

Chapter 10

Coverups and Contradictions

To cover up telltale evidence and conceal the sources of opulence sprouting in the private lives of some of the Panama patriots as well as in the purses of bribed Colombian soldiers and generals a technique was used which was calculated to make detection difficult.

Law 48 of 1904, passed by the Panama National Assembly and signed on May 13, 1904, by President Amador, legalized in lump sum all expenditures of the infant Republic up to and including June 30, 1904. They footed up to \$3,000,000 Panamanian silver, equal at the then rate of exchange to \$1,365,000 U.S. gold. J. Gabriel Duque, proprietor of the lottery and of the *Panama Star & Herald*, told me in Panama that accounts showing the distribution of this money had been burned by agreement in a secret session of the National Assembly.

The juggling of funds, the use of cash from the safe of the Panama Railroad to bribe Colombian soldiers, and the conflicting accounts of temporary loans by Panamanian bus-

inessmen are a long, involved story. The whole truth will probably never be told. Most of the facts were buried, as I found later, by the legalized lump-sum accounting under Law 48 of 1904. I did not obtain access to the record of that blind accounting until after our rogatory commission had departed.

According to Bunau-Varilla, the preliminary financing of the "revolution" was arranged this way: On October 22, 1903, Bunau-Varilla cabled his bankers to remit to him in New York \$100,000. Cromwell arrived in Paris on October 23, 1903, and Bunau-Varilla's bankers established the \$100,000 credit in New York on October 26. Was this by coincidence? Or was it prearranged — and by whom?

This much is conceded: Bunau-Varilla forced his own appointment as Panama's first Envoy Extraordinary and Minister Plenipotentiary over the vehement objection of Dr. Amador, whose early distrust of the Frenchman was inherited by his son Raoul — as Don Raoul frankly told me in 1910.

Bunau-Varilla's rush to sign the Hay-Bunau-Varilla Treaty has never been forgiven by Panamanians. They never liked the treaty. Dr. Amador and Federico Boyd, as special commissioners from the Junta in Panama, as told in Chapter IV, were on the train two hours distant from Washington when Bunau-Varilla, knowingly disobeying their orders, affixed his signature. They had ordered him to defer signing until they could review details, and they would have arrived in time had they not waited a day in New York to confer with Cromwell on his return from Paris. Cromwell reingratiated himself with Dr. Amador, and later tried to get Bunau-Varilla removed.

Bunau-Varilla's legacies to history are quite as confusing as Cromwell's. Each man, brilliant, audacious and vainglorious, would have the world believe that *he* was the father of the Republic of Panama.

Prolix and grandiose in his writing, Bunau-Varilla in his published books omitted significant facts which he related

in Paris in conversations with Don C. Seitz, business manager of *The World*, and William R. Hereford, its Paris correspondent. I worked intimately with these men and knew them as carefully trained, conscientious, truthful. What Bunau-Varilla told them on November 25 and 26, 1909, they had typed and verified and filed for possible future reference. What Bunau-Varilla told them will be resented as untrue by both Panamanian and North American friends who knew old Dr. Amador and his quiet ways. Here are quotations from "Statement of Philippe Bunau-Varilla" as Seitz and Hereford recorded them at the time:

When I (Bunau-Varilla) saw Amador in New York he came to my hotel and up to my rooms and announced that he intended to kill Cromwell because Cromwell had betrayed him and had led him into a revolution by false promises. Amador expected that his friends would be killed in Panama by Colombian troops and his and their property confiscated.

Cromwell, he (Amador) said, had been dodging him, had put him off and had finally failed him. I soothed Amador. Although he is an old usurer, he is a patriot, and undoubtedly would have killed Cromwell for having lied to him and promised things he could not fulfill. Cromwell was then in Paris in hiding. He had fled to Paris, in fear, to escape the vengeance of Amador.

Bunau-Varilla's furious hatred of Cromwell was more explicitly expressed in a book of some 30,000 words which he had his attorney, Frank D. Pavey of New York, present to the House Committee on Foreign Affairs, February 19, 1913. Pavey had been counsel to the Panamanian Legation in Washington while Bunau-Varilla was Panama's Minister.

The Bunau-Varilla book was accepted for the record of the hearings under the Rainey Resolution and was inserted as a preface, not as addenda, to "The Story of Panama" as printed in the 1913 edition of that Congressional document. It was not in the 1912 edition. The printed book, ostensibly written by Bunau-Varilla in Paris and signed by him March

29, 1912, was presented by Pavey with the representation that Bunau-Varilla had been detained and could not be present to testify and answer in person any questions the House Committee might wish to ask. But two days later Pavey wrote a letter of apology telling the Congressmen he hadn't been aware that Bunau-Varilla had already arrived in New York. Bunau-Varilla was not called for questioning.

Most of Bunau-Varilla's 30,000 words were used up denouncing Cromwell and tearing to pieces Cromwell's bill of particulars supporting his demand for fees from the French canal company. He said Cromwell's statements were "entirely devoid of veracity" . . . "ridiculous" . . . "perfidious" . . . "odious" etc.!

In his conversation in Paris, as recorded at the time, Bunau-Varilla told how he, and he alone, made the arrangements in Washington for Dr. Amador and then provided the preliminary financing for the "revolution." His statement about President Theodore Roosevelt bears re-examination. In Paris Bunau-Varilla said:

"At the time of the revolution of Panama I did not know President Roosevelt; that is, I had met him only once just to shake hands with him, but afterward we got to know each other quite well."

On pages 310 and 311 of his 568-page book published in London in 1913, giving himself all the credit for creating the Republic of Panama, Bunau-Varilla disclosed that he was taken to the White House on October 9, 1903, by Assistant Secretary of State Francis B. Loomis; that he had with President Roosevelt a friendly conversation about personal and political affairs; that T.R. asked him what he, Bunau-Varilla, thought would come out of the situation in Panama.

To this, Bunau-Varilla in his book, published ten years later, said he replied "in a slow, decided manner, Mr. President, a Revolution!"

T.R.'s reactions in that conversation, according to Bunau-Varilla's book, led the French engineer to conclude that the

United States would not permit Colombia to put down a revolution in Panama; so he had Mme. Bunau-Varilla make a flag for the proposed republic, arranged all by himself the financing, and sent Dr. Amador on his way.

The excerpt from the Seitz and Hereford memorandum reporting that Bunau-Varilla told them he had met T.R. "only once, just to shake hands with," becomes more interesting as one reads farther in their record of things Bunau-Varilla said to them in Paris. Bunau-Varilla told them

was telling the Congressmen that "The Story of Panama" must be regarded as "equally devoid of veracity."

For example, he declared that the statement in "The Story of Panama" that he, Bunau-Varilla, had told Don Seitz in Paris that Cromwell had "made a contribution of \$60,000 to the election fund of 1900" was "also a pure fiction." I prefer to believe what Seitz and Hereford wrote down at the time as Bunau-Varilla's statement to them. Here it is:

Cromwell's fee was referred to a board of arbitration. He asked for \$800,000 and got \$200,000. He testified before that board that he had paid out of his own pocket \$60,000 for "political purposes," saying that this was often done in America through the subscription to campaign funds. He said it wasn't bribery but perfectly proper and usual.

The French arbitrators who reduced Cromwell's fee and disbursements from \$832,449.38 to \$228,282.71 said the settlement offered by the French Panama Canal Company was "absolutely insufficient" and the amount demanded by Cromwell "exorbitant."

Paul Gontard, attorney for the New Panama Canal Company, told the arbitrators that Cromwell and his partners "affirm in support of their claim that they planned everything, directed everything, did everything, and obtained everything; that nothing was done without them, nor by anybody but themselves. Their affirmation is by no means exact."

Gontard further said that Cromwell's claims for credit for inspiring the Spooner Bill, raising alarm over Nicaraguan volcanoes and initiating and directing Colombian diplomatic overtures were "gross exaggerations."

The arbitrators found that Cromwell's annual retainer of \$10,000 had been paid by the French canal company regularly from October 1, 1889, to June 30, 1901 (when he was ordered to cease all activities), and that Cromwell had given his receipt in full "in behalf of himself and his law

firm in payment of all accounts rendered up to June 30, 1901, and in full discharge of all disbursements by me or my firm up to said date" — amounting to a total of \$66,443.78.

Further the arbitrators said: "Other efforts than theirs, no less enlightened and no less tenacious, contributed to the change in public opinion. In the history of the Isthmus and of the victory of Panama the name of Mr. Philippe Bunau-Varilla especially cannot be ignored."

Finally the court of Arbitration decreed on December 23, 1907, that since both parties had failed to prove their respective claims as to expenses each party should pay its own. And "in settlement of all accounts of every nature" the arbitrators awarded Cromwell and his firm for disbursements, \$60,782.71 and for fees \$167,500.

The arbitrators told Cromwell and his associates that the "fame of their success" in a matter of such world-wide importance as the Panama Canal would assure them of "an increase of reputation, an increase in their clientele," and "those who have linked their names to a great work, after having labored, are in great part rewarded by being honored."

Cromwell was made sole fiscal agent of the Republic of Panama in 1905 and resigned in 1937 because he was making Paris his residence for most of the time. He turned over the "Constitutional Fund" of \$6,000,000, invested in more than 100 mortgages, to the Chase National Bank as fiscal agent. When he died in New York in 1948 at the age of 94, Cromwell left a gross estate of almost \$19,000,000.

Chapter II

At Long Last T. R. Has "Nothing to Say!"

Facing in 1910 the showdown day in court, everyone in the Pulitzer organization who had dug into the Panama scandal was torn between resentment of the injustice of the Roosevelt charge of criminal libel and a sense of responsibility for the future of a free press.

If the Rooseveltian dictum prevailed, any editor could be dragged from his home and tried for libel in any distant federal jurisdiction where a copy of his paper had circulated. Pulitzer's *World* was rich, prosperous and powerful; it could stand the cost. But what if a little newspaper in Maine, for example, happened to have a subscriber, an army officer in the Presidio, and the editor published something that a politician in Washington said libeled him or the Government? The editor could be dragged to San Francisco, tried there in the Federal court — and ruined financially.

Theodore Roosevelt's determination to punish a critical press was too well known to be ignored. In an unpublished

dispatch Otto Carmichael, then chief of *The World's* Washington bureau, reported T.R.'s telling the Gridiron Club: "As to the men I am bringing libel suit against, I'll cinch them! I'll cinch them in the Federal courts if I can. If I can't cinch them there, I'll cinch them in the State courts. But one thing is sure: we'll cinch them!"

Those of us who knew in detail the masses of proof we had in hand to justify a defense on questions of fact, regretted the policy decision to attack the legality of the indictments. *The World's* chief counsel, De Lancey Nicoll, believed we had enough facts to convince a jury, but the issue of freedom of the press, if abandoned to political chance, could vitally affect the future of America. "Who got the money?" could be answered later.

Joseph Pulitzer endorsed this view. "I think it is an act of public service," he wrote, "an act of special value to the entire press of the United States that these test questions should be adjudicated without any compromise whatsoever. I am opposed not only to any compromise but to any delay or dilatory tactics."

So De Lancey Nicoll demurred to the indictment when *The World* as a corporation was brought to trial before Federal Judge Charles M. Hough in New York City, January 25, 1910. Argument paralleled that presented before Judge Albert B. Anderson, who had dismissed the parallel case against Delavan Smith and Charles R. Williams of the *Indianapolis News*, October 13, 1909. Judge Hough's decision, announced in the afternoon of January 26, 1910, as did the decision of Judge Anderson, held that there was no Federal libel law. Judge Hough dismissed the jury, quashed the indictment, and suggested that the United States Supreme Court should be asked to interpret the statute for protection of harbor defenses before the Government attempted to use it to prosecute publishers.

By nightfall the brilliant mind of Mr. Pulitzer's editorial chief, Frank I. Cobb, was at work on the Hough decision. His simple, precise, graphic writing had established Frank

Cobb as the most copied and respected editor of his generation. Don Seitz pressed him to save his energies and dictate to secretaries, but, long before the days of "do it yourself" Frank Cobb explained to me that he could better sense the value of his words if he typed his editorials himself on his own machine.

So *The World's* leading editorial of January 27, 1910, was a renewed challenge to Theodore Roosevelt. Newspapers of every shade of opinion responded favorably to the demand that the case be taken to the Supreme Court. Cobb's editorials hammered on that theme again and again, but a month passed before Washington assented to filing an appeal, on February 26, 1910. Argument on the appeal was not reached until October 24, 1910.

Cobb's first challenging editorial said:

"If there exists in Washington the shadow of a suspicion that a Federal libel law can be created by construction or interpretation — if there still remains the likelihood that some day another Roosevelt will prostitute his power by invoking the Act to Protect Harbor Defenses in order to prosecute newspapers that have offended him, and that every American newspaper is at the mercy of the President — then the sooner there is a final decision of the Supreme Court of the United States the better."

The Supreme Court's unanimous opinion finally affirming Judge Hough's quashing of the indictment was delivered January 3, 1911, by Chief Justice White. Justice Harlan presided and Justices McKenna, Holmes, Day, Lurton and Hughes concurred.

Frank Cobb's editorial the following morning said in part:

"There is no Federal libel law to muzzle American newspapers. Freedom of the press does not exist at the whim or pleasure of the President of the United States. It is at the mercy of no 'steward of the public welfare.' The rights and powers and authority of the States cannot be taken over by a usurping Federal Government

"While believing that the Panama articles printed in *The World* libelled nobody, we should have welcomed a trial of that issue on its merits had the case been brought in the State courts of New York by Mr. Roosevelt or any other person who considered himself aggrieved

"The decision of the Supreme Court is so sweeping that no other President will be tempted to follow in the footsteps of Theodore Roosevelt, no matter how greedy he may be for power, no matter how resentful of opposition The great constitutional issue involved in the Roosevelt libel proceedings against *The World* is settled for all time. The freedom of the press is established beyond the power of Federal usurpation."

All the indictments against Joseph Pulitzer, Caleb M. Van Hamm and Robert Hunt Lyman of *The World* and Delavan Smith and Charles R. Williams of the *Indianapolis News* were promptly dismissed.

Thus was won a victory for the freedom of the American press comparable in importance to the historic vindication of John Peter Zenger two centuries earlier.

Flashes of the Supreme Court finale came over the wires from Washington late in the afternoon. What would Theodore Roosevelt say?

T.R. was then Contributing Editor of the weekly *Outlook*. He had been the guest of honor at a reception in the Columbia Club in Indianapolis some time after Judge Anderson had thrown out the Roosevelt-ordered criminal indictment of the offending Indianapolis publishers. And it had been widely published that T.R. refused to shake hands with Judge Anderson in the receiving line and was quoted as having blurted out:

"A judge who would render such a decision as Anderson's in the Panama libel case is either a damned crook or a jackass!"

T.R. had started home from the *Outlook* office. I hurried to Oyster Bay. It was cold waiting, that January 3, on the porch at Sagamore Hill, but *World* men didn't expect a warm welcome there.

At 7:20 P.M. the Colonel arrived. Young son Quentin hurried down the steps to meet him. To each of my questions T.R. answered, "I have nothing to say."

Under the dimly lighted porte-cochere only the world-famous glistening teeth and eyeglasses of T.R. stood out in the reflection from the receding motorcar's lamps as I asked my final question:

"Colonel, won't you at least give the public the satisfaction of knowing whether your opinion of Judge Anderson now applies to the Supreme Court of the United States?"

His answer was as emphatic as his slamming of the great door at Sagamore Hill. I had it set "all caps" in *The World* of January 4, 1911, and it has resounded in my memory ever since:

"I HAVE NOTHING TO SAY!"

Seventy-nine days later, T.R. boasted before an audience of 8,000 at the University of California Charter Day celebration on the Berkeley campus, March 23, 1911:

"I took the Isthmus and left Congress to debate."

I could have asked T.R. at Sagamore Hill another question, but I had pledged Don Raoul Amador — a pledge released only by his death in Paris, March 23, 1934 — not to disclose the source of my information unless the Roosevelt libel suit against *The World* went to trial on questions of fact. My question to T.R. would have been:

"Did Dr. Manuel Amador and his son, Raoul, visit you in the White House, late at night, before Dr. Amador left for Panama to start the "revolution" and did you promise to see them through?"

Chapter 12

Dual Sovereignty Breeds Perpetual Discord

If there is to be straight thinking by citizens of the United States and Panama on their rights, responsibilities and obligations in respect to the Panama Canal, an understanding of past and present relations is essential.

All through the years of canal construction and intermittently ever since, administrative and defense problems have been fraught with annoyance and needless expense. The Taft Agreement of 1904 proved to be only a temporary adjustment of differences over tariff and commissary problems. Time and again United States authorities had to supervise Panamanian elections and supercede or supplant Panamanian police and, until 1955, supervise sanitation administrations.

Radical and liberal elements in Panama were demanding as early as September, 1910, suppression of Article 136 of the Panamanian Constitution giving the United States the right to "reestablish public peace and constitutional order in the event of their being disturbed, provided the United

States shall, by public treaty, assume or have assumed the obligation of guaranteeing the independence and sovereignty of this Republic.”

Opening of the Canal in 1914 increased Panamanian demands for reformation of the Hay-Bunau-Varilla Treaty of 1903. Discussion of bases for settling claims between Panama and the United States dragged on for years, until in October, 1933, a start was made toward implementing what President Franklin Delano Roosevelt called his “Good Neighbor Policy.”

But the seeds of discord had been planted deep. Statesmen who made the pattern at Panama seem not to have realized that friction is inevitable at any vital spot on earth where there is dual or overlapping sovereignty.

When earlier treaty negotiations were with the mother country, Colombia refused to include the cities of Panama and Colon in the proposed Canal Zone. Both lie entirely within the 10-mile-wide strip. Then, after T.R. resorted to “taking” Panama, anything the United States proposed could have been obtained, but no one in authority had the foresight to include the terminal cities. The “plan” of the Panama conspirators was to declare the independence of only the Canal Zone and the terminal cities, which were to be “brought under the protection of the United States” without reference to the rest of the Province.

The need for a wide zone to include the entire watershed of the canal was recognized in a report to Congress by General Clarence E. Edwards, in command at Panama in 1916, but nothing was done.

Unofficially I had sounded the same warning of future needs in a signed article in *World's Work*, October, 1913, and again in an address before the Latin American Conference at Clark University, printed in *The Journal of Race Development*, Vol. 4, No. 4, April, 1914.

In this stand I had the advice of a close and trusted friend of my youth, the late Lindon W. Bates, internationally famous engineer. My *World's Work* article, reprinted also in

Spanish, was circulated widely in Latin America. In it I advocated:

1. Anticipating future needs, and taking then, as permitted by the Hay-Bunau-Varilla treaty of 1903 as "convenient and necessary," a Canal Zone 50 to 60 miles wide to include the entire watershed of the Canal.
2. Including the terminal cities of Panama and Colon to avoid the frictions that have existed ever since.
3. Inducing the Republic of Panama to establish its capital in the western highlands of the Province.
4. Returning the eastern end of the Province to Colombia as a gesture sentimentally more effective than the cash indemnity of \$25,000,000 which the United States finally paid to Colombia in 1922.

I suggested that acquisition of territory for future defense could not be regarded as aggression — unless delayed until a new generation of Panamanians came to believe their "sovereignty" an inalienable right. They believe it now. For Panama history books have not told Panamanian youth that only a handful of conspirators knew that a "revolution" was planned.

Radical ideologies infiltrated all around the Canal Zone and exaggerated ideas of super-nationalism took hold of a generation of Panamanians schooled to believe in the fiction that their "founding fathers" actually *won* their independence.

So uninformed and misinformed Panamanians and North Americans took for granted the righteousness of Franklin Delano Roosevelt's abrogation of practically everything in the 1903 treaty to which the Panamanian politicians objected. The new treaty, signed in Washington, March 2, 1936, by Ricardo J. Alfaro and Narciso Garay for Panama and by Secretary of State Cordell Hull and Assistant Secretary Sumner Welles for the United States, was not ratified by the United States Senate because of opposition, until July 25, 1939. This treaty gave the Republic of Panama an entirely new status.

Those now responsible for public and governmental attitudes in Panama were not born, or were children at the time of the “revolution.” They were adults when their Alfaró-Hull Treaty of 1936 was ratified in 1939. But little did they realize the momentous import of that first step. For it was the beginning of Uncle Sam’s world-wide giveaways.

The giveaway series did not start, as so many have supposed, with the Marshall Plan in 1947, nor at Yalta in 1945, nor at Teheran in 1943. The giveaways started when F.D.R. pitched into the Panamanian politicians’ hands the priceless treaty rights of the United States to build defense bases outside the ten-mile-wide Canal Zone.

That giveaway cost American taxpayers much more than the million-dollars in rental paid to the Panama Government during World War II for permission to plant guns, build roads, landing fields, bomber bases and nearly 400 buildings on Panama’s pasture lands and in her swamps and jungles adjacent to the Canal Zone.

It took endless negotiation to obtain **permission** — where the United States formerly had the **right** under the 1903 treaty — to use Panamanian territory for defense purposes. Finally the United States Army was forced by action of the Panama National Assembly to withdraw in 1948 and abandon buildings and improvements which had cost well over another million dollars to create.

Article I of the 1903 treaty was eliminated. It read: “The United States guarantees and will maintain the independence of the Republic of Panama.”

The 1903 treaty granted to the United States “in **perpetuity** the use, occupation and control” not only of the Canal Zone but also of “**any other lands and waters outside of the Zone which may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said enterprise.**”

And, further, under the 1903 treaty, Panama granted to the United States

“all the rights, power and authority within the zone

and within the limits of all auxiliary lands and waters . . . which the United States would possess **if it were the sovereign** of the territory within which said lands and waters are located, to the **exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority.**”

All United States authority outside the Canal Zone was abrogated in the following clause of the 1936-39 treaty:

“The United States of America hereby *renounces* the grant made to it in perpetuity by the Republic of Panama of the use, occupation and control of lands and waters, in addition to those now under the jurisdiction of the United States of America outside the zone . . . which may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the Panama Canal or of any auxiliary canals or other works necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said enterprise.”

Then, having abandoned its rights to defense bases outside the Canal Zone, the United States agreed with Panama, in Article II of the 1936-39 treaty, that “if, in the event of some now unforeseen contingency” land outside the Canal Zone should be needed, the two governments

“will agree upon such measures as it may be necessary to take in order to insure the maintenance, sanitation, efficient operation and effective protection of the Canal, in which the two countries are jointly and vitally interested.”

The United States Government’s right of eminent domain in acquiring property within the cities of Panama and Colon which might be needed for canal operation was renounced.

Also eliminated was the right of the United States to maintain public order in Panama if the Panamanian Government could not do so.

And the annuity of \$250,000 paid by the United States for use of the canal strip was increased to \$430,000 —on

account of the Roosevelt devaluation of the dollar.

The 1936-39 treaty made many other concessions to Panama. It restricted residence in the Canal Zone to American civilian and military personnel, established "corridors" within the Zone for Panamanian convenience, and prohibited new private enterprises in the Canal Zone.

The effect of the treaty ratification in July, 1939, was summarized in such headlines as: "The U.S. in Panama Pact Quits as Guardian Becomes Neighbor — New Treaty Ends the Right of Intervention, Substituting Bilateral Cooperation."

Acquisition of bases for defense of the Canal became imperative when war in Europe started in September, 1939. Thereupon administrative annoyances multiplied. Communist infiltration as well as Nazi influences in Panama came to the surface.

Labor union organizers flocked in from Mexico and from the United States. Most of the Panamanian employees on the Canal had been unionized by the CIO. Many of them are children of West Indian laborers who were imported to help build the Canal and who have become Panamanian citizens. Most of the skilled employees, citizens of the United States, were unionized by the AFL.

Red unionism, under the Latin American leadership of Vicente Lombardo Toledano of Mexico, has had its toehold in Panama since Lombardo and the late Philip Murray of the CIO were photographed together for their joint promotion pamphlet "Labor's Good Neighbor Policy."

United States Army and Navy and Canal authorities were necessarily tight-lipped about the annoyances attending their use of more than 130 defense sites. Obtaining access wasn't always painless, but responsible Panama officials were generally cooperative. The big question was "*How much?*"

A defense sites agreement was not finally signed in Panama until May 18, 1942. Vivid memories of the situation in Panama preceding the Pearl Harbor crisis came to us dur-

ing a brief visit there in September, 1941. Major General Daniel Van Voorhis, commander of the area, was leaving for New York, and he invited Mrs. Harding and me to be his guests on the bridge of the ship to witness the salute of many U.S. airplanes circling Colon Harbor. Waving toward the west bank, the General told us: "Those jungles are bristling with guns."

Beneficent as those guns seemed to Panama, with World War II threatening to spread, the Defense Sites Agreement, signed after General Van Voorhis' retirement, granted to the United States only "temporary use for defense purposes of the lands referred to in the attached Memorandum." Details of that Memorandum were kept secret, but it was already known that the United States was building at Rio Hato, on Panamanian territory west of the Canal Zone, what was then the largest air base in the world. Also it was well understood that several bases of great strategic value were included in the then unmentionable total of more than 130 defense sites.

The Agreement stipulated that "The Republic of Panama retains its sovereignty over the areas" and that all buildings "shall become the property of the Republic of Panama upon the termination of their use by the United States." The bases were to be evacuated one year after ratification of a definitive treaty of peace — not just after a cease-fire.

Some of the defense sites were small areas for observation towers, searchlight or gun emplacements. Others were outlying uninhabited islands; some were broad pastures or cleared jungle made into landing fields. The total amounted to many thousands of acres.

Most of the land and water had little monetary value except in the minds of some Panamanian politicians who emphasized its "international importance" and suggested rental as high as \$1,600 per acre per year!

But neither protection of the Canal and their own country nor the gravy flowing into their treasury silenced the anti-American elements. Clamor against "yanqui aggres-

sion” was popular even during the war, and was intensified immediately after V-J Day by anti-American clamor to get United States forces out of Panamanian territory.

Spruille Braden, Assistant Secretary of State for Latin America, was keeping himself informed of every move in Panama. His judgments were based on his early experience in engineering and business in Latin America, his success in negotiating the Chaco Peace that ended the bloody war between Bolivia and Paraguay, his ambassadorships in Argentina, Colombia and Cuba. He knew, as few do, the essential elements of Latin American bargaining.

So Secretary Braden called the Pentagon and inquired whether it would be possible, for bargaining purposes, to authorize the State Department to say, through diplomatic channels, that the United States was willing to relinquish 20, or perhaps 30 of the less important defense sites and keep the rest. Mr. Braden knew the strategic value of the big Rio Hato base, and he knew also that the best-intentioned men in the Panamanian Government would have to resist radical and communist pressures. We would still hold a hundred defense sites over which to bargain.

But the Pentagon, lacking his experience and vision, told Secretary Braden that it wanted to keep *all* the sites. Then, without consultation or advice, without giving State Department either time or opportunity to drive a bargain, Pentagon announced in Washington on September 2, 1946, that it was handing back to Panama 65 defense sites covering more than 10,000 acres, and that defense sites rentals of \$975,587 had been paid up to June 10, 1945.

This Pentagon announcement of September 2, 1946 came on the same day that the Panama Assembly voted unanimously to *demand* that the United States evacuate all defense sites immediately. And on the following day, Panama's President Enrique Jimenez announced that occupation of future defense sites would not even be discussed until all had been returned!

Thereupon United States Ambassador Frank T. Hines left

for Washington, and on September 12, 1946, a joint statement of the two governments announced that defense sites problems would be resolved by “friendly negotiations.” A firmer stand, earlier, might well have averted the later compromise whereby the future of the Rio Hato base is left, after fifteen years, to still more political haggling under our giveaway treaty of 1955.

The Pentagon retreat of 1946 left the door wide open for more agitation. President Jimenez was quoted as demanding that the United States revise its whole attitude toward his country and make the 1936-39 treaty — the F.D.R. giveaway — more effective in terms of *benefits* for Panama.”

The hope of the Administration in Washington was that Jose Antonio Remon, who succeeded Jimenez as President of Panama, would be able to stay in office throughout his four-year term, which began October 1, 1952.

Whether the voice of Moscow, resounding in the UN, could stir up more discord in Panama was still a point to be watched. In November, 1946, the Soviet made a furious attack in the UN on the United States, charging that its defense bases around the world are evidence of “aggression.”

Alger Hiss, who was active in drafting the UN Charter at San Francisco, was then head of the Office of Political Affairs of the State Department. Without consulting or advising Spruille Braden, Assistant Secretary of State for Latin America, Hiss sent to the UN a list of America’s “occupied territories,” and included in that list the Panama Canal Zone.

That gave Panama a text. Ricardo J. Alfaro, then Panama’s Foreign Minister and Chairman of its UN delegation, in a speech before the Trusteeship Committee of the UN, declared that Panama **retains its sovereignty over the Canal Zone** and that the State Department’s report should be corrected.

Newspaper headlines gave the Assistant Secretary of State for Latin America his first inkling that such a report had been issued. Hiss could not be found that day to recall

it. Secretary Braden demanded a showdown, because he was responsible for negotiations in behalf of our military authorities, who insisted that we still needed the bases in Panama. The Hiss report strengthened opposition of the Panamanian politicians while Braden was assuring the Pentagon of State Department support to get the bases under the terms of the 1936-39 treaty.

But Dean Acheson, then Acting Secretary of State, backed up Hiss.

“I was infuriated by the stupidity — which I then thought it was — of putting the Panama Canal Zone in the category of occupied territories,” Secretary Braden told me, “but I did not realize its full significance as a play into Russian hands until after Hiss’ other activities were exposed.”

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Diplomatic retreat by the United States led only to more demands. In October, 1952, eight ex-presidents, six former

ministers of foreign relations of Panama and spokesmen for Panama labor unions and the Panama Chamber of Commerce were witnesses before a foreign relations committee of the Panama National Assembly. On November 17, 1952, the National Assembly voted unanimously to demand another general revision of treaty relations with the United States.

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My prediction on September 1, 1953, was: “If Panama’s

desire for still further concessions is not satisfied, pressure in behalf of Panama such as Alger Hiss in 1946 brought to bear through the United Nations may take the form of demanding internationalization of the Panama Canal."

In response to agitation described by some Panamanians as "a demand for a showdown with the United States," President Remon appointed as a special negotiating committee: Roberto M. Heurtematte, Panama's Ambassador to Washington; Dr. Octavio Fabrega, former Minister of Foreign Relations, and Carlos Sucre, former Minister of Government. They were to start their work in Washington by September 10, 1953.

Chapter 13

1955 Giveaway Treaty Jammed Through— “Mutual Consent” Is Only Way Out

Diplomatic conversations over Panama's demands for further treaty revision continued in Washington from September 10, 1953, until the end of 1954. But, for the most part, details were “top secret” at both ends, even after President Jose Antonio Remon and his attractive Senora, with an entourage of ten, arrived in Washington in late September, 1953, and remained for a fortnight. Remon told 300 guests of the Pan American Society in New York, October 2, 1953: “I didn't come to this country to ask for money; I came to ask for justice, and by justice I mean Panama should receive its proper share of the great enterprise that is the Canal.”

To accelerate its diplomatic drive, the Remon Administration retained two retired United States Army public relations experts, Generals Julius Klein and Kenneth Buchanan of Chicago. The “nature and purpose” of their employment, as recorded in the Foreign Agents Registration Section of the Department of Justice in Washington, was to

Those now responsible for public and governmental attitudes in Panama were not born, or were children at the time of the "revolution." They were adults when their Alvaro-Hull Treaty of 1936 was ratified in 1939. But little did they realize the momentous import of that first step. For it was the beginning of Uncle Sam's world-wide giveaways.

The giveaway series did not start, as so many have supposed, with the Marshall Plan in 1947, nor at Yalta in 1945, nor at Teheran in 1943. The giveaways started when F.D.R. pitched into the Panamanian politicians' hands the priceless treaty rights of the United States to build defense bases outside the ten-mile-wide Canal Zone.

That giveaway cost American taxpayers much more than the million-dollars in rental paid to the Panama Government during World War II for permission to plant guns, build roads, landing fields, bomber bases and nearly 400 buildings on Panama's pasture lands and in her swamps and jungles adjacent to the Canal Zone.

It took endless negotiation to obtain **permission** — where the United States formerly had the **right** under the 1903 treaty — to use Panamanian territory for defense purposes. Finally the United States Army was forced by action of the Panama National Assembly to withdraw in 1948 and abandon buildings and improvements which had cost well over another million dollars to create.

Article I of the 1903 treaty was eliminated. It read: "The United States guarantees and will maintain the independence of the Republic of Panama."

The 1903 treaty granted to the United States "in **perpetuity** the use, occupation and control" not only of the Canal Zone but also of "**any other lands and waters outside of the Zone which may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said enterprise.**"

And, further, under the 1903 treaty, Panama granted to the United States

"all the rights, power and authority within the zone"

and within the limits of all auxiliary lands and waters which the United States would possess **if it were the sovereign** of the territory within which said lands and waters are located, to the **exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority.**”

✓ All United States authority outside the Canal Zone was abrogated in the following clause of the 1936-39 treaty:

“The United States of America hereby *renounces* the grant made to it in perpetuity by the Republic of Panama of the use, occupation and control of lands and waters, in addition to those now under the jurisdiction of the United States of America outside the zone which may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the Panama Canal or of any auxiliary canals or other works necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said enterprise.”

Then, having abandoned its rights to defense bases outside the Canal Zone, the United States agreed with Panama, in Article II of the 1936-39 treaty, that “if, in the event of some now unforeseen contingency” land outside the Canal Zone should be needed, the two governments

“will agree upon such measures as it may be necessary to take in order to insure the maintenance, sanitation, efficient operation and effective protection of the Canal, in which the two countries are jointly and vitally interested.”

The United States Government’s right of eminent domain in acquiring property within the cities of Panama and Colon which might be needed for canal operation was renounced.

Also eliminated was the right of the United States to maintain public order in Panama if the Panamanian Government could not do so.

And the annuity of \$250,000 paid by the United States for use of the canal strip was increased to \$430,000 —on

account of the Roosevelt devaluation of the dollar.

The 1936-39 treaty made many other concessions to Panama. It restricted residence in the Canal Zone to American civilian and military personnel, established "corridors" within the Zone for Panamanian convenience, and prohibited new private enterprises in the Canal Zone.

The effect of the treaty ratification in July, 1939, was summarized in such headlines as: "The U.S. in Panama Pact Quits as Guardian Becomes Neighbor — New Treaty Ends the Right of Intervention, Substituting Bilateral Cooperation."

Acquisition of bases for defense of the Canal became imperative when war in Europe started in September, 1939. Thereupon administrative annoyances multiplied. Communist infiltration as well as Nazi influences in Panama came to the surface.

Labor union organizers flocked in from Mexico and from the United States. Most of the Panamanian employees on the Canal had been unionized by the CIO. Many of them are children of West Indian laborers who were imported to help build the Canal and who have become Panamanian citizens. Most of the skilled employees, citizens of the United States, were unionized by the AFL.

Red unionism, under the Latin American leadership of Vicente Lombardo Toledano of Mexico, has had its toehold in Panama since Lombardo and the late Philip Murray of the CIO were photographed together for their joint promotion pamphlet "Labor's Good Neighbor Policy."

United States Army and Navy and Canal authorities were necessarily tight-lipped about the annoyances attending their use of more than 130 defense sites. Obtaining access wasn't always painless, but responsible Panama officials were generally cooperative. The big question was "*How much?*"

A defense sites agreement was not finally signed in Panama until May 18, 1942. Vivid memories of the situation in Panama preceding the Pearl Harbor crisis came to us dur-

ing a brief visit there in September, 1941. Major General Daniel Van Voorhis, commander of the area, was leaving for New York, and he invited Mrs. Harding and me to be his guests on the bridge of the ship to witness the salute of many U.S. airplanes circling Colon Harbor. Waving toward the west bank, the General told us: "Those jungles are bristling with guns."

Beneficent as those guns seemed to Panama, with World War II threatening to spread, the Defense Sites Agreement, signed after General Van Voorhis' retirement, granted to the United States only "temporary use for defense purposes of the lands referred to in the attached Memorandum." Details of that Memorandum were kept secret, but it was already known that the United States was building at Rio Hato, on Panamanian territory west of the Canal Zone, what was then the largest air base in the world. Also it was well understood that several bases of great strategic value were included in the then unmentionable total of more than 130 defense sites.

The Agreement stipulated that "The Republic of Panama retains its sovereignty over the areas" and that all buildings "shall become the property of the Republic of Panama upon the termination of their use by the United States." The bases were to be evacuated one year after ratification of a definitive treaty of peace — not just after a cease-fire.

Some of the defense sites were small areas for observation towers, searchlight or gun emplacements. Others were outlying uninhabited islands; some were broad pastures or cleared jungle made into landing fields. The total amounted to many thousands of acres.

Most of the land and water had little monetary value except in the minds of some Panamanian politicians who emphasized its "international importance" and suggested rental as high as \$1,600 per acre per year!

But neither protection of the Canal and their own country nor the gravy flowing into their treasury silenced the anti-American elements. Clamor against "yanqui aggres-

sion" was popular even during the war, and was intensified immediately after V-J Day by anti-American clamor to get United States forces out of Panamanian territory.

Spruille Braden, Assistant Secretary of State for Latin America, was keeping himself informed of every move in Panama. His judgments were based on his early experience in engineering and business in Latin America, his success in negotiating the Chaco Peace that ended the bloody war between Bolivia and Paraguay, his ambassadorships in Argentina, Colombia and Cuba. He knew, as few do, the essential elements of Latin American bargaining.

So Secretary Braden called the Pentagon and inquired whether it would be possible, for bargaining purposes, to authorize the State Department to say, through diplomatic channels, that the United States was willing to relinquish 20, or perhaps 30 of the less important defense sites and keep the rest. Mr. Braden knew the strategic value of the big Rio Hato base, and he knew also that the best-intentioned men in the Panamanian Government would have to resist radical and communist pressures. We would still hold a hundred defense sites over which to bargain.

But the Pentagon, lacking his experience and vision, told Secretary Braden that it wanted to keep *all* the sites. Then, without consultation or advice, without giving State Department either time or opportunity to drive a bargain, Pentagon announced in Washington on September 2, 1946, that it was handing back to Panama 65 defense sites covering more than 10,000 acres, and that defense sites rentals of \$975,587 had been paid up to June 10, 1945.

This Pentagon announcement of September 2, 1946 came on the same day that the Panama Assembly voted unanimously to *demand* that the United States evacuate all defense sites immediately. And on the following day, Panama's President Enrique Jimenez announced that occupation of future defense sites would not even be discussed until all had been returned!

Thereupon United States Ambassador Frank T. Hines left

for Washington, and on September 12, 1946, a joint statement of the two governments announced that defense sites problems would be resolved by “friendly negotiations.” A firmer stand, earlier, might well have averted the later compromise whereby the future of the Rio Hato base is left, after fifteen years, to still more political haggling under our giveaway treaty of 1955.

The Pentagon retreat of 1946 left the door wide open for more agitation. President Jimenez was quoted as demanding that the United States revise its whole attitude toward his country and make the 1936-39 treaty — the F.D.R. giveaway — more effective in terms of *benefits* for Panama.”

The hope of the Administration in Washington was that Jose Antonio Remon, who succeeded Jimenez as President of Panama, would be able to stay in office throughout his four-year term, which began October 1, 1952.

Whether the voice of Moscow, resounding in the UN, could stir up more discord in Panama was still a point to be watched. In November, 1946, the Soviet made a furious attack in the UN on the United States, charging that its defense bases around the world are evidence of “aggression.”

Alger Hiss, who was active in drafting the UN Charter at San Francisco, was then head of the Office of Political Affairs of the State Department. Without consulting or advising Spruille Braden, Assistant Secretary of State for Latin America, Hiss sent to the UN a list of America’s “occupied territories,” and included in that list the Panama Canal Zone.

That gave Panama a text. Ricardo J. Alfaro, then Panama’s Foreign Minister and Chairman of its UN delegation, in a speech before the Trusteeship Committee of the UN, declared that Panama **retains its sovereignty over the Canal Zone** and that the State Department’s report should be corrected.

Newspaper headlines gave the Assistant Secretary of State for Latin America his first inkling that such a report had been issued. Hiss could not be found that day to recall

it. Secretary Braden demanded a showdown, because he was responsible for negotiations in behalf of our military authorities, who insisted that we still needed the bases in Panama. The Hiss report strengthened opposition of the Panamanian politicians while Braden was assuring the Pentagon of State Department support to get the bases under the terms of the 1936-39 treaty.

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