“impossible.” No regulations could be framed which would not be evaded. Presumably, a vessel proceeding from a foreign port or to a foreign port would make itself “coast-wise” by touching at an American port.

A lawyer of President Taft’s eminence was not slow in picking out the flaws in this reasoning. In a memorandum, added to the Panama Canal Act, on signature, he insisted on two points.

First, in his view, the ships of all nations, mentioned in the Hay-Pauncefote Treaty did not include ships of the United States:

The Article is a declaration of policy by the United States that the canal shall be neutral, that the attitude of this Government towards the commerce of the world is that all nations will be treated alike and no discrimination made by the United States against any one of them observing the rules adopted by the United States. The right to the use of the Canal and to equality of treatment in the use depends upon the observance of the conditions of the use by the nations to whom we extended that privilege. The privileges of all nations to whom we extend the use upon the observance of these conditions were to be equal to that extended to any one of them which observed the conditions. In other words, it was a conditional favored nation treatment, the measure of which in the absence of express stipulation to that effect, is not what the country gives to its own nationals, but the treatment it extends to other nations.

Thus it is seen that the rules are but a basis of neutralization, intended to effect the neutrality which the United States was willing should be the character of the canal and not intended to limit or hamper the United States in the exercise of its sovereign power to deal with its own commerce using its own canal in whatsoever manner it saw fit.

Secondly, the contention that the United States was debarred from refunding the tolls, could only mean an infringement of her essential sovereignty.

If there is no “difference in principle between the United States charging tolls to its own shipping only to refund them and remitting
tolls altogether," as the British protest declares, then the irresistible conclusion is that the United States, although it owns, controls and has paid for the Canal is restricted by treaty from aiding its own commerce in the way that all the other nations of the world may freely do.

If it is correct then to assume that there is nothing in the Hay-Pauncefote Treaty preventing Great Britain and the other nations from extending such favors as they may see fit to their shipping using the canal, and doing it in the way they see fit, and if it is also right to assume that there is nothing in the Treaty that gives the United States any supervision over, or right to complain of such action, then the British protest leads to the absurd conclusion that this Government in constructing the Canal, maintaining the Canal, and defending the Canal, finds itself shorn of its right to deal with its own commerce in its own way, while all other nations using the Canal in competition with American commerce enjoy that right and power unimpaired.

The British protest, therefore, is a proposal to read into the treaty a surrender by the United States of its right to regulate its own commerce in its own way and by its own methods, a right which neither Great Britain herself, nor any other nation that may use the Canal, has surrendered or proposes to surrender.

On the merits, President Taft assumed that competition between American and foreign shipping was not in question:

The policy of exempting the coastwise trade from all tolls really involves the question of granting a Government subsidy for the purpose of encouraging that trade in competition with the trade of the trans-continental railroads. I approve this policy. It is in accord with the historical course of the Government in giving government aid to the construction of the trans-continental roads. It is now merely giving Government aid to a means of transportation that competes with those trans-continental roads.

President Taft admitted that the Act authorized the President to discriminate tolls in favour of general as well as coastwise American shipping, but he added:

There is nothing in the Act to compel the President to make such a discrimination. It is not, therefore, necessary to discuss the policy
of such discrimination until the question may arise in the exercise of the President’s discretion.

The British rejoinder was dated November 14th, 1912. If we do not quote it at any length, it is because it reviews broadly the ground which, in previous pages, we have already covered. Great Britain argued:

The effect of these provisions is that vessels engaged in the coastwise trade will contribute nothing to the upkeep of the Canal. Similarly vessels belonging to the Government of the Republic of Panama will, in pursuance of the treaty of 1903, contribute nothing to the upkeep of the Canal. Again, in the cases where tolls are levied, the tolls in the case of ships belonging to the United States and its citizens may be fixed at a lower rate than in the case of foreign ships and may be less than the estimated proportionate cost of the actual maintenance and operation of the Canal.

The reply of Secretary of State Philander C. Knox was, as might have been expected, brilliant in its dialectical ability. He insisted that, in fixing the tolls, the President limited discrimination strictly to coastwise shipping, and that no other question had arisen. He reminded Sir Edward Grey that, by the terms of her original protest, Great Britain had admitted in principle that coastwise shipping might be exempt under the treaty, on which his comment was:

that obviously the United States is not to be denied the power to remit tolls to its own coastwise trade because of a suspicion or possibility that the regulations yet to be framed may not restrict this exemption to bona fide coastwise traffic.

On the general question whether the tolls, declared by the President, are "just and equitable," Secretary Knox disclosed the data on which they were calculated:

If the British contention is correct that the true construction of the treaty requires all traffic to be reckoned in fixing just and
equitable tolls, it requires at least an allegation that the tolls as fixed are not just and equitable and that all traffic has not been reckoned in fixing them before the United States can be called upon to prove that this course was not followed, even assuming that the burden of proof would rest with the United States in any event, which is open to question. This Government welcomes the opportunity, however, of informing the British Government that the tolls fixed in the President’s proclamation are based upon the computations set forth in the report of Professor Emory R. Johnson, a copy of which is forwarded herewith for delivery to Sir Edward Grey, and that the tolls which would be paid by American coastwise vessels, but for the exemption contained in the act, were computed in determining the rate fixed by the President.

By reference to page 208 of Professor Johnson’s report, it will be seen that the estimated net tonnage of shipping using the canal in 1915 is as follows:

\[ Tons \]

Coast to coast American shipping.......................... 1,000,000

American shipping carrying foreign commerce of the United States.......................... 720,000

Foreign shipping carrying commerce of the United States and foreign countries...................... 8,780,000

Here the argument was that, in fixing the tolls, coastwise shipping had been taken into the reckoning and that the failure to collect these tolls merely represented a loss to the United States. The concession to Colombia was part of the consideration which secured to the United States a clear title to the use of the Canal Zone and was thus not only in the nature of rent but was also intended to remove all doubts as to the right of way.

The Secretary of State also observed that as Great Britain had not protested against free transit to the public vessels of the Republic of Panama when the Hay-Bunau-Varilla Treaty was under consideration, she was guilty of laches and any rights that she may have had ceased during the interim of 1904 and 1912, owing to acquiescence in the status quo created by the last mentioned treaty.
Sir Edward Grey pointedly observed:

Unless the whole volume of shipping which passes through the Canal, which benefits all equally by its services, is taken into account, there are no means of determining whether the tolls chargeable upon a vessel represent that vessel's fair proportion of the current expenditure properly chargeable against the Canal; that is to say, interest on the capital expended in construction and the cost of operation and maintenance. If any classes of vessels are exempted from tolls in such a way that no receipts from such ships are taken into account in the income of the Canal, there is no guaranty that the vessels upon which tolls are being levied are not being made to bear more than their fair share of the upkeep.

Hence, according to Sir Edward Grey, a differentiation of tolls means, ipso facto, that there had been an infringement of the stipulation that the amount of the tolls "shall be just and equitable."

To make the point plain, let us suppose that a public utility requires an income of $150,000 a year and that it serves 1,500 customers. On the average, each customer must supply $100 of revenue. What happens, then, if 300 customers are exempted from charge? The other 1,200 customers must find between them an average of $125, and this addition of $125 may exceed what is just and reasonable.

Our foreign policy from and after 1899 in relation to the open door in the spheres of influence acquired in China by other powers is very persuasive as to the kind of equality for which our Department of State was then negotiating. Insofar as this policy is of significance in this discussion, it is contained in the article of the statement of principles communicated by Secretary Hay to Russia for its approval. This article requested that it agree:

That is will levy no higher harbor dues on vessels of another nationality frequenting any port in such "sphere" than shall be
levied on vessels of its own nationality, and no higher railroad charges over lines built, controlled or operated within its "sphere" on merchandise belonging to citizens or subjects of other nationalities transported through such "sphere" than shall be levied on similar merchandise belonging to its own nationals transported over equal distances.

The United States sought to obtain and actually did obtain equality of opportunity in the use of the ports and in the use of railroads in the pursuit of trade in these spheres of influence.

There arises here a point of some subtlety on which a word must be said. It was argued in Congress that the world had no reason to protest against a differentiation of the tolls because the method of differentiation was so adjusted as to lay no additional burden on nations other than the United States. The rate of toll, so it was argued, was calculated not on foreign tonnage alone but all tonnage using the Canal, including that of the United States whether coastwise or other. Hence, an exemption of coastwise tonnage only meant that the United States herself would have to make up the difference. It was a way of drawing a subsidy for shipping out of the Treasury.

On this we can only say that, assuming the argument to be sound, it was a very bad way of attaining the end in view. The statistical and accounting jugglery only would have meant that the taxpayers would have been called upon to accept a burden, not frankly disclosed to them. Moreover, the slipshod arrangement, so outlined, would have laid the United States open to insinuations on the part of other countries to which she would have been unable to give a clear and lucid reply.

With the protests of Great Britain received and published, there arose the question what, if any steps, should be taken to adjust the controversy. The proposal of Sir
Edward Grey was arbitration. The proposal split parties at Washington into three groups.

First, there were those, Democrats as well as Republicans, who took the ground that there was no basis for arbitration because the question was clear and undoubted, that the provision of our score or more of treaties providing for arbitration when the construction of a treaty was involved did not apply because in this matter there were involved the vital interests of the country.

A second group held with former President Roosevelt that while, in fact, we have the right under the Hay-Pauncefote Treaty to exempt our coastwise ships from toll, yet, as the Panama Canal Act involved the construction of treaties, it was our duty to arbitrate if arbitration was demanded by Great Britain.

A third group, led by Senator Root, whose two speeches in the Senate will be treasured as classics in our congressional debates, maintained that the Panama Canal Act was so plainly in violation of our treaty obligations both in letter and in spirit that it must be amended.

The reply of Secretary Knox to Great Britain was, in effect, that no cause for arbitration could arise until it had been shown that British shipping had suffered a genuine injury.

One suggestion, included by President Taft in his Memorandum of August 12th, raises an interesting question of constitutional procedure. His idea was that all persons and especially British subjects, aggrieved under the terms of the Panama Canal Act, might seek redress by litigation before the Supreme Court of the United States. By Article 2, Section 1, of the Constitution, the laws of the United States and treaties made under the authority of the United States are the supreme law of the land. But, on many occasions, the Supreme Court has had to determine
a discrepancy between a treaty and a later act of Congress. If read apart from the specific issues involved, such decisions are apt to be confusing and I shall content myself with quoting from Justice Miller's decision in the Supreme Court, in the Head Money Cases, 112 U. S. He says:

A treaty is primarily a compact between independent nations. It depends for the enforcement of its provisions on the interest and the honor of the Governments which are parties to it. If these fail, its infraction becomes the subject of international negotiations and reclamations, so far as the injured party chooses to seek redress, which may in the end be enforced by actual war. It is obvious that with all this the judicial courts have nothing to do and can give no redress.

This was the situation, then, at the moment when, on March 31st, 1913, Woodrow Wilson was inaugurated as president. How he handled it is history. Refraining from all argument, he made a simple appeal to the dignity of a great nation. It was an appeal which was prompted by great courage. It was dated March 5th, 1914:

I have come to state to you a fact and a situation. Whatever may be our own differences of opinion concerning this much debated measure, its meaning is not debated outside the United States. Everywhere else the language of the treaty is given but one interpretation, and that interpretation precludes the exemption I am asking you to repeal. We consented to the treaty; its language we accepted, if we did not originate it; and we are too big, too powerful, too self-respecting a nation to interpret with a too strained or refined reading the words of our own promises just because we have power enough to give us leave to read them as we please. The large thing to do is the only thing we can afford to do, a voluntary withdrawal from a position everywhere questioned and misunderstood. We ought to reverse our action without raising the question whether we were right or wrong, and so once more deserve our reputation for generosity and for the redemption of every obligation without quibble or hesitation.
In a communication to the author of these pages, the Hon. Oscar S. Straus, Ambassador to Turkey under President Cleveland, a Cabinet Minister and Member of The Hague Court, wrote:

The debates in Congress upon the subject of repeal proved to be of a quality in learning, ability and eloquence in keeping with the best traditions of our national legislature. Some of the leading Democratic members of the opposition effectively supported the President.

It was Senator Root who summed up the issue in terms of uncompromising candour. Speaking in the Senate, he said:

So, far from our being relieved of the obligations of the treaty with Great Britain by reason of the title that we have obtained to the Canal Zone, we have taken that title impressed with a solemn trust. We have taken it for no purpose except the construction and maintenance of a canal in accordance with all the stipulations of our treaty with Great Britain. We cannot be false to those stipulations without adding to the breach of contract a breach of the trust which we have assumed, according to our own declarations, for the benefit of mankind as the mandatory of civilization.

Senator Lodge’s contribution to the debate contained the following:

When the year 1909 opened, the United States occupied a higher and stronger position among the nations of the earth than at any period in our history. Never before had we possessed such an influence in international affairs, and that influence had been used beneficially and for the world’s peace in two conspicuous instances—at Portsmouth and at Algeciras. Never before had our relations with the various States of Central and South America been so good. It seemed as if the shadow of suspicion which, owing to our dominant and at times domineering power, had darkened and chilled our relations with the people of Latin America, had at last been lifted. A world power we had been for many years, but we had at last
become a world power in the finer sense, a power whose active participation and beneficent influence were recognized and desired by the other nations in those great questions which concerned the welfare and happiness of all mankind. This great position and this commanding influence have been largely lost. I have no desire to open up old questions or to trace the steps by which this result has come to pass, still less to indulge in criticism or censure upon anyone. I merely note the fact.

It is enough to add that Congress responded. The Hay-Pauncefote Treaty was affirmed as a world pact, to be held without modification as long as the Panama Canal endures.

President Wilson's attitude toward the tolls-exemption clause of the Panama Canal Act was reaffirmed in his 1914 Fourth of July address at Independence Hall. It is reported as follows:

I say that it is patriotic sometimes to prefer the honor of the country to its material interest. Would you rather be deemed by all nations of the world incapable of keeping your treaty obligations in order that you might have free tolls for American ships? The treaty under which we gave up that right may have been a mistaken treaty, but there was no mistake about its meaning.

When I have made a promise as a man I try to keep it, and I know of no other rule permissible to a nation. The most distinguished nation in the world is the nation that can and will keep its promises even to its own hurt. And I want to say, parenthetically, that I do not think anybody was hurt. I cannot be enthusiastic for subsidies to a monopoly, but let those who are enthusiastic for subsidies ask themselves whether they prefer subsidies to unsullied honor.

The high moral purpose of this memorable message was recognized abroad. Sir Edward Grey, the British Foreign Secretary, complimented it in a speech in the House of Commons:

It is due to the President of the United States and to ourselves that I should so far as possible clear away misrepresentation. It was stated in some quarters that the settlement was the result of
bargaining or diplomatic pressure. Since President Wilson came into office no correspondence has passed, and it ought to be realized in the United States that any line President Wilson has taken was not because it was our line, but his own.

President Wilson's attitude was not the result of any diplomatic communication since he has come into power and it must have been the result of papers already published to all the world.

It has not been done to please us or in the interests of good relations, but I believe from a much greater motive—the feeling that a government which is to use its influence among the nations to make relations better, must never when the occasion arises flinch or quail from interpreting treaty rights in a strictly fair spirit.

Viscount Bryce, former British Ambassador to the United States, speaking at the Independence Day dinner of the American Society in London on July 4, 1914, paid this tribute to President Wilson:

Courage is a virtue rare among politicians. What we have all admired in the President is his courage in the matter of the canal tolls.

Absolutely no pressure was brought to bear by Great Britain to obtain repeal of the tolls-exemption clause of the Panama Canal Act.

Ambassador Page added that the last British letter to the United States Government relating to the Canal was written by Ambassador Bryce before the end of the Taft administration.

On September 4th, 1914, Secretary Bryan wrote to the author a letter, in which he thus recorded his view of President Wilson's action.

The position taken by the President on the tolls question aroused more opposition at that time than it would arouse today, subsequent events having completely vindicated the wisdom of his action.

The enviable position which our nation occupies today is due, in part, to the fact that it has allowed no doubt to exist as to its purposes to live up to the stipulations of its treaty.

There were economic considerations which weighed heavily in
favor of the repeal of the free tolls law, but these were less important than those which affected the international standing of our nation.

A government must be above suspicion in the matter of good faith; no pecuniary advantage, even where such an advantage actually exists, can for a moment justify the violation of a treaty obligation, and violation must be the more scrupulously avoided if the question is one which is not to be submitted to arbitration.

In international matters the question is not whether we are ourselves certain of our Government's purpose in the position taken, but whether other nations, also, have confidence in our rectitude.

The President set a high standard and the support given to him in the Senate and the House was as creditable to Congress as it was complimentary to him. The popular approval which is now accorded to both the President and Congress on this subject is proof positive that the people can be trusted to pass judgment upon the merit of international, as well as domestic questions.

I may conclude this record with a letter which Lord Bryce wrote to me in acknowledgment of our earlier book. Of "the admirable example set by President Wilson of the spirit in which questions affecting the faith of treaties ought to be handled," Lord Bryce wrote:

No praise can be too high for the rectitude and the courage which he showed on this occasion. Wisdom also he showed and clear foresight. He perceived that one of America's greatest assets is her reputation for righteous dealing and for loyalty to the international obligations she has undertaken. He understood the mind and conscience of the American people, and knew that when an appeal was made to them in the name of good faith they would respond. The result vindicated his judgment.

Your book calls attention to the testimony borne by the British Foreign Secretary and by myself (for I was Ambassador at Washington when Mr. Wilson entered the White House) to the fact that no pressure whatever was exerted by the British Government in the matter. To this I may add that when I reported to my Government the last conversation I had with Mr. Wilson in which the subject was mentioned, I expressed to them the confident belief that whenever the President had time to study and master the issues involved he would do whatever he felt to be right, and would not
LORD BRYCE: A LETTER COMMENDING PRESIDENT WILSON

[Handwritten text, not legible]
be diverted by any political considerations from what he might hold to be the course that honor prescribed.

Those of us in England who know America best and love her most rejoiced at the approval which she gave to the President’s policy in this matter, not on account of any British interest involved but because it showed that to be true which we had often declared—that no nation in the world has a truer love of peace and good will or a higher sense of international honor than have the American people.

The comment of the *New York World* on this letter was:

No higher tribute has perhaps ever been paid an American President by a foreign statesman.

The only question that remained for time to answer was whether the demon of inequality had been killed or merely scotched. At a later date, the proposal to exempt the shipping of the United States from tolls was revived in Congress. On October 10th, 1921, a Bill of this kind was sponsored by Senator Borah and passed the Senate by 47 to 37 votes. The Disarmament Conference was pending and Senator Lodge told the Senate plainly that the measure would expose the United States to “implications of bad faith.” The bill did not become law.
XIV

THE CREATION OF PANAMA

We have shown that the control of the Isthmian Highway is subject to two equities—first, the rights of the *de facto* sovereign, namely, the United States, and secondly, the rights of mankind.

There is a third equity that has now to be considered—namely, the rights of the *de jure* sovereign, that is, of the Central American Republics concerned with the Highway and particularly of Colombia, Panama and Nicaragua.

The total population of Central America is under 6,000,000, but the six Republics, though small, are sensitive and their susceptibilities affect a wider area than their own, that is, Latin America as a whole.

Indeed, there is another reason why a clear statement of the position, taken by the United States, is now essential. The war has changed many things. One of its results has been to create an international opinion—indeed, vigilance—to which every country, however powerful, must pay respect. It is recognized more fully than ever before that as an institution, the State can only fulfil its true function by aiming at the betterment of social conditions, not only in the domestic but in the international sphere. To accomplish a purpose, thus far-reaching, has always been and will always be a matter of great difficulty. In an enterprise, world wide in its importance, such accomplishment is only possible when a state enjoys the confidence—indeed, the good opinion—of mankind.

To chronic critics of the United States Administration,
whether at home or abroad, whatever party be in power, we have nothing to say. Our appeal must be limited to the responsible opinion for which the Fathers of the Republic, in the Declaration of Independence, expressed a "decent regard"—the opinion which was defied in 1914, with such tremendous results, by Imperial Germany. We are bound to agree that, if it be really true that the United States in her relations with Latin-America were following a similar path of aggression, the prospects of peace for the world as a whole would be overshadowed. But our submission is that it is not true. It is a submission all the more important because the case of Panama no longer stands alone. There is also Nicaragua.

On April 1st, 1927, the New York Herald-Tribune quoted a speech in which Lord Bryce informed the House of Lords that, among the things the citizens of the United States held dear are "international law and practice." It is by this severest of all standards that the policy of the United States must be judged. International Law defines the rights and duties of nations, the one to the other, and we have accepted explicitly the principle that the Latin-American Republics enjoy a status identical with our own.

On November 30th, 1923, Secretary Hughes, speaking at Philadelphia, declared that "we recognize the equality of the American Republics and their equal rights under the law of nations." He disclaimed any desire to deprive these Republics of self-government, or to reduce them to the subordination of a protectorate.

That this has been the traditional attitude of the United States towards the Latin American Republics cannot be denied. In his Farewell Address, George Washington said:

The great rule of conduct for us in regard to foreign nations is, in extending our commercial relations, to have with them as little political connections as possible. But even our commercial policy
should hold an equal and impartial hand, neither seeking nor granting exclusive favors or preferences; consulting the natural course of things; diffusing and diversifying by gentle means the streams of commerce, but forcing nothing.

On December 7th, 1824, James Monroe added this:

The new (Spanish American) States are settling down under governments elective and representative in every branch, similar to our own. In this, their career, however, we have not interfered, believing that every people have a right to institute for themselves the government which, in their judgment, may suit them best.

On December 4th, 1827, John Quincy Adams thus referred to the New American republics:

In reference to the new Spanish American States disclaiming alike all right and all intention of interfering in those concerns which it is the prerogative of their independence to regulate as to them shall seem fit, we hail with joy every indication of their prosperity, of their harmony, of their persevering and inflexible homage to those principles of freedom and of equal rights which are alone suited to the genius and temper of the American nations.

Finally, we have the address delivered by President Wilson at Mobile in October, 1913, when he spoke thus:

The future is going to be very different for this hemisphere from the past. These states lying to the south of us, which have always been our neighbors, will now be drawn closer to us by innumerable ties, and, I hope, chief of all, by the tie of a common understanding of each other. Interest does not tie nations together; it sometimes separates them. But sympathy and understanding does unite them, and I believe that by the new route (the Panama Canal) that is just about to be opened, while we physically cut two continents asunder, we spiritually unite them. It is a spiritual union which we seek.

Enlarging upon the relations between the United States and the states of Central and South America, President Wilson said:
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We must prove ourselves their friends and champions upon terms of equality and honor. You cannot be friends upon any other terms than upon the terms of equality. You cannot be friends at all except upon the terms of honor. We must show ourselves friends by comprehending their interest whether it squares with our own interest or not. It is a very perilous thing to determine the foreign policy of a nation in the terms of material interest. It not only is unfair to those with whom you are dealing, but it is degrading, as regards your own actions.

Comprehension must be the soil in which shall grow all the fruits of friendship, and there is a reason and a compulsion lying behind all this which is dearer than anything else to the thoughtful men of America. I mean the development of constitutional liberty in the world. Human rights, human integrity, and opportunity as against material interests—that, ladies and gentlemen, is the issue which we now have to face. I want to take this occasion to say that the United States will never again seek one additional foot of territory by conquest. She will devote herself to showing that she knows how to make honorable and fruitful use of the territory she has, and she must regard it as one of the duties of friendship to see that from no quarter are material interests made superior to human liberty and national opportunity. I say this, not with a single thought that any one will gainsay it, but merely to fix in our consciousness what our real relationship with the rest of America is. It is the relationship of a family of mankind devoted to the development of true constitutional liberty. We know that that is the soil out of which the best enterprise springs. We know that this is a cause which we are making in common with our neighbors, because we have had to make it for ourselves.

The only question is whether, under the pressure of events, the United States has abandoned these principles. The case is presented clearly and concisely in a cable to the New York Times:

LONDON, March 6, 1927.—In its penetration of Nicaragua and other Central American republics, the United States has followed the methods by which the British Empire was built up, according to the London Times.

"The American Government," declares the newspaper, "has been
led step by step through all the processes familiar to us in our own country as the flag has followed trade. What distinguishes present events in Nicaragua is the quantity and nature of public comment they have aroused."

The correspondent sees the American Government embarrassed in its effort to preserve the "mandate" it has assumed over Nicaragua by the growth of critical public opinion in Latin-America. American critical opinion, according to the editorial, is influenced by "any Central American buccaneer who learns the simple vocabulary of sovereignty."

This opinion, based on the belief that representative government can flourish everywhere, "cuts across the traditional path of unostentatious domination that the Executive desires to follow," because such critical opinion has great influence in the Senate, which can block the President's actions. Therefore "it is not unnatural that the Executive should in self-defence seek his ends by means which the Senate cannot control."

It is this challenge that the defenders of the policy of the United States have to meet.

We cannot agree that the action of the United States in the Caribbean stands on all fours with "the mandates" administered under the League of Nations. How do European countries themselves regard those "mandates"? In arguing a case before the World Court in 1923, the French Government said that one of the "new mandates of the League of Nations" was "very like a Protectorate." Yet when President Diaz of Nicaragua asked for such a Protectorate by the United States, he was in effect refused it by the Administration at Washington.

The interpretation put upon a mandate by the League of Nations is indicated further in the following quotation taken from the opening address to the Legislative Council
of Tanganyika Territory by Sir Donald Cameron, the Governor:

There is no provision in the mandate for its termination or transfer. It constitutes merely an obligation and not a form of temporary tenure under the League of Nations. This obligation does not make British control temporary, any more than other treaty obligations (such as those under the Berlin and Brussels Acts or the convention revising those acts) render temporary British control over Kenya or Uganda, which are no more and no less likely to remain under that control than is the Tanganyika Territory.

I make this statement with the full authority of His Majesty’s Government. And let this not escape the attention of all who may hear it or read it. There are others in the territory to whom I speak besides the non-natives; there is the huge body of chiefs and native inhabitants of the territory. To them I have repeatedly stated in the many barazas I have held during the last eighteen months that Tanganyika is a part of the British Empire and will remain so; to them the words I am now using will be repeated. To them these words are a pledge.

That language is a complete contrast to the definite recognition of independent sovereignty on which the relations between the United States and the Latin-American republics have been based.

A test case is Cuba. As a result of the war with Spain, the island came under the control of the United States—to quote President McKinley—“through the hand of Providence.” To suggest that Governor-General Wood talked to the citizens of Cuba in the language used by the Governor-General of Tanganyika would be to falsify history. Of her own initiative, the United States handed to Cuba an independence which, heretofore, she had never enjoyed, and under her own sovereignty.

Except for minor political disturbances, Cuba has been peaceful, and she has been increasingly prosperous in terms of commerce. A commercial treaty with the United States,
negotiated soon after the establishment of the republic, has encouraged trade between the two countries to such an extent that now she is the sixth best customer of the United States.

That there are reservations to the complete sovereignty of Cuba is true enough. They are contained in the Platt Amendment to the Cuban Constitution, the terms of which, though familiar, may be here quoted:

I. That the government of Cuba shall never enter into any treaty or other compact with any foreign power or powers which will impair or tend to impair the independence of Cuba, nor in any manner authorize or permit any foreign power or powers to obtain by colonization or for military or naval purposes or otherwise, lodgment in or control over any portion of said island.

II. That said government shall not assume or contract any public debt, to pay the interest upon which, and to make reasonable sinking-fund provision for the ultimate discharge of which, the ordinary revenues of the island, after defraying the current expenses of government, shall be inadequate.

III. That the government of Cuba consents that the United States may exercise the right to intervene for the preservation of Cuban independence, the maintenance of a government adequate for the protection of life, property, and individual liberty, and for discharging the obligations with respect to Cuba imposed by the treaty of Paris on the United States, now to be assumed and undertaken by the government of Cuba.

These provisions, defending Cuba against alliances with powers other than the United States, against contracting debts which would lead to insolvency and against certain domestic difficulties, have left the Cubans wholly at liberty to develop their nationhood in all the essentials of organized human life.

That there was an occasion when the United States intervened in Cuba is quite true. But what was the occasion? The Cubans had held their second election. In 1906 Presi-
THE CREATION OF PANAMA

den: Palma was re-elected, but José Miguel Gomez, the defeated Liberal candidate, charging that there had been fraud, began a rebellion and the destruction of foreign property. President Roosevelt sent troops, and a Provisional Government under Charles E. Magoon was set up. In the elections that were held under American supervision Palma was defeated and Gomez elected, and the troops were withdrawn in 1909. It meant that in Cuba, at any rate, the Latin-American habit of treating the ballot as a preliminary to the bullet was definitely outlawed.

In Foreign Affairs for July, 1927, there is a very fair summary of the record of the United States as a leading Power in Central America:

Undoubtedly the American Government has made mistakes in its dealings with the smaller Latin American nations, although I believe these mistakes have been more in taste than in morals. Undoubtedly American business interests have not always played fair. But when the credit and debit columns of the ledger are set against each other I believe that the credit column will be very large and the debit very small. In spite of the critics, the whole story, growingly in its later phases, is an admirable chapter in American foreign policy.

We have from time to time sent marines into some of these countries. Wilson sent them to Haiti and Santo Domingo, and these little nations are peaceful and happy and prosperous as they have never been before. Taft sent them into Nicaragua, where they remained, a few of them, for years, until Coolidge thought it safe to take them away. Are the thousands of lives and the millions of dollars saved by their presence no justification for “interference in the domestic affairs of other nations?” The answer would seem to be inevitably in the affirmative, especially since the United States has always made it clear that their presence pointed not at all toward eventual annexation.

There are Central Americans, of course, who resent any American interference. They learn the language in which they express themselves publicly from the professional anti-imperialists of the United States, but what they really resent is the fact that they no longer dare to carry on pillage and murder for their own political advance-
ment. As a rule they are supremely and entirely selfish, caring nothing for national tranquility and prosperity because it interferes with their own selfish purposes. The first and only idea of most Central American "reformers" is to bring about a revolution which will put them personally into power. This was illustrated when the little company of American marines was withdrawn from Managua. The country has been in the throes of revolution ever since, and the recent peace brought about by President Coolidge's representative would be wholly illusory if the American guarantee of peace were withdrawn. Yet already our critics are busy showing the wickedness of this peace for the reason that the coming elections are to be supervised by Americans to insure fairness. Political labels in Latin-America are as meaningless as they are elsewhere, but I have often wondered whether Secretary Kellogg would have been so violently attacked if Diaz had happened to call himself a Liberal.

I have argued that the United States is subject to the opinion of mankind. This means that the Central American republics are not less subject to that opinion. The mere fact that they are small in area and population does not exempt them from a rule which applies to great Powers. There are small nations also in Europe. But those nations, though independent, are and must be a part of the continental system.

Indeed, it has been argued that the small nation in Europe is by no means so independent in its sovereignty as the small nation in the Americas. Addressing the American Society of International Law at its first meeting in 1907, Secretary of State Richard Olney said:

It has not been uncommon to treat the predominance of the European concert and the American primacy of the United States under the Monroe Doctrine as things of substantially the same matter. But, except as the United States and the European concert each outclass all probable antagonists of their respective policies in point of military strength, there is no real resemblance. The European concert practically has charge of the international relations of such smaller states and of their domestic affairs to the extent required
by such international relations. The United States under the Monroe Doctrine has never undertaken and does not now undertake anything of that sort.

In the New World, there has been no use of the small states as a pawn in the great game of diplomacy and war known as "the balance of power."

Let us now examine in precise outline the steps by which the United States obtained control of the Panama Canal. It is common ground that the territory traversed by the Canal was owned in absolute fee simple by the Republic of Colombia. But what is ownership? However good it may be in law, it is always subject to limitations, both of time and necessity.

In law, apart from limitations of time, the Indians have a better claim to Colombia than even Spain had, Spain had a better claim than the Colombians themselves, and Colombia has a better claim than the Republic of Panama. But such law is limited by a right known to the law as eminent domain. It is by this right that the United States has acted. The right of eminent domain—to apply the words of Cicero—"was never written and was never taught but was drawn from nature itself."

By the right of eminent domain, the property of the private citizen may be acquired by the state compulsorily provided that it be needed for a public purpose. In the development of cities, railroads, water supply, electricity, and other amenities of civilization, the right of eminent domain is invoked every day of the week in every modern community. In Article V of the Constitution of the United States, it is stated, "nor shall private property be taken for public use without just compensation," words which imply an admission that, given "just compensation," private property may be taken for public use.

The only question, here relevant, is whether it is legiti-
mate to apply the principle of eminent domain to international utilities and especially to such utilities as the Isthmian Highway. Here, the League of Nations furnishes in its Covenant a decisive judgment. We read:

The members of the League will make provision to secure and maintain freedom of communications and transit.

To that declaration, no fewer than 53 countries are committed, including all the republics in Latin-America except Mexico. When I was in Geneva (August, 1927), there was sitting a Committee on "Communications and Transit" of which a report was entitled thus:


Contents: Part I, Statement by Dr. Mineiteiro Adatci (vice-president of the conference) on the question of navigable waterways and general discussion in conference, 11th-13th meetings, March 22-24, 1921; Part II, Discussion in committee (Dr. Mineiteiro Adatci in the chair) of the draft convention on the international régime of navigable waterways, 1st-18th meetings, March 30-April 18, 1921; Part III, Report of the committee to the conference. Discussion and adoption of the convention on the régime of navigable waterways of international concern, 28th-30th meetings, April 18-19, 1921.

The authority of the League of Nations is thus absolutely behind the principle that communications and the "securing" or opening up of communications are a legitimate international interest which individual nations must respect.

In the New York Evening Post of April 4th, 1927, there was enunciated an academic dilemma:

In his address before the Pan-American Commercial Conference last evening, President Coolidge made a statement which must have
startled the members of the Conference: "Our associates in the Pan-American Union," he said, "all stand on an absolute equality with us." May we expect then, that Nicaragua will be landing marines at New Orleans or New York if at any time there is serious disorder in this country?

To this we reply that if New York or New Orleans covered a territory astride, or abutting, or in the area or littoral, of a world inter-oceanic communication across any isthmus that has been a world highway of commerce, in one way or another, from time immemorial in a manner like that of the Isthmian Highway between the Atlantic and Pacific Oceans, and if any such South or Central American Republic had spent about five hundred million dollars in building a canal for the commercial use of all the world, and might have to spend over a billion dollars more to make a further and additional canal through a similar isthmus and in the territory of the United States, called either New York or New Orleans; and if such other country had assumed the implied obligations in general of the Monroe Doctrine to aid in defending the area, and preserving order in that littoral, plus such written obligations as the Hay-Pauncefote Treaty, and the United States diplomatic representations leading up to it, in connection with the canals; and had assumed what is in effect, a trusteeship in behalf of world commerce; and was interested also through a more direct and inherent concern in the defence of the Canal, as a part of its own vital national defence; and if such other country were involved in a traditional policy of the "open door" for commerce, trade, and inter-oceanic communications on equal terms for all the world; and further if conditions in the New York or New Orleans (supposed) canal area, were such as they have been (as an illustration) in Nicaragua (a part of the highway through which a new canal has been arranged for) during
eighteen years, except when policed by such other country; the answer would be that any government of South or Central America would be justified in using its forces to police and to preserve order in “New York” or “New Orleans.” In other words, if the situation were reversed, as to both facts and responsibilities, and some South or Central American president, with his country in the same position of responsibility as that now of the United States, were welcoming United States delegates to that country, he would be justified in expressing the sentiments President Coolidge did, which are quoted further on in that editorial, to wit:

Toward the governments of countries which we have recognized this side of the Panama Canal, we feel a moral responsibility that does not attach to other nations.

If any such Latin-American country were so involved in conditions at a place like the Isthmian Highway but called New York or New Orleans, it would be very surprising if such republic did not feel a “moral responsibility” for that place “which does not attach to other nations.” “Where your treasure is there will your heart be also.”

President Coolidge or any other citizen of the United States, sitting as a delegate to such a conference, could not justly take offence at such a statement, by the president of such a country, acting similarly as host and spokesman for the occasion.

As we have seen, the necessity for a convenient transit across the Isthmus was realized several centuries before any of the republics, holding the Caribbean, came into existence. It was a necessity of which the Old World was itself conscious at a time when the New World, as we know it today, had scarcely come to the birth.

As early as May 30th, 1865, the United States had con-
cluded a treaty with Honduras in which the above principle of eminent domain is implied. A contract had been signed between the republic and the Honduras Inter-Oceanic Railway Company. By this contract, the company was empowered to build a railway from coast to coast. By Article V, Section 6, of the contract, it is laid down that

the Government of Honduras with the view to secure the route herein contemplated from all interruption and disturbance from any cause, or under any circumstances engages to open negotiations with the various governments with which it may have relations, for their separate recognition of the perpetual neutrality, and for the protection of the aforesaid route;

The Government of Honduras agrees that the right of way or transit over such route or road, or any other that may be constructed within its territories, from sea to sea, shall be at all times open and free to the Government and citizens of the United States, for all lawful purposes whatever.

In other words, Honduras engaged herself to secure neutrality for the railway, and in order to "carry out the obligations thus incurred," she entered into an undertaking to the United States which is stated in Article XIV of the Treaty.

The railway across Honduras is defined specifically as a "right of way." It was not a mere permission, granted as a favour but a facility to which the public were entitled as a matter of claim. Trusteeship of such a right of way implies a responsibility to construct, maintain, protect and operate the method of transport involved in the use of the route in question. In effect, Honduras became responsible to mankind as a common carrier of commerce. She held her territory as a nation. But that ownership was subject to an eminent domain in which all nations were legitimately interested.

The Republic of Colombia, like the Republic of Hon-
duras, was subject to the principle of eminent domain. By admitting the French engineers to the Isthmus of Panama, the republic conceded the proposition that she was a trustee for an international communication as defined later in the Covenant of the League of Nations. The failure of the French to construct the Canal obviously meant a failure on the part of Colombia also to fulfil her trust, and it was only after this failure had become absolute that, in 1903, there was negotiated the Hay-Herrán Treaty between Colombia and the United States, which would have enabled this country to proceed with the Canal.

On August 12th, 1903, that Treaty was rejected at Bogota by the Colombian Senate. Whatever may have been the motives of the 24 Senators who voted against it, whether patriotic or otherwise, one thing at least is certain. The defeat of the Treaty was a repudiation of the right of eminent domain, asserted in the Covenant of the League of Nations. The only question was by what agency that right was to be vindicated.

The trusteeship devolved inevitably to the most capable and willing world-power, selected in closest proximity to the Highway, and therefore the best able to complete the Canal, to operate it and adequately to defend it. Indeed, by the very implications of the Monroe Doctrine, the United States had no choice but to proceed. Had she declined to fulfil the trust, she would have had to consent to some other Power, either Britain or Germany, taking her place.

Indeed, we will press the argument further. As a trustee, responsible for the execution of her trust, the United States is not at liberty, equitably and in accordance with well recognized principles of law, to withdraw from the responsibilities to mankind which she has assumed. Such withdrawal would involve mankind in grave
inconvenience and loss, to say nothing of the danger of war.

If, moreover, the United States were to fail in the fulfilment of her trust and were to abandon the task which she has assumed, it would be open to another power to take her place, and that power—suppose for the sake of argument it were Mexico—would be faced by precisely the same problems of law and order and health and finance which the United States has had to solve. A transference of the Canal to another power at a valuation based upon the cost of construction, equipment and improvements would not in any way eliminate the essential trusteeship for a public utility, the nature of which we are examining. It would be merely a change in the identity of the nation charged with the trust.

When the Hay-Herrán Treaty with Colombia failed of ratification, President Roosevelt was in office. During the controversy over the Tolls, he was quoted in the press as stating his position thus:

For four hundred years there had been conversation about the need of the Panama Canal. The time for further conversation had passed, the time to translate words into deeds had come.

It is only because the then (my) administration acted precisely as it did that we now have the Panama Canal.

The interests of the civilized people of the world demanded the construction of the canal. Events had shown that it could not be built by a private concern. We as a nation would not permit it to be built by a foreign Government. Therefore, we were in honor bound to build it ourselves.

Panama declared her independence, her citizens acting with absolute unanimity. We promptly acknowledged her independence. She forthwith concluded with us a treaty substantially like that we had negotiated with Colombia for the same sum of money. We then immediately took the Canal Zone and began the construction of the canal.

The case demanded immediate and decisive action. I took this
action. Taking the action meant taking the Canal Zone and building the canal. Failure to take the action would have meant that the Canal Zone would not have been taken and that the canal would not have been built.

The title of the United States to the Isthmian Highway was thus made good, at the critical moment, by force.

In justice to the United States, it should be added that Panama conquered her independence from Spain by her own efforts and joined the federal republic of Colombia as a sovereign state. Confronted by what she considered to be a curtailment of her sovereign rights, Panama withdrew from the association on repeated occasions, for instance, 1830, 1831, 1841, 1860 and 1861. She returned to Colombia on the understanding that her autonomy would be assured yet was subjected to military repression in the year 1885.

It has to be remembered, moreover, that, apart altogether from any revolution in Panama, the United States enjoyed certain rights under the treaty of 1846 with New Granada or Colombia. President Roosevelt was advised by John Bassett Moore, the distinguished judge on the international court at The Hague that he had an unquestionable case for bringing pressure to bear on an obstructive Colombia and it was this course that he was actually considering when the revolution broke out. The clause is as follows:

The Government of New Granada guarantees to the Government of the United States that the right of transit across the Isthmus of Panama upon any modes of communication that now exist or that may be hereafter constructed shall be open and free to the Government of the United States.

It is possible to argue that the use of all force is wrong. That is the Pacifist contention and, according to it, the
action of President Roosevelt, as described by himself, would have to be condemned. But for those who are not Pacifists, the question is whether the particular use of force which opened up a route for the Panama Canal, was or was not defensible on the merits.

Our own view is not that President Roosevelt's action was unjustified, but that its only and sufficient justification will be based upon the principle of eminent domain. That justification means that the United States assumed a responsibility to act not alone in her own interest but as trustee for the world. It was—we emphasize—only as a trustee for interests larger than her own that she had an equitable right to act as she did act.

The chief legal advisers of the United States have recognized our peculiar position in Panama. In 1909 Attorney General Bonaparte said the Canal Zone was not a "territory" of the United States, "but a place held by us for a very special and peculiar purpose." Later in the same year, Acting Attorney General Wade Ellis said:

The Canal Zone is not one of the possessions of the United States within the meaning of the Tariff Act of 1909, but rather a place subject to the use, occupation and control of the United States for the purpose of constructing and maintaining a ship canal connecting the waters of the Atlantic and Pacific Oceans.

For half a century the relations between Colombia and the province of Panama had been disturbed. In the year 1903, Panama, with the approval—some would add, at the instigation—of the United States, declared her independence.

That the loss of her historic province was a severe blow to Colombia is not to be denied. Hard words were used against the United States and Hymns of Hate were sung. On April 17th, 1927, a Colombian, addressing his fellow citizens, wrote thus in the Herald-Tribune:
I invite the author of this proposition, and all who participate in his brand of "patriotism," to study the results of actuation by the United States in Spanish-America; and, putting aside all such misconceived notions of patriotism, to ask themselves the following:

1. Whether or not it is true that in all the Latin countries where American intervention has occurred such action has been justified by the savagery of our intestine struggles, for the protection of rights legitimately acquired by natives and foreigners alike, whose lives and properties were constantly in peril from groups of bandits who, under the pretext of "civil" warfare, gave themselves to indiscriminate plundering and murder in all the revolutions of Central America and the Antillas—e.g., Haiti, Santo Domingo and Nicaragua.

2. Whether those countries where the United States has intervened, effectively applying American scientific methods, are not today more civilized and prosperous than those other nations which have sought that other alliance with Spain, where even their independence is still considered fictitious, and in which prevail absolute ignorance of the masses, poor means of communication, filth, ignorance of the rudiments of hygiene and an obvious degeneration of the race.

3. Whether it is not true that, had not the Monroe Doctrine prevailed, the European powers, always thirsting for conquest, would not, long ago, have competed to conquer and absorb a rich continent, sparsely peopled by a race without culture, and that did not present the obstacles of remoteness nor effective resistance, like that opposed, for example, by the Boers of South Africa or the natives of Austra-

lasia? And does the author of that proposition imagine that the ferrule of Great Britain, Germany or France would have been less heavy and hard to bear than the tutelage of America as demonstrated in Cuba or Panama, where Yankee influence is shown principally in advancing prosperity, and where the rare complaint heard of "wounded independence" comes only from those who, for their own ends, yearn to see their country again rotting in retrograding inertia or torn by petty tyrants and civil strife, rather than under the protection and guidance of that nation which, despite its invidious detractors who envy and malign her, marches in the van of civilization through perfection of her institutions, education and enlighten-
ment of her people and the virility of her race.

Let the Señor Londoño consider these points and endeavor to divest himself of that false and vain "patriotism" which leads to
nothing practical. Let us civilize ourselves; let us educate a population of illiterates; let us establish means of communication and schools; let us clean up the moral and material filth in which our people and our cities wallow. At least let us put ourselves on a level with Chile and Argentina, and we shall have nothing to fear from any "Colossus of the North"—which, however, is not likely to be scared away from our shores by our demonstrations of "anti-imperialism" nor by official anathemas printed on the back of telegraph blanks.

It is to be regretted that compensation was not paid to Colombia with greater promptitude by the United States. The course of events, as narrated in the *Encyclopedia Americana*, was as follows:

On 4 November 1913 the Congress at Bogota adopted a resolution affirming Colombia's isthmian rights, 10 years having passed since the severe loss had been sustained. Don José Vicente Concha (clerical-conservative) became President in 1914. During that year there was "no little satisfaction at the prospect of receiving under a pending treaty, $25,000,000 (from the United States) and of acquiring special privileges in respect to the Panama Canal. Taking advantage of the presumably more favorable spirit which the treaty had created in Colombia, an American "scientific mission" was sent to spend eight years and $400,000 exploring the country. But in 1915, when the proposed treaty was under consideration by the Senate of the United States, its provision for the payment just named, coupled with apology for the methods employed in securing the Canal Zone privileges and obligations, made favorable action by that body entirely impossible. However, the following year (18 February 1916) the Senate of the United States, by a vote of 55 to 18, ratified a plan to pay Colombia $15,000,000 in return for her acknowledgment of the American government's right to the Canal Zone.

The difficulty on the side of the United States lay not in the payment of the money but in the admission that the action, taken by President Roosevelt, constituted an offence for which apology and reparation must be made. This
country did not agree and will never be argued into agreeing that so considerable service to mankind as the inauguration of the Panama Canal was an achievement of which she has reason to be ashamed.

In 1921 there was a final settlement with Colombia for $25,000,000 to be paid in four yearly instalments of $5,000,000 apiece.
XV

THE STATUS OF PANAMA

We have now to consider the relations between the United States and the Republic of Panama. On the one hand, we have the richest and potentially the most powerful country in the world. On the other hand, we have a population outside the Canal Zone of roughly 450,000 divided as follows:

- Whites .................. 52,069
- Negros .................. 85,970
- Indians ................. 33,425
- Orientals .............. 3,061
- Mestizos ............... 267,961

On November 18th, 1903, the United States and Panama signed what has come to be known as the Hay-Bunau-Varilla Treaty, determining their mutual relations.

In an Appendix, we print this Treaty in full, but we may here present a brief outline of its provisions.

By Article I “the United States guarantees and will maintain the independence of the Republic of Panama.” On this Article, we need only remark that the obligation is limited to the United States and in this form is shared by no other Power.

Articles II to IV confer on the United States in perpetuity the full right to use what is known as the territorial “zone”—five miles on each side of the Canal—for all purposes connected with the enterprise. The zone includes the high seas within “three marine miles from mean low water
mark,” with islands situated therein and the “small islands in the Bay of Panama named Perico, Naos, Culebra and Flamenco,” which lie outside of the three mile limit. Other land which may be “necessary and convenient” for the use of the Canal is also “granted” and the concession guarantees the right to use available water for power, sanitation or other purposes.

It will thus be seen that the leasehold from Panama is not precisely defined in terms of exact boundaries. The ten mile zone and the three mile limit at the seaboard are subject to extension if there should arise a necessity affecting the Canal itself. The size of the controlled area must be governed by the presence in the neighbourhood of the Canal of disease and disorder which might menace the Canal and its approaches. The United States as a trustee is thus entitled to make use of whatever facilities may be essential in Panama to the due fulfilment of her trust.

By Article V, the United States receives the right to construct and maintain the Canal as “a monopoly,” the full significance of which word should be appreciated. It is not only that. Along the Panama Route itself, there cannot be, in the nature of things, any competition with the Canal by a rival enterprise of the same character. The monopoly extends to alternative routes.

Across the Isthmus, there appear to be three, and only three available opportunities for constructing a possible canal, namely, Panama, Atrato and Nicaragua. It is today an axiom that none of those routes would be developed except with the consent of and indeed through the initiative of the United States. The monopoly on Panama is thus absolute, not only in the present but for the future. The status of the Canal is thus similar to that of a Public Service Corporation as defined by Wyman:
IT is common knowledge that there are certain businesses which are so affected with a public interest that those who undertake them must serve the public properly. It is thus the character of the business which makes it public, and this character it takes from the conditions surrounding the business. This is most clear in the case of those businesses which have by reason of physical limitation a natural monopoly. In such circumstances the ordinary laws of competition either practically fail to operate, or act but feebly.

The Canal is thus wholly distinct in its character from a manufacturing plant which is subject to the Sherman Anti-Trust Laws. Of the canal or canals across the Isthmus, there must be unified management by one unchallenged authority.

By Article VI, the owners of private property, required for the use of the enterprise, are secured of compensation. No unsettled claim by a private person shall be allowed, however, to delay the progress of the undertaking. It is agreed, moreover, that roads crossing the Canal shall be open to public use.

Article VII awards to the United States the right to purchase property in the cities of Panama and Colon under "the right of eminent domain," and among the responsibilities of the United States is to be the due sanitation of those cities.

Under Article VIII, the Republic of Panama transfers to the United States the property of the New Panama Canal Company (that is, the Canal as left by the French) and of the Panama Railroad Company.

By Article IX, the United States as the responsible trustee of the Canal is entitled to use the ports of Colon and Panama without charge for customs or other dues. On the other hand, Panama may levy customs on goods entering her territory for the use of "other portions of Panama" and may "prevent contraband trade."
Article X relieves the Canal of taxation and Article XI secures to the Republic of Panama the use of telegraphs and telephones, owned by the Canal, "at rates not higher than those required from officials in the service of the United States."

By Articles XII and XIII, the United States receives the right to import "employees and workmen of whatever nationality" for the purposes of the Canal, who shall be "free and exempt from the military service of the Republic of Panama." Also, there is to be free import of materials necessary to the Canal—this on the understanding that "if any such articles are disposed of for use outside of the zone and auxiliary lands granted to the United States," they shall be subject to whatever duty is leviable on goods of like character.

Under Article XIV, the United States pays to the Republic of Panama a sum of $10,000,000 and an annual payment of $250,000 "during the life of this Convention," as "the price or compensation" due on the Canal. It is obvious that the acceptance of this money by the Republic of Panama is in the nature of a further ratification of the contract.

Article XV appoints a joint commission by the United States and Panama for the settlement of differences arising out of the Concession; Article XVI provides for the enforcement of order and punishment of crime; and Article XVII throws the Canal open to vessels in distress.

There follow a series of provisions to which particular attention should be drawn. Article XVIII reads:

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

This means that the Treaty with Panama expressly carries forward the undertakings included in the Hay-Pauncefote Treaty with Great Britain. The two Treaties, though concluded with single powers—Great Britain in the one case and Panama in the other—are thus international in their real character.

By Article XIX, the Republic of Panama is entitled without charge to use the Canal and its facilities for the movement of its troops and munitions.

By Article XX, the Republic of Panama agrees to "cancel or modify" any previous treaty with a third power which may affect the Isthmus and so conflict with the position of the United States as now defined. In other words, the prior commitments of Colombia, whatever they may have been, insofar as they were inherited by Panama, are annulled; and by Article XXI the principle underlying this provision is extended to "all anterior debts, liens, trusts, or liabilities, or concessions or privileges to other governments, corporations, syndicates or individuals"—a safeguard amplified by Article XXII, which deals with the legal transference of the properties involved in the Canal.

The succeeding articles should be quoted in full:

**ARTICLE XXIII**

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

**ARTICLE XXIV**
THE ISTMHIAN HIGHWAY

that now exists or may have often existed touching the subject of...
plaints, namely, first, that the United States had opened the Canal Zone to the commerce of friendly nations, secondly, that she had established rates of customs duties for importations of merchandise into the Zone, and thirdly, that she had established post offices in the Zone.

The argument of Panama was that, in all these matters, the United States should have been guided by that "indispensable antecedent," the Hay-Herrán Treaty with Colombia, which, if ratified by Colombia, would have determined the status of the Canal Zone. The Hay-Herrán Treaty, Article IV, reads as follows:

The Government of the United States . . . disclaims any intention . . . to increase its own territory at the expense of Colombia or of any of the sister republics of Central and South America; it desires, on the contrary, to strengthen the power of the republics on this continent, and to promote, develop, and preserve their prosperity and independence.

In a despatch dated October 24th, 1904, Mr. Hay insisted that the Hay-Herrán Treaty, having been rejected by Colombia, was no longer relevant. He added that the policy by which the United States refrains from seizing territory, did not originate with that Treaty but is traditional to the United States. He wrote:

It is the long-established policy of the United States, constantly adhered to; but said policy does not include the denial of the right of transfer of territory and sovereignty from one republic to another of the western hemisphere upon terms amiably arranged and mutually satisfactory, when such transfer promotes the peace of nations and the welfare of the world. That the United States may acquire territory and sovereignty in this way and for this purpose from its sister republics in this hemisphere is so manifest as to preclude discussion.

On the other hand, Secretary Hay insisted that by the Treaty with Panama, the United States was entitled to exer-
cise within the Zone, "all the rights, powers and authority" which it would "exercise if it were the sovereign of the territory." Hence, he argued,

If it could or should be admitted that the titular sovereign of the Canal Zone is the Republic of Panama, such sovereign is mediatized by its own acts, solemnly declared and publicly proclaimed by treaty stipulations, induced by a desire to make possible the completion of a great work which will confer inestimable benefit upon the people of the Isthmus and the nations of the world. It is difficult to believe that a member of the family of nations seriously contemplates abandoning so high and honorable a position in order to engage in an endeavor to secure what at best is a "barren scepter."

Panama had acquiesced in "entire exclusion" as sovereign from the Canal Zone and had accepted payment in compensation, namely, $10,000,000 in gold.

Into the detailed argument, we need not enter. It is possible to contend—as many have contended—that the Treaty with Panama was a diplomatic paraphrase for annexation of the Canal Zone. But there cannot be a serious doubt as to the significance of the absolute rights which, in fact, the United States acquired under the Hay-Bunau-Varilla Treaty. That authority, as of a sovereign, includes beyond question the right to import goods, levy customs and establish a postal service.

In December, 1904, Mr. Taft, then Secretary for War, visited Panama. He negotiated an agreement with Panama, adjusting certain imports. It is a fact that, by this agreement, the United States limited the exercise of certain of its sovereign rights in the Canal. But in the words of an official communication from the State Department, dated October 1st, 1927 "it was expressly stipulated that this agreement was only temporary and was not to be considered as an interpretation of the Treaty of 1903 or as relinquishing any of the sovereign rights that the United States enjoyed in the Canal Zone."
Over the technical question of sovereignty, it cannot be suggested seriously that Panama has any grievance. In the year 1907, the Republic was affected seriously by the general unrest which was troubling Central America as a whole, and as an election was pending in which—judging by previous contests—fraud would play a part, the United States was requested to appoint a commission under which a contest might be held under fair conditions. Secretary Taft again visited Panama and arranged that the election should take place under American observation. To the political parties it was made plain that, in the event of riot or disturbance, the United States would intervene to preserve order. A list of actual voters in each precinct was drawn up.

The effect of these measures was remarkable. The fear had been that Ricardo Arias, the Foreign Secretary of Panama, would hold a dummy election and declare himself President. What happened was that he withdrew his candidacy and José Obaldía was elected almost without opposition.

If, then, there is discontent in Panama, it is due wholly to other causes than questions of sovereignty. Of these causes, a lucid account has been given (October, 1927) in the New York Times by Mr. Drew Pearson.

Before the Canal had been completed, Panama merchants invested heavily in goods which they expected to sell to ships passing through the Canal and to the employés and police of the Canal Zone.

The War Department, however, set up its own warehouses and commissaries which sold in competition with the Panama merchants. The right of the War Department under the Treaty can scarcely be disputed. The United States has been granted the authority which it "would possess if it were the sovereign of the territory, to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority." In addition,
the War Department has maintained that it has every right to furnish the necessities of life to its own employés, a contention which Panama does not challenge.

But it is urged that the commissaries do not confine their activities to this purpose. They sell, not only necessities, but jewelry and luxuries, like Chinese silks, South African diamonds and French perfumes which are advertised outside as well as inside the Zone. Moreover, the very fact that there is no customs barrier between the Zone and the rest of Panama means that goods, purchased from the commissaries, can be carried without difficulty to any point within the territory of the Republic. This applies to tobacco which is a government monopoly and an important source of revenue to the Republic. The competition, so developed by the commissaries, is the more serious for the Panama merchants because it affects trade with passing ships.

The merchants have to pay customs duty and internal taxes. The commissaries are immune from both. The merchants, moreover, are charged standard rates on their goods by the railways. The commissaries enjoy the advantage of a very low rate on all such merchandise. Hence, it is no matter of surprise that Panama merchants have suffered a good deal of disappointment over the prospects of their trade and that not a few of them have been driven into bankruptcy.

It is, we submit, manifest that the United States holds no specific franchise to carry on trade and commerce as such in the Canal Zone. The only question is how the United States is to supply legitimate goods within the Canal Zone to her own people without developing a general commerce that would be unfair to Panaman enterprise.

In 1926, the United States and Panama signed a new treaty which, however, has still to be ratified. By Clause IV of this Treaty, it is laid down as follows:
"With the exception of sales to ships which the United States will continue to make as heretofore, the sale of goods imported into the Canal Zone by the Government of the United States shall be limited by it to the officers, employes, workmen and laborers in the service or employ of the United States or of the Panama Railroad Company and the families of all such persons and other persons who may be permitted to dwell in the Canal Zone."

It will be noted that this clause still permits the United States to carry on the direct trade with ships using the Canal.

It would scarcely have been supposed that this dispute over the sale of tobacco and trinkets would assume a world-wide significance. But it must not be forgotten that Panama belongs to the League of Nations. Indeed, Latin-America as a whole, with the single important exception of Mexico, has joined the League, from actual membership of which
Panama Canal Zone, the spokesmen of the Republican and Democratic Parties are thus agreed.

We do not demur in any way to the exclusion of the League of Nations from the settlement of differences which arise between the United States and Panama. In the similar case of Egypt, which, like Panama, is a member of the League, Great Britain assumed an attitude similar to our own. It was agreed by Britain that Egypt is a sovereign independent power. But to this sovereignty, there are irreducible reservations of which the world has been warned. On February 21st, 1922, Lord Curzon issued the following statement:

"The following matters are absolutely reserved to the discretion of His Majesty's Government until such time as it may be possible by free discussion and friendly accommodation on both sides to conclude agreements in regard thereto between His Majesty's Government and the Government of Egypt:

(a) The security of the communications of the British Empire in Egypt.
(b) The defense of Egypt against all foreign aggression or interference, direct or indirect.
(c) The protection of foreign interests in Egypt and the protection of minorities.
(d) The Sudan. Pending the conclusion of such agreements the status quo in all these matters shall remain intact.

The reservations to Egyptian sovereignty may appear to be provisional and subject to discussion. But the discussion is confined to Great Britain and Egypt alone and the last word in the discussion obviously rests with Great Britain.

That this is the British view, has been affirmed by Britain in terms of unmistakable candor. In 1924, it was feared that Egypt would sign the Protocol, elaborated by the League, with a view to disarmament. On December 4th, Great Britain sent a note to Geneva recalling the fact that, between Britain and Egypt, "certain questions were abso-
THE STATUS OF PANAMA

lutey reserved,” insisting upon “the special relations between Egypt and itself long recognized by other countries,” and resenting “any attempt at interference in the affairs of Egypt.”

During the year 1928, there developed an affair which illustrated the various aspects of this problem. A serious dispute arose between Bolivia and Paraguay, both of them members of the League. There were appeals to Geneva and the League on its side claimed a diplomatic jurisdiction in the New World. It was demonstrated, however, that the New World had the will and the machinery to settle its own difficulties without such European assistance.

It is thus a fact not to be gainsaid that in Egypt as in Panama, the intervention of the League of Nations is not welcomed. But we submit that this fact does not exhaust the situation. The very fact that the paramount power acts in these cases as a sole trustee lays upon that power the greater obligation to respect the worldwide opinions and interests of which the League is an organized expression.

The defence of the Panama Canal is a problem of strategy, distinct in itself. It is obviously for the responsible trustee and no other authority to decide what measures must be taken to guarantee an adequate security.

Of all the administrations recorded in the history of the United States, none is less respected than that of President Buchanan. It is agreed that he allowed the nation to drift into civil war. It is also agreed that he failed to take many precautions, for instance, the removal of national property from the South, which, in the event of civil war, would have limited its duration. A provisional government was set up in the South and it was then too late to remove the stores and munitions which were used later against the forces of the Union.

In the case of President Buchanan, it has been asserted
that in text books at West Point and Annapolis it was taught
and he believed in, the right of the South to secede. That is
no answer to the charge against him, but at least it suggests
an explanation.

If there be a failure adequately to defend the Isthmian
Highway, the only conceivable explanation would be a simi-
larly mistaken sympathy with the ultrapatriotic susceptibili-
ties of the smaller Latin-American republics. It is enough
to reply that adequate defense would not injure—rather it
would establish—their true prosperity and well being. No
Latin-American interested is here wounded except in a pride,
essentially provincial in its inspiration, which ignores wholly
the broader interests of the world as a whole. In those
world-wide interests, there are included the best interests of
Latin-Americans themselves.

It has to be borne in mind that the Panama Canal, with its
vast locks, and complicated equipment, is essentially vulner-
able. In the Herald Tribune of April 10th, 1927, Edward
Van Zile, after a visit to the Caribbean, described the Canal
as "our heel of Achilles" and declared that "a single explo-
sive bomb could put the Canal out of commission in ten min-
utes." That may be a picturesque way of putting it. But
there is no doubt that, before the days of aircraft, the man-
agement of the Suez Canal had to be on guard against mis-
haps. The scuttling of a ship might block the water-
way. A ship, loaded with explosives, might injure the
Canal itself.

According to the World's Work for March, 1927, there
were 5197 ships using the Panama Canal in the year 1926.
Of this tonnage, 53 per cent belonged to the United States
and 47 per cent to the rest of the world. This country thus
shared with mankind a supreme concern for the uninter-
rupted use of the Isthmian Highway as a channel of com-
merce. As the Canal grows in importance, so will it be
regarded with the greater emphasis as a strategic link in the communications across this planet.

In the year 1926, a new Treaty was negotiated between the United States and Panama. It was this Treaty that included the commercial provision quoted in the last chapter. But its main purpose is defense.

By the old treaty, as we have seen, the Republic of Panama authorized the United States to establish fortifications on the Canal and to send armed forces to defend it. But the Republic of Panama itself remains uncommitted by these measures to any course of action.

By the new treaty, there is set up a hard and fast defensive alliance between the powers. If, for any reason, the United States finds herself at war, the Republic of Panama agrees that, automatically, she will enter the war on the side of the United States.

Also, the United States acquires the right to use any part of the territory of Panama for military operations and, during peace as well as war, will exercise control over aircraft and wireless communications, including the grant of licenses and installations. Also, the United States takes over the Island of Manzanillo at the Atlantic terminus of the Canal.

There is no doubt that this treaty led to a world-wide discussion. As a member of the League of Nations, the Republic of Panama is a party to Article XII of the Covenant. This Article is as follows:

The members of the League agree that if there should arise between them any dispute likely to lead to a rupture, they will submit the matter either to arbitration or to inquiry by the Council, and they agree in no case to resort to war until three months after the award by the arbitrators or the report by the Council.

In any case under this Article the award of the arbitrators shall be made within a reasonable time, and the report of the Council shall be made within six months after the submission of the dispute.
But by Article II of her Treaty, Panama finds herself at war at the instant when the United States finds herself at war. There are no preliminaries. There is no “cooling off period” of three months.

In a technical sense, as the London Times has pointed out, there is here an apparent contradiction. It could be resolved, of course, by the withdrawal of Panama from the League.

In the comment of the Chicago Tribune, there was a touch of wit. Discussing the proposed treaty, its view was:

“The little republic will not suffer morally because the blame will be pinned on the United States, which can afford to stand it. If charged with contributing to the delinquency of a ward of Geneva, the United States should blame the League for beguiling a minor.”

For does Panama stand alone? Let us suppose that Great Britain herself were to be in a state of war. Would it be a fact that her Dominions and India, all of them separate members of the League, would continue at peace? If they did so continue at peace, would it not mean that the British Empire, as a sovereignty of commonwealths, had been reduced to a memory?

Again, are there not treaties in Europe, signed by members of the League, the force of which, whatever be the precise wording, is not different from that of the new Treaty with Panama? What precisely are the relations between France and Belgium and between Italy and Albania, to give two instances alone? Also, what is the full significance of the undisclosed agreements between Italy and Spain?

The reply of the New York Times, early in January 1927, seems to us to set out the case for the new Treaty with simple lucidity. It is merely the form of the Treaty that embarrasses. The facts of the case are not modified.
If the United States were to be engaged in war, it is obvious that, even under the old treaty, she would be under the necessity of defending the whole of the Republic of Panama. All that the United States is now doing may be described as putting down in black and white what this obligation really means.

The idea that the United States would be guilty of rushing Panama into a world war, is unthinkable. Faced by such a crisis, her deliberation would be at least as cautious as any procedure embodied in the Covenant of the League of Nations. Indeed, at Geneva itself, it is an obvious fact that the issues of peace and war, though they affect the small nations, are decided by the big ones, and the supposition that such issues could be changed one way or the other by the action of a Republic like Panama is—if we may speak plainly—as fantastic as to suppose that the balance of power in the Mediterranean is determined by the armies and navies of Monaco.

Concessions within the territory of the Republic of Panama may involve delicate issues. In 1927, the Tonosi Fruit Company, a subsidiary of the United Fruit Company obtained such a concession to construct a railroad across the Isthmus. A note was sent to Panama by the United States whose consent had not been asked, in which objections were waived, but only on the understanding that no benefits enjoyed by this Government under the Panama Railroad Concession of 1867 were relinquished. Rights granted more than sixty years before were thus involved.

The Panama Corporation, Ltd., is a British organization which holds a mining concession, reported to cover one-sixth of the total area of the Republic of Panama. These rights are limited in point of time and in other ways but the concession was denounced by Senator Borah as a danger to the Canal. However, investigation did not disclose any peril.
In April 1928, Mr. D. Elliott Alves, Chairman of the Panama Corporation, Ltd., announced that he had concluded negotiations with Panama for making surveys for a road across the Isthmus. President Chiari’s comment was “my Government is ready to hear proposals from Mr. Alves as well as other companies because it is apparent that this new road would benefit the economic development of the country.” It was denied that any actual concession at that date had been granted.

Here undoubtedly there arises a serious question of principle. The roads both of the Canal Zone and of Panama itself are necessary to the protection of the Canal. For this reason, they are constructed of a military dimension. While the United States as trustee would not obstruct the economic development of Panama, she must control inter-oceanic highways across the Isthmus. Under the treaty of 1903, associated with the original concession to the Panama Railroad, the United States claims the exclusive right to construct and maintain railroads, canals and carriage roads across the Isthmus in the territory through which the road in question would pass—that is through the territory west of Cape Tiburon on the Atlantic and Point Garachine on the Pacific.

The question is thus whether such a road should be built by the United States or by a private and foreign corporation. Apparently financial considerations are involved. By the new treaty with Panama which failed to pass the National Assembly of that Republic, provision was made for a new road by way of the Alajuela Dam, connecting the present canal roads and providing a highway between Panama and Colon, also a branch to Porto Bello. Except for a contribution of $1,250,000, the cost of this undertaking was to fall on Panama. The opponents of the Treaty protested that in view of the military value of the road, the United States should bear more of the expense and that Panama
could not afford to pay the amount required of her. Hence the Panama National Assembly of 1928 passed a law authorizing the Government to grant a concession for the construction of a highway connecting Panama Colon and Porto Bello, the concessionaire to pay all costs, to be permitted to charge tolls and to receive 500 hectares of Government land for each mile of road, built and put into use.

It is such a concession that has come under debate. We will only suggest that these strategic roads, irrespective of expense, should be subject to the absolute control of the trustee power—a control exercised under similar circumstances by Britain over the Suez Canal.
NICARAGUA

When the United States entered into special relations with the Republic of Panama, there were observers of her policy, admirers and critics who declared that the South Western frontier of this country had been moved from the Rio Grande to the northern boundary of Colombia. The whole of Mexico and the six Central American republics—so it was suggested—had been annexed, if not in form, then in fact, by the Colossus of the North. The expansion of the United States—so it was said—was following the precedent which Sir John Seeley in a famous book called The Expansion of England.

That the influence of the United States has grown, cannot be, and need not be, denied. But how has that influence been used? "Politicos," who play the part of Demosthenes, should note that in South America, at any rate, the United States has not only excluded Europe from all chance of aggressive penetration, but has herself refrained, for more than a century, from acquiring control over or ownership of a foot of territory.

Nor has there been any attempt by the United States to enforce on any part of Latin America, whether "South" or "Central" or Mexico, her own English-expressed culture. Neither with language, thought, art or religion, has the United States shown the slightest inclination to interfere.

Early in 1927, the Manufacturers' Record thus defined the special circumstances which affect the Isthmian Highway:
Central America has been another Balkans. Every country there boasts men of high education, men of great refinement, families of distinction. Contests for power have chiefly been between great families. The peoples themselves have been mere pawns in the game. To a peculiar degree, Central America has been the habitat of soldiers of fortune, of adventurers in Government, of palace revolutions. Governmentally, it has been a disease stricken region. We cannot ignore that fact any more than we can ignore an epidemic of yellow fever in that part of the world.

That description is entirely just. It means that Central America has offered an inviting field for international intrigue.

What then has been the record of the United States in this troubled region? In their assertion of independence of Europe, the republics were supported wholeheartedly by the United States to which support they owed their liberties. When, moreover, the five Central American states, Guatemala, Salvador, Costa Rica, Honduras and Nicaragua, federated in 1823, the United States recognized the Federation and extended to it a wholehearted good will.

After the dissolution of the Central American sovereignty in 1847, the United States, though regretting the severance, recognized each of the five separated republics, all of which to this day retain their independence and integrity.

From the year 1874 till the end of the nineteenth century, there were many unsuccessful attempts to achieve or to restore Central American union, to which movement in the direction of stability, the United States was favourable; and, in the year 1906 President Roosevelt acted as a mediator in a dispute between Guatemala on the one side and Salvador and Honduras on the other. A treaty of peace, to which all the Central American republics except Nicaragua, agreed, expressly recognized the obligation of the United States to intervene as mediator in Central American affairs, and it was such mediation that, in August 1907, averted war between
Nicaragua and Salvador. The aim of the United States, once more, was to enable Central American democracy to attain to an orderly and secure civilization.

In 1907, the five republics, encouraged by President Roosevelt, held a conference at Washington, the object of which was to find a basis of friendlier relations—political, commercial and financial. Among the results was the establishment of a Central American International Bureau on the lines of the Pan American Union. There was founded, moreover, a Central American Court of Justice, sitting in Costa Rica, and it was agreed to hold, every year, a Central American Conference.

The mere recital of these events, we submit, disposes of the charge that, in dealing with these republics, the United States was animated by aggressive aims. Obviously and on the face of the record, she desired to see, south of her own territory, a sister federation, comparable with herself in order, in developing resources and in a progressive well being.

It is this desire that is still the motive of the United States. Indeed, her interest in the Isthmian Highway has stimulated her hope that the Central American republics will justify their free sovereignty by maintaining the essentials of order and the public peace.

To these republics the United States applies no principles which she does not also apply to herself. When Grover Cleveland was President there were riots in Chicago which held up the federal mail. The government intervened, and against this intervention, Governor John P. Altgeld of Illinois, pleading state rights, made a protest. President Cleveland replied, "Time for discussion is past. The marines are on the way." A domestic upheaval was not permitted to menace the communications which are necessary to the organized life of the continent.
NICARAGUA

It is this principle which has been applied by President Coolidge to Central America. During the year 1927, he said:

The stability, prosperity and independence of all Central America can never be a matter of indifference to us.

He also said this:

Toward the governments of countries which we have recognized this side of the Panama Canal, we feel a moral responsibility that does not attach to other nations.

President Coolidge, following President Taft, thus declared that the United States has a "special interest" in the Central American republics. Senator Borah also refers to the "countries that are near at hand and where we have large and peculiar interests."

It is a declaration that has arisen out of no threat by the Old World against the New. The Old World is not challenging the Monroe Doctrine. It is the inherent instabilities of the New World itself that have to be steadied. Just as the riots in Chicago touched interests that extended far beyond the State of Illinois, so the troubles of Central America affect a great public utility in which the whole world is legitimately concerned.

The argument does not end there. Let us imagine the highly improbable situation in which, for some reason, say a revolution in this country, the Canal had passed into other hands than our own. In that case, a new trustee would be responsible for its maintenance as a Highway. That trustee would be bound to ensure, as the present trustee is bound to ensure, that no power, not even the United States herself, interferes with orderly traffic through the Isthmian Highway. The argument applied by the United States to Central America would be applicable, in those circumstances, to the
United States herself. The United States does not hold the Canal because she is the United States. She holds it because, after long delay, it was shown by experience that she alone could exercise this function.

President Coolidge limits the special concern of the United States to "countries which we have recognized this side of the Panama Canal." This territory consists of Mexico, the six Central American republics, British Honduras, and the islands of the Caribbean, whatever flag they fly.

It is to be noted that no question has arisen in respect of any territory held by Great Britain. It is undeniable that Jamaica, Trinidad and even the Bermudas might be regarded as of great strategic significance; so with British Honduras and British Guiana. But it has been enough for the United States to know that these possessions are in peaceful occupation and that no problem of disorder is allowed there to arise. With regard to the Latin American sovereignties, peace and order are the sole requisites to a complete harmony with the United States.

The Canal Zone itself, roughly defined, is a ten mile strip of territory. But it is obvious that, in these days of aircraft, of submarines, and of radio, the security of the Canal depends upon the tranquillity of a much wider area than that. The Isthmian Highway cannot be regarded as secure if there are adjacent settlements dominated by influences, near and distant, which are jealous of the United States and inclined to be hostile to her guardianship of a great utility. The naval bases at Key West, Guantanamo, Samana Bay, More St. Nicholas, in Porto Rico, in the Virgin Islands, in the Corn Islands of Nicaragua and in Fonseco Bay on the Pacific side, are indications of the wide areas on land and sea which are now involved in the defence of the Isthmian Highway.
The Isthmus, which we call Central America, extends for more than a thousand miles. The Highway across that Isthmus—Canal, River, Road and Railway—is not a single track but complex, and as traffic increases, the complexity of the Highway cannot but be elaborated. The carrying capacity of the Panama Canal itself is not unlimited. It is estimated to be about 60,000,000 tons of shipping annually and the tonnage accommodated is steadily increasing. When the traffic reaches the point of congestion, there will arise the same reason for a second canal that led to the construction of the first. It will not be the United States alone that will require the additional facilities. Every commercial nation, whose ships are delayed at Panama, will incur loss thereby and will desire a remedy.

Before the United States undertook the completion of the Panama Canal, there had been an animated debate between the advocates of that route and the advocates of the alternative route through Nicaragua which had been under discussion since the days of President Van Buren. Preference was awarded ultimately to Panama, but the alternative route has always been regarded as not less possible. It is this alternative which is now of an immediate importance. A second canal through Nicaragua not alternative but supplemental to Panama is within the range of commercial and naval policy. In March, 1928, Senator McKellar of Tennessee, proposed the construction of such a waterway at a cost of $200,000,000.

On August 5th, 1914, there was concluded a convention between the United States and Nicaragua. Owing to delays on the part of the Senate at Washington, that Convention was only ratified on June 22nd, 1916. By the Convention, the United States obtained the exclusive proprietary rights for the construction and operation of an interoceanic canal by a Nicaraguan route, the lease of certain islands for 99
years, with an option to renew the lease for a second such period, and the right to establish a naval base on the Gulf of Fonseca. A payment of $3,000,000 was to be made to Nicaragua "for the purposes contemplated by this Convention and for the purpose of reducing the present indebtedness of Nicaragua." The original treaty was signed by William Jennings Bryan and, on behalf of Nicaragua, by Emiliano Chamorro.

It will not be suggested that Mr. Bryan, as Secretary of State, was an imperialist. But he foresaw that a canal through Nicaragua would be useless unless it was safe. He wished, therefore, to introduce into his treaty, a clause by which there would be conceded to the United States the right to intervene in Nicaraguan affairs "when necessary to preserve her independence or to protect life and property in her domain."

While we do not accept without reservation President Coolidge's plea for unity at the "water's edge," our view is that, in many matters, the decision of the State Department, with its record of continuous experience and tradition, is usually justified by events.

Washington himself submitted an arbitration treaty to the Senate, only to have it rejected. In 1838, the Committee on Foreign Affairs of the House of Representatives refused to endorse a movement for arbitration. In 1839 and 1846, they took the same negative action. In 1850 a resolution favouring arbitration was reported to the Senate by the Committee on Foreign Relations. Senator Clemens of Alabama moved to "let it lie over" and it still does. An able report favouring arbitration got to the Senate in 1853, though the Committee on Foreign Relations really opposed it. It was never even debated in the Senate. In 1897, Secretary of State Olney negotiated a notable arbitration treaty with Great Britain. President Cleveland earnestly recom-
mended it to the Senate, but after prolonged delays, the Senate so amended the treaty that President McKinley, then in office, had to abandon it. Secretary Hay, under President Roosevelt, returned to the attack and the President personally pleaded the cause with leading senators. But again the opposition of senators caused the destruction of the treaty by impossible amendments. President Taft had the same experience and after he ceased to be President he said of the Senate: "that august body truncated them (the treaties) and amended them and qualified them in such a way that their own father could not recognize them."

Finally we may recall that the Senate defeated the attempts of Presidents Harding and Coolidge and Secretaries Hughes and Kellogg to have the United States join the Permanent Court of International Justice. Though both the Democratic and Republican parties approved our entrance with the reservation suggested by the Administration, the Senate thought it knew better. It thought it knew better than Elihu Root who helped draw up the plan of the Court; better than Secretary of State Hughes and eminent Republicans and Democrats.

It was this "defeatism" in foreign policy that the Senate applied to Mr. Bryan's provisions, designed to secure law and order in Nicaragua. The "protector plan" was eliminated.

That the Bryan-Chamorro Convention aroused Latin-American sentiment is undeniable. Protests against the Convention were advanced by Costa Rica, Salvador and Honduras to which the Senate replied by a "proviso" stating "that nothing in said Convention is intended to affect any existing right of any of the said named states." But, as events have proved, no self-denying ordinance could eliminate the facts of the case. Treaty or no treaty, there has had to be intervention in Nicaragua.
For a wider question is involved. The proposed canal through Nicaragua will lie about 250 miles north of the present Highway. This means that its security will depend on the stable equilibrium not only of Nicaragua itself but of Costa Rica, Guatemala, Honduras and Salvador. A distance of 250 miles north of Panama means a distance of 250 miles nearer to Mexico.

In international as in national politics, there is no gratitude. The fact that the United States, by her insistence on the Monroe Doctrine for more than a century, has preserved the smaller Latin-American States from European intrigue and aggression, does not govern the sentiments of these weak nations towards a strong neighbour. Inevitably there is a danger lest some such country, uncertain in its politics, allow itself to be used, in a phrase familiar to students of our diplomacy as "a springboard" from which base of propaganda and other activities a distant and a stronger power or group of powers might influence the future of the Isthmian Highway.

Into the merits of our discussions with Mexico which affect oil lands and titles to property of every kind, we do not propose to enter. Still less is it relevant to our purpose to comment upon the religious issue which has arisen in that country. What concerns us and all that concerns us is the place of any Latin-American country—Mexico included—in that strategic scheme of things which encircles the Isthmian Highway.

As the world has long been aware, Mexico has been disturbed for many years by a succession of disorders ranging in gravity from brigandage to civil war. These disturbances, insofar as they are confined to Mexico, do not affect, save indirectly, the security of the Isthmian Highway. All that has here to be said is that, despite many losses to her citizens, the United States, though constantly accused of
WILLIAM JENNINGS BRYAN
aggression, has kept her hands off Mexico and, save for the incident at Vera Cruz in 1915, has refrained from intervention.

But a different situation arises when Mexico, not content with this immunity from interference by the United States, proceeds herself to interfere with her smaller neighbours to the South.

In the Saturday Evening Post of April 16th, 1927, Mr. Isaac Marcossen describes two organizations in Mexico which, in his opinion, are hostile to the influence of the United States:

The first is the Anti-Imperialistic League of America. Its object is to spread radical propaganda in all the Latin-American countries and to aid the Soviet Government in its campaign against us. Branches have been set up in most of the Latin-American republics, but the headquarters are at the Mexican capital because of its geographical location.

The Anti-Imperialistic League of America was represented at a congress of so-called oppressed nations held in Brussels in February of this year. Its direct emissary was Julio A. Mella, the Cuban agitator. Aurelio Manrique went as delegate of the Mexican Agrarian League, composed of leaders in the Calles agricultural scheme which I have described in these columns.

At this convention resolutions were adopted demanding complete "independence of the Central and South American countries," neutrality of the Panama Canal, and denouncing the "imperialism of the United States."

The second instrumentality for the spread of radical propaganda in the Western world is the League of Latin-American Countries. The principal idea behind this organization is to place men of left tendencies in power in all Latin-American domains.

Its chief organizers and agitators are well-known Mexican radicals.

The period to which Mr. Marcossen refers was a period when the Third International of Mexico as the propagandist engine of Bolshevism, was at its highest activity. There was trouble, fomented by communism, in China, and owing to
events in London, Great Britain broke off her diplomatic relations with the Soviet Republic.

That Russia was also fishing in the troubled waters of Mexico may be taken for granted.

Secretary Kellogg in the data he submitted to the Senate Committee on Foreign Relations, which now form part of the committee record, stated among other things:

The Bolshevik leaders have had very definite ideas with respect to the rôle which Mexico and Latin America are to play in their general program of world revolution. They have set up as one of their fundamental tasks the destruction of what they term American imperialism as a necessary prerequisite to the successful development of the international revolutionary movement in the New World.

The propagation of communist ideas and principles in the various countries of Latin America is considered secondary to the carrying on of propaganda against the aims and policies of the United States. Thus Latin America and Mexico are conceived as a base for activity against the United States. Communists in the United States have been repeatedly instructed to devote special attention to the struggle against "American Imperialism" in Latin America and to the organization of resistance to the United States.

Bolshevik aims in this respect were succinctly set forth in a resolution of the Third Congress of the Red Internationale of Trade Unions, July 8-22, 1924, as follows. It was resolved:

To unite the national struggle against American imperialism in individual countries in a movement on a scale of the whole American continent, embracing the workers of all countries of Latin America and the revolutionary forces of the United States. Mexico is a natural connecting link between the movement of the United States of North America and Latin America, therefore Mexico must be the center of the union.

To quote Mr. Marcoisson:

When the Nicaraguan situation was at the sizzling point the Third Internationale proclaimed the necessity of war against the insolent and mighty capitalist régime and imperialism of the United States. In a manifesto issued on January thirtieth, and addressed to
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“the workers and peasants of the oppressed nations of the world,” the communist organization invited “all anti-imperialistic forces to support the people of Nicaragua in their struggle against the base designs of American imperialism.” Maintaining that the United States must resort to force in order to accomplish its fell purpose, the manifesto further stated:

This is why the mask has been thrown away and the country occupied under the pretense of protecting the lives and property of American citizens. From the Rio Grande to Tierra del Fuego the populations must organize a powerful movement against the exploitation and spoliation of the United States.

Broadly, we may say then that in Mexico, as in China, there has been an anti-foreign outburst directed against the most powerful foreigners to be seen, namely, British in the Far East, American in Latin-America, which outburst, not in itself communist in economic belief, has been exploited by the more extreme Bolshevists for their own purposes of attacking capitalist countries.

China has more recently discovered that Communism in any form is but a disappointing gospel, and in Mexico also the ambassadorship of Dwight W. Morrow with the more spectacular, but none the less valuable, diplomacy of Charles A. Lindbergh, has inaugurated, let us hope, a more encouraging era of good will. But the events of 1926 and 1927 are none the less significant of eventualities against the recurrence of which precautions must be taken.

The decisive fact that has to be faced is that Mexico, though she is in closer proximity than the United States to Nicaragua, is in no position financially to attempt the construction of a Nicaraguan or any other such canal, let alone its defence. Under the Taft Administration, the Army Engineers estimated that such a canal would cost 1,500,000,000 dollars. Today, that cost would exceed 2,000,000,000 dollars, a sum obviously exceeding the resources of Mexican credit. As a constructor of canals, Mexico is not
in competition with the United States. If her influence were to be hostile, that hostility would be purely objective.

The recent history of Nicaragua exhibits a pitiful tale of human folly. In 1912, President Taft sent marines to the country and a force of 400 of these men remained there. The force was continued in the country by Presidents Wilson and Harding. President Coolidge, therefore, as he said on April 26th, 1927, found that “during this time, the people were peaceful, orderly and prosperous and their national debt was greatly reduced.” With what we are bound to describe as undue caution, President Coolidge withdrew the marines, and as he puts it “almost at once . . . revolution was started.” The marines, therefore, had to be sent back again, and—to quote President Coolidge, “Their presence has undoubtedly prevented the larger towns from being pillaged and confined the fighting for the most part to uninhabited areas.”

There could not have been a more complete vindication by a Republican Administration of the Bryan-Chamorro provisions for order in Nicaragua which in 1914-16 the Senate refused to ratify.

After about five months of patient and “watchful waiting” for some improvement in the disorder and bloodshed in Nicaragua, President Coolidge finally sent former Secretary of War Henry L. Stimson as a personal emissary to that Republic in April 1927. On the causes of the trouble, Mr. Stimson reported:

My investigation has shown that this evil of Government domination of elections lies and always has lain at the root of the Nicaraguan problem.

Owing to the fact that a Government once in power habitually perpetuates itself, or its party, in such power by controlling the election, revolutions have become inevitable and chronic, for by revolution alone can a party once in control of the Government be dispossessed.
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All persons of every party with whom I have talked admit the existence of this evil and its inevitable results, and all of them have expressed an earnest desire for the supervision of elections by the United States in an attempt to get rid of the evil forever.

The program for establishing peace and its continuance was included in the State Department comuniqué, as follows:

1. Complete disarmament of both sides.
2. An immediate general peace to permit planting for the new crop in June.
3. A general amnesty to all persons in rebellion or exile.
4. The return of all occupied or confiscated property to its owners.
5. Participation in the Díaz Cabinet by Liberals.
6. Organization of a Nicaraguan constabulary on a non-partisan basis, commanded by American officers.
7. American supervision of the 1928 election.
8. The continuance temporarily in the country of a sufficient force of American marines to guarantee order pending the organization of the constabulary.

In the interests of order in Nicaragua, several officers and a number of marines of the United States have lost their lives.

Reduced to simple terms, then, the intervention of the United States in Nicaragua has been, not for the purpose of depriving the people of their political or personal liberties but for the purpose of enabling them to exercise those liberties. The evidence on which this statement is based comes from both parties in Nicaragua. General Moncado as a Liberal is opposed to President Díaz but in the New York Times of Jan. 13th, 1928, he expressed confidence in the arrangement and said:

The presence of the marines in Nicaragua is for the guaranteeing of peace and liberty and for the defence of the citizens against an attempt of the government on the life and property of persons. . . . When the Nicaraguans are oppressed by the native authorities they always go to the marines for guarantee of liberty. They are the balance between the Conservatives and the Liberals. . . . The
Liberals have no hope of free election unless supervised by the marines.

Secretary Kellogg disclaimed in the strongest terms any desire by the United States to take sides in the election.

In the New York Tribune of March 8th, 1928, Mr. Horace G. Knowles, who has served as United States Minister in Nicaragua and other Latin American countries suggested that the marines had been "shooting high" thereby indicating their distaste for their task. The Tribune replied that this was shooting low and quoted the pronouncement made by Senator Borah on behalf of the Senate Committee on Foreign Affairs:

To remove our forces after all that has been said and done would justly subject us to bitter condemnation throughout all Central and South America, and particularly by the more liberal element as it would be the liberal element we would betray by our action, to say nothing of the discredit to ourselves and the turmoil and bloodshed which would be likely to follow. A withdrawal by the United States, pending the election, would have been a logical justification of the rebellion led by Sandino and the irreconcileables among the Liberals who on their side insisted that the ballot must be dominated by the bullet.

It is a matter of history that the chaos in Nicaragua was fomented by Mexico. This statement does not depend in any way on documents published by Mr. Hearst in his newspapers, which implicated Mexico in the Nicaraguan embroilment.

There exists, at the time of this writing, universal hope and confidence throughout the United States that the good diplomatic work of the Ambassador Mr. Dwight Morrow in conjunction with far seeing statesmen of the State Department of Mexico, in 1928, aided by the efforts and personal affability of President Calles, together with the visit of Col. Lindbergh, America's great unofficial "good
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will” Ambassador, following the failure of the Sacasa uprising or so called “revolution,” will bring an end to the long series of diplomatic misunderstandings and vexatious contentions between the Mexican Government and the Government of the United States. In the light of that hope and expectation we would have been glad to omit any reference whatever to the connection of the Government of Mexico with this 1927 and 1928 disturbance in Nicaragua which menaced the Isthmian Highway and disturbed again the peace and order of the Canal Littoral.

Mr. Hearst has admitted himself that certain of the published documents and particularly those which purported to affect American statesmanship were forged. A Senate Committee has exonerated the Senators supposed to have been involved in those documents. But on January 10th, 1927, President Coolidge in a message to Congress, made the following definite disclosures:

“As a matter of fact I have the most conclusive evidence that arms and munitions in large quantities have been, on several occasions since August, 1926, shipped to the revolutionists in Nicaragua. Boats carrying these munitions have been fitted out in Mexican ports and some of the munitions bear evidence of having belonged to the Mexican Government. It also appears the ships were fitted out with the full knowledge of and in some cases with the encouragement of Mexican officials and were in one instance, at least, commanded by a Mexican naval reserve officer.”

At a moment when the United States was limiting the supply of arms to Nicaragua by an embargo, Mexico was supplying this means of disorder. The attitude of the “Liberal” opposition in Nicaragua was thus described by President Coolidge on January 10th, 1927:

According to our reports, the Sacasa delegates on this occasion stated freely that to accept any government other than one presided