

brought not by Trist, but by a newspaper correspondent, Mr. James L. Freaner, of the New Orleans *Delta*, who had been employed by Trist as bearer of despatches; and Buchanan and the President anxiously and hastily read it over. A more careful examination next day by the President and the members of his cabinet showed that the treaty in its essential provisions—those of boundary and compensation to Mexico—followed the terms of the instructions given to Trist on April 15, 1847.¹

The boundary was made to pursue the line of the Rio Grande from its mouth "to the point where it strikes the southern boundary of New Mexico" as laid down on Disturnell's map, and was to run thence along the southern and western borders of New Mexico to the Gila River, then down the Gila to the Colorado, and then, from the confluence of the two rivers, straight across country to a point on the Pacific Ocean one league south of the port of San Diego. The compensation to be paid was fifteen million dollars—three millions immediately upon ratification by the Mexican republic, and the remaining twelve millions (with interest at six per cent) at subsequent dates. Trist had been authorized to go as high as twenty millions. In addition, the United States agreed to pay all of the unpaid claims against Mexico which had been decided under the conventions of April 11, 1839, and January 30, 1843, as well as all other claims of American citizens which might have arisen prior to February 2, 1848. The provisions as to claims followed closely Buchanan's *projet*.

The remaining provisions of the treaty did not, in general, seem objectionable. After declaring that—

"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 full consent of both nations, lawfully given by the General Government of each, in conformity with its own constitution,"

¹ As to these instructions, see p. 425, above. The provisions therein contained in relation to boundary were modified by later instructions, dated July 19, 1847.—(See Sen. Doc. 52, 30 Cong., 1 sess., 81, 117.)

the treaty went on to provide for the free passage of the Gulf of California by vessels of both nations, the navigation of the Gila and the Rio Bravo, and other local matters, and for a "firm and universal peace." It was next agreed that immediately after the signature of the treaty a military convention should be entered into for a cessation of hostilities and the re-establishment of civil government in the places occupied by the American forces, "so far as this shall be permitted by the circumstances of military occupation." When the treaty was ratified by Mexico the blockade was to be raised, the withdrawal of the American forces was to be begun, and "castles, forts, territories, places and possessions" were to be restored, together with all the artillery and other public property remaining in them. Prisoners of war were to be returned as soon as practicable after the exchange of ratifications.

Articles VII and VIII provided for the treatment of Mexican citizens resident in the territory ceded to the United States and their rights of property. These citizens were to be "incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the federal constitution, to the enjoyment of all the rights of citizens of the United States"; all ecclesiastics and religious corporations were to enjoy "the most ample guarantees"; all buildings and property belonging to the Roman Catholic Church were to be protected; and Mexican residents in the ceded districts were to be allowed free communication with their ecclesiastical superiors, even though the latter might reside in Mexico.

Article X dealt with grants of land made under the sanction of Mexican authorities, especially in Texas—Mexico declaring that no grants had been made of land in Texas since March 2, 1836 (the date of the declaration of Texan independence), or elsewhere in the ceded territories since May 13, 1846 (the date of the American declaration of war).

By subsequent articles elaborate provision was made for control by the United States of marauding Indians; for a revival, during a period of eight years, of the Treaty of Com-

merce of 1831; for the collection of duties on merchandise imported prior to the complete evacuation of Mexico by the American forces; for arbitration in case of future differences; and for the rules to be observed in the event of any future war. The ratifications were to be exchanged within four months, but by an "additional and secret article," the time for the exchange of ratifications was fixed at eight months.¹

On the day after the treaty was received in Washington, although it was a Sunday, a cabinet meeting was held at seven o'clock in the evening.

"The question to be decided," as the President noted, "was stated, *viz.*, whether the Treaty should be rejected by me or sent to the Senate for ratification. A free discussion ensued. I took the advice of the Cabinet separately and individually. Mr. Buchanan and Mr. Walker advised that I should reject it. Mr. Mason, Mr. Marcy, Mr. Johnson, and Mr. Clifford advised that I should accept it and send it for ratification to the Senate. All agreed if it was sent to the Senate it should be with a recommendation that the 10th article, which related to grants of land in Texas, and in the territories proposed to be ceded to the U. S., should be rejected. I reserved my opinion."²

Walker was probably actuated in his opposition to the treaty by his desire to secure more territory suited for slave labor. Buchanan's motives may have been more complicated. As in the case of Oregon, now that the treaty was actually made, he began to think that better terms might have been got and that it would be well to wait and try again before submitting the question to the Senate. A rather angry colloquy between Polk and Buchanan followed.

"I cannot help laboring under the conviction," the President wrote in his diary the next day, "that the true reason of Mr. Buchanan's present course is that he is now a candidate for the Presidency, and he does not wish to incur the displeasure of those who are in favour of the conquest of all Mexico. That he earnestly wishes me to send the Treaty to the Senate against his advice, I am fully convinced, not from anything he has said, but from circumstances & his general bearing, I do not doubt. . . . If it was received well by the country, being a

¹ The text of the treaty as signed, both in English and Spanish, will be found in Sen. Doc. 52, 30 Cong., 1 sess., 38-66.

² Polk's *Diary*, III, 347.

member of my administration, he would not be injured by it in his Presidential aspirations, for these govern all his opinions acts lately and; but if, on the other hand, it should not be received well, he could say 'I advised against it.'"¹

On Monday, February 21, the day after the cabinet discussion, they met again, and the President stated that he had decided to submit the treaty to the Senate, with a recommendation to strike out the tenth article. His reasons were that the boundary proposed conformed to the instructions given to Trist in the previous April; that if it were *res nova* he would consider it desirable to demand more territory, but it was doubtful whether Mexico could be induced to consent to such sacrifices; that if the treaty were rejected by him, Congress might very likely refuse to grant men or money for continuing the war; and that in that event, if a Whig President were to be elected the following November, the country would, in all probability, lose the advantages secured by the war. He concluded by saying that if he were now to reject his own terms, as offered in April, he did not see how the administration could be sustained.² And later in the day he prepared a message to the Senate, aided by Mason, the Secretary of the Navy.

By a very remarkable coincidence John Quincy Adams, ex-President of the United States, whose later years had been so much engrossed with bitter opposition to the annexation of Texas and the war with Mexico, was suddenly attacked in the House of Representatives by a paralytic stroke at the very time when the fate of the proposed Mexican treaty was being finally decided in the cabinet. For the next forty-eight hours he lay speechless and unconscious in the Speaker's room at the Capitol, and on Wednesday evening—after one brief moment of returning consciousness—he expired on the scene of his most recent and most memorable public labors. The consideration of the treaty involved the re-examination of many events in which Adams himself had been a leading actor, and of many topics in which he had

¹ *Ibid.*, 350.

² *Ibid.*, III, 347.

displayed a passionate interest; and it is at least conceivable that had his life been prolonged for a few weeks the fate of the measure in the Senate might have been different.

The dramatic circumstances of Adams's fatal seizure naturally led to an adjournment of the Senate on both the Monday and the Tuesday, so that it was not until the morning of Wednesday, February 23 (while the ex-President still lingered), that the message transmitting the treaty could be delivered. The message was short. It explained how Trist, in spite of his having been recalled, as stated in the President's annual message, had remained in Mexico, and that "the plenipotentiaries of the Government of Mexico, with a knowledge of the fact," had concluded with him this treaty. The President had examined it "with a full sense of the extraneous circumstances attending its conclusion and signature," but as it conformed substantially to the instructions given in April, 1847, the President felt it his duty to submit it to the Senate for their consideration. He called attention to the tenth article relating to the public lands in Texas, and to the secret article extending the period for exchange of ratifications to eight months, and advised that these articles be rejected. As thus amended, the treaty, he said, would secure indemnity to the United States for the claims of injured American citizens, and a permanent establishment of the boundary of Texas; while "the magnanimous forbearance" exhibited toward Mexico would, it was hoped, insure a lasting peace. There was not a word of commendation of the treaty as a whole, and, as in the case of Oregon, the President left the entire responsibility to his constitutional advisers. He was, indeed, in a difficult position; for in his annual message he had declared that the obstinate prolongation of the war by Mexico called for a reconsideration of the terms of peace first offered, and he was now in effect urging the acceptance of those same terms which he had declared inadequate only three months before.

The terms of the treaty were not disclosed to the public for several days, but the fact that a treaty had been signed, and that the President had gone so far as to submit it to the

Senate for their advice and consent became known at once. There was a unanimous expression of satisfaction that peace was at hand, and a universal chorus of advice to the Senate from newspapers all over the country to take the treaty whatever it might be. Nor was it at all surprising that the public cared nothing about the details of the bargain. The President in his annual message had very clearly stated the main features which any treaty must contain if it were to meet with his approval. The United States was already in possession of the Californias and New Mexico and a great deal of Mexican territory besides. The President had declared that the Californias and New Mexico "never should be surrendered," and it was therefore safe to assume that the treaty which he had sent to the Senate accomplished that object at least. The rest was of less consequence. If the war, with its huge expense and incessant loss of life, was ended at last, if the annexation of Texas was recognized, and if Upper California and New Mexico were acquired, there was nothing left to fight for, and no reason why people in general should trouble themselves about details. The only persons likely to find fault were the more extreme opponents of slavery extension; and as they had all along been earnest advocates of peace, it was difficult for them to suggest any generally acceptable alternative if the treaty were to be rejected.

The great majority of the members of both houses of Congress seem to have been in favor of accepting any treaty which the administration might submit, no doubt for the same reasons that influenced other citizens of the United States. Benton, however, was able to discover other motives which he believed influenced the party leaders. The presidential aspirants, he believed, were not pleased at the great military reputations which were growing up; and he suspected that powerful influences were being brought to bear to put an end to a war "the very successes of which were becoming alarming to them."¹ Who these influential presidential aspirants were he did not reveal. Certainly

¹ *Thirty Years' View*, II, 710.

Taylor and Scott and Franklin Pierce and Buchanan and Webster and Benton himself, were not of the number.

The sentiments of the country must have become pretty generally understood to senators when they met again on Monday, the twenty-eighth of February, after their adjournment of several days consequent on the death and funeral ceremonies of Mr. Adams. But on that day, a few minutes before the hour for the meeting of the Senate, Sevier, of Arkansas, chairman of the Committee on Foreign Relations, called at the White House bringing the disconcerting intelligence that the committee had decided to report the treaty adversely, with a recommendation that "an imposing commission" of three or five persons be sent to Mexico to negotiate a new treaty. The President understood him to say that the other four members of the committee—Webster, Benton, Mangum, of North Carolina, and Hannegan, of Indiana—had not objected to the treaty itself, but to its having been negotiated by Trist after being recalled as commissioner.¹ The President told Sevier that the course proposed was extraordinary and such as could not be approved.

"I told him I condemned the insubordinate & insolent conduct of Mr. Trist, but that the Treaty itself was the subject for consideration and not his conduct, and that if the provisions of the Treaty were such as could be accepted, it would be worse than an idle ceremony to send out a grand commission to re-negotiate the same Treaty. I told him, also, that if the Senate advised me to send out such a commission, I hoped they would advise me also what terms they would accept. I consider the course of the committee of the Senate weak, if not factious, and cannot doubt that the object of Mr. Webster is to defeat any Treaty, clamorous as the Whig party profess to be for peace, until after the next Presidential election. . . . I do not wonder at his course, but I am surprised at that of Mr. Hannegan and Mr. Benton. Extremes sometimes meet and act effectively for negative purposes, but never for affirmative purposes. They have done so in this instance. Mr. Webster is for *no* territory and Mr. Hannegan is for *all* Mexico, and for opposite reasons both will oppose the Treaty.

¹ More probably the committee objected because Trist had not been duly nominated and confirmed by the Senate—thus wounding the susceptibilities of that invariably jealous body.

It is difficult, upon any rational principle, to assign a satisfactory reason for anything Col. Benton may do."¹

The committee, after hearing from the President, did not persevere in their purpose to make an adverse report, and when the Senate went into executive session that afternoon the treaty was reported without recommendation.

The presentation of the committee's report was at once followed by Webster's moving that further consideration of the President's message of February 22, 1848, be postponed, and that it be recommended to the President to nominate three or more "commissioners plenipotentiary" to negotiate with Mexico a "treaty of peace, boundaries, and indemnities due to American citizens." Houston followed with preambles and a resolution which recited at great length that Trist was without authority; that the instrument submitted to the Senate was, therefore, "utterly void and ineffectual"; that there was ground for suspecting interference by British agents; that the ceded territory was probably covered by fraudulent grants; that the United States ought to acquire territory as far south as Tampico and retain the castle of San Juan de Ulúa for military reasons; and that the executive had power to send properly authorized agents of "intelligence and integrity" to Mexico. The paper concluded by a proposal that "the before described agreement be rejected by the Senate." Thus did Massachusetts and Texas meet.

All through the executive sessions on Tuesday and Wednesday of that week, a debate continued on Webster's dilatory motion. Houston wished the discussions reported, but his motion to that effect was voted down, and no record remains of the course of the debates; but it may safely be inferred that the views of senators as to the merits of the treaty, or rather as to the prudent course for the Senate to

¹ Polk's *Diary*, III, 365. The President, as we shall see, was quite right in his guess as to Webster's motives and the course of two out of the three senators; for Webster and Benton both voted against ratification. Hannegan, a Democrat, and Mangum, a Southern Whig, finally voted for it, as, of course, did Sevier.

pursue, were pretty fully stated. By Thursday, the second of March, the subject was fairly exhausted, and, on motion of Mangum, of North Carolina, Webster's motion was laid on the table without a division. Houston's motion for rejection was not considered, and a detailed discussion of the treaty was begun.

The Senate struck out, as the President had advised, the tenth article as to grants of land and the secret article extending the time for exchanging ratifications. It also struck out the ninth article, dealing with the property rights of Mexican citizens in the ceded territories and the protection of ecclesiastical rights and privileges, and substituted the language of the much shorter third article of the Louisiana Treaty.¹ The mode of paying the twelve million dollars was also modified, and with some other minor modifications the treaty was approved.

There were, however, some extremely important and significant but unsuccessful attempts to introduce radical changes. The first of these was a proposal by Jefferson Davis to amend the definition of the boundary, so as to include in the cession to the United States the greater part of Tamaulipas and Nuevo Leon, the whole of Coahuila and a large part of Chihuahua. This was decisively beaten by a vote of 44 to 11, most of the leaders of the Democratic party, Benton, Calhoun, Herschel V. Johnson, Cass, Mason of Virginia, and Sevier, voting with the majority. In the minority were both of the senators from Texas, Dickinson, of New York, Douglas, of Illinois, Hannegan, of Indiana, one each from Alabama, Florida, and Mississippi, and one each from Ohio, Missouri, and Tennessee.

Crittenden, of Kentucky, then offered a resolution to recommit the treaty, with instructions to the committee to modify it so as to provide "a satisfactory establishment of the boundary of Texas and the acquisition of the bay and harbor of San Francisco." This was lost by a strict party vote of 18 Whigs against 30 Democrats.

¹ The insertion of this article had been suggested by Buchanan in his original instructions to Trist in April, 1847.

Badger, of North Carolina, another Whig, moved to strike out from the description of the boundary all relating to the line west of El Paso, his purpose being to follow this up by a new description which should exclude, from the territory to be ceded, the whole of New Mexico and California. This motion was also lost by a vote of 35 to 15, three Southern Whigs—Reverdy Johnson, of Maryland, Bell, of Tennessee, and Johnson, of Louisiana—voting with the Democrats. The motive of the resolution was, of course, the same as that of Berrien's motion in the previous session of Congress—to prevent a discussion of the question of the extension of slavery to the newly acquired territory by providing that no new territory should be acquired.

"I was of the opinion," Webster explained six months later, "that the true and safe policy was, to shut out the whole question by getting no territory, and thereby keep off all controversy."

If one-third of the Senate had stood firm with Webster, the treaty would have been defeated—a result which would, at that time, have gratified him. He was therefore bitter against his New England colleagues who did not support him.

"Why," he asked, "were there not one third? Just because there were four New England Senators voting for these new territories. That is the reason. . . . I would have risked anything, rather than have been a participator in any measure which should have a tendency to annex Southern territory to the States of the Union. I hope it will be remembered, in all future time, that on this question of the accession of these new territories of almost boundless extent, I voted against them, and against the treaty which contained them."¹

¹ Speech at Marshfield, Sept. 1, 1848. Webster's *Works*, II, 444. The four New England votes cast against Badger's motion were cast by the four Democrats from New England—two from Maine, one from New Hampshire, and one from Connecticut. Von Holst, who is not to be suspected of a bias toward Polk's administration, says: "Those who turned the scale in favor of a termination of the war on the terms offered, were more far-seeing, or were guided by a truer instinct. The statesman has to deal, not with what is desirable, but with hard stubborn facts. Webster's policy would have led, not to peace without territorial acquisitions, but to a prolongation of the war, and thus to incomparably greater annexations of which the fatal results could not be foretold."—(*Constitutional History*, 1846-1850, 345.)

The vote on Badger's motion was immediately followed by a motion by Senator Baldwin, of Connecticut, who proposed to insert at the end of the descriptions of the boundary the Wilmot proviso in the following form: "Provided there shall be neither slavery nor involuntary servitude in the territories hereby ceded, otherwise than in punishment of crimes, whereof the party shall have been duly convicted." This was lost by a vote of 15 to 38, the minority being composed of twelve Northern Whigs and three Northern Democrats—Atherton, of New Hampshire, Niles, of Connecticut, and Dix, of New York. All the votes from the South and West (except one Whig vote from Ohio), both votes from Maine and both from Pennsylvania, were included in the majority, which was made up of 29 Democrats and 9 Whigs. The result was, on the whole, on sectional rather than on party lines—the South and West being opposed to the northeastern states.¹

The final vote on ratification of the treaty was taken on Friday, the tenth of March. There were 38 votes in its favor and 14 against—much more than the necessary two-thirds. An analysis of this final vote shows that it was neither partisan nor sectional. The minority was made up of seven Whigs and seven Democrats. Four senators, who were probably not pleased with the treaty, refrained from voting, namely: one Democrat—Houston, of Texas—and three Whigs—Phelps, of Vermont, Clayton, of Delaware, and Pearce, of Maryland. If all four had voted against the treaty it would still have been ratified by 38 to 18. Of the fourteen votes against the treaty, four came from the New England and Middle states and fourteen from the the South and West. Some of the Southern and all the Eastern votes—as, for example, those of Webster, Berrien, and Badger—were cast against the treaty because the United States acquired too much new territory. On the other hand, presumably all of the Western and some of the Southern votes cast against the treaty—as those of Benton

¹ Webster did not vote on this motion; nor did Houston, of Texas, or Westcott, of Florida. This was probably a "pair." Otherwise, every senator voted.

and Douglas—were so cast because the United States got too little.

The majority for ratification of the treaty comprised twenty-six Democrats and twelve Whigs. Maine, New Hampshire, Rhode Island, New York, New Jersey, and Pennsylvania in the North; Virginia, South Carolina, Louisiana, Mississippi, Arkansas, Tennessee, and Kentucky in the South; and Indiana and Michigan in the West, were united in its favor. Massachusetts, Connecticut, Maryland, North Carolina, Georgia, Florida, Alabama, and Texas each gave the treaty a single vote.¹

It is reasonably certain that this vote fairly represented the sober opinion of the people throughout the Union.

¹ The injunction of secrecy was removed from the proceedings of the Senate on this treaty and the documents accompanying it on May 31, 1848, and they were all printed as Senate Executive Document 52, 30 Cong., 1 sess.