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SUPREME COURT UPHOLDS OIL EXPROPRIATION.

MEXICO CITY. (MLN) -- The Mexican Supreme Court, in a decision reached on Saturday, December 2, denied the amparo (injunction) plea brought before it by the foreign oil companies attacking the constitutionality of the Expropriation Law and the Decree of Expropriation under which the oil industry was taken over by the Mexican government on March 18, 1938.

The decision was unanimous on most of the points, and was taken by majority of three votes on one of them, the President of the Chamber dissenting from the opinion of his colleagues. The disputed point was whether or not the government had acted within the terms of the Constitution by including in the expropriation certain properties other than real properties. The majority opinion sustained the thesis that the Constitution did not forbid such action and that in expropriating in the public interest the government was bound to include in the measure all the properties of the business which contributed to its normal functioning.

The companies' complaint was sustained only on a single point, that referring to the seizure of their books, archives, documents, cash on hand, petroleum inventories, and accounts collectible. The Court held that in taking possession of these goods the government had overstepped the law and the Constitution.

Two other questions of immense significance were settled by the Court's decision. The companies' claim to ownership of the subsoil petroleum was definitively denied, on the grounds that the Constitution of 1917 had vested such ownership inalienably in the Nation; that the entire juridical tradition of Mexico throughout the colonial period and subsequently was based on the same thesis; and that the Mining Code of 1884 and later legislation, which for the first time departed from that tradition, were either unconstitutional or did not, in fact, grant the surface owner absolute dominion in the subsoil wealth.

The natural wealth of the subsoil, the Court holds, is not the property of the surface owner. It may be appropriated by him only after it has been extracted and brought to the surface, for which purpose it is a faculty of the State to grant concessions of exploitation. Therefore, the petroleum remaining in the subsoil of the lands formerly held by the foreign oil companies has always been and remains the property of the Mexican Nation. It was not expropriated for the reason that it never formed part of the possessions of the companies.

The Court likewise denied that the companies had any claim to indemnification for their concessions. It is true, the opinion holds, that the concessions have a commercial value, but the government in expropriating them has not done so for reasons of profit but has acted in the public interest. The government cannot be asked to pay for a concession which it itself extended and which did not cost the beneficiary a penny.

As a result of this decision, the Mexican government will now be sustained in its position by the highest tribunal of the country that compensation for the properties taken over shall be based only on the value of the fixed investments. According to the companies' books, as reported by the Expert Commission which investigated the industry during the labor conflict of 1937, that value averaged for the three-year period 1934-1936 some 160 million pesos (about 44 million dollars at the then rate of exchange), against which there were reserves and surpluses set aside averaging nearly 80 million pesos for the same period.

Finally, the Court's decision likewise upheld Mexico's right to make deferred compensation, in accordance with the country's own laws, for properties expropriated. That is to say, the provision of the Expropriation Law which calls for compensation within a period of ten years is constitutional in the Court's opinion. In view of the relatively small amount involved (when compared with the 450 million dollars which the companies claimed was the value of their properties), little doubt is entertained here of Mexico's ability to meet the obligations without difficulty.

The Procurator General of the Nation has instituted court proceedings, in compliance with the law, for the legal valuation of the properties as the indispensable first step towards fixing the amount and terms of compensation, and the companies have been notified to name their own expert who, together with the government expert, will assign a value to all those properties which do not already have an assessed tax valuation.

Although the decision was fully expected, it is reported here that it has caused disappointment in Washington and New York. Secretary Hull's statement after the decision was announced is editorially commented upon by the labor daily, "El Popular", as follows:

"It is strange, to begin with, that the Secretary of State should

consider that the decision of the Supreme Court changes the course of the previous discussions. This might lead to the supposition that those discussions were based on the possibility that Mexico might retreat from the expropriation. And it seems to us, in this respect, that the attitude of our country has been firm and decisive since March 18 of last year. The discussions with the companies never implied, on the part of the Mexican Government, a disposition to retreat a single step in a matter of such enormous importance.

The verdict of the Court, therefore, cannot signify a change in the basic issues of the question. . . . But still more cavalier are the words, according to the reports transmitted here, in which Mr. Hull expressed himself to say that the time had come to apply to the petroleum case a policy similar to that which the United States put into practice in the case of the farm properties expropriated from American citizens.

It will escape no one that these words imply a threat to our country, a hint which should be met with an energetic reply. It will be recalled that slightly more than a year ago a lively controversy took place between the Mexican and American Chancelleries with respect to lands expropriated from American proprietors. . . The tone which the American State Department utilized on that occasion was neither moderate nor friendly and it profoundly wounded the feelings of our people. . . . The American State Department spoke of Mexico's acting without responsibility and with contempt for international rules of guaranties to property. In other words, that our system of recovering what indisputably belonged to our nation was, Mr. Hull insinuated, plain theft. . . . The Cárdenas Government was not intimidated; it completely refuted the absurd arguments of the American State Department and, further, recalled several chapters of history which do not authorize the Government of the United States to confuse "expropriation" with "confiscation" nor to intervene imprudently in the internal affairs of other countries.

The result was that the United States agreed at last that what Mexico had done in defense of its integrity was done and that, without our country denying compensation to the foreign proprietors, that compensation would have to be adjusted to the particular conditions of our country. The rural properties expropriated from Americans are being rigorously paid, in accordance with the stipulations reached on that occasion.

We here express our hope that the American State department will not allow itself to be confused by the pressure of the oil imperialists who think that "the hour has struck," in the shadow of the reigning disorder of the international situation, to impose their shabby will on weak countries like our own.

To proceed as he threatens, Mr. Hull would merely be adding another chapter to the policy which at one time made the power of the United States hateful to the peoples of America.

December 7, 1939.

This editorial is an indication that the labor movement, which from the very beginning has been the firmest supporter of the government in the oil controversy, has no intention of backing down from its former position. In official circles, no reply has been made to Secretary Hull's statement.

AGRARIAN REFORM SCORES NEW SUCCESS.

MEXICO CITY. (MLN) -- 250,000 pesos have been distributed as profits among the 2,000 members of cooperative farming societies now working the former private estates of Lombardia and Nueva Italia in the State of Michocán, expropriated and turned over to the peasants a year ago.

The crops of the first year under the new organization of the lands permitted the peasants to make payment of 300,000 pesos to the National Bank of Ejidal Credit on account of loans advanced, of 7,000 pesos in taxes to the State of Michocán, and to set aside 24,000 pesos in the community fund.

Many of the members of the collective credit society which receives financing from the Bank have earned, with their share of the profits, daily wages averaging as high as 8 and 10 pesos. The former average wage on these properties was 1.40 pesos a day. A majority of the workers received more than 150 pesos each as profits on this harvest, which comprises the first six months of the present year, while some, in accordance with their posts and number of hours worked during the season, received as high as 600 pesos.

The two haciendas belonged formerly to an Italian family. The principal crop cultivated is rice, but sugar and a number of fruits, particularly limes, are also raised. The properties comprise 150,000 acres of irrigated lands, with a complete and up-to-date irrigation system. Cattle are also raised on the pasture lands and the peasants now own some 15,000 head of stock, including a number of thoroughbred animals.

Present at the distribution of profits were the Minister of Agriculture, the Director of the National Bank of Ejidal Credit, and General Francisco J. Múgica, who recently withdrew from the presidential campaign to accept the post of military commander of the Michocán zone.