

JONES TO BEE.^a

Despatch No 43.

TEXIAN LEGATION

Washington March 11th 1839.

HONL. BARNARD E. BEE

Secretary of State of the Republic of Texas.

SIR,

Since my last communication under date of 21st Janry. I have had the honor to receive your two communications of the 14th^b and 31st of January last.

Mr Bryan who was the bearer of the former has arrived and having been duly presented to this Government as you directed, has entered upon the discharge of his duties as the Secretary of this Legation.

The President of the United States has appointed the officers, authorized by the act of Congress for carrying into effect the Treaty of Limits for marking the Boundary line between the United States and Texas, although the appointments have not been officially communicated to me. Nothing now is wanting to the prosecution of this all important work but a similar appointment on the part of the Government of Texas. The difficulties which have already and are still growing out of the question of the unsettled boundary between England and this country, and which are now seriously threatening a war between the two Nations, strongly exemplifies and enforces the propriety of having the question of our own boundary definitely settled without any further delay.

Agreeably to the instructions contained in your communication of the 31st Janry. I have addressed the following note to the Secretary of State of this Government on the subject of our Indian affairs.

[Next is transcribed a copy of Jones to Forsyth, March 10, 1839.^c]

To this communication no reply has been returned, so soon as one shall be received however I will transmit you a copy.

In the mean time, I have the honor to remain

Your Most obedient Servant

ANSON JONES.

P. S. Since writing the above I have received from Mr Forsyth the following answer to my note of the 10th instant

[Next is transcribed a copy of Jones to Forsyth, March 10, 1839.^c]

^a See Records Department of State (Texas), Book 41, p. 186.

^b This was a letter introducing Moses Austin Bryan, as secretary of the Texan legation, to Jones.

^c See Calendar.

LA BRANCHE TO WEBB.^a

LEGATION OF THE UNITED STATES,
Houston, March 13th, 1839.

Sir:

I have the honor to call your attention to a note dated January 29th from your predecessor in office, in answer to a letter of mine of the 15th of the same month, requiring of this government an explanation of the conduct of General Rusk in violating the territory of the United States. You will perceive, Sir, that Colonel Bee, the then Secretary of State, for want of information, deferred making a full communication until he should be officially apprised of the proceedings of General Rusk. Believing you are able now to comply with that part of his letter, I have to request a more full and satisfactory reply.

An outrage of such a nature on the part of an officer of the government of Texas was far from being anticipated by the United States, and in their name, it devolves upon me to remonstrate against such a violation of their well known territory, trusting that the present chief magistrate of this Republic, in whose prudence and wisdom I have great confidence, will take prompt and effectual measures to prevent similar occurrences for the future, and give positive orders to the commanding officers in that quarter to respect the territory of a neighboring and friendly nation. It becomes the dignity of the United States not to tolerate another insult of this kind, and they will be under the necessity of repelling by force the entrance of similar armed bodies of men into their territory, and so a collision between the troops of the two countries must ensue which would lead to consequences much to be deplored.

I avail myself of this opportunity of assuring you of my distinguished consideration.

ALCÉE LA BRANCHE.

HONORABLE JAMES WEBB,
*Secretary of State of the
Republic of Texas,
Houston.*

WEBB TO DUNLAP.^b

^a U. S.

^b March 13, 1839. See Webb to Dunlap, March 16, 1839.

WEBB TO DUNLAP.*

WEBB TO LA BRANCHE.

DEPARTMENT OF STATE,
Houston, March 14th. 1839.

SIR,

I have the honor to acknowledge the receipt of your note of the 13th. Inst. calling my attention to a note dated January 29th. from my predecessor in office, in answer to a letter of yours of the 15th. of the same month "requiring of this Government an explanation of the conduct of Genl. Rusk in violating the Territory of the United States," and requesting a more full and satisfactory reply than was given by Col. Bee to that letter.

In answer, I have to state, that as soon as such information was received by this Department in reference to the transaction to which you allude as enabled this Government to act upon the subject, instructions were immediately prepared, directing Genl. Dunlap (recently appointed Minister plenipotentiary to the United States) to present the subject in such a light, and to make such explanations to that Government, as will, it is hoped, prove entirely satisfactory to it.

The *official* report of Genl. Rusk in relation to his late campaign against the Indians was not received until last evening, and in consequence of the temporary absence of the President from the seat of Government, I have not had an opportunity of obtaining his views in reference to all the matters which it embraces; but knowing as I do, that it is as unalterably his determination to do no wrong to other nations, as it is to suffer none to be done to this, and knowing also the great desire which he feels to maintain the most friendly relations with the United States, I am well assured that he will cause such orders to be given to the officers commanding the troops of this country, as will, while they secure our own rights, cause those of a friendly neighbor to be respected.

I avail myself of this occasion to assure you of my distinguished consideration and respect.

(signed) JAMES WEBB.

Honorable ALCÉE LA BRANCHE,
Chargé de affaires of the United States,
Houston.

* March 14, 1839—two letters of the same date. See Webb to Dunlap, March 16, 1839.

WEBB TO LA BRANCHE.

DEPARTMENT OF STATE,
Houston, March 15th./39.

SIR,

I have the honor herewith to transmit to you, copies of two circular letters from the Treasury Department to the Collectors of the Customs for the several ports in Texas on the subject of Tonnage duties heretofore collected from vessels of the United States.

I avail myself of this opportunity of renewing the assurances of my distinguished consideration and respect.

JAMES WEBB.

HON. ALCÉE LA BRANCHE,
Chargé d' affaires of the
United States,
Houston.

WEBB TO DUNLAP.

DEPARTMENT OF STATE
Houston March 16, 1839.

SIR,

Herewith you will receive the following documents relative to your mission.^a viz.

Commission as Minister to U. States of 13th March '39. }
do do do " do " do. " }

With powers to treat with an Agent of Mexico etc
Two letters of credence both of same tenor as Minister to }
U. S. dated 13th March 1839. }

Three letters of Instruction of 13th 14th and 14th Mar '39^b
A Cypher.

Copy of an Act to define the Boundaries of the Republic of
Texas.

Copy of a letter from Genl. Santa Anna to Genl. Jackson

^aOf the enclosures enumerated, there are no copies on file except those of the three letters of instruction which follow. For the act defining the boundaries of Texas, see Gammel, *Laws of Texas*, I, 1193; for the letter of Santa Anna, see Burnet to Collinsworth and Grayson, July 8, 1863; for the secret treaty with Santa Anna (dated May 14, 1836) and for the report of Rusk (dated February 25, 1839), see Calendar.

^bAmong the documents filed with this part of the correspondence are two substantially identical copies of a series of extracts from the instructions to Dunlap not mentioned in any of the letters, but probably intended to be shown to the authorities at Washington. The extract from the letter to Dunlap of March 13 begins with the words "Detailed instructions" and ends with "our Guarantor to Mexico"; that from the first letter of March 14 follows the letter from its beginning down to "procuring his reception"; and that from the second letter of the same date includes its first paragraph.

Secret agreement with Genl. Santa Anna.
 Letter of recall to Hon. Anson Jones.
 Report of Genl. Rusk and Documents.

Respectfully

Sgd JAMES WEBB,
 Sec'y of State

Hon. R. G. DUNLAP
 Minister to U. States.

WEBB TO DUNLAP.

DEPARTMENT OF STATE,
City of Houston 13th. March 1839.

The Honorable
 RICHARD G. DUNLAP.

Sir,

The President having appointed you Minister Plenipotentiary of the Republic of Texas, near the Government of the United States, I have the honor to hand you your commission and credentials as such, and to express his desire that you will proceed to the City of Washington with as little delay as possible, and assume the duties which will devolve upon you in virtue of your appointment.

Upon your arrival at Washington, you will take possession of the Archives, papers, seals and books, of the Texan Legation; and in carrying out the policy heretofore pursued by this Government in its diplomatic intercourse with the one to which you will be accredited, I refer you to the instructions given to your predecessors, and which will be found among the papers of that Legation.

You are well acquainted with the present condition of this country, and its policy, both foreign and domestic, and the President reposing entire confidence, in your prudence and capacity, relies much on the exercise of your judgment and discretion in the management of our diplomatic relations at Washington, being well assured that you will conduct them in such a way as will advance the best interests of the country, and reflect credit upon it, in the character of its Minister.

Detailed instructions upon all the subjects which you may find it proper to discuss, are not deemed necessary at this time, but there are a few matters to which your attention is especially called.

The first, in importance, of these, is our relations with Mexico. It is believed that the time has arrived when overtures for peace may be successfully made to that Government, and it is the wish of the President that such overtures should be made, but the manner of making them must be left entirely to your judgment and discretion.

After your arrival at Washington, you will avail yourself of such information as you can obtain, either in oral conversations with the Secretary of State, or from other respectable sources, as to the best mode of approaching the subject, and act accordingly (separate authority having been given you for that purpose) and it is desirable that your action should be as early and speedy as possible, having due regard for your own dignity and the dignity of your country in making your propositions.

The propriety of invoking the mediatorial aid of the Government of the United States in bringing about a negotiation for the settlement of the differences between this country and Mexico, and the benefits which would result from the friendly interposition of that power in conducting such a negotiation, will no doubt, suggest themselves to you; but whether your proposition to treat with Mexico, should be made indirectly through the Secretary of State of the United States, or directly to the Mexican Minister at Washington, must be determined by yourself upon such information as you may obtain after reaching that city.

Should the Government of the United States consent to become a mediator, there are many considerations which you can suggest to the Secretary of State, and which he might urge upon the Mexican Minister with great force, as reasons why the Independence of Texas should be acknowledged by Mexico, and a treaty of Amity and Commerce entered into between the two Governments.

Among these reasons are, 1st. The absolute impossibility of Mexico's reconquering Texas.

2dly. the entire dissimilarity of education, habits, manners, dispositions and pursuits of the inhabitants of the two countries, and the impossibility of their ever assimilating and moving harmoniously together, if they were reunited.

3dly. The dangers which would inevitably result to Mexico if the Anglo Saxon race now inhabiting Texas, should, with their peculiar notions of liberty, and the rights of man, be again commingled with the Spanish race inhabiting Mexico, under the same form of Government.

4thly. The total worthlessness of Texas as a country, to Mexico, as was shown by her indisposition and inability to settle it, untill foreigners, known to possess feelings and impressions different from her own citizens, were allowed to occupy and reclaim it from the wilderness, and defend it from the Indians.

5thly. The advantages which would certainly flow from a free and friendly commercial intercourse between the two countries upon the restoration of amicable relations between them.

6thly. The forbearance exercised by Texas towards Mexico after the battle of San Jacinto, in not availing herself in a hostile manner of the advantages which that battle had given her over her then prostrate foe; and especially, the magnanimity she has since displayed in submitting to so long a suspension of hostilities while Mexico has been laboring under the embarrassments of an invasion by France, on the one side, and a state of actual revolution and war by a part of her own citizens on the other.

Had Texas not relied for a settlement of her differences with Mexico upon amicable negotiation, rather than a further resort to war, she has had a most inviting opportunity for invading that country; but she has generously forborne, and this forbearance may with much propriety be urged as a reason for her doing us that justice now, which she will ultimately be compelled to accord.

These and other reasons which will suggest themselves to you, may all be presented to the Secretary of State in your conferences with him on this subject.

Should any person be authorized by the Mexican Government to enter with you upon this negotiation, You will require in the first place the unconditional recognition of the Independence of this country; and in defining our Territorial boundary, you will insist upon the limits prescribed by the act of Congress entitled "An Act to define the boundaries of the Republic of Texas", approved December 19th. 1836, a certified copy of which is herewith furnished you. But should you be unable to get a recognition of our Independence with an acknowledgment of the right of territory to the extent of those limits, You will then endeavor to obtain the recognition of the Independence of Texas, and leave the question of limits to be settled by future negotiation, entering into a stipulation at the same time, for an entire cessation of all hostilities until that question is settled.

Failing in all these efforts, you may then consent to an armistice or cessation of hostilities for two years, which hostilities are not subsequently to be renewed without a notice being given by the party intending to renew them, to the other party, of at least six months, of such intended renewal. But you will not consent to an armistice at all, unless its provisions are made to extend over the entire territory claimed by Texas under the act of Congress before refer'd to, nor unless the United States will become the Guarrantor for the faithful performance of its provisions by Mexico.

In demanding such a guarranty, it is probable a similar one will be required of this country, and in that event, you may pledge the solemn faith of the Nation to the Government of the United States for the faithful performance on our part of the stipulations of the armistice, provided that Government consents to become our Guarrantor to Mexico.

In your intercourse with the Government of the United States, upon subjects connected with our relations to that Government, you will upon all proper occasions, respectfully urge the necessity of the most rigid observance on the part of both, of the 33d. article of the Treaty entered into between the United States and Mexico on the 5th. day of April 1831.

By that article, both parties expressly bound themselves to restrain by force, all hostilities and incursions on the part of the Indian Nations living within their respective boundaries, so that neither party would suffer *their* Indians to attack the Citizens of the other.

You are aware that for some time past aggressions have frequently been committed by the Indians contiguous to the boundary between the two nations, and the most ample evidences have been furnished to this Government, that the Indians of the United [States] have been the ones principally concerned in these aggressions. The persons of several of them killed in battle have been identified, and besides other strong proofs of the fact, their flight to the Territory of the United States when closely pursued, shows that they claim that Territory as their place of abode and protection.

The Caddoes it is thought are the foremost and most frequent perpetrators of these Outrages. These Indians are unquestionably a part of those belonging to the United States, and from the incursions of which, that Government by its Treaty with Mexico, is bound to protect us. You will see by adverting to a Treaty made with these Indians by the United States, subsequent to the Treaty with Mexico that they were recognized as residing within the limits of Louisiana. That Treaty is not among the Archives of this Government, nor have I seen it, but I understand that it stipulates for the purchase by the United States of all the Territory occupied by that Tribe within their limits, and that these Indians should thereafter leave the Country. I understand also, that the Caddoes in compliance with their stipulations did leave the United States and come into Texas, where they have since pursued a wandering and predatory life, occasionally making war upon the citizens of this country, and committing the most atrocious murders and barbarities; and that they annually return to the United States to receive the payments agreed to be made for their lands, which payments are made in arms, ammunition and such other articles, as enable them the more effectually to carry on their hostile operations here.

You will be able to obtain at Washington a copy of that Treaty, and if upon a reference to it, you find that there is any admission or recognition of the fact, that these Indians did at the time and before its execution reside within the Territory of the United States, you can have no difficulty of convincing that Government of the propriety

and necessity of adopting such measures as are required to prevent their future incursions and hostilities in Texas.

The sense of justice so constantly manifested by that Government in its intercourse with other Nations, will not permit us to believe that she would contend for the right of purchasing the usufruct of any tribe of Indians occupying a portion of her soil, and force them upon a neighbor for their future residence. Such a supposition is not only repudiated by her past conduct as a Nation, but it is expressly forbidden by her own stipulations in the Treaty with Mexico.

Besides, it is not the Caddoes alone who have committed these offences. Most if not all the tribes within the United States, and contiguous to our boundary, have been engaged in them, and are at this moment in a state of open and avowed hostilities to this Country. The Report, of Major Genl. Rusk (a copy of which will be furnished you) together with the accompanying affidavit of Mr. Elias Vansickle, will show that the Cherokees, Delawares Shawnees, Choctaws, Coshatties (a creek tribe assuming that name) Boluxies and Huwanies have all either been directly engaged in committing murders and other depredations in Texas, or are contemplating a war on the Country, and making preparations for it.

To prevent these aggressions, and to keep the different tribes in check, it is essentially requisite that the United States Government should have a sufficient military force constantly upon the line. That she is disposed to control and keep them within their proper boundaries, we are not disposed to doubt; especially, since the information that she has recently ordered a force of upwards of nine hundred men to that frontier, has been received; but it is a subject which will demand your constant attention and vigilance, as it is one upon which the safety of our frontier inhabitants so materially depends.

I have the honor to be with great regard
Your Obdt. Servt.

JAMES WEBB.

WEBB TO DUNLAP.

DEPARTMENT OF STATE,
Houston, 14th. March 1839.

HON. RICHARD G. DUNLAP.
Sir,

Since preparing your instructions of yesterdays date, information has been received at this Department of a character, which renders it proper that some other matters be added thereto.

The revolution which was set on foot in Mexico some time since, by the "Liberal" or Federal party, contending for the Constitution

of 1824, against the "Central" Government of that country, has assumed a shape which authorizes the belief, that it must eventuate in success. Indeed a report has reach'd us to day, from New Orleans, that it has succeeded, and that Santa Anna who, it is said, had United himself with that party, is now at the head of the Government. If this report be true, it will remove many of the embarrassments which might have been presented to you in your negotiations. The liberal or Federal party in Mexico have always professed to entertain the most friendly sentiments towards this Government, and some of their influential men, high in rank and power, have already opened a correspondence with the President. In that correspondence, they addressed him as "President of the Republic of Texas" and throughout, recognize him as being in the exercise of sovereign authority; and ask his concurrence in certain political arrangements, deemed mutually beneficial to both countries. They speak of the *justice of this Government*, and propose to reciprocate friendly offices in protecting the property of the citizens of either, which may be stolen by evil disposed persons, and carried from one to the other. Indeed, Santa Anna himself, stands committed by his solemn obligation and promises to this Government, to use all of his influence to procure an acknowledgment, by Mexico, of the Independence of Texas; and these obligations and promises may be rendered very available in your efforts to bring about a negotiation, if it be true, that he is now at the head of the Mexican Government.

But whether the revolution has succeeded or not, the President believes that the recognition of our Independence may be accelerated by sending a minister directly to Mexico, with plenary power to negotiate a treaty with that Govt having for its objects, the acknowledgment of the Independence of Texas, and a reciprocal trade and intercourse between the two countries; and to this end, he has commissioned the Hon. Bernard E. Bee as minister plenipotentiary of the Republic of Texas near the Government of Mexico.

The instructions to be given to Col. Bee will be strictly in accordance with those given to you in reference to this subject, and he will be directed to keep you at all times advised of his acts, and prospects of effecting any thing definitely, should he be accredited as our minister by that Government; and you will also freely communicate to him, from time to time, such matters of importance as may transpire at Washington, in regard to this negotiation, so soon as you may learn that he has been received by the authorities at Mexico; and to prevent the subject of your respective communications becoming known in the event of the miscarriage of your despatches in their transmission, you are each furnished with a corresponding cypher, in which all letters of business connected with your missions will be written.

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In sending Col. Bee to Mexico, it is not intended in the slightest degree to impair the powers given to you in regard to this subject, or to supercede the efforts which are expected from you at Washington in bringing about the negotiation. On the contrary, it is believed that the double mission will have a tendency to accelerate that object and that you may eventually and materially aid and benefit each other. In your conferences with Mr. Forsyth therefore, (should you invoke the mediatorial aid of the Government of the United States) you will make known to him that a minister has been sent to Mexico by this Government to aid in the accomplishment of the objects which you will be seeking to attain by your negotiations at Washington, and if you could induce him to ask of the Government of Mexico, the reception of our minister in his public character, it would no doubt have much influence in procuring his reception.

Accompanying despatches just recd. from Washington is a printed copy of a Message from the President of the United States to the Congress of that Nation, "communicating information in relation to the Invasion of the South Western Frontier by an armed force from the Republic of Texas." In the documents communicated with that Message, it is alledged that Genl. Rusk at the head of a Texian army, has been invading the territory of the United States; and the Hon. Mr Garland in addressing the President on the subject, hopes "that prompt action will be had on this matter, as it is time the officers of the Texian Government should be informed, they cannot come into the State of Louisiana with an armed force, at their will and pleasure."

The causes which led to this alledged invasion of the territory of the United States, you will find detailed in the report of Major Genl. Rusk; and that he was justified by the circumstances, in his pursuit of the enemy across the boundary, is a principle of public law, too well established and understood, at this day, to require argument, or references to authority, to prove it. It is a principle which has always been recognized by the Government of the United States, and one upon which it has invariably acted, under similar circumstances.

In your discussion with the Secretary of State upon this subject, should the correctness of this principle be denied, (which I can hardly imagine) you will not only be able to fortify and sustain it by a reference to all the writers on international law, but you will find it fully surported in the arguments which grew out of the alledged invasion of Florida by Genl. Jackson in 1814. As late as March 1834, the Committee on Foreign affairs in the United States Congress, to which was refer'd the petition of F. M. Arredondo, on behalf of himself and others, for the payment of the claims of persons whose property was destroyed by the military operations of the American Army in Florida, used through their Chairman, Mr. Archer, the following explicit language in reference to this legal prin-

ciple. "It is one of the most unquestioned principles of public law, that a discomfited enemy may be pursued into the territory of a Neutral Power, omitting to repel them from this refuge. The right, tho' not of more unquestionable validity, is of more essential character, to enter a neutral territory for the chastisement of a hostile force, rendering it subservient to purposes of annoyance either from the connivance or imbecillity of its Sovereign." The Committee then go on to say that "the American army was sustained by both of these principles in its invasion of Florida in 1814" and the "application of the first of them was moreover reinforced by the express stipulations of the 5th. Article of the treaty between Spain and the United States of 1795," an article which you will find precisely similar in its provisions and phraseology to the 33d. article of the treaty of 1831 between the United States and Mexico. With this full recognition of the true doctrine in reference to this matter, the President cannot believe that you will have any difficulty in satisfying the United States Government of the legality and propriety of the course adopted by Genl. Rusk, in pursuing the Caddoes, who had not only been invading this Country and murdering its citizens, but who had actually made an attack on his forces in their own encampment, and that too, in a part of the Republic, about the boundaries of which, there is, and can be no dispute.

It is not deemed proper to interfere with the treaty between the United States and Mexico at this time, but if the Government of the United States, without interfering with that treaty, will consent to enter into an *express stipulation* authorizing the commanding officers of the forces of either to cross the boundary when in pursuit of an Indian enemy, you will agree to such stipulations on the part of this Government, subject to confirmation by the Senate. Such a stipulation would tend much to prevent the complaints which will always arise, when an act of this kind is done under no other authority than that given by the law of Nations. Border inhabitants are usually but little conversant with the principles of international law, and are apt to look upon such an invasion, however necessary and correct in itself, as an encroachment upon National dignity, and individual rights, and they complain accordingly.

Besides, if it were distinctly known that such a course was authorized by the two Governments, it would have a tendency to prevent the Indians of either Country from crossing the line, as they would soon learn that such hostile incursions could not be made with impunity.

I have the Honor to be
Very Respectfully
Your obdt. Servt.

JAMES WEBB.