

parties to this treaty, be affirmed by this tribunal only on the express evidence of an international contract."

It cannot be said that Prussia and the Netherlands at the time of the treaty of 1816 between them "were not fully sovereigns," and it cannot be maintained with any show of reason that Prussia or Holland is not a modern state. It may be that a servitude is "little suited to the principle of sovereignty," but this is a matter for the nations themselves to determine. The statement of the tribunal that the doctrine "has found little, if any, support from modern publicists" flies in the teeth of most modern publicists, who overwhelmingly support the doctrine. It is difficult to ascertain just what the tribunal meant by saying that it could affirm the doctrine "only on the express evidence of an international contract," unless it means that the term servitude should be used in the treaty creating this status. The contract between Prussia and Holland of 1816 did not use the term servitude, although the Oberlandesgericht held that it created a status aptly termed an international servitude, which it could not have done if it were impressed by the arbitral award of the fisheries tribunal.

It is not the purpose of this comment to thresh over the fisheries dispute. It merely calls attention to the fact that a modern state, with a constitutional form of government, recognized the doctrine of servitude against its own interest in the interpretation of a treaty in which the term servitude was not mentioned, and declared squarely that the right created was a sovereign right in favor of the grantee and, as such, withdrawn from the sovereignty of the grantor. For this reason the case is not merely of interest to the parties in litigation, but to students of international law in all parts of the world.

MEXICO

Previous comments in these columns have informed our readers from time to time of the course of events in the revolution which has been in progress in Mexico for several years. The comment in our last number narrated the events leading up to the mediation of Argentina, Brazil and Chile, growing out of the Tampico flag incident and the occupation of Vera Cruz by the American forces. The result of the mediation, namely, the conclusion of a protocol between the United States and General Huerta, which adjusted the differences between them and left the organization of a provisional government which would be recognized

by the United States, to be agreed upon by the contending Mexican factions, was also stated. Since then, events in Mexico have moved rapidly toward a peaceful termination of the civil war.

Immediately upon the conclusion of the agreement between the United States and General Huerta, it appears that the mediators invited General Venustiano Carranza, the First Chief of the Constitutionalists, to send delegates to meet representatives of General Huerta, to discuss and agree upon the organization of a provisional government which could bring about the pacification of the country and re-establish normal conditions. General Carranza replied that it would be necessary for him to consult his generals in the field before acting upon the request. He stated that this was necessary because the revolutionary plan, known as the "plan of Guadalupe," proposes "to restore the constitutional order by means of a provisional president and that the plan would be modified if such government were made to emanate from a possible agreement with the delegates of General Huerta."

The Constitutionalist generals apparently were unwilling to meet the representatives of General Huerta in conference on the subject of a provisional government, but continued the successful advance of their armies toward Mexico City. On July 5th a presidential election, in which it is reported that very few voters took part, was held in Mexico City, and General Huerta was re-elected, but in spite of this apparent vote of confidence, ten days later, July 15th, he presented his resignation to the Chamber of Deputies, and on July 20th he, with members of his family, sailed from Puerto Mexico, on board the German cruiser *Dresden*.

Immediately upon its receipt, the Chamber of Deputies accepted General Huerta's resignation, and Francisco Carbajal, formerly Chief Justice of the Supreme Court of Mexico, and recently appointed Minister for Foreign Affairs, took the oath of office as provisional president.

The new provisional president at once appointed delegates to meet General Carranza and arrange for the transfer of the government at Mexico City to the Constitutionalists. The delegates met at Saltillo, but after several days of fruitless negotiations, it was announced on August 3rd that an agreement could not be reached, and the conference was abandoned. It was reported that provisional president Carbajal instructed his representatives to insist upon the following conditions:

1. An armistice and the issue of instructions to the chiefs of the contending parties for the immediate cessation of hostilities.

2. The transmission of the executive power by a dissolution of the present Congress, and the restoration of the Congress dissolved by Huerta.
3. The issue by the reinstated Congress of a general armistice so that nobody should be molested for his political opinions or his part in military operations.
4. The recognition of the military grades obtained by Federal officers.
5. The resignation of Carbajal as President after the reinstated Congress had assembled, either to that body or through manifesto to the people, and the designation by Congress of the person to receive the executive power according to the custom before the year 1898.
6. Arrangements relative to financial questions, especially affecting the interests of foreigners.

It was also reported that General Carranza declined to view the proceedings at Saltillo as a conference for the negotiation of the terms upon which Mexico City would be surrendered, as he took the position that the Constitutionalists, being victors in the war, were entitled to the unconditional surrender of the city and government, and that it was necessary only to arrange the formalities of the transfer of authority from the Carbajal regime to the Constitutionalists. He is reported as having been particularly opposed to granting a general amnesty, which might include the persons criminally responsible for the assassination of former President Madero and Vice-President Suarez.

On the night of August 12th, the provisional president and his Cabinet fled from Mexico City and at the same time the city was evacuated by the Federal Army. President Carbajal left a manifesto to the people stating that inasmuch as his overtures were met by the uncompromising demands of the Constitutionalists for unconditional surrender, only two courses were open to him,—fight or flight, and that his government accordingly could not stand. The duty and responsibility of preserving order in Mexico City pending its occupation by the Constitutionalists devolved upon General Iturbide, Governor of the Federal District. On the following day Governor Iturbide visited General Carranza and arranged for his occupation of the city. The terms of the arrangement are reported to have been as follows:

First, the evacuating troops shall withdraw to towns on the railway between Mexico City and Puebla in groups not exceeding 5,000 men. They must not take artillery with them nor reserves of ammunition. When the troops are thus distributed they will be disarmed by representatives of the new government.

Second, the troops at Manzanillo, Cordoba, and Jalapa and in the States of Chiapas, Tabasco, Campeachy, and Yucatan shall be disarmed at their present stations.

Third, in proportion as the Federals withdraw the Constitutionalists shall occupy the positions evacuated by them.

Fourth, the Federal troops garrisoning the towns of San Angel, Tlalpam, Xochimilco, and other points fronting the Zapatista position, will be disarmed at those points when they are relieved by the Constitutionalist forces.

Fifth, the departing Federals shall not be molested by the Constitutionalist.

Sixth, military men unable to depart shall enjoy all guarantees.

Seventh, Gen. Obregon undertakes to furnish soldiers with means of returning to their homes.

Eighth, Generals and other officers shall hold themselves at the disposition of the First Chief of the Constitutionalist, who, on entering the capital, will be clothed with the character of the provisional President of the republic.

On August 15th the Constitutionalist Army, under General Obregon, entered the capital and on August 20th General Carranza made a triumphant entry into the city and assumed the reins of government.

Rumors of disagreement between factions of the victors, current even before General Carranza entered Mexico City, have since materialized into an open rupture between Generals Villa, Zapata and Carranza. Whether or not this is the beginning of another revolution in Mexico cannot be foretold at the present writing—October 15, 1914—as earnest efforts are being made to adjust the differences between the several leaders. On September 15 President Wilson ordered the withdrawal of the American troops from Vera Cruz. His explanation of this action was that it was taken “in view of the entire removal of the circumstances which were thought to justify the occupation. The further presence of the troops is deemed unnecessary.” The carrying out of the order has apparently, however, been postponed until the danger of armed conflict between the Constitutionalist factions is passed.

Should the efforts now being made to avoid further bloodshed be successful, the turn which events have taken in Mexico cannot help but give great satisfaction to President Wilson, as they seem to vindicate completely his policy, which has been termed “watchful waiting.” Whether or not the events which have taken place will turn out in the long run to be for the best interests of the people of Mexico remains to be seen. That these interests were in the mind of President Wilson when he refused to recognize Huerta because of the manner in which he came into power and when he adopted and pursued his peaceful policy is indicated by the following extract from his address delivered at the national celebration at Independence Square, Philadelphia, on the 4th of July last:

You know what a big question there is in Mexico. Eighty-five per cent of the Mexican people have never been allowed to have a look-in in regard to their government and the rights which have been exercised by the other fifteen per cent. Do you

suppose that circumstance is not sometimes in my thought? I know the American people have a heart that will beat just as strong for these millions in Mexico as it will beat for any other millions anywhere else in the world, and when they once know what is at stake in Mexico they will know what ought to be done in Mexico. You hear a great deal said about the property loss in Mexico, and I deplore it with all my heart. Upon the conclusion of the present disturbed condition in Mexico undoubtedly those who have lost properties ought to be compensated. Man's individual rights have met with many deplorable circumstances, but back of it all is a struggle of the people, and while we think of the one in the foreground let us not forget the other in the background.

THE PAPACY IN INTERNATIONAL LAW

Giuseppe Sarto, known as Pope Pius X, died at Rome on August 20, 1914. His successor, Giacomo della Chiesa, known as Benedict XV, was chosen at Rome on September 3, 1914. The death of Pius is said to have been hastened by the outbreak of war, which he tried to, but could not, prevent. Benedict is said to desire earnestly international peace and has, it is reported, made overtures to the Powers to end the war. Indeed, it is intimated that his election was due in no small measure to his attitude toward war.

It is not the function of a journal of international law to discourse at length upon the life and services of one whose kingdom is not of this world and whose influence is spiritual in the sense that it is not exercised through political channels. We must, however, admit the vast influence which the Pontiff has in the Catholic world and that, given the origin, history and international organization of the Papacy, it is the greatest single force for the world's good, if the Pope broaden his sympathies so as to embrace the world, instead of confining his activity solely to the Church of which he is the living head.

The late Pope was certainly not a politician, and it is doubtful if he could be considered a diplomat. He was deeply interested in the spiritual life of the Church, and his energy was primarily devoted to this phase of his work. He was, however, deeply and sincerely interested in peace, as is shown by the pontifical brief which he addressed in June, 1911, to Cardinal Falconio, then Apostolic Delegate to the Catholic Church in the United States. It is unnecessary to do more than to refer to this, as it was printed in the pages of the *JOURNAL* [Supplement (1911), Vol. 5, pp. 214-215] and was the subject of an editorial comment (Vol. 5, 1911, pp. 707-709). It is a source of regret to right-minded people, at least in the United States, that his influence failed when war and peace were in the balance. It is to be hoped that Benedict will be more