

[Translation.]

NAVY DEPARTMENT,  
*Washington, D. C., November 4, 1903.*

NASHVILLE, *Colon:*

Gunboat of Colombia shelling Panama. Send immediately battery 3-inch field gun and 6-pounder with a force of men to Panama to compel cessation bombardment. Railroad must furnish transportation immediately.

DARLING, *Acting.*

[Translation.]

WASHINGTON, D. C., *November 5, 1903.*

BOSTON, *care of American consul, Panama:*

Prevent recurrence bombardment of Panama. Acknowledge.

MOODY.

NAVY DEPARTMENT,  
*Washington, D. C., November 5, 1903.*

NASHVILLE, *Colon:*

Prevent any armed force of either side from landing at Colon, Porto Bello, or vicinity.

MOODY.

[Translation.]

WASHINGTON, D. C., *November 6, 1903.*

MAINE, *Woods Hole, Mass.:*

Proceed at once to Colon, coaling wherever necessary to expedite your arrival. Acknowledge.

MOODY.

[Translation.]

WASHINGTON, D. C., *November 9, 1903.*

DIEHL, *Boston:*

Upon the arrival of the *Marblehead* sufficient force must be sent to watch movements closely of the British steamers seized at Buenaventura and to prevent the landing of men with hostile intent within limits of the State of Panama. Protect the British steamers if necessary.

MOODY.

[Translation.]

WASHINGTON, D. C., *November 10, 1903.*

GLASS, *Marblehead, Panama:*

Reported that the British steamers at Buenaventura were not detained. Did they leave with Colombian troops aboard?

MOODY.

[Translation.]

COLON, *October 15, 1903.*SECNAV, *Washington, D. C.:*

Report is current to the effect that a revolution has broken out in the State of Cauca. Everything is quiet on the Isthmus unless a change takes place. On this account there is no necessity to remain here. Do not think it necessary to visit St. Andrews Island.

HUBBARD,  
*Commanding Officer U. S. S. Nashville.*

[Translation.]

COLON, *November 3, 1903.*SECNAV, *Washington, D. C.:*

Receipt of your telegram of November 2 is acknowledged. Prior to receipt this morning about 400 men were landed here by the Government of Colombia from Cartagena. No revolution has been declared on the Isthmus and no disturbances. Railway company have declined to transport these troops except by request of the governor of Panama. Request has not been made. It is possible that movement may be made to-night at Panama to declare independence, in which event I will \* \* \* (message mutilated here) here. Situation is most critical if revolutionary leaders act.

HUBBARD.

[Translation.]

COLON, *November 4, 1903.*SECNAV, *Washington:*

Provisional government was established at Panama Tuesday evening; no organized opposition. Governor of Panama, General Tobar, General Amaya, Colonel Morales, and three others of the Colombian Government troops who arrived Tuesday morning taken prisoner at Panama. I have prohibited transit of troops now here across the Isthmus.

HUBBARD.

COLON *November 4, 1903.*SECRETARY OF THE NAVY, *Washington, D. C.:*

Government troops yet in Colon. Have prohibited transportation of troops either direction. No interruption of transit as yet. Will make every effort to preserve peace and order.

HUBBARD.

COLON, *November 4, 1903.*SECNAV, *Washington, D. C.:*

I have landed force to protect the lives and property of American citizens here against threats Colombian soldiery. I am protecting water front with ship. I can not possibly send to Panama until affairs are settled at Colon.

HUBBARD.

ACAPULCO, MEXICO, *November 4, 1903.*

SECRETARY NAVY, *Washington, D. C.:*

*Marblehead* and *Concord* to Panama to-day 4 p. m.; *Wyoming* will follow to-morrow afternoon. If *Boston* is to go with squadron, I would suggest Department will order her to rendezvous off Cape Mala, Colombia, about 6 p. m., on November 9. I have ordered *Nero* to Acapulco. I will leave sealed orders for her to proceed without delay to Panama unless otherwise directed.

GLASS.

COLON, *November 5, 1903—9.41 a. m.*

SECNAV, *Washington, D. C.:*

British man-of-war *Amphion* is protecting American interests at Panama. Reported bombardment much exaggerated.

HUBBARD.

COLON, *November 5, 1903—9.45 a. m.*

SECNAV, *Washington, D. C.:*

Have withdrawn force landed Wednesday afternoon. No bloodshed. I do not apprehend difficulty of any serious nature.

HUBBARD.

COLON, *November 5, 1903.*

SECRETARY OF THE NAVY,  
*Washington, D. C.:*

Situation here this morning again acute. Have deemed advisable to reland force.

HUBBARD.

[Translation.]

COLON, *November 5.*

SECNAV, *Washington:*

Atlas Line's steamer, with large body of troops, reported sailing from Cartagena, Colombia.

HUBBARD.

NAVY DEPARTMENT,  
*Washington, D. C., Colon, November 6, 1903.*

SECRETARY OF THE NAVY,  
*Washington, D. C.:*

All quiet. Independents declare Government established as Republic of Panama. Have withdrawn marines.

DELANO.

COLON, *November 6, 1903—9.15 a. m.*

SECNAV, *Washington:*

Arrived Thursday evening; landed force. Following conditions prevailing: Just before landing all the troops of Colombia have left

for R. M. S. P. Company's steamer *Orinoco* for Cartagena. Independent party in possession of Colon, Panama, and railroad line. *Nashville* withdrawn force.

DELANO.

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[Translation.]

PANAMA, November 7, 1903—7.40 p. m.

SECNAV, Washington:

All quiet; traffic undisturbed; message to prevent received.

DIEHL.

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COLON, November 8, 1903—7.05 p. m.

SECNAV, Washington, D. C.:

*Atlanta* left yesterday for Bocas del Toro.

DELANO.

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PANAMA, November 9.

SECRETARY OF THE NAVY,  
Washington:

The British consul and the minister of war of the provisional government fear seizure of two British steamers at Buenaventura to transport troops convoyed by gunboat. Prevailed upon minister to dispatch gunboat, fearing possible destruction British steamers. The landing of troops in the territory within the limit under my control will cause prolonged campaign. Instructions from the Department are requested.

DIEHL.

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PANAMA, November 10, 1903.

SECNAV:

Your telegram of the 9th of November to the *Boston* acknowledged. No interference British vessels yet. Report seems to be well founded that the steamship *Bogota* sailed from Buenaventura yesterday afternoon with 1,000 for Rio Dulce. Have sent *Concord* to patrol in that vicinity in order to prevent landing. Everything is quiet at Panama.

GLASS.

No. 12.

PRESIDENT'S SECOND MESSAGE GIVING CORRESPONDENCE ON  
REVOLUTION ON THE ISTHMUS OF PANAMA.

[House Document No. 8, part 2, Fifty-eighth Congress, first session.]

REVOLUTION ON THE ISTHMUS OF PANAMA.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES, TRANSMITTING  
ADDITIONAL CORRESPONDENCE RELATING TO THE RECENT REVOLUTION  
ON THE ISTHMUS OF PANAMA.

[November 27, 1903: Read; referred to the Committee on Foreign Affairs and ordered  
to be printed.]

*To the House of Representatives:*

In response to a resolution of the House of Representatives of November 9, 1903, requesting the President "to communicate to the House, if not, in his judgment, incompatible with the interests of the public service, all correspondence and other official documents relating to the recent revolution on the Isthmus of Panama," I transmit herewith copies of additional papers on the subject which have been received subsequent to the resolution referred to.

THEODORE ROOSEVELT.

WHITE HOUSE,  
*Washington, November 27, 1903.*

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THE PRESIDENT:

The Secretary of State, to whom was referred a copy of the resolution of the House of Representatives of November 9, 1903, requesting copies of all correspondence and other official documents relating to the recent revolution on the Isthmus of Panama, has the honor to lay before the President copies of additional correspondence on the subject received subsequent to the resolution referred to.

Respectfully submitted.

JOHN HAY.

DEPARTMENT OF STATE,  
*Washington, November 24, 1903.*

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No. 464.] CONSULATE GENERAL OF THE UNITED STATES,  
*Panama, November 9, 1903.*

HON. FRANCIS B. LOOMIS,  
*Assistant Secretary of State, Washington, D. C.*

SIR: I have the honor to say that on the 5th instant I received from the Committee of the Provisional Government a circular letter (No. 1), dated November 4, 1903, informing me that Panama had dissolved its political relations with the Republic of Colombia and requesting me to acknowledge receipt of circular. Inclosed please

find translation of circular letter, marked "A." I immediately cabled the department the contents of said circular letter, and upon receipt of the department's cable instructing me to acknowledge receipt of circular and await instructions, I wrote acknowledging same. Please find copy of my letter, marked "B."

On receipt of the two telegrams from the department in regard to entering into relations with the local authorities here, being satisfied that there was a de facto government established, and as there was no opposition to same in the State of Panama, I wrote on the morning of the 7th to the committee, informing them that they would be held responsible for the protection of the persons and property of American citizens, as well as responsible for carrying out treaty obligations, in accordance with treaties in regard to isthmian territory. Inclosed please find copy of my letter, marked "C."

On the afternoon of the 8th instant I received a letter from the minister of foreign relations, saying that the Republic of Panama would protect American citizens and their property, as well as to carry out all treaty obligations in regard to isthmian territory. Inclosed find translation of letter, marked "D."

I am, sir, your obedient servant,

FELIX EHRLMAN,  
*United States Vice Consul General.*

A.

[Translation.]

CIRCULAR }  
No. 1. }

REPUBLIC OF PANAMA. PROVISIONAL GOVERNMENT.

*Panama, November 4, 1903.*

SIR: We have the honor of informing you, for your knowledge and that of the Government which you represent, that in this date a political movement has taken place by which the former department of Panama is separated from the Republic of Colombia, in order to constitute a new state under the name of "Republic of Panama," and that those who subscribe themselves have received the honor of being designated to form the Committee of the Provisional Government of the Republic.

We beg you to kindly acknowledge receipt and accept the sentiments of consideration, which it is pleasing to subscribe ourselves.

Your attentive servants,

J. A. ARANGO.  
TOMAS ARIAS.  
FEDERICO BOYD.

The CONSUL GENERAL OF THE UNITED STATES OF NORTH AMERICA, *Pte.*

B.

*PANAMA, November 5, 1903.*

Messrs. J. A. ARANGO, TOMAS ARIAS, and FEDERICO BOYD,

*Committee of the Provisional Government, Panama.*

SIRS: I have the honor to acknowledge receipt of your circular letter No. 1, dated November 4, 1903.

I am, sirs, very respectfully, yours,

FELIX EHRLMAN,  
*United States Vice Consul General.*

## C.

PANAMA, November 7, 1903.

MESSRS. J. A. ARANGO, TOMAS ARIAS, and FEDERICO BOYD,

*Committee of the Provisional Government, present.*

GENTS: As it appears that the people of Panama have, by unanimous movement, dissolved their political connection with the Republic of Colombia and resumed their independence, and as there is no opposition to the Provisional Government in the State of Panama, I have to inform you that the Provisional Government will be held responsible for the protection of the persons and property of citizens of the United States, as well as to keep the Isthmian transit free, in accordance with obligations of existing treaties relative to the Isthmian territory.

I have the honor to remain, gentlemen, very respectfully,

FELIX EHRLMAN,

*United States Vice Counsel General.*

## D.

[Translation.]

No. 2.]

REPUBLIC OF PANAMA,

*Panama, November 8, 1903.*

SIR: The Committee of the Provisional Government, informed of your communication of yesterday, has requested me to inform you that the Republic of Panama shelters the most sincere determination of protecting, as it has so far protected, the lives and properties of the United States citizens, determination that involves for the Republic a sacred and pleasant duty, and that in regard to the obligations existing on account of treaties in connection with the Isthmian territories heretofore with the Republic of Colombia are now with the Republic of Panama that has substituted the former in them and their rights.

With the sentiments of the highest consideration, I beg to remain,

Very attentive servant,

F. V. DE LA ESPRIELLA.

The VICE CONSUL GENERAL OF THE UNITED STATES OF AMERICA.

No. 463.]

CONSULATE GENERAL OF THE UNITED STATES,

*Panama, November 9, 1903.*

HON. FRANCIS B. LOOMIS,

*Assistant Secretary of State, Washington, D. C.*

SIR: I have the honor to report that on the 3d of November, at about 6 p. m., there occurred an uprising in the city of Panama. It seems that everything had been prearranged with the officials of the army and navy, as there was practically accord among all the officers. General Tovar, General Castro, and Commander Tovar of the gunboat *Bogota*, finding out about the movement just a short while before it occurred, rushed to the barracks in the hope of frustrating the plans, but on their arrival General Huertas, second in command of the troops stationed at Panama, and chief of the "Colombia Battalion," ordered the soldiers out and arrested the above-mentioned generals, together with Governor Obaldia. The movement was to occur at 8 o'clock, but as the people had assembled and everything in readiness they moved at 6 o'clock. At 8 o'clock a boat was sent off from the gunboat *Bogota*, saying that unless Generals Tovar and Castro were set at liberty immediately they would bombard the town. This note was not answered by the people on shore.

At about 10 o'clock on the night of the 3d the *Bogota* fired several shells, which were answered by the fort. These shots struck in different parts of the city, and one Chinaman was killed. After firing, the *Bogota* hoisted her anchor and steamed away. She was supposed to be behind some islands which are directly in front of Panama. On the morning of the 4th I received information direct from one of the chiefs of the movement, and he said that the *Bogota* had threatened to again bombard the city, and on this I immediately sent word by telegraph to the commander of the *Nashville* and cabled the Department. The consular corps met in this consulate general and decided to send a protest to the commander of the *Bogota*, protesting against the action of the commander. Inclosed please find copy of protest, marked "A." This letter was not sent, as the *Bogota* was not in sight and no boats were available at the time. The gunboat *Twenty-first of November* (*Padilla*) was lying off Panama all this time, but did not try to intercept or pursue the *Bogota*. On the morning of the 4th the *Twenty-first of November* came in and anchored near the fort, and in the afternoon of the same day hauled down the Colombian flag and hoisted the flag of Panama. In the afternoon of the 4th, at 3 p. m., there was a general mass meeting held in the central plaza, and the declaration of independence was read and signed. The following is a list of the Government officials, as given me by the Committee of the Provisional Government:

Committee of provisional government, J. A. Arango, Tomas Arias, and Federico Boyd; minister of government, Eusebio A. Morales; minister of foreign relations, F. V. de la Espriella; minister of war and marine, Nicanor A. de Obarrio; minister of justice, Carlos A. Mendoza; minister of finance, Manuel E. Amador; minister of public instruction, Julio J. Fabrega; chief of the division of Panama, Gen. Domingo Diaz; general in chief of the army of the Republic, Gen. Esteban Huertas; commander of civil battalion, Gen. Manuel Quintero; general treasurer of the Republic, Señor Albino Arosemena; commander of the gunboat *Twenty-first of November*, Gen. H. O. Jeffries.

I may say that the above mentioned are all men of high standing in Panama and men who have had wide experience in public affairs.

During the recent troubles I am pleased to state that everything was carried on in an orderly manner, and I have not heard of a case where foreigners were threatened or molested in any way.

Inclosed I send you clipping from the *Star* and *Herald* of this city containing a translation of the declaration of independence and manifesto by the committee of the provisional government, marked "B."

We have heard several stories of the happenings in Colon, but I will leave that to be reported on from Colon, as we have received nothing definite. The declaration of independence was read and signed at Colon at 1.30 p. m. on the afternoon of the 5th instant.

Telegrams have been received from different parts of the department of Panama, and all say that independence has been unanimously declared.

I am, sir, your obedient servant,

FELIX EHRLMAN,  
United States Vice Consul General.



A.

[Translation]

PANAMA, November 4, 1903.

The COMMANDER OF THE BOGOTA.

SIR: The consular corps of this city considers the action of the steamship *Bogota*, under your command, last night in bombarding a defenseless city without advice of any kind to the consuls is contrary to all rights and practice of civilized nations. Consequently the consular corps protests in the most solemn manner, and holds responsible for the consequences and responsibilities of this act whoever is to blame, furnishing account to their respective Governments of the referred circumstance.

Yours, respectfully,

FELIX EHRLMAN,  
*United States Vice Consul General.*

E. H. ROHRWEGGER,  
*Acting British Vice Consul.*

EMILE GREY,  
*Agent of the French Consulate.*

ARTHUR KOHPCKE,  
*Consul of Germany and in charge of Italian Consulate.*

A. JESURUM, Jr.,  
*Consul of Holland.*

ED. JARAMILLO AVILES,  
*Consul of Ecuador.*

J. F. ARANGO,  
*Consul General of Guatemala.*

FEDERICO BOYD,  
*Consul of Spain and of Salvador.*

JACOB L. MADURO,  
*Consul of Denmark.*

B. D. FIDANQUE,  
*Consul of Belgica.*

J. G. DUQUE,  
*Consul of Cuba.*

B. MENDEZ,  
*Consul of Mexico.*

PEDRO ARIAS,  
*Consul of Brazil.*

JERONIMO OSSA,  
*Consul of Chile and Honduras.*

JUAN VALLARINO,  
*Consul of Peru.*

B.

*Declaration of independence and manifesto.*

[Extract from Star and Herald, Panama (Republic of Panama), Thursday, November 5, 1903.]

## INDEPENDENCE OF PANAMA.

"Viva la Republica de Panama!"

"Viva la independencia!"

At last the State of Panama has awakened from the torpor which appeared to have overpowered all branches of its population. The people have at last come to the conclusion that there was no hope for their future as long as they remained under the jurisdiction of the national Government as a department of the Republic of Colombia and have risen in a body to protest to the injustice meditated by the Bogota Government toward them in refusing its sanction to the Herran-Hay canal treaty, the passing of which treaty actually means life or death to the State of Panama.

The cry of independence was started on the evening of the 3d and taken up by every Isthmian as one body, as well as all those in sympathy with the

cause. Due to the celebrated Battalion Colombia, under the command of their intrepid and universally-beloved commander, Gen. E. Huertas, being in sympathy with the movement and declaring themselves on the side of the "separatists," all bloodshed, fighting, etc., has been avoided, the greatest order and unity reigning on all sides. The populace repaired without distinction to the arsenal and were supplied with the necessary arms with which to uphold their independence.

The movement had been planned to take place later on but was precipitated by the arrival at Colon of 300 troops under command of Generals Tovar and Amaya on the *Cartagena* on the night of the 2d instant. The only deplorable incident has been the killing of two Chinamen and part destruction of two buildings in the city by some shells thrown from the cruiser *Bogota*, the commander of which refused his adhesion to the cause and threatened to bombard the city unless Generals Tovar and Amaya and their staffs, who were imprisoned on the afternoon of the 3d while attempting to take command of the garrison in this city, were released within three hours.

This request was not acceded to, in consequence of which the threat was carried out, but as the ship has got very little coal and supplies there is no doubt that she will not be able to hold out long and will have to surrender to the *21 de Noviembre*, which is being gotten ready for giving chase. The consular corps met and signed the following formal protest:

PANAMA, November 4, 1903.

THE COMMANDER OF THE BOGOTA.

SIR: The consular corps of this city considers the action of the steamship *Bogota*, under your command, last night in bombarding a defenseless city, without advice of any kind to the consuls, is contrary to all right and practice of civilized nations. Consequently the consular corps protests in the most solemn manner and holds responsible for the consequences and responsibilities of this act whoever is to blame, furnishing account to their respective governments of the referred-to circumstance.

Yours, respectfully,

FELIX EHRLMAN,  
*United States Vice Consul General.*

E. H. ROHRWEGER,  
*Acting British Vice Consul.*

EMILE GREY,  
*Agent of the French Consulate.*

ARTHUR KOEHPCKE,  
*Consul of Germany and in charge of the Italian Consulate.*

A. JESURUM, JR.,  
*Consul of Holland.*

ED. JARAMILLO AVILES,  
*Consul of Ecuador.*

I. F. ARANGO,  
*Consul General of Guatemala.*

FEDERICO BOYD,  
*Consul of Spain and of Salvador.*

JACOB L. MADURO,  
*Consul of Denmark.*

B. D. FIDANQUE,  
*Consul of Belgica.*

J. G. DUQUE,  
*Consul of Cuba.*

B. MENDEZ,  
*Consul of Mexico.*

PEDRO ARIAS,  
*Consul of Brazil.*

JERONIMO OSSA,  
*Consul of Chile and Honduras.*

JUAN VALLARINO,  
*Consul of Peru.*

In compliance with an invitation stuck up and distributed all over the city by the municipal board, Demetrio H. Brid, president, a public meeting of all the corporations, civilians, military and religious bodies took place at 3 p. m. yesterday at the Cathedral Park, where the act of independence was signed by the members of the municipality, the chiefs of the provisional government, etc., after which patriotic speeches were delivered in profusion.

The provisional government has been composed of the following gentlemen: Jose Agustin Arango, Federico Boyd, and Tomas Arias, with the following ministers: State, E. A. Morales; treasury, M. E. Amador; justice, C. A. Mendoza; foreign relations, F. V. de la Espriella; war and navy, N. A. de Obarrio.

From latest information we regret to state that Colon does not appear inclined to join the movement for separation. A commission from that city arrived yesterday evening to consult with the chiefs of the provisional government here, and we sincerely hope that the differences of opinion existing may be amicably settled in order to avoid all disturbance. The manifesto and declaration of independence we have translated for the benefit of our English readers.

We voice the sentiments of one and all, natives as well as foreigners, in wishing great prosperity to the new Republic.

Hurrah for the Republic of Panama!

Hurrah for the third of November!

#### DECLARATION OF INDEPENDENCE.

In the city of Panama, capital of the district of the same name, at 4 o'clock in the afternoon of the 4th day of November, 1903, the municipal council by its own right assembled, there being present the following members of the city council: Aizpuru, Rafael; Arango, Ricardo M.; Arias, F. Agustin; Arosemena, Fabio; Brid, Demetrio H.; Chiari, R. Jose Maria; Cucalon, P.; Manuel, J.; Dominguez, Alcides; Lewis, Samuel; Linares, Enrique; McKay, Oscar M.; Mendez, Manuel Maria; and Vallarino, Dario, the mayor of the district and the municipal attorney, and having for its exclusive object to debate regarding the situation in which the country is at present, and to decide regarding what should be most convenient toward the tranquility for the development and aggrandizement of the citizens that constitute the ethnographic and political entity denominated the Isthmus of Panama.

Councilmen Arias, F., Arosemena, Chiari, Brid, Cucalon, B., Aizpuru, Lewis, and Linares carefully took under special consideration the historical facts by virtue of which the Isthmus of Panama, by its own free will and in hopes of procuring for itself the ample benefits of right and liberty, cut asunder, on the 28th of November, 1821, its ties from Spain, and spontaneously joined its destiny to that of the great Republic of Colombia. Reflections were made tending to show that the union of the Isthmus with the old and modern Colombia did not produce the benefits that were expected from this act, and on mature consideration particular mention was made of the great and incessant injury that has been caused to the Isthmus of Panama in its material and moral interests at all times by the governments of the nation which have succeeded each other during the intervals of the federation, as well as those of the centralization—injuries which, instead of being looked after and patriotically remedied by those whose duty it was, were being augmented each day and increasing in importance with a persistency and ignorance that has exterminated in the cities of the department of Panama the inclinations which were spontaneously felt for Colombia, thus demonstrating to them that, their cup of bitterness overflowing and all hope of the future being lost, the moment had arrived in which to dissolve certain ties which were a drawback to civilization, which placed insurmountable barriers to all progress, and which, on the whole, has produced unhappiness, upsetting and undoing the ends of the political union in which they entered, moved by the necessity to satisfy the desire of prospering within the right respected and liberty assured.

In view of the circumstances mentioned, the municipal council of the district of Panama, as a faithful interpreter of the sentiments of those they represent, declares in a solemn form that the people under their jurisdiction from to-day and henceforth sever their ties with Colombia in order to form, with the other towns of the Department of Panama that accept the separation and unite with them, the State of Panama, so as to constitute a republic with an independent government, democratic, representative, and responsible, that would tend to the happiness of the natives and of the other inhabitants of the territory of the Isthmus.

In order to practically attain the fulfillment of the resolution of the people of Panama of emancipating themselves from the Government of Colombia, making use of their autonomy in order to dispose of their destiny, to establish a new nationality free from all foreign elements, the municipal council of the district of Panama, for itself and in the name of the other municipal councils of the department, places the administration, working, and direction of affairs, temporarily and while the new Republic be constituted, in a board of government composed of Messrs Jose Agustin Arango, Federico Boyd, and Tomas Arias, in whom and without any reserve whatsoever it gives powers, authorizations, and faculties necessary and sufficient for the satisfactory compliance of the duties which in the name of the Fatherland are confided to them.

It was ordered that the inhabitants of Panama be assembled to an open council in order to submit for their approval the ordinance that the present minutes contain, and which was signed by the officers and members of the corporation present.

Demetrio H. Brid, R. Aizpuru, A. Arias E., Manuel J. Cucalon P., Fabio Arosemena, Oscar M. McKay, Alcides Dominguez, Enrique Linares, J. M. Chiari R., Dario Vallarino, S. Lewis, Manuel M. Mendez.

The secretary of the council, Ernesto J. Goti.

In our next issue we will publish the very extensive list of the signers of the above declaration.

#### MANIFESTO.

The transcendental act that by a spontaneous movement the inhabitants of the Isthmus of Panama have just executed is the inevitable consequence of a situation which has become graver daily.

Long is the recital of the grievances that the inhabitants of the Isthmus have suffered from their Colombian brothers; but those grievances would have been withstood with resignation for the sake of harmony and national union had its separation been possible and if we could have entertained well-founded hopes of improvement and of effective progress under the system to which we were submitted by that Republic. We have to solemnly declare that we have the sincere and profound conviction that all the hopes were futile and useless, all the sacrifices on our part.

The Isthmus of Panama has been governed by the Republic of Colombia with the narrow-mindedness that in past times were applied to their colonies by the European nations—the isthmian people and territory was a source of fiscal resources and nothing more. The contracts and negotiations regarding the railroad and the Panama Canal and the national taxes collected in the Isthmus have netted to Colombia tremendous sums which we will not detail, not wishing to appear in this exposition which will go down to posterity as being moved by a mercenary spirit, which has never been nor is our purpose; and of these large sums the Isthmus has not received the benefit of a bridge for any of its numerous rivers, nor the construction of a single road between its towns, nor of any public building, nor of a single college, and has neither seen any interest displayed in advancing her industries, nor has a most infinite part of those sums been applied toward her prosperity.

A very recent example of what we have related above is what has occurred with the negotiations of the Panama Canal, which, when taken under consideration by Congress, was rejected in a summary manner. There were a few public men who expressed their adverse opinion, on the ground that the Isthmus of Panama alone was to be favored by the opening of the canal by virtue of a treaty with the United States, and that the rest of Colombia would not receive any direct benefits of any sort by that work, as if that way of reasoning, even though it be correct, would justify the irreparable and perpetual damage which would be caused to the Isthmus by the rejection of the treaty in the manner in which it was done, which was equivalent to the closing of the doors to future negotiations.

The people of the Isthmus, in view of such notorious causes, have decided to recover their sovereignty and begin to form a part of the society of the free and independent nations, in order to work out its own destiny, to insure its future in a stable manner, and discharge the duties which it is called on to do by the situation of its territory and its immense richness.

To that we, the initiators of the movement effected, aspire and have obtained a unanimous approval.

We aspire to the formation of a true republic, where tolerance will prevail, where the law should be the invariable guide of those governing and those

governed, where effective peace be established, which consists in the frequent and harmonious play of all interests and all activities, and where, finally, civilization and progress will find perpetual stability.

At the commencement of the life of an independent nation we fully appreciate the responsibilities that state means, but we have profound faith in the good sense and patriotism of the isthmian people, and we possess sufficient energy to open our way by means of labor to a happy future without any worry or any danger.

At separating from our brothers of Colombia we do it without any hatred and without any joy. Just as a son withdraws from his paternal roof, the isthmian people in adopting the lot it has chosen have done it with grief, but in compliance with the supreme and inevitable duty it owes to itself—that of its own preservation and of working for its own welfare.

We therefore begin to form a part among the free nations of the world, considering Colombia as a sister nation, with which we shall be whenever circumstances may require it, and for whose prosperity we have the most fervent and sincere wishes.

JOSE AGUSTIN ARANGO.  
FEDERICO BOYD.  
TOMAS ARIAS.

No. 13.

**PRESIDENT'S MESSAGE GIVING CORRESPONDENCE BETWEEN  
UNITED STATES AND COLOMBIA.**

[Senate Document No. 51, Fifty-eighth Congress, second session.]

CORRESPONDENCE CONCERNING THE CONVENTION BETWEEN THE  
UNITED STATES AND COLOMBIA FOR THE CONSTRUCTION OF AN  
INTEROCEANIC CANAL ACROSS THE ISTHMUS OF PANAMA.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES, TRANSMITTING A  
REPORT FROM THE SECRETARY OF STATE, WITH ACCOMPANYING PAPERS,  
CONCERNING THE CONVENTION BETWEEN THE UNITED STATES AND CO-  
LOMBIA FOR THE CONSTRUCTION OF AN INTEROCEANIC CANAL ACROSS  
THE ISTHMUS OF PANAMA.

[December 19, 1903: Read; referred to the Committee on Foreign Relations and ordered  
to be printed.]

*To the Senate and House of Representatives:*

I transmit, for the information of the Congress, in connection with  
the correspondence already transmitted relating to the recent revolu-  
tion on the Isthmus of Panama, and contained in House Document  
No. 8, Fifty-eighth Congress, first session, parts 1 and 2, a report  
from the Secretary of State, with accompanying papers, concerning  
the convention between the United States and Colombia for the con-  
struction of an interoceanic canal across the Isthmus of Panama.

THEODORE ROOSEVELT.

WHITE HOUSE,  
*Washington, December 18, 1903.*

—————  
The PRESIDENT:

The undersigned, Secretary of State, has the honor to lay before  
the President, with a view to their transmission to Congress for the  
information of that body, in connection with the correspondence  
already transmitted, relating to the recent revolution on the Isthmus  
of Panama, and contained in House Document No. 8, Fifty-eighth  
Congress, first session, parts 1 and 2,<sup>1</sup> copies of the correspondence  
between the Department of State and the legation of the United  
States at Bogotá concerning the convention between the United  
States and Colombia for the construction of an interoceanic canal  
across the Isthmus of Panama.

Respectfully submitted.

JOHN HAY.

DEPARTMENT OF STATE,  
*Washington, December 18, 1903.*

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<sup>1</sup> See Nos. 11 and 12, appendix.

*List of papers.*

No.	From and to whom.	Date.	No.	From and to whom.	Date.
		1903.			1903.
	Mr. Loomis to Mr. Beaupré (tele-gram).....	Mar. 18	105	Mr. Beaupré to Mr. Hay.....	Aug. 15
	Mr. Hay to Mr. Beaupré (telegram).....	Apr. 7		Mr. Loomis to Mr. Beaupré (tele-gram).....	Aug. 15
741	Mr. Beaupré to Mr. Hay.....	Mar. 30		Mr. Beaupré to Mr. Hay (telegram).....	Aug. 15
6	Same to same.....	Apr. 15	107	Same to same.....	Aug. 17
10	Same to same.....	Apr. 24		Same to same (telegram).....	Aug. 17
13	Same to same.....	Apr. 27	110	Same to same.....	Aug. 18
6	Mr. Hay to Mr. Beaupré.....	Apr. 28		Mr. Adee to Mr. Beaupré (telegram).....	Aug. 19
17	Mr. Beaupré to Mr. Hay.....	May 4		Mr. Hay to Mr. Beaupré (telegram).....	Aug. 24
18	Same to same.....	May 5		Mr. Beaupré to Mr. Hay (telegram).....	Aug. 24
	Same to same (telegram).....	May 7	115	Same to same.....	Aug. 24
19	Same to same.....	May 7		Same to same (telegram).....	Aug. 26
24	Same to same.....	May 12		Mr. Hay to Mr. Beaupré (telegram).....	Aug. 29
	Same to same (telegram).....	May 28		Mr. Beaupré to Mr. Hay (telegram).....	Aug. 29
37	Same to same.....	May 28		Same to same (telegram).....	Aug. 30
	Mr. Hay to Mr. Beaupré (telegram).....	May 30		Same to same (telegram).....	Aug. 31
15	Same to same.....	June 2		Same to same (telegram).....	Sept. 1
	Same to same (telegram).....	June 9		Same to same (telegram).....	Sept. 2
44	Mr. Beaupré to Mr. Hay.....	June 10		Same to same (telegram).....	Sept. 5
45	Same to same.....	June 10	129	Same to same.....	Sept. 5
48	Same to same.....	June 13		Same to same (telegram).....	Sept. 10
	Same to same (telegram).....	June 17	133	Same to same.....	Sept. 11
	Same to same (telegram).....	June 17		Same to same (telegram).....	Sept. 14
55	Same to same.....	June 20		Same to same (telegram).....	Sept. 17
56	Same to same.....	June 20	139	Same to same.....	Sept. 18
57	Same to same.....	June 20		Same to same.....	Sept. 22
	Same to same (telegram).....	June 23	150	Same to same.....	Sept. 24
	Same to same (telegram).....	June 25	154	Same to same.....	Sept. 25
	Same to same.....	June 26		Same to same (telegram).....	Sept. 28
67	Same to same.....	July 1		Same to same (telegram).....	Sept. 30
	Mr. Loomis to Mr. Beaupré (tele-gram).....	July 1	164	Same to same.....	Sept. 30
	Mr. Beaupré to Mr. Hay.....	July 2		Mr. Beaupré to Mr. Hay (telegram).....	Oct. 9
68	Same to same (telegram).....	July 2		Same to same (telegram).....	Oct. 14
	Same to same (telegram).....	July 5	176	Same to same.....	Oct. 10
	Same to same (telegram).....	July 5		Same to same.....	Oct. 15
72	Mr. Beaupré to Mr. Hay.....	July 6	179	Same to same.....	Oct. 16
	Same to same (telegram).....	July 9	181	Same to same.....	Oct. 16
	Same to same (telegram).....	July 11		Same to same (telegram).....	Oct. 17
78	Same to same.....	July 11	183	Same to same.....	Oct. 19
	Mr. Hay to Mr. Beaupré (telegram).....	July 13	185	Same to same.....	Oct. 20
	Mr. Beaupré to Mr. Hay (telegram).....	July 15	186	Same to same.....	Oct. 21
83	Same to same.....	July 21		Mr. Hay to Mr. Beaupré (telegram).....	Oct. 22
23	Mr. Loomis to Mr. Beaupré.....	July 21	188	Mr. Beaupré to Mr. Hay.....	Oct. 23
85	Mr. Beaupré to Mr. Hay.....	July 22		Mr. Beaupré to Mr. Hay (telegram).....	Oct. 23
	Mr. Loomis to Mr. Beaupré (tele-gram).....	July 29		Same to same (telegram).....	Oct. 27
	Mr. Hay to Mr. Beaupré (telegram).....	July 31		Same to same (telegram).....	Oct. 29
90	Mr. Beaupré to Mr. Hay.....	Aug. 3		Mr. Hay to Mr. Beaupré (telegram).....	Oct. 30
26	Mr. Loomis to Mr. Beaupré.....	Aug. 3		Mr. Beaupré to Mr. Hay (telegram).....	Oct. 31
	Mr. Beaupré to Mr. Hay (telegram).....	Aug. 5	199	Same to same (telegram).....	Nov. 1
	Same to same (telegram).....	Aug. 5	207	Same to same.....	Nov. 2
	Same to same (telegram).....	Aug. 5		Same to same.....	Nov. 4
	Same to same (telegram).....	Aug. 5		Same to same (telegram).....	Nov. 4
	Same to same (telegram).....	Aug. 5		Same to same (telegram).....	Nov. 6
	Same to same (telegram).....	Aug. 6		Mr. Hay to Mr. Beaupré (telegram).....	Nov. 6
98	Same to same.....	Aug. 7		Mr. Beaupré to Mr. Hay (telegram).....	Nov. 7
101	Same to same.....	Aug. 10		Same to same (telegram).....	Nov. 7
	Mr. Loomis to Mr. Beaupré (tele-gram).....	Aug. 10		Same to same (telegram).....	Nov. 9
	Mr. Beaupré to Mr. Hay (telegram).....	Aug. 12		Same to same (telegram).....	Nov. 11
	Same to same (telegram).....	Aug. 12		Mr. Hay to Mr. Beaupré (telegram).....	Nov. 11
	Same to same (telegram).....	Aug. 12		Mr. Beaupré to Mr. Hay (telegram).....	Nov. 12
	Mr. Loomis to Mr. Beaupré (tele-gram).....	Aug. 13		Same to same (telegram).....	Nov. 14
				Same to same (telegram).....	Nov. 17
				Mr. Hay to Mr. Beaupré (telegram).....	Nov. 18

*Mr. Loomis to Mr. Beaupré.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, March 18, 1903.

Inform Colombian Government Senate yesterday approved canal convention without amendment.

LOOMIS, *Acting.*

*Mr. Hay to Mr. Beaupré.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, April 7, 1903.

Referring to requests of Colombia to canal and railroad companies for appointment of agents to negotiate cancellation of the present concessions, et cetera, if the subject arises inform the Colombian Government that the treaty covers entire matter, and any change would be in violation of Spooner law and not permissible.

HAY.

*Mr. Beaupré to Mr. Hay.*

No. 741.]

LEGATION OF THE UNITED STATES,  
Bogotá, March 30, 1903.

SIR: The matter of the ratification of the Panama Canal convention is intensely interesting to the people of this capital, and there is much public discussion of it. Without question public opinion is strongly against its ratification, but, of course, public opinion in Colombia is not necessarily a potent factor in controlling legislation.

It is quite impossible to come to a definite conclusion as to the outcome until the result of the recent elections for members of Congress is known. It has been generally thought that the Government would be able to control the elections and that the members returned would be favorable to the administration's view on the canal question; but there has been serious disappointment to the governmental party in the result of some of the elections heard from, prominent and able members of the National Party, opposed to the Marroquin administration and to the canal convention, have been elected. Ex-President Caro and Gen. Pedro Nel Ospina, Nationalists, are to represent the Department of Antioquia in the Senate. It seems altogether probable that unless the Government is thoroughly in earnest in its desire to have the convention ratified, it will not be done; and there is a possibility that it may not go through in any event.

There is no public information as to the date at which the Congress will be called, but from private source I am given to understand that it will be about the 20th of May, owing to the slowness of returns from remote election districts.

It is apparent lately that the French Canal Company is to take a decided interest in securing the ratification of the convention, and that its influence to that end will be of much importance.

I am, sir, your obedient servant,

A. M. BEAUPRÉ.

*Mr. Beaupré to Mr. Hay.*

No. 6.]

LEGATION OF THE UNITED STATES,  
Bogotá, April 15, 1903.

SIR: I have the honor to advise you that within the last month there has been such a sudden outburst of controversy, both in the Bogotá press and among the public in this city, with regard to the



Panama Canal convention that I feel it my duty to report on what I regard as the chances for and against its passing Congress.

During the long revolution which has but lately come to an end the measures employed by the Government to prevent public discussion of affairs of state had the effect of destroying anything like public opinion. It may have been for this reason that when, in the early part of February last, news came of the signing of the canal convention complete apathy on the subject seemed to reign, as far as the general public was concerned. The financial crisis had, previous to this announcement, reached a most acute stage, and the only feeling expressed was that of relief at the prospect of receiving \$10,000,000, which was then considered sufficient to put in reasonably good condition the finances of the country. I am convinced I am right in saying that the public had never expected better terms. The proof is that when the news of the signing of the convention came foreign exchange ran down from 10,000 per cent to 6,300 per cent, and when it was rumored that the United States Senate had refused its assent a panic immediately ensued on the market, and exchange at once rose again to over 10,000 per cent.

This was the state of affairs until General Fernandez, the minister of Government in charge of the ministry of finance, issued a circular to the Bogotá press (which had suddenly sprung into existence), inviting discussion on the canal convention. The circular was to the effect that the Government had no preconceived wishes for or against the measure; that it was for Congress to decide, and Congress would be largely guided by public opinion. At the same time what purported to be a translation of the text of the convention was published.

Since then a complete revolution in feeling has taken place. From approbation to suspicion and from suspicion to decided opposition have been the phases of change in public sentiment during the last month. The newspapers of the city are full of strongly worded articles denouncing the convention, and, in general, these articles show the most bitter hostility to a scheme which they represent as being the attempt of a strong nation to take an unfair advantage of the crisis through which Columbia is passing, and, for a paltry sum, rob her of one of the most valuable sources of wealth which the world contains. So ridiculous are the facts brought forward by these journalists in support of their arguments that they are not even worth comment. As, for instance, I may mention that one of the most widely read of the newspapers states, and brings forward a whole collection of figures in support of its statement, that on the initial deal alone the United States starts with a clear profit of \$190,000,000. Absurd as such statements are, they voice the opinions and convictions of the Bogotá public.

This fact is clear, that if the proposed convention were to be submitted to the free opinion of the people it would not pass. The Congress about to assemble has been elected under the supervision of Government officials, and a system of quite indigenous wirepulling has undoubtedly been used; and yet if Congress, as now constituted, were allowed to give a free vote I feel convinced the convention would not be ratified.

This, then, is the present state of affairs. As to what will happen it is impossible to predict; yet this much seems certain to me, if it is

the wish of the Government that the convention be ratified it will be done.

It now seems likely that Congress will be convened about the 25th of May next for twenty days.

I am, sir, your obedient servant,

A. M. BEAUPRÉ.

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*Mr. Beaupré to Mr. Hay.*

No. 10.]

LEGATION OF THE UNITED STATES,  
*Bogotá, April 24, 1903.*

SIR: I have the honor to refer to your telegram of the 7th instant, confirmed elsewhere, in regard to the negotiations for the cancellation of the present concessions of the Panama Canal and Railroad Companies.

The subject had not arisen, within my knowledge, but I deemed it best, in two interviews with the minister for foreign affairs, to bring the conversation as cautiously as possible to a point that would enlighten me. I can not say that his excellency showed any disposition to be entirely frank in the matter, but sufficient was said to elicit from him the information that such negotiations were at least under the consideration of the Colombian Government, if not actually started. I then imparted to the minister the purport of your telegram of the 7th instant, whereupon he requested me to convey those instructions officially. This I did in a note, copy of which I herewith transmit.

I am, sir, your obedient servant,

A. M. BEAUPRÉ.

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[Inclosures.]

LEGATION OF THE UNITED STATES,  
*Bogotá, April 24, 1903.*

His Excellency Dr. LUIS CARLOS RICO.

*Minister for Foreign Affairs of the Republic of Colombia, etc.*

SIR: Referring to the two interviews I have had with your excellency, in which the question of the negotiations for the cancellation of the present concessions of the Panama Canal and railroad companies and other matters were brought up, I have the honor to inform your excellency that I am in receipt of instructions from my Government on the subject.

I am directed to inform your excellency, should the subject arise, that the entire matter above referred to is covered by the recently signed convention between the Republic of Colombia and the United States on the 22d of January last. Moreover, that any change would be in violation of the Spooner law and therefore not permissible.

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

A. M. BEAUPRÉ.

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*Mr. Beaupré to Mr. Hay.*

No. 13.]

LEGATION OF THE UNITED STATES,  
*Bogotá, April 27, 1903.*

SIR: I have the honor to advise you that it seems quite impossible to tell just when the Congress will be convened. Forty days' notice is required, and no notice has as yet been given.

In a conversation with the minister for foreign affairs I ascertained that the session would probably commence at some time between the middle of June and the 1st of July, but this is no more definite than the dates I have mentioned in my previous dispatches.

The Government is evidently "mending fences" in many election districts. It is said that owing to the disordered condition of the interior of the country, especially in the department of the Tolima, elections were illegally conducted, for which reason new elections were necessary. Hence the delay in calling Congress.

I am, sir, your obedient servant,

A. M. BEAUPRÉ.

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*Mr. Hay to Mr. Beaupré.*

No. 6.]

DEPARTMENT OF STATE,  
*Washington, April 28, 1903.*

SIR: I confirm to you my dispatch by cable of the 7th instant in the following terms:

WASHINGTON, April 7, 1903.

AMERICAN MINISTER, Bogotá:

Referring requests Colombia to canal and railroad companies for appointment agents negotiate cancellation present concessions, etc.

If subject arises, inform Colombian Government that treaty covers entire matter and any change would be in violation of Spooner law and not permissible.

HAY.

and I now inclose to you copies of the notices given by the minister of hacienda of the Republic of Colombia to the New Panama Canal Company and the Panama Railroad Company, respectively.

You will observe that by these notices the Colombian Government contemplates the formal grant to these companies by the Colombian Congress of a further permission to transfer their concessions to the United States besides that contained in the treaty which is to be ratified by that Congress. You will also note that as a preliminary to this permission the companies are expected to enter into agreements with Colombia for the authorization and canceling of all obligations of Colombia to either of them contracted by Colombia under the concession.

Such action on the part of Colombia or on that of the companies would be inconsistent with the agreements already made between this Government and the canal company, with the act of June 28, 1902, under the authority of which the treaty was made, and with the express terms of the treaty itself.

By the act of June 28, 1902, the President was authorized to acquire, at a cost not exceeding \$40,000,000, "the rights, privileges, franchises, concessions," and other property of the New Panama Canal Company, and an agreement to that end was made by him with the company. It was, of course, known to the President, to the company, and to the Government of Colombia that, by articles 21 and 22 of the Salgar-Wyse concession of 1878, the company could not transfer to the United States its "rights, privileges, franchises, and concessions" without the consent of Colombia. Therefore, and before entering upon any dealings with the New Panama Canal Company, the present treaty with Colombia was negotiated and signed.

The first article of that treaty provides as follows:

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 parts of shares of said company.

The authorization thus given, it will be observed, covers expressly the "rights, privileges, \* \* \* and concessions" of the company, as well as its other property.

Colombia, now, by these notices, indicates a purpose not only of disregarding the authorization thus explicitly given (a matter to which I shall refer more at length later on), but to destroy a great part of the subject matter to which it refers. She states an intention of requiring the company to cancel all obligations of Colombia to it, and thus deprive the United States of the rights, privileges, and concessions which she has expressly authorized the company to transfer to them, and which the canal company has contracted to sell and convey to the United States.

This Government can not approve such a transaction either by Colombia or by the company. If the company were to accede to the demands of Colombia, the President would be unable to consummate the proposed purchase from it, for it would have surrendered to Colombia a material part of the property for which he is authorized to make payment. Nor could the treaty itself be carried out, inasmuch as the payments to Colombia for which it provides are, by the express terms of Article XXV of the treaty itself, to be made in compensation, not only for the right to use the Canal Zone and to indemnify Colombia for the annuity which she renounces and the greater expenses which she may incur, but also "in compensation for other rights, privileges, and exemptions granted to the United States." Among these other rights and privileges, one of the most important is the right of acquiring the rights, privileges, and concessions of the New Panama Canal Company, secured by Article I of the treaty, and if these rights, privileges, and concessions were to be canceled, it would fundamentally change the terms of purchase.

The act of June 28, 1902, requires the President, if he should make the purchase of the New Panama Canal Company, to acquire its "rights, privileges, franchises, concessions." This act is annexed to the treaty, and the provisions of Article I of the treaty are framed expressly so as to enable this part of the law to be carried out. The action proposed by Colombia would constitute pro tanto an annulment of Article I, would render impossible the execution of the law, and is wholly inadmissible. Equally inadmissible would be any action by the canal company in the direction indicated which would destroy rights which it has agreed to convey to the United States.

Nor, upon the question of an authorization by Colombia of the transfers proposed, can it be admitted that any further or other authorization than that contained in Article I of the treaty is required or would be proper.

So far as the Panama Railroad Company is concerned, it is enough to point out that Articles XXVIII and XXIX of its contract with Colombia, and which contain the only provisions which impose any restriction upon any alienations of property connected with that company, have no bearing upon any transaction now in contemplation.

These articles declare that "the present privilege can not be ceded or transferred to any foreign government," under penalty of forfeiture. No transfer of this privilege by the company is contemplated, nor, indeed, any transfer by the company of anything. The purchase by the United States from the New Panama Canal Company of certain shares of the railroad company is the only operation now proposed, and this does not affect the railroad company itself. To this transfer of shares the railroad company is not a party and in it the company has no part. It neither makes it nor can it prevent it. Plainly, therefore, the provisions of the company's contract with the Colombian Government can have no application to such a transaction. This is irrespective of the rights in relation to the railroad property and concessions which the United States acquires under and pursuant to the provisions of the treaty itself.

With regard to the New Panama Canal Company the situation is different in this respect, for that company will make a direct transfer of all its property and concessions to the United States, and such a transfer was originally forbidden by articles 21 and 22 of the Salgar-Wyse concession of 1878.

Passing, for the moment, the terms of the treaty by which consent is given, the consent of the Colombian Government to the proposed sale has been given so repeatedly and in so many different ways, and has been so frequently and officially brought to the notice of this Government by the ministers plenipotentiary of Colombia, duly accredited to the United States, as to make it impossible for the executive Government of that Republic to retract it. The entire action of this Government upon the subject has been taken in reliance upon these official assurances of the consent of Colombia, and any withdrawal or qualification of that consent would be wholly inconsistent with such assurances.

In a memorandum presented by Doctor Martinez-Silva, then minister plenipotentiary of Colombia to the United States, to this department on March 27, 1901, this Government was officially assured that the Republic of Colombia would authorize the canal company to transfer its concessions to the United States, provided only that the latter agree with Colombia upon the terms on which the canal is to be constructed and operated by the United States.

On April 29, 1901, the Colombian minister wrote M. Maurice Hutin, then president of the canal company, requesting him to state generally the basis on which the company would transfer its property to the United States, assuming that the consent of Colombia be given.

This letter M. Hutin answered on May 1, 1901, and a copy of his answer was by the minister handed to Admiral Walker, president of the Isthmian Canal Commission. M. Hutin thereupon took up negotiations directly with Admiral Walker, of which fact he notified the minister by a letter of May 6, 1901. In answer to this letter the minister wrote M. Hutin on May 7, 1901, approving his action and stating to him the fact that it was stated that in the memorandum submitted by him to this department "no condition is formulated relative to the sale of the private rights and interests of the company."

It is in reliance upon these assurances, either made directly to this Government by the duly accredited minister of Colombia or communicated to it through his act, that the action resulting in the present

treaty has been taken, and to raise new conditions and impose new terms upon the consent thus freely tendered or to cancel any provisions of the concessions would be a complete departure from them. The Government of Colombia initiated the negotiations, and it can not be conceived that it should now disclaim its own propositions, nor can this Government acquiesce in such a course.

It is further to be noted that the Republic of Colombia is the second largest shareholder in the New Panama Canal Company. At the meeting of the shareholders of this company, held on December 21, 1901, at which the board of directors was authorized to make the proposal of sale to the United States which has been accepted, the Republic was represented by M. Uribe, her consul general at Paris, specially accredited for that purpose, who was one of the officers of the meeting and voted the shares of Colombia in favor of the sale. Similarly at the meeting of the board of directors of the company on December 23, 1901, M. Samper, the representative of the Colombian Government on the board, voted in favor of the sale.

It is not to be supposed that these representatives of Colombia acted without or contrary to instructions, nor has their action ever been disavowed by their Government.

These various considerations show that the Republic of Colombia is fully committed to the United States, wholly apart from her express agreement by the treaty, to consent fully and freely to the acquisition of the property of the New Panama Canal Company by the United States without other terms or conditions than those embodied in the treaty. It is not necessary here to consider the questions of good faith toward the canal company which would be raised by new exactions of that company at this time.

The foregoing considerations, however, though sufficient in themselves to justify this Government in declining to recognize any right in the Republic of Colombia to limit the consent given by Article I of the treaty by any terms or conditions of any kind, are less important than others arising from the actual negotiations attending the making of the treaty. These other considerations render it impossible that any such new limitations should even be considered and give any attempt by Colombia in that direction the character of a serious departure from the agreement reached between the Executive Governments of the two nations.

The treaty in its present form is the result of certain modifications in an original form presented to the Department of State by Mr. José Vicente Concha, minister plenipotentiary of Colombia to the United States, on March 31, 1902. This form of treaty represented the original proposal of Colombia to the United States, and was presented by Mr. Concha shortly after the recall of the former minister, Dr. Martínez Silva. In this draft the terms of Article I, by which Colombia authorizes the sale by the New Panama Canal Company to transfer its property to the United States, were the same as in the actual treaty. In fact, this article has undergone no change in any of the negotiations and it now expresses Colombia's original proposal.

No change in it was ever even suggested by Colombia, in all the discussions by which the presentation of the original treaty was followed, until November 11, 1902. On that day Mr. Concha submitted

to this department a memorandum of certain changes which he desired made in the treaty as it then stood. In this memorandum a modification of Article I was proposed in the following terms:

This same article shall clearly state that the permission accorded by Colombia to the canal and the railroad companies to transfer their rights to the United States shall be regulated by a previous special arrangement entered into by Colombia with the said company, and for which they have been notified that they are to appoint an attorney at Bogota.

To this proposal this department answered that "the United States considers this suggestion wholly inadmissible." The proposition was then abandoned by Colombia, and the treaty, as has been said, was signed by authority of her Government, without any modification of the absolute authorization to the company to sell.

It will thus be seen that this proposition to make Colombia's consent to the sale dependent upon an agreement between that country and the canal company is not new; that it has already been made to this Government and rejected, and that it was only upon the abandonment of it that the treaty was signed. It is impossible that this Government should even discuss the matter any further or permit this rejected and abandoned proposition to be put in force under any form.

The argument which it is understood has been advanced by Colombia in support of her pretensions upon this point (that the concession of the canal company, by its approval by the Colombian Congress, has become a law of Colombia, and must be obeyed as it stands until by another law it has been amended) can be allowed no force. The contract of concession was approved by the Colombian Congress in obedience to the provisions of Title VI, article 76, of the constitution of Colombia. The present treaty is to be ratified by the Congress of Colombia under the provisions of the same title and the same article in the same way. If every force be allowed to the constitution of Colombia, it can not be admitted that the approval of the treaty by the Congress should not be as effectual as approval by the same body of a new contract between the company and Colombia.

But the considerations which led to the rejection of the proposal of the Colombia minister in his memorandum of November 11, 1902, are of themselves decisive of the point.

The consent of Colombia to the sale of the canal company's property and concessions to the United States is a matter of agreement between the two nations. It has not been granted by Colombia to the company alone, but also to the United States. To that agreement neither the canal nor the railroad company is or can be a party; nor can the United States permit its international compacts to be dependent in any degree upon the action of any private corporation. Such a course would be consistent neither with the dignity of either nation nor with their interests. To make the effectiveness of the agreement between Colombia and the United States depend upon the willingness of the canal company to enter into arrangements with Colombia, of a character satisfactory to that country, would not only give that company an influence which it can never be permitted to exercise in the diplomatic affairs and international relations of this country, but would enable it to control the acquisition by the United States of the rights granted by Colombia and the enjoyment by Co-

Colombia of the equivalent advantages secured to her by the United States.

It may be noted further that such a course would practically nullify Article I of the treaty. That article grants an unconditional consent to the sale. But if there be added the condition of an agreement between Colombia and the canal company this consent is wholly nugatory. No such arrangement may be reached, and in that case Article I of the treaty would never practically take effect. Such a possibility alone renders any such plan wholly impossible.

Upon every ground, therefore, the present proposals of the Colombian Government to make its consent to the sale to the United States of the property and rights of the New Panama Canal Company, contained in Article I of the present treaty, dependent upon arrangements between it and either the canal or the railroad company, is wholly inadmissible, and if the subject arises you will inform that Government that the United States can approve no dealings between either of these companies and Colombia relating either to that consent or to the sale.

I am, sir, your obedient servant,

JOHN HAY.

[Inclosures.]

1. Mr. José Ramon Lago to the president of the New Panama Canal Company, December 24, 1902.

2. Mr. Lago to the attorney of the Panama Railroad Company, December 27, 1902.

[Republic of Colombia, ministry of finance, No. 36. First section, Panama Canal and Railroad division.]

BOGOTÁ, December 24, 1902.

MR. PRESIDENT OF THE NEW PANAMA CANAL COMPANY,

7 Rue Louis-le-Grand, Paris.

The congress of this country being about to meet shortly to consider among other matters that relative to the permission which the Government of Colombia is to grant, should occasion arise, to the New Panama Canal Company to make a transfer of its concessions to the Government of the United States of America in consequence of the negotiations which have begun and are going on upon the subject, this department has thought it its duty to inform the company over which you worthily preside of this fact, in order that it may appoint in this capital, if it think fit, a representative of it who should be present when the sessions of that high body take place, provided with ample and sufficient authority and power to deal with all the points which are to be settled with the company concerning the rights and obligations existing between it and this Republic; an appointment which may be conferred upon its present agent, Mr. Alexander Mancini, if the same company thinks fit.

It will not be superfluous to inform you that the Government of my country, in view of the great interests which the French people have in this colossal enterprise, will not in any way oppose, and on the contrary, will support and second the granting of the permission for the transfer of the concession; but it will demand and require from the concessionary company, if this be done, by way of return, a sum of money which shall be previously agreed upon, and the cancellation on the part of the company of every (accion) undertaking or obligation which the Government of Colombia has contracted by virtue of the concession for the opening of the Isthmus of Panama, up to the date on which it passes to the new concern.

I am, your very obedient, faithful servant,

JOSÉ RAMON LAGO.



[Republic of Colombia, ministry of finance, No. 38. First section, Canal and Panama Railroad division.]

BOGOTA, December 27, 1902.

Mr. Dr. ELADIO GUTIERREZ,

*Attorney Panama Railroad Company, E. L. C.:*

The congress of Colombia being about to meet shortly to consider among other matters that, relative to the permission which the Government of this Republic is to grant, should occasion arise, to the New Panama Canal Company, to make a transfer of its concession to the Government of the United States of America, in consequence of the negotiations which have been begun and are going on upon the subject, this ministry has thought it its duty to inform the company, worthily represented by you, of this fact, in order that it may appoint in this capital, if it think fit, a representative who should be present at the time when the sessions of that high body take place, provided with ample and sufficient authority and power to deal with all the points which are to be settled with the company concerning the rights and obligations existing between it and this Republic.

It will not be superfluous to inform you, in order that you may so notify the Panama Railroad Company, if you think fit, that the Government will not in any way oppose and, on the contrary, will second and support the granting of the permission for the transfer of the concession, but it will demand and require, if there shall be occasion for it, a sum of money which shall be previously agreed upon and the cancellation, on the part of the same company, of every (accion) undertaking and obligation which the Government of Colombia has contracted by virtue of the concession for the construction of the Panama Railroad up to date on which it passes to the new concern.

I am, your obedient, faithful servant,

J. R. LAGO.

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*Mr. Beaupré to Mr. Hay.*

No. 17.]

LEGATION OF THE UNITED STATES,

*Bogotá, May 4, 1903.*

SIR: I have the honor to advise that the opposition to the ratification of the canal convention is intensifying. The press is teeming with articles rancorous in enmity to the proposed treaty, while public opinion is veering into a current of extreme bitterness against the authors of the pact, especially Mr. Herran.

A gentleman of my acquaintance prepared an article favorable to the convention and sent it to the publisher of a newspaper here. The article was declined, and the writer admonished that it would be to his welfare, with his views, to keep out of the controversy.

Mr. Mancini, the representative of the French Canal Company at the capital, says that he is emphatically of the opinion that the Congress will refuse to ratify the convention, and that he has written to his company to that effect. He also said that while there was a moral obligation clearly upon the Government to defend a contract of its own making, it had not done so, and evidently did not intend to do so. It is entirely impossible to convince these people that the Nicaragua route was ever seriously considered by the United States; that the negotiations concerning it had any other motive than the squeezing of an advantageous bargain out of Colombia; nor that any other than the Panama route ever will be selected. Therefore, it is contended, and generally believed, that there is no immediate necessity of confirming the Hay-Herran convention; that the negotiations can be safely prolonged, in the end securing very much better terms for Colombia.

The public discussion is largely along the lines of the loss of the national honor by the surrender of sovereignty; that the clause in the convention guaranteeing sovereignty means nothing, because the lease is perpetual; that the whole contract is favorable to the United States and detrimental to Colombia.

Private discussion, which perhaps more clearly reflects the real situation, is to the effect that the price is inadequate; that a much greater sum of money can be obtained, and that the United States can be obligated to guarantee the sovereignty of Colombian ports outside the Department of Panama against the invasion or seizure by foreign enemies. The one great determining point, however, is the belief that the price can be greatly augmented.

The Congress has not been called, but it is still thought that the session will commence about the 1st of July.

I am, sir, your obedient servant,

A. M. BEAUPRÉ.

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*Mr. Beaupré to Mr. Hay.*

No. 18.]

LEGATION OF THE UNITED STATES,  
*Bogotá, May 5, 1903.*

SIR: I have the honor to advise you that information has reached me through a private source to the effect that within a week or two the Colombian Government will send Gen. Marcellano Vargas, a son-in-law of Vice President Marroquín, to Washington, to negotiate for better or different terms in connection with the Panama Canal convention.

I am, sir, your obedient servant,

A. M. BEAUPRÉ.

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*Mr. Beaupré to Mr. Hay.*

[Telegram.]

UNITED STATES LEGATION,  
*Bogotá, May 7, 1903.*

May 7, 4 p. m.: Special session of Congress has been called for June 20.

BEAUPRÉ.

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*Mr. Beaupré to Mr. Hay.*

No. 19.]

LEGATION OF THE UNITED STATES,  
*Bogotá, May 7, 1903.*

SIR: I have the honor to advise you that in the course of a conversation I had yesterday with one of the ablest and most distinguished of Colombians, who is in close touch with the vice president and his administration, the question of the Panama Canal convention opportunistically and confidentially arose.

His views are interesting and entitled to consideration, and from them I gather that the tremendous tide of public opinion against the canal treaty is appalling to the Government, and there is, in consequence, a diversity of opinion among its members as to the proper course to pursue. Some are in favor of forcing confirmation through Congress, while others, dreading the effect of such action in the present state of the public mind, counsel moderation and delay, and the adoption of measures to change public sentiment into a more favorable channel.

All of the enemies of the Government are united in an onslaught upon the canal convention. Many of them are sincere, of course, in their opposition to the proposed treaty as such, but many more, regarding it as an administration measure and at present unpopular, are assailing it with the indirect object of undermining the Government.

My informant is of the opinion that the convention may eventually be confirmed, but only after much discussion and maneuvering in Congress. The probabilities are that when the measure is presented to Congress there will be a lengthy debate and an adverse vote. Then the representatives of the coast departments of the Cauca-Panama, and Bolivar will ask for a reconsideration, and urge a ratification of the convention as the only means of preventing the secession of those departments and the attempt to constitute of their territories an independent republic. The debate will be resumed and in the end the friends of the Government and of confirmation will prevail.

My informant is on such intimate terms with the chief officers of the Government that I deem it best to transmit his statements for your consideration.

I am, sir, your obedient servant,

A. M. BEAUPRÉ.

*Mr. Beaupré to Mr. Hay.*

No. 24.]

LEGATION OF THE UNITED STATES,

*Bogotá, May 12, 1903.*

SIR: In my No. 17, of the 4th instant, I referred to the abuse which the authors of the Panama Canal convention were receiving at the hands of the press of the country. Apropos of this, I have the honor to give you an extract from an article written by Dr. Juan B. Perez y Sota, a senator in the coming Congress from the Department of Panama, which appeared in *El Correo Nacional* of yesterday. The article is long, abounds in vituperation, and closes as follows:

The Herran treaty will be rejected, and rejected by a unanimous vote in both chambers. That is what I hope, since there will not be a single representative of the nation who will believe the voice of people who have sold themselves; who have had the brazenness to recommend the shameful compact. The insult, however, which Herran has cast upon the Colombian name will never be wiped out.

The gallows would be a small punishment for a criminal of this class.

I am, sir, your obedient servant,

A. M. BEAUPRÉ.

*Mr. Beaupré to Mr. Hay.*

[Telegram.]

UNITED STATES LEGATION,  
*Bogotá, May 28, 1903. (Received 9.28 p. m., 29.)*

MAY 28, 10 a. m. Am informed that the President has received a telegram relating to large number United States employees lately arrived at Isthmus. If explanation should be asked, what answer shall I make? If it is true, it will intensify opposition to the ratification of the convention.

BEAUPRÉ.

*Mr. Beaupré to Mr. Hay.*

No. 37.]

LEGATION OF THE UNITED STATES,  
*Bogotá, May 28, 1903.*

SIR: Referring to my telegram of this date, elsewhere confirmed, I have the honor to advise you that there was considerable excitement about the Government palace yesterday upon the receipt of news that about 150 employees of the United States had arrived at the Isthmus, and a cable was sent to the governor of Panama asking for information.

While the better informed seemed to understand that such employees were but necessary to the commission in the work it was engaged upon, others were disposed to take a more unfriendly view, and all were of the opinion that in the present excitable condition of the public mind the news, if it proved true, would have an unfavorable effect upon the ratification of the canal convention.

I am, sir, your obedient servant,

A. M. BEAUPRÉ.

*Mr. Hay to Mr. Beaupré.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, May 30, 1903.*

The report that there is a large number of United States officials or citizens on Isthmus absolutely false. Deny it promptly and emphatically. This Government has three engineers there inspecting canal work. Also there may be a few engineers sent by private contractors.

HAY.

*Mr. Hay to Mr. Beaupré.*

No. 15.]

DEPARTMENT OF STATE,  
*Washington, June 2, 1903.*

SIR: I have to acknowledge the receipt of your No. 6, confidential, of April 15, last, in regard to the Panama Canal convention.

Your report has been read with much interest.

The department expects you to keep it fully informed respecting the situation in Bogotá and Colombia, so far as the ratification of the treaty is concerned.

From your long residence there you ought to be in a position to be in close touch with every phase of the situation and to know and understand the intricacies of Colombian politics as they may bear upon the very important question at issue. The department desires all of the pertinent, accurate information that it can obtain, and wants it promptly. You should, when the time seems opportune, in so far as you discreetly and properly may, exert your influence in favor of ratification. It is also expected that you will know what hostile influences, if any, are at work against the ratification of the treaty, and whether or not there is opposition to it from European sources. The situation is seemingly a grave one, but the department has confidence that you will rise to the full measure of its requirements.

I am, sir, your obedient servant,

JOHN HAY.

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*Mr. Hay to Mr. Beaupré.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, June 9, 1903.*

The Colombian Government apparently does not appreciate the gravity of the situation. The canal negotiations were initiated by Colombia, and were energetically pressed upon this Government for several years. The propositions presented by Colombia, with slight modifications, were finally accepted by us. In virtue of this agreement our Congress reversed its previous judgment and decided upon the Panama route. If Colombia should now reject the treaty or unduly delay its ratification, the friendly understanding between the two countries would be so seriously compromised that action might be taken by the Congress next winter which every friend of Colombia would regret. Confidential. Communicate substance of this verbally to the minister of foreign affairs. If he desires it, give him a copy in form of memorandum.

HAY.

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*Mr. Beaupré to Mr. Hay.*

No. 44.]

LEGATION OF THE UNITED STATES,  
*Bogotá, June 10, 1903.*

SIR: Referring to the department's No. 6 of April 28, 1903, concerning the request of the Colombian Government to the Panama Canal and Railroad companies for the appointment of agents to negotiate the cancellation of present concessions, etc., and considering that the subject had arisen, as reported in my No. 10 of April 24, 1903, I have the honor to report that I have this day addressed a note to the minister for foreign affairs pursuant to the department's instructions.

Herewith I transmit a copy of said note.

I am, sir, your obedient servant,

A. M. BEAUPRÉ.

[Inclosure.]

LEGATION OF THE UNITED STATES,  
Bogotá, June 10, 1913.His Excellency LUIS CARLOS RICO,  
*Minister for Foreign Affairs of the Republic of Colombia.*

SIR: Referring to the note which I had the honor to address to your excellency on April 24, 1903, concerning the requests of the Colombian Government to the Panama Canal and Railroad companies for the appointment of agents to negotiate the cancellation of present concessions, etc., I now inclose to you copies of the notice given by the minister of hacienda of the Republic of Colombia to the New Panama Canal Company and the Panama Railroad Company.

Your excellency will observe that by these notices the Colombian Government contemplates the formal grant to these companies by the Colombian Congress of a further permission to transfer their concessions to the United States besides that contained in the treaty which is to be ratified by that Congress. Your excellency will also note that, as a preliminary to this permission, the companies are expected to enter into agreements with Colombia for the authorization and cancelling of all obligations of Colombia to either of them contracted by Colombia under the concessions.

Such action on the part of Colombia or on the part of the companies would be inconsistent with the agreements already made between my Government and the canal company, with the act of June 28, 1902, under the authority of which the treaty was made, and with the express terms of the treaty itself.

By the act of June 28, 1902, the President of the United States was authorized to acquire, at a cost not exceeding \$40,000,000, "the rights, privileges, franchises, concessions," and other property of the New Panama Canal Company, and an agreement to that end was made by him with the company. It was, of course, known to the President, to the company, and to the Government of Colombia that, by articles 2 and 22 of the Salgar-Wyse concession of 1878, the company could not transfer to the United States its "rights, privileges, franchises, and concessions" without the consent of Colombia. Therefore, and before entering upon any dealings with the New Panama Canal Company, the present treaty with Colombia was negotiated and signed.

The first article of that treaty provides as follows:

"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 parts of shares of said company."

The authorization thus given, it will be observed, covers expressly the "rights, privileges, \* \* \* and concessions" of the company, as well as its other property.

Colombia, now, by these notices, indicates a purpose not only of disregarding the authorization thus explicitly given (a matter to which I shall refer more at length later on), but to destroy a great part of the subject-matter to which it refers. She states an intention of requiring the company to cancel all obligations of Colombia to it, and thus to deprive the United States of the rights, privileges, and concessions which she has expressly authorized the company to transfer to them, and which the canal company has contracted to sell and convey to the United States.

My Government can not approve such a transaction either by Colombia or by the company. If the company were to accede to the demands of Colombia, the President of the United States would be unable to consummate the proposed purchase from it, for it would have surrendered to Colombia a material part of the property for which he is authorized to make payment. Nor could the treaty itself be carried out, inasmuch as the payments to Colombia, for which it provides, are, by the express terms of Article XXV of the treaty itself, to be made in compensation, not only for the right to use the Canal Zone and to indemnify Colombia for the annuity which she renounces and the greater expenses which she may incur, but also, "in compensation for other rights, privileges, and exemptions granted to the United States." Among these other rights and privileges, one of the most important is the right of acquiring the rights, privileges, and concessions of the New Panama Canal Company, secured by Article I of the treaty; and if these rights, privileges, and concessions were to be canceled, it would fundamentally change the terms of purchase.

The act of June 28, 1902, requires the President of the United States, if he should make the purchase of the New Panama Canal Company, to acquire its

"rights, privileges, and franchises and concessions." This act is annexed to the treaty, and the provisions of Article I of the treaty are framed expressly so as to enable this part of the law to be carried out. The action proposed by Colombia would constitute pro tanto an annulment of Article I, would render impossible the execution of the law, and is wholly inadmissible. Equally inadmissible would be any action by the canal company in the direction indicated which would destroy rights it has agreed to convey to the United States.

Nor upon the question of an authorization by Colombia of the transfers proposed can it be admitted that any further or other authorization than that contained in Article I of the treaty is required or would be proper.

So far as the Panama Railroad is concerned, it is enough to point out that articles 28 and 29 of its contract with Colombia, and which contain the only provisions which impose any restrictions upon any alienations of property connected with that company, have no bearing on any transaction now in contemplation. These articles declare that "the present privilege can not be ceded or transferred to any foreign Government" under penalty of forfeiture. No transfer of this privilege by the company is contemplated, nor, indeed, any transfer by the company of anything. The purchase by the United States from the New Panama Canal Company of certain shares of the railroad company is the only operation now proposed, and this does not affect the railroad company itself. To this transfer of shares the railroad company is not a party, and in it the company has no part. It neither makes it nor can it prevent it. Plainly, therefore, the provisions of the company's contract with the Colombian Government can have no application to such a transaction. This is irrespective of the rights in relation to the railroad property and concessions which the United States acquires under and pursuant to the provisions of the treaty itself.

With regard to the New Panama Canal Company, the situation is different, in this respect, for that company will make a direct transfer of all its property and concessions to the United States, and such a transfer was originally forbidden by articles 21 and 22 of the Salger-Wyse concession of 1878.

Passing, for the moment, the terms of the treaty by which consent is given, the consent of the Colombian Government to the proposed sale has been given so repeatedly and in so many different ways and has been so frequently and officially brought to the notice of my Government by the ministers plenipotentiary of Colombia duly accredited to the United States, as to make it impossible for the executive government of that Republic to retract it. The entire action of my Government upon the subject has been taken in reliance upon these official assurances of the consent of Colombia, and any withdrawal or qualification of that consent would be wholly inconsistent with such assurances.

In a memorandum presented by Dr. Martinez-Silva, then minister plenipotentiary of Colombia to the United States, to the Department of State at Washington on March 27, 1901, my Government was officially assured that the Republic of Colombia would authorize the canal company to transfer its concessions to the United States, provided only that the latter agree with Colombia upon the terms on which the canal is to be constructed and operated by the United States.

On April 29, 1901, the Colombian minister wrote M. Maurice Hutin, then president of the canal company, requesting him to state generally the basis on which the company would transfer its property to the United States, assuming that the consent of Colombia be given.

This letter M. Hutin answered on May 1, 1901, and a copy of his answer was by the minister handed to Admiral Walker, president of the Isthmian Canal Commission. M. Hutin thereupon took up negotiations directly with Admiral Walker, of which fact he notified the minister by a letter of May 6, 1901. In answer to this letter the minister wrote M. Hutin on May 7, 1901, approving his action and stating to him the fact that it was stated in the memorandum submitted by him to the Department of State "no condition is formulated relative to the sale of the private rights and interests of the company."

It is in reliance upon these assurances, either made directly to my Government by the duly accredited minister of Colombia, or communicated to it through his act, that the action resulting in the present treaty has been taken, and to raise new conditions and impose new terms upon the consent thus freely tendered, or to cancel any provisions of the concessions, would be a complete departure from them. The Government of Colombia initiated the negotiations, and it can not be conceived that it should now disclaim its own propositions, nor can my Government acquiesce in such a course.

It is further to be noted that the Republic of Colombia is the second largest shareholder in the New Panama Canal Company. At a meeting of the share-

holders of this company held on December 21, 1901, at which the board of directors was authorized to make the proposal of sale to the United States, which has been accepted, the Republic was represented by M. Uribe, her consul-general at Paris, specially accredited for that purpose, who was one of the officers of the meeting and voted the shares of Colombia in favor of the sale. Similarly, at the meeting of the board of directors of the company on December 23, 1901, M. Samper, the representative of the Colombian Government on the board, voted in favor of the sale.

It is not to be supposed that these representatives of Colombia acted without or contrary to instructions, nor has their action ever been disavowed by their Government.

These various considerations show that the Republic of Colombia is fully committed to the United States, wholly apart from her express agreement by the treaty, to consent fully and freely to the acquisition of the property of the New Panama Canal Company by the United States, without other terms or conditions than those embodied in the treaty. It is not necessary here to consider the questions of good faith toward the canal company which would be raised by new exactions of that company at this time.

The foregoing considerations, however, though sufficient in themselves to justify my Government in declining to recognize any right in the Republic to limit the consent given by article 1 of the treaty by any terms or conditions of any kind, are less important than others arising from the actual negotiations attending the making of the treaty. These other considerations render it impossible that any such new limitations should ever be considered and give any attempt by Colombia in that direction the character of a serious departure from the agreement reached between the Executive Governments of the two nations.

The treaty in its present form is the result of certain modifications in the original form presented to Department of State by Mr. José Vicente Concha, minister plenipotentiary of Colombia to the United States, on March 31, 1902. This form of treaty represented the original proposal of Colombia to the United States, and was presented by Mr. Concha shortly after the recall of the former minister, Mr. Martinez-Silva. In this draft the terms of article 1, by which Colombia authorizes the sale of the New Panama Canal Company to transfer its property to the United States, were the same as in the actual treaty. In fact, this article has undergone no change in any of the negotiations, and it now expresses Colombia's original proposal.

No change in it was ever even suggested by Colombia, in all the discussions by which the presentation of the original treaty was followed, until November 11, 1902. On that day Mr. Concha submitted to the Department of State a memorandum of certain changes which he desired made in the treaty as it then stood. In this memorandum a modification of article 1 was proposed in the following terms:

"This same article shall clearly state that the permission accorded by Colombia to the canal and railroad companies to transfer their rights to the United States shall be regulated by a previous special arrangement entered into by Colombia with the said company, and for which they have been notified that they are to appoint an attorney at Bogota."

To this proposal the Department of State answered that "the United States considers this suggestion wholly inadmissible." The proposition was then abandoned by Colombia, and the treaty, as has been said, was signed by authority of her Government, without any modification of the absolute authorization to the company to sell.

It will thus be seen that this proposition to make Colombia's consent to the sale dependent upon an agreement between that country and the canal company is not new; that it has already been made to my Government and rejected, and that it was only upon the abandonment of it that the treaty was signed. It is impossible that my Government should even discuss the matter any further or permit this rejected and abandoned proposition to be put in force under any form.

The argument which it is understood has been advanced by Colombia in support of her pretensions upon this point (that the concession of the canal company, by its approval by the Colombian Congress, has become a law of Colombia and must be obeyed as it stands until by another law it has been amended) can be allowed no force. The contract of concession was approved by the Colombian Congress in obedience to the provisions of Title VI, article 76, of the constitution of Colombia. The present treaty is to be ratified by the Congress of Colombia under the provisions of the same title and the same article in the



same way. If every force be allowed to the constitution of Colombia it can not be admitted that the approval of the treaty by the Congress should not be as effectual as approval by the same body of a new contract between the company and Colombia. But the considerations which led to the rejection of the proposal of the Colombian minister in his memorandum of November 11, 1902, are of themselves decisive of the point.

The consent of Colombia to the sale of the canal company's property and concessions to the United States is a matter of agreement between the two nations. It has not been granted by Colombia to the company alone, but also to the United States. To that agreement neither the canal nor railroad companies are or can be a party; nor can the United States permit its international compacts to be dependent in any degree upon the action of any private corporation. Such a course would be consistent neither with the dignity of either nation nor with their interests. To make the effectiveness of the agreement between Colombia and the United States depend upon the willingness of the canal company to enter into arrangements with Colombia of a character satisfactory to that country, would not only give that company an influence which it can never be permitted to exercise in the diplomatic affairs and international relations of my country, but would enable it to control the acquisition by the United States of the rights granted by Colombia and the enjoyment by Colombia of the equivalent advantages secured to her by the United States.

It may be noted further that such a course would practically nullify article 1 of the treaty. That article grants an unconditional consent to the sale. But if there be added the condition of an agreement between Colombia and the canal company, this consent is wholly nugatory. No such arrangement may be reached, and in that case article 1 of the treaty would never practically take effect. Such a possibility alone renders any such plan impossible.

Upon every ground, therefore, the present proposals of the Colombian Government to make its consent to the sale to the United States of the property and rights of the New Panama Canal Company, contained in article 1 of the present treaty, dependent upon arrangements between it and either the canal or railroad company, is wholly inadmissible, and if the subject arises you will inform that Government that the United States can approve no such dealings between either of these companies and Colombia relating either to that consent or the sale.

I avail myself, etc.,

(Signed) A. M. BEAUPRÉ.

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*Mr. Beaupré to Mr. Hay.*

No. 45.]

LEGATION OF THE UNITED STATES,  
*Bogotá, June 10, 1903.*

SIR: Evidently a decided effort is being made to change public opinion into a more favorable consideration of the canal convention. Many strong men are now supporting it who but a short time ago were with the opposition. The great majority of people still continue to believe, however, that the convention will not be ratified.

Mr. Mancini, the local agent of the Panama Canal Company, has informed me that he had received an official note from the Colombian Government, stating that it did not think that the convention would be ratified, because of the opinion that the compensation was insufficient, but that if the canal company would pay to Colombia about \$10,000,000 ratification could be secured. Mr. Mancini has notified his company of this note.

Members of Congress are arriving for the session which commences on June 20, instant.

I am, sir, your obedient servant,

A. M. BEAUPRÉ.

*Mr. Beaupré to Mr. Hay.*

No. 48.]

LEGATION OF THE UNITED STATES,  
*Bogotá, June 13, 1903.*

SIR: Referring to the department's telegram of the 9th instant, elsewhere confirmed, I have the honor to advise you that I have had an interview with the minister for foreign affairs, in which I communicated to him the substance of my instructions, and also left with him a memorandum containing a substantial copy of said telegram.

The minister's first question was as to what action by our Congress was contemplated—whether it meant action against Colombia, or the adoption of the Nicaragua route—to which I replied that I had received no other instructions than those contained in the telegram, and that I could not, therefore, aid him in construing it.

He said, in substance, that it must be understood that no matter what the Government's actions or desires may have been in the preliminary negotiations, a treaty could not be made without the approval of Congress; that this was true in the United States as well as Colombia; that the Colombian Congress was very soon to meet, and that upon it would devolve the consideration of all these matters.

I replied that his propositions were true enough in the abstract, but that in view of the facts, as outlined in the telegram, it seemed to me that it was incumbent upon the Government to acquaint the Congress with all the circumstances connected with the negotiations up to the signing of the convention and to use all its influence to secure a ratification.

He said that he would lay the matter before the Vice President for his consideration.

I am, sir, your obedient servant,

A. M. BEAUPRÉ.

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*Mr. Beaupré to Mr. Hay.*

[Telegram.]

UNITED STATES LEGATION,  
*Bogotá, June 17, 1903.*  
(Received 6.10 p. m., June 25.)

June 17, 4 p. m. Members of Congress arriving. Opposition to the ratifications of the canal convention is very strong. Public opinion is that the convention will not be ratified.

BEAUPRÉ.

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*Mr. Beaupré to Mr. Hay.*

[Telegram.]

UNITED STATES LEGATION,  
*Bogotá, June 17, 1903.*  
(Received June 25, 1903, 6.15 p. m.)

I can not obtain from the Colombian Government withdrawal of the quarantine at Panama, or any modification of orders. The matter left to governor of Panama, with discretionary power.

BEAUPRÉ.

*Mr. Beaupré to Mr. Hay.*

No. 55.]

LEGATION OF THE UNITED STATES,  
*Bogotá, June 20, 1903.*

SIR: Referring to my No. 48, of the 13th instant, I have the honor to report that I have received from the minister for foreign affairs a counter memorandum relating to the department's telegram of the 9th instant, and to the Panama Canal negotiations.

A copy and translation of the same are herewith inclosed.

I am, sir, your obedient servant,

A. M. BEAUPRÉ.

[Inclosure—Translation.]

DEPARTMENT OF FOREIGN AFFAIRS,  
*Bogotá, June 18, 1903.*

COUNTER MEMORANDUM.

In the memorandum presented to this department by the minister of the United States, personally, on the 13th of the present month, he says he has received instructions from his Government, by cable, to state that it seems that the Government of Colombia does not appreciate the gravity of the situation; that the negotiations for the opening of the Panama Canal were initiated by Colombia, and energetically pushed during several years; that the propositions presented by this Republic were finally accepted with slight modifications; that in virtue of the agreement, the Congress of the United States reversed its former judgment and decided for the Panama route, and that if Colombia rejects the treaty or unduly delays its ratification, the friendly understanding between the two countries would be so seriously compromised that the Congress of the United States might take measures which would be regretted by every friend of Colombia.

This ministry deems it indispensable to make the following observations, which it respectfully presents to the minister for transmission to his Government:

The fact of Colombia having initiated the negotiations does not demand the approval of the same by that Government, for the approval of Congress is necessary to the ratification of them, to which is given the constitutional power of approving or disapproving the treaties which the Government makes; this formality was recognized in the beginning by the Government of the United States in the course of the negotiations, as is seen in articles 25, 26, and 28 of the project of the convention signed November 28, 1902.

One of those articles (the twenty-fifth) says, textually, that the convention shall be ratified at a time when it is approved by the legislative bodies of both countries, and that condition is stipulated in articles 25 and 28 of the convention signed in Washington on January 22, 1903, the last of which articles in the part pertaining to this matter is as follows:

"The convention, when signed by the contracting parties, shall be ratified according to the laws of the respective countries, and shall be exchanged at Washington within a term of eight months from this date, or earlier if possible."

The Government of the United States sent the convention to the Senate with the request that it be confirmed, and in that body the debate was so long and vehement that it was not approved until in the following extra session, and if it had been rejected it would have been without any diminution of any right of Colombia, just as its rejection here will be without any diminution of any right of the United States.

Having proposed a negotiation does not necessarily imply that it is to be approved, either in whole or in part, by the legislative body of the country which began it. Among international instances which prove this statement can be cited the instance which occurred between the same United States of America and England over the projection for the abrogation of the Clayton-Bulwer treaty of 1850, which project, if I am not badly informed, was initiated by the

Government of the United States, and notwithstanding that the Senate proposed that it be modified in the following terms:

"It is determined, however, that none of the preceding stipulations and modifications in paragraphs 1, 2, 3, 4, and 5 of this article (2) shall apply to the methods which the United States believe it necessary to make to secure with their military forces the defense of the United States and the maintenance of the public order."

The British Government did not accept this modification, and this refusal deferred, for a long time, the approval and ratification of the treaty.

If the initiation of negotiations of a convention should imply the correlative obligation of approval by the legislative body, the submitting of such convention to their decision would be an illusion (superfluous), for the power to make treaties with foreign powers would be in reality vested solely in the executive power, which is openly contrary to the spirit and the letter of the constitution of this Republic.

The Government of Colombia has given to the negotiation all the importance pertaining thereto, on account of the great political and commercial interests involved. This is unmistakably shown in a note which the minister of this department, Hon. Sr. Paúl, sent on September 25, 1902, to the governors of the Departments, in which he invited them to discuss and study with all freedom, through the press, the project of the treaty and the documents which should be published, with the object that when Congress should meet the country should be sufficiently instructed in that which particularly applied to the patriotic interests, and their representatives in the legislative bodies could easily reach a solution which would harmonize with the rights and benefits of the Republic.

There is a very notable difference between some of the propositions presented by Colombia and the respective modifications introduced by the United States.

That difference is apparent comparing the memorandum presented by the Colombian Legation on March 31, 1903, with the proposed bases by the Secretary of State, especially those referring to the sovereignty of the zone, judicial jurisdiction in same, and the price of compensation for the use of the same for the mere proprietorship of the Panama Railroad, and for the rent of \$250,000 demanded for the same railroad, likewise as to the rights, privileges, and exemptions which she gave. It is further to be observed that in the memorandum of the legation the establishment of tribunals in the zone was not mentioned, while the Secretary of State, in a project sent with his note of November 18, 1902, proposed it, and that they be divided into three classes, Colombians, Americans, and mixed; as also in the Colombian memorandum, a sum of \$7,000,000 American gold was asked and an annual sum which was to be determined as a price for the enjoyment of the railroad and fee for use of the zone, and in attention to other circumstances. The Secretary of State only offered a sum of \$7,000,000 and an annual rent of \$100,000, or, if preferred, a sum of \$10,000,000 and an annual rent of \$10,000. The Government ordered the legation to ask a sum of \$10,000,000 and an annuity of \$600,000. The Secretary of State, in a note which had the form of an ultimatum, reduced the rent of \$250,000. The diminution of \$350,000 in a period of only one hundred years represents a difference of \$35,000,000, and as the convention will probably last more than a century, it is clear that the difference is no light matter, but of much consideration.

It is also well to make known here what was a motive of substantial difference, that the canal and railroad companies can not transfer their privileges without the authority of the Colombian Government and without arrangement of their pending business.

The broad manner in which the Government of the United States has interpreted the stipulation of the projected convention in this respect has caused the refusal of the companies to enter into arrangements which ought to precede the ratification and exchange, among others, that relative to the shares which Colombia has in the capital of the New Panama Canal Company, a refusal which makes difficult the legislative approval of the pact. This ministry had not known that the United States revoked any law in order to make possible the treaty with Colombia. The Government of the Republic ordered its representative in Washington to sign the pact in the belief that, in conformity with article 4 of the law approved June 28, 1902 (Spooner bill), if the Government of the United States could not obtain from the Government of Colombia dominion over the necessary territory for the work, nor the rights mentioned in

articles 1 and 2 of the said law, nor a satisfactory title to the properties of the New Panama Canal Company, the President of the United States, by medium of the Isthmian Canal Commission, would dig and construct a canal for boats by the Nicaragua route. In consequence the Government of Colombia, which has held in view of this law that the base of the treaty on the part of the United States is according as it has been expressed in the introduction accompanying the treaty, has derived the correct conclusion that the only result that can affect adversely the interests of this nation, if their Congress should reject the project of the treaty, is that the Government of the United States will cease negotiations and adopt the Nicaragua route for the construction of the canal.

When is there such an undue delay in the ratification of a treaty which will tend to cause a serious compromise in the friendly relations with the contracting party?

In this country there would be an undue delay if, the ratification having been ordered by the law, the executive power should show a disposition to disregard it with the evident purpose of causing injury to his own country or the other nation interested in the pact.

But as has already been expressed, the previous requisite of legislative approval is indispensable for the exchange of ratifications, and before this is done the treaty is but a project which, according to the law of nations, has no rights or obligations, and for the same reason, according to that law, to reject or delay its ratification is not cause for the adoption of measures tending to alter the friendly relations between the two countries. If such were the case the preparing of the pact would be the occasion of a serious danger instead of an element of peace and progress, of which Colombia has no fear in that the political relations of the great Republic, which offered the blood of its sons to liberate Cuba, and after having stopped the disintegration of Venezuela, as a result of their boundary dispute with Great Britain, deeds which have been made notorious before the world, in most solemn manner, as showing their determination to procure and preserve the independence, sovereignty, and integrity of the American nations.

If the Congress, using its inherent prerogative of national sovereignty, rejects the pact in question because, in their judgment it is not for the benefit of the Republic, it will be, I am sure, with much regret that it can not comply with the desires of the Government and the Congress of the United States; but feeling confident for reasons of justice that by this act it will not have altered in any particular the friendly relations which fortunately exist between the two Republics, and to the preservation of which Colombia attaches the highest importance.

The Minister:

(Signed)

LUIS CARLOS RICO.

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*Mr. Beaupré to Mr. Hay.*

No. 56.]

LEGATION OF THE UNITED STATES,  
Bogotá, June 20, 1903.

SIR: I have the honor to confirm my telegram of this date, which should read as follows:

June 20, 5 p. m. Extra session of Congress convened to-day. Joaquin Velez, president of the Senate; José Medina Calderón, president of the Chamber of Representatives. The President's message deals with canal convention as follows: "To my Government has been presented this dilemma; either it lets our sovereignty suffer detriment or renounces certain pecuniary advantages, to which, according to the opinion of many, we have a right. In the first case, to consent to the sacrifice of our sovereignty and not aspiring to great indemnification, the just wishes of the inhabitants of Panama and other Colombians would be satisfied if the canal were opened, but the Government would be exposed to the charge afterwards that it did not defend our sovereignty and that it did not defend the interests of the nation. In the second case, if the canal is not opened by Panama the Government will be accused for not having allowed Colombia that benefit which is regarded as the commencement of our aggrandizement. I have already allowed my wish to be understood that the canal should be opened through our territory. I believe that even at the cost of

sacrifices we ought not to put obstacles to such a grand undertaking, because it is an immensely beneficial enterprise for the country, and also because once the canal is opened by the United States our relations will become more intimate and extensive, while our industries, commerce, and our wealth will gain incalculably. I leave the full responsibility the decision of this matter brings with Congress. I do not pretend to make my opinion weigh. When I have given instructions to our representative in Washington it has been coupled with the order that the decision of this important matter must be left with Congress. After years in which the question has been treated in a vague way, without precise conditions, it is now presented in a way to obtain practical and positive results. It has been our indisputable diplomatic triumph that the Senate and Government of the United States should declare, notwithstanding every effort to the contrary, the superiority of the Colombian route."

I am, sir, your obedient servant,

A. M. BEAUPRÉ.

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*Mr. Beaupré to Mr. Hay.*

No. 57.]

LEGATION OF THE UNITED STATES,  
*Bogotá, June 20, 1903.*

SIR: I have the honor to report that the National Congress met in extra session on Saturday, the 20th instant, at 1 o'clock p. m.

In the Senate Gen. Joaquin F. Vélez was elected president; Dr. Antonio Gómez Restrepo, first vice-president; Luis A. Mesa, second vice-president, and Miguel A. Peñarredonda, secretary.

In the Chamber of Representatives José Medina Calderón was elected president; Carlos Matamoras, first vice-president; Guillerinas Valencia, second vice-president; Dr. Fernando Restrepo Briceño, secretary.

There was not a full attendance, but sufficient for a quorum in each house.

As I have heretofore predicted, there is a full and ample majority of the friends of the Government in both houses of Congress, and such legislation as the Government may seriously desire will be enacted.

Under the laws the officers are elected for one month, and as General Vélez, the president of the Senate, is one of the most vehement and outspoken of the enemies of the canal convention, I take it that there will be no canal legislation undertaken during the first month of Congress.

It is understood that to-morrow a special message will be sent to the Senate upon the canal matter, but that the session will be a secret one.

I am, sir, your obedient servant,

A. M. BEAUPRÉ.

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*Mr. Beaupré to Mr. Hay.*

[Telegram.]

UNITED STATES LEGATION,  
*Bogotá, June 23, 1903. (Received June 27, 1903.)*

Confidential. Friends of the Government have control in Congress. I believe any legislation seriously desired by the Government will pass.

BEAUPRÉ.

*Mr. Beaupré to Mr. Hay.*

[Telegram.]

UNITED STATES LEGATION,  
*Bogotá, June 23, 1903. (Received June 27, 1903.)*

Opposition Chamber of Representatives opened canal discussion yesterday demanding documents relating to the treaty. The Government objected because it was not ready to present the treaty. The Government was sustained; vote 38 to 5.

BEAUPRÉ.

*Mr. Beaupré to Mr. Hay.*

[Telegram.]

UNITED STATES LEGATION,  
*Bogotá, June 26, 1903.*

Confidential. Am informed that the treaty will not be presented until the President is confident it will be confirmed. Chamber of Representatives is favorable, but unfriendly influence makes the majority in the Senate uncertain. Absentees have been sent for and the Government using influence on Senators here. Do you desire me to telegraph such information?

BEAUPRÉ.

*Mr. Beaupré to Mr. Hay.*

No. 67.]

LEGATION OF THE UNITED STATES,  
*Bogotá, July 1, 1903.*

SIR: Referring to the Department's No. 6 of April 28, 1903, and to my No. 44 of June 10, 1903, concerning the request of the Colombian Government to the Panama Canal and Railroad companies for the appointment of agents to negotiate the cancellation of present concessions, etc., I have the honor to report that on yesterday I received a note from the minister for foreign affairs in reply to mine of the 10th ultimo, a copy and translation of which I herewith transmit.

I am, sir, your obedient servant,

A. M. BEAUPRÉ.

MINISTRY FOR FOREIGN RELATIONS,  
*Bogotá, June 27, 1903.*

MR. MINISTER: I have the honor to receive the attentive note which your excellency has been pleased to address to me on the 10th of the present month, with the English version of the notes in which the minister of hacienda of Colombia requested the railroad company and the New Panama Canal Company to name agents to represent them in the negotiations relative to the permission which is necessary for the transfer of their respective concessions to the Government of the United States.

The Congress being in session, to which belongs the decision as to the approbation of the treaty between the Republic of Colombia and the United States for the construction of the interoceanic canal between the Atlantic and Pacific

Oceans, the said note of your excellency will be presented to that body to the end that they may know the construction that the Government of the United States gives to article 1 of that compact.

The Congress of Colombia in determining the meaning, and, at the same time, the scope of article 1 of the treaty, will have to consult the antecedents of the negotiations, among which are found the said notes of the minister of hacienda, which have the dates 25th and 27th of December, 1902, respectively, while the treaty for the opening of the interoceanic canal was signed January 22, 1903; for this reason they were not interpretations of the pact, but they were destined to prevent certain foreseen eventualities in the course of the negotiations, as is seen in that which the minister of Colombia expressed in his memorial addressed to the Secretary of State in Washington the 22d of November, 1902.

In paragraph b, section A, it says:

"The preceding reasons serve in part also to show the necessity which exists that the Government of Colombia celebrate a special contract with the companies which are to cede their rights;" but to this must be added that the treaty alone between Colombia and the United States can not have the judicial effect of resolving or canceling the legal bonds which exist between the Republic of Colombia and those companies, bonds arising from a perfect contract which can not be dissolved, in conformity with the principles of universal jurisprudence, because one of the parties celebrates a compact, on the same material, with a third, which in this case would be the United States.

As in the same way the United States must celebrate a contract in order to acquire the rights of the said companies, and that negotiation can not be included in the treaty which is to be celebrated between the two countries, neither can the resolution of the obligation between Colombia and the two companies be verified in the treaty.

If such were admitted, it would result that Colombia, relinquishing all her rights in relation with these entities (corporations?), or depriving herself of the means to make them effective, would leave in force her obligations to them. The very payment of the privileged shares which Colombia possesses in the canal company would not have any guarantee by the omission of a special contract, so much the more so that in the proposed reform by the Department of State to article 1 of the memorandum of April, it was clearly expressed that the United States would not contract any obligation in that respect ("no obligation under this provision is imposed upon or assumed by the United States").

The affirmations of your excellency as to the legality of the sale to a foreign government of the shares of the Panama Railway and by that manner to transfer the control of the work, imposes upon me the duty to call your excellency's attention to a very important circumstance, in that the necessity for the consent of Colombia to that sale is recognized in article 1 of the treaty, and to manifest to your excellency that each share, by representing a certain proportionate value of the privilege, or, that is, of the railroad itself, and the transfer of that to a foreign government being prohibited, the shares can not be sold, because with them they would become copartners in the property of the privilege, which is judicially inadmissible.

The restrictive condition of the contracts of 1850 and 1867 do not exclude from the penalty of forfeiture the sale of portions of the privilege.

This is indivisible as to the rights conceded and the obligations imposed, and if it were not so the result would be that if a foreign government bought the total or a greater part of the shares, it would become, by this means, proprietor of the railroad, or at least of a part so great of its value that it would give to it the administration of the work, and in this way the prohibition of the sale of the privilege to a foreign government would be eluded.

Your excellency knows very well that any interpretation ought to be discarded that makes illusory that which is stipulated, and in this case the condition in reference would be reached if any proceeding was admitted by which the privilege for the construction and exploitation of the railroad could be transferred to a foreign government.

I avail myself, etc.

(Signed)

LUIS CARLOS RICO.

To His Excellency, Hon. A. M. BEAUPRÉ,  
*Minister Plenipotentiary of the United States, etc.*



*Mr. Loomis to Mr. Beaupré.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, July 1, 1903.*

Have you fully acquainted Colombian Government with Department instruction of April 28? Keep department informed as to situation.

LOOMIS, *Acting.*

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*Mr. Beaupré to Mr. Hay.*

No. 68.]

LEGATION OF THE UNITED STATES,  
*Bogotá, July 2, 1903.*

SIR: I have the honor to confirm my telegram of this date, which should read as follows:

"July 2, 9 a. m. Confidential. Have received information, privately, that the President had a meeting of senators at the palace yesterday, urging the necessity of the ratification of the treaty. Heated discussion ensued, the majority declaring in opposition to the treaty. At present the majority in the Senate seem against ratification."

I am, sir, your obedient servant,

A. M. BEAUPRÉ.

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*Mr. Beaupré to Mr. Hay.*

[Telegram.]

UNITED STATES LEGATION,  
*Bogotá, July 5, 1903. (Received July 9.)*

I have fully acquainted Colombian Government with your instructions of April 28. The reply of ministry for foreign affairs I have the honor to transmit. Summary of reply as follows:

My note will be referred to Congress that it may know the construction given article 1 by the Government of the United States. To determine meaning article 1 Congress will take into consideration all negotiations prior to signing the treaty, including the notices minister hacienda to companies, which, antedating the treaty, are not explanatory thereof, intended in anticipation of foreseen events in the negotiations. See paragraph B, section A, memorial Colombian minister to the Department, 22d last November. The treaty alone can not cancel obligations between Colombia and companies as well. The United States must make contract to acquire rights of the companies which can not be included in the treaty. Were this not so Colombia, while relinquishing her rights, would yet be bound by obligations to companies. To omit contract Colombia would have no guarantee for the payment of her shares in canal company, especially as in article 1 of the memorandum of April obligation of this kind is waived by the United States. Necessity for consent of Colombia to sale of shares Panama Railway recognized in article

1 the treaty. The minister affirms the prohibition extends to purchase of one or more shares, as by this means control could be secured and the prohibition eluded.

BEAUPRÉ.

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*Mr. Beaupré to Mr. Hay.*

[Telegram.]

UNITED STATES LEGATION,  
Bogotá, July 5, 1903. (Received July 12, 1903.)

Confidential. Have received information privately that a paraphrase of your cipher telegram June 9 was read in the Senate secret session. Created sensation. Construed by many as a threat of direct retaliation against Colombia in case the treaty is not ratified. This, and the statement of just-arrived members of Congress from Panama that this department would revolt if the treaty is not ratified, caused alarm, and the effect is favorable. Unusual honors extended legation of the United States 4th of July.

BEAUPRÉ.

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*Mr. Beaupré to Mr. Hay.*

No. 72.]

LEGATION OF THE UNITED STATES,  
Bogotá, July 6, 1903.

SIR: Referring to my No. 60 of June 24, 1903, with which I transmitted a copy of the President's message to Congress, I now have the honor to inclose herewith a translation of said message.

I am, sir, your obedient servant,

A. M. BEAUPRÉ.

*Honorable Senators and Representatives:*

Full of joy and smiling hopes I see to-day fulfilled the greatest of my desires in that I see reunited the National Congress. The afflicted country hopes, through your intelligence and your love of it, a remedy for the ills which oppress it. And I hope to see myself, for the greater part, relieved of the immense responsibility which has weighed over me, that of caring personally for the salvation of the institutions and the administration of the public business, by the meeting of the legislators.

The profound disturbance of the public order, which began in 1899, prevented the fulfillment of the laws in regard to elections, and consequently the reunion of Congress, which ought to have taken place in 1900 and 1902.

Therefore there arose a political situation unforeseen by the constitution and the law, in that the Government was forced to assume the functions of legislation as well as to protect itself against those who sought to destroy it by force, and to attend to the satisfaction of many necessities of all classes.

One of these necessities was that the National Congress should be formed and reunited, but this could not be attended to during the war, because many of the cities of the Republic were occupied, either continuously or for short times, by the forces of the rebels, and on this account the legal authorities could not reside in them nor exercise their proper functions.

I was authorized to call Congress in extraordinary session, but I could not have an election for members of the House of Representatives, nor was there a complete number of senators. Such being the circumstances, I resolved that as soon as the battles had ceased or been made insignificant I would see that an election was held for members of the departmental assemblies and for representatives, designating for each one of the acts prescribed by the election laws a different date from the one fixed by them.

In doing this I was moved by the fact that the Congress would owe its existence to this and would not fail to approve it, and also that the question of

the opening of an interoceanic canal by way of Panama demanded a more prompt solution than could be given by the Congress which ought to reunite on the 20th of July, 1904. For in this light it was possible that the deferring of the solution which the Government of the United States hoped from Colombia would be equivalent to a definite renunciation of the project of the contract.

Neither could I refuse to call Congress, having offered on various solemn occasions and in important documents, and having contracted to do so in my name, by agents as authorized and as respectable as those who signed the surrenders at the end of the war.

At the same time that I have hoped that the legislature, in the session of this year, would solve that question, I have desired and hoped also that it would solve others of supreme importance, and that it would take measures to remedy the infinite evils caused by the late war, and prepare and open for Colombia an era of greatness, prosperity, and peace.

The constitution, which authorized me to take measures which in time of peace could not have been exercised without consent of Congress, imposes on those governing the duty to give to that body, peace being declared, a reasonable account of the acts executed in the exercise of those extraordinary powers. This account ought to be prepared and completed in the forms which, according to the constitution, the ministers of Government have to give to Congress in their ordinary sessions. The ministers of my Government have made efforts to have ready the said reports, but they have only been able to prepare the main proofs, and at present it is impossible to make it complete. The disorder in which, on account of the last revolution, the public administration of all branches have been thrown for the last three years, and the lack of communications which in all that time was almost total and which is still so, have made and now make it impossible to collect the necessary data which have to be gotten in all the offices of the Republic—data which can not, without great labor, be collected before July of next year.

The ministers of Government will give you all the information necessary for the study and investigation of these points, and which they have acquired in many cases not without great study of these same questions and great difficulty.

A continuation of this message would require the placing therein the data of the ministers, data which I have not cared to include in this document, because they would give to it excessive length.

The ministers will submit to you for your consideration the businesses for which it is urgent that you provide legislation.

In my proclamation addressed to my fellow citizens on the 1st of January of this year I set forth most of the views that I should state now. Allow me to transcribe here some fragments of that document.

[NOTE.—This message of the vice president to the nation I will give a summary of rather than a translation.]

Doctor Marroquin begins by congratulating the country on the conclusion of peace, which is owing, he says, to the unselfish patriotism of so many Colombians who gratuitously lent their services. He refers to the revolution which broke out in 1899 as being the severest which this country has yet experienced, owing to the dissensions among the members of the Conservative Party; the open support given by foreigners; secret machinations in the countries of Europe and America with the object of impeding the acquisition of munitions of war; of a foreign press placed at the service of the disturbers of order; and sickness, the child of war, which, ravaging entire army corps, has frustrated plans and embarrassed operations. The result has been to bring about immense suffering, and to place the finances of the country, which were already in a bad condition, in the most critical situation the country has ever known. At the same time a spirit of speculation has been rife, and unfortunately many of those who ought to have done their utmost to bring about a restoration of peace have for this very reason desired the continuance of hostilities.

After enumerating the many evils which the country has suffered, he refers to the interoceanic canal, on the results of which undertaking he builds his hopes for future prosperity. He justifies the arbitrary action of the executive power by the results, i. e., by an honorable peace. The war has had this advantage, that it has taught the people, to their cost, the blessings inseparable from peace. He desires henceforth to rule as the chief not of a party but of the entire nation. His excellency then goes on to the policy to be adopted in the future. He frankly acknowledges the errors committed in the past, which were the cause of continuous revolutions. Colombians must set out to work,

each in their own particular sphere. It must be work and not politics. Politics, as this country has up to now considered the term, has nothing less than the furthering of personal interests at the expense of the public welfare. He refers with satisfaction to the approaching elections, to the fact that this country will henceforth be ruled by a constitutional government. Attention must be directed toward the improvement of the means of communication, and he trusts that this is a matter which will be seriously considered by the legislative chambers. The questions between this and other countries he expresses himself willing to settle and refers favorably to recourse to arbitration. He sympathizes with the troubles of his sister country, Venezuela, but states at the same time that such troubles are the action of a short-sighted government which does not know how to respect the rights of others. He speaks passingly of the troubles between Colombia and Venezuela, but the solution of such differences lies in the railway. Better communications will lead to better knowledge of neighboring States, and smooth all disagreements. Also, when this country is networked with railroads the energy of a large part of the population, which is at present expended in fomenting discord, will be turned into channels more profitable to themselves and to the country.

The Vice President then turns to the financial situation. He states frankly that the Government will have to continue as before, having recourse to emissions of paper money. The solution of the economic question lies in the gradual enrichment of the country. Every facility must be given to exports, so that in time their value shall exceed that of imports. Industry must be encouraged, so as to lessen the necessity of importing articles from abroad. To further this it will be necessary to push with all energy the construction of railways, which, he says, have under similar circumstances been the salvation of Chile, the Argentine Republic, and Mexico. Then there comes the question of revenues, which have become completely disorganized. Fresh taxes will have to be imposed, which he trusts the country will pay with good will. With the adoption of these measures the economic problem will resolve itself and the paper money will obtain its normal value, i. e., it will be at par with silver. This is the only solution, which can be attained neither by theories nor original plans of economists, nor laws, decrees, nor foreign loans. He congratulates himself that all his efforts to obtain a loan abroad have resulted in failure, as now none of the revenues of the country are burdened. He regrets being able to present no more prompt plan for remedying the financial situation.

With regard to the question of the completion of the interoceanic canal, the Vice President says as follows:

"Incidentally at the beginning of this address I touched on the question of the opening of the interoceanic canal. I feel it, however, my duty to explain to you more fully the opinion of the Government on this important matter. My Government is faced with this dilemma: We must either allow our sovereign rights to suffer and renounce certain pecuniary advantages to which, as many opine, we have a right, or we must rigorously stand up for our sovereign rights and claim peremptorily the pecuniary indemnization to which we have a right to consider ourselves entitled. In the first case—that is, should we consent to the curtailment of our sovereignty and not aspire to the full indemnity, should the canal be opened through Panama, the just wishes of the inhabitants of that department and of all Colombians will be satisfied; but the Government lays itself open to being charged in the future with not having duly defended our sovereignty and with having sacrificed the interests of the nation. In the second case, should the canal not be opened through Panama it will be laid to the charge of the Government that it did not allow Colombia to benefit by this undertaking which is regarded as the foundation of our future greatness. I have already expressed my desire that the interoceanic canal should be opened through our territory. I think that even at the cost of making sacrifices, we should put no obstacle in the way of so great an undertaking, for it means an enormous material improvement for our country, and, should the canal once be opened by the people of the United States, our relations with that people would be drawn closer. The result would be an incalculable gain to our industry, our commerce, and our wealth. Happily for me, the immense responsibility of coming to a decision falls to Congress. That is the body which has to give its approbation or disapprobation of the agreement proposed by the Government of the United States."

The vice-president, at the conclusion of his address, expresses his regret at not being able to place a more cheering outlook before the country, but it is as

well it should realize the difficulties which the people will have to aid him to overcome.

More than once I have solemnly promised to lay again before Congress the message that I addressed in 1898 about reforms. Some of said reforms were passed that year. Such as were neither considered nor embodied in our legislation I now submit to your consideration, recommending them as proper in their nature and conducive to the very material and paramount purpose of conciliating the aspirations of our political parties, thus arriving at an accord among the Colombians and assuring that tranquility which more than ever is necessary under the circumstances.

A printed copy of the above-mentioned message will be presented to you.

At the beginning of this year I asserted that, owing to the action taken by the Government, the effects of peace had commenced to be appreciated. With stronger reason can I assure it to-day. It was feared that to the disarmament of the enemies of the Government, vengeance and brutal violence would ensue; but owing to the Christian feelings that still animate our people, we had not seen such horrors realized. Industrial and mercantile movement has revived in every visible way, and in every quarter of the nation we can see such as were yesterday fetching their gain through violence and depredation devoted to their usual occupations. Let this consoling spectacle be a lesson to the Colombians and make them understood how great the power of peace is, and how much we should expect when it is solid and lasting.

But if private individuals have begun to enjoy that supreme and long-wished-for benefit; if their enterprises are again prosperous; if they see that the day is not distant when they shall successfully crown their effort, for the public powers the termination of the combats did not, and could not, produce immediately those advantageous results.

I shall not mention unimportant engagements in which the Government troops have recently been compelled to punish obstinate rebels, nor shall I mention either those acts showing that the danger of an invasion into our territory has not altogether disappeared; but I will point out the fact that public administration in the capital, departments, and municipalities is still encumbered by greater obstacles than such as in any other period of our independent life. Owing to the financial and economical situation, from which we scarcely begin to disengage, the difficulties to govern Colombia are now not less serious than those we had to combat in the roughest period of the war, and if in order to conquer the enemy under arms the Government was compelled to make use of such powers with which all of us are invested to defend life, not less legitimate and necessary was the use that after the actual fighting the Government made similar powers in order to defend and maintain social and political life—the life of the Republic.

Although fighting was almost over toward the end of November last, nevertheless public order was not on that account restored. The authorities were unable to discharge their duties in a regular way; communications with the several sections of the Republic remained as difficult as they were during the war. If it is true that the enemies of the institutions showed themselves unanimously anxious to keep peace, those who defended or did not combat them being divided into numerous antagonistic and political groups, however ready they may be to take arms anew for the defense of the same institutions in case it should be necessary, have not offered the Government the assistance through which it could have restored to the country in a short time the repose and welfare that it is so much in want of. The Government received early this year from different quarters of the Republic alarming communications and intelligence respecting new plans to disturb public order and on facts making the possibility of the continuance of our differences with two of the neighboring Republics patent.

Notwithstanding the foregoing, the Government, desirous to inspire the Colombians with the assurance that they may rely upon the guaranties offered them by the constitution and laws, has declared public order restored and has abdicated such authorities as under the martial law have permitted it to provide for its own defense and existence.

Between this declaration and the disarmament of the adversary much shorter space has elapsed than it has been the case between the end of any of our other revolutions and the return to a normal state of affairs. Whoever takes into consideration that none of our previous wars lasted so long as the recent one, which has shaken the country with confusion, disturbances, ruin, and disorder, would repute that period much shorter still than the others.

To what I set forth in the proclamation, fragments of which I have inserted in this message, as to the necessity of constructing railways and as to the canal question, I have likewise to add what I hereafter suggest.

If the remedy to our evils lies in the construction of roads to promote industry and trade, that work is to-day more necessary than before for the purpose of offering a scope to the activity of our people, now impoverished and demoralized by the recent disturbance. Such work should also be a remedy to stop the difficulties which oppress trade in the northern part of the Republic. The construction of a railway to connect that section of the country with the Magdalena River is of imperative necessity. Our disputes with Venezuela can not definitely come to an end until trade in Santander can make use of an independent route. Perhaps in a short time, and such is my desire, we will be able to come to an understanding with the Republic; but such Government can not assure us that the succeeding ones would respect our rights.

When I took upon myself the responsibility of the government of my country, I had made up my mind to impede to the utmost that for the construction of railways and for any other undertakings of that kind we should negotiate with foreigners. The unpleasant impressions resulting from certain contracts had led me to form that resolution; and in my quality of supreme magistrate I have to feel more earnestly than before, and more than the rest of my fellow citizens, those impressions. To the contracts alluded to are owing in a great part the conflicts and misfortune that we have endured during the recent war, as well as the difficulties that we have with great trouble to combat.

Still, I have been compelled to change my mind in that respect. On the one hand I have come to the conclusion that the construction of railways is but the necessity of a self-preservation; on the other hand I have realized the impossibility of carrying out any works of such magnitude with the resources obtained by the Government so long as our treasure, credit, and revenues are in the condition in which they are at present. In the same manner I have realized the impossibility for private Colombian associations to take over and carry out the scheme above referred to.

In other Spanish-American nations railways have been constructed through contracts made with foreign companies. Why should we not be able to do the same in our country? The bad result of certain contracts was only owing to the fact that the concessions were granted to parties who were not fit for the purpose, or that said concessions have been approved without proper study, care, and precaution. The same disasters emanating therefrom are abundant warnings for us, and we ought not to judge ourselves so incapable as not to profit thereby.

The minister for foreign affairs will lay before you the project of a convention proposed by the Government of the United States of America, set forth the antecedents thereof, and give such explanations as may seem interesting in connection with the canal.

I think it unnecessary to state that since I have thrown upon you all the responsibility that the decision of this negotiation brings it is not my intention to allow my opinion to weigh in the matter. Whenever I have transmitted instructions to our representatives in Washington, I have directed them to formally express my resolution to submit the study and decision of this most serious affair, in its general sense and its details, to the supreme Congress.

Fortunately for transacting business with the American Government in connection with the canal the present time is more propitious than that in which, being inundated with difficulties and dangers, we could not work on behalf of our interest with serenity and liberty. On the other hand, after many years, during which that matter had been dealt with in a vague manner and without any precise conditions, to-day it is presented to us in such a light that the discussion thereof can not but lead to practical and positive results.

Indeed, it has been one of our indisputable diplomatic triumphs that the Senate and Executive of the United States, in spite of the strong efforts made to the contrary, declared the superiority of the Colombian route.

As I have already said to you and all my fellow citizens, I attribute the happy conclusion of the last war to the intervention of the Divine Providence, to whom I equally attribute the fact that the remedy to those evils which gave origin to that war has been able to commence, and from whom I expect for you the honor that your name may appear in our history by those of the legislators, who at an epoch of the greatest decay and backwardness, were clever enough to procure to Colombia, if not the immediate possession, at least the sure hope of the boons that her founders had devised.

*Mr. Beaupré to Mr. Hay.*

[Telegram.]

UNITED STATES LEGATION,  
*Bogotá, July 9, 1903. (Received July 12, 1903.)*

Confidential. [————] has requested me to say to you he does not think the treaty can be ratified without two amendments: To article 1, stipulating payment ten millions by the canal company for the right to transfer; to article 25, increasing payment to fifteen millions, and says that the treaty can be ratified at once with these amendments. He asks your views confidentially.

BEAUPRÉ

*Mr. Beaupré to Mr. Hay.*

[Telegram.]

UNITED STATES LEGATION,  
*Bogotá, July 11, 1903.*

Confidential. The majority in the Senate are opposed to treaty. Apparently the Government is not defending the treaty, although it may intend to later. Its fear of public opinion and the criticism of the Liberal party very great. The danger is delay, which opposition fights for. I think strong intimation from you through the Colombian minister or this legation that unnecessary delay should be avoided would be effective. Otherwise debate may continue until September, necessitating instructions communicated by telegraph for exchange of ratifications.

BEAUPRÉ

*Mr. Beaupré to Mr. Hay.*

No. 78.]

LEGATION OF THE UNITED STATES,  
*Bogotá, July 11, 1903.*

SIR: I have the honor to report that the Colombian Congress has occupied itself with unimportant and preliminary matters since it convened on June 20 last. Really nothing has been done.

The most important and really only question relating to the canal treaty has been the motion made by the opposition to the Government party to the effect that the vice president must sign the treaty before it can be considered by the Senate. The debate on this question has been going on for many days and the end is not yet.

Ex-President Caro has been the leader of the opposition in this debate and has made many brilliant speeches. He has charged the Government with lack of good faith and consistency, both to the United States and Colombia, in not defending a treaty of its own making and endeavoring to throw the whole responsibility upon Congress.

The theory of the discussion is to the effect that if the vice president signs the treaty the entire responsibility for its making rests with the executive power, while if the vice president does not sign

and the treaty is either ratified or rejected no responsibility can attach to the Executive.

The vice president has positively declined to sign, and if the motion as presented should prevail, and he still refuses his signature, the Senate will not consider the treaty at all, and in all probability Congress will be dissolved.

It is understood that a final vote on the motion will be taken on Tuesday next. As near as I can determine, the Government is likely to have a majority of one or two votes, in which case something of a more definite nature can be undertaken.

As I informed the department to-day, in a telegram elsewhere confirmed, there is every prospect of the debates continuing without any decision until September, so that there will be only time to cable Washington just before the 22d of that month of the final action of Congress; and as cablegrams from this capital have often been delayed a month or more, as the department is aware, there is grave danger in this.

If one could know just what would be the attitude of the Government later on, it would be easy enough to predict the outcome, for I still adhere to my oft-repeated opinion that if the Government shall seriously desire it the treaty will be ratified. Its present attitude of washing its hands of the whole matter will not do, for while the House is favorable, there is a declared majority in the Senate against ratification, and only the influence of the Government can win it over.

I am inclined to believe, from information obtained at different times, some of which I have reported to the department, that the Government intends to use its influence later on, and at what it shall deem the proper time, in favor of the treaty. If so, the treaty will be ratified; if not, then it will be defeated.

I am, sir, your obedient servant,

A. M. BEAUPRÉ.

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*Mr. Hay to Mr. Beaupré.*

[Telegram.]

DEPARTMENT OF STATE,

*Washington, July 13, 1903.*

Neither of the proposed amendments mentioned in your telegram<sup>1</sup> received to-day would stand any chance of acceptance by the Senate of the United States, while any amendment whatever or unnecessary delay in the ratification of the treaty would greatly imperil its consummation.

HAY.

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*Mr. Beaupré to Mr. Hay.*

[Telegram.]

UNITED STATES LEGATION,

*Bogotá, July 15, (Received July 27, 1903.)*

Confidential. The situation is a little more favorable for the treaty. It is generally believed that it will be ratified, but with amendments. It is possible it can be passed without amendments;

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<sup>1</sup> Dated July 9.



but as the belief prevails that additional concessions can be secured, I consider it important that this Government be informed through the Colombian minister or me of your position as to the matter. In any event, I would appreciate secret instructions as a guide in case of emergency.

Yesterday the treaty was submitted to a special committee of nine in the Senate, four, and probably more, of whom are for ratification.

BEAUPRÉ.

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*Mr. Beaupré to Mr. Hay.*

No. 83.]

LEGATION OF THE UNITED STATES,  
*Bogotá July 21, 1903.*

SIR: As I had the honor to report by cable on the 15th instant, the canal treaty was submitted to a special Senate committee of nine members, four of whom were known to be favorable to ratification. This committee is to report on or before the 31st instant.

The Government has continued to triumph on every important question brought forward in Congress. On the 18th instant officers were elected in both houses for the ensuing thirty days. Señor Quientero Calderón, formerly minister of government in Vice-President Marroquin's cabinet, and a staunch Government man, was elected president of the Senate; Gen. Pedro Nel Ospina, now identified with the Government forces, and certainly in favor of the canal treaty, first vice-president. In the House Señor Juan B. Valencia was chosen president.

Gradually, but certainly, the situation is growing more favorable for the canal treaty, and while I am not yet prepared to state the positive belief that it will be ratified, I see no reason to be discouraged by the present outlook. The great danger is that there may be enough members of the Senate to carry certain amendments.

I have endeavored, not only to keep in touch with the current events, but to create favorable sentiment for the treaty.

It has been most difficult to overcome the at one time almost general belief that the United States did not seriously intend to adopt the Nicaragua route should this Congress fail to ratify the treaty, and to make it understood that the great benefit Colombia expected to realize from the construction of the canal depended upon prompt action and could never be secured by future diplomatic negotiations.

At times I have thought, from the tone of the conversation of certain opponents, that foreign hostile influences were at work, but I have never been able to be certain of this. If there be opposition from this source, it is of too secret a nature to be discovered, and can not, therefore, be particularly effective. On the whole, I am inclined to believe that no direct hostile influence is being used here, but that, if any exists, it comes through Colombian legations or consulates in Europe.

I have certain, but private, information that Doctor Uricoechea, a member of the special Senate committee heretofore referred to, and who lived a great many years in Germany, called on Baron Grünau, the German chargé d'affaires, to inquire what would be the attitude of the German Government in case of trouble arising out of the matter, and whether it would be willing to undertake or aid the construction

of the canal in case the treaty with the United States should not be ratified. Baron Grünau replied that he had no instructions bearing upon the subject, but that he was of the positive opinion that, considering how desirous his Government was at the present moment to remain on friendly terms with the United States, it would not take any steps with reference to the construction of the canal or to any controversy growing out of the present negotiations; that he would, however, submit the matter to his Government.

My English colleague, with whom I have the most pleasant personal relations and whose attitude I know has been one of unswerving friendliness to our interests in this matter, informs me that one of the Deputies of the Chamber of Representatives called on him with an inquiry similar to the one above mentioned. To this he replied that this question was thoroughly considered by His Majesty's Government at the time the modifications were made in the Bulwer-Clayton treaty, and that his Government was of the opinion that the safeguards contained in the Hay-Pauncefote arrangement formed a sufficient guaranty for the commerce of the world and was, therefore, willing now to leave the United States quite free as regards any further negotiations with reference to the construction of a canal.

The generality of the legislators here have thought that further and greater concessions could be obtained from the United States, and that in this particular the treaty could be amended with safety to the interests of Colombia. This has been and is the most stubborn stronghold of the enemy—at all times the most dangerous to us—and to it I have given more attention than to all else. It was because of this that I cabled the department of the importance of informing the Colombian Government, through its minister at Washington or this legation, of its views. To be able to make an official representation would have far greater weight than an expression of opinion.

I have reason to know that the Government understands—at any rate, the Vice President does—that amendments are not to be thought of, but I hope to receive instructions from you, when cable communication is reestablished, to bolster up and strengthen this understanding.

I have believed that I could, with discretion and propriety, use my influence in creating a favorable sentiment, making the interests of Colombia the basis of my arguments; and I have not hesitated to do this whenever circumstances would permit a conversation with men whose influence would be of no avail.

I have the satisfaction of knowing that I have accomplished a certain amount of good, and that, whatever be the result, all of the ability and energy which I possess shall be given to the consummation of the department's desires.

I am, sir, your obedient servant.

A. M. BEAUPRÉ.

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*Mr. Loomis to Mr. Beaupré.*

No. 23.]

DEPARTMENT OF STATE.

*July 21, 1903.*

SIR: At the instance of the Hon. John T. Morgan, I have to request that you will forward two copies of the proclamation of Acting Presi-

dent Marroquin, calling the session of Congress to consider the canal treaty, and two copies of the law under which the proclamation was issued.

I am, sir, your obedient servant,

FRANCIS B. LOOMIS,  
*Acting Secretary.*

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*Mr. Beaupré to Mr. Hay.*

No. 85.]

LEGATION OF THE UNITED STATES,  
*Bogotá, July 22, 1903.*

SIR: Referring to the department's telegram of April 7, 1903, to my No. 10 of April 24, 1903, and No. 44 of June 10, 1903, concerning the proposed cancellation of the present concessions of the Panama Canal and Railroad Companies, I have the honor to transmit herewith a copy and translation of a note received from the minister for foreign affairs on the subject, together with a copy of my reply thereto. As soon as cable communication is reestablished I propose to telegraph the department the substance of this correspondence.

I am, sir, your obedient servant.

A. M. BEAUPRÉ.

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[Inclosure 1.—Translation.]

MINISTRY OF FOREIGN RELATIONS,  
*Bogotá, July 21, 1903.*

MR. MINISTER: In your polite note of the 24th of April last, your excellency was pleased to inform me, in accordance with the instructions of your Government, that all that referring to the cancellation of the actual shares of the Panama Canal and Railroad Companies, was included in the convention between Colombia and the United States, signed on the 22d of January last, for the opening of the canal.

I shall be obliged by your excellency's telling me, as early as possible, if modifications, which, according to the final part of the note referred to, are considered as violating the Spooner law, are only those which concern the concessions of each of the companies, or if they are such also as may be adopted with regard to the (treaty itself) convention spoken of.

With this motive, etc.,

(Signed) LUIS CARLOS RICO

To his excellency A. M. BEAUPRÉ.

*Envoy Extraordinary and Minister  
Plenipotentiary of the United States, etc.*

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[Inclosure 2.]

*Mr. Beaupré to Doctor Rico.*

LEGATION OF THE UNITED STATES,  
*Bogotá, July 22, 1903.*

His excellency Dr. LUIS CARLOS RICO.

*Minister for Foreign Affairs of the Republic of Colombia.*

SIR: I have the honor to acknowledge the receipt of your excellency's polite note of the 21st instant, referring to my note of April 24, 1903, concerning the requests of the Colombian Government to the Panama Canal and Railroad Companies for the appointment of agents to negotiate the cancellation of present

concessions, etc., in which I informed your excellency that my Government considers that the treaty covers the entire matter, and any change would be in violation of the Spooner law, and not permissible.

Your excellency asks me if any modifications in the treaty itself would be considered in violation of the Spooner law, as those other suggestions for special cancellation of the concessions of the companies have been so considered by my Government.

I have the honor to say to your excellency that with the approval by the United States Senate of the treaty between Colombia and the United States, signed on the 22d of January, 1903, the Spooner law, which authorized the making of that treaty, was fully complied with, in the opinion of the Senate, so far as the Panama route is concerned. Hence, the said law went out of active existence with reference to Panama, and can only again become a subject for discussion, and then in reference to the Nicaragua route, in the event of the rejection of the treaty by Colombia.

This is, of course, my personal opinion, which, unfortunately, I am unable at present to confirm by cable reference to my Government. But I consider it my duty to inform your excellency that I have no reason to believe that my Government will consider or discuss again any modifications whatever to the treaty as it stands. This strong impression I gather from a careful reading and study of the notes already in your excellency's possession, for, if in the case of the concessions of the companies my Government would consider their modification as violating the Spooner law, then, with much more reason, it would seem that the treaty itself, as the official interpretation of the law, can not be modified at all without violating that law.

I shall, of course, submit your excellency's note to my Government as soon as it is possible to do so by reopening of cable communication.

I embrace this opportunity, etc.,

(Signed) A. M. BEAUPRÉ.

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*Mr. Loomis to Mr. Beaupré.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, July 29, 1903.

Would like information as to present situation.

LOOMIS, *Acting.*

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*Mr. Hay to Mr. Beaupré.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, July 31, 1903.

Instructions heretofore sent to you show the great danger of amending the treaty. This Government has no right or competence to covenant with Colombia to impose new financial obligation upon canal company and the President would not submit to our Senate any amendment in that sense, but would treat it as voiding the negotiation and bringing about a failure to conclude a satisfactory treaty with Colombia. No additional payment by the United States can hope for approval by United States Senate, while any amendment whatever requiring reconsideration by that body would most certainly imperil its consummation. You are at liberty to make discreet unofficial use of your instructions in the proper quarters. The Colombian Government and Congress should realize the grave risk of ruining the negotiation by improvident amendment.

HAY.

*Mr. Beaupré to Mr. Hay.*

No. 90.]

LEGATION OF THE UNITED STATES,  
*Bogotá, August 3, 1903.*

SIR: Mr. Spencer S. Dickson, British vice consul at this capital, has prepared for his Government an interesting memorandum relative to the discussions in the Bogota press on the question of the proposed Panama Canal as a business concern, and has been good enough to furnish me with a copy, which I have the honor to inclose herewith.

I am, sir, your obedient servant,

A. M. BEAUPRÉ.

[Inclosure 1.]

*Memorandum by Mr. Spencer S. Dickson, relative to the discussions in the Bogota press on the question of the proposed Panama Canal as a business concern.*

Since the news of the signing of the Hay-Herran treaty last February, the imagination of the Bogota public, as expressed in the local press, has been occupied with the question as to what is the extent of the pecuniary advantages which the Government of the United States is about to derive from the proposed undertaking. The articles written have so ridiculously exaggerated the possible takings, even from the most optimistic standpoint, as to render themselves unworthy of any notice whatever, were it not for an interesting answer they have called forth from the pen of Mr. J. T. Ford, the manager of the Cartagena Harbor, Railway, and River companies. Mr. Ford's article is principally directed against an article written by a Dr. Novoa Zerda, a prominent Bogota lawyer, who has published an elaborate statement in the Bogota press in which he proves, to his own satisfaction, that the Government of the United States are, by the terms of the Hay-Herran treaty, securing for themselves a net profit of \$1,186,537.377 during the first term of the concession.

My reason for transmitting this memorandum is that the statements made by Mr. Ford in his answer, based, as they are, on long experience and a thorough knowledge of the conditions ruling, merit attention and are, as far as I am aware, of a somewhat novel character, though on a question already so much discussed. Mr. Ford, M. I. C. E., a British subject, holds the position of consulting engineer to the Colombian Government, and has at various times been attached to the Colombian legation at Washington during the course of the negotiations which have taken place respecting the construction of an Isthmian Canal. He has brought his knowledge and experience to prove that the Panama Canal is not a profitable undertaking from a commercial point of view, and is valuable to the United States only because of its naval significance.

Mr. Ford, in estimating the commercial value of the projected Panama Canal, has taken as a basis the experience gained by the Suez Canal. The traffic of the latter is regulated by an international convention, the terms of which the United States and Great Britain adopted when formulating the Hay-Pauncefote treaty, signed to substitute that known as the Clayton-Bulwer. These regulations establish a special tonnage measurement, which is neither the gross nor the net of the ordinary tonnages of Lloyd's. Nor is it the tonnage system of Germany or France. It is the Suez Canal system.

The Suez Canal in 1900, thirty-two years after being open to trade and with all the extra traffic produced by the Transvaal war and the intervention of the European powers in the Boxer attack on Peking, had a traffic of 3,441 vessels of 13,699,238 gross tons, or 9,738,152 Suez tons.<sup>1</sup>

	Francs.
Its gross product in money was.....	93, 451, 403
Expenses of operation and maintenance.....	25, 648, 264
Resulting in a net income of.....	67, 803, 139

<sup>1</sup> The later returns for 1901 show a still greater increase.

Supposing that Colombia rejects the Hay-Herran treaty and constructs the Panama Canal for its own account, so as to have the full benefit of all the takings. Take also for granted the absurd supposition that, in the first year of its being opened to public traffic, this canal shall be able to show the same tonnage as that of Suez in 1900, thirty-two years after its opening. Taking the above tonnage only and the gross product of the canal in money, an average for purpose of comparison is deduced of 6.80<sup>1</sup> francs per ton (gross), or \$1.36 American gold, by the Suez route. With regard to the question of population served by the two canals, the continents of North and South America together contain but one hundred and fifty million inhabitants. The canal will only be used by a portion of the trade of the western coast of the two continents, with part of the eastern coast, and with Europe. It is evident that trade can not in the first year reach the same figure as the total trade of Suez, which unites the continents of Europe and Asia, with twelve hundred million inhabitants between them. To do this, Panama must take from Suez at least one-half its trade. Suppose this second absurdity be regarded as a possibility, owing to the superiority of the Panama route between certain ports, admitting a certain amount of competition in freights from Europe to Australia, New Zealand, and to the islands of the Pacific, it is a question whether Great Britain would, without a struggle, thus allow the deviation of this important trade from its present established route. The immediate creation of the 3,000 new vessels necessary for the traffic deviated from the transcontinental railroads must also be taken as an accomplished fact. Against these hypotheses there is the following consideration—the shares of the Suez Canal are being sold at nearly ten times their nominal value. It is perfectly evident that this extraordinary company would certainly be well able to attempt to avert its ruin or injury and face competition by making some reduction in its tariff; but supposing that the Panama Canal has, by competing with the Cape Horn route and the transcontinental railroads, created for itself a trade equal to half the trade of Suez; also, that owing to its admitted superiority in certain voyages now made via Suez, Panama has taken away from Suez the half of its total trade, the Panama Canal would then have its 13,699,238 gross tons as above; but also, for the above-mentioned reasons of competition, the rate per ton would have to be reduced, probably, to say \$0.70 gold to obtain that result in tonnage. This trade, on the same basis as above, would give to Panama a gross earning of \$9,589,466.<sup>2</sup>

As to the operating cost, the country in which the Suez Canal is situated has a dry climate, without rains, and is so healthy that the same class of invalids as go to the Riviera and other sanatoriums of Europe make it their residence in winter. It is moreover a simple canal in a sandy plain without locks, or any other artificial works of importance. Panama, on the other hand, has a disastrously unhealthy climate. Very high salaries would have to be paid and a much greater number of employees would be required than at Suez. There are unforeseen damages to be provided for, owing to the torrential rains. Difficulties have to be faced in the management of locks and the maintenance of artificial works without parallel up to the present in the entire world, because of their monumental proportions. Mr. Ford, however, to err on the right side, assumes that the cost of operating the Panama Canal will be no more than that expended at Suez. The gross cost of operation at Suez for handling the traffic of 1900 was 25,648,264 francs or \$5,129,653 American gold.

The Panama accounts, under these conditions, would be as follows:

13,699,238 tons at the above rate of \$0.70 per ton would be-----	\$9, 589, 466
Cost of administration (the same as Suez in 1900)-----	5, 129, 653
Net earnings -----	4, 459, 813

The minimum figure for the cost of construction of the Panama Canal, with locks, including cost of French canal works and other contingencies, may be taken at \$200,000,000, according to the best available estimates. Mr. Ford then assumes another favorable absurdity—that Colombia has a credit equal to the credit of the United States and that she could therefore obtain the \$200,000,000 capital required for the construction at 3 per cent interest without

<sup>1</sup> This, of course, is not the actual rate charged at Suez, since Mr. Ford has taken the gross and not the Suez tonnage, and the gross earnings include other charges beside the simple tonnage of the ships, but the above figure fully illustrates the point made.

<sup>2</sup> Mr. Ford again uses here his arbitrarily deduced average rate, and not the probable actual rate.

**initial discount.** She would then have in hand the \$4,459,813, the net earning of the canal, to pay the interest on the invested capital. The account then stands as follows:

Three per cent on \$200,000,000-----	\$6,000,000
Net earning -----	4,459,813

Colombia would therefore have an annual deficit of----- 1,540,187

instead of the net sum of \$550,000<sup>1</sup> per annum, which she would receive under the Hay-Herran treaty, leaving to the United States the above-mentioned deficit, plus the \$250,000 extra rent paid to Colombia.

Mr. Ford then goes on to point out that should Colombia build a sea-level canal, costing \$400,000,000 instead of \$200,000,000, she would find herself with an annual deficit of \$7,540,187, including the 3 per cent on the extra \$200,000,000.

In the discussions which have taken place, those opposed to the treaty have argued on the fact that in previous concessions made with private parties the terms for the Colombian Government have been much more favorable. To this Mr. Ford opposes the fact that those old contracts were signed in complete ignorance of the Suez undertaking and the enormous natural difficulties and cost of building a canal at Panama which would compare at all points with Suez, and before the experience gained through the working of that canal could throw real light on the profit and loss account of such an undertaking. The natural difficulties inherent to the working of the Isthmus of Panama, which were the cause of the failure of the French, even with their superior contract of 1878, were then all unknown. It is a mistake, says Mr. Ford, to suppose that the United States would make a contract similar to those made formerly when the same ignorance of conditions does not exist.

The canal can not be a paying concern for any country except the United States, and for the United States it is a paying concern, not from a commercial standpoint—it will therein be a loser—but on account of its Navy. To show that this statement as regards its commercial value is not exaggerated, Mr. Ford refers to the map of the continents of America. The cordillera of the Andes, from Patagonia to Panama, the Sierra Madre of Mexico, and the Rocky Mountains of the north, which end in Alaska, are so situated that on the side of the Pacific there is only a small strip of territory, very narrow and comparatively sterile, whereas on the Atlantic disk and in direct communication with Europe (where the Panama Canal will never be needed) are situated seven-eighths of its one hundred and fifty millions of inhabitants and the whole of its productive lands, i. e., Argentina, Brazil, Mexico, Colombia, Venezuela, the United States, and Canada to one hundred and fifteenth meridian west, approximately. As far as the above countries are concerned, their trade can never reasonably be expected to make use of the Panama Canal to any extent worth considering at present.

SPENCER S. DICKSON,  
*His Britannic Majesty's Vice Consul.*

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*Mr. Loomis to Mr. Beaupré.*

No. 26.]

DEPARTMENT OF STATE.

*Washington, August 3, 1903.*

SIR: I have to acknowledge the receipt of your No. 67 of July 1, last, concerning the Panama Canal. It is receiving consideration.

There is an error in translation in the twentieth line of the second page of the note inclosed. "Dos compañías" has been translated "two countries" instead of "companies."

I am, sir, your obedient servant,

FRANCIS B. LOOMIS,  
*Acting Secretary.*

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<sup>1</sup> Three per cent on the \$10,000,000 compensation under the treaty, plus the \$250,000 annual rent.

*Mr. Beaupré to Mr. Hay.*

[Telegram.]

UNITED STATES LEGATION,  
*Bogotá, August 5, 1903. (Received 12.)*

Referring to my dispatch of April 24, containing your cipher telegram, April 7, I have received a note from minister for foreign affairs asking if "any modification in the treaty itself would be considered in violation of Spooner law, the same as suggestions for canceling concessions of companies had been considered by the Government of the United States."

I replied July 22 substantially as follows: With the approval of the treaty by the Senate of the United States, the Spooner law, which authorized its making, was fully complied with, so far as the Panama route is concerned. Hence said law went out of active existence with reference to Panama, and can only become a subject of discussion, and then with reference to Nicaragua, in the event of rejection of the treaty by Colombia. This is my personal opinion, which I am unable at present to confirm by cable reference to my Government, but I believe it my duty to inform you that I have no reason to believe my Government will again consider or discuss any modification whatever to the treaty as it stands, which impression I gather from a careful reading and study of the notes already in your possession, for if in case of concessions of the companies my Government would consider their modifications in violation of Spooner law, then with great reason it would seem the treaty itself as the official interpretation of (the law) can not be modified at all without violating that law.

From conversations with prominent Senators I believe the Government does not consider my opinions as final or authoritative. I beg for an emphatic statement from you or instructions under my telegram of July 15. There is much danger that the treaty will be amended.

BEAUPRÉ.

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*Mr. Beaupré to Mr. Hay.*

[Telegram.]

UNITED STATES LEGATION,  
*Bogotá (dated 5th). (Received August 12, 1903.)*

August 5, 10 a. m. It is now apparent that the treaty will not be ratified without amendment, because the positive influence on the part of this Government can not be expected. There are but eight Senators of the twenty-four in favor of it, but more than two-thirds are in favor of the report of the committee, which is as follows:

First. In the preamble the references to the Spooner law shall be suppressed.

Second. In article 1 the condition shall be introduced that the Panama Railroad and Canal Company shall be obliged beforehand to make arrangements with Colombian Government in which the conditions shall be established under which that Government will grant consent necessary to enable these companies to transfer their rights



to the United States. It shall be expressed that Colombia shall recover ownership of all land grants which are at present in the possession of companies, without excepting any of such lands, to the end that the cities of Panama and Colon may remain effectively and completely excluded from zone which is the subject of the concession.

Third. Terms of articles 2 and 3 shall be modified in such a manner as to express clearly that Colombia grants the United States only the right of use of the zone and parts adjacent territory. It should be expressed with precision that the rights granted the United States are in nature of tenancy, excluding the idea of ownership, and establishing in a peremptory manner the perpetuity of the concession. The boundary of zone shall be indicated with the greatest precision, and the necessary properties to which concession extends shall be clearly determined, excluding from the concession, in an unequivocal manner, cities Panama and Colon; besides which it shall be stated that the guaranty of the treaty of 1846-1848 shall not be modified in any way whatever, and shall continue in its application to the whole Department of Panama, inclusive of the zone.

Fourth. In article 7 concession of the right of gratuitous use of the waters of lakes, lagoons, rivers, and the other streams, whether natural or artificial, which may be devoted to the supply of the canal or auxiliary channel, or which may be made use of during its construction, maintenance, or operation, shall be clearly limited, in order that they may be deviated in their course, elevated or lessened in their levels, converted into lakes, widened or narrowed, if necessary, for such purposes. It shall be established that this right is exclusive only in so far as it refers to use of such waters for the supply and maintenance of the canal, or of the auxiliary channels, without allowing that concessions are to prevent utilization of such waters by others in virtue of their legitimate rights for any purpose which is not one of navigation and would not disturb, make difficult, or prejudice employment that the United States may desire to give such waters for the above-mentioned purposes. The use of waters or rivers outside zone of the canal for the transportation materials, etc., shall not be an exclusive right of the United States, but the right shall be given to them to use the waters, without tax or charge of any kind, in so far as the use relates to maintenance and operations of the concession. The natural product property of the Republic which the United States may take for the work shall be determined with the greatest precision possible, limiting this concession to the Department of Panama, and determining that the compensations which may have to take place under article 7 in all things shall be subject to what is provided in article 14.

Fifth. In article 8 uncertainty of the clause shall be corrected under which no duties of any kind shall be collected in the cities Panama and Colon, with the exception of merchandise destined to be introduced for the consumption of the rest of the Republic.

Sixth. In article 13 all relating to establishment of tribunals of the United States and to application of the laws of United States in Colombian territory shall be suppressed, as it is contrary to article 10 of the constitution, and it shall be established that the regulations, police and sanitary, which will be in force in the zone shall be subject to an agreement between the two Governments.

Seventh. Indemnities which the concession mentioned in article 14 will decide upon for the seizures which may have to be made in those cases which are mentioned in the same article shall be determined and paid by the United States, in accordance with valuation at the time.

Eighth. In article 24 a clause of forfeiture shall be introduced fixing termination, which, if exceeded, and if work shall not have been executed, all the concessions must cease to exist and all properties and rights of the undertaking shall revert to Colombia. The last paragraph, article 25, beginning "But any delay," shall be suppressed.

Ninth. In an additional clause the tribunal, which must decide upon the differences which may arise between the contracting parties as to the fulfillment of the treaty, shall be indicated.

BEAUPRÉ.

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*Mr. Beaupré to Mr. Hay.*

[Telegram.]

UNITED STATES LEGATION,  
*Bogotá, August 5. (Received 16.)*

August 5, 10 a. m. I have addressed a note minister for foreign affairs concerning the report of the committee appointed to consider the treaty, to the effect that the proposed modification article 1 is tantamount rejection the treaty. My opinion is that my Government would not consider or discuss the amendment; that the committee has been insufficiently acquainted with my notes, April 24, June 10, or have failed to give them importance they demand as definite expression of opinion and intention of the Government of the United States. The amendment, article 13, suppressing tribunals, will not be accepted in any event, and the other modifications, not so serious in principle, are too little value to Colombia to submit for the discussion of the Senate of the United States. They could be adjusted by assurances or by special legislation when the commission required by the treaty has been appointed. Closing with strong reminder of the dangerous consequences of further unnecessary delay, urging that if Colombia really desires to preserve friendly relations and to secure the advantages of canal, backed by so close an alliance of national interests, the treaty should be ratified without modification.

BEAUPRÉ.

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*Mr. Beaupré to Mr. Hay, via consulate at Colon.*

[Telegram.]

UNITED STATES LEGATION TO COLOMBIA, *August 5, 1903.*  
(From Colon, August 18, 1903.)

No cable received since (the) 13th July, the company having closed Buenaventura office. Government does not allow cables to pass over land lines. Situation critical. American minister Bogota. August 5.

MALMROS.

*Mr. Beaupré to Mr. Hay.*

[Telegram.]

UNITED STATES LEGATION,  
*Bogotá, August 6, 1903. (Received 12.)*

August 6, 10 a. m. Confidential. Note reference to treaty 1846 in the committee report. Colombia dreads above all things newspaper-reported intention of the United States to denounce the treaty in the event of rejecting canal treaty.

I have additional confirmation the statement of my dispatch No. 49 June 15.

BEAUPRÉ.

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*Mr. Beaupré to the Secretary of State.*

No. 98.]

LEGATION OF THE UNITED STATES,  
*Bogotá, August 7, 1903.*

SIR: I have the honor to report that the telegrams which I had the good fortune to get through yesterday and the day before give a more or less accurate idea of the situation in so far as the canal treaty is concerned.

These telegrams are the only ones thus far passed since the 15th ultimo, and it was only after very earnest interviews with the vice-president, the minister for foreign affairs, the minister of government, and the director-general of mails and telegraphs that I finally succeeded.<sup>1</sup>

The report of the special committee of the Senate appointed to consider the treaty presented on the 4th instant, and transmitted in my telegram of the 5th instant, was signed by seven of the nine members of the committee and was in the nature of a compromise. The two other members made independent reports amending nearly every article of the treaty, but as they will have no weight in the ultimate decision of the matter it is not necessary to mention them.

On the morning of the 5th instant I addressed a note to the minister for foreign affairs concerning the committee's report, a copy of which is herewith inclosed.

Early in the afternoon of the same day I received the department's telegram of the 31st ultimo, and as the instructions therein had a direct bearing upon the question I immediately dispatched another note to the minister for foreign affairs, a copy of which is herewith inclosed. A reference to my telegram of the 6th instant concerning the treaty of 1846 will give a better understanding of the last clause of this note. I have positive information that both notes were read to the Senate in secret session.

The situation is chaotic just now and intense feeling is being manifested in the debates in the Senate. Apparently there is little prospect that the treaty will be ratified without modifications, but I must still hope that a better sentiment will be brought about before the end.

I am, sir, your obedient servant,

A. M. BEAUPRÉ.

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<sup>1</sup> The telegrams referred to were not received by the Department of State until August 12, 16, and 18, respectively.

[Inclosure 1.]

*Mr. Beaupré to Doctor Rico.*LEGATION OF THE UNITED STATES,  
*Bogotá, August 5, 1903.*

His excellency Dr. LUIS CARLOS RICO,

*Minister for Foreign Affairs of the Republic of Colombia.*

SIR: I have the honor to inform your excellency that I observe with regret the terms in which the committee of the Senate has seen to frame their report with reference to the Panama Canal treaty, and would earnestly request your excellency to take into consideration the unfortunate circumstance of interrupted cable communication which has prevented my immediate consultation with my Government, and which alone has decided me to address another note to your excellency in further interpretation of the instructions I have referred to in my previous notes as having been received from my Government.

It would appear to me that the committee has either been insufficiently acquainted with the contents of my notes dated April 24 and June 10, 1903, or that they have failed to attach to these direct communications the importance they demand as definite expressions of opinion and intention on the part of my Government.

From them it is clear that the committee's proposed modification of article 1 is alone tantamount to an absolute rejection of the treaty. I feel it my duty to reiterate the opinion I have before expressed to your excellency that my Government will not consider or discuss such an amendment at all.

There is another important modification suggested by the committee to article 13, suppressing the forms of tribunals there provided. I deem it my duty again to express very emphatically my opinion that this also will not be acceptable in any case.

The other modifications, though not equally serious in principle, are nevertheless of such slight value to the interests of Colombia that they do not warrant the risk of further discussion by the Senate of the United States; even in the event, which I consider more than doubtful, that they be even submitted to that body by my Government, since all such amplifications or explanatory items can equally well be given, either by separate emphatic assurances of the Government itself, or be the subject of special legislation when the joint commission mentioned in the treaty shall have begun its official existence.

For the moment disregarding the probable correctness, or otherwise, of my convictions, there is one point that I would especially urge upon your excellency, and that is that the Senate should be reminded of the dangerous consequences to the whole negotiations that the undue delay hitherto experienced in arriving at conclusions will undoubtedly produce on the attitude of my Government.

If the present modifications of the committee constitute really the final decision that is likely to be arrived at by the Congress of Colombia, the matter should be voted without any delay, and so give at least a slight opportunity to my Government to consider the matter before the expiration of the time for exchange of ratifications provided in the treaty. Less than this can not be expected by my Government, which in good faith signed the pending treaty more than six months ago, and promptly ratified it without modifications.

I take this opportunity to respectfully reiterate what I have before expressed to your excellency, that if Colombia really desires to maintain the present friendly relations existing between the two countries, and at the same time secure to herself the extraordinary advantages that the construction of the canal in her territory will undoubtedly produce, if backed by so close an alliance of national interests as would supervene with the United States, the pending treaty should be ratified exactly in its present form, without any modifications whatever. I say this from a deep conviction that my Government will not in any case accept amendments.

I avail myself of this opportunity to renew, etc.,

(Signed)

A. M. BEAUPRÉ.

[Inclosure 2.]

*Mr. Beaupré to Doctor Rico.*LEGATION OF THE UNITED STATES,  
*Bogota, August 5, 1903.*His Excellency Dr. LUIS CARLOS RICO,  
*Minister for Foreign Affairs of the Republic of Colombia.*

SIR: I have the honor to inform your excellency that in the matter of the pending treaty for the construction of the Panama Canal it has hitherto been impossible for me to do more than advise you of the construction I have from time to time put upon the instructions received from my Government in more or less general terms, as the various questions involved had not been brought to a definite issue.

Now referring to my several notes on this subject, it is a matter for great satisfaction to me that to-day, together with the publication of the Senate committee's report on the treaty, I have received such definite instructions from my Government as enable me not only fully to confirm, but materially amplify the terms of all my previous notes above alluded to.

I may say that the antecedent circumstances of the whole negotiation of the canal treaty, from official information in the hands of my Government, are of such a nature as to fully warrant the United States in considering any modification whatever of the terms of the treaty as practically a breach of faith on the part of the Government of Colombia, such as may involve the very greatest complications in the friendly relations which have hitherto existed between the two countries.

I am instructed to say that my Government has no right to covenant with Colombia to impose new financial obligations upon the canal company, and that the President would not submit to the Senate of the United States any amendment in that sense, but would treat it as voiding the negotiation, and as a failure to conclude a satisfactory treaty with Colombia. The amendment to Article I of the treaty proposed by the Senate committee is clearly in that sense.

I am also instructed to say that no additional payment by the United States can in any case hope for approval by the Senate of the United States. What I said to your excellency in my note of this morning, with reference to the minor amendments proposed by the committee, I can now emphasize in the language of my instructions, that any amendment whatever requiring consideration by that body (the Senate) would most certainly imperil the treaty's consummation. Your excellency's Government and Congress should realize the great risk of ruining the negotiation by improvident amendment.

It is impossible for me to express to your excellency more emphatically the attitude of my Government on this important matter, or to implore more earnestly than I now do the careful consideration by Colombia of the reasons which in the opinion of my Government should impel your excellency's Government to urge upon Congress the necessity of ratifying the treaty in its present form.

It is to be regretted that the reference to the necessity for the practical reenactment of the treaty of 1846-1848 in the Senate committee's report should constitute almost a doubt as to the good faith of the intention of the United States in its compliance therewith. I must assure your excellency that unless that treaty be denounced in accordance with its own provisions my Government is not capable of violating it, either in letter or spirit; nor should there be any fear on the part of Colombia that if ratified the clauses guaranteeing her sovereignty in the pending treaty, couched as they are in still more precise and solemn terms than those of 1846, will ever be disregarded in the slightest degree by the Government of the United States.

I avail myself of this opportunity, etc.

(Signed)

A. M. BEAUPRÉ.

*Mr. Beaupré to the Secretary of State.*

No. 101.]

LEGATION OF THE UNITED STATES,  
*Bogotá, August 10, 1903.*

SIR: Referring to my No. 98 of the 7th instant, I have the honor to inclose herewith a copy and translation of a note from the minister for foreign affairs, together with a copy of my reply thereto.

I am, sir, your obedient servant,

A. M. BEAUPRÉ.

[Inclosure 1.—Translation.]

*Dr. Rico to Mr. Beaupré.*

MINISTRY FOR FOREIGN RELATIONS,  
*Bogotá, August 8, 1903.*

MR. MINISTER: One of your attentive communications which your excellency had the pleasure to address to me on the 5th of the present month, relative to the business of the Interoceanic Canal of Panama, contained the part which I take the liberty to quote as follows:

"I may say that the antecedent circumstances of the whole negotiation of the canal treaty, from official information in the hands of my Government, are of such a nature as to fully warrant the United States in considering any modification of the terms of that treaty as practically a breach of faith on the part of the Government of Colombia, such as may involve the very greatest complications in the friendly relations which have hitherto existed between the two countries."

Wishing to give to your excellency as soon as possible the required answer to the two notes to which I refer in the present, I will appreciate it if you will inform me that if among the circumstances alluded to in the paragraph, a version of which I have transcribed, there exist any others not mentioned in the notes which your excellency has seen fit to address to me on this subject.

With this motive I renew to your excellency the assurance of my highest consideration.

(Signed) LUIS CARLOS RICO.

His Excellency A. M. BAUPRÉ,  
*Envoy Extraordinary and Minister Plenipotentiary of the United States.*

[Inclosure 2.]

*Mr. Beaupré to Doctor Rico.*

LEGATION OF THE UNITED STATES,  
*Bogotá, August 8, 1903.*

His Excellency Dr. LUIS CARLOS RICO,  
*Minister for Foreign Affairs of the Republic of Colombia.*

SIR: I have the honor to acknowledge receipt of your excellency's courteous note of to-day, quoting a paragraph of my note of the 5th instant, and asking if the statement therein contained is based upon information not mentioned in my previous notes.

In reply I have the honor to inform your excellency that the antecedent circumstances to which I made reference are fully outlined in my previous notes, and particularly in the one of June 10, 1903.

If your excellency will permit me a few words more on this subject I would like to refer to the extraordinary efforts made by my Government to keep faith with Colombia after an agreement had been reached between the executive Governments of the two nations.

As your excellency is aware, when the canal convention was presented to the Senate of the United States it encountered the most violent opposition. Not

only were strenuous efforts made to defeat the treaty in its entirety, but many amendments of varying degrees of importance were presented and urged. During all that period the friends of the Government were steadfast in their determination to uphold the action of the Executive and to preserve intact the agreement made with Colombia. It was a momentous struggle, and the final and close victory was secured in the end only by the most stupendous efforts on the part of the administration, imbued as they were with the idea that such a compact, made after mature and careful consideration by the executive departments of the two Governments, must be ratified as it stood.

In view of the foregoing, it is absolutely believed by my Government that any modification, as such, to the pending treaty could not be safely submitted to the present Senate.

The intense feeling over large sections of the United States in favor of the Nicaragua route on the one hand and interests on the other hand hostile to any canal at all, and especially the Panama route, are circumstances that, I fear, your excellency's Government and the people of Colombia have not weighed sufficiently to attach to them the importance they deserve.

While my previous notes may have expressed an almost exaggerated desire to impress upon your excellency the dangers of delay or modification of any kind, they were inspired by a full knowledge of conditions in my own country, which I feared would not be fully appreciated in Colombia.

The condition which appears to me to be absolute, at least, is that the proposed treaty should be ratified as it is, in good faith with my Government, or the opportunity will be lost for any later negotiations of any kind whatever.

In my own behalf, I most earnestly desire to assure your excellency that, aside from fulfilling the instructions of my Government, I have the deepest personal concern in the honor and glory of the country to which I am accredited, and in which I have been extended so much kindness and consideration. Every conviction of my mind leads me to the belief that enormous aggrandizement must accrue to Colombia if an interoceanic canal be constructed through her territory, while the desire to bring the two countries into closer and lasting friendship is ever present. Feeling thus deeply every effort I may have made, or shall make to this end, has or will have as its incentive the ultimate good not only of the country which I represent but of that in which I have the privilege and pleasure of residing.

I avail myself of this opportunity to renew, etc.

(Signed)

A. M. BEAUPRÉ.

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*Mr Loomis to Mr. Beaupré.*

[Telegram.]

DEPARTMENT OF STATE,

*Washington, August 10, 1903.*

Keep the department advised and embody date in messages.

LOOMIS, *Acting.*

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*Mr. Beaupré to Mr. Hay.*

[Telegram.]

BOGOTÁ, *August 12, 1903.* (Received 15.)

August 12, 7 p. m. The treaty was rejected by the Senate to-day in its entirety. Confidential. Do not accept this as final. There is still some hope. Wait for further advices.

BEAUPRÉ.

*Mr. Beaupré to Mr. Hay.*

[Telegram.]

UNITED STATES LEGATION,  
*Bogotá, August 12, 1903. (Received 23.)*

August 12, 9 p. m. Referring to my telegram of August 12, 7 p. m., I do not believe that rejection of treaty is final, for the following reasons: Yesterday's debate and vote was undoubtedly previously arranged. This I believe both from the tone of the debate and from information which I had already received through persons of high influence. Debate lasted five hours. All communications between myself and the Colombian Government read. The fact that the Government of the United States can not accept modifications or delay was made clear to the Senate. The most important speech made was that of General Ospina. It was to the effect that while desiring canal he could not give his vote for the ratification of the treaty because the terms were contrary to the provisions of the constitution. He implied that to bring negotiations to a conclusion the constitution should be modified, so as to allow negotiations to be brought to a successful conclusion without prejudice to the honor of the country. He stated also that to effect this no delay was necessary, as two debates will be sufficient for the purpose; he intimated that the Congress should be immediately dismissed by a decree for the purpose of modifying the constitution. Upon that a new law will be passed authorizing the Executive, without further recourse to Congress, to conclude a canal treaty with the United States. Should this prove true the text of the present treaty could be accepted without hesitation. By this means Congress will be able to conclude negotiations without individual senators publicly speaking in favor of it.

BEAUPRÉ.

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*Mr. Beaupré to Mr. Hay.*

[Telegram.]

UNITED STATES LEGATION,  
*Bogotá, August 12, 1903. (Received 19.)*

August 12, 10 p. m. Confidential. [————] called to inform me that this day's action of Congress was in accordance with plans perfected by the Government and influential Senators and citizens in the belief that the treaty could not now be passed without amendments, but that within very short time such a reaction public sentiment can be created as will enable the President to present the treaty again to the Senate and secure its passage without amendments. I have been aware of such a movement for some days, hence my telegram advising that there was still hope.

[————] asks if you will give two weeks more for the consummation of this plan before taking other action, and requests immediate reply. He doubts whether the constitution can be amended in time, and thinks it is not necessary.

BEAUPRÉ.



*Mr. Loomis to Mr. Beaupré.*

[Telegram.]

DEPARTMENT OF STATE,  
Washington, August 13, 1903.

Have you received department cable of July 31? Amendments suggested in your cable of the 5th would be fatal to treaty.

LOOMIS, *Acting.*

*Mr. Beaupré to Mr. Hay.*

No. 105.]

LEGATION OF THE UNITED STATES,  
Bogotá, August 15, 1903.

SIR: I have the honor to report that the most intensely critical period for the canal treaty seems to have passed, and that now there is some hope for a satisfactory conclusion. Since the rejection of the treaty on the 12th instant there has been an almost hysterical condition of alarm and uncertainty in Bogotá as to the future action of the United States. Yesterday there was a widely circulated report that United States troops had landed on the Isthmus. When, finally, large posters were put up all over the city, announcing that because of a desire to maintain the most cordial relations with the United States, a joint committee would be appointed by Congress to confer as to the way and means of an agreement for the construction of a canal, I am certain that there was a genuine feeling of relief.

When the report of the special committee of the Senate was prepared and I had positive information that twenty of the twenty-seven votes in the Senate had been secured to pass it, I knew at once that such action would be fatal; and there being no cable communication to permit of instructions from you, I determined upon a course of energetic action which, while it might seriously lessen my popularity here and seem undiplomatic unless viewed in the light of the exigency and the circumstances, resulted in my two notes of the 5th instant and one of the 8th instant to the minister for foreign affairs. These notes were as strong and incisive as I could make them, with no attempt to disguise in suave phrases the fact that there was no probability that the United States Senate would accept the amendments proposed by the committee. Whether or not I was justified in writing such strong notes is best judged in the light of events, for they accomplished what I deemed to be necessary, and no other course could have prevented the adoption of the report of the committee.

Some of the newspapers and members of Congress are expressing dissatisfaction with what they term my dictatorial attitude, but I do not consider this important, provided a satisfactory treaty is finally ratified, which now seems probable.

When action was taken on the 12th instant no one in authority believed that it was final. Aside from the tone of the public debate, which would indicate this to the public, the senators had come to an agreement some days before as to the policy to be pursued. Because of the apparent fatality of the amendments proposed, it seems to have been thought best by those in charge (and I was so informed about

the 10th instant), in view of the present state of public opinion, to reject the treaty in the first debate, and then, believing that there would be a reaction of this public opinion, to resort to some coup to get the treaty again before Congress and pass it.

Apparently the manner of getting at this has not been definitely determined, for there are various ideas of ways and means.

General Ospina, the chairman of the new committee, stated to a friend of mine yesterday that the main objections to the treaty rested upon lawful or constitutional grounds. That the treaty was not unconstitutional, but contrary to law 2 of 1886 and law 153 of 1887. That the committee could recommend an annulment of these laws, which, if done, would permit the ratification of the treaty, with some trivial amendment intended to soothe the apparent inconsistency of the two votes. That the action of the 12th instant was taken on the minority report of the committee, and the majority report could still be called up and a reconsideration had.

General Valencia, a senator and lawyer of reputation, says that the treaty is not unconstitutional, except with reference to the appointment of United States tribunals on the Isthmus, which is not highly important; that it is not necessary to annul laws, because the treaty itself would become a superseding law if passed; that the only thing to look to was to get enough votes to pass the treaty when it again came before the Senate.

The feasible scheme, however, and the one most generally talked of as being likely to be adopted, is to frame a law authorizing the executive to continue and finish the negotiations for a canal without further recourse to Congress.

Whatever may be the means determined upon, it is altogether probable that the report of the joint committee will be passed when presented.

There is a seeming of good intentions in this movement, and yet I can not forget that there has never been a favorable word said for the treaty in the Senate, nor in fact has it been discussed at all, and there is little evidence of a desire to treat the matter with open good faith to the United States.

The first weeks of the session were devoted to the discussion of the question as to whether the vice president must sign the treaty before it was considered by the Senate. In other words, an attempt of the vice president's political enemies to place the responsibility for the negotiations upon him, which he declined to assume. When this point was settled to the satisfaction of the Government and the burden was apparently placed upon Congress, came the appointment of the special committee of one member from each of the nine departments of the Republic, who consumed nearly three weeks in their deliberations, and then reported recommending the nine amendments, which I immediately cabled to you.

The first (and only) debate upon the committee's report occurred on the 12th instant, and that you may understand how the matter has been treated I will give a summary of that day's proceedings:

Senator Marroquin (son of the vice president) moved that the debate be preceded by the reading of the correspondence which had passed between the United States minister and the minister for foreign affairs on the canal negotiations.

Senator Caro gave notice of a law he would move, containing two clauses, viz:

- (1) To reject the Hay-Herran treaty.
- (2) That the United States Government be informed that the Congress of Colombia meant no manifestation of hostility by this act, nor any antagonism to the construction of a canal by the United States.

The correspondence above refered to was then read.

My memorandum and notes in which I pointed out that the Colombian Government did not apparently realize the gravity of the situation, and that if Colombia should now reject the treaty or unduly delay its ratification the friendly understanding between the two countries would be so seriously compromised that action might be taken by our Congress next winter which every friend of Colombia would regret, was received with loud murmurs of disapproval by the densely packed gallery. The minister for foreign affairs' replies, read mostly by himself, were, on the other hand, greeted with applause.

Besides the above, the tenor of my notes was (a) that any modifications would be fatal; (b) that any modifications affecting the **arrangements with the Panama Canal and Railway companies would not be accepted.** The minister's replies were to the effect that the Government was bound to submit the treaty to the Congress, and that in the event of its not passing that body he understood that the United States would proceed to the negotiation with Nicaragua; but that he did not see that the refusal to ratify the treaty could in any way alter the friendly relations existing between Colombia and the United States.

Senator Caro vehemently attacked the Government for its attitude in the conducting of the negotiations. He taunted the minister for foreign affairs for his action in having the correspondence between the United States minister and himself read as an attempt to elude the responsibility resting on the Government, and to cover it by courting the applause of the gallery as the champion of the rights of the Colombian Senate; rights which, he said, had never been called in question by the United States minister.

This same attitude was taken by Senator Arango, in a short speech.

The minister for foreign affairs then went through the whole history of the negotiations, beginning with the project of an inter-oceanic canal first made. He gave a detailed résumé of the whole De Lesseps scheme, and its subsequent failure, and deduced the following conclusion: That the present situation, as shown by the history of antecedent schemes and negotiations, was that Colombia must choose one of two things—either the whole scheme of a Panama Canal must be abandoned, or Colombia must hand the undertaking over to the United States. Feelers had been thrown out which had proved that no other power or entity would under any circumstances take the project in hand. The concession, therefore, if given to anybody, must be given to the United States Government. But this fact must not be lost sight of, that the United States Government would not even consider the cutting of a canal which should not be its own canal. The minister then made reference to the notes which had passed between him and the legation of the United States. The

result of that correspondence was that the Colombian Congress found itself in the dilemma of either accepting the treaty as it stands or losing all hope of seeing the great work cut through Colombian territory. He concluded by expressing the hope that, in discussing this matter, the Senate would strictly limit itself to the points at issue. The Government had done what it could in the matter. The negotiations had been initiated by the ablest of their statesmen, Dr. Martinez Silva, and the treaty, even as it now stood, bore the impress of that initiatory work. The Government had, moreover, left the decision of the issue to the free judgment of the country, and had exerted no influence whatever upon public opinion, when it could have passed the measure through by the use of dictatorial measures. (This evoked marked disapprobatory murmurs from the gallery.)

Senator Marroquin then made a short speech to the effect that the question turned on the acceptance or nonacceptance of the treaty, and not on questions of government policy, brought in by honorable senators, and which were foreign to the discussion.

A speech by Gen. Pedro Nel Ospina then followed, in which he blamed the minister for foreign affairs for having in a note given the United States minister the opportunity of raising the question as to whether or not his Government would accept any modifications. He said the minister's position reminded him of the man who, on being told by an alcalde that he must furnish three horses for the use of the Government, turned, as he was leaving the room, and inquired: "Must I furnish saddles, also?" To which the alcalde replied: "Certainly!" He also said that, outside of the question as to whether he did or did not favor the canal treaty as it stood, he could not, in view of the existing laws of the country, give his vote for its ratification. That the Congress should, in his opinion, first so amend the laws of the country as to enable the Colombian Government to come to an agreement with that of the United States in a manner honorable to both countries.

Senator Rodriguez spoke in the same sense, expressing his advocacy of the construction of a canal and his friendly disposition toward the Government of the United States. He should, however, as privately agreed upon, give a negative vote on this occasion.

And thus ended the only debate ever had in the Colombian Senate on the canal treaty.

A vote was taken at 6.30 p. m., and every senator present was recorded as voting against the ratification of the treaty.

As I have on many occasions informed you, ratification has seemed almost hopeless from the beginning without the active influence of the Government, and this it has never used. The Nationalists, under the lead of Senator Caro, have been too deeply concerned in their efforts to belittle the Government to consider the merits of the treaty at all. The Liberals, while not represented in Congress, are the most active factors in creating public opinion, and have taken an almost identical position. The coffee planters and exporters, who think their business would be ruined by low foreign exchange, have been unpatriotic enough to place personal interests above national good, and have been against the treaty because the \$10,000,000 once paid Colombia would send exchange so low that coffee could not be exported from the interior. Even the Panama representatives have lately become so

thoroughly imbued with the idea of an independent republic that they have been more or less indifferent to the fate of the treaty.

As a matter of fact the treaty, as such, has had no active friends or supporters, and if it is ratified at all it will be because of the strong attitude taken by the United States and the earnest repetition of the statement that the friendly understanding between the two countries depended upon it.

It has been a difficult and trying situation from the first, rendered more so by the interruption of cable communication, and one in which a strong, rather than a velvet hand, was imperative.

I await the consummation with some hope and much distrust.

I am, sir, your obedient servant,

A. M. BEAUPRÉ.

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*Mr. Loomis to Mr. Beaupré.*

[Telegram.]

DEPARTMENT OF STATE,  
*August 15, 1903.*

Cable additional information concerning rejection of treaty as soon as possible.

LOOMIS, *Acting.*

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*Mr. Beaupré to Mr. Hay.*

[Telegram.]

UNITED STATES LEGATION,  
*Bogotá, August 15, 1903. (Received August 23.)*

August 15, 1 p. m. Prominent senator says that the vote on Wednesday was upon the minority report of the committee; hence it is believed reconsideration possible on the line of majority report Thursday. Senate appointed new committee of three, General Ospina, chairman, in cooperation with similar committee appointed Friday by Chamber of Representatives, to report as joint committee of both Houses. The appearance is a disposition to find the means of ratifying the treaty. The committee seems one that will work to that end.

BEAUPRÉ.

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*Mr. Beaupré to Mr. Hay.*

No. 107.]

LEGATION OF THE UNITED STATES,  
*Bogotá, August 17, 1903.*

SIR: I have the honor to send you inclosed copies and translations of two notes from the minister for foreign affairs in regard to the Panama Canal treaty.

I am, sir, your obedient servant,

A. M. BEAUPRÉ.

[Inclosure 1.—Translation.]

*Doctor Rico to Mr. Beaupré.*MINISTER OF FOREIGN RELATIONS,  
*Bogotá, August 11, 1903.*

MR. MINISTER: In your polite note written the 8th of the present month, in answer to the one I had the honor to address to you on the same date, your excellency has been pleased to inform me that your previous notes have fully defined the antecedent circumstances which, as it appears from one of the two notes of your excellency of date of the 5th instant, "attended the whole negotiation of the canal treaty," and according to the same note, "are of such a nature as to fully warrant the United States in considering as a violation of the pact any modification whatever of the conditions stipulated in the treaty, such as may cause the gravest complications in the friendly relations which have hitherto existed between the two countries."

The said note makes special reference to your excellency's note of June 10 last, which deals with the permission the canal company and the Panama Railroad Company must obtain in order to transfer their respective concessions. I answered said note on the 27th of that month and stated to your excellency that in order to determine the meaning of article 1 of the treaty, Congress would have to consult the antecedents of the negotiation, among which were included the notes of the minister of "hacienda" dated December 25 and 27, 1902, and an extract from the memorandum addressed to his excellency the Secretary of State on the 22d of November of the same year by the Colombian legation in Washington.

In the opinion of the Colombian Government the view expressed by your excellency's Government that the circumstances attending the whole negotiation of the canal treaty are of such a nature as would fully authorize the United States in considering as a violation of the pact any modification whatever of the conditions of the treaty is not compatible with diplomatic usages nor with the express stipulation of article 28 of the same convention.

In fact, plenipotentiaries in concluding public treaties propose and accept conditions with the purpose of facilitating the negotiation which is not final except by means of ratification, which in republics is vested in the executive power with the concurrence, direct or indirect, of some other high power of state.

This doctrine is expressly recognized in the said article 28, which reads: "This convention when signed by the contracting parties, which shall be ratified according to the laws of the respective countries, and shall be exchanged in Washington within a term of eight months from this month, or earlier if possible."

Under that article the Government of the United States submitted the treaty to the Senate for its approval, and the Government of Colombia has had to do the same in respect to its Congress. The former proceeded in conformity to a constitutional provision, and the latter adopted analogous proceedings, because, according to paragraph 10 of article 120 of the constitution, the power of making treaties with foreign powers is qualified by the necessity of submitting them to the approval of Congress; so that the convention for the opening of the canal must, in order to be ratified in accordance with the laws of Colombia, as stipulated in said article 28, be ratified by the Congress; and the obtention of such approval, with or without amendments, could not have been a matter for agreement in any of the circumstances which attended the negotiation and to which your excellency refers when you say that any modification of the terms or any delay in the exchange of ratifications would be considered a violation of the stipulated conditions. If my Government had entered into that agreement your excellency would have said so in your note of the 8th instant, by which you were pleased to explain the paragraph in which those circumstances are discussed.

Your excellency tells me that when the canal convention was presented to the Senate of the United States it met there the most violent opposition; that not only were the strongest efforts made to reject it as a whole, but that many amendments more or less important were proposed for immediate discussion, and that the final and definite victory was only attained after the most strenuous efforts on the part of the friends of the administration, convinced as they were that it ought to be ratified without any alteration.

The course of the honorable Senators who proposed the modifications makes it clear that they used their constitutional rights in proposing changes in the conditions of the pact, without any reason to consider that the Government of the United States was bound to approve the treaty without modifications, as has been claimed in regard to the Government of Colombia.

I suppose that your excellency's Government has never denied to the Senate the right to introduce modifications in the international pacts, and that this right has the same legal force as that of approving or disapproving public treaties, and I understand that the Senate has exercised its right to propose modifications not only in this case, but also in others, as I pointed out to your excellency in my contra memorandum of June 18, in connection with the project of convention dated November 28, 1902, between the United States and Great Britain, for the abrogation of the Clayton-Bulwer treaty of 1850.

The Colombian Government, fully aware that justice and equity govern the course of the United States in its relations with all powers, and that its respect for the autonomy of the Spanish-American countries is a substantial guaranty of the stability and independence of those nations, is confident that the principles which I have adduced in favor of the right which the Colombian Congress has, not only to propose modifications to the convention for the opening of the canal, but also to refuse its approval, can not but convince your excellency's Government that the exercise of that right can not in any manner entail complications, great or small, in the relations of the two countries, which it is to be hoped will continue on the same equal footing and in the same good understanding which has happily existed until now, and that they will facilitate the removal of the difficulties which have retarded the final agreement, the result of which is to accomplish that work of such great importance to the two high contracting parties and to the world's commerce.

My attention has been especially called to a paragraph of your excellency's note of the 8th of this month which says that the opposition the treaty's approval met in the United States Senate convinces your excellency's Government beyond a doubt that no modifications to this pact could be submitted to the same Senate, because they would not be accepted.

I might observe that the general opinion which has been developing itself in favor of the Panama route might induce the Senate in Washington to accept some or all of the modifications which may be adopted by the Colombian Congress; but as the Government of your excellency does not think possible the presentation of modifications to the pact, I will call the attention of the Congress of Colombia to this grave circumstance.

I am gratified at the explanation of your excellency in your notes relative to the approval of the treaty, that you have done nothing but fulfill the instructions of your Government, and I fully appreciate the personal interest which your excellency manifests in the honor and glory of the nation to which you are accredited, as well as the declaration that you wish to procure as great benefits as possible, not only to the country you represent, but also to that in which you reside, which it is hoped may exercise a beneficial influence in maintaining the most cordial friendship between the two Republics.

I beg that your excellency accept the reiterations of my highest and most distinguished consideration.

(Signed) LUIS CARLOS RICO.

His Excellency A. M. BEAUPRÉ,  
*Envoy Extraordinary and Minister Plenipotentiary of the United States,*  
*etc.*

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[Inclosure 2.—Translation.]

MINISTRY OF FOREIGN RELATIONS,  
*Bogotá, August 14, 1903.*

MR. MINISTER: As your excellency has been pleased to address me various notes relative to the treaty for the opening of the Panama Canal which was signed in Washington the 22d of January last, I inform your excellency that the Senate of the Republic disapproved that pact, by the unanimous vote of the senators present, in the session of the 12th of this month, and the day following approved, also unanimously, the proposition which I have the honor to communicate to your excellency, and which is as follows:

"The Senate of the Republic, in view of the disapproval given to the treaty signed in Washington the 22d of January of the present year, by the chargé d'affaires of Colombia and the Secretary of State of the American Union, and taking into account the desire of the Colombian people to maintain the most cordial relations with the people of the United States of America, and its sentiment that the completion of the interoceanic canal across the Isthmus of Panama is a work of the greatest importance for the commerce and advancement of the world, as well as for the development and progress of the American nations, resolved:

"1. That a commission of three senators, appointed by the president of the Senate, consulting in every possible way the opinion of the House of Representatives, study the manner of meeting the earnest desire of the Colombian people touching the construction of the Panama Canal, in harmony with the national interests and observance of the law by which the Senate was ruled on this solemn occasion; and

"2. That the widest publicity be given both at home and abroad to this resolution, to the modifications to said treaty proposed by the commission of the Senate, and to the other documents which had led to this resolution."

Although I have made known by cable to the Colombian legation in Washington the contents of the proposition above quoted, in order that it may inform the Department of State of both actions, I communicate the same to your excellency in order that you may, if you see fit, also bring them to the knowledge of the Government of the United States.

I renew to your excellency the assurances of my highest consideration.

(Signed) LOUIS CARLOS RICO.

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*Mr. Beaupré to Mr. Hay.*

[Telegram.]

UNITED STATES LEGATION,  
Bogotá, August 17, 1903. (Received August 25.)

The President informs me that Congress will pass law authorizing him to continue and finish negotiations for canal; but what conditions will be specified he can not state at the present moment.

BEAUPRÉ.

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*Mr. Beaupré to the Department of State.*

No. 110.]

LEGATION OF THE UNITED STATES,  
Bogotá, August 18, 1903.

SIR: I have the honor to report that the department's telegram of the 31st ultimo is the only instruction I have received since the telegram of the 13th of July concerning the canal treaty.

As telegrams have arrived from London, Paris, and Berlin, there is something mysterious in the fact that none have come from the United States during this critical period.

There is a feverish anxiety here to know what your position will be upon receiving news of the rejection of the treaty, and further action by Congress upon it.

I am, sir, your obedient servant,

A. M. BEAUPRÉ.



*Mr. Adée to Mr. Beaupré.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, August 19, 1903.*

A telegram from consul at Colon communicates a telegram in Spanish, dated August 5, saying no cable received since July 13. Department of State telegraphed you on July 13, 24, 29, 31, August 10, 13, and 15, and has received telegrams from you dated July 15, five dated August 5, one August 6, 10, and 12. Have you received department's messages? If not, protest against interference with your official communications which are entitled to privilege.

ADEE, *Acting.*

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*Mr. Hay to Mr. Beaupré.*

[Telegram.]

DEPARTMENT OF STATE,  
*Washington, August 24, 1903.*

The President will make no engagement as to his action on the canal matter, but I regard it as improbable that any definite action will be taken within two weeks.

HAY.

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*Mr. Beaupré to Mr. Hay.*

[Telegram.]

UNITED STATES LEGATION,  
*Bogotá, August 24, 1903. (Received 28.)*

August 24, 11 a. m. Nothing has been done, and very little satisfactory action, this depending upon the attitude of the Government of the United States, which is waited for in great anxiety. The report of the committee prepared. Have received telegram of 13th; none later.

BEAUPRÉ.

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*Mr. Beaupré to Secretary of State.*

No. 115.]

LEGATION OF THE UNITED STATES,  
*Bogotá, August 24, 1903.*

SIR: Referring to the department's No. 23 of July 21, 1903, I have the honor to inclose herewith two copies of the decree of Vice-President Maroquin calling the session of Congress to consider the canal treaty, and two copies of the sections of the constitution referred to in said decree as requested by the Hon. John T. Morgan.

I might add that the constitution of Colombia is to be found at page 179 of Foreign Relations for 1886.

I am, sir, your obedient servant,

A. M. BEAUPRÉ.

[Inclosure in 115.]

## EXTRACTS FROM CONSTITUTION.

ARTICLE 72. Congress shall assemble in extraordinary session when summoned by the Government. It shall, in such sessions, consider only such business as is specially submitted by the Government for its consideration.

Paragraph 2 of article 118. To convene Congress in extraordinary sessions for serious reasons of public convenience and after previous consultation with the council of state.

The preamble of article 118 reads: "The President of the Republic shall exercise the following powers in relation to the legislative department."

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*Mr. Beaupré to Mr. Hay.*

[Telegram.]

UNITED STATES LEGATION,  
*Bogotá, August 26, 1903. (Received 29.)*

August 26, 7 a. m. Have received telegram 19th. Have not received department's messages of July 24, 29, and August 15, which is most unfortunate, for the situation is grave, and much depends upon your attitude.

Will protest.

BEAUPRÉ.

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*Mr. Hay to Mr. Beaupré.*

[Telegram.]

DEPARTMENT OF STATE.  
*Washington, August 29, 1903.*

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

HAY.

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*Mr. Beaupré to Mr. Hay.*

[Telegram.]

UNITED STATES LEGATION,  
*Bogotá, August 29, 1903. (Received September 4.)*

August 29, 12 m. I have not yet received any messages from the department concerning the rejection of the treaty nor those mentioned in my telegram of the 26th. The committee has not yet reported, and the prospects of satisfactory report are not good.

BEAUPRÉ.

*Mr. Beaupré to Mr. Hay.*

Bogotá, August 30, 1903.

(Received September 12.)

August 30, 8 a. m. Confidential. I am informed authoritatively that to assure the election of Reyes, Marroquín has already changed the governors of Bolívar, Magdalena, and Panama, nominating, respectively, Insignares, Barrios, and Senator Obaldía. All pledged to the treaty and to Reyes.

BEAUPRÉ.

*Mr. Beaupré to Mr. Hay.*

[Telegram.]

UNITED STATES LEGATION,

Bogotá, August 31, 1903. (Received September 5.)

August 31, 1903, 2 p. m. I had an interview with Senator Ospina to-day. He informed me that he is willing to remain so long as there is hope for the treaty, but he is convinced that there is none, and will leave, therefore, on the 6th proximo. Confirms General Reyes statement concerning presidential candidate, and says that the next Senate was made certain for the treaty; that he bears instructions to Governors Signares and Barrios concerning the elections which will be held next December; that in accepting governorship of Panama he told the President that in case that the department found it necessary to revolt to secure canal, he would stand by Panama; but he added if the Government of the United States will wait for the next session of Congress canal can be secured without a revolution. Senator Campo, from the Cauca, is about to leave, thinking the treaty gone.

Confidential. My opinion is that nothing satisfactory can be expected from this Congress. Caro's party has been joined by Velez and Soto and their followers, constituting a decisive majority against the treaty. General Reyes seems to still entertain hopes.

BEAUPRÉ.

*Mr. Beaupré to Mr. Hay.*

[Telegram.]

UNITED STATES LEGATION,

Bogotá, September 1, 1903.

(Received through German embassy September 5.)

Have not received department's messages, while others of late date for various legations have arrived. I have sent important telegrams 30 and 31. On receiving, answer by German minister.

BEAUPRÉ.

*Mr. Beaupré to Mr. Hay.*

[Telegram.]

UNITED STATES LEGATION,

Bogotá, September 2, 1903. (Received September 6.)

Have received your telegram 24.

BEAUPRÉ.

*Mr. Beaupré to Mr. Hay.*

[Telegram.]

UNITED STATES LEGATION,  
*Bogotá, September 2, 1903.* (Received September 6.)

September 5. Have received telegram 29. The committee have reported a law which approves rejection of the treaty; authorizes the President to conclude treaties for Panama Canal or contract for same with private parties, subject to rights of companies; railroad company permitted to transfer, purchaser assuming all obligations, including annual payments of \$250,000 and transfer of property to Colombia in 1967; canal company permitted to transfer on payment to Colombia of \$10,000,000; the President authorized to make following concessions: Lease of zone for one hundred years, not including Panama or Colon; annual rent \$150,000 until 1967; lease renewing every hundred years on payment of 25 per cent increase; neutrality of canal and the recognition of Colombian sovereignty over the whole territory and inhabitants; mixed tribunals only; police and sanitary commissions Colombian only; excluded from zone; time limit for completion of works; Colombia to receive from contracting Government \$20,000,000 on the ratifications of the treaty; fixing regulations concerning purchase of private company.

It is now highly probable even this may not be accepted by the Senate. In any event nothing more satisfactory may be expected from this Congress. The debates will begin next Monday.

BEAUPRÉ.

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*Mr. Beaupré to Mr. Hay.*

No. 129.]

LEGATION OF THE UNITED STATES,  
*Bogotá, September 5, 1903.*

SIR: I have the honor to report that since the appointment of the joint congressional committee to consider the canal matter nothing was done until the committee made its report on the 4th instant. I cabled the substance of that report, and should there seem any prospect of its passing I will send it in full.

As the situation seems at present, it is not likely to pass. The first debate in the Senate will commence on the 7th instant, and the question may be settled during the week.

I think my previous reports have given the department a very good idea of the situation, but there are some phases of it which I should like to discuss personally when I next visit the United States. This will be in March of next year, I think, if I can get the department's permission, and circumstances admit of it.

The impressions which I set forth in my No. 6 of April 15, 1903, that there would be an attempt to secure greater concessions from the United States before a canal treaty would be ratified, are now confirmed. It is quite probable that the Government originally intended that a treaty of some sort should be passed, but apparently not the one under consideration in its entirety.

If in the earlier days of Congress, when the Government had a majority in the Senate, the United States or the canal company could