

CHAPTER XXXIII.

BRILLIANT ALLUSION TO THE CAMPAIGN—RETIALIATORY
MEASURES—MARTIAL LAW—SAFEGUARDS—PROCLA-
MATION—DEFENCE OF PUEBLA.

So ended the second conquest of Mexico, which has been beautifully, though extravagantly alluded to by a distinguished person—Sir Henry Bulwer, sometime British Minister accredited to this country. At the celebration of St. Andrew's Day, New York, November 30, 1850, Sir Henry being called up, brought into parallelism two British subjects with two Americans—thus:

"All [present] were children of St. Andrew, or to say the least, nephews of St. George. All were birds

of the same feather, though they might roost on different trees; members of the same family, though they might be adopted by different lands. Even their national history was individualized by the same names. Who was the first martyr to religious liberty in Scotland? One PATRICK HAMILTON (if he did not mistake), who was burnt in front of the College of St. Salvador, in Edinburgh, by an archbishop of St. Andrew's. Who was the foremost amongst the wisest, because the most moderate of the early champions of civil liberty in America? ALEXANDER HAMILTON, who perished beneath the cliffs of Weehawken, also a victim to a barbarous custom and the courage with which he vindicated his opinions. Nor was this all. Passing from the royal house of Hamilton to the princely house of Buccleuch, might he not say, in later and more recent times, that if Waverley and Guy Mannering had made the name of Scott immortal, on one side of the Atlantic, Cerro Gordo and Churubusco had equally immortalized it on the other. If the novelist had given the garb of truth to fiction, had not the warrior given to truth the air of romance?"—*National Intelligencer*, December 4, 1850.

No doubt the conquest so splendidly alluded to by the orator, was mainly due to the science and prowess of the army. But valor and professional science could not alone have dictated a treaty of peace with double our numbers, in double the time, and with double the loss of life, without the measures of conciliation perseveringly adhered to, the perfect discipline and order maintained in the army. Those measures heretofore alluded to are here recorded:

The *martial law order*, often alluded to above, page 392, etc., was first published at Tampico, February 19, 1847. The second edition was reprinted at Vera Cruz, the third at Puebla, and the last as follows:

GENERAL ORDERS, }
No. 287. }

HEADQUARTERS OF THE ARMY,
NATIONAL PALACE OF MEXICO,
September 17, 1847.

The General-in-Chief republishes, with important additions, the General Orders, No. 20, of February 19, 1847 (declaring MARTIAL LAW), to govern all who may be concerned.

1. It is still to be apprehended that many grave offences, not provided for in the Act of Congress "es-

tablishing rules and articles for the government of the armies of the United States," approved April 10, 1806, may again be committed—by, or upon, individuals of those armies, in Mexico, pending the existing war between the two Republics. Allusion is here made to offences, any one of which, if committed within the United States or their organized Territories, would, of course, be tried and severely punished by the ordinary or civil courts of the land.

2. Assassination, murder, poisoning, rape, or the attempt to commit either; malicious stabbing or maiming; malicious assault and battery, robbery, theft; the wanton desecration of churches, cemeteries or other religious edifices and fixtures; the interruption of religious ceremonies, and the destruction, except by order of a superior officer, of public or private property; are such offences.

3. The good of the service, the honor of the United States and the interests of humanity, imperiously demand that every crime, enumerated above, should be severely punished.

4. But the written code, as above, commonly called the *rules and articles of war*, does not provide for the punishment of any one of those crimes, even when com-

mitted by individuals of the army upon the persons or property of other individuals of the same, except in the very restricted case in the 9th of those articles; nor for like outrages, committed by the same class of individuals, upon the persons or property of a hostile country, except very partially, in the 51st, 52d, and 55th articles; and the same code is absolutely silent as to all injuries which may be inflicted upon individuals of the army, or their property, against the laws of war, by individuals of a hostile country.

5. It is evident that the 99th article, independent of any reference to the restriction in the 87th, is wholly nugatory in reaching any one of those high crimes.

6. For all the offences, therefore, enumerated in the second paragraph above, which may be committed abroad—in, by, or upon the army, a supplemental code is absolutely needed.

7. That *unwritten* code is *Martial Law*, as an addition to the *written* military code, prescribed by Congress in the rules and articles of war, and which *unwritten* code, all armies, in hostile countries, are forced to adopt—not only for their own safety, but for the protection of the unoffending inhabitants and their property, about the theatres of military operations,

against injuries, on the part of the army, contrary to the laws of war.

8. From the same supreme necessity, martial law is hereby declared as a supplemental code in, and about, all cities, towns, camps, posts, hospitals, and other places which may be occupied by any part of the forces of the United States, in Mexico, and in, and about, all columns, escorts, convoys, guards, and detachments, of the said forces, while engaged in prosecuting the existing war in, and against the said republic, and while remaining within the same.

9. Accordingly, every crime, enumerated in paragraph No. 2, above, whether committed—1. By any inhabitant of Mexico, sojourner or traveller therein, upon the person or property of any individual of the United States forces, retainer or follower of the same; 2. By any individual of the said forces, retainer or follower of the same, upon the person or property of any inhabitant of Mexico, sojourner or traveller therein; or 3. By any individual of the said forces, retainer or follower of the same, upon the person or property of any other individual of the said forces, retainer or follower of the same—shall be duly tried and punished under the said supplemental code.

10. For this purpose it is ordered, that all offenders, in the matters aforesaid, shall be promptly seized, confined, and reported for trial, before *military commissions*, to be duly appointed as follows:

11. Every military commission, under this order, will be appointed, governed, and limited, as nearly as practicable, as prescribed by the 65th, 66th, 67th, and 97th, of the said rules and articles of war, and the proceedings of such commissions will be duly recorded, in writing, reviewed, revised, disapproved or approved, and the sentences executed—all, as near as may be, as in the cases of the proceedings and sentences of courts martial, *provided*, that no military commission shall try any case clearly cognizable by any court martial, and *provided*, also, that no sentence of a military commission shall be put in execution against any individual belonging to this army, which may not be, according to the nature and degree of the offence, as established by evidence, in conformity with known punishments, in like cases, in some one of the States of the United States of America.

12. The sale, waste or loss of ammunition, horses, arms, clothing or accoutrements, by soldiers, is punishable under the 37th and 38th articles of war. Any

Mexican or resident or traveller, in Mexico, who shall purchase of any American soldier, either horse, horse equipments, arms, ammunition, accoutrements or clothing, shall be tried and severely punished, by a military commission, as above.

13. The administration of justice, both in civil and criminal matters, through the ordinary courts of the country, shall nowhere and in no degree, be interrupted by any officer or soldier of the American forces, except,
1. In cases to which an officer, soldier, agent, servant, or follower of the American army may be a party; and
2. In *political* cases—that is, prosecutions against other individuals on the allegations that they have given friendly information, aid or assistance to the American forces.

14. For the ease and safety of both parties, in all cities and towns occupied by the American army, a Mexican police shall be established and duly harmonized with the military police of the said forces.

15. This splendid capital—its churches and religious worship; its convents and monasteries; its inhabitants and property are, moreover, placed under the special safeguard of the faith and honor of the American army.

16. In consideration of the foregoing protection, a

contribution of \$150,000 is imposed on this capital, to be paid in four weekly instalments of thirty-seven thousand five hundred dollars (\$37,500) each, beginning on Monday next, the 20th instant, and terminating on Monday, the 11th of October.

17. The Ayuntamiento, or corporate authority of the city, is specially charged with the collection and payment of the several instalments.

18. Of the whole contributions, to be paid over to this army, twenty thousand dollars shall be appropriated to the purchase of *extra* comforts for the wounded and sick in hospital; ninety thousand dollars (\$90,000) to the purchase of blankets and shoes for gratuitous distribution among the rank and file of the army, and forty thousand dollars (\$40,000) reserved for other necessary military purposes.

19. This order will be read at the head of every company of the United States' forces, serving in Mexico, and translated into Spanish for the information of Mexicans.

By command of Major-General Scott.

H. L. SCOTT,

A. A. General.

The following printed regulations, among others, were in the hands of the whole army, and are here extracted as subsidiary to the martial law order:

As a *special* security, any general-in-chief, general of an army corps, or division, is authorized to give *safeguards* to hospitals, public establishments of instruction, of religion, or of charity, also to mills, post offices, and the like. They may, further, give them to individuals whom it is the particular interest of the army to protect.

"Whosoever, belonging to the armies of the United States, employed in foreign parts, shall force a safeguard, shall suffer death" (54th article of war).

A safeguard may consist of one or more men of fidelity and firmness, generally non-effective sergeants or corporals, furnished with a printed or written paper, purporting the character and object of the guard, or it may consist of such paper only, delivered to the inhabitant of the country, whose house, etc., it is designed to protect. Disrespect to such a paper, when produced, constitutes the offence, and incurs the penalty mentioned in the article, etc., above cited.

The men left with a safeguard may require of the

persons for whose benefit they are so left, reasonable subsistence and lodging; and the neighboring inhabitants will be held responsible, by the army, for any violence done them.

The bearers of a safeguard left by one corps, may be replaced by the corps that follows; and if the country be evacuated, they will be recalled; or they may be instructed to wait for the arrival of the enemy, and demand of him a safe conduct to the outposts of the army.

The following form will be used:

S A F E G U A R D .

BY AUTHORITY OF MAJOR-GEN. — (Or Brigadier-Gen. —).

The person, the property, and the family of — (or such a college, and the persons and things belonging to it; such a mill, etc.), are placed under the safeguard of the United States. To offer any violence or injury to them is expressly forbidden; on the contrary, it is ordered that safety and protection be given to him, or them, in case of need.

Done at the Headquarters of —, this — day of —, 18—.

Forms of safeguards ought to be printed in blank,

headed by the article of war relative thereto, and held ready to be filled up, as occasions may offer. A duplicate, etc., in each case, might be affixed to the houses, or edifices, to which they relate.

But the crowning act of conciliation was the proclamation that I issued at Jalapa, May 11, 1847, indignantly denying the "calumnies put forth by the [Mexican] press in order to excite hostility against us," and confidently appealing to "the clergy, civil authorities, and inhabitants of all the places we have occupied." "The army of the United States," I continued, "respects, and will ever respect private property and persons, and the property of the Mexican Church. Woe to him who does not, where we are!"—*Ex. Doc. No. 60, H. of R., 30th Congress, 1st Session.* Brevet Major-General Worth, though hostile to me, wrote from the advanced position, Puebla—"It was most fortunate that I got hold of one copy of your proclamation. I had a third edition struck off, and am now with hardly a copy on hand. It takes admirably and my doors are crowded for it."

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"It has produced more decided effects than all the blows from Palo Alto to Cerro Gordo."—*Ibid.*, p. 967.

Retiring from the capital, Santa Anna collected several fragments of his late army and laid siege to Puebla—the garrison of which being considerably less than was intended; for, although, on advancing from that city I gave the strictest orders that all convalescents as well as the sick should be left behind, about six hundred of the former imposed themselves upon their medical and company officers as entirely restored to health. For stationary or garrison duty they would have been fully qualified, but proved a burden to the advancing columns; for they soon began to break down and to creep into the subsistence wagons faster than these were lightened by the consumption of the troops.

The siege was prosecuted with considerable vigor for twenty-eight days, and nobly repulsed by our able and distinguished commander, Colonel Childs, with his gallant but feeble garrison, at all points and at every assault. During those arduous and protracted operations, the glory of our arms was nobly supported by officers and men. Colonel Childs specially commends by name—and no doubt justly—the skill, zeal, and prowess of Lieutenant-Colonel Black and Captain Small, both of the Pennsylvania Volunteers; the highly accomplished Captain [now Professor] Kendrick, United

States 4th Artillery, chief of that arm, and Captain Miller, of the same regiment; Lieutenant Laidley, of the Ordnance; Captain Rowe of the 9th Infantry, and Lieutenant T. G. Rhett, A. C. S. Captain W. C. De Hart (Artillery), and Lieutenant-Governor of Puebla, though in feeble health, conducted a sortie with success, and was otherwise distinguished. Death soon after deprived the service of this accomplished officer.