

SOME ASPECTS OF THE AGRARIAN CONTROVERSY
BETWEEN MEXICO AND THE UNITED STATES
(1923-1931)

by

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A Thesis

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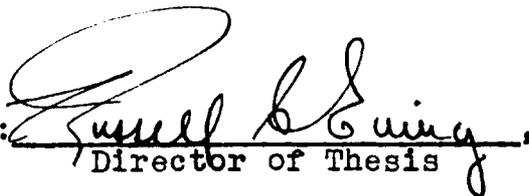
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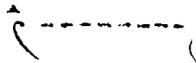
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P R E F A C E

The Mexican Revolution of 1910, in some respects, surpasses in importance the Mexican war for independence, as it brought a new order in the social, political and economic life of Mexico. The independence of Mexico achieved only the separation from Spain, but did not accomplish the economic freedom of the great mass of people. Mexico merely changed masters; the Spanish peninsular was replaced by the Creole and the exploitation of man by man continued, leaving a trail of poverty, misery and tears.

The Mexican Revolution attempted to cope with the human tragedy, and thus complete the unfinished movement for independence. The 1910 Revolution like that of 1810, promised an agrarian reform to satisfy the people's need for land. The laws intended to solve the agrarian problem affected Mexican as well as foreign landowners, including American citizens. Here the seeds of the agrarian controversy between Mexico and the United States germinated and threatened the friendly relations between both countries.

In the first chapter of this thesis, the historical background of the Mexican land struggle has been presented with the purpose of making it easier to understand the agrarian controversy. The legal foundations of the problem have been given in the second chapter. It covers the three milestones of the agrarian legislation, which the United States

Government strongly opposed: the land decree of January 6, 1915, Article 27 of the Constitution of 1917, and the Agrarian Regulatory Law of April 10, 1922. This legislation constituted the basis on which the controversy developed, particularly from 1923 to 1931.

The third chapter deals with the Bucareli Convention of 1923, which reestablished diplomatic relations between Mexico and the United States severed since 1920, and likewise created the General Claims Commission.

The controversy during the Calles regime is covered by Chapter Four. It was during Calles' presidency that the agrarian controversy reached the danger point, as he enforced the Alien Land Law of 1926 to govern enforcement of Article 27 of the 1917 Constitution.

In the last chapter, the General Claims Commission is covered. This organization handled the major part of the controversy from the end of Calles' term in office until August 31, 1931, when the life of the General Claims Commission expired for the third time. On this date the critical period of the agrarian controversy ended.

In order to present an impartial and objective study of this problem both sides of the controversial issue have been weighed carefully. Official documents of both countries have been used extensively, and books written by American, Mexican and foreign observers have been consulted. Likewise a thorough

investigation of magazines and newspapers published in the United States and Mexico has been carried on in the preparation of this monograph for the purpose of presenting the facts as clearly and consistently as possible.

CHAPTER ONE

INTRODUCTION: ORIGINS OF THE LAND STRUGGLE

Any attempt made to solve the agrarian problem in Mexico or even to suggest means of avoiding friction with foreign interests there, must be based on an understanding of the historical background of Mexico's land struggle. The United States State Department has been criticized on the grounds that it has not sufficiently understood or considered the land economy of the Mexicans. On the other hand, Mexico and the United States could have made considerable progress in settling their differences if both countries had sought a mutual understanding through calm deliberation, with a desire to see justice done, rather than to cling to their traditional and dogmatic attitude of suspicion and contempt.

Land struggle is as old as Mexico herself, dating from pre-Hispanic times. Before Cortés appeared on the Mexican scene, the Aztecs were imposing an absolute monarchy on the country. Aztec conquerers effected changes in the land tenure of those whom they conquered. They introduced class distinction and vested interests into the prevailing communal structure.

The system of land holding washed out by this aborig-

inal civilization has left an indelible mark on the agrarian life of Mexico, and this system was also closely interrelated with the social organization of the Indian. The political organization of the Indians was a sort of patriarchal communism, the largest political and social unit being the tribe. Each tribe was composed of a number of kinship groups or clans, known as calpulli, which in turn were composed of households. Ordinarily, several calpulli would settle together to form a village. There were various kinds of lands belonging to the willage, but three are noteworthy:¹

(1) The aggregate of all the lands belonging to a community was called the altepetlalli, to which each kinship group or calpulli was assigned. Certain parts of the altepetlalli were for cultivation, while others were reserved for hunting, fishing, or for providing firewood, timber, and so forth.

(2) The untilled part of the altepetlalli could be freely used by any member of the clan to which the altepetlalli belonged. Agricultural lands were divided into small plots and assigned to several heads of families in the calpulli. There were no written titles to the individual lots, which were transmitted from father to son. These ancient Mexicans

¹Eyler N. Simpson, The Ejido, Mexico's Way Out, pp. 3-5.

did not have individual private ownership of the land. If a given plot went uncultivated for two successive years, it was subject to forfeiture. Lots could not be permanently transferred to members of another calpulli. If a family died out or moved away, its tract reverted to the clan and was either reassigned or held in reserve for future needs.²

(3) The third portion of the land belonging to the calpulli was set aside for special public purposes -- for the maintenance of the village chief, for entertainment of visiting officials, payment of tributes, waging war, or for the support of the religious institution or priesthood. This land was worked by the whole community.

Some time before the arrival of the Spaniards, the land system of Mexico was in the process of being modified, thereby resulting in a system that closely resembled the individual holdings of the post-Conquest days.³ The most important change was brought about by the appearance of privately owned and serf exploited properties developed out of conquest and warfare. As a reward for valor on the battlefield or for other outstanding services, land and serfs were given, so involving jurisdiction over

²Mendieta y Nuñez, El Problema Agrario de México, pp. 10-11, as quoted by Simpson, op. cit., p. 5.

³Simpson, op. cit., p. 5.

land and people, the same being transferable from father to son. Temple lands were considerably extended and a special class of serfs was reserved for their exploitation and for the support of a large sacerdotal class. In spite of these changes, the landholding village was still the dominant unit of the agrarian system.⁴

Cortés landed in Mexico and found the Indians living under a well-defined system of land tenure. The Conquest took place in a deeply rooted and organized community. The natives had developed a stable land system with rights, privileges, and obligations that were clearly outlined and firmly enforced.⁵

Some of the Spanish conquistadores came for gold, not for land, as revealed through Cortés' own words. "I came to get gold, not to till the soil like a peasant," said the Spanish conqueror upon his arrival in Cuba in 1504, and after being offered an encomienda.⁶ Yet, after the first wave of fighting and looting, lands and farms came to be the enduring fruit of the Spanish conquest, rather than the precious metals.

The grant of Indians called encomienda legally meant

⁴Helen Phipps, Some Aspects of the Agrarian Question in Mexico, p. 17. This study was accepted as a doctoral dissertation at Columbia University, and is perhaps one of the best works on the land tenure of Mexico.

⁵Frank Tannenbaum, The Mexican Agrarian Revolution, p. 3.

⁶William H. Prescott, History of Conquest of Mexico, ed. 1843, Vol. I, p. 228.

an allotment of natives of certain areas. The encomenderos, or recipients of the grants, had a right to collect tribute and to exact personal service from the Indians living in the district. In exchange, they were to convert them to Christianity, and to defend the persons and property of their subjects. The Spaniards not only took advantage of the work rendered by the Indians, but also took possession of their lands. This encomienda system was similar to the feudal organization of large estates worked by the peasants of Castile.

The concentration of the land in the hands of the few had its beginning in the encomienda system. These encomiendas varied in size, often of very considerable extent. The largest was that of the Marquesado del Valle, given to Cortés⁷ and which measured 25,000 square miles. It embraced the Valley of Oaxaca, Toluca, Cuernavaca, the Pacific half of the Tehuantepec Isthmus, a third of the present state of Veracruz, and much besides, including twenty-two towns with their surrounding lands and a total population of more than 100,000 people.⁸

The landholding towns had numerous different origins: the lands of villages not disturbed by the Conquest; new

⁷Lucas Alamán, Historia de Méjico...Vol. II, pp. 65-66.

⁸Ernest H. Gruenning, Mexico and Its Heritage, p. 114.

Indian villages that were founded; cities, towns and villages established by the Spaniards and other communal groups of Indians, or mestizos.

The landholding towns grew out of the combination of the native and Spanish conception of communal property. It involved two classes of land: the municipal, administered by the town officials, and the communal lands, properly known as ejidos.⁹ The proceeds from the municipal lands were applied to the support of the local government and also for the payment of taxes to higher authorities.¹⁰

The ejido comprised one plot of land whereon the village folk could construct housing and public buildings and another plot (at least one square league) made up of crop land, pasture and woodland.¹¹ In other words, the ejido, as it was conceived in New Spain, was equivalent to the Aztec altepetlalli, slightly modified, and which is the prototype of the present-day ejido, recreated in the modern Mexican agrarian laws.

The injustice resulting from the encomienda system led to repeated attempts by the Spanish Crown to protect the natives by curbing the prerogatives of the colonists. The Spanish sovereign wanted to preserve the land system

⁹The word ejido is derived from the Latin exitu, meaning outlet.

¹⁰Simpson, op. cit., p. 11.

¹¹Ibid.

of the Indians and establish their ownership of the identical lands they had held before the Conquest.

The Conquest of Mexico had not yet ended when the Queen of Spain in her decree of May 31, 1535, instructed the Viceroy of New Spain, don Antonio de Mendoza to return to the Indians the lands taken from them,¹² but little or nothing was done to comply with the Queen's decree, and the Spaniards continued to invade the Indians' property rights.

By the same token the New Laws of 1542 were disregarded. These laws which can be attributed in large measure to Father de las Casas, abolished the encomienda system upon the death of the encomenderos. Article 35 provided that no new encomiendas were to be made to any one for any reason and that when the holders of the existing encomiendas died their Indians would revert to the Crown.¹³

The custom of inheriting the land of the Indians upon their death developed among the encomenderos. When an Indian died, his share of the communal lands, instead of reverting to the village, passed to the hands of the encomenderos. To end this usurpation, on May 14 of 1546, Emperor Charles V ordered that the encomenderos were not to

¹²Leyes de Indias, Tomo II, Libro IV, Título XII, Tercera Edición, p. 103, as quoted by Manuel Fabila, Cinco Siglos de Legislación....p. 13.

¹³Lesley B. Simpson, The Encomienda in New Spain, pp. 150-154.

inherit the lands left by Indians upon death.¹⁴ This order was also disregarded in Mexico. There are numerous decrees, issued by the Spanish sovereigns and their representatives in New Spain, regarding protection of the lands belonging to the Indians. Of course, the Spaniards in the New World paid very little attention to them, as they felt that laws "se acatan pero no se cumplen" - "are read, but not obeyed."

The Royal Decree of May 26, 1810, appears to be the last attempt of the King of Spain to cope with the agrarian problem in Mexico, which was further intensified by the wars for independence. Issued by Ferdinand VII, it provided for the exemption of Indian tribute and also for the distribution of lands to the natives.¹⁵

In the War of Independence (1810-1821), the landless masses joined the Hidalgo movement, as they thought that it was in reality an agrarian revolution. Hidalgo decreed the restoration of the lands to the Indians. The land owners, both civilian and ecclesiastic, were extremely powerful, and did not want any change in the economic status quo of Mexico. Therefore, they threw their support behind Iturbide, the leader of the counter-revolution of 1821.¹⁶

The independence of Mexico achieved the separation

¹⁴Fabila, Cinco Siglos de Legislación..., p. 13.

¹⁵Ibid., p. 17.

¹⁶Gruenning, op. cit., p. 119.

from Spain, but did not bring about hoped for freedom to the great mass of people. Mexico had merely changed masters: the peninsular (Spaniard born in Spain) was replaced by the Creole, and the clergy emerged from the war with relatively greater economic strength than before.

The period of greatest ascendancy of the clergy in Mexico was from 1821 to 1856, and especially from 1821 to 1833. Even Lucas Alamán, the outstanding author and historian who stood strongly in favor of the Church, states that "not less than one half of the real estate of the country" was in the hands of the clergy.¹⁷

In the long conflict between the ecclesiastical and temporal authorities in Mexico, a very significant step had been taken during colonial times (1767) with the expulsion of the Jesuits from all Spanish possession and the confiscation of their property. This conspicuous act of alienability of property in Mexico was well remembered by the new Republican rulers. In 1823, the Government had nationalized the rather considerable property of the Inquisition.

There were other sporadic attempts to break the power of the Church and curb its land grabbing policy, but nothing was achieved until the Mexican liberals, headed by Ignacio Comonfort and Benito Juárez, came into power

¹⁷Alamán, op. cit., p. 67.

(1855-1860). During President Comonfort's administration, the congress passed the notable Ley Lerdo or "Law of Expropriation" (Ley de Desamortización) on June 25, 1856. This law was initiated by the liberal Miguel Lerdo de Tejada, and was aimed against the ecclesiastical power of Mexico. It prohibited civil and religious corporations from holding real estate not used for worship, and allowed the tenants of such properties to purchase them on very reasonable terms. The Lerdo Law did not confiscate property, but decreed the necessity of alienating the agricultural property which for so long had been held by the church. Yet these huge estates were bought up intact by newly enriched families of Creoles, instead of going into the hands of the people in small tracts, as the sponsor of the law had intended. Consequently, the Lerdo Law proved a failure as a reform measure. Such well-entrenched feudalism could not be uprooted overnight.¹⁸

Moreover, during the War of the Reform, while the leaders were striving to remedy conditions by legislation and found themselves involved in a religious war, the peons turned on their oppressors. Haciendas were sacked and land forceably occupied by the Indians.¹⁹

¹⁸Herbert Priestley, The Mexican Nation, p. 324.

¹⁹Gruenning, op. cit., p. 122.

It was not until 1859 that the actual confiscation of the church property was contemplated, when Miguel Lerdo de Tejada, author of the Ley Lerdo, drew up the law of nationalization of 1859, issued by the Liberal Party in anticipation of victory during the War of the Reform.²⁰

After Juárez and his government occupied Mexico City on January 11, 1861, the decree of expropriation issued concerning church property was promptly put into effect. A large amount of land in the Federal District and the State of Mexico then changed hands under the enactment of this decree.²¹

As for the results of the Reform, Eyler Simpson writes:

In its avowed intention of 'creating a class of small independent landholders' the Reform also failed in large degree. Very probably the number of small landholders increased by some thousands in the years following the Reform, but in the main the Church estates passed in large, unbroken tracts into the hands of the followers of Juárez, and although in this fashion a new landed aristocracy was created, it was nonetheless an aristocracy. Anything like an equal distribution of the land still remained a problem to be struggled with by future generations.²²

All these attempts to destroy the feudal character of the Mexican land system were completely defeated by

²⁰Priestley, op. cit., p. 334.

²¹Ibid., p. 330.

²²Simpson, op. cit., p. 24.

the policies of the Díaz regime (1876-1911), whose government is well described by the phrase: "The mother of foreigners and stepmother of the Mexicans". During his administration there was an increasing flow of foreign investment and a rapid rise in land values and speculation.

The Díaz Government, in order to solve the problem of colonization of the country in 1883, passed a law providing for the surveying, subdividing and selling of public lands. Contracts were given to private companies to survey lands for the purpose of ascertaining which ones belonged to the nation. For their work the companies were allowed to retain a third of the lands surveyed.

Instigated by land grabbers who coveted the rich communal lands of Mexico (ejidos), Díaz passed a law requiring the Indians to appear before the authorities by a certain date and make proof of their land titles under penalty of forfeiture.²³ Most of the Indians were unaware of the passage of this law, as the overwhelming majority were illiterate. They failed to register their ownership as required by law, so their titles were forfeited, and therefore hundreds of thousands of Indians whose lands had come down to them from generation to generation, suddenly found themselves dispossessed and were forced to

²³George H. Blackslee; Mexico and the Caribbean, pp. 28-29.

work as serfs, a disguised form of slavery, on an unjust share-holding basis, the very acres on which they had been born free men.

Millions of acres of these expropriated communal lands were granted to foreign owners, particularly to American citizens, on the condition that they colonize their huge estates. In Lower California four foreign firms, with mainly American capital, were given approximately thirteen million acres for a few pennies an acre, on the condition set forth above, but the foreign firms failed to meet the colonization agreements they had made. Later, during the revolutionary 1920's, the Mexican government investigated many of these grants, and wherever they were found to be clearly fraudulent or where the condition had not been met, the lands were restored to their rightful owners, who had been legally deprived of them.²⁴

In the American economic penetration of Mexico during the Díaz regime, a movement took place similar to the growth of the far western United States. The American railway builder was the first to enter Mexico on a large scale. After the railway builder came the American miner, and with these groups, the ranchman and planter, and of course the inevitable land speculator.

²⁴E. F. Ladd, Speech in the Senate of the United States, July 19, 1922, Washington, Government Printing Office, 1922.

Large holdings were the rule, regardless of the particular enterprise involved - whether a ranch, farm, railroad purchase, mine, or land acquired for purpose of speculation. The owners of the new holdings adopted the prevailing practice of exploiting the laboring class. The wages received by the peon barely covered his subsistence and even the little which fell to him was taken in one way or another by the hacienda store or tienda de raya;²⁵ in payment for the few articles he was obliged to buy.

In writing on the conditions of the peasants during this period, Carlton Beals says:

No human decency could be maintained. Homes remained pre-Conquest one-room huts, windowless, floorless, or unadorned. Cooking smoke sooted the interior. No furniture except perhaps a bench; no knives, forks or spoons. No clothes but rags. No sanitation. Disease and death reaching out their claw from every corner. Smallpox, measles (just as fatal), and other terrible diseases were endemic. No proper diet. Beans and corn formed its basis, both very heavy, and in the manner prepared, very indigestible...²⁶

²⁵One of the ways in which the hacendado cheated the peons in the tienda de raya is described by J. Russell Smith, a Columbia University Professor:

'An American once told me, as though it were smart, that on his Mexican plantation he kept the accounts of individual men. The system was amazing in its simplicity and also in its other qualities. At the top of each column on each page, he had written out 1899, that being the year of the accounts. On every page he added up the dribblets of money that had been given the men plus \$18.99. Every time the employer turned a page, he stole \$18.99, so there was no difficulty in keeping the poor devil constantly in debt, chained to his job.' (Gruening, op. cit., p. 137.)

²⁶Carlton Beals, Porfirio Díaz, p. 306.

Mexican and foreign observers have written very extensively concerning the exploitation of the peasant during the Díaz dictatorship. Upon learning of the appalling suffering of the people, one begins to wonder why the Revolution of 1910 was so long delayed. But the revolution came, one century after the grito de Dolores. The Indians joined Francisco Madero, the revolutionary leader of 1910, because they wanted land, perhaps even more than they wanted freedom. Even Henry Lane Wilson, American Ambassador to Mexico and hostile to the Revolution, listed the concentration of land ownership and other wealth as the primary cause of the Madero Revolution. He also mentioned the pronounced anti-American feeling as one of the six causes behind the ousting of Díaz.²⁷

The Mexican people threw their weight behind the Revolution because there was resentment against the concentration of Mexican lands, railroads, oil and mines in the hands of the foreigners. On this point, Rippy comments as follows:

Nearly all the charges preferred against the Díaz regime are connected directly or indirectly with his policy toward the United States or toward immigrant capital, and particularly that from the United States....²⁸

²⁷United States Foreign Relations, 1911, p. 353.

²⁸J. Fred Rippy, The United States and Mexico, p. 331.

Madero was aware of the people's cry for land, and therefore in his Plan of San Luis Potosí (October 5, 1910), he declared:

'In abuse of the law on public lands, numerous proprietors of small holdings, in their greater part Indians, have been dispossessed of their lands by ruling of the Department of Public Development (Fomento) or by decisions of the tribunals of the Republic. As it is just to restore to their former owners the lands of which they were dispossessed in such an arbitrary manner, such rulings and decisions are declared subject to revision, and those who have acquired them in such an immoral manner, or their heirs, will be required to restore them to their former owners, to whom they shall also pay an indemnity for the damages suffered.'²⁹

Nevertheless, Madero believed that Mexico's troubles were chiefly political, and that effective suffrage would solve them. In spite of being committed to the restoration of land to the people, he did not realize the magnitude of the need for land, as he was himself a rich landowner. According to Gruenning, months passed without definite action. Agrarian reform was turned over to the hacendados, who prevented any such action from being taken. A few innocuous proposals emanated from the Ministry of Agriculture.³⁰

Madero succeeded in carrying on his political promises,

²⁹Congressional Record, 66th Congress, 2nd Session, Sen. Doc. No. 285, Vol. II, (Washington, 1920).

³⁰Gruenning, op. cit., p. 142.

but not his economic reform. Mexico's problems were not only of a political nature, and that is why the Madero administration failed.

The revolutionary leader, Emiliano Zapata, a pure-blooded Indian, believed that Madero had betrayed his pledges, and therefore revolted. On November 28, 1911, he proclaimed his Plan de Ayala, calling for immediate expropriation of one-half of the lands of the haciendas, and division of same among the landless. Vain attempts were made to pacify Zapata and make him await results through legislation. Although his rebellion did not extend beyond Morelos, Guerrero and part of Puebla, it stimulated action on the part of the government. An intensive study of the involved land problem with a view to giving it serious attention, was begun by the Madero administration.³¹ However, Zapata was not convinced nor did he intend to desist from fighting, as he said

'...until the ejidos of our villages are restored to us, until we are given back the lands which the hacendados stole from us during the dictatorship of Porfirio Díaz, when justice was subjected to his caprice.'³²

The role that Ambassador Henry Lane Wilson played in restoring the Conservatives, headed by General Huerta, is

³¹ Ibid.

³² Charles W. Hackett, The Mexican Revolution and the United States, 1910-1926, p. 343.

well known.³³ Naturally his attitude stirred up much anti-American feeling in Mexico, where there already existed a reason for fearing the meddling of foreign vested interests in her affairs.

Evidences of Wilson's dislike for the revolutionary cause are found in United States documents. On January 23, 1912, he telegraphed Washington as follows:

'Mexico is seething with discontent - principally among the higher and educated classes... at this moment the area of actual and open rebellion against the Government is not inconsiderable.'³⁴

On March 15, he telegraphed Washington asking whether five hundred rifles and ammunition could be sent for self-defense to the Arms and Ammunitions Committee of the American colony.³⁵ Upon securing the consent of the American Government on March 22, he ordered, in behalf of the American Colony Committee, one thousand Krag-Jorgensen rifles and 250,000 cartridges.³⁶ The next day he quadrupled the number of cartridges ordered.³⁷ Not content with this, three days later he telegraphed:

³³An interesting Mexican judgement of Ambassador Wilson's activities can be found in Jose Vasconcelos' Breve Historia de Mexico, pp. 474-481.

³⁴Foreign Relations, 1912, p. 713.

³⁵Ibid., p. 747.

³⁶Ibid., p. 756.

³⁷Ibid., p. 757.

'Mr. George W. Cook and Mr. Emanuel Beck, wealthy and responsible Americans in Mexico City, desire from patriotic motives and on their own responsibility, to order an additional 1,000 rifles, 1,000 field service belts, and 1,000,000 cartridges, to be shipped with and in the same manner for the same purpose.'³⁸

Huerta gained control of the government but he did not succeed in gaining popular support. The Revolution was on the march and no one was going to stop it. The country rose up in arms against Huerta, Carranza, Obregón, Villa and Zapata were the four principal figures of the Constitutional movement against the new tyrant.

Carranza, interpreting the people's will issued the important decree of January 6, 1915, providing for the manner of restoring lands to villages, which was the most urgent measure at the time.³⁹ This decree affected Americans, particularly Articles Nos. 1 and 3, as will be dealt with in the following chapter.

Once Carranza assumed the constitutional government of Mexico, he called a constitutional congress, which met at Querétaro to draft a new constitution to replace that of 1857, and to embody the ideas of the Revolution. This Congress, on February 5, 1917, promulgated the present Constitution of the United Mexican States, which went into

³⁸Ibid., p. 758.

³⁹Phipps, op. cit., p. 139.

operation on May 1, 1917.

Article 27 of this Constitution is the crux of the agrarian controversy between Mexico and the United States, as will be developed further on.

The United States objected strongly to Articles 27 and 28 of the constitution of 1917. Carranza, a rich landowner himself, did not favor the constitution to any degree and neglected to enforce its agrarian provisions. In May of 1920, he was overthrown by General Obregón and radical Adolfo de la Huerta, leaders of the movement known as the "Revindicating Revolution".

Obregón was inaugurated as constitutional President on December 1, 1920, but was not recognized by the United States Government. Thus a diplomatic impasse between the United States and Mexico continued until the signing of the Bucareli Convention of 1923, which opened the door to American recognition of the Obregón Government on August 31 of the same year.

CHAPTER TWO

LEGAL FOUNDATIONS OF THE AGRARIAN
CONTROVERSY

Attention has been drawn to the fact that one of the objects of the Mexican Revolution of 1910 was the provision of land for the peons and the formation of a landholding class of small farmers interested in the firm establishment of a new order in Mexico. The equitable settlement of the issue of peoples' land was considered the only possible way to stabilize the Republic.

Historians and writers on the Mexican revolutionary movement concur that Carranza's decree of January 6, 1915, was the first agrarian law resulting from the Revolution. However, there was at least one state law preceding this decree.

Under revolutionary auspices, what was apparently the first land law was published in October, 1913, by Pastor Rouaix, provisional governor of the State of Durango. This law represented the political measure of the revolution, and has a very valuable introduction.¹

¹The fact that the principal cause of dis-

¹Frank Tannenbaum, Peace by Revolution, p. 199.

content among the people in our State which forced them to take up arms in 1910, is the absolute lack of private property; because the absence of small landholding leaves to our rural classes no other means of subsistence for the present nor hope for the future except the prospect of serving as peons on the haciendas of the large landowners who monopolized the soil of our State..... In view of the fact that the villages of the State have been reduced to misery because the lands that they had during the colonial period have been absorbed to increase the area of the large estates, especially during the last dictatorship, so that the inhabitants of the State have lost their economic, political and social independence by being reduced from independent citizens to become servants without the power of the government to interfere even by means of education because the place they are living in has become private property....²

The forceful language and sweeping terms of the preamble to the law under discussion do not coincide with the content and provisions of the law itself which are of a decidedly conservative nature. The preamble would lead the reader to conclude that the Revolutionary government would expropriate the land or part of it, and turn it over freely to those deprived, heretofore described as in the thralldom of poverty, reduced to the level of servitude. Far from it. The law merely provides that each village may ask for land, and must agree to pay for same in ten years, along with the cost of surveying. A special board of assessors,

²Tannenbaum, op. cit., pp. 199-200.

composed of a representation consisting of both the villagers and the landowners, would determine the value of the land. The owner would receive value and interest on an installment plan covering the ten-year period. At least 5,000 hectares (12,500 acres) were to be left in the possession of the landowner after expropriation.³

Although the law is indeed conservative considering the adjustment that was necessary for redistribution of the land, its author, Pastor Rouaix, later was influential in the drafting of Article 27 of the Federal Constitution of 1917, and upon Carranza's rise to the presidency, he served as Secretary of Agriculture.

It was not until 1915 that the first legal foundation of the Mexican Agrarian reform came into being. In that year Carranza, who had lost popular support and retained control only of the eastern coastline adjacent to Veracruz, began formulation of laws in order to win over the support of the masses. Francisco Villa still remained in control of Northern Mexico and bitterly opposed Carranza's leadership. Meanwhile, Zapata carried on his agrarian revolution in the South. When it appeared that President Wilson was going to recognize Villa as the de facto ruler of Mexico, Carranza issued his famous provisional agrarian decree on

³Tannenbaum, op. cit., p. 200.

January 6, 1915.

Charles Hackett considers this decree as the first constructive act of the Revolution of 1910. He also thinks that:

Since the promulgation of this decree the revolution of 1919 has been avowedly and altogether social and economic in character; in nowise has it been a revolution designed to achieve political reforms.⁴

The preamble of the decree is worthy of consideration, as it sets forth the raison d'etre of this transcendental law:⁵

1. that one of the most widespread causes of discontent in the agricultural communities came from the despoilment of the lands belonging to the villages (pueblos) and to a number of other agricultural communities (congregaciones, rancherías and comunidades).

2. that in some cases the despoilment of lands of villages came about through misapplication of the laws of the Reform, while in other cases the villages had lost their lands due to the concessions to land companies, or to illegal sales by political authorities, surveys and so forth.

3. that there remained no other recourse to the abused inhabitants of the villages, unable to defend their properties, than that of hiring themselves out at ridiculous wages

⁴Hackett, op. cit., p.344.

⁵Fábila, op. cit., pp. 272-274.

to the powerful landlords,"with the inevitable result that the vast majority of agricultural workers lived in a state of misery, abject poverty, and actual slavery."

In view of these facts, said the preamble, "The necessity for returning to the villages the lands of which they have been despoiled is evident, as an act of elementary justice, as the only effective way of insuring peace and as a method for promoting the welfare and improvement of our poor classes." Further on, the preamble declares that the purpose of the law was not to "Revive the ancient communes nor to create others similar to them, but merely to give the land which it lacks today to the miserable population in order that it may fully develop its right to life and liberate itself from the economic servitude to which it is reduced."⁶

The provisions of the agrarian decree of 1915 are summarized as follows:⁷

1. The decree nullified past illegal governmental alienations of lands, waters and forests belonging to villages and communities, and all illegal acts of the Diaz administration under whose authority village communal lands, forests and waters had been "illegally invaded and occupied". This null-

⁶Hackett, Mexican Revolution, p. 345; Fabila, op. cit. p. 272.

⁷Hackett, op. cit., pp. 344-345; Fabila, op. cit., pp. 272-274.

ification automatically restored title to such communal lands to the villages.

2. The decree provided that villages which lacked ejidos⁸ but were in need of them and villages unable to bring about the restitution of their ejidos because of faulty titles or for any other reason, might be endowed with lands for ejidos "in accordance with the necessities of their townships, the National Government, expropriating the necessary lands to that effect from those immediately adjoining the townships in question".

3. The decree provided the legal machinery for effective enforcement.

4. It specified the procedure to be followed by villages when petitioning for restitution or donation of ejidos.

The land decree not only affected the affluent Mexican landowners, but likewise the American interests, particularly Articles 1 and 3.

The decree further nullified illegal government alienation of lands, waters and forests belonging to villages and communities and all illegal acts of the Díaz administration under whose authority village communal lands, forests, and waters had been "illegally invaded and occupied". Such

⁸Eyler Simpson believes that the word ejido was apparently used to cover all classes of communal lands - crop lands, forests, pastures and so forth. Simpson, op. cit., p. 57, footnote 6.

nullification automatically restored title to the villagers regarding these communal lands. It also provided that in accordance with the necessities of the townships, the National Government expropriate the lands for distribution to the villages which needed them. It was further stated that proprietorship of the land was not to belong "to the commune of the town", but was to be parcelled out "in full dominion with, however, the necessary limitations to prevent avid speculators, particularly foreigners, from monopolizing such property too easily."⁹

In spite of the vagueness and other shortcomings of the decree of 1915, it apparently served Carranza's purpose. He succeeded in gaining popular support, and Zapata's flag of rebellion lost its significance temporarily.¹⁰ Villa was defeated by the Carrancistas in the important battle of Celaya in March 1915. Ten months after the promulgation of the decree Carranza was formally recognized as head of the de facto government by the United States and several other Latin American Republics.¹¹

The provisional agrarian degree did not succeed in solving the agrarian problem, partially due to its defective provisions and because it was used more as a political measure than as an economic answer to the critical land problem.

⁹Hackett, op. cit., p. 344. Fabila, op. cit., p. 272.

¹⁰Vasconcelos, op. cit., p. 500.

¹¹Simpson, op. cit., p. 61; Hackett, op. cit., pp. 345-346.

of Mexico. The powerful landlords refused to acknowledge the legality of the decree of 1915 or any of the acts it sanctioned and defended their property by force, thereby contributing to the chaos which rocked the country.¹²

Carranza was advised by his associates that, should he continue trying to rule the country through decrees, the people would interpret them as political machinations or demagogic gestures, and therefore the best policy to follow in order to be in accord with the political responsibility of the Mexican Social Revolution, was to call a Constitutional Convention.¹³

On September 15, 1915, Carranza issued a proclamation for a convention to reform the Mexican Constitution of 1857. With his proclamation, Carranza launched his second bid for popular support. The Constitutional convention met at Querétaro from November 21, 1916, to January 31, 1917, and the result was a new constitution promulgated on February 5, 1917, and in operation as of May 1, 1917. According to one of the delegates to the Convention, the Constitution of 1917 was a practical realization of the ideals of the Revolution of 1910, legally sanctioning the social aspirations of the Mexican people.¹⁴

¹²Simpson, op. cit., pp. 63-64; Gruenning, op. cit., p. 144.

¹³Félix Palavicini, Historia de la Constitución de 1917, p. 20.

¹⁴Ibid., p. 53.

No matter how the new Mexican Constitution might be criticized, it will stand as one of the advanced social declarations of the Western Hemisphere, or, as Eyler Simpson expresses it is "justly recognized as one of the most important documents of modern times".¹⁵

Article 27 of the Constitution became the stumbling block in Mexican-American relations, around which most of the agrarian controversy centered. The article had some revolutionary provisions. Since Proudhon's assertion, "property is theft", no statement regarding the contemporary concept of private property had been so boldly advanced, until the appearance of Article 27, which stated that "La propiedad no es un derecho, sino una simple funcion social" - "Property is not a right, but a simple social function".

All the constitutional provisions embodying the Mexican concept of the purposes of the 1910 Revolution were crowded into this article. Its contents can be grouped under three headings:¹⁶

1. The definition and limitation of private real property;
2. The definition of persons or other legal entities who may or may not hold private real property;
3. The formula for solution of the agrarian problem.

This is perhaps the best classification that can be devised if one considers the number and variety of concepts

¹⁵Simpson, op. cit., p. 63.

¹⁶Tannenbaum, op. cit., p. 190.

contained in the article, and the fact that several provisions overlap and at times become vague.

In regard to the nature and limitation of private property, Article 27 puts forth the principle that the nation has had and still has, ownership of the national territory. Likewise, in the nation is vested the ownership of the waters of territorial seas, surface lakes or interior lakes of natural formation, rivers, streams, and so forth. Article 27 establishes that only the surface of the land and its appurtenances¹⁷ may become private property when the nation, in exercise of its right to transmit title, passes it to private persons.¹⁸

Moreover, the Constitution establishes that the nation retains certain powers and rights over private property. These rights and limitations are varied and not fully defined. The article in question states that the nation shall have at all times the right to impose on private property such limitations as the public interest may demand. The nation also shall have the right to regulate the development of natural resources in order to conserve them and "equitably to distribute the public wealth". Private property established by the nation is limited by the right of expropriation for public

¹⁷Water confined within private property and having no outlet.

¹⁸Constitution of the United States of Mexico, Article 27, p. 7.

utility, but by means of indemnification. The Federal and State laws shall determine when an expropriation is to be considered for the purpose of public utility. The taking of such lands shall be accomplished by judicial process; but as part of this process and by order of the proper tribunals, the administrative authorities "shall proceed without delay on the occupation, administration, auction or sale of the lands and waters in question".

The amount fixed as compensation for the expropriated properties shall be based on their assessed values plus ten percent. The assessed value is that "manifested by the owner or merely impliedly accepted by reason of the payment of his taxes".¹⁹

For the purpose of solving the agrarian problem, the article establishes that:²⁰

1. The states have the right to limit the area that any one individual or legally organized corporation may hold, and have the right to compel the sale of the excess of that area "on such conditions as the respective governments shall approve".
2. The excess of the area fixed shall be subdivided by the owner and offered for sale "on such conditions as the respective governments shall approve".

¹⁹Ibid., p. 8.

²⁰Ibid., p. 9.

3. If the owner refuses to make the subdivision, the subdivision and sale are carried out by means of expropriation proceedings.

4. The owner is bound to receive special state bonds to guarantee payment of the property expropriated. These agrarian bonds carry a five percent interest, to be redeemed in not less than twenty years.

Regarding persons who may or may not own private property, Article 27 recognizes that ownership in lands and waters and their appurtenances may only be enjoyed by Mexican citizens by birth or naturalization. Foreigners may be given the same rights by the Mexican government, provided they agree before the Department of Foreign Affairs to be considered Mexicans in regard to the specific property in question and further agree not to invoke the protection of their governments in respect to same, under penalty of forfeiture of the property so acquired. Furthermore, they may, under no circumstances, acquire direct ownership of lands and waters within a zone of 100 kilometers from the border and 50 from the seacoast.²¹

Churches, irrespective of creed, can neither acquire, hold or administer real property or loans made on such property. Commercial stock companies may not hold agricultural

²¹Ibid., p. 7.

properties or administer them.²²

Regarding solution of the agrarian problem, in addition to the aforementioned stipulations, Article 27 declared null and void all alienation of village lands that took place after June 25, 1856, and gives constitutional status to the decree of January 6, 1915.²³

As may be seen, Article 27 sets up certain specific restrictions on private property and leaves room for the application of more limitation in the future.

Tannenbaum's comments on Article 27 are worthy of quotation:

"Article 27, it is obvious, has created a variety of new legal forms of landholding, and in its structure lies embedded the possibility of many other types and systems of land tenure. In fact, every new law, every new limitation, creates a special form of ownership in land. It seems true that the formula was developed to meet the special social and legal needs of the multifarious groups of different cultural levels that make up the Mexican community. They need a property concept that would be broad enough to include the primitive notion of ownership characteristic of a wandering Indian group, knowing temporary possession, but having no notion of legal ownership, as well as one that could cover the need of modern corporate and private ownership. The notion of specific limitations has thus become an instrument sufficiently flexible to cover present needs, and its flexibility

²²Ibid., pp. 7.-8; this provision already existed in the Constitution of 1857. See The Mexican Constitution of 1917 Compared with The Constitution of 1857. (Supplement to the Annals of the American Academy of Political and Social Science, May 1917), p. 15.

²³Constitution of the United States of Mexico, p. 9.

makes it available for the creation of future specific types of land tenure.²⁴

Thus, Article 27 defines the nature of property contrary to the theory of natural rights. Under its provisions, foreigners cannot own land near the seacoast or frontiers and cannot ask for protection of the Mexican government. In other words, Article 27 retains private property and makes its expropriation dependent upon compensation and subject to the general rules of public utility, permitting communal ownership. It favors the small owner as against the powerful one, the individual as against the corporation. However, it permits all of these elements to use and enjoy property under specific conditions.

Due to the different concepts of property held in American law which did not agree with those of Mexican law, even before the Constitution of 1917 was promulgated, Washington was voicing its objections. On January 9, 1917, Secretary Lansing telegraphed Mr. C. Parker, who was representing American interests in Mexico City, to "keep the Department telegraphically advised of any proposed or adopted changes in the Mexican Constitution now under discussion by the Queretaro Assembly which are or may be inimical to the rights and interests of Americans".²⁵

On January 22, Secretary Lansing telegraphed to Mr.

²⁴Tannenbaum, op. cit., pp. 201-202.

²⁵Foreign Relations, 1917, p. 946.

Parker his objections regarding Articles 27, 28 (which abolished monopolies and exemption from taxation), and 33 (which permits the Mexican executive, or President, to expel foreigners without trial).²⁶

The provisions against foreigners were among the most controversial provisions of the Constitution of 1917. However, it is necessary to consider objectively and in retrospect the republican history of Latin America to understand the natural nationalistic feeling that possessed the delegates of the Querétaro Convention, to include safeguards against future abuses.

Latin American history is full of examples of the difficulties of the independent governments in dealing with foreigners as property owners, because of the action of foreign governments in support of their citizens. Mexico has also had its share of bloodshed, due to the backing of foreign claims by intervention.

Article 27 of the Constitution attempts to cope with this problem by providing that the nation may grant to the individual foreigner the same right to acquire land or concessions as to the individual Mexican, if, however, the foreigner agrees with the Secretary of Foreign Relations to consider himself as a Mexican in dealing with such property, and promises not to invoke the protection of his own govern-

²⁶Ibid., p. 947.

ment in respect thereto, subject to penalty of forfeiture.²⁷

"There is nothing new about this provision, however," says one writer, Helen Phipps.²⁸ She continues: "practically all such contracts, from the era of independence down to the end of the rule of Díaz, contained a similar clause; the only novelty was its having been incorporated into the Constitution. Under Díaz the clause had been wholly ineffective."

It is interesting to observe that most of the American states put foreigners upon the same basis as citizens in regard to the ownership of property and there are some state constitutions which prohibit the ownership by foreigners of real estate. For instance, the Constitution of Oklahoma prohibits aliens from owning and acquiring title to land in the state.²⁹

The provision of Article 27 that prohibits commercial corporations from acquiring, possessing or administering country lands affected many American corporations and Mexican corporations with American stockholders. By 1917 large tracts of land were held by such corporations for cattle ranches, rubber, coffee or cotton plantations, or for colonization.³⁰

²⁷J. P. Chamberlain, "Property Rights Under the New Mexican Constitution", Political Science Quarterly, (September 1917), pp. 376-377.

²⁸Phipps, op. cit., p. 145.

²⁹Oklahoma XXII; See also California I, 17; Washington II, 33; Mississippi IV, 84; Florida, Declaration of Rights; Kansas Bill of Rights, 17; Colorado II, 27.

³⁰Chamberlain, op. cit., p. 380.

Another provision objected to by Americans was that stipulating that foreign individuals or corporations cannot enforce any rights which involve taking title to real estate in the forbidden zone. Foreigners, whether individuals or corporations, cannot possess land by inheritance or by will. Neither can they enforce a debt secured by real estate to satisfy an obligation. In such cases an individual may secure the assent of the authorities to his acquiring the property if it does not lie in the forbidden zone.³¹

Among the most bitter opponents to the Constitution of 1917 was the Association of American Owners of Land in Mexico. This organization carried an enormous campaign of discrediting the Mexican Revolution in both Mexico and the United States. In one of the pamphlets by this organization, the following statement was issued:

Observe that 'the Nation may grant to foreigners the right to acquire ownership in lands, waters and their appurtenances, etc.' The Attorney General of Mexico has quite properly ruled that under this provision the Nation may also deny to grant (lands). There are no rules nor precedents and discretionary power descends into the abyss of favoritism, graft and whim. Some of the largest irrigation projects and a large proportion of the American-owned lands are within the hundred kilometers prohibited zones herein provided. This zone comprises forty per cent of the area of the Nation and an even larger per-

³¹Ibid., p. 378.

cent of its agricultural lands.³²

The pamphlet continues affirming that these lands had, after the Constitution of 1917 was passed, a value measured by the demand for them among Mexicans and the ability of the Mexicans to buy, which certainly was very little. The result was that the value of the lands decreased rapidly.

First, the international controversy centered on the promulgation of the revolutionary constitution, then upon the enactment into law³³ of the general constitutional provisions, in regard to land and subsoil deposits. This legislation had not been put into effect either in Carranza's or Obregón's time. The reason unofficially given in Mexican administrative circles for this delay was the pressure of the United States. Obviously, recognition was withheld due to the potentialities of such legislation. The resumption of diplomatic relations, succeeded by the de la Huerta rebellion shortly afterward, did not allow any time for the Obregón government to put in force the involved and far-reaching legislation resulting from the Constitution's general provisions.³⁴

³²American Owners of Land in Mexico, Article 27..., p. 12.

³³In Mexico, constitutional provisions do not take effect until succeeded by their reglamentación, which traces and amplifies the general principle of the legislation. The Eighteenth Amendment of the Constitution of the United States, the Volstead Act and various state laws regulating liquor traffic in this country are somewhat similar. Gruenning, op. cit., p. 148.

³⁴Gruenning, op. cit., p. 606.

Attention must be called again to the fact that though both important foundations of the agrarian legislation were signed by Carranza, they are not the results of his work. He gave official sanction to both documents, and he only deserves credit for this sanction. It has already been noted that both the provisional agrarian decree of 1915 and the Constitution of 1917 were employed by Carranza more for political gain than for relieving the grave economic crisis in Mexico. His negligence in enforcing the agrarian legislation heralded his downfall. Alvaro Obregón was now the new ruler of Mexico.

During Obregón's administration, the Agrarian Regulatory Law of April 10, 1922, was passed, constituting the third milestone in agrarian reform. It established the National Agrarian Commission, State Agrarian Commission, and village executive committees for the restitution and dotation of village lands. Concerning this law, Eyer Simpson writes,

Not only did the regulation of 1922 for the first time introduce a measure of real order and system into the ejido program, but it marked a transition from sentiment to fact. Up to 1922 the spirit of land reform had been one of revenge and revindication; after 1922 there was a discernible tendency to conceive the ejido program as an economic and social problem, a technical question of how best to redistribute the nation's agricultural resources. In the minds of most people, there was no longer any question of the right of villages to land; the problem was rather how to make the right effective,³⁵

³⁵Simpson, op. cit., pp.82 to 83.

and this was accomplished by the Agrarian Regulatory Law.

CHAPTER THREE

THE BUCARELI CONVENTION

The diplomatic impasse between the United States and Mexico began when Alvaro Obregón overthrew Carranza in 1920, and lasted until 1923. The main reason for the non-recognition policy of the United States can be attributed to its failure to reach an agreement with the Obregón Government regarding the safeguarding of American property in Mexico, particularly the land and oil questions. On May 27 of 1921, Mr. Summerlin, American Chargé in Mexico, presented the draft of a treaty of amity and commerce with Mexico,¹ under the terms of which Mexico would guarantee protection of American property in Mexico acquired before May 1, 1917, the day the new Mexican Constitution went into effect. The Harding administration insisted that the signing of such a treaty was a prerequisite sine qua non to the recognition of the Obregón Government.

The Mexican policy of the Harding administration was announced by Secretary of State Hughes on June 7, 1921. On that date, Secretary Hughes said:

The fundamental question which confronts the Government of the United States in

¹Foreign Relations, 1921, Vol. II, pp. 397-404.

considering its relations with Mexico is the safeguarding of property rights against confiscation... whenever Mexico is ready to give assurance that she will perform her fundamental obligation in the protection of both 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 was attached before the Constitution of 1917 was promulgated... The question of recognition is a subordinate one, but there will be no difficulty as to this, for if General Obregón is ready to negotiate a proper treaty... drawn so as to be negotiated with him... the making of the treaty in proper form will accomplish the recognition of the Government that makes it.²

The Mexican Government declined recognition on the basis of the treaty proposed by the United States. Referring to this treaty, President Obregón declared that the acceptance and signing of a convention to obtain recognition would be equal to placing in doubt the rights that Mexico had to all the privileges international law establishes. Therefore, Mexico rejected the guarantee of American conditions prior to recognition and refused to promise anything regarding American property and debts.³

On the other hand, in an effort to gain recognition by the United States Government, Mexico's Foreign Minister

²New York Times, June 8, 1921, p. 1:3.

³New York Times, May 21, 1921, p. 4.

Pani made a counter-proposal to Mr. Summerlin on November 19, 1921,⁴ as follows:⁵

1. The signing of a special claims convention for the purpose of adjudicating claims of citizens of the United States against Mexico that had arisen during the revolution.
2. The implicit recognition of the Obregón Government by the United States.
3. The signing of a general claims convention for the purpose of adjudicating the claims of either country with regard to the other that were not covered by the special claims convention.

The United States Government found Mr. Pani's counter-proposal unsatisfactory and tension between Mexico and the United States increased as both governments refused to make concessions.

Nevertheless, the Government of Mexico stood its ground firmly. Pani, in his informal note of February 9, 1922, addressed to American Chargé Summerlin, itemized "in an entirely personal way" the principal objections which prevented the Government of Mexico from accepting some of the stipulations contained in the Treaty of Amity and Commerce as proposed by

⁴This note was presented in such haste that it does not bear date of original writing.

⁵Foreign Relations, 1921, pp. 506-508.

the United States. These objections were substantiated by the fact that certain provisions of the proposed treaty were contrary to the provisions of the Mexican Constitution or were of such character that it did not lie within the jurisdiction of the Executive to include them in a treaty.⁶ Pani then quoted J. B. Moore's Digest of International Law to show that "the treaty making power is limited by all the provisions of the constitution" and that "a treaty can not invade the constitutional prerogatives of the legislature."⁷

The diplomatic impasse continued until August 3, 1922, when Summerlin informally sent to Pani a copy of instructions from Secretary of State Hughes, dated July 28, 1922.⁸ In the instruction, Secretary Hughes made an assertion which revealed an apparently uncompromising attitude with respect to the question at issue with Mexico. Yet the note of instruction contained one statement which was interpreted by the Mexican Government as offering possibilities for relieving the diplomatic tension. This statement read:

But if the Mexican authorities will not enter into an appropriate treaty binding Mexico to respect the valid titles which have been acquired under Mexican laws prior to the Constitution of 1917, the question remains in what

⁶ Foreign Relations, Vol. II, pp. 641-46.

⁷ John B. Moore, Digest of International Law, Vol. 5, p. 166. The use of a quotation from Moore lent no substantial weight to the Mexican objection as Moore's Digest of International Law is merely a compilation of opinion upon which there could be considerable disagreement.

⁸ Foreign Relations, 1922, Vol. II, pp. 674-680.

manner shall such assurances be given.⁹

Pani based his reply to Mr. Summerlin dated March 31, 1923, on this last clause. He observed:

This Government is pleased to note that that instruction (Secretary Hughes' instruction to Summerlin dated July 28, 1922), suggests the possibility of a desirable change of procedure, abandoning the narrow method of signing a treaty of amity and commerce -- which as an unavoidable condition precedent to granting recognition to the present Government of Mexico prejudiced the national sovereignty and dignity -- for the broad method of an adequate development of the Mexican governmental program, which has included and still includes the intention to respect rights legally acquired prior to the promulgation of the Constitution of 1917.¹⁰

Further on, Minister Pani made an exposition of the origin of the Mexican agrarian problem and the suffering of the Mexican people from earliest times until the "immoral policy of favoritism of those few above at the expense of the many below" developed by the Díaz oligarchy.

Pani continued that it is not at all strange that the aspiration of the people to recover the lands might have been the most vigorous and persistent of all the motives which were behind the Revolution of 1910, "to the point of being rendered into radical laws". He justified the solution that had been adopted by Obregón as the "most humane and economic -- des-

⁹Foreign Relations, 1922, Vol. II, p. 675. Author's italics.

¹⁰Foreign Relations, 1923, Vol. II, pp. 523-532.

pite the inevitable injury to some private agricultural interests, national and foreign." He asserted that Obregón's administration succeeded in "reestablishing peace in all the national territory, more through the effect of the prompt application of the agrarian laws than by means of force and shedding of blood".

In regard to the claims of Americans resulting from the agrarian controversy, Pani compared them "with amounts owned affecting infinitely more Mexican properties than Spanish, and four or five times more Spanish than American".¹¹

He then explained that owing to the haste with which the Mexican Government had to act, to the end of being certain of obtaining at once the general pacification of Mexico and of "avoiding the greater and truly irreparable damages of civil war", it was not possible to organize efficiently the necessary personnel.

¹¹This statement seems to be somewhat exaggerated upon comparison with the following table containing data collected in 1923 and checked in 1925 by Frank Tannenbaum:

VALUE AND AREA OF FOREIGN-OWNED RURAL LANDS, BY NATIONALITY

Nationality	Value in Thousands of Pesos	Area in Thous- ands of Hectares	Percentage of Total Value	Percentage of Total Area
Total foreign	269,849	32,004	100.0	100.0
American (US)	112,427	16,558	41.7	51.7
Spanish	87,791	6,233	32.5	19.5
British	27,756	5,315	10.3	16.6
German	16,742	1,172	6.2	3.7
French	15,357	1,522	5.7	4.7
All others	9,776	1,205	3.6	3.8

Pani continued:

It is to be remembered in this respect that faulty administrative organization is an evil from which some of the most civilized countries of the world still suffer and that this evil was necessarily aggravated in Mexico as a consequence of the last years of revolutionary anarchy.¹²

It was then that General Ryan, a mutual friend of Presidents Harding and Obregón, suggested a Mexican-American commission to discuss the outstanding issues between the United States and Mexico.¹³ Harding and Obregón found the suggestion acceptable.

On April 9, 1923, Obregón wrote to Ryan as follows:

You suggested to me the convenience of each Chief Executive appointing representatives to come together and exchange views with the sole purpose of later informing their respective high parties represented... I have studied that suggestion and as President Harding is sympathetic to your friendly proposal, the Government which I preside would also be glad to accept it....¹⁴

The informal note from Chargé Summerlin to Pani dated August 3, 1922, in which he enclosed Hughes' instructions of July 28, 1922, along with Pani's reply which has just been analyzed, constitute the last exchange of notes between the two governments before the creation of the United States-Mexican commission that determined the United States recogni-

¹²Foreign Relations, 1923, Vol. II, p. 530.

¹³Antonio Gómez Robledo, La Convención de Bucareli, p. 5.

¹⁴Ibid. Gómez Robledo's italics?

tion of the Obregón Government on August 31, 1923.

Liberal publications in the United States wrote strong editorials in defense of the Mexican Government and criticized the harsh attitude of the State Department. Among the most interesting articles favoring the Mexican position is that entitled "Ten Questions to Secretary of State" published by the Nation on May 24, 1922. The editors of this publication protested against Hughes' "repeated frank assertion of right and intentions to interfere in the property rights of Mexico." The editors wrote:

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 specifically 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 the 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. The events are aggravated by Mr. Hughes' prompt recognition of the Orellana regime in Guatemala which, though corrupt, unscrupulous, and undemocratic had the saving grace in State Department eyes: it was sympathetic to the speculative American financiers operating in Guatemala.¹⁵

Regarding the issue of land expropriation, the Nation recommended that Hughes watch the current flowing cross

¹⁵"Ten Questions to Secretary of State", Nation, May 24, 1922, p. 615.

Eastern and Southeastern Europe, where similar land programs were being adopted. In the issue of May 23, 1923, we read:

The movement to divide up the great landed estates is perhaps the strongest popular movement in Europe today...where huge estates have been passed down from generation to generation, and toll exacted from generations of oppressed landworkers, the movement is such a current of history as cannot be stopped.
We would not stop it.¹⁶

Once Hughes was convinced that Mexico would not take a step backward in its stand on Mexican-American relations, he accepted the creation of the Mexican-American Convention. Probably two reasons influenced his decision. Public opinion ~~made a~~ demand for an immediate resumption of relations with Mexico. The State Department realized that a change of stand by the Obregón Government would have been fatal to that Government, as nationalism in Mexico was running high.

On May 2, 1923, Harding appointed Charles Beecher Warren and John Barton Payne to serve as American commissioners in the forthcoming conference. Obregón in turn appointed Ramón Ross and Fernando Gonzales Roa.¹⁷ The commissioners met in Mexico City from May 14 to August 15, 1923. The meetings have since been called the Bucareli Conference as

¹⁶"Mexico vs. Hughes", Nation, May 23, 1923, p. 587.

¹⁷The appointment of Gonzales Roa by Obregón was one of the surprises of the Mexican Revolution. It was apparently forgotten that during the Constitutional Convention of 1916 his credentials as deputy were rejected by unanimity because of his being "an enemy of the Revolution". (Felix Palavicini, Historia de la Constitución de 1917, p. 79.

they were held at 85 Bucareli Street, Mexico City.¹⁸

In the instructions given by Secretary of State Hughes to the United States Commissioners before they proceeded to Mexico it was pointed out that:

The fundamental issue between the United States and Mexico was the safeguarding of American property rights in Mexico, especially as against a confiscatory application of the provisions of the Mexican Constitution of 1917, and that the principal question arising from this issue related to:

First. To the restoration or proper reparation for the taking of lands owned by American citizens prior to May 1, 1917.

Second. To the obtaining of satisfactory assurances against confiscation of the sub-soil interests in lands owned by American citizens prior to May 1, 1917.

Third. To the making of appropriate claims conventions.¹⁹

Beginning with the meeting of June 1, 1923, the joint commissioners took up the agrarian problem and exchanged opinions on its various aspects in sessions held until June 29. From July 2, to July 18 inclusive, the commissioners met from time to time in informal sessions while the general and special claims conventions were being drafted. As of July 19 and 20, mutually satisfactory understandings were reached with respect to the agrarian problem.

In the formal meeting of June 1, 1923, Warren, on behalf of the American commissioners stated that in considering the agrarian question the United States Government would not enter

¹⁸A. H. Feller, Mexican Claims Commissions, p. 23, footnote No. 29.

¹⁹Congressional Record, LXV, P. II, p. 1325.

into any discussions as "to the wisdom of the policy of the Mexican Government in seeking to provide ejidos of ordinary areas for towns and villages".²⁰ However, he called attention to the fact that Mexican laws had given to foreigners the privilege of acquiring lands in Mexico and that those who had legally acquired lands prior to May 1, 1917, date of the promulgation of the constitution, were protected against expropriation by article 27 of the Mexican Constitution of 1857, providing:

Private property shall not be taken without the consent of the owners, except for reasons of public utility, indemnification having been made. The law shall determine the authority to make the expropriation and the conditions on which it shall be carried out.²¹

Consequently, Warren contended that the Mexican Government did not have the right to take lands for ejidos for villages and towns without indemnification, as he specified, "in cash".

Further on, Warren referred to the expropriation or taking of lands, buildings, and other property owned by American citizens or in which they had interests, where held by a corpora-

²⁰Even though the American commissioners denied any intention of entering into a discussion concerning the policy of the Mexican Government to provide ejidos for villages, in his letter to Senator Lodge of January 15, 1924, Secretary Hughes asserted that the Government of the United States was in "full sympathy with the efforts of the Mexican authorities to readjust large holdings so as to meet the natural demands of the people of Mexico." (Hackett, op. cit., p. 366.)

²¹Proceedings of the United States-Mexican Commission Convened in Mexico City, May 14, 1923, p. 25; The Mexican Constitution of 1917 Compared with the Constitution of 1857, op. cit., p. 15.

tion, company, association or partnership under color of granting ejidos to towns and villages. Then he read Section Three, Article Fourteen of the law of the Congress of Mexico enacted December 28, 1920, the translation of which follows:

'Section 3. Grants of land to a village do not include constructions on ranches, factories, aqueducts and other artificial works possessed by the owner of the property affected by the grant, but such properties shall be respected with the area necessary to utilize such constructions in accordance with their natural use and their communication with the nearest roads; but the exempted area shall be restored to the village securing the grant, whether by taking it from the same or from other properties. In any case, the lands which may have been granted and distributions made by virtue of the law of June 25, 1856, or held by an occupant in his name, through possession for more than ten years, when the area does not exceed fifty hectares, shall be respected.²²

Then Warren referred to the provisions of the Agrarian Regulation of April 10, 1922, which was issued by Obregón. After analyzing several of the articles of this regulation, Warren concluded that the legal provisions for expropriation of lands were being violated. Such action, he argued, was not only illegal but unwise, since it behooved the Mexican Government to dispossess those who were thus in illegal possession of lands.

Warren also added that "it is apparent from the known cases and from the provisions of the regulation of April 10,

²²Proceedings of the United States-Mexican Commission...,
op. cit., p. 21.

1922, that manifest excesses are being committed under color of law".²³

Warren cited some specific cases of excesses in respect to American property, after which he stated that there existed in the files of the State Department and in numerous communications received by the American commissioners "ample evidence" of the taking of property, both building and land, contrary even to the provisions of the laws and the decrees of Mexico without any reference to the acquired rights of American citizens and their rights under international law. He described the United States position thus:

The United States maintains that under the rules of international law there can be no taking of lands, water rights or other property of American citizens, in whatever form their interest may be held, legally acquired prior to May 1, 1917, under the laws of Mexico and the Constitution of 1857, without indemnification in cash at the time of the taking for the just value thereof....The United States can not recognize any right of Mexico under the terms of any law, as a legal right, to pay in bonds or to compel American citizens to accept bonds as compensation for lands in whatever form their interest may be held, which has been or may be expropriated for ejidos for towns or villagesThe indemnity which the Government of the United States believes Mexico should pay for these lands is their just value in cash at the time of the taking; and that bonds, not immediately convertible into money on the basis of their par value and acceptable to the owner of the land,

²³Ibid., p. 26.

can in no way be considered as indemnification under the Constitution of 1857 or under the rules of international law. By paying in bonds...not only is article 27 of the Constitution of 1857 violated, but the principles established by international law are also violated.²⁴

The above citation indicates that the Government of the United States apparently protested in behalf of its nationals, not because the Mexican Government was taking the lands for ejidos under the right of eminent domain, but because the United States was against the indemnification by the Mexican Government with bonds and at prices not regarded as a just value thereof.²⁵

In the meeting of June 4, 1923, the Mexican commissioners replied to Warren by saying that the Constitution of 1857 and the alien laws provide that foreign residents in Mexico are subject to the same laws as Mexicans and cannot claim any special privileges. Then they added:

The nature of the agrarian problem is so serious that the National Government has been compelled to give it an immediate solution by means of special methods. The expropriation made for the purpose of giving ejidos to certain localities are of an entirely exceptional character, inasmuch as in ordinary cases of ex-

²⁴Proceedings of the United States-Mexican Commission..., op. cit., p. 28.

²⁵It is difficult to determine whether this was the real intention of the United States from the beginning. Apparently the United States Government was opposed to expropriation regardless of the way it was handled. Probably the American commissioners insisted on a cash payment knowing that Mexico could not afford to pay in this manner and therefore would be obliged to drop altogether the expropriation policy.

propriation for reasons of public utility, the Mexican Constitution provides for a general system of expropriation on the basis of immediate compensation in cash.²⁶

Furthermore the Mexican commissioners stated that the question of ejidos gave rise to very extensive legislation. The action of the Mexican Government upon this legislation proved its efforts to solve the problem in such a way as to cause the least possible difficulties. Thus, they defended the policy of their government in granting ejidos to villages on the grounds that such policy was designed to meet an emergency.

The Mexican commissioners also defended the methods being employed to put this policy into operation by saying that the National Government of Mexico had always endeavored "by all means within its power, to comply with the law in all cases, including cases of provisional possession which had been ordered by local authorities under Article VIII of the constitutional law of January 6, 1915."

On the question of payments for the expropriation, the Mexican commissioners stated that under the pressure of a national emergency, legal provisions had been made for the payment in bonds bearing interest of five per cent and payable in twenty years. For the payment of interest and for the payment of the bonds themselves, the Government of Mexi-

²⁶ Proceedings of the United States-Mexican Commission...,
op. cit., p. 31.

co would apply, not excluding other sources of revenue, all the revenues coming into the Treasury from the sale of lands expropriated for ejidos.

They further stated that the Mexican Government was negotiating a special loan in order to pay in cash all the indemnities for the expropriation of lands, and that upon obtaining the loan, the Government would proceed to redeem the outstanding bonds.

According to the Mexican commissioners, the bonds would have a cash value and would produce an income greater than the rent of the expropriated lands, especially in places where the agricultural crisis, brought about "not by revolutionary destruction but by the new economic organization of the country", had considerably lowered the value of rural property.

Moreover, the Mexican commissioners said that for the value of such lands, the Constitution takes as a basis the fiscal value using the declaration made by the property owners themselves. The commissioners stated that they did not consider it unjust, especially in view of the fact that since 1914 owners had been given various opportunities to rectify the fiscal value of their properties. They proceeded:

Under these circumstances, the Mexican Government believes that the owners have had the opportunity of placing themselves in a position not to suffer damages, and if any of them have not wished to take advantage of this opportunity granted them by the law, it is their

own fault.²⁷

Finally the Mexican commissioners stated that in order to comply with the principle of non-retroactivity, a resolution was issued on May 4, 1923, according to which the provision in regard to valuation on the basis of fiscal value is only applicable to lands taken for ejidos after May 1, 1917.

In the meeting of July 19, Warren, on behalf of the American commissioners, asserted that if the Mexican Government would make a statement that its claims to expropriated lands of American citizens for ejidos, towns and villages would not constitute a precedent for Mexico entitling her to expropriate any other kind of property for any purpose except upon indemnification in cash at the time of the taking, the United States Government would consider the question of accepting for its citizens federal bonds of Mexico in payment for lands at the just value thereof at the time of the expropriation. This would be based on the condition that ejidos should not exceed 1755 hectares (4,335 acres).

Warren further stated that this action would depend upon the terms and conditions of the bonds corresponding with the terms and conditions stated by the Mexican commissioners, and upon the convention between the two governments.

Warren also added that it was understood that from no

²⁷Ibid., p. 34.

property of a United States citizen, or property in which a United States citizen had an interest, could an area greater than approximately 1755 hectares be expropriated for an ejido, unless all such lands in excess of 1577 hectares were paid for in cash.

In regard to the method of arriving at the true value of the land that might be expropriated, Warren said that the United States did not consider it fair, just, or legal, for the Mexican Government to expropriate lands on the basis of payment of the assessed valuation, "either as fixed after a declaration by the owner or without a declaration by the owner", but would have to maintain the position that the owner was entitled to compensation, "no matter how paid" for the just value of the land at the time of the expropriation. He emphasized this point as being of the utmost importance.²⁸ Moreover he observed that the Government of the United States reserves its rights to make claims for any losses or damages to its citizens by reason of any injustice of the Mexican Government or by any State government.

At the meeting of July 20, the two groups of commissioners reached a mutual understanding. The Mexican commissioners, in behalf of their government, agreed not to recognize as a precedent the payment in bonds for lands expropriated for

²⁸ Ibid., p. 39.

ejidos from American citizens.

With respect to the recognition question, the Mexican commissioners manifested that they understood "the forwarding of this agreement by the American Government depends upon whether the two Governments decide to resume diplomatic relations and upon the signing and ratification of a general claims convention creating a commission with the necessary jurisdiction".²⁹ The Mexicans furthermore stated that their government was endeavoring to negotiate a loan in order to be able to pay for the expropriation of lands for ejidos in cash and that the Mexican Government had ordered the restitution of all properties and rights confiscated or wrongfully taken from their owners during the revolution. They made clear that American citizens who have suffered damages or losses "because of acts resulting in injustice in carrying out the expropriation of lands for ejidos" could have recourse to the general claims commission to be created.³⁰

The Mexican commissioners also stated that they recognized the right of the American Government to reserve the full right of its citizens, in whatever form their interest may be held, to present claims brought about by expropriation to the general claims commission, if this exchange of views and statements would cause the resumption of diplomatic relations.

²⁹Ibid., p. 42.

³⁰Ibid., pp. 43-44.

As may be seen from the above statements, the Mexican and American commissioners did not recede from their original positions with respect to the agrarian problem but rather recognized the rights of both the United States and the Mexican Governments to make any representation in behalf of their citizens as they might see fit before a regularly constituted claims commission, which was to be formed.³¹

The reports of this understanding on the agrarian question between the United States and Mexico, along with the understanding reached in respect to the oil controversy, and the texts of both a general and a special claims convention were approved by President Coolidge and President Obregon. Shortly after, on August 31, 1923, the United States Government extended its formal recognition to the Mexican Government.

³¹Hackett, op. cit., p. 371.

CHAPTER FOUR

THE CONTROVERSY DURING THE CALLES REGIME

The recognition of Obregón on August 31, 1923, came just in time to save the Mexican Government, as the internal storm caused by the problem of presidential succession broke before the end of 1923. Obregón had determined to give his support to Plutarco Elías Calles, his Secretary of the Interior. Calles was considered the leader of the left wing revolutionists. He had as many opponents as he had followers, particularly in Congress. His enemies revolted at the end of 1923 under de la Huerta leadership, but they were squelched with the aid of the United States. During the national elections of 1924, Calles was elected President.

Calles assumed office on December 1, 1924, with an enthusiastic feeling for social reform, and with a determination to enforce the Constitution of 1917, which neither Carranza nor Obregón had fully attempted.¹

Under Calles the agrarian reform entered a new phase, which was carried out with increasing efficiency. The restoration of land was effected on a large scale through more intelligent management and conforming in a greater degree with the law and showing increased interest in the welfare of the

¹Henry B. Parkes, History of Mexico, p. 379.

of the people.²

After President Coolidge granted recognition to President Obregón, diplomatic relations between the United States and Mexico were cordial until June of 1925. The United States Government lent moral support to Obregón during the de la Huerta Revolution of 1923-1924, and took a hostile attitude toward the revolutionists.³ President-elect Calles received a hearty welcome from official and unofficial circles during his visit to the United States shortly before his inauguration on November 30, 1924.⁴

During this period James R. Sheffield replaced Charles Beecher Warren as the American Ambassador to Mexico. Secretary Hughes, whom the New York World had called "Secretary of Oil", had retired to private life. Manuel C. Téllez, an experienced Mexican diplomat who had for several years ser-

²Gruening, op. cit., p. 107.

³Hackett, op. cit., p. 375.

⁴In 1924 American investments in Mexico were:

Oil lands and refineries	478 millions
Mines and smelters	300 millions
Agricultural and timberlands	200 millions
Railroads	160 millions
Manufacturing	60 millions
Wholesale and retail stores	50 millions
Government bonds (not including state and municipal bonds)	22 millions
Banks, telephones, telegraphs, light and power companies, tramways	10 millions
(Figures from the Bureau of Foreign and Domestic Commerce as quoted by Robert Dunn's <u>American Foreign Investments</u> , p. 91.)	

ved as Charge d'Affairs in Washington, was promoted to the post of Ambassador.

The friendly relations between Mexico and the United States were interrupted when the new Secretary of State, Frank B. Kellogg, issued a statement to the press on June 12, 1925, arousing considerable concern in both countries. It read in part:

I have discussed Mexican affairs with Ambassador Sheffield at great length. He has gone over the entire situation. It will be remembered that we entered into two claims conventions with Mexico under which joint claim commissioners were appointed to adjust claims of American citizens' properties illegally taken by Mexico and for injuries to American citizens of their rights....

A great deal of property of Americans has been taken under or in violation of the agrarian laws for which no compensation has been made...Mr. Sheffield will have the full support of this Government and we will insist that adequate protection under the recognized rules of international law be afforded American citizens. We believe it is the desire of the Mexican Government to carry out the conventions and to indemnify American citizens for property taken. So long as we are satisfied that this is the policy of the Mexican Government and this course of action is being carried out with a determination to meet its international obligations, that Government will have the support of the United States...

I have seen the statements in the press that another revolutionary movement may be impending in Mexico.... It should be made clear that this Government will continue to support the Government in Mexico only so long as it protects American lives and American rights and complies with its international engagements and obligations....

The Government of Mexico is now on trial before the world.⁵

⁵Foreign Relations, 1925, vol.II, pp. 517-518.

Likewise President Calles issued his reply through the press, to the effect that the best proof of Mexico's willingness to fulfill her international obligations and to protect the lives and interests of foreigners lay in the fact that, although not required to do so under international law, she invited all nations, whose citizens might have endured losses because of political unrest, to draw up conventions establishing joint commissions for considering damages in order to grant due indemnizations. Another convention was entered into with the United States for the purpose of adjusting claims of citizens of both countries, and in these conventions⁶ were included all cases in which properties or rights might have been effected by Mexican laws. Then he continued that so long as the commissioners had not solved the cases submitted to them it was irrelevant to charge Mexico with failure to protect American interest in violation of her international obligations. The statement further reads:

The application of the agrarian laws cannot be a subject of complaint because Mexico has issued them in the exercise of her sovereignty, and apart from that, the State Department, in behalf of American citizens, has accepted the form of indemnization prescribed by the Mexican laws....

To be regretted is the contradiction found in Mr. Kellogg's declaration that the United States has the greatest interest in the maintenance of order in Mexico, and in the stability of her Government, at the same time that

⁶See Chapter Three, pp. 59-60.

he states that he has seen news of revolutionary movements, since this last affirmation tends to cause alarm in the world in regard to conditions in my country, coupled with the statement that the Government of the United States will continue to support the Government of Mexico only so long as it protects American interests and lives, and complies with its international engagements and obligations. This embodies a threat to the sovereignty of Mexico that she cannot overlook and rejects with all energy, because she does not accord to any foreign country the right to intervene in any form in her domestic affairs, nor is she disposed to subordinate her international relations to the exigencies of another country.

If the Government of Mexico, as affirmed, is now on trial before the world, such is the case with the Government of the United States, as well as those of other countries; but if it is to be understood that Mexico is on trial in the guise of a defendant, my Government energetically rejects such imputation. To conclude, I declare that my Government, conscious of the obligations imposed by international law, is determined to comply with them, and therefore to extend due protection to the lives and interests of foreigners...but in no way shall it admit that a Government of any nation may pretend to create a privileged situation for its nationals in the country, nor accept any foreign interference contrary to the sovereignty of Mexico.⁷

When Calles' reply was known, the American press immediately took issue with its own administration. "Scarcely half a dozen important papers raised their editorial voices in defence of Mr. Kellogg".⁸ Outstanding among these were the Washington Post, the New York Herald Tribune, and the

⁷Foreign Relations, 1925, vol. II, pp. 518-520.

⁸Gruening, op. cit., p. 603.

Chicago Tribune.

"Sympathy seems to be with the Mexican President", stated the St. Louis Star of June 16, 1925. The New York Journal of Commerce of June 16, 1925, voices its opinion of Secretary Kellogg's note as "a serious mistake". In the same vein, the Baltimore, Maryland Manufacturer's Record dated June 18, 1925, describes it as "a very serious diplomatic blunder". The Brooklyn Eagle of June 18, 1925, declared that the Mexican situation would "never be settled unless we have Secretaries of State who know their business". Under date of June 17, 1925, the Washington News asserted that "10,000 Pan-American tablets and a library of phrases cannot unmake the unfavorable impression created by one lone act which the Pan-American countries will construe as bullying".⁹ The Arizona Daily Star, on June 16, 1925, made the statement that the warning of Kellogg looked "like another chapter in a book which might be entitled 'United States Diplomatic Blunders in Mexico'". This newspaper considered that Kellogg's warning did not merit the bluntness with which it was written, and that it was not surprising that Calles should object.

The United States State Department did not reply to Calles' statement. It was quite apparent to many that Kellogg had committed a serious error, in which Ambassador Sheffield had played no small part. Sheffield's role in the

⁹Ibid.

rift between Mexico and the United States, matched that of Ambassador Wilson back in 1910 and 1913. Ernest Gruenning comments upon Sheffield's place in the Mexican-American picture as follows:

As an ambassador either of good will, or a protector of American interests, Mr. Sheffield soon proved to be worse than negligible. He wrote a great variety of notes and fretted impatiently when a swift and favorable answer was not forthcoming.... A part of the ambassador's failure was due to the atmosphere in which he found himself, represented not only in the American colony itself, but by some representatives there of the American press. 'Never', an experienced correspondent, sent in the spring of 1927 to Mexico to secure some articles, said to me, 'in any capital of the world have I seen a body of newspaper correspondents who so uniformly hate the Government and the people of a country to which they are assigned.'¹⁰

In the latter part of 1925, serious friction developed again when the Mexican Congress debated on legislation to put into operation (reglamentaciones) the provisions of the constitution relating to the oil and agrarian questions.¹¹ On December 31, 1925, before final adjournment, the Mexican Congress passed two laws known as the alien land law and the petroleum law, the essence of which were as follows: ¹²

¹⁰Gruenning, op. cit., p. 604.

¹¹These provisions up to then had been put into operation only by executive decrees.

¹²J. F. Rippey, "Fundamentals in the Present Mexican Situation", Annals American Academy of Pol. and Soc. Sciences, Vol. 132, (July, 1927), p. 168.

1. Foreigners were forbidden to possess lands within certain maritime and frontier zones. Those companies and individuals owning such property were to dispose of it within a defined period. Individuals might continue holding the land until death, and their heirs were to have five years to dispose of this land; corporations might continue in possession of land until they dissolved. In both instances the value of the possessions might be reduced, owing to the fact that the sale must ultimately be limited to Mexicans, unless the owners were willing to become Mexican citizens.

2. In no part of Mexico were aliens permitted to own more than five per cent of the stock of companies possessing agricultural lands. Corporations were to liquidate the excess within ten years, and heirs must dispose of any excess stock inherited by them within five years. The American argument regarding this point was that the value of holdings would be adversely affected by this provision since the market would be restricted to Mexicans or non-American aliens, unless the owners chose to become Mexican citizens.

3. The Mexican expropriation of lands belonging to foreigners was being carried on with twenty-year bonds bearing five per cent interest. Furthermore the value of property so taken was based on the tax declaration made by the owner plus ten per cent. These preceding measures, argued the American land-owners, were injuring American interests, for the owners were being paid considerably less than the

actual worth of their lands, and then not in cash but in bonds of undetermined value.

Furthermore, Article VII of this law required that aliens possessing any of the rights "which are the subject matter of this law", and which were acquired before the law became effective shall make a declaration of their rights before the Department of Foreign Affairs within a year following date of the law's promulgation. If this were not done it would be considered that the acquisition was made subsequent to promulgation of the law and therefore would be subject to its provisions.¹³

In writing on the law in 1927, Professor Rippy stated as follows:

Today aliens own much more of the natural resources and other wealth of Mexico than do the Mexicans themselves. Should legal barriers, erected often by corrupt and tyrannical rulers without the consent of the nation, be permitted to stand in the way of the ultimate recovery of the heritage of the Mexican masses?¹⁴

One of the reasons for the new agrarian controversy was the difference of approach between the United States and Mexico on the Mexican agrarian legislation. The American argument was based on the insistence that the legislation was detrimental to vested interests and retroactive upon previously acquired rights. On the other hand, Mexico

¹³Nation, Vol. 124 (January 26, 1927) p. 100.

¹⁴Rippy, "Fundamentals in the Present Mexican Situation", op. cit., p. 168.

argued that the legislation was neither retroactive nor confiscatory. The Mexican Government insisted that "the form in which a foreigner holds a right may be changed by a sovereign nation as long as the right in its essence is respected," and had argued that in general a change in the law affecting the future use of private property is neither retroactive nor confiscatory.¹⁵

The Government of Mexico further insisted that such changes in the legal status of property should be considered inevitable in a growing community. "If it were otherwise", said the Mexican Foreign Minister, "there would not have been suppressed slavery, nor rights of primogeniture, no obligatory inheritance, nor irredeemable taxes, and so forth".¹⁶

The opposite stand was taken by the American Government. The United States disclaimed any intention to interfere with Mexican sovereignty. The American notes repeatedly asserted that they were motivated by friendship and wish to "avoid any criticism...of a neighboring friendly and sovereign state."¹⁷ Furthermore, the American Government has claimed to recognize "to the fullest extent" the right of any other Government by legislation to regulate the ownership of property as a purely domestic question "unless such regulation operates to divest

¹⁵Memorandum of Mexican Minister for Foreign Affairs, December 5, 1925, P. 7; Senate Document No. 96, 69th Congress, 1st Sessions, p. 28.

¹⁶Ibid., p. 16.

¹⁷Aide memoire of personal message from the Secretary of State, November 17, 1925, Senate Document, No. 96, p. 3.

prior vested rights of American Citizens".¹⁸

While the diplomatic battle was going on between chancelleries, the American press also carried on a war against the Mexican press and against a few periodicals in the United States who backed Calles' attitude in the agrarian controversy with the United States. The Kansas City Star commented:

The United States not only is compelled to protect the interests of its citizens in foreign countries but in the case of Mexico it has an implied moral obligation, arising from the Monroe Doctrine, to safeguard the interests of other nationals.

The arbitrary course of President Calles in this regard has been a surprise and a disappointment Uncle Sam cannot stand by and see the property of American virtually confiscated by any foreign power.¹⁹

Along the same line the Manchester Union and the New York Herald Tribune published articles defending the American position.²⁰ The strongest indictment against the Carranza, Obregón and Calles regimes, is found in the Philadelphia Public Ledger:

It was eight years ago that Mexico adopted a radically Socialistic Constitution. Among the principles laid down in it is one - embodied in the celebrated Article 27 - to the effect that ownership of all land and water within the territorial limits of the country is 'originally vested in the nation'. Ever since, the Mexican Congress has been attempting to put this principle into a workable law.

¹⁸Ibid.

¹⁹Literary Digest, vol. 88, (Jan. 23, 1926), p. 14.

²⁰Ibid.

Mexicans are of two minds on the subject. The more intelligent hesitate to go the limit in this attack upon private property rights. They also realize that ridding the country of American influence will also deprive the country of American capital.

The radicals do not care a hoot for private property rights. They bolshevized Mexico, theoretically, when they forced the adoption of the 1917 Constitution. They would like to bolshevize the country in practice as well, with confiscation of foreign-owned property as a beginning....²¹

However, there were some American supporters of Mexico's position. According to a syndicated article by William English Walling, Mexico needed "understanding and assistance" rather than "advice", he wrote. He continued that the United States should not be alarmed at Mexico's attempt to preserve at least a small part of the ownership of Mexico for her people. Calles was only endeavoring to retain something for the Mexicans, and that was not a crime.²²

In the opinion of the New York World, the American Government's protest appeared as an attempt to interfere with domestic legislation; the fact that appeal could be made through Mexican courts against injury to American nationals was being ignored by the United States Government.²³

The Literary Digest of February 6, 1926, in an article

²¹Ibid.

²²Ibid.

²³Ibid.

entitled "Our Case Against Mexico", sets forth, by means of excerpts from different newspapers, the prevailing opinion of the American press regarding the agrarian dispute with Mexico:²⁴

'For Mexico to deliberately incur the ill-will and hostility of some great Powers at a time when it is necessary for her to have their friendship is an act of criminal folly' wrote the Memphis Commercial Appeal, and the Baltimore Sun declared that 'Mexico can not expect to enjoy our respect or to maintain friendly relations with us if she disregards her agreements.' This was also the attitude of the Springfield Republican, Buffalo Express, Jersey City Journal, Philadelphia Inquirer, Washington Post, Manchester Union and Cleveland Plain Dealer.

At the same time, however, the Brooklyn Eagle revealed a pro-Mexican attitude,²⁵ and maintained that there was little public support behind Kellogg's feeling on Mexico. Accordingly, the United States was insisting that Mexico grant special protection that it would not ask of a stronger power. Although Kellogg was trying to avoid trouble, his statement and action concerning Mexico were indicative of hostility and could not further good will. Patience counted as the prime virtue in dealings with weaker Powers.

The Eagle commented that Kellogg must have received with surprise the fact that Mexico's reply to his campaign against

²⁴Literary Digest, vol. 88 (February 6, 1926), pp. 14-15.

²⁵Ibid., p. 15.

her new land laws first appeared in the press even though he had employed the press for that purpose. In the cases of both nations, then, published statements preceded formal exchange of notes. The noticeable absence of friendliness based Kellogg's difficult relations with Mexico.²⁶ "The case against Mexico is not altogether one-sided", the Newark News stated, and then went on to explain:

The new Mexico resulting from the revolution found itself ridden by the economic imperialists of the United States and other countries whom Diaz and his clique had allowed to entrench themselves firmly. They are not easy to get rid of. While the State Department can not refuse to protect them where their legitimate rights are threatened with violation, it has to espouse a cause which is not in keeping with our best traditions, and to identify itself more closely with Big Business and all that it implies.²⁷

Meanwhile, Saenz had made a declaration to the press to the effect that the so-called anti-alien law could not be classed as an alien law since it did not legislate on the

²⁶Ibid.

²⁷Ibid. This same magazine carries an interesting quotation from the Birmingham Age-Herald:

We need not get hysterical about it, (the Mexican situation) just as we did not get hysterical when Canada carried out the identical plan with regard to the pulpwood concessions given to Americans. That action of Canada's was retroactive, and confiscated the concession rights of American concerns. We patched it up with Canada without any limit of severance of diplomatic relations. Under wise and enlightened statesmanship, we could do the same with Mexico.

status or condition of foreigners in Mexico. It was a law governing provisions of the Constitution regarding rights granted to Mexican individuals and corporations.²⁸ Comparing the new Mexican laws with similar laws existing in other countries, Sáenz observed:

In the State of Arizona, U.S.A., by the law 4715, passed in 1913, only citizens of the United States, or those who have declared their intention to become naturalized, are permitted to acquire real property. The same law establishes, furthermore, that no corporation with a capital of which more than 30 per cent is in the hands of stockholders who are not American citizens, or who have not declared their intention to become such, may acquire lands or titles to them, nor interests in them, and, consequently, provides that no foreigner may acquire title to any land or real estate within the State. In the State of Illinois, there exist similar provisions, but with greater restrictions, this law duly granting a period of five years in which foreigners must dispose of the properties which they have, and if they fail to do so, their lands will be confiscated to the benefit of the State of Illinois. Furthermore, it is a general principle, accepted in the United States, that foreigners can not acquire certain rights unless they previously make a declaration of intention to become American citizens. In Mexico the law has not attempted in this respect to go thus far.....²⁹

Sáenz concluded his press declaration affirming that the Mexican Government never attempted to demand that foreigners entirely waive their nationality to acquire real property

²⁸Ibid.

²⁹Ibid., p. 14.

in Mexico, and that Mexican law allowed for convenient terms under which rights could be transferred. Should this not be carried out under the specified terms, the laws provide for disposal of them by public sale and through judicial procedure. The proceeds of sale would be turned over to the foreigner.

Disregarding the protests made by the United States through diplomatic channels and through the press, President Calles went ahead with his program and promulgated the alien land law on March 29, 1926, to become effective on January 21, 1927.

The serious differences arising with respect to this law is revealed in two notes from Kellogg to Sáenz, dated July 31 and October 30 of 1926, and the corresponding replies of Sáenz, dated October 7 and November 17. All these notes were not made public until November 24. They only followed up two previous notes on these identical laws, which had been exchanged between the two governments from October 29, 1925, to March 27, 1926, all of which were made public on April 10, 1926.³⁰

³⁰ Diplomatic correspondence from autumn 1925 to the end of 1926 relates mainly to these laws. The legislations, United States objections to it, and the consequent exchange of notes simply express in a more limited fashion the previous differences of the two countries dating from the Constitution of 1917. Starting with the "aide memoire" of the United States Secretary of State of November 11, 1925, no less than 15 notes, memoranda and aides memoire were exchanged. See Senate Document No. 96, First Session, 69th Congress (2 parts).

The latter four notes involved the controversy relating to the four "fundamental ideas or principles" which were discussed by Kellogg in his note of July 31, as a basis for considering the matters under dispute. He added that these same principles had several times been advanced by the Government of the United States and had also been endorsed by the Mexican Government. He proceeded to enumerate them:³¹

1. All lawful property rights of any nature should be respected and upheld in accordance with internationally accepted principles of law and equity.

2. The general understanding arrived at by the United States and Mexican Commissioners in 1923 and approved by them upon resumption of diplomatic relations was to remain unmodified and its binding force recognized.

3. The right and duty of a Government in the protection of its citizens against encroachment of their personal or property rights by a foreign Government, and prohibition of the signing away of these rights by an individual, both principles of international law, were to be recognized.

4. The principle that vested rights are not to be hampered by retroactive or confiscatory legislation was not to be disputed.

On his part Sáenz replied on these four basic principles

³¹Foreign Relations, 1926, vol. II, pp. 643-652.

thus:³²

1. That the Mexican Government supported the first principle without question;

2. That it adhered to the fourth principle, but contended that "the mere retroactive character of a law, taken by itself and until it does produce confiscatory effects or is harmful in any other way when applied, cannot give rise to any objections whatsoever, nor be the cause of diplomatic representation".

3. That there is a wide difference of opinion between the two Governments regarding the second and third principles mentioned in Kellogg's note.

As to the second principle, Sáenz' note of October 7 denied that the 1923 conferences had resulted in a "formal agreement, outside of the Claims Conventions which were signed after the resumption of diplomatic relations."³³

³²Foreign Relations, 1926, vol. II, pp. 653-669.

³³Ibid., pp. 654-657.

It is interesting to recall President Obregón's statement of the Mexican position published on August 17, in which he denies making any sacrifices for the purpose of securing recognition. He said: "If the normalization of these relations follows the termination of the Mexican-American Conference, such result will not be due to any obligations contracted, nor to any agreements which may have been entered into for the purpose of resuming diplomatic relations, nor to any thing that might contravene our laws or the rules of international law, or injure the dignity or the sovereignty of our nation". (Nation, "Where Mexico Stands", Vol. 117, (Sept. 19, 1923), p. 305.

In his note of October 30, 1926, Secretary Kellogg reiterated his second fundamental principle, adding that the declaration of the Mexican and American Commissioners in 1923, subsequently ratified by an exchange of notes between the two Governments, instituted "solemn and binding undertakings which formed the basis and moving consideration for the recognition of the Mexican Government by this Government." Minister Sáenz replied to this contention in a note of November 17, which stated that his Government "has not discountenanced the conferences of 1923", but that "they did not have the force of a treaty"; that to have given them that importance, it would have necessitated subjecting them to constitutional laws of both nations, securing among other things ratification of the respective Senates; that by common accord both Governments agreed that results of these conferences would not be held as conditions for renewal of diplomatic relations between Mexico and the United States.

As for the third principle, Sáenz said in his note of October 7, 1926:

The Mexican Government does not deny that the American Government is at liberty to intervene for its nationals; but that does not stand in the way of carrying out an agreement under which the alien agrees not to be the party asking for the diplomatic protection of his Government.³⁴

³⁴Hackett, "Mexican Alien Land Law...", Current History, Vol. 25, (Jan. 1927), p. 557.

In the latter phase of the controversy, Kellogg insisted that the Mexican Government apparently considered property rights, which would ordinarily be regarded as vested, as a simple right of use or enjoyment, which might be legally interrupted or completely removed by means of law or regulations.

The Mexican alien land law required that "foreign absolute owners of stock in Mexican corporations holding rural property for agricultural purposes" were required "to dispose of their corporate interests in excess of forty-nine per cent, within the term of ten years."³⁵ This was interpreted by Kellogg to mean that a definitely vested interest could be taken away by compelling the owner, against his will, to dispose of it within a given limit of time under conditions which may or may not be favorable for transfer. Kellogg added that such an interpretation of vested rights could not be recognized by the United States Government.

On the other hand, Sáenz replied that the provision did not attempt to curtail the possession of foreign owners of corporation stock in excess of forty-nine per cent, but simply obliges them to convert the property found to be incompatible, setting a specific period of years in which to accomplish this.

³⁵Ibid. p. 558.

Secretary Kellogg added that whenever any government attempted to divest foreigners of their property rights the American Government with respect to its own citizens would have the absolute duty of taking steps to prevent it. Sáenz maintained that Kellogg had taken an advanced position in contending that an acquired right did not necessitate any act of protection for its support. He further said that to claim that the Mexican Government was obliged to shield and preserve not only the already acquired but also potential rights was to give to the idea of retroactivity an unjustified meaning.

On October 30, 1926, Kellogg stated that the United States Government found no justification for modifying any of the positions which it had taken and desired to be understood as maintaining these positions with "utmost emphasis". He further explained that his purpose was to indicate so clearly as to leave no room for doubt concerning the extremely critical situation endangering relations of the two governments.

His conclusion was in the nature of a warning that the United States Government expected the Government of Mexico to desist from acting under the law in question (land law of 1926), and the regulations issued in pursuance thereto which would, either directly or indirectly, bring about deprivation of full ownership by American citizens and the enjoyment of their property and rights.

On his part Sáenz answered the American note:

My Government on its part expects that that of your excellency will indicate the concrete cases in which recognized principles of international law may have been violated or may be violated in disregard of legitimate interest of American citizens, since in such cases it will be disposed to repair such violations.³⁶

Saenz felt it necessary, however, to supplement his reply to the State Department, and on November 29, 1926, he issued a statement to the press to the effect that regardless of campaigns abroad in opposition to the land and petroleum law, the regulations were being carried out with no difficulty and the application of the laws have been achieved. He said that in general all foreign countries, including Britain and France and others, had taken means to obey the laws and only a few remained to announce their intention of complying before the year's end.

By the early part of 1927, the situation had not improved. The heated exchange of notes was widely publicized by the press of both countries. As in 1910 and in 1917, American business men and landowners with Mexican interests pressed for intervention. American Catholics, aroused by the religious conflict between church and state in Mexico, also backed up the movement for intervention. It was fortunate, for the sake of harmonious relations that two of the most outspoken interventionists, Albert B. Fall and Edward L. Doheney, had been major figures in the Harding oil scandal.³⁷

³⁶Ibid., p. 559.

³⁷Parkes, op. cit., p. 386.

Later on, in 1927, American public opinion began to look with favor upon a more amicable adjustment. On January 8, 1927, Calles had informally advised a group of visitors from the United States who were studying conditions in Mexico, that his Government would gladly submit the controversy to the Hague Tribunal. Three days later, Sáenz declared that the General Mixed Claims Commissions functioning in Washington already had the jurisdiction for adjudicating claims arising from proposed enforcement of the two laws.³⁸

On January 18, 1927, Senator Joseph T. Robinson, Democratic floor leader, offered a resolution proposing arbitration of the controversy over the "alleged retroactive and confiscatory provisions of the petroleum and alien land ownership statutes".³⁹

In Mexico sentiment favoring arbitration had likewise been growing. On January 20, Sáenz, in a formal statement, asserted that the Government of Mexico revealed it was ready to accept in principle that Mexican-American difficulties would be settled by arbitration. The following day, on January 21, the United States Senate Foreign Relations Committee, by a vote of 13 to 3, reported favorably on the

³⁸See Article I of both Conventions, Proceedings of the United States-Mexican Commissions...1923, op. cit., pp. 53-54, 58-59.

³⁹Hackett, "Mexican Crisis...", Current History, Vol. 25, (March, 1927), p. 872.

Robinson resolution after it had been amended with emphasis on the Government's duty to guarantee protection to American property rights. The amended resolution was adopted by the Senate on January 25, by a vote of 79 to 0.

In spite of all these efforts, President Coolidge was opposed to arbitration. According to Wm. Hackett, Coolidge was authoritatively reported to have made known on January 21, 1927, that he was against arbitration. The only issue, to his understanding, was whether or not property legally owned by United States citizens in Mexico was to be confiscated. This stand of the President indicated that there was an apparent diversion between the statements of Kellogg and those issuing from the White House. The passage of the Robinson Resolution by a unanimous vote pointed out that a clear distinction had been made between the United States Senate and the President over the question of arbitration with Mexico.⁴⁰

On January 21, 1927, Senator Lyin J. Frazier, introduced a resolution expressing the feeling that the President should not exercise powers of Commander-in-Chief of the Army and Navy to send United States armed forces into Mexico or to mobilize troops on the border while the United States Congress

⁴⁰Ibid, p. 874.

was not in session, and that, should he contemplate such action after congressional adjournment, Congress should be reassembled.⁴¹

Outside of Congress criticism of the Government of the United States' policy was widespread and gained headway throughout January. On January 19, a petition supporting arbitration containing the names of 445 noted men and women, including a number of college and university presidents, was sent to Coolidge. Under date of January 23, three petitions, all backing arbitration were sent to Washington: one, signed by 101 university professors representing every section of the United States, another from the Federal Council of Churches of America, and a third, an appeal from William Green, President of the American Federation of labor.⁴²

By February of 1927, it would appear that Callés' stand regarding arbitration had changed somewhat. The Literary Digest of February 19, 1927, attributes the following statement to Callés:

'We will accept arbitration if necessary, although it involves peril for the sovereignty of nations. The Precedent might prove fatal to the liberty and sovereignty of nations. We know from experience that in all arbitral disputes the thesis of the stronger prevails. If such a sacrifice is

⁴¹Congressional Record, 69th Congress, 2nd Session, Part 2, p. 2057-2058.

⁴²Ibid, p. 877.

necessary to maintain peace, we would submit our case to arbitration as the lesser of two evils".⁴³

The Mexican press charged that nothing less than armed intervention and the final conquest of Mexico was the intention of the "imperialist occupant of the White House". Excelsior of Mexico City observed:

Two diverging tendencies are to be noticed in the United States. On one side we find the ruling class and privileged few, who are bent on war at any cost. On the other side, we find the immense majority of people, who are pacifist at heart and desire to settle the dispute by arbitration, but it is our conviction that we are facing a carefully devised plan against which all conciliatory offices will be unavailing. We know this plan only too well. We know that nothing can change it, and that Justice and Truth are dead letters.⁴⁴

The official viewpoint of the Mexican Government was furnished to the press by Sáenz. He said in part:

Mexico has repeatedly declared that it would never deprive anybody of legally acquired titles or rights. We have asked the United States over and over again to point out a single concrete case in which we have violated our pledges. Mexico has many treaties with the United States and commissions especially established to pronounce on all claims.⁴⁵

Toward the end of 1927, Ambassador Sheffield was recalled from Mexico City and Dwight Morrow was appointed to succeed

⁴³Literary Digest, vol. 92, (Feb. 19, 1927), p. 20.

⁴⁴Ibid.

⁴⁵Ibid.

him. With Ambassador Morrow, a new era in diplomatic relations between Mexico and the United States began. He became a very good friend of Calles and advised him on many problems.⁴⁶ In great measure, due to his able diplomacy, the oil and religious disputes were solved, and by December 1, 1928, when Calles left the presidency the agrarian controversy had quieted down considerably and there was not even any need of international arbitration.

⁴⁶Dwight Morrow's "friendly advice" to President Calles was violently criticized by prominent Mexicans, notably José Vasconcelos, Minister of Education of Obregón and Presidential Candidate in 1929.

CHAPTER FIVE

THE GENERAL CLAIMS COMMISSION

During 1927 and 1928 the liberal press of the United States continued its campaign for a peaceful settlement with Mexico, and severely criticized the harsh policy adopted by the State Department. One of the violent articles in favor of Mexico was published by the Nation.¹ The editors of this magazine reminded the Secretary of State that when the United States abolished slavery, it abolished likewise private property owned by Mexicans, Spaniards, Englishmen, Frenchmen, and other foreign citizens. They also stated that it was idle to point out that the Emancipation Proclamation was a war-time measure; that in no wise relieved the Government of the United States from responsibility. There was no war, moreover, when the United States Government passed the Prohibition Amendment and the Volstead Act. Many hundreds of foreigners held shares in utilities and breweries, or owned them outright. These foreigners lost, by reason of confiscation, the money which they had invested in good faith, in enterprises which were legal at the time of the investment. Then the Nation asked if anyone had arisen in the House or Senate and demanded that these foreign-

¹Nation, "The Right to Confiscate", (Feb. 16, 1927), vol. 124, p. 160.

ers be reimbursed. Did any country, such as France or Great Britain, threaten to break off relations with us? No, it added -- not one.

Further on, the article said that several American States had passed laws discriminating against aliens, and some of these have in effect been retroactive; furthermore, that the Supreme Court has affirmed the validity of these statutes, which have a retroactive effect. Pennsylvania does not permit aliens to own firearms purchased previous to the enactment of the law. The United States immigration laws are regularly applied retroactively.

The article then inquired what the United States Government had done to the Indians who were its wards; had it not stolen their lands, and deprived them of their private property, often merely to sanction the seizure of land by invading settlers? The Nation concluded that there was no issue between the United States Government and Mexico which could not be submitted to judicial determination.

In official circles there was also a movement for an amicable adjustment of the differences with Mexico. Senator William E. Borah, Chairman of the Senate Foreign Relations Committee, made a sincere plea for sympathy and tolerance toward Mexico. Concerning the land policy of that country, he said that he believed that Mexico was acting in good faith. He also stated that after examination of the laws of more than one country where the breaking up of large estates had been attempted, he found that in none of these countries did the laws

more thoroughly respect the vested rights of foreigners than in Mexico. Speaking on his part, Senator Borah said that he did not hesitate to sympathize with Mexico in her task. He said that failure was possible, but he would not be guilty of wishing her failure. "God has made us neighbors - let justice make us friends." He concluded that the first move toward justice was to cease from making unjust and untrue statements about Mexico.²

There was no doubt that the appointment of Dwight Morrow as Ambassador to Mexico indicated a new trend in the Mexican policy of the State Department. Very shortly, Morrow managed to solve the petroleum controversy and to become a good friend of the Mexican Government.

Notwithstanding, on March 10, 1928, the Mexican Supreme Court issued a decision upholding the constitutionality of the Alien Land Law and of Article 27 of the Mexican Constitution under which the law was enacted.³ When Emilio Portes Gil was inaugurated as provisional President of Mexico, Washington still had hopes for a favorable adjustment of the agrarian land dispute. However, the story of the controversy was by then no longer handled through regular diplomatic channels. Agrarian claims were being carried to the General Claims Commission.

In Chapter Three dealing with the Bucareli Convention,

²Hackett, "Issues with Mexico and Nicaragua", Current History, vol. 26, (May 1927), p. 278.

it was shown how the Mixed Claims Conventions were created. In effect, the General Claims Convention was signed at Washington on September 8, 1923, ratified by the United States President February 4, 1924 and by Mexico on February 16, 1924; ratifications were exchanged on March 1, 1924. The Special Claims Convention was signed at Mexico City September 10, 1923, ratified by the President of the United States February 4, 1924 and by Mexico on February 16, 1924; ratifications were exchanged on February 19, 1924.⁴ Each of the conventions provided that the Commission was to meet within six months following the exchange of ratification. The General Claims Convention was to begin its meetings in Washington, and might thereafter meet either in the United States or in Mexico as found to be convenient, subject to the special instructions of the two Governments.

The General Claims Convention concluded by the Governments of the United States and Mexico on September 8, 1923, undertook to settle all claims of citizens of either country arising subsequent to July 4, 1868, date of the last general claims settlement concluded by both Governments.⁵ Provision was made therein for the establishment of a three-man commis-

³New York Times, March 11, 1928, p. 4.

⁴Feller, op. cit., p. 23.

⁵Department of State, Publication 2859, American-Mexican Claims Commission, p. 71.

sion known as the General Claims Commission, composed of a representative of each government and a third member, who was to preside over the Commission, and to be selected by mutual agreement of the governments. Should this member not be named by the two Governments, he would be designated by the President of the Permanent Administrative Council of the Permanent Court of Arbitration. In case of death, absence or incapacity of a member of the Commission, the same procedure was to be followed for filling the vacancy as was followed in appointing the original member. The claims over which the Commission was to have jurisdiction is described in Article 1 of that Convention, as follows:

All claims (except those arising from acts incident to the recent revolutions) against Mexico of the citizens of the United States, whether corporations, companies, associations, partnerships or individuals, for losses or damages suffered by persons or by their properties, and all claims against the United States of America by citizens of Mexico, whether corporations, companies, associations, partnerships or individuals, for losses or damages suffered by persons or by their properties; all claims for losses or damages suffered by any corporation, company, association, or partnership in which such citizens have or have had a substantial and bona fide interest, provided an allotment to the claimant by the corporation, company, association or partnership of his proportion of the loss or damage suffered is presented by the claimant to the commission hereinafter referred to; and all claims for losses or damages originating from acts of officials or others acting for either Government and resulting in injustice, and which claims may have been presented to either Government for its interposition with the other since the signing of the claims convention con-

cluded between the two countries July 4, 1868, and which have remained unsettled, as well as any other such claims which may be filed by either Government within the time hereinafter specified, shall be submitted to a commission consisting of three members for decision in accordance with the principles of international law, justice and equity.⁶

Moreover, the General Claims Convention provided that all claims accruing prior to the signing of the Convention were to be filed within one year from the date of the first meeting. The Commission was bound to hear and to decide all these claims within a period of three years from the date of the first meeting. During this period the governments were permitted to file claims accruing after the signing of the Convention. If any of these claims were not decided during the three-year period, the governments agreed to extend the life of the Commission to permit decision.

Unfortunately the one-year period for filing of claims was altogether too short. Neither government had enough time to sort out the claims in its files deserving of attention. Since all claims, whether presented to the Commission or note, were to be considered and settled, the two governments proceeded figuratively to empty the contents of their claim files on the desks of the Commission. The United States filed 2,781 claims, amounting to \$513,694,267.17 and Mexico filed 836 claims amounting to \$245,158,395.32. With so many claims

⁶Proceedings of the United States-Mexican Commission, op. cit., pp. 58-59.

the three-year period of life given the General Claims Commission proved to be too short. It met for organizational purposes on August 30, 1924, and consequently it should have been terminated on August 30, 1927.⁷ During this time, five sessions, including the inaugural sessions, were held. The inaugural session was entirely devoted to preparing the rules of procedure. In the second session, from June 1 to June 30, 1925, various amendments to the rules were adopted and there was discussion on the extension of time for filing claims. It was not until the third session, from February 1 to March 31, 1926, that the Commission began to hear and decide on cases. In the fourth session from October 1 to December 6, 1926, only twenty-six awards were handed down. In the fifth session (March 10 to July 23, 1927), forty-five opinions were issued.⁸ The Commission was not in continuous session, meeting only when a sufficient number of claims had been prepared by the respective agents of the two governments and made ready for oral argument.

On August 17, 1927, a Convention was signed⁹ between the United States and Mexico extending the life of the General

⁷Agrarian claims which arose between January 1, 1927 and August 30, 1927 inclusive, and which were not filed with the General Claims Commission established by the Convention of September 8, 1923, were not solved until 1942. (American-Mexican Claims Commission, Report to the Secretary of State, p. 7).

⁸Feller, op. cit., pp. 57-58.

⁹Ratifications were exchanged on October 12, 1927.

Claims Commission to August 30, 1929. According to Article I of this new Convention, the Commission, during this extended term, was also to hear, examine and decide all claims for losses and damages accruing between September 8, 1923, and August 30, 1927, inclusive, if filed before the latter date.¹⁰

In spite of the fact that the Commission was extended, it was unable to meet due to the resignation of the presiding commissioner, Dr. Van Vollenhoven, on the expiration date of the Commission's first period. Fruitless efforts to agree upon a successor consumed months. From July 23, 1927, until September 1928, no sessions of the General Claims Commission were held.¹¹ This inaction caused considerable displeasure to claimants of both countries and subjected both governments to unfavorable criticism. The Commission failed to meet to a great extent by the delay in appointing a presiding commissioner and also because of the lack of arrangements for the continuous functioning of the Secretariat and agencies.

In accordance with Article I of the 1923 Convention, the matter of appointing a presiding commissioner was referred to the President of the Administrative Council of the Permanent Court of Arbitration, who, on June 16, 1928, appointed Dr.

¹⁰Feller, op. cit., p. 334.

¹¹Foreign Relations, 1929, vol. 2, p. 437.

Kristian Sindballe.

With the new presiding commissioner, the Commission, which until then has been meeting in Washington, moved to Mexico City, where two sessions were held. During the first session, from September 7 to October 18, 1928, only five opinions were handed down. During the second session, (March 1 to May 17, 1929), thirty-eight awards were made.¹²

Again the life of the General Claims Commission was approaching expiration and there were still many cases to be decided. On June 17, 1929, the State Department addressed a note to the Mexican Chargé d'Affaires in Washington, transmitting two drafted conventions providing for the extension of not more than two years of life to the General and Special Claims Commissions. This action accorded with the provisions of Senate Resolution Seventy-three of May 25, 1929.¹³ On September 2, 1929, Mexico and the United States signed a new Convention extending the duration of the Commission to August 30, 1931.

The same issue of disagreement on the appointment of a presiding commissioner faced the Commission once more. Dr. Sindballe had resigned on July 1, 1929, and not until after a long period of negotiations, did Mexico and the United States

¹²Feller, op. cit., p. 58.

¹³Congressional Record, 71st. Congress, 1st. Session, vol. 71, Part 2, pp. 189.

agree upon Horacio Alfaro as Presiding Commissioner. The Commission resumed its work on August 13, 1930. Twenty-five cases were argued, and twenty-three opinions were handed down. On October 29, 1930, Señor Alfaro announced a decision to the effect that the Commission would adjourn and would meet again in Washington on December 3, 1930. The Mexican Commissioner did not agree to this, so that the Commission continued in session in Mexico City until November 5, 1930.¹⁴

Meanwhile, the Mexican Government was undergoing a change in its attitude, for which Calles could be held responsible to a great extent. The ruling clique had rapidly grown more powerful during the Calles Administration, and by 1929, the men who had enjoyed the favor of the government under Obregón and Calles had developed into a wealthy class, and were beginning to regard the labor and peasant movement as a threat not only to the creole hacendado and to the foreigners, but also to themselves. The "revolutionary" political machine with its dictatorial powers, which at the beginning of the Calles administration had learned to the left, now began veering to the right. As to the ruling clique, Calles was still the power behind the throne; Provisional President Portes Gil was only his puppet.¹⁵

¹⁴Ibid.

¹⁵Parkes, op. cit., p. 390.

"In the change of the Callist machine from an instrument of reform to one of reaction, an important part was played by Dwight Morrow", says Parkes in his History of Mexico.¹⁶

This explains why, on January 6, 1929, Portes Gil made a public declaration against government confiscation of private property.¹⁷

On July 25, 1929, Portes Gil in an address to one hundred American members of the "Seminar in Mexico", headed by Hubert C. Herring, said that payment for land seizure must be continued in agricultural bonds, but he predicted that the bonds would acquire increasing value.¹⁸

On December 26, 1929, Ex-President Calles, after his arrival in Mexico from a trip to Europe and the United States, urged cash payment for lands expropriated. The New York Times reported him as saying that communal grants must be continued in Mexico and upon the taking of lands for small holders, immediate payment should be made. However, he continued that owners who suffered because of legislation considered as a necessary internal measure, should receive cash or securities of definite value rather than those of problematic value.¹⁹

¹⁶Ibid.

¹⁷New York Times, January 6, 1929, Section I, p. 30.

¹⁸Ibid., July 26, 1929, p. 4.

¹⁹Ibid., December 27, 1929, p. 7.

The difference between these latter statements with what Calles said a few years before, clearly shows his change of feeling on the matter.

Presidential candidate Pascual Ortiz Rubio, after his electoral victory in Mexico, visited Washington, D. C. in December, 1929. During this visit he announced that he was wholeheartedly in favor of the new land legislation pending before the Mexican Congress, which would provide for cash settlement on all land expropriated in the future under the Mexican agrarian policy. However, he declared that such lands as had been seized by the government was being settled for on the basis established by the General Claims Commission, with Mexican Government Bonds.²⁰

On March 23, 1930, President Ortiz Rubio announced that lands expropriated while he was in office, would be paid for in cash. This settled one phase of the agrarian situation. The question of agrarian bonds issued prior to Ortiz Rubio's administration was still a problem for the Claims Commission to solve.²¹

Calles, who still remained in the background as a powerful influence on Mexican policy, declared publicly for the curtailment of land distribution, as the methods so far

²⁰Ibid., p. 1.

²¹Ibid., March 24, 1930, p. 11.

adopted in the Agrarian Revolution had failed.²²

As a result of these developments in the Mexican policy regarding the revolutionary agrarian problem, the agrarian law amendment sponsored by Ortiz Rubio was approved by the Chamber of Deputies on December 12. The amendment provided that communal land assignments would be granted only when there was money on hand to make cash payment for the land taken over from private owners for this purpose.²³

On January 27, 1931, recommendations for the settlement of Mexico's agrarian problem were made by the National Economic Congress in session in Mexico City. The Congress urged the Government to take steps toward the discontinuance of the land distribution to small holders and to pay in cash rather than in depreciated bonds for any land which might be expropriated thereafter.²⁴

With these changes in the agrarian policy of the Mexican Government, the situation was improved considerably. The claims were being handled, albeit slowly, by the General Claims Commission.

A New York Times dispatch from Washington on July 30, 1931, announced that the General Claims Commission would expire on August 31 unless renewed again. The dispatch observed

²²Ibid., June 24, 1930, p. 6.

²³Ibid., December 13, 1930, p. 10.

²⁴Ibid., January 28, 1931, p. 7.

that if the Commission were allowed to die at the end of August, with no other machinery set up to settle the claims, they would revert to the ordinary status of international disputes to be handled through regular diplomatic channels. It also indicated that there was talk of a Mexican offer of a lump sum diplomatic settlement, but that up to then no such proposal had actually developed.²⁵

In effect, as no Convention had been called to consider the extension of its duration, the General Claims Commission expired on August 31, 1931.

²⁵Ibid., July 31, 1931, p. 4.

CONCLUSIONS

Though the agrarian controversy between Mexico and the United States has its roots in the past, the period between 1923 and 1931 is the most important.

The land struggle in Mexico dates from pre-Hispanic times. During colonial days, it was more or less checked, as the Mexicans found themselves a conquered people. In 1821 Mexico achieved her independence from Spain but never solved her land problems, as the country only experienced a change of masters. The Spanish peninsular was replaced by the Creole and exploitation of man by man continued. While relatively few families possessed most of the arable land of the country, the great mass of Indians and mestizos lived in abject misery.

The Revolution of 1910 attempted to solve the agrarian problem, but actually little was accomplished during the first years of the revolution. The Carranza decree of January 6, 1915, was the first revolutionary agrarian measure. It did not solve the problem, partially owing to its defective provisions and also because it was more used as a political football than as an economic answer to the situation.

The second milestone in agrarian legislation was Article 27 of the Constitution of 1917, emphasizing the principle

that the nation has had and still has ownership of the national territory and its waters. The laws intended to solve the land problem affected Mexicans and foreign land-owners, including American citizens. Here the seeds of the controversy between Mexico and the United States germinated and threatened the friendly relations between both countries.

It is apparent that the difference of concept held by Mexican law, based on Spanish canon, and American law, based on Anglo-Saxon principles, was one of the major reasons for the controversy. The objections voiced by Washington and the pressure exercised on the Mexican Government were among the chief causes of delay in enforcement of agrarian legislation.

The land question was an important factor in the shaping of the non-recognition policy of the United States from 1920 to 1923. During this diplomatic impasse, the State Department insisted that the signing of a treaty of amity and commerce, under the terms of which Mexico would guarantee protection of American property in Mexico acquired before May 1, 1917, was a prerequisite sine qua non to recognition of the Mexican Government. Obviously the fundamental question confronting the Government of the United States in considering relations with her southern neighbor was the safeguarding of property rights against confiscation. Mexico declined recognition on that basis and refused to promise anything regarding American property.

After an extensive exchange of notes, in April of 1923, both governments agreed to create a mixed commission to exchange views and find a solution for the reestablishment of diplomatic relations. This achievement can be credited to General James A. Ryan's opportune suggestion. The mixed commission concluded the Bucareli Convention that determined recognition of the Obregón Government on August 31, 1923.

President Calles assumed office on December 1, 1924, with an enthusiastic feeling for social reform, intent upon enforcing the Constitution of 1917, which neither Obregón nor Carranza, his predecessors, had fully attempted. Under Calles, the agrarian reform entered a new phase. Restoration of land was effected on a large scale through more intelligent management and conforming in greater degree to the law, showing interest in the welfare of the people.

In the early part of 1926, serious friction between the United States and Mexico developed again, when a new agrarian land law was promulgated by President Calles for the purpose of putting into operation the agrarian provisions of Article 27. Again the State Department protested vigorously. American argument was based on the insistence that the legislation was detrimental to vested interests and retroactive upon previously acquired rights. Mexico responded that the legislation was neither retroactive nor confiscatory. The Mexican Government observed that the form in which a foreigner holds rights may be changed by a sovereign nation so long as the right in its essence is respected. It is clear that if Mexico had

accepted American demands for protection of the property of United States citizens, she would have established a precedent in the history of sovereign countries, since she would have been granting more rights to American citizens than to her own nationals.

By the early part of 1927 the situation had not improved. The heated exchange of notes was widely publicized by the press of both countries. As in 1910 and 1917, American businessmen and landholders pressed for intervention and the lack of mutual trust and comprehension of the import, economic and social, of the Mexican Revolution, militated against any possible sound diplomatic policy.

There is no doubt that the role played by some American diplomats in Mexico greatly hindered the development of workable Mexican-American relations. Two salient examples of the damage done by individual antagonism toward a government may be found in Ambassador Henry Wilson's case from 1910 to 1913, and Ambassador James Sheffield's actions from 1924 to 1927.

Toward the end of 1927, however, American public opinion began to look with favor upon a more amicable adjustment with Mexico. Sentiment favoring arbitration became noticeable. Ambassador Sheffield, who had been partially responsible for the coldness in Mexican-American relations, was recalled from Mexico City and Dwight Morrow was appointed to succeed him. With Ambassador Morrow, a new era in diplomatic relations between Mexico and the United States began. He became a very good friend to Calles and advised him on many problems. By

December 1, when Calles left the presidency, the agrarian controversy had quieted down considerably and there was no need for international arbitration. By this time also, the developments of the controversy were no longer handled through regular diplomatic channels. The General Claims Commission, created in 1923 after the Bucareli Convention, attempted to solve agrarian claims presented by Americans. With so many claims to be heard, however, the three-year period of life allotted the Commission was insufficient. It met for organizational purposes on August 30, 1924, and consequently should have terminated on August 30, 1927; but on August 16, 1927, a Convention was signed between the United States and Mexico, extending the life of the Commission to August 30, 1929. As the 1929 expiration date of the Commission drew nearer, leaving still many cases undecided, Mexico and the United States, as of September 2, 1929, signed a new convention extending the duration of the General Claims Commission to August 31, 1931.

Meanwhile the Mexican Government was undergoing a change in its attitude. The ruling clique began to regard the labor and peasant movement as a threat, not only to the creole hacendado and to the foreigners, but also to its own existence. The revolutionary political machine with its dictatorial powers, which at the beginning of the Calles administration had leaned to the left, now began veering to the right. An extensive campaign for change in the agrarian policy was

launched, for which Ex-President Calles and the Presidential Candidate of 1929, Pascual Ortiz Rubio, were to a great extent responsible. As a result of this development, an agrarian law amendment sponsored by Ortiz Rubio was approved by the Chamber of Deputies on December 12, and by the Mexican Senate on December 18 of 1930. The amendment provided that communal land assignments would be granted only when there was money on hand to make cash payments for the lands taken over from private ownership for this purpose. With this change in the revolutionary agrarian policy of Mexico, the situation with the United States improved considerably.

Although considerable success in the solution of the land struggle was achieved up to 1931, there remained American agrarian claims awaiting settlement after that year. Nevertheless the critical period was past and a firm foundation was laid for just solution of further agrarian claims.

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