

Edgefield Advertiser.

"We will cling to the Pillars of the Temple of our Liberties, and if it must fall, we will Perish amidst the Ruins."

VOLUME XIV.

EDGEFIELD, S. C. FEBRUARY 23, 1849.

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BY
WM. F. DURISOE,
PROPRIETOR.

NEW TERMS

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Law Notice.

THE Firm of GRIFFIN & BONHAM, is dissolved by mutual consent. The unfinished business of the firm, will be transacted with Mr. Griffin.

The undersigned will still practice in the Courts of Law & Equity. Office near the Court House.

M. L. BONHAM.
2m 51
January 10, 1849.

JOSEPH ABNEY,

ATTORNEY AT LAW.

Will be found in his office at Edgefield Court House, adjoining Bryan's Brick Store, on Saturdays, Sale-days, and Court weeks.

He will attend promptly and strictly to business in his profession.

January 10, 1849. 51

G. D. TILLMAN,

ATTORNEY AT LAW

AND
SOLICITOR IN EQUITY.

OFFICE next door to Mr. Compy's Hotel, Edgefield, C. H.

January 24 1849, 51

A CARD

D. R. ELBERT BLAND, of Edgefield village and vicinity, Office at Bart & Doby's H. Aug 16 1849.

CANDIDATES

FOR SHERIFF.

The friends of WESLEY BODIE, Esq., announce him as a candidate for the Office of Sheriff of this District at the ensuing election.

We are authorized to announce Capt. HUMPHREY BOULWARE, as a Candidate for Sheriff, at the ensuing election.

The friends of Col. THOS. W. LANHAM announce him as a candidate for the office of Sheriff at the next election.

The friends of Col. JOHN HILL announce him as a candidate for Sheriff of Edgefield District at the next election.

We are authorized to announce T. J. WHITAKER, as a candidate for the Office of Sheriff, at the ensuing election.

The friends of ALFRED MAY, announce him as a Candidate for Sheriff, at the ensuing election.

FOR ORDINARY.

The friends of VIRGIL M. WHITE announce him as a Candidate for the office of Ordinary at the ensuing election.

We are authorized to announce EDWARD PRESLEY, as a Candidate for the Office of Ordinary at the ensuing election.

We are authorized to announce Col. WILLIAM H. MOSS, as a Candidate for the office of Ordinary at the ensuing election.

The friends of HENRY T. WRIGHT, Esq., announce him as a candidate for the office of Ordinary of this District, at the ensuing election.

We are authorized to announce Maj. W. L. COLEMAN, as a candidate for Ordinary at the ensuing election.

The friends of HUGH A. NIXON, Esq., respectfully announce him as a Candidate for the office of Ordinary, at the next Election.

FOR CLERK.

We are authorized to announce WM. M. JOHNSON, Esq., a candidate for Clerk of the District Court of Edgefield at the ensuing election.

The friends of PETER QUATTLEBUM, Esq., announce him as a candidate for the Office of Clerk of the Court of Common Pleas, of this District, at the ensuing election.

We are authorized to announce THOS. G. BACON, a candidate for re-election as Clerk of the Court, for Edgefield District.

The friends of E. PENN, announce him as a Candidate for the Office of Clerk at the ensuing election.

FOR TAX COLLECTOR.

The Friends of Maj. ISAAC BOLES, announce him as a Candidate for the office of Tax Collector, at the ensuing election.

From the Washington Union, 9th inst. THE PRESIDENT'S MESSAGE, ON THE PROTOCOL.

To the House of Representatives of the United States:

In reply to the resolutions of the House of Representatives of the fifth instant, I communicate herewith a report from the Secretary of State, accompanied with all the documents and correspondence relating to the treaty of peace concluded between the United States and Mexico at Gaudalupe Hidalgo, on the 2d of February, 1848, and to the amendments of the Senate thereto, as requested by the House in the said resolutions.

Amongst the documents transmitted will be found a copy of the instructions given to the commissioners of the United States who took to Mexico the treaty as amended by the Senate, and ratified by the President of the United States. In my message to the House of Representatives of the twenty ninth of July, 1848, I gave as my reason for declining to furnish these instructions, in compliance with a resolution of the House, that "in my opinion it would be inconsistent with the public interest to give publicity to them at the present time." Although it may still be doubted, whether giving them publicity in our own country, and as a necessary consequence, in Mexico, may not have a prejudicial influence on our public interests, yet, as they have been again called for by the House, and called for in connexion with other documents, to the correct understanding of which they are indispensable, I have deemed it my duty to transmit them.

I still entertain the opinion, expressed in the message referred to, that, as a general rule, applicable to all our important negotiations with foreign powers, it could not fail to be prejudicial to the public interests to publish the instructions

1848, submitted the amended treaty to the Mexican Congress, and on the 25th of May that Congress, approved the treaty as amended, without modification or alteration. The final action of the Mexican Congress had taken place before the commissioners of the U. States had been officially received by the Mexican authorities, or held any conference with them, or had any other communication on the subject of the treaty, except to transmit the letter of the Secretary of State.

In their despatch transmitted to Congress with my message of the 6th of July last, communicating the treaty of peace, dated "City of Queretaro, May 25th, 1848, 9 o'clock p. m.," the commissioners say: "We have the satisfaction to inform you that we reached this city this afternoon at about 5 o'clock, and that the treaty, as amended by the Senate of the United States, passed the Mexican Senate about the hour of our arrival by a vote, of 38 to 5. It having previously passed the House of Deputies, nothing now remains but to exchange the ratifications of the treaty."

On the next day, (the 27th of May,) the commissioners were for the first time presented to the President of the republic and their credentials placed in his hands. On this occasion the commissioners delivered an address to the President of Mexico, and he replied. In their despatch of the 30th of May, the commissioner say: "We enclose a copy of our address to the President, and also a copy of his reply. Several conferences afterwards took place between Messrs. Rusa, Cuevas, Couto, and ourselves, which it is not thought necessary to recapitulate, as we enclose a copy of the Protocol which contains the substance of the conversations. We have now the satisfaction to announce that the exchange of ratifications was effected to-day." This despatch was communicated

change ratifications here, if the amendments of the treaty proposed by Mexico, on being admitted, should be adopted by the Senate of the United States.

I was equally well satisfied that the government of Mexico had agreed to the treaty as amended by the Senate of the United States, and did not regard the Protocol as modifying, enlarging, or diminishing its terms of effect.

The President of that republic, in submitting the amended treaty to the Mexican Congress, in his message on the 8th day of May 1848, said: "If the treaty could have been submitted to your deliberation precisely as it came from the hands of the plenipotentiaries, my satisfaction at seeing the war at last brought to an end would not have been lessened, as it this day is, in consequence of the modifications introduced into it by the Senate of the United States, and which have received the sanction of the President." "At present it is sufficient for us to say to you, that if in the opinion of the government, justice had not been evinced on the part of the Senate and government of the U. States, in introducing such modifications, it is presumed, on the other hand, that they are not of such importance that they should set aside the treaty. I believe, on the contrary, that it ought to be ratified upon the same terms in which it has already received the sanction of the American government.—My opinion is also greatly strengthened by the fact that a new negotiation is neither expected nor considered possible; much less could another be brought forward upon a basis more favorable for the republic."

The deliberation of the Mexican Congress, with no explanation before that body from the United States, except the letter of the Secretary of State, resulted in the ratification of the treaty as recommended by the President.

ples of the federal constitution of the United States, to the enjoyment of all the rights of the citizens of the United States." It provided, also, that in the mean time they should be maintained "in the enjoyment of their liberty their property, and the civil rights now vested in them, according to the Mexican laws." It secured to them similar political rights with the inhabitants of Louisiana and Florida, when they were in the territorial condition. It then proceeded to guarantee that ecclesiastical and religious corporations should be protected in the discharge of the offices of their ministry, and the enjoyment of their property of every kind, whether individual or corporate; and, finally, that there should be a free communication between the Catholics of the ceded territories and the ecclesiastical authorities, "even although such authorities should reside within the limits of the Mexican Republic, as defined by this treaty."

The ninth article of the treaty, as adopted by the Senate, is much more comprehensive in its terms, and explicit in its meaning, and it clearly embraces, in comparatively few words all the guarantees inserted in the original article. It is as follows: "Mexicans who, in the territories aforesaid, shall not preserve the character of citizens of the Mexican Republic, conformably with what is stipulated in the preceding article, shall be incorporated into the Union of the United States, and be admitted, at the proper time, (to be judged of by the Congress of the United States,) to the enjoyment of all the rights of citizens of the United States, according to the principles of the constitution, and in the mean time shall be maintained and protected in the free enjoyment of their liberty and property, and secured in the free exercise of their religion without restriction." This article, which was substantially copied from the Louisiana treaty, provides, equally with the original article, for the admission of these inhabitants into the Union; and, in the mean time, whilst they shall remain in a territorial state, by one sweeping provision declares that they

of this you may give them an absolute assurance."

On this point the language of the Protocol is free from ambiguity; but if it were otherwise, is there any individual, American or Mexican, who would place such a construction upon it as to convert it into a vain attempt to revive this article which had been so often and so solemnly condemned? Surely no person could for one moment suppose that either the commissioners of the United States; or the Mexican Minister for Foreign Affairs, ever entertained the purpose of thus setting at naught the deliberate decision of the President and Senate, which had been communicated to the Mexican government with the assurance that their abandonment of this obnoxious article was essential to the restoration of peace.

But the meaning of the Protocol is plain. It is simply that the nullification of this article was not intended to destroy valid, legitimate titles to land which existed and were in full force independently of the provisions and without the aid of this article. Notwithstanding it has been expunged from the treaty, these grants were to "preserve the legal value which they may possess." The refusal to revive grants which had become extinct was not to invalidate those which were in full force and vigor. That such was the clear understanding of the Senate of the United States, and this in perfect accordance with the Protocol, is manifest from the fact, that whilst they struck from the treaty this unjust article, they at the same time sanctioned and ratified the last paragraph of the eighth article of the treaty, which declares that, "In the said territories, property of every kind, now belonging to Mexicans not established there, shall be inviolably respected. The present owners, the heirs of these, and all Mexicans who may acquire said property by contract, shall enjoy with respect to it guarantees equally ample as if the same belonged to citizens of the United States."

Without any stipulation in the treaty to this effect, all such valid titles under the Mexican government would have been protected under the constitution and laws

signed at Gaudalupe Hidalgo, on the second day of February last, between the United States and the Mexican Republic; and which on the tenth of March last, was ratified by the Senate with amendments."

They were informed "that this brief statement will indicate to you clearly the line of your duty. You are not sent to Mexico for the purpose of negotiating any new treaty, or of changing in any particular the ratified treaty which you will bear with you. None of the amendments adopted by the Senate can be rejected or modified, except by the authority of that body. Your whole duty, will, consist in using every honorable effort to obtain from the Mexican government a ratification of the treaty in the form in which it has been ratified by the Senate, and this with the least practicable delay." "For this purpose, it may, and most probably will, become necessary that you should explain to the Mexican Minister for Foreign Affairs, or to the authorized agents of the Mexican government, the reasons which have influenced the Senate in adopting these several amendments to the treaty. This duty you will perform, as much as possible, by personal conferences. Diplomatic notes are to be avoided, unless in case of necessity. These might lead to endless discussions and indefinite delay. Besides, they could not have any practical result, as your mission is confined to procuring a ratification from the Mexican government of the treaty as it came from the Senate, and does not extend to the slightest modification in any of its provisions."

The commissioners were sent to Mexico to procure the ratification of the treaty as amended by the Senate. Their instructions confined them to this point. It was proper that the amendments to the treaty adopted by the United States should be explained to the Mexican government, and explanations were made by the Secretary of State, in his letter of the 18th of March, 1848, to the Mexican Minister of Foreign Affairs, under my direction. This despatch was communicated to Congress with my message of the 6th of July last, communicating the treaty of peace, and published by their order. This despatch was transmitted by our commissioner from the city of Mexico to the Mexican government, then at Queretaro, on the 17th of April, 1848, and its receipt was acknowledged on the 19th of the month. During the whole time that the treaty, as amended, was before the Congress of Mexico, these explanations of the Secretary of State, and these alone, were before them.

The President of Mexico, on these explanations, on the 8th day of May,

mediately proclaimed the ratification of the land. On the 6th of July, I communicated to Congress the ratified treaty, with such accompanying documents as were deemed material to a full understanding of the subject, to the end that Congress might adopt the legislation necessary and proper to carry the treaty into effect. Neither the address of the Commissioners, nor the reply of the President of Mexico on the occasion of their presentation, nor the memorandum of conversations embraced in the paper called a Protocol, nor the correspondence now sent, were communicated, because, they were not regarded as in any way material; and in this I conformed to the practice of our government. It rarely, if ever, happens that all the correspondence, and especially the instructions to our ministers, is communicated. Copies of these papers are now transmitted as being within the resolutions of the House, calling for all such "correspondence as appertains to said treaty."

When these papers were received at Washington, peace had been restored, the first instalment of three millions paid to Mexico, the blockades were raised, the city of Mexico evacuated, and our troops on their return home. The war was at an end, and the treaty as ratified by the United States was binding on both parties, and already executed in a great degree. In this condition of things, it was not competent for the President alone, for the President and Senate or for the President, Senate, and House of Representatives combined, to abrogate the treaty, to annul the peace, and restore a state of war, except by a solemn declaration of war.

Had the Protocol varied the treaty as amended by the Senate of the United States, it would have had no binding effect.

It was obvious that the commissioners of the United States did not regard the Protocol as in any degree a part of the treaty, nor as modifying or altering the treaty as amended by the Senate. They communicated it as the substance of conversations held after the Mexican Congress had ratified the treaty, and they knew that the approval of the Mexican Congress was as essential to the validity of a treaty in all its parts, as the advice and consent of the Senate of the United States. They knew, too, that they had no authority to alter or modify the treaty in the form in which it had been ratified by the United States, but that if failing to procure the ratification of the Mexican government, otherwise than with amendments, their duty, imposed by express instructions, was to ask of Mexico to send without delay a commissioner to Washington to ex-

garded it as in any sense a new negotiation, or as operating any modification or change of the amended treaty. If such had been its effect, it was a nullity until approved by the Mexican Congress; and such approval was never made or intimated to the United States. In the final consummation of the ratification of the treaty by the President of Mexico, no reference is made to it. On the contrary, this ratification, which was delivered to the commissioners of the United States, and is now in the State Department, contains a full and explicit recognition of the amendments of the Senate just as they had been communicated to that government by the Secretary of State, and been afterwards approved by the Mexican Congress. It declares that, "having seen and examined the said treaty, and the modifications made by the Senate of the United States of America, and having given an account thereof to the general Congress, conformably to the requirement in the 14th paragraph of the States, that body has thought proper to approve of the said treaty with the modifications thereto, in all their parts; and in consequence thereof, exerting the power granted to me by the constitution, I accept, ratify, and confirm the said treaty with its modifications, and promise, in the name of the Mexican republic, to fulfill and observe it, and cause it to be fulfilled and observed."

Upon the examination of this Protocol, when it was received with the ratified treaty, I did not regard it as material, or as in any way attempting to modify or change the treaty, as it had been amended by the Senate of the United States.

The first explanation which it contains is "that the American government, by suppressing the ninth article of the treaty of Gaudalupe, and substituting the third article of the treaty of Louisiana, did not intend to diminish in any way, what was agreed upon by the aforesaid article (ninth) in favor of the inhabitants of the territories ceded by Mexico. Its understanding is, that all of that agreement is contained in the third article of the treaty of Louisiana. In consequence, all the privileges and guarantees, civil, political, and religious, which would have been possessed by the inhabitants of ceded territories, if the ninth article of the treaty had been retained, will be enjoyed by them without any difference under the article which has been substituted."

The ninth article of the original treaty stipulated for the incorporation of the Mexican inhabitants of the ceded territories, and the admission into the Union, "as soon as possible, according to the princi-

pal authority of pastors resident within the Mexican republic or the ceded territories. It was, it is presumed, to place this construction beyond all question, that the Senate superadded the words "without restriction" to the religious guarantee contained in the corresponding article of the Louisiana treaty. Congress itself does not possess the power, under the constitution, to make any law prohibiting the free exercise of religion. If the ninth article of the treaty, whether in its original or amended form, had been entirely omitted in the treaty, all the rights and privileges which either of them confers, would have been secured to the inhabitants of the ceded territories by the constitution and laws of the United States.

The Protocol asserts that "the American government by suppressing the tenth article of the treaty of Gaudalupe, did not, in any way, intend to annul the grants made by Mexico in the ceded territories;" that "these grants, notwithstanding the suppression of the article of the treaty, preserve the legal value which they may possess; and the grantees may cause their legitimate titles to be acknowledged before the American tribunals;" and then proceeds to state, that "conformably to the law of the United States, legitimate titles to every description of property, personal and real, existing in the ceded territories, are those which were legitimate titles under the Mexican law in California and New Mexico up to the thirteenth of May, 1846; and in Texas, up to the second of March, 1836." The former was the date of the declaration of war against Mexico, and the latter that of the declaration of independence by Texas.

The objection to the tenth article of the original treaty was, not that it protected legitimate titles which our laws would have equally protected without it, but that it most unjustly attempted to resuscitate grants which had become a mere nullity, by allowing the grantees the same period after the exchange of the ratifications of the treaty to which they had been originally entitled after the date of their grants, for the purpose of performing the conditions on which they had been made. I had recommended the rejection of this article. That portion of it in regard to lands in Texas did not receive a single vote in the Senate. This information was communicated by the letter of the Secretary of State to the Minister for Foreign Affairs of Mexico, and was in possession of the Mexican government during the whole period the treaty was before the Mexican Congress, and the article itself was reprobated in that letter in the strongest terms. Besides, our commissioners to Mexico had been instructed that "neither the President nor the Senate of the United States can ever consent to ratify any treaty containing the 10th article of the treaty of Gaudalupe Hidalgo in favor of grantees of land in Texas or elsewhere." And again: "Should the Mexican government persist in retaining this article, then all prospect of immediate peace is ended; and

States is to deliver in the places designated by the amended article."

The concluding paragraph, or rather sentence, of the original twelfth article thus suppressed by the Senate, is in the following language: "Certificates, in proper form, for the said instalments respectively, in such sums as shall be desired by the Mexican government, and transferrable by it, shall be delivered to the government by that of the United States."

From this bare statement of facts, the meaning of the Protocol is obvious. Although the Senate had declined to create a government stock for the twelve millions of dollars, and issue transferable certificates for the amount, in such sums as the Mexican government might desire, yet they could not have intended thereby to deprive that government of the faculty which every creditor possesses of transferring for their own benefit the obligation of his debtor, whatever this may be worth, according to his will and pleasure.

It cannot be doubted that the twelfth article of the treaty, as it now stands, contains a positive obligation, "in consideration of the extension acquired by the boundaries of the United States," to pay the Mexican republic twelve millions of dollars in four equal annual instalments of three millions each. This obligation may be assigned by the Mexican government to any person whatever; but the assignee, in such case, would stand in no better condition than that government. The amendment of the Senate, prohibiting the issue of a government transferable stock for the amount, produces this effect, and no more.

The Protocol contains nothing from which it can be inferred that the assignee could rightfully demand the payment of the money in case the consideration should fail which is stated on the face of the obligation.

With this view of the whole Protocol, and considering that the explanations which it contained were in accordance with the treaty, I did not deem it necessary to take any action upon the subject. Had it varied from the terms of the treaty, as amended by the Senate, although it would even then have been a nullity in itself, yet duty might have required that I should make this fact known to the Mexican government. This not being the case, I treated in the same manner I would have done had these explanations been made verbally by the commissioners to the Mexican Minister for Foreign Affairs, and communicated in a dispatch to the State Department.

JAMES K. POLK.
WASHINGTON, Feb. 8, 1849

DUMB.—A rogue asked clarity no pretence of being dumb. A lady having asked him with equal simplicity and humanity, how long he had been dumb, he was thrown of his guard, and answered, "From birth madam." "Poor fellow," said the lady, and give him a dollar.