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THE ISTHMIAN CANAL

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PRINTED IN THE UNITED STATES OF AMERICA.

This work is dedicated to my many former students who have shown a real and deep interest in the histories and inter-relations of the American continents and who have inspired and encouraged me to produce this book in the hope that it will help, in some small way, to bring about better understanding of each other by all Americans.

My special thanks for help in compiling, editing and selecting materials for this work go to the staff of the Firestone Library of Princeton University, Princeton, New Jersey. I am also grateful to Mrs. Aubrey N. Wells for her many hours of proofreading and her skillful typing of the original manuscript.

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THE ISTHMIAN CANAL

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Bogotá

the United States in 1850. This gave both nations the respite needed to attend to domestic problems with the knowledge that neither would take advantage of the other's situation to build and control a canal unilaterally.

The United States was able to come through her crises--the Civil War and Reconstruction--more favorably and sooner than the British were theirs. The Crimean War, Parliamentary reform, the rise of a unified Germany and Italy, imperial rivalries with France, Germany and Russia and the policy of "Splendid Isolation" all caused Britain to realize that she could not spread herself too thinly and that she could not afford to antagonize the United States in the New World, while she already had growing problems and increasing antagonisms facing her in other areas of the globe. Neither could she, however, leave the United States to a position of predominance in the Caribbean Area without losing stature and material advantage.

The American imperialist voice was beginning to be heard. Anglophobia, never completely dormant in the United States since colonial days, was again rising in intensity. The Clayton-Bulwer Treaty had never been popular and now that the United States was once again whole and bustling with restless energy, the indignation at "knuckling under" to the British grew apace with the realization of the advantages to be gained by an all-American canal connecting the Atlantic and Pacific Oceans.

This desire materialized in August of 1914, when President Theodore Roosevelt officially opened the Panama Canal. Before this came to be, however, much had to go before. This work will attempt, through the study of relevant documents and other writings, to not only trace the course of events culminating in the completion and control of the canal by the United States, but also to show that the way taken to the successful execution of the project was not always smooth, popular or, perhaps, even justified.

Was this marvel of engineering worth the price the United States paid to build and solely control it? Have we gained enough in trade, commerce and prestige to offset the bitterness our presence in and domination over Panama has brought about? Has possession of the Panama Canal made it necessary to become overly defense-conscious, leading us into a policy of making the Caribbean an "American Lake," thereby further causing Latin American resentment at and suspicion of our numerous interventions into their countries in order to "protect the Panama Canal"--a waterway vital to our defense and well being? Has the United States waited too long to amend the provisions of the original treaty with Panama and by so doing hurt its image as a Good Neighbor? To what extent is our presence in Panama today the cause of riots, demonstrations and other signs of nationalism and anti-North Americanism that have taken place in Panama and other countries "south of the border"?

THE TREATY OF 1846

In 1846, the Republic of New Granada, to be later known as Colombia, feared the territorial ambitions of Great Britain and other imperialistic nations already entrenched in Central America and the Caribbean area. Others were weighing the possibilities of establishing colonies in the New World. New Granada, at this time, counted Panama as a province within its boundaries. This strategic isthmus was of particular interest to many of the world's commercial powers because of its attractiveness as a possible canal site.

Not being in a position to successfully defend Panama against the designs of these more powerful nations, New Granada, in December of 1846, granted the United States valuable rights of transit across the isthmus. The United States, in return for this concession, committed itself to protect and maintain the neutrality of its right of way so that the free flow of traffic across Panama would be guaranteed.

NEW GRANADA

1846

Treaty of Peace, Amity, Navigation, and Commerce (Extracts) Concluded December 12, 1846; ratification advised by the Senate June 3, 1848; ratified by the President June 10, 1848; ratifications exchanged June 10, 1848; proclaimed June 12, 1848.

The United States of North America and the Republic of New Granada in South America, desiring to make lasting and firm the friendship and good understanding which happily exist between both nations have resolved to fix in a manner clear, distinct and positive, the rules which shall in future be religiously observed between each other by means of a treaty, or general convention of peace and friendship, commerce and navigation.

For this desirable object the President of the United States of America has conferred full powers on Benjamin A. Bidlack a citizen of the said States and their Charge d'Affaires in Bogota, and the President of the Republic of New Granada has conferred similar and equal powers upon Manuel Maria Mallarino Secretary of State and foreign relations, who, after having exchanged their said full powers in due form, have agreed to the following articles.

Article 1st.

There shall be a perfect, firm and inviolable peace and sincere friendship between the United States of America and the Republic of New Granada, in all the extent of their possessions and territories, and between their citizens respectively, without distinction of persons or places.

Article 2nd.

The United States of America and the Republic of New Granada, desiring to live in peace and harmony with all the nations of the earth, by means of a policy frank and equally friendly with all, engage mutually not to grant any particular favor to other nations, in respect of commerce and navigation, which shall not immediately become common to the other party, who shall enjoy the same freely, if the concession was freely made, or on allowing the same compensation, if the concession was conditional.

Source: United States Senate, Document No. 348, U.S. 58th Congress, 2nd Session. Washington, Government Printing Office, 1904.

Article 35th.

The United States of America and the Republic of New Granada desiring to make as durable as possible, the relations which are to be established between the two parties by virtue of this treaty, have declared solemnly, and do agree to the following points.

1st. For the better understanding of the preceding articles, it is, and has been stipulated, between the high contracting parties, that the citizens, vessels and merchandise of the United States shall enjoy in the ports of New Granada, including those of the part of the Granadian territory generally denominated *Isthmus of Panama*, from its southernmost extremity until the boundary of Costa Rica, all the exemptions, privileges and immunities, concerning commerce and navigation, which are now, or may hereafter be enjoyed by Granadian citizens, their vessels and merchandise; and that this equality of favors shall be made to extend to the passengers, correspondence and merchandise of the United States in their transit across the said territory, from one sea to the other. The Government of New Granada guarantees to the Government of the United States, that the right of way or transit across the *Isthmus of Panama* upon any modes of communication that now exist, or that may be, hereafter, constructed, shall be open and free to the Government and citizens of the United States, and for the transportation of any articles of produce, manufactures or merchandise, of lawful commerce, belonging to the citizens of the United States; that no other tolls or charges shall be levied or collected upon the citizens of the United States, or their said merchandise thus passing over any road or canal that may be made by the Government of New Granada, or by the authority of the same, than is under like circumstances levied upon and collected from the Granadian citizens; that any lawful produce, manufactures or merchandise belonging to citizens of the United States, thus passing from one sea to the other, in either direction, for the purpose of exportation to any other foreign country, shall not be liable to any import duties whatever; or having paid such duties, they shall be entitled to drawback, upon their exportation; nor shall the citizens of the United States be liable to any duties, tolls, or charges of any kind to which native citizens are not subjected for thus passing the said Isthmus. And, in order to secure to themselves the tranquil and constant enjoyment of these advantages, and as an especial compensation for the said advantages and for the favours they have acquired by the 4th, 5th and 6th articles of this Treaty, the United States guarantee positively and efficaciously to New Granada, by the present stipulation, the perfect neutrality of the beforementioned Isthmus, with the view that the free transit from the one to the other sea, may not be interrupted or embarrassed in any future time while this Treaty exists; and in consequence, the United States also guarantee, in the same manner, the rights of sovereignty and property which New Granada has and possesses over the said territory.

2nd. The present Treaty shall remain in full force and vigor for the term of twenty years, from the day of the exchange of the ratifications; and, from the same day, the treaty that was concluded between the United States and Colombia on the 13th of October 1824, shall cease to have effect, notwithstanding what was disposed in the 1st point of its 31st article.

3rd. Notwithstanding the foregoing, if neither party notifies to the other its intention of reforming any of, or all, the articles of this treaty twelve months before the expiration of the twenty years, stipulated above, the said treaty shall continue binding on both parties, beyond the said twenty years, until twelve months from the time that one of the parties notifies its intention of proceeding to a reform.

4th. If any one or more of the citizens of either party shall infringe any of the articles of this treaty, such citizens shall be held personally responsible for the same, and the harmony and good correspondence between the nations shall not be interrupted thereby; each party engaging in no way to protect the offender, or sanction such violation.

5th. If, unfortunately, any of the articles contained in this treaty should be violated or infringed in any way whatever, it is expressly stipulated that neither of the two contracting parties shall ordain or authorize any acts of reprisal, nor shall declare war against the other on complaints of injuries or damages, until the said party considering itself offended shall have laid before the other a statement of such injuries or damages, verified by competent proofs, demanding justice and satisfaction, and the same shall have been denied, in violation of the laws and of international right.

6th. Any special or remarkable advantage that one or the other power may enjoy, from the foregoing stipulations, are and ought to be always understood in virtue and as in compensation of the obligations they have just contracted and which have been specified in the first number of this article.

Article 36th.

The present treaty of peace, amity, commerce and navigation shall be approved and ratified by the President of the United States, by and with the advice and consent of the senate thereof; and by the President of the Republic of New Granada with the consent and approbation of the Congress of the same, and the ratifications shall be exchanged in the city of Washington, within eighteen months from the date of the signature thereof, or sooner, if possible.

In faith whereof, we the Plenipotentiaries of the United States of America, and of the Republic of New Granada have signed and sealed these presents in the city of Bogota, on the twelfth day of December, in the year of Our Lord one thousand eight hundred and forty six.

B. A. Bidlack (Seal.)
M. M. Mallarino (Seal.)

THE CLAYTON-BULWER TREATY

1850

Following the settlement of the Oregon Territory dispute and the acquisition of the Great Southwest by the terms of the Treaty of Guadalupe-Hidalgo, the United States revived its active interest in a trans-isthmian canal. The discovery of gold in California played no little part in pushing thoughts of this project to the forefront of men's minds.

The United States already had a foot in the door, because of the Treaty of 1846 with Colombia. The Gadsden Purchase, 1853, gave the United States another reason to look toward the Pacific.

Great Britain, however, also had vital interests in the Caribbean area. Suspicious of United States' designs, following the Mexican War, the British feared that their commercial domination in this area would be threatened and, perhaps, even territorial possessions, such as British Honduras, might be endangered.

Already entrenched in British Honduras and protecting the King of Mosquitia, the British looked across Nicaragua and the Gulf of Fonseca as possible important parts of a canal route. Tigre Island, in the Gulf of Fonseca, was seized by a British man-of-war and Greytown, on the East coast, occupied.

American cries of protest rose and Secretary of State Clayton predicted armed conflict between the two nations, the United States and Great Britain. War was averted, however, when both parties concerned agreed to the terms of the Clayton-Bulwer Treaty of 1850. Neither wanted war at this time and this agreement gave them needed time to attend to matters more pressing.

INTRODUCTION

An isthmian canal had been in the minds of Americans for many years prior to the time the actual decision to complete the French-begun waterway across Panama was made. Even before the lengthy and dramatic dash of the U.S.S. Oregon, around South America from Puget Sound to the Atlantic Ocean during the Spanish-American War, men had talked of the benefits to be had from the control of a canal across the relatively narrow Central American isthmus.

The westward movement across the United States led to the Treaty of 1846 with Panama. This agreement gave the United States the right to protect and guarantee the freedom of transit across Panama. With the West opening up and becoming more and more an important part of the country, Americans were increasingly drawn by its promise. The long and dangerous overland trip could be avoided by booking sea passage to Panama, crossing the isthmus and continuing the voyage from the Pacific side by boarding another ship. This method of travel was made the more popular during the fabled "Gold Rush" following discovery of gold at Sutter's Fort, California in 1849.

With now increased trade, commerce and emigration taking place between the East and West coasts of the United States, canal talk became more commonplace and enthusiastic. The use of ships and the sea was not too slow to overbalance the advantages of relative safety, amount of cargo carried and economy. In this pre-transcontinental railroad era, water still provided the American traders, carriers and travelers their major arteries of transportation. If only, now, a canal could be cut across Central America, the cross-country journey via Panama could be cheapened and quickened and the tediously long route around the entire continent of South America could be dispensed with altogether.

Around the middle of the nineteenth century specific steps were taken to stake out the area across which such a desired waterway would be obtained. It was not to be so simple as that, however. The British interests in Latin America in general and Central America in particular, were extensive and active. The British did not look with favor upon a "Yankee" encroachment. The two had already clashed in this territory and the United States did nothing to allay British suspicions with its talk of actively seeking to construct and control an isthmian canal.

Fortunately, for the United States, Great Britain was occupied in the Old World with problems of her own, considered of prime importance to her security. To buy time and protect her interests in the New World, Great Britain negotiated the Clayton-Bulwer Treaty with

ART. IV. The contracting parties will use whatever influence they respectively exercise with any state, states, or governments possessing or claiming to possess any jurisdiction or right over the territory which the said canal shall traverse, or which shall be near the waters applicable thereto, in order to induce such states or governments to facilitate the construction of the said canal by every means in their power. And furthermore, the United States and Great Britain agree to use their good offices, wherever or however it may be most expedient, in order to procure the establishment of two free ports, one at each end of the said canal.

ART. V. The contracting parties further engage, that when the said canal shall have been completed, they will protect it from interruption, seizure or unjust confiscation, and that they will guarantee the neutrality thereof, so that the said canal may forever be open and free, and the capital invested therein secure. Nevertheless, the Governments of the United States and Great Britain, in according their protection to the construction of the said canal, and guaranteeing its neutrality and security when completed, always understand that this protection and guarantee are granted conditionally, and may be withdrawn by both Governments, or either Government, if both Governments, or either Government, should deem that the persons or company undertaking or managing the same adopt or establish such regulations concerning the traffic thereupon as are contrary to the spirit and intention of this convention, either by making unfair discriminations in favor of the commerce of one of the contracting parties over the commerce of the other, or by imposing oppressive exactions or unreasonable tolls upon the passengers, vessels, goods, wares, merchandise or other articles. Neither party, however, shall withdraw the aforesaid protection and guarantee without first giving six months' notice to the other.

ART. VI. The contracting parties in this convention engage to invite every State with which both or either have friendly intercourse to enter into stipulations with them similar to those which they have entered into with each other, to the end that all other States may share in the honor and advantage of having contributed to a work of such general interest and importance as the canal herein contemplated. And the contracting parties likewise agree that each shall enter into treaty stipulations with such of the Central American States as they may deem advisable, for the purpose of more effectually carrying out the great design of this convention, namely, that of constructing and maintaining the said canal as a ship communication between the two oceans for the benefit of mankind, on equal terms to all, and of protecting the same; and they also agree that the good offices of either shall be employed, when requested by the other, in aiding and assisting the negotiation of such treaty stipulations; and should any differences arise as to right or property over the territory through which the said canal shall pass between the States or Governments of Central America, and such differences should in any

way impede or obstruct the execution of the said canal, the Governments of the United States and Great Britain will use their good offices to settle such differences in the manner best suited to promote the interests of the said canal, and to strengthen the bonds of friendship and alliance which exist between the contracting parties.

ART. VII. It being desirable that no time should be unnecessarily lost in commencing and constructing the said canal, the Governments of the United States and Great Britain determine to give their support and encouragement to such persons or company as may first offer to commence the same, with the necessary capital, the consent of the local authorities, and on such principles as accord with the spirit and intention of this convention. . . .

ART. VIII. The Governments of the United States and Great Britain having not only desired, in entering into this convention, to accomplish a particular object, but also to establish a general principle, they hereby agree to extend their protection, by treaty stipulations, to any other practicable communications, whether by canal or railway, across the isthmus which connects North and South America, and especially to the interoceanic communications, should the same prove to be practicable, whether by canal or railway, which are now proposed to be established by the way of Tehuantepec or Panama. In granting, however, their joint protection to any such canals or railways as are by this article specified, it is always understood by the United States and Great Britain that the parties constructing or owning the same shall impose no other charges or conditions of traffic thereupon than the aforesaid Governments shall approve of as just and equitable; and that the same canals or railways, being open to the citizens and subjects of the United States and Great Britain on equal terms, shall also be open on like terms to the citizens and subjects of every other State which is willing to grant thereto such protection as the United States and Great Britain engage to afford.

ART. IX. The ratifications of this Convention shall be exchanged at Washington, within six months from this day, or sooner, if possible.

In faith, whereof, we, the respective Plenipotentiaries, have signed this Convention, and have hereunto affixed our seals.

Done, at Washington, the nineteenth day of April, Anno Domini, one thousand eight hundred and fifty.

John M. Clayton (L.S.)
Henry Lytton Bulwer (L.S.)

And whereas the said Convention has been duly ratified on both parts, and the respective ratifications of the same were exchanged at Washington on the fourth instant, by John M. Clayton, Secretary of State of the United States, and the Right Honorable Sir Henry Lytton Bulwer, Envoy Extraordinary and Minister Plenipotentiary of Her Britannic Majesty, on the part of their respective Governments:

Now, therefore, be it known that I, Zachary Taylor, President of the United States of America, have caused the said Convention to be made public, to the end that the same, and every clause and article thereof, may be observed and fulfilled with good faith by the United States and the citizens thereof.

In witness whereof, I have hereunto set my hand, and caused the seal of the United States to be affixed.

Done at the City of Washington, this fifth day of July, in the year of our Lord one thousand eight hundred and fifty, and of the Independence of the United States the seventy-fifth.

Z. Taylor

(L.S.)
By the President:
J. M. Clayton,
Secretary of State

INTEROCEANIC CANAL.

(Senate Ex. Doc. No. 112.
Forty-sixth Congress, second session.)

Message from the President of the United States, in response to Senate resolution of February 11, 1880, covering report of Secretary of State, with accompanying documents, in relation to the proposed interoceanic canal between the Atlantic and Pacific oceans.

March 9, 1880

Referred to the Committee on Foreign Relations
and ordered to be printed.

To the Senate:

I transmit herewith the report of the Secretary of State, and the accompanying papers, in response to the resolution adopted by the Senate on the 11th of February last, requesting "copies of all correspondence between this Government and any foreign government since February, 1869, respecting a ship canal across the Isthmus between North America and South America, together with copies of any project of treaties respecting the same which the Department of State may have proposed or submitted since that date to any foreign power or its diplomatic representative."

In further compliance with the resolution of the Senate, I deem it proper to state briefly my opinion as to the policy of the United States with respect to the construction of an interoceanic canal, by any route, across the American Isthmus.

The policy of this country is a canal under American control. The United States can not consent to the surrender of this control to any European power, or to any combination of European powers. If existing treaties between the United States and other nations, or if the rights of sovereignty or property of other nations stand in the way of this policy—a contingency which is not apprehended—suitable steps should be taken by just and liberal negotiations to promote and establish the American policy on this subject, consistently with the rights of the nations to be affected by it.

Source: U.S. Senate Document No. 161 56th Congress, 1st Session. Correspondence and other Papers Relating to the Proposed Interoceanic Ship Canal Being a Reprint of an Executive Document of the Special Session of March 4, 1857, and of the Document No. 194 of the Forty-Seventh Congress, First Session. February 8, 1900—Washington, Government Printing Office.

The capital invested by corporations or citizens of other countries in such an enterprise must, in a great degree, look for protection to one or more of the great powers of the world. No European power can intervene for such protection without adopting measures on this continent which the United States would deem wholly inadmissible. If the protection of the United States is relied upon, the United States must exercise such control as will enable this country to protect its national interests and maintain the rights of those whose private capital is embarked in the work.

An interoceanic canal across the American Isthmus will essentially change the geographical relations between the Atlantic and Pacific coasts of the United States, and between the United States and the rest of the world. It will be the great ocean thoroughfare between our Atlantic and our Pacific shores, and virtually a part of the coast line of the United States. Our merely commercial interest in it is greater than that of all other countries, while its relations to our power and prosperity as a nation, to our means of defense, our unity, peace, and safety are matters of paramount concern to the people of the United States. No other great power would, under similar circumstances, fail to assert a rightful control over a work so closely and vitally affecting its interest and welfare.

Without urging further the grounds of my opinion, I repeat, in conclusion, that it is the right and the duty of the United States to assert and maintain such a supervision and authority over any interoceanic canal across the isthmus that connects North and South America as will protect our national interest. This I am quite sure will be found not only compatible with, but promotive of, the widest and most permanent advantage to commerce and civilization.

Rutherford B. Hayes.

Executive Mansion,
March 8, 1880.

THE HAY-PAUNCEFOTE TREATIES

1900 and 1901

The Spanish-American War brought about a renewed interest in the construction of an isthmian canal. The journey of the United States battleship Oregon, rushing from Puget Sound to the Atlantic Ocean dramatized the fact that a canal across Central America would have shortened the trip by two-thirds.

The Clayton-Bulwer Treaty of 1850, however, shackled any United States idea of building and owning such a canal unilaterally. Congress was ready to build a Nicaraguan canal in spite of the treaty. Honor and good faith seemed less important than necessity at that time.

Fortunately for the United States, Great Britain was plagued with troubles. She was fighting the Boers in South Africa and the new, strong Germany had shown alarming sympathy toward "Oom Paul" Krueger. "Splendid Isolation" had developed into just that and the British seemed to be without friends anywhere. In a bid for Anglo-American accord, Lord Pauncefote and Secretary Hay were able to agree on the First Hay-Pauncefote Treaty in February of 1900.

The American public, however, as Anglophobic as ever, yelled it down. The treaty provided for the United States building, owning and neutralizing a canal across Central America, but not fortifying it.

The Democratic Party, seeking to recapture its position in Washington, took advantage of 1900 being an election year and termed the efforts of Secretary Hay a surrender to Great Britain. Irish-Americans and German-Americans joined in the clamor and the Senate added a string of amendments to the original document trying to give the United States the right to fortify any canal they built and owned. London refused to accept these changes and negotiations were abruptly ended.

With British troubles compounding, however, the feeling began to grow that perhaps American friendship was worth the price of a diplomatic surrender. The Americans, with a valuable stake in the Caribbean area, would keep watch over it and the status quo would be preserved. Britain could then turn her fleet to more pressing threats within her Empire.

In November of 1901, therefore, Secretary Hay and Lord Pauncefote brought the second Hay-Pauncefote Treaty into being.

FIRST HAY-PAUNCEFOTE TREATY

(Senate Document No. 160,
Fifty-sixth Congress, first session.)

Convention between the United States and Great Britain to facilitate the construction of a ship canal, etc.

Message from the President of the United States, transmitting a convention between the United States and Great Britain to facilitate the construction of a ship canal to connect the Atlantic and Pacific Oceans and to remove any objection which might arise out of the convention commonly called the Clayton-Bulwer Treaty.

(February 8, 1900: Ordered to be printed together with "Clayton-Bulwer treaty." *December 17, 1900:* Ordered reprinted with the committee amendment already adopted and with the proposed committee amendments in place. *December 20, 1900:* Ratified with amendments; and ordered reprinted, as amended, for the use of the Senate.)

To the Senate:

I transmit herewith, with a view to receive the advice and consent of the Senate to its ratification, a convention this day signed by the respective plenipotentiaries of the United States and Great Britain to facilitate the construction of a ship canal to connect the Atlantic and Pacific oceans, and to remove any objection which might arise out of the convention of April 19, 1850, commonly called the Clayton-Bulwer treaty, to the construction of such canal under the auspices of the Government of the United States.

William McKinley.

Executive Mansion,
Washington, D. C.,
February 5, 1900.

The United States of America and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, being desirous to facilitate the construction of a ship canal to connect the Atlantic and Pacific Oceans, and to that end to remove any objection

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Source: U.S. Senate Document No. 474, 63rd Congress 2nd Session. Diplomatic History of the Panama Canal. Correspondence Relating to the Negotiation and Application of Certain Treaties on the Subject of the Construction of an Interoceanic Canal, and Accompanying Papers. Washington, Government Printing Office, 1914.

which may arise out of the Convention of April 19, 1850, commonly called the Clayton-Bulwer Treaty, to the construction of such canal under the auspices of the Government of the United States, without impairing the "general principle" of neutralization established in Article VIII of that Convention, have for that purpose appointed as their Plenipotentiaries:

The President of the United States, John Hay, Secretary of State of the United States of America,

And Her Majesty the Queen of Great Britain and Ireland, Empress of India, The Right Honble. Lord Pauncefote, G. C. B., G. C. M. G., Her Majesty's Ambassador Extraordinary and Plenipotentiary to the United States;

Who, having communicated to each other their full powers, which were found to be in due and proper form, have agreed upon the following articles:

Article I.

It is agreed that the canal may be constructed under the auspices of the Government of the United States, either directly at its own cost, or by gift or loan of money to individuals or corporations or through subscription to or purchase of stock or shares, and that, subject to the provisions of the present Convention, the said Government shall have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal.

Article II.

The High Contracting Parties, desiring to preserve and maintain the "general principle" of neutralization established in Article VIII of the Clayton-Bulwer Convention, *which convention is hereby superseded,* adopt, as the basis of such neutralization, the following rules, substantially as embodied in the convention between Great Britain and certain other Powers, signed at Constantinople, October 29, 1888, for the Free Navigation of the Suez Maritime Canal, that is to say:

1. The canal shall be free and open in time of war as in time of peace, to the vessels of commerce and of war of all nations, on terms of entire equality, so that there shall be no discrimination against any nation or its citizens or subjects in respect of the conditions or charges of traffic, or otherwise.

2. The canal shall never be blockaded, nor shall any right of war be exercised nor any act of hostility be committed within it.

3. Vessels of war of a belligerent shall not revictual nor take any stores in the canal except so far as may be strictly necessary; and the transit of such vessels through the canal shall be effected with the least possible delay, in accordance with the regulations in force, and with only such intermission as may result from the necessities of the service.

Prizes shall be in all respects subject to the same rules as vessels of war of the belligerents.

4. No belligerent shall embark or disembark troops, munitions of war or warlike materials in the canal except in case of accidental hindrance of the transit, and in such case the transit shall be resumed with all possible despatch.

5. The provisions of this article shall apply to waters adjacent to the canal, within three marine miles of either end. Vessels of war of a belligerant shall not remain in such waters longer than twenty-four hours at any one time except in case of distress, and in such case shall depart as soon as possible; but a vessel of war of one belligerent shall not depart within twenty-four hours from the departure of a vessel of war of the other belligerent.

It is agreed, however, that none of the immediately foregoing conditions and stipulations in sections numbered one, two, three, four, and five of this article shall apply to measures which the United States may find it necessary to take for securing by its own forces the defense of the United States and the maintenance of public order.

6. The plant, establishments, buildings, and all works necessary to the construction, maintenance and operation of the canal shall be deemed to be part thereof, for the purposes of this convention, and in time of war as in time of peace shall enjoy complete immunity from attack or injury by belligerents and from acts calculated to impair their usefulness as part of the canal.

7. No fortifications shall be erected commanding the canal or the waters adjacent. The United States, however, shall be at liberty to maintain such military police along the canal as may be necessary to protect it against lawlessness and disorder.

(Article III stricken out.)

(Article III.)

(The High Contracting Parties will, immediately upon the exchange of the ratifications of this Convention, bring it to the notice of the other Powers and invite them to adhere to it.)

Article IV.

The present Convention shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by Her Britannic Majesty; and the ratifications shall be exchanged at Washington or at London within six months from the date hereof, or earlier if possible.

In faith whereof, the respective Plenipotentiaries, have signed this Convention and thereunto affixed their seals.

Done in duplicate at Washington, the fifth day of February, in the year of Our Lord one thousand nine hundred.

John Hay.
Pauncefote.

SECOND HAY-PAUNCEFOTE TREATY

November 18, 1901

The United States of America and His Majesty Edward the Seventh, of the United Kingdom of Great Britain and Ireland, . . . being desirous to facilitate the construction of a ship canal to connect the Atlantic and Pacific Oceans, by whatever route may be considered expedient, and to that end to remove any objection which may arise out of the convention of the nineteenth of April, 1850, commonly called the Clayton-Bulwer treaty, to the construction of such canal under the auspices of the Government of the United States, without impairing the "general principle" of neutralization established in Article VIII of that convention, have . . . agreed upon the following articles:

ART. I. The High Contracting Parties agree that the present treaty shall supersede the afore-mentioned Convention of the 19th April, 1850.

ART. II. It is agreed that the canal may be constructed under the auspices of the Government of the United States either directly at its own cost, or by gift or loan of money to individuals or Corporations, or through subscription to or purchase of stock or shares, and that, subject to the provisions of the present Treaty, the said Government shall have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal.

ART. III. The United States adopts, as the basis of the neutralization of such ship canal, the following Rules, substantially as embodied in the Convention of Constantinople signed the twenty-eighth of October, 1888, for the free navigation of the Suez Canal, that is to say:

1. The canal shall be free and open to the vessels of commerce and of war of all nations observing these Rules, on terms of entire equality, so that there shall be no discrimination against any such nation, or its citizens or subjects, in respect of the conditions or charges of traffic or otherwise. Such conditions and charges of traffic shall be just and equitable.

2. The canal shall never be blockaded, nor shall any right of war be exercised nor any act of hostility be committed within it. The United States, however, shall be at liberty to maintain such military police along the canal as may be necessary to protect it against lawlessness and disorder.

Source: U.S. Senate Document No. 474, 63rd Congress, 2nd Session. Diplomatic History of the Panama Canal. Correspondence Relating to the Negotiation and Application of Certain Treaties on the Subject of the Construction of an Interoceanic Canal, and Accompanying Papers. Washington, Government Printing Office, 1914.

3. Vessels of war of a belligerent shall not revictual nor take any stores in the canal except so far as may be strictly necessary; and the transit of such vessels through the canal shall be effected with the least possible delay in accordance with the Regulations in force, and with only such intermission as may result from the necessities of the service.

Prizes shall be in all respects subject to the same rules as vessels of war of the belligerents.

4. No belligerent shall embark or disembark troops, munitions of war, or warlike materials in the canal, except in case of accidental hindrance of the transit, and in such case the transit shall be resumed with all possible dispatch.

5. The provisions of this Article shall apply to waters adjacent to the canal, within 3 marine miles of either end. Vessels of war of a belligerent shall not remain in such waters longer than twenty-four hours at any one time, except in case of distress, and in such case shall depart as soon as possible; but a vessel of war of one belligerent shall not depart within twenty-four hours from the departure of a vessel of war of the other belligerent.

6. The plant, establishments, buildings and all works necessary to the construction, maintenance and operation of the canal shall be deemed to be part thereof, for the purposes of this treaty, and in time of war, as in time of peace, shall enjoy complete immunity from attack or injury by belligerents, and from acts calculated to impair their usefulness as part of the canal.

ART. IV. It is agreed that no change of territorial sovereignty or of international relations of the country or countries traversed by the beforementioned canal shall affect the general principle of neutralization or the obligation of the High Contracting Parties under the present Treaty . . . .

ART. V. The present treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty; and the ratifications shall be exchanged at Washington or at London at the earliest possible time within six months from the date hereof.

In faith whereof the respective Plenipotentiaries have signed this Treaty and thereunto affixed their seals.

Done in duplicate at Washington, the 18th day of November, in the year of our Lord one thousand nine hundred and one.

John Hay (Seal)
Pauncefote (Seal)

And Whereas the said convention has been duly ratified on both parts, and the ratification of the two Governments were exchanged in the city of Washington on the twenty-first day of February, one thousand nine hundred and two.

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington, this twenty-second day of February, in the year of Our Lord one thousand nine hundred and two, and of the Independence of the United States the one hundred and twenty-sixth.

Theodore Roosevelt

(Seal)
By the President
John Hay
Secretary of State

THE WALKER COMMISSION REPORT

1902

Following Anglo-American agreement on the canal question, settled by the Hay-Pauncefote Treaty, the United States was now ready to decide on the canal route to be used. Nicaragua and Panama both had their advocates. Lake Nicaragua could be used as part of the canal, thus lessening the actual amount of cutting through land barriers. It is also closer to the mainland of the United States and a trip from coast to coast would, therefore, be shorter in distance and time. This nearness too, some argued, would make a Nicaraguan canal easier to defend than one farther away in Panama.

The Panama site had its supporters too. The Frenchman, de Lesseps, had sold his unsuccessful company to the New Panama Canal Company, which was asking one hundred and nine million dollars for its rights to build the canal. The pro-Panama group supported this route saying that work had already been started thus making the job easier. Lobbyist William N. Cromwell was busy rounding up more support by contributing heavily to the Republican campaign fund and earning his fee as an employee of the New Panama Canal Company.

The Walker Commission, chosen by President William McKinley to recommend a canal route, decided on the Nicaraguan location chiefly because of its lower cost. Fearful of losing all it had invested, the New Panama Canal Company offered its rights at a new price of forty million dollars. President Theodore Roosevelt now switched his position and deserted the Nicaraguan camp for the Panamanian group. Following his lead and persuasion, the Walker Commission reversed itself and later voted for a waterway across the Isthmus of Panama.

THE WALKER COMMISSION REPORT

1902

An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes. (Excerpts)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That . . .

Sec. 3. That the President of the United States of America be, and he is hereby, authorized and empowered to make full and complete investigation of the Isthmus of Panama with a view to the construction of a canal by the United States across the same to connect the Atlantic and Pacific oceans; that the President is authorized to make investigation of any and all practicable routes for a canal across said Isthmus of Panama, and particularly to investigate the two routes known respectively as the Nicaraguan route and the Panama route, with a view of determining the most practicable and feasible route for such canal, together with the proximate and probable cost of constructing a canal at each of two or more of said routes; and the President is further authorized to investigate and ascertain what rights, privileges, and franchises, if any, may be held and owned by any corporations, associations, or individuals, and what work, if any, has been done by such corporations, associations, or individuals in the construction of a canal at either or any of said routes, and particularly at the so-called Nicaraguan and Panama routes, respectively; and likewise to ascertain the cost of purchasing all of the rights, privileges, and franchises held and owned by any such corporations, associations, and individuals in any and all of such routes, particularly the said Nicaraguan route and the said Panama route; and likewise to ascertain the probable or proximate cost of constructing a suitable harbor at each of the termini of said canal, with the probable annual cost of maintenance of said harbors, respectively; and generally the President is authorized to make such full and complete investigation as to determine the most feasible and practicable route across said isthmus for a canal, together with the cost of constructing the same and placing the same under the control, management, and ownership of the United States.

Sec. 4. To enable the President to make the investigations and ascertainments herein provided for, he is hereby authorized to employ in said service any of the engineers of the United States Army at his dis-

Source: U.S. Senate Document No. 222, U.S. 58th Congress, 2nd Session. Washington, Government Printing Office, 1904.

erection, and likewise to employ any engineers in civil life, at his discretion, and any other persons necessary to make such investigation, and to fix the compensation of any and all of such engineers and other persons.

Sec. 5. For the purpose of defraying the expenses necessary to be incurred in making the investigations herein provided for, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of one million dollars, or so much thereof as may be necessary, to be disbursed by order of the President.

Sec. 6. That the President is hereby requested to report to Congress the results of such investigations, together with his recommendations in the premises.

Approved, March 3, 1899.

REPORT OF THE ISTHMIAN CANAL COMMISSION

1899-1901

Chapter XII
Conclusion of Report

The investigations of this Commission have shown that the selection of "the most feasible and practicable route" for an isthmian canal must be made between the Nicaragua and Panama locations. Furthermore, the complete problem involves both the sea-level plan of canal and that with locks. The Panama route alone is feasible for a sea-level canal, although both are entirely practicable and feasible for a canal with locks. The time required to complete a sea-level canal on the Panama route, probably more than twice that needed to build a canal with locks, excludes it from favorable consideration aside from other serious features of its construction. It is the conclusion of this Commission, therefore, that a plan of canal with locks should be adopted.

A comparison of the principal physical features, both natural and artificial, of the two routes, reveals some points of similarity. Both routes cross the continental divide less than ten miles from the Pacific Ocean, the Panama summit being about double the height of that in Nicaragua. For more than half its length the location of each route on the Atlantic side is governed by the course of a river, the flow from whose drainage basin is the only source of water supply for the proposed canal; and the summit levels, differing but about 20 feet in elevation, Panama being the lower, are formed by lakes, natural in the one case and artificial in the other, requiring costly dams and wasteways for their regulation and for the impounding of surplus waters to reduce the effect of floods and to meet operating demands during low-water seasons.

The investigations made in connection with the regulations of Lake Nicaragua have demonstrated that that lake affords an inexhaustible water supply for the canal by that route. The initial proposition, on the other hand, for the Panama route is to form Lake Bohio so as to yield a water supply for a traffic of 10,000,000 tons, which can be supplemented when needed by an amount sufficient for more than four times that traffic, by means of the Alhajuela reservoir. For all practical purposes this may be considered an unlimited supply for the Panama route. So far as the practical operation of a ship canal is concerned, therefore, the water-supply features on both lines are satisfactory.

Source: U.S. Senate Document No. 222. *U.S. 58th Congress, 2nd Session. Washington, Government Printing Office, 1904.*

The difficulties disclosed and likely to be encountered in the construction of the dams are less at Conchuda on the Nicaragua line than at Bohio on the Panama route. Both dams, however, are practicable, but the cost of that at Bohio is one-half more than that at Conchuda. A less expensive dam at Bohio has been proposed, but through a portion of its length it would be underlaid by a deposit of sand and gravel pervious to water. The seepage might not prove dangerous, but the security of the canal is directly dependent upon this dam, and the policy of the Commission has been to select the more perfect structure, even at a somewhat greater cost. The wasteways at both locations present no serious difficulties. The advantages in the design and construction of the dams are in favor of the Nicaragua route.

The system of regulation at Lake Bohio consists only of the discharge of water over the crest of a weir, as the lake level rises under the influence of floods in the Chagres River. The plan of regulating the level of Lake Nicaragua is less simple, though perfectly practicable. It involves the operation of movable gates at such times and to such extent as the rainfall on the lake basin may require. The experience and judgment of the operator are essential elements in the effective regulation of this lake. The regulation of Lake Bohio is automatic.

The only means of transportation now found on the Nicaragua route are the narrow-gauge Silico Lake Railroad, about 6 miles in length, and the limited navigation of the San Juan River and the lake, but the Nicaraguan Government is now building a railroad along the beach from Greytown to Monkey Point, about 45 miles to the northward, where it proposes to establish a commercial port. By means of a pier, in the area protected by the point, goods and materials for canal purposes can readily be landed and transported by rail to Greytown. Such piers are in constant use on our Pacific coast. This railroad and port would be of great value during the period of preparation and harbor construction, and should materially shorten that period. A well-equipped railroad is in operation along the entire length of the Panama route, and existing conditions there afford immediate accommodation for a large force of laborers.

The Nicaragua route has no natural harbor at either end. At both the Atlantic and Pacific termini, however, satisfactory harbors may be created by the removal of material at low unit prices, and by the construction of protective works of well-established design. An excellent roadstead, protected by islands, already exists at Panama, and no work need be done there for either harbor construction or maintenance. At Colon, the Atlantic terminus of the Panama route, a serviceable harbor already exists. It has afforded harbor accommodations for many years, but it is open to northers, which a few times in each year are liable to damage ships or force them to put to sea. Considerable work must be done there to create a suitable harbor at the entrance of the canal, which can be easily entered, and will give complete protection to shipping lying within

it. The completion of the harbors as planned for both routes would yield but little advantage to either, but the balance of advantages, including those of maintenance and operation, is probably in favor of the Panama route.

The existence of a harbor at each terminus of the Panama route, and a line of railroad across the isthmus, will make it practicable to commence work there, after the concessions are acquired, as soon as the necessary plant can be collected and put in place and the working force organized. This period of preparation is estimated at one year. In Nicaragua this period is estimated at two years, so as to include also the construction of working harbors and terminal and railroad facilities.

The work of excavation on the Nicaragua route is distributed; it is heaviest near Conchuda, at Tamborcito, and in the divide west of the lake. On the Panama route it is largely concentrated in the Culebra and Emperador cuts, which are practically one. As a rule distributed work affords a greater number of available points of attack, contributing to a quicker completion; but in either of these cases such difficulties as may exist can be successfully met with suitable organization and efficient appliances.

The time required for constructing the Nicaragua Canal will depend largely on the promptness with which the requisite force of laborers can be brought to Nicaragua, housed, and organized at the locations of heaviest work along the route. The cut through the divide west of the lake probably will require the longest time of any single feature of construction. It contains about 18,000,000 cubic yards of earth and rock excavation, or a little less than 10 per cent of the total material of all classes to be removed. With adequate force and plant this Commission estimates that it can be completed in four years. This indicates, under reasonable allowance for ordinary delays, that if force and plant enough were available to secure a practically concurrent execution of all portions of work on the route, the completion of the entire work might be expected within six years after its beginning, exclusive of the two years estimated for the period of preparation.

The securing and organizing of the great force of laborers needed, largely foreigners, so as to adjust the execution of the various portions of the work to such a definite programme of close-fitting parts in a practically unpopulated tropical country, involves unusual difficulties and would prolong the time required for completion.

The greatest single feature of work on the Panama route is the excavation in the Culebra section, amounting to about 43,000,000 cubic yards of hard clay, much of which is classed as soft rock, or nearly 45 per cent of all classes of material to be removed. It is estimated that this cut can be completed in eight years, with allowance for ordinary delays, but exclusive of a two-year period for preparation and for unforeseen delays, and that the remainder of the work can be finished within the

same period. The great concentration of work on this route and its less amount will not require so great a force of laborers as on the Nicaragua route; hence the difficulties and delays involved in securing them will be correspondingly diminished.

The total length of the Nicaragua route from sea to sea is 183.66 miles, while the total length of the Panama route is 49.09 miles. The length is standard canal section and in harbors and entrances is 73.78 miles for the Nicaragua route and 36.41 miles for the Panama route. The length of sailing line in Lake Nicaragua is 70.51 miles, while that in Lake Bohio is 12.68 miles. That portion of the Nicaragua route in the canalized San Juan is 39.37 miles.

The preceding physical features of the two lines measure the magnitude of the work to be done in the construction of waterways along the two routes. The estimated cost of constructing the canal on the Nicaragua route is $45,630,704 more than that of completing the Panama Canal, omitting the cost of acquiring the latter property. This sum measures the difference in the magnitude of the obstacles to be overcome in the actual construction of the two canals and covers all physical considerations, such as the greater or less height of dams, the greater or less depth of cuts, the presence or absence of natural harbors, the presence or absence of a railroad, and the amount of work remaining to be done.

The estimated annual cost of maintaining and operating the Nicaragua Canal is $1,300,000 greater than the corresponding charges for the Panama Canal.

The Panama route would be 134.57 miles shorter from sea to sea than the Nicaragua route. It would have less summit elevation, fewer locks, 1,568 degrees and 26.44 miles less curvature. The estimated time for a deep-draft vessel to pass through is about twelve hours for Panama and thirty-three hours for Nicaragua. These periods are practically the measure of the relative advantages of the two canals as waterways connecting the two oceans, but not entirely, because the risks to vessels and the dangers of delay are greater in a canal than in the open sea.

Except for the items of risks and delays, the time required to pass through the canals needs to be taken into account only as an element in the time required by vessels to make their voyages between terminal ports. Compared on this basis, the Nicaragua route is the more advantageous for all transisthmian commerce except that originating or ending on the west coast of South America. For the commerce in which the United States is most interested, that between our Pacific ports and Atlantic ports, European and American, the Nicaragua route is shorter by about one day. The same advantage exists between our Atlantic ports and the Orient. For our Gulf ports the advantage of the Nicaragua route is nearly two days. For commerce between North Atlantic ports and the west coast of South America the Panama route is shorter by about two days. Between Gulf ports and the west coast of South America the saving is about one day.

The Nicaragua route would be the more favorable one for sailing vessels because of the uncertain winds in the Bay of Panama. This is not, however, a material matter, as sailing ships are being rapidly displaced by steamships.

A canal by the Panama route will be simply a means of communication between the two oceans. That route has been a highway of commerce for more than three hundred years, and a railroad has been in operation there for nearly fifty years, but this has effected industrial changes of but little consequence, and the natural features of the country through which the route passes are such that no considerable development is likely to occur as a result of the construction and operation of a canal.

In addition to its use as a means of communication between the two oceans, a canal by the Nicaragua route would bring Nicaragua and a large portion of Costa Rica and other Central American States into close and easy communication with the United States and with Europe. The intimate business relations that would be established with the people of the United States during the period of construction by the expenditure of vast sums of money in these States and the use of American products and manufactures would be likely to continue after the completion of the work, to the benefit of our manufacturing, agricultural, and other interests.

The Nicaragua route lies in a region of sparse population and not in a pathway of much trade or movement of people; conditions productive of much sickness do not exist. On the other hand, a considerable population has long existed on the Panama route, and it lies on a pathway of comparatively large trade along which currents of moving people from infected places sometimes converge, thus creating conditions favorable to epidemics. Existing conditions indicate hygienic advantages for the Nicaragua route, although it is probable that no less effective sanitary measures must be taken during construction in the one case than in the other.

The cost of constructing a canal by the Nicaragua route and of completing the Panama Canal, without including the cost of acquiring the concessions from the different Governments, is estimated as follows:

Nicaragua	$189,864,062
Panama	144,233,358

For a proper comparison there must be added to the latter the cost of acquiring the rights and property of the new Panama Canal Company. This Commission has established the value of these in the project recommended by it at $40,000,000.

In order to exercise the rights necessary for the construction of the canal and for its management after completion, the United States should acquire control of a strip of territory from sea to sea sufficient in area for the convenient and efficient accomplishment of those purposes. Measures must also be taken to protect the line from unlawful acts of all kinds,

to insure sanitary control, and to render police jurisdiction effective. The strip should be not less than 5 miles wide on each side of the center line of the canal or 10 miles in total width.

No treaties now exist with any of the states within whose territory the two routes lie authorizing the United States to occupy its territory for the construction and operation of a canal. When it has been determined to undertake the work and the route has been selected, the consent of Colombia, or of Nicaragua and Costa Rica, for such occupation must be obtained before the inauguration of the enterprise, and one or more conventions must be entered into by the United States to secure the necessary privileges and authority.

The Republics of Nicaragua and Costa Rica are untrammeled by any existing concessions or treaty obligations and are free to grant to the United States the rights necessary for the attainment of these ends; and in December, 1900, demonstrated their willingness to have their territory so occupied by the United States, by executing protocols, by which it was agreed that they would enter into negotiations to settle in detail the plan and agreements necessary to accomplish the construction and provide for the ownership of the proposed canal whenever the President of the United States is authorized by law to acquire the necessary control and authority.

The Government of Colombia, on the contrary, in whose territory the Panama route lies, has granted concessions which belong to or are controlled by the New Panama Canal Company and have many years to run. These concessions, limited in time and defective in other ways, would not be adequate authority for the purposes of the United States; but while they exist Colombia is not free to treat with this Government. If the Panama route is selected these concessions must be removed in order that the two Republics may enter into a treaty to enable the United States to acquire the control upon the Isthmus that will be necessary and to fix the consideration.

An agreement with the Panama Canal Company to surrender or transfer its concessions must include a sale of its canal property and unfinished work, and the Commission undertook, soon after its organization, to ascertain upon what terms this could be accomplished. Much correspondence and many conferences followed, but no proposition naming a price was presented until the middle of October, 1901, and after prolonged discussion it was submitted to the Commission in a modified form, on the 4th of November, to be included in its report to the President. The itemized statement appears in an earlier chapter of the report. The total amount for which the company offers to sell and transfer its canal property to the United States is $109,141,500. This, added to the cost of completing the work, makes the whole cost of a canal by the Panama route $253,374,858, while the cost by the Nicaragua route is $189,864,062, a difference of $63,510,796 in favor of the Nicaragua route. In each

case there must be added the cost of obtaining the use of the territory to be occupied and such other privileges as may be necessary for the construction and operation of the canal in perpetuity. The compensation that the different States will ask for granting these privileges is now unknown.

There are certain physical advantages, such as a shorter canal line, a more complete knowledge of the country through which it passes, and lower cost of maintenance and operation in favor of the Panama route, but the price fixed by the Panama Canal Company for a sale of its property and franchises is so unreasonable that its acceptance can not be recommended by this Commission.

After considering all the facts developed by the investigations made by the Commission and the actual situation as it now stands, and having in view the terms offered by the New Panama Canal Company, this Commission is of the opinion that "the most practicable and feasible route" for an isthmian canal, to be "under the control, management, and ownership of the United States," is that known as the Nicaragua route.

We have the honor to be, sir, with great respect, your obedient servants,

J. G. Walker,
Rear-Admiral, United States Navy,
President of Commission.
Samuel Pasco.
Alfred Noble.
Geo. S. Morison.
Peter C. Hains,
Colonel, United States Corps of Engineers.
Wm. H. Burr.
O. H. Ernst,
Lieutenant-Colonel, United States Corps of Engineers.
Lewis M. Haupt.
Emory R. Johnson.

BUNAU-VARILLA

Panama: The Creation, Destruction and Resurrection

The United States changes its mind and chooses Panama.

One of the prime factors in the official reversal of position by the United States in choosing the Panama route over the Nicaraguan, was Phillipe Bunau-Varilla. A Frenchman and formerly Chief Engineer of the Panama Canal Company, he was also a major stockholder in the ill-fated enterprise. Whatever financial stake he still held in Panama would be lost if the Walker Commission's original report were acted upon favorably by the United States.

In an attempt to persuade those in a position to do so to select the Panama route for the inter-oceanic canal, Bunau-Varilla traveled to the United States to publicize the danger of active volcanos in Nicaragua. Not finding many sympathetic ears, the Frenchman was faced with financial ruin when fate stepped in and took his side. Mont Pelée, a West Indian volcano, erupted killing thousands. Shortly after this tragedy a volcano located in Nicaragua became active, belching forth smoke and showering cinders on the surrounding areas.

Phillipe Bunau-Varilla wasted little, if any, time taking full advantage of Nature's rumblings.

PHILLIPE BUNAU-VARILLA

Panama: the Creation, Destruction and Resurrection

THE EXPLOSION OF MONT PELEE AND THE DESTRUCTION OF SAINT-PIERRE

No sooner had we returned to New York than the most unlikely event took place. On May 6, the eruption of Mont Pelée and the destruction of Saint-Pierre sent a shudder throughout the world.

This extraordinary occurrence took place at the very moment when the great debate, Nicaragua versus Panama, was about to open.

The question of volcanic dangers thus suddenly pushed into the limelight by the catastrophe of Martinique, was precisely the one on which my argument had insisted most strongly ever since 1892. It was the question which had won so many to my cause when I gave my lectures in 1901.

What an unexpected turn of the wheel of fortune!

The strategy of procrastination adopted by the partisans of Nicaragua was turning against them indeed.

If not the strongest of my arguments against Nicaragua, at least the most easily comprehensible of them was thus made a hundred times more striking owing to the prodigious emotion aroused by the catastrophe.

I waited a few days, ready to turn against Nicaragua the terror which the disaster of Mont Pelée had produced.

The desired opportunity was furnished by the opinion of an eminent scientist concerning the Danish Antilles.

The question of their purchase by the United States for five million dollars was then being discussed.

When the catastrophe of Mont Pelée took place it was thought that Martinique would disappear in the ocean as well as other Islands of the Antilles. It was questioned whether the purchase of the Danish Antilles was advisable under these conditions.

Mr. Hill, the eminent geologist, answered in the *Evening Post* that it was necessary to make a distinction between the Lesser Antilles, which are eminently volcanic, and the Greater Antilles, in which group the Danish Antilles belong. In the latter, he said, there had been no manifestation of the subterranean fire *since man had appeared on earth.*

It was the very distinction I had made between Nicaragua and Panama, and what I had said and written in 1901, as to the unlikelihood

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Source: *Panama, The Creation, Destruction and Resurrection*, by Phillipe Bunau-Varilla, New York, McBride-Nast and Company, 1914, Chapter XXII, pp. 228-230; 238-243; 245-247.

of volcanic activity on the Isthmus of Panama and the likelihood of it in Nicaragua.

LETTERS TO THE SENATORS DRAWING A PARALLEL BETWEEN NICARAGUA AND MARTINIQUE

I seized the opportunity and sent to every Senator a personal letter with a cutting of the *Evening Post* and the pamphlet giving the text of my lectures in 1901.

I wrote also to President Roosevelt, who was known for his sympathy for Nicaragua.

I PRINT THE SERIES OF DIAGRAMS THAT ARE HARBINGERS OF VICTORY

Towards the end of May the question arose as to how to employ my famous series of diagrams.

I desired that Senator Hanna should use them in his speech as being an impressive statistical document prepared by his orders.

The straightforwardness of the old Senator made him prefer that I should present my diagrams under my own signature.

He regarded the document as too important to assume even the indirect paternity for it.

He feared it would be thought he had done so in order to obtain personal credit for the idea.

For me the question of signature was a negligible one. What I wanted to drive home was my arguments against Nicaragua through the best channel.

I naturally respected the scrupulousness of Senator Hanna, and ordered the printing in New York of this singular book. Each page of it sang the praise of Panama without uttering a word.

It was entitled: "*Comparative Characteristics of Panama and Nicaragua,* by Phillipe Bunau-Varilla, former Chief Engineer of the Panama Canal Company."

As I did not wish to appear to be quoting any but exactly measurable data, I eliminated a map I had first inserted, and which showed the position of the various volcanoes of Central America. Nicaragua was full of them, but there were none in Panama.

I suppressed this map also, because the volcanic argument was now sufficiently to the fore by reason of the Mont Pelée disaster, and because I did not wish to appear as resorting to sensationalism in this series of mute but eloquent testimonies.

These simple and lucid diagrams crushingly demonstrated the great superiority of Panama.

It has been said, and repeated, that the great obstacle at Panama was the depth of the Culebra Cut.

The diagrams established that, thanks to the works executed by the French, this difficulty had been wiped out. There would have to be in Nicaragua a cut three times deeper than the deepest at Panama.

The argument generally believed was that, though the Nicaragua route was longer, it was because ships had to pass an enormous Inland Sea where navigation was free. This woeful error was also exposed. The so-called facility did not exist. On the contrary, the diagrams showed ships to be submitted to dangerous navigation in a cut nearly twenty-eight miles long under water in the lake, the enormous surface of which was agitated by frequent storms.

It was printed on the 2nd of June, two days before the opening of the debate before Congress. Senator Hanna overjoyed by the arrival of this impassionate and invulnerable ally, had a copy of it immediately distributed to every Senator.

During the debate, which lasted seventeen days, I could measure the terrible havoc the document had wrought in the ranks of the enemy. It was signed by my name, followed by the title of "Former Engineer-in-Chief of the Panama Canal." I was fighting unmasked and inviting contradiction.

What could the adversary retort? Every page quoted the report of the American Commission from which the figures were drawn!

The eagle was pierced by an arrow made from its own feathers.

It was thus with spiked guns that the Nicaraguan ranks had to fight their battle.

They never ceased to invoke their obsolete gods, all the reports of the American Commission that had recommended Nicaragua up to the very last one, that of the preceding November. "What!" exclaimed they. "Are we going, for an economy of sixty million dollars, to sacrifice the work of American genius for the glory of another nation?"

THE DEBATE IN THE SENATE DOMINATED BY EARTHQUAKES

The whole debate was dominated by the question of earthquakes. Senator Hanna had ordered a reproduction, on a large scale, of the map of the volcanoes of Central America, which had been drawn out for the New Panama Company by the eminent French mining engineer, M. Bertrand, of the French Geological Survey to be hung on the wall.

The New Panama Company had taken up the theory, which I had developed in my book of 1892, about the volcanic risks of Nicaragua, as, indeed it had taken from the same book my project of a Panama Lock Canal. M. Bertrand had been entrusted with the work, and he had annexed to his interesting report the map in question.

PROVIDENTIAL ERUPTION OF MOMOTOMBO IN NICARAGUA

On the 14th of May a cablegram from New Orleans was published announcing that a violent earthquake had taken place on the shores of Lake Managua, an annex to Lake Nicaragua. It was due to the eruption of Momotombo, a volcano nearby, and had destroyed the wharves of the town of Momotombo, the terminus of the railroad from the lake to Corinto on the Pacific.

It is a curious thing to remark that in my book of 1892, I had written:

"The explosions of the volcanoes of this country, Nicaragua, occupy the front rank in the history of seismic movements. One of them, Momotombo, has even more a place in literature (*The Reasons of Momolombo*, by Victor Hugo)."

It (the opposition) wavered, it gave way at some places, but it maintained its position. The majority remained on the Nicaragua side.

MISLEADING TELEGRAM SENT BY THE PRESIDENT OF NICARAGUA

The President of the Republic of Nicaragua, M. Zelaya, was requested to act. He telegraphed from the capital of Nicaragua: "News published about recent eruptions of volcanoes in Nicaragua entirely false."

The cablegram was addressed to the Minister of Nicaragua at Washington, Mr. Corea, in reply to a telegraphic query made by him. The two cablegrams were triumphantly brought to the Senate by Mr. Morgan.

Mr. Corea asserted in substance that: "Nicaragua has had no volcanic eruptions since 1835, and that at this moment the Coseguina emitted smoke and ashes but no lava."

It was an absolutely false statement, but it was official. The wavererers were comforted.

OFFICIAL DOCUMENT DEMONSTRATING PRESENT-DAY ERUPTIONS AT NICARAGUA

It was absolutely necessary to reply with emphasis and to refute the false statement by an explicit and undeniable answer. But it could have no weight unless official.

How could I obtain such a document? Nicaragua was far away. The authorities had shown their bad faith. It seemed impossible to procure anything whatever. We were reaching the end of the discussion. If

the vote were to be taken under this impression, Panama was done for ever. Only six or seven days remained.

The game, however, was won.

Fortunately, I had a sudden inspiration.

The official documents, which I was looking for, I had under my very hand. They were the postage stamps of the Republic of Nicaragua, which I had mentioned in the pamphlet containing the substance of my lectures in 1901. I hastened to call on all the postage stamp dealers in Washington. I was lucky enough to find there ninety stamps, that is, one for every Senator, showing a beautiful volcano belching forth in magnificent eruption. It was the up-to-date proof of the existence of these volcanoes in activity, which the officials of the Nicaraguan Government denied.

I hastened to paste my precious postage stamps on sheets of paper. On the top of each was written: "Postage Stamps of the Republic of Nicaragua." Below the stamps were written the following words, which told the whole story: "An official witness of the volcanic activity of Nicaragua." Lower down was the description of the volcano, which was, curiously enough, precisely Momotombo, with its cloud of smoke. By a singular coincidence the foreground represented the precise wharf that had been destroyed by an earthquake caused by the eruption of Momotombo according to the news published one month earlier.

While I was collecting these irrefutable testimonies the *Sun*, which throughout the whole campaign never missed a single argument, described this stamp in its issue of June 12.

Fearing fresh false statements, I shot this final arrow only on the 16th of June, three days before the vote.

Immediately after receiving the stamp Senator Gallinger asked the Senate if it were reasonable to undertake this colossal work in a country which had taken as its emblem on its postage stamps a volcano in eruption.

The battle was won. Truth at last triumphed. But how narrow was the margin between success and defeat!

The power and magnetic personality of Senator Hanna; the penetrating and clear demonstration of the overwhelming superiority of Panama by the diagrams; the obvious demonstration of active volcanoes in Nicaragua by the postage stamp; the splendid articles of Edward P. Mitchell; the deep impression produced by the catastrophe of St. Pierre —all that had contributed to victory. These active and powerful forces had washed away, one by one, the members constituting the majority for Nicaragua. If, however, four Senators fewer had been won over to Panama, Panama would have lost.

THE LAW OF JUNE 28, 1902

Frightened by the volcanic activity in Nicaragua and the West Indies, the pro-Nicaragua supporters began to waver in their faith. The Panama adherents gained momentum and members in their drive to see their site chosen as the place where an American isthmian canal would be constructed. The hotly debated issue finally came to a vote in the Senate and the House-approved Nicaragua bill was changed in favor of Panama.

This amended measure was sent back to the House of Representatives, accepted there and voted into law on June 28, 1902. The President was thus given the power to negotiate with Colombia for canal rights. Failing to achieve this end within a reasonable amount of time and on reasonable terms, however, he was then required to open negotiations with Nicaragua.

LAW OF JUNE 28, 1902

ACTS OF CONGRESS RELATING TO THE PANAMA CANAL

An Act To provide for the construction of a canal connecting the waters of the Atlantic and Pacific Oceans.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is hereby authorized to acquire, for and on behalf of the United States, at a cost not exceeding forty millions of dollars, the rights, privileges, franchises, concessions, grants of land, right of way, unfinished work, plants, and other property, real, personal, and mixed, of every name and nature, owned by the New Panama Canal Company, of France, on the Isthmus of Panama, and all its maps, plans, drawings, records on the Isthmus of Panama and in Paris, including all the capital stock, not less, however, than sixty-eight thousand eight hundred and sixty-three shares of the Panama Railroad Company, owned by or held for the use of said canal company, provided a satisfactory title to all of said property can be obtained.

Sec. 2. That the President is hereby authorized to acquire from the Republic of Colombia, for and on behalf of the United States, upon such terms as he may deem reasonable, perpetual control of a strip of land, the territory of the Republic of Colombia, not less than six miles in width, extending from the Caribbean Sea to the Pacific Ocean, and the rights to use and dispose of the waters thereon, and to excavate, construct, and to perpetually maintain, operate, and protect thereon a canal, of such depth and capacity as will afford convenient passage of ships of the greatest tonnage and draft now in use, from the Caribbean Sea to the Pacific Ocean, which control shall include the right to perpetually maintain and operate the Panama Railroad, if the ownership thereof, or a controlling interest therein, shall have been acquired by the United States, and also jurisdiction over said strip and the ports at the ends thereof to make such police and sanitary rules and regulations as shall be necessary to preserve order and preserve the public health thereon, and to establish such judicial tribunals as may be agreed upon thereon as may be necessary to enforce such rules and regulations.

The President may acquire such additional territory and rights from Colombia as in his judgment will facilitate the general purpose hereof.

Sec. 3. That when the President shall have arranged to secure a satisfactory title to the property of the New Panama Canal Company, as provided in section one hereof, and shall have obtained by treaty control

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Source: United States Treaties and Acts of Congress Relating to the Panama Canal. 1917. United States Government Printing Office, 1917.

of the necessary territory from the Republic of Colombia, as provided in section two hereof, he is authorized to pay for the property of the New Panama Canal Company forty millions of dollars and to the Republic of Colombia such sum as shall have been agreed upon, and a sum sufficient for both said purposes is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be paid on warrant or warrants drawn by the President.

The President shall then through the Isthmian Canal Commission hereinafter authorized cause to be excavated, constructed, and completed, utilizing to that end as far as practicable the work heretofore done by the New Panama Canal Company, of France, and its predecessor company, a ship canal from the Caribbean Sea to the Pacific Ocean. Such canal shall be of sufficient capacity and depth as shall afford convenient passage for vessels of the largest tonnage and greatest draft now in use, and such as may be reasonably anticipated, and shall be supplied with all necessary locks and other appliances to meet the necessities of vessels passing through the same from ocean to ocean; and he shall also cause to be constructed such safe and commodious harbors at the termini of said canal, and make such provisions for defense as may be necessary for the safety and protection of said canal and harbors. That the President is authorized for the purposes aforesaid to employ such persons as he may deem necessary, and to fix their compensation.

Sec. 4. That should the President be unable to obtain for the United States a satisfactory title to the property of the New Panama Canal Company and the control of the necessary territory of the Republic of Colombia and the rights mentioned in sections one and two of this Act, within a reasonable time and upon reasonable terms, then the President, having first obtained for the United States perpetual control by treaty of the necessary territory from Costa Rica and Nicaragua, upon terms which he may consider reasonable, for the construction, perpetual maintenance, operation, and protection of a canal connecting the Caribbean Sea with the Pacific Ocean by what is commonly known as the Nicaragua route, shall through the said Isthmian Canal Commission cause to be excavated and constructed a ship canal and waterway from a point on the shore of the Caribbean Sea near Greytown, by way of Lake Nicaragua, to a point near Brito on the Pacific Ocean. Said canal shall be of sufficient capacity and depth to afford convenient passage for vessels of the largest tonnage and greatest draft now in use, and such as may be reasonably anticipated, and shall be supplied with all necessary locks and other appliances to meet the necessities of vessels passing through the same from ocean to ocean; and he shall also construct such safe and commodious harbors at the termini of said canal as shall be necessary for the safe and convenient use thereof, and shall make such provisions for defense as may be necessary for the safety and protection of said harbors and canal; and such sum or sums of money as may be agreed upon by

such treaty as compensation to be paid to Nicaragua and Costa Rica for the concessions and rights hereunder provided to be acquired by the United States, are hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be paid on warrant or warrants drawn by the President.

The President shall cause the said Isthmian Canal Commission to make such surveys as may be necessary for said canal and harbors to be made, and in making such surveys and in the construction of said canal may employ such persons as he may deem necessary, and may fix their compensation.

In the excavation and construction of said canal the San Juan River and Lake Nicaragua, or such parts of each as may be made available, shall be used.

Sec. 5. That the sum of ten million dollars is hereby appropriated, out of any money in the Treasury not otherwise appropriated, toward the project herein contemplated by either route so selected.

And the President is hereby authorized to cause to be entered into such contract or contracts as may be deemed necessary for the proper excavation, construction, completion, and defense of said canal, harbors, and defenses, by the route finally determined upon under the provisions of this Act. Appropriations therefor shall from time to time be hereafter made, not to exceed in the aggregate the additional sum of one hundred and thirty-five millions of dollars should the Panama route be adopted, or one hundred and eighty millions of dollars should the Nicaragua route be adopted.

Sec. 6. That in any agreement with the Republic of Colombia, or with the States of Nicaragua and Costa Rica, the President is authorized to guarantee to said Republic or to said States the use of said canal and harbors, upon such terms as may be agreed upon, for all vessels owned by said States or by citizens thereof.

Sec. 7. That to enable the President to construct the canal and works appurtenant thereto as provided in this Act, there is hereby created the Isthmian Canal Commission, the same to be composed of seven members, who shall be nominated and appointed by the President, by and with the advice and consent of the Senate, and who shall serve until the completion of said canal unless sooner removed by the President, and one of whom shall be named as the chairman of said Commission. Of the seven members of said Commission at least four of them shall be persons learned and skilled in the science of engineering, and of the four at least one shall be an officer of the United States Army, and at least one other shall be an officer of the United States Navy, the said officers respectively being either upon the active or the retired list of the Army or of the Navy. Said commissioners shall each receive such compensation as the President shall prescribe until the same shall have been otherwise fixed by the Congress. In addition to the members of said Isthmian Canal

Commission, the President is hereby authorized through said Commission to employ in said service any of the engineers of the United States Army at his discretion, and likewise to employ any engineers in civil life, at his discretion, and any other persons necessary for the proper and expeditious prosecution of said work. The compensation of all such engineers and other persons employed under this Act shall be fixed by said Commission, subject to the approval of the President. The official salary of any officer appointed or employed under this Act shall be deducted from the amount of salary or compensation provided by or which shall be fixed under the terms of this Act. Said Commission shall in all matters be subject to the direction and control of the President, and shall make to the President annually and at such other periods as may be required, either by law or by the order of the President, full and complete reports of all their actings and doings and of all moneys received and expended in the construction of said work and in the performance of their duties in connection therewith, which said reports shall be by the President transmitted to Congress. And the said Commission shall furthermore give to Congress, or either House of Congress, such information as may at any time be required either by Act of Congress or by the order of either House of Congress. The President shall cause to be provided and assigned for the use of the Commission such offices as may, with the suitable equipment of the same, be necessary and proper, in his discretion, for the proper discharge of the duties thereof.

Sec. 8. That the Secretary of the Treasury is hereby authorized to borrow on the credit of the United States from time to time, as the proceeds may be required to defray expenditures authorized by this Act (such proceeds when received to be used only for the purpose of meeting such expenditures), the sum of one hundred and thirty million dollars, or so much thereof as may be necessary, and to prepare and issue therefor coupon or registered bonds of the United States in such form as he may prescribe, and in denominations of twenty dollars or some multiple of that sum, redeemable in gold coin at the pleasure of the United States after ten years from the date of their issue, and payable thirty years from such date, and bearing interest payable quarterly in gold coin at the rate of two per centum per annum; and the bonds herein authorized shall be exempt from all taxes or duties of the United States, as well as from taxation in any form by or under State, municipal, or local authority: *Provided*, That said bonds may be disposed of by the Secretary of the Treasury at not less than par, under such regulations as he may prescribe, giving to all citizens of the United States an equal opportunity to subscribe therefor, but no commissions shall be allowed or paid thereon; and a sum not exceeding one-tenth of one per centum of the amount of the bonds herein authorized is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to pay the expense of preparing, advertising, and issuing the same.

Approved, June 28, 1902. (32 U. S. Stat., 481.)

THE HAY-HERRAN TREATY

January 22, 1903

President Roosevelt, given the "go ahead" for negotiations with Colombia, to secure the Panama route, put Secretary of State Hay to work almost immediately. Hay met with the Colombian chargé, Tomas Herrán, in Washington. By strongly intimating that the United States would again reverse its position and decide on Nicaragua for the canal, Hay intimidated Herrán to such an extent that the Colombian signed the treaty thus arrived at.

Due to slow and inefficient communications, Herrán received instructions, from Bogotá, NOT to sign any treaty three days after he had already done so. The deed had been done and now, according to the United States, could not be undone. Overriding any Nicaraguan sentiment in the Senate, the pro-Panama forces carried the day and the Hay-Herrán Treaty was approved by more than the necessary majority on March 17, 1903.

HAY-HERRAN TREATY

(Senate Executive K, Fifty-seventh Congress, second session.)

PANAMA CANAL.

Message from the President of the United States, transmitting a convention between the United States and the Republic of Colombia for the construction of a ship canal, and so forth, to connect the waters of the Atlantic and Pacific Oceans, signed January 22, 1903.

January 23, 1903: Read; convention read the first time and referred to the Committee on Foreign Relations, and, together with the message, ordered to be printed in confidence for the use of the Senate. *January 24, 1903:* Injunction of secrecy removed.

To the Senate:

I transmit herewith, with a view to receiving the advice and consent of the Senate to its ratification, a convention between the United States and the Republic of Colombia for the construction of a ship canal, etc., to connect the waters of the Atlantic and Pacific Oceans, signed at Washington on January 22, 1903.

Theodore Roosevelt.

White House,
January 23, 1903.

THE PRESIDENT:

The undersigned, Secretary of State, has the honor to lay before the President for his consideration a convention between the United States of America and the Republic of Colombia for the construction of a ship canal, etc., to connect the waters of the Atlantic and Pacific Oceans, signed by the respective plenipotentiaries of the two Governments on January 22, 1903.

John Hay.

Department of State,
Washington, January 23, 1903.

The United States of America and the Republic of Colombia, being desirous to assure the construction of a ship canal to connect the Atlantic and Pacific Oceans and the Congress of the United States of America having passed an Act approved June 28, 1902, in furtherance of that

Source: U.S. Senate Document No. 474, 63rd Congress, 2nd Session. Diplomatic History of the Panama Canal. Correspondence Relating to the Negotiation and Application of Certain Treaties on the Subject of the Construction of an Interoceanic Canal, and Accompanying Papers. Washington, Government Printing Office, 1914.

object, a copy of which is hereunto annexed, the high contracting parties have resolved, for that purpose, to conclude a Convention and have accordingly appointed as their plenipotentiaries,

The President of the United States of America, John Hay, Secretary of State, and

The President of the Republic of Colombia, Thomas Herrán, Charge d'Affaires, thereunto specially empowered by said government, who, after communicating to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles:

Article I.

The Government of Colombia authorizes the New Panama Canal Company to sell and transfer to the United States its rights, privileges, properties, and concessions, as well as the Panama Railroad and all the shares or part of the shares of that company; but the public lands situated outside of the zone hereinafter specified, now corresponding to the concessions of both said enterprises shall revert to the Republic of Colombia, except any property now owned by or in the possession of the said companies within Panama or Colon, or the ports and terminals thereof.

But it is understood that Colombia reserves all its rights to the special shares in the capital of the New Panama Canal Company to which reference is made in Article IV of the contract of December 10, 1890, which shares shall be paid their full nominal value at least; but as such right of Colombia exists solely in its character of stockholder in said Company, no obligation under this provision is imposed upon or assumed by the United States.

The Railroad Company (and the United States as owner of the enterprise) shall be free from the obligations imposed by the railroad concession, excepting as to the payment at maturity by the Railroad Company of the outstanding bonds issued by said Railroad Company.

Article II.

The United States shall have the exclusive right for the term of one hundred years, renewable at the sole and absolute option of the United States, for periods of similar duration so long as the United States may desire, to excavate, construct, maintain, operate, control, and protect the Maritime Canal with or without locks from the Atlantic to the Pacific Ocean, to and across the territory of Colombia, such canal to be of sufficient depth and capacity for vessels of the largest tonnage and greatest draft now engaged in commerce, and such as may be reasonably anticipated, and also in the same rights for the construction, maintenance, operation, control, and protection of the Panama Railroad and of railway, telegraph and telephone lines, canals, dikes, dams and reservoirs, and such other auxiliary works as may be necessary and convenient for the construction, maintenance, protection and operation of the canal and railroads.

Article III.

To enable the United States to exercise the rights and privileges granted by this Treaty the Republic of Colombia grants to that Government the use and control for the term of one hundred years, renewable at the sole and absolute option of the United States, for periods of similar duration so long as the United States may desire, of a zone of territory along the route of the canal to be constructed five kilometers in width on either side thereof measured from its center line including therein the necessary auxiliary canals not exceeding in any case fifteen miles from the main canal and other works, together with ten fathoms of water in the Bay of Limon in extension of the canal, and at least three marine miles from mean low water mark from each terminus of the canal into the Caribbean Sea and the Pacific Ocean respectively. So far as necessary for the construction, maintenance and operation of the canal, the United States shall have the use and occupation of the group of small islands in the Bay of Panama named Perico, Naos, Culebra and Flamenco, but the same shall not be construed as being within the zone herein defined or governed by the special provisions applicable to the same.

This grant shall in no manner invalidate the titles or rights of private land holders in the same zone of territory, nor shall it interfere with the rights of way over the public roads of the Department; provided, however, that nothing herein contained shall operate to diminish; impair or restrict the rights elsewhere herein granted to the United States.

This grant shall not include the cities of Panama and Colon, except so far as lands and other property therein are now owned by or in possession of the said Canal Company or the said Railroad Company; but all the stipulations contained in Article 35 of the Treaty of 1846-48 between the contracting parties shall continue and apply in full force to the cities of Panama and Colon and to the accessory community lands and other property within the said zone, and the territory thereon shall be neutral territory, and the United States shall continue to guarantee the neutrality thereof and the sovereignty of Colombia thereover, in conformity with the above mentioned Article 35 of said Treaty.

In furtherance of this last provision there shall be created a Joint Commission by the Governments of Colombia and the United States that shall establish and enforce sanitary and police regulations.

Article IV.

The rights and privileges granted to the United States by the terms of this convention shall not affect the sovereignty of the Republic of Colombia over the territory within whose boundaries such rights and privileges are to be exercised.

The United States freely acknowledges and recognizes this sovereignty and disavows any intention to impair it in any way whatever or to increase its territory at the expense of Colombia or of any of the sister

republics in Central or South America, but on the contrary, it desires to strengthen the power of the republics on this continent, and to promote, develop and maintain their prosperity and independence.

Article V.

The Republic of Colombia authorizes the United States to construct and maintain at each entrance and terminus of the proposed canal a port for vessels using the same, with suitable light houses and other aids to navigation, and the United States is authorized to use and occupy within the limits of the zone fixed by this covention, such parts of the coast line and of the lands and islands adjacent thereto as are necessary for this purpose, including the construction and maintenance of breakwaters, dikes, jetties, embankments, coaling stations, docks and other appropriate works, and the United States undertakes the construction and maintenance of such works and will bear all the expense thereof. The ports when established are declared free, and their demarcations shall be clearly and definitely defined.

To give effect to this Article, the United States will give special attention and care to the maintenance of works for drainage, sanitary and healthful purposes along the line of the canal, and its dependencies, in order to prevent the invasion of epidemics or of securing their prompt suppression should they appear. With this end in view the United States will organize hospitals along the line of the canal, and will suitably supply or cause to be supplied the towns of Panama and Colon with the necessary aqueducts and drainage works, in order to prevent their becoming centers of infection on account of their proximity to the canal.

The Government of Colombia will secure for the United States or its nominees the lands and rights that may be required in the towns of Panama and Colon to effect the improvements above referred to, and the Government of the United States or its nominees shall be authorized to impose and collect equitable water rates, during fifty years for the service rendered; but on the expiration of said term the use of the water shall be free for the inhabitants of Panama and Colon, except to the extent that may be necessary for the operation and maintenance of said water system, including reservoirs, aqueducts, hydrants, supply service, drainage and other works.

Article VI.

The Republic of Colombia agrees that it will not cede or lease to any foreign Government any of its islands or harbors within or adjacent to the Bay of Panama, nor on the Atlantic Coast of Colombia, between the Atrato River and the western boundary of the Department of Panama, for the purpose of establishing fortifications, naval or coaling stations, military posts, docks or other works that might interfere with the construction, maintenance, operation, protection, safety, and free use of the canal and auxiliary works. In order to enable Colombia to comply with this stipulation, the Government of the United States agrees to give

Colombia the material support that may be required in order to prevent the occupation of said islands and ports, guaranteeing there the sovereignty, independence and integrity of Colombia.

Article VII.

The Republic of Colombia includes in the foregoing grant the right without obstacle, cost, or impediment, to such control, consumption and general utilization in any manner found necessary by the United States to the exercise by it of the grants to, and rights conferred upon it by this Treaty, the waters of the Chagres River and other streams, lakes and lagoons, of all non-navigable waters, natural and artificial, and also to navigate all rivers, streams, lakes and other navigable water-ways, within the jurisdiction and under the domain of the Republic of Colombia, in the Department of Panama, within or without said zone, as may be necessary or desirable for the construction, maintenance and operation of the canal and its auxiliary canals and other works, and without tolls or charges of any kind; and to raise and lower the levels of the waters, and to deflect them, and to impound any such waters, and to overflow any lands necessary for the due exercise of such grants and rights to the United States; and to rectify, construct and improve the navigation of any such rivers, streams, lakes and lagoons at the sole cost of the United States; but any such water-ways so made by the United States may be used by citizens of Colombia free of tolls or other charges. And the United States shall have the right to use without cost, any water, stone, clay, earth or other materials belonging to Colombia on the public domain that may be needed by it.

All damages caused to private land owners by inundation or by the deviation of water courses, or in other ways, arising out of the construction or operation of the canal, shall in each case be appraised and settled by a joint commission appointed by the Governments of the United States and Colombia, but the cost of the indemnities so agreed upon shall be borne solely by the United States.

Article VIII.

The Government of Colombia declares free for all time the ports at either entrance of the Canal, including Panama and Colon and the waters thereof in such manner that there shall not be collected by the Government of Colombia custom house tolls, tonnage, anchorage, light-house, wharf, pilot, or quarantine dues, nor any other charges or taxes of any kind shall be levied or imposed by the Government of Colombia upon any vessel using or passing through the Canal or belonging to or employed by the United States, directly or indirectly, in connection with the construction, maintenance and operation of the main work or its auxiliaries, or upon the cargo, officers, crew, or passengers of any such vessels; it being the intent of this convention that all vessels and their cargoes, crews, and passengers, shall be permitted to use and pass through the Canal and the ports leading thereto, subject to no other demands or im-

positions than such tolls and charges as may be imposed by the United States for the use of the Canal and other works. It being understood that such tolls and charges shall be governed by the provisions of Article XVI.

The ports leading to the Canal, including Panama and Colon, also shall be free to the commerce of the world, and no duties or taxes shall be imposed, except upon merchandise destined to be introduced for the consumption of the rest of the Republic of Colombia, or the Department of Panama, and upon vessels touching at the ports of Colon and Panama and which do not cross the Canal.

Though the said ports shall be free and open to all, the Government of Colombia may establish in them such custom houses and guards as Colombia may deem necessary to collect duties on importations destined to other portions of Colombia and to prevent contraband trade. The United States shall have the right to make use of the ports at the two extremities of the Canal including Panama and Colon as places of anchorage, in order to make repairs for loading, unloading, depositing, or transshipping cargoes either in transit or destined for the service of the

Any concessions or privileges granted by Colombia for the operation of light houses at Colon and Panama shall be subject to expropriation, indemnification and payment in the same manner as is provided by Article XIV in respect to the property therein mentioned; but Colombia shall make no additional grant of any such privilege nor change the status of any existing concession.

Article IX.

There shall not be imposed any taxes, national, municipal, departmental, or of any other class, upon the canal, the vessels that may use it, tugs and other vessels employed in the service of the canal, the railways and auxiliary works, store houses, work shops, offices, quarters for laborers, factories of all kinds, warehouses, wharves, machinery and other works, property, and effects appertaining to the canal or railroad or that may be necessary for the service of the canal or railroad and their de-

Department of Panama shall not pay for such service higher tolls than those required from the officials in the service of the United States.

Article XI.

The Government of Colombia shall permit the immigration and free access to the lands and workshops of the canal and its dependencies of all employees and workmen of whatever nationality under contract to work upon or seeking employment or in any wise connected with the said canal and its dependencies, with their respective families, and all such persons shall be free and exempt from the military service of the Republic of Colombia.

Article XII.

The United States may import at any time into the said zone, free of customs duties, imposts, taxes, or other charges, and without any restriction, any and all vessels, dredges, engines, cars, machinery, tools, explosives, materials, supplies, and other articles necessary and convenient in the construction, maintenance and operation of the canal and auxiliary works, also all provisions, medicines, clothing, supplies and other things necessary and convenient for the officers, employees, workmen and laborers in the service and employ of the United States and for their families. If any such articles are disposed of for use without the zone excepting Panama and Colon and within the territory of the Republic, they shall be subject to the same import or other duties as like articles under the laws of Colombia or the ordinances of the Department of Panama.

Article XIII.

The United States shall have authority to protect and make secure the canal, as well as railways and other auxiliary works and dependencies, and to preserve order and discipline among the laborers and other persons who may congregate in that region, and to make and enforce such police and sanitary regulations as it may deem necessary to preserve order and public health thereon, and to protect navigation and commerce through and over said canal, railways and other works and dependencies from interruption or damage.

I. The Republic of Colombia may establish judicial tribunals within said zone, for the determination, according to its laws and judicial procedure, of certain controversies hereinafter mentioned.

Such judicial tribunal or tribunals so established by the Republic of Colombia shall have exclusive jurisdiction in said zone of all controversies between citizens of the Republic of Colombia, or between citizens of the Republic of Colombia and citizens of any foreign nation other than the United States.

II. Subject to the general sovereignty of Colombia over said zone, the United States may establish judicial tribunals thereon, which shall have jurisdiction of certain controversies hereinafter mentioned to be determined according to the laws and judicial procedure of the United States.

Such judicial tribunal or tribunals so established by the United States shall have exclusive jurisdiction in said zone of all controversies between citizens of the United States, and between citizens of the United States and citizens of any foreign nation other than the Republic of Colombia; and of all controversies in any wise growing out of or relating to the construction, maintenance or operation of the canal, railway and other properties and works.

III. The United States and Colombia engage jointly to establish and maintain upon said zone, judicial tribunals having civil, criminal and admiralty jurisdiction, and to be composed of jurists appointed by the Governments of the United States and Colombia in a manner hereafter to be agreed upon between said Governments, and which tribunals shall have jurisdiction of certain controversies hereinafter mentioned, and of all crimes, felonies and misdemeanors committed within said zone, and of all cases arising in admiralty, according to such laws and procedures as shall be hereafter agreed upon and declared by the two governments.

Such joint judicial tribunal shall have exclusive jurisdiction in said zone of all controversies between citizens of the United States and citizens of Colombia, and between citizens of nations other than Colombia or the United States; and also of all crimes, felonies and misdemeanors committed within said zone, and of all questions of admiralty arising therein.

IV. The two Governments hereafter, and from time to time as occasion arises, shall agree upon and establish the laws and procedures which shall govern such joint judicial tribunal and which shall be applicable to the persons and cases over which such tribunal shall have jurisdiction, and also shall likewise create the requisite officers and employees of such court and establish their powers and duties; and further shall make adequate provision by like agreement for the pursuit, capture, imprisonment, detention and delivery within said zone of persons charged with the commitment of crimes, felonies or misdemeanors without said zone; and for the pursuit, capture, imprisonment, detention and delivery without said zone of persons charged with the commitment of crimes, felonies and misdemeanors within said zone.

Article XIV.

The works of the canal, the railways and their auxiliaries are declared public utility, and in consequence all areas of land and water necessary for the construction, maintenance, and operation of the canal and other specified works may be expropriated in conformity with the laws of Colombia, except that the indemnity shall be conclusively determined without appeal, by a joint commission appointed by the Governments of Colombia and the United States.

The indemnities awarded by the Commission for such expropriation shall be borne by the United States, but the appraisal of said lands and the assessment of damages shall be based upon their value before the commencement of the work upon the canal.

Article XV.

The Republic of Colombia grants to the United States the use of all the ports of the Republic open to commerce as places of refuge for any vessels employed in the canal enterprise, and for all vessels in distress having the right to pass through the canal and wishing to anchor in said ports. Such vessels shall be exempt from anchorage and tonnage dues on the part of Colombia.

Article XVI.

The canal, when constructed, and the entrance thereto shall be neutral perpetuity, and shall be opened upon the terms provided for by Section I of Article three of, and in conformity with all the stipulations of, the treaty entered into by the Governments of the United States and Great Britain on November 18, 1901.

Article XVII.

The Government of Colombia shall have the right to transport over the canal its vessels, troops, and munitions of war at all times without paying charges of any kind. This exemption is to be extended to the auxiliary railway for the transportation of persons in the service of the Republic of Colombia or of the Department of Panama, or of the police force charged with the preservation of public order outside of said zone, as well as to their baggage, munitions of war and supplies.

Article XVIII.

The United States shall have full power and authority to establish and enforce regulations for the use of the canal, railways, and the entering ports and auxiliary works, and to fix rates of tolls and charges thereof, subject to the limitations stated in Article XVI.

Article XIX.

The rights and privileges granted to the United States by this convention shall not affect the sovereignty of the Republic of Colombia over the real estate that may be acquired by the United States by reason of the transfer of the rights of the New Panama Canal Company and the Panama Railroad Company lying outside of the said canal zone.

Article XX.

If by virtue of any existing treaty between the Republic of Colombia and any third power, there may be any privilege or concession relative to an interoceanic means of communication which especially favors such third power, and which in any of its terms may be incompatible with the terms of the present convention, the Republic of Colombia agrees to cancel or modify such treaty in due form, for which purpose it shall give to the said third power the requisite notification within the term of four months from the date of the present convention, and in case the existing treaty contains no clause permitting its modification or annulment, the

Republic of Colombia agrees to procure its modification or annulment in such form that there shall not exist any conflict with the stipulations of the present convention.

Article XXI.

The rights and privileges granted by the Republic of Colombia to the United States in the preceding Articles are understood to be free of all anterior concessions or privileges to other Governments, corporations, syndicates or individuals, and consequently, if there should arise any claims on account of the present concessions and privileges or otherwise, the claimants shall resort to the Government of Colombia and not to the United States for any indemnity or compromise which may be required.

Article XXII.

The Republic of Colombia renounces and grants to the United States the participation to which it might be entitled in the future earnings of the canal under Article XV of the concessionary contract with Lucien N. B. Wyse now owned by the New Panama Canal Company and any and all other rights or claims of a pecuniary nature arising under or relating to said concession, or arising under or relating to the concessions to the Panama Railroad Company or any extension or modification thereof; and it likewise renounces, confirms and grants to the United States, now and hereafter, all the rights and property reserved in the said concessions which otherwise would belong to Colombia at or before the expiration of the terms of ninety-nine years of the concessions granted to or held by the above mentioned party and companies, and all right, title and interest which it now has or may hereafter have, in and to the lands, canal, works, property and rights held by the said companies under said concessions or otherwise, and acquired or to be acquired by the United States from or through the New Panama Canal Company, including any property and rights which might or may in the future either by lapse of time, forfeiture or otherwise, revert to the Republic of Colombia under any contracts of concessions, with said Wyse, the Universal Panama Canal Company, the Panama Railroad Company and the New Panama Canal Company.

The aforesaid rights and property shall be and are free and released from any present or reversionary interest in or claims of Colombia and the title of the United States thereto upon consummation of the contemplated purchase by the United States from the New Panama Canal Company, shall be absolute, so far as concerns the Republic of Colombia, excepting always the rights of Colombia specifically secured under this treaty.

Article XXIII.

If it should become necessary at any time to employ armed forces for the safety or protection of the canal, or of the ships that make use of the same, or the railways and other works, the Republic of Colombia

agrees to provide the forces necessary for such purpose, according to the circumstances of the case, but if the Government of Colombia cannot effectively comply with this obligation, then, with the consent of or at the request of Colombia, or of her Minister at Washington, or of the local authorities, civil or military, the United States shall employ such force as may be necessary for that sole purpose; and as soon as the necessity shall have ceased will withdraw the forces so employed. Under exceptional circumstances, however, on account of unforeseen or imminent danger to said canal, railways and other works, or to the lives and property of the persons employed upon the canal, railways, and other works, the Government of the United States is authorized to act in the interest of their protection, without the necessity of obtaining the consent beforehand of the Government of Colombia; and it shall give immediate advice of the measures adopted for the purpose stated; and as soon as sufficient Colombian forces shall arrive to attend to the indicated purpose, those of the United States shall retire.

Article XXIV.

The Government of the United States agrees to complete the construction of the preliminary works necessary, together with all the auxiliary works, in the shortest time possible; and within two years from the date of the exchange of ratification of this convention the main works of the canal proper shall be commenced, and it shall be opened to the traffic between the two oceans within twelve years after such period of two years. In case, however, that any difficulties or obstacles should arise in the construction of the canal which are at present impossible to foresee, in consideration of the good faith with which the Government of the United States shall have proceeded, and the large amount of money expended so far on the works and the nature of the difficulties which may have arisen, the Government of Colombia will prolong the terms stipulated in this Article up to twelve years more for the completion of the work of the canal.

But in case the United States should, at any time, determine to make such canal practically a sea level canal, then such period shall be extended for ten years further.

Article XXV.

As the price or compensation for the right to use the zone granted in this convention by Colombia to the United States for the construction of a canal, together with proprietary right over the Panama Railroad, and for the annuity of two hundred and fifty thousand dollars gold, which Colombia ceases to receive from the said railroad, as well as in compensation for other rights, privileges and exemptions granted to the United States, and in consideration of the increase in the administrative expenses of the Department of Panama consequent upon the construction of the said canal, the Government of the United States binds itself to pay Co-

lombia the sum of ten million dollars in gold coin of the United States on the exchange of the ratification of this convention after its approval according to the laws of the respective countries, and also an annual payment during the life of this convention of two hundred and fifty thousand dollars in like gold coin, beginning nine years after the date aforesaid.

The provisions of this Article shall be in addition to all other benefits assured to Colombia under this convention.

But no delay nor difference of opinion under this Article shall affect nor interrupt the full operation and effect of this convention in all other respects.

Article XXVI.

No change either in the Government or in the laws and treaties of Colombia, shall, without the consent of the United States, affect any right of the United States under the present convention, or under any treaty stipulation between the two countries (that now exist or may hereafter exist) touching the subject matter of this convention.

If Colombia shall hereafter enter as a constituent into any other Government or into any union or confederation of States so as to merge her sovereignty or independence in such Government, union, or confederation, the rights of the United States under this convention shall not be in any respect lessened or impaired.

Article XXVII.

The joint commission referred to in Articles III, VII and XIV shall be established as follows:

The President of the United States shall nominate two persons and the President of Colombia shall nominate two persons and they shall proceed to a decision; but in case of disagreement of the Commission (by reason of their being equally divided in conclusion) an umpire shall be appointed by the two Governments, who shall render the decision. In the event of death, absence or incapacity of any Commissioner or umpire, or of his omitting, declining or ceasing to act, his place shall be filled by the appointment of another person in the manner above indicated. All decisions by a majority of the Commission or by the umpire shall be final.

Article XXVIII.

This convention when signed by the contracting parties, shall be ratified according to the laws of the respective countries and shall be exchanged at Washington within a term of eight months from this date, or earlier if possible.

In faith whereof, the respective plenipotentiaries have signed the present convention in duplicate and have hereunto affixed their respective seals.

Done at the City of Washington, the 22d day of January in the year of our Lord nineteen hundred and three.

(Signed) *John Hay.* (Seal.)
(Signed) *Thomas Herran.* (Seal.)

THE COLOMBIAN SENATE'S REJECTION OF THE HAY-HERRAN TREATY

August 12, 1903

Although passed by the United States Senate, the Hay-Herrán Treaty did not make its way successfully through the Senate in Bogota. A wave of nationalistic fervor swept over the Colombians and the treaty was unanimously rejected on August 12, 1903.

The Colombian legislators felt that the terms of the agreement Herrán had signed were too favorable to the United States. They were dissatisfied with the amount of money Colombia was to receive, the threat to their sovereignty and the pressure put on Señor Herrán. The Colombian jurists also questioned the constitutionality of the leasing of any of their lands in perpetuity.

Jose Marroquin, the Colombian dictator, was in an ever weakening position in 1903. He was losing his hold over the legislators due to advancing age and factionalism. He feared making any one-man decision that would prove as unpopular with his highly nationalistic countrymen as this treaty promised to be. To share the responsibility of deciding on the action to be taken regarding the Hay-Herrán Treaty, he convened the Colombian Congress, which had not been in session for some years preceeding this summons.

LETTER FROM LOUIS CARLOS RICO, COLOMBIAN MINISTER OF FOREIGN AFFAIRS TO A. M. BEAUPRE.

Ministry of Foreign Relations,
Bogota, August 14, 1903.

MR. MINISTER: As your excellency has been pleased to address me various notes relative to the treaty for the opening of the Panama Canal which was signed in Washington the 22d of January last, I inform your excellency that the Senate of the Republic disapproved that pact, by the unanimous vote of the senators present, in the session of the 12th of this month, and the day following approved, also unanimously, the proposition which I have the honor to communicate to your excellency, and which is as follows:

"The Senate of the Republic, in view of the disapproval given to the treaty signed in Washington the 22d of January of the present year, by the charge d'affaires of Colombia and the Secretary of State of the American Union, and taking into account the desire of the Colombian people to maintain the most cordial relations with the people of the United States of America, and its sentiment that the completion of the interoceanic canal across the Isthmus of Panama is a work of the greatest importance for the commerce and advancement of the world, as well as for the development and progress of the American nations, resolved:

"1. That a commission of three senators, appointed by the president of the Senate, consulting in every possible way the opinion of the House of Representatives, study the manner of meeting the earnest desire of the Colombian people touching the construction of the Panama Canal, in harmony with the national interests and observance of the law by which the Senate was ruled on this solemn occasion; and

"2. That the widest publicity be given both at home and abroad to this resolution, to the modifications to said treaty proposed by the commission of the Senate, and to the other documents which had led to this resolution."

Although I have made known by cable to the Colombian legation in Washington the contents of the proposition above quoted, in order that it may inform the Department of State of both actions, I communicate the same to your excellency in order that you may, if you see fit, also bring them to the knowledge of the Government of the United States.

I renew to your excellency the assurances of my highest consideration.

(Signed) *Louis Carlos Rico.*

Source: U.S. Senate Document No. 474, 63rd Congress, 2nd Session. Diplomatic History of the Panama Canal Correspondence Relating to the Negotiation and Application of Certain Treaties on the Subject of the Construction of an Interoceanic Canal, and Accompanying Papers. Washington, Government Printing Office, 1914.

LETTER FROM A. M. BEAUPRE, UNITED STATES ENVOY EXTRAORDINARY AND MINISTER PLENIPOTENTIARY OF THE UNITED STATES, TO JOHN HAY, UNITED STATES SECRETARY OF STATE

Legation of the United States,
Bogota, August 15, 1903.

SIR: I have the honor to report that the most intensely critical period for the canal treaty seems to have passed, and that now there is some hope for a satisfactory conclusion. Since the rejection of the treaty on the 12th instant there has been an almost hysterical condition of alarm and uncertainty in Bogota as to the future action of the United States. Yesterday there was a widely circulated report that United States troops had landed on the Isthmus. When, finally, large posters were put up all over the city, announcing that because of a desire to maintain the most cordial relations with the United States, a joint committee would be appointed by Congress to confer as to the way and means of an agreement for the construction of a canal, I am certain that there was a genuine feeling of relief.

When the report of the special committee of the Senate was prepared and I had positive information that twenty of the twenty-seven votes in the Senate had been secured to pass it, I knew at once that such action would be fatal; and there being no cable communication to permit of instruction from you, I determined upon a course of energetic action which, while it might seriously lessen my popularity here and seem undiplomatic unless viewed in the light of the exigency and the circumstances, resulted in my two notes of the 5th instant and one of the 8th instant to the minister for foreign affairs. These notes were as strong and incisive as I could make them, with no attempt to disguise in suave phrases the fact that there was no probability that the United States Senate would accept the amendments proposed by the committee. Whether or not I was justified in writing such strong notes is best judged in the light of events, for they accomplished what I deemed to be necessary, and no other course could have prevented the adoption of the report of the committee.

Some of the newspapers and members of Congress are expressing dissatisfaction with what they term my dictatorial attitude, but I do not consider this important, provided a satisfactory treaty is finally ratified, which now seems probable.

Source: U.S. Senate Document, No. 474, 63rd Congress, 2nd Session. Diplomatic History of the Panama Canal Correspondence Relating to the Negotiation and Application of Certain Treaties on the Subject of the Construction of an Interoceanic Canal, and Accompanying Papers. Washington, Government Printing Office, 1914.

When action was taken on the 12th instant no one in authority believed that it was final. Aside from the tone of the public debate, which would indicate this to the public, the senators had come to an agreement some days before as to the policy to be pursued. Because of the apparent fatality of the amendments proposed, it seems to have been thought best by those in charge (and I was so informed about the 10th instant), in view of the present state of public opinion, to reject the treaty in the first debate, and then, believing that there would be a reaction of this public opinion, to resort to some coup to get the treaty again before Congress and pass it.

Apparently the manner of getting at this has not been definitely determined, for there are various ideas of ways and means.

General Ospina, the chairman of the new committee, stated to a friend of mine yesterday that the main objections to the treaty rested upon lawful or constitutional grounds. That the treaty was not unconstitutional, but contrary to law 2 of 1886 and law 153 of 1887. That the committee could recommend an anulment of these laws, which, if done, would permit the ratification of the treaty, with some trivial amendment intended to soothe the apparent inconsistency of the two votes. That the action of the 12th instant was taken on the minority report of the committee, and the majority report could still be called up and a reconsideration had.

General Valencia, a senator and lawyer of reputation, says that the treaty is not unconstitutional, except with reference to the appointment of United States tribunals on the Isthmus, which is not highly important; that it is not necessary to annul laws, because the treaty itself would become a superseding law if passed; that the only thing to look to was to get enough votes to pass the treaty when it again came before the Senate.

The feasible scheme, however, and the one most generally talked of as being likely to be adopted, is to frame a law authorizing the executive to continue and finish the negotiations for a canal without further recourse to Congress.

Whatever may be the means determined upon, it is altogether probable that the report of the joint committee will be passed when presented.

There is a seeming of good intentions in this movement, and yet I can not forget that there has never been a favorable word said for the treaty in the Senate, nor in fact has it been discussed at all, and there is little evidence of a desire to treat the matter with open good faith to the United States.

The first weeks of the session were devoted to the discussion of the question as to whether the vice president must sign the treaty before it was considered by the Senate. In other words, an attempt of the vice president's political enemies to place the responsibility for the negotiations upon him, which he declined to assume. When this point was settled to the satisfaction of the Government and the burden was ap-

parently placed upon Congress, came the appointment of the special committee of one member for each of the nine departments of the Republic, who consumed nearly three weeks in their deliberations, and then reported recommending the nine amendments, which I immediately cabled to you.

The first (and only) debate upon the committee's report occurred on the 12th instant, and that you may understand how the matter has been treated I will give a summary of that day's proceedings:

Senator Marroquin (son of the vice president) moved that the debate be preceded by the reading of the correspondence which had passed between the United States minister and the minister for foreign affairs on the canal negotiations.

Senator Caro gave notice of a law he would move, containing two clauses, viz:

(1) To reject the Hay-Herrán treaty.

(2) That the United States Government be informed that the Congress of Colombia meant no manifestation of hostility by this act, nor any antagonism to the construction of a canal by the United States.

The correspondence above referred to was then read.

My memorandum and notes in which I pointed out that the Colombian Government did not apparently realize the gravity of the situation, and that if Colombia should now reject the treaty or unduly delay its ratification the friendly understanding between the two countries would be so seriously compromised that action might be taken by our Congress next winter which every friend of Colombia would regret, was received with loud murmurs of disapproval by the densely packed gallery. The minister for foreign affairs' replies, read mostly by himself, were, on the other hand, greeted with applause.

Besides the above, the tenor of my notes was (a) that any modifications would be fatal; (b) that any modifications affecting the arrangements with the Panama Canal and Railway companies would not be accepted. The minister's replies were to the effect that the Government was bound to submit the treaty to the Congress, and that in the event of its not passing that body he understood that the United States would proceed to the negotiation with Nicaragua; but that he did not see that the refusal to ratify the treaty could in any way alter the friendly relations existing between Colombia and the United States.

Senator Caro vehemently attacked the Government for its attitude in the conducting of the negotiations. He taunted the minister for foreign affairs for his action in having the correspondence between the United States minister and himself read as an attempt to elude the responsibility resting on the Government, and to cover it by courting the applause of the gallery as the champion of the rights of the Colombian Senate; rights which, he said, had never been called in question by the United States minister.

This same attitude was taken by Senator Arango, in a short speech.

The minister for foreign affairs then went through the whole history of the negotiations, beginning with the project of an interoceanic canal first made. He gave a detailed resume of the whole De Lesseps scheme, and its subsequent failure, and deduced the following conclusion: That the present situation, as shown by the history of antecedent schemes and negotiations, was that Colombia must choose one of two things—either the whole scheme of a Panama Canal must be abandoned, or Colombia must hand the undertaking over to the United States. Feelers had been thrown out which had proved that no other power or entity would under any circumstances take the project in hand. The concession, therefore, if given to anybody, must be given to the United States Government. But this fact must not be lost sight of, that the United States Government would not even consider the cutting of a canal which should not be its own canal. The minister then made reference to the notes which had passed between him and the legation of the United States. The result of that correspondence was that the Colombian Congress found itself in the dilemma of either accepting the treaty as it stands or losing all hope of seeing the great work cut through Colombian territory. He concluded by expressing the hope that, in discussing this matter, the Senate would strictly limit itself to the points at issue. The Government had done what it could in the matter. The negotiations had been initiated by the ablest of their statesmen, Dr. Martinez Silva, and the treaty, even as it now stood, bore the impress of that initiatory work. The Government had, moreover, left the decision of the issue to the free judgment of the country, and had exerted no influence whatever upon public opinion, when it could have passed the measure through by the use of dictatorial measures. (This evoked marked disapprobatory murmurs from the gallery.)

Senator Marroquin then made a short speech to the effect that the question turned on the acceptance or nonacceptance of the treaty, and not on questions of government policy, brought in by honorable senators, and which were foreign to the discussion.

A speech by Gen. Pedro Nel Ospina then followed, in which he blamed the minister for foreign affairs for having in a note given the United States minister the opportunity of raising the question as to whether or not his Government would accept any modifications. He said the minister's position reminded him of the man who, on being told by an alcalde that he must furnish three horses for the use of the Government turned, as he was leaving the room, and inquired: "Must I furnish saddles, also?" To which the alcalde replied: "Certainly!" He also said that, outside of the question as to whether he did or did not favor the canal treaty as it stood, he could not, in view of the existing laws of the country, give his vote for its ratification. That the Congress should, in his opinion, first so amend the laws of the country as to enable the Colom-

bian Government to come to an agreement with that of the United States in a manner honorable to both countries.

Senator Rodriguez spoke in the same sense, expressing his advocacy of the construction of a canal and his friendly disposition toward the Government of the United States. He should, however, as privately agreed upon, give a negative vote on this occasion.

And thus ended the only debate ever had in the Colombian Senate on the canal treaty.

A vote was taken at 6:30 p.m., and every senator present was recorded as voting against the ratification of the treaty.

As I have on many occasions informed you, ratification has seemed almost hopeless from the beginning without the active influence of the Government, and this it has never used. The Nationalists, under the lead of Senator Caro, have been too deeply concerned in their efforts to belittle the Government to consider the merits of the treaty at all. The Liberals, while not represented in Congress, are the most active factors in creating public opinion, and have taken an almost identical position. The coffee planters and exporters, who think their business would be ruined by low foreign exchange, have been unpatriotic enough to place personal interests above national good, and have been against the treaty because the $10,000,000 once paid Colombia would send exchange so low that coffee could not be exported from the interior. Even the Panama representatives have lately become so thoroughly imbued with the idea of an independent republic that they have been more or less indifferent to the fate of the treaty.

As a matter of fact the treaty, as such, has had no active friends or supporters, and if it is ratified at all it will be because of the strong attitude taken by the United States and the earnest repetition of the statement that the friendly understanding between the two countries depended upon it.

It has been a difficult and trying situation from the first, rendered more so by the interruption of cable communication, and one in which a strong, rather than a velvet hand, was imperative.

I await the consummation with some hope and much distrust.

I am, sir, your obedient servant,

A. M. Beaupre.

COLOMBIA

A Positive and Contemptuous Refusal

Theodore Roosevelt's reaction to the Colombian Senate's rejection of the Hay-Herrán Treaty.

When news of the rejection of the Hay-Herrán Treaty reached Washington, President Theodore Roosevelt worked himself into a frenzy of anger. His temper exploded and the "Rough Rider" stormed and fumed hurling his choicest epithets at the occupants of a particular Andean republic.

Impatient and eager to see any project he sponsored go through without obstruction or delay, Roosevelt was frustrated by and furious at the Colombians for placing this roadblock in the middle of the path to fame and accomplishment he had so carefully mapped out. A successful completion to favorable negotiations with Colombia would not only have enabled the United States to immediately begin work on the long talked about canal, but also would have been a giant step for Roosevelt toward the Republican nomination for President, in the 1904, elections which he strongly desired.

It is reported that the impulsive Chief Executive even went so far as to prepare a message to Congress asking for permission to take the desired land by force. Secretary Hay supported his President with a cabled ultimatum, to the Colombian government, which was looked upon and rejected as insulting and threatening.

THE PANAMA CANAL AND OUR RELATIONS WITH COLOMBIA.

Message of President Roosevelt of December 7, 1903.
(Extract from the message of President Roosevelt, dated December 7, 1903.)

ISTHMIAN CANAL.

By the act of June 28, 1902, the Congress authorized the President to enter into treaty with Colombia for the building of the canal across the Isthmus of Panama, it being provided that in the event of failure to secure such treaty after the lapse of a reasonable time, recourse should be had to building a canal through Nicaragua. It has not been necessary to consider this alternative, as I am enabled to lay before the Senate a treaty providing for the building of the canal across tthe Isthmus of Panama. This was the route which commended itself to the deliberate judgment of the Congress, and we can now acquire by treaty the right to construct the canal over this route. The question now, therefore, is not by which route the Isthmian Canal shall be built, for that question has been definitely and irrevocably decided. The question is simply whether or not we shall have an Isthmian Canal.

When the Congress directed that we should take the Panama route under treaty with Colombia, the essence of the condition, of course, referred not to the Government which controlled that route, but to the route itself; to the territory across which the route lay, not to the name which for the moment the territory bore on the map. The purpose of the law was to authorize the President to make a treaty with the power in actual control of the Isthmus of Panama. This purpose has been fulfilled.

REVIEW OF RELATIONS OF UNITED STATES GOVERNMENT TO MATTER OF TRANSIT ACROSS ISTHMUS OF PANAMA.

In the year 1846 this Government entered into a treaty with New Granada, the predecessor upon the Isthmus of the Republic of Colombia and of the present Republic of Panama, by which treaty it was provided that the Government and citizens of the United States should always have free and open right of way or transit across the Isthmus of Panama by any modes of communication that might be constructed, while in return our Government guaranteed the perfect neutrality of the above-mentioned Isthmus with the view that the free transit from the one to the

Source: 63rd Congress, 2nd Session Senate Document No. 471. The Panama Canal and Our Relations With Colombia—Papers Presented by Mr. Lodge, April 23, 1914—Ordered to be printed, Washington, Government Printing Office, 1914.

other sea might not be interrupted or embarrassed. The treaty vested in the United States a substantial property right carved out of the rights of sovereignty and property which New Granada then had and possessed over the said territory. The name of New Granada has passed away and its territory has been divided. Its successor, the Government of Colombia, has ceased to own any property in the Isthmus. A new Republic that of Panama, which was at one time a sovereign State, and at another time a mere department of the successive confederations known as New Granada and Colombia, has now succeeded to the rights which first one and then the other formerly exercised over the Isthmus. But as long as the Isthmus endures, the mere geographical fact of its existence, and the peculiar interest therein which is required by our position, perpetuate the solemn contract which binds the holders of the territory to respect our right to freedom of transit across it, and binds us in return to safeguard for the Isthmus and the world the exercise of that inestimable privilege. The true interpretation of the obligations upon which the United States entered in this treaty of 1846 has been given repeatedly in the utterances of Presidents and Secretaries of State. Secretary Cass in 1858 officially stated the position of this Government as follows:

> The progress of events has rendered the interoceanic route across the narrow portion of Central America vastly important to the commercial world, and especially to the United States, whose possessions extend along the Atlantic and Pacific coasts, and demand the speediest and easiest modes of communication. While the rights of sovereignty of the States occupying this region should always be respected, we shall expect that these rights be exercised in a spirit befitting the occasion and the wants and circumstances that have arisen. Sovereignty has its duties as well as its rights, and none of these local governments, even if administered with more regard to the just demands of other nations than they have been, would be permitted, in a spirit of eastern isolation, to close the gates of intercourse on the great highways of the world, and justify the act by the pretension that these avenues of trade and travel belong to them and that they choose to shut them, or, what is almost equivalent, to encumber them with such unjust relations as would prevent their general use.

Seven years later, in 1865, Mr. Seward in different communications took the following position:

> The United States has taken and will take no interest in any question of internal revolution in the State of Panama, or any State of the United States of Colombia, but will maintain a perfect neutrality in connection with such domestic alterations. The United States will, nevertheless, hold themselves ready to protect the transit trade across the Isthmus against invasion of either

> domestic or foreign disturbers of the peace of the State of Panama. * * * Neither the text nor the spirit of the stipulation in that article by which the United States engages to preserve the neutrality of the Isthmus of Panama, imposes an obligation on this Government to comply with the requisition (of the President of the United States of Colombia for a force to protect the Isthmus of Panama from a body of insurgents of that country). The purpose of the stipulation was to guarantee the Isthmus against seizure or invasion by a foreign power only.

Attorney General Speed, under date of November 7, 1865, advised Secretary Seward as follows:

> From this treaty it can not be supposed that New Granada invited the United States to become a party to the intestine troubles of that Government, nor did the United States become bound to take sides in the domestic broils of New Granada. The United States did guarantee New Granada in the sovereignty and property over the territory. This was as against other and foreign governments.

For 400 years, ever since shortly after the discovery of this hemisphere, the canal across the Isthmus has been planned. For two score years it has been worked at. When made it is to last for the ages. It is to alter the geography of a continent and the trade routes of the world. We have shown by every treaty we have negotiated or attempted to negotiate with the peoples in control of the Isthmus and with foreign nations in reference thereto our consistent good faith in observing our obligations; on the one hand to the peoples of the Isthmus, and on the other hand to the civilized world, whose commercial rights we are safeguarding and guaranteeing by our action. We have done our duty to others in letter and in spirit, and we have shown the utmost forbearance in exacting our own rights.

REPUDIATION OF TREATY BY COLOMBIA.

Last spring, under the act above referred to, a treaty concluded between the representatives of the Republic of Colombia and of our Government was ratified by the Senate. This treaty was entered into at the urgent solicitation of the people of Colombia and after a body of experts appointed by our Government especially to go into the matter of the routes across the Isthmus had pronounced unanimously in favor of the Panama route. In drawing up this treaty every concession was made to the people and to the Government of Colombia. We were more than just in dealing with them. Our generosity was such as to make it a

serious question whether we had not gone too far in their interest at the expense of our own; for in our scrupulous desire to pay all possible heed, not merely to the real, but even to the fancied rights of our weaker neighbor, who already owed so much to our protection and forbearance, we yielded in all possible ways to her desires in drawing up the treaty. Nevertheless the Government of Colombia not merely repudiated the treaty, but repudiated it in such manner as to make it evident by the time the Colombian Congress adjourned that not the scantiest hope remained of ever getting a satisfactory treaty from them. The Government of Colombia made the treaty, and yet when the Colombian Congress was called to ratify it the vote against ratification was unanimous. It does not appear that the Government made any real effort to secure ratification.

PANAMA'S DECLARATION OF INDEPENDENCE

November 4, 1903

Following Bogota's rejection of the Hay-Herran Treaty, the reaction of the United States was anxiously awaited by the concerned parties and the world. Colombia wished to keep negotiations alive in the hope that a peaceful and, perhaps, more honorable and profitable settlement might be reached.

Impatient participants, however, looked to a more immediate solution to the problem. Some talked of reopening negotiations with Nicaragua, some suggested taking the Isthmus of Panama by force and another group hoped that, once again, the banner of rebellion might be raised by the Panamanians as it had before. Should the insurgents succeed, the United States could then deal with an independent and sovereign Republic of Panama, assuredly successfully.

Room 1162 of the Hotel Waldorf Astoria, in New York, became the control center of the uprising. An army was collected, organized and drilled in Panama. Its members were bought Colombian troops, who had not been paid by the Bogota government for some months and native firemen. Help arrived in the form of American warships which arrived to protect the right of "free transit" across Panama, according to the terms of the Treaty of 1846.

The uprising was under way and the cost in life was small. Reported dead was one Chinaman. The Panamanians rejoiced in their victory, the Colombians were prevented from landing reenforcements and, on the 4th of November, 1903, the independence of the Republic of Panama was proclaimed.

INDEPENDENCE OF PANAMA.

Declaration of independence and manifesto.
[Extract from Star and Herald, Panama (Republic of Panama), Thursday, November 5, 1903.]

"Viva la Republica de Panama!"
"Viva la independencia!"

At last the State of Panama has awakened from the torpor which appeared to have overpowered all branches of its population. The people have at last come to the conclusion that there was no hope for their future as long as they remained under the jurisdiction of the national Government as a department of the Republic of Colombia, and have risen in a body to protest to the injustice meditated by the Bogota Government toward them in refusing its sanction to the Herrán-Hay canal treaty, the passing of which treaty actually means life or death to the State of Panama.

The cry of independence was started on the evening of the 3d and taken up by every Isthmian as one body, as well as all those in sympathy with the cause. Due to the celebrated Battalion Colombia, under the command of their intrepid and universally beloved commander, Gen. E. Huertas, being in sympathy with the movement and declaring themselves on the side of the "separatists," all bloodshed, fighting, etc., has been avoided, the greatest order and unity reigning on all sides. The populace repaired, without distinction, to the arsenal and were supplied with the necessary arms with which to uphold their independence.

The movement had been planned to take place later on, but was precipitated by the arrival at Colon of 300 troops under command of Generals Tovar and Amaya on the *Cartagena* on the night of the 2d instant. The only deplorable incident has been the killing of two Chinamen and part destruction of two buildings in the city by some shells thrown from the cruiser *Bogota*, the commander of which refused his adhesion to the cause and threatened to bombard the city unless Generals Tovar and Amaya and their staffs, who were imprisoned on the afternoon of the 3d while attempting to take command of the garrison in this city, were released within three hours.

This request was not acceeded to, in consequence of which the threat was carried out, but as the ship has got very little coal and supplies there is no doubt that she will not be able to hold out long and will have to surrender to the *21 de Noviembre*, which is being gotten ready for giving chase. The consular corps met and signed the following formal protest:

Source: Papers Relating to the Foreign Relations of the United States, with The Annual Message of the President Transmitted to Congress, December 7, 1903. U.S. House of Representatives. Document No. 1 U.S. 58th Congress, 2nd Session, Washington, Government Printing Office, 1904.

Panama, *November 4, 1903.*

The COMMANDER OF THE BOGOTA.

SIR: The consular corps of this city considers the action of the steamship *Bogota*, under your command, last night in bombarding a defenseless city, without advice of any kind to the consuls, is contrary to all right and practice of civilized nations. Consequently, the consular corps protests in the most solemn manner, and holds responsible for the consequences and responsibilities of this act whoever is to blame, furnishing account to their respective governments of the referred-to circumstance.

Yours, respectfully,

Felix Ehrman,
United States Vice-Consul-General.
E. H. Rohrveger,
Acting British Vice-Consul.
Emile Grey,
Agent of the French Consulate.
Arthur Koehncke,
Consul of Germany and in Charge of the Italian Consulate.
A. Jesurum, Jr.,
Consul of Holland.
Ed. Jaramillo Aviles,
Consul of Ecuador.
I. F. Arango,
Consul-General of Guatemala.
Federico Boyd,
Consul of Spain and of Salvador.
Jacob L. Maduro,
Consul of Denmark.
B. D. Fidanque,
Consul of Belgica.
J. G. Duque,
Consul of Cuba.
B. Mendez,
Consul of Mexico.
Pedro Arias,
Consul of Brazil.
Jeronimo Ossa,
Consul of Chile and Honduras.
Juan Vallarino,
Consul of Peru.

In compliance with an invitation stuck up and distributed all over the city by the municipal board, Demetrio H. Brid, president, a public meeting of all the corporations, civilians, military and religious bodies took place at 3 p. m. yesterday at the Cathedral Park, where the act of independence was signed by the members of the municipality, the chiefs of the Provisional Government, etc., after which patriotic speeches were delivered in profusion.

The Provisional Government has been composed of the following gentlemen: Jose Agustin Arango, Federico Boyd, and Tomas Arias, with the following ministers: State, E. A. Morales; treasury, M. E. Amador; justice, C. A. Mendoza; foreign relations, F. V. de la Espriella; war and navy, N. A. de Obarrio.

From the latest information we regret to state that Colon does not appear inclined to join the movement for separation. A commission from that city arrived yesterday evening to consult with the chiefs of the Provisional Government here, and we sincerely hope that the differences of opinion existing may be amicably settled in order to avoid all disturbance. The manifesto and declaration of independence we have translated for the benefit of our English readers.

We voice the sentiments of one and all, natives as well as foreigners, in wishing great prosperity to the new Republic.

Hurrah for the Republic of Panama!

Hurrah for the third of November!

DECLARATION OF INDEPENDENCE.

In the city of Panama, capital of the district of the same name, at 4 o'clock in the afternoon of the 4th day of November, 1903, the municipal council by its own right assembled, there being present the following members of the city council: Aizpuru, Rafael; Arango, Ricardo M.; Arias, F. Agustin; Arosemena, Fabio; Brid, Demetrio, H.; Chiari, R. Jose Maria; Cucalon, P.; Manuel, J.; Dominguez, Alcides; Lewis, Samuel; Linares, Enrique; McKay, Oscar M.; Mendez, Manuel Maria, and Vallarino, Dario, the mayor of the district and the municipal attorney, and having for its exclusive object to debate regarding the situation in which the country is at present, and to decide regarding what should be most convenient toward the tranquillity for the development and aggrandizement of the citizens that constitute the ethnographic and political entity denominated the Isthmus of Panama.

Councilmen Arias, F., Arosemena, Chiari, Brid, Cucalon, B., Aizpuru, Lewis, and Linares carefully took under special consideration the historical facts by virtue of which the Isthmus of Panama, by its own free will and in hopes of procuring for itself the ample benefits of right and liberty, cut asunder on the 28th of November, 1821, its ties

from Spain, and spontaneously joined its destiny to that of the great Republic of Colombia. Reflections were made tending to show that the union of the Isthmus with the old and modern Colombia did not produce the benefits that were expected from this act, and on mature consideration particular mention was made of the great and incessant injury that has been caused to the Isthmus of Panama in its material and moral interests at all times by the governments of the nation which have succeeded each other during the intervals of the federation, as well as those of the centralization—injuries which, instead of being looked after and patriotically remedied by those whose duty it was, were being augmented each day and increasing in importance with a persistency and ignorance that has exterminated in the cities of the Department of Panama the inclinations which were spontaneously felt for Colombia, thus demonstrating to them that, their cup of bitterness overflowing and all hope of the future being lost, the moment had arrived in which to dissolve certain ties which were a drawback to civilization, which placed insurmountable barriers to all progress, and which, on the whole, has produced unhappiness, upsetting and undoing the ends of the political union in which they entered, moved by the necessity to satisfy the desire of prospering within the right respected and liberty assured.

In view of the circumstances mentioned, the municipal council of the district of Panama, as a faithful interpreter of the sentiments of those they represent, declares in a solemn form that the people under their jurisdiction from to-day and henceforth sever their ties with Colombia in order to form, with the other towns of the Department of Panama that accept the separation and unite with them, the State of Panama, so as to constitute a republic with an independent government, democratic, representative, and responsible, that would tend to the happiness of the natives and of the other inhabitants of the territory of the Isthmus.

In order to practically attain the fulfillment of the resolution of the peoples of Panama of emancipating themselves from the Government of Colombia, making use of their autonomy in order to dispose of their destiny, to establish a new nationality free from all foreign elements, the municipal council of the district of Panama, for itself and in the name of the other municipal councils of the department, places the administration, working, and direction of affairs, temporarily and while the new Republic be constituted, in a board of government composed of Messrs. Jose Agustin Arango, Federico Boyd, and Tomas Arias, in whom and without any reserve whatsoever it gives powers, authorizations, and faculties necessary and sufficient for the satisfactory compliance of the duties which in the name of the Fatherland are confided to them.

It was ordered that the inhabitants of Panama be assembled to an open council in order to submit for their approval the ordinance that the present minutes contain, and which was signed by the officers and members of the corporation present.

Demetrio H. Brid, R. Aizpuru, A. Arias F., Manuel J. Cucalon P., Fabio Arosemena, Oscar M. McKay, Alcides Dominguez, Enrique Linares, J. M. Chiari R., Dario Vallarino, S. Lewis, Manuel M. Mendez.

The Secretary of the council, Ernesto J. Goti.

MANIFESTO.

The transcendental act that by a spontaneous movement the inhabitants of the Isthmus of Panama have just executed is the inevitable consequence of a situation which has become graver daily.

Long is the recital of the grievances that the inhabitants of the Isthmus have suffered from their Colombian brothers; but those grievances would have been withstood with resignation for the sake of harmony and national union had its separation been possible and if we could have entertained well-founded hopes of improvement and of effective progress under the system to which we were submitted by that Republic. We have to solemnly declare that we have the sincere and profound conviction that all the hopes were futile and useless, all the sacrifices on our part.

The Isthmus of Panama has been governed by the Republic of Colombia with the narrow-mindedness that in past times were applied to their colonies by the European nations—the isthmian people and territory was a source of fiscal resources and nothing more. The contracts and negotiations regarding the railroad and the Panama Canal and the national taxes collected in the Isthmus have netted to Colombia tremendous sums which we will not detail, not wishing to appear in this exposition which will go down to posterity as being moved by a mercenary spirit, which has never been nor is our purpose; and of these large sums the Isthmus has not received the benefit of a bridge for any of its numerous rivers, nor the construction of a single road between its towns, nor of any public building, nor of a single college, and has neither seen any interest displayed in advancing her industries, nor has a most infinite part of those sums been applied toward her prosperity.

A very recent example of what we have related above is what has occurred with the negotiations of the Panama Canal, which, when taken under consideration by Congress, was rejected in a summary manner. There were a few public men who expressed their adverse opinion, on the ground that the Isthmus of Panama alone was to be favored by the opening of the canal by virtue of a treaty with the United States, and that the rest of Colombia would not receive any direct benefits of any sort by that work, as if that way of reasoning, even though it be correct, would justify the irreparable and perpetual damage which would be caused to the Isthmus by the rejection of the treaty in the manner in which it was done, which was equivalent to the closing of the doors to future negotiations.

The people of the Isthmus, in view of such notorious causes, have decided to recover their sovereignty and begin to form a part of the society of the free and independent nations, in order to work out its own destiny, to insure its future in a stable manner, and discharge the duties which it is called on to do by the situation of its territory and its immense richness.

To that we, the initiators of the movement effected, aspire and have obtained a unanimous approval.

We aspire to the formation of a true republic, where tolerance will prevail, where the law should be the invariable guide of those governing and those governed, where effective peace be established, which consists in the frequent and harmonious play of all interests and all activities, and where, finally, civilization and progress will find perpetual stability.

At the commencement of the life of an independent nation we fully appreciate the responsibilities that state means, but we have profound faith in the good sense and patriotism of the isthmian people, and we possess sufficient energy to open our way by means of labor to a happy future without any worry or any danger.

At separating from our brothers of Colombia we do it without any hatred and without any joy. Just as a son withdraws from his paternal roof, the isthmian people in adopting the lot it has chosen have done it with grief, but in compliance with the supreme and inevitable duty it owes to itself- -that of its own preservation and of working for its own welfare.

We therefore begin to form a part among the free nations of the world, considering Colombia as a sister nation, with which we shall be whenever circumstances may require it, and for whose prosperity we have the most fervent and sincere wishes.

Jose Agustin Arango.
Federico Boyd.
Tomas Arias.

COLOMBIA AND THE UNITED STATES LETTERS OF RAFAEL REYES AND JOHN HAY ON PANAMA'S INDEPENDENCE.

(Translation.)

Legation of Colombia on Special Mission,
Arlington Hotel,
Washington, D. C.,
December 8, 1903.

MR. SECRETARY: I have the honor to address your excellency for the purpose of stating respectfully that I have received from my Government instructions to inquire what attitude would be assumed by the Government of the United States in the event which may take place of Colombian troops or forces under the Colombian flag making their appearance on the Isthmus, or attempting a landing on that territory, for the defense of the sovereignty and integrity of Colombia, and respecting the railroad line and the terminal points in accordance with the stipulation of the treaty of 1846, which my country is ever ready to observe.

I salute your excellency with my distinguished consideration.

Rafael Reyes.

Hon. John Hay,
Secretary of State of the United States,
Department of State.

No. 1) Department of State,
Washington, December 11, 1903.

SIR: I beg leave to acknowledge your communication of December 8, in which you state that you have been directed by your Government to ask "what attitude would be assumed by the Government of the United States in the event, which may take place, of Colombian troops or forces under the Colombian flag making their appearance on the Isthmus, or attempting a landing in that territory for the defense of the sovereignty and integrity of Colombia, and respecting the railroad line and the terminal points, in accordance with the stipulation of the treaty of 1846, which my country is ever ready to observe."

I have quoted your question textually, and in reference to it I am instructed by the President to bring to the attention of your excellency the following facts: That the Republic of Panama proclaimed its independence on the 3d of last month; that in consequence of this move-

Source: 63rd Congress, 2nd Session Senate Document No. 471 The Panama Canal and Our Relations With Colombia—Papers—Presented by Mr. Lodge, April 23, 1914—Ordered to be printed, Washington, Government Printing Office, 1914.

ment the independence of Panama has been recognized by this Government and by many others; that a treaty has been signed between the United States and Panama, which has been ratified by the latter State and is now awaiting ratification by the American Senate; that by the provisions of the said treaty the United States agrees to maintain the independence of the Republic of Panama; that although the treaty has not yet become law by the action of the Senate, there are already inchoate rights and duties created by it which place the responsibility of preserving peace and order on the Isthmus in the hands of the Government of the United States and of Panama, even if such responsibilities were not imposed by the historical events of the last 50 years.

In view of these facts I am instructed to say to your excellency that the Government of the United States would regard with the gravest concern any invasion of the territory of Panama by Colombian troops, for the reason that bloodshed and disorder would inevitably result throughout the whole extent of the Isthmus, and for the broader reason that, in the opinion of the President, the time has come, in the interest of universal commerce and civilization, to close the chapter of sanguinary and ruinous civil war in Panama.

I have the honor to be, sir, your obedient servant,

John Hay.

Gen. Rafael Reyes, *Etc.*

THE HAY-BUNAU-VARILLA TREATY

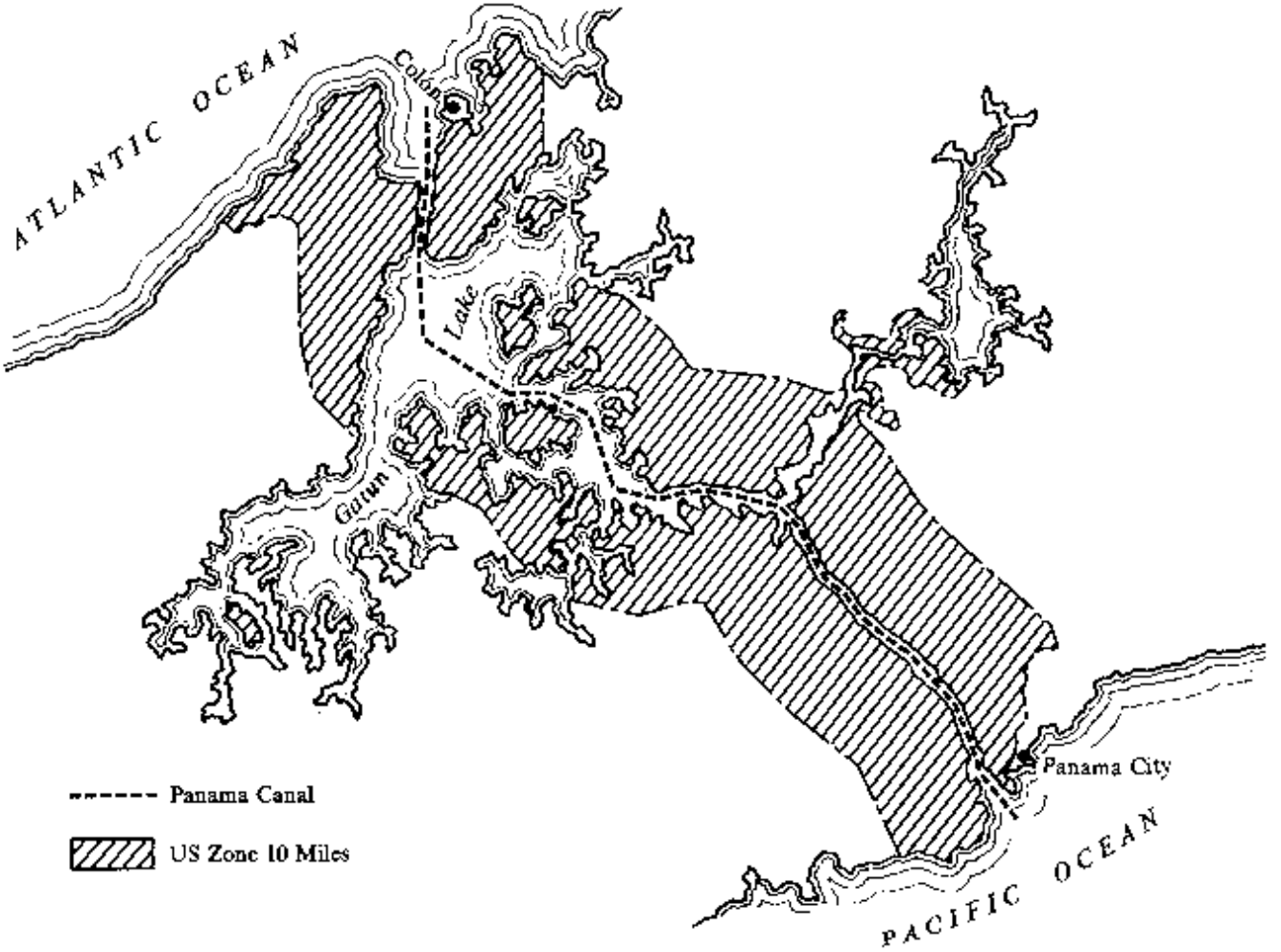
November 18, 1903

The new Republic of Panama declared its independence on November 4, 1903. President Theodore Roosevelt proclaimed de facto recognition of the infant country almost immediately after he received the news of the proclamation. On November 6, three days after the revolution against Colombian rule had begun, Congress confirmed the President's stand.

Phillipe-Bunau-Varilla, former chief engineer of the New Panama Canal Company and a vital force in the United States Senate's decision to choose the Panama route over the earlier House accepted Nicaraguan way, had himself appointed Plenipotentiary for the Panamanian government—although a French citizen—and began the discussion of a treaty with the United States. A group of Panamanian representatives was on its way north to take part in the proceedings but did not arrive before the agreements had been reached.

The terms of the Hay-Bunau-Varilla Treaty were so favorable to the United States that little, if any, time was wasted in putting it before the Senate for its approval. This body, on February 23, 1904, voted favorably on the agreement by a 66 to 14 vote. The United States had succeeded in removing the last obstacle in its way to building, controlling and fortifying an interoceanic canal across the Isthmus of Panama.

Amid cries of criticism and high-handedness, preparations were made and President Theodore Roosevelt could now watch construction begin.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Lake
Gatun
Panama City
PACIFIC OCEAN
Panama Canal
US Zone 10 Miles

HAY-BUNAU-VARILLA TREATY
TREATIES AND ACTS OF CONGRESS RELATING TO PANAMA CANAL.

By the President of the United States of America.

A PROCLAMATION.

Whereas, a Convention between the United States of America and Republic of Panama to insure the construction of a ship canal across the Isthmus of Panama to connect the Atlantic and Pacific Oceans, was concluded and signed by their respective Plenipotentiaries at Washington, on the eighteenth day of November, one thousand nine hundred and three, the original of which Convention, being in the English language, is word for word as follows:

ISTHMIAN CANAL CONVENTION.

The United States of America and the Republic of Panama being desirous to insure the construction of a ship canal across the Isthmus of Panama to connect the Atlantic and Pacific Oceans, and the Congress of the United States of America having passed an act approved June 28, 1902, in furtherance of that object, by which the President of the United States is authorized to acquire within a reasonable time the control of the necessary territory of the Republic of Colombia, and the sovereignty of such territory being actually vested in the Republic of Panama, the high contracting parties have resolved for that purpose to conclude a convention and have accordingly appointed as their plenipotentiaries,—

The President of the United States of America, John Hay, Secretary of State and

The Government of the Republic of Panama, Philippe Bunau-Varilla, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Panama, thereunto specially empowered by said government, who after communicating with each other their respective full powers, found to be in good and due form, have agreed upon and concluded the following articles:

Article I.

The United States guarantees and will maintain the independence of the Republic of Panama.

Source: United States Treaties and Acts of Congress Relating to the Panama Canal, 1917. United States Government Printing Office, 1917.

Article II.

The Republic of Panama grants to the United States in perpetuity the use, occupation and control of a zone of land and land under water for the construction, maintenance, operation, sanitation and protection of said canal of the width of ten miles extending to the distance of five miles on each side of the center line of the route of the canal to be constructed; the said zone beginning in the Caribbean Sea three marine miles from mean low water mark and extending to and across the Isthmus of Panama into the Pacific Ocean to a distance of three marine miles from mean low water mark with the proviso that the cities of Panama and Colon and the harbors adjacent to said cities, which are included within the boundaries of the zone above described, shall not be included within this grant. The Republic of Panama further grants to the United States in perpetuity the use, occupation and control of any other lands and waters outside of the zone above described which may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said Canal or of any auxiliary canals or other works necessary and convenient for the construction, maintenance, operation, sanitation and protection of said enterprise.

The Republic of Panama further grants in like manner to the United States in perpetuity all islands within the limits of the zone above described and in addition thereto the group of small islands in the Bay of Panama, named Perico, Naos, Culebra and Flamenco.

Article III.

The Republic of Panama grants to the United States all the rights, power and authority within the zone mentioned and described in Article II of this agreement and within the limits of all auxiliary lands and waters mentioned and described in said Article II which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority.

Article IV.

As rights subsidiary to the above grants the Republic of Panama grants in perpetuity to the United States the right to use the rivers, streams, lakes and other bodies of water within its limits for navigation, the supply of water or waterpower or other purposes, so far as the use of said rivers, streams, lakes and bodies of water and the waters thereof may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said Canal.

Article V.

The Republic of Panama grants to the United States in perpetuity a monopoly for the construction, maintenance and operation of any

system of communication by means of canal or railroad across its territory between the Caribbean Sea and the Pacific Ocean.

Article VI.

The grants herein contained shall in no manner invalidate the titles or rights of private land holders or owners of private property in the said zone or in or to any of the lands or waters granted to the United States by the provisions of any Article of this treaty, nor shall they interfere with the rights of way over the public roads passing through the said zone or over any of the said lands or waters unless said rights of way or private rights shall conflict with rights herein granted to the United States in which case the rights of the United States shall be superior. All damages caused to the owners of private lands or private property of any kind by reason of the grants contained in this treaty or by reason of the construction, maintenance, operation, sanitation and protection of the said Canal or of the works of sanitation and protection herein provided for, shall be appraised and settled by a joint Commission appointed by the Governments of the United States and the Republic of Panama, whose decisions as to such damages shall be final and whose awards as to such damages shall be paid solely by the United States. No part of the work on said Canal or the Panama Railroad or on any auxiliary works relating thereto and authorized by the terms of this treaty shall be prevented, delayed or impeded by or pending such proceedings to ascertain such damages. The appraisal of said private lands and private property and the assessment of damages to them shall be based upon their value before the date of this convention.

Article VII.

The Republic of Panama grants to the United States within the limits of the cities of Panama and Colon and their adjacent harbors and within the territory adjacent thereto the right to acquire by purchase or by the exercise of the right of eminent domain, any lands, buildings, water rights or other properties necessary and convenient for the construction, maintenance, operation and protection of the Canal and of any works of sanitation, such as the collection and disposition of sewage and the distribution of water in the said cities of Panama and Colon, which, in the discretion of the United States may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said Canal and railroad. All such works of sanitation, collection and disposition of sewage and distribution of water in the cities of Panama and Colon shall be made at the expense of the United States, and the Government of the United States, its agents or nominees shall be authorized to impose and collect water rates and sewerage rates which shall be sufficient to provide for the payment of interest and the amortization of the principal of the cost of said works within a period of fifty years and upon the expiration of said term of fifty years the system

of sewers and water works shall revert to and become the properties of the cities of Panama and Colon respectively, and the use of the water shall be free to the inhabitants of Panama and Colon, except to the extent that water rates may be necessary for the operation and maintenance of said system of sewers and water.

The Republic of Panama agrees that the cities of Panama and Colon shall comply in perpetuity with the sanitary ordinances whether of a preventive or curative character prescribed by the United States and in case the Government of Panama is unable or fails in its duty to enforce this compliance by the cities of Panama and Colon with the sanitary ordinances of the United States the Republic of Panama grants to the United States the right and authority to enforce the same.

The same right and authority are granted to the United States for the maintenance of public order in the cities of Panama and Colon and the territories and harbors adjacent thereto in case the Republic of Panama should not be, in the judgment of the United States, able to maintain such order.

Article VIII.

The Republic of Panama grants to the United States all rights which it now has or hereafter may acquire to the property of the New Panama Canal Company and the Panama Railroad Company as a result of the transfer of sovereignty from the Republic of Colombia to the Republic of Panama over the Isthmus of Panama and authorizes the New Panama Canal Company to sell and transfer to the United States its rights, privileges, properties and concessions as well as the Panama Railroad and all the shares or part of the shares of that company; but the public lands situated outside of the Zone described in Article II of this treaty now included in the concessions to both said enterprises and not required in the construction or operation of the Canal shall revert to the Republic of Panama except any property now owned by or in the possession of said companies within Panama or Colon or the ports or terminals thereof.

Article IX.

The United States agrees that the ports at either entrance of the Canal and the waters thereof, and the Republic of Panama agrees that the towns of Panama and Colon shall be free for all time so that there shall not be imposed or collected custom house tolls, tonnage, anchorage, light-house, wharf, pilot, or quarantine dues or any other charges or taxes of any kind upon any vessel using or passing through the Canal or belonging to or employed by the United States, directly or indirectly, in connection with the construction, maintenance, operation, sanitation and protection of the main Canal, or auxiliary works, or upon the cargo, officers, crew or passengers of any such vessels, except such tolls and charges as may be imposed by the United States for the use of the Canal and other works, and except tolls and charges imposed by the Republic

of Panama upon merchandise destined to be introduced for the consumption of the rest of the Republic of Panama, and upon vessels touching at the ports of Colon and Panama and which do not cross the Canal.

The Government of the Republic of Panama shall have the right to establish in such ports and in the towns of Panama and Colon such houses and guards as it may deem necessary to collect duties on importations destined to other portions of Panama and to prevent contraband trade. The United States shall have the right to make use of the towns and harbors of Panama and Colon as places of anchorage, and for making repairs, for loading, unloading, depositing, or transshipping cargoes either in transit or destined for the service of the Canal and for other works pertaining to the Canal.

Article X.

The Republic of Panama agrees that there shall not be imposed any taxes, national, municipal, departmental, or of any other class, upon the Canal, the railways and auxiliary works, tugs and other vessels employed in the service of the Canal, store houses, work shops, offices, quarters for laborers, factories of all kinds, warehouses, wharves, machinery, and other works, property, and effects appertaining to the Canal or railroad and auxiliary works, or their officers or employees, situated within the cities of Panama and Colon, and that there shall not be imposed contributions or charges of a personal character of any kind upon officers, employees, laborers, and other individuals in the service of the Canal and railroad and auxiliary works.

Article XI.

The United States agrees that the official dispatches of the Government of the Republic of Panama shall be transmitted over any telegraph and telephone lines established for Canal purposes and used for public and private business at rates not higher than those required from officials in the service of the United States.

Article XII.

The Government of the Republic of Panama shall permit the immigration and free access to the lands and workshops of the Canal and its auxiliary works of all employees and workmen of whatever nationality under the contract to work upon or seeking employment upon or in any wise connected with the said Canal and its auxiliary works, with their respective families, and all such persons shall be free and exempt from the military service of the Republic of Panama.

Article XIII.

The United States may import at any time into the said zone and auxiliary lands, free of customs duties, imposts, taxes, or other charges, and without any restrictions, any and all vessels, dredges, engines, cars, machinery, tools, explosives, materials, supplies, and other articles necessary and convenient in the construction, maintenance, operation, sani-

tation and protection of the Canal and auxiliary works, and all provisions, medicines, clothing, supplies and other things necessary and convenient for the officers, employees, workmen and laborers in the service and employ of the United States and for their families. If any such articles are disposed of for use outside of the zone and auxiliary lands granted to the United States and within the territory of the Republic, they shall be subject to the same import or other duties as like articles imported under the laws of the Republic of Panama.

Article XIV.

As the price or compensation for the rights, powers and privileges granted in this convention by the Republic of Panama to the United States, the Government of the United States agrees to pay to the Republic of Panama the sum of ten million dollars ($10,000,000) in gold coin of the United States on the exchange of the ratification of this convention and also an annual payment during the life of this convention of two hundred and fifty thousand dollars ($250,000) in like gold coin, beginning nine years after the date aforesaid.

The provisions of this Article shall be in addition to all other benefits assured to the Republic of Panama under this covention.

But no delay or difference of opinion under this Article or any other provisions of this treaty shall affect or interrupt the full operation and effect of this convention in all other respects.

Article XV.

The joint commission referred to in Article VI shall be established as follows:

The President of the United States shall nominate two persons and the President of the Republic of Panama shall nominate two persons and they shall proceed to a decision; but in case of disagreement of the Commission (by reason of their being equally divided in conclusion) an umpire shall be appointed by the two Governments who shall render the decision. In the event of the death, absence, or incapacity of a Commissioner or Umpire, or of his omitting, declining or ceasing to act, his place shall be filled by the appointment of another person in the manner above indicated. All decisions by a majority of the Commission or by the umpire shall be final.

Article XVI.

The two Governments shall make adequate provision by future agreements for the pursuit, capture, imprisonment, detention and delivery within said zone and auxiliary lands to the authorities of the Republic of Panama of persons charged with the commitment of crimes, felonies or misdemeanors without said zone and for the pursuit, capture, imprisonment, detention and delivery without said zone to the authorities of the United States of persons charged with the commitment of crimes, felonies and misdemeanors within said zone and auxiliary lands.

Article XVII.

The Republic of Panama grants to the United States the use of all the ports of the Republic open to commerce as places of refuge for any vessels employed in the Canal enterprise, and for all vessels passing or bound to pass through the Canal which may be in distress and be driven to see refuge in said ports. Such vessels shall be exempt from anchorage and tonnage dues on the part of the Republic of Panama.

Article XVIII.

The Canal, when constructed, and the entrances thereto shall be neutral in perpetuity, and shall be opened upon the terms provided for by Section 1 of Article three of, and in conformity with all the stipulations of, the treaty entered into by the Governments of the United States and Great Britain on November 18, 1901.

Article XIX.

The Government of the Republic of Panama shall have the right to transport over the Canal its vessels and its troops and munitions of war in such vessels at all times without paying charges of any kind. The exemption is to be extended to the auxiliary railway for the transportation of persons in the service of the Republic of Panama, or of the police force charged with the preservation of public order outside of said zone, as well as to their baggage, munitions of war and supplies.

Article XX.

If by virtue of any existing treaty in relation to the territory of the Isthmus of Panama, whereof the obligations shall descend or be assumed by the Republic of Panama, there may be any privilege or concession in favor of the Government or the citizens or subjects of a third power relative to an interoceanic means of communication which in any of its terms may be incompatible with the terms of the present convention, the Republic of Panama agrees to cancel or modify such treaty in due form, for which purpose it shall give to the said third power the requisite notification within the term of four months from the date of the present convention, and in case the existing treaty contains no clause permitting its modifications or annulment, the Republic of Panama agrees to procure its modification or annulment in such form that there shall not exist any conflict with the stipulations of the present convention.

Article XXI.

The rights and privileges granted by the Republic of Panama to the United States in the preceding Articles are understood to be free of all anterior debts, liens, trusts, or liabilities, or concessions or privileges to other Governments, corporations, syndicates or individuals, and consequently, if there should arise any claims on account of the present concessions and privileges or otherwise, the claimants shall resort to the Government of the Republic of Panama and not to the United States for any indemnity or compromise which may be required.

Article XXII.

The Republic of Panama renounces and grants to the United States the participation to which it might be entitled in the future earnings of the Canal under Article XV of the concessionary contract with Lucien N. B. Wyse now owned by the New Panama Canal Company and any and all other rights or claims of a pecuniary nature arising under or relating to said concession, or arising under or relating to the concessions to the Panama Railroad Company or any extension or modification thereof; and it likewise renounces, confirms and grants to the United States, now and hereafter, all the rights and property reserved in the said concessions which otherwise would belong to Panama at or before the expiration of the terms of ninety-nine years of the concessions granted to or held by the above mentioned party and companies, and all right, title and interest which it now has or may hereafter have, in and to the lands, canal, works, property and rights held by the said companies under said concessions or otherwise, and acquired or to be acquired by the United States from or through the New Panama Canal Company, including any property and rights which might or may in the future either by lapse of time, forfeiture or otherwise, revert to the Republic of Panama under any contracts or concessions, with said Wyse, the Universal Panama Canal Company, the Panama Railroad Company and the New Panama Canal Company.

The aforesaid rights and property shall be and are free and released from any present or reversionary interest or claims of Panama and the title of the United States thereto upon consummation of the contemplated purchase by the United States from the New Panama Canal Company, shall be absolute, so far as concerns the Republic of Panama, excepting always the rights of the Republic specifically secured under this treaty.

Article XXIII.

If it should become necessary at any time to employ armed forces for the safety or protection of the Canal, or of the ships that make use of the same, or the railways and auxiliary works, the United States shall have the right, at all times and in its discretion, to use its police and its land and naval forces or to establish fortifications for these purposes.

Article XXIV.

No change either in the Government or in the laws and treaties of the Republic of Panama shall, without the consent of the United States, affect any right of the United States under the present convention, or under any treaty stipulation between the two countries that now exists or may hereafter exist touching the subject matter of this convention.

If the Republic of Panama shall hereafter enter as a constituent into any other Government or into any union or confederation of states, so as to merge her sovereignty or independence in such Government,

union or confederation, the rights of the United States under this convention shall not be in any respect lessened or impaired.

Article XXV.

For the better performance of the engagements of this convention and to the end of the efficient protection of the Canal and the preservation of its neutrality, the Government of the Republic of Panama will sell or lease to the United States lands adequate and necessary for naval or coaling stations on the Pacific Coast and on the western Caribbean Coast of the Republic at certain points to be agreed upon with the President of the United States.

Article XXVI.

This convention when signed by the Plenipotentiaries of the Contracting Parties shall be ratified by the respective Governments and the ratifications shall be exchanged at Washington at the earliest date possible.

In faith whereof the respective Plenipotentiaries have signed the present convention in duplicate and have hereunto affixed their respective seals.

Done at the City of Washington the 18th day of November in the year of our Lord nineteen hundred and three.

John Hay (Seal.)
P. Bunau Varilla (Seal.)

And whereas the said Convention has been duly ratified on both parts, the ratifications of the two governments were exchanged in the City of Washington, on the twenty-sixth day of February, one thousand nine hundred and four;

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause thereof, may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

Done at the City of Washington, this twenty-sixth day of February, in the year of our Lord one thousand nine hundred and four, and of the Independence of the United States the one hundred and twenty-eighth.

(Seal.) *Theodore Roosevelt.*

By the President:
John Hay,
Secretary of State.

REACTION TO THE HAY-BUNAU-VARILLA TREATY

Condemnation and Support of the Actions of the United States in Panama.

Latin-American opinion toward the staging of the Panamanian revolt, negotiations between Hay and Bunau-Varilla and the hasty approval of that treaty by the United States Senate was predictable. The "Colossus of the North" had long been looked upon with cynicism and suspicion. Unilateral interpretation of the Monroe Doctrine, the Mexican War and the Platt Amendment, among other actions and policies of the United States, gave our Southern neighbors reason to believe that the "Yanqui" was a bully, who took what he wanted at the expense of the weaker and smaller nations of the Western Hemisphere.

While some commercial interests felt that the new canal would increase trade and hence profits for the good of all concerned, the majority of Latin-American newspapers and government officials used the recently concluded events as another opportunity to level criticism and scorn upon the United States.

The Colombians in particular protested that they had been victimized and reacted accordingly through regular diplomatic channels and otherwise. Complaints and appeals for justice went out to the government of the United States.

Others too, outside Colombia, recorded their feelings and castigated the "norteamericanos" for their overpowering imperialistic tactics.

a bloody insurrection without permanently altering the current of events which must have inevitably separated Panama from the state which refused to consider her interests and the greater interests which will be served by the isthmian canal. This, with some unimportant modifications, is the opinion of all the Chicago papers except the Democratic *Chronicle* and *American*. "What is of supreme importance," in the opinion of the Cleveland *Leader*, "is that the canal will now be hurried to completion." The *Plain Dealer*, of the same city, warns the opponents of the president's policy that "nothing will be gained by petty quibbling as to the method of procedure in face of the evident fact that our people generally, without distinction of party, are satisfied with the results." The comment of the Columbus *Dispatch* follows the same train of thought: "What has been done at Washington will lead to the very thing that the world wants. Why, then, should there be lamentations and a search for reasons to defend a highwayman-like government and to condemn the United States?"

The Detroit *Free Press* does not believe that ten per cent of the people of this country disapprove of what the government has done in respect to Panama simply because what we have done looks toward the accomplishment of a long-standing ambition, the building of a canal. "Let us not be mealy-mouthed about this," the Detroit *News* advises. "We want Panama. We had better not lie about it, or pretend that we can have it otherwise than by the strong hand, which will be our only title to it in the end, and is our title to every acre of the earth's surface which is ours." A sufficient justification for the policy of the administration is found by the Minneapolis *Journal* and the *Times* in the fact that Colombia forfeited whatever rights she had by her rejection of the canal treaty, the latter paper saying that "Colombia had everything to gain and nothing to lose by acting decently. Choosing the other course, she lost a big bonus and a state; lost the benefit of the commerce the canal would have brought here."

The St. Louis *Republic* (Dem.) can find neither a political nor a moral issue in the Panama affair. "The government has not only kept within its rights so far, it has done no more than its duty. Colombia, not the United States, incited the revolt by rejecting the canal treaty, and now she is paying the price." The St. Louis *Globe-Democrat* looks far afield, seeing in the Panama episode merely a manifestation of a species of "political gravitation" which will finally fix forever the suzerainty of the United States over the whole of the western hemisphere.

The farther [illegible] the less criticism can there be found of

these turbulent countries a firm hand, in fact, an iron hand, is required. And the United States must show an iron hand if it expects to build a canal." Even the Omaha *World-Herald*, perhaps the most hostile newspaper in the United States to the Roosevelt administration, admits that it has no expectation of any considerable amount of opposition to the president's policy: "It is impossible to justify our course in Panama upon moral grounds, and yet it does not seem that we need to give any consideration to 'mawkish sentiment and fine-spun moral considerations' when we happen to need anything for our own use and benefit. The construction of the canal is so generally regarded as of the highest importance that we think it safe to say Mr. Roosevelt's demonstration of strenuosity in Panama will very generally meet with popular favor."

In the south there are very few papers that show any disposition to criticize the means taken by the government to open the way for the building of the canal. The Atlanta *Constitution* declares that the question involved is "a strictly business one." "The canal matter," it says, "is not a partizan issue. Republicans and Democrats have divided both ways as to routes. But now that the course of events gives us the approved route under better conditions of control than we ever demanded, the time has arrived when partizanship should keep its hands off the proceedings. Every patriot should stand by the status as it is and proceed to back up the government as one man. Especially are the southern people vitally concerned in seeing the canal cause go through as it is now pointing."

THE CRITICS

The critics of the stand we have taken with reference to Panama make up in the violence of their statements what they lack in numbers. Those papers which we quoted last week, the New York *Evening Post* and the New York *Times* and *Journal*, are just as earnestly opposed as ever to what they characterize as the "infamy" and "dishonor" of our course. They have been joined by the Springfield *Republican*, among other papers, which asks, "What does the performance on the isthmus mean other than that we have sandbagged Colombia when she was not looking and that we now have the goods?" Nevertheless, the *Republican* is constrained to admit that "any kind of territorial buccaneering will get an enthusiastic cry of approval from a large portion of our people." The Boston *Traveler*, in order to bring out the force of its contention that the United States has exhibited a brutal disregard of Colombia's rights, asks its readers to suppose that Jamaica rebelled: "Would Theodore Roosevelt dare to say to the revolutionists, 'You are a government and we recognize you,' and to Great Britain, 'You shall not land troops to enforce your authority?' The only difference between the imagined case in Jamaica and the real one in Panama is that Great Britain is a great power, Colom-

bia an insignificant one. Is America honored when her chief executive places her before the world as a bully of the weak?"

"The proceeding of our government," the Philadelphia *Record* declares, "is a clear act of spoliation. It is an act of perfidy whereby this government renounces forever its right to pose as the protector of the weak and the helpless from the injustice of the strong." In the opinion of the Baltimore *News*, "it is a thousand pities that the administration could not have the grace, and the regard for the country's good name, to stand aloof until the situation cleared. As it is, we have added one more precedent to that of Hawaii, and that of the Philippines, along the line of those things which take us out of the category of non-grabbing nations, and put our international morality upon a level with that of the European powers."

The Chicago *Chronicle* believes that our actions have been "reckless and fraught with the most serious consequences," among which the *Chronicle* includes the distrust which we shall hereafter inspire among South and Central American countries and the prestige we shall lose in the eyes of the world at large. The Chicago *American*, the middle western representative of Mr. Hearst's newspaper syndicate, declares that "In every aspect the Panama foray is nefarious. Besides being a rough-riding assault upon another republic over the shattered wreckage of international law and diplomatic usage, it is a quite unexampled instance of foul play in American politics." Nothing, the Savannah *News* believes, can compensate us for the loss of national honor. Our desire for the canal, the *News* believes, has led us into a course which is indefensible. Both the Memphis *Commercial Appeal* and the Houston *Chronicle* look upon the administration's "coup" as a political dodge to gain favor for the president. "But the American people have nothing of the bully about them," the *Commercial Appeal* adds. "They have a finer sense of bravery that insists upon doing justice to the weak, and we very much mistake their temper if they will countenance this discreditable episode." The New Orleans *Picayune* compares our "high-handed and wholly unauthorized" proceedings in Panama to Germany's land-grabbing in China, to Russia's greed in Manchuria, to England's absorption of Egypt.

A PLEA FOR COLOMBIA
THE RECENT ACTION OF THE
UNITED STATES GOVERNMENT.

Let us consider now the action of the United States Government in connection with the conspiracy at Panama.

The rejection of the Herrán-Hay treaty by the Colombian Government caused a conspiracy which broke out in the city of Panama on the

Source: The Panama Canal Question A Plea for Colombia by Abelardo Aldana pp. 13-18, New York, January, 1904.

3rd of November last, which, being aided by the National guard stationed there (by bribery, as no other motive could have induced the officers and soldiers to betray their country), they imprisoned the authorities, established a so-called government of three consuls, and sent an emissary to Washington. The United States Government, who were undoubtedly ready for action, immediately despatched men-of-war to Colon and Panama, with instructions to prevent the landing of the Colombian troops which might be sent to re-establish order. Within 48 hours this new government was formally recognized by the United States, and just three weeks after the revolt a treaty was signed containing the following articles:—

Article 1.- "The United States guarantees and agrees to maintain the independence of the Republic of Panama."

Article 2.—"Panama grants in perpetuity the use, occupation and control of the canal zone, and other auxiliary lands over and under the water, the four islands in Panama harbor included."

Article 4.- "The Republic grants water rights over the rivers, streams and lakes necessary or convenient for the construction of the canal."

Article 5.- "Grants a monopoly for the construction, maintenance and working of either a canal or a railway."

Article 16.—"Declares that the canal and the entrances thereto shall be neutral forever."

Articles 9 and 10.- "Declares free from all time the ports of either entrance to the canal, and prohibit tolls or dues on vessels passing through the canal, except tolls by the United States for the use of the canal."

Article 8.—"Panama authorizes the New Panama Canal Company to sell its rights to the United States, as well as the Panama Railroad."

This simple narrative of the facts, taken in conjunction with the terms of the treaty, clearly shows the complicity of the United States Government in the revolt, if not in the actual promotion of it, which could not have happened without the knowledge that it would receive all the necessary assistance for its maintenance, and which would not have lasted beyond 48 hours without the help rendered by the American forces at Colon.

As we have seen, the French Company cannot transfer its rights to any foreign Power without the consent of Colombia. Now it seems as if the Company considers sufficient the consent of the new Government, but the concessioner is the Colombian Government with which the Company has been dealing since 1878, when the first concession was granted, and this new Government is only an interloper without any right or title whatever. So the Company by transferring its concession to the United States Government, without the Colombian Government's consent, forfeits all its rights, the works on the canal and its appurtenances, all of which become the property of Colombia.

We must bear in mind that no political programme or social reforms have been proclaimed by the conspirators, and that which more clearly shows the nature and the true aim of the revolt is that no mention has been made of a general election in the affected territory for the establishment of a regular and formal Government. It is simply monstrous that a Treaty, which practically annexes the territory of the Isthmus to a foreign Government, may not have been considered by the duly elected representatives of the inhabitants whose birthright is thus lightly disposed of. But of what value are rights and formalities to a Government sinfully conceived and treacherously brought forth for a mercenary purpose, the spoliation and dismemberment of the Colombian territory in exchange for £2,000,000? Apart from the connivance of the American Government with the spoliators of the territory of a friendly Nation, the recognition of the revolutionary Government of Panama, and the assistance given to it, is an evident violation of the international equity prevailing between civilized nations, because it is a paramount duty to be neutral in the domestic affairs of another State.

Besides, this action of the United States Government is a flagrant breach of good faith, inasmuch as it annuls the guarantee given by the Treaty, signed at Bogota on the 12th December, 1846, between the Government of New Granada and the American Minister. The Article XXXV of this Treaty says:—

"The United States of America and the Republic of New Granada "desiring to make as durable as possible the relations which are to be "established between the two parties by virtue of this Treaty, have "declared solemnly and do agree to the following points:—

"1st . . . . and in order to secure to themselves (the United States) "the tranquil and constant enjoyment of these advantages, and as an "especial compensation for the said advantages, and for the favors they "have acquired by the 4th, 5th and 6th Article of this Treaty, the United "States guarantees *positively and efficaciously** to New Granada (Colom-"bia) by the present stipulation the perfect neutrality of the before-"mentioned Isthmus, with the view that the free transit from the one to "the other sea may not be interrupted or embarrassed in any future time "while this treaty exists; and *in consequence*,* the United States also "guarantee in the same manner the rights of *sovereignty** and *property** "which New Granada has and possesses over the said territory."

This solemn pledge was emphatically confirmed by Mr. Seward, who said that it meant that "if the complete and absolute sovereignty "and independence should ever be assailed by any Power *at home** or "abroad, the United States will be ready, co-operating with the Govern-"ment and their ally, to defend them." Several other declarations made by American Presidents, Secretaries of State, and international representatives, stand to prove that the policy of the United States has always

*The italics are the author's.

tended to reassert its pledge of maintaining the sovereignty and property of Colombia on the Isthmian territory. Some important extracts taken from American official documents will be found in the appendix.

Mr. Hay interprets this article saying that as the Treaty was valid with Colombia, so it is no less valid with Panama. We have seen that the change of the name of New Granada for that of Colombia did not alter in the least the National entity, nor its territory, and consequently its rights and duties remained intact. The treaty was made by the United States with the Central Government representing the whole Nation, and because its name was changed it does not follow that the Treaty is valid with a third party. Hence to say that the Treaty is "a covenant that runs with the land" is utterly delusive, and it implies that the country was divided when its name was changed, which is inexact, and that, as an English writer expresses it, "The United States would now be bound to "vindicate the neutrality of the Isthmus against violation by Colombia, "of which eight days ago it was a part!" Mr. Hay's memorandum is a fallacious apology for a tortuous policy.

The United States Government is by this public document the guarantor to Colombia of her property and sovereignty on the territory of the Isthmus, and is in honor bound to keep its solemn promise loyally; but instead of honorably discharging its duty, it has recognized the plunderers of the territory she undertook to guarantee, and is treating with them as the rightful owners, and is acting thus, expecting to obtain at least a substantial portion of the spoil. This conduct is so discreditable that it far surpasses the most atrocious spoliations which have disgraced the history of even unscrupulous conquerers, because a guarantor who becomes an accomplice expecting to share the plunder is something worse than the most unprincipled conqueror.

What is the right of the so-called Panama Government to appropriate the territory of the Isthmus? Where is its title? By the National Constitution this territory belongs only to the whole Nation, whose independence was won by the armies of the Provinces of the interior and those of Venezuela, after immense sacrifices and a most sanguinary war. In the long list of martyrs and heroes of the Independence of Colombia there is not one of the forefathers of the spoliators, and perhaps this is why they are attempting to sunder and to sell the fatherland's territory, which should be transmitted intact as a sacred trust to our descendants. The Isthmus of Panama had never existed as an Independent State, and the political rights enjoyed by its inhabitants were granted to them by the Provinces of the interior.

Mr. Hay speaks of the duty of maintaining undisturbed the traffic across the Isthmus as the excuse for the intervention in the domestic affairs of Colombia. This traffic had not been disturbed when the revolution broke out, and the only cause which might disturb it is the breach of the legal order which has taken place. So the straightforward manner to

discharge the alleged duty should have been to assist, if required by the lawful authority, in suppressing the disturbing element. To foster this cause of disturbance is not the way to guard the traffic, but to betray the performance of a plain duty, and this betrayal becomes greater by preventing the National Government from restoring the lawful authorities on its own territory.

President Roosevelt, addressing the emissary of the so-called Republic of Panama, said he had "seen in the events that had recently "occurred an unopposed expression of the will of the people of Panama." If he referred to the people of that city he might be right; but he is wrong if he meant the will of the people of the Department, which has had no part in the conspiracy hatched by some foreign adventurers in the city of Panama, assisted by some interested people at New York and Washington, and, perhaps, a few unworthy Colombians. The revolution was brought forth, not as a political movement for breaking a tyrant's yoke, but merely as a deal to appropriate Colombian rights to sell them to a foreign Power and to divide the plunder. The President said also that the ancient territory of Panama is reasserting its right of self-control, implying that the said territory had had this right before, which tacit assertion is inexact. He appears very zealous for the right of popular government, and stretches out the hand of fellowship towards the infant State; but he ignores the rights of a sister Republic, which might have received a little more consideration if she had been in a position to defend herself against the unwonted aggression from the so-called protector. What would the President say if the standard of independence were raised in Florida or Maine, and another Power rushed in before a week was out with recognition of the "new Republic"? The President, I am sure, as a good and enlightened man, religiously upholds the golden rule which commands us not to do unto others that which we would not like others to do unto us. But he evidently asserts the sinister principle, according to which the end justifies the means, and so in the name of the interests of civilization, in no manner jeopardized, tramples on the primary principles of right and justice. He proudly pinned on his coat the new flag. How unworthy is it for a successor of Washington to act thus before the world! What does the new flag represent, any great achievements or any noble aspiration? Is it a symbol of honor or of loyalty, or of heroism? It might be a fitting ensign for the "new paganism of hunger and animal appetites" which taints the political and social life of the great American Republic. In his previous message to Congress President Roosevelt says that if Colombia did not come to an agreement "we must forthwith take the matter into our own hands." This frank determination to disregard the rights of other Nations when they are in the way of American interests, is a danger to peace and civilization, and a measure of the trustworthiness of a Government which breaks its promises to suit its convenience. In his recent message to Congress he mis-

states the Colombian political history as well as the principles laid down by Secretary Seward: for, as has already been set forth in these pages, when the name of New Granada was changed for that of Colombia, the country remained identically the same as it was under the Constitution of 1832, and as it exists at present. So that to say that New Granada is the predecessor of Colombia, or that the latter is the successor of the former, implying a change as to the identity of the country, is absolutely erroneous, as the territory has never been divided. As to the principles laid down by Secretary Seward, the reader is referred to the Appendix, which will enable him to judge of the accuracy or otherwise of the justice of the contention of President Roosevelt.

A "moral trusteeship" is the descriptive term for the treaty between America and the new Republic, which implies that the Canal will be constructed for the benefit of the commercial world, and the United States will act simply as the guardian of it. The Canal is merely an American political and commercial concern, and the proclaimed neutrality will be subservient to the interests and conveniences of the United States. Other Nations may benefit by it, provided their interests will not clash with those of America, but never otherwise, and to this extent the meaning of this "moral trusteeship" must be limited. It is, however, encouraging to find noble sentiments expressed by some American newspapers and statesmen, and it is very pleasant to quote here the following remarks which apply with peculiar fitness to the present occasion, made by the Hon. William Jennings Bryan at the Banquet of the American Society in celebration of Thanksgiving Day: -

"He knew of no greater service a country could render to the world "than to furnish an ideal, and that ideal should be one that it would be "hard to overtake. Ambition should no longer furnish an excuse for war, "and to-day they could not justify bloodshed except in defense of a right "already ascertained. (Cheers.) The world had made progress, and the "greatest man was he who would die, not in securing something he "might desire, but in defense of his rights. But there was yet to come the "*greater man who would die rather than trespass upon the rights of an-*"*other.** (Cheers.) Hail to the Nation, whatever its name might be, "which led the world towards the realization of that high ideal."

CONCLUSION.

I think what I have stated is sufficient to convince any unbiassed mind that the American Government has abetted, if not directly promoted, the conspiracy of Panama, and that it has flagrantly violated the treaty of 1846. It stands, therefore, before the conscience of the civilized world, guilty of international lawlessness and perfidy.

*The italics are the Author's.

The consummation of the attempt which is being made by the conspiracy at Panama would produce these results:— The Colombian territory as it has existed since the formation of the nation would be dismembered; Colombia would irreparably lose, besides her dominion rights on the Isthmus, £2,000,000 in cash and an annuity of £50,000, which was the price offered by the United States Government for the concession, and this would be "monstrously unfair," as *The Financial News* qualifies the "filching from her not merely territory, but territorial rights of great value."

On the other hand, the honor of the United States would be tarnished and her reputation blasted. Henceforth it would not appear as the protector, but as the perfidious enemy of the Latin-American States, and its commerce would suffer considerably. Moreover, the American Government would be morally, if not legally, bound to pay the Colombian debts, inasmuch as it would deprive her of her most valuable asset.

Colombia would readily accept a Treaty with the American Government for the construction of the canal on honorable and satisfactory conditions for both countries. Then America could accomplish the great enterprise with a pure conscience and clean hands. The fatherland of Washington would not descend from the lofty plane on which it stood when it faced the Old World as the sincere protector of the Hispano-American States.

We have appealed to the Latin-American States, to the people and Senate of the United States, to England, and to the whole of the civilized world; but as yet Colombia seems powerless and friendless. Our best hope of obtaining redress for the cruel wrong done to her is in the Senate of the United States, who, we trust, will be swayed by the command: "Let "judgment run down as waters, and righteousness as a mighty stream."

Abelardo Aldana,
Consul of Colombia at Cardiff.

LETTER FROM THE COLOMBIAN MINISTER, DIEGO MENDOZA, TO THE UNITED STATES SECRETARY OF STATE, ELIHU ROOT, OCTOBER 21, 1905

Legation of Colombia,
Washington, D. C.,
October 21, 1905.

SIR: The undersigned, representative of the weak Republic of

Source: U.S. Senate Document No. 474, 63rd Congress 2nd Session. Diplomatic History of the Panama Canal Correspondence Relating to the Negotiation and Application of Certain Treaties on the Subject of the Construction of an Interoceanic Canal, and Accompanying Papers. Washington, Government Printing Office, 1914.