Gaines himself in another two weeks began to doubt whether things were quite as bad as he had been led to believe. He reported that the Indians had killed one white man, a trader, but that there was "no conclusive evidence of a spirit of general hostility toward the inhabitants." He also confirmed the reported visit of a Mexican agent to the Cherokees and Caddoes, but said that thus far the visit had been without success.[1] In another eight days news reached him of the battle of San Jacinto, and he wrote to the governors to suspend the movements of the volunteers.[2] The activity of General Gaines failed, therefore, to produce any direct results on the frontier. Its principal effect was to create trouble in Washington.

When the War Department received Gaines's first letter from Baton Rouge a rather serious difficulty had presented itself. On the one hand, it hardly seemed possible for the executive branch of the government alone to authorize the invasion of a foreign country, except under the pressure of extreme necessity; on the other hand, in dealing with savages it might easily prove disastrous to ignore warnings, and to defer attacking them until after they had crossed an ill-defined boundary.

In this dilemma a suggestion first made by Anthony Butler seven years before, and repeated by him several times since, seemed to offer a way out. In his conversations with Jackson and Van Buren, in the summer of 1829, Butler had contended that the river truly intended as the Sabine in the boundary treaty of 1819 was the westerly one of the two that flowed into the Sabine Lake—in other words, the river shown on all the maps as the Neches.[3] In several private letters to Jackson he had urged that the United States ought to take immediate forcible possession of the triangular piece of territory between the two rivers; and Jackson, in at least one letter, had intimated an intention of doing so if the Mexican government delayed joining in a survey and de-

[1] Gaines to Secretary of War, April 20, 1836 (the day before San Jacinto); H. R. Doc. 351, 25 Cong., 2 sess., 771.

[2] Gaines to the Secretary of War, April 28, 1836; *ibid.*, 783.

[3] See page 237, above.

marcation of the boundary.[1] There was in reality no confusion or doubt whatever about this part of the boundary line. The Sabine was a perfectly well-known river which had been correctly mapped years before the treaty of 1819 was made; but just as it had suited Butler's purposes some years before to invent a doubt, so it now suited Jackson's to assume that the doubt was genuine.[2]

On April 25, 1836, long before news had been received in Washington of the battle of San Jacinto, General Cass, the Secretary of War, wrote to Gaines, in reply to his request for authority to cross the frontier. In effect the letter granted the authority asked for, with the proviso that Gaines was in no event to go beyond Nacogdoches, "which is within the limits of the United States as claimed by this Government"; that is to say, he was not to go beyond the Neches River.[3]

The intention to issue these instructions had previously been communicated to the Mexican minister. On Wednesday, the twentieth of April, when Gorostiza called at the State Department to exchange the ratifications of the second additional article to the treaty of 1819, he was verbally informed by the Secretary that "orders would be given to General Gaines to take such a position with the troops of the United States as would enable him to preserve the territory of the United States and Mexico from Indian outrage"; and that if the troops should "be advanced beyond the point Mexico might suppose was within the territory of the United States, the occupation of the position was not to be taken as an indication of any hostile feeling, or of a desire to establish a possession or claim not justified by the treaty of limits."[4]

[1] "We are deeply interested that this treaty of cession should be obtained without any just imputation of corruption on our part. Bring this to a close as speedily as possible, and if you cannot now make a boundary write us that we may take measures to make the necessary communication thro you that we will run the line & take possession of Nachedoges."—(Jackson to Butler, Nov. 27, 1833; *Jackson MSS.*, Library of Congress.)

[2] As early as October, 1832, a rumor had reached Texas—very likely through Butler himself—that the United States government intended to make the Neches the boundary. The Texans were indignant at "this hitherto unheard-of claim."—(*Proceedings of the General Convention*, etc., 15; Gammel, I, 489.)

[3] H. R. Doc. 256, 24 Cong., 1 sess., 43.

[4] Memorandum of conference on April 20, 1836; *ibid.*, 31.

Gorostiza, who had never heard the suggestion that the Neches might be claimed as the true boundary, listened in stupefied silence, and only asked that this statement be put in writing. Three days later he wrote a long and indignant letter in reply, and for weeks an angry correspondence continued, in the course of which Forsyth reminded him that Mexico was not then in possession of the disputed territory, and that whether it could ever obtain it was a question "now at issue by the most sanguinary arbitrament." [1]

Forsyth went even further. He avowed the doctrine that in pursuance of the treaty obligation to restrain by force all hostilities and incursions on the part of the Indians living within the United States "the troops of the United States might justly be sent into the heart of Mexico." And he coolly assured Gorostiza that their presence there would be the strongest evidence of the friendship of the United States toward Mexico. Friendship of this kind was quite beyond the comprehension of the Mexican minister, but he was, of course, wholly unable to do more than protest.

Meantime, the Texans were busy trying to induce Gaines to take some active part in their affairs. On July 4, 1836, while Santa Anna was writing to President Jackson to urge him to mediate, Austin was writing both to Gaines and Jackson to ask the United States to guarantee the execution of the treaties of Velasco, so as to satisfy the people of Texas that Mexico would fulfil Santa Anna's promises. For this purpose it was proposed that Gaines should occupy Nacogdoches. Houston also wrote to Jackson on the same subject.

Gaines declined this extraordinary request on the ground of insufficient instructions, and Jackson does not seem to have answered Austin's proposal at all.[2] But on September 4, 1836, on the same day that he wrote to Santa Anna, he wrote from the Hermitage to General Gaines. As to the treaties of Velasco, he said that Mexico had served notice that no act of Santa Anna's since his capture would be held

[1] Forsyth to Gorostiza, May 10, 1836; *ibid.*, 33–35.

[2] See Miss Rather's excellent article on "Recognition of the Republic of Texas by the U. S.," *Tex. Hist. Quar.*, XIII, 211, 228.

binding. As to the Indian rumors, he took a somewhat different ground from that taken by his Secretary of State. Mexico, he said, was bound by treaty to prevent the Indians from committing hostilities against the citizens of the United States. If she was unwilling or unable to perform that duty, the United States was justified in performing it for her. And therefore, if General Gaines became satisfied that any body of Indians who disturbed the peace of the United States were receiving aid, or were taking shelter within Mexican territory, it would be proper for him to pursue them without reference to boundary lines. But the evidence must be clear before undertaking an act involving so much responsibility.[1]

Gorostiza, to whom extracts from these letters were shown, "did not deny the right of the United States, if the facts were true, to take upon itself the defence of its frontiers, and to advance upon Mexico, who would, in that case, have been false to her obligations under the law of nations, and to her treaty stipulations." [2] But he explained later on that what he meant was that if the Mexican government had instigated Indian warfare against the United States, then in such a case, and in such a case only, would the United States (after repulsing the Indians) be justified in occupying temporarily a post within Mexican territory.[3]

Meanwhile Gaines, without any real justification, had again allowed himself to be persuaded that the Indians in Texas were planning mischief,[4] and late in July, long after the Mexican forces were back again south of the Rio Grande, he sent a small detachment as far as Nacogdoches. This force amounted, according to official returns, to three hundred and twenty-four men under command of Lieutenant-Colonel Whistler.[5] Gaines also repeated his requisition for

[1] Jackson to Gaines, Sept. 4, 1836 (two letters); Sen. Doc. 1, 24 Cong., 2 sess., 85–86. This was substantially the doctrine avowed by Adams in the Florida case where Jackson was himself the chief actor.

[2] Memorandum of Forsyth of Sept. 23, 1836; *ibid.*, 84.

[3] Gorostiza to Forsyth, Sept. 27, 1836; *ibid.*, 88.

[4] Austin and Houston seem to have been his principal informants.—(Yoakum, II, 182, 191, 201.)

[5] Nine companies, according to table in Sen. Doc. 1, 24 Cong., 2 sess., 146.

militia; but, this proceeding being expressly disapproved by the President, none went to the frontier. Gaines was then quietly superseded by General Arbuckle, and the troops were withdrawn from Nacogdoches during the autumn.

Gorostiza's patience was rapidly giving way under the strain. On October 13, 1836, the State Department informed him that the President, who had returned to Washington on the first of the month, after giving the fullest consideration to his request for a recall of the instructions given to Gaines, declined to comply with it. The refusal was distinctly put upon the ground of the paramount duty of the government to protect the people of the United States. If Mexico failed to restrain the Indians upon her territory, the United States would have a right to do so—

> "founded on the great principle of self-preservation, which, as it constitutes the first and highest duty of all states, forms the very essence of the law of nations. The present inability of Mexico to restrain the Indians within her territory from hostile incursions upon the citizens of the United States, if they should once be engaged in hostility near the frontier, and the barbarous character of their warfare, which respects neither the rights of nations nor of humanity, render it imperative on the United States to adopt other means for the protection of their citizens. What those means should be must depend upon the nature of the danger. Should that require the temporary occupation of passes beyond the frontier, the duty of self-defence gives them the right to such occupation. It needs no justification but the necessity which led to it." [1]

As a theory this was no doubt all very well, but the difficulty was that the facts did not fit the theory. The fears of an Indian invasion of the acknowledged territory of the United States were chimerical, and when the truth was ascertained an apology should have been offered to Mexico for the unwarranted action of General Gaines. Gorostiza did not, however, wait for any more detailed statement of facts. On October 15 he sent a long reply, in which he pointed out the very apparent weakness of the evidence on which Gaines had acted, declared that the principles invoked by the United States constituted a continued threat against the sovereignty and independence of its neighbors, denied the right of the government to shelter itself behind an injudicious subordinate, and ended by declaring his mission at an end and requesting his passports.[1] He was not content with this. Before leaving the United States he published and privately circulated a pamphlet, to which he appended a part of the correspondence with the State Department and with his own government, and in which he railed in good set terms against the government of the United States.[2]

[1] Dickins to Gorostiza, Oct. 13, 1836; *ibid.*, 93.

The publication of this pamphlet infuriated the President. It was declared to be "unexampled in the history of diplomacy," and the Mexican government was invited to disavow an act "so glaringly violating all the decorum of diplomatic usage; so disrespectful to the government and people of the United States; so unworthy the representative of a respectable government, and so well calculated to interrupt the harmony and good will which ought to subsist between the United States and Mexico." [3] The Mexican government, however, far from disavowing Gorostiza's conduct, declared that after examining "frankly and impartially" all the correspondence, it could not but coincide with all he had done, and approve his withdrawal from Washington.[4] In later years, however, upon a demand from the United States for an explicit and unequivocal disavowal by Mexico of Gorostiza's action in circulating this pamphlet, assurances were given which were accepted as satisfactory.[5]

Before the Mexican government had announced its opinion concerning Gorostiza's acts the President of the United States, on December 6, 1836, sent his annual message to

[1] Gorostiza to Dickins, Oct. 15, 1836; *ibid.*, 95.

[2] *Correspondencia que ha mediado entre la Legación Extraordinaria de México y el Departamento de Estado de los Estados Unidos sobre el paso del Sabina por las Tropas que mandaba el General Gaines* (Philadelphia, 1836).

[3] Forsyth to Ellis, Dec. 10, 1836; H. R. Doc. 105, 24 Cong., 2 sess., 47.

[4] Monasterio to Ellis, Dec. 21, 1836; Sen. Doc. 160, 24 Cong., 2 sess., 83.

[5] Martinez to Forsyth, Nov. 18, 1837; Sen. Doc. 1, 25 Cong., 2 sess., 114. Forsyth to Ellis, May 3, 1839; Sen. Doc. 320, 27 Cong., 2 sess., 179.

Congress. He made no reference in it to the pamphlet, but called attention to Gorostiza's departure, based, as the President put it, "on the sole grounds that the obligations of this government to itself and to Mexico" had made it necessary to intrust an officer of our army with the discretionary power to advance into Texas, "if necessary to protect our own or the neighboring frontier from Indian depredation."

Whatever may be thought of the reasoning of President Jackson and his Secretary of State, it is at least clear that, as events turned out, neither the orders of the administration nor the acts of General Gaines were of the least benefit to Texas. Indirectly, Gaines did no doubt encourage the Texan insurgents, who believed that he sympathized with them, and that under certain circumstances he might help them.[1] But the much more serious and definite results of his acts were the feelings of irritation and annoyance created in both Mexico and the United States. The Mexicans were aggrieved by a course of dealing which they naturally looked upon as a thinly disguised attempt to help the insurgents, while in the United States the adversaries of the administration seized upon the affair as an indication of the real sympathies and wishes of the President and his party.

To what lengths Jackson might have been willing to go if he had had a perfectly free hand is, of course, uncertain. There can be no doubt that he personally sympathized with the Texan insurgents; but however eager he may have been to help them, he was restrained by an honorable sense of what the international obligations of the United States demanded. He had also received abundant warning that the public opinion of the country at large could hardly be counted on in support of a policy of intervention.

In the first place, it was apparent that, however general the feeling of sympathy with Texas, especially in the South and West, it was not universal. There was an active minority, small, indeed, and politically without influence, who

[1] Carson to Burnet, April 14, 1836; *Tex. Dip. Corr.*, I, 83. And see *Tex. Hist. Quar.*, IV, 251–255.

looked with suspicion and dislike upon the efforts of the Texan settlers to free themselves from Mexican rule; and the man who most forcibly voiced the opinion of this little band, and who spoke with some first-hand knowledge of the facts, was Benjamin Lundy, the editor of the *Genius of Universal Emancipation.*

Between the beginning of 1832 and the spring of 1835, Lundy paid three visits to Texas, Coahuila, and Tamaulipas—travelling on foot for long distances and existing mainly by his trade as a saddler. He talked much with chance acquaintances whom he met, and among others he fell in and travelled with Almonte, who was then conducting the tour of observation in Texas which he had undertaken at Santa Anna's request.[1] From these means of information, accompanied by such newspaper reading as his nomadic habits permitted, Lundy (who never learned to speak Spanish) picked up an extensive but inexact knowledge of conditions in Texas and northern Mexico, and of the hopes and expectations of the American settlers.

The main object of his travels had been to obtain a concession as empresario for the introduction of a number of families; and Lundy and his friends intended to use any lands so granted as a colony for manumitted slaves. The period of his visits to Texas corresponded, however, almost exactly with the period of three years during which Mexico —after the disturbances at Anáhuac—withdrew her troops and revenue officers from Texas; and no such grant of land as he desired was procurable either in Texas or Coahuila. He was more fortunate in Tamaulipas, and when he reached the United States in the summer of 1835 he busied himself with plans to take his colonists thither.

"A large number of respectable persons, in different states," he wrote, "proposed to accompany me. Among them were our friends David Lee Child and wife.[2] But the insurrection in Texas, or rather

[1] See page 229, above.

[2] Lydia Maria Child. Both Mr. and Mrs. Child were well known and energetic workers in the cause of abolition. The proposed journey to "Matamoras, near Texas," was strongly disapproved by William Lloyd Garrison, who thought it a "hazardous project."—(Garrison, *Life of Garrison*, II, 105.)

the invasion of brigands from the United States, caused me to defer it a little. . . . Just about that time, the opportunity presented itself of exposing, with the co-operation of John Quincy Adams, the vile projects of the Texan invaders." [1]

Lundy had already, in 1829, before he had ever visited Texas, denounced in his newspaper the project of purchasing that province. He declared that it had been conceived by the advocates of slavery "for the avowed purpose of adding five or six more slave-holding states to this Union"; [2] and the lapse of six years, during which that project had been suffered to drop by the administration, and the people of Texas had come to blows with Mexico, only served to convince Lundy that the disturbances which were taking place constituted a "crusade against Mexico, set on foot and supported by slave-holders, land-speculators, &c., in order to re-establish, extend, and perpetuate the system of slavery and the slave trade." In the pages of the *Genius of Universal Emancipation* and the Philadelphia *National Gazette*, and in two pamphlets, entitled, respectively, *The Origin and True Causes of the Texas Insurrection* and *The War in Texas*, he declaimed, therefore, against "the clandestine operations of this unhallowed scheme," in terms whose vagueness detracted nothing from their vigor.[3]

How far Lundy's writings directly influenced the public of the day it is hard to say. Probably they did not carry far, for their professed abolitionist origin would then have been a poor passport to popular favor; but that they did deeply affect the course pursued by a man whose voice commanded a general hearing, namely, John Quincy Adams, is unquestionable. Adams had first met Lundy in 1831, and in the summer of 1836 had long conversations with him; [4] and although Adams's diary does not reveal the precise extent to which he made use in his speeches of Lundy's writ-

[1] *Life of Lundy*, 188.
[2] See page 240, above.
[3] The second of these pamphlets seems to be an enlargement of the first. See *The War in Texas* (2d ed.), 30.
[4] Adams's *Memoirs*, VIII, 316; IX, 302, 303.

ings, it is evident that these were the fountain from which he drew inspiration for his attacks upon the Texan policy of Jackson's administration.

But Jackson was not merely faced with the abolitionist opposition first voiced by Lundy. It also became perfectly plain that Congress would not be willing to support any measures tending to involve the country in a war with Mexico. This first became evident when on May 4, 1836, the Secretary of War, with the President's approval, asked the Committee on Ways and Means for an appropriation of money to defray the possible expenses of calling out volunteers in case it should become necessary to reinforce the regular troops on the southwestern frontier. On the seventh of May a violent debate upon this subject in the House of Representatives sprang up, in which the propriety of the instructions to General Gaines of April 25 was warmly criticised by John Quincy Adams and others.[1] But as the bill before the House merely provided that the money appropriated should be used for the defence of the frontier, it was considered unobjectionable by many who were opposed to the government, and was ultimately passed by a large majority, Adams himself voting for it.

Nine days later came the news from San Jacinto. "Glorious news from Texas," wrote Adams, "that Santa Anna had been defeated and taken by Houston, and shot, with all his officers." [2] The bearer of the news, Captain Hitchcock, of General Gaines's staff, had had a dangerous and most toilsome journey through southern Mississippi and Alabama, and brought with him original accounts of the battle. The first of these was a scrap of paper, addressed to nobody in particular, and in form a sort of proclamation. It purported to be signed by Houston, although its authenticity was doubted by Gaines and his officers. The other was a letter from Rusk, the Texan Secretary of War, addressed to General Gaines. The moment Captain Hitchcock reached Washington he called at the White House.

[1] *Debates in Congress* (Gales & Seaton), XII, 3518–3547.
[2] Adams's *Memoirs*, IX, 282.

"I am not sure," he wrote, "that I ever saw a man more delighted than President Jackson appeared to be at the reception of these notes. If there had been a vacancy in the dragoons at that time I think he would have given it to me on the spot. He read both the notes over and over but dwelt particularly upon that from Houston exclaiming as if talking to himself: 'Yes! that's his writing! I know it well! That's his writing! That's Sam Houston's writing! There can be no doubt of the truth of what he states!' Then he ordered a map, got down over it, and looked in vain for the unknown rivulet called San Jacinto. He passed his finger excitedly over the map in search of the name, saying: 'It must be there! No, it must be over there!' moving his finger round but finally giving up the search." [1]

Every one, indeed, was delighted at the retribution which had overwhelmed Santa Anna, and no one in Washington failed to show it. Gorostiza was "astonished and shocked" at the "intemperate joy . . . expressed by all in Washington, both great and small, magnates and legislators, on receiving news of the battle of San Jacinto." [2] And almost at once the question of recognizing Texan independence was raised in both houses of Congress.

The subject had already been before Congress. On April 26 Senator Morris, of Ohio, who was an anti-slavery man, presented a report of the proceedings of "a large respectable meeting of citizens of Cincinnati on the subject of the struggle for freedom now going on in Texas, and suggesting the expediency of acknowledging the independence of that country." Morris said that as a citizen he was in full accord with the proceedings of the meeting, and believed that the people of Cincinnati spoke the voice of the whole state. King, of Alabama, thought it premature to consider the recognition of Texas, and by general consent the subject was laid on the table.

On May 9 Preston, of South Carolina, presented memorials from citizens of Philadelphia praying Congress to recognize the independence of Texas; but although he avowed the most ardent sympathy with the revolutionists, and trusted in God the Texans would succeed, he admitted that for the present no action could be taken by the American govern-

[1] Hitchcock, 108.

[2] Gorostiza, *Correspondencia*, Introd., xxvii.

ment. Webster proclaimed his entire concurrence with most of Preston's sentiments, and only criticised his personal denunciation of Santa Anna—the head of a foreign nation with which we maintained diplomatic relations.

A week later, after the news of San Jacinto, memorials praying for the recognition of Texan independence poured in from different parts of the country, including one from the legislature of Connecticut. When the subject was next brought up in the Senate on May 23, 1836, there was a general expression of opinion that the independence of Texas ought to be recognized if reasonable proof were furnished that a government had been firmly established. It was agreed, however, that without proof the United States could not act, and that the Committee on Foreign Relations ought to ascertain the facts without delay.

That committee on June 18 presented a report recommending a resolution which favored the recognition of Texas, whenever satisfactory information was received that it had a civil government in "successful operation." [1] On July 1 the report was considered and commented on by nearly all the leading men in the Senate—Preston, Clay, Webster, Walker, Buchanan, Benton, and others—all approving the course proposed. A clause was added to the committee's resolution, expressing the gratification of the Senate on hearing that the President of the United States had taken steps to ascertain the facts of the case, and the resolutions were then unanimously adopted in the following form:

"1. *Resolved*, That the independence of Texas ought to be acknowledged by the United States whenever satisfactory information has been received that it has in successful operation a civil Government, capable of performing the duties and fulfilling the obligations of an independent Power.

"2. *Resolved*, That the Senate perceive with satisfaction that the President of the United States has adopted measures to ascertain the political, military and civil condition of Texas."

[1] Clay drew this report, which discusses with considerable fulness the principles that should guide a government in recognizing the independence of a newly created state, and which may be said to be one of the classics of international law in the United States. See Moore, *Internat. Law Digest*, I, 96.

In the House of Representatives there was no such unanimity. Adams was again the leader of the opposition. On May 25, in a speech in Committee of the Whole, when an entirely different subject was under discussion, he denounced the war in Texas as intended to bring about the re-establishment of slavery where it had previously been abolished by law, and he bitterly attacked the administration for making every effort to drive the United States into the war upon the side of slavery. Mexico, according to Adams, was upholding the cause of freedom. And he warned the House that if it came to invading, Mexico was far more likely, with her large and constantly exercised army, to overrun the border states of the American Union than the United States were to overrun Mexico. Adams himself was impressed next day with the violence of his language, for he thought it "the most hazardous" speech he had ever made; but later he found it greeted by "a universal shout of applause" in the North.[1]

Nothing more was done in Congress until the very last moment. On June 27, 1836, the House, by a vote of 142 to 54, laid on the table a proposal to appropriate money for a minister to Texas. On July 4, the last day of the session, the Committee on Foreign Affairs reported the Senate resolutions; debate was cut off by the previous question; the two resolutions were carried by decisive votes—128 to 20, and 113 to 22—and the House thereupon immediately adjourned *sine die*.

[1] *Memoirs*, IX, 287–289.

CHAPTER XVI

TEXAS PROPOSES ANNEXATION

When the American Congress adjourned on the fourth of July, 1836, the question whether the independence of Texas should be recognized had been fairly submitted to the executive branch of the government, although with strong intimations in debate that an affirmative answer would be welcome. But before the passage of the resolution the President had arranged for a careful inquiry at first hand into the facts, and for that purpose he sent to Texas a certain Henry M. Morfit.

Morfit's instructions were probably verbal, and he bore with him as his credentials nothing but a personal letter of introduction from Forsyth, the American Secretary of State, to Burnet, the provisional President of Texas.[1]

Morfit reached Texas early in August, and stayed until the middle of September, sending back to the State Department about two letters a week, in which he gave an intelligent account of the subjects most likely to interest the American government. Although he only visited that part of Texas which lay in the valleys of the Brazos and the Colorado, he saw and talked with the principal men in the Texan government, and was thus enabled to make what appears to have been an impartial and reasonably complete report.[2]

The army, he stated, was composed of about two thousand men actually with the colors. It was thought that in addition some three thousand militia might be counted upon. The munitions of war appeared to be abundant, and there was scarcely a cabin in the country that could

[1] Dated June 25, 1836; *Tex. Dip. Corr.*, I, 100.

[2] Morfit's letters are printed in Sen. Doc. 20, 24 Cong., 2 sess., as an appendix to the message from President Jackson, dated Dec. 21, 1836.