of Guadalupe Hidalgo on the second day of February in the Year of Our Lord one thousand eight hundred and forty-eight.

N. P. TRIST	[Seal]
LUIS G. CUEVAS	[Seal]
BERNARDO COUTO	[Seal]
MIG! ATRISTAIN	[Seal]

THE TREATY OF GUADALUPE-HIDALGO
(Spanish Version)

TRATADO DE PAZ

ENTRE LA REPUBLICA MEXICANA

Y LOS ESTADOS UNIDOS

DE AMERICA

2 de Febrero

1848

En el Nombre de Dios Todo-poderoso

Los Estados-Unidos mexicanos y los Estados-Unidos de América, animados de un sincero deseo de poner término á las calamidades de la guerra que desgraciadamente existe entre ambas Repúblicas, y de establecer sobre bases sólidas relaciones de paz y buena amistad, que procuren recíprocas ventajas á los Ciudadanos de uno y otro pays, y afianzen la concordia, armonia y mútua seguridad en que deben vivir, como buenos vecinos, los dos pueblos; han nombrado á este efecto sus respectivos Plenipotenciarios; á saber, el Presidente de la República mexicana á Don Bernardo Couto, Don Miguel Atristain y Don Luis Gonzaga Cuevas, ciudadanos de la misma República; y el Presidente de los Estados-Unidos de América á Don Nicolas P. Trist, ciudadano de dichos Estados; quienes despues de haberse comunicado sus plenos poderes, bajo la proteccion del Señor Dios Todo-poderoso, autor de la paz, han ajustado, convenido y firmado el siguiente:

Tratado de Paz, Amistad, Límites y Arreglo definitivo entre la República mexicana y los Estados-Unidos de América.

ARTÍCULO I.

Habrá paz firme y universal entre la República mexicana y los Estados-Unidos de América y entre sus respectivos paises, territorios, ciudades, villas y pueblos, sin escepcion de lugares ó personas.

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ARTÍCULO II.

Luego que se firme el presente Tratado habrá un convenio entre el comisionado ú comisionados del Gobierno mexicano, y el ó los que nombre el General en Jefe de las fuerzas de los Estados-Unidos, para que cesen provisionalmente las hostilidades, y se restablezca en los lugares ocupados por las mismas fuerzas el orden constitucional en lo político, administrativo y judicial, en cuanto lo permitan las circunstancias de ocupacion militar.

ARTÍCULO III.

Luego que este Tratado sea ratificado por el Gobierno de los Estados-Unidos, se expedirán órdenes á sus comandantes de tierra y mar previniendo á estos segundos (siempre que el Tratado haya sido ya ratificado por el Gobierno de la República mexicana y cangeadas las ratificaciones) que inmediatamente alcen el bloqueo de todos los puertos mexicanos, y mandando á los primeros (bajo la misma condicion) que á la mayor posible brevedad comiencen á retirar todas las tropas de los Estados-Unidos que se hallaren entonces en el interior de la República mexicana, á puntos que se elegirán de comun acuerdo, y que no distarán de los puertos mas de treinta leguas: esta evacuacion del interior de la República se consumará con la menor dilacion posible, comprometiéndose á la vez el Gobierno mexicano á facilitar, cuanto quepa en su arbitrio, la evacuacion de las tropas americanas; á hacer cómodas su marcha y su permanencia en los nuevos puntos que se elijan; y á promover una buena inteligencia entre ellas y los habitantes. Igualmente se librarán órdenes á las personas encargadas de las Aduanas marítimas en todos los puertos ocupados por las fuerzas de los Estados-Unidos, previniéndoles (bajo la misma condicion) que pongan inmediatamente en posesion de dichas Aduanas á las personas autorizadas por el Gobierno mexicano para recibirlas, entregándoles al mismo tiempo todas las obligaciones y constancias de deudas pendientes por derechos de importacion y exportacion, cuyos plazos no estén vencidos. Ademas se formará una cuenta fiel y exacta que manifieste el total monto de los derechos de importacion y exportacion recau-

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dados en las mismas Aduanas marítimas ó en cualquiera otro lugar de México por autoridad de los Estados-Unidos desde el dia de la ratificacion de este Tratado por el Gobierno de la República mexicana; y tambien una cuenta de los gastos de recaudacion: y la total suma de los derechos cobrados, deducidos solamente los gastos de recaudacion, se entregará al Gobierno mexicano en la ciudad de México á los tres meses del cange de las ratificaciones.

La evacuacion de la capital de la República mexicana por las tropas de los Estados-Unidos, en consecuencia de lo que queda estipulado, se completará al mes de recibirse por el comandante de dichas tropas las órdenes convenidas en el presente artículo, ó antes si fuere posible.

ARTÍCULO IV.

Luego que se verifique el cange de las ratificaciones del presente Tratado, todos los castillos, fortalezas, territorios, lugares y posesiones que hayan tomado ú ocupado las fuerzas de los Estados-Unidos, en la presente guerra, dentro de los límites que por el siguiente artículo van á fijarse á la República mexicana, se devolverán definitivamente á la misma República, con toda la artilleria, armas, aparejos de guerra, municiones, y cualquiera otra propiedad pública existente en dichos castillos y fortalezas cuando fueron tomados, y que se conserve en ellos al tiempo de ratificarse por el Gobierno de la República mexicana el presente Tratado. A este efecto inmediatamente despues que se firme, se expedirán órdenes á los oficiales americanos que mandan dichos castillos y fortalezas para asegurar toda la artilleria, armas, aparejos de guerra, municiones, y cualquiera otra propiedad pública, la cual no podrá en adelante removerse de donde se halla, ni destruirse. La ciudad de Mexico dentro de la linea interior de atrincheramientos que la circundan queda comprendida en la precedente estipulacion en lo que toca á la devolucion de artilleria, aparejos de guerra ect^a.

La final evacuacion del territorio de la República mexicana por las fuerzas de los Estados-Unidos quedará consumada á los tres meses del cange de las ratificaciones, ó antes si fuere posible, comprometiendose á la vez el Gobierno mexicano, como en el artículo anterior, á usar de

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todos los medios que estén en su poder para facilitar la tal evacuacion, hacerla cómoda á las tropas americanas, y promover entre ellas y los habitantes una buena inteligencia.

Sin embargo si la ratificacion del presente Tratado por ambas partes no tuviere efecto en tiempo que permita que el embarque de las tropas de los Estados-Unidos se complete, antes de que comience la estacion malsana en los puertos mexicanos del golfo de México; en tal caso se hará un arreglo amistoso entre el gobierno mexicano y el General en jefe de dichas tropas, y por medio de este arreglo se señalarán lugares salubres y convenientes (que no disten de los puertos mas de treinta leguas) para que residan en ellos hasta la vuelta de la estacion sana las tropas que aun no se hayan embarcado. Y queda entendido que el espacio de tiempo de que aquí se habla, como comprensivo de la estacion malsana, se extiende desde el dia primero de Mayo hasta el dia primero de Noviembre.

Todos los prisioneros de guerra tomados en mar ó tierra por ambas partes se restituirán á la mayor brevedad posible despues del cange de las ratificaciones del presente Tratado. Queda tambien convenido que si algunos mexicanos estuvieren ahora cautivos en poder de alguna tribu salvage dentro de los límites que por el siguiente artículo van á fijarse á los Estados-Unidos, el Gobierno de los mismós Estados-Unidos exigirá su libertad y los hará restituir á su pays.

ARTÍCULO V.

La línea divisoria entre las dos Repúblicas comenzará en el golfo de México tres leguas fuera de tierra frente á la desembocadura del rio Grande, llamado por otro nombre rio Bravo del Norte, ó del mas profundo de sus brazos, si en la desembocadura tuviere varios brazos: correrá por mitad de dicho rio, siguiendo el canal mas profundo, donde tenga mas de un canal, hasta el punto en que dicho rio corta el lindero meridional de Nuevo-México; continuará luego hacia occidente por todo este lindero meridional (que corre al Norte del pueblo llamado *Paso*) hasta su término por el lado de occidente: desde allí subirá la linea divisoria hacia el Norte por el lindero occidental de Nuevo-

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México, hasta donde este lindero esté cortado por el primer brazo del rio Gila; (y si no está cortado por ningun brazo del rio Gila, entonces hasta el punto del mismo lindero occidental mas cercano al tal brazo, y de allí en una línea recta al mismo brazo): continuará despues por mitad de este brazo y del rio Gila hasta su confluencia con el rio Colorado; y desde la confluencia de ambos rios la línea divisoria, cortando el Colorado, seguirá el límite que separa la Alta de la Baja California hasta el mar Pacífico.

Los linderos meridional y occidental de Nuevo-México, de que habla este artículo, son los que se marcan en la Carta titulada: *Mapa de los Estados-Unidos de México, segun lo organizado y definido por las varias Actas del Congreso de dicha República y construido por las mejores autoridades: Edicion revisada que publicó en Nueva-York en 1847 J. Disturnell*, de la cual se agrega un ejemplar al presente Tratado, firmado y sellado por los Plenipotenciarios infrascriptos. Y para evitar toda dificultad al trazar sobre la tierra el límite que separa la Alta de la Baja California, queda convenido que dicho límite consistirá en una linea recta tirada desde la mitad del rio Gila en el punto donde se une con el Colorado, hasta un punto en la costa del mar Pacífico, distante una legua marina al Sur del punto mas meridional del puerto de San Diego, segun este Puerto está dibujado en el plano que levantó el año de 1782 el segundo Piloto de la Armada española Don Juan Pantoja, y se publicó en Madrid el de 1802 en el atlas para el viage de las goletas Sutil y Mexicana; del cual Plano se agrega copia firmada y sellada por los Plenipotenciarios respectivos.

Para consignar la linea divisoria con la precision debida en mapas fehacientes, y para establecer sobre la tierra mojones que pongan á la vista los límites de ambas Repúblicas, segun quedan descritos 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 Puerto de San Diego, y procederán á señalar y demarcar la expresada linea divisoria en todo su curso hasta la desembocadura del rio Bravo del Norte. Llevarán diarios y levantarán planos de sus opera-

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ciones: y el resultado convenido por ellos se tendrá por parte de este Tratado, y tendrá la misma fuerza que si estuviese inserto en él; debiendo convenir amistosamente los dos Gobiernos en el arreglo de cuanto necesiten estos individuos, y en la escolta respectiva que deban llevar, siempre que se crea necesario.

La linea divisoria que se establece por este artículo será religiosamente respetada por cada una de las dos Repúblicas, y ninguna variacion se hará jamás en ella, sino de expreso y libre consentimiento de ambas naciones, otorgado legalmente por el Gobierno general de cada una de ellas, con arreglo á su propia constitucion.

ARTÍCULO VI.

Los buques y ciudadanos de los Estados-Unidos tendrán en todo tiempo un libre y no interrumpido tránsito por el golfo de California y por el rio Colorado desde su confluencia con el Gila para sus posesiones y desde sus posesiones sitas al Norte de la linea divisoria que queda marcada en el artículo precedente; entendiéndose que este tránsito se ha de hacer navegando por el golfo de California y por el rio Colorado, y no por tierra sin expreso consentimiento del Gobierno mexicano.

Si por reconocimientos que se practiquen se comprobare la posibilidad y conveniencia de construir un camino, canal ó ferrocarril que en todo ó en parte corra sobre el rio Gila ó sobre alguna de sus márgenes derecha ó izquierda en la latitud de una legua marina de uno ó de otro lado del rio, los Gobiernos de ambas Repúblicas se pondrán de acuerdo sobre su construccion á fin de que sirva igualmente para el uso y provecho de ambos paises.

ARTÍCULO VII.

Como el rio Gila y la parte del rio Bravo del Norte que corre bajo el lindero meridional de Nuevo-Mexico se dividen por mitad entre las dos Repúblicas, segun lo establecido en el artículo quinto, la navegacion en el Gila y en la parte que queda indicada del Bravo será libre y comun á los buques y ciudadanos de ambos paises, sin que por alguno de ellos pueda hacerse (sin consentimiento del otro) ninguna obra que impida

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ó interrumpa en todo ó en parte el ejercicio de este derecho, ni aun con motivo de favorecer nuevos métodos de navegacion. Tampoco se podrá cobrar (sino en el caso de desembarco en alguna de sus riberas) ningun impuesto ó contribucion bajo ninguna denominacion ó título á los buques, efectos, mercancías ó personas que naveguen en dichos rios. Si para hacerlos ó mantenerlos navegables fuere necesario ó conveniente establecer alguna contribucion ó impuesto, no podrá esto hacerse sin el consentimiento de los dos Gobiernos.

Las estipulaciones contenidas en el presente artículo dejan ilesos los derechos territoriales de una y otra República dentro de los límites que les quedan marcados.

ARTÍCULO VIII.

Los mexicanos establecidos hoy en territorios pertenecientes antes á México y que quedan para lo futuro dentro de los límites señalados por el presente Tratado á los Estados-Unidos, podrán permanecer en donde ahora habitan, ó trasladarse en cualquier tiempo á la República mexicana, conservando en los indicados territorios los bienes que poseen, ó enagenándolos y pasando su valor á donde les convenga, sin que por esto pueda exigírseles ningun género de contribución, gravámen ó impuesto.

Los que prefieran permanecer en los indicados territorios, podrán conservar el título y derechos de ciudadanos mexicanos, ó adquirir el título y derechos de ciudadanos de los Estados-Unidos. Mas la eleccion entre una y otra ciudadanía deberán hacerla dentro de un año contado desde la fecha del cange de las ratificaciones de este Tratado. Y los que permanecieren en los indicados territorios despues de transcurrido el año, sin haber declarado su intencion de retener el carácter de mexicanos, se considerará que han elegido ser ciudadanos de los Estados-Unidos.

Las propiedades de todo género existentes en los expresados territorios, y que pertenecen ahora á mexicanos no establecidos en ellos, serán respetadas inviolablemente. Sus actuales dueños, los herederos de estos, y los mexicanos que en lo venidero puedan adquirir por contrato

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las indicadas propiedades, disfrutarán respecto de ellas tan amplia garantía, como si perteneciesen á ciudadanos de los Estados-Unidos.

ARTÍCULO IX.

Los Mexicanos que, en los territorios antedichos, no conserven el caracter de ciudadanos de la República Mexicana, segun lo estipulado en el artículo precedente, serán incorporados en la Union de los Estados-Unidos, y se admitirán en tiempo oportuno (á juicio del Congreso de los Estados-Unidos) al goce de todos los derechos de ciudadanos de los Estados-Unidos conforme á los principios de la constitucion; y entretanto serán mantenidos y protegidos en el goce de su libertad y propiedad, y asegurados en el libre ejercicio de su religion sin restriccion alguna.

ARTÍCULO XI.

En atencion á que una gran parte de los territorios que por el presente Tratado van á quedar para lo futuro dentro de los límites de los Estados-Unidos se halla actualmente ocupada por tribus salvages, que han de estar en adelante bajo la exclusiva autoridad del Gobierno de los Estados-Unidos, y cuyas incursiones sobre los distritos mexicanos serian en extremo perjudiciales; está solemnemente convenido que el mismo Gobierno de los Estados-Unidos contendrá las indicadas incursiones por medio de la fuerza siempre que así sea necesario; y cuando no pudiere prevenirlas, castigará y escarmentará á los invasores, exigiéndoles ademas la debida reparacion: todo del mismo modo y con la misma diligencia y energia con que obraria, si las incursiones se hubiesen meditado ó ejecutado sobre territorios suyos ó contra sus propios ciudadanos.

A ningun habitante de los Estados-Unidos será lícito bajo ningun pretesto comprar ó adquirir cautivo alguno, mexicano ó extrangero residente en México, apresado por los indios habitantes en territorio de cualquiera de las dos Repúblicas, ni los caballos, mulas, ganados, ó cualquiera otro género de cosas que hayan robado dentro del territorio mexicano.

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do, el Gobierno de los mismos Estados-Unidos se compromete á pagar al de la Republica mexicana la suma de quince millones de pesos.

Inmediatamente despues que este Tratado haya sido ratificado por el Gobierno de la República mexicana, se entregará al mismo Gobierno por el de los Estados-Unidos, en la ciudad de Mexico, y en moneda de plata ú oro del cuño mexicano, la suma de tres millones de pesos. Los doce millones de pesos restantes se pagarán en México, en moneda de plata ú oro del cuño mexicano, en abonos de tres millones de pesos cada año, con un rédito de seis por ciento anual: este rédito comienza á correr para toda la suma de los doce millones el dia de la ratificacion del presente Tratado por el Gobierno mexicano, y con cada abono anual de capital se pagará el rédito que corresponda á la suma abonada. Los plazos para los abonos de capital corren desde el mismo dia que empiezan á causarse los réditos.

ARTÍCULO XIII.

So obliga ademas el Gobierno de los Estados-Unidos á tomar sobre sí, y satisfacer cumplidamente á los reclamantes, todas las captidades que hasta aquí se les deben y cuantas se venzan en adelante por razon de las reclamaciones ya liquidadas y sentenciadas contra la República mexicana conforme á los convenios ajustados entre ambas Repúblicas el once de Abril de mil ochocientos treinta y nueve, y el treinta de Enero de mil ochocientos cuarenta y tres; de manera que la República mexicana nada absolutamente tendrá que lastar en lo venidero, por razon de los indicados reclamos.

ARTÍCULO XIV.

Tambien exoneran los Estados-Unidos á la República mexicana de todas las reclamaciones de ciudadanos de los Estados-Unidos no decididas aun contra el Gobierno mexicano, y que puedan haberse originado antes de la fecha de la firma del presente Tratado. Esta exoneracion es definitiva y perpetua, bien sea que las dichas reclamaciones se admitan, bien sea que se desechen por el tribunal de Comisarios de que habla el artículo siguiente, y cualquiera que pueda ser el monto total de las que queden admitidas.

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ARTÍCULO XV.

Los Estados-Unidos exonerando á México de toda responsabilidad por las reclamaciones de sus ciudadanos mencionadas en el artículo precedente, y considerándolas completamente canceladas para siempre, sea cual fuere su monto, toman á su cargo satisfacerlas hasta una cantidad que no exceda de tres millones doscientos cincuenta mil pesos. Para fijar el monto y validez de estas reclamaciones, se establecerá por el Gobierno de los Estados-Unidos un Tribunal de Comisarios, cuyos fallos serán definitivos y concluyentes, con tal que al decidir sobre la validez de dichas reclamaciones, el tribunal se haya guiado y gobernado por los principios y reglas de decision establecidos en los artículos primero y quinto de la convencion, no ratificada, que se ajustó en la ciudad de México el veinte de Noviembre de mil ochocientos cuarenta y tres: y en ningun caso se dará fallo en favor de ninguna reclamacion que no esté comprendida en las reglas y principios indicados.

Si en juicio del dicho tribunal de Comisarios, ó en el de los reclamantes se necesitare para la justa decision de cualquier reclamacion algunos libros, papeles de archivo ó documentos que posea el Gobierno mexicano, ó que estén en su poder; los Comisarios, ó los reclamantes por conducto de ellos, los pedirán por escrito (dentro del plazo que designe el Congreso) dirigiéndose al Ministro mexicano de Relaciones exteriores, á quien transmitirá las peticiones de esta clase el Secretario de Estado de los Estados-Unidos: y el Gobierno mexicano se compromete á entregar á la mayor brevedad posible, despues de recibida cada demanda, los libros, papeles de archivo ó documentos, así especificados, que posea ó estén en su poder, ó copias ó extractos auténticos de los mismos, con el objeto de que sean transmitidos al Secretario de Estado, quien los pasará inmediatamente al expresado Tribunal de Comisarios. Y no se hará peticion alguna de los enunciados libros, papeles ó documentos, por ó á instancia de ningun reclamante, sin que antes se haya aseverado bajo juramento ó con afirmacion solemne la verdad de los hechos que con ellos se pretende probar.

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ARTÍCULO XVI.

Cada una de las dos Repúblicas se reserva la completa facultad de fortificar todos los puntos que para su seguridad estime convenientes en su propio territorio.

ARTÍCULO XVII.

El Tratado de Amistad, Comercio y Navegacion concluido en la ciudad de Mexico el cinco de Abril del año del Señor 1831, entre la República mexicana y los Estados-Unidos de América, esceptuandose el artículo adicional y cuanto pueda haber en sus estipulaciones incompatible con alguna de las contenidas en el presente Tratado, queda restablecido por el periodo de ocho años desde el dia del cange de las ratificaciones del mismo presente Tratado, con igual fuerza y valor que si estuviese inserto en él; debiendo entenderse que cada una de las partes contratantes se reserva el derecho de poner término al dicho Tratado de Comercio y Navegacion en cualquier tiempo luego que haya expirado el periodo de los ocho años, comunicando su intencion á la otra parte con un año de anticipacion.

ARTÍCULO XVIII.

No se exigirán derechos ni gravamen de ninguna clase á los artículos todos que lleguen para las tropas de los Estados-Unidos á los puertos mexicanos ócupados por ellas, antes de la evacuacion final de los mismos puertos y despues de la devolucion á México de las Aduanas situadas en ellos. El Gobierno de los Estados-Unidos se compromete á la vez, y sobre esto empeña su fé, á establecer y mantener con vigilancia quantos guardas sean posibles para asegurar las rentas de México, precaviendo la importacion, á la sombra de esta estipulacion, de cualesquiera artículos que realmente no sean necesarios, ó que excedan en cantidad de los que se necesiten para el uso y consumo de las fuerzas de los Estados-Unidos mientras ellas permanezcan en México. A este efecto todos los oficiales y agentes de los Estados-Unidos tendrán obligacion de denunciar á las autoridades mexicanas en los mismos puertos qualquier conato de fraudulento abuso de esta estipulacion que

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podieren conocer ó tuvieren motivo de sospechar; así como de impartir á las mismas autoridades todo el auxilio que podieren con este objeto. Y cualquier conato de esa clase, que fuere legalmente probado, y declarado por sentencia de tribunal competente, será castigado con el comiso de la cosa que se haya intentado introducir fraudulentamente.

ARTÍCULO XIX.

Respecto de los efectos, mercancías y propiedades importados en los puertos mexicanos durante el tiempo que han estado ocupados por las fuerzas de los Estados-Unidos, sea por ciudadanos de cualquiera de las dos Repúblicas, sea por ciudadanos ó subditos de alguna nacion neutral, se observarán las reglas siguientes:

I. Los dichos efectos, mercancías y propiedades siempre que se hayan importado antes de la devolucion de las Aduanas á las autoridades mexicanas conforme á lo estipulado en el artículo tercero de este Tratado, quedarán libres de la pena de comiso aun cuando sean de los prohibidos en el arancel mexicano.

II. La misma exencion gozarán los efectos, mercancías y propiedades que lleguen á los puertos mexicanos, despues de la devolucion á México de las Aduanas marítimas y antes de que expiren los sesenta dias que van á fijarse en el artículo siguiente para que empiece á regir el arancel mexicano en los puertos; debiendo al tiempo de su importacion sujetarse los tales efectos, mercancías y propiedades, en cuanto al pago de derechos, á lo que en el indicado siguiente artículo se establece.

III. Los efectos, mercancías y propiedades designados en las dos reglas anteriores quedarán exentos de todo derecho, alcabala ó impuesto, sea bajo el título de internacion, sea bajo cualquiera otro, mientras permanezcan en los puntos donde se hayan importado, y á su salida para el interior; y en los mismos puntos no podrá jamás exigirse impuesto alguno sobre su venta.

IV. Los efectos, mercancías y propiedades designados en las reglas primera y segunda que hayan sido internados á cualquier lugar ocupado por fuerzas de los Estados-Unidos, quedarán exentos de todo derecho sobre su venta ó consumo, y de todo impuesto ó contribucion bajo

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cualquier título ó denominacion, mientras permanezcan en el mismo lugar.

V. Mas si algunos efectos, mercancías ó propiedades de los designados en las reglas primera y segunda se trasladaren á algun lugar no ocupado á la sazón por las fuerzas de los Estados-Unidos; al introducirse á tal lugar, ó al venderse ó consumirse en él, quedarán sujetos á los mismos derechos que bajo las leyes mexicanas deberian pagar en tales casos si se hubieran importado en tiempo de paz por las Aduanas marítimas, y hubiesen pagado en ellas los derechos que establece el arancél mexicano.

VI. Los dueños de efectos, mercancías y propiedades designados en las reglas primera y segunda, y existentes en algun puerto de México, tienen derecho de reembargarlos, sin que pueda exigírseles ninguna clase de impuesto, alcabala ó contribucion.

Respecto de los metales y de toda otra propiedad exportados por cualquier puerto mexicano durante su ocupacion por las fuerzas Americanas y antes de la devolucion de su Aduana al Gobierno mexicano, no se exigirá á ninguna persona por las autoridades de Mexico, ya dependan del Gobierno general, ya de algun Estado que pague ningun impuesto, alcabála ó derecho por la indicada exportacion, ni sobre ella podrá exigírsele por las dichas autoridades cuenta alguna.

ARTÍCULO XX.

Por consideracion á los intereses del comercio de todas las naciones queda convenido que si pasaren menos de sesenta dias desde la fecha de la firma de este Tratado hasta que se haga la devolucion de las Aduanas marítimas, segun lo estipulado en el artículo tercero; todos los efectos, mercancías y propiedades que lleguen á los puertos mexicanos desde el dia en que se verifique la devolucion de las dichas Aduanas hasta que se completen sesenta dias contados desde la fecha de la firma del presente Tratado, se admitirán no pagando otros derechos que los establecidos en la tarifa que esté vigente en las expresadas Aduanas al tiempo de su devolucion, y se extenderán á dichos efectos, mercancías y propiedades las mismas reglas establecidas en el artículo anterior.

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ARTÍCULO XXI.

Si desgraciadamente en el tiempo futuro se suscitare algun punto de desacuerdo entre los Gobiernos de las dos Repúblicas, bien sea sobre la inteligencia de alguna estipulacion de este Tratado, bien sobre cualquiera otra materia de las relaciones políticas ó comerciales de las dos Naciones, los mismos Gobiernos á nombre de ellas se comprometen á procurar de la manera mas sincera y empeñosa allanar las diferencias que se presenten y conservar el estado de paz y amistad en que ahora se ponen los dos payses, usando al efecto de representaciones mútuas y de negociaciones pacíficas. Y si por estos medios no se lograre todavia ponerse de acuerdo, no por eso se apelará á represalia, agresion ni hostilidad de ningun 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 seria mejor que la diferencia se terminára por un arbitramento de Comisarios nombrados por ambas partes, ó de una nacion amiga. Y si tal medio fuere propuesto por cualquiera de las dos partes, la otra accederá á él, á no ser que lo juzgue absolutamente incompatible con la naturaleza y circunstancias del caso.

ARTÍCULO XXII.

Si (lo que no es de esperarse, y Dios no permita) desgraciadamente se suscitare guerra entre las dos Republicas, estas para el caso de tal calamidad se comprometen ahora solemnemente, ante sí mismas y ante el mundo á observar las reglas siguientes de una manera absoluta si la naturaleza del objeto á que se contraen, lo permite; y tan estrictamente como sea dable en todos los casos en que la absoluta observancia de ellas fuere imposible.

I. Los comerciantes de cada una de las dos Repúblicas que á la sazón residan en territorio de la otra, podrán permanecer doce meses los que residan en el interior, y seis meses los que residan en los puertos para recoger sus deudas y arreglar sus negocios; durante estos plazos dis-

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frutarán la misma proteccion y estarán sobre el mismo pié en todos respectos, que los ciudadanos ó súbditos de las naciones mas amigas; y al expirar el término, ó antes de él, tendrán completa libertad para salir y llevar todos sus efectos sin molestia ó embarazo, sujetándose en este particular á las mismas leyes á que estén sujetos y deban arreglarse los ciudadanos ó súbditos de las naciones mas amigas. Cuando los ejércitos de una de las dos naciones entren en territorios de la otra, las mujeres y niños, los eclesiásticos, los estudiantes de cualquier facultad, los labradores, comerciantes, artesanos, manufactureros, y pescadores que estén desarmados y residan en ciudades, pueblos ó lugares no fortificados, y en general todas las personas cuya ocupacion sirva para la comun subsistencia y beneficio del género humano, podrán continuar en sus ejercicios sin que sus personas sean molestadas. No serán incendiadas sus casas ó bienes, ó destruidos de otra manera; ni serán tomados sus ganados, ni devastados sus campos por la fuerza armada en cuyo poder puedan venir á caer por los acontecimientos de la guerra; pero si hubiere necesidad de tomarlos alguna cosa para el uso de la misma fuerza armada, se les pagará lo tomado á un precio justo. Todas las iglesias, hospitales, escuelas, colegios, librerías y demás establecimientos de caridad y beneficencia serán respetados; y todas las personas que dependan de los mismos, serán protegidas en el desempeño de sus deberes y en la continuacion de sus profesiones.

II. Para aliviar la suerte de los prisioneros de guerra, se evitarán cuidadosamente las prácticas de enviarlos á distritos distantes, inclementes ó malsanos, ó de aglomerarlos en lugares estrechos y enfermizos. No se confinarán en calabozos, prisiones ni pontones; no se les aherrojará, ni se les atará, ni se les impedirá de ningun otro modo el uso de sus miembros. Los oficiales quedarán en libertad bajo su palabra de honor, dentro de distritos convenientes, y tendrán alojamientos cómodos; y los soldados rasos se colocarán en acantonamientos bastante despejados y extensos para la ventilacion y el ejercicio, y se alojarán en cuarteles tan amplios y cómodos como los que use para sus propias tropas la parte que los tenga en su poder. Pero si algun oficial faltare á su palabra saliendo del distrito que se le ha señalado;

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ó algun otro prisionero se fugare de los límites de su acantonamiento despues que estos se les hayan fijado, tal oficial ó prisionero perderá el beneficio del presente artículo por lo que mira á su libertad bajo su palabra ó en acantonamiento. Y si algun oficial saltando así á su palabra, ó algun soldado raso saliendo de los límites que se le han asignado fuere encontrado despues con las armas en la mano antes de ser debidamente cangeado, tal persona en esta actitud ofensiva será tratada conforme á las leyes comunes de la guerra. A los oficiales se proveerá diariamente por la parte en cuyo poder estén, de tantas raciones compuestas de los mismos artículos como las que gozan en especie ó en equivalente los oficiales de la misma graduacion en su propio ejército: á todos los demas prisioneros se proveerá diariamente de una racion semejante á la que se ministra al soldado raso en su propio servicio: el valor de todas estas sum ministraciones se pagará por la otra parte al concluirse la guerra, ó en los periodos que se convengan entre sus respectivos comandantes, precediendo una mútua liquidacion de las cuentas que se lleven del mantenimiento de prisioneros: tales cuentas no se mezclarán ni compensarán con otras; ni el saldo que resulte de ellas, se reusará bajo pretesto de compensacion ó represalia por cualquiera causa real ó ñgurada. Cada una de las partes podrá mantener un Comisario de prisioneros nombrado por ella misma en cada acantonamiento de los prisioneros que esten en poder de la otra parte: este Comisario visitará á los prisioneros siempre que quiera; tendrá facultad de recibir, libres de todo derecho ó impuesto, y de distribuir todos los auxilios que pueden enviarles sus amigos, y libremente transmitir sus partes en cartas abiertas á la autoridad por la cual está empleado.

Y se declara que ni el pretesto de que la guerra destruye los tratados, ni otro alguno, sea el que fuere, se considerará que anula ó suspende el pacto solemne contenido en este artículo. Por el contrario el estado de guerra es cabalmente el que se ha tenido presente al ajustarlo, y durante el cual sus estipulaciones se han de observar tan santamente como las obligaciones mas reconocidas de la ley natural ó de gentes.

Tratado de Paz

ARTÍCULO XXIII.

Este Tratado será ratificado por el Presidente de la República mexicana, previa la aprobacion de su Congreso General; y por el Presidente de los Estados-Unidos de América con el consejo y consentimiento del Senado; y las ratificaciones se cangearán en la ciudad de Washington ó donde estuviere el gobierno Mexicano á los cuatro meses de la fecha de la firma del mismo Tratado, ó antes si fuere posible.

En fé de lo cual, nosotros los respectivos Plenipotenciarios hemos firmado y sellado por quintuplicado este Tratado de Paz, Amistad, Límites y Arreglo definitivo; en la ciudad de Guadalupe Hidalgo el dia dos de Febrero del año de Nuestro Señor mil ochocientos cuarenta y ocho.

BERNARDO COUTO [Sello]

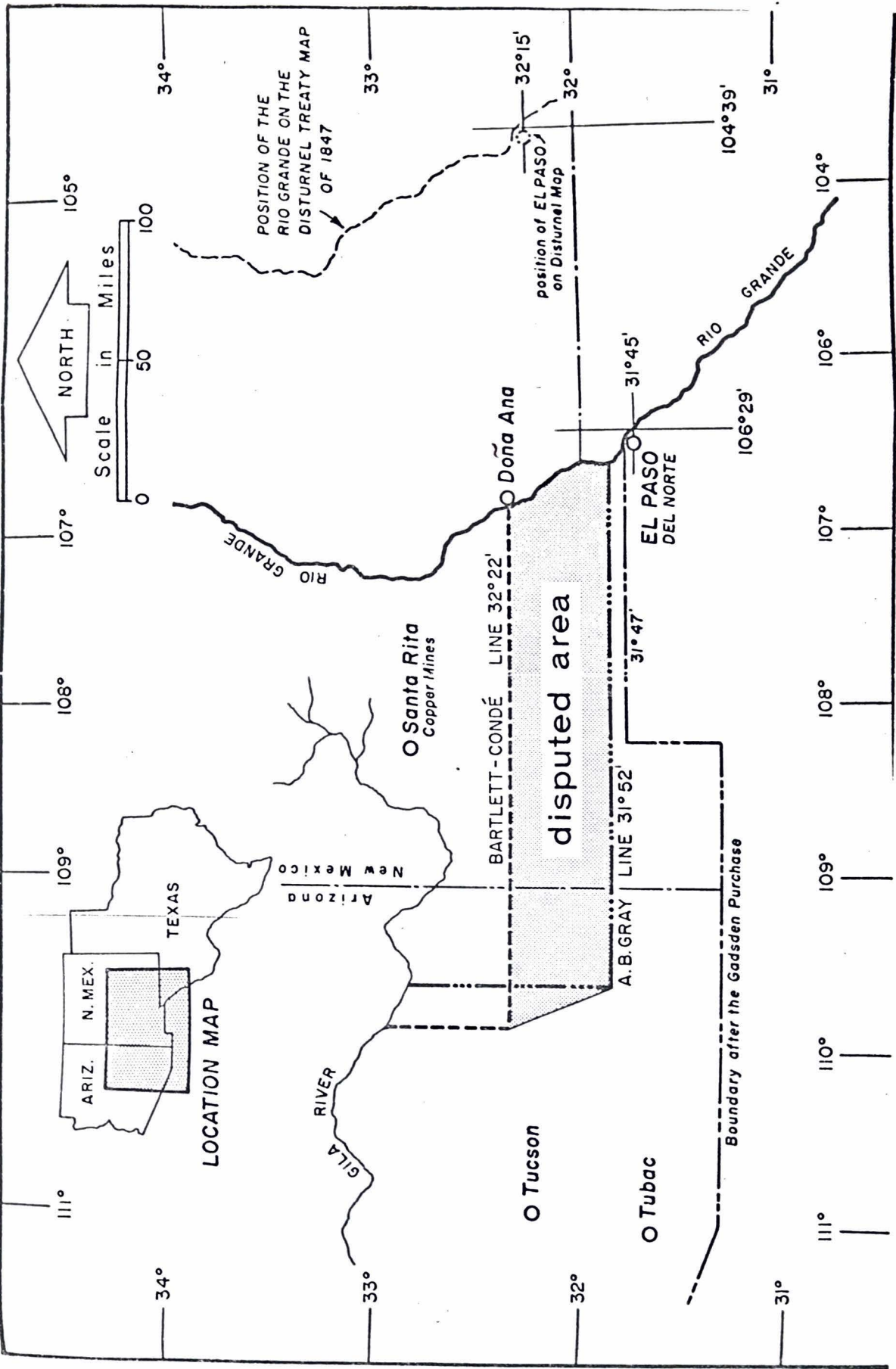
MIG^l ATRISTAIN [Sello]

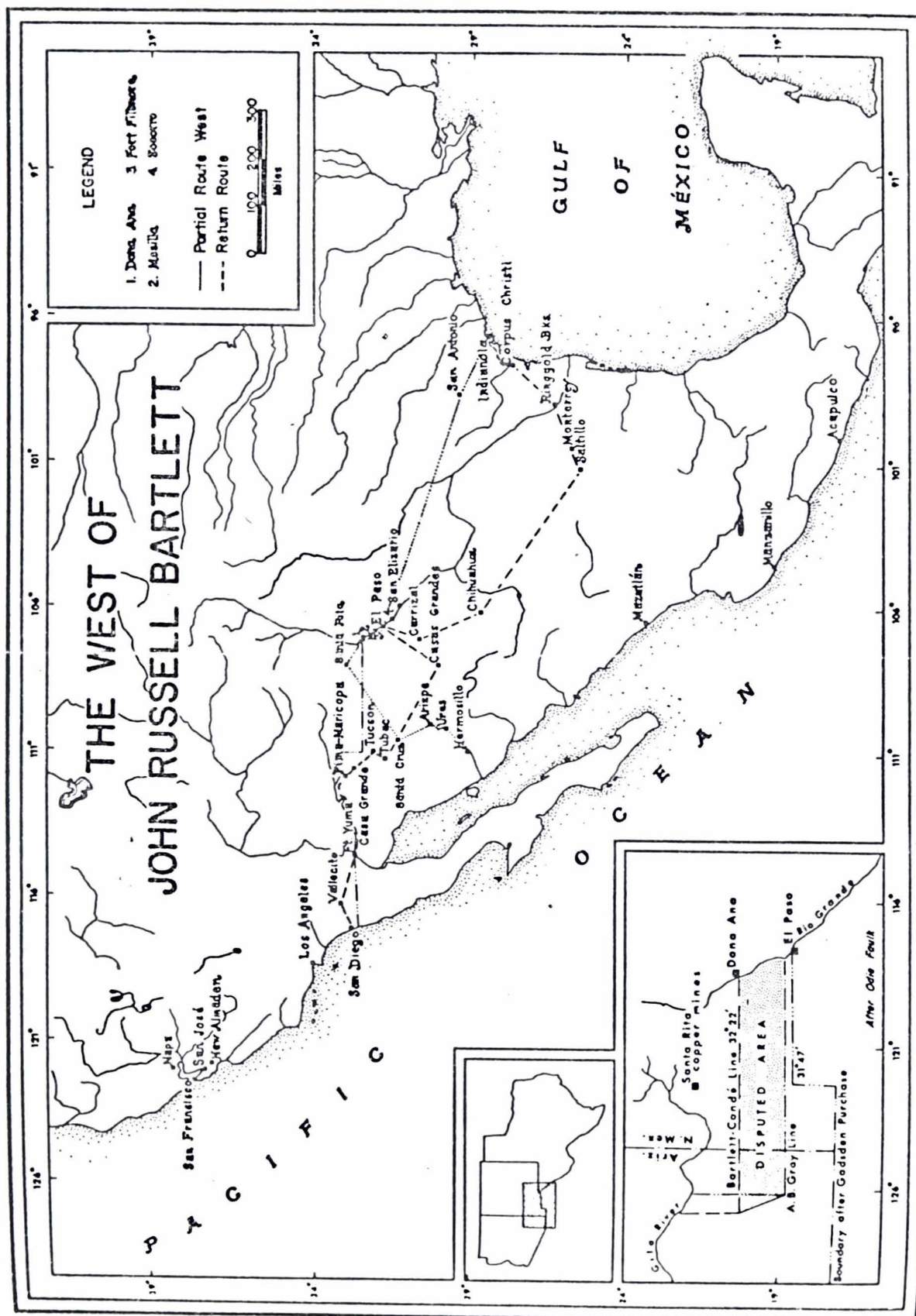
LUIS G. CUEVAS [Sello]

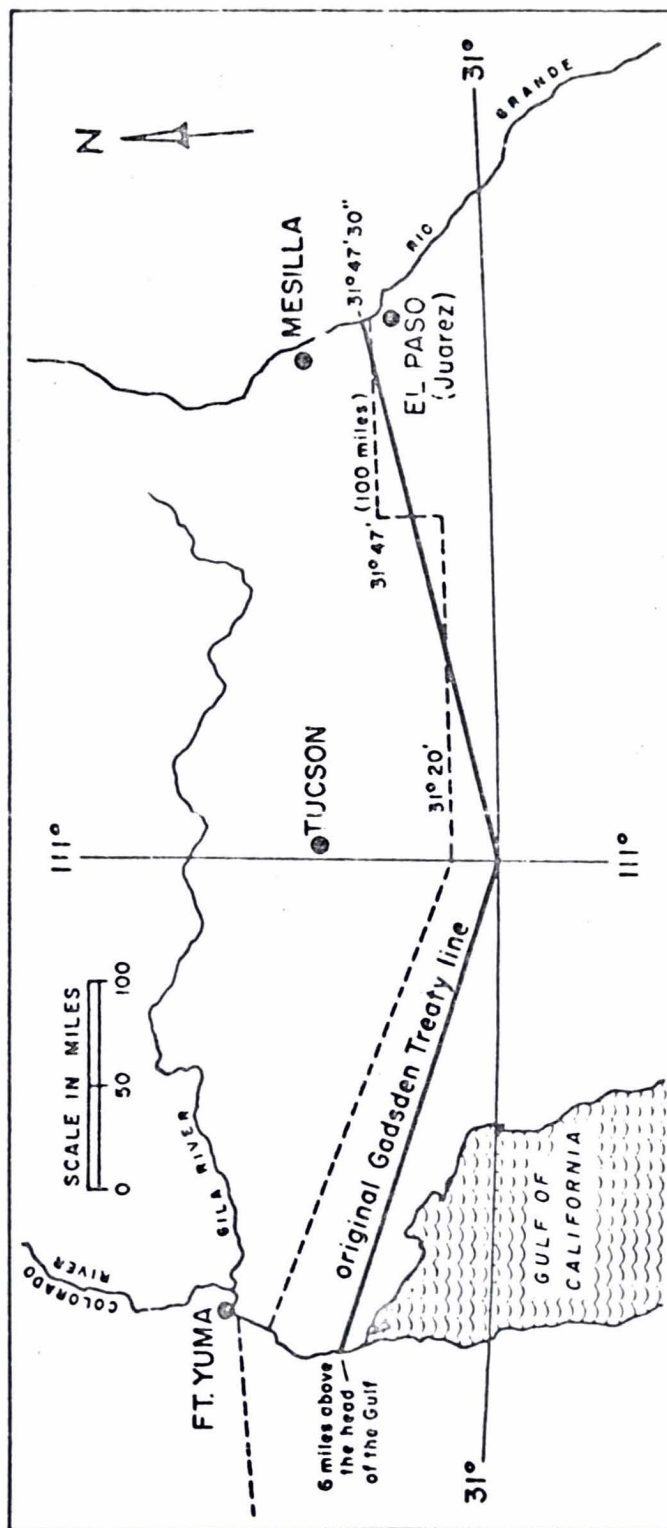
N. P. TRIST [Sello]

APPENDIX B

MAPS







— Drawn by Don Bufkin.

Vita was removed during scanning