

THE MEXICAN-AMERICAN OIL CONTROVERSY OF 1925-1927 AND THE
ROLE OF THE STATE DEPARTMENT IN SEEKING TO DEFEAT MEXICAN LAW

by

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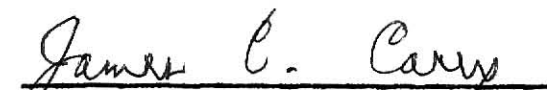
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CHAPTER 1

The highly nationalistic 20th Century Mexican Revolution posed a direct challenge to the enviable position enjoyed by United States and other foreign petroleum interests in Mexico. In the mid-1920's the Mexican Government reinvigorated this challenge, incipient since the promulgation of the Revolutionary Constitution of 1917, by legislation designed to restore Mexico to the Mexicans. This renewed revolutionary nationalism was opposed by the State Department and the oil companies as an attack on legitimate vested American interests in Mexico, and during the period 1925 to 1927, relations between the two countries deteriorated significantly. The controversy over petroleum was further exacerbated by State Department allegations that Mexico actively supported a leftist rebellion in Nicaragua inimicable to United States interests. Finally, private individuals and religious groups in the United States protested the harsh treatment the Mexican Government was according the Catholic Church.¹

By late 1926 and early 1927 Mexican-United States relations had become so strained that the New York Times commented on the likelihood of a diplomatic break. Several Senators even expressed apprehension that the United States would intervene militarily in Mexico. Congressional concern over intervention was so strong in fact that on January 25, 1927 the Senate unanimously passed the Robinson Resolution calling for arbitration of all disputes with Mexico which could not be solved by diplomacy. Hearings were held in both houses of Congress on

the state of Mexican-United States relations, and a subcommittee of the Senate Committee on Foreign Relations considered a resolution to enjoin the President from using or massing troops against Mexico without Congressional approval.²

Although there were, therefore, a number of causes contributing to the controversy of 1925-1927, at heart of the dispute and the principal subject of the diplomatic exchanges was the retroactive application of article twenty-seven of the Constitution. This article restored the ownership of the subsoil to the Mexican nation and drastically limited the right of foreigners to own land in Mexico. The American investors most affected by this legislation and best able to oppose its implementation were the oil companies who had acquired large tracts of Mexican land prior to 1917. The legislation which implemented article twenty-seven required the oil companies with pre-constitutional land holdings to apply for fifty year confirmatory concessions by December 31, 1926.

The conflict reached its height in late 1926 when the major oil producers defied Mexican law and refused to apply for or accept the confirmatory concessions. The oil companies and the State Department alleged that under pre-constitutional law acquisition of surface land included the subsoil, and that Mexico's attempt to deprive the oil companies of this ownership in exchange for a concession was a retroactive and confiscatory application of article twenty-seven. The United States took no overt action such as intervention, withdrawal of diplomatic relations, or lifting of the arms embargo, but sent Dwight Morrow as ambassador to Mexico. Morrow achieved almost immediate success in

"calming the waters" and normalizing relations between Mexico and the United States. Apparently under the guidance of President Plutarco Elías Calles, the Supreme Court of Mexico voided the retroactive articles of Mexican law. Furthermore, the Mexican Government agreed to respect oil holdings acquired prior to the Constitution.³

Historians have varied widely in interpreting this controversy and its resolution under Dwight Morrow. The eminent historian Samuel Flagg Bemis has examined United States action in the conflict in the context of previous confrontations between the two countries. Noting the previous use of such coercive acts as the landing at Veracruz and the Pershing expedition he concentrates attention on the elimination of military intervention as a tool in the conflict. Bemis argues that during the controversy the United States renounced intervention and took an important step in the elimination of imperialism in its relations with Latin America. In contrast J. Fred Rippey argues that the United States championed American investment in Mexico at the expense of Mexican-United States relations and moved toward economic imperialism in Mexico. Finally Alexander DeConde and Peter Calvert place emphasis on the skillful and deferent diplomacy of Dwight Morrow as a harbinger of the Good Neighbor policy.⁴

Within recent years historians have provided new interpretations of the conflict. Both L. Ethan Ellis and Robert Freeman Smith thus see in the controversy a move by the State Department to be more flexible and pragmatic in pursuing its diplomatic goals. Smith stresses State Department awareness of a complex of economic interests in Mexico not restricted to petroleum as a factor in the solution. He also emphasizes

a shift of political power within the Mexican ruling party to a group which favored cooperation with foreign capital to foster economic development. The modus vivendi reached by Calles and Morrow concerning petroleum reflected the desire of this group to return Mexico as a member in good standing to the debtor-creditor world order.⁵

Smith's interpretation of the conflict emphasizes economic considerations and the protection of private American investment in State Department policy and resembles the view of William Appleman Williams. In a seminal article in 1957 Williams discusses United States support for the expansion and protection of private American economic interests in Latin America during the 1920's. He regards this support as a cornerstone of the American Foreign Policy of the period. He argues that the petroleum settlement with Mexico was facilitated by United States recognition of the essentially conservative nature of the Calles regime. By omission, however, he deemphasizes any State Department involvement in bringing economic or diplomatic pressure to bear on Mexico to seek a solution to the controversy even at the expense of the petroleum legislation.⁶

Williams' omission, however, is not unique. While both Smith and Ellis acknowledge determined State Department opposition to the petroleum legislation, they stress the growth of moderation, the rejection of intervention and other overt acts and Department recognition of the efficacy of a flexible pragmatic approach. Essentially, their (Smith and Ellis) focus of attention is on the pacific outcome of the controversy under Morrow, and on the forces and factors which dictated State Department moderation enabling this solution. Other aspects of

State Department involvement in the conflict are suggested by the Department's records, however, and a complete understanding of the State Department role must have as its basis a knowledge of the background to the controversy.

State Department concern with the possibility that article twenty-seven would be applied retroactively and in a confiscatory manner extended as far back as the drafting of the Constitution. Both J. Fred Rippy and Robert Freeman Smith have devoted attention to the early development of State Department and oil company opposition to article twenty-seven, and to the specific issues which served to engender that opposition. Both have examined the divisions within the Wilson administration concerning the appropriate tactics and the approach adopted to counter this perceived threat. While conceding that Woodrow Wilson played an important role in thwarting the more aggressive, interventionist forces, both within and without the government, they also acknowledged the administration's opposition to Mexican attacks on vested American interests in that country.⁷

The administration's response to article twenty-seven was important for it established the basic position which the State Department later assumed with respect to its implementing legislation. The Department opposed any attempt to apply article twenty-seven to Americans who had acquired property prior to May 1, 1917. It concentrated particular attention on any attempt to separate ownership of the subsoil from the surface, asserting that such efforts to impair land ownership would be confiscatory and in violation of international law. The Department position rested on pre-revolutionary law and specifically on the mining

codes of 1884, 1892 and 1909. These codes reversed old Spanish law and granted the subsoil to the owner of the surface, reflecting the desire of the dictator Porfirio Díaz (1876-1911) to develop Mexico with foreign capital. The State Department consistently denied, on principle, the right of revolutionary Mexico to limit or destroy land ownership as acquired before the 1917 Constitution. This opposition was maintained throughout the controversy up to 1927 and provided a basis of consistency and agreement between the State Department and the foreign oil companies operating in Mexico.⁸

In the period immediately subsequent to the promulgation of the Constitution close cooperation and coordination was initiated between the various foreign oil companies, and between the American producers and the State Department. Indeed the threat was perceived to be so great that the British, Dutch and American oil companies overcame the competitive posture which had previously characterized their relationship in Mexico. Furthermore, American oil representatives were well received at the State Department where their views were solicited and generally agreed with by Department officials. The various oil companies and the State Department formed a united front which proved effective in defeating Mexico's attempts to implement article twenty-seven. In the early stages of the controversy, as well as in 1925-1927, the oil men and the Department displayed an appreciation of the value of an orchestrated united front.⁹

One of the most interesting episodes of the early post-constitutional controversy involved the Carranza decree of February 19, 1918. It imposed new taxes and royalties on pre-constitutional oil lands and

required the oil companies to register these lands by a prescribed date. Failure of the oil companies to register their pre-constitutional lands, according to the decree, would free the subsoil from any subsequent claim of pre-constitutional private ownership. The decree seemed to limit however, the types of lands which were eligible to be registered in the first place, and was viewed with alarm by the oil companies and the State Department. The decree further established procedures by which third parties could apply for and receive concessions to exploit the subsoil of any privately owned land not so registered. Essentially the Mexican Government was attempting to limit and define those oil holdings with a pre-constitutional claim to subsoil ownership. Although at this time Mexico was apparently willing to accept the validity of private subsoil ownership on exploited oil lands, it was unwilling to accede that all surface land held by the oil companies included the subsoil.¹⁰

The conduct and issues of this mini-crisis of 1918 resembled in many ways that of 1926, and was a factor in shaping the type of resistance adopted by the oil companies in that later crisis. As in the crisis of 1918, the penalty for not applying for the confirmatory concessions in 1926 was loss of claim to the subsoil and possible exploitation by third parties. In close coordination with oil companies, the State Department protested against the Carranza decree claiming it was confiscatory and amounted to an attempt to apply article twenty-seven retroactively.¹¹

The oil producers in Mexico used every opportunity to impress on the Mexican Government and the State Department the unacceptability

of the Carranza decree. Represented by James R. Garfield and Nelson O. Rhoades they met with President Carranza and members of his cabinet to protest the decree. In addition, they consulted with State Department officials and provided detailed memoranda explaining their position and enlisting their support. They argued that the tax was confiscatory and financially burdensome, that the decree sought to limit the pre-constitutional land holders ownership of the subsoil and that registering their lands would involve an acceptance of article twenty-seven. Article 14 of the February 19 decree established the registration requirement, and stipulated that the lease or sales contract would be examined at the time of registration for clauses identifying the land as oil land. It was this critical clause that initiated the attempt by Mexico to separate oil lands from all other pre-constitutional land acquisitions, and began the controversy over "positive acts."⁺ Unwilling to concede this point, the oil companies asserted that a pre-constitutional purchase or lease of surface land automatically included the subsoil and required no stipulation.¹²

Although the crisis of 1918 also involved the issue of taxation, the central issue was that of respect for pre-constitutional land holdings and ownership of the subsoil. In late 1918 the State Department in a note to Mexico reviewed the controversy over the decree of February 19, remarking,

⁺ The United States and Mexico would debate throughout the period 1918-1927 what constituted adequate positive acts to "tag" lands as oil lands, and thus support a pre-constitutional claim of subsoil ownership.

As a matter of fact, the immensely important feature of the decree is the attempt made therein to carry out the provision of Article 27 of the Constitution for the confiscation of the petroleum-bearing subsoil, and this was thoroughly brought out by the Embassy's note of April 2, 1918, in which it was said, with reference to the taxation feature of the decree, that the...United States reserved opinion on the question as to whether such taxation was confiscatory in effect.¹³

In the face of strong oil company and State Department opposition Mexico extended the deadline for registration to 31 July, then 1 August and finally 15 August. Oil company representatives, such as Harold Walker of the Doheny interests, pressed for State Department recognition of the oil companies' quandry. They stressed that failure to register their oil lands could result in loss of the subsoil to third parties, while registration would signify their acceptance of article twenty-seven. They were faced with a situation entirely analogous to the later December 31, 1926 crisis and they responded in the same way. Calling for firm State Department support they decided to stand united against the decree. In a joint telegram to the State Department they stated their position.

It is our unanimous opinion that the filing of the reports will constitute an acquiescence in the confiscation of our property and that the only pretense of claim which this decree would give us is a mere license based solely on an illegal decree of Carranza and terminable at the will of an utterly irresponsible government. It is our further opinion that the same usurpatory power which Carranza exercises to confer such license can at any time be exercised to destroy it. Considering the matter from the viewpoint of our own interests it is our opinion that it would be folly to file these reports and thereby surrender our titles, lawfully acquired, in exchange for so precarious a mining license.¹⁴

At the direction of the State Department Ambassador Fletcher met with President Carranza on August 13 to inform him of the "...grave apprehension which my Government entertains as to the possible

effect of these various decrees upon the vested rights of American citizens in oil properties in Mexico; and to the necessity which may arise to impel the United States to protect the property of its citizens in Mexico, divested or injuriously affected by the said decrees."¹⁵ On the next day Mexico issued an amending decree which denied third parties the opportunity to gain concessions on exploited or surveyed land acquired before the Constitution, and which had not been registered.¹⁶

The crisis of 1918 had important bearing on the later controversy over the retroactive application of article twenty-seven. Close State Department oil company cooperation was forged during this period as American and other foreign oil producers banded together to present a united front, and the State Department committed itself to a policy of opposition to Mexican attempts to implement its own Constitution at the expense of vested American interests. Although the success achieved by the oil companies and the State Department proved only temporary, it bolstered the concept of the united front with implications for the conflict of 1925-1927. As Mexico began to retreat from the decree of 19 February, Ambassador Fletcher reported to the Secretary of State. "Mr. Garfield reports that he is very much encouraged by the trend of affairs and believes that as a consequence of the united front presented by the oil industry and of our own protest of April 2 last, the Mexican Government will eventually delete the objectionable features from the said decree." The Ambassador's own estimate that the decree of 14 August would lead to the resolution of the subsoil conflict proved overly optimistic. Mexican revolutionary nationalism reinvigorated the

controversy again in 1919 and 1920 and continued to color and disrupt Mexican-United States relations.¹⁷

In 1920 General Alvaro Obregón overthrew President Carranza. The United States used this opportunity to press its demands in Mexico. The Republican Party returned to power in the same year, and formulated a Latin American policy committed to the expansion and protection of American economic interests, and to supporting stable governments which respected the lives and property of foreigners. State Department policy toward Mexico was guided by the recommendations of the Fall Committee which met during 1919 and early 1920. Senator Albert B. Fall chaired this subcommittee of the Senate Committee on Foreign Relations and sought by hostile testimony to build a case against Mexico for severing relations or even intervention. When President Carranza was overthrown Fall's committee used this opportunity to report its findings and make detailed recommendations for United States policy toward Mexico. Prominent among these was that the United States should not recognize its new government until it agreed by treaty to respect pre-constitutional land ownership. Other recommendations were included for pre-recognition action, including establishing some apparatus for adjudicating private claims between the two countries. Strong sentiment concerning Mexican revolutionary activism was not restricted to the Fall Committee however. Both the Republican and Democratic party platform of 1920 called for a pre-recognition agreement with Mexico concerning vested American interests and claims.¹⁸

Secretary of State Charles Evans Hughes, who was firmly committed to this non-recognition policy, called for the Obregón Government to

provide the requested assurances in a treaty of amity and commerce. Mexico refused but demonstrated a growing willingness under Obregón to normalize relations between the two countries. After the LaMont-De La Huerta Agreement, in which Mexico agreed to resume service on the foreign debt, and after some diplomatic maneuvering in which the United States dropped the requirement for a treaty, the two countries appointed commissioners to discuss the issues.¹⁹

The commissioners met in the Bucareli Conference⁺ from May 14, 1923 to August 15, 1923. They produced two treaties, one establishing a Special Claims Commission to adjudicate claims arising out of the Revolution (1910-1920), and the other establishing a General Claims Commission to adjudicate all other claims arising since 1868. An agreement over article twenty-seven and the subsoil was contained in an Extra-Official Pact by which a modus vivendi was reached. Basically Mexico agreed to respect pre-constitutional ownership of the subsoil consistent with the performance of positive acts. The definition of positive acts was quite broad, was consistent with a Mexican Supreme Court decision in the Texas Case of 1921 and included "...drilling, leasing, entering into any contract relative to the subsoil, ...carrying out works of exploitation or exploration", paying a higher price for the land than just surface use would demand or in general, performing any other act manifesting an intent to exploit the subsoil. Mexico and the United States agreed that if the surface owner or lessor had

⁺ The conference received its name from the meeting place #85 Bucareli Street in Mexico City.

performed any of these positive acts prior to May 1, 1917, ownership of that subsoil would be respected.²⁰

Following the Bucareli agreement the United States recognized the Obregon Government. This twisting of the Wilsonian concept of non-recognition into an economic application was of the greatest consequence for future Mexican-United States relations. The United States had subordinated relations between the two countries to economic considerations, it had also committed itself to opposing any Mexican attempt to deprive American pre-constitutional land-holders of the subsoil. Secretary of State Frank B. Kellogg repeatedly referred to the Bucareli Agreement during the 1925-1927 controversy. He stated in the last United States note to the Mexican Government before the oil companies broke with Mexican law on December 31, 1926,

My Government has not failed to appreciate the gravity of the situation arising from the position taken by the Mexican Government with regard to the negotiations of 1923. As my previous communications to your Excellency have amply explained, the declarations of the Mexican and of the American Commissioners on that occasion, subsequently ratified by an exchange of notes between the two Governments, constituted, in the view of my Government, solemn and binding undertakings which formed the basis and moving consideration for the recognition of the Mexican Government by this Government.²¹

The unofficial agreement reached at Bucareli firmly committed the United States to oppose any Mexican attempt to separate the pre-constitutional landholder from the subsoil, and by State Department definition to the defeat of the Petroleum Law of 1925.

The controversy of 1925-1927 concerning the retroactive application of article twenty-seven will be examined in this paper with particular emphasis on petroleum lands and the ownership of the subsoil.

Despite the recognition that the State Department resisted or was restrained by domestic pressures from overt acts against Mexico (intervention, etc.) and adopted a flexible, pragmatic role to reach a pacific solution, the United States played another role in the controversy. In this role, consistent with Department principle and past involvement, the State Department sought to defeat the petroleum legislation by strong representation against it, through diplomatic contacts with third party countries, and by contributing to the construction and maintenance of the united front of defiant major oil companies.

CHAPTER 2

President Obregon chose Gen. Plutarco Elías Calles, his Revolutionary lieutenant and political protege, to replace him as President of Mexico. It was a fact that United States recognition and support gained in the rapprochement at Bucareli, helped Obregón to crush the De La Huerta rebellion of 1923 and insure the succession of his chosen candidate. Accordingly, Calles was elected President and assumed the executive office in late 1924.¹

Under Calles Mexico resumed its drive for internal economic development and the restoration of Mexico to the Mexicans. This included large investments in road construction and irrigation, establishment of firmer federal control of fiscal and monetary matters under a central bank, increased facilities for agricultural credit, expropriations of large landholdings for redistribution, and renewed effort to implement article twenty-seven. On June 12, 1925 Secretary of State Kellogg denounced Mexico in an inflammatory press statement supposedly triggered by Mexico's agricultural expropriations, the extreme demands of Mexican labor and other vexations attendant to this renewed revolutionary nationalism. Pointing out that American support to Obregón had been instrumental in suppressing the De La Huerta rebellion, Kellogg commented on recent reports of renewed rebellious activity in Mexico and declared that the United States would support the Mexican Government "...only so long as it protects American lives and American rights and complies with its international engagements and obligations. The

Government of Mexico is now on trial before the world."² Kellogg's ill considered statement was widely quoted in Mexico, where it was uniformly condemned as another example of the arrogance and domination of the Colossus to the North. The headline of El Democrata on June 16 summed up the Mexican response to this Yankee threat, "The Entire Country Backs General Calles."³

Enjoying a windfall of popular support the Mexican legislature under the leadership of Calles passed final legislation to implement article twenty-seven; this legislation took the form of two organic laws, the Petroleum Law of 1925 and the Alien Land Law of 1926. The controversy of 1925-1927 swirled around these organic laws and the deleterious effect which they had on vested American petroleum interests in Mexico. The State Department initiated a "veritable duel" of diplomatic exchanges with Mexico which began while the laws were still in draft form, and continued throughout 1926 right up until the time the major oil companies defied Mexican law on December 31 by refusing the confirmatory concessions. The effect was to create a heightening crisis in which the United States denied Mexico's right to legislate against vested American petroleum interests, while Mexico maintained her sovereign right and duty to enact whatever domestic legislation it desired. The diplomatic exchanges, which were jointly released by the two governments, demonstrated the resolve of both to maintain their respective positions and served to elicit American congressional and press criticism of State Department aggressiveness.⁴

The Alien Land Law was enacted in January of 1926 and implemented clause one of article twenty-seven by defining the conditions under which

foreigners could own land in Mexico. It restricted the right of foreigners to own land in Mexico and it established "federal zones" in which foreign ownership of land was expressly forbidden. These "federal zones" extended inland fifty kilometers from the seacoasts and one hundred kilometers from international borders as well as including the banks of navigable streams and rivers. Much of the petroleum industry in Mexico existed in Tampico along the Gulf of Mexico and within the prohibited zone. This of course contributed to the apprehension of the pre-constitutional land holding oil producers. The law required foreigners owning land in violation of the Alien Land Law to divest themselves within a prescribed time period. The law also contained a clause⁺ which required foreigners to agree not to invoke the protection of their government in respect to their property in Mexico, or face forfeiture of same.⁵

The Petroleum Law of 1925, enacted in December, implemented article twenty-seven for the purpose of regulation of petroleum exploitation. Articles fourteen and fifteen of that law defined the legal position of the oil companies with a pre-constitutional claim to surface and subsoil ownership. It stipulated that the Mexican Government would respect the pre-constitutional claim of those oil companies who had started oil work or who had declared their oil lands prior to May 1, 1917. However, it required these qualifying companies to apply for a fifty year confirmatory concession in exchange for absolute subsoil ownership. These concessions would be issued only after Mexico had

⁺ The Calvo Clause named for the 19th Century Argentine jurist Carlos Calvo

examined and verified the authenticity of the oil company title or lease, would run from the date work started or the declaration was made, and would terminate after fifty years without opportunity for extension. The law also contained a Calvo Clause as a pre-condition to issuance of concessions.⁶

The Mexican Government had been working on an organic petroleum law since at least 1922 but it had been shelved with the detente in Mexican-United States relations under Obregón. In 1922 the State Department Solicitor reviewed this earlier but similar petroleum law and opined that, "Conformity on the part of interested American citizens with the requirements of this proposed law, if enacted, would signify acquiescence on the part of the persons contracting...that...the Constitution of 1917... [has] of right vested ownership of all deposits of petroleum in the Mexican nation, and this of course is the contention which American petroleum interests and the Department have consistently controverted."⁷ In November of 1922 Secretary of State Charles Evans Hughes described the draft petroleum law as entirely inadequate and inconsistent with the type of guarantees the United States was seeking prior to the recognition of the Obregón Government. The position of the State Department remained virtually the same when the problem of a petroleum law resurfaced under Calles. It condemned both laws as a retroactive application of article twenty-seven which would have confiscatory effect on pre-constitutional oil land acquisitions.⁸

In 1925 the Secretary of State was the seventy year old Frank Billings Kellogg, a former senator and ambassador to Great Britain. President Coolidge named Kellogg to succeed Hughes in December of 1924

and his appointment was received with mixed comment in the press. Kellogg was afflicted with a tremor of head and hands, was irascible, temperamental and difficult to work with, and had acquired the nickname of "Nervous Nellie." Not of the best health, he vacillated when faced with difficult decisions, was sensitive to criticism and stood at the helm of State with an unsteady hand. The comments of Sir Esme Howard the British Ambassador to the United States provide some insight into the problems of dealing with Kellogg. Howard described a March 30, 1926 meeting with Kellogg to Sir Austen Chamberlain the British Foreign Secretary

He was unusually nervous and irritable owing probably to Tacna and Arica or some quite different question. When I repeated to him language in second paragraph of your private telegram of March 26th he burst out 'we seem already to be so unpopular in England when the Chancellor the Exchequer calls us Shylocks and attributes all Europe's economic distress to us that nothing could make things much worse'.⁹

State Department subordinates found Kellogg as difficult to deal with, and his sensitivity to criticism contributed to his vacillation over appropriate action to counter the Mexican threat.¹⁰

Any analysis of the role Kellogg and the State Department played in the controversy of 1925-1927 must start, however, with a recognition of the fact that the Department remained committed on principle to the defeat of a retroactive application of article twenty-seven at the expense of the oil companies. Historians of the conflict have tended to view Kellogg's involvement in terms of his moderation toward Mexico refusing such drastic proposals as the withdrawal of diplomatic recognition or even military intervention. He did in fact indicate early in the controversy that the withdrawal of diplomatic

recognition and the lifting of the arms embargo were under active consideration. Historians such as McKenna, Smith, and Ellis have attempted to identify the forces which restrained early State Department aggressiveness. Significant among these factors were congressional and press criticism, the opposition of Senator Borah, and recognition of the fact that the American public would not support overt acts against Mexico in defense of petroleum interests. The record indicates that Kellogg recognized lack of popular support for overt action early on in the controversy, and adopted an approach to defeat the petroleum legislation which took into account the fact that Mexico would not rescind the legislation in response to simple representation against it. His approach included the use of economic leverage, a diplomatic initiative with third party countries and the retention of James R. Sheffield as Ambassador to Mexico.¹¹

The protection of American petroleum interests in Mexico was not a cause for which wide public support could be gained in 1926. Such respected commentators as Carleton Beals and Walter Lippmann took issue with strong State Department support of the oil companies in Mexico. In addition the Teapot Dome scandal was still very much in the headlines since former Interior Secretary Fall did not come to trial until November 1926. Furthermore, in the public mind there was a strong connection between the illegal oil manipulations of the Harding Administration and United States policy toward Mexico. The connection between Secretary Fall and the Doheny oil interests was obvious as a result of the Teapot Dome scandal. The press also remembered Fall as the initial author of a policy which denied recognition to Mexico until

it had agreed to respect pre-constitutional oil rights in that country. Both the New Republic and the Christian Century criticized the State Department for supporting the oil companies in Mexico while Carleton Beals pointed out that one of the most recalcitrant of the companies was that of Edward L. Doheny. In an article entitled "Whose Property is Kellogg Protecting" Beals ascribed Doheny's resistance to faulty titles which would not stand investigation.¹²

Several novels and plays which appeared in 1926 and 1927 served also to attract public attention to the controversy. The novel Tampico described corruption, greed and fraud in Mexico orchestrated by the home offices of the major foreign oil producers in London, New York and Holland. This novel by Joseph Hergesheimer reflected popular concern with the possibility that the United States would intervene militarily in Mexico. It portrayed the foreign oil men in Mexico as seeking United States intervention in order to get article twenty-seven reversed. At the same time Samuel Hopkins Adams' novel Revelry appeared which kept the Harding scandals before the public. Finally, the play Spread Eagle appeared on Broadway in early 1927 in which war with Mexico was dramatized, fomented by American businessmen.¹³

Kellogg recognized the increasing hostility to State Department aggressiveness in behalf of the major oil producers, and counseled both State Department officials and the Ambassador to Mexico not to give specific advice to the oil companies. The most perplexing question facing the oil companies was whether to apply for the confirmatory concessions, or disregard Mexican law and risk the loss of subsoil rights to Mexico or to third parties. Under the aegis of the Association of

Producers of Petroleum in Mexico, the major oil producers constructed a united front of opposition to the confirmatory concessions and sought firm State Department commitment to their stand. Although Kellogg recognized that he could give no guarantees of assistance if Mexico attempted to confiscate the subsoil rights of defiant oil companies, he supported their stand. In instructions to Sheffield Kellogg stated,

I feel it would be poor policy for either the Department or your Embassy to advise oil companies as to their course of action. Upon becoming known that we had advised them and it is almost sure that it would become known in some way or other, the good purpose would be defeated for the Mexican Government could then announce that the companies had only taken such action under pressure from this government.¹⁴

It should be pointed out, that, in view of public criticism, Kellogg was wary of committing the State Department to the protection of the oil companies. On at least one occasion the Department felt that the oil companies had violated their promise to treat confidentially information the Department had shared with them. As a result Assistant Secretary Robert E. Olds cautioned Chester O. Swain, Counsel for Standard Oil, that this could not be tolerated and that the Department would not permit the oil companies to "stampede" them by a violation of their trust and close cooperation. Although the Department and the oil companies shared the desire to eliminate the retroactive and confiscatory petroleum legislation each used the other to a certain degree. The State Department sympathized with and contributed to a united front while disassociating itself as much as possible. The oil companies worked for as much State Department support as possible in order to press their demands in Mexico. State Department concern proved to be well founded, as charges mounted in early 1927 that the Department had actively advised the oil companies to disobey Mexican law.¹⁵

Kellogg's basic strategy to defeat the oil legislation was through diplomatic representation against it and the use of economic leverage for which a united oil company stand was essential. On April 7, 1926 Kellogg met with the British Ambassador Sir Esme Howard and discussed the situation in Mexico. Both agreed that the current methods being used to oppose Mexican law would be unproductive. Kellogg surmised that, "The only way to get the laws amended would be for pressure to be brought from within Mexico- that they found their revenues were being depleted by hostility to foreign interests."¹⁶ The key to this economic leverage lay with the oil companies and with the economic pressure they exercised through united action.

The foreign controlled oil industry in Mexico played a significant part in the finances of the country. In 1922 oil taxes contributed 20 percent of the total revenue of the Mexican Government. Oil production in Mexico had been decreasing since that year and by 1926 the percent of total revenue produced through oil taxes was reduced to eleven. The causes for the reduction in production were numerous but one of the most important was the uncertainties attendant to article twenty-seven. It was apparent to Kellogg, to Sheffield, to the oil companies, and to the Mexican Government, that further reductions in oil taxes would impose increasing hardships on Mexican finances.¹⁷

One of the ingredients in the elaboration of a united front of major oil producers, was a diplomatic initiative designed to harmonize the actions of the other foreign oil producers with American leadership. Apparently Kellogg felt that the United States had a leadership obligation in the controversy of 1925-1927 above and beyond considerations of

hemispheric leadership inherent in the Monroe Doctrine. In a personal and confidential letter to Sheffield on January 2, 1926, as the controversy began to take shape, Kellogg instructed the ambassador to determine the attitude to the Mexican legislation of the other governments through their representatives in Mexico City. In the same communication, Kellogg remarked, perhaps reflecting his recent stint as ambassador to Great Britain, on Mexico's apparent determination to "confiscate the properties." "It is doubly embarrassing to us because we were more or less instrumental in getting Great Britain to recognize Mexico, [after Bucareli] and of course her interests will be affected the same as ours."¹⁸ Kellogg had mentioned this obligation in the press statement of June 12 in which he declared Mexico on trial before the world. In reviewing relations between Mexico and the United States since the Bucareli Conference he commented "...our Ambassador has succeeded in protecting American, as well as foreign, interests." Mexico's renewed revolutionary nationalism challenged the effectiveness of this protection.¹⁹

Secretary Kellogg initiated diplomatic contacts early in the controversy with a view to harmonizing the British and Dutch approach to the Mexican legislation with that of the United States. On January 5, 1926, he had a meeting with Sir Esme Howard the contents of which were immediately relayed to Sheffield. Kellogg commented to Sheffield on the conversation, and said of Howard, "He added that inasmuch as British interests are also affected by the action of the Mexican Senate, the British Government would be prepared to afford diplomatic support to the United States Government on this question."²⁰ Kellogg went on

to advise Sheffield to bring foreign diplomatic representatives confidentially up to date on United States notes to the Mexican Government. On January 9 the British Embassy in Washington provided the State Department an Aide memoire embodying the essential parts of the Kellogg-Howard conversation.²¹

Kellogg instructed Sheffield on several occasions to keep the emissaries of foreign governments advised of United States representations in the conflict. In response to these entreaties Sheffield provided a steady stream of communications concerning British, Dutch, French, and Spanish responses to the developing situation. Sheffield complemented Kellogg's diplomatic initiative with extensive personal contacts with members of the diplomatic corps accredited to Mexico.²²

In December of 1926 Sheffield reported that Esmond Ovey, the British Ambassador in Mexico, appeared to be working at cross purposes to American efforts in the conflict. Sheffield complained that Ovey was sympathetic with the Mexican legislation, regarded himself as a sort of referee between the United States and Mexico and had even intimated to Mexican authorities that the United States would not take action against Mexico in the controversy. His actions were in spite of Sheffield's understanding that Ovey had been instructed to follow the United States lead. Kellogg took immediate action to inform Alanson B. Houghton, the United States Ambassador to Great Britain, to protest Ovey's action. Again on March 7, 1927, Houghton was instructed by the State Department to protest Ovey's lack of cooperation in the conflict. Houghton was to make it clear to the British Government that Ovey was obstructing a United States policy designed to protect the interests of

all foreigners in Mexico of whom the American and British had the most at stake. Ovey's actions were particularly disconcerting to the State Department in view of the British Aide memoire of January 9, 1926. Also as recently as November 12, 1926, Houghton had informed the State Department that British policy was to maintain a united front with the United States. He reported, "British Government would deplore British oil companies in Mexico following course contrary to that of American companies." He had elaborated also, that the British Minister was instructed by the Foreign Office to work in close coordination with the American Embassy.⁺²³

The international nature of the oil industry in Mexico must be briefly examined in order to place Kellogg's diplomatic initiatives in context. The Mexican petroleum industry was developed by foreign interests with the British El Aguila firm headed by Weetman Pearson (later Lord Cowdray) bringing in the first great gushers by 1910. American oil interests quickly entered including subsidiaries of Standard Oil of New Jersey, Gulf, Sinclair and of the Doheny interests. The industry developed quickly; by 1921 Mexican production reached

* Although the British oil interests in Mexico followed the American lead and refused the confirmatory concessions, there are contradictions in the record concerning British official policy. A letter appears in Documents on British Foreign Policy, 1919-1939 in which the Foreign Secretary indicated that British policy was to accept any settlement without regard to principle. He admitted, however, that his subordinates were more familiar with the problem and that he would have to check with them.²⁴

193,397,587 barrels of crude which made Mexico the second largest producer in the world. By 1925 American petroleum interests predominated in Mexico, however, the investments of British and Dutch capital were considerable. At the beginning of 1925 American investment totaled 448,157,836 pesos (57.46 of total invested), that of the British 204,048,322 pesos (26.16 of total), Dutch capital at 88,639,949 pesos (11.37 of total) and that of Mexicans only 23,518,964 pesos (3.02 of total).²⁵

An interesting aspect of the diplomatic initiative was manifested in Cuba in late 1926 and involved the suppression of newspaper criticism. On December 2, 1926, Ambassador Enoch H. Crowder reported to the State Department on a meeting he had held with President Machado of Cuba. This report was in response to a Department communication concerning Latin American newspaper criticism of United States action in Mexico and Nicaragua. Crowder reported that Machado had agreed to suppress Cuban newspaper criticism in exchange for State Department support of his administration.

I submitted to him the press clippings heretofore sent and asked him if there was anything he could do to stop the propaganda.... He said that it might result that he would again be called a dictator, in which event he hoped that the Department would lend him the supporting hand it had extended him quite recently when he was similarly charged and Mr. Kellogg, in a public statement, expressed confidence in his administration, remarking in that connection that the publication in the Havana Press of Mr. Kellogg's statement had been very helpful to him.²⁶

Crowder later reported that the newspaper criticism of the United States had ceased and that Machado had apparently delivered on his promise.

The quid pro quo for asking Machado to adopt dictatorial methods in

behalf of the United States was apparently support of his administration against those very charges.²⁷

This incident provides grounds for historical speculation concerning the decision of the Coolidge administration in 1927 not to interpose objections to Machado's "engineered" amendment of the Cuban Constitution to permit his reelection. In The Making of the Good Neighbor Policy, Bryce Wood has been unable to adequately answer why the Coolidge administration overcame its own earlier reluctance, and permitted Machado to make this domestically unpopular move. Perhaps it was recognition of this type of incident that led Laurence Duggan to his conclusions on the decision to permit Machado's reelection. "Both Ambassador Crowder and the Department indicated that their passivity to the constitutional amendments was due to their hope that under Machado peace, order, and 'political cooperation' would continue."²⁸

Ambassador James R. Sheffield played an important part in the State Department approach to counter the Mexican legislation and force a return to the agreement reached at Bucareli. Despite criticism of Sheffield, Kellogg retained him at his post. The young scholar Frank Tannenbaum found him "...surprisingly, almost painfully isolated from contact with the Mexican Government," while Henry L. Doherty, later a commercial attache to Mexico, complained to President Coolidge that Sheffield was "a judge or dictator of affairs in Mexico" adding that he was not fit to be ambassador. Kellogg met with Coolidge after the receipt of Doherty's complaint, and subsequently decided to retain Sheffield assuring Coolidge that Sheffield agreed that overt acts against Mexico were out of the question. Ambassador Sheffield was,

however, firmly committed to the defeat of the petroleum legislation and played one of the most important roles in State Department effort to defeat Mexican law. In this regard, Sheffield contributed to the construction of the united front of defiant major oil producers through direct contacts with the oil company representatives, communications to the State Department, and through diplomatic contacts designed to enhance the united front.²⁹

CHAPTER 3

During the period November 17, 1925, to March 27, 1926, the State Department exchanged eleven communications with the Mexican Government concerning the Alien Land Law of 1926 and the Petroleum Law of 1925. After a lull of several months in which it became apparent to the State Department that Mexico intended to implement these laws, the exchange of communications was resumed. Beginning on 30 July four additional notes were sent between the two countries prior to the December 31, 1926, deadline for requesting confirmatory concessions. During the year-long exchange of notes different aspects of the controversy were emphasized in various of the exchanges, such as, conditions of land ownership, the subsoil, the Calvo Clause, positive acts, and others. The United States consistently opposed any application of article twenty-seven which would impair pre-constitutional American rights. The essence of United States' demands was that Mexico respect vested petroleum interests as agreed at Bucareli. Arguing that the Extra-Official Pact reached at Bucareli was a solemn agreement between the two countries, Kellogg and the State Department sought a return to the modus vivendi concerning petroleum reached at that conference.¹

Kellogg's interpretation of the Bucareli accord as a solemn and binding agreement facilitated close oil company and State Department cooperation in attempting to defeat Mexico's article twenty-seven legislation. This mutuality of purpose existed despite some differences between the two concerning pre-constitutional rights. The major oil

companies had not been entirely satisfied with the modus vivendi worked out at Bucareli, and attempted to reopen some of these issues in the 1925-1927 controversy. Most significant of these was the issue of positive acts. In the 1923 agreement the Department had accepted a definition of vested subsoil rights consistent with the performance of broadly defined positive acts. Although the American Commissioners had entered a "reservation" for all American rights, the acceptance of the concept of positive acts was clearly central to the understanding. In 1926 the major oil producers pressed the State Department to reopen the question of positive acts and to include among its demands a recognition of subsoil ownership of all pre-constitution land acquisitions. Although the State Department introduced this topic in its note of July 30, the Department remained willing to accept the concept of positive acts, a willingness which was important to the modus vivendi worked out later by Morrow. Mexican intransigence in 1926, however, allied the major producers of oil and the State Department despite some differences in position.²

Since 1918 the major oil producers had been organizing themselves in opposition to the threat posed by article twenty-seven. By 1920 they had formed the Association of Producers of Petroleum in Mexico through which they sought to protect their rights through collective action. Headquartered in New York City, the Association maintained an office and a representative in Mexico City. The Association comprised all the major foreign oil producers in Mexico which were the British and Dutch interests El Aguila and La Corona respectively, as well as subsidiaries of Standard Oil of New Jersey, Standard Oil of California,

Gulf, Sinclair, and the Doheny interests. The Director of the Association during the entire period of the controversy of 1925-1927 was Guy Stevens, a Harvard Law graduate and later an executive with Gulf oil.³

The Association formulated policy through consensus among the highest level of corporate leadership including Walter Teagle, President of Standard Oil of New Jersey; Chester O. Swain, General Consul of the same company; Harold Walker, Vice President of Pan American Petroleum and Transport (a Doheny company), and others. Guy Stevens and Chester O. Swain frequently visited and corresponded with the State Department where they were made privy to confidential information not available to the public.⁴ The Association used its prestige and resources to propagandize its opposition to the "retroactive and confiscatory" features of Mexican law. Mexico was aware of some of the Association initiatives against its law. In 1924 President Obregón had barred Stevens from a meeting between the Association and the Mexican Government alleging that he had been instrumental in blocking a loan from the Committee of Bankers on Mexico. This committee, which was headed by Thomas Lamont, handled Mexico's external debt; supposedly it had been restrained from lending money to Mexico by a Stevens report which questioned Mexico's continued ability to produce petroleum. The revenue from petroleum production was to have been security for the loan; Stevens maintained production could not be guaranteed in the face of Mexican legislation.⁵ The Association was not reluctant to exercise whatever leverage it possessed to gain its ends in Mexico.⁶

Although the Mexican petroleum industry was controlled by a small number of major producers (in 1926 less than ten producers

accounted for almost 80 percent of the crude oil production) there were more than 100 small producers. Owning no transportation, refining, or marketing units these small producers generally advocated obeying Mexican law and operating under article twenty-seven. They were at a disadvantage to the big companies who, arguing at least for a broad interpretation of positive acts, were able to retain the large tracts of land they had acquired, but often were not exploiting. The implementation of article twenty-seven promised to enhance the position of the smaller producers by the availability of third party concessions.⁷

The Association of Petroleum Producers was faced with a difficult situation in 1926. Totally committed to opposing Mexican attempts to deprive its member companies of their vested interests, it sought to resist the confirmatory concessions yet at the same time preserve its members' ascendant positions and subsoil rights. This involved orchestrating its own cohesive and collective opposition. Since the penalty for not requesting the confirmatory concession was possible loss of their subsoil rights, the major producers sought through collective action to protect themselves against each other as well as other producers. The penalty for dissension was chaos among the major producers with each company applying to exploit the subsoil of the other. The major producers sought to construct a united front with all of the major producers refusing to accept the confirmatory concessions, and also agreeing not to apply for concessions in order to exploit the subsoil of the others. By acting together the major producers also hoped to preclude effective action by the small independents who owned

no refining or transportation capability. This tactic was greatly facilitated by the fact that oil production worldwide was exceeding demand.⁸

A steady supply of Mexican oil was regarded vital by the United States during World War I. By 1921 a trend toward over-supply had begun and companies such as Standard Oil found that they were producing more oil worldwide than demanded and that prices were falling. Increased production in the United States, Russia and Latin America contributed to this situation. As a result of this overproduction, companies such as Standard Oil became more oriented toward protection of their rights and principles than production at any cost. In the face of the challenge of article twenty-seven, Standard Oil of New Jersey and the other large producers cut back operations. Although they continued to exploit known deposits the large producers ceased wilddcatting for new sources in Mexico. In addition Standard Oil began to liquidate its subsidiary in Mexico, Transcontinental, which produced more than twenty million barrels in 1924, almost double its nearest competitor. All earnings were paid as dividends, all loans to Standard repaid, and a large part of its initial investment amortized. Standard's investment in Mexico was thereby reduced from 32 million in 1922 to 8 million in 1927.⁹

Since the oil executives viewed the Mexican threat in terms of principle involved they were unwilling to compromise for fear of challenges elsewhere. They especially regarded any surrender of principle in Mexico as disastrous for their operations in other parts of Latin America, "where the struggle between private business and resurgent nationalism was also being grimly fought."¹⁰ With the oil executives

unwilling to compromise and Mexico seemingly determined to carry out its program, oil production in Mexico dropped from 193 million barrels in 1921 to ninety million barrels in 1926.¹¹

While worldwide overproduction of oil facilitated the defiant stand of the major oil producers in Mexico, the United States Ambassador to Mexico, James Rockwell Sheffield, also contributed to their decision to stand united against Mexican law and refuse the confirmatory concessions. Sheffield has long been regarded by historians of the conflict as a "hardliner" who advocated firm action against Mexico in regard to the article twenty-seven legislation. Until recently, however, there had been no study specifically devoted to the role Sheffield played in the controversy of 1925-1927. In a recent study James J. Horn has attempted to answer some of the questions concerning Sheffield. Concentrating attention on Sheffield's aggressive opposition to the Mexican legislation, Horn argues that Sheffield advocated a diplomatic approach based on ultimatum to be backed by a credible threat of overt acts. Horn maintains that because overt acts were not a viable alternative, Sheffield's aggressive and offensive behavior severely limited his usefulness as ambassador. From a standpoint of reaching a modus vivendi with Mexico which would permit that country to save face, Horn's interpretation is consistent with the facts. Sheffield was important, however, in contributing to the impasse from which the Morrow modus vivendi could emerge. Eschewing Kellogg's admonition on specific advice he met with oil company representatives and counseled against accepting the confirmatory concessions. In addition, he bolstered the State Department stand against the Mexican legislation with information purported

to have been gained from the sources inside the Mexican Government. This information indicated that Mexican resolve in the controversy was weakening as the revenues to the Mexican Government declined with oil production.¹²

Sheffield was a conservative Republican regular, a wealthy New York lawyer, and a close personal friend of Charles Evans Hughes, who had recommended him for the ambassadorship. Unable to speak Spanish and successful in his law practice representing such corporate accounts as R.C.A., General Electric, and Westinghouse, he was initially unreceptive to the nomination. After further consideration and at the insistence of President Coolidge he accepted the nomination. Notice of his nomination was generally well received in both the Mexican and American press. His wide travels, political, legal and financial experience were commented on in the press as evidence of his qualification for the position.¹³

Sheffield was ill-equipped to deal with Mexicans and to understand the Revolution. He had a rigid concept of the sanctity of personal property and preached responsibility and the importance of law and order. By definition the Revolution was at odds with many of Sheffield's concepts. The disorder of Mexican life, from livestock in the streets to soldiers appearing in incomplete uniforms repelled him. He seems to have had much of the prevailing Yankee notion of Anglo-Saxon superiority and demeaned the Indian and non-white composition of the Mexican people and government. Speaking of the Mexican cabinet he commented,

There is very little white blood in the cabinet - that is it is very thin. Calles is Armenian and Indian; León almost wholly Indian and an amateur bullfighter; Saenz the Foreign

Minister is Jew and Indian; Morones more white blood but not the better for it; Amaro, Secretary of War, a pure blooded Indian and very cruel.¹⁴

In short Sheffield had little appreciation for the Revolution or for Mexico as a developing nation.¹⁵

The ambassador and his wife soon gravitated to the foreign community in Mexico, restricting their contacts with Mexicans to conservatives of the old order who were out of favor with the revolutionary government. He regarded the former dictator Porfirio Díaz as a great ruler of Mexico. In his opinion Díaz had done much to develop this "backward people" whom he regarded as "utterly unfit for self-government."¹⁶

Perhaps from his training as a lawyer he adopted a very legalistic approach to Mexican-American disputes, and contributed to the legalism which saturated the diplomatic exchanges between the two countries. Although he could be charming, he was very formal and undertook little effort to solve Mexican-American problems through direct contact with members of the Mexican Government.¹⁷ Within a short period Sheffield became isolated from the Mexican Government, as Tannenbaum points out, and restricted his contacts to the presentation of notes and protests.¹⁸

As the controversy heightened over the petroleum legislation, Sheffield developed close contacts with the oil representatives in Mexico relying on them for detailed information concerning the retroactive and confiscatory features of Mexican law. Sheffield unequivocally opposed any attempt to separate the pre-constitutional surface land holder from the subsoil or to impair the rights of vested land

ownership. Sheffield argued, as did the oil companies, that there was more at stake in Mexico than land and oil. On March 27, 1926, Sheffield explained his viewpoint in a confidential message for the Secretary and UnderSecretary.

It appears to me unquestionable that the maintenance of the principle that vested rights lawfully acquired must remain intact is of the most far reaching moment in view of our interests throughout the world and that any surrender or compromise of this principle will inevitably produce a well nigh chaotic situation with respect to American interests everywhere.¹⁹

In early 1926 as oil company and State Department opposition to the land and petroleum laws mounted, the Mexican Government indicated it would remove the objectionable features of these laws through their implementing regulations. In typical fashion, Secretary Kellogg, while pointing out that he was not advising the oil companies, felt that the oil companies should use this opportunity to negotiate with Mexico. That is, he felt negotiations would be worthwhile if Mexico conceded the points in dispute. Oil company representatives, severely constrained in authority by home office guidance, discussed the regulations with Mexican officials. Essentially the representatives were authorized to discuss the regulations in general terms and not to discuss the rights or position of the oil companies in relation to their holdings in Mexico.²⁰

In mid-March executives of the major oil producers arrived in Mexico to review the situation with their representatives and with the Mexican Government. This group of executives included Chester O. Swain, Gen. Avery D. Andrews, F. H. Wickett, and H. K. V. Thompkins. On March 22, 1926, the executives met with Sheffield to discuss the United

States Government position vis a vis the regulations and the confirmatory concessions.²¹

The executives, noting the reference in recent notes to a solution to the controversy through the implementing regulations, asked Sheffield if the American Government was committed "to the soundness of that theory as affording a solution of the present petroleum situation?" Sheffield flatly replied that he did not feel the United States was committed to accepting this type of solution. They then asked Sheffield if he personally felt that confirmatory concessions, issued under regulations which imposed no objectionable features, but which implemented the Constitution and Petroleum Law nevertheless, "...can constitute in International Law a recognition and true confirmation of the subsoil titles acquired by foreigners prior to May 1, 1917?" Sheffield replied, "My answer is, 'no'."²²

The interrogation then shifted to a general discussion of the confirmatory concessions and the Petroleum Law. Sheffield told the executives that he felt that an acceptance of confirmatory concessions under the Petroleum Law "...would be a surrender of rights and a compromise of principle." Sheffield went on to tell the executives that this compromise would be detrimental to other American interests (not just petroleum) in Mexico. Expanding this he commented, "the effect upon the rights of Americans in other Latin American or other foreign countries...would be widespread and highly injurious."²³

Finally, the executives having determined that Sheffield, the senior United States representative in Mexico, felt that acceptance of the confirmatory concessions would involve an injurious surrender of

principle asked the critical question. "If the American companies adhere to their previous policy of resistance to what the State Department and the companies have alike regarded as confiscatory of American rights, do you believe that they will ultimately receive the support of the State Department and the American people?" Sheffield replied that he believed American policy was guided by the principles enunciated by two "great" Americans William M. Evart and Calvin Coolidge. Evart (whom Sheffield quoted), Secretary of State in 1878, authored the Evarts doctrine in a message to a previous United States Minister to Mexico. According to Evart,

The first duty of a Government is to protect life and property. This is a paramount obligation for which Governments are instituted and Governments neglecting or failing to perform it become worse than useless....It is not solicitous, it never has been, about the methods or ways in which that protection shall be accomplished, whether by formal treaty stipulation or by informal convention; whether by the action of judicial tribunals or that of military force.

Sheffield went on to quote the incumbent President.

The American theory of government means that back of the humblest citizen, supporting him in all his rights, organized for his protection, stands the whole force of the nation.... He can assert it in the face of all world.²⁴

Sheffield provided Kellogg with a complete eight page report on this conference, and from which these references are drawn. There is no doubt that Kellogg was aware of Sheffield's feelings and advice in this matter.²⁵

On March 23, 1926, the day following the Sheffield interview, the oil executives informed the Mexican Government that they could not accept the confirmatory concessions under the current petroleum law. This became the official position of the Association of Petroleum

Producers when they stood united against the confirmatory concessions on December 31, 1926. In the March 23 letter the oil executives even supplied suggested wording for a revision of Mexican law. This temerity produced no positive results from the proud and sensitive Mexicans.²⁶

Subsequent to the March 23 letter Kellogg made his comment on the ultimate efficacy of economic leverage as opposed to the ineffective heavy handedness displayed in the oil executive's letter. Production and export tax revenue to the federal government had been falling rapidly in Mexico, and had decreased steadily and progressively from more than eighty-five million pesos in 1922 to forty-two million pesos in 1925. In the first three months of 1926 tax revenue decreased 30 percent from the comparable period in 1925 or a little more than five million pesos. As the American Consul-General in Mexico reported, the large producers were not undertaking the expensive wildcatting necessary to maintain production.²⁷

Ambassador Sheffield called for firm State Department support of the oil companies as they exercised economic leverage and were becoming increasingly committed to defiance of the Petroleum Law. The Mexican Government began to exert pressure on the oil companies to accept the confirmatory concessions, and on April 15 Sheffield reported that there were still companies undecided as to their course of action. Sheffield called on the Department to indicate disapproval of acceptance and stand firmly on principle which will "result in repeal or amendment of both laws."²⁸ Both Sheffield and the oil companies felt that acceptance of the petroleum legislation by the petroleum producers would result in an abhorrent split between the Department and the companies.

Sheffield, Olds, and Kellogg saw the opposition of the companies as a support to the Department's diplomatic position while executives like Swain were unwilling to forsake the protection of the Department.²⁹

By May of 1926 it was apparent to Kellogg and the State Department that the implementing regulations for both laws were unacceptable to the United States position. Responding to Sheffield's constant entreaties for firm action, and to an opinion of the State Department Solicitor, Kellogg resumed the vigorous exchange of notes. The Solicitor had reviewed the Petroleum Law and regulations remarking, "It seems to remain true that the law and regulations constitute an attempt by retroactive legislation to confiscate lawfully acquired rights."³⁰ On May 21 Kellogg informed Sheffield that he would support the stand against the laws and their regulations. Kellogg had already informed the Mexican Ambassador of this and intimated to Sheffield that a strong note would be forthcoming. Sheffield's reply was that American interests would be buoyed by the Department's support and that he would give them proof "...that the Department would support their just rights."³¹

The note to which Kellogg alluded was delivered to the Mexican Government on July 30, 1926. It contained a Department review of the laws and the implementing regulations and found them inadequate to protect the legitimate interests of Americans in Mexico. It dealt at length with the concept of vested interests, positive acts, and particularly with the retroactive aspects of the petroleum law. Finally, it closed with reference to Bucareli saying that the two laws violated the agreement reached at that conference (the binding effect to which, the Department maintained, Mexico had already agreed). "Without the

assurances received in the course of that negotiation recognition could not, and would not, have been extended, and my Government confidently relies upon the fulfillment of the assurances then given."³²

Sheffield regarded oil company opposition to Mexican law, and firm State Department support to that opposition, as essential to the United States position. The resistance of the major producers to the confirmatory concessions bolstered the Department stand on principle, while the economic pressure they were exerting was weakening the resolve of Mexico to implement the laws. In September H. F. Arthur Schoenfeld reported that the Mexican cabinet was seriously split over petroleum policy and the effect it was having on rapidly falling petroleum production and tax revenue. Schoenfeld, the Counselor of the Embassy, is reported by Horn to have enjoyed unanimity of opinion with Sheffield on the critical questions of the controversy.³³ Reporting that Mexico was in poor financial condition, Schoenfeld elaborated that Alberto J. Pani, the Secretary of the Treasury, was attempting to put the government in sounder fiscal condition. Pani, Schoenfeld reported, was gaining the support of Calles at the expense of Luis Morones, the supposed author of the "hardline" petroleum policy. Sheffield and Schoenfeld counseled continued strong representations by the State Department to insure the opposition of the oil companies, and thus to facilitate the growth of conciliation by Mexico. This communication also began (see ahead) a steady stream of messages from Sheffield in which he documented the weakening resolve of Calles and his government.³⁴

The controversy began to peak in November of 1926 when the Mexican Government and press attempted to discredit the companies who

had not applied for the confirmatory concessions, and to establish that the majority of the companies had in fact already applied for the concessions. Morones' Ministry of Commerce, Industry, and Labor alleged that various of the most powerful companies had applied for the concessions, while only those whose titles were defective had not. On November 13 and 15, articles appeared in the Mexico City press alleging again that the oil companies were accepting the confirmatory concessions, and that further protest by the United States was "illogical." Some of the major producers in Mexico had in fact applied for confirmatory concessions, and it appeared to Schoenfeld (Sheffield was in the United States) that the united front would collapse.³⁵

On October 14 Schoenfeld reported on the possibility that as more and more oil companies applied for the confirmatory concessions a panic to do so may develop.

It appears to this Embassy that such a development may occasion embarrassment to the Department in the prosecution of the diplomatic controversy with the Mexican Government regarding the confiscatory and retroactive features of the Petroleum Law and regulations....It would seem necessary to make an effort looking to more complete conformity between the actions of private American interests...and official representations made to the Mexican Government.³⁶

The day following Kellogg dispatched a query to the Embassy on a report in the Washington Herald that El Aguila had applied for concessions "and that thereby solid front hitherto presented by foreign interests... was broken." Schoenfeld's reply indicated that both El Aguila and Transcontinental (the Standard Oil of New Jersey subsidiary) had applied for confirmatory concessions on their leasehold property. But he went on to say that a stampede was not imminent and the companies were

waiting for the State Department response to the Mexican note of October 7th.³⁷

The possible collapse of the united front set off a vigorous round of meetings, diplomatic contacts and exchanges of information. Kellogg and Undersecretary Olds held meetings at the State Department with oil executives such as Chester O. Swain and the Director of Association of Petroleum Producers Guy Stevens. They discussed the situation and apparently collaborated in the preparation of the next and last diplomatic note to the Mexican Government of the controversy. It was in fact the confidential information shared with the oil executives and supposedly compromised by them that led Olds to admonish them for violating State Department trust. On November 2 Olds replied to Schoenfeld's entreaty concerning "more complete conformity" by informing him that numerous conferences had been held with the oil interests, and that the American companies had agreed to postpone any further action in applying for confirmatory concessions.³⁸

Both Kellogg and Sheffield also initiated diplomatic contacts during this period with the other countries involved, designed to enhance the United States approach. Earlier in the year Sheffield reported a conversation with the German Ambassador, from which Sheffield gathered, that if the Department at Washington would make known its official position vis á vis the Mexican legislation, the German, French, Italian and Spanish governments would follow the United States lead. He also initiated contacts with the French and British Ministers, as a result of which he criticized Ovey, the British Minister, for obstructing the United States position, despite Ovey's instructions to the contrary.

The State Department, in response to Sheffield's complaints, instructed the United States Ambassador to Great Britain to protest Ovey's actions.³⁹

The Department received reports direct from the United States representatives to the Hague and Great Britain, concerning the position of these two governments on the Mexican legislation. On November 22, 1926, Kellogg informed the Embassy in Mexico that he had confidentially given the Dutch, French, German, Italian, and Swedish representatives in Washington copies of the latest notes to the Mexican Government. The numerous communications from and to the State Department concerning the British approach are somewhat confusing. They reflect Kellogg's and Sheffield's keen interest in British policy, apparent British indecision on whether to accept the confirmatory concessions even after the American decision not to, and the ultimate decision of the British companies to stand united with the American and Dutch companies against the concessions. What is clear from the record is that the major American producers, after close consultation with the State Department, decided not to take any further action in applying for concessions. And that subsequent to this, and after a flurry of diplomatic contacts, the British and Dutch major producers joined with the American and refused the confirmatory concessions and achieved Kellogg's "good purpose" and avoided Sheffield's "surrender of principle and compromise of rights."⁴⁰

On December 27, 1926, the Association of Producers of Petroleum informed the Mexican Government that they could not accept the confirmatory concessions under Mexican law. Last minute attempts by Mexico to entice acceptance through concession forms altered to remove the obnoxious items, were rebuffed by both the State Department and the oil

companies. Joining in the refusal in a communication signed by Guy Stevens, were all the major foreign producers including El Aguila, La Corona, the Standard Oil subsidiary, Gulf, Sinclair, and the Doheny subsidiary Huasteca as well as others. Making reference to their letter of March 23, the companies told Mexico, "...the present law does not adequately provide for recognition of rights acquired prior to May 1st, 1917. The companies have therefore decided today that they cannot safely accept confirmatory concession under the present law."⁴¹ The Mexican Government expressed surprise in its reply that companies such as El Aguila and Transcontinental, who had previously requested concessions, had now decided to join the Association position. It also denied an extension of time on the deadline to further discuss the issues.⁴²

The major oil producers, the State Department, and Ambassador Sheffield looked to the united front to defeat the Mexican legislation. On 14 January, 1927, Chester O. Swain, in a letter to S. M. Gunther of the Department's Mexican Division, commented on the decision to resist Mexican law, "With the die thus cast, we have only the support of the [State] Department to look to, and we shall hope to continue the close contact with the Department as the situation further develops."⁴³ In a memo of April 4th Swain predicted "with a determined front maintained by our State Department and by the companies themselves and by the pressure of economic considerations, the way will eventually be paved to the working out of a solution that will not involve the surrender of principle..."⁴⁴ Sheffield called on the Department to continue its support of the oil companies as Mexican finances were in "desperate" condition and needed the increase in production a settlement would bring.⁴⁵

In early 1927 the controversy entered a new stage. The major producers were united in defiance of Mexican law and were exercising increasingly effective economic pressure. Ambassador Sheffield worked to preserve strong Department opposition to the Mexican legislation in the face of strong domestic criticism. In this regard he forwarded a large quantity of stolen but supposedly legitimate letters and documents of such Mexican leaders as Calles, Morones, Obregón, Ramirez Carrillo (Morones' legal chief), and others. These letters documented the weakening resolve of Calles, the deleterious impact of decreased oil tax revenues and Mexico's willingness and ability to solve the controversy through a favorable Supreme Court decision. He kept a wary eye on the maintenance of the united front. The State Department used Sheffield's information in the formation of its policy, and in active moves by both Kellogg and Olds to maintain the united front and the economic pressure against Mexico.

CHAPTER 4

Historians of the controversy of 1925-1927 describe the situation of early and mid-1927 in terms of an impasse. Pointing to strong press and congressional criticism of State Department involvement and aggressiveness, they attribute the impasse to the Department's inability to overtly counter Mexican intransigence. During this period the Department adopted a low profile approach to the controversy, avoided dramatic pronouncements and became extremely cautious in its dealings with the oil companies involved. This more moderate approach disheartened Ambassador Sheffield who feared that Kellogg and the Department would not guide the oil companies through to a satisfactory solution. Whether, in fact, the State Department ever planned overt acts against Mexico its aggressive posturing of late 1926 and early 1927 resulted in the low profile approach of mid-1927.¹

The release of the diplomatic notes between the United States and Mexico, and State Department charges of Mexican bolshevism and involvement in Nicaragua triggered the domestic criticism against the Department. A liberal revolt led by former Vice-President Sacasa broke out in Nicaragua in 1926 which threatened the United States backed President Adolfo Díaz. The United States landed troops in defense of Diaz while Mexico supported Sacasa by sending arms to the liberal forces. Sheffield, Schoenfeld, and Chandler Anderson (a perennial oil company lobbyist with strong State Department contacts) attempted to establish a connection between the revolt in Nicaragua and Mexican ambitions in

Central America. They alleged that Mexico was conspiring to spread the doctrines of bolshevism and nationalization of foreign owned property in the western hemisphere. Olds and Kellogg soon picked up the campaign.²

In mid-November 1926 Olds briefed the major press associations on these alleged Mexican attempts to promote bolshevism in Nicaragua and Central America. Speaking off the record Olds asked the press not to ascribe the story to the Department. Only the Associated Press carried the story but it appeared in the headlines of the New York Herald Tribune, the Washington Post, the New York Times, and other papers across the country. The New York Times reported that Mexican interference in Central America had become a source of grave concern to official Washington. The Associated Press release, which was soon traced to Olds, contributed to the rising criticism of State Department propaganda against Mexico.³

In January of 1927 the United States sent more troops and ships to Nicaragua while intensifying its charges against Mexico. On January 10, President Coolidge sent an unexpected message to Congress offering to prove Mexican complicity in Nicaragua. Coolidge even intimated that Mexico's involvement in Nicaragua was a threat to the Panama Canal. Finally, on January 12, Secretary Kellogg appeared before the Senate Committee on Foreign Relations and documented Mexican involvement in Central America. He provided the committee a printed statement, containing many unverified or exaggerated charges against Mexico, entitled "Bolshevist Aims and Policies in Mexico and Latin America."⁴

Whatever the purpose of this campaign, whether to prepare the way for military intervention in Mexico or merely to marshall additional support for State Department policy, it miscarried completely. It aroused a storm of criticism reminiscent of that elicited by Kellogg's ill-considered statement of 1925 in which he alleged that Mexico was on trial before the world. Criticism in the press was widespread and included the New York Times, the Baltimore Sun, and the Boston Globe. The comments of the Baltimore Sun seems to have represented critical opinion.

We doubt seriously that ever before in the history of this Nation has the head of the State Department appeared in public in a state of such utterly indecent intellectual exposure. Such drivel, offered by the Cabinet officer in charge of foreign relations, is, we believe, without previous example in this country...⁵

Criticism of the State Department also came from civic groups of all kinds as well as the academic world. The oil manipulations of the Harding years were also in the news with the trials of Fall, Doheny, and Sinclair in 1926 and 1927. Defenders of Mexico such as Ernest Gruening, Frank Tannenbaum, and Samuel Guy Inman added to the mounting dissatisfaction with State Department policy.⁶

Congressional concern with United States policy toward Mexico, especially the possibility of military intervention, sparked a vigorous round of inquiries, resolutions, and public statements. Both Houses held hearings, and numerous resolutions were introduced in Congress (at least nine in the House of Representatives alone) calling for investigations of State Department Mexican and Nicaraguan policy. The ludicrous charges against "conspiratorial" and "bolshevist" Mexico would have been almost humorous had the situation not been so serious. In

this vein Senator Wheeler accused Kellogg of seeing a bolshevik behind every sagebrush from Mexico City to the border. Senator Borah led a Senate effort to influence State Department policy and to preclude the possibility of military intervention. Under his leadership, the Senate marshalled bipartisan support for the Robinson resolution calling for arbitration of issues between the United States and Mexico, and which unanimously passed the Senate (79-0) on January 25, 1927.⁷

Senator Borah was indeed active in countering State Department policy in early 1927. In addition to his resolutions, he communicated directly with President Calles of Mexico and used news conferences and other speaking opportunities to strike out at administration policy. LeRoy Ashby maintains in The Spearless Leader that Borah had a considerable influence in moderating State Department aggressiveness toward Mexico. Whether true, Borah's campaign as well as other congressional criticism served notice of legislative dissatisfaction with Kellogg's approach.⁸

Borah also involved himself in the struggle between the foreign oil companies and the Mexican Government. He introduced a resolution asking the State Department to identify the defiant companies, and to answer whether it had advised these companies as to what course of action they should adopt. When the Department replied that only four foreign oil companies had applied for the confirmatory concessions (according to the Department two of the four produced no petroleum and the other two owned no fee lands) Borah communicated directly with President Calles. Calles reported that less than ten percent of the foreign oil companies with a pre-constitutional claim had failed to

apply for the confirmatory concessions. Calles' allegations contributed to a growing conviction that Kellogg was actively advising and protecting a small group of defiant major producers, while the majority of oil companies in Mexico were obeying the law. Carleton Beals echoed it in his article "Whose Property is Kellogg Protecting" and similar sentiments were introduced by witnesses in Congressional hearings on United States relations with Mexico. Kellogg denied that the Department had advised the defiant companies, and did not even acknowledge that the position of the Department may have, itself, influenced the position of the defiant companies. Borah's attempt to induce arbitration through the Robinson Resolution failed when it was received without enthusiasm by Coolidge and Kellogg.⁹

By mid-February of 1927 Kellogg and the State Department, buffeted on all sides by criticism, assumed a low profile approach to the controversy with Mexico. Borah's query on advice to the defiant oil companies confirmed Kellogg's fears, as expressed in his "good purpose" letter to Sheffield, of the danger of public repudiation if it became known that the Department had advised the major oil producers. Although continuing to cooperate closely with the defiant petroleum producers, the Department became noncommittal in its correspondence with the companies. Perhaps typical of this was a reply prepared by Assistant Secretary of State Olds to a letter from Chester O. Swain. Swain's strongly worded letter called for immediate State Department aid to counter "confiscation" of Standard Oil rights in Mexico, Olds replied, "I am sure you will appreciate that all I can say to you for the moment is that the matter is receiving careful attention."¹⁰ The Department had, however, not changed

its basic position concerning the retroactive application of article twenty-seven and continued to work against its implementation. Having received reports from Sheffield and the Consul General in Mexico of Mexico's deepening financial malaise, the Department established special reporting requirements. On March 4 it issued instructions to the Consul General to forward a special monthly report (as of 1 January, 1927) on the production and export of gold, silver, and oil and on the total production and export taxes generated by petroleum.¹¹

Ambassador Sheffield remained dissatisfied with the Department's approach, and with Kellogg's apparent vacillations. He complained to friends that Washington was too eager to look for favorable signs in Mexico and that he found himself struggling with his own government for firmer support. On January 1, 1927, he had counseled Kellogg to keep up the initiative against Mexico to achieve success without delay, and thus not endanger the solidarity of the oil companies. He hammered the theme that the united stand of the oil companies was an important support to the formal representations of the United States Government. Calling for firm support of the oil companies and an equally firm stand against the petroleum legislation, Sheffield began to produce proof in February of the weakening resolve of Calles and his government. Sheffield's proof consisted of a number of supposedly authentic letters of Calles and his associates, letters which documented Mexico's dire financial plight and desire to end the conflict. In addition, he sent the Department detailed information of cabinet proceedings purported to have been obtained from reliable sources inside the Mexican Government.¹²

On February 9th Sheffield forwarded the first batch of letters in a "strictly confidential" dispatch for the Secretary. The first letters were from Calles to former President Obregón and Minister of Industry Luis Morones. In these, Calles advised the recipients of upcoming conferences between Pani and representatives of the major oil producers. The President commented on the "desperate" situation of the Mexican Government, its need to settle the controversy and asked Obregon to assist Pani in this effort. In a postscript Sheffield added that there existed a general feeling that a Supreme Court decision would be issued reflecting the desire of Mexico to settle the controversy. He called on the Department for "great firmness" in the face of his proof that Mexico was weakening. Although Sheffield admitted that at first he had doubts as to the authenticity of the letters, he later reported that he felt they were genuine. Whether they were or not, the outcome of the controversy confirmed their general accuracy, if not authenticity, and provided valuable insight to the Department on the internal politics of the Mexican Government.¹³

Sheffield continued to forward letters as he obtained them from his unidentified source. In one of the early letters Calles told Morones that Obregón was important because of Coolidge's insistence on a return to the terms of the Bucareli accord. In forwarding this letter, Sheffield reported that Pani (according to a second hand source), had said that Mexico was in such poor financial condition that a crash could occur. Sheffield added that there was very little money available in the banks and that loans were difficult to secure. Sheffield kept up a steady stream of letters which contained considerable information

on Mexico's response to the conflict, internal politics, and repeated references to a favorable Supreme Court decision as to a way to get the oil companies back to work and get revenues to rise. In May he forwarded a Calles letter in which the latter clearly stated that he had directed a favorable decision against the Petroleum Law, but there was no hurry as negotiations were still being carried out with American interests. There was even a letter included from the Chief of the Supreme Court agreeing to render the desired decision.¹⁴

The State Department had ample evidence of Mexico's financial plight. In addition to Sheffield's letters, the Department was receiving the regular and special reports on the Mexican economy from the Consular officers in Mexico who documented the continuing decline in petroleum production, reporting that the oil producing region was in a state of economic depression due to the layoffs as a result of the defiance of the major producers. In addition to the drastic fall in petroleum taxes from around 85,000,000 pesos in 1922 to less than 20,000,000 pesos in 1927, the oil companies were withdrawing their capital, foreign investment declined and Mexico paid more than twenty million dollars on her foreign debt in 1926 and 1927.¹⁵

References to a Mexican willingness to render a favorable Supreme Court decision were not restricted to Sheffield's dispatches. Other sources corroborated Calles' apparent ability to orchestrate this approach. On February 5, 1927, Moran J. Mariscal, Secretary to Adolfo de la Huerta, wrote to the State Department informing it that he had information that Pani had been instructed by Calles to suggest a favorable Supreme Court decision to solve the conflict. He called on the

Department to reject this perversion of the Mexican judicial process intimating that a withdrawal of diplomatic recognition would be sufficient to topple the Calles regime. This was followed by similar representation from a group of Mexican expatriates including several former high ranking Mexican Army officers. Alberto Pani, Thomas Lamont, and Dwight Morrow discussed a favorable decision of the Court in early 1927. Ambassador Morrow wrote to Lamont after the actual November, 1927 Court decision commenting, 'It went fully as far as we contemplated last January [1927] in the talks we had with Pani.'¹⁶

Sheffield was convinced, however, that a favorable outcome to the petroleum conflict could only be insured through unrelenting State Department opposition, and the maintenance of a united front by the major oil producers. On April 12, 1927, Sheffield reported with alarm that he had information that Sinclair oil interests were quitting the united front. According to Sheffield, Sinclair would withdraw from the Association of Petroleum Producers, be given another company's oil pipe line by the government, and lend Mexico ten million dollars. Within two days, Kellogg personally answered Sheffield's communication reporting that Erby E. Swift of Sinclair had called on the Department, and denied to Kellogg that his company intended to withdraw from the united front. The record suggests, in view of past State Department involvement, that Swift had been summoned to the Department ("called" appears euphemistic and unusually coincidental) to discuss the situation. Later Department involvement (see ahead) in preserving order and unity among the foreign oil interests in the light of imminent success, suggests that Department officials were keenly interested in preserving the

united front and so informed the Sinclair representative. On May 16, Sheffield forwarded another batch of letters among which was one from Morones to the Foreign Ministry (dated April 26) in which he discussed the Sinclair break. Morones stated that a deal had been made with Sinclair granting that company generous concessions in exchange for a loan and an agreement that Sinclair would launch a propaganda campaign in the United States in favor of an accommodation between the oil companies and Mexico. As Swift promised the Department, however, the Sinclair company remained with the united front.⁺¹⁷

Throughout the remainder of the conflict Sheffield and Schoenfeld sought to preserve the united front. Later in the year Schoenfeld reported that the Huasteca Company was going to reach an accommodation with Mexico, a move, he maintained, that would be of disastrous consequences for the united front and the diplomatic position of the United States. Schoenfeld was particularly disconcerted over the threatened Huasteca withdrawal, reporting that the government inspired press had been calling for conciliation and resolution of the controversy.¹⁸ Once again Kellogg answered the communication telling Schoenfeld that the report was in error. Kellogg went on to say that this company as well as others were providing data to the Department "upon which further representations may be based."¹⁹

⁺ A Sinclair withdrawal from the united front would not have been out of character for the independent minded Harry Sinclair. This is precisely what he did in 1940 when his representative Patrick Hurley negotiated a separate settlement with Mexico after the 1938 expropriation. In the early negotiations Cárdenas had said, according to Hurley, that Mexico had always looked favorably on Sinclair Oil and that it should not suffer by making common cause with the other companies.²⁰

As the conflict proceeded, however, Sheffield began to despair of reaching the kind of solution to which he had devoted his energies. He had been imperious in his demeanor, aggressive in his demands, and totally out of touch or sympathy with the Mexican leadership. The only type of controversy resolution to which he could be a party was a dictated one. His aggressiveness had restricted his effectiveness in all situations but one in which Mexico would make a humiliating and complete retreat from its principles. The Department's moderate approach of 1927 did not demand this humiliating retreat, and Mexico was clearly looking for a solution that would enable it to save face.

The "stolen papers" episode was one of the final factors in destroying Sheffield's viability. An employee of the Military Attache in the United States Embassy in Mexico City had stolen, copied, and sold a number of Embassy documents. The buyer, the Mexican Government, accumulated them for several years and then attempted to deliver them to President Coolidge to embarrass Kellogg and Sheffield. According to Emilio Portes Gil the documents contained an American invasion plan of Mexico.²¹ At any rate, Ambassador Tellez met with President Coolidge to explain the documents and to complain about Sheffield. Kellogg's unexpected presence at the meeting intimidated Tellez and he failed to deliver the second part of his message. The incident was extremely embarrassing to Sheffield from a standpoint of security and more importantly as a demonstration of Mexican antipathy to his continued presence.²²

In an untenable diplomatic position, Sheffield stated his desire to be relieved. He had advocated a hard line, and followed a diplomatic approach based on ultimatum. At the same time evidence was mounting

that Mexico desired to settle the controversy in a manner consistent with State Department representations, and yet permit Mexico to save face and exercise some degree of control over the natural resources of the country. Sheffield had "painted himself in a corner," domestic criticism precluded further Department threats and warnings, and the antipathy of Mexican leaders precluded any Sheffield involvement in conciliatory negotiations. He woefully explained his dilemma to Chandler Anderson.

The work this winter has pretty nearly laid me out. This having to struggle with two governments -- the one you are accredited to and the one back home -- is a nerve destroying job...my mind is pretty well made up that June 1st ought to see me on my way back permanently to the United States. I do not want to run away and leave my post if the situation demands my being here; but neither do I feel I have the right to jeopardize my health by continuing to struggle with an impossible situation.²³

It is almost ironic that Sheffield's removal was necessary to achieve a favorable solution with Mexico, a solution for which Sheffield had worked for two years. He had played an important role in the formulation of State Department policy against the retroactive application of article twenty-seven. In addition, he had counseled the major oil producers against accepting the Petroleum Law, played a part in the construction and maintenance of the united front, and provided the Department with accurate information concerning Mexico's financial condition and weakening resolve. His continued presence in Mexico was, however, antithetical to a modus vivendi as he was incapable of facilitating the communications and exchanges of views necessary.²⁴

The New York bankers including Thomas LaMont and Dwight Morrow provided the needed channel of communication. LaMont, of course, was the head of the International Committee of Bankers on Mexico and was a

Morgan partner as was Dwight Morrow. In early 1927 LaMont and Morrow met with Pani, Tellez (the Mexican ambassador), and A. L. Negrete to discuss the situation in Mexico. Their talks paralleled the fruitless negotiations Pani conducted with the oil representatives.

LaMont and the bankers had established cordial relations with Pani's group whom Robert Freeman Smith describes as the "internal development wing" of the "revolutionary family." This group competed for influence with other factions⁺ within the highest levels of revolutionary leadership. Pani's group sought advice and aid in developing Mexico, provided that it could be given with deference to Mexican sovereignty. They believed in internal development based on some degree of national natural resource control. Pani had negotiated the 1925 LaMont-Pani Agreement by which Mexico, at considerable sacrifice, had resumed service on its foreign debt and had kept open a channel of communication to the bankers. LaMont and Morrow believed in acting on specific issues instead of principles. They were also on record as opposing military intervention to collect debts, and enjoyed close relations with officials of the State Department. Dwight Morrow, thus, was able to provide the critical link between the objectives of the State Department and the needs of Mexico.²⁵

Sheffield's departure from Mexico in the early summer of 1927 did not mean that the controversy would be settled immediately.

⁺ The letters which Sheffield was obtaining, as well as his "inside" information contained many allusions to the competition between the "hardline" policy of Morones and the more conciliatory approach of Pani.²⁶

Schoenfeld took over as charge d'affaires and although Morrow was offered the post of Ambassador on 14 July, he did not arrive in Mexico until late October.²⁷ In the meantime Schoenfeld, convinced that victory could only be insured by continued firm action and the maintenance of the united front, carried on the campaign for Department firmness.

A brief but dramatic controversy over drilling permits in June and July of 1927 demonstrated that Mexico was not prepared to roll over and play dead. In pursuance of an Association resolution to drill without necessary permits (Mexico was withholding and/or delaying the permits from the defiant companies), the companies undertook drilling operations without authority. The Mexican Government responded quickly by deploying troops which they threatened to use in order to stop unauthorized drilling. The companies demanded State Department support but received only a lukewarm reception. In meetings at the Department Kellogg told the oil representatives that overt acts were out of the question. In addition, J. Reuben Clark prepared a memorandum in which he argued that to charge confiscation would leave the oil companies no recourse but to negotiate compensation. The oil companies ceased drilling operations without permits, while the Department adopted a wait and see attitude facilitated by the lack of need for Mexican oil, the dire condition of Mexican finances and the apparent desire of Mexico to settle the conflict.²⁸

While pursuing this policy, however, an incident occurred requiring the State Department once again to step in to preserve united opposition to the Petroleum Law and maintain order among the foreign companies. Olds handled the situation, he had been promoted to

Undersecretary of State on July 1, 1927, and carried much of the Mexican workload since early 1927 when Kellogg had taken leave because of illness.²⁹ In a manner reminiscent of late 1926, Olds initiated diplomatic contacts with Great Britain and with oil company representatives to preserve unity among the defiant companies.

In September of 1927 Schoenfeld reported that British interests of the El Aguila firm had applied to exploit the subsoil of land owned by an American group. This group had a pre-constitutional claim to the subsoil and although not a member of the Association of Petroleum Producers had not applied for a confirmatory concession. Olds, who immediately investigated the situation, determined that the members of the Association had only agreed not to apply for concessions "over the head" of other members of the Association. This action by the El Aguila firm threatened to introduce chaos into the oil situation, and to demonstrate to the Mexican Government that there still existed a competitive element among the foreign oil companies. Olds sensed the deleterious impact this could have on Anglo-American cooperation which had heretofore been effective in countering the Petroleum Law.³⁰

Addressing an inquiry to the British Embassy in Washington, Olds commented, "In view of the desirability of avoiding, so far as possible, any appearance of controversy between British and American oil interests in Mexico at this time, [Morrow's arrival in Mexico was imminent] I am wondering if it would be possible for you [to investigate the matter so] ...consideration could be given to methods for adjusting the matter without formal reference to the Mexican Government."³¹ After having been informed of the limitations of the Association agreement, Olds

contacted Harold Walker with a view to adjusting the matter. At the same time Sir Esme Howard informed Olds of an analagous situation in which American interests had applied to exploit the subsoil of British owned land. After a round of meetings and discussions, the interested parties were admitted to membership in the Association, and agreed to respect the subsoil rights of the other thus preserving unity among the foreign oil interests. Harold Walker commented, "The intervention of the Department of State and the British Foreign Office in this matter is highly appreciated by all parties in interest."³²

By his involvement Olds preserved the unity and opposition of the major foreign petroleum producers, opposition which had effectively brought the Mexican oil industry to a halt, and the government to a need to end the conflict. In July and August Schoenfeld reported press comment from such newspapers as Excelsior calling for the government to get the oil companies back to work. On August 1st Excelsior carried an article "The Failure of Our Petroleum Policy" avoiding condemnation of the oil companies (as had been the case for two years) and saying basically that an agreement needed to be worked out to resume oil production. Schoenfeld also reported that Morones' legal chief-Ramirez Carrillo had been removed under a cloud of misconduct and bribery charges, and had been replaced by a more moderate and politically influential Senor de la Peña. Finally, Thomas LaMont furnished the Department a copy of a memo he had prepared for the use of the Mexican Government in which he pointed out that the overproducing oil companies were not prone to compromise, and that Mexico should issue a favorable Supreme Court decision soon.³³

By the late summer of 1927 there were, thus, many indications that the Mexican executive was both capable and willing to conciliate the controversy in a manner which would permit face saving. Throughout 1927, the State Department, although assuming a lower profile, continued its effort to defeat the petroleum legislation. Both the Department and the Embassy in Mexico regarded the united front of foreign oil interests as important to their diplomatic position. Kellogg and Olds took active steps in 1927 to preserve the united front and to maintain order among the foreign oil companies in Mexico. They knew that the united opposition of the major oil producers was exercising economic, psychological and diplomatic pressure against Mexico, pressure which was important in Mexico's desire to end the conflict. Ambassador Sheffield also played an important part in this approach, he had worked for strong State Department and oil company opposition to the Petroleum Law and as Morrow's biographer Harold Nicolson commented, "It is thus no exaggeration to say that Ambassador Sheffield, at the cost of great unpleasantness to himself, had prepared the soil."³⁴ The situation in Mexico in late 1927 called for an ambassador whom the Mexicans could regard as muy simpático, and who could compose a solution and orchestrate its acceptance. Dwight Morrow was that individual.

CHAPTER 5

By early 1927 Mexico indicated it was ready to discuss and conciliate the petroleum controversy. President Calles desired to meet privately with a personal representative of President Coolidge, perhaps on Calles' ranch, to adjust Mexican-American differences. Ambassador Tellez had been instructed to deliver this message, as well as to inform Coolidge of Mexico's antipathy to Sheffield, at the time they met to discuss the papers stolen from the American Embassy. Although Tellez was intimidated by the presence of Secretary Kellogg and failed to deliver Calles' message he did discuss it with Thomas LaMont and Dwight Morrow. On advice from LaMont, Tellez passed the message to Olds and "in all probability" Coolidge was given the message by either Morrow or Olds.¹

President Coolidge revealed Mexico's move toward conciliation in a speech to the United Press Association on April 25, 1927. Elaborating on the position of foreign capital in Mexico under Díaz and on the threat posed by the revolutionary Constitution, he reminded his listeners of the United States position in the controversy. In this respect he made clear that the United States "stood squarely on the understanding made with President Obregón..."² Finally he made reference to the Robinson resolution calling for arbitration, although he discounted the effectiveness of this approach, he alluded to a possibility of conciliating the conflict through negotiation.

I am glad to report that the Mexican Ambassador has recently declared to me that she [sic] does not intend to confiscate our property...and expressed the wish, which we so thoroughly

entertain, of keeping cordial and friendly relations. With a strong sentiment of this nature,...it will surely be possible to reach an amicable adjustment.³

Coolidge's speech served notice that the United States position in the controversy remained unchanged, but it also contained evidence of Mexican and United States desire to resolve the controversy.⁴

Dwight Morrow was actively involved in facilitating communications between Mexico and the United States. He arranged a meeting between Tellez, Kellogg, and Coolidge, which, according to the editor of the Christian Science Monitor, provided the basis for Coolidge's remarks to the Associated Press. He also met with Coolidge several times in 1926 and 1927 to discuss the Mexican situation. Finally he persuaded Coolidge to use the opportunity to solve the controversy through negotiation.⁵

Mexican finances were not the only reason why Mexico sought a resolution to the controversy. The Cristero rebellion which had broken out in 1926 reached its height in early 1927 with about 12,000 rebels under arms. This exacerbated domestic difficulties already apparent in the struggle between the government and Catholic Church. In addition, 1928 was an election year and there had not been a peaceful transfer of power since the Revolution. Aware of the aid the United States had rendered Obregón subsequent to the Bucareli agreement, Calles, therefore, had good cause to seek a normalization of relations with the United States. The State Department made clear in its representations to Mexico that a normalization of relations was conditional on Mexico's respect of the Bucareli agreement.⁶

These developments formed a backdrop to the appointment of Dwight Morrow as ambassador to Mexico. Very little information is available on the instructions given Morrow by either Coolidge or the Department. Indeed, the record suggests that Morrow's close contact with Mexican representatives and their apparent desire to conciliate, gave him an "inside track" to a solution. Morrow accepted the challenge to work out a modus vivendi with Mexico while United States policy remained unchanged. He stressed that protecting American rights remained his primary concern.⁷ Congress was not in session at the time Morrow was appointed, and his almost immediate success may explain why his confirmation was conducted with little congressional comment.⁸

Dwight Morrow was admirably suited to carry out the Coolidge mission. A capable lawyer, he was totally conversant with the Mexican situation, enjoyed good relations with Pani, Tellez and other Mexican leaders, and as a Morgan partner was close to the International Committee of Bankers on Mexico. He also had knowledge of national finances having been involved in Morgan loans to Belgium and France. The ties he maintained with LaMont and the Morgan bankers enhanced his stature and influence with the oil executives, a factor important in orchestrating acceptance of any solution reached with Mexico. Finally his own personal manner facilitated Mexican face saving. He was open, friendly and unassuming. Demonstrating an interest in Mexican culture and apparently determined to like Mexicans, he flattered his hosts by bringing Will Rogers and Charles Lindbergh (Lindbergh was a world hero for his recent trans-Atlantic flight and flew to Mexico non-stop from Washington, D. C.) to Mexico. Avoiding the legalism of Sheffield, Morrow believed in personal

contact and discussion. In short, Morrow's qualities and approach to the controversy lent itself to a Mexican retreat.⁹

Events moved quickly after Morrow's arrival in Mexico confirming earlier indications that that nation desired to resolve the conflict. The new ambassador presented his credentials on October 29, 1927, or a little more than a week after he arrived. In preparation for this ceremony the acting Foreign Minister advised Morrow that Mexico's system of administration was a 'Presidential System', and that he should deal directly with the President on all matters of dispute between the two countries. After the ceremony, Calles took Morrow aside and impressed on him his desire that Morrow bring Mexican-American problems directly to him. Morrow reported to Kellogg that Calles did not want to deal through notes which

tended to separate further the Governments....He then repeated to me that he did not want me to consider this invitation to take things up with him personally as merely a formal invitation, that he did earnestly desire that the matters in difference between the Governments be settled amicably, and he thought this could best be accomplished by taking questions up personally.¹⁰

Clearly Calles desired to use the first opportunity to work out a solution to the conflict with Coolidge's new ambassador.¹¹

Within ten days of this initial meeting Calles and Morrow conferred twice agreeing on method to resolve the controversy over petroleum. On November 2 Morrow was a guest of the President on his ranch where they discussed education, irrigation, agriculture, and land reform. Although Morrow had regarded this first meeting as merely a social occasion, he was subsequently informed by Augustin Legorreta, the Director of the National Bank, that Calles was disappointed that

Morrow did not introduce the issues in dispute. Legorreta indicated that Calles desired to meet with Morrow again as soon as possible. Accordingly, Morrow met with Calles at Chapultepec on November 8th. Calles initiated this conversation by asking Morrow what was necessary to solve the controversy. Calles' question implied two things: he wanted to know what action was necessary to satisfy the United States Government, and whether Morrow felt that oil company acquiescence in a settlement could be obtained. Fully prepared, Morrow reviewed the controversy since the Constitution, telling Calles that the conflict could be solved through a Supreme Court decision affirming the Texas Company case of 1921 and thus the Bucareli accord. Morrow's statement was an affirmation of the consistent State Department position throughout the controversy, the reference to the Supreme Court notwithstanding. The President then told Morrow that such a decision could be expected within two months.¹²

Morrow's report on this conversation contained a number of interesting comments on the coming Supreme Court decision. Although stating that nothing Calles had said indicated he had directed a favorable court decision, Morrow noted that it was generally accepted that the judiciary was not independent of the executive in Mexico. Morrow saw parallels between this situation and old English law under which the King's bench administered justice for the King. Morrow also presented evidence of Calles' distrust of the oil companies. Subsequent to the November 8th meeting, Morrow was advised that the Mexican President did not want the oil companies to know of the impending decision. According to Morrow, Calles felt that if the oil companies knew of the impending decision

they would start to intrigue again. Calles felt that his greatest difficulty in dealing with the oil question came from the oil people themselves.¹³ Olds answered the ambassador's communication expressing pleasure with the progress Morrow had made, "The intimation about the Supreme Court decision is, of course, important. We have had intimations on this subject before..."¹⁴

Calles' comments to Morrow clearly indicated that he distrusted the oil people, and looked to Morrow's prestige and influence to insure the acceptance of the Mexican compromise. The oil executives had not been satisfied with the doctrine of positive acts agreed to at Bucareli, and were afraid to compromise in Mexico for fear of repercussions elsewhere. Morrow himself complained about the oil executives insistence on "principles" and "rights." In an April 1927 letter to LaMont he commented, 'I hope you can see Teagle and Swain and get them to see that they can be helpful to themselves by thundering more about oil and less about rights to oil.'¹⁵ Morrow's relationship with LaMont was valuable in gaining oil company acceptance of the compromise. LaMont and others endeavored to restrain the oil executives from 'rocking the boat' by either an uncompromising stand on principle or by strong public statements. Although not soliciting LaMont's support, Morrow kept him informed of progress in Mexico. As he commented to Olds, 'LaMont's influence on the oil men in New York can be considerable if he desires to exert it.'¹⁶ The bankers hoped to see oil production rise since increasing tax revenue would enhance Mexico's ability to pay on her foreign debt. At the end of 1927 Mexico was liable to the International Committee for a sum of about 500 million dollars. Mexico had been able

to pay only thirty-seven of the seventy-four million dollars due on its external debt between 1923 and 1927. Oil revenue played a significant part in Mexico's ability to pay.¹⁷

On November 17, 1927 the Mexican Supreme Court declared the objectionable articles of the Petroleum Law of 1925 retroactive and thus unconstitutional, thereby affirming the Texas Company case of 1921. Immediately subsequent to the decision, Calles informed Morrow that the executive and legislative branches would take action to implement the decision in such a manner as to respect "all substantial rights of the oil companies." He even assured Morrow that there would not be a wholesale review of land titles as some of the oil executives apparently feared.¹⁸

In early 1928 the Petroleum Law was amended and new regulations issued by which Mexico agreed to honor the accord reached at Bucareli. Under the new law, rights to oil lands acquired prior to the Constitution were to be respected. Owners who had performed a positive act (consistent with the Texas Case, Bucareli accord, 1927 Supreme Court decision) prior to May 1, 1917 would be granted unlimited confirmatory concessions. Owners of pre-constitutional land who had not performed a positive act would be given first opportunity to apply for thirty year concessions. By these actions, Mexico agreed not to give article twenty-seven retroactive effect at the expense of the oil companies, and bowed to what had been the consistent demand of the State Department.¹⁹

The State Department and the ambassador to Mexico expressed satisfaction with the Mexican court decision and its implementing law

and regulations. On March 27, 1928, Morrow issued a statement in which he lauded Mexico's action commenting that Mexico had "by [a] voluntary act..." changed the law and regulations "to recognize all rights held by foreigners in oil properties prior to the...Constitution."²⁰ On the same day the State Department released its comments on the Supreme Court decision and on its implementation.

Together these steps voluntarily taken by the Mexican Government would appear to bring to a practical conclusion the 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.²¹

As Calles had implied, some of the oil executives were not satisfied by the new legislation. General Pierce intimated to LaMont that oil companies might still take legal action against the new law. Other executives such as Chester O. Swain, were distressed over State Department acceptance of the doctrine of positive acts feeling that it amounted to a diminution of their rights. These executives met with Undersecretary Olds on the settlement, but despite their entreaties for support they met with little enthusiasm. Under these circumstances the executives had no choice but to accept the terms of the modus vivendi.²²

The Mexican Supreme Court decision of 1927 accomplished the purpose of the State Department in opposing the retroactive application of article twenty-seven. The record clearly indicates that the Department sought to defeat the Petroleum Law through representation against it, through diplomatic contacts with third party countries, and

through contributions to the construction and maintenance of the united front of defiant major oil producers. State Department opposition to a retroactive application of article twenty-seven extended to the promulgation of the Revolutionary Constitution, and was consistently maintained until the 1927 defeat of the Petroleum Law. This opposition was an important touchstone of United States policy toward Mexico and resulted in the delay of recognition to Obregón, the elevation of the Bucareli accord to quasi-treaty status and resulted in the strained relations of 1925-1927.

The smaller dispute of 1918 over the Carranza decrees had served to define and harden State Department opposition to an application of article twenty-seven at the expense of the oil companies. In many ways it was a "dress rehearsal" for the 1925-1927 controversy. The Department labeled the Carranza decree of February 19, 1918, as retroactive and confiscatory, and initiated close contact with the oil companies as it moved to defeat the decree.

The United States subsequently adopted the recommendation of the Fall Committee, denying President Obregón recognition until he agreed to respect pre-constitutional oil holdings. Obregón's acquiescence was obtained in the Bucareli accord in which he promised to respect the pre-constitutional oil rights of foreigners who had performed a positive act consistent with the criteria contained in the Texas Company decision of 1921. At Bucareli the United States subordinated relations between the two countries to questions of oil. This extra-official agreement was later elevated by the State Department during the 1925-1927 controversy to quasi-treaty status, and used as a tool against Mexico.

Secretary Kellogg initiated the controversy of 1925-1927 when he condemned Mexico's renewed attempt to implement article twenty-seven as retroactive, confiscatory and a violation of the "solemn" agreement reached at Bucareli. Throughout 1926 Kellogg and the Department carried on an aggressive and unyielding exchange of notes in which it denied Mexico's right to legislate against vested petroleum interests. Kellogg, Olds and Sheffield sought to defeat the Petroleum Law through contributions to the construction and maintenance of the united front of defiant major producers. They met with the oil executives, discussed confidential information not available to the public and were actively involved in advising the American companies to defy the law. In addition they met with the diplomatic representatives of third party countries to garner their support, and in the case of Great Britain and the Netherlands to encourage their participation in the united front. Following the United States lead the Dutch and British producers stood with the defiant American companies and resisted the Petroleum Law. Both Kellogg and Sheffield regarded the united front as an important source of economic leverage and a bolster to the diplomatic representations against the petroleum legislation. In this regard Kellogg, Olds and Sheffield kept a wary eye on the maintenance of the united front, and were actively involved in preserving it. The Department even extended its diplomatic efforts against the petroleum legislation to suppressing Cuban newspaper criticism of United States policy toward Mexico.

In addition the Department carried on a propaganda campaign against "bolshevist Mexico" designed to isolate Mexico and facilitate United States policy. When this propaganda campaign failed, however,

the Department adopted a low profile approach to the controversy while pursuing the same objectives. During this period the Department's stand on principle was encouraged by receipt of a large quantity of stolen Mexican documents which proved the financial malaise of Mexico and its weakening resolve in the controversy. The documents clearly indicated that President Calles wanted to solve the controversy in order to increase oil revenues once more. He was willing and able, the documents established, to influence a favorable Supreme Court decision to solve the controversy if Mexico could save face at the same time. This information was confirmed through other sources including the Mexican ambassador who passed on Calles' desire to meet with a personal representative of President Coolidge. The Department's efforts to defeat the petroleum legislation reached fruition with the November 17, 1927 Supreme Court decision.

The support which the State Department gave the oil companies in the 1925-1927 controversy may, however, have contributed to their eventual elimination in Mexico. The oil companies had, with Department support and encouragement, defied the sovereign law of Mexico. In 1937 and 1938 the oil companies once again became embroiled in a conflict with Mexico, that time over labor, and sought and expected State Department support. The United States ambassador, however, was Josephus Daniels who believed in the Good Neighbor policy and who refused to subordinate Mexican-American relations to questions of oil. On February 25, 1938 the oil companies defied a Supreme Court decision to pay twenty-six million dollars in wage increases. Aware of the Good Neighbor policy and perhaps remembering the bitter lesson of 1927, the

Mexican Government expropriated the holdings of the foreign oil companies. The oil companies had tested the resolve of the Mexican Government for the last time.²³

Walter Lippmann and Dwight Morrow pointed out in 1927 that the security of United States private investment overseas ultimately rests on the good faith of the host nation. It must believe that the foreign capital is there to benefit the nation as well as the investor. The oil companies painfully acquired that realization.²⁴

In late 1974, as the worldwide oil crisis was becoming increasingly apparent, Horacio Flores de la Peña, the Mexican Minister of National Properties, reported a large oil find in Mexico. The dimensions of this find, still apparently not exactly determined, were reported by de la Peña as large enough to make Mexico one of the leading exporters of the Americas. Mexico was now a strong and independent country, and its response to the find provided an interesting commentary on its historical relationship with the United States. President Echevarria was preparing for a conference with the United States President in which he hoped to obtain some concessions on allowing seasonal Mexican workers into the United States. Making reference to oil as a bargaining tool Echevarria seemed to capsule Mexico's painful oil heritage from Díaz, 'Let it be well known [that Mexico will make] no concession that Mexico might repent from later. There will be no mortgage on our future.'

In the controversy of 1925-1927, the United States and the foreign oil companies attempted to stem the tide of Mexican nationalism. Although they achieved success in stymying the Revolution's drive to

restore Mexico to the Mexicans, their victory was temporary and illusory. Nationalism remained a potent factor in Mexican politics and internal development, and the oil companies had put themselves in an adversary relationship to its role in Mexican growth. This relationship proved to be of disastrous consequences for the foreign oil companies when the Revolution was reinvigorated by Lázaro Cárdenas.

FOOTNOTES

CHAPTER 1

1. L. Ethan Ellis, Frank B. Kellogg and American Foreign Relations 1925-1929, (New Brunswick: Rutgers University Press, 1961), pp. 24-28, 67-69. Robert Freeman Smith, The United States and Revolutionary Nationalism in Mexico 1916-1932, (Chicago: The University of Chicago Press, 1972), pp. 237-238. New York Times, November 18, 1926, p. 1.
2. Congressional Record, 69th Cong., 2d Sess., pp. 1843, 2233. U. S. Congress, Senate, A Subcommittee of the Committee on Foreign Relations. Relations with Mexico, 69th Cong., 2d Sess., Vol. 290, #1 (1927). U. S. Congress, House, The Committee on Foreign Affairs. Conditions in Nicaragua and Mexico, 69th Cong., 2d Sess., Vol. 458 #6 (1927). New York Times, November 24, 1926, p. 1.
3. J. Reuben Clark, "The Oil Settlement with Mexico," Foreign Affairs, VI, (July, 1928) pp. 600-614. U. S. Department of State, Papers Relating to the Foreign Affairs of the United States, 1927, III, p. 196. Stanley Ross, "Dwight W. Morrow, Ambassador to Mexico," The Americas, XIV, 1958, pp. 284-285.
4. Samuel Flagg Bemis, The Latin American Policy of the United States, (New York: Harcourt Brace, 1943), pp. 182-183, 217-225. J. Fred Rippey, The United States and Mexico, (New York: Alfred A. Knopf, 1926), pp. 358-359. Alexander DeConde, Herbert Hoover's Latin American Policy, (New York: Octagon Books, 1970), pp. 8-12, 125. Peter Calvert, Mexico, (New York: Praeger, 1973), p. 234.
5. Smith, The United States, pp. 244-259. Ellis, Frank B. Kellogg, pp. 56-57.
6. William Appleman Williams, "Latin America: Laboratory of American Foreign Policy in the Nineteen-Twenties," Inter-American Economic Affairs, XI, (Autumn 1957), pp. 3-30.
7. Smith, The United States, pp. 84-91, 117-132, 150-175. Rippey, The United States and Mexico, pp. 344-359.
8. Clark, "The Oil Settlement," pp. 600-608. Smith, The United States, pp. 1-6, 267-270. U. S. Department of State, Papers Relating, 1918, pp. 700-707.

9. U. S. Department of State, Records...relating to the Internal affairs of Mexico, 1910-1929, National Archives, 812.6363/2014/2070. U. S. Department of State, Papers Relating, 1918, p. 701. Smith, The United States, pp. 95-96. George Sweet Gibb and Evelyn H. Knowlton, The Resurgent Years 1911-1927, (New York: Harper & Brothers, 1956), p. 366.
10. U. S. Department of State, Papers Relating, 1918, pp. 702-704, 724-725.
11. Ibid., pp. 700-714.
12. Ibid., pp. 722, 725, 743-744, 749-750.
13. Ibid., p. 788.
14. Ibid., pp. 721, 743-749.
15. Ibid., p. 755.
16. Ibid., p. 759.
17. Ibid., pp. 723, 759.
18. Charles A. Beard, The Idea of National Interest, (New York: The MacMillan Company, 1934), pp. 134-140. Williams, "Latin America," pp. 3-30. Rippey, The United States and Mexico, pp. 357-358. U. S. Congress, Senate, The Committee on Foreign Relations, Investigation of Mexican Affairs, Preliminary Report and Hearings, 66th Cong., 2d Sess., 7666, pp. 3368-3373.
19. John W. F. Dulles, Yesterday in Mexico, (Austin: University of Texas Press, 1961), pp. 158-162.
20. Antonio Gomez Robledo, The Bucareli Agreements and International Law, (Mexico: The National University of Mexico Press, 1940), p. 83.
21. U. S. Department of State, Papers Relating, 1926, II, pp. 669-670.

CHAPTER 2

1. Dulles, Yesterday, pp. 173-176, 228-229.
2. U. S. Department of State, Papers Relating, 1925, II, p. 518.

3. Dulles, Yesterday, pp. 289-295. El Democrata, June 16, 1925 quoted in James J. Horn, Diplomacy by Ultimatum: Ambassador Sheffield and Mexican-American Relations, 1924-1927, (unpublished Ph.D. dissertation, State University of New York at Buffalo, 1969), p. 57, also pp. 45-62.
4. U. S. Department of State, Papers Relating, 1925, II, pp. 521-553. Ibid., 1926, II, pp. 605-675.
5. Ibid., 1925, II, p. 522.
6. Ibid., pp. 531-537.
7. U. S. Department of State, Records..., 812.6363/1213.
8. Ibid., 812.6363/1213/1279/1470.
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10. Ellis, Frank B. Kellogg, pp. 5-10.
11. Ibid., pp. 34-48. Smith, The United States, pp. 234-241. LeRoy Ashby, The Spearless Leader, (Urbana: University of Illinois Press, 1972), pp. 213-214.
12. Horn, Diplomacy by Ultimatum, pp. 161-166.
13. Ibid., pp. 166-167.
14. U. S. Department of State, Records..., 812.6363/2029.
15. Ibid., 1981.
16. Ibid., 1819.
17. Merrill Rippy, Oil and the Mexican Revolution, (Leiden: E. J. Brill, 1972), p. 124.
18. U. S. Department of State, Records..., 812.6363/1622.
19. U. S. Department of State, Papers Relating, 1925, II, p. 517.
20. U. S. Department of State, Records..., 812.6363/1649.
21. Ibid., 812.6363/1649/1662/2000.
22. Ibid., 812.6363/1700/2008/2022/2095.
23. Ibid., 711.12/788, 812.6363/2095/2195.

24. Great Britain, Foreign Office, Documents on, p. 908.
25. Rippy, Oil and the Mexican, pp. 134-159, 161-166.
26. U. S. Department of State, Records..., 812.6363/2038.
27. Ibid., 812.6363/2059.
28. Laurence Duggan, an undated State Department memorandum of about December, 1935 as quoted in Bryce Wood, The Making of the Good Neighbor Policy, (New York: W. W. Norton & Co., 1967), p. 51, also pp. 50-52.
29. New York Times, November 25, 1926 2:1, 24:2. U. S. Department of State, Records..., 812.6363/1942a, 711.12/732 (Tannenbaum to Kellogg) as quoted in James Horn, Diplomacy by Ultimatum, p. 91.

CHAPTER 3

1. U. S. Department of State, Papers Relating, 1925, II, pp. 504-520. Ibid., 1926, II, pp. 605-672.
2. Smith, The United States, pp. 223, 258. U. S. Department of State, Records..., 812.6363/1867.
3. U. S. Department of State, Papers Relating, 1926, II, pp. 674. New York Times, June 12, 1944 (obituary). Inquiries to Exxon, Sinclair and Gulf produced no information on the Association or on Mr. Stevens, later a Gulf executive.
4. U. S. Department of State, Records..., 812.6363/1981. On October 20, 1926 Olds commented, in a memo for Kellogg, that he cautioned Swain about divulging information concerning the notes being exchanged with Mexico, and which had not yet been released by the two governments. Olds' memo clearly indicated that this information had been shared by the Department on a strictly confidential basis and that the Department had received information that the oil executives had compromised its confidentiality.
5. New York Times, September 21, 1924, p. 23:4.
6. Ibid.
7. Smith, The United States, pp. 172-173, 195-200. U. S. Department of State, Records..., 812.6363/2211/2219/2221/2223.
8. Rippy, Oil and the Mexican, p. 163.

9. Ibid., pp. 163-167. Gibb and Knowlton, The Resurgent Years, pp. 453-457, 365.
10. Ibid., p. 366.
11. U. S. Department of Commerce, Commerce Year Book 1926, II-Foreign Countries, p. 372.
12. Horn, Diplomacy by Ultimatum, pp. 70-88, 174-188. U. S. Department of State, Records..., 812.6363/1964.
13. Horn, Diplomacy by Ultimatum, pp. 21-22.
14. James R. Sheffield as quoted in Smith, The United States, p. 232.
15. Horn, Diplomacy by Ultimatum, pp. 24-27.
16. Ibid., p. 33.
17. Ibid., pp. 28-29.
18. Ibid., p. 30-33. Ellis, Frank B. Kellogg, pp. 24-25.
19. U. S. Department of State, Records..., 812.6363/1815/1807/1842/1875¹/₂/1867.
20. Ibid., 812.6363/1744/1779/1812.
21. Ibid., 812.6363/1807.
22. Ibid.
23. Ibid.
24. Ibid.
25. Ibid.
26. Ibid., 812.6363/1812.
27. Ibid., 812.6363/1890/2223.
28. Ibid., 812.6363/1832.
29. Ibid., 812.6363/1772/1817.
30. Ibid., 812.6363/1983.
31. Ibid., 812.6363/1875¹/₂.
32. U. S. Department of State, Papers Relating, 1926, II, pp. 643-653.

33. Horn, Diplomacy by Ultimatum, pp. 33-34.
34. U. S. Department of State, Records..., 812.6363/1942/1946/2102/2036/2090.
35. U. S. Department of State, Records..., 812.6363/1982/1995/2014.
36. Ibid., 812.6363/1980.
37. Ibid., 812.6363/1971a/1972.
38. Ibid., 812.6363/1980. Smith, The United States, p. 238.
39. Ibid., 812.6363/1931/2008/2022/2195.
40. Ibid., 711.12/788, 812.6363/1807/2000/2029. Great Britain, Foreign Office, Documents on, p. 908.
41. U. S. Department of State, Papers Relating, 1926, II, p. 674.
42. Ibid., p. 676.
43. U. S. Department of State, Records..., 812.6363/2225.
44. Chester O. Swain, quoted in Gibb and Knowlton, The Resurgent Years, p. 366.
45. U. S. Department of State, Records..., 812.6363/2058/2102/2166.

CHAPTER 4

1. Smith, The United States, p. 241. Ellis, Frank B. Kellogg, pp. 44-47.
2. Horn, Diplomacy by Ultimatum, pp. 141-145. Smith, The United States, pp. 235-241.
3. New York Times, November 18, 1926, 1:1. Horn, Diplomacy by Ultimatum, pp. 146-148.
4. Ibid., pp. 149-151.
5. Baltimore Sun, January 14, 1927, quoted in Horn, Diplomacy by Ultimatum, p. 152.
6. Smith, The United States, p. 240.

7. Ibid., p. 239. New York Times, January 31, 1927, 1:7, January 26, 1927, 1:7-8.
8. Ashby, The Spearless Leader, pp. 208-214.
9. New York Times, February 24, 1927, 32:3. U. S. Congress, Conditions in Nicaragua and Mexico. U. S. Congress, Senate, Oil Concessions in Mexico, 69th Cong., 2d Sess., Document #210.
10. U. S. Department of State, Records..., 812.6363/2324.
11. Ibid., 812.6363/2210a. R. F. Smith reports that the oil executives also watched the dwindling Mexican revenues with pleasure. He quotes a J. P. Morgan official as saying, 'The oil taxes are getting smaller very rapidly and each month Harold Walker calls me up and congratulates me on the fact that they are going to disappear in the next month. He is getting a great deal of pleasure out of these dark days.' Vernon Munroe as quoted in Smith, The United States, p. 241.
12. Ibid., 812.6363/2102. Horn, Diplomacy by Ultimatum, pp. 179-181.
13. U. S. Department of State, Records..., 812.6363/2166/2176.
14. Ibid., 812.6363/2176/2183/2270.
15. Ibid., 812.6363/2211/2219/2221/2223. Rippey, Oil and the Mexican, pp. 124-125, 167.
16. U. S. Department of State, Records..., 812.6363/2153/2185. Smith, The United States, p. 250.
17. U. S. Department of State, Records..., 812.6363/2233/2269.
18. Ibid., 812.6363/2322.
19. Ibid., 812.6363/2317.
20. Russell D. Buhite, Patrick J. Hurley and American Foreign Policy, (Ithaca: Cornell University Press, 1973), pp. 91-92.
21. James J. Horn, "Did the United States Plan an Invasion of Mexico in 1927," Journal of Inter-American Studies and World Affairs, (November, 1973), p. 460.
22. Horn, Diplomacy by Ultimatum, pp. 169-177.
23. Ibid., p. 181.
24. Harold Nicolson, Dwight Morrow, (New York: Harcourt, Brace and Company, 1935), pp. 308-309. Horn, Diplomacy by Ultimatum, pp. 181-183.

25. Smith, The United States, pp. 244-252.
26. U. S. Department of State, Records..., 812.6363/2112/2184/2192/2129.
27. Horn, Diplomacy by Ultimatum, p. 189.
28. Ibid., 812.6363/2290/2305/2307/2382. Ellis, Frank B. Kellogg, pp. 46-48.
29. Ibid., pp. 11, 39.
30. U. S. Department of State, Records..., 812.6363/2453.
31. Ibid.
32. Ibid., 812.6363/2442/2453/2454/2467.
33. Ibid., 812.6363/2309/2300/2301/2320/2339/2282¹/₂.
34. Nicolson, Dwight Morrow, pp. 308-309.

CHAPTER 5

1. Smith, The United States, pp. 251-252.
2. U. S. Department of State, Papers Relating, 1927, III, p. 215.
3. Ibid., p. 217.
4. Ibid., pp. 214-217.
5. Smith, The United States, pp. 251-252, also p. 253 citing Walter Lippman.
6. Dulles, Yesterday, pp. 309-310. Stanley R. Ross, "Dwight W. Morrow, Ambassador to Mexico," The Americas, XIV (1958), pp. 274-275.
7. Smith, The United States, p. 255.
8. Ashby, The Spearless Leader, p. 214. Ashby alludes to the historical speculation concerning Borah's role in the appointment of Morrow. Whether involved in his selection or not, Borah subsequently approved of the nomination.
9. Nicolson, Dwight Morrow, pp. 278-279. Ross, "Dwight W. Morrow," pp. 279-281. J. C. Long, "Dwight W. Morrow," Scribners Magazine, XCVIII, (September, 1935), p. 129.

10. U. S. Department of State, Papers Relating, 1927, III, p. 188. This, and the following references to Morrow's report are taken from a seven page Morrow to Secretary of State communication dated November 8, 1927.
11. Ibid., pp. 188-189.
12. Ibid., pp. 190-191.
13. Ibid., p. 192.
14. Ibid., p. 193.
15. Smith, The United States, p. 247.
16. Ibid., p. 256.
17. Rippy, Oil and the Mexican, pp. 124-125.
18. U. S. Department of State, Papers Relating, 1927, III, pp. 196-197.
19. J. Reuben Clark, "The Oil Settlement with Mexico," Foreign Affairs, VI, (July, 1928) pp. 601-614. Ellis, Frank B. Kellogg, pp. 51-53. U. S. Department of State, Papers Relating, 1928, III, pp. 292-293.
20. Ibid., pp. 306-307.
21. Ibid., p. 308.
22. Ellis, Frank B. Kellogg, pp. 53-55. Smith, The United States, pp. 256-257.
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24. Dwight W. Morrow, "Who Buys Foreign Bonds," Foreign Affairs, V, (January, 1927), pp. 219-232. Walter Lippmann, "Vested Rights and Nationalism in Latin America," Foreign Affairs, V, (April, 1927), pp. 362-363.
25. Topeka Daily Capital, October 21, 1974, 8:1.

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THE MEXICAN-AMERICAN OIL CONTROVERSY OF 1925-1927 AND THE
ROLE OF THE STATE DEPARTMENT IN SEEKING TO DEFEAT MEXICAN LAW

by

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The highly nationalistic Mexican Revolution sought to restore Mexico to the Mexicans, and threatened the vested rights of American and other foreign petroleum interests in Mexico. In 1925, this threat, incipient since the promulgation of the revolutionary Constitution, was reinvigorated when Mexico passed legislation implementing article twenty-seven of the 1917 Constitution. Article twenty-seven had restored ownership of the subsoil to the Mexican nation, while the implementing legislation, according to the oil companies and State Department, gave it retroactive effect. This, they maintained, would result in confiscation of subsoil owned prior to the Constitution. Mexico's legislation set off a controversy between the two countries which lasted from 1925 to 1927.

This thesis examines the controversy of 1925-1927, its specific issues, background, development, and conclusion. It analyzes State Department action in opposing the Mexican legislation, devoting particular attention to establishing the Department's role, methods, and objectives in the conflict.

Throughout the controversy the United States condemned the article twenty-seven laws as confiscatory and unacceptable, a position consistent with past State Department involvement. The United States had expressed opposition to article twenty-seven soon after the Constitution was drafted, and sought to rescind its first application in the Carranza decree of February 19, 1918. After the overthrow of Carranza, this opposition became an arbiter of Mexican-American relations. As a result, recognition was temporarily denied the new government, until it

agreed to respect pre-constitutional subsoil ownership. The United States later elevated this unofficial agreement, reached in the Bucareli conferences of 1923, to quasi-treaty status and countered the Mexican legislation as an abrogation of this "solemn" and "binding" agreement.

During the conflict of 1925-1927 the State Department sought to defeat the petroleum law through strong representation against it, contributions to the construction and maintenance of the united front of defiant major oil producers and through propaganda designed to isolate Mexico. Finally, it initiated diplomatic contacts with third party countries designed to garner support, internationalize the united front and in the case of Cuba to suppress newspaper criticism.

While seeking to defeat the petroleum legislation, the Department carried out an aggressive, highly visible campaign against Mexico in 1926 and early 1927. When this tactic generated considerable press, public, and congressional criticism and concern, the Department adopted a more moderate, low profile approach while actively pursuing the same objectives. While following this course, the Department and the ambassador to Mexico kept a wary eye on the united front of foreign oil producers and made contributions to maintaining it. This low profile approach was facilitated by inside information which indicated that Mexico desired to conciliate the conflict in a manner which would permit face saving, by the lack of need for Mexican oil, and by the financial malaise of the Mexican Government.

By mid-1927 there was conclusive evidence that Mexico wished to end the controversy. The removal of the United States ambassador,

James R. Sheffield, who had played an important part in the Department's opposition, was required. Dwight W. Morrow had the necessary personal qualities and contacts with the Mexican leadership and State Department to work out the modus vivendi desired by Mexico. Confirming earlier intimations, Mexico ended the controversy by a favorable Supreme Court decision against the Petroleum Law of 1925. The United States achieved its objective, required the oil companies to accept the doctrine of positive acts, and permitted Mexico to save face.

A wide variety of primary and secondary sources provided the basis for this thesis. Most important of these was the State Department file on Mexican petroleum (812.6363). This file contains a vast quantity of documents on the foreign controlled Mexican oil industry including diplomatic notes, communications between the Department and Embassy in Mexico, press comment, congressional inquiries and resolutions, complete consular reports, statistics and other related pieces of information. L. Ethan Ellis' work, Frank B. Kellogg and American Foreign Relations, 1925-1929 gives insight into the foreign policy milieu of the period, and Kellogg's approach to Mexico. Considerable information on United States investment in Mexico is contained in Robert F. Smith, The United States and Revolutionary Nationalism in Mexico, 1916-1932. John W. F. Dulles' Yesterday in Mexico is an excellent English language source for the internal affairs and politics of Mexico during the period. Merrill Rippy's detailed and heavily footnoted Oil and the Mexican Revolution, is an important source for the study of the oil industry in Mexico, and its relationship to the goals of the Revolution. Finally,

Samuel F. Bemis and J. Fred Rippy, although providing differing interpretations in The Latin American Policy of the United States and The United States and Mexico respectively, are important sources for Mexican-American relations.