

It will be observed that Article 24 prescribes to all intents and purposes the action already taken by the United States, so that the article may be regarded as declaratory, not amendatory, of international law in so far as the United States is concerned.

From the action of the United States in the case of the *Lena*, and from the provisions of Article 24 of Convention 13, it is clear that the effect of internment is to withdraw from the vessel so treated the immunity from local laws which by custom men-of-war enjoy. The United States allowed the *Lena* to display the Russian flag and to dress the ship on the name day of the Russian Emperor, but denied the vessel "the function of saluting and the right to receive salutes" because its "character as a warship * * * was in abeyance." According to the official commentary upon Convention 13, which was prepared by the distinguished French publicist, Professor Louis Renault, Article 24 is intended to assimilate the officers and crew of the interned ship to the officers and men of a belligerent army taking refuge in a neutral territory. He states: "In law their position is analogous to that of troops of a belligerent who seek refuge in neutral territory, and it has been agreed that the two cases should be controlled by one and the same rule."²

JAMES BROWN SCOTT.

THE RECOGNITION OF THE DE FACTO GOVERNMENT IN MEXICO¹

In the October, 1914, number of the JOURNAL (page 860), we concluded a series of editorial narratives of events in Mexico during the revolutionary period which started with the overthrow of Diaz by Madero in 1911. The recognition by the United States on October 19, 1915, of the *de facto* government presided over by General Venustiano Carranza as the chief executive makes it appropriate to set out the important events which have taken place since our last comment, which ended with the overthrow of General Huerta on July 20, 1914, and the occupation of Mexico City by the Constitutionalist Army on August 19, 1914. At that time Vera Cruz was still occupied by American troops

² The full text of Mr. Renault's report on Article 24 of Convention 13 is printed in a comment in this JOURNAL for April, 1915, pp. 488-489.

¹ The correspondence and documents referred to in this comment were transmitted by the President of the United States to the Senate in response to a resolution of January 6, 1916, requesting certain information relative to affairs in Mexico. They are printed as Senate Document No. 324, 64th Congress, 1st Session.

as the result of the difficulty with General Huerta over the Tampico flag incident. As stated in our last editorial on this subject, President Wilson had announced on September 15 that the American troops were to be withdrawn, but this did not actually take place until November 23, 1914.

According to a résumé of the Mexican constitutionalist revolution and its progress, submitted to the Secretary of State on October 7, 1915, by Mr. E. Arredondo, Confidential Agent of the Constitutionalist Government of Mexico at Washington, General Carranza, after taking his seat in the national palace in the city of Mexico, "called all the governors and leaders in command of troops to a meeting, which was to take place on the first day of October, 1914, for the purpose of discussing and adopting the program or platform which the Constitutionalist Government should follow prior to elections; the reforms which should be carried into effect; the date on which elections should be held, and all other matters of general interest which the circumstances might require." General Francisco Villa, the commander of the northern division of the Constitutionalist Army, declined to attend the meeting, repudiated the leadership of Carranza and called a convention of his own supporters at Aguascalientes. The two conventions met in October, 1914. The former retained General Carranza as Provisional President, after he had offered to resign, and the latter selected General Eulalio Gutierrez, who was shortly afterwards deposed and was followed in office in rapid succession by several other members of the Villa faction. An effort to reconcile the differences between the two parties by a committee of Carranza generals, who appeared before the Aguascalientes convention, failed, and was followed by open hostilities between them.

In a decree issued at Vera Cruz on December 12, 1914, which reviewed briefly the events in the constitutionalist revolution from the usurpation of Huerta to the break with Villa, General Carranza states the apparent reason for the break between the two factions as follows:

The express declarations made on several occasions by the commander of the northern division advocating the establishment of constitutional order before the social and political reforms demanded by the country take place, clearly demonstrate that the insubordination of General Villa is of a strictly reactionary character, and contrary to constitutionalist activities, and has for a purpose to frustrate the complete success of the revolution, preventing the establishment of a pre-constitutional government intrusted with the enactment and enforcement of the reforms which have been the subject of the struggle which has been raging for the last four years.

To explain the military ends for which the fight against Villa was undertaken and to authorize during the continuance of the new struggle the laws covering the political and economic reforms which were the objects of the revolution, General Carranza decreed the following articles:

Article 1. The plan of Guadalupe of March 26, 1913,² shall subsist until the complete triumph of the revolution, and, therefore, Citizen Venustiano Carranza shall continue in his post as first chief of the constitutionalist revolution and as depository of the executive power of the nation, until the enemy is overpowered and peace is restored.

Article 2. The first chief of the revolution and depository of the executive power of the Republic, shall enact and enforce during the struggle, all the laws, provisions, and measures tending to meet the economic, social, and political needs of the country, carrying into effect the reforms which public opinion demands as indispensable for the establishment of a régime which will guarantee the equality of Mexicans among themselves, agrarian laws favoring the creation of small landowners, the suppression of latifundia or large landholders, and the restoration to townships of the lands illegally taken from them; fiscal laws tending to establish an equitable system of taxation on real estate; laws tending to improve the condition of the rural laborer, the working man, the miner, and, in general, of the working classes; the establishment of municipal freedom as a constitutional institution; bases for a new system of organization of the army; amendments of the election laws in order to insure the effectiveness of suffrage; organization of an independent judicial power, in the feder-

² The plan of Guadalupe, signed by sixty-four officers of the troops of the State of Coahuila on the 26th of March, 1913, contains the following articles:

"1. Gen. Victoriano Huerta is hereby repudiated as President of the Republic.

"2. The legislative and judicial powers of the federation are also hereby disowned.

"3. The governors of the States who still recognize the federal powers of the present administration, shall be repudiated thirty days after the publication of this plan.

"4. For the purpose of organizing the army, which is to see that our aims are carried out, we name Venustiano Carranza, now governor of the State of Coahuila, as first chief of the army, which is to be called constitutionalist army.

"5. Upon the occupation of the city of Mexico by the constitutionalist army, the executive power shall be vested in Venustiano Carranza, its first chief, or in the person who may substitute him in command.

"6. The provisional trustee of the executive power of the Republic shall convene general elections as soon as peace may have been restored and will surrender power to the citizen who may have been elected.

"The citizen who may act as first chief of the constitutionalist army in the States, whose government might have recognized that of Huerta, shall take charge of the provisional government and shall convene local elections, after the citizens elected to discharge the high powers of the federation may have entered into the performance of their duties as provided in the foregoing bases."

ation as well as in the States; revision of the laws relative to marriage and the civil status of persons; provisions guaranteeing the strict observance of the laws of reform; revision of the civil, penal, and commercial codes; amendment of judicial procedure, for the purpose of expediting and causing the effectiveness of the administration of justice; revision of laws relative to the exploitation of mines, petroleum, water rights, forests, and other natural resources of the country, in order to destroy the monopolies created by the old régime and to prevent the formation of new ones; political reforms which will insure the absolute observance of the constitution of Mexico, and, in general, all the other laws which may be deemed necessary to insure for all the inhabitants of the country the effectiveness and full enjoyment of their rights, and their equality before the laws.

Article 3. In order to continue the struggle and to carry into effect the reforms referred to in the preceding article, the chief of the revolution is hereby expressly authorized to convene and organize the constitutionalist army and direct the operations of the campaign; to appoint the governors and military commanders of the States and to remove them freely; to effect the expropriations on account of public utility which may be necessary for the distribution of lands, founding of townships, and other public services; to negotiate loans and issue obligations against the national treasury indicating the property which shall guarantee them; to appoint and remove freely federal employees of the civil administration and of the States and to fix the powers of each of them; to make, either directly or through the chiefs he may appoint, requisitions for lands, buildings, arms, horses, vehicles, provisions, and other elements of war; and to create decorations and decree recompenses for services rendered to the revolution.

Article 4. Upon the success of the revolution, when the supreme chieftainship may be established in the city of Mexico and after the elections for municipal councils in the majority of the States of the Republic, the first chief of the revolution, as depository of the executive power, shall issue the call for election of congressmen, fixing in the calls the dates and terms in which the elections shall be held.

Article 5. Once the federal congress has been installed, the chief of the revolution shall render an account before it of the use he may have made of the powers with which he is vested hereby, and he shall especially submit the reforms made and put into effect during the struggle, in order that congress may ratify them, amend them, or supplement them, and to the end that those which it may see fit may be raised to the rank of constitutional precepts, before the reestablishment of constitutional order.

Article 6. The federal congress shall convene the people for the election of president of the Republic, and as soon as this takes place the first chief of the revolution shall deliver to the president elect the executive power of the nation.

Article 7. In case of absolute default of the present chief of the revolution and in the meantime the generals and governors proceed to the election of the person who is to take his place, the chief office shall be temporarily filled by the commander of the army corps at the place where the revolutionary government may be at the time the default of the first chief occurs.

The contest for supremacy between the forces of Carranza and Villa continued unabated and with varying success, neither side apparently

being able to obtain any decisive advantage over the other. Mexico City changed hands several times between the forces of Carranza, Villa and Zapata. The military operations in the meantime added to the distress of the Mexican people and to the dissipation of their substance. The conditions below the southern border of the United States became so chaotic that President Wilson felt constrained on June 2, 1915, to issue a public warning to the Mexican factions to get together and act for the relief of their prostrate country. This document, which was an official statement of the conditions then existing in Mexico and the attitude of the United States, read as follows:

For more than two years revolutionary conditions have existed in Mexico. The purpose of the revolution was to rid Mexico of men who ignored the constitution of the Republic and used their power in contempt of the rights of its people; and with these purposes the people of the United States instinctively and generously sympathized. But the leaders of the revolution, in the very hour of their success, have disagreed and turned their arms against one another. All professing the same objects, they are, nevertheless, unable or unwilling to cooperate. A central authority at Mexico City is no sooner set up than it is undermined and its authority denied by those who were expected to support it. Mexico is apparently no nearer a solution of her tragical troubles than she was when the revolution was first kindled. And she has been swept by civil war as if by fire. Her crops are destroyed, her fields lie unseeded, her work cattle are confiscated for the use of the armed factions, her people flee to the mountains to escape being drawn into unavailing bloodshed, and no man seems to see or lead the way to peace and settled order. There is no proper protection either for her own citizens or for the citizens of other nations resident and at work within her territory. Mexico is starving and without a government.

In these circumstances the people and Government of the United States cannot stand indifferently by and do nothing to serve their neighbor. They want nothing for themselves in Mexico. Least of all do they desire to settle her affairs for her, or claim any right to do so. But neither do they wish to see utter ruin come upon her, and they deem it their duty as friends and neighbors to lend any aid they properly can to any instrumentality which promises to be effective in bringing about a settlement which will embody the real objects of the revolution—constitutional government and the rights of the people. Patriotic Mexicans are sick at heart and cry out for peace and for every self-sacrifice that may be necessary to procure it. Their people cry out for food and will presently hate as much as they fear every man in their country or out of it, who stands between them and their daily bread.

It is time, therefore, that the Government of the United States should frankly state the policy which in these extraordinary circumstances it becomes its duty to adopt. It must presently do what it has not hitherto done or felt at liberty to do, lend its active moral support to some man or group of men, if such may be found, who can rally the suffering people of Mexico to their support in an effort to ignore, if they cannot unite, the warring factions of the country, return to the constitution of the Republic so long in abeyance, and set up a government at Mexico City which

the great Powers of the world can recognize and deal with, a government with whom the program of the revolution will be a business and not merely a platform. I therefore publicly and very solemnly call upon the leaders of faction in Mexico to act, to act together, and to act promptly for the relief and redemption of their prostrate country. I feel it to be my duty to tell them that, if they cannot accommodate their differences and unite for this great purpose within a very short time, this Government will be constrained to decide what means should be employed by the United States in order to help Mexico save herself and serve her people.

Closely following the issuance of the above warning, General Carranza issued a declaration to the Mexican nation under date of June 11, 1915, in which he stated that "the Constitutionalist Government has control of over seven-eighths of the national territory; that it is organizing public administration in 20 out of 27 States of the Republic and in more than half of the other 7 States; that it controls all the maritime ports on the Gulf and on the Pacific Ocean with the exception of Guaymas, and all the ports of entry on the northern and southern frontiers, with the exception of Piedras Negras, Ciudad Juarez, and Nogales; that more than thirteen million of the fifteen which represent the population of the country—that is to say, nine-tenths of the total population of the Republic—are governed by the administration [over which] I preside; that day after day the factions are being routed and dispersed, their offensive action being limited at present to acts of brigandage, and that within a short time the occupation of the City of Mexico will contribute to make the action of the Constitutionalist Government more harmonious and efficient in all the territory of the Republic. Therefore, our country is nearing the end of its revolution and the consolidation of a definite peace, based on conditions of welfare and justice." In view of the alleged definite possession of the sovereignty of the country by the Constitutionalist Government, General Carranza thought the time had arrived when that government should be recognized by the other nations, especially the United States, and he appealed to the warring factions still engaged in armed opposition against the Constitutionalist Government, to submit to that government in order to expedite the reestablishment of peace and to consummate the work of the revolution. With a view to realizing these purposes, General Carranza gave the following pledges of conduct to be observed by his government:

First. The constitutionalist government shall afford to foreigners residing in Mexico all the guarantees to which they are entitled according to our laws, and shall amply

protect their lives, their freedom, and the enjoyment of their rights of property, allowing them indemnities for the damages which the revolution may have caused to them, in so far as such indemnities may be just and which are to be determined by a procedure to be established later. The government shall also assume the responsibility of legitimate financial obligations.

Second. The first concern of the constitutionalist government shall be to reestablish peace within the province of law and order, to the end that all the inhabitants of Mexico, both native and foreign, shall equally enjoy the benefits of true justice and be interested in cooperating in the support of the government emanating from the revolution. The commission of crimes of the common order shall be punished. In due time an amnesty shall be enacted in keeping with the necessities of the country and the situation, which in no way shall exempt those under it from the civil responsibilities they may have incurred.

Third. The constitutionalist laws of Mexico, known under the name of laws of reform, which establish the separation of the church and the state and which guarantee the individual right of worship in accordance with his own conscience and without offending public order, shall be strictly observed; therefore, no one shall suffer in his life, freedom, and property because of his religious beliefs. Temples shall continue to be the property of the nation according to laws in force, and the constitutionalist government shall again cede for the purposes of worship those which may be necessary.

Fourth. There shall be no confiscation in connection with the settlement of the agrarian question. This problem shall be solved by an equitable distribution of the lands still owned by the government; by the recovery of those lots which may have been illegally taken from individuals or communities; by the purchase and expropriation of large tracts of land, if necessary; by all other means of acquisition permitted by the laws of the country. The constitution of Mexico forbids privileges, and therefore all kinds of properties, regardless of who the owners may be, whether operated or not, shall in the future be subject to the proportional payment of a tax in accordance with a just and equitable valuation.

Fifth. All property legitimately acquired from individuals or legal governments, and which may not constitute a privilege or a monopoly, shall be respected.

Sixth. The peace and safety of a nation depends from the clear understanding of citizenship. Therefore, the government shall take pains in developing public education, causing it to spread throughout the whole country, and to this end it shall utilize all cooperation rendered in good faith, permitting the establishment of private schools subject to our laws.

Seventh. In order to establish the constitutional government, the government by me presided over shall observe and comply with the provisions of Articles 4, 5, and 6 of the decree of December 12, 1914, [printed *supra*, 358, 360].

What happened after the issuance of President Wilson's warning of June 2, 1915, may better be told in the language of Secretary of State Lansing, in a letter to the President dated February 12, 1916: "Several weeks after the statement was issued, as the factional differences seemed to be no nearer to a settlement, this government sounded the six rank-

ing diplomatic representatives of Latin-America as to whether they would confer and advise with this government in regard to formulating some practicable plan, if possible, for the solution of the Mexican problem. Under instructions from their respective governments, these representatives signified their desire to coöperate with this government, and the first conference with the representatives was held on August 5, last.

“As a result of that conference the ambassadors of Argentina, Brazil, and Chile, the ministers of Bolivia, Uruguay, and Guatemala, and the Secretary of State of the United States, acting severally, signed an appeal to the civil and military leaders of the revolutionary factions in Mexico, suggesting that the latter hold a conference to discuss a peaceful settlement of their differences and offered to act as intermediaries to arrange the time, place, and other details of such conference. Identical communications in this sense were, under date of August 13 and 14 last, sent by telegraph to all generals, governors, and other leaders known to be exercising civil or military authority in Mexico.” For the information of our readers, the appeal referred to is quoted textually:

WASHINGTON, D. C., August 11, 1915.

The undersigned, the Secretary of State of the United States, the ambassadors extraordinary and plenipotentiary of Brazil, Chile, and Argentina, and the envoys extraordinary and ministers plenipotentiary of Bolivia, Uruguay, and Guatemala, accredited to the Government of the United States of America, acting severally and independently, unanimously send to you the following communication:

Inspired by the most sincere spirit of American fraternity, and convinced that they rightly interpret the earnest wish of the entire continent, have met informally at the suggestion of the Secretary of State of the United States to consider the Mexican situation and to ascertain whether their friendly and disinterested help could be successfully employed to reestablish peace and constitutional order in our sister Republic.

In the heat of the frightful struggle which for so long has steeped in blood the Mexican soil, doubtless all may well have lost sight of the dissolving effects of the strife upon the most vital conditions of the national existence, not only upon the life and liberty of the inhabitants, but on the prestige and security of the country. We can not doubt, however—no one can doubt—that in the presence of a sympathetic appeal from their brothers of America, recalling to them these disastrous effects, asking them to save their motherland from an abyss—no one can doubt, we repeat—that the patriotism of the men who lead or aid in any way the bloody strife will not remain unmoved; no one can doubt that each and every one of them, measuring in his own conscience his share in the responsibilities of past misfortune and looking forward to his share in the glory of the pacification and reconstruction of the country, will

respond, nobly and resolutely. to this friendly appeal and give their best efforts to opening the way to some saving action.

We, the undersigned, believe that if the men directing the armed movements in Mexico—whether political or military chiefs—should agree to meet, either in person or by delegates, far from the sound of cannon, and with no other inspiration save the thought of their afflicted land, there to exchange ideas and to determine the fate of the country—from such action would undoubtedly result the strong and unyielding agreement requisite to the creation of a provisional government, which should adopt the first steps necessary to the constitutional reconstruction of the country—and to issue the first and most essential of them all, the immediate call to general elections.

An adequate place within the Mexican frontiers, which for the purpose might be neutralized, should serve as the seat of the conference; and in order to bring about a conference of this nature the undersigned, or any of them, will willingly, upon invitation, act as intermediaries to arrange the time, place, and other details of such conference, if this action can in any way aid the Mexican people.

The undersigned expect a reply to this communication within a reasonable time; and consider that such a time would be 10 days after the communication is delivered, subject to prorogation for cause.

It will be preferable also to state the result of this appeal in the language of the Secretary of State contained in the same letter. “The attempt to bring the factions together for a conference failed. Substantially all the commanders and others in authority who were associated with Gen. Villa, replied directly and independently, in varied language, accepting the suggestion for a conference. On the other hand, all the commanders and others in authority who were affiliated with Gen. Carranza replied briefly to the effect that the appeal had been referred to Gen. Carranza, whose superior authority they acknowledged, and who would make such reply as he deemed proper. The inference to be drawn was plain. On the one hand, there seemed to be no central organization among the Villista forces, while, on the other hand, submission to a central authority was evidenced in the replies of the Carranzistas. The unity and loyalty of the Carranzistas appeared to indicate the ultimate triumph of that faction, especially as the Carranzista forces were then in control of approximately 75 per cent of the territory of Mexico. Accordingly the conferees, after careful and impartial consideration of all the circumstances, decided unanimously to recommend severally to their respective governments that in their opinion the government of which Gen. Carranza was the leader should be recognized as the *de facto* government of Mexico.”

In aid of General Carranza's claim to recognition, his Confidential Agent at Washington on October 7, 1915, transmitted copies of General

Carranza's public declarations of December 12, 1914, and June 11, 1915, containing the guarantees to both nationals and foreigners above quoted. In this letter the Confidential Agent assured the Secretary of State that the lives and property of foreigners in Mexico would be respected in accordance with the practices established by civilized nations and the treaties in force between Mexico and other countries. He also stated that the Carranza Government would recognize and satisfy indemnities for damages caused by the revolution, to be settled in due time and according to justice. Another letter from the Confidential Agent to the Secretary of State, dated October 8, 1915, assured the United States that "the laws of reform, which guarantee individual freedom of worship according to everyone's conscience, shall be strictly observed. Therefore the Constitutionalist Government will respect everybody's life, property, and religious beliefs without other limitation than the preservation of public order and the observance of the institutions in accordance with the laws in force and the constitution of the Republic."

On October 19, 1915, the Secretary of State of the United States sent a note to the Confidential Agent extending recognition to the *de facto* government in Mexico, of which General Venustiano Carranza is the chief executive, and suggesting the reciprocal appointment of diplomatic representatives by the two governments. The Secretary of State stated on February 12, 1916, that "the said *de facto* government has since been recognized by substantially all the countries of Latin America; also by Great Britain, France, Italy, Russia, Japan, Austria-Hungary, Germany, and Spain; and several other countries have recently announced their intention of extending recognition."

In the same report, the Secretary of State, referring to the ability of the *de facto* government to fulfill its promises and obligations to protect American rights and property in Mexico, said:

The Department's information indicates that the *de facto* government is now in control of all but a few sections of Mexico, and that, bearing in mind that the nation is just emerging from years of domestic strife, it may be said that within the territory which it controls it is affording, in all the circumstances, reasonably adequate protection to the lives and property of American citizens and that it is taking steps to extend its authority over and restore order in sections now in the hands of hostile factions. In this connection, however, it should be stated that the lawless conditions which have long continued throughout a large part of the territory of Mexico are not easy to remedy and that the great number of bandits who have infested certain districts and devastated property in such territory can not 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.

GEORGE A. FINCH.

THE JAPANESE LAW OF NATIONALITY

The Japanese law of nationality was amended during the last session of the Imperial Diet, and as amended received the Imperial sanction and was promulgated as Law No. 27 on March 15, 1916. Its recent origin would alone justify comment; its importance requires it. The most important changes will therefore be mentioned and the reasons for them stated.

Article 18 of the previous law provided that a Japanese woman lost her Japanese nationality when she married a foreigner. This was thought to be unsatisfactory, because if she married a foreigner who, for one reason or another, had lost his nationality, the woman herself would be in the unfortunate position of her husband. Article 18, as amended, reads: "When a Japanese by becoming the wife of a foreigner has acquired the husband's nationality, then such Japanese loses Japanese nationality."

Article 20 of the previous law reads: "A person who has acquired foreign nationality by his own choice loses Japanese nationality." But this article is to be read in connection with Article 24, which provided that a Japanese subject of 17 or more years of age could not divest himself of Japanese nationality unless he had performed his military service or was exempt therefrom. This article is retained in the revised law, but again Articles 17 and 24 thereof are to be construed by a new provision called Article 20-bis, which reads as follows:

In case a Japanese subject who has acquired foreign nationality by reason of his or her birth in a foreign country has domicile in that country, he or she may be expatriated with the permission of the Minister of State for Home Affairs.

The application for the permission referred to in the preceding paragraph shall be made by the legal representative in case the person to be expatriated is younger than fifteen years of age. If the person in question is a minor above fifteen years of age or a person adjudged incompetent, the application can only be made with the consent of his or her legal representative or guardian.

A step-father, a step-mother, a legal mother or a guardian may not make the application or give the consent prescribed in the preceding paragraph without the consent of the family council.

A person who has been expatriated loses Japanese nationality.