

## CHAPTER L

### THE TREATY RATIFIED BY THE UNITED STATES

THE events of the first half of the month of September, 1847—the breaking off of negotiations for peace, the storming of Chapultepec, the capture of the city of Mexico, and the dispersal of Santa Anna's forces—had evidently marked the beginning of a new phase in the progress of the war; and it had also evidently become incumbent on the American administration to consider what policy should be adopted to meet the new conditions. Up to this time, the object to be attained was the destruction of the organized military forces of the adversary. That task might now be considered finished, for the scattered remnants of the Mexican armies could not be seriously regarded; and the question what was to be done next pressed for an answer.

The administration, as we have seen, had decided upon Trist's recall the moment they learned of his concessions to the Mexican commissioners at the September conferences; and on the day after the letter to that effect was despatched, the President sat down to draft the paragraphs of his annual message, in which he proposed to deal with the policy to be pursued in relation to the war. The main outlines of his recommendations were soon definitely fixed; and they were not varied in all the subsequent correction, revision, enlargement, and editing which the message received before publication. After meditating five days on the subject, the President was able to present his views to the cabinet for consideration, and with the remarkable lucidity which his diary frequently exhibits, he summarized them thus:

"I cannot undertake to state these views in detail. They were in substance that the war should be prosecuted with increased energy,

that I was opposed to withdrawing the army altogether, or retiring to a defensive line, but that I was in favour of holding all the ports, towns, Cities and Provinces which we had conquered, of pressing forward our Military operations, and of levying contributions upon the enemy for the support of our army. I was in favour, also, of establishing more stable Governments than those established over the Cities or Provinces which we have conquered, by the right of conquest. I was in favour, also, of avowing in my message to Congress in December next that the Provinces of New Mexico and the Californias should be retained by the U. S. as indemnity, & should never be restored to Mexico, and that in these Provinces permanent territorial Governments should be established. The Cabinet were unanimous in concurring with me in these views."<sup>1</sup>

To the detailed exposition of these recommendations, which were repeatedly discussed in cabinet meetings, the President made but one important addition—the result of a conversation with Buchanan. As finally agreed upon, the paragraphs in the annual message embodying Buchanan's suggestion, ran as follows:

"With a people distracted and divided by contending factions, and a government subject to constant changes, by successive revolutions, the continued successes of our arms may fail to secure a satisfactory peace. In such event, it may become proper for our commanding generals in the field to give encouragement and assurances of protection to the friends of peace in Mexico in the establishment and maintenance of a free republican government of their own choice, able and willing to conclude a peace which would be just to them, and secure us the indemnity we demand. . . .

"If, after affording this encouragement and protection . . . we shall ultimately fail, then we shall have exhausted all honorable means in pursuit of peace, and must continue to occupy her country with our troops, taking the full measure of indemnity into our own hands, and must enforce the terms which our honor demands."

Having thus, with the help of his cabinet, completed the draft of his annual message, the President read the paragraphs in which he discussed Mexican affairs to Senators Cass, Douglas, Dix, and Turney (of Tennessee); to Rhett, Stanton, Boyd, and McLane, of the House of Representa-

<sup>1</sup> Polk's *Diary*, III, 189 (Oct. 12, 1847).

tives; and to Ritchie, the editor of the *Washington Union*. Such suggestions as they cared to make were carefully considered, and the much-edited message was duly sent in to Congress on Tuesday, the seventh of December, 1847.

The President's arguments in respect to the future operations of the army in Mexico were supplemented by a vigorous report from the Secretary of War, in which Marcy took up and discussed in detail the possible lines of military policy. The proposal that all the conquests made by American arms should be abandoned, and that the troops should be withdrawn from Mexican territory before any treaty of peace was concluded—a proposal which had already been seriously made by some well-intentioned people and which was shortly renewed in many petitions to Congress—he dismissed with contempt. It could indeed have resulted only in an indefinite prolongation of a state of quasi-war with Mexico.

Three modes of dealing with the existing situation seemed to Marcy to be possible:

"First, to take and hold an indemnity line; to recede from all places and positions now occupied in advance of it, and cease from all aggressive operations beyond that line.

"Second, to overrun the whole country, and hold all the principal places in it by permanent garrisons; and,

"Third, to retain what we now possess, open the lines of communication into the interior, and extend our operations to other important places, as our means and the prospect of advantages shall indicate, keeping a disposable force always ready, within approachable limits, to annoy the enemy, to seize supplies, enforce contributions, and frustrate his efforts to collect means and assemble troops for the purpose of protracting the war."

Marcy considered that the first of these modes, "the line policy," was objectionable, as it would weaken the inducements of Mexico to conclude a speedy peace, while it would not result in any lessening of expense. The second mode suggested would require the services of not less than seventy thousand men and a correspondingly large expenditure of money. The third mode, which was really the second ap-

plied gradually and tentatively, was the one he recommended. He believed that in extending the area of occupation by American troops, those who held in their hands the decision of the question of peace would be made to feel the pressure of war. The substance of the wealthy and influential classes in Mexico had hardly been touched.

"As the Mexican army has long been to them the instrument of oppression, in the hands of their successive rulers, its destruction has not deeply enlisted their sympathies or alarmed their fears. Our army has afforded them better protection than their own; and thus, by our presence and our forbearance, they have, within certain limits, hitherto escaped exactions from either. But our successes have now opened the way to act upon and influence those who probably can, if they will, put an end to hostilities. By making them suffer the usual calamities of war, they must be made to desire peace."

This policy, if pursued, would require, as he estimated, an additional force of ten regular regiments to be enlisted for the war; and he urged that legislation authorizing such an increase of force be adopted without delay.<sup>1</sup>

The thirtieth Congress, which met for the first time on the first Monday of December, 1847, was nominally Democratic in the Senate by a good majority;<sup>2</sup> but this majority included such "insurgents" as Benton and Calhoun and Westcott of Florida, whose votes could never be relied on by the administration. The House of Representatives had a nominal Whig majority of six;<sup>3</sup> but that majority was even more uncertain than the Democratic majority of the Senate, for it included, besides six professed abolitionists, a large number of Southern Whigs who were always sure to vote with the Democrats on all questions in any way relating to slavery. But on questions of patronage, the Whigs stood together like a rock; and having elected a Whig speaker, a Whig clerk, and two Whig chaplains, the House of Representatives

<sup>1</sup> *Report of the Secretary of War*; Sen. Doc. 1, 30 Cong., 1 sess., 60-64.

<sup>2</sup> There were at first thirty-two Democrats and twenty-two Whigs, with two vacancies (Alabama and Texas); and these being filled early in the session by Democrats made the Senate stand thirty-four to twenty-two.

<sup>3</sup> One hundred and seventeen Whigs, one hundred and ten Democrats, and one "native American."

joined the Senate in the customary announcement to the President that they were ready for business.

Upon the expectant ears of Congress and the people of the United States, the President's words conveyed a message of disappointment. After the brilliant victories of the armies in Mexico and the taking of the capital, it was reasonably to be expected that some assured prospect of peace, if not the actual conclusion of a treaty, might be announced; but the President offered no hope of any end to the war. Instead, he announced that as Mexico had rejected the terms of peace which he had proposed—and which he now explained and justified—he had determined to recall the American commissioner and to notify the Mexican government that in the existing state of things, no further overtures of peace would be made; although at the same time he stated that he would be ready to receive and consider any proposals which might be made by Mexico, while warning them that their "obstinate perseverance" must influence the terms which it might be deemed proper to accept.

Evidently, there was no promise of peace here. Negotiations seemed to have been ended by the President's recall of the American commissioner, and there appeared to be no expectation of their being renewed by Mexico at any early day. Moreover the sibylline policy was to be adopted, and a refusal to accept the terms first offered was to be followed by raising the American demands. But these first demands included the whole of California and New Mexico, besides Texas to the Rio Grande. The President had expressly said that the only indemnity Mexico could furnish was by a cession of land; and, therefore, if the American demands were to be raised, the boundaries of the United States would be still further enlarged to the south. How far they would be enlarged would manifestly depend (if the President's views were to prevail) on Mexican obstinacy; and it was easy to argue that this obstinacy might be carried so far as to lead the President to be content with nothing less than the whole of Mexico. To Northern politicians, and to all opponents

of slavery expansion, such unlimited extension to the southward presented a truly terrifying perspective.

It is not surprising, therefore, that for nearly three months both houses should have engaged in a series of animated debates in which the whole conduct of the war, past and future, was the principal topic. The true purpose of most of the speakers was, no doubt, the hope of influencing in some measure the presidential election of 1848, and the pleasing task of preparing "ammunition" for that campaign was their almost avowed intention. But grave issues were in reality involved, although there was a certain impression of unreality about these debates, since they wandered off to many topics that had no relation to any action which Congress was then called upon to take, and dealt with all sorts of contingencies which might never arise, and which, in fact, never did arise.

In form, the debates in the House of Representatives up to the third of February, 1848, were upon a resolution to refer to the appropriate committees the various topics treated in the President's message; and in the unchartered liberty of the Committee of the Whole there was ample opportunity for both criticism and defence of the President and the Democratic party. So far as criticism turned on the future policy to be observed toward Mexico, it was necessarily vague and declamatory—for the President's policy had been declared by him to be dependent on what Mexico might do. But there was one real question which was pressing for decision but was not even yet apprehended in its full and sinister significance, namely, the exclusion of slavery from the territory to be acquired as the result of the war.

The Wilmot proviso debates were, therefore, renewed, for, although the very possibility of peace was still uncertain, the President had declared that the Californias and New Mexico would be retained by the United States in any event. Three courses were discussed, namely: To exclude slavery from the new territories altogether; to leave the question to the local territorial legislatures; to declare that Congress had no constitutional power to meddle with the question itself

and still less to delegate such a power to any territorial legislature which it might create. Such were the immensely important and far-reaching topics, which, in the coming decade, were to be more and more the subject of passionate differences.

In the Senate, the debates began with a resolution of Calhoun's, to the effect that the policy of conquering and holding all of Mexico should not be adopted. That policy, he declared, was the final and certain result of the course the administration had followed for the past two years. Cass pointed to the President's explicit declaration on that subject in his annual message:

"It has never been contemplated by me as an object of the war, to make a permanent conquest of the republic of Mexico, or to annihilate her separate existence as an independent nation. On the contrary, it has ever been my desire that she should maintain her nationality, and, under a good government adapted to her condition, be a free, independent and prosperous nation."

This was indeed the only policy which any responsible statesman could have possibly adopted; but Calhoun insisted that whatever the President's intentions might be, his actions would inevitably lead to annexing all Mexico. And so Calhoun set up his man of straw and triumphantly knocked him over in a speech which had been carefully prepared in the calm leisure of a South Carolina plantation. After listening politely, the Senate laid Calhoun's resolution on the table.<sup>1</sup>

Dickinson, of New York, brought forward a more practical subject of debate in resolutions which favored the acquisition of territory from Mexico, but upon condition that "all questions concerning the domestic policy therein" be left to the local legislatures.<sup>2</sup> Bagby, of Alabama, on the other hand, offered an opposing resolution to the effect that Congress had no power under the Constitution to exclude slavery from territory to be acquired.<sup>3</sup> But senators found a wider field

<sup>1</sup> *Congressional Globe*, XVII, 96-100.

<sup>2</sup> *Ibid.*, 54.

<sup>3</sup> *Ibid.*, 241. This was, of course, the view afterward expressed by the majority of the Supreme Court in the Dred Scott case.

for discussion in the so-called Ten Regiment Bill, which for day after day and week after week afforded occasion for wearisome iteration of opinions as to the origin of the war, the acts of the administration, and the policy to be pursued in the future.

While Congress was thus debating the multitudinous questions which had already arisen out of the war and in anticipation the still more numerous and more serious questions which were likely to arise out of a treaty of peace, the administration was doing nothing to bring peace about. They were vainly waiting in the hope that Mexico might, of her own accord, and by some more or less established government, come forward with proposals on which a treaty could be based; but they took no steps to facilitate the making of such proposals, beyond instructing Scott to forward promptly to Washington any offers that might be made. Scott's days in command of the army were, however, by this time numbered.

About the middle of December, 1847, statements were published in the newspapers to the effect that Scott and Trist had at one time contemplated paying Santa Anna a bribe of a million dollars. The story referred, of course, to the unofficial negotiations at Puebla.<sup>1</sup> It was confirmed by a private letter from General Pillow to the President, as well as by the testimony of returned officers from the army, who gave the gossip of the camp; and the whole cabinet, with the President, "condemned the proceedings unqualifiedly," but determined to wait before taking any decisive step until further information could be obtained.

On the heels of this unpleasant story came a series of charges by Scott against Generals Worth and Pillow, and Colonel Duncan, the substance of which was that the latter two had written, or caused to be written, letters to the newspapers claiming undue credit for themselves and disparaging the commander-in-chief. As to Worth, the charges were based on a letter he had addressed to the Secretary of War and sent through General Scott, accusing the latter of op-

<sup>1</sup> *Polk's Diary*, III, 251 (Dec. 18, 1847).

pressive and tyrannical treatment in regard to this same subject. All three officers had been put under arrest.

The President accurately summed up the affair thus:

"I deplore the unfortunate collisions which have arisen between the Gen'l officers in Mexico, as they must prove highly prejudicial to the public service. They have been produced, as I have every reason to believe, more by the vanity and tyrannical temper of Gen'l Scott, & his want of prudence and common sense, than from any other cause. . . . The whole difficulty has grown out of letters written from the army and published in the newspapers of the U. S., in which Gen'l S. is not made the exclusive hero of the War. Without expressing any opinion upon the merits or truth of these letters, there seems to have been no necessity to make so serious an affair of them as to break up the harmony and efficiency of the army while in the enemy's country. The whole matter is most unfortunate."<sup>1</sup>

The next day after recording these opinions in his diary, the President received a visit from two Democratic senators—Cass, of Michigan, and Jefferson Davis, of Mississippi—who brought a sensible letter from General Twiggs, in which the latter expressed the opinion that "if a commissioner with power to treat was now in Mexico a Treaty might be concluded."<sup>2</sup> This led to some talk about Scott; and both Senators expressed the opinion "in strong and decided terms" that Scott ought to be relieved from his command. As to making a treaty, Davis (who had been long enough in Mexico to learn something of its politics) gave the President excellent advice.

"Mr. Davis said," the President recorded, "that if commissioners should be appointed by Mexico to come to the U. S., the Government which appointed them would probably be overthrown before they could come here, execute their mission, and return, and that as likely as not they might be shot as traitors to their country when they did return; and that the only hope of peace was to have a person in Mexico authorized to avail himself of any favourable opportunity which might arise to make it and have it ratified at once."<sup>3</sup>

<sup>1</sup> *Ibid.*, III, 266 (Dec. 30, 1847).

<sup>2</sup> Twiggs, must, of course, have written after hearing that Trist was recalled, and before his refusal to obey orders was announced.

<sup>3</sup> Polk's *Diary*, III, 270.

The President was not, however, quite ready yet to adopt this common-sense view, for he considered that the first thing to be accomplished was the suppression of Scott, who had by this time exhausted the patience of the entire cabinet. For two weeks they discussed the best mode of dealing with this thorny subject. It was unanimously agreed that Scott must go, but whether General Taylor or General William O. Butler should take over the command, involved a serious difference of opinion, the majority of the cabinet preferring Taylor. The President, however, decided in favor of Butler, who was then on the spot and next in rank to Scott. It was also agreed by the cabinet that Worth, Pillow, and Duncan ought to be released from arrest, and that instead of directing them to appear before a court-martial, all the charges, including those in reference to Scott's bribing Santa Anna, should be referred to a court of inquiry to sit in Mexico and to be composed of officers who had not been in Scott's army during the war and might therefore be considered impartial.<sup>1</sup>

News of the President's action reached Mexico just after the signature of the treaty of Guadalupe Hidalgo and was received by Scott with an indignation which he took no pains to disguise. He chose to consider himself as the sole person on trial, and in two letters, of the ninth and twenty-fourth of February,<sup>2</sup> he wrote in the most injurious language to the War Department, reviewing his services since the beginning of the war, recalling, as he said, "some of the

<sup>1</sup> The letters to Scott and the orders for the court of inquiry, dated Jan. 13 and 17, 1848, are printed in H. R. Doc. 60, 30 Cong., 1 sess., 1040-1046. The court was composed of General Towson (paymaster-general), General Caleb Cushing (recently appointed from civil life), and Lieutenant-Colonel Belknap, of the fifth regular infantry. The court sat in the city of Mexico from March 16 to April 28, 1848, and in the United States, at New Orleans and Frederick, Maryland, at various dates up to July 1, 1848, examining the case against Pillow. It disapproved his conduct in some respects, but concluded that no further proceedings were called for by the interest of the public service. Scott declined to testify as a witness in regard to the negotiations with Santa Anna (apparently on the ground that the conduct of British agents was involved) and the court reported that it was without proof on that subject. See Quitman, II, 316-329; Hitchcock, 326. The other cases were dropped.

<sup>2</sup> H. R. Doc. 60, 30 Cong., 1 sess., 1087, 1218.

neglects, disappointments, injuries, and rebukes" which had been inflicted upon him since he left Washington, and accusing the administration of systematic persecution. To this Marcy replied in a long review of the subject, which pretty effectually closed all discussion.<sup>1</sup>

It was while the cabinet discussions in regard to Scott's case were still going on that the first intimations were received of Trist's determination to disregard the orders to return home. The President naturally considered the information "most surprising."<sup>2</sup> He had been considering a project of giving General Butler full powers in Trist's place,<sup>3</sup> but this project was dropped the moment it appeared that Trist was continuing the negotiations. Ten days passed without any action by the President, until, on the fifteenth of January, Trist's long letter, in which he definitely announced his intentions, was received in Washington.<sup>4</sup>

"His despatch," Polk noted that same day, "is arrogant, impudent, and very insulting to his Government, and even personally offensive to the President. He admits he is acting without authority and in violation of the positive order recalling him. It is manifest to me that he has become the tool of Gen'l Scott and his menial instrument, and that the paper was written at Scott's instance and dictation. I have never in my life felt so indignant, and the whole Cabinet expressed themselves as I felt. I told Mr. Buchanan that the paper was so insulting and contemptably base that it required no lengthy answer, but that it did require a short, but stern and decided rebuke, and directed him to prepare such a reply. I directed the Secretary of War to write at once to Maj'r Gen'l Butler, directing him, if Mr. Trist was still with the Head Quarters of the army, to order him off, and to inform the authorities of Mexico that he had no authority to treat. If there was any legal provision for his punishment he ought to be severely handled. He has acted worse than any man in the public employ whom I have ever known. His despatch proves that he is destitute of honor or principle, and that he has proved himself to be a very base man."<sup>5</sup>

<sup>1</sup> Marcy to Scott, April 21, 1848; *ibid.*, 1227-1251.

<sup>2</sup> Polk's *Diary*, III, 283, 286 (Jan. 4 and 5, 1848).

<sup>3</sup> *Ibid.*, 274, 276, 280.

<sup>4</sup> See page 598, above.

<sup>5</sup> Polk's *Diary*, III, 300. When Trist's later despatches were received, the President thought worse of Trist than ever. He found these despatches "ar-

The proposed letter to be sent to General Butler proved, however, a difficult one to write, and it was only after ten days' consideration that a satisfactory form was agreed upon.<sup>1</sup>

The next news from Mexico as to a treaty of peace came in the shape of a private letter to Buchanan from the irrepressible Colonel Atocha, of whom the President now had a very poor opinion.

"Atocha," the President wrote, "is a great scoundrel, and his letter contained the infamous suggestion that he should be furnished with money to bribe the Mexican Congress to induce them to ratify a Treaty of peace, though he does not state whether a Treaty had been signed by Mr. Trist or not. He states that he had been informed that Mr. Trist had said that he had such a fund, and says he had not employed the proper person to use it. If Mr. Trist ever made such a statement, it was utterly false. He had no fund for any such purpose. No appropriation of the kind had been made, and no such idea ever entered my head. After Mr. Trist's late infamous conduct, I should, however, not be surprised to hear anything that is base of him. Atocha in his letter intimates that Gen'l Scott was in the scheme with Mr. Trist, and that he had been cheated by Santa Anna when he agreed to the armistice."<sup>2</sup>

But in spite of all this irritating news, nothing more was done toward replacing Trist, possibly because it was the President's secret hope that Trist might yet sign a treaty which could be accepted—a contingency which had been suggested and discussed with the cabinet on more than one occasion.<sup>3</sup>

At length, on Friday, the eighteenth of February, a confused telegram in cipher was received from Charleston, which was made out to mean that Trist had signed a treaty and was on his way with it to Washington.<sup>4</sup> Late on the next evening, Saturday, February 19, the treaty itself did arrive,

rogant, highly exceptionable, and even of an insulting character," and he wrote down the author as an "impudent and unqualified scoundrel." *Ibid.*, 357, 358.

<sup>1</sup> Marcy to Butler, Jan. 26, 1848; Sen. Doc. 52, 30 Cong., 1 sess., 146.

<sup>2</sup> Polk's *Diary*, III, 329. Atocha referred, of course, to the Puebla negotiations.

<sup>3</sup> *Ibid.*, 310, 313-317.

<sup>4</sup> *Ibid.*, 344.