

CHAPTER XLIX

THE TREATY OF GUADALUPE HIDALGO

WHEN Santa Anna abandoned the presidential office and set out to play his last desperate stake at Puebla, he issued, as we have seen, a decree directing the president of the Supreme Court to discharge the duties of President of the republic, associating with himself Generals Herrera and Al-corta, and further directing that the seat of government should be at Querétaro until Congress should decide otherwise.¹

Manuel de la Peña y Peña, then the presiding judge of the Supreme Court, was an elderly man of unblemished character who had filled many great offices.² He was generally believed to be favorable to an early peace with the United States. He had always been in favor of negotiations for a settlement of the questions between the two countries; and, although as Secretary of Relations under Herrera's short Presidency in 1845 he had felt himself obliged to invent reasons for not receiving Slidell, he would certainly have welcomed him if the public opinion of that time had permitted. He was reputed a learned lawyer. Both Bankhead and Trist described him as a "timid" man; but the adjective was ill chosen. Peña, though cautious and slow, was by no means devoid of courage. Once his mind was made up, he could face with calmness and determination whatever

¹ This decree was assumed to be authorized by the law of April 20, 1847, granting "extraordinary powers"; but as Congress and President Santa Anna had both declared that law superseded by the readoption of the Constitution of 1824 and the passage of the *Acta de Reformas*, it is hard to see how any action under it could be justified.

² He was born March 10, 1789, and was therefore not quite fifty-nine years of age when Santa Anna resigned. He was first made a judge of the Supreme Court of Mexico in 1824, at the age of thirty-five.

dangers were to be met. Certainly he was no heaven-born leader; but what Mexico then sorely needed was not so much a genius as an honest, plain man who had enough wisdom and self-abnegation to see the facts of her situation as they really were, and to guide her into the paths of safety.

It was generally doubted at first whether Peña would venture to face the labors and dangers of the Presidency; and characteristically he kept the country for several days in suspense. He had received, when near Toluca (about thirty-five miles west of the city of Mexico), an official copy of Santa Anna's decree of resignation, and he wrote on September 22 acknowledging receipt; but it was not until the twenty-seventh that he announced his decision to accept. On that day he issued a proclamation, dated at Toluca, notifying the governors of the several states of his elevation to the Presidency and the appointment of Don Luis de la Rosa, a well-known advocate of peace, as Minister of Relations and temporarily in charge of all the other ministries.¹ There was no mention in the proclamation of Generals Herrera or Al-corta, who had been associated with him in Santa Anna's decree, and by this one stroke Peña was thought to have declared his independence. Santa Anna's decree he treated as so much waste paper. He proclaimed himself President, not by virtue of the decree, but by virtue of the Constitution of 1824, which (in article 97) provided that, in the event of the President's inability to act, the supreme executive power should be vested in the president of the Supreme Court of Justice and two persons to be selected by a majority vote of the council of government.² If the law of April 20, 1847, was no longer in force, he was plainly right; and neither

¹ Trist, who at this time must have had access to good sources of information, asserted that "Peña wished Cuevas, who under the stimulus of letters from Couto was chiefly instrumental in dragging P. forth, to come in as Secretary of State," but that Cuevas had demonstrated the expediency of his remaining out of the cabinet.—(Trist to Buchanan, Oct. 1, 1847; *State Dept., MSS.*) Cuevas had long been known as an advocate of peace with Texas.

² Dublan y Lozano, I, 728; and *Acta de Reformas*, Art. 15; *ibid.*, V, 276. The council of government never selected any one to act with Peña y Peña, and he was, no doubt, justified, under the Constitution, in acting alone until his associates were duly designated by the council.

Herrera nor Alcorta publicly questioned Peña's assumption of power or sought to share it.

Peña's next act was to issue the order dated October 7, 1847, by which Santa Anna was relieved from command and ordered before a court of inquiry. This second display of firmness further strengthened Peña's position; for although Santa Anna blustered and talked of his right to resume the Presidency at any time before his resignation was accepted by Congress, he in fact yielded.

Having thus disposed of Santa Anna, President Peña set out from Toluca and arrived on the twelfth of October at Querétaro, where a few members of Congress had already assembled and where General Herrera and the remains of the army (half of his force having deserted en route) also appeared. Herrera (who professed to be ill) shortly afterward resigned his command, and General Mora y Villamil, having been appointed Minister of War on October 21, a beginning was made of a reorganization of the army by creating on paper three divisions under those three unlucky old generals, Filisola, Alvarez, and Bustamante.

The Congress had already been summoned to meet at Querétaro on the fifth of October, but no quorum appeared at that time, or until the second of November. The continued failure to procure a quorum was due probably in part to the disturbed state of the country, in part to the inability of the federal government to pay (as was customary) the travelling expenses of members, in part to the unwillingness of many members to be mixed up in any dealing with the Americans, and in part to uncertainties as to the state of the law. Under the *Acta de Reformas* of May 18, 1847, the general legislative authority had been declared to be vested in the constituent Congress until the new houses of Congress—to be thereafter elected—should actually assemble.¹ By another law passed June 3, 1847, the elections for President and members of Congress were regulated, and were to begin on August 29 and continue through the various intermediate stages until October 1, 1847.² But the

¹ *Ibid.*, V, 278.

² *Ibid.*, V, 281.

occupation of a large part of the country by the American armies had put a stop to the meetings of the electoral bodies, so that the new houses of Congress were not in fact constituted. It seemed, therefore, to be clear that the constituent Congress (chosen in the latter months of 1846) was still the only body having legislative powers; but at the same time steps were taken by the government to secure the election of new federal authorities. A decree bearing date October 19, 1847, was issued by the acting President which recited the failure to hold elections in several states and commanded—by virtue of the extraordinary powers granted under the law of April 20, 1847—that all the necessary steps be taken and the final selections of members made within ten weeks after the decree had been published in the capital of each of such states.¹

At about the same time a circular was sent to the governors of the several states, inviting them to meet at Querétaro on the tenth of November. The meeting was accordingly held, although only a small number of governors actually attended;² but the mere summons appears to have spurred the jealous Congress into assembling, for it was thought that with the support of the governors the federal executive might venture on a *coup d'état* and declare himself a dictator. No one any longer thought Peña "timid." Meanwhile, the President and his supporters were working wonders in the way of establishing a settled government capable of entering into engagements with foreign powers. The firmness of Peña in dealing with Santa Anna contributed not a little to the general acceptance of his administration. Nevertheless, some of the states declined to support him, and passed laws declaring that the federation was dissolved and that they "resumed" their independence—a course which, if persisted in, could only have resulted in anarchy.

¹ *Ibid.*, V, 297. How the law of April 20, 1847, could be resuscitated for the purpose of this decree is not apparent; but the decree was fully justified by Art. 4 of the act of June 3, which expressly authorized the government to fix new dates for "repeating or verifying elections" in any invaded states or territories.

² Seven states were represented.—(Bancroft's *Mexico*, V, 535.)

There were also technical doubts raised as to Peña's title to the Presidency, though if he were not to be recognized all government in the country was at an end.

"At first," as the American diplomatic agent wrote to his government, "it seemed that nothing could stay the swelling tide, and that the whole country was soon to be overwhelmed by it, past all redemption; but, through efforts the most active and unremitting on the part of a few men, whose characters commanded confidence, congenial spirits to their own were suddenly roused and incited to similar exertions, at various centres of action throughout the country; and although, for a time, the most sanguine among them almost despaired of success, they have finally triumphed in obtaining a general recognition of the provisional authority of Peña y Peña; a triumph which, considering the serious constitutional objections which existed to his recognition, and the number of factions at work to prevent it, is a subject of just wonder. . . ."

"For some days past the intelligence from Querétaro has been more and more encouraging, by every fresh arrival. No doubt exists now as to an early meeting of Congress; although some fears are entertained that the intrigues in which Almonte has been engaged there, to get himself elected President *ad interim*, may prove successful. This would be a fatal blow to the Peace party; the leaders of whom have no sympathies with him. . . . A very slender estimate, too, is put upon his abilities; the cunning and craftiness of the Indian being all that he gets credit for. In a word, he is of the Santa Anna species; though infinitely the inferior of that prototype, who is, beyond question a man of very extraordinary powers, singular quickness of apprehension, deep sagacity, and most fascinating address. Upon these points, there is no difference of opinion here, even among those who hold him in utter detestation.

"Letters are pouring in upon the deputies at Querétaro, urging them to make peace without loss of time; the writers being generally men who have hitherto been among the most vehement in denouncing every idea of the sort. The change is owing chiefly, almost entirely, to the downfall of Santa Anna."¹

It will thus be seen that before Congress met, the interim government at Querétaro had really managed to establish itself—in an imperfect fashion, to be sure—as a government *de facto*. It was now recognized by the governors of many

¹ Trist to Buchanan, Oct. 25, 1847; *State Dept. MSS.* Extracts printed in Sen. Doc. 52, 30 Cong., 1 sess., 205-212.

of the states, by the bishops and other clergy, by the remains of the army, and by representatives of foreign countries.

Under these circumstances Trist, whose patience must have been much tried by his enforced idleness during the weeks that had elapsed since Scott had entered the capital, decided that the time had come when he might endeavor to renew peace negotiations; and on October 20 he sent a paper (through the British legation) addressed to Rosa, the Minister of Relations.¹ This document, although sent late in October, was dated September 7, 1847, and professed to have been intended as a reply to the last communication of the former negotiators. According to Trist, the paper had not been delivered, as he had expected it would be, on the day of its date, owing to the termination of the armistice on that day. It did not directly offer to renew the former discussion, but was in the main a verbose and not unskilful attempt to answer the Mexican arguments in relation to the territory between the Rio Grande and the Nueces. However, as the British chargé d'affaires wrote home, the only immediate importance of the document was that it showed Trist's willingness to go on with the former negotiations.

"I much fear, however," Thornton added, "that no Mexican Government will have strength sufficient to resist the baleful influence of the innumerable intrigues which, in spite of the present melancholy condition of the country, are still being carried on by many of her unpatriotic citizens for their own personal ends."²

Rosa, however, was not deterred by these "innumerable intrigues" from replying to Trist. He dwelt on the earnest desire of the government of Mexico to end the war, "the calamities of which now bear heavily on this republic, and the consequences of which, sooner or later, will make themselves felt by the United States of America," and he prom-

¹ Same to same, Oct. 31, 1847; *State Dept. MSS.* Extracts in Sen. Doc. 52, 30 Cong., 1 sess., 212.

² Thornton to Palmerston, Oct. 29, 1847, No. 4; *F. O. MSS.* Bankhead, the British minister, had left the city of Mexico on his way home on October 19, on sick leave. Doyle, the secretary of legation, had been absent in England on leave, but was now on his way back; and therefore until his return, about the middle of December, Thornton was accredited as chargé d'affaires.

ised the appointment within a few days of "commissioners to continue the negotiations for peace."¹ The reason why commissioners were not at once appointed was, of course, because it was hoped that Congress would soon be able to command a quorum and elect a President *ad interim*, pursuant to the Constitution and the *Acta de Reformas*, and, in fact, the sessions of Congress did begin two days after the date of Rosa's note.

In the struggle of parties in Congress and throughout the country, the *moderados*—the followers of Herrera and Anaya and Cuevas and Peña—proved to be for the moment the strongest. They were, first of all, opposed to Santa Anna and his kind. They longed for peace, and they hoped for an orderly and steady development of the country under its then existing institutions.

Probably the next most numerous group was the remnant of the *puros*, the "pure" republican or radical party. Fundamentally anti-clerical, they looked with undisguised admiration at the institutions of the United States and the separation of church and state; and some of them even went so far as to profess the belief that it would be better for Mexico to be absorbed in the great republic, rather than to attempt to continue a separate existence, which had proved so unfortunate. For this reason they opposed any treaty of peace. They wished the American troops to overrun the whole country, or even to take and keep it.²

There were, of course, still others who opposed the peace policy of the *moderados* for entirely different reasons from those put forward by the *puros*. It was argued that a petty war might be successfully waged by guerrilleros in the parts of Mexico which had as yet been untouched by invasion.

¹ Rosa to Trist, Oct. 31, 1847; Sen. Doc. 52, 30 Cong., 1 sess., 227.

² "I have had many interesting interviews with intelligent Mexicans on the political relations of this country and my own. . . . They are all of one party—the Puros, so-called—and do not hesitate to express a wish that the troops of the United States may hold this country until the Mexican army is annihilated, in order that a proper civil government may be securely established. They are opposed to payment of money by the United States to the government of Mexico, saying it would only corrupt those in power."—(Hitchcock, 309; Nov. 14, 1847.)

The wealthy states of San Luis Potosí, Zacatecas, Jalisco, Michoacan, and Oaxaca had thus far been left in peace; and in the barren mountains of the centre of the republic and in the tropical heat of the *tierra caliente* the strongest American forces would wage an almost hopeless and certainly a most harassing and costly warfare. Moreover, it was well known that in many sections of the United States there was the strongest dislike for the existing contest, and it was hoped that a sturdy refusal by Mexico to yield would result in the invader's abandoning his conquests in disgust. The story of Napoleon's adventure in Spain had not been forgotten.

Another group opposed to peace were the Santanistas, who hoped that the next turn of fortune's wheel might once more restore their leader to the place of the distribution of patronage. Santa Anna's talents could be exercised only in troubled times, so that a programme like Guizot's, offering only peace and bourgeois prosperity, promised nothing for faithful followers.

Finally, the monarchists were opposed to anything which seemed likely to insure the permanency of the republic. There seem to have been few, if any, avowed monarchists in Congress; but efforts were making to establish the party throughout the country, and their potential strength was enough to disquiet politicians. Ex-President Paredes, now openly advocating the policy of putting a foreign prince on the throne of Mexico, had returned to the country early in August, and late in September had offered his services to the government, which were declined. Many stories were in circulation as to his activities in Europe. It was reported that Louis Philippe and Prince Metternich had expressed themselves favorably; that offers of the crown had been made to the Duc de Montpensier, to an Austrian prince, to a Coburg prince; and that the only thing needed was satisfactory evidence of local support in Mexico. It was evident that these tales were gross exaggerations; and Trist, writing home, said of Paredes that, "although one of the honestest and bravest men they have ever had, he is a fool and a drunk-

ard—certainly not the sort of person who would be selected by the European courts to carry on an intrigue of this sort.”¹

The immediate interest, when Congress met, was, however, in men and not in measures. For more than a week “the various groups of the Congress struggled without rest and without fatigue for the success of their respective candidates for President *ad interim*”;² but finally, on the eleventh of November, 1847, a bare quorum being present, General Anaya was elected to hold office until January 8, 1848. It was a decided triumph for the *moderados*. Anaya himself was nothing; but he stood for peace, and he at once made Peña y Peña his Minister of Relations and continued Mora y Villamil as his Minister of War. Congress could do no more, and it adjourned about November 17, after passing a vote of thanks to Peña for his services in taking charge of the government “and preserving the legal centre of union after the loss of the capital.”³

At the same time the thinly attended meeting of governors was being held at Querétaro. It was addressed by the Minister of War, who explained that the governors had been called together simply for advice and information, so that the cabinet would not necessarily feel bound to follow the advice the conference might offer; and he then laid before them a detailed account of the military and financial condition of the country. The total Mexican force then under arms was 8,109 men, scattered throughout the whole country, the largest detachment, that at Querétaro, numbering less than three thousand.⁴ Against this he estimated that the American troops actually in Mexico amounted to

¹ Trist to Buchanan, Oct. 25, 1847; Sen. Doc. 52, 30 Cong., 1 sess., 211. The foregoing summary of the state of parties in Mexico at the beginning of November, 1847, is mainly derived from Trist's voluminous despatches, and the despatches from Bankhead and Thornton of the British legation. All are in substantial agreement, which is not surprising, seeing that Thornton and Trist were on the most confidential terms.

² *México á través de los Siglos*, IV, 701.

³ Law of Nov. 13, 1847; Dublan y Lozano, V, 306.

⁴ In Querétaro there were reported to be 2,932 men; in the state of Mexico (Toluca), under Alvarez, 1,282; in San Luis Potosí, 823. There were not 700 men in any other single place.

43,059 men, of whom 32,000 (including the garrisons of Tampico and Vera Cruz) were under Scott's command.¹ But Mexico had also to deal with other difficulties and other enemies. Some of the states were opposing the existing government; Yucatan had long before proclaimed her neutrality and had taken no part in the war; the custom-houses and some of the largest cities were in the invaders' hands; the greater part of the artillery (nearly six hundred guns) and most of the small-arms and ammunition and other supplies for the army had been captured or destroyed. National defence was no longer possible, and the Americans were free to march from one end of Mexico to another. In short, without their expressing any final decision, the conclusion of the government was plainly indicated, namely, that peace must be made at any cost.

The conference of the governors continued until the middle of December, when they adopted a resolution declaring they would sustain the federal government in the performance of its duties to the extent and in the manner prescribed in the Constitution; and with this cryptic utterance Anaya and his cabinet had to rest content.² The members of the government by this time had definitely made up their minds to negotiate. On November 22, 1847, a month after Trist had offered to resume the interrupted discussions of September, Peña y Peña, as Minister of Relations, addressed a note to Trist to inform him that President Anaya had appointed commissioners, “which appointment the president of the Supreme Court of Justice did not make on account of the temporary character of his government.” Of the persons chosen as commissioners, two had served in the same capacity in September—Don Bernardo Couto and Don

¹ These figures were remarkably accurate, and were probably furnished by Scott. The estimates of the adjutant-general of the U. S. as of Nov. 30, 1847, showed 43,536 men in the field (including recruits *en route*) of whom 32,156 were under Scott. His effective strength was, of course, much less.—(See Sen. Doc. 1, 30 Cong., 1 sess., 72.)

² For the governors' conference, see Roa Bárcena, 567-580; *Memoria presentada por el ministerio de la guerra á la junta de los Escmos. Sres. gobernadores de los Estados*, etc., Nov. 19, 1847, in *Apelacion al buen Criterio*, App., 24-31. Trist to Buchanan, Dec. 20, 1847; Sen. Doc. 52, 30 Cong., 1 sess., 268-271.

Miguel Atristain. General Herrera being ill and General Mora y Villamil having become Minister of War, the President had appointed General Manuel Rincon and Don Luis Gonzago Cuevas to take their places.¹ These gentlemen had been requested to come to Querétaro to receive their instructions, and they would then communicate with Mr. Trist, "in order that, upon proper conditions, the conferences which remain pending may be continued, and may lead to the happy results of an honorable and useful peace."²

This note was forwarded through Thornton, of the British legation, who had just reached Querétaro, and it was received by Trist in the city of Mexico on the twenty-fourth of November. Agreeable as the official notification of a Mexican readiness to treat for peace must have been, Trist's first emotions were undoubtedly those of astonishment rather than of gratification; for the Minister of Relations had despatched his note after receiving the fullest information that Trist had been ordered to return home at once, and that his powers had been revoked.

It will be remembered that Buchanan had written to Trist on the sixth of October, directing him to break off any negotiations with Mexican representatives in which he might be engaged, and to return to Washington without delay—directions which were reiterated with angry emphasis in further instructions on the twenty-fifth of the same month.³ As the roads between Vera Cruz and the capital were still very far from safe, these two important despatches were sent from Vera Cruz by the same convoy and arrived in Mexico together, coming into Trist's hands on the sixteenth of November.

It so happened that Thornton was then on the eve of starting for Querétaro. The British Foreign Office some time

¹ Rincon declined to serve, and his place was not filled. Cuevas was well qualified for the place. He was a man of ability and had twice acted as Minister of Relations; first in 1837, and again under Herrera from Dec., 1844, to Sept., 1845.

² Peña y Peña to Trist, Nov. 22, 1847; Sen. Doc. 52, 30 Cong., 1 sess., 99.

³ Buchanan to Trist, Oct. 6 and 25, 1847; *ibid.*, 91, 94.

before had instructed Bankhead that in case the Mexican government were to establish itself outside of the capital, the legation must follow it; but the instructions had not been obeyed during Peña's temporary tenure of office. Upon the assembling of Congress and their selection of Anaya for the Presidency there seemed to be no further occasion for delay, and Thornton had arranged to start on his journey on the seventeenth of November. On the previous evening Trist called and read him Buchanan's instructions, just received, of which Thornton took and transmitted to his government very full notes.

"Mr. Trist," Thornton reported, "begged me on my arrival at Querétaro confidentially to inform the Mexican Minister of Foreign Relations of his recall, and to state to him that if the Mexican Government would immediately make some proposition which he could take to Washington with him, he would defer the official announcement of his recall for a few days. I had not been in this City half an hour when Señor de la Peña y Peña called upon me, with the intention, as he said, of begging me to transmit an official Note from him to Mr. Trist, Copy and Translation of which I have the honour to enclose, announcing the Nomination of Commissioners to renew Negotiations. On my giving Señor de la Peña y Peña Mr. Trist's Message, his Excellency stated that under present circumstances, it was impossible for him to adopt any other mode; that Mr. Trist, having full powers to do so, had expressed his readiness to renew Negotiations; that this offer had been accepted and Commissioners named, through whom alone propositions could be made. His Excellency further begged me to accompany his official Note with a private letter from myself to Mr. Trist, imploring him to take into consideration the difficulties with which the Government were surrounded from the Army and the war party, and their evident desire to make peace, proved by the formation of such a cabinet as then existed. With which request I complied."¹

To the Mexican commissioners Peña also wrote, arguing that it was too late for Trist to withdraw after he had written offering to reopen negotiations, and when his offer had been accepted and commissioners had been named to meet him.

¹ Thornton to Palmerston, Nov. 26, 1847, No. 14; *F. O. MSS.*