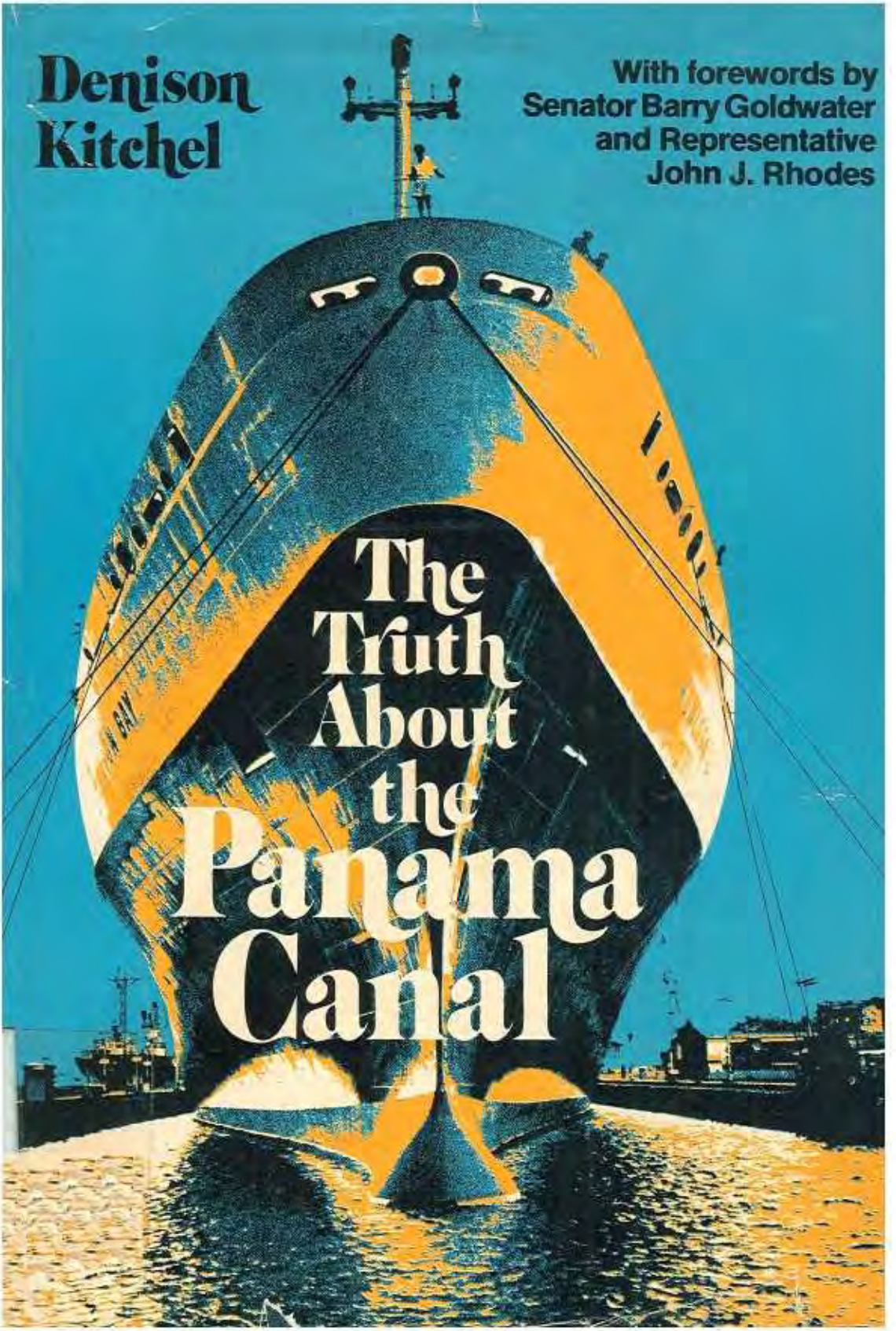
Denison Kitchel

With forewords by Senator Barry Goldwater and Representative John J. Rhodes



The Truth About the Panama Canal

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With forewords by
Senator Barry Goldwater and
Representative John J. Rhodes

The Panama Canal: "We bought it, we paid for it, and it's ours, just like Alaska!" "It's the last vestige of American imperialism. We stole it from Panama. We should give it back!" "It's essential to our national defense." "It's no longer important to our security."

For years the debate about this vital waterway has simmered. Now it is raging. With no fanfare, four U.S. presidents have worked to turn the Canal and the Canal Zone over to Panama, even though a big majority of Americans say, "Hang on to it!" Last September President Carter asked the Senate to ratify two treaties that would end American control of the Canal. What followed was a debate, not yet over, that went to the root question: Is America in retreat, even in its own hemisphere?

In this fascinating book, painstakingly researched, attorney Denison Kitchel explores the *whole* question. The Canal issue is complex. Mr. Kitchel clears it all up, generating light where we have had mostly heat. With scrupulous fairness he traces the history of American involvement, the building of the Canal, and the diplomatic and political developments that brought us where we are today—including, of course, the full story of the original 1903 treaty.

The author then evaluates the legal, defense, foreign policy, and economic issues.

continued on back flap

The Truth About the Panama Canal

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Denison Kitchel

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To N.D.K.

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Foreword

SENATOR BARRY GOLDWATER

In the many years I have known Denison Kitchel, I believe the one thing that I have observed as the hallmark of everything he does is his complete dedication to the task at hand. In this book he has combined that dedication with a thoroughness of research and an incomparable writing style to shed light on one of the most complicated and emotional issues of this century.

A few years ago, he began talking with me about the Panama Canal because it was quite obvious even then that negotiations which had begun under the Johnson Administration would ultimately be completed and translated into a new treaty governing our relationships in the Canal Zone. This book is extremely important because it not only traces the history of the Panama Canal from the time when it was merely an impossible dream until it finally became the principal thoroughfare connecting the Atlantic and Pacific oceans, but because it brings that history right down to date. It does this with a precise attention to detail and to the prevailing sentiment of the American people and American officials at the times the various events that shaped this history were transpiring.

Many people have preconceived ideas of what the Canal problem is all about. Many of these ideas are based on sloppy historical conclusions. Mr. Kitchel has sought out and related the truth as he sees it. He has approached the problem from the standpoint of what is ultimately best for the United States, both in the immediate future and for years to come.

This is the perfect volume for people who want to thoroughly understand all of the intricacies of the Panama Canal problem. The book is easy to read and it's easy to understand.

Foreword

REPRESENTATIVE JOHN J. RHODES

One day during the spring of 1942 I was interrupted in my work as assistant adjutant at Williams Field, Arizona, by a young man in civilian clothes with a manila folder in his hands. He had in his folder orders from the War Department commissioning one Denison Kitchel of Phoenix, Arizona, a first lieutenant in the Army of the United States and ordering him to active duty as a "statistical officer" at Williams Field, an advanced-flying-training base. None of the headquarters personnel had heard of him, but because his papers were in order, I instructed him to raise his right hand and proceeded to administer to him the oath of office.

In a very few days Lt. Kitchel was fully uniformed and could salute well enough to get by in the Army Air Corps. Shortly thereafter, it became necessary for our commanding officer to prefer charges against a retreaded World War I flying officer of some note, a former member of the famous Lafayette Escadrille. He was the individual who during the Paris World War I victory celebration flew a fighter airplane through the Arc de Triomphe. After World War I he had flown for the Poles against

the Russians, for the Greeks against the Turks, and then continued to operate as a flying soldier of fortune in various parts of the world. Unfortunately, he had deteriorated somewhat between wars and had developed a drinking problem that rendered him incapable of performing his duties. However, he refused to resign and therefore was court-martialed. In all, 29 charges of misconduct were filed against him. Because of his prominence, we all realized that he must be given a defense counsel who had the ability to do a thorough job.

At that time, anyone who appeared before a court-martial was presumed to be guilty or he wouldn't be there. The defense counsel usually was an officer who had been shanghaied into the job and merely wanted to get it over with. The commander of the field and I went through our officers roster very carefully and finally agreed that Lt. Kitchel was the man for the job. To make a long story short, Kitchel did such a thorough job of preparation and such an outstanding job presenting the evidence, bringing out the good side of his "client," that the officer was acquitted on 28 of the 29 charges.

The next day the base commander decided to have Kitchel on his side in future court-martial situations and named him post judge advocate. He also placed him in command of one of the crack school squadrons. Not long after that Lt. Kitchel was ordered overseas.

All of us, of course, were sorry to see Kitchel leave, but we recognized he had ability far beyond any of the administrative and legal positions we could give him.

He had a remarkable record in the Eighth and Twentieth air forces as an intelligence officer. After the war he came back to his law practice in Phoenix. About the same time, I was relieved from active duty and, having taken the Arizona bar examination during the war, was ready for the practice of law. When I had had my shingle out for a short period of time, I renewed acquaintance with Denison Kitchel, and we have been warm personal friends ever since.

Our longest period of close relationship came during the presidential campaign of 1964. Barry Goldwater, my good friend and colleague for many years, decided to become a candidate for president. He appointed as his "head honcho" my old friend, Denison Kitchel. He served as Barry Goldwater's campaign manager throughout that fascinating but ill-fated campaign. Though the campaign was not successful, everyone who came in

contact with Kitchel was deeply impressed with his capabilities and energies. There can be no doubt in the mind of anyone who has been close to him through the years that he is endowed with the finest mental equipment the Good Lord has available.

I have known for some time that Kitchel was engaged in a study in depth concerning the Panama Canal. When he asked me to read his manuscript, I was pleased to do so, of course. He has done what I consider to be an outstanding job of presenting in highly readable form the background of the current controversy and the various considerations essential to its solution.

I have known few issues facing the people of this country that have aroused the depth of emotion provoked by the proposed Panama Canal treaties. Mr. Kitchel's calm, deliberate analysis of the problems involved comes as a welcome relief from the harsh and unproductive rhetoric that has come from both sides of the issue. He places the proposed treaties in clear perspective, and he does it well. Anyone who reads this book will be much better equipped to come to a rational decision regarding the proposed treaties than he previously was, whether or not in the final analysis he agrees with the conclusions of the author.

My good friend, Denison Kitchel, has performed a real service for his country, and for those of its citizens who are fortunate enough to read this very fine book. Those of us who know him would have expected no less.

Preface

Seldom thought of but long cherished as a part of our national heritage, a symbol of unique national accomplishment, the Panama Canal has suddenly become a national storm center.

Out of the blue, the American people are told that their leaders are committed to giving up the Canal, that we are going to get out of Panama, that we are going to pay Panama billions of dollars to take the responsibility for operating and defending the Canal off our hands, that these things *must* be done, that there is no other course. The average American is stunned and bewildered.

Two years ago, while studying the treaty negotiations between the United States and Panama, I became concerned that just such a situation would develop and that when it did millions of Americans, including myself, would be faced with a fateful decision we would be ill-equipped to make.

I knew my own instinctive feelings about the Canal. But I also knew that, aside from brief exposures to the Canal issue on two earlier occasions, I had no real understanding of the problem. I decided then to try and find out for myself, objectively and

thoroughly, what it was all about. As a result, my entire time for two years was devoted to that quest—research, study, inquiry, interviews, discussions—in the United States and in Panama, and to compiling the results. This book is the result of that effort.

In this project I had considerable encouragement and help from such friends as Senator Barry Goldwater, former Senator Paul Fannin, House Minority Leader John Rhodes, William J. Baroody, president of the American Enterprise Institute in Washington, D.C., and Dr. G. Warren Nutter of the University of Virginia, former assistant secretary of defense for international security affairs. In addition, I had the cooperation and assistance of officials in the National Security Council, the State Department, the Defense Department, and the Joint Chiefs of Staff.

My deepest debt of gratitude is owed to my beloved wife, Naomi, and to two friends of longstanding, Chester W. Dudley, Jr., and William A. Evans. Others to whom I am most grateful for assistance of varying sorts are Charles S. Burns, Howell S. Randolph, Frederic S. Marquardt, Susan Conway, and, most particularly, capable, dedicated Hazel Plowman. But for her this book would remain a mass of hieroglyphics on blue-lined paper.

A word about the title. From the outset and during most of the writing, it was, tentatively, "The Panama Canal Dilemma." But the distortions and omissions of fact that characterize the current debate have turned the resolution of that dilemma into a rhetorical brawl. The new title, *The Truth About the Panama Canal,* has been selected, not with any claim to omniscience, but in the hope that it will encourage a search for that truth in the consideration of this important issue.

Phoenix, Arizona
November 1977

DENISON KITCHEL

The Truth About the Panama Canal

"What's wrong with me? For thirty years I never gave a thought to the Panama Canal. Now suddenly I can't live without it."

Drawing by Handelsman; © 1976 The New Yorker Magazine, Inc.

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The Panama Canal Dilemma

During the past several years the Panama Canal has been referred to on many occasions as a time bomb. The basic facts about Panama, the Canal, and the United States are so simple that, at first blush, to talk about a dilemma, much less a time bomb, seems almost laughable.

Panama is a small Central American country with only two cities of any size and a population of 1.7 million. It has no military power. It has no developed mineral treasure. It has a mini-economy. Its one great natural resource is its geographic location, its superior suitability as the site for an interoceanic waterway.

In fact, the only thing Panama really has going for it is the Panama Canal, which splits it right down the middle and links the Atlantic and Pacific oceans. The Canal runs through what is known as the Canal Zone, a strip of jungle land and water 10 miles wide and 50 miles long, over which the United States exercises exclusive control, dividing the Republic of Panama into two completely separated halves.

The United States built the Panama Canal at a cost of some

$350 million to itself and no cost to Panama. Altogether, the U.S. now has an investment of about $7 billion in the Canal enterprise. The Canal is maintained and operated by the United States. The Canal is defended by the United States.

The United States did and does these things under a 75-year-old treaty with Panama that gives it the right to do them forever —"in perpetuity" are the treaty's words. For this right the United States made a down payment to Panama of $10 million. To keep it, it pays Panama $2.3 million a year. In addition, Panama derives some $250 million each year in indirect income generated by the Canal activity. This represents about a fourth of Panama's annual gross national product and a third of its annual earnings from foreign exchange.

What could be a better situation from Panama's standpoint? Or from ours? Where is the dilemma? Why a time bomb?

Well, Panama says she wants the Canal. And Panama says we had better give her the Canal, or else.

Or else what? This is nonsense. Tell them to forget it.

Unfortunately, at this stage of the game it is not that easy.

The main reason it is not that easy may come as a complete surprise to millions of Americans. It is just this: For the past 13 years, under four presidents—Johnson, Nixon, Ford, and Carter —the executive branch of our government has been committed to, and negotiating towards, the prompt return of the Canal Zone to Panama and the ultimate transfer of the Canal itself and the responsibility for its defense. In September 1977 the president of the United States and the chief of state of Panama signed two proposed new treaties accomplishing those very objectives—that is, if they are ratified by both countries.

Incredible? Probably so to many, because this policy and its implementation have been carried out over the years almost surreptitiously so far as the general American public is concerned. At least, no real effort has been made until very recently to tell the American people what was going on or to give them the reasons. This is one of the seeds of our dilemma.

It *is* incredible. Nevertheless, it is so. We are committed, not legally, but officially and perhaps morally. This is the number one reason why we cannot just tell a small, powerless nation like Panama to forget all about it. But there are many, many others.

Strangely enough, though this David-Goliath confrontation is easy to describe, the Panama Canal issue has become very complex. Complex because of the importance of the Canal itself and

its location. Complex because the United States is a sensitive superpower and Panama is a small "developing" nation, a part of the strident Third World. Complex because the Panamanians are people, fundamentally no different than people of other nations: proud, acquisitive, nationalistic.

Complex because of a post-Vietnam revulsion in the United States against further involvement in armed conflict, curiously coupled with a post-Vietnam "don't-push-us-around" groping for national pride. Complex because of the difficulties of operating, maintaining, and defending the Canal in an increasingly hostile environment, a decreasing acceptance of our presence by the host country. Complex because of the nature of the present Panamanian government.

Complex because of Fidel Castro in nearby Cuba. Complex because of the never-ending contest for world power between East and West, the pervasive struggle for ideological supremacy.

Complex because of high hopes raised in Panama by rash U.S. commitments and excessive diplomatic zeal. Complex because of papered-over, basic differences between the U.S. military and the State Department concerning national security considerations.

Complex because of polarized points of view and blind convictions held widely by private American citizens and by members of Congress. And complex because of U.S. politics.

Complex is almost too mild a term.

In a 1976 issue of the *New Yorker* magazine there was a cartoon showing two corpulent, middle-aged U.S. city dwellers conversing at a bar. One is saying to the other: "What's wrong with me? For thirty years I never gave a thought to the Panama Canal. Now suddenly I can't live without it."

This depicts quite accurately the instinctive feeling of millions of Americans, probably a majority. The polls show it quite clearly: asked if they favor giving up the Panama Canal, more than 75 percent will reply with a resounding no.[1]

This instinctive feeling in the United States about the Panama Canal is another seed of our dilemma. Congressman Daniel J. Flood, the flamboyant liberal Democrat from Pennsylvania, long the leading spokesman in Congress of those who oppose any tampering with our rights and position in Panama, has described it in these words:

> Everyone thinks the Panama Canal is as American as apple pie. This has been ingrained in them, they believe this all through their lives, and they just don't give away something that's as close to them . . . which they feel is an American thing. . . . The average American feels this so very deeply that . . . it's over my dead body, that kind of thing. . . . This is the feeling. You can't reason with it. It's ingrained and deep, deep-dyed in their hearts.[2]

Historically the subject of the Panama Canal has lain submerged in American public consciousness, surfacing only when large-scale violence in Panama hit the headlines, as it did in 1959, and again in 1964. It has received scant public attention, even when Congress gave indications of strong opposition to the "giveaway" course of action that has been so doggedly pursued by the executive branch of our government.

For example, it was scarcely noted in the press when, in 1974, 37 U.S. senators, 4 more than necessary to block a new treaty, cosponsored a resolution stating "that the government of the United States should maintain and protect its sovereign rights and jurisdiction over the Canal and Zone, and should in no way cede, dilute, forfeit, negotiate or transfer any of these rights."[3] Or in 1975 when the number cosponsoring such a resolution rose to 39 senators.[4]

Nor was there much publicity or excitement when, in 1975, the House, exercising its constitutional responsibility with regard to appropriations and the disposition of U.S. property, voted 246 to 164 to forbid the use of any funds "to negotiate the surrender or relinquishment of the United States' rights in the Panama Canal."[5]

Each of these congressional expressions was a strong reaction to some new development in the continuing U.S.-Panama negotiations for a new Canal treaty. Each was a recognition by Congress of that feeling "back home," the subterranean rumblings signalled by the few who are instantly alert when the Panama Canal nerve is touched. But, by and large, the American consciousness was on none of those occasions correspondingly aroused.

The subject finally surfaced in 1976. Why was this? What made the man at the *New Yorker* bar suddenly feel that he couldn't live without the Panama Canal? Apparently it was the

rhetoric of the 1976 presidential campaign.

In the spring of 1976 Republican presidential contender Ronald Reagan discovered that the Panama Canal issue was a vote-getter. He harshly criticized the Ford Administration for its Panamanian policy. Immediately his campaign for the nomination came alive, and the race for convention delegates began to veer in his direction. The subject of Panama caught hold. Soon the voices of politicians and pundits were heard throughout the land, declaiming over Panama, pro and con. Feature articles in newspapers and magazines mushroomed across the nation.

Reagan had touched America's Panama Canal nerve: "We should tell Panama's tinhorn dictator just what he can do with his demands for sovereignty over the Canal Zone. We bought it, we paid for it, and they can't have it."[6]

This was a dramatic expression of the instinctive national feeling. Some call it the "knee-jerk" reaction.

If Reagan and the man at the *New Yorker* bar speak for a majority of Americans, how can the United States' position on Panama be otherwise? Where does the United States really stand on this issue? Which of two worlds, the world of officialdom or the world of instinctive American feeling, is the real one?

To determine the answer to this question it is essential to look briefly at the activities in the official world, to get at least a birdseye view of how far the United States has gone in its dealings with Panama over the Canal issue.

In December 1964, in the wake of that year's "Flag War" in Panama—the riots and invasions of the Canal Zone and the involvement of U.S. troops that cost the lives of 5 Americans and 20 Panamanians and produced a breaking off of diplomatic relations between the two countries—President Lyndon Johnson made a precedent-breaking policy announcement: "I have decided to propose to the Government of Panama the negotiation of an entirely new treaty on the existing Panama Canal."[7]

No fanfare. No real attempt at explanation. Just a press release.

Then, in September 1965, Johnson gave a report on the progress of the negotiations that he had thus initiated nine months earlier.[8] He reported that the United States had agreed to abrogate the 1903 treaty, to give up perpetuity, to recognize Panama's sovereignty over the Canal Zone, to place the Canal Zone under the jurisdiction and control of the Panamanian government, and to operate the Canal jointly with Panama.

Only the details remained to be negotiated. This was another momentous announcement, but, again, no fanfare, no real attempt at explanation. Just a press release.

That all occurred 13 years ago. The man at the *New Yorker* bar apparently did not hear about it. Ronald Reagan had not yet begun his quest for the presidency.

In 1967 three draft treaties were agreed upon and initialed by the negotiating teams. They covered, in complete detail, the Johnson announcement and commitments of '64 and '65 with regard to the 1903 treaty. They also covered the possibilities for a new canal and the matter of canal defense. The treaty covering the present Canal would terminate in 1999. Panama would then take over completely. The treaty concerning defense would terminate in 2004, with the relinquishment of all U.S. defense rights at that time.

There was no announcement at all by President Johnson of this historic wrap-up of the U.S.-Panama treaty negotiations. Just a State Department bulletin.[9] It took the *Chicago Tribune* to uncover the texts of the new treaties.[10] The Panamanian government was equally reticent.

The reason for the low-key bulletin and the failure to disclose details was obvious. Both the United States and Panama had presidential elections coming up in 1968. The administrations in both countries apparently deemed it the better part of political valor to be quiet about what they had agreed to do with the Panama Canal.

All this happened 10 years ago. The man at the *New Yorker* bar either did not hear or the news did not register. Reagan, serving his first term as governor of California, had no election pending.

The 1968 presidential elections brought about a political upheaval in Panama and a political change in the U.S. In Panama, Arnulfo Arias was elected president by an overwhelming popular vote. On October 11, 1968, only 10 days after he took office, Arias was ousted in a military coup staged by the Panamanian National Guard. A military junta, in which Lieutenant Colonel (now Brigadier General) Omar Torrijos emerged as the strong man, took over the government of Panama and has remained in control ever since. In the United States, Republican Richard Nixon was elected president. Neither the upheaval in Panama nor the change in the U.S. was in any way related to the Canal.

Two years later, in 1970, the Torrijos government notified the Nixon government that it rejected the 1967 draft treaties. So the negotiating teams went back to the drawing boards to start anew. The ensuing negotiations dragged. Under Torrijos, Panama moved the Canal issue into the international arena. In the fall of 1973, as a result of Torrijos' maneuvering, the United Nations Security Council got into the act and put the U.S. on the defensive.

In a scenario carefully staged by Panama and her many supporters, the United States, at a meeting of the Security Council held in Panama City, was forced to veto a resolution calling for a new Canal treaty that would "guarantee full respect for Panama's effective sovereignty over all of its territory."[11]

In the wake of this confrontation, the Nixon Administration placed the Panama Canal issue back on the front burner. The State Department's veteran of Vietnam diplomacy, Ellsworth Bunker, was placed at the head of the United States' negotiating team. He was told to get cracking. The pot began to boil again.

Substantial "progress" was made in only three months. With all the fanfare so carefully avoided on the previous occasions of startling new Canal developments, Secretary of State Henry Kissinger journeyed to Panama City, and there, on February 7, 1974, he and Panamanian Foreign Minister Juan Tack signed a Statement of Principles establishing eight guidelines for a new Canal treaty. New voice, same words and tune, only more so:

(1) The 1903 treaty would be abrogated and replaced by an entirely new treaty.

(2) The concept of perpetuity would be eliminated and the new treaty would have a fixed termination date.

(3) United States jurisdiction over Panamanian territory would be terminated promptly in accordance with the terms of the new treaty.

(4) The Canal Zone would be returned to Panamanian jurisdiction, with the United States retaining specified rights of use for the duration of the new treaty.

(5) Panama would have a "just and equitable" share of the economic benefits derived from the Canal's operations.

(6) Panama would participate in the administration of the Canal with a view to taking over full responsibility for its operation at the termination of the new treaty.

(7) Panama would share in the protection and defense of the Canal.

(8) The United States and Panama would agree on provisions for enlarging the capacity of the Canal.[12]

That was only three years ago. Certainly the message was loud and clear. Yet it still did not get through to the man at the *New Yorker* bar. Ronald Reagan, completing his last year as governor of California, had no election pending—just thoughts, perhaps, of 1976.

Six months after the Kissinger-Tack agreement, Vice President Gerald Ford became president of the United States. A year later it became clear that the Ford policy on the Panama Canal was a continuation of the Johnson-Nixon policy. Another revelation occurred that could have brought the Canal issue to the surface before the 1976 election, but did not.

In September 1975 Kissinger made a statement in Florida that angered the Panamanian government and made it suspect that perhaps the United States was reneging on the Kissinger-Tack agreement. Kissinger said: "The United States must defend the right, unilaterally, to defend the Canal for an indefinite future, or for a long future."[13] Apparently this blew the lid in Panama, for Panama immediately violated the agreement of secrecy regarding the negotiations and released the texts of three "conceptual agreements" that had already been reached in the talks, implementing major elements of the Kissinger-Tack Statement of Principles. The Ford Administration did not deny their validity and later quietly admitted their existence.

There could no longer be any doubt about what was going on in the official world of the Ford Administration regarding the Panama Canal. Again, the message was clear. But it apparently was still not loud enough for the man at the *New Yorker* bar to hear. Ronald Reagan had no doubt heard. He had already launched his race for the Republican presidential nomination.

During the spring of 1976, candidate Reagan became the Paul Revere of the Panama Canal, warning the American people in ringing terms of the "giveaway" program. The man at the *New Yorker* bar finally got the message. However, the official world continued on its unswerving course.

When Democrat Jimmy Carter won the 1976 presidential election, there was reason to expect that a change in U.S. policy would occur. During the closing days of the campaign, Carter had stated: "I would never give up complete control or practical control of the Panama Canal Zone."[14] Nevertheless, only a few days after he took office President Carter gave the negotiation

of a new treaty with Panama, *on the basis of the Kissinger-Tack agreement of 1974,* top priority in his foreign relations program. Less than nine months later, Carter signed the two proposed new treaties that now face the U.S. Congress and the American people.

Here, then, are the two worlds: a clear indication, on one hand, that a majority of the American people is instinctively opposed to giving up our rights and position in Panama—call it the world of U.S. public opinion—and on the other, in the official world, an even clearer indication that those rights and that position are going to be given up.

Both worlds are real. They are on a collision course. When the collision occurs, one would assume that public opinion will triumph over official policy. Theoretically at least, Congress will not approve a new treaty with Panama that is not acceptable to the American people.

This is the Panama Canal dilemma.

What should be done under the circumstances? The simple solution would seem to be to reverse our official policy of the past 13 years and tell Panama to forget the whole thing; we are standing pat.

Such a solution raises two immediate questions. First, can the United States realistically reject the many promises and commitments made by its executive department to Panama, even though they are not constitutionally binding in the absence of congressional approval? Second, what would be the practical consequences of such a step?

It will be easy for some to answer the first question: Our foreign policy has for too long catered to world opinion. Why should the United States give up the Canal just because Panama wants it? If we cave in to the Third World, we will be playing right into the hands of the Communists. Now is the very time when a firm stand by the United States will restore our prestige and, in the long run, command the respect of all nations, large and small, developed and undeveloped. Reject the proposed treaties out of hand.

Others will have doubts. They will wonder whether the United States can maintain its position of world leadership, much less leadership in the Western Hemisphere, if it goes back on its publicly and officially proclaimed commitments to Panama. The fact that Panama is a small nation heightens the problem. The USSR could get away with this kind of thing. But a major ingre-

dient of the United States' influence and power in the world is its respect for people and the morality of its policies.

Thus, of the doubters, some will quickly conclude that we must honor all of our nonbinding commitments to the letter, no matter how wrong they may be, no matter the consequences. As far as failing to think things through is concerned, that conclusion is about on a par with its opposite, the forget-all-about-it conclusion.

Most thinking people will spurn the simple answer. They will want to determine for themselves first whether there are valid considerations that compel some change in our official policy with regard to the Canal. If they find none, they will favor the ratification of the proposed new treaties without change. If, on the other hand, they find that there are such valid considerations, if they find that considerations of national security, or foreign relations, or economics, or combinations of all three, require something different than the pending proposals, they will want changes made in them—constructive changes. They will look for alternatives.

Obviously, when it comes to answering the first question, the question of whether or not, at this stage of the game, we can, or should, reject many of our nonbinding promises to Panama, there are many basic things to be considered. They are very important, very complex. To consider them wisely requires knowledge and understanding. The American public has to date been denied both. This book is intended as a contribution toward filling that void.

As to the second question, the question of the consequences of rejection, it is perhaps helpful to listen first to a few voices, some measured, some shrill:

Ambassador Ellsworth Bunker: "Unless we succeed, I believe that Panama's consent to our presence will continue to decline. . . . Some form of conflict in Panama would seem virtually certain—and it would be the kind of conflict which would be costly for all concerned."[15]

Secretary of State Henry Kissinger: "Our concern with the Panama Canal issue is to avoid a situation in which the United States is drawn into a confrontation with all of Latin America, in which American military force will have to be used to fight a guerrilla war in the Western Hemisphere. . . ."[16]

Former U.S. Ambassador to Panama Jack Vaughn: "Another Vietnam."[17]

Brig. Gen. Omar Torrijos: "Patience has limits. We are now following the peaceful route of Gandhi. We are also prepared to follow the Ho Chi Minh route if necessary. That means terrorism, guerrilla operations and sabotage in a national-liberation war to regain our territory."[18]

"If there were any uprising, if there were terrorism, I, as commander of the National Guard, would have two options: to crush them or lead them. And I can't crush them."[19]

A "senior Army Department" negotiator: "For those of us who really care about the Army, My Lai was an awful blow. We know what that's done to our reputation. The last thing in the world we want now is to be ordered to start shooting into a crowd of Panamanians."[20]

A conservative, pro-American Panamanian citizen: "If we don't get a new treaty, the United States is going to have a canal full of bodies. You'll provide the bullets, and we'll provide the people."[21]

These statements can be taken with varying amounts of salt. But at least they indicate that if we fail to arrive at new treaty arrangements that are satisfactory to both the U.S. and Panama, one consequence could be conflict and bloodshed in Panama.

Just what form it might take, or how far it might go, is not so certain. That there would be street riots, vandalism, and sorties into the Canal Zone by bands of Panamanian civilians, mostly students at the outset, armed with no more than sticks, stones, Molotov cocktails and an occasional rifle or pistol, is almost a foregone conclusion. Once these started they would become more intense and incessant as Panamanian police failed to restrain—in fact, encouraged—them. The use of firearms would increase. U.S. forces would probably have to intervene to protect American citizens and property. The loss of Panamanian lives could become heavy. Martyrs could proliferate. Some American lives could be lost. This could keep up until the United States either sued for peace to stop the bloodshed or used sufficient force to restore and maintain order, if necessary augmenting the troops stationed in the Zone.

In addition to civilian violence, there is a remote possibility of harassing guerrilla operations against U.S. civilian installations within the Zone, carried out by the small, U.S.-trained combat force of not more than 1500 men within the Panamaian National Guard. This force could conceivably be supplemented by a few

regulars from Cuba and a smattering of irregulars from other Latin American countries.

It is most unlikely, however, that any conflict and bloodshed in Panama would involve any regular troops from other Latin American nations, with the possible exception of Cuba. In the main, these countries do not have adequate forces trained in guerrilla warfare to take part in such operations. Equally important, they would not be inclined to support Panama to the extent of armed intervention.

This latter fact leads to another possible consequence of our failing to achieve a satisfactory new treaty arrangement with Panama. Latin America will support Panama in many ways other than armed intervention. Throughout Latin America, in varying degrees, there could be economic, physical, and diplomatic retaliation against the United States in support of Panama. This could take various forms: expropriations of American business enterprises, economic boycotts, student attacks on American embassies, terrorist activities against U.S. diplomats and businessmen, and severance of diplomatic relations. These activities would cause considerable economic hardship to the Latin American nations themselves because they would stop the flow of U.S. economic aid and U.S. purchases. And, unfortunately, Moscow would be standing by to fill the void.

All of this sounds like blackmail. Blackmail it is. Neither Panama nor any other Latin American nation can threaten us in any other fashion. Our military power is too great. Blackmail is the only weapon they have against us.

So the question narrows down to whether or not the United States can be blackmailed into capitulating to Panama's "aspirations." Must we accept conflict and bloodshed in Panama? Must we accept various forms of retailiation throughout Latin America? Are these consequences inevitable? What are the stakes? What are our options?

This is our dilemma. Perhaps even our time bomb.

2

The Impossible Dream: Canal Beginnings

The impossible dream began four and a half centuries ago. On a misty, dripping morning in September 1513 Vasco Núñez de Balboa, the bold Spanish explorer, looked southward out over the vast Pacific Ocean from a tangled Panamanian hilltop. For more than a month he and his sturdy band of conquistadors had been inching and sweating their way from the Atlantic shore, through dense jungle, across treacherous swampland, up and down abrupt hills choked with tropical rain forest. Behind them lay 50 miles of unbelievable agony. But now Balboa learned for all his world that this humid, tangled land mass was in fact a narrow isthmus linking two continents, dividing two mighty oceans.

This was the beginning of the impossible dream, the dream of a waterway that would someday divide the continents and link the oceans. Over the years this dream came to be shared by countless men of many nationalities.[1] It was to cost tens of thousands of lives. It was to produce feats of heroism and scientific achievement that were miracles of their times.

Alvaro de Saavedra, a Castilian engineer in Balboa's group,

available if they could just cross the Isthmus. The railroad, completed in 1855, became a gold mine in its own right.

But while this was going on in Panama, a keen rivalry was developing between the U.S. and England in Nicaragua. For many years the British had been active in Central America, particularly in Nicaragua and Honduras. Whether this activity stemmed from their own dream of a canal or merely a desire to gain a foothold from which to await and exploit future developments is not clear. At any rate, many people in the United States believed that the navigable waters of the San Juan River and Lake Nicaragua and the short land passage from there to the Pacific presented by far the most feasible route for an isthmian canal. Members of the U.S. Congress seemed to favor the Nicaragua route. But there, athwart their aspirations, were the British, with gunboats and troops. A physical confrontation became a real possibility.

Out of this situation—our concern, on the one hand, over Britain's intentions and position in the Nicaragua-Honduras area, and the British concern, on the other, over American progress in Panama—came a curious compromise. In 1850 a treaty, known as the Clayton-Bulwer Treaty, was negotiated between the two nations. Under its terms any canal developed by either nation, or by both acting in concert, would be placed under the joint patronage of the two countries. The canal was "to be open to the citizens and subjects of the parties on equal terms." It was to be neutral. No fortifications were to be allowed. Neither country was to assume or exercise any dominion over any territory in Central America through which a canal might pass, or obtain new colonies there. While the Clayton-Bulwer Treaty pointed toward Nicaragua as the most likely place for the building of a canal, its terms were extended to any "canal or railway across the isthmus which connects North and South America."[6]

This was indeed a curious agreement. It created a highly unworkable partnership for the possible development of an undefended, uncontrolled waterway. Perhaps both nations were merely buying time. The British never became active in any canal endeavor; they probably never intended to. The treaty assured them of the benefits of any ultimate effort by the United States. That is very likely all they wanted—that and the avoidance of a confrontation with the United States. As for the United States, the extension of British influence and power in Central America by the construction of a British canal had been fore-

stalled. But at the same time its own independent, and far more important, effort had been severely handicapped. One can only say that either U.S. Secretary of State John M. Clayton had been no diplomatic match for Lord Bulwer, or the thwarting of Britain's ambitions in the Western Hemisphere was, at the moment, of paramount importance to the U.S. To make way for a U.S. canal, Clayton-Bulwer had to be scuttled half a century later.

As it turned out, the United States interest in a canal became diverted soon after Clayton-Bulwer. The clouds of a great civil war were looming on our national horizon. That sad chapter in United States history, with the pangs of the Reconstruction period that followed, sidetracked the American canal effort for two generations.

It was during this lull that the French had their dream. It turned out to be a nightmare. But by any name it was a bold, magnificent try, the only real one that preceded the American success of the twentieth century. The expenditure of more than $250 million, the excavation of some 80 million cubic yards of earth, and the loss of over 25,000 lives in the end brought total disaster to the French enterprise. A faulty concept, that of a sea-level canal, was perhaps at the root of this tragedy. But in all fairness to the French, it is unlikely that, given the states of engineering technology and medical knowledge at the time of the undertaking, others in their stead would have fared much better.

Because the Panama Canal of today was built over substantially the same route as that attempted by the French in the 1880s, it is interesting to note some of the features, and difficulties, that faced the French in their task.

Panama has four formidable lines of defense against the building of an interoceanic canal. First, its physical contour, the hills rising steeply in irregular patterns. Beneath the surface of these hills lies a geologic horror of volcanic cores, faults, dikes and sills, no two areas alike in structure or composition. Second, the ground cover. Panama, lying nine degrees north of the equator, has an average rainfall of 105 inches and an average temperature of 85 degrees, the perfect environment for almost impenetrable jungle growth. Third, the constant flooding of the multitude of rivers that course through the jungle terrain, wild, raging torrents caused by the heavy rainfall and the precipitous slopes of the hills. Finally, the defense line of death, the twin killers, malaria and yellow fever.

To the task of surmounting these awesome obstacles came a man who was neither engineer nor doctor, the famous Ferdinand de Lesseps, the 80-year-old hero of the Suez Canal, which had been completed in 1869. De Lesseps' name was legendary. What he lacked in technical skill and medical knowledge, he made up for with a vengeance in energy, inspirational leadership, enthusiasm, and confidence. As it turned out, these characteristics, even in such great abundance, could not crack Panama's natural defenses. Suez had called for a mighty shoveller. Panama called for a highly skilled, painstaking engineer who could do a lot more than dig.

Turn back for a moment. In 1878 Lieutenant Lucien Napoleon Bonaparte Wyse, an officer in the French navy, having spent two years on the Isthmus surveying canal possibilities, secured personally from Colombia (New Granada changed its name to Colombia in 1863) a 99-year concession for the construction of an interoceanic canal across Colombia's province of Panama. Wyse also obtained from the Panama Railroad Company a concession to build the canal along the line of the 1855 railway, assuming, in return, the obligation to buy out the railroad at a future date. These concessions to Wyse became the foundations of the Panama Canal of today. At the time they were acquired they were but parts of an impossible dream.

Wyse's rights were taken over for $10 million by a private French company formed by de Lesseps, La Compagnie Universelle du Canale Interoceanique de Panama. Before he had even seen a detailed survey of the proposed canal project or set foot on Panamanian soil, de Lesseps set out with supreme confidence to raise $100 million through public subscription. Before he was through he had carried out a series of such promotions, bringing in a total of $275 million put up by men and women all over the world on the strength of de Lesseps' reputation and his zeal for the project.

This sounds like, and was, a huge financial promotion. But it was far more than that. It produced a massive effort to build a canal. In initial charge of construction, de Lesseps placed a French firm of civil engineers that had vast experience, including Suez, and a worldwide reputation. During the first year and a half of excavation they brought to the job more, and some say better, equipment than the Americans did in a similar period 20 years later: 32 steam shovels versus 8; 3300 flatcars and trucks versus 560; 49 locomotives versus 35; 169 drills versus 390

(maybe there is some significance here); 14 dredges versus 7; 92 boats, barges, tugs, lighters, etc., versus 48; 80 miles of railway track versus 6; 96 pumps versus none.[7] All these items were of the best quality and highest performance standards that the technology of the day could produce. The living quarters built for the workers, the hospitals, dispensaries, convalescent homes, warehouses, repair facilities, structures of all sorts, were built solidly, some magnificently. Thousands of laborers were brought in, principally from the West Indies. Hundreds of skilled workers came from France and elsewhere. By midsummer of the second year excavations were under way at five points along the proposed canal route, including the famous, and calamitous, Culebra Cut through the Continental Divide. Work had begun on the terminal channels at both the Atlantic and Pacific ends. De Lessups' "second Suez" was off to a glorious, grandiose start.

But from the second year on, everything started to fall apart. Workers died like flies from malaria and yellow fever. Benefiting from hindsight we know the reasons: no insect screens in the living quarters and hospitals and inadequate sanitation. Excavations were swept away in torrential floods. Hindsight reason: no master plan to harness the rivers, particularly the mighty Chagres. Digging became fruitless in some places, impossible in others, because of slides, cave-ins, or impervious ground. Hindsight reason: inadequate knowledge of the geology of the route. Rail haulage of supplies and waste material became hopelessly inefficient. Hindsight reason: lack of coordination resulting in multi-gauge track and rolling stock.

One could go on at length listing the things that went wrong and the reasons why. But it would all boil down to the same thing: Panama's four horsemen, terrain, jungle, floods, and pestilence, were too much for the planning and technology of the French.

Good money by the millions was poured in after the bad. For seven long years the struggle continued. Finally the money-well went dry. In 1888 de Lessups' company failed, the work ground to a halt.

The nightmare was over. The dream seemed more impossible than ever.

3

A Volcano Erupts: The Canal Route War

The French nightmare in Panama, what appeared to be a complete engineering fiasco in the face of insurmountable odds, had a profound effect on opinion regarding the best location for an isthmian canal. As a result, during the last decade of the nineteenth century, almost all eyes were on Nicaragua.

Although those same eyes ultimately turned back and became fixed on Panama, no thorough consideration of the contemporary Panama Canal issue can overlook Nicaragua, past, present, and future, as a possible canal site. For, had it not been for some extraordinary last-minute happenings, some contrived, some natural, the canal in operation today would probably be one traversing Nicaragua, with Panama still just a jungle province of Colombia. Furthermore, and perhaps more important in light of current talk about the need for a new canal and the ever-increasing tensions in U.S.-Panama relations, many of the eyes now searching for solutions are again turning toward Nicaragua.

It is worthy of note that during the first 80 years of the nineteenth century—up until the start of the massive French

effort to build a canal in Panama—interest and activity centering on an eventual Nicaragua canal were just as prevalent as those looking toward a waterway across Panama. Surveys, promotions, negotiations, conspiracies, even revolutions, all related somehow to canal expectations, were equally commonplace in both areas.

Anticipating a canal, by mid-century both routes were competing aggressively for the trans-isthmian traffic generated by the great trek to the west coast of North America. The Panama Railroad, completed in 1855, had the advantage of the shortness of the overland distance from sea to sea. But the sea routes between the major Atlantic and Pacific coast ports and the isthmus were considerably shorter by the Nicaraguan land-water crossing.

Taking the Nicaraguan way, the westbound voyager made a multi-vehicular journey under the auspices of the Accessory Transit Company, owned by the ubiquitous New York financial wizard "Colonel" Cornelius Vanderbilt. Vanderbilt also owned the steamship lines that plied between New York and the isthmus, on the east, and the isthmus and San Francisco, on the west. At the Caribbean port of San Juan del Norte, which the British at that time called Greytown, the traveler went aboard a small riverboat. This little steamer struggled 122 tortuous miles up the winding, shallow San Juan River, at times forcing its way against seething rapids. At Fuerte de San Carlos, on the eastern shore of Lake Nicaragua, the traveler transferred to a larger steamboat for a 55-mile lake trip. During that crossing he passed close by one of the many volcanic peaks that would later plague the promoters of a Nicaragua canal. He disembarked at the lakeside port of La Virgen. The remainder of the journey was a bumpy, 15-mile stagecoach ride down to San Juan del Sur on the Pacific coast.

If all went well, the entire trans-isthmian passage took less than three days, a time span that did not eat up the traveler's seatime savings credits against the Panama route. But it was far more expensive. In 1853, 10,062 emigrants arrived in San Francisco by way of Nicaragua, as compared with 15,502 by way of Panama.[1]

All of the plans for a canal across Nicaragua involved use of Lake Nicaragua as the main passageway, with a series of locks at each end of the crossing. It is interesting to note that the surface of Lake Nicaragua is 107 feet above sea level, 22 feet

higher than the surface of manmade Gatun Lake, a part of the present Panama Canal.

A substantial attempt to build a Nicaragua canal commenced even before the last French gasp in Panama. In 1887 a group of U.S. financiers formed the Maritime Canal Company of Nicaragua, capitalized at $250 million. Attempts to get the U.S. government to participate financially failed, but negotiations with both Nicaragua and Costa Rica, in which a portion of the proposed route was located, produced the necessary rights to build a canal.

Six million dollars in cash was raised, and construction got under way. Workshops and a hospital went up at San Juan del Norte. A breakwater was built at the mouth of the San Juan River. Using equipment leased from the French in Panama, canal digging began. When the money ran out, a canal 280 feet wide and 17 feet deep had been dug. Unfortunately, it was only three-quarters of a mile long. The story had the same ending as the one in Panama. The money-well went dry.[2]

The failure of the American effort in Nicaragua was not as spectacular as that of the French in Panama. Far less money, far less world attention, and far less accomplishment were involved. But it was, after all, another failure. It demonstrated with great clarity how difficult a task a Nicaragua canal would be under any circumstances. But more significantly, it served as further evidence of the necessity for the expenditure of money in any trans-isthmian canal venture, wherever located, apparently beyond the capabilities of private capital.

The situation developed by the two failures has been well described in these words:

> Thus by the end of the century the two great rival canal projects had come to grief. In Nicaragua work had stopped altogether; in Panama excavation continued under French direction but at a slow pace and on a small scale. At both locations private enterprise had proved inadequate to the gigantic task. The only remaining hope for ultimate completion of either canal lay in its ownership, construction, and operation by the United States government.[3]

And so the impossible dream faded in the gloom of a second failure. Conniving went on and diplomatic probes continued, in

both Nicaragua and Panama, but in a desultory, never-never fashion. A canal seemed unattainable to most people. The only work being carried on was that continued by the French in Panama, just enough to keep their concession from Colombia alive so that, if a miracle should happen, the French owners would have a saleable commodity, a bail-out potential.

Suddenly the miracle began to develop. The Spanish-American War broke out. The small United States Navy became the key to the outcome of this far-flung venture. On March 18, 1898, just a few weeks after the opening of hostilities, the battleship U.S.S. *Oregon* steamed out of San Francisco harbor headed for the Caribbean. She was needed urgently. The world, and particularly the people of the United States, followed her progress with rapt attention. Thirteen thousand miles she had to go, around the Horn—68 days, while the world watched and waited. If only she could cut across the Central American isthmus and head straight for Cuba—her voyage cut in half, the outcome of the war perhaps decided!

The *Oregon* steamed into Santiago Bay just as the war was ending. Spain capitulated, and the United States emerged as a world power. The time to dream about a canal was again at hand. But the voyage of the U.S.S. *Oregon* had made two things quite clear. This time the dream had to come true. And this time the dream had to be a U.S. dream, the canal, a U.S. canal.

Almost immediately Congress went into action. The French debacle in Panama still loomed large. Nicaragua was the congressional favorite, its advocates led by the dedicated, aggressive Senator John Tyler Morgan of Alabama. Morgan had been pushing for a Nicaragua canal for more than 10 years. His preference for Nicaragua stemmed from his Southern roots: the sailing time between the Gulf ports and the Pacific coast by way of Nicaragua was considerably shorter than by way of Panama. In the Democrat-controlled Senate, Morgan was the chairman of the Committee on Interoceanic Canals, a powerful position from which to guide legislation.

Morgan developed two obsessions: one, a national one, that there must be a trans-isthmian canal at any cost, the other, a sectional one, that the canal must, if at all possible, be across Nicaragua. He fought hard to achieve both goals, so much so and so well that when he and the Nicaraguan route were, in the end, going down to defeat, his colleague, Senator John C. Spooner of Wisconsin, a leading proponent of the Panamanian

route, said of him, "Upon whatever route an isthmian canal shall be constructed, the Senator from Alabama will forever stand in the memory of the people as the father of the isthmian canal."[4]

But at the outset of the canal route war Senator Morgan had it all his way. In 1897 President William McKinley had appointed a commission, known as the First Walker Commission, for the sole purpose of executing a survey of the Nicaragua route and making a final recommendation. The next year Morgan introduced a bill calling for the construction, operation, and fortification of a Nicaragua canal by the United States government. Early in 1899, in the wake of the U.S.S. *Oregon*'s 13,000 mile journey around the Horn, the Senate passed that bill by an overwhelming vote of 48 to 6. Shortly afterwards the Walker Commission reported favorably on a definite Nicaragua canal route. The Nicaragua bandwagon was rolling at a seemingly relentless pace.

But when the Morgan bill arrived in the House of Representatives roadblocks had been set up to slow it down. The obstruction engineers were two men who were to play the major behind-the-scenes roles in the unfolding drama of the canal routes, both in and out of Congress. One was William Nelson Cromwell, a well-known, high-priced lawyer, partner in the prestigious New York law firm of Sullivan and Cromwell. Cromwell had been hired by the French to protect their Panamanian interests. The other was a resourceful young French engineer, Philippe Bunau-Varilla, an ardent disciple of de Lesseps. At the age of 27 Bunau-Varilla had been, briefly, in complete charge of the gigantic French canal effort in Panama. He also had invested heavily in the project. Now he had become a one-man crusade to salvage the honor of France and the fortune of Bunau-Varilla.

These two men disliked each other intensely and operated quite independently of one another throughout the four-year struggle over a canal site. But their objective was the same: a Panama canal with the French interests bought out by the U.S. The clever, and, at times, diabolical manipulations that each was able to contrive and carry out on his own combined to direct the course of history.

When the pro-Nicaragua Morgan bill reached the House there were two immediately retarding influences in its path. One was the personal ambition of Representative William Peter Hepburn of Iowa. Hepburn, although a proponent of the Nicaraguan route, was determined that the canal legislation that finally

emerged from Congress should bear his, not Morgan's, name. As chairman of the House Committee on Interstate and Foreign Commerce he was able to hold things up while he got his own bill into position for passage.

The other, and obviously more complex, brake on any canal legislation was the 1850 Clayton-Bulwer Treaty between the United States and England. Until this treaty could be either modified or abrogated, any scheme for a fortified totally U.S. owned-operated canal would be in violation of our commitments to Britain.

The behind-the-scene manipulators made the most of these and every other obstruction. A whole year elapsed while Representative Hepburn, having stalled the Morgan bill, fathered one of his own, a pro-Nicaragua Hepburn bill, and sent it over to the Senate by the substantial House vote of 224 to 36. But by that time the Senate was considering the ratification of a new treaty with England, the Hay-Pauncefote Treaty, designed to clear away the obstacle of Clayton-Bulwer. Accordingly, the Senate deferred action on the Hepburn bill. In the meantime Congress had established a new commission to study the canal route question, this time with directions to include Panama, as well as Nicaragua, in its deliberations. This was known as the Second Walker Commission. The Nicaraguan band wagon, temporarily at least, was bogged down.

However, in the closing months of 1901 Nicaragua surged ahead again. The Hay-Pauncefote Treaty was ratified by the Senate, giving the United States clearance to build, fortify, and operate a trans-isthmian canal on its own. The Second Walker Commission came in with a preliminary report favoring Nicaragua over Panama. Representative Hepburn, striking while the iron was hot, sent another pro-Nicaragua Hepburn bill over to the Senate, this time by the astounding vote of 308 to 2. The Nicaraguan band wagon was not only rolling again, it was almost home.

Suddenly there was another reversal. The Second Walker Commission reported a switch in its position. It now favored Panama. With this the pro-Panama forces made their first affirmative move, putting a bandwagon of their own on the road, a bandwagon labeled the "Spooner Amendment."

On January 28, 1902, Senator Spooner came forward with a startling proposal to amend the pro-Nicaragua Hepburn bill in the Senate by authorizing the president of the United States to

purchase the French interests in Panama for $40 million and to acquire by treaty from Colombia the necessary territory for the construction of a Panama canal. The Spooner proposal also had a "kicker" in it to speed things up and make it more palatable. It provided that if things could not be worked out with the French and Colombia "within a reasonable time and upon reasonable terms,"[5] the president should negotiate the necessary treaty for a Nicaragua canal. For the first time in the legislative war, the Nicaraguan route was placed on the defensive. If the Spooner Amendment were adopted, obviously Nicaragua would be relegated to second place.

The pro-Panama forces were now on the move. Their leader was the powerful Marcus Alonzo Hanna, senator from Ohio. Hanna had great influence in the White House, in the Congress, and in the dominant Republican Party. Although he died before the contest in 1903 over the ratification of the Hay–Bunau-Varilla Treaty with Panama, the final battle of the canal route war, he, probably more than any other member of Congress, was responsible for the pro-Panama legislation that gave birth to that treaty.

The collision between the pro-Nicaragua forces led by Morgan and the pro-Panama forces under Hanna, triggered by the offering of the Spooner Amendment, became a classic in the annals of congressional warfare. The Nicaraguan route still had the edge, but it was so close that, as often happens in the case of major conflicts, a seemingly irrelevant event could have a profound effect on the final outcome. And in this instance one did.

The presence or absence of volcanic craters capable of erupting and producing earthquakes had always been recognized as a matter to be at least noted in comparing the relative merits of the two canal routes. Nicaragua has them, Panama does not. But the point had never received much emphasis. Now Mother Nature got into the act. The sequence of events is interesting.

On March 13, 1902, Morgan's Senate Interoceanic Canal Committee voted seven to four to reject the Spooner Amendment and to send the pro-Nicaragua Hepburn bill, unamended, to the floor of the Senate for final action. This was another abrupt tilt of the see-saw, and a signal triumph for Morgan. The final debate was scheduled to commence on June 4.

On May 18 Mont Pelée on the little East Caribbean island of Martinique, almost a thousand miles from Nicaragua, erupted

with such violence that it wiped out the entire town of St. Pierre and killed 40,000 people.

Overnight the American people became volcano-conscious. The press, encouraged by the pro-Panama forces, took up the hue and cry. Mt. Pelée became Nicaragua's waterloo.

The debate in the Senate, where the Hanna forces were bent on resurrecting the Spooner Amendment, began on schedule. For two weeks the battle of words raged. Much was said about volcanoes, but Nicaragua consistently denied that any of its craters had erupted in recent times. The outcome of the final vote was anyone's guess.

Bunau-Varilla, as an engineer and canal expert, had long stressed the point about volcanoes. Now he decided that the Mt. Pelée disaster would have to be moved closer to Nicaragua. But how? He had a fortunate flash of recollection. He made frantic visits to stamp dealers in Washington and New York. Then, on the morning of June 16, three days before the final vote in the Senate, there appeared on the desk of each senator a beautiful scenic postage stamp, issued by the Nicaraguan government two years before, portraying a volcano in full eruption with Lake Nicaragua in the foreground.[6]

On June 19 the Spooner Amendment was adopted by the Senate. The vote was 67 in favor, only 6 against. A week later the House retreated from its pro-Nicaragua position. The Spooner Act went to the White House, where it was quickly signed by President Theodore Roosevelt.

Maybe it was the volcano, maybe it was not. More than likely the volcano was merely a timely spash of color in the course of conscientious congressional deliberation that would have led, in any event, to a correct decision on the merits. At any rate, the die was cast. Now all eyes turned to Panama, or, more accurately, to Colombia, of which Panama was the most westerly province.

4

Gunboat Diplomacy: Birth of a Nation

The Panama all eyes turned to in 1902 had been the neglected foster child of Colombia for more than three-quarters of a century. When the shackles of Spain were cast aside in 1821, the people of the Panamanian Isthmus, after a short period of independence, chose of necessity to be included in Gran Colombia, the new composite nation put together at that time by Simon Bolívar. One of the terms of that initial affiliation was the right of secession.

In 1830 Gran Colombia split up into the three separate nations of Venezuela, Ecuador, and New Granada (Colombia). Panama elected to stay with New Granada. But, separated from the other provinces and the Colombian capital by an impenetrable, mountainous jungle, accessible from the east only by boat, and constantly ignored by the government in Bogota, Panama was always a rebellious child, a child with runaway tendencies. She had a long history of civil disorders, including six full-fledged revolutions. One, in 1840, resulted in over a year of complete independence.

Thus, in 1902, the idea of ultimate separation from Colombia

and existence as an independent nation was fundamental to the people of Panama. An economic basis for such an existence, a canal, was the missing element.

This foster-parent, independence-oriented relationship between Panama and Colombia should be kept clearly in mind when reviewing, and judging, the kaleidoscopic events of 1903 that produced the new Republic of Panama. It has often been overlooked by historians and is intentionally played down by those who seek to condemn the United States for the part it played in those events.

Nor can there be a proper review and evaluation of the events of 1903 without an awareness of the unique relationship that existed between the United States and Colombia during the 57 years preceding those events, particularly with regard to coping with civil disorders and revolutions in Panama and the protection of the Isthmian crossing. That relationship goes back to the Bidlack-Mallarino Treaty of 1846 mentioned earlier.[1]

At mid-century conditions for crossing the Isthmus of Panama were not greatly improved over what they were when Balboa struggled across in 1513, nothing more than a makeshift, at times impassable, unpaved roadway. Following the practice initiated by Philip II of Spain 300 years before, Colombia was charging, with rampant discrimination, whatever tolls it could extort from those wishing to make the arduous transit. And, of course, there were thousands of captive customers, because the westward trek was in full swing and the voyage around the Horn required three or four additional months of travel. Hope for an eventual canal sprang eternal, but it was a dim one. The United States urgently needed to make things easier for its traveling citizens and its intercoastal commerce.

Out of this situation came the 1846 treaty. Basically it was a run-of-the-mill, commercial arrangement designed to benefit both nations. Article 35, however, was a highly significant innovation. In that article Colombia guaranteed to the United States and its citizens "the right of way or transit across the Isthmus of Panama upon any modes of communication that now exist or that may be, hereafter, constructed." In exchange, the United States guaranteed to Colombia the neutrality of the Isthmus, "with a view that the free transit from one to the other sea may not be interrupted or embarrassed in any future time." It also guaranteed Colombia's "rights of sovereignty" over the area.[2]

As far as the Isthmus of Panama is concerned, the relation-

ship between the United States and Colombia created by this treaty was, in effect, that of guardian and ward. While recognizing and guaranteeing Colombia's basic sovereignty over the Isthmus, the United States assumed the obligation, and acquired the right, to preserve the neutrality of the area against all comers and to keep open whatever transit way across it there might be, roadway, railway, or waterway.

This role of protector of another nation was an entirely new one for the United States. It was one that many Americans at the time feared was the type of "entangling alliance" George Washington had warned against 50 years before.

The arrangement with Colombia also created a new concept in official U.S. canal policy—the idea of a canal under exclusive U.S. control. This policy was to receive a slight setback in the Clayton-Bulwer Treaty signed with England just four years later, but it would ultimately prevail as the only canal policy that the United States was willing to pursue.

It was on the basis of this 1846 treaty with Colombia that American citizens built the highly successful Panama Railroad across the Isthmus. And it was on the basis of this treaty that, on nine different occasions during the period 1856–1902, United States armed forces intervened in Panama to quell disorders that threatened transit across the Isthmus. Thus, for over 50 years before the events of 1903, United States warships had been steaming in and out of Colombia's Panamanian harbors and U.S. troops had been landing at Colombia's Panamanian ports in the legitimate fulfillment of U.S. treaty obligations.

Anyone who was surprised in November 1903 when two U.S. warships and a small force of Marines showed up in the harbor of Colon during the first few days of a widely heralded Panamanian revolution either had failed to observe past events, or had forgotten them.

These, then, were the two essential features of the backdrop behind the 1903 stage setting: the constant, historical goal of the Panamanian people to achieve independence from Colombia, and the repeated, Colombia-sanctioned interventions by U.S. military forces to preserve order in Panama.

The setting of the stage moved rapidly with the passage of the Spooner Act in June 1902, directing the president of the United States to negotiate a canal treaty with Colombia. Negotiations initiated by Colombia the year before were, as a matter of fact, already in progress. However, nothing beyond some rather

clumsy diplomatic maneuvers and misunderstandings had developed. But when the clock began to tick on the "reasonable time" allowed by Congress for the making of a treaty with Colombia, things speeded up. On January 22, 1903, U.S. Secretary of State John Hay and Colombian Minister Tomas Herran arrived at an agreement and signed a treaty.

The United States was, of course, all geared up and ready to go. Get a treaty fast, get it ratified, close a deal with the French, and start building a canal. Full speed ahead! These, in effect, were the orders of President Roosevelt. They reflected the mood of the American people.

In fairness to Colombia, when one judges what happened, or, rather, what did not happen, in Bogota after the Hay-Herran Treaty was signed, it should be observed that the framework for getting something done in Colombia was just the opposite of what it was in the United States. A crash effort, involving something as basic to Colombia's economic and political structure as the reality of a trans-Isthmian canal, could not have taken place at a more inopportune time. The Colombian government was reeling under intense political pressures, some bordering on revolution. The economy was in dire straits. Contention for political power and compulsion to exact from the U.S. the maximum amount of money for a canal treaty put the process of arriving at an agreement on a treaty and then ratifying it in about as difficult a setting as could be imagined.

Under the terms of the Hay-Herran Treaty,[3] the United States would have been authorized to build a canal across the Isthmus of Panama through a zone 10 kilometers wide. Colombia's retention of sovereignty over the canal zone would have been recognized. The United States was to protect the canal if Colombia failed or was unable to do so. Colombian courts, U.S. courts, and joint tribunals, depending on the litigants involved, were to function in the zone.

The United States was to pay Colombia $10 million in cash and $250,000 a year. The latter figure was the amount Colombia received annually from the Panama Railroad Company. Under the treaty Colombia would release to the United States its financial interest in the railroad concession. Colombia was also to relinquish any claim of indemnity against the French that might arise out of the contemplated $40 million sale by the French to the U.S. of the rights and property of the French canal company. The grant to the U.S., referred to as a lease, was to be for a

period of 100 years, renewable indefinitely at the option of the U.S.

Ratification of the treaty by the United States Senate, for all Roosevelt's zest to get on with the canal project, was no hasty affair. A month of heated debate took place, with Senator Morgan leading the opposition and proposing some 60 amendments to the treaty, all of which ultimately failed. It is interesting to note that even Senators Hanna and Spooner, ardent advocates of a Panama canal, favored an amendment granting the U.S. complete sovereignty over the proposed canal zone. That amendment also failed. There was considerable awareness of the strong resistance to the treaty in Colombia, and it was feared that any change whatsoever would invite rejection by the Colombian Senate. On March 17, 1903, the U.S. Senate ratified the treaty by a vote of 73 to 5.[4]

The fight for political power in Colombia and the drive to hold the United States up for more money combined to sink the treaty in Bogota. While the people of the United States—along with the people of Panama, whose economic hopes were at stake—watched impatiently, the pulling and hauling in the legislative halls, the political backrooms, and the public forums of Colombia went on interminably. They did end, however, for all practical purposes, on 12 August 1903, when the Colombian Senate voted 24 to 0 to reject the treaty.[5]

The next day a resolution was adopted setting up a new Colombian committee to draft a new treaty for submission to the United States, a feeble attempt to keep the door open. But nothing of significance developed. By mid-October it became obvious that Colombia was not going to make a deal with the United States until Colombia's political affairs settled down. It was equally obvious that that time was a long way off.

It is not unlikely that if the United States had, during the eight or nine months of Colombian indecision, upped the ante by some $10 or $15 million, agreement could have been reached. But that was not in the cards. The strong, pro-Nicaragua forces in the U.S. Congress were waiting eagerly for the "reasonable time" clock to count Colombia, and Panama, out—and Nicaragua in.

Much went on in both the United States and Panama during those eight or nine months. This was natural because, from the outset, most interested and informed people realized that the chances of the Hay-Herran Treaty being ratified by Colombia were very slim.

The leaders in Panama saw in Colombia's recalcitrance nothing but disaster for their hopes for a canal and the economic birth of the Isthmus. Nicaragua was lurking in the wings. They realized that if the worst happened, rejection of the treaty by Colombia, which seemed almost inevitable, they would have to do something on their own, then or never.

Although Cromwell and Bunau-Varilla, in their separate ways, did all they could to bring about acceptance of the treaty in Bogota, they both were eyeing other means of salvaging the French interests in Panama. Nicaragua was a sword of Damocles over their heads. The clock was ticking. Their pro-Panama machinations were constant.

President Roosevelt, the leader and, to a certain extent, moulder of United States thought, was not only determined, in his inimitable way, to get a canal built; he was also sold on the idea that Panama was *the* spot for the canal.

Here was a strange, unallied triumvirate of forces—Roosevelt and his administration in the United States, the political leaders on the Isthmus of Panama, and the ever-active Cromwell and Bunau-Varilla, the estranged Castor and Pollux of French interests in Panama—three separate forces with a common objective, all working toward the same end. Each operated in its own way to produce the final events and the final outcome, an outcome not necessarily inevitable, but certainly one not unlikely.

Many accounts about what took place have been written. The known facts and those assumed for a particular purpose have been reconstructed to produce any conclusion desired, times and places have been altered, heroes and villains interchanged.

One version, that of the pro-Colombians, the pro-Nicaraguans, and the anti-Rooseveltians, tends to establish that the United States, as the moving party, planned, incited, managed, and successfully completed the Panama revolution.

Another version, that of many pro-Panamanians, and of the Panamanians themselves, tends to establish, to the contrary, that Panama gained her independence in spite of the United States and without any help, but was swindled by the U.S. in the process. Panama's history books use this version.

A third version, that of Americans who feel required to defend the United States, tends to establish that the U.S. was not only innocent of any wrongdoing, but actually was unaware of what was going on, that the independence of Panama and the ultimate canal treaty just fell from heaven.

All three versions are biased in accordance with their source —and quite fallible.

A fourth version probably comes closest to the truth. It is one that recognizes the realities of turn-of-the-century diplomacy. It is one that is aware of the absence of pristine international standards for the recognition or nonrecognition of revolutionary governments. And it is one that bears in mind the backdrop features of the 1903 setting: Panama's goal of independence from Colombia and the history of U.S. military intervention in Panama.

This fourth version takes the known facts and concludes from them: (1) that Panama was the prime mover in her own reach for independence and for the essential economic element, a canal, that would make that independence viable, (2) that the United States, fully aware of Panama's aspirations and intentions, as well as many of her plans, was in a position to play a crucial role in either thwarting or encouraging the Panama move, and (3) that the United States, acting in her own best interests, took advantage of the situation presented as a welcome alternative to waiting indefinitely for Colombia or turning to Nicaragua.

Those who accept this version point no fingers, award no medals, wear no hairshirts. However, they raise their eyebrows sharply at Bunau-Varilla's treaty-making antics.

The principal facts can be reviewed briefly. As was stated earlier, the hope for ratification by Colombia of the Hay-Herran Treaty died officially on August 12, 1903. Roosevelt's state of mind and intentions at that time are best gleaned from a letter he wrote a week later to his secretary of state, John Hay:

> [I have decided] to do nothing at present. If under the treaty of 1846 [with Colombia], we have a color of right to start in and build the canal, my off-hand judgment would favor such proceeding. It seems that the great bulk of the best engineers are agreed that that route is best; and I do not think that the Bogota lot of jack rabbits should be allowed permanently to bar one of the future highways of civilization. Of course under the terms of the [Spooner] Act we could now go ahead with Nicaragua and perhaps would technically be required to do so. But what we do now will be of consequence centuries hence, and we must be sure that we are taking the right step before we act.[6]

Roosevelt's reference to "color of right" to go ahead with a canal under the 1846 treaty with Colombia stemmed from an opinion to that effect by Professor John Bassett Moore, a highly respected authority on international law.[7] Roosevelt's letter to Hay, though evidencing characteristic impatience, reflects both calmness and wisdom under extremely frustrating circumstances. Certainly it gives no hint of a diabolical plot for a Panamanian coup d'etat.

There can be no doubt, however, that such a plot was already in the making in Panama, a plot conceived and developed by Panamanians, some of them participants in previous breaks for freedom from Colombia. In 1901, before the Hay-Herran agreement was reached, Colombia's minister to the United States, Martinez Silva, had warned his government that failure to make a canal treaty with the United States could lead to the secession of Panama.[8] In June 1903, before the final rejection of the treaty in Bogota, both Cromwell[9] and Bunau-Varilla,[10] in their separate efforts to stave off that rejection, were trumpeting a revolution by Panama if Colombian ratification did not materialize.

When Colombia rejected the treaty, the plot quickened. On September 1, 1903, as the representative of a revolutionary committee in Panama, Dr. Manuel Amador, later to become the first president of the Republic of Panama, arrived in New York from Colon. He had come to survey the possibilities of political and financial assistance. Cromwell was his natural first contact, but that shrewd gentleman, fearful at that juncture of being caught by Colombia supporting a Panama break-away and thus of jeopardizing the continuation of the French canal concession, avoided him—in fact, fled to France to prove his righteousness. Apparently by mere coincidence, Amador then fell into the clutches of Bunau-Varilla, just arrived in New York from France, eager to play the game of nation building.

After learning from Amador all about the plan afoot in Panama, Bunau-Varilla went immediately to President Roosevelt and Secretary of State Hay and advised them of the Panamanian scheme. Some time later Roosevelt wrote to a friend about this meeting with Bunau-Varilla:

> Of course, I have no idea what Bunau-Varilla advised the revolutionists . . . but I do know . . . that he had no assurance in any way, either from Hay or myself, or from anyone authorized to speak for us. He

> is a very able fellow, and it was his business to find out what he thought our Government would do. I have no doubt he was able to make a very accurate guess, and to advise his people accordingly.[12]

As a result of his meetings with Roosevelt and Hay, when he saw Amador off for Panama a few days later, Bunau-Varilla assured him that the United States would look favorably on the revolutionary movement. At the same time Bunau-Varilla promised the revolutionists $100,000 (presumably his own money), gave Amador a code to use in future communications with him, and even furnished him with a proposed declaration of independence and a constitution for the new republic. To top it all, he presented Amador with a flag for Panama made by Mme. Bunau-Varilla.[13]

Before leaving for Panama, Amador agreed that the moment independence was declared in Panama, a telegram would be sent to Bunau-Varilla by the provisional government designating him as Panama's "Minister Plenipotentiary in order to obtain the recognition of the Republic and signature of Canal Treaty." Even the date for the revolution was selected: November 3.[14]

Dr. Amador sailed for Panama on October 20 and arrived in Colon on October 27. At that time the United States had two warships standing close by, the U.S.S. *Nashville* at Kingston, Jamaica, and the U.S.S. *Dixie* at Guantanamo, Cuba. On October 29 Amador cabled Bunau-Varilla that Colombian troops were being sent by ship from Cartagena to Colon to suppress the expected revolution. He pleaded for help. Making a shrewd guess from news dispatches in the United States and a remark made to him by the assistant secretary of the navy in Washington, Bunau-Varilla wired back on October 30 that the *Nashville* would arrive in Colon on November 2.[15]

The *Nashville* did, in fact, arrive the afternoon of November 2. At about midnight of the same evening the Colombian gunboat *Cartagena* also steamed into Colon Harbor with 474 Colombian troops aboard under the command of a General Tovar. The captain of the *Nashville,* having received no special instructions and having no knowledge of the expected revolution, made no effort to prevent General Tovar and his troops from landing the next morning, November 3.

But the revolutionist group had not been idle. Anticipating the arrival of the Colombian troops, they had arranged that all but

two or three cars of the Panama Railroad's rolling stock would be inconveniently positioned at the Panama City end of the line. When the Colombian force came ashore and asked for transportation across the Isthmus, General Tovar was offered immediate transit for himself and his officers, with the assurance that the troops would be sent along as soon as enough cars could be assembled for them. Tovar fell blithely into this courteous trap. He and his officers had a comfortable trip across the Isthmus and were jailed when they arrived in Panama City. The one Colombian officer remaining with the troops in Colon was bought off for $8000. On the morning of November 4 he and his command boarded the Royal Mail steamer *Orinoco* and headed back for Cartagena.

On that same day in Panama City, while General Tovar languished in jail, Dr. Amador and his revolutionary associates proclaimed the Republic of Panama. The "armed forces" of the revolutionary government at that time consisted of 300 young men organized into a "fire brigade," the Panama police, a detachment of Colombian regulars commanded by a member of the revolutionary junta who had been promised $50,000 for his cooperation, and the Colombian gunboat *Padilla* in Panama Bay, whose captain had agreed to hand over the ship and its crew for $35,000.[16] Small and makeshift as it was, this "force," with the departure from Colon of the Colombian troops aboard the *Orinoco,* placed the provisional government in control of the Isthmus, all that was needed as a basis for the de facto recognition of the new republic given by the United States two days later, on November 6.

In the meantime, on November 5, the U.S.S. *Dixie* had arrived in Colon Harbor from Guantanamo with 47 Marines aboard. The Marines went ashore to protect the railroad right of way, pursuant to the 1846 treaty with Colombia.

The revolutionary "war" was over. The only "shot heard round the world" in that revolution was a salvo from the Colombian gunboat *Bogota* in the Bay of Panama. Six shells were fired into the heart of Panama City, killing one person and one donkey.

For several months efforts were made in Bogota to declare war against the United States and to send adequate military forces to Panama to suppress the insurrection. These failed because of the same political disunity that had thwarted Colombia's ratification of the canal treaty. It should be noted that

while there was still any chance that Colombia might intervene militarily in Panama, forces of U.S. warships were built up off Panama City and Colon.[17]

In Washington, Bunau-Varilla lost no time. As soon as he received them, he presented to President Roosevelt his credentials as Panama's first ambassador extraordinary and minister plenipotentiary. Immediately following that presentation, on November 13, the United States granted full recognition to the new republic.

Bunau-Varilla was aware that three days earlier a commission consisting of Dr. Amador and two other Panamanian revolutionists had sailed from Colon to join him in Washington. He had good reason to suspect that upon their arrival he would be subjected to their direction and control, that he might even be deprived of his diplomatic authority. He therefore repeatedly urged upon Secretary of State Hay the necessity for speedy action on a treaty between the United States and the Republic of Panama. His urgings bore fruit.

On November 15 Hay presented to Bunau-Varilla a draft of a proposed treaty. Its terms did not differ greatly from those of the ill-fated Hay-Herran Treaty with Colombia. Bunau-Varilla worked feverishly that night and all the next day preparing his own draft of a treaty. On November 17 he returned Hay's draft along with his own version, indicating that he was willing to sign for Panama whichever of the two Hay preferred. That was on the same day that Amador and his associates arrived in New York.

In the late afternoon of November 18, while the Panamanians were en route by train to Washington from New York, Hay and Bunau-Varilla met in Hay's office. Hay immediately stated his preference for the Bunau-Varilla treaty draft, with one change —the phrase "leases in perpetuity" in Article II was to be changed to read "grants to the United States in perpetuity the use, occupation and control." At 6:40 P.M. they signed the Bunau-Varilla version with the suggested change.

At 9:40 P.M. Amador and his companions were met at Washington's Union Station by Bunau-Varilla, signed treaty in hand. To say that they were surprised and shocked would be an understatement. According to Bunau-Varilla, Amador "nearly swooned on the platform of the station."[18]

The signed treaty was a *fait accompli.* Amador and his associates knew that any change in the U.S. policy of recognition and

support occasioned by objections to the treaty on their part could lead to disaster. Everything they had gained by the revolution could be lost. Their hands were tied. The provisional government ratified the treaty, without amendment, on December 2.

In the United States Senate, Morgan and his pro-Nicaraguan forces did not go down without a fight. But Bunau-Varilla by his clever draftsmanship had spiked their guns. All the objections raised in the earlier battle over the Hay-Herran Treaty with Colombia had been anticipated and resolved in the new treaty with Panama. Ratification took place on February 23, 1904, by a vote of 75 to 17.

By the terms of the Hay–Bunau-Varilla Treaty,[19] the United States acquired far more in the way of rights and privileges for canal purposes than it had ever demanded of Colombia. The Canal Zone was to be 10, rather than 6, miles wide. Instead of the renewable 100 year lease it had been willing to accept from Colombia, the United States acquired the use and control of the zone "in perpetuity."[20] It even got the right to expropriate any additional land or water areas it might need later on *anywhere in Panama.*[21] It got the right to intervene and supersede the Panamanian authorities with regard to water, sewage, and health matters in Colon and Panama City, both of them outside the Canal Zone.[22] And it was given the right to intervene outside the Canal Zone to preserve or restore order.[23]

In the Colombian treaty the United States had recognized Colombia's sovereignty over the Canal Zone. In this new treaty, except in the preamble, no mention was made of Panama's sovereignty. Panama "granted" to the United States "all the rights, power and authority within the zone . . . and within the limits of all auxiliary lands and waters . . . which the United States would possess and exercise if it were the sovereign of the territory . . . to the exclusion of the exercise by . . . Panama of any such sovereign rights, power, or authority."[24]

In exchange for all these concessions, the United States agreed to guarantee the independence of Panama.[25] The money payments to Panama were identical to those contained in the Colombian treaty: $10 million down and an annual payment of $250,000.[26]

There never was such a one-sided treaty. If it had been written at the conclusion of a war between the United States and Panama and the money payments had run the other way, it would have served as a document of unconditional surrender.

Secretary Hay, who "negotiated" it for the United States, had this to say of it at the time: "We have here a treaty very advantageous to the United States and, we must admit with what face we can muster, not so advantageous to Panama."[27]

Bunau-Varilla, the French "negotiator" *for Panama*, described his feelings at the time the treaty ratifications were exchanged by Hay and himself in this way:

> The two signatures once appended we shook hands and I left him simply saying: "It seems to me as if we had together made something great."
>
> I went on, having at last unburdened my heart of the load which had so long weighed on it.
>
> I had fulfilled my mission, the mission I had taken on myself; I had safeguarded the work of the French genius. I had avenged its honour; I had served France.[28]

But had he served Panama? That is the question that sparks today's controversy between the United States and Panama.

Apparently most Panamanians feel that Bunau-Varilla did not serve Panama, that he betrayed her. But did he? If one looks at the Hay–Bunau-Varilla Treaty in the context of the time at which it was signed, it served Panama well. Not only served, but saved her. Perhaps no one but Bunau-Varilla would have had both the wisdom and the temerity to contrive it. Panama was a nation two weeks old. Her government was scarcely established. Her ability to preserve law and order, much less her independence from Colombia, was negligible. She could only continue to exist and develop as a nation if the United States were willing to build a canal across her territory and protect her. Within the United States there were powerful forces bent on having the canal built across Nicaragua. Those forces had to be thwarted at any price if Panama was to become the canal site. It is doubtful that a treaty less favorable to the United States would have sufficed.

Looked at from the United States viewpoint at that time, it is highly questionable whether a less favorable treaty, a treaty that went no further in making concessions to the United States than the Colombian treaty did, would have been realistic. With Colombia, the United States had been dealing with a nation three-quarters of a century old, a nation with an established,

albeit shaky, government, a nation with a military force at least capable of keeping the peace. Building and operating a canal under treaty arrangements with such a nation obviously did not require the broad assumption of governmental responsibilities and corresponding rights, the assurances of stability, even the assurance of mere continued existence, that were needed in dealing with the Panamanian embryo.

On balance, regardless of Bunau-Varilla's selfish and French-devoted motives, the Hay–Bunau-Varilla Treaty, at the time it was entered into, was the treaty needed by both Panama and the United States. Unfortunately, it contained the seeds of ultimate dissatisfaction on the part of Panama as a developing nation. Unfortunately, on the other side of the coin, it encouraged U.S. entrenchment and assumption of authority in Panama to become so extensive and so institutionalized that attempts later on to diminish U.S. rights under the treaty would be considered, by many Americans, as a national affront. But as of that time, as of November 17, 1903, it was perhaps the only recipe for success for both countries.

Following that same line of reasoning, what may now appear in hindsight to Panamanians and others to have been the taking of undue advantage, even a gross immorality, was, in fact, both justifiable and necessary. But by the same token, now that Panama is three-quarters of a century old, the same age that Colombia was in 1903, now that Panama has an established government, now that Panama has the ability to preserve law and order, maybe what was once right is now wrong. At least the basis for arguing that it is, is perfectly clear.

Eight years after the revolution in Panama, and two years after he left the White House, Theodore Roosevelt made a most unfortunate, though typically braggadocio, statement: " . . . I took the isthmus, started the canal and then left Congress not to debate the canal, but to debate me."[29]

That utterance was not only boastful; it was incorrect. "Teddy" Roosevelt did not "take" the Isthmus—he merely recognized the revolutionary government of Panama, one of several in Panamanian history, and made a very advantageous treaty with it. Putting 47 Marines ashore was hardly a taking. He had not "started the canal" before Congress had a chance to debate it. The debate had been going on in Congress for four years and had already ended in favor of Panama as the site for a canal. Furthermore, the debate over the canal treaty was so

voluble and extensive that it has been aptly described as "one of the most bitter struggles in the history of the Senate."[30] The Canal was not started until the Congressional debate over it had ended. And finally, it was not the Congress that was left "to debate me," that is, to debate the merits and demerits of Roosevelt's actions. That debate was left to tbe press and to the historians. It went on for years. It goes on today.

Roosevelt's statement was unfortunate, because it has been used against the United States ever since. It was used by Colombia to bolster its claim that the United States was responsible for the insurrection in Panama and therefore for Colombia's loss of the Isthmus and the prospect of a canal—used so successfully that in 1922 the United States paid Colombia an indemnity of $22 million.

It was, and is, used by Panama to bolster her claim that the United States acquired sovereign rights over the Canal Zone in perpetuity by fostering a betrayal of Panama's national interests—used so successfully that a great many nations accept and support that claim.

It was, and is, used by a great many people in the United States, primarily in intellectual circles and in the State Department, to bolster their claim that the U.S. role in Panama was conceived in a sin for which there must be complete atonement —used so successfully that today self-indictment gravely weakens our ability to arrive at a satisfactory and salutary solution to the Panama Canal issue.

Whatever one may think of the events of 1903, they made dramatic and lasting history, and as a result of them, the United States crossed the threshold of the impossible dream. This time her own dream. Her own canal.

5

The Dream Comes True: Building the Canal

The dream did come true. The United States performed a miracle. The story of that magnificent achievement has been told many times, by historians, by engineers, even by novelists. The details of it have no particular significance in relation to today's dilemma. But recalling briefly some of its principal features may etch into the contemporary scene the basis for the instinctive, enduring national pride that the building of the Panama Canal engenders in most Americans. This is something to be recognized and reckoned with, for this instinctive pride of accomplishment, pride to the point of unyielding possessiveness, is one of the roots of our dilemma: the conflict between American public opinion and U.S. official policy.

It took 10 long, difficult years to make the dream come true. During that period, particularly in the early stages, there were times when failure was a distinct possibility. Only the will and wisdom of a few outstanding leaders, the persistence and ingenuity of hundreds of unsung heroes, and the steady plodding, the toil and sweat, of tens of thousands of workers averted that tragedy.

The project got off to a dismal start, primarily because of the type of organization Congress created to run it, a top-heavy, seven-member, Washington-based commission. The first chief engineer assigned to the job, John F. Wallace, was given far too little authority and far too little latitude. By the end of the first year both the organization and the project were hopelessly bogged down in red tape. Although the work force in Panama had been rapidly built up to number some 7000 workers, most of them were engaged in excavation work that was part of no basic plan—a futile effort to "make the dirt fly" in response to President Roosevelt's exhortation and the mood of the American people.

The only real accomplishment during that first year was the transfer of the French property in Panama to the United States for $40 million, as provided for in the enabling legislation. For this sum, the United States acquired some excellent maps and surveys, many buildings, a somewhat decrepit but extremely valuable one-track railroad across the Isthmus, a great deal of machinery and equipment, mostly in poor condition but much of it salvageable, and, as far as the rudiments of a canal were concerned, the results of the excavation by the French of 50 million cubic yards of material on the Continental Divide. This excavation, the so-called Culebra Cut, was the only part of the French canal that became an integral part of the ultimate American structure.

In 1905 Roosevelt took matters into his own hands. Circumventing congressional strictures, he streamlined the commission so that Panama became the center of activity and responsibility rather than Washington. But it was too late for Wallace. Frustrated, and reportedly fearful of yellow fever, he resigned.

This turned out to be a blessing. The man who took his place as chief engineer was to become one of the trio of superb leaders that was primarily responsible for the ultimate success of the Canal. He was John F. ("Big Smoke") Stevens, a railroad engineer and executive of extraordinary ability and drive. He had been one of the conquerors of another frontier, one of the pioneers who pushed the railroads across the parched deserts and rugged mountains of the western United States.

Stevens went to Panama, took a quick look around, and brought all excavation work to a standstill. He insisted that there had to be a basic canal plan and that there had to be some thorough preparation along four essential lines before further

excavation could be undertaken—no more wasted motion. When the job rolled again it had to be on a path of assured success.

The basic plan of the French was for a sea-level canal. Stevens, after six months in Panama and careful observation of flooding conditions, became firmly convinced that a lock canal was the only feasible approach. He made Roosevelt a powerful ally in this conviction. But there were many who believed strongly in a sea-level canal. Finally, on June 29, 1906, two years after the signing of the treaty with Panama, Congress decided the matter in legislation calling for a lock canal.[1]

Since most of the talk today about the possibility of a new isthmian canal, in Panama or elsewhere, presupposes a sea-level canal, it is not amiss to wonder why, 70 years ago, the decision was made to go the lock canal route. The ostensible reasons were cost and time: it was estimated that a lock canal would cost $150 million and take nine years to build, as compared with a sea-level canal at double the cost and three more years of construction.[2]

The great disparity in the two items stemmed primarily from one thing, the difference in the amount of excavation through the Continental Divide required by the two plans. That difference was 85 feet in depth along a 10-mile stretch. Beside the extra time and cost of merely removing more material, each additional foot in depth for the sea-level canal would require a compensating increase in width and in drainage facilities to equalize the increased risk of slides. As it turned out, flood-induced slides became the name of the game even under the finally adopted lock-canal plan. In either case the Chagres and its tributaries would have to be harnessed to the same extent, and that harnessing, in the case of the lock canal, would produce both the water and the power needed to operate the locks. And finally, the sea-level canal would require a tidal lock at the Pacific end to cope with the 20-foot difference in the tidal movements of the two oceans.

On the other hand, it was obvious that the cost of operating and maintaining a sea-level canal would be far less than that of a lock canal and that a sea-level canal would be less vulnerable from a defense standpoint. These sea-level pluses, both advanced at the time the decision was being made, indicate that the underlying reason for the choice of a lock canal 70 years ago was that excavating methods and flood control techniques had not, at that time, reached a point where a sea-level canal across Panama could be successfully built.

By the time the decision was made, Stevens had a plan for a lock canal ready. It was both simple and grand. The course of the canal was plotted from the entrance in Limon Bay on the Atlantic side through a dredged sea-level channel almost 8 miles long to a massive earthen dam, Gatun Dam, which would harness the Chagres River, up three flights of locks a height of 85 feet to Gatun Lake, to be the largest manmade lake in the world, across the lake a distance of 22 miles, then 10 miles through the Continental Divide via the Culebra Cut (now known as Gaillard Cut in honor of the man who directed its construction and gave his life for it) to Pedro Miguel, down 31 feet by one flight of locks, 5 miles across another manmade lake to Sosa Hill, down 54 feet by two flights of locks (later on, for defense and terrain reasons, the Miraflores Locks, 4 miles to the west, were substituted for those planned at Sosa Hill and the second artificial lake eliminated), and out to the Pacific through a dredged sea-level channel 6 miles long, for a total distance of about 51 miles.[3]

George Goethals, who became Stevens' successor, aptly described this plan as not calling so much for a canal as for "a bridge of water consisting of lakes, locks, and sea-approaches."[4]

In addition to insisting on a basic canal plan to which the work to be done could be geared with precision, Stevens also insisted that before any further excavating could be undertaken there had to be thorough preparation in four essential areas. These were: (1) the eradication of yellow fever and malaria, the dread diseases that were taking a horrible toll in lives, working time, and morale, (2) the construction and arrangements necessary to adequately house, feed, and care for the work force, an ultimate payroll of more than 40,000, plus some dependents, a total of as many as 100,000 people, (3) the restructuring of the entire transport system of the Isthmus by establishing adequate terminals at each end, realigning and double-tracking the main line of the railroad, and building spur lines and sidings so that excavated material could be disposed of quickly and efficiently, and men, equipment, and supplies moved wherever necessary in an orderly, expedited manner, and (4) the development of a program for acquiring the right equipment in the right amounts for every task that lay ahead and assuring its availability in serviceable condition at the appropriate times and places. These were large orders, but by the time the decision on the type of canal was made, all four were well under way.

The most spectacular of these tasks, the disease eradication

program, has become part of American folklore; most American school children at some time become acquainted with *Aëdes calopus* and *Anopheles,* the two species of mosquitoes that were, respectively, the carriers of yellow fever and malaria. The man who conceived and directed the program was Major William C. Gorgas, a mild-mannered, dedicated Army doctor. His persistence in pressing for what he believed was right, the community cooperation he generated, and the thoroughness of his program finally overcame the prejudices and inertia that had characterized all earlier efforts to solve the problem. Gorgas ranks with Steveus as one of the three outstanding leaders responsible for the success of the Canal venture.

The results of Gorgas' efforts were astounding. It is impossible to determine with any accuracy how many lives were lost to disease during the French operation, but the indications are that they were in the tens of thousands, maybe as many as 30,000. In only two years Gorgas was successful in completely eradicating yellow fever, the principal killer.[5] Malaria, which is less of a killer but more of a disabler, was never eliminated entirely, but in the first two years, Gorgas cut the incidence of malaria in the work force almost in half, from 84 percent in 1905 to 43 percent in 1907. By 1913 it was down to less than 8 percent.[6]

The American work force was much larger than the French. The total number of deaths from all diseases during the period 1904–1914 was 6630. Gorgas is reported to have estimated that 78,000 would have died if the sanitary conditions under which the French worked had prevailed during the American period.[7] That seems rather high. The safer estimate is that if Gorgas had not succeeded the Canal would never have been completed at all.

By the spring of 1907, all four of Stevens' preparatory programs had been completed. The time had come to start building the Canal. At that point, to everyone's surprise and disappointment, Stevens resigned. He apparently had accomplished all that he had set out to do—to set the project on a path bound to lead to completion.

Having lost two chief engineers by resignations, Roosevelt decided to choose the next one not from private life but from the Army Corps of Engineers. Whoever it might be would have to stay on the job until relieved of duty by the commander-in-chief. The man he chose was Major George Washington Goethals. It turned out to be an excellent choice. Goethals has long been acclaimed as the "builder" of the Panama Canal. That he was,

and he deserves great credit for it. But the achievements of Stevens and Gorgas had paved the way for him. All three men were primarily responsible for getting the job done. Nor should Roosevelt be forgotten when the palms are being passed out.

The Canal was built by the Corps of Engineers, not by private contractors as originally contemplated. Whether it could have been done as well by private enterprise, there is no way of knowing. But the key to Goethals' success, aside from the great organizational ability and leadership he brought to the task, was probably the vast amount of authority Roosevelt gave to him. He wore three hats at the same time, chairman of the commission, chief engineer of the project, and president of the railroad.

The size of the work force, far greater than had been contemplated at the outset, is indicative of the dimensions of the project. The average number on the payroll each year during the period 1907–1914 was 47,308, with a peak of 56,654 in 1913, the year of the final assault on the Culebra Cut. The majority of the unskilled workers were blacks from the West Indies, though there were many European whites. The skilled workers were mostly Americans.[8]

Never before in the history of engineering had there been such a stern test of skill, coordination, and endurance. The creation of Goethals' "bridge of water" was a series of engineering triumphs in the various phases of the enterprise: dredging the approach channels, clearing the Chagres valley, building the massive earthen dam at Gatun, forming the record-size lake, building and installing the locks, developing the water, power, and drainage systems, and finally, the most difficult of all, completing the cut through the Continental Divide.

When, on August 15, 1914, the S.S. *Ancon* made the first official transit of the Canal, the American people had every reason to be proud. Unfortunately, just 12 days before, World War I had started and global attention was centered on Europe. Nevertheless, the impossible dream had come true.

The building of the Panama Canal has often been referred to as the moonshot of its era. For those who thrilled to the exploits of the Apollo program in the 1960s and 1970s it is perhaps difficult to compare the two achievements. Engineering science, all science, has moved forward so rapidly that what were once fantastic feats of accomplishment now seem commonplace. But by any measure, the building of the Panama Canal, almost three-quarters of a century ago, was a miracle of its age.

6

A Rose By Any Other Name: Sovereignty

And so, in a somewhat low key because of the onset of World War I, the Panama Canal was opened to the commerce of the world. The impossible dream had come true. Everyone will concede that since that great day the United States has maintained and operated the Canal effectively for the benefit of all nations.

Panama has benefited from it most of all, for it is difficult to visualize what Panama would be today if the Canal had not been built. It probably would not even exist as a nation.

The United States, too, has reaped great rewards. Not in direct monetary benefits, because the Canal has never been operated as a profit-making enterprise. But from a commercial standpoint the availability of the Canal to U.S. and world shipping has, over the years, stimulated trade and cut costs beyond all measure. Even more important, the Canal has played a vital role in the defense of the United States through two world wars and two subsequent large-scale military conflicts in the Far East.

Why then is there a Panama Canal issue?

On that great day, August 15, 1914, the future of the Canal, the future of Panama, and the future of the relationship be-

tween the United States and the newborn republic, all seemed dazzlingly bright. And the foundation from which all that brightness emanated, the 1903 treaty, seemed sound and solid. Yet that very treaty is the reason for the Panama Canal issue.

No one can attempt to understand the Panama problem without first becoming reasonably conversant with the major provisions of the 1903 treaty.[1] There never had been a treaty like it before, dealing with a continuing relationship between two nations. Solid it was for certain. Nothing could be more solid, more immutable, more durable, than ties that bind "in perpetuity." Nothing could be more solid, more certain, than granting one nation sovereign rights, as distinguished from mere use and occupancy, over the soil of another. And solid it is today, convincingly so from the viewpoint of most Americans, overwhelmingly and frustratingly so from the viewpoint of most Panamanians.

At the time it was signed, the treaty was probably sound as well as solid. The granting of sovereignty rights by Panama to the U.S. in perpetuity was the "open sesame" to a speedy agreement, the means of ending further bickering, a way of getting the show on the road. But whether or not it is still sound is the question that goes to the heart of the present controversy.

Sovereignty, if it were not so in 1903, quickly became the blemish, later the festering sore, in the relationship between the United States and Panama. Again, unless one understands this, one cannot understand the Panama problem.

There are many definitions of the term *sovereignty,* but they boil down to this: *Sovereignty* is the supreme, absolute, and uncontrollable power by which any independent state is governed.[2] The word stems from the days when monarchies were the usual form of government. It carries with it connotations of national honor, national pride, the trappings that go with man's nationalistic instincts. It is the source of national power and authority, even though that power and authority may, under varying circumstances, be separated from it. It is, therefore, most meaningful as a national symbol.

The matter of sovereignty as regards the Panama Canal, and particularly the Canal Zone, has created more self-made lawyers than are good for any issue of public policy. In discussions about the Canal the word is bandied about with such glibness that it serves as a clincher for both sides of the argument. It is used interchangeably, and quite incorrectly, with other technical, legal terms. By using the word *sovereignty,* throwing in some

"titles" and "jurisdictions" here and there, and being very ardent, many people quickly become authorities on the Panama Canal.

The time has long since come when this confusion should be dispelled, when people who are sincerely concerned should look dispassionately at the words of the 1903 treaty, learn them, admit that they say what they do in fact say, and then, most important of all, place this whole matter of sovereignty in proper perspective. If this is done, the myths disappear, and sovereignty emerges in its true light as the essence of the problem, not because of legal niceties, but because of its symbolism.

The key phrases in this regard appear in the preamble to the 1903 treaty and in Articles II and III, its basic provisions. The preamble recites that the United States and Panama are eager to have a canal constructed across the Isthmus, that the president of the United States has been authorized by Congress to acquire "the control of the necessary territory" for that purpose, and that "the sovereignty of such territory" is "vested in the Republic of Panama."[3]

The congressional authorization referred to is, of course, the Spooner Act, described earlier. So far as sovereignty is concerned, the purpose of the preamble was merely to state officially that newborn Panama had acquired the sovereignty of its predecessor, Colombia, over the land to be covered by the treaty and was, therefore, in a position to act with regard to it. Nothing was said about passing that sovereignty on to the United States. On the contrary, if the preamble has any significance at all in this respect, it lies in the fact that it refers only to the acquisition by the United States of control of the necessary territory—not sovereignty over it.

Moving into the body of the treaty, we find that in Article II Panama *"grants* to the United States *in perpetuity the use, occupation and control* of a zone of land and land under water for the *construction, maintenance, operation, sanitation and protection of said Canal."*[4] (Emphasis added.) The zone described is 10 miles wide and, roughly, 50 miles long. No reference is made at all to sovereignty, only to "use, occupation and control." Even a nonlawyer knows that you can acquire that much in the way of rights and power over land as a mere tenant under a lease. So, clearly, no intention to pass sovereignty from Panama to the United States is manifested in this article.

Furthermore, under Article II, the perpetual right to use,

occupy, and control the territory involved is limited to a single purpose, "said Canal." If the United States had not proceeded with the building of the Canal, or, having built it, had for some reason abandoned it, it obviously would have forfeited that right. The same is true today. Many experts say the Canal is obsolete, or fast becoming so. If this is true, and the United States at some future date discontinues Canal operations and commences using the Canal site as, say, a tourist attraction, the right to the "use, occupation and control" of the Canal Zone would *automatically* terminate under the language of the treaty. That is a far cry from sovereignty.

Finally we arrive at Article III. This is the part that triggers the sea-going lawyers. In it Panama "grants to the United States all the rights, power and authority within the zone . . . which the United States would possess and exercise *if* it were the sovereign . . . to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority."[5] (Emphasis added.)

For some reason many people, primarily those who are avidly opposed to any change of the U.S. position in Panama, become undiscerning when they read this language, and they do not see the all-important word, *if.* And, flying directly in the face of it, they tell you with apparent sincerity that the language they read gives the United States complete sovereignty over the Canal Zone.

One highly respected diplomat, Spruille Braden, former U.S. ambassador to several Latin American countries, refers to "the strict terms of the 1903 Hay–Bunau-Varilla Treaty" as "giving the U.S. sovereignty in perpetuity over the Canal Zone."[6] This simply is not so.

In spite of the big "if," other experts on the Panama Canal equate our position in Panama with two well-known territorial acquisitions by the United States. Senator Strom Thurmond of South Carolina puts it in these words: "The legal position of the United States as sovereign of the Canal Zone is as unassailable as it is on Alaska and the Louisiana Purchase."[7] Dr. James Lucier, chief legislative assistant to Senator Jesse Helms of North Carolina, states that "There is no more reason to give this territory to Panama than to give the Louisiana Purchase back to France, or Alaska back to the Soviet Union."[8] Dr. Lucier may be right from a practical or political standpoint. That is beside the point at this juncture. But both he and Senator Thurmond

are in error, legally, on the basic question of sovereignty. A look at the language of the Louisiana and Alaska acquisitions will confirm this.

In Article I of the 1803 Louisiana Purchase treaty with France it is stated that "the First Consul of the French Republic . . . doth hereby *cede* to the United States . . . forever and *in full Sovereignty* the said territory with all its rights and appurtenances. . . ."[9] (Emphasis added.) By the terms of the 1867 Alaskan purchase treaty with Russia the emperor agreed "to *cede* to the United States . . . all the territory *and dominion* [*dominion* means *sovereignty*[10]] now possessed by his Majesty on the continent of America" and declared the "cession of territory *and dominion* herein made . . . to be *free of any reservations.*"[11] (Emphasis added.) In both these treaties it was provided that the inhabitants of the ceded territories should have U.S. citizenship bestowed on them. Nothing of that nature is contained in the 1903 Panama treaty. It is also worth noting that in both the Louisiana and Alaska transactions the territories involved were *ceded* to the United States, a term common to international conveyances of sovereignty. In the Panama treaty the word *grant* is used, and the only thing granted is the "use, occupation and control" of certain territory, not one acre of territory itself.

Another interesting legal fact that is often noted in discussions of the nature of U.S. sovereignty over the Zone is that children born in the Zone to non-U.S. citizens—in most instances Panamanians—do not automatically become U.S. citizens, as they would if they were born in the United States.

No legal training is necessary to perceive the significant differences in language between the Louisiana and Alaska transactions on the one hand, and the Panama transaction on the other. Those differences are there for all to see who care to see.

There is probably no better way to determine what particular language was intended to mean than to consult the person who wrote it. In the case of treaties that is not usually possible. But the unique wording of Article III of the 1903 Panama treaty was composed by one man. Neither lawyer nor diplomat, he was the wily French engineer, Philippe Bunau-Varilla, commissioned by the provisional government of Panama as its envoy extraordinary and minister plenipotentiary to the United States. He knew exactly what he was doing. Bearing in mind the earlier debates over the Spooner Act and the Hay-Herran Treaty between the U.S. and Colombia, he wanted treaty language the U.S. Senate

could not possibly reject.[12] And here is what Bunau-Varilla said later on of his intentions regarding sovereignty:

> The United States *without becoming the sovereign* received *the exclusive use* of the rights of sovereignty, while respecting the sovereignty itself of the Panama Republic.[13] (Emphasis added.)

Bunau-Varilla is a bad word in Panama, but this explanation of his is of particular significance to Panamanians. Obviously it could not be more authoritative. Putting it in less technical terms, the Bunau-Varilla language seems to say quite clearly that Panama owns the crown, as recited in the preamble of the treaty, but the United States is entitled to wear it in the Canal Zone for certain purposes. A nice distinction, but important if you happen to own the crown and want it back someday.

Secretary of War William Howard Taft, later to become president and then chief justice of the United States, explained the situation to President Theodore Roosevelt in 1905 in this way:

> The truth is that while we have all the attributes of sovereignty necessary in the construction, maintenance and protection of the Canal, the very form in which these attributes are conferred in the treaty seems to preserve the titular sovereignty over the Canal Zone in the Republic of Panama.[14]

And this has been the official position of the United States ever since, one recognizing, or "respecting," as Bunau-Varilla put it, the titular or residual sovereignty of Panama over the Zone.

As indicated earlier, the exponents of complete U.S. sovereignty, those who reject the Bunau-Varilla–Taft concept, often use the term interchangeably with other technical terms to bolster their position. For example, they point out that after the 1903 treaty was signed the United States acquired the title to all the privately owned land in the Canal Zone by purchase from the owners. Then they go on to equate the title thus acquired with sovereignty. But there is no essential relationship between title to land and sovereignty over it. A private citizen owning land, that is, having title to it, does not have sovereignty over it. The sovereignty over that land resides in government. The same is true of a foreign government that buys land in another country.

It acquires title to the land, it owns it, but the host country retains sovereignty over it.

The complete sovereignty advocates also point out that the United States exercises jurisdiction over the Canal Zone by passing laws to govern it and enforcing them through a U.S. federal court. True, jurisdiction, or, literally, the right to dictate, is an element of sovereignty, and the exercise of jurisdiction is the exercise of a sovereign right. But jurisdiction is not the same as sovereignty. It stems from sovereignty.

This all may sound quite trivial, a mere quibble over words. But it is not. Not when it comes to gaining an understanding of the Panama Canal issue. It is crucially important because sovereignty has become *the* symbol of national interest to the antagonists in this controversy, both Americans and Panamanians.

We say, or at least many of us do, that we have complete sovereignty over the Canal, that that was decided many years ago, that regardless of its geographical location the Canal Zone is an integral part of the United States, that you can talk about other things, canal operations, annual payments, hiring practices, etc., as much as you want, but not about that, not about sovereignty.

On the other hand, the Panamanians say, with seeming unanimity, that we did not acquire complete sovereignty over the Canal Zone. They say that all we got was the right to exercise sovereign rights for one particular purpose, the Canal, that the Canal Zone is an integral part of Panama, that because of its geographical location it is a barrier to Panama's national entity, Panama's nationhood, and that the continued exercise of sovereign rights by a foreign nation in the middle of their country is what they want most to talk about, not other things.

This is not to say that there is nothing to this whole problem besides the matter of sovereignty. Far from it. Maybe, generally speaking, as far as Panama is concerned, that is all there is to it. But not so for the United States. For us there are far more difficult aspects to the problem—foreign relations, international and domestic commerce, and, above all, national security—all to be considered at length in the chapters ahead. These are aspects that from our standpoint, at least cumulatively, far outweigh the single issue of sovereignty. But it cannot be repeated too often that to understand the Panama Canal question one has to understand the sovereignty aspect. You have to know the words and the tune to understand the play. Musical comedy it may be to

some Americans, but it is tragedy to most Panamanians.

In discussing the Panama Canal issue, Panamanians often put forward a hypothetical situation. Suppose, they say, that at the time of the American Revolution, in exchange for French help against the British and the payment of $10 million, the United States had given France in perpetuity the control of the Mississippi River as a waterway and the exclusive rights of sovereignty over a zone five miles wide on each side of that river and running for its full length, from the Gulf of Mexico to Canada. At that time, 200 years ago, the Mississippi River was way out in the western hinterland of our newborn republic, so it would not have made much difference. How, they ask, would the people of the United States feel today if their country was divided completely in half by such a French zone? How would the American people feel today if every time a U.S. citizen wanted to go from east to west or west to east in his own country he had to pass through that zone and, while passing through, be subject to French laws, French police, French courts, even French jails?

Except for the fact that the United States built the Panama Canal where there was none, while the Mississippi is a natural waterway, the analogy thus presented is not inept. It serves a real purpose in helping a conscientious, patriotic American put himself in the position of a conscientious, patriotic Panamanian. Of course, it is a plea to the emotions. But emotion is a major element of nationalism. And nationalism is a reality, everywhere.

If it were not so important from the standpoint of national attitudes and national symbolism, the argument over sovereignty could really be written off as a draw: both sides are right, each has sovereignty in the sense each understands the term. But from the Panamanian viewpoint we have more than they would like us to have.

The Americans who feel so strongly about the Canal, the exponents of complete U.S. sovereignty, can be charged with overkill. They really do not have to keep repeating, "We bought it. We paid for it. It is ours." That is legally incorrect. We can't sell the Canal. We can't even give it away. But, regardless of what is correct, it still is an unnecessary stretching of a point. For, both in fact and in law, what we bought, what we paid for, and what is ours is the use, occupancy, and control of the Panama Canal Zone for Canal purposes for as long as we want it for those purposes, *plus* the privilege of exercising all rights of

sovereignty necessary for the accomplishment of those purposes. We have, therefore, everything we need in the way of rights; our position in Panama, legally, is unassailable. The we-bought-it, we-paid-for-it, it-is-ours syndrome is rhetorical gloss.

The Panamanians are equally right from a legal standpoint, so far as sovereignty is concerned. Panama has sovereignty over the Zone. Theirs is the source of the rights we are privileged to exercise in the Zone for Canal purposes. But so long as we care to exercise them for that purpose, Panama cannot exercise them. That is where the trouble lies.

So whether or not the United States has complete sovereignty is beside the point. She has the privilege of exercising sovereign rights in perpetuity. "A rose by any other name would smell as sweet." But while the United States sniffs that rose, she must be ever mindful that to Panamanians the scent is tantalizing—and highly provocative.

7

Pressure Cooker: Two Generations of U.S.-Panama Relations 1913–1965

A problem involving sovereignty surfaced at the very outset of the relationship between the United States and Panama under the new treaty. It involved the applicability of U.S. customs laws to goods entering the Canal Zone. Inherent in this problem was the fact, not often noted by historians, that the two principal ports of Panama, Cristobal on the Atlantic side and Balboa on the Pacific, were cut away from Panama and included in the Zone. The two major Panamanian cities, Panama City and Colon, adjacent to these ports and dependent on them, did not have adequate shipping facilities of their own. As a result, practically all ocean shipping to and from Panama entered or left the Isthmus via the Canal Zone. This is still true to a major extent.

In June 1904 a new U.S. tariff law was made applicable to the Canal Zone. This meant that while all goods coming into the Zone from the United States were duty free, the high duty rates of the recently enacted Dingley Tariff Act had to be paid on everything coming into the Zone from foreign nations, including Panama. The Panamanians became greatly concerned over this, because it obviously limited Panama's access to the one real market in

the area, the burgeoning Canal construction community in the Canal Zone. United States Secretary of War Taft called it "an unfortunate mistake in our policy."[1]

Another matter involving sovereignty, one regarding postal service, also created friction at an early date. While it cost five cents to send a letter from Panama to the United States, from within the Canal Zone it cost only two. Naturally, many residents of Panama City and Colon walked into the Zone to mail their letters to the United States at this three-cent saving, and Panama's postal revenue suffered accordingly.

These and many other problems were getting the relationship between the two countries off to a bad start. In October 1904 President Roosevelt sent Taft to Panama to straighten things out. Taft carried with him certain "instructions" from Roosevelt, of which the following portion, in the light of subsequent developments and even the current situation, is of particular interest:

> There is no 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 [the Isthmian Canal Commission]. Apparently they fear lest the effect be to create out of a part of their territory a competing and independent community which shall injuriously affect their business, reduce their incomes, and diminish their prestige as a nation.
>
> The United States is to confer on the people of Panama a very great benefit by the expenditure of millions of dollars in the construction of the canal. But this fact must not blind us to the importance of so exercising the authority given us under the treaty with Panama as to avoid creating any suspicion, however unfounded, of our intentions as to the future.
>
> *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 this treaty. Least of all do we desire to interfere with the

interest and prosperity of the people of Panama.[2] (Emphasis added.)

Taft, a most genial emissary, spent 10 days on the Isthmus, discussing the problems with Panamanian officials and conveying Roosevelt's message to the Panamanian people. He smoothed a lot of ruffled feathers. Shortly after his return to the United States, an executive order was issued designed to ameliorate many of the troublesome situations. Free importations into the Canal Zone were to be limited to coal, fuel oil, construction materials, and merchandise in transit to points outside the Isthmus. No tariff duties were to apply to Panamanian goods entering the Zone. The two cent postage rate for letters to the United States was to be available in Panama as well as in the Zone. Touching on other matters, the order provided that patients from Panama were to be admitted to one of the Zone hospitals. The U.S. would construct a highway to run six miles out of Panama City. Arrangements were to be made for Panamanians residing in the Zone to vote conveniently in Panamanian elections. Certain currency problems were to be ironed out.

These matters are mentioned in this detail because they developed so early in the game and are so indicative of the types of problems that were to keep cropping up and causing irritation in the years ahead. As can be seen, they stemmed about equally from commercial interests and the exercise of governmental functions. However, since all commercial activities in the Zone were carried on by the United States government, not by private business interests, the element of sovereignty underlay almost every situation.

Taft's visit smoothed things over for only a brief period. Within a year another major problem developed, one that still disturbs the relationship between the two countries. It is particularly illustrative of the situation in the early days when the Panamanian economy was totally incapable of supplying the needs of the rapidly developing Zone community.

By 1905 it had become quite clear that Panama could not produce an adequate amount or variety of food for the workers on the Canal project. It became necessary to set up commissaries within the Zone, stocked with foodstuffs from the United States. These commissaries initially were made available to everyone, whether they lived in the Zone or outside, whether they worked for the United States or not. Once again the Panamanian mer-

chants and farmers became concerned. But in spite of their protests, the commissaries soon, of necessity, went even further and entered the general merchandising field, including the sale of luxuries.

The Panamanian government formally demanded of the U.S. that access to the commissaries be restricted to those living and working in the Zone, that the use of coupon books be discontinued, that the sale of European merchandise be prohibited. All of these demands were rejected.

In time, the United States government even went into the hotel business. It established dairies. It roasted coffee. It engaged in almost every type of enterprise. At least during the construction period, there was no other answer. The services and goods were needed not only to maintain the construction force; they had to be available to a degree beyond mere sustenance in order to attract and keep the white collar and skilled workers, mostly from the U.S., essential to the Canal project.

As a matter of hindsight and heeding the warnings of Roosevelt's "instructions" to Taft, it would perhaps have been a wise policy if the United States, from the very beginning, had affirmatively encouraged the investment of private U.S. capital in Panamanian business ventures designed to meet these needs. In this way, within a reasonable period of time, many of the wants of the Zone might have been met by Panamanian entrepreneurs encouraged by American capital. At the same time an independent Panamanian economy, developing markets outside the Zone as well as within, would have begun to evolve at an early stage.

When the Canal was completed and the situation began to settle down to the routine operation of the waterway and the long-haul relationship between the two nations, or, more accurately, between the two side-by-side communities, the problems, unfortunately, did not disappear. Many of the old ones continued to cause friction: the commissaries, postage, customs collections, business competition, contraband control, law enforcement, and hospital facilities, to name a few. Others were new. Among them were those relating to job opportunities for Panamanians, rates of pay, housing, and education, all within the Zone; acquisition by the United States of additional land and water areas needed outside the Zone in connection with Canal operations; and the establishment of military bases and installations both within and without the Zone for the defense of the

Canal. Here, again, there was a fairly even mixture of commercial and governmental underpinnings to each problem. But, because of the omnipresence of the U.S. government, the sovereignty question was an inescapable component of every situation.

The complaints against U.S. policies and practices increased in scope and intensity as Panama's national identity continued to emerge and her economy, however slowly, to expand. Proximity aggravated the slightest issue. At an early stage in Panama's national existence fanning the flames of dissatisfaction with the United States became a way of life for aspiring politicians. Anti-U.S. rhetoric became the coin of the political marketplace. United States officials in the Canal Zone, in the U.S. embassy in Panama City, even in Washington, have for almost 75 years been under the relentless pressure generated from this source. There have, of course, been respites, short periods between some Panamanian elections, brief aftermaths of major U.S. concessions. But, in the main, the pressure has always been there, nagging, annoying, frustrating, inducing weakness and compromise.

Panama's first successful run at the 1903 treaty occurred in 1926. Not only were formal negotiations undertaken, but a new treaty was arrived at, modifying some of the terms of the basic document.[3] But this first revision, though signed and sealed, came to naught. The Panamanian National Assembly, dissatisfied with the extent of the concessions made by the U.S., refused to ratify. No action was taken by the U.S. Senate.

The fact that the United States was willing to enter into treaty negotiations at all in 1926 was significant. It evidenced a new inclination to discard the "big stick" policy towards Latin America as a whole and to have more concern over relationships with individual nations. This had first manifested itself under President Woodrow Wilson when, in 1914, negotiations were undertaken to mollify the bitter feelings of Colombia against the United States for the loss of Panama in 1903. In 1922, these negotiations resulted in the $22 million indemnification treaty referred to earlier.

Naturally, the ultimate failure of the 1926 effort kept the pot boiling. In 1933 the Good Neighbor Policy of President Franklin D. Roosevelt came on the scene, the first official U.S. policy directed specifically at improving relations with Latin American nations. The Panamanians took immediate advantage of the opportunity

afforded by this new U.S. approach. Negotiations requested by Panama in 1934 resulted two years later in the Hull-Alfaro Treaty. This was not to replace the 1903 treaty, but to change it in many respects and to cope with some of the situations not covered by it.[4]

The Hull-Alfaro Treaty of 1936 was a landmark in the realtionship between the two countries, and it made one thing quite clear: that the 1903 treaty was not immutable.

Foremost among the 1936 changes were those directly involving sovereignty. Three of them effected a modification in the basic relationship between the United States and Panama:

(1) Article I of the 1903 treaty was deleted. This was the article in which the United States undertook to guarantee the independence of Panama. Thenceforth, Panama was to be on her own, so to speak.

(2) The right of the United States under the 1903 treaty unilaterally to intervene in Panama to preserve order was abolished. Thenceforth, maintaining law and order outside the Canal Zone was to be the sole responsibility of Panama.

(3) The defense of the Canal was no longer to be the sole responsibility of the United States. Thenceforth, Panama was to share in this task.

These three changes represented a gigantic step forward in Panama's position, both domestically and internationally, even though the assumption by Panama of partial responsibility for the defense of the Canal was merely a gesture, a boost for Panamanian prestige. Panama was not at that time capable of making a significant military contribution towards the defense of the Canal.

Of the other two changes made in 1936 directly involving sovereignty, one was of particular significance. The United States relinquished its right under the 1903 treaty to take, entirely at its own discretion, any additional land or water outside the Canal Zone it might need for the effective operation, maintenance, or defense of the Canal. Thenceforth, Panama's consent would be a prerequisite. In the other sovereignty change, the U.S. gave up its right to acquire property in Panama City and Colon by eminent domain. Thenceforth, it would have to buy it.

An important provision of the 1936 treaty was one upping the annual payment to Panama from $250,000 to $430,000. This was not, however, an actual increase in compensation. It merely reflected the effect of the devaluation of the U.S. dollar in 1933.

In the area of commercial and community problems not covered by the 1903 treaty, there were several significant provisions in the new agreement. Residence in the Canal Zone and the privilege of patronizing the commissaries were to be restricted to certain categories of persons, primarily to employees of the United States and their families. The U.S. was not to establish any new business enterprises in the Zone unless directly related to the operation and protection of the Canal. Panamanian merchants were to be allowed to sell goods and supplies to ships arriving in the Canal Zone ports of Balboa and Cristobal or transiting the Canal. Up until then the United States had kept this lucrative trade to itself, mainly because at first there were no local firms that could be depended on to meet the needs of these vessels.

The 1936 treaty did not have easy sledding in either the United States or Panama. In the U.S. there was strong opposition to any dilution of the rights acquired under the original pact. In Panama there was, as in 1926, considerable dissatisfaction with the limited extent of U.S. concessions. Ratifications were not completed until mid-1939.

War clouds over Europe and growing concern over the activities of Nazi Germany in Latin America played a key role in bringing about ratification of the new treaty by the United States Senate.[5] They highlighted the importance of the Canal and the need for improved relations with Panama to meet the threat of another world war.

The war came. The defense of the Canal became a matter of the highest priority for the United States. At the same time Panama became the focal point for the defense of the entire southern portion of the Western Hemisphere. United States military bases and installations, with the consent of Panama, proliferated throughout the Isthmus. Tens of thousands of U.S. military and civilian personnel moved into the area.

Panama grew considerably during World War II, economically and nationalistically. The expenditure of large sums of money by the United States in the building of bases, fortifications, highways, communications systems, and all the other things that go into a massive defense effort were, of course, a tremendous stimulus to the economy. In addition, Panama had the opportunity to participate directly in meeting the needs for labor, goods, and services created by the U.S. effort and the large influx of people. The economic growth brought about by

this situation was, of course, to a considerable extent abnormal and temporary. But the country's permanent economic base was inevitably broadened and strengthened to a measurable degree.

The growth of nationalistic feeling during World War II was equally inevitable. Panama was given a taste of economic prosperity. The new structures, housing developments and airfields that sprang up outside the Canal Zone would someday belong to her. New roads and highways were built. New Panamanian communities developed. All these things tended to increase Panama's sense of nationhood, of being something more than just a jungle and farm area athwart the U.S. Canal Zone.

But part of this heightened nationalism stemmed from a negative source, from a natural resentment of the ever-increasing presence of a foreign power, particularly one in a military guise. The United States was everywhere, dominating, almost suffocating—a situation, from the Panamanian viewpoint, to be merely tolerated during the war emergency and affirmatively eliminated as soon as the justification for it was gone.

This gave rise to two confrontations, both related to the military bases, that were to have a profound psychological effect on the relationship between the United States and Panama. The first arose over the acquisition of the new bases. As has been noted, by the 1936 treaty the U.S. gave up its right to walk in as it pleased and take any area it needed outside the Canal Zone. Now Panama had to approve. In the initial phase of the military base build-up outside the Zone, roughly, from 1936 to 1940, there was no real problem. Cooperative Panamanian administrations were willing to authorize the acquisitions without much in the way of formalities. However, during Panama's 1940 presidential election this loose policy became a target. So much so that even before the election the incumbent administration reversed it and insisted that there could be no further acquisitions by the United States until the two countries had arrived at a basic agreement on two points: compensation to Panama and a fixed date for the return of the bases. Two years of intense and sometimes bitter negotiations ensued. During that period, the U.S. program for the expansion of defense facilities outside the Zone came to a complete halt. Panama took a firm stand: no agreement, no bases. She challenged the U.S. at a very critical time.

And she won. The Defense Sites Agreement was finally signed on 18 May 1942.[6] Panama got what she wanted in the way of compensation and the United States agreed to return the bases

one year after the war ended. Panama had faced down the giant. Furthermore, Panama successfully used the military bases issue to wring from the United States several important concessions that were totally unrelated to the defense program.

Another showdown occurred after the war. The Panamanians took the not unreasonable position that under the Defense Site Agreement of 1942 the bases should be returned to Panama by September 1, 1946, one year after Japan's unconditional surrender. The United States stalled. The matter dragged along past September 1. Some of the bases were evacuated, many were not. This gave rise to a political furor in Panama. The matter became a major issue in the 1947 presidential campaign. Finally, in December, on the eve of the election, an agreement was arrived at that would have resolved the question of postwar U.S. bases outside the Canal Zone. But it was not to be.

A special session of the Panamanian National Assembly was called for the purpose of ratifying the agreement. The opposition mounted first a strike of university students, then a general strike. Riots developed. Just before the final vote on ratification, 10,000 Panamanian students descended on the legislature in a wild protest. The Assembly voted to reject the agreement.

On Christmas Day, without waiting for another demand to get out, the U.S. military forces began evacuating all the remaining bases, silently stealing away. Panama had again prevailed in a showdown. It was a dramatic diplomatic defeat for the United States.

If anyone is puzzled today over the brashness with which diminutive Panama stands up to one of the world's two superpowers and makes "or else" demands, a look back at these two military base confrontations will supply part of the answer. For it was then that Panama took on the "Jack the Giant Killer" role that has characterized her attitude towards the United States ever since.

In 1953 Panama launched another all-out effort to revise the 1903 treaty. Typical of the new confidence was the send-off given the Panamanian negotiating team as it left Panama City for Washington in August of that year. All Panamanians were urged to take part in this "appointment with the fatherland." Responding to the call, thousands of them, including the president and six ex-presidents, cabinet ministers, government officials, delegations from the provinces, and high school and university students, marched in a huge parade. One student group

carried a placard reading Negotiations Without Surrender.[7]

During the negotiations that followed, Panama presented 21 demands. Chief among them were these: (1) that the Panamanian flag be flown in the Zone wherever the United States flag was flown, (2) that Panama's sovereign control over the Zone be restored, (3) that the duration of the treaty be reduced from perpetuity to 99 years, and (4) that the United States turn over to Panama each year 20 percent of the gross revenue from Canal operations, with a minimum of $5 million.

None of these four demands was met by the United States during the two years of negotiations that followed. But another treaty was concluded in 1955, commonly known as the Chapin-Fabrega Treaty.[8] The annual payment was upped from $430,000 to $1,930,000, where it stands today. Panama was given the right to levy income taxes on Panamanians working in the Zone regardless of where they lived. Wages and benefits for Panamanians working in the Zone were improved. The United States gave up its right under the 1903 treaty to a monopoly over trans-Isthmian railroads and highways outside the Canal Zone. It also gave up its right under the 1903 treaty to regulate sanitary conditions in Panama City and Colon and transferred certain property in those cities to Panama. The United States agreed to deny commissary privileges to Panamanians working in the Zone but living outside. And it agreed to build a bridge across the Canal at Balboa.

In return for all these concessions, the U.S. got a 15-year lease on a military training area in the Rio Hato region outside the Canal Zone.

Both nations ratified the new treaty. For the next three years the pressure on the U.S. was relaxed a bit, although delay by the U.S. Congress in authorizing a new $22 million bridge across the Canal caused some agitation.

Then, in 1958, the high school and university students launched "Operation Sovereignty," the agitation over the flying of the Panamanian flag in the Canal Zone that was to go on intermittently for the next six years and culminate in the disastrous "Flag War" of 1964.

During 1958, riots and demonstrations involving the flag occurred on several occasions. Ten Panamanians died at the hands of the Panamanian police force, the Guardia Nacional. There was one "peaceful" invasion of the Zone.

The pressure continued in 1959. On one occasion U.S. troops

had to be called into action to repel the mobs invading the Zone. No deaths occurred, but there was considerable property damage.

In April 1960, apparently in a hasty attempt to calm things down, President Dwight D. Eisenhower announced a nine-point program of concessions to Panama, mostly having to do with employment and housing in the Zone.[9] That did not relieve the tension. In September of that same year, Eisenhower went even further, this time conceding on the flag issue itself. In defiance of an earlier admonition by the U.S. Congress, he directed that the Panamanian flag be flown each day alongside the Stars and Stripes at one place in the Zone, Shuler Triangle, "as visual evidence of Panama's titular sovereignty over the Panama Canal Zone."[10] This seemed to merely whet the appetites of the Panamanian activists.

The following year, President John F. Kennedy took office and unveiled his Alliance for Progress program, directed, like its forerunner, the Good Neighbor Policy, at improving relations throughout Latin America. When he got around to Panama in 1962, Kennedy met in Washington with President Roberto Chiari. They issued a joint statement covering many of the problems vexing the two countries and, with respect to the flag issue, reciting an agreement to arrange "for the flying of Panamanian *flags* in an appropriate way in the Canal Zone."[11] (Emphasis added.)

That this assurance accomplished little was demonstrated a few months later at the dedication of the new bridge across the Canal promised by the U.S. in the 1955 treaty. A grand ceremony was planned, participated in by high officials of both nations and the diplomatic representatives of many other countries. It ended up in shambles. While U.S. Under Secretary of State George Ball was delivering a major policy speech about U.S. relations with Panama, including an announcement that the Panamanian flag was to be flown at many places in the Zone, anti-U.S. demonstrators broke through police barriers, swarmed onto the bridge, and brought the proceedings to a halt in wild confusion.

From then on, until the final debacle in 1964, the flag issue held the spotlight. Demonstrations, "incidents," negotiations, agreements, disagreements, misunderstandings, all involving the flag question, passed across the stage. Nothing satisfied the instigators of the Panamanian mobs. In their vacillations between

firmness and weakness, U.S. officials did little more than aggravate the situation.

It appears now that no matter what concessions the United States made or might have made, the final bloodbath could not have been avoided. The Panamanian activists, particularly the students, organized and directed by Communists,[12] were going to use this issue, or some other one, as a pretext for a dramatic confrontation. Some say the initial concession by Eisenhower in 1960 was the fatal mistake from which all later events flowed. As a matter of hindsight, it appears just as likely that a firm refusal on his part would merely have hastened those events.

The Flag War started on January 9, 1964, and continued for a week. It began when some 200 Panamanians, mostly students, marched into the Zone and approached the flagpole at the Balboa High School. There, contrary to official orders, American students had flown a U.S. flag. It was the intent of the Panamanians to fly their flag beside it. A scuffle started when they were asked to leave. This touched things off. More demonstrators moved in from Panama.

From then on mobs numbering in the thousands began to run wild at various points in the Zone and throughout the cities of Panama and Colon, breaking street lights, overturning cars, smashing windows, setting fires. Many American residents of the Panamanian cities fled into the Zone for protection. The mobs were using Molotov cocktails, machetes, guns, stones, bricks, any lethal weapon that came to hand. Outside the Zone, in Panama City and Colon, the Guardia Nacional, at least for the first three or four days, made no effort to preserve order. Within the Zone, when the police became incapable of handling the situation, the U.S. military forces took over.

When the "war" ended, 20 Panamanian citizens and five American soldiers lay dead. Panama had suspended diplomatic relations with the United States and appealed to the United Nations and the Organization of American States against what was termed U.S. "aggression." The new president of the United States, Lyndon Johnson, had an international crisis on his hands.

At the instance of a peace committee of the Organization of American States, the U.S. and Panama agreed to undertake discussions of their mutual problems. These discussions got under way in May, after diplomatic relations between the two countries had been restored. Student riots and demonstrations

resumed in Panama. The pressure was still on. It paid off.

In December 1964 President Johnson announced a startling reversal of U.S. policy, "the negotiation of an entirely new treaty on the Panama Canal."[13] Finally, in September 1965, came word of complete U.S. capitulation on the basic treaty issues. Johnson announced that the U.S. in preliminary negotiations had already agreed to abrogate the 1903 treaty, to substitute a fixed term of years for duration in perpetuity, to recognize Panama's sovereignty over the Canal Zone, to place the Zone under Panamanian jurisdiction, and to work out an arrangement whereby the Canal would be operated jointly by the two nations.[14] Negotiations in the future were to proceed from that new threshold.

The first 50 years of the relationship between the United States and Panama, were crucially determinative of the posture in which the two nations find themselves today, vis-à-vis one another and vis-à-vis the rest of the world. The clock cannot be turned back, but no one can fully understand the Panama Canal dilemma of today without an awareness of the conditions, the events, and the attitudes that developed during those formative years, the years of Panama's childhood, the years of her adolescence. What did this period produce?

Ever since World War II Panama has given the appearance of wearing her national pride on her sleeve. Baiting the United States has become a national pastime. Martyrdom and helplessness at the hands of U.S. "imperialism" have become a national pose. And out of this strange combination of national swagger and national impotence has apparently grown a confidence, ever more justified by succeeding events, that national tantrums will eventually gain for Panama everything she wants from the United States.

One might also conclude that the United States has failed dismally over the years to cope with these manifestations of Panamanian adolescence. With an attitude ranging from haughty indifference to placating indulgence, dictated at any particular moment by the degree and duration of pressure applied by Panama, the United States has appeared to act on a situation-by-situation basis, making no effort to search out root causes, to develop long-range, overall solutions. The policy, put in military terms, seems to have been one of steady retreat: no constructive moves forward, no leadership.

As a result, what was in its initial stages largely an economic problem and one which at least up until 1964 probably could have

been solved by economic means, became one bound up in Panama's national pride. If, particularly during the period after World War II, the United States had made an all-out effort to develop the Panamanian economy in the areas of international trade, small manufacturing, and agriculture, it seems likely that that economy, located so strategically along the lanes of world commerce, could have reached a point where the Canal and the U.S. presence because of it became only an important component, not the dominant one. At some stage of the game young Panama might have stopped pressing her nose against the window and peering, forlornly and enviously, into the Canal Zone. She might have had something to turn her attention away, things of her own to take care of and gaze on with pride. National pride might have been nourished by something more than an insatiable lust for the Canal Zone.

That this was not done, that the Panamanian economy is still almost wholly tied to the Canal, that national pride has become exclusively centered on sovereignty over the Canal Zone, are the tragedies of those first 50 years. Panama had seemingly only one road to travel: that of satisfying her pride.

As for the United States, the policy of constantly giving ground on the basis of expediency seemed to have brought her back to the wall, with no more room for maneuver and seemingly nothing more to give up but the Canal itself.

It is within this dismal framework that the treaty negotiations concluded in 1977 must be assessed.

8

Stacked Deck: The U.S. Negotiating Phenomenon

The negotiations between the United States and Panama that started in 1964 and were concluded, for a second time, in August 1977, have been unique in the history of international treaty-making.

In the first place, it is highly unusual for one of the two nations in bilateral treaty negotiations to throw away its major trading positions before the negotiations commence. Yet the United States did just that in these negotiations, all the way through. President Johnson announced in 1965 that the U.S. was precommitted to giving up the perpetual treaty duration, the rights of sovereignty, and the right of unilateral Canal operation that it acquired under the 1903 treaty. This precommitment was reaffirmed nine years later by the Nixon Administration in the Kissinger-Tack Statement of Principles. It was later adhered to by the Ford and Carter administrations. The relinquishment of these positions of strength before the negotiations even started obviously rendered them valueless as future trading points. This was an unusual gambit, to say the least.

In addition, there are two basic characteristics of normal bilat-

eral negotiations that were missing here. In the usual situation both parties to the negotiations have things they want to gain and things they are willing to give up in exchange. The trading of advantages and disadvantages thus becomes the order of business. This was not the case here.

The other basic characteristic in the normal situation is that the attitudes of the negotiating representatives on the two sides are, in the main, adverse. These attitudes stem from firm beliefs in the correctness of the opposing positions of their respective principals. This, in turn, causes them to deal with each other on a partisan, adversary, albeit polite, basis. That was not the situation in these negotiations.

First, the absence of normal give and take. Bargaining was all one way. In a general sense, at least, Panama had nothing to give, nothing the United States wanted, other than such intangible, nonnegotiable items as good will, stability, and cooperation. By virtue of the 1903 treaty the United States has everything she wants. On the other hand, Panama wants everything the United States has.

This is a totally unorthodox foundation for negotiations. The negotiating has to be all one way. U.S. rights under the 1903 treaty are so extensive and complete that almost any modification, whether major or minor, must involve a relinquishment of something on the part of the United States, with nothing given in exchange by Panama. This situation has given rise to the term *giveaway* used constantly as a slogan by U.S. opponents of the new-treaty policy.

Giveaway is perhaps a literally and practically accurate term from the standpoint of those who believe there was nothing to be gained by negotiating. On the other hand, from the standpoint of those who believe, as apparently have the four most recent presidential administrations, that a new treaty based on the Kissinger-Tack principles is essential both to U.S.–Latin American relations and to the continuing viability of the Panama Canal as a world waterway, it is a totally inaccurate term. To those people, the concessions made by the United States to Panama will be paid for, not in the normal coin of treaty negotiations, but in kind, so to speak—in nonnegotiable intangibles such as good will, stability, and cooperation, and in improved relations throughout Latin America.

From the standpoint of the American people and the members of Congress who must now decide what, in all good conscience

and in keeping with the hard realities of the Panama Canal situation, is in the best interests of the United States, *giveaway* is nothing but a misleading, rhetorical gimmick. It is a term that would probably best be ignored. Slogans incite; they seldom enlighten.

What does enlighten in this situation is the realization that because of the peculiar circumstances created by the 1903 treaty, circumstances totally favorable to the United States, any change in the relationship created by that document necessarily results in the United States' "giving up" something. But it does not necessarily result in the United States' "giving away" something.

As to the lack of the other basic characteristic, the usual adverse attitudes of the negotiating representatives, the evidence is interesting. One spring 1976 morning in Washington in the waiting room of the State Department offices of the U.S. Panama Canal negotiating team, there was an astonishing thing to behold. The waiting room was just outside the office of S. Morey Bell, director of the Panama Division of the State Department and State's top representative on the negotiating team under Ambassador-at-Large Ellsworth Bunker.

In the dimly lighted room on a wall table there was a white cardboard sign perched behind a dark wooden pedestal. On the pedestal rested a small piece of what appeared to be bone or gristle. The sign bore this legend, crudely handprinted in ink:

THIS IS THE BRAIN OF
P. BUNAU-VARILLA—
A CONSTANT INSPIRATION
TO THE U.S. NEGOTIATORS

There, in the historic lair of U.S. international statesmanship, the home of U.S. diplomacy, the very workshop of the U.S.-Panama treaty negotiations, was a surprisingly childish indication of the oft-reported attitude of the State Department negotiators. There in a nutshell was an expression of the *mea culpa* complex, the "we-are-on-the-wrong-side" approach that has characterized the State Department's negotiating effort and related activities with regard to Panama for the past 25 years.

History shows that Bunau-Varilla was wily, even Machiavellian. His motives were often questionable, his interests conflicting. But small-brained? Gristle-brained? Hardly. He was a well-

educated, able engineer. Though untrained in the art of diplomacy, his draftsmanship of the 1903 treaty was a thorough and intelligent piece of work. But for him there probably would have been no treaty at all, no Panama Canal, certainly no Panama.

This evidence of puerile pique against Bunau-Varilla is highly significant as regards the posture of the United States in negotiations with Panama. For the 1903 treaty drafted by Bunau-Varilla is the source of all U.S. rights in Panama. It is the essence of the negotiations. Whatever we "give away," as the slogan goes, whatever we keep, in these negotiations, must stem from Bunau-Varilla's handiwork—handiwork concurred in by then U.S. Secretary of State John Hay, ratified shortly afterward by the United States Senate, and apparently approved of ever since by a majority of the American people.

What an individual employee of the State Department thinks of the 1903 treaty privately is his own business. What he says about it publicly is an entirely different matter. And yet the U.S. negotiating team, at least on March 18, 1976, was telling everyone who happened to come its way, including any Panamanians, that the 1903 treaty, the Magna Carta of the U.S. presence in Panama, was the product of an infinitesimal brain, and therefore, by implication, wrong, or as they would probably say, "evil."

The display in the waiting room is only one of frequent manifestations of the feelings of many State Department employees. For example, in a recent symposium on the Panama Canal issue at an American university, Assistant Secretary of State Hewson Ryan, speaking for the department, referred to the Canal Zone as "the last remnant of imperialism."[1] This is a rather strange way for a government official to characterize the United States involvement in Panama, to say nothing of the use of the word *imperialism,* the standard epithet of the Communists regarding U.S. foreign policy.

Coupled with this State Department *mea culpa* complex over the 1903 treaty is a defensive, almost paternalistic, attitude towards Panama and all things Panamanian. In State Department circles, for example, one hears little criticism of the Panamanian government, though its military leaders are notoriously corrupt, scarcely any adverse comment on the incessant attacks against the U.S. by the government-controlled Panamanian news media, no mention of the increasing number of Communist ideologues being placed in key government positions, no expressions of

resentment over the wanton misconduct of Panamanian mobs during anti-U.S. demonstrations. On the contrary, inquiries concerning such matters are met with an instantaneous defense. Seemingly to many in the State Department the Panamanians can do no wrong, or if they do wrong, it is with ample provocation or justification.

This is a charitable way to view the people of another nation. But in this case it is so overdone as to become a ridiculous form of servility. The Panamanians are, as a whole, fine people. They are, in the main, friendly towards the United States. But they are human. Their interests do not always coincide with the best interests of the United States. It is the responsibility of the State Department to protect the latter, not to defend the former.

With the strongest negotiating positions precommitted, with bargaining, of necessity, a one-way proposition, and with this extremely pro-Panamanian, almost anti-U.S., attitude of many State Department employees, it is not surprising that the negotiations were often characterized as a "stacked deck" against the United States.

That this lopsided situation did not, early in the game, result in total capitulation to Panamanian "aspirations," regardless of cost, was due mainly to two countervailing factors. One was the independence of the leadership of the U.S. negotiating team, the other the wariness of the U.S. military with regard to concessions to Panama that affect national security. Unfortunately these factors have diminished in recent years, and their braking effect on State Department zeal has been lessened appreciably.

First, the leadership. In 1964 when President Johnson launched the United States on a revolutionary policy of abrogating the 1903 treaty and negotiating an entirely new one, he picked as head of the negotiating team fellow Texan and personal friend Robert B. Anderson, a man with no State Department background. Anderson was a successful lawyer and businessman. He accepted the position on the condition that he would be directly responsible to the president, not to the secretary of state. This freed him from the internal pressures of the State Department. In addition, Anderson sought and obtained from the White House written guidelines setting the limits beyond which the negotiating team could not go in making concessions to Panama. Because of these safeguards, any tendency on the part of the State Department to run away with the negotiations was significantly curbed while Anderson was in charge.

Anderson was succeeded in 1973 by Ellsworth Bunker, then 79 years of age. Bunker's appointment by President Richard M. Nixon was made under circumstances rather different from those that prevailed when Johnson named Anderson. In the case of Anderson, President Johnson was reacting to the crisis created by the Flag War. At that moment Panama was front stage center to Johnson. At the time of the Bunker appointment, President Nixon was deeply immersed in the Watergate scandal that led to his resignation. Secretary of State Kissinger was tending the international store, and although there was something to react to—the UN Security Council's vote in support of Panama's "aspirations"—it was Kissinger who was reacting. The appointment of Bunker emanated from Kissinger, although Bunker was well known to Nixon.

Like Anderson, Bunker had been a successful businessman. But unlike Anderson, Bunker had been retired from the business world for 22 years. And during those 22 years he had held a series of important posts in the Foreign Service of the State Department, including that of U.S. representative to the Council of the OAS at the time of the Panamanian Flag War. His most recent assignment had been a six-year tour of duty as ambassador to South Vietnam. Compared with Anderson, he was thoroughly State Department oriented. In his capacity as chief of the U.S. negotiating team he was responsible directly to the secretary of state. Obviously the restraint imposed on the State Department by the independence of the negotiating team's leadership was not the same under Bunker as it was under Anderson. In 1977 President Jimmy Carter named Sol Linowitz as temporary cochief of the team. Because of Linowitz' background and predilections it is doubtful that this appointment constituted any restraint.

In fact, speculation to the contrary, and even beyond, is unavoidable. Linowitz, a lawyer and businessman, served as U.S. ambassador to the OAS during the last three years of the Johnson Administration. For three years prior to that he had been the chairman of the State Department's Advisory Committee on International Organizations. During the past several years he has been the chairman of a private group known as the Commission on United States–Latin American Relations. Two reports by that group, one issued in October 1974,[2] the other in December 1976,[3] have strongly endorsed and advocated the State Department's objectives in Panama.

Beyond this, Linowitz, at the time of his appointment as co-chief of the U.S. team negotiating with Panama, was extensively involved in Latin American business affairs. With particular reference to Panama, he was, and is, a member of the board of directors and the executive committee of the Marine-Midland Bank of New York, which is a participant in a $115 million loan to the Torrijos government—a loan that is shaky, to say the least, in the light of Panama's current economic plight.[4]

In addition, Linowitz has been registered with the Department of Justice under the Foreign Agents Registration Act as the agent of two foreign countries: Colombia and Chile. His representation of the latter country was during the time the Communist government of Salvador Allende was in power.[5]

Linowitz' appointment as an ambassador for the purpose of the Panama treaty negotiations was made for a term of sufficiently short duration to obviate the necessity for Senate confirmation. Had it been otherwise, some of the activities and affiliations just mentioned might have made his confirmation a rather difficult accomplishment. At any rate, he was hardly the man to curb the State Department zealots.

The other important factor in thwarting a possible State Department runaway in the Panamanian negotiations—in fact, until 1975 probably the more important of the two factors—had been the previously mentioned concern of the U.S. military over the Panama Canal. During the period 1964–75, because of the watchdog vigilance of the military in this regard, every position taken by the United States in the negotiations was tested in the crucible of national security. Equating the bureaucratic fixations of the Defense Department with those of the State Department, it is probable that this testing was often either misapplied or overdone. It generated constant friction between the two departments. But, given the intrinsic attitude of the State Department towards the negotiations, it did tend to enhance the protection of U.S. interests by creating a balance of viewpoints.

On the other hand, this rivalry between the two departments made the task of the chief negotiator a particularly difficult one. He had not only to direct the negotiations with Panama, but to supervise, or at least encourage, negotiation and compromise between State and Defense. From the very beginning, Bunker apparently found this to be an intolerable situation. He brought it to a head shortly after he took over. The end result was the muzzling of the military.

Defense Department personnel became particularly active and recalcitrant with regard to the negotiations after the Kissinger-Tack Statement of Principles galvanized congressional opponents of a new treaty into action in 1974. Members of Congress turned to the Pentagon for assistance. At the same time they took the opportunity of reminding the military who held the purse strings and to encourage resistance to what appeared to be a rush towards an agreement with Panama. The military responded energetically.

In the summer of 1975, exasperated by this extreme disunity in his negotiating constituency, Bunker, the architect of the Kissinger-Tack pact, made the unification of the positions of State and Defense a condition of his returning to Panama and resuming negotiations.

Kissinger, already embroiled with Secretary of Defense James R. Schlesinger over the more pressing problem of the U.S. position in Angola, took up the cudgels again over Panama. President Gerald R. Ford, who had succeeded Nixon, apparently agreed with him. As a result, word went out from the White House to the top officials in the Defense Department and in the office of the Joint Chiefs of Staff that they should go along with the State Department and stop rocking the boat in Panama, or face the consequences.

Not long after this White House ukase, Schlesinger resigned as head of Defense. The part that the Panamanian situation played in that development is a matter for conjecture. Possibly it was only an additional irritant in his more important difficulties with Kissinger. In any event, everyone else in the Pentagon played ball according to the new rules. To dramatize the new "unity" with the State Department, Deputy Secretary of Defense William P. Clements and Gen. George Brown, chairman of the Joint Chiefs, flew to Panama with Assistant Secretary of State William Rogers, met with General Torrijos, and publicly announced their support of Bunker's negotiating effort.

Having won his point, Bunker returned to Panama. Negotiations were resumed. Not long afterward, Lt. Gen. W. G. Dolvin, a distinguished, recently retired Army officer, was named to the position of chief deputy for defense on the negotiating team, a new position created to pacify and reassure the military. Significantly, Dolvin's career had never included duty in Latin America. Asked by a newsman why, with this background, or lack of it, he had been picked for the job, Dolvin is reported to have

replied: "I think they wanted someone who might be part of the solution rather than part of the problem."[6] One can assume that the primary responsibility for briefing and indoctrinating Gen. Dolvin for his march into virgin territory was assumed enthusiastically by the State Department.

Through these various developments, military vigilance over the Panama treaty negotiations was disarmed. "Unification" of the positions of the State Department and the Defense Department was, apparently, mostly on State's terms. The military brake on the State Department's zeal for U.S. atonement in Panama was almost completely released.

Now all that remained was the final drive to the finish line. But another obstacle, a quadrennial one, cropped up. The 1976 U.S. presidential election year was at hand. Another ukase issued from the White House: the less said and done about the Panama Canal for the time being, the better. Thus 1976 became another hiatus in the negotiating effort. But the U.S. negotiating team was ready—and "unified." In 1977, President Carter gave it the order to plunge ahead and to reach an agreement with Panama as quickly as possible. Linowitz was the new quarterback. The military was still muzzled.

9

Playing the Hand: The Treaty Negotiations

The treaty negotiations between the United States and Panama that were completed in the summer of 1977 had been going on, or more correctly, had been going on and off, since 1964. During that period, they ran, for no apparent reason, in three-year cycles.

At the beginning there was a three-year spurt, a real drive towards an entirely new treaty arrangement. The outcome was the initialling of the three abortive and hushed-up draft treaties of 1967.

This was followed by a three-year hiatus in negotiations, the early period of the Torrijos military regime in Panama. Token negotiations began again in 1970. They rocked along with little progress until 1973 when Torrijos was successful in forcing the United States into that embarrassing veto during the UN Security Council meeting in Panama.

On orders of President Nixon a step-up in the negotiating tempo began immediately. In February 1974 came the ceremonial signing in Panama City of the Kissinger-Tack Statement of Principles. This marked the beginning of another seemingly de-

termined effort to arrive at a final settlement. This renewed spurt, which soon produced three "conceptual agreements," ran its course to a conclusion in three years. Torrijos himself had marked 1977 as the "or else" year. Most experts had picked it as the year of final agreement or major crisis, or both.

Before looking more closely at the negotiations, mention should be made of one item, that of a new, sea-level canal. The possibility of such a canal, for several years after 1964 a definite U.S. objective, now for ecological and financial reasons reverted to a remote possibility, has played some part in the negotiations all along and could surface again in connection with the ratification proceedings.

Although talk of another trans-isthmian canal and of routes other than the one established across Panama has never died down completely, it was not until the late 1950s and the early 1960s, when the questions of the Panama Canal's vulnerability to military attack and its capability of handling the traffic of the future assumed seemingly urgent proportions, that a new sea-level canal received serious consideration. This consideration was enhanced hy the purported availability of nuclear excavation techniques that would speed up such a project and reduce its cost.

In 1964 the United States, as part of the reaction to the Flag War crisis, took the first official step in the direction of a sea-level canal. Congress enacted legislation establishing the Atlantic-Pacific Interoceanic Study Commission, giving it a mandate to make a study and to recommend a suitable site for such a canal. In December 1964, when President Johnson announced the policy of negotiating an entirely new treaty with Panama, he coupled it with the announcement of his decision to go forward with "plans and preparations for a sea-level canal."[1] He named Robert Anderson as chairman of the new study commission, as well as chief of the new treaty negotiations.

Ever since that time the negotiations have included the possibility of a new canal in Panama. Naturally, if such a canal were to be built in some other country, the effect on Panama would be disastrous. However, as far as can be determined, the threat of that eventuality has never been used by the United States as a trading position in the treaty negotiations. Its potential for that purpose was diminished considerably in 1970 when the final report of the study commission was made public. The commission recommended that a new, sea-level canal be built in Pan-

ama, not far from the present Canal, but to the east of the Canal Zone.[2]

The commission concluded that "the technical feasibility of the use of nuclear explosives for sea-level canal excavation has not been established."[3] Thus the possibility of great cost savings went out the window. The subject of a new sea-level canal lay relatively dormant from that time until late in July 1977. Out of the blue, President Carter stated in a press conference that the prospects for such a canal were again under consideration.[4] This statement was made in the context of a need to transport Alaskan oil from the west coast to eastern ports, but it may also have been a ploy by the president to nudge Panama toward the final agreement on the new treaties that was reached a few weeks later.

Obviously a new canal would involve a whole new ball game either with Panama or some other isthmian nation or nations—new treaty, or treaties, new duration, all of the old problems in a new setting, and presumably a host of additional ones. Nevertheless, the possibility cannot be ignored.

The threshold of the last two phases of the negotiations was, of course, the Kissinger-Tack Statement of Principles of February 1974. In the light of that agreement it became certain that if the negotiations were to run their course successfully, there would be a new treaty with the following major features: (1) a fixed termination date, instead of duration in perpetuity, (2) recognition of Panama's sovereignty over the Canal Zone, (3) the prompt transfer to Panama of jurisdiction and control over the Zone, (4) joint operation of the Canal geared to Panama's assuming total operational responsibility at the end of the treaty, (5) an increase in the "economic benefits" to be derived by Panama from the operation of the Canal, (6) joint defense of the Canal, and (7) provisions "for new projects which will enlarge canal capacity."[5] (This last may mean that as of February 7, 1974, the U.S. had abandoned any idea of a new canal.)

Whether or not such a treaty would ultimately be ratified by the United States and Panama (under the present Panamanian constitution a national plebiscite is required for ratification) is beside the point at the moment. The point then was that by virtue of the Kissinger-Tack pronouncement the way had been clearly marked for the negotiating teams of the two countries to arrive at a new treaty, if that was what both countries wanted.

The negotiations proceeded on the basis of a well-defined

procedural technique. Its principal feature is the negotiation of a series of preliminary conceptual agreements, which then become the framework for the ultimate treaty. There are four steps in the overall process:

(1) Identifying the major issues to be resolved by the treaty.

(2) Negotiating an agreement on the "concepts," or basic principles, to be applied in resolving each of those issues. (These agreements are the so-called conceptual agreements. The reaching of a conceptual agreement with regard to a particular issue does not mean that the issue itself has been finally resolved. It means only that the ground rules for its resolution have been at least tentatively settled.)

(3) Negotiating, on the basis of the conceptual agreement for each issue, the treaty language covering the resolution of that issue.

(4) Integrating into a final treaty the sets of language negotiated under (3).

The conceptual agreements arrived at in the second step of this procedure obviously become the building blocks with which the final treaty structure will be fashioned. Each of them is, therefore, highly significant in regard to what the final terms on the particular issue it covers will be.

The conceptual agreement technique of negotiating is orderly and, in theory at least, thorough. It also is conducive to a leisurely negotiating pace and to stalling. With the number and complexity of issues and subissues involved in the Panamanian treaty negotiations, the final result could be conscientiously delayed indefinitely by either side.

The negotiations were carried on in secret. Until the spring of 1977 the negotiating sessions were usually held on the charming island of Contadora, 30 miles off the Pacific coast of Panama. Contadora is not readily accessible to either news media representatives or to demonstrators. But, as in all secret proceedings, leaks occurred. In fact, leaking negotiation secrets back on the mainland became a tactic commonly used by the Panamanians whenever it served their political purposes. By the same token, "signalling," both ashore and on Contadora, became a common tool in the hands of the United States—signalling to the appropriate Panamanian officials what concessions from the United States they might expect even though official indications were otherwise, a method of placating a negotiating adversary that

tends to develop public tantrums. The State Department dislikes these tantrums exceedingly. Signalling is a handy pacifier. And the information signalled, as might be expected, was often leaked by the Panamanians, if to do so was helpful to whatever public posture Panama was assuming at the moment.

This leaking-signalling by-play was another unique feature, in addition to those discussed in the preceding chapter, of the U.S.-Panama negotiations. Unique because, while only one side did the leaking, both sides were the instigators.

Because the negotiations were conducted in secret, it might be supposed that it would be impossible to determine where the negotiations stood at the beginning of 1977. However, that is not completely the case. Not because of leaks or signals, but because of an angry Panamanian foreign minister, the world learned in the fall of 1975 that as of that time three conceptual agreements had already been reached and that the negotiations were moving along favorably from Panama's standpoint, notwithstanding presidential campaign rhetoric to the contrary in the United States. Foreign Minister Tack's angry announcement was precipitated by Kissinger's statement in Florida that the U.S. would retain its right to defend the Canal indefinitely. The existence of the three agreements was subsequently confirmed in the United States, and their texts became available.

The three conceptual agreements that are known to have been reached covered (1) Panamanian jurisdiction and control over the Canal Zone, (2) joint operation of the Canal, and (3) joint defense of the Canal.

There was no secret, of course, about the major issues remaining to be covered by agreements of the same type, since the list of all of the issues stemmed directly from the Kissinger-Tack Statement of Principles of 1974. They were, to complete the numerical sequence: (4) increased "economic benefits" to be derived by Panama from Canal operations, (5) designation of the land and water areas that would be needed by the United States to carry out operational and defense responsibilities during the new treaty period, (6) arrangements for expanding the capacity of the present Canal (and, perhaps, for constructing a new one), and (7) duration of the new treaty.[6]

A large order? Yes, and particularly when one considers the innumerable subissues that are included within each of these major ones. But not an impossible one, given the unusual charac-

teristics of these negotiations and the fact that three of the "Big Four" (sovereignty, operations, defense, and duration) had already been disposed of.

As a means of seeing how far things had gone when the U.S. presidential election year caused a long pause, and, at the same time, of seeing where they seemed to be headed, a look at the principal features of the three conceptual agreements that had been reached at that time is illuminating.

First, the one dealing with Panamanian jurisdiction over the Canal Zone.[7] The issue this conceptual agreement covered was seemingly, at least at that time, *the* issue so far as Panama was concerned, and probably *the* issue so far as most Americans are concerned, the issue of *sovereignty.* And by this conceptual agreement that issue was resolved, at least tentatively, in no uncertain terms.

The agreement provided that the moment the new treaty became effective "U.S. jurisdiction over the Panamanian territory known as the Canal Zone shall cease." It provided that the moment the new treaty became effective "the U.S. entity known as the Canal Zone Government shall immediately terminate." And it provided that the moment the new treaty became effective "the Republic of Panama, in the exercise of its sovereignty, shall reassume general police authority in that part of its territory known as the Canal Zone."

To this last-quoted provision there was an exception. There would be specified in the new treaty the areas needed by the U.S. to carry out continuing operational and defense responsibilities. In those areas, the agreement provided that "the Republic of Panama will *grant* the United States police authority *up to a period of three years."* (Emphasis added.) But even during that short period, in those same areas a system of joint police patrols would be set up so that the Panamanian police could arrest "Panamanian and third country nationals." And after the three-year period the United States would have no further police or civil authority whatsoever over either its own citizens or members of its armed forces, and "U.S. courts of law in the old Canal Zone shall cease operations."

What about schools, public utilities, hospitals, and fire protection currently furnished by the United States in the old Canal Zone? Who was going to provide those services and foot the bill for them? Panama? Not at all. The agreement spelled out the "concept" that the United States would be given by Panama

"the operational rights" to render those services. Apparently, lest this provision might seem to denigrate Panamanian sovereignty, it was further provided that these activities should be carried out by the United States "in line with the exercise of jurisdiction by the Republic of Panama over its territory."

In other words, the United States government in exercising its "operational rights" to furnish these essential services would be subject to regulation by the Panamanian government. As to performance standards, school curricula, and textbooks? As to the chemical content of domestic water? As to rates for electricity? As to hospital procedures? As to fire prevention safety requirements? Presumably. The agreement did not say.

There were many more provisions in this conceptual agreement on jurisdiction over the Canal Zone, but these were the major features. What has been described is probably sufficient to indicate the overall concept that would govern the final treaty provisions in this regard. It is difficult to see how the United States could function as a government under such a "concept." As an agent of Panama, yes. As a government, no.

The conceptual agreement covering joint operation of the Canal, entitled simply "Increased Panamanian Participation,"[8] was far more vague than the one on jurisdiction over the Canal Zone. However, the preamble did recite the clear objective of the new treaty in this regard: "The primary objective of Panamanian participation is to guarantee that Panama is prepared to assume the complete responsibility for the efficient operation of the interoceanic waterway when the treaty expires."

The preamble went on to state that this objective was to be attained by making sure that there would be a sufficient number of qualified Panamanians on hand when the time came for Panama to operate the Canal on her own. That, too, seemed clear enough.

Then the fog rolled in. The agreement assigned to the United States the "primary responsibility for canal operations and the transit of ships" during the life of the treaty. But in the same breath it called for the immediate elimination of the Panama Canal Company, the present U.S. operating agency. In its place there was to be "a new administrative body, government or otherwise." But it did not say how this "body" would be constituted, or by whom. Since the United States would still have "primary responsibility" for the operation of the Canal, presumably it would be given control. On the other hand, maybe not.

Perhaps the negotiators were unable at that time to reach agreement on this crucial point.

As to the building up of a sufficient number of Panamanian personnel qualified to take over the entire operation of the Canal, there were references to employment and promotional preferences for Panamanian citizens and to "a growing participation on the part of Panamanian nationals at all levels and fields of employment in the canal operation, including participation in the drafting of overall policies as well as in daily operations." All this, in principle at least, seemed clear enough.

But it seems logical that this conceptual agreement, dealing as it did, among other things, with employment rights and practices, would have contained some concepts about the rights and interests of the key U.S. employees, such as Canal pilots and engineers, whose willingness to remain at their posts would be essential to the success of any transitional program. There is not a word on this, perhaps because it would not sit well in Panamanian labor circles. Failure to provide firm assurances from both governments to this group of key U.S. personnel could lead to the paralyzing result of a mass exodus. Maybe this is another vital area in which the negotiators either ducked the issue or had been unable to agree.

The third known conceptual agreement was the one covering the joint defense of the Canal.[9] And here the fog was dense, so dense that it is difficult to achieve any reasonable grasp of the concepts that had been arrived at on this issue.

One exception to that generality was the concept of what would happen when the treaty expired. On this the language was quite clear: "Upon the expiration of the treaty, Panama shall take over total responsibility for the protection and defense of the waterway." But this clarity was in itself confusing, because such unequivocal language seemed to fly right in the face of repeated assertion by highly placed U.S. officials that under any new treaty arrangements U.S. defense rights would continue indefinitely.

As to the defense situation during the life of the new treaty, the conceptual agreement recited that the "United States shall have the main responsibility." Not the *primary* responsibility, as in the case of joint Canal operations, but the *main* responsibility. What was the significance of this selection of words? *Main* seems to connote a lesser degree of ultimate responsibility than *primary*. If that is so, then the negotiators seemed to be

saying that as far as Canal defense was concerned, as distinguished from Canal operations, although the United States would carry the heavier, the "main" burden, ultimate responsibility would be shared equally by both governments, one not being "primary" in relation to the other.

Then how were these relative responsibilities, whatever their relationship, to be carried out? Who was to be in command? Who was to make the decisions on military countermeasures in the event of an attack? Let the conceptual agreement itself answer these questions:

Answer No. 1: "Both parties shall establish a Joint Board, composed of high level Panamanian and U.S. military representatives, *in equal number*, whose respective governments shall entrust them with consulting and cooperating in all matters relative to the defense of the Canal, and planning the measures which shall be taken jointly to ensure the security or neutrality of the Canal." (Emphasis added.)

Answer No. 2: "Each of the parties, in accordance with its constitutional procedures, shall act to face the common danger arising out of an armed attack or other action which might threaten the security of the waterway and the transit of ships."

Answer No. 1 seems to say there would be a single, two-headed command. Answer No. 2 seems to say there would be two independent commands, each going its own way. The mind boggles at the thought of what would happen under either concept in the event of attack: under Answer No. 1, paralysis, under Answer No. 2, chaos.

It is hard to believe that any military man in his right mind, U.S. or Panamanian, participated in arriving at this conceptual agreement. Apparently the U.S. military was not just muzzled at the time. It must have been hog-tied as well. (In fairness to Gen. Dolvin, it should be pointed out that this agreement had been completed before he joined the U.S. negotiating team.)

Considering all three of these agreements, and particularly in the face of the musical comedy absurdity of the one on defense, it was difficult to guess what might transpire with regard to the four remaining major issues. Two of them, "economic benefits" and duration, were hardly susceptible to either vague or Alice-in-Wonderland concepts. But as to the other two, land and water areas the U.S. would need and the treatment of the question of either enlarged Canal capacity or a new canal, it was conceivable, given the negotiating performances demonstrated by the

joint operation and joint defense conceptual agreements, that more fuzziness, even madness, could emanate.

While the conceptual agreement on defense of the Canal was beyond all understanding, except perhaps as an out-and-out Panamanian propaganda gimmick, one measurement seemed to emerge from the other two. If the issue covered were one of paramount importance to Panama, involving both rights *and responsibilities* willingly assumed, as was the case with the issue of sovereignty, the concepts developed would be clear and direct. But where, as in the issue of joint operation of the Canal, Panama's objectives were certain up to a point, but beyond that subject to reservations, the clarity and directness of the concepts would vary accordingly. Thus in the case of joint Canal operations, the concept of more jobs for Panamanians is expressed clearly; the concept of more responsibility for Panama is clouded over.

Applying this yardstick to the remaining issues, it was reasonable to conclude that where Panama knew what she wanted she would get it and the concepts would be expressed clearly. Otherwise they would be couched in vague, even inconsistent, terms. This would mean that in the case of the economic benefits issue, the concepts would probably be clear up to the point of assuring a minimum guaranteed amount of money to Panama and vague as to additional possibilities. As to the land and water areas needed by the U.S., the concepts would probably be clear as to the maximum limit, but hazy up to that point, assuming one can be hazy in describing geographical areas. On Canal capacity and a possible new canal, they would be clear as to the former, vague as to the latter.

On the final issue, the duration of the new treaty, it was fairly well known that Panama would accept the end of the century as the termination date. One could expect, therefore, a clear concept fixing that date. However, if Panama had reservations about her ability to go it alone after that date, it would not have been surprising to find in this conceptual agreement some vague concept giving Panama the right to extend the treaty duration unilaterally to keep U.S. operating ability, financial assistance, and military support as long as she wanted them.

Since final agreement has been reached on the proposed new treaties, it may seem odd to have dwelt at such length on the three known conceptual agreements. They were merely a part

of the process that produced the end result. Now, of course, they are water over the dam, absorbed in the final arrangement. Nevertheless, they provide the only real insight available into the negotiations themselves, and although they cover only a part, they are quite revealing of what must have been the attitudes and trends throughout.

When the negotiations resumed in the fall of 1976, after the election of Jimmy Carter to the presidency but before his inauguration, they were probably rather meaningless, maybe just congenial reunions on Contadora Island, time killers. There was to be a new U.S. administration, a new secretary of state, perhaps a new policy, maybe new negotiators.

However, the veil of secrecy was restored and remained in place from then on. There were, of course, the usual leaks and signals, but no petulant Panamanian official again gave the show away, at least textually. So the revelations contained in the three known conceptual agreements, three of the important cornerstones of the final structure, have much to contribute towards an understanding of how one-sided negotiations, a "stacked deck," are carried on. They also afford a background helpful in evaluating the final outcome.

It is not publicly known whether the conceptual agreement technique was used in completing the negotiations under President Carter. Probably not, because of the pressure imposed on the negotiators for a speedy wind-up.

According to news reports, June 1, 1977, was picked by the Carter Administration as the target date for a new treaty. After a few more sessions in Panama, the negotiations were moved from peaceful Contadora to bustling, bureaucratic Washington, D.C. The sessions were long and frequent. Speed was the controlling factor. It is hard to visualize the brick-by-brick procedures of the conceptual agreement technique functioning under such extreme circumstances. In fact, it is not unlikely that the remaining major matters in dispute were resolved hy an auction technique with a strange twist: the United States acting as both auctioneer and high bidder.

June 1 went by with no final agreement. Money was apparently the stumbling block. It was rumored in the press that the Torrijos government was demanding a billion dollars down and $300 million a year during the life of the new treaty, a package of close to $7 billion. This was a big jump from the $20–$25

million figure with no down payment that had long been considered to be mutually acceptable before Linowitz began calling the U.S. signals.

On July 29 President Carter intervened personally in the negotiations for the first time, meeting with the negotiating teams of both countries, praising their work, expressing optimism over the ultimate outcome, and urging them to reach an early agreement. The same day he sent a letter to Gen. Torrijos, flattering him for his major role in the successful progress of the negotiations, but politely warning him that if he did not keep his money demands within reason, his, Carter's, difficulties in getting U.S. Senate approval of the new treaty would be insurmountable.[10]

This apparently did the trick. On August 10, back in Panama City for dramatic effect, the chief negotiators for the United States and Panama appeared at a crowded news conference and announced that they had reached "agreement in principle" on "the basic elements" of a new treaty.[11] Only the drafting of final language remained.

The 13 years of negotiations had come to an end. The strange card game was over.

10

Will the Real Panama Please Stand Up: Panama Today and Tomorrow [1]

On November 4, 1978, the Republic of Panama will be 75 years old. Not very old by normal standards, a mere fledgling. But compared to some of the younger nations of the Third World, quite hoary.

In the preceding chapters something has been seen of Panama in the process of being born. Something has been seen of her growing up, economically and nationalistically, during and after World War II. But nothing definitive, no real measure of her national stature.

Now Panama is seeking to assume vast responsibilities, in fact to take the place of the United States in a unique enterprise that is of great importance to the entire world, and of particular importance to the United States, to Panama, and to many Latin American nations.

Is Panama capable of fulfilling these responsibilities? This is the $64,000 question, and it must be answered correctly if the issue of the Panama Canal is to be resolved in fairness to all concerned. People will differ in the way they answer it, depending on their sympathies, their emotions, and their prejudices.

But those factors should play no part. Glib references to "banana republics" and "tinhorn dictators" will contribute nothing. Nor will pious deprecations of the United States.

Only the realities count, the realities of Panama today and Panama tomorrow. Panama has a right, as well as a reason, to aspire as she does. She also has the obligation to be judged, and judged objectively.

How does one judge the capabilities of a nation to perform a task of the magnitude of governing the Panama Canal Zone and operating, maintaining, and defending the Panama Canal? Panama has no experience or background, governmentally, economically, or militarily, by which such performance can be gauged.

The only way to answer the question is to look at Panama as she is today and may be tomorrow, to look at her in the light of the three basic elements of any nation: her people, her economy, and her government. Having done that, the task of determining Panama's capabilities becomes one of measuring the duties and responsibilities she seeks against the revealed strengths and weaknesses of her national makeup.

This is easy to say, not easy to do. The people, the economy, the government. These three elements may be of equal importance in the evaluation of a nation for some purposes. But for the purpose of sizing up Panama with regard to the Canal, they obviously are not equal. Particular weight must be given to the last two, the economy and the government. For people can be the finest in the world, but without an adequate economy and able leadership they do not make an effective nation. By the same token, even if the people are good and the economy is sound, poor leadership can disqualify a nation for international responsibilities.

Nevertheless, the people are important. They give character to a nation. The will of the people, or the lack of it, has a bearing on a nation's capability.

Who are the people of Panama? What are they like? First a few statistics. There are about 1.7 million Panamanians. They live in an area half the size of Florida. Much of it is impenetrable jungle. But there are parts of it that are habitable and cultivable, a varied terrain of fertile valleys, mountainous plateaus, and alluvial plains. It is hot and humid, with an average annual rainfall of 105 inches.

Seventy-one percent of the people are *mestizo,* part Spanish,

part Indian; 13 percent are black, 10 percent white, 6 percent pure Indian. Spanish is the official and native tongue, but English is widely spoken. Roman Catholicism is the dominant religion.

The black population stems mostly from the West Indies, from the workers who came to Panama to build the Canal. They speak English more often than Spanish, clipped British English. This language preference, probably more than color, tended to create the relatively few racial problems there were in Panama until recently. Now those problems arise from the usual source, demographic and economic pressures.

Many of the people, almost half of them, are crowded into the sprawling metropolitan area of Panama City and into the other two cities of any size, Colon and David. David is the capital of the large western province of Chiriqui, where much of the nation's agricultural activity takes place.

As in the rest of Latin America, there is a wide disparity between the incomes of the small wealthy class and the major portion of the population. Since World War II, however, a middle class of some size and substance has been developing, particularly in metropolitan Panama City. Mass movement to the cities has produced the usual quotas of slums and ghettos. But in both the urban and rural areas extreme poverty is less prevalent than in most other parts of Latin America. In fact, the Panamanian per capita income, around $1000, is the third highest in Latin America. The literacy rate, close to 80 percent, is the fourth highest.

The "oligarchy" that traditionally, until 1968, ruled Panama through a facade of parliamentary government (but at that a system far more democratic than the present regime) is a small group of wealthy families that at one time owned much of the productive land and most of the successful business enterprises of Panama. Most of them have been educated in the United States, or elsewhere outside Panama. They are, in the main, a highly intelligent, cosmopolitan, and energetic group, seemingly capable of able national leadership if they were sincerely and demonstratively concerned with improving the lot of their fellow Panamanians.

The oligarchists are not typical. The average Panamanian is inclined to be lazy and indifferent. After all, it is hot and humid in Panama, and tomorrow is another day.

The Panamanians are likeable, friendly people. As a rule they

appear to be fond of Americans and to recognize instinctively and favorably the close ties, the traditional bond, between the two countries.

This is not true, however, in the Panama City and Colon areas, close to the Canal. Here Panamanians are inclined to make a distinction based upon their antipathy towards the Americans who live in the Canal Zone. This feeling of dislike for the so-called Zonians has increased greatly in recent years as a result of the steady barrage of propoganda against the "imperialists" and the "colonialists" laid down by the government-owned news media, and the constant exploitation of the Canal issue by Panamanian politicians. And it has been considerably exacerbated over the years by the arrogant and condescending attitude of many of the Zonians towards Panama and Panamanians. Unfortunately, because of this irritant, there is a tendency on the part of the urban Panamanians to lump all Zonians together as being undesirables. *Yanqui* go home!

Still, the distinction remains clear. If an American identifies himself as not living in the Zone, he is immediately treated in a friendly way. But until that identification has been established, he is almost certain to be persona non grata.

The Panamanian activists on the Canal issue—the demonstrators, the rioters, the graffiti artists—are to be found mostly in Panama City and Colon. They consist of various left-wing groups, particularly those within the high schools and the university. The student groups seem susceptible of being turned on or off at will by those who wish to use them for their purposes.

The further one gets away from the Canal Zone, the less one finds in the way of strong feeling, or even an interest or concern, about the Canal. Seemingly some Panamanians in the rural areas are completely unaware of the existence of the Canal, much less of any problem between the United States and Panama with regard to it. The story is told that on one of his recent surprise visits to the remote areas General Torrijos asked a local agricultural worker, a *campesino,* "What do you think about the Canal?" It happens that in Spanish *canal* also means "channel." Panama has two television outlets, Channel 2 and Channel 4. The *campesino* is said to have replied to Torrijos, "Qual canal, numero dos o numero quatro?" Hardly the basis for a national crusade.

These, then, are the people of Panama. To say that they dislike Americans and want the United States to disappear from their

lives would be an untruth. The opposite seems to be the case. To say that they dislike the Americans living in the Canal Zone would be true. And to say that most Panamanians, particularly those living in the neighborhood of the Canal Zone but also a great many living elsewhere, resent intensely the denial of Panama's sovereignty over the Zone would be stating the situation correctly, even mildly.

The people of Panama want desperately to control the Canal Zone area. It is a national "thing" with them, a matter of pride, of identity. But to conclude from this that the people of Panama have either the will to operate and defend the Canal, or the desire to oust the United States from that responsibility, would be a mistake.

At the beginning of this book it was observed that perhaps the only thing Panama really has going for it is the Canal. An analysis of the nation's economy bears this out.

True, there are a lot of other things happening in Panama from an economic standpoint, and the principal ones should be accounted for. But if the Canal were taken out of the picture, the basic economy of Panama would be extremely shaky and the outlook for the future quite dismal.

Panama's annual gross national product (GNP) is about $1.2 billion. Almost a fourth of that is derived directly from the Canal, from within the Canal Zone: the annual payments from the U.S., the wages paid by the U.S. to Panamanians working in the Zone, and the goods and services purchased by the U.S. in the Republic of Panama for Canal purposes. All in all, these items total about $300 million. If you add to this figure the portion of GNP attributable to the commercial activity generated in the Republic of Panama by the Canal, it is fair to say that nearly half of Panama's economy has its roots in the Canal.

How to characterize the other half is a problem. Certainly it is not industrial. Manufacturing accounts for less than 15 percent of GNP. What there is of it is small manufacturing. Mostly for local consumption, it consists primarily of construction materials and consumer goods such as processed foods, beverages, clothing, leather goods, and furniture.

How about agriculture? Here, again, the figures are surprising. Bananas and sugar are the major products. They also are Panama's principal exports. Other items produced in significant quantities, some sufficient for export, are rice, corn, coffee, beans, and tobacco. Then, stretching the term agriculture a bit,

there are the fish and shrimp that are caught, the cattle that are raised, the trees that are felled. But when it is all added up, agriculture accounts for only 16 percent of Panama's GNP. And what comes as quite a shocker is the fact that almost 50 percent of the foodstuff consumed in Panama is imported!

What about the service industries? They, of course, exist, particularly in the metropolitan areas. But the principal servicing activities are related to the commercial needs generated by the Canal, right back where we started. They constitute a third of the GNP. And they represent the element of the Panamanian economy that appears to have the greatest potential for growth. For the future of Panama's economy seems to lie primarily in the advantages of her geographical location and configuration, the fact that she is ideally suited from a physical standpoint to be a crossroads of trade, a hub of international commerce. That is where her future began. That is apparently where her future lies.

Thus far the basic ingredients of the Panamanian economy have been reviewed. But the picture is incomplete if its other important features, and its anomalies, are not brought into focus as well.

For example, the high per capita income figure for Panama, fourth highest in Latin America, seems somewhat out of proportion in the light of the basic factors just considered. It *is* out of proportion, except for the portion of it represented by the income attributable to the Canal and Canal-related activities. The remaining portion is distorted by the fact that the United States lavishes financial assistance on Panama. On a per capita basis, Panama receives more financial aid from the U.S. than any other nation in the world: $200 million in grants and loans from the U.S. Agency for International Development (AID) during the last 15 years. In 1976 alone the AID program amounted to $22 million. Most of this assistance is directed towards the rural areas of Panama, where the poverty is greatest.

The banking business is an important but misleading feature of the present economy. Banking activity has a very high profile in Panama. Much of it has developed in recent years.

There are now nearly 80 separate banking institutions operating in economically diminutive Panama, almost all of them foreign, many of them U.S. owned. These banks were lured into Panama by the Torrijos government through laws highly favorable to "offshore" transactions: no tax on incomes from loans

and investments made *outside* Panama, no restrictions on taking money out of the country, no exchange controls (the Panamanian currency, the balboa, is tied to and used interchangeably with the U.S. dollar), no impediments to Swiss-type numbered accounts. As a result of these enticements, many Latin American individuals and businesses in countries with softer currencies and stricter regulations have been pouring money into the Panama-based banks. The deposits now total about $9 billion.

This has made Panama an important center for financial activity throughout Latin America, but aside from the prestige factor, it has so far benefited Panama only marginally. The banks do furnish employment to some 17,000 people. And some of them in the early 1970s made rather substantial loans to the construction industry, setting off a boom in that industry and an attendant proliferation of high-rise buildings in Panama City, a bonanza while it lasted, now a headache of unfinished structures and unoccupied office and apartment space.

Still, the international banking activity in Panama should not be downgraded. It is only that up until now it has tended to distort the true picture of Panama's economy. It is not, fundamentally, a local enterprise or a contributor to the local economy. But the development of it was probably a wise move. For if in the future it can be successfully integrated into an economic structure increasingly oriented towards commercial servicing, it can make a tremendous contribution. It is there, established, and available to make such a contribution when, and if, conditions warrant.

There are two components of Panama's economy that bear special watching. One is the Colon Free Zone. Panamanian officials claim this free zone to be "the world's largest after Hong Kong," housing over 300 companies representing more than 800 firms. In 1975 the Free Zone's gross volume of business (both exports and imports) was about $950 million, twice what it was five years before. Many financial experts share the view that this is a natural business activity for Panama, one that fits well into a commerce-servicing economy and one that probably should have been initiated long ago.

The other economic component to keep an eye on is the presence in Panama of rather large mineral deposits. One ore body currently being developed by a U.S. company in conjunction with the Panamanian government, the Cerro Colorado Project, con-

tains reserves estimated at over a billion tons of ore with a 0.6 percent copper content. Because of the deposit's isolated location and the complete absence in Panama of any infrastructure, the commercial feasibility of this development is still in doubt. But inevitably the day will come. And there are indications of other mineral resource potentialities, quite substantial for a country of Panama's size.

This, then, is a birdseye view of the economy of Panama, or, rather, of the bits and pieces that go into it. For the economy is a melange that eludes characterization in usual terms.

What does it all add up to? Its one dominant feature is obviously the Canal. The rest is a conglomerate of activities, many of them relatively unproductive, some of them with considerable potential, others, for example, agriculture, seemingly unable to surmount heavy odds.

The basic economy of Panama, at least *ex* the Canal, would probably be best classified as insubstantial and vulnerable. In the light of its present condition the latter term is particularly apt. For Panama's economy appears to be badly wounded.

Here the statistics are far from dry. The Torrijos government seized power in 1968 when the Panamanian economy was riding the crest of a wave that began in the early 1960s. The rate of growth was an astounding 8 percent. Then, in 1974, the wave began to recede. According to the experts, this was partly because of a late catch-up with a worldwide economic recession, partly because of the cumulative effect of government profligacy, government interference, and government corruption.

By 1975 the excuse of outside economic conditions was gone. Things were picking up everywhere in Latin America. Everywhere, that is, except Panama. By 1977 Panama's economy was a shambles.

The economic growth rate had sunk from 8 percent to less than one percent. Unemployment had risen to 20 percent. Deficit spending by the government had reached the point where it exceeded 50 percent of the annual budget.

The national debt had risen from $167 million in 1968 to an estimated $1.5 billion in 1977, almost a 1000 percent increase in eight years. The per capita debt had become the largest in all of Latin America. The annual interest payment on the national debt alone had reached $150 million, almost half of the current revenue taken in by the government.

The balance of payments, that is, the annual measurement of exports against imports, stood at a staggering minus $500 million, almost half of GNP.

There is no need to go on. Suffice it to say that Panama, financed for the past several years by loans from abroad, most of them short-term and derived principally from the Eurocurrency market (there is no central bank in Panama), has just about run out of credit. Three-fourths of the current debt will come due within the next 10 years.

Up until 1968, Panama's governments changed quite often. In 1968 Arnulfo Arias, Panama's perennial populist, twice elected, twice ousted (1941, 1951), was for the third time elected president of Panama, this time by the largest popular majority in Panamanian history. But 11 days after he took office he was out again.

Arias had made the mistake during his election campaign and afterward of indicating an intention to shake up the Guardia Nacional, the national police force–army, when he took office. He never got the chance. The Guardia, or, more correctly, a lower echelon segment of it, in a carefully executed move, beat him to the punch and seized the government.

This happened on October 11, 1968. The event has ever since been called by those who engineered it the "People's Revolution." It was hardly that. The people had just expressed their will, overwhelmingly, in favor of Arias. It was just another Latin American–style coup d'etat by what passes in Panama for the military.

But the man who rose immediately to the top of the heap, Omar Torrijos Herrera, quickly captured the imagination of the people of Panama. Born and raised in the impoverished sugar-and-rice-growing province of Veraguas, the seventh of twelve children in a poor family, Torrijos soon demonstrated a knack for populism that put Arias to shame. He also demonstrated a knack for seizing and holding power, total power.

He immediately banished the National Assembly, declared political parties "extinct," and took over the news media. He sent into "exile" any ambitious politicians who threatened his leadership. One of the first to go was his fellow conspirator and Guardia officer, Boris Martinez, reputed to have been the "brains" of the revolt (Torrijos being the "guts"). Panamanians do not ordinarily shoot their "undesirables"; they deport them. Martinez was whisked off by plane to Miami, Florida, often re-

ferred to in Panama as the *Valle de los Caidos* ("Valley of the Fallen").

In 1972 carefully controlled elections were held for a new Assembly of Community Representatives decreed by Torrijos. This body, consisting of 505 members, heavily weighted in favor of the rural areas, adopted a new constitution presented to it by Torrijos. The constitution contained a provision designating Torrijos, by name, to be "the maximum leader of the Peoples Revolution" with complete and exclusive power to govern Panama for the following six years.

Including the period before the adoption of the new constitution, Torrijos has now ruled for almost 10 years, the longest continuous single government in Panama's 74 years. Under the constitution, his "term" expires in 1978. Then there are supposed to be elections. *Vamos a ver.*

Until recently, Torrijos' rule was not considered unduly oppressive as military dictatorships go. And he has done a great many things to improve the lot of his fellow *campesinos.* He has launched an extensive land reform program. With massive help from the U.S. AID program, he has opened more than 350 health centers in the remote villages. With that same help he has been promoting modern farming methods among the peasants and encouraging family planning. New schools and low-cost housing developments have proliferated. So have new water systems for villages that never had them before, new roads, and new buildings—all things that can be readily seen and pointed out as government good works. Never before have the rural people of Panama seen so much evidence of their government's concern for them. They have benefited considerably.

Governing in Latin America has always involved some degree of graft and corruption. Panama, during its short history, has been no exception. Traditionally the political leaders supported by the oligarchy have feathered their nests while in office and then moved on to give their successors a chance. Nor has the top echelon of the Guardia Nacional missed out on a share of the loot.

But the new leader of Panama and his henchmen came from the lower echelons of the guard. They were not versed in the big-time art of making money out of political leadership. As a result, for the first few years of the Torrijos regime there was, from all accounts, a rather unique absence of dishonesty in high places. This did not last long; Torrijos and his "five colonels" (the

governing phalanx just below him) caught on quickly, and soon they were involved in the orthodox "protection" rackets—prostitution, dope, and contraband.

That was just the beginning. Torrijos is a socialist. He calls his brand of socialism the "Scandinavian type." At any rate, it was not long before the Torrijos government began to move aggressively into the private enterprise sectors of the economy. All Panamanian utilities were taken over—power, water, and communication systems—and their services greatly expanded geographically. In the manufacturing field, the government went into the cement business, as a "service" to the construction industry. In agriculture, the government went into the sugar business, building sugar mills, again as a "service." The government went into the banana business whole hog, expropriating all of the plantations of the United Brands Company, successor to United Fruit, the colossus of the Latin American banana industry. Where the government is not directly involved in agriculture, it spends lavishly on subsidies and price supports.

The justification for all this government activity has been, of course, stimulation of the economy. But there are many indications that the motives have not been all that lofty and selfless, that Torrijos and his five colonels have successfully skimmed the cream off the top of every business enterprise the government has undertaken. Torrijos himself is reputed to have become a millionaire many times over, one of the richest men in all Latin America.

The government's stance toward the areas of private enterprise that it has not chosen to enter or usurp is one common to states that espouse labor-socialism. Legislation, or, more correctly, government fiat, with the exception of that applied to the international banking business, tends to be highly restrictive. There is a close interrelationship between the government and the trade unions.

One law that has caused particular havoc in the private sector is a prohibition against the discharge of a worker, regardless of cause. Another is one forbidding a landlord from ousting a tenant for failure to pay rent.

The relatively high wages paid by the U.S. to Panamanians working in the Canal Zone and the high minimum wage rates established by the Torrijos government for work outside the Zone have caused the Panamanian wage structure to be higher than it is in most parts of Latin America. This makes it difficult

for Panamanian products to compete in world markets.

Politicians are not the only people "exiled" by the government. Businessmen who speak out against government policies and practices often share the same fate. Not very long ago 12 of them were shipped out at the same time when they protested a large government sale of rice to Cuba at a price well below the market.

Torrijos is often labeled a Communist. This probably is not literally true, although many of his relatives and close associates are apparently staunch Marxist-Leninists. He is a professed admirer of Fidel Castro. And the military fatigue uniform he wears constantly and the Havana cigars he smokes incessantly (supplied by Castro) indicate, if not hero worship, at least a strong tendency to emulate.

One of the first moves made by Torrijos when he seized power was to declare all political parties "extinct." But this declaration was never enforced against what is commonly referred to as the Communist party of Panama, officially known as the People's Party. Although it may not be an integral part of the international Communist network, this organization is sufficiently Marxist-Leninist oriented to be labeled at least communist with a small *c*. It has been permitted to function openly, the only political faction so privileged.

In running the government Torrijos has zigzagged from left to right, depending on the politico-economic pressures of the moment. However, a fairly clear reading of his basic inclinations can be obtained from looking at the makeup of his official civilian family. These are the civilians he has named to be the titular officials of the government, that is, the president and the vice-president of Panama and the heads of the various ministries. Each of these officials is closely directed from behind the scenes by Torrijos and his five colonels. They have virtually no independence of action or decision.

For example, in the spring of 1977 the president of Panama was a retired businessman, presumably a conservative. The vice-president was a communist, active and influential. The foreign minister was an ambitious politician and seasoned diplomat, a firebrand but reputedly not a communist. The treasury minister was a communist. The minister of economic planning was a noncommunist, a University of Chicago–trained economist, young, wealthy. Minister of labor: communist. Minister of housing: young, wealthy businessman. Minister of education: com-

munist. Zig. Zag. Personal advisor to Torrijos: former chancellor of the University of Panama, highly active and outspoken communist. This man, Dr. Romulo Escobar Bethancourt, was chief of Panama's treaty negotiating team when agreement with the U.S. was reached.

It should be noted that the term *communist* used in the above description of the official civilian family is predicated upon the individual's having been widely and reliably reported to have been at least at some time in recent years active in the People's Party.

At the top levels of both the U.S. State Department and the Department of Defense it is asserted that there is no hard evidence linking Torrijos and his government either with Moscow or with the Soviet's surrogate in Cuba, Fidel Castro.

Recently an organization called the Panamanian Committee for Human Rights, has been active in Panama, apparently operating underground. During the fall of 1976 three reports reached the United States from this organization. They document charges of extensive violations of human rights by the Torrijos government—murder, torture, expatriation—giving names and dates.

Predicting the future of the present government of Panama is not an easy task. True, it has been in office longer than any previous government. But under the old constitution a president's term was limited to four years and he could not succeed himself. There was no "maximum leader" around.

The basic fact to be kept in mind is that the Guardia Nacional has the guns and apparently intends to use them to stay in power. It has never pretended to be functioning as an interim or caretaker government. Given this intention of permanency and the absence of any military strength outside the Guardia, it is difficult to see how it might be ousted.

Torrijos is not yet 50 years old. He could go on for a long time. But the present state of the economy of Panama has cost him much of his popularity and aura of infallibility. In the fall of 1976 an unheard of situation developed in Panama City. For a week the students at the university demonstrated and rioted in protest *against the government*—not against the usual target, the *"Yanqui* imperialists and colonialists," but *against the government.* And the government had to use considerable force against the students to restore order.

This was a unique and significant development. Food prices