

a rule that does not require residence. In order to determine the right to the choice the treaty permits, only two elements are taken into consideration; first, birth; and second, residence on the date when the separation took place. So, therefore, a native Panamanian, who on the said date was residing within our present territory, may now choose Colombian nationality and this whether or not he has continued to be domiciled in Colombia. But a native Panamanian who did not have such a residence can not choose Colombian nationality unless in accordance with our constitution; that is to say, by adopting said nationality by applying for letters of naturalization. This provision of the treaty, providing for the collective naturalization of Panamanians and Colombians, establishes nothing extraordinary, seeing that we know of like regulations having been adopted when the differences were settled which arose on account of the cession of the Territory of Louisiana, the annexation of Texas and Hawaii, when the treaties of Florida and Frankfort were celebrated, when the treaties between Spain and the United States were settled after the war of 1898, and in many other cases which it would be too long to enumerate.

Article 9 determines the frontier between the two Republics. This question of boundary was one to which the Government gave the greatest attention, as I have already indicated, on account of its intrinsic importance. At all hazards, the Government desired to determine the boundary, and that such determination should be made in accordance with what Colombia insisted should be considered as the norm of demarcation; that is to say, the Colombian law of June 9, 1855, which fixes the following limits between the Departments of Cauca and Panama:

From Cape Tiburon to the headwaters of the River Miel, and following the Cordillera by the Cerro de Gandi to the Sierra de Chugargum, then the Sierra de Mali, following down the Cerros de Nigue to the Heights of Aspave, and from there to the Pacific between Cocalito and La Ardita.

The Panaman Legation based its claims on the decree by the President of New Granada, Thomas C. D. Mosquera (of August 7, 1847). This decree provisionally fixed the boundaries of the territory of Darien as follows: On the east, the River Atrato from its mouth to its confluence with the Napipi; on the south, the latter river throughout its course, and a straight line from its source to the Bay of Cupica and the Pacific Ocean.

In contending for the boundaries according to the decree of Gen. Mosquera, the Panaman Legation in Washington in reality did nothing more than revive the old lawsuit between the State of Cauca and Panama, a lawsuit which the Supreme Federal Court decided against the latter on January 12, 1864.

The only point upon which we could permit discussion was on the determination of whether this or that portion of territory was or was not included within the line thus fixed, such line having been accepted in principle. This is what has been done with the region that extends from the Heights of Aspave to the Pacific Ocean; that is to say, the region of Jurado. Although the line provided by the law of 1855 must end between Cocalito and La Ardita on the Pacific Ocean, said law does not fix the exact point of such termination. Such a circumstance, added to various others which made it conven-

ient for our interests to accept arbitration in the manner provided for by the treaty, decided the Government to agree on the terms of article 9. This article leaves our territorial rights perfectly assured over the splendid region drained by the Atrato and its tributaries, a region which is undoubtedly one of the most valuable of the territory of Colombia. Further, the constitution of the tribunal of arbitration, immediately after the ratification of the treaty and the brief periods fixed for the reaching of the decision, still further guarantees us, if it is necessary, that no disagreeable questions will remain to be resolved in the future between the two Republics.

Article 7 of the treaty, which provides that neither of the two Republics shall admit to form part of its nationality any part of the territory of the other which may be separated by force, embodies a prohibition which it would be very desirable to be adopted as a principle of American international law.

You will permit me, in conclusion, and as a supplement to the succinct analysis which I have just made of the two treaties, to say something to you in regard to their negotiation as a whole.

There have been those who believe that the question originating in the session of Panama is to be carefully kept alive by us as a heritage hereafter to be converted into an inexhaustive mine of various benefits for Colombia. It was said that we ought to leave to time and its evolutions and its possibilities the arrangement of the break of November 3, 1903. The Government, on the contrary, believed that the protection of the great interests of the Republic which the Constitution had intrusted to it required it to seek a prompt solution of the important problems whose gravity would not diminish by delaying their solution. Isolation is perhaps possible between two widely separated countries, but it is not admissible for two neighboring peoples, between whom exists in fact a daily interchange which in our own interests ought to be normalized. Communion between the peoples of the world is to-day so intimate on account of the bonds which the development of civilization has created that it is not now possible, as it was formerly, to adjourn indefinitely the arrangement of situations arising from facts. International history during the last decades shows this clearly to us, and it would be in vain for us to undertake to be blind to the lessons of history and to refuse to recognize its philosophy by opposing to the universal acquiescence of the nations of the world a stubborn negative which would injure our own interests. The first thing to do is, without any delay, to trace between the fragment of territory which has been segregated from our fatherland and the territory that remains to us the line which will indicate the boundary that can not be crossed without once again attacking our sovereignty. In view of the kind of territorial guaranty that the Republic of the United States has given Panama, no Colombian can disguise from himself the advisability of knowing immediately just how far this guarantee extends.

The feeling in favor of our rights which at first seemed to appear among some North American thinkers and which was the origin of a pleasant hope did not increase at all. The dignified though warm appeal made by the Chief Magistrate of Colombia, the enlightened Marroquín, in his telegram of November 3, 1903, to the President of the Senate in Washington, when he said: "In behalf of justice,

Colombia appeals to the dignity and honor of the American Senate and people," remains to this day without any echo, and the verdict of the American people has rather confirmed than condemned the international policy of their Government.

Why, therefore, adjourn the matter if adjournment up to now has in no way bettered our painful situation?

When the Herran-Hay treaty was presented in 1903 in the Colombian Senate, the hall of the legislature resounded with the eloquent voice of Colombian patriotism that saw in this treaty a manifest attack on our Constitution and on the most important attributes of our sovereignty. There have been few times in the course of our national life when parliamentary debates have been inspired by such a sacred fire, and very few times when what was loyally believed to be the defense of national interests honor was defended in our tribune with greater heat.

History will tell whether the Senators of 1903 were or were not mistaken, but it will always show that their purposes were high and their patriotism pure. *Frangi, non flecti*, was their motto. We who as governors or legislators are to-day about to put an end to this vitally important litigation, perhaps would have also placed our austere negative on the pan of the balance in view of the problem and the circumstances of that time, even though we may have feared that the shock of such a negative with the great interests that were already interested in our Isthmus, might have destroyed our sovereignty there. Let us render this tribute of justice to the Senate of 1903 and hope that posterity will likewise do so.

It will be for that same posterity, it will be for time with what we call its surprises and which really are nothing except the logical consequences of historical fact, to say whether the shock that then broke the territory of the nation, and—something far worse—that broke the profoundest and most delicate national Colombian feelings, was nothing more than the first of the shocks which perhaps will take place between nations, between continents, between civilizations, even there amidst those same seas to whose borders Bolívar once summoned the nations to unite themselves around the fecund standard of law and peace. February 5, 1900, the date of the Hay-Pauncefote treaty, which replaced the Clayton-Bulwer treaty, and the 3d of November, 1903, the date of the secession of Panama, are perhaps nothing more than the initial dates of a new and vitally important chapter in the history of humanity.

Following out its marvelous purposes, Providence reaches its serene solution of the most arduous problems of nations as well as individuals; from evil it derives good, as it extracts as from the germs of to-day's dissolution the life of to-morrow. The profound emotion that convulsed the Colombian people, Government, and Congress in 1903, has become less and less before the unscaleable wall of accomplished and accepted facts; the problem has been resolved by the joint action of inevitable causes; the painful alternative which the Senate of 1903 had before it, already does not exist for you, and I do not believe I am mistaken in saying that the very Senators of 1903, were they to-day in your chairs, would give their approval to the treaties I am submitting to you. Such approval has, with complete realization of his responsibility, been given by the author

of the memorial of complaints, who is to-day President of the Republic. Feeling upon himself all the weight of duty in these solemn moments, he may recall the words of Thiers when the latter, finding it necessary to temper by the serene calm of the negotiator the indignant speech of the orator protesting against the dismemberment of France, exclaimed: "I would have believed that Providence might have spared me the performance of such a painful duty."

Honorable deputies, the Executive trusts the serenity of your high opinion, and through me presents you the accompanying drafts of laws ratifying the treaties.

FRANCISCO JOSE URRUTIA.

BOGOTA, *February 22, 1909.*

Minister Dawson to Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Bogota, March 1, 1909.

Colombian minister at Washington has already telegraphed ratification by the Senate of the United States. Opposition developing. The enemies (?) of the President attacking the assembly, demanding elected congress and the amendment Jurado (?) clause. Ratification is certain unless Reyes weakens. Final vote, it is hoped, by Friday.

DAWSON.

Minister Dawson to Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Bogota, March 10, 1909.

March 10, 6 p. m. Student demonstrations against the treaties yesterday. The President of Colombia has issued a decree to-day confiding maintenance order to minister of war.

Motion to postpone consideration of the treaties has been defeated, 40 to 6.

DAWSON.

Minister Dawson to Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Bogota, March 14, 1909.

March 14, 12 noon. José Holguín assumed presidency 13th. Anti-Reyes street riots all day and all night. Holguín postponed indefinitely consideration of the treaties. Reyes reassumed presidency morning of 14th; Vasquez Cobo, minister of war. State of siege declared in Bogota. Nicholas Perdomo commanding troops. Artillery in plaza. Rumors disturbances in the Provinces. Civil war possible. At the present moment city quiet.

DAWSON.

Secretary Knox to American Minister at Bogota.

[Telegram.]

DEPARTMENT OF STATE,

Washington, March 15, 1909.

Continue to report by telegraph. It would be deplorable if this outbreak should disturb the ratification of the treaties.

KNOX.

Colombian Minister to Secretary Knox.

No. 52.]

LEGATION OF COLOMBIA,

Washington, March 16, 1909.

SIR: Referring to the ratification by Colombia of the treaties concluded with the United States of America and Panama, I beg to inform your excellency as follows:

On the 8th instant I had a cable from Bogota stating that the treaties should be presented immediately to the National Assembly, with a very elaborate report from the committee demanding their immediate ratification without modification. The cable added that the Government expected the treaties should be approved by the unanimous vote of the Assembly. I did not hear anything else until the evening of the 14th instant, when I received a cable stating that the Government had decided, in view of numerous manifestations of public opinion in the country, to suspend the consideration of the treaties by the National Assembly and submit them to a new-elected Congress, that should be called for immediately. The cable adds that the Government expected by this process to obtain a more solemn approval of the whole nation. There was a strong opinion in favor of the treaties, and the Government were exercising their best endeavors, feeling confident that they should be approved. The Government desires to inform you of the contents of this cable.

On receiving this cable I felt very uneasy and became sure that something had taken place which had altered the course of the business as I had been previously advised.

I immediately cabled, demanding explanation, expressing my regret at the change advised, and urging for an immediate answer.

On the following day, yesterday, the secretary of the legation called on Mr. Wilson to inquire if you had any news.

Mr. Wilson was good enough to give us a copy of the cable you had received. It appeared evident that my surmise was correct, and that something serious had happened. So far I have received no further news which I am expecting instantly.

I beg, however, to call your attention to the fact, which is apparent by the contents of the cables mentioned, that the Government continues strenuously to bring about the final approval of the treaties, assuming energetic action on the matter in a loyal and straightforward manner.

I am expecting further developments; meanwhile my opinion is that although a little later than was anticipated the treaties will be approved without any modification whatever.

I have the honor to present to your excellency the assurance of my highest consideration.

ENRIQUE CORTES.

Hon. PHILANDER C. KNOX,
Secretary of State, State Department.

Minister Dawson to Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Bogota, March 16, 1909.

March 16—5 p. m. City continues quiet. No confirmation Saturday's rumors provincial disturbances. The assembly meeting daily. Has not acted upon Holguin's attempted postponement treaties. President of Colombia just announced to the diplomatic corps that he has determined to remain as such and that the assembly would reject his resignation. The agitation against the treaties dying down. I am still hopeful ratification.

DAWSON.

Secretary Knox to Minister Dawson.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 17, 1909.

Date. Your telegram of March 16, 5 p. m., received. You may informally express to President Reyes our cordial sympathy and our confidence that he will do all possible to bring about the approval of the treaties, and thus consummate the good relationship we so earnestly desire.

KNOX.

Minister Dawson to Secretary Knox.

[Telegram.]

AMERICAN LEGATION,
Bogota (undated)
(Received Mar. 18, 1909).

It is important, and perhaps decisive for ratification, that the Panama minister and the Colombian minister exchange notes defining limits of Jurado. Opposition is also laying stress on ambiguity sixth article of the treaty with the United States, caused by placing the comma after "Refugio" instead of "Comercio."

Minister for foreign affairs of Colombia requests me to ask authorization to hold myself in readiness to write a note saying that use conceded is understood to be only as that right of refuge recognized by international law, to be subject to the usages established by international law with regard to right of refuge, and not as involving any breach of Colombian sovereignty over her ports.

DAWSON.

Secretary Knox to Minister Dawson.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 19, 1909.

Date. Your undated telegram received 18th concerning punctuation and intent of article 6. Colombian minister has also brought the matter to my attention. The comma in the Spanish text is obviously misplaced. Equivalence to sense of the English text requires comma after *comercio* and none after *refugio*. The change can be initialed on the original by the Colombian minister and Mr. Root, and you can do the same with the Colombian minister for foreign affairs on his text.

You are authorized to write the Colombian minister in the sense you suggest concerning the use of Colombian ports for shelter in case of stress or need for vessels using or bound for the canal. We understand that all the first part of article 6 does is to recognize the long-standing doctrine of international law concerning the friendly shelter of vessels in stress or need plus a gracious waiver of anchorage or tonnage dues which Colombia could rightfully impose by virtue of her sovereignty over such ports.

KNOX.

[Memorandum.]

DEPARTMENT OF STATE,
March 19, 1909.

Referring to Mr. Dawson's telegram.

The comma in the Spanish text of article 6 is obviously misplaced. To render the sense of the equivalent English text, the comma should be after "*comercio*" and there should be none after "*refugio*." This change is immaterial and can be made by Mr. Cortes and Mr. Root simply initialing it on the margin of the original signed treaty here.¹

Article 6 merely grants the use of Colombian ports as places of refuge (shelter would have been a better word) in case of stress or need, for vessels passing through or bound to pass through the canal.

That such use is merely by favor and without prejudice to the sovereignty of Colombia is shown by the rest of the article which (1) subjects the granted favor to Colombia's duty to enforce neutrality in time of war; and (2) by granting the further favor of exemption from anchorage or tonnage dues, which, without such concession, Colombia would collect in virtue of her sovereignty.

I can see no possible objection to Mr. Dawson exchanging notes with the Colombian minister for foreign affairs in the sense of the concluding paragraph of his telegram. We understand that all the article does is to recognize the standing doctrine of international law concerning the friendly shelter of vessels in stress or need plus the

¹ Mr. Dawson and the minister can do the same at Bogota.

concession of exemption from anchorage or tonnage dues in such case.

(Note that the privilege is not in favor of American vessels as such, but favors all vessels, of whatever flag, using or bound to use the canal.)

Secretary Knox to Minister Dawson.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 19, 1909.

Referring to your telegram received 18th and department's reply of to-day. We sincerely hope that any difficulty about defining the limits of Jurado will not interfere with the ratification of the treaty. There seems to be some difficulty here about the Panama minister being willing to exchange notes, although I have not yet had an opportunity to talk to him.

KNOX.

Secretary Knox to Colombian minister.

WASHINGTON, March 19, 1909.

SIR: In your recent conversations with me you have acquainted me with the telegraphic advices you have received from your Government concerning questions of punctuation and of interpretation which have arisen with respect to article 6 of the United States-Colombia treaty, signed January 9 last, and which questions it would appear advisable to dispose of in order to facilitate the consideration of that convention by the Congress of Colombia.

Minister Dawson has also cabled to me in the same sense.

Upon examination of article 6 I find that the comma in the Spanish text of article 6 is obviously misplaced. To render the sense of the equivalent English text the comma should be after "comercio" and there should be none after "refugio."

This change is immaterial and can be made by Mr. Root and yourself initialing it on the margin of the original signed treaty in this department. Minister Dawson and the Colombian minister for foreign affairs can do the same with the treaty in Bogota.

As to the second point, Minister Dawson writes that the minister for foreign affairs of Colombia requests that he be authorized to hold himself in readiness to write a note saying that the use conceded is understood to be only as that right of refuge recognized by international law to be subject to the usages established by international law with regard to right of refuge and not as involving any breach of Colombian sovereignty over her ports.

As this Government understands it, article 6 merely grants the use of Colombian ports as places of refuge (in the sense of shelter) in case of stress or need, for vessels passing through or bound to pass through the canal.

That such use is merely by favor and without prejudice to the sovereignty of Colombia is shown by the rest of the article which

(1) subjects the granted favor to Colombia's duty to enforce neutrality in time of war; and (2) grants the further favor of exemption from anchorage or tonnage dues, which, without such concession, Colombia would collect in virtue of her sovereignty.

There would seem to be no possible objection to Mr. Dawson exchanging notes with the Colombian minister for foreign affairs in the sense suggested in his telegram. We understand that all the article does is to recognize the standing doctrine of international law concerning the friendly shelter of vessels in stress or need, plus the concession of exemption from anchorage or tonnage dues in such case.

I am sending a telegram to Minister Dawson in the sense of this note, and I trust that this will remove the impediment which has arisen.

Be pleased to accept, sir, the renewed assurances of my distinguished consideration.

P. C. KNOX.

Secretary Knox to Colombian Minister.

Serial No. 82.]

DEPARTMENT OF STATE,
Washington, March 22, 1909.

SIR: I have the honor to acknowledge the receipt of your note of the 16th instant, in which you advise the department that on the 14th instant you received a telegram from your Government announcing that the consideration of the treaties concluded between the United States and Colombia and Colombia and Panama would be suspended and submitted to a newly elected Congress which would be called immediately.

You express your opinion that the treaties will be approved without modification although a little later than was anticipated.

I have the honor to say in reply that the department appreciates the cordial sentiments you express, and sincerely trusts that the situation in Colombia will not cause untoward delay in the ratification of the treaties, thus consummating the good relationship for which this Government has so earnestly labored and which it so eagerly desires.

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

P. C. KNOX.

Colombian Minister to Secretary Knox.

No. 59.]

LEGATION OF COLOMBIA,
Washington, D. C., March 22, 1909.

SIR: I have the honor to acknowledge receipt of your communication dated on the 19th instant.

Your letter refers to our conversation regarding the contents of Mr. Dawson's cable to your excellency, transmitting the requirements of the Colombian minister of foreign affairs as to the meaning of Article VI of the treaty between Colombia and the United States signed on the 9th of January last. Said requirements are twofold. On the one part a matter of punctuation, suppressing the comma after the word "refugio" and putting it after the word "comercio."

On the other part, as to the meaning of the right of refuge granted to vessels passing through or bound to pass through the canal. The Colombian minister of foreign affairs desiring Mr. Dawson to hold himself in readiness to write a note to him saying that "the use conceded is understood to be only as that right of refuge recognized by international law to be subject to the usages established by international law with regard to right of refuge and not as involving any breach of Colombian sovereignty over her ports."

As to the first point, your excellency accepts the suggestion as to punctuation, mentioning that by such alteration the Spanish text becomes equivalent to the English text. Furthermore, you mention that by initialing the text by Mr. Root and myself here and by Mr. Dawson and the minister of foreign affairs in Bogota all formalities will be fulfilled. I beg, in consequence, to ask your kindly advising me when may I call on you for the purpose of initialing the treaty.

As to the second point, your excellency explains the concession granted, as understood by the American Government, to mean the use of Colombian ports as places of refuge (in the sense of shelter) in case of stress or need for vessels passing through or bound to pass through the canal, and your excellency further adds—

That such use is merely by favor and without prejudice to the sovereignty of Colombia is shown by the rest of the article, which (1) subjects the granted favor to Colombia's duty to enforce neutrality in time of war, and (2) grants the further favor of exemption from anchorage or tonnage dues, which, without such concession, Colombia would collect in virtue of her sovereignty.

Your excellency further adds that—

There would seem to be no possible objection to Mr. Dawson exchanging notes with the Colombian minister for foreign affairs in the sense suggested in his telegram. All the article does (you add) is to recognize the standing doctrine of international law concerning the friendly shelter of vessels in stress or need, plus the concession of exemption from anchorage or tonnage dues in such case.

Mention is made in your note of your sending a telegram to Minister Dawson in the sense of your note, trusting that it will remove the impediment that has arisen.

It affords me much pleasure, Mr. Secretary, to recognize and duly appreciate your readiness in disposing of the matter in question and the fair and clear manner in which you recognize the position, all which is entirely satisfactory and concurs with the views of my Government as to the complete maintenance of Colombia's sovereignty over her ports not being in any manner affected by the concession as to right of refuge granted in article 6 of the Colombia-United States treaty of 9th of January.

I beg to present to your excellency the expression of my highest consideration.

ENRIQUE CORTES.

Minister Dawson to Secretary Knox.

[Telegram.]

AMERICAN LEGATION,
Bogota, March 23, 1909.

March 23, 1 p. m. Your telegram of March 19, 7 p. m. Colombian minister for foreign affairs says that he believes when the assembly

approves the treaty with Panama it will adopt a resolution declaring that "Region of Jurado" does not extend south of Jurado River. He says such a resolution would enormously facilitate Government's labors to secure approval. Desires your opinion.

DAWSON.

Colombian Minister to Secretary Knox.

[Translation.]

No. 62.]

LEGATION OF COLOMBIA,
Washington, D. C., March 24, 1909.

MR. SECRETARY: I have the honor to forward to your excellency a copy of the message sent by the President of the Republic of Colombia, Gen. Rafael Reyes, to the national assembly respecting the treaties concluded with the United States of America and the Republic of Panama, from which document your excellency will see the keen interest with which the President recommends the approval of the treaties to the assembly.

I avail myself of this other opportunity to renew to your excellency the expression of my highest consideration and to subscribe myself the Secretary's very humble obedient servant.

ENRIQUE CORTES.

[Translation.]

Honorable members of the National Constituent and Legislative Assembly:

The minister of foreign relations will lay before you the treaties signed at Washington on January 9 last by our minister, Senor Don Enrique Cortés and the plenipotentiaries of the United States and Panama, the Hon. Elihu Root and Senor Don Carlos Constantín Arosemena.

After all, this important and delicate negotiation began in Washington with the note addressed on the 23d of December, 1903,¹ to his excellency the Hon. John Hay, Secretary of State of the United States, by the mission over which I had the honor to preside and of which Gen. Don Jorge Holguín, Don Pedro Nel Ospina, and Don Lucas Cabellero were members.

In concluding these treaties our legation at Washington kept within the instruction sent it by the Government through the various ministers in charge of the department of foreign affairs under this administration, and justice demands recognition of the patriotism and intelligence with which our present minister to the United States, Senor Don Enrique Cortés, has conducted and carried to a successful issue those negotiations.

I cherish the hope that the Colombian people will, when it knows them, give them its decidedly favorable verdict, since the Government, in concluding them, has borne in mind not only its interests and conveniences but also its mandates.

Indeed, the board of commissioners of commerce, agriculture, and industry of the departments assembled at Bogota in July, 1906, for

¹ Printed in S. Doc. 95, 58th Cong., 2d sess.

the treatment of economical questions alive at that time and of great importance, whose members belonged to every political party and are furthermore favorably known for their high political and social standing in our community, unanimously approved at its session of July 12, 1906, the following motion:

The undersigned commissioners of commerce, agriculture, and industry, of the departments of Narino, Cauca, Antioquia, Bolivar, Atlantico, and Magdalena, which are the departments of which some abut on the Pacific and others on the Atlantic Ocean, declare to the Government the necessity of promptly adjusting, in an honorable way acceptable to Colombia, the questions pending with the United States and Panama and asks that this motion, which has been drawn up in accord with the minister of foreign relations, be taken up by the board.

CELEDONIO PIÑERES.
OSCAR A. NOGUERA.
LUCIANO HERRERA.
RICARDO RESTREPO, C.
LEONARDO TASCÓN.

Very respectable organs of the press have welcomed this motion with applause. and public opinion, in possession of the knowledge needed to form judgment on so grave a subject, was not long in bringing its preponderating influence to bear in the same sense, as is evidenced by a multitude of documents circulated in printed form, which may reasonably be considered as the result of a great plebiscite.

The Government considering, in a way, that relations with foreign nations are part of domestic policy, conscious of its duties and responsibilities, and at the same time interpreting the national will and looking after the moral and material interests of the country in its charge, never ceased in the last five years to labor with the greatest zeal for an honorable and suitable settlement of so delicate a question, and believes it has succeeded in this with the treaties that are submitted to your enlightened examination and are approved by it without any restriction.

R. REYES.

BOGOTÁ, *February 22, 1909.*

Minister Dawson to Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Bogotá, March 26, 1909.

March 26, 3 p. m. Referring to your telegram of March 19, 6 p. m. Notes exchanged and the comma inserted in the Spanish text. The assembly will continue about fortnight. Elective congress will assemble on the 20th July. Country is quiet.

DAWSON.

Minister Dawson to Secretary Knox.

[Telegram.]

AMERICAN LEGATION,
Bogotá, March 27, 1909.

March 27, 6 p. m. Upon the recommendation of the President of Colombia, the assembly to-day referred the treaties to Congress in

July. This sudden change due to serious threats of civil war and violence against the members of the assembly by the treaty opponents in Bogota and Santander. Congressional elections will be held May 30. If the Government win and peace meantime unbroken Reyes hopes for approval by Congress.

DAWSON.

Minister Dawson to Secretary of State.

[Edited.]

No. 247.]

AMERICAN LEGATION,

Bogota, March 29, 1909.

SIR: Referring to the subject of my No. 244, of March 8, 1909,¹ and of my telegrams of March 10, March 13, March 14, March 16, March 17, March 18, March 19, March 23, March 26, and March 27—the discussion of the ratification by Colombia of the treaties with the United States and with Panama, and the political disturbances incident thereto—I have the honor to report that on March 6 and 7 many clandestine meetings were held by those opposed to the Reyes government and to ratification, and plans matured for popular demonstrations to be made as soon as the expected majority report of the committee should be presented.

On March 7 I sought a personal interview with the President. His words were confident, but his manner indicated irresolution. He was plainly nervous.

On March 8 the majority report was presented and published, a copy of which is inclosed. It was written by Antonio José Restrepo. Of the 18 members of the committee 14 favored unconditional ratification, 3 ratification with amendments, and 1, Francisco de P. Matéus, ex-minister for foreign affairs and many times plenipotentiary for his country during the last quarter of a century, opposed the treaty en bloc. He read a minority report, a copy of which is inclosed. This minority report was not then published, but the purport of its inflammatory assertions that the treaties were deceitfully drawn so as to give the ports of Cartagena and Buenaventura to the United States, and that the boundary arbitration provision in regard to the Juradó region meant that the United States and Panama intended to grab all the territory through which a canal up the Atrato could reach the Pacific, spread like wildfire, and his bitter denunciation of the attitude of the United States when Panama declared her independence found a ready echo among the excitable and easily-prejudiced people of this capital.

That evening, March 8, the students of the different university schools, with the knowledge and encouragement of many of their professors, including Dr. Luís Felipe Calderón, nephew of the President and brother of Clímaco Calderón, who, as minister of foreign affairs in 1905 and 1906, began the negotiations looking toward these very treaties, made demonstrations throughout the city. On the morning of March 9 the streets were filled with excited crowds of people and bands of students and young men crying

¹ Not printed; unimportant.

"Down with the treaties," "Death to the traitors of Panama," "Death to the United States," "Viva Matéus," "Death to Restrepo," etc. They made demonstrations of approval at the house of Matéus and Nicolás Esguerra, and of disapproval at the house of Antonio José Restrepo.

At 2 o'clock in the afternoon, while I was writing in the legation office, about 40 students came to the legation door and, upon its being opened by the servant, they all crowded in. Hearing the noise I went into the reception room and sent them word that I would see them there. They came politely enough and three leaders, representatives respectively of the faculties of law, medicine, and arts, made speeches, the substance of which was that since liberty of the press did not exist in Colombia under Reyes's administration they had no other means of letting me know that they as well as all other honest Colombians were opposed to the treaties because Colombia's recognition of Panaman independence would dishonor and disgrace her, and because the assembly, which had them under consideration, was an unconstitutional body whose members had been appointed by the President and whose servile cooperation was assured by the granting of offices and favors. I briefly called their attention to the fact that it would be improper for me, as a foreign representative, to discuss with private individuals the merits of the treaties; that I could assure them that the Government and people of the United States were animated only by friendly sentiments toward the Colombian people and earnestly desired for them the blessings of prosperity and peace. Happily, the spirit of personal politeness and decorum, so characteristic of Colombians, prevented their saying anything insulting about the United States in my presence, and they retired without anything disagreeable happening. I took no measures to communicate the incident to the authorities, but shortly afterwards heavy detachments of police were placed in front of the legation and at the four corners of the block in which it is situated. About half past 6 in the evening a great crowd assembled at one of these corners, probably with the intention of making a new demonstration, but their leaders were arrested. Throughout the afternoon disorders continued in various parts of the city, and there were numerous arrests.

The excitement, disorders, and arrests continued on March 9, but so far as I could see then, or have since heard, no further attempts were made to demonstrate against this legation. The rioters, however, were with difficulty restrained from acts of violence against members of the assembly. In the afternoon there was an acrimonious debate in the assembly upon a motion to definitely postpone the consideration of the treaties. The minister for foreign affairs was kind enough to send me word that he thought it would be better for me not to be present since I might hear very disagreeable things about my country. Such things were, in fact, said, as I have been informed by members of the diplomatic corps who were present, who also assured me that nothing was said reflecting upon the official or personal conduct of Mr. Barrett or myself. For the most part the Government deputies sat silent except Antonio José Restrepo, who made the mistake of demanding that the galleries be cleared upon the first sign of disagreement with his remarks. This incident greatly excited public feeling against him.

In the afternoon the President offered the ministry of war to Fernández, the ruthless Conservative general who, when in charge in 1901 and 1902, executed so many Liberals. He declined, and Perdomo, another Conservative general, of much the same type and record, was named. Perdomo's appointment was received with a storm of indignation and was withdrawn. Reyes issued a decree intrusting the maintenance of order in the city directly to the minister of war, and the first popular impression was that he was going resolutely to suppress the disorders and pass the treaties. However, it has since transpired that a threatening telegram had just been received from the military chiefs in Santander (a copy is inclosed). Many members of the assembly and the cabinet were becoming frightened, and others thought they saw an opportunity to push Reyes out of the presidential chair and themselves get into control. Friends of Jorge Holguín almost openly advocated his elevation to the Presidency, and it is certain that he strongly advised the President to throw the treaties overboard.

The student demonstrations continued on March 11, and the lower classes also began to take part, and while arrests were numerous the prisoners were in all cases soon released and no really vigorous measures taken to restore order. On that day still another new cabinet was announced, Jorge Holguín being admitted to it and named Designado or successor to the Presidency. In the assembly the discussions of the treaties continued. The minister for foreign affairs, Dr. Urrutia, made a strong speech in their favor, a copy of which is inclosed, but the majority members of the assembly were evidently weakening. Just before the session closed a vote was forced on the first and second articles of the treaty with Panama, and they were approved by 43 to 3: Corral, Quijano Wallis, and Matéus.

On March 12 Gen. Vázquez Cobo was elected to the presidency of the assembly in place of Holguín, who assumed charge of the ministry of the treasury. Telegrams from officeholders all over the country continued to pour in asking that the treaties be ratified, but since it was well known that these telegrams were sent in response to Government solicitation they produced little effect. In the absence of freedom of the press or any other organ of public opinion, it was impossible to tell what the real opinion of the country was, and it was certain that the populace in the Provinces was even less informed than that in Bogota of the substance and real intent of the treaties. Rumors of disorders at various points were current, and by common consent the assembly dropped the consideration of the treaties and waited for Reyes to take decisive action.

On the morning of the 13th President Reyes made an attempt to reduce the students to a better frame of mind by inviting some of them to the palace, but instead of discussing the treaties the speakers for the students reproached the President for his financial policies, his establishment of monopolies, his suppression of the freedom of the press, and his refusal to give Colombia an elective congress. Living as he has done for the last four years, in an atmosphere of enforced adulation, not accustomed to hear criticisms or suggestions, the President took this in very bad part.

Shortly thereafter he hastily wrote his resignation and sent it to the assembly. The news astounded everyone, and it is impossible even yet to be sure what motives inspired him.

Holguín took oath as Acting President and named a new cabinet, in which Nicolás Esguerra, now the most prominent Liberal in the country, was included. Carlos Cuervo Márquez became minister of war. Holguín at once sent a message to the assembly advising it to refrain from further consideration of the treaties. Urrutia resigned as minister for foreign affairs. Esguerra and another recently appointed Liberal refused to accept. Holguín and Cuervo Márquez ordered the police not to interfere with popular demonstrations, and anarchy broke loose. The long-smoldering hatred of Reyes had free rein; crowds paraded the streets crying "Abajo el tirano," "Mueran los vendidos"; street-corner orators reviled Reyes as a grafter; the crowds stoned the offices of the *Correo Nacional* and *Nuevo Tiempo*, the Government subsidized newspapers, and even demonstrated against the apostolic delegate and the archbishop. A howling mob besieged the assembly hall all afternoon, and the members waited until dark and slipped out one by one. Restrepo was run off the streets and his house stoned. About 7 o'clock Dr. Urrutia called on me in a very excited condition to say that Holguín would in fact have the assembly take up the treaties again in a few days and that he himself had therefore continued to remain in office. About the same time Reyes telephoned me privately to come over to the palace at 8 o'clock for consultation. This fact is my principal reason for suspecting that his resignation had always a string to it. Half an hour afterwards came another message that my call would not be necessary. About 9 o'clock a mob wrecked Vázquez Cobo's house.

Mrs. Vázquez was badly frightened, and her husband rushed to the palace and to their faces furiously denounced Reyes, Holguín, and Cuervo Márquez as cowards and traitors to their friends. He threatened to go himself to the barracks and put himself in command of the troops. Reyes asked him if he would accept the ministry of war, and upon his answering in the affirmative, he assumed the presidency and dismissed Cuervo Márquez. In the meantime a large and excited public meeting of persons prominent socially and politically was being held at the jockey club where violent diatribes against Reyes were uttered. Olaya Herrera, who had been very active during the week, and who is believed to have been in communication with revolutionary plotters in Panama, Tumaco, and elsewhere, proposed the formation of a supreme junta with Esguerra at its head, but these proceedings were suddenly interrupted about midnight by the arrival of troops who arrested nearly everyone present and carried them off to prison. Until a late hour the police scoured the streets dispersing and arresting the groups of students and workmen, and several people were killed and injured.

Next morning, March 14, Bogota woke to find Reyes in the Presidency, a state of siege declared, machine guns placed commanding the central plaza, the police and troops armed with Mausers, and Vázquez Cobo, Fernández, and Perdomo, the three most dreaded generals in the country, in command. Olaya Herrera and his lieutenant, Escobar, were sentenced by court-martial to five years in the Cartagena dungeons; Clímaco Calderón was arrested. The malcontents were terrorized, and the city became as quiet as a graveyard.

Monday morning, March 15, I called on Vázquez Cobo. He told me the treaties would be pushed through at once if Panama would consent to define the Jurado region. In the afternoon he resigned

as minister of war to reassume the presidency of the assembly, and I had bright hopes of early action. But when I went to see the minister for foreign affairs, to my great disappointment I found that Reyes himself was not disposed to take advantage of the opportunity and assume the responsibility. Speaking officially, the minister said he regretted to have to admit that an unexpectedly strong popular opposition to the treaties had developed, complicated with much dissatisfaction at the fiscal policies of the Government, its centralizing tendencies, its interference with the liberty of the press, and its failure to provide an elective congress. The opponents of the Government had succeeded in arousing the latent popular sentiment of indignation that had never ceased to exist against the Panaman leaders who took part in the declaration of independence and against the United States for its alleged complicity with their acts. Opposition members of the assembly had succeeded in further exacerbating public sentiment by insisting that certain articles of the treaties were susceptible of a construction that would be ruinous to Colombia. They were laying special emphasis on Article VI of the treaty with the United States and the boundary arbitration provision of the treaty with Panama.

The department will get an idea of the general nature of these misrepresentations and charges from the following paragraphs of the minority report, written and signed by F. de P. Matéus, ex-minister for foreign affairs, and who has served as Colombia's plenipotentiary at many posts during the last 25 years:

By article 6 of the treaty Colombia concedes to the United States the use of all the ports of the Republic open to commerce as places of refuge for any vessels employed in the canal enterprise and for all vessels in distress passing or bound to pass through the canal and seeking shelter or anchorage in said ports, being exempt from all payments for anchorage or tonnage dues.

Calvo defines "refuge": "The protection against an imminent peril, whether of a man being pursued or a ship menaced by a tempest." Refuge being a natural right, an act of humanity, in respect to ships in peril recognized by all nations, there is no reason to refer to it in the treaties. The real intention was to create a servitude of use in our ports in favor of the United States, calling it refuge in order to secure its easy approval. Nevertheless, the article makes a clear distinction between the use conceded to any ships employed in the canal enterprise, including warships and ships in distress which are really in need of refuge.

Calvo says in his Dictionary of International Law that "Use is the right of using, personally, something whose property belongs to another and to participate in its products. This right includes things movable as well as immovable." The deduction from this doctrine is that as long as the use of our ports is conceded to the United States the latter Nation may construct in them docks to shelter their ships and may establish coaling stations on their shores.

Whatever may be the reasons adduced to prove the innocence of this clause of the treaty, which I do not doubt was loyally and honorably accepted by the Colombian minister, I entertain the profound conviction that the concession of the use of our ports to the United States signifies the loss of the independence of Colombia. It is not long since that the foreign press discussed the intention of the Government of the United States to establish a naval station at Cartagena and another at Buenaventura, in view of ulterior events, as strategical points for the defense of the canal.

Recently an American squadron arrived at Colon, and it is not impossible, once the treaties are ratified, that that squadron will occupy Cartagena and a like measure be shortly adopted in respect to the port of Buenaventura on the Pacific.

The minister said that in the speeches in the assembly reference has also been made to the fact that in the Spanish text of article 6

a comma was placed after the word "refugio" instead of after the word "comercio."

The minister added that he and the rest of the Colombian executive understood perfectly well that the article did nothing more than clearly confirm an already existing practice and right under international law, except that it put Colombia under the obligation of not charging anchorage and tonnage dues. However, many members of the assembly and the public in general insisted upon some additional guarantee on the subject. During the past week he had been pressed to the wall in regard to this matter, and he would greatly appreciate anything I could do to help him out.

I answered that personally I had no doubt that his conception of the meaning of the article in question was correct, but could make no official statement without authority from the Department of State. I suggested that he telegraph Mr. Cortes, instructing him to secure an exchange of reassuring notes between the Secretary of State and himself. The minister said he would, of course, do that as a last resort if I refused to telegraph, but he urgently desired that such notes, if agreed upon, be signed here, so that they could be shown to the members of the Assembly. In this connection he spoke of the unfortunate fact, well known to me from my personal observation during the last month, that the profoundest distrust and most carping spirit prevails.

After careful reflection, I decided to comply with his request and told him to write me a note, which reached me the following day. I inclose a copy and translation thereof.

Therefore I telegraphed you, under date of March 17, that the opponents of the treaty were laying stress on the alleged ambiguity of article 6, and that the minister for foreign affairs requested that I be authorized to write a note saying that the use of her ports conceded by Colombia in said article was only that right of refuge which is recognized by international law, subject to the usages established by international law in regard to right of refuge, and not as involving any breach of Colombian sovereignty.

In regard to the provision of the Panama treaty for arbitration as to the "region of Jurado," the minority report had said:

The limits of this region not being determined, the arbiters can put them as far as Cupica Bay on the Pacific, which is the southern end of the Atrato Canal, and thus destroy this interoceanic route which, in the future, might be a source of profit to Colombia.

In making up the arbitral tribunal, the Republic is to name one arbiter and Panama another, and if these two can not agree on the third—and it is clear that such an agreement can never be reached—he will be named by the President of Cuba, or—what is the same thing—by the Government of the United States. Therefore the tribunal is useless, because Colombia will be defenseless and the region of Jurado ipso facto be given to Panama.

How widespread is this unjust and absurd notion can be judged from the inclosed copy of a letter from the American consular agent in Bucaramanga (Santander) to Consul General White.

The minister said on March 15th that Dr. Cortés had erred in not accepting the Panama representative's suggestion that the arbitration extend to the "Corregimiento de Jurado," as defined in Señor Sosa's pamphlet, viz, to Punta de Marzo, and insisting on inserting "región de Jurado." Though the intention had been to confine the arbitration to a smaller territory, probably only as far south as the

village or river of Jurado, the indefiniteness of the phrasing had given the treaty opponents an opportunity to alarm the public. He said Dr. Cortés was already in negotiations with Señor Arosemena, with good prospects of coming to an exchange of notes geographically defining the meaning of the term "región de Jurado," but that he would be grateful if I would inform you of the vital importance of the matter so far as this end was concerned. Accordingly, in my telegrams of March 17 (received by you the 18th) and of March 23, I did so. On March 27 the minister showed me a note received from the Colombian agent in Panama, saying that the Isthmian Government had determined to authorize Señor Arosemena to exchange notes with Dr. Cortés. No confirmation of this has yet come from Washington to Bogota.

From about the 12th it had seemed to me that the popular sentiment against the treaties was being swallowed up in the feeling against the Government and considerations of internal politics and personal ambition. Therefore I was especially anxious to remove the objections as to Article VI and the Jurado clause so as to soften the blow in case Reyes should make up his mind to act vigorously.

On March 16 I saw the minister for foreign affairs and showed him your telegram of March 15, in which you say that it would be deplorable if the outbreak should disturb the ratification of the treaties, and it was brought at once to President Reyes's personal attention. The same morning there was a *te deum* in the cathedral to offer thanks for the reestablishment of order. Telegrams were sent all over the country describing the disorders and arousing the church people to indignation on account of the alleged attacks on the archbishop. Three thousand recruits hurriedly gathered at Cundinamarca and Boyaca arrived this day. The diplomatic corps was invited to a presidential reception in connection with a great official demonstration organized to show the Government's strength, but before going met to discuss what attitude should be taken. Some of the members showed great reluctance at being used by President Reyes, protested that it was dangerous and unwise to be put in the attitude of appearing to lend official sanction to his actions, and some of them even went so far as to suggest that the corps as a body advise him either to adopt a more liberal popular policy or to resign, but wiser counsels prevailed, and we all went to the reception. The President told us that he had consented to remain in power, that the assembly would not accept his resignation, and asked us to telegraph our Governments that order had been reestablished. Thereupon I sent you my telegram, dated March 16, at 5 p. m., and also telegraphed to substantially the same effect to all our consuls in Colombia.

On March 17 the assembly formally declined to accept President Reyes's resignation, and in the afternoon I saw him and showed him your telegram of March 17 (6 p. m.). He again reassured me that the treaties would be pushed through just as soon as the country had quieted down a little more, thanked us for our kind efforts in regard to Article VI and the Jurado clause, and told me he would be grateful if we would intervene with the Panama Government toward preventing the exportation of arms intended for revolutionary purposes in Colombia and Venezuela from Panama.

The same day Antonio José Restrepo resigned from the assembly and the President issued a message congratulating the country on the reestablishment of peace. A copy is inclosed.

On March 19 the city seemed to have returned to its normal condition; Clímaco Calderón and most of the other prominent prisoners, except Olaya Herrera, had been released; the state of siege was raised and the guards withdrawn from around this legation.

On March 20 the President issued a message promising fiscal reforms and the immediate calling of elections for Congress. No move was made, however, by the assembly to take up the treaties and great anxiety continued to be felt in regard to the general political situation.

On March 22 a new cabinet was named, Holguín being changed to the ministry of war, and retained as designado, and the Liberals who had refused to accept being replaced.

On March 23 Dr. Urrutia and I completed our arrangements in regard to the exchange of notes about Article VI. I had received your telegraphic instruction of March 20 authorizing me to write the Colombian minister in the sense suggested, viz, that our understanding is that the first part of Article VI does nothing more than recognize the long-standing doctrine of international law concerning the friendly shelter of vessels in stress or need, plus a waiver of port dues, and accordingly sent him the note, of which I inclose a copy. The preparation of this note and the insertion of the initialed comma in the Spanish text was a little delayed because of the necessity of Dr. Urrutia's attendance at the assembly and because he at first thought there ought to be a comma in the English text. It was not until the afternoon of the 25th that we formally met and inserted the comma, although the memorandum or protocol (of which the original is inclosed with translation) setting forth our action was, at his request, dated the 23d.

On the 25th Dr. Urrutia told me that the President was about ready to push the treaties through the assembly, and that it would be done without warning or further debate. On the morning of the 26th the assembly members on whom the President could rely were called to the palace in groups of six or eight, and they signed a document agreeing to complete ratification on the Monday following, namely, March 29. The news of such action spread rapidly to the public, and the opponents at once began quietly, but determinedly, to organize. Their efforts were the more formidable because the trade-unions were very bitter over the killing by the police of some workmen during the riots, and the students cooperated in a body. That night and the next morning many members of the assembly received warning that they would surely be assassinated if they obeyed Reyes. From the confessionals the archbishop, who is in favor of the treaties and the Reyes Government, received proofs which satisfied him that Bogota would be in revolt within 24 hours. He weakened and wrote a letter to the President most earnestly advising him, in the interest of peace, to withdraw the treaties and call Congress immediately. Whether or not this letter decided the President I have no means of ascertaining certainly, but the fact is that on the morning of the 27th President Reyes announced that he had again changed his mind and that he would recommend that the assembly cease considering the treaties, and that he would call Congress for July 20. I spent the

day with my friends in the assembly and the Government endeavoring to prevent such action, but my efforts were fruitless. Inclosed you will find copies of the resolution in regard to the treaties adopted by the assembly.

Throughout the past month I have been in personal or indirect communication with the leaders of all parties. None of the leaders are, in their hearts, opposed to the treaties, but few of them are willing to take any responsibility toward actively helping to their adoption. Among the average politicians there exists, I am sorry to say, a considerable sentiment in favor of delay and of making as many objections as possible, believing that such tactics will result in obtaining material advantages for Colombia and for themselves.

I inclose a number of discussions by various prominent men which have appeared in the newspapers. They are mostly favorable to the treaties, but it must be remembered that in this country, so long accustomed to suppression of the liberty of the press, adverse opinions are more likely to be ventilated in conversation than in the columns of the newspapers. The three Colombians whose opinions would, perhaps, carry most weight with the reflecting public are Clímaco Calderón, Rafael Uribe Uribe, and Francisco de P. Borda. All three have so far refused to write anything for the press. The two former are, in fact, favorable and the last is adverse.

I can offer no prediction as to Congress's final action. If the treaties become the principal issue in the elections, the chances are against their ratification. If internal politics, decentralization, liberty of the press, and fiscal and administrative reforms preoccupy the unthinking and prejudiced public, the treaties may have a chance.

Congress meets July 20, but the treaties will not be taken up until well on in August. In the meantime it is better that this legation be left in charge of the secretary. The pressure upon me to become, as it were, a center of intrigue—to take part in the inner workings of Colombian party politics—has been strong and will become stronger as the parties line up for the elections. I am confident I would continue to be prudent, but I fear misapprehensions and misrepresentations as to my attitude.

Many of the inclosures herewith are not accompanied by translations. Their bulk is so great that there has not been time, with the force at our disposal, to make them. I think, however, they will repay a careful reading in the department when the question of our further attitude in regard to the treaties with Colombia is taken up.

I have the honor to be, sir, your obedient servant,

T. C. DAWSON.

Inclosures:¹

1. Majority report.

1a. Editorial (Correo Nacional, Mar. 9).

2. Minority report ("X. Y. Z.," Mar. 26).

2a. Debate in assembly (Anales de la Asamblea, No. 11).

2b. Debate in assembly (Correo Nacional, Mar. 11).

2c. Speech of Deputy Enrique Pérez (Nuevo Tiempo, 26th).

3. Telegram from Cucuta, March 10.

3a. Debate in assembly (Anales).

3b. Debate in assembly (Correo Nacional, Mar. 12).

¹ Inclosures not translated.

- 3c. Speech of Deputy Montaña (Nuevo Tiempo).
4. Speech of Dr. Urrutia (Anales).
- 4a. Telegram from Cali, March 3 (Correo Nacional).
- 4b. Speech of Deputy Corral (Anales, No. 12).
- 4c. Message of March 13 from President Reyes (Correo Nacional).
- 4d. Message of March 13 from Acting President Holguín (Correo Nacional).
- 4e. Account of riots (Concurso Nacional).
- 4f. Decrees Nos. 290 and 293 of March 14 (Correo Nacional).
5. Note from Dr. Urrutia to Mr. Dawson, March 15.
6. Translation thereof.
7. Copy of part of letter from Consular Agent Volkman (Bucaramanga) to Consul General White, February 28.
- 7a. Presidential circular telegrams of March 14 and 15 from President to military authorities, etc., in Provinces.
8. Presidential message to assembly of March 20.
9. Mr. Dawson's note to Dr. Urrutia, March 23.
10. Memorandum insertion of comma in Spanish text of treaty.
11. Translation thereof.
12. Report of special committee on treaties, March 27.
13. Article by "M. T." Nuevo Tiempo.
14. Article by Carlos Vallarino y Miro, Nuevo Tiempo.
15. Article by Juan de J. Bernal, Nuevo Tiempo.
16. Article by Max Grillo, "Opinion acerca de los tratados," Nuevo Tiempo.
17. Letter from J. N. Valderrama, Nuevo Tiempo.
18. Letter from P. A. Herrán, Nuevo Tiempo.
19. Interview with Gen. Thomas Quintero, Nuevo Tiempo.

The Acting Secretary to Minister Dawson.

No. 84.]

WASHINGTON, April 6, 1909.

SIR: I have to acknowledge the receipt of your No. 241, of February 26 last, in which you forward a copy of the message of the President of Colombia, transmitting to Congress the treaties between the United States and Colombia and between Colombia and Panama, together with the exposition of the treaties by the Colombian minister of foreign affairs.

Thanking you for the document, I desire that you may, in the course of informal conversation with the minister, express your personal gratification for the kindly sentiments toward the United States expressed in Mr. Urrutia's exposition.

I am, sir, your obedient servant,

HUNTINGTON WILSON,
Acting Secretary.

Secretary Knox to Minister Dawson.

[Confidential.]

Serial No. 87.]

DEPARTMENT OF STATE,
Washington, April 19, 1909.

SIR: Referring to your telegrams of the 23d and 27th ultimo, already confirmed, I inclose for your confidential information copies

of the notes exchanged between the Colombian and Panaman ministers at this capital concerning an alleged declaration by the Panaman minister as to the meaning of the words "region de Jurado."

These copies were confidentially given to the department by the Colombian Legation.

It is unnecessary to reiterate the ardent hope of this Government that these treaties may be ratified at the earliest practicable moment.

For your own information I will add that the department does not at the present moment feel called upon to express any formal opinion as to the interpretation of the boundary situation between Colombia and Panama.

I am, sir, your obedient servant,

P. C. KNOX.

Inclosures:

From Colombian minister to Panaman minister, March 1, 1909.

From the Panaman minister to Colombian minister, March 6, 1909.

LEGACION DE COLOMBIA,

Washington, March 1, 1909.

His excellency DON C. C. AROSEMENA,

*Envoy Extraordinary and Minister Plenipotentiary
of the Republic of Panama.*

MY DEAR MRÁ MINISTER: It is necessary for me to write to Bogota preparing the road for the arbitration we have agreed upon, and it should be most gratifying to me if Y. E. would do me the favor to ratify in writing the words that you employed referring to this at the time we were finishing the discussion on the treaty. I refer to our having agreed to avoid any description of the territory subject of dispute, which might come to darken the deliberations of the tribunal, and having asked what Y. E. understood by the words "región de Jurado," you answered in these or similar words: "As minister of Panama, and a signatory to this treaty, I must state that in my opinion what is called 'región de Jurado' is bounded toward the east, to wit, toward Colombian territory, by the course of the River Jurado." And that in consequence we did agree to accept in the writing of the treaty the words "región de Jurado."

I beg Y. E. to excuse my troubling you and assuring Y. E. of my sincere thanks for a gratifying reply. I, etc.,

ENRIQUE CORTES.

No. 3.]

LEGACION DE PANAMA,

Washington, March 6, 1909.

MY DEAR MR. MINISTER AND ESTEEMED COLLEAGUE: I have the honor to acknowledge receipt of your excellency's kind note of the 1st instant, requesting the ratification of certain declarations which I made by word to your excellency before the signature of the treaties between our respective countries respecting my opinion as to what is mentioned in the treaty as the Jurado region. (La región de Jurado.)

Your excellency will remember that on giving my opinion as to what I considered was comprised within "la región de Jurado," I

pointed out to your excellency that I was ready to reiterate my words in case that if at the time of submitting the question to arbitration any dispute should arise between the arbitrators touching what is called in the treaty as "la región de Jurado." I am ready to fulfill this declaration when the circumstances require it; I truly regret not to do it at this moment, as I consider it premature since no question has yet been risen about the interpretation of the words "la región de Jurado."

The facts that the treaties between Colombia and Panama, the United States and Panama, and Colombia and the United States have not yet been ratified by all the countries, and that the ratifications have not been exchanged yet, has also influenced upon my mind not to accede to your excellency's wishes.

Accept, sir, etc.,

C. C. AROSEMENA.

His excellency Señor D. ENRIQUE CORTÉS, *Etc.*

Acting Secretary to Chargé Hibben.

Serial No. 89.]

DEPARTMENT OF STATE,
Washington, May 4, 1909.

PAXTON HIBBEN, Esq.,

American Chargé d'Affaires ad interim, Bogota.

SIR: I have to acknowledge the receipt of Mr. Dawson's No. 247, of March 29 last, reporting on the events growing out of the attempt made by the President of Colombia to obtain the approval of the Colombian Congress of the treaties concluded by the Republic of Colombia with the United States and Panama.

The department desires to express its commendation of Mr. Dawson for his admirable and illuminating report on the complicated situation of affairs in Bogota.

I am, sir, your obedient servant,

HUNTINGTON WILSON,
Acting Secretary.

American Chargé to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Bogota, May 10, 1909—10 p. m.

A manifest issued by the President of Colombia this evening referring to Holguin's action of March 13 (see telegram of the legation of the 14th March), postpones consideration of the treaties until ordinary session of Congress next February.

American Chargé to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Bogota, May 12—10 a. m.

Referring to my telegram of May 10, 9 p. m., minister for foreign affairs called me to explain that "He believes that if the Govern-

ment submits the treaties to Congress of July there might be general disturbance. The treaties are being used as a political weapon against the Government. It hopes the situation will change for the ordinary Congress in February."

Dawson will fully explain what is meant by my, in strict confidence, saying that the Government of Colombia fears it can not secure the ratification either at present or in February, and has consequently sacrificed the treaties in the hope of saving itself in the coming elections.

HIBBEN.

The American Chargé to the Secretary of State.

[Edited.]

No. 262.]

AMERICAN LEGATION,
Bogota, May 13, 1909.

SIR: I have the honor to refer to this legation's Nos. 259 and 261,¹ of April 28 and May 5, respectively, in regard to the political situation of this country, and to my cipher telegrams of the 10th and 12th instant, respectively, reporting the action of the Government of Gen. Reyes in withdrawing the United States-Panama-Colombia treaties from consideration by the special Congress called for July 20, for which the elections are to be held the 30th of this month. With reference particularly to my first telegram, I have the honor to report that the situation of the present administration is of the gravest. I inclose herewith copy of the manifesto of the President of the Republic, to which reference was made in the telegram in question, accompanied by a translation thereof. The initial inconsistency between the statements made in this document and those made me yesterday by Dr. Urrutia is characteristic of the course which Gen. Reyes has seen fit to adopt—a course of vacillation, which has led him to this final act of sacrificing the treaties in the hope of maintaining his position as personal head of the Government and virtual autocrat of his country.

It is necessary for a clear understanding of the present situation to return to the moment of the departure of Mr. Dawson. From that time scarcely a day has passed without the establishment of some new newspaper—organs, for the most part, of the opponents of the Government. Shortly after Mr. Dawson left a paper called "El Debate," the organ of the students who made their way into the legation on the 9th of March, and a strong Liberal journal, supporting Dr. Nicolas Eaguerra for President to supplant Gen. Reyes, began a cowardly attack upon Mr. Dawson, posting up throughout the city a placard purporting to be a certificate of a number of these students implying that Mr. Dawson had made a false statement in denying their report of his words to the students on the 9th of March. The journal was to-day suppressed as a result of a protest of the dean of the diplomatic corps. The attack on Mr. Dawson was an attack, through him, upon the treaties and upon the Government. The treaties have been, indeed, used as a political weapon against the Government. From day to day articles have appeared bitterly assail-

¹ Not printed; unimportant.

ing the United States, and even going so far as to advocate the severance of diplomatic relations.

I had no intimation of the purpose of the Government to withdraw the treaties and knew of the action only by having seen the manifesto posted at the street corners on the evening of the 10th instant. I had just talked with the minister of foreign affairs half an hour before, but he had told me nothing. The following day I waited word from him until 5 o'clock in the evening. When he finally sent word that he had something to communicate to me I was engaged with the Ecuadorean and Italian ministers, and considering it expedient then to wait until I could see the results of the manifesto on the antiadministration press in the morning, I availed myself of this excuse to reply that I would call at 9 the succeeding day. The opposition papers, however, contained little comment.

Dr. Urrutia wished to show me the telegram which was sent to the Colombian Legation at Washington after I left the ministry, with instructions to assure the department of this Government's continued support of the treaties. The minister had no reason to offer for not having informed this legation of the administration's contemplated action earlier. He stated, however, that the President had become convinced that the treaties could not pass the Congress in July, and had decided, in order to avoid having them rejected, to postpone their consideration until the meeting of the regular Congress in February, 1910. He had only the vaguest reasons to give for this belief. I asked him if he had any cause to believe that the treaties would more readily pass the Congress of 1910 than the present one, and he replied that he hoped so, but that it could not be certain. He added that the President feared civil war if the Government continued to support the treaties, and that he had been assured by Mr. Dawson that our Government did not desire to bring such a disaster upon the country. When I pointed out, however, that if it were as certain as he seemed to believe that the treaties could not pass the present Congress there would scarcely be occasion for civil war, he withdrew the term and substituted grave disorders at the elections. I then asked him what he wished me to give my Government as the reason for this official action in thus withdrawing the treaties from consideration, and took down his words in Spanish, as follows:

Creo que si el Gobierno somete los tratados al Congreso de Julio, puede haber conmoción general. Los tratados se toman como arma electoral contra el Gobierno. Este espera que la situación se cambiará para el Congreso ordinario de Febrero.

[Translation.]

I believe that if the Government were to submit the treaties to the July Congress there might be a general commotion. The treaties are being used as an electoral weapon against the Government. The latter hopes for a change in the situation before the regular session of the Congress in February.

This was a final form, much altered before it was reached. Of it I sent a translation in my cable of yesterday.

Dr. Urrutia went from this interview to the President. Yesterday afternoon I know, privately, that the President made every preparation to leave the country, Holguín remaining in the exercise of the executive functions. He, however, again changed his mind and decided to remain. Dr. Urrutia, who alone, I believe, has been of consistent good faith in his attempt to secure the ratification of the

treaties, has tendered his resignation, which at this hour has not been accepted, but I believe will be, he being made to appear as the scapegoat of the withdrawal of the treaties in the eyes of our Government. I inclose herewith, accompanied by translation, a cutting from *La Plume Libre*,¹ of yesterday's date, attacking Dr. Urrutia personally for his efforts in behalf of the treaties.

I transmit at the same time, without translation, for lack of opportunity to make it, an article¹ by one of the students, who have always been so bitter against the treaties, which expresses much of the sentiment of those opponents of Reyes, into whose hands the treaties will fall should the Government be defeated at the coming elections, which now seems likely. The tone of the article shows how little hope there would be of ratification by the more radical liberals. I inclose a translation of a placard posted up yesterday throughout the city, and emanating from one of the liberal electoral organizations, advocating the representation in the approaching Congress of the "Department of Panama"¹ by one of the men who has worked faithfully for the reincorporation of Panama with Colombia.

I have the honor to be, sir, with great respect,

Your obedient servant,

PAXTON HIBBEN,
Chargé d'Affaires ad interim.

TREATIES.

The Government postpones the discussion of the treaties with the United States and with Panama until 1910.

MANIFEST.

The day drawing near on which the Colombian people will exercise their right of suffrage, in accordance with the constitution and laws of the Republic, I consider it opportune and appropriate to address my compatriots, as much to express my desire that this right be exercised in a way truly correct and republican, as to inform them of the purposes of the Government and of the actual situation of the country.

There have been received, notices by telegraph from all the departments, according to which the citizens have registered peacefully and with interest in the exercise of the ballot in the elections of the 30th of May, and have fulfilled the directions of the Government by inspiring confidence that these elections will take place in complete peace, that the popular vote will be respected and by avoiding all commotion and disturbances which might limit or harm this right.

These measures and the confidence which the public has and should have in the Government's keeping of its promise to make the ballot respected, have produced a general situation of complete calm and the certainty the same will reign on the day of the election.

¹ Not printed.

The country is presenting an example of prudence, of patriotism, and of civilization, which inspires faith in its future and the conservation of peace. It is to be hoped, therefore, that the coming election will be the first to be held in this country in complete order, without imposition or chicanery, to elect representatives of the people and not representatives of political parties. For the sake of my self-respect and the respect I owe my compatriots and, above all, my country, it is my vehement desire that personal government be avoided.

In the address of the 1st of January and in the presidential messages directed to the National Assembly during its last session, I set forth the appropriateness and urgent necessity of calling a congress of popular election as soon as possible, which will meet the 20th of this July, thus fulfilling the purpose clearly stated to the governors in telegraphic circular of January 5 last, known throughout the country.

The Government has received, and is grateful for, the patriotic manifestations, made by distinguished citizens of the capitals and of important cities of the Departments, recognizing the honesty of its initiative in calling Congress and applauding this measure.

The urgency of the meeting of the Legislative Chambers proceeds principally from the necessity of attending to important economic and fiscal matters, both national and departmental, in view of the fact that these latter corporations must reorganize their administration, as provided in Law 7, of 1909, on administrative decentralization.

In respect of the treaties celebrated with the United States and with Panama, a considerable part of national opinion, strengthened by a certain number of reasons, has formulated arguments against some of the principal stipulations of the negotiation in question.

The Government, after long consideration and taking into account the opinion of experienced and capable persons, approved these treaties, considering them suited to the permanent interests of the country, given the existing condition of events; but as, in treating of the matter, the grave antecedent circumstances can not be forgotten, the Government considered, duly, as the designado in charge of the executive power put it in the message which he addressed to the National Assembly the 13th of March, last, that its resolution ought not to be hastened, but that it should wait the time necessary for the whole nation to study them and to form the judgment which, in its lofty opinion, they merit.

In this order of ideas it did not hesitate to propose to the honorable assembly that it put off its examination until the next session of Congress.

This proposition was approved by that lofty body with visible evidences of applause.

This belief, far from lessening, has grown on the Government over which I have the honor to preside to a point where it is conceived that more time should be given the nation to study these treaties with all the maturity that its importance requires, and that it should be in its regular sessions of 1910 that Congress should occupy itself with them.

The importance of the matters in which the legislative power shall be occupied imposes the necessity that the election of its

members should fall upon citizens free of prejudices and party interests, who will occupy themselves with those of the country in general, as well as with those in particular of the regions whence they have been elected, since the departmental and municipal needs to be properly organized.

Annual sessions of Congress, whose duty it is to decree the taxes and the expenditures and to pass the laws necessary for the good progress of the administration, will give surer solidness to a Government really representative and of popular choice.

Peace is solidly assured and the program of the present national administration, of which the President should be the chief and not a political party program, which endangered the life of the present head of the Government, is to-day upheld and sustained by the whole nation, and we should hope that for the nation's good it may continue in the future.

R. REYES.

BOGOTÁ, *May 10, 1909.*

The American Chargé to the Secretary of State.

AMERICAN LEGATION,

Bogotá, May 27, 1909.

No. 268.]

SIR: I have the honor to acknowledge the receipt of the department's No. 87, confidential, of the 19th ultimo, inclosing, for the confidential information of the legation, copies of notes exchanged between the Colombian and Panaman ministers at Washington concerning an alleged declaration by the Panaman minister as to the meaning of the words "región de Jurado" in the Panama-Colombia treaty.

I may say in this connection that, as will be seen from the inclosures No. 2 in this legation's dispatches Nos. 261 and 264,¹ an entirely erroneous impression is abroad in this country in regard to the meaning of this phrase which has, more than any one element save the general hostility to the government of President Reyes, served to produce the present widespread opposition to the treaties and to inflame public feeling against the United States.

I have the honor to be, sir,

With great respect, your obedient servant,

PAXTON HIBBEN,

Chargé d'Affaires ad interim.

Acting Secretary of State to Legation at Bogotá.

[Telegram.]

DEPARTMENT OF STATE,

Washington, June 11, 1909.

Your dispatches May 13 to 19. The Government of the United States views with relative indifference the question of the ratification of our treaties by Colombia and Panama, whose interests are

¹ Not printed; unimportant.

apparently much more concerned. This Government has felt sanguine of their ratification only owing to the general desirability of settling the questions involved, and particularly as being beneficial to Colombia and Panama rather than to the United States. In view of the absurd distortion of this situation by public clamor the legation should make the above attitude well known and for the rest should maintain an impassive and dignified attitude.

WILSON.

Minister Squiers to Secretary Knox.

No. 508.]

AMERICAN LEGATION,
Panama, June 17, 1909.

SIR: Referring to department's cipher cable of June 12¹ last, stating department's views on the attitude of the Colombian and Panaman Governments toward ratification of the Colombian-Panama-United States treaty, I have the honor to say that I have read a translation of the cable to Mr. Lewis, minister for foreign affairs, who said that so far as his Government is concerned everything has been done, and the treaty now only lacks the approval of the Colombian Government. He further said that the Colombian Government, of the three contracting parties, has the most to lose through failure to ratify, and that it would be impossible to negotiate another treaty, in the event that this one fails of ratification, containing the same advantageous provisions.

I have the honor to be, sir,
Your obedient servant,

C. T. SQUIERS.

Minister Northcott to Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Bogota, September 29, 1909.

Minister for foreign affairs of Colombia stated verbally to-day and promised to write a note stating it is the desire of Colombia to abandon the present treaties, because it is quite sure that they would be rejected by the Congress, and, further, that it is the desire of Colombia to enter into negotiations for some other treaty with the United States.

Instruct me as to my reply to the official note.

Colombian minister for foreign affairs also stated verbally that he desired that the new treaty, if our Government be willing to make one, be negotiated here.

NORTHCOTT.

Minister Northcott to Secretary of State.

No. 12.]

AMERICAN LEGATION,
Bogota, October 1, 1909.

SIR: I have the honor to refer to my cipher telegram of the 29th ultimo and, in that connection, to report that about two weeks ago

¹ Probably means telegram of June 11, ante.

while attending the weekly reception of Dr. Carlos Calderon, the minister for foreign affairs, in company with Mr. Paxton Hibben, the secretary of the legation, Dr. Calderon informed us that the Colombian Government had concluded that it would be useless to present the United States-Panama-Colombia treaties to the present session of Congress, as they would undoubtedly be rejected. Dr. Calderon then presented a written memorandum in Spanish, copy and translation of which is inclosed herewith, and asked me to agree to sign it as showing the existing condition of affairs between the two countries. I told Dr. Calderon that I would take the memorandum and consider it after a translation was made. On the following Wednesday, having been informed unofficially of the appointment of Dr. Francisco de Paul Borda's appointment as minister to the United States, Dr. Borda being the father-in-law of Dr. Calderon, in company with Secretary Hibben I called on Dr. Calderon and suggested to him that in view of Dr. Borda's appointment and near departure to Washington, it might be well to postpone consideration of the memorandum he had presented until Dr. Borda could talk matters over with you, to which Dr. Calderon replied that he would rather have the matter settled here before Dr. Borda's departure.

On Wednesday, September 29, again in company with Secretary Hibben, I called on Dr. Calderon and informed him that I did not feel justified in signing the memorandum in question, for the following reasons:

First, that no matter how strongly he and I might be convinced, from indications and observations, that the treaties would not be ratified by the Congress of Colombia, we could not, as representatives of our respective countries—and I, especially, as diplomatic representative of the United States, had not the right to—prejudge the action of the Congress and assume that it would reject treaties entered into and signed by duly authorized representatives of the respective countries, treaties already ratified by the Senate of the United States, and to the securing of the ratification of which the executive branch of the Government of Colombia is morally bound.

Second, that in the event that the Colombian Congress reject the treaties, I had not been instructed, nor was I informed, as to the wishes of my Government on the subject of entering into any further negotiations; that the present treaties were regarded by us as being of more benefit to Colombia than to us, and that under the circumstances I did not feel authorized to state that we were ready to enter into new negotiations, in the absence of express instructions from my Government.

I then told Dr. Calderon that I would gladly communicate the situation to the department by cable and request instructions.

After considering the matter for sometime, Dr. Calderón stated formally, that as representative of the Colombian Government he now gave me notice that his Government desired to cease all further consideration of the treaties because of the impossibility of securing their ratification by the Congress, and desired to enter into negotiations, here in Bogota, for the making of a new treaty with the United States, and requested that I notify my Government of his statement. I then asked Dr. Calderón if he would kindly write me a formal note containing his statements. This he said he would do at once.

Up to the time of the sending of this dispatch the note promised by Dr. Calderón has not been received by the legation.

On returning from the ministry for foreign affairs I sent my cable of the 29th ultimo.

I am of the opinion that the present Colombian Government does not desire, for political reasons, to urge the ratification of the treaties, and that if it did so desire it is not strong enough to secure such ratification.

The general feeling in the country is very bitter against the treaties and against us as a Nation, and at the present time the majority of the Senate now in session is undoubtedly against the treaties. This is, however, a country of startling and unexpected political changes and it is impossible to foretell what may happen.

It is hard to see how the present financial condition of Colombia could be worse than it is, and the financial considerations involved in the treaties may have a telling effect in their favor in the near future, though there is no indication of it at the present time.

I have the honor to be, sir,

Your obedient servant,

ELLIOTT NORTHCOTT.

Inclosures: (1) Memorandum presented to the American minister by the minister for foreign affairs, September 15, 1909; (2) translation of the same.

[Inclosure in No. 12.—Translation.]

In Bogota, the —— day of ———, 1909, meeting at the ministry of foreign affairs (of the Republic of Colombia), the minister for foreign affairs, Dr. Carlos Calderón, and the Hon. Elliott Northcott, envoy extraordinary and minister plenipotentiary of the United States of America, the minister for foreign affairs said:

The tone of frank friendliness which has characterized all the acts of the minister of the United States brings to the Colombian mind the conviction that that Nation still maintains the ample spirit of equality which in times past has served as a base of relations between them.

In view of these sentiments, the honorable minister of the United States has manifested that, having celebrated in Washington, on the 9th day of January, 1909, a treaty to facilitate the direct settlement of the questions pending on the declaration of independence of the Colombian Department of Panama November 3, 1903, and to define the relative position of Colombia with respect to the canal which the United States is constructing across the Isthmus in virtue of a convention celebrated with the so-called Republic of Panama, and this treaty, having been postponed to consideration by the Congress of Colombia, the Government of the United States wishes to know what are the intentions of the Government of Colombia in reference to the consideration of this pact by the legislative body in actual session.

The minister for foreign affairs acceded to the desires of the minister of the United States, stating that the Government of Colombia, wishing to be agreeable to the United States, is ready to satisfy the desires of said Government in this respect.

But, as the minister of the United States may have observed, there is a popular opinion, of which the opinion of the legislative body is but an echo, that the treaty of Washington, of January 9, 1909, be not accepted, and for the same, if this treaty were at present placed before the legislative body, it would certainly be disapproved.

The minister of the United States stated that his Government in this particular matter has no other interest than that of Colombia, and that it has noted, as far as has been possible, the dominant opinion in the Republic in reference to this compact so many times mentioned, the which is motive enough that the Government of the United States should not insist that this treaty be considered by the Congress if, as has been affirmed, the desire of its Government consists in, above all, satisfying the desires and the rights of the Republic of Colombia, and not of insisting that it enter into negotiations which do not have the spontaneous approval of the nation.

The minister for foreign affairs observed that finding the two Governments at one in just purpose and animated by the firm intention of satisfying their reciprocal rights, the laying aside of the consideration of the treaty of January the 9th, 1909, brings as a consequence that the relations of all kinds which exist between this Republic and the United States and the regulation of all rights between them shall be governed by the treaty of Washington, December 12, 1846, whose validity neither of the contracting parties has placed in doubt, which, in his opinion, in the face of the necessity of defining the reciprocal situation of the two nations and their respective rights and obligations for acts which have been matter for complaint on the part of Colombia, there arises the necessity for an agreement as to the manner in which this is to be done by virtue of special negotiations which shall carry both the legal relations of the two countries to the status existing before the project of the treaty of 1909 and the protocols of Cartagena and Washington, which served as its base; and from this there arises the necessity of knowing, as a preliminary, whether the two parties who have such a treaty to celebrate are ready to open negotiations with the end to a settlement of the obligations which each should fulfill.

The honorable minister of the United States agreed heartily in the sentiments expressed by the minister for foreign affairs—that is, that the Government of the United States is found willing to open the negotiations which may be necessary to the satisfaction of the rights of Colombia and will receive and take into consideration the bases which may be submitted for such negotiations, to which the minister for foreign affairs replied, offering to present the honorable legation the bases of the convention, which, in his opinion, conform to the honor and highest rights and interests of Colombia and of the United States.

Acting Secretary Adeo to Minister Northcott.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 4, 1909.

Confidential. Your September 29, 6 p. m.

In conversation you may say to the Colombian minister for foreign affairs that the treaties of the United States with Colombia and Panama were negotiated in connection with and in facilitation of the settlement between Colombia and Panama, which the United States

used its friendly offices to bring about. The three treaties so negotiated stand or fall together. No substitutionary treaty could be considered without harmonious agreement of all three parties. You may express your personal belief that no such agreement could be reached on terms as advantageous to all three as the treaties now pending, if, indeed, in the light of subsequent happenings, any tripartite agreement were likely.

ADEE.

Minister Northcott to the Secretary of State.

No. 14.]

AMERICAN LEGATION,
Bogota, October 7, 1909.

SIR: I have the honor to report that on the 4th day of October the legation received from Dr. Carlos Calderón, minister for foreign affairs, the note referred to in this legation's No. 12, as being promised in a verbal interview with the minister. On Wednesday, October 6, in company with Secretary Hibben, I had another interview with Dr. Calderón, and in accordance with the department's cable of 12 noon, October 4, 1909, informed him "that the treaties of the United States with Colombia and Panama were negotiated in connection with and in facilitation of a settlement between Colombia and Panama which the United States used its friendly offices to bring about." That "the three treaties so negotiated stand or fall together." And that "no substitutionary treaties could be considered without harmonious agreement of all three parties." I also expressed the personal belief that no such agreement could be reached on terms as advantageous to all three as the treaties now pending, if in the light of subsequent happenings any tripartite agreement were likely.

Dr. Calderón replied that it had been his conception that an agreement between Panama and Colombia would follow upon the completion of the negotiations which he had proposed between Colombia and the United States, but that in a day or two he would write the legation a note expressing the Colombian Government's views as to the treaty with Panama and would then like an answer in writing to his note.

I have the honor to be, sir,
Your obedient servant,

ELLIOTT NORTHCOTT.

[Inclosure in No. 14.]

REPUBLIC OF COLOMBIA,
MINISTRY FOR FOREIGN AFFAIRS,
Bogota, October 2, 1909.

MR. MINISTER: In the various conferences which I have had the honor to hold with your excellency in reference to the treaty, signed by the Secretary of State of the United States, the Hon. Elihu Root, and the Colombian plenipotentiary, Sr. Cortes, on the 9th of January, I have thought it opportune to advise your excellency that the consensus of public opinion in this country is notoriously adverse to that compact.

In the judgment of the Colombian Government, if this were placed before the legislature it would be disapproved without vacillation.

The Colombian Government, desirous of considering in the most friendly way in its power the questions originating from the proclamation of independence made by the Colombian Department of Panama, November 3, 1903, has delayed until now the presenting of this treaty, to which I have referred, to the Congress for its consideration, and desires that your excellency inform it whether the Government of the United States, in view of existing circumstances, would be pleased to have the Government of Colombia abandon the submission of this treaty to the Congress for its consideration. In case that the Government of the United States, persisting in the desire manifested by your excellency, of taking under consideration, in questions relating to the interests of Colombia, the desire of this nation, expressed by its constitutional organs, prefer that the Government of Colombia abandon the submission of the treaty to legislative approval, this ministry will be found ready to enter into new negotiations with your excellency in relation to those questions to which we have alluded if the Government of the United States is similarly disposed.

I gladly avail myself of this opportunity to reiterate to your excellency the assurance of my most distinguished considerations.

(Signed) CARLOS CALDERON.

HON. ELLIOTT NORTHCOTT,
*Envoy Extraordinary and Minister Plenipotentiary
of the United States of America.*

Minister Northcott to the Secretary of State.

[Telegram.]

AMERICAN LEGATION,
Bogota, October 13, 1909.

Your cipher telegram, October 4, 12 noon. A note has been received from the minister for foreign affairs of Colombia stating that, in the conception of the Government of Colombia, the abandonment Root-Cortes treaty will virtually eliminate the treaty with Panama, and that, in the event of this abandonment, Colombian Government will present the legation with a statement of the bases upon which it would be willing to enter into negotiations with the United States if a favorable reply should be made to the note of Colombian minister for foreign affairs, contents of which in my telegram of September 29, 6 p. m.

Colombian minister for foreign affairs to-day verbally stated that Colombian Government has no intention to enter into negotiations with Panama until after the treaty with the United States is completed, if then, and that whether or not Colombian Government would be willing to enter into negotiations with Panama will depend upon the character of the arrangement with the United States.

I replied verbally, according to my instructions your cipher telegram October 4, 12 noon. Colombian minister for foreign affairs,

however, is desirous of written reply to his note referred to in my telegram of September 29, 6 p. m.

I shall wait for instructions.

NORTHCOTT.

Acting Secretary Adee to Minister Northcott.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 23, 1909.

Your October 13, 5 p. m.

The treaty between United States and Colombia was negotiated in order to facilitate the negotiation between Colombia and Panama, and to that end the United States graciously conferred favors upon Colombia in regard to the use of the canal and gave Colombia other advantages as equivalents for the agreement between Colombia and Panama besides aiding Panama to carry out the engagements of the Colombia-Panama treaty. The statement of the Colombian minister for foreign affairs that the abandonment of the Root-Cortes treaty will virtually eliminate the treaty with Panama means in effect that the consideration upon which the favors of the Root-Cortes treaty were predicated is to be treated as nonexistent, thus eliminating the initial reason for a new treaty between United States and Colombia. It would be impossible for the United States to impose, by independent convention with Colombia, any conditions constraining the free hand of Colombia and Panama in settling their questions by mutual agreement. Whether the United States would be in a position to make any treaty with Colombia would depend on ascertainment of the terms on which Colombia and Panama may agree, and then the United States could only consider such arrangement with Colombia as might facilitate the Colombian-Panama agreement. In short, the whole tripartite accord would have to be done over again, with little or no prospect of reaching conclusions as favorable to all three parties as those which Colombia proposes to set aside. In the light of subsequent events it is more than doubtful if even similarly favorable concessions by us to Colombia and Panama could gain the approval of the United States Senate. For these reasons the Government of the United States must decline to acquiesce in wiping out the tripartite treaty and can not enter upon a separate negotiation with Colombia alone.

ADEE, *Acting.*

Acting Secretary Wilson to Minister Northcott.

No. 15.]

DEPARTMENT OF STATE,
Washington, October 28, 1909.

SIR: The department has received your No. 12 of the 1st instant inclosing copy and translation of a memorandum which the Colombian minister for foreign affairs requested you to sign with him, proposing that as it would be impossible to obtain the consent of the Colombian Congress to the ratification of the United States-Panama-Colombia treaties, those treaties be dropped and negotiations be opened at Bogota.

The department commends your action in declining to sign the memorandum-protocol.

I am, sir, your obedient servant,

HUNTINGTON WILSON,
Acting Secretary of State.

Minister Northcott to Secretary of State.

No. 20.]

AMERICAN LEGATION,
Bogota, October 29, 1909.

SIR: I have the honor to report that in accord with the instructions contained in the department's cable of October 23, 1909, on Wednesday last, October 27, 1909, accompanied by Secretary Hibben, I delivered to Dr. Carlos Calderon, Colombian minister for foreign affairs, an answer in writing to his notes suggesting the abandonment of the tripartite treaties and the opening of negotiations for a new treaty with the United States. A copy of my note is inclosed herewith.

At the interview which took place on the delivery of the note, immediately after receiving and reading it, Dr. Calderon stated verbally, that the present Colombian Government could not enter into negotiations of any kind with Panama, as it (the Government of Colombia as at present constituted), regarded the United States as being solely responsible for the separation of Panama. To which statement we replied that that view was not conceded by the United States in the slightest degree.

At a dinner given by the President at the palace last night, which we attended, Secretary Hibben had personal and unofficial conversations with Dr. Borda, the newly appointed Colombian minister to the United States, and with Dr. Calderon. These conversations Mr. Hibben will report to you in person.

The feeling here is still very strong against the United States, and if submitted to the present Congress the treaties would, in all probability, be overwhelmingly rejected.

The present session of Congress here is expected to end within two weeks, and it is not now generally believed that the Colombian Government will submit the treaties to the present session.

I have the honor to be, sir,

Your obedient servant,

ELLIOTT NORTHCOTT.

Inclosures: (1) Copy of note to Colombian foreign office, dated October 27, 1909.

[Inclosure in No. 20.]

F. O. No. 14.]

OCTOBER 26, 1909.

MR. MINISTER: In comment upon the memorandum with which your excellency presented me on the 22d of September in regard to a conversation which I had had the honor of holding with your excellency as to the abandonment of the tripartite treaties signed in Washington on January the 29th, last, by the plenipotentiaries of the Republics of Colombia and Panama and the United States of America, and in reply to your excellency's courteous note of the

2d instant, and of the subsequent personal note which your excellency was good enough to send me on the 9th instant, I have the honor to reply to the proposition for the negotiation of a new convention between Colombia and the United States, as a consequence of the abandonment, proposed by your excellency, of the present treaties, under instruction of my Government, as follows:

The treaty of January 9, between Colombia and the United States was negotiated in order to facilitate the negotiations between Colombia and Panama, and to that end the United States conferred favors upon Colombia in regard to the use of the canal and gave Colombia other advantages as equivalents for the agreement between Colombia and Panama, besides aiding Panama to carry out the engagements of the Colombia-Panama treaty.

Your excellency's statement in the personal note to which I have referred, that the abandonment of the Root-Cortes treaty will virtually eliminate the treaty with Panama, means, in effect, that the considerations upon which the favors of that treaty were predicated is to be treated as nonexistent, thus eliminating the initial reason for a new treaty between the United States and Colombia. It would be impossible for the United States to impose, by independent convention with Colombia, any conditions constraining the free hand of Colombia and Panama, in settling their questions of mutual agreement.

Whether the United States would be in any position to make any treaty with Colombia would depend upon the ascertainment of the terms on which Colombia and Panama may agree and the United States could only consider such an agreement with Colombia as might facilitate the Colombia-Panama agreement. In short, the whole tripartite agreement would have to be done over again with the probability of no prospect of reaching conclusions as favorable to all three parties as those which your excellency's Government proposes to set aside. Indeed, in light of subsequent events, it is more than doubtful if even similarly favorable concessions by the United States to Colombia could gain the approval of the United States Senate, as I have had the honor to point out to your excellency in conversation on several occasions.

For these reasons, the Government of the United States must decline to acquiesce in wiping out the tripartite treaty and can not enter upon a separate negotiation with Colombia alone.

I avail myself of the opportunity to renew to your excellency the assurance of my distinguished consideration.

(Signed) ELLIOTT NORTHCOTT.

DR. CARLOS CALDERÓN,
Minister for Foreign Affairs.

The Secretary of State to Minister Northcott.

No. 17.]

DEPARTMENT OF STATE,
Washington, November 4, 1909.

SIR: The department has received your No. 14 of the 7th ultimo, relative to the proposed treaty between the United States, Colombia,

and Panama, and in reply you are referred to the cabled instructions of October 4 and 23, as defining the department's attitude on the subject.

I am, sir, your obedient servant,

HUNTINGTON WILSON
(For Mr. Knox).

Minister Northcott to the Secretary of State.

[Telegram.]

BOGOTA, January 5, 1910.

(Received 6th.)

January 5, 5 p. m.¹

Colombian minister for foreign affairs requested me verbally to ask my Government if United States and Panama would agree to submit question of separation of Panama from Colombia to vote of citizens of Panama. Terms of settlement of all questions according to the result of vote to be previously agreed upon by the three Governments. The interests of the United States in Canal Zone in no event to be affected.

Colombian Government claims it is impossible to secure ratification of Root-Cortez treaties without thereby causing [revolution?]. I believe this is true as public opinion now stands, and that the present proposition is made with the expectation of vote being for separation, but with the hope that a vote of Panama will so far satisfy Colombian people as to allow ratification of some satisfactory treaties.

NORTHCOTT.

Minister Northcott to the Secretary of State.

No. 53.]

AMERICAN LEGATION,
Bogota, February 18, 1910.

SIR: On the 5th of January last I had the honor to send you the following code cable:²

Since then, on every occasion that I have seen him, Dr. Calderón, the Colombian minister for foreign affairs, has inquired anxiously of me as to what reply I have received. Not having received your instructions up to this time, I have so told him, but I should like very much, if it meets with your approval, to be cabled upon receipt of this, if no directions have as yet been sent, what reply to make.

I have the honor to be, sir,
Your obedient servant,

ELLIOTT NORTHCOTT.

¹ MEMORANDUM ADDED IN THE DEPARTMENT OF STATE.—Referring to Mr. Northcott's communication of the Colombian request that the question of a separation of Panama from Colombia be submitted to a plebiscite vote, you will find in *Foreign Relations* for 1903, p. 333 et seq., that the several municipalities of Panama unanimously approved the ratification of the canal treaty by the Provisional Government of Panama.

The people of Panama also elected, afterwards, representatives to a congress of the Republic by almost unanimous votes.

These two acts were as completely a ratification of the separation from Colombia as the election of republican chambers in France in 1871 was a ratification of the downfall of Napoleon and the creation of a Republic.

² Printed ante.

Acting Secretary Wilson to American Legation at Bogota.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 24, 1910.

Answering your dispatch No. 53 and your January 5, 5 p. m., you are informed that the attitude of the department as outlined in its telegram of June 11, 1909, remains unchanged.

WILSON.

Minister Northcott to the Secretary of State.

No. 81.]

AMERICAN LEGATION,
Bogota, May 13, 1910.

SIR: I have the honor to report that on Wednesday last, May 11, while calling on the Colombian minister for foreign affairs, in company with Secretary Frazier, the minister handed me a note, dated December 20, 1909, dealing with the tripartite treaties. The minister stated at the time that he had held the note hoping that something would come of his suggestion as to a plebiscite, but that he now thought it best to deliver it.

Copy of note referred to and translation, together with my reply thereto, are inclosed, marked Nos. 1, 2, and 3.

I have the honor to be, sir,
Your obedient servant,

ELLIOTT NORTHCOTT.

[Inclosure 1 in No. 81—translation.]

FOREIGN OFFICE,
Bogota, December 20, 1909.

MR. MINISTER: Referring to the esteemed note which your excellency addressed to me on the 26th of October last regarding the views of the Government of the United States upon the treaties of January 9 last, it is my duty to allude to the friendly sentiments which have suggested to the Government of Colombia the idea of omitting the treaties of Washington rather than to ask of the Colombian Congress an approval which in all probability would be refused.

The Government of Colombia does not consider it an opportune moment to explain to your excellency the motives of the obligations incurred in the treaties in behalf of this Republic, but in view of the declarations made to the Cabinet in Washington from 1903 until last year, in relation to the events which in 1903 determined the independence of the Isthmus of Panama and of the solemn agreements binding the two Republics, they (the Government of Colombia) believe it necessary to state that the true purpose of these treaties is, in their opinion, to define the legal relations which have arisen between the three contracting parties as a result of the events above referred to; that is to say, the monetary advances to Colombia, stipulated in the treaties of the 9th of January, did not have and can not have the character of favors but of compensation or indemnity for acts which.

in their judgment, have inflicted prejudice and caused injury to their duly acquired rights.

Without reproducing at present the extensive and weighty arguments of various kinds, with which Colombia has supported her demands before the Government of the United States, I believe it nevertheless to be my duty to remind your excellency that the character which must be given to negotiations through which an agreement may be reached upon pending questions is not a matter of the first importance to the Government of Colombia so long as the honor and vital interests of the contracting parties are not compromised.

In the meantime I beg your excellency will accept the manifestations contained in this dispatch as an expression of the sincere desire which animates the Government of Colombia to facilitate an agreement which may satisfy every legitimate right and every consideration of honor involved in the differences existing between the two States.

(Signed) CARLOS CALDERÓN.

ELLIOTT NORTHCOTT, Esq.,
*Envoy Extraordinary and Minister Plenipotentiary
 of the United States of America.*

[Copy to accompany dispatch No. 81.]

No. 41.]

MAY 12, 1910.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's esteemed note of December 20, 1909, which your excellency was good enough to hand to me personally yesterday. In reply I beg to say that I have noted your excellency's sentiments in regard to the treaties of Washington and that I will duly transmit them to my Government.

I avail myself of this opportunity to reiterate to your excellency the assurance of my most distinguished consideration.

(Signed) ELLIOTT NORTHCOTT.

DOCTOR CARLOS CALDERÓN,
Minister for Foreign Affairs, etc.

PART IV-b.

PAPERS SUBMITTED RELATING TO THE HAY-CONCHA
NEGOTIATIONS.

LIST OF CORRESPONDENCE RELATING TO THE HAY-CONCHA NEGOTIATIONS IN 1902.

From Colombian legation, March 31, 1902. (Not included. Printed in H. Doc. 611, 57th Cong., 1st sess.)
From same, March 31, 1902. (Not included. Printed in H. Doc. 611, 57th Cong., 1st sess.)
To same, April 5, 1902.
From same, April 8, 1902.
To same, April 18, 1902.
From same, April 18, 1902. (Not included. Printed in H. Doc. 611, 57th Cong., 1st sess.)
To same, April 21, 1902. (Not included. Printed in H. Doc. 611, 57th Cong., 1st sess.)
From same, April 23, 1902. (Not included. Printed in H. Doc. 611, 57th Cong., 1st sess.)
To same, July 18, 1902.
From same, July 19, 1902.
To same, July 21, 1902.
From same, September 22, 1902.
From same, October 26, 1902.
To same, October 28, 1902.
From same, November 11, 1902.
From same, November 11, 1902.
To same, November 5, 1902.
To same, November 18, 1902.
From same, November 22, 1902.

No. 4.]

DEPARTMENT OF STATE,
Washington, April 5, 1902.

Señor JOSÉ VICENTE CONCHA, *etc.*

SIR: I have the honor to acknowledge the receipt of your note of the 31st ultimo, expressing certain of the conditions under which Colombia is willing to grant to the United States the right to construct the Panama Canal.

I have the honor to say in reply that, as I have orally stated to you, this important matter is having earnest consideration.

Accept, etc.,

JOHN HAY.

[Copy—Translation.]

LEGATION OF COLOMBIA,
Washington, D. C., April 8, 1902.

MR. SECRETARY: By express orders of my Government I have the honor to address your excellency for the purpose of entering a statement and a protest in regard to the projected canal between the Atlantic and Pacific Oceans, over what has been styled the Nicaragua

route, in so far as the said project may affect the sovereign rights of Colombia in the event of its including, as is to be presumed, territory that the Republic of Colombia has always held to be her own; and I particularly address your excellency by reason of the present pendency in legislative houses of the United States of a bill authorizing your Government to acquire the necessary zone and to carry on the above-mentioned work in territory that may, in part, come within the foregoing description.

The Government that I represent, adhering to its traditional and constant position on this point, desires to reaffirm its rights, as it has done in the course of the last century, and to recite again the grounds upon which it rests this affirmation by giving a succinct statement of its titles and a history of the antecedents of the question.

Colombia Mosquitia, which lies in the Province of Veragua as far as Cape Gracia a Dios, always was, after the year 1509, integral part of the "Reino de Tierra firme" (Isthmus of Panama), then of the vice royalty of Santa Fe or New Granada, with occasional and transitory dependency on the captancies of Cuba and Guatemala, until the 20th of November, 1803, when a royal order, dated in San Lorenzo, finally restored part of the Mosquito Coast to the vice royalty. Evidence of this is found in the capitulations for the conquest and colonization of the Province of Veragua and in Laws IV and IX of the Indies.

Throughout the colonial administration, from 1803 and on, the Government of the vice royalty constantly exercised jurisdiction over that territory as proved, among other documents, by the blockade decreed by the general of the Army of Spain in 1815, when Cape Gracias a Dios is described as the extreme point of the coast of the "Nuevo Reyno."

In the first years of the independence the Government of New Granada exercised jurisdiction over the Mosquito Coast, as evidenced by its decrees of April 19 and November 22, 1822.

In 1823, by reason of the occupation of the mouths of the San Juan River and adjacent rivers of the San Andres Archipelago by a Chilean privateer, Colombia made representations in vindication of her rights to the Republic of Chile, which disavowed the acts of the privateer.

In 1824 the Vice President of New Granada issued a decree declaring "illegal any enterprise for the purpose of colonizing any point on the Mosquito Coast between Cape Gracias a Dios and the Chagres River."

In 1825 the legations of Colombia to England and to Central America protested against the concession, without the assent of Colombia, for the construction of a canal that should come in contact with the Colombian Mosquito Coast.

In 1826 the Congress of Colombia passed the law, No. 6a, of May 1, enacting provisions regarding Mosquito natives.

In 1833 the Government of New Granada issued and published a circular relative to commerce on the Darien and Mosquito Coasts.

In 1838, when the opening of an interoceanic canal by the way of the San Juan River and Lake Nicaragua was under consideration, under the auspices of Hille the King of the Netherlands, the executive power made the pertinent protest, and on the following

year the minister of foreign relations of New Granada, under date of January 7, addressed the Government of Central America by sending it an argumentative protest, in which he declared in the name of the Republic that "if the intent is to carry out the project of an interoceanic waterway through the mouths of the San Juan, the Government of New Granada will oppose it and avail itself of all the means afforded by international law."

In 1843 the legation of Colombia at London laid before the English Government a protest denouncing the acts of the war frigates *Tweed* and *Charybdis* on the Mosquito Coast as an infringement on the sovereign rights of New Granada over the said territory. This attitude was maintained by the New Granadian Government throughout the following years, during which the minister of Colombia at London repeatedly asserted before the Government of Great Britain the rights of New Granada on the Mosquito Coast.

In 1890 the territorial concession granted by the Republic of Nicaragua for the excavation of an interoceanic canal called forth the note of the ministry of foreign relations of Colombia to that of the said Republic, in which it is declared that Colombia holds perfect titles establishing her sovereign rights over the territory known as the "Mosquito Coast" up to Cape Gracias a Dios, and renewed the protest made on the other occasions above mentioned.

In May, 1894, the Colombian Government once more renewed its protests respecting the sovereignty and dominion of the Mosquito territory, and proposed to the Government of Nicaragua that a tribunal of arbitration be constituted to pass upon the dispute herein adverted to, but that Government did not see fit to assent to the proposition, and in so doing Colombia did not renounce her indisputable rights in any way.

The Government of Colombia, therefore, deems it necessary to put it once more on record, through me, that if any concession in ownership or usufruct be made in the Mosquito territory by a country other than Colombia it is to be understood as being granted on the condition that the rights of third parties, save those that she claims to be perfect, over that region shall not be prejudiced thereby.

I avail myself, etc.,

JOSÉ VICENTE CONCHA.

HON. JOHN HAY,

Secretary of State of the United States.

No. 6.]

DEPARTMENT OF STATE,

Washington, April 18, 1902.

SEÑOR DON JOSÉ VICENTE CONCHA, *Etc.*

SIR: I have the honor to acknowledge the receipt of your note of the 8th instant, making "protest in regard to the projected canal between the Atlantic and Pacific Oceans over what has been styled the Nicaragua route, in so far as the project may affect the sovereign rights of Colombia in the event of its including territory which she holds to be her own."

In limiting this answer to the acknowledgment of the receipt of your note, the Government of the United States reserves, and with-

out prejudice, its entire freedom to make such answer as it may find proper should the occasion arise for it to do so.

Accept, etc.,

JOHN HAY.

No. 8.]

DEPARTMENT OF STATE,
Washington, July 18, 1902.

Señor DON JOSÉ VICENTE CONCHA, *Etc.*

SIR: I beg leave to refer to the proposal made to this Government by the Republic of Colombia, through your excellency, on March 31 and April 18, 1902 (with the accompanying expository letters), agreed to by me on April 21 last under the conditions therein stated, and confirmed by your further favor two days later; also to the law of the Congress of the United States upon this subject, approved June 28, 1902.

You are aware, I am quite sure, of the reasons for amendment of the proposed treaty; and without affecting the respective engagements referred to, and which shall continue in full force unless we otherwise agree, I submit and propose various amendments to the proposed treaty, which I have embodied in the complete draft herewith delivered.

I am also sure, my dear sir, that you fully appreciate the necessity for very prompt action.

Accept, etc.,

JOHN HAY.

[Translation.]

LEGATION OF COLOMBIA,
Washington, D. C., July 19, 1902.

SIR: I have the honor to acknowledge to your excellency the receipt of the note dated yesterday, which is accompanied by the modifications that the Government of your excellency proposes to the memorandum from this legation, dated April 18, of the present year.

In reply to the said communication, I have the honor to inform your excellency that I hastened to transmit to my Government the aforesaid modifications by telegraph and by means of a special dispatch bearer, to request special instructions regarding them, since they affect substantially the treaty that was proposed by the undersigned.

As soon as my Government transmits the instructions requested, I shall have the honor of giving to your excellency the formal reply in the matter.

I repeat to your excellency my expressions of high and distinguished consideration.

JOSÉ VICENTE CONCHA.

Hon. JOHN HAY,
Secretary of State of the United States of America,
Department of State.

DEPARTMENT OF STATE,
Washington, July 21, 1902.

Señor DON JOSÉ VICENTE CONCHA, *etc.*

MY DEAR MR. MINISTER: I regret to say that the clerk in copying the canal treaty draft omitted, by clerical error in the typewritten

copy of the draft which Mr. Hay handed to you on the 18th instant, the first paragraph in Article XIII, page 16. This omitted paragraph reads as follows:

The United States shall have authority to protect and make secure the canal, as well as railways and other auxiliary works and dependencies, and to preserve order and discipline among the laborers and other persons who may congregate in that region, and to make and enforce such police and sanitary regulations as it may deem necessary to preserve order and public health thereon, and to protect navigation and commerce through and over said canal, railways, and other works and dependencies from interruption or damage.

I have had pages 16 and 17 of the draft recopied to include this omitted paragraph.

This insertion involves no addition or change in the original draft of the treaty, the paragraph having been in the early drafts and omitted from this one only by inadvertence. As you will see, it is necessary to complete the article.

I have to request that you substitute the inclosed pages 16 and 17, which contain the omitted paragraph as above explained, for the pages 16 and 17 now attached to your draft. Except for the addition of this paragraph the pages 16 and 17 inclosed herewith for attachment to your draft are identical with the ones for which they are to be substituted.

I am, etc.,

DAVID J. HILL, *Acting Secretary.*

[Translation.]

LEGATION OF COLOMBIA,
Washington, D. C., September 22, 1902.

SIR: I have the honor of addressing your excellency with the object of informing you that there was received last night at this legation a cablegram from the governor of the Department of Panama in which he asks that rectifications of various reports published in this country about recent events in that Department concerning the naval forces of the United States and American corporations holding interests therein be laid before the Department of State over which you preside.

These rectifications may be summarized as follows:

(a) There has been no interruption whatsoever in the transit over the Panama Railroad. The governor of the department directed that trains be detained for a few minutes on entering the cities of Panama and Colon for a brief inspection and to prevent a repetition of an attack by rebel forces such as that which took place in the city of Colon last year, but there was no interruption in the transit of the railroad, caused by the Colombian authorities, neither for a day nor for an hour.

(b) The Government of Colombia has not omitted to guarantee, in an effective manner, the right of way or transit across the Isthmus of Panama, under the obligation placed upon it by section 1 of article 35 of the treaty concluded in 1846 between the Republic of New Granada and the United States of America, nor has anything happened to interfere with the said freedom of transit.

(c) There has been no conflict in Panama between individuals or soldiers of the Colombian forces with marines of the United States, and the former have not failed to obey the directions issued by the governor of the Department on the subject of free transit.

To these rectifications the governor adds that the American company of the Panama Railroad refuses to comply with the express obligation, placed upon it by the privilege contract of August 16, 1867 (art. 19), to convey troops of the Government, as such, that is to say, with their arms, by which, besides incurring the civil responsibilities appertaining thereto, the said company throws obstacles in the way of the effective discharge of Colombia's duty to maintain the free transit across the Isthmus, since in case of threatened attack its forces could not repel it without arms.

The events that are taking place at Panama have been reported to the ministry of foreign relations at Bogota, but no instructions have as yet reached this legation, and I confine myself to transcribing to your excellency the foregoing remarks without advancing any judgment whatever as to the facts and reserving for my Government the faculty of making at any time on the question such declarations as it may deem necessary or expedient.

Accept, excellency, the assurances of my most distinguished consideration.

JOSÉ VICENTE CONCHA.

HON. JOHN HAY,
Secretary of State of the United States,
Department of State.

LEGATION OF COLOMBIA,
Washington, October 26, 1902.

SIR: I have the honor to address your excellency for the purpose of informing you that on the 24th instant I received from my Government supplementary and full instructions to close the negotiations for the construction of the Panama Canal which have been progressing between Colombia and the United States, and that in said document are comprised all the points to which your excellency adverted as modifications of the memorandum presented by the legation to the Department of State on the 21st of April last.

The instructions to which I refer bear date of Bogota, September 9, 1902, before the action was taken in the Department of Panama by United States naval officers which implies, on the part of your excellency's Government, a new interpretation of the treaty in force between the two countries, an interpretation concerning which I am not now at liberty to express any opinion, for the reason that the minister for foreign relations at Bogota has undertaken to discuss it directly himself, as your excellency is aware; but which would essentially affect the convention now pending, since article 35 of that treaty is incorporated and developed therein.

In view of the foregoing, your excellency will recognize that it is just now impossible for me to act in pursuance of the instructions received, in consequence of which I have addressed my Government my cable, stating the circumstances, to the end that it may decide upon what it considers most proper.

My object in addressing your excellency on this occasion is mainly to place on record the good will and frankness of intentions of my Government in the pending negotiations, since, surmounting considerable difficulties arising from the disturbance of public order in the country, it has succeeded in sending to its representative instructions to conclude the treaty, which was soon to be submitted to the legislative body, and although an unforeseen delay in the progress of the affair now arises, my Government is in no wise responsible therefor.

Accept, your excellency, the assurances of my distinguished consideration.

JOSÉ VICENTE CONCHA.

JOHN HAY.

Secretary of State of the United States.

No. 9.]

DEPARTMENT OF STATE,
Washington, October 28, 1902.

Señor DON JOSÉ VICENTE CONCHA, etc.

SIR: I have the honor to acknowledge receipt of your communication of the 26th of October, in which you inform me that on the 24th instant, you received from your Government supplementary and full instructions to close the negotiations for the construction of the Panama Canal. You further state that since these instructions were dated, action has been taken in the Department of Panama by United States naval officers, which, in your opinion, implies a new interpretation of the treaty now in force between the two countries.

Your excellency does not further particularize the facts referred to, nor the interpretation to which they have given rise, but you inform me that, in view of the foregoing, it is impossible for you now to act in pursuance of the instructions received by you without further consultation with your Government.

I do not recognize that there has been any action on the part of officers of the United States Navy in the Department of Panama to which your Government could justly take exception, and I can assure you that no new interpretation has been placed upon the treaty now in force between our respective countries.

I admit that it is not proper for me, nor have I any inclination, to make any observations upon your excellency's action in declining to carry out the instructions which you inform me you have received from your Government. I venture, however, to recall to your excellency the law passed at the last session of Congress, which makes it the duty of the President to ascertain whether a satisfactory treaty can be made with Colombia for the construction of a canal across the Isthmus, and, in case this is impossible, authorizes him to proceed to the construction of such a canal by another route.

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

I beg, sir, that you will accept, etc.

JOHN HAY.

LEGATION OF COLOMBIA,
Washington, November 11, 1902.

MR. SECRETARY: In the audience which your excellency was pleased to grant me on the 4th instant, I had the honor to state, verbally, that my Government had communicated to me, by cable, the supplementary instructions referred to in my last note to your excellency, and I said that, according to those instructions, I must ask of the United States Government that, in the draft of a treaty for the construction of the Panama Canal, article 23 of the memorandum presented by the legation on the 18th of April last might be textually maintained, and that it might be connected with articles 3 and 17 of the same, a substantial portion of article 35 of the existing treaty of 1846-1848 between Colombia and the United States being thus authentically interpreted, said article having to be ratified and incorporated in the new convention.

In the aforesaid article 23, which your excellency expressly accepted with the rest of the memorandum in the note which you were pleased to address to the legation on the 21st of April last, it appears that, even though Colombia grants to the United States a certain extension of authority on the Isthmus in case the canal treaty shall become operative, she has not for that reason nor could she renounce certain special powers inherent in the exercise of the sovereignty of the Republic, among which powers a very prominent place is occupied by that of protecting her own territory, guaranteeing transit, and maintaining or reestablishing order and peace, conceding to the United States a determinate interposition only while Colombia herself shall be, owing to some unforeseen event, unable to perform those duties; but of course without ever abdicating the elementary right of transporting her public officers, troops, elements of war, etc., through her own territory without any limitation whatever, as is provided by article 17 of the same memorandum, and without her authorities being at any time deprived of the right of discharging their legal functions.

The fact that your excellency accepted, in the aforesaid official note, on the 21st of April, the articles now under discussion, clearly shows that the scope there given to the action of the United States is the correct understanding of the treaty of 1846, which understanding my Government considers it necessary to determine in a solemn manner, preserving and ratifying it for the future. The article proposed by your excellency as a substitute for the one aforesaid might cause Colombia to be, in a certain manner, incapacitated from exercising, without control, the power of maintaining order in her territory, or might give rise to contradictions or discussions which it is very desirable to avoid.

As the difference in question has reference to a highly important point of the treaty to be concluded, I had the honor to call your excellency's attention, as I now again do, to the necessity of a definite reply, beforehand, on this subject, with a view to expediting the examination of other secondary points. Your excellency was pleased to inform me that the modification of article 23, which was proposed in your note of July 18, was due to the initiative of certain Senators who had supported the project of the Panama Canal, and who thought that the new wording would more readily secure the

United States Senate's approval of the projected treaty; your excellency stated that you could not give a definite answer, as requested by me, without previously consulting the President of the United States, who was absent from the Capital, but that when you should have consulted that officer you would make a suitable reply.

I have desired to place my request to your excellency on record, in writing, in order that its terms may appear with greater clearness, and I hope that your excellency will be pleased to communicate the decision of your Government to me whensoever you may think proper to do so.

I reiterate to your excellency the assurances of my most distinguished consideration.

JOSÉ VICENTE CONCHA.

His Excellency JOHN HAY,
Secretary of State of the United States.

[Translation.]

Personal.]

LEGATION OF COLOMBIA,
Washington, D. C., November 11, 1902.

MR. SECRETARY: In compliance with the wish your excellency was pleased to express in our conference of Friday last, I transmit to your excellency an unofficial memorandum embodying the desiderata that I shall formulate at the proper time in the matter of the canal.

In a separate and official note, I state in writing the request I already presented orally to your excellency in our conference of the 4th.

I cordially subscribe myself your excellency's obedient servant,
JOSÉ VICENTE CONCHA.

To His Excellency Mr. JOHN HAY, *etc.*

[Translation.]

[Confidential.]

Note of the general remarks that the minister of Colombia proposes to lay before the Department of State touching the amendments suggested by the department on the 18th of July to the memorandum of April 18, when the point presented in the official note of this day shall have been decided.

ARTICLE I.¹

(a) It will be asked that the condition providing for the restitution to the Republic of all public lands granted to the canal and railroad companies not within the zone the use of which is conceded to the United States be retained in this article.

(b) This same article shall clearly state that the permission accorded by Colombia to the canal and railway companies to transfer

¹The articles are numbered according to the memorandum of April 18.

their rights to the United States shall be regulated by the previous special arrangement entered into by Colombia with the said companies, and for which they have been notified that they are to appoint an attorney at Bogota.

ARTICLE II.

The introduction of the phrase "in perpetuity," in this article could not be accepted without effecting a complete change of the nature of the usufruct contract to be signed, which would make it necessary to amend the Constitution of Colombia.

It shall be clearly stated in this article that the exclusive right of the United States to protect the canal is in relation to other countries and not to Colombia, according to the provision of Article XXIII.

ARTICLE III.

Same remark regarding perpetuity as is made in the foregoing article. The Government will ask that this article remain worded as it is in the original memorandum.

ARTICLE VII.

The right to navigate the Chagres and to use other waters and property of Colombia in the Department of Panama, as conceded to the United States, shall be qualified in the manner set forth in the original memorandum, but this shall not stand in the way of the concession being extended to the use of stones, sand, earth, etc.

ARTICLE VIII.

This article shall guarantee the rights acquired by third parties in regard to lighthouses at Colon and Panama. If it should become necessary to abolish the dues, the consequent indemnities shall be paid by the United States.

ARTICLE XXV.

The discussion of this article shall be reserved until after the remainder of the treaty shall have been agreed to; but, in the meanwhile, the Government of Colombia will claim that to an increase of the concessions stipulated in the memorandum of April 18 shall correspond an equitable increase of the indemnity paid for their use in the first 14 years, and that the sum paid for the same right in the years following the fourteenth shall not be less than that received for each one of the first 14 years.

ARTICLE XXVI.

The text of the original memorandum is to be maintained without prejudice to the insertion in another separate article of that which bears the same number among the amendments offered by the Department of State.

An additional article, specifying the mode of settlement of any doubts arising in regard to the interpretation of the treaty will likewise be necessary.

A few details relating to questions of form will be pointed out at the time of the final drafting of the treaty.

Washington, D. C., November 11, 1902.

JOSÉ VICENTE CONCHA.

Personal.]

DEPARTMENT OF STATE,
Washington, November 5, 1902.

Señor Don JOSÉ VICENTE CONCHA, etc.

DEAR MR. MINISTER: I have the pleasure to inform you that a telegram has been received from Rear Admiral Casey, reporting that Government reinforcements have reached Colon from Barranquilla, and that the Colombian troops are now being transported on the Panama Railway by separate special trains without any marine guard. He adds that no insurgents have been seen on the line of the railway for the past two days.

I am, my dear Señor Concha.

Very cordially, yours,

JOHN HAY.

No. 11.]

DEPARTMENT OF STATE,
Washington, November 18, 1902.

Señor Don JOSÉ VICENTE CONCHA, etc.

SIR: I had the honor to receive on the 11th instant your esteemed letter and memorandum embodying all the amendments proposed by your Government to the draft treaty which I had the pleasure of handing you four months ago.

It is so imperative to expedite a conclusion that I shall at once deal with each of the amendments now for the first time presented by your excellency.

Without considering at this time, questions relating to the treaty of 1846 (if any such questions really exist), I am sensible of the paramount fact that the new treaty will completely and satisfactorily establish all the relations of our two nations to this great undertaking.

The President has anxiously considered whether he could yield to the amendment which you consider so important to your country (the substitution of former Article XXIII for the later Article XXIII). Desirous of manifesting in an unmistakable manner the good will of this Nation to Colombia, the President authorizes me to say that if all the other provisions are agreed upon to the satisfaction of the United States, he will consent to the substitution of Article XXXIII of the former instrument for the like article of July 18, 1902, but otherwise acquiescence is not to be operative.

Therefore I hand you herewith a memorandum replying in detail to your several proposed amendments; and also a clean copy of the treaty prepared in conformity with such memorandum and this note.

I respectfully beg leave to suggest that your Government should not longer delay to signify which of the alternative forms of Article XXV it elects to embody in the treaty.

Accept, etc.,

JOHN HAY.

[Memorandum. In reply to the amendments proposed by the minister of Colombia on November 11, 1902, to the draft treaty of July 18, 1902.]

(The numbered articles relate to the draft of July 18, 1902.)

ARTICLE I.

(a) It has been ascertained by the United States that the canal and railroad companies own or are in possession of property within Panama or Colon or the ports and terminals thereof which are of large value and are a part of the railroad and canal systems. The amendment now proposed by Colombia might operate to transfer such property to Colombia instead of to the United States.

The United States in conceding to Colombia the enormous land grants covered by the canal concession considers that it has reached, if not exceeded, the bounds of liberality and can not in addition turn over the properties in Panama and Colon.

Moreover, the very large pecuniary expenditure which Colombia has insisted (Art. V) that the United States shall make in furnishing Panama and Colon with necessary aqueduct and drainage works will be warranted only by its ownership in said cities of the properties in question. No question of the sovereignty of Colombia is involved, for Article XIX expressly covers this very case.

(b) The United States considers this suggestion wholly inadmissible.

ARTICLE II.

Examination of the constitution of Colombia fails to disclose any prohibition against the alienation of national property. On the contrary, article 76 (Sec. IX) confers upon Congress the power to authorize the Government "to alienate national property."

Nevertheless, in deference to the wishes of the Colombian Government, and desiring an agreement at the earliest possible day, the United States will accept the words "for the term of 100 years, renewable at the sole and absolute option of the United States for periods of similar duration so long as the United States may desire," in place of the words "in perpetuity."

With the broad amendment conceded in respect of Article XXIII, no further change in this article is considered necessary or proper.

ARTICLE III.

In harmony with the concession made in respect to Article II, strike out the word "perpetual" and insert after the words "use and control" the words "for the term of 100 years, renewable at the sole and absolute option of the United States for periods of similar duration so long as the United States may desire."

The remaining proposed amendments would have the effect of limiting and hampering the United States in the construction and operation of the canal. It is not believed that Colombia has any purpose so inconsistent with the successful accomplishment of the undertaking. It has been found that the provisions of this article relating to the physical works are necessary for the complete and efficient consummation of the great design.

The United States, therefore, is not willing to make any other change in this article.

ARTICLE VII.

In so great and unique an engineering problem no one can foresee precisely in what manner the rivers, streams, etc., may have to be controlled, deflected, impounded, etc.; the form proposed by the United States simply makes certain that all necessary adjuncts comprehended within the plans for the canal may be properly executed. We are confident that Colombia does not wish to limit or prevent the proper construction of the canal. The proposal to substitute the former Article VII for the present Article VII is not agreed to.

ARTICLE VIII.

This fresh basis of pecuniary indemnity comes as a surprise to the United States, and it might well be urged that it be borne by Colombia, or at least in equal parts between the nations. However, animated by the same spirit which pervades every article of the treaty, the United States will permit these privileges to come under Article XIV. Therefore we add to Article VIII the following words:

Any concessions or privileges granted by Colombia for the operation of light-houses at Colon and Panama shall be subject to expropriation, indemnification, and payment in the same manner as is provided by Article XIV in respect to the property therein mentioned; but Colombia shall make no additional grant of any such privilege nor change the status of any existing concession.

ARTICLE XXV.

As no amendment is proposed to this article it is not necessary to enter into a discussion of this subject, but it is respectfully called to mind that the proposal by the United States of the payment of the lump sum of \$7,000,000 has no relation whatever to the subject of annuity for the first 14 years. It is self-evident that this could not be so, since Colombia has already collected annuity in advance for over 9 of these very 14 years through the issuance by the railroad company of its subsidy bonds. It is also manifest that during the period of construction and early operation (say, 14 years), as the property will not realize material revenue, no annual payment would be warranted.

ARTICLE XXVI.

If it is proposed to restore the forfeiture clause of Article XXVI of the treaty of April 18, 1902, the United States can not accede thereto.

By Article XXIV the United States contracts to construct and complete the canal, and it is respectfully submitted that the definite engagement of the United States is sufficient. Moreover, such a provision would be in conflict with the law of June 28, 1902.

ADDITIONAL ARTICLE.

Neither the forms of July 18 or April 18 endeavor to specify the mode of settlement of any doubts arising in regard to the interpretation of the treaty. We do not conceive of any questions which these two friendly nations, knit by 50 years of uninterrupted treaty ties, will not be able to adjust happily by such mode as may be suggested by the peculiarities of the case in the years to come. Any method which we might now attempt to define would probably prove unfitted to the future case and embarrassing to both parties.

DEPARTMENT OF STATE, *November 18, 1902.*

[Translation.]

COLOMBIAN LEGATION,

*Washington, D. C., November 22, 1902.*¹

MR. SECRETARY: I have had the honor to receive a note, under date of the 18th instant, in which you are pleased to acknowledge the receipt of my official communication and memorandum with official note of the 11th ultimo. At the same time I have received the memorandum and project of a treaty which accompanied your aforesaid note.

Before responding to the substantial part of that communication, I permit myself to state to you that no delay in the negotiations is imputable to my Government. On the 18th of April I had the honor to present to the Department of State the memorandum containing the basis of the treaty. The Congress of the United States found it necessary to discuss for several months the law giving authority to the executive government, and it was not until the 18th of July that your excellency informed me of your draft of modifications. It was then indispensable that the Attorney General of the United States should examine the validity of the title of the canal company, for which reason several more months were needed, but on the same day that the Attorney General of the United States presented his report to the Government I had the honor to communicate to your excellency that the instructions to forward the negotiations were in my possession, and that I only awaited a supplemental order from my Government by telegraph to proceed therewith.

JOSÉ VICENTE CONCHA.

Hon. JOHN HAY,

Secretary of State of the United States,

Washington, D. C.

Any action on my part while the Attorney General was pursuing his investigation would have been irregular and barren of results, as is obvious.

¹ This was the last communication on this subject from Señor Concha before he left Washington.

I ought, moreover, to intimate that in the commentary memorandum, which I sent to your excellency separate from my official communication of the 11th, I did not formulate any propositions in the name of my Government, but in order to satisfy your personal desire I suggested in the memorandum the points which would be the subject of objection in case the main point were favorably resolved after preliminary discussion by me in accordance with the orders of my Government. It is thus seen that my memorandum was presented without the necessary arguments, inasmuch as it was not presented for immediate discussion. Moreover, in the last part of my memorandum it was expressly intimated that it did not contain all the objections which the Government of Colombia would make to the amendment proposed by the Government of the United States, and that when the time came for discussing the business as a whole the remaining objections would be presented.

As you are pleased to say, the wish to hasten the negotiations necessitates the simultaneous treatment of all the questions without separating from the rest the question relative to Article XXIII, which, on the contrary, is connected with the others in the note which I have the honor to acknowledge.

In order therefore to conform to the desires expressed by you and to show anew the purpose of Colombia to facilitate so far as might be in its power the termination of the negotiations, I accept the method adopted by you, although it is not the same as that which I had the honor to propose.

The condition of retaining in the proposed treaty the twenty-third article in the form in which it was drawn up in the memorandum of the 18th of April has been characterized in the written instructions which I have received from my Government as a peremptory one, and consequently it is not permissible to me to subordinate it to other conditions, so long as my principal shall not revoke or modify in some express manner the orders which it has given to me.

In this regard it may be proper to observe that the Government of Colombia has introduced no innovation in the matter, nor has asked anything which had not been previously accepted by the Government of the United States, as appears from the note which you did me the honor to address me on the 18th of April last, as well as in the later note of the 18th of July, in which you were pleased to say that the modifications proposed on this latter date do not affect the engagements contracted by the acceptance of the unofficial memorandum "which continues in all its force until some other agreement be reached." The assent of the President of the United States to the incorporation of the original Article XXIII in the treaty draft can not, perhaps, be exactly called a concession which puts Colombia in the position of making in equity other concessions requested by the United States.

Neither is it out of place to recall in this respect that in the conference, which I had the honor to hold with you on the 4th of the present month, you were pleased to state to me that the modification of the twenty-third article, which was proposed among the amendments of the 18th of July, had not arisen upon the sole initiative of the executive governments, since it was judged indispensable at the suggestion of several Members of the Senate of the United States,

who believed it to be opportune; but since then I had the honor to state to you that it was for Colombia a capital point, since, taken in connection with the provisions of Articles IV and XVII, its effect was to enunciate and affirm the rights of sovereignty of the Republic and questions of the guarantee and freedom of transit in conformity with the thirty-fifth article of the existing treaty of 1846-1848, which is textually incorporated in the convention about to be concluded. Whatever be the importance of this explanation, it suffices to show that, even although the cordial relations between Colombia and the United States at different times and for different motives have not been interrupted or embarrassed for more than 50 years of the existence of the treaty, doubts and controversies have arisen which, although they have terminated by being settled or forgotten, it would still be very desirable that they should not arise in the future when we aspire to draw still closer the existing relations between the two Republics upon the footing of perfect equality to which international law and their own traditions entitle them.

In a memorandum attached to this note I answer your excellency's memorandum to which I have referred at the beginning of this note, and I set forth the reasons upon which my Government rests for adhering to its original position in the substantial parts of the memorandum of the 18th of April of this year as the bases of the treaty.

I have, moreover, transmitted by cable to my Government a summary of your communication and memorandum, in order that it may definitely decide upon what it deems to be most appropriate.

I beg your excellency to accept the assurances of my highest and most distinguished consideration.

JOSÉ VICENTE CONCHA.

[Memorandum in reply to the memorandum of the 18th of November of his excellency the Secretary of State of the United States.]

A.

(a) The condition that there be returned to Colombia all the public lands granted to the railway and canal companies which may not be within the zone of the concession made to the United States, is in accordance with the original intent and text of the memorandum of the 18th of April. The undersigned is not unaware that those properties may have a considerable value, but it must be kept in view, on the one hand, that the Government of Colombia has not interfered and will not interfere in any form whatever in the stipulation of the price which the United States are to pay to the aforesaid companies for the concession of their rights; and, on the other hand, that all those properties of which those companies now have the usufruct are to be restored to the Republic at the expiration of their respective concessions. (Seventh condition of Article I of the contract for the construction of the canal of May 18, 1878; Article XVII of the contract for the railway of the 17th of April, 1850; and Article XXIII of the additional contract of July 5, 1867, concerning the same railway.) The time during which the companies are to have the usufruct of those properties being thus limited, it is clear that if they have any considerable value that value belongs to

Colombia, and there is no reason or motive for paying it over to the companies or for their owner to cede it gratuitously. Colombia has already exercised an act of exceptional liberty in extending, in favor of the canal company, the time limit for the construction of the work which has had the sole effect of allowing to the company the possibility of recovering a part of its capital which, without this extension of time, would have passed in several months to Colombia.

The undersigned does not insist or intimate that the United States shall intervene in the questions which have to be discussed between the Government of Colombia and the aforesaid companies, but he does indicate that there are such questions in order that the equity which moves the request of Colombia may be palpably seen. So that, if there be still wanting any proof of the liberality of Colombia in her grants of land, it would be sufficiently shown by the enlargement of the zone of the canal from 200 meters conceded to the company to 5,000 meters which is offered to the United States.

(b) The preceding reasons serve, in part, likewise to show the necessity which exists that the Government of Colombia should make a special contract with the companies which are about to cede their rights; but it should be said in addition that the sole fact of a treaty between Colombia and the United States can not have the judicial effect of determining or cancelling the bonds of right which exist between the Republic of Colombia and those companies—bonds springing from perfect contracts which can not be dissolved according to the principles of universal jurisprudence, because one of the parties may conclude a compact in regard to the same matter with a third party, which in this case would be the United States. So that, as the United States are under the necessity of making a contract for acquiring the rights of the said companies, and as such negotiation could not be included in the treaty which is to be concluded between the two countries, so also the dissolution of the obligations between Colombia and the two companies could not be effected by the treaty. Otherwise the result would be that Colombia would be stripping herself of all her rights in relation to these corporations or depriving herself of the means of making those rights effective, and would still leave in existence her obligations toward them. The mere fact of the payment of the privileged shares which Colombia possesses in the canal company would not be a guarantee for the relinquishment of a special contract, the more so as in the modification proposed by the Department of State to Article I of the April memorandum it is expressly said that the United States contracts no obligation in this regard ("no obligation under this provision is imposed upon or assumed by the United States").

If the United States have to construct aqueducts in Panama and Colon, these being cities the increase of whose population and trade would be due exclusively to the canal, it is the United States who will derive great benefit from that fact by obtaining sanitary conditions favorable for their employees and operatives, who will sojourn there in great number. Even supposing that this stipulation did not exist in the treaty—and it is not essential—the United States would find themselves under the necessity of constructing these works.

However sincere and strong may be, therefore, the desire of the Government of Colombia to smooth away the difficulties of the negotiation, it could not, without causing irreparable injury to the interest

of the Colombian people, withdraw the conditions which have been set forth with respect to Article I.

B.

Seeing that the United States accept the suppression of the term "in perpetuity" in Articles II and III of the project of a treaty, it is not necessary to discuss this point, and it is merely proper to remark that in the constitution of Colombia "territory" is not synonymous with "national property" (*bienes nacionales*), as is shown by Article IV of that constitution; but the alienation of a part of the territory would require a change in the boundaries of the nation, and as such boundaries are fixed in Article III of the same fundamental charter, a change thereof would require the amendment of the constitution itself.

C.

Article III of the original memorandum was not objected to by the Government of the United States when it was presented, nor was it said, as it is now said, that it would "embarrass or limit the action of the United States in the construction of a canal," a point which certainly would not have escaped the notice of the Department of State at that time. No amendment has been formulated in this regard, as was said in the memorandum to which reply is made, and it is only asked that an article of the original project may be conserved intact.

Consequently Colombia is not disposed to make any change in Article III of the memorandum of the 18th of April.

The same is said with respect to Article VII, since the same reasons exist therefor.

D.

Although the part relative to lighthouses is stricken out, it should be stated that, when the memorandum of the 18th of April was published, a certain lighthouse concessionary in the department of Panama presented to the Government of Colombia a memorial (hereto annexed in copy) in reservation of his rights. Although there is an article of the treaty in which indemnification is tacitly comprised it has been sought to make the matter clear, and in that respect also no new matter is introduced. It is proper to note that by suppressing lighthouse dues in Panama, Colombia loses a relatively important revenue for its treasury and that it would not have been equitable if, in renouncing these resources for the future, it would also have to be burdened with the payment of the rights of the concessionaries.

E.

The memorandum to which reply is now made, in speaking of matters concerned with Article XXV of the treaty project, states that the offer of payment on the part of the United States of a total sum of \$7,000,000 "has no connection with the matter of an annual payment during the first 14 years."

The textual and clear terms of Article XXV of the memorandum of the 18th of April are sufficient to answer this remark. It is there

clearly stated, after much insistence, in order that it may appear that the seven millions which Colombia is to receive were an advance payment, an advance for the 14 first years of the use of the zone, and of the other concessions which the United States were to receive from the Government of Colombia. Before the termination of these 14 years an accord was to be reached conformably to the cited article, concerning the rate of the further annual payments, and to that end were mentioned the data upon which the estimates should rest beginning with the amount of the annual payment as calculated for the first period. But if, as to this, doubt should still exist it should be now stated with due precision that at the time the former minister of Colombia in Washington began the discussion of the preliminaries of the treaty with the members of the Isthmian Commission, it was stated clearly, expressly, and insistently that Colombia would ask an annual payment for the right to use the zone of the canal, as the proprietor thereof, and also the equitable price of the other concessions. In this regard, as in respect to the rest of the treaty draft, the conduct of Colombia has been absolutely frank from the beginning, and any other proceeding would have been destitute of reasonable motive.

The Government of the United States has thought it proper to modify the text of Article XXV of the memorandum which it accepted in its two notes of the 18th of April and 18th of July, and has proposed to Colombia an alternative between the payment of ten millions in cash and \$10,000 of annual rental, or an initial payment of \$7,000,000 and an annual discountable revenue of \$100,000. The undersigned minister has no written authority of his Government to accept either of the two aforesaid alternative terms.

If the indemnification which is to be given to Colombia for its vast concessions has to be reduced to either of the two terms of the alternative proposed by the United States, the result would be that Colombia, having first ceded the usufruct and afterwards the full ownership of the Panama Railway; having ceded to the United States a zone for the canal 25 times greater than that which the concessionary company now enjoys; having renounced the expectation that the constructed canal shall become in 99 years the property of the Republic; having abstained from asking 8 per cent of the revenues of the enterprise as stipulated in the contract with the company; having obligated herself to suppress in a considerable extent of territory all imposts and contributions which might help to meet the increasing expenses of the public service; having given the free use of all the navigable waters and many public lands of Panama—would in exchange receive only in the first period of 100 years a sum which, distributed among all those years, would not amount in any one year to the half even of the sum which the Republic and the Department of Panama to-day receive from the rental of the Panama Railway alone.

The United States have given on distinct occasions before the world, and in fact to other Governments, examples of high and noble equity. So that, giving a little consideration to the real proportions of the indemnity which is offered to Colombia, it can not fail to be seen that this offer is very wide of what such equity would require.

F.

With respect to Article XXVI of the original memorandum, the undersigned has no authority to eliminate it from the text of the

G.

No formal proposal has been made concerning the terms of an article in which shall be established the manner of settling the doubts or difficulties which may arise in the application of the treaty in case it be perfected, but, this being the last provision of the compact, its examination may be postponed.

Washington, D. C., November 22, 1902.

JOSÉ VICENTE CONCHA.

BOGOTÁ, August 27, 1902.

His Excellency the MINISTER OF FOREIGN RELATIONS,

Present:

I, Dionisio Jiménez, a Colombian citizen, a resident of the city of Cartagena and transiently in this capital, make to your excellency, with all due respect, the following statement:

1. That I am the holder of the privilege for the establishment and exploitation of the lighthouse on Isla Grande, situated on the Atlantic coast of the Department of Panama, 32 miles from the port of Colon, which lighthouse has been in use for more than seven years, during which time it has worked with absolute regularity.

2. That the aforesaid lighthouse now yields to the national treasury an income of not less than \$6,000 per annum, by reason of the share of the said treasury in that enterprise, which will become the exclusive property of the Government when the privilege expires.

3. That the privilege, which I acquired by purchase (made with the approval of the Government) from Don Aureliano Gonzalez Toledo, the original holder of the concession, gives me the right to collect from all vessels that pass by said lighthouse, whencesoever they may come and whithersoever they may be going, remuneration for the service that they receive from said lighthouse, without any exception save the war vessels of nations that are friendly to Colombia.

4. That in article 7 of the draft of a treaty with the Government of the United States of America for the construction of the Panama Canal, which draft was prepared by Don Carlos Martínez Silva when he was in charge of the legation of Colombia at Washington, there is offered to vessels about to pass through that canal, among many other and various concessions, exemption from the payment of light dues. This is done in so broad a manner that it might readily be believed that the exemption offered had reference to all lighthouses on the seacoast of the Republic, and not merely to that in the port of Colon, which is the only one to which that act of disinterestedness and generosity can refer.

5. That in the privilege granted to the Universal Panama Canal Co., which it is proposed to transfer to the American Government, the right was granted to that company—

to establish and collect for passage through the canal and the ports belonging to it lighthouse, anchorage, transit dues, etc.

But no exemption whatever was granted to vessels going to the canal for the services that they should receive in other ports or from coast lighthouses not belonging to the Panama Canal Co.

6. That as the point now under discussion was left obscure when the final contract was concluded between the Government of Colombia and that of the United States, erroneous interpretations might afterwards occur which might disturb the exercise of the rights that I have acquired in connection with the concession of the lighthouse on Isla Grande, said lighthouse being situated 32 miles from the port of Colon, or from the entrance via the Atlantic to the projected Panama Canal, in which enterprise more than \$50,000 have been invested, I have thought proper, without further delay, to address your excellency to the end that if that treaty should finally be collected [meaning concluded], you may be pleased to consider the rights which I represent as the holder of the concession to exploit the coast lighthouse on Isla Grande, and to protect them by giving it to be understood, with all clearness, that vessels about to pass through the canal are to be exempt from the light dues of the port of Colon, but that, in accordance with the established schedule, they must pay for the service which they receive from the lighthouse on Isla Grande, which is the point of orientation of all vessels passing along the coasts of the Isthmus of Panama.

7. That this explanation interests the Government more than it does the undersigned, who is simply the usufructuary for a limited time of one-half of the income yielded by that lighthouse, whereas the Government is not only the usufructuary of the other half, but when the privilege expires it will be the exclusive owner of the enterprise, and consequently of the entire income yielded by it.

8. That if, owing to any unforeseen circumstance, or to any circumstance over which your excellency has no control, the rights of the enterprise which I represent shall be annulled, I now enter a formal protest on account of the damage that may be caused, reserving the right to claim compensation therefor by due process of law if the case shall arise.

I earnestly beg your excellency to be pleased to order the receipt of this memorial to be acknowledged.

Mr. Minister.

DIONISIO JIMÉNEZ.

[Republic of Colombia. (L. S.) Ministry of Foreign Relations.]

MINISTRY OF FOREIGN RELATIONS,
Bogotá, September 2, 1902.

The foregoing is a copy, which is transmitted with a communication of this day's date, No. 7078, to the honorable legation of Colombia at Washington.

FRANCISCO RUIZ,
Assistant Secretary.

A true copy.

J. V. CONCHA,
Minister of Colombia.

APPENDIX.

LIST OF PUBLIC DOCUMENTS.

1. Clayton-Bulwer treaty. Signed at Washington April 19, 1850. Proclaimed July 5, 1850.
2. Hay-Herran (Panama Canal) treaty. Signed at Washington on January 22, 1903. Approved by the United States Senate March 17, 1903. Never acted upon by the Colombian Congress. (57th Cong., 2d sess., S. Ex. K.)
3. First Hay-Pauncefote treaty. Signed February 5, 1900. Amended by the United States Senate and never ratified. (56th Cong., 1st sess., S. Doc. No. 160.)
4. Hay-Pauncefote treaty. Signed at Washington November 18, 1901. Proclaimed February 22, 1902.
5. Hay-Bunau Varilla Convention (Panama Canal treaty). Signed at Washington November 18, 1903. Proclaimed February 26, 1904.
6. Treaties with Panama and Colombia relating to the Panama Canal. Signed with Panama (Root-Arosemena) January 9, 1909. Signed with Colombia (Root-Cortes) January 9, 1909. Treaty between Panama and Colombia (Cortes-Arosemena). Signed January 9, 1909. Consented to by United States Senate and by Panaman Congress. Never acted upon by Colombian Congress. (60th Cong., 2d sess., confidential, Ex. N.)
7. President Taft's message. August 19, 1912. The Panama Canal. (62d Cong., 2d sess., H. Doc. 914.)
8. Panama Canal act. Approved August 24, 1912. (Public, No. 337, H. R. 21969.)
9. Memorandum to accompany canal act. Signed by President Taft August 24, 1912.
10. President's proclamation Panama Canal toll rates. November 13, 1912.
11. President's message giving correspondence relating to the revolution on the Isthmus of Panama, November 16, 1903.
12. Second message giving further correspondence on the same subject, November 27, 1903.
13. President's message giving correspondence between the United States and Colombia.
14. President's message giving correspondence showing relations between the United States, Colombia, and Panama, January 18, 1904.
15. Hay-Concha protocol and correspondence between the United States and Colombia.
16. President's message giving correspondence showing relations of the United States with Colombia and Panama, December 8, 1908.

APPENDIX.

No. 1.

CLAYTON-BULWER TREATY.

CONVENTION BETWEEN THE UNITED STATES AND GREAT BRITAIN FOR FACILITATING AND PROTECTING THE CONSTRUCTION OF A SHIP CANAL BETWEEN THE ATLANTIC AND PACIFIC OCEANS, AND FOR OTHER PURPOSES.

[Signed at Washington April 19, 1850; ratification advised by the Senate May 22, 1850; ratified by the President May 23, 1850; ratified by Great Britain June 11, 1850; ratifications exchanged at Washington July 4, 1850; proclaimed July 5, 1850.]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a Convention between the United States of America and Her Britannic Majesty, for facilitating and protecting the construction of a ship canal between the Atlantic and Pacific Oceans, and for other purposes, was concluded and signed at Washington, on the nineteenth day of April last, which Convention is, word for word, as follows:

CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND HER BRITANNIC MAJESTY.

The United States of America and Her Britannic Majesty, being desirous of consolidating the relations of amity which so happily subsist between them, by setting forth and fixing in a Convention their views and intentions with reference to any means of communication by Ship Canal, which may be constructed between the Atlantic and Pacific Oceans, by the way of the River San Juan de Nicaragua and either or both of the Lakes of Nicaragua or Managua, to any port or place on the Pacific Ocean,—The President of the United States, has conferred full powers on John M. Clayton, Secretary of State of the United States; and Her Britannic Majesty on the Right Honourable Sir Henry Lytton Bulwer, a Member of Her Majesty's Most Honourable Privy Council, Knight Commander of the Most Honourable Order of the Bath, and Envoy Extraordinary and Minister Plenipotentiary of Her Britannic Majesty to the United States, for the aforesaid purpose; and the said Plenipotentiaries having exchanged their full powers, which were found to be in proper form, have agreed to the following articles.

ARTICLE I.

The Governments of the United States and Great Britain hereby declare, that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said Ship Canal; agreeing, that neither will ever erect or maintain any fortifications

commanding the same, or in the vicinity thereof, or occupy, or fortify, or colonize, or assume, or exercise any dominion over Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America; nor will either make use of any protection which either affords or may afford, or any alliance which either has or may have, to or with any State or People for the purpose of erecting or maintaining any such fortifications, or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito Coast or any part of Central America, or of assuming or exercising dominion over the same; nor will the United States or Great Britain take advantage of any intimacy, or use any alliance, connection or influence that either may possess with any State or Government through whose territory the said Canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the citizens or subjects of the one, any rights or advantages in regard to commerce or navigation through the said Canal, which shall not be offered on the same terms to the citizens or subjects of the other.

ARTICLE II.

Vessels of the United States or Great Britain, traversing the said Canal, shall, in case of war between the contracting parties, be exempted from blockade, detention or capture, by either of the belligerents; and this provision shall extend to such a distance from the two ends of the said Canal, as may hereafter be found expedient to establish.

ARTICLE III.

In order to secure the construction of the said Canal, the contracting parties engage that, if any such Canal shall be undertaken upon fair and equitable terms by any parties having the authority of the local Government or Governments, through whose territory the same may pass, then the persons employed in making the said Canal and their property used, or to be used, for that object, shall be protected, from the commencement of the said Canal to its completion, by the Governments of the United States and Great Britain, from unjust detention, confiscation, seizure or any violence whatsoever.

ARTICLE IV.

The contracting parties will use whatever influence they respectively exercise, with any State, States or Governments possessing, or claiming to possess, any jurisdiction or right over the territory which the said Canal shall traverse, or which shall be near the waters applicable thereto; in order to induce such States, or Governments, to facilitate the construction of the said Canal by every means in their power: and furthermore, the United States and Great Britain agree to use their good offices, wherever or however it may be most expedient, in order to procure the establishment of two free Ports,—one at each end of the said Canal.

ARTICLE V.

The contracting parties further engage that, when the said Canal shall have been completed, they will protect it from interruption,

seizure or unjust confiscation, and that they will guarantee the neutrality thereof, so that the said Canal may forever be open and free, and the capital invested therein, secure. Nevertheless, the Governments of the United States and Great Britain, in according their protection to the construction of the said Canal, and guaranteeing its neutrality and security when completed, always understand that, this protection and guarantee are granted conditionally, and may be withdrawn by both Governments, or either Government, if both Governments, or either Government, should deem that the persons, or company, undertaking or managing the same, adopt or establish such regulations concerning the traffic thereupon, as are contrary to the spirit and intention of this Convention,—either by making unfair discriminations in favor of the commerce of one of the contracting parties over the commerce of the other, or by imposing oppressive exactions or unreasonable tolls upon passengers, vessels, goods, wares, merchandise or other articles. Neither party, however, shall withdraw the aforesaid protection and guarantee, without first giving six months notice to the other.

ARTICLE VI.

The contracting parties in this Convention engage to invite every State with which both or either have friendly intercourse, to enter into stipulations with them similar to those which they have entered into with each other; to the end, that all other States may share in the honor and advantage of having contributed to a work of such general interest and importance as the Canal herein contemplated. And the contracting parties likewise agree that, each shall enter into Treaty stipulations with such of the Central American States, as they may deem advisable, for the purpose of more effectually carrying out the great design of this Convention, namely,—that of constructing and maintaining the said Canal as a ship-communication between the two Oceans for the benefit of mankind, on equal terms to all, and of protecting the same; and they, also, agree that, the good offices of either shall be employed, when requested by the other, in aiding and assisting the negotiation of such Treaty stipulations; and, should any differences arise as to right or property over the territory through which the said Canal shall pass—between the States or Governments of Central America,—and such differences should, in any way, impede or obstruct the execution of the said Canal, the Governments of the United States and Great Britain will use their good offices to settle such differences in the manner best suited to promote the interests of the said Canal, and to strengthen the bonds of friendship and alliance which exist between the contracting parties.

ARTICLE VII.

It being desirable that no time should be unnecessarily lost in commencing and constructing the said Canal, the Governments of the United States and Great Britain determine to give their support and encouragement to such persons, or company, as may first offer to commence the same with the necessary capital, the consent of the local authorities, and on such principles as accord with the spirit and intention of this Convention; and if any persons, or company,

should already have, with any State through which the proposed Ship-Canal may pass, a contract for the construction of such a Canal as that specified in this Convention,—to the stipulations of which contract neither of the contracting parties in this Convention have any just cause to object,—and the said persons, or company, shall, moreover, have made preparations and expended time, money and trouble on the faith of such contract, it is hereby agreed, that such persons, or company, shall have a priority of claim over every other person, persons or company, to the protection of the Governments of the United States and Great Britain, and be allowed a year, from the date of the exchange of the ratifications of this Convention, for concluding their arrangements, and presenting evidence of sufficient capital subscribed to accomplish the contemplated undertaking; it being understood, that if, at the expiration of the aforesaid period, such persons, or company, be not able to commence and carry out the proposed enterprise, then the Governments of the United States and Great Britain shall be free to afford their protection to any other persons, or company, that shall be prepared to commence and proceed with the construction of the Canal in question.

ARTICLE VIII.

The Governments of the United States and Great Britain having not only desired in entering into this Convention, to accomplish a particular object, but, also, to establish a general principle, they hereby agree to extend their protection, by Treaty stipulations, to any other practicable communications, whether by Canal or railway, across the Isthmus which connects North and South America; and, especially, to the interoceanic communications,—should the same prove to be practicable, whether by Canal or railway,—which are now proposed to be established by the way of Tehuantepec, or Panama. In granting, however, their joint protection to any such Canals, or rail-ways, as are by this Article specified, it is always understood by the United States and Great Britain, that the parties constructing or owning the same, shall impose no other charges or conditions of traffic thereupon, than the aforesaid Governments shall approve of, as just and equitable; and, that the same Canals, or rail-ways, being open to the citizens and subjects of the United States and Great Britain on equal terms, shall, also, be open on like terms to the citizens and subjects of every other State which is willing to grant thereto, such protection as the United States and Great Britain engage to afford.

ARTICLE IX.

The ratifications of this Convention shall be exchanged at Washington, within six months from this day, or sooner, if possible.

In faith whereof, we, the respective Plenipotentiaries, have signed this Convention, and have hereunto affixed our seals.

Done, at Washington, the nineteenth day of April, Anno Domini, one thousand eight hundred and fifty.

JOHN M. CLAYTON.	[L. S.]
HENRY LYTTON BULWER.	[L. S.]

And whereas the said Convention has been duly ratified on both parts, and the respective ratifications of the same were exchanged at Washington on the fourth instant, by John M. Clayton, Secretary of State of the United States, and the Right Honorable Sir Henry Lytton Bulwer, Envoy Extraordinary and Minister Plenipotentiary of Her Britannic Majesty, on the part of their respective Governments:

Now, therefore, be it known that I, Zachary Taylor, President of the United States of America, have caused the said Convention to be made public, to the end that the same, and every clause and article thereof, may be observed and fulfilled with good faith by the United States and the citizens thereof.

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 fifth day of July, in the year of our Lord one thousand eight hundred and fifty, and of the Independence of the United States the seventy-fifth.

[L. s.]

Z. TAYLOR.

By the President:

J. M. CLAYTON—

Secretary of State.

No. 2.

HAY-HERRAN TREATY.

[Senate Executive K, Fifty-seventh Congress, second session.]

PANAMA CANAL.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES, TRANSMITTING
A CONVENTION BETWEEN THE UNITED STATES AND THE REPUBLIC OF
COLOMBIA FOR THE CONSTRUCTION OF A SHIP CANAL, AND SO FORTH,
TO CONNECT THE WATERS OF THE ATLANTIC AND PACIFIC OCEANS,
SIGNED JANUARY 22, 1903.¹

January 23, 1903: Read; convention read the first time and referred to the Committee on Foreign Relations, and, together with the message, ordered to be printed in confidence for the use of the Senate. January 24, 1903: Injunction of secrecy removed.

To the Senate:

I transmit herewith, with a view to receiving the advice and consent of the Senate to its ratification, a convention between the United States and the Republic of Colombia for the construction of a ship canal, etc., to connect the waters of the Atlantic and Pacific Oceans, signed at Washington on January 22, 1903.

THEODORE ROOSEVELT.

WHITE HOUSE, *January 23, 1903.*

THE PRESIDENT:

The undersigned, Secretary of State, has the honor to lay before the President for his consideration a convention between the United States of America and the Republic of Colombia for the construction of a ship canal, etc., to connect the waters of the Atlantic and Pacific Oceans, signed by the respective plenipotentiaries of the two Governments on January 22, 1903.

JOHN HAY.

DEPARTMENT OF STATE,
Washington, January 23, 1903.

The United States of America and the Republic of Colombia, being desirous to assure the construction of a ship canal to connect the Atlantic and Pacific Oceans and the Congress of the United

¹ Full correspondence regarding Hay-Herran treaty of 1903 with Colombia is printed in President's message to Congress of December 18, 1903, and also in Foreign Relations, 1903, pp. 132 et seq.

States of America having passed an Act approved June 28, 1902, in furtherance of that object, a copy of which is hereunto annexed, the high contracting parties have resolved, for that purpose, to conclude a Convention and have accordingly appointed as their plenipotentiaries,

The President of the United States of America, John Hay, Secretary of State, and

The President of the Republic of Colombia, Thomas Herran, Chargé d'Affaires, thereunto specially empowered by said government,

who, after communicating to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles:

ARTICLE I.

The Government of Colombia authorizes the New Panama Canal Company to sell and transfer to the United States its rights, privileges, properties, and concessions, as well as the Panama Railroad and all the shares or part of the shares of that company; but the public lands situated outside of the zone hereinafter specified, now corresponding to the concessions of both said enterprises shall revert to the Republic of Colombia, except any property now owned by or in the possession of the said companies within Panama or Colon, or the ports and terminals thereof.

But it is understood that Colombia reserves all its rights to the special shares in the capital of the New Panama Canal Company to which reference is made in Article IV of the contract of December 10, 1890, which shares shall be paid their full nominal value at least; but as such right of Colombia exists solely in its character of stockholder in said Company, no obligation under this provision is imposed upon or assumed by the United States.

The Railroad Company (and the United States as owner of the enterprise) shall be free from the obligations imposed by the railroad concession, excepting as to the payment at maturity by the Railroad Company of the outstanding bonds issued by said Railroad Company.

ARTICLE II.

The United States shall have the exclusive right for the term of one hundred years, renewable at the sole and absolute option of the United States, for periods of similar duration so long as the United States may desire, to excavate, construct, maintain, operate, control, and protect the Maritime Canal with or without locks from the Atlantic to the Pacific Ocean, to and across the territory of Colombia, such canal to be of sufficient depth and capacity for vessels of the largest tonnage and greatest draft now engaged in commerce, and such as may be reasonably anticipated, and also the same rights for the construction, maintenance, operation, control, and protection of the Panama Railroad and of railway, telegraph and telephone lines, canals, dikes, dams and reservoirs, and such other auxiliary works as may be necessary and convenient for the construction, maintenance, protection and operation of the canal and railroads.

ARTICLE III.

To enable the United States to exercise the rights and privileges granted by this Treaty the Republic of Colombia grants to that Government the use and control for the term of one hundred years, renewable at the sole and absolute option of the United States, for periods of similar duration so long as the United States may desire, of a zone of territory along the route of the canal to be constructed five kilometers in width on either side thereof measured from its center line including therein the necessary auxiliary canals not exceeding in any case fifteen miles from the main canal and other works, together with ten fathoms of water in the Bay of Limon in extension of the canal, and at least three marine miles from mean low water mark from each terminus of the canal into the Caribbean Sea and the Pacific Ocean respectively. So far as necessary for the construction, maintenance and operation of the canal, the United States shall have the use and occupation of the group of small islands in the Bay of Panama named Perico, Naos, Culebra and Flamenco, but the same shall not be construed as being within the zone herein defined or governed by the special provisions applicable to the same.

This grant shall in no manner invalidate the titles or rights of private land holders in the said zone of territory, nor shall it interfere with the rights of way over the public roads of the Department; provided, however, that nothing herein contained shall operate to diminish, impair or restrict the rights elsewhere herein granted to the United States.

This grant shall not include the cities of Panama and Colon, except so far as lands and other property therein are now owned by or in possession of the said Canal Company or the said Railroad Company; but all the stipulations contained in Article 35 of the Treaty of 1846-48 between the contracting parties shall continue and apply in full force to the cities of Panama and Colon and to the accessory community lands and other property within the said zone, and the territory thereon shall be neutral territory, and the United States shall continue to guarantee the neutrality thereof and the sovereignty of Colombia thereover, in conformity with the above mentioned Article 35 of said Treaty.

In furtherance of this last provision there shall be created a Joint Commission by the Governments of Colombia and the United States that shall establish and enforce sanitary and police regulations.

ARTICLE IV.

The rights and privileges granted to the United States by the terms of this convention shall not affect the sovereignty of the Republic of Colombia over the territory within whose boundaries such rights and privileges are to be exercised.

The United States freely acknowledges and recognizes this sovereignty and disavows any intention to impair it in any way whatever or to increase its territory at the expense of Colombia or of any of the sister republics in Central or South America, but on the contrary, it desires to strengthen the power of the republics on this continent, and to promote, develop and maintain their prosperity and independence.

ARTICLE V.

The Republic of Colombia authorizes the United States to construct and maintain at each entrance and terminus of the proposed canal a port for vessels using the same, with suitable light houses and other aids to navigation, and the United States is authorized to use and occupy within the limits of the zone fixed by this convention, such parts of the coast line and of the lands and islands adjacent thereto as are necessary for this purpose, including the construction and maintenance of breakwaters, dikes, jetties, embankments, coaling stations, docks and others appropriate works, and the United States undertakes the construction and maintenance of such works and will bear all the expense thereof. The ports when established are declared free, and their demarcations shall be clearly and definitely defined.

To give effect to this Article, the United States will give special attention and care to the maintenance of works for drainage, sanitary and healthful purposes along the line of the canal, and its dependencies, in order to prevent the invasion of epidemics or of securing their prompt suppression should they appear. With this end in view the United States will organize hospitals along the line of the canal, and will suitably supply or cause to be supplied the towns of Panama and Colon with the necessary aqueducts and drainage works, in order to prevent their becoming centers of infection on account of their proximity to the canal.

The Government of Colombia will secure for the United States or its nominees the lands and rights that may be required in the towns of Panama and Colon to effect the improvements above referred to, and the Government of the United States or its nominees shall be authorized to impose and collect equitable water rates, during fifty years for the service rendered; but on the expiration of said term the use of the water shall be free for the inhabitants of Panama and Colon, except to the extent that may be necessary for the operation and maintenance of said water system, including reservoirs, aqueducts, hydrants, supply service, drainage and other works.

ARTICLE VI.

The Republic of Colombia agrees that it will not cede or lease to any foreign Government any of its islands or harbors within or adjacent to the Bay of Panama, nor on the Atlantic Coast of Colombia, between the Atrato River and the western boundary of the Department of Panama, for the purpose of establishing fortifications, naval or coaling stations, military posts, docks or other works that might interfere with the construction, maintenance, operation, protection, safety, and free use of the canal and auxiliary works. In order to enable Colombia to comply with this stipulation, the Government of the United States agrees to give Colombia the material support that may be required in order to prevent the occupation of said islands and ports, guaranteeing there the sovereignty, independence and integrity of Colombia.

ARTICLE VII.

The Republic of Colombia includes in the foregoing grant the right without obstacle, cost, or impediment, to such control, con-

sumption and general utilization in any manner found necessary by the United States to the exercise by it of the grants to, and rights conferred upon it by this Treaty, the waters of the Chagres River and other streams, lakes and lagoons, of all non-navigable waters, natural and artificial, and also to navigate all rivers, streams, lakes and other navigable water-ways, within the jurisdiction and under the domain of the Republic of Colombia, in the Department of Panama, within or without said zone, as may be necessary or desirable for the construction, maintenance and operation of the canal and its auxiliary canals and other works, and without tolls or charges of any kind; and to raise and lower the levels of the waters, and to deflect them, and to impound any such waters, and to overflow any lands necessary for the due exercise of such grants and rights to the United States; and to rectify, construct and improve the navigation of any such rivers, streams, lakes and lagoons at the sole cost of the United States; but any such water-ways so made by the United States may be used by citizens of Colombia free of tolls or other charges. And the United States shall have the right to use without cost, any water, stone, clay, earth or other minerals belonging to Colombia on the public domain that may be needed by it.

All damages caused to private land owners by inundation or by the deviation of water courses, or in other ways, arising out of the construction or operation of the canal, shall in each case be appraised and settled by a joint commission appointed by the Governments of the United States and Colombia, but the cost of the indemnities so agreed upon shall be borne solely by the United States.

ARTICLE VIII.

The Government of Colombia declares free for all time the ports at either entrance of the Canal, including Panama and Colon and the waters thereof in such manner that there shall not be collected by the Government of Colombia custom house tolls, tonnage, anchorage, light-house, wharf, pilot, or quarantine dues, nor any other charges or taxes of any kind shall be levied or imposed by the Government of Colombia upon any vessel using or passing through the Canal or belonging to or employed by the United States, directly or indirectly, in connection with the construction, maintenance and operation of the main work or its auxiliaries, or upon the cargo, officers, crew, or passengers of any such vessels; it being the intent of this convention that all vessels and their cargoes, crews, and passengers, shall be permitted to use and pass through the Canal and the ports leading thereto, subject to no other demands or impositions than such tolls and charges as may be imposed by the United States for the use of the Canal and other works. It being understood that such tolls and charges shall be governed by the provisions of Article XVI.

The ports leading to the Canal, including Panama and Colon, also shall be free to the commerce of the world, and no duties or taxes shall be imposed, except upon merchandise destined to be introduced for the consumption of the rest of the Republic of Colombia, or the Department of Panama, and upon vessels touching at the ports of Colon and Panama and which do not cross the Canal.

Though the said ports shall be free and open to all, the Government of Colombia may establish in them such custom houses and

guards as Colombia may deem necessary to collect duties on importations destined to other portions of Colombia and to prevent contraband trade. The United States shall have the right to make use of the ports at the two extremities of the Canal including Panama and Colon as places of anchorage, in order to make repairs for loading, unloading, depositing, or transshipping cargoes either in transit or destined for the service of the Canal and other works.

Any concessions or privileges granted by Colombia for the operation of light houses at Colon and Panama shall be subject to expropriation, indemnification and payment in the same manner as is provided by Article XIV in respect to the property therein mentioned; but Colombia shall make no additional grant of any such privilege nor change the status of any existing concession.

ARTICLE IX.

There shall not be imposed any taxes, national, municipal, departmental, or of any other class, upon the canal, the vessels that may use it, tugs and other vessels employed in the service of the canal, the railways and auxiliary works, store houses, work shops, offices, quarters for laborers, factories of all kinds, warehouses, wharves, machinery and other works, property, and effects appertaining to the canal or railroad or that may be necessary for the service of the canal or railroad and their dependencies, whether situated within the cities of Panama and Colon, or any other place authorized by the provisions of this convention.

Nor shall there be imposed contributions or charges of a personal character of whatever species upon officers, employees, laborers, and other individuals in the service of the canal and its dependencies.

ARTICLE X.

It is agreed that telegraph and telephone lines, when established for canal purposes, may also, under suitable regulations, be used for public and private business in connection with the systems of Colombia and the other American Republics and with the lines of cable companies authorized to enter the ports and territories of these Republics; but the official dispatches of the Government of Colombia and the authorities of the Department of Panama shall not pay for such service higher tolls than those required from the officials in the service of the United States.

ARTICLE XI.

The Government of Colombia shall permit the immigration and free access to the lands and workshops of the canal and its dependencies of all employees and workmen of whatever nationality under contract to work upon or seeking employment or in any wise connected with the said canal and its dependencies, with their respective families, and all such persons shall be free and exempt from the military service of the Republic of Colombia.

ARTICLE XII.

The United States may import at any time into the said zone, free of customs duties, imposts, taxes, or other charges, and without any