

MATAGORDA, *Feb'y. 13, 1840*

SIR:

I understand that the Supreme Court of Texas adjourned on or about the 18th of January, and we have had no court, as yet, to try the case of the Schooner Robert Center, of New Orleans, according to the promise of the President to your honor; and, I am informed that, according to the change of the law there will be no regular term of the District Court this Spring. I cannot say when this case will be decided, unless some further measures are taken. My crew are all on wages and expenses. Both my Counsel and myself have requested Mr. Monges, the Consul here, to inform you of the above facts; and [that] he neglects to do so is the reason which induces me to write to you myself.

I am with due consideration

Yours,

JOSEPH SHEPARD

HONORABLE ALCÉE LA BRANCHE,
Chargé d'affaires etc.
Houston.

 DUNLAP TO FORSYTH.^a

 DUNLAP TO LIPSCOMB.^b

LEGATION OF TEXAS
Washington 27th March 1840

HON ABNER S. LIPSCOMB

SIR

I have the honor to enclose a copy of the correspondence between the Secretary of State of the United States, and myself relative to certain claims for depredations committed by the Indians. In case the question of the liability of the United States were now urged, and the Government after a protracted discussion should allow the claims, there payment could only be obtained through an appropriation by Congress and might occasion a delay of one or two sessions. The course indicated by the Secretary of State of the United States is the speediest and perhaps the surest, as the money can be paid out of the annuity due to those Indians. Therefore the claimants should prepare the evidence of their claim in strict adherence to the rules of taking testimony in such cases, and have it forwarded to the Representative of Texas to be submitted to this Government. The claim received was a mere statement of one of the parties without any ac-

^a March 27, 1840. See Dunlap to Lipscomb, March 27, 1840.

^b Records of the Department of State (Texas), Book 41, p. 275.

companying evidence, and no matter how upright and honorable the party may be, the United States Government will never feel willing to receive such a statement as a substitute for legal testimony and now I trust you will pardon me in submitting my reasons for declining to present to the Government of the United States the demand for satisfaction in the case of Genl. Henderson. I should not assume this responsibility only that I am certain my return home will not allow me to conduct the case to its conclusion and my successor who is daily expected can have the management of the whole matter if prosecuted. Upon the instructions of my Government, to demand, that those persons who violated Genl. Hendersons privilege shall be indicted by the court, is given in the most respectfull spirit. To constitute an indictable offence either the Laws of the State in which the arrest was made, or the laws of the United States must have marked the offence, without one or the other in my opinion an indictment could not be sustained, the law of nations does not give jurisdiction to either the State or Federal courts farther than the same may be recognized by some enactment. Modern times and especially the present age has enlarged and liberalized the rules of Comity between nations, it is owing more to this spirit, and the reason of the rule which protects a Minister from arrest within the Government to which he [has] been accredited, than to any well established international Law that he shall be entitled to exemption from arrest in passing to and from that Government. In a criminal prosecution this right would be more rigidly scrutinized, than in a civil action, supposing that the Law of nations could give the courts here criminal jurisdiction. The arrest in this case was not by its officers or by the Government but made on the application of a mere individual. From the character of the institutions of the United States if the President had ordered the release of General Henderson, the court would not have regarded it but have looked alone to the law which granted the privilege as a rule for its decission. When the Government has not in the most remote degree participated in the offence, the propriety of asking its interposition for redress, is very questionable, and especially when the offence has not violated some conventional obligation subsisting, between the two Governments. I am satisfied that Genl Henderson was rudely treated in the arrest, and nothing would afford me more pleasure than to give him all aid in my power for the attainment of an adequate redress. These are hasty hints given for the consideration of my Government. The Gentleman who has the charge of the Mexican Legation of this place since the death of the Minister, said to a friend who informed me last evening, that Mexico was secretly organizing an army for the invasion of Texas, and spoke of the conquest of the country, with much confidence. Felisola is to have the Command and intends not to divide his forces but move

companying evidence, and no matter how upright and honorable the party may be, the United States Government will never feel willing to receive such a statement as a substitute for legal testimony and now I trust you will pardon me in submitting my reasons for declining to present to the Government of the United States the demand for satisfaction in the case of Genl. Henderson. I should not assume this responsibility only that I am certain my return home will not allow me to conduct the case to its conclusion and my successor who is daily expected can have the management of the whole matter if prosecuted. Upon the instructions of my Government, to demand, that those persons who violated Genl. Hendersons privilege shall be indicted by the court, is given in the most respectfull spirit. To constitute an indictable offence either the Laws of the State in which the arrest was made, or the laws of the United States must have marked the offence, without one or the other in my opinion an indictment could not be sustained, the law of nations does not give jurisdiction to either the State or Federal courts farther than the same may be recognized by some enactment. Modern times and especially the present age has enlarged and liberalized the rules of Comity between nations, it is owing more to this spirit, and the reason of the rule which protects a Minister from arrest within the Government to which he [has] been accredited, than to any well established international Law that he shall be entitled to exemption from arrest in passing to and from that Government. In a criminal prosecution this right would be more rigidly scrutinized, than in a civil action, supposing that the Law of nations could give the courts here criminal jurisdiction. The arrest in this case was not by its officers or by the Government but made on the application of a mere individual. From the character of the institutions of the United States if the President had ordered the release of General Henderson, the court would not have regarded it but have looked alone to the law which granted the privilege as a rule for its decision. When the Government has not in the most remote degree participated in the offence, the propriety of asking its interposition for redress, is very questionable, and especially when the offence has not violated some conventional obligation subsisting, between the two Governments. I am satisfied that Genl Henderson was rudely treated in the arrest, and nothing would afford me more pleasure than to give him all aid in my power for the attainment of an adequate redress. These are hasty hints given for the consideration of my Government. The Gentleman who has the charge of the Mexican Legation of this place since the death of the Minister, said to a friend who informed me last evening, that Mexico was secretly organizing an army for the invasion of Texas, and spoke of the conquest of the country, with much confidence. Felisola is to have the Command and intends not to divide his forces but move

in a body over the country. If it is true that Great Britain has obtained the Californias, it may be that her ambition for Colonization and conquest may induce her to give secret aid to Mexico, which will most certainly terminate in a war between her and the United States, in fact I do not consider a war between these two countries as entirely improbable, and I give these hints that all the contingencies may be looked at, and provided for. Col. Bee wrote some time since from Pendleton S. C. that he would be in Washington by the first of April. Since the receipt of his letter, I have informed him of his confirmation and the arrival of the credentials, draft etc. The papers relative to the melancholy fate of Col. Johnson are received and will have due attention.

With great consideration

Your ob[e]dient servant

R. G. DUNLAP

[Enclosed are copies of the following:^a Dunlap to Forsyth, February 24, 1840; Forsyth to Dunlap, February 26, 1840; Dunlap to Forsyth, March 27, 1840.]

LIPSCOMB TO BEE.^b

DUNLAP TO POINSETT.

Copy.^c

LEGATION OF TEXAS

Washington 16th Apl 1840

The Undersigned Minister Plenipotentiary and Envoy Extraordinary of the Republic of Texas, being advised by the Secretary of State of the United States, that the subject of the Indian relations between the two countries has been referred to the War Department, begs leave to submit a few enquiries to the Secretary of War relative thereto.

The promptness and fidelity with which the Government of the U States has always met the question, when Texas has been threatened with incursions from Indians of the former, leaves the Undersigned no room to doubt, that the Secretary of War will fully answer these enquiries, so that nothing equivocal may seem to exist in the understanding between the two Governments upon a subject so delicate and important.

^a See Calendar.

^b March 31, 1840 (extract). See Waples to Bee, September 30, 1840. No entire copy of Lipscomb's letter has been found.

^c From Book 41, Records of Department of State (Texas), p. 279. The series, Dunlap to Burnet, February 24, 1840; Dunlap to Forsyth, February 24, 1840; Forsyth to Dunlap, February 26, 1840; Dunlap to Forsyth, March 27, 1840; an extract from Dunlap to Lipscomb, March 27, 1840, from the beginning down to the words "legal testimony;" and this letter of Dunlap to Poinsett is copied in what is marked "Document C." There are two copies of this document in the Texan archives, but the correspondence does not indicate clearly what use was made of them.

1st. Have not Indians migrating to Texas, without the consent of either Mexico or Texas since the Treaty of 1831 between the United States and Mexico, been suffered to do so by the United States in direct contravention with the terms and spirit of said Treaty; and is not the United States bound to recal the Indians who have thus migrated and provide them with a home in the United States? Should the Republic of Texas now or hereafter find the undertaking too difficult to expel from her territory Indians of the United States who have or may hereafter make incursions or settlement within the Republic of Texas will not the Government of the United States, upon the request of the Government of Texas aid in their expulsion? The capricious and restless character of these savages, and their contiguity to Texas renders it more than probable that incursions will as heretofore be again made, and the United States not be informed in time to prevent them. Under such a view of the case, in the event of Texas asking aid of the United States, would it not be granted?

The undersigned avails himself of this occasion to offer to the Secretary of War of the U States, assurances of his high consideration.

HON JOEL R POINSETT
Sec of War.

R. G. DUNLAP

BEE TO LIPSCOMB.^a

LEGATION OF TEXAS
Washington April 21st 1840.

SIR,

I have the honor to apprise you that on the arrival of my commission and Letter of credence, (so long delayed) I repaired to this place, and that on yesterday I was formally recognised as the Chargé of the Republic of Texas by the Government of the United States, at which time Mr Dunlap presented his letter of Recal

The drafts on the Commissioners Messrs Hamilton and Burnley, The one for \$4500 for my outfit and half years salary, and the other \$1900 to pay the Bank of [the] Metropolis of Washington, have been accepted and will be met by Genl. Hamilton, which latter leaves for the North the 23d inst on his way to Europe to sail the 10th of May

The other Commissioner, Mr Burnley goes north in a few days to sail for Europe the 25th Inst, it being thought better that the Gentlemen in the event of accident should proceed by different conveyances.

The action of my Predecessor Mr Dunlap on the subjects of Genl. Hendersons arrest and claim for Indian depredations, in referring them again to yourself, for farther instruction in the one case, and

evidence in the other, makes it unnecessary I should take any steps until the reply of my Government is received.

The proclamation of the President of Texas forbidding its citizens to participate in the domestic feuds of Mexico, and the afflicting intelligence of the barbarous murder of Col. Johnson and party on his return from the Federal Camp, I shall immediately communicate as directed to the Govt. of the U. States, and should also do the same to the Representative of Mexico, but that there is none here at present, occasioned by the death of Mr Martinez. I have therefore thought proper to forward to Mr Treat in Mexico through his House in New York, a statement of facts and copy of [the] Proclamation, with instructions to communicate both to the Mexican Govt. although I feel assured that my Government has not failed to do the same thing.

In an incidental conversation with Mr Forsyth relative to the Sabine Boundary, he seemed to think Genl. Hunt had required too much, and intimated that instructions had been given to the Commissioner to comply with the words of the Treaty, and that if farther objection should be made to dissolve the Commission as the censure would in his estimation fall upon us

As I have received no instructions on the subject I thought it best to avoid controversy until the point should come properly before me. I merely observe that to act in strict compliance with the words of the Treaty was the difficulty and Mr Forsyth farther added that he supposed that the case would be referred by the Commissioners to their respective Governments.

Mr Geo H. Flood of Ohio has been appointed Chargé d'Affaires of the U. States to the Republic of Texas and intends to be in Texas within the month of May.

I have the honor to subscribe myself

Your Most Obt servant,

BARNARD E BEE.

Hon

ABNER S LIPSCOMB

Secretary of State of the Republic of Texas.

ARBUCKLE TO LAMAR.

Copy.

HEAD QUARTERS 2D DEPT W. DIVISION
Fort Gibson, April 28th, 1840.

To His Excellency

MIRABEAU B. LAMAR,
*President of Texas,
City of Austin,*

SIR:

I was requested by a Cherokee Council assembled at this Post of late, to assure you of their desire that the whole of their people now

in Texas, should immediately return to their nation, and thereafter remain in their own country.

I have no doubt the Cherokee people are sincere in the wish they have expressed on this subject; and as many of their people that formerly lived in Texas, have returned of late, they hope that the time is not distant when their wishes will be fully accomplished. Under such circumstances they hope your government will not desire to detain any of their people in Texas.

With respect to the wish of the Cherokee nation in relation to some of their people now in Texas, I regard it proper to assure you, that if such of them as may be prisoners, are conveyed out of Texas in the direction of Fort Towson, that the Commanding Officer of that Post will be instructed to issue such quantity of provisions to them as may be necessary to enable them to return to their nation.

I have the honor to be, Sir,

with great Respect,

Your Obt. Servt.

M. ARBUCKLE

Brevet Brigr Genl. U. S. A.

BEE TO SECRETARY OF STATE OF TEXAS [LIPSCOMB].^a

[Transmitting copies of three unsigned letters, dated respectively August 29, November 10, and November 18, 1839, which Bee has received from a confidential agent in Mexico.^b]

BEE TO LIPSCOMB.^c

LEGATION OF TEXAS
Washington Ist. May 1840

Hon A S LIPSCOMB

SIR

A despatch under date of 31st March last has been received,^d * * * in which is the acknowledgment of the receipt of a communication from my predecessor Genl. Dunlap on the subject of Commodore Moore arrest, with accompanying copies of a correspondence between himself and Mr Forsyth including evidence submitted by the former, which served as sufficient ground in the opinion of the United States Government, for that arrest, and for the threat conveyed by the note of

^a L. S., April 30, 1840.

^b These will be published with the Mexican correspondence. The agent was probably A. S. Wright. See *The Red-Lander* (San Augustine, Texas), September 29, 1842.

^c For this letter and enclosure, see Records of the Department of State (Texas), Book 41, pp. 278, 280.

^d The matter here omitted relates to Bee's salary.

Mr Forsyth in the following words (viz) "If any new and well-founded complaints of a similar character are made against any naval officer in the service of your Government, the President will deem it his duty to exclude the vessels of war to which they belong from the waters of the United States.["] It appears the steps pursued in this case by the United States has been regarded by the Government of Texas as harsh, premature and entirely unwarranted by the facts set forth in the papers thus submitted—and more especially as the declaration of Comr. Moore himself serve[s] to show that the alleged cause of complaint by the United States without foundation. Concurring as I do in opinion with my Government that the U States has acted precipitately in the matter, yet as copies which had been forwarded of a later despatch from Genl. Dunlap to Mr Forsyth and the latters reply of the 3rd Feby had not been received when the communication to which I am now replying was written, and as Mr Forsyth in this last note above alluded to holds the following language ["as it is understood, however, that he (Comr. Moore) has of his own accord left the waters of the United States, with the vessel under his command—he has thereby relieved this Government from the necessity of doing more than giving the Texan Government, in the documents herewith and heretofore communicated through its legation at Washington ample means of comparing his declaration with the information laid before the Government of the U. States." I have come to the conclusion that it is better not to revive the correspondence, as doubtless no new and *well founded* complaints can arise to justify the U States in enforcing the threat to exclude Texas vessels of war from the waters of the U States. A conclusion I trust that on receipt of the farther correspondence herein alluded to, the Govt of Texas will deem just. In answer to that portion of the despatch relative to the utility of impressing upon the Government of the U States her obligation of restraining her Indians from committing depredations upon Texas—I beg leave to submit a copy of Genl. Dunlaps note to the Secretary of war of the United States, to which a reply has been promised but not yet given. Accompanying my communication of 21st. inst was the copy of a letter from a confidential agent in my employ in Mexico containing information as to the intentions of Mexico in regard to Texas.^a I now submit copies of previous letters from the same source which could not be got in readiness to send on the former occasion, and which I beg leave to request will be preserved with the copy previously communicated, in the secret archives of the State Department. I also subjoin a copy of a communication to the Secretary of State of the United States relative to Col. Johnson. A representation to Mr Treat at Mexico on the same subject, has

^a An unsigned letter, dated February 5, 1840, probably written by A. S. Wright. See Bee to Lipscomb, April 30, 1840, note b.

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gone forward to be opened in the event of his absence by Mr Ellis
United States Minister

Very Respectfully
Your obdt. Servant

BARNARD E BEE

LEGATION OF TEXAS.
Washington 5th Apl. 1840

Copy

To Hon JOHN FORSYTH
Secy of State of the U. States

The undersigned Chargé d'Affaires of the Republic of Texas has the honor by the direction of his Government to present to the Secretary of State of the United States herewith enclosed the copy of a Proclamation by the President of the Republic of Texas, enjoining neutrality on the citizens of that country in regard to the civil dissensions at present existing in Mexico,^a and further to inform the Secretary of State of the United States, that with a view to the more certain and general promulgation of this Proclamation, Col Johnson with an escort of eight or ten men, was despatched to the head quarters of the Federal Army where it had been ascertained some of the citizens of Texas had assembled through a misguided and imprudent zeal, to operate against what they supposed to be the common enemy, a delusion which it was thought, this Proclamation would dispel, and the policy of the President remain uncompromitted. It appears from the most authentic information, that Col Johnson had executed the object of his mission and left Camargo about the 15th December last and after crossing the Rio Grande on his way home was intercepted and the whole party put to death, with circumstances of fiendish cruelty; and thus the effort to maintain the good faith and moderation of Texas has been attended with the sacrifice of the blood of some of her most worthy citizens. The well known friendly disposition of the Government of the United States towards Texas giving rise doubtless to a desire on the part of the former to see the relations between Texas and Mexico established upon a friendly footing, leads the undersigned to hope that should any opportunity offer of impressing upon Mexico the importance of such a result, the Government of the United States, will not fail to use its influence in behalf of Texas to that end—and avail itself of the information now presented for that purpose, doubtless the Mexican Government on learning that such an outrage has been committed, will be ready to make

^a Dated December 21, 1839. See Records of the Department of State (Texas), Book 38, p. 50.

every amend, and vindicate her honor by denying all participation in so base an act.

The undersigned offers to the Secretary of State of the United States assurances etc

B. E. BEE

FORSYTH TO BEE.^a

AMORY TO LIPSCOMB.^b

LEGATION OF TEXAS
Washington May 8th 1840

SIR,

In the absence of Col Bee I hasten to transmit copy of the reply of Mr. Forsyth Secretary of State of the United States of the 4th Inst to the note of the former of the 25th Ultimo

In the communication of Col Bee above alluded to, he informed Mr Forsyth, that Col Johnson had been made the bearer to the Federalists beyond the Rio Grande of the Proclamation by the President of Texas (a copy of which was enclosed) enjoining upon the Citizens of Texas neutrality in regard to the civil dissensions of Mexico; and also informing him of the melancholy fate of that Gallant Officer and soliciting "in the event of an opportunity offering" the friendly mediation of the United States between Texas and Mexico, towards the establishment of amicable relations.

Mr Forsyth in a note to Genl. Dunlap dated 17th July 1839^c says

"You will perceive that a mediation is not to be offered unless invited by Mexico"

The determination conveyed in this extract is the same alluded to by Mr F in his note to Col Bee a copy of which is now transmitted; and it was with a knowledge of such determination on the part of the United States, that in again asking the aid of her Government Col Bee qualified the request by saying "in the event of an opportunity offering" meaning of course in case circumstances should in the opinion of the U. States justify her Government in affording the aid desired

Very respectfully
Your Obt. Servt

NATHL. AMORY *Secy Legan.*

Hon.

A. S. LIPSCOMB
Secy of State of Texas

^a May 4, 1840. See Amory to Lipscomb, May 8, 1840.

^b A. L. S.

^c This note has not been found in the archives of Texas. That of the same title and date noted in the Calendar does not include the extract here given.

(Copy.)

DEPARTMENT OF STATE,
Washington [City], 4th May, 1840.

The undersigned, Secretary of State of the United States, has the honor to acknowledge the receipt of the note of Mr Bee, Chargé d'affaires of Texas, of the 29th ultimo and of its inclosure. In answer, the undersigned has the honor to acquaint Mr. Bee that although he is entirely correct in supposing that the United States desire that the relations between Texas and Mexico may be established upon a friendly footing, nothing has occurred since the communications on that subject from this Department to the Predecessors of Mr. Bee as the Representatives of Texas here, to render a change of the determination of this Government expedient. Whenever consistently with that determination the good offices of the United States can be useful they will be most cheerfully interposed.

The undersigned avails himself of this occasion to offer to Mr Bee, assurances of his great consideration.

JOHN FORSYTH

To BERNARD E BEE
etc etc etc

AMORY TO LIPSCOMB.*

WASHINGTON [CITY,] 8 May 1840

To the Hon. SEC'Y OF STATE OF TEXAS

DEAR SIR,

I enclose the message of Prest. Jackson of Decr. '36 transmitting to the Congress of the U. S. Mr Morfitts report upon the condition of Texas. I am not aware, of these Documents being in possession of the Govt. of Texas, and think they may be useful for reference in general, and particularly in regard to the Boundary Question between Texas and the U States regarding which are some remarks page 15. Mr Morfit is residing here a useful, active, and a long and tried friend to Texas.

Enclosed also is the memorial of a talented Gentleman Mr Fleischmann who desires to remove with his Family to Texas in the fall, he has been long in the Patent office of the U. S., engaged in making drawings from the specifications alone, of inventions the models of which were burned and not replaced, an arduous and delicate task. As a draughtsman civil engineer and agriculturalist I believe he is

* A. L. S., written on the same sheet with his previous letter of the same date.

unsurpassed, and would be a great acquisition in the Land Office or any of the Departments and particularly the Patent Office from a knowledge of the manner in which that of the U. States is conducted. Should you have it in your power to offer any encouragement please inform me

Respectfully

Yours etc

N. AMORY

P. S. The public documents I sent by separate conveyance.

AMORY TO LIPSCOMB.^a

LEGATION OF TEXAS
Washington May 23d 1840

To the Hon

ABNER S LIPSCOMB

Sec'y of State of Texas

SIR,

I have this day rec'd from the Austrian Legation a note enclosing a long list of statistical enquiries concerning the state of Texas. These I have submitted to Doctr. Moore and C. W. Buckley of Houston desiring them to give the information required and which is to form part of a Book now in progress.

The object of the present is to desire you to have a set of laws and *all* printed documents of the Govt. sent as soon as practicable in a Box directed to

Le Chevalier Friedrichsthal^b

Philadelphia

to the Collector of Galveston to be shipped to Baltimore New York or Philadelphia at the same time writing Mr Friedrichsthal that it has been done. The great benefit which may result to Texas thereby is my only apology for making this informal request.

Mr Bonnells book^c would be *highly* useful

Very respectfully

Yr Ob't Servt

NATHL. AMORY

Sec: of Legation.

The books for the Legation desired by me to be sent before leav'g Austin, in Decr. last have never been rec'd.

^a A. L. S.

^b The original has "Friedrichsthal."

^c Geo. W. Bonnells *Typographical Description of Texas* (Austin, 1840).

ARCHIER TO ARBUCKLE.

Copy.

WAR DEPARTMENT,
City of Austin, 11th. June, 1840.

Brevt. Brigadier General

M. ARBUCKLE, U. S. A.

SIR:

You will please accept the thanks of his Excellency, the President, and of this Department, for Your communication of date "Fort Gibson April 28th., 1840."

We have suffered, and are still suffering most serious injury from the intrusive advances of the Cherokee Indians within the limits of our jurisdiction and territory.

The position in which we stand with the Cherokee people, within our limits, is hostile; we should therefore be greatly pleased to see them return to their legitimate home, and again united with their own people in the United States.

The Cherokee Prisoners have been despatched to the Post most convenient to your command. An attempt to send them to Fort Towson would have been no less hazardous to them, than to their escort; our Prisoners being exclusively women and children.

We trust, that in thirty days from this date, they will be at Fort Jessup.

I have the honor to be with great respect,
Your Obt. Svt

B. T. ARCHIER
Secretary of War.

By Order of his Excellency the President

ALMONTE TO BROWN.^aLIPSCOMB TO BEE.^b

^a June 20, 1840. See Bee to Lipscomb, December 16, 1840, copy of Bee to Forsyth, December 14, 1840, note.

^b August 8, 1840. See Waples to Bee, September 30, 1840.