

CHAPTER IV

THE DIPLOMATIC HISTORY OF THE PANAMA CANAL

THE cutting of the isthmus between North and South America was the dream of navigators and engineers from the time when the first discoverers ascertained that nature had neglected to provide a passage. Yet the new continent which so unexpectedly blocked the way of Columbus in his search for the Indies opposed for centuries an insurmountable barrier to the commerce of the East and the West. The piercing of the isthmus always seemed a perfectly feasible undertaking, but the difficulties in the way proved greater than at first sight appeared. There were (1) the physical or engineering problems to be solved, and (2) the diplomatic complications regarding the control of the canal in peace and its use in war. The weakness of the Spanish-American states, whose territories embraced the available routes, and their recognized inability either to construct or protect a canal made what might otherwise have been merely a question of domestic economy one of grave international import. In this respect, as in others, the problem presented the same features as the Suez canal. To meet these difficulties three plans were successively developed during the nineteenth century: (1) a canal constructed by a private corporation under international control, (2) a canal constructed by a private corporation under the exclusive control of the United States, and (3) a canal constructed, owned, operated,

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and controlled by the United States as a government enterprise. The Clayton-Bulwer treaty provided for the construction of a canal in accordance with the first plan; several unsuccessful attempts were made to raise the necessary capital under the second plan; while the third plan was the one under which the gigantic task was actually accomplished.

The comparative merits of the Nicaragua and Panama routes long divided the opinion of experts. American engineers generally favored that through Nicaragua. The length of the Nicaragua route, from Greytown on the Atlantic to Brito on the Pacific by way of the San Juan river and through Lake Nicaragua, is about 170 miles. The elevation of the lake above the sea is about 110 feet. Its western shore is only twelve miles from the Pacific, with an intervening divide 154 feet above the sea. From the southeast corner of the lake flows the San Juan river, 120 miles to the Atlantic, with an average fall of about 10 inches to the mile. The serious objections to this route are: (1) the lack of harbors at the terminals, Brito being a mere indentation on the coast, rendering the construction of immense breakwaters necessary, while at Greytown the San Juan broadens out into a delta that would require extensive dredging; and (2) the enormous rainfall at Greytown, exceeding that known anywhere else on the western continent—nearly 25 feet.

The Panama route from Colon on the Atlantic to Panama on the Pacific is about 50 miles in length, with a natural elevation nearly double that of Nicaragua. There are natural harbors at each end which are capacious and able to accommodate the heaviest

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shipping. The Panama Railroad, built along the line of the proposed canal, in 1850-55, gave this route an additional advantage. There were, however, certain disadvantages: (1) the unhealthfulness of the vicinity, rendering labor scarce and inefficient; (2) the heavy rainfall, 10 to 12 feet at Colon; and (3) the treacherous character of the geologic structure, due to its volcanic origin, through which the cut had to be made. The impossibility of making even approximate estimates of the cost of the work in such a deadly climate and through such an uncertain geologic formation was one of the greatest difficulties to be overcome. The De Lesseps plan provided for an open cut throughout at the sea-level, at an estimated cost of \$170,000,000. The work was begun in 1884 and prosecuted until 1888, when the gigantic scheme collapsed, after the company had expended about \$300,000,000 and accomplished less than one-third of the work.

Great as the engineering problems of the various canal schemes have been shown to be, the importance to the world's commerce of the object in view would, in all probability, have led to their solution and to the construction of a canal long before the United States undertook the Panama enterprise, had it not been for difficulties of an altogether different character, complications arising out of the question as to the status of the canal in international law. The diplomatic difficulties in the case of an interoceanic canal are very great. It cannot be regarded as a natural strait, like the Dardanelles, the Danish Belts, or the Straits of Magellan, which were for a long time held under exclusive jurisdiction, but are now free to all nations. Nor, on the other hand, could an

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isthmian canal be compared to the Kiel canal, which is within the territory of Germany, and which, although open to commerce, was specially designed to meet the needs of the German navy. Such canals as this are built by the capital of the country through which they pass, and are protected and controlled by its government.

No one of the republics to the south of us, through whose territory it was proposed to build a canal, could raise the capital for its construction or insure its protection when completed. No company chartered by one of these governments could have raised the necessary capital without some further guarantee. Hence it was that all companies organized for this purpose had to secure their charters from some more powerful nation, such as the United States or France, and their concessions from one of the Central American states. This rendered necessary a treaty between the state granting the concession or right to construct a canal through its territory and the state chartering the company. The claims of other states to equality of treatment in the use of such a canal constituted another element that had to be considered.

With the establishment of the independence of the Spanish-American republics the question of the construction of a ship canal across the isthmus became a matter of general interest, and it was one of the proposed subjects of discussion at the Congress of American Republics summoned by Bolivar to meet at Panama in 1826. In the instructions to the United States commissioners to that congress, Mr. Clay authorized them to enter into the consideration of that subject, suggesting that the best routes would likely

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be found in the territory of Mexico or of the Central Republic. As to the diplomatic status of the canal, he said:

If the work should ever be executed so as to admit of the passage of sea vessels from ocean to ocean, the benefits of it ought not to be exclusively appropriated to any one nation, but should be extended to all parts of the globe upon the payment of a just compensation or reasonable tolls.¹

In 1835, and again in 1839, the United States Senate passed resolutions authorizing the President to enter into negotiations with other nations, particularly Central America and New Granada, for the purpose of protecting by treaty either individuals or companies who might undertake to open communication between the two oceans, and of insuring "the free and equal navigation of the canal by all nations." Presidents Jackson and Van Buren both commissioned agents with a view to carrying out these resolutions, but without success.

While a prisoner at Ham in 1845, Prince Louis Napoleon Bonaparte secured from the government of Nicaragua a concession granting him power to organize a company for the construction of a waterway to be known as "Le Canale Napoléon de Nicaragua." After his escape from Ham, he published in London a pamphlet entitled "The Canal of Nicaragua, or a Project for the Junction of the Atlantic and Pacific Oceans by means of a Canal."²

Although the United States government was a party to endless negotiations in regard to an inter-oceanic canal, there were only three treaties of any practical

¹ Report of International American Conference, Vol. IV (Hist. App.), p. 143.

² Snow: "Treaties and Topics in American Diplomacy," p. 328.

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importance prior to the close of the nineteenth century, by which it acquired rights and assumed obligations on that account.³ These were (1) the treaty with New Granada (Colombia) of 1846; (2) the Clayton-Bulwer treaty with England of 1850; and (3) the treaty with Nicaragua of 1867. We shall proceed to examine these in detail.

The treaty with New Granada was signed at Bogota, December 12, 1846, and ratified by both governments in 1848. It did not differ materially from the general draft of treaties, except in the thirty-fifth article, which was of a special character and related to the Isthmus of Panama. By this article "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 communication that now exist or that may be hereafter constructed, shall be open and free to the government and citizens of the United States," for the transportation of all articles of lawful commerce upon the same terms enjoyed by the citizens of New Granada.

And in order to secure to themselves the tranquil and constant enjoyment of these advantages, and for the favors they have acquired by the 4th, 5th, and 6th articles of this treaty, the United States guarantee positively and efficaciously to New Granada, by the present stipulation, the perfect neutrality of the before-mentioned isthmus, with the view that the free transit from the one to the other sea may not be interrupted or embarrassed in any future time while this treaty exists; and, in consequence, the United States also guarantee, in the same manner, the rights of sovereignty and

³ Our treaties with Mexico and Honduras, although covering the case of canal constructions, were of no practical importance, as the routes through these countries were not feasible.

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property which New Granada has and possesses over the said territory.⁴

This treaty was to remain in force for twenty years, and then, if neither party gave notice of intended termination, it was to continue in force, terminable by either party at twelve months' notice. This treaty was in full force when the Panama revolution of 1903 took place. Under the protection of this treaty the Panama Railroad Company, composed mainly of citizens of the United States, secured a charter from New Granada, and between 1850 and 1855 constructed a railroad across the isthmus along the line of the proposed Panama canal. In consequence of the riot at Panama in 1856, efforts were made by the United States to modify this treaty so as to give the United States greater control and power to protect the means of transit, but without success.⁵ Other attempts to modify it in 1868 and 1870 likewise failed.⁶

In 1862 the Granadian government, through its representative at Washington, notified the United States that a revolutionary chief, who was then trying to subvert the Granadian confederation, had sent an armed force to occupy the Isthmus of Panama, and the government of Granada called upon the United States to enforce its guarantee. Simultaneously the same information was received from the United States consul at Panama, and the President instructed the United States naval commander at that port to protect at all hazards and at whatever cost the safety of the railroad transit across the isthmus.

⁴ Correspondence in relation to the Proposed Interoceanic Canal, the Clayton-Bulwer Treaty, and the Monroe Doctrine. Government Printing Office, 1885, p. 5. Referred to hereafter as "Collected Correspondence."

⁵ *Ibid.*, pp. 23-27.

⁶ *Ibid.*, pp. 27 and 40.

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The Granadian government, however, was not satisfied with this action, and urged the United States to land a body of troops at Panama, suggesting that it consist of 300 cavalry. Under the circumstances, President Lincoln hesitated to take such action without consulting Great Britain and France, and Mr. Seward instructed our representatives at London and Paris to seek an understanding with those governments in regard to the matter. He declared:

This government has no interest in the matter different from that of other maritime powers. It is willing to interpose its aid in execution of its treaty and for the benefit of all nations. But if it should do so it would incur some hazard of becoming involved in the revolutionary strife which is going on in that country. It would also incur danger of misapprehension of its object by other maritime powers if it should act without previous consultation with them.⁷

In a conference between Mr. Adams and Lord John Russell, the latter declared that he did not consider that the contingency had arisen which called for intervention; that so far as he could learn, no attempt had been made to obstruct the free transit across the isthmus. The French government took substantially the same view.⁸ In questions of a similar nature that arose later, the attorney-general of the United States expressed the opinion that the guarantee by the United States of Granadian sovereignty and property in the territory of the isthmus was only against foreign governments, and did not authorize the United States to take sides with one or the other party in the intestine troubles of that nation.

⁷ Seward to Adams, July 11, 1862.

⁸ "Collected Correspondence," pp. 7 and 8

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In April, 1885, the Colombian government, which was embarrassed by civil war, called upon the United States for the fulfillment of the treaty of 1846, to secure the neutrality and sovereignty of the isthmus. President Cleveland at once sent a body of troops to the isthmus with instructions to confine their action to preventing the transit and its accessories from being interrupted or embarrassed. As soon as peace was reëstablished, the troops of the United States were withdrawn.⁹

Four years after the signature of the above treaty with Colombia, and two years after its ratification by the Senate, the United States and Great Britain executed what is popularly known as the Clayton-Bulwer treaty. It is of great importance to understand clearly the circumstances under which this treaty was negotiated.

For very obvious reasons, the Isthmus of Panama was for many years the objective point of all canal schemes, but as the engineering difficulties of this route began to be fully appreciated, attention was directed more and more to that through Nicaragua. The occupation by Great Britain, under the assumption of a protectorate, of the territory about the mouth of the San Juan river, which belonged to Nicaragua and Costa Rica, and in which the Atlantic terminus of the canal would fall, was a source of no little uneasiness and perplexity to the United States. In June, 1849, Mr. Hise, chargé d'affaires of the United States in Central America, negotiated without the authorization or knowledge of his government, a treaty with

⁹ Mr. Scruggs to Mr. Bayard, April 16, 1885, For. Rel., also "Messages and Papers of the Presidents," Vol. VIII, p. 326.

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Nicaragua which gave the United States exclusive rights in the construction of a canal through the territory of that state.¹⁰ This treaty was not submitted to the Senate, but was made use of in the negotiations that were opened shortly thereafter with Great Britain for the purpose of ousting her from her position of control over the mouth of the San Juan. A few months later, September 28, 1849, Mr. Squier signed with Honduras a treaty which ceded Tiger Island, in the Bay of Fonseca, to the United States, thus giving us a naval station on the Pacific side of the isthmus. This treaty, like that negotiated by Mr. Hise, was unauthorized and never submitted to the Senate.¹¹ Both treaties were used, however, in bringing England to the signature of the Clayton-Bulwer treaty. This activity in treaty-making was occasioned by the acquisition of California and the rush to the gold fields by way of the isthmus.

During the period that elapsed between Mr. Bancroft's withdrawal from London and Mr. Lawrence's arrival as the representative of the United States, Mr. Clayton instructed Mr. Rives, who was on his way to Paris, to stop in London and hold a conference with Lord Palmerston on the Central American question. At this date the United States was striving simply for equal rights in any waterway that might be opened through the isthmus and not for any exclusive rights. Mr. Rives declared to Lord Palmerston "that citizens of the United States had entered into a contract with the state of Nicaragua to open, on certain conditions, a communication between the Atlantic and Pacific

¹⁰ "Collected Correspondence," p. 94.

¹¹ *Ibid.*, p. 14.

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oceans by the river San Juan and the Nicaragua lake; that the government of the United States, after the most careful investigation of the subject, had come undoubtedly to the conclusion that upon both legal and historical grounds the state of Nicaragua was the true territorial sovereign of the river San Juan as well as of the Nicaragua lake, and that it was, therefore, bound to give its countenance and support, by all proper and reasonable means, to rights lawfully derived by their citizens under a grant from that sovereign." He further said:

That the United States would not, if they could, obtain any exclusive right or privilege in a great highway, which naturally belonged to all mankind, for they well knew that the possession of any such privilege would expose them to inevitable jealousies and probable controversies which would make it infinitely more costly than advantageous; that while they aimed at no exclusive privilege for themselves, they could never consent to see so important a communication fall under the exclusive control of any other great commercial power; that we were far from imputing to Her Britannic Majesty's government any views of that kind, but Mosquito possession at the mouth of the San Juan could be considered in no other light than British possession, and his lordship would readily comprehend that such a state of things, so long as it was continued, must necessarily give rise to dissatisfaction and distrust on the part of other commercial powers.¹³

The negotiations thus opened by Mr. Rives were continued by Mr. Lawrence upon his arrival in England, but were shortly thereafter transferred to Washington, where Mr. Clayton succeeded in arranging with Sir Henry Lytton Bulwer the terms of a convention which was signed April 19, 1850. The inten-

¹³ "Collected Correspondence," pp 11 and 12.

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tion of the two governments, as declared in the preamble, was to set forth "their views and intentions with reference to any means of communication by ship canal which may be constructed between the Atlantic and Pacific oceans by the way of the river San Juan de Nicaragua, and either or both of the lakes of Nicaragua or Managua, to any port or place on the Pacific ocean."

By the first article Great Britain and the United States bound themselves never to obtain or maintain any exclusive control over the said ship canal; never to erect or maintain any fortifications commanding the same or in the vicinity thereof, or to colonize or exercise dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America; and never to make use of any alliance, connection or influence with any of these states to obtain any unequal advantages in regard to commerce or navigation through the said canal.

The second article provided for the neutralization of the canal in the event of war between the contracting parties. The third guaranteed protection for the persons and property of the parties legally undertaking the construction of the canal. The fourth related to gaining the consent of the states whose territory the canal should traverse. The fifth article provided for the neutralization and protection of the canal so long as it was managed without discrimination against either of the contracting parties, and stipulated that neither of them would withdraw its protection without giving the other six months' notice. In the sixth article the contracting parties promised to invite every state with which they were on terms of friendly in-

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tercourse to accede to this convention. In the seventh article the contracting parties agreed to lend their support and encouragement to the first company offering to construct the canal in accordance with the spirit and intention of this convention. The eighth article was of special importance. It declared that "the governments of the United States and Great Britain having not only desired, in entering into this convention, to accomplish a particular object, but also to establish a general principle, they hereby agree to extend their protection, by treaty stipulations, to any other practicable communication, whether by canal or railway, across the isthmus which connects North and South America, and especially to the interoceanic communications, should the same prove practicable, whether by canal or railway, which are now proposed to be established by the way of Tehuantepec or Panama."¹⁸

Such are the main stipulations of the celebrated Clayton-Bulwer treaty, which remained in force until 1901, and which during that period probably called forth more discussion than any treaty which the United States had ever signed.

In after years a large number of people on this side of the Atlantic, forgetting the object and aim of the treaty and the circumstances under which it was negotiated, thought that the United States conceded too much and violated the principle of the Monroe Doctrine in giving England a position and interest in America which she did not before possess. This opinion was held by some prominent statesmen at the time the treaty was negotiated, notably by Buchanan, who poured forth severe criticism and ridicule upon

¹⁸ "Collected Correspondence," p. 99.

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it. While it was before the Senate for ratification, he wrote to a friend:

If Sir Henry Bulwer can succeed in having the two first provisions of this treaty ratified by the Senate, he will deserve a British peerage. The consideration for our concessions is the relinquishment of the claim to the protectorate of the Mosquito shore—so absurd and unfounded that it has been ridiculed even by the *London Times*. Truly Sir Henry has brought this claim to a good market when he found a purchaser in Mr. Clayton. The treaty altogether reverses the Monroe Doctrine, and establishes it against ourselves rather than European governments.¹⁴

Let us see what the interests of the two signatory powers were at that time in Central America. The United States had recently acquired California by the treaty of Guadalupe Hidalgo, and the rapid development of the Pacific states made the canal a question of greater importance to the United States than ever before. The great transcontinental railroads, which some fifteen years later established direct overland communication with the Pacific states, were then hardly thought of.

England's interest in the canal, on the other hand, was rather a prospective one, but farsighted as usual, she had provided for future contingencies by occupying several years before, under the guise of a protectorate over the Mosquito Indians, Greytown at the mouth of the San Juan river, the Atlantic terminus of the canal. In addition to the Mosquito coast, England at this time held the Bay Islands and Belize, or British Honduras. The United States, it is true, had

¹⁴ Mr. Buchanan to Hon. John A. McClernand, April 2, 1850, "*American Hist. Rev.*," Oct., 1899.

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never recognized the claims of Great Britain to dominion over the Mosquito coast. These claims, which dated back to the eighteenth century, when British wood-cutters in search of mahogany, and smugglers entered the territory occupied by the Mosquito Indians and established cordial relations with them, had been abandoned by the treaty of 1786 with Spain, but were revived in 1841, when a ship of war was sent to San Juan del Norte to announce the protection of England over the lands of the Mosquito king and to raise the Mosquito flag.¹⁵ In 1848 the English and Indians drove the Nicaraguans out of the town and changed the name to Greytown.

The United States uniformly denied the rights of the Mosquito king to sovereignty over the district, and consequently the pretensions of the inhabitants of Greytown to political organization or power derived in any way from the Mosquitos. In his instructions to Mr. Hise soon after the occupation of Greytown, Secretary Buchanan said :

The object of Great Britain in this seizure is evident from the policy which she has uniformly pursued throughout her history, of seizing upon every available commercial point in the world whenever circumstances have placed it in her power. Her purpose probably is to obtain control of the route for a railroad or canal between the Atlantic and Pacific oceans by way of Lake Nicaragua. . . . The government of the United States has not yet determined what course it will pursue in regard to the encroachment of the British government. . . . The independence as well as the interests of the nations on this continent require that they should maintain an American system of policy entirely distinct from that which prevails in Europe. To suffer any interference on the part of the European governments with the

¹⁵ "Wharton's Digest," Sec. 295.

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domestic concerns of the American republics, and to permit them to establish new colonies upon this continent, would be to jeopard their independence and ruin their interests. These truths ought everywhere throughout this continent to be impressed upon the public mind; but what can the United States do to resist such European interference whilst the Spanish-American republics continue to weaken themselves by civil divisions and civil war, and deprive themselves of doing anything for their own protection.

Whatever the rights of the case, Great Britain was in actual possession of the Atlantic terminus of the proposed canal, and the United States was not prepared forcibly to oust her, even if such a course had been deemed advisable. The United States had no rights in the case at this time by treaty with Nicaragua or otherwise, none of the statesmen of that day having been broad enough in their views or bold enough to consider the territory of Nicaragua as "a part of the coast-line of the United States." All that could be opposed to England's *de facto* possession was the Monroe Doctrine, and England held that her claim antedated the declaration of that principle of American diplomacy. Mr. Clayton cannot, therefore, be justly charged with a violation of the Monroe Doctrine, for the effect of the treaty was to leave England weaker territorially on this continent than she was before.

The Clayton-Bulwer treaty left open several minor questions that required adjustment before the canal enterprise could be pushed forward with success. Chief among these were the dispute between Nicaragua and Costa Rica in regard to their boundary line and the controversy between Great Britain and Nicaragua in regard to the territory claimed by the

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Mosquito Indians. In April, 1852, Mr. Webster and Sir John Crampton agreed upon a basis for the settlement of Central American affairs, and drew up and signed a proposal to be submitted to Nicaragua and Costa Rica.¹⁶ This proposed basis for a treaty was rejected by Nicaragua, which left the questions involved in the same unsettled position.

A much more serious obstacle to the accomplishment of the objects of the Clayton-Bulwer treaty than the failure of the above proposal arose from the wide divergence of opinion between the British and American governments in regard to its interpretation. The discussion involved two principal points: (1) Whether the abnegatory clauses of the first article were merely prospective in character and directed against future acquisitions in Central America, or whether they required Great Britain to abandon her protectorate over the Mosquito coast at once; and (2) whether the Bay Islands came within the purview of the treaty. It was expressly stipulated that Belizé or British Honduras was not included in Central America and therefore not affected by the treaty one way or the other. A declaration to this effect was filed at the state department by the British minister, Sir Henry Bulwer. In reply, Mr. Clayton, after conference with the chairman of the Senate committee on foreign relations, acknowledged that British Honduras did not come within the scope of the treaty, but at the same time carefully refrained from affirming or denying the British title to that settlement or its alleged dependencies.¹⁷ This left open the question as to whether the

¹⁶ "Collected Correspondence," p. 102.

¹⁷ *Ibid.*, p. 234, also Wharton's Digest, Vol. II, p. 190.

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Bay Islands were dependencies of Belize or of the Republic of Honduras.

Shortly after the failure of the Crampton-Webster proposals, Great Britain took advantage of the uncertainty that existed in regard to the status of the Bay Islands and by a formal proclamation, issued July 17, 1852, converted her settlements on those islands into "The Colony of the Bay Islands." When the United States government expressed its surprise at this proceeding, the British government replied that the Bay Islands were dependencies of Her Majesty's settlement at Belize and therefore, by explicit agreement, not within the scope of the Clayton-Bulwer treaty.¹⁸

In 1856 an effort was made to terminate the difficulties arising out of the different constructions put upon the Clayton-Bulwer treaty by the negotiation of a supplementary convention. On October 17 of that year a treaty was signed in London by the American minister and Lord Clarendon, known as the Dallas-Clarendon treaty. It provided (1) for the withdrawal of the British protectorate over the Mosquito Indians; (2) it regulated the boundaries of the Belize settlements on the basis of a compromise; and (3) it provided for a cession of the Bay Islands to Honduras, upon condition of the ratification of a treaty already negotiated between Great Britain and Honduras, which virtually erected an independent state of the islands, exempt in many particulars from the sovereignty of Honduras, and under the protectorate of Great Britain.

The first two clauses were acceptable to the United

¹⁸ "Collected Correspondence," p. 248.

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States Senate, but it was deemed proper to amend the third by striking out all that part of it which contemplated the concurrence of the United States in the British treaty with Honduras, and simply to provide for a recognition by the two governments of the sovereignty of Honduras over the islands in question.¹⁹ Great Britain rejected this amendment and the Dallas-Clarendon treaty fell through. Great Britain and the United States were thus thrown back upon the Clayton-Bulwer treaty with its conflicting interpretations.

In October, 1857, the President was notified informally that the British government had decided to dispatch Sir Wm. Ouseley, a diplomatist of well-recognized authority and experience, to Central America to make a definite settlement of all matters in dispute between the United States and England; that the efforts of the new plenipotentiary would be directed to those objects which had been dealt with in the Dallas-Clarendon treaty of 1856, viz., the cession of the Bay Islands to Honduras, the substitution of the sovereignty of Nicaragua for the protectorate of England over the Mosquitos and the regulation of the frontiers of Belize; that it was the intention of Her Majesty's government to carry the Clayton-Bulwer treaty into execution according to the general tenor of the interpretation put upon it by the United States, but to do so by separate negotiation with the Central American republics, in lieu of a direct engagement with the federal government.²⁰

President Buchanan replied that he would be satis-

¹⁹ "Collected Correspondence," p. 286

²⁰ *Ibid.*, p. 262-263.

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fied with this course and that upon receiving an official assurance to that effect, he would change the character of the message he had already prepared for Congress. On the 30th of November, 1857, the British government submitted to the United States the alternative of referring the Clayton-Bulwer treaty to the arbitration of any European power which the United States might prefer to select or of adjusting matters by negotiations with the Central American republics, as already outlined in Sir William Ouseley's prospective mission.²¹

At this stage of the negotiations matters were further complicated (1) by the negotiation of the Cass-Yrissari treaty of November 16, 1857, between the United States and Nicaragua for protection of the transit route and (2) by the invasion of Nicaraguan territory by a band of filibusters under General Walker, bent on the subversion of the lawful government of the country. The treaty was not ratified, however, and the Walker expedition was arrested by the interposition of the United States navy.

The United States government not having given any definite answer to the British proposal to submit the treaty to arbitration, the British government delayed dispatching Sir William Ouseley on his mission. In the negotiations which took place during this delay the question of the abrogation of the Clayton-Bulwer treaty was discussed between the two governments. In his message of December 8, 1857, President Buchanan had suggested the abrogation of the treaty by mutual consent as the wisest course that could be pursued in view of the increasing complica-

²¹ *Ibid.*, p. 276.

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tions to which the varying constructions of it were giving rise. The British government took up this suggestion and expressed its willingness to concur in such a course, but also expressed the opinion that the initiative should be taken by the government which was dissatisfied with its provisions.

The British minister was, however, directed by his government to make it perfectly clear to the government of the United States, that to abrogate the treaty was to return to the *status quo ante* its conclusion in 1850; that Great Britain had no kind of jealousy respecting American colonization in Central America, and did not ask or wish for any exclusive privileges whatever in that quarter.²² Finally, Sir William Ouseley was dispatched on his mission and during the years 1859 and 1860 succeeded in negotiating treaties with Guatemala, Honduras, and Nicaragua, the provisions of which were in substantial accord with the rejected Dallas-Clarendon treaty.²³

The treaty with Nicaragua signed at Managua, January 28, 1860, though restoring to that republic nominal sovereignty over the Mosquito territory, reserved to the Indians the right of retaining their own customs, assigned boundaries to that reservation in all probability greatly beyond its true limits, and confirmed grants of land previously made in that territory. Notwithstanding these facts, in his annual message of December 3, 1860, President Buchanan declared that the United States government was satisfied with the final settlement. His words were:

²² "Collected Correspondence," p. 280.

²³ *Ibid.*, pp. 294-302.

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The discordant constructions of the Clayton-Bulwer treaty between the two governments, which at different periods of the discussion bore a threatening aspect, have resulted in a final settlement entirely satisfactory to this government.²¹

The Clayton-Bulwer treaty was negotiated with the expectation that the construction of a ship canal would rapidly follow, but the unfortunate entanglements that grew out of the variant constructions put upon that treaty by the contracting powers deferred to an indefinite period the accomplishment of the object it was designed to promote. By the time these differences were adjusted the attention of the American public was centered upon the first throes of the gigantic struggle of the war of secession and the canal question was for several years completely overshadowed. The government of the United States emerged from that struggle with larger ideas of its position among the powers of the world and with broader views of national policy. Mr. Seward gave expression to that feeling in the purchase of Alaska, in his interposition in Mexico and in his efforts to secure a position for the United States in the West Indies. In order to strengthen the position of the United States he wished to purchase Tiger Island, a possession of Honduras in Fonseca bay on the Pacific coast. As this island lay in Central America, Mr. Seward could not take any steps in the matter without the consent of Great Britain, on account of the renunciatory clause with respect to that territory in the Clayton-Bulwer treaty. He, therefore, directed Mr. Adams, April 25, 1866, to sound Lord Clarendon as to the disposition of the British government toward the United States acquir-

²¹ "Messages and Papers of the Presidents," Vol. V, p. 639.

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ing a coaling station in Central America. In this dispatch we find the first suggestion of a repudiation of the Clayton-Bulwer treaty on the ground that it was a special and not a general contract, and that the work for which it had been negotiated had never been undertaken. Mr. Seward uses these words:

At the time the treaty was concluded there was every prospect that that work would not only soon be begun, but that it would be carried to a successful conclusion. For reasons, however, which it is not necessary to specify, it never was even commenced, and at present there does not appear to be a likelihood of its being undertaken. It may be a question, therefore, supposing that the canal should never be begun, whether the renunciatory clauses of the treaty are to have perpetual operation. Technically speaking, this question might be decided in the negative. Still, so long as it should remain a question, it would not comport with good faith for either party to do anything which might be deemed contrary to even the spirit of the treaty."

The subject was brought to the attention of Lord Clarendon in a casual way by Mr. Adams, but it was not pressed and Mr. Seward refrained from disregarding the renunciatory clause of the treaty.

In 1867, a treaty between the United States and Nicaragua, covering the case of an interoceanic canal, was negotiated and ratified by both parties. It granted to the United States the right of transit between the Atlantic and Pacific oceans on any lines of communication, natural or artificial, by land or by water, then existing, or that might thereafter be constructed, upon equal terms with the citizens of Nicaragua, and the United States agreed to extend its protection to all

" " Collected Correspondence," p. 303.

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such routes of communication, and "to guarantee the neutrality and innocent use of the same." The United States further agreed to employ its influence with other nations to induce them to guarantee such neutrality and protection.²⁶

This treaty, like the treaty with Colombia of 1846 and the Clayton-Bulwer treaty, contemplated the neutralization of the canal. It in no way infringed our engagements with England under the Clayton-Bulwer treaty, but in providing for the joint guarantee of other powers, was in accord with the provisions of that treaty.

In 1873, Mr. Hamilton Fish directed General Schenck to remonstrate, if upon investigation he found it to be necessary, against British encroachments upon the territory of Guatemala as an infringement of the Clayton-Bulwer treaty.²⁷

In spite of the doubts expressed by Mr. Seward in the dispatch to Mr. Adams above quoted, as to the perpetual character of the obligations imposed by the Clayton-Bulwer treaty, the obligatory force of that instrument after the readjustment of 1860 was not seriously questioned until interest in the canal question was suddenly aroused anew by the concession granted by Colombia to Lieutenant Wyse in 1878, and the subsequent organization of a French construction company under the presidency of Ferdinand de Lesseps, the promoter of the Suez canal.

The prospect of the speedy construction of a canal under French control, for which De Lesseps' name seemed a sufficient guarantee, produced a sudden and

²⁶ "Collected Correspondence," p. 132.

²⁷ *Ibid.*, pp. 310-12.

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radical change of policy on the part of the United States. In a special message to Congress, March 8, 1880, President Hayes made the following statement of what he conceived to be the true policy of this country in regard to a Central American canal:

The policy of this country is a canal under American control. The United States cannot consent to the surrender of this control to any European power, or to any combination of European powers. If existing treaties between the United States and other nations, or if the rights of sovereignty or property of other nations stand in the way of this policy—a contingency which is not apprehended—suitable steps should be taken by just and liberal negotiations to promote and establish the American policy on this subject, consistently with the rights of the nations to be affected by it.

The capital invested by corporations or citizens of other countries in such an enterprise must, in a great degree, look for protection to one or more of the great powers of the world. No European power can intervene for such protection without adopting measures on this continent which the United States would deem wholly inadmissible. If the protection of the United States is relied upon, the United States must exercise such control as will enable this country to protect its national interests and maintain the rights of those whose private capital is embarked in the work.

An interoceanic canal across the American isthmus will essentially change the geographical relations between the Atlantic and Pacific coasts of the United States, and between the United States and the rest of the world. It will be the great ocean thoroughfare between our Atlantic and our Pacific shores, and virtually a part of the coast-line of the United States. Our merely commercial interest in it is greater than that of all other countries, while its relation to our power and prosperity as a nation, to our means of defense, our unity, peace, and safety, are matters of paramount concern to the people of the United States. No other great power would, under similar circumstances, fail to

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assert a rightful control over a work so closely and vitally affecting its interests and welfare.

Without urging further the grounds of my opinion, I repeat, in conclusion, that it is the right and the duty of the United States to assert and maintain such supervision and authority over any interoceanic canal across the isthmus that connects North and South America as will protect our national interests. This I am quite sure will be found not only compatible with, but promotive of, the widest and most permanent advantage to commerce and civilization.²⁸

The message itself was accompanied by a report from the secretary of state, Mr. Evarts, in which he called attention to the mutual engagements entered into between the United States and Colombia by the treaty of 1846 in reference to a transit route across the isthmus and declared that the guarantee of the neutrality of the isthmus and of the sovereignty of Colombia over the same would be a very different thing when the isthmus should be opened to the interests and ambitions of the great commercial nations.²⁹

President Garfield, in his inaugural address, approved the position taken by his predecessor on the canal question,³⁰ and very soon after assuming the portfolio of state, Mr. Blaine outlined the new policy to our representatives in Europe, cautioning them, however, against representing it as the development of a new policy and affirming that it was "nothing more than the pronounced adherence of the United States to principles long since enunciated by the highest authority of the government."

²⁸ "Messages and Papers of the Presidents," Vol. VII, p. 585.

²⁹ "Collected Correspondence," p. 313.

³⁰ "Messages and Papers of the Presidents," Vol. VIII, p. 11.

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This dispatch of Mr. Blaine is remarkable for several reasons, but chiefly for the fact that it completely ignores the existence of the Clayton-Bulwer treaty, there being no allusion to that celebrated convention either open or implied. Aside from this there are three points to be noted. In the first place Mr. Blaine calls attention to the rights and duties devolving upon the United States from the treaty with Colombia of 1846, and states that in the judgment of the President the guarantee there given by the United States requires no reinforcement, or accession, or assent from any other power; that the United States in more than one instance had been called upon to vindicate the neutrality thus guaranteed; and that there was no contingency, then foreseen or apprehended, in which such vindication would not be within the power of the nation.

In the second place, Mr. Blaine declared with emphasis that during any war to which the United States of America or the United States of Colombia might be a party, the passage of armed vessels of a hostile nation through the canal of Panama would be no more admissible than would the passage of the armed forces of a hostile nation over the railway lines joining the Atlantic and Pacific shores of the United States, or of Colombia. This declaration was in direct opposition to the second article of the Clayton-Bulwer treaty. Mr. Blaine then proceeded to expatiate upon the remarkable development of our Pacific slope and the importance of the canal in facilitating communication between our Atlantic and Pacific states, alluding to the canal in this connection, in the very apt phrase of President Hayes, as forming a part of the *coast-*

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line of the United States. It does not appear to have occurred to Mr. Blaine that the same arguments applied with equal force to Great Britain's American possessions to the north of us, which likewise extended from the Atlantic to the Pacific, and were likewise entering upon a period of unusual development.

The third point to be noted in the dispatch is the statement that the United States would object to any concerted action of the European powers for the purpose of guaranteeing the canal or determining its status.²¹ This declaration was supposed to be nothing more than a reaffirmation of the Monroe Doctrine.

A copy of this document was left by Mr. Lowell at the British foreign office on the 12th of July, 1881. No formal notice of the dispatch was taken by the British government until November, when Lord Granville replied that, as Mr. Blaine had made the statement that the government of the United States had no intention of initiating any discussion upon this subject, he did not propose to enter into a detailed argument in reply to Mr. Blaine's observations. He wished, however, merely to point out that the position of Great Britain and the United States with reference to the canal, irrespective of the magnitude of the commercial relations of the former power, was determined by a convention signed between them at Washington on the 19th of April, 1850, commonly known as the Clayton-Bulwer treaty, and her majesty's government relied with confidence upon the observance of all the engagements of that treaty.²²

Before this reply reached Washington, Mr. Blaine

²¹ "Collected Correspondence," pp. 322-326.

²² *Ibid.*, p. 326.

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had again taken up the question of the canal in a special dispatch of November 19, 1881. In this dispatch he addressed himself specifically to a consideration of the Clayton-Bulwer treaty, and urged upon the consideration of the British government modifications of such a radical character as to amount to a complete abrogation of the treaty. The grounds of objection to the treaty were stated in full. In the first place it was declared that the treaty had been made more than thirty years before under exceptional and extraordinary conditions, which were at least temporary in their nature and had long since ceased to exist. The remarkable development of the United States on the Pacific coast since that time had created new duties and responsibilities for the American government which required, in the judgment of the President, some essential modifications in the treaty. The objections to the perpetuity of the treaty were then stated in full. First and foremost was the objection that the treaty by forbidding the military fortification of the proposed canal practically conceded its control to Great Britain by reason of her naval superiority. The military power of the United States in any conflict on the American continent was irresistible, yet the United States was restrained from using this power for the protection of the canal, while no restrictions could be placed upon the natural advantages that England enjoyed in this regard as a great naval power. A more serious objection to the treaty, however, was urged in the statement that it embodied a misconception of the relative positions of Great Britain and the United States with respect to interests on this continent. The United States would not consent to

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perpetuate any treaty that impeached "our right and long-established claim to priority on the American continent."

In the third place, at the time the convention was agreed upon, Great Britain and the United States were the only nations prominent in the commerce of Central and South America. Since that time other nations not bound by the prohibitions of that treaty had become interested in Central America, and the republic of France had become sponsor for a new canal scheme. Yet by the treaty with England the United States was prevented from asserting its rights and the privileges acquired through treaty with Colombia anterior to the Clayton-Bulwer treaty.

In the fourth place, the treaty had been made with the implied understanding that British capital would be available for the construction of a canal. That expectation had never been realized, and the United States was now able to construct a canal without aid from outside resources.

In conclusion, Mr. Blaine proposed several modifications of the treaty which would leave the United States free to fortify the canal and to hold political control of it in conjunction with the country in which it might be located.³³

A few days after the dispatch was written, Lord Granville's answer to Mr. Blaine's first dispatch reached Washington, and on the 29th of November, Mr. Blaine wrote a second dispatch equally voluminous with the one of November 19. In this he reviewed the discussions which had taken place between 1850 and 1860 in regard to the treaty with a view to

³³ "Collected Correspondence," pp. 327-332.

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showing that it had never been satisfactory to the United States and had been the cause of serious misunderstanding. He failed, however, to make mention of the settlement of 1860 and the declaration of President Buchanan that the United States was satisfied with that adjustment.

The full reply of the British government to Mr. Blaine's arguments was given in two dispatches dated respectively January 7 and 14, 1882. Lord Granville took exception to certain conclusions which Mr. Blaine had sought to establish by analogy with the conduct of Great Britain in regard to the Suez canal. His lordship fully concurred in what Mr. Blaine had said as to the unexampled development of the United States on the Pacific coast, but reminded him that the development of her majesty's possessions to the north of the United States, while less rapid, had been, nevertheless, on a scale that bore some relation even to that of the Pacific states. In the view of her majesty's government, the changes desired by the United States would not improve the situation as regarded the canal, while the declaration that the United States would always treat the waterway connecting the two oceans "as part of her coast-line" threatened the independence of the territory lying between that waterway and the United States.

Her majesty's government believed that the only way to relieve the situation was to extend the invitation to all maritime states to participate in an agreement based on the stipulations of the convention of 1850.⁶⁴

The task of replying to Lord Granville's two dis-

⁶⁴ "Collected Correspondence," pp. 340-352.

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patches fell upon Mr. Blaine's successor in the State Department, Mr. Frelinghuysen. Mr. Frelinghuysen's voluminous dispatch of May 8, 1882, reiterated in the main the arguments advanced by Mr. Blaine. He adduced evidence at great length to try to show that the Clayton-Bulwer treaty was a special contract for the accomplishment of a specific object, which had never been achieved, and was no longer binding; that Great Britain had violated the treaty by converting her *settlement* of British Honduras into a *possession* without ever receiving the assent of the United States, and that such act would entitle the United States to renounce the treaty. The dispatch was further characterized by a direct appeal to the Monroe Doctrine in these words:

The President believes that the formation of a protectorate by European nations over the isthmus transit would be in conflict with a doctrine which has been for many years asserted by the United States. This sentiment is properly termed a doctrine, as it has no prescribed sanction and its assertion is left to the exigency which may invoke it. It has been repeatedly announced by the executive department of this government, and through the utterances of distinguished citizens; it is cherished by the American people, and has been approved by the government of Great Britain.

After quoting a part of President Monroe's message of December 2, 1823, and reviewing the circumstances under which it was delivered, Mr. Frelinghuysen said:

Thus the doctrine of non-intervention by European powers in American affairs arose from complications in South America, and was announced by Mr. Monroe on the suggestion of the official representative of Great Britain."

" "Collected Correspondence," pp. 160-161.

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In his reply of December 30, 1882, Lord Granville proved conclusively that Article VIII. of the treaty was understood by the American government during the discussions of 1850-1860 as establishing a general principle applicable to all waterways connecting the two oceans. In answer to the second point, Lord Granville adduced the notes exchanged between Mr. Clayton and Sir Henry Bulwer in July, 1850, which made it perfectly clear that, in the understanding of both governments at that time, the claims of Great Britain to Belize or British Honduras were not affected one way or the other by the treaty.⁸⁶

In a later dispatch, August 17, 1883, Lord Granville briefly touched upon Mr. Frelinghuysen's appeal to the Monroe Doctrine, reminding him very pertinently that neither the American administration which negotiated the treaty nor the Senate which ratified it considered that they were precluded by the utterances of President Monroe from entering into such a treaty with one or more of the European powers.⁸⁷

The correspondence on the treaty closed with Mr. Frelinghuysen's dispatch of November 22, 1883, in which he reiterated with no small degree of bluntness and pertinacity the arguments of his earlier dispatches.

The Clayton-Bulwer treaty was designed at the time of its execution to establish a permanent principle of control over interoceanic communication in Central America. No provision was made, as in most treaties, for its abrogation, and the American government could not terminate it without the consent of Great Britain

⁸⁶ "Collected Correspondence," pp. 353-359.

⁸⁷ *Ibid.*, p. 364.

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for fear that she would return to her position of vantage at the time the treaty was made. For this reason, while Mr. Frelinghuysen claimed that the treaty was voidable, he did not actually declare it void.

Mr. Blaine's efforts to secure a modification were the result of the development of a new policy by the United States and the arguments presented by Mr. Blaine and Mr. Frelinghuysen in support of this policy were disingenuous and flimsy. It may be safely said that no state papers have ever emanated from our government on so serious a question equally lacking in logical consistency and moral force.

The result was that Great Britain refused to consent to a modification of the treaty and the United States saw before her the alternative of abiding by the terms of the treaty or ultimately resorting to war with England.

In December, 1884, Mr. Frelinghuysen negotiated a treaty with Nicaragua providing for the construction of a canal by the United States to be under the joint ownership and protection of the United States and Nicaragua. The United States also guaranteed the integrity of the territory of Nicaragua. When Mr. Cleveland became president this treaty was still before the Senate for consideration. Mr. Cleveland withdrew the treaty, and in his first annual message, December 8, 1885, reverted to our traditional policy. He declared himself opposed to entangling alliances with foreign states and declared:

Whatever highway may be constructed across the barrier dividing the two greatest maritime areas of the world, must be for the world's benefit, a trust for mankind, to be removed from the chance of domination by any single power, nor

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become a point of invitation for hostilities or a prize for warlike ambition."⁸⁸

No discussion as to the validity of the Clayton-Bulwer treaty took place between the two governments after the close of President Arthur's administration. Mr. Cleveland's message above quoted was accepted as a reaffirmation of the treaty on the part of the American government.

Upon two occasions subsequently questions arose between the two governments involving the stipulations of the treaty. In 1888, and again in 1894, the United States felt called upon to protest against British interference in the affairs of the Mosquito coast.⁸⁹ The ground of interposition on the part of Great Britain was alleged to be found in the treaty of Managua, signed between Great Britain and Nicaragua on the 28th of January, 1860. This convention, it will be remembered, was one of the three treaties entered into by Great Britain with Central American republics with a view to removing the causes of dispute in the construction of the Clayton-Bulwer treaty. The treaty of Managua assigned a district to the Mosquito Indians within the limits of the republic of Nicaragua. The sovereignty of Nicaragua over the district was recognized, but the Indians were secured in the possession and enjoyment of their own domestic customs and regulations. It was agreed, however, that nothing in the treaty should prevent the Mosquitos at any subsequent date from voluntarily agreeing to absolute incorporation with the republic of

⁸⁸ "Messages and Papers of the Presidents," Vol. VIII, p. 327.

⁸⁹ See Mr. Bayard to Mr. Phelps, Nov. 23, 1888. *For. Rel.*, 1888, Pt. I, pp. 759-768.

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Nicaragua. By the terms of the treaty the protectorate of Great Britain over the Mosquito coast was to cease three months after the exchange of ratifications.

In reply to the protest of 1888, Lord Salisbury said that her majesty's government had no intention to assert a protectorate in substance or in form over the Mosquito nation, but that according to the convention with Nicaragua of 1860, Great Britain undertook "to secure certain rights and privileges to the Mosquito Indians, and in the event, which has arisen, of the Mosquito Indians complaining that their rights are infringed by Nicaragua, by whom is remonstrance to be made to Nicaragua unless by Great Britain, with whom she has concluded the convention in question?"⁴⁰

In the spring of 1894, yet more serious trouble arose. The Mosquito territory was invaded by the troops of Nicaragua and Bluefields was surrounded. The British consul at that point protested against this act as contrary to the treaty of Managua. The protest being unheeded, a force of troops was landed from the British ship *Cleopatra* and on March 9, the Nicaraguans were forced to retire. Mr. Bayard was instructed by telegraph "to ascertain and report fully by cable the occasion for this action." The British government disavowed all intention of violating the Clayton-Bulwer treaty, which it recognized "as extant and in full force."

In July, 1894, United States marines were landed at Bluefields to protect American interests and to restore order. Later the British government assured

⁴⁰ For. Rel., 1889, p. 468.

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Mr. Bayard that its action had been wholly unconnected with any political or conventional question touching the Mosquito reservation, but simply to protect British interests.

By a convention signed November 20, 1894, the Mosquito Indians surrendered their rights under the treaty of 1860 and were incorporated with Nicaragua. This voluntary incorporation took away all further occasion for interposition on the part of Great Britain, and Mr. Bayard reported that it was received with "the most open expression of satisfaction at the foreign office."⁴¹

The attempts of Blaine and Frelinghuysen to bring about a modification of the Clayton-Bulwer treaty were, as we have seen, unsuccessful. In fact, their only effect was to strengthen the British government for the time being in the determination to hold us more strictly to the terms of that convention. In 1896 Secretary Olney in a review of the situation declared:

Upon every principle which governs the relations to each other, either of nations or of individuals, the United States is completely estopped from denying that the treaty is in full force and vigor. If changed conditions now make stipulations, which were once deemed advantageous, either inapplicable or injurious, the true remedy is not in ingenious attempts to deny the existence of the treaty or to explain away its provisions, but in a direct and straightforward application to Great Britain for a reconsideration of the whole matter.⁴²

It was precisely in this spirit that Secretary Hay undertook in 1899 to negotiate a new treaty with England. The original draft of the Hay-Pauncefote

⁴¹ See Foreign Relations, 1894, App. 1. "Affairs at Bluefields," pp. 234-363.

⁴² Senate Doc. No. 160, Fifty-sixth Cong., First Sess.

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treaty, signed February 5, 1900, provided for a neutralized canal and drafted for its control rules substantially in accord with the Constantinople convention of 1888, providing for the regulation of the Suez canal. The most important provision of the new treaty was that authorizing the United States to construct and to assume the management of an isthmian canal, either directly or through a company. The United States Senate, however, amended the treaty in three important particulars: (1) by declaring that the Clayton-Bulwer treaty was thereby superseded; (2) by providing that the restrictions in the regulations governing the use of the canal should not apply to measures which the United States might adopt for its own defense and for the maintenance of public order along the canal; and (3) by cutting out entirely the article providing for the adherence of other powers. The British government refused to accept these amendments, and a year elapsed before an agreement was finally reached.⁴³ The revised treaty which was ratified by the Senate December 16, 1901, was a compromise between the original draft and the Senate amendments. The new treaty abrogated in express terms the Clayton-Bulwer convention, and provided that the United States might construct a canal under its direct auspices, to be under its exclusive management. The principle of neutralization was nominally retained, but under the sole guarantee of the United States, with power to police the canal, and the clause of the first draft forbidding fortifications was omitted.⁴⁴

⁴³ Moore, "Digest of Int. Law," Vol. III, p. 211.

⁴⁴ Foreign Relations, 1901, p. 245.

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This convention removed the principal diplomatic obstacles which stood in the way of constructing a canal through the isthmus. For several years the United States had been investigating the cost of constructing a canal through Nicaragua, that route being the one which had always been considered most feasible by the great majority of American engineers. Two commissions, one in 1895 and another in 1897, had reported favorably on the practicability of that route. A third commission, headed by Admiral John G. Walker, was appointed under act of March 3, 1899, which authorized an expenditure of \$1,000,000 for the purpose of making a thorough investigation of all available routes. While the Walker commission was carrying on investigations in Nicaragua, at Panama, and along the Atrato river, the various financial interests concerned in the choice of routes were actively at work in Washington, each trying to influence Congress in favor of its particular project. The New Panama Canal Company had secured, at the time of the reorganization, an extension of its concession to October, 1904, and subsequently another concession to October, 1910, but the validity of the latter arrangement was in doubt. The company could not raise the necessary funds to continue the work at Panama and was therefore threatened with the forfeiture of its franchise and property. It concluded, therefore, that its only hope lay in transferring its concession and property to the American government. With this end in view, an active lobby was maintained at Washington for the purpose of influencing public opinion in favor of the Panama route.

But the Panama Company had a powerful rival

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in the Maritime Canal Company, which held a charter from Congress and had secured a concession from Nicaragua. This company had started work at Greytown in 1890, but having been forced from lack of funds to stop work in 1893, was now urging Congress to make its enterprise a national one. It found a ready champion in Senator Morgan of Alabama, who had for years taken a lively interest in the canal question and who had strong convictions as to the superiority of the Nicaragua route. In 1900 Nicaragua declared the concession of the Maritime Canal Company null and void, and granted a new concession to a group of New York capitalists known as the Grace-Eyre-Cragin Syndicate. The Maritime Canal Company, however, refused to abandon its claims, and a contest between the two concerns was carried to the lobbies of Congress. The opposition of the transcontinental railroads to a canal at either point brought into play another set of powerful interests, usually arrayed against the plan which appeared for the time being most likely to succeed.⁴⁵

On November 16, 1901, the Walker commission after a thorough investigation of the Nicaragua and Panama routes made its report. It estimated the cost of construction of the Nicaragua canal at \$189,864,062, and the cost of completing the Panama canal at \$144,233,358. To this latter sum had to be added the cost of acquiring the rights and property of the French company, which had stated to the commission that it estimated its interests at \$109,141,500, making the total cost of the Panama canal \$253,374,858. The commission expressed the opinion that the interests of

⁴⁵ Johnson, "Four Centuries of the Panama Canal," Chap. VIII.

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the French company were not worth over \$40,000,000. In conclusion the report stated:

After considering all the facts developed by the investigations made by the commission and the actual situation 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.**

A bill was promptly introduced into the House of Representatives by Mr. Hepburn providing for the construction of the canal through Nicaragua, and on January 9, 1902, this bill passed the House by the almost unanimous vote of 308 to 2. The report of the commission had meanwhile created great consternation among the stockholders of the New Panama Canal Company, and on January 4, 1902, a definite offer to sell out to the United States at \$40,000,000 was made to the commission by cable. On January 18, the commission filed a supplementary report which recommended the adoption of the Panama route instead of that through Nicaragua.

When the Hepburn bill came up for discussion in the Senate, the situation had thus been radically changed, and a long debate ensued as to the relative merits of the two routes. Senator Morgan continued to fight for Nicaragua as the traditional American route, declaring that the Panama Company could not give a valid transfer of its property and interests. But this objection was cleverly met by Senator Spooner, who offered an amendment, which was vir-

** Report of the Isthmian Canal Commission (Sen. Doc. No. 54, Fifty-seventh Cong., First Sess.).

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tually a substitute, authorizing the President to acquire the rights and property of the French company at a cost not exceeding \$40,000,000; to acquire from the Republic of Colombia, upon such terms as he might deem reasonable, perpetual control of a strip of land, not less than six miles in width, extending from the Caribbean Sea to the Pacific Ocean, with jurisdiction over said strip; and to proceed as soon as these rights were acquired, to construct a canal. But should the President be unable to obtain a satisfactory title to the property of the French company and the control of the necessary strip of land from the Republic of Colombia "within a reasonable time and upon reasonable terms," then he was instructed to secure control of the necessary strip through Nicaragua and to proceed to construct a canal there. The bill as amended passed the Senate June 19, 1902, by a vote of 67 to 6. The House at first refused to concur in the Spooner amendment, but after a conference it finally gave way and the measure was adopted by a vote of 260 to 8. The act was signed by President Roosevelt June 28.⁴⁷

Attorney-General Knox was sent to Paris to make a thorough investigation of the affairs of the Panama Company. He reported that it could give a clear title. The next step was to secure a right of way through Colombia. After considerable delay Secretary Hay and Mr. Herran, the Colombian chargé d'affaires, signed, January 22, 1903, a canal convention, by the terms of which the United States agreed to pay Colombia \$10,000,000 in cash and an annuity of \$250,000 for the lease of a strip of land six miles wide across

⁴⁷ U. S. Statutes at Large, Vol. XXXII, PL. I, p. 481.

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the isthmus. Objection was raised to this treaty because it failed to secure for the United States full governmental control over the canal zone, but it was considered the best that could be gotten and it was ratified by the United States Senate March 17, 1903.

The Colombian Senate, however, did not regard the treaty with favor. They felt that Panama was their greatest national asset, and they knew perfectly well that in spite of threats to the contrary President Roosevelt was determined not to adopt the alternative of the Spooner amendment and go to Nicaragua. After discussing the treaty for nearly two months, they finally rejected it August 12 by the unanimous vote of all the senators present.⁴⁸ They probably thought that they could get better terms from the United States and particularly that they might reserve a fuller measure of sovereignty over the isthmus. President Roosevelt declared that the action of the Colombian Senate was due to an "anti-social spirit" and to the cupidity of the government leaders, who merely wished to wait until they could confiscate the \$40,000,000 worth of property belonging to the French company and then sell out to the United States. This view is not borne out by the dispatches of Mr. Beaupré, the American minister, who repeatedly warned Secretary Hay that there was a "tremendous tide of public opinion against the canal treaty," which even the Colombian government could not ignore. The charge of bad faith against Colombia does not come in good grace from a country whose constitution also requires the ratification of treaties by the Senate.

As soon as the Hay-Herran convention was rejected

⁴⁸ Senate Doc. No. 51, Fifty-eighth Cong., Second Sess., p. 56.

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by the Colombian Senate, the advocates of the Nicaragua route began to take courage and to demand that as the "reasonable time" allowed in the Spooner act for the President to acquire the right of way through Panama had expired, it was now his duty to adopt the Nicaragua route. The directors of the French company were again in a state of consternation. If they could not sell to the United States they would have to sacrifice their property entirely, or sell to some other purchaser at a lower figure. It was rumored that Germany was willing to buy their interests. The directors of the company were so completely demoralized that William Nelson Cromwell, their American attorney, hastened to Paris to dissuade them from taking any rash step. The rejection of the Hay-Herran treaty was a great disappointment to the inhabitants of the isthmus, who considered this action a sacrifice of their interests, and some of the foremost citizens conferred with the American agent of the Panama Railroad Company as to the advisability of organizing a revolution. Before taking any step in this direction, it was considered advisable to send one of their number to the United States, and Dr. Amador was selected for this mission. He had conferences with William Nelson Cromwell and with Secretary Hay. The latter merely outlined what he considered the rights and duties of the United States under the treaty of 1846, but refused of course to commit the government to a definite support of the revolutionary project. Amador was somewhat discouraged at the result of his conference with Hay, but his hopes were revived by the sudden arrival of Philippe Bunau-Varilla, the former chief engineer

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of the French company, who entered with enthusiasm into the revolutionary scheme.⁴⁹

The Colombian Congress adjourned October 30 without any reconsideration of the treaty, and President Roosevelt at once ordered the *Boston*, *Dixie*, *Atlanta*, and *Nashville* to proceed within easy reach of the isthmus. Their commanders received orders to keep the transit open and to "prevent the landing of any armed force with hostile intent, either government or insurgent, at any point within fifty miles of Panama." The *Nashville* arrived off Colon November 2. It can hardly be denied that these measures created a situation very favorable to revolution.⁵⁰

The revolutionists had been greatly disappointed at Dr. Amador's failure to get a definite promise of support from the American government, but their spirits revived when they learned of the presence of American war vessels. Still they were slow in taking advantage of their opportunities and the government at Washington was growing impatient. At 3.40 P. M. November 3 the following dispatch was sent to the American consuls at Panama and Colon: "Uprising on isthmus reported. Keep Department promptly and fully informed. Loomis, Acting." At 8.15 a reply was received from the consul at Panama: "No uprising yet. Reported will be in the night. Situation is critical." At 9 P.M. a second dispatch was received from the same source: "Uprising occurred to-night, '6; no bloodshed. Army and navy officials taken prisoners. Government will be organized to-night."⁵¹

⁴⁹ Johnson, "Four Centuries of the Panama Canal," pp. 162-171.

⁵⁰ Senate Doc. No. 53, Fifty-eighth Cong., Second Sess.

⁵¹ House Doc. No. 8, Fifty-eighth Cong., First Sess.

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Before the *Nashville* received the order to prevent the landing of armed forces, 450 Colombian troops arrived at Colon. The principal officers were provided with a special train to take them across the isthmus to Panama. When they arrived they were seized by the revolutionary leaders and locked up for safe-keeping, while the railroad officials saw to it that there were no trains for their troops to use. The next day Commander Hubbard landed fifty marines from the *Nashville* at Colon, and a day later the officer in charge of the Colombian forces was persuaded by a generous bribe to reëmbark his troops and leave. Events continued to follow one another with startling rapidity. On the 6th the *de facto* government was recognized and a week later Bunau-Varilla was received by President Roosevelt as envoy extraordinary and minister plenipotentiary of the Republic of Panama. Such hasty recognition of a new government was of course without precedent in the annals of American diplomacy, and it naturally confirmed the rumor that the whole affair had been prearranged. On October 10 President Roosevelt had written a personal letter to Dr. Albert Shaw, editor of the *Review of Reviews*, who was a strong advocate of the Panama route, in which he said:

Privately, I freely say to you that I should be delighted if Panama were an independent state, or if it made itself so at this moment; but for me to say so publicly would amount to an instigation of a revolt, and therefore I cannot say it.⁵¹

This letter throws an interesting light on an article in the *Review of Reviews* for November of the same

⁵¹ *Literary Digest*, October 29, 1904.

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year in which Dr. Shaw discussed the question, "What if Panama should Revolt?" and outlined with remarkable prophetic insight the future course of events.

In his annual message of December 7, 1903, the President discussed the Panama revolution and undertook to justify his course under the treaty of 1846. This message failed to allay public criticism, and on January 4, 1904, he sent a special message to Congress in defense of his action. He held that Colombia was not entitled "to bar the transit of the world's traffic across the isthmus," and that the intervention of the United States was justified, (1) by our treaty rights, (2) by our international interests, and (3) by the interests of "collective civilization." The "legal" argument in this message, if we may dignify it by that name, is reported to have been prepared by Root and Knox, both at that time members of the Cabinet. Several years later, after Mr. Roosevelt had retired from the presidency, he expressed the real truth in a public speech when he said:

If I had followed traditional conservative methods I should have submitted a dignified state paper of probably two hundred pages to the Congress and the debate would be going on yet, but I took the Canal zone and let Congress debate, and while the debate goes on the canal does also.

The reason why the President did not wish the matter to go before Congress again was that he had decided upon the Panama route, and he knew that when Congress convened in December, the situation remaining unchanged, action would be taken to compel him to adopt the alternative of the Spooner

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amendment and go to the Nicaragua route. His object in the hasty recognition of the Panama revolution was therefore to make the Panama route an accomplished fact before Congress should meet. This was the attitude definitely assumed in the message of January 4, 1904, in the course of which he said:

The only question now before us is that of the ratification of the treaty. For it is to be remembered that a failure to ratify the treaty will not undo what has been done, will not restore Panama to Colombia, and will not alter our obligation to keep the transit open across the Isthmus, and to prevent any outside power from menacing this transit.

The treaty referred to was the convention with Panama which had been signed November 18, 1903, and which was ratified by the Senate February 23, 1904, by a vote of 66 to 14. By the terms of this agreement the United States guaranteed the independence of the Panama Republic, and agreed to pay the Panama Republic a sum of \$10,000,000 upon the exchange of ratifications and an annual rental of \$250,000 a year beginning nine years thereafter. Panama on her part granted to the United States in perpetuity a zone of land ten miles wide for the construction of a canal, the United States receiving as full power and authority over this strip and the waters adjacent as if it were the sovereign of the said territory.⁵⁸ The construction of the canal was at once undertaken and the work was carried through successfully by General Goethals and a corps of army engineers. It was opened to commerce August 15, 1914, though it was not completed at that time and traffic was subsequently interrupted by landslides.

⁵⁸ Foreign Relations, 1904, p 543.

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Colombia naturally felt aggrieved at the course pursued by President Roosevelt and refused to recognize the Republic of Panama. She objected to his interpretation of the convention of 1846. In this convention the United States pledged itself to keep the isthmian transit open and guaranteed Colombia's sovereignty over the same. This treaty established an obligation to Colombia alone, and it is difficult to accept the President's view that it established an obligation to the world at large against Colombia. Colombia demanded that the whole question be submitted to arbitration. As the United States had always held the ground that disputes arising out of the interpretation of treaties should be settled by arbitration, it was inconsistent for the United States to refuse to arbitrate. But President Roosevelt did refuse. The Panama episode created strained relations with Colombia and made a very bad impression throughout Latin America. The United States has since been eyed with suspicion by its weaker Southern neighbors. The Taft and Wilson administrations both tried to appease Colombia by a money payment, but this subject will be discussed in a subsequent chapter.