ROOSEVELT AND THE PANAMA CANAL

By

Fred Wilmot Bollhorn
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Approved by:

[Signature]
Instructor in Charge

[Signature]
Head of Department

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<table>
<thead>
<tr>
<th>CHAPTER</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Introduction</td>
<td>iv.</td>
</tr>
<tr>
<td>I The Background of Canal Interest in America</td>
<td>1</td>
</tr>
<tr>
<td>II The New Panama Canal Company and The Canal Commission's Reports in 1901-02</td>
<td>14</td>
</tr>
<tr>
<td>III The Spooner Act and the Hay-Herran Convention</td>
<td>27</td>
</tr>
<tr>
<td>IV The Rejection of the Hay-Herran Treaty</td>
<td>42</td>
</tr>
<tr>
<td>V Roosevelt and the Panama Revolution</td>
<td>57</td>
</tr>
<tr>
<td>VI The alleged Corruption in the Panama Transaction</td>
<td>82</td>
</tr>
<tr>
<td>Bibliography</td>
<td>92</td>
</tr>
<tr>
<td>Index</td>
<td></td>
</tr>
</tbody>
</table>
INTRODUCTION.

No subject in recent American History has been the occasion of more debates than Roosevelt and his relations with Panama and the Panama canal. Nor have the writings upon any subject of the period been more thoroughly colored by partisan sympathies. Save for a relatively small number of general historical accounts, the subject has been treated with the purpose of either exonerating Roosevelt or of condemning him; and in consequence both sides of the question have not been presented in their proper relation to each other.

But this situation is not surprising. The achievement which Roosevelt considered the greatest in his career cannot yet escape the bane of prejudice, especially as the sovereignty of a sister state, the naval security of the United States, and the hopes of a half-century were involved. The age is too young to permit a comprehensive and disinterested perspective.

In studying the subject I have tried to present the evidence found in its proper light, and consequently have used original sources almost exclusively; but portions of the work will undoubtedly appear too favorable for Roosevelt. Such a position is taken, however, only when the evidence which tends to break down his position is not conclusive enough to condemn him. It is frankly admitted that many coincidences have been found which even in the most favorable light are demning in character; but standing squarely in the face of each are the emphatic and still unshaken statements of Roosevelt and Secretary Hay that no member of the Government was involved in creating the Panama revolution.
The first chapter is general in nature and perhaps not altogether pertinent to the subject, but the history of Isthmian canal interest has been thus briefly traced in order to give a background for the fight between the overwhelming preference for the Nicaraguan route, which had grown up in America, and the New Panama Canal Company of France which, by untiring propaganda and a revolution, decided the issue in favor of Panama. The importance of the reports of Walker's canal commission must not be overlooked however, especially as nothing else can reasonably account for Roosevelt's preference for the southern route; but at the same time, Walker's second report came as the result of the position which the Panama canal company had taken consequently the company's offer to sell at the commission's valuation was the turning point.

In the matter of two sources used a word of explanation is necessary. "The Story of Panama" represents the last word in an attempt to condemn Roosevelt and his Administration, while Cromwell's "Brief" furnishes ex parte evidence of the relations between the Administration and Cromwell, the American counsel for the Panama canal company, and is purely selfish in character.

When Roosevelt instituted a suit for libel against the New York World in 1908, H. N. Hall and Karl Harding of that paper headed a commission to Panama whose purpose was to collect evidence to prove the world's contention that Roosevelt and members of his cabinet were implicated in fomenting the Panama revolution, and that Roosevelt had favored the Panama route in order that certain Americans who were supposed to own the Panama company's stock might get the $40,000,000 which the United States paid for the canal property. "The Story of Panama" based large-
ly upon Cromwell's brief, was the result of their labors and is given to a great extent in the form of testimony before the House Committee on Foreign Affairs in 1912, as the result of the Rainey resolution. Needless to say, it is wholly partisan in character but has been quoted extensively because of subject matter which it contains that has not been found elsewhere. I have not been able to verify the truthfulness of much of the evidence taken from this "Story" in any way, but since it was given as testimony before a committee of the House of Representatives it is entitled to consideration. At the same time it should be noted, however, that Philippe Bunau-Varilla, the French engineer who was the prime instigator of the revolution and therefore thoroughly acquainted with the moving forces, flatly charges Hall with many false statements in his "Story", while he criticizes Cromwell's brief almost, if not quite, as severely. It is readily seen, therefore, that the subject offers much that is questionable.

After the Panama affair had been settled, Cromwell and Sullivan, as American counsel, presented a bill to the New Panama Company for $800,000. The company refused to pay it, consequently Cromwell drew up a brief which was submitted to a board of arbitration which determined what fees he and his less active partner were entitled to. The brief is long and gives the impression that Cromwell directed the whole movement in Washington, even to all the treaty negotiations between Hay and Colombia. If he did all that the paper implies the large fee was undoubtedly earned, for even Hay was made a mere automaton, but the arbitral board was not convinced and cut the amount to $200,000. Even this amount would indicate, however, that money
was used for persuasive purposes.

Cromwell clearly played an important role but his influence has been greatly exaggerated. Representative Rainey declared before the House Committee on Foreign Affairs in 1912, that Cromwell is "the most dangerous man this country has produced since the days of Aaron Burr." Rainey had become saturated with the story of Panama, however, and should not be taken too seriously.

The whole subject is a complex and curious mixture of politics, money, propaganda, ambition, bold action, and violated sovereignty; and has proved too big a task for the time at my disposal; but perhaps impressions have been made upon some phases of the problem which tend toward a clearer understanding of the subject.
CHAPTER I.
THE BACKGROUND OF CANAL INTEREST IN AMERICA.

Before considering the events which immediately culminated in the revolution and independence of Panama it would be well to briefly summarize the later history of Isthmian canal interests in so far as directly related to the United States.

Though the United States had long been interested in the possibilities of transit across the Isthmus, no steps were taken which led to a definite understanding with the Governments of Central America until the Oregon question became a vital issue between England and the United States. In 1846, therefore, with Oregon obtained and prospects of acquiring California, the privilege of transit across the Isthmus gained a new and increasingly greater significance.

New Granada's urgency then chimed in with American interests and the now famous treaty of 1846 was the result. President Polk was doubtful whether this was in accord with the American policy of avoiding "entangling alliances," but submitted the treaty to the Senate nevertheless.

Under the guarantee of this treaty the Panama Railroad Company was organized by New York capitalists, chartered in 1848, and the road completed in 1855. The occasional intervention of United States troops in Panama down to 1903 was a direct result of this fact. It was at this time also that efforts were being made for a right of way across Tehuantepec but they came to naught with the end of the Mexican war. Panama and Nicaragua were henceforth to be the regions of canal interest.

In the meantime England was becoming aggressive in Central

1. Polk's diary, January 30, 1847.
America, a fact which caused the United States to awaken to the necessity of a definite understanding regarding a route through Nicaragua lest the American possibilities there become greatly endangered if not destroyed. The Clayton-Bulwer Treaty, providing for international control of any Isthmian Asaawa waterway that might be constructed, was the result. But this conception of a canal gave way in America about 1880 to that of a waterway over which the United States should have at least some measure of control. The reason for this change is to be found in the activities of the French Panama canal company on the Isthmus.

In 1878, L.B. Wyse, in command of the De Lesseps surveying expedition on the Isthmus, secured from Colombia a concession granting to a company which he might organize the "exclusive privilege for the construction across its territory" of a canal and accompanying railroad. A provision was also made whereby the advantages accruing to the company might be shared with the United States if the latter wished it. The concession, it was held, would not violate the provisions of the treaty with the United States of 1846 (which guaranteed neutrality of transit only and did not give the American Government a monopoly of the route.)

Nevertheless antagonism to the project was soon developed in the United States despite the fact that the French Government disclaimed any connection with the company. The American people did not wish to see a foreign company attempting a work in which they were becoming more and more interested, and the spirit was aroused which finally culminated in the ideal of a

3. Succeeded N
canal constructed and controlled by the United States alone.

Wyse transferred his concession to De Lesseps who arranged an International Congress of Geographic Sciences which convened in Paris, May 15, 1879. Twenty-five nations, including the United States, were represented. Seven routes for a canal were considered and that of Panama selected as the most practicable. The "Compagnie Universelle du Canal Interocéanique" (henceforth referred to as the Old Panama Company) was quickly granted a charter with a capital stock of $120,000,000, and the action leading to a colossal failure began.

The preliminary work of construction began in 1881; the French people subscribed to loans again and again but in 1889 the company was bankrupt with less than one-third of the work completed, while 800,000 stockholders suffered the loss which attended the great scandals which then came to light. De Lesseps and other leaders were sentenced to prison but the sentence against the great promoter was never executed: a physical and mental wreck, he died in December, 1892.

Out of the wreckage emerged the New Panama Canal Company which obtained an extension of time from Colombia and continued the work in a half-hearted fashion. It was with this company that the United States entered into relations which culminated in the purchase of the Panama canal property.

During this time the American people were becoming greatly interested in the Panama route but it was the interest engendered by opposition to the French companies rather than

5. House Misc. Doc., 16, 46 Cong., 3 Sess., p. 7, Gives testimony of Admiral Ammen, Am. representative, to the effect that the choice was pre-arranged.
the result of a desire to see an American-built canal at the place. The greater interest lay in the Nicaraguan route which by 1895 had come to be considered as the one most suitable for American construction.

In 1872 a commission was appointed which reported, 1876, unanimously in favor of the Nicaraguan route. This was the first commission to make a careful study of the two principle routes, consequently its decision had a strong influence toward shaping sentiment in America.

In 1887, the Nicaraguan Canal Association of New York obtained a concession from Nicaragua, and received a charter from Congress under act of February 20, 1889. Through a construction company the work began in the same year but with the financial crisis of 1893 the company was driven into bankruptcy and the construction came to a permanent end.

But Congress, as well as the people, had developed an interest for the undertaking, and in 1895 provided for a board of engineers to investigate the possibilities of completing the project. This board could not make a satisfactory report within the stipulated time so another was constituted in 1897 which had not yet reported when the New Panama Canal Company's efforts in Washington began, but it was becoming increasingly evident that the Nicaraguan route was the one considered most logical for American enterprise. The interest engendered from actual construction by an American corporation; the interest resultant within and outside of Congress through the furtherance of the Nicaraguan project, and the feeling that Panama had been preempted, while Nicaragua - nearer the United States and believed to be more healthful than the Isthmus - was re-

# The company was known as the Maritime Canal Company.
served for American undertaking; all these elements combined to produce the growing conviction that the northern route was peculiarly the American route.

But at this time a movement was inaugurated in favor of the Panama route which steadily gained ground until its fruition was an accomplished fact. The chief actor during the early stages of the movement was William Nelson Cromwell, Counsel for the Panama canal company since 1896. In the exhaustive hearings before the Senate Committee on the Panama Canal, 1906-07, Cromwell repeatedly refused to state what his duties as counsel were, except that they were professional, though he received therefrom, up to February, 1906, an amount not exceeding "the sum of $50,000" and his final bill had not been rendered. This amount, which he characterized as "insignificant" is large enough to cause the average American to believe that his services to the Panama company were such as to be worthy of consideration, especially as the United States finally bought the French company's property.

It now becomes necessary to summarize briefly the history of the new Panama canal company and its operations leading to the definite offer of its entire property to the United States for $40,000,000 on January 9, 1902. By a judgment of the Civil Tribunal of the Seine, February 4, 1889, the old Panama company was placed in the hands of a liquidator (Joseph Brunet) who was authorized to contribute or turn over the assets to the New Panama Canal Company then in contemplation.

7.Sen.Doc.15,46 Cong.1 sess.
10.Ibid,pp.1088,1142.
On December 28, 1890, Colombia granted a prorogation of 14 ten years in which to complete the Canal, then, because the new company was being organized but slowly, a second extension was granted, April 4, 1893, which gave the company until October 31, 1894 (4) in which to complete organization - the extension 15 holding good for ten years from the date of organization. The New Panama Canal Company was definitely constituted October 20, 1894, and a contract made with the liquidator of the old company (Pierre Gautron since July 21, 1893) whereby all the rights, franchises and property of the old company, including nearly all the stock of the Panama railroad company, which DeLesseps had bought in order to control the road, were transferred to the new company with the stipulation that the old company 17 should receive 60% of the profits of the undertaking. The two companies were, therefore, closely bound together.

The action of the liquidator was approved in advance by the tribunal of the Seine, June 29, 1894, consequently the organization of the new company was in due legal form. The importance of this fact becomes evident when the controversy over the purchase of the company's property by the United States is considered.

As previously stated, the extension of April 4, 1893, 31 which gave the company until October 20, 1894 to resume work, would hold valid until October 20, 1904. If the canal was not completed by that time Colombia would immediately enter into

17. Ibid, p. 378 et seq.
possession. In 1898, therefore, six years of grace remained but the canal company evidently felt that it could not finish the canal within the appointed time, or having no intention to do so and having entered upon the project only in the hope of reaching a rich return, was at this time casting a net for American aid or purchase.

Certainly the work was not being pushed with any prospects of completion within the stipulated time. In November 1898 only two-fifths of the work had been completed, while about one-third of the whole project was finished before the failure of the old company; moreover, excavations already made were being allowed to fill up. The new company had constructed, therefore, only about one-fifteenth of the entire work of digging, while less than $4,000,000 of the $12,000,000, with which the company was capitalized remained for completing the work. This fact becomes the more pertinent when it is remembered that the old company spent about $100,000,000 in construction.

But might not the new company sell bonds and thus finance the work? The answer appears obvious, yet this had not been done though the stockholders were rich and had personal credit enough, according to Lampre, to finish the canal. In view of these conditions it appears evident that the company was not seriously considering the completion of the canal though to willfully fail was to break the provisions of the concession of 1893 which stated that "work on the canal is to be resumed in a serious and permanent manner."

22. Ibid.
With this summary of conditions we are ready for the campaign which the company began in 1898 for gaining American aid, and which finally terminated in the sale of the canal property to the United States. On November 18, 1898, J. Bonnardeau, president of the board of directors of the company, addressed to McKinley an extended statement of the resources, conditions and prospects of the company. This letter contained no proposition or explanation, and is therefore the more strange if any explanation is attempted other than that it was a bid for American aid.

But why should the Panama company thus make advances to the United States at this time? The answer is to be found in the canal activity in America. As previously noted, Congress passed an act, June 4, 1897, for the appointment of a Nicaraguan canal commission to "continue the surveys— with a view of making complete plans of the entire work of construction" of a canal by that route. That the letter was the result of this action is made conclusive by the testimony of Lampre before a Senate committee in 1902 that the company feared their project would be ruined if the United States began a rival canal, consequently they wished to prevent such action.

It was at this time also that the company applied for an extension of time until 1910 for the completion of the canal, giving as the reason for the request that a deep cut was to be made in the "interests of commerce and navigation."

But considering the half-hearted manner in which the work had been prosecuted it appears that the real reason is to be found in the effort to present a surer proposition to the United States; for the Americans would not jump at a proposition which were fair to fail through limitation of time.

Colombia had previously given two extensions: what was her attitude relative to a third? Cromwell wrote to Hay, December 5, 1898, that "our company has not the least apprehension regarding any prorogation of its concessions it may consider necessary in the future." And again on the 21st: "We -- yesterday received---cable advising us that the Government had granted the extension subject to the approval of the next Congress---It is the opinion of the Government executives---that the power to give such extension is already located in the Government---but the formality of ratification will be request ed in due course, and of its being granted we have not the remotest apprehension."

Why should he be so greatly concerned in thus keeping the State Department informed of the progress of conditions favorable to the canal company if not for the purpose of educating the Administration to the advantages of the Panama route?

In Colombia the effect of the extension was far reaching. It will be noticed from Cromwell's letter that the Government executives considered the concession within their power to grant, and had acted accordingly on or before December 20, 1898. Did they have the right to make an extension without the consent of Congress? This is important because the latter did not

28. Ibid.
give its consent before its dissolution in 1898, and a fierce
civil war followed which was in part the result of the execu-
tives determination to make good the extension regardless of
Congress. This was finally carried out on April 26, 1900,
Colombia receiving $1,000,000 in French gold.

That the civil war was in part the result of opposition
to the extension is evident from the manifesto issued April 20,
1900, six days before President Sanclemente finally mustered
enough courage to accept the million in opposition to his Con-
gress' wishes. The manifesto was issued over the names of Santos
and Soto, leaders of the Liberal party which was waging war a-
gainst the Conservatives, or Church party - the party in con-
trol of the government.

The "Panama Canal - Manifesto" reads, in part: "The con-
tracts that the Government of Dr. Manuel Antonio Sanclemente
may make without being legally authorized therefor, neither or
nor will be recognized by the revolutionary government. The
President of the Republic---is not empowered to make contracts
involving national interests without the assent of the legis-
Iative body appointed by the people---. The present Government is
not empowered or authorized by any law whatsoever arbitrarily
to alter the terms of the contract now in force."(32)

This declaration seems to be borne out by the Colombian
constitution. Article 76 provides that "It is the duty of
Congress to make the laws. By means of these it exercises the
following functions---

14. To approve or disprove contracts or agreements which
the President---enters upon with private persons, assoc-
iations, or political bodies, in which the public trea-
ury is interested, if they have not been previously au-
thorized."(33)

If an extension had not been authorized the action of
Sanclemente was a clear violation of the constitution. A law of
1892, by article one, authorized the executive authority to modi-
fy the contract of December 10, 1890, and further provided that
"if the Government does not make use of the authorization given
by article one of the present law, it is fully empowered to make
a new contract, which will not require to be approved by Congress.

A new contract was made April 4, 1893, in the preamble of which
the following words are found: "It has been agreed to modify
the contracts of March 23, 1878, and December 10, 1890— in con-
formity with the following stipulations."

The Government, therefore, had made use of the authorization
given by the law of 1892, and any further contract necessitated
ratification by Congress unless a subsequent law made other pro-
visions. Attorney-General Knox, in his exhaustive report on the
validity of the Panama title, states that "no subsequent law of
the Colombian Congress on the subject has been found." The
conclusion is that the Colombian Congress was within its rights
in opposing the extension until 1910 to the Panama canal com-
pany.

But why should Colombia seemingly oppose the consummation
of a project which would be so profitable to the country?
Senator Morgan held that it was because the Colombians realized
that the extension was desired by the canal company merely to
 inveigle the United States into taking over the enterprise, and
that in such an event Colombia could not hope to make as pro-
fitable terms as she then enjoyed. Another supposition is
that the Colombians knew the canal would not be finished within
the stipulated time, and therefore opposed the extension in or-
der that the whole project would be forfeited to them in 1904.

This solution gains credence when the action of their Congress

p. 482 et seq. Sanclemente, an extreme member of the Church
party, was elected in 1898, and the war between this party
and the Liberals began in the fall of 1899.
in the summer of 1903 is considered. Still another reason may be found in the intense hatred between the Liberal and Conservative parties - the one opposing the other in principle upon any measure that arose.

But whatever the reasons may have been, action in Washington had to continue without the stimulus of an extension known to be valid. However greatly this fact concerned the Panama canal company which was actively lobbying there, it was of no moment to Americans, for they were not concerned one way or the other, but it does foreshadow the action of Colombia in regard to the Hay-Herran convention in the summer of 1903, and is therefore strikingly significant.

Be that as it may, American sentiment regarding a canal was crystalizing. For weeks in the spring of 1898 the course of the Oregon around the Horn was followed with nation-wide appreciation. It marked the turning point in canal interest - hence forth, for strategic reasons, the demand for a canal owned and controlled by the United States was not to be denied.

But the Clayton-Bulwer Treaty stood in the way. Secretary Hay, therefore, in 1899, undertook the negotiation of a new treaty with England. A project was signed, February 5, 1900, which authorizes the United States to build and manage a canal but without the right to defend it. The Senate amendments were not accepted by England, consequently the proposed treaty failed. Hay tendered his resignation but McKinley would not accept it.

34. H.D.493-57-2, p.150.
35. Ibid, p.349.
36. Ibid, p.150
39. Moores Digest, iii, p.211.
A second treaty, signed November 18, 1901, expressly abrogated the Clayton-Bulwer Treaty and gave the United States the right to build a canal with conclusive control of its management, while the clause in the first project forbidding fortification was left out. This treaty was soon ratified by the contracting powers, consequently the field was opened for an American canal. The action from this time leading to its consummation was rapid and exciting.

41. Mallory's Treaties and Conventions, i, p. 782.
CHAPTER II.
THE NEW PANAMA CANAL COMPANY AND THE CANAL COMMISSIONS
REPORTS IN 1901-02.

In the meantime interest in the Nicaraguan route was growing continually stronger, but the friends of that way were destined to disappointment. On February 28, 1899, Maurice Hutin, president of the Panama canal company, together with Cromwell and Sullivan, American counsel for the company, directed a letter to President McKinley in which an offer was made to "re-incorporate under the laws of the state of New York, or of some other state of the Union---and vest its concessions and property in such corporation---if, as the result of----investigation, the Government of the United States adopts the Panama route."

This offer must have been a factor of considerable importance in its influence towards passing the Isthmian canal appropriation act of March 3, 1899. At any rate, interest in the southern route had been aroused to the extent that a careful survey of all routes was thought advisable before definitely committing the nation to the project. A million dollars were appropriated for the work, Admiral Walker was chosen to head the commission, and the work began in July. But, as Professor Latane remarks, "This question had now become a political rather than an engineering problem." On March 11, eight days after the approval of the Isthmian act, Hutin and Cromwell again wrote to the President urging him that the committee appointed "be composed of gentlemen of the widest experience, of exceptional character and unquestionable professional standing, and who are not embarrassed...

by public committees or previous records favorable or unfavor-
able to either one or the project and who have not heretofore
served upon any canal commission."

Such an attempt to dictate presidential appointments
cannot be lightly condoned even when considered in the most
charitable light. It is quite evident that the Panama company
had entered the race with the full intention of being present
at the death.

But the friends of the Maritime Canal Company were not
relaxing their efforts in favor of the northern route though
they were experiencing difficulty. On October 31, 1898, Nicara-
gua granted a concession to the Interocceanic Canal Company
(E. Eyre and E. Cregin) declaring the Maritime's contract to
"cease to have legal existence on the 9th day of October, 1899."

But the older company would not surrender its claims, so the
two companies added their troubles to the already overburdened
lobbies of congress; while the powerful influence of the trans-
continental railroads, opposed to a canal at either place, was
"usually arrayed against the plan which appeared for the time
being most likely to succeed."

Such conflicting conditions made the situation the more
suspicious for the Panama company's plans. President McKinley
had come at least to the point of giving favorable consider-
ation to the southern route, and probably asked Senator Hanna
"to listen to Cromwell's pleading." Hanna, who later became
the great champion of Panama in the senate, was not definitely
won over, however, until 1901 with the visit of Bunau-Varilla
to America. After a series of interviews with this representa-
tive of the company, Hanna became convinced that the advantages

5.Latane, The United States and Latin America, p183.
of the Panama route were greater than those of the northern
one and henceforth became the congressional leader of the Pana-
ma forces. Marcus Hanna has long been considered a rank spoils-
man but no evidence has been found which tends to prove that he
acted from any other motive than that born of an honest belief
in the superiority of the Panama route.

But converts were not being won fast enough. Probably
through Cromwell's insistence the Republican platform of 1900
pledged the party to the construction of an Isthmian canal rath-
er than one specifically located in Nicaragua. Such a declara-
tion would be a tribute to the fair-mindedness of the men making
the platform if no ulterior motive led to its adoption; but the
charge has long been current that Hanna agreed to the plank only
after Cromwell had contributed $60,000 to the fund for the cam-
paign. This story originated with the New York World. Representa-
tive Rainey gave credence to it before the committee on Foreign
Affairs in the House in 1912 (9), and has been quoted by Thayer
in his life of Hay (page 307). Before this same committee, H.N.
Hall of the New York World testified that the change was made
in the platform "only after Mr. Cromwell had contributed $60,000
to the Republican Committee, of which Senator Hanna was chairman."
He further stated that Bunau-Varilla had made the statement to

10 Mr. Seitz of the World. But Bunau-Varilla denies the story as
11 "pure fiction" on the part of Hall. Until proof is found, there-
fore, the truth of the story must be denied.

When the work of the Canal Commission under Admiral Walker,
the Panama company put forth every effort to make a favorable

7. Ibid, p381. Also Bunau-Varilla's Great Adventure of Panama, p90
11. Ibid, 42.
impression upon the commission. Viewed in a spirit of fairness it must be admitted that the company had a perfect right to do this, just as its American counsel might lobby in congress, but the Panama route would probably not have been chosen had it not been done; therein lies the significance. Whether or not the company had inherited the scandals of the old company; had lost the confidence of the French people so there was no hope of raising funds with which to complete the canal, if indeed such were its intentions; or whether the only object was to sell for the purpose of profit soon became the subjects of heated debate in congress.

The commission was concerned, however, only with determining whether the company could sell its property, and if so, at what price. Section 3 of the act providing for the commission stipulated, in addition to a careful investigation of routes and the probable cost of construction, that "the cost of purchasing all of the rights, privileges, and franchises held and owned by any—corporations, associations, and individuals—particularly the—Nicaragua route and the—Panama route" be ascertained.

A thorough investigation of the Panama route therefore necessitated an extended study of the company's archives at Paris. This was done in August and September, 1899. While in Paris, Welker tried to learn the terms on which the property could be acquired but received no definite answer. The reason being, according to Butin, that an understanding would have to be had with Colombia because of the stipulations of the concessions from that government. That such consent must be gained was true because the concessions forbade transferral to another power. But this was understood, and an offer might

have been made subject to the success of future negotiations with Colombia.

In the spring of 1900 Hutin came to America and Walker again tried to gain a definite offer but with no success. But in the spring of 1901, Walker was informed by Hutin and Silva Colombian minister to the United States, that efforts to bring about a transferrance of the franchise would be undertaken. It would seem therefore that no obstacle could now remain for withholding the offer which Walker had tried so long to obtain. Finally Hutin presented a formal statement in person at Washington, October 17, giving the estimated value of the company's property, but still no definite answer as to the price. The valuations given totaled $109,141,500. Walker asked if the amount was understood to be an offer; Hutin did not dissent, consequently Walker incorporated this sum in his first report as the amount which the Panama company would require for its franchise and property.

Why should the company not make a definite offer after two years effort on Walker's part to obtain it? Since it was understood from the first that Colombia's consent must be gained, and since the company made no secret of its desire to sell or reincorporate under United States laws, the only reason that can be deducted is that the company feared to make a definite offer only because it wished to gain as much as possible from the sale, and was marking time for favorable developments.

18. Ibid, 149.
20. Hutin to Walker, Nov. 6, 1901, Ibid.
In the meantime canal interest in congress was not lagging. On February 7, 1900, twelve days after the first Hay-Pauncefote Treaty was signed, W.P. Hepburn chairman of the committee on interstate and foreign commerce, reported to the House a bill which authorized the appropriation of $140,000,000 to complete the Nicaraguan canal. 21 The debates which followed show that one of the great reasons of preference for this route lay in the supposition that there was a greater possibility of its being under American control. This factor, added to the popular interest in the northern route, must not be left out of sight when the choice of routes comes definitely before congress; for it must be remembered that the possibility of control over the Panama route was still very indefinite, and that route was therefore at a disadvantage. Furthermore there is great probability that the New York Syndicate was backing the Hepburn bill and helped in developing unnatural enthusiasm for it. This is evidenced by the statement of Joseph Cannon in the House "that men openly charge that people who are not friendly to the construction of an Isthmian canal are promoting this bill." 22

These proceedings appeared dangerous to the New Panama Canal Company, consequently a further step was taken to bring direct pressure to bear upon the President. On April 30th, Cromwell wrote to McKinley, calling his attention to the fact that though the canal commission had not made its report a bill had been introduced for the construction of a Nicaraguan canal; and requested "that the President advise the Congress of the facts of the case." 23

For congress to attempt the passage of a bill before gaining the report of the commission expressly constituted for the purpose of making intelligent legislation possible, seems
rehensible, but the action of Cromwell was more so. However, his attempt to hold up the action of the House failed; the bill passing May 2, by a vote of 224 to 26. In the Senate, Morgan, chairman of the special committee on interoceanic canals, reported it without amendment, May 14th, but it was smothered; that body being more inclined to await the canal commission's report.

When the report came, November 16, 1901, Theodore Roosevelt had succeeded to the presidency, and from this time the movement toward a canal as a reality was rapid, for action was such a vital and compelling force in his life that it easily and quickly caught up nearly all who came under the charm and strength of his personality and thus assured achievement.

The report which fills a large volume, goes into exhaustive detail upon every phase of the question, carefully presenting the relative merits of the various routes. The Panama and Nicaraguan routes were quickly recognized as the only practicable routes, however, consequently they were given the most careful consideration by the commission.

It would be unprofitable for the purpose of this paper to make an extended study of the report, but since the Nicaraguan route was recommended while the supplementary report of January 18, 1902, changed in favor of the latter; and since Roosevelt came to favor the latter, it becomes necessary to review the more essential features. For this purpose a table based on the report will most conveniently and graphically show the relative merits of the routes.

22. Ibid. 4936.
Nicaragua

Earthquakes——no difference
Climate——

Length (total) ———183.66 miles ———— 49.09 miles
Length in standard and canal section) including harbors) ————73.78 ————36.41

Time for construction ———8 years ————10 years (1)

Curves ————56 == 49.29 miles ————29 =22.85 miles

Water supply ————satisfactory for both

Harbors ———

"the balance of advantages, including those of maintenance and operation, is probably in favor of the Panama route"

Time for passage of vessels ———33 hrs. ————12 hrs.

Time saved: Atlantic to Pacific ports-U.S. ————shorter by one day—
Atlantic to west coast of S.A. ————two days shorter

Gulf ports to west S.A. ————one day shorter
Gulf ports to Pacific-U.S. ————two days shorter——

Cost———$189,864,062 ————$253,374,858

Annual cost of maintenance and operation ——$3,300,000 ————$2,000,000

(1) Delays at Panama less likely However, pp. 172-173.


From this table it appears that Nicaragua has the advantage in time necessary for construction, though with greater probability of delays; it would cost $63,510,796 less than Panama when the Panama company's offer of $109,141,500 is added to the cost of construction, but $5,630,704 more if the company would sell at the commissions valuation for the property which was $40,000,000. But the greatest point in favor of Nicaragua is that the sailing time from Atlantic to Pacific ports is one day shorter. However when it is remembered that the time element in the nature of freight which would make the passage is
not generally of great importance, the advantage loses much of its weight.

On the other hand, the Panama route is shorter, would require less sailing time, would have less summit elevation in the completed canal, fewer locks, less curvature with relatively less danger to vessels, and a much smaller operation and maintenance cost. If a sea-level canal were to be built Nicaragua would be left out of consideration, for the report stated that "the Panama route alone is feasible for a sea-level canal." Moreover the Panama railroad was a very important factor in favor of the southern route since it supplied a service road for the entire length of the canal. As to the matter of concessions there was no difference, since a new one would have to be obtained for either in any event.

From the foregoing comparison the balance of favor would seem to rest with Panama but for the greater cost due to the purchase price of the Panama company's property; and such is the conclusion which the commission reached. The report ended with the following statement:

"There are certain physical advantages—in favor of the Panama route, but the price fixed by the Panama Canal Company for a sale of its property and franchises is so unreasonable that its acceptance cannot be recommended by this commission.

After considering all the facts developed by the investigations made by the commission and the actual condition as it now stands, and having in view the terms offered by the New Panama Company, this commission is of the opinion that 'the most practicable and feasible route' for an Isthmian canal, to be under the control, management, and ownership of the United States is that known as the Nicaragua route."

In these two closing paragraphs the terms offered by the Panama company twice appear as the evident reason why the northern route was recommended. This point would not be stressed so

25. First Report, p. 171.
26. Ibid, p. 70.
27. Ibid, p. 174-75.
much but for the fact that the Panama route was recommended in a second report, January 18, 1902. Why this complete change?

With the commissions' first report the New Panama Company realized that all hopes of sale at Hutin's valuation were gone, and that definite action was imperative. Hutin wrote to Secretary Hay, Nov., 22nd, protesting that $109,000,000 had not been submitted as a definite offer but only as the valuation of the property concerning which the company wished to negotiate. But, as previously noted, Hutin had not dissented when Walker asked if the amount was to be considered as the sale price. Still another cause for action lay in the fact that Hepburn had re-introduced a bill in the House, Dec. 16, for a Nicaraguan canal. This further added to the crisis in the affairs of the Panama company. Haggling now gave way to action.

At an official meeting of the stockholders of the company December 21, the board of directors was given full power to negotiate for the transfer of its property and its concessions; its action to be formally ratified by the stockholders. It is significant that M. Uribe, consul-general for Colombia at Paris, represented his government, which was the second largest shareholder in the company, and voted the shares of Colombia in favor of the sale. On December 23, the directors met and voted in favor of the sale. Again we find that M. Samper, the Colombian representative on the board, concurred.

On January 9, Walker received the following cable from

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30. Ibid, p. 503. The minutes of the meeting are here given with the resolution signed by Uribe.
Marius Bo who had succeeded Hattn as president of the company: "The New Panama Canal Company declares that it is ready to accept for the totality, without exception, of its property and rights on the isthmus to the amount of $40,000,000, the above offer to remain in force up to March 4, 1903."(32)

Further correspondence followed until it was made clear that the offer included all the property on the isthmus, all the stock of the Panama railroad company which the company held, and the maps, plans, archives, and records in Paris; then the second report recommending the Panama route was submitted.

The charge has frequently been made that Roosevelt called the commission together after its legal existence had terminated and virtually forced the changed decision. J.L. Heaton, in "The Story of a Page," says that "President Roosevelt instructed the Isthmian Canal Committee, in effect, to reverse its report." While H.H. Hall testified before a House Committee in 1912 that Roosevelt had made it quite clear that he expected the Panama offer to be accepted; that "Noble and Pasco had given in, but Professor Haupt stood out, and it was only after Admiral Walker had called him out of the committee room and pleaded with him to sign the report, stating that the President demanded a unanimous report, that Haupt consented to put his name to it."(34)

32. S.D. 54-57-2, p. 47. The reason for giving March 4, 1903 as the limit was because the 57th congress then ended.

Bunau-Varilla, in The Great Adventure of Panama, claims the honor of forcing the decision to sell for $40,000,000. He says the directors did nothing but talk until he "spoke in all the newspapers of Paris for the third time." That on Jan. 1, 1902, he paid $5,376 to have an article printed in which he "fixed the sale price of the canal property at $40,000,000" and immediately "the board sent by cable an offer to sell all her property" for that amount. pp. 98-99.

33. p. 282.

34. Story of Panama, p. 166.
In an article printed in the North American Review for July, 1902, Haupt says he signed only because he feared a divided report would mean no legislation at all; that he still believed in the superiority of the Nicaraguan route and had signed with a statement of his reasons entered upon the minutes. He says nothing, however, about any influence Roosevelt may have exerted.

The changed opinion was not unanimous in fact, therefore, though it was in effect, and should have voiced the opinion of all who put their names under it. Leaving out the one who did not have the courage of his convictions, the report may be considered for what it contains. The first report recommended the Nicaraguan route largely because the Panama company valued its property at more than two and one-half times the commission valuation. Now that the latter's valuation had been accepted, it made the estimated cost of the Panama canal less than that of the other while its advantages remained. The report itself bears this out:

"There has been no change in the views of the commission with reference to any of these conclusions (relative advantages of the routes) then reached, but the new proposition submitted by the New Panama Canal Company makes a reduction of nearly $70,000,000 in the cost of a canal across the Isthmus of Panama, according to the estimates in the former report. The unreasonable sum asked when the Commission reached its former conclusion, overbalanced the advantages of that route (Panama), but now that the estimates have been nearly equalized the Commission can form its judgment by weighing the advantages of each and determining which is the more practicable and feasible." (55)

The Panama route was therefore recommended and the report signed by the same nine men who signed the first one. To say that it was made in bad faith is tantamount to a reflection upon the good character of eight of them—a thing not to be entertained for a moment.

As to the question of Roosevelt exceeding his authority in re-assembling the commission, little need be said. The act of March 3, 1899, empowered the President alone to make "such full and complete investigation as to determine the most feasible and

practicable route," while he was authorized to employ anyone whom he wished to assist him. The finality of a report therefore rested wholly upon the President, and not with the commission.

The conclusion therefore is that Roosevelt decided upon the Panama route after a thoroughly competent commission had considered all the elements entering into the problem and had decided upon that route but for one reason; that reason was removed and the final decision followed. After all, Roosevelt's course was the logical and reasonable one to follow. It is true that the one other commission which made anything approaching a careful survey of the routes had reported in favor of Nicaragua, but that was in 1876 before any construction had been done on the Isthmus; moreover the second commission made a more careful investigation, and its decision therefore is entitled to greater weight.

The question of choice now lay with a congress which was eager to legislate.

CHAPTER III.
THE SPOONER ACT AND THE HAY-HERRAN CONVENTION.

The Hepburn bill was reported December 19, and came up for discussion January 7, 1902. It is interesting to note that an amendment offered by Morris (Minn.) providing that the President should choose between Nicaragua and Panama, was lost. The original bill, authorizing the President to build a canal at Nicaragua for $180,000,000 and appropriating $10,000,000 for immediate use, passed January 9, by a vote of 308 to 2.

Before action was taken in the Senate, the committee on interoceanic canals (Morgan chairman) took testimony for two months. Again we find the Senate proceeding carefully instead of jumping quickly to a definite conclusion. Had the Senate acted immediately on the basis of Walker's report as did the House, the bill would have had ample time for passing before Walker's second report on the 18th. As it was the golden opportunity for the friends of Nicaragua was lost.

The Committee on Interoceanic Canals reported the Hepburn bill without amendments, March 17 and 19 (7 to 4), but the minority made a report, May 19, advancing strong argument in favor of Panama. Senator Hanna was the "instigator of this---report and thereafter he became the leader in the Senate of the Pro-Panama forces". But here suspicion creeps in. Cromwell says in his "brief": "we wrote a complete and thorough draft of a report---after full consideration this report was corrected, adopted, and became famous under the name of the Hanna minority report".

2. Ibid, 613, 657, 658.
3. Ibid, 2713, 2992, 6123.
5. Story of Panama, p. 261.
In the meantime a great debate was on in full swing. Senator Morgan the indomitable champion of Nicaragua advanced every known argument in opposition to Panama, basing chief reliance on the charge that the New Panama Company could not give a clear title. This objection was cleverly met however by Senator Spooner, who offered an amendment January 28, 1902, which as finally amended authorized the President to acquire all the property of the Panama company "at a cost not exceeding $40,000,000;" and from Colombia "perpetual control" of a strip of land not less than 6 miles in width. It also provided that when the President had secured a satisfactory title from the Panama canal company, and obtained the necessary land from Colombia by treaty, he was authorized to pay the $40,000,000 to the Panama company and begin the construction of the canal. And furthermore, that should the President be unable to obtain a satisfactory title to the property and control of the necessary territory "within a reasonable time and upon reasonable terms" he should turn to the Nicaraguan route. Here again is suspicion. Earl Harding intimates that Cromwell wrote the amendment, while Cromwell in his brief speaks of "long conferences with Senator Hanna and Senator Spooner" which resulted in this amendment. But Spooner declared in the Senate, June 12, 1902, that he not only wrote the amendment but devised it. In the absence of proof to the contrary his word should be accepted.

During and previous to this time the State Department had been active in order to furnish the assurance of as definite relations as possible with Colombia, Nicaragua and Costa Rica.
Rico to the Senate as a basis for its deliberations. On December 1, 1900, identical protocols were signed with Nicaragua and Costa Rica providing for negotiations for a canal in the event the President should be authorized to acquire territory for a canal through said territory, and at a later date the draft of a convention with Nicaragua was made but not signed.

Negotiations with Colombia moved more slowly but a convention was drawn which Concha, the Colombian minister was ready to sign by April 23, 1902, while Hay was directed to sign as soon as Congress "authorized the President to enter into such an arrangement;" and as soon as the question of the title to Panama property was settled. Roosevelt was therefore gaining the sanction of Congress before proceeding.

Because this convention was instrumental in gaining favor for the Spooner amendment; and because it became the Hay-Herran Treaty after undergoing a few changes, a brief review of the negotiations and the terms is not out of place.

The offer to negotiate and the proposal of terms in large part agreed to were made by the Colombian minister, Martinez Silva presented a memorandum to the State Department as early as March 27, 1901, giving official assurance that Colombia would authorize the canal company to transfer its concessions to the United States, but Hay replied that he could not then enter into negotiations, not being authorized by the Senate.

On March 21, 1902, Jose Concha who had recently succeeded Silva, presented the form for a treaty to Hay. One sentence of the letter accompanying the memorandum is of interest in the light of later events. It stated that "Colombia has no lust for unjust gain through the construction of the canal in her terri-
tory, and a final convention on the subject will not be hampered by pecuniary considerations. Not only did this question of compensation become a sticking point in later negotiations but it became also one of the principle reasons, if not the chief one, for the rejection of the Hay-Herran Treaty in August, 1903. Chnche's instructions of January 27, 1902, says H. N. Hall, "required his exacting no less than $20,000,000 from the New Panama Company for Colombia's permission to transfer its concessions."

Whether Concha was really expected to gain so much is problematic, but it is significant that one of the reasons for the rejection of the treaty by Colombia was because it did not permit her to exact payment from the Panama canal and railroad companies. It is further a matter of interest to note that a statement by Cromwell urging the consummation of the treaty, approved by Concha, accompanied the offer of March 31. This fact emphasizes the close connection which Cromwell had with every movement in favor of Panama.

By article one Colombia authorized the Panama canal company to transfer to the United States its rights, privileges, properties, and concessions. This article did not undergo any change and was finally embodied in the Hay-Herran Treaty. The price stipulated for the canal zone was $7,000,000, which was the same as the amount agreed to, April 18, and which was therefore con-
sidered in the passage of the Spooner amendment. The $7,000,000 was to be paid on ratification while an annuity, to be agreed upon after eleven years, was to be paid after fourteen years. It is a fact of interest that this offer came from Colombia and was accepted by the United States; was raised to ten millions after the Spooner amendment brightened Colombias prospects, and was again accepted; then finally rejected by the Colombian congress in August, 1903.

But though the offer came from Concha it is an unquestionable fact that Cromwell had a great influence in fixing the terms, but to what extent is hard to determine. Cromwell has stated that he "led the minister to pledge himself as to various bases for a proposal" during the "course of conferences which succeeded each other for whole weeks at a time," and thus led Concha to make the offer submitted March 31, then by continuous efforts gained his consent to the changes agreed to April 18.

The degree of control over the Isthmus, together with other provisions of lesser importance, was not extensive enough for the Senate, consequently the Spooner amendment demanded "perpetual control" over the canal zone; a stipulation which necessitated a renewal of negotiations.

Making satisfactory terms for a Nicaraguan route had likewise not been easy, and was accomplished only with the success of the negotiations with Colombia in April. Secretary Hay wrote to Senator Morgan, whom he was keeping informed, under date of April 22: "Let me assure you in strictest confidence that I was unwilling to send in the Panama proposition until I was able also to send in the Nicaragua proposal."

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The principle difficulty, he said, being that both Colombia and Nicaragua think the United States will accept as a last resort any terms they may ask as they think their route the only possible one. Does not this impartial statement forecast a motive for Colombias rejection of the treaty?

The Spooner amendment, which was virtually a new bill since it superseded the Hepburn bill entirely save for the enacting clause, was defended by Hanna in the greatest speech in his life, June 5 and 6. He supported his arguments by an assortment of charts and tabulated facts, as well as letters from seamen recommending the shorter and straighter passage of Panama, in a highly convincing manner. He also emphasized the danger of earthquakes in Nicaragua, an opinion which had gained wide credence following the eruption of Mont Pelée, May 6, causing a large loss of life, and the still continued action of La Soufrière in Nicaragua. Hanna's efforts therefore changed a number of votes though the majority was large enough to indicate passage anyway.

There is no question that Hanna conferred often with Cromwell, but there is no reason to doubt his sincerity in favoring the Panama route as the better one. The significance lies in the fact that he did not become its champion until after conferences with Bunsu-Varilla, and later with Cromwell. H.N. Hall testified before a House committee in 1912 that "Mr. Cromwell wrote Senator Hanna's speech, if not in its entirety, at least in greater part." Cromwell, however, in his pretentious brief, does not bear out the statement. Again absence of proof must give Hanna the benefit of the doubt, for it must be remembered that Hall, a member of the staff of the New York World, was interested in implicating...

every one who had anything to do with the adoption of the Panama route.

At this time Philippe Bunau-Varilla, former engineer of the French company but at this time chiefly concerned in transferring the whole project to the United States, was active in Washington but the extent of his influence toward securing the adoption of the Panama route is doubtful even though this "picturesque personage--to whom the earth seemed like a school globe which he, the teacher, made to revolve at his pleasure," was not backward in his efforts to further the cause.

The final vote came June 19, when the Spooner amendment carried 42 to 32; then the bill thus amended by the decisive vote of 67 to 6.

27. In his book, The Great Adventure of Panama, Varilla tells how he gave definitely written arguments in favor of Panama to each senator, the second argument of which was "earthquakes." That the splendid work of the eruptions in Central America was proving conclusive until toward the end of the debate President Zayas of Nicaragua sent a message to Corea, minister to Washington, that the "News printed about recent eruptions of volcanoes in Nicaragua (is) entirely false." Senator Morgan presented this in the Senate with the statement from Corea that Nicaragua had had no eruptions since 1835.

There was no time to gain definite knowledge, consequently Varilla was frantic until he happened to notice that the postage stamp of Nicaragua represented a glorious volcano in full display. He therefore sent a stamp to each senator, June 16, with the statement: "an official proof of the volcanic activity of Nicaragua." Thus he saved the day.

When the bill went back to the House where the Nicaraguan forces were strongest, he was again in a difficult position; but by making another raid upon stamp collectors he carried off a second victory. (pp. 105-11)
The House disagreed; a conference committee was appointed which recommended the senate amendment, June 25, and on the next day the House adopted the report and the Spooner amendment by the almost unanimous vote of 260 to 8. Concurrence was without division in the Senate, and the President signed the act on June 28, 1902.

The vote in the Senate clearly indicates that the majority favored Panama, while the final overwhelming vote in the House might at first blush appear the same; but such was not the case. Even though opinions must have changed to a certain extent since the passage of the Hepburn bill by that body in January, the debate brings out the fact that many voted for the Spooner amendment because they thought any canal better than none at all. Moreover it was hoped that Roosevelt would not be able to make terms with Colombia within a reasonable time, and thus would be forced to turn to Nicaragua.

In any event, the way was now definitely opened for action to the Chief Executive who was eager to see the enterprise begun. Congress had expressed a choice of routes for a canal, but in such a manner that the actual choosing was left largely to the President; while the steps leading to securing it were entirely in his hands. A new phase in the movement for an oceanic canal begins.

With the passage of the Spooner act, Roosevelt's first obligation was to obtain a canal zone from Colombia and ascertain whether a "satisfactory title" could be given by the New Panama

Canel Company. Both movements started immediately, and on October 25, 1902. Attorney-General Knox reported that the "United States would receive a good, valid, and unencumbered title."

To attempt a legal discussion of the opinion would be profitless, moreover it is not necessary. The principle points stand out clearly and show that the conclusion was the only logical one.

Since the Wyse concession stipulated that the transferrence of rights to "any nation or foreign government" would cause forfeiture, an agreement had to be made with Colombia permitting the Panama company to transfer its concessions to the United States. This provision was accordingly retained in the Hay-Herran treaty as article one, and the treaty signed before negotiations for purchase were entered into with the Panama company. This phase of the title therefore did not have to be considered by Knox.

As previously pointed out, the organization of the New Panama Canal Company was properly done, the charter being approved by the court of the Seine, June 23, 1894, as likewise the agreement with the liquidator of the old Panama company. The only question that concerns the subject therefore is whether or not the new company could legally transfer its title, since any act on the part of the liquidator tending to alienate the property must be passed upon in open court, according to the government act of July 1, 1893.

32. Ibid., p. 497.
The general meeting of the stockholders, December 21, 1902, authorized the sale, which was in accordance with the company's by-laws, articles 60 and 63, and the liquidators consent was approved under judgments of the civil tribunal of the Seine granted March 19, 1902 and August 5, 1902. The whole proceeding was in accordance with law and court judgments, consequently further facts to prove the validity of the title are superfluous.

In the meantime negotiations were being carried on with Concha for the alterations in the treaty made necessary by the Spooner act. On July 18, Hay submitted the form of a treaty with the necessary amendments, which Concha forwarded to his government. On October 26 Concha informed Hay that he had received instructions on the 24th, but in view of the action of United States naval officers in Panama he could not act until further instructions were received. Hay replied that he did not recognize any action in Panama to which Colombia should take exception, and urged action since the Spooner act would not permit negotiations to be dragged out indefinitely.

Before this, however, Concha had received instructions which furnished the chief reason for delay. President instructed him on August 9th by cable: "In order to render the amendments to the memorandum presentable to our Congress, demand ten millions cash and annuity of six hundred thousand after fourteen years!"

On November 11th, following, Concha submitted an unofficial memorandum of terms which he would discuss as a basis for the treaty.

37, Ibid, p. 255. Action of naval officers was in keeping transit open on the Isthmus.
39, Story of Panama, p. 185.
Previous to this time, during all the discussion of terms, Concha had never suggested a change in article one which he himself had proposed March 31, 1902. Now he demanded that the article should clearly state that the transfer must be regulated by a previous special arrangement between Colombia and the Panama canal and railroad companies. Hay would not consider such a change for the reason that a treaty between nations should not be subject to conditions made with private corporations. No change therefore was made in this article. Concha protested also that the term "in perpetuity" which Hay had inserted in accordance with the Spooner act could not be accepted; consequently Hay offered to substitute "or the term of one hundred years, renewable at the sole and absolute option of the United States for periods of similar duration so long as the United States may desire." This form of statement agreed with the terms of the Spooner act and was accepted in the final treaty.

But during these negotiations Concha had been chafing as the result of his inability to make better terms; and on November 28, he left Tomas Herran, charge d'affaires, in his place while he quitted Washington without even taking leave of the State Department. Herran's instructions from Bogota were: "Do all you can to get $10,000,000 cash and $600,000 yearly payment—sign the treaty with the indispensable, that it be subjected to whatever the Colombian Congress decides."

But an annuity of 100,000 was as much as Hay would offer in addition to the $10,000,000. Writing his government, January 9, Herran

41. S. Docs. vol. 15, 63-2, p. 258.
42. Ibid, 261.
43. Presented by Hall, Story of Panama, p. 316.
stated that he was now working independently of his former allies, Cromwell for one, but that Bunau-Varilla was "trying to intervene officiously," and had "been sending cables to the Colombian Government." This statement is substantiated by Bunau-Varilla, who says in his book, "The Great Adventure of Panama," that when the negotiations were held up by the lack of agreement on compensation, he kept in touch with Colombia and finally, December 19, 1902, telegraphed President Marroquin advising him to propose settlement by accepting $10,000,000 and an annuity of $250,000.

Varilla was evidently trying to claim the honor which Cromwell attributed to himself. According to the latter, he (Cromwell) induced Herran to accept the stipulation, then "on the 21st of the month, far into the night, and the whole of the following day" he labored with Hay and finally led him to accept the same terms. The treaty was signed on January 22 and sent to the Senate the next day.

The greatest difficulty in the negotiations was to reach an agreement on the price to be paid for the concession; and though Hay advanced far beyond the price stipulated in the Conchita agreement of the spring before, he would not go as far as the Colombian Government had instructed Herran consequently the latter signed only when it became evident that better terms could not be made. Without doubt the persistent nagging of Cromwell had much to do with the success of the negotiations, but who can imagine him playing such an important role as to justify the following statement which is characteristic of the "Brief" through

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44. Story of Panama, p. 319.
45. p. 125.
46. Cromwell's Brief, p. 272.
out: "The entire negotiation of the treaty with Colombia was conducted by Mr. Cromwell, with Ministers Concha and Herran and Secretary Hay, who held nearly all their official communications through his intermediary exclusively, without meeting each other, except on one or two official occasions, up to the hour—for the signature."

Is it not possible that Cromwell's plea for a fee of $800,000 colored this statement greatly, especially as both Hay and Herran were dead when it was written!

For the success of the treaty it was probably fortunate that the signature was not delayed, for on June 25 Herran received a cable from Marroquin which read: "Do not sign canal treaty. You will receive instructions in letter today." According to Hall, the letter was not printed in the Colombian Blue Book, consequently the nature of the instructions is conjecture only.

But Herran, who undoubtedly represented the wishes of his government, was not satisfied with the treaty as signed. He cabled his government January 22nd: "Treaty signed today accepting ultimatum ten millions and two hundred thousand dollars annuity." Then a few days later he wrote at length his reasons for signing:

"To the many difficulties that have surrounded me in the course of these arduous negotiations have been added additional embarrassments caused by recent cables from the American minister in Bogota and the agent of the canal company. Both asserted and reiterated that the Colombian Government had ordered me to accept the ultimatum that would be presented to me, even if the annuity of $100,000 were not increased. This was communicated to me by the Secretary of State. I answered that the information was not trustworthy, and added that I should persist in my resolution to reject so small an annuity. This reply resulted in the ultimatum which is inclosed, in which the annuity is increased to $250,000. For the reasons that I have already pointed out I ac-

47. Cromwell's Brief, p. 272.
48. Story of Panama, p. 322.
49. Ibid., p. 322.
cepted this final proposition, although I did not give it my approval."

This somewhat extended account of the negotiations has been given to show the influences that were improperly brought to bear upon the Colombian representatives. When this fact is borne in mind the rejection of the treaty by Colombia is not surprising. There was nothing in the conduct of Hay to be condemned, however; he steadily offered better terms in so far as he was able by the terms of the Spooner act until Herran accepted them.

The assertion has been made that Herran was not a proper representative of the Colombian government, and that the result of his labor therefore did not obligate Colombia to favorable consideration because of the supposed illegality of the negotiations. Whether he represented the popular will is doubtful, and most certainly the acceptance or rejection of the treaty was Colombia's prerogative, but Herran was instructed by his government and therefore was as competent to negotiate as Concha whose place he had taken.

The treaty as a whole was one. By its terms Colombia authorized the Panama canal company to sell and transfer to the United States all its rights, property and concessions, as well as its shares in the Panama railroad, and ceded a zone six miles in width for one hundred years, renewable at the option of the United States, over which the latter should have administrative control and the right to construct and protect the canal. These were the important concessions gained by the United States.

In return, Colombia's sovereignty over the zone was to re-

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52. Story of Panama, p. 323.
53. Art. 2 and 3.
main unimpaired, with the right of using her troops there for
the protection of the canal. The compensation was fixed at
$10,000,000 on exchange of ratifications, and an annuity of $250,000,000, beginning after nine years.

When this treaty was considered in the Colombian Senate
the principle faults found were (1) that it would alienate Col-
ombian sovereignty - a thing which it expressly provided against,
though in fairness to Colombia it must be admitted that renewal
at the option of the United States alone appeared almost tanta-
mount to a relinquishment of the territory - and (2) that the com-
pensation was insufficient. The question of liberality of com-
pensation depended upon the side from which the treaty was con-
sidered. In the American capitol Roosevelt and Hay were criti-
cized for offering so large an amount, consequently this provi-
sion was not satisfactory in either state.

The treaty was signed under date of January 22, 1903 and
sent to the Senate on the next day but the session ended with-
out action being taken upon, whereupon Roosevelt called the Senate
in special session, March 5th, for the express purpose of accept-
ing or rejecting the treaty. Senator Morgan consumed most of the
time rehearsing the old arguments and adding new ones but his
efforts were unavailing. He did not oppose the treaty because
he considered the provisions unfair to Colombia, but quite the
contrary: "Colombia's interest in the canal," he said, "will con-
sist almost exclusively in the price she is to get for the con-
cession and the annual stipend we are able to pay her, and her
natural policy and design will be to find occasions and excuses
for an increase in that income."
His attitude somewhat earlier is shown by a letter from Hay to Spooner August 15, 1902. An extract reads: "General Morgan says we ought to acquire Panama — the entire state — from Colombia."

The real reason for his opposition to the Panama route lay in his preference for the northern one, the supposed superiority of which he proclaimed to the end of his last speech on the day of ratification.

There was still another element of opposition — the one which is almost invariably present in congressional proceedings— that of politics. The President wrote to Hay on March 12th:

"I am now sweating blood in the effort to get the two treaties (Hay-Herran and one with Cuba) confirmed.——The Democrats are doing their best to get in shape to vote solidly against both treaties. They cannot possibly do this against the Panama treaty."

The Democrats did hold a caucus to bolster up opposition but all efforts failed and the treaty was ratified, March 17, 1903, by a vote of 73 to 5. The action of the administration was sustained, and thus the final decision rested with Colombia.

54. Art. 23.
55. Art. 25.
57. Thayer's Hay, p. 303.
58. Bishops Roosevelt, i, p. 273.
CHAPTER IV.
THE REJECTION OF THE HAY-HERRAN TREATY.

When the fact is borne in mind that Colombia took the initiative in offering terms which were largely accepted, and that the administration authorized the treaty, its rejection by its congress is a matter of interest not only because it precipitated a revolution but because of the motives which determined the action of the Colombian senate. To Roosevelt these motives appeared to be of such nature that he finally lost all patience and decided to have done with all diplomatic attempts for an agreement with Colombia.

But there is another side to the question. Though Colombia took the initiative and demanded terms which Hay in large part acceded to, the impelling force was the Panama canal company and the fear of a Nicaraguan canal. The treaty was signed unwillingly therefore, a fact which did not augur well for its ratification.

Before taking up the action in the Colombian Congress, however, there is another element to be considered. Underlying the political differences between the Liberals and the Conservatives was the Church; and its influence upon the government of Colombia during its almost a century of kaleidoscopic existence was far from negligible. In fact the church and its attempt to control state policy furnished a perennial basis for political animosity and fanned smoldering contentions into revolution again and again. Histories of Colombia, together with the writings of observers of conditions there, show to how great an extent this is true.
Mr. E. A. Ross, writing in 1905, makes the statement that "in Colombia the priest from the pulpit thunders out denunciations of the wicked Liberals, who have arrayed themselves against the cause of God, and tells his parishioners how they ought to vote." And again: "The influence of the Roman Catholic church is still most powerful---it permeates the administration now." Says C. E. Akers: "The Conservatives are essentially the Church and State Party, and they wish to establish clerical influence as a dominant factor in all educational questions. The Liberals advocate the severance of church and state,---and a general restriction of the power of the priesthood has hitherto exercised in political affairs."

N. Raul Perez, writing in the North American Review for July 1903, comments upon the political parties from an intimate knowledge of their actions:

"One is a medieval, fanatical, and autocratic party, professing that the good of the people lies in complete ignorance and absolute submission to the church---The other is a liberal, progressive, enlightened party which believes that the people will not and cannot obtain an rational degree of comfort and stability except through popular and universal education and after securing some independence from the iron control of the clergy!"

These statements, typical as they are, show that church influence was still no mean factor in government at the time of the rupture with the United States.

Going back a few years we find Colombia in 1885 thrown into a violent civil war because of a change in the sympathies of President Nunez which "meant that the influence of the church again became paramount in politics" after a period of quiescence.

1. South of Panama, p. 327.
2. Ibid, p. 69-60.
Following this success of the church party a concordat was made between Colombia and the Pope which was ratified by Colombia in February 1886 and became part of the law of the land. By this agreement the church became free from civil control and enjoyed extensive prerogatives under the guaranteed protection of the state. The power of the church therefore remained paramount in Colombia though it was greatly broken in other Latin American states. One detached instance may be cited to show that Colombian success was not been unique. Mr. M. Romero, an ambassador to the United States, in writing of the church struggle in Mexico summed up his account in these words: "Ours was a contest for supremacy between the vital forces of the nation, between the old and new ideas—but now our political problem is solved, the church party is completely broken up as a political organization."

It is universally recognized that struggles are contested most keenly when questions of the church furnish the issue. When it is remembered therefore that the political parties of Colombia found their raison d'etre in that institution, their mutual distrust and hatred can be appreciated.

Following the success of the clericals in 1885, a new constitution was promulgated which abolished the federal form of government and substituted a strongly centralized one. Thus the Liberals had an added grievance. In 1898 conditions came to a crisis with the election to the presidency of M.A. Sanclemente, an extreme conservative and a strong supporter of the church.

A revolution lasting three years and costing 80,000 men of a total population of 4,000,000 soon began. The cause was the quest...
ion of religious liberty but, previously pointed out, the question of an extension of time to the New Panama Canal Company became an issue, while with Marroquin's coup d'etat in July 1900, the hatred for an usurper intensified the struggle.

It is therefore readily seen that the special session of congress, convened in June 1903 for considering the Hay-Herran treaty, was in no mood for friendly agreement: The rancor of the war but recently ended had not yet been forgotten.

This spirit is attested by A.M. Beaupre, the American ambassador to Colombia, who reported, May 7, 1903, the confidential views of "one of the ablest and most distinguished of Colombians, who is in close touch with the vice-president and his administration," to the effect that all the enemies of the government were united against the Hay-Herran convention largely as a means of undermining the government, but that the convention would be ratified in the end. This feeling of antagonism is further shown by Raul Perez who wrote while the treaty was under consideration in congress that the Liberals considered not only $10,000,000 too little but even $50,000,000, because it would go to the administration and the religious orders who would thus be able to "strengthen the fetters that already cut the Colombian flesh to the bone." There are many who maintain that the seizure of the Isthmus by a world Power would be more satisfactory inasmuch as Colombians would be in a position to repeat in all coming years the phrase: "Tout est perdu, fors l' honneur." This enmity must not be forgotten therefore in assigning reasons for the failure of the treaty.

Before convening congress Marroquin had authorized the

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making of the treaty; now he left it to its fate in a manner which indicated his acquiescence in its failure. He may have decided at the time it was signed to oppose the terms but with the opening of congress he recommended adoption, consequently his actions are hard to understand. A glimpse of his career, however, may help to explain his irregularities.

On July 31, 1900, he led Sanclemente away to prison; declared himself president because of the absence of Sanclemente; announced that the country was in a state of siege and thus ruled as a dictator without a congress. As Roosevelt remarked, Sanclemente's absence became permanent by his death in 1902, consequently Marroquin was more secure in his high-handed course.

With the Liberals crushed and the party of the administration in the ascendancy, Roosevelt naturally felt that the congress must reflect the supposed position of the executive. Whether or not it did is still open to question, but at any rate the action was such that neither was playing fair.

The correspondence of Beaupre during this period furnishes the best account of the changing situation at Bogota, and is therefore to be followed closely. On April 15th, he wrote that in February, after news of the treaty reached Colombia, the people did not expect better terms and were relieved at the prospect of 1,000,000, but during March the newspapers changed public opinion to decided opposition. This was done by a ridiculous distortion of facts which the gullible public readily swallowed. One of the most widely read papers, he states, brought forward a whole collection of figures in support of the statement, that on the 10, S.D. 51-58-2, p. 31.
initial deal alone the United States starts with a clear profit of $190,000,000. Absurd as such statements are, they voice the opinions and convictions of the Bogota public—The congress about to assemble has been elected under the supervision of Government officials, and a system of quite indigenous wirepulling has undoubtedly been used; and yet if Congress, as now constituted were allowed to give a free vote I feel convinced the convention would not be ratified."

The implication is that a free vote would not be given because of the party in power. Again he wrote that "Without question public opinion is strongly against its ratification, but, of course, public opinion in Colombia is not necessarily a potent factor in controlling legislation." That the people as a whole opposed ratification by the time congress convened, June 20th, is repeatedly stated, but the evidence is equally clear that opposition was the result to a large extent of the wild charges against the United States made by an excitable press. May 4th he wrote: "The press is teeming with articles rancorous with enmity to the proposed treaty", while "opposition -- is intensifying." This state of mind is attributed to the belief that the United States had never seriously considered the Nicaraguan route; that the Panama route was the only possible one; and that the United States was only trying to make an advantageous bargain. "Therefore, it is generally believed---that the negotiations can be safely prolonged, in the end securing very much better terms for Colombia."

Even the authors of the treaty did not escape abuse. "The insulting," said one senator, "which Herran has cast upon the

12. Ibid, p. 5.
Colombian name will never be wiped out. The gallows would be a small punishment for a criminal of this class." An utterance of this kind from a senator shows to what an extreme position the excitable populace had been led; and would seem to preclude the possibility of sane legislation.

But after all would it be a matter of great concern to Americans whether or not Colombia's course was sensible. The treaty provided that ratification should be in accordance with the laws of the two countries. This was done by the United States Senate, as L.T. Chamberlain states in his Chapter of National Dishonor, "after long and vehement debate," while Colombia refused to ratify "after long and earnest debate." Such an amusing contrast between the temperaments of the two bodies would probably not have been made had the author not acquired a dislike for Roosevelt that colored his writing. Nevertheless, criticism of Colombia's action does not come in good grace from a nation that has amended and rejected treaties by the score. But it does not follow that the motives which prompted rejection should be wholly passed over in considering the effect which that action had upon the future course of the United States. This phase of the question must now be taken up in some measure of detail.

On April 24, 1902, Beaupre notified the Colombian minister of foreign affairs that he was directed to inform him "that the entire matter referred to (negotiations between Colombia and the Panama canal and railroad companies) is covered by the recently signed convention... Moreover, that any change would be in violation of the Spooner law and therefore not permissible."

This was a simple statement of facts as they had been understood in making the treaty. The Colombian attitude remaining unchanged, Hay directed Besupre, June 9, to inform the minister that "If Colombia should now reject the treaty or unduly delay its ratification, the friendly understanding between the two countries would be so seriously compromised that action might be taken by the Congress next winter which every friend of Colombia would regret." And again, August 5, Besupre advised the minister of foreign affairs "that if Colombia really desires to maintain the friendly relations existing between the two countries, and at the same time secure to herself the extraordinary advantages that the construction of the canal in her territory will undoubtedly produce—the pending treaty should be ratified exactly in its present form, without any modifications whatever."

These two notes appear to be an effort to dictate the action of Colombia, and as such to be, therefore, wholly in bad taste.

L.T. Chamberlain makes the inquiry: "Did any civilized representative of superior power ever indulge in browbeating so pitiable and so pitiless? Can such cowardly disrespect be matched in the annals of treaty-making nations?" On the face of the communications the criticism seems not unjust, but on the other hand does the motive underlying the notes justify such violent condemnation.

By the terms of the Spooner act a "reasonable time" was given for acquiring the Panama route. That act was passed a year previous to the time of these notes which simply warned Colombia that with the convention of Congress in the following winter, patience

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17. S.D. 61-58-2, p. 19. Cromwell claims he was responsible for the
18. Ibid., p. 47. (notes of this nature. (Story of Panama, p. 280
19 Chapter of National Dishonor, p. 25.
would be exhausted and another course necessarily taken. If the
Nicaraguen route should be chosen, "every friend of Colombia would
regret" the fact, and naturally the "friendly understanding be-
tween the countries would be seriously compromised."

That this is what is meant is evidenced by a strikingly
similar note to Conoha the year before, during the negotition of
the treaty, at a time when no other motive could be reasonably
implied. Hay wrote, October 28, 1902:

The Congress will meet in the course of a few weeks and
it will then be incumbent upon the President to report whether
it is probable that he will be able to negotiate a satisfactory
treaty with the Republic of Colombia. I need not point out to
your excellency how grave a responsibility will be assumed by
anyone who, by positive or negative action, may make it necessary
for this government to resort to the alternative mentioned."(20)
The alternative being the Nicaraguen route)

The Secretary was simply urging haste upon the dallying
Conoha; and the tone was vigorous because it was the only kind
that could produce action even though Colombia had shown eagerness
for a treaty. It is to be remembered, however, that the Colombian
minister was rebelling against the impomtnity of Cromwell.

And again, Besupre cabled that the note of June 9th was "con-
strued by many as a direct threat of retaliation against Colom-
bie in case the treaty is not ratified." A statement that indi-
cates that such was not the intention else the word "construed"
would not have been used. But if Colombia considered it a threat
then a threat it was; and no self-respecting nation could have
done otherwise than reject the entire proposition immediately.
From the standpoint of the American Administration, however, the
notes were sent only to impress upon Colombia the fact that the
United States could not wait indefinitely or give more generous

terms, and to warn her against defeating her own interests.

But were it not better that no attempt whatever had been made to influence the legislation of a weak nation? Certainly it would not have been done in the case of England or France, but it is equally certain that their action would not have been so provocative of this measure, whether or not the warnings came from Cromwell, as he claims, they issued from the State Department and must remain a regretted page in our international correspondence.

The Special Congress of Colombia, the first since 1898, convened June 20th for ratifying or rejecting the treaty. Besupre wrote on the same day:

"As I have heretofore predicted, there is a full and ample majority of the friends of the Government in both houses of Congress, and such legislation as the Government may seriously desire will be enacted;" however, he continued, the treaty may not be considered for a month since the President of the Senate chosen for that period is hostile to it. (22)

Then followed many days debating whether the vice-President should sign the treaty, the Senate charging him (Marroquin) with bad faith because it was understood that by his not doing so he was attempting to evade all responsibility. The action from the first therefore was furnishing grounds for Roosevelt's belief that Marroquin was not acting in good faith.

With the middle of July the reports became more favorable for ratification. On the 14th the treaty was submitted to a special committee of nine in the Senate, but the belief that the

24. Ibid., p. 37.
United States would not go to Nicaragua and that a larger payment might be obtained was still general, consequently when the committee reported a number of amendments, August 4, which wholly changed the character of the treaty, Beaupre was convinced that the possibility of ratification was slight.

In the meantime General Reyes had asked Beaupre to obtain Hay's opinion on two amendments: First, that the canal company pay $10,000,000 to Colombia for the right to transfer; and second, that the United States pay an additional $50,000,000.

Hay replied that no additional payment by the United States could hope for approval by the Senate. Beaupre transmitted this information to the Senate-Colombian minister, August 5, and the treaty was rejected in its entirety by an unanimous vote of those present in the Senate, on August 12th. On the same day Reyes told Beaupre that the "action of Congress was in accordance with plans perfected by the Government and influential Senators and citizens" believing that the treaty could not then pass, but that he believed that it could carry without amendments within two weeks. However true this may have been the expectations were doomed to disappointment.

Following the rejection of the treaty a joint committee of both Houses was appointed which made a report, September 4, approving the action of the Senate, and authorizing the President to negotiate new treaties with any government and with generous terms for Colombia. This report unanimously passed the first reading and went to a special Senate committee which in turn

25. ibid, p. 51-53-2, p. 44.
26. ibid, p. 25. Beaupre does not give the name but it was he. (See Bishop, i, p. 274.)
27. ibid, p. 61.
28. ibid, p. 62.
29. ibid, p. 63, 71.
made a report in the Senate, October 14, upon which no action was taken.

By the terms of the treaty, ratifications were to be exchanged at Washington by September 22, 1903; consequently it was doubly dead. But this report throws light upon what must have been the attitude of the Senate, and therefore its consideration is not out of place even though too great importance should not be attached to it. In it no statement upholding the validity of the last concession to the Panama Canal company was made, but "if the extension is not valid," it reads, "by the 31st of October of next year—the extension will have expired and every privilege with it. In that case the Republic will become the possessor of the canal itself and of the adjuncts that belong to it!"

In whatever light this is viewed it appears that the Senate was perfectly willing to let the question wag until the New Panama Company should forfeit its plant. The Liberals had fought a war in part to protest that the extension was invalid, while the Conservatives had upheld Marroquin in asserting its legality. The report, therefore, shows inconsistency, whatever the political complexion of the committee, while its passive reception by the Senate evinces the same spirit.

And thus Beaupre interpreted it, especially since a final recommendation of the report was for the appropriation of a sum of money sufficient to repay the French company the price of the last concession. This report did not come as a surprise in Bogota, and is therefore the more significant. Beaupre wrote September 30th: "It is said, and generally believed in this city, that—

30, r. v., 51-58-2, p. 82, 90.
there is a project on foot among certain senators to annul the
arrangement entered into by the Colombian Government and the
French Canal Company in 1900-. Even men good enough to be can-
didates for President are advocating this action with all ser-iousness and solemnity--" because "Colombia could then arrange
with the United States to receive not only the $100,000,000 of-
fered her, but the $40,000,000 offered the company."

Again it must be said that this was not the official action
of the Colombian Congress, since the report was not adopted, and
therefore should not be given too much weight; but since it repre-
sents the entire action of that body from August 12th until it
adjournment, October 31, it is highly significant.

But there was a manifestation at an earlier date of a
spirit of back-stairs diplomacy. Beaupre wrote, June 10, that Ma-
cini, the local agent for the Panama company, had informed him
that he had received an official note from the Colombian Gov-
ernment, stating that it did not think that the convention would
be ratified, because of the opinion that the compensation was in-
sufficient, but that if the canal company would pay to Colombia
about $10,000,000 ratification could be secured."

There is no reason to doubt the truthfulness of this state-
ment since the French company's chief desire was to see the treaty
ratified, but at the same time it will be remembered that Colom-
bia had long contended for the privilege of making separate agree-
ments with the Panama canal and railroad companies, though the
treaty had denied the right. The effort, therefore, though pro-
per in itself was not in keeping with the terms of the treaty
then under consideration, and was consequently in bad taste.

33. Ibid, June 10th.
34. Article 22.
It was such evidences of a lack of the spirit of straightforward action as this which finally broke Roosevelt's patience.

There is one other aspect of the subject that should be mentioned— that of German influence in Colombia adverse to the United States—but the evidence is so slight that no importance can be attached to it. It was just before this time, however, that Roosevelt called the Kaiser's hand in Venezuela, consequently it would require no great stretch of the imagination to believe the latter greatly interested in American failure at Panama. Bunau-Varilla builds up an elaborate chain of evidence to prove that German influence was responsible for Colombia's opposition, but he is wholly unconvincing. The correspondence of Beaupre barely mentions the subject: He wrote July 21st that he believed at times "that foreign hostile influences were at work" but that he was never able to be certain. Further consideration, therefore need not be given.

In conclusion it may be said that there were three principal reasons for the rejection of the treaty: First, because political animosity was so intense that even the first interests of the state could not be seen in their proper perspective—a condition which has evolved because of the Church; and Second, because of erroneous estimates of the relative value of the Panama route and the belief that the United States would not go to Nicaragua but would eventually accede to Colombia's demands; and Third, because she felt that an attempt at coercion was being made, and that her sovereignty would be impaired. These motives combined in leading her to express the unquestioned right which she exercised, but in so doing she lost the Department of Panama.

35, Great Adventure of Panama, pp. 117-52.
CHAPTER V.
ROOSEVELT AND THE PANAMA REVOLUTION.

The charge that the United States Government was implicated in fomenting a revolution with a nation with which she was at peace has been freely made and as freely denied. President Roosevelt ever frankly assumed the responsibility for all action taken, and thus the battle has been centered upon him. His critics have denounced him in unmeasured language while his champions have as warmly defended him, but neither have been able to change the opinions of the other.

J. L. Heaton, in his Story of a Page, makes the statement that "President Roosevelt and Secretary Root aided Mr. Cromwell in consummating the Panama revolution." That Cromwell was involved is not doubted, though he was not the immediate organizer of the revolution; but the subject of the conspirators need not be gone into only as it appears in connection with other matters, for it supposed is well known save for the relation between the actual instigators and the Administration.

Roosevelt stated in his message of January 4, 1904; "I think it proper to say—that no one connected with this Government had any part in preparing, inciting, or encouraging the late revolution on the Isthmus of Panama, and that save from the reports of our military and naval officers—no one connected with this Government had any previous knowledge except such as was accessible to any person of ordinary intelligence who read the newspapers and kept up a current acquaintance with public affairs." Which statement is right?

That a revolution was imminent in Panama was not a secret
either in the United States or Colombia. Panama had not been in
revolt again and again or threatened the same action in the event
of the refusal of the Hay-Herran Treaty to no purpose.

For the President not to have been cognizant of the com-
ing revolution would have been culpable inattention to the cour-
se of events and American obligations in Panama. Newspapers were
making predictions which people from the Isthmus confirmed, while
the despatches from the American minister at Bogota clearly in-
dicate that Colombia knew that the revolt was almost certain.
As early as July 5,1903, he cabled that the newly arrived members
of congress from Panama had made the statement that that depart-
ment would revolt if the treaty was not ratified, and on August
15th he wrote that "even the Panama representatives have lately
become so thoroughly imbued with the ideas of an independent re-
public that they have been more or less indifferent to the fate
of the treaty." August 31st he cabled that Senator Ospina told
him (Beaupre) "that in accepting the governorship of Panama, he
told the President that in case that department found it neces-
sary to revolt to secure the canal he would stand by Panama." But Senator Obaldia gained the appointment, and Beaupre says,Sept
ember 10th, that "the appointment is regarded as being the fore-
runner of separation." and the next day that "Senators Obaldia's
separatist tendencies are well known, and he is reported to have
said that, should the canal treaty not pass, the department of
Panama would declare its independence and would be right in do-
ing so. That these are his opinions there is, of course, no doubt."

3. Ibid, 52.
He further stated that in the Senate a resolution was acted upon declaring that the Senate could not see "with indifference the appointment which has been made—which it regards as a menace to the safety of the Republic." Another statement of September 11th probably explains why Colombia appeared so indifferent to the prospects of a revolution: "It really begins to appear that the majority of the Senate care little about the canal, except in so far as that subject ministers to their own political ends."

There is no necessity for dwelling further upon this point for the correspondence of Beaupré clearly shows that the capitol was cognizant of the danger, but at the same time appeared indifferent as to the consequences. The rights of Panama had been ignored too long to cause a serious disturbance at this time.

In the United States the probability of a revolt was almost equally patent. The Washington Post, New York Times, and New York Herald especially were printing revolutionary news from Panama as early as the beginning of September.

But though the knowledge of danger was widespread, might not the cause of the impending revolution be found in a conspiracy between Nelson Cromwell, President Roosevelt, Secretary Hay, Secretary Root, Minister Beaupré, and nearly every other person whose duties led him to any relations with the Panama canal project? And was not the conspiracy formed as early as June, 1903? H.N. Hall and Karl Harding of the New York world have labored to prove that such was the case, but whether or not they have been successful probably depends upon him who reads their evidence as printed in the story of Panama.

5. S.D. 61-58-2, p. 64-65. Hall, in the Story of Panama, states that a story has been current in Colombia since 1900 "that a corrupt-
Much is made of the story that following a conference between Roosevelt and Cromwell on June 13, 1903, R. L. Farnham, press agent for Cromwell, acquainted the world with facts which led to the article in that paper the next day predicting a revolution very nearly as it eventually occurred. It must be admitted that the coincidence is striking—providing Cromwell did call at the White House for any purpose than to exchange formal courtesies—but who can imagine the President even listening to plans for a revolution in the event of a revolution a non-ratification of a treaty before the Congress which was to ratify the treaty had assembled. And who can believe that a date was set at this time for the revolution which ultimately proved the right one.

Munoz-Varilla, who is jealous of anyone who attempts to detract from his honors in directing the revolution, states that he sent a cable to Marroquin via New York, June 13, advising ratification, and predicting revolution as a consequence of failure. If this was done it is possible that his warning leaked out to the press. Naturally, little importance can be attached to this explanation, but its improbability does not appear much greater than that of the other story.

It is only after the rejection of the treaty by Colombia August 12, that Roosevelt's correspondence shows an emerging tendency toward acting in the matter regardless of Colombia, and even then his policy is to await developments. When knowledge of the rejection reached him at Oyster Bay, he wrote a letter to

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... ion fund was sent to Bogota to buy this appointment, and that $40,000 was paid to young Marroquin who influenced his father to choose Obaldia for the position.  
6. Story of Panama, p. 344.  
Hay which clearly shows his position at this time, and is worthy of being quoted at length:

"On your way back cannot you stop here, and we will go over the canal situation? The one thing evident is to do nothing at present. If under the treaty of 1846 we have a color of right to start in and build a canal, my off-hand judgment would favor such proceeding. It seems that the great bulk of the best engineers are agreed that that route is the best; and I do not think that the Bogota lot of obstructionists should be allowed permanently to bar one of the future highways of civilization. Of course, under the terms of the Act we could now go ahead with Nicaragua, and would technically be required to do so. But what we do now will be of consequence, not merely decades, but centuries hence, and we must be sure that we are taking the right step before we act." (8)

Hay replied to Beaupre, August 24th, that "The President will make no engagement in the canal matter, but I regard it as definite improbable that any action will be taken within two weeks."

And five days later he wrote more at length:

"The President is bound by the Isthmian Canal statute, commonly called the Spooner law. By its provisions he is given a reasonable time to arrange a satisfactory treaty with Colombia. When, in his judgment, the reasonable time has expired, and he has not been able to make a satisfactory arrangement as to the Panama route, he will then proceed to carry into effect the alternative of the statute. Meantime the President will enter into no engagement restraining his freedom of action under the statute." (10)

From these three communications it is evident that no plan of action had been decided upon; that though Roosevelt wanted the Panama route he had considered no method of acquiring it save that of openly taking it if the treaty of 1846 gave a "color of right," while the probability of going to Nicaragua was growing stronger.

Letters of later date tend to prove the soundness of this conclusion. On September 15th he wrote to Hay, "Let us do nothing in the Colombia matter at present. I shall be back in Washington by the 28th instant, and you a week or two afterward. Then we will

10. Ibid.
go over the matter very carefully and decide what to do."

That the matter was to rest therefore until October, especially as there was a possibility of the treaty being ratified so long as the Colombian congress remained under its consideration, leads to the logical conclusion that the Administration had not considered a plan of creating a revolution.

However, Roosevelt's opinions were crystalizing on the point of advising the open construction of the canal regardless of Colombia's wishes; such action to be, as he said, with the rights of the United States on the Isthmus. A statement found in a letter to Senator Hanna, October 5, brings this out quite forcibly. "I feel we are certainly justified in morals," he wrote, "and therefore justified in law, under the treaty of 1846, in interfering summarily and saying that the canal is to be built and that they must not stop it."

Whatever the ethics of this argument may be, can such a bold statement - one so characteristic of his decisive mode of action - be reconciled with complicity in planning a revolution?

In the meantime Herran had grown suspicious. He cabled his Government the following note September 4th:

"Revolutionary agents of Panama here, yesterday the editor of the Estrella de Panama (Duque) had a long conference with the Secretary of State. If treaty is not approved by September 22, it is probable that there will be a revolution with American support." (13)

The next day he cabled:

"Disapproval of treaty has produced a bad impression, but the Government of the United States awaits a favorable reaction before September 22. Otherwise, it is probable that the President will assume a hostile attitude." (14)

When the foreign minister of Colombia asked in what the hostile attitude would consist, Herran replied, September 16th:

11. Bishop i, p. 278.
12. Ibid. 12.
14. Ibid.
"Hostile attitude will consist in favoring indirectly a revolution in Panama." On September 11th Herran had written his suspicions more at length. "The warning that I gave," he wrote, "relative to the future attitude of the President is founded on threatening statements which he has uttered in private conversations, and which by indirect means have come to my knowledge. Special reference is made to the promptness with which the independence of our department of Panama will be recognized.---Your excellency already knows the vehement character of the President, and you are aware of the persistence and decision with which he pursues anything to which he may be committed. These considerations have led me to give credit and importance to the threatening expressions attributed to him."

While this letter is prophetic of Roosevelt's action, it is a confession that Herran's suspicions of American complicity in a coming revolution were founded merely upon hearsay, since he has no knowledge of anything more definite than "threatening expressions attributed to" Roosevelt. Duque testified before the House committee that he "conferred two hours and more with Hay who" "made no direct promise of assistance to the revolutionists of Panama --- but he did say distinctly that the United States would build the Panama canal and that it did not purpose to permit Colombians standing in the way."

Who can imagine the Secretary of State explaining American complicity in a revolution to a private citizen whom he had never before seen! This story is probably worthy of as much credence as the current one to the effect that Duque informed Hay that the revolution was scheduled for September 23rd, whereupon

15. Story of Panama, p. 361.
17. Ibid, 360.
Hay replied that that was too early and ought to be deferred. In a letter to Senator Hoar, January 11, 1904, Hay said in reference to the story: "I never saw Mr. Duque but once---I never saw him alone, and---nothing in the remotest degree representing this printed conversation was ever said by either of us." In the absence of more conclusive proof, can there be any question as to which statement should be accepted? Revolutionary agents from Panama were busy in the United States— that fact is not questioned—but conclusive evidence of connivance with the Administration is entirely lacking.

But to turn again to Roosevelt we find a letter of October 10th to Albert Shaw, editor of the Review of Reviews, which has been widely published and frequently cited as proof of guilt, though a careful reading tends rather to prove the contrary.

After commenting upon the canal situation he said:

"I cast aside the proposition made at this time to foment the secession of Panama. Whatever other governments can do, the United States can not go into securing by such underhand means, the secession, privately, I freely say to you that I should be delighted if Panama were an independent state, or if it made itself so at this moment but for me to say so publicly would amount to an instigation of a revolt, and therefore I can not say it."

Whether he had decided as early as this to recognize the independence of Panama in the event of a revolution seems therefore unquestionable, while it is even more certain that he would have welcomed a revolution which could prove successful. But to be secretly encouraging such action is another matter entirely. Leaving aside the evidence in the case, it must be admitted that the President could hardly have considered such a thing when the final rejection of the treaty was not a certainty so long as the Colombian Congress continued in session under its consideration—a course which that body followed until October 31st.

18. Theyer ii, p. 322.
But about the middle of October, Roosevelt gave orders which to say the least appear suspicious. On the 19th, Secretary Moody sent the following naval despatches:

"Glass, Marblehead, San Francisco, California:
Send Boston or other vessel ahead of squadron to Acapulco. Send the Boston with all possible dispatch to San Juan del Sur, Nicaragua. She must arrive by November 1, with coal sufficient for returning to Acapulco. Secret and confidential. Her ostensible destination Acapulco only."(19)

Orders were likewise sent to the Dixie at Brooklyn to prepare to sail; and to the Atlanta to proceed to Guantanamo, Cuba. These orders were issued as the result of a report made to Roosevelt in person, October 16, by Captain Humphrey and Lieutenant Murphy who had been in Colombia and Panama. They confirmed reports of an impending revolution which they said was considered in Panama probable at any time and might be expected immediately if the Colombian congress adjourned without ratifying the treaty. They further reported the existence of a conspiracy, one moving spirit of which was Dr. Arango, a former governor of Panama.

Extracts from Humphrey's report, printed in the Story of Panama, show that a detailed study of the Panama zone had been made. This fact may readily be construed to indicate that the purpose of the army officers in Panama was preparation for action by the United States. But whether such knowledge was gained with the intention of making revolutionary action easy, or merely because operations in conformity with the treaty of 1846 (to keep transit open) would thereby be expedited; or indeed whether the government had any connection with the preparation of the report is doubtful, for proof is lacking.

19. Story of Panama, p. 369. The naval orders concerning the revolution are printed in S. D. 51-58-2, but they begin with Nov. 2.
20. Extract given in Roosevelt's message of Jan. 4, 1904.
even though there may have been an ulterior purpose, for failure to do so when a revolution appeared imminent would have been condemned as culpable neglect of duty if American citizens and property in Panama had suffered in consequence. But, the question arises, was the step not taken because of a definite understanding with Amador, Cromwell, Sunau-Varilles, and others, concerning whose activities in working up a revolution there is no question. A letter from Amador to his son, October 18, seems to answer affirmatively. In part in past he writes: 

"The plan seems to me good. A portion of the Isthmus declares itself independent and that portion the United States will not allow any Colombian forces to attack. An assembly is called and this given authority to a minister to be appointed by the New Government in order to make a treaty without need of ratification by that assembly. The treaty being approved by both parties, the new Republic remains under the protection of the United States and to it are added the other districts of the Isthmus which do not already form part of the new Republic and these remain under the protection of the United States."

If genuine, this letter furnishes a remarkable prophesy of the action taken by the United States, but it does not necessarily follow that even though the administration may have had some knowledge of a conspiracy that it was involved in any way in forming it. The plan of action here outlined is much like that in Varilla's own account, even to the minister being the redoubtable Frenchman himself. Yet that worthy, who greatly admired Roosevelt and with whom he undoubtedly would have shared any "honors" in

21 Story of Panama, p. 271.
22 The Great Adventure of Panama, p. 218.
fomenting a revolution which were due, declared that "The President of the United States was absolutely free from secret connivance with the revolutionists." And again: "I wish to caution the reader in advance against the impression that that the American Government had a hand in the Panama Revolution, because such a statement is absolutely fabricated and devoid of any foundation in fact."

Bunau-Varilla is an egoist of the first water, but in checking over his statements in his Great Adventure of Panama surprisingly few discrepancies are found, consequently his truthfulness is more to be credited than that of the letter quoted by Hall, for the letter came from a source which had been a hot-bed of conspiracy and bribery. When the World went to Panama to seek evidences of scandal it is not surprising that it was successful, for much appeared to be at stake.

On October 29th Bunau-Varilla went to Washington with the intention of learning definitely, if possible, what action would be taken by the Government in the face of the threatened revolution. In respect to this journey Hall testified that "Mr. Bunau-Varilla says that he saw Secretary Hay, and that he is not sure whether he saw President Roosevelt or not; but he says that he went to the State Department and urged that the ships be sent at once. As a result of his efforts an urgent cable was sent to Commander Hubbard, of the U.S.S. Nashville, to proceed at once to Colon with all possible speed." But Bunau-Varilla says that he did not see Roosevelt or Hay but that he called upon Loomis in his home, and that he told every friend whom he met that a revolution was coming and that Colon was in danger of

23 Great Adventure of Panama, p.162.
24 ibid., pp. 166-67.
25 Story of Panama, p.318.
destruction as in 1885 because no American ship was present. The next day while walking he met Loomis who remarked: "I have thought over what you said to me yesterday: This situation is really fraught with peril for the town of Colon." Varilla felt certain therefore that ships which had been sent cruising to Central America (this knowledge was general through newspaper announcements) would be hurried to the Isthmus; and on the strength of this supposition he calculated the sailing time of the vessels nearest the Isthmus, and sent from Baltimore at noon, October 30th, a telegram which has become famous. As generally quoted it reads: "Thirty-six hours Atlantic, forty-eight Pacific." But even the prescient Varilla does not claim such exactitude in his own account.

The point is of little importance and is mentioned only because it has been clumsily used in an attempt to show that Varilla had been given definite knowledge as to when the ships would arrive, in order to stage the revolution exactly on scheduled time. But the fact has been overlooked that the first ship did not reach Colon on the Atlantic side until more than twice thirty-six hours; and Panama on the Pacific only after eight days instead of two. Other evidence that the exact time for the coup had not been decided upon is found in the plea of Amador that he be given until November 5th but Varilla finally consented only to the 3rd as the latest, and when that date had arrived with no revolution yet reported, even his wife failed "to comfort and encourage (him) in this infinite sorrow."

It is interesting to note that attempts have been made to prove that November 3rd was decided upon in the preceding June.

29. The Great Adventure-, p. 220 et seq.
since it would be election day in the United States, and in consequence of the excitement the papers would have little space to devote to a revolution. Wild as this story is (it is remembered that the revolution was supposed to have been planned in June before the Colombian Congress had met), it is a fair example of the logic that has been used in the attempt to prove the Government a conspirator in the affair.

But turning to a cable from Cromwell, in Paris, to Roosevelt on October 31st, we find something much more tangible:

"Referring you respectfully to my letter of October 13, I am authorized, in the name of the president of the canal company, with the unanimous approval of the board of directors at its meeting today, and with that of the liquidator of the old company to give you personally and to the Government of the United States the assurance of their loyal support, which they firmly maintain, and to express to you their entire confidence in the success of your masterful policy. I have received full powers to complete all details on my coming return." (31)

What was the occasion for assuring "loyal support," and what was Roosevelt's "masterful policy"? It will be remembered that the United States had accepted the canal company's offer subject to the success of treaty arrangements with Colombia. In October the probability of favorable action by the Colombian Congress was practically gone, consequently Cromwell urged an extension of the conditional agreement between the United States and the canal company to which Roosevelt consented, according to Cromwell, on the condition that official confirmation of the proposal be made. Cromwell, therefore, went to Paris to gain this confirmation, as well as to dissuade the directors from taking any rash step now that their prospects seemed to have failed again. An offer for the property had been made from source, consequently

30. See Story of Panama, p. 368.
he was greatly concerned in having it refused.

By the "masterful policy" Cromwell undoubtedly had reference to a plan which has been touched upon previously in this paper, but the importance of which has not been brought out. In his message of January 4, 1904, Roosevelt said that "it was the opinion of eminent international jurists that in view of the fact that the great design of our guarantee under the treaty of 1846 was to dedicate the Isthmus "to interoceanic transit, Colombia had no right to refuse a proper agreement to that end. "My intention", he continues, "was to consult the Congress as to whether under such circumstances it would be proper to announce that the canal must be dug forthwith; that we would give the terms that we had offered and no others; and that if such terms were not agreed to we would enter into an arrangement with Panama direct, or take whatever steps were needful in order to begin the enterprise."

That he was indeed considering this step is shown by a letter to Lawrence Abbott November 12, 1903, "I wish, by the way," he wrote, "I had shown you when you were here my message on the Panama subject. I had written it out and had the rough draft with Hay's marginal corrections. It was written the very end of October - that is, less than a week before the outbreak occurred - and by it you would have seen that at that time neither Hay nor I was preparing for the outbreak, and that I should have to face the problem of digging the canal anyhow."(23)

As to the matter of not expecting, or making preparations for a possible outbreak this letter appears to offer a contradiction, for vessels had been sent into Central American waters by orders of October 19th, though none was sent ordered to the Isthmus until October 20th and November 2nd. The point of interest, however, is that which concerns the course he had decided to follow if congress would give him its support. According to Bish -

33. Bishop 1, p. 289
op, he had written in his message that two courses of action had become necessary; "either we should drop the Panama canal project and immediately begin work on the Nicaraguan canal, or else we should purchase all the rights of the Panama-French company, and, without any further parley with Colombia, enter upon the completion of the canal which the French company has begun. I feel that the latter course is the one demanded by the interests of this Nation, and I therefore bring the matter to your attention for such action in the premises as you may deem wise. If in your judgment it is better not to take such action, then I shall proceed at once with the Nicaraguan canal."

Whatever the ethics of his proposition to Congress, he was advising bold action which, in the nature of things, could have had no connection with a conspiracy to make a revolution—a conspiracy supposed to have been formed as early as June 13th.

As to the international jurists referred to in the message of January 4th, it is to the credit of Roosevelt that no less an authority than John Bassett Moore undoubtedly advised him.

Writing to Senator Lodge, January 6, 1904, Roosevelt stated in reference to an article which appeared in a French paper of September 2, 1905, that "It appeared about a week before I called John Bassett Moore out to Oyster Bay and for the first time began definitely to formulate my policy even in my own mind." It is probably worthy of passing mention to note that Bunnau-Varilla rather ingeniously, if not convincingly, explains in his recent book how he learned that Moore had advocated this open method of obtaining the canal.

34. Bishop i, p. 289.
35. Ibid, p. 296.
36. The Great Adventure of Panama, p. 189.
Such a thing as eminent domain is not recognized as between nations, and in all probability was not entertained by the President or his advisor only as colorelated with the procedure which would result from Roosevelt's interpretation of the treaty of 1846; namely, that the guarantee to the United States looked to the construction of a canal, and that right should not be denied. Article 35 of the treaty contains the provisions which bear upon this subject. It reads:

"The United States of America and the Republic of New Granada do agree on the following points.

1st.---The Government of New Granada guarantees to the Government of the United States, that the right of way or transit across the Isthmus of Panama upon any modes of transportation communication that now exist, or that may be, hereafter, constructed, shall be open and free to the Government and citizens of the United States. The United States guarantee positively and efficaciously to New Granada, by the present stipulation, the perfect neutrality of the Isthmus, with the view that the free transit from one to the other sea may not be interrupted or otherwise embarrassed in a future time while the treaty exists; and in consequence the United States also guarantee in the same manner the rights of sovereignty and property which New Granada has and possesses over the said territory." (27)

The prime purpose on the part of the United States in making the treaty was for the eventual privilege of constructing a canal, in return the perfect neutrality of the Isthmus was guaranteed "with the view that the free transit" be not disturbed, while Columbia's "rights of sovereignty" were equally guaranteed. It is perfectly evident that a condition might arise where these guarantees would conflict, and, from a technical standpoint, this is what occurred in November, 1903. But though a splendid train of argument can be built up from the thesis that the action of the United States at that time was wholly in accord with treaty provisions, it is begging the question because the element of sovereignty is necessarily ignored.

37. Mallory's Treaties and Conventions.
But to return to the situation in the United States we find that Varilla went to Washington, October 29, crying "Remember the date of November 3, 1903," then October 31, Beaupre cabled that the Colombian congress had adjourned, and added the significant information that the people in Bogota were "in great anxiety over conflicting reports of secessionist movements in the Cauc and Panama." Since Beaupre had previously informed the State Department that the adjournment of congress without the ratification would very likely lead to a revolution, and since repeated reports from other sources had predicted the same result, the action of the administration in sending definite orders, November 2, for naval direction at the Isthmus is not a step to be criticized, but the nature of the orders is strikingly significant. These orders, which were practically identical, were sent to the Nashville, the Dixie, the Marblehead, and the Boston. That to the Nashville reads:

"Maintain free and uninterrupted transit. If interruption threatened by armed force, occupy the line of railroad. Prevent landing of any armed force with hostile intent, either Government or insurgent, either at Colon, Porto Bello, or other point—Government force reported approaching the Isthmus in vessels. Prevent their landing if in your judgment this would precipitate a conflict." (40)

The orders to the Boston and Marblehead contained an addition which has become famous: Prevent landing of any armed force, either Government or insurgent, with hostile intent at any point within 50 miles of Panama." If the presence of Colombian troops endangered and obstructed transit on the railroad, the right to use force could not be denied even to the prevention of the use of the road to those forces. This had been done in 1901 and again in 1902, at

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38. Buneu-Varillas Great Adventure, p. 234.
40. Ibid., p. 120.
which time the landing was without Colombia's consent, and served as precedents for this instance. But to reach the extreme of preventing the landing of Colombian troops within 50 miles of the danger zone cannot be defended under the terms of the treaty, for it was to preclude the outcome of the revolution without giving Colombia a possibility of success, and was a clear violation of sovereignty.

The way in which the actual conspiracy was carried out need not be considered in this paper for Bunau-Varolla, the man who engineered the financial end and helped work out the details, has taken great pride in explaining how it was done; but the action of the Nashville and its marines must be followed since their presence made the success of the revolution possible. It is an interesting fact however that the entire action of the American forces on the Isthmus during the revolution was, from the standpoint of strict adherence to the provisions of the treaty, commendable if the emphasis is placed upon the right to keep the transit-way open. Colombia naturally opposed such a liberal interpretation but something must be said for the American position. Commander Hubbard landed only 42 marines, and then only when the lives of Americans had been threatened. But in the meantime the revolutionists had been able to buy over the Colombian troops on the Isthmus, Then, on November 5, Colonel Torres was given a liberal bribe to leave with his troops (about 150) which he had landed after the Nashville's arrival. Hubbard had refused to allow these troops to use the railroad, since a fight in Pana-

Ibid, pp.73,284-87.
me would have been the result, and thereby precluded Colombian possibility of overthrowing the junta which was forming a government at that place, engineered by members of the New Panama Canal and the Panama railroad companies.

The charge has frequently been made that the United States supplied money on the Isthmus to encourage the revolution, if not actually aiding it, but it is not supported by the slightest foundation in fact. Even Hall says that he is firmly convinced that the Government of the United States never supplied any money at all. Considering the source of the statement it must be accepted as unquestionable authority. It is a well known fact, however, that Varilla furnished large sums for the revolutionists, while Cromwell's fee for $800,000 would lead to the conclusion that he might have aided as well, but any money which they may or may not have furnished had no connection with the Government, alleged.

Concerning the conspiracy a final word should be given. Before the uprising occurred Loomis sent a cable to the consulates at Colon and Panama which has often been cited in an attempt to prove that the Government was a party to the revolutionary cabal. It was sent at 3:40 P.M., while the uprising did not occur until 6 P.M., and reads: "Uprising on Isthmus reported. Keep Department promptly and fully informed." That the communication was sent in good faith is shown by the fact that a press bulletin had previously announced an outbreak on the Isthmus. Surely it is not a culpable thing for the State Department to wish to keep in touch with affairs in which it is vitally interested.

But the question re-occurs, "Why did the revolution coincide so closely with the appearance of an American vessel?"

There is no question that the revolutionists waited for its appearance before striking, but it appears equally evident that the
Administration acted upon information that had come from various sources and not as the result of secret connivance with those who created the revolution, if not, why were only 42 marines available for landing for the protection of American lives and property when the revolution occurred; and why should any Colombian troops have been permitted to land at all if the Government knew when the uprising was to happen? The answer seems obvious: Orders were issued, November 2, to prevent the landing of Colombian troops "with hostile" intent but that was too late to prevent the landing of 450 soldiers; if the Government had been a party to the conspiracy this certainly would have been prevented, and the orders issued in time to accomplish that end.

Other evidence which is significant lies in the fact that in spite of the most exhaustive efforts on the part of staff members of the New York World to prove the contrary, nothing has been found which tends to prove that the Administration was playing from a false position beyond inconclusive coincidences; while on the other hand the fact remains that Roosevelt was considering a plan of action which spurned secret connivance.

Added to this are the emphatic statements of Roosevelt, Hay, Root, Bunau-Varilla, and others. When replying to General Reyes, January 5, 1904, Hay used this positive language:

"Any charge that this Government, or responsible member of it, held intercourse, whether official or unofficial, with agents of revolution in Colombia, is utterly without justification. Equally so is the insinuation that any action of this Government, prior to the revolution in Panama, was the result of complicity with the plans of the revolutionists. The Department sees fit to make these denials, and makes them finally."
To charge the Administration with conspiracy is to brand Roosevelt and Hay with deliberate falsehood — a thing which the existing evidence does not prove. Until conclusive evidence of guilt is found therefore, it is only just that they be given credit for straightforward, open action even though their course may not meet the approval of the world.

The independence of Panama was proclaimed on November 3, and the knowledge reached Washington on the evening of the next day. On November 6, Hay directed Consul-general Ehrman that when he was "satisfied that a de facto government, republican in form, and without opposition from its own people" had "been established" he should "enter into relations with it as the responsible government." Ehrman considered a de facto government without opposition to exist, consequently recognition may be dated from this time.

Here is the crux of the whole situation. The Fifty-mile order, which was undoubtedly wrong, was not tested because it became unnecessary after the recognition of the new republic. The subject narrows down therefore to the international morality of this premature action directed by Roosevelt. The right or wrong of the act must be considered from the standpoint of Colombia as a sovereign state, and also from that of justice to the Panamanians themselves.

It is a well established principle in international law that recognition should not be made until the new de facto government has shown its ability to maintain its position among

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42. Story of Panama, p. 451.
45. H. R. S-58-1, p. 3.
46. Ibid, p. 4.
the nations; but the question of the point of time at which such status exists is left to the recognizing power, for it is a truism that a parent almost invariably considers such action premature in the case of a territory whose independence she has resisted, while in the case of one government succeeding another the new one would represent but one desire - that of immediate recognition.

In all probability Colombia would have broken the new republic had its independence not been recognized thus early by the United States; therefore, granting that Colombia's rights of sovereignty were supreme, the act of the Administration was indefensible, especially as the de facto government represented only a handful of men. But though the movement was not made by the masses, it was quickly endorsed throughout the Isthmus and proves that it had correctly represented their wishes which had long been evidenced by their opposition to Colombia.

If the principle expressed in our Declaration of Independence, that government should be by the consent of the governed still means to Americans what it once did, Roosevelt's action must suffer less condemnation than is frequently accorded; for Panama had long been denied the independence which she had the right to enjoy. After a checkered career of voluntary confederation with other states and complete independence, Panama joined the confederation of the United States of Colombia in 1863. Article one of the constitution declared that "the sovereign states -- of Panama (and others) -- created by acts of the 27th of February, 1856 -- consulting their exterior security and mutual aid, do unite and confederate -- by the name of United States of Colombia."
The sovereignty of Panama was expressly recognized, while article two shows how loose the confederation was: "The said states undertake mutually to aid and defend each other against all violence affecting the sovereignty of the Union of the States;" while article twenty-five provided that any act of the national congress attacking the sovereignty of the states might be annulled by a majority vote of the states.

In 1885 a revolution resulted in the abrogation of this constitution, and the adoption of a new one the following year which destroyed departmental independence of action. The delegates who nominally represented Panama in the constitutional convention were residents of Bogotá, appointed by the Dictator, Nunez, consequently Panama's independence was not lawfully taken away. The treaty of 1846 guaranteed to Colombia her "rights of sovereignty" on the Isthmus, but it is questionable whether she any that were more sacred than Panama's independence which had been long denied.

This phase of the subject need not be stressed, however, because it was probably not a determining factor in Roosevelt's action. As to the matter of premature recognition - however much it violated the principles of international law - it must be said that this instance was not without precedent in the United States regardless of the oft-repeated assertions to the contrary.

The French Republic of 1848 was proclaimed February 25th as the result of a revolution, and was recognized by Rush, our minister, on the 28th.

48. Ibid., vol., 77, p. 836.
50. Moore's Digest, vol., i, p. 123.
On September 4, 1870, the Third Republic of France was proclaimed. It was wholly revolutionary and never received legal sanction, yet Washburn was instructed, September 6, to recognize it.

On November 17, 1889, the American minister in Brazil announced a revolution which overthrew the monarchy. Two days later he was instructed to maintain diplomatic relations.

In each of these cases there was no division of territory consequently the parallel with that of Panama is not close, but in each the recognition was that of a revolutionary government which certainly had not shown itself in such a brief period any more stable than had Panama.

The conclusion is not hard. Roosevelt became convinced that the Panama route was the right one, consequently a liberal treaty was negotiated with Colombia; but Marroquin and his Congress dallied with it in a manner that convinced Roosevelt that both were acting in bad faith, consequently his fighting spirit was aroused. He decided to ask Congress' opinion on the matter of constructing the canal under guarantees of the treaty of 1846, but a revolution conveniently made the step unnecessary, and he seized the opportunity thus offered.

To many loyal Americans it is a matter of regret that he did not exercise more patience. But he was ever a man of action, and when the moment for decision came he met it in his characteristic way - in the face of the whole world. But whether right or wrong, practically all the states, save Colombia, sanctioned his action by recognizing Panama within a few weeks.
There is so much argument for and against the justice of Roosevelt's course that it is not surprising that he never repented his action, but took evident pride in it to the time of his death. Meanwhile ships of all the world sail the canal, and the debate goes on.

52. Ibid., p. 160.
CHAPTER VI.
THE ALLEGED CORRUPTION IN THE PANAMA TRANSACTION.

In 1908, during the presidential campaign, the New York World started the story of corruption in the purchase of the Panama company’s property, and was quickly followed by other papers — the Indianapolis News especially distinguishing itself. In brief the charges were these: That a syndicate of American citizens bought up the stock of the Panama company for $3,000,000 (or $12,000,000, according to fancy) then in connivance with the Administration, led to the sale of the Panama property for $40,000,000 which this syndicate pocketed. The chief members in this profitable scheme were said to be include Charles P. Taft, brother of the president elect, Douglas Robinson, brother-in-law of Roosevelt, and William Nelson Cromwell, American counsel for the canal company.

An indictment of the Government so serious as this could not pass unnoticed, consequently Roosevelt instituted suits against the New York World and the Indianapolis News for libel. But the real issue never came before the courts because of technicalities else the falsity of the charge would have been proved. In consequence the story is still widely credited, and therefore a consideration of the facts is not out of order.

The idea that an American syndicate had been formed which was connected with the Panama company was based on fact, but that body had ceased to exist before the canal property was purchased. The proposal of the Panama company to incorporate under the laws of some state of the United States was made to President McKinley under date of February 28, 1899, and was perfected in the open;
the purpose being an effort to gain financial support in America and at the same time discourage the Nicaraguan project. The Panama company instructed Cromwell, November 21, 1899, to form an American syndicate which, together with other inducements, was to receive $5,000,000 to start it going. On December 27, 1899, a certificate of incorporation for the Panama Canal Company of America, signed by Cromwell as a subscribing witness, was filed in New Jersey; then on March 31, 1900, the corporation was organized by Cromwell and six others who are of no importance, since

But the project was immediately dropped, as the testimony of Edward Lempire, secretary of the canal company, testified before the senate committee on interoceanic canals, January 11, 1902, clearly brings out. But when the whole subject of Panama was threshed out before a senate committee in 1906-07, the question was brought up again, and led to Cromwell’s sworn testimony that the plan "never matured into anything. It was never consummated, either by subscription or by assent, and it is an obsolete and an impracticable thing – proved so to be." In a letter to Roosevelt in December, 1908, he said the plan failed because the stockholders of the Panama company did not give their approval. He further made the following emphatic statement: "I again denounce the statement wherever published or by whomsoever made that there was a syndicate formed by American citizens to purchase the Panama canal and sell it to the United States as absolutely and unqualifiedly false and untrue."
But the fact of the syndicates being dead long before the Pa-
name transaction does not rest merely upon sworn testimony and
statements to that effect. The steps in the purchase itself
show that everything was perfectly in the open and in regular
order, and that ownership of the stock could not have rested in
a mere handful of Americans.

As previously pointed out, the liquidator of the old com-
pamy had consented to the sale, then on December 24, 1901, he
drew up an agreement with the proper authorities of the canal
company to arbitrate the proportion of the sale price which he
and the company should receive. Article 1 of the agreement reads
"The New Panama Company alone remains charged with carrying on
the negotiations. It shall have full powers to conclude event-
ually with the Government of the United States, and to fix, after
discussion with it, the price and conditions of the sale."

Since this agreement was approved by court decree, the fact is
clear that the United States Government was wholly in the right
in dealing with the New Panama company alone. Article 2 provided
for a tribunal of arbitration which met and gave a decision,
February 11, 1902, to the effect that the liquidator should re-
ceive 20,000,000 francs of the sale proceeds, then the new compa-
ny 5,000,000; the balance to be divided 60% to the liquidator
and 40% to the canal company. As will later appear, this divisi-
on was carried out.

On February 17, 1903, Attorney Knox, by the direction of the
President, accepted the company's offer subject to "the going in-

to effect of the pending treaty concerning the Panama canal be-
tween the United States and Colombia." But more than a year
intervened before the session was made. Not until a treaty
had been ratified with Panama, the successor of Colombia on the
Isthmus, could it be carried out. The treaty was proclaimed on
Feb. 1904
March 25th, then on March 3rd Knox cabled the president of the
company that the United States was ready to carry out its part
of the program.

W.A. Day and C.W. Russell, assistants to the attorney, were
sent to Paris to represent the United States, and a deed of con-
voyance of all property was signed by them, April 16, 1904, to-
gether with President Bo and A. Rischmann for the company; while
at the same time, P. Gautron, liquidator of the old company, signed
a deed of concurrence. Then on April 23rd an extraordinary
meeting of the general assembly of the company adopted two re-
solutions by an almost unanimous vote: the first ratified the
sale while the second ordered the dissolution of the company
and placed it in liquidation.

But were a few Americans owners of the stock, and did
they receive the $40,000,000? Roosevelt emphatically denied the
charge, together with that of government officials being wrong-
fully involved in the transaction, while the New York World, Dec-
ember 8, 1908, declared that the President's statement was "full
of flagrant untruths, reeking with misstatements." Which is
borne out by the facts?

12. Ibid., p. 9.
13. Ibid., pp. 7-13.
15. Quoted in Heatons' story of a Page, p. 274.
If it is shown that there were a large number of stockholders in the company at the time of the sale or at any time after the beginning of the negotiations, the story must fall; for the supposed ownership by men close to the Administration was the alleged cause for the purchase at $40,000,000. When Admiral Walker was making investigations in Paris in 1899, the question of "how many share holders" in the company was incidently asked, and the answer was: "about 7000." No sale had therefore occurred. Turning to the period when the interest was becoming greatest we find in the minutes of the general meeting of stockholders in Paris on Saturday, December 21, 1901— the meeting which authorized the council to negotiate the sale—these words:

The President announces that the role of those present, signed by each stockholder upon entering, shows the presence of 227 stockholders, representing—692,307 shares—more than half the company's capital; that in consequence the meeting, being legally constituted, can validly deliberate. "(17)

And a little further on in the same minutes:

"Afterwards the President invites to assist him two of the principle stockholders present: M. Jean Pierre Gautron—and M. Uribe—consul-general of the Republic of Colombia, specially accredited to represent his Government at the meeting,

The liquidator—being owner of 158,665 shares, and—Colombia 50,000 shares."(18)

Two hundred and twenty-seven stockholders present, representing six-sevenths of all the shares! No syndicate had therefore yet bought the shares; and who would believe that they could be bought for $3,000,000 after this time when the probability of selling for $40,000,000 was gaining strength?

But the evidence does not end here. In the report of the council of administration of the company for the meeting of April 23, 1904, we find that Colombia had brought suit against the company for the remittance of her 50,000 shares. Colombia
had therefore not sold to anyone. Furthermore the general tenor of
the report, the signed protest to the sale to the United
States by two stockholders, the statements of the amounts which
the liquidator and the new company were to receive, and the ad-
option of resolutions by all the members save a small minority,
prove without question of doubt that the stockholders had never
sold their shares to an American syndicate.

The payment of the $40,000,000 by the United States was
through the firm of J. P. Morgan and Company, agents for the Gov-
ernment, into the Bank of France at Paris, while the expense was
borne by the Panama company. When Roosevelt made the state-
ment that the money was paid directly to France (not mentioning
an agent which should be taken for granted) the New York World
charged him with uttering an untruth. That paper evidently con-
sidered a "direct payment" to mean that the United States Treas-
urer must carry the gold across the ocean in his portmanteau.

But "Who got the money", cried the scandal-hungry papers.
Cromwell testified under oath before a Senate committee, February
26, 1906, that in accordance with the agreement between the liqui-
dator and the new company, the liquidator had already distributed
$24,000,000 of his share of the $40,000,000 to the security
holders and creditors of the old company, while the new company
had distributed all but three millions of its share to its stock
holders. The extended Senate hearings brought out nothing to
disprove the statement, while the character of the proceedings
show that the committee did not question its truthfulness.

But even though the distribution had almost been completed might it not have been to an American syndicate? If the proof to the contrary of the existence of an American syndicate cannot be accepted as conclusive, then it may be granted until further evidence is found. But the evidence shows that the shares were not in the hands of a few men consequently the existence of such a body is not a pertinent factor. The story breaks down without it.

In 1906, Roosevelt decided to clear up the matter once for all to the satisfaction of the most doubtful, and accordingly directed that the archives received from the Panama company be searched for a list of stockholders. Mr. Charlton, law officer of the Bureau of Insular Affairs, reported that the list had not been transferred but in view of the fact that the United States had no interest in the distribution, and that such a list concerned only the Panama company, there was no occasion for its transmittance.

But before Charlton reported, Roosevelt had asked Cromwell if there was any way of getting at the stock books. Cromwell soon furnished the desired information, and in addition sent a complete list of the stockholders. This list, together with other documents, was sent to Congress with the request that it be printed if that body thought advisable. But Congress gave so little credence to the whole story of corruption that it did not think the printing of thousands of names necessary. A statement furnished by Cromwell at the same time, however, gives the exact number to whom distribution was made. "The distribution," he says, "was made through four leading banks of Paris, the Cre-

it Lyonnaise, Societe General, Comptoir National d'Escompte de Paris, and Credit Industriel et Commercial, in three separate payments (July 15, 1904, February 3, 1908, and June 15, 1908), and was completed in June 1908. This liquidation took place at the regular offices of the company, 19 Rue Louis le Grand, Paris. The facts concerning the liquidation are a matter of public report to the shareholders of the company and were the subject of official publications from time to time covering a period of four years in the official papers under the direction of the courts. The amount so paid to the shareholders of the New Panama Canal Company, as I am informed by the liquidators, is approximately 123.78 francs on each share of the par value of 100 francs—that is, they received back only the capital originally invested with interest, less than three percent per annum. I am informed by the liquidators that the shareholders to whom distribution was made numbered 6,796. The records were, on the final payment in June, 1908, deposited with the Credit Lyonnoise, in accordance with French custom, for a period of twenty years."

This statement has all the earmarks of truthfulness though it cannot be verified until the expiration of the twenty years. It is further a matter of interest to note in this connection that Colombia received payment for her shares in the same ratio as all the other holders.

In going through the mass of evidence on the subject, the falsity of the story is borne out so frequently that even a short statement of findings seems an unnecessary use of words.

Then what was the motive for the fabrication? In 1908, Roosevelt was pushing Taft's candidacy, consequently the occasion was ripe for an charge that would injure party prospects. Robinson was brought in because it would thus appear that Roosevelt had favored the Panama canal in order to give his brother-in-law the opportunity for a highly profitable business adventure when the transaction was consummated; Charles Taft, because he was a brother of the Republican candidate who was supposed to have had a hand in the purchase.

But the fact was overlooked that Taft was absent as governor of the Philippines during the years in question, and had no official connection with the canal until after it had been acquired. The charge against Robinson is equally unfounded. In all the Senate hearings, and the large number of documents studied, his name has not been found until at a point of time years after the period in question. Cromwell has stated that "No member of the Taft family or Mr. Douglas Robinson ever had the remotest connection with Panama canal matters," that he "never saw Mr. Douglas Robinson in (his) life."  

To this may be added the statement of Roosevelt since no evidence has been found which tends to question its truthfulness. Writing to T. D. Foulke, December 1, 1908, he said: "Mr. Robinson had not the slightest connection of any kind, sort, or description at any time or under any circumstances with the Panama matter. Neither did Mr. Charles Taft."

It is evident therefore, both from the standpoint of the fact that the shares remained in the hands of a large number

of holders, and because of the circumstances attending the trans-
action, that a few Americans did not receive the $40,000,000.

When Roosevelt and other Government officials were charge-
ed with corruption it meant, as the President said, a libel upon
the Government of the United States, consequently he caused in-
dictments to be filed against the two chief offenders. In both
cases the indictments were quashed by the federal courts because
of lack of jurisdiction, the Supreme Court quite properly sus-
taining the District court of New York. But the question at is-
sue did not enter into the case, and the principles involved
were not adjudicated; yet the world, rejoicing in its escape, de-
clared, January 4, 1911, that "The Supreme Court upholds every
contention advanced by the world since the outset of this pro-
secution." In those words that organ probably felt that hers
was the final stroke, but if there was any glory in it, it was
short lived, for H. N. Hall of that paper admitted before the House
Committee on Panama in 1912, that the story linking the names
of Charles Taft and Robinson with the Panama transaction origi-
nated with the world, and was without foundation. He testified
that "Mr. Taft had absolutely nothing whatever to do, with direct-
ly or indirectly, with the sale of the New Panama Canal Company
to the United States," and that Robinson's name was brought in-
to the story in the same way as Tafts - that he had nothing to
do with the affair "in any way, shape, or form."

This story may be buried therefore, along with others which
have originated in personal dislike and political animosity.

27. Story of Panama, pp. 520-21.
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INDEX

Amador Dr., relation to Panama revolution, 66 fg.

Beaupre, minister to Colombia, correspondence of, 48 et seq.

Bunau-Varilla, influence in Colombian negotiations, 38; the revolution, 67 et seq.

Cromwell, W. N., first attorney fee, 5, second, 111; and Republican platform of 1900, 16; letters to Hay relative to Colombia, 10; aids in Colombian negotiations, 30 et seq.; Hannas Panama speech, 32; relations with Roosevelt, 69; disposition of the $40,000,000, 83 et seq.

Clayton-Bulwer Treaty, 2.

Colombia, grants concession to Wyse, 2; grants extension to Panama company, 6; extension of 1900, 10; influence of Church in, 43 fg.; rejects Hay-Herran Treaty, 52 fg.

DeLesseps and Old Panama Company, 3.

Duque, confers with Hay, 63, 64.

Fifty mile order, 73.

Hay, J., negotiations with Concha, 29 fg. 36, 37; negotiations with Herran, 37 fg., 41; correspondence with Beaupre, 48 et seq.

Hepburn, first Nicaraguan bill, 19, 20; second, 27

Hall, H. N., Story of Panama, 11.

Hannan, Marcus, favors Panama, 15; Republican platform, 1900, 16; Senate minority report of 1902, 27; Panama speech, 32.

Isthmian surveys, 4, 8, 14 et seq.

Knox, Atty.-Gen., opinion on Panama title, 35.

Libel suit, 84 et seq.

Maritime suit, 84 et seq.

New Panama Canal Company, history of, 5; work done on Isthmus, 7; reason for sale to U. S., 8; offers to reincorporate in U. S., 14; tries to influence McKinley, 14, 19; offers to sell for $40,000,000, 23; goes into liquidation, 89.

Marroquin, career, 47.

Moore, J. B., advice to Roosevelt, 71.

Nicaraguan Canal Association, organized, 4.

Panama, revolution in, 74; recognition by U. S., 77.

Robinson, Douglas, and Panama scandal, 84 et seq.

Spoonover Amendment, 28-34.

Sandoval, elected President, 45; grants extension to Panama company in 1900, 10; imprisoned by Marroquin, 47.

Taft, Chas., and Panama scandal, 84 et seq.

Treaty of 1846, 1, 2, 72.

Walker, Admiral, Isthmian commission, 14; first report, 20-22; second Wyse, concession from Colombia, 2, 3. (24.