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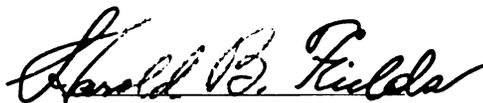
EXPROPRIATION OF AMERICAN OIL IN MEXICO

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EXPROPRIATION OF AMERICAN OIL IN MEXICO

By

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Chapter I

THE BACKGROUND OF EXPROPRIATION

The Mexican oil problem is an inflammable explosive compound of political, social, and economic enterprises saturated with labor controversies and revolutionary theories, superheated with conflicting emotions which make clear analysis of the essential element of the problem well nigh impossible.¹

This statement was made by Donald R. Richberg to the National Petroleum Association, following his fruitless negotiations in behalf of the expropriated American and British petroleum companies.

The expropriation mentioned was the result of a presidential decree issued by Lazaro Cardenas, President of the Republic of Mexico, at 6 p.m., March 18, 1938. The Mexican oil problem, on the other hand, existed both before and after this date. While the complexities mentioned by Mr. Richberg did exist, they are somewhat simplified for us who have the advantage of looking back through time on a situation already brought to a conclusion. Many writers tried to bring the facts in this case to a public which did not appreciate the importance of the happenings in Mexico. The only elements aware of its importance were the companies involved, part of the stockholders of the 1750 corporations with direct investments in foreign countries, and the news-

¹Betty Kirk, Covering the Mexican Front; the Battle of Europe Versus America, (Norman, Oklahoma, 1942), p. 156. This book is hereafter referred to as Betty Kirk, Covering the Mexican Front. This quotation is part of a speech by Donald R. Richberg to the National Petroleum Association, Cleveland, April 14, 1939.

paper reader who actually read the editorial page.² The significance of the event was overshadowed by Hitler's occupation of Austria and the warning of many newspapers to their Mexican correspondents "not to overplay the story".³ The solution as concerned most American companies, occurring on April 17, 1942, was likewise overshadowed by the events following our actual involvement in World War II. The attitude of the New Deal administration of Franklin Roosevelt, with its stress on the Good Neighbor policy, was in contrast with the activity of previous administrations in trying to protect the foreign investments of United States citizens.

To understand the Mexican viewpoint on this important oil problem, one must go back to early Spanish and even Roman laws on subsoil deposits. An old Roman law required the owner of surface soil to pay 1/10 of the products of underlying subsoil deposits to the government.⁴ Spanish laws such as Siete Partidas, los Leyes de Indias, la Nueva Recopilacion de las Leyes de Indias and Ordenanzas de Minería for New Spain of 1783 made clear that subsoil deposits belonged to the Spanish crown in Mexico as well as in other

²Burt M. McConnell, Mexico at the Bar of Public Opinion, (N.Y., 1939), Preface.

³Betty Kirk, Covering the Mexican Front, p. 158.

⁴Frederick S. Dunn, The Diplomatic Protection of Americans in Mexico, (N.Y., 1933), p. 333.

possessions of the crown.⁵ These ordinances of 1783 reserved for the crown not only metals but also "half minerals, bitumen or mineral tar", and described the conditions under which granted concessions would be revoked.⁶ This established the basic doctrine, the law of Reversion, in all former Spanish-American countries. A law of December 26, 1789, amended los Ordenanzas de Minería of May 22, 1783, so as to exclude "stone coal" from royal patrimony freeing it for working and declaring that "such mines should belong to the proprietor of the lands in which they are".⁷ This indicates that "The crown was only concerned with the reservation of deposits that were of commercial value at that time."⁸ Thus petroleum would not have been included.

During the Spanish rule, oil fields such as the famous "Petrero del Llano", which was to produce more than 100,000,000 barrels, were discovered but at this time oil was practically without value. Small lakes of oil were sometimes burned off by the Indians two or three times a year because they ruined the land for farming and endangered

⁵Ernest Gruening, Mexico and its Heritage, (N.Y., 1928), p. 102. Gruening claims that not only the subsoil deposits but the vast countries in the New World themselves, were patrimonies of the kings and queens of Castile and Aragon.

⁶F.S.Dunn, The Diplomatic Protection of Americans in Mexico, p. 333.

⁷Ibid., p.333.

⁸Ibid., p. 334.

grazing.

After the Mexicans gained their independence from Spain, they made no immediate change in existing Spanish laws concerning subsoil deposits of natural resources. The rights formerly held by the Spanish crown were considered as belonging to the Mexican nation until the issuance of new mining codes under Diaz, namely the Codigo de Minas de los Estados Unidos Mexicanos of November 22, 1884, Ley Minera de los Estado Unidos Mexicanos of June 4, 1892⁹, and Ley Minera de los Estados Unidos Mexicanos of November 25, 1909. These "were phrased as though invested capital acquired full title to the subsurface assets. Such provisions were contrary not only to age-old legal doctrine but to deep-seated understandings, feelings and prejudices of the people".¹⁰ Along with these inviting laws, the Diaz government extended a personal welcome to foreign investors and companies to operate in Mexico. This being also the period of "Dollar Imperialism" in the United States, our citizens invested money in Mexico at the encouragement of

⁹Parts of these two laws can be found translated in the Proceedings of the United States-Mexican Commission Convened in Mexico City, May 14, 1923, (Dept. of State, Washington, D.C., 1925), particularly p. 13. A fourth law passed by the Diaz Government, the Petroleum Law of 1901, dealt with concessions for exploration and exploitation rather than ownership.

¹⁰Harlow S. Person, Mexican Oil: Symbol of Recent Trends in International Relations, (N.Y., 1942), p. 20.

our government. The first attempt to secure commercially Mexican oil was evidently made early in Diaz's administration, but failed as did various other attempts between 1885 and 1898.¹¹ Actually it was E. L. Doheny's lease of 283,000 acres in the Tampico area which began the oil industry in Mexico. Most American and British oil activities had their beginnings before 1910 under these laws, believing that their purchase or leasing of surface land entitled them to the underlying resources.

This industry flourished and prospered, exempted from any export tax on their oil and freed from any import tax on initial material or equipment needed for new wells, pipelines, or refineries. It was further exempted from any federal tax, except the stamp tax on invested capital, for a ten year period and guaranteed free exploitation without the need of special concessions by the petroleum law of 1901.

Shortly after the overthrow of Diaz in 1911, the Mexican Government began to realize some direct financial benefits from Mexican oil. The oil companies early in 1912 were required to register with the government, and on June 8, Madero issued a special stamp tax on crude petroleum at

¹¹Josephus Daniels, Shirt-Sleeve Diplomat, (Chapel Hill, N.C., 1947), p. 211. Mr. Daniels credits a Boston sea captain with discovering that a resinous tarry substance called "chapapote" was oil. He formed a company back in Boston and later opened two wells near the mouth of the Tuxpan River but the quantity of oil was small.

the rate of 0.20 pesos per ton. Further action by the Madero government toward the oil companies was halted by Huerta's counter revolution.

By 1915 Carranza was in power in Mexico and his decree of January 6, 1915, on land distribution, foreshadowed further involvement of the Mexican Government with the foreign investor. On February 5, 1917, a new constitution was drawn up for Mexico. In this new constitution, Articles 14 and 27 proved of extreme interest to the foreign investor and his government. It was definitely a throwback to pre-Diaz days. The ownership of lands, waters and natural resources belongs to the Nation and "no alien (can) acquire direct ownership over lands and waters within a zone 100 kilometers wide along the frontiers, or fifty kilometers along the coast"¹². Even before this new constitution became effective on May 1, 1917, Carranza imposed a special stamp tax on crude oil, casing head gas and by-products. This was followed up by a decree on February 19, 1918, taxing oil lands and contracts entered into prior to May 1, 1917, and covering leases for oil expropriation as well as permits to engage in such exploitation under contract. The last of Carranza's decrees affecting the oil companies was issued on July 31, 1918, again taxing oil

¹²R. H. Fitzgibbon (Ed.), The Constitutions of the Americas, (Chicago, 1948), p. 507. Important excerpts from these two articles may be found in Appendix A.

lands and leases. These decrees of Carranza, and Madero's stamp tax, brought the total taxes imposed by Mexico only to one-fourth the amount paid by companies in the United States.

The United States Government at this time was very active in preventing injury to its citizens' investments in Mexico. Ambassador Henry Lane Wilson was overly active, yet later strongly worded State Department notes caused the Carranza government to deny that its laws would be invoked retroactively and to cancel decrees relating to seizure of some properties. This concern of our government caused a delay in the recognition of the Obregon government for several years. A proposed treaty of friendship was urged by our government. According to a memorandum of May 11, 1921, of A.J. Pani, Mexican Minister of Foreign Affairs, this treaty required that expropriation would take place only against immediate payment of a just compensation and that Article 27 and the Decree of January 6, 1915, would have no retroactive effect. This treaty never went into effect, but a substitute was found in the courts. The Mexican Supreme Court in the companies' amparo proceedings against the Decree gave its famous decision on August 30, 1921, in the so called Texas Company Case.¹³ This stated that

¹³Ernest Gruening, Mexico and its Heritage, p. 506, defines "amparo" as an appeal and states that for 30 pesos a verdict of the lowest court could be appealed until it reached the Supreme Court according to a law of October 18, 1919.

Article 27 was not retroactive and rights acquired legitimately before May 1, 1917, would be respected. This was only a partial solution when the court went on to expound its "doctrine of positive acts". This doctrine made it possible for the Mexican Government to take over all land, held by the oil companies upon which no capital had been spent for exploitation. This affected the speculator who had possession of land to be sold later, or the oil company with reserve land for future operations. This was at best a compromise, showing both an example of judicial legislation and judicial sensitivity to the desires of the present administration. Secretary of State Hughes was not satisfied entirely with this and later court rulings or with the general promises made by Obregon about protecting property rights. Obregon refused to sign the requested treaty as a condition of recognition for his government.¹⁵ Recognition was given after an understanding was reached in the Warren-Payne negotiations which began May 14, 1923,

¹⁴Ibid., pp.598-99. Gruening quotes the N.Y. "World", November 17, 1922, under the title "Backward Mexico", "'....the policy of the United States has shifted. The test of government is no longer its ability to safeguard life but to safeguard oil, and here, again Mexico is weak and incompetent. Our own government may be a little uncertain in respect to human life (the lynching of a Mexican in Texas had brought the protest), but its fidelity to oil is beyond question. Whoever lays a desecrating hand on an oil derrick or a desecrating tax for that matter, is ipso facto excluded from the comity of nations....'"

at No. 85 Bucareli Street, Mexico City.¹⁵ The mineral rights question was not solved but the Mexican representatives pledged their government to abide by a new broadened list of positive acts and promised owners of land who had not performed a positive act preferential rights to exploit the subsoil deposits. An agreement was also reached on expropriated agricultural lands with the Mexicans promising to pay the American owners with Mexican Government bonds.

No more crises arrived immediately and by 1924, American stock in oil companies in Mexico was valued at 448,157,836 pesos as compared to 23,519,964 pesos of Mexican capital.¹⁶ The peak of Mexican oil production had been reached in 1921, with a record 193,400,000 barrels, making Mexico the second greatest producer in the world.¹⁷ By 1924, due to the uncertainties of Mexican Government action, the transfer of operations to the new Venezuelan fields, and the poor policy of running the oil wells at top production, the output had fallen to 139,700,000 barrels.

In 1925, Secretary of State Kellogg, in his noteworthy Aide-Memoire to the Mexican Foreign Minister, stated

¹⁵These negotiations are more commonly referred to as the Bucareli Conference.

¹⁶Josephus Daniels, Shirt-Sleeve Diplomat, p. 213.

¹⁷The World Almanac and Book of Facts for 1938, (New York: New York World-Telegram, 1938). These production figures are given for 42 gallon barrels.

that he perceived clouds gathering on the horizon of friendship between the two nations. This was due to a newly proposed agrarian law put forth by the Calles administration, the successors of Obregon. It is not unusual for a Mexican government to repudiate acts of preceding governments. This was partially the case when Calles' petroleum law of 1925 was passed by the Mexican Congress on December 26. This law, passed despite Secretary Kellogg's warning, violated several of the points of agreement of the Bucareli Conference. This law required owners of property who had performed "positive acts" to exchange their ownership in fee for a fifty year government concession which began upon the date of their acquiring their property. No provision was made for the owner of petroleum rights acquired before May 1, 1917, who had not performed any of a limited number of redefined "positive acts". Another point of controversy taken up by our government itself was the provision requiring foreign investors to agree not to invoke the protection of their governments as far as their property rights were concerned.¹⁸

The companies and also Ambassador Sheffield had much to say about this law. The companies were particularly concerned with the part about the 50-year concession because they felt that if they once had given up their ownership in fee for this concession, there would be nothing to

¹⁸This is often known as the Calvo Clause.

prevent the Mexican Government at some later date from shortening the duration of this concession. Some owners also felt that 50 years would not be enough time for completely expending their oil deposits. Later these same owners would be only too happy to exchange their ownership in fee for a long term contract (if it were only possible).

Much diplomatic correspondence followed but no agreement was reached until after Ambassador Morrow replaced Ambassador Sheffield in October of 1927.¹⁹ Calles and Morrow became good friends and soon arrived at a mutual understanding. On November 17, 1927, the Mexican Supreme Court, in ruling on the amparo proceedings started by the Mexican Petroleum Company, declared the Petroleum Law of 1925 unconstitutional in parts. Events then moved swiftly. On December 26, 1927, President Calles recommended to Congress that it amend the Petroleum Law of 1925 to conform with the Supreme Court decision. On January 3, 1928, a new petroleum law was enacted amending the unconstitutional Articles 14 and 15. On March 28, 1928, the Department of State issued the following statement which the Mexican Government is later to stress:

The Petroleum Regulations just promulgated by President Calles constitute executive action which completes

¹⁹Meanwhile the Mexican government kept extending the date for compliance with this law.

the process beginning with the decision made by the judicial branch of the Mexican Government on November 17, 1927, and followed by the enactment of the new Petroleum Law by the legislative branch on December 26 last. Together these steps..., would appear to bring to a practical conclusion discussions which began ten years ago with reference to the effect of the Mexican Constitution and laws upon foreign oil companies. The Department feels, as does Ambassador Morrow, that such questions, if any, as may hereafter arise can be settled through the due operation of the Mexican Administrative departments and the Mexican Courts.²⁰

This conclusion was popular with the United States public which was very much against the use of force against Mexico over this controversy. Ernest Gruening states that "American public opinion was strongly influenced by the prominence in the Mexican oil situation of Mr. Edward L. Doheny and Mr. Harry F. Sinclair, whose oil leases in the United States had been declared by the United States Supreme Court to have been secured fraudulently."²¹

After the Morrow-Calles agreement, the companies were forced to realize that their day of great influence in Mexico was a thing of the past and the only real check on the Mexican Government's action toward them would be the possible economic effect of such action. The Mexican Government had, for all practical purposes, succeeded in accomplishing two of the main purposes of legislation since

²⁰F.S. Dunn, The Diplomatic Protection of Americans in Mexico, p. 365.

²¹Mexico and its Heritage, p. 616.

1917, namely: "(1) To subject under legitimate regulatory provisions the unrestricted activities which the oil companies had been enjoying in the exploitation of the nation's petroleum; and (2) to increase in due form the taxes which the Mexican nation had decreed, in the exercise of its undisputed rights in relation to the oil industry."²²

The oil industry was also becoming the target of another declared goal of the Mexican Revolution, the "Mexicanization of industry", which was to be achieved with the help of labor. Labor had begun to organize and exert some influence under Calles but was hampered by bad leadership. The Federal Labor Law of 1931, however, gave specific legislative provisions to the general provisions embodied in Article 123 of the Constitution. Collective bargaining was firmly established and labor's influence was once again on the increase. Labor, at least in the petroleum industry, reached the pinnacle of its power under President Cardenas.

²²The Government of Mexico, The True Facts About the Expropriation of the Oil Companies' Properties in Mexico, (Mexico City, 1940), p. 27.

Chapter II

CARDENAS AND EXPROPRIATION

The new buccaneers of petroleum were using epauletted "generals of the Revolution" as chessmen in their struggle for mastery of the world's oil reserves. Banditry was being subsidized; peasants were being murdered because their fields overlay rich oil-bearing zones; incessant guerilla warfare was fomented by warring imperialist groups bent on dominating the petroleum acres of Tampico and Tuxpan. Cardenas' sentimental patriotism was slowly hardened into an economic nationalism directed against the alien owners of Mexico's wealth.¹

This bitter denunciation was leveled against the oil companies in Mexico by Nathaniel and Sylvia Weyl, biographers of Lazaro Cardenas. There is some basis for this denunciation, but as previously stated, such conditions no longer prevailed by 1934, the year that Cardenas was elevated to the Presidency. The companies were now having their troubles. In 1923, the Mexican Government entered into direct competition with the oil industry by taking over land in proved fields. As yet this competition was only beginning to make itself felt. More serious, from the companies' viewpoint, was the failure of the government to confirm the titles of several million hectares of pre-constitutionally acquired land. Land with defective titles, from the government's point of view, was taken over and

¹Nathaniel and Sylvia Weyl, The Reconquest of Mexico: The Years of Lazaro Cardenas, (London, 1939), p. 57.

plans laid for suing the companies for oil already extracted. The companies were required to pay \$250,000 back taxes. As if the Mexican Government were not causing the companies enough worries already, the United States government had, through the passage of the Hawley-Smoot Tariff Law of 1930 and a special tax which went into effect on June 21, 1932, raised the rates on Mexican oil entering the United States.² This cut into their profits since much of the Mexican oil was still shipped into the United States. They were coming more and more to realize also, that they could not count on either the New Deal administration or Ambassador Daniels fighting their battles for them.

The taking over of the presidential office on December 1, 1934, by Cardenas, did nothing to relieve the growing apprehension in the minds of foreign oil companies' owners. George Creel had this to say of Lazaro Cardenas: "... a soldier throughout his adult life, and unembarrassed by the doubts and fears that come from intimate contact with complexities of finance and economics, he had gone about endorsing every article of Mexico's Constitution with all of the simple directness of a range bull."³ Cardenas soon

²Government of Mexico, Mexico's Oil, (Mexico City, 1940), p. 46. This tariff also had serious results through practically closing the market to raw materials from Mexico and thus prohibiting her in turn from purchasing the manufactured goods she needed from the United States.

"Mexico then had no alternative but to begin to industrialize itself....".

³George Creel, "Can We Prevent Chaos in Mexico?", Collier's, (July 23, 1928), p.12.

announced that his six-year term of office would be devoted to raising the living standards of the poorer Mexicans among whom he had traveled during the presidential campaign preceding his election. He knew how to talk to these people and how to learn of their wants and complaints. With his afore-mentioned straight-forwardness and honesty, he proposed to correct these conditions with a plan of Mexicanization. This would consist of the nationalization of the subsoil, agrarian reform, and protection of the worker, particularly in foreign-owned industries.⁴

Labor trouble arose in June of 1934 between the unions and the Mexican Eagle group. Though temporarily settled by President Rodriguez through issuance of an award on June 9, 1934, this was to carry over and bring Cardenas into direct conflict with the foreign oil interests. This is considered by some the first of the events which led to expropriation.

On February 4, 1935, all concessions on national land made to the Mexican Eagle Company in 1906 were cancelled.⁵

⁴B.M. McConnell, Mexico at the Bar of Public Opinion, p. 56. He quotes an article in the New York Times by J.H. Carmical to illustrate this point.

⁵This company, though incorporated under Mexican law, was supported primarily by British stock holders and influenced greatly by the Royal Dutch Shell interests. In 1918, the Shell interests had through purchase of shares secured absolute control of this company but "E.D. Davenport, writing of the Dutch Shell in the National Oil Policy after the War, page 41, states that the British Government purchased large blocks of stock of the Royal Dutch both in Europe and in New York, as a result of which control of the company is now British." This quotation is found in the Government of Mexico's book, Mexico's Oil, p.85.

This was early evidence that the petroleum interests were to be singled out for the first attempt at Mexicanization of industry. Further evidence was given when on September 13, 1935, the Mexican Government set the price at which gasoline was to be sold throughout the nation.⁶ This Mexicanization of industry was due to reach a climax under the influence of labor rather than any attempt at new laws stressing the provisions of the Constitution and giving them a retroactive character.

Labor by this time, through collective action supported and encouraged by the government, had compelled improvements in earnings and working conditions. Labor organizations were supported also by many Mexicans who felt a strong resentment at seeing wealth, particularly wealth derived from the nation's natural resources, divided among foreigners and a few rich Mexicans. The unions had been further strengthened in 1934, by the insertion of an exclusion clause in labor contracts. This clause forbade any company

⁶Government of Mexico, Mexico's Oil, p.174. "...by the decree of September 13, 1935, the sales price for gasoline was fixed by the Department of National Economy at 18 centavos per liter in the Federal District. (Costs varied in the Republic due to difference in distance between each particular locality and the nearest refinery, the cost being more if the distance was greater than between the Federal District and Tampico.) This price referred to 57 and 62 octane gasoline; an increase in the price of half a centavo for increase of five octane degrees or fraction thereof, over and above 62 octane was authorized. For the moment, the official price of gasoline in the various points of the country was reduced two centavos per liter."

to employ a non-union member and allowed the union leaders the power to expel on the slightest pretense any worker from membership in the union.⁷ Labor in Mexico during this period, as in the United States a few years later, was able to enter almost every wage negotiation with little fear of receiving nothing, it being only a question of how much labor would be able to secure.

By the end of 1935, wage scales in the oil industry were as much as four times the average in other industries for similar work.⁸ Mexican wages now also compared more favorably to wages paid in the United States by oil companies which had been, in 1934, four times as great as those paid for similar work in Mexico.⁹ In regard to this steady conflict between employer and labor, President Cardenas made a statement publicly on February 11, 1936, that "...industrialists weary of the social struggle can turn their industries over to the government."¹⁰ This certainly would

⁷B.M. McConnell, Mexico at the Bar of Public Opinion, pp.58-59, quotes an article by Edwin Krauss in the Los Angeles Times.

⁸Donald R. Richberg, The Mexican Oil Seizure, p.16.

⁹Government of Mexico, Mexico's Oil, p.239. "... in 1934 the average wage of the Mexican refinery worker was only 26.70% of the American wage. In 1937, the ratio is ... 30.8%..." This is also borne out by Daniel's, Shirt-Sleeve Diplomat, p.213.

¹⁰Donald R. Richberg, The Mexican Oil Seizure, pp. 24-25.

have been much cheaper and easier on the government than purchasing these industries or expropriating them, but the industrialists were not that weary of the struggle. Cardenas also had more to say on the subject in September when "... shortly after the enactment of a law greatly increasing government control over industry, he announced the rule that industrial compliance with the demands of labor syndicates should be limited only by 'economic capacity'".¹¹ The government's sympathy with all labor demands never varied, particularly when the communistic Lombardo Toledano was exerting his persuasiveness on Cardenas, who appeared to be receptive.

The demands of the workers and the pressure from the union increased until they culminated in 175 mimeographed pages of demands presented to the companies on November 3, 1936.¹² Even now, to the present day factory worker in the United States, these demands would appear pretty far advanced. The present day employer would undoubtedly label

¹¹Ibid.

¹²Government of Mexico, Mexico's Oil, pp.517-518. All had not gone well between the unions and the Mexican Eagle group since the award of June 9, 1934, so that by May, 1936, the company requested the Labor Department to summon a general conference of its unions to discuss wage standardization of all the workers employed by the Mexican Eagle. One of these unions overlapped into another company's workmen and this finally led to the Union of Oil Worker's of the Mexican Republic's calling its First Grand Extraordinary Convention, at which a "Collective Contract of General Application" was drafted to cover the entire industry.

them as radical. To the owners of the oil companies, some of these demands seemed fantastic. They had been exposed to labor's slogan of "Less work for more pay" before, but now one of the demands was 56 hours pay for a 40 hour work week. Double pay was demanded for work done in the rain, or at certain heights, or at certain temperatures, and for all overtime; triple wages were to be paid for work done on "rest days". The worker was already receiving free medical service but now not only the worker, but his family, which included parents, grandparents, great-grandparents, grand-children and brothers and sisters under sixteen years of age, were to receive free medical, dental and surgical services regardless of whether or not the illness or injury was occupational.¹³ Legal holidays (16), bonus days, vacations (21 working days, and after 10 years, 30 working days), and feast days would have "left only 223 days a year of work; yet payment was required for the full 365 days."¹⁴ The companies, on demand, were required to furnish first class railroad transportation to any place selected by the

¹³Donald R. Richberg, The Mexican Oil Seizure, p.28. Mr. Richberg states that in case of death from an occupational cause, 1280 days pay was to be paid and 1460 days pay for total disability.

¹⁴Roscoe B. Gaither, Expropriation in Mexico: the Facts and the Law, (New York, 1940), p.12.

worker going on vacation with no stated limitations as to distance or even as to the country. A worker, in addition, was to be granted a three-day leave of absence with pay upon his request, and here also there were no stated limitations. A worker could absent himself for ninety days without pay and the employer would have to reinstate him if he returned before the end of this period. A pension was to be paid to every workman after a minimum of twenty years of service, regardless of age. On top of these material demands was also the demand for a substantial wage increase for the workers.¹⁵

The unions were to profit also by requiring the companies to provide meeting halls and offices with company-paid clerical help, free transportation to all delegates to union conventions, regular wages to be paid to these delegates plus ten pesos daily for personal expense, and free automotive transportation for union leaders on union business.

Demands were also made that invaded the realm of management. The number of confidential employees (mostly executive positions) appointed by the companies was to be reduced and these positions were to be filled by union appointees. "In refineries, terminals, and main offices,

¹⁵Government of Mexico, Mexico's Oil, pp. 201-216. These pages give many of the clauses of the collective contract and also provisions of previous union and company contracts in the realm of social welfare.

employees were not to be transferred, moved or relocated without the express consent of the syndicate" (union).¹⁶ No reduction in the number of persons employed could be made without the previous consent of the union. Workmen who did not belong to the union could not be hired. These demands were put forth as a general contract to all oil companies.

The abnormality of these demands as a whole, leads one to speculate whether they were expected to be accepted by the companies. Negotiations were begun but the demands affecting the administration of the companies were strongly resisted by the owners. They felt that their control over their workers was already poor and that acceptance of these additional demands would have made it impossible to get any work out of the men.¹⁷ It was estimated by Marett that these demands represented a five-hundred per cent increase over existing labor costs.¹⁸ The companies officially turned down these demands because labor contracts were still in existence.

¹⁶Roscoe B. Gaither, Expropriation in Mexico: the Facts and the Law, p. 11.

¹⁷R.H.K. Marett, An Eye-Witness of Mexico, (London, 1939), p. 213. Marett, at this time an employee of the Mexican Eagle Oil Company, says that "the output of labour had fallen almost in a direct ratio as the men's conditions had been improved; indeed the only way to get anything done was by piece-work. Under this system there would be feverish activity, and a job normally taking a week to perform would be completed in twenty-four hours." Generally this work would be done by special contract at a fixed price three or four times the normal wages.

¹⁸The Mexican Government was later to place this increase at 166 per cent over previous labor costs.

Meanwhile, on the same day that labor presented its demands to the companies, the Mexican Senate had approved a new and suggestive law known as the Expropriation Law. This law was signed by President Cardenas on November 23 and published in the Diario Oficial on November 25. The Constitution had declared that expropriation could be made only for reasons of public utility. This Law of Expropriation was quite liberal in its definition of public utility. It had been previously understood that payment should generally be made at the time of expropriation, but the new law provided that payment was to be made in a period not to exceed ten years.

After the companies original refusals, negotiations were begun again in December. On January 30, 1937, Cardenas created the Administracion General del Petroleo Nacional to manage all government petroleum properties including the government's newly established Petroleos de Mexico. These properties were being increased steadily by the cancelling of concessions.

The negotiations between the Syndicate of Petroleum Workers and the companies were rapidly approaching a showdown with a general strike date set for May 27th. After a short recess, the companies on May 17, voluntarily offered to increase wages and submitted a statement of certain points of agreement but the union did not want to

compromise.¹⁹ It insisted on the full range of its demands. As a result, the black and red strike flags were raised over all of the oil companies' plants and offices in Mexico and the employers "locked out" of them. Marett said they were practically prisoners though their office boy, who had charge of their particular section of the strikers, graciously let them go in and out of their own homes.²⁰

Before the strike ended, the companies had agreed to grant a \$3,600,000 a year wage increase but the union demanded a 16,000,000 pesos or \$4,500,000 increase. On May 30th, the Federal Labor Board ruled that the strike was legal. This meant the companies would have to pay their workers' wages for as long as the strike might last. While oil production did stop, order was maintained and the essential services such as electricity, water and heating were provided.

¹⁹Frank L. Kluckhohn, The Mexican Challenge, (New York, 1939), p. 104, states that according to the Associated Press, "...only 30 of the 262 articles in the union proposal had been settled, and that the conferees agreed that it would be impossible to finish the work in the ten days left." The companies offered the workers a \$2,000,000 annual wage increase.

The Government of Mexico in its book, Mexico's Oil, p. xlii, places the blame on the companies and accused them of having little interest in reaching an agreement and actually seeking to irritate the workers "...so as to make any friendly solution impossible, believing, perhaps, that the lack of petroleum products would provoke public sentiment against the oil workers and the latter would thus be forced, humbled, and defeated to yield to the companies."

²⁰R.H.K. Marett, An Eye-Witness of Mexico, p. 214.

On June 9, Cardenas asked that the strike be called off and the union concurred. The following day the labor union revealed a change of tactics and brought a complaint, a "Conflict of Economic Order", against the companies through the courts.²¹ This procedure was originally made part of the Mexican Labor Law of 1931, Articles 570-576, as a protection for the employer who might wish to reduce or suspend operations or to fix hours and wages. A hearing was held before the Federal Labor Board composed of three members supposedly representing labor, capital and the Government.²² A committee of three experts, in accordance

²¹Government of Mexico, Mexico's Oil, p. 3. The union filed suit against the following companies: Compania Mexicana de Petroleo "El Aguila", S. A. (Mexican Eagle Co.); Huasteca Petroleum Company; Pierce Oil Company, S.A.; California Standard Oil Company of Mexico; Petroleos de Mexico, S.A. (in liquidation); Compania Petrolera Aguvi, S.A.; Penn Mex Fuel Oil Company; Stanford and Company; Richmond Petroleum Company of Mexico; Explotadora de Petroleo "La Imperial", S.A.; Sabalo Transportation Company; Compania de Gas y Combustible "Imperio"; Mexican Gulf Oil Company; Mexican Sinclair Petroleum Corporation; Consolidated Oil Company of Mexico S.A.; Compania Naviera "San Cristobal, S.A.; Compania Naviera "San Ricardo", S.A.; Compania Naviera "San Antonio", S.A.

²²Roscoe B. Gaither, Expropriation in Mexico: the Facts and the Law, p. 18, states "The Government representative is always supposed to be neutral.... However, as though to eliminate any doubt whatever as to the outcome, President Cardenas appointed a special representative to sit as a member of the Board for the sole purpose of trying the oil case."

Government of Mexico, Mexico's Oil, p. 812. In chapter 2 of the companies Amparo proceedings against the Labor Board's Award, they claimed they were judged by a "Special Tribunal" because the regular chairman, Romero Leon Orantes, was allowed to excuse himself and was replaced by a special chairman, Licenciado Gustavo Corona.

with the law, was appointed to determine the capacity of the companies to pay.²³

While the experts were going over the companies' books and questioning their system of accounting, the first major seizure under the Expropriation Law of 1936 took place. On June 24, 1937, property to the extent of about 13,000 miles of railroads owned by the private National Railways of Mexico Company was nationalized. This greatly affected American and British bondholders to whom the company owed approximately \$3,000,000 in capital and unpaid interest.²⁴

The findings of the committee of experts as published on August 4, 1937, caused a sensation. It not only stated that the companies were capable of paying the \$4,500,000 wage increase asked by the workers, but that they could even pay 26,000,000 pesos, or about \$7,200,000 over the 1936 labor costs.²⁵ It approved the forty-five hour week

²³Government of Mexico, Mexico's Oil, p. xliii. The committee of experts was composed of Efrain Buenrostro, Under-Secretary of Finance and Public Credit, Engineer Mariano Mactezuma, Under-Secretary of National Economy and Professor Jesus Silva Herzog, Counselor of the Department of Finance and Public Credit. They appointed approximately 100 assistant workers because the law demanded that the report be submitted in 30 days.

²⁴Frank Kluckhohn, The Mexican Challenge, p. 51.

²⁵Government of Mexico, Mexico's Oil, p. xliv, says that this would mean only an additional six million pesos increase to the oil companies because at the beginning of the year they had increased wages 6,000,000 pesos and during the strike indicated a willingness to pay an additional 14,000,000.

offered but said minimum wages should be raised from 4.70 to 5 pesos daily. The board upheld the companies in refusing to grant administrative posts to union members, but advised that Mexican technicians should be trained within two years to participate in the development of the industry. The most important recommendation for future operations was the creation of a permanent national mixed committee to act as an arbitration board.²⁶ This board would be composed of two representatives of labor, two representatives of the company, and one representative of the Government (who could vote only on matters relating to economics and social benefits). It was claimed by the government that in 1935 it was necessary to invest only 8.64 pesos to produce a barrel of crude oil in Mexico as against 48.12 pesos in the United States.²⁷ Sixty percent of the oil produced in Mexico was sold in competition on the world market, thereby providing a high percentage of profit. It seems to me likely that profits of 34.28% were realized by the companies as claimed by the board for the years 1934 to 1936.²⁸

²⁶ Betty Kirk, Covering the Mexican Front, p. 161. Government of Mexico, Mexico's Oil, p. 592 also lists this proposal by the experts.

²⁷ Government of Mexico, Mexico's Oil, p. 514.

²⁸ Ibid. This figure was taken excluding the Mexican Gulf Company. Donald Richberg claims the experts' figure for the companies average net profit for this period was 16.81%; neutral auditors, though, reported only 7.5%, but that the ten year period, 1927-1936, would have shown an average net profit of 4.25% a year.

The companies claimed these findings were misleading. The oil worker was already paid better than the average worker in Mexico and if he wanted higher wages he shouldn't expect to be provided with increased social benefits also. It was education that the worker needed to teach him to use his money more wisely. The companies had asked that the survey be made to cover the results of the past ten years but the committee had ignored the rather lean depression years and had based its report on the three years of economic recovery, 1934-1936.²⁹ Their system of accounting and keeping of books, which was never seriously questioned by government tax inspectors, was now faulty and the experts claimed many items entered as losses should have been entered as profits. Books presented to the stockholders and certified by internationally known accounting

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R.H.K. Marett, An Eye-Witness of Mexico, pp. 216-217, claims the companies' books showed only a profit of 68,000,000 pesos for the three years but states that the "...experts, however, working perhaps on the principle that a mere 'one' would not be noticed, increased this sum to Ps. 168,000,000 which was taken accordingly as the basis of the Companies' capacity to pay."

Government of Mexico, Mexico's Oil, pp. 285 and 312, shows how the Mexican Government increased the profits of the Mexican Eagle Company and the Huasteca Company respectively; p. 476 states that in 1936 the 14 largest companies had declared profits of 20,476,829.92 pesos and real profits after adjustments of 55,335,727 pesos.

firms were ignored.³⁰ The committee and their one hundred assistants had, in thirty days, made up a highly technical report of 1500 pages which took in a complete study of all the companies' accounting for several years. The report was further criticized because the writing of the report was the work of Professor Jesus Silva Herzog, "... a professor of economics without practical experience, who incidently was a member of the Communist Party."³¹

The formal report of this committee was made to the Federal Labor Board on October 23, and on the basis of this report the Board handed down a decision by a 2 to 1 vote, against the companies on December 18, 1937.³²

³⁰Government of Mexico, Mexico's Oil, p. 798, tells us that part of the dissenting opinion of the representative of capital, Jacobo Perez Verdía, on this Labor Board (Special Group Number Seven) was based upon the fact that the accounting books, other evidence, and the arguments of the companies' experts had not been given due consideration.

³¹R.H.K. Marett, An Eye-Witness of Mexico, p. 216.

³²Government of Mexico, Mexico's Oil, p. 795. After the reading of the award the President of the Board called for an immediate vote to which the Representative of Capital objected. He claimed he had received the draft only a few hours before and that an award of such economic, social, and national significance should have more than only a few minutes for discussing it and voting on it. The reading of the award had taken ten hours alone. He was over-ruled. The Board president then cast his vote in favor of the award, the Representative of Labor agreed with him but the Representative of Capital could only agree with the Chapter on the Navigation Companies and therefore voted against the award. His separate opinion is expressed on pages 797-803.

Between these two dates the government had cancelled an additional 1,300,000 acres of undeveloped oil land concessions. On November 14, in an attempt to split the oil companies' opposition, the government granted large concessions to the British in the rich new Poza-Rica fields. Previously, in 1937, it was estimated that the Mexican Eagle Oil Company, a British concern, already controlled some 65% of the entire national output.³³ Now with this new concession the British had overwhelming dominance of the Mexican oil industry. Still the companies insisted on their inability to meet the recommended wage increase of 26,000,000 pesos and claimed it would force them to suspend operations in Mexico. From the beginning, the oil companies had insisted that the wage increase and social benefits would increase their costs 41,000,000 pesos annually, not the 26,000,000 pesos figure given by the government experts.³⁴ The oil companies as evidence of the uncertainty that they felt in the future began withdrawing their bank

³³R.H.K. Marett, An Eye-Witness of Mexico, p. 204. Kirk, Covering the Mexican Front, p. 162, gives credit to the British for controlling 59% of the oil industry.

³⁴Government of Mexico, Mexico's Oil, p. xlviii. "It was impossible for the Experts to reach an agreement with the companies' representatives with respect to the total amount of the increase indicated, among other reasons because neither the Union nor the companies themselves possessed absolutely accurate data on which to calculate all the items of cost. The Experts' calculations were mathematically exact in some items and in others were no more than approximate estimates...."

deposits from Mexico.³⁵

Finally, on December 18, 1937, the Federal Labor Board handed down its award based on the committee's recommendation. This advocated a forty-hour work week, and contained some of the union demands for administrative posts. It embodied most of the other union non-wage demands and the aforementioned wage increase, which was even in excess of union demands. This award was made retroactive to May 28, 1937. It meant a payment the first year of 64,000,000 pesos by the companies even if the government experts' figures were correct.³⁶ The companies still bitterly declaring the excessiveness of the demands and their inability to comply, filed a writ of amparo against the award with the Mexican Supreme Court. The companies' views can be expressed in the following basis for their amparo proceedings: (1) the award was dictated by incompetent authorities; it should have been dictated by the Federal Board of Mediation and Arbitration in Plenary Session and not by Special Group Number Seven. (2) The Complainant Companies were judged

³⁵ Betty Kirk, Covering the Mexican Front, p. 162. Kirk feels that the worst blunder the companies made during their entire campaign occurred when Lawrence Anderson as spokesman for the companies said, "We cannot and will not pay." This happened early in November when Anderson had called in the foreign correspondents, described the situation and made a tough statement of the companies' case. Cardenas took this statement to be a challenge to Mexican Government authority, and immediately accepted the challenge.

³⁶ R.H.K. Marett, An Eye-Witness of Mexico, p. 217.

by a special tribunal, the regular chairman of the Board having excused himself. (3) Although a new chairman of the Federal Board of Mediation and Arbitration was appointed, nevertheless a special tribunal continued hearing the case and rendered the award on the controversy.

(4) The vote on the award was illegally taken; the president failed to apply articles 535, 536 and 537, and article 539 of Federal Labour Law was violated. (5) The award condemns the companies to grant benefits that were not part of the original petition and is therefore inconsistent therewith.

(6) The execution of collective labor contracts is not legally enforceable in this case because collective labour contracts can only be demanded of employers when the terms of contracts executed for a fixed period have lapsed.

(7) The execution of a general contract binding upon the whole industry may not be legally enforced. (8) The controversy under discussion is not that of an economic order as set forth in chapter VII title ix of the Federal Labour Law. (9) The labour boards have not unlimited

powers--incorrect application of article 576 in relation to articles 42, 85, and 335 of the labour law. (10) No

precept of law or of reason exists whereby the privileges that employers grant their workmen should be limited solely by the economic capacity of the former. (11) A collective

labour contract which they have never been willing to accept is illegally imposed upon the complainant companies.

(12) Certain proofs in the awards were not studied and others were unduly estimated. (13) The award misrepresents the true economic capacity of the companies. (14) The award deprives the companies of the rights granted them by the collective labour contracts in force. (15) The award limits the complainant companies' right to work as guaranteed by article 4 of the Federal Constitution of Mexico. (16) Further violations were committed in drafting the clauses of the labour contract. (17) Notwithstanding that the responsibility of the strike was not the subject matter of the controversy the award attributes the causes to the companies for the sole purpose of condemning them to strike pay. (18) The award will also be applied retroactively to the prejudice of the complainant companies. (19) In addition to the violations cited in the preceding, the procedure and the award under consideration cause the consolidated oil companies of Mexico, S.A. other specific wrongs.³⁷

This was about their only recourse since Ambassador Daniels was known to favor their compliance with the award. The companies which had fared fairly well by previous court decisions entered their writ of amparo with but slight hope for what they could consider an unbiased verdict. "In 1936 the President advanced the theory that it was the duty of the Courts to study and decide legal matters 'with a

³⁷Government of Mexico, Mexico's Oil, pp. 812-843.

strictly political and even revolutionary criterion'. In accordance with this policy he modified the constitution of the Supreme Court."³⁸ One of the changes this caused was the election of Supreme Court judges every six years instead of for life. It is not hard for us, who have heard it said of our own Supreme Court that it generally follows the lead of our national elections, to understand the companies' fear that the Mexican Courts were to be used as an instrument of government policy.

While the case was still before the Supreme Court, Cardenas accused the companies of trying to intimidate the government through their withdrawal of funds from Mexican banks. In order to keep negotiations open an agreement was made by which the companies deposited 750,000 pesos in Mexican banks which the government embargoed to pay part of the strike wages. The Government influenced the Supreme Court decision even more directly when on February 15, 1938, Cardenas' Attorney General in a formal motion, asked the Supreme Court to uphold the Labor Board's award in the oil-wage dispute and to deny the companies' request for an injunction. Others spoke confidently that the Supreme Court would deny the injunction. One of these was a member of Cardenas' cabinet, the chief of the Labor Department, who chose this time to visit the oil fields and seek the complete unification of the workers in this

³⁸R.H.K. Marett, An Eye-Witness of Mexico, p. 215.

fight with the companies. Another was Lombardo Toledano who on February 22 not only expressed his confidence in respect to the injunction but also said: "It appears inevitable that there will come a time when the Petroleum Companies will have to be replaced by the representatives of the State and of the Mexican workers, in order to maintain the production of oil."³⁹ Perhaps it was just such a statement which caused Donald R. Richberg to write the following:

Honest differences over wage increases could have been ironed out. But the restrictions imposed upon management in the labor board award should demonstrate ... that the purpose of the award, and of the campaign which produced it, was not only to destroy the profitableness of the business, but also to eliminate private management from any effective control. The award was not an unhappy result of mistaken zeal; it was an intentional step in advancing the program of the National Revolutionary Party. It was the method chosen to bring about the promised nationalization of the oil industry.⁴⁰

As previously predicted, the Supreme Court on March the first upheld the Labor Board's award of December in every point of contention. The vote was four to zero, with one justice abstaining.⁴¹ After hearing of the

³⁹Ibid., p. 218.

⁴⁰Donald R. Richberg, The Mexican Oil Seizure, p. 30.

⁴¹Frank Kluckhohn, "Oil Concerns Lose in Mexican Court", New York Times, (March 2, 1938), p. 13. In a dispatch dated Mexico City, March 1, Mr. Kluckholm goes into some detail in describing the environment for the issuing of this decision. This decision was agreed upon by a public vote in a dingy, worker-packed third floor

Supreme Court's decision the major companies in a signed statement said:

... Their inability to comply remains unaltered by today's verdict.

"Accordingly, they regret deeply the decision of the Supreme Court on their appeal for a permanent injunction, which cannot but have serious consequences for the companies, for their employees, and for those dependent on the industry." This statement was signed by Royal Dutch-Shell's Mexican Eagle Company, the Standard Oil Company of New Jersey subsidiary, Hausteca, the Sinclair-Pierce Company, the Mexican Sinclair Petroleum Corporation of California, the California Standard Oil Company of Mexico, and its producing subsidiary, the Richmond Petroleum Company.⁴²

The Labor Board now declared its award to be a contract and gave the companies until March the seventh to comply with its provisions. The companies again reiterated their belief in the fact that the award would actually involve an expenditure of 41,000,000 pesos instead of the 26,000,000 pesos claimed by the Board. To alleviate this fear, President Cardenas told a committee of Senators and also the press that he would be willing to guarantee that the increase would not exceed twenty-six million pesos. The companies remained obdurate.

tribunal room. "...Justice Xavier Icaza excused himself from taking part in the decision, on the ground that he was prejudiced in favor of the workers. He then delivered a speech in which he asserted that '...oil companies like Standard Oil and Royal Dutch-Shell have more money than many Latin-American governments...

'When the small nations of Latin-America see what is happening in Mexico they will proceed as we do...breaking the chains of the companies that bind them.'

⁴² Burt McConnell, Mexico at the Bar of Public Opinion, p. 66.

By March seventh, the companies had not complied and the deadline for compliance was extended. On the same day Cardenas attempted to prepare a Senate committee for what was to come when he said,

We can solve any situation which may arise, no matter how difficult. It will be well worth while to make any effort in order to end the economic dependence of Mexico on the caprice of the foreign oil companies. The companies have at no time followed a conciliatory course, precisely because they depend on their privileged position to protect them.⁴³

The thoroughly worried British and American Ambassadors counseled the paying of the wage increase at least. Before the fateful Labor Board meeting on March 14, both Ambassador O'Malley and Ambassador Daniels informed President Cardenas that they were sure the companies would give in on the wage increase though not on the clauses concerning management control of the industry. The companies did make an offer to the Union through President Cardenas of a new labor contract granting the 26,000,000 pesos wage and benefit increase but altering the administrative clauses in their favor. This offer was turned down on the grounds that it was too late.⁴⁴ The workers never knew of this offer at this time. The Labor Board on

⁴³Betty Kirk, Covering the Mexican Front, p. 164.

⁴⁴Donald Richberg, The Mexican Oil Seizure, p. 32, quotes Lombardo Toledano as saying in a speech some months later in New York City, that "This offer Cardenas refused. If we had accepted, it would have been a victory of labor over capital within the Mexican oil industry; but by refusing the offer we won a great victory for the Mexican people against foreign imperialism."

March 14 gave the companies until 3:35 p.m. March 15th to comply with the entire award. This ultimatum was refused. The Union petitioned the government to seize the companies' bank deposits in order to meet the Board-set wages already overdue. A strike date was set for midnight, March 18. On March 17, the union petitioned the Labor Board to void all companies' labor contracts in accordance with Articles 601 and 602 of the Federal Labor Law.

By 11 o'clock on the morning of March 18, the Board had prepared a decision denying the motion of the Union but by 2 o'clock the same afternoon this decision had been reversed. The contract which it had created was cancelled; the companies were ordered to pay their employees three months salaries and a then undetermined amount of damages. With their bank deposits already frozen and shortly to be seized, the companies had no way of complying with the order. Finally came the expropriation decree.

President Cardenas "...stepped to the microphone and announced (to the Mexican nation) in the monotonous tones of an officer reading the orders of the day that the foreign-owned oil industry of Mexico had been nationalized."⁴⁵ In this message Cardenas said,

Production of fuel is essential for the many activities of the country, and especially for transportation. A stoppage or insufficiency of production at prohibitive cost due to difficulties

⁴⁵Nathaniel and Sylvia Weyl, *The Reconquest of Mexico: the Years of Lazaro Cardenas*, p. 279.

which would have to be surmounted would soon cause a crisis which would threaten not only our progress, but even the very peace of the country. Many of the principal phases of banking and commerce would be paralyzed. Public works of general interest would become next to impossible. The existence of the Government itself would be seriously imperiled. If the State once lost its economic power, its political power would be lost and chaos would result.

The case is clear and evident. The Government is compelled to apply the Law of Expropriation now in force not only to exact obedience and respect from the oil companies, but by reason of the fact that the award of the labor authorities terminated the labor contracts between the companies and their workmen. Unless the Government took possession of the companies' plants, immediate paralysis of the petroleum industry would ensue and all other industries and the general economy of the country would suffer incalculable damage.⁴⁶

The government moved to carry out this decree even before it was published in the Diario Oficial on March 19. This action of Cardenas was not the usual civil procedure in Mexico and it raises several questions. Was the expropriation decree premeditated or did it arise solely due to circumstances? Was this action legal or was it a denial of justice? Would this action actually benefit the 18,000 oil workers? Many other questions arose that only time could answer but the immediate effects of expropriation were visible and numerous.

⁴⁶The Government of Mexico, The True Facts About the Expropriation of the Oil Companies' Properties in Mexico, pp. 76-77. The preamble of Cardenas' decree of Expropriation can be found in H.S. Person's Mexican Oil, Symbol of Recent Trends in International Relations, pp. 52-53.

Chapter III

IMMEDIATE RESULTS

Under President Lazaro Cardenas, during 1936 and the first half of 1937, Mexico was booming, with all classes feeling the stimulation of greater trade and public works. The commercial and industrial boom aided in paying for expensive land reform. Overnight, in order to nationalize industries, that boom was deliberately broken, and the nation as a whole required to suffer in the hope of uncertain benefits. Under any circumstances it was dubious¹ whether Mexico could return to the starting point.

President Cardenas' Expropriation Decree of March 18, 1938, came as a great surprise to the diplomats, the newsmen, and many of the workers. There is strong support for the belief that Cardenas, up until the last moment, favored effective regulations instead of expropriation.² The normal civil procedure for failure to abide by all of the Labor Board's award should have been a government receivership over the companies. Government investigators should have been placed throughout the industry to ascertain through actual operation whether the terms of the award could be met. If these terms could actually be met, the receivership would end when the companies agreed to continue the provisions of these terms. This never happened, though it took many hours to convince the United States State Department that a receivership had

¹Frank Kluckhohn, The Mexican Challenge, p. 9.

²This is particularly borne out in Person's book, Mexican Oil, Symbol of Recent Trends in International Relations, p. 34, and also in the Mexican Government publication, Mexico's Oil. The Weyls' book, The Reconquest of Mexico: The Years of Lazaro Cardenas, p. 281, says, "It was the impetuous verdict of one man who felt the national honor of Mexico was at stake."

not been established. The newspaper correspondents had already cabled stories of the government's victory over the oil companies due to the companies' agreement to meet the required 26,000,000 pesos annual increase and were thus totally unprepared for the expropriation decree.

By the provision of Article One of the Decree the "machinery, installations, buildings, pipelines, refineries, storage tanks, ways of communication, tank cars, distributing stations, vessels, and all of the other movable and immovable property" of the seventeen named companies were declared expropriated.³ Article Two of the Decree directed the Secretariat of National Economy through the Secretariat of Finance as administrator of the National properties, to occupy immediately the expropriated properties. This article was promptly carried out on March 19th, when government and union forces took over the companies' properties. "They took possession of everything, including records, files, mail, checks and cash on hand... All foreigners were required to leave the producing areas."⁴ Companies not listed in the Diario Oficial were also seized.⁵ Thus the government

³Roscoe Gaither, Expropriation in Mexico: The Facts and the Law, p. 58. The names of these seventeen expropriated companies can be found in Appendix B.

⁴Donald R. Richberg, The Mexican Oil Seizure, p. 33.

⁵Harlow Person, Mexican Oil: Symbol of Recent Trends in International Relations, p. 35. Person states that the expropriation only affected the companies that felt strong enough to offer resistance to the government and declared

gained possession of properties valued by the companies at between \$300,000,000 and \$950,000,000.⁶

This expropriation of the oil properties was well received by the majority of the Mexican people. On March 22nd, 200,000 people paraded past the National Palace at the call of the Confederation of Mexican Workers in support of the government's action. The Catholic Church in Mexico forgot its feud with the government and collected funds to help pay for this expropriation. In fact, "Cardenas had made approval of the expropriation of oil a sort of national religion."⁷ This was particularly true of the women who, under the guidance of the President's wife, turned in their jewelry and valuables. The poorer ones gave livestock and produce to help the government pay the companies. This movement had more enthusiasm than

that "They would not be responsible for the ultimate consequences of the adverse court and administration decisions." Government of Mexico, Mexico's Oil, p. 83, says that 150 companies were listed in the official records of the Petroleum Bureau of the Department of National Economy, but that most of them were "merely branches or subsidiaries of the great oil corporations". This probably accounts for the seizure of companies not directly listed in the expropriation decree.

⁶Josephus Daniels, Shirt-Sleeve Diplomat, p. 213, breaks these figures down when he states, "By 1938 when expropriated, the British claimed their properties exceeded 500 million dollars, and the United States companies estimated their holdings as around 400 million dollars."

Sources vary widely on the value of these holdings, the figures \$100,000,000-450,000,000 are also frequently quoted.

⁷Ibid., p. 246-247.

significance, as only about 100,000 pesos were realized in this way in Mexico City.⁸ Many Mexicans supported their government simply to present a unified and solid front. Compensation was not forgotten by the President either who on March 23, 1938, said, "We are not going to refuse to pay for what is expropriated. We are acting on a high legal and moral plane in order to make our country great and respected."⁹

The government then indicated its willingness to negotiate a settlement with representatives of the companies, but the companies felt that negotiations at this time were useless unless their properties were returned first. The companies ridiculed the idea that the government was capable of paying for their lost properties. They pointed to Mexico's past record in the payment of debts, which in part was notoriously bad. Thus having no one to negotiate with, the Mexican Government turned its attention to running its recently enlarged industry.

First they turned their attention to maintaining production and keeping their 18,000 petroleum workers

⁸J. F. Bannon and P. J. Dunne, Latin America an Historical Survey, (Milwaukee, 1950), p. 710. "State governors offered five per cent of their revenues, labor unions offered to contribute one day's pay per month... But the gesture was futile, for whereas the oil lands expropriated had been valued at hundreds of millions of dollars, there was collected a paltry sum of two million pesos."

⁹Josephus Daniels, Shirt-Sleeve Diplomat, p. 234.

employed. Despite the claim that the Mexicans were technically incapable of operating the oil industry, this was not the reason for the reduction in production in 1938. The reduction from 1937's output of 46,906,650 barrels of oil to 38,300,000 barrels for 1938 was primarily due to the fact that at the time of the expropriation, storage tanks in Mexico were already almost filled to capacity and there was no market for the expropriated oil.¹⁰ This problem was met by holding production down to about sixty-five percent of the previous rate of production and juggling the stored oil to satisfy the demands of home consumption and storage facilities. Sale of Mexican oil was made difficult by the expropriated companies' removal of their tankers, the stranding of railroad tank cars in the United States, and an attempted blockade of Mexican oil by the companies. A partial and very temporary solution of this difficulty was soon found in the barter deal made with the Axis powers.¹¹

¹⁰Government of Mexico, Mexico's Oil, p. 84, gives the above mentioned figure for production in 1937 and in footnote 90 lists the amount of oil and the percentage of the whole production that the sixteen leading oil companies produced for the year. These figures are reproduced in Appendix C. The New York World Telegram's annual World Almanac and Book of Facts for 1945, p. 549, cites production for 1937, rounded off, as 46.7 million barrels while the production for 1938 is given as 38.3 million barrels. These figures are substantially the same as those quoted by Harlow Person, Mexican Oil, p. 64.

¹¹Virginia Prewett, Reportage on Mexico, (New York, 1941), pp. 215-216. Prewett claims that statistics on expenses, sales and profits of the nationalized oil industry have become almost State secrets. Her personal request for statistics was turned down but she claims to have seen official charts that showed Mexico's oil export, valued in dollars, amounting to less than 30% of pre-expropriation years.

What was the effect on the oil workers who had proved they were technically capable of running the nationalized industry? The government was able to pay their salaries at the end of the first month but from then on things became difficult. The government found itself unable to put into effect the provisions of the labor award and called upon the workers' patriotism in this time of crisis to continue working.¹² The fabulous profits visualized, failed to materialize. This, despite the fact that the worker-run, government-directed oil industry was, unlike the railroads, out of debt and flourishing at the time of expropriation. In May 1939, Professor Silva Herzog was made the petroleum administrator but the worker-government partnership still did not function satisfactorily. The union leaders in many instances were placed in high official positions with salaries as much as nine times as great as they had earned previously.¹³ This robbed the workers of some of their

¹²Government of Mexico, Mexico's Oil, p. xlii, in speaking of the labor award said, "The demands contained in the draft contract were in fact, exorbitant; approximate estimates subsequently made indicate that they implied an increase over the levels of 1936 of some 70 million pesos, an amount which the companies were doubtlessly in no position to pay their workers." The government evidently did not feel able to meet all parts of the award either.

¹³Frank Kluckhohn, The Mexican Challenge, p. 132, lists fourteen high officials of the oil installations at Mexico City, Tampico, and Poza Rica giving their monthly salary both before and after expropriation.

effective spokesmen for this dual loyalty, to the government and the workers, often found the latter's cause placed second to their own. Strikes were forbidden and dissenters were expelled from the union with the consequent loss of their jobs. "On August 22, 1939 a presidential decree took out of the control of the labor unions several hundred positions of an administrative and technical nature..."¹⁴ Due to policies on overtime work and other differences from employment under private ownership, the wages of the workers were lower. Their real earnings were still lower due to a steady increase in the cost of living, it being estimated that this increase was 60% from 1934 to 1939, while wages had increased only 25% to 33%.¹⁵

Early in 1940 Cardenas made the announcement that the oil industry was operating at a loss; the figure finally admitted was about 68,000,000 pesos.¹⁶ To help correct this situation the government announced its intention of cutting down the number of oil industry workers.¹⁷ This

¹⁴Standard Oil Co. (N.J.), Present Status of the Mexican Oil "Expropriation" 1940, (New York, 1940), p. 40.

¹⁵Virginia Prewett, Reportage on Mexico, pp. 151-152.

¹⁶Ibid., p. 217, gives this figure for the admitted loss but said that the total loss had been set as about 200 million pesos.

¹⁷"Mexican Oil Trump?", Business Week, (March 9, 1940), p. 47. This article gives this proposed cut as one out of every six permanent workers, with an even larger number of transient workers to be released.

led to bitter charges and counter-charges. To the government's charge of high costs, low efficiency and low production, the workers charged the government with incompetent management, too much red tape and failure to improve their general welfare.

This was all summed up aptly by Betty Kirk as follows:

When the battle was won by the government with its Labor shock troops, the workers were pushed back into a place far below the privileged position they had held under company management. Labor, in fact, paid the heaviest bill for expropriation, and the Mexican government alone gained by the move.¹⁸

The uncertainty of conditions in Mexico caused the cautious investor to pull out of Mexico. Prior to expropriation various of the oil companies began removing their funds from Mexico, but after expropriation not only British and American capital, but French, Spanish and even Mexican capital hurried from the country. The Bank of Mexico could no longer maintain the rate of exchange at 3.60 pesos to the dollar but had to allow a deflation of the peso to 4.85 pesos to the dollar officially and 5.00 on the open market. Paper money was issued with only a small amount of silver to back it up. Prices began a steady rise. Manufacturers in other countries became alarmed and restricted credit to Mexico, except for German manufacturers who, seeking new markets, liberalized their credit. A plan to float a 50,000,000 peso internal loan

¹⁸Betty Kirk, Covering the Mexican Front, p. 157.

failed. The national budget had a deficit of 15,625,000 pesos in 1937; this deficit had reached 58,666,000 pesos in 1938 and continued to rise as Cardenas' announcement on the oil situation early in 1940 revealed.¹⁹

As difficult as was Cardenas' position, it could have been made not only more difficult but even impossible by the United States Government if it so desired. Mexico had owed part of its pre-expropriation trend toward prosperity to the silver purchase policy adopted by the United States Government late in 1937. Silver mining employed 100,000 workers; "the government received 10 percent of its revenue from it; the National Railway received 17 percent of its income from that source; and silver provided the major source of foreign exchange."²⁰ Several days after the oil expropriation there was a demand for the discontinuance of Mexican silver purchases from several sources in the United States. Senator Townsend of Delaware made a proposal to end United States Government buying of foreign silver, but it was pigeon-holed until after Mexico's refusal of arbitration. The result was a temporary stoppage in foreign silver purchases by our Treasury Department, but this was short lived as shown by our purchase of \$32,000,000 worth

¹⁹Virginia Prewett, Reportage on Mexico, pp. 151-152.

²⁰Josephus Daniels, Shirt-Sleeve Diplomat, p. 249.

of Mexican silver during the year 1939.²¹ It was silver sales alone that kept Mexico from having an adverse balance of trade.

At the time of expropriation of the oil industry, Cardenas made it plain that he hoped to sell this oil to the democratic nations of the world, but due to the attitude of the British Government and the boycott of the oil companies he had to look for new customers. He did not have to look far for these new customers because the Axis powers were soon courting Mexico's favor. It was Germany with William Rhodes Davis as her agent, who proved to be Mexico's best customer until the outbreak of the second World War abruptly ended this trade. Germany, while anxious to have Mexican oil, was short on ready money but manufactured many goods that could find ready usage in Mexico. Such products as road machinery, office equipment, trucks, hydro-electric plants, fittings for the oil industry, and lighter merchandise were therefore bartered for Mexican oil. The largest known barter deal amounted to about \$17,000,000. This type of trading by barter, tended to make Mexico more and more dependent on Germany because it left her no surplus money to make purchases other places. In her haste to relieve her situation, Mexico is reported to have set a price on her oil below that prevailing on the

²¹Ibid., p. 249, states that 80% of the Mexican silver mines were owned by Americans. Maybe this factor was enough to counteract the pressure for the discontinuance of purchasing Mexican silver.

world market. The other two Axis partners were not slow to attempt barter deals with Mexico. Italy was successful in bartering rayon and promising the construction and delivery of two oil tankers in return for oil. Japan was not very successful in arranging deals for Mexican oil, primarily because of the cost of transportation from such a distant source. Mexico was unable to deliver oil to any Pacific port, so the four small shipments that did reach Japan had to go an additional 1,500 miles through the Panama Canal where a duty of 35 cents per barrel had to be paid.²² These deals caused the United States and Great Britain concern because while American and British oil companies also sold oil to the Axis powers, they were in a position to cut off these sales in event of war or other emergencies. With Mexico controlling this oil, we had no control over its destination.

This turn of events had a direct effect on the United States out of proportion to the oil situation itself. We had all the oil we needed though some people advised the continuance of importation of Mexican oil so as to conserve the supply within our own country. These imports had not been increasing anyway due to the fact that Mexican home consumption had increased from 12% of her total production in 1924 to 46% in 1937.²³ What did count was our continued

²²Betty Kirk, Covering the Mexican Front, p. 169.

²³Government of Mexico, Mexico's Oil, p. xli.

decline of trade. We had suffered a decrease in our share of the Mexican market of 16.5% from 1929 to 1938.²⁴ During the year 1938 German bartered goods had begun to replace goods normally purchased from the United States. This, together with the results of her confused internal situation, caused a reduction in American exports to Mexico, a reduction figured at about \$47,000,000.²⁵

The expropriation and consequent loss of trade had a definite effect on different groups of Americans. Not only individual American investors in our oil companies faced the prospect of losing part of their investments, but those with money in banks, insurance policies and other investment firms had cause for some concern. Americans employed by the oil companies in Mexico had to be called home and new employment found. The decline in trade affected the suppliers of oil producing equipment, pipelines, office equipment, those involved in the export trade, etc.²⁶ Reduced orders called for reduced production until new markets could be located and brought about some

²⁴Virginia Prewett, Reportage on Mexico, p. 140.

²⁵Frank Kluckhohn, The Mexican Challenge, pp. 76-77. Kluckhohn credits the United States Department of Commerce for this figure on our reduction in sales.

²⁶Leonard M. Fanning, American Oil Operations Abroad, (New York, 1947), p. 130. Fanning gives some idea of the scope of this trade as developed by the oil companies. The setting up and developing of the petroleum industry in Mexico was directly responsible for shipping \$750,000,000 worth of American products to Mexico between 1916 and 1938. During the same period of time \$340,000,000 worth of additional purchases are estimated to have been made in the United States by Mexicans and Americans.

unemployment. Also affected was the amount of taxes collected by the United States Government and the amount of our favorable balance of trade.

We were not alone in attempting to solve this dilemma; British and Dutch companies were also expropriated. Of the British and Dutch governments, the British was the most concerned because it had invested directly in Mexican oil, primarily in the Mexican Eagle Company.²⁷ Great Britain also had to face the possibility that a possible war would separate her from her Near East oil sources so necessary for her Navy's fuel supply. There was need for definite action of some nature less this example be followed by other Latin American or even Near Eastern nations. Mexico evidently felt that this possible need for oil along with the Monroe Doctrine would mitigate any harsh British action in reprisal for her expropriation decree.

British reaction was prompt with an official note being sent to Mexico on March 21, 1938, reserving all its rights in the matter of expropriations in behalf of the many British stockholders. Between April 8 and May 20, 1938, Great Britain sent four more notes calling the actions of the Mexican Government a "denial of justice." The note of April 8 further stated "... that the real motive for

²⁷The type of investments required from a company like the Mexican Eagle for an oil gamble is reported by Kluckhohn's, The Mexican Challenge, pp. 97-98, where it reports that \$20,000,000 is said to have been spent on the Poza Rica field before striking oil in 1930.

the expropriation was the political desire to acquire for Mexico in permanence the advantages of ownership and control of the oil fields; that expropriation was tantamount to confiscation ..."²⁸ The British demanded as the only solution to the situation, the restoration of the properties to their companies.

A note of May 11, 1938, sounded even less like the tactful, diplomatic British. This note dealt with an overdue installment payment on losses incurred by British subjects due to revolutionary actions in Mexico between November 20, 1910, and May 31, 1920. The seventh and eighth points of this note read as follows:

7. His Majesty's Government, without prejudice to the views on expropriation of the oil companies expressed in their notes of the 8th April and 20th April, cannot but regard the failure of the Mexican Government to discharge even their existing obligations as in itself rendering unjustified an expropriated, an essential condition of the validity of which, would be payment of full and adequate compensation amounting in this case to a very large sum.

8. My Government must in any case request the immediate payment of the sum of 370,962.71 pesos which fell due on the 1st January last.²⁹

The note went on to hold up for everyone's inspection all of Mexico's known foreign debts including interest payments and also estimating her internal indebtedness.³⁰

²⁸Standard Oil Company (N.J.), They Took What They Wanted, (New York, 1939), p. 12.

²⁹Standard Oil Co. (N.J.), Present Status of the Mexican Oil "Expropriation" 1940, pp. 116-117.

³⁰Ibid., pp. 102-104, gives the British estimate as \$976,000,000 for the foreign debt but states that this

Mexico replied to this indiscretion by promptly paying the overdue note, breaking off diplomatic relations and sending the British Minister, Owen St. Clair O'Malley, home. This action brought about a blockade of Mexican oil by Great Britain and also lost France as a possible market because of her position as an ally of Great Britain. There was a great bitterness between Mexico and Great Britain that made a settlement an even longer process than the final settlement with the American companies.³¹ The reaction and counter-measures of these companies were more varied and complete.

is lower than the figures published in Hoy magazine of May 25, 1938, as prepared by the Instituto de Estudio Economico y Sociales. These figures indicate a foreign indebtedness totaling \$1,008,417,000 with an internal debt of about \$40,000,000 with an additional \$865,793,207 in claims pending against the government. This article is also very high in its estimate of the indemnity owing to the oil companies which it sets as \$1,500,000,000.

³¹Virginia Prewett, Reportage on Mexico, p. 118. Prewett finds that the beginning of this bitterness probably began, as far as Mexico was concerned, when her large concessions in the Poza Rica fields to the British failed to break the solid front of the oil companies. Betty Kirk, Covering the Mexican Front, pp. 174-175, shows the extent of the British bitterness when in 1941, in the midst of a war against the Axis powers, she refuses to permit Italy to deliver the two tankers built for Mexico under a barter deal. This tempted the Italians to use them for her own war needs.

Chapter IV

COUNTER-MEASURES OF THE COMPANIES

The reaction of the companies has been along four lines: further appeal to the Mexican courts; direct appeal to the government of the United States; documentary appeal to the United States public, and incidentally to the government; and apparently activity in the nature of disciplinary measures along the line of a world boycott against the oil industry of the Mexican government...¹

The companies as a whole acted to resist this unprecedented seizure of the property of seventeen of their number. Part of the reason for such unified action lies in the Labor Award itself, which demanded an industry-wide collective contract. The companies claimed that they had been misrepresented, that they were not black villains and looters of a backward nation.

They had gone into a destitute country, taken one of her undeveloped national resources and created a market for this oil. They had sold it first as asphalt and paved the streets of many Mexican towns with it; they had sold the Mexican railways on the feasibility of using oil in its locomotives. They had hired native workers to help with the exploration, the setting-up, the drilling, the refining, the operating and maintaining of this new industry. By the time of expropriation, 18,000 employees were on the

¹Harlow S. Person, Mexican Oil: Symbol of Recent Trends in International Relations, p. 56.

companies' payrolls.²

These employees had already secured the right to bargain collectively and partly because of this right were better paid than laborers in any of the other industries. This steady employment of these Mexican workers at a higher wage scale did its part toward raising the low Mexican standard of living and increased the national income. It was the taxation of these same companies that made payments toward the expensive land reform possible. By 1930 taxes had risen to the level where they now absorbed approximately thirty percent of the value of the oil produced each year.³ The Standard

²R. H. K. Maret, An Eye-Witness of Mexico, pp. 222-223. "Of the 18,000 persons employed in the oil industry only about 600 were foreigners; ... the Mexican company, Petroleos de Mexico, employed a higher percentage of foreign technicians than did the British Mexican Eagle Oil Company."

³Government of Mexico, Mexico's Oil, pp. 18 and 78. From the figures made available here, one notes that the amount of taxes paid into the government reached a peak of \$87,800,000 in 1922 which represented about 24% of the total value of the oil produced in that year. The low in oil tax revenue was \$18,300,000 in 1928. By the time of the Expropriation, the government could count on at least \$40,000,000 annually from taxes on the oil industry. These figures did not satisfy the Mexican Government for they pointed to the fact that by comparing total output and total taxes paid for the year 1934 it is revealed that there was a tax of 4.10 pesos per barrel on oil in the United States but only 1.05 pesos in Mexico or about a quarter of the tax paid in the United States. My own computations from figures given on p. 245 reveals a tax of 1.216 pesos instead of the 1.05 pesos per barrel claimed by the government.

Oil Company of New Jersey's quarterly publication, The Lamp, claimed this stage had already been arrived at by 1926.

In addition to the financial aspect the companies were willing to take credit for other achievements that had benefited the Mexican public. Chief among these were the following: the great drainage works in the Valley of Mexico; the construction and improvement of many roads in Mexico; the development of the ports of Vera Cruz, Puerto Mexico and Salina Cruz; the supply of electric light and power and modern sanitation in many cities, some of which were begun by the oil companies' activities; the Tehuantepec railway; and the greatness of the oil industry itself.⁴ It had required huge investments to get this industry started and large expenditures for laying the pipelines through the jungles and up the mountains to make the refining and also the exporting of this oil possible. It had taken money to convert to the new cracking plants which had raised the octane rating and percentage of gasoline produced. Beginning with the Poza Rica field the companies had realized the importance of a fairer return for the property owner.

The companies, in spite of the facts that their workers were not being paid on a level with similar

⁴R. H. K. Marett, An Eye-Witness of Mexico, p. 205. Marett credits most of these benefits to Pearson and his initiative as a pioneer of the oil industry in Mexico.

TABLE I
AVERAGE DAILY WAGE COMPARISON FOR 1935*

Types of Employment	Throughout the Republic	Oil Industry
Mason	1.89 Pesos	5.20-8.40 Pesos
Carpenter	2.05 "	4.00-8.40 "
Chauffeur	2.26 "	4.80-6.00 "
Electrician	2.74 "	6.00-7.60 "
Stevedore	2.05 "	3.00 "
Blacksmith	1.98 "	7.25 "
Unskilled labor	1.13 "	3.00-3.50 "

*Donald R. Richberg, The Mexican Oil Seizure, p. 16, gives the above table and credits the figures to the 1936 Annual Review of the Mexican Department of Labor. Richberg further states that, "In the case of the petroleum industry, the entire wage scale was raised approximately twenty six percent during 1936 and 1937 above that prevailing at the time of the comparison."

workers in the United States and their rate of taxation was lower than those on operations in the United States, felt convinced that they were being fair with Mexico and its people. They could understand the desire of a nation to control its own national resources but not necessarily through an abrupt executive decree. They knew that the development of the oil industry had been undertaken during a period of favoritism and lack of controls, and that some of these actions were distasteful to the Mexicans. Most of the present operating companies were not involved in these actions having purchased their way into the Mexican oil industry at a later date.⁵

Now that actual expropriation had taken place, the companies were determined to prevent this situation from becoming an example to other countries in which they were operating. The best way to accomplish this purpose was by securing the return of their properties.⁶

Their actions were somewhat hampered by the government's possession of all their properties in Mexico

⁵Frank Kluckhohn, The Mexican Challenge, p. 100. In the 1920's the Sinclair interests bought control of the Pierce Company and the Standard Oil Co. (Ind.) bought out the Doheny interests in Mexico. In 1932 the Standard Oil Co. (N.J.) bought out the Indiana group.

⁶Their properties were principally located in the Panuco River Basin, (the areas immediately North, West, and South of this basin), Tuxpan, Papantla, Isthmus of Tehauntepec and Tabasco regions.

including their offices and all the data filed there. Their first attempt was launched through the Mexican Courts. They were not too hopeful of the final outcome because of the previous court ruling on the Labor Board's Award but they had organized as required under Mexican laws and this attempt seemed essential.⁷ Once again it was to be Cardenas' short term Supreme Court that would sit in judgement over the companies.

The companies contended that the actions of the Mexican Government were illegal in that they violated both the Mexican Constitution and International Law. The controversial Article 27 of the Mexican Constitution was claimed to have been violated by the government's expropriation of the companies' personal property such as tools, equipment, records, etc., while this article only authorizes expropriation of lands and waters. This article also provided that expropriations could be effected only by means of indemnification. This was considered violated because the companies had demanded immediate indemnification or the return of their properties, but had received neither. Article 14 provided that an owner could not be deprived of his property possessions and rights without due legal procedure before the courts. A presidential

⁷Josephus Daniels, Shirt-Sleeve Diplomat, p. 242. "One reason given by the oil companies at first as to why they could not accept the offer to negotiate with the President was that they wished to test their rights in the courts."

decree of expropriation was an arbitrary action and a violation of this article. Article 28 was violated when the government set up a monopoly of the petroleum industry.

"International Law recognized - and both Governments agree - that it is within the sovereign right under international law of any government to expropriate the private property of aliens within its borders."⁸ Such expropriation must take place for reasons of public utility and just and immediate compensation must be provided. The Mexican Government claimed it could make adequate compensation to the oil companies but the companies refused to believe this. Part of this difference in opinion was due to the disagreement as to just what had been expropriated.⁹ Mexico, while agreeing to pay compensation, claimed it did not have to be immediate and that she could act within the Expropriation Act of 1936 which allows ten years for the payment of this compensation. Mexico further justified her actions by the fact that they applied equally to her own citizens. In this matter I am in agreement with Kunz who states that "a state cannot escape its international responsibility by pointing to contrary norms of its

⁸J. L. Kunz, The Mexican Expropriations "International Law Series" V; (New York, 1940), p. 24.

⁹This was the dispute over subsoil oil deposit ownership, which did so much to complicate a settlement. Mexico didn't hesitate to justify partially her slowness in paying compensation by bringing up the lack of compensation altogether to the former slave owners after our Civil War.

Constitution or municipal laws or by saying that it treats its nationals in exactly the same manner as the alien."¹⁰

These charges of government illegality got nowhere in the courts. The companies sought an injunction based on these grounds on April 4, 1938, but this motion was rejected by the Federal District Court in June and by the Supreme Court on October 9th of the same year. In a speech on September 7, 1939, Daniel V. Valencia, President of the Supreme Court, is reported as saying, "'in rendering their decisions they have interpreted our (Mexican) laws with the deep revolutionary spirit which inspires them..."¹¹

For all practical purposes the companies' recourse to the Mexican courts came to an end a few months after the above referred to speech.¹² On December 2, 1939, the

¹⁰J. L. Kunz, The Mexican Expropriations, p. 4. Kunz states also that, "a rule of general international law cannot be changed by the action of one or a few governments."

¹¹Standard Oil Company (N. J.), The Present Status of the Mexican Oil "Expropriation" 1940, p. 37. Quotes this article from Universal, September 8, 1939. In the same publication appeared a quote of Professor Graciano Sanchez, Secretary-General of the "C.N.C.", who on the same occasion said, "the Justices of the Supreme Court ... knew how to recover for the country the wealth of the subsoil."

¹²A new Supreme Court was elected to coincide with Avila Camacho's term as President of Mexico. On July 1, 1942 it granted an injunction, similar to one which had been denied on April 24, 1939, which restored certain expropriated holdings to the Standard Oil Company of New Jersey. These holdings had not been mentioned specifically in the Expropriation Decree of March 18, 1938.

Supreme Court handed down a judgement that no compensation was to be paid to the companies for any expectation of profits still in the ground. It maintained that the sub-soil oil does not become the property of the companies until it has been captured and raised to the surface. To have done anything else would have necessitated a revision of the Constitution of 1917, particularly Article 27. Immediately there was raised a hue and cry about Mexico's disregard for international commitments. This was based primarily on the understanding arrived at in the Morrow-Calles agreement. The companies now were not only willing but anxious for the United States Government to enter the case.

There was some justification for the American oil companies turning hopefully to their government to seek the restoration of their Mexican properties. After the scare of an oil shortage during the first World War, the companies "were given a mandate by their government to go out and find and develop oil abroad. It was the beginning of a short era of strong diplomatic support."¹³ The over-production of 1924, partly due to the expansion of United States fields, caused the abandonment of any organized program of diplomatic support for oil operations. The one exception to this was our consistent backing of the Open

¹³Leonard M. Fanning, American Oil Operations Abroad, pp. 2-3.

Door policy particularly visible at this time, in the mandated areas of the Near East.

Our foreign oil policy has suffered the indefininition of American foreign policy itself. The foreign policy of the United States has never achieved a closely integrated character... However the basic reason why we never had a definite foreign oil policy is that we never had a pressing need for it until recently. ¹⁴

In other words, as long as there was sufficient production and reserves within the United States we felt no compunction for formulating a foreign oil policy. After the Morrow-Calles agreement our government policy was that American oil companies operating abroad must conform to the restrictions and regulations of the countries within which they were operating. This policy was particularly fostered during the early years of Franklin Delano Roosevelt's administration because it gave some significance to his 'Good Neighbor' policy.

The expropriation of the American oil interests' properties in Mexico did not seem to be a proper reciprocation for our 'Good Neighbor' policy. At first our State Department would not believe that the properties had been expropriated. They felt sure that the message they received from Ambassador Daniels was in error, and that the properties had actually been placed in a government receivership. Not being sufficiently forewarned, the State Department acted

¹⁴Henry Ozanne, U. S. Foreign Oil Policy, ("World Oil Series" II; New York, 1945), p. 15.

slowly. Any hasty ill-advised action would mean the ruination of the years spent in establishing the 'Good Neighbor' policy and could easily bring the collapse of the Cardenas administration. Many newspapers, critical of the New Deal, felt that Cardenas' program in Mexico was simply a small scale reflection of our New Deal, carried to a more advanced stage. Our governments' sympathetic attitude had lent encouragement to Mexico to attempt her reforms, and our further refusal to intervene in the Mexican oil-labor controversy had led to expropriation.¹⁵ After a little research on the Mexican situation there appears to be much truth to Ozanne's statement that "Government intervention in behalf of industry interests, it is clear from the State Departments' own record, had been confined almost exclusively to consultation service after an issue had evolved."¹⁶

¹⁵Burt M. McConnell, Mexico at the Bar of Public Opinion, pp. 43-44, quotes such a newspaper article. Frank Kluckhohn, The Mexican Challenge, p. 10, says, "The present (F.D.R's.) administration was, for years, in a position to force a fairer deal for the general Mexican public from the large American Corporations operating in Mexico. ... There was every opportunity for the American government to try and act as intermediary between the Mexican government and American companies of all types, finding out what the Mexican Officials thought they should obtain and what the companies were willing to give. Unfairness could have been subjected to publicity and public pressure. Instead, Washington remained passive, as far as anyone knows..." The initials between the parenthesis are my addition.

¹⁶Henry Ozanne, U. S. Foreign Oil Policy, Vol. II, p. 15.

Secretary of State Cordell Hull may have been a little slow in replying to this expropriation but he was consistent until the need for a compromise was evident in 1941. His telegram of March 26, 1938, to Ambassador Daniels for transmittal to the Mexican Minister of Foreign Affairs stressed past friendship, the invitation of past Mexican governments to American capital and the resulting benefits to Mexico. As in later notes he stressed the factor of prompt and adequate payment for the expropriated properties.¹⁷ This telegram was followed up by a note from Mr. Hull which was evidently written in such strong terms that Ambassador Daniels requested that it not be made public.¹⁸ The note of April second from our State Department requested information of the government's plan

¹⁷Josephus Daniels, Shirt-Sleeve Diplomat, p. 231. Ex-Ambassador Daniels has this to say about Hull's attitude: "...though Hull was irritated by the expropriation and the manner of it and wrote condemnatory notes to Mexico and never receded from his thesis that 'universally recognized rules of law and equity' required 'prompt and adequate payment', he never could be moved from his position that Mexico had the right---though he did not approve its exercise---to expropriate with 'prompt and adequate payment'. This caused the oil companies to say, 'The Government let us down'."

¹⁸Frank Kluckhohn, The Mexican Challenge, p. 123. "At the time, it was understood that the note recognized Mexico's right to expropriate for the public welfare but only by prompt, adequate and immediate compensation which was financially impossible for the Mexican government and implied that the properties would have to be returned for that reason." Whether the opinion of the times was entirely correct or not, this note has still never been published.

for payment. As if to answer this note with action, the Mexican Minister of Finance ordered the Government Administrative Council of Oil to lay aside twenty percent of the proceeds from the exportation of Mexican oil for payment to the expropriated companies. On May 26 the Mexican Ambassador, D. F. Castillo Najera, handed the State Department a proposal for the payment of compensation, which though not made public, was thought to be for a payment in oil. Hull's note of July 22, 1938, proposing arbitration under the provisions of the Inter-American Treaty of Arbitration of 1929, met with no success. Neither did the American note of April 3, 1940, which suggested submitting the oil controversy to an impartial arbitration.

It is evident that Cordell Hull was perhaps inclined to take a stronger stand on the question than was his boss, President Roosevelt. Mr. Daniels recalled sources close to F.D.R. as redefining American policy in regards to the expropriated oil companies as follows: " ... that they were entitled to damages equivalent to actual investment, less depreciation. Indemnification in their cases ... should not include prospective profits."¹⁹ This report came out of Warm Springs, Georgia, April 1, 1938, where

¹⁹Josephus Daniels, Shirt-Sleeve Diplomat, p. 230. Naturally the companies were outraged by this attitude. No business man wants to go to the effort of setting up a going business and then having to abandon it once he has recovered his original investment less depreciation.

Roosevelt was resting. At the same time it was announced that "no sympathy would be shown the rich individuals who obtained their (Mexican) lands illegally; (but) the United States had insisted and would continue to insist on full and fair indemnification of the small ranch owners."²⁰

While no countries were mentioned, President Roosevelt's address to the Pan American Union on April 14, 1938, must have been taken by the Mexicans as being aimed directly at them. In part he said:

Yet, we have undertaken contractual obligations to solve these normal human differences by maintaining peace and that peace we are firmly resolved to maintain. It shall not be endangered by controversies within our own family...²¹

Ambassador Daniels' own opinion was that Cardenas had made a mistake but that he would never recede from his decree. Whereas before expropriation he constantly urged the companies to accept the labor board's award, now his only advice was for them to negotiate with the Mexican Government. His advice was prompted by his conception of the companies' legal position as revealed in his letter

²⁰Ibid., p. 230.

²¹Roosevelt's Foreign Policy 1933-1941: Franklin D. Roosevelt's Unedited Speeches and Messages, (New York, 1942), p. 139. Other phrases such as "the rule of justice and law can be substituted for force; that resort to war as an instrument of policy is not necessary;" lessened any fears that might have existed in Mexico that we would revert to a new "Huerta-type" policy.

to Secretary Hull, April 2, 1938, in which he states:

As you know, practically all the oil companies here, certainly all the big ones, are Mexican Corporations. The responsible men in the management of these corporations recognize that they are all doing business under the Calvo clause and that when they call upon their governments for diplomatic assistance in protest against Mexican laws, they are not only violating their own pledge not to do so, but they are demanding to do business in Mexico in violation of the constitution of Mexico.²²

It is very doubtful whether Cardenas would have moved against the oil companies so strongly if he was not sure that there would be no retaliation by the United States Government. The temporary suspension by our Treasury Department in the purchase of Mexican silver must have given him an uneasy moment or two but Daniels' suppression of Hull's note of the 29th and the attitude of President Roosevelt reassured him. Ambassador Daniels could be counted on to back almost any suggestion he would make in the way of an indemnity settlement. After the Lima Conference in December, 1938, he was sure that "the influence of private American financial interests with the United States Government could now be counter-balanced by Mexico's influence with the nations of Latin America."²³ Soon the threatening war was to overshadow this difficulty and the companies would be pressured into a settlement.

²²Josephus Daniels, Shirt-Sleeve Diplomat, pp. 238-239. The companies probably would have had to get out in 1917 if Daniels had been our Ambassador at that time instead.

²³Virginia Prewett, Reportage on Mexico, p. 129.

The companies must have doubted from the beginning that they, by their numbers or influence, would succeed in forcing the State Department into taking a strong stand on their expropriated properties. To make this pressure on the State Department stronger they sought to enlist the aid of American public opinion behind their cause.

To accomplish this end they flooded the public with their literature in the form of pamphlets, newspaper articles and inspiring flaming editorials, magazine stories and whole books. Most of this attack was directed from a headquarters setup in New York City. The company magazine of the Standard Oil Company of New Jersey, The Lamp, led the propaganda attack ably backed up by subsidized writers and enraged Americans.²⁴ Many Americans knowing only one side of the matter wrote stirring articles making it appear almost patriotic to support the stand taken by our oil

²⁴Josephus Daniels, Shirt-Sleeve Diplomat, p. 255. Daniels is wrong in his assumption that Standard Oil Company of New Jersey had just begun the publication of The Lamp and also that it was a paper, when in reality it is a magazine published four times a year. He criticized the publication as follows: "It did not confine itself to oil discussions but sought to inflame sentiment in the United States against Mexico by parading every crime or incident that would injure the standing of Mexico in the United States...(and) frighten possible investors in Mexico." The addition in parenthesis is mine.

Burt M. McConnell's Mexico at the Bar of Public Opinion is a very good example of the work of a subsidized writer. In this case, McConnell got the idea of assembling newspaper articles and editorials from all over the United States on the subject of the Mexican oil expropriation, to use as the basis for public opinion. He brought his idea to Standard Oil of New Jersey and they agreed to subsidize his research.

companies in defense of United States' rights abroad. Others attacked the dangerousness of the socialistic and communistic doctrines that were prompting Mexican actions. Still others slandered Mexico for the almost treasonable act of selling oil to the Axis nations.

This was not a propaganda battle carried on entirely by one company, but the Standard Oil Company of New Jersey seems to have assumed the leadership and been the most vocal. Its pamphlets had several definite ideas that they wished to get across to the American public. These were namely:

1. The companies were not exploiters and robbers operating in a weaker nation.
2. Mexico's actions were not firmly based on legality.
3. Mexico was incapable of successfully running the oil industry.
4. Mexico was unable to pay a fair indemnity.
5. The only solution to the situation must be the return of the properties to company ownership and management.²⁵

Mexico did not stand idly by under this propaganda attack but replied with several books written in the English language and through press releases to foreign

²⁵These pamphlets bore titles such as They Took What They Wanted, The Question of Subsoil Rights in Mexico, Mexico's Inability to Pay, The Effects of This Seizure on American's Foreign Trade, Denials of Justice, etc.

correspondents in Mexico. The points expressed by Mexico bear much logic but suffer from their translation into English and in the organization of their material, particularly tables and charts.

One of the first hopes of the oil companies had been that a firm united stand against the government would cause the fall of the Cardenas administration, possibly through a revolution. They expected that the new leader would be a strong conservative man similar to Diaz. Whether they were pinning their hopes upon General Cedillo is not known for certain, though Cardenas has declared publicly that both the foreign companies and Earon von Merck had backed this so-called revolt.²⁶

Having removed all the means for transporting oil possible in the troubled period preceding expropriation and the period immediately following the decree, the companies laid plans to see that others did not move this oil. It was entirely possible that they could drown Mexico in her own oil, or force the realization upon her that the oil industry could not be run without the companies.

They refused to buy oil from Mexico and they threatened to have no business relations with anyone who did or who even provided her with equipment or replacement parts for the oil industry. Agents were left in Mexico to report

²⁶Betty Kirk, Covering the Mexican Front, pp. 169-170.

on the movements of oil tankers. The Eastern States Petroleum Company which "started dealing in expropriated oil, soon became involved in litigation with Shell, which took the stand that Eastern was marketing oil stolen from them by the Mexican Government."²⁷ Other independents dealing in Mexican oil found this oil difficult to market because the companies had filed injunctions against Mexican Government oil in France, Great Britain and Holland.²⁸ The companies even withheld tetraethyl from Mexico thus preventing her from raising the octane rating of her gasoline to a desirable level. After a break in private negotiations the price of crude oil in the Texas fields was cut so as to block Mexican oil which had been coming into the United States and was being sold below market prices.

The success and consequence of this blockade can be partially gaged from a statement made by the Mexican Undersecretary of Foreign Affairs, Breteta, in October of 1938,

'I am chiefly concerned because if the United States manufacturers and dealers refuse to sell us the essentials for carrying on the oil work, they

²⁷Virginia Prewett, Reportage on Mexico, p. 137.

²⁸J. L. Kunz, The Mexican Expropriations, pp. 52-53, footnote. "At Arnhem, Holland, the District court upheld the attachment which the Mexican Eagle Company levied on May 27, 1939, on five hundred and seventy five tons of gasoline, which had originated from its properties in Mexico.... ." Though only temporary these junctions did make the independents question the worthwhileness of handling Mexican oil.

throw us into the arms of Germany, where we can swap oil for this machinery ... that we need.

'... when we offer the cash and then the manufacturers who have the material for sale reject the orders, it looks as if the oil companies are dominating to such an extent that the manufacturers will sell to everybody in the world except Mexico.'²⁹

Pressure was exerted on those who opposed the blockade such as William Rhodes Davis, Senator Guffey of Pennsylvania, and, later, the Sinclair Oil Company after it made a separate settlement with Mexico. Pressure was also put on newspaper reporters whose facts on the Mexican situation differed from those which the companies preferred to see in print.³⁰

This situation tended to produce a stalemate. "From the first of May 1933 forward there were few decisive changes in the situation."³¹ This is basically true with the exception of some private negotiations, the Sinclair settlement, and the government's appraisal of the companies' properties. The situation was not altered until late in 1941.

²⁹Josephus Daniels, Shirt-Sleeve Diplomat, pp. 248-249. A list of the companies and the products that they refused to quote prices on and sell to Petroleos Mexicanos can be found in the Mexican Government publication, The True Facts About the Expropriation of the Oil Companies' Properties in Mexico, p. 14, footnote.

³⁰Betty Kirk, Covering the Mexican Front, pp. 169-170. Kirk relates her experience along this line in conjunction with her duties as a correspondent for The London Times.

³¹Frank L. Kluckhohn, The Mexican Challenge, p. 128.

Chapter V

SETTLEMENT

Having exhausted remedial steps open to them in Mexico, there was nothing further the companies could do. The matter then became one for the two interested governments to handle. While recognizing the rights of the Mexican government to expropriate the properties, the Department of State insisted that the companies were entitled to prompt, adequate and effective compensation.

Certain American companies made monetary settlements by direct negotiations with the Mexican government. With respect to the other American companies, the Secretary of State and the Mexican Ambassador in 1941 agreed upon a general plan for settlement... .¹

The settlement of the oil expropriation question was a difficult problem. On the one hand there was the proud but financially embarrassed nation which, having taken this advanced step in nationalization, would not back down. The people of this nation were almost wholly convinced the companies were getting rich from their natural resources and had actually defied their laws. A complication also was their belief that all subsoil deposits belonged to the nation. This meant that any terms of a settlement offered by their government would include no payments for subsoil deposits. The ruling that the companies were to be held responsible for the payment of discharge wages to their former employees due to the Labor Board's cancellation of their contracts was to prove a bone of contention.

¹Leonard M. Fanning, American Oil Operations Abroad, p. 31.

The companies on the other hand, felt the government's action was illegal. They could not be expected to approve an interpretation on subsoil rights that would deprive them of what they claimed was up to 90 per cent of the value of their property. They were afraid that any negotiations they might enter into with Mexico would result in such a low valuation of their properties that the disrupted discharge wages and other government claims would offset it. As for the discharge wages themselves, the companies first of all had not discharged their employees and secondly employment had continued almost immediately under government administration. The companies further had no intention of becoming just another of Mexico's debtors.

To direct and indirect suggestions that Mexico would be willing to make immediate payments if the companies would accept payment in kind, the companies had much criticism to offer. One such criticism is as follows:

The ethical problem is clear. If payments in kind were accepted it would amount to an endorsement of the principle that property which had been taken may be paid for in full by the return of a part.

The legal aspect is also obvious. Acceptance of a small proportion of the companies' oil as constituting full payment for the companies property would be tacit acknowledgement of the right of a government to take property and pay for it only a fraction of its value. This would be tantamount to an acceptance of confiscation. The companies would be contributing to their own spoliation...

The Mexican Government, in offering to pay in kind, scarcely mentions the fact that Mexico reserves for itself, before making delivery to the foreign oil companies, all the oil that it may need for domestic consumption and, of course, enough

additional oil to pay not only for the costs of operations of the wells and refineries but also to compensate the State for lost revenues due to the fact that it no longer receives tax payments from the companies. In other words only a small portion of the oil extracted from the properties would be available to hand over to the companies.²

The companies indicated to the United States Department of State their willingness to submit the whole question of the legality of the expropriation to the Permanent Court of Arbitration at the Hague, Netherlands but this was not acceptable to Mexico.³ On May 26, Mexico offered to sell all her oil exports to the American oil companies who had suffered expropriation at a price below the world market price. This difference was to be applied to the amount owing the companies for their expropriated properties. This scheme was rejected by the companies who were opposed to any plan which offered to pay them a percentage of the oil they once entirely controlled. On October 22, 1938, Cardenas saw fit to invite the companies to come directly to him for a settlement. The companies well understood Cardenas' views on the subject of subsoil deposits and still were firmly convinced of the inability of his

²Standard Oil Company (N.J.) Present Status of the Mexican Oil Expropriation, 1940, pp. 42-44.

³Ibid., pp. 73-74. This proposal was made to the State Department in letters of May 9, June 16 and July 25, all written in 1938.

This proposal was unacceptable to Mexico who considered the matter purely a domestic one. The companies' suggestion that their properties be restored to them pending the decision of this court made the proposal further unacceptable.

government to pay adequate compensation so the invitation was not immediately seized upon.

An important though indirect step towards the settlement of the oil expropriation question occurred on November 9, 1938. On this date Secretary of State Hull proposed to the Mexican Secretary of Foreign Affairs, provisions for settling the controversy over compensation of American-owned agrarian properties seized since August 30, 1927. The main provision, with a view to future settlement of the oil controversy, stated that each government was to select a commissioner and in case of disagreement a "third person (to be) selected by the Permanent Commission with seat at Washington, as established by the so-called Gondra Treaty" who would be asked to decide the correct valuation of these properties.⁴ Mexico agreed to this plan on May 12 because this seemed to indicate that immediate indemnity was not required.

Before the conclusion of the agreement on indemnification for seized agrarian properties, private negotiations

⁴State Department, "Compensation for Expropriated Lands", Executive Agreement Series #158, (Washington D.C., 1939), publication 1412. The remaining provisions state the following: how the expenses of the three commissioners were to be paid, the setting of May 31, 1939, as the completion date for this evaluation, that compensation in each case be considered in the usual manner, the first payment of \$1,000,000 in U.S. currency was to be paid before May 31, 1939 and, these installments would be due on June 30 of each year. An extension of the date for the filing of claims and the adjudication period was granted by a proposal of April 17 which was accepted April 18, 1939.

for the settlement of the oil dispute got underway. Early in January of 1939, the representative of the Sinclair-Pierce interest, Patrick J. Hurley, flew down to Mexico to do a little spade work for a possible settlement. Hurley was to return in March with Donald R. Richberg, the lawyer representing most of the other British and United States companies, but failed to show up.⁵

There were eight conferences in Mexico City between March 8th and March 22nd. The only persons present at these conferences were Richberg, President Cardenas and Mexican Ambassador Castillo Najera. Richberg began the negotiations with the following objectives in mind which he was under the impression the Mexican Government also accepted: (1) a long term contract for operation by the companies, (2) a fixed schedule of tax rates, (3) workable labor conditions, (4) reimbursement for the companies for losses suffered since their property was seized, and (5) upon the expiration of the contract the properties were to be given to Mexico.⁶

⁵Betty Kirk, Covering the Mexican Front, p. 180. Kirk explains this absence of Hurley by quoting this part of a speech made by Mr. Hurley on August 1, 1940, before the Texas Railroad Commission at Austin, Texas. "When the day of departure arrived, however, the president of one of the chief United States companies expropriated asked the Sinclair representative not to accompany the chief negotiator and not to participate in the opening conferences. ... The Sinclair companies and the Sinclair representative acquiesced... ."

⁶Donald R. Richberg, The Mexican Oil Seizure, p. 36. Richberg makes the statement of the government's acceptance

Mr. Richberg must have misconstrued the willingness of the Mexican Government to negotiate as an acceptance of his objectives because Cardenas' statement of terms shows how far apart the negotiators were at the beginning of the conference.⁷ Despite optimistic statements to the press and the introduction by Mr. Richberg of a State Department proposal for a board of nine men to administer the oil properties, the conference was a failure.⁸ Which party was to administer the properties proved an insurmountable obstacle, as did the problem of valuation of the companies' holdings.

Mr. Richberg left Mexico City on March 22nd due to the necessity of pleading an important case before the United

of these objectives and states they had the approval and encouragement of the United States Department of State. Objective one must have been based on the hopes that the government would still be willing to accept the provisions of the Petroleum Law of 1925 with its exchange of ownership for a fifty year concession.

⁷Betty Kirk, Covering the Mexican Front, pp. 176-177. Cardenas' statement of terms as issued previous to the Mexico City conferences with Richberg were: "(1) that the companies must recognize that the Mexican government was the sole owner of the properties; (2) that the administration and production of oil must remain entirely in the hands of the government and not be subject to interference by the foreign companies; (3) that domestic sales and distribution must remain in the hands of the government; and (4) that remaining production estimated at 60 per cent, would be exported, from which export sales the companies would be compensated for their properties.

⁸The United States State Department proposal called for three members of this board to represent the Mexican Government, three members to represent the companies, and three members to be neutral, chosen from a panel selected by the American and Mexican Government.

States Supreme Court. This was not the last attempt on the part of Mr. Richberg to negotiate with the Mexican Government. On April 27, 1939, he met with Ambassador Castillo Najera at San Antonio, Texas, which led to an almost immediate conference with President Cardenas at Saltillo in the state of Coahuila, Mexico. The conferences at Saltillo were even shorter in duration than those at Mexico City, probably because each man was already well versed in the other's viewpoint on the situation. Cardenas indicated a willingness to accept Richberg's objectives as a basis for discussions, "providing the companies accepted that a majority of the Board of Directors and the manager of the companies, which were going to manage the industry, be appointed by the Mexican Government."⁹ The companies were unwilling to give in on this question of management either. The conference broke up on May 3, 1939, with Cardenas' promise of a consideration of some of Richberg's proposals and a future statement

⁹Government of Mexico, The True Facts About the Expropriation of the Oil Companies' Properties in Mexico, p. 127-128. This attitude is justifiable, according to the government, because it "merely recognizes the undeniable fact that the companies were actually and morally incapable of managing the industry due to their incompetence and unwillingness to reach an understanding with their workers...and also due to the rebellious attitude of the companies when it came to obeying the laws of Mexico and the decision of her highest courts."

What was right and what should constitute a suitable compromise, when viewed by the patriotic writers on both sides of the controversy, is almost unrecognizable.

upon them. Richberg left Saltillo optimistically feeling a little progress had been made and that a future agreement was possible. Any hopes he might have cherished along these lines were dashed when Cardenas' position was revealed in the latter part of June. Richberg claimed that in this statement Cardenas receded from previously agreed positions. He returned to "pre-negotiation proposals to fix a valuation for the properties and provided for payments in slow installments out of a percentage of the companies' own oil, which would be produced by a corporation controlled by the Mexican Government."¹⁰

On July 17, in a letter to Ambassador Castillo Najera, Richberg refused a suggestion for further negotiations in Mexico City because the basic principles upon which such negotiations must rest had been abandoned. This breakdown was admitted when W. S. Farish, as president of Standard Oil Company of New Jersey, wrote a letter to Secretary of State Cordell Hull on August 10, 1939. This letter also revealed the terms of the arrangement the companies had tried to make with Mexico. These were substantially the same terms as those already expressed by Mr. Richberg. The State Department again suggested their plan for the administration of the oil properties by a nine-man board,

¹⁰Donald R. Richberg, The Mexican Oil Seizure, pp. 41-42.

this time to the Mexican Ambassador. Mexico once again refused this plan and the companies would not comment on it.

The breakdown of these negotiations caused the Mexican Government to proceed alone towards making a monetary settlement. The first step had to be the evaluation of the expropriated properties. In December 1939, voluntary requests for the appointment by the companies of expert appraisers having proved fruitless, the companies were cited to appear before the Federal District Court for this purpose. When the companies still refused to cooperate the court appointed an appraiser to represent them and also one to represent the government. On January 31, 1940, Cardenas rebuked the companies for their refusal to cooperate and said that the valuation fixed on their properties by the courts could not be appealed. Before the experts could complete their appraisals Mr. Hurley was back in Mexico and successfully negotiating with the government.

Though Richberg had given up the negotiations, the Sinclair companies were not willing to cut off diplomatic relations with the Mexican Government. Mr. Hurley was again briefed and sent to Mexico City. At first in accordance with the united oil front policy, he kept the other expropriated companies informed of his actions. Then came the break in the united front. In his afore

referred to testimony before the Texas Railroad Commission, Hurley attributed the cause for the break to remarks made by Richberg at his earlier conferences. Hurley learned from the record of these conferences that Richberg had explained his (Hurley's) absence by saying that it was felt.

"it would be only one more opinion to reconcile, and after all, the Sinclair investments in Mexico were meager when compared to the great investments which the chief negotiator represented; and finally that the Mexican officials could be assured that whatever settlement was arrived at with the Standard Oil Company of New Jersey, the Standard Oil Company of California, and the Royal Dutch Shell would have to be acceptable to the Sinclair companies. That this statement was made and repeated in subsequent conferences was proved beyond all doubt..."¹¹

This discovery no doubt sped the final agreement between Sinclair and the Mexican Government which was signed on May 7, 1940. While Sinclair refused to reveal the terms of this agreement, the Mexican Government dealing in generalities announced the settlement to involve the payment to Sinclair of an \$8,500,000 indemnity for surface properties within three years. (The final installment of \$1,500,000 was made in 1943.) Sinclair at the same time contracted to purchase 5,000,000 barrels of Mexican oil for four years at less than market price.¹²

¹¹Hurley's speech before the Texas Railroad Commission at Austin, Texas, August 1, 1940, as quoted in Betty Kirk, Covering the Mexican Front, p. 181.

¹²The Penn Mex Fuel Company, a company in which the Sinclair interests held the controlling stock, received a \$300,000 cash indemnity for its properties in July of 1941.

By August, the appraisers had completed their job and after effecting a small compromise, the figure finally arrived at was 177,624,000 pesos or about \$35,525,000. This was the total value attached to all expropriated foreign owned oil properties. Of this amount a little over four-fifths was allotted to the British and Netherland's interests. The companies refused to acknowledge this award where upon the court signed the deed transferring the properties to the Mexican Government. This sum was not to be placed immediately at the disposal of the companies. The government was first to deduct claims against the companies for severance pay, damages, taxes, and other items which amounted to \$23,400,000. This left the total payable to the companies as \$12,125,000, a figure far removed from the companies' claims.

The companies had hoped for a change in the Mexican attitude toward their properties with the election of a new President of Mexico in 1940. These hopes had some basis for once again the conservative elements were beginning to voice their opinions and some of the supporters of Cardenas were expressing their doubts as to the success of his socialistic program. The failure of the workers to manage and run the nationalized railroads properly and also the failure of the fabulous profits from the oil industry to materialize, shook their confidence. Both the leading presidential candidates were army generals and opponents

of communism. General Manuel Avila Camacho did have the backing of the National Revolutionary Party whose platform included the following articles:

I - The petroleum industry will be totally and definitely nationalized.

II - In the event that it should be absolutely indispensable to compensate the concessionaires as a result of nationalization, it will be laid down in laws that the compensation must in no case be greater than the unrecovered part of the justified investment.

III - The stand will be invariably assumed that no proposal will be considered or any solution accepted that will lead either directly or indirectly to the result of returning their goods to the expropriated companies or of permitting their intervention in the management of the petroleum industry on national territory.¹³

Avila Camacho was elected president and almost immediately showed a willingness to differ from some of Cardenas' policies. On February 15, 1941, he sent a bill to Congress for the purpose of regulating or defining the application of Article 27 of the constitution. This bill provided for the exploitation of oil and mineral deposits by three groups. One group was to include private individuals or companies which could invest their money in a more-or-less partnership with the government but one which the government would retain control. While the companies did not find this a satisfactory arrangement it was somewhat encouraging to private capital and also to the United States Government.

¹³Excerpt from the platform of the National Revolutionary Party as drawn up by the executive committee of the convention which had just nominated General Avila Camacho for the presidency, as quoted in Standard Oil Company (N.J.), Present Status of the Mexican Oil "Expropriation" 1940, pp. 48-49.

By now private negotiation had broken down and our government was looking for favorable signs for beginning negotiations with the Mexican Government. Mexico having previously rejected a United States suggestion for submitting the question to an impartial arbitration, Cordell Hull began a series of talks with the Mexican Ambassador. This led to the signing of an eighteen provisioned agreement between the United Mexican States and the United States of America on November 19, 1941, by the aforementioned men. This agreement provided for each respective government to appoint an expert within a thirty day period. The first meeting of the experts would be held in Mexico City within fifteen days of the last experts' appointment. Provision was made for paying the experts and their assistants and also providing not only for cooperation between the experts, but in clearing obstacles from standing in the way of their investigations. The experts' work was to be completed in five months from this date and their joint report would contain not only the indemnity due but also the interest rate. If no agreement could be reached by the experts the matter was to be decided by diplomatic negotiations within five months by the two governments; otherwise the present agreement would be without effect. The Mexican Government deposited \$9,000,000 with the United States Government the same day and agreed that the remaining indemnity would be paid within seven years.

The 18th provision interestingly stated that this manner of settling a dispute was not to be regarded as a precedent for settling future difficulties.¹⁴

These provisions were fully complied with, Morris L. Cooke being selected as the United States expert and Manuel J. Zevada as the Mexican expert. It is quite evident that Cooke adopted the Mexican viewpoint on the question of subsoil deposits. The investigation and evaluation proceeded on schedule for by April 17, 1942, the experts were in sufficient accord to write their joint letter to President Franklin Roosevelt and President Manuel Avila Camacho. Their joint judgement reads as follows:

1. The Government of the United Mexican States shall pay to the Government of the United States of America, on behalf of the above-mentioned claimants, the amount of \$23,995,991, in accordance with schedule of payments finally approved by the two Governments.

2. Before any payment is made on account of these awards the corporations affected shall deposit in escrow and, when final payment had been made, shall deliver to the Government of Mexico all documents and instruments of title pertaining to the expropriated properties.

3. The Government of Mexico and each of the said claimants shall release each other respectively of all reciprocal claims that may still be pending against one another, with the exception of those of the Mexican Government against the companies for unpaid taxes and duties, as well as those based on payments legally made by the Mexican Government for the account of the said companies.

The Mexican Government will assume liability for all private claims which may be instituted after

¹⁴These provisions may be found in both "Expropriation of Petroleum Properties", Executive Agreement Series 234, (Washington, 1942), and Harlow Person, Mexican Oil: Symbol of Recent Trends in International Relations, pp. 77-80.

this date by private individuals against these companies as a result of expropriation, but not for the private claims against these companies now pending before the Mexican courts.

4. Recommendation is hereby made that the amount determined be paid as follows: One-third on July 1, 1942, and the balance in five (5) equal annual installments, payable on July 1 of each subsequent year.

5. All balances as shown to be due these said claimants on the several dates prescribed shall bear interest at the rate of 3% per year dating from March 18, 1938.¹⁵

The \$23,995,991 indemnity was to be paid as follows:

Standard Oil of New Jersey group \$18,391,641:

1. Huasteca Petroleum Company;
2. Mexican Petroleum Company;
3. Tuxpan Petroleum Company;
4. Pamiagua Petroleum Company;
5. Compania Petrolera Ulises S.A.;
6. Compania Transcontinental de Petroleo S.A.;
7. Compania Petrolera Minerva S.A.

Standard Oil of California group, \$3,589,158:

1. California Standard Oil Company of Mexico, S.A.;
2. Richmond Petroleum Company.

Consolidated Oil Company, \$630,151:

1. Consolidated Oil Company of Mexico S.A.;
2. Compania Franco Espanola S.A.;
3. Compania Petrolera Aldamas y Brava S.A.

¹⁵Harlow Person, Mexican Oil: A Symbol of Recent Trends in International Relations, pp. 82-83.

Sabalo group, \$897,671:

1. Sabalo Transportation Company;
2. Compania Petrolera "Claripa" S.A.;
3. Compania Petrolera Cacalilao S.A.

Seaboard group, \$487,370:

1. International Petroleum Company;
2. Compania Internacional de petroleo y Oleo Ductos S.A.¹⁶

The American companies were not required to accept this decision but it was made clear that the United States Government considered its obligation to the companies fulfilled. Approximately a year later the manner and conditions of payment by Mexico to the companies was announced.¹⁷ The first payment under this agreement was made for the sum of \$3,796,301.04 on September 30, 1943. At the same time the \$9,000,000 in cash deposited on November 19, 1941, was officially turned over to the

¹⁶Ibid., pp. 81-82. At this time, the Cities Service Company made a separate settlement with the Mexican Government in which they agreed to accept \$1,100,000 for their properties in Mexico.

On March 1, 1947, the Mexican Government announced the purchase of the following four Cities Service Company subsidiaries: Mexico-Texas Petroleum and Asphalt Company; Sabino Gordo Petroleum Company; the Mexican Eastern Oil Company; and the Compania de Terrenos Petroliferos Imperio.

¹⁷Henry Ozanne, U. S. Foreign Oil Policy ("World Oil Series II"; New York, 1945), p. 11. In addition to the \$23,995,991 indemnity, \$5,141,709.84 interest was also due.

United States Government. The remainder of the settlement was to be made in four annual payments.

The United States was now deeply engrossed in the fighting of World War II and the companies realized that any further pleas to their government would be useless. Hemisphere solidarity and hemisphere production for fulfilling the demands of war, including oil production, had become key notes in our foreign policy. Though the companies felt their Mexican properties were being sacrificed for the sake of the war effort, they knew this situation was too big to fight. On October 1, 1943, Standard Oil Company of New Jersey announced its acceptance of the terms agreed upon for settlement by the two countries. This ended organized resistance to the settlement, by the American companies, of the expropriated oil properties dispute. Mexico found money sufficiently plentiful during the war to meet her installment payments and on September 30, 1947, paid \$4,085,327.45, the last of her obligation to the American oil companies.¹⁸

¹⁸On February 7, 1946, an agreement was reached between the Mexican, British and Dutch Governments for negotiating a settlement of the expropriated oil properties of British and Dutch citizens. On September 1, 1948, President Aleman was able to announce that this dispute also had been settled. The British and Dutch citizens were to receive an indemnity payment of about \$81,250,000 to be paid in fifteen years. With interest dating back to March 18, 1938, the total payment would be about \$130,329,000. The first payment of \$8,589,000 was made on September 18, 1948.

Chapter VI

CONCLUSION

A good investment not only is productive but it contributes to the economic strength of the nation where the investment is made. And good investments benefit not only the direct participants but also the many others who are served. ...

We know, for example, that when different people cooperate to develop an enterprise, it should be run so as to help build up the domestic economy of the country where it is located. Nationals of the country concerned should have an opportunity to be trained and employed at fair rates of pay in progressively more responsible assignments. The products turned out by the business should be sold at reasonable prices. They should be available for use in the country where they are produced as well as for export. ...

Both the country whose resources are developed or employed and the investor who gives them economic value should share fairly any revenues resulting from development within the country. ... With respect to development of a nation's resources of oil in the ground, a practical goal --- amounting to an equal division of benefits between the nation and the investors --- seems to be evolving. We think such a goal in these cases is a reasonable one.¹

These are excerpts from a speech made by Frank W. Abrams, chairman of the board of the Standard Oil Company of New Jersey. Does this indicate that our American oil companies have completely changed their policy for investments in other countries? The answer would have to be, "Not entirely". In the same speech Mr. Abrams says, "to employ effectively our skill and facilities, we need managerial control of our business."² Also, he stressed

¹Frank W. Abrams, "Creative Investment Abroad", The Lamp, (November, 1951), pp. 2-3.

²Ibid., pp. 2-3.

that "we should be able to rely on an honest respect for our title to property we have acquired or which has been produced by our talents and labor."³

While such a willingness to share revenues equally might have postponed expropriation of the companies in Mexico, we realize the stress laid on title to property and company management would not be accepted. It does appear that our oil companies learned more from their Mexican lesson than did the British companies and government.

The fact still remains that on March 18, 1938, the property of at least seventeen foreign-owned oil companies were expropriated by the Mexican Government. The companies irretrievably lost their possessions in Mexico with the exception of a few minor undeveloped holdings. They were indemnified in money by a sum 1/8 to 1/6 the amount that they had asked for.⁴ The action of many of the earlier foreign oil companies in Mexico was foolish and high-handed; they did not give the owners of lands which they leased a proper return in the form of royalties or rental fees.⁵ The companies' defiance or non-compliance with Mexican laws and court decisions increased the nationalistic spirit of the Mexicans and made their expropriation seem a necessity.

³Ibid., pp. 2-3.

⁴"Mexican Press Hails Report on Oil Issues", New York Times, (April 20, 1942), p. 9.

⁵Government of Mexico, Mexico's Oil, p. 78, shows the wide discrepancy between the price paid for leased oil lands in the United States and lands in Mexico.

The Mexican Government's action during this period was likewise not above criticism. Mexico does not inspire confidence in her continued honoring of a contract which according to Mr. Abrams is "essential in any international investment."⁶ In this matter she has somewhat redeemed herself by scrupulously fulfilling the terms for her indemnification of the foreign oil companies. Mexico's strong backing of labors' fantastic demands on the companies when she knew the companies were incapable of meeting these demands was foolish. This was admitted by the Mexican Government after expropriation had taken place and demonstrated when Mexico as administrator of these properties failed to carry out all of the provisions of the Labor Board's Award. No effort was made before expropriation to establish a fund for the eventual indemnification of the companies.

The expropriation of 1938 was not necessary except on the grounds of politics. It is entirely possible that Cardenas realized that his idea on nationalization would have to be carried out during his term of office due to a rightward trend within Mexico. Still expropriation of the oil industry was not necessary for three reasons. First of all, the Constitution of 1917 stressed the nation's ownership of subsoil deposits, which meant that all future

⁶ "Creative Investment Abroad", The Lamp, p. 3.

concessions would be granted on terms formulated by the government; therefore, as existing companies oil reserves became exhausted they would be squeezed out. Secondly, the government was in active competition in the oil industry through its steadily expanding Petroleos de Mexico, which was expanding through new drilling of wells on public lands in proven fields and through acquisition of the cancelled concessions of other oil companies. Lastly, through its powers of price fixing and taxation, a larger proportion of the companies earning could have been secured and the companies position made precarious.

Expropriation in Mexico climaxed a trend. This trend is not a peculiarity of Mexico but is almost world-wide in its scope and is a possibility in any area of the world that has not had the technical ability and capital to develop its own national resources. A foreign investor must realize that beginning a new industry in another country, particularly one involving natural resources, is like raising one's own child. When a child reaches a certain age, he will still respect his parents but he is anxious to demonstrate his own capabilities and assert his independence. Likewise, after firmly establishing a new industry in a foreign country, the nationals of this country are going to want to keep more and more of the profit from their expendable resource within their own country. They will feel technically capable of running

this industry and anxious to possess it. If the government has planned wisely the companies' concession will expire about this time and the rights to this national resource will revert to the nation. If this growing nationalistic feel had not been taken into consideration, expropriation is likely. This is true because the United States and Canada practically stand alone in recognizing the surface landowner as the owner of the subsoil.

On August 25, 1951, International Petroleum Company's (a Standard Oil Company of New Jersey affiliate) contracts on the 2,000 square mile De Mares oil concession in Colombia expired. Without a fight, the property and installations were turned back to the government. No compensation was paid by the government and in addition, according to a previous agreement, the International Petroleum Company was to provide refinery technicians under a five year contract and handle the distribution and sale of the oil from these fields for ten years.

Thus the company got a portion of the profits for at least ten years and had left the scene without arousing a bitter enmity.⁷

This seems to me a fair way to solve a complex problem. If the equal sharing of profits, as is now the trend, takes place immediately, an even longer contract period may be possible.

⁷"Colombia: Good Deal", Time, (September 3, 1951), p. 45

APPENDIX A

1917 CONSTITUTION OF MEXICO¹

ART. 14. No law shall be given retroactive effect to the prejudice of any person.

No person may be deprived of life, liberty, or his property, possessions, or right except by means of a direct judgment before previously established tribunals, in which the essential formalities of procedure are complied with, and in conformity with laws enacted previous to the commission of the act.

In cases of a criminal nature, it is forbidden to impose, either because of simple analogy or by a priori evidence, any punishment that is not decreed by a law exactly applicable to the crime involved.

In cases of a civil nature, the final sentence must be according to the letter or the judicial interpretation of the law, and in the absence of the latter, it shall be founded on the general principles of the law.

ART. 27. Ownership of the lands and waters included within the boundaries of the national territory belongs originally to the Nation, which had held and still holds the right to transfer ownership of them to private persons, thereby constituting private property.

Expropriations may be effected only for reasons of public utility and by means of indemnification.

The Nation shall at all times have the right to impose on private property the measures that the public interest dictates, as well as that of regulating the exploitation of natural resources susceptible of use, in order to insure an equitable distribution of public wealth and to guard its conservation. ...

The Nation has direct ownership of all minerals or substances which, wither in veins, lodes, masses, or beads, constitute deposits the nature of which may be distinct from the components of the earth, such as ores from which are extracted metals and metaloids used in industry; beds of precious stones, rock salt, and the salt pans formed directly by seawater; all products derived from the decomposition of rocks when their exploitation necessitates underground labor; all mineral or organic deposits of materials susceptible of being used as fertilizers; all solid mineral combustibles; petroleum and all solid, liquid, or gaseous hydrocarbons. ...

In cases referred to in the two preceding paragraphs, the authority of the Nation is inalienable and imprescriptible, and concessions may be made only by the federal Government to private individuals or civil or commercial companies constituted in accordance with Mexican laws, with the

condition that they establish regular work for the exploitation of the materials involved and comply with the requirements of the law. With regard to petroleum and solid, liquid, or gaseous hydrocarbons, no concession may be granted, and the respective regulatory law will determine the form in which the Nation may carry into effect the exploitation of these products.

The capacity to acquire ownership of lands and waters of the Nation shall be subject to the following regulations:

1st. Only Mexicans by birth or by naturalization or Mexican companies have the right to acquire ownership of lands, waters, and their appurtenances or to obtain concessions for the exploitation of mines, waters, or combustible minerals in the Mexican Republic. The State may concede the same right to aliens provided they agree before the Ministry of Foreign Relations to consider themselves as nationals with respect to said properties and not to invoke the protection of their Governments in reference to same; should they fail to respect the agreement they shall be penalized by losing to the benefit of the Nation the properties they may have acquired. ...

4th. Commercial corporations may not, by buying shares, acquire, possess, or administer rural properties. Corporations of this kind, that may be constituted for the exploitation of any manufacturing, mining, or petroleum industry, or for any other purpose that is not agricultural, may acquire, possess, or administer lands only to the extent that may be strictly necessary for the establishment or service of the indicated objects and which the Executive of the Union or those of the States shall determine in each case. ...

The laws of the Federation and of the States in their respective jurisdictions shall determine the cases where the occupation of private property may be of public utility, and, in accordance with said laws, the administrative authority shall make the necessary declaration. The price that shall be fixed as indemnification for the property expropriated shall be based on its assessed value as recorded in the offices of the census or tax collectors, whether this value may have been declared by the owner or simply accepted by him in a tacit manner by having taxes on this basis. The increase or decrease in value to which the private property may have been subject by reason of improvements or deterioration, occurring after the date of the fiscal evaluation, shall be the only grounds for an appraisal and for a judicial decision. This same course shall be followed when it concerns objects, the value of which is not determined by the revenue office.

Exercise of the rights that belong to the Nation, by virtue of the provisions of the present article, shall be made effective through judicial proceedings; but in

accordance with these proceedings and an order that shall be issued by the proper tribunals within the maximum term of one month, the administrative authorities shall proceed immediately to the occupation, administration, auction, or sale of the lands or waters involved and all their appurtenances, without it being possible in any case to revoke the action of the same authorities before the executory decision has been rendered. ...

18th. All contracts and concessions made by previous Governments from the year 1876 and resulting, in consequence in the monopoly of lands, waters, and the natural wealth of the Nation by a single person or company are declared subject to revision and the Executive of the Union is empowered to declare them null when seriously prejudicial to the public interest.

¹Russell H. Fitzgibbon, (Editor-in-Chief), The Constitutions of the Americas, (Article 14), p. 501, and (Article 27), pp. 505-512. Mr. Fitzgibbon and his associates, Cullen B. Gosnell, William A. Stozier, and William B. Stubbs together with the assistance from University of California at Los Angeles' language department are responsible for translating the originals into English.

APPENDIX B

SEVENTEEN EXPROPRIATED COMPANIES¹

Compania Mexicana de Petroleo "El Aguila," S.A., (Mexican Eagle Company).

Compania Petrolera Agui, S.A.

Compania Naviera "San Cristobal," S.A.

Compania Naviera "San Ricardo," S.S.

Compania Naviera "San Antonio," S.A.

Compania de Gas y Combustible "Imperio".

Huasteca Petroleum Company, (Standard Oil of New Jersey).

California Standard Oil Company of Mexico.

Richmond Petroleum Company of Mexico.

Mexican-Sinclair Petroleum Corporation.

Pierce Oil Company, S.A.

Consolidated Oil Company of Mexico, S.A.

Penn Mex Fuel Oil Company, (Cities Service Companies affiliate).

Stanford and Company.

Explotadora de Petroleo "La Imperial," S.S.

Petroleos de Mexicana, S.A.

Sabalo Transportation Company.

¹Government of Mexico, Mexico's Oil, p. 3.

APPENDIX C

1937 PRODUCTION OF MEXICAN OIL BY COMPANIES¹

Company	(42 Gal.) Barrels Produced	Per Cent of Total
Royal Dutch Shell	28,320,911	60.3772
Standard Oil of New Jersey	6,556,056	13.9768
Standard Oil Company of New York	161,507	0.3443
Standard Oil Company of California	1,109	0.0024
Cities Service of New York	2,338,532	4.9856
Continental Oil Company	255,588	0.5449
Consolidated Oil Corp. of New York	3,321,489	7.0808
Gulf Oil Corp. of Pennsylvania	22,688	0.0484
Texas Company	198,856	0.4239
The Ohio Oil Company	1,716	0.0037
General Petroleum of California	4,605	0.0098
International Petroleum Company of New York	12,575	0.0268
Seaboard Oil Company of Delaware	1,329,913	2.8352
Kern River Oil Fields of California	81,300	0.1733
South Penn Oil Company	677,801	1.4450
American Foreign Oil	9,138	0.0195
Independents (including the Federal Government)	1,919,058	4.0914
Total	46,906,650	100.0000

¹Government of Mexico, Mexico's Oil, p. 84, footnote #90.

BIBLIOGRAPHICAL NOTE

I. Bibliographical

While the majority of references were found in footnotes and the library files, J. J. Berliner's yearly, Bibliography of Latin America was of great value. For verifying dates and events good use was made of the New York Times Index. The Reader's Guide to Periodical Literature was used for material available in magazine articles.

II. Primary Source Material

1. Public Documents.

Due to their reproduction elsewhere extensive use was not made of original public documents. Those employed included R. H. Fitzgibbon, ed., The Constitutions of the Americas, Chicago, (1948); Roosevelt's Foreign Policy 1933-1941: Franklin D. Roosevelt's unedited Speeches and Messages, New York (1942); State Department, Proceedings of the United States - Mexican Commission Convened in Mexico City, May 14, 1923, Washington (1925); and State Department "Expropriation of Petroleum Properties," Executive Agreement Series 234, Washington (1942); and State Department, "Compensation for Expropriated Lands," Executive Agreement Series 158, Washington (1939).

2. Publications of the Companies and the Mexican Government.

The major attempt of the Mexican Government to present the facts of the oil expropriation in the English language is Mexico's Oil, Mexico City (1940). This book is essential to any study of this expropriation but lacks continuity in the grouping of its tables and charts. Less valuable is another government publication, The True Facts About the Expropriation of the Oil Companies' Properties in Mexico, Mexico City (1940) which refutes the points made by Standard Oil Company of New Jersey, Denials of Justice, New York (1940). The following Standard Oil Company of New Jersey publications were used to learn the companies' case as presented to the American public: Present Status of the Mexican Oil Expropriations, 1940, New York (1940); and They Took What They Wanted, New York (1939).

3. Memoirs, Autobiographies and Other Materials.

The autobiography of Josephus Daniels, Shirt-Sleeve Diplomat, Chapel Hill (1947), is valuable for the background of our State Department's activities. This book as well as Betty Kirk, Covering the Mexican Front: The Battle of Europe Versus America, Norman, Oklahoma (1942) tends to treat expropriation sympathetically. Besides Kirk, Frank L. Kluckhohn, The Mexican Challenge, New York (1939), and Virginia Frewett, Reportage on Mexico, New York (1941), are reporters on the scene but all portions of these books

cannot be accepted without checking against other sources. Though also on the scene as an employee for the Royal Dutch Shell, (Mexican Eagle Company) R. H. K. Maret, An Eye-Witness of Mexico, London (1939) his ability to observe was limited to his own locality. He gives a good description of the results of the strike and the departure of the English employees which undoubtedly is similar to the experience of the American companies. Donald Richberg, The Mexican Oil Seizure, New York (1940), a Standard Oil Publication, is the best account of the private negotiations with the Mexican Government.

III. Secondary Sources

1. Books

J. F. Bannon - P. J. Dunne, Latin America an Historical Survey, Milwaukee (1950) was of little value except to illustrate a recent text book treatment of the subject. Frederick S. Dunn, The Diplomatic Protection of Americans in Mexico, New York (1933), and Ernest Gruening, Mexico and its Heritage, New York (1928), were used primarily as background material. Leonard M. Fanning, American Oil Operations Abroad, New York (1947), and Henry Ozanne, U. S. Foreign Oil Policy, "World Oil Series Vol. II," New York (1945), provided an overall view of American foreign oil operations, difficulties met, and possible government policy for the future but did not prove too valuable. Roscoe B. Gaither, Expropriation in Mexico: The Facts and

the Law, New York (1940), and J. L. Kunz, The Mexican Expropriations, New York (1940), deal with this expropriation (Kunz stresses more the agrarian expropriations) from the viewpoint of international law. Burt M. McConnell, Mexico at the Bar of Public Opinion, New York (1939), though subsidized by Standard Oil Company of New Jersey this book is valuable in showing the apparent widespread United States press reaction against expropriation. This book is less effective because of the editor's omission of date lines. Harlow S. Person, Mexican Oil: Symbol of Recent Trends in International Relations, New York (1942) is a good treatment of this topic. A strong pro-Cardenas and pro-expropriation book is Nathaniel and Sylvia Weyl, The Reconquest of Mexico: The Years of Lazaro Cardenas, London and New York (1942). Though not listed in the footnotes, one of the best backgrounds on this topic can be found in the set of New International Year Book, New York (1931-51). New York World Telegram's, World Almanac and Book of Facts was useful for production data. (1925, 1938, 1945, 1952)

2. Periodicals

Only limited use was made of magazine and newspaper articles because of the abundance of other materials. The titles of the following articles are illustrative of their contents: "Mexican Oil Trump?", Business Week, (March 9, 1940); George Creel, "Can We Prevent Chaos in Mexico?", Collier's, (July 23, 1938); "Colombia: Good Deal," Time

(September 3, 1951); Frank W. Abrams, "Creative Investment Abroad," The Lamp, (November 1951); Frank Kluckhohn, "Oil Concerns Lose in Mexican Court," New York Times, (March 2, 1938); and "Mexican Press Hails Report on Oil Issues," New York Times, (April 20, 1942).

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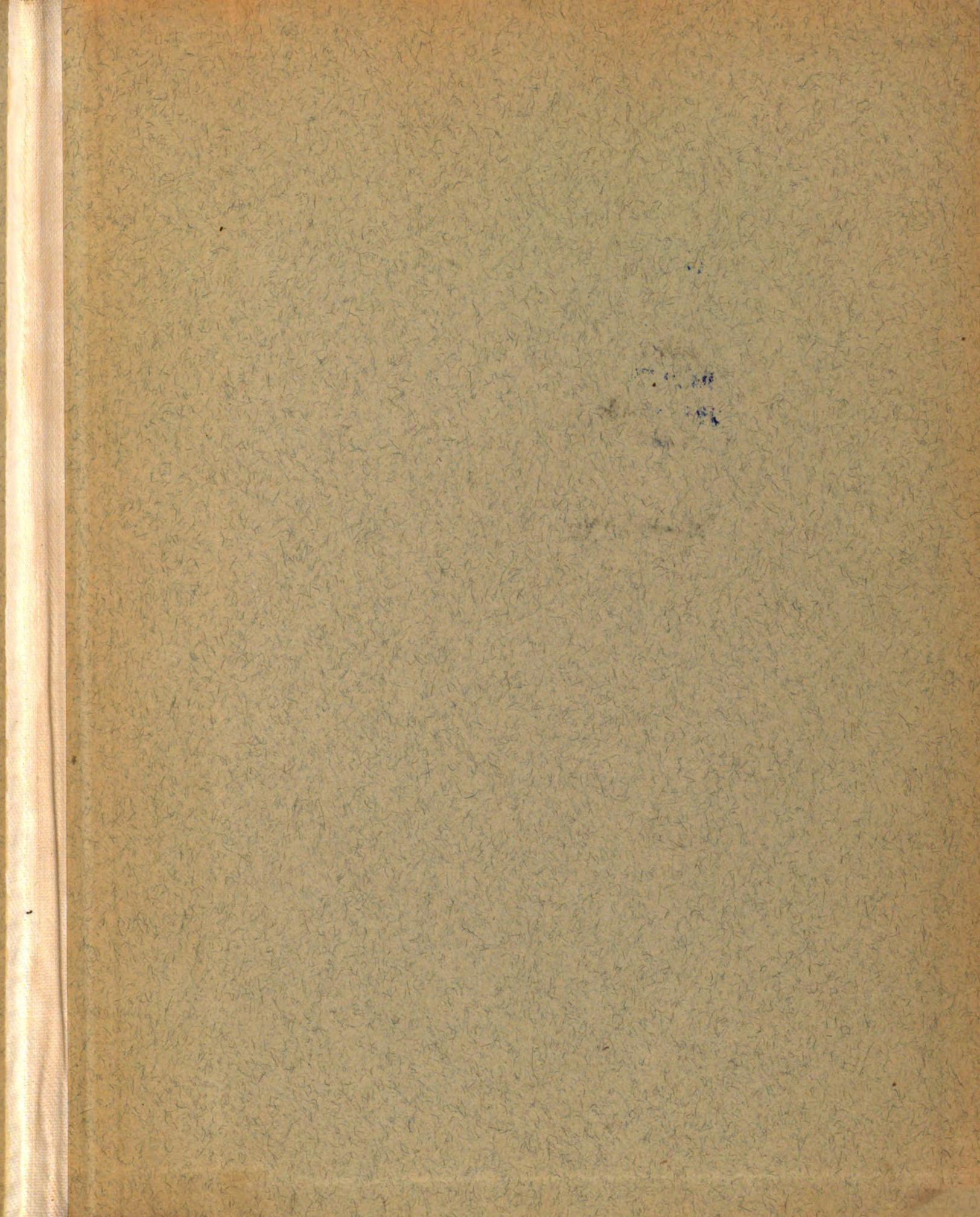
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