The Hay-Bunau-Varilla Treaty

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THE HAY-BUNAU-VARILLA TREATY

being

A Thesis presented to the Graduate Faculty
of the Fort Hays Kansas State College in
partial fulfillment of the requirements for
the Degree of Master of Science

by

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TABLE OF CONTENTS

CHAPTER I. LOOKING INWARD ........................................... 1
II. CLEARING THE WAY ........................................... 21
III. LOOKING OUTWARD ........................................... 39
IV. INTERNATIONAL EMINENT DOMAIN? .................... 56
V. LEGALIZING THE LARCENY ................................ 74
VI. CONCLUSIONS ................................................ 103
BIBLIOGRAPHY .................................................... 107
The cutting of the Isthmus of Central America had been the dream of navigators from the time it was discovered that nature had failed to provide a passage from the Atlantic to the Pacific Oceans without making the long voyage around Cape Horn. The feasibility of such a project was recognized as early as the first part of the sixteenth century. However, it was more than 400 years before the undertaking was begun and finally completed after long, tedious, and often-times exasperating negotiations.

The completion of the canal across the Isthmus of Panama fulfilled the dreams of the preceding centuries. The story of Panama is replete with heroes and villains. Many will consider certain individuals the heroes while others will consider the same as the villains. Debates will continue as long as ethics and international law are argued. As long as people are able to form their own opinions and conclusions, it is doubtful whether or not a definite conclusion will ever be reached concerning the ethics employed by the United States in obtaining the canal.

President Theodore Roosevelt claimed that every step of the way was carried out with the highest, finest, and nicest standards of public and international ethics. Phillippe Bunau-Varilla termed the long struggle as a war
for Truth, Justice, and National Interest. To critics of these individuals these views would signify that both were suffering from self-hypnosis. To their apologists these opinions could be defended on the grounds that interests of collective civilization should take precedence over the interests of any one country. By assuming this argument it must be admitted that there is an international eminent domain.

It is not the purpose of this thesis to draw a definite conclusion as to whether the course of action taken by the United States should be justified or condemned. I have attempted to trace, in a cursory manner, the events leading to the Panama Revolution; and the subsequent signing of the Hay-Bunau-Varilla Treaty. This treaty cleared the way for the beginning of the construction of the Panama Canal by the United States and established a protectorate over the republic of Panama, which was contrary to the established principles of the United States, and continued in effect until 1939. Relations between the United States and Panama have often become strained and vexatious since that time, however, I have used this date as a convenient stopping point.

Research was confined primarily to the American State Papers, Foreign Relations; Archives of the United States, State Department, Diplomatic Instructions to Colombia and
Notes to Foreign Legation, Colombia; *Diplomatic History of the Panama Canal*, Senate Document 474; and *The Debates and Proceedings of the United States*.

To completely exhaust the materials relative to this subject would require more time than was available for this study. No definitive conclusions can be made until the papers of William Nelson Cromwell, the New York attorney who represented the interests of the French Panama Canal Company in this country, are made available. As it is doubtful whether or not they will ever be published, it is only possible to surmise the part played by this controversial figure.

Acknowledgment is made to Dr. Eugene R. Craine, whose helpful suggestions, patient proofreading, and critical analysis has helped immeasurably in the completion of this study.

Special acknowledgment is made to my wife, Lynnette, who proofread, typed the initial copies, and made many helpful suggestions while the first draft was being prepared.
CHAPTER I

LOOKING INWARD

The American people have always felt themselves destined for high purposes. From early colonial times the New England communities believed that, more than anyone else, they were destined to occupy and preserve a small section of the world where those of like religious faith and practice could realize, without governmental interference, their religious ideals. These ideals were followed while the New England colonies were still included in the British colonial system. There were few who considered separate existence from England, and it was not until shortly before the War of Independence that there slowly developed a general conception of government different from that of England. Even after the war there existed the belief that the future welfare and prosperity of the new republic was dependent on the Old World. It was not until after the War of 1812 that the American people turned their attention upon their own national domain.

As national consciousness grew, it became necessary to develop a heritage to supplement this feeling of predestination. A militant patriotism came to reinforce this sense of national function which became identified with the cause of civilization. It was only natural that this patriotism
pictured Great Britain as the hereditary foe and the stories of valor and suffering came to be identified with the only nation that the new United States had fought before 1846.

The period from 1830 to 1860 is usually regarded as that in which the ideal of "manifest destiny" most affected our history. The height of this period was the "roaring forties," a decade so designated because it was during this period that "the spirit of American life rose into high and turbulent flame" and "there was welded an association of two ideals which gave a new integration to the American consciousness of national destiny."1 During the early years of the republic, the term "manifest destiny" vaguely expressed the sense of the American people that their form of government proved to the world that the principles of a democratic government could be successful and "there was a general belief that democracy was expanding as well as national boundaries."2 This ideal was the driving force behind the expansionist movement while the central implication of manifest destiny in the forties was less a matter of scope than it was of purpose.

This purpose was the conception of expansion as a


fulfillment of a certain social ideal, the preservation and perfection of which was the providential mission or destiny of the American people. This ideal, conceived as being "the last best revelation of human thought," was democracy. The theory of democracy as implied by the individual of the forties was one of mass sovereignty in which the individualistic values were summarized by the inspiring word "freedom." The relationship between the social ideal and individual freedom caused the expansion movement to become manifestly a destiny.

Although the championship of the rights of man had appeared from the beginning of national consciousness and more concretely in the Declaration of Independence, the necessity for expansion had not seemed to be an element in the national purpose. Expansionists of the revolutionary period had offered "liberty" to the "oppressed" Canadians, and Thomas Jefferson once included not only Canada but also Cuba and Florida in "America's empire for liberty." Yet in these instances the extension of democracy was neither a primary motive to any of the expansionists nor even a secondary motive to many. It was not until the forties that the popular ideology of expansion became centered in Democracy.

Early explanation for the expansionist movement came from writers who were close to the passions of the Civil War. These writers were prone to attribute it to "the glut of our
slaveholders" and their desire to extend slave territory. However, those further removed from the Civil War were more objective in asserting that, although expansionism was due partly to sectional interests, it was primarily the outgrowth of nationalistic attitudes resting not only on practical interests but also upon the "emotion of manifest" destiny and its correlate, the "idealism of the spirit of democracy."³

After several decades of lying dormant, expansionism was brought to the attention of the American people by the issues of Texas and Oregon and was stimulated by the demagogic conduct of the Democratic campaign of 1844. The concept of a nation stretching over the entire continent began to rise. "... by 1830 there had been added the inspiration of nationality, the two operated to create a new element in manifest destiny, and that new element was territorial expansion--a continent-wide national destiny."⁴

The phrase "extension of the area of freedom" came into prominence with its use by those expansionists interested primarily in the annexation of Texas. However, the phrase signified extension of freedom regardless of political motives. The chief method of extending freedom was by

³ Ibid., p. 93.
⁴ Ibid., p. 65.
passively radiating democratic influences through impressive examples. Thomas Jefferson spoke of America as "a standing monument and example" which would "ameliorate the conditions of man over a great portion of the globe."^5 Jefferson suggested another method of extending freedom without expansion. This would be by the migration of pioneers as far as the western coast by "free and independent Americans, unconnected with us but by the ties of blood and interest, and employing like us the rights of self-government."^6 Such utterances made it clear that Americans perceived no logical relationship between the extension of democracy and the extension of the national boundaries.

The years following America's first acquisition of territory, the Louisiana purchase of 1803, witnessed the gradual dissipation of the apprehensions of the anti-expansionists. The first to pass was the notion that an excess of territory would destroy the union. Jefferson's inaugural address of 1805 reminded those once fearful of Louisiana that "... the larger our association the less will it be shaken by local passion."^7 There would always


^6 Ibid., p. 103

be local passion to disturb the peace of a particular locality, but in the years following the War of 1812 there was an increasing popularity for the view that the United States government was based upon a distinct principle of federation, dividing power between state and federal government in a manner safe and efficacious for both.

After being cold to the sufferings of Texas for seven years, the Americans quite spontaneously developed an overwhelming desire to enfold the Texans within their protective democracy. Such a conception as this was difficult to accept because the expansionists themselves made no pretension of undiluted altruism. On the other hand, to suppose that the democratic ideology was merely a hypocritical grace which would ease the conscience of the land-hungry Americans would be unwarranted cynicism. The truer motives for expansion probably lay with the definite international development. There were suddenly placed on America's political horizon new problems which brought into play the spirit of democracy as well as other motives for expansion.

In Texas, California, and Oregon the ambitions or the intrigues of European powers seemed to the dominant political generation of Americans to threaten not only economic and strategic interests but also the security of democracy. It may be said that the expansionism of the forties arose as a defensive measure against the encroachments of Europe in
North America, and the conception of an "extension of the area of freedom" became general as an ideal of preventing absolutist Europe from lessening the area open to American democracy. Extension of the area of freedom was the defiant answer to the extension of the area of absolutism. However, the simple, if brutal, truth is that no virile nation will forego its vital interests if it has the power to enforce them. "Force has always been the final and ultimate arbiter of international relations in modern society."  

The view that European interference on the North American continent menaced American democracy apparently rested on three principal grounds: (1) the belief that whatever threatened American security was a danger to the political principle which the nation embodied; (2) the supposition that irrespective of strategic menace, European absolutism would pollute American democracy by its very contiguity; and (3) the most influential, perhaps, was the recognition that adjacent European powers threatened the extension of American democracy—an ideal which was made more precarious by this menace.  

Whereas it had once been feared that the Union was

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9 Weinberg, Manifest Destiny, p. 112.
jeopardized by expansion, it was now felt that failure to expand through the annexation of Texas would imperil the nation. The South had long desired to extend the national domain into the Southwest. As early as 1805, a proposal was made by James Madison as Secretary of State to offer $5,000,000 for the purchase of Florida and Texas up to the Colorado River. The southern states now held that it was necessary to obtain Texas for their economic prosperity, the continuance of slavery, and the maintainence of a balance of political power with the North.

As is customary in such matters, legal claims to possession were advanced to pave the way for renunciation by purchase or otherwise. There are those who bemoaned what they were pleased to call the "rape of Mexico," yet the fact remains "... that only the American nation was in the possession of the wealth, the people, and the initiative to settle upon and develop the vast Southwest. In one way or another the United States was to inherit it, and so finally it did."\(^\text{10}\)

A second line of thought gives the impression that to many the chief consideration was not the Union but the individual states. It was originally the fear of the New

The general land-hunger which caused the pioneer to become not a deviation from but the very expression of Americanism. "Providence had given to the American people a great and important mission . . . to spread the blessings of Christian liberty." 

The western portion of the North American continent was divided into four geographical, political, and international blocks: Texas, New Mexico, California, and Oregon. The names and boundaries of these territories were used in what might be called the ordinary geographical sense and not accurately descriptive of political countries at any one time. In the sixteenth and seventeenth centuries this entire extent of land belonged to or was claimed by Spain so far as it had been claimed or owned by anyone. Within these general boundaries was located the "Indian Country" which comprised the area presently included in the states of Kansas, Nebraska, Oklahoma, and to a certain extent the Dakotas. These areas were invaded by the pioneers and the resistance they met was as a rule overcome on their own initiative and created no serious international block.

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Toward the end of the eighteenth century, British and American fur traders anchored along the coast and began commerce with the Indians. The Russians, crossing the Behring Strait, had likewise entered into the fur trading business and had founded stations at various places along the coast. In 1790, by the Treaty of Nootka Sound, the Spanish abandoned some of their pretensions to Great Britain, but the terms of the relative treaty were so obscure that they gave to England only vague rights of trade. With the purchase of Louisiana in 1803, the United States gained a claim to the westward tributaries of the Mississippi River, for the French bishopric of Louisiana was claimed to extend to the Pacific Ocean. The American claim might be further strengthened by the French fur traders who had penetrated the territory establishing loose claims which were transferred to the United States in 1803.¹⁴

Both the United States and Great Britain had valid claims to the Oregon territory, but they overlapped to such an extent that a line of demarcation was difficult to establish. The control of the Columbia River and the territory that drained into it were the main points of contention. Great Britain hoped to establish a line south of the 49th

parallel both east and west of the Rocky Mountains. The United States was disposed to let the Oregon boundary question wait in view of the negotiations in progress concerning the northeastern boundary. The dispute was, therefore, postponed by the joint-occupation agreement of 1818 which was to last for ten years.

This joint occupation by England and the United States presented no great problems until "the lands were claimed by bands of immigrants swarming into the country in the 40's.\textsuperscript{15} Negotiations for a settlement were finally taken up in 1844, but as Secretary of State John C. Calhoun refused to surrender the claim to the valley of the Columbia River, they were soon discontinued.

While the negotiations were in progress, the presidential campaign of 1844 between James K. Polk and Henry Clay was in full swing. In view of repeated offers by America to accept the 49th parallel for a boundary, Candidate Polk's new claim of 54° 40' was obviously extravagant. Polk himself did not claim this extensive territory until his offer, which was much less conciliatory than that of Tyler and Calhoun, was rejected. He then fell back on his original demand of all of Oregon, and the Democrats conducted

their campaign under the slogan "Fifty-four Forty or Fight."
Since England persisted in refusing to accept the 49th parallel, there was nothing left to do but to seize all the territory and fight if England so desired.

In view of the platform on which Polk was elected, the paragraph of his inaugural address treating with this question was not as forceful as expected. He did maintain that it would be his

... duty to assert and maintain by all constitutional means the right of the United States to that portion of our territory which lies beyond the Rocky Mountains. Our title to the country of Oregon is "clear and unquestionable," and already are our people preparing to perfect that title by occupying it with their wives and children.16

In his annual message of December 2, 1845, Polk reviewed the controversy, and after emphasizing the repeated offers of the United States to compromise on the 49th parallel, he asked Congress for authorization to end the joint occupation after the twelve-month notice. The resolution was submitted to Great Britain in a courteous manner in order to leave the door open for further negotiations. Polk let it be known that any further proposal must come from England and that it would be submitted to the Senate for ratification before he would approve it.

16 Richardson, A Compilation of the Messages of the Presidents, IV, p. 381.
The proposal of Great Britain divided the territory along the 49th parallel to the Straits of Fuca and along the straits to the ocean thus retaining Vancouver Island for England. The treaty was approved by the Senate in the exact form proposed by Great Britain. Polk was greatly relieved at having the dispute settled as war had been declared with Mexico over Texas, and there was danger of British interference either in Mexico or California.

Prior to 1823 there had been, at the most, three thousand white people in Texas. Otherwise its prairies and richly wooded river valleys were left to Indians. "Sooner or later it was inevitable that the land-hunger of the Anglo-Saxons . . . should be attracted into this inviting vacuum."17 The inevitable influx came when, after the establishment of the Mexican Republic, Stephen Austin obtained a grant of land in Mexico and the right to people it with colonists. The settlers were to pay only a nominal price for the land but were to assume all the responsibilities of Mexican citizenship. Within ten years Texas had a white population of from twenty to thirty thousand. The colonists, ", . . . the Mexican federalists believed, would act as a

Friction between the two races soon developed. A minor rebellion in the town of Nagodoches showed the Mexican government their blindness in permitting the Anglo-Saxons to settle. Instead of being a barrier to annexation, it became evident that it was an advance guard. Joel Poiensett had tried to purchase Texas, and many Americans were known to regard the territory as rightfully theirs. In 1828 the former insurgent leader of Mexico, Mier y Teran, was sent on an inspection trip to Texas and recommended that American influence should be immediately checked.

In 1830 it was decreed that no more colonists could be admitted from the United States and that custom duties should be collected along the Louisiana frontier. The Texans greatly resented these measures because "... Texas, New Mexico, and California belonged economically to the United States and not to Mexico." Constant political upheavals, continuing lack of money, and the lack of any real patriotic impulse made it impossible to govern effectually the territory of Texas. It would be very difficult for Santa Anna, then dictator of Mexico, to lead an expedition to suppress any rebellion and to send a rival in command

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18 Ibid., p. 200.
would only invite revolution. However, possibly mindful of the need to do something to save his position, he organized and led an army to subjugate Texas.

By the middle of April, 1836, the Mexicans had overrun the Texo-American settlements as far as Galveston Bay. Santa Anna, believing the rebellion crushed, entertained thoughts of returning to Mexico to deal with his domestic political enemies. However, a few days previous to the Mexican victory at the Alamo, a declaration of Texan independence was drafted at Washington-on-the-Brazos; David Burnet was made provisional president and Sam Houston military commander. Houston ordered a retreat, and for the next four months the entire population of Texas was flying eastward with the Mexican army in four squadrons following, confident that all resistance was at an end. The two armies met at San Jacinto, and on April 21 the Texans surprised the Mexican army, defeated it, and captured Santa Anna.

The battle of San Jacinto ended the war, but it did not settle the status of Texas. The question then assumed the dignity of a world problem, for it included not only Texas, Mexico, and the United States but also England, France, and Germany. England did not care to see the wealth, area, and population of the United States increased to such an extent by a possible annexation of Texas; she feared that Mexico, where she had large interests, would be subjected to
the danger of absorption by the United States once her hold on the Gulf Coast was assured. If Texas were to adopt cotton as her chief crop, she would probably adopt a free trade policy thus creating a new market for British goods. Once the goods reached Texas, it would be an easy matter to smuggle them across the border into the United States free of custom duties. France was also desirous of keeping Texas an independent republic not only for the material benefits to be derived but also--and what was more important--for the continuance of the good will of England.

Upon winning independence from Mexico, it was not long before a Texas movement for annexation to the United States was under way. This was vigorously opposed by many in the United States on two principal grounds. First, it would mean the extension of slavery to a vast territory and second, Congress did not have the constitutional authority to annex an independent republic.¹⁰ The people of Texas were by this time in overwhelming majority in favor of annexation, and the election of Polk as president in 1844 was a clear indication of the feeling of the people in the United States. The general feeling that Texas "... possessed as it was by a population which was in truth but a colonial detachment

from our own, and which was still bound by myriad ties of
the very heartstrings to its old relation, domestic and
political, their incorporation into the Union was not only
inevitable, but most natural, right, and proper thing in
the world . . ."21 "Finally the delicate scruples of both
sides yielded to the irresistible appeal of such an enormous
accretion to the Union."22 In his annual message of
December, 1844, President Tyler made the proposal that Texas
be annexed by a joint resolution. The resolution was passed
in the House of Representatives in January, 1845, and in
the Senate in March.

The Mexican government, feeling that both honor and
national independence must be vindicated, had repeatedly
declared that annexation of Texas would mean war with the
United States. Moreover, as the Mexicans had correctly
anticipated, the United States would not be content with
Texas; she would also want California. The president of
Mexico, Jose Joaquin Herrera, informed President Polk that
a commissioner would be accepted to discuss a settlement.
Polk promptly nominated John Slidell as minister. The

21 John L. O'Sullivan, "Annexation," The Shaping of
the American Tradition, ed. Louis M. Hacker (New York:

22 Zucker, The Philosophy of American History, Periods
in American History, p. 442.
difference between a minister and a commissioner seemed meaningless to Polk, but to Mexico it meant the difference between admitting that Mexico had never been wronged and resuming ordinary diplomatic relations. Slidell was refused recognition; Polk prepared for war. American troops were already in Texas under the command of Zachary Taylor. They were ordered into the area between the Nueces and Rio Grande Rivers. When they met resistance by the Mexican army, Polk asked for a declaration of war which was given with but minor opposition.

The Mexicans did not hold a high opinion of the military prowess of the American army; European statesmanship was inclined to agree with this judgment. The European statesmen were, therefore, "... considerably startled and chagrined that the Americans were uniformly successful in achieving their purpose."23 With the fall of Mexico City, the way was clear for a dictated peace, so Americans Trist and General Winfield Scott, in accordance with instructions previously given them, proceeded to negotiate a peace. Mexico was to cede Texas and California and the vast territory between--more than half the entire territory of the Mexican Republic. $15,000,000 were to be paid in cash as a balm for

her wounds.

On March 10, 1848, the Treaty Guadalupe Hidalgo was ratified by the Senate. Three years later an additional strip of territory was purchased along the southern border of New Mexico and Arizona thus rounding out our national borders and permitting the Americans once more to look inward to develop the land they had acquired on their mission to "extend the area of freedom". It was something more, as Herbert Ingram Priestly characterized it, than "a biological phenomenon."24 "By every standard ... it can be demonstrated that historically the spread of the United States to the Pacific was justified by the demands of its geography, its economy, and from the standpoint of the highest national interests of that period in our development."25


CHAPTER II

CLEARING THE WAY

The settlement of the Oregon boundary dispute and the acquisition of Texas and California solved two serious diplomatic problems and completed our national boundaries. However, while the American people derived a certain amount of satisfaction from their accomplishments, the newly acquired territory introduced a third problem, more complicated and difficult to settle.

The California gold discoveries in the 1840's produced the demand for a more satisfactory route across the country than the ox-team journey over the plains or the long trip around Cape Horn. More important and of lasting consideration, however, was that from the standpoint of national defense "... California and Oregon were distant overseas colonies. Pending construction of a trans-continental railroad, there could be little overland communication between the Mississippi Valley and the Pacific Coast."¹ The problem of defending two widely separated coast lines on two oceans stimulated the demand for a larger navy and agitation for a trans-isthmus canal.

The shortest line of communication to the west coast by a canal was via Central America. However, this route crossed alien territory over which Great Britain exercised large, if not paramount, influence. Equally unsatisfactory was the long voyage around Cape Horn notorious for its length, perils, and hardships; and possibly more distasteful was the fact that this route passed over a long stretch of the Atlantic Ocean which was indisputably under the domination of Great Britain.

The strategic importance of the Caribbean Sea and the Gulf of Mexico to the United States, dating from the Louisiana Purchase of 1803, had increased rapidly with the settlement of the Mississippi Valley and the consequent growth of commerce through the port of New Orleans. These waters acquired even greater importance with the close of the Mexican War, for any route across the Isthmus must necessarily terminate along the coast which fronted on these waters. In the event of the cutting of a canal these waterways would become highways of commerce as the trade potential of the Far East was becoming recognized.

This growing demand for a canal across the Isthmus did not develop overnight, nor was it caused entirely by the growth of American commerce. The construction of such a canal had been the dream of navigators and engineers from the time it was discovered that nature had failed to provide
a convenient passage through the Isthmus. Spanish navigators were probably the first to recognize the feasibility of such an undertaking. However, the difficulties proved greater than first sight indicated.

The physical and engineering difficulties were in themselves problems that would cause hesitation even among the most courageous. The reports of the surveying companies which had been authorized by Congress to investigate the possibilities of a canal route generally favored the Nicaraguan route. The length of this proposed route would have been 170 miles; however, Lake Nicaragua is forty-eight miles wide with the San Juan River flowing from its southwestern corner to the Atlantic Ocean. There were serious objections to this route based on the lack of good harbors at either end thus making necessary construction of immense breakwaters and extensive dredging of the delta at Greytown. Even with these objections the route was still more favorable than the alternative route through Panama.

The Panama route from Colon on the Atlantic Ocean to Panama on the Pacific was about fifty miles in length; however, the natural elevation was nearly double that of Nicaragua. There were natural harbors at each end which would accommodate the heaviest shipping. There were, how-

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ever, certain disadvantages to this route: (1) the unhealthy climate of this vicinity made labor scarce and inefficient; (2) the heavy rainfall averaged ten to twelve feet per year at Colon; and (3) the geological structure through which the cut had to be made was treacherous.

Formidable as the physical difficulties may have seemed, there was little doubt that they could not be overcome. The diplomatic complications, on the other hand, were not such that they could be readily settled. The weakness of the Spanish-American states and their inability either to construct or protect a canal created grave international problems. To meet these difficulties three plans were successively developed. The first called for the construction of a canal by a private corporation under international control. The second proposed that the canal be constructed by a private corporation but controlled by the United States Government. The third plan, which was ultimately used, indicated that the canal be constructed, owned, and operated by the United States.

The last of these three plans was naturally much preferred in the United States. However, there were serious obstacles in the path of putting this plan into operation. If the proposed plan of cutting through Nicaragua were to be used, there would be the British influence in that area to contend with. For more than a century before the American
Government came into existence, the subjects of Great Britain had been actively interested in Central America. By various and fluctuating degrees the British Government had managed to gain a dominant control in this area, and as a consequence there developed a close relationship between England and the Central-American states. It was this time-honored connection with the Isthmus that made subsequent British-American relations so complicated and difficult to adjust.

Before Polk's presidency the United States paid little attention to the British encroachments in Central America. The British influence was begun in Belize along the southernmost eastern shore of the Yucatan peninsula. Under treaties with Spain in 1713, 1786, and 1844, Great Britain was given the right to colonize between the Siborn and Hondo Rivers for the purpose of cutting and taking out logwood; the sovereignty remained with Spain. With the successful revolt and subsequent declaration of independence by the Central-American states, the British colonists ignored the protests of these republics, and by 1836 they were claiming the Saratoon River as their southern boundary thus doubling their area. Two years later the British Government took over the Honduran Islands of Ruatan in the Bay group and at the further expense of the Central-American states established a protectorate over the Mosquito Indians along the eastern shores.
of Honduras, Nicaragua, Costa Rica, and New Granada.

These events occurred more than a dozen years after President James Monroe uttered the words given to American heritage under the title "Monroe Doctrine" which were to become a vital part of American foreign policy. These few phrases became the guiding light of future presidents and secretaries of state; in them the American people gained a sense of security from the follies of Europe.

"The history of the Monroe Doctrine shows plainly enough that its authority depends upon what force the United States can use to back it up."³ For many years after 1823 the United States had no power to spare beyond its own territorial claims and the adjacent waters. The Monroe Doctrine thus almost became a dead letter until President John Tyler dusted and used it in the Texas land grab. With the acquisition of the Pacific Coast and its recognized strategic value, the expansionists saw the value of such an instrument and sought to apply it to Central America.

At the time the Monroe Doctrine was first announced, the American attitude toward Great Britain had improved because of the well-known position of the British Prime Minister George Canning toward the Holy Alliance. Although

the Holy Alliance represented the mystical views of Russia's Alexander I and had no real force behind it, it could have been used to reestablish a claim of British sovereignty over the American colonies had England so desired. Yet without revealing his own views and carefully refraining from any acts which might cause antagonism, Canning carried out a policy which would render the Monroe Doctrine ineffective when it would conflict with British interests in Central America.

Canning's general policy was to prevent the Latin-American states from looking toward the United States for help and seeking alliances with her. To make this policy effective, Great Britain had to make secure her political and economic influence. This British influence was encountered when American capitalists made plans for the construction of a canal through southern Mexico. However, because British interests were so strongly entrenched by this time and because of the war which had just opened with Mexico, it was thought unwise to attempt negotiations for the Nicaraguan route and interest shifted to the Isthmus of Panama.

That isthmus was then the property of New Granada, now Colombia, and that republic was in a parlous state. A dozen years of domestic strife had reduced it to little better than a ruin, and both the contending factions were glad to accept overtures from the United States for an
enterprise which would restore prosperity and for a treaty which would protect them from external foes. 4

The expanding British protectorate over the Mosquito Coast aroused the fears of New Granada particularly when England and France refused a proposal for an international treaty for neutralization of the Isthmus. At that time there were certain negotiations under way between the United States and Colombia for the removal of discriminatory duties against United States commerce. The president of New Granada offered to make a satisfactory agreement providing the United States would guarantee the sovereignty of New Granada over the Isthmus of Panama. Without instructions to do so, the United States minister Benjamin Bidlack signed a treaty with the Colombian Foreign Minister Manuel Maria Mallarino in December, 1846.

This treaty gave to the United States a full and exclusive right of transit "... by railroad, canal, or otherwise ... across that part of the American Isthmus which lay within New Granadan territory ..." 5 "for lawful commerce with tolls no higher than for citizens of New Granada." 6 Article thirty-five of this treaty provided that:

5 Ibid., p. 433.
the United States guarantee positively and efficaciously to New Granada by the present stipulation, the perfect neutrality of the before mentioned Isthmus... The United States also guarantee, in the same manner, the rights of sovereignty and of property which New Granada has and possesses over the said territory.

In transmitting the treaty to the Senate for ratification, President Polk pointed out that the guarantee was confined to the "single province of the Isthmus of Panama" and the treaty was not "an alliance for a political object but for a purely commercial interest." However, whatever the implications might have been, the president felt that such a guarantee as Article thirty-five was "almost indispensable to the construction of a railroad or canal across the territory." The treaty was ratified on June 10, 1848, with but a single day's debate.

No sooner had this treaty been signed than interest turned again to Nicaragua. "That country had begun to resent the aggression of Great Britain and was desirous of escaping from the terms of a treaty which that power had extorted from it." The British had seized San Juan near

8 Richardson, *A Compilation of the Messages of the Presidents*, IV, p. 513.
the mouth of the river, held it for some years, and supported Costa Rica in claims to Nicaraguan territory which would control any canal constructed on the Nicaraguan route. Therefore, the Government of Nicaragua formally appealed to the United States for protection in 1847.

The Polk administration did little regarding British encroachments in Nicaragua as it was preoccupied with other problems—a congressional election and the Mexican War. Although the Department of State made no immediate reply, President Polk made pointed reference to British activity in Central America. Early in 1848 he sent Elijah Hise to Guatemala to encourage the Central American states to united action and also to determine the extent of British aggression. When Hise's report was received, the administration was to settle upon a more definite policy calculated to put an end to British interference in the Isthmus.

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11 Richardson, Messages and Papers, IV, p. 539, 540. "Should any foreign government attempt to possess it as a colony or otherwise to incorporate it with itself, the principle avowed by President Monroe in 1824, and reaffirmed in my first annual message, that no foreign power shall with our consent be permitted to plant or establish any new colony or dominion on any part of the North American continent must be maintained. In maintaining this principle and resisting its invasion by any foreign power we might be involved in other wars more expensive and more difficult than that which we are now engaged."

After two months of investigation, Hise wrote that he was convinced the British were determined to make themselves owners and occupants of the points on the coast of Nicaragua which would become the termini of a canal through that country. He wrote for authority to negotiate a treaty of transit across the state, but feeling that delay would be inimical to the interests of the United States, he negotiated a treaty with Nicaragua without waiting for the authority. The treaty was signed on June 21, 1849, and was a definite application of the Monroe Doctrine to the situation in Central America. The essential feature of the treaty was that it gave to the United States the exclusive right to construct a canal or railroad across Nicaragua and to fortify and protect it. In return the United States was to protect Nicaragua in all territory rightfully hers. This was a "complete challenge to British pretensions." 13

The news of this convention did not reach Washington until after the Democratic administration of Polk had given way to Zachary Taylor and the Whigs. The new administration sent E. G. Squier with more guarded instructions and words of friendly promise to Nicaragua, to replace Hise. By this time the California gold rush was booming, and demands for a more

satisfactory route across the continent were growing in intensity. Public opinion demanded that the administration take measures to prevent the British from monopolizing the Nicaraguan route.

When Squier arrived in Central America, he found Frederick Chatfield, the British consul in Guatemala, on the alert to frustrate his plans. Despite this opposition, Squier was able to obtain another treaty with Nicaragua which guaranteed that country its sovereignty only over the proposed canal route and guaranteed the neutrality of any canal constructed by United States citizens as long as it was in their hands.\textsuperscript{14} He also obtained an agreement which ignored the unratified and unauthorized Hise treaty with Nicaragua.

These treaties were collected in Washington and held as an offset to British claims. As a result, there developed a deadlock in which neither the United States, Great Britain, nor the Isthmian countries could construct the canal.\textsuperscript{15} Developments were speeded when Squier learned of a Chatfield plot to seize Tigre Island. Squier hastily concluded a treaty with Honduras ceding that island to the United States for eighteen months. Chatfield countered this move by

\textsuperscript{14} Ibid., p. 15.
\textsuperscript{15} Hart, \textit{The Monroe Doctrine}, p. 124.
seizing the island in October, 1849, and holding it until ordered out by the commander of the British West Indian squadron.

Although indignation toward England was high as a result of the seizure of Tigre Island, neither country was disposed to go to war. At this time a Nicaraguan minister arrived in the United States to solicit ratification of the Squier treaty. Secretary of State John M. Clayton let it be known that the treaty would be sent to the Senate and upon obtaining the necessary votes would be ratified by the President. The English statesman Sir Henry Bulwer, in Washington at the time to carry on negotiations, realized that the chief interest of the American people was the construction of a canal and not the British encroachments in Central America. However, Clayton was determined to force Great Britain to relinquish her protectorate over the Mosquito Coast and directed his activities mainly along this line. Bulwer, on the other hand, was just as determined to maintain the protectorate but was willing to give up certain special advantages which might interfere with the construction of the canal.16

The Clayton-Bulwer Treaty as signed on April 19, 1850, was a compromise between the two opposing views. "Both

16 Williams, Anglo-American Isthmian Diplomacy, p. 90.
powers denied any desire to secure a monopoly on any interoceanic route, but maintained that their respective policies were to prevent the other from acquiring exclusive advantage. The principle stipulations of the treaty were:

1. Great Britain and the United States agreed never to obtain or maintain any exclusive control over the proposed Nicaraguan route.

2. They would neither erect fortifications commanding the canal nor occupy, colonize, or exercise dominion over any part of Central America.

3. The two powers agreed to guard the safety and neutrality of the canal and invite other nations to join with them in doing the same.

4. They promised to support any company that would construct the canal in accordance with the spirit of the convention.

5. In order to establish a general principle, they agreed to extend their protection to any other practicable communication whether by canal or railway across the Isthmus and particularly to the proposed interoceanic communication by way of Tehuantepec or Panama.

Throughout the half-century of its existence, the Clayton-Bulwer Treaty was a source of irritation to the United States. A controversy arose over the matter of interpreting the treaty in regard to the British claims on the


Mosquito Coast and the Bay Islands. Great Britain regarded the treaty as definitely establishing her rights to the territory over which she had already laid claims; only future settlement would be prohibited. The United States expected the British to withdraw from the area. When Britain continued to maintain her position and when, in 1856, she formally annexed the Bay Islands, Britain's interpretation of the treaty seemed to be receiving de facto recognition. The United States continued to protest, and by an agreement known as the Dallas-Clarendon Treaty of 1856, an attempt was made to settle the dispute. Great Britain was to withdraw from the Mosquito Coast in return for acknowledgement of her claims over the Bay Islands. The treaty failed ratification by the Senate as did a similar one the following year.

President James Buchanan, in his message of December 8, 1857, declared that the wisest choice would be to abrogate the treaty entirely. Great Britain was willing if the status quo would be the basis. Since this was the last thing the United States wanted, the matter was not pressed. In 1860 the British signed an agreement with Nicaragua in which a nominal sovereignty over the Mosquito Coast was restored to England.¹⁹

During the Civil War years the United States was in no position either to enforce the Monroe Doctrine or to make further plans for an interoceanic canal. When it became apparent that a civil war was inevitable in the United States, Spain proclaimed the reannexation of Santo Domingo, and Napoleon III of France set up the Emperor Maximilian in Mexico. Great Britain, fearful of an overland invasion of Canada, refrained from any adverse actions against the Monroe Doctrine. However, with the help of yellow fever in Santo Domingo and Benito Juarez in Mexico, both projects were miserable failures. The only remaining contenders for control of any possible Isthmian route were Great Britain and the United States, and they were both restrained by the terms of the Clayton-Bulwer Treaty.

Hardly had the Civil War come to an end before interest in a trans-Isthmian canal revived, and at the same time feeling grew that the route must be under American control. This interest turned to a feeling of urgency when, in 1880, the Universal Oceanic Canal Company of Paris purchased a concession from Panama and announced that plans were ready for a tide-level canal. The company was under the presidency of Ferdinand de Lesseps, famous as the builder of the Suez Canal.

The prospect of early construction of a canal under European control aroused the United States, and Congress
passed a resolution that, in the interest of the people of the United States, the consent of the United States Government be a necessary condition before the construction of any canal across the Isthmus. These views were also elaborated upon by President Rutherford B. Hayes in a special message to Congress on March 7, 1880.  

As interest in a canal increased, the idea that the Clayton-Bulwer Treaty was hampering the legitimate aspirations of the United States increased. When James A. Garfield became president in 1881, he instructed his Secretary of State, James G. Blaine, to take measures toward the abrogation of the treaty. Instead of taking the matter directly to the British, he sent a circular to all European countries outlining the American attitude of a canal under European control. His efforts easily showed their weaknesses and were unsuccessful in making any progress toward abrogation. Frederick T. Frelinghuysen, Blaine's successor, was equally unsuccessful in his attempts to settle the dispute.

Mr. Frelinghuysen had negotiated a treaty with Nicaragua in 1884 which provided for the construction of a canal

20 Richardson, A Compilation of the Messages of the Presidents, VII, p. 585. "The policy of this country is a canal under American control. The United States cannot consent to the surrender of this control to any European power. . . . An interoceanic canal across the American isthmus will essentially change the geographical relations between the United States and the rest of the world. It will be the great ocean thoroughfare between our Atlantic and Pacific shores and virtually a part of the coast-line of the United States."
by the United States under joint control with Nicaragua. In return, the United States would guarantee the territorial integrity of Nicaragua. When Grover Cleveland became president in 1885, he recalled the treaty from the Senate and declared that any canal should be for the benefit of the entire world. There the matter rested until 1898 when John Hay became secretary of state and undertook the task of abrogating the troublesome Clayton-Bulwer Treaty. His efforts toward this purpose succeeded as brilliantly as his predecessors' had failed.
CHAPTER III
LOOKING OUTWARD

Toward the end of the nineteenth century there came into existence the "New Manifest Destiny" which was partly a revival and partly a continuation of the old manifest destiny. There were a number of reasons for this revival: (1) the official frontier was disappearing; (2) the nation had absorbed the first impact of the industrial revolution, and it was feared that the American market would become saturated forcing the manufacturers into competition with European manufacturers; (3) there were expanded necessities of continental security especially from the Isthmus and Pacific and Caribbean Islands that controlled the maritime approaches; (4) the beginning of a modern navy was evident; (5) the teachings of Alfred Thayer Mahan were turned toward a new order of sea power; (6) President Grover Cleveland had given new prestige and power to the Monroe Doctrine.

The last point was given added impetus as a result of the Spanish-American War. Coupled with this new prestige was the fact that the naval operations of the war, including the long voyage of the battleship Oregon from the Pacific coast to the Caribbean, had emphasized the need of an Isthmian canal. One of the main underlying motives of the expansionists of 1898 was to clear the way for the canal.
Immediately after the war, an act of Congress was passed which authorized a grant of $1,000,000 to survey the possible routes of a canal.

With the collapse of the French canal company, it became evident that the project must be under governmental auspices. Congress was only too willing to take on this task, for with the beginnings of a modern navy and the teachings of Captain Mahan, the canal was becoming imperative.

According to Mahan's imperialistic philosophy, an expanding foreign commerce was essential to national power and prosperity. To compete successfully for the world markets, a nation must have a strong merchant marine. This merchant marine, by earning the freights which would ordinarily go to foreign shipping, would increase the wealth of the country. These vessels must have secure ports at their destination which would mean a network of overseas colonies, and they must also have protection throughout their voyages which would necessitate a powerful navy. This powerful navy would be essential for protecting the overseas colonies, and the colonies in turn would provide bases for overseas naval operations.

When, however, a nation such as the United States had neither overseas colonies nor a strong navy, the problem was entirely different. For the United States the problem would be for the navy to insure the shipping of neutral countries
to our ports in time of war. It would not be sufficient to stop an enemy at the coast, for an enemy could effectively blockade our ports well out of the sight of land. The only possible way to prevent such a blockade would be to maintain a strong military force afloat.¹

Captain Mahan did not believe that the United States was destined to remain an isolated country. It was his thinking that the United States was destined to become a world power with interests and powers calling for a large conception of sea power. According to his imperialistic thesis, a nation must either expand or decline; and the American people, after a period of preoccupation during the Civil War, were again looking outward toward foreign markets and lands in search of richer life and greater prosperity. These aspirations could not be gained, however, without a struggle.²

By the beginning of the present century the United States had become wealthy and powerful enough to carry such a design into operation. However, the pivot upon which such a program of expansion was to be put into effect was the construction of an Isthmian canal. In a general way it was evident that a canal would bring to the Caribbean area a

² Ibid., p. 129.
great increase in trade by modifying the general direction of trade routes throughout that area. These new routes would transform this then comparatively neglected nook of the ocean into a thoroughfare of shipping and attract the unprecedented interest of maritime nations.

The expansionists had never neglected the commercial advantages in their program. In 1898 they began to win the business leaders to their support, for new developments at home and abroad had caused a sharp shift in their thinking. If American economy were to grow and prosper, it was believed that new outlets for American produce must be found. Both manufacturers and exporters were looking more avidly toward the Far East where it was believed great trade potentials existed. 3

The industrialists' thesis can be traced from the administration of president William McKinley. To the industrialists it was a question of either commercial expansion or stagnation and decay, world power or economic decline. This thesis was summed up by Senator Beveridge in an address delivered in Boston in 1898:

American factories are making more than the American people can use; American soil is producing more than they can consume. Fate has written our policy for us; the trade of the world must and shall be ours. And we

will get it as our mother (England) has told us how. We will establish trading posts throughout the world as distributing points for American products. We will cover the ocean with our merchant marine. We will build a navy to the measure of our greatness. Great colonies governing themselves, flying our flag and trading with us, will grow about our posts of trade. Our institutions will follow our flag on the wings of our commerce. And American law, American order, American civilization, and the American flag will plant themselves on shores hitherto bloody and benighted, but by those agencies of God henceforth to be made beautiful and bright.4

As this industrialist statecraft became more pronounced, Captain Mahan acquired more disciples who, in turn, converted others. They were generally agreed that every position in the Caribbean Sea would enhance commercial and military value, and an Isthmian canal would become the strategic center of most vital importance.

Like the transcontinental railroad, the canal would be a link between the oceans; but unlike it, the use, unless guarded by treaties, would belong wholly to possibly belligerent powers which controlled the sea by their naval power. In case of war the United States would unquestionably control the railroads, but no less unquestionably would it be impotent to defend the Central-American canal against the great maritime powers.

The self-imposed isolation of the United States during

the thirty years preceding the Spanish-American War in the matter of markets and decline of shipping resulted in an actual remoteness of this country with the rest of the world. With the piercing of the Isthmus, this isolation would pass and with it the indifference to the rest of the world.

From wheresoever they come and whithersoever they go, all ships that use the canal will pass through the Caribbean. Whatever the effect produced upon the prosperity of the adjacent continent and islands by the wants attendant upon maritime activity, around such a focus of trade will center large commercial and political interests.5

The geographical position of the United States between the two Old Worlds and the two oceans was bound to be strengthened by the expanding European colonizations in the Pacific, the advancing Japanese civilization, and the rapid movement of people toward the Pacific coast.

Captain Mahan was by no means the only prophet of America's imperial destiny. Prominent political scientists, sociologists, and historians were also propagating the gospel of imperialism in the early nineties. But it was Mahan and his politically influential friends and satellites, Henry Cabot Lodge and Theodore Roosevelt, who were the most vociferous in pressing their ideas of national security, commercial expansion, cosmopolitan philanthropy, national honor, and

national prestige in support of imperialism and naval aggrandizement.\(^6\)

To put into effect this large policy of commercial expansion, acquisition of colonies, and supremacy of United States naval power, the Central-American Isthmus must be pierced. All shades of the expansionists' school realized this fact, and Congress was willing to do their share in the undertaking. The only bottleneck at that time was the Clayton-Bulwer Treaty of 1850. The task of abrogating or at least modifying this estoppel fell to John Hay, Secretary of State under President McKinley.

The provision of the Clayton-Bulwer Treaty stating that the canal zone was not to be fortified was particularly irksome. The efforts of Blaine and Frelinghuysen had proved futile, so Secretary of State Richard Olney, in 1896, tried new tactics. He admitted that the treaty was in full force and vigor but suggested that an attempt in a direct and straightforward manner be made to reconsider the whole matter.\(^7\)

Hay's task of modifying the Clayton-Bulwer Treaty was eased somewhat by England's decision to strengthen her position by withdrawing from any contest for predominance in

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North and South America and by cultivating the friendship of the United States as a possible ally in Asia. With British withdrawal from the Caribbean, there arose the problem of defending North America from new enemies—first the Japanese or German navies and, after 1914, the possibility of having to defend both the Atlantic and Pacific at the same time.

Instead of following his party's view that the treaty was void or voidable, McKinley chose to adopt the policy of his Democratic predecessor. The British ambassador was assured that the convention would not be ignored, but he was also impressed with the American concept that in light of recent developments appropriate modifications were desired to allow the United States to construct and control the canal.

Since British political isolation in Europe suggested more cordial relations with the United States, Lord J. Pauncefote, the British ambassador to the United States, promised consideration of Hay's draft for a new convention. However, Washington's firm stand regarding the Alaska-Canadian boundary dispute prevented immediate conclusion of the negotiations. With the strong possibility of action by Congress and its becoming apparent that Hay was not unwilling

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to continue the absolute neutralization of the canal, some action became necessary to avoid embarrassment.

On February 5, 1900, the first Hay-Pauncefote Treaty was signed. The provisions of the treaty permitted the United States to build the proposed canal at its own expense and operate it on terms of entire equality for all nations, free and open in time of peace and war. This first treaty specifically prohibited the fortification of the canal, and since the Clayton-Bulwer Treaty was not abrogated, it prevented the United States from exercising sovereignty or dominion over a canal route or state.¹⁰

The expansionists of 1898, led by Governor Theodore Roosevelt of New York, were quick to point out that if the treaty were ratified, it would weaken rather than strengthen the position of the United States vis-a-vis a superior naval force. An enemy force could send its fleet through the canal to attack either coast, thus requiring part of our fleet to defend the canal which should be used for offensive purposes. Thus, by a stroke of the pen Hay would have hamstrung the future naval defenses of the United States.

The Senate refused to ratify the treaty until some provision was made to supersede the Clayton-Bulwer Treaty and provide for "... more liberal provisions for American

defense of the work, and the exclusion of other nations from the pact."\textsuperscript{11} Great Britain was unwilling to accept the amendments demanded by the Senate, still hoping to couple the canal negotiations with the Alaska-Canadian boundary dispute.

Secretary Hay was persuaded to remain in office and to try to obtain a more favorable agreement. Great Britain still maintained her dangerous isolation, and since she was in need of the friendship of the United States, she was still willing to continue negotiations. The three amendments required by the Senate for ratification were that (1) the Clayton-Bulwer Treaty be superseded, (2) the United States be permitted to defend and maintain public order, and (3) other nations not be allowed to join the pact.\textsuperscript{12} Great Britain refused to accept these changes, and Hay resigned his position in disgust. President McKinley, who had not tried to help the treaty through the Senate, persuaded Hay to remain and again to try to obtain a more favorable agreement with Great Britain.\textsuperscript{13}


\textsuperscript{12} Bemis, A Diplomatic History of the United States, p. 510.

\textsuperscript{13} Ibid., p. 510.
After conferring with Lord Pauncefote and leading senators, Mr. Hay accordingly proceeded to secure a new convention. In the course of several months of friendly negotiations, all differences were overcome, and on November 18, 1901, the second Hay-Pauncefote Treaty was signed. The Senate ratified the treaty of February 12, 1902, by a vote of seventy-two to six.

The second treaty was a compromise between the first treaty and the Senate amendments. Article I of the treaty expressly abrogated the Clayton-Bulwer Treaty. The second article provided that the canal might be constructed directly or indirectly by the United States Government, and it should have the exclusive right to regulate and manage it. Article III assured the neutralization of the canal under substantially the same rules as those regulating the Suez Canal.

The most important article of the new treaty was the first whereby the Clayton-Bulwer Treaty was superseded. Although there were no provisions regarding fortifications, the United States was given the right to establish military policy to protect it from lawlessness. As the canal was to be entirely neutral during time of war (Article III, Rule 2), the logical inference was that the United States would not be prevented from erecting fortifications to insure its defense.
Article IV stipulated that:

"... no change of territorial sovereignty or of international relations of the country or countries traversed by the beforementioned canal shall effect the general principle of neutralization or the obligation of the High Contracting Parties under the present treaty."  

As far as Great Britain was concerned, the United States was free to proceed with the construction of the canal over whatever route appeared most practical. In clearing the way Great Britain had made the greater concession. The United States was apparently unappreciative of this fact when questions arose as to the interpretation of the treaty.  

Thus, with the signing and ratification of the Hay-Pauncefote Treaty the preliminary stage of the great project was accomplished. Now came the wearisome negotiations with the Latin-American states to secure the rights of construction.

15 Bemis, A Diplomatic History of the United States, p. 510. "President Roosevelt carefully stated in his annual message of December 3, 1901, that the Clayton-Bulwer Treaty 'is abrogated'; and the British government in its note of November 14, 1912, declared that it was 'superseded'. It was the rules incorporated in the Hay-Pauncefote Treaty rather than the Clayton-Bulwer Treaty on which Great Britain chose to rest her successful protest against the act of August 24, 1912, which exempted from tolls American coastwise vessels using the Panama Canal. Rule 1 stated: The canal shall be free and open to the vessels of commerce and of war of all nations observing these Rules on terms of entire equality, so that there shall be no discrimination against any such nation or its citizens or subjects, in respect of the conditions or charges of traffic or otherwise. Such conditions and charges of traffic shall be just and equitable."
President Theodore Roosevelt, who had succeeded the assassinated McKinley in the interim of the two treaties, expressed his concern and relief in seeing the way cleared of existing estoppels in a note to Mr. Hay.

The great bit of work of my administration and from the material and constructive standpoint one of the greatest bits of work that the twentieth century will see is the Isthmian Canal. In the negotiations to start this straight I must trust to you and Knox. I hope you will take personal direction.16

Just two days before the Hay-Pauncefote Treaty was signed the Walker Commission, after a thorough investigation of both the Nicaraguan and the Panama routes, reported in favor of the former; "... however, the decision was not so much on the ground of its superior merits as the seeming inability to secure the unfinished Panama works at a reasonable price."17 The commission estimated the value of the French company at not more than $40,000,000; and inasmuch as the French company estimated their holdings at $109,141,500, there was no need to consider the Panama route further. However, when the Hepburn Bill was proposed providing for the construction of the canal through Nicaragua, the French company became panic stricken and offered to sell their interests at the figure set by the Walker Commission. As a


17 Parks, Colombia and the United States, p. 367.
result of this offer, the commission filed a supplementary report recommending the adoption of the Panama route.

Each route had its strong advocates in Congress, and it is improbable that the pressure of the lobbyists "... had ever been applied with greater skill or more fateful consequence than during the 'Battle of the Routes.'"\textsuperscript{18} The three leading individuals in this group were Mark Hanna, senator from Ohio whose support was largely responsible for the vote favorable to the Panama route; William Nelson Cromwell, who in the light of available evidence was "... the only member of the trio whose leading motive was unquestionably hope of material gain ...;"\textsuperscript{19} and the Frenchman Philippe Bunau-Varilla. Although Bunau-Varilla was a stockholder and at one time chief engineer of the French construction company, he was primarily a zealot and propagandist. "With him a conviction soon became a Crusade for Truth. He prosecuted his campaign for Panama with an almost religious fervor."\textsuperscript{20}

Before the French offer had become generally known, the House had passed the Hepburn Bill which authorized the President to secure the Nicaraguan route, and it needed only

\textsuperscript{18} Miner, The Fight for the Panama Route, p. 75.

\textsuperscript{19} Ibid., p. 76.

\textsuperscript{20} Ibid., p. 77.
the approval of the Senate to make it a law. The opposing forces in the Senate were led by John T. Morgan of Alabama who favored the Nicaraguan route, and Mark Hanna, who was determined to obtain the Panama route. Debate on the Hepburn Bill commenced on June 4 and continued with interruptions until the 19th. Morgan opened the battle by pointing out the seismic instability of Panama, its political unrest, unhealthful conditions, and that the French company could not show clear title to its interests. He also stated that the proposed Spooner amendment did not give the President the right to choose the route but directed him to negotiate with Colombia first.\footnote{Miner, The Fight for the Panama Route, p. 147.} The champions of the Panama route met this argument with the charge that the northern route was also susceptible to earthquakes as well as volcanic activity. Cromwell's propaganda had also emphasized this fact for many months.

The Spooner amendment authorized the President to purchase the rights and property of the Panama company for not more than $40,000,000 and to secure the necessary rights from Colombia for the construction of the canal. It contained the proviso that if a satisfactory arrangement could not be made with both the French company and Colombia within a reasonable time, he should proceed with construction on the
Nicaraguan route. 22

The group in the Senate which favored the Panama route and subsequently the Spooner amendment generally followed the report of the Walker Commission in presenting their case. When questions were asked of individual members of the Walker Commission, the main query was whether or not the reversal of the decision to recommend the Nicaraguan route was based principally on the ground that the French company offered to sell their interests for $40,000,000. Every member except one agreed that the Nicaraguan route was recommended only because a reasonable price for the Panama route was thought unattainable. 23

The proponents of the Nicaraguan route were by no means idle during the debates. Their forces, led by Senator Morgan, directed most of their activity toward Cromwell and his lobby group. The Senator quoted his own canal committee's report of May 16, 1900, which had condemned the attorney's tactics. He described as "humiliating" and "repulsive"

the direct, constant, and offensive intrusion of the Panama Canal Company into the legislation of Congress, the hearings of committees, the deliberations of canal commissions, and the frequent presentation of letters of advice and remonstrance to the Secretary of State, and to the President, rebuking the conduct of the House of Representatives and its ignorance. 24


The real test came on the afternoon of the 19th when a motion was made to substitute the minority report for the majority. A poll of the senators showed forty-two in favor of the amendment and thirty-four opposed with twelve not voting. On the final vote the Spooner bill was passed by a vote of sixty-seven to six.

At first the House refused to abandon the Hepburn Bill; however, after a few days' discussion, the House yielded preferring the Spooner amendment to no legislation at all. The House passed the bill by a vote of 260 to eight apparently believing that the French company could not give a clear title to its interests.25

When Attorney-General Philander C. Knox returned to the United States, after a trip to Paris to determine the validity of the French company, he reported that a clear title could be given. With this decision the Panama route had been chosen and the way cleared for an agreement with Colombia to begin construction.

25 Miner, The Fight for the Panama Route, p. 156.
CHAPTER IV

INTERNATIONAL EMINENT DOMAIN?

The passage of the Spooner Act was considered only a temporary victory for the supporters of the Panama route. Morgan's forces were checked, but they still held hopes of victory as they were confident that the French company could not give a clear title to its investments in Panama. An investigation was conducted in Paris, and at its end Attorney-General Knox presented his decision that a clear title could be given. Interpretation of French law was one of the intricacies which confronted the jurists, but this piece of technical research was simple compared with that which confronted Secretary Hay in his negotiations with the Bogatá government.

Hay's task of obtaining a favorable treaty with Colombia would have been greatly alleviated had there been a stable government with which to negotiate. From the promulgation of a constitution in 1886, Rafael Nuñez controlled the country with dictatorial powers. The government was controlled by conservative elements, and this period was much more orderly and peaceful than the preceding liberal period. However, there was considerable disturbance from the liberal elements who were unwilling to assume the
position of political "outs."\(^1\)

In 1899 a serious revolt broke out which, in a few months, assumed the proportions of a civil war. In the summer the vice-president, José Manuel Marroquin, seized power, and it was not until June, 1903, that the war ended with the liberals defeated.\(^2\) Thus, when negotiations for a treaty were undertaken in earnest, the conservative government of Marroquin was firmly entrenched, but the liberal elements lost no opportunity to harass and embarrass the administration.

Early in 1901 Secretary Hay was assured by the Colombian Minister of Foreign Affairs, Carlos Martinez Silva, the transfer of the French concessions to the United States if an acceptable treaty could be arranged for construction and operation of the canal. The minister expressed hope that misunderstanding might not cause the United States to accept the Nicaraguan route.\(^3\)

Early in 1902 Silva was replaced by Jose Vincento Concha, who presented a new basis for a concessionary treaty. He stated that Colombia would greatly increase her concessions

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2 Ibid.
3 Parks, *Colombia and the United States*, p. 388.
by renouncing all reversionary rights, granting a more extensive canal zone, making available the facilities of her ports to aid in the construction work, relinquishing her rights in the Panama railroad, and limiting her share of the profits to a reasonable amount.\(^4\)

After the passage of the Spooner Act, Secretary Hay presented certain modifications to this draft which pointed out that the principal controversial subjects were (1) proper respect for Colombian sovereignty over the Isthmus, (2) adequate protection for investments and traffic, and (3) the monetary consideration due Colombia. The last point was the most persistent as Colombia desired $7,000,000 cash and an annuity, after 14 years to be fixed by a nonpartisan commission. Hay suggested $7,000,000 cash and an annuity of $100,000.

On September 9 Concha was instructed to sign the modified treaty. However, before the instructions reached him, the Colombian civil war had necessitated the landing of American troops to maintain the free transit across the Isthmus. Concha then maintained that the changed condition prohibited him from signing the proposed treaty. It was unfortunate that Concha was not informed of the true state of affairs. President Marroquin reasoned that by appealing for

aid under the terms of the 1848 convention, the revolutionary forces could be put down, a new congress could be assembled, and a treaty with the United States could be amended to their own advantage.\(^5\)

Concha was in a state of consternation and soon left for New York informing the State Department that ill health necessitated his return to Bogotá. In truth, Concha was the subject of great nervous excitement; when he disobeyed the instructions of his government, he was recalled at the end of November, 1902, and "... was taken aboard the ship at New York in a strait-jacket."\(^6\) Tomas Herran, secretary of the legation and former American consul at Medellín, remained as Chargé ad interim.

On December 10 Secretary Hay telegraphed Charles B. Hart, minister to Colombia, inquiring whether or not Herran was to receive full powers, emphasizing that, as it was "... provided that in the event of failure to secure such a treaty after a reasonable time, recourse should be had to building a canal through Nicaragua ...",\(^7\) the time element was becoming critical. The next day President Marroquin

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\(^5\) Miner, *Fight for the Panama Route*, p. 164.


properly empowered him. Even then there were delays and on December 30, 1902, Secretary Hay wired to Bogotá:

We have made all possible concessions to Colombia in canal matter; have ceded article twenty-three, also question of perpetuity, and several minor concessions. We can go no further. It is incumbent on Colombia now to say promptly whether they want the canal or not. Nicaragua offers perfectly satisfactory treaty.9

There were still further delays, due partly to the opposition of the liberals in Colombia who feared that if too large a sum were paid at once, it could be used to suppress them and maintain indefinitely the administration of Marroquin. They tried to gain assurances that the money would be "properly" applied.10 Meanwhile rumors of various sorts were afloat. Certain papers reported that Colombia was deliberately stalling because a German syndicate was ready to purchase the French company's rights.11

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8 Parks, Colombia and the United States, p. 390.

9 Hay to Hart, November 22, 1902, Department of State, M.S., Diplomatic Instructions to the United States Ministers in Colombia, Vol. 19, p. 213. Hereinafter cited as D.I., I.U.S.M.

10 Ibid., p. 315.

11 Miner, Fight for the Panama Route, p. 192; "I can say there is not a scrap regarding German opposition to the treaty with Colombia in the archives of the Department of State, the Roosevelt Papers, or the Hay Papers. The nearest we come to the story is an inquiry from Hay which came to nothing. This month of January, 1903, was of course a time when public opinion was much vexed because of the German blockade of Venezuelan ports," Denis, Adventures in American Diplomacy, footnote, p. 338.
Secretary Hay had, in the meantime, increased the annuity offer to $250,000, but Herran was instructed to demand $600,000 annual rental. Before Herran could secure new advice from Bogata, a movement started in Congress to secure the Nicaraguan route. Hay's warnings merely brought assurance from Herran that he was daily expecting new instructions from his government. Finally, almost in desperation, Hay wired Hart that "If Colombian Government persists in present attitude, it renders further negotiations impossible."\(^{12}\)

On January 21 Hay delivered the long-awaited ultimatum which read:

I am commanded by the President to inform you that the reasonable time provided in the statute for the conclusion of the negotiations with Colombia for excavation of an Isthmian Canal has expired, and he has authorized me to sign the treaty of which I had the honor to give you a draft, with the modification that the sum of $100,000 fixed therein as the annual payment, be increased to $250,000. I am not authorized to consider or discuss any other change.\(^{13}\)

This ultimatum brought the desired results, for on January 22 Herran signed the treaty without instructions from Bogata. Three days later a cable arrived from Marroquin ordering Herran not to sign the treaty but to await new in-

\(^{12}\) Hay to Hart, January 16, 1903, as quoted in Parks, *Colombia and the United States*, p. 391.

\(^{13}\) Hay to Herran, January 21, 1903, Department of State, M. S., Notes to Foreign Legation Minister in Colombia, Vol. 7, p. 354.
The Hay-Herran Treaty was sent to the Senate on January 24 and was referred to the Committee on Foreign Relations. Senator Morgan, as a member of that committee, proposed amendments, possibly not so much with the hope of defeating the treaty and seeing them adopted, but to spread the feeling among his colleagues that Colombia would reject the treaty. 14

The first session of the Fifty-eighth Congress convened on March 5 and promptly undertook consideration of the canal treaty. Senator Morgan, in a report that filled ninety pages of the Congressional Record, attacked almost every article of the treaty, the Colombian people and characterized the Panamanians as "... degraded, dissatisfied, turbulent, mixed, and filthy." 15

Cromwell and his law partners worked constantly to refute the charges of Morgan and to defeat all proposed amendments. This in itself was not an easy matter, for even some of the most staunch supporters of the Panama route believed that certain changes were necessary. Particularly


was there an insistent demand that the United States receive specific permission to fortify and defend the canal and exercise absolute sovereignty over it.\textsuperscript{16} Cromwell pointed out that this would insure rejection by Colombia, as every possible concession had been made. He even had Herran write him a letter to this effect which he showed to those senators who were sponsoring amendments.\textsuperscript{17}

As the day set for the vote approached, the leaders of the Panama route gradually withdrew their amendments and put pressure on the rank and file. On March 17 the treaty was ratified without amendment by a vote of seventy-three to five.

The treaty provided for a payment by the United States to Colombia of $10,000,000 and an annual rental of $250,000. The French New Panama Canal Company was thereby authorized to transfer its properties and franchise to the United States which was to construct and maintain a canal across the Isthmus of Panama for one hundred years with the option of renewal for successive periods. The United States was given control over a strip of land three miles on either side of the canal but excluding the cities of Panama and Colon. Colombia had the right to transfer, free of charge

\textsuperscript{16} Ibid., p. 109-111.

\textsuperscript{17} Miner, \textit{Fight for the Panama Route}, p. 199.
through the canal, ships, troops, and munitions and retain technical sovereignty over the strip. The treaty now had only to pass the Colombian Senate and construction could begin. This approval was never obtained.

From the first it was apparent that the treaty was to undergo rough handling by the Colombian Senate. Arthur M. Beaupre, replacing Mr. Hart who had resigned for personal reasons, warned that:

Without question public opinion is strongly against its ratification, but, of course public opinion in Colombia is not necessarily a potent factor in controlling legislation.

It is quite impossible to come to a definite conclusion as to the outcome until the result of the recent elections for members of Congress is known. It has been generally thought that the Government would be able to control the elections and that the members returned would be favorable to the administration's views on the canal question; but there has been serious disappointment to the governmental party in the result of some of the elections heard from . . .

It seems altogether probable that unless the Government is thoroughly in earnest in its desire to have the convention ratified, it will not be done; and there is a possibility it will not go through in any event . . .

It is apparent lately that the French Canal Company is to take a decided interest in securing the ratification of the convention, and that its influence to that end will be of much importance.19


19 Arthur M. Beaupre (minister to Colombia) to Secretary Hay, March 30, A.S.P., F.R., p. 133-134.
Any hope of still securing ratification by Colombia was given another blow when Beaupre wired that:

... the opposition to the ratification of the Canal convention is intensifying. The press is teeming with articles rancorous in enmity to the proposed treaty, while public opinion is veering into a current of extreme bitterness against the authors of the pact, especially Mr. Herran ... It is entirely impossible to convince these people that the Nicaragua route was ever seriously considered by the United States; that the negotiations concerning it had any other motive than the squeezing of an advantageous bargain out of Colombia; nor that any other than the Panama route will ever be selected.20

The treaty was, in effect, defeated before the Colombian Congress met. Party politicians saw in the agitation an opportunity to overthrow the administration.21 Consequently, an attempt was made to secure more money from the French company, which received an official note from the Colombian Government stating that:

... it did not think the convention would be ratified, because of the opinion that the compensation was insufficient, but that if the Canal Company would pay to Colombia about ten millions of dollars, ratification could be secured.22

On April 15, 1903, word came that the treaty had been rejected at Bogota on the 12th. This action was no surprise, and, as a result of the press campaign against the treaty, was undoubtedly in accordance with the real wishes of the

20 Ibid., p. 142-143.
21 Dennis, Adventures in American Diplomacy, p. 317.
22 Beaupre to Hay, June 10, 1903, A·S·P·, F·R· (1904), p. 150.
people. It was unfortunate for the Colombian Congress and people that they did not realize the money was the least of the great benefits to Colombia: "... the real value of the treaty was that it would bring suddenly to Colombia, particularly to the Colombian state of Panama, the inestimable advantage of a highly prosperous seat at the crossroads of one of the two greatest waterways of the world."\(^2\)

By their failure to ratify the Hay-Herran Treaty the Colombian Congress threw away this priceless advantage. "Those small-minded senators thought they might get more money from both the United States and from the Panama company."\(^2\) The political situation in Colombia probably had an effect; for if the Liberal party could muster enough support to defeat the treaty, it could possibly embarrass the administration enough to force it out of power. Regardless of the motives for the refusal to ratify the treaty, the Colombian Congress had every right for its refusal, just as the United States had a right to refuse to ratify the first Hay-Pauncefote Treaty or any of the others over which the Senate exercised its constitutional prerogative.

The rejection of the treaty by Colombia, however much it irritated President Roosevelt and other leading proponents


\(^2\) Ibid.
of the Panama route, did not give the United States the right to interfere with the internal affairs of Colombia, nor did the treaty of 1848 give any such right beyond guaranteeing the neutrality of the canal route; more specifically, it guaranteed the sovereignty of Colombia over the Isthmus.

At Bogatá, in October, two bills were introduced in the Colombian Congress to amend the treaty. The first authorized the President of Colombia to make treaties for the construction of a canal which would be advantageous to Colombia. The second favored the termination of the concessions to the French company in 1904, ignoring the agreement which extended their option to 1910; "... if the arrangement made extending the contract is declared null and void, the French company's rights and interests on the Isthmus cease to exist, and Colombia could then arrange with the United States to receive not only the $10,000,000 offered her, but the $40,000,000 offered the company." The rejection of these bills was acted upon before the Congress adjourned on October 31.

The rejection of the Hay-Herran Treaty was a great disappointment to the inhabitants of Panama, who considered it a sacrifice of their interests. Some of Panama's foremost

citizens conferred with the American agent of the Panama Railroad Company regarding the advisibility of organizing a revolution. Before a revolution was decided upon, it was considered advisable to send Dr. Manuel Amador to the United States. Amador had conferences with William Cromwell and Secretary Hay, but the latter merely outlined what he considered the rights and duties of the United States under the 1848 convention. 26

Amador was almost desperate when he met Bunau-Varilla, who had arrived in New York on September 22, 1903. The latter tried to persuade Amador that the United States would be obliged to intervene in any revolution in Panama as the treaty of 1848 was still in effect; "... of the two political entities—the great protecting power (the United States) and the small protected power (Panama) --which had the greatest interest to end such a ridiculous situation? It was evidently the United States, and furthermore she had the greatest interest in settling the Panama Canal question." 27

Amador was not convinced that action by the United States was secured and insisted that the revolutionists needed $6,000,000 to affect successfully the revolution. Bunau-Varilla explained that $100,000 would be sufficient

26 Latane, American Foreign Policy, p. 532.

and offered to produce the sum from his own pocket. When Amador still refused to concede that $100,000 would be sufficient, Bunau-Varilla intimated in his conversations that he would withdraw his support if Amador did not agree to carry out the revolution with the $100,000. On October 16 Amador conceded that "... I am nothing but a fool. I have understood, pardon me, I shall obey." Bunau-Varilla then told Amador to leave on October 20 for Panama, adding that he would give him a precise program of action before he sailed.

By mid-October Hay was reported to have said that a revolution in Panama would break out but added, "we shall not be caught napping. Orders have been given to naval forces on the Pacific to sail towards the Isthmus." On October 15 a report came to President Roosevelt that a revolution in Panama was imminent, and that with the failure of Colombia to ratify the Hay-Herran Treaty, revolution would take place immediately.

When the Colombian Congress adjourned on October 30 without the ratification, Roosevelt at once ordered the naval vessels Boston, Dixie, Atlanta, and Nashville to proceed

28 Ibid., p. 316.
29 Ibid.
30 As quoted in Dennis, Adventures in American Diplomacy, p. 330.
within easy reach of the Isthmus and to

Maintain free and uninterrupted transit. If interruption is threatened by armed force, occupy the line of railroad. Prevent the landing of any armed force, either government of insurgent, at any point within fifty miles of Panama. Government force reported approaching Isthmus in vessels. Prevent their landing, if in your judgement, the landing would precipitate a conflict.

The revolutionists in Panama were greatly disappointed by the failure of Dr. Amador to secure definite promises for support from the United States, but their spirits rose when they learned of the coming of the American war vessels. As there would be no insurgent forces to be landed, the order could apply only to Colombian forces. The insurgents were still slow in taking advantage of the situation, and Washington was becoming impatient. On November 3 a dispatch was sent to the American consuls at Panama and Colon. The sequence of these dispatches reveal that the State Department was fully informed of the impending revolution.

November 3:
4:30--Uprising on isthmus reported. Keep Department promptly and fully informed. Loomis, Acting.

8:15--No uprising yet. Reported will be in the night. Situation is critical.

31 Latane, American Foreign Policy, p. 533.
32 Orders to warships Nashville and Dixie, November 2, 1903, as quoted in Dennis, Adventures in American Diplomacy, p. 330.
9:00--Uprising occurred to-night, no bloodshed. Army and navy officials, taken prisoner. Government will be organized tonight.33

Before the warship Nashville received orders to prevent the landing of forces, 450 Colombian troops had landed at Colon. New orders were sent to detain them at Colon, but these orders were unnecessary since the railroad officials had refused to transport any of the troops. At Panama City the revolution was quite easily accomplished. "The rebels seem to have been permitted to draw on the Colombian bank account, and therefore experienced little difficulty in making conversions to their cause."34

On receipt of the news of the revolution at Panama, Colonel Torres threatened hostilities against the American forces at Colon. However, he was persuaded with a consideration (reported to have been $8,000) to return with his troops to the mainland. On the morning of November 6, the Isthmus was cleared of the Colombian forces.35

On November 4 the provisional government of Panama informed Washington of the "popular" and "spontaneous" movement for independence and requested formal recognition. Two days later Hay was informed that all towns of Panama had adhered to the independence movement. Two hours later he

33 Diplomatic History of the Panama Canal, Senate Documents, No. 474, p. 362-63.
34 Parks, Colombia and the United States, p. 401.
35 Ibid.
instructed Consul Felix Ehrman to enter into negotiations as soon as he was satisfied that a *de facto* government, republican in form, and with no opposition from the people, had been established. On November 6 the *de facto* government was recognized.

On November 7 Bunau-Varilla notified the State Department of his appointment as envoy extraordinary and minister plenipotentiary for Panama. He expressed his appreciation for his adopted country for the protection by the United States. On November 13 he was officially received by President Roosevelt.

The revolution in Panama and the part played by the United States have been attacked and defended with equal vehemence. Roosevelt was admittedly happy over the outcome of the revolution, for as early as October 10 he had written a personal letter to Dr. Albert Shaw, editor of *Review of Reviews*, in which he said:

> Privately, I freely say to you that I should be delighted if Panama were an independent state, or if it made itself so at this moment; but for me to say so publicly would amount to an instigation of a revolt, and therefore I cannot say it.36

In his annual message of December 7, 1903, Roosevelt defended his course under the treaty of 1848. He held that Colombia was not entitled to bar the transit of the world's

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36 Albert B. Shaw, *Literary Digest*, October 29, 1904.
traffic across the Isthmus and the intervention of the
United States was justified (1) by our treaty rights, (2)
by our international interests, and (3) by the interests of
collective civilization. Whether or not the intervention
was justified, the new state of Panama was quickly recog-
nized by the European powers followed promptly by the Latin-
American republics (except Colombia).

All that was now needed to begin construction of the
canal was an agreement with the new republic. With the
appointment as negotiator of Bunau-Varilla, who had so long
fought for the Panama route in a crusading fashion, the
machinations of William Nelson Cromwell and his company, and
the burning desire of President Roosevelt for the canal, a
quick agreement was assured.

37 Message of the President, December 7, 1903, A.S.P.,
CHAPTER V

LEGALIZING THE LARCENY

When it became generally known in Bogata that the revolution in Panama had occurred, popular excitement mounted, and large crowds paraded the streets shouting "Down with Marroquin" and demanded his resignation.1 Mr. Beaupre cabled that the authorities were desperate, and his cable of November 6 clearly indicated this consternation.

Knowing that the revolution has already commenced in Panama, General Rafael Reyes says that if the Government of the United States will land troops to preserve Colombian sovereignty, and the transit, if requested by the Colombian charge d'affaires, this government will declare martial law, and by virtue of its vested constitutional authority, when public order is disturbed, will approve by decree the ratification of the canal treaty as signed; . . .

This offer was refused perhaps because Roosevelt knew that a treaty with the new republic of Panama would be more advantageous to the United States. In his message to Congress on December 7, 1903, he stated that:

... By it (the Hay-Bunay-Varilla Treaty) our interests are better safeguarded than in the treaty with Colombia (the Hay-Herran Treaty) which was ratified by the Senate at its last session.3

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2 Beaupre to Hay, November 6, 1903, Ibid., p. 225.
3 Message of the President, December 7, 1903, A.S.P., F.R. (1904), p. XXXII.
General Rafael Reyes was named chief of a Colombian delegation sent to Panama to ascertain what measures could be taken to protect his nation's interest without recognizing the independence of Panama. The only thing accomplished by his visit to Panama was the information that if Colombia were to attempt to reestablish its authority over Panama, she would have to fight the United States. While the Reyes mission was in Panama, a new canal treaty was being shaped into finality in Washington by Phillippe Bunau-Varilla. "Phillippe Bunau-Varilla may well be called the apostle of Panama, for the decision of the United States in favor of this route has been almost entirely due to his energy in its behalf." 4

A graduate of the Ecole Polytechnique 5 in 1880, he entered the service in what might be called the civil division and was assigned first to the French possessions in North Africa, where he planned and supervised the improvements and construction of railroads and harbor improvements in Algeria and Tunis. Later he was delegated by the French


5 The Ecole Polytechnique is not an engineering school. It is a military school exclusively devoted to the study of pure science, high mathematics, physics, chemistry, astronomy, etc. Its aim is to provide the military and civil services of the state with officers scientifically educated. Bunau-Varilla, Panama, footnote, p. 35.
Government to take up harbor improvements and other public works in France, but a project which perhaps attracted the most attention in the Old World was the famous Congo Railroad in Africa. It was built along the portions of the Congo River where navigation was impracticable.

Bunau-Varilla stated that his dream of building the Panama Canal dated from his boyhood; his dream was achieving reality when he persuaded his superiors to send him to Panama. In reply to the warnings of the ravages of yellow-fever there, Bunau-Varilla replied that he was going "As an officer runs to it when he hastens to the battle-field, and not as the coward who flees from the sorrows of life." 6

When Bunau-Varilla became associated with Panama work in 1884, the French company had been engaged in the work about two years but had accomplished comparatively little of the required construction. During the four years in which he was connected with the De Lesseps enterprise, Bunau-Varilla had an excellent opportunity to study the topography of the Isthmus and to analyze the plans which had been originally formulated. Many later-accepted, radical changes in these plans were due to Bunau-Varilla's suggestions. 7

His conclusions after examining the route were that a

6 Ibid., p. 37.
sea-level canal was not only a possibility but could be eventually constructed. However, he realized that the initial cost of the cut would be prohibitive, so he devised a plan of a series of locks which would be utilized until the traffic of the canal would warrant a sea-level canal. The most notable feature of these locks was that they were constructed at a comparatively small cost and could be relatively easily removed.8

By 1889, $260,000,000 had been spent; and the French Canal Company, in which 600,000 French peasants and clerks had invested their life savings, went into bankruptcy. Half-hearted attempts were made to revive the project, and the New Panama Canal Company was organized. However, France had had more than enough of Panama, and capital could not be raised; soon the only course for the company was to sell its stock to the United States.9

At this realization Bunau-Varilla hurriedly returned to France. While in Paris he became acquainted with three prominent men from Cincinnati, Ohio, who invited him to come to the United States and expound his views on Panama and Nicaragua.10

8 Ibid., p. 678.


10 Bunau-Varilla, Panama, p. 174-186.
After arriving in the United States, he went first to Cincinnati where he was given letters to Myron T. Herrick of Cleveland, a rising member of Senator Hanna's machine, and was promised an interview with Hanna himself. In New York he met Charles G. Dawes, Comptroller of the Currency, who offered to present him to President McKinley. Bunau-Varilla began the preparation of a brochure which pointed out the advantages of Panama over Nicaragua. The preface of this pamphlet stated that his purpose was to work "... for scientific Truth on one of those fields where ... there is no room for selfish and private aims."11

In March he met Mark Hanna, whom he convinced of the merits of the Panama route. Hanna stated that he must "... in the interest of the nation adhere to the same principles."12 Bunau-Varilla returned to France confident that he had sown seeds of truth that would some day result in accomplishing his long-sought dream.

It is difficult to apportion the credit for the victory of the Panama revolution. Certainly Bunau-Varilla had performed miracles, and for his part he insisted upon an appointment as representative to the United States for the new republic. This was a difficult concession for Dr. Amador

11 Ibid., p. 183.
12 Ibid., p. 187.
to make as he coveted this position for himself. Bunau-Varilla was commissioned as a diplomatic agent and not as a minister plenipotentiary. The provisional government announced that Dr. Amador and Fedirico Boyd were on their way to the United States to aid Bunau-Varilla in negotiating the treaty. They carried a letter to Bunau-Varilla which stated:

You will have to adjust a Treaty for the Canal construction by the United States. But all the clauses of this Treaty will be discussed previously with the delegates of the Junta, M. Amador and Boyd. And you will proceed with everything strictly in accord with them.\(^{13}\)

Bunau-Varilla was not one to be shoved aside in this fashion. He pressured the provisional government "... by a suave intimation that he would otherwise block the opening of credits for which he had arranged."\(^{14}\) Consequently, full authority was cabled him while Amador and Boyd were still at sea. With his confirmation as plenipotentiary, Bunau-Varilla hurried from New York to Washington where he was received by Roosevelt on November 13 and frantically began negotiations.

When negotiations were begun on the treaty, there were two obstacles which could seriously hamper negotiations. The first was the delegation on its way from Panama. The members of the delegation, in spite of their good will, were totally

\[^{13}\text{Bunau-Varilla, }\textit{Panama}, \text{ p. } 360.\]

\[^{14}\text{Miner, }\textit{Fight for the Panama Route}, \text{ p. } 375.\]
ignorant of the ways of the politicians in Washington. Their presence could cause trouble and "... facilitate the cultivation of personal ambitions of hostile political interests." 15

The other possible obstacle was the Reyes mission on its way from Bogotá. Apparently ignorant of the rebuff of Reyes, Bunau-Varilla considered it imperative that both missions be presented with definitive and accomplished facts. "Success was more than ever the price of rapidity of movement." 16

On November 15 Hay sent to Bunau-Varilla a proposed draft which was the Hay-Herran Treaty with insignificant changes. As the presidential election was near, Bunau-Varilla realized that there must be no controversial points or the Democrats in Congress could muster enough votes to defeat the treaty.

The only things that Bunau-Varilla was determined to defend were (1) the principles of neutrality, (2) the equality of passage from the point of charges and conditions of transit, (3) an indemnity to Panama equal to that offered to Colombia, and (4) the protection of Panama. 17

16 Ibid.
17 Ibid., p. 368.
By way of compensation Bunau-Varilla decided to extend widely the share of sovereignty attributed to the United States which had been granted in the Hay-Herran Treaty. To cut short any debate in the Senate, he decided to grant a concession **en bloc**.

The new proposal was returned to Hay on November 16 with an accompanying letter which made it clear that Bunau-Varilla was willing to accept either proposal which Hay preferred. The letter ended, "I take the liberty of repeating that this new form is simply a suggestion to enable you to decide. Your decision will be my pleasure." 18

Failing to see the Secretary, Bunau-Varilla sent a letter to Hay which clearly enumerated his position on the two proposals. The pertinent passage of the letter stated:

> If you find justified the spirit which inspired these suggestions I am ready to sign the Treaty either under the form presented to you this morning or under the old form. The old form has the advantage of rendering easier the comparison between the Treaty with Colombia and the Treaty with Panama, and to show the progress made from one to the other. But it has the great disadvantage of bearing the trace of a long diplomatic fight with M. Concha, who never wished to accede to anything in one article without withdrawing it in the next.

> The new form has the advantage of conferring upon the United States in broad and general terms the rights she is entitled to have; rendering it thus unnecessary to enumerate in an infinity of cas particuliers what right Colombia was generous enough to grant. 19

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18 Ibid., p. 370.

19 Ibid.
In a letter to his daughter, Mrs. Payne Whitney, Hay described the negotiations with Bunau-Varilla giving himself much more credit than was his due. He stated, "... I went over my project line for line, and fought out every section of it; adopted a few good suggestions ... sent for Varilla, went over the whole treaty with him, explained all the changes, got his consent, and at seven o'clock signed the momentous document ..." 20

During the course of a conference between Hay and Bunau-Varilla, it was disclosed that there was strong senatorial support for a plan to divide the $10,000,000 compensation between Colombia and Panama. Bunau-Varilla, realizing the unfavorable reception this plan would have in Panama, argued strongly against it. He pointed out that a payment to Colombia would be interpreted by the world in general and the Latin-American countries in particular as the United States' acting in bad faith by an "... insulting offer of a little money compensation for a patriotic wrong." 21

The proposal was dropped, the treaty was signed on November 18. The text was basically the one proposed by


21 Bunau-Varilla, Panama, p. 372-75.
Bunau-Varillas. By the terms of this treaty the United States was given "... in perpetuity the use, occupation and control" of a strip of land ten miles wide, extending from either coast a distance of three miles. The cities of Panama and Colon, which lay within this zone, were specifically excluded from control by the United States. In addition to this grant, the islands in the Bay of Panama, named Perico, Naos, Culebra, and Flamenco, were also given to the United States in perpetuity. In case the zone thus granted was insufficient, the treaty granted, in addition, sufficient land outside the zone "which may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said Canal." As compared to the Hay-Herran Treaty, which granted a strip of land ten kilometers and excluded the islands in the Bay of Panama, the Hay-Bunau-Varilla Treaty was a liberal concession on the part of Panama.

Article III, which incorporated the most significant change, provided for:

grants to the United States of all the rights, power and authority within the zone mentioned . . . which the United States would possess and exercise if it were the sovereign of the territory within which such lands and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority. 23

By this article one of the principal points of dispute of the Hay-Herran Treaty was prevented. By giving to the United States such sovereignty, the question of tribunals was eliminated as all cases of law would be settled by courts established by the United States.

The compensation for these grants to the United States was provided for in Article I which stated that "The United States guarantees and will maintain the independence of the Republic of Panama."

The pecuniary compensation remained identical to that of the Hay-Herran Treaty in that it provided for a payment of $10,000,000 on exchange of ratification and an annual payment of $250,000 beginning nine years after ratification. The way was also cleared for the French Canal Company to transfer its properties and interest to the United States.

Article XXIII granted to the United States unequivocal rights "... to employ armed forces for the safety and protection of the Canal ..." and when it became necessary to "... use its police and its land and navy forces or to establish fortifications for these purposes." Panama was

23 Ibid., Senate Doc. 474, p. 296; Malloy, Treaties, p. 610.
given the right to transport its "... vessels and troop and munitions of war in such vessels at all times without paying charges of any kind."

The treaty as signed on November 18, 1903, had a stormy path ahead before ratification on February 23, 1904. The opponents of the Panama route were still hopeful that there was a chance of defeating the treaty and making possible the adoption of the Nicaraguan route. These forces were again led by Senator Morgan, who systematically pointed out the weaknesses of the treaty. His speech before the Senate on February 20 fills ten and one-half pages of the Congressional Record. Speaking in general terms of the events in Panama and the proposed treaty, Senator Morgan stated:

I have heard nothing in our history that seems to require more studious and careful consideration than the treaty now before the Senate. The situation it creates seems easy, because we are strong, but it is like the first attack of a fatal malady that no physical strength can resist. It is a moral delinquency that indicates a deep-rooted national sin that in the end "will find us out." 24

Becoming more specific, he stated that:

We cannot limit our people or those of Panama by such a ratification, because one of the signatory powers was not, in fact, a government organized by any law. 25


25 Ibid.
• • According to the recitals in this treaty we are dealing with the Republic of Panama, and in its first announcement of its recognition as a government, which was made by Secretary Hay to the Government of Colombia, he stated that Panama was a government republican in form. If the facts have been stated, even this diplomatic euphemism would fail to show that any organized government existed in Panama when this treaty was signed, and much less that it was republican in form. 26

Senator Morgan's arguments against the treaty were concentrated mainly with degrading Panama, its government, and its people. Morgan apparently had little respect for the people or their morals. It was his fear that any complaint against any vice or political enterprise, either in the Republic or in the canal zone, or an effort "to suppress gambling or the resorts of the liquor dealers or thieves, the patriotism of those classes will at once be kindled into violent resentment, and their love for Colombian liberties will lead to efforts to return to the fatherland." 27

Article III of the treaty was especially attacked by the vituperative Senator, as he was very skeptical that the granting of sovereignty to the United States might produce the desired effects. It was his belief that to

... sanction such a lapse of the sovereignty of Panama, or the merger of its sovereignty in another state or confederation, is an invitation to such action that those fickle people, to whom revolution is a pastime, will be sure to accept even on the slightest occasion. 28

26 Ibid.,p. 2122.
27 Ibid.
28 Ibid.
After methodically attacking the remaining articles of the treaty, Morgan struck at Bunau-Varilla. Not only did he leave no doubt as to his private opinions of the Frenchman, but he also questioned his authority to sign the treaty as the credentials and full powers of M. Bunau-Varilla as the Panama negotiator are disputed by Senators in their places, as not being sufficient to make this treaty. The Committee on Foreign Relations, by vote, called upon the Secretary of State for a copy of these powers, and he declined to furnish them to the committee, and thereupon, after the lapse of several days, the committee rescinded its resolution.29

It was an easy step for Morgan to switch from his attack on Bunau-Varilla to the activities of the New Panama Canal Company. He charged that the lobbyists and lawyers had the "... power and audacity to push their demands into the most reserved counsels of government." He continued that what "... they had to sell is the same that a person sometimes sells to doctors--his body for post-mortem use on the dissecting table."30 In this biting comment he was referring to the partly finished canal that the French company had begun. He also expressed amazement that Senator Spooner was aghast that the company should live up to its contract agreements by failing to finish the project as stipulated in the concessions made to the French by Colombia and then selling

29 Ibid., p. 2125.
30 Ibid., p. 2128.
its interests to the United States.

It was his conviction that the pressure being put on the Senate for prompt ratification without amendment did not come from Panama, but from those who are manipulating the demands of the New Panama Canal Company and the holders of its stocks and the bonds of the old company in syndicate that have bought them for a song in times when their prospective value was greatly depressed.\[31\]

Senator Morgan did not confine his attacks on Hay and Bunau-Varilla to the Senate but used various religious pamphlets for his attacks. However lucid and biting these attacks were, the Senator was by no means free from error and self-contradictions. A letter from Morgan to President H. S. Pritchett of the Massachusetts Institute of Technology was shown to Secretary Hay. In reply to this letter, Hay did much to refute the charges made by Morgan. Speaking of Morgan, Hay described him as being in such a state of mind in regard to the canal that if you should answer everything he said, categorically contradicting him with his own public utterances, it would have no effect on him.

As he admits . . . he is as much the author of the present canal treaty as I am. Not only did I embody in it all his amendments to the Herran treaty, but I went further than he has ever done in getting the proper guarantees for jurisdiction over the canal. A year ago he wrote . . . denouncing the Government of Colombia as the sum of all inequities, and saying that we were violating every law human and divine in favor of the

\[31\] Ibid.
Government of Colombia against the Liberals of Panama, insisting that it was our burden duty to aid them in attaining their liberty. How can you argue with a man whose prejudices are so violent and so variable as this?32

Senator Hanna, who had led the fight for the Spooner bill, died on February 16, 1904, leaving Senators John C. Spooner, Henry Cabot Lodge, and Shelby Cullom to carry on the fight for the treaty. Senator Spooner carried the brunt of the attack, and a more able debator would have been hard to find. However degrading for the people of Panama the attacks of Senator Morgan may have been, Spooner defended them, their government, and the revolution as though it were his personal crusade. His exuberance in defending the revolution, although his speeches were concerned more with rhetoric than with fact, had a moving effect on the most staunch opponents of the convention. Spooner contended that no revolution was more justifiable than the one in Panama.

As to the charges that it was carried out merely for a canal, he stated it would be necessary to

... close the eyes to the long history of misrule, violence, tyranny, and robbery. It is to forget that without regard to a canal long ago, but for us, the people of the Isthmus of Panama would have become independent.33


The haste with which the government in Washington acted was regrettable, but President Roosevelt apparently could not be restrained. It was this very haste which was responsible in part for the severe criticism which was soon concentrated on him. His orders to prevent the landing of Colombian troops within fifty miles of the Isthmus was undoubtedly an undue exercise of power. Although some might maintain that the United States had implied powers to interfere, as they had done so many times in the past, to construct and protect the free transit across the Isthmus, the treaty of 1846, which was still in effect, was violated by our action there.

Be that as it may, Senator Spooner did not hesitate to defend the actions of the President. Apparently trying to base his arguments on international law, he stated that the United States' recognition of Panama "... was a recognition of a fact, for, from the standpoint of international law, independence is a fact."\(^{34}\)

In this vein he continued:

The President's actions in recognizing on the 6th of November the independence of the Republic of Panama by entering into relations with it was not only within his power, but was strictly in accordance with the settled principles of international law upon the subject. On that date there no longer remained—and no one can

\(^{34}\) Ibid.
challenge this statement—a vestige of Colombian authority or power on the Isthmus of Panama. The Colombian troops which had been sent there had sailed away.35

No one can deny the fact that the troops had "sailed away," but Senator Spooner failed to give reasons for their abrupt departure. Students of international law may agree that the United States might not have been guilty of violating the letter of the law, but it is a feeble excuse for violating the spirit. Then the question arises whether or not it would be possible for a powerful nation to violate this spirit since it is those countries that determine what is right. Might makes right.

Perhaps the Senator had this in the back of his mind in putting forth his defense of the actions of his government, as he based his arguments on what was right. All the criticism was due to the fact that a canal was involved. Otherwise

... it would have been in harmony with what has been done before, without criticism ... why should it be criticised because when liberty came at last to that people and independence and a power to conserve the education of their children and the happiness of themselves it brought also a termination of the partnership between this country and Bogotá and tender of generous terms for the opening of a canal so vital to them?36

35 Ibid., p. 2140.
36 Ibid., p. 2139.
At this point in following Mr. Spooner's line of reasoning, Senator Tillman raised the question that if the Panama people were so downtrodden and oppressed or such subjects of sympathy, why did the United States wait until after the Hay-Herran Treaty had been rejected by Colombia before realizing their true state of affairs. Senator Spooner could only admit that the United States had helped to "fasten shackles" and maintain tyranny over Panama as long as there was a possibility of working out an agreement with Colombia.

At last they revolted and created a situation where they—the provisional government—were the only governing body on the Isthmus. Thus, in refuting the charges of Morgan that they were not a government, they established a republican government and set about the formation of a constitution. And when time for recognition of the new republic came, the "... President found a republic well established, (and) with every reason in the world to regard it as a stable government." This establishment of the stable government took only three days.

Party discipline, strengthened by the approach of a presidential campaign, was enforced to bring the wavering

37 Ibid., p. 2143.
38 Ibid.
senators into line. On February 23, 1904, the Senate advised the ratification of the Hay-Bunau-Varilla Treaty by a vote of sixty-six to fourteen. The preceding debate over the convention was heated and largely followed party lines until the final vote was taken. Long and stormy as the debate over the treaty and the recognition of the new Panamanian government may have been, the crux of the debate was embodied in a statement of Senator Tillman of South Carolina.

The Senator (Spooner) has made them (the Colombians) out a heap mangier lot than I have ever said or thought. Therefore, the Senator can not say that I am undertaking to defend that tyranny over Panama. I do not. I simply object to the manner in which the United States has dealt with this matter.39

If the opposition to the treaty was based on moral grounds in the United States, the major European powers were evidently not bothered with such scruples. It was at once a case of material interests over moral issues. The Associated Press, under the date line of November 6, 1903, revealed that the European powers approved of the policy of the United States. "The restoration of order on the Isthmus was long desired by the European powers, and the United States, by restoring this order and maintaining it, was actually doing Europe and their interests (presumably commercial) a great

39 Ibid., p. 2143.
The Frankfurter Zietung expressed the opinion that the United States instigated the revolution with the object of building the inter-oceanic canal. The Vassiche Zietung was in agreement with this theory but went a step further in asserting that Roosevelt waited two months after Colombia rejected the treaty without negotiating with Nicaragua because the United States found a more effective means of securing their ends by working behind the scenes. It was officially stated in Berlin that the only desire of Germany was to see the United States build the canal which would benefit German commerce and to provide protection for the Germans of Panama.

The official attitude of Germany was made known to Charlemagne Tower, United States minister to Germany, upon the occasion of a rumor that Colombian citizens had petitioned their government to express thanks to Germany for its offer of protection. In answer to these rumors, Mr. Tower wired that he had

... just received the assurances of the German minister for foreign affairs that there is no truth whatever in

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40 Topeka Daily Capital, November 6, 1903, p. 2.
41 Ibid.
this report. He added that Germany has no interest in the Panama matter, and that the question of an interference on the part of Germany does not exist. 42

This feeling was also apparent in Great Britain where the official attitude was that the affairs in Panama were entirely the business of the United States. This comparative apathy appeared in all diplomatic quarters in London, and except in the unlikely possibility of outside interference, no action was contemplated by the British. So far as the Associated Press was concerned, the foreign embassies in London were of the same opinion. 43

If general approval of the happenings in Panama was apparent in Germany and Great Britain, the French attitude was much less restrained in showing its approval. The reasons for this sympathetic understanding were more than apparent. With $40,000,000 hanging in the balance, who could deny the French peasants their due return on the money they had invested. The French approval of the actions of the United States was revealed in a telegram from the United States minister in Paris. In conversations with the French foreign minister, a very sympathetic manner was expressed. The feeling was not confined to official circles

43 Topeka Daily Capital, November 6, 1903, p. 2.
as the "... French generally are much pleased with events in Panama and our attitude there." 44 One possible reason for the friendliness which existed in France toward the American construction and control of the canal was due to the attitude of the Paris newspaper Le Matin. This newspaper, which was influential and had an excellent reputation in France, was owned principally by Bunau-Varilla's brother and Bunau-Varilla himself was a large stockholder. 45 Official recognition would follow as soon as the United States made public its recognition of the new republic. 46

This feeling did not extend to Colombia, as once the revolution became a fact the former mother country tried to recoup the position she formerly held. A session of the Council of Ministers was called, and declaring war on the United States was considered. However, cooler heads prevailed; this action was decided against, and Colombia resorted to

45 Hale, Review of Reviews, p. 679.
46 Porter to Hay, November 11, 1903, A.S.P., F.R. (1904), p. 245. Apparently feeling as though they must show their appreciation to the protector of the French peasants' money, the French government "... animated by the desire to show to your excellency its high appreciation, not only of your merit as a statesman and scholar, but also of the service rendered by you, during your administration, in devoting your efforts to the maintenance of the peace of the world, has decided to confer on your excellency the dignity of the Grand Cross of the National Order of the Legion of Honor." Porter to Hay, July 15, A.S.P., F.R. (1904), p. 306.
diplomatic means in an effort to regain her former possession of Panama.

General Rafael Reyes was elected president of Colombia on July 4, 1904, and he promptly announced support of a conciliatory policy. He felt that war between the two nations was out of the question, and as arbitration had been declined, he, therefore, submitted "... a few remarks on your excellency's position in regard to my request that the pending differences be referred to the Hague tribunal."

This request fell on deaf ears, and Hay replied that the United States could see no reason to "... reconsider its attitude in these matters, which has been adopted after mature deliberation and reflection."

Whatever the merits of the controversy, desire to restore harmony between the two nations soon became evident. Secretary of State Elihu Root visited several Latin-American nations at the time of the Third Pan-American Conference, and stopping at Cartagena on his way home, he worked out an agreement which later became the basis of a formal protocol signed on August 17, 1907.

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47 General Rafael Reyes (president of Colombia to Hay, January 11, A.S.P., F.R. (1904), p. 311
Colombia was to recognize the independence of Panama and to renounce in favor of the United States the rights she held in the canal and railway. In return, she was to receive special treatment in the use of the canal. Panama was to transfer the first ten annuities of $250,000 to Colombia. However, opposition developed in Colombia, and the convention was never ratified.

The administration of William H. Taft tried to end the controversy. His efforts proved to be in vain, and the controversy continued into the Wilson administration. Wilson sent Thadeus A. Thompson to Colombia and instructed him to offer $20,000,000 to end differences between the two nations. After lengthy debate, the measure was approved by Colombia on June 9, 1914. However, it was not until April 20, 1921, that the United States Senate ratified the agreement with amendments. The convention was approved by Colombia as amended on March 1, 1922, and ratifications were exchanged the same day.

The Hay-Bunau-Varilla Treaty settled the question of the construction of a canal. However, certain provisions of the treaty were to cause various disputes between the United States and Panama. Most of the disputes could be traced to Article 136 of the Constitution of Panama, which stated that

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the "... Government of the United States of America may intervene in any part of the Republic of Panama to reestablish public peace and constitutional order in the event of their being disturbed."51

Examination of this article clearly indicates that the United States might wield considerable influence in both the domestic and international affairs of the republic. This has been the case many times as "Intervention (by the United States) has occurred at times without any request on the part of the local government, and at other times in response to more or less formal appeal."52

The policy provisions of the treaty under which the United States might assume the responsibility of maintaining order in Panama, Colon, and adjacent areas in case, in the judgment of the United States, Panama was unable to maintain order, has been a matter of recurring disagreement. Panama was of the opinion that the United States might interfere only after a disturbance occurred while it was the contention of the United States that it had the right to assume preventative measures.

In 1905 the party out of power in Panama raised the

question of whether or not the United States would support a revolution against a dictator. Secretary Root felt that action would be determined by circumstances. He held that the United States had the right of intervention if the independence of Panama was threatened.\(^5\) The opposition party of 1905 demanded that the United States supervise the voting to assure a fair election. The United States was at first indisposed to act. But finally upon the request of the Panamanian Government a commission was sent to cooperate with a similar Panamanian body to supervise the election.\(^4\) A similar occurrence happened in 1912, again at the request of the Panama Government, which in this case was justified under Article 136 of the Constitution.\(^5\) These practices did not fail to arouse bitter criticism, however, on the part of many of the people of Panama.

In 1910 a treaty between Panama and Costa Rica accepted the Pacific boundary but submitted the Atlantic boundary settlement to the arbitration of Chief Justice E. D. White of the United States Supreme Court. Handed down on September 12, 1914, his decision on the whole supported the Costa Rican claims. Panama remained unsatisfied and, in 1921,


\(^{54}\) Ibid., 1905, translation from the Panama Journal, November 8, 1904, p. 717-719.

\(^{55}\) Ibid., 1912, p. 1139-1141.
hostilities broke out between the two countries.

In March, 1921, the United States insisted that the guarantee of independence of Panama was conditioned on its observance of international obligations and urged acceptance of the White decision. Panama finally yielded but only after the United States had sent a battleship and 400 marines to the Isthmus.56

The other major problem in Panamanian foreign relations dealt with the rights of the Canal Zone and the relations of the two countries in time of war. Article III of the treaty of 1903 granted to the United States, in the area in which the canal was constructed, "all the rights, power and authority" which it would possess "if it were the sovereign of the territory." Although these words seem explicit, they were subject to various interpretations.

Panama became a member of the League of Nations, and by Article XII of the covenant, was bound to submit all disputes which might lead her to war to an inquiry or arbitration and was obliged not to resort to war until three months after a decision had been reached. This was in almost direct opposition to the treaty of 1903, as, with the close association of the two governments in the canal enterprise, it would be almost impossible for Panama to remain at

56 Buell, Foreign Policy Reports, p. 410-411.
peace if the United States were drawn into war.

Under these conditions it was apparent that a new agreement was needed to replace that of 1903. A new pact was drawn in 1936 but failed ratification by the United States Senate. The main difficulty arose in connection with Article X, which provided for consultation between the two countries before either of them could take measures to safeguard their interests if these measures affected territory under the jurisdiction of the other. Secretary of State Sumner Welles arranged for an exchange of notes which left no possibility of misunderstanding. The pertinent passage of these notes stated that:

... in the event of an emergency so sudden as to make action of a preventive character imperative to safeguard the neutrality of the Panama Canal, and if by reason of such an emergency it would be impossible to consult with the Government of Panama as provided in Article X of said treaty, the Government of the United States of America need not delay action to meet this emergency pending consultation. ... 57

The United States Senate voted ratification of the treaty on July 26, 1939, and by its conclusion it gave promise that the relations between the Panamanian Government and the authorities of the Canal Zone and the United States would become more cordial.

CHAPTER VI

CONCLUSIONS

A canal across the Isthmus of Central America was a conscious part of the policy of the American people from the time this country began to develop its world commerce. This consciousness was slow in beginning, for as long as the British fleet was able to supply us with the necessary imports, the general public was concerned chiefly with finding their destinies within their own borders and, when occasion permitted, forcing those borders further west, north, and south.

With the advent of the Rooseveltian imperialism and Captain Alfred Thayer Mahan's new theories of sea power, the nation realized their isolated position and began "looking outward." A modern navy was forming, and maritime services were growing in proportion to the wealth and power of the country. Trade potentials of the Far East were greatly coveted, and as a large percentage of the trade was carried on through eastern ports, the long voyage around Cape Horn became particularly irksome.

The United States had the wealth and power to cut the Isthmus, but various estoppels prevented the undertaking until the Hay-Bunau-Varilla Treaty cleared the way of all legal entanglements. Diplomatic repercussions were quick to
follow as a result of our actions on the Isthmus, but these
did not stop the actual construction of the canal. Under
the direction of Major-General George W. Goethals, unprece-
dented obstacles were surmounted with a competence that
gradually silenced the most severe critics. Year by year
the low hills of the continental divide crumbled under the
steady assault of the engineers and laborers. The dam at
Gatun was raised; the intricate mechanisms of the locks were
set in place; and the once unruly waters of the Charges were
harnessed to serve world commerce.

The canal was opened to traffic on August 15, 1914.
A brief review of traffic from its opening indicates that,
starting with a total of 1,058 transits in 1915, there was
a gradual growth of traffic which reached a total of 6,289
in 1929, the peak year up to 1939. During 1929 there was
an average of 17.2 transits per day with total tolls of
$27,111,125 and a total cargo of 30,647,768 tons. During
the depression years and subsequent diminished world trade,
traffic declined. However, it gradually rose so that by 1939
the toll surpassed the year for 1929 and stood at $27,866,627.
Between the years of 1915 and 1939, a total of 104,417 ships
passed through the canal with total tolls of $453,046,857.91.¹

¹ Figures taken from the Annual Report of the Gover-
nor of the Panama Canal for the Fiscal Year Ended June 30,
During the years following World War II, the economic situation in Panama gave rise to demands there for a greater share of the profits from the canal. Negotiations were begun in 1953 for a revision of the agreement between the United States and Panama. On January 25, 1955, the new agreement was signed at Panama City; it not only raised the annuity from $430,000 to $1,930,000, but also ended the protectorate of this country over Panama. The monopoly by the United States over construction, maintenance, and operation of trans-Isthmean railroads and highways was abrogated. The control of sanitary conditions in Panama City and Colon was returned to Panama, along with all lands which were not directly connected to the operation of the canal. In return the United States was granted a fifteen year lease for a military training area in the province of Coche with an option for renewal.

Critics will long debate the merits of the Panama route and the Nicaraguan route, and probably no definite conclusions will ever be reached. The moral aspects of the long and tedious negotiations and actions will be as hotly debated with even less chance of conclusiveness. While debates will continue, the fact remains that the Panama Canal stands as a monument to Roosevelt, Hay, Bunau-Varilla, Hanna, Lodge, Mahan, and the many others who had the courage to fight for a project which has bestowed immeasurable benefits
to modern civilization.
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