

direct competition with foreign vessels while remaining "prima facie" entitled to the privilege of free passage through the canal. Moreover, any restriction which may be deemed to be now applicable might at any time be removed by legislation, or even, perhaps, by mere changes in the regulations.

In these and in other ways foreign shipping would be seriously handicapped, and any adverse result would fall more severely on British shipping than on that of any other nationality.

The volume of British shipping which will use the canal will in all probability be very large. Its opening will shorten by many thousands of miles the waterways between England and other portions of the British Empire, and if, on the one hand, it is important to the United States to encourage its mercantile marine and establish competition between coastwise traffic and transcontinental railways, it is equally important to Great Britain to secure to its shipping that just and impartial treatment to which it is entitled by treaty, and in return for a promise of which it surrendered the rights which it held under the earlier convention.

There are other provisions of the Panama Canal act to which the attention of His Majesty's Government has been directed. These are contained in section 11, part of which enacts that a railway company subject to the interstate-commerce act of 1887 is prohibited from having any interest in vessels operated through the canal with which such railways may compete, and another part provides that a vessel permitted to engage in the coastwise or foreign trade of the United States is not allowed to use the canal if its owner is guilty of violating the Sherman Antitrust Act.

His Majesty's Government do not read this section of the act as applying to or affecting British ships, and they therefore do not feel justified in making any observations upon it. They assume that it applies only to vessels flying the flag of the United States, and that it is aimed at practices which concern only the internal trade of the United States. If this view is mistaken and the provisions are intended to apply under any circumstances to British ships, they must reserve their right to examine the matter further and to raise such contentions as may seem justified.

His Majesty's Government feel no doubt as to the correctness of their interpretation of the treaties of 1850 and 1901 and as to the validity of the rights they claim under them for British shipping; nor does there seem to them to be any room for doubt that the provisions of the Panama Canal act as to tolls conflict with the rights secured to their shipping by the treaty. But they recognize that many persons of note in the United States, whose opinions are entitled to great weight, hold that the provisions of the act do not infringe the conventional obligations by which the United States is bound, and under these circumstances they desire to state their perfect readiness to submit the question to arbitration if the Government of the United States would prefer to take this course. A reference to arbitration would be rendered unnecessary if the Government of the United States should be prepared to take such steps as would remove the objections to the act which His Majesty's Government have stated.

Knowing, as I do, full well the interest which this great undertaking has aroused in the New World, and the emotion with which

its opening is looked forward to by United States citizens, I wish to add before closing this dispatch that it is only with great reluctance that His Majesty's Government have felt bound to raise objection on the ground of treaty rights to the provisions of the act. Animated by an earnest desire to avoid points which might in any way prove embarrassing to the United States, His Majesty's Government have confined their objections within the narrowest possible limits and have recognized in the fullest manner the right of the United States to control the canal. They feel convinced that they may look with confidence to the Government of the United States to insure that in promoting the interests of United States shipping nothing will be done to impair the safeguards guaranteed to British shipping by treaty.

Your excellency will read this dispatch to the Secretary of State and will leave with him a copy.

I am, &c.,

E. GREY.

The Secretary of State to Chargé d'Affaires Laughlin.

No. 1833.]

DEPARTMENT OF STATE,
Washington, January 17, 1913.

IRWIN B. LAUGHLIN, Esq.,

American Chargé d'Affaires, London, England.

SIR: I inclose a copy of an instruction from Sir Edward Grey to His Britannic Majesty's ambassador at Washington, dated November 14, 1912,¹ a copy of which was handed to me by the ambassador on the 9th ultimo, in which certain provisions in the Panama Canal act of August 24 last are discussed in their relation to the Hay-Pauncefote treaty of November 18, 1901: and I also inclose a copy of the note addressed to me on July 8, 1912, by Mr. A. Mitchell Innes, His Britannic Majesty's chargé d'affaires, stating the objections which his Government entertained to the legislation relating to the Panama Canal, which was then under discussion in Congress. A copy of the President's proclamation of November 13, 1912, fixing the canal tolls, is also inclosed.

Sir Edward Grey's communication, after setting forth the several grounds upon which the British Government believe the provisions of the act are inconsistent with the stipulations of the Hay-Pauncefote treaty, states the readiness of his Government "to submit the question to arbitration if the Government of the United States would prefer to take this course" rather than "to take such steps as would remove the objections to the act which His Majesty's Government have stated." It therefore becomes necessary for this Government to examine these objections in order to ascertain exactly in what respects this act is regarded by the British Government as inconsistent with the provisions of that treaty, and also to explain the views of this Government upon the questions thus presented, and to consider the advisability at this time of submitting any of these questions to arbitration.

It may be stated at the outset that this Government does not agree with the interpretation placed by Sir Edward Grey upon the Hay-

¹ Printed *ante*.

Pauncefote treaty, or upon the Clayton-Bulwer treaty, but for reasons which will appear hereinbelow it is not deemed necessary at present to amplify or reiterate the views of this Government upon the meaning of those treaties.

In Sir Edward Grey's communication, after explaining in detail the views taken by his Government as to the proper interpretation of the Hay-Pauncefote treaty, "so as to indicate the limitations which" His Majesty's Government "consider it imposes upon the freedom of action of the United States," he proceeds to indicate the points in which the canal act infringes what he holds to be Great Britain's treaty rights.

It is obvious from the whole tenor of Sir Edward Grey's communication that in writing it he could not have taken cognizance of the President's proclamation fixing the canal tolls. Indeed, a comparison of the dates of the proclamation and the note, which are dated, respectively, November 13 and November 14 last, shows that the proclamation could hardly have been received in London in time for consideration in the note. Throughout his discussion of the subject, Sir Edward Grey deals chiefly with the possibilities of what the President might do under the act, which in itself does not prescribe the tolls, but merely authorizes the President to do so; and nowhere does the note indicate that Sir Edward Grey was aware of what the President actually had done in issuing this proclamation. The proclamation, therefore, has entirely changed the situation which is discussed by Sir Edward Grey, and the diplomatic discussion, which his note now makes inevitable, must rest upon the bases as they exist at present, and not upon the hypothesis formed by the British Government at the time this note was written.

Sir Edward Grey presents the question of conflict between the act and the treaty in the following language:

It remains to consider whether the Panama Canal act, in its present form, conflicts with the treaty rights to which His Majesty's Government maintain they are entitled.

Under section 5 of the act the President is given, within certain defined limits, the right to fix the tolls, but no tolls are to be levied upon ships engaged in the coastwise trade of the United States, and the tolls, when based upon net registered tonnage for ships of commerce, are not to exceed 1 dollar 25 c. per net registered ton, nor be less, *other than for vessels of the United States and its citizens*, than the estimated proportionate cost of the actual maintenance and operation of the canal. There is also an exception for the exemptions granted by article 19 of the convention with Panama of 1903.

The effect of these provisions is that vessels engaged in the coastwise trade will contribute nothing to the upkeep of the canal. Similarly vessels belonging to the Government of the Republic of Panama will, in pursuance of the treaty of 1903, contribute nothing to the upkeep of the canal. Again, in the cases where tolls are levied, the tolls in the case of ships belonging to the United States and its citizens may be fixed at a lower rate than in the case of foreign ships, and may be less than the estimated proportionate cost of the actual maintenance and operation of the canal.

These provisions (1) clearly conflict with the rule embodied in the principle established in article 8 of the Clayton-Bulwer treaty of equal treatment for British and United States ships and (2) would enable tolls to be fixed which would not be just and equitable and would therefore not comply with rule 1 of article 3 of the Hay-Pauncefote treaty.

From this it appears that three objections are made to the provisions of the act; first, that no tolls are to be levied upon ships engaged in the coastwise trade of the United States; second, that a discretion appears to be given to the President to discriminate in fixing tolls

in favor of ships belonging to the United States and its citizens as against foreign ships; and, third, that an exemption has been given to the vessels of the Republic of Panama under article 19 of the convention with Panama of 1903.

Considered in the reverse order of their statement, the third objection, coming at this time, is a great and complete surprise to this Government. The exemption under that article applies only to the government vessels of Panama and was part of the agreement with Panama under which the canal was built. The convention containing the exemption was ratified in 1904, and since then to the present time no claim has been made by Great Britain that it conflicted with British rights. The United States has always asserted the principle that the status of the countries immediately concerned by reason of their political relation to the territory in which the canal was to be constructed was different from that of all other countries. The Hay-Herran treaty with Colombia of 1903 also provided that the war vessels of that country were to be given free passage. It has always been supposed by this Government that Great Britain recognized the propriety of the exemptions made in both of those treaties. It is not believed, therefore, that the British Government intend to be understood as proposing arbitration upon the question of whether or not this provision of the act, which in accordance with our treaty with Panama exempts from tolls the government vessels of Panama, is in conflict with the provisions of the Hay-Pauncefote treaty.

Considering the second objection based upon the discretion thought to be conferred upon the President to discriminate in favor of ships belonging to the United States and its citizens, it is sufficient, in view of the fact that the President's proclamation fixing the tolls was silent on the subject, to quote the language used by the President in the memorandum attached to the act at the time of signature, in which he says:

It is not, therefore, necessary to discuss the policy of such discrimination until the question may arise in the exercise of the President's discretion.

On this point no question has as yet arisen which, in the words of the existing arbitration treaty between the United States and Great Britain, "it may not have been possible to settle by diplomacy," and until then any suggestion of arbitration may well be regarded as premature.

It is not believed, however, that in the objection now under consideration Great Britain intends to question the right of the United States to exempt from the payment of tolls its vessels of war and other vessels engaged in the service of this Government. Great Britain does not challenge the right of the United States to protect the canal. United States vessels of war and those employed in Government service are a part of our protective system. By the Hay-Pauncefote treaty we assume the sole responsibility for its neutralization. It is inconceivable that this Government should be required to pay canal tolls for the vessels used for protecting the canal, which we alone must protect. The movement of United States vessels in executing governmental policies of protection are not susceptible of explanation or differentiation. The United States could not be called upon to explain what relation the movement of a particular vessel through the canal has to its protection. The

British objection, therefore, is understood as having no relation to the use of the canal by vessels in the service of the United States Government.

Regarding the first objection, the question presented by Sir Edward Grey arises solely upon the exemption in the canal act of vessels engaged in our coastwise trade.

On this point Sir Edward Grey says that "His Majesty's Government do not question the right of the United States to grant subsidies to United States shipping generally, or to any particular branches of that shipping," and it is admitted in his note that the exemption of certain classes of ships would be "a form of subsidy" to those vessels; but it appears from the note that His Majesty's Government would regard that form of subsidy as objectionable under the treaty if the effect of such subsidy would be "to impose upon British or other foreign shipping an unfair share of the burden of the upkeep of the canal, or to create a discrimination in respect of the conditions or charges of traffic, or otherwise to prejudice rights secured to British shipping by this treaty."

It is not contended by Great Britain that equality of treatment has any reference to British participation in the coastwise trade of the United States, which, in accordance with general usage, is reserved to American ships. The objection is only to such exemption of that trade from toll payments as may adversely affect British rights to equal treatment in the payment of tolls, or to just and equitable tolls. It will be helpful here to recall that we are now only engaged in considering (quoting from Sir Edward Grey's note) "whether the Panama Canal act in its present form conflicts with the treaty rights to which His Majesty's Government maintain they are entitled," concerning which he concludes:

These provisions (1) clearly conflict with the rule embodied in the principle established in article 8 of the Clayton-Bulwer treaty of equal treatment for British and United States ships, and (2) *would enable* tolls to be fixed which would not be just and equitable, and would therefore not comply with rule 1 of article 3 of the Hay-Pauncefote treaty.

On the first of these points the objection of the British Government to the exemption of vessels engaged in the coastwise trade of the United States is stated as follows:

* * * the exemption will, in the opinion of His Majesty's Government, be a violation of the equal treatment secured by the treaty, as it will put the "coastwise trade" in a preferential position as regards other shipping. Coastwise trade can not be circumscribed so completely that benefits conferred upon it will not affect vessels engaged in the foreign trade. To take an example, if cargo intended for a United States port beyond the canal, either from east or west, and shipped on board a foreign ship could be sent to its destination more cheaply through the operation of proposed exemption by being landed at a United States port before reaching the canal and then sent on as coastwise trade, shippers would benefit by adopting this course in preference to sending the goods direct to their destination through the canal on board the foreign ship.

This objection must be read in connection with the views expressed by the British Government while this act was pending in Congress, which were stated in the note of July 8, 1912, on the subject from Mr. Innes, as follows:

As to the proposal that exemption shall be given to vessels engaged in the coastwise trade, a more difficult question arises. If the trade should be so

regulated as to make it certain that only bona fide coastwise traffic which is reserved for United States vessels would be benefited by this exemption, it may be that no objection could be taken.

This statement may fairly be taken as an admission that this Government may exempt its vessels engaged in the coastwise trade from the payment of tolls, provided such exemption be restricted to bona fide coastwise traffic. As to this it is sufficient to say that obviously the United States is not to be denied the power to remit tolls to its own coastwise trade because of a suspicion or possibility that the regulations yet to be framed may not restrict this exemption to bona fide coastwise traffic.

The answer to this objection, therefore, apart from any question of treaty interpretation, is that it rests on conjecture as to what may happen rather than upon proved facts, and does not present a question requiring submission to arbitration, as it has not as yet passed beyond the stage where it can be profitably dealt with by diplomatic discussion. It will be remembered that only questions which it may not be possible to settle by diplomacy are required by our arbitration treaty to be referred to arbitration.

On this same point Sir Edward Grey urges another objection to the exemption of coastwise vessels, as follows:

Again, although certain privileges are granted to vessels engaged in an exclusively coastwise trade, His Majesty's Government are given to understand that there is nothing in the laws of the United States which prevents any United States ship from combining foreign commerce with coastwise trade, and consequently from entering into direct competition with foreign vessels while remaining "prima facie" entitled to the privilege of free passage through the canal. Moreover any restriction which may be deemed to be now applicable might at any time be removed by legislation or even perhaps by mere changes in the regulations.

This objection also raises a question which, apart from treaty interpretation, depends upon future conditions and facts not yet ascertained, and for the same reasons as are above stated its submission to arbitration at this time would be premature.

The second point of Sir Edward Grey's objection to the exemption of vessels engaged in coastwise trade remains to be considered. On this point he says that the provisions of the act "would enable tolls to be fixed which would not be just and equitable, and would therefore not comply with rule 1 of article 3 of the Hay-Pauncefote treaty."

It will be observed that this statement evidently was framed without knowledge of the fact that the President's proclamation fixing the tolls had issued. It is not claimed in the note that the tolls actually fixed are not "just and equitable" or even that all vessels passing through the canal were not taken into account in fixing the amount of the tolls, but only that either or both contingencies are possible.

If the British contention is correct that the true construction of the treaty requires all traffic to be reckoned in fixing just and equitable tolls, it requires at least an allegation that the tolls as fixed are not just and equitable and that all traffic has not been reckoned in fixing them before the United States can be called upon to prove that this course was not followed, even assuming that the burden of proof would rest with the United States in any event, which is open to

question. This Government welcomes the opportunity, however, of informing the British Government that the tolls fixed in the President's proclamation are based upon the computations set forth in the report of Prof. Emory R. Johnson, a copy of which is forwarded herewith for delivery to Sir Edward Grey, and that the tolls which would be paid by American coastwise vessels, but for the exemption contained in the act, were computed in determining the rate fixed by the President.

By reference to page 208 of Prof. Johnson's report, it will be seen that the estimated net tonnage of shipping using the canal in 1915 is as follows:

	Tons.
Coast to coast American shipping-----	1, 000, 000
American shipping carrying foreign commerce of the United States--	720, 000
Foreign shipping carrying commerce of the United States and foreign countries-----	8, 780, 000

It was on this estimate that tolls fixed in the President's proclamation were based.

Sir Edward Grey says, "This rule [1 of article 3 of the Hay-Pauncefote treaty] also provides that the tolls should be 'just and equitable.'" The purpose of these words, he adds, "was to limit the tolls to the amount representing the fair value of the services rendered, i. e., to the interest on the capital expended and the cost of the operation and maintenance of the canal." If, as a matter of fact, the tolls now fixed (of which he seems unaware) do not exceed this requirement, and as heretofore pointed out there is no claim that they do, it is not apparent under Sir Edward Grey's contention how Great Britain could be receiving unjust and inequitable treatment if the United States favors its coastwise vessels by not collecting their share of the tolls necessary to meet the requirement. There is a very clear distinction between an omission to "take into account" the coastwise tolls in order to determine a just and equitable rate, which is as far as this objection goes, and the remission of such tolls, or their collection coupled with their repayment in the form of a subsidy.

The exemption of the coastwise trade from tolls, or the refunding of tolls collected from the coastwise trade, is merely a subsidy granted by the United States to that trade, and the loss resulting from not collecting, or from refunding those tolls, will fall solely upon the United States. In the same way the loss will fall on the United States if the tolls fixed by the President's proclamation on all vessels represent less than the fair value of the service rendered, which must necessarily be the case for many years; and the United States will, therefore, be in the position of subsidizing or aiding not merely its own coastwise vessels, but foreign vessels as well.

Apart from the particular objections above considered, it is not understood that Sir Edward Grey questions the right of the United States to subsidize either its coastwise or its foreign shipping, inasmuch as he says that His Majesty's Government do not find "either in the letter or in the spirit of the Hay-Pauncefote treaty any surrender by either of the contracting powers of the right to encourage its shipping or its commerce by such subsidies as it may deem expedient."

To summarize the whole matter: The British objections are, in the first place, about the canal act only; but the canal act does not fix the tolls. They ignore the President's proclamation fixing the tolls which puts at rest practically all of the supposititious injustice and inequality which Sir Edward Grey thinks might follow the administration of the act, and concerning which he expresses so many and grave fears. Moreover, the gravamen of the complaint is not that the canal act will actually injure in its operation British shipping or destroy rights claimed for such shipping under the Hay-Pauncefote treaty, but that such injury or destruction may possibly be the effect thereof; and further, and more particularly, Sir Edward Grey complains that the action of Congress in enacting the legislation under discussion foreshadows that Congress or the President may hereafter take some action which might be injurious to British shipping and destructive of its rights under the treaty. Concerning this possible future injury, it is only necessary to say that in the absence of an allegation of actual or certainly impending injury there appears nothing upon which to base a sound complaint. Concerning the infringement of rights claimed by Great Britain, it may be remarked that it would, of course, be idle to contend that Congress has not the power or that the President, properly authorized by Congress, may not have the power to violate the terms of the Hay-Pauncefote treaty in its aspect as a rule of municipal law. Obviously, however, the fact that Congress has the power to do something contrary to the welfare of British shipping or that Congress has put or may put into the hands of the President the power to do something which may be contrary to the interests possessed by British shipping affords no just ground for complaint. It is the improper exercise of a power and not its possession which alone can give rise to an international cause of action; or, to put it in terms of municipal law, it is not the possession of the power to trespass upon another's property which gives a right of action in trespass, but only the actual exercise of that power in committing the act of trespass itself.

When and if complaint is made by Great Britain that the effect of the act and the proclamation together will be to subject British vessels, as a matter of fact, to inequality of treatment or to unjust and inequitable tolls in conflict with the terms of the Hay-Pauncefote treaty, the question will then be raised as to whether the United States is bound by that treaty both to take into account and to collect tolls from American vessels, and also whether under the obligations of that treaty British vessels are entitled to equality of treatment in all respects with the vessels of the United States. Until these objections rest upon something more substantial than mere possibility it is not believed that they should be submitted to arbitration. The existence of an arbitration treaty does not create a right of action; it merely provides a means of settlement to be resorted to only when other resources of diplomacy have failed. It is not now deemed necessary, therefore, to enter upon a discussion of the views entertained by Congress and by the President as to the meaning of the Hay-Pauncefote treaty in relation to questions of fact which have not yet arisen but may possibly arise in the future in connection with the administration of the act under consideration.

It is recognized by this Government that the situation developed by the present discussion may require an examination by Great

Britain into the facts above set forth as to the basis upon which the tolls fixed by the President's proclamation have been computed, and also into the regulations and restrictions circumscribing the coastwise trade of the United States, as well as into other facts bearing upon the situation, with the view of determining whether or not, as a matter of fact, under present conditions there is any ground for claiming that the act and proclamation actually subject British vessels to inequality of treatment or to unjust and inequitable tolls.

If it should be found as a result of such an examination on the part of Great Britain that a difference of opinion exists between the two Governments on any of the important questions of fact involved in this discussion, then a situation will have arisen which, in the opinion of this Government, could with advantage be dealt with by referring the controversy to a commission of inquiry for examination and report in the manner provided for in the unratified arbitration treaty of August 3, 1911, between the United States and Great Britain.

The necessity for inquiring into questions of fact in their relation to controversies under diplomatic discussion was contemplated by both parties in negotiating that treaty, which provides for the institution, as occasion arises, of a joint high commission of inquiry, to which, upon the request of either party, might be referred for impartial and conscientious investigation any controversy between them, the commission being authorized upon such reference "to examine into and report upon the particular questions or matters referred to it, for the purpose of facilitating the solution of disputes by elucidating the facts, and to define the issues presented by such questions, and also to include in its report such recommendations and conclusions as may be appropriate."

This proposal might be carried out, should occasion arise for adopting it, either under a special agreement or under the unratified arbitration treaty above mentioned, if Great Britain is prepared to join in ratifying that treaty, which the United States is prepared to do.

You will take an early opportunity to read this dispatch to Sir Edward Grey; and if he should so desire, you will leave a copy of it with him.

I am, etc.,

P. C. KNOX.

[Inclosure.]

[Panama Canal toll rates.]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

I, William Howard Taft, President of the United States of America, by virtue of the power and authority vested in me by the Act of Congress, approved August twenty-fourth, nineteen hundred and twelve, to provide for the opening, maintenance, protection and operation of the Panama Canal and the sanitation and government of the Canal Zone, do hereby prescribe and proclaim the following rates of toll to be paid by vessels using the Panama Canal:

1. On merchant vessels carrying passengers or cargo one dollar and twenty cents (\$1.20) per net vessel ton—each one hundred (100) cubic feet—of actual earning capacity.

2. On vessels in ballast without passengers or cargo forty (40) per cent less than the rate of tolls for vessels with passengers or cargo.

3. Upon naval vessels, other than transports, colliers, hospital ships and supply ships, fifty (50) cents per displacement ton.

4. Upon army and navy transports, colliers, hospital ships and supply ships one dollar and twenty cents (\$1.20) per net ton, the vessels to be measured by the same rules as are employed in determining the net tonnage of merchant vessels.

The Secretary of War will prepare and prescribe such rules for the measurement of vessels and such regulations as may be necessary and proper to carry this proclamation into full force and effect.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this thirteenth day of November in the year of our Lord one thousand nine hundred and twelve and of the independence of the United States the one hundred an thirty-seventh.

[SEAL.]

By the President:

P. C. KNOX,

Secretary of State.

WM. H. TAFT.

The British Ambassador to the Secretary of State.

BRITISH EMBASSY,

Washington, February 27, 1913.

SIR: His Majesty's Government are unable before the administration leaves office to reply fully to the arguments contained in your dispatch of the 17th ultimo to the United States chargé d'affaires at London regarding the difference of opinion that has arisen between our two Governments as to the interpretation of the Hay-Pauncefote treaty, but they desire me in the meantime to offer the following observations with regard to the argument that no case has yet arisen calling for any submission to arbitration of the points in difference between His Majesty's Government and that of the United States on the interpretation of the Hay-Pauncefote treaty, because no actual injury has as yet resulted to any British interest and all that has been done so far is to pass an act of Congress under which action held by His Majesty's Government to be prejudicial to British interests might be taken.

From this view His Majesty's Government feel bound to express their dissent. They conceive that international law or usage does not support the doctrine that the passing of a statute in contravention of a treaty right affords no ground of complaint for the infraction of that right, and that the nation which holds that its treaty rights have been so infringed or brought into question by a denial that they exist, must, before protesting and seeking a means of determining the point at issue, wait until some further action violating those rights in a concrete instance has been taken, which in the present instance would, according to your argument, seem to mean, until tolls have been actually levied upon British vessels from which vessels owned by citizens of the United States have been exempted.

The terms of the proclamation issued by the President fixing the canal tolls, and the particular method which your note sets forth as having been adopted by him, in his discretion, on a given occasion

for determining on what basis they should be fixed do not appear to His Majesty's Government to affect the general issue as to the meaning of the Hay-Pauncefote treaty which they have raised. In their view the act of Congress, when it declared that no tolls should be levied on ships engaged in the coasting trade of the United States and when, in further directing the President to fix those tolls within certain limits, it distinguished between vessels of the citizens of the United States and other vessels, was in itself and apart from any action which may be taken under it, inconsistent with the provisions of the Hay-Pauncefote treaty for equality of treatment between the vessels of all nations. The exemption referred to appears to His Majesty's Government to conflict with the express words of rule 1 of article 3 of the Hay-Pauncefote treaty, and the act gave the President no power to modify or discontinue the exemption.

In their opinion the mere conferring by Congress of power to fix lower tolls on United States ships than on British ships amounts to a denial of the right of British shipping to equality of treatment, and is therefore inconsistent with the treaty, irrespective of the particular way in which such power has been so far actually exercised.

In stating thus briefly their view of the compatibility of the act of Congress with their treaty rights His Majesty's Government hold that the difference which exists between the two Governments is clearly one which falls within the meaning of Article I of the arbitration treaty of 1908.

As respects the suggestion contained in the last paragraph but one of your note under reply His Majesty's Government conceive that Article I of the treaty of 1908 so clearly meets the case that has now risen that it is sufficient to put its provisions in force in whatever manner the two Governments may find the most convenient. It is unnecessary to repeat that a reference to arbitration would be rendered superfluous if steps were taken by the United States Government to remove the objection entertained by His Majesty's Government to the act.

His Majesty's Government have not desired me to argue in this note that the view they take of the main issue—the proper interpretation of the Hay-Pauncefote treaty—is the correct view, but only that a case for the determination of that issue has already arisen and now exists. They conceive that the interest of both countries requires that issue to be settled promptly before the opening of the canal, and by means which will leave no ground for regret or complaint. The avoidance of possible friction has been one of the main objects of those methods of arbitration of which the United States has been for so long a foremost and consistent advocate. His Majesty's Government think it more in accordance with the general arbitration treaty that the settlement desired should precede rather than follow the doing of any acts which could raise questions of actual damage suffered; and better also that when vessels begin to pass through the great waterway in whose construction all the world has been interested there should be left subsisting no cause of difference which could prevent any other nation from joining without reserve in the satisfaction the people of the United States will feel at the completion of a work of such grandeur and utility.

I have, etc.,

JAMES BRYCE.

CORRESPONDENCE SUBMITTED MAY 7, 1914.

REPORTED BY MR. HITCHCOCK.

IN THE SENATE OF THE UNITED STATES,

April 29, 1914.

Resolved, That the President is hereby requested, if not incompatible with the public interest, to cause to be transmitted to the Senate all papers, correspondence, messages, and dispatches in the Department of State, not heretofore communicated to Congress, having relation to certain tripartite agreements or conventions, concluded between the United States and the Republic of Panama, the United States and the Republic of Colombia, and the Republic of Colombia and the Republic of Panama, all dated the ninth day of January, nineteen hundred and nine, together with all correspondence relating to the Hay-Concha protocol not included in the House document six hundred and eleven, Fifty-seventh Congress, first session.

Attest:

JAMES M. BAKER, *Secretary.*

PART IV.
LETTERS OF TRANSMITTAL.

To the Senate of the United States:

In response to the resolution of the Senate of the 29th ultimo, calling for certain correspondence relating to the so-called tripartite conventions concluded in 1909 between the United States, Colombia, and Panama, and for correspondence not heretofore communicated relating to the "Hay-Concha protocol," I transmit herewith a report of the Secretary of State communicating the correspondence called for.

WOODROW WILSON.

THE WHITE HOUSE,
Washington, May 7, 1914.

To the PRESIDENT:

The undersigned, Secretary of State, to whom was referred a resolution reported from the Committee on Foreign Relations and adopted April 29, 1914, by which the President was—

requested, if not incompatible with the public interest, to cause to be transmitted to the Senate all papers, correspondence, messages, and dispatches in the Department of State, not heretofore communicated to Congress, having relation to certain tripartite agreements or conventions concluded between the United States and the Republic of Panama, the United States and the Republic of Colombia, and the Republic of Colombia and the Republic of Panama, all dated the ninth day of January, nineteen hundred and nine, together with all correspondence relating to the Hay-Concha protocol, not included in House Document Numbered Six hundred and eleven, Fifty-seventh Congress, first session—

has the honor to submit the following report:

The resolution calls for papers and correspondence under two heads, apparently distinct, but in fact relating to different stages of one and the same protracted negotiation, namely, that which culminated in the signature of the conventions, generally known as the tripartite treaties of 1909, between the United States, Colombia, and Panama.

The latter part of the resolution, relating as it does to correspondence earlier in point of time than the first part of the resolution, may be first considered. This correspondence is, in part, contained in House Document No. 611, Fifty-seventh Congress, first session, to which the resolution refers. It was appended to a letter addressed, under date of May 15, 1902, by the then Secretary of State, to the chairman of the Committee on Interstate and Foreign Com-

merce of the House of Representatives, and was described by Mr. Hay as comprising—

copies of letters from the Colombian minister, dated the 31st of March and the 18th and 23d of April, accompanied by the letter of exposition and the letter of William Nelson Cromwell, both dated the 31st of March, referred to in the minister's letter of that date; and also a memorandum of a convention which the Government of Colombia is ready to sign with that of the United States of America, respecting the completion, maintenance, control, and protection of an interoceanic canal over the Isthmus of Panama—

together with pertinent correspondence relating, not alone to the contingent offer to the United States of title and rights in respect to the Panama Canal, but also to the alternative title and rights in respect to the previously proposed canal by the Nicaraguan route, the latter comprising, among other papers, copies of protocols entered into between this Government and those of Nicaragua and Costa Rica, December 1, 1900.

The hitherto unpublished correspondence in connection with the Hay-Concha negotiations is herewith submitted in order to meet the request of the Senate.

There was not in May, 1902, nor at any time, a "Hay-Concha protocol," such as is specified in the resolution. House Document No. 611 contains substantially all the material correspondence antecedent to the formulation of the original Hay-Herran treaty, signed January 22, 1903. The negotiation taken up with Minister Concha got no further than the submission of the draft convention (printed in H. Doc. No. 611) and the announcement made by Mr. Hay to Minister Concha that he would be ready to sign with him the proposed convention—

as soon as the Congress of the United States shall have authorized the President to enter into such an arrangement and the law officers of this Government shall have decided upon the question of the title which the New Panama Canal Co. is able to give of all the properties and rights claimed by it and pertaining to a canal across the Isthmus and covered by the pending proposal.

The conditions thus prescribed by Mr. Hay precedent to the conclusion of a canal treaty with Colombia were not effected until several months later. After a prolonged discussion of the relative merits of the Nicaraguan and the Panaman routes, the Congress, by the act approved June 28, 1902, preferentially approved the construction of a ship canal over the Isthmus of Panama. The title offered by the New Panama Co. was later pronounced to be good and sufficient. By this time Minister Concha had quitted Washington. The Colombian negotiation was then taken up at the point where Minister Concha had left it, and carried to a conclusion with his successor, Minister Herran, January 22, 1903. Although its ratification was advised and consented to on the part of the United States Senate, it failed to receive approval at Bogota. The secession of Panama followed, changing the conditions of the isthmian problem and necessitating negotiations *de novo* with the actual sovereign power of the Territory of Panama.

The history of the negotiation of the present Hay-Bunau Varilla canal treaty with Panama, and of the position then assumed by Colombia has been abundantly recorded in the voluminous correspondence heretofore communicated to the Congress. Many of the papers in regard to these events have been printed in the annual

volumes of diplomatic correspondence entitled "Foreign Relations of the United States," and cover the period between the separation of Panama and the initiation of the negotiation which culminated in the signature of the tripartite treaties of 1909. The course of this latter negotiation, stretching over a period of some three years, is reviewed in the report made by Secretary Knox to the President February 20, 1913 (H. Doc. No. 1444, 62d Cong., 3d sess.), but the correspondence incident to the conduct of the negotiations was not submitted therewith.

It would seem that the request of the Senate for information, not heretofore communicated to the Congress, having relation to the described tripartite conventions, will be met by the communication of a concordant selection of hitherto unpublished correspondence, of record in the Department of State, showing the course of the negotiations which led up to the signature of the three treaties mentioned in the resolution. With this view the accompanying collection of papers is laid before the President. In the opinion of the undersigned, their communication to the Senate would not be incompatible with the public interests.

Respectfully submitted.

W. J. BRYAN.

DEPARTMENT OF STATE,

Washington, May 6. 1914.

(List of papers follows.)

PART IV—a.

**LIST OF PAPERS RELATING TO THE NEGOTIATION OF THE
TRIPARTITE TREATIES OF JANUARY, 1909.**

1904.

From American legation at Bogota, December 20.

1905.

To same, January 9.

From same, January 13. No. 17.

From same, May 8. Telegram.

From Colombian minister at Washington, October 21. Not included.
(Printed S. Doc. No. 542, 2d sess., 60th Cong.)¹

1906.

To same, February 2. Not included. Printed in above document.

From same, April 6. Not included. Printed in above document.

From American legation at Bogota, April 7. No. 66.

From same May 23.

From same, June 12. Telegram.

From same, June 13.

From same, June 13. No. 103.

To same, June 14. Telegram.

From Colombian minister at Washington, July 2.

From American legation at Bogota, July 14. Telegram.

To American legation at Bogota, July 2. No. 27.

Memorandum signed by Mr. Vasquez Cobo, and handed to Mr. Root.
September 20.

From American legation at Bogota, August 20. Not included.
(Printed S. Doc., No. 542, 60th Cong., 2d sess.)

Memorandum (confidential) from legation of Colombia at Washington, November 8, 1906.

1907.

From Colombian legation, January 3.

From same, March 4.

From same, March 7. Personal note to Mr. Buchanan.

To same, April 24.

From same, April 25.

From same, May 10. Substance.

(At this point there were numerous oral conferences between Mr. Taft, Mr. Cortes, the Colombian minister, and Mr. Cromwell, etc.)

¹ See No. 16, Appendix.

Protocol for a treaty between Colombia and Panama, signed August 17, by Minister Cortes, for Colombia; by Mr. Arango, for Panama; and approved by William H. Taft, for the United States (by direction of the President).

Protocol of same date, for a treaty between the United States and Panama, signed by W. H. Taft and Mr. Arango.

From Colombian minister at Washington, August 18.

To same, August 26. Substance.

From same, December 5.

To same, December 17.

From same, December 20. No. 277.

From same, December 28.

1908.

From same, January 26.

To same, January 28.

To same, February 18.

From same, February 19.

From Mr. Taft, March 11.

From Colombian minister, March 12.

From Secretary of State to London and County Banking Co. (Ltd.), March 17.

To Colombian minister, March 17.

From same, March 31.

To Colombian minister, April 9.

From American legation at Bogota, October 6. No. 174.

To Colombian minister, December 29.

To same, December 30.

From same, December 31.

1909.

To same, January 1.

From same, January 10. Substance.

To the President, January 11 (submitting the tripartite treaties for the Senate, printed Ex. N., 60th Cong., 2d sess.) Not included.

From President of Colombia to Colombian minister at Washington, January 12. Telegram.

From American legation at Bogota, January 13.

From American legation at Panama, January 30.

From Panama minister, January 31.

To American legation at Bogota, telegram, February 9.

From same, February 12.

From same, February 14. Telegram.

From same, February 17. Telegram.

From same, No. 235. February 17.

From same, February 23. Telegram.

To same, February 26. Telegram.

From same, February 26. No. 241.

From same, March 1.

From same, telegram, March 10.

From same, telegram, March 14.

To same, March 15. Telegram.

From Colombian minister, March 16.

From American legation at Bogota, March 16. Telegram.

To same, March 17. Telegram.

From same, March 18. Telegram.
To same, March 19. Telegram.
To same, March 19. Telegram.
To Colombian minister, March 19.
From same, March 22. No. 59.
To Colombian minister, March 22. No. 82.
From American legation at Bogota, March 23.
From Colombian legation, March 24. No. 62.
From American legation at Bogota, March 26. Telegram.
From same, March 27. Telegram.
From same, March 29. No. 247. Edited.
To same, April 6.
To same, April 19. No. 87.
To same, May 4. No. 89.
From same, May 10. Telegram.
From same, May 12. Telegram.
From same, May 13. No. 262. Edited.
From same, May 27. No. 268.
To same, June 11. Telegram.
From same, June 17. No. 508.
From American legation at Bogota, September 29. Telegram.
From same, October 1. No. 12.
To same, October 4. Telegram.
From same, October 7. No. 14.
From same, October 13. Telegram.
To same, October 23. Telegram.
To same, October 28. No. 15.
From same, October 29. No. 20.
To same, November 4. No. 17.

1910.

From same, January 5. Telegram.
From same, February 18. No. 53.
To same, March 24. Telegram.
From same, May 13. No. 81.

**PAPERS SUBMITTED RELATING TO THE TRIPARTITE
TREATIES.**

Minister Russell to Secretary Hay.

[Extracts.]

AMERICAN LEGATION,
Bogotá, December 20, 1904.

SIR: I have the honor to report that up to the present my relations, official and otherwise, with the Colombian Government have been quite cordial. The feeling against our Government in official circles growing out of the Panama incident is gradually disappearing, due I think, to the hope that some negotiations can be effected with the United States Government by which Colombia in accepting the "fait accompli" will appear to her people and the world as not having lost any of her national dignity.

I have had several long talks with the minister of foreign affairs, and he has intimated that it would probably be the best thing for his country to recognize the Republic of Panama and accept the situation, provided that Colombia could, by means of commercial treaties and conventions with the United States and Panama, obtain some of the advantages that she had expected from the construction of the canal on her territory.

* * * * *

The Government has informed me that it is its intention to send a minister to Washington very soon. I am convinced that the only thing necessary to bring about cordial relations with this country and restore American prestige would be some sort of a treaty arrangement with the United States and Panama by which Colombia could obtain in this usual and ordinary way some of the advantages she has lost by a policy the consequences of which she did not realize until too late, and which national pride, influenced considerably by an anti-American political minority, prevents her from disavowing too openly at present.

I am sir, with great respect,

Your obedient servant,

WILLIAM W. RUSSELL.

The Acting Secretary of State to Minister Russell.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 9, 1905.

The Government of Panama having been thoroughly established and recognized by the civilized nations of the world, it is not now regarded as competent to submit the question of its independence to a plebescite.

The President will be pleased if Colombia will celebrate with Panama a treaty of friendship, commerce, and navigation; also if Colombia were to arrange to settle all questions not disposed of in said treaty with Panama by means of arbitration.

LOOMIS.

Minister Russell to Secretary Hay.

No. 17.]

AMERICAN LEGATION,
Bogota, January 13, 1905.

SIR: Referring to your cipher telegram of the 9th instant, which is confirmed in a separate dispatch, I have the honor to state that I have just had a long conference with the President, during which I showed him a copy of your cable. I asked Gen. Reyes to kindly tell me exactly what he would like me to say to my Government, and his reply was as follows:

You can say, Mr. Russell, that I have urged with some persistency this question of a plebiscite to decide the question as to Panama's independence, because his excellency the Secretary of State suggested it to me in a memorandum. We all know in Colombia that Panama will ratify her action of November 3, 1903; but, as a mere matter of form and a salve to the national honor, a decision by plebiscite will pave the way to a definite and final understanding between all the nations concerned. It can make not a particle of difference to the United States, but to Colombians and to me especially in the present state of public feeling it will be the most important step in the policy of reconciliation and good feeling which I am earnestly endeavoring to pursue.

The President requested me to inform you that in February he is going to call a convention to ratify all his decrees for the relief of the country which Congress failed to pass, reform the constitution in regard to the Vice Presidency, and to ratify this proposed arrangement in regard to Panama. The President also requested me to say to you that the congressmen arrested some time ago were all prominent members of the opposition to the Hay-Herran treaty.

I am, sir, with great respect,

Your obedient servant,

WILLIAM W. RUSSELL.

Minister Russell to Secretary Hay.

[Telegram.]

Strictly confidential.]

AMERICAN LEGATION,
Bogota, May 8, 1905.

Government of the United States of Colombia is sending a confidential agent to confer with the President of the Republic of Panama, and this agent will reach Panama about the 26th. Same agent is coming to Washington afterwards to communicate with Colombian minister there. Government of United States of Colombia has requested me to ask that the American minister to Panama be informed of this, and that he be requested to use his good offices to aid the agent of Colombia in effecting arrangement with the Republic of Panama.

RUSSELL.

Minister Barrett to Secretary Root.

No. 66.]

AMERICAN LEGATION,
Bogota, April 7, 1906.

SIR: Referring to my No. 64 of April 2, 1906, I have the honor to report further developments as follows:¹

As a result of the conference I held with the President, in which we discussed in a full, frank, and friendly way the relations of Colombia and the United States, and after he had seen the report in the American papers that Colombia was displeased with your reply to Minister Mendoza's note² and might therefore break off relations with the United States, he decided to telegraph explicit instructions to Minister Mendoza to the effect that he should in no way appear disturbed over your answer to his note, but that, on the other hand, he should continue to discuss matters with you in a friendly way, in the hope of promoting an amicable understanding between the two countries. The President further said that he desired Dr. Mendoza to make the same efforts in Washington that I am making in Bogota to develop the best of relations.

In view of the importance of this action of the President and of the possibility that erroneous reports might be published in the States, I deemed it best to include references to this in my telegram confirmed in an unnumbered dispatch of this same date.

I have the honor, etc.,

JOHN BARRETT.

Minister Barrett to Secretary Root.

Confidential.]

AMERICAN LEGATION,
Bogota, May 23, 1906.

SIR: I have the honor to submit to you a confidential report of an informal discussion enjoyed between President Reyes and myself which has a *most important* bearing on the relations of the United States and Colombia and indirectly on the coming Pan American conference.

As you are aware from previous dispatches of mine, it has been my well-defined policy here not to urge in any way the recognition of Panama by Colombia or to appear insistent on reaching any understanding with the United States as to the questions which Colombia holds are outstanding and unsettled. On the other hand I have endeavored to employ officially and personally every legitimate and dignified means to soften the bitter feeling aroused against the United States and President Roosevelt by the Panama incident and to develop a friendlier attitude toward our Government and President. If a just conclusion can be drawn from the treatment of myself as American minister by the Colombian Government, people, and press, it would seem as if my efforts were reciprocated and appreciated, and good results in consequence were being accomplished.

Such feeling, however, has not crystallized into a tangible specific diplomatic step in the desired direction until to-day, Wednesday,

¹ Not printed. Merely incloses newspaper clipping.

² Printed. S. Doc. No. 542, 60th Cong., 2d sess.

May 23, when the President invited me to spend the day with him informally at Madrid, his country residence. I am writing this dispatch immediately after my return on the evening train to Bogota, when all that was said is fresh in my mind.

Soon after my arrival at his house, the President invited me into his private office with Dr. Climaco Calderon, his minister of foreign affairs, and remarked in effect as follows:

Mr. Minister, I am talking with you now not so much as President Reyes but as your old friend Reyes of the second Pan American conference. I desire to speak frankly with you as one in whom I have complete confidence and whom I believe to be a sincere friend of mine and Colombia, while a loyal minister of the United States. Then, too, you know that, despite the Panama affair, I have always been a supporter and admirer of the United States and President Roosevelt, and that, for instance, at the second Pan American conference in Mexico, I invariably acted in harmony with you and your colleagues from the United States. Now—

He continued—

I want to read to you a confidential memorandum that has been submitted to me by one of our prominent and able citizens in regard to the relations of the United States, Colombia, and Panama, and to learn what you think of it. In the main it expresses my views as far as proposed policy is concerned with such modifications as are self-evidently necessary.

He then read the memorandum, a translation of which made by his orders, I attach hereto in the exact language of the form handed me, and I would earnestly recommend that you read it at this point before proceeding to consider what I have hereinafter written.

When the President had concluded the reading of the memorandum, he made the following observations:

It is true, as the memorandum says, that a movement has been started in Cauca, Antioquia, and the Atlantic Provinces, in harmony with some agencies and influences in Panama, to form a new republic including Panama, and to make Panama City the capital.

The failure of Mr. Mendoza to accomplish anything for the benefit of Colombia has given strength to the movement, and the story has been circulated that the United States will not only quietly aid such a plan, but gladly recognize the new republic.

This report has even gone to Chile, Argentina, and Brazil and secured sufficient official credence there to cause our minister to these countries, Gen. Uribe-Uribe, to telegraph me concerning it and inform me that some of the delegates of these countries to the Rio conference might refer to it as evidence that the United States was secretly preparing to repeat the Panama incident and add to its hold on South America. I now wish to wire him not only that the United States is not abetting such a movement, but has given me assurance of an eventual settlement of our differences—and so frustrate the enemies of the United States.

I am speaking frankly, as you know, when I tell you that strong influence has been brought to bear on me from other countries of South America to oppose the United States at the Pan-American conference and even not to send delegates, but I have refused, as you are well aware, to listen to such suggestions, believing in the high purpose of President Roosevelt and Secretary Root and the justice of the United States in its final attitude toward Colombia.

I am reliably informed that there are men at work in Panama beyond my reach to assist a revolution in Cuaca and Cartagena, looking to union with Panama, and I wish you would kindly ask Mr. Root to instruct Minister and Governor Magoon to watch any schemes or schemers of this kind and use his influence against it. Such a movement can not succeed without a long and bloody war, for, if necessary, I should take the field and command myself, while, as it is, I know that I am in control of the situation and can prevent any outbreak if the United States does not intervene against me.

I shall be grateful if you will cable your Government an outline of my suggestions, together with a request that its representative in Panama watch the situation there in reference to Cauca, etc., and then confirm your message with a full report of our meeting and conversation.

I then took up the conversation for a few minutes, and said in effect the following:

Without committing my Government in any way, I thank you for your frankness in reading and discussing this memorandum. I will forward it in a confidential dispatch, as you desire, to Secretary Root, and await his instructions. Referring to the comments you have just made, I would say first, that I will, of course, treat its suggestions as confidential and ask my Government to so treat it. As to the withdrawal of Mr. Mendoza, it would seem better to me to postpone such action for the present or until any negotiations might be actually begun, for fear that his recall might be misinterpreted as Colombian displeasure with the United States or as a break off of relations just before the Pan-American conference, when signs of good will were desirable on all sides.

As to the formation of a new republic, I need hardly assure you that the United States has not lent and will not lend the least shadow of assistance to any arrangement of the kind described by you, and, if it is asserted that the United States is secretly favoring its consummation, such allegation is the pure fabrication of its enemies. I am aware of the anti-American influences brought to bear on you in connection with the Pan American conference, and I have also informed my Government that you not only were not moved by them, but that Colombia's delegates at Rio would not embarrass the United States by any discussion of the Panama question.

I shall telegraph my Government the substance of your suggestions as expressed in this memorandum and the recommendation that Minister Magoon keep an eye on any revolutionary or new republic movement in Panama.

In regard to the transfer of negotiations from Washington to Bogota, suggested in the memorandum, I must state that, while I appreciate deeply the compliment to myself I can not personally advise or request my Government to approve of such a step. It might seem better in its opinion to conduct any actual negotiations in Washington where my Government is always in close touch with Panama and where the approval of the Senate is required to any treaty, but, as you do not insist on negotiations being conducted here, that is a point that can be easily arranged later on.

At this point I called attention to the fact that, as you would be leaving the United States early in July for the Rio conference and a visit to South America and not be returning before September or October, my Government, if disposed to act on these new suggestions of Colombia, could not take up their careful consideration before fall. Gen. Reyes replied that he understood that situation and would not expect anything explicit to be accomplished until after your return, but he did hope, for reasons stated above and in the memorandum, that the United States Government would give him some direct assurance of willingness to undertake negotiations along these general lines before the Pan American conference meets. I simply answered that I would confirm my telegram with this extended and detailed report which should reach Washington in the latter part of June, and it might be possible to receive some definite word, although I could not promise it, before your departure.

President Reyes then enlarged upon the hope that you and the President would think favorably of his proposals. He said: (a) That you could not realize how strong still was the feeling, amounting almost to intense hatred, among the people of Colombia against the United States on account of its standing by Panama in the latter's separation; (b) that only by his constant watchfulness and

personal good will to the United States for three years, followed now by my friendly attitude, had outbreaks against Americans and American property been prevented; (c) that this feeling had been recently revived by those agitators, politicians, and priests, who insisted on making capital out of your reply to Minister Mendoza's notes; (d) that in Antioquia, Cauca, and the Atlantic Provinces, it had developed in another form into a movement, as already described, for a new republic, until credence was given the report of the secret assistance of the United States, not only in the other parts of Colombia, but in other nations of South America; (e) that Colombia, if peace could be preserved, was about to enter upon a period of great material and commercial development that would be of the highest value and importance to the export and financial interests of the United States; (f) that European trade and money interests recognized the situation and were doing all in their power to get a firm hold on the commercial and material opportunities of Colombia; and (g) that, finally, in a practical desire to obtain results and inaugurate a new era in the foreign relations of Colombia, he now gave up all hope of arbitration or indemnity being conceded by the United States—so dear to the expectations of the Colombian people—and proposed the negotiation of new treaties on a basis that the United States, in view of all that Colombia had suffered and lost, must admit was fair and equitable.

Therefore he hoped that you and the President would most carefully consider his intimations and thus open the way to the complete restoration of cordial relations between the United States and Colombia, to the recognition of Panama by Colombia, and to the establishment of permanent accord between the latter nations by means of a treaty of friendship and commerce.

In order to have a perfectly clear understanding in general terms of what he proposed, I then asked the President to summarize them, apart from the memorandum, which he did, as follows:

1. Colombia desires to negotiate a new treaty of friendship and commerce with the United States (to supersede the treaty of 1846), in which, in view of Colombia's former sovereignty and vital interests at stake, the United States shall grant to Colombia the same general privileges in the canal and Canal Zone as provided by the Hay-Herran treaty as they affect trade, commercial intercourse, shipping, or practically the same as now granted to Panama in these respects.

2. Colombia will recognize Panama as an independent Republic within the limits of the old department of Panama (which is now conceded to be the present extent of Panama), and negotiate with Panama a treaty of friendship and commerce, provided Panama will assume a part of Colombia's foreign debt, contracted before the separation of Panama, in proportion not only to population, but to resources and wealth.

3. The United States will use its good offices and its peculiar relation of responsibility to Panama to intervene with that Government and make sure that Panama will treat with Colombia in good faith and do its share and part in arranging a basis of settlement of the foreign-debt question.

4. Prior to the negotiation of the Colombia-Panama treaty, Colombia will arrange privately with the United States, and the latter with Panama, that Panama shall send a confidential representative to Bogota to consider and sign a protocol, before being officially received as minister plenipotentiary, covering the questions to be settled in a formal treaty that will be negotiated immediately after the protocol is signed.

5. The United States Government will give, if possible, an assurance before the Pan American conference of its willingness to undertake negotiations

along these lines in order to prevent any expression of feeling there against the United States, and to thwart any plans for the formation of an interoceanic republic, which would include Panama and the Colombian territory of Cauca, Antioquia, and the Atlantic provinces, thus doing Colombia a great service and strengthening the position of the United States not only in Colombia, but in all South America.

6. The actual negotiations will await the return to Washington of Secretary Root from his trip to South America, and be conducted in the late fall or early part of next year, when the Congresses of both the United States and Colombia will be in session and can consider and ratify the treaties. Although conditions favor Bogota, it is not material whether the actual negotiations take place in Bogota or Washington, but, if in Washington, Colombia will send Enrique Cortes, former minister of foreign affairs, and who went to Washington in June, 1905, as a special representative of President Reyes, to act as its plenipotentiary, Mr. Mendoza being in the meantime granted leave of absence or transferred.

7. The whole question is to be treated as confidential (not even made known to Mr. Mendoza), except as Colombia may telegraph her delegates at Rio Janeiro about the time the Pan American conference assembles, to the effect that preliminary negotiations are begun which will lead to a satisfactory adjustment of all questions at issue over Panama between Colombia and the United States.

In regard to receiving some word from you before the Pan American conference, the President emphasized, in response to my intimation that this suggestion might be misunderstood, that it was in no sense whatever a threat to the effect that Colombia's delegates might in some way bring up the Panama or new republic questions at the conference or quietly approve of its being done by others in the event no favorable answer came from Washington; on the other hand, the delegates of Colombia desired the assurance so as to be able to definitely frustrate any attempt of the kind among other delegates and to remove all cause of suspicion and intrigue based on false reports or jealousy of the United States. The President added that he showed his frankness and fair dealing with me and the United States by informing me that efforts had been made and were being made to have him sanction or assist a movement against the United States in the conference.

In conclusion I would state that my conference with President Reyes and Dr. Calderon extended over several hours. It was characterized with the greatest frankness and friendliness of discussion. Both the President and minister of foreign affairs seemed deeply interested in the subject and most anxious that you and President Roosevelt should appreciate and reciprocate their sincerity of purpose. They were good enough to say that my attitude and policy as minister here had paved the way to their determination to seek a settlement on a new basis of the Panama question and to lay their complete plans in confidence before me for submission to you and President Roosevelt.

In view of its confidential and highly important character, I am marking the dispatch "Confidential" and giving it no number. There is not time to prepare and confirm the telegram I shall send on this subject before the mail closes.

I have the honor to be, sir,

Your obedient servant.

JOHN BARRETT.

[Verbatim copy of translation made in Colombian foreign office and handed to Minister Barrett.]

Memorandum.

Bogota, May 23, 1906.

Opinions of a Colombian citizen who loves his country more than anyone else, who wishes for its prosperity and greatness, who recognizes the cessation of Panama as an accomplished fact, who is a friend of the United States, who wishes that the extraordinary civilization reached to by that country may spread itself all over South America by practicing the "American Ideals" of its President, Mr. Roosevelt, that the questions pending between the United States, Colombia, and Panama be arranged in a dignified and honorable manner, and that this last country constitutes itself to the good of its inhabitants and to avoid the scandal and new shedding of blood on Colombian territory on account of the Panama question.

I. It is well known that the negotiations of the Legation of Colombia in Washington, that Messrs. Diego Mendoza and Enrique Cortes initiated, under favorable circumstances, for the settlement of the Panama question, have failed because Mr. Cortes, whose highmindedness, friendly feeling towards the United States, and thorough knowledge of the English language, would have obtained good success in this negotiation, had to separate himself from the Legation; and Mr. Mendoza failed because he determined to insist on obtaining the declaration from the United States that that country had carried out the revolution in Panama. The failure of his mission can be considered as his last offense to the American Government.

II. It is also known that, owing to Minister Mendoza Perez' attitude and to his failure, certain Colombian and Panama citizens have proposed the formation with Panama, the Atlantic coast of Colombia, and the Departments of Antioquia and Cauca, of the Interoceanic Republic with the City of Panama as a probable capital, and that the United States should second this project.

Although at first sight the realization of such a project seems easy, it is not so, for the following reasons:

(a) The popular feeling of hatred of the entire population of Colombia against the United States and Panama, in consequence of the cessation of the last, is so intense that, in order to calm such a feeling, it has been necessary to use all the prestige and energy of President Reyes, and to sustain during three years a campaign of frankness and patriotism to avoid the outbreak of such feelings against the American citizens living in the country; and such an attitude on the part of the President was one of the main causes of the attempt on his life made on the tenth of February. This feeling is so much alive, even at the present day, that, if they intended to carry out the project of the Interoceanic Republic, the popular mass would raise up at once, headed and encouraged by the Catholic clergy that would see its religion menaced by the Protestant creed, and a war would follow, worse in character than the Civil War of three years duration, which was followed by the cessation of Panama and the ruin of Colombia. The consequence of such a war would be the

definite establishment of anarchy throughout Colombia; and the United States would bear before the world and before history the entire responsibility of having caused the anarchic revolution.

(b) Among the measures taken by the Government in the rebuilding of the Nation, one of the principal ones is the construction of railways and two of the main lines are in the hands of American citizens; viz the line from Buenaventura on the Pacific coast to the interior of Colombia, probably to Bogota; and those represented by Mr. Ford: the Cartagena Railway Company and the Magdalena Steamship Navigation Company, both worked with Boston capital. A movement of cessation on the mentioned basis would be a call of attack of the people against the mentioned grantees and their works which the Government would be incapable of avoiding.

III. In the delicate and dangerous position created by the war of three years duration, followed by the cessation of Panama and the ruin of Colombia, which ruin would render easier the outbreak of a social and anarchic revolution that only the energetic will of President Reyes and his moral and military prestige have been able to hold back,—in this position rendered worse with the project of the Interoceanic Republic,—it seems wise that before seconding such a project that would undoubtedly cause the entire loss of the Colombian Nation as well as the loss of the different Departments that intend to form a nation, it would be patriotic and humane to act as follows:

(a) To bring to Bogota the negotiations pending in Washington in relation to the question of Panama, Colombia, and the United States.

(b) To profit of the presence in Bogota of the American Minister, the Hon. John Barrett, a high minded gentleman and a personal and old friend of President Reyes, who thoroughly knows the interests aspirations, and necessities of Spanish American countries, and who also is a friend of the President of Panama and a genuine representative of the high ideals of progress and civilization of the people and the Government of the United States, to profit of his presence in Bogota to confer with the Government of Colombia and to end in a generous, just, and high minded manner the questions pending between the United States and Colombia and Panama, which settlement could be carried out in the shape of a Treaty among the three countries on the basis hereafter mentioned, or perhaps better in two separate Treaties, one between the United States and Colombia and the other between Colombia and Panama. The first one could be made on the following basis:

1st. Colombia undertakes to recognize the independence of Panama and to celebrate treaties of peace, commerce, and friendship with Panama and consequently to declare null and void the Treaty of 1846 between Colombia and the United States.

2nd. Colombia will celebrate a Treaty of friendship, commerce, etc., etc., with the United States under the most ample and convenient terms to both countries.

3rd. The United States, in consideration that the Zone through which the Canal is being constructed belonged to Colombia, and that Colombia has important towns on both coasts, which towns are called, on account of their situation, to help in the construction and

conservation of the Canal, grants to Colombia the following privileges (Those of the Treaty Herran-Hay and the entrance to the Canal Zone of Colombian products under the same conditions as those coming from Panama.)

Basis on which can be celebrated a Treaty with Panama.

The United States and Colombia would arrange in a private manner that the Panama Government should send a Plenipotentiary Minister to Bogota. General Santiago de la Guardia, the present Minister of Foreign Affairs in Panama would be a desirable candidate, with whom, and before being officially received, a representative of the Colombian Government would sign a protocol or treaty of the questions that would be considered once the Panama Minister was received; which questions could be as follows:

(a) The acknowledgment of the independence of Panama within the limits of the old Department of Panama, before its cessation from Colombia.

(b) That Panama should acknowledge and pay to Colombia a part of the National Debt in proportion to her resources and wealth.

(c) The other conditions customary in such treaties.

IV. As can be clearly seen, the form and essential part of the project to put an end to the vexatious situation existing between the United States, Colombia, and Panama since the cessation of the last, takes into consideration the interests of the three countries, those of the cause of civilization of justice, and the good name of the United States, which is today a matter of discussion and comment in an unfavorable manner among South American and Central American countries. At the same time the talents and exceptional conditions of Minister Barrett and the good will of both the Presidents of Panama and Colombia could be profited as it is well to remember that General Reyes is universally liked in Panama, because he always defended the interests of that part of Colombia and in the National Assembly which met in 1885 he had to contend against Senor Caro, the representative for Panama, in order to make of that State a Department, and not a Territory as it was then pretended. It is certain that if General Reyes had been President when the Herran-Hay Treaty was signed, the Treaty would have been approved and the loss of the Isthmus avoided.

V. These opinions, dictated by the love we profess to our country, by the interest of civilization, and also by the good name of the United States which history and world would hold responsible for the misfortunes that the project of the formation of the Interoceanic Republic would cause if carried out, will be sent to the President of Colombia, to the American Minister, the Honorable John Barrett, and to other persons whom we may think interested in the questions herein related.

VI. It is urgent that, before the meeting of the Pan-American Conference in Brazil the Governments of the United States and Colombia or their Ministers arrive at an understanding in reference to the mentioned basis in order to prevent the enemies of the United States and of the success of the said Conference from carrying out their design of making believe that the United States are fomenting or patronizing a revolution in Colombia in order to obtain the projected Republic, as it happened in Panama. In reference to the

Treaties being celebrated in Bogota it is not a matter of importance; they can be celebrated in Washington next Autumn; but it is convenient that the Colombian Delegates in Brazil should have instructions from their Government to deny the malicious charges that it is known will be made against the American Government in relation to the Panama question, and the patronizing of a new revolution in Colombia.

[Telegram.]

Mr. Barrett to the Secretary of State.

BOGOTA, June 12, 1906.

Minister of Colombia at Washington has telegraphed to the President of Colombia as follows:

In order to remove wrong impression, am glad to inform you that a group in Congress has begun action favorable to arbitration, which does not antagonize the President of the United States and has not to do with politics. Will advise you of the result. A new course it will be fatal.

Such information in view of your note of February 10¹ to the minister of Colombia and recent telegrams is a great surprise for the President, but he fears minister of Colombia makes such report to stop his recall, which the President has ordered. He requests that I ascertain and let him know at once is there any foundation for the statement of minister of Colombia.

BARRETT.

Minister Barrett to Secretary Root.

AMERICAN LEGATION,

Bogota, June 13, 1906.

DEAR MR. SECRETARY: In view of the probability of Mr. Root's departure from Washington, I beg to inclose a copy of a personal note which I mailed to him at New York, care of the United States dispatch agent, in the hope of catching him before he sailed. The inclosures referred to accompany my No. 103 of this date (excepting the one about Buenos Aires). I hope that you will find time to read not only this inclosed private note to Mr. Root but the official dispatch mentioned. You may also think it best to submit them to the President, in view of the importance of the proposed negotiations of Colombia with the United States and Panama for new treaties. Great interest is being manifested here, caused by rumors that naturally get started, and if the negotiations are successfully consummated next fall a splendid new era will be inaugurated in the relations of the United States, not only with Colombia, but, by natural effect, with all Latin America.

Yours, very respectfully,

JOHN BARRETT.

¹ Printed in S. Doc. 542, 60th Cong., 2d sess.

AMERICAN LEGATION,
Bogota, June 13, 1906.

DEAR MR. SECRETARY: As this mail will probably reach New York just as you are sailing for Rio Janerio, and, as I assume, you are desirous of knowing the latest developments in the proposed new negotiations between Colombia and the United States, I beg to inclose a copy of my last dispatch to the department, forwarded in the pouch by this same mail. I inclose also a few notes on Buenos Aires, which you may be interested in reading when you have spare moments on shipboard.

It would gratify you to see with your own eyes the tangible interest which Colombians of all classes are manifesting in the eventual restoration of a complete entente cordiale with the United States. The only embarrassing part of it is that they give me altogether more credit than I deserve and wish to show me honors and attentions that I want to avoid. Although I have invariably been treated with a courtesy that has gradually grown more marked as the people have endeavored to reciprocate my attitude and policy of friendliness, I was not prepared for the effusive feeling that now is expressed on all sides.

Although I have said nothing publicly myself, President Reyes has begun a careful propaganda in the press to prepare the people for new negotiations and to develop a friendly sentiment to the United States, as well as the realization of the impossibility of arbitration and indemnity, so treasured in the mind of the average Colombian. He knows that he has a hard task because there still remains a strong undercurrent of resentment among certain classes of people, but from their attitude toward me I am convinced that the higher classes intend to support him. I consider the unsought assurance of aid in my labors which have been given me by the powerful Archbishop Bernardo, of Bogota, and the papal nuncio, Monsenor Ragonesi, as having far-reaching significance. I say "unsought," for, while I have not asked or suggested their cooperation, I have, on the other hand, recognized their mighty influence and cultivated, since my arrival here, a strong confidential friendship with them which is now bearing fruit.

When we remember four things, Mr. Secretary, it would seem as if we ought to treat Colombia as liberally as possible:

1. It will take generations, otherwise, to remove a deep-seated feeling against the United States throughout the length and breadth of the land which can now be almost immediately and effectually uprooted by giving Colombia special concessions of shipping and trade in the canal and Canal Zone.

2. Colombia is undoubtedly the richest country in latent possibilities and, in proportion to area, of all Latin America, and, unless the United States negotiates a favorable treaty, the benefit of the future development and commerce is sure to go largely to European countries, which are already plainly preparing to make the most of their opportunities.

3. We must always take into consideration the possibilities of war with some powerful European or Asiatic country, in which case it would be of transcendental importance to prevent such splendid

harbors as Cartagena, on the Caribbean, and Buenaventura, on the Pacific, together with the respective strategic and supply-producing coast lines of Colombia, being used by or favorable to our enemies.

4. Despite the fact that Colombia is to blame for not ratifying the Hay-Herran treaty, a large part of Colombia, particularly the rich provinces of Cauca on the Atlantic, Bolivar on the Pacific, and Antioquia between, were actually and strongly in its favor but were overruled by the interior and mountain Provinces. Against their own will the populations of these sections were made to accept injurious conditions to them. If the United States now restores in a measure by concessions of trade, shipping, and transit what they have lost, it will win their everlasting gratitude and devotion which, in turn, means everything for our commerce in peace and their assistance in war.

The President has spoken to me several times about your stopping at Cartagena part of a day at least en route from Panama to New York, and has asked my opinion about the wisdom of inviting you. It is probable that I will soon telegraph you on this subject. It will have an excellent effect on Colombia if you accept.

As nothing more will be done toward actual negotiations until November or after your return, and as President Reyes has practically decided to make an extended visit to the interior States about August 1, it is probable that I may ask for leave of absence to come home in August, returning in November, or remaining in Washington to assist you in the negotiations, as you may think best.

I would not take up your time with such a long letter were it not for the importance of these proposed negotiations and the serious handicap of distance and time in communication.

Very respectfully, yours,

JOHN BARRETT.

Hon. ELIHU ROOT, *Etc., New York.*

Minister Barrett to Secretary Root.

AMERICAN LEGATION,
Bogota, June 13, 1906.

No. 103.]

SIR: I have the honor to report still further important developments in the matter of the proposed negotiation of new treaties of peace, friendship, and commerce between Colombia on the one hand and the United States and Panama, respectively, on the other.

I. President Reyes is taking so much interest in the subject that he frequently confers both with me and his cabinet ministers and other prominent Colombians with reference to awakening a sentiment in Colombia favorable to negotiations and to the surrender of the hope of arbitration and indemnity, so dear to the average Colombian which he now realizes the United States can not allow for good and sufficient reasons, carefully stated in your note of February 10, 1906,¹ to Minister Mendoza and confirmed in my various discussions with him. In view of the necessity of preparing the people for what is to come, President Reyes has commenced writing some memoranda

¹ Printed in S. Doc. No. 542.

for the use of editors and political essayists. He has just handed me a translated copy of the first of these, and I inclose a verbatim reproduction of it as delivered. I beg to recommend that you read it carefully, as it will give you a good idea of some of the thoughts in his mind.

II. A most significant development is the newly announced fact, not generally appreciated heretofore, that the large, prosperous, and powerful Provinces of Cauca on the Pacific, Bolivar on the Atlantic, and Antioquia between them were unanimously favorable to a ratification of the Hay-Herran treaty, and their influences should have prevailed, but, in the political excitement of the moment, the sway of Bogota and the mountain Provinces far from the sea carried the day. Now these coast States are coming forward and demanding that all Colombia agree to the negotiation of treaties with Panama and the United States which will help to build up their languishing commerce. As evidence of this feeling, I respectfully call your particular attention to the inclosed translation of an interview which appeared yesterday, June 12, 1906, in the *Correo Nacional*, of Bogota, the principal Government organ of Colombia, with Dr. Ignacio Palau, one of the ablest men in the Republic and editor of the *Correo del Cauca*, the chief newspaper of the powerful State of Cauca. His closing words, containing almost a distinct threat, have created a sensation here and are being discussed on every street corner. My opinion, however, is that Bogota realizes the claims of the coast and will not stand out against treaties that are reasonable in their provisions.

III. President Reyes has fully determined to send a new minister to Washington to replace Dr. Mendoza Perez. He has already cabled the latter to return to Bogota, but the minister seems indisposed to leave. He has telegraphed President Reyes a statement about probable arbitration, which the President can not believe to be true, in view of your note of February 10, 1906, to Dr. Mendoza, and as you have said nothing of any such movement in the recent telegrams exchanged. At his request I cabled you yesterday about this matter and my message is confirmed in an unnumbered dispatch of this same date. A reply will probably come to-day, after the mail is closed, or to-morrow. The President has several times told me that he has never approved of the arguments advanced and methods employed by Dr. Mendoza at Washington, but, as the minister has had confidence in the ultimate success of his own procedure, the President has allowed him to remain until now. It is probable that either Mr. Enrique Cortes, who came to Washington as a special representative of President Reyes in June, 1905, and was introduced by me to President Roosevelt, or some other eminent Colombian who speaks English, will succeed him, and be ready to negotiate with you in November.

IV. Desiring, in the light of progress made toward an entente cordiale with the United States, to have Colombia creditably represented at the Pan-American Conference and to be sure of this delegation working in accord with that of the United States, the President has appointed Jorge Holguin, a distinguished Colombian statesman and polished gentleman now in Paris, as chairman of the Colombian delegation, and instructed him to proceed to New York and meet Dr. Valencia, coming via Panama, for conference with you.

Mr. Holguin is one of the richest and most influential men of the Republic, and has resided some time in Europe as President Reyes's chief financial agent. It is possible that he may not be able to accept, or, if he does accept, to go via New York, because of the short notice of his appointment and necessary preparations; but it is to be hoped that his decision will be favorable.

V. It is gratifying to note the interest that is being manifested, through assurances of aid and cooperation, to me of powerful influences which can assist greatly in promoting friendly relations between the United States and Colombia and in preparing the people to accept new treaties with Panama and the United States. Among others, I refer particularly to the church and clergy, which, I am told, worked against the Hay-Herran treaty. Both the Archbishop of Bogota and the papal nuncio have emphatically expressed to me their desire to help me in any way possible—and their say is even more mighty with the people at large than that of President Reyes. Although I have not sought such cooperation, I have, since my first arrival here, made it a point to maintain excellent relations with the church dignitaries and show them the good intentions of the United States. Political leaders of different parties who fought the Hay-Herran treaty and who for a long time would not come near the United States legation, now call frequently upon me and admit their desire to see a confirmation in a new treaty of the growing new entente cordiale between the United States and Colombia.

VI. While, therefore, the outlook for the eventual success of negotiations is good, it must be remembered that the still remaining underlying resentment among certain classes of people against the United States and the machinations of diverse political interests may place obstacles in the way which it will require careful management and patience to remove. I have done everything possible during the past eight months to overcome such difficulties and to bring about a new state of feeling toward the United States. The first direct and preparatory official steps have now been taken for new treaties with Panama and the United States. The next will be at Washington in November. In the meantime, as little more can be done here until then, and as President Reyes expects soon to be absent from the capital on an extended trip to the coast and interior Provinces, I may ask your permission to go home on leave of absence.

I have the honor to be, sir,

Your obedient servant,

JOHN BARRETT.

[Literal and verbatim copy of an impersonal memorandum handed to Minister Barrett by President Reyes, June 12, 1906.]

JUNE 10, 1906.

THE PANAMA AND UNITED STATES QUESTION.

A. It is high time to define this most important question which involves not only the commercial interests of our litoral on the coasts of the two oceans, but those of the whole interior of the Republic and especially those of the Departments of Cauca and Marino on account of their obliged transit through the Isthmus to Europe and the United States. The Departments of the Atlantic coasts also

have great commercial interests in Panama, as it is a well known fact that, during the time that the French Company was working on the Canal, they were the principal purveyors of the workmen of the Canal and derived many thousands of dollars from this trade each month.

B. It is well to remember the fact that when the Herran-Hay Treaty was about to be discussed, the Town Councils of Cali, Palmira, etc., etc., and a great many distinguished citizens, asked the Colombian Government, through Congress, to approve the said Treaty and to save thereby the commercial interests of those regions; but the political passion of the sectarians leading Congress at the time reached to such an extreme that they withheld those petitions from the public knowledge.

C. Public feeling at the time the question was dealt with had reached to a high degree of madness in the Capital and nobody can be held especially responsible as that feeling was almost general. Perhaps no more than three gentlemen were free from the contagion and had the civil courage to maintain firmly that the Treaty was good and convenient, that it favored Colombia more than it did the United States, and that they ought to approve it.

D. After the great misfortune of the dismemberment of the national territory and the irretrievable loss of Panama, light was made in the matter, the wave of madness had passed away, and, if the Treaty were to be considered again, there would not be many who would hold the same opinion, and ask the refusal of the treaty. The unanimous opinion of the inhabitants of the Departments of the two coasts is that a great error was committed in refusing the Treaty, and that, once we have lost such an important part of our territory, it is needful and convenient to settle now these questions with the United States and Panama, in a suitable and honorable manner to the Republic of Colombia, without either accepting or demanding any pecuniary indemnification which would stain the national honor, but recovering, for the benefit of our commerce and shipping, the advantages we would have derived from the Herran-Hay Treaty, which are mutually convenient for the three countries, if it is considered that Colombia is the country having more population and extensive lands on the two oceans near the Canal.

E. We hope Mr. Mendoza Perez, our Minister in Washington, has wisely interpreted this feeling and this national desire, and has well looked after the material interests of Colombia, and those, even more sacred, of its future navigation when the Canal becomes the obliged route of the human powers, and important towns have sprung on the Colombian coasts on the two seas. It cannot be denied that the Herran-Hay Treaty was disapproved through a patriotic feeling; the desire of avoiding the loss of the sovereignty on the Canal Zone, but now that it is irretrievably lost to us with the approval of the whole world, that we cannot get it back, and that the country wants the Canal because it will benefit Colombia more than it will any other nation, it is evidently necessary that Colombia should arrange,—without compromising its dignity, more valuable even than its own existence, and without either demanding or receiving pecuniary indemnification,—with the United States and Panama in such a manner as to enjoy the benefits of the Panama Canal, to which benefits Colombia is entitled.

F. It must be taken into consideration that, soon after the Herran-Hay treaty was refused, many of the principal citizens of Cali and other towns held a meeting with the object in view of asking the government to settle this question, consulting both the dignity of the nation and the interests of the Department of Cauca. The inhabitants of the Departments of the Atlantic and Pacific coasts are placed in identical position and it must be considered that it is not just for Bogota and the inland provinces to deny them their rights and drive them to despair which might bring great evils.

G. We have entertained the hope that our Minister in Washington would have negotiated a treaty with the United States, on the mentioned manner; but summer has arrived and it is well known that by this time they close up official business in Washington and do not begin them again until November, and as yet we have not heard of our Minister having negotiated such a treaty. We have been informed that he has been cabled to come home to hold a conference on the subject and we suppose he is under way.

H. We deem it convenient that, during the time we have from now to November next, the Press throughout the whole Nation should write on this subject, and, if it does not agree with us, give the reasons they have to think otherwise, and let them advise the means of attending to the interests of the Departments of the coasts and avoiding the lengthening of such an abnormal situation which every day becomes more and more painful and unfavorable to the general interests of Colombia.

I. We would be glad to see the Press of the Departments as well as the foreign press writing on this subject.

J. It is a well known fact that all the Spanish American Republics have invited the United States Secretary of State, Mr. Roor, to visit their capitals or at least their principal ports on his return from the Brazilian Conference and that he has expressed his warm desire of establishing a policy of justice and mutual respect between the United States and these Republics. It would be reasonable and convenient that Colombia should also invite him so that he might be able to appreciate the importance of our Departments of the coasts and see for himself the convenience to the United States of the progress and development of Colombia, which with its five millions of inhabitants could be an important factor in the future development and conservation of the Panama Canal.

NOTE.—A series of leading articles can be written on the above subject developing them in different form and words as this memorandum will be sent to several persons with the same object.

NOTE.—With reference to the interest that the United States may have in finishing in an honorable manner for Colombia the questions pending with Panama there are besides the above reasons the following ones:

(a) Bearing in mind the increasing development of the great Republic of the North and the possible future conflicts with Asia and Europe and even with South American countries, the situation of Colombia with her extensive lands on both coasts and her good harbors, such as Buenaventura and Cartagena, with the abundance

of rich coal mines, she will be of great importance to the United States, and this country ought to favor and forward the development of the great wealth of Colombia and make of her a firm and constant friend.

(b) From a commercial point of view the United States would find in Colombia a wide field to invest capital and give employment to her citizens; in the Magdalena valley for instance, rubber plantations can be established as rich as those on the borders of the Amazon river, and as to mineral wealth, it is as abundant on the bed of the river Porce, in Antioquia, in the Province of Marmato, etc., etc., as in the rich mines of the Transvaal, and it only wants railways to bring the necessary machinery to work the mines. Colombia can furnish to the United States all the tropical products she may want.

(c) It is evident that the interests of the United States, Panama, and Colombia are closely connected and that the concessions that Colombia could obtain on the lines of the Herran-Hay Treaty would be more than compensated to the United States and Panama having in this country a firm ally and uniting their strength to the common welfare of the three countries.

[Translation of an important interview in the *Correo Nacional*, one of the principal newspapers of Colombia and the leading Government organ, with Dr. Ignacio Palau, one of the most prominent and influential men of the Republic and the editor and proprietor of the *Correo del Cauca*.]

After discussing the conditions of material and agricultural development in the Cauca, one of the richest provinces of Colombia and which borders on the Pacific Ocean and consequently has intimate relations with Panama, Dr. Ignacio Palau was asked by the reporter the following question:

What is the opinion in Cauca on the Panama question?

To this Dr. Palau replied as follows:

The bad economic condition in Cauca will be improved by a dignified and satisfactory arrangement of the Panama question, which neither can or ought to be held in indefinite suspension.

Many and grave are the injuries caused to the commerce of Cauca by the delay of this arrangement, not only for the obstacles which the passage of the Isthmus presents in our relations with the United States and Europe, but also for the market itself of Panama, which is important for the products of Cauca. For this reason the municipalities of Cali and Palmira, as well as thousands of citizens, at the time petitioned the Colombian Congress to approve the Herran-Hay treaty, and, later on, a large number of the principal inhabitants of Cali held the opinion that the country should arrive at an agreement by which it could obtain all the commercial advantages possible, such as facilities of transit and trade, giving up entirely the idea of pecuniary indemnity on account of such being undignified for Colombia, in view of what had previously occurred.

The same identical advantages which would come to the Departments of Cauca and Narino by an arrangement of the Panama question would apply also to the departments of the Atlantic coast.

In Cauca, and I think also along the Atlantic coast, it was anxiously hoped that the mission of Messrs. Mendoza Perez and Cortes, whom our Government sent to Washington, would conclude, as above described, this question, which is one of life and death for us. It is known that Mr. Cortes retired from the mission and that it has remained entirely in charge of Mr. Mendoza Perez. As is well known, from now on closes all official negotiations in Washington, and that nothing definite will be done there until the month of November, in which month there will begin the consideration of these affairs in that capital.

If here in Bogota great importance is not given to settling the question of Panama, it does not follow that the same opinion prevails in our population of the coast of both seas, because for them it is an affair of life and death, and it is not prudent to exasperate the people of that section.

Secretary Root to Minister Barrett.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 14, 1906.

There is no movement whatever in Congress on the subject of arbitration, and no change of position taken in my note of February 10. Mendoza may have been talking with some malcontent in Congress.

Root.

Colombian Chargé to Secretary Root.

[Translation.]

LEGATION OF COLOMBIA,
Washington, D. C., July 2, 1906.

SIR: Referring to the interview which I had the honor to have with you this morning, and in compliance with an order by cable from my Government, I hereby send you a copy of the cable to which I referred, thus fulfilling the wishes expressed by you.

The cable is as follows:

BOGOTA, June 30, 1906.

COLOMBIAN LEGATION, Washington:

Notify the Department of State that a new treaty concerning the Panama matters has been begun here with Minister Barrett, on a basis of mutual respect and honor, the treaty to be completed next fall. Cortés has been appointed minister to continue negotiations.

VASQUEZ COBO.

With sentiments of highest consideration and regard, I am, Mr. Secretary,

Your obedient servant,

EDUARDO PEREZ TRIANA,
Chargé d'Affaires ad interim.

Secretary Root to Minister Barrett.

No. 27.]

DEPARTMENT OF STATE,
Washington, July 2, 1906.

SIR: I have to acknowledge the receipt of your confidential dispatch of May 23 last, concerning the plan for the settlement of all difficulties between the United States and Colombia with respect to Panama, which President Reyes submitted to you during the audience which you had with him on the date above mentioned.

The arrangement under which you are to meet me at Guayaquil and proceed with me to Cartagena renders it unnecessary to add, in

the meantime, anything on this subject to what is contained in the telegraphic messages which have already passed between us further than this:

It is evident that the negotiations will involve a very thorough knowledge of the debt of Colombia, its origin and history, and the relations of Panama to each class of debts. The preparation of this material should be begun immediately and prosecuted diligently.

I am, sir, etc.,

ELIHU ROOT.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Bogota, July 14, 1906.

Reports action taken on that day by National Chamber of Commerce, which had assembled at Bogota, and which represented all parts of Colombia in unanimously passing a resolution introduced by the delegates of the six Pacific and Atlantic Provinces and approved by the Colombian Government favoring negotiations with the United States and Panama as begun by President Reyes and Minister Barrett. Telegram adds that Colombian minister for foreign affairs has announced that Colombia waives demand for money indemnity or arbitration.

The annexed paper was received by Minister Barrett from Mr. Vasquez Cobo, the minister of foreign affairs of Colombia, whose signature it bears, and was handed to me at Panama September 20, 1906. It was produced by me at an interview between Mr. Barrett, Mr. Vasquez Cobo, and myself, at Cartagena, Colombia, on the 24th of September, 1906, and was read, paragraph by paragraph, and made the subject of discussion between us as being the basis for a treaty proposed by Colombia.

ELIHU ROOT.

Confidential memorandum.

In the first place, a treaty similar to the treaty of 1846 will be celebrated with the United States—a treaty of peace, amity, commerce, and navigation.

Once the treaty with the United States has been celebrated, a treaty will be celebrated with Panama, and to this end Panama will send a confidential agent to Bogota to negotiate such a treaty.

BASIS FOR A TREATY WITH THE UNITED STATES.

1. The Government of Colombia will have at all times the right to convey through the canal its ships, troops, and materials for war, even in the case of an international war between Colombia and another country, without paying any duty to the United States.

While the interoceanic canal is in construction Colombia will have the right to transport on the railway between Ancon and Cristobal, or any other railway substituting that one, her troops, ammunitions,

and materials for war at all times, even in the case of an international war between Colombia and any other country, under the same conditions that this service is rendered to the United States.

The national employees transmitting through the Isthmus will be entitled to a free passage in the railway.

2. Colombian products, such as provisions, cattle, etc., will enter free of any duty (except that paid by U. S. products¹) to the Canal Zone, where they can be sold, paying only the same duties paid by articles brought from the United States.

3. Correspondence and parcel mails will have a free passage through the Canal Zone and through the post offices of Ancon and Cristobal, paying only such duties as those paid by the United States mails.

4. Colombian products passing through the Isthmus railway from and to Colombian ports will pay a small duty, inferior or at most equal to the duty that Colombia used to pay before to the railway for the same service.

Sea salt exclusively produced in Colombia will pass through the railway free of charge whenever the Government of Colombia sends it, duly certified, from the Atlantic coasts to any Colombian port on the Pacific coast. Colombia will only pay shipment.

5. There will be a differential tariff favorable to Colombia, similar to that existing with Cuba, for Colombian molasses and sugar entering into the United States.

The United States will interpose its good offices in the arrangement between Colombia and Panama, Panama having to pay in a direct manner to Colombia its corresponding share of the foreign debt and the rights that Colombia claims for the sale made by Panama to the United States of the interoceanic railway and other rights that Colombia has in the zone and materials of the canal. There will be a free commerce between Colombia and Panama for national products.

A. VÁSQUEZ COBO.

(MEMORANDUM.—This paper was handed to me by Mr. Enrico Cortes, minister of Colombia, on Thursday, November 8, 1906.)

With reference to that part of the paper relating to the Panama debt, etc., I said to Mr. Cortes that Mr. Vasquez Cobo was mistaken in supposing that in the interview with him I had expressed any opinion whatever as to the application of the theory of the Argentine jurist, Carlos Calvo, to the case under consideration, or as to the amount of \$5,000,000 being the proper share for Panama to pay. I had already said that for the discussion of those questions a more specific statement of the claims of Colombia would be necessary, and I carefully refrained from either assent or dissent, or expressing any opinion, either as to the principle to be applied, or as to the amount to be considered, for the reason that I was not sufficiently informed upon the facts to form such an opinion.

November 8, 1906.

E. R.
[Elihu Root.]

¹ Inserted in pencil.

[Confidential.]

[Copy of Gen. Vasquez Cobo's statement to Mr. Cortes.]

Statement of general terms agreed upon confidentially at Cartagena on September 24, 1906, between Mr. Minister Root and Gen. Vasquez Cobo, acting as Colombian minister of foreign affairs, for a treaty between Colombia and the United States.

Says the memorandum:

In the first place a treaty similar to the treaty of 1846 will be celebrated with the United States. A treaty of peace, amity, commerce, and navigation.

Once the treaty with the United States has been celebrated, a treaty will be celebrated with Panama, and to this end Panama will send a confidential agent to Bogota to negotiate such treaty.

While the negotiations for these treaties are in course in Washington, where they will take place, Panama shall send a confidential agent to Bogota, provided the Government of Colombia signifies to Panama their acquiescence to receive him in the above-mentioned capacity. It is understood, however, that the said confidential agent shall not negotiate independently of the respective ministers who are to carry on this business in Washington.

The opportunity or convenience of sending the above-mentioned agent to Bogota is left to the decision of the Colombian minister in Washington.

Says the confidential memorandum:

First. The Government of Colombia will have at all times the right to convey through the canal its ships, troops, and materials for war, even in the case of an international war between Colombia and another country, without paying any duty to the United States.

While the interoceanic canal is in construction, Colombia will have the right to transport on the railway between Ancon and Cristobal, or on any other railway substituting that one, her troops, ammunitions, are materials for war, at all times, even in the case of an international war between Colombia and any other country, under the same conditions that this service is rendered to the United States.

The national employees transiting through the Isthmus will be entitled to a free passage in the railway.

Mr. Root thinks that the above clause No. 1 may be inserted in the treaty, but it should be necessary to treat the point between the United States and England on account of the stipulations of the Hay-Pauncefote treaty between the two Nations. Mr. Root believes that England will agree to this clause being stipulated between Colombia and United States.

Mr. Root will also see Mr. Taft, War Minister, on the matter, but thinks there is no reason to raise obstacles.

After writing the above, it was translated and read to Mr. Root, who agrees to its wording. In consequence, the above is to be considered as Mr. Root's genuine opinion.

Says the memorandum:

Second. Colombian products, such as provisions, cattle, etc., will enter, free of any duty, to the Canal Zone, where they can be sold, paying only the same duties paid by articles brought from the United States.

This clause was altered as below. Mr. Root mentions the intervention of the American commissariat, who is charged to supply provisions for the laborers in the canal. It was agreed as follows:

Second. Colombian products, such as provisions, cattle, etc., will enter free of any special duty to the Canal Zone, with the exception of the duties paid by similar American products in equal conditions.

The Colombian laborers employed in the zone, who may desire that their own families supply them with provisions for their personal use, shall declare them before the commissariat in order to obtain a previous permit of entry, and will enter free of any duty, provided it should be a bona fide operation, to the discretion of the commissariat.

The above clause refers to provisions that may be furnished by their families to laborers who are natives of the Colombian coasts. This clause is intended to give them opportunity for saving money. The bona fide clause is intended to prevent fraud.

Says the memorandum:

Third. Mails will have a free passage through the Canal Zone and through the post office of Ancon and Cristobal, paying only such duties as those paid by the United States mails.

In accordance with Mr. Root, this clause remains subject to the same proviso and remarks as the No. 1.

Says the memorandum:

Fourth. Colombian products, passing through the Isthmus Railway from and to Colombian ports, will pay a small duty, inferior, or at most equal to, the duty that Colombia used to pay before to the railway for the same service.

Sea salt, exclusively produced in Colombia, will pass through the railway free of charge whenever the Government of Colombia sends it, duly certified, from the Atlantic coasts to any Colombian port on the Pacific coast. Colombia will only pay shipment.

Mr. Root believes this clause may be accepted, but for the same reasons it remains subject to the same proviso and remarks as clause No. 1.

Says the memorandum:

Fifth. There will be a differential tariff favorable to Colombia similar to that existing with Cuba, for Colombian molasses and sugar, entering into the United States.

Mr. Root thinks it is impossible to agree to any differential tariff. It will meet with great opposition in the United States and will be rejected by the Senate. Mr. Root fears the whole treaty might be rejected on account of this clause.

Says the memorandum:

The United States will interpose its good offices in the arrangement between Colombia and Panama—Panama having to pay in a direct manner to Colombia

its corresponding share of the foreign debt and the rights that Colombia claims for the sale made by Panama to the United States of the interoceanic railway—and other rights that Colombia has in the zone and materials of the canal. There will be a free commerce between Colombia and Panama for national products.

On the above clause of the memorandum, Gen. Vasquez Cobo writes as follows:

About the treaty with Panama it was agreed that the United States will interpose its good offices for the arrangement between Colombia and Panama. The treaty with Panama will be celebrated in Washington. The United States will exercise its good offices for a special customs tariff between Colombia and Panama without implying, however, any imposition from the United States on Panama.

PANAMA DEBT.

Respecting the payment to be made to Colombia by Panama as her share in the foreign debt of Colombia and for the value of the Panama Railroad that Colombia claims as her own, everything will be settled in Washington.

I (V. Cobo) spoke to Mr. Root of Colombia's labors to benefit the Isthmus, the considerable amount of expenses incurred to keep up a respectable army in Panama; the victory obtained by Colombia in succeeding to have the Panama route selected for the canal, a victory of which Panama has become the sole beneficiary; her efforts in the intricate boundary question with Costa Rica finally audited in favor of Colombia, all to the benefit of Panama in the end. In this action it must be understood that the extensive region conceded to Colombia was recognized, not on account of local boundaries with the State of Panama, but on the lines of the general boundaries of the Virreinato de Nueva Granada.

Mr. Root said that the Panamenos mention payment of the debt on the basis of population. I objected, founded on the theory of the Argentine jurist, Carlos Calvo, which Mr. Root considered acceptable and appropriate to this particular case. He (Mr. Root) mentioned the amount of the Colombian debt, and when I mentioned \$5,000,000 as a proper share for Panama, he did not appear to consider it exaggerated.

I heard in Cartagena that Colombian laborers on the zone are paid lower wages than other nationalities. He seemed surprised and said it should be determined that Colombian laborers should be paid on the same basis as other nationalities, all circumstances being equal.

THE CHERRY BUSINESS.

I spoke to Mr. Root before Mr. Barrett on this matter. Neither of the two seemed to remember details. I explained the whole thing,

adding that the railway was being worked now by an American company, Mason & Co.

Mr. Root said he would instruct Mr. Barrett to treat the point with the creditors, and that he would endeavor to bring them to accept payment in foreign bonds (*valis de estrangeros*), as proposed by the Government.

I gather that Mr. Root is very favorably disposed toward us, as may be perceived by the speech he delivered in Cartagena.

Confidential memorandum for the consideration of Mr. Root and Mr. Buchanan on the subject of pending arrangements with Panama and the United States.

LEGACIÓN DE COLOMBIA,
Washington, January 3, 1907.

The most important items between Panama and Colombia have been the subject of my previous exposé de motif, which I had the honor to send you some time ago. There are other points connected also with the secession of Panama and the incidents connected with it previous and posterior to it. These incidents require a rearrangement of our relations with the United States, on the basis of certain stipulations, which have been presented to Mr. Root by the minister of foreign affairs in Cartagena. The whole train of stipulations between the three entities interested are so closely interdependent that I have dwelt on the idea of celebrating a tripartite treaty, embodying those stipulations referring to the three contracting parties which bear on the secession of Panama. I venture to suggest this idea for your consideration, as I believe it will have great weight on the final approval of the treaty by Panama and Colombia, the United States being a party to it.

Following, I beg to mention the points that should be included in the tripartite treaty, referring to Panama and Colombia. I leave out for further consideration all matters relating to commerce, navigation, etc., which may be the subject of long discussion. I believe that the urgent point for us all is to bring about an arrangement on the vital points, the recognition of the independence of Panama, and our position toward the United States.

Should this idea of a tripartite treaty be accepted, I would present a memorandum on this subject, stating the stipulations that, in my opinion, should be included in it, referring to our relations with the United States. Among these I will mention the matter relating to the islands of San Luis and San Andreas de Providencia, which I have reason to believe might be favorably considered by the United States.

POINTS TO BE INCLUDED IN THE ARRANGEMENT WITH PANAMA.

A. Boundaries between Colombia and Panama.

We take it that there is no other authority to follow in this matter than the Colombian law of June 9, 1855, which fixed the line of boundaries between the State of Cauca and the State of Panama,

which is also included in the official edition of the Geography of T. C. de Mosquera, published in London, 1866, as follows:

From the Atlantic, a line from Cape Tiburon $8^{\circ} 41'$ north latitude, $3^{\circ} 8'$ west longitude from Bogota to the head of the Rio de la Miel, and following the Cordillera by the hill of Gandi to Sierra de Chugargun and Sierra de Mali, going down by the hill of Nique to the heights of Aspavé and thence to the Pacific, between Cocalito and La Ardita; $7^{\circ} 12'$ north latitude, $3^{\circ} 37'$ west longitude from Bogota.

This line we are ready to accept.

B. We are perfectly willing and anxious to enter into an arrangement by which the citizens of both countries should enjoy civil and political rights in each of them as the natives. Likewise we are ready to enter into an arrangement facilitating the declaration of nationality of the citizens of the two countries residing in the other. There will be no difficulty on this matter, which we consider advantageous for the close union of the two countries.

C. We believe that a stipulation should be mentioned in the treaty by which Panama declares, in accordance with her action before the French tribunals, that she does not claim any rights to the property of 50,000 new Panama Canal shares granted to Colombia by the company in payment of the extension granted to it for the time to finish the canal.

As I have mentioned above, all the matters relating to commerce, navigation, postal extradition, etc., which require a good many details, will be a matter of arrangement between Colombia and Panama, once the tripartite treaty, as above mentioned, is duly signed.

Colombian Minister to Mr. Buchanan.

LEGATION OF COLOMBIA,
Washington, D. C., March 4, 1907.

MY DEAR MR. BUCHANAN: I beg to inclose two memorandums relating, the one to our question with Panama, and the other to our agreement with the United States. They embody the totality of the points at issue and may be considered as our final decision especially in regard to the amount to be paid by Panama.

I beg of you to consider them carefully, giving particular attention to my argument in Clause VIII of the Panama memorandum, by which I emphasize the position assumed—that is to say, that I refrain from dilating on each of the four points, throwing on the general consideration of justice and fair dealing whatever may be wanting in strength in each particular point.

Mr. Root mentioned that he should like to have a concrete statement of the whole of our demands; my memorandums contain it, and I hope they will receive his own and the President's due consideration.

As far as I can make out your opinion is favorable to my point of view as expressed in the said memorandums. I entertain the hope therefore that they will form the basis of the action to be taken by the American Government toward Panama, and that the matter will arrive at a speedy termination.

If Mr. Root and yourself still consider advisable the intervention of Mr. Cromwell, I expect that the matter will be taken up in earnest

on his arrival from Europe. I see by the newspapers that Panama will send Mr. Arango as envoy extraordinary and minister plenipotentiary, with full power to act in accordance with Mr. Obaldia on the matter. The newspapers mention under date of the 2d instant from Panama, that Mr. Arango will start next month. As his presence here might avoid the necessity of Mr. Cromwell's journey to Panama, I venture to suggest that a cable should be sent to Panama urging the departure of Mr. Arango as soon as possible, thereby gaining time.

This is an important matter as the Colombian National Assembly will meet in April next, and it will be very desirable that the treaty should reach Bogota before the assembly adjourns.

Hoping that you will give your very kind consideration to this matter, and with renewed assurance of my highest esteem, I remain, sir,

Your obedient servant,

ENRIQUE CORTES.

Hon. WILLIAM I. BUCHANAN,
Washington.

[Inclosure 1.]

Memorandum relating to a treaty between Colombia and the United States.

I.

Between Colombia and the United States there are two subjects for the celebration of a treaty. The first of them is the scope covered by the treaty of December, 1846, which must be abrogated and replaced by a similar one comprising only that part of it which does not refer to matters connected with the Isthmus of Panama and the guaranty of integrity of our nationality. The second subject refers to the stipulations which have been under examination and exchange of ideas between the two countries, as mentioned in the Cartagena memorandum (a copy of which is in the hands of Mr. Root), and all other points as derived from the separation of Panama.

In case the celebration of a tripartite treaty is considered feasible, as I believe it should, the second subject might properly be inserted in the treaty with Panama as developed in my memorandum on the Panama treaty of even date. If the tripartite treaty is abandoned, the whole matter might be embodied in a single instrument. I believe, however, that it will be rather awkward to properly fit in a general treaty with the United States many of the clauses pertaining to the second subject, especially if there are any respecting guaranty or assumption of payment by and through the United States of a part of the sum we claim from Panama. In a tripartite treaty, the intervention of the United States would appear as a natural development of the double character that they would assume in the instrument; on the one side as protectors of Panama, on the other, as sincere friends of Colombia.

Assuming that we may carry on the idea of a tripartite treaty, I beg to state the stipulations which would appear in it referring to the United States and Colombia.

I would refrain from argument, as the matter seems to have been accepted on principle by the United States, it remaining still in doubt the consent of Great Britain to some of its clauses, a matter which Mr. Root thinks will offer no difficulty.

II.

First. The Government of Colombia will have at all times the right to convey through the canal its ships, troops, and materials for war, even in the case of an international war between Colombia and another country, without paying any duty to the United States.

While the interoceanic canal is in construction, Colombia will have the right to transport on the railway between Ancon and Cristobal, or any other railway substituting that one, her troops, ammunitions, and materials for war, at all times, even in the case of an international war between Colombia and any other country, under the same conditions that this service is rendered to the United States.

The Colombian national employees transmitting through the Isthmus will be entitled to a free passage in the railway.

The above stipulations will be suspended in case of, and during a state of, war between the Republic of Colombia and either of the other two high contracting parties, the United States and the Republic of Panama.

III.

Second. National Colombian provisions and other national products such as mentioned in paragraph No. XIII of my memorandum of even date respecting the Panama treaty, will enter free of any special duty to the Canal Zone, with the exception of the duties paid by similar American products in equal conditions.

The Colombian laborers employed in the zone, who may desire that their own families supply them with provisions for their own personal use, shall declare them before the commissariat in order to obtain a previous permit of entry, and will enter free of any duty, provided it should be a bona fide operation to the discretion of the commissariat.

IV.

Third. All mail matter and post parcels will have a free passage through the Panama Railway and Canal Zone, and through the post office of Ancon and Cristobal, paying only such duties as those paid by the United States' mails.

V.

Fourth. Colombian products and goods of any kind passing through the Panama Railway, or any other connecting the two oceans within the Canal Zone, and destined to or coming from any Colombian port, will pay the same freight as was charged to Colombian goods in the same position by the Panama Railway up to the 2d of November, 1903. When the said products and goods from and to the same destination are transported through the Panama Interoceanic Canal, the charges for said transportation will be only the actual cost of transportation from one ocean to another deducting from the general

tariff whatever amount that may represent in it, interest on the capital, profit, or contingent depreciation, or losses in that transporting vehicles. When the canal should be open to the commerce a special agreement on the subject fixing the actual rates to be charged as above, will be concluded by a commission of two persons appointed one by each Government. On Colombian produced salt, sent per account of the Government from any Colombian port on the Atlantic to any Colombian port on the Pacific Ocean, the above charges shall be diminished 50 per cent.

VI.

Fifth. The Government of the United States shall instruct the Canal Zone commissionaires, or the respective authorities on the Canal Zone, to avoid all unfavorable discrimination on salaries paid to Colombian laborers or employees in the canal work, in such a way that in equal circumstances, Colombian laborers and employees earn the same salaries as are earned by those belonging to other nationalities.

WASHINGTON, D. C., *March 4, 1907.*

[Inclosure 2.]

LEGACION DE COLOMBIA,
Washington.

I.

Both the President of the United States and his worthy Secretary of State, in recent documents, have emphasized the necessity of justice and fair dealing in international relations, just as it is necessary in individual relations.

In our differences with Panama, there are weighty considerations of abstract and overspreading justice which cover and invigorate the whole ground of our claims. These considerations may be summarized as follows:

(a) That the secession of Panama was not the result of misgovernment or tyranny exercised on the Panamenos by Colombia.

(b) That it was not obtained like the independence of Cuba, of the American or the Spanish-American colonies, after years of struggle and sacrifices.

(c) That there does not appear any bona fide and trustworthy instrument or concerted action of long standing from the majority of the people of the Isthmus in favor of secession.

(d) That the movement was suddenly prompted, after the rejection of the Hay-Herran treaty by Colombia, by the action of the garrison of Panama, then in the pay of the Colombian Government, reenforced by a few influential persons in the Isthmus and by the expected protection of the United States.

(e) That the Colombian Government was prevented by the action of the agents of the United States from attacking the rebel forces.

(f) That there has never appeared in the Isthmus any show of opinion of any importance in favor of secession. So much so that even now there is a respectable mass of opinion favorable to the reinstatement of the old condition of things.

(g) That the real motive for the secession was the expected benefit to be derived by the seizure of the canal and railway works, and that therefore there is no consideration of intrinsic justice which may justify, under a moral point of view, the forfeiture by the Colombian Government of its prosperity on the Isthmus or any prospective rights of property acquired by the Colombian Government by previous instruments of long standing.

(h) That the efforts made successfully in Washington for the adoption of the Panama route for the canal, and the whole train of negotiations for the delimitation of boundaries with Costa Rica, have resulted in the exclusive benefit of Panama.

The above is mentioned as facts to bear on the points at issue and to show that they are unique in the history of the dismemberment of nationalities.

II.

Our differences with Panama are of two kinds, the one regarding future commercial and friendly relations, the other regarding actual claims on our part of a financial kind, which must be treated as a previous question to our recognition of their independence. The former will be a matter of future negotiations. The latter is to be settled at once, if we may come to terms.

III.

Our financial claims come under four heads:

1. The external debt.
2. The interior debt.
3. Claim for seizure and sale of the canal works and the Panama Railway.
4. Claim for expenses in the arbitration for boundaries with Costa Rica.

IV.

EXTERNAL DEBT.

The external debt of Colombia, contracted at the time of the war of independence, with the object of reimbursing the expenses incurred therein and the carrying on of the independent Government of the original nationality of Colombia, was divided among three nationalities, in the year 1834, in the proportion of 50 per cent to New Granada, 21½ per cent to Ecuador, and 28½ per cent to Venezuela, or in approximate proportion to the population of each nation.

Panama has manifested that she is willing to accept payment of a share of the external debt on the above proportion. With this point of view Colombia entirely disagrees, considering it at variance with equity and justice, for the following reasons:

It is pertinent to remark that the division of the foreign debt of the old Republic of Colombia, as finally agreed upon, was far from being accepted in an easy and speedy manner. In 1833, New Granada invited Venezuela to send an agent to Bogota for the purpose. The Venezuelan representative, D. Santos Michelena, proposed the proportion of population; the New Granada minister of

foreign affairs proposed to take as basis the wealth of each nation; Gen. Santander suggested the division in nine parts, allowing four to New Granada, three to Venezuela, and two to Ecuador; Señor Joaquín Mosquera proposed a combination of the wealth and population of each section. To all these proposals the Venezuelan envoy opposed a steadfast refusal, threatening his withdrawal from the conference, which was understood by eminent persons, among them the President, Gen. Santander, to mean a probable rupture with Venezuela. Under this pressure the conference accepted the division of the debt in the proportion of the respective population. The resistance to this arrangement was so strong in New Granada that its congress refused to ratify the treaty after stormy debates in the sessions of 1835.

In 1836 New Granada invited again her neighbors to meet and settle the point. To this invitation Venezuela gave a peremptory refusal, stating that she would not consider any other agreement than the one accepted originally in Bogotá.

In 1837, on the accession of Dr. José I. de Márquez to the presidency, he recommended the approval of the Pombo-Mechelena convention, which was finally accepted after protracted debates and influenced by the prospect of a rupture with Venezuela.

According to the eminent publicist, Carlos Calvo, "When a nation is divided in two without settling by special provisions the division of the obligations accepted by each party, these obligations should be divided between the two in equal moities." According to this doctrine a fair division on principle would be accepting each a half share in the charges.

It is of no use to invoke precedents as an argument. In the present instance the precedent quoted was adopted under peculiar circumstances after four years of consideration and angry debates and under the prospect of international complications.

The position between Colombia and Panama is an entirely different one. Panama is to get all the advantages, Colombia all the disadvantages. In 1834 the partners separated under a common agreement impelled by mutual advantages, after a joint struggle for independence in which the sacrifices and dangers had been borne in common. It was then pointed out as an argument for the division of the debt as agreed that New Granada was highly favored by the possession within her territory of the Isthmus of Panama, considered since then as destined to a brilliant future. Furthermore, the difference of population not being so considerable as between Panama and Colombia, it made the inequality in the respective share of the charges accepted less glaring than in the present instance. While the proposition of division then was as 1 to 2, it becomes now about one-tenth to Panama and nine-tenths to Colombia, supposing, for the sake of argument, that the whole population of the Republic is 4,000,000, divided, 400,000 to Panama and 3,600,000 to the rest of Colombia.

And what difference in the amount of advantages to one party and of loss to the other. Whilst Panama obtains \$10,000,000 in cash, a subsidy of \$250,000 a year, an interoceanic canal through her territory, and the protection of the most powerful nation in the world, Colombia sees its territory torn to pieces, its resources, its properties,

wrung from her, and its importance in the committee of nations materially diminished and injured.

Panama invokes the smallness of her territory and the scarcity of her population when it is a question of bearing charges, but ignores all these circumstances when it is a question of securing wealth and advantages.

There is a higher law than the law of precedent. Such a law is the law of justice and equity. To this law I appeal; and, for the furtherance of it, invoke the sense of fairness of our former brothers and the sense of equity and justice of the United States.

It has been stated that Panama did not share in the advantages accruing to the rest of Colombia by the expenditure of the foreign loan. This assertion is not well grounded. The independence of the several provinces of the Isthmus was brought about by the struggles and campaigns which secured the independence of Colombia, to which great nationality the isthmian provinces annexed themselves in 1821, seeking the protection and defense of the nation that had already secured her independence and started on a new career.

By the agreement with the English and Dutch bondholders and Colombia, signed in London on the 20th of April, 1905, Colombia has assumed the responsibility for the payment of the whole external debt and its interests, fixing the amount on the 30th of June, 1905, to—

Principal	£2, 700, 000
Interest to July 1, 1905.....	351, 000
	<hr/>
	3, 051, 000

Interest $2\frac{1}{2}$ per cent per annum up to January 1, 1906, and 3 per cent per annum the following coupons, payable 1st of January and 1st of July.

V.

INTERIOR DEBT.

During the time that Panama formed a part of Colombia especial advantages were secured for her: Commerce was free; no import duties were charged; \$25,000 annually out of the payment of the Panama Railway were delivered to the State; Columbia defraying all expenses on the Isthmus for salaries of upper functionaries, judiciary, military expenses, finance department, normal schools, etc. The ordinary disbursements amounted to \$13,500 per month, or \$163,000 annually. In case of war in the Isthmus, as was often the case, all expenses therefor were supported by the National Government.

Panama, as well as the other parts of the country, and often with special advantages, shared in our life, bearing the common burdens and advantages. When the financial necessities and interior disturbances obliged us to issue paper money, which became highly depreciated, Panama was not compelled to accept the forcible circulation of paper money, thereby inflicting considerable loss in placing gold on the Isthmus to attend to the administration expenses. Panama for a long time figured as an unimportant part of the whole nation, being considerably inferior to the rest of the Republic in

population, commerce, industry, and tax-burdened region. It was the respectability of the nation as a whole which gave importance to the Isthmus, and it was on that account that negotiations were carried on with the central Government for the important works which have become the temptation for the secession of the Isthmus—the Panama Railway and the interoceanic canal.

It seems therefore perfectly natural and just that Panama, having shared as she did in the advantages accruing from her connection with the rest of the Republic, share now a part of the obligations incurred by the whole nation in the work of maintaining and bettering the condition of the whole community.

The above shows our reasons for demanding that Panama assume a part of the internal debt of the country.

According to data received lately from Bogota, the internal debt is composed now of the following items:

Consolidated debt, nominal	\$2, 280, 000
Floating debt	1, 718, 000
Interior debt	1, 500, 000
Foreign bonds, foreign claims for war damages, other credits for last war	2, 000, 000
Nominal	7, 498, 000
The amount of paper money in circulation has been recognized to represent in gold	10, 000, 000
	17, 498, 000

We claim that Panama ought to accept her share in this indebtedness as she is inclined to do in the foreign debt.

VI.

SEIZURE AND SALE OF THE PANAMA RAILWAY AND CANAL WORK.

On the 17th of April, 1850, the first contract for the building of the Panama Railway was signed in Bogota, privilege 49, after 20 years' option for the Government to buy for five millions. On the expiration of the privilege the Government to become owner the (concessionary) company to pay the Government 3 per cent on profits.

Contract reformed August 15, 1867. The company to pay the Government \$250,000 annually, of which \$25,000 were passed over to Panama. Stipulated that freight on Colombian goods should pay half freight for 20 years and two-thirds thereafter. Railway to become property of the Government on the expiration of the privilege, which was extended to 99 years computed from the 30th of January, 1875. The contract for privilege expires 1974.

CANAL.

First contract made March 20, 1878. Colombia to share in an increasing rate from 5 to 8 per cent on the gross earnings of the canal, one-fifth to Panama. Guarantee that annual amount of same would not be less than \$250,000 annually.

Freedom of transport through the canal, Colombian ships, troops, and ammunitions of war. Reformed to May, 1878, the company to

pay \$10,000 monthly to Panama for payment of a garrison on the works. Fourth of April, 1893, all movable goods to revert to the Government in case of forfeiture. Other stipulations of the canal contract are well known to the American Government.

The above summary of stipulations embody contracts which secured for the benefit of the Colombian Government certain property of periodical payments and eventually to the ownership of certain portions of real estate on the Isthmus of Panama. The railway company obliged itself to pay certain amounts to the Government, provided it should be allowed to build a railroad through undisputed territory belonging to the Government of Colombia. This party complied with its obligations, and the railroad was built and worked, protected by the Government for several years. Likewise the Government obliged itself to allow the canal company to build a waterway in exchange for which the company undertook certain obligations. Panama was not the sole owner of the rights acquired by the Government of Colombia. She was a copartner in the ninth part of all rights and duties.

Suddenly without any state of war, without any quarrel or dispute, and only as a sequence to its severance from the mother country, Panama seizes the whole of the common property, sells it to the United States, and forcibly prevents Colombia from deriving any benefit from what was her own acquired by a good title, acquired lawfully, and never disputed. What justification can there be for this violent transfer of property, the sole one being apparently that the United States covers the seizure with her power and influence?

If we had passed through a war in which the railway should have been an engine of war, and we had been vanquished, it might be alleged that the chances of war legitimized the seizure of its elements, as it does with fortifications or war ships. Suppose a pater familias would acquire a property for the good of all the family, would one of the sons be justified in running away with the family chest or family jewels solely because they were at the reach of his hands?

We claim that the Government of Panama owes us a compensation for the illegal seizure of the railway and the canal works and for having entered into contracts and negotiations for property which did not belong to them.

VII.

COSTA RICA BOUNDARY DISPUTE.

The Government of Colombia, through long-winded negotiations and expense, brought to a successful issue the decision of this dispute, obtaining a highly favorable sentence from the arbitrator selected, the French President.

The arguments used in the suit were not in any way arguments derived from the authorities bearing on local boundaries with the Province of Veraguas, but were founded on documents, being on the general delimitation of the Nuevo Reino de Granada by Spanish cedulas and documents.

By the secession of Panama, she will become the exclusive beneficiary of actions carried on and invigorated by the Republic of Colombia.

The expenses on all these negotiations comes up to about \$100,000 gold.

VIII.

So far my argument and point of view in reference to our position toward Panama on the financial question. The sequel to this exposition should be the naming of the amounts that the Government of Colombia considers fair and just to be paid by Panama as a moderate share in the general charges of the nation, and settlement of all claims between the two parties. This amount will be mentioned farther on. Before coming to it I beg your dispassionate and careful consideration to the two following remarks:

First. On naming the amount, I have duly considered the substance of our private interviews with Mr. Buchanan and Mr. Obaldia, the resources of Panama, the circumstances of certain unsettled claims from Panama toward Colombia, and a sincere desire to further on and strengthening the ties of friendship and fraternal intercourse which are shared alike by the inhabitants of both countries.

Second. I believe that a discussion on each of the four points mentioned in Clause III of the above statement will lead us to interminable and embarrassing debate. I therefore formulate my demands leaving every one of the four sections for what it may be worth, as a part of the whole. I present this whole as a joint momentum to be permeated in its wholeness by the force derived from the considerations marked on Clause I of my statement under the letters A to H offered as an exposition of "weighty considerations of abstract and overspreading justice which cover and invigorate the whole ground of our claims."

If I may be allowed to employ a simile, I would compare the ground I have taken as representing a wheel, the spokes of which should be the four points mentioned in Clause III, each one contributing its own force whichever it may be, the totality of them to be held in position by the "abstract and overspreading justice" which is to act as a binding element just as a tire does to a wheel.

IX.

The Government of Colombia demands from Panama the payment of three millions of dollars gold, cash, under the guaranty of the United States and under the stipulations and formalities which should be agreed upon hereafter. This payment to be in settlement of all claims mentioned in this memorandum, said payment canceling all claims whatever that may appear subsequently or that may be unsettled yet, including any claims that may be put forward on account of damages by wars or state of war carried on in the territory of Panama from the year 1899 to the 3d of November, 1903.

Panama to declare her recognition of the property of Colombia in 50,000 shares of the new canal company, issued by said company in favor of the Government of Colombia, the certificates of which are lying in the hands of the new canal company.

X.

A stipulation should be agreed upon to the effect that all citizens of either of the two countries, residing in the other, should enjoy

equal political and civil rights as the natives, being however exempted from military service in the alien country. A prudential term should be fixed for the citizens of one country residing in the other at the time of the secession of Panama, to declare which of the two nationalities they choose to select.

XI.

According to the concordate concluded between Colombia and the Holy See, the former is to disburse \$100,000 annually to be devoted to the maintenance of Catholic seminaries, hospitals, and other beneficent works, and any buildings or other real estate formerly belonging to the Church and seized by the nation which had not been appropriated for any official purpose, should revert to the religious community to which it formerly belonged. I suggest that Panama should maintain her proportional obligation under the above, and that consequently she would continue to devote to that purpose the quota that was apportioned to the diocese of Panama by the convention of October 2, 1888, to wit: \$13,000 annually, and that the stipulation above mentioned, relating to real estate, should be complied with.

The justice and statesmanlike policy of this action do not require, in my opinion, further comment and I have no doubt that it will be readily accepted by Panama.

XII.

As there may possibly appear in either of the two countries movements tending to the annexation to the other of a part of their respective territories I propose, as a safeguard to both and as a means to avoid future causes of differences between them, that a stipulation similar to the one concluded between Colombia and Ecuador at the time of their separation in 1832, should be agreed upon.

Said stipulation runs as follows:

The States of New Granada and Ecuador, animated as they are by the best wishes to maintain forever the most complete harmony of neighborhood and good understanding, solemnly engage themselves to respect their respective boundaries as agreed. In consequence thereof New Granada shall never admit to form part of her nationality any group or groups of population which, separating themselves forcibly from Ecuador, seek annexation to New Granada; nor shall Ecuador admit any group or groups of population that, separating themselves forcibly from New Granada, seek annexation to the State of Ecuador.

XIII.

As a means of stimulating and strengthening the commerce between the two countries it is agreed that all natural products belonging to the three natural kingdoms, vegetable, mineral, and animal, the origin of which proceeds from either of the two contracting parties, shall not be submitted, on their importation into the other, to any duty whatever, such as customhouse duties, commercial tax, or any other collected at the time of and on account of their importation into the country. It is understood that such freedom of importation is to be applied to all natural products as above, provided

they had not been submitted to any manufacturing process subsequent to their usual preparation for the market. Mention is especially made of the following: Coffee, maize, rice, potatoes, wheat, barley, and all cereals, all kinds of fibers, tobacco in leaves, woods for building, furniture or dyeing, salt, platinum, gold, copper, iron, coals, live animals or in carcasses, etc.

The above exemption from duty on importation does not exonerate the articles mentioned from the payment of duties, national, departmental, or municipal, imposed on similar articles of home production in the respective country.

The above exemption from import duties does not apply to fat cattle of the bovine genus (*ganado vacuno*). By fat cattle is meant a live animal weighing above 400 kilos, the importation of which will be subject to the general regulations as to duty in the respective country.

XIV.

It should be stipulated that goods in transit through the territory of Panama other than the Canal Zone or Panama Railway shall not be subject to payment of any transit duty.

XV.

There shall be inserted in the treaty embodying the stipulations referred to in the present memorandum a special clause of amity and friendship between the two countries and recognition by the Republic of Colombia of the independence of the Republic of Panama, mentioning the boundaries between the two countries, as per the Colombian law of June 9, 1855, which fixed the line of boundaries between the State of Cauca and the State of Panama, which is also included in the official edition of the geography of T. C. Mosquera, published in London, 1866, as follows:

From the Atlantic, a line from Cape Tiburon 8° 41' north latitude, 3° 8' west longitude, from Bogota to the head of the Rio de la Miel, and following the Cordillera by the hill of Gandi to the Sierra de Chugargun and Sierra de Mali, going down by the hill of Nique to the heights of Aspave and thence to the Pacific, between Cocalito and La Ardita: 7° 12' north latitude, 3° 37' west longitude from Bogota.

XVI.

A stipulation should be inserted in this treaty to the effect that as soon as it is ratified by the two nations in the usual form and ratifications exchanged negotiations should be opened for a treaty or treaties on navigation, commerce, consular convention, postal and telegraphic conventions, parcels post, artistic, literary, and scientific property, extradition of criminals, etc., etc., etc. Meanwhile it is agreed that the citizens of each country shall enjoy in the other full legal protection in their persons and property; that both countries will solicit from the United States the good offices of their diplomatic and consular representatives in favor of their respective citizens of one country residing in the other; that the forwarding and transportation of mail matter and post parcels, in transit or originated in either country and destined to the other, shall be speedily attended to and cared for as if there existed a postal convention between the two countries.

WASHINGTON, D. C., *March 4, 1907.*

[Memorandum found with foregoing, but not stipulating as to which articles it refers.]

Once the canal open to commerce and its tariffs established, an agreement will be entered into by which a certain return of the canal transit duties paid by the carrying vessel will be made to the owner of goods landed at Colombian ports. Said return will be made on a fair calculation and deduction of that part of duties which does not affect the actual transit expenses.

Articles 15 and 17 of the Hay-Herran treaty to be maintained extending the exemption of duties on war vessels to vessels carrying the Colombian flag.

LEGACIÓN DE COLOMBIA,
Washington, D. C., Privado, March 7, 1907.

DEAR MR. BUCHANAN: I perceive that on page 17 of my Panama memorandum, Paragraph IX, the idea expressed in it might be construed in a contrary way to the idea I intended to convey.

I do modify said clause, which should read as follows after the word "hereafter":

This payment to be in settlement of all claims mentioned in this memorandum, it being understood that Colombia does not assume any responsibility in the settlement of any claims not presented against her up to the 3d of November, 1903, on account of damages by wars or state of war carried on in the territory of Panama from the year 1899 to the 3d of November, 1903.

I remain, dear Mr. Buchanan,

Yours, very sincerely,

ENRIQUE CORTES.

Secretary Root to Minister of Colombia.

APRIL 24, 1907.

MY DEAR MR. CORTES: I am sending you a copy of a letter and inclosure which I propose to send immediately to Mr. Obaldia, unless you see some objection.

Faithfully yours,

ELIHU ROOT.

Inclosures as above.

[Inclosure.]

Secretary Root to the Minister of Panama.

No. 53.]

APRIL 24, 1907.

SIR: As the Government of Panama is already aware, the Government of Colombia in June last suggested to the United States that the United States should use its good offices to bring about an arrangement between Colombia and Panama whereby the independence of Panama, which the United States had guaranteed, should be recognized by Colombia, and whereby such adjustments should be effected between Colombia and Panama as would naturally accompany a peaceable partition under which the economic and political relations of the people about to be separated and their respective

shares of the public obligations of the country about to be divided, are determined by agreement. The views of Colombia as to what such an agreement should provide included stipulations for equal political and civil rights; for reciprocal tariff concessions; for an obligation to respect the established boundary between the two countries similar to that adopted by Colombia and Ecuador at the time of their separation in 1832; and for a contribution by Panama toward the payment of the Colombian debt, taking into consideration certain claims of Colombia to continued property interests on the Isthmus, and taking into consideration, also, internal as well as external debts, and suggesting a sum very much in excess of that which Panama had advised the creditors of her willingness to pay immediately after the revolution in November, 1903. Colombia also proposed, as part of the same transaction, that there should be a new treaty of friendship and commerce between Colombia and the United States, which should include the grant to Colombia of certain privileges in connection with the use of the canal across the Isthmus similar to those stipulated for in the seventeenth article of the old unratified Hay-Herran treaty of January, 1903. The United States readily agreed to this proposal of Colombia, so far as the United States and Colombia were concerned. We did not, however, wish to assume the duty of presenting any proposals of Colombia to Panama without first being satisfied ourselves that they were reasonable and that it would be for the best interest of Panama to accept them. The whole subject of the relations which ought to be established between Colombia and Panama has accordingly been made the subject of extended informal discussion, including a great number of interviews, between Mr. Buchanan, Mr. Cortes, the minister of Colombia, and your good self, and between me and all the other gentlemen named; as well as between Mr. Barrett, the former minister of the United States to Colombia, and Mr. Vasquez Cobo, the Colombian Minister for Foreign Affairs, and between Mr. Vasquez Cobo and myself. During these discussions the Government of the United States became satisfied that the sum of \$6,000,000, which Colombia wished us to ask Panama to pay was, for various reasons, too large, being to some extent based upon property claims which we deemed inadmissible, and to some extent upon considerations relating to the internal debt, which did not include certain offsets on the part of Panama; and that in view of the importance of the cattle-raising industry in Panama the proposal of Colombia that all cattle should be placed upon the free list would not lead to an equitable result. Our informal representations upon these points have led to a modification of the Colombian position, so that Colombia is now willing to assent to an arrangement under which the sum of \$3,000,000, or one-half of the sum originally proposed, shall be taken as the full amount to be paid by Panama; and the proposed reciprocal exemptions of cattle from import duty shall be limited to lean cattle and shall not apply to cattle weighing above 400 kilos. The external debt of Colombia is stated at 3,051,000 pounds sterling, to which is to be added interest from July 1, 1905, to January 1, 1906, at $2\frac{1}{2}$ per cent per annum, and interest since the last-mentioned date at 3 per cent per annum. The internal debt is stated at \$17,498,000. It appears to this Government that the proposals of Colombia as thus modified, are reasonable, and that it is clearly for the interest of Panama to

accept them as a part of an arrangement which shall include the recognition by Colombia of the independence of Panama and the establishment of the relations of the two countries, which must always be so closely associated, upon an enduring basis of peace and mutual benefit. This Government therefore feels it to be due to the warm and peculiar friendship which exists between Panama and the United States, as well as to the ancient friendship which the United States has entertained for the Republic of Colombia and wishes to perpetuate, that the United States shall use its good offices in presenting these proposals to the Government of Panama, and expressing, as it now does, an earnest hope that they may receive favorable consideration.

I accordingly transmit herewith a literal copy of the last paper received from the Minister of Colombia stating these proposals in their present form, omitting, however, certain matters of argument which were relevant only to the previous discussion that it would not now be useful to reproduce.

Accept, Mr. Minister, the renewed assurance of my highest consideration.

ELIHU ROOT.

Inclosure as above.

I.

[Inclosure.]

The Government of Colombia demands from Panama the payment of three millions of dollars gold, cash, under the guaranty of the United States and under the stipulations and formalities which should be agreed upon hereafter. This payment to be in settlement of all claims mentioned in this memorandum, it being understood that Colombia does not assume any responsibility in the settlement of any claims not presented against her up to the 3d of November, 1903.

Panama to declare her recognition of the property of Colombia in 50,000 shares of the New Canal Co., issued by said company in favor of the Government of Colombia, the certificates of which are lying now in the hands of the New Canal Co.

II.

A stipulation should be agreed upon to the effect that all citizens of either of the two countries, residing in the other, should enjoy equal political and civil rights as the natives, being, however, exempted from military service in the alien country. A prudential term should be fixed for the citizens of one country residing in the other at the time of the secession of Panama to declare which of the two nationalities they choose to select.

III.

According to the concordat concluded between Colombia and the Holy See, the former is to disburse \$100,000 annually to be devoted to the maintenance of Catholic seminaries, hospitals, and other beneficent works, and any buildings or other real estate formerly belonging to the church and seized by the nation, which had not

been appropriated for any political purpose, should revert to the religious community to which it formerly belonged. I suggest that Panama should maintain her proportional obligation under the above, and that consequently she would continue to devote to that purpose the quota that was apportioned to the diocese of Panama by the convention of October 2, 1888, to wit, \$13,000 annually, and that the stipulation above mentioned, relating to real estate, should be complied with.

The justice and statesmanlike policy of this action do not require, in my opinion, further comment, and I have no doubt that it will be readily accepted by Panama.

IV.

As there may possibly appear in either of the two countries movements tending to the annexation to the other of a part of their respective territories, I propose as a safeguard to both, and as a means to avoid future causes of differences between them, that a stipulation similar to the one concluded between Colombia and Ecuador at the time of their separation in 1832 should be agreed upon.

Said stipulation runs as follows:

The States of New Granada and Ecuador, animated as they are by the best wishes to maintain forever the most complete harmony of neighborhood and good understanding, solemnly engage themselves to respect their respective boundaries as agreed. In consequence thereof, New Granada shall never admit to form part of her nationality any group or groups of population which, separating themselves forcibly from Ecuador, seek annexation to New Granada; nor shall Ecuador admit any group or groups of population that, separating themselves forcibly from New Granada, seek annexation to the State of Ecuador.

V.

As a means of stimulating and strengthening the commerce between the two countries it is agreed that all natural products belonging to the three natural kingdoms, vegetable, mineral, and animal, the origin of which proceeds from either of the two contracting parties, shall not be submitted, on their importation into the other, to any duty whatever such as customhouse duties, commercial tax, or any other collected at the time of and on account of their importation into the country. It is understood that such freedom of importation is to be applied to all natural products as above, provided they have not been submitted to any manufacturing process subsequent to their usual preparation for the market. Mention is especially made of the following: Coffee, maize, rice, potatoes, wheat, barley and all cereals, all kinds of fibers, tobacco in leaves, woods for building, furniture, or dying, salt, platinum, gold, copper, iron, coals, live animals or in carcasses, etc.

The above exemption from duty on importation does not exonerate the articles mentioned from the payment of duties, national, departmental, or municipal, imposed on similar articles of home production in the respective country.

The above exemption from import duties does not apply to fat cattle of the bovine genus (*ganado vacuno*). By fat cattle is meant a live animal weighing above 400 kilos, the importation of which will be subject to the general regulations as to duty in the respective country.

VI.

It should be stipulated that goods in transit through the territory of Panama other than the Canal Zone or Panama Railway, shall not be subject to payment of any transit duty.

VII.

There shall be inserted in the treaty, embodying the stipulations referred to in the present memorandum, a special clause of amity and friendship between the two countries and a recognition by the Republic of Colombia of the independence of the Republic of Panama, mentioning the boundaries between the two countries, as per the Colombian law of June 9, 1855, which fixed the line of boundaries between the State of Cauca and the State of Panama; which is also included in the official edition of the geography of T. C. Mosquera, published in London in 1866, as follows:

From the Atlantic, a line from Cape Tiburon 8° 41' north latitude, 3° 8' west longitude from Bogota to the head of the Rio de la Miel, and following the Cordillera by the hill of Gandi to the Sierra de Chugargun and Sierra de Mali, going down by the hill of Nique to the heights of Aspave and thence to the Pacific, between Cocalito and La Ardita, 7° 12' north latitude, 3° 37' west longitude from Bogota.

VIII.

A stipulation should be inserted in this treaty to the effect that as soon as it is ratified by the two nations in the usual form and ratifications exchanged, negotiations should be opened for a treaty or treaties on navigation, commerce, consular conventions, postal and telegraphic conventions, parcel post, artistic, literary, and scientific property, extradition of criminals, etc. Meanwhile it is agreed that the citizens of each country shall enjoy in the other full legal protection in their persons and property, that both countries will solicit from the United States the good offices of their diplomatic and consular representatives in favor of their respective citizens of one country residing in the other, that the forwarding and transportation of mail matter and post parcels, in transit or originated in either country and destined to the other, shall be speedily attended to and cared for as if there existed a postal convention between the two countries.

Minister of Colombia to Secretary Root.

[Private.]

LEGATION OF COLOMBIA,
Washington, D. C., April 25, 1907.

MY DEAR SIR: I have the honor to acknowledge receipt of your communication dated yesterday, which reached my hands at 6 o'clock p. m., accompanying the draft of a letter you purpose sending immediately to Mr. Obaldia, unless I see some objection.

In answer I have great pleasure to express my satisfaction at the course you consider acceptable for the United States to follow in the matter of the relations between my country, the United States, and Panama. Your proposed letter to Mr. Obaldia is a fair and unbiased exposition of the question at issue, doing honor to the Government of the United States. I have nothing to reflect upon it, as a few personal remarks of slight importance might be considered later

on. I accept it with a sense of sincere appreciation and with the desire that its forwarding should not be delayed. I return herein the drafts you accompanied to your note, and remain, dear Mr. Root,
Sincerely, yours,

ENRIQUE CORTES.

Telegram of the Colombian Minister to his Government.

[Shown to Department of State but original not on file.]

[Substance.]

MAY 10, 1907.

States his private opinion that the only mode of obtaining rapid conclusion and assuring ratification of treaty by Panama will be to eliminate commercial clauses, putting them over for another treaty; to sign tripartite treaty with guaranty of the United States of payment of money and recognizing the canal shares as Colombian property; boundary limits to be fixed as by the law of 1855. Adds he hopes to obtain \$3,000,000, which was the ultimatum according to his instructions.

[Confidential.]

WAR DEPARTMENT,
Washington, August 17, 1907.

MY DEAR MR. WILSON: I herewith send you the originals of the protocols signed by the United States and Colombia and by Colombia and Panama. I have sent copies of them to Mr. Root and to the President. The originals were in quadruplicate.

Very sincerely, yours,

WM. H. TAFT.

Hon. HUNTINGTON WILSON,
Third Assistant Secretary of State.

Inclosure.

PROTOCOL FOR A TREATY BETWEEN COLOMBIA AND PANAMA.

The undersigned, to-wit, Enrique Cortes, envoy extraordinary and minister plenipotentiary of the Republic of Colombia in the United States, and José Agustin Arango, envoy extraordinary and minister plenipotentiary of the Republic of Panama in the United States; the two entities they represent being equally animated by the desire to remove the obstacles to the good understanding of the two entities, to adjust their pecuniary and other relations to each other and to mutually secure the benefits of amity and accord, have determined to sign this present protocol by which it is agreed that a treaty shall be prepared and in due course signed, embodying in substance the following provisions and such others as the parties may then mutually agree upon; and that the preparation of the same shall for the mutual convenience of the parties begin at the latest from the month of December next, and to be carried on so as to finish early in the year 1908:

I. In and as a part of said treaty the Republic of Colombia to recognize the independence of Panama and to acknowledge it as a sovereign and independent State.

II. There shall be mutual and inviolable peace and friendship between the respective Governments and peoples.

III. The Republic of Panama will assign and pay over to the Republic of Colombia and its assigns and nominees the first ten installments of \$250,000 each, gold, becoming due to Panama from the United States on the 26th days of February in the years 1908 to 1917, inclusive, under Article XIV of the treaty between the United States and Panama exchanged February 26, 1904, and under and pursuant to the amendment thereof to be embodied in a treaty of even date between said Nations, whereby said Article XVI is to be amended by substituting therein the words "four years" for the words "nine years," so that the first annual payment therein provided for shall begin four years from the exchange of said treaty instead of nine years from that date, in such manner that the said installments shall be paid by the United States of America directly to Colombia, its assigns and nominees for account of Panama, beginning as from the 26th of February, 1908. In consideration of the payments and releases by Panama, Colombia recognizes and agrees that Panama has no liability upon and no obligation to the holders of its extenal and internal debt, nor to Colombia by reason of any such indebtedness. Colombia recognizes and agrees that it is itself solely obligated for such external and internal debt; assumes the obligation solely to pay and discharge the same; and agrees to indemnify and hold harmless the Republic of Panama from any liability and expense in respect of such external and internal indebtedness.

IV. Each Republic releases and discharges the other from all pecuniary claims, indebtedness of every character, including the external and internal debt of Colombia, the one upon the other on the 3d day of November, 1903, it being understood that such mutual release relates to the national concerns only and not individual rights or claims of the citizens of either Republic.

V. The Republic of Panama recognizes it has no title or property in the 50,000 shares of capital stock of the New Panama Canal Co. standing on the books of that company in the name of Colombia, and Panama confirms the renunciation of all claims and titles thereto heretofore made by it in legal proceedings pending in the courts of France.

VI. The Republic of Colombia and the Republic of Panama reciprocally agree that the citizens of either of the two Republics residing in the other shall enjoy the same civil rights from time to time accorded by them, respectively, to citizens of any other nation, it being understood, however, that the citizens of either of the two Republics residing in the other shall be exempt from military service imposed upon the citizens of such Republic.

VII. The Republic of Panama shall never admit to form part of her nationality, any group or groups of population which, separating themselves forcibly from the Republic of Colombia, seek annexation to the Republic of Panama; nor shall the Republic of Colombia admit any group or groups of population which, separating themselves forcibly from the Republic of Panama, seek annexation to the Republic of Colombia.

VIII. As soon as a treaty between the parties hereto and the contemporaneous treaties of even date between the United States of America and the Republic of Panama and between the United States of America and the Republic of Colombia shall be ratified and

exchanged, negotiations shall be entered upon between Panama and Colombia for the conclusion of an additional treaty covering questions of commerce, postal, telegraph, copyright, consular relations, extradition of criminals, and the like.

IX. It is expressly understood and agreed that the treaty when made between the parties hereto shall not become operative, nor its provisions obligatory upon either party until and unless treaties between the Republic of Colombia and the United States of America and between the United States of America and the Republic of Panama are both duly concluded and are exchanged, after ratification, simultaneously with the exchange, after ratification of the treaty between the parties hereto.

X. This protocol shall be treated as of a confidential character as between the parties and their people, and therefore the particulars thereof shall be withheld from publicity.

Done at the city of Washington the 17th day of August, 1907, in quadruplicate.

ENRIQUE CORTES.
J. A. ARANGO.

The foregoing protocol has been examined by the United States, which hereby approves the same.

Dated at Washington, August 17, 1907.

WM. H. TAFT,
Secretary of War.

(In behalf of the United States by direction of the President.)

PROTOCOL FOR A TREATY BETWEEN UNITED STATES AND PANAMA, AT
WASHINGTON, AUGUST 17, 1907.

The United States of America and the Republic of Panama, mutually desirous to facilitate the construction, maintenance, and operation of the interoceanic canal across the Isthmus of Panama, and to promote a good understanding between the nations most closely and directly concerned in this highway of the world's commerce and thereby to further its construction and protection; and it having also been found desirable in the practical working of the treaty exchanged between the United States and the Republic of Panama on the 26th day of February, 1904, to amend and supplement the same in certain respects, and through their representatives, José Augustin Arango, envoy extraordinary and minister plenipotentiary of the Republic of Panama in the United States, and William H. Taft, Secretary of War of the United States, acting for the United States; and both thereunder duly authorized, have determined to sign this protocol, by which it is agreed that a treaty shall be prepared and in due course signed, embodying in substance the following provisions and such others as the parties may then mutually agree upon, subject to the provisions of Article II; and that the preparation of the same shall, for the mutual convenience of the parties, begin in the month of December next.

1. It is mutually agreed between the said parties that Article XIV of the treaty exchanged between them on the 26th day of February, 1904, be, and the same is hereby, amended by substituting therein the words "four years" for the words "nine years," and accordingly the United States agrees to make the annual payments therein pro-

vided for beginning four years from the exchange of said treaty instead of nine years from that date.

The United States consents and agrees that Panama may assign and transfer in advance to Colombia and to its assigns or nominees the first 10 annual installments of \$250,000 each, so falling due under said treaty, as thus amended, on the 26th day of February, 1908, to the 26th day of February, 1917, both inclusive, and its right and title thereto, and upon the direction and acquittance therefor of the Republic of Panama will pay said 10 installments as they, respectively, fall due directly to Colombia for account of Panama.

II. As a consideration for the entering into of this agreement, it is hereby agreed between the United States and Panama that the so-called *modus vivendi* embodied in the reciprocal Executive orders of December 3, 6, 16, 28, 1904, and January 5, 1905, made by the Secretary of War, with the approval of the President, on the one part, and on the other by the President of Panama, on the 6th day of December, 1904, and which have proven so satisfactory in operation, shall be made the basis for a modification and definition of the rights of the parties under the treaty between the United States and Panama exchanged February 26, 1904, in so far as the contracting parties shall agree in a formal treaty, it being understood that unless agreement is reached upon the provisions of this article, neither this protocol nor the protocol between Colombia and Panama of the same date shall be binding.

It is, however, stipulated and agreed that Panama may increase its *ad valorem* import duties from 10 per cent (as in said orders provided) up to 20 per cent, and that provision to this effect shall be embodied in the treaty.

III. The United States and Panama reciprocally agree that citizens of either of the two Republics residing in the other shall enjoy the same civil rights accorded to the citizens of the Republic within which they reside, it being understood that citizens of either of the two Republics thus residing in the other shall be exempt from military service imposed upon the citizens of such Republics.

And the United States further agrees that the Republic of Panama and the citizens thereof shall, upon their request, have and be accorded equal privileges, rights, and advantages in respect to the construction, operation, and use of the canal, railroad, telegraph, and other facilities of the United States within the Canal Zone and in respect of all other subjects relating thereto, operating within or affecting the Canal Zone or property and persons therein, as may at any time be granted by the United States in accord with said treaty, directly or indirectly, to any other nation or the citizens thereof, it being the intention of the parties that the Republic of Panama shall be with respect thereto placed at least on equal footing with the most favored nation and the citizens thereof.

IV. It is expressly understood and agreed that the treaty, when made between the parties hereto, shall not become operative nor its provisions obligatory upon either party until and unless treaties between the Republic of Colombia and the Republic of Panama and between the Republic of Colombia and the United States are both duly concluded and are exchanged, after ratification, simultaneously with the exchange, after ratification, of a treaty between the parties hereto.

Done at the city of Washington the 17th day of August, 1907, in quadruplicate.

WM. H. TAFT,
Secretary of War
(By direction of the President).
J. A. ARANGO.

Colombian Minister to Secretary Root.

AUGUST 18, 1907.

DEAR SIR: I have had the honor of an interview with your excellency on the 16th instant at the Hotel Gotham, in New York, in reference to the treaty I am in the course of negotiating with Panama for the recognition of her independence by Colombia.

The attitude lately assumed by Mr. Cromwell, representing Panama, on the matter of boundaries has been a great surprise. A line of boundaries is suggested, perfectly unwarranted by any title or document whatever and which we could not, under any circumstances accept.

This matter of boundaries was carefully studied by Mr. Buchanan, who came to a conclusion favorable to Colombia's line of demarcation, thus informing the Department of State. Your excellency himself has studied the point and become convinced that our line of limits with Panama was the one fixed by the law of New Granada of June 9, 1855. To this effect I have received from you on sundry occasions complete and unmistakable assurances.

Said line of limits is the same that appears in the official edition of the war office map of the Republic of Panama, to wit:

From Cape Tiburon to the headwaters of the Rio de la Miel and following the mountain chain by the ridge of Gandi to the Sierra de Chugargun and that of Mali going down by the ridges of Nique to the heights of Aspave and from there to the Pacific between Cocalito and Ardita.

The matter was referred to in our interview, you being good enough to suggest that it would be a wise course, in view of the latest developments in negotiating with Panama, to leave out entirely all reference to the boundaries with Colombia. My answer was that I was willing to follow your advice, but that in order to prevent possible differences with Panama I ought to have a letter from you stating the views of the United States and which were the boundaries with Colombia that they have recognized and acted upon. Your excellency's answer was in the sense that the United States will have no difficulty in recognizing, by a letter to me, the fact referred to and that you consider as our limits with Panama those fixed by the law of June 9, 1855.

On this assurance of yours I came to Washington yesterday to meet Mr. Secretary Taft, on his last day in this town, and we did come to an agreement with himself and the representatives of Panama, embodying the general lines of a treaty to be signed about the end of the year simultaneously with other treaties with the United States and Colombia and Panama.

Acting as agreed with you, I hereby come to respectfully request a statement of the views of the United States respecting the line of boundaries between Colombia and Panama, so as to define the extent of territory covered by the protectorate of the United States according to article 1 of the treaty with Panama.

Mr. Gozman, the secretary of the legation, is ready to proceed to Bogota, taking with him the protocol agreed to yesterday, in order to explain the whole history to the Government. I would, therefore, esteem it a favor if you would give an early answer on receipt of this. I am also about leaving for Europe on important business.

I have the honor to remain, with high regards,

Your excellency's obedient and humble servant,

ENRIQUE CORTES.

Secretary Root to the Colombian Minister.

WHITE PLAINS, N. Y., August 26, 1907.

HON. ENRIQUE CORTES,

Minister of Colombia, Waldorf Astoria, New York.

MY DEAR MR. CORTES:

I have the honor to acknowledge the receipt of your letter of August 18, 1907, in which you state the substance of an interview between us at the Hotel Gotham, in New York, on the 16th instant: "The description of the boundary line of Panama as described in the law of New Granada of June 9, 1855," and request a statement of the views of the United States regarding the boundary between Colombia and Panama in accordance with the oral statement made by me at our interview.

Your account of what occurred at the interview agrees entirely with my recollection, and I now confirm what I then said to you orally that the view of the United States is that the boundary between Colombia and Panama is that described in the above-mentioned law of New Granada of June 9, 1855. This is the view originally reached by Mr. Buchanan and concurred in by me, and a careful examination of the various papers which have been adduced during the recent negotiations has not seemed to me to furnish any just ground for a change of this view, which you may regard as the matured and definite position of the Government of the United States.

I am, my dear Mr. Cortes, with kindest regards, always,

Sincerely, yours,

ELIHU ROOT.

Colombian Minister to Secretary Root.

[Translation.]

LEGATION OF COLOMBIA,

Washington, D. C., December 5, 1907.

MR. SECRETARY: I have the honor to advise your excellency of the return to this city of Senor P. Guzman, first secretary of the legation, who, as I informed your excellency at the time, went to Bogota to deliver to my Government the protocol signed in August last by me and by Senor Jose Agustin Arango, concerning the preliminary bases for the conclusion of a treaty between Colombia and Panama, an agreement to which your excellency's intervention has been of so great importance.

Senor Guzman has brought me my Government's instructions concerning the views set forth in the protocol and the final conclusion of the treaty.

The Government of Colombia finds the general bases we have arrived at satisfactory, and upon examination of the protocol and of the note your excellency addressed to this legation from White Plains under date of August 26 last, which defines the position and views of the American Government touching the boundary between Colombia and Panama, his excellency, the President of Colombia, was pleased to record in the minutes of the council of ministers which examined those documents the satisfaction with which the Government of Colombia views the highly honorable and cordial manner in which the Secretary of State of the United States, the Hon. Elihu Root, acted toward Colombia in the course of those negotiations, a declaration it affords me special pleasure to bring to your excellency's knowledge.

My Government offers various general remarks, some about the elucidation of certain points which seem ambiguous in the protocol, and must be clearly defined in the treaty, others, of a different nature, which I had the honor to discuss with the Secretary at our last interview.

I shall defer the thorough examination of every one of those remarks until your excellency submits the draft of treaty, in accordance with our private agreement, and I firmly cherish the hope that, considering the friendly dispositions which animate the Government and people of Colombia and my own sentiments as well as the special complaisance with which your excellency has received this matter, we shall achieve results that will bring to both countries mutual satisfaction and honor.

With sentiments of the highest consideration, I have the honor to be your excellency's

Very obedient and humble servant,

ENRIQUE CORTES.

Secretary Root to Colombian Minister.

No. 45.]

DEPARTMENT OF STATE,
Washington, December 17, 1907.

SIR: I have the honor to acknowledge the receipt of your note of the 5th instant in which you advise the department that the secretary of your legation, Señor Guzman, has returned from Colombia with the instructions of your Government regarding the proposed treaty between Colombia and Panama.

I have the honor, in this connection, to inclose a copy in Spanish of the draft of this treaty, submitted to the department by the chargé d'affaires ad interim of Panama.

Accept, sir, the renewed assurance of my highest consideration.

ELIHU ROOT.

Inclosure:

Inclosure in personal note of Panaman chargé, December 10, 1907.

[Translation.]

DRAFT OF A TREATY WITH THE REPUBLIC OF COLOMBIA.

The Republic of Panama and the Republic of Colombia, which constituted a single nation up to November 3, 1903, and which have

since then separated for reasons of expediency, being desirous of putting an end to the irregular character of their relations, of winding up the affairs which originated during their common political existence in the past, and of establishing general rules to govern their future relations, have conferred their full powers for this desirable purpose, to wit: The Republic of Colombia on Mr. Enrique Cortes, its envoy extraordinary and minister plenipotentiary at Washington, and the Republic of Panama on Mr. José Agustín Arango, its envoy extraordinary and minister plenipotentiary in the same city, in which took place the negotiations regarding the friendly and mutually acceptable mediation of the Government of the United States of America; who, after exchanging their respective full powers and finding them in good and due form, have agreed on the following articles:

ARTICLE I. The Republic of Colombia respects the desire of the people of Panama to form an independent Nation, and therefore recognizes the sovereignty and independence of the Republic of Panama since 6 o'clock in the afternoon of November 3, 1903.

ART. II. There shall be perfect and perpetual peace and sincere and inviolable friendship between the Republic of Panama and the Republic of Colombia, and they shall maintain that respect and mutual consideration for each other which is necessary for the preservation of such peace and friendship.

ART. III. The Republic of Panama cedes and transfers to the Republic of Colombia, or to whoever represents the rights of the latter in due and lawful form, the first 10 annual payments of \$250,000 gold coin each which it is to receive from the United States of America on the 26th day of February of each of the years from 1908 to 1917, both inclusive, in accordance with Article XIV of the treaty between the Republic of Panama and the United States of America, the ratifications of which were exchanged on February 26, 1904, and with the modification of said article which is agreed upon between them in another treaty signed on this same date, which modification consists in substituting the words "four years" for the words "nine years," so that the first annual payment is to be made four years after February 26, 1904 (the date of the exchange of ratifications of the aforementioned treaty), and the 10 annual payments are to be paid directly to Colombia by the United States of America.

ART. IV. In consideration of the cession of these payments and of the tacit and express pecuniary renunciations which the Republic of Panama makes in favor of the Republic of Colombia, the latter recognizes and agrees to declare, and does hereby declare, that the Republic of Panama is under no obligation or responsibility toward the bondholders of the external or internal debts of the Republic of Colombia or toward those who may have claims against the Republic of Colombia, whatever be the nature of such claims, or toward Colombia herself by reason of such debts or claims, since Colombia recognizes and agrees that she is alone responsible for these claims and external and internal debts, assumes the obligation to pay them herself, and pledges herself to guarantee the Republic of Panama against any responsibility or cost on account of the said claims and external and internal debts.

ART. V. Each of the contracting Republics discharges and liberates the other from any pecuniary claim or obligations of what-

soever nature, including the internal and external debt of Colombia, which one may have had against the other on November 3, 1903, it being understood that this mutual discharge comprises only the national debts and claims of either against the other and that there are expressly excepted therefrom the bills or claims of the citizens or corporations of either of the parties against the treasury of the other, which bills or claims remain in full force and validity and shall be attended to duly and promptly.

ART. VI. The Republic of Panama renounces and abandons any right which it may have now or in the future to the 50,000 shares in the new Panama Canal Co. which appear in Colombia's name on the books of said company at Paris, and it hereby confirms the relinquishment of its claim thereto which it made in the suit pending before the courts of France.

ART. VII. The citizens of either of the two contracting Republics residing within the territory of the other shall enjoy the same civil rights as may be granted from time to time by the laws of the country to the citizens of any other nation; they shall not be subject to any greater obligations than these latter, and shall be exempt from all military service.

ART. VIII. Both contracting Republics agree that neither of them shall permit any portion of the territory of the other which may be separated from it by force to form part of their national territory.

ART. IX. As soon as this treaty and those which have been signed at the same time as it between the Republic of Colombia and the United States of America and between the Republic of Panama and the United States of America have been ratified and the ratifications thereof exchanged, the Republics of Panama and Colombia shall enter negotiations for the conclusion of commercial, postal, telegraphic, copyright, consular, extradition, and other conventions which may be considered necessary for the regular maintenance of the good relations between the two countries.

ART. X. This treaty shall not be binding on either of the contracting parties, nor shall it have any validity, until and unless the treaties signed on this same date between the Republic of Panama and the United States of America and between the Republic of Colombia and the United States of America are both duly ratified and their ratifications exchanged simultaneously with the exchange of the ratifications of this treaty.

In witness whereof, we, the plenipotentiaries of each contracting Republic, have signed it and sealed it with our special seals in the city of Washington, on the ——— day of the month of ——— of the year one thousand nine hundred ———.

Colombian Minister to Secretary of State.

[Translation.]

No. 277.]

LEGATION OF COLOMBIA,
Washington, D. C., December 20, 1907.

MR. SECRETARY OF STATE: Conforming to the course which I am instructed by my Government to pursue in everything that pertains to the pending negotiations for the recognition of the independence