

the Dominican Republic as well. Apart from the Monroe Doctrine, this intervention was likewise dictated by the necessity of protecting purely American interests. The present armed occupation is justified technically by the duty of enforcing the terms of the convention of 1907. From every point of view, therefore, the action of the United States, in both Haiti and Santo Domingo, would seem to be in accord with its duties as a responsible member of the family of nations, and particularly with its obligations as an elder brother of these less fortunate republics. There is nothing illegal or reprehensible in intervention of this character in the defence of special rights and the general interests of international law and order.

PHILIP MARSHALL BROWN.

MEXICO AND THE UNITED STATES

On October 19, 1915, the United States Government recognized the *de facto* government in Mexico presided over by General Carranza. In a report to the President, rendered on February 12, 1916, upon the ability of that government to fulfill its promises and obligations to protect American rights and property undertaken before recognition was extended, Secretary of State Lansing expressed the opinion that "the lawless conditions which have long continued throughout a large part of the territory of Mexico are not easy to remedy and that a great number of bandits who have infested certain districts and devastated property in such territory cannot be suppressed immediately, but that their suppression will require some time for its accomplishment, pending which it may be expected that they will commit sporadic outrages upon lives and property."¹

Less than a month after this statement was made, namely, on March 9, 1916, the territory of the United States was invaded by a force under the command of Francisco Villa, which attacked the city of Columbus, New Mexico, killed a number of Americans, and set fire to many buildings. As soon as a sufficient force of American troops could be collected, they pursued Villa's band of raiders across the international boundary line and established themselves at certain points in northern Mexico.²

In a public announcement issued on March 25, 1916, President Wilson stated that "the expedition into Mexico was ordered under an agree-

¹ This JOURNAL, April, 1916 (Volume 10), p. 366.

² This JOURNAL for April, 1916 (Volume 10), p. 337.

ment with the *de facto* government of Mexico for the single purpose of taking the bandit Villa, whose forces had actually invaded the territory of the United States, and is in no sense intended as an invasion of that republic or as an infringement of its sovereignty." He stated further that

The expedition is simply a necessary punitive measure, aimed solely at the elimination of the marauders who raided Columbus and who infest an unprotected district near the border which they use as a base in making attacks upon the lives and property of our citizens within our own territory. It is the purpose of our commanders to cooperate in every possible way with the forces of General Carranza in removing this cause of irritation to both governments and to retire from Mexican territory so soon as that object is accomplished.³

In support of the President's action the United States Senate had, on March 17, 1916, adopted the following resolutions:

Whereas it is understood that the President has ordered or is about to order the armed forces of the United States to cross the international boundary line between this country and Mexico for the pursuit and punishment of the band of outlaws who committed outrages on American soil at Columbus, New Mexico; and

Whereas the President has obtained the consent of the *de facto* government of Mexico for this punitive expedition; and

Whereas the President has given assurance to the *de facto* government that the use of this armed force shall be for the sole purpose of apprehending and punishing said lawless band, and that the military operations now in contemplation will be scrupulously confined to the object already announced, and that in no circumstance will they be suffered to trench in any degree upon the sovereignty of Mexico or develop into intervention of any kind: Therefore be it

Resolved by the Senate (the House of Representatives concurring), That the use of the armed forces of the United States for the sole purpose of apprehending and punishing the lawless band of armed men who entered the United States from Mexico on the 9th day of March, 1916, committed outrages on American soil, and fled into Mexico, is hereby approved; and that the Congress also extends its assurance to the *de facto* government of Mexico and to the Mexican people that the pursuit of said lawless band of armed men across the international boundary line into Mexico is for the single purpose of arresting and punishing the fugitive band of outlaws; that the Congress in approving the use of the armed forces of the United States for the purposes announced joins with the President in declaring that such military expedition shall not be permitted to encroach in any degree upon the sovereignty of Mexico or to interfere in any manner with the domestic affairs of the Mexican people.⁴

The entry of American troops into Mexico was not regarded kindly by the Mexicans, and obstacles to the operations of the American forces

³ Supplement to this JOURNAL for July, 1916 (Volume 10), p. 191.

⁴ Congressional Record, March 17, 1916, Volume 53, p. 4274.

were promptly placed in their way. At Parral, where it was believed the American forces were on the point of capturing Villa, they were, while passing through the town, attacked by the inhabitants, and, in order to prevent bloodshed, they withdrew. In the meantime a lengthy correspondence ensued between General Carranza and the State Department regarding the agreement under which the United States asserted its forces had entered Mexico. General Carranza denied the existence of such an agreement and impugned generally the good faith of the United States in its dealings with Mexico. The relations between the two countries became severely strained and reached the breaking point on May 22, 1916, when General Carranza denounced the American punitive expedition "as an invasion without Mexico's consent, without its knowledge, and without the coöperation of its authorities," and demanded its immediate withdrawal under threat of an appeal to arms in case of a refusal to comply.

The United States replied to General Carranza on June 20, 1916, in which it reviewed the altruistic attitude of the American Government toward Mexico during the trying years of its series of revolutions beginning with the overthrow of General Diaz, vigorously defended its action in protecting its border by patrolling a portion of Mexico in which Carranza was obviously unable to exert any semblance of authority, and firmly declined to entertain his request for the withdrawal of the troops until he gave evidence of some ability to fulfill his international obligations to his neighbor on the north.

On the day following the despatch of this note a battle occurred between American and Mexican forces at Carrizal in consequence of orders which had been issued by Carranza to his army not to permit movements of American troops except back towards the border. This occurrence made it evident that, unless either country showed a disposition to yield, war would inevitably occur. The tension was relieved on July 4, 1916, when Carranza suggested mediation by Latin-American Governments. The United States answered on July 7, offering to exchange views with Carranza as to a practicable plan for settlement.

In pursuance of this exchange of notes, a series of conferences took place in Washington beginning July 10. On July 12, 1916, General Carranza's representative at Washington proposed that each government name three commissioners to "decide forthwith the question relating to the evacuation of the American forces now in Mexico and to draw up and conclude a protocol of agreement regarding the recip-

rocal crossing of the frontier by forces of both governments; also to determine the origin of the incursions to date in order to fix the responsibility therefor and definitely to settle the difficulties now pending or those which may arise between the two countries for the same or similar reasons." This proposal was accepted by the Department of State on July 28, 1916, but with the suggestion "that the powers of the commission be enlarged so that . . . the commission may also consider such other matters, the friendly arrangement of which would tend to improve the relations of the two countries." It was stipulated by both parties that the recommendations of the commission should be subject to the approval of their respective governments.⁵

The *de facto* government replied to the American note on August 4, naming the Mexican members of the joint commission, who, General Carranza stated, had been "instructed to devote their attention preferably to the solution of the points mentioned in the previous note" of Mexico.⁶ This phrase was subsequently explained by the Mexican representative at Washington as not limiting the commission's discussion to the question of troops and border raids, but that the *de facto* government merely desired that these matters should be given preference, and that other questions might be taken up later by the commission.⁷

The joint commission, composed of Hon. Franklin K. Lane, Judge George Gray, and Mr. John R. Mott, for the United States, and Luis Cabrerra, Ignacio Bonillas and Alberto Pani, for Mexico, met at New London, Connecticut, on September 6, 1916, subsequently removed to Atlantic City, New Jersey, and continued their sessions for several months.

While the details of the deliberations of the commission were not made public, press reports and statements issued by the Commissioners from time to time indicated that the differences of opinion between them were not easy of reconciliation. The Mexican Commissioners seemed to be disinclined to discuss any matters relating to internal affairs in Mexico until the question relating to troops on the border was settled. On the other hand, the American Commissioners felt that the settlement of the border question alone would leave the way open for a recurrence of trouble between the two countries. As stated by Secretary Lane in a statement made public on November 24, 1916, the American Commissioners believed that

⁵ New York *Times*, July 29, 1916.

⁶ *Ibid.*, August 5, 1916.

⁷ *Ibid.*, August 9, 1916.

the border troubles are only symptoms. Mexico needs system treatment, — not symptom treatment. She can give it to herself and we hope she will. . . . We will help her to get into good shape if she can understand that we mean to be her friend. . . . The purpose for which this commission was formed was to exert one last effort toward making Mexico a possible neighbor under the Constitutionalist Government. We do not wish to be forced into intervention or any other course until this opportunity has been exhausted. To this end we must pass from the border matters of irritation, and immediate concern, to the conditions of Mexico which affect the lives and property of our nationals and all other nationals. . . . Then we ask that, with our help or without it, Mexico feed herself and drive out disease. There will be little banditry if Mexico gets to work.

The miseries of Mexico must be assuaged. Her poor, naked, starving, dying peons call out for help. They do not wish constant war, and only one per cent of her people are actually in the war, but all are suffering. We cannot maintain our self-respect or be true to the highest dictates of humanity and see these people suffer as they do because of the chaos that has come from civil war.⁸

On November 24 the Commissioners signed a protocol providing for the withdrawal of American troops. The articles of this protocol were as follows:

ARTICLE 1. The Government of the United States agrees to begin the withdrawal of American troops from Mexican soil as soon as practicable, such withdrawal, subject to the further terms of this agreement, to be completed not later than ; that is to say forty (40) days after the approval of this agreement by both governments.

ARTICLE 2. The American commander shall determine the manner in which the withdrawal shall be effected, so as to insure the safety of the territory affected by the withdrawal.

ARTICLE 3. The territory evacuated by the American troops shall be occupied and adequately protected by the Constitutionalist forces, and such evacuation shall take place when the Constitutionalist forces have taken position to the south of the American forces so as to make effective such occupation and protection. The Mexican commissioners shall determine the plan for the occupation and protection of the territory evacuated by the American forces.

ARTICLE 4. The American and Mexican commanders shall deal separately or wherever practicable, in friendly coöperation with any obstacles which may arise tending to delay the withdrawal. In case there are any further activities of the forces inimical to the Constitutional Government which threaten the safety of the international border along the northern section of Chihuahua, the withdrawal of the American forces shall not be delayed beyond the period strictly necessary to overcome such activities.

ARTICLE 5. The withdrawal of American troops shall be effected by marching through Columbus, or by using the Mexican Northwestern Railroad to El Paso, or by boat routes, as may be deemed most convenient or expedient by the American commander.

⁸ *New York Times*, November 25, 1916.

ARTICLE 6. Each of the governments parties to this agreement shall guard its side of the international boundary. This, however, does not preclude such coöperation on the part of the military commanders of both countries as may be practicable.⁹

The protocol was accompanied by a memorandum in which the commissioners agreed that "It shall be understood that if we meet for the discussion of other questions, the American Commissioners will not ask that any final agreement shall be reached as to any such questions while the American troops are in Mexico."

Upon the signature of the above protocol the commission issued the following statement regarding the result of their labors up to that time:

The commission has come to an agreement as to withdrawal of American troops in Mexico and border control, which is to go by Mr. Pani to Mexico. If it is acceptable the conferences will be resumed within two weeks. The troops are to be withdrawn by General Pershing within forty days of approval of the agreement, but in such manner as will permit the Mexican troops to occupy the evacuated territory, which the Mexicans have agreed to do.

Should the northern section of Chihuahua be in a state of turmoil such as to threaten our border the American troops may alone or in conjunction with the Mexican troops disburse the marauders and the time for withdrawal shall be extended by the time necessary for such work. The Mexican commander is to have control of the plan by which occupation of northern Chihuahua is effected, and General Pershing is to have control of the plan of withdrawal and the right to use the railroad to Juarez if he so desires.

The commission found it impracticable to arrange a plan of joint border control through a common military force, and abandoned the idea of a border zone which has been so much discussed. It is, however, left to the commanders of both nations on the border to enter into such arrangements for coöperation against marauders whenever it is practicable.

The agreement distinctly states that each side is to care for its own side of the border, but that this shall not preclude coöperation between the two forces to preserve peace upon the border.

Right to Pursue Raiders

The American Commissioners told their Mexican colleagues that as a matter of national necessity the policy of this government must be to reserve the right to pursue marauders coming from Mexico into the United States so long as conditions in northern Mexico are in their present abnormal condition. Such pursuit is not, however, to be regarded by Mexico as in any way hostile to the Carranza Government, for these marauders are our common enemies.

The correspondence between the two State departments under which the commission was created requires the latter to deal not only with withdrawal of troops, but also with all other questions affecting the two countries, chief of which may be

⁹ Text printed in the *Washington Post*, January 3, 1917.

said to be the protection of the lives and property of all foreigners in Mexico. The American Commissioners have not only pressed for the consideration of this matter, but for a number of others, such as the establishment of an international claims commission and the restoration of health conditions in Mexico, where typhus is making headway and death by starvation is common. These questions, as well as many others, have already been considered by the commission informally and are to be given formal consideration when the commission reassembles, which it will as soon as the agreement as to withdrawal and border control, which was officially made of preferential concern, has been approved by both governments.

The present agreement may, therefore, be regarded as the first step only in the work of the commission. If this, however, is not found to be agreeable to the two governments, the commission will, by force of the understanding had between the two State departments, come to an end.¹⁰

A delay of several months ensued before any definite statement was made concerning General Carranza's attitude toward the protocol. Statements emanating from the Mexican Commissioners during this interval indicated that, while Carranza did not object to the terms of the protocol, he objected to the reservation by the American Commissioners, not included in the protocol, but mentioned in the statement accompanying its signature, of the right of the United States to pursue bandits across the border. It was also intimated that General Carranza felt that his approval of the protocol would place him in a position of having appeared to sanction the presence of foreign troops in Mexico. Several sessions of the commission were held late in December to consider General Carranza's suggestions for a modification of the protocol. The American Commissioners declined to entertain such suggestions, however, and, on January 2, 1917, it was officially stated that Carranza had refused to ratify the protocol. The final meeting of the commission was held on January 15, 1917, when it was agreed that further discussion of international questions was impracticable and the commission adjourned.

Pursuant to recommendations of the American Commissioners, however, the President decided to withdraw the American troops, to hold General Carranza's Government responsible for American interests in the territory affected, and to maintain a patrol along the American border, which would be sent into Mexico if necessary to protect American territory and rights. Accordingly on January 28, 1917, orders were issued by the War Department for the withdrawal of the troops and within a week they had returned to American soil.

¹⁰ New York *Times*, November 25, 1916.

At the same time the President decided to send a diplomatic representative to Mexico to take up through diplomatic channels the questions which the joint commission had been unable to adjust. Mr. Henry P. Fletcher, formerly American Minister to Chile, who had been appointed Ambassador to Mexico on February 25, 1916, and detained in the United States because of the unsatisfactory state of the relations between the two countries, arrived in Mexico on February 17, 1917.

Thus closes the long period of interrupted official intercourse between the United States and Mexico, which started with the refusal of the United States to recognize Huerta after the assassination of Madero, who overthrew Diaz. Many believe that it would have been wiser for the United States to have acted upon the principle that it was not concerned as to the manner in which a Mexican president came into power and promptly to have recognized Huerta. Those who hold this view believe that General Huerta could have pacified the country within a few months and thus saved Mexico many years of bloodshed and the United States much concern and no small expenditure of money. They also assert that the failure to recognize Huerta really amounted to intervention in the internal affairs of the country and that the United States is therefore more or less morally responsible for what took place afterwards.

The purpose of this comment is to continue from previous numbers the narrative of events in Mexico, and space will not permit a consideration of the legal or political aspects of the incidents which have been related in the course of the narrative. It is the belief of the writer, however, that there is no basis for the allegation that the American action with regard to Mexico amounted to intervention. He believes further that the American policy accords with the best American practices and traditions. Whether its application to recent events in Mexico was wise can only be determined by the future course of events in that country.

GEORGE A. FINCH.

HAVANA SESSION OF THE AMERICAN INSTITUTE OF INTERNATIONAL LAW

On January 22, 1917, in Havana, the American Institute of International Law began its second session and ended it on January 27th. It was formally invited by the Cuban Government to hold its session in Cuba, and it was the guest of the Cuban Society of International Law.