

liquidation of the estate of the deceased conformably with the laws of the country," — do not give to the consul the right to original administration of the estate, to the exclusion of one authorized by local law to administer; that the sole right conferred, whether in the possession, the administration or the judicial liquidation of an estate, is that of "intervention," and this conformably with the laws of the country. Intervention presupposes a proceeding already instituted. The concluding words of the court are:

Our conclusion then is that, if it should be conceded for this purpose that the most-favored-nation clause in the Italian treaty carries the provisions of the Argentine treaty to the consuls of the Italian Government in the respect contended for (a question unnecessary to decide in this case), yet there was no purpose in the Argentine treaty to take away from the States the right of local administration provided by their laws, upon the estates of deceased citizens of a foreign country, and to commit the same to the consuls of such foreign nation, to the exclusion of those entitled to administer as provided by the local laws of the State within which such foreigner resides and leaves property at the time of decease.

The State courts, in the decisions above cited upholding the right of the consul under the treaty to administer, regardless of State laws to the contrary, necessarily decided that the stipulation was within the treaty-making power of the President and Senate. The Supreme Court, in view of the interpretation placed upon the terms of the treaty, was not called upon to decide this question.

MEXICO

For many years Mexico was justly pointed to as a Latin-American country which, by bitter experience with revolutions, had learned to appreciate the blessings of law and order. This state of affairs was due apparently to one man, Porfirio Diaz, under whose continuous presidency from 1884 to 1911 Mexico assumed an enviable position among the family of nations. It can not be denied that Diaz governed as a dictator, and that his government was emphatically a one-man's government, but there are times when a nation needs a strong guiding hand, and one man is better than none, or a coterie of aspiring, but mediocre, politicians. General Diaz would have done well to prepare his people for self-government, and, under his guidance, to train them in its difficulties and responsibilities. His failure to do so was perhaps his greatest mistake, as it was in large measure the cause of his downfall. It is indeed true

that those that draw the sword perish by the sword, and that a presidency won by revolution is apt to be lost by revolution. The end of a great career in exile is full of pathos, and the revolution which terminated it is a misfortune to the country as well as to the immediate victim.

President Madero came into power by a revolution and, as was to be expected, the lawlessness and disorder incident to revolution has continued after the immediate object of it was obtained, namely, the resignation of Diaz from office and the installation of the leader of the revolt. Mexico needs peace, and there can be no doubt that the majority of the people firmly desire it, but, when rudely shaken, the pendulum swings from one extreme to the other and only gradually assumes the position of equilibrium. That this condition may soon obtain in Mexico is the hope, if not the expectation, of its friends and admirers.

The situation of the United States in revolutionary movements in Mexico and Central America is one of embarrassment because charges are constantly made, which unfortunately are not without foundation; that the United States is made the basis of hostile operations; that supplies are slipped across the border, and that revolutions are financed in the United States. The official publication, entitled *The Foreign Relations of the United States*, teems with complaints of deficiencies in our neutrality laws, and complaints of neglect in the enforcement of the laws. It may well be that the criticism of the laws and complaints of their violations are exaggerated, but where there is so much smoke there must needs be some fire. Thus, it is stated under date of December 23, 1910, that the United States authorities had not prevented the passage of armed insurgents from El Paso to Ciudad Juarez, and under date of January 11, 1911, that the American authorities had not acted upon a request for the arrest of certain revolutionists engaged in violating the neutrality laws in El Paso, Texas. Again, it is alleged that the neutrality laws had been violated, in that revolutionary movements were organized in Texas; that bands of revolutionists were being recruited along the border; that arms and ammunition were procured in the United States and shipped to revolutionists in arms against the government of Diaz, as well as against the government of President Madero.

On March 2, 1912, President Taft issued a proclamation¹ calling attention to the serious disturbances unfortunately existing in Mexico,

¹ Printed in SUPPLEMENT, p. 146.

and, after stating the force and effect of the neutrality laws, gave notice "that all persons owing allegiance to the United States who may take part in the disturbances now existing in Mexico, unless in the necessary defense of their persons or property, or who shall otherwise engage in acts subversive of the tranquillity of that country, will do so at their peril, and that they can in no wise obtain any protection from the Government of the United States against the appropriate legal consequences of their acts, in so far as such consequences are in accord with equitable justice and humanity and the enlightened principles of international law." It is, however, a principle of international law for which authority need not be cited, that private individuals can trade in contraband, although by so doing they subject such ventures to capture and confiscation. The risk is considerable, but if the arms and ammunition, or other material capable of a warlike use, reach their destination, the shippers realize enormous profits at the expense, be it said, of a friendly government which we are morally bound to support as far as we lawfully can. It is quite clear that the best way to prevent arms, ammunition, and other warlike material from reaching revolutionists, is to prevent their exportation, by the apprehension and punishment of all persons engaged in it. By so doing, we shall contribute to the peace of a neighboring country and only act up to the Golden Rule, which the late Secretary Hay impressively stated to be the cardinal characteristic of American diplomacy. Therefore, Senator Root, whose sympathy for and appreciation of Latin America is based upon personal knowledge of actual conditions, introduced a Joint Resolution into the Senate on March 13, 1912, which fortunately passed both the Senate and House on the 14th and was approved the same day by the President. The resolution is based upon the Joint Resolution of April 22, 1898, forbidding the exportation of coal or other material used in war from any seaport of the United States, and authorizes the President of the United States to forbid, in his discretion, the exportation of arms or munitions of war to any American country in which he shall find conditions of domestic violence to exist, and declares that any shipment of such material made after the issue of the President's proclamation, "shall be punishable by fine not exceeding ten thousand dollars, or imprisonment not exceeding two years, or both."

It is difficult to over-estimate the importance of this resolution, for it

introduced a profound change in the neutrality laws of the United States and enables the President to prevent the shipment of arms or munitions of war, not merely to Mexico, but to any American country wherein conditions of domestic violence unfortunately exist, and which are promoted by the use of arms or munitions of war procured from the United States. The President had, by his proclamation of March 2d, found that "serious disturbances and forcible resistance to the authorities of the established government exist in certain portions of Mexico." He, therefore, took advantage of the authority conferred upon him by the Joint Resolution of March 14th, which was promptly approved by him, and, on the same day issued the proclamation provided for in the resolution, by declaring and proclaiming formally that "conditions of domestic violence promoted by the use of arms or munitions of war procured from the United States as contemplated by the said Joint Resolution," do in fact exist and he therefore directed all persons to abstain from all violations of the Joint Resolution and warned them that such violations would be rigorously prosecuted.²

It is not the purpose of this comment to examine conditions in detail, but to call attention to the importance of the Joint Resolution and to the authority conferred upon the President to prevent export of arms and munitions of war procured in the United States, except under such limitations and exceptions as shall prevent their reaching the revolutionists and their employment for a revolutionary purpose contrary to the neutrality laws of the United States and the Joint Resolution of March 14, 1912. If we can go further and prevent revolutions from being financed in the United States, a great step in advance would be taken to secure domestic peace in the sister republics, without which stable government and ordinary progress would seem to be well-nigh impossible

THE HORCON RANCH CASE

Anent the discussion from time to time arising concerning the inability of the United States Government to perform the international obligations assumed in its treaties, an interesting case arising on the water boundary between the United States and Mexico which has recently been decided by the Circuit Court of the United States in and for the Southern District of Texas affords a refreshing precedent for the vindication

² Printed in SUPPLEMENT, p. 147.