TREATY OF PANAMA.

Was promulgated in Panama on the 3d day of November, 1903, was prepared here in New York City and carried down there—prepared in the office of Wilson Nelson Cromwell. I will show you that the State Department was cognizant of the fact that a revolution was to occur on the 3d day of November, 1903, and that in this country, months before that revolution occurred, there was an agreement as to the date it was to occur—the 3d day of November—and that day was selected for the reason that the papers of the United States would be filled with election news on that day and would not give much attention to news from the Isthmus of Panama.

My contention is that the part we played for months prior to the revolution in promoting that revolution in this country is a stain upon the history of this Government—such a stain as has never been placed upon it before. At this time, when we are preparing for the opening of the great canal, which everybody is in favor of, across the Isthmus of Panama—we are even building the lighthouses to-day to guide ships through the canal from sea to sea—at a time when we are contributing so much to all the missions, we can contribute something to the Republic of Colombia if we violated our treaty with her.

What better thing can we do, at a time we expect this canal to revolutionize the commerce of the world, than to make reparation to Colombia for the wrong we have done her, if we have done her any wrong? We expended $100,000,000 to free Cuba; we recently returned to China $12,000,000, which we did not think we were entitled to retain; therefore, in view of our recent career in matters of this kind, I contend—and I am asking the committee to take this position, if I succeed by evidence in sustaining the statements I have made—I contend that we should at this time give Colombia her day in court. In this way we may square ourselves with the nations of the world; in this way we may become a gentleman among the nations—I use a term coined, I think, by William Nelson Cromwell himself—in this way we may wipe out this stain upon the diplomatic history of our country.

Mr. ROBERT. Don't you think our intrigue in abetting this revolution constitutes the blackest page in the history of our international diplomacy?

Mr. RAINY. I think so. That is what I want to talk to this committee about. We expect to produce evidence that will convince the committee, and my statement of the case now I propose simply to tell the committee what evidence we can produce. I am not going to enter into any criticism or abuse of anybody, but I want to outline in this paper the evidence that we can present to this committee, and I want to assure the committee that we will be able to present to them the evidence I say we can present.

Mr. SARGENT. Broadly stating it, your views would be that our Government took the position that, in its desire to build that canal, the end justified the means.

Mr. RAINY. That is the view our Government took of it.
Mr. Levy. Do you consider that amount of money paid—$10,000,000—excessive? Why should we pay $10,000,000?

Mr. Rainey. I do not want to discuss that, because it has nothing to do with the question I present.

Mr. Levy. Some of it, or a portion of it, is invested in the United States?

Mr. Rainey. $6,000,000 of it is supposed to be invested here, and it is believed to be invested in New York real estate; the only man who knows that is William Nelson Cromwell.

Mr. Goodwin. Your position, then, is not exactly as was Portia's, who said that in order to do a great right, do a little wrong? But that the attitude of the administration at that time was that inasmuch as the election was on it was prompted to pull off this political stunt, and in doing so committed an irreparable injury?

Mr. Rainey. My position is this: That even if in doing something that may prove of great commercial advantage to this country we committed a wrong upon a little republic that can not resist us except in The Hague tribunal, we ought to go with them to The Hague. They can not resist us by resorting to a clash of armored vessels on the seas and great armies upon the land; can not challenge us as to that sort of arbitration; they can only ask us to settle this in The Hague tribunal, and we can not in honor deny this reasonable request. My position is that if I can produce evidence——

Mr. Levy. You claim this $40,000,000 paid was paid for a franchise that we had no use for?

Mr. Rainey. I am not questioning the canal title at all. That has been settled so long that it is a closed incident.

Mr. Levy. The only question is the excessiveness of the payments by the department?

Mr. Rainey. I do not want to discuss the question as to whether it was excessive or not. I don't care whether it was or not. But in referring to the amount we paid to the French company, I referred to it only incidentally in my endeavor to show what Colombia's position was, and the procrastination with which she is unjustly charged simply grew out of her desire to get more of the $40,000,000. Her position was this, and it is a legal position that any country ought to take, or that any individual would take: In 1904 the French property, for which we paid $40,000,000, absolutely reverted to Columbia, and, therefore, she was waiting until the expiration of that time when it would all belong to her, and when we would be compelled to buy it all from her. That is the position we would have taken in this matter or any other matter, and Colombia took exactly the proper position. She wasn't demanding a larger indemnity from the United States. All that she was insisting upon was that she was entitled to more of the compensation we were willing to pay.

Mr. Levy. If that company was defaulting and had virtually nothing and we paid them $40,000,000?

Mr. Rainey. The French company had defaulted for many years and had not completed one-third of this work, and so under the original contract it was forfeited long before they opened negotiations with us.

Mr. Cline. If the contention of Colombia was correct the French company eliminated all of their interest in the matter.
Mr. Rainey. Yes. If the contentions of Colombia were correct, all the rights of the French company would expire in 1904.

Mr. Cline. So whatever indemnity was fair should have been paid to Colombia?

Mr. Rainey. That was her position, although she did not demand it all because the negotiations occurred prior to 1904, so she was asking for more of it for herself. After 1904 she would probably have asked for all of it, as she would have had a right to do.

Mr. Sharp. Does any of your evidence tend to show here, Mr. Rainey, what proportion of that $40,000,000 was actually paid over to the French?

Mr. Rainey. I don't want to go into that, because that doesn't help out this international question. If there is a scandal there I don't want to uncover it. I don't want to bring up in this investigation this sort of a disgrace nor stir up that kind of a thing. I simply want to present on the highest plane possible before this committee, the most important committee, I think, of the National Congress, the international question, and if anything comes out during the progress of this investigation with reference to the distribution of the $40,000,000 it will come out as a mere incident of the real investigation. I do not expect to ask that that question be investigated by this committee. My resolution does not ask this committee to investigate that question.

Now, our convention of 1846 with Colombia was the most friendly convention we ever entered into with any power.

The Chairman. Will you insert that treaty in full in the hearings?

Mr. Rainey. Yes; but fearing the committee will not read all of it, I want to read Article I of the treaty and call attention to the conditions existing at that time which made it important for us to negotiate this treaty.

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

At that time we were preparing to settle up the western coast, and it was important for us to have with Colombia a treaty of friendship, so that our citizens could go across the Isthmus.

Article IV of the same treaty:

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 two nations shall not be interrupted thereby, each party engaging in no way to protect the offender or sanction such violation.

To show how gross has been our violations of our treaty with Colombia I want to read what Secretary Seward said in a communication to the United States minister at Bogota on April 30, 1866, and I want to show what construction we placed upon this treaty up to the very time we fomented this revolution in the United States. Secretary Seward said in 1866:

The United States desires nothing else, nothing better, and nothing more in regard to the State of Colombia than the enjoyment, on their part, of complete and absolute sovereignty and independence. If those great interests shall ever be assailed by any power at home or abroad, the United States will be ready, cooperating with the Government and their ally, to maintain and defend them.
The United States did keep the treaty in this particular, and the United States did, later on, on more than one occasion, send troops to the Isthmus of Panama for the purpose of preserving the sovereignty of Colombia on the Isthmus when it was in danger.

On the 9th of October, 1866, Mr. Seward wrote to the minister down there:

The United States has always abstained from any connection with questions of internal revolutions in the State of Panama and will continue to maintain a perfect neutrality in such domestic controversies.

Again, in May, 1856, President Pierce said:

We concluded, in the first place, a treaty of peace, amity, navigation, and commerce with the Republic of New Granada, among the conditions of which was a stipulation on the part of New Granada guaranteeing to the United States the right of way or transit across that part of the Isthmus which lies in the territory of New Granada in consideration of which the United States guaranteed in respect of the same territory the rights of sovereignty and property of New Granada.

President Buchanan, in April, 1860, compared the language of the treaty of 1846 with that of the treaties with the Republic of Honduras, and said:

In one respect it goes further than any of its successors, because it not only guarantees the neutrality of the route itself, but the rights and sovereignty and property of New Granada over the entire Province of Panama.

Again, in 1880, President Hayes, in December of that year, spoke of—

The treaty obligations subsisting between the United States and Colombia, by which we guarantee the neutrality of the transit and the sovereignty and property of Colombia in the Isthmus.

President Arthur, in December, 1881, said:

This Government has not been unmindful of the solemn obligation imposed upon it by its pact in 1846 with Colombia as the independent and sovereign mistress of the territory crossed by the canal and has sought to render them effective by fresh engagements with the Colombian Republic looking to their practical execution.

Mr. Sharp. What called out these expressions from the Presidents?

Mr. Rainey. Various controversies between the Spanish-American Republics. They were statements of our position with reference to Colombia and with reference to the other Republics.

Mr. Sharp. Has it anything to do with the French Panama Canal scheme?

Mr. Rainey. No, sir; nothing at all. The Salgar-Weise contract was not entered into until 1878.

Mr. Sharp. You are quoting now from Arthur and Hayes, and I wondered whether it was with reference to that Panama Canal scheme.

Mr. Rainey. No; these messages referred principally to the Panama Railway Co., which was a New Jersey corporation, and these references grew out of certain other controversies. I am not going into detail as to the other matters which brought about these statements of our policy, but I simply put in the record these statements in order to show what our policy has been from 1846 down to the time we recognized—

Mr. Sharp. I just wanted to see whether this had any bearing on the French ownership there.

Mr. Rainey. I do not offer these declarations for that purpose, but simply for the purpose of showing our construction of the treaty of
1846—it being, of course, the only construction that can be put upon it by any person who understands the English language.

Mr. Sharp. On the face of it I should think there ought to be no controversy as to that.

Mr. Rainey. There ought to be none. I am showing by putting in the record these excerpts that there were a number of subsequent official statements as to our relations with Colombia under this convention, which made the treaty so plain that its meaning could not be misunderstood either in Colombia or anywhere in the world.

Mr. Levy. I believe it was under that the United States was the only power to land troops.

Mr. Rainey. I think you are right.

Mr. Levy. We protected even the French at one time by sending our own troops.

Mr. Rainey. Yes, sir.

Mr. Levy. The French couldn’t do it?

Mr. Rainey. No; they couldn’t do it; we did it by virtue of the treaty of 1846 and by virtue of the clause in the treaty in which we agreed to maintain the sovereignty of Colombia on the Isthmus.

Mr. Sharp. That is practically a confirmation of the Monroe doctrine in that respect.

Mr. Rainey. Yes; we protected the French; that is, we had a right to protect them under this treaty. They were operating under a contract which they had with Colombia, and in order to maintain our agreement with Colombia it was necessary for us to land troops, even though by doing so we protected the French, and we did.

In 1885 President Cleveland said:

Emergencies growing out of civil war in the United States of Colombia demanded of the Government at the beginning of this administration the employment of armed forces to fulfill its guaranties under the thirty-fifth article of the treaty of 1846 in order to keep the transit open across the Isthmus of Panama. Desirous of exercising only the powers expressly reserved to us by the treaty, and mindful of the rights of Colombia, the forces sent to the Isthmus were instructed to confine their action to "positively and efficaciously" preventing the transit and its accessories from being "interrupted or embarrassed." The execution of this delicate and responsible task necessarily involved police control where the local authority was temporarily powerless, but always in aid of the sovereignty of Colombia.

The Chairman. Mr. Rainey, as I understand it, you contend that if it hadn’t been for the interference of the Government of the United States the Government of Colombia would have been able to put down the insurrection in Panama?

Mr. Rainey. Yes, sir; there is no doubt about that. Colombia had sent to Colon 500 picked troops, comparing favorably with the troops that can be mustered by any nation in the world. There were only 500 of them, but they were sufficient to preserve her sovereignty on the Isthmus of Panama if they had been permitted by this Government to do so.

Mr. Garner. I didn’t have the privilege of hearing the first portion of your argument, but from the resolution I judge that your position is that the United States Government outraged Colombia in taking forcibly from her a strip of territory now utilized for the canal.

Mr. Rainey. No. In violating her treaty obligations by making possible a successful revolution against the sovereignty of Colombia on the Isthmus.
Mr. Garner. So that we might get some of that territory. What was the object of assisting the revolution unless we intended to benefit by it?

Mr. Rainey. That was the apparent object of it, of course.

Mr. Garner. Then the object of the interference by the United States was to get possession of that strip of territory across the Isthmus?

Mr. Rainey. Of course, that was the object.

A Member. His idea is that this committee ought to go into an examination of the question to determine what offense we have given and what we can do toward placing ourselves in status quo, as it were, and what reparation we should make.

Mr. Rainey. What I am asking is this: That this committee go into this question now for the purpose of ascertaining whether there is an issue between this country and Colombia that ought to be tried by the only competent court that can try an issue of this kind, the Hague tribunal; if there is an issue, then I contend we ought to let the Hague tribunal pass upon the question as to whether we have wronged Colombia.

Mr. Garner. In other words, the United States does not expect to do anything but give Colombia an opportunity to get what she claims from the United States?

The Chairman. Yes, as I look at it, Colombia wants her day in court.

Mr. Garner. I understand. Her day in court. You are acting for Colombia, as it were?

Mr. Rainey. No I am not acting for Colombia.

The Chairman. We should do justice to all.

Mr. Garner. Your position is this: That we refuse to go to this Hague court for fear that Colombia will get the better of the contention there, you insisting that we shall give Colombia this opportunity. Your position, then, is the attitude of an advocate for Colombia's rights.

Mr. Rainey. I don’t admit that. If my friend had been here during my argument as far as it has progressed he would have understood that is not my position at all.

Mr. Garner. What good is to be accomplished by the United States—what resolution, what legislation is to come from it?

Mr. Rainey. The good to be accomplished is this: We give to a weaker Republic which can not oppose us in any other place in the world except in The Hague tribunal the opportunity to meet us there. We give them their day in court. We prove ourselves to be in touch with the modern spirit of progress among all the nations, which is in favor of arbitration.

Mr. Garner. Indeed I agree with you, Mr. Rainey. But I was just coming to that. Your contention is that this Nation through its Executive has refused to give Colombia its days in court at The Hague. And you and the American Congress will say to the world by passing this resolution that we insist that Colombia shall have her day in court?

Mr. Rainey. That is it exactly.

Mr. Garner. Then we would be in the position of contending that our Executive has not given Colombia a fair show and the American Congress as its advocate has said that it shall have a day in court?
Mr. Rainey. No; I wouldn’t take that position. I take this position: I insist that The Hague shall pass upon the question as to whether this Government has given Colombia under the treaty of 1846 the recognition it was bound by the law of nations to give Colombia. I will present all of these questions—

Mr. Difenderfer. Do I understand that the United States of Colombia had granted to this French company a right to build a canal there?

Mr. Rainey. Yes, sir.

Mr. Difenderfer. When did that right terminate?

Mr. Rainey. It was granted to the company in 1878. They were allowed three years within which to perfect their plans and make their surveys and then two years in which to commence work. They commenced work along about 1880 or 1881. That company collapsed in 1888 and the new French canal company was formed and operated under the old contract. Colombia granted certain extensions. The original contract and all the legitimate extensions expired in 1904.

Mr. Difenderfer. And our Government took advantage of the situation at that particular time, on the 3d day of November, 1904; was that it?

Mr. Rainey. That was in 1903.

Mr. Difenderfer. 1903?

Mr. Rainey. Yes, sir. That was election time in the United States; that was the reason the date was selected.

Mr. Kendall. I think the date wasn’t selected that the news might be entirely excluded, but that it might be immersed in the election returns and not be noticed.

Mr. Rainey. It was selected because a revolution on that day was less likely to attract attention in the United States.

Mr. Kendall. That is the way I understood you. Brother Goodwin suggests that it was done as a matter of political profit to influence the election that year.

Mr. Rainey. No. Now, having in mind what I have just said, I want to place in parallel columns something else. Having in mind the extracts that I have read from the treaty of 1846 and these numerous extracts I have read from state papers showing how we always construed this treaty almost down to date—showing how we have recognized and defended the sovereignty of Colombia on the Isthmus of Panama—I want to read the confession of the man who was responsible for it all and who admits in this confession that he violated this contract.

Here is Mr. Roosevelt’s confession made in a speech delivered before the students of the University of California at Berkeley, Cal., on March 23, 1911. I quote now from his speech on that occasion:

I am interested in the Panama Canal because I started it. If I had followed traditional conservative methods I should have submitted a dignified state paper of probably 200 pages to the Congress and the debate would have been going on yet. But I took the Canal Zone and let Congress debate, and while the debate goes the canal does also.

That is the confession and it shows how it was done. This is a carefully worded speech, evidently prepared in advance. If you will examine the wording carefully you will find it to be a most careful and deliberate statement. It was made before an intelligent audience
composed of students of the university—the great university of that State.

Now, on November 6, 1903, three days after the alleged revolution, our State Department cabled this to the American consul general at Panama and said—

Mr. Kendall. Who was Secretary of State then?

Mr. Rainey. I think Mr. Loomis sent the telegram, but Mr. Hay was Secretary of State.

Here is the telegram:

The people of Panama have by an apparently unanimous movement dissolved their political connections with the Republic of Colombia, and resumed their independence. When you are satisfied that a de facto government, republican in form, and without substantial opposition from its own people, has been established in the State of Panama, you will enter into relations with it as the responsible Government of the territory and look to it for all due action to protect the persons and property of citizens of the United States and to keep open the Isthmian transit in accordance with the obligations of existing treaties governing the relations of the United States to that territory.

Mr. Sharp. To whom was that sent?

Mr. Rainey. To the American consul general at Panama, and it was sent 72 hours after the revolution, and 48 hours after the proclamation of the declaration of independence of Panama. The declaration of independence was prepared in New York.

Mr. Sharp. Will you read again the first few lines?

Mr. Rainey. The first few lines are important, if true.

The people of Panama have by an apparently unanimous movement dissolved their political connections with the Republic of Colombia and resumed their independence. When you are satisfied that a de facto government, republican in form, and without substantial opposition from its own people, has been established in the State of Panama, you will enter into relations with it.

If that is true, it is an important statement. I claim it is untrue. The people of Panama, by an apparently unanimous movement, did not accomplish their independence. On the 3d day of November, in the morning, when the revolution occurred, we will show you that no man knew anything about it except the revolutionists on the Isthmus of Panama—just a few of them, not over 10 or 12 of them—and the officers of the Panama Railroad & Steamship Co., who were under the control of William Nelson Cromwell, of New York, and the State Department officials in Washington. No one knew it was going to occur when it did occur except those I have mentioned and some of the Colombian generals in Panama, who had been bribed to betray their country and to turn over their troops to the new Republic as soon as it was formed.

Mr. Sharp. Before that revolution was generally known, or at least was recognized, or at least that country was recognized as a new Republic, isn't it a fact that our Government had warships situated or stationed on both sides?

Mr. Rainey. Yes, sir. The warships arrived on the very day of the revolution. That is the question I am going into now.

Mr. Harrison. Were those revolutionists natives of Panama or citizens of the United States?

Mr. Rainey. They were natives there, most of them. I don't know where the officers of the Panama Railroad claimed their residence; I think most of them claimed their residence up here. At that time among the revolutionists were Col. Shaler, who was general superintendent of the railroad: Mr. Prescott, who was his assistant;
Mr. Arango, who was land agent down there for the railroad and who was also a local attorney in Panama; Dr. Amador, who was the physician for the railroad; and Capt. Biers, who was the American freight agent of the railroad on the Isthmus. Those were the railroad officials who were on the Isthmus—all the important railroad officials. All of them aided the revolution and assisted in planning for it.

Mr. Kendall. Were there any troops turned over by the revolutionists?

Mr. Rainey. I think these gentlemen, except Arango and Amador, might be United States citizens. The Colombian garrison espoused the cause of the revolution. They were bribed to do it. The commander was paid two days afterwards $25,000 in silver for doing so, and he is living now on the Isthmus of Panama engaged in the cattle business and is being paid $400 every month in silver, a pension by the Panama Government.

At that time in Panama there was only one company of troops loyal to Colombia, and there was only one general they couldn't bribe. Our railroad officials down there couldn't bribe him, and he with his company—this loyal company—was sent away just a few days before the time for the revolution, to repel a fake invasion from Nicaragua. They went into the jungles of Panama to stop a force that wasn't coming at all. The mistake Gov. Abaldio made was this: He telegraphed to his Government or wrote them a formal letter advising them that the sovereignty of Colombia in the Isthmus of Panama was threatened by an army from Nicaragua. This so frightened Colombia—they were so anxious to preserve their sovereignty—that they sent some gunboats out not for the purpose of suppressing the revolution, but for the purpose of assisting in repelling an invasion supposed to have come from Nicaragua. As soon as the governor of Panama, appointed by the President of Colombia, received the information from his Government that they were sending him troops to help in repelling that invasion, he sent back word that there was no invasion—don't send the troops. At that time the loyal officer and his company were out 100 miles or so in the jungle, where they could offer no opposition to the proposed revolution. Colombia acted so promptly in an effort to preserve her sovereignty that, when this second communication reached the Government, they had already sent two gunboats to Panama and they got there just before the revolution started.

Mr. Defenderfer. Were any of these men you have mentioned there in the pay of the United States Government?

Mr. Rainey. No; they were in the pay of the Panama Railroad & Steamship Co., which was a New Jersey corporation—the controlling interest of which at this time was owned by the new French canal company. They were in the pay of that corporation, and the representative of that corporation in New York was William Nelson Cromwell. They belonged to him. He was the revolutionist who promoted and made possible the revolution on the Isthmus of Panama. At that time he was a shareholder in the railroad and he was its general counsel in the United States, and when the old Panama canal company, just before its dissolution, acquired control of the Panama Railroad Co. by buying a majority of the stock they annexed, unfortunately for this Government, William Nelson Cromwell, of New York, the most dangerous man this country has produced since
the days of Aaron Burr—a professional revolutionist—and, we will be able to show you, one of the most accomplished lobbyists this country has ever produced.

Mr. DIFENDERFER. When did the Panama Railroad pass into the possession of the American Government?

Mr. RAINEY. When we bought the property and the franchises from the French companies.

A MEMBER. Your position is that William Nelson Cromwell, through whom we purchased the properties of the French companies in Panama, brought about this revolution for two purposes—the United States in order to get the territory to construct a canal, and the old French company to sell out property that was comparatively valueless to them. Is that your understanding of it? That Mr. Cromwell and his associates were the prime movers in bringing about this revolution?

Mr. RAINEY. Yes, sir.

A MEMBER. They were aided by the Executive of this Nation, the Executive having in view the getting of this territory in order to construct the Panama Canal?

Mr. RAINEY. Yes, sir. And the object primarily being of Mr. Cromwell and his associates—the object primarily being to get $40,000,000, or whatever we would pay, for the French company and keep Colombia from getting it?

A MEMBER. They were working for money and we—I mean the American officials—were working for territory?

Mr. RAINEY. They were working also for the French company to get them the entire $40,000,000. That was all Cromwell was working for, and we assisted him in that scheme. In effect, what we did was to assist Mr. Cromwell in beating Colombia out of the large part of the $40,000,000 that she ought to have had. We could have acquired all the rights we wanted by giving Colombia a little more of the $40,000,000 than we were willing she should have. The fight our officials made here was not for the purpose of getting the canal across the Isthmus—we could always do that if we wanted to; but I contend that the fight on the part of this Government was to see that this corrupt French company, which was composed almost entirely of penalized stockholders, except a few small shareholders who held a small part of the stock, get the $40,000,000. By “penalized stockholders” I mean stockholders who had stolen from the old company and who were compelled to take stock in the new company to an amount of stock equal in value to the sums they had stolen in order to keep from going to the penitentiary.

A MEMBER. Do you believe the French company got all that money?

Mr. RAINEY. I don’t want to discuss that.

Mr. COOPER. You think that Roosevelt and John Hay got most of it? Is that your position?

Mr. RAINEY. On the contrary, I am convinced that they did not. On behalf of these gentlemen, I deny that.

Mr. COOPER. I am glad to hear that.

Mr. GOODWIN. Your position is that an investigation of this matter would reveal the fact that Mr. Cromwell and his associates got up this revolution for the purpose of selling out to the United States?

Mr. RAINEY. Yes, sir.
Mr. Goodwin. And getting a larger share of what the United States would pay for that canal than they otherwise could get?

Mr. Rainey. Yes, sir.

Mr. Goodwin. And that our Government through its officials assisted him in order to put money in the pockets of the French rather than pay it to the Republic of Colombia?

Mr. Rainey. Yes, sir.

Mr. Cooper. But what did you mean a moment ago when you spoke of the fight being to get Colombia a larger share out of the $10,000,000, or something like that?

Mr. Rainey. She was trying to get more than that—

Mr. Cooper. The understanding was at one time—

Mr. Rainey. She wanted more of the amount than we were willing to pay.

Mr. Foster. It was in the treaty.

Mr. Cooper. It is so long since I have read it. Have you heard that when she had an opportunity she refused to accept the $10,000,000 because a lot of the money from the transcontinental railroads got busy with her supreme legislature and stopped that?

Mr. Rainey. I haven't heard that.

Mr. Cooper. I have.

Mr. Rainey. But I know what the records down there show.

Mr. Cooper. They had agreed to accept the $10,000,000 and when they had the opportunity to take it they made up their minds that they didn't want it. I have had prominent men connected with some of these transcontinental railroads speak to me of the dreadful nuisance of the Panama Canal. I have heard the rumors—I have and I think members of the House have—that money was sent from this country to prevent Colombia from taking that $10,000,000 and letting us build that canal, and that thereupon there was a substantial unanimity among the people of Panama who thought upon the subject at all that they should get rid of Colombia as soon as possible and let the United States build that canal, and that alone was the trouble.

Mr. Rainey. The rumors you heard I think I heard too, but I can call some facts to your attention which will show there could be absolutely nothing in those rumors.

William Nelson Cromwell, who was promoting the sale of the Panama Canal Co. to the United States and who was responsible for the revolution, was one of the attorneys for the Harriman Lines, or, to speak more accurately, was the attorney for the Harriman Ship Co., operating on the Pacific coast from San Francisco down to Panama. He would not have permitted the company he represented, if he could help it, to send any money to Colombia to prevent the very sale he was trying to accomplish.

Mr. Cooper. As a matter of fact they always have been opposed to the construction of this canal.

Mr. Rainey. Yes; I think they are opposed to the construction of all canals. I think they are opposed to the construction of this canal across the Isthmus and are opposed to the railroad across the Isthmus farther up. Naturally you would expect them to oppose it: but the Hay-Herran treaty was unpopular in Colombia from the start, from the time it was entered into here by Dr. Herran at the instance of William Nelson Cromwell. It was at once repudiated in Colombia,
and speeches were made on the floor of the National House immediately after the news reached there, and before any transcontinental money could have gotten there at all speeches were made denouncing Dr. Herran as a traitor to his country and threatening him with execution when he returned home. The President of Colombia—the man whom the railways would have approached first of all, because our evidence will show that he might have been approached—stated afterwards that the halter would have been a proper recompense to Dr. Herran for entering into that treaty.

Mr. Goodwin. Isn't it a fact that there was a great difference—a great drop in the bonds of the Panama company at the time we expected to cross over the Nicaragua route, at which time those bonds were low—at ebb tide—when we switched from the Nicaragua to the Panama route? And then the bonds were certainly inflated and rose to high tide. At that time we bought those bonds on the crest of the wave.

Mr. Rainey. I think you are right.

Mr. Goodwin. That was paying two prices for the Panama company as compared with the time when we could have had them for half that price?

Mr. Rainey. We could have made better terms with Colombia if we had let the contract expire.

Mr. Levy. The fact is that the only satisfaction we got for the $10,000,000 was the control of the Panama Railroad, and wasn't it generally supposed that we also paid in that $10,000,000 sufficient for all claims that they might have against us for their profits or their proportion of the rental for the railroad instead of giving them now $250,000 a year in addition?

Mr. Rainey. Those contentions were made of course at that time. But those contentions are not important in the present controversy. It isn't important what assets we got from the Panama Canal Co. It isn't important whether or not the railways sent a corruption fund to Colombia to keep her from ratifying this agreement. The important thing, and the only thing I want to present is, not whether the railways have been corrupt; not whether Colombia has been corrupt; but the sole question is whether we have stultified ourselves, that is all. We do not care how many persons were bribed in Colombia. We do not care what amount of money the railways contributed for bribery in Colombia, if they contributed money for such purpose. The question is how can we do justice to ourselves and resume the position we ought to occupy among the 22 Republics of the Western World.

Mr. Cooper. You want us to resume the high position held among the nations of the Western world? Has there ever been a time in the history of this Republic when the position was as cordial as it is at the present moment? Has the friendship for us ever been as great as it is at this hour?

Mr. Rainey. I am not aware that the friendships have ever been particularly close between the United States and the Latin Republics on the south of us, except perhaps Mexico. But no matter how close it is at the present time, it wouldn't do our trade any harm to have it closer. The trade we ought to have with the Latin Republics is going to other nations. To-day, in the plazas of the more important cities of the Spanish American Republics, as they sit there in the
evenings, you will find, if you listen, that they refer to the United States as the "great hog of the north."

Mr. Legare. Do you think it would do any good to have that arbitrated and have it decided that we are the great hog of the north, and have robbed them? Do you think it would do any good to have that given to the nations of the world?

Mr. Rainey. I don't want to anticipate what the Hague tribunal might do. I certainly would not say that. No court—certainly not the highest court in the world—would make use of any expression like that.

Mr. Legare. I was only expressing your own language.

Mr. Rainey. It will not do any harm to correct the impression they have of us and to cultivate more friendly relations with them.

I am simply contending that we ought to ask and insist that the court of The Hague pass upon this legal international question between these two Republics of the Western World, just the same as if they were equal in size. We have already treaties with 12 nations by which we agree to arbitrate legal questions; we have no arbitration treaty with Colombia.

Mr. Legare. What evidence have we that Colombia has agreed to submit these differences to The Hague tribunal?

Mr. Rainey. I read it into the record here.

Mr. Levy. Wouldn't you think it better if we admitted it—if we come to the conclusion that Colombia had been treated badly—instead of referring it to The Hague tribunal, we have a commission appointed to settle that? Wouldn't it be rather unfair for us to go before The Hague tribunal? They might give $100,000,000 in damages.

Mr. Rainey. I certainly would not take the position that I was afraid to go into court for the reason that the verdict against me might be excessive; and I do not think, as a Nation, we can take that position.

Mr. Levy. Wouldn't it be better for us to come to a conclusion, and then, if we had treated them wrongfully, refer it to a commission, to settle?

Mr. Rainey. I don't think so. There is only one tribunal in the world that can settle questions between nations, and Colombia is a nation, although she is a small one. There is only one other way to settle questions between nations, and that is the way which results in the meeting of navies in awful clash upon the seas and the contending armies upon the land. Of course, Colombia can not meet us in that way. The only thing she can do is to go to The Hague, and that is the only thing we can do in justice to ourselves in dealing with a weaker nation.

Mr. Legare. Don't you think it would look better to the Latin Republics and the rest of the world if we should look into the case—if we should look into these questions ourselves—and, after a thorough investigation, if we are convinced that we have committed a wrong, to make the proper amends without submitting them? Wouldn't that look more magnanimous and just?

Mr. Rainey. No, sir; I am not asking the Government of the United States to go to that extent. I am not even asking the Government of the United States to admit that they are wrong. I am
only asking this committee, when you have reviewed this evidence, to say whether or not there is an issue between this country and Colombia. A commission which might be selected I imagine would either be a commission in favor of this country or in favor of Colombia. At the present time, when we are endeavoring to enact arbitration treaties, and particularly at the present time, when Norway and Sweden have set the pace for the world and have gone into an arbitration treaty which provides not only for arbitration, but for compulsory arbitration, of questions involving national honor, vital interests, and national independence, we should not refuse to arbitrate this question at the present time, when we are about to enter into arbitration treaties with England and with France, when there are 63 peace societies in the United States, when there are 600 active peace organizations in the world, all working for international peace and for arbitration, I don't think we can afford to insist that The Hague tribunal shall not be permitted to arbitrate this question. We can not say that we propose to arbitrate this ourselves by a commission of our own selection.

Mr. Legare. Don't you think there would be some question involving this big ditch that we are also interested in?

Mr. Rainey. That is absolutely impossible, as I have already shown.

Mr. Legare. If we came by that strip of land wrongfully, if we have taken it wrongfully, there is a possibility that they might want to so decide?

Mr. Rainey. Not the slightest. I have already discussed that question. It is an absolutely incomprehensible position—an absolutely impossible position—to be taken by the court, in view of the fact that the nations of the world have now recognized the independence of Panama and in view of the demands made upon this Nation by Colombia herself. This limits the extent of any recovery which can be had against the United States to a mere money indemnity.

Mr. Foster. Didn't you miss the third method by which international difficulties might be settled, the ordinary channels of diplomacy, and wasn't that the thought that your good friend Mr. Legare had in mind, that first the two nations should undertake to settle this?

Mr. Rainey. The ordinary channels of diplomacy have failed. The ordinary channels of diplomacy have brought about the present deplorable situation.

Mr. Foster. Colombia has done something, but we haven't done anything.

Mr. Rainey. We do not show any symptoms of doing anything.

Mr. Foster. Supposing the committee should ask that instead of, first of all, before referring it—I am not anticipating anything of the kind—but if there is a real difference there, shouldn't we undertake to adjust it between ourselves? Shouldn't the Government be urged to adjust it first of all?

Mr. Rainey. The Government has refused to do that. President Taft told the minister from Colombia, Mr. Borda, I think, that we could not think of arbitrating this matter because our national honor is involved, and all efforts on the part of Colombia to accomplish anything through a diplomatic source have failed.

The Chairman. Why is our national honor involved?
Mr. Rainey. Well, that was the position taken by President Taft; the position, however, taken by him in New York recently was that questions of national honor ought to be arbitrated. Mr. Taft's opinions as to arbitrating questions of national honor during the past year have undergone a radical change.

Mr. Cooper. You think the administration of this Government on this particular subject has been guilty of conduct any more reprehensible than that of Thomas Jefferson when he ratified the Louisiana Purchase, after acknowledging that there was no constitutional authority for it but the welfare of the Republic demanded it, and so consented to take it?

Mr. Rainey. I think this question is hardly to be compared with that.

Mr. Levy. That is a different state of affairs.

Mr. Kendall. Let me ask you this question—

Mr. Cooper. He had no constitutional authority. He asked for an amendment, but before an amendment was drawn he ratified it. In great public emergencies we take territory.

My understanding of this whole problem was this: That a treaty had been entered into by which Colombia agreed to take $10,000,000 and let the canal go through Panama territory. The Panama people knew that nothing else conceivable was more for their prosperity by so enhancing and increasing it as the construction of the Panama Canal. The people wanted it, and all of them, to a man—and the women and children, if they thought of it at all. The treaty was made. They agreed to accept $10,000,000, and everybody thought the Panama Canal was to go through. Everything was arranged, and suddenly they refused to take $10,000,000. Charges were made that money had gone down there from this country by people directly interested in that canal and that they had prevented it for generations.

Mr. Rainey. That statement isn't in accordance with the facts.

Mr. Cooper. So it is said, at least; and I know they lobbied against it and talked against it.

Mr. Rainey. If you will read the treaty of 1869 you will find that you are mistaken about that. Your understanding is not correct in that particular. Colombia was willing to give us anything we wanted.

Mr. Cooper. I presided over the House as Chairman for two days when we were trying to put through the bill letting the canal go through the Nicaraguan route. It passed the House. As the matter came up there were rumors that there were lobbyists interested in the Nicaraguan project—interested in the transcontinental railways—bitterly opposing that bill. Men came to me when I was presiding in the chair and mentioned the fact that men were lobbying, and that they were then lobbying, on the floor of the House. Through my personal knowledge of this, this statement is true against the Nicaraguan canal, this is true.

Mr. Rainey. Right in this connection, I might call your attention to the fact that William Nelson Cromwell, on the floor of the Senate, was denounced openly as the lobbyist who was opposing the Nicaraguan route.

Mr. Sharp. William Nelson Cromwell refused to appear before the committee and refused to answer questions.
Mr. Cooper. I am speaking of what took place in the House of Representatives.

Now, then, they had agreed to take $10,000,000. All of them wanted the canal.

Mr. Rainey. When you say "they," what do you mean?

Mr. Cooper. All the people.

Mr. Rainey. I deny that.

Mr. Cooper. Well, practically all.

Mr. Rainey. No.

Mr. Cooper. There was nothing that could help Panama like the construction of the canal. It has made it one of the pleasantest places in the world, and is going to make it a prosperous community forever. After this had all been agreed upon, they refused suddenly to take $10,000,000, and these charges were made that American money had stopped them from taking it. My understanding was that there was great indignation among the people of Panama because they were going to lose the canal, and they immediately became so indignant that they ratified a program and decided to organize to get away from Colombia.

Mr. Rainey. You are using the identical argument used by Mr. Cromwell.

Mr. Cooper. I never exchanged a word with Mr. Cromwell and never read his testimony. I am stating what I have heard since I have been in the House of Representatives, which is 20 years.

Mr. Rainey. I have heard the same rumors, but I am able now, through the evidence I will produce, to trace these rumors back to their source and locate them all as emanating from Mr. Cromwell and his associates. Even if all you have stated is true, it would not constitute a valid reason why we should refuse to submit this question to The Hague Tribunal.

Mr. Cooper. My idea was confirmed somewhat by my experience as chairman of the committee. I was in my office one day and a man came in and introduced himself and told of his relationship with a very prominent official of one of the transcontinental railroads, looked about the room and noticed the frescoes on the wall, and spoke about them, and finally he spoke of the Panama Canal. This was about 1907 or 1908—1906, I judge. He claimed from an engineering standpoint that it never could be successfully completed. We couldn't get it built for less than $700,000,000. It was ridiculous on the face of it to think of it.

Mr. Sharp. Was that the Panama Canal?

Mr. Cooper. Yes; and that it ought to be stopped.

Mr. Rainey. That may be.

Mr. Cooper. It only goes to show the feeling on the part of those men to the construction of the Panama Canal.

Mr. Rainey. What difference does that make—the feeling against the construction of the canal? Does that make it necessary for this country to violate a solemn treaty because somebody here is opposed to the building of a canal?

Mr. Levy. Mr. Cooper, don't you think you are unfair in your parallel with Thomas Jefferson? The French had sold Louisiana to the United States. Congress was in session. He was afraid that Great Britain would interfere. It was so serious at the time that he had to determine it. It was a different state of affairs.
Mr. Cooper. I admire Thomas Jefferson and have often spoken of the magnificent part—of the magnificent thing he did in taking the Louisiana Purchase.

Mr. Sharp. In assuming that there was any connection between the opposition of the parties concerned, referring to Mr. Cooper's statement that the railroads were all combined, isn't it also a fact the chief opposition to that canal came from William Nelson Cromwell, who was largely instrumental in choosing the Panama Canal?

Mr. Rainey. There was no objection to the Nicaragua Canal until——

Mr. Cooper. I want to say that the thing that defeated the Nicaragua Canal was a speech I heard Mark Hanna make in the Senate. He had his charts up on the wall, and he had the earthquake territory marked, showing that there had been frequent earthquakes and shocks along the line of that proposed canal, and he said that as a practical man, while he wanted the canal, he was utterly opposed to constructing it in a territory that had such frequent earthquake shocks. In my judgment, that was one of the things more than any other that influenced the passage of the Spooner bill through the Senate for the Panama Canal.

Mr. Rainey. The gentleman is absolutely correct.

A Member. This being granted that the railroads were opposed to the Nicaraguan route, were they less hostile to the Panama route?

Mr. Rainey. Yes; less hostile perhaps because it was farther away, and therefore less important as a competing trade route.

A Member. Would it interrupt you for the committee to rise and meet again and you continue?

Mr. Rainey. Not at all. I am starting now with the presentation of the facts. No statement that I have made or will make will be based upon rumors.

Mr. Goodwin. A moment ago I asked you—it being granted that the railroads were opposed to the Nicaraguan route—whether or not also they were at any time less hostile to the Panama route, and you said that they were possibly less hostile to the Panama route; then, would it not follow, as a logical conclusion, inasmuch as the railroads were opposed to a canal, doesn't it follow that Cromwell was more powerful than all the railroads in the country?

Mr. Rainey. I am afraid the conclusion reached is almost inevitable.

The Chairman. The committee will now take a recess.
The committee met at 10:30 o'clock a. m., pursuant to recess.
Hon. William Sulzer (chairman) presiding.

The Chairman: The committee will come to order, and Mr. Rainey will resume his argument.

STATEMENT OF HON. HENRY T. RAINNEY, OF ILLINOIS--Continued.

Mr. Rainey. Mr. Chairman and gentlemen of the committee, I realize that what this committee wants this morning is not oratory but production of proof, so I am going to proceed but a few minutes with my own statement and then present some evidence. Later on I may ask the indulgence of the committee to address it again and attempt to assemble and bring to the attention of the committee in regular order the evidence that will soon be presented.

When I was last before your committee I called attention to the position the United States now occupies in connection with the treaties this Government has entered into; that is, first, the position of guaranteeing the sovereignty of the Republic of Colombia on the Isthmus of Panama, and, second, the other position of guaranteeing the sovereignty of the Republic of Panama over the same territory.

Until 1900 the movement in favor of the Panama route for an isthmian canal had gained no headway in the United States at all. The Republican platform of 1896 continued this plank with reference to the Nicaragua route:

The Nicaragua Canal should be built, owned, and operated by the United States; and by the purchase of the Danish Islands we should secure a proper and much-needed naval station in the West Indies.

Such was the declaration by the Republican Party in convention assembled in favor of the Nicaragua route.

On the 16th day of May, 1900, Senator Hanna’s committee, the Senate Committee on Interocceanic Canals, made a report (see Report 1337, Fifty-sixth Congress, first session) severely criticizing William Nelson Cromwell and the lobby he was maintaining here in Washington in favor of the Panama Canal; criticizing his methods. It was a bitter arraignment: one of the most severe arraignments ever heard in the Senate. But what next do we see? Not long afterwards Senator Hanna is found supporting Mr. Cromwell’s Panama route, but not until after the meeting of the Republican national convention in the year 1900.

In the year 1900 the Democratic platform contained this declaration:

FOR THE NICARAGUAN CANAL.

We favor the immediate construction, ownership, and control of the Nicaraguan Canal by the United States, and we denounce the insincerity of the plank in the Republican platform for an isthmian canal in face of the failure of the Republican majority on this subject to pass such a bill in Congress.

The Republican convention had already met; and on the 20th day of June, 1900, just a month and four days after the arraignment of William Nelson Cromwell by Senator Hanna’s committee, they inserted this plank in their platform:
THE STORY OF PANAMA.

ISTHMIAN CANAL AND NEW MARKETS.

We favor the construction, ownership, control, and protection of an isthmian canal by the Government of the United States. * * *

And this section goes on to tell about new markets needed. This was the first step taken in favor of Mr. Cromwell's scheme, and was brought about by a donation of $60,000 made by Mr. Cromwell to the Republican campaign fund in that year. From that time on we find Senator Hanna supporting the schemes of Mr. Cromwell, and the report favoring the Panama route presented in the Senate later on by Senator Hanna was really prepared by Mr. Cromwell. The speech that Senator Hanna made on the floor of the Senate, which has been referred to here by the gentleman from Wisconsin, Mr. Cooper, as the speech elucidated by maps of the earthquake belt, and which really influenced the Senate and House and the country in favor of the Panama route, was prepared by Mr. Cromwell, as we will be able to show.

From that time on the conspiracy proceeds. I do not propose at this time to discuss the various telegrams; the orders, some of which have been published in the public press, though not all of them, by any means; telegrams to the commanders of our naval vessels directing them to appear at the psychological moment on each side of the Isthmus; the meeting of conspirators months before the alleged revolution in Panama at the house of Arrias and other places on the Isthmus; meetings participated in by officers of the railroad company down there and a Colombian general who was afterwards bribed; culminating finally in the visit of Capt. Biers to this country to arrange with the State Department as to the details of the proposed revolution on the Isthmus of Panama. Still later on there was the visit by Dr. Amador to the United States, the codes he took back with him, and the code that Capt. Biers brought up with him to this country, all furnish the most damaging evidence. Finally, Dr. Amador, the first President of Panama, returned to the Isthmus of Panama, taking with him the flag for the new Republic prepared by Madam Bunau-Varilla in New York—not the flag afterwards adopted, however—and also taking with him the declaration of independence of the Republic of Panama. Just two days before he sailed Dr. Amador sent to his son, a surgeon in the United States Army, a letter, which I propose now to read. This letter carefully outlines the proposed revolution on the Isthmus and the attitude to be taken in the November following by our Government. This letter shows that our Government proposed to do just what he says it had already agreed to do, or it makes of Dr. Amador the greatest prophet the world has produced in the last 2,000 years. Just before Dr. Amador was ready to sail for the Isthmus, anxious to have his son prominent in the proposed revolution and get a part of the spoils, he wrote him this letter:

**New York, October 18, 1903.**

**Dear Little Son:** I received your telegram that you are not coming as they have refused you permission; also received your letter of the 17th. If the wreath does not come they will send it from the Endicott by the next steamer.

The reason for your coming was for you to meet Bunau-Varilla, to whom I have spoken of you. He says that if all turns out well you shall have a good place on the medical commission, which is the first that will begin work; that my name is in Hay's office and that certainly nothing will be refused you.

The plan seems to me good. A portion of the Isthmus declares itself independent, and that portion the United States will not allow any Colombian forces to attack. An
assembly is called, and this gives authority to a minister to be appointed by the new Government in order to make a treaty without need of ratification by that assembly. The treaty being approved by both parties, the new Republic remains under the protection of the United States, and to it are added the other districts of the Isthmus which do not already form part of the new Republic, and these also remain under the protection of the United States.

The movement will be delayed a few days—we want to have here the minister who is going to be named so that once the movement is made he can be appointed by cable and take up the treaty. In 30 days everything will be concluded.

We have some resources on the movement being made, and already this has been arranged with a bank.

As soon as everything is arranged I will tell B.-V. to look out for you. He says if you do not wish to go he will look out for a position for you in New York. He is a man of great influence.

A thousand embraces to Pepe, and my remembrances to Jennie and Mr. Smith.

Your affectionate father,

AMADOR.

The CHAIRMAN. Mr. Rainey, what does the "B.-V." in the concluding portion of the letter refer to?

Mr. RAINEY. Bunau-Varilla.

The CHAIRMAN. He was interested in matters down there?

Mr. RAINEY. Yes, sir; he was a stockholder in the new French canal company, and was the first representative in the United States of the new Government in Panama. He was the first minister of the Republic of Panama. Through him came $100,000 from the French canal company which was used on the Isthmus of Panama in assisting in bringing about this revolution, though of course they had other moneys besides this. I think I forgot to say that $60,000 campaign fund donated by Mr. William Nelson Cromwell in 1900 to the Republican Party, and which influenced this declaration in the platform of that year by which the party changed position from an advocate of the Nicaragua route to an advocate of an isthmian canal, came directly from the Panama Canal company in Paris, and Mr. Cromwell charged it up there as a part of his necessary expenses.

Mr. SHARP. Mr. Rainey, I came in late, and although you may have explained about that campaign fund in my absence, I would like to ask something about it. Will you state what evidence you have of that donation of $60,000 to the Republican campaign fund?

Mr. RAINEY. Yes; we will produce that later. I am finishing up my statement now, so that we may get into the evidence at once.

Mr. KENDALL. Is Dr. Amador now living?

Mr. RAINEY. No; he is not.

Mr. KENDALL. Is the son, to whom that letter is addressed, living?

Mr. RAINEY. Yes; he is living.

Mr. KENDALL. Have you the original letter?

Mr. RAINEY. We will produce a photograph of it in a moment, when we begin the introduction of the evidence, and the original is in existence and can be examined.

After the revolution was over, and after the United States had recognized the temporary Government on the Isthmus of Panama, Dr. Amador sent this telegram to Mr. Prescott, the gentleman I have referred to before and who was connected with the Panama Railroad Co. as one of its officials:

November 7, 1903.

H. G. Prescott, Colon:

The chief conspirator congratulates his first aid-de-camp for the manner that he behaved during the conspiracy.

Dr. AMADOR.
THE STORY OF PANAMA.

The CHAIRMAN. To whom is that telegram addressed?

Mr. RAINEY. It is addressed to H. G. Prescott, Colon.

Mr. TOWNSEND. Was he an official of the Panama Railroad Co.?

Mr. RAINEY. Yes, sir; he was an official of the railroad company, and prevented the movement of troops across the Isthmus.

Mr. SHARP. I did not quite get the purport of that telegram; will you read it again? [The telegram was read.] To whom was that telegram sent?

Mr. RAINEY. It was sent by Dr. Amador to H. G. Prescott, Colon, the latter, among other services, having prevented the movement of troops across the Isthmus.

Mr. KENDALL. You propose to submit proof to substantiate the charge that Mr. Cromwell contributed $60,000 to the Republican campaign fund?

Mr. RAINEY. Yes, sir; we will submit proof of that. In conclusion for the present, I wish to state that when I introduced this resolution (H. Res. 32, 62d Cong., 1st sess.) the New York World kindly placed before me the evidence it had collected in the preparation of its defense in the suit for criminal libel instituted by the Government of the United States against that paper, and they agreed to produce before this committee so much of that evidence as is relevant to the inquiry this committee is now undertaking under my resolution. At my request the chairman of this committee, in order to make unnecessary the issuing of a subpoena, addressed a letter to the New York World asking them to produce this evidence.

I now present to the committee Mr. Henry N. Hall, of the New York World staff, and ask the committee to listen to him while he produces the evidence to which I have referred.

Before taking my seat I wish to ask permission to insert in the record the treaty of 1846 with New Granada—now the Republic of Colombia—and the treaty of 1903 with the Republic of Panama; as well as an article published in the last issue of the North American Review on the Panama Canal question entitled, "A chapter of national dishonor."

The CHAIRMAN. If there is no objection the permission asked will be granted. [A pause.] The Chair hears none and it is granted.

Mr. FLOOD. I did not have the pleasure of hearing you at the other hearing. As I understand, Mr. Rainey, you have made a statement of the case and are now going to produce the evidence?

Mr. RAINEY. That is correct. I now present Mr. Hall, of the New York World staff.

[See Hearing No. 2 for Mr. Hall's remarks.]

[By Leander T. Chamberlain, in the North American Review, February, 1912.]

A CHAPTER OF NATIONAL DISHONOR.

In a recent public statement ex-President Roosevelt declares:

"It must be a matter of pride to every honest American proud of the good name of his country, that the acquisition of the [Panama] canal in all its details was as free from scandal as the public acts of George Washington or Abraham Lincoln."

"The interests of the American people demanded that I should act exactly as I did act."

"Every action taken was not merely proper, but was carried out in accordance with the highest, finest, and nicest standards of public and governmental ethics."
The [1903] orders to the American naval officers were to maintain free and uninterrupted transit across the Isthmus and, with that purpose, to prevent the landing of armed forces with hostile intent at any point within 50 miles of Panama. These orders were precisely such as had been issued again and again in preceding years, 1900, 1901, and 1902, for instance.

Every man who at any stage has opposed or condemned the action actually taken in acquiring the right to dig the canal has really been the opponent of any and every effort that could ever have been made to dig the canal.

Not only was the course followed as regards Panama right in every detail and at every point, but there could have been no variation from this course except for the worse. We not only did what was technically justifiable, but what we did was demanded by every ethical consideration, national and international.

We did harm to no one, save as harm is done to a bandit by a policeman who deprives him of his chance for blackmail.

The United States has many honorable chapters in its history, but no more honorable chapter than that which tells of the way in which our right to dig the Panama Canal was secured, and that of the manner in which the work has been carried out.

In an address previously delivered at the "Charter Day" exercises of the University of California, Mr. Roosevelt proudly declared that the securing of that "right" was his personal act. As reported, he then said:

"I am interested in the Panama Canal because I started it. If I had followed traditional, conservative methods, I would have submitted a dignified paper of probably 200 pages to Congress, and the debate on it would have been going on yet; but I took the Canal Zone and let Congress debate; and while the debate goes on the canal does also."

And previous to that California address, in his famous message to Congress of January 4, 1904, President Roosevelt wrote:

"When this Government submitted to Colombia the Hay-Herran treaty (January 22, 1903), it was already settled that the canal should be built. The time for delay, the time for permitting any Government of antisocial spirit and of imperfect development to bar the work was past.

"I have not denied, nor do I wish to deny, either the validity or the propriety of the general rule that a new State should not be recognized as independent till it has shown its ability to maintain its independence.

"But like the principle from which it is deduced, the rule is subject to exceptions; and there are in my opinion clear and imperative reasons why a departure from it was justified and even required in the present instance. These reasons embrace, first, our treaty rights; second, our national interests and safety; and third, the interests of collective civilization.

"The United States in intervening, with or without Colombia's consent, for protection of the transit, has discharged any duty to defend the Colombian Government against domestic insurrection or against the erection of an independent government on the Isthmus of Panama.

"That our position as the mandatory of civilization has been by no means misconceived is shown by the promptitude with which the powers have, one after another, followed our lead in recognizing Panama as an independent State."

It will be more than worth while to examine in the light of ethical principle and international law, of recorded fact and diplomatic precedent, of national honor and treaty pledge, these several statements, in which personal boasting, sweeping assertion, and a perfervid invoking of high morality are so interwoven. To present individual character in its due disclosure will be something; but to see to it that history is not belied, and that the requirements of justice are not travestied, will be far more.

Certain fundamental considerations must be taken into account in any worthy discussion of the conduct of governments. First, that diplomacy now stands committed to "the extending of the empire of law and the strengthening of an appreciation of public justice." Second, that "international jurisprudence is based on the moral law and embodies the consensus of civilized peoples with regard to their reciprocal rights and duties." Third, that "all nations stand on an equality of rights—the old and the new, the large and the small, monarchies and republics." It is, accordingly, in view of these considerations, that the Panama embroilment of 1903 is to be judged.

As one of the parties to that imbroglio was the United States of Colombia (formerly New Granada), there is needed a brief statement of Colombia's history. The United States of Colombia, afterwards the Republic of Colombia, was fully established in 1863. Her constitution was patterned on that of the United States of America. Her area, previous to the dismemberment of 1903, was hardly less than 500,000 square miles, or more than twice the area of Spain and Portugal combined. Her population was at least 4,000,000, or approximately twice that of Norway. Bordering on both
the Atlantic Ocean and the Pacific, her coast line was more than a thousand miles, bountifully provided with convenient bays and excellent harbors. Extensive and varied mineral products were elements in her material wealth. But the rarer of her properties, the gem of her domain, was the Province of Panama, northernmost of her possessions, at the extreme north of the southern continent. Included in that province was the Isthmus of Panama, narrowest barrier between the two oceans. As the American continents were discovered in the search for a westward passage from Europe to Asia, so, through the centuries subsequent to that discovery, the Isthmus of Panama was regarded as the likeliest route for an interoceanic canal.

In 1850 an isthmian railroad was completed along a course substantially the same as must be taken by a waterway. In 1851 a French company undertook the construction of a canal, both railroad and canal having been neutralized. The original construction company failed, and a New Panama Co. was formed to take over the existing canal rights and obligations and to complete the undertaking. But the new company also proved unequal to the task, and as early as 1897 it was realized that no private resources would be adequate and that no Government save that of the United States was wholly competent. It was understood that the United States was willing to proceed upon certain conditions.

But meantime, even antedating the establishing of the United States of Colombia, a treaty had been entered into between the United States of America and the Government of that same country, to wit; the Republic of New Granada. It was entitled "A treaty of peace, amity, navigation, and commerce." It was negotiated by the respective administrations on December 12, 1846, and was ratified and proclaimed in June, 1848. The preamble reads:

"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 the future be religiously observed between each other by means of a treaty, or general convention of peace and friendship, commerce, and navigation.

"Article I. 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 person or places.

"Arr. XXXV. The United States of America and the Republic of New Granada, desiring to make as endurable 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:

"First.

"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 favors they have acquired by Articles IV, V, and VI of this treaty (articles which secure to the United States reciprocal privileges of importation and tonnage dues, and equal customs duties) the United States guarantee positively and efficaciously to New Granada, 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 embarrased in a 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.

"Second. The present treaty shall remain in full force and vigor for the term of 20 years from the day of the exchange of ratifications.

"Third. Notwithstanding the foregoing, if neither party notifies to the other its intention of re-forming any of or all the articles of this treaty 12 months before the expiration of the 20 years specified above, the said treaty shall continue binding on both parties beyond the said 20 years, until 12 months from the time that one of the parties notifies its intention of proceeding to a reform.

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

Such is the solemn treaty of 1846; a treaty "to make lasting and firm the friendship and good understanding which happily exists between the United States and New Granada" (now Colombia), whose stipulations were to be "religiously observed";
a treaty decreeing "a perfect, firm, and inviolable peace and sincere friendship" between the two nations. In this treaty, as compensation for specified "advantages and favors," the United States "positively and efficaciously" guaranteed to New Granada "the perfect neutrality of the Isthmus" and, in the same manner, "the rights of sovereignty and property which New Granada has and possesses over the said territory"; a treaty terminal on 12 months' notice. The practical interpretation and application of the treaty are plain.

Under date of February 10, 1847, only two months after the initiation of the treaty, President Polk, in a special message to the Senate, said:

"There does not appear any other effectual means of securing to all nations the advantages of this important passage, but the guaranty of great commercial powers that the Isthmus shall be neutral territory. * * *

"The guaranty of the sovereignty of New Granada over the Isthmus is a natural consequence of this neutrality. * * * New Granada would not yield this province that is might become a neutral State; and if she should, it is not sufficiently populous or wealthy to establish or maintain an independent sovereignty. But a civil government must exist there to protect the works which shall be constructed. New Granada is not a power which will excite the jealousy of any nation."

The neutrality guaranteed to New Granada undoubtedly referred to foreign nations only. It was against interference by an outside government, interference which might among other evil results, interrupt the transit from the one to the other sea. Similarly the guaranty of New Granada's "rights of sovereignty and property" was the primary reference to an invasion by a foreign power which might imperil the isthmian transit. And since the paramount issue in the case of both the neutrality and sovereignty which the United States guaranteed was the safeguarding of the transit, there was a valid implication that the United States, on due occasion and especially at New Granada's request, would give aid against transit interference from any source whatever, whether foreign or domestic.

The direct authority, however, to be cited by the United States as warrant for the aid actually given to New Granada (now Colombia) in the maintenance of free isthmian transit, as also the ground of the duty of the United States to render such aid, is in the fact that by the treaty of 1846 New Granada distinctly pledged herself to keep the said transit inviolate for the free use of the Government and citizens of the United States.

"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 transportation which 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 lawful commerce belonging to the citizens of the United States."

That guaranty by New Granada, in a treaty of "peace, amity, navigation, and commerce," a treaty "to make lasting and firm the friendship and good understanding" of the two nations, established a relation between the United States and New Granada in which mutual aid became not only rightful but also assured. Henceforth it was to be implicitly relied upon that if the weaker nation was temporarily incapable of a perfect fulfillment if its guaranty, the stronger nation would, upon request, lend assistance. In New Granada's guaranty, acknowledged by the United States as an "advantage and favor" received, is the original and sufficient basis for the right and obligation of helpful interference by the United States in the emergency of transit interruption. A corroborative, complementary basis also exists in the avowed motive and purpose of the counter guaranty by the United States of New Granada's neutrality and sovereignty—"with the view that the free transit from the one to the other sea may not be interrupted or embarrassed in a future time while this treaty exists."

Yet the prime basis lies in New Granada's pledge which the United States gratefully accepted.

But beyond the bounds of such reciprocal right and obligation the United States might not go. In emergencies other than the disturbance of interoceanic transit, or peril to the persons and possessions of Americans, there might be no intervention in the affairs of New Granada (now Colombia). By the law of nations and the terms of the treaty itself, Colombia as the successor of New Granada was the sovereign peer of the United States. Save for the main purpose of protecting free transit and thus safeguarding her own interests in such transit, the United States might no more land her forces on Colombia's soil, or even threaten such landing, than she might land her forces, or threaten to land them, on the soil of Russia or Japan.

Nor is even this the full measure of the restraint which the Executive of the United States was bound to recognize and respect. It has been conceded that the guaranteed neutrality and sovereignty had reference to foreign powers. But it is to be borne in mind that in guaranteeing Colombia's neutrality and sovereignty as against foreign
powers the United States distinctly decreed and surpassingly emphasized her own exclusion from acts of evasion. She determinately erected an impassible barrier against her own interference with Colombia's independent authority. And this in the simple fact that she herself was a “foreign nation.” The treaty inhibition affected her first of all. She virtually named herself in the guaranty; and the guarantor, being thus included in the inhibition, was, beyond all others, forbidden to violate its terms. Otherwise it were as if the guardian of a dependent child should record his oath and give his bond to defend his charge against all unlawful acts, and then should himself expropriate his ward's possessions and assume dictatorial control. It were as if an officer of the law, sworn to uphold the citizen's rights and to lay violent hands on no man save by statutory warrant and command, should wantonly assail the helpless and ruthlessly strike down the unoffending. Being a nation foreign to Colombia, the United States, in her “positive and efficacious” guaranty, freely placed herself under supreme restraint.

With the civil wars of Colombia the United States had no concern, save as they harmfully affected the persons or possessions of American citizens or interrupted or endangered isthmian transit and traffic. Yet on November 6, 1903, Colombia was informed that “the President holds that he is bound to see that the peaceable traffic of the world across the Isthmus of Panama shall not longer be disturbed by a constant succession of unnecessary and wasteful civil wars.”

The official records are open. Those records will either uphold the presidential assertion or they will prove it to be wild and inexcusable. Let it be seen to what extent from the establishing of the United States of Colombia in 1863 to the Panama imbroglio of 1903, isthmian transit was so disturbed that the interference of the United States was required.

In March, 1865, our Panama consul was apprehensive of harm from local lawlessness, and a few marines guarded the consul and other citizens for 13 hours. In May, 1873, a small force of marines and sailors protected the persons and property of American citizens in Panama for 15 days. In September of the same year a similar service was rendered for 16 days. In January, 1885, 12 marines guarded property in Colon for 13½ hours. Later in the same year isthmian transit was seriously interrupted and forces were landed for 56 days. Toward the close of 1901 protection of transit was required for 14 days. In the autumn of 1902 transit was guarded for 62 days.

Thus during full 40 years United States forces were employed in only seven instances and for a total period of 164 days. In each case the forces were employed with Colombia's approval. In no case was there fighting, the mere precautionary measures being sufficient. In no case did the force exceed 824 men. Moreover, in four out of the seven instances there was no “interruption of transit,” only an apprehension of peril to persons and property. In fine, isthmian transit was interrupted in only three instances in the 40 years of Colombia's history, and for only 132 days.

Yet the President officially represented that isthmian transit had been disturbed almost incessantly for many years; that interruption was the chronic condition. A constant disturbing cause bringing about a virtually constant disturbance. In the comparison, the increase of Falstaff's men in buckram—“eleven grown out of two”—was accuracy itself, three reduplicated into an implied constant succession. What of the author of such assertions? It would appear that he then took for his motto, Throw mud vigorously, some of it will stick—Asperge fortiter, aliquid adherbit. That was on November 6, 1903.

Meantime, on June 25, 1902, the President gave his approval to the act commonly called the Spooner Act, looking toward the construction of an isthmian canal. That act embodied the decision of the United States in favor of the Panama route. It authorized the President to acquire, if possible, at a cost not to exceed a certain sum, “the rights, privileges, franchises, concessions,” and all other assets of the new Panama company; and to obtain from Colombia on such terms as he considered to be fair, perpetual control (or cession) for canal purposes of a strip of land from ocean to ocean not less than 6 miles wide, such control to include the emergent defense of the canal, the instituting of needful legal tribunals, and the making and enforcing of the requisite police and sanitary regulations. The act also provided that if, from the Canal Company and the Colombian Government, the President was unable to obtain satisfactory terms within a reasonable time, the route known as the “Nicaragua route” should be adopted.

After the passage of the Spooner Act, the Colombian administration—not Colombia in propria persona, but only the Colombian administration—initiated negotiations in favor and furtherance of the Panama route. Those negotiations led, on January 22, 1903, to the well-known “Hay-Herran convention.” In that convention Colombia was to give to the United States jurisdiction over the desired strip of land and to concede the right to construct and operate a canal for the period of one hundred years.
renewable at the option of the United States for periods of a similar duration. The
convention reaffirmed Article XXXV of the treaty of 1846, and explicitly provided
that only in exceptional circumstances, on account of unforeseen or imminent danger
to the canal, railways, or other works, or to the lives and property of the persons engaged
upon them, should the United States employ its armed forces, without previously
obtaining the consent of Colombia; and that as soon as sufficient Colombian forces
should arrive, those of the United States should be withdrawn. But the Hay-Herran
convention being simply an agreement between the respective administrations, was
necessarily dependent for its vital force upon its ratification by the respective Senates.
It was expressly stipulated that—
“The convention, when signed by the contracting parties, shall be ratified in con-
formity with the laws of the respective countries.”

The Washington administration has urged that any two governments, in initiating a
treaty, “bind themselves, pending its ratification, not only to oppose its consumma-
tion, but also to do nothing in contravention of its terms.” That is true of govern-
ments in the limited sense of the executive, the administration, but it does not apply
to the attitude and act of a nation’s congress: and in the final event the ratifying power
is to proceed in accordance with its own reasoning and conviction, no matter what
administrations may have stipulated or done. Furthermore, as the Canal company
could, in no case, transfer its rights and possessions, without the consent of Colombia,
the first article of the Hay-Herran convention provides:
“The Government of Columbia authorizes the New Panama Canal Co. to sell and
transfer to the United States its rights, privileges, properties, and concessions, as wel l
as the Panama Railroad and all the shares or parts of the shares of that company.”

Of course, that and the other provisions of the administrative agreement were to
come before the Colombian Senate for consideration; and that senate, like any other
independent legislature, was bound to take full cognizance of the matter, and freely
discuss all offered amendments. Yet even before the Colombian Senate convened,
the American minister to Colombia, on April 24, 1903, addressed the following note
to the Colombian minister of foreign relations:
“I am directed to inform your excellency, if the point should be raised, that every-
thing relative to this matter is included in the convention recently signed between
Colombia and the United States, and that, furthermore, any modification would be
volative of the Spooner Act and therefore inadmissible.”

Again, and still in advance of the session of the Colombian Senate, the minister of
foreign relations was advised that:
“If Colombia should now reject the treaty or unduly delay its ratification, the
friendly feeling between the two countries would be so seriously compromised that
action might be taken by the Congress next winter which every friend of Colombia
would regret.”

And after the Colombian Senate was in session, on August 5, 1903, further warning
was sent through the Colombian minister of foreign relations, to the effect that appar-
ently the force of the notes of April 24 and June 13 had not been duly appreciated as
“the final expression of the opinion or intentions” of the Washington Government.
The warning proceeded:
“If Colombia desires to maintain the friendly relations which at present exist
between the two countries, and at the same time to secure for herself the extraordinary
advantages that are to be produced for her * * * the present treaty will have to
be ratified exactly in its present form, without amendment whatsoever.”

Yet the Hay-Herran instrument itself provided that “the convention, when signed
by the contracting parties, shall be ratified in conformity with the laws of the respec-
tive countries.” Assuredly. Else the mere Executive, the mere administration,
would have full and final authority in matters involving the nation’s vital interests—
to a fatal usurpation of the power of the Congress. The Senate of the United States
has again and again amended, and rejected, treaties which had been duly negotiated
by the administration. Still, the Washington administration peremptorily forbade
Colombia’s Senate either to amend or reject.

Was this attempted coercion “not only technically justifiable, but demanded by
every ethical consideration, national and international”? Was it “as free from scandal
as the public acts of George Washington and Abraham Lincoln”? In utmost soberness
of inquiry, did any civilized representative of superior power ever indulge in brow-
beating so pitiable and so pitiless? Can such cowardly disrespect be matched in the
annals of treaty-making nations? And that, on the part of the Executive of a great
Republic which professed to do justice and to love mercy, and against a nation help-
less, yet standing in a relation of acknowledged equality of sovereignty and independ-
ence. A nation at whose hands we had confessedly received important “advantages
and favors.” A nation to which we were bound by an inviolable treaty of “peace
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and amity," of "friendship and good understanding," a treaty whose stipulations were to be "religiously observed."" That nation coolly informed that if, in the exercise of her indisputable prerogative, she followed what might be her patriotic judgment, she should suffer a retribution whereat the ears of them that heard should tingle.

What must be the character and culture of the President who proudly affirms that such was his highest conception of what was "demanded by every ethical consideration," and should be "a matter of pride to every honest American."?

After long and vehement debate, and postponement to an extra session, the American Senate, on March 17, 1903, ratified the treaty. After long and earnest debate, the Colombian Senate, on August 12, 1903, despite the President's unveiled threat, refused ratification, and adjourned on October 31.

It is to be distinctly observed at this point that, while there was no stipulation for the absolute cession to the United States of the Canal Zone, there was to be perpetual occupancy and jurisdiction—periods of 100 years, with the option of renewal by the United States, but no option of rejection by Colombia—the construction of vast and permanent works, the right to safeguard those works, along with police and sanitary control. The constitutional authorities in the Colombian Senate held that such a grant, although less than absolute cession, was contrary to the nation's organic law. They regarded it as, so far forth, a surrender of national sovereignty, notwithstanding the statement that "the United States freely acknowledges and recognizes this sovereignty [of Colombia] and disavows any intention to impair it in any way whatever." Would the constitutional authorities in the Senate of the United States be likely to hold otherwise in case it was proposed to grant to a foreign power a similarly endless occupancy and jurisdiction of a part of our national domain? Would they admit that their discussion of that issue might fairly be regarded as factious and deceitful? Yet, as has been pointed out, it was proposed in the deliberations of the Colombian Senate so to amend the constitution that the apprehended legal objection should be removed.

As for the considerations which prompted the adverse action of the Colombian Senate, it may be said that in any case they were properly beyond our official animadversion or even official discussion. High-minded diplomacy usually holds in courteous respect the motives which may have inspired the legislative act of a sovereign nation. Yet in addressing Colombia our administration ascribed to her the basest of motives. The mere opinion of our minister to Colombia was cited as showing that the Senate's discussions were prolonged and the ratification finally rejected, with the sordid view of holding up the construction of an isthmian waterway, and thus being the better able to exact terms from the United States. Further, what was only a report of the Colombian Senate's "committee on the Panama Canal" was officially quoted as proof of that accusatory opinion. The following statement was published in a rejoinder to Colombia's minister plenipotentiary in Washington:

"By a report of the majority of the Panama Canal committee, read in the Colombian Senate on the 14th of October last, it was recommended that a bill which had been introduced to authorize the Government to enter upon new negotiations should be indefinitely postponed. The reason for this recommendation is disclosed in the same report. ** ** ** By a treaty concluded April 4, 1893, the original concession to the Panama Canal Co. was extended until December 31, 1904. The report of the Colombian Senate's committee affirms that the aspect of the question would be entirely changed in consequence of the fact that when a year later the Colombian Congress should meet in ordinary session the extension of 1893 would have expired and every concession with it. In that case ** ** ** the Republic would become the possessor or owner, without any need of a previous judicial decision and without any indemnity, of the canal itself and of the adjuncts which belong to it; and would not only be able to contract without any impediments, but would be in more clear, more definite, and more advantageous possession both legally and materially."

The administration's official statement continues:

"This program if not expressly, was at least tacitly adopted by the Colombian Congress. ** ** ** It was a scheme to which this Government could not possibly become a party."

And that, although the Colombian Senate was a national legislature and had acted within its sovereign rights.

Is it conceivable that the President would have cast such innuendoes and accusations in the face of Great Britain or Germany or France? Would he have tolerated such open affront on the part of any other nation? To ask the questions is to answer them. The physical weakness of Colombia should have been her triple protection. Toward helplessness power should have felt itself bound by a chivalrous noblese oblige. It is safe to say that never in the previous history of civilized diplomacy was there such a public official characterization by one nation of another nation's
motive for legislative action. Therein the President’s conduct was audaciously
groundless. At this point the President vainly seeks his vindication by a reference to practical
results. He says:

"Be it remembered that unless I had acted exactly as I did act there would now
be no Panama Canal. * * * Every man who at any stage has opposed or con-
demned the action actually taken in acquiring the right to dig the canal has really
been the opponent of any and every effort that could ever have been made to dig
the canal."

Here is a veritable "Daniel come to judgment." The great Burke professed his
inability to draw a valid indictment against the people of a whole nation; but this
self-eulogizer finds no difficulty in denouncing the innumerable critics of his Panama
action under the one base category of those wishing to deprive the world forever of
a waterway from the one to the other sea. No matter how many the dissidents, nor
how worthy their reputation and achievements, nor how earnestly explicit their
declaration that they yielded to none in their desire for interoceanic navigation, they
are charged with hostility to any Panama Canal whatever.

How insensate the President’s charge. As if those who were confident that Colombia
would appreciate decent treatment and would agree to amended but still reasonable
were thus confident without a vestige of reason. He himself had already

"Colombia, after having rejected the treaty in spite of our protests and warning
when it was in her power to accept it, has since shown the utmost eagerness to accept
the same treaty if only the status quo could be restored."

He had, furthermore, and for his own purposes, quoted a Colombian high official
as affirming, on November 6, 1903—the very day on which the Panama insurgents
were recognized as having established a new nation—in a note to the American min-
ister at Bogota, that on certain conditions—

"The Colombian Government will declare martial law and, by virtue of vested
constitutional authority when public order is disturbed, will approve by decree the
ratification of the canal treaty as signed; or, if the Government of the United States
prefers, will call extra session of Congress, with new and friendly members, next May
to approve the treaty."

The American minister at Bogota adds, "There is a great reaction in favor of the
treaty." On January 6, 1904, Colombia’s minister plenipotentiary at Washington
officially declared:

"The necessity of the canal is so well recognized in Colombia that it was proposed
in the discussion in the Senate to amend the constitution in order to remove [what
Colombia regarded as] the constitutional difficulties, and the minister of foreign
relations, after the sessions of Congress were closed, directed the chargé d'affaires to
advise the Washington Government that the Government of Colombia was ready to
enter into renewed negotiations for a canal convention."

He further averred that the fact of the rejection of the Hay-Herran convention—
"does not mean that we have been opposed, nor that we are opposed, to the realization
of the greatest undertaking of the kind which the past and future centuries have seen
or will see. * * * I have been directed to declare to your Government that
Colombia, earnestly wishing that the work of the canal be carried into effect, not only
because it suits her interests, but also that of the commerce of the world, is disposed to
enter into arrangements that would secure for the United States the execution and
ownership of the said work. * * * The charge made against the Government of
Colombia that it proposes to cancel the concession of the French company vanishes
as soon as it is known that under the latest concession granted by Colombia the said
concession would not lapse until the year 1910."

Who can doubt that if the President had curbed his angry impatience and withheld
his irritating, insolent threats Columbia’s Senate would have acceded to terms rightly
advantageous to both countries? Who disbelieves that if, as was our acknowledged
perfect right, we had invoked the third point of Article XXXV of the treaty of 1846,
to wit—

"The said treaty shall be binding on both parties until 12 months from the time that
one of the parties notifies its intention of proceeding to a reform"—

Columbia would have been duly impressed with the gravity of her situation, and
have earnestly striven to come to terms with her indispensable ally? Accordingly,
it is pure hardihood for the President to affirm "Unless I had acted exactly as I did
act there would now be no canal." It is simple slander, silly slander, when he says,

"Every man who at any stage has opposed or condemned the action actually taken
in acquiring the right to dig the canal has really been the opponent of any and every
effort that could ever have been made to dig the canal." His critics asked that the
right to dig the canal might be acquired by lawful means. Being enthusiastically in favor of an interoceanic waterway, they only demanded that "a decent respect for the opinions of mankind," a substantial regard for international law and treaty obligations should guide the acts of the Washington administration. It certainly is not too much to suppose that if their protests had been heeded we should now have a canal whose title would be wholly free from stain and whose advantages might be enjoyed with complete self-respect.

In this chapter of national dishonor there are still other transactions to be considered.

The President, according to his published admission, was aware as early as August, 1903, that the secession of the Province of Panama was secretly fomented. He has openly declared that, toward the end of October, the attempt "appeared to be an imminent probability." In his message to Congress of January 4, 1904, he said:

"In view of these facts I directed the Navy Department to issue instructions such as would insure our having ships within easy reach of the Isthmus in the event of need arising. * * * On November 2 the following instructions were sent to the commanders of the Boston, Nashville, and Dixie: 'Maintain free and uninterrupted transit. * * * Prevent landing of any armed force, either Government or insurgent, within 50 miles of Panama."

That is, in time of profound peace between Colombia and the United States; while the treaty of "peace and amity, of friendship and good understanding," was in undisturbed force; while it was still written, "There shall be a perfect, firm, and inviolable peace and sincere friendship;" while the neutrality and sovereignty of Colombia were solemnly and gratefully guaranteed by the United States against interference by foreign powers, and therefore against interference by the United States herself; while isthmian transit was absolutely free from interruption; while there was no slightest overt act on the part of the would-be seceders; and while Colombia's acquiescence had not been so much as requested, Colombia was forcefully forbidden to land her own troops within 50 miles of the city of Panama, where, if anywhere, the secession would be attempted. In other words, the success of the revolt, whenever it might occur, was resistlessly decreed. When the President of the United States issued the "50-mile order" of November 2, 1903, he virtually declared war against the very nation of which the United States was the sworn ally and to which the United States was united by obligations admittedly paramount. He bound Colombia hand and foot and delivered her over to her domestic foes.

Yet the President, in his floundering attempts at self-defense, declares that—

"These orders were precisely such as had been issued again and again in preceding years—1900, 1901, and 1902, for instance."

But no identity, nor even resemblance, appears when the orders of those preceding years are brought into comparison. Here is the record. On July 25, 1900, our consul at Panama was thus instructed:

"You are directed to protest against any act of hostility which may involve or imperil the safe and peaceful transit of persons or property across the Isthmus of Panama. The bombardment of Panama would have this effect, and the United States must insist upon the neutrality of the Isthmus as guaranteed by the treaty."

Here was simply a protest in advance of possible harm. It was merely a warning of Colombia that she would pursue a certain course upon her own responsibility, and that the United States would interfere if free transit was interrupted. In direct refutation of the President's
declaration is the fact that the previous orders were: First, in accordance with Colombia's understanding and wish; second, that they sought, in authorized ways, to safeguard Isthmian transit from critically impending or actual interruption; third, that they constituted no assault upon either the supreme jurisdiction or the supremely free action of Colombia. The 50-mile order grossly offended in all these respects. It was known to be infinitely abhorrent to Colombia as a sovereign nation; it had rime reference to an apprehended political insurrection against Colombia's territorial integrity and national control, with only consequential reference to a possible transit interruption; it laid essentially violent hands on Colombia's sovereignty; it forcibly prevented Colombia from taking precautionary measures; it was a virtual declaration of war. Colombia was suddenly, peremptorily restrained from the free disposition of her own troops on her own soil. The venerable treaty whose stipulations were to be "religiously observed" was, so far forth, flung aside as vacuous and its covenants trampled in the dust.

The President's search for justifying precedents was foredoomed to failure. There was a vast improbability that the history of the United States would furnish any analogy of such despotism. The President should have known beforehand—doubtless he did know—that the outrage was wholly novel, conspicuous in its infamous isolation. An unoffending ally fettered and gyved, in forecast of her instinctive movement for self-preservation. The President's act was truly monumental. It was altogether and characteristically his own.

Imagine that when the Confederate forces threatened Washington, a nation whose strength outmeasured ours as ours outmeasured Colombia's had forbidden our Government to send troops within 50 miles of the endangered capital. Imagine that the dictating nation was bound to us by treaty pledges of "inviolable peace and sincere friendship." Imagine that our Government had guaranteed that nation, to the effect that its legation in Washington should not be imperiled. Yet that when we thought to safeguard the capital from secession's deadly attack—all legations being then unmolested, and it being by no means sure that, even if there was armed conflict, any legation would be injured—our overawing ally forcibly prevented our proposed defensive action, thus handing us over to our assailants; making our disruption a certainty, foregone and absolute. What in that case, would have been our feeling and judgment? What would have been the verdict of the civilized world? Would it have been conceded by us, or by anybody, that the interdict was other than atrocious? On the very face of it, and in its very nature, the peremptory ban would appear as unspeakably abusive.

But the President tells us that he then knew, and now knows, no standard of public and governmental ethics "higher, or finer, or nicer." Perhaps he is entitled to the plea.

The "50-mile order," however, was destined to be outdone. On the succeeding day, November 3, 1903, the following order was sent to the commander of the Nashville at Colon:

"In the interests of peace make every effort to prevent Government troops at Colon from proceeding to Panama. The transit of the Isthmus must be kept open and order maintained."

The President's repressive determination was not to be balked. As yet, our Panama consul had forwarded only the news of what he called an "uprising" in that one city. Yet the President issued an order preventing Colombia from moving her own troops, via her own railway, from her own Colon to her own Panama. So far as concerned their freedom to go to the scene of danger, Colombia's troops were reconcentadoed and manacled. Let it still be borne in mind that there was no interruption of transit by either loyalist or insurgent. Let it be taken into account that the President himself, under the pretense of maintaining peace and order when peace and order perfectly prevailed, violently interrupted free transit, absolutely closing it to the forces of sovereign Colombia, a treaty-bound ally of the United States.

In self-exculpation, the President has declared that—

"The theory that the treaty obliged the Government of the United States to protect Colombia against domestic insurrection or its consequences finds no support in the record, and is in its nature inadmissible."

Well said. But, conversely, the treaty did obligate the Government of the United States not to take sides against Colombia in any conflict she might have with the agents of domestic insurrection. In both its letter and spirit the treaty did bind the President of the United States not to predoom an ally to defeat in the face of attempted dismemberment. The treaty did make it inevitable that such crushing hostility should forever appear as gratuitous perfidy.

What the Washington Governor should have done in place of the cruel "50-mile order" and the still more cruel repression of the following day, was to respect Colombia's right to a perfectly free moving of her troops, whether overland or by sea, or by
her Isthmian railway; at the same time notifying Colombia that any interruption by her of Isthmian transit, if not absolutely necessary to her self-protection, would be prevented by American forces. But the President, in a deliberate, calculating forecast of the Panama insurrection, joined forces with the seceders and conquered Colombia in the interest of secession.

The true quality of the President's procedure will be the more clearly perceived through a moment's consideration of what, in such a crisis, Colombia herself might rightfully have done. Colombia had the indisputable right to defend herself against disruption. In case of actual civil war or its perceived imminence, especially civil war involving territorial integrity, any nation may take such measures, within the recognized rules of warfare, as that nation may deem needful. The right of self-preservation is elemental. Such precautions are sanctioned by humane considerations and by universal precedent concerning a government's duty to protect its own people. In fine, in the emergency of self-preservation the control of Isthmian transit was completely Colombia's. In that case, the President of the United States was authorized to do no more than to see to it that Colombia's interruption, or closure, of transit was neither wantonly imposed nor unreasonably prolonged. Only on proof of such wantonness or unreasonableness would there be just cause of offense. To hold otherwise would be to hold that, in our own Civil War, foreign nations might justly complain because our blockade of an insurgent coast rendered nugatory, for the time being, their long-standing right to navigate our ports and rivers.

Let, then, the 50-mile order of November 2, 1903, and the still severer interdict of the following day be judged in the light of those first principles.

No doubt, upon the bombardment of Panama and the threatened violence to Americans in Colon, United States troops were rightly landed to protect American citizens and their possessions. Such precautions are sanctioned by humane considerations and by universal precedent concerning a government's duty to protect its own people. But that has nothing whatever to do with the President's forbidding Colombia so much as to attempt her self-defense. For the 50-mile order, and for the preventing of Colombia from moving her troops which were already within the 50-mile limit, modern history offers no counterpart and international law no sanction. It was sheer usurpation. Yet the author of that sheer usurpation emphatically avered that so far as his acquaintance with diplomacy and international law extends, or his education in the first principles of national sovereignty has advanced, his course was superlatively right. His words are:

"Not only was the course followed as regards Panama right in every detail, but there could have been no variation from that course except for the worse. We not only did what was technically justifiable, but we did what was demanded by every ethical consideration, national and international."

He vehemently declares that he did as well as he knew how. To believe it would be a relief.

In the final act of the drama, events move with accelerated swiftness. As we have seen, on November 2, 1903, in time of profound peace between Colombia and the United States, while there was no slightest interruption of transit, the President's amazing 50-mile order was issued. On the evening of November 3, at 6 o'clock, the émeute which the President had anticipated took place in the city of Panama, the chief promoters being "the fire department." The less than 200 Government soldiers were "persuaded" to join the movement. The few Government officials were taken prisoners. "Four hundred Colombian soldiers landed at Colon." This was received in Washington at 9.50 p.m. of November 3. One hour and twenty-eight minutes later—viz., at 11.18—word was returned directing the commander of the Nashville to "make every effort to prevent Government troops at Colon from proceeding to Panama." That is, in 88 minutes from receipt of notice of an "uprising"—it was so named in the one city of Panama, the President transcended his 50-mile order of the previous day, and embargoed Colombia's troops that were already within the 50-mile limit. The next day, November 4, at 9.50 in the morning came the consular assurance, "The troops will not be moved. * * * [Colombian] gunboat Bogota threatens to bombard city to-day." At 2 minutes past noon of that same November 4, a telegram was sent directing that the Bogota cease the "wanton shelling of Panama." It was significantly added, "We shall have a naval force at Panama in two days."
At 7:10 p.m. of that same November 4, a telegram from the Panama consul announced that a proclamation of independence had been issued by the insurgents, and that three persons had been deputed to draw up a form of government. During the following day, November 5, the interchange of telegrams respecting the details of the situation was frequent and urgent. On November 6, at 12:51, the following Government message was sent to our Panama consul:

"The people of Panama have by an apparently unanimous movement dissolved their connection with the Republic of Columbia and resumed their independence. When you are satisfied that a de facto government, republican in form and without substantial opposition from its own people, has been established in the State of Panama, you will enter into relations with it as the responsible Government of the territory."

A mere consul authorized to acknowledge a new nation, as soon as he thinks that a republican form of government has been put in operation. And then, "to make assurance doubly sure," 1 hour and 54 minutes later, at 2:45 p.m., for the consul's guidance "in the execution of the instructions" just cabled to him, the transmission of a copy of a telegram already sent to the United States minister at Bogota:

"The people of Panama * * * having adopted a government of their own, republican in form, with which the Government of the United States of America has entered into relations, the President of the United States * * * most earnestly commends to the Governments of Colombia and Panama the peaceful and equitable settlement of all questions at issue between them. He holds that he is bound not only by treaty obligations, but by the interests of civilization, to see that the peaceable traffic of the world across the Isthmus of Panama shall not longer be distributed by a constant succession of unnecessary and wasteful civil wars."

[We have already traced the record. Interruption from any and all causes, in the 40 years of Colombian history, of only 164 days.] Had the President wholly forgotten his Latin: Mendacem memorem esse oportet?

Thus at 12:51, middenoon, November 6, 1903, the President recognized the new nation, the Republic of Panama. From the November 2 of the 50-mile order, 4 days. From the 7:10 p.m. of November 4, when announcement came that a proclamation of independence had been issued by the insurgents, 1 day, 17 hours, and 41 minutes.

Beyond peradventure, civilized diplomacy affords no analogy of that recognition of the Republic of Panama. Under a treaty specifically guaranteeing, as against all foreign nations, Colombia's "rights of sovereignty and property" over the identical territory in question, and also that territory's efficacious "neutrality," a treaty whose stipulations were to be "religiously observed," the President of the guaranteeing Nation, itself unavoidably included in the treaty's provisions, forcibly disabled Colombia from taking the slightest precautionary measure against secession, continued and expended his hostilities, and then, in 1 day, 17 hours, and 41 minutes from the issuance in the one city of Panama of an insurgent proclamation of independence, recognized a new sovereignty. A popular uprising, at a single point, of less than one-tenth of the population of the Province of Panama; no revolutionary committee representing the other five districts of the Province; no formulated statement of grievances; no congress, no army, no navy, no courts of justice, no financial stability, evidently unable to withstand the forces of the parent country; yet an admission to the great sisterhood of nations. Admitted in less time than measures two revolutions of the earth on its axis. It is ample cause for thankfulness that the annals of civilization are sullied by no sustaining precedent.

Thus, in a note to Mr. Seward, Secretary of State, to Mr. Adams, American minister at the court of St. James, in 1861, he said:

"We freely admit that a nation may, and even ought to, recognize a new State which has absolutely and beyond question effected its independence and permanently established its sovereignty; and that a recognition in such case affords no just cause of offense to the Government of the country from which the new State has detached itself. On the other hand, we insist that a nation that recognizes a revolutionary State with a view to aid its effecting its sovereignty and independence commits a great wrong against the nation whose integrity is thus invaded, and makes itself responsible for a just and ample redress. * * * To recognize the independence of a new State, and so favor, possibly determine, its admission into the family of nations, is the highest possible exercise of sovereign power, because it affects in any case the welfare of two nations and often the peace of the world. In the European system this power is now seldom attempted to be exercised without invoking a consultation or congress of nations. That system has not been extended to this continent. But there is even a greater necessity for prudence in such cases in regard to American States than in regard to the nations of Europe. * * * Seen in the light of this principle, the several nations of the earth constitute one great federal republic."
There spoke the informed conviction of a real statesman, and therein appear the
immemorial practice of honorable governments.

Suppose that when we were at the threshold of our last domestic struggle, as soon
as those disaffected had declared their scheme, Great Britain had decided that the
dismembering purpose was already accomplished; and, when the second 24 hours was
scarce more than half over, had accorded the revolted States the full prerogative of
independent sovereignty. Our patriotic indignation would have known no bounds.
Like jealous love it could not have been quenched by many waters nor drowned by
floods. The flame of our anger would have "burned to the lowest hell." Life, for-
tune, sacred honor would have been freely cast into the sacrificial balance. Amazed
resentment, "hors'd upon the sightless couriers of the air, would have blown the
horrid deed in every eye."

The President naively refers to Panama's secession as but a "resuming of her inde-
pendence." Such is the phrase in his telegram of recognition. In his message to
Congress, of January 4, 1904, he says:

"A third possibility was that the people of the Isthmus who had formerly constituted
an independent State, and who recently were united to Colombia only by a loose tie
of federal relationship, might take the protection of their own vital interests into their
own hands, reassert their former rights, and declare their independence on just
grounds."

But in no proper sense of the term was Panama ever an "independent State;" nor
was it by a "recent and loose tie of federal relationship" that Panama was united to
Colombia. In 1840 the Provinces of Panama and Veragua seceded from New Granada;
but so brief and futile was the separation that history simply records the departure and
return. In 1857 Panama, availing herself of a new provision of the central constitu-
tion, assumed such quasi-independence as was consistent with a federal connection
with the central Government—precisely that and not one whit more. Even that
quasi-independence under a federal relationship lasted only four years. In 1863
Colombia became successor to New Granada, with Panama as an integral part of the
new Government. From 1866 to 1903 the Province of Panama was as absolutely
identified with Colombia as Massachusetts with the United States. Not at all the
President's loose tie of federal relationship of comparatively recent origin, but a
scarcely interrupted integral relationship of almost a half a century, and a final abso-
lute identity of nearly a score of years.

To return, the President says:

"I have not denied, nor do I wish to deny, either the validity or the propriety of
the general rule that a new State should not be recognized as independent till it has
shown its ability to maintain its independence. * * * But, like the principle
from which it is deduced, the rule is subject to exceptions; and there are, in my
opinion, clear and important reasons why a departure from it was justified and even
required in the present instance. These reasons embrace, first, our treaty rights;
second, our national interests and safety; and, third, the interests of collective civil-
ization."

Could there be a more decisive disclosure of the President's personality and develop-
ment than his invocation of "exceptions to a principle"? Could there be a more
significant revelation of his attainments in moral science? It had been taken for
granted that a "principle," whether a law of nature or a standard of conduct, was
fundamental, having continuous and uniform force, and that exceptions could exist
in only the applications of the principle. For instance, veracity as a principle is
"good faith between those within the bonds of good faith." In the relation of speech
to fact there are said to be permissible variations. It is affirmed that speech need not
conform to reality when one is conversing with the wholly insane or with those whose
manifestly malign intent puts them beyond the pale of mutual obligation. Would
the author of the Panama policy claim for himself not only exceptions in the practical
modes of veracious speech, but also exceptions in the rule itself? In view of the
President's acts and utterances as related to the Panama imbroglio of 1903, one might
be at least half pardoned for so thinking. The clear terms, the indubitable intent,
the time-honored interpretation of the treaty of 1846 he haughtily set aside, substituting
therefor his egotistic sic volo, sic jubeo, stet pro ratione voluntas—"I took the Canal
Zone."

But there is a second ardent appeal, and this time to our own "national interests
and safety." That also is revelatory of the appellant. Was it perceived by others
than the President, at 12.51 midday of November 6, 1903, that our national welfare,
even to the verge of national peril, was hinged on the immediate construction of an
Isthmian canal? According to the statistics of population and pro rata wealth, of
production and trade, of education and religion, we were fairly prosperous and making
commendable progress. We were at peace with all nations. Domestic Insurrection
was not apprehended. It was thought by some that we were already in need of the ancient admonition, "The pride of thine heart hath deceived thee, O thou that dwellest in the clefts of the rock, that holdest the height of the hill." During the years in which the successful digging of the canal has been going on, has it been generally felt that we were trembling in the world-power balance, timidly awaiting deliverance? When the canal is finally opened, will our national well-being be suddenly and completely assured? Yet the self-hypnotized Executive who says, "I took the Canal Zone," "I am interested in the canal because I started it," asks us to condone his betrayal of a trustful ally, on the patriotic ground that our own national safety was at stake, and that there was no warrant for another instant's delay. National well-being is not thus secured. He who "has established His throne in the heavens and whose kingdom ruleth over all" acquits none who work iniquity and are unpentant. The Persians have the proverb, "When even one wronged child cries in the dark, the throne of God rocks from side to side."

It remains that we consider the President's excuse of "a mandate of collective civilization." Herein the "mandatory" of progressive humanity rises far above mere patriotic zeal. He sees, as through the mists of apocalyptic vision, an indeterminate and indeterminable something which he calls "collective civilization." He appears to have been in such trance as befell the man of the land of Uz—

"Now a thing was secretly brought to me, And mine ear received a whisper thereof; Then a spirit passed before my face; It stood still, but I could not discern The appearance thereof."

It will ever be regretted that the user of the phrase "collective civilization" did not attempt to define it. Is it possible that he adumbrated the slow accretion of human betterments through political and social organization; the fair evolutions of art and literature; the consummate achievements of liberty under law; the infinitely precious fruitage of religious aspiration? May he have dimly seen the endless procession of those who had gone by the crimson path of martyrdom to receive earth's undying gratitude and heaven's unending acclaim? May he, by proleptic realization have felt what Wordsworth calls "incommunicable ecstasies" as he dreamed of the progress yet to be made, the felicities yet to be won? Let us endeavor thus to suppose. But even so, how could he think that from such high source there had come to him alone the mandate which conferred autocratic power? In what hour of rapt meditation did he hear the voice which made him move unhesitatingly, unshrinking to the goal of his desire? In connection with what celestial sign did he read the words "In hoc signo vinces": "Collective civilization," whatever it may mean, if issuing from any kind of mandates, issues mandates utterly at variance with the self-will which "took" the Canal Zone while treaties gasped, and diplomacy stood bewildered, and international jurisprudence averted her astonished sight. It were a moral fatuity, on the very face of it, to imagine that the greatest good of the greatest number could possibly be subserved by flouting good faith and reckoning Providence as a co-conspirator against essential justice. Yet the self-appointed protagonist of imperial efficiency still declares:

"We did harm to no one, save as harm is done to a bandit by a policeman who deprives him of his chance for blackmail."

The verdict of history reads: "The policeman himself turned bandit. In the name of equity and under the guise of friendship he smote the innocent and plundered the defenseless."

He who hurried with "Tarquin's ravishing strides" to make irrevocable Colombia's dismemberment still argues that his "position as the mandatory of civilization" was fully recognized by the powers, as witness "the promptitude with which, one after another," they followed his lead "in recognizing Panama as an independent State." Therein he again takes to himself the sole responsibility, and therein he is in perfect accord with the facts. He adopted the child before it was born. He midwifed its birth. He certified, for what the certificate was worth, that the child was not a bastard. He safeguarded its puny, puling infancy. He lifted it, cradle and all, to the seats of the mighty. He gained for it world-wide recognition. Consequently he might not divest himself of responsibility, even though he would. But the powers, in following his lead, did not thereby approve his act. Their course was not only perfunctory, but also virtually compulsory. They could scarcely do aught else than "recognize" the new nation on whose political status the President of the United States had set his official, though tarnished, seal.
Finally, the restless, strenuous "doer of things," the seizer of the Canal Zone, asserts his worthiness of the unfading laurel. He triumphantly declares:

"The United States has many honorable chapters in its history, but no more honorable chapter than that which tells of the way in which the right to dig the Panama Canal was secured and of the manner in which the work itself has been carried out."

The raid on defenseless Colombia, in the interest of a swift indomitable construction of an Isthmian waterway, made to vie with the heroic settlement of a new continent, in the interest of civil and religious freedom. The "50-mile order" and its congener of the following day, foredooming a "guaranteed" ally to defeat by secession, ranked with the proclamation which gave freedom to enslaved millions. The coddled Panama "uprising," insured in advance, set in the illustrious category of Lexington and Bunker Hill, Valley Forge, and Yorktown. The recognition of a new sovereignty, after 1 day, 17 hours, and 41 minutes of pampered, flimsy independence, favorably compared with an independence which was won by years of ceaseless conflict and the sacrifice of treasures untold. Such a treacherous rending of one of their number as has awakened dismay and distrust in all southern republics put on a par with that reconstruction of a northern union which has heartened the friends of democracy in all parts of the world.

Is it possible that there should be condonation of the President's "taking" of the Canal Zone, because inwoven with the plotings of self-centered ambition there was the hastening of a national and international good? Therein is also is there "an exception to the principle" that right is right, sacred, and eternal? Is the end to sanctify the means? Then Ahab's rape of Naboth's vineyard was well, provided he took it for a public park. Then the rich man's seizure of the poor man's one ewe lamb was fair, if therewith he enlarged his feast for the hungry. Then Judas Iscariot may be acquitted with applause, if only he was a thief in order to pay his honest debts, and a traitor that he might quiet disturbance and strengthen "law and order" in the land.

Here let the chapter of national dishonor close its record. Let the final verdict be rendered as required by the law and the facts. Let the prime actor in that national dishonor take his place as determined by that same law and those same facts. Fiat justitia.

Meantime, the treatment of Colombia demands that "just and ample redress" of which Mr. Seward spoke. Our national honor was dragged in the mire. It ought to be rescued from its disgrace. With propriety we might repair to The Hague tribunal, humbly bespeaking such penalty as that high court might declare to be right. Until reparative action is somehow taken, the national reproach abides. Save as we, nationally, make the amende honorable, "great Neptune's ocean" will not remove the stain. The "damned spot" will still persist. There is grim satisfaction in the poet's words:

"Yea, though we sinned and our rulers went from righteousness; Deep in all dishonor though we stained our garment's hem; Oh, be not dismayed, Though we stumbled and we strayed; We were led by evil counselors—the Lord shall deal with them."

Yet the satisfaction is mingled with pity for those same evil counselors, as we recall the inspired declaration:

"And in covetousness shall they with feigned words make merchandise of you; whose sentence now from of old lingereth not, and their destruction slumbereth not."
the 10th day of June, 1848, by James Buchanan, Secretary of State of the United States of America, and Gen. Pedro Alcántara Herrán, envoy extraordinary and minister plenipotentiary of the Republic of New Granada, on the part of their respective Governments:

Now, therefore, be it known that I, James K. Polk, President of the United States of America, have caused the said treaty and additional article to be made public, to the end that the same 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 to be affixed.

Done at the city of Washington this 12th day of June, in the year of our Lord 1848, and in the seventy-second year of the Independence of the United States.

[Seal.]

JAMES K. POLK.

By the President:

JAMES BUCHANAN,

Secretary of State.

A GENERAL TREATY OF PEACE, AMITY, NAVIGATION, AND COMMERCE BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF NEW GRANADA.

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 exists 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 chargé d'affaires in Bogota, and the President of the Republic of New Granada has conferred similar and equal powers upon Manuel María 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 I. 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.

ART. II. 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.

ART. III. The two high contracting parties, being likewise desirous of placing the commerce and navigation of their respective countries on the liberal basis of perfect equality and reciprocity, mutually agree that the citizens of each may frequent all the coasts and countries of the other and reside and trade there in all kinds of produce, manufactures, and merchandise, and that they shall enjoy all the rights, privileges, and exemptions in navigation and commerce which the native citizens do or shall enjoy, submitting themselves to the laws, decrees, and usages there established to which native citizens are subjected. But it is understood that this article does not include the coasting trade of either country, the regulation of which is reserved by the parties, respectively, according to their own separate laws.

ART. IV. They likewise agree that whatever kind of produce, manufacture, or merchandise of any foreign country can be, from time to time, lawfully imported into the United States in their own vessels may be also imported in vessels of the Republic of New Granada; and that no higher or other duties upon the tonnage of the vessel and her cargo shall be levied and collected whether the importation be made in vessels of the one country or of the other. And in like manner that whatever kind of produce, manufactures, or merchandise of any foreign country can be from time to time lawfully imported into the Republic of New Granada in its own vessels may be also imported in vessels of the United States; and that no higher or other duties upon the tonnage of the vessel and her cargo shall be levied or collected whether the importation be made in vessels of the one country or the other.

And they further agree that whatever may be lawfully exported or reexported from the one country in its own vessels to any foreign country may in like manner be
exported or reexported in the vessels of the other country. And the same bounties, duties, and drawbacks shall be allowed and collected whether such exportation or reexportation be made in vessels of the United States or of the Republic of New Granada.

Art. V. No higher or other duties shall be imposed on the importation into the United States of any articles the produce or manufacture of the Republic of New Granada and no higher or other duties shall be imposed on the importation into the Republic of New Granada of any articles the produce or manufactures of the United States than are or shall be payable on the like articles being the produce or manufactures of any other foreign country; nor shall any higher or other duties or charges be imposed in either of the two countries on the exportation of any articles to the United States or to the Republic of New Granada, respectively, than such as are payable on the exportation of the like articles to any other foreign country, nor shall any prohibition be imposed on the exportation or importation of any articles the produce or manufactures of the United States or of the Republic of New Granada to or from the territories of the United States or to or from the territories of the Republic of New Granada which shall not equally extend to all other nations.

Art. VI. In order to prevent the possibility of any misunderstanding it is hereby declared that the stipulations contained in the three preceding articles are to their full extent applicable to the vessels of the United States and their cargoes arriving in the ports of New Granada and reciprocally to the vessels of the said Republic of New Granada and their cargoes arriving in the ports of the United States, whether they proceed from the ports of the country to which they respectively belong or from the ports of any other foreign country; and in either case no discriminating duty shall be imposed or collected in the ports of either country on said vessels or their cargoes whether the same shall be of native or foreign produce or manufacture.

Art. VII. It is likewise agreed that it shall be wholly free for all merchants, commanders of ships, and other citizens of both countries to manage, by themselves or agents, their own business in all the ports and places subject to the jurisdiction of each other, as well with respect to the consignments and sale of their goods and merchandise by wholesale or retail, as with respect to the loading, unloading, and sending off their ships, they being, in all these cases, to be treated as citizens of the country in which they reside, or at least to be placed on an equality with the subjects or citizens of the most-favored nation.

Art. VIII. The citizens of neither of the contracting parties shall be liable to any embargo, nor be detained with their vessels, cargoes, merchandise, or effects for any military expedition, nor for any public or private purpose whatever, without allowing to those interested an equitable and sufficient indemnification.

Art. IX. Whenever the citizens of either of the contracting parties shall be forced to seek refuge or asylum, in the rivers, bays, ports, or dominions of the other with their vessels, whether merchant or of war, public or private, through stress of weather, pursuit of pirates or enemies, or want of provisions or water, they shall be received and treated with humanity, giving to them all favor and protection for repairing their ships, procuring provisions, and placing themselves in a situation to continue their voyage, without obstacle or hindrance of any kind or the payment of port fees or any charges other than pilotage, except such vessels continue in port longer than 48 hours counting from the time they cast anchor in port.

Art. X. All the ships, merchandise, and effects belonging to the citizens of one of the contracting parties, which may be captured by pirates, whether within the limits of its jurisdiction or on the high seas, and may be carried or found in the rivers, roads, bays, ports, or dominions of the other, shall be delivered up to the owners, they proving in due and proper form their rights, before the competent tribunals; it being well understood that the claim shall be made within the term of one year by the parties themselves, their attorneys, or agents of their respective Governments.

Art. XI. When any vessel belonging to the citizens of either of the contracting parties shall be wrecked or foundered or shall suffer any damage on the coast, or within the dominions of the other, there shall be given to them all assistance and protection, in the same manner which is usual and customary with the vessels of the nation where the damage happens; permitting them to unload the said vessel, if necessary, of its merchandise and effects, without exacting for it any duty, impost, or contribution whatever, unless they may be destined for consumption or sale in the country of the port where they may have been disembarked.

Art. XII. The citizens of each of the contracting parties shall have power to dispose of their personal goods or real estate within the jurisdiction of the other, by sale, donation, testament, or otherwise, and their representatives being citizens of the other party, shall succeed to their said personal goods or real estate, whether by testament of ab intestato, and they may take possession thereof, either by themselves or
other, transient or dwelling therein, leaving open and free to them the tribunals of
occupations, who may be in the territories subject to the jurisdiction of one or the
other, provided that in so doing they observe the decorum due to divine worship,
and the respect due to the laws, usages, and customs of the country. Liberty shall
also be granted to bury the citizens of the United States who may die in the territories
of the Republic of New Granada in convenient and adequate places to be appointed
and established by themselves for that purpose, with the knowledge of the local authori-
ties, or in such other places of sepulture as may be chosen by the friends of the
deceased; nor shall the funerals or sepultures of the dead be disturbed in anywise nor
upon any account.
In like manner the citizens of New Granada shall enjoy, within the Government
and Territories of the United States, a perfect and unrestrained liberty of consequence
and of exercising their religion, publicly or privately, within their own dwelling
houses, or in the chapels and places of worship appointed for that purpose, agreeably
to the laws, usages, and customs of the United States.
ART. XV. It shall be lawful for the citizens of the United States of America and
of the Republic of New Granada to sail with their ships, with all manner of liberty
and security, no distinction being made who are the proprietors of the merchandise
laden thereon, from any port to the places of those who now are or hereafter shall be
at enmity with either of the contracting parties. It shall likewise be lawful for the
citizens aforesaid to sail with the ships and merchandise before mentioned and to
trade with the same liberty and security from the places, ports, and havens of those
who are enemies of both or either party, without any opposition or disturbance what-
soever, not only directly from the places of the enemy before mentioned to neutral
places, but also from one place belonging to an enemy to another place belonging to an
enemy, whether they be under the jurisdiction of one power or under several. And
it is hereby stipulated that free ships shall also give freedom to goods, and that every
thing which shall be found on board the ships belonging to the citizens of either of
the contracting parties, shall be deemed to be free and exempt, although the whole
lading or any part thereof should appertain to the enemies of either (contraband goods
being always excepted). It is also agreed in like manner, that the same liberty shall
be extended to persons who are on board a free ship, with this effect, that although
they be enemies to both or either party, they are not to be taken out of that free ship,
unless they are officers and soldiers, and in the actual service of the enemies; provided,
however, and it is hereby agreed; that the stipulations in this article contained, declar-
ating that the flag shall cover the property, shall be understood as applying to those
powers only, who recognize this principle, but if either of the two contracting parties
shall be at war with a third, and the other remains neutral, the flag of the neutral shall
cover the property of enemies whose Government acknowledge this principle and not
of others.
ART. XVI. It is likewise agreed that in the case where the neutral flag of one of
the contracting parties shall protect the property of the enemies of the other, by
virtue of the above stipulation, it shall always be understood that the neutral property
found on board such enemy's vessels shall be held and considered as enemy's prop-
erty, and as such shall be liable to detention and confiscation, except such property
as was put on board such vessel before the declaration of war, or even afterwards, if
it were done without the knowledge of it; but the contracting parties agree that two
months having elapsed after the declaration of war, their citizens shall not plead
ignorance thereof. On the contrary, if the flag of the neutral does not protect the
ART. XVII. This liberty of navigation and commerce shall extend to all kinds of merchandise, excepting those only which are distinguished by the name of contraband; and under this name of contraband, or prohibited goods, shall be comprehended.

First. Cannons, mortars, howitzers, swivels, blunderbusses, muskets, rifles, carbines, pistols, pikes, swords, sabers, lances, spears, halberds; and grenades, bombs, powder, matches, balls, and all other things belonging to the use of these arms.

Second. Bucklers, helmets, breastplates, coats of mail, infantry belts, and clothes made up in the form and for the military use.

Third. Cavalry belts, and horses with their furniture.

Fourth. And generally all kinds of arms and instruments of iron, steel, brass, and copper, or of any other materials manufactured, prepared and formed, expressly to make war by sea or land.

Fifth. Provisions that are imported into a besieged or blockaded place.

ART. XVIII. All other merchandise, and things not comprehended in the articles of contraband, explicitly enumerated and classified as above, shall be held and considered as free, and subjects of free and lawful commerce, so that they may be carried and transported in the freest manner by the citizens of both the contracting parties, even to places belonging to an enemy, excepting those places only which are at that time besieged or blockaded; and to avoid all doubt in this particular it is declared that those places only are besieged or blockaded which are actually attacked by a belligerent force capable of preventing the entry of the neutral.

ART. XIX. The articles of contraband, before enumerated and classified, which may be found in a vessel bound for an enemy's port, shall be subject to detention and confiscation, leaving free the rest of the cargo and the ship, that the owners may dispose of them as they see proper. No vessel of either of the two nations shall be detained on the high seas on account of having on board articles of contraband, whenever the master, captain, or supercargo of said vessels will deliver up the articles of contraband to the captor, unless the quantity of such articles be so great and of so large a bulk that they can not be received on board the capturing ship without great inconvenience; but in this and all other cases of just detention the vessel detained shall be sent to the nearest convenient and safe port for trial and judgment according to law.

ART. XX. And whereas it frequently happens that vessels sail for a port or place belonging to an enemy without knowing that the same is besieged or blockaded or invested, it is agreed that every vessel so circumstanced may be turned away from such port or place, but shall not be detained, nor shall any part of her cargo, if not contraband, be confiscated, unless after warning of such blockade or investment, from the commanding officer of the blockading forces, she shall again attempt to enter; but she shall be permitted to go to any other port or place she shall think proper. Nor shall any vessel that may have entered into such port before the same was actually besieged, blockaded, or invested by the other be restrained from quitting that place with her cargo, nor if found therein, after the reduction and surrender, shall such vessel or her cargo be liable to confiscation, but they shall be restored to the owners thereof.

ART. XXI. In order to prevent all kinds of disorder in the visiting and examination of the ships and cargoes of both the contracting parties on the high seas, they have agreed mutually that whenever a national vessel of war, public or private, shall meet with a neutral of the other contracting party, the first shall remain out of cannon shot, unless in stress of weather, and may send its boat with two or three men only, in order to execute the said examination of the papers concerning the ownership and cargo of the vessel, without causing the least extortion, violence, or ill treatment, for which the commanders of said armed ships shall be responsible with their persons and property; for which purpose the commanders of private armed vessels shall, before receiving their commissions, give sufficient security to answer for all the damages they may commit. And it is expressly agreed that the neutral party shall in no case be required to go on board the examining vessel for the purpose of exhibiting her papers or for any other purpose whatever.

ART. XXII. To avoid all kind of vexation and abuse in the examination of the papers relating to the ownership of the vessels belonging to the citizens of the two contracting parties, they have agreed, and do hereby agree, that in case one of them should be engaged in war, the ships and vessels belonging to the citizens of the other must be furnished with sea letters or passports, expressing the name, property, and bulk of the ship, as also the name and place of habitation of the master and commander of the said vessel, in order that it may thereby appear that the ship really and truly belongs to the citizens of one of the parties; they have likewise agreed that when such
ships have a cargo they shall also be provided, besides the said sea letters or passports, with certificates containing the several particulars of the cargo and the place whence the ship sailed, so that it may be known whether any forbidden or contraband goods are on board the same. Which certificates shall be made out by the officers of the place whence the ship sailed in the accustomed form, without which requisites said vessel may be detained, to be adjudged by the competent tribunal, and may be declared lawful prize unless the said defect shall be proved to be owing to accident, and shall be satisfied or supplied by testimony entirely equivalent.

Art. XXIII. It is further agreed that the stipulations above expressed relating to the visiting and examination of vessels shall apply only to those which sail without convoy, and when said vessels shall be under convoy the verbal declaration of the commander of the convoy, on his word of honor, that the vessels under his protection belong to the nation whose flag he carries, and, when they may be bound to an enemy's port, that they have no contraband goods on board, shall be sufficient.

Art. XXIV. It is further agreed that in all cases the established courts for prize causes in the country to which the prizes may be conducted shall alone take cognizance of them. And whenever such tribunals of either party shall pronounce judgment against any vessel or goods or property claimed by the citizens of the other party the sentence or decree shall mention the reasons or motives upon which the same shall have been founded, and an authenticated copy of the sentence or decree and of all the proceedings in the case, shall, if demanded, be delivered to the commander or agent of said vessel without any delay, he paying the legal fees for the same.

Art. XXV. For the purpose of lessening the evils of war, the two high contracting parties further agree that in case a war should unfortunately take place between them, hostilities shall only be carried on by persons duly commissioned by the Government, and by those under their orders, except in repelling an attack or invasion, and in the defense of property.

Art. XXVI. Whenever one of the contracting parties shall be engaged in war with another State, no citizen of the other contracting party shall accept a commission or letter of marque for the purpose of assisting or cooperating hostilely with the said enemy against the said parties so at war under the pain of being treated as a pirate.

Art. XXVII. If by any fatality which can not be expected, and God forbid, the citizens of the one nation to the individuals of the other contracting party shall accept a commission or letter of marque for the purpose of assisting or cooperating hostilely with the said enemy against the said parties so at war under the pain of being treated as a pirate.

Art. XXVIII. Neither the debts due from individuals of the one nation to the individuals of the other, nor shares, nor money which they may have in public funds, nor in public or private banks, shall ever in any event of war or of national difference be sequestered or confiscated.

Art. XXIX. Both the contracting parties, being desirous of avoiding all inequality in relation to their public communications and official intercourse, have agreed and do agree to grant the envoys, ministers, and other public agents the same favor, immunities, and exemptions which those of the most-favored nations do or shall enjoy, it being understood that whatever favors, immunities, or privileges the United States of America or the Republic of New Granada may find it proper to give to the ministers and public agents of any other power shall, by the same act, be extended to those of each of the contracting parties.

Art. XXX. To make more effectual the protection which the United States and the Republic of New Granada shall afford in future to the navigation and commerce of the citizens of each other, they agree to receive and admit consuls and vice consuls in all the ports open to foreign commerce, whom shall enjoy in them all the rights, prerogatives, and immunities of the consuls and vice consuls of the most favored nation, each contracting party, however, remaining at liberty to except those parts and places in which the admission and residence of such consuls may be inconvenient.

Art. XXXI. In order that the consuls and vice consuls of the two contracting parties may enjoy the rights, prerogatives, and immunities which belong to them by their public character, they shall, before entering on the exercise of their functions, exhibit their commission, or patent, in due form, to the Government to which they are accredited, and having obtained their exequatur, they shall be held and
considered as such by all the authorities, magistrates, and inhabitants in the consular district in which they reside.

Art. XXXII. It is likewise agreed that the consuls, their secretaries, officers, and persons attached to the service of consuls, they not being citizens of the country in which the consul resides, shall be exempt from all public service, and also from all kind of taxes, imposts, and contributions, except those which they shall be obliged to pay on account of commerce or their property, to which the citizens and inhabitants, native and foreign, of the country in which they reside are subject, being in everything besides subject to the laws of the respective States. The archives and papers of the consulates shall be respected inviolably, and under no pretext whatever shall any magistrate seize or in any way interfere with them.

Art. XXXIII. The said consuls shall have power to require the assistance of the authorities of the country for the arrest, detention, and custody of deserters from the public and private vessels of their country, and for that purpose they shall address themselves to the courts, judges, and officers competent, and shall demand in writing the said deserters, proving by an exhibition of the registers of the vessel's or ship's roll, or other public documents, that those men were part of the said crews; and on this demand so proved (saving, however, where the contrary is proved by other testimonies) the delivery shall not be refused. Such deserters, when arrested, shall be put at the disposal of the said consuls, and may be put in the public prisons, at the request and expense of those who reclaim them, to be sent to the ships to which they belonged, or to others of the same nation. But if they be not sent back within two months, to be counted from the day of their arrest, they shall be set at liberty, and shall be no more arrested for the same cause.

Art. XXXIV. For the purpose of more effectually protecting their commerce and navigation, the two contracting parties do hereby agree to form as soon hereafter as circumstances will permit a consular convention, which shall declare specially the powers and immunities of the consuls and vice consuls of the respective parties.

Art. XXXV. 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:

First. 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 favors they have acquired by the fourth, fifth, and sixth articles of this treaty, the United States guarantee positively and effectually 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.

Second. The present treaty shall remain in full force and vigor for the term of 20 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 3d of October, 1824, shall cease to have effect, notwithstanding what was disposed in the first point of its thirty-first article.

Third. Notwithstanding the foregoing, if neither party notifies to the other its intention of reforming any of or all the articles of this treaty 12 months before the expiration of the 20 years stipulated above, the said treaty shall continue binding on both parties, beyond the said 20 years, until 12 months from the time that one of the parties notifies its intention of proceeding to a reform.

Fourth. 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.

Fifth. 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 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.

Sixth. Any special or remarkable advantage that one or the other power may enjoy, from the foregoing stipulation, 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.

ART. XXXVI. 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 18 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 12th day of December, in the year of our Lord 1846.

B. A. BIDLACK. [SEAL.]  
M. M. MALLARINO. [SEAL.]

Additional article. The Republics of the United States and of New Granada will hold and admit as national ships of one or the other all those that shall be provided by the respective Government with a patent issued according to its laws.

The present additional article shall have the same force and validity as if it were inserted, word for word, in the treaty signed this day. It shall be ratified, and the ratifications shall be exchanged at the same time.

In witness whereof the respective plenipotentiaries have signed the same and have affixed thereto their seals.

Done in the city of Bogota the 12th day of December, in the year of our Lord 1846.

B. A. BIDLACK. [SEAL.]  
M. M. MALLARINO. [SEAL.]

CONVENTION BETWEEN THE UNITED STATES AND THE REPUBLIC OF PANAMA FOR THE CONSTRUCTION OF A SHIP CANAL TO CONNECT THE WATERS OF THE ATLANTIC AND PACIFIC OCEANS.


A proclamation by the President of the United States of America.

Whereas a convention between the United States of America and the 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 18th day of November, 1903, 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.

ART. 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 10 miles, extending to the distance of 5 miles on each side of the center line of the route of the canal to be constructed; the said zone beginning in the Carribean Sea 3 marine miles from mean low-water mark and extending to and across the Isthmus of Panama into the Pacific Ocean to a distance of 3 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 the 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.

ART. 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.

ART. 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 water power 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.

ART. 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.

ART. VI. The grants herein contained shall in no manner invalidate the titles or rights of private landholders 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 operations of the United States, its agents, or employees, 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 appraisel 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.

Art. 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 50 years; and upon the expiration of said term of 50 years the system of sewers and waterworks 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.

Art. 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 Co. and the Panama Railroad Co., 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 Co. 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.

Art. 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 customhouse tolls, tonnage, anchorage, lighthouse, wharf, pilot, of 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.
Art. 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, flags, and other vessels employed in the service of the canal, storehouses, workshops, 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.

Art. 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.

Art. 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 contract to work upon or seeking employment upon or in anywise 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.

Art. XIII. The United States may import at any time into the said zone and auxiliary lands, free of customs duties, impost, 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, sanitation, 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.

Art. 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 $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 $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 convention.

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.

Art. 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.

Art. XVI. The two Governments shall make adequate provision by future agreement 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 commission 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 commission of crimes, felonies, and misdemeanors within said zone and auxiliary lands.

Art. 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 seek refuge in said ports. Such vessels shall be exempt from anchorage and tonnage dues on the part of the Republic of Panama.
ART. 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 III 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.

ART. 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.

ART. 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 and subjects of a third power relative to an international 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.

ART. 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.

ART. 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 Co., 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 Co., 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 term of 99 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 Co., 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 Co., the Panama Railroad Co., and the New Panama Canal Co.

The aforesaid rights and property shall be and are free and released from any present or reversionary interest in 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 Co. shall be absolute, so far as concerns the Republic of Panama, excepting always the rights of the Republic specifically secured under this treaty.

ART. 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.

ART. 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 itself or to lose its 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.
ART. 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 neu-
trality, 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.

ART. XXVI. This convention when signed by the plenipotentiaries of the con-
tracting 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 conven-
tion 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
1903.

JOHN HAY. [SEAL.]
P. BUNAU VARILLA. [SEAL.]

And whereas the said convention has been duly ratified on both parts, and the
ratifications of the two Governments were exchanged in the city of Washington, on
the 26th day of February, 1904;

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 26th day of February, in the year of our Lord
1904, and of the independence of the United States the one hundred and twenty-
eighth.

[SEAL.]

THOMAS ROOSEVELT.

By the President:

JOHN HAY,
Secretary of State,

LEGACIÓN DE LA REPÚBLICA DE
PANAMÁ EN WASHINGTON,
Washington, D. C., February 18, 1904.

His Excellency JOHN HAY,
Secretary of State, etc., Washington, D. C.

Sir: I have the honor of acknowledging the receipt of your communication, No. 23,
of January 30, 1904, in which you express to me certain observations about the transla-
tion of the treaty of November 18, 1903, contained in the decree ratifying the treaty.

I accept in the name of the Government of the Republic what you propose in said
letter, which reads as follows:

"Sir: I have the honor to acknowledge the receipt of your note of the 9th instau-
transmitting a copy of the decree ratifying the treaty of November 18, 1903, and con-
taining its text in the Spanish language.

"In reply to your request to be notified 'in case the translation is in every respect
satisfactory,' I have the honor to invite your attention to a few omissions, as follows:

"1. In Article VIII, line 4, of page 6 of the translation, the words 'á la República
de Panamá,' after 'traspaso de soberanía de la República de Colombia,' should be
added.

"2. In the same article, last line of the article, the word 'ó' should be inserted
between 'puertos' and 'terminales.'

"3. In Article IX, last line but two in the second paragraph of the article on page
7, the words 'cargar, descargar, almacenar y,' omitted from the English text, should
come before the words 'trasbordar cargas.'

"In Article XXII, page 11, line 2 of the last paragraph, the words 'present or'
in the English text have been omitted, and should be represented by the words 'ó
actuales' placed in the Spanish text after the words 'derechos de reversión.'

"In regard to the exact equivalence of words in both languages, I have to indicate
the following changes which appear to be necessary:

"1. In Article VII, line 2 of page 5, the word 'puertos' should be used instead of
'bahías' for the English word 'harbors.'

"2. In Article IX, line 4 of the article, page 6 of the copy submitted by you, the
words 'customhouse tolls' have been rendered into 'derechos de aduana,' which are
understood to mean duties collected on merchandise entered for actual consumption in the country. It is believed that the word 'peajes' would be preferable.

"3. In Article XIII, line 2 of page 8, the English word 'lands' has been translated 'obras,' for which 'terrenos' should obviously be substituted.

"There are a number of other words the accurate meaning of which may give rise to a difference of interpretation, but inasmuch as there could be no other difficulty in connection with the said words, and in view of the fact that the Spanish text has already been formally approved by your Government, the necessity of making further changes therein will be obviated by your official statement that the English text shall prevail in case of such difference of interpretation.

"Accept, Mr. Minister, the renewed assurances of my highest consideration.

"FRANCIS B. LOOMIS,
"Acting Secretary.

I am, sir, with great respect, your very obedient servant,

P. BUNAU VARILLA.
THE STORY OF PANAMA.

No. 2.

HEARINGS ON THE RAINNEY RESOLUTION BEFORE THE COMMITTEE ON FOREIGN AFFAIRS OF THE HOUSE OF REPRESENTATIVES.

FEBRUARY 9 AND 12, 1912.