

COLOMBIA
AND THE
PANAMA QUESTION OF 1903

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By
AGNES SIMPKINS
Bachelor of Arts
Oklahoma College for Women
Chickasha, Oklahoma
1931

Submitted to the Department of History
Oklahoma Agricultural and Mechanical College
In Partial Fulfillment of the Requirements
For the Degree of
MASTER OF ARTS
1947

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T. H. Reynolds
Chairman, Thesis Committee

Alfred Levin
Member of the Thesis Committee

T. H. Reynolds
Head of the Department

A. C. M. J. J. J.
Dean of the Graduate School

205271

PREFACE

The purpose of this work is to show the attitude of the Colombian people--official and unofficial--toward the United States over the Panama question of 1903. Material was taken from documents and correspondence of the United States Department of State, the House and the Senate, and from Colombian sources. When Panama gained her independence in 1903 and was recognized by the United States, the Colombian government contended that the United States, agreeing to protect the sovereignty and property of Colombia on the Isthmus by the treaty of 1846, had violated that convention.

As years passed, agitation began in Colombia to settle the differences with the United States, led by the economic interests of the maritime provinces on the Atlantic and Pacific coasts adjacent to the Canal. However, public sentiment in the rest of Colombia was against ratifying a treaty with the United States and Panama. Finally the economic interests were able to prevail and Colombia agreed to a convention submitted by the United States in 1914 to rectify the violation of the treaty of 1846.

I wish to thank Dr. T. H. Reynolds and Dr. Alfred Levin of the History Department for the help they have given me in preparing this thesis.

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CHAPTER I

In 1824 the United States entered into a treaty of amity, commerce, and navigation with Colombia, three years after Colombia had established herself as a republic.¹ The next agreement was to be important to both Colombia and the United States, for one article, the thirty-fifth, was to be a bone of contention for many years. This treaty was signed at Bogota December 12, 1846, with the thirty-fifth article of a special character and relating to the Isthmus of Panama. By it

the government of New Granada [Colombia] guarantees to the government of the United States that the right-of-way or transit across the Isthmus of Panama, upon any mode of communication that now exists or that may be hereafter constructed, shall be open and free to the government and citizens of the United States,

for the transportation of all articles of lawful commerce upon the same terms enjoyed by the citizens of New Granada.

And in order to secure to themselves the tranquil and constant enjoyment of these advantages, and for the favors they have acquired by the fourth, fifth, and sixth articles of this treaty, the United States guarantees positively and efficaciously to New Granada, by the present stipulations, the perfect neutrality of the above mentioned isthmus, with the view that the free transit from one to the other may not be interrupted in any future time while this treaty exists; and in consequence, the United States also guarantees, in the same manner, the rights of sovereignty and

¹Treaties, Conventions, International Acts, Protocols and Agreements between the United States of America and Other Powers, 1776-1909, Vol. I, Senate Document 357, 61 Cong., 2 Sess., Washington: Government Printing Office, 1910, pp. 292-301. (Hereafter cited as Treaties, Conventions.)

property which New Granada has and possesses over the said territory.²

This treaty was to remain in force for twenty years, and then, if neither party gave notice of intended termination, it was to continue in force, or be concluded by either party at twelve months' notice.³

By the Clayton-Bulwer treaty between the United States and Great Britain the interests and rights of the Colombian republic were safeguarded. In this territory the work on the canal was to be undertaken, and here, too, the French company, from whom we later bought rights, had initiated its construction.⁴ This treaty, as signed, provided that neither the United States nor Great Britain would ever obtain or maintain exclusive control over the ship canal, nor fortify, nor erect fortifications near it, nor "colonize or assume or exercise any dominion over Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America".⁵ Neither would either take advantage of any intimacy, alliance, or connection with the state through which the canal should pass to acquire for its citizens any advantage in commerce

²Ibid., pp. 312-13.

³Ibid.

⁴Thomas Harrison Reynolds, Economic Aspects of the Monroe Doctrine, citing Revista Mexicana de Derecho Internacional, issue of June, 1919. George Peabody College for Teachers, Nashville, Tenn., 1938, p. 141.

⁵Treaties, Conventions, pp. 655-63.

or navigation which should not be offered in the same terms to citizens of the other.⁶

Under the protection of the New Granada-United States treaty of 1846, the Panama Railroad Company, composed mainly of citizens of the United States---John L. Stephens, William Henry Aspinwall, and Henry Chauncey---obtained a franchise from the government of New Granada (1848) for the construction of the Panama railroad. This road was completed from Colon to Panama in 1855 at a cost of \$7,000,000, and was along the line of the proposed Panama canal.⁷ In consequence

⁶ Ibid., p. 660.

⁷ The Panama Railroad dates from 1826 when the Government of New Granada engaged an engineer, J. A. Lloyd, to survey a route from the head of navigation on the Chagres River to Panama City, or an equally accessible place on the Pacific side. The Government of New Granada, unable to raise funds for this project or to interest the outside world in the proposition, let the matter drop until 1835. In that year Henry Clay and his associates in Congress advocated building a line across the Isthmus, owned and operated by the Government of the United States. It was not until June, 1847, that the Government of New Granada granted a charter to Mateo Klein, who was representing a French corporation---known as the Panama Company---to build the railroad. The road was to be built within six years with freedom from competition for ninety-nine years. This concession was allowed to lapse in June, 1848, through the company's inability to raise sufficient funds.

At this period, however, the attention of the American people directly centered itself upon transportation by way of the Isthmus. The Oregon boundary dispute had been settled, and California had come into the possession of the United States at the end of the Mexican War. Overland communication to the Pacific coast was difficult and dangerous, the main current of migration going by way of Cape Horn. To render this newly acquired territory of the United States accessible, lines of steamers from New York to the Isthmus and from the Isthmus to California and Oregon were inaugurated by Americans having in view the construction of a railroad

of the riot in Panama in 1856, efforts were made by the United States to modify this treaty in order to give the United States greater control and power to protect the means of transit, but without success.⁸

In 1862 the government of Granada, through its representative in Washington, notified the United States that a revolutionary chief, trying to corrupt the Granadian confederation, had sent an armed force to occupy the Isthmus of Panama, and the government of Granada called upon the United States to enforce its guarantee. Simultaneously the same information was received from the United States consul at Panama, and President Lincoln instructed the United States naval commander at the port to protect, at all hazards and at whatever cost, the safety of the railroad transit across the Isthmus. The Granadian government, however, was not satisfied with the action and urged the United States to land a body of troops at Panama.

Lincoln hesitated to take action without consulting both Great Britain and France on the matter. Mr. Seward, Secretary of State, instructed our representatives in those

as a connecting link across the Isthmus, from which they would derive the greater part of their profits. In the same year gold was discovered in California. The trip around the Horn was so long and arduous that many of the gold seekers found it to their advantage to use the Panama route, in spite of its bad reputation for fevers and the like. See: W. Rodney Long, Railways of Central America and the West Indies, Trade Promotion Series, No. 5. Washington, D. C.: Government Printing Office, 1925, p. 122.

⁸ Senate Documents, 56 Cong., 1st Sess., Doc. 237. Washington: Government Printing Office, 1900, pp. 25-29.

countries to seek an understanding in regard to Colombia's demand. He wrote:

This government has no interest in the matter different from that of other maritime powers. It is willing to interpose its aid in execution of its treaty and for the benefit of all nations....But if it should do so it would incur some hazard of becoming involved in the revolutionary strife which is going on in that country. It would also incur danger of misapprehension of the object by other maritime powers if it should act without previous consultation with them.⁹

Both France and Great Britain took the same view that intervention was not needed.

As time went on the United States' determination to rid itself of the Clayton-Bulwer treaty as the chief barrier to a canal completely under United States' control became clearer and clearer. No other power was ever invited to extend its protection over the Panama railway, which was completed previous to the Civil War. In 1866 Secretary Seward sounded the first note against the treaty of 1850 as standing in the way of a distinctly American canal.¹⁰

Under a very advantageous concession the Panama Railroad Company held exclusive right to construct a railway or a canal in a certain territory, with complete control of the Panama route, and, by subsequent modifications, was to extend for ninety-nine years from 1867.

⁹Foreign Relations of the United States, 1862-1863, Washington: Government Printing Office, 1863, p. 132. (Hereafter cited as Foreign Relations.)

¹⁰Diplomatic Correspondence, 1866, 39 Cong., 2nd Sess., Vol. III. Washington: Government Printing Office, 1867, pp. 581-82.

After the completion of the first transcontinental railway in the United States, business fell off and disagreements among the directors caused earnings to decline. The concessions of the company lapsed, and, although the concession was renewed, the terms were much less favorable than before.¹¹

A new treaty was made between Colombia and the United States (1868), in the negotiations for which Mr. Seward exhibited a decided change in American sentiment since 1862, regarding the neutrality of the isthmian route. He inserted a clause in the draft of the Colombian treaty which provided that enemies of the United States should be excluded from the use of the proposed canal in times of war. The Colombian Government rejected the article, adding in its place a clause favoring international control. The treaty was fully discussed in the Senate, but failed of ratification. Had the Senate accepted the agreement with Colombia, it is quite certain that Great Britain would have protested against it as a violation of the Clayton-Bulwer treaty.¹² In 1869 and 1870 further canal treaties were negotiated with Colombia which stipulated that the "control, possession, direction and government of the canal should belong to, and be exercised by, the United States," but they were not ratified.

¹¹ Long, op. cit., pp. 110-11.

¹² Index to the Executive Documents of the House of Representatives, 1881-1882, 47 Cong., 1st Sess., Vol. I. Washington: Government Printing Office, 1882, pp. 337-38. (Hereafter cited as Ex. Doc.)

In 1875 de Lesseps came from his triumph at Suez and made a careful survey of the Panama route for the French. When de Lesseps organized the Compagnie Universale du Canal Interoceanique to construct a canal across the Isthmus, it was imperative that he gain control of the railroad. This was done at a cost of \$20,047,117.¹³

Three years later Lieutenant Wyse of the French navy secured a concession from Colombia giving him exclusive rights across the Isthmus under conditions of neutrality. The United States could not protest legally, for the treaty with Colombia in 1846 had not given them a monopoly but guaranteed a neutrality of transit.¹⁴

When Wyse disposed of his interests to de Lesseps, the United States believed, through him, the French must be interested. Efforts were made through Congress to revive the old American canal companies. The Monroe Doctrine was brought out and a resolution offered in the Senate to the effect that the United States could not view without disquietude the attempt of any foreign power to build a canal on the Isthmus. President Hayes declared that it was the policy of this country to construct a canal under American control and would not permit the construction of a canal under any European power or powers. He went on to say that it would be of paramount interest to the United States, even

¹³ Long, op. cit., p. 124.

¹⁴ Treaties, Conventions, pp. 292-301.

maintained it would virtually be "a part of the coast line of the United States".¹⁵

In the early days of 1882, rumors were circulated in Washington to the effect that several European powers, at the request of Colombia, were considering the advisability of adopting some plan of concerted action looking toward a joint guarantee for the neutralization of the French Canal at Panama. Moreover, Colombia had again declined to make a treaty with the United States which would bind her to accept the sole guarantee of the latter for the neutrality of the isthmian transit route.¹⁶

James G. Blaine, Secretary of State under Garfield, on hearing of Colombia's request of the European powers for a guarantee of the neutrality of that canal, sent a circular letter to those powers declaring that any attempt on their part to interfere in the Isthmus by such a guarantee would be considered as an "uncalled-for intrusion into fields where the local and general interests of the United States of America must be considered before those of any other power," save that of Colombia.¹⁷

He outlined this policy for our representatives in Europe, affirming that it was "nothing more than the pronounced adherence of the United States to principles long

¹⁵ Messages and Papers of the Presidents, Vol. VII, Bureau of National Literature and Art, 1897, p. 586.

¹⁶ Ex. Doc., pp. 356-357.

¹⁷ Senate Doc., op. cit., p. 501.

since enunciated by the highest authority of the government".¹⁸ This dispatch of Mr. Blaine is remarkable for several reasons, but chiefly for the fact that it completely ignores the existence of the Clayton-Bulwer treaty, making neither open or implied mention of this convention. Aside from this, these points are to be noted. In the first place, Mr. Blaine calls attention to the rights and duties given the United States from the treaty with Colombia of 1846, and states that in the judgment of the President the guarantee given by the United States requires no re-enforcement, or addition or assent from any other power; that the United States, in more than one instance, had been called upon to vindicate the neutrality thus guaranteed; and that there was no contingency, then foreseen or anticipated, in which such vindication would not be within the powers of the nation.

In the second place, Mr. Blaine declared with emphasis, during any war which the United States of America or the United States of Colombia might be a party, the passage of armed vessels of a hostile nation through the canal of Panama would be no more admissible than would the armed forces of a hostile nation over the railway lines joining the Atlantic and Pacific shores of the United States or of Colombia. Mr. Blaine outlined the remarkable development of our Pacific slope and the importance of a canal to facilitate communications between our eastern and western states. He referred to

¹⁸ Ibid., pp. 537-40.

the canal in this connection by using the words of President Hayes as forming a "part of the coastline of the United States".¹⁹

This declaration obviously contradicted the second article of the Clayton-Bulwer treaty. Later, Frelinghuysen, who replaced Blaine as Secretary of State, tried to show that the Clayton-Bulwer treaty did not cover our treaty of 1846 with New Granada, by which we acquired the sole protectorate of any transit route across the Isthmus.²⁰

In April, 1885, the Colombian government, which was embarrassed again by civil war, called upon the United States for fulfillment of the thirty-fifth article under the treaty of 1846, to secure the neutrality and sovereignty of the Isthmus. President Cleveland at once sent a body of troops to Panama with instructions to confine their action to the prevention of the interruption or embarrassment of the transit and its accessories. While this was happening, the Colombian minister hurried to the State Department and sought assurances that the seizure of Panama was not contemplated. As soon as peace was re-established, the troops of the United States were withdrawn.²¹

Under the circumstances the United States was determined to abrogate or modify the Clayton-Bulwer treaty. This was

¹⁹Messages and Papers, p. 586.

²⁰Index to the Executive Documents, 1883-1884, Washington: Government Printing Office, 1884, pp. 418-21.

²¹House Executive Documents, 49 Cong., 1st Sess., I, p. 209; Senate Document, 143, 58 Cong., 2nd Sess., pp. 58-64; Messages and Papers, Vol. VIII, p. 326.

finally achieved by the Hay-Pauncefote treaty of February 5, 1900. This treaty provided that the

canal should be open in times of war to vessels of commerce and of war on terms of equality, that it should not be fortified and should never be blockaded. When ratified, other powers were to be asked to adhere to the treaty.²²

The Senate refused to ratify the agreement until it had passed the bill for the construction of an American canal; had amended the league by adding a clause saying that the Clayton-Bulwer treaty was superceded; by giving the United States larger powers in the military defense of the canal; and had struck out the clause inviting other nations to adhere to its provisions. This was not acceptable to the British. A new treaty was drawn up, therefore, by Hay and Pauncefote which abrogated the Clayton-Bulwer treaty and left out the clause concerning foreign adherence.²³ The United States had pursued the exclusive control of the canal for a long time and had now broken the bonds to which it was subjected by the Clayton-Bulwer treaty. According to the Hay-Pauncefote treaty, England renounced the office of supervision and control of the works of the canal once finished, and, in the meantime, North American capitalists were trying to acquire the remnants of a Panamanian company in order to secure, by that means, construction rights.²⁴

²² Treaties, Conventions, I, pp. 782-83; Senate Report, 57 Cong., 2nd Sess., I, p. 436.

²³ Senate Report, 57 Cong., 2nd Sess., I, p. 437.

²⁴ Reynolds, op. cit., p. 141.

Mr. Hay and Mr. Herran, the Colombian charge d'affaires, signed a canal convention on January 22, 1903, by which the French concessions were transferred to the United States. By this treaty, the United States obtained exclusive rights to construct and operate a canal for one hundred years, with full option for renewal for like periods and full control over a strip of land three miles wide on each side of the canal, not including the terminal cities of Panama and Colon. Colombia was to retain her sovereignty over the land, and, in return for these concessions, she was to receive from the United States the sums of ten million dollars in cash and \$250,000 in an annuity. Objections were raised to this treaty over the failure to secure for the United States full governmental control over the canal zone, but it was considered the best that could be gotten and it was ratified by the United States Senate on March 17, 1903.²⁵

The Bogota politicians were dissatisfied with the terms of the canal agreement and publically claimed that the treaty was harmful to the national honor. United States Minister to Colombia, A. M. Beaupre, was informed early in May that the treaty would not be ratified. He explained to the State Department that "Without question public opinion is strongly against its ratification, but, of course, public opinion in Colombia is not necessary a potent factor in controlling legislation".²⁶

²⁵ Monthly Bulletin of the International Bureau of the American Republics, January, 1903. Washington: Government Printing Office, 1903, pp. 356-68.

²⁶ Senate Document, No. 51, 58 Cong., 2nd Sess., p. 15.

Colombians did, in fact, feel generally that it would be an affront to the national honor to lose their sovereignty over Panama, and that the treaty would for "a paltry sum, rob her of one of the most valuable sources of wealth which the world contains..."²⁷

Beaupré enclosed with his letter to the State Department the following article from El Correo Nacional of May 11, written by Dr. Juan B. Perez y Soto, a senator in the Congress:

The Herran treaty will be rejected, and rejected by a unanimous vote in both chambers. That is what I hope, since there will not be a single representative of the nation who will believe the voice of the people who have sold themselves; who have the brazenness to recommend the shameful compact. The insult, however, which Herran has cast upon the Colombian name will never be wiped out.

The gallows would be a small punishment for a criminal of this class.²⁷

The Colombian Senate felt that Panama was their greatest national asset, and they knew perfectly well that, in spite of threats to the contrary, President Theodore Roosevelt was determined not to adopt the alternative of the Spooner Amendment²⁸ and go to Nicaragua. After discussing the treaty for nearly two months, the Colombian Senate finally rejected it August 12 by the unanimous vote of all the senators present.

²⁷ House Document, 58 Cong., 2nd Sess., I, pp. 134-35; 142-44.

²⁸ An amendment to the Hepburn Bill for the construction of a Nicaraguan canal authorizing the President to acquire the rights and property of the French company and at a cost not exceeding \$40,000,000; to acquire from the Republic of Colombia, perpetual control of a strip of land six miles wide from the Caribbean sea to the Pacific. Should the President be unable to obtain satisfactory title to the property of the French company, and the control of the strip of land from

President Roosevelt declared that the action of the Colombian Senate was due to an "anti-social spirit" and to the cupidity of the government leaders who merely wished to wait until they could confiscate the \$40,000,000 worth of property belonging to the French Company and then sell out to the United States. This view is not borne out by the dispatches of Mr. Beaupré, the American minister, who repeatedly warned Secretary Hay that there was a "tremendous tide of public opinion against the canal treaty," which even the Colombian government could not ignore. "The charge of bad faith against Colombia does not come in good grace from a country whose constitution also requires the ratification of treaties by the Senate."³⁰ Up to this point, our actions were above criticism. However, with the rejection of the treaty on the part of Colombia, the attitude of the United States changed.³¹

Colombian opposition to the treaty, without doubt, developed largely on mercenary grounds, for they saw a chance to obtain additional funds. The ethics of these proposals to exact a larger monetary profit may perhaps seem objectionable,

the Republic of Colombia on reasonable terms and in a reasonable time, then he was to see about acquiring the Nicaraguan strip. See: Congressional Record, Senate, 57 Cong., 1st Sess., p. 1048, and pp. 7069-70; House, 57 Cong., 1st Sess., p. 7008.

²⁹ Senate Document, No. 51, 58 Cong., 2nd Sess., p. 56.

³⁰ John Holladay Latané, The United States and Latin America, New York: Doubleday, Page, and Co., 1920, p. 188.

³¹ On October 10, 1903, Roosevelt wrote Albert Shaw: "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."

and the advance in price over which the Colombian government was haggling was certainly trifling when measured by the subject matter of the negotiations; but, in the words of the American Council of Foreign Relations, "such behavior, whether shabby or not, is the prerogative of an independent state, and Colombia was under no legal obligation to accept the treaty."³²

When the Colombian Senate adjourned October 30, without any reconsideration of the treaty, the disappointment of Theodore Roosevelt and his aides over this defeat is easy to understand. No one has been able to prove with any degree of certainty to what extent the United States helped in setting up the Republic of Panama immediately after the failure of the Hay-Herran treaty, or to what extent this help enabled the United States to obtain from the newly-born nation everything, and more, that Colombia had refused it. But no one has been able, either, to deny the following historical facts.

While discussions in the Colombian Senate were beginning to disclose that there was little likelihood that the Hay-Herran treaty would be ratified, a prominent resident of the Isthmus, Dr. Manuel Amador Guerrero, later first president of Panama, went to Washington after discussing a plan for the separation of Panama from Colombia with the

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Survey of American Foreign Relations, p. 25.

United States agents of the Panama railroad, and called on the Secretary of State.³³

At the same time Phillipe Bunau-varilla, chief engineer of the French canal company and the person most interested in the sale of the French concessions to the United States, arrived in New York and agreed to a revolutionary project.³⁴

³³ J. Fred Rippey, The Capitalists and Colombia. New York: The Vanguard Press, 1931, p. 92, citing Nieto, Recuerdos de la Regeneracion, pp. 311-12.

³⁴ Bunau-Varilla, engineer, speculator, owner of the French journal Le Marin, and an important stockholder in the French Canal Company, was a prominent actor in the events culminating in the secession of Panama.

Sailing from France in September, 1903--apparently for the health of his son--he reached the United States and went immediately into conference with a certain banker, Lindo, who was an expert in Spanish American politics. From Lindo he learned two facts: that a revolution had been contemplated by the Panamanians and that it was about to be abandoned because of the lack of assurance of aid from the United States.

On September 23, Bunau-Varilla had a meeting with Amador in New York City. Amador had previously met with Nelson Cromwell, who had, at first, encouraged him to believe that he might be able to get aid from Theodore Roosevelt's "secret fund" of several million dollars, to be used in the purchase of needed supplies for a revolution. Later Cromwell sought to avoid him, and Amador became discouraged. He was on the point of returning when Bunau-Varilla met and persuaded him to postpone his departure.

On October 9, the Frenchman met President Roosevelt at Oyster Bay in an interview arranged by Acting Secretary of State Loomis. From this interview, he emerged certain that Roosevelt would take advantage of a revolution in Panama to acquire the canal title.

On October 16, Bunau-Varilla met Secretary of State Hay, and learned from him that the United States had been expecting a revolution in Panama and that full precautions had been taken. From that interview, he was able to write Amador the next day that "I can give you assurance that you will be protected by the American forces forty-eight hours after you have proclaimed the new republic on the whole Isthmus."

After Amador's return to Panama, rumors of an outbreak in Panama for secession from Colombia became so insistent and outspoken, that they were used as an argument for ratification of the Hay-Herran treaty in the Colombian Senate, and the United States minister, Mr. Beaupré, reported the fact in Washington.

On October 18, Amador wrote to his son:

The plan seems to me good. A portion of the Isthmus declares itself independent, and that portion the United States will not allow any Colombian forces to attack....An assembly is called and this gives authority to a minister to be appointed by the new government in order to make a treaty without need of ratification by the assembly. The treaty being approved by both parties, the new Republic remains under the protection of the United States....In thirty days everything will be concluded.³⁵

After the Bogotá Senate adjourned on October 30, 1903, without ratifying the treaty, President Roosevelt at once ordered the Boston, Dixie, Atlanta, and Nashville to proceed within easy reach of the Isthmus. Their commanders received orders to keep the transit open and to "prevent the landing

So certain were Bunau-Varilla and Amador that the United States would protect the secession movement that they included little or no military preparations in their plans. They spent their time in drawing up a declaration of independence, a constitution, the personnel of the new government, and cables to be sent to the Department of State. Then Amador left for Panama with the understanding that the revolution would be staged not later than November 5.

Doctor Amador had difficulty in convincing his few followers that they should go on with the secession movement, for they thought he would return with a convention signed by Secretary Hay with references to military aid from the United States. He hurriedly wrote to Bunau-Varilla, who received a promise from Loomis that a United States vessel would arrive in a few days. See: Rippey, ibid., pp. 93-96.

³⁵Congressional Record, March 1, 1912, p. 2654.

of any armed force with hostile intent, either government or insurgent, at any point within fifty miles of Panama."³⁶ The Nashville arrived off Colon November 2. It can hardly be denied that these measures created a situation very favorable to revolution.

On November 2 the Acting Secretary of the Navy of the United States wired the commander of the U. S. S. Nashville, at Colon, and to the three other warships in nearby waters:

Maintain free and uninterrupted transit. If interruption is threatened by armed force, occupy the line of railroad. Prevent landing of any armed force....If doubtful as to the intention of any armed force, occupy Ancon Hill strongly with artillery....Government force reported approaching the Isthmus in vessels. Prevent their landing if in your judgment landing would precipitate a conflict.³⁷

A whole day before the outbreak of the revolution the United States Navy was instructed to prevent the Colombian government forces from landing on the Isthmus.³⁸

On November 3 Acting Secretary of State Loomis wired the American Consul at Panama, Mr. Erhman: "Uprising on Isthmus reported. Keep Department promptly and fully informed."

The Consul replied: "No uprising yet. Reported will be in the night. Situation critical."³⁹

³⁶Senate Document, No. 53, 58 Cong., 2nd Sess., p.

³⁷Diplomatic History of the Panama Canal, Doc. 474, 63 Cong., 2nd Sess. Washington: Government Printing Office, p. 363.

³⁸Ibid.

²⁹Papers relating to the Foreign Relations of the United States, 1903, 58 Cong., 2nd Sess. Washington: Government Printing Office, 1904, p. 231.

On the same day Erhman was directed to "act promptly" in preventing Colombian troops from proceeding from Colon to Panama.⁴⁰ Before these orders had been received some 450 Colombian troops from Cartagena had disembarked at Colon. The principal officers were provided with a special train to take them across the Isthmus to Panama. When they arrived they were seized by the revolutionary leaders and locked up for safe-keeping, while the railroad officials saw to it that there were no trains for their troops to use. The Colombian government was getting ready to send additional re-enforcements to quell the rebellion, but the United States Navy handled the matter with such rare tact that "they persuaded the troops at Colon to re-embark and sail for home, and a vessel, approaching Panama with additional troops was prevented from landing and turned back to Cartagena."⁴¹

At 9 P.M. a second dispatch was received from Me. Erhman: "Uprising occurred tonight, 6; no bloodshed. Army and Navy officials taken prisoners. Government will be organized tonight."⁴²

On that night the Colombian gunboat Bogotá fired several shells into Panama City. A peaceful and unsuspecting

⁴⁰Ibid., p. 231.

⁴¹The next day Commander Hubbard landed 50 marines from the Nashville at Colon, and a day later the officer in charge of the forces was persuaded by a generous bribe to re-embark his troops and leave. See: Ibid., 235-37.

⁴²Diplomatic History, p. 346.

Chinese, one Wong Kong Yee, a native of Hong Song, China, was the sole victim of the Panamanian war of independence.⁴³

On November 6 the Colombian authorities asked the United States government, through Minister Beaupre, whether it was ready to assist them to preserve Colombian sovereignty on the Isthmus, as specified in the treaty of 1846.⁴⁴

Later on, the same day, the Colombian President suggested that if the United States "would permit" Colombia to land troops on the Isthmus, he would declare martial law and ratify the Hay-Herran treaty by a decree.⁴⁵

The answer came instantly from Washington in the following terms:

The people of Panama having by an apparently unanimous movement dissolved their political connections with the Republic of Colombia and resumed their independence: having adopted a government of their own, republic in form, with which the Government of the United States,....most earnestly commends to the Government of Colombia and of Panama the peaceful and equitable settlement of all questions at issue between them.⁴⁶

In the meantime, within three days of the outbreak, the Acting Secretary of State instructed Consul Erhman to enter into relations with the newly constituted government at Panama. Erhman, in replying, reported the appointment of

⁴³ Ibid., p. 347.

⁴⁴ Foreign Relations, 1903, pp. 224-26.

⁴⁵ Diplomatic History, p. 474.

⁴⁶ Foreign Relations, 1903, p. 231.

Bunau-Varilla as the first Panaman minister to the United States.⁴⁷

On December 7 a treaty was submitted to the Senate of the United States with the Republic of Panama, by which exclusive rights for the construction and operation of the canal were granted to the United States, and the canal strip widened to ten miles; it was stipulated that in this region the United States was to exercise "all the rights, powers, and authority...which the United States would possess and exercise if it were sovereign of the territory."⁴⁸ By article one of the treaty, the United States guaranteed to maintain the independence of Panama. And by article two, the Republic of Panama granted the United States in perpetuity, the use, occupation, and control of a zone of land and land under water for the construction, maintenance, and protection of the canal. This treaty was ratified by the United States in February, 1904; and in the Republic of Panama, December, 1903.⁴⁹

⁴⁷It is significant that one of the principal parts of the revolt was played by Bunau-Varilla, a man who owned a large amount of stock in the French Panama Company. See: Reynolds, op. cit., pp. 141-42. Senator William Stone of Missouri demanded an investigation of the Panama recognition. It revealed among other things that Bunau-Varilla and his coadjutors had planned the revolution in New York.

⁴⁸Diplomatic History, p. 296.

⁴⁹Ibid., pp. 295-303.

CHAPTER II

When Beaupré wrote to Secretary of State Hay on November 11, he reported that the situation in Bogota was under control, but how long it would last was uncertain since there was strong feeling against the government. There was bitter feeling against the United States Government, too, for the Colombians believed the United States had encouraged the secession movement in Panama; and that the United States forces had interfered with Colombian troops, necessitating their surrender.

At the same time, an army of 10,000 men was being raised at Bogota, and another 5000 at Cauco to operate against Panama under the command of General Reyes, "provided the United States will allow Colombia to land troops."¹

A few days later, November 14, the minister of foreign affairs sent an official note to Beaupré, citing their position on the Panama question. According to Mr. Luis Carlos Rico, the minister, the recognition of Panama's independence was a direct violation of the treaty of 1846; that the action of the United States had put a severe strain on the relations between the two countries; and, that unless the United States stated that she would not interfere with Colombia in subjugating the Isthmus of Panama or recognize the rebels as belligerents, that diplomatic relations would

¹Foreign Relations, 1903, Beaupré to Hay, November 11, Telegram, p. 227.

be severed.² On the same date the National Council of Colombia decided ten to one to hand Beaupre his passport.

Secretary of State Hay must have had a guilty conscience about Panama, for he suggested that Colombia should receive compensation for her loss, but Bunau-Varilla opposed the idea, explaining to Hay on November 18, that

Any man who pays something he owes not is immediately thought to pay under the pressure of blackmail; any man who pays under the pressure of blackmail is immediately thought to pay on account of a concealed crime. To the demonstration which would result from such an action, that the United States admit having plaid (sic) that Machiavelic (sic) trick to Colombia, would be added in Spanish American hearts the incurable and bitter resentment of the insulting offer of a little money compensation for a patriotic wrong.³

General Reyes, on special mission for Colombia, wrote Secretary Hay that Colombia felt herself aggrieved by the course followed, and that the action taken by the United States had worked deep injury to Colombia's interests.

If the matter were of little importance, even though right were wholly on its side, my government would not hesitate in yielding some of its advantages out of regard for friendly relations which have happily existed without interruption between the two countries.

But since they did affect, not only valuable interests and assets but also the sovereignty and independence of Colombia, Reyes reminded the United States Government that by article 35, section 5 of the treaty of 1846 that:

² Ibid., p. 229.

³ William David McLain, The United States and the Republic of Panama, Duke University Press, Durham, North Carolina, 1937, p. 17, citing Department of State, Notes from the Panamanian Legation, I.

If, unfortunately, any of the articles contained in this treaty should be violated or infringed in any way whatever, it is expressly stipulated that neither of the two contracting parties shall ordain or authorize any acts of reprisal, nor shall declare war against the other in complaints of injuries or damages, until the said party considering itself offended shall have laid before the other a statement of such injuries or damages verified by competent proofs, demanding justice and satisfaction, and the same shall have been denied, in violation of the laws and of international right.⁴

and that the premature recognition of the independence of Panama by the United States was against both ancient and modern international law, for it was not only a grave offense against Colombia, but also an attack on her wealth.⁵ Since Panama's territory formed the most important part of the national wealth of Colombia, its loss to her, he held, would disrupt, not only her financial structure, but both domestic and foreign obligations as well.

He says, "Sad indeed is the fate of my country, condemned at times to suffer calamities from its own revolutions and at others to witness the unexpected attacks of a powerful but friendly state."⁶

If Panama had revolted, declared her independence, and, without foreign aid, been victorious in battle against the mother country, had organized a government, drawn up laws, and had proved able to govern itself, then it would have been entitled to recognition by the world. The United States

⁴Foreign Relations, 1903, p. 284.

⁵Ibid., pp. 284, 287.

⁶Ibid., p. 291.

would not have recognized the independence of Panama, in the true course of events, if an isthmian canal route had not been involved.

As a result of the hasty recognition of the independence of Panama by the United States, General Reyes proposed that the claims of Colombia be submitted to the Arbitration Tribunal at The Hague.⁷

In reply, Secretary Hay wired to the effect that the United States saw no occasion for arbitration through The Hague Tribunal.⁸

The United States' charge that Colombia's refusal to sign the Hay-Herran treaty was due to her (Colombia's) desire for more money can be disproved. The treaty was contrary to the constitution of the country prohibiting the cession of sovereignty over national territory. Colombia, recognizing the need of a canal over the Isthmus, proposed to change her constitution to remedy the difficulty, and so instructed her charge d'affaires, Dr. Herran, to notify the United States Government of her desire to enter into renewed negotiations, but it was too late for the course of events.⁹

In Bogotá, a nationalist movement developed as a result of aroused sentiment. This was La Integridad Colombiana, begun in the modest hut of a scientist and eminent Colom-

⁷Ibid., pp. 292-93.

⁸Ibid., p. 306.

⁹Ibid., p. 307.

bian, Dr. Indalecio Camacho G., who began immediately transforming the association into a powerful instrument of public opinion.

La Integridad Colombiana respected the decisions of the government in trying to save the national honor, but, when General Reyes wrote from Washington that the United States guaranteed Panaman Independence and that Colombia's action aggravated the situation, this society resolved to contact the Vice-President and urge that he tell Reyes that all negotiations, not having to do with the national honor, be shelved; for, "we Colombians are resolved to sacrifice our interests and lives in order to defend the honor and integrity of Colombia."¹⁰ A little later this society desired that the government raise the army's strength to one hundred thousand, not only for the Panama trouble, but for any other contingency. They appreciated the gravity of the situation, but they believed the only path of honor was to occupy the Isthmus by war. They--all of them--offered their services to the country, then armed themselves and left for the coast of Panama.¹¹

The bitter feeling against the United States, revealed by outbreaks among the people, had abated to some extent, but the attacks by the press had not. Petitions were circulated among the merchants and enthusiastically signed by them refusing to buy or sell United States goods. The Junta

¹⁰Oscar Teran, Del Tratado Herran-Hay al Tratado Hay-Bunau Varilla, published in Colombia, p. 403.

¹¹Ibid., pp. 401-06.

Patriotica, organized in Bogota to create and nourish ill-feeling against the United States under the leadership of Senator Perez y Soto, was ordered dissolved by the Colombian Government. The government claimed that its object, openly advocated and heartily approved and supported by the whole ministry, was to send every able-bodied man and boy against the Isthmus.

The minister in Bogotá, Mr. Snyder, questioned Mr. Hay concerning rumors that the United States was allowing Colombian troops to land in Panama. The State Department replied in the negative. Mr. Snyder reported that on the last of January, 1904, a body of government troops had left for the coast, and that on February 28, they had returned in bad condition. On February 29 the government again took up the question of severing diplomatic relations with the United States. However, a feeling of apathy and indifference had developed, with few unfriendly remarks.¹²

In March of that same year, 1904, a decree was issued by the government of Colombia reducing the standing army from 11,000 to 5,000 men, and another declaring peace in all of Colombia except Panama.

Public opinion subsided noticeably after the news reached Colombia of the ratification by the United States Senate of the treaty with Panama. However, Americans were, from time to time, still subjected to petty inconveniences

¹²Foreign Relations, 1904, 58 Cong., 3d Sess., p. 204.

and discourtesies from society, the public, and in business transactions.¹³

Señor Luis Carlos Rico, Minister of Foreign Affairs, wrote Mr. Snyder, posing the question that--since the United States had recognized Panama's independence from Colombia--what would the future hold--as regards the independence and integrity--for Central and South American nations. He answered his own question by saying that it would be what the great nation to the north cared to mete out to them.

The interoceanic canal will modify the conditions of navigation in the two seas, but in order to dig it in a zone under the dominion of the United States the American solidarity has been subverted, and if the ties of government between the Department of Panama and the Republic of Colombia remain definitely dissolved then the ties of confidence and fraternity which have been the bond of unity between the sovereign people of this hemisphere will also remain broken.¹⁴

In the President's message, General Reyes warned the people that they should proceed with extreme prudence and discretion, otherwise the country would inevitably be brought into antagonistic relations with the United States. But, due to conditions in Panama he believed that negotiations would begin that would satisfy Colombia's dignity and safeguard her interests. He suggested that Congress evolve a general treaty as a basis for his negotiations, a treaty that would be submitted to them for ratification.¹⁵

¹³Foreign Relations, 1904, 58 Cong., 3 Sess., pp. 205-06.

¹⁴Ibid., p. 212.

¹⁵Ibid., p. 229.

Minister Russel notified the State Department of the Colombian desire for settlement, stating the terms they wished. First: the consent of the United States to submit the question of the independence of Panama to a plebiscite. If this was not agreed to, and if Panama should be recognized by the Colombian government, then, second: an agreement to celebrate a treaty of friendship, commerce, and navigation with Panama. Third: settlement by arbitration of all questions not disposed of in the treaty with Panama.¹⁶

Mr. Loomis, in his reply, stated that the United States saw no reason for a plebiscite, since Panama had been recognized as an independent nation, but that the United States would be pleased if a treaty of friendship, commerce and navigation were signed with Panama, as well as a settlement by arbitration of all questions not disposed of in the treaty.¹⁷

A new minister plenipotentiary to the United States, Diego Mendoza, was appointed, whose instructions were to arrange a solution to the question with a due regard for Colombian honor and dignity, and for her economic and material interests. Reyes, in making the appointment, warned the people that they should not lose sight of the fact that the canal would be an efficacious and powerful aid in Colombian development and progress, and that she would reap rich benefits from the undertaking, being so favorably situated.¹⁸

¹⁶ Foreign Relations, 1905, 59 Cong., 1 Sess., p. 239.

¹⁷ Ibid.

¹⁸ Ibid., p. 240.

He cited the period from 1880-1888 when the French Company brought prosperity to the departments of Cauca and those of the Atlantic coast.

The Colombian minister, Diego Mendoza, wrote to the Secretary of State on October 21, 1905, asking for a just, equitable and complete adjustment of diplomatic differences that had arisen between the two countries, or, he said, if this should not be practical, he requested that a convention be signed to submit the questions to arbitration. The questions were of a legal nature, involving the correct meaning of the law of nations and the exact interpretations of the treaty of 1846.¹⁹

Since the United States had refused arbitration before, it seems unusual that Theodore Roosevelt's inaugural address should contain these words:

Toward all other nations, both great and small, our duty must be to cherish cordial and sincere friendship. We must prove, not only by our words but also by our actions, that we are ardently desirous of winning their good will by acting toward them with a spirit of just and generous respect for all their rights. But justice and generosity in nations, just as in individuals, have greater significance when exercised, not by the weak but by the powerful.²⁰

And that, says Mendoza, was exactly what Colombia, the weak state, was demanding of the United States, the powerful state.

The Colombian plan for a court of arbitration was for each nation to select a distinguished jurist of its own nationality to represent it, and the choice of the umpire

¹⁹ Foreign Relations, 1906, pp. 412-13.

²⁰ Congressional Record, Senate, 59 Cong., 1 Sess., Vol. 40, p. 2.

be made by an absolutely disinterested nation.

If the United States had committed no injury to the Republic of Colombia, this court would fully vindicate their conduct. The worst that could happen to the United States would be a decision that that nation had inflicted an injury to a weak republic while doing what they thought to be of universal benefit, and the levying of an appropriate indemnity against the government. In either case the result would be the settlement of all controversies and the resumption of cordial and friendly relations.

The refusal of the United States to enter into negotiations with Colombia who was unable to obtain reparations by arms would convince the weaker nation that the stronger did not wish to give her justice or to submit Colombian claims to arbitration. Too, if the United States continued her policy of doing justice to others, regardless of their lack of strength, the fears of the weaker nations of the Western Hemisphere would be allayed.²¹

Elihu Root, Secretary of State, in reply, maintained that Mendoza did not specifically state charges against the United States, and as a result, he could see no reason for arbitration.

According to Mendoza---in his reply to Root on April 6, 1906---Panama was one of the departments of the Republic of Colombia and had been severed from that nation. Panama had

²¹Foreign Relations, 1906, pp. 418-19.

erected and been recognized as an independent country by the United States. Colombia believed that this was a direct violation of the treaty of 1846 and that the United States should compensate her for the loss of Panama.²²

In reviewing the situation, in August of 1903, when, by the Spooner Amendment, the United States was faced with the necessity of constructing a canal through Nicaragua or else to secure an amendment to the Spooner Act in order that the United States might continue negotiations with Colombia, (since the Hay-Herran treaty had not been ratified) the President of the United States

was formulating in a message to Congress the thought that there did or should exist some means whereby the United States could dedicate the Isthmus of Panama to the use most necessary for the general welfare of the people of all nations: that is, for an interoceanic canal--a sort of international eminent domain, perhaps.²³

Colombia did not profess this doctrine, and did not see how, in international affairs, it could be practiced prior to the establishment of an authority superior to the sovereign nation in whose name it could be invoked. What happened in Panama seems to be a direct application of the plan he was formulating.

If the acts of the United States in abetting Panama and recognizing her independence were right, then Colombia should take the loss, but if this happened in violation of

²²Ibid., p. 422.

²³Ibid., p. 425.

the provisions of the treaty of 1846, then the United States should compensate Colombia for damages done her. Colombia, recognizing the value of the Isthmus as the strategic point of the whole Western Hemisphere, suggested that a committee of experts be appointed by the two governments to estimate the amount of damages. The Panama incident was not closed, and would not be, "at least as far as Colombia is concerned," said Mendoza, "and cannot be closed until Colombia is compensated or has an opportunity to plead her cause before an impartial court of arbitration."²⁴

It was suggested by the Colombian minister, Mendoza, that his country and the United States enter into a convention for securing impartial judgment on the following questions: One, by the treaty of 1846, was the United States obligated to maintain the sovereignty of Colombia over the Isthmus of Panama against attack from any foreign power or internal disorder? Two, was the United States obligated not to hinder Colombia in maintaining her sovereignty over Panama by the suppression of rebellion, revolution or internal disorders? Three, did the treaty grant the United States the right to prevent the landing of Colombian troops in Panama whose purpose was the suppression of rebellion? Four, did the treaty of 1846 give the United States the right of lawfully taking steps as regards Panama? Five, did the acts of the United States prevent Colombia from taking the steps necessary to suppress rebellion and maintain her rights

²⁴ Foreign Relations, 1906, p. 428.

over the Isthmus? Six, were the acts of the United States in respect to Panama contrary to international law? and Seven, what damages, if any, had been done to Colombia by the United States that were in violation of the treaty of 1846?²⁵

Besides these questions, Colombia agreed to add to the convention, if the United States so desired, a clause specifically stating that it was not to be construed as passing upon the political policy of the United States, further than to determine whether the United States was outside the bounds by which she had agreed to limit herself by the treaty of 1846.²⁶

This last was aimed at Root's statement,

Nor are we willing to permit any arbitration to determine the political policy of the United States in following its sense of right and justice by espousing the cause of this weak people (Panama) against the stronger Government of Colombia, which has so long held them in unlawful subjection.²⁷

The United States claimed that Panama was confederated with the other states of Colombia under terms that permitted

²⁵The United States refused to submit the Colombian claims to arbitration as she had done with the Alabama claims. It was Great Britain who had, at first, refused, believing her honor would be impaired. But later the Alabama claims were arbitrated and found against her. The honor of Great Britain was enhanced throughout the world by the reconsideration of the case. The United States was offered the same chance by arbitrating the claims of Colombia.

²⁶Foreign Relations, 1906, pp. 429-30.

²⁷Ibid., p. 421.

her to keep her sovereignty and independence; that in 1885 the compact that bound her to the other states of Colombia was broken and terminated by Colombia and the Isthmus was subjugated by force and held there against her will until she asserted her sovereignty and independence in 1903.²⁸

Yet these claims seem surprising for the United States had bound herself by the treaty of 1846 to preserve the sovereignty of Colombia over the Isthmus of Panama, and again in 1869 and 1903 the United States had further negotiated with Colombia, as sovereign power over Panama, for valuable concessions in order to construct an isthmian canal through Panama.²⁹

However, in June of 1906, the President of Colombia seemed to do an about face, and suggested that, instead of what he called the impracticability of further arbitration discussions, the two countries begin taking practical steps for the settlement of differences. Reyes was greatly in need of funds and eager to develop the rich Cauca Valley where he had large investments. He recalled Mendoza---ostensibly on a leave of absence--and replaced him with a minister in sympathy with the proposed settlement. Reyes asked that the contemplated appointment of the new minister, Señor Enrique Cortes, and also the preliminary negotiations initiated in Colombia be announced in the newspapers of the

²⁸ Ibid., pp. 420-21.

²⁹ Ibid., p. 431.

United States when Mr. Root returned from his South American visit.

Barrett, United States minister to Colombia, reported that definite action had been taken by a prominent group in the National Commercial Congress, meeting July, 1906, in Bogota, in favor of arranging all pending questions between Colombia and the United States and Panama.³⁰ In this body, apparently representative of the entire republic, were delegates from the Pacific and Atlantic coast departments of Narino, Cauca, Antioquis, Bolivar, Atlantico, and Magdalena. The following proposition was submitted to the conference and adopted unanimously:

We the undersigned commissioners of commerce, agriculture, and industry from the departments of Narino, Cauca, Antioquis, Bolivar, Atlantico, and Magdalena, which are departments that have their litorals, some on the Pacific and some on the Atlantic, hereby make known to the Government the necessity of promptly settling in a manner honorable and convenient to Colombia all questions pending with the United States and with Panama, and we ask that this resolution, which has been approved by the minister of foreign affairs, will be therefore considered by the conference.³¹

Barrett believed this action important enough to cable his government that it was a significant step in framing the public's sentiment for the new treaties.

A special mission was sent to the American Government to negotiate a settlement, that, while the honor would be saved and pecuniary profits omitted, an end would be made

³⁰ Ibid., pp. 434-35.

³¹ Ibid., p. 435.

to the difficulties of the country, and especially those of the coastwise provinces of the Atlantic and Pacific. These instructions were entrusted to Cortes---sent to replace Mendoza who, instead of conforming to his orders, stayed in the United States and made public confidential information harmful to Colombia's best interests. He had published a letter in New York on July 2, 1906, after his removal.

Mendoza's behavior was contrary to Colombia's penal code that declared:

....diplomatic agents of Colombia who commit any crime in a foreign country,....and who commit any act of disobedience or disloyalty to the same government, or any crime during the exercise of their functions, shall be punished according to this code.

and

That in accordance with article 159 of the said code, acts, counsels, or machinations contributing to cause any injury to the nation shall be qualified as treason to the country.³²

It was said further that Mendoza had violated other laws of the nation, that is, violation of secrecy in negotiations and the publishing of information without government authorization. It was said, too, that he had violated another law that prohibited the publishing of anything---even after retiring--without government permission. After finding Mendoza guilty of treason for this crime, his arrest was ordered with any others who may have helped him.

Elihu Root, Secretary of State, planning to visit South America, wished to visit Colombia. The minister (Mendoza)

³²Ibid., p. 437.

did not think it a propitious time. His ideas on the matter were quickly over-ruled, and Root invited to visit the country. Reyes believed such a visit would be of great benefit, not only to the development of Colombia and Ecuador, but to the commercial opportunities and foreign investments of the United States.³³

According to M. B. MacMaster, the American Vice-Consul, Root's visit was pleasing to the whole country and relations between American residents and Colombians greatly improved.

Vasquez-Cobo, Minister of Colombian foreign affairs, said of the visit, "...we receive you as the herald of peace, of justice and of concord."³⁴ To which Mr. Root replied, "...that all questions which exist between the United States of Colombia and the United States of America may be settled peacefully, in the spirit of friendship, of mutual esteem, and with honor for both countries."³⁵

Mr. Barrett, in discussing the improvement of political and business conditions, compared Colombia favorably with Mexico in potential natural resources. He had noted a gradual growth of new friendly feeling toward the United States, even though there was latent bitterness among certain political leaders and the masses of the people. He suggested that if American capital were sent to Colombia as European capital

³³Ibid., p. 440.

³⁴Ibid., p. 441.

³⁵Ibid., p. 443.

was, the people would take it as a desire of the United States to assist Colombia in her development.

In a special report, "Colombia, a land of great possibilities," published in the Daily Circular and Trade Bulletin, he wrote that strong feeling against the United States still existed, but that through the passing years in international relations and generous, fair treatment of Colombia, and in friendly social and commercial intercourse with the United States and its citizens would affect the gradual disappearance. This feeling, he said, did not show itself as personal enmity toward the Americans for the people of all classes were too polite and sensible for that.³⁶

³⁶ Ibid., pp. 443-449.

CHAPTER III

Tripartite treaties, suggested by the United States, between Colombia and the United States and Colombia and Panama, were much more favorable to Colombia than that of the Hay-Herran treaty. It provided that the Isthmian railroad carry members of the Colombian army, army provisions, mail, and the like, under the same conditions as stipulated by Panama with the United States; Colombia was to enter the Canal Zone with products for consumption under the same conditions as the products of the United States; the navy of Colombia was to have free passage--free of all taxes---through the canal whether in domestic or foreign wars; upon the guaranty of the United States, Panama was to pay Colombia \$2,500,000 corresponding to its participation in the foreign debt; and the boundary was to be the same as that determined by the law of June 9, 1855. Panama ratified her part of the treaties on January 30, 1909, but Colombia did not.¹

Dawson, the minister to Bogota, in conversation with a large number of Colombians in February of 1909, could detect no criticism of the terms or indications of intentions to oppose ratification by the National Assembly. Reyes' enemies believed he should call a new election of a bilateral congress, and submit the treaties to it, but there seemed little

¹Foreign Relations, 1910, Washington: Government Printing Office, 1915, p. 362.

likelihood of this happening. The minister had understood that such an action was contemplated, but Reyes consulted his political leaders and these politicians advised against it. Reyes told Dawson, however, that he believed the treaties would pass by an overwhelming majority, or even by an unanimous vote in the National Assembly. They did pass reading in a public session with no unfavorable developments on February 23.

The minister of foreign affairs, in an exposition to the National Constituent and Legislative Assembly, presented a rather realistic viewpoint along economic lines when he said,

....In order to arrive at the results now achieved.... we should, rather than complain over the cruel mutilation of our territory, that wounded our patriotism and caused national grief, pay attention to the imperious and not-to-be-forgotten necessities of the future....²

On March 6 and 7 of the same year, many clandestine meetings were held by those opposed to the Reyes administration and to ratification of the treaties. Plans were formed for popular demonstrations to be made when the expected majority report was given by the committee. In writing to his Secretary of State, Dawson said, in a personal interview with Reyes on the 7th of March, the President's words were confident but his manner irresolute and nervous.³

²Ibid., p. 367

On March 8 the committee made its report. Of the eighteen members, fourteen favored unconditional ratification, three ratification with amendments, and one opposed the treaty en bloc. A minority report was given, charging that the treaties were deceitfully drawn so that the ports of Cartagena and Buenaventura were to be given the United States;⁴ and that the boundary provision in regard to the Jurado region⁵ meant that the United States and Panama intended to grab all the territory through which a canal up the Atrato could reach the Pacific. This news spread like wildfire and the minority leader's bitter denunciation of the attitude of the United States when Panama declared her independence found ready audience among the peoples of the capitol.

That evening the students of the different university schools, with the knowledge and encouragement of many of their professors, demonstrated throughout the city. The next morning the streets were filled with excited crowds of townspeople and students, crying, "Down with the treaties," and "Death to the United States."⁶

At two o'clock in the afternoon, about forty students went to the United States legation and all crowded in when the doors were opened. When the minister received them they were very polite, with three leaders of the faculties of law, medicine, and arts making speeches. The substance of the addresses

⁴Ibid., p. 384.

⁵State reconquered from Panama by Colombia and held by them.

⁶Foreign Relations, pp. 384-85.

was that, since liberty of the press did not exist in Colombia under Reyes' administration, they and all other honest Colombians had no other means of letting the United States know they were opposed to the treaties, because Colombian recognition of Panaman independence would dishonor and disgrace her, and too the assembly considering the treaties was an unconstitutional body whose members had been appointed by the president and whose servile cooperation was guaranteed by the granting of offices and favors.⁷ The incident was not reported, but soon after, heavy detachments of police were placed in front of the legation. Throughout the afternoon disorder continued in parts of the city with numerous arrests made. The excitement, rioting, and arrests continued on March 9. The rioters were restrained with difficulty from harming members of the assembly.

On the afternoon of the same day an acrimonious debate was held in the assembly on a motion to postpone consideration of the treaties. The ministry of war was offered to Fernandez, the ruthless conservative general who had executed so many liberals in 1901-1902 when he was in charge. He declined, however, and another conservative general, Perdono, of much the same caliber and record, was chosen. This appointment was met with such a storm of protest that it was withdrawn. Reyes issued a decree placing the maintenance of order in the city directly in the hands of the minister of war. It was

⁷Ibid., pp. 385-86.

feared he was going to suppress the disorders and pass the treaties. Many of the members of the committee were becoming frightened, while others saw a chance to replace Reyes and put themselves in control.⁸

The student demonstration continued with the lower classes beginning to take part. While arrests were numerous, the prisoners, in all cases, were soon released and no vigorous measures taken to restore order. A new cabinet was formed, for it was becoming clear that several of the majority members were weakening on the treaties' passage. Telegrams from all over the country continued to pour in advocating their passage, but little attention was paid them for it was well known that these messages were sent in response to government solicitation.⁹ In the absence of a free press or any other organ of public opinion, it was impossible to tell what were the true beliefs of the country. It was certain that the people in the provinces were even less informed of the real intent and substance of the treaties.

On the morning of March 13 President Reyes invited some of the students to the palace, thinking to get them in a better frame of mind. But, instead of discussing the treaties as he had hoped, they examined his financial policies, his establishment of monopolies, his suppression of a free press, and his refusal to give Colombia an elective congress. Reyes, living for four years in an atmosphere of enforced adulation--

⁸ Ibid., p. 386.

⁹ Ibid., p. 387.

not accustomed to criticism or suggestion--took the suggestions very badly. Soon after this visit, the news of Reyes' resignation from the presidency came as a surprise to everyone.¹⁰

Holguin took office as Acting President and appointed a new cabinet. The members of the assembly were advised to refrain from further consideration of the treaties. The police were ordered not to interfere with popular demonstrations, and, as a result, anarchy broke loose with the hatred turned against Reyes. Later, on the same evening, Reyes called the United States legation, asking that Dawson come to the palace at eight o'clock for consultation. "This fact is my principal reason for suspecting that his resignation had always a string to it," wrote Dawson to his Secretary of State. About half an hour later another call came saying the meeting would not be necessary.¹¹

Vazquez Cobo, former minister of war whose house had been wrecked by a mob, denounced Reyes and Holguin as cowards and traitors to their friends, then offered to put himself at the head of the troops. Reyes asked Cobo if he would accept the position of minister of war, and, on his affirmative answer, Reyes again assumed the presidency.¹²

At the same time a group of politically and socially prominent persons were meeting at the jockey club, lambasting

¹⁰Ibid., p. 387.

¹¹Diplomatic History, p. 212.

¹²Foreign Relations, p. 387.

Reyes. These proceedings were interrupted by the arrival of troops who arrested nearly everyone and carried them off to prison. The troops continued through the city dispersing and arresting groups of students and workmen, with several persons killed and injured. Reyes put in command Colombia's three most dreaded generals, Cobo, Fernandez, and Perdono. The malcontents were so terrorized that the city became quiet.

Two days later Cobo assured the United States minister that the treaties would be pushed through at once if Panama would define the Jurado region. However, the minister found Reyes not disposed to push through the agreements. Dawson said he regretted having to admit that a decidedly strong popular opposition to the treaties had developed, complicated with the dissatisfaction at the financial policies of the government, the centralizing tendencies, its interference with the liberties of the press, and the refusal to provide an elective congress. Those opposed to the government had succeeded in arousing latent popular feeling that had never ceased to exist against the leaders of Panama, who had taken part in declaring independence, and against the United States who had helped them.¹³

By March 19 the city had apparently returned to normal. Most of the prominent prisoners had been released, the state of seige lifted, and the guard removed from the United States legation.

¹³Ibid., p. 388.

President Reyes, addressing the National Constituent and Legislative Assembly on March 24, 1909, declared that relations with foreign nations were part of domestic policy, that the government, in the past five years, had never ceased to labor for an honorable and suitable settlement of the pending questions, but believed it had now succeeded with the treaties they were to consider.¹⁴

On March 25 Dr. Urrutia, minister for foreign affairs, told Dawson that President Reyes was about ready to push the treaties through the assembly, and that it would be done without warning or further debate. Then the President called together--in small groups, those upon whom he could rely--to sign a document agreeing to complete ratification on March 29. News of this action spread rapidly and the opposition began quietly and determinedly to organize. Their efforts were made the more formidable by the action of the trade unions who were very bitter over the police killing some of their members during the riots. The students cooperated in a body with the opposition.¹⁵ Many members of the assembly received warnings that they would be assassinated if they obeyed Reyes.

Favoring the treaties and Reyes' policies, the archbishop--through confessionals--received proof that the city would be in revolt in twenty-four hours. He wrote advising Reyes to call Congress immediately and to withdraw the treat-

¹⁴Ibid., p. 383.

¹⁵Ibid., pp. 391-92.

ies in the interest of peace. Whether this influenced Reyes is not known, but he did announce that he had changed his mind, would cease considering the treaties, and would call Congress for July 20, with congressional elections to be held on May 30 of that year. If the government should win and peace continue, Reyes hoped that Congress would approve the measures.¹⁶

Dawson pressed for action on the agreements, but his work was fruitless. Of the opinions he heard expressed or written, he declared "...it must be remembered that in this country, so long accustomed to suppression of the liberty of the press, adverse opinions are more likely to be ventilated in conversation than in the columns of the newspapers."¹⁷ He believed that the chances were against the treaties if they became the principal issue in the elections. President Reyes suddenly decided not to bring them up in July, but to wait until February, 1910.

In October the government of Colombia wanted the United States to withdraw them, since there seemed no hope of passage. The feeling in the country against the treaties and the United States was very bitter. The majority of the Senate then in session was undoubtedly against the agreements. But as Elliott Northcott, the United States minister, in writing to the State Department said, "This, however, is a country of startling and unexpected political changes, and it is

¹⁶Ibid., p. 392.

¹⁷Ibid.

impossible to foretell what may happen."¹⁸

In 1910 the President again suggested the passage of the treaties, but nothing was done. In President Restrepo's message to Congress July 20, 1912, he said there was reason to hope that the sympathy for Colombia's cause in the United States might result in honorable and just settlement of differences.¹⁹ However, Colombia still refused to ratify the existing treaties.

Since events had demonstrated the unlikelihood of agreement by direct results, Ospina, minister of Colombia, proposed a simple convention or treaty of arbitration to adjust the differences, thus bringing to an end the anomalous state between the two nations, and placing them on a more cordial footing, not only politically, but economically and commercially as well.²⁰

It is recognized that disagreements arising from interpretations of treaties are especially suitable for arbitrations, an aphorism that Theodore Roosevelt expressed in Outlook,

In general the interpretation of a treaty is pre-eminently a matter for arbitration of when the contracting parties disagree about its true meaning. Ordinarily this interpretation is a judicial act of the class adopted for submission to an arbitral

¹⁸ Ibid., pp. 400-01.

¹⁹ Foreign Relations, 1912, p. 225.

²⁰ Foreign Relations, 1913, p. 284. Referring to the disturbances that were rampant during the time the treaties of 1909 were before the public, the minister who signed them thought it expedient to stay out of the country, and did so until 1911. He had been unsuccessful in a previous attempt.

tribunal.²¹

Then in the Second Conference of The Hague, in which the United States took a very active part, the nations proclaimed and made a permanent record of that doctrine when the contracting parties declared in the Pacific Settlement of International Disputes, article 38, that in questions of a legal nature, and especially in the interpretation or application of international conventions, they recognized arbitration as the most effective and, at the same time, the most equitable means of settling disputes where diplomacy had failed.²²

President Taft, in addressing the American Peace and Arbitration League, said that he found some exceptions in the United States treaties of arbitration to submitting questions of honor, but that he, personally, saw no reason why such issues could not be referred to arbitral courts,²³ just as those concerning public or private property. Later, in addressing the American Association for International Arbitration, Taft said,

If we now should succeed in concluding with some great nation an express convention for the submission to an international tribunal of arbitration of any controversy that we could not settle by means of negotiations, no matter whether it involved questions of honor, territory, or money, we

²¹Ibid., citing The Outlook, October 14, 1911.

²²The Proceedings of The Hague Peace Conference, Vol. I. New York: Oxford University Press, 1920, p. 414.

²³See also: Address of President Taft on international arbitration at Marion, Indiana, July 3, 1911; Senate Document, No. 79, 62 Cong., 1st Sess., Vol. 29. Washington: Government Printing Office, 1911, p. 4.

should take a long step toward demonstrating that it is possible at least for two nations to establish as between themselves the same system of legal procedure which exists between individuals under the jurisdiction of the same government.²⁴

Ospina observed that if this policy were applicable to great nations, then it should be relevant to a small, poor nation such as Colombia.²⁵

James T. DuBois, United States Minister to Colombia, made an informal proposal to the Colombian Government in an effort to settle the difficulties between the two countries. His plan consisted of five points: one, the completion of the tripartite treaties by Colombia; second, the payment of \$10,000,000 to Colombia for an option to construct an inter-oceanic waterway by the Atrato route, and for the privilege of coaling stations on the Island of San Andreas or Providencia; third, the good offices of the United States in the settlement of all disputes between Colombia and Panama; fourth, the arbitration of the claims of Colombia to reversionary rights to the Panama railroad; fifth, the granting of extraordinary preferential rights of Colombia in the Panama Canal. To all these suggestions the minister of Colombian Foreign Affairs, Mr. Urrutia, promptly said, "No." His government wanted the questions settled by arbitration or the payment of adequate reparations for her loss of Panama.²⁶

²⁴ Foreign Relations, 1913, p. 286.

²⁵ Ibid., p. 287.

²⁶ Ibid., pp. 289-96.

In a conference of North, Central, and South American nations, meeting in Washington in 1890, it was unanimously declared that "The Republics of North, Central, and South America hereby adopt arbitration as a principle of American international law for the settlement of differences, disputes or controversies that may arise between two or more of them." And "Arbitration shall be obligatory in all controversies concerning diplomatic or consular privileges, boundaries, territories, the rights of navigation and the validity, construction and enforcement of treaties."²⁷ Even though these principles were not ratified, it seems significant that they were unanimously approved by all the nations of the Americas.

The whole question of the differences between Colombia and the United States lay in the interpretation of the treaty of 1846. Senator A. L. Bacon suggested arbitration,²⁸ since the United States had signed the Convention of The Hague, October 18, 1907, for the peaceful settlement of international disputes; and, by article 38 of the Convention, all disputes over the interpretation, execution and violation of public treaties were to be submitted to arbitration.

In the message of President Carlos E. Restrepo to the Colombian Senate, July 20, 1913, he advised them of the change of government in the United States and the hope for settlement of differences. He also told them that, since the isthmian canal was near completion, it would be desirable to cultivate

²⁷James B. Moore, History and Digest of International Arbitration, Vol. II. Washington: Government Printing Office, 1895, p. 2113.

²⁸Congressional Record, 58 Cong., 2nd Sess., Vol. 38, Part 2. Washington: Government Printing Office, 1904, p. 1367.

frankly cordial relations with the United States, and especially because the conspicuous development and progress of Colombia, particularly the maritime provinces, depended on an understanding with them.²⁹

The Colombians were very hopeful that matters would be concluded satisfactorily with the advent of Mr. Wilson and Mr. Bryan. They had been favorably impressed with Mr. Bryan's statement that, "The Lord made us neighbors, let justice make us friends."³⁰ Bryan further said in an agreement submitted to foreign nations on arbitration that all questions, when diplomatic efforts failed, be submitted for investigation and report of an international commission. This agreement was to be an enlargement of existing arbitration treaties.³¹

On September 29, 1913, Secretary of State Bryan authorized the American Minister, Thaddeus A. Thompson, to offer the Colombian government \$20,000,000 in full payment for all claims and differences between her and the United States. These terms, having a favorable reception in Colombia, the Minister with the help of the President and Committee on Foreign Affairs set out to devise a counter-proposal, acceptable to the United States. This draft was to contain at least four articles, embodying, one: moral reparations;

²⁹Foreign Relations, 1913, p. 317.

³⁰Ibid., p. 310.

³¹William J. Bryan, "Our Foreign Policy," The Independent, Vol. 76 (October, 1913), 73-75.

two: preferential privileges in the canal; three: fixation of boundary lines; and four: money indemnification. In the canal rights, she asked free transport privileges in perpetuity for all merchant, war and troop ships, and materials of war ships free of duty. On article three, the boundary line between Panama and Colombia should be 79 longitude west of Greenwich. By article four, \$50,000,000 was to be the indemnity. This included the indemnities owed Colombia through annuities due her under the Panama railway contract (\$250,000 for 66 years); eight annuities of \$10,000 with the Railway Company of 1880; rights of Colombia to acquire the canal property at the end of the ninety-nine years' concession; the rights of Colombia for these ninety-nine years of an annuity of \$250,000; reversionary rights in the Panama Railway, \$15,416,000. All these payments, for the years between 1903 and 1910, had not been paid Colombia, who agreed to give them up if she were paid the indemnity.³² These ideas of the counter-proposal included the views of the Committee on Foreign Affairs, composed of representatives of all political parties, and may be deemed to include Colombia's maximum desires.³³

Colombian President Restrepo, in his August 15, 1914, message to Congress, repeated the instructions he had given Thomson--that no settlement could be initiated except on the basis that Colombia should make no concessions to the United

³²Foreign Relations, 1913, pp. 324-27.

³³Ibid., pp. 321-23.

States since she owed nothing. Thomson answered that he had instructions from his government to request nothing. Upon this basis began the discussion for the new treaty.³⁴

There was a huge amount of work in the negotiations over a treaty acceptable to both Colombia and the United States, ironing out minor and easily misinterpreted details. This was carried on by Mr. Thomson and members of the Colombian government. Propositions and counter-propositions were freely submitted until a workable treaty began to evolve.

This treaty was to consist of four main articles, with article one expressing regret by the United States over the situation arising from the Isthmus of Panama and the acceptance of this declaration by Colombia with the full assurance that every obstacle to restoration of full harmony between the nations would disappear. (This was what Colombia had been striving for during the period from 1903-1914.) By article two tax, toll, and duties were determined with Colombia paying no more than that paid by the United States. Included in these were Colombian war supplies, mail, products of the soil, coal, sea salt and petroleum. Colombian citizens were exempt from tax, toll or duty on crossing the Canal Zone other than that paid by United States citizens. If the canal traffic were to be interrupted, Colombia was granted the right to use the railways of the canal except in case of war between Colombia and Panama. By article three, the United States agreed to pay Colombia \$25,000,000 gold United States money, six

³⁴Foreign Relations, 1914, p. 142.

months after the exchange of the ratification. And by article four the Republic of Colombia recognized the independence of Panama and agreed that the boundary line should be that of June 9, 1855. When this treaty was ratified by both the United States and Colombia, the United States was to see that Panama negotiated a treaty of friendship with Colombia.³⁵

Two of the main points of controversy were those concerning indemnity and debts. The United States promised \$25,000,000 as a final figure if Colombia would accept. On the other hand, Colombia wanted \$25,000,000 paid within six months plus \$5,000,000 more paid within a year, the last named sum to be used in public works in Cartagena and Buena Ventura. The otherwise controversial subject of any magnitude was that concerning the adjustment of all questions of pecuniary liability between the two countries of Colombia and Panama; this last difficulty was one where clearness of statement was the main object, so there could be no misinterpretation. Colombia finally agreed to the \$25,000,000 as the total indemnity.³⁶

The treaty was concluded in Bogota April 6, 1914,³⁷ by the Colombian Consultative Committee of the Foreign Office, a committee representing all political parties. The President of Colombia then called a special session of Congress for May 1 to consider the treaty. The question of a suitable title came up for discussion, and "Treaty between the United States

³⁵Foreign Relations, 1914, pp. 163-64.

³⁶Ibid., pp. 140-55.

³⁷Julio Betancourt, Colombian minister, wrote Secretary of State Bryan that the bases of the treaty did not meet Colombia's claims, but that this was only his own personal opinion.

of America and the Republic of Colombia for the settlement of their differences arising out of events which took place on the Isthmus of Panama in November, 1903,"³⁸ was agreed upon.

The hour for signing the treaty was kept secret--5:30 P.M., April 6--but the evening papers were able to announce completion of the agreement, with all but two of the capital's newspapers expressing satisfaction over the ratification. The general public seemed to be pleased and confidentially expected the treaty to be ratified by the Colombian Congress with little opposition. This was done June 8, 1914, by that body without amendment.

Treaty opponents in Colombia instituted supreme court proceedings to test the constitutionality of the law by which the Congress had approved the treaty. Mr. Thomson attached no importance to the action, calling it "...the last weapon that remained to the opponents of the treaty."³⁹ The Supreme Court decided that it was disqualified to consider the matter.

The delay of ratification of the treaty by the United States Senate caused Colombia great concern. When Dr. Jose Vicente Concha assumed the presidency, his administration was faced with a deficit of \$3,000,000 and an empty treasury. Thomson wrote Bryan that if the agreement could be ratified, with an amendment added to pay the indemnity by installments, the results would be especially felicitous for Colombia. To this request Secretary Bryan replied that if any votes could

³⁸Foreign Relations, p. 156.

³⁹Foreign Relations, 1914, p. 165.

be gained for the treaty through payment by installments, he would let Thomaon know.⁴⁰ But the convention was not ratified by the United States Senate for many years, then not until the United States oil interests began to exert pressure on that body did the treaties pass in the United States in 1921.⁴¹

⁴⁰ Ibid., p. 168.

⁴¹ Senate Document, 67 Cong., 4th Sess., Vol. 8, Washington: Government Printing Office, 1923, p. 2538.

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