

SOME PHASES OF AMERICAN-MEXICAN
DIPLOMATIC RELATIONS,
1917-1933

by

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CHAPTER I

THE HISTORICAL BACKGROUND

A historical survey of relations between the United States and Mexico since the latter's independence in 1821 reveals them on the whole to be stormy and uncertain. Mexico feared the imperialism of her powerful northern neighbor; on the other hand the United States grew successively weary of claims of its citizens against Mexico, bandit outrages along the border, and the piled up Mexican debt. (1)

At the outset the United States was very friendly towards Mexico's attempts to win her independence from Spain. This was natural, perhaps, from a country who had not very long before gained her own freedom from the mother country. Another reason lay in the fact that the United States was desirous of the establishment of the independence of the Western hemisphere, especially from Spanish influence. Within a year after Mexican independence the United States recognized the country. President Monroe continued to urge Spain, as well as the other European countries, to extend recognition. A year later he put forth his famous Monroe Doctrine, which came to be known as a statement of American foreign policy and aided Mexico in that it prevented foreign aggression for the time being.

The Mexican government showed its appreciation of American sympathy and aid by giving United States citizens valuable colonization grants and legalizing and facilitating emigration to Texas, thus sowing the seeds for many a stormy diplomatic controversy and leading to a war which despoiled Mexico of half its territory.¹

Relations between the two countries got off to a bad start due to the unfortunate delay in the appointment of a suitable diplomatic representative.² General James Wilkinson, a questionable character later to be indicted for treason against the United States government, went to Mexico City in the spring of 1822. He wrote a letter to Monroe stating that Mexicans desired annexation to the United States and offered his services to further American negotiations toward that end.³

By the time the United States government had picked Joel R. Poinsett as minister in 1825, the Mexican government was already suspicious of Yankee designs. Certain factions in the United States had been irritated over Monroe's failure to obtain Texas from Spain in the Florida treaty of 1819 and began to agitate for a treaty with Mexico. Matters were not helped when the Mexican government

¹James Morton Callahan, American Foreign Policy in Mexican Relations (New York: The MacMillan Company, 1932), p. 20.

²Ibid., p. 24.

³Ibid., p. 25.

asked for Peinsett's recall, due to his indiscretion of mixing in Mexican political affairs.

In order to understand the real root of the difficulties which have entered into Mexican-American relations it is necessary to know something of the Mexican background and how it differs from the Anglo-American.

The Europeans who settled in North America came to build homes and brought their Anglo-Saxon concepts of government with them. The Indians, relatively few in number and barbaric, were driven out or paid for their land. Mexico was originally inhabited by the Aztecs, a semi-civilized Indian people who built up a prosperous and cultured state. The first white men who came were Spanish plunderers. For three hundred years, during the Spanish colonial period, Mexico was exploited by the mother country. The Indians were made virtual slaves who toiled on the huge estates of their Spanish masters. There was a complete denial of local self government.⁴ Gradually the Spanish whites intermarried with the native to form the mixed bloods known as the metizos, who soon constituted the bulk of the Mexican population. They were looked down on by the Mexican-born Spaniards known as criollos.

In 1821 Mexico was still in the feudal state. The huge landed estates were owned by a few, while the bulk of

⁴Ernest Gruening, Mexico and Its Heritage, (New York and London: The Century Co., 1928), p. 27.

of the Mexican population was downtrodden and degraded. The revolution of that year was not a true revolution, but simply the break of the privileged group from Spain. Four-fifths of the Mexican population did not figure in it. Almost a century was to elapse before the real Revolution took place.⁵

A people of mixed blood, largely Roman Catholic, the greater percent kept in ignorance and dire poverty, naturally had difficulty in establishing a firm government. Between the years 1822 and 1867 the government came and went.⁶ This chaotic condition caused certain factions of the United States to look upon Mexican annexation as a logical solution to a difficult problem.

The Mexican war which led to the acquisition of Spanish New Mexico and California by the United States in 1848 firmly convinced the Mexicans of Yankee imperialism. The fact that the United States paid the Mexican government a fairly generous sum of money cancelled all claims against the Mexican government, and provided for arbitration rather than war in case of future disputes between the two governments did little to change their view.

⁵ Ibid., p. 39.

⁶ J. Fred Rippy, The United States and Mexico, (New York: Alfred A. Knopf, 1926), p. 33.

At the close of the American Civil War the United States upheld the Monroe Doctrine by aiding the Mexican government to expel the French who had succeeded in gaining a foothold there. Mexicans were grateful for this help, but it did not bring about harmony between the two countries. In fact the French intervention gave rise to a hostility against all foreigners, including Americans.⁷

Before the French intervention Mexico experimented with democracy for the first time under the able leadership of a full-blooded Indian from Oaxaca, Benito Juarez. This able and remarkable man was able to lead the country through a war of reform against the Church and privileged classes, and later through the troublesome times of foreign intervention. Through his efforts the liberal Constitution of 1857 was promulgated. One article of this Constitution was especially noteworthy as it was to play an important part in future Mexican history. The first statement of this article alone is all that it is necessary to repeat: "This Constitution shall not lose force even if its observance be interrupted by rebellion."⁸

Before Juarez was able to complete his work of unifying Mexico he was called by death in 1870. Most of his

⁷Ibid., p. 280.

⁸Herbert Ingram Priestly, The Mexican Nation, a History (New York: The MacMillan Co., 1935), p. 327.

reforms disappeared and for a time the country returned to its chaotic state. Out of the galaxy of military chieftans emerged Porfirio Diaz, a man destined to play an important part in Mexican history as Juarez, although in a different way. For thirty-four years he ruled Mexico with an iron hand and suppressed all opposition. He accomplished what none of his countrymen had been able to do before him; he maintained a generation of peace.⁹

During the Diaz era Mexico improved in many ways. The stability of the government earned the respect of foreign nations, including the United States. During this period foreign capital poured in and built railroads, purchased land, mines, oil wells. Diaz liberally granted concessions to the foreigners, made the laws favorable for them, gave them protection. The inpouring of foreign capital increased the national income from \$19,776,638 to over \$100,000,000.¹⁰

Military methods kept the people in order; foreign capital made a modern nation in many ways. But the Diaz regime was built on poor foundations. Agricultural methods were not improved; Mexico continued to import foodstuffs. Nor was industry developed. Above all Diaz failed to

⁹Gruching, op.cit., p. 68.

¹⁰Ibid., p. 62.

develop the people. Ninety percent of them were kept in the depths of degradation. There was no movement either for education or economic reform.¹¹

Foreign capital poured enormous sums into the treasury and made the more privileged Mexicans wealthy, but Díaz was sowing the seeds for future strife. While the government maintained a friendly policy toward the ^{American capitalist} foreigners, the glaring inequalities of wealth aroused the masses, who blamed the foreigners for their hard lot. Mexicans on the whole had no better attitude toward Americans than they had ever had; they feared that ultimately they would have to pay the price of Yankee domination.¹² The fact that American companies paid their Mexican laborers fairly and Protestant missionaries established educational institutions was not enough to offset the fear of foreign domination. Mexico became known as the mother of the foreigner and the stepmother of the Mexican.

The year 1910 saw the aged Díaz elected for the seventh time. General dissatisfaction prevailed everywhere. All of the Díaz government advisors were old men like himself; there was no strong-willed and efficient man to take control. Díaz had despoiled Mexicans and

¹¹ Ibid., p. 63.

¹² Rippey, *op. cit.*, p. 320.

Indians of their lands, much of it communal since Aztec times, for his favorites and the foreigners. The impending revolution led by Francisco Madero was therefore more social and economic than political.¹³ Madero, a wealthy and educated land owner, gathered the masses behind him with a promise that their lands would be restored to them. Many of the better classes flocked to his standard as dissatisfaction with the tottering Diaz regime was rife.

The Maderists were able to force Diaz to resign and Madero took charge of the government. He was too much of an idealist to make a practical and able leader and he made the mistake of trusting everyone and trying to conciliate all groups. The masses had been too long oppressed to unite solidly behind him and he was not able to get the land reforms through soon enough to please them. The result was a disunity that foretold the downfall of Madero.

The reins of leadership then fell to the drunken leader of the reactionary forces, Victoriano Huerta, who overthrew Madero by the basest treachery. He was aided and abetted by the American ambassador to Mexico, Henry

¹³Charles W. Hackett, The Mexican Revolution and the United States, 1910-1926, (Boston: World Peace Foundation, 1926) World Peace Foundation Pamphlets, v.9, No. 5. p. 339.

Lane Wilson, who feared the effect of the revolution on American interests. After Huerta took over the government the ambassador did everything he could to get it recognized. An event occurred which disrupted not only the ambassador's plans, but was to alter the course of Mexican history, namely the end of the Taft administration and the inauguration of Woodrow Wilson as president of the United States on March 4, 1913.

The business men who had interests in Mexico and for whom Henry Lane Wilson was an able representative had favored Huerta because they believed he would suppress all opposition and establish himself as a dictator in Diaz fashion, thus making it safe for foreign investments. That Huerta had obtained his power by treachery and the employment of terroristic methods, that he did not represent the bulk of the Mexican population, made little difference to the gentlemen whose interests were at stake. They wanted a stable government that would protect them.

Woodrow Wilson was a man of a different caliber and soon showed himself as such. An idealist, a firm believer in the right of all people to establish a democratic government, he opposed the pressure of the imperialists in his Mexican policy. He recalled Henry Lane Wilson and refused to recognize the Huerta government, as it had been based upon fraud and did not represent the wishes of the Mexican people.

That the President was intent upon ousting Huerta was made evident when he ordered American marines to seize Vera Cruz. This affair resulted from the arrest of the crew of an American whaleboat by Mexican officials on the grounds that they had landed in a forbidden military zone. The men were released and the commanding general of Tampico apologized. But the United States government chose to make an issue of the matter, and upon Huerta's refusal to salute the American flag, dispatched marines to Vera Cruz. The affair sealed Huerta's doom, but was opposed by all Mexican groups, however hostile to each other.¹⁴

Huerta resigned and sailed for Spain and Mexico was again in shambles. President Wilson definitely favored the Constitutionalists who were under the leadership of Venustiano Carranza. Originally one of Díaz' senators and later governor of Coahuila, Carranza became a cabinet member under Madero. Rallying his forces together after the overthrow of Madero he opposed Huerta. His group called themselves Constitutionalists because their annunciations were based on the clause from the Constitution of 1857 which declared rebel governments illegal.

Carranza called the period "pre-Constitutionalist" and styled himself as "First Chief of the Constitutionalist Army encharged with the Executive Power." From

¹⁴Gruening, op.cit., pp. 580-581.

the beginning he was impatient of American interference, and had sent a note to the American State Department protesting the Vera Cruz affair. He spoke of it as "invasion of our territory" notwithstanding the fact that this incident had been instrumental in bringing about Huerta's downfall or the fact that the President had lifted the arms embargo against the Carrancistas. He again protested when the United States, together with the A B C powers and Guatemala and Uruguay, appealed for a conference to bring about peace in Mexico. The chief factions aligned against Carranza were the group in the South lead by Emiliano Zapata, whose chief concern was getting land for the masses, and the group in the north headed by the wily bandit chieftain, Francisco Villa of Chihuahua.

Despite the fact that Carranza had manifested an unfriendly attitude toward the United States Wilson had picked him as the most likely leader to succeed in Mexico, and consequently on October 19, 1915, the First Chief was recognized as the de facto president of the Mexican republic. The Carranzists had won no clear-cut military victory; the recognition was considered an emergency measure in an attempt to bring about peace. 15

¹⁵ Priestley, op.cit., p. 432.

This measure angered Villa, who at one time had been considered by Wilson as a possible leader of Mexico. In retaliation he and his soldiers shot eighteen American engineers at St. Ysabel. American wrath was still more incensed when two months later in March of 1916 the Villistas raided the town of Columbus, New Mexico, and killed seventeen American citizens. Border troops under the leadership of General Pershing were dispatched into Mexico after the bandit. Carranza protested the procedure as a violation of Mexican sovereignty, although the United States insisted that the sending of the punitive expedition was not intervention, but only an effort to aid the Mexican government in the capture of a bandit who was a menace to Americans and Mexicans alike.

Carranza continued to protest and the Mexican government refused to give the American soldiers any aid whatsoever in their endeavor to capture Villa. The last of the expedition was finally withdrawn on the 5th of February, 1917. Nothing whatsoever had been accomplished. Villa retired to the mountains of Chihuahua and his pursuit had made him a Mexican hero. Mexicans were aroused by a feeling of outraged sovereignty and a permanent fear of armed intervention. Carranza became all the more anti-American in sentiment and justified himself as

the protagonist of the Hispanic American nations against the aggressive attitude of the "Colossus of the North."¹⁶

After the withdrawal of the Pershing forces Carranza turned his attention to making the Mexican government stable internally. The Constitutionalist were fairly secure, the rival factions having been routed and the government recognized de facto. Carranza was supposed to be supporting the Mexican Constitution of 1857, and therefore had no right to become a presidential candidate without first resigning from the army and the exercise of the executive power. Nevertheless, he put himself forward as a presidential candidate on the grounds, no doubt, that an emergency still existed, and was duly elected president of the Mexican republic on March 11, 1917. Shortly before, Henry P. Fletcher, the American ambassador had arrived in Mexico City. Formal relations between the two governments were established. Ignacio Bonillas, the Mexican ambassador, arrived in Washington in April.

Prior to Carranza's election a Constituent Congress had met at Queretore for the purpose of drawing up a new Constitution. This Congress promulgated the Constitution of 1917 on the 5th of February; it went into effect May 1.

¹⁶Ibid., p. 43.

The year 1917 can be called the close of one phase of American-Mexican relations and the beginning of another. The punitive expedition had been withdrawn. The policy of "watchful waiting" that President Wilson had assumed seemed to be over. The United States government was concentrating all its attentions on European affairs. For the time being Mexican affairs were fairly calm. Mexico had established an orderly government after six years of internal strife. A new Constitution had been drawn up. Herein lay the key to future American Mexican relations. A constitution is usually considered to affect a country's internal affairs; it usually does not enter into foreign relations. One clause of the Constitution of 1917 was to prove the exception. It was to start repercussions in Mexican-American affairs that have lasted down to the present. The discussion of this is reserved for another chapter.

CHAPTER II

THE CONSTITUTION OF 1917

The Mexican Revolution of 1910 was essentially a struggle of the masses against the glaring inequalities of economic distribution that had been a characteristic of the country since Spanish acquisition four hundred years before. The Díaz era had heightened these inequalities. In 1876 Mexico was largely in the hands of wealthy land owners called hacendados. Between 1876 and 1910 Díaz disposed of a national domain totaling 134,547,885 acres, more than a quarter of the entire area of Mexico, to create more haciendas. The village communal lands known as ejidos were expropriated in 1890. By 1910 Mexico was largely owned by 834 hacendados, while from three-fifths to two-thirds of the population, numbering approximately 10,000,000, were in a revolting state of misery and serfdom.¹

The Díaz administration saw the foreigner, hitherto regarded with distrust and suspicion, become a privileged character. In 1912 foreigners owned over two-thirds of the total wealth of Mexico and approximately sixty-two percent of this was American con-

¹Hackett, op.cit., pp. 340-341.

trolled.² The largest single development was petroleum production owned almost exclusively by Americans. Discovery of important oil fields and subsequent exploitation had come relatively late. In 1900 E.L. Doheny and his associates purchased a tract of land in Tampico and were able to get concessions from Diaz. After 1905 several large American oil companies acquired land in Mexico and began competing with the Doheny interests.³ The Mexican oil industry was soon controlled primarily by five great companies--the Doheny, the Standard Oil and Waters, the Pierce Allies, the Royal Dutch, and the Pearson interests.⁴ According to the Fall Committee, Americans owned fifty-eight percent of the oil wells in Mexico.⁵ Over ninety percent of the entire oil industry was foreign controlled.⁶

²Moises Saenz, Herbert Priestley, Some Mexican Problems (Chicago: University of Chicago Press, 1926), p. 8.

³Callahan, op.cit., pp. 518-519.

⁴Rippy, op.cit., p. 318.

⁵Investigation of Mexican Affairs, Preliminary Report and Hearings, (Senate Doc. N. 285, 66th Cong., 2nd Session, Vol. I) p. 3322. (Hereafter cited as Fall Committee Report).

⁶Mexican Year Book, 1920-1921

The petroleum industry reached enormous proportions, as the Mexican supply of oil seemed unlimited. In 1920 Mexican production exceeded the combined production of all the oil fields in the world outside the United States.⁷ In that year Mexico produced approximately twenty three percent of the world's petroleum.⁸

President Díaz had liberally granted concessions to foreigners, because he realized that this was one way to bring in capital and develop the country. It is improbable that he realized the hold the foreigners were getting in Mexican affairs due to their economic importance, although there is evidence that he attempted to curb American preponderance by encouraging European capital and negotiating for foreign loans.⁹

The majority of the people were opposed to foreign penetration during the Díaz era. Rippy expresses their sentiment in his chapter on "The Challenge of American Preponderance".:

....But few Mexicans at this time appreciated the contribution which Yankee finance, enterprise, and

⁷Scott Nearing, Joseph Freeman, Dollar Diplomacy (New York: W. Huebsch and the Viking Press, 1925) pp. 55-57.

⁸Mexican Year Book, 1920-1921, p. 309.

⁹Rippy, op.cit., p. 328.

ingenuity had made to Mexican progress. Most of them were thinking not so much of what the Yankees had done for Mexico as of the price which Mexico had paid for that service--of the unequal distribution of wealth, and of the prospect and possibility of Saxon domination.

In fact there had never been a time when Mexico had received foreigners with more than half a heart or looked upon them without suspicion, and the Americans were the least likely to be an exception to the rule. Nationals from the United States had come to Mexico either of their own accord or at the urgent invitation of the Mexican chief executives. They had entered the country rather against the wishes of the Mexican people than at their solicitation. Successive Mexican presidents had been willing to make grants to American rail-way builders and American masters of finance and industry for years before the popular branch of the Mexican Congress showed a disposition to ratify.¹⁰

It was natural, therefore, that an attempt to break the hold of foreign domination was part of the revolutionary program, and that "Mexico for the Mexicans" became one of the slogans of the revolution.

Some attempt had been made to curb the control the foreigners had in the country. Before the revolution a bill had been introduced into the federal Congress providing that petroleum deposits, wherever found, should be made subject to denouncement; that the government should grant no further concessions for their development; and that all oil lands should be placed under a special tax.

¹⁰Ibid., p. 320.

While this bill did not become a law, it revealed a step toward breaking the foreign control.¹¹ Francisco Madero included a plank in his Plan de San Luis Potosi of 1910 which spelled the hope of the downtrodden masses and was instrumental in causing them to revolt. This plank referred to dispossession of lands, and stated that the present owners must restore them to their original owners, as they had been illegally seized.¹²

Carranza went further when he issued his provisional agrarian decree in January, 1915, which is known as the first constructive act of the revolution.¹³ A brief summary of the decree is stated as follows: Illegal government expropriation of lands belonging to villages and communities during the Diaz administration was nullified and such lands were to be restored to the villages and communities. It went further in providing that lands could be expropriated by the government to endow villages and communities with ejidos if they were in need of them.¹⁴

¹¹Mexican Year Book, 1920-1921., p. 301.

¹²Hackett, op.cit., p. 342.

¹³Ibid., p. 344.

¹⁴Ibid.

The Constitutionlists had based the legitimacy of their claims to rule on the clause in Article 128 in the Constitution of 1857. Nevertheless, Carranza felt it expedient to have a new constitution drawn. The delegates who met at Queretaro in 1917 were all in favor of the Constitutionalist cause; no dissenters were present.¹⁵

Article 127 of the Constitution of 1857 stated: "No amendment shall become part of the Constitution, if not agreed upon by the Congress of the Union, by a vote of two-thirds of the members present, and approved by a majority of legislatures of the States." No such sanction was secured for the ratification of the new Constitution. As one author put it, "the first thing to notice about the new Mexican constitution is that it is unconstitutional."¹⁶

The Constitution of 1917 was an attempt to clarify and put down in definite form the chief aims of the Revolution of 1910.¹⁷ Carranza felt that a new Consti-

¹⁵Edward D. Trowbridge, Mexico, Today and Tomorrow, (New York: The MacMillan Company, 1919), p. 203.

¹⁶Outlook, March 14, 1917.

¹⁷Hackett, op.cit., p. 347.

tution was needed to establish him in power and place the Mexican government on a sound basis.¹⁸ Although the Mexican government had been recognized de facto it was still an emergency affair. Carranza was but a military dictator who, according to the Constitution of 1857 could not be elected to the presidency while still in command of the army and entrusted with the executive power. José Vasconcelos, former Secretary of Education of Mexico, states that this is the chief reason why Carranza did away with the former Constitution and adopted a new one. The radical group consented to support Carranza if certain agrarian and labor reforms were included.

The Constitution of 1917 is probably the longest Constitution in existence; it contains 152 articles and over 30,000 words.¹⁹ The famous Article 27 has provoked more discussion than all the rest of the articles combined. As Hackett says: "Into Article 27 the Mexicans have crowded together in an illogical arrangement the constitutional provisions embodying their ideas as to what are the chief aims of the Revolution of 1910. Since 1917 the enforcement....of Article 27 has aroused the

¹⁸Trowbridge, op.cit., p. 202.

¹⁹Outlook, March 14, 1917.

ire of at least some of the people of the United States and has constituted the basis for strained relations between the governments of the two countries."²⁰

The very first sentence of the article signifies its revolutionary aspects: "The ownership of lands and waters....is vested originally in the nation, which.... has the right to transmit title thereto to private persons, thereby creating private property." The other important passages are as follows:

Expropriation can only be made for reasons of public utility and with indemnification.

The nation shall have at all times the right to impose upon private property such restrictions as the public interest may require, as well as the right to regulate the development of natural resources....in order to conserve and equitably distribute the public wealth.

In the nation is vested direct ownership of all minerals or substances (in the subsoil) solid mineral fuels, petroleum, and all hydrocarbons--solid, liquid or gaseous.

The ownership of the nation is inalienable....Concession shall be granted to private parties or....corporations organized under the laws of Mexico, only on condition that said resources be regularly developed, and on the further condition that the legal provisions be observed.

Legal capacity to acquire ownership shall be governed by the following provisions:

Only Mexicans by birth or naturalization and Mexican companies have the right to acquire ownership in lands, waters, and their appurten-

²⁰Hackett, op.cit., pp. 346-347.

ances, or to obtain concessions to develop mines, waters, or mineral fuels in the Republic of Mexico. The Nation may grant the same rights to foreigners, provided they agree before the Department of Foreign Relations to be considered Mexicans in respect to such property, and accordingly agree not to invoke the protection of their governments in respect to the same, under penalty, in case of breach, of forfeiture to the Nation of property so acquired. Within a zone of 100 kilometers from the frontiers, and of 50 kilometers from the sea coast, no foreigners shall under any conditions acquire direct ownership of lands and water.

IV. Commercial stock companies shall not acquire, hold or administer rural properties. Companies of this nature which may be organized to develop any manufacturing, mining, petroleum or other industry, excepting only agricultural industries, may acquire, hold or administer lands only in an area absolutely necessary for their establishments or adequate to serve the purposes indicated, which the Executive of the Union or of the respective States in each case shall determine.

VI. Properties held in common by co-owners, hamlets situated on private property, pueblos, tribal congregations and other settlements which, as a matter of fact or law, conserve their communal character, shall have legal capacity to enjoy in common the waters, woods and lands belonging to them, or which may have been or shall be restored to them according to the law of January 6, 1915, until such time as the manner of making the division of the lands shall be determined by law.

VII.The States, the Federal District and the Territories, as well as the municipalities throughout the Republic shall enjoy full legal capacity to acquire and hold all real estate necessary for public service.

....The amount fixed as compensation for the expropriated property shall be based on the sum at which the said property shall be valued for fiscal purposes...to which there shall be added 10%.

....All proceedings, findings, decisions

and all operations of demarcation, concession, composition, judgment, compromise, alienation, or auction which may have deprived properties held in common by co-owners, hamlets situated on private property, settlements, congregations, tribes and other settlement organizations still existing since the law of June 25, 1856, of the whole or a part of their lands, all woods and waters, are declared null and void. Consequently all lands, forests and waters of which the above mentioned settlements may have been deprived shall be restored to them according to the decree of January 6, 1915, which shall remain in force as a Constitutional law....The exercise of rights pertaining to the Nation by virtue of this Article shall follow judicial process; but as a part of this process and by order of the proper tribunals,... the Administrative authorities shall proceed without delay to the occupation, administration, auction or sale of the lands and waters in question, together with all their appurtenances, and in no case may the acts of the said authorities be set aside until final sentence is handed down.

During the next Constitutional term, the Congress and the State legislatures shall enact laws....for the purpose of carrying out the division of large landed estates....²¹

Article 27 was socialistic in character; the Mexican government was attempting to bring about much needed reforms in economic distribution and to break the hold of foreign domination over the wealth of the country. The reason for incorporating these reforms in the Constitution was quite clear: the constitution is the highest law of the land and a stationary thing. That diplomatic controversy would arise over the Mexican government's attempt to enforce the provisions of Article 27 was evi-

²¹ Foreign Relations of the United States, 1917, pp. 955-957.

dent; foreign control, especially American, was very powerful.

Before beginning the discussion of the diplomatic controversies involved over Article 27 it is necessary to examine on just what precedent this revolutionary clause was based. The core of the whole dispute may be found in the different concept of property rights between the two nations.

The countries settled by Spaniards in the New World were not colonies of Spain but rather patrimonies of the kings and queens of Aragon and Castile given to their vassals in the nature of concessions to be revoked at the sovereign's will.²² Minerals were the property of the crown.²³ During the colonial era little attention was paid to coal, petroleum and other hydrocarbons. The first mention of them is found in a Spanish ordinance of 1780 which reserved to the crown half minerals, bitumen or mineral tar, translated as "juices of the earth". This ordinance was modified by a law of 1789 which declared coal to be the property of the owner of the land.²⁴

²²Gruening, *op.cit.*, p. 102.

²³Frederick S. Dunn, *The Diplomatic Protection of Americans in Mexico* (New York: Columbia University Press, 1933) p. 332.

²⁴*Ibid.*, p. 333.

After Mexican independence the Spanish system of mining laws remained in force. Mineral ownership reverted from the crown to the Mexican government.²⁵ No change was made until 1884, when a new mining law was passed which stated that petroleum was the exclusive property of the owner of the land.²⁶ Another law was passed in 1892 which gave the owner of the land the right to work oils and mineral fuels without a special concession, and stated that all mining concessions legally acquired were irrevocable and perpetual as long as the federal tax was paid.²⁷ Further laws protecting the owners of mining claims were passed in 1901 and 1909. The first authorized the executive to grant permits for exploration and franchises for development of the subsoil of public lands.²⁸ The law of 1909 stated again that deposits of mineral fuels and coal were the property of the owner of the surface soil.²⁹

²⁶Proceedings of the United States-Mexican Commission, (Washington, D.C., Gov. Prtg. Office, 1925), p. 13. The law is given in full here.

²⁷Ibid.

²⁸Foreign Relations of the United States, 1918, p. 692.

²⁹Proceedings, op.cit., p. 13.

These laws had been passed during the Díaz administration to encourage foreign enterprise. At the time the first one was passed in 1884 no one realized how important petroleum would become, with the advent of automobiles and modern machinery. Nor was it foreseen that Mexico would become the most important oil producing country in the world next to the United States and Russia by 1920.³⁰ Mexico supplied the Allies with a large portion of their oil during the World War.³¹

The need of the Mexican oil reserve for the duration of the war and the fact that Americans controlled the major share of petroleum in Mexico made the plan for nationalization of subsoil deposits a subject for diplomatic controversy between the United States and Mexico.

A year before the promulgation of the Constitution of 1917 Secretary of State Lansing had sent a telegram to special agent Silliman at Queretaro, in which he stated that information had reached the Department of State that the Mexican authorities were contemplating the issuing of a decree providing for the national-

³⁰Samuel B. Pettengill, Hot Oil: The Problem of Petroleum, (New York: Economic Forum Co., 1936), p. 15.

³¹John Ise, The United States Oil Policy, (New Haven: Yale University Press, 1926), p. 478.

ization of petroleum. Lansing stated that such a decree would vitally affect American and foreign interests. He ordered Silliman to take the matter up with Carranza and to point out the dangers that would arise from such a situation.³² Silliman had discussed the situation with Carranza who had stated: "The Government is not contemplating the issuance of a decree nationalizing the petroleum industry."³³

In January, 1917, while the Mexican Constituent Congress was in progress at Queretaro, Lansing asked Mr. Parker, who represented American oil interests in Mexico, to keep the Department of State informed of any adoptions in the Mexican Constitution which would affect American interests.³⁴ In a letter to Parker on the 22nd of January he stated:

The Department's attention has been called to certain proposed provisions relating to the rights of foreigners in Mexico which provisions it appears, the convention in session at Queretaro has decided to incorporate into the Mexican constitution.

The first paragraph of Article 27, relating to the expropriation of private property appears to confer on the executive the power to determine without any legislative authority and

³²Foreign Relations of the United States, 1916, p. 752.

³³Ibid., p. 755.

³⁴Foreign Relations of the United States, 1917, p. 946.

without any judicial recourse being afforded the property owners to protect their rights, the necessity or utility of property the condemnation of which to him may seem advisable, it would seem desirable that at least the question as to whether property is taken for a public purpose should always be subject to judicial review.

....The seventh paragraph of the same article provides that civil and commercial companies may not own and operate for themselves properties of an area greater than that absolutely necessary for the accomplishment of the purposes of their creation, and that the executive in every case determines the appropriate area. The objection to a provision so capable of capricious application appears evident. While it is hardly to be supposed that it is intended to give this provision retroactive effect, should this be done such action would apparently result in confiscation of property rights vested under existing laws and treaty stipulations, since no provision is made for compensation for property taken and since property would evidently not under such conditions be taken in the proper exercise of the right of expropriation.

....You will immediately bring the foregoing to the attention of General Carranza and say that the above-mentioned provisions seem to indicate a proposed policy toward foreigners which is fraught with possible grave consequences affecting the commercial and political relations of Mexico with other nations. You will point out that the government of the United States cannot, of course, acquiesce in any direct or indirect confiscation of foreign-owned properties in Mexico. You will further say that the government of the United States, with a view of avoiding the possibility of the disturbance of hitherto pleasant relations existing between the two governments, and with a view to avoiding future serious difficulties with any government organized under the proposed Constitution, earnestly desires General Carranza to give these matters his careful personal consideration.³⁵

³⁵ ibid., pp. 947-949.

The United States government was concerned as to whether the main provisions of Article 27 were to be retroactive. Article 14 of the Mexican Constitution states: "No law shall be given retroactive effect to the prejudice of any person whatsoever."³⁶ Nevertheless, the State Department was concerned over the protection of the property of American nationals in Mexico. The Mexican government, through the Minister of Foreign Affairs, stated that there would be no confiscation of property and the laws would not be made retroactive.³⁷

There was concern over paragraph one of the Constitution, which states that only Mexicans have the right to acquire property and foreigners who acquire property must consider themselves Mexicans. They must agree not to invoke the protection of their governments. The Mexican department of Foreign Affairs stated to Ambassador Fletcher that foreigners were required only to renounce their nationality as far as the property was concerned and not in an absolute manner.³⁸

³⁶Ibid., p. 952.

³⁷Ibid., p. 1044.

³⁸Ibid., p. 983.

Americans were more concerned with protection of petroleum interests, as the oil industry was by far the largest industry and almost exclusively controlled by foreigners. However, the State Department at Washington was also concerned with other American mining interests. Lansing wrote to Fletcher in February asking him to make representations to the Mexican government in regard to American mine-owners in Mexico. He pointedly insisted that the drastic decree of September 14, 1916, be withdrawn and asked Fletcher to impress upon Carranza the advisability of complying with the American government's suggestions in these and previous representations.³⁹ The decree referred to had been issued by Carranza and stated that mine-owners must work their mines under penalty of forfeiture if work was suspended for more than two months in succession or three months interruptedly during the year. Owners who had just cause for suspending operations could obtain permission from the Department of Fomento and thus avoid confiscation of their properties.⁴⁰ An extension of time was granted the mine-owners who had definite reasons for not complying with the

³⁹Ibid., p. 1045.

⁴⁰Foreign Relations of the United States, 1916, p. 732

first decree were given a last extension of time by a decree passed on the 17th of February, 1917.⁴¹

Fletcher replied to Lansing's concerned notes that he had the assurance of Carranza that American mine-owners could apply for an extension of time and that "it was not the intention of the de facto government to compromise these properties and that his government would proceed with the rules of justice and equity."⁴²

The Ministry of Foreign Affairs and Carranza had assured the American government through the American ambassador that Americans had nothing to fear. Article 14 of the Constitution stated that no law would be made retroactive. Inevitably Fletcher's queries were met with the same response--there was to be no confiscation of property and the Mexican government would proceed with rules of justice and equity. It is interesting to note in this connection that Carranza had made such assurances to the United States government in 1915 subsequent to de facto recognition of Mexico. He had stated that lives and property of foreigners in Mexico would be "respected in accordance with the practices established by civilized

⁴¹Foreign Relations of the United States, 1917, p. 1044.

⁴²Ibid., p. 1047.

nations and the treaties in force between Mexico and other countries."⁴³

By a decree of April 13, 1917, which was to go into effect May 1, crude petroleum of domestic production, as well as fuel not intended for domestic use, was subjected to a special stamp tax of 10% ad valorem per net ton. This tax did not apply to petroleum used within the country, and all tax money was to be paid in gold.. The decree stated that "all laws, regulations and dispositions which contravene the present decree are declared null and void."⁴⁴ It was aimed, of course, at foreigners and amounted to an export tax.

The decree was received with apprehension by the United States government. It was feared that the Mexican government might tax the American petroleum companies in a way that would amount to virtual confiscation. To Lansing's telegrams upon the subject Fletcher replied that the Mexican government was in great need of money and that petroleum and mining taxation upon foreigners was popular, due in part to Mexico's inability to negotiate foreign loans.⁴⁵

⁴³Foreign Relations of the United States, 1915, p.764. Dunn, op.cit., p. 337-338.

⁴⁴Foreign Relations of the United States, 1917, pp. 1065-1066.

⁴⁵Ibid., p. 1068.

The Mexican government was forced to back down before such a great power as the United States in regard to confiscation of foreign controlled properties by making Constitutional provisions for nationalization of subsoil and land retroactive in effect. However, the Mexicans were determined in the future to regulate foreign control and keep the natural wealth of the country for their own citizens. Difficulty would ensue in attempting to drive out the foreigners who already owned property there, but future foreign ownership would be regulated. The United States government made inquiries concerning the fact that the Mexican government declined to grant permission to companies to sink wells acquired under leases entered into from February 5, 1917, to May 1, 1917. It was understood that while the Constitution had been promulgated on the former date it was not to be effective until May 1, 1915. A.J. Pani, the Minister of Industry and Commerce, explained in a letter to Ambassador Fletcher that the government was right in this procedure. According to Article 27 of the Constitution the subsoil belonged to the nation. "Leases, or contracts of whatever nature relating to the exploitation of these mineral products, entered into on dates prior to the promulgation of the Constitution are presumed to have

been made in good faith; but not those which were made subsequent to that date, because the subsoil from which the products are to be secured, and which is the basis of such contracts, does not belong, according to said law, to the owners of the surface lands, by virtue of the nationalization imposed by the text referred to."⁴⁶

An attempt was made not to give foreigners any greater privilege than nationals, as had been the policy of the Mexican government in the past. As Pastor Rouaix, Minister of Fomento, said, "If our fundamental laws concede to foreigners the same rights as to nationals, in no way should it be possible for foreigners by exercise of such rights to obtain greater advantages than nationals...."⁴⁷ A decree of August 15, 1917, stated that foreigners seeking to acquire lands, mining properties, or permits for the exploitation of petroleum must make "formal, express and definite declaration that in their capacities as owners or concessionaries and in so far as concerns the properties which they are endeavoring to acquire, they will be considered as Mexicans, renouncing their rights as foreigners and the right to complain or seek the protection of their respective governments."⁴⁸

⁴⁶ Ibid., p. 1071.

⁴⁷ Ibid., p. 1060.

⁴⁸ Ibid., p. 1061.

A study of the diplomatic correspondence between the United States and Mexico shortly before and after the promulgation of the Constitution of 1917 reveals that Mexico was halted in its attempt to enforce the provisions of Article 27 by the stern attitude of the United States. Mexico feared to arouse the strong northern neighbor. When the State Department protested against laws being given retroactive effect or against confiscation of property the Mexican government was conciliatory in its attitude. One finds a repetition of assurances both from Carranza and the Ministry. At the same time Mexico was doing everything that could be done with impunity to curb foreign domination. The government was attempting to reserve "Mexico for the Mexicans" in the future. This is revealed by Pani's statement that the Constitution went into effect immediately upon its promulgation in reference to nationalization of land and subsoil.

The Mexican government realized the fact that a large percent of the country's wealth under foreign control had compromised her sovereignty. This was responsible for the clause in Article 27 that foreigners might acquire lands and water and obtain concessions to develop

mines and mineral fields provided they agreed not to invoke the protection of their governments, but were considered on the same basis with Mexican citizens.

It is not practical to attempt to take up all the legal issues involved in the disputes that arose between the United States and Mexico over Article 27, the interpretation of which, states Roscoe B. Gaither was probably the most important of foreign affairs of Mexico and the most important of all foreign affairs for the United States in America.⁴⁹ Mention has been made of the various laws which formed a basis for the Mexican's contention that land and mineral ownership was invested in the nation. This differs from the Anglo-Saxon conception of ownership which always implies that the properties of the subsoil belonged to the owner of the land. Gaither states that the Mexicans based the fundamental principle of Article 27 upon Spanish mining laws which were not, as a matter of fact, the laws of Spain, but rather the laws of her colonies. Spain as a nation had the same laws regarding property and minerals as did the other European countries; they were based on Roman law.⁵⁰

⁴⁹Roscoe B. Gaither, "The Interpretation of the Confiscatory Phases of the Mexican Constitution of 1917", *American Law Review*, January, 1922.

⁵⁰R. B. Gaither, "The Constitution of 1917, Confiscatory Phases," *American Law Review*, September, 1921.

The vesting of the ownership of lands and minerals in the nation differs from the Anglo-American concept of ownership which is vested in the States rather than the nation. Federal ownership of public lands in the United States came about either by grants from the thirteen original states or in succession to the United States by rights of the sovereign in territory acquired since the Revolution.⁵¹

Foreigners and nationals in Mexico were protected against confiscation of property by Article 14 which forbids retroactive legislation and by Article 27 which prohibits expropriation, except for public utility and upon indemnification. Article 27 of the Mexican Constitution of 1857 contained this last provision, with one added requirement: payment must precede the taking of property.⁵² The latter process is common in the United States; the government has the right of eminent domain, but landowners must be reimbursed before the land is taken.

The Mexican Constitution contains no provision similar to the fifth and fourteenth amendments in the Constitution of the United States, which provide that property cannot be taken except by due process of law.

⁵¹J. P. Chamberlain, "Property Rights under the New Mexican Constitution", Political Science Quarterly, September, 1917.

⁵²Ibid.

According to the Mexican Constitution persons whose properties are seized have recourse to the courts. Constitutional protection of property interests against legislation by the requirement that they shall not be taken except for public utility and on payment of indemnity is weakened by the broad police power vested in Congress and by paragraph 8 of Article 27 which fixes the compensation paid at the value of the property given in the value of the official tax lists plus ten percent. It is not made clear in the Constitution as to whether this last named section refers to the last or first assessment made on properties. There was no opportunity to make a very careful assessment during the revolutionary era.⁵³

In all probability controversy would have arisen between Mexico and foreign governments over the provisions of Article 27, even though the Mexican government had been able to compensate fully for properties taken. Foreign interests had too much at stake to stand by and see their properties confiscated even with fair indemnity. However, one finds the root of the difficulty in the fact that the Mexican government was in a poor economic condition. It could not meet its domestic and foreign

⁵³ Ibid.

debt, let alone pay for expropriation. Anglo-American practice has always conceded the right of eminent domain; the government may take property for public uses at a fair valuation. This was something the Mexican government had overlooked.⁵⁴

Americans based their claims to property on the mining laws passed during the Diaz era, which had been in direct contradiction to the Spanish mining laws. Pastor Rouaix, who was chiefly responsible for the adoption of Article 27, stated that the Constitution restored absolute ownership of petroleum and other minerals to the Mexican nation and repealed all former laws to the contrary. According to him, Article 27 could not be objected to as retroactive as it merely restored the fundamental property rights of the nation, which had been illegally seized by one of its governments who attempted to cede it to the individual. His words are: "The Constitution being the supreme and fundamental law, its simple publication annuls all laws opposed to it...."⁵⁵

The matter was not so simple as that. American property-owners had purchased land and obtained con-

⁵⁴American Law Review, op.cit., January, 1922.

⁵⁵Foreign Relations of the United States, 1918, p. 710.

cessions in good faith. Obviously the United States government would see that its nationals were protected in lieu of any seizure of property in Mexico.

Certainly the Mexicans had a great deal on their side in this issue. The chief objects of the revolution were the creation of a class of landowning farmers and the correction of a system under which land and natural resources had fallen into the hands of a few favored individuals, in many cases absented foreigners.⁵⁶

A great many complex factors entered into the whole problem, which became the subject for diplomatic controversy for years to come. Immediately after the promulgation of the Mexican Constitution the United States entered the World War and the issue was not brought up as soon as it otherwise would have been. Certain factors growing out of the war, plus the excited state of mind brought on by the war and the attitude Mexico was showing toward foreigners as expressed by the Constitution--all these things were to have a very definite bearing on Mexican-American relations after the World War. It is well, however, at this time to take up a discussion of Mexican-American relations as affected directly by the World War.

⁵⁶Political Science Quarterly, September, 1917, op.cit.

CHAPTER III

RELATIONS DURING THE WORLD WAR

The withdrawal of the Pershing forces from Mexico on February 5, 1917, marked the close of one episode of extremely strained relations between the United States and the de facto government of Mexico.

President Wilson was forced to turn away from Mexican affairs to the major issue of the European war. Even the extreme interventionists realized that in view of the fact that the war would probably involve the United States it was necessary to have comparative peace with Mexico for the time being and moreover to keep a friendly attitude on the part of the southern neighbor.

It came as a surprise, however, when the country which, such a short time before, had aroused intervention threats and led to statements and plans for Cubanizing her advanced a plan to unite the American countries in an effort to end the European conflict.

On February 12, but a week after the withdrawal of the American forces from Mexico, Secretary of State Lansing received a letter from Ramón P. de Negri, the Mexican Consul General at San Francisco, in charge of Mexican affairs, enclosing the Carranza's plan to end the European conflict.

It is now more than two years since the most gigantic armed conflict recorded in history broke out on the old continent.... The tragic contest has deeply wounded the sentiments of humanity of all the peoples that are not engaged in the struggle, and their standing unmoved before so great a disaster would be contrary to both justice and humanness. A deep seated sentiment of human solidarity then constrains the Mexican government to tender its modest cooperation to bring the strife to an end. On the other hand, the conflagration in Europe has reached such proportions that the situation of the countries which remained neutral has grown more and more trying, bringing them, as it has, to the verge of being involved in that war; and several nations which, at the outset, took no part in the conflict, have found themselves irresistably drawn into it.

Those countries which at present are still preserving their neutrality in the world and truly desire to keep out of the conflict must combine their efforts toward bringing about the earliest possible termination of the European war, or at least so circumscribing it as to remove the possibility of further complications and thus bring into sight an early ending.

The present European conflict affects the whole world, like a ...plague which ought to have been isolated some time ago.... to shorten its life and prevent its spreading. Far from doing this, the trade of all the neutral countries in the world, and that of America in particular bears a heavy responsibility before history, because all the neutral nations--some more, some less--have lent their quota of money, provisions, ammunition, or fuel, and in this way have kept up and prolonged the great conflagration.

Reasons of high human morality and of national self-conservation place the neutral peoples under the obligation of desisting from that course and of refusing to lend any longer that quota which made it possible to carry on the war for two years and more.

To that end the Government of Mexico, within the bounds of the strictest respect due to the sovereignty of the warring countries, inspired by the highest humanitarian sentiments, and also actuated by the highest humanitarian sentiments, and also actuated by the sentiment of self conservation and defense, takes the liberty of proposing to your excellencie's government, as it is proposing to all the other neutral governments, that the groups of contending powers be invited, in common accord and on basis of absolutely perfect equality on either side, to bring this war to

an end either by their own efforts or by availing themselves of the good offices of friendly mediation of all the countries which would jointly extend. If within a reasonable term peace could not be restored by this means, the neutral countries would then take the necessary measures to reduce the conflagration to its narrowest limit, by refusing any kind of implements to the belligerents and suspending commercial relations with the warring nations until the said conflagration shall have been smothered.

The Mexican government is not unconscious of its somewhat departing from the principles of international law which have heretofore regulated the relations between neutrals and belligerents when it offers its propositions; but it must be admitted that the present war is a conflict without a precedent in the history of mankind that demands supreme efforts and novel remedies that are not to be found among the narrow and somewhat selfish rules of international law as accepted until now....

The Government of Mexico understands that no neutral nation, no matter how mighty could singly take a step of this character, and that the measures can only be brought to a successful issue through the cooperation of the neutral governments wielding the greatest international influence with the belligerent nations.

It is especially incumbent on the United States, Argentina, Brazil and Chile in America; Spain, Sweden, and Norway in Europe, as being more influential and freer to arrive at a decision toward the belligerents, to father an initiative which is none the less worthy of thorough study and earnest consideration for its coming from a nation which is supposed to be weakened at present and therefore incapable of any effective international effort.

The Government of Mexico cherishes the hope that if this idea is accepted and put into practice it may serve as a precedent and basis for a new shaping of international law that would give neutrals the opportunity to assist in preventing and mending future international wars while most strictly respecting the sovereignty of the belligerents.¹

¹Foreign Relations of the United States, 1917, Supp.1, (Washington, D.C.: Government Printing Office, 1931) pp. 45-6.

De Megri requested that copies of General Carranza's note be forwarded by telegraph to the American Diplomatic representatives in Holland, Norway, Sweden, Denmark, and Switzerland, for delivery to the Foreign Offices of these countries.

Robert Lansing politely acknowledge the receipt of the note in a letter to de Megri in which he stated that it would receive "attentive consideration" by the United States government. He also stated that copies had been telegraphed to the European neutral nations as requested, but with the understanding that the attitude of the United States government was not to be prejudiced by thus accommodating the de facto government in this matter.²

Upon publication of the note in the newspapers, however, literally a storm of protest and amazement swept the country. Public opinion definitely took the attitude that Mexico was pro-German if not definitely allied with Berlin. The reason lay in the main object of the proposal, namely the proposed embargo of belligerents by the neutral powers. The fact was made evident that such a procedure would only hinder the Allies

²Ibid., p. 54.

and aid the Central Powers upon whom the Entente powers had maintained an efficient blockade from almost the beginning of the war.

An editorial in the New York Times speaks of the note as "futile and impertinent, with its fine phraseology about high human morals and humanitarian sentiments characteristic of Bethmann-Hollweg, especially stepping aside a little from the principle of international law."³ The article stated that the chief danger lay in a Mexican attempt to cut off shipments of oil from England and suggested that the United States should stiffen the embargo against shipments of arms into Mexico. It ended with the statement, "Carranza has played with the American government long enough."³

The Outlook went even further in denouncing the First Chief in an editorial entitled "Catspaw Carranza" which spoke of the proposal as reflecting "his master's voice" and the "ostrich-like guile" characteristic of German diplomacy. It stressed England's need for Mexican oil "without which the British fleet would be hamstrung". Carranza might aid Germany, but the United States would intervene, resulting in "not an 'in again-out again' Vera Cruz invasion or Pershing expedition,

³New York Times, February 13, 1917.

but wholesale, thorough going, cleaning up intervention."⁴

"The Mexican government has seen with surprise the perverted interpretation which the American press has given to the note which the Citizen First Chief of the Constitutional Army in charge of the Executive Power addressed to the neutral governments, and feels assured that the people and the government of that Republic, in view of the noble sentiments which prompted it, will study the note with the care and attention it deserves."⁵

Before Washington took time to answer the First Chief's note formally, an event occurred which colored public opinion, if not diplomatic attitude toward both Carranza's peace overture and the Mexican government, namely the interception of the Zimmerman note and its subsequent publication.

This famous letter was first conveyed to Secretary Lansing in a telegram from American ambassador Page on February 24. Page had received the text from Balfour of a cipher telegram from German foreign minister Dr. Artur Zimmermann, which had been sent via Washington and relayed by Johann H. von Bernstorff.

⁴Outlook, February 21, 1917.

⁵New York Times, February 16, 1917.

(former German ambassador to the United States) on the 19th of January. The English government had come into possession of the German cipher code and had obtained a copy of Bernstorff's cipher telegram to Mexico, which had been relayed to London and deciphered. This accounted for the delay in sending the information to the United States. Page stated that the British government jealously guarded knowledge of the German cipher code and it was only because this note had direct bearing on the United States that the secret was divulged. The British government therefore requested the United States to withhold the source of information but the note itself could be made public. The translation of the note read as follows:

We intend to begin on the 1st of February unrestricted submarine warfare. We shall endeavor in spite of this to keep the United States of America neutral. In the event of this not succeeding, we make Mexico a proposal of alliance on the following basis: make war together, generous financial support and understanding on our part that Mexico is to reconquer the lost territory in Texas, New Mexico, and Arizona. The settlement in detail is left to you. You will

inform the President of the above most secretly as soon as the outbreak of war with the United States of America is certain and add the suggestion that he should on his own initiative, invite Japan to immediate adherence and at the same time mediate between Japan and ourselves. Please call the President's attention to the fact that the ruthless employment of our submarines now offers the prospect of compelling England in a few months to make peace. Signe, Zimmermann.⁶

Lansing withheld the note from the press until he received word from American ambassador Fletcher in Mexico City that the Foreign Minister denied any knowledge of such a note, but that Carranza was out of the capital at present and it was possible that such an overture had been made directly to him. Lansing had stressed to Fletcher the public opinion that would be aroused in the United States upon publication of the note and the need for the Mexican government to simultaneously publish statements showing disinterest in the affair.⁷

⁶Foreign Relations of the United States, op.cit., p. 147.

⁷Ibid. pp.234-235.

On March 10th Fletcher wrote Lansing that he had spent several days with Carranza, during which period the First Chief stated that up to that time Mexico had received no proposition of an alliance with Germany. He spoke at length upon his plan for peace and hoped the United States would not enter the war. To questions as to his attitude should Germany propose an alliance he did not reply directly, other than to state that Mexico desired to avoid becoming involved in the war. Fletcher's own opinion was, "Personally I do not think that Mexico under present circumstances would accept the alliance referred." On the other hand, however, he stated that while Carranza and the Minister for Foreign Affairs "were very careful and guarded in their utterances, I gathered that their sentiments inclined somewhat towards Germany."⁸

Lansing had made the note public on the 1st of March, when it headlined practically every newspaper in the country and aroused just that much more excitement in a nation already sweeping along on a current of war hysteria.

Apart from deepening the antagonism toward Germany public opinion on the whole became very suspicious of Mexico.

⁸ Ibid., pp. 238-239.

Connection between the Zimmermann note and several affairs that had recently occurred in Mexico was evidenced, such as frequently reported but indefinable movements of the Mexican government to couple its situation with friction between the United States and Japan; persistent reports of German submarine bases on the Gulf of Mexico; the fact that Bernstorff went from the United States to Cuba rather than back to Germany when German-American diplomatic relations were severed; and arrest of men on the border charged with being German intelligence officers. But above all, general opinion saw a connection between Carranza's embargo proposal and the Zimmermann plot and became more firmly convinced that German influence was looming large in Mexico.⁹

The Zimmermann note aroused an investigation from the Committee of Foreign Relations in the Senate, introduced by Senator Lodge, to decide whether or not it was authentic. After much argument a resolution was agreed upon to ask the President to furnish the Senate whatever information he had on the Zimmermann note, which was, in his opinion, "not incompatible with the public interest."¹⁰ Lansing, with Wilson's approval, sub-

⁹ New York Times, March 1, 1917.

¹⁰ Congressional Record, 64th Congress, 2nd session, vol. 54, part 5, p. 4599.

mitted a report to the President of the Senate in which he stated that the note was authentic and was in the possession of the United States government, but that it was "incompatible with public interest to send to the Senate...any further information...relative to the note mentioned in the resolution of the Senate."¹¹

It is interesting to note in the discussion prior to this resolution that the Senators opposed to the United States becoming involved with Germany were the ones who, if they did not openly doubt the authenticity of the Zimmermann note, tended to minimize it as a factor important enough to warrant a declaration of war upon Germany. Senator Stone was curious to learn whether the information came from Great Britain. He stated that the British filtered news, making it partisan and unreliable.

Although public opinion on the whole was highly incensed there was a tendency, at least on the part of some of the more enlightened and less easily influenced, to consider the Zimmermann note far-fetched as a piece of diplomacy affecting the United States. The New Republic carried an editorial upon the proposal. "To offer to the almost bankrupt Carranza government whose

¹¹Ibid., p. 4618.

army consisted of a few thousand ill-equipped and ill-trained peons as payment for Mexican assistance against the United States, three sovereign states whose able bodied men, if properly armed, could easily have overrun the whole of Mexico--diplomacy of this kind was saved from being monstrous chiefly by being absurd."¹²

The Nation of March 8 reflects the same attitude: "to select poor Carranza, and to rely upon him and his diplomats to buy off Japan is literally so absurd as to make one's intelligence stand still."¹³

On the sixteenth of March Lansing sent Mexico through de Negri formal notification that the government of the United States could not participate in a Pan American concert to cut off munitions and food shipments to European belligerents with a view of forcing peace. He stressed that the government of the United States had given careful and sympathetic consideration to the proposal and brought out that the President of the United States, just a short while before, had attempted to bring about peace, only to have his efforts repulsed by Germany's continuance of destruction of American ships and lives which led to a severance of diplomatic relations. "To render the situation still more acute the Government of the United States has unearthed a plot...to embroil

¹³Nation, March 8, 1917.

the Government and people of Mexico...in war with the United States."

The fact was brought out that the suggested embargo was against principles of international law and the American government had made it clear to the Austrian-Hungarian Empire in a note of August 12, 1915, that its inability to ship munitions to the Central Powers was not of its own making, but due to the Entente naval power successful in maintaining a blockade.

The note spoke of the "lofty purposes" of the President-elect and went on to say that President Wilson would not be understood to impede any such peace movement as the Mexican government might have with the other neutral nations to bring about an end to the European conflict.¹⁴

Upon receipt of the Lansing note Carranza stated to Fletcher that he believed action on the part of the neutrals was useless without cooperation of the United States, but placed the good offices of his government at the service of the United States if they could be utilized in restoration of diplomatic relations with

¹⁴Foreign Relations of the United States, op.cit.
p.241.

Germany, or in any other way which would tend to prevent hostilities between Germany and the United States. He stressed that Mexico was deeply interested in the maintenance of peace between the United States and Germany. The peace overture had not been made to help Germany, but with the highest motives and in interest of American peace.¹⁵

Shortly after America's entry into the World War President Carranza announced in a speech before Congress that Mexico had preserved friendly relations with all countries up to that time and would endeavor to do so in the future at all costs. This was believed to be a declaration of Mexican neutrality.¹⁶ The Mexican government had already, on March 17, issued through the Foreign Office a note of absolute neutrality in answer to the United States communication on the Embargo proposal.

In a communication to Fletcher toward the end of April Lansing stated that the United States government expected Carranza to keep his government from becoming a base of hostile acts toward the United States, in view of the neutrality declaration. Fletcher replied

¹⁵Foreign Relations of the United States, op.cit., pp.241-242.

¹⁶New York Times, April 16, 1917.

that he had conferred with Carranza who brought up a plan whereby an outline of the peace terms be communicated through diplomatic representatives to neutral Latin American nations which would act as mediators in presentation to the German government. He intimated that if terms were found just and equitable, in presenting them to Germany they might state that unless accepted, neutral nations would side with the Allies. Carranza complained of the mistatements and distrustful attitude of the American press and asked Fletcher to put things in their true light before the State department. He stated that he would be glad of information of German activities tending to compromise Mexican neutrality and would take immediate steps to frustrate them. Fletcher stated, "His attitude was frank, cordial and rather encouraging."¹⁷

American public opinion had been highly suspicious of Mexico's attitude before the United States' entry into the war and after the war for a time it became increasingly suspicious. Reports of German activities increased, as well as reports that the military group in Mexico was pro-German. Carranza had made no answer to the United States concerning the Zimmermann

¹⁷Foreign Relations of the United States, op.cit., p. 255.

note, other than to say that he had not received it. The Mexican stand of neutrality offended Americans in view of the fact that the other Latin American countries were definitely pro-Ally.

The Mexicans admitted German pressure. A Mexican citizen, Versalio Garcia, in a letter to the New York Times of April 5, 1917, stated among other things that strong pressure was being brought to bear by German agents in Mexico City and certain pro-German elements composed principally of the military group. He went on to say that Mexico was divided in sentiment. The military group was pro-German, while the better educated, broad-minded people favored the Allied cause.¹⁸

While Americans in general condemned Mexico, if not for pro-German sentiment then for her failure to espouse the Allied cause, the State Department in July, 1917, issued a statement that a declaration of war against Germany by the Mexican government would not be based on advice by the American government. Ambassador Fletcher stated to Lansing that if Mexico broke with Germany it would place the United States under certain obligations to Mexico. Later it would make it difficult for nations with a grievance against Mexico to assume

¹⁸New York Times, April 5, 1917.

a stern attitude after the war.¹⁹

Mexico accused the United States government of sending Mexican citizens who had come to the United States to work, into the trenches. Mexicans who had filed "declaration of intention", but who were not as yet citizens, were drafted. A conflict of laws between the two countries existed in regard to Mexicans born in the United States of Mexican parents. According to Article 30 of the Mexican Constitution they were citizens of Mexico; according to Article 14, Section I, of the Constitution of the United States they were American citizens.²⁰ As these Mexicans were living in the United States and were citizens according to the American Constitution the United States government really won the point here. Drafting of other Mexicans was a different matter, however.

In an attempt to arrive at a summary of Mexican-American relations as affected by the World War it is necessary to examine some of the facts before reaching a conclusion.

¹⁹New York Times, July 11, 1917.

²⁰Ibid., p. 633.

Mexico maintained a strict neutrality during the war. This seemed a wise procedure even though she incurred the suspicion of the United States. Mexican officials upheld the neutrality policy by pointing out that in the first place Mexico had no quarrel with Germany and, secondly, she was just coming out of a revolution and needed to command all her resources to build up her own nation. In this connection was the fact that Mexico was still divided. The nation had not yet achieved unity; entry into the war might have proved disruptive to the existing regime.

Mexican public opinion reflected these aims. In a letter to the New York Times, Jose Noriega says "Mexico's own problems claim all her energy, but above all she has not received the slightest offense from Germany." He went on to say that if Mexico was forced into war with Germany by the United States attitude the friendship that would spring up would not be lasting. "... I feel that if Mexico were compelled to enter the war without the full support of her people she would entertain anything but love for the Americans. After the war is over and the passions cooled down Mexico's

dignified attitude will be duly appreciated by the American people."²¹

In another letter to the Times, Emeterio de la Garza stated that Mexico decided to remain neutral because Carranza's duty to his country was to establish peace, while the duty of the United States to mankind and the world was to win the war. At the time of the entry of United States into the war Mexico was just beginning to live under a political Constitution and a new government. "She could not go into a foreign war having a war at home, every man and every dollar was needed within the country. President Carranza's neutrality is not due to German influence or propaganda but is the result of the condition of Mexico and of his own firm conviction that in this way he can best serve the interests of his country."²²

Ignacio Bonillas, the Mexican Ambassador to the United States, in an article entitled "Mexico's Chief Aim" published in Forum, stated: "There is nothing mysterious about Mexican foreign policy.... Our chief aim is to remain neutral." He went on to say that the

²¹New York Times, May 18, 1917.

²²New York Times, September 1, 1918.

Mexican position was not like other countries which had previously enjoyed peace. Mexico was just coming out of an internal struggle and beginning to develop her country. "If the question of Mexico's national honor or sovereign rights were involved, a deliberate policy of self sacrifice might be necessary. But we have no cause for resentment against the contending parties, as our interests have not been injured or greatly jeopardized....Our policy is, therefore, one of peace and reconstruction as against war and its ravages."²³

Opinion seemed to be divided, as in the case of any neutral country, in regard to support of the contending powers. German influence had been strong--the Mexicans admitted it. It was natural that certain factions should favor Germany and even listen to German intrigues, due to an antipathy towards the United States.

On the other hand certain factions favored the Allies. General Gonzales, a former commander of the Carranza forces and a well known Constitutionalist, favored Mexico's following the example of the other Latin American countries and severing relations with Germany. He brought out that neither men nor nations could exist isolated and the Constitutional Revolution

²³ Forum, July, 1918.

would be worth little if its flag were not inscribed with the highest humane ideals. "As a Mexican and a citizen of a country which necessarily will feel the consequences of the European conflict, as it is surrounded by Allied countries which are held by bonds of race, culture and vast interests, I consider it most essential that Mexico should direct a frank and decided course in favor of the Allies. It is lamentable that some Mexicans have declared themselves pro-German simply because of their antipathy to the United States, not considering that the United States is only one factor in the war and that on the other hand the United States could become the best friend of Mexico."²⁴

The American press came under Mexican criticism for unduly stressing pro-German influence in Mexico and thereby (according to Mexican officials) defeating its purpose, as it only served to arouse the masses of the people against the United States. A survey of articles in the New York Times, considered a reliable newspaper, reveal a tendency to play up German influence and later to minimize it when Mexican opinion was leaning more toward the Allies. In an article concerning a movement

²⁴New York Times, October 29, 1917.

for pro-Ally support favored by Mexican businessmen, the Times stated that German influence has been overestimated. "With a lift from the United States Mexico in a few years will become a rich, self-sustaining nation."²⁵ Yet, shortly before this paper had carried vindictive editorials against Carranza's policy and stressed the pro-German influence. This tendency showed itself throughout the whole duration of the war.

It would be interesting and enlightening to know something of President Wilson's attitude toward Mexican affairs during this period, but his speeches and writings reveal scarcely any mention of the country whose problems had such a short time before taken up so much of his time and energy. It would be revealing to know something of his opinion concerning Carranza's peace plan. He did mention the Zimmermann note in his war speech before Congress on April 2, 1917, but only as it concerned German-American relations. In those troublesome days all Wilson's time and effort was directed toward the European scene; for the time being all other affairs were dropped.

²⁵New York Times, April 29, 1917.

One incident which clearly revealed Wilson's attitude toward Mexico, in fact his whole foreign policy, occurred in April, 1918, when trouble arose over the Tampico oil section. The Tampico area was at that time under control of a bandit leader Peláez to whom the British and American oil owners payed tribute for the privilege of exploiting the wells. The Carranza regime was insistent upon driving Peláez out, thereby incurring the wrath of the foreigners who feared government confiscation more than the bandit. There was also talk of German pressure.

In a statement to Wilson Lansing revealed the situation. "Technically they will have the right on their side, but from a practical point of view we can't respect Mexican neutrality as far as Tampico is concerned. Our refusal to withdraw our protection from the oil wells, which I assume will be your view, may result in an open declaration of war or in an ultimatum which will result in war."²⁶

Wilson's reply was characteristic: "The United States cannot afford to be too practical. She is the leading champion of the right of self government and political independence everywhere. Only the most

²⁶Ray Stannard Baker, Woodrow Wilson, Life and Letters, v. VII, (London: William Heinemann, Ltd. 1928), p. 25.

extra-ordinary circumstances of arbitrary injustice on the part of the Mexican government would make me feel that we had the right to take control at Tampico..."²⁷

Mexico remained neutral during the World War although she changed her strict policy of neutrality to one of benevolent neutrality toward the Allies before the termination of the conflict. The Allies were dependent upon her for oil, and other materials were shipped into the United States.

While diplomatic relations between the two countries were politely correct public opinion in both the United States and Mexico was aroused. Americans were all too quick to believe Mexico pro-German; certain factors like Carranza's embargo proposal and the Zimmermann note heightened their suspicion. Although much propagandizing was done in this respect there is actual evidence to prove German influence. Mexico was a country that would naturally incite German intrigue, as she had a wealth of natural resources largely foreign controlled, was still considered in revolution, and moreover, was

²⁷ Ibid., p. 25.

the southern neighbor of the United States. Germans played on the Yankeeophobia in Mexico and were able to influence some groups.

All neutral nations aroused suspicion during the World War and Americans felt they had reasons to be suspicious of Mexico, due in part to previous and existing difficulties and in part to the fact that the United States felt that she should set the pace for her smaller, weaker Latin American neighbors. On the other hand Mexico felt she had the right to follow her own dictates as became a sovereign and independent nation.

As has been pointed out before, Mexico had no quarrel with Germany; there existed no break between the nations to lead to a declaration of war on the part of Mexico. Carranza can be justified in his strict neutrality stand which was for the good of the Mexican people who were just emerging from a Revolutionary period. That they should follow the lead, for principle's sake, of a nation who had just previously invaded them twice and was constantly talking intervention was scarcely logical.

Mexico at that time was still divided; a break with the Carranza regime was already impending. Feeling

in any neutral country during a major crisis is divided and Mexico was subject to much pressure both from her powerful northern neighbor and Germany as well as within her own borders. On the whole the policy set forth by Carranza during the World War was expedient and dignified.

CHAPTER IV

THE MOVEMENT FOR INTERVENTION

The threatened invasion of Mexico by the United States preceding the World War was not an isolated factor in the history of Anglo-America diplomatic relationships. Since her independence a century before Mexico had been continuously in the turmoil of revolution, except for the comparative quiet of the Diaz era. A rich country naturally attracted American enterprise, and the unstable governments that arose and fell with astounding rapidity led to murders of Americans and destruction of property. These citizens naturally appealed to their homeland for protection and the state correspondence between the two countries reveals an almost constant repetition on the part of the United States government of claims against Mexico for damages against American citizens. This factor led to a desire by certain American factions and interests to advocate intervention into Mexican affairs which ranged from the comparatively mild procedure of simply helping Mexico straighten out her own affairs to the assuming of a protectorate over the country. Mexico in revolution was always virtually bankrupt and usually in debt to the United States. Moreover, she could not pay the claims of foreigners against her. The troublesome

border question remained a source of conflict. Mexican bandits invaded the United States and "killed American citizens on American soil," thereby increasing the wrath of the people of the United States.

In his seventh annual message to Congress, President Jackson, December 7, 1835, stated that recent events in ~~Mexico~~ had awakened the liveliest solicitude in the ~~United~~ States. He said:

....aware of the strong temptations existing and powerful inducements held out to citizens of the United States to mingle in the dissensions of our immediate neighbors, instructions have been given to the district attorneys of the United States where indications warranted it to prosecute without respect to persons all who might attempt to violate the obligations of our neutrality, while at the same time it has been thought necessary to apprise the Government of Mexico that we should require the integrity of our territory¹ to be scrupulously respected by both parties.

Certainly this hinted of pressure of the American citizens on their government in respect to Mexican affairs. In this same speech Jackson, himself, stated:

If this unhappy condition of things continues much longer;...nations will be under the painful necessity of deciding whether justice to their suffering citizens does not require a prompt redress of injuries by their own power, without waiting for the establishment of a government competent and enduring enough² to discuss and to make satisfaction for them.

¹James D. Richardson, Messages and Papers of the Presidents, IV, (Bureau of National Literature and Art, Washington, D. C., 1910), p.1370

²Ibid.

President Buchanan, in a message to Congress, spoke of Mexico as a "wreck upon the ocean," drifting about as she is impelled by different factions," and asked authority to use military powers to force Mexico into payment of claims.³

While President Taft maintained a policy of non-intervention during the first two years of the Mexican revolution, his attitude was threatening. After placing an embargo upon the shipment of arms into Mexico he informed the Mexican government that the United States would be forced to intervene if American lives and property continued to be destroyed. He sent troops to the border and war vessels to Vera Cruz.⁴

President Wilson's Mexican policy was regarded as an abrupt departure from that of his predecessors. He spoke at length of the Mexicans' right to shed as much blood as they liked in settling their affairs, that: "The country is theirs. The government is theirs.We will aid and befriend Mexico, but we will not coerce her; and our course with regard to her ought to be sufficient proof to all America

³Ibid., V, p. 538.

⁴Rippy, *op. cit.*, pp. 332-333.

that we seek no political suzerainty or selfish control."⁵ Nevertheless, he ordered the occupation of Vera Cruz and sent troops into Mexico in search of Villa.

Luis Cabrera, Minister of Finance in the Carranza government, stated that Mexico had feared aggression since the Mexican war in 1848.⁶

⁶ Address of Mr. Luis Cabrera, Latin American News Association, New York City, 1916, Pamphlets on Mexico.

THE PETROLEUM CONTROVERSY

As been pointed out previously, the withdrawal of the punitive expedition quelled the Mexican fears of intervention for the time being. The United States was turning its attention to the World War, which eclipsed all other foreign affairs in importance. The application of Article 27 was arousing some controversy, largely in relation to petroleum.

Carranza's petroleum decree of February 19, 1918, aroused the concern of the United States government. Essentially a taxation measure, it provided for a progressive tax upon oil lands developed by lessees prior to May 1, 1917, of ten percent annual rental up to five pesos per hectare⁷; twenty percent of annual rental from five pesos to ten pesos per hectare; and fifty percent of annual rental above ten pesos per hectare; and five percent of all royalties paid by lessee to lessor. A tax of five pesos per hectare annually plus five percent of the products was placed upon oil lands being developed by owners of lands, and oil lands for which no rental was paid were taxed five pesos per hectare. The taxes were to be paid in cash or kind as provided by law and were subject to a fine

⁷Mexican land measurement.

of ten percent for each month of delayed payment. Article 14 of the decree provided that landowners of petroleum deposits must make a statement within three months of promulgation of the laws, which statement was to include certified copies of purchase or lease of the land. All oil lands not registered in such manner were to be considered vacant and therefore subject to denouncement. The statements must be first examined by the Department of Industry, Commerce, and Labor, and those containing unsupported fact were to be thrown out.⁸

The objection of the United States government to the decree was based chiefly on the fact that the taxes provided for were of a confiscatory nature. Fletcher pointed out that when Bonillas and Nieto negotiated for modifications of export restrictions by the United States, a list of Mexican exports to the United States was listed and it was stated that there would be no increase in export duties. The American attitude toward the decree, as well as toward expropriation by the Mexican government, was revealed by Lansing's communication to Fletcher on March 19 in which he stated:

⁸ Foreign Relations of the United States, 1918, p. 698. The full text of the decree is found upon pages 702-703.

While the United States is not disposed to request for its citizens exemption from the payment of their ordinary and just share of the general burdens of taxation so long as the tax is uniform and not discriminatory in its operation, and can fairly be considered a tax and not a confiscation or unfair imposition; and while the United States is not inclined to interpose in behalf of its citizens in case of the expropriation of private property for sound reasons of public welfare and upon just compensation and by legal proceedings before tribunals allowing fair and equal opportunity to be heard and being given due consideration to American rights; nevertheless the United States cannot acquiesce in any procedure ostensibly or nominally in the form of taxation or the exercise of eminent domain, but really resulting in confiscation of property and arbitrary deprivation of vested rights. This is not, as you will understand, an assertion of any new principle of international law, but merely a reiteration of those recognized principles which I am convinced form the basis of international respect and good neighborhood. The seizure or spoliation of property at the mere will of a sovereign and without due process fairly and equably administered, has always been regarded as a denial of justice and as forming a basis, internationally of interposition. Certain features of the petroleum decree will be considered in the light of these views.

....it is deemed important that the Government of the United States should state the real apprehension which it entertains as to the possible effect of the decree upon the vested rights of American citizens in Mexico. The amount of taxes to be levied under this decree are....a very great burden on the oil industry, and if they are not confiscatory....they indicate a trend in that direction.

Lansing stated further that investments in Mexico

had been made with reliance and good faith in the Mexican government and laws. He said:

It becomes the function of the Government of the United States most earnestly and respectfully to call the attention of the Mexican government to the necessity which may arise to impel it to protect the property of its citizens in Mexico divested or injuriously affected under the petroleum decree.¹⁰

Fletcher was instructed to make use of the communication in the protection of American citizens and their properties, even to laying it before Carranza as a formal protest of the United States government.

Fletcher acted on Lansing's instructions on the second of April, when the communication was given to the Mexican Secretary of State for Foreign Affairs to be transmitted to Carranza.¹¹

This protest was not without effect. On the fourteenth of May, Fletcher informed Lansing that President Carranza had referred certain features of the petroleum law to a commission. Fletcher stated: "It is evident that our protest has had a deterrent effect."¹² On the eighteenth of May, Carranza issued a decree extending the time limit for the statements required by the petroleum decree of February 19 until July 31, at which time another decree was to be issued.¹³

¹⁰Ibid.

¹¹Ibid., pp. 713-714.

¹²Ibid., pp. 719-720

¹³Ibid., p. 721

Shortly afterward the oil companies began to negotiate with the Mexican government in regard to the legislation affecting their properties through their attorneys, James R. Garfield and Nelson O. Rhodes. In conferences with Secretaries Pani and Nieto the representatives for the oil companies stated that the decree of February 19 imposed taxes too great for the oil companies to bear, taxes which amounted to virtual confiscation. According to the attorneys, the decree was retroactive in that it read into the contracts things that were not in the minds of the contracting parties at the time and were not provided for under the laws in force at the time these contracts were made.¹⁴

Pani defended the Mexican government in its attempt to stop monopoly by the oil companies in their holding of unused land simply to avoid competition. According to the Secretary, the amendment of 1884 which granted subsoil deposits to the owners of the surface was illegal as it would have required a prior constitutional amendment abrogating the principle that the direct ownership of the nation might not be alienated or laid aside.¹⁵

¹⁴Ibid., p. 724

¹⁵Ibid., p. 725

Garfield and Rhodes summed up the American attitude in the following words:

The necessity of dealing in utmost good faith applies to nations as well as individuals if society is to make steady progress. Without doubt economic and industrial changes require changes in constitutions and laws, but when such changes are made, they should apply only to the future, recognizing that it is not wise to attempt to undo that which has been honestly and legally done even though we question its wisdom.¹⁶

They went on to say that nations, like individuals, were judged by their acts rather than their intentions, and that consideration of other nations was very important in maintaining peaceful international relationships. They agreed with the Mexican government that monopolies should be curbed and that the Mexican government was perfectly justified in reserving minerals in future sale of surface lands. On the other hand, it was advantageous to Mexico to maintain amiable relations with foreign countries, as the foreign field was the Mexican market for oil; the country used but a small amount for internal purposes.¹⁷

In conclusion, the American negotiators asked the Mexican government if payment of taxes not made in accordance with the provisions of the decree would

¹⁶Ibid., p. 731

¹⁷Ibid., p. 731

result in forfeiture of contracts and denouncing of lands. They were also concerned over section 14 and asked if it was the purpose of the law to establish a method of determining the legality of titles to the lands.¹⁹

The owners of American petroleum lands in Mexico made a formal protest to President Carranza concerning the decree of February 19. Their arguments were virtually the same as the ones advanced by Garfield and Rhodes. Carranza was directly asked to repeal the decree. Furthermore, he was asked:

to abstain from establishing regulations to govern the application of Article 27 thereof, until such time as the Congress of the Union.... shall decide as to the manner in which Article 27 shall be amended in all the parts thereof which may be in conflict with Article 14 of the Constitution since that supreme precept is fundamental to constitutional order, and in it is found the sanction of non-retroactivity.¹⁹

On the seventh of June, while the petroleum question was at the height of a difficult controversy, President Wilson addressed a group of distinguished Mexican editors, who were visiting Washington on a good will tour to establish better relations between the two nations. In this speech he brought out that the Monroe Doctrine was adopted without the consent of the Latin-American countries in an endeavor to protect them from European designs. Wilson stressed the Pan-American plan and

¹⁹ Ibid., pp. 733-735.

said:

....let us make an arrangement by which we will give bond. Let us have a common guarantee, that all of us will sign, of political independence and territorial integrity. Let us agree that if any one of us, the United States included, violates the political independence or the territorial integrity, all the others will jump on her.

Such a plan was the only basis for world peace, the President went on to say, and he was anxious to have the American countries show the way for the future peace of the world. He attacked intervention when he said:

When you reflect how wonderful a storehouse of treasure Mexico is, you can see how her future must depend on peace and honor, so that nobody shall exploit her. It must depend on every nation that has any relations with her, and the citizens of any nation that has any relations with her, keeping within the bounds of honor, fair dealing and justice.¹⁹

It was unfortunate that President Wilson's speech was not received more favorably in Mexico. This was due to the fact that two days after the speech, Aguirre Berlanga, the Minister of the Interior, furnished all the newspapers of Mexico City with a translation of Fletcher's petroleum note of April 2nd. As a result, editorials revealed a tendency to regard President Wilson's speech as mere words which actions of the United States would belie.²⁰

¹⁹ ibid., pp. 577-580.

²⁰ ibid., p. 580.

The El Puebla contrasted the two in an editorial entitled "President Wilson Threatens Mexico" and called the President's speech "theatrical and sonorous", the note, "harsh and threatening."²¹ The President was accused of attempting to restore the confidence of the Mexican people in the United States after only too recent affronts of Vera Cruz and the punitive expedition, only to pave the way for a fresh infringement of Mexican sovereignty.²²

The Mexican nation had felt the threat of American intervention behind the polite diplomatic phrasing of the petroleum note in the words:

it becomes the function of the Government of the United States most earnestly and respectfully to call the attention of the Mexican government to the necessity which may arise to compel it to protect the property of its citizens in Mexico divested or injuriously affected by the decree above cited.

The Universal's editorial on the petroleum question summed up Mexican opinion in revealing the tone of the United States as: "You must either make your political code conform to the ambitious caprice of American investments or you will have to reckon with me."²³

President Wilson's speech aroused criticism of the Monroe Doctrine as an imperialistic statement of policy

²¹ Ibid., p. 585.

²² Ibid.,

²³ Ibid., p. 590

and Mexican pride was wounded by Wilson's reference to the United States as an "elder brother" to Latin America. After the United States had obtained all she wanted in the Western hemisphere, she said "hands off" to the rest of the world.²⁴

Mexico believed that the Monroe Doctrine had been supplanted by the Carranza Doctrine. The latter implied absolute sovereignty for Mexico especially in dealing with foreign countries. Mexico did not want the United States to represent European nations in dealing with her. Connected with this was what Ambassador Fletcher called the "cardinal principle" of the Carranza Doctrine, namely, Mexico did not want the United States or any foreign nation to claim privileged treatment for its nationals.²⁵

Since the subsequent publication of the petroleum note had destroyed the effect President Wilson's speech was hoped to produce, the American State Department decided on another course of action. Friendly relations with Mexico were very necessary at this time as the United States was in the midst of the European conflict. As has been pointed out before, the United States needed Mexican oil reserves. The United States also wanted

²⁴ Ibid.

²⁵ Ibid., p. 595

Mexico friendly to the Allied cause.

As a result the United States lifted the embargo which had been placed upon exports into Mexico, due in part to the fact that the United States needed its goods and in part that re-shipment from Mexico to the Central Powers was feared. The Mexican government had protested against this embargo, as the country imported many necessary things, such as foodstuffs, Metals, and machinery from the United States. Negotiations had been going on between the two nations since the beginning of 1916 for the removal of the embargo, but had proved unsuccessful. Now, in the words of Lansing, the United States "gave concrete expression to the friendly sentiments expressed by President Wilson," by arranging the grant of export licenses for shipment into Mexico of certain enumerated articles. It was understood that Mexico would continue to export certain commodities into the United States and that no goods shipped into Mexico by the United States would be exported to other countries.²⁶ The Mexican government was extremely pleased with this demonstration of friendship and better relations were established for the time being.

The oil question continued to be a very contro-

²⁶Ibid., p. 790

versial problem. Carranza refused to answer the petroleum note of April 2nd. His decree of May 18th had extended the time for presentation of manifestations to July 31. By a decree of July 8, concerning denouncements of oil lands, the Mexican president announced that any land would be considered free ground and therefore subject to denouncement if the owner failed to meet the time requirement for presentation of manifestation as stated in the decree of May 18. An additional tax was placed upon petroleum.²⁷

The oil companies were aroused to action and through a representative addressed the State Department in strong terms. They spoke of the decree as issued "in defiance of the American government's note of April 2nd and in violation of a promise to Garfield and Rhodes." Protection of property by the United States government was asked. But the only legal remedy consisted of filing an amparo²⁸ in the Federal Courts against the unconstitutionality of the acts. Therefore the petroleum companies planned not to submit manifestations as required by the decrees, as the compliance with alleged unconstitutional laws would waive right of appeal. The oil companies stressed to the State Department the importance of Mexican oil for the American and British navies.²⁹

²⁷Ibid., pp. 737-743

²⁸An injunction

²⁹Ibid., p. 755

Fletcher conferred with Carranza concerning the oil controversy on the 22nd of August. The Mexican president expressed extreme regret and displeasure over the statement in the note of April 2nd that necessity might arise in which the United States would be forced to protect the property of its citizens in Mexico. He considered the petroleum decrees a purely fiscal and domestic matter, and the attitude of the United States an insult to the sovereignty of Mexico. Fletcher was advised that the oil men had access of appeal to the courts and if this failed to safeguard their property rights the matter might be negotiated peacefully between the two governments. However, on this same day, after the interview with Fletcher, Carranza issued the decree of August 12th, which stated that oil lands not covered by manifestations as provided in subsequent decrees were not subject to denouncement.³⁰ This "eleventh hour" decree as Fletcher called it, ended the tension between the oil companies and the Mexican government for the time being. Negotiations between the Mexican government and the oil companies through their representatives Rhodes and Garfield were proceeding satisfactorily. In a dispatch to Lansing on August 21st Fletcher stated: "A...an acute

³⁰ Ibid., pp. 752-754

crisis in this petroleum matter has been avoided and present indications are that this difficulty, which seriously threatened the good relations between Mexico and the United States, will be adjusted by peaceful and legal methods."³¹

A number of conclusions can be deduced from this petroleum controversy. The Mexican government considered the regulation of petroleum an internal matter. Interference in behalf of its citizens by the United States was resented. This was an affront to Mexican sovereignty and implied the favoring of foreigners--a thing Mexico was attempting to avoid in the future. The arguments advanced by the Mexican government were essentially the same--the decreeing of taxes and rules governing organization of property were attributes of internal sovereignty and not subjects for diplomatic controversy. As the Mexican Under Secretary of Foreign Affairs, Pérez, stated in a letter to the American ambassador:

The Mexican government has not recognized and will not recognize that any country has the right to interfere in any form in its internal affairs nor even of protesting against acts exclusively within the exercise of sovereignty.

The Mexican government cannot consent to any measure whatsoever which the American government may purpose to put into practice to place its citizens in a more favored situation than that of Mexicans in their own country.

³¹Ibid., p. 758

³²Ibid., p. 768

The United States government considered it a duty to protect its nationals in regard to their property which had been acquired in good faith in accordance with the laws of Mexico. This was one of the duties of a country. In reply to Perez' note Acting Secretary of State Frank Polk revealed the United States' attitude toward the Mexican contention that the United States government should not ask privileged treatment for its citizens in Mexico. He said:

While the Mexican government may see fit to confiscate vested property rights of its own citizens, such action is in equity no justification for the confiscation of such rights of American citizens and does not estop the Government of the United States from protesting on behalf of³³ its citizens against confiscation of property.

The Mexican government had attempted to carry out the provisions of Article 27, even in the face of foreign displeasure. Carranza had continued to make petroleum decrees in the face of veiled intervention threats from the United States government. An attempt to discredit the United States was revealed in the almost simultaneous publication of Wilson's speech and the petroleum note of April 2nd. Mexico had insisted upon her rights as a sovereign nation to enact any legislation she chose as long as it was uniform for Mexicans and foreigners alike. That sooner or later she would be

³³ Ibid., p. 786

forced to desist was obvious from the beginning. Carranza met with American pressure, both from the State Department and the oil companies, when he published the decree of August 12th.

However justified the United States may have been in protecting the property of its nationals in Mexico, the fact remains that the former assumed an attitude that would not have been assumed toward a stronger nation. The petroleum note of April 12 may be definitely regarded as a threat against the sovereignty of an independent nation for the protection of the property of American citizens. Such a situation would have normally been the object of diplomatic negotiations, rather than attempted coercion.

Consideration must be given to the fact that the United States was at war and during a war diplomatic relations assume a different aspect. Mexican oil was vital to the Allied cause. A tendency to take it for granted that confiscation was taking place before any property had been seized was revealed.

Toward the end of 1918 the controversy over petroleum seemed to be settled for the time being. However, the general relations between the two countries were in reality in a bad condition. The signing of the Armistice, which marked the close of the World

War, ushered in a period of very strained relations between the United States and Mexico. One can say that relations became strained to the breaking point and Mexico was placed in as precarious position as she had ever been placed in regard to American aggression.

THE THREAT OF INTERVENTION, 1919-1920

After the World War the Mexican issue again became important in the United States and a strong movement for intervention ensued. This movement can be attributed largely to propaganda sponsored by those who had vested interests in Mexico. Public opinion had been excited over the alleged pro-German activities and unfriendly attitude of Mexico during the War. The advocates of imperialism made use of these factors to propagandize intervention.

It was evident that the Mexican question would be a campaign issue in the presidential election of 1920, as it had been in 1916. Rippy says in his chapter, "Mexico on the Verge":

Twice during the recent Revolutionary period (1911-1920); namely, in 1916 and in 1919-1920, Mexico was seriously threatened by forces of aggression in the United States. In both instances the Mexican nation was truly "on the verge;" and it is a curious fact that on both occasions also Mexican affronts and injuries to the United States and its citizens coincided with the opening of a vigorous national campaign in the latter country.

In 1916 Republican leaders had demanded armed intervention in Mexico. Some, aroused by the Santa Ysabel and Columbia massacres advocated it to protect American citizens. Others spoke of "helping Mexico as we had helped Cuba." Senator Albert Fall from

-- Rippy, op. cit., p. 545

New Mexico, who was to play an important part in the intervention movement of 1919-1920, denounced President Wilson's Mexican policy of "watchful waiting" and demanded the complete occupation of Mexico by an American army 500,000 strong.²

The Democrat party in 1916 took a stand against war with Mexico. This was adopted as a plank in the party platform.³ Intervention was also opposed by the Protestant churches, several periodicals and journals, all the labor organizations and some others in general.⁴

If the crisis of intervention passed after the Democratic victory in November and the subsequent entry of the United States into the World War quelled the intervention movement, the voices of the imperialists were not completely stilled. Albert J. Beveridge advocated intervention with statements of the most outspoken imperialism. Stating that "any foreign country is perfectly justified in establishing closest possible relations with Mexico if it can succeed in doing so, for every foreign nation is looking out for its own interests." Beveridge went on to say that the United States should go into Mexico immediately to prevent foreign countries from taking control there. He frankly spoke of the desirability

²Ibid., p. 346, as quoted in the Congressional Record, 64th Cong., 1st Sess., v. 53, pt. 4, p. 3882

³Ibid., p. 350

⁴Ibid., p. 351

of the acquisition of Mexican natural wealth. As the Mexicans could not set up a government for themselves they would welcome the United States taking over their country.⁵ A franker statement of imperialism is difficult to conceive.

The movement for Mexican intervention began in the first part of 1919. President Wilson was in Paris attending the Peace Conference and his absence gave his imperialistic opponents an opportunity to oppose his Mexican policy. In the first part of January, The Nation, which throughout the entire period strenuously attacked the movement for Mexican intervention stated in an editorial that newspaper comment was in the tone of "Mexico Next."⁶ Rippy speaks of a chain of Hearst papers which expressed their views in such headlines as "We Mean Business this Time, Let's Be Brief with the Notes."⁷ The Nation attacked newspaper advocacy of intervention: "All the balked jingoism of a country cut off from war in the midst of the first fever would react toward Mexican intervention in a fresh wave

⁵ Albert J. Beveridge, "What to Do about Mexico," Colliers, May 19, 1917

⁶ The Nation.

⁷ Rippy, op. cit., p.

⁸ The Nation, April 12, 1919

of arrogant emotionalism."⁸

The Congressmen were not idle in regard to Mexican intervention. Representative Norman Gould of New York referred to the Carranza regime as "half-bandit, half-Bolshevist Government which we have suffered to drag Mexico to ruin and collapse since 1910." He attacked Wilson's Mexican policy, saying that the President had spoken of the Mexicans as "a race of dignity, self-control and great achievement." The representative went on to say:

This race of 'self-control' under the fatuous, socialistic indulgence of our government since 1912, has not been too restrained to shoot down defenceless strangers in their midst...., nor too dignified to receive with the left hand our offerings of charity and good will, and with the right hand shoot down unwarned the bearer of these offerings; nor in its great achievements has it been too sensitive of its honor to violate all the rules of ethics and morality and common decency.

A little later Senator J. Emerson of Ohio stated: If I had my way, I would send the army into Mexico and let it stay there until some stable form of government was established in Mexico."¹⁰

Representative La Guardia from New York called the Carranza government "no government at all" in a very jingoistic speech in which he stated among other things:

⁸The Nation, April 12, 1919

⁹Congressional Record, 65th Cong., 3d Sess., v. 57, appendix, p. 375

¹⁰Congressional Record, 65th Cong., 2nd Sess., v. 59, pt. I, p. 112

Yes, I would go down with beans in one hand and offer to help the Mexican people, but I would be sure to have hand grenades in the other hand, and God help them in case they do not accept our well-intended and sincere friendship.

The vested interests who had the most at stake in Mexico and the most to gain from American domination of Mexico formed an organization in January of 1919, known as the National Association for the Protection of American Rights in Mexico. Practically every American industry in Mexico was represented from oil interests to cattle raising. The purpose of this organization was:

to assist in bringing about the full recognition and adequate protection of American rights and lives in Mexico, and to promote peace, progress, and welfare of the country, and to that end cooperate with the governments of the United States and Mexico.¹²

Although the statement of policy of the organization denied the desire to interfere in Mexican political affairs, nevertheless the organization demanded, "stern insistence by the United States government for the rights of Americans in Mexico, whether such rights be threatened by the provisions of the Mexican Constitution or otherwise."¹³

In a letter to Mr. Fletcher the Board of Directors stated that the Organization stood ready to cooperate with the State Department and to give the administration all of the

¹¹Congressional Record, 65th Cong., 1st Sess., v. 58, Pt. III, p. 2421

¹²Fall Committee, Report, v. I, p. 404-405

¹³Ibid., p. 408

information on Mexico which had been collected by members who had years of residence there. Presumption to suggest any plan of action to the State Department was denied.¹⁴

The Association proceeded to issue pamphlets and to have articles published in newspapers concerning American protection in Mexico. The statement of Field-secretary Major John G. McDonnell, is interesting in view of the fact that the Association had stated that they were not working for armed intervention. The Major stated that Mexico was a haven of refuge for the I. W. W. and a seat of Bolshevism. The Constitution of 1917 was called "out and out Bolshevism in practice." Discussing the utterly chaotic state of the Mexican government, which was incapable of preserving any semblance of order, the field secretary said: "The placid indifference with which the killing of more than 300 Americans in Mexico to say nothing of the attempted confiscation and destruction of American property worth more than a million dollars, would appear to indicate the need for somebody to assume the leadership in arousing the torpid public conscience."¹⁵

A resolution was submitted to the Senate in July, 1919, the text of which follows:

¹⁴ Ibid.

¹⁵ Ibid., pp. 414-415

That the Committee on Foreign Relations, or any sub-committee thereof, is authorized and directed to investigate the matter of damages and outrages suffered by the citizens of the United States in the Republic of Mexico, including the number of citizens of the United States who have been killed or have suffered personal outrages in Mexico and the amount of proper indemnities for such murders and outrages, the quantity of damages suffered on account of the destruction, confiscation and larceny of personal property, and the confiscation and deprivation of the use of lands and the destruction of improvements thereon; the number of citizens residing in Mexico at the time President Diaz retired from the presidency of Mexico, and the number of citizens at present residing in Mexico, and the nature and amount of their present holdings and properties in said country, and in general any and all acts of the Government of Mexico and its citizens in derogation of the right of the United States or its citizens, and for this purpose to make a report of the findings in the premises to the Senate, and the said commission shall further investigate and report to the Senate, what, if any, measures should be taken to prevent a recurrence of such outrages.

This resolution was amplified by one introduced by Senator Fall on August 15:

That the Sub-Committee on Foreign Relations appointed under authority of Senate Resolution 106, to investigate Mexican affairs, be, and hereby is, authorized to send for persons, books, and papers, to compel the attendance and testimony of witnesses, to administer oaths, to conduct hearings, to travel to and from any points where a sitting of the Commission may be necessary, to employ interpreters, stenographers, clerks, and any other necessary assistance and to provide for the care and preservation of testimony, papers and documents.¹⁷

The Sub-Committee, headed by Senator Fall, got under way with the work of investigation in September, 1919.

¹⁶ Congressional Record, 66th Cong., 1st Sess., v. 58, Senate Resolution 106, p. 9688

¹⁷ Ibid., Pt. IV, (Senate Resolution 163), p. 3886

The findings were published and issued to the American people. When completed the so-called "Preliminary Report and Hearings" filled two huge volumes, totaling more than 3500 pages.¹⁸

Carranza, in his speech before the National Congress, September 1, spoke of the agitation for Mexican intervention in the United States.

On their part, the citizens of the United States who are interested in petroleum properties in Mexico have opened and supported with perfect organization, extra-ordinary vigor and marked persistency, a press campaign in the United States for the purpose of so impressing by all the means at their disposal the public opinion of that country, the general mass of their fellow citizens, and the members of both houses, as to force the Government to intervene in Mexico, in order that our laws may be in accord with their personal interests.

The Government of Mexico hopes that the Republic of the North will respect the sovereignty and independence of Mexico, because to violate them on plea of lack of guarantees for its citizens or of legislation impervious to their interests would constitute an unpardonable transgression of the principle of international law and morality, and would give proof that the greatest misfortune of a people is being weak.¹⁹

A short time later Carranza, in a statement to the New York Times correspondent, revealed that the only thing Mexico wanted was friendly relations and respect for her rights from the United States. War was foolish

¹⁸Rippy, op. cit., p. 355

¹⁹Foreign Relations of the United States, 1919,
pp. 533-534

from the standpoint that a few Americans had been killed during the revolutionary period. Had they better not stay out until protection was insured? The United States would lose the respect and friendship of the Latin American countries if they fought a war with Mexico for commercial reasons. The Mexican president stated: "We....will do everything that is honorable to avoid war conserving our national dignity."²⁰

In the United States the campaign for armed intervention was gaining momentum. The Fall Committee began their investigation which ultimately culminated in a lengthy report. Newspapers and magazines revealed interventionist sentiment. Former Ambassador Henry Lane Wilson wrote in Forum:

The only instrumentality which can at this time be used by this government which will procure the establishment of order in Mexico and the ultimate reign of stable and free institutions is armed intervention.

States which cannot discharge their international obligations or bestow the blessings of peace and prosperity on their population should either be completely eliminated or reformed from without.²¹

²⁰ New York Times, October 2, 1919

²¹ Henry Lane Wilson, "What Must Be Done with Mexico," Forum, September, 1919

Arguments came from the other side in an attempt to stem the tide of the movement for armed intervention. An editorial in *The Nation* stated: "Having fought and won the war to end war, the country is sick of war, if not, alas, of humbug."²² A little later an editorial entitled "The Threat to Mexico," spoke of the proposed war:

It would doubtless be another war to extend democracy, that is, to reform a democracy which would expropriate property of foreigners, and render unsafe foreign investments, and refuse to protect American lives any better than our own.²³

Samuel Gompers, president of the American Federation of Labor, representing the stand organized labor had taken against armed intervention, made many speeches upon the subject. In one he stated:

To my mind it would be the gravest wrong which could be inflicted on the people of the United States as well as the people of Mexico if the jingo spirit which is now in course of manufacture would drive us into anything like armed conflict in Mexico.

The President and his associates have negotiated a Treaty of Peace and in it established the covenant of the League of Nations, one of whose highest purposes is the settlement of international disputes by peaceful means and by the prevention of war. We cannot consistently advocate such high principles in our dealings

²² *The Nation*, January 12, 1919.

²³ *Ibid.*, August 23, 1919

with European nations as provided in the covenant and then rush into armed conflict with Mexico.²⁴

Dr. Samuel Guy Inman, Secretary of the Committee on Cooperation in Latin America and also a missionary, said in his statement before the Fall Committee:

The Officers of the Federal Council of Churches, the Missionary boards, the missionaries themselves in Mexico, and so far as I know, the Christian leaders all over the United States, are entirely opposed to armed intervention.

Henry L. Fletcher, in his testimony before the Rules Committee of the House in July, stated that "the Carranza Government controls all of Mexico and is fulfilling its mission toward the people of Mexico."²⁶ The Ambassador did not return to Mexico and the general contention was that the State Department was reluctant to send him back until relations between the two nations had improved.²⁷

In October, when agitation for armed intervention was progressing and feeling in the United States was running high against Mexico, W. O. Jenkins, American

²⁴New York Times, July 11, 1919

²⁵Fall Committee, Report, V. I, p. 7.

²⁶Ibid., v. II, p. 2301

²⁷New York Times, August 16, 1919

consular agent at Puebla, was kidnapped by bandits who took his money and held him for ransom. The Secretary of State immediately informed the Mexican Foreign Office that the United States government held the Mexican government responsible for Jenkins' return even if payment of ransom by Mexico was necessary.²⁸ The Mexican government made it clear that, while everything was being done to locate Jenkins and arrest his abductors, the Mexican government could not pay the ransom as this would establish a precedent and tend to excite crime.²⁹

Jenkins' release was effected a few days later, but this was only the beginning of the affair. Shortly afterward the consular agent was arrested by the Puebla authorities on charges of giving false evidence in regard to his abduction. He was detained at his home, but later taken to the penitentiary. Lansing requested his immediate release, calling his imprisonment "unjustified and arbitrary." He stated further that "continued persecution or further molestation of Jenkins cannot but

²⁸ Foreign Relations of the United States, 1919,
pp. 578-579

²⁹ Ibid., p. 580

have a very serious effect upon the relations between the two governments, for which the Mexican government will be solely responsible."³⁰

The Mexican government replied that imprisonment was neither "unjustified or arbitrary," as Jenkins was simply detained to try to determine the truth. He had been granted bail but refused it, stating that he would remain in prison until the matter was straightened out. The Executive could not free him while the case was pending any more than the President of the United States could free anyone in such a case, and "it would be strange that in Mexico an American citizen should have greater rights than those he has in his own country or greater than those which a Mexican citizen has in Mexico." The note further stated:

The Mexican government does not see what foundation there may be for such a demand, it believes it may not be solely the strength of the country which makes it, inasmuch as the United States has characterized itself by its desire expressed on various occasions that right and justice should be the motto of its diplomacy and respect for weaker countries the basis for its international relations on the continent, and prefers to attribute the terms of the note to an imperfect knowledge of our penal law.³¹

³⁰Ibid., p. 583

³¹Ibid., pp. 584-686

Lansing's reply to the Mexican note on November 29 was curt and decidedly firm. Stating that the charge of "false swearing" was unfounded, he called the release on bail and investigation of Jenkins "more excuses."

It is for Mexico to show cause for his detention, not for the United States to plead for his liberation. Stripped of its extraneous matter, with which the Mexican note attempts to clothe it, the naked case of Jenkins stands forth: Jenkins, a United States Consular agent, accredited to the Government of Mexico, is imprisoned for 'rendering false judicial testimony' in connection with the abduction of which he was a victim.

Lansing accused the Mexican government of an attempt to draw attention away from the fact that Puebla was not well protected. In the second place he accused Mexico of assuming a wilful indifference to the feelings of the American people who had been aroused over the physical suffering Jenkins had endured during the abduction and his subsequent treatment by the Mexican authorities. He again renewed the request for Jenkins' release.³²

A few days later Jenkins was released upon payment of bail by J. Salter Hanson, an American citizen, who, according to his own testimony made these arrangements with the Mexican government to end the trouble the incident was causing between the United States and Mexico.³³

³² Ibid., pp. 586-589

³³ Literary Digest, February 21, 1920

In the reply to Lansing's note of November 29, the Mexican Foreign Office defended the holding of Jenkins and protested against the American government's interference. It was pointed out that the American State Department was not acquainted with all the facts pertaining to the case.

The Mexican government cannot admit that American citizens be tried and absolved on the basis of mere information of the Department of State nor upon recommendation or suggestions of the United States, instead of by its tribunals or under its laws.³⁴

A few days later the American Charge @ Affaires re received a letter from the bandit who had kidnapped Jenkins, in which he stated that the kidnapping had been carried out for political reasons in an attempt to discredit the Carranza government and arouse the United States against it.³⁵

Jenkins' release on bail broke the tension the affair had caused in the United States. The case was not settled until February, 1920, when the Mexican government, after making a careful investigation of the case, revealed that the accusation against Jenkins was without foundation, as it was found that the witnesses

³⁴ Foreign Relations of the United States, 1919,
p. 591.

³⁵ New York Times, December 2, 1919

³⁶ Foreign Relations of the United States.

who testified against him had been forced to do so.³⁶ Upon receiving this information, the American State Department informed the Mexican government that the incident was considered closed.³⁷ The Jenkins case was not ended until December, 1920, however, when the case was dismissed for lack of evidence and Jenkins' bond was cancelled, placing him in complete liberty.³⁸

Just what were the Mexican government's reasons for making an issue of the affair is hard to deduce. The kidnapping had aroused American public opinion and led to the exchange of diplomatic notes; the subsequent arrest only served to heighten the antagonism. Consideration must be made of the fact that Jenkins' arrest was made by local authorities and the Mexican government at first contended it did not have jurisdiction over the case. The American State Department pointed out that according to the Mexican Constitution the Federal Court had jurisdiction over cases involving diplomatic officers.³⁹ Apparently, the Mexican government was aroused over the demand for the immediate release of Jenkins before the investigation of Jenkins had been completed and felt that the attitude of the United States was an insult to Mexican sovereignty.

³⁶ Foreign Relations of the United States, 1920, pp. 256-257

³⁷ Ibid.

³⁸ Ibid.

³⁹ Ibid., p. 591

Many aspects of the case are shrouded in mystery. Jenkins admitted that he refused bail, because he preferred to remain in jail until the charges against him were removed. He did not want to be released on the bond put up by Hansen, but the Mexican authorities were insistent.⁴⁰ Recognition must be given to the fact that this happened but a few days after the Lansing note of November 29. The charges against Jenkins seemed unreasonable in that he was accused of conniving at his own kidnapping.⁴¹ Jenkins stated that the peons on his ranch were forced to testify against him.⁴² This was later admitted by the Mexican government after the case had gone before the high tribunal.

The Mexican attitude seemed to be that Jenkins was only being held for questioning, he had been granted bail and refused it, therefore the United States had no right to interfere in a matter that was primarily judicial in nature. As Luis Cabrera said: "It is inexplicable that the American government should have requested the immediate

⁴⁰Literary Digest, February 21, 1920.

⁴¹Foreign Relations of the United States, 1919, p. 582.

⁴²Literary Digest, op. cit.

release of Jenkins before even the Court decision was rendered. The American government was seeking to have Jenkins declared innocent even before the investigation was completed."⁴³

The Jenkins incident was unfortunate for Mexico, as it gave the American protagonists of intervention an opportunity to magnify the affair beyond its real importance. President Wilson was ill at the time and Secretary of State Lansing handled the affair. His uncompromising attitude reveals, perhaps, that he was beginning to think a stern Mexican policy necessary. Senator Fall came to Washington on the 1st of December, 1919, to talk with the Secretary of State concerning Mexican affairs. In Fall's own words, "matters of dispute with Mexico were discussed, and I am very happy to say with no difference of opinion."⁴⁴

Two days after Fall interviewed Lansing the Senate had a resolution drafted by Fall which was adopted with the House of Representatives concurring. It read as follows:

That the action by the Department of State in reference to the pending controversy between this government and the government of Mexico should be approved, and further, that the President of the United States be, and hereby is, requested to

⁴³ New York Times, December 2, 1919

⁴⁴ Fall Committee, Report, vol. I, p. 843 B

withdraw from Venustiano Carranza the recognition accorded him by the United States, as President of the Republic of Mexico and to sever all diplomatic relations now existing between this government and the pretended government of Carranza.⁴⁵

The following day the Senate Foreign Relations Committee appointed Senators Fall and Hitchcock to consult with President Wilson on Mexican affairs. Lansing approved the part of the Senate resolution endorsing the State Department's handling of the Mexican situation, but he urged that the withdrawal of recognition and severance of diplomatic relations be abandoned for the present.⁴⁶

On the 5th of December the two Senators called at the White House and were received by the President in his bedroom, as he had not recovered from illness. Fall referred to the various evidence the Sub-Committee had upon Mexican affairs. Wilson requested that a memorandum of this evidence upon Mexican affairs be prepared and sent to him.⁴⁷

President Wilson in a letter to Fall a few days later gave his opinion on the pending Fall resolution:

I should be gravely concerned to see any such resolution pass the Congress. It would constitute a reversal of our Constitutional practice which

⁴⁵ Congressional Record, 65th Cong., 2nd Sess., v. 59, Pt. I, p. 112

⁴⁶ New York Times, December 6, 1919

⁴⁷ Ibid.

might lead to very grave confusion in regard to the guidance of our foreign affairs. I am confident that I am supported by every competent constitutional authority in the statement that the initiative in directing the relations of our government is assigned by the Constitution to the Executive, and to the Executive only. Only one of the two houses of Congress is associated with the President by the Constitution in an advisory capacity, and the advice of the Senate is provided for only when sought by the Executive in regard to explicit agreements with foreign governments and the appointment of diplomatic representatives who are to speak for this government at foreign capitals. The only safe course, I am confident, is to adhere to the prescribed method of the Constitution. We might go far afield if we departed from it.

The President's attitude spelled the end of the Fall resolution. Another crisis in Mexican-American affairs had passed.

Since the beginning of the World War President Wilson had been occupied with other matters to the exclusion of Mexican affairs. Soon after the close of the war he attended the Peace Conference and upon his return to the United States made a western tour. He came back to Washington an ill and broken man. However, his attitude on the Fall resolution gave evidence that the President still stood ready to guard Mexican sovereignty and oppose the policy of the imperialists.

⁴⁸ Fall Committee, Report, v. I, p. 843 D

Secretary Lansing had handled Mexican affairs virtually alone since the United States' entry into the World War. Evidence points to the fact that Wilson was displeased with Lansing's aggressive Mexican policy, especially in the handling of the Jenkins affair. This was one of the reasons for the dismissal from the Cabinet of the Secretary of State in February, 1920.⁴⁹

The settling of the Jenkins affair and Wilson's stand on the Fall resolution, followed by the subsequent removal of Secretary Lansing, called a halt to the aggressive interventionist movement for the time being. The Mexican issue was still good campaign material and as Rippy says:

The aggressives, beaten a second time, now resorted to the stage play of 1916. They were determined to defeat Wilson at the approaching national election and to pledge the Republican party to a vigorous defense of American investments and an energetic prosecution of American claims. Although the non-interventionists put up a strong fight, as indeed they had been doing since the early days of 1919, their power showed signs of having diminished since 1916.⁵⁰

The Fall Committee continued its investigation of Mexican affairs, the reports of which were published in the newspapers at great lengths. A great number of witnesses testified and it is an interesting factor

⁴⁹ New York Times, February 14, 1920

⁵⁰ Rippy, op. cit., p. 355

that the majority of them favored a radical change in the Mexican policy. The rabid interventionists, such as former Ambassador Henry Lane Wilson, testified at great length. Quite a period of time was given to the head of the National Association for the Protection of American Rights in Mexico, Charles H. Boynton. Several Columbia, New Mexico, residents who had witnessed the Villista raid of 1916 were brought to the stand. American owners of property and mines in Mexico, whose interests had suffered as a result of the revolution, testified before the Committee. On the whole, the testimony of these witnesses revealed that conditions in Mexico were chaotic, that the Carranza government was unable to keep order, in fact that the Carrancistas were little better than bandits themselves.

There was little doubt that the Fall Committee Report was biased. Rippy says that the historian could hardly ask a better source for the study of the motives and methods of recent imperialism in the United States.⁵¹

Fall's own stand on the Mexican question was clear without doubt. For years he had criticised the Administration's handling of Mexican affairs and had advocated

⁵¹Ibid.

armed intervention. The New York Globe of September 9th stated: "Senator Fall, on the other hand, left little doubt that he was there not to find the truth about Mexico but to drag from the witnesses facts in support of his own previous convictions."⁵²

A few anti-interventionists testified before the Fall Committee, such as Dr. Samuel Guy Inman, L. J. de Bekker, former New York Times correspondent who, at the time of the investigation, was handling publicity for the League of Free Nations Association, and Dr. George B. Winton, also associated with the League of Free Nations. Mr. de Bekker stated: "Senator Fall's attitude toward Dr. Inman...and other witnesses... was marked throughout by deliberate discourtesy which contrasted strongly with the sympathetic attitude he manifested toward...witnesses representing the oil interests."⁵³

Credit must be given to the work done by the anti-interventionists, whose writings and speeches did much to counteract the propaganda of the avid interventionists. Dr. Samuel Guy Inman's book, Intervention in Mexico, was based on the author's personal experience

⁵²L. J. de Bekker, The Plot Against Mexico (New York: Alfred A. Knopf, 1919), pp. 274-275, quoting New York Globe, September 9th, 1919.

⁵³

Ibid., pp. 276-277

in Mexico and attempted to cultivate a liking for the Mexican and an understanding of his problem to the reader. L. G. DeBekker's The Plot Against Mexico, a more journalistic piece of work, indicted the American oil men and other vested interests for plotting to take over Mexico. Pamphlets like John K. Turner's Hands Off Mexico may be called biased, but at the same time such "propaganda" served to show the other side of the picture and counteracted the interventionist propaganda.

Changes within the Mexican nation itself, constituted the real reason why the movement for American intervention was sidetracked. A great many in Mexico were dissatisfied with the Carranza regime, due to the graft that was said to be present in the inner government circles, and to the fact that Carranza had not as yet been able to bring order to all parts of the country.

The ensuing revolution was brought about by the coming presidential election. It was apparent that the peoples' choice would probably be Alvaro Obregón, the former Constitutionalist general who had lost an arm fighting the Villistas. For some reason he had lost favor with Carranza after the latter had assumed power and had retired to his native Sonora until he began his presidential campaign. Carranza had made the statement that he would not attempt to hold the presidency a second time

and that the coming elections would be honest and peaceful. Nevertheless, Ambassador Bonillas returned from Washington to enter the race for presidency and it was understood that he had the President's backing.⁵⁴ It was believed that Carranza supported Bonillas in order to avoid the conflict that would result from the race for presidency by the two leading candidates, Obregon and Pablo Gonzalez, another Mexican general.⁵⁵ The followers of Obregon maintained that the Mexican president was sponsoring Bonillas so that even retired he could run the country.

When Carranza ordered troops into Sonora to settle a strike, the Obregonistas rallied to defend their state sovereignty. They had formed the Liberal Constitutionalist Army with the young governor of Sonora, Adolfo de la Huerta, as supreme commander. The plan of Agua Prieta drawn up by this group announced that Carranza had never been the legal head of the government. Soon other Mexican states joined in the revolt against Carranza. Obregon prepared to march on the capitol, when Carranza fled the palace with his entire body of loyal officers and officials in an attempt to transfer the government to Vera Cruz. The party was attacked several times until finally Carranza

⁵⁴Priestley, op. cit., p. 444

⁵⁵Foreign Relations of the United States, 1920,
p. 129

set out with a small group toward the Puebla mountains. On the night of May 18th he was treacherously murdered by a supposedly loyal soldier.

Obregón, who had arrived in Mexico City, denied any complicity in Carranza's murder and expressed extreme regret over the affair. De la Huerta was chosen substitute President by the reorganized Congress to serve the unexpired term of Carranza. Obregón's election to the presidency was practically insured.

Although Americans had criticized Mexico's attempts to establish a stable government, indeed that had been given as one of the reasons for intervention into Mexican affairs, the United States regarded the new government as a change for the better. Carranza had maintained an unfriendly attitude toward the United States and many controversies had arisen during his term of office. There was a tendency in the United States to regard Obregón as the future "strong man" of Mexico. He had given assurances of a friendly policy toward the United States in his campaign speeches. These were again voiced by the provisional president, de la Huerta. The American threat of intervention ceased. A new problem arose which became the all important diplomatic issue between the United States and Mexico for the next three years, namely, American recognition of the new government.

CHAPTER V

FROM INTERVENTION THREATS TO RECOGNITION: 1919-1920

Diplomatic relations between the newly organized Mexican government and the United States revolved mainly about one thing--the recognition of the former by the latter. While the United States government and Americans in general manifested a friendly attitude toward the new government that was in marked contrast to the attitude accorded Carranza in the later months of his presidency, it was generally understood that certain factors causing disharmony between the two nations must be settled before formal recognition was extended.

It has been pointed out that the overthrow of Carranza had forestalled the plans of the interventionists in the United States. The New Mexican government from the first revealed a friendly attitude toward the United States and made statements to the effect that American property and lives would be protected. A great deal of the interventionist propaganda had been aimed at Carranza, personally and at the Wilson administration for his recognition. Those desirous of a more vigorous Mexican policy seemed to have given up the plan of actual armed intervention, or taking over of the government of Mexico, but nevertheless, they were insistent that American lives and property be safeguarded.

The lengthy investigation of the Fall Committee ended in May, 1920, but a short time after the Carranza debacle. The final statement by the committee revealed that the recognition granted to Carranza had been but "conditional" recognition. Therefore the forming of a new government in Mexico gave the United States an opportunity to settle certain matters before recognizing this government. The general outline of the course of action suggested by the committee may be summarized as follows:

1. The newly organized government under de la Huerta must show itself possessed of stability to endure and disposition to comply with the rules of international law.
2. As the first duty of a government was to protect lives and property, the new government must insure this protection to American citizens within its borders.
3. None of the provisions of Article 27 with reference to limitations upon property must apply to Americans who have acquired property heretofore or hereafter the promulgation of the Constitution of 1917.
4. That Article 33 of the Constitution of 1917, providing that "the Executive shall have the exclusive right to expel from the Republic forthwith and without judicial process any foreigner whose presence he may deem expedient," must not apply to Americans.

5. That immediate provision for the appointment of a claims commission to pass on all claims for damages to Americans in Mexico must be concluded.

It was stated further: "We have the legal right and it is our duty to refuse to recognize any government in Mexico which will not agree by way of a treaty to the foregoing conditions of recognition." The Committee went so far as to state that if order and peace was not restored to the Republic of Mexico and effectively extended to protect American citizens in Mexico, the United States would send armed forces into the country to restore order and protect its citizens.¹

President-elect Obregon had included in his platform during his presidential campaign the following in regard to international relations:

1. Absolute respect for the sovereignty and institutions of other nations.
2. Recognition of rights legitimately acquired by foreigners, on the principle that the laws shall not be retroactive.
3. ^{3/}Improvement of relations with the nations of the American continent, endeavoring to remove every sort of difficulty with the United States, on the principle of a mutual understanding of sentiment and ideals.²

¹Full Committee, Report, v. II, pp. 3371-3373

²Foreign Relations of the United States, 1920, p. 132.

Fernando Iglesias Calderon was sent as the Mexican representative to the United States in June, 1920. He stated in an interview with Under Secretary of State Norman H. Davis:

All responsible parties in the existing government are not only desirous of living in peace and harmony with all foreign countries and most especially with the United States but are firmly convinced that as a matter of expediency such a policy is necessary for the ultimate salvation of Mexico itself; but that it is and will be the fixed desire and policy of the existing government not only to make all reparations within its power for damages and injustices which have been committed in respect to the property and lives of foreigners and especially of American citizens, but also to maintain a government adequate for the protection of life, property and individual liberty.³

The Mexican ambassador discussed the question of recognition with Mr. Davis, who revealed that the United States could not recognize the Mexican government until it was certain that Mexico was capable of fulfilling its international obligations. President de la Huerta, he maintained, differed little from his predecessors in respect to Article 27.⁴

In October, R. V. Pasqueira, confidential agent of the Mexican government revealed in a letter to Secretary of State Bainbridge Colby that Mexico was willing to arbitrate as by provision of Article 21 of the Treaty of

³Ibid., p. 174

⁴Ibid., p. 178-179

Guadalupe-Hidalgo. He suggested a Joint Arbitration Commission to adjudicate claims. Mexico was deeply grieved over the charge that she intended to disavow her obligations. Both de la Huerta and President-elect Obregon had publicly declared that Mexico would respect all rightful claims. He went on to say:

We are a proud people, and the source of our pride is as high a conception of national honor as was ever erected by any nation. Therefore, sir, when the Mexican government declares that it is willing and ready to assume full responsibility for all of its international obligations, it is a solemn pledge that will be kept to the letter.⁵

Shortly afterward Colby issued a statement to the press:

The new government of Mexico has given indication of stability and a creditable sensitiveness to its duties and their just performance.... The letter of Mr. Pesqueira offers a basis upon which the preliminaries to recognition can confidently proceed, and I am hopeful that within a short time the sympathetic friendship, and the patient forbearance which President Wilson has manifested toward the Mexican people during the long period of their internal disorders will be fully vindicated. The desire reflected in Mr. Pesqueira's letter for the confidence and amicable regard of the United States is fully reciprocated, and I am happy to believe that the last cloud upon the ancient friendship of the two people is soon to disappear.⁶

⁵ Ibid., p. 188

⁶ Ibid., pp. 192-193

Colby's answer to Pasqueira's letter voiced practically the same sentiments. In it he stated:

We have not required the assurances...of Mexican regard for the discharge of her obligations, and of her respect for the principles of international law. Your suggestion of a joint arbitration commission to adjudicate the claims presented by citizens of other countries, for damages sustained as a result of disorders in your country, and the proposal to enlarge and strengthen existing treaty provisions for the arbitration of all controversies now pending or which may arise between our respective nationals, bring convincing support to your declarations, if that were needed.

He went on to say that the United States was very sympathetic toward Mexico's desire to conserve land and resources so long as Article 27 was not interpreted as retroactive or violative of vested property rights.

It only remains to give these understandings a form which is usual in dealings between friendly states, and I have the honor to suggest...that commissioners be promptly designated by both Mexico and the United States to formulate a treaty, embodying the agreements which have been reached as the result of your successful mission.

Both Colby's press statement and letter to Pasqueira indicated that the United States was ready to recognize the Mexican government at the conclusion of arbitration between the two countries. His friendly tone was in marked contrast to the tone of Secretary Lansing in his communications to the Mexican government.

On the 1st of December General Obregón took over the reins of government and from then on the question of recognition by the United States became predominant. The Mexican government assumed that recognition by the United States would follow Obregón's inauguration. De la Huerta had been but the provisional president proclaimed by Congress in time of emergency, but Obregón was legally elected by the Mexican people, in accord with the Mexican constitution.

Intimations of subsequent Mexican recognition had been revealed by Colby as has been pointed out. However, the inauguration of Warren G. Harding as President of the United States and his appointment of Charles Evans Hughes as Secretary of State had an important bearing upon the question of American recognition of Mexico.

In April President Obregon made a statement to the Mexican Foreign Office which was transmitted to the foreign representatives. He revealed that the country was completely pacified, although no violent means had been used to attain that end, and the finances of the nation were in order. Guarantee of the protection of the lives and foreigners was made and an invitation to foreign businessmen to come to Mexico was extended. Obregon definitely proclaimed that Article 27 would not be interpreted retroactively to effect existing property rights. Restitution of properties destroyed as a result

of the revolutionary period was guaranteed. Holders of foreign debt were invited to enter arrangements with the Mexican government for settlement.⁸

Almost two months later the Harding administration revealed on just what basis the Mexican government could expect American recognition. A draft Treaty of Amity and Commerce between the United States and Mexico was drawn up by Secretary of State Hughes and approved by the President. A more interesting and revealing piece of diplomacy can scarcely be imagined. Treaties are usually first drawn up by accredited representatives of two countries and are considered in force when ratified by the two nations. This treaty was drawn up by one United States official without the knowledge or consent of Mexico to be submitted to the Executive of the latter for signature, which would make the treaty binding between the two nations.

The articles of the proposed treaty contained practically the same provisions as were suggested by the Fall Committee. The essential purpose of the treaty is found in Article I:

Property rights of whatever nature, heretofore or hereafter acquired... shall under no circumstances be subjected to confiscation, under constitutional provisions, legislative or executive decrees or otherwise. The right of expropriation may be resorted to only on proper grounds of public purpose and it shall not be exercised without due process of law, nor without the prompt payment of just compensation

...the United Mexican States declare that neither the Mexican Constitution...nor the decree of January 6, 1915...is retroactive in its operation. ...and the United Mexican States recognize that the ownership of all substances which are described in the Code of Mines of 1884...are vested in American citizens, corporations, companies, associations, and private individuals who acquired titles to such lands or rights prior to May 1, 1917;...and the United Mexican States undertake:

- (a) to restore to American citizens, corporations, companies, associations or private individuals, the properties, rights, or interests of which they may have been deprived in Mexico without just cause since January 1, 1910.
- (b) to make compensation to them for damages of or injuries inflicted on their properties, rights or interests, including any company or association in which they are interested, as a result of such deprivation.
- (c) to make adequate compensation for any such property, rights or interests of which they may have been so deprived and which it is not possible to restore.

Article 14 provided that the Mexican government recognize their pecuniary responsibility for all damage arising from death or injury of American citizens and damage or destruction of property of American citizens as a result of the Mexican revolution. Provisions were made for a convention between the two nations to settle claims.⁹

This treaty was presented to Obregon by Chargé d'Affaire George B. Summerlin, who stated to the Mexican president as he placed the treaty in his hands that the signing of

⁹ Ibid., pp. 398-402

the instrument would constitute recognition by the United States government. Obregon stated to Summerlin that he doubted that he had authority under the Constitution to sign such a document and he greatly doubted that the Senate would ratify the treaty.¹⁰

In a public statement Secretary Hughes revealed that the fundamental question confronting the United States, considering its relations with Mexico, was the safeguarding of property rights against confiscation. This was not a matter of administration to be confused with personality. Hughes said:

Whenever Mexico is ready to give assurances that she will perform her fundamental obligations in the protection both of persons and of rights of property validly acquired, there will be no obstacles to the most advantageous relations between the two peoples. Accordingly this Government has proposed a Treaty of Amity and Commerce with Mexico, in which Mexico will agree to safeguard the rights of property which were attached before the Constitution of 1917 was promulgated. The question, it will be observed, is not one of a particular administration but of the agreement of the nation in proper form which has become necessary as an internal matter because of the provisions of its domestic policy, the Government of the United States can conceive of no possible objection to the Treaty.

¹⁰ *Ibid.*, p. 404-406.

¹¹ *Ibid.*, pp. 406-407

The Mexican Foreign Office, in reply to the American Embassy concerning the proposed treaty, stated:

It is not possible nor expedient to sign a convention or treaty between the Governments of the Mexico and the United States of North America before the first is fully recognized by the second. The priority of the convention or treaty with respect to recognition, or the simultaneity of these two acts or their fusion, considering that the signing of the former would imply or signify at the same time the renewal of diplomatic relations between the two countries, would give recognition a conditional character and would gravely impair the sovereignty of Mexico.

The Mexican Republic was a sovereign state, therefore the Mexican Government contended the exaction that the President should previously contract obligations of any nature in order that recognition be extended the nation was not justifiable according to international law. It was also unjustifiable due to the fact that President Obregón had made repeated statements that he would adjust his policy to the dictates of law and morality. Furthermore, the Mexican President could not sign the treaty, because such signature would be unconstitutional. Article 15 of the Mexican Constitution prohibits the president "to enter into conventions or treaties which abridge or modify the guarantees and rights which the Constitution grants to the individual and to the citizen." The Constitution would, of course, take preference over a treaty if conflict between the two arose.¹²

¹²

Ibid., pp. 412-413

Secretary of Foreign Affairs Peni, in a conversation with Summerlin, stated that President Obregon was firmly determined to satisfy the just demands of foreign governments. But he did not wish to lose the spontaneity of his acts before Mexico and the world by accomplishing this purpose under foreign pressure. Such a procedure would weaken the government. The Secretary said that in regard to the retroactivity of Article 27--agreement of the executive and legislative powers in favor of the principle of non-retroactivity had already been stated in various ways and upon various occasions. The final authority upon this matter rested with the Supreme Court of the nation and how could it do otherwise than align itself with the other powers of the government in such an equitable proposal. President Obregon was already preparing a law providing for a mixed claims convention to settle damages caused by the revolution.¹³

President Obregon stated his personal opinion upon the proposed treaty in a letter to President Harding on June 11. He voiced the same sentiments expressed by the Mexican Foreign Office as to the Mexican rejection of the treaty. He spoke of the law he had prepared, establishing a mixed claims commission to determine and settle damages caused by the revolution. The export tax

¹³ Ibid., pp. 414-415

laid upon petroleum was being used to pay the debt to the United States. He stated further his reasons for not signing the treaty:

Leaving on one side the right of this country to obtain for its legitimate government a full and unconditional recognition, a principle which cannot be abdicated in any case because it deals with a state whose existence and sovereignty have not been questioned for one hundred years, it is unnecessary to demand of Mexico the signature of a treaty upon matters already settled in a spontaneous manner, and which I as President cannot enter into because the law does not permit me any more than it is permitted of the President of the United States to conclude treaties contrary to the laws of his country.

Harding, in answer to Obregón's letter, replied that the United States government had asked Carranza for assurances prior to recognition. These promises were not complied with and the result was loss of life and damage to property. Therefore, the United States felt justified in demanding a definite understanding as to the intention of the regime which succeeded it with regard to the protection of the interests of American citizens in Mexico. Such an understanding would have a beneficial effect on political and commercial relations of the two countries and would obviate the necessity for diplomatic representatives arising from lack of protection and security. A treaty

¹⁴Ibid., p. 418

was nothing more or less than a formal statement of terms on which two nations maintained their political and commercial intercourse. In proposing this course the United States was not attempting to interfere with the domestic institutions of Mexico nor to dictate in matters of purely internal concern. The United States had no intention of asking the Mexican President to sign a treaty contrary to the laws of Mexico. Harding said:

If the statements repeatedly made to the effect that the Constitution and laws of Mexico are not retroactive and confiscatory is true, I cannot see how the treaty which has been submitted for your consideration is contrary to them, any more than a treaty or convention for the adjustment of claims would be so considered. In other words, the United States government feels that the provisions of the proposed treaty cannot be considered to be violative of the Constitution and laws of Mexico, unless it is the intention to interpret and apply these laws retroactively, which you insist it is not the intention to do;¹⁵

Obregón's reply to Harding did not mention the treaty. The Mexican President expressed hope that diplomatic relations between the two countries would soon be resumed, as the American President had stated

¹⁵Ibid., pp. 420-422

in his letter that the United States did not expect him to do anything that was not in accord with the Mexican laws. He stated that the Government had invited the United States to appoint a mixed claims commission and he hoped that as soon as Article 27 was regulated by Congress or interpreted by the Supreme Court of Justice, the abnormal state of relations between Mexico and the United States would be ended.¹⁶

The administration at Washington was insistent upon Obregon's signing of the treaty. In November Harding said to Under Secretary of State, Henry L. Fletcher:

Nothing has arisen to change my mind about our proper attitude toward Mexico. It will be better to have a complete understanding when we resume relations rather than attempt to seek all the understanding after the resumption of relations is established.... I wish we might recognize Mexico and reestablish helpful relationships. It is futile to venture upon such a course without a complete understanding if we mean to perform our first duty in protecting American rights.¹⁷

American recognition of Mexico was made more complicated by the fact that several of the European countries were awaiting United States action before extending their recognition. The draft Treaty of Amity

¹⁶ *Ibid.*, pp. 424-425

¹⁷ *Ibid.*, p. 426

and Commerce which was known only to Harding, Hughes, and a few department officials was sent to the British Foreign Office. Information was received to the effect that Great Britain approved the action of the United States and would not extend recognition until the latter did.¹⁸

By 1922 the question of recognition was no nearer settlement. In January the State Department at Washington was informed through Panie that Obregón was willing to sign a claims convention after which his government would be recognized, whereupon he would sign a second claims convention. After recognition he would willingly sign a treaty with the United States provided its signing did not conflict with the fundamental laws of his country.¹⁹

Obregón was still firm in his refusal to sign a treaty prior to recognition and the Mexican government supported him in his contention. The same arguments used heretofore were advanced. In a letter to Summerlin, Panie brought out that such a treaty was unnecessary because Mexico had shown by her policy that she meant to live up to her foreign obligations. Foreign govern-

¹⁸Ibid., p. 432

¹⁹Foreign Relations of the United States, 1922,
p. 640.

ments had been invited to a claims convention. Part of Article I of the proposed treaty, stating that foreigners should have the right to own property on the same terms as citizens of the country was unconstitutional, as the Constitution provided that only Mexicans could acquire ownership of property. Paragraph 6 of Article I stated:

Property rights of whatever nature, heretofore or hereafter acquired by citizens of either country within the territory of the other, shall under no circumstance be subjected to confiscation, under Constitutional provision, legislative or Executive decrees or otherwise.

This statement was conflicting, Pani pointed out, because if a confiscatory provision was placed in the Mexican Constitution by amendment, it would take precedent over the treaty, as the Constitution was the highest law of the land. Furthermore, the signature of the President upon the part of the treaty declaring Article 27 non-retroactive would constitute an undue invasion of the legislative power by the Executive. A constitutional text established a particular principle of which the particular effects might only be determined by the Congress of the Union. Pani stated that these were the principal legal objections to the treaty.²⁰

In April, 1922, Hughes wrote to Summerlin:

²⁰Ibid., p. 6-9

"It is my desire to leave nothing undone to promote friendly relations with Mexico and to bring about an early and satisfactory solution of existing questions." He asked Summerlin to inform the Mexican government that it was quite satisfactory to have the claims conventions between the two governments signed first provided that the signing of the Treaty of Amity and Commerce would follow without delay.²¹

Pani replied to Hughes that the United States government had evidently mistaken the Mexican government's position upon the signing of the claims conventions prior to recognition. He made it clear that the Mexican government meant that recognition by the United States must precede the signing of the claims conventions, after which the Mexican President was willing to consider the signing of a treaty between the two nations. He gave the reasons advanced previously by the Mexican government why the Mexican President could not sign the proposed treaty. Settlement of the matter was deadlocked for the time being.²²

American public opinion was favorable toward recognition of Mexico. The general contention was that the Obregon administration was peaceful and orderly and

²¹Ibid., p. 646

²²Ibid., pp. 653-655

based on legal foundations, therefore, according to diplomatic precedence, the United States had no legitimate reason to withhold recognition. In an article in the American Federationist for March, 1922, the following statement was made:

the paramount issue at the present is the issue of recognition of the legally established and well conducted government of the Mexican republic. By all of the standards of government in the diplomatic recognition of one nation by another, Mexico is entitled to recognition as an act of justice.

The paramount reason, however, why recognition should be granted is that the Mexican government has comported itself in a manner which justifies recognition and the Mexican government is a government which holds its power through the result of the democratically expressed mandate of the people.²³

The principle of forcing Mexico to sign a treaty as a price to be paid for recognition was attacked. An editorial in The Nation stated that what was wrong with the American position was: "It assumes General Obregón's Government is not fit to be recognized, but is yet excellent enough a government as to be quite up to negotiating a treaty."²⁴ Arguing along these same lines the American Federationist brought out that

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American Federationist, March, 1922.

²⁴The Nation, July 21, 1919

such a treaty even if entered into would be a ridiculous proceeding, inasmuch as a treaty with an unrecognized government--and that is what the American State Department is seeking-- would be, after all, a worthless instrument unless ratified by the Mexican government following recognition.²⁵

The Nation argued for recognition consistently and continually. The editor maintained that the Mexican policy of "watchful waiting" of the Wilson administration had changed to "bumptious bullying" of the Harding administration.²⁶ In an editorial entitled "Recognize Obregon" in June, 1921, the following statement was made: "We are almost driven to the conclusion--which to us unsophisticated Americans is a painful one--that the government listens more attentively to the voice of business than it does to the voice of the people, or perhaps the voice of business is louder."²⁷

A year later the editor followed in the same vein:

The United States has no more right to dictate to Mexico in what manner she shall revise her property laws, so long as they do not discriminate against citizens of the United States than foreign subjects would have to dictate to us the manner in which we free our slaves, or abolish our liquor business, or legislate against aliens in various states. If Mexico were more powerful we would not do it. This so-called protection of American property is sheer bullying and a shameful chapter in American history.²⁸

²⁵ American Federationist, op. cit.

²⁶ The Nation, June 22, 1921.

²⁷ Ibid., June 1, 1921

²⁸ Ibid., May 24, 1922

The New Republic, in an editorial called "Mexico: Why Not Recognition," asked:

is the United States justified in its policy of non-recognition? The de facto character of the Obregon government is unquestionable. It shows every evidence of stability and of capacity to carry out its international obligations--the two conditions designated by international law as prerequisite to recognition. Prior to the Wilson administration it was the almost uniform practice of the United States to grant unconditional recognition to de facto governments....

If Secretary Hughes were less the schoolmaster and more the statesman, the remaining difference between the two governments--not primarily questions of form--would not much longer be permitted to postpone the reestablishment of normal diplomatic relations.²⁹

The United States government was determined that Mexico agree to sign a treaty as a prerequisite to recognition; the Mexican government was just as determined not to sign the treaty, even if recognition was withheld indefinitely. Account must be made of certain factors which afforded better feeling between the two countries and eventually paved the way for an understanding.

In June, 1922, an agreement was reached in regard to Mexican foreign obligations as a result of a conference between the Mexican Secretary of the Treasury, Adolfo de la Huerta, and the International Committee

²⁹ New Republic, May 24, 1922

of Bankers represented by Thomas W. Lamont from Great Britain. This agreement, known as the Lamont-de la Huerta agreement, fixed the total foreign debt of Mexico since 1914, including interest, at 1,400,000,000 pesos. Arrangements were made whereby the Mexican government could pay the debt annually for a period of forty years through the Financial Agency of the Mexican government in New York City. The export tax on petroleum was to be used to pay the debt. Provision was also made for the return of the National Railways of Mexico to private ownership.³⁰

In August of the same year the Department of State at Washington received the text of five decisions of the Mexican Supreme Court rendered in amparo proceedings instituted by American-owned petroleum companies. These were important because five unanimous decisions constitute what is known as a judicial precedent in Mexican jurisprudence. All five cases referred to the denouncement of land belonging to American petroleum companies. It was proved by the courts that in all five cases the American owners had an "acquired right" to the land to the injury of which the provision of the Constitution of 1917 for the nationalization of petroleum could not apply. The owners had made "positive acts" of owner-

³⁰Foreign Relations of the United States, 1922,
pp. 685-691.

ship, that is, they had prospected for and worked petroleum on the lands, therefore this judicial precedent would only apply to similar cases. It did not deal with the rights of American citizens who owned lands acquired before May 1, 1917, containing petroleum or other substances, who had not performed "positive acts."³¹ Nevertheless, the decisions were important in establishing a judicial precedent upon the non-retroactivity of Article 27 of the Constitution.

On the other hand, certain factors arising from the agrarian question in Mexico during the Obregón administration further complicated the question of American recognition. In May, 1921, President Obregón presented an agrarian bill to the Congress of the Union which was passed and became the law for the sub-division of large landed estates. The purpose of this law is contained in the first article: "The Nation recognizes the natural, inalienable, and imprescriptible right which every individual has to own and cultivate for himself a parcel of land...."

In order to carry out this provision the law provided for the expropriation of land, the owners to have the right of indemnification for the value of the land, as it appeared in the tax office plus ten

³¹ Ibid., pp. 680-681

percent. Payment was to be made in bonds of the National Agrarian Debt in yearly installments covering capital and interest. The income to the government from expropriated lands was to be set aside for payment of the said bonds. Part of Article 46 of this law was aimed directly at foreign land holders. It stated:

Those....who provoke foreign governments....to exercise diplomatic, military, or economic pressure against the people or the government of Mexico shall be deprived of their rights of citizenship and shall pay a fine in value of forty percent of their holdings.³²

The agrarian law aroused the protest of the State Department at Washington. After all of Obregon's assurances that Article 27 was not to be interpreted retroactively and no confiscation of property was to take place, this law seemed to point in that direction. The matter was further complicated by the passage of state land laws of similar nature. Pani answered the American protest to these laws by stating that the Executive could not intervene in the passage of these laws, as the states were absolutely sovereign in respect to internal affairs.³³

³² Foreign Relations of the United States, 1921,
pp. 481-489.

³³ Ibid., p. 491.

The agrarian question was a complicated one. The desire for land by the masses of Mexico had been the fundamental factor that brought on the revolution of 1910. Madero had promised the people that their lands would be restored to them; Carranza had issued the agrarian decree of 1915. During this time, however, little land distribution had actually taken place; it remained for Obregon to really put the agrarian program into force.³⁴ The Mexican President had stated to Earnest Gruening that the revolution had decided that every man who was willing to work at a piece of land was entitled to that right.³⁵ He was determined to carry out this essential part of the revolutionary program.

In order to bring about a redistribution of land in a country where the greatest portion of the land was held by a few, expropriation would have to take place. Foreigners owned approximately one-fifth of the private

³⁴ Frank Tannenbaum, The Mexican Agrarian Revolution, (Washington, D. C.: The Brookings Institute, 1930), p. 330.

³⁵ Earnest Gruening, "The Man Who Brought Mexico Back," Colliers, September 29, 1923.

lands of Mexico;³⁶ one-half of this area was American owned.³⁷ Therefore it was obvious that American lands would be expropriated.

The United States government's chief protest against this expropriation of land in Mexico owned by Americans and acquired under good faith in Mexican law was the fact that the land laws providing for such expropriations did not provide for the payment of cash indemnity upon the taking of the lands. Obregón recognized this problem and it is creditable that he did not go into long explanations that the lands had been illegally taken under invalid laws in the first place. He had stated that Article 27 was not to be interpreted retroactively and no expropriation would take place without indemnification and so far as possible he endeavored to keep these promises. In regard to the agrarian question the Mexican president was faced with a dilemma. He had promised the people land in his presidential campaign. Therefore, it was necessary to begin the restoration of lands as speedily as possible. Delay had spelled the downfall of former Mexican presidents. The Mexican government admitted

³⁶Tannenbaum, *op. cit.*, p. 360

³⁷*Ibid.*, p. 365

that the procedure whereby grants of land and restoration of ejidos was made was on occasions illegal. Mexico was handicapped by not having enough money to pay cash indemnity for expropriation. Pani stated in a letter to Summerlin in May, 1922, that the Mexican government planned to exchange the bonds paid for expropriated lands for cash in as short a period as possible. He pointed out that the restoration of land to the masses of people contributed largely to the reestablishment of peace. The recovery of lands illegally taken had been the chief aim of the revolution. Rather than being a manifestation of acting Bolshevism, as some Americans accused, it was but a correction of four centuries of oppression.³⁹

Obregón had proposed the signing of a claims convention with the understanding that recognition would follow. After recognition he would take up the matter of signing a treaty between the United States and Mexico. The United States government had not agreed that recognition would follow the signing of a claims convention, although Hughes stated that he had no objection to the signing of a claims convention prior to the signing of the treaty.³⁹

³⁹ Foreign Relations of the United States, 1922, p. 667.

³⁹ ibid., p. 647

In 1923 the two countries compromised on their respective stands. President Obregón suggested to the American government that the problems between the United States and Mexico be discussed by a commission made up of representatives of both nations.⁴⁰ Harding was favorable toward the plan and Hughes agreed, although the Secretary of State made it clear that the United States was not changing its position or offering recognition.⁴¹

The purpose of the commission was agreed upon by the two countries and stated in the following form:

With the view of arriving at a mutually accepted basis for the adjustment of the fundamental questions at issue between the United States and Mexico, the United States commissioners and two Mexican commissioners will be appointed to meet for the purpose of exchanging impressions and reporting their conclusions to their respective authorities. The hospitality of Mexico City has been offered to the American commissioners as the city's guests of honor and the commission will be convened there. The names of the commissioner will be announced later.⁴²

⁴⁰Foreign Relations of the United States, 1923, p. 522.

⁴¹Ibid., p. 524.

⁴²Ibid., p. 533.

President Harding appointed Charles Beecher Warren, former ambassador to Japan, and John Burton Payne, former Secretary of the Interior, as the two American commissioners. President Obregón appointed Ramón Ross, Director of Public Charity, and Licentiate Fernando González Roa, who had served the Mexican nation in various capacities, as the two Mexican commissioners.⁴³

Secretary Hughes stated to Commissioner Warren that the duties of the commissioners were threefold: (1) the obtaining of satisfactory assurances against confiscation of the subsoil interests in lands owned by American citizens prior to May 1, 1917; (2) the restoration or proper reparation for the taking of lands owned by American citizens prior to May 1, 1917; and (3) the making of appropriate claims conventions between the two nations.⁴⁴

The Secretary made it clear that it was necessary for American owners of petroleum lands in Mexico to be safeguarded against confiscatory measures depriving them of their interests. The five decisions of the Mexican Supreme Court were inadequate, because this judicial precedent was not far reaching enough in establishing the nonretroactivity of Article 27. Hughes stated further that the mining laws of 1884, 1892, and 1909 were the

⁴³Ibid., pp. 534-535.

⁴⁴Ibid.

only basic laws relative to the subject. American owners should have assurances against granting of subsoil interests to others and against the demand to obtain permits for drilling in their own lands. The commissioners should also get the Mexican government's opinion on oil taxation, although the government was not a party to what had taken place between the Mexican government and the American oil owners in this question.⁴⁵

In regard to the expropriation of agrarian lands belonging to Americans, Hughes asked Warren to indicate the sympathy of the American government to the efforts of the Mexican government to readjust large land holding estates to meet the natural demands of the people. Nevertheless, the Mexican government was responsible for the claims of American citizens whose property had been seized without payment. These claims were to be taken up by the claims conventions. The Mexican government was to be made to understand that payment in worthless state bonds or upon a basis of valuation utterly inadequate was not to be understood as discharging claims.⁴⁶

It was understood that the claims conventions could not be signed until the United States recognized Mexico.

⁴⁵Ibid., pp. 543-545.

⁴⁶Ibid., pp. 547-548.

Hughes said that it should be made clear that the United States had always been ready to extend recognition when it was met with substantial assurance from the Mexican government that international obligations would be discharged by giving adequate protection to valid titles of American citizens. The United States did not regard the stability of a government the sole question in extending recognition, but a question of both ability and disposition to discharge international obligations. Hughes stated his position in his final advice to Warren:

....I may say that the assurance that is desired is one that will voice not simply a personal sentiment or intention, but will show that the good faith of Mexico, through her authorities, is pledged to a course of conduct which will relieve this government of the uncertainties and apprehensions of recent years, and will enable the people of the United States to give full play to their earnest desire to cultivate the most friendly relations with the people of their sister republic.⁴⁷

The United States-Mexican Commission convened in Mexico City on the 14th of May, 1923, at 85, Bucarelli Street. The first meeting was confined solely to the presentation of credentials by the American and Mexican representatives.⁴⁸

The problems were taken up by the Commission in the

⁴⁷ Ibid.,

⁴⁸ Proceedings of the United States-Mexican Commission, op. cit., pp. 3-7.

order given by Hughes in his advice to Warren prior to the conference: first, the question of American subsoil rights in Mexico as affected by Article 27 of the Mexican Constitution; second, the agrarian question which referred to expropriation of American owned lands by the Mexican government; and third, the establishment of claims conventions between the two countries.

Mr. Warren spoke in behalf of subsoil rights of American land owners in Mexico. These rights had been acquired in good faith under the Mexican laws of 1884, 1892, and 1909. The whole problem now was the question of the interpretation of Article 27 of the Mexican Constitution of 1917 to the injury of these rights. The Mexican nation had admitted that Article 27 was not retroactive. Article 14 of the Constitution stated this principle. It had been reiterated by President Obregón and Pani and substantiated by the five decisions of the Mexican Supreme Court. He stated the position of the American government:

....American citizens can not be deprived of their ownership or their interests in....lands and subsoil by the government of Mexico....without payment of cash for the just value thereof at the time of taking.⁴⁹

The Mexican commissioners confined their opinions on the retroactivity of Article 27 to a discussion of the five decisions of the Mexican Supreme Court in the petroleum

⁴⁹ Ibid., p. 14

cases. The United States government had not been convinced that this judicial precedent fully established the fact that Article 27 could not be interpreted retroactively, as the decisions had referred only to "acquired rights" in that the law must not have retroactive effect to the injury of them. Nothing had been said in regard to sub-soil rights of Americans who had performed no "positive acts" of ownership, that is, who had not prospected or worked the lands acquired.

The Mexican commissioners gave the Mexican viewpoint on this affair. It was brought out in their discussion that no law could have retroactive effect to the injury of existing rights. This principle had been upheld by leading authorities upon jurisprudence. But distinction must be made between "acquired rights" and mere rights, interests or expectations. The Mexican Commissioners quoted Boudray-Lecantinier from his treatise on Civil Law:

Under the title of rights, the law recognizes that we enjoy certain powers and grants us the privilege of exercising them, or not, as we may choose. As long as we have not exercised one of these powers, it may be said that we have a right but only in the sense that it may be acquired by pursuing a certain line of conduct. However, we do not acquire this right except when we have pursued that line of conduct and when this power has been actually manifested by the act necessary to bring it into use. The exercise of the legal power which has, in some manner, materialized in this act and thus manifested, is that which constitutes an acquired right. From then on this right belongs

to us to such an extent that a new law can not de-
prive us of it without involving retroactivity. . . .⁵⁰

In the opinion of the Mexican commissioners, therefore, the Supreme Court had decided that part 4 of Article 27 could not be applied retroactively to the injury of acquired rights, that is, where some positive act had been performed. This did not apply, however, to cases where no positive act had been performed, as such cases did not involve the injury of "acquired rights" but "mere rights or expectations" which could not be considered as injured by the new law.⁵¹

The Mexican commissioners went on to say, however, that the policy of the Mexican government as to owners of the subsoil who were not considered to have "acquired rights" was not to deprive them of their lands. Legislation in force gave them preferential right of denouncement within a certain period of time; that is, they were given an opportunity to prospect and work their lands.⁵²

The Mexican commissioners upheld the fundamental theory of article 27, namely, that ownership of the subsoil was vested in the nation. This principle was based on Mexican tradition, just as private ownership of minerals in the United States was based on Anglo-Saxon tradition. The Mexican government could not

⁵⁰ Ibid., pp. 17-18.

⁵¹ Ibid.

⁵² Ibid., p. 21

consent to changing this basic principle of ownership, nor could foreigners acquire private ownership of subsoil. According to Article 33 of the Constitution of 1857, subsequent alien laws, and the Constitution of 1917, foreigners could not allege a privileged condition with respect to nationals in matters relating to application of civil laws.⁵³

In general the Mexican commissioners reaffirmed the position of the Mexican government upon the whole question of nationalization of the subsoil. Article 27 was not to have retroactive effect to the injury of property acquired in good faith under previous laws if the owners had "acquired rights." However, owners who had not worked their lands could not be considered to have this right. National ownership of subsoil was a basic Mexican principle which the United States could not change by claiming privileged treatment for its nationals.

In regard to the agrarian policy, the American commissioners emphasized the fact that foreigners had been granted the privilege of acquiring land under previous Mexican laws. Article 27 of the Constitution of 1857 had stated that private property would not be taken without the consent of the owners except for reasons of public utility, indemnification having been

⁵³ Ibid., p. 23.

made. This implied that the owners must be paid for their lands before the lands could be expropriated. Nevertheless, expropriation of American owned lands by the Mexican government had taken place.

Commissioner Warren presented the stand of the United States in regard to this question:

....the United States maintains that under the rules of international law there can be no taking of lands, waterways or other property of American citizens.... legally acquired prior to May 11, 1917, under laws of Mexico....without indemnification in cash at the time of taking for the just value thereof.⁵⁴

In defending the Mexican government in regard to land expropriation the Mexican commissioners stated that the agrarian question had been the chief source of disturbance in the country and the Mexican government was attempting to solve the problem. They advanced the same arguments used by Pani and Obregon--the Mexican nation had been forced to enact this legislation for the immediate satisfaction of public needs, regardless of the economic condition of the country.⁵⁵

The commissioners pointed out that the bonds made in payment for expropriation of lands would be accepted at par by the Mexican government for the payment of taxes. The government was negotiating a special loan in order

⁵⁴ Ibid., p. 29.

⁵⁵ Ibid., p. 31-33.

to pay for expropriation of lands in cash. In event the attempt to procure the loan was unsuccessful, the government intended to shorten the period of payment according to the financial position of the Treasury. Under these conditions, the commissioners stated, the bonds would have cash value. The basis for establishing the value of expropriated lands was to be based principally on the declarations for taxes made by the property owners. The Mexican government considered this a fair procedure. The value of rural properties had lowered greatly due to the agricultural crisis existing in the country.⁵⁶

The American commissioners were willing to compromise upon the payment for expropriated lands. They stated that the United States government realized the complexity of the agrarian question in Mexico and the financial position that the country was in due to the recent revolutionary period. Therefore, if the Mexican government would make a statement that its claims to expropriate American owned lands for ejidos--for any purpose except upon indemnification for just value in cash--was not established as a precedent, the United States government would consider the taking of bonds by the owners for expropriation of their properties. The United States government did, however, consider it

⁵⁶ Ibid., p. 33.

a matter of utmost importance, that the owner be recompensed for the full value of the land at the time of taking.⁵⁷ Approval of this recommendation depended, of course, upon whether or not the two governments decided to resume diplomatic relations and also upon the signing and ratification of the claims conventions.⁵⁸

The Mexican commissioners agreed to this statement made by the American commissioners and asked that in event of resumption of diplomatic relations, the United States government would forward concurrently with the exchange of ratifications of a general claims convention, a note binding its citizens who were claimants to accept bonds in payment for land expropriated for ejidos, with the provision that the Mexican government would not consider this acceptance a precedent in the payment for expropriated lands.⁵⁹

The remaining problem of the commission was the drafting of the two claims conventions, which were to be signed by duly authorized plenipotentiaries of the President of the United States, in event that diplomatic relations were resumed between the two countries.

⁵⁷ Ibid., pp. 38-39.

⁵⁸ Ibid., p. 40.

⁵⁹ Ibid., p. 44.

The Special Claims Convention referred to the settlement of losses and damages suffered by American citizens in Mexico during the revolutionary period, 1910-1920. Provision was made for settlement of such claims by a commission composed of three members, one member to be appointed by the President of the United States; one by the President of Mexico; and the third, who was to provide over the group, by mutual agreement between the two countries. The decision of the majority of the convention was to be final and conclusive upon the claims presented. The amount awarded the claimants was to be paid in gold or its equivalent by the Mexican government to the United States government.⁶⁰

The General Claims Convention referred to the claims of both citizens of the United States and Mexico since the signing of the claims convention of July 4, 1868 (excepting the claims to be settled by the Special Claims Convention). The method of procedure of this convention was to be essentially the same as the one provided for the Special Claims Convention except that the claims were of a more general nature and referred to the citizens of both countries.⁶¹

⁶⁰ Ibid., pp. 53-57.

⁶¹ Ibid., pp. 58-62.

The commission adjourned on the 15th of August, a short while after President Harding's death. President Coolidge approved the statements and recommendations of the American commissioners. Secretary Hughes suggested to Pani that diplomatic relations be resumed on the 6th of September and the two claims conventions be signed on the following day, the General Claims Convention at Washington and the Special Claims Convention at Mexico City.⁶²

Pani asked that diplomatic relations be resumed on Friday, August 31, in order that President Obregón could make announcement in his speech to Congress the following day. So as not to give the impression that recognition was conditional upon the signing of the two conventions, Pani asked that their signing be postponed ten or fifteen days after American recognition of the Mexican government.⁶³

Hughes agreed to the 31st of August as the date of recognition, but asked that the conventions be signed on the 7th of September. He submitted the following statement to be given to the press of both chancellories:

⁶² Foreign Relations of the United States, 1923,
p. 550.

⁶³ Ibid., pp. 551-552.

The government of Mexico and that of the United States in view of the reports and recommendations that their respective commissioners submitted as a result of the Mexican-American conferences held at the City Of Mexico from May 14, 1923 to August 15, 1923 have resolved to renew diplomatic relations between them, and therefore, pending the appointment of ambassadors, they are taking the necessary steps to accredit formally their respective Charge d'affaires.

Thus ended a diplomatic controversy of three years standing.

The United States government had received a great deal of criticism for its long delayed recognition of Mexico. According to the rules governing recognition of one nation by another the United States was not justified in withholding recognition from a legally formed and stable regime. Nevertheless, certain factors must be considered in attempting to evaluate the position of the United States in this matter.

Controversies between the Carranza government and the United States had caused serious difficulty between the two nations, bringing them on the verge of war. Powerful pressure had been brought to bear upon Wilson's recognition of Carranza. The Republican administration, represented by Hughes and Harding, contended therefore, that controversies between the United States and Mexico

could be avoided in the future by having certain matters settled prior to recognition.

Certainly the United States was justified in expecting certain guarantees from the Mexican government in respect to the protection of American lives and property. The fact remains, however, that the procedure used was high-handed and arbitrary.

Mexico's refusal to sign the treaty was a credit to her sovereignty. Obregón eventually gained the respect of the world by building up a peaceful and well ordered country even in the face of American non-recognition. He was able to gain the recognition of the United States without compromising the sovereignty of the Mexican government. Peaceful arbitration of the matter was a credit to both nations and established a precedence for the settlement of future disputes.

CHAPTER VI

CONCLUSION

Mexicoan-American diplomatic relations were established on a firm basis for the first time since the fall of Diaz by the recognition of the Obregon government in 1923. The General Claims Convention and the Special Claims Convention were incorporated into treaties and duly signed on the 10th of September, 1923, and subsequently ratified by the two governments.

The Obregon administration marked the end of the chaotic conditions of ten years of strife and the beginning of a well ordered and democratic government. The ideals of the revolution as incorporated in the Constitution of 1917 crystallized and began to materialize in actual form. President Obregon realized that the old order of privilege must be broken down and the people given the things they had fought for during the revolutionary period before peace and order could be restored to Mexico. That he was able to bring these things about and prove to the world that Mexico could achieve stability and unity is creditable.

Obregon was the first president of Mexico since 1910 who was able to maintain his position successfully without the sanction of the United States. He proved

what Mexico had always maintained--the complete sovereignty of the nation.

Although Mexico had always affirmed her sovereignty, that her government was influenced by the United States is obvious. During the chaotic times before the Juarez administration the United States had threatened Mexico, taken her territory. The American government had aided Mexico in expelling the French, but this was done more for the purpose of upholding the Monroe Doctrine than of protecting Mexican sovereignty. American influence brought about the assassination of Madero; spelled Huerta's downfall; established Carranza by recognition.

The Díaz administration, so favorable to foreign investment, was contemporaneous with the period of American economic expansion. This resulted in a large share of Mexican natural wealth coming under American control. The stability of the Díaz regime prevented the United States from attempting to exercise the policy of "dollar diplomacy" toward Mexico.

However, beginning with the revolution, vested interests attempted to dictate American policy in regard to Mexico. Feeling existed that the United States should use the same tactics in straightening out Mexican affairs as had been used toward the other small

Latin American countries.

Undoubtedly, therefore, President Wilson's control of American foreign affairs during the major part of the Mexican revolution was fortunate for Mexico. He opposed the forces of imperialism, which, if they had been allowed to dictate, might have brought Mexico under American influence, or at least postponed the establishment of a democratic government.

The majority of the Mexican people did not appreciate Wilson's Mexican policy. The Mexicans were intensely nationalistic in regard to foreign influence, however diverse their political opinions. Outside interference of any sort was resented. Wilson's recognition of Carranza was responsible for the First Chief's assuming leadership of the Mexican nation. Nevertheless, Carranza maintained an attitude of hostility toward the United States in an attempt to guard against American encroachment.

It was difficult for the Mexicans to understand the contrast between Wilson's attitude toward their nation and the attitude of American vested interests. They did not realize the tremendous pressure brought to bear upon the President by the imperialists who advocated

stern measures for Mexico. In the light of favorable Mexican-American relations it was unfortunate that President Wilson's Mexican policy really ended in 1917, when the United States entered the World War. The Constitutionals were fairly well established and seemed have justified the American President's faith in them. Nevertheless, in the light of his previous handling of Mexican affairs during the turbulent days of the revolution, Wilson could probably have handled the controversial matters of American property rights versus Mexican legislation in a more diplomatic way than did Lansing. It is problematical as to whether Wilson's hand at the helm could have stayed the interventionist movement; for after all, it was largely directed at his Mexican policy and was part of the Republican campaign.

Although American recognition of Carranza had established his power, he maintained a hostility against the United States. At times he was forced to submit to American pressure, but on the whole he was defiant of attempted American control. Yet Carranza had received all the benefits of the tolerant Wilson administration, while Obregón, who made friendly overtures to the United States from the first, took

control of the Mexican government after the American vested interests represented by Harding and Hughes, had assumed leadership.

Obregón was intensely nationalistic regarding American influence, but he was friendly toward the United States, even while refusing to comply with its demands. This friendly attitude, plus Obregon's ability to bring order and peace to Mexico, eventually won American recognition for the country without compromising of sovereignty.

American recognition of Obregón restored normal diplomatic relations between the two countries. The problems arising from Mexican interpretation of Article 27 were not permanently settled by the Bucareli Conference of 1923; indeed this complex problem has continued down to the present day. However, this arbitration of a gravely controversial question was a step forward in the settlement of future disputes.

Mexico's attempt to restore to the people the natural wealth that had been granted to foreigners by an unforeseeing despot was not a problem that could be settled overnight. However justified the country was in this restoration, the fact remained that the United States felt obligation to protect

its nationals. Consideration must be given to the fact that the voice of business was powerful in the American government.

Relations on the whole since 1923 between the United States and Mexico have been favorable. The appointment of Dwight L. Morrow as American ambassador to Mexico in 1927 was instrumental in improving relations. Mr. Morrow was the first American diplomat to attempt to understand the Mexican people.

The Mexican government has continued to be established and orderly and this factor has won the respect of the United States who has shown less disposition to attempt to dictate to Mexico in regard to internal policies affecting American citizens.

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