

quence of the right of passage thus granted and perpetually guaranteed to the government and citizens of the United States.

ARTICLE 9. All goods, wares, or merchandise which shall, during the war, have been imported into any of the ports or places of either party whilst in the military occupation of the other, by the citizens of either, or by the citizens or subjects of any neutral power, shall be permitted to remain exempt from confiscation, or from any tax or duty upon the sale or exchange of the same, or upon the withdrawal of the said property from the country; and the owners thereof shall be permitted to sell and dispose of the said property in the same manner, in all respects whatever, as if it had been imported into the country in time of peace, and had paid the duties under the laws of either party, respectively.

ARTICLE 10. The treaty of amity, commerce, and navigation, concluded at the city of Mexico on the 3d day of April, A. D. 1831, between the United States of America and the United Mexican States, and every article thereof, with the exception of the additional article, are hereby revived for the period of eight years from the day of the exchange of the ratifications of this treaty, with the same force and virtue as if they made part of the context of the same; it being understood that each of the contracting parties reserves to itself the right, at any time after the said period of eight years shall have expired, to terminate the same by giving one year's notice of such intention to the other party.

ARTICLE 11. This treaty shall be approved and ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by the President of the United Mexican States, with the previous approbation of their general Congress; and the ratifications shall be exchanged in the city of Washington, within six months from the date of the signature hereof, or sooner if practicable.

In faith whereof, we, the respective plenipotentiaries, have signed this treaty, and have hereunto affixed our seals.

Done in duplicate at the day of _____, A. D. one thousand eight hundred and forty-seven.

Instructions to the Mexican commissioners, founded on the project presented by Mr. Trist.

At a cabinet meeting held on the 29th of August, 1847, the propositions made by the commissioner of the United States were discussed, and it was resolved to give the following instructions to the commissioners of the Mexican government:

1st. Before the negotiation is opened, it is highly ne-

cessary that the Mexican commissioners should fix for a basis the causes of the war provoked by the United States against the republic of Mexico; or, to be more clear, that the commissioner of the United States shall frankly declare the motives of the war, and the ends for which it is prosecuted. He must not be excused for withholding this information, which is exacted by the Mexican government. *If he should refuse to give it, let it be so made to appear.*

2d. Are the pretensions of the United States founded upon the right of force, or on pure friendly negotiations? *Do. do.*

3d. The first question to be treated, after the points above expressed, shall be, whether Texas ought to remain in the power of the United States by the right of annexation, as is alleged, or by a contemplated purchase of the land from the republic of Mexico. *Do. do.*

The Mexican government does not recognize any other title than that of negotiation. Upon this subject the Mexican commissioners will know how to develop the question in a manner calculated to promote the national rights and interests, and it is left to their wisdom to fix this point in the way they may esteem convenient. It is supposed they know that if greater advantages cannot be drawn from the territory of Texas, they must adopt the opinion of the government, who believes that no further concession shall be made than the limits of Texas as known and recognized: they do not pass the river Nueces, which is the natural boundary of Texas; and in no manner does its limits reach to the river Bravo. In ceding Texas, our commissioners should at least derive this advantage from the United States—that they release Mexico from all debts adjudicated, as well as those to be adjudicated and liquidated, which release will be considered as an equivalent for entering into negotiation; but the United States shall pay for the land one-half the price established by their own laws for the sale of lands. In this case, the two contracting parties must oblige themselves to leave the space of ten leagues on each side of the boundary line, and throughout its whole extent, which shall be considered as neutral territory, and remain as a desert between the two countries, by which they will mutually avoid all disputes or difficulties. A joint scientific commission shall be formed to establish the dividing line.

4th. If the United States commissioner should make any movement in relation to the island known as that of P. Vagin, the Mexican commissioners will sustain that it should remain neutral, with a view to obviate all future differences that might arise from it.

5th. In respect to the territory of New Mexico and

California, they will absolutely refuse to cede all or any part of those lands, that being a question entirely foreign to the question of Texas. Mexico does not wish to divest herself of that integral part of the nation; nevertheless, the commissioners will make the commissioner of the United States declare by what right, or with what intention, the government of the United States has included in its pretensions New Mexico and California. *If he is unwilling to state it, let it so appear.*

6th. As a last resource, after having discussed the right of Mexico to the soil which they desire to emancipate from her, they may solely accede to the establishment of a factory in the port of San Francisco. If such are their pretensions, but with such restrictions that Mexico can never be accused of having divested herself of that port, or her actual right of dominion over it, this should, if possible, be limited to a definite time, and must then cease unless renewed by new treaties every eight years; in consideration of which the United States must pay a sum not less than a million of dollars, and a like sum for each and every renewal of this privilege, as an acknowledgment that the right rests in Mexico.

7th. As regards the privilege solicited by the government of the United States to navigate the river Tehuantepec, or to traffic upon any way or road that may be established between the two seas, the government of Mexico absolutely denies or refuses to concede any such right. As a last resource, it may be said that the government of Mexico will take into consideration the friendly relations which may hereafter be shown by the government of the United States towards the republic of Mexico; and in proportion to the confidence which its conduct may inspire, it will have no occasion to doubt the reciprocity of the Mexicans on the same terms as manifested to other nations, and never as Mexico.

8th. The Mexican government cannot in any manner consent to exempt from the payment of duties merchandise introduced into its ports from the United States or any other nation, since the occupation of said ports by the forces of the United States, and the absolute condition upon which they may be taken into the interior will be, the payment of the duties in conformity with the tariff of the nation. Indeed, it is too much condescension in the Mexican government to have exempted them from sequestration, which would be the case by our last laws upon the subject. In case the United States are compromised with the importers, they must pay the duties of importation according to our tariff, and the importer shall pay the internal, consumption duties, &c.

9th. The government of the United States ought to promise to withdraw all their forces, both land and naval, as soon as these preliminaries of peace are signed by

both parties, which preliminaries will remain subject to the ratification of the Mexican Congress, as required by the constitution of the country.

10th. When the troops of the United States evacuate the Mexican territory, they must deliver the fortresses which they occupy in the same state as when they took possession of them; that is, with the same cannon and armament, replacing what they may have destroyed.

11th. Our commissioners will insist upon indemnification for the ruined fortunes of Mexicans by the troops of the United States, and will exercise all their ability to obtain from that government a promise to hear and ratify the reclamations that may be made on the subject.

They shall in like manner pay the expenses of the war, which Mexico has been forced to make, and which she did not provoke.

MEXICO, August 30, 1847.

Antonio Lopez de Santa Anna, general of division, well deserving of the country, and president ad interim of the United States of Mexico, to all who may see these presents: Know ye—

That the most excellent general of division and member of congress, General D. Jose Joaquin de Herrera, licentiate D. Jose Bernardo Couto, likewise a member of congress, brigadier general D. Ignacio Mora y Villamil, and the licentiate D. Miguel Atristain, were nominated and appointed commissioners to hear the propositions of peace made by the United States of America through Mr. Nicholas Trist: I now amplify and extend their commission to confer and to treat with the aforesaid Mr. Nicholas P. Trist upon the contents of those propositions, giving and conferring upon them for that purpose full and necessary powers, in virtue of the confidence which they deserve for their notorious illustration and accredited patriotism, under this condition, that all they may treat and agree upon shall be subject to the approval and ratification required by the constitution. At the same time, I authorize D. Miguel Arroyo to accompany and assist the aforesaid commissioners in the capacity of secretary and interpreter.

Full powers
of the Mexi-
can commis-
sioners.

In faith of which, I have ordered these presents to be made out, signed by my hand, authorized by the national seal, and countersigned by the secretary of state, and of the office of domestic and foreign relations, in the federal palace of Mexico, this thirtieth day of the month of August, year of our Lord one thousand eight hundred and forty-seven, and twenty-seventh of independence.

[L. s.] ANTONIO LOPEZ DE SANTA ANNA.
J. R. PACHECO.

Letter transmitting the foregoing full powers and instructions.

I have the honor to remit to your E. and V. SS. the plenary power which the most excellent Sor. President *ad interim* of the republic has been pleased to confer upon you, in order that in your character of commissioners you may treat with the commissioner of the United States of America upon the propositions of peace he has presented. I likewise have the honor to accompany this with instructions, to which you will subject yourselves in the execution of this interesting commission, with a full understanding that to nothing which exceeds the limits prescribed therein must your EE. agree to or sign, without having first solicited, and received through this ministry, authority so to do. You will be careful to inform this ministry of everything which may be pretended or exacted by the United States against the tenor of the aforesaid instructions, which you must in no case ostensibly use in your discussions with the commissioner of that republic.

I repeat to your excellencies the assurance of my particular consideration and esteem.

God and liberty! Mexico, August 30, 1847.

PACHECO.

To the Most Ex. Sors. D. JOSE JOAQUIN DE HERRERA, D. JOSE BERNARDO COUTO, General D. IGNACIO MORA Y VILLAMIL, and D. MIGUEL ATRISTAIN.

[The Mexican commissioners decline to act under those instructions.]

MOST EXCELLENT SIR: Having examined the basis and the instructions which accompanied your excellency's note of this morning, authorizing us to proceed with the negotiation which has been opened with the minister of the United States, we believe it to be our duty at once to make known to the supreme government, with the frankness of honorable men, that upon said basis and instructions it is impossible for us to encharge ourselves with the negotiation, because we find ourselves without the necessary capacity to execute or fulfil them properly. We pray, then, that the supreme government will be pleased to consider the plenary powers with which we have been invested as not accepted on our part.

God and liberty! Mexico, August 31, 1847.

JOSE J. HERRERA.

BERNARDO COUTO.

IGNACIO MORA Y VILLAMIL.

MIGUEL ATRISTAIN.

JOSE MIGUEL ARROYO,

Secretary.

To the Most Ex. MINISTER OF RELATIONS.

I laid before the most excellent Sor. President your official note of this morning, renouncing the commission which he had conferred upon you to treat with the commissioner of the United States upon the basis and instructions which accompanied my communication of yesterday. His excellency, after the conference had with you yourselves, and with his cabinet council, resolved to amplify the instructions in this sense, viz: that you approximate to them as much as may be possible; agreeing to some modifications which the circumstances of the country may exact, as well as things of minor importance which may arise during the discussion. In a word, the supreme government has chosen your excellencies, who have many times been chosen by the nation, in consequence of its knowledge of your illustration and patriotism, and in your hands it places the honor and interests of our country.

God and liberty! Mexico, August 31, 1847.

PACHECO.

To the Most Ex. Sors. D. JOSE JOAQUIN DE HERRERA, D. BERNARDO COUTO, D. IGNACIO MORA Y VILLAMIL, and D. MIGUEL ATRISTAIN.

The Mexican Commissioners to Mr. Trist.

[Translation.]

HOUSE OF ALFARA, ON THE CHAPULTEPEC CAUSEWAY,
September 6, 1847.

The undersigned, commissioned by the government of the Mexican republic to concert with your excellency an arrangement for peace, on placing in your hands the counter-projet which they have framed conformably to the last instructions of their government, think proper to accompany it with the observations contained in this note, which will tend to place in a clearer light the pacific disposition of Mexico in the contest which unfortunately separates both countries. The 4th article of the projet which your excellency was pleased to deliver to us on the 27th of August last, and which has been the subject of our latter conferences, relates to the cession, on the part of Mexico, 1st, of the State of Texas; 2d, of the territory on this side of the limits of that State, extending to the left bank of the Bravo and to the southern frontier of New Mexico; 3d, of all New Mexico; 4th, of the two Californias.

The existing war has been undertaken solely on account of the territory of the State of Texas, respecting

The restrictions upon the Mexican commissioners withdrawn after a conference held with them in council of ministers.

Note from the Mexican commissioners to Mr. Trist, accompanying counter projet.