

THE UNITED STATES AND THE BOUNDARY DISPUTE BETWEEN  
PANAMA AND COSTA RICA

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THE UNITED STATES AND THE BOUNDARY DISPUTE BETWEEN  
PANAMA AND COSTA RICA

By

JAMES CANNON

Bachelor of Science

Oklahoma Agricultural and Mechanical College

Stillwater, Oklahoma

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APPROVED:

Watt Stewart

In Charge of Thesis

T. H. Reynolds

Head of Department of History

H. M. Intosh

Dean of Graduate School

## PREFACE

This is an attempt to present in an objective way the history of the troublesome boundary dispute which had existed between Panama and Costa Rica for more than a century, and has greatly complicated the relations between these two republics and the United States for the past fifty years.

Materials for making this study have been available in the library of the Oklahoma Agricultural and Mechanical College. The Foreign Relations of the United States have been extensively used.

Immeasurable help has come to me from the staff and resources of the college library. Miss Grace A. Campbell and Miss Margaret Walters have been especially kind and considerate.

Dr. Watt Stewart has given unreservedly of his time and patience. His suggestions and criticisms have made this work possible.

J. C.



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The United States and the Boundary Dispute Between  
Panama and Costa Rica

CHAPTER I

Early Attempts At Settlement

The majority of the Hispanic American countries have inherited from their mother country, Spain, indefinite boundaries which have been the source of agitation, sectional strife, and actual warfare. This is true of the bellicose, high tempered Central American countries as well as of the larger nations of South America. The government of the United States became interested in Central America because of its strategic position, which was favorable for the location of a canal, about which the engineers as well as the majority of the forward looking people dreamed and which they thought would, some day, become a reality. The United States has been an important influence in the affairs of the isthmus since the signing of the treaty with New Granada in 1846. This influence has been felt particularly in connection with the Panama-Costa Rica boundary dispute from 1880 until its adjustment in 1921. Whether this settlement is permanent remains to be seen.

This dispute had its foundation in colonial times. Spain divided its colonies in the new world into various forms of administrative divisions: viceroyalties, captaincies-general, presidencies, and governorships. When the Hispanic American countries won their independence early in the

nineteenth century, they recognized as their boundary lines the uti possidetis of 1810. This meant that their boundaries would be the same as the boundaries limiting the different provinces in 1810. These boundaries were inadequately surveyed, if at all, and obviously many boundary lines could not be marked out with any degree of accuracy. This situation gave rise to the numerous controversies over boundary lines.

In this way the controversy between Panama and Costa Rica came into existence. The unsettled boundary between these two provinces was discussed frequently during the colonial period, and attempts were made to settle the question before the present Central American countries won their independence.

The present territory of Costa Rica was under the jurisdiction of the captain-general of Guatemala previous to the declaration of independence in 1821, while the present state of Panama was administered by the viceroy of New Granada. These two officials had disagreements over the boundary line which separated their provinces. The claim of the captain-general of Guatemala was based on the orders of the Spanish king, known as cedulas, proclamations issued in the years of 1540, 1573, and 1600. According to these cedulas his jurisdiction would extend, on the east coast, to the Island of Escudo de Veragua opposite the mouth of the Chiriqui River. The claim of the viceroy of New Granada, on the west coast, was denoted by a line drawn from Golfo Dulce to Cape Gracias a Dios. This claim, based upon the royal orders of 1803,

would have included practically all of the Pacific coast line of the present countries of Costa Rica and Nicaragua.<sup>1</sup>

All of the Central American countries, except Panama, declared their independence from Spain on September 15, 1821. After joining Mexico for a short period they established the Republic of Central America, whose precarious existence lasted from 1823 to 1838. New Granada declared its independence from Spain in 1811, and Panama was annexed to it in 1821.<sup>2</sup>

After the countries had definitely established their independence, the problem of marking undefined boundaries arose. Direct negotiations for the settlement of these disputes began early. The first negotiations resulted in the signing of the Gual-Molina Treaty of 1825. This treaty was unpopular with both governments and failed to be ratified by the respective legislatures.<sup>3</sup>

Meanwhile the Republic of Central America had ended its existence, and the present small separate nations appeared upon the map of Central America. Costa Rica fell heir to this boundary dispute, and its first attempt directed toward

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<sup>1</sup>"Protocol for the Settlement of the Costa Rica-Panama Boundary Dispute," Bureau of Pan American Republics, Bulletin, XXX (April, 1910, No. 4), 633-635.

<sup>2</sup>Charles E. Chapman, Colonial Hispanic America (N.Y. 1933), pp. 250, 299.

<sup>3</sup>Foreign Relations of the United States with the Annual Message of the President, 1910 (Washington 1915), p. 100. (Hereafter referred to as U. S. F. R.).

the settlement of the question resulted in the signing of the Gerron-Calvo Treaty with New Granada in 1856. This treaty also failed to be ratified by the republics concerned.<sup>4</sup>

Further direct negotiations resulted in the signing of two other treaties: the Venezuela-Castro Treaty of 1865, and the Correso-Montufar Treaty of 1876. These treaties were likewise unsatisfactory, and the respective governments rejected them.

In 1880 attention was again turned toward the question when a dispute over the Coto region on the Pacific side threatened the tranquillity of the countries and a rupture seemed imminent. Mr. Dichman, American minister to Bogotá, kept the state department informed of the conditions and developments of the boundary dispute. As early as August 14, 1879, he had written to the secretary of state that the boundary dispute which had so long existed between Costa Rica and the state of Panama, one of the constituents states of the Colombian union, had lately entered upon a new stage, as an invasion of Colombian territory, by parties acting under the authority of the government of the state of Costa Rica, had been reported.<sup>5</sup> A conflict was avoided, however, when these two countries decided to settle the controversy peacefully. Both countries had become convinced, by this time, of the futility of direct negotiations, and they decided to resort to arbitration. The first arbitration convention resulted

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<sup>4</sup>Ibid., p. 785.

<sup>5</sup>Ibid., 1880, pp. 325, 326.

in the signing of the Quijano Otero-Castro Convention.

By the terms of this arbitration convention the king of Belgium was designated to act as arbitrator of the boundary dispute. In case of his non-acceptance of the trust the king of Spain was to be requested to assume the obligation, and in the event the latter should decline, the president of the Argentine Republic was to be solicited to accept the office. Both signatories were pledged to execute the award. Article IX of the convention reads:

The arbitrator having heard by oral or written argument...shall emit his decision without other formality, and this decision, whatever it may be, shall be held immediately as a compact concluded, perfect, obligatory, and irrevocable, between the high contracting parties, who renounce formally and expressly all reclamation of whatever nature against the decision of the arbitrator, and oblige themselves to respect and fulfill it immediately, faithfully, and forever, pledging to this the national honor.<sup>6</sup>

The Colombian senate defined the boundary claims of their country in a resolution adopted by that body in 1880. This resolution stated that the claims of Colombia included all of the territory south of a line following the course of the river Golfito from its mouth on the Pacific to its source in the mountains of Las Cruces, thence along the crest of the said mountain to the source of the river Culebra, and thence along the course of that river to the Atlantic.<sup>7</sup>

~ In compliance with the convention of 1880 the offer was

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<sup>6</sup>Ibid., 1881, p. 100.

<sup>7</sup>Ibid., 1880, p. 326.



made to the king of Belgium to act as arbitrator. He declined the post, and for a time the matter remained in suspense. The recent death of the king of Spain, Alonzo XII, had prevented this king from acting in that capacity.

Meanwhile the French had started work on a canal in the Isthmus of Panama. Some of the North American statesmen were disappointed in this project because they wanted the canal to be under the sole jurisdiction of the government of the United States. The activities of the French at least increased the interest of the United States in the canal. This interest was to become the dominant issue in this government's foreign policy for the next two decades. But the interest displayed by the United States, was not suddenly expressed or developed; it had existed for years. In 1846 New Granada had become alarmed by British activities in Central America, when the latter declared a protectorate over the Mosquito Coast, territory which was located near the state of Panama. Therefore, New Granada (now Colombia) gladly made a treaty with the reluctant government of the United States by which New Granada guaranteed to the latter transit across the isthmus by any means of communication then existing or later to exist. The government of the United States in return guaranteed the independence of the province of Panama and the sovereignty of New Granada over it.<sup>8</sup> Now the United States was anxious for the boundary

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<sup>8</sup>Francis Wharton, Digest of International Law (Washington 1886), II, 145; Hunter Miller, Treaties and Other International Acts of the United States of America (Washington 1937), V, 115-145.

between Panama and Costa Rica to be settled so that it would know the extent of the obligations assumed under the treaty of 1846.

James G. Blaine, secretary of state, in a note to the American minister to Colombia, declared that the settlement of this boundary line would determine whether the islands in the neighborhood of Boco del Toro, on the Atlantic coast, and the Gulf of Dulce, on the Pacific, would be within the territory of the state of Panama or of the republic of Costa Rica. This contention, stated Mr. Blaine, involved the question as to whether certain portions of the littoral on both oceans, lying in the neighborhood of some of the projected interoceanic communications, belonged to the state of Panama, the neutrality and territorial integrity of which the United States of America have guaranteed by the thirty-fifth article of the treaty of 1846.<sup>9</sup>

With these points in view the aggressive American secretary of state, pronounced in his letter to the American minister to Colombia, on the date of June 24, 1881, the first public manifestation of interest promulgated by the United States to that republic. Mr. Blaine declared that the United States was interested in the dispute because the government had pledged itself in Article 35 of the treaty of 1846 to maintain the neutrality and territorial integrity of the state of Panama. The secretary of state instructed

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<sup>9</sup>U. S. F. R., 1881, pp. 355, 356.



the minister to:

....take an opportunity...to say to the minister of foreign affairs that the Government of the United States of America cannot satisfactorily account for the absence of any official communication upon a subject in which it is so directly interested...it thinks that its opinion, both as to the character of the submission and the choice of the arbitrator, should have been consulted and considered, and that it will not hold itself bound, where its rights, obligations, or interests may be concerned, by the decision of any arbitrator in whose appointment it has not been consulted, and in whose selection it has not concurred.<sup>10</sup>

At this time Mr. Blaine was more than anxious to see that the treaty of 1846, made between the governments of the United States and Colombia, was enforced. The state department had been receiving information of rumors that Colombia was seeking from European powers, especially England, some sort of a joint declaration on the neutrality of the Isthmus of Panama as well as of Colombian sovereignty over the territory thereof. These rumors created some stir in the state department, and Mr. Blaine lost no time in sending a circular dispatch to the American ministers in foreign countries, which stated that Colombia did not need such a guaranty because, by the treaty of 1846, the United States had already guaranteed the neutrality of the isthmus and that this guaranty required reinforcement, accession, or assent by no other power. Furthermore, he declared that the proposed European guaranty would be offensive to the United States, since the proposed canal would be the chief means of transportation between its Atlantic and Pacific states, and would be to all intents and purposes, a part of its coast line. This being the case the

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<sup>10</sup>Ibid., 1881, p. 356.

passage of armed vessels of a hostile power, through a canal which might be built, during any war to which the United States or Colombia might be a party would be no more admissible than over the railway lines joining the Atlantic and Pacific shores of the United States or of Colombia.<sup>11</sup>

At this time there was a contest going on between the United States and Great Britain over the control of a future canal on the isthmus. The jealousy resulting from this competition caused the United States to insist upon a settlement of the boundary controversy in order to prevent another country from having an excuse to interfere with these republics.

After the failure of the first attempt to arbitrate the matter, the existence of a civil war in Colombia prevented that state from giving any more attention to the dispute until 1886. By this time the urging of the government of the United States combined with the mutual desire of both republics to settle the dispute resulted in the signing of an additional arbitration convention on January 20, 1886. By this convention, signed in Paris, the queen regent of Spain was designated to act as arbitrator. The maximum claims agreed upon by the signatories were described as follows:

Article II. The boundary line claimed by the Republic of Costa Rica reaches, on the Atlantic side, the island Escudo de Veragua and the River Chiriqui (Calobebora), inclusively, and on the Pacific side, River Chiriqui Viejo, inclusively, to the east of Burica Point. The boundary line claimed by the United States of Colombia reaches, on the Atlantic side, Cape Gracias a Dios, inclusively, and on the

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<sup>11</sup>Ibid., p. 357; Graham H. Stuart, Latin America and the United States (N. Y. 1922), pp. 66, 67

Pacific side, the mouth of River Golfito, in Golfo Dulce.

Article III. The judgment of arbitration is to be confined to the disputed territory within the extreme limits above described, and can not in any manner whatever affect the rights which a third party, not having taken part in the arbitration, may allege to the ownership of the territory comprised within the limits described.<sup>12</sup>

With the exception of the foregoing revisions, and the extension of the time allotted for making the decision to twenty months, the treaty of December 25, 1880, still remained in force.

× The office tendered was accepted by the queen regent of Spain on June 19, 1887. In accordance with the convention of the previous year the arbitrator was allowed only twenty months in which to make her decision, thus her office would terminate on February 19, 1889. This date arrived, and no decision had been pronounced; so the government of Colombia informed that of Spain, through the Spanish representative at Bogota', under the date of October 9, 1891, that since the term fixed for pronouncing a decision had long since expired, its jurisdiction had ended. In consequence of this the queen regent declined to have anything more to do with the matter.<sup>13</sup>

Costa Rica protested the act of the government of Colombia in withdrawing the arbitration from the queen regent of Spain. When the latter republic refused to with-

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<sup>12</sup>U. S. F. R., 1893, pp. 274, 275. For text of the treaty see John Bassett Moore, History and Digest of International Arbitrations (Washington 1895), V, 3857.

<sup>13</sup>U. S. F. R., 1894, p. 188.

draw this note, the foreign minister of Costa Rica, in a letter written on May 18, 1893, solicited the mediation of the United States to the end that the arbitration of the disputed boundary be revived and continued before the queen regent of Spain, as arbitrator, notwithstanding the acceptance of the government of Colombia that the arbitration had lapsed through omission to submit the necessary proofs within the period prescribed by the said conventions. <sup>x</sup> If the government of Colombia would not withdraw its objections then the United States was requested to ask that republic to present the office to President Cleveland. The Costa Rican minister alleged that the United States was, if not a signatory party of the treaties of 1880 and 1886, at least a party quasi-contracting as well as a quasi-protector and a quasi-ally of the republic of Colombia in virtue of article 35 of the treaty of 1846, and that, if armed hostilities should break out between the two republics, the United States would probably come to the aid of the republic of Colombia.<sup>14</sup>

Immediately after the reception of this note from Costa Rica, the secretary of state dispatched a note to Colombia which explained that the government of the United States had maintained friendly relations with both parties to the dispute, and was as indisposed to support the claim of Costa Rica, that the arbitration was still validly open, as it was to accept the converse claim of Colombia, that it had lapsed, and not being in any sense a party to the

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<sup>14</sup>Ibid., 1893, pp. 278-290.

arbitration, it was moved only by the desire to preserve the rights of its citizens in the territory in dispute, and to fulfill the international obligations of existing treaties. The United States was, the secretary stated, by the treaty of 1846 with New Granada, now Colombia, guarantor of the rights of sovereignty and property which Colombia had and possessed over the territory of the Isthmus of Panama, "from its southern extremity until the boundary of Costa Rica." The government was, therefore, interested in knowing the limits<sup>↓</sup> of the guaranty it had assumed, and regarded it as a duty of friendship to do what it could towards the determination of its own rights and duties in respect to a territory the bounds of which were unsettled and in controversy.) His government, the secretary continued, felt constrained, in a spirit of complete disinterestedness, to represent to the government of Colombia its earnest desire and hope that it would waive the comparatively trivial obstacle to the accomplishment of the larger purpose of amicable arbitration, which they have both advocated, and that they would come to an understanding whereby that high aim should be realized either by the continuance of the arbitration under the queen regent of Spain, or if her majesty should be indisposed to renew the functions, by resort to any impartial arbitrator.<sup>15</sup>

<sup>x</sup> Minor friction appeared again in 1894 when Costa Rica violated the status quo by sending agents into the disputed territory. Several letters were dispatched to Costa Rica

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<sup>15</sup>Ibid., 1894, p. 181

by Colombia which alleged that the former republic was performing jurisdictional acts on the right bank of the river Sixaola, which was recognized by both republics as the line of the status quo. If this violation of the status quo should continue Colombia threatened that it would be forced to proceed to positive acts in defense of the inviolability of the said territory. It was not to be supposed, however, in fairness to Costa Rica, that it would be necessary to proceed to such extremes. Costa Rica was requested to do all in its power to stop this occupation of Colombian territory by Costa Rican citizens.<sup>16</sup>

Colombia defended its act of withdrawing the arbitration from the Spanish government by saying that the boundary dispute would remain unsettled if either republic tried to insist upon and adopt a treaty which was faulty or illegal in any way whatsoever. This republic continued to argue that, if the admission of the lapse of the treaties had involved the breaking off of all negotiations concerning the pending dispute, there would be some reason for claiming that Costa Rica's arguments, however defective, should continue to serve as a basis in this matter. But as Colombia had declared her wish that they be renewed and amended, all claim to the contrary failed to be just or proper. The minister of Colombia also stated that his government had kept within the limits of its rights; while Costa Rica, on the other hand, had constantly provoked dissensions by attempting

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<sup>15</sup>Ibid., 1894, p. 181.



to extend its jurisdiction further than it was authorized to do. Colombia wanted a new treaty instead of the revision of the old ones in order that definite instructions could be agreed upon to guide the work and payment of the technical commissions that were necessary for the tracing of the final boundary line. This republic also pledged itself to respect all rights and property of a third party; thereby trying to make the United States feel at ease in respect to the property owned by American citizens in the disputed district.<sup>17</sup>

As the status quo boundary line was not well defined, the governments of Colombia and Costa Rica were constantly getting notifications that the other government was doing some act in violence of the status quo. Thus the unsettled boundary was a constant source of irritation.

After Colombia signified its willingness again to arbitrate the question, negotiations were resumed, and finally, on November 4, 1896, another convention was signed by Messrs. Jorge Holguin and Ascención Esquivel, representatives respectively of the governments of Colombia and Costa Rica. This convention was signed only for the purpose of carrying out the previous conventions of December 25, 1880, and January 20, 1886. In the last paragraph the signatories agreed to this clause:

The arbitral award, whatever it be, shall be considered as a perfect and binding treaty between the high contracting parties and shall not be subject to any appeal. Both parties pledge themselves to carry it out faithfully and waive any protest against

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<sup>17</sup>Ibid., p. 188.

the decision, to which end they pledge the national honor.<sup>18</sup>

The two previous conventions were to remain in full force, and a new arbitrator was chosen by designating the president of France to act in that position.

The Spanish-American war absorbed the attention of the state department of the Washington government, and no further correspondence was issued until after President Loubet had delivered his award. M. Loubet had accepted the high office in the manner prescribed by Article 4 of the convention, and the arbitration proceedings were begun within the period fixed. After the parties had been heard and the respective allegations of each litigant had been transmitted to the other party, M. Emile Loubet rendered his award at Rombouillet on <sup>y</sup>September 11, 1900.

This award defined the boundary in these terms:

The boundary between the Republics of Colombia and Costa Rica shall be formed by the spur of the mountain range starting from Cape Mona on the Atlantic Ocean and closing on the North the Tarire River Valley in the Sixaola River; then by the ridge dividing the waters between the Atlantic and Pacific to 9° of latitude approximately; it shall then follow the line which separates the waters of Chiriqui Viejo and the affluents of Dulce Gulf, terminating at Burica Point on the Pacific Ocean.

With respect to the islands, groups of islands, islets, and bars situated in the Atlantic Ocean in the vicinity of the coast to the east and southeast of Mona Point, these islands whatever may be their number and area, shall form part of the Colombian jurisdiction, and those situated to the west and northwest of said point shall belong to the Republic of Costa Rica.

On the Pacific Ocean Colombia shall likewise

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<sup>18</sup>Ibid., 1910, p. 785.



possess all the islands situated to the east of Burica Point, counting from and including Burica Islands, and those to the west of said point are awarded to Costa Rica.<sup>19</sup>

President Loubet's award gave to Costa Rica a strip of territory on the Pacific side (the erstwhile Panamanian Coto district) claimed by Panama. This line and the award of the islands were acceptable to both parties, but Costa Rica vehemently protested against the line on the Atlantic, which left a similar strip of Costa Rican territory to Panama. Loubet had selected a mountain spur running from the central cordillera to the Atlantic instead of the former northern boundary of Colombia marked by the Sixaola River. This gave Colombia a fertile but practically uninhabited and uncultivated territory lying between the mountain spur and the Sixaola River.) Costa Rica immediately registered this protest:

The sentence is both vague and indefinite...the award in what it refers to the boundary line on the Atlantic side offered grounds to various interpretations, among them to that given to Colombia, which goes beyond the limit of the disputed territory--a pretension, by the way, that if it would prevail, would dispose of all the legal force of said award, as it would bring forth the defect of ultra petita, which, as it is well known would cause the invalidation of any sentence of this nature.<sup>20</sup>

After Costa Rica registered its protest the two republics agreed informally to maintain the status quo of the

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<sup>19</sup> Ibid., 1910, pp. 786, 787.

<sup>20</sup> Ibid., p. 777.

year 1880, which, as we have seen, was not well defined and caused additional disputes.

It should be noted that Costa Rica did not give a second thought to the pledge, "to carry it [Loubet award] out faithfully and waive any protest against the decision, to which end they pledge the national honor." This is probably the general attitude of the Caribbean countries to pledges made if, later, they conflict with the republics' desires or policies.

## CHAPTER II

### Early Arbitration with Panama

Between 1899 and 1902 Colombia was suffering from a period of internecine wars, and was unable to devote close attention to the boundary.<sup>1</sup> Peace was restored in 1902 only to have Panama again revolt, this time successfully. This revolt permanently removed from Bogotá the negotiations concerning the boundary dispute.

The desire to control the isthmian canal has been the feature that has decided the Caribbean policy of the United States in the past and which continues to influence that policy. The events of the year 1903 greatly magnified the interest displayed by the government of the United States toward the small, turbulent nations of Central America.

After the signing of the Hay-Pauncefote treaty, President Roosevelt was determined to build an isthmian canal. To this end congress passed an act authorizing the president to secure the property of the French Canal Company and also the perpetual control of a strip of land across the Isthmus of Panama. If these conditions could not be secured for a reasonable sum and within a reasonable time the adoption of a Nicaraguan route was authorized.<sup>2</sup> The Colombian senate

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<sup>1</sup>Howard C. Hill, Roosevelt and the Caribbean (Chicago 1927), pp. 37, 38.

<sup>2</sup>U. S. Statues at Large, XXXII, Part I, pp. 481-484; Theodore Roosevelt, "How the United States Acquired the Right to Dig the Panama Canal," Outlook, XCIX (1911), 351.

refused to ratify the Hay-Herran treaty, which would have given to the United States this coveted desire,<sup>3</sup> and the officials of the French Canal Company had little difficulty in persuading the citizens of Panama to revolt.<sup>4</sup> This revolt took place on November 3, 1903.<sup>5</sup> Panama was immediately recognized by the United States, November 6. On November 16, Panama adopted a constitution by which the Loubet award was accepted as the correct boundary. This constitution was acceptable to the United States. Article III defined the boundaries of Panama as follows:

The territory of the Republic is composed of all the territory from which the state of Panama was formed by the amendment to the Granada constitution of 1853, on February 27, 1855, and which was transformed in 1886 into the Department of Panama, together with its islands, and of the continental and insular territory which was adjudged to the Republic of Colombia in the award made by the President of the French Republic on September 11, 1900. The territory of the Republic remains subject to the jurisdictional limitations stipulated or which may be stipulated in the public treaties concluded with the United States of North America for the construction, maintenance or sanitation of any means of interoceanic transit.<sup>6</sup>

On February 26, 1904, the United States signed with Panama the Hay-Bunau Varilla treaty by which the former acquired a right of way across the isthmus. In this treaty was an important clause, which was to have important bearing upon the boundary dispute with Panama and Costa Rica, because

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<sup>3</sup>Hill, op. cit. p. 48.

<sup>4</sup>Philippe Bunau-Varilla, Panama, the Creation, Destruction, and Resurrection (N. Y. 1920), pp. 320-330

<sup>5</sup>House Document No. 8, 58 Cong., I sess., I, 10.

<sup>6</sup>Senate Document No. 208, 58 Cong., 2 sess., Vol. 6.

it gave the United States a right to interfere in the government of Panama. This clause reads: "The United States guarantees and will maintain the independence of the Republic of Panama."<sup>7</sup> With this exchange of ratifications Panama became a member of the family of nations, and in only a short time was so recognized, by all the leading nations. It was not, however, recognized by Colombia.

By becoming independent Panama assumed all the rights and obligations resulting from the compacts which Colombia had concluded with Costa Rica, or from awards arising from such compacts. This condition was recognized by Costa Rica in a note addressed to Panama on April 6, 1904, which reads:

The independence of the Republic of Panama has now permanently withdrawn from the Bogota foreign office the negotiations looking to a fixing of a boundary line between our territory and that of our new neighbor.<sup>8</sup>

The provisional government of Panama recognized the Loubet award as their boundary by decree No. 18 of November 16, 1903. This government stated that the two republics had accepted as final and perpetual the arbitral award delivered at Rambouillet, September 11, 1900, by President Loubet in accordance with the convention signed at Bogota, November 4, 1896. As Costa Rica objected to this award Panama was content to allow the former country to exercise de facto control over the territory on the Atlantic side awarded to Panama by

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<sup>7</sup>Senate Document No. 32, 58 Cong., 2 sess., II, 2; William M. Malloy, Treaties, Conventions, International Acts, etc., Washington 1910, 1, pp. 1349-1361.

<sup>8</sup>U. S. F. R., 1910, p. 787.

Mr. Loubet.

Meanwhile the rivalry of two American fruit companies greatly enhanced the value of the disputed territory and the leisurely and amicable negotiations changed into a heated argument over the validity of the Loubet award.

The beginning of the twentieth century was a period of organization of great holding companies and large trusts. These companies were not particular in the methods used to secure control of the business of their competitors. The United Fruit Company was organized in 1899, and with these characteristic methods brought out its competitors and organized a selling company that sold at fixed prices all bananas of the combined parties.

In 1904 this company came into conflict with a rival company, the American Banana Company, which controlled considerable property in the Central American states. These two companies, one operating under a charter from Costa Rica and the other under a charter from Panama, involved the governments of the two republics in their contest over the rich but undeveloped region in dispute on the Atlantic side.

The American Banana Company brought suit in the Supreme Court of the United States against its rival. According to the plaintiff in this case, McConnell, a citizen of the United States, started a banana plantation in 1903 under a charter from the state of Panama, then part of Colombia. McConnell was building a railroad to the plantation, when the United Fruit Company, operating in Costa Rica, tried to force him

to unite with them or to withdraw.

In June 1904, after Panama had won her independence, the American Banana Company bought out McConnell and went to work to develop the plantation. The government of Costa Rica, alleged to be under the influence of the United Fruit Company, in July 1904, ordered its soldiers to seize the railroad. In August, one Astua, by ex parte proceedings, got a judgment from the Costa Rican court declaring the plantation to be his. The United Fruit Company used its influence to prevent Costa Rica from withdrawing its troops from the plantation. The efforts made by the American Banana Company to get the government of the United States to intervene were always countered by its rival.<sup>9</sup>

Thus the American Banana Company brought suit for damages alleging that the United Fruit Company was responsible for the seizure of the property. Not until 1908 did the United States Supreme Court give its decision--that it had no jurisdiction over the matter.<sup>10</sup>

During this period efforts were being made toward settlement, for in July, 1904, the Costa Rican government had established a legation in Panama for this purpose.

Panama, though not ceasing for a moment in her conviction that Costa Rica was under obligations to fulfill the Loubet award, nevertheless, did not hesitate to listen to the complaints made by Costa Rica, and finally signed, in Panama

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<sup>9</sup>Agnes S. Waddell, "Unsettled Boundary Disputes in Latin America," Foreign Policy Association Information Service, V, (No. 26, N. Y. 1930), 493.

<sup>10</sup>Ibid., p. 494.



City on March 6, 1905, the treaty known by the name of the Guardia-Pacheco Treaty. This treaty was supposed to be the effectual carrying out of the Loubet award. It was approved by the Costa Rican congress, but amended by that of Panama; the amendment Costa Rica refused to accept.<sup>11</sup>

By this time Panama was exasperated because of the procrastination and delay of the government of Costa Rica in the ratification of this treaty of 1905, so it passed a resolution, June 16, 1907, which stated:

If the Republic of Costa Rica does not approve this treaty at the latest during the next regular session of its legislature, the executive is authorized to suspend the action of this law and require the execution of the Loubet award.<sup>12</sup>

But the Costa Rican legislature still refused to sanction the Guardia-Pancheo Treaty and declared, on June 15, 1909, that it had expired.<sup>13</sup>

Costa Rica attempted to have the United States arbitrate the matter. Mr. Calvo, Costa Rican Minister to the United States, proposed, June 26, 1907, that the question be submitted to the chief justice of the United States Supreme Court. The American secretary of state replied that if the two countries found that acceptable and in case no other or more direct method could be found, the department would, with pleasure, cooperate to obtain the acceptance of the chief

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<sup>11</sup>Bureau of American Republics, Bulletin, Washington 1910, XXX, No. 4, p. 635.

<sup>12</sup>Ibid.

<sup>13</sup>U. S. F. R., 1910, p. 789.



justice of the United States to act as arbitrator.<sup>14</sup>

Nothing came of these efforts, however, and the government of Costa Rica sent Luis Anderson to Washington on special mission to solicit the aid of the secretary of state. Under his prompting the secretary of state sent a letter to the minister of Panama, dated December 1, 1908, instructing that minister to inform the government of Panama that the government of the United States would be happy to extend its impartial offices and mediation to Panama and Costa Rica, in the hope that the boundary dispute, which had existed for years, would be settled, to the satisfaction of each of the contending parties within the very near future.<sup>15</sup>

Panama, fearful that the chief justice would not accept its claims and that the award would be against its interest as exemplified in the Supreme Court decision in the case of the rival fruit companies, declined to submit the question to the chief justice. In a note dated January 9, 1909, the secretary of state of Panama declared:

AS I have already had the honor to state verbally to your excellency my Government declines to submit the point to a new decision, and is resolved to accredit to San José de Costa Rica a legation, to the end that in an amicable manner the two Republics may arrive at a final arrangement of this important matter. However, if after having exhausted all proper methods of said negotiations, the desired result has not been obtained, my Government will then be pleased to accept the good offices of that of your excellency, and forthwith with pleasure will submit to the distinguished opinion of the

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<sup>14</sup>Ibid., p. 775.

<sup>15</sup>Ibid.

honorable Chief Justice of the Supreme Court of the United States and all of the points which may be the cause of disagreement, in fixing the boundary line between the two countries, in accordance with the Loubet award.<sup>16</sup>

(The controversy now developed into a heated argument over the validity of the Loubet award. Costa Rica, refusing to accept this award, alleged that it was worded in a confused if not incoherent manner. President Loubet, declared the minister of foreign affairs of Costa Rica, spoke of an imaginary mountain range and referred to a drainage basin of a river as running contrary to the direction in which it in reality runs. The republic also claimed that the award gave to Panama territories which were not in dispute, and for which it has urged against the award the flow of ultra pepita (beyond the things asked).<sup>17</sup>

The arbitrator through his minister of foreign affairs, M. Delassi, stated that he lacked the precise geographical elements and that he could not fix the frontier line except by general indications, and that, therefore, he believed it was inopportune to mark it upon a map, and he had left it to the parties to settle whatever difficulties might arise.<sup>18</sup>

When Panama announced that it was going to try to settle the difficulty by direct negotiations with Costa Rica, the secretary of state at Washington, having in mind the procrastination naturally resulting and the failure of the previous

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<sup>16</sup>Ibid., p. 780.

<sup>17</sup>Ibid., 1915, p. 1144.

<sup>18</sup>Ibid., pp. 1144, 1145.

direct negotiations, was not pleased. The settlement of the controversy between the two American fruit companies depended upon which country won the contest over the disputed area of the Atlantic coast. Elihi Root, secretary of state, in a note dated January 23, 1909, discussed with Panama at great length the viewpoint of the United States. This note read in part:

For 3 years and more this Government has repeatedly and urgently shown its earnest desire and expectations that the conflicting claims of Panama and Costa Rica in regard to their common boundary should be set at rest. The interest of the United States in seeing the dispute settled has been continuously manifested and the grounds of our interest clearly set forth. At the time of Panaman independence there were important American interests on the border, upon the Sixola [sic] River, to which rival American citizens were claimants. The determination of their conflicting claims was and still is dependent upon the issue of the question of sovereign title to the territory and sovereign jurisdiction over controversies arising therein. The situation thus arising has been from the outset most embarrassing and vexatious to the United States and this embarrassment and vexation must continue so long as the determination of sovereign titles is in suspense.

In discussing the refusal of Panama to submit to the arbitration of the chief justice of the United States, Mr. Root said:

This step is disappointing, because tending to excite our apprehension that this fresh resort to direct negotiations may prove as ineffectual as previous efforts in this direction....

All this constrains the Government of the United States to the conclusion that the conditions existing for years and still existing are such as they force the United States in justice to its own citizens to treat the de facto line as the line to the north of which Costa Rica has jurisdiction and to the south of which Panaman jurisdiction is recognized. In other words to hold that, inasmuch as

the territory northward of the de facto line is left by Panama within the actual jurisdiction and control of Costa Rica, Panama is estopped by her own act from objecting to the United States treating it as Costa Rican territory, and looking to Costa Rica to remedy the annoying and embarrassing situation caused to this government and to its citizens by the absence of responsible jurisdiction in that quarter.<sup>19</sup>

The new secretary of state, Robert Bacon, in a note to Panama dated February 16, 1909, reiterated the attitude of his predecessor. He stated that the United States was more anxious each succeeding year for a permanent status to be established in the territory in dispute in order that the just rights of the American citizens should be recognized and safeguarded. Mr. Bacon stated that should an adjustment of the controversy be delayed for long the United States would be constrained in justice to its own citizens to treat the de facto line as the boundary.<sup>20</sup>

Despite these hints and threats from the United States Panama insisted on a direct arbitration with Costa Rica, and the fulfillment and execution of the Loubet award. A note addressed to the United States in reply to the notes of Mr. Root and Mr. Bacon stated:

The Republic of Panama, not without regret, considers exhausted the means within its reach of bringing to a happy termination the long-standing boundary dispute, since it has no objection to agreeing to all the remedies which Costa Rica has deemed satisfactory for this purpose but which she finally rejected, so that, at its request, I now have to state the matter as follows:

....the Republic of Panama proposes to demand of

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<sup>19</sup>Ibid., 1910, pp. 781, 782.

<sup>20</sup>Ibid., p. 781.

Costa Rica a strict enforcement of the Loubet award in order to supersede the present de facto boundary by the lawful one and permanently close this controversy by determining the territory to which the jurisdiction of each Republic is to extend.<sup>21</sup>

The direct arbitration which Panama was trying to bring to a successful conclusion failed, and again Costa Rica was soliciting the good offices of the United States in order to settle the dispute. Luis Anderson was again sent to Washington as a personal representative of Costa Rica.

Mr. Knox requested Panama to send a personal representative to Washington for the purpose of discussing the existing situation with Mr. Anderson, and to reach, if possible, a protocol agreement on the boundary dispute.<sup>22</sup>

Panama reluctantly submitted to the request of Secretary of State Knox, but its special envoy, Dr. Belasario Porras, did not have the powers to enter into any treaty. This vexed Mr. Knox greatly, but the foreign minister of Panama insisted that the envoy had all the powers that the president of Panama could bestow upon the representative. The president was limited by the Panaman constitution from accepting any other boundary except the Loubet award.<sup>23</sup>

Mr. Knox refuted this point of view of Panama in a note addressed to the latter on February 2, 1910. It read:

....that the unavailing negotiations with Costa Rica for nearly 10 years last past had made it clear beyond preadventure that this long-standing controversy can not be settled by insisting on a mere

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<sup>21</sup>Ibid., p. 789.

<sup>22</sup>Ibid., p. 800.

<sup>23</sup>Ibid., 1914, p. 996.

interpretation of the Loubet award; that during the said period Costa Rica has insisted that the Loubet award was void in part at least on the ground of ultra petita or impaired or vitiated by ambiguity and uncertainty, and that this contention was not in violation of the original agreement of submission which contemplated an award within the defined limit of the claims and not technically void for uncertainty; that this Government represents further, and suggest that, considering these facts, the terminal points of the Loubet award should now be finally accepted by both parties--namely, Punta Burica and Punta Mona--and that the boundary drawn from one to the other should be submitted and determined without restrictions in the light of the Loubet award as well as in the light of all the allegations, contentions, evidence, and arguments submitted by both parties....<sup>24</sup>

Mr. Knox continued to say that the peaceful settlement of the dispute would be impossible if the original Loubet award was insisted upon by Panama, and that the interest of American citizens was a prime concern for a quick settlement.

In another note the American minister to Panama, Charles Weitzel, was instructed to inform the Panaman<sup>ian</sup> government that the government of the United States, by its communications had not undertaken to define or limit the questions arising under the Loubet award which were to be submitted to arbitration, but that the defining of the question or questions was a matter for agreement solely between the plenipotentiaries of Panama and Costa Rica.<sup>25</sup>

Still Panama would not accept a new arbitration, and insisted upon the Loubet award. That republic had reason to believe that no other award would give to it more or even

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<sup>24</sup> Ibid., 1910, p. 805.

<sup>25</sup> Ibid., 1910, p. 802.



as much of the disputed territory as the Loubet award. On February 20, 1910, Panama suggested that engineers should be appointed to survey the exact location of the boundary line as described by the Loubet award, and that if any question should arise in connection with the surveying of the line such question should be submitted to the chief justice of the United States. Panama alleged that a second arbitration of the whole question would give rise to new discussions of exactly the same character as those which had arisen under the Loubet award, and differing from them only in the name of the arbitrator.<sup>26</sup>

Costa Rica was anxious for the American chief justice to arbitrate the question. A note written by that republic to the state department asserted that the arbitrator in determining the award of 1900 had lacked precise geographic data, and for this reason was able to fix the boundary line only by means of general indications. Costa Rica stated that it would:

....with great pleasure cooperate to obtain the acceptance of the Chief Justice of the United States or any of the Associate Justices of the Supreme Court, should the former because of any circumstances not be able to accept the nomination.<sup>27</sup>

Mr. Knox's patience with Panama became exhausted, and on March 12, 1910, he sent a draft of a convention to Panama with these instructions:

Unless this convention was [sic] accepted any farther continuance of the good offices of the

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<sup>26</sup> Ibid., p. 811.

<sup>27</sup> Ibid., p. 773.

United States to bring about arbitration by the Chief Justice, as requested, would be futile and impossible.<sup>28</sup> The draft of this convention had been arrived at from conferences among the ministers of Panama and Costa Rica, on special mission to the United States, and Mr. Knox.

The government of Panama, now that Costa Rica refused to have anything to do with direct arbitration, capitulated to the brief and abrupt note of Secretary Knox. Panama had feared that Costa Rica would get the advantage of the decision, as in the supreme court case.<sup>29</sup> Panama's acceptance of the demands of Mr. Knox's note was also brief as shown by the note sent in reply.

Your cable of March 12 to the legation delivered this morning. Before receipt thereof I had already instructed Dr. Porras, in pursuance to the cabinet decision, to sign the convention as drawn.<sup>30</sup>

This act of Mr. Knox pleased Costa Rica greatly. The president of the republic, Guardia, telegraphed this reply:

The news which your excellency announces to me is highly satisfactory. So happy an outcome is chiefly due to the good offices of your excellency and your Government. It gives me pleasure to renew, for the fresh proof of friendship, the assurance of the most profound gratitude.<sup>31</sup>

The boundary convention was signed by Luis Anderson and Belisario Porras, representing Costa Rica and Panama respectively, on September 27, 1910, at Washington, D. C.

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<sup>28</sup> Ibid., p. 814.

<sup>29</sup> Waddell, op. cit., p. 494.

<sup>30</sup> U. S. F. R., 1910, p. 815.

<sup>31</sup> Ibid., p. 817.



This convention designated the chief justice of the supreme court of the United States as arbitrator. A survey of the territory, if either party should request such a survey, was to be carried out by four engineers, one from Panama, one from Costa Rica, and two from the United States. Panama still insisted that the Loubet award should be the basis of the arbitration as noted in Article I:

The Republic of Panama and the Republic of Costa Rica, although they consider that the boundary between their respective territories designated by the arbitral award of his excellency the President of the French Republic the 11th of September, 1900, is clear and indisputable in the region of the Pacific from Punta Burica to a point beyond Cerro Pando on the Central Cordillera near the ninth degree of north latitude, have not been able to reach an agreement in respect to the interpretation which ought to be given to the arbitral award as to the rest of the boundary line; and for the purpose of settling their said disagreements agree to submit to the decision of the honorable the Chief Justice of the United States, who will determine, in the capacity of arbitrator, the question, what is the boundary between Panama and Costa Rica under and most in accordance with the correct interpretation and true intention of the award of the President of the French Republic made the 11th of September, 1900?

In order to decide this the arbitrator will take into account all the facts, circumstances, and considerations which may have a bearing upon the case, as well as the limitations of the Loubet award expressed in the letter of his excellency M. Delcassé, minister of foreign relations of France, to his excellency Senor Peralta, minister of Costa Rica in Paris, of November 23, 1900, that this boundary line must be drawn within the confines of the territory in dispute as determined by the convention of Paris between the Republic of Colombia and the Republic of Costa Rica of January 20, 1886.

Article VII made the award binding:

The award, whatever it be, shall be held as

a perfect and compulsory treaty between the high contracting parties. Both high contracting parties bind themselves to the faithful execution of the award and waive all claims against it. H A R Y  
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The boundary line between the two Republics as finally fixed by the arbitrator shall be deemed the true line, and his determination of the same shall be final, conclusive, and without appeal.<sup>32</sup>

On March 18, 1910, Secretary of State Knox, announced the signing of the convention in a telegram to the Costa Rican minister of foreign affairs. The telegram read:

The convention of arbitration was signed last evening by the representatives of Costa Rica and Panama. I congratulate you and your government most cordially upon this honorable and satisfactory solution of an old and troublesome question.<sup>33</sup>

Chief Justice White was solicited to arbitrate the dispute in a joint letter from the ministers of Panama and Costa Rica, dated June 10, 1910. This letter stated:

The undersigned, Joaquín Bernardo Calvo...of the Republic of Costa Rica and Belisario Porras...of the Republic of Panama, have the privilege to submit to your honor an authentic copy of the convention entered into between the two aforesaid Republics under date of the 17th of March, 1910, whereby your honor was nominated arbitrator to decide, in conformity with the terms of said convention, upon their boundary questions. This convention was duly approved by the respective legislatures of the Republics of Costa Rica and Panama last year....

As your honor will observe in Article IV, the representatives of both Governments concerned or only one of either of them, should, 30 days after the ratifications of the said convention have been exchanged, address your honor, requesting the acceptance of the office of

<sup>32</sup>For text of the convention see U. S. F. R., 1910, pp. 820-822.

<sup>33</sup>Ibid., p. 816.

arbitrator assigned to your honor by Article I of the same convention.

Therefore, the requisite formalities having taken place, we respectfully beg leave to request your honor to kindly accept the office referred to and advise us of your acceptance.<sup>34</sup>

Chief Justice White's reply, dated July 25, 1911, read:

Gentlemen: I have the honor to acknowledge the receipt of your esteemed favor of June 10 last, dated at Washington, D. C...I beg leave to further observe the fact that in your letter referred to you have done me the honor to request me "to kindly accept the office referred to, and advise us of your acceptance".

Thus taking notice of the statements made, and out of the request therein made, I beg to say that I accept the duty of considering and passing upon the dispute as to the boundary between the respective countries referred to in and provided for by the agreement; and this acceptance, however, on my part is made subject to the following express and special understanding, that is: "That all the documents and papers submitted to me for my action in my official capacity which are originally in the Spanish language shall be translated into English by a translator selected by the respective parties, they being therefore wholly responsible for the sufficiency and accuracy of the translations, and that all the arguments of proceedings submitted to me to be acted upon shall be in the English language. This condition is affixed by me to my acceptance...."<sup>35</sup>

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<sup>34</sup> Ibid., 1911, p. 674.

<sup>35</sup> Ibid., p. 676.

## CHAPTER III

## The White Award and Its Consequences

In pursuance of the terms of the letter Mr. White undertook the arbitration of the boundary dispute, and on September 12, 1914, rendered his opinion and decision, after a commission of engineers, chosen in accordance with the terms of the convention had made a prolonged and careful survey.<sup>1</sup>

After an elaborate and detailed discussion of the history of the controversy and the claims of both republics, Mr. White, under the authority of the Porras-Anderson Convention, defined the disputed boundary as follows:

1. That the line of boundary which was purported to be established by the previous award from Punta Mona to the main range of the Cordilleras and which was declared to be a counterfort or spur of mountains in said award described, be and the same is held to be non-existing.
2. And it is now adjudged that the boundary between the two countries "most in accordance with the correct interpretation and true intention" of the former award is a line which, starting at the mouth of the Sixaola River in the Atlantic, follows the thalweg of that river, upstream, until >it reaches the Yorquin, or Zhorquin River; thence along the thalweg of the Yorquin River to that one of its headwaters which is nearest to the divide which is the north limit of the drainage area of the Changuinola, or Tilorio River; thence up the thalweg which contains said headwater to said divide; thence along said divide to the divide which separates waters running to the Atlantic from those running to the Pacific; thence along said Atlantic-Pacific divide to the point near the ninth degree of north latitude "beyond Cerro Pando," referred to in Article I of the Treaty of March 17th, 1910; and that line is hereby decreed and established as the proper boundary.

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<sup>1</sup>U. S. F. R., 1914, p. 1015.

3. That this decree is subject to the following reservations in addition to the one above stated:

(a). That nothing herein shall be considered as in any way reopening or changing the decree in the previous arbitration rejecting directly or by necessary implication the claim of Panama to a territorial boundary up to Cape Gracias a Dios, or the claim of Costa Rica to the boundary of the Chiriqui River.

(b). And, moreover, that nothing in this decree shall be considered as affecting the previous decree awarding the islands off the coast since neither party has suggested in this hearing that any question concerning said islands was here open for consideration in any respect whatever.<sup>2</sup>

As is seen, this award upheld Costa Rica's contention that President Loubet had exceeded his powers in fixing the boundary line outside of the territory never in dispute; it designated the Sixaola River, north of which Panama had never exercised jurisdiction, as the boundary.<sup>3</sup> On the Atlantic side the territory given to Panama by the Loubet award was given to Costa Rica by the White award. The fear of Panama that the decision of the chief justice would be against its interest had indeed become a reality.

The boundary met with instant condemnation by the citizens of Panama. Public indignation against the decision was high. On September 20, 1914, after the decision had become known in Panama, crowds gathered around the presidential mansion in Panama City. These crowds demonstrated against the president, and accused him of lack of attention and

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<sup>2</sup>For complete text of White award see American Journal of International Law (Washington, 1914), VIII, 913.

<sup>3</sup>Waddell, op. cit., p. 494.

capacity in handling the case. Parties and newspapers opposed to the Porras administration jumped at such an opportunity to turn public opinion against the president. The people also called upon the national assembly to demand a reopening of the case.<sup>4</sup>

Price, American minister to Panama, reported the conditions existing in Panama in a telegram to the state department on October 1, 1914. It read:

Decision of Supreme Court regarding Costa Rican boundary continues to monopolize political discussion of newspapers and National Assembly. Panaman President submitted same [to] National Assembly, stating that the decision substracted from the Loubet Award, did not take into consideration [cause], and gives Panama less territory then the Costa Rican representatives before Loubet admitted belonging to Panama.

Members of the assembly presented protest refusing to abide by the decision unless compelled by superior force....<sup>5</sup>

The government of Panama took the view that the Loubet award had compensated Costa Rica for its losses in the east by giving it the Coto District in the west, the White Award, however, had not restored any of the Coto District to Panama when it restored the eastern region to Costa Rica; Panama considered it unjust that Costa Rica should now be favored both in the east and in the west.<sup>6</sup>

Pushed by public opinion in Panama the president of that republic was forced to oppose the award. The foreign

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<sup>4</sup>U. S. F. R., 1914, pp. 993-994.

<sup>5</sup>Ibid., p. 994.

<sup>6</sup>Waddell, op. cit., p. 495.



minister of Panama in listing his governments objections to the award stated that it would have been impossible for his government to submit any question to arbitration except the true intention of the Loubet award. The constitution, alleged this minister, designated the Loubet award to be the correct boundary, and thus it would be constitutionally impossible for the government of Panama to enter into any convention which would make possible the setting aside or the modification of this award.) This fact was made known to the government of the United States at the time of framing of the convention on March 17, 1910, and was recognized by them as limiting the scope of any possible arbitration of the boundary question. The minister also said that Mr. Justice White had not tried to apply or harmonize the award of President Loubet, but had held it as erroneous and was undertaking to annul it and to give such an award as he thought should have been made in the first place; also that in view of this, his government not only had a right but was bound to reject and repudiate, the decision of the chief justice as null, void and of no force, and declared that this government considered the same as non-existent and in no respect affecting its claims, and that the republic would not abide by nor accept it.<sup>7</sup>

The award was more favorably received in Costa Rica. This republic was pleased with the decision, as is noted in the telegram of the president of Costa Rica, dated September 13,

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<sup>7</sup>U. S. F. R., 1914, pp. 996-998.



1914, and sent to the state department:

Costa Rica and my Government cordially applaud the award rendered by the illustrious Chief Justice, and once more has the good fortune of settling the boundary disputes through a decision dictated by the high sense of justice of your great nation. Will your excellency please accept the expression of our gratitude.<sup>8</sup>

Panama discussed more fully her objections to the white award in a letter dated October 17. These objections are summarized as follows: (1) That the Porras-Anderson treaty only gave the arbitrator power to determine the boundary most in accord with the real intention and correct interpretation of the Loubet award; (2) It was clear that the validity and correctness of the award were not questions submitted to Mr. Chief Justice White and that he, therefore, lacked jurisdiction to consider or decide them. That instead of determining the true intention of the Loubet award the Chief Justice specified as the fundamental question "whether the line fixed in the former arbitration was within the former treaty or treaties." (3) That, in short, the chief justice had made a complete revision of the Loubet award, and fixed a boundary line entirely foreign to the said award.<sup>9</sup>

Costa Rica refuted Panama's statements by saying that Mr. Justice White's award did not violate the Porras-Anderson Convention of 1910. This treaty, declared Costa Rica, indicated that the boundary fixed by President Loubet, from Punta Burica on the Pacific Ocean to the highest point of the

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<sup>8</sup> Ibid., p. 993.

<sup>9</sup> Ibid., p. 1027.

central cordillera beyond Cerro Pando near the ninth degree of north latitude, was clear and indisputable. This treaty established only the fact that the parties have not been able to reach an agreement as to the correct interpretation from the central cordillera to the Atlantic Ocean. This republic also denied that the chief justice had exceeded his powers when he delivered the award, and that therefore, the award was not null and void.<sup>10</sup>

Public sentiment in Panama against Costa Rica was publicly demonstrated after Mr. Justice White had announced his award. The United States secretary of state, W. J. Bryan, fearing that a war was imminent, sent a joint telegram to both countries on November 25, 1914, urging them to refrain from provoking hostilities until an amicable adjustment of the differences could be made.<sup>11</sup>

Costa Rica and Panama agreed informally to maintain the status quo until a more amiable agreement could be reached. The minister of foreign affairs of Costa Rica, quieted the fears of the state department, which had heard rumors that a war was going to begin between the two republics,) when he sent on December 12, the following note to the American minister:

The event of hostilities between my Government and the Government of the Republic of Panama is, I can assure your excellency, a danger in the highest degree remote, inasmuch as both governments have exchanged mutual, ample and effective assurances that

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<sup>10</sup> Ibid., pp. 1018, 1019.

<sup>11</sup> Ibid., p. 1022.

...the handing down of the final decision delivered by the Honorable Chief Justice of the United States in the arbitral boundary suit of the two countries--a decision which put an end to the controversy under debate for so many years--shall not be determined except by measures of a peaceful nature consistent with the close and sincere friendship which happily binds both countries and their Governments.<sup>12</sup>

Panama continued to exercise jurisdiction over a small area north of Punta Burica, on the Pacific side. In protest to this occupation the minister of foreign affairs of Costa Rica sent to Panama, on January 14, the following note:

This zone, as your excellency well knows, was definitely adjudged to Costa Rica since the promulgation of the award rendered by the President of the French Republic on September 11, 1900. Its adjudication was ratified by the Anderson-Porrás Convention March 17, 1910, and considered as absolutely foreign to the jurisdiction of Panama, among other things, by Resolution No. 96 of November 23, 1912, dictated by President Porrás and countersigned by his Minister of Fomento.<sup>13</sup>

In reply to this letter the foreign minister of Panama stated that he expressed surprise that Costa Rica should object to the establishment of various administrative authorities at points north of Punta Burica. The Panama official also said that these authorities had not been placed north of Punta Burica, but that, those authorities had always been in existence and all that had been done was to renew them. The zone north of Punta Burica, stated the minister, was definitely adjudged to Costa Rica by the Loubet award, as was the entire zone of the Sixaola Valley, on the Atlantic

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<sup>12</sup> Ibid., p. 1027.

<sup>13</sup> Ibid., p. 1133.

slope, between the central cordillera and the counter range of the cordillera; but, as Costa Rica did not accept the award referred to, notwithstanding the promise agreed upon in the treaty which gave rise to the same, the result was that the slope on the Atlantic side did not belong to Costa Rica.

This minister alleged that the Porras-Anderson convention was not a boundary convention nor a convention for territorial compensation, nor for cession of territory, but simply one of arbitration, precisely for the purpose of submitting to the arbitrator the boundary question as follows: "What is the boundary between Panama and Costa Rica under and most in accordance with the correct interpretation and true intention of the award of the President of the French Republic made on September 11, 1900." Since Panama had not accepted Chief Justice White's decision on the same grounds that Costa Rica had refused to accept the Loubet award matters naturally went back to the status quo as held by both countries before either arbitration was announced. In reference to the removal of the authorities the minister stated:

Although Panama, in accordance with her own ideas of international law, did not believe that she ought to grant lands in the disputed region, she did believe that she ought to have authorities in it, and she always maintained them and will keep them there until it is determined by good will or by indisputable right, without, reserve or protest that that region does not belong to her any longer.<sup>14</sup>

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<sup>14</sup> Ibid., p. 1141.

Panama, still protesting the award, received a warning from Secretary Bryan, on April 28, 1915, which stated that upon the examination of the papers the department was convinced that no exceptions could be taken to the procedure followed or to the finding of the arbitrator, and that therefore, there should be prompt and complete acquiescence in the award made. He made the attitude of his government clear by stating that it was an old dispute and that the value of the territory involved was insignificant compared with the annoyance and ill-feeling that it had aroused. The United States could not, of course, be a party to anything which would cast discredit upon the arbitrator, who was the presiding officer of the highest court in our land, neither could the United States view with indifference the baneful influence which a rejection of this award by either party would have upon arbitration as a means of adjusting disputes between the United States and Panama it would be a matter of deep regret if Panama should take any steps which would indicate a lack of respect either for the principle of arbitration or for the high tribunal to a member of which this dispute was submitted.) Mr. Bryan stated that if any hardship was caused by the award, his government would, of course, be pleased to use its good offices to bring the parties together upon some plan which would afford an adequate remedy, but that this could not be taken up until after Panama should indicate a willingness to accept the award.<sup>15</sup>

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<sup>15</sup> Ibid., 1915, p. 1147.

In answer to an inquiry of Costa Rica's, as to whether the United States would interpose its good offices before the government of Panama for the purpose of bringing about the acceptance by that government of the award of Chief Justice White, Mr. Bryan stated that after a careful examination of the case this government felt it to be its duty to lend such influence as it might properly exert toward the carrying out of the award made, and had sent to the American Legation at Panama a communication which would inform the government of Panama of this attitude of the United States.

→ The government of Panama, not wishing to have the United force it to accept the award, appointed Santiago de la Guardia to San José, Costa Rica, accredited as envoy extraordinary and minister plenipotentiary with the object of reaching an agreement to modify the boundary question decided by the Chief Justice White. Costa Rica refused to treat with La Guardia, saying that the boundary had been definitely settled by the White award.<sup>17</sup>

After the failure of Santiago de la Guardia's mission the minister of foreign affairs of Panama submitted a note to the United States minister to Panama which stated:

The Government of your excellency could in the meantime contribute to the solution of the matter by means of its good offices, and our gratitude would be lasting if it would abet us in the sense that in case Panama accepts the award of Chief Justice White in the region of the Atlantic, due compensation shall be given it in the Pacific.<sup>18</sup>

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<sup>17</sup> Ibid., p. 1150

<sup>18</sup> Ibid., p. 1152

Costa Rica would not discuss compensation to Panama and insisted upon the White award. It is reasonable to believe that Costa Rica, in view of the stand taken by the United States, knew that that government would force the republic of Panama to accept the award without any changes.

The war in Europe had become of such importance and magnitude that the attention of the state department was absorbed in that direction and matters remained in a dormant state until events happening in 1921 brought the old controversy into the lime-light again.



## CHAPTER IV

### Hughes' Attempt at a Solution

X Thus matters remained until 1921, when Costa Rica, after the failure of further diplomatic representations, sent troops, February 22, 1921, to occupy the Coto region on the Pacific coast, claimed by it under the Porras-Anderson treaty but still held by Panama. Its forces were routed with heavy losses by an expedition composed largely of the Panama City police force.<sup>1</sup>

The demonstration of a mob against President Porras, who was reported as saying that to have war over valueless territory was an absurdity, caused the United States to send troops to the number of two hundred to the City of Panama for the purpose of restoring order.<sup>2</sup>

X War seemed imminent when Panama began to mobilize its troops. Secretary of State Colby, in a note to the minister of Panama, dated February 28, urged that the two republics desist from hostilities. The secretary said that it was difficult to see what could be gained by a proffer of good offices or any other form of friendly interposition in the existing phase of the long standing dispute. Such interposition could only point to further examination of the matter in controversy and a third arbitral decision of it. In view of the two instances in which this mode of adjustment

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<sup>1</sup>Department of State, Press Release, March 7, 1921.

<sup>2</sup>Waddell, op. cit., p. 496.

had been sought, it seemed idle either to recommend it or to look upon it as a method with any particular chance or promise of bringing the controversy to a conclusion. It was the opinion of the department of state, said this minister, that Panama and Costa Rica should desist from hostile demonstrations or armed activities, and thus afford an opportunity for a discussion and agreement as to the manner in which the terms of Chief Justice White's decision should be applied.<sup>3</sup>

Popular enthusiasm for war was high in Costa Rica after its troops were expelled from the Coto region. As a reprisal against Panama's act, Costa Rica sent 1,000 soldiers and corresponding equipment and artillery into territory on the Atlantic side that was indisputably Panamanian.<sup>4</sup>

Secretary Colby, thereupon, became more firm in his stand against hostilities. He dispatched separate notes to Panama and Costa Rica which stated that his government could but view with the gravest apprehension any developments which would disturb the peace and tranquillity of Central America. The government of the United States, stated the secretary, felt that a declaration of war growing out of the inability of the republics of Costa Rica and Panama to agree upon a solution of their dispute would be clearly inadmissible. He urged the governments of the republics, in the most earnest and friendly manner, to instruct their

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<sup>3</sup>U. S. F. R., 1921, p. 175.

<sup>4</sup>Stuart, op. cit., pp. 282-284.

troops to advance no further toward the Cerro Pando-Punta Burica line, pending a final settlement of the controversy. He suggested to Panama that she withdraw to the Panamanian side all her troops now on the Costa Rican side of the Pando-Punta Burica line. Once such steps had been taken the United States would be glad to recommend to the governments of the two republics means for final settlement of the White award.<sup>5</sup>

Panama, on March 4, agreed to stop hostilities provided that the Panamanian civil authorities should be allowed to remain in the Coto district where they were before the Costa Rican forces drove them out, and that Costa Rica should withdraw its troops to the left side of the Sixaola River, which was the northern boundary over which they advanced on the morning of March 4, 1921.<sup>6</sup>

When Charles E. Hughes took the office of secretary of state, his stand against hostilities was more vigorous and determined. On March 5, 1921, he advised the United States minister to Panama that:

This Government recognizes the fact that the controversy with respect to the boundary between Costa Rica and Panama has been finally determined by the award of Chief Justice White as arbitrator, and has urged upon the Government of Costa Rica the importance of immediate cessation of hostilities to the end that appropriate settlement be promptly made in accordance with Chief Justice White's decision. While holding this view the Department does not regard the forcible measures taken by Costa Rica as justifiable and believes that arrangements should be effected to carry out the White award, involving the suitable transfer

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<sup>5</sup>U. S. F. R., 1921, p. 179.

<sup>6</sup>Ibid., p. 180.

of jurisdiction in an orderly manner and with due regard for the national dignity of Panama.

For your confidential information, the Department is of the opinion that this long-standing boundary controversy must be settled in accordance with the White award unless the parties otherwise agree, and this Government cannot recognize any claim of right on the part of Panama at variance with that award. Ships are being sent to protect American lives and property.<sup>7</sup>

When the government of Panama received news that United States warships were being sent to the vicinity it gave orders for its troops to stop advancing and retire to Panamanian territory, but Panama made it clear that its withdrawal of forces should not be interpreted in any case as an implied recognition of the White award which the executive power, the legislative assembly, and the public opinion of Panama had jointly refused to accept since 1914, the year it was rendered.<sup>8</sup>

In response to a request from the government of Panama for a statement of the views of the United States as to its obligations toward Panama under Article I of the canal treaty, in a situation such as that created by Costa Rica's attack, Mr. Hughes set forth the position of the United States in a lengthy note on March 15, 1921. This note read, in part, as follows:

By Article I of the Hay-Bunau Varilla treaty, it is provided that the Government of the United States "guarantees and will maintain the independence of the Republic of Panama." The United States fully recognizes the obligations thus assumed, and its recent communications to the Governments of Panama and Costa Rica have been dictated not only

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<sup>7</sup> Ibid., p. 183.

<sup>8</sup> Ibid.

by its manifest interest in the maintenance of peace but by its recognition of its duty in the circumstances disclosed. The Government of Panama cannot fail to realize that in order that the Government of the United States may fully perform its obligations under the treaty it must advise itself as to the extent of the sovereignty of the Republic of Panama and hence of the territorial limits of Panama. It follows that the Government of the United States deems it necessary to inquire fully into the merits of a controversy which relates to the boundary of the Republic of Panama. This Government has no doubt that the Government of Panama will also recognize that there is implicit in the provisions of the Hay-Bunau Varilla Treaty an undertaking of the part of Panama to observe faithfully its international obligations. The guaranty given to the Republic of Panama by the United States is obviously conditioned upon that performance.<sup>9</sup>

Mr. Hughes went on to state that the question raised by the government of Panama with respect to the boundary between Panama and Costa Rica had two aspects: (1) with respect to what might be termed the Pacific side of the cordillera, and (2) with respect to the Atlantic side. The government of the United States, said Mr. Hughes, deemed it to be beyond controversy that the boundary line on the Pacific side was determined by the arbitral award of the president of the French Republic and accepted by both governments in the Porras-Anderson treaty of March 17, 1910. In Article I of that treaty it was stated that both Republics "consider that the boundary between their respective territories designated by the arbitral award of the President of the French Republic, in 1900, as clear and indisputable in the region of the Pacific from Punta Burica to a point beyond Cerro

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<sup>9</sup> State Department, Press Release, March 15, 1921.

Pando on the central cordillera near the 9th degree of north latitude." Mr. Hughes stated that his government considered it to be an unavoidable duty to request the government of Panama at once to take steps to confirm with the boundary line thus drawn by President Loubet, by transferring such jurisdiction to the government of Costa Rica in an orderly manner.

As to the boundary upon the Atlantic side, Mr. Hughes recognized Chief Justice White's award of 1914. He went on to examine in detail Panama's objection to the White award, and stated that it was the opinion of the United States government that the award was valid and binding upon Panama. He therefore urged that the Panamanian Government "in the most friendly, but most earnest manner" promptly conclude arrangements with Costa Rica for the demarcation of the boundary line on the Atlantic side.<sup>10</sup>

Politically speaking, this put the president of Panama on the spot. The award was so unpopular in Panama that the president would possibly lose his office if he should accept the award without modifications. The president sought relief by appealing directly to President Harding, stating that the

Demand from the State Department that my government would accept White's decision is painful and humiliating. More so when two successive legislatures and all municipalities in the Republic have petitioned for the rejection of that decision on the ground that the arbitrator notoriously exceeded its [his] jurisdiction, giving

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<sup>10</sup> Ibid.



to Costa Rica more than what her representative Peralta asked from President Loubet and also because it is against the provisions of Panama's constitution. I appeal therefore directly to you, Mr. President, recalling your kind words with which you expressed your friendship and good wishes towards my country when you honored us with your visit in November...

I beg of you, Mr. President, to use your personal, political, and administrative influence so that the boundary dispute between Panama and Costa Rica may have a solution more in accord with justice and dignity than the one which we are being asked to accept. We Panamanians are confident of your righteousness and we hope that that confidence will not be rewarded with disappointment.<sup>11</sup>

No relief was coming from President Harding, however. He replied that the communications from the state department to the government of Panama were sent with the full knowledge and hearty approval of the executive.<sup>12</sup>

X In order to gain delay and prevent the government of the United States from forcing Panama to execute the White award that country sent a special mission to Washington. This mission proposed that the White award be submitted to the Hague Tribunal to see if it was within the terms of the arbitration agreement. Mr. Hughes refused to sanction this move, and the Hague Tribunal refused to review the dispute when that body learned that the United States had already arbitrated the matter.<sup>13</sup>

On March 18, the Panamanian minister of foreign affairs, Garay, stated that the United States was taking an erroneous

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<sup>11</sup>U. S. F. R., 1921, p. 189.

<sup>12</sup>Ibid., p. 190.

<sup>13</sup>Stuart, op. cit., p. 332.



view of the situation. The government of the United States, stated the minister, assumed the obligation of guarantor of Panama's independence in return for the valuable and liberal concessions given by Panama. This guarantee was understood to be in the interest of the country guaranteed; therefore the existing attitude of the United States was puzzling to Panama. The government of that country was favoring Costa Rica instead of the guaranteed country, Panama. Mr. Garay stated that in the canal treaty there was no express limitation upon the rights and actions of Panama, and that there was no reason whatsoever for establishing such interference. If the United States would comply with the obligations assumed in the first article of the Hay-Bunau Varilla Treaty it would be jointly liable for the defense of all rights and interests of Panama. According to modern international law, the Treaty of Versailles, and the Pact of the League of Nations, how could a guarantee contracted in a public treaty between two sovereign nations be understood in any other way than in the exclusive interest of the guaranteed nation? In answer to Mr. Hughes' assertion that Panama bound herself to accept the White award, Mr. Garay replied that Costa Rica had bound itself in a form even more solemn to accept the award of the president of the French Republic. Costa Rica had avoided fulfilling this award; therefore, Panama naturally complained of being the object of unfair treatment. The Porras-Anderson treaty was only an agreement which gave birth to the White award. When this award was rejected that convention failed

to exist. The republic of Panama refused to accept the decision of Chief Justice White with the same right and with almost the same reason with which the United States had rejected the arbitration of the boundary dispute by the King of the Netherlands in 1831. The minister also stated that no true representative government in Panama could accept a policy which all of its citizens opposed. He suggested a double plebiscite, one on the Pacific and the other on the Atlantic, in order to close the dispute forever.<sup>14</sup>

The argument of Mr. Caray was somewhat powerful and expressive. Mr. Hughes attempted to answer it by saying that he felt surprise and regret at the attitude assumed by Panama. He stated that further discussion was unnecessary, and that it would be inadmissible to interpret the obligations of his government under the Hay-Bunau Varilla treaty as embracing an obligation to support a claim for adjoining territory. The attitude of the government toward the claim of Panama was reiterated in this note. The United States could not justify the contention of the government of Panama that Mr. White in drawing a substitute line exceeded his powers. The secretary added that in the light of the obligations of the government of Panama under Article VII of the Porras-Anderson treaty, requiring that government faithfully to execute the award and to waive all claims against it, and to consider the award as a perfect and compulsory treaty, the government of the United States could not consider the sug-

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U. S. F. R., 1921, pp. 194-196.

gestions made by the government of Panama that a plebiscite be held in the territory in dispute as a means of reaching a final settlement of the controversy. The enforcement of the White award was all that the United States would accept. The republic of Panama was given only a reasonable length of time to execute the award. This paragraph read:

....the Government of Panama may interpret the phrase the "reasonable time" in which the Government of Panama may of its own accord take the steps suggested by this Government before the United States will feel compelled itself to take action to see that its recommendations are carried out, as a period of 60 days from the date of the receipt of this note by President Porras.<sup>15</sup>

This ultimatum of Secretary Hughes was strenuously objected to by Panama. Their secretary of state, Garay, was immediately commissioned to Washington as a special minister, for the purpose of securing an extension of the allotted time in order that a boundary commission could be appointed that would arrive at a solution more in accord with the aspirations of Panama. Hughes stated that it would be impossible to adjust the difficulty upon any other basis than the White award, and also that it would be a waste of time to try, for Costa Rica would not accede to any other demand than that award. The allowance of time was also refused, but all the time that would be necessary for surveying the boundary in accordance with the White award would be gladly allowed.<sup>16</sup>

Secretary Hughes, in a lengthy note dated May 2, again

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<sup>15</sup>Ibid., pp. 208-211.

<sup>16</sup>Ibid., p. 214.

reiterated the attitude of his government in regard to the dispute. The contention that Mr. White fixed the boundary line without authority was absurd, said Mr. Hughes, for both republics were bound by his arbitral award, which they had promised to accept as final. The United States had learned of the public opinion in Panama with deep regret, stated the secretary, but it felt confident that the people of Panama would recognize the obligation of their government to comply with the terms of the solemn agreements into which it had entered, a compliance which would afford the only permanent settlement of the boundary dispute between the republics of Costa Rica and Panama. It was precisely because of the friendship of the United States for Panama, as well as its desire to assure itself that the peace of Central America should be maintained on a stable basis guaranteed by the scrupulous observance of international obligations, that the United States felt compelled to state that it expected the government of Panama to take steps promptly to transfer the exercise of jurisdiction from the territory awarded to Costa Rica by the Loubet award, and at present occupied by the civil authorities of the government of Panama, in an orderly manner, to the government of Costa Rica. Unless such steps were taken within a reasonable time, the United States would find itself compelled to proceed in the manner which might be requisite in order that it might assure itself that the exercise of jurisdiction was appropriately transferred and that the boundary line on the Pacific side, as defined by

the Loubet award, and on the Atlantic side, as determined by the award of the chief justice of the United States, was physically laid down in the manner provided in Articles II and VII of the Porras-Anderson treaty.<sup>17</sup>

To secure Hispanic-American support for its view, Panama sent ministers to the principle South American countries asking their good offices to be tendered in order to secure a more righteous adjustment of the boundary controversy. These ministers were unsuccessful in securing a new boundary for Panama, but they did get plenty of moral support, especially from the Yankeephobes and others who wanted an opportunity to denounce the suspicious actions of the United States.<sup>18</sup>

The "reasonable time" allowed for the execution of the award passed, and Panama still exercised authority over the Coto region on the Pacific side. Secretary Hughes sent to Costa Rica, August 18, 1921, a note which read:

The Government of the United States sees no reason why it should not feel compelled to suggest to the Government of Costa Rica that it delay longer taking jurisdiction over the territory which is now occupied by Panama and which was adjudged to belong to Costa Rica by the terms of the Loubet award.<sup>19</sup>

A warship was sent to the disputed area, and Panama realizing that resistance was futile, and though protesting, acquiesced in Mr. Hughes' demands, and Costa Rica's forces

<sup>17</sup> Department of State, Press Release, May 2, 1921.

<sup>18</sup> Raymond Leslie Buell, "Panama and the United States," Foreign Policy Association Information Service, VII, (No. 3, N. Y. January, 1932), 410.

<sup>19</sup> U. S. F. R., 1921, p. 225.

took peaceful possession of the Coto region on September 5, 1921.<sup>20</sup>

The policy of the Harding administration met with approval by many of the newspapers in the United States. The New York Herald stated that not in twelve years had the executive department of the United States met an issue so squarely and quickly, with so certain a purpose and so swift a success, as it did in the Panama-Costa Rica boundary squabble.<sup>21</sup>

This move of the administration also met with the approval of the opposition New York World, which declared that without question of cavil or partisan fault-finding the people of the United States would commend the prompt action of Secretary Hughes.<sup>22</sup>

X The New York Globe remarked that the settlement of the dispute served two purposes, aside from the main object of ending hostilities. It gave notice to the world, most of which was in the League of Nations, that the Monroe Doctrine was still the basis of American diplomatic activity, and that the United States, and not the League, would maintain peace on the western hemisphere.<sup>23</sup>

The Baltimore Evening Sun assumed a broader viewpoint when it stated that the action of the United States would be

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<sup>20</sup>Ibid., p. 227.

<sup>21</sup>"The Flare-up on the Isthmus," Literary Digest, LXVIII, (March 19, 1921), 19, 20.

<sup>22</sup>Ibid.

<sup>23</sup>Ibid.

misconstrued, not so much by the governments, but by that element in all of them which never missed an opportunity to show its hostility to what it was pleased to call the "meddling" policy of this country. The firm manner in which Hughes had handled the matter, stated the Sun, served warning that the western hemisphere was to have no puny wars which the United States could prevent. The Harding administration desired to play no arbitrary rule, but did indicate by its note and the act of sending a force of marines to Panama, that force would be used if the use of force were challenged by continued obstinacy on the part of Panama.<sup>24</sup>

One leading paper in Panama, the Star Herald, which had counseled moderation to Panamanians from the first, observed that it had fallen to Panama's lot that the decision of the mediator accepted by its government was against it. That paper asked this question: Were the people of Panama to consider on that account that the United States was their enemy? To the Star Herald this seemed ridiculously absurd, for the United States had been their loyal friend since Panama's existence. In this paper's opinion the United States had proceeded in this case with a point of view which it believed to be just.<sup>25</sup>

Needless to say public resentment in Panama against the United States was strong. A host of editors in South America

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<sup>24</sup> "Our Interference in Panama," Literary Digest, LXX, (September 12, 1921), 3.

<sup>25</sup> Ibid.



were exclaiming, "admitting that the United States saved us from Europe; who is going to save and protect us from the United States?"<sup>26</sup>

Mr. Hughes outlined the policy and attitude of the United States in this statement:

With respect to the Latin-American republics, it is our policy not only to seek to adjust any differences that may arise in our own intercourse, but, as I have said, to extend our good offices to the end that any controversy they may have with each other may be amicably composed. We are seeking to establish a Pax-America, maintained not by arms but by mutual respect and good will and the tranquilizing processes of reason. We have no desire to arrogate to ourselves any special virtues, but it should constantly be recognized that the most influential and helpful position of the United States in this hemisphere will not be that of the possessor of physical power, but that of the exemptor of justice.<sup>27</sup>

→ Undoubtedly, as this statement shows, Mr. Hughes' intentions were good, but he failed to take into consideration the attitudes of the Latin American countries. These countries resented this statement as shown by the storm of criticism which came from their newspapers. After all how could the United States judge what is right and why should it interfere in all of the disputes which arise between its neighbors in the South?

The ire of the citizens of Panama toward Costa Rica was intense, for they considered that republic responsible for the stand that the United States took in regard to the dispute. The legation of Panama at San José was immediately

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<sup>26</sup> Ibid.

<sup>27</sup> "Latin America Ire at Secretary Hughes," Literary Digest, LXXX, (January 26, 1924), 19, 20.

withdrawn and it may be added, was not reestablished until 1928.<sup>28</sup>

The Panamanians' hostility toward the United States, caused by its activities in connection with the boundary dispute, is shown in the sudden drop of imports into Panama from the United States. In 1919 the imports from the United States were valued at \$22,019,000; in 1920 at \$33,333,000; in 1921 at \$23,144,000. After the country was aroused by Secretary Hughes' action, the imports from the United States dropped suddenly to the value of \$14,517,000 in 1922. The anger did not effect the inhabitants long, for in 1923 imports were again up to almost their previous average: \$21,769,000.<sup>29</sup>

In the last decade the attitude of the United States toward intervention in the Latin American countries has been undergoing a gradual change. Panama realizes that the United States would not take such an aggressive stand toward the boundary dispute now as it did in 1921, therefore Panama has not accepted the boundary as final. Several times newspapers have circulated reports that the republics of Panama and Costa Rica are going to adjust their boundary to the satisfaction of both republics. In 1934 the New York Times had this to say:

The reopening of the Costa Rican Legation in

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<sup>28</sup> Waddell, op. cit., p. 496.

<sup>29</sup> Statistical Abstract of the United States, 1936, (Washington, 1937), p. 458.

Panama is announced. The post will be filled by Enrique Fonseca Zuñiga, Minister there years ago.

This action is taken to indicate a possible settlement of the boundary question between Costa Rica and Panama. President Harmadio Arias and other Panaman officials have flown over the section of the boundary in dispute. Now Foreign Minister Guardia and Costa Rican Congressmen plan a similar trip, after which active negotiations for a settlement will begin.<sup>30</sup>

Evidently Costa Rica is satisfied with the boundary as it is for no new adjustment has taken place.

Whether a definite settlement of the Costa Rica-Panama boundary will be made in the future is hard to predict. There is reason to believe that the government officials of Panama want to steer away from such a vexatious question. They might start a "prairie fire" which would be hard to stop. President Porras, in 1921, did not object strenuously to the decision of Chief Justice White, for a mob demonstrated before his home when it was reported that he had said that the territory in dispute was not worth fighting over. Anyway, one thing is certain at present, that is, that the United States would permit the two republics to work out their own solution to this problem without interference.

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August 29, 1934, p. 9

## BIBLIOGRAPHY

## Primary

Department of State, Press Releases, Washington, March 7, 15, May 2, 1921, and October 21, 1933.

Foreign Relations of the United States with the Annual Message of the President. 1880, 1881, 1893, 1894, 1910, 1911, 1914, 1915, 1921.

House Document No. 8, "Correspondence, Etc., Relating to the Recent Revolution on the Isthmus of Panama," 58 Cong., 1 sess., I.

Malloy, William M. Treaties, Conventions, International Acts, Protocols, and Agreements Between the United States and Other Powers. Washington, 1910, Volume I.

Miller, Hunter Treaties and Other International Acts of the United States of America. Washington, 1937, volume v.

Moore, James Bassett History and Digest of International Arbitration, Washington, 1895, Volume V.

Senate Document No. 32, "A Convention Between the United States and the Republic of Panama for the Construction of a Ship Canal," 58 Cong., 2 sess., II.

Senate Document No. 208, "Constitution of the Republic of Panama," 58 Cong., 2 sess., II.

Statistical Abstract of the United States, 1936, Washington, 1937.

United States Statutes-At-Large, Washington, 1905, Volume XXXII.

Wharton, Francis Digest of International Law, Washington, 1866, Volume II.

## Secondary Works

### Books

Bunau-Varilla, Philippe Panama, the Creation, Destruction and Resurrection. Robert M. McBride, New York, 1920.

Chapman, Charles E. Colonial Hispanic America. The Macmillan Company, New York, 1933.

Hill, Howard C. Roosevelt and the Caribbean. Chicago, 1927.

Jones, Chester Lloyd Caribbean Interest of the United States. D. Appleton and Company, New York, 1927.

Munro, Dana S. The United States and the Caribbean Area. World Peace Foundation, Boston, 1934.

Stuart, Graham H. Latin America and the United States. Century Publishing Company, New York, 1922.

### Periodicals

Associated Press Dispatch, New York Times, August 29, 1934.

Buell, Raymond Leslie "Panama and the United States," Foreign Policy Association Report, VII, New York, January, 1932, 410.

"Flare-up on the Isthmus," Literary Digest, LXX, September 12, 1921, 3.

"Latin American Ire at Secretary Hughes," Literary Digest, LXXX, January 26, 1924, 19, 20.

"Our Interference in Panama," Literary Digest, LXX, September 12, 1921, 3.

"Protocol for Settlement of Costa Rica-Panama Boundary Dispute," Bureau of Pan American Republics, Bulletin XXX, No. 4, Washington, April, 1910, 633-635.

Roosevelt, Theodore "How the United States Acquired the Right to Dig the Panama Canal," Outlook, XCIX (1911), 351.

Waddell, Agnes S. "Unsettled Boundary Disputes in Latin America," Foreign Policy Association Report, V, No. 26, New York, 1930, 492-494.

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Typed by  
Roy W. Poe