

# THE ISTHMIAN HIGHWAY

■ HUGH GORDON MILLER ■



JAMES MONROE

## THE ISTHMIAN HIGHWAY



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# THE ISTHMIAN HIGHWAY

*A Review of the Problems of the Caribbean*

BY

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WITH ILLUSTRATIONS AND APPENDICES

FOREWORD

BY

DON MIGUEL CRUCHAGA

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Member of the Hague Permanent Court of Arbitration. Professor of International Law at the Universities of Chile and of La Plata, Argentina.*

AND INTRODUCTION BY

JAMES M. BECK

*Member of the United States House of Representatives and  
formerly Solicitor-General of the United States.*

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PRINTED IN THE UNITED STATES OF AMERICA  
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DEDICATED

TO

PRESIDENT JAMES MONROE

*The responsible Author of the Monroe Doctrine.*

PRESIDENT WILLIAM MCKINLEY

*Who insisted that the Hay-Pauncefote Treaty should be a world-view compact.*

PRESIDENT THEODORE ROOSEVELT

*Who acquired a lease to the Canal Zone and a "right of way" through the Isthmian Highway on the basis of treaties and the right of what may be termed international Eminent Domain; initiated the construction of the Panama Canal, and evoked, in defense of the franchise, the use of the international physician and policeman.*

PRESIDENT WOODROW WILSON

*Who, with courage, brought about the Repeal of the Tolls-Exemption Clause in the Panama Canal Act.*

PRESIDENT CALVIN COOLIDGE

*Who, following in the footsteps of his predecessors, has upheld the traditional policy of the United States, embodied in the Freedom of the Seas, the Monroe Doctrine, the Right of Eminent Domain on the Isthmian Highway and the Obligation on the United States to exercise this Right with that due sense of Responsibility which is incumbent on an International Trustee.*

We base our title upon the right of mankind in the Isthmus, treaty or no treaty. We have long asserted, beginning with Secretary Cass, that the nations of Central America had no right to debar the world from its right of passage across the Isthmus. Upon that view we base the justice of our entire action upon the Isthmus which resulted in our having the Canal Zone. We could not have taken it for our selfish interest; we could not have taken it for the purpose of securing an advantage to the people of the United States over the other peoples of the world; it was only because civilization had its rights to passage across the Isthmus and because we made ourselves the mandatory of civilization to assert those rights that we are entitled to be there at all.

ELIHU ROOT.

If ever a Government could be said to have received a mandate from civilization to effect an object the accomplishment of which was demanded in the interest of mankind, the United States holds that position with regard to the inter-oceanic canal. Since our purpose to build the canal was definitely announced, there have come from all quarters assurances of approval and encouragement, in which even Colombia herself at one time participated; and to general assurances were added specific acts and declarations. In order that no obstacle might stand in our way, Great Britain renounced important rights under the Clayton-Bulwer Treaty and agreed to its abrogation, receiving in return nothing but our honourable pledge to build the canal and protect it as an open highway.

THEODORE ROOSEVELT.



## FOREWORD

I HAVE read with a great deal of interest and profit the book discussing "The Isthmian Highway" which Mr. Hugh Gordon Miller has prepared as an additional contribution on his part to the understanding of the evolution in the policy followed by the United States in regard to the Panama Canal, viewed as an international public utility, and concerning its relations to the Monroe Doctrine.

With an enthusiasm and an industry which it is impossible to appreciate too highly, Mr. Miller has applied his legal gifts to analyzing, and stating, often for the first time in a connected and comprehensive fashion, the underlying equities of the position in Panama and the Caribbean. In this treatment of the problem, he has included a review of the policy of the United States—known as the Monroe Doctrine and the Freedom of the Seas, which will be of great service to the Pan-American Continents and indeed to the world as a whole, where misunderstandings so easily arise and are so difficult to eradicate. Mr. Miller is an American of Americans, an admirer and friend of the late President Theodore Roosevelt, but he is able to bring to bear on his subject a detached and impartial judgment, at times indulging in constructive criticisms of the institutions of his country and invariably endeavouring to recognize the just interests of other countries than his own.

The nature of the matters under consideration in the book, the deft method in the exposition, the valuable documentation accompanying the work, and especially the con-

siderations of a lofty international policy therein contained, are merits enough to place this volume as a document worthy of frequent consultation, which is bound to give the scholar as well as public opinion throughout the world, an exact valuation of a matter of permanent import.

The juridical and political problems encountered in facing what has been called the Panama Canal question, have often been looked into from several angles, affording thereby an ample range of subjects for the gauging of the international policies of the United States. At all events, any objection that might be adduced against the Great Commonwealth of the Northern Hemisphere, should be dropped as soon as one comes to the noble words of the eminent citizen, Elihu Root, uttered in the United States Senate in 1913, which the author, with commendable fitness, has put for a motto at the head of the book. The world could not be deprived of its right to cross the Isthmian land, and the latter was cut by the United States for the benefit of the whole of mankind. On taking this step, and insuring it with the adjoining zone, the United States served the interests of civilization, and appointed itself the mandatory power of this civilization.

Accepting these appreciations of Mr. Root, Mr. Miller offers here an amendment which I consider a happy one. In his estimation, the United States is not only a mandatory power in charge of a certain enterprise, but he goes one step further, and calls it a trustee, the faithful agent for an important and delicate mission. We are all convinced of the perfect fairness inspiring the United States' every act, and are certain that it will carry out its noble mission with invariable highmindedness and justice.

The chapter dealing with the origin of the Monroe Doctrine includes both observations and data of the highest interest. This work will bring more light to a subject that has given material for so many passionate controversies.

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Sometimes the Monroe Doctrine has been considered the cause of certain political moves on the part of the United States in reference to various international problems, with which it has been confronted in the course of its career as an independent nation; and so it has been charged with intentions which are alien to it, and which were never in the mind of its founders. The clarifying statements made from time to time by the most eminent public officials and statesmen of the United States, have been effective in fixing the true meaning and correct scope of the Doctrine; nevertheless, there are still left some fears and mistrusts which, even if unfounded, should be definitely dispelled in the interest of a more close understanding among all the peoples of this continental community of nations.

In this respect, this work will furnish a most needed help to the great movement for coöperation and solidarity which the countries of America are called to serve with moral unity of purpose within the great international community of peoples.

MIGUEL CRUCHAGA.

## INTRODUCTION

IF "good wine needs no bush and a good play needs no epilogue," then a good book similarly needs no introduction. A good book is its own justification and if this book had needed any introduction, it has already had a graceful foreword from the pen of the distinguished Ambassador from Chile to the United States, himself a deep student of international affairs.

The author is peculiarly qualified to write this book, not only because of his interest in public affairs but because the subject has been with him a study of many years. His book has the two qualities of a good book, in that it is at once interesting and educational. While the book is a sympathetic statement of the American attitude toward the Caribbean problem and the broader issues inherent in the Monroe Doctrine and the larger doctrine of the Freedom of the Seas, yet his discussion of these controversial questions takes into consideration the principles of international equity.

It is not necessary to agree with all the author's conclusions in order to characterize this book as a very useful contribution to a subject that always has been of importance, is today of vital importance, and may be tomorrow of still greater importance. The book will be of great use in informing public opinion in America as to the facts which underlie these problems, but, if it has the world-wide circulation that it deserves, it will be of still greater use in giving to thoughtful people of other nations a sympathetic idea of the American standpoint, as well as a knowledge of

facts which are known to few, as they are generally buried in the archives of Governments.

Throughout the English-speaking world, and, indeed, the world as a whole, there is today in progress an adjustment of traditional maritime authority. It cannot be solved by the rigid formulas of jurists. It is one of practical politics and, in solving it, regard must be had to the peculiar situation of different nations in the economy of civilization. The author has, therefore, rendered a public service in bringing into one perspective the varied factors which are involved in the problems. It seems to me that great good will come if thoughtful men of all nations shall be acquainted with the facts which are herein developed and explained by the author's industrious search into the past. He happily emphasizes the moral responsibility of the United States and Great Britain for a wise and just solution of these questions, and those who read this book are likely to have a deepened sense of such common responsibility.

JAMES M. BECK.

Washington, D. C.,  
February 12, 1929.

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## THE ISTHMIAN HIGHWAY

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## I

### BIOGRAPHY OF THIS BOOK

IN presenting these pages, I hope that I may be permitted to explain how it came about that as a lawyer, I plunged into the unaccustomed field of authorship. During the whole of an active life in my profession, I have been fascinated by a problem which largely determines the foreign policy of the United States. It is the problem of the Panama and Nicaraguan Isthmus and of the Monroe Doctrine as it applies to the Caribbean; and it has occurred to me that a statement of this problem and a review of the equities associated with it by one whose mind has been trained to pursue the legal method, might be of value at this time when great developments in Central America are under consideration.

While the book was in a later stage of preparation, the entire situation was rendered more urgent by the discussions of naval disarmament at Geneva, and in Washington, London and Paris. To appreciate those discussions, there must be a knowledge of the diplomatic and strategic background which lies behind the mentality of the governments and departments concerned. I am of opinion that the great maritime nations ought to come to an arrangement for the control of the ocean and the maintenance of freedom for all peoples on the high seas. The analysis of the Caribbean Problem is thus an introduction to a world-wide situation which must now be faced.

The Panama Canal was the first Isthmian Highway, but it is not to be the only link between the oceans. A canal across Nicaragua is projected. The nation that controls these canals must dominate the Western World, for the canals are, as it were, the jugular vein, not only of the United States but of North and South America. Only through the canals can these continents keep in maritime touch with themselves. Hence, we are bound to conclude that political control over the canals is and will always be of vital concern to the United States as a link between her Atlantic and Pacific seaboard. But, for this very reason, the rest of the world, which shares the use of the canals with the United States, will wish to know whether they are to be operated and controlled according to the basic principles of international equality which were laid down and crystallized in the Hay-Pauncefote Treaty.

The problem includes our relations with Mexico and Nicaragua—indeed with Latin-America as a whole. Meeting at Havana in 1928, the Sixth Pan-American Conference revealed how acute are the susceptibilities involved in the problem and how far-reaching the issues, affecting the very basis of international law, that may be raised. We use the term, international law. But how are we to apply international law to conditions, so complicated, so human, as those which arise in parts of Latin-America? Is there to be a new appraisal of the Monroe Doctrine? What is the importance and scope of the so-called British Monroe Doctrine, recently promulgated as a condition of the Kellogg Treaty renouncing war? Clearly, there never was a moment when lucid thinking was more urgently demanded.

I should not have been so bold as to embark on this somewhat ambitious enterprise, had it not been that, on a former occasion, fourteen years ago, I issued a smaller volume entitled "The Panama Tolls Controversy." That book elic-

ited the emphatic approval of statesmen, so varied in their views as President Wilson, Secretary William Jennings Bryan, as he then was; former Secretary Elihu Root, former Ambassador Choate, Mr. Lloyd George, and Lord Bryce. I have been encouraged by Viscount Grey, among others, to proceed further with a task of explanation and, I hope, conciliation. I should add that, for the treatment of the subjects as they arise, I am myself solely responsible.

It is my desire that this volume also shall be "a source book," that is, a treatise in which there will be found, not only opinion but historical data. To its preparation, I have devoted the same genuine research that a lawyer must expend upon the preparation of a complicated case, for submission to the Courts.

In preparing my earlier volume, I was assisted by Dr. J. C. Freehoff, the well-known statistician and authority on public utilities, who has aided me with his counsel on this later occasion. Dr. Freehoff has had the benefit of twenty-one years' experience on the Public Service Commission of the State of New York, and is one of the best authorities available on the subject. When I have entered special fields, I have, therefore, based my conclusions on the best expert advice.

I acknowledge also the contribution of Philip C. Jessup, Professor of International Law at Columbia University, who upon reading the manuscript wrote that, as a result of his examination, he agreed with "its general scope and plan," and further that "it presented ideas which the people of this country should be familiar with and ponder."

The problem of the Caribbean is inherent in the problem of seapower. My approach to this whole situation is based on two propositions. First, it is essential that, as Americans, we should be familiar with the actual record of what, in our treaties and other declarations, we promised to do and

not to do. I have to confess that when I began my study, I was most imperfectly aware of what these commitments really had been.

My second proposition has been stated by Professor James T. Shotwell in an address which he delivered at the Berlin Institute of Political Science. He insisted that, as long ago as 1776, Adam Smith had liberated economic thought from the doctrine that one nation's gain is another nation's loss; and, argued Professor Shotwell, the same principle applies to politics.

It has taken the statesman of the world a long time to catch up with the economist, but he is arriving at that point at last. President Hoover has put the proposition in an even more definite form, and has applied the principle to modern affairs. In a speech delivered at Boston on October 15th, 1928, he said:

Trade in its true sense is not commercial war; it is vital mutual service. The volume of world trade depends upon prosperity. In fact, it grows from prosperity. *Every nation loses by the poverty of another. Every nation gains by the prosperity of another.*

In other words, the national security of one nation contributes to the national security of every nation. If the policy of the United States in the Caribbean is wisely directed, it will be no challenge but an actual assistance to the rest of the world.

When my former book was published, the country was resounding with controversy over the Panama Tolls. Believing in repeal of those exemptions, I indulged in argument. That phase of the problem was brought to an end by President Wilson's courageous action and it is possible now to adopt what I hope may prove to be a judicial tone. At the same time, it is undoubtedly within the power of the United States again to enact the exemptions. There are

still proposals in certain quarters that such a step should be taken. Indeed, the very statute which reveals the exemptions in the Panama Canal Act, contains a provision which suggests that there is still an open question :

That the passage of this act shall not be construed or held as a waiver or relinquishment of any right the United States may have under the treaty with Great Britain, ratified the twenty-first of February, nineteen hundred and two, or the treaty with the Republic of Panama, ratified February twenty-sixth, nineteen hundred and four, or otherwise to discriminate in favor of its vessels by exempting the vessels of the United States or its citizens from the payment of tolls for passage through said canal, or as in any way waiving, impairing or affecting any right of the United States under said treaty or otherwise, with respect to the sovereignty over or the ownership, control and management of said canal and the regulation of the conditions of charges of traffic through the same.

It will be apparent, therefore, that here is no closed controversy. The price of correct diplomacy, like the price of liberty, is continual vigilance.

These pages thus embody two complementary theses—first, that the United States has rights in the Caribbean which she must not hesitate to assert, and secondly, that by virtue of those very rights, she has to remember obligations to mankind as a whole. In his speech, delivered at Arlington on Memorial Day, May 30th, 1927, President Coolidge put the point in his usual clear terms.

We want our relationship with other nations to be based not on a meeting of bayonets but on a meeting of minds. We want our intercourse with them to rest on justice and fair dealing and the mutual observance of all rightful obligations in accordance with international customs and law.

It is a definition, then, of such international custom and law that we must seek and apply not only to the case of the Caribbean but to the entire range of maritime activity. We

use the word, international, as President Coolidge uses it, not as an epithet wrongly appropriated by political parties and social groups which are opposed to private property. The term, as it is here employed, has no relation to Communism or any cult. The right to own, accumulate, give, and bequeath private property has, in our judgment, always been and always will be, the foundation stone of civilization. It is thus in its strict legal sense that we discuss "international" law. By it, we mean the rights and duties, which are international, and relate to a world highway as distinguished from rights that are merely national when such a highway is within a sovereign state.

It was Carl Schurz who said:

My country, right or wrong;  
If right, to be kept right;  
If wrong, to be set right.

The United States has grown greatly, in power, in wealth, in prestige. That she will discharge her immense responsibilities with a due regard to the interests of mankind, is the firm faith of the writer; and it is in pursuance of this faith that he has devoted himself to the task of setting out certain equitable interests involved.

## II

### CUTTING THE ISTHMUS

LET us dismiss from our minds, first of all, any idea that the Panama Canal has been a project recently developed by the ambitions of the United States. For centuries, men have dreamed that, one day, it would be possible to proceed across the Isthmus along a waterway connecting the Atlantic and Pacific oceans. Columbus supposed that such a waterway might be natural and he searched for the straits that did not exist. Other explorers continued the search, and it was only when it was found to be fruitless that projects for artificial transit began to be developed.

The first highway across the Isthmus was constructed from Panama on the Pacific to Nombre de Dios on the shores of the Caribbean Sea. This overland route was completed in 1519. In 1533 the Chagres River was made navigable from the Atlantic side to Venta Cruz, which reduced the overland route to a distance of only 20 miles and added a land and water route to the previous all-land route across the Isthmus. The all-land or overland route was shortened 15 miles in 1597 by the substitution of Puerto Bello for Nombre de Dios as the terminus. These routes are forerunners of the Panama Railroad opened in 1855, and of the Panama Canal, opened in 1914.

Other overland routes were constructed at Tehuantepec and Nicaragua. But the difficulty of such transit led to the consideration of plans for a canal. The first recorded suggestion of an artificial waterway connecting the two oceans bears the date of 1529. Panama, Darien, Nicaragua and



Tehuantepec were mentioned as places that might be available for the purpose. Each of these routes had advocates until consideration was narrowed down to that at Panama and the other at Nicaragua. In 1534 a survey of the land from the point where the Chagres River ceases to be navigable to the Pacific was begun by Charles V of Spain with the view of extending water transit across the Isthmus. This is the first official act looking to the construction of an Isthmian canal. The report of the commissioner, who made the survey, declared that the obstacles to be overcome were so great that even the resources of the most powerful monarch were not adequate for the purpose.

In 1567 a survey for a route by way of Nicaragua was ordered. The report was as unfavorable as the previous report on the Panama route. After this report, further consideration of an all-water route across the Isthmus was abandoned. Spain had, by this time, acquired a monopoly of the land routes across the Isthmus, and through them completed its monopoly of South American commerce including the rich output of precious metals on the west coast. This monopoly was so profitable and the maintenance of it was considered so vital that the opening of new routes including an all-water route was forbidden. An all-waterway came to be considered as strategically unwise because of its temptation to other powers from whose interference the overland trails were free. Spain continued this policy until the beginning of the 19th century.

Interest in a possible canal was then revived as a result of explorations by Humboldt. The Spanish Cortes thereupon passed a decree for the construction of an Isthmian canal and provided the legal basis for the formation of a company to undertake the enterprise. Soon thereafter the Spanish provinces of Central and South America declared and established their independence, and so the undertaking

CULEBRA CUT, PANAMA CANAL, JUNE 1913



passed out of the control of the Old World. It was this passing of control to the New World that became permanent when the United States adopted the Monroe Doctrine.

From and after this time American capitalists interested themselves more or less in the construction of an all-water route across the Isthmus. This prompted the federal republic of the united provinces of Central America to seek the coöperation of the American people through overtures to the State Department. In the year 1825 Secretary of State, Henry Clay, responded favourably. He assured the representative of the new republic to the south of the keen interest of the government of the United States in the undertaking, as an Isthmian canal would exert a profound influence on the affairs of mankind.

The need of improved transit across the Isthmus became increasingly apparent to those who had to use the overland trails. The treaty of 1846 with New Granada (now Colombia) was the concrete expression of this need. New Granada granted a charter to the Panama Railroad Company in 1848 which company was incorporated by a special act of the New York Legislature in 1849. The railroad was completed in January, 1855, and in August, 1881, it became the property of the French Canal Company which purchased the property for \$25,000,000.

It is here that we encounter that other waterway which will ever be the counterpart of the Panama. In the year 1869, De Lesseps completed his great achievement at Suez, and it was to the Isthmus that he next turned his attention.

Concessions had been secured from Colombia by French interests in 1876 for the construction of such a canal between Panama and Colon, and a company was immediately organized for the purpose of carrying out the undertaking. An amended charter was secured from Colombia in 1878. In 1879 the concession was transferred to De Lesseps to be

by him transferred to a new company to be organized under his control.

The new company prosecuted the work amid vicissitudes, financial and sanitary, until February, 1889, when it became insolvent and a receiver was appointed to take charge of its property. Up to this date some \$260,000,000 had been raised and disbursed. Some \$40,000,000, according to American engineers, were expended for concessions, organization and in excavation, the balance being the loot of financial buccaneers. The receiver continued until May 15, 1889, when he was compelled to suspend further operations for lack of funds.

A new company known as the Panama Canal Company was incorporated on October 28, 1894, to take over the concessions and other property of the old company and to secure the completion of the canal. It was organized solely for the purpose of becoming the vendor of the aforementioned assets, and of interesting either France or the United States in the undertaking.

It will be seen, then, that the history of the Isthmian Canal began with Spain, was continued under France, and when the United States was drawn in had been littered with failure, with blighted hopes and—especially under de Lesseps—with wasted treasure.

In 1898, the Spanish American War changed the entire situation. The United States became an active power in the Caribbean, and the cruise of the *Oregon* around South America from the Pacific to the Atlantic in 1898 focused American opinion. Therefore, on March 3, 1899, President McKinley appointed a commission to investigate all possible routes for a canal across the Isthmus and to determine which would be the most available. This commission reported in favour of a canal by way of Panama and Colon, provided the rights and property of the Panama Canal Company

could be purchased for \$40,000,000. The Panama Canal Company immediately sent word to the commission offering all of its assets to the United States for that amount. Thereupon the Spooner Act was passed, authorizing the President to acquire all "rights, privileges, concessions and property" of the Panama Canal Company, and to acquire from Colombia on such terms as he might deem reasonable, the land needed in the construction and management of a canal by the Panama-Colon route. The same Act authorized the President, after securing sufficient title to the land now known as the Canal Zone, to proceed to construct a canal of sufficient capacity and depth to afford transit to vessels of the largest tonnage then in use and of such larger tonnage as may be reasonably anticipated.

The work of the French company had been mainly in the Culebra Cut and it had been organized on the assumption that ultimately the Canal might embody locks or, alternately, might be designed for continuous sea level. This was the work which by the year 1914 the United States carried to completion.

American inter-coastal trade was relieved from the toils and perils of nine thousand miles of navigation around Cape Horn through stormy seas, with the attendant burden of wasted effort, shipwreck and loss of life. The geography of the Western Hemisphere was transformed and the trade routes of the world had everywhere to be adjusted.

To achieve what George W. Platt writing in the *New York Herald* has called "the consummation of the mightiest and longest dream for the benefit of mankind in the history of the world," no fewer than 40,000 men labored for ten years. Says Mr. Platt:

On the gripping historical canvas of Panama appear the heroic figures of Columbus, Vespucci, Balboa, Cortez, Pizarro, De Soto, Paterson (founder of the Bank of England, who vainly sought

control with his Scottish settlement), Drake and Morgan, the buccaneers; Grand, De Lesseps, Amador, Bunaw-Varilla, Goethals, Roosevelt and Gorgas, to mention a few among the great of all time.

The Panama Canal, and any other canal that may be built across the Isthmus of Panama, must be regarded, then, as essential international highways of commerce, of which the United States makes use, for which the United States is trustee. The development of such canals has been and will be inevitable. It is an element in that human progress which includes the railway, the automobile, the airplane and the use of electricity by wire and over the air.

### III

#### THE INTERNATIONAL PHYSICIAN

CRITICS who accuse the United States of expansionist tendencies in the Caribbean usually forget one dominating circumstance. For centuries the Caribbean had been a hot-bed of disease, and for centuries this disease had spread northwards and taken toll of tens of thousands of American citizens. If aggression is to be alleged, it was wholly on the side of the Caribbean, and its weapons were malaria and yellow fever, the deadliest invaders imaginable, which respect neither treaty nor any sovereignty save death.

In any study of the Isthmian Highway, there must be included, then, the conquest of disease. The story of this triumph, as here told, is based upon a number of records, notably *Walter Reed and Yellow Fever* by Dr. Howard A. Kelly and descriptive articles in the *New York Times* of various dates, and other journals. I have to acknowledge, moreover, my indebtedness to Dr. M. Benmosche, an eminent surgeon of international experience and member of the Surgical Staff of Mount Sinai Hospital who prepared a memorandum on which I have relied for many scientific details. Dr. Benmosche writes:

It is not difficult to understand that the world's sanity and happiness are directly proportionate to the state of its health. The emergence from the Dark Ages was marked by the last of the really great plagues that have ravaged mankind from time immemorial. This was the "Black Death," which convulsed and devastated Europe by a great series of epidemics in the 14th century. Plagues, apparently less grave in their severity and seriousness, followed

through the 15th, 16th, 17th, 18th and 19th centuries. It was in the 17th century that the Great Plague of London appeared and wiped out over 68,000 people in a population estimated at 460,000 in a year's time while the disease was at its height.

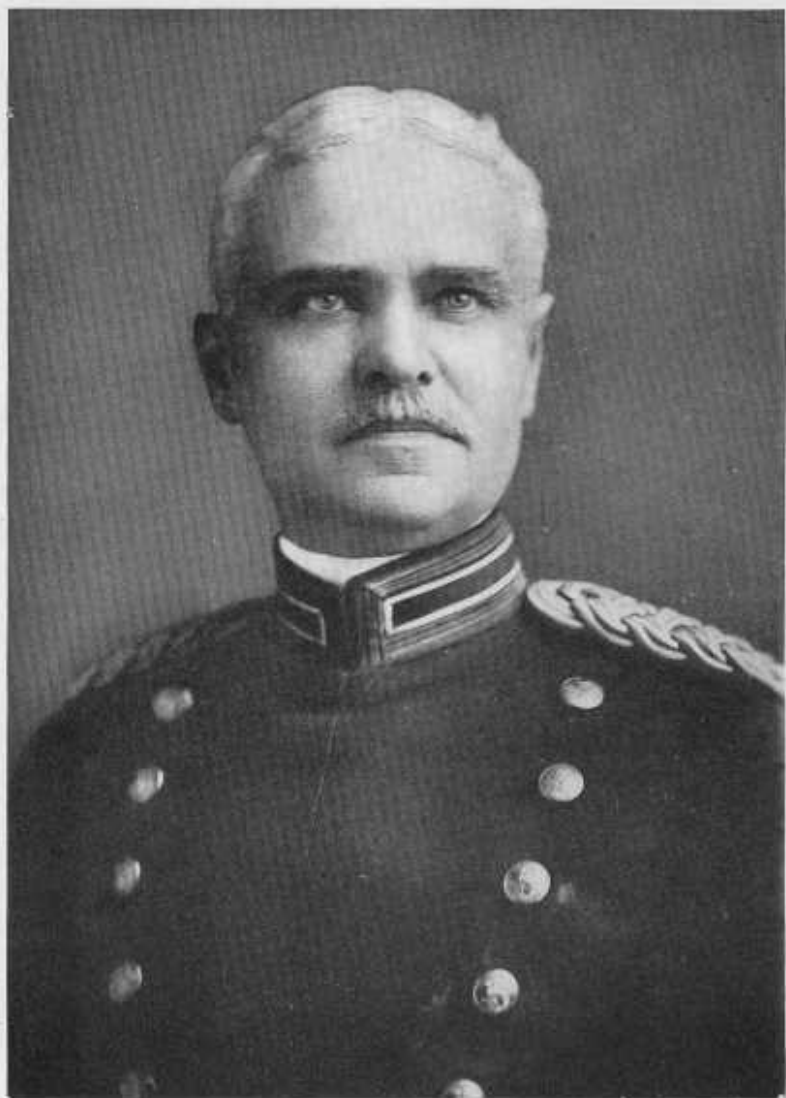
The various plagues were not alone responsible for the enormous depletion of the human race from time to time. There were and there still are a number of diseases, peculiarly confined within certain geographical boundaries, that continue to take their toll of human lives. Then again we have to recognize that, apart from the deep and irreparable rents made in the prevalent social fabrics by these pathological processes of depopulation, we have the inestimable losses in terms of economic values. And so, when we consider the great strides made by those intrepid pioneers of preventive medicine, through the agencies of hygiene, sanitation, and scientific research in making this world safe for humanity in their warfare against disease, we become impressed with the tremendous benefactions they bestowed and poignantly cognizant of the everlasting debt due them for countless generations to come.

Of the plagues that have afflicted mankind, there are two that affected the Caribbean area. The first was Yellow Fever and the second was Malaria.

Among the diseases to which human beings are subject, yellow fever has been the most deadly. The origin is obscure. It has been traced to the Aztecs in Mexico. It has been attributed to slaves brought from Africa. According to a report by the American Association for Medical Progress, the pestilence "is peculiar to the American Continent and tropical America was its great stronghold." A force sent by Napoleon in 1800 to Haiti was destroyed by yellow fever. Here a village and there a boat's crew—so we read—were decimated.

In Havana, the disease was chronic and frequently it spread northwards. Before the United States became a nation, the Colonies had lost 100,000 citizens by what Longfellow called "the pestilence" and, as "death flooded life," one victim was Evangeline's lover. In 1793, one tenth





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MAJOR GENERAL GEORGE W. GOETHALS

of the entire population of Philadelphia was swept away, and according to the *Outlook* of April 6th, 1927, the United States was visited seventy-seven times by yellow fever during the nineteenth century. In 1855, New Orleans was a sufferer from an epidemic; in 1878, no fewer than 25,000 persons fled from the yellow fever which was raging in Memphis, Tennessee. In the southern cities, as recently as fifty years ago, there was thus a loss of 16,000 lives and an economic loss of \$100,000,000. An instance is recorded in which yellow fever killed 1411 soldiers out of a force of 1500.

In 1898, the Spanish American War was brought to a conclusion and the Army of the United States occupied the regions most seriously infected. A year later yellow fever broke out among the Manila soldiers. The rate of sickness was 600 per 1000 of the troops. General Leonard Wood, who supervised sanitation for the army, had to see one-third of his staff succumb to disease; the other losses were described as frightful, and the army as a fighting machine was incapacitated. Its plight was pitiful.

To examine into the causes of yellow fever and the method of its transmission, a Commission was appointed, consisting of Major Walter Reed, Dr. James Carroll, Dr. J. W. Lazear and Aristide Agramonte. The work began in the heat of June, 1900.

Born in 1851, Walter Reed, a Virginian and the son of a Methodist minister, had grown up amid the horrors of the Civil War. At the University of Virginia, the Bellevue Hospital in New York and at Johns Hopkins, under the famous Professor William Welch, he had been a master of medical research. He had also practiced as an assistant surgeon in certain isolated garrisons in the Far West where settlers expected a doctor to face any and every emergency. On proceeding to Cuba, he was thus known as a brilliant

and a resourceful bacteriologist. Two years before, he had been appointed to study the causes of typhoid among the troops in active service. He held, moreover, the office of Curator of the Army Museum and its laboratory in Washington where he published reports on malarial fevers at Washington Barracks and Fort Meyer.

The Chief Sanitary Officer in Havana was Surgeon General William Crawford Gorgas. Himself laid low at one period by malaria, he had been zealously cleansing the city of age-long filth and his staff produced elaborate reports upon the prevalence of yellow fever. But there was no discovery of the causes of the epidemic. To quote Mr. Poore, "the yellow dragon went on his lethal way," and "the ghastly riddle of the fever defied the world." In the words of Dr. Benmosche :

In the light of our present knowledge and all that went to establish it, we can be forgiven our amazement at the report issued by the officers of the United States Marine Hospital Service, as to their accepted mode of the transmission of yellow fever. Among many things it states that the disease was spread by articles of bedding, clothing and furniture. To quote, "the present opinion is that one has not to contend with an organism or germ which may be taken into the body with food or drink, but with an almost inexplicable poison so insidious in its approach and entrance that no trace is left behind."

This was the confused situation which Walter Reed was to clear up.

As early as 1848, Dr. Josiah Clark Nott of South Carolina had suggested that yellow fever might be communicated by mosquitoes. It was, apparently, no more than a guess at truth, but in 1881, Dr. Carlos H. Finley, a Cuban physician, pursued the idea further. But although he tried for years to demonstrate his "hallucination," he could never show a case of such actual transmission.

In the meantime, Sir Ronald Ross had been developing the methods of sanitation for the control of malaria for which in 1902 he received the Nobel prize. His work covered the years 1895-1899, and, as Dr. Benmosche puts it:

consisted in the use of screens to keep mosquitoes out, the clearing away of all rubbish, killing mosquitoes by fumigations, oiling all stagnant waters, the drainage of swamps and filling in of all pools and puddles. Ross's investigations were based on the epoch-making discovery, by Sir Patrick Manson, that the mosquito was the intermediate host of *Filaria sanguinis hominis*. One year after, Alphonse Laveran, a French army surgeon, discovered the cause of malaria to be a parasite which passed through certain life-cycles in the blood of the patient suffering with this disease. Thus we observe how the establishment of one scientific fact leads to another, and how the universality and interrelationship of all science leads to its own progress.

To the final investigation, there was a significant prelude. In 1897, Reed and James Carroll

were appointed by Surgeon General Sternberg to investigate the claim of Professor Sanarelli of Bologna that the *Bacillus Icteroides*, which he found, was the cause of yellow fever. It was Sternberg's belief that Sanarelli's bacillus was identical with his own Bacillus X, which he had observed some ten years previously. The uncertainty was finally and definitely settled by Reed, who proved that neither bacillus entered into the causation of yellow fever, but that both of them were identical organisms, responsible for a variety of hog-cholera, which Reed had frequently observed while working at the Johns Hopkins Hospital.

Walter Reed asked himself whether the discoveries relating to malaria might not apply also to yellow fever. It was considered significant that, according to Henry R. Carter, an army surgeon, working along the Mississippi, people who went to an infected house immediately after a case of yellow fever had been reported, did not catch the disease.

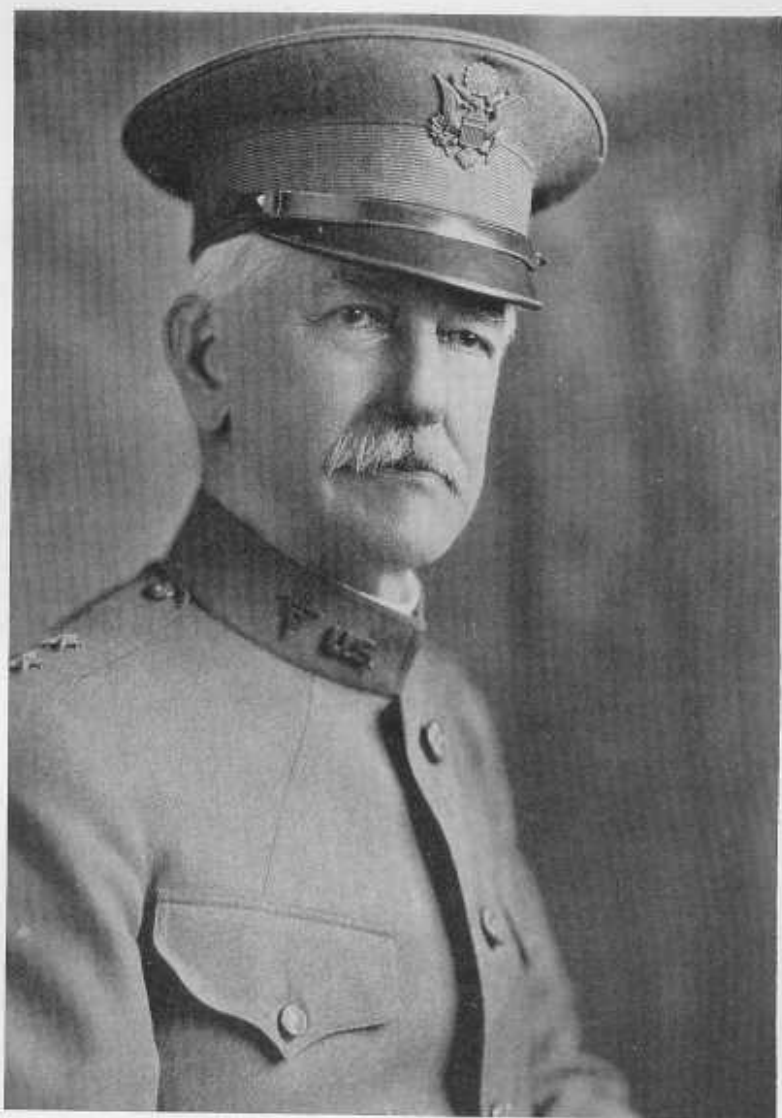
It was a providential coincidence that, at this juncture, men so far-seeing as General Wood and Major-General Gorgas were in control of sanitation, respectively, throughout Cuba and in Havana. Still Gorgas at first took little notice of the mosquito theory of the transmission of yellow fever, but believed that filth was mainly responsible for the apparent contagiousness of the disease, so that, by the middle of 1900 Gorgas had made Havana, in his opinion, the cleanest city in the world, and yet he was chagrined to see more cases of yellow fever than had been seen for many years previously.

There was much academic discussion of the whole matter, which continued until July 1900 when Reed went to the Pinar del Rio Barracks where yellow fever was prevalent. There he made his first important observation that an individual could not contract the disease unless he had been bitten by a mosquito.

The theory of transmission by mosquitoes could only be proved, however, by experiment on living subjects, a matter of serious difficulty. At that time, animals were supposed to be immune from yellow fever, and if the experiments were to be of value, therefore, human beings must be selected and at a serious risk to human life.

In the simple scientific terms of the report by the American Association for Medical Progress, we have the narrative of heroism that was now displayed:

Volunteers were called for and the Commissioners insisted that they themselves should be included. Every man knew that he was likely to die, but he also knew that in so dying he might save thousands of his fellow men from death. The volunteers permitted themselves to be bitten by mosquitoes which had previously bitten yellow fever patients. Lazear was one of the first, and he soon became ill with yellow fever and died in convulsions. Carroll almost died; for three days his life hung in the balance. The experiment was continued on eleven other men, and as nine of them



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SURGEON GENERAL WILLIAM CRAWFORD GORGAS

contracted yellow fever, Reed felt justified in saying that the disease was carried by mosquitoes.

Still there were many men who were not convinced, and Reed and his associates decided to repeat the experiments under conditions which would leave no doubt that the results were conclusive. In a lonely place, a mile from the nearest habitations, they established an experimental station, and placed an armed guard around it. It was named Camp Lazear. An immune hospital steward brought supplies from Camp Columbia, but no other intercourse with the town was permitted. A small frame building was put up and screened to prevent mosquitoes from getting in or out. The interior was divided into two apartments, separated by wire mosquito netting. Two susceptible men were put into this building, one in each compartment, and there they remained for several days, subjected in every way to the same conditions. When they had lived there in good health long enough to prove that there could be no infection, Reed put fifteen infected mosquitoes into one of the compartments, and presently declared that compartment to be infected. When the man in the infected compartment had been bitten by mosquitoes, Reed took him out, but returned him for a short time later in the day, and again on the following day, until altogether he had been bitten fifteen times. Meanwhile two men were left in the compartment which contained no mosquitoes. These men remained perfectly well, but in four days the man who had been bitten went down with yellow fever.

Reed, after simply removing the fifteen mosquitoes, declared the infected compartment disinfected. A non-immune soldier was then placed in each compartment and the two remained perfectly well for several days.

Even the skeptics now admitted that yellow fever could be transmitted by mosquitoes, but they still maintained that this was not the only means of transmission. The volunteers then submitted to a further series of most unpleasant experiments, and finally proved conclusively that yellow fever is not contagious and that it is transmitted only by mosquitoes.

To the memory of Lazear, who died to save hundreds of thousands of lives, there is a modest tablet in Johns Hopkins University. The names of the "two susceptible men" are known also throughout the world. When Reed called for

volunteers, Private John R. Kissinger and a civilian clerk, John T. Moran, both from Ohio, came forward. Dr. Reed told them plainly of the risks. Disease, he explained, would be most probable. Of the diseased, said he, bluntly, 85 out of a hundred died. As for the financial reward, it could not be more than a small government pension.

The two volunteers stipulated here that there should be no reward of this kind, and Reed rose from his chair, saying, "Gentlemen, I salute you." Such moral courage had, as he testified, "never been surpassed in the annals of the army."

In December 1900, Reed wrote to his wife:

It is with a great deal of pleasure that I hasten to tell you that we have succeeded in producing a case of unmistakable yellow fever by the bite of a mosquito. . . . Rejoice with me, sweetheart, as, aside from the antitoxin of diphtheria, and Koch's discovery of the tubercle bacillus, it will be regarded as the most important piece of work, scientifically, during the nineteenth century. . . . Major Kean says that the discovery is worth more than the cost of the Spanish War.

On February 27th, 1927, Dr. Henry Emerson Fosdick offered this moving comment:

Do you recognize the names of James Carroll and Walter Reed and Jesse Lazear and Private Kissinger? Yet they were saviors, too, in this world. They saved mankind from yellow fever. For many a long century it had taken its toll of millions. It never will again. They stopped it; and the principle of the Cross holds true: you cannot get such salvation on this earth without sacrifice. To allow yourself deliberately in Cuba to be bitten by mosquitoes in order to see if, perhaps, that is what causes yellow fever, to do it when you have a wife and children and love life as well as any man—is not that worthy of the Master's encomium: "Greater love hath no man than this?"

James Carroll did that and he went down into the dark valley of a dreadful death and barely came back again. Then Jesse Lazear,



wanting to be scientifically sure that they were on the right track, did that. He went down into the valley of the shadow of the dreadful death and he never came back again. Then Walter Reed wanted to try it with extra precautions to make assurance doubly sure, but he was too old and they would not let him, so he posted a notice in the American camp that he wanted volunteers to face death in the fight against yellow fever. Before the ink was dry, Kissinger, who was a private, and Moran, who was a civilian clerk, had volunteered. Well, they won their fight. They are all dead now except these last two, and Kissinger is paralyzed from the effects. They never had any glory and reward. Their widows today are living on government pensions of \$1,500 and, more shame to us, out in the Middle West Kissinger's wife has taken in washing to support him. But they won their fight. They stopped one of the most devastating scourges that ever cursed mankind.

[Let us add that the nation, by public subscription, bought and presented to Kissinger his home.]

In 1902, Walter Reed died of appendicitis. "I leave so little," said he with unconscious irony, as he lay awaiting the end. But over his tomb at Arlington, there is an inscription stating that "He gave to man control over that dreadful plague, yellow fever"—after all, a commendable legacy. A great hospital in Washington bears his honoured name and his modest home at Belroi, Gloucester County, Virginia, built originally for the overseer of a plantation, is now a national monument. The service rendered by Reed and his comrades was indeed, as it has been written, "beyond estimate and beyond reward."

Self-sacrificing gods were they in soul—  
Scientist and Volunteer—

Emblazoned names through time on glory's scroll.

It was owing to these dramatic investigations that, in the words of Dr. Benmosche:

yellow fever is known to be a specific, infective tropical disease, caused by a parasite, which resembles in its life-history the parasite

of malaria, and is transmitted by the domestic mosquito, the *stegomyia fasciata*. It has been definitely and scientifically proven that without this mosquito, which acts as a host to carry the germ from a yellow fever patient which it has bitten to a prospective victim, there would be no yellow fever. The immense value of this apparently simple truth, and the vast scientific researches which established it, make the one thrilling chapter in this historical treatise.

By actual enforcement, it had been shown that individuals kept in contact with blankets, sheets and pyjamas, polluted beyond description by yellow fever patients, failed to develop yellow fever, as long as mosquitoes were rigorously excluded. On the other hand, when blood was drawn from a yellow fever patient and injected into a non-immune subject like Private Jernigan, he was brought down with yellow fever in four days.

Against the mosquitoes of Havana, as carriers of yellow fever, war had thus to be declared. It was a war that for seven months was pressed with the utmost vigour. The mosquitoes were killed wholesale by fumigation and their breeding places were sought out and destroyed. The result was an overwhelming success. For the first time in 140 years, Havana was set free from a terrible scourge.

The narrative, of which Walter Reed is the hero, leads us to a conclusion which, though simple, is fundamental to our argument. To yellow fever and malaria there are not and there never will be frontiers. Disease and health are, by their very essence, inter-national. It followed that a Sanitary Battalion, responsible for the health of the Isthmian Highway, might have to operate at any time beyond the strict limits of the Canal Zone itself.

It was a contingency for which the Treaty with Panama itself, concluded in 1903, had to make provision by Article II:

. . . 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 said enterprise.

On December 3rd, 1904, this provision was defined more precisely by an executive order of the United States which contains the following:

The United States will construct, maintain, and conduct a hospital or hospitals, either in the Canal Zone or in the territory of the Republic at its option for the treatment of persons insane or afflicted with the disease of leprosy and the indigent sick, and the United States will accept for treatment herein such persons of such classes as the Republic may request. . . .

Of this extension of the responsibilities of the United States, the Republic of Panama approved. We submit, moreover, that the other Central American Republics, interested in the Caribbean, with the world in general, not only acquiesced in the acts of the International Trustee, but applauded the achievements of the Sanitary Battalion. Indeed, we present this acceptance of the position as an international precedent, in which there is admitted the right of the United States to extend her protection of health and property to whatever area may be necessary to the security of the Canal itself.

Major Gorgas, in command of sanitation, became in fact, a co-builder of the Panama Canal with Colonel Goethals himself; and it was Major Gorgas who applied to Panama the methods which Walter Reed had applied in Cuba.

At first sight, the problem seemed now to be simple. The city of Panama was no more than one-twelfth the size of Havana and the only thing needed was to go straight ahead. A fumigating squad used 120 tons of pyrethrum, the entire

supply in the United States, in smoking out mosquitoes from the houses and, three times over, the city was subjected to sulphur, of which in all, no less than 300 tons were consumed. Yet the yellow fever continued! During the years 1904 and 1905, the fever increased and unacclimatized whites were decimated.

According to Dr. Howard A. Kelly, "the Canal Construction Commission, ignorant and unsympathetic, became highly critical, excepting only General George W. Davis, the governor, who allowed for initial difficulties and continued his hearty support." A succeeding Canal Commission "looked askance at the Sanitary Corps as a horde of impractical, wild, and visionary theorists, and that too with the background of the splendid history of Havana." In April, 1905, several higher officials died of yellow fever, which was the last straw. There was even a demand "that the Chief Sanitary Officer—Gorgas—and Dr. Henry K. Carter and those who believed with them in the mosquito theory, should be relieved, and men with more practical views appointed in their stead."

Happily, the President was Roosevelt, who, during the fight with yellow fever in Havana, had been in office and therefore knew the subject. He stood firmly for the mosquito theory against the old idea of propagation by filth, and ordered that the utmost assistance be rendered to the sanitary officials. A little later the Sanitary Department was made an independent bureau and reported direct to the Chairman of the Commission. The importance of this change in status was soon apparent.

It was found that, by an unintentional defiance of sanitary laws, the French, during their previous occupation, had been devoting their efficiency to the actual propagation of yellow fever. The very hospitals, consecrated to the relief of such maladies, were transformed into ideal places for the breed-

ing of mosquitos by the inclusion in their design of gutters under their roofs, barrels for rain water, to say nothing of discarded cans and bottles. The grounds were laid out with all the taste in which the French excel and were enriched with a profusion of tropical plants. But as a safeguard against the umbrella ant, which pest will in a single night sever every leaf from a good sized orange tree, the grounds were surrounded with a hollow ring of pottery, kept full of water and precisely suited for the multiplication of mosquitos.

By orders of Dr. Gorgas, the shrubbery was removed a distance of 200 yards from the Ancon Hospital. What had been the botanical grounds were carefully drained and all pools were eliminated. The umbrella ants were traced to their holes and were destroyed by pouring in bisulphid of carbon which vaporized and was exploded, so drawing the gas into all parts of the nest.

As a result of these efficient measures and of the scientific skill, revealed in them, there was only one case of yellow fever developed within the Ancon Hospital during the American management of that institution, this despite the large number of cases introduced for treatment during the years 1904 and 1905. The single exception was a nurse who frequently visited an infected part of the town. Her escort was a doctor and, after her recovery, he married her!

With equal vigour the sanitary authorities undertook the eradication of malaria. In this case, it was the anopheles mosquito that had to be slaughtered and the problem was rural rather than urban. The areas bordering the canal, fifty miles in length and ten miles in breadth, were divided into 24 sanitary zones with sub hospitals, tributary to the main institutions, at the end of each territorial corridor. Every such district was served by a staff of 20 to 100 men. It was found that the anopheles is not a mosquito of strong

flight and by means of clearance of 200 yards breadth, and the use of screened houses with only one door, the danger was reduced to a minimum. For any mosquitoes that effected an entrance, a test tube, with chloroform held by cotton wool, was found to be a deadly weapon. Near swamps, screened box cars were used for sleeping and persons exposed to infection were dosed with prophylactic quinine.

Major Gorgas tells us that, in his opinion, the years 1905 and 1906 were the halcyon period of the sanitary department. After May, 1905, one case only of yellow fever originated in the Isthmian Zone. In November of that year, the scourge was at an end.

An example of scientific efficiency, dated January, 1905, may illustrate this achievement. On the warship *Boston*, there developed seven cases of yellow fever. It was clear that the ship itself must be infected and all cases occurred near the ward room. There had been a ball on New Year's Day, and it was surmised that some guest had been suffering from the initial stages of a mild case of fever and had been bitten by a *stegomyia* which, becoming infectious at the end of a fortnight, had spread the disease. Enough to add that the guess was confirmed by Dr. G. A. Perry of the Public Health Service who going down to the ward room discovered a small flat tub under the steps in which mosquitoes of this type were breeding.

It is not too much to say that if yellow fever—and, we may add, malaria—had not been overcome in Panama, the Canal might never have been built. In nine years, yellow fever, malaria and dysentery had cost the French no fewer than 22,189 lives of labourers. Records show that, in the case of certain groups of operatives, at least three out of four of the recent arrivals perished within two or three months of their arrival. It was the chief reason why the



*Walter Reed.*

French abandoned their project. At least one third of their force was on the sick list, and one-fifth of the force died every year.

To have provided victims for the mortality involved would have been, to say the least, an expensive task for the United States. During ten years of construction an average of 13,000 men would have been incapacitated. In fact, 12,000 of these cases, on the average, were saved, an annual saving over ten years of 39,420,000 days of sickness and of 39,420,000 in dollars. Considering what wages would have had to be paid to keep the men at work under less favourable conditions, the real saving was much greater.

On the French scale of mortality, 200 per 1,000 per annum, the American labour force of 39,000 would have lost 78,000 lives in ten years. In fact, it lost 6,630 lives. The Sanitary Department was thus directly responsible for saving 71,370 lives, with the accompanying invalidism added.

This battle against yellow fever, fought and won in the Caribbean, was fought and won for the entire human race. In Africa, the warfare is proceeding. Along the Gold Coast, at Lagos and in Nigeria, stegomyia, with her ornamental wings, and deadly thrust, is resisted by the fever field station. The records of an organization like the Rockefeller Foundation are eloquent of the principle that a victory for life and health gained anywhere is a victory of which the fruits are everywhere distributed for the benefit of mankind.



## IV

### THE INTERNATIONAL POLICEMAN

As trustee for the Panama Canal, the United States assumed a threefold responsibility. First, she had to keep order in the regions affected. Secondly, she had to secure health. Thirdly, she had to complete the construction of the canal. The policeman, the physician and the labourer formed three allied battalions of peace and progress.

The laborer worked strictly within the Canal Zone. But the policeman, wearing as it were the blue uniform of the law, and the physician wearing the white uniform of the hospital, could not operate except on a wider territory. The evils of disorder, revolt and bloodshed, were not local, and for centuries, yellow fever and malaria have cast a pall over Central America as a whole and the Caribbean Islands.

But the fact that the policeman and the physician are in evidence does not mean that the United States claims a sovereignty over these regions or ownership in fee simple and absolute. Such arrangements presuppose no more than a duty on the part of the United States to maintain the Panama Canal as an international utility.

It is important that the relations between the United States and Central America, insofar as they affect the Isthmian Highway, should be neither misrepresented nor confused.

The evidence is overwhelming that, according to her explicit declarations, the United States entered Panama, not as an aggressor but as a trustee.

In a letter, dated October 19, 1904, President Roosevelt thus addressed his Secretary of War, Mr. Taft:

There is ground for believing that in the execution of the rights conferred by the treaty the people of Panama have been unduly alarmed at the effect of the establishment of a government in the Canal Strip by the Commission. Apparently they fear lest the effect be to create out of part of their territory a competing and independent community which shall injuriously affect their revenues, and diminish their prestige as a nation.

. . . *We have not the slightest intention of establishing an independent colony in the middle of the state of Panama, or of exercising any greater governmental functions than are necessary to enable us conveniently and safely to construct, maintain and operate the canal under the rights given us by the treaty. Least of all do we desire to interfere with the business and prosperity of the people of Panama.*

At a hearing on November 28, 1904, at President Amador's Palace in Panama, Secretary of War, William Howard Taft, made the following statement which is further confirmatory:

I want to be as frank as possible in this matter and I reiterate what I said before—that the Government of the United States has no desire to *exercise any power which shall not be necessary for that purpose*, the purpose that influenced you to give us the rights that we now have, and which induced us to make promises of payment and actually to pay the money which we did pay. I concur, and the Government of the United States concurs, in the construction that all these rights were given us *solely* for the purpose of enabling us to *construct, maintain and operate the Canal*. It is not the motive that governed the conferring of those rights, but the extent of the rights necessary to enable us to secure this common object, that has been in controversy.

Secretary of War, William Howard Taft, made a speech in the presence of the President of the Republic of Panama, in the month of December, 1904, in which he said:

It gives me great pleasure to . . . say to you that the Government of the United States has no intention in being in this Isthmus to do other than to build a canal which shall connect the two Oceans and thus bring great benefits not only to your country but to the United States and mankind. It has no desire to exercise any power except that which it deems necessary under the Treaty to insure the building, maintenance and protection of the Canal.

In the speech delivered in the City of Panama on November 16, 1910, President Taft, reassuring Panama as to the real intentions of the United States, said:

We are here to construct, maintain, operate and protect a world canal that cuts through the heart of your country, and you have conceded to us the necessary sovereignty and jurisdiction over the part of your country occupied by the Canal in order to enable us to accomplish such purposes. *We do not desire any other responsibility on the part of your Government than that necessary to carry on our purpose of constructing and maintaining that Canal.*

Major General George W. Davis, U. S. Army (Retired), a member of the Isthmian Canal Commission, and the first governor of the Canal Zone, made a statement before the Committee on Inter-oceanic Canals of the United States Senate on March 30, 1906, in which the following colloquy took place:

Senator Morgan: You consider the flag of the United States as being entirely at home in the Zone?

General Davis: Yes; I consider it is entirely at home there, but whether or not technically we have a right to fly the flag of the United States in the Zone—I say technically—it seems to me might be questionable.

Senator Morgan: Have you ever raised one?

General Davis: No; and it never will be raised, I think; but since titular sovereignty resides in Panama, I think that proposition has been stated many times.

Senator Morgan: Unless you can define the word "titular," I do not think I could accept the fact.

General Davis: Well, the Hay-Varilla Treaty recognizes some shadow of what is called sovereignty as still remaining in the Panama Zone.

General Davis thus regarded the Canal Zone as an instance of what we may call assigned sovereignty. He gave instances which may be regarded as precedents:

"In 1878 the Sultan of Turkey granted to the Emperor of Austria the entire control of all governmental functions in the Turkish provinces of Bosnia and Herzegovina, and all the rights, powers, and privileges that a sovereign could exercise, yet the nominal sovereignty of these two provinces still remained in Turkey."

"In 1878 the Sultan of Turkey granted to Great Britain all the rights, powers, and privileges that a sovereign could exercise in and over the island of Cyprus."

"In 1898 the Emperor of China granted to Great Britain, by lease for so long as Russia should remain in possession of Port Arthur peninsula, the town and district of Weihaiwei. Under this lease Great Britain exercises all the rights, powers, and privileges that a sovereign could exercise in the said town and district of Weihaiwei."

"In 1898 China granted to Russia for the period of twenty-five years with right of extension, all rights, powers, and privileges that a sovereign could exercise, of and to, the Port Arthur promontory and adjacent territory."

"In 1898 China granted to Germany, by lease for ninety-nine years, all the rights, powers and privileges which a sovereign could exercise, in and to the port of Kai-Chau and adjacent territory."

"There are probably other instances of like delegation of power equivalent to sovereignty, yet, in every one of the cases cited, the actual nominal sovereignty is still in the Sultan of Turkey in the one case and in the Emperor of China in the other, just as the nominal sovereignty of the Canal Zone is still in the Republic of Panama."

We have here, in effect, the theory of mandate which, in due course, has been developed under and recognized by the League of Nations.

In his book entitled "Government of the Canal Zone," General George W. Goethals says:

"The Zone was granted to the United States for specific purposes—*'the construction, maintenance, operation, sanitation and protection of a canal,'* and while everything has been subordinated to the first of these, with the end of the construction work in sight, and the protection of the canal omitted to be dealt with separately, the maintenance and operation became of paramount importance"; p. 55.

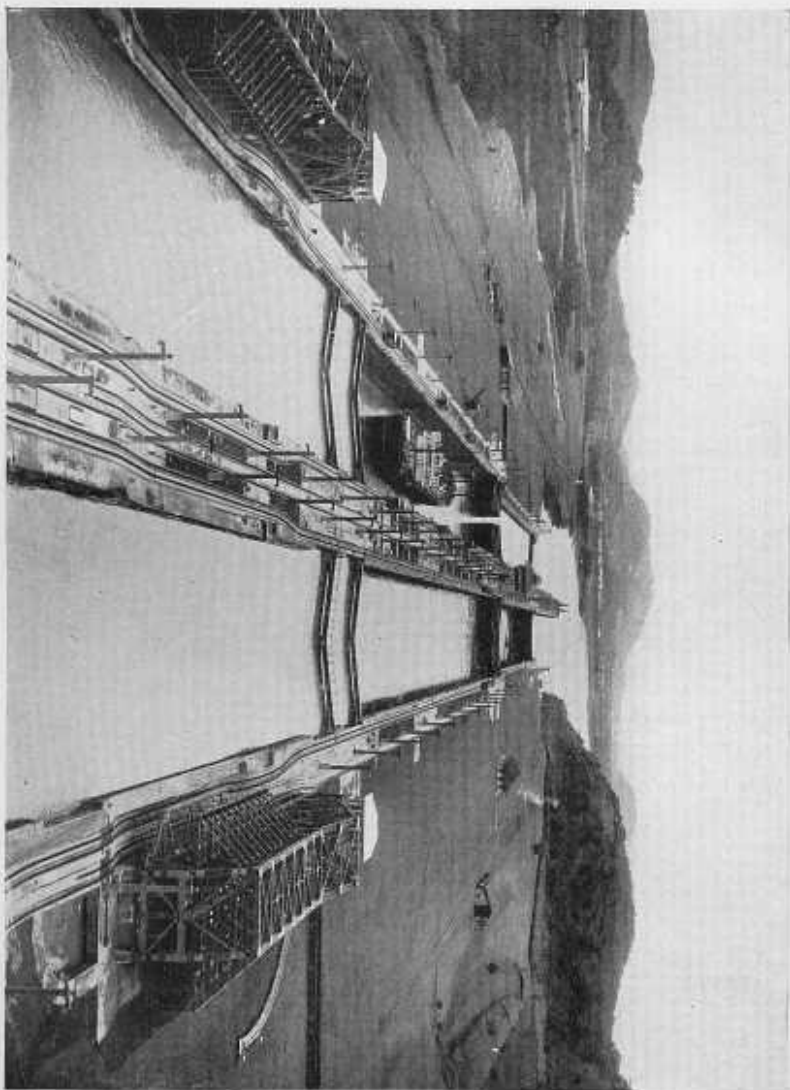
"No one came forward to take advantage of the opportunity which the law gave for leasing lands. The framers of the bill did not consider that the United States could give title in fee to any of the lands of the Zone, because should the strip fail at any time to be used for the specific purposes mentioned in the grant the land must revert to the Republic of Panama"; p. 61.

"It must be remembered that we have, after all is said and done, *only a right of way for a canal*"; p. 85.

President Ricardo Jimenez of Costa Rica on May 27th, 1927, in refusing the use of the National Theatre for a public demonstration for Segasson, the Nicaraguan Revolutionary Leader, made a fair and just statement when he said:

If I write in my communications to the President of the United States the words "great and good friend" I must be a great and good friend so long as there are no motives between his Government and mine for changing such an attitude, but I do not care that that attitude should be only on paper, *I want it also in practice.*

In the exercise of such an international authority by an individual nation, thus acting for mankind as a whole, there is nothing to be described as either new or unusual. It was by using such powers that the United States and Great Britain cleared the ocean of slave ships, and the Caribbean Sea of pirates; and at the hour of this writing, France, Italy, Great Britain, Japan, and the United States are proceeding under such self-assumed mandates, to police Shanghai, and are patrolling their warships over internal Chinese waters far from the regions of their national defense or special adjacent national interests.



MIRAFLORES: LOOKING SOUTH

The United States' record in China is well stated in the following editorial in the *New York Times* of June 6th, 1927, which, with its references to "international trains," is very pertinent to the parallel case of an international waterway:

Concentration of foreign troops (including 2,000 additional American marines) at Tientsin, in North China, has as its purpose the protection of foreign lives and interests in the event of violence. These troops serve as reinforcements for the various foreign garrisons in Peking and Tientsin, some of which have been stationed there for thirty years or more. Their use will depend on the nature of the emergency.

The situation at Peking and Tientsin with respect to the foreign garrisons is somewhat different from that at Shanghai. The Treaty Powers established guards over their respective legations in Peking prior to the Boxer outbreak. Experience proved that the numbers stationed there were insufficient to afford adequate protection. As a result, when the Legation Quarter was besieged by the Chinese, it was found necessary to send in a relief expedition, which had to fight its way from the seaport of Tientsin to the capital at Peking, a distance of about eighty miles.

When the settlement with China was made after the Boxer outbreak, the Treaty Powers continued to maintain their guards at the Legation Quarter, and, in addition, obtained the right to establish military posts at various points between Peking and Tientsin, so as to be able to keep open the communications between the Chinese capital and the sea. This right was made use of in 1912, when the garrisons in Tientsin were augmented and troops actually used to prevent the railroad between Peking and Tientsin from being cut by the Chinese revolutionists. During the last few years in times of emergency so-called "*international trains*" have been run between Peking and Tientsin, flying the flags of the Treaty Powers and protected by their armed soldiers. This has been the only method of keeping the line open—and sometimes even this has failed when the foreign Powers, unwilling to take action which might prejudice one or other Chinese faction, have permitted the road to remain inoperative for several weeks without exercising their right of opening it by force.

America's share in this work has been to maintain a guard of several hundred marines in Peking, where there are barracks in the American Legation compound to house them. We have also had at Tientsin since 1912 two battalions of the Fifteenth Infantry, which have taken their share in preserving communications between Peking and the sea and have helped to guard the "*international trains*." Incidentally, these troops have done patrol work about Tientsin during civil warfare, and have, sometimes unwittingly, helped to check outrages by the Chinese troops against the Chinese civilian population. On the drill ground of the Fifteenth Infantry in Tientsin is a placard recently erected with Chinese money to express the gratitude of the Chinese villagers in the neighborhood for help extended to them in times of trouble by the American soldiers.

Aside from the diplomatic and political aspects of moving marines from Shanghai to Tientsin there are technical advantages in that the American Government possesses extensive barracks and drill grounds at the latter place, and so can keep the men ashore all the time instead of, as at Shanghai, holding them part of the time cooped up in transports. This is better for their health and morale, and is also better for American prestige.

If, then, the Great Powers welcome the United States as a fellow-policeman in China, and even complain that this country does not go further than she is willing to go in her Far Eastern intervention, there is no reason why they should criticize the United States for acting on precisely the same principles in a region where she has acquired a definite franchise after long years of negotiation—a franchise which, unless fulfilled in good faith, will be subject ultimately to a movement, tending towards forfeiture. Central American republics did not complain of the scope of the operations of the United States, or the size of the area in Central America cleared by it of disease and pestilence. Nor did the nations of the Western hemisphere criticize the scope of beneficent operations, on the success of which depended the safe use of the Canal. So far as the commercial aspect of the enterprise



was concerned, the United States has had no other object except healthy transportation.

Much is written of the United States as "the big brother" of the smaller Latin American Republics. It must be remembered that, if the United States were to remain quiescent on all occasions, other foreign governments might insist, despite the Monroe Doctrine, on taking action of a more extreme character in the interests of order.

In the first chapter of his book, *The United States and Peace*, which deals with "The Monroe Doctrine: Its Limitations and Implications," Chief Justice Taft thus refers to Latin American countries:

We are concerned that their governments shall not be interfered with by European governments; we are concerned that this hemisphere shall not be a field for land aggrandizement and the chase for increased political power by European governments, such as we have witnessed in Africa and in China and Manchuria, and we believe that such a condition would be inimical to our safety and interests. More than this, where a controversy between an European government and a Latin-American republic is of such a character that it is likely to lead to war, we feel that our earnest desire to escape the possible result against which the Monroe Doctrine is aimed is sufficient to justify our mediating between the European power and the Latin-American republic, and bringing about by negotiation, if possible, a peaceable settlement of the difference. This is what Mr. Roosevelt did in Venezuela and in Santo Domingo. It was not that the use of force or threatened force to collect their debts by the European powers constituted a violation of the Monroe Doctrine that induced Mr. Roosevelt to act, but only a general desire to promote peace and also a wish to avoid circumstances in which an invasion of the Monroe Doctrine might easily follow.

The obligations of the United States, thus defined by a former President are indistinguishable from the obligations assumed by Great Britain, in her trusteeship of the Suez Canal—obligations clarified by treaties with nations in the

neighbourhood of that waterway. Thus, in April, 1927, at the first hint of possible danger to the Suez Canal, Great Britain sent warships as a precaution, nor did any nation complain. Indeed, it is to the interest of other nations that, on general principles affecting an international public utility, such precautions should be peacefully taken in defence of a common carrier. Great Britain and the United States, as trustees of collective civilization, having the necessary potential power, are but guarding humanity's highways, at the inter-oceanic crossroads of the Old and the New World, under a "traditional policy" to which they are eternally bound, and bound together.

One or two illustrations of these general principles may be given. Prior to the Treaty of 1915, I was in Haiti endeavouring to protect a railroad franchise in which American clients were interested. The Government was a farce. To property and life, the Republic offered no protection. Presidents came and went by slaughter. The country was full of bandits. We did not dare venture back into the interior. Officials robbed and starved the inhabitants and confiscated the property of foreigners. There were no roads. The back country inhabitants dared not come to town to trade for fear of being compelled to fight under conscription for the so-called government. Foreign powers pressed for settlement of Haitian obligations to their nationals.

It was under these conditions that the Wilson Administration arranged voluntarily a coöperative treaty under which the United States, with the aid of marines, has supervised the customs, organized the public works, the sanitation of the island and the gendarmerie.

With what result?

The annual report of General John H. Russell of the U. S. Marines, the American High Commissioner at Port-au-Prince for 1926 shows revenues of more than \$8,000,000

and a reduction within the year of \$1,225,000 in Haiti's public debt, leaving no more than a third of her fiduciary currency uncovered.

Since the signing of the Treaty of 1915, more than one thousand miles of roads have been constructed, with 15 big span bridges and more than 1,000 culverts; motor vehicles which in 1915 were three, are now 2,500; 10 major hospitals have been constructed; 21 rural dispensaries are in operation and 9 more are under construction; 100 free clinics are held monthly.

An efficient native gendarmerie, with 2,433 enlisted men, officered both by United States Marines and commissioned Haitian officers, has been built up with stations in each of the 551 "sections" of the country.

Sixty permanent modern school buildings have been constructed and are in operation.

Despite the fact that all these improvements are being currently paid for out of Haitian revenue, the public national debt has been decreased during the occupation from \$30,772,000 to \$21,603,000 and series A Haitian bonds recently have sold above par on the New York market.

The intervention of the United States in Haiti and Cuba and the intervention suggested in 1908 to the President of Panama, were in accordance with voluntary treaties of those republics with the United States authorizing such intervention in case of trouble. When disorder arose in Cuba in 1906 the United States occupied the island, just as it had done at the time of its independence, but it withdrew again after a new government had been constituted and tranquillity had been reestablished.

In the case of Panama, it must be remembered that the Republic directly adjoins the Canal littoral where the responsibility, special interest and national defense of the United States are concentrated.

When rumors spread in 1908 that election frauds would take place during the presidential elections, the Secretary of War, Mr. Taft, who had gone to Panama to inspect the work on the Canal, wrote to the President of Panama in a letter of May 12 that it was of direct interest to the United States, in case of threats of fraud in an election, to intervene in order to prevent them, and in case such frauds should occur, to hinder officials, for the election of whom the free choice of the people was not assured, from taking office. Thanks to this letter of the Secretary of War the elections took place without pressure on the part of the government.

Another instance is Santo Domingo. As far back as 1869 Santo Domingo indicated its wish to become a part of the United States, but the United States Senate by a tie vote blocked the arrangement. Since that date, Santo Domingo has been included among the approaches to the Isthmian Highway; yet the Republic had degenerated into chaos. When I was on the island, the conditions were similar to the conditions in Haiti. Chaos, bloodshed and disorder obliterated one of the world's fairest gardens.

Under the Monroe Doctrine, we were responsible to other nations for finding a remedy and, by friendly arrangement with the Republic, we took over the customs in 1905. We were compelled, moreover, to intervene to quell disorder in 1913. Again, and more forcibly we invoked the international police power in that Republic in 1914; and finally in 1915, under the Wilson Administration, the United States established, with the consent of that government, a relationship similar to that in Haiti, with a similar result.

Like Haiti, the Republic of Santo Domingo now enjoys order and tranquillity. Conditions indicate prosperity. In fact, the exercise of the police power has restored the two

sister Republics of Haiti and Santo Domingo to the family of nations.

It may be added that, in 1911, we intervened in Honduras; and again in 1913. It was the same international police power that, in both cases, was invoked.

By all means let us hope that the world has made a final end of the Nietzscheian philosophy of the superman that "might makes right." Let us assume that this negation of justice died on the fields of Flanders. But it is really not arguable that the undoubted right of the Central American republics to govern themselves should be interpreted as meaning that, situated as they are on one of the world's highways of commerce, an international highway, they are to be entitled at any time to have a violent revolution and to settle their elections by a resort to civil war. This is a claim to indulgence in disorder which is nowhere else recognized by the governments of mankind.

When, owing to negligence, Great Britain permitted the *Alabama* to be equipped as a southern privateer, in which capacity she committed depredations on the United States, the case was referred to a special court of arbitration and damages were awarded and paid. For similar damages, we hold that Mexico is liable; and China too, after the Boxer Rebellion, paid an indemnity which was none the less sound in international law because, as an act of grace, the United States applied her share to Chinese education. To damages incurred by foreigners in China during the present trouble, a similar principle of restitution must be held, in strict international law, to apply.

So with the Suez Canal. If Great Britain failed to maintain orderly transit through that waterway, the world, including the United States, would have undoubtedly a cause of complaint, nor do we doubt that, in any armed occupation of that region by the Powers, the United States

Marines, as elsewhere, would play their part. Indeed, we go so far as to suggest that, if a ship canal be completed on the St. Lawrence, bringing the Middle West into direct oceanic contact with Europe, this highway also, though situated in part within Canadian sovereignty, would be subject to the general understanding, applicable to such routes, that order must be guaranteed by the Government which acts as trustee.

The Panama Canal must be similarly regarded. If it had been completed by M. de Lesseps, and managed under French auspices, even so, the United States would have insisted on safe and regular transmission of traffic. The world has the same right to make this demand of the United States. We cannot treat these obligations as "a scrap of paper," and if in fulfilling them, we use force, we are not to be accused for that reason of descending to the imperialism of military autocracies in Europe, when these menaced the peace of the human race. The very fact that we ask other nations to refrain from dealing with disorders in Central America lays upon us an obligation ourselves to keep them within bounds.

This is no merely academic contention. A case in point, and a recent case, may be cited. Early in 1927, Great Britain was disturbed by the troubles in Nicaragua. There is evidence that, before proceeding to a formal correspondence, she consulted the United States by friendly conversation. We need not suppose, then, that, in what followed, there was any challenge to the Monroe Doctrine. Indeed, until we have more satisfactory arrangements by treaty with Nicaragua and Panama which arrangements are under negotiation, we must expect that incidents with other powers—perhaps, delicate incidents—will arise.

The British Ambassador wrote to the Secretary of State on February 19, 1927, as follows:



U. S. TRANSPORT "NORTHERN PACIFIC" PASSING CUCARACHA  
SLIDE, DECEMBER 4, 1913.

His Britannic Majesty's Ambassador presents his compliments to the Secretary of State, and has the honor to state that he has been instructed by His Majesty's principal Secretary of State for Foreign Affairs to draw the attention of the United States Government to the menace to British lives and property arising from the present disturbances in Nicaragua. In particular, His Majesty's Government has been advised by His Majesty's Chargé d'Affaires at Managua that the hostilities between the rebels and Government troops have now resulted in a situation which threatens the safety of British lives and property in Corinto, Leon, Managua, Granada and Matagalpa.

In view, therefore, of the grave risks to which British residents in Nicaragua are now exposed, His Majesty's Ambassador has been instructed to remind the United States Government that *His Majesty's Government looks to them to extend to British subjects, and especially to those in the places above mentioned, the same measure of protection as they afford to United States citizens in the districts now threatened by revolutionary disturbances.*

The Secretary of State replied to the British Ambassador as follows:

The Secretary of State presents his compliments to His Excellency, the British Ambassador, and in reply to the latter's note No. 130, of Feb. 19, 1927, concerning the protection of British lives and property in Nicaragua, has the honor to inform the British Ambassador that the American armed forces which have been landed in Nicaragua for the protection of American and foreign lives and property *will be pleased to extend to British subjects such protection as may be possible and proper under the circumstances.*

The British Ambassador's next note to the Secretary of State was as follows:

I have the honor to inform you, on instructions from His Majesty's principal Secretary of State for Foreign Affairs, that His Majesty's Government has reluctantly decided to send a man-of-war to the West Coast of Nicaragua and that H.M.S. *Colombo* is being dispatched to Corinto. She should arrive at Colon on Feb. 24 and at Corinto on Feb. 25.



His Majesty's Government feels that the presence of a war vessel may have a moral effect and would be a base of refuge for British subjects.

It is of course not intended to land forces and the commanding officer will be instructed accordingly.

In informing you of the above, I am instructed to express once more to the United States Government the thanks of His Majesty's Government for their assistance, and to add that His Majesty's Government will continue to rely on it.

The despatch of a British cruiser was also announced in a telegram, dated February 22nd, 1927, and addressed to the Department of State by Mr. Charles C. Eberhardt, the United States Minister at Managua.

I have the honor to inform your Excellency that in the absence of Guarantees from the Nicaraguan and United States Governments for the protection of the lives and properties of British subjects in the event of further street fighting, incendiarism and pillage, in the threatened districts of this Republic, His Britannic Majesty's Government are reluctantly contemplating the despatch of a man-of-war to the western coast of Nicaragua.

It is with pleasure that I am instructed to inform your Excellency that His Majesty's Government thanks the Government of the United States once more for its assistance and still continues to rely thereon.

At the Pan-American Conference of 1928, held at Havana, Mr. Hughes, representing the United States, was confronted by a difficult situation. As he said later at Princeton, "the people of the Latin American Republics resent intervention of any sort, of any possible description, anywhere. They are not disposed to draw distinctions or to admit justifications."

In his Princeton Lectures, entitled *Our Relations to the Nations of the Western Hemisphere*, Mr. Hughes emphasised the distinction drawn by Judge Bassett Moore between "political and nonpolitical intervention"—the latter being,

in the words of Professor E. M. Borchard, "non-belligerent interposition," based on the duty of protecting citizens abroad.

In a statement issued subsequent to the Conference, Judge Morgan J. O'Brien, formerly President of the Supreme Court of New York, and a Democrat member of the American delegation to Havana, endorsed the attitude of Mr. Hughes in emphatic terms, so indicating that it is representative of opinion in the United States, irrespective of party.

On April 26th, 1927, President Coolidge defined the situation thus:

It is all right to say that when our citizens enter a foreign country they should do so with the understanding that they are to abide by the laws of that country. They should and they do, and our Government would be the last to interfere in the just application of the law of his domicile to our citizens. But this is only a partial statement of the case. The admission of our citizens within their territory is a voluntary act of foreign governments. It is a tacit invitation. When we permit foreigners to come here, and when other countries admit our citizens, we know and they know that such aliens come and go not only under the rights and duties imposed by domestic law, but also under the rights and duties imposed by international law. There is nothing unfair, nothing imperialistic, in this principle. It has been universally adopted and recognized as right and just, and is the only reasonable method by which enlightened humanity can safeguard friendly intercourse among the citizens of different nations. This policy has been adopted in furtherance of the humanitarian desire for a universal reign of law.

Finally, we have President Roosevelt who, in 1904, spoke as follows:

Chronic wrongdoing, or an impotence which results in a general loosening of the ties of civilized society, may in America, as elsewhere, ultimately require intervention by some civilized nation, and in the Western Hemisphere the adherence of the United States to

the Monroe Doctrine may force the United States, however reluctantly, in flagrant cases of such wrongdoing or impotence, to the exercise of an international police power.

The term Latin-America is often used in senses not wholly accurate. As the dispute over Tacna-Arica has shown, to say nothing of similar disputes in Central America, we have here a civilization, by no means homogeneous whether in politics or race. Speaking in New York on Feb. 28th, 1928, Señor Carlos Silva Vildesela, the Chilean delegate at Havana, paid the highest tribute to the pronouncement on intervention made by Mr. Hughes, and added the significant remark:

You don't realize that there are fundamental differences among the Latin-American nations.

[The sudden development in December, 1928, of the trouble between Bolivia and Paraguay adds point to the remark.]

The entire situation has to be viewed in the light of rapidly developing financial and commercial relations by which Latin-America is linked not only with the United States but with the rest of the world.

## V

### THE ARITHMETIC OF IT

It was thus by the associated efforts of Colonel Goethals as an engineer, and of Major Gorgas as a sanitary officer, that, in 1914, the Panama Canal was completed and opened for traffic.

The true character of the great undertaking has been obscured somewhat by two considerations. In the first place, the Isthmian Highway is managed, not by a private corporation, but directly by the government of the United States. In the second place, the Highway is an important element in the protection of the United States against attack. These factors have suggested, and rightly, that the Panama Canal is a national undertaking. But we need also

taking. Indeed, it is as a commercial and not as a military undertaking that its use is international and therefore a mat-

laid a railroad. This railroad, like the Canal itself, belongs to the United States. But the railroad is organized as the Panama Canal Railroad Company, that is, as a corporation, and it is the stock in this corporation that the United States owns. Presumably it shapes its conduct in the management of this enterprise by the laws it has enacted for the regulation of corporations owning interstate railroads. If it does, the rates charged will yield no more and no less than a reasonable return on the investment. This is the basis upon which the railway corporations are permitted to charge rates under the Interstate Commerce Act.

Before a corporation can build a street railway, a steam railroad or any other public utility in the State of New York, it must obtain from the proper authority a certificate of public convenience and necessity, including permission to exercise it. The avowed purpose of this procedure is to protect the public against the investment of an excessive amount of capital in such enterprises and then charge it an exorbitant rate to secure a fair return on the capital invested. In New York State, the law limits capital to the amount needed to render a safe and adequate service and then limits the rate or charge to the amount required to give a reasonable return on the investment.

I submit that there is no material difference in principle between the Panama Canal Railroad Company, as a public utility, and the Panama Canal itself. The ownership of stock in one case corresponds to the perpetual leasehold granted in the other case; and it is only in name that the investments differ. The essential function, that is, traffic, is the same. After all, transportation, whether by rail or by water, is equally transportation, be it of persons or of goods. Indeed, the construction of the Panama Canal by the United States was continued in succession to the owner-

ship of the New Panama Canal Company, and I venture the opinion that the financial administration of the Canal would have been greatly simplified if, from the outset, there had been organized a separate corporation to handle the business end of the enterprise.

Indeed, I am satisfied that the United States will eventually be compelled, in justice to its taxpayers, as well as the interests of the world in general, to put the commercial phase of the Panama Canal into the hands of a Public Utility Common Carrier Corporation modelled after that of the Emergency Fleet Corporation, now operating ships and acting as common carrier on the high seas, thereby completely separating its commercial accounts from those which pertain to defense. There is no other practicable way to protect the taxpayers and to fix tolls that are "just and equitable" to all in its commercial use.

It seems to me, if I may be so bold as to say it, that the great work accomplished by Colonel Goethals and Major Gorgas is still awaiting the master hand of a trained financier. During the period of construction, there was no attempt, apparently, to adopt a comprehensive financial policy; and not yet is the balance sheet of the Canal presented in a form which would be satisfactory to the accountants of a properly managed business. Happily, it is not too late to reduce the accounts to order.

In insisting on this friendly criticism, I desire to avoid all possibility of a misunderstanding. I do not suggest that, during the construction of the Canal, there was either waste or dishonesty. That is not at all the point that I desire to press home. Assuming as we are entitled to do, that such irregularities were wholly avoided, we may still appreciate the vital importance of having the finances of the Canal arranged in a scientific form. Only by such a clarity can

the United States safeguard the rights of her citizens and perform her duty to mankind.

The trouble is not administration. It is not the officials responsible for the conduct of the Canal who are to blame. On the contrary, these officials are conscious of the difficulties under which they have to fulfil their task on its financial side—a conclusion which we may draw from the “Annual Report of the Governor of the Panama Canal for the Fiscal Year Ended June 30th, 1922.” We read:

The treatment of interest in connection with the amortization and depreciation reserve caused some complication in canal accounting. The interest accrual will be entirely theoretical, since the canal does not have control of the funds which would ordinarily be set aside by business concerns for accomplishing the purpose for which the charges are made. The United States, through the repayment of amounts covering such charges, is in a position to save the accrual of interest of the funds so repaid; therefore, it seems entirely proper for the canal to take credit for interest on funds theoretically set aside, which funds it could and would set aside if it had control of the same.

I believe that all those who have examined into the financial transactions of the canal will now agree that it is necessary to keep the appropriations of The Panama Canal on a continuing basis and that the reserves which have been built up should be continued as a working fund.

This passage is sufficient indication that the blame—if blame there be—for the present unsatisfactory situation does not rest with representatives of the United States on the Isthmian Highway. The root of the trouble is to be traced to the system which legislation has imposed upon the officials. If an adequate system of accounts is to be adopted, there will have to be new legislation correcting the faults of the old. The changes, here to be outlined, could not be effected without statutory authority, granted by Congress.

At first sight, it might seem as if the strict and commercial accountancy to be applied to the Panama Canal, which I am about to advocate, were of no more than an academic importance. I shall now submit that this accountancy is fundamental to the trusteeship of the United States over a great international public utility. All the facts concerning the enterprise should be assembled and set out in their proper relation to the politics and the material interests of the world at large. The administration of the Canal is not correct unless it secures to the United States the last penny to which she is entitled and determines accurately what is the share of revenue which the commerce of the world should provide. It is the larger issues involved in finance that will justify, I hope, a discussion which must be technical, though I trust that I have made it as simple as the nature of the case permits.

The revenues earned by the Canal are paid into the Treasury at Washington as Miscellaneous Receipts. Expenditure on the Canal is paid out of the Treasury at Washington in much the same manner. Up to this point, there may not be any specific reason for complaint. In the management of the post offices, whether of the United States or of Great Britain, it is a principle of public finance that the Treasury shall receive and shall disburse all items. It is, however, in the subsequent accounting that we discover serious omissions.

To begin with, it is evident that the accounts of the Canal and the accounts of the Government should be presented in two statements, as separate from each other as if the Canal had been a distinct corporation, only connected with the Government, if at all, owing to the financial backing of the Treasury. For the Canal, as for a distinct corporation, there should be a balance sheet, showing at any particular



moment precisely what has been the investment in the enterprise and what is its financial condition.

The General Balance Sheet for the Canal, presented on June 30th, 1926, was as follows:

## DEBITS—ASSETS

Canal fixed property.....	\$236,115,089.01
Canal equipment .....	4,140,923.88
Cash due treasury.....	193,296.68
Cash working .....	2,346,898.87
Accounts receivable .....	795,926.04
Business property .....	30,341,290.56
Stores .....	4,045,530.67
United States Treasury.....	71,815,510.79
Theoretical interest accruals.....	614,276.05
National defense expenditures.....	112,662,732.60
Undistributed business capital.....	1,813,000.00
	<hr/>
Total .....	\$461,258,475.15

## CREDITS—LIABILITIES

Canal transit and business capital.....	\$273,673,818.51
National defense capital.....	112,662,732.60
Accounts payable .....	1,522,114.10
Unclassified canal credits.....	20,561.02
Amortization .....	1,903,435.69
Depreciation .....	5,667,204.16
Repair reserves .....	1,803,731.42
Gratuity reserves .....	538,632.72
Canal surplus .....	58,393,182.47
Business surplus .....	5,073,062.46
	<hr/>
Total .....	* \$461,258,475.15

It will be seen at once that this balance sheet offers no sufficient information as to the profit actually earned or the

\* The failure of these figures to total accurately is, perhaps, significant. They are printed as officially presented.



GATUN SPILLWAY AND DAM

loss actually incurred during the year in question. I will suggest, then, the steps which, as I submit, should be taken to put the accounts into a proper shape.

To begin with, there should be a careful ascertainment of what capital has been invested in the Canal. In the term, capital, there should be included the early deficits incurred by the Government during the period when the Canal was not yet a going concern. All such annual deficits—as in the case of a railroad running through new territory—should be treated as an interest-bearing liability due to the United States; and, in that liability, there should be included whatever interest has accrued at a reasonable rate on the whole capital invested. In popular terms, the United States should be credited with whatever has been spent on the construction and the inauguration of the Canal, with interest up to date. This total investment, thus definitely ascertained, should be expressed in Panama Canal Bonds, the charges on which, whether for interest or for amortization, should be borne by the Canal as a commercial undertaking.

As matters stand at present, the United States has been unfair in some ways to herself. We have seen the Treasury footing bills, the burden of which clearly should be borne by the traffic through the Isthmian Highway. In some cases, these charges fell directly upon the taxpayer—an injustice which, for the future, Congress should prevent by Statute. With regard to such illogical contributions to a common carrier, made up to date, I suggest that they be accurately computed and charged to a suspense debit, carrying interest. The money, thus accounted for, should be repaid into the United States Treasury out of surpluses earned by the Canal and so allotted to the relief of the taxpayer who, in the first instance, ought never to have been asked to submit to the burden.

It should be realized that the United States rejected a

*Ullrich's account of the Canal by the Panama and*

*[Redacted]*

*[Redacted]*

*[Redacted]*

*[Redacted]*

*[Redacted]*

*[Redacted]*

*[Redacted]*

*[Redacted]*

*[Redacted]*

*[Redacted]*

In the report on the Panama Canal for the year ending June 30th, 1926, there is no complete statement of income and expenditure. By assembling all the available items, I have arrived, however, at the following result:

## GENERAL INCOME STATEMENT

*Revenues:**Canal transit revenues:*

Tolls .....	\$22,927,456.03	
Taxes, etc., Canal Zone.....	64,128.48	
Postal receipts .....	143,037.90	
Interest on bank balance....	10,000.00	
Miscellaneous revenues .....	514.12	
	<hr/>	\$23,145,136.53
<i>Canal transit expenses:</i> (A) ..	11,038,613.93	
Less incidental earnings.....	3,045,145.46	
	<hr/>	7,993,468.47
Net canal transit earnings.....		\$15,151,668.06
Canal business revenues ...	\$15,874,478.07	
Canal business expenses (A)	15,033,167.78	
	<hr/>	
Net canal business earnings.....		841,310.29
		<hr/>
Net canal earnings.....		\$15,992,978.35

I would draw attention, first of all, to the two items, marked (A), and entitled respectively, "Canal Transit Expenses" and "Canal Business Expenses." From those items, the expenditure on defense, whatever it may have been, should be excluded. This would mean that the net revenue of the Canal, namely, \$15,992,978.35, would be increased by the total of those amounts and would be greater, therefore, than the sum named.

It is by these steps that we arrive at the final question whether the Canal is really making a profit or a loss; and this is a question to which, as the accounts now stand, no

one can give an answer. For against the net earnings of the Canal, there are to be debited certain "fixed charges." These are:

- (1) Interest on Bonds and other Capital invested in the Canal, including initial losses on development.
- (2) The Amortization of this Capital.
- (3) Depreciation.

Since the investment in the Canal has never been ascertained, the first item is, to this day, indeterminate. It follows that the second item must be indeterminate also.

Depreciation is also indeterminate. Yet, as every business man knows, there could be no more important item in a balance sheet. Clearly, the operating revenues of the Canal should be so adjusted as to provide for a reserve, adequate to cover the actuarial estimate of whatever physical deterioration has been suffered by the Canal as a going concern. All such obsolescence of plant, inadequacy and other contingencies should be covered in successive balance sheets. For by no other method of accounting is it possible to equalize the real burden of the Canal over a suitable period of years, and ensure that this burden falls on the traffic and not on the taxpayers of the United States.

So far as we are able to gather from the figures, no account has yet been taken of the payments of \$25,000,000 and \$10,000,000 made on behalf of the Canal to the Republics of Colombia and Panama respectively that is, of a capital expenditure amounting in all to \$35,000,000, nor of the \$250,000 of annual rental paid to Panama.

In this chapter, I am content to limit my appeal to one simple objective, namely, financial lucidity. The appeal may be summed up and visualized in a draft of the Balance Sheet for the year ending June 30th, 1926, as it ought to have been presented. The items entitled "not available" or "incomplete" will emphasize the preceding argument:

THE ARITHMETIC OF IT  
GENERAL BALANCE SHEET

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ASSETS

*Fixed Capital:*

Canal fixed capital.....	Incomplete
Canal equipment .....	\$4,140,923.88
Undistributed business capital..	1,813,000.00
Unamortized operating losses...	Not available

Total fixed capital.....	Not available
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*Current Assets:*

Cash on hand.....	\$2,346,898.87
Cash due treasury.....	193,296.68
Accounts receivable .....	795,926.04
Stores .....	4,045,530.67

Total current assets.....	\$7,381,652.26
Sinking Fund—Cash and Investments.....	None
Suspense items .....	(?)
Total assets .....	Not available

LIABILITIES

Accounts payable .....	\$1,522,114.00
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*Reserves as reported:*

Unclassified canal credits.....	\$ 20,561.02
Depreciation reserve .....	5,667,204.00
Amortization and sinking fund reserve .....	Insufficient
Repair reserves .....	1,803,731.42
Gratuity reserves .....	538,632.72

Total reserves .....	Incomplete
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*Capital:*

Bonds outstanding .....	Not available
Surplus .....	“ “
Total .....	Not available

Total liabilities .....	Not available
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It is thus a fact, for the years 1914 onwards, that we have no information of the true profit and loss on the Canal. These figures are simply not available, and have to be included in any statement of accounts, merely as a reiterated mark of interrogation. We cannot tell what is the excess of loss over profit during this period of development—an adverse balance which, of course, should be carried into the balance sheet and subjected to amortization. It is this series of omitted statistics which represent the case for financial exactitude in all the departments which are included in the Panama Canal as a commercial enterprise.

An American newspaper has thus referred to the commercial policy of Great Britain:

While Great Britain has maintained freedom of commerce, the Germans have surrounded their territory with tariff barriers and have extended to special interests all sorts of favors in the way of Government-controlled transportation rates and the like. Their aim has been not open competition such as the English have offered, but exclusive trade so far as they have been able to obtain or enforce it. And they are so obsessed by their own ideal that they seem unable to understand that another nation, particularly a rival nation, can have a different one.

We are far from contending that British foreign policy has always been unselfish or free from mean motives. History contradicts any such assumption. But we are persuaded that in the matter of commerce it has more and more nearly approached the highest level of fairness, self-dependence, and faith in the final efficacy of freedom and quality. It will be a great blessing to the world, it will immensely strengthen the chances of general and lasting peace if, at the close of this war, the spirit that has animated the English policy of commerce can be made to prevail.

On the whole, we believe that this tribute represents the facts.

Yet we doubt whether any nation can be trusted to hold



an unrestricted monopoly without temptation to abuse it. The fleecing of the world's commerce by the Suez Canal Company was at one time so grave an injustice that British ship owners themselves talked of financing an alternative waterway. On the Panama Canal, as traffic develops and as debt is amortized, there is a prospect of large surpluses which would enable the suzerain authority to adjust rates. There might arise a danger, indeed, of laying on shipping a burden equal to several times the actual cost of management.

On March 27th, 1928, Senator McKellar proposed a resolution providing for the construction of a canal across Nicaragua at an early date. In his speech to the Senate he said that "it will not take long for the Panama Canal to pay for itself and furnish a very substantial income." These are words which, we think, deserve careful interpretation. We have suggested that the revenues derived from the Canal should provide amply for the amortization of the capital invested in the enterprise, for depreciation of those assets which do depreciate and for the payment of a just interest on the capital outstanding. But we cannot agree that in addition to these charges the United States is entitled to levy tolls calculated to yield a margin in relief of her own taxation. We are sufficiently wealthy as a nation to ignore such opportunities of deriving a profit which is contrary to the true and accurate definition of a public international trusteeship.

It is a principle of public utilities that such rates should be subject to revision by superior authority. In 1915, we read:

The Public Service Commission of the Second District, which has jurisdiction over telephone companies, rendered a decision in the pending New York City telephone rate case yesterday in which it ordered important reductions other than those agreed to by the New York Telephone Company in its statement of March 4, 1915.

The New York Telephone Company accepted this order for a reduction in telephone rates. It was estimated that it would save the customers of the company about \$2,700,000 a year.

Of the same import is the following from a decision rendered by the Public Service Commission for the First District on March 16, 1915:

On and after May 1, 1915, and for a period of three years thereafter, the maximum price to be charged by said The New York Edison Company for electric service furnished by it in the city of New York, exclusive of the installation and renewals of electric lamps, shall be eight cents per kilowatt hour.

The following excerpt from a news item of a metropolitan daily is to the point:

In a statement given out last night by the New York Edison Company it is announced that the cut in the maximum rate will be accompanied by a general revision of all its rates, and so practically all its consumers will get their light and power cheaper. It is reckoned that this will cost the company about \$1,750,000.

To collective civilization, it is thus of the utmost importance that Great Britain shall not waive the rights guaranteed to her in the Hay-Pauncefote Treaty. Indeed, we go further.

The United States has a great opportunity at once of disarming suspicion, promoting good will and of setting an example in the keeping of solemn engagements. She would be well advised to ask the Hague Court to appoint an auditing (advisory) committee to represent the interests of collective civilization in this international waterway. Such a committee would safeguard the reputation of the United States and assist the President in fixing rates, within the discretionary limit fixed by the Panama Canal Act, that would