

MEXICO : JANUARY 12, 1828, AND APRIL 5, 1831

Treaty of Limits, signed at Mexico January 12, 1828, with additional article signed at Mexico April 5, 1831. Originals in English and Spanish.

Treaty submitted to the Senate April 21, 1828. Resolution of advice and consent April 28, 1828. Ratified by the United States April 30, 1828 (but as to this ratification, see the notes). Ratified by Mexico April 28, 1828. Treaty and additional article submitted to the Senate February 24, 1832. Resolution of advice and consent April 4, 1832. Ratified by the United States April 5, 1832. Ratified by Mexico January 14, 1832. Ratifications exchanged at Washington April 5, 1832. Proclaimed April 5, 1832.

Treaty of Limits between the United States of America and the United Mexican States.

The limits of the United States of America with the bordering territories of Mexico having been fixed and designated by a solemn treaty¹ concluded and signed at Washington on the twenty-second day of February, in the year of our Lord one thousand eight hundred and nineteen, between the respective Plenipotentiaries of the government of the United States of America on the one part and of that of Spain on the other: And whereas, the said treaty having been sanctioned at a period when Mexico constituted a part of the Spanish Monarchy, it is deemed necessary now to confirm the va-

Tratado de limites entre los Estados Unidos de Megico y los Estados Unidos de America.

Habiendose fijado y designado los limites de los Estados Unidos de America con los territorios limitrofes de Megico por un Tratado¹ solemne concluido y firmado en Washington á veinte y dos de Febrero de mil ochocientos diez y nueve entre los Plenipotenciarios respectivos del Gobierno de los Estados Unidos por una parte, y de España por la otra; por tanto, y en considecion á que dicho Tratado recibio su sancion en una epoca en que Megico formaba una parte de la Monarquia Española, se ha creido necesario al presente, declarar, y confirmar la validez de dicho

¹ Document 41.

lidity of the aforesaid treaty of limits, regarding it as still in force and binding between the United States of America and the United Mexican States.

With this intention, the President of the United States of America has appointed Joel Roberts Poinsett their Plenipotentiary; and the President of the United Mexican States their Excellencies Sebastian Camacho and José Ygnacio Esteva:

And the said Plenipotentiaries having exchanged their full powers, have agreed upon and concluded the following articles:

ARTICLE FIRST.

The dividing limits of the respective bordering territories of the United States of America and of the United Mexican States being the same as were agreed and fixed upon by the above-mentioned treaty of Washington concluded and signed on the twenty-second day of February in the year one thousand eight hundred and nineteen, the two high contracting parties will proceed forthwith to carry into full effect the third and fourth articles of said treaty, which are herein recited as follows:

Tratado considerandolo vigente y obligatorio entre los Estados Unidos de Megico y los Estados Unidos de America: en consecuencia han sido nombrados los respectivos Plenipotenciarios: á Saber.

El Presidente de los Estados Unidos de Megico á Sus Exèelencias los Señores Sebastian Camacho, y José Ygnacio Esteva: y el Presidente de los Estados Unidos de America al Señor, Joel Roberts Poinsett, su Enviado Extraordinario, y Ministro Plenipotenciario cerca del Gobierno de los Estados Unidos de Megico. Los que despues de haber cambiado sus plenos poderes, y hallados en buena, y debida forma han convenido y concluido los articulos siguientes:

ARTICULO PRIMERO

Siendo los limites divisorios de los Estados Unidos de Megico, y de los Estados Unidos de America en los terrenos colindantes de ambas Republicas los mismos que se acordaron, y fijaron en el dicho Tratado de Washington ño, á veinte y dos de Febrero de mil ochocientos diez y nueve, se procederá inmediatamente á poner en ejecucion entre las dos dichas partes contractantes los articulos tercero, y cuarto de dicho Tratado, que, á continuacion se insertan.

ARTICLE SECOND.

The boundary line between the two countries, west of the Mississippi, shall begin on the Gulf of Mexico, at the mouth of the river Sabine, in the sea, continuing north, along the western bank of that river, to the 32d degree of latitude; thence, by a line due north, to the degree of latitude where it strikes the Rio Roxo of Natchitoches, or Red River; then, following the course of the Rio Roxo westward, to the degree of longitude 100 west from London and 23 from Washington; then, crossing the said Red River, and running thence, by a line due north, to the river Arkansas; thence, following the course of the southern bank of the Arkansas, to its source, in latitude 42 north; and thence, by that parallel of latitude, to the South Sea. The whole being as laid down in Melish's map of the United States, published at Philadelphia, improved to the first of January, 1818. But if the source of the Arkansas river shall be found to fall north or south of latitude 42, then the line shall run from the said source due south or north, as the case may be, till it meets the said parallel of latitude 42, and thence, along the said parallel, to the South Sea: All the islands in the Sabine, and the said Red and Arkansas rivers, throughout the course thus described, to belong to the United

ARTICULO SEGUNDO.

La linea divisoria entre los dos países, al occidente del Misisipi arrancará del seno Mexicano en la embocadura del rio Sabina en el mar, seguirá al Norte, por la orilla occidental de este rio hasta el grado 32. de latitud; desde allí, por una linea recta al Norte hasta el grado de latitud, en que entra en el rio Rojo de Natchitoches; *Red river*, y continuará por el curso del rio Rojo al Oeste hasta el grado 100. de longitud occidental de Londres, y 23 de Washington, en que cortará este rio y seguirá, por una linea recta al Norte, por el mismo grado hasta el rio Arkansas, cuya orilla meridional seguirá hasta su nacimiento en el grado 42. de latitud septentrional, y desde dicho punto se tirará una linea recta por el mismo paralelo de latitud, hasta el mar del Sur: todo segun el Mapa de los Estados Unidos de Melish publicado en Filadelfia y perfeccionado en 1818. Pero si el nacimiento del rio Arkansas se hallase al Norte, ó sur de dho, grado 42. de latitud, seguirá la linea desde el origen de dicho rio recta al Sur, ó Norte, segun fuese necesario, hasta que encuentre el expresado grado 42. de latitud, y desde allí por el mismo paralelo hasta el mar del Sur. Pertencerán á los Estados Unidos todas las Yslas de los rios Sabiña, Rojo de Natchitoches y Arkansas, en la extension de todo el curso,

States; but the use of the waters, and the navigation of the Sabine to the sea, and of the said rivers Roxo and Arkansas, throughout the extent of the said boundary, on their respective banks, shall be common to the respective inhabitants of both nations.

The two high contracting parties agree to cede and renounce all their rights, claims, and pretensions to the territories described by the said line; that is to say: the United States hereby cede to His Catholic Majesty, and renounce forever, all their rights, claims, and pretensions to the territories lying west and south of the above described line; and, in like manner, His Catholic Majesty cedes to the said United States, all his rights, claims, and pretensions to any territories east and north of the said line; and for himself, his heirs, and successors, renounces all claim to the said territories forever.

ARTICLE THIRD.

To fix this line with more precision, and to place the landmarks which shall designate exactly the limits of both nations, each of the contracting parties shall appoint a Commissioner and a Surveyor, who shall meet, before the termination of one year from the date of the ratification of this treaty, at Natchitoches, on the Red River, and proceed to run and mark the said line, from the mouth of the Sabine to the Red River, and

descrito; pero el uso de las aguas, y la navegacion del Sabina, hasta el mar, y de los espresados rios Rojo, y Arkansas, en toda la estension de sus mencionados limites en sus respectivas orillas será comun á los habitantes de las dos Naciones.

Las dos altas partes contratantes convienen en ceder, y renunciar todos sus derechos, reclamaciones y pretensiones sobre los territorios que se describen en esta linea, á saber, los Estados Unidos de America ceden á S. M. C. y renuncian para siempre todos sus derechos, reclamaciones, y pretensiones, á cualesquiera territorios situados al Oeste, y al Sur de dicha linea; y S. M. C. en igual forma, renuncia, y cede para siempre por sí y a nombre de sus herederos y sucesores todos los derechos que tiene sobre los territorios al Este y al Norte de la misma linea arriba descrita.

ARTICULO TERCERO.

Para fijar esta linea con mas precision, y establecer los mojones que señalen con ecsactitud los limites de ambas Naciones nombrará cada una de ellas un Comisario, y un Geometra que se juntarán antes del termino de un año Contado desde la fecha de la ratificacion de este Tratado, en Natchitoches, en las orillas del rio Rojo, y procederán á señalar, y demarcar dicha linea, desde la embocadura del Sabina hasta el

from the Red River to the river Arkansas, and to ascertain the latitude of the source of the said river Arkansas, in conformity to what is agreed upon and stipulated, and the line of latitude 42, to the South Sea: they shall make out plans, and keep journals of their proceedings, and the result agreed upon by them shall be considered as part of this treaty, and shall have the same force as if it were inserted therein. The two governments will amicably agree respecting the necessary articles to be furnished to those persons, and also as to their respective escorts, should such be deemed necessary.

ARTICLE FOURTH.

The present Treaty shall be ratified, and the ratifications shall be exchanged at Washington, within the term of four months, or sooner, if possible.

In witness whereof, We, the respective Plenipotentiaries, have signed the same, and have hereunto affixed our respective seals.

Done at Mexico this twelfth day of January, in the Year of our Lord one thousand eight hundred and twenty eight, in the fifty-second year of the Independence of the United States of America, and in the eighth of that of the United Mexican States.

J. R. POINSETT [Seal]

S. CAMACHO. [Seal]

J Y ESTEVA [Seal]

rio Rojo, y de este hasta el rio Arkansas, y áveriguar con certidumbre el origen del expresado rio, Arkansas, y fijar segun queda estipulado, y convenido en este Tratado, la linea que debe seguir desde el grado 42. de latitud hasta el mar pacifico. Llevaran diarios, y levantaran planos de sus operaciones, y el resultado convenido por ellos se tendrá por parte de este Tratado, y tendrá la misma fuerza que se estuviese inserto en el, debiendo convenir, amistosamente los dos Gobiernos, en el arreglo de cuanto necesiten estos individuos y en la escolta respectiva que deban llevar siempre que se crea necesario.

ARTICULO CUARTO.

El presente tratado será ratificado, y las ratificaciones serán cambiadas en Washington en el termino de cuatro meses ó antes, si posible fuere.

En fe de lo cual, los respectivos Plenipotenciarios han firmado el presente, sellandolo con sus sellos respectivos.

Fecho en Megico, a los doce dias del mes de Enero, del año del Señor mil ochocientos veinte y ocho, octavo de la Independencia de los Estados Unidos de Megico, y 52° de la de los Estados Unidos de America.

S. CAMACHO. [Seal]

J. Y. ESTEVA [Seal]

J. R. POINSETT [Seal]

Additional Article to the Treaty of Limits concluded between the United States of America and the United Mexican States on the 12 day of January 1828.

Artículo adicional al tratado de Límites celebrado entre los Estados Unidos Mejicanos y los Estados Unidos de America en 12. de Enero de 1828.

The time having elapsed which was stipulated for the exchange of ratifications of the Treaty of Limits between the United Mexican States and the United States of America, signed in Mexico on the 12th of January 1828, and both Republics being desirous that it should be carried into full and complete effect with all due solemnity, the President of the United States of America has fully empowered on his part Anthony Butler a Citizen thereof and Chargé d'Affaires of the said States in Mexico. And the Vice-President of the United Mexican States, acting as President thereof, has in like manner fully empowered on his part their Excellencies Lucas Alaman, Secretary of State, and Foreign Relations, and Rafael Mangino Secretary of the Treasury, who after having exchanged their mutual powers found to be ample and in form have agreed and do hereby agree on the following article.

Habiendose pasado el tiempo señalado para el cambio de las ratificaciones del tratado de límites entre los Estados Unidos Mejicanos y los Estados Unidos de America firmado en Mejico el dia 12. de Enero de 1828, deseosas ambas Republicas de que el referido tratado tenga su mas puntual cumplimiento llenandose todas las formalidades necesarias, y habiendo revestido con sus plenos poderes el Vice Presidente en ejercicio del poder ejecutivo de los Estados Unidos Mejicanos á los Escelentisimos Señores Don Lucas Alaman, Secretario de Estado y del Despacho de Relaciones interiores y exteriores y Don Rafael Mangino Secretario de Estado y del Despacho de Hacienda, y el Presidente de los Estados Unidos de America á Antonio Butler, Ciudadano de los mismos Estados y encargado de negocios de ellos en Mejico, despues de cambiar sus plenos poderes que se encontraron en buena y debida forma, han convenido y convienen en el artículo siguiente:

The ratifications of the Treaty of Limits concluded on the 12th January 1828, shall be exchanged at the City of Washington within the term of one year counting

Las ratificaciones del tratado de límites celebrado el 12. de Enero de 1828, se cambiarán en la Ciudad de Washington dentro del termino de un año contado

from the date of this agreement and sooner should it be possible.

The present additional article shall have the same force and effect as if it had been inserted word for word in the aforesaid Treaty of the 12th of January of 1828, and shall be approved and ratified in the manner prescribed by the Constitutions of the respective States.

In faith of which the said Plenipotentiaries have hereunto set their hands and affixed their respective seals. Done in Mexico the fifth of April of the year one thousand eight hundred thirty one, the fifty fifth of the Independence of the United States of America, and the eleventh of that of the United Mexican States.

[Seal] A: BUTLER

[Seal] LUCAS ALAMAN

[Seal] RAFAEL MANGINO

desde la fecha de este convenio ó antes si fuere posible.

El presente artículo adicional tendrá la misma fuerza y valor que si se hubiese insertado palabra por palabra en el tratado mencionado de 12. de Enero de 1828, y será aprobado y ratificado en los terminos que establecen las Constituciones de los respectivos Estados.

En fé de lo cual los referidos Plenipotenciarios lo hemos firmado y sellado con nuestros sellos respectivos. Fecho en Mejico á los cinco dias del mes de Abril de mil ochocientos treinta y uno, undecimo de la Independencia de los Estados Unidos Mejicanos, y quincuagesimo quinto de la de los Estados Unidos de America.

[Seal] LUCAS ALAMAN

[Seal] RAFAEL MANGINO

[Seal] A: BUTLER

NOTES

By Article 4 of this treaty it was provided that the ratifications thereof should be exchanged at Washington within the term of four months, or by May 12, 1828. The provision proved impossible of fulfilment, owing to the delay in the ratification on the part of Mexico, which was thus explained by Joel R. Poinsett, Minister to Mexico, in his despatch of April 24, 1828 (D. S., 4 Despatehes, Mexico, No. 124):

The treaty of limits has been ratified by the house of Representatives and is now before the Senate. You will perceive, that it will be impossible to send the ratification of this government to Washington in time for the exchange of ratifications to take place within the term designated by the treaty.

This delay has originated from the extreme indolence of the person, who formerly filled the office of Secretary of State of this republic. He kept this treaty in his office upwards of two months without submitting it to Congress: altho I repeatedly represented to him, the prejudice that would result from this delay, especially to the Mexican government, which had already dispatched its commissioner to the frontiers.

In the meantime the treaty had been submitted to the Senate of the United States with the presidential message of April 21, and the usual resolution of advice and consent was passed on April 28 (*Executive Journal*, III, 604-6). Ratification by the United States followed not later than April 30; but the proceedings of the Mexican Congress were not completed until April 25, as appears from the despatch from Poinsett dated the next day (D. S., 4 Despatches, Mexico, No. 125):

The treaty of limits between the United States and Mexico concluded and signed on the 12th January last, was yesterday ratified by the Mexican Senate. The period fixed by the treaty for the exchange of ratifications being four months from the date of its signature, I shall not transmit the ratification of this government by express. It could not possibly arrive at Washington in time. I regret the delay which has occurred here, because I am aware it will render it necessary to submit the treaty a second time to Senate. This Congress despatched it with tolerable promptness. The delay, as I before observed, was occasioned by the dilatory habits of the former Secretary of State.

The Mexican instrument of ratification was in fact dated April 28, 1828, and it was not until August 2 that Secretary of State Clay was officially informed of the receipt of the Mexican ratification and the readiness of that Government to make the exchange (D. S., 1 Notes from the Mexican Legation). The reply of the same date (D. S., 4 Notes to Foreign Legations, 47-48) was to the effect that the treaty must again be submitted to the Senate, as the time for the exchange of ratifications had elapsed.

At the following session of the Senate, however, the treaty was not again sent to that body by President John Quincy Adams, presumably for the reason that the Treaty of Amity, Commerce, and Navigation of February 14, 1828 (*American State Papers, Foreign Relations*, VI, 952-62), had failed of ratification on the part of Mexico (D. S., 14 Instructions, *American States*, 149-71, October 16, 1829; House Document No. 351, 25th Congress, 2d session, serial 332; hereafter cited as "instructions of October 16, 1829"); and the policy of President Jackson was stated to be that this Treaty of Limits would be again submitted to the Senate when it was accompanied by a satisfactory treaty of commerce and navigation:

The Government of Mexico would do much to redress the past, and to remove well founded discontents in this country, by its speedy ratification of that treaty [of February 14, 1828], as it was agreed upon by its plenipotentiaries. The treaty of Limits now rests with the President. In consequence of the remissness on the part of Mexico in the transmission of its ratification to Washington, it has lost its obligatory character. The President intends, nevertheless, to submit it to the Senate, whenever he is enabled to accompany it with the treaty of Commerce and Navigation, now remaining before the Congress of Mexico, and which they have so long and so injuriously refused to act upon. But when he speaks of that treaty, and of his intention to submit it to the Senate with the treaty of Limits, he refers to it as containing the material provisions which were originally agreed to by the Executive Authority of Mexico. He is unwilling to believe that the Government of that country, after what has passed, can be induced to think it either just towards the United States, or respectful to itself, to send for consideration a mere skeleton of that Convention, with its most valuable stipulations expunged. It is not for him to say what the decision of the Senate of the United States, now free to act upon the whole subject as shall best comport with its views of the present interests of this country, would be, if both treaties were

presented in their original form. What the character of this decision may be, in the event of a refusal by the Government of Mexico to act upon the Commercial Treaty, or of a retrenchment of its most valuable provisions, there cannot be much room for doubt or conjecture.

Nearly three years elapsed after the ratification of the treaty by Mexico before the additional article of April 5, 1831, providing for the exchange of ratifications of the treaty within one year thereafter, was signed at Mexico. The treaty, with the additional article, was again submitted to the Senate by President Jackson on February 24, 1832 (Executive Journal, IV, 213); the usual resolution of advice and consent was passed unanimously on the following April 4 (*ibid.*, 237); and on the last day of the time limited, April 5, 1832, the ratifications were exchanged and the treaty proclaimed.

The adjournment of the exchange of ratifications from 1828 to 1832 is not, however, to be attributed to any single cause. A note of the Mexican Chargé d'Affaires at Washington, José Montoya, to Secretary of State Van Buren under date of April 16, 1829 (D. S., 1 Notes from the Mexican Legation), was to the effect that Mexico desired to carry out the Treaty of Limits and had invested him with full power to exchange the ratifications thereof; but this Government was still thinking of Texas and of a boundary different from that in the treaty (see Moore, Digest, I, 447-48, 454). The Jackson administration, which had come into office on March 4, 1829, desired to purchase Texas. Its project was formulated in the elaborate instructions of August 25, 1829, addressed to Poinsett (D. S., 1 Special Missions, 39-50); and the full power to Poinsett to negotiate regarding the matter is of the same date as the instructions (*ibid.*, 50-51); but Poinsett received word on December 9 that he was to be succeeded by Colonel Anthony Butler as diplomatic representative of the United States at Mexico with the rank of Chargé d'Affaires (D. S., 4 Despatches, Mexico, No. 193); and the instructions and full power of August 25 were delivered to him by Butler on December 22 (*ibid.*, December 23, 1829). The full power given by President Jackson to Butler under date of October 17, 1829 (D. S., 1 Special Missions, 53-54), followed the wording of that to Poinsett of August 25 and authorized him to treat "of and concerning the Limits between the territories of the United States of America, and those of the United Mexican States; and of and concerning a cession of part of the territory of the latter to the former; and to conclude a treaty or treaties touching the premises."

The Jackson project has been discussed by numerous writers; reference may be made to the chapter on "Texas and the Boundary Issue," in Manning, *Early Diplomatic Relations between the United States and Mexico*, 277-348, which deals particularly with the boundary question during the period 1822-30 and cites many other authorities. It need only be added here that the suggested acquisition met with no favor, but on the contrary met bitter opposition, in Mexico, where its general terms, including even the proposed purchase price of five million dollars, became public as early as January 9, 1830 (*ibid.*, 344).

Moreover, as has been said, the delay in the putting into force of this Treaty of Limits was connected with the negotiations for a treaty of amity, commerce, and navigation, which had been going on since 1825. In all, during the period 1826-31, four treaties with Mexico were signed, in chronological order as follows:

1. The Treaty of Amity, Commerce, and Navigation in thirty-five articles, with two additional articles, signed at Mexico on July 10, 1826. That treaty provided that its ratifications should be exchanged within eight months from the date of signature. It was submitted to the Senate on February 12, 1827, with the presidential message of February 8 (Executive Journal, III, 568-69); and the papers transmitted, including the text of the treaty and additional articles in English, are printed in American State Papers, Foreign Relations, VI, 578-613.

On February 26, 1827, the Senate consented to the ratification of that treaty, subject to certain amendments to Articles 3 and 16, the striking out of the first additional article, and the reduction of the term of the treaty from twelve years to six (Executive Journal, III, 570-71). The Mexican Chamber of Deputies, however, following an elaborate report from its Committee of Foreign Affairs recommending ratification subject to various amendments and conditions (instructions of October 16, 1829, where the time limited for the exchange of ratifications is mistakenly stated as ten months), on April 2, 1827, after the time limited for the exchange of ratifications but before the action of the United States Senate could have been known at Mexico, passed the following resolution (D. S., 3 Despatches, Mexico, protocol of January 8, 1828, enclosed in No. 118, March 8, 1828):

This House will not take into consideration the Treaty which the Government has concluded with the United States of America so long as it does not contain an article which shall renew the existence of the Treaty celebrated by the Cabinet of Madrid in the year 1819 with that of Washington, respecting the territorial limits of the two contracting parties.

Accordingly, that treaty of July 10, 1826, did not go into force. The negotiations leading up to its signature and the proceedings thereafter are carefully treated, with many citations, in Manning, *Early Diplomatic Relations between the United States and Mexico*, 205-33.

2. This Treaty of Limits of January 12, 1828. The presidential message of April 21, 1828, the text of the treaty in English and Spanish, and some of the papers stated to have been sent to the Senate therewith, are in American State Papers, Foreign Relations, VI, 946-50; but those papers relate almost wholly to the treaty next to be mentioned. Correspondence concerning the boundary (1825-36) is printed in House Document No. 42, 25th Congress, 1st session, serial 311.

3. The Treaty of Amity, Commerce, and Navigation signed at Mexico on February 14, 1828, in thirty-five articles with two additional articles. The text, in English and Spanish, without any other papers, is printed in American State Papers, Foreign Relations, VI,

952-62. That treaty provided that its ratifications were to be exchanged within six months from the date of signature.

Some of the correspondence relating to the treaty of February 14, 1828, is printed *ibid.*, 948-50; other papers are cited in the discussion of the negotiations in Manning, *op. cit.*, 234-42. As Poinsett reported under date of February 22, 1828 (*ibid.*, 239; American State Papers, Foreign Relations, VI, 948), in that treaty of February 14, 1828, all the alterations proposed by the Senate in respect of the treaty of July 10, 1826, had been introduced except that regarding its duration.

The treaty of February 14, 1828, was submitted to the Senate on April 25, 1828, with the presidential message of the previous day; it was accordingly before that body during the consideration of the Treaty of Limits of January 12, 1828; and it received the unanimous assent of the Senate on May 1 (Executive Journal, III, 605-7).

To the Mexican Congress, however, the treaty of February 14, 1828, was not acceptable. It was later said that "of that Treaty Seventeen Articles were rejected, and amongst these all that related to the principle of the flag protecting the Cargo" (D. S., 5 Despatches, Mexico, No. 19, August 20, 1831). More accurately, the action taken was that the lower House of the Mexican Congress rejected two articles of the treaty which the Mexican Senate also rejected, with twelve others; and when the treaty then went back to the other branch of the Legislature, it remained there without final action until late in 1829, nearly two years after the date of its signature, when the treaty was deemed to have failed (see Manning, *op. cit.*, 243-49, and the despatches of Poinsett, D. S., 4 Despatches, Mexico, No. 127, May 21, 1828, No. 156, November 15, 1828, with enclosure, and No. 174, July 22, 1829).

Accordingly, that treaty of February 14, 1828, did not go into force.

The three treaties above mentioned were negotiated at Mexico on behalf of the United States by Joel R. Poinsett, then Minister to Mexico. Toward the close of 1829 the mission of Poinsett ended; he took formal leave on December 25, 1829, and returned to the United States. His official conduct had not been disapproved, but his recall had been formally requested by the Mexican Government on October 17, 1829 (D. S., 1 Notes from the Mexican Legation; instructions of October 16, 1829, postscript of October 17; and see generally the chapter on "Public Attacks on Poinsett and his Recall," in Manning, *op. cit.*, 349-77). As its next diplomatic representative this Government sent Colonel Anthony Butler, with the rank of Charge d'Affaires; and to him, in a letter of March 24, 1831, President Jackson expressed his "impatience . . . for the conclusion of the Commercial Treaty" (D. S., 5 Despatches, Mexico, May 25, 1831).

4. The Treaty of Amity, Commerce, and Navigation signed at Mexico on April 5, 1831 (Document 70), which went into force.

The notes to Document 70 should be consulted. It is to be pointed out here, however, that the date of the signature of that treaty, April 5, 1831, is the same as the date of signature of the additional article to the Treaty of Limits; and in each case the term of one year from

the date of signature, or until April 5, 1832, was provided for the exchange of the ratifications. That treaty and this Treaty of Limits, with its additional article, were sent to the Senate by President Jackson on the same day, February 24, 1832 (Executive Journal, IV, 213); the United States instrument of ratification of the Treaty of Amity, Commerce, and Navigation was dated April 4 and the instrument of ratification of this treaty, April 5, 1832; on the latter date the ratifications of both agreements were concurrently exchanged and they were both proclaimed; and on May 1, 1832, they were communicated to Congress (Richardson, II, 573).

THE FILE PAPERS

The originals of the treaty and of the additional article which are in the file have the English text in the left columns and the Spanish in the right, and, as the printed texts show, the *alternat* was observed. Both documents are embodied in the original proclamation of April 5, 1832.

The file contains neither original nor copy of the first United States instrument of ratification of the treaty. Its date, April 30, 1828, is assumed from the note of Secretary of State Clay of that date to the Mexican Minister (D. S., 4 Notes to Foreign Legations, 15-16), in which he wrote that "the President . . . has ratified" the Treaty of Limits; the actual date may have been one or even two days earlier, but not more. The instrument of ratification on the part of Mexico under date of April 28, 1828, was not delivered; the date is stated in the Mexican instrument of ratification of the treaty and the separate article. That instrument is dated January 14, 1832, and includes the text in both languages, the Spanish in the left columns.

The treaty file contains no copy or duplicate of the United States instrument of ratification of April 5, 1832, other than a facsimile thereof recently obtained from the Mexican archives. The document is in customary form. Its reference to Senate action is only to the resolution of April 4, 1832.

Both attested resolutions of the Senate, that of April 28, 1828 (Executive Journal, III, 606), and that of April 4, 1832 (*ibid.*, IV, 237), are in the file; and there are three originals of the certificate of the exchange of ratifications, one in English and two in Spanish, and also a facsimile of a fourth example thereof, in English, which is in the Mexican archives. To each of these documents is appended a notation signed by the participants, Secretary of State Edward Livingston and Chargé d'Affaires José Montoya, which, in the English, is as follows:

In the Copy of the Treaty ratified by the Government of the United States, the word "Respectivos," in the Spanish translation, has been inserted between the fourth and fifth lines [of the preamble], and it is so noted previous to signing this certificate of exchange of ratification.

To the English original of the certificate of exchange is appended a second but unsigned "note" of differences between the original texts

and those contained in the instrument of ratification on the part of Mexico; but that notation is entirely erroneous and accordingly is not reproduced. It relates in fact to certain differences between the original texts of the Treaty of Amity, Commerce, and Navigation of April 5, 1831 (Document 70), and the Mexican instrument of ratification of that treaty. The error doubtless arose from the fact that the ratifications of the two treaties were concurrently exchanged on the same day, April 5, 1832, and the notation of discrepancies was written on the certificate of exchange of ratifications of this treaty as well as on the similar certificate of the other. On that other certificate the notation is signed, and it is quoted in full in the notes to Document 70.

THE FULL POWERS

The full power issued to Joel R. Poinsett under date of March 14, 1825, was his authority for signing not only this treaty but also the unratified treaties of amity, commerce, and navigation of July 10, 1826, and February 14, 1828. By the terms of that full power (D. S., 2 Credences, 3-4) authority was given

to meet and confer with any person or persons duly authorised by the Government of the United Mexican States, being furnished with like power and authority, and with him or them to agree, treat and consult, and negociate of and concerning the general commerce between the United States and the Government of the United Mexican States, and of, and concerning the limits and boundaries between the said United States of America, and the said United Mexican States, and of all matters and subjects connected therewith, which may be interesting to the two Nations; and conclude and sign a treaty or treaties, convention or conventions touching the premises; transmitting the same to the President of the United States, for his final ratification by and with the advice and consent of the Senate of the United States.

The additional article to this treaty and also the Treaty of Amity, Commerce, and Navigation of April 5, 1831 (Document 70), were signed by Anthony Butler pursuant to the authority granted by full power issued to him under date of October 17, 1829. One of the two full powers then issued to Butler has been referred to above; the one here in question (D. S., 2 Credences, 131) followed the language above quoted from the earlier full power to Poinsett.

The originals of the fourteen protocols of the conferences which preceded the signing of the unratified treaty of July 10, 1826, are in the file of that treaty (D. S., Unperfected E2); the English texts thereof are printed in American State Papers, Foreign Relations, VI, 583-608. In the first protocol, that of the conference of August 22, 1825, is the statement, "The Plenipotentiaries interchanged their respective powers," meaning that the original documents were exchanged. In the same treaty file is a portion of the original Mexican full power; the lower part of the document, with the signatures and seal, is lacking. The available text reads as follows (translation from the Spanish):

The President of the United States of Mexico

To all who shall see these presents, Greeting:

Know ye, that being desirous of establishing on a solid and stable basis the relations of friendship which exist between these States and the United States of

North America, and of regulating commerce and navigation between the two Republics in a manner advantageous to the mutual interests of neighboring and friendly countries and the harmony which should exist between them, and being fully satisfied of and having confidence in the enlightenment, integrity, and proven patriotism and zeal for the greater prosperity of this Republic, which characterize Mr. Lucas Alaman and Mr. Ignacio Esteva, both Secretaries of State, the former in the Department of Foreign and Domestic Relations and the second in the Treasury Department, I have appointed them to the end that, in the capacity of plenipotentiaries, clothed with all necessary authority, they may negotiate, settle, and conclude with Mr. J. R. Poinsett, Minister Plenipotentiary and Envoy Extraordinary of the United States of North America, or other person clothed with the same power and authority, a treaty of friendship, commerce, and navigation that may serve to attain such object, signing it in our name, as President of these States, binding myself and promising in the name of the Republic, that everything which the said Plenipotentiaries may negotiate and conclude, will be approved and ratified by me, after approval of the General Congress, in accordance with the Constitution, and offering to cause it to be fulfilled and observed, having the instruments of ratification executed in due form for this purpose, and ordering delivery thereof that they may be exchanged at the proper time and place.

In faith whereof I have caused this instrument to be drawn up, signed by my hand, sealed with the great seal of the Nation, and countersigned by the Secretary of Justice and Ecclesiastical Affairs. Done at the National Palace of Mexico on the eighth of August, one thousand eight hundred and twenty-five, the fifth year of independence.

Nothing further appears of record regarding Mexican full powers during this period except a note addressed to Butler and signed by the Mexican officials therein mentioned, Lucas Alaman and Rafael Mangino, under date of May 21, 1830, a copy of which, with a translation thereof, was an enclosure to the despatch of May 19 [21?], 1830 (D. S., 5 Despatches, Mexico). From that translation the following is extracted:

The undersigned Secretaries of State of Domestic and Foreign Affairs and of the Treasury have the honor of addressing Your Excellency, and to communicate that they are fully authorised by the Most Excellent the Vice President, exercising the executive power, to commence negotiating on the subject of the treaties pending between the United Mexican States and your Government.

Therefore the undersigned request Your Excellency will please to appoint a day for the first meeting on the aforesaid subject.

ARTICLES 2 AND 3

Regarding the western boundary of the Louisiana Purchase, see Marshall, A History of the Western Boundary of the Louisiana Purchase, 1819-1841; and also Paullin, Atlas of the Historical Geography of the United States, plate 95A, the relevant text in that work at pages 66-68, and the authorities there cited.

Article 3 of the treaty of February 22, 1819, with Spain (Document 41), which went into force on February 22, 1821, had fixed the boundary between the United States and Spanish territory on this continent; but the *de facto* independence of Mexico, which dated from 1821, had made that boundary or any other that might be established, one between the United States and Mexico; and the provisions of Article 4 of that treaty with Spain for the demarcation of the boundary

were not executed. The United States recognized the independent Government of Mexico on December 12, 1822, when President Monroe received José Manuel Zozaya as Minister of Mexico at Washington (Manning, *op. cit.*, 12; Niles' Weekly Register, XXIII, 240, December 14, 1822).

The effect of this treaty was to make the provisions of Articles 3 and 4 of the treaty of February 22, 1819, between the United States and Spain (Document 41) definitive and specific as between the United States and Mexico; and to that end those two articles of the treaty with Spain are copied almost literally in this treaty as Articles 2 and 3 thereof.

For some comments on the provisions of the two articles and on the relations between the United States and Mexico during the first years of Mexican independence, the notes regarding Articles 3 and 4 of Document 41 should be consulted; and on the latter point see generally Manning, *op. cit.*, chapter IX. But the demarcation provisions (Article 3 of this treaty, Article 4 of Document 41), which had not been executed under the treaty with Spain, likewise remained unexecuted under this treaty.

The Government of Mexico took very early, indeed premature, steps towards the carrying out of the demarcation provisions of Article 3. As stated in the above-quoted despatch of Poinsett of April 24, 1828, that Government "had already dispatched its commissioner to the frontiers"; and under date of March 19, 1828, Secretary of State Clay had been informed that "General D. M. Terán" had been appointed "to perform the scientific operations and surveys necessary to proceed in the execution of the Treaty of Limits between the U. S. of America and the U. S. of Mexico" (D. S., 1 Notes from the Mexican Legation). That mission of General Manuel de Mier y Terán (styled in the writings of the time General Terán or Teran) had resulted from the proposal of the Mexican Government, made in 1825, for a joint commission. While that proposal had not been accepted by this Government, the Government of Mexico had in 1826 appointed a commission, headed by General Terán, which left the city of Mexico on November 10, 1827, before the signature of this treaty (see Manning, *op. cit.*, 291-92, 313-14); and while that commission proceeded on its course, it had an official Mexican status only and did not act under this treaty, which did not go into force until April 5, 1832.

Shortly after the treaty went into force an act was passed to carry it into effect (July 3, 1832, 4 Statutes at Large, 558-59); and William McRee and Robert Love were duly commissioned on May 30 and July 14, 1832, respectively, as commissioner and surveyor "to run and mark the dividing line between the United States and Mexico" (see Executive Journal, IV, 247-48, 278; as the two nominations were not confirmed by the Senate until July 14, the recorded date of the commission of McRee above given is perhaps erroneous).

Under date of April 27, 1832, the Mexican Chargé d'Affaires at Washington called the attention of Secretary of State Livingston to

Article 3 of the Treaty of Limits (D. S., 2 Notes from the Mexican Legation); and on July 20, 1832, Livingston wrote as follows (D. S., 5 Notes to Foreign Legations, 45-46):

The Undersigned Secretary of State of the United States, has the honor to transmit to Mr. Montoya Chargé d'Affaires from Mexico, the enclosed copy of an Act of the late session of Congress, entitled "an Act to provide for carrying into effect the Treaty of Limits between the United States of America and the United Mexican States" and to acquaint him that this Government is prepared to proceed, conjointly with that of Mexico, to the designation of the Boundary line between the Territories of the two Governments.

The Undersigned is instructed, therefore, by the President, to enquire of Mr. Montoya whether any arrangements have been made on the part of his Government, for proceeding conjointly with this, to the designation of the line contemplated or, if not, to request that he will ask the immediate attention of his Government to this subject.

The reply of the Mexican Chargé d'Affaires under date of July 31 (D. S., 2 Notes from the Mexican Legation) stated that no communication had been received from the Mexican Government in the matter, which was attributed "to the present interruption of communications between the Capital and the ports of Vera Cruz and Tampico," and added that the note had been forwarded to the Mexican Government, which would take the matter under consideration if arrangements had not already been made. The ensuing correspondence and the resulting delays are treated in Marshall, *A History of the Western Boundary of the Louisiana Purchase, 1819-1841*, 106-12.

No active steps were taken, however, to run and mark the line; the period of one year mentioned in Article 3 expired; and while that term was extended by the agreement of April 3, 1835 (Document 79, the notes to which deal further with the subject), which went into force on April 20, 1836, the changed status of Texas made the boundary no longer, except in part, one between the United States and Mexico. The independence of Texas was declared by a convention which met at the town of Washington in that state on March 2, 1836; the act of March 3, 1837 (5 Statutes at Large, 170), made appropriation for the salary of a diplomatic agent to the Republic of Texas; a Senate resolution of March 1 (Congressional Debates, XIII, 1014), had declared it expedient and proper that the independent political existence of Texas be acknowledged by the United States; President Jackson acquiesced in what he regarded "as a virtual decision of the question" in his message to the Senate of March 3, 1837, nominating Alcée La Branche to be Chargé d'Affaires to the Republic of Texas (Executive Journal, IV, 631); and on March 7 the commission of that official was issued by President Van Buren (D. S., 2 Credences, 262).