

THE PUEBLA CONSULADO, 1821-1824

I

Established in 1594, the Consulado of Mexico flourished continuously for two hundred and thirty-three years, finally expiring under federal and state legislation enacted in the Congress of 1824-1827.¹ Among the causes of antipathy to the institution was its unwillingness to have similar bodies organized outside of the colonial capital. Although its opposition was not strong enough to prevent the erection of the Consulados of Veracruz and Guadalajara in 1795, the merchants of Puebla had to wait another twenty-five years before surmounting the obstacles which the Mexican Consulado placed in their way.

In the hopes of forestalling demands for a number of independent guilds and commerce courts, the Consulado of Mexico began to set up provincial deputations (*diputaciones territoriales*) sometime after 1800. These deputations enjoyed little authority or prestige, since questions of economic policy as well as jurisdiction over appellate commercial suits still remained in the hands of the consular officials in Mexico City. One of these deputations functioned in Puebla for a decade or more prior to the inauguration of the Consulado in 1821.

¹ R. S. SMITH, "Antecedentes del Consulado de México", *Revista de historia de América*, No. 15 (1942), pp. 299-313, and "The Institution of the Consulado in New Spain", *The Hispanic American Historical Review*, XXIV (1944), 62-83.

The antecedents of the Consulado of Puebla are obscure, and so far the municipal and state archives in this city have not yielded the records needed to follow carefully its brief career. In default of the original papers of the mercantile corporation, a sketch of the Puebla Consulado may be written from legislative records and from documents in the archives of the Consulado of Mexico.

In January, 1789, the merchants of Puebla addressed a letter to the Consulado of Mexico, in which they complained that "one of the principal causes of the backwardness of commerce in general are the trammels and extraordinary abuses which weaken it in every village". In particular they deplored the unreasonable delays and great expenses involved in settling commercial cases in local courts. Although the thirty-one merchants who signed the petition referred to the Consulado of Mexico as "our guild and special tribunal", they expressed the hope that the Mexican guild would not oppose the formation of a Junta in Puebla and the election of deputies, with power to take such measures as would protect and promote the business interests of the *poblanos*.²

The Consulado of Mexico replied that it was "custom accepted by this court and by superior tribunals" for local commercial groups to name deputies to take action on matters "advantageous and expedient to these bodies". The Mexican guild indicated that it would be most appropriate for the Colonel of the *Regimiento del Comercio* to head the Junta, and in all questions relating to the "free and profitable exercise of business" in Puebla the Consulado promised its active support.

Data are lacking for a detailed account of the formation and activity of this early Junta. In all probability it

² Archivo General de la Nación, *Consulado*, tomo 221, exp. 6: "Representación hecha al R.l Tribunal del Consulado por los Comerciantes de la ciudad de Puebla sobre que el Coronel del Regim.to presida las Juntas que celebraren, y se les conceda permiso de nombrar Diputados."

had something to do with the ordinances adopted in 1793 "for the discipline, administration, and new organization of the *Cuerpo de Infantería Urbana del Comercio*".³ And it is also likely that some more or less formal Junta promoted the idea of organizing the Puebla deputation of the Consulado of Mexico.

Some ten years after the creation of the new Consulados of Guadalajara and Veracruz more than seventy Puebla merchants petitioned the Mexican Consulado for a deputation, insisting that it was "necessary and fitting" for "this populous city, the second of the realm", to have a commercial tribunal.⁴ Details concerning the formation of the deputation are lacking; numerous though scattered references to the deputation suggest that it functioned between 1807 and 1820.

In creating the deputations (sometimes called *diputaciones foráneas*) the Consulado of Mexico followed the regulations written into the ordinances of the Consulado of Guadalajara. These permitted the Consulado, "for the greater convenience of litigants", to establish deputations "in those ports and centers of greatest commerce". Deputies chosen by the guild were authorized to act as judges in the first instance of commercial suits arising within the jurisdiction of their deputation. Appeals, however, had to be carried to the appellate court attached to the parent Consulado.⁵ Besides acting as judges, the deputies had minor administrative duties, such as those growing out of the

³ Archivo Histórico de Hacienda, leg. 663, exp. 4, fols. 17-19. In 1808 a group of Puebla merchants asked the Consulado of Mexico to use its influence with the viceroy in order to secure certain exemptions from service in the Puebla militia for merchants and their employees.

⁴ Archivo Histórico de Hacienda, leg. 463, exp. 3.

⁵ *Real cédula de erección del Consulado de Guadalajara, expedida en Aranjuez a vi de junio de MDCCXCV* (Madrid, 1795). As early as 1808 the Consulado of Mexico took cognizance of an appeal from a case heard by its deputy in Puebla (Archivo General de la Nación, *Consulado*, tomo 68, exp. 2.)

far-flung financial operations of the Consulado of Mexico. Thus, a "Notice to the Public" published in Puebla in June, 1819, informed subscribers to the forced loan of 1815 that they might "apply to this consular deputation to inform themselves as to the state of their credits".⁶

In 1816, if not earlier, the Puebla merchants objected to the selection of the deputies by the Mexican Consulado. Although the Consulado responded that under existing laws it could not adopt a different procedure, doubtless the Mexican guild suspected that a deputation controlled by the merchants of Puebla would eventually lead to the organization of another independent Consulado.⁷ This step was finally made possible by political events and the rupture of communications between Mexico City and Puebla.

II

Iturbide entered Puebla on August 2, 1821, and the Consulado was authorized by his decree of August 10.⁸ Among the defects of the hastily prepared charter of the Puebla guild was its failure to specify how the new institution was to be supported. The new Consulado first came to the attention of the national Provisional Junta in January, 1822, as a result of a request for a share of the *avería* receipts administered by the Consulado of Veracruz. Although the Junta left the matter open, pending the receipt of additional information, Deputy Fagoaga introduced a motion to the effect "that the Consulado of Puebla be

⁶ Archivo Histórico de Hacienda, leg. 728, exp. 1.

⁷ Archivo Histórico de Hacienda, leg. 463, exp. 3.

⁸ According to notes in the archives of the Consulado of Mexico (Archivo Histórico de Hacienda, leg. 464, exp. 2). The text of the decree has not been located. But Sr. Cervantes seems to have erred in referring to the erection of the Puebla Consulado "con la sola autorización virreynal que no llegó a ser confirmada por el Rey" (Manuel Cervantes, "El derecho mercantil terrestre de la Nueva España", *Revista General de Derecho y Jurisprudencia*, I [México, 1930], 240.)

suppressed as unnecessary".⁹ The motion was later withdrawn, but the discussions in the legislature revealed considerable doubt over the legality of the Consulado of Puebla.

In April, 1823, the federal Constituent Congress debated a report from the finance minister, in which the assembly was asked to decide "whether or not the Consulado of Puebla should continue and, if so, what shall be the revenues to cover its necessary expenses". Parenthetically, the treasury official gave his opinion that "all the existing Consulados should be restricted solely to the administration of justice, briefly and summarily as has been the custom".¹⁰ The matter was referred to committee.

Late in 1823 the Consulado of Puebla asked the national government to settle two questions; namely, who should preside at the guild elections scheduled for January, 1824; and who should serve as appellate judge in commercial suits. Although on January 5, 1824, the Congress gave a first reading to the report of its legislative committee, which recommended the designation of the *Jefe político* to preside over consular elections, no definitive action appears to have been taken.¹¹ So far as the federal government concerned itself with the institution, the affair was closed by the act of October 16, 1824, which denied officials of the Puebla Consulado the benefits of retirement pensions on the grounds that the corporation had never been confirmed.¹²

⁹ J. A. MATEOS, *Historia parlamentaria de los Congresos Mexicanos de 1821 a 1857*, I (México, 1877), 166, 174, 185, 188; *Colección de órdenes y decretos de la soberana junta provisional gubernativa y soberanos congresos generales*, I (México, 1829), 86, 115

¹⁰ MATEOS, *op. cit.*, II, 459.

¹¹ MATEOS, *op. cit.*, II, 581, 596, 623, 638.

¹² *Colección de órdenes y decretos de la soberana junta provisional gubernativa y soberanos congresos generales*, III (México, 1829), 110-111.

Meanwhile, the Constituent Congress of the State of Puebla had assembled (March 19, 1824). On March 24 the Congress demanded of the Consulado a "detailed statement of the number of persons who comprise the tribunal... its employees, the remuneration of each, and the funds assigned to the payment [of salaries] and other expenses". The guild was also requested to report on the income and disbursement of the road-tax (*peage*) which presumably the Consulado had employed on roads in the State of Puebla. The petitions of the Consulado, asking for the appointment of an appellate judge and a presiding officer for guild elections, were referred to committee.¹³

On March 30 the state legislature debated the report of its committee on paper money. One of the proposals of the committee was to set up a commission to revalidate the outstanding issues, and this commission was to include two merchants selected by "the so-called tribunal of the Consulado". Taking issue with the phraseology of the committee's report ("él que se llama tribunal del Consulado"), the Consulado precipitated a lengthy congressional debate on the status of the mercantile organization.

In the session of April 29 Sr. Couto said that "the origin of the consular corporation is vicious", because it was created by Iturbide when he possessed only the authority of an army general. Furthermore, since neither the coronation of Iturbide nor the convocation of the first national congress was legal, the authority of the Consulado could not have derived from any act of the national government. On the other hand, Sr. Couto admitted that the Congress of Puebla had confirmed provisionally all executive and judicial bodies in the State, whether existing *de jure* or *de facto*; and acknowledged that this in effect va-

¹³ *El Caduceo: Periódico del Estado Libre de la Puebla de los Angeles*, I, 1-3 (Apr. 1), 14-16 (Apr. 4), 19 (Apr. 5), 22-23 (Apr. 6, 1824).

lidated the judicial decisions of the Consulado since its erection. Never, though, "should it be understood that this Honorable Congress approved its erection, calling it a tribunal".

Sr. García recalled that the Consulado was established at the instance of the Ayuntamiento, with the just motive of freeing the commerce of Puebla from its burdensome dependence upon the merchants of Mexico City. In view of that fact the Junta Gubernativa and the first Congress had ratified the decrees of Iturbide and considering that for three years the decisions of the Consulado had been upheld, it seemed to him that the institution was legitimately organized. The debate over, Congress resolved that the Consulado, though not to be regarded as officially approved, should "continue for the time being in the cognizance of matters within its jurisdiction".¹⁴

On May 24 Congress ruled that "because the consular elections are a purely civil act, since they are designed to preserve the internal economic order of the State, unquestionably it devolved upon the Governor to preside over them". Merchants, traders, landowners, and other groups eligible to vote under the ordinances of the Consulado of Guadalajara were summoned to the election; and on June 1 a prior, José Domingo Couto, and two consuls of the guild and court were formally elected.¹⁵

In July a decision was reached on the question of appellate jurisdiction in mercantile cases. Cases taken on appeal from the Consulado were to go to the state supreme Court (Audiencia), but this tribunal would observe the procedure for hearing appeals which had been established by the ordinances of the Guadalajara Consulado. In the

¹⁴ *El Caduceo*, I, 57 (Apr. 15); 117-118 (Apr. 30); 126 (May 2); 133-135 (May 4, 1824).

¹⁵ *El Caduceo*, I, 234 (May 27); 252 (May 31, 1824). José Domingo Couto was a cousin of the Deputy Couto who spoke against the Consulado in the April 29 session of Congress.

debate over this law several legislators took occasion to renew the attack upon the Puebla Consulado. In the opinion of Sr. García the "privileged manner of judging commercial causes" was inconsistent with "true republican equality". As approved on July 23, 1824, the law dealing with appellate jurisdiction was declared to be provisional legislation; and once more the Consulado was denied the advantage of definitive ratification.¹⁶

In addition to keeping up with its judicial work, the Consulado interested itself in various administrative and economic affairs. On July 10, 1824, after complaining of the "excessive number of brokers", the Consulado invoked the provisions of the Guadalajara ordinances which provided for the examination and certification of brokers by officers of the guild. Public orders and regulations of interest to businessmen were published in *El Caduceo* over the signature of the Consulado's secretary. In mid-October a special session of the Puebla legislature was called to discuss the proposal of the federal Congress to build a new highway from Mexico City to Veracruz by way of Apam. The state assembly approved a memorial, drawn up by a Junta of farmers, artesans, and representatives of the Consulado, which argued the "absolute necessity" of making the new road pass through Puebla. The city's population of 70,000 favored this plan; furthermore, a line drawn from Mexico through Puebla to Veracruz was declared to be "certainly the shortest and the one which in its physical features presents the least obstacles".¹⁷

In the opinion of "A Citizen", whose letter to the editor was published in *El Caduceo* for September 14, there was some excuse for special ecclesiastical and military tribunals, but it was impossible to reconcile privileged mer-

¹⁶ *El Caduceo*, II, 87 (July 21); 105-106 (July 25); 107 (July 26); 111-113 (July 27, 1824).

¹⁷ *El Caduceo*, II, 44 (July 11); 398 (Sept. 25); 418 (Sept. 30); III, 57-58 (Oct. 13); 61-62 (Oct. 14); 149-150 (Nov. 4, 1824).

cantile courts with the "republican system". If the summary procedure of the Consulado was a real advantage to the merchant class, he could not understand why its benefits should be withheld from other classes of citizens and other types of courts. If the consular procedure were adapted to the administration of ordinary courts, then the Consulado would be a superfluous tribunal. All the arguments in support of the Consulado he considered specious. "Lawyers, though excluded from the Consulados, are [nevertheless] the ones who conduct the suits and determine their settlement: they understand the substance of contracts and are familiar with the stratagems and snares which twist their meaning and facilitate non-compliance, [while] ordinary magistrates (*jueces letrados*) understand one thing and the other as well as any prior or consul".

There appears to be no direct connection between this anonymous diatribe against the Consulado and its demise two months later. On October 22 the Puebla legislature received news of the federal law of October 16, which decreed the suspension of all Consulados in Mexico "with respect to matters involving the Federation" and the absorption of their funds by the national treasury. Since the Congress of the State of Mexico permitted the Mexican Consulado to "continue in the exercise of its functions in whatever pertains to this State", presumably the Puebla Consulado could have continued to function as a purely local guild and court. But on October 26 the Puebla Consulado reported to the State legislature that the difficulties arising from the new laws had already compelled the tribunal to suspend its judicial activities.¹⁸

¹⁸ *El Caduceo*, III, 141-142 (Nov. 2); 167 (Nov. 8); 180-181 (Nov. 12, 1824); Biblioteca del Museo Arqueológico, México, *Decretos*, E. D., tomo 1, 470, fo. 46.

In one of the last letters (Oct. 13, 1824) passed between the two tribunals the Consulado of Puebla challenged the jurisdiction of the Consulado of Mexico in a case taken from a minor court in the state of Puebla.

The Puebla Congress referred the question to a committee, which in a few days reported a bill to suppress the Consulado "for the time being". A few weak voices protested the measure, but in the end even the phrase "for the time being" was deleted from the law passed on November 3. The following is the complete text of the decree of dissolution, as published in *El Caduceo* for November 10, 1824:

El Congreso constituyente del Estado Libre y soberano de la Puebla de los Angeles, declara y decreta lo siguiente:—1o. Queda suprimido el Consulado de esta capital, debiendo cesar inmediatamente en sus respectivas funciones los jueces y subalternos del mismo tribunal.—2o. Los pleitos en asuntos mercantiles, cuya resolución tocaba al referido tribunal, se decidirán conforme a las leyes vigentes de la materia por los alcaldes o jueces ordinarios de los partidos, quienes en caso necesario consultarán con su asesor; pero acompañándose siempre con dos colegas, escogiendo uno de dos que nombrará cada litigante.—3o. La segunda y tercera instancia de dichos pleitos, como también las competencias de unos alcaldes con otros, o con cualquiera tribunal, y los recursos de nulidad de sentencias ejecutoriadas, se arreglarán enteramente a la ley de este Congreso, dictada sobre la materia.— Lo tendrá entendido el Gobernador del Estado para su inteligencia y cumplimiento, haciéndolo imprimir, publicar y circular. Dado en la sala de sesiones a 3 de noviembre de 1824.—Antonio Díaz, presidente.—Manuel de los Ríos y Castropol, diputado secretario.—Félix Necoechea, diputado secretario.—Al Gobernador del Estado.

On December 11, 1824, Congress accepted with thanks the gift of a silver desk set once used in the secretariat of the Consulado; and with this, apparently, the Consulado of Puebla passed into the limbo of discarded institutions.¹⁹

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Denying the authority of the Puebla tribunal, one of the litigants declared, "The Consulado of Puebla isn't even legitimately established". (Archivo General de la Nación, *Consulado*, tomo 20, exp. 15.)

¹⁹ *El Caduceo*, III, 141-142 (Nov. 2); 167 (Nov. 8); 172-173 (Nov. 10); 180-181 (Nov. 12); 192-194 (Nov. 15); 196 (Nov. 16); 210 (Nov. 9); 254 (Nov. 28); 430 (Dec. 24, 1824.)