

THE STORY OF PANAMA

HEARINGS ON THE RAINEY RESOLUTION

BEFORE THE

COMMITTEE ON FOREIGN AFFAIRS

OF THE

HOUSE OF REPRESENTATIVES

COMMITTEE ON FOREIGN AFFAIRS

[Committee room, gallery floor, west corridor. Telephone 230. Meets on call.]

HENRY D. FLOOD, Virginia, *Chairman*.

JOHN N. GARNER, Texas.

WILLIAM G. SHARP, Ohio.

CYRUS CLINE, Indiana.

JEFFERSON M. LEVY, New York.

JAMES M. CURLEY, Massachusetts.

JOHN CHARLES LINTHICUM, Maryland.

ROBERT E. DIFENDERFER, Pennsylvania.

W. S. GOODWIN, Arkansas.

CHARLES M. STEDMAN, North Carolina.

EDWARD W. TOWNSEND, New Jersey.

B. P. HARRISON, Mississippi.

CHARLES BENNETT SMITH, New York.

WILLIAM B. MCKINLEY, Illinois.

HENRY A. COOPER, Wisconsin.

IRA W. WOOD, New Jersey.

RICHARD BARTHOLOMT, Missouri.

GEORGE W. FAIRCHILD, New York.

N. E. KENDALL, Iowa.

J. HAMPTON MOORE, Pennsylvania.

FRANK S. CISNA, *Clerk*.

WASHINGTON
GOVERNMENT PRINTING OFFICE

1913

THE STORY OF PANAMA.

COMMITTEE ON FOREIGN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Washington, D. C., February 19, 1913.

STATEMENT OF MR. FRANK D. PAVEY.

The CHAIRMAN. Mr. Pavey, you may proceed.

Mr. PAVEY. Mr. Chairman, in the way of slightly qualifying myself as a witness, I wish to say I held the official position of counsel of the legation of Panama from the 10th of November, 1903, to the 14th of February, 1905, when I tendered my resignation. My active work during that period was only during the period of four months, when Philippe Bunau-Varilla was minister of Panama accredited to the Government at Washington, and after his resignation and the appointment of his successor, although I had some relations with him, there was no very active work for me to do, and yet I continued officially to be the counsel of the legation until February 14, 1905, when I resigned, and soon afterwards Mr. William Nelson Cromwell was appointed as my successor to that position.

Prior to November 10, 1903, I had been an intimate personal friend of Philippe Bunau-Varilla for a period of more than four years, and had been one of his advisers and counsel in the United States in connection with the campaign in favor of Panama which he conducted in the United States. In the examination of the testimony which has been taken already before the committee under the Rainey resolution in regard to the revolution in Panama, I find that only one witness, I think, has been examined, and that was Mr. Hall, and his testimony to a very large extent is a résumé in his own language of material which was obtained by the World in an investigation which it made to defend itself against a libel suit brought by the Government, and the other document upon which he particularly relies for his facts is what he has designated as a plea for fees filed by Mr. Cromwell before the Board of Arbitration in Paris, which was examining into the question of the payment of his fees as counsel of the New Panama Canal Co. I draw attention to that fact to show that his sources of information were for all practical purposes from such sources as the plea for fees filed by Mr. Cromwell with the board of arbitration in regard to his fees in Paris.

Now, it is not surprising in the presentation of an account, a long, detailed account of his services extending over six or seven years, that Mr. Cromwell should have at least put the best foot foremost and attributed the result as much as possible to his own efforts. It was also perfectly natural that he should not give any notice or any credit to any other influences that were at work in the United States in

favor of Panama at that time. It is also natural that even if he had been actuated by no motives other than to arrive at the exact truth, it is natural that a man who began his investigation with that as a basis would be very likely to acquire the idea that Mr. Cromwell was the sole source of activity in favor of Panama in this country during the four or five years prior to the revolution of Panama and the recognition of the Republic of Panama; and that once he had come to believe that, then he might in the very best of faith attribute to that fact results which were not at all due to that fact.

Now, that has been the case with Mr. Hall. I am not discussing the question whether he was acting in good faith or in bad faith in his conclusions, or whether he was trying to make out a case for the World when he made the investigation or not, but that fact appears so conspicuously in numerous places that I will cite only one to show to what extent it leads him in his statements.

On page 317 he states:

Dr. Amador's cables "disappointed" and "hope" were written the first after Mr. Cromwell had told him he would have nothing to do with the revolution, the second after information had been conveyed to him that if he would remain quiet in New York he would receive help from another quarter. Help did come from another quarter. Summoned in haste from Paris, Philippe Bunau-Varilla, one of the New Panama Canal Co., who had been instrumental in getting Mr. Cromwell reappointed as counsel, arrived in New York on September 23, 1903, some two weeks after Dr. Amador had sent his cable "disappointed" to the Isthmus, or just in time for Mr. Cromwell, who was anxious to get under cover after Dr. Herran's warning, to cable to Paris and have Bunau-Varilla take the first steamer across.

Unfortunately I do not have the cable that I believe Mr. Cromwell sent to the New Panama Canal Co. to have Mr. Bunau-Varilla sent over here, but that cable is also among the archives of the New Panama Canal Co., which are the property of the United States, and which are still in France, kept in the vaults there.

I cite that to show that, whether in good faith or bad faith, his belief in Mr. Cromwell as the sole influence and sole force that produced any activity in the United States in regard to Panama carries him to the point of stating, as he does there, that "unfortunately, I do not have the cable that I believe Mr. Cromwell sent," but it is in the archives. That was the state of mind of this man. I cite that as a precise illustration of the point I want to make, that there were two distinct and independent forces working in this country in favor of Panama for some years before the revolution of Panama. One was the New Panama Canal Co., with Mr. Cromwell as its representative, and the other was Philippe Bunau-Varilla, as an individual. Philippe Bunau-Varilla had been formerly chief engineer, along about 1885 or 1886, of the old Panama Canal Co., but he had become inimical to the management of the New Panama Canal Co., for what reasons in detail I do not know; but I do know of my own knowledge that that lack of cordiality and sympathy existed to a very great extent, and that it was in existence as early as 1898 or 1899, when I first met Mr. Bunau-Varilla.

Mr. SHARP. May I interrupt you there?

Mr. PAVEY. Certainly.

Mr. SHARP. I have heard you refer to the New Panama Canal Co. What organization was that?

Mr. PAVEY. What in English we commonly designate as the old company was I think merely called the Panama Canal Co., and that was the De Lesseps company, organized to take over the concession

granted in 1878, and it continued in active existence until about 1894, when it fell into financial embarrassment, and then a different company was organized, called the New Panama Canal Co., as we translate it in English, and in French "La Compagnie Nouvelle du Canal de Panama."

Mr. SHARP. What connection, if any, as a stockholder or adviser or counsel of that company did Mr. Cromwell have?

Mr. PAVEY. He became counsel of that company, according to his own statement in his brief for his fees, in January, 1896. He had, according to this record, been counsel for the Panama Railroad Co. prior to that time, and the Panama Railroad Co. was owned by the New Panama Canal Co.

Mr. Bunau-Varilla was a stockholder in the New Panama Canal Co., but what amount of stock he had I can not state myself, although it is not at all a secret. It has been made public in some of these investigations of the Panama affair. I mention that fact in order not to appear to claim he had no connection with the company; but he had no connection as an officer or a director or a representative in this country or an agent in this country, because of the entire lack of cordiality and friendly relations which existed between them.

That first came to my attention, and his position in the matter first came to my attention in 1898 or 1899. At that time I was in Paris and met Mr. Bunau-Varilla for the first time; and he did to me what he was seeking to do to every American whom he could meet. He learned of my presence in Paris through a mutual friend, and insisted that before I left Paris that this man should bring me to his house to dinner. Dinner with him meant half past eight, and after dinner we settled down in his library, and he never let go of an American victim when he got one in that library until he thought he had converted him; and the first time I dined in his house I stayed until 2 o'clock the next morning, listening to his picturesque and fascinating argument in favor of Panama as against Nicaragua.

He found me in one sense a valuable victim, if I may use that phrase, because I had had very considerable knowledge of Nicaragua, as I had been a clerk in the office of the counsel of that country during its period of most prosperity, and was friendly with Mr. Warner and Mr. Hitchcock, of the Fifth Avenue Hotel; and he, learning that fact, made a special effort to convert me to the cause of Panama, which I am frank to confess he did. He was doing that with every American whom he could meet. I can mention a Mr. Schmidlapp, of Cincinnati; Mr. Herrick, present Ambassador to France; and I can also mention Mr. Loomis, former Assistant Secretary of State, and there were many others. Now, he was doing that in the firm belief that sooner or later the United States would come to adopt the Panama Canal route, and he was contributing his efforts in that direction.

Mr. SHARP. He was a promoter to that extent, was he not?

Mr. PAVEY. Yes.

Mr. KENDALL. How old a man is Mr. Bunau-Varilla?

Mr. PAVEY. Under 55. I should think he was between 52 and 55 years of age.

Mr. KENDALL. A man of prestige in France, is he?

Mr. PAVEY. Of very great prestige in his profession, and so far as I know his only activity has been in his profession. He has built

railroads in Spain and has built railroads in the Kongo, and has been interested in enterprises in South America of different characters, although I do not know about that. He related to me at one time the way he came to go to Panama. His imagination was fired when he was a student at the Ecole de Polytechnique by a lecture which Mr. De Lesseps delivered there, and as a young man he then resolved when he got out of school he would go into the service of the Panama Canal Co. if he could. He did that and became chief engineer at a very early age, and it has become a fetish with him—perhaps I should not use the word “fetish,” as it is not quite respectful—but an ideal, just as the Nicaraguan canal was an ideal that no amount of facts or arguments could move the late Senator Morgan from his opinion in favor of the Nicaraguan Canal, and that has been true of Mr. Bunau-Varilla.

My knowledge in regard to this lack of friendly relations with the New Panama Canal Co. first came to my attention in 1899, when I was in Paris again, and renewed my acquaintance with Mr. Bunau-Varilla by calls upon him. He came to see me and told me a fact that I was not particularly interested in, that a subcommittee of the Isthmian Canal Commission was then in Paris investigating the affairs of the Panama Canal Co., with a view to including that knowledge in its report, and that he wanted to meet the members of that subcommittee, but that he could not meet them through the New Panama Canal Co.: that there would be no introduction he could ever have to them from that source, and asked me if I could arrange it. I called upon Prof. Burr and Mr. Morrison, who were the two members there at that time, and made arrangements so they took lunch with me, and I brought about the acquaintance in that way. Mr. Bunau-Varilla then set himself to convert them, as engineers, by going over all the details of the engineering features of the canal, just as he had done with me in less technical language.

I remember in 1899 my telling him that he might talk to all the Americans he met in Paris, but he could not talk to them fast enough to overcome the public opinion which existed in the United States in favor of Nicaragua; that at that time there was only one opinion in the United States, and that was that there was merely a hole in Panama, into which a lot of French money had been sunk, and that no canal would ever be possible there, and that the sentiment in favor of Nicaragua would have to be overcome as a matter of public opinion before there could be any expectation that the Government of the United States would adopt that route.

Mr. SHARP. I would like to ask you in that connection, since you appear to be very familiar with the history that led up to the adoption of the Panama route, as a matter of fact should not the late Senator Hanna have more credit for changing that sentiment and for the decision to go to Panama than any other American citizen?

Mr. PAVEY. That is absolutely true. Mr. Bunau-Varilla himself gives Senator Hanna credit for that result. He takes this credit to himself, which I think he is entitled to take—he was introduced to Senator Hanna by Mr. Herrick for the express purpose of giving Senator Hanna the benefit of his knowledge on the subject. I was just about to state that I had urged him to come to this country and make public addresses on the subject before chambers of commerce and other organizations, and he spoke English well enough to do that.

Mr. Herrick and Mr. Schmidlapp secured for him invitations to come to Cincinnati and Cleveland for that purpose, and he came to this country and went to Cincinnati and Cleveland and made addresses on the subject.

Subsequently I arranged it for him to be invited to speak before the Chamber of Commerce in New York City, and with those three meetings as a start he continued for a year and a half prior to the passage of the Spooner bill to do work of that character. He was in the United States a great deal of the time, but of course went back to Paris for a part of the time, but he was over here a great deal. I think he came here first in the fall of 1900 and continued that sort of work during 1900 and 1901, and then to some extent continued it down to the passage of the so-called Spooner bill in 1902. During all of that time he was acting absolutely independent of the New Panama Canal Co. and of Mr. Cromwell, and he continued to do so down to the time of his resignation as minister of Panama, after the ratification of the treaty in February, 1904.

Of course Mr. Cromwell was engaged in a great deal of activity in regard to Panama, and according to this record, which I have no doubt is substantially correct on that point, Dr. Amador came to the United States with the hope of securing the support of Mr. Cromwell, and through Mr. Cromwell the support of the Government of the United States, to a project for a revolution in Panama. All parties seem to agree that that was his object in coming to this country, and that he believed he had or would have the support of Mr. Cromwell and the officials of the Panama Railroad Co. in coming here for that purpose. It also appears from the record that he had after he got here some reason to believe that he was going to have that support; but as some knowledge of his plans came to the attention of Dr. Herran, the representative of Colombia, Dr. Herran wrote a letter of warning to Mr. Cromwell as to the consequences that would come to his company if any aid or comfort were given to the enemy in that shape. The record shows that Mr. Cromwell then turned his back upon Dr. Amador. Mr. Hall undertakes to maintain that this turning of his back upon Dr. Amador was only a ruse on the part of Mr. Cromwell in order to shield himself and his company from responsibility, and then in order to connect up what took place afterwards he had to invent his belief in this cablegram to have Bunau-Varilla come over here at the instigation of Mr. Cromwell, because it is necessary for him to do that to connect his first statement up with the things that subsequently happened.

MR. SHARP. Do you deny that there was any such cablegram or any such invitation?

MR. PAVEY. No such cablegram or invitation was sent. Mr. Bunau-Varilla came here for personal reasons. At that particular moment he came for personal reasons of a domestic character, but he had intended to come a little bit later. He merely came a little sooner than he had otherwise intended, because he was in the habit of coming here two or three times a year for the express purpose of following the course of the Panama Canal question in this country and doing what he could to secure the adoption of the Panama Canal route by the United States.

Mr. SHARP. As a matter of fact, they had a large investment there that they simply wanted to get rid of, and naturally they were impelled by those motives to want the Panama route selected over the Nicaraguan route; is not that the plain truth?

Mr. PAVEY. That is perfectly true.

Mr. SHARP. And the same motives would guide anybody else in wanting to dispose of property when they saw their efforts must only end in failure if they let a new project get under way?

Mr. PAVEY. That is perfectly true; but the point I am making is that whatever Bunau-Varilla did, he did not do it at the instigation of the Panama Canal Co. or at the invitation of Mr. Cromwell or in cooperation with either one of them, because he was not in cooperation with either one of them at that time.

Now, having arrived here with no definite purpose in his mind, he found this situation: He had known Dr. Amador on the Isthmus. He learned through a Mr. Lindo, who was the banker for Dr. Amador when he was here, that Dr. Amador was in New York, and Mr. Lindo sent word to Dr. Amador and Mr. Bunau-Varilla telephoned to Dr. Amador, and in that way they got together. He learned from Dr. Amador what had taken place, which I have described, in regard to the encouragement he had received to come here, and then the fact that Mr. Cromwell had turned his back upon him, and then Mr. Bunau-Varilla himself took up with Dr. Amador, without any relation with Mr. Cromwell or without any relations with the Panama Canal Co., the whole question of the situation on the Isthmus of Panama, and he himself conceived and worked out the plans for the revolution.

The documents which Mr. Hall says were drawn in Mr. Cromwell's office were not drawn in Mr. Cromwell's office. They were drawn in the Waldorf-Astoria Hotel, under the direction of Mr. Bunau-Varilla, and so far as they were written in Spanish they were copied, letter by letter, by an English stenographer, who knew no Spanish, in order that there should not be any possibility of a knowledge of them leaking out. The whole project of the Panama Canal revolution as it was carried out was conceived by Mr. Bunau-Varilla in cooperation with Dr. Amador between the 23d day of September and the 18th day of November, when the treaty was finally signed, and between the 23d day of September and the 15th of October, when Mr. Cromwell went to Paris, undoubtedly upon the business of the company, but with no knowledge of what was going on between Dr. Amador and Mr. Bunau-Varilla. The transactions were entirely free from even the influence of Mr. Cromwell during that period, and Mr. Cromwell never reappeared upon the scene until he landed in New York on the 17th of November, 1903, the same day that the two new Panama commissioners arrived here, and he then renewed his relations with them, and they came to Washington the next day, on the 18th, arriving here at 9 or 10 o'clock in the evening, and the treaty was signed here at 6.40 on the evening of that same day by Mr. Bunau-Varilla.

During all that period from September 22, the exact day upon which Mr. Bunau-Varilla arrived here, until the 19th or 20th of November, Mr. Cromwell and Mr. Bunau-Varilla never saw each other.

Mr. KENDALL. Nor communicated with each other?

Mr. PAVEY. Nor communicated with each other at all. I have laid stress upon that for this purpose: The whole purpose of the record so far is to try to create and fasten upon the United States a responsibility in regard to the revolution of Panama, based upon the activities of Mr. Cromwell prior to and about that time. Now, the revolution of Panama happened, by reason of the circumstances which I have related, to be a separate and distinct affair during that period from September 22 to November 18, when the treaty was signed here in Washington; and no investigation will ever bring results that are accurate and true unless the errors in the record in that respect are corrected.

My object in asking for this hearing was particularly to make this statement and then to ask that there be printed in the record a statement by Mr. Bunau-Varilla on that subject. I have a typewritten copy of the statement here, which was submitted to the committee last spring under circumstances which I will relate, and that has been revised and printed, so that any typographical errors are pretty well eliminated. The origin of that statement was this: I think about the middle of last March Mr. Bunau-Varilla received copies of these hearings in Paris. He at once saw the many fallacies that existed in the facts and conclusions as well, based upon this erroneous conception in regard to the responsibility of Mr. Cromwell for things for which he was not responsible, and he cabled to me to ascertain whether the committee would receive a statement from him. I communicated with your then chairman, Mr. Sulzer, and also saw him in New York, as my letter passed him on the way. Mr. Sulzer said to me he would like very much to have Mr. Bunau-Varilla come over here as a witness, and requested me to use my good offices to bring that about. I did not deem it a matter that required cabling, and took my time about it, perhaps, and wrote a long letter of explanation in accordance with the suggestions of Mr. Sulzer to arrange to get him to come over here as a witness.

As Mr. Bunau-Varilla did not hear from me in response to his cable, and having some anxiety lest the Congress might be going to adjourn or the committee terminate its hearings, he prepared a statement and sent it direct to the Speaker of the House of Representatives, to be given to the committee, as I understand it was, and also sent me a copy, with the request I transmit it direct to Mr. Sulzer, which I did, and also to arrange with Mr. Sulzer to have it made a part of the record. As this statement arrived about the same time that my letter went over there asking him to appear as a witness, of course Mr. Sulzer took no action in regard to the statement, because he still clung to the idea that I could arrange to get Mr. Bunau-Varilla over here as a witness; and in accordance with my promise to Mr. Sulzer I made the best effort possible to bring about that result. I continued those efforts until it was approaching the time of adjournment in August, when Mr. Sulzer wrote me that there would not be a report made before the adjournment, and perhaps the arrangement could be made for this winter. When I was in Paris in September I went over the subject very thoroughly with Mr. Bunau-Varilla, and in some ways he was very anxious to come before the committee, but circumstances of a very serious domestic character—I mean illness in his family—and his very great preoccupation in other business matters that he has been working out, made it most inconvenient for him to try to make

the trip at any time, and for that reason we have been unable to get him to come over here.

When I saw it was too late to think of having him come over, I decided to take up again the question of having this printed as a part of the record. The value of the document lies in the fact that it points out a number of very important errors in the record which to my mind are logically due to this erroneous conception in the minds of the men who made up that report as to the sole activity of Mr. Cromwell in the matter, and to the false idea they have that Mr. Bunau-Varilla was acting as a part of his organization, when as a matter of fact it was an independent activity, and no responsibility can attach to the revolution of Panama, as it was finally planned and executed, by reason of anything which Mr. Cromwell did, with the bare exception that he was, perhaps we will say, responsible for Dr. Amador being in New York in September. Now, with that statement I am perfectly willing to go into any greater details, but I promised to be brief, and that covers the principal purpose of my visit here.

Mr. KENDALL. Is this statement substantially the same statement Mr. Bunau-Varilla sent to various members of the committee last summer?

Mr. PAVEY. It is the same statement. I would like to make this suggestion, that there is just one error I have discovered in that copy in going over it, although it is corrected subsequently, but on page 65 the words "October, 1903," should be "November, 1903," although, as I say, it is really corrected at the bottom of the page.

The CHAIRMAN. You ask now, Mr. Pavey, to be allowed to file this as a part of your statement?

Mr. PAVEY. Yes, sir.

The CHAIRMAN. The printed statement will be included in the record.

STATEMENT ON BEHALF OF HISTORICAL TRUTH.

[By Philippe Bunau-Varilla, former chief engineer of the Panama Canal Co. (1885-86); former minister plenipotentiary of Panama to the United States (1903-4); officer of the Legion of Honor, etc. For the information of the Committee on Foreign Affairs of the House of Representatives. (Rainey resolution.)]

PARIS, *March 29, 1912.*

The Hon. CHAMPE CLARK,

Speaker of the House of Representatives, Washington, D. C.

SIR: The hearings before the Committee on Foreign Affairs on the Rainey resolution have brought forward a so-called Story of Panama, which has been printed as a congressional document and distributed.

This "Story," outside of various imaginary and misleading facts enunciated by its author, is mainly based on the assertions of a plea written in 1907 in order to try, without success, to obtain from a court of arbitration a high fee of \$800,000 for services said to have been rendered to the New Panama Canal Co., and which said company denied.

This plea is a tissue of erroneous and misleading assertions. The definition of its character is sufficiently given by him who wrote it when he says in it that the remuneration he asks is in part for having been "in a position to influence a considerable number of public men in political life" through the relations at the same time "intimate and susceptible of being used to advantage" in which his firm pretends to have been placed "with men possessing influence and power."

In this plea the House of Representatives is described as made powerless to vote a law which its majority enthusiastically supports and desires to pass. In this plea the actions of statesmen of the first rank, such as Secretary Hay and Senator Hanna, are described as those of passive mechanisms commanded by a subtle and exterior mind.

The gigantic work of the union of the oceans begun for the glory and utility of mankind by a French company is going to reach its apotheosis, thanks to the generous efforts of the people of the United States.

Will the story of its transmission from the French owners to the Government of America be written by taking as its base an unfaithful document dictated by a sordid interest?

If this document were true there would be a deep veil of shame on the memories of great American citizens, which ought to be on the contrary worshipped as those of men inspired by the most lofty ideals and served by a powerful intelligence, as those of men who have filled one of the noble pages of the history of their country.

If this document were true it would show the legislative power of the United States to be at the disposal of mercenary influences in questions of the highest gravity, and not, as it is, inspired by the sincere desire of serving the great interests of the Nation to the best of its ability.

This question is infinitely above any division of parties; it concerns the honor of the United States—one might say the honor of all free nations having representative governments.

I have thought that this monument of deceit should not be left in the congressional documentation without placing at its side another document demonstrating its untruthfulness, and thereby vindicating the honor of those who have been the real forces which have determined the adoption of the Panama route by the United States.

The United States have not to blush of the history of the adoption of the Panama Canal, any more than France has to blush of the history of its conception and creation, if in both cases the history is written disinterestedly, sincerely, and faithfully.

I know what terrible disorders fictitious stories about Panama have created in France because the necessary jet of light has not been thrown on their mendacity.

I have thought it to be my duty to prevent the dissemination of the offensive fictions inserted in the so-called Story of Panama presented before a committee of Congress, and I have prepared for the Committee on Foreign Affairs of the House of Representatives a statement on behalf of historical truth. You will find it inclosed.

I allow myself, Mr. Speaker, to address it to this committee, through you as the head of the House of Representatives, with the respectful request, if the committee deems it justified, to insert it next to the Story of Panama in order to redress its misleading and deceitful errors.

Very respectfully,

P. BUNAU-VARILLA.

In writing this statement I attach to it the same moral authority and legal responsibility as if it were made under oath.

The so-called Story of Panama as told in the hearings before the Committee on Foreign Affairs of the House of Representatives by Mr. Henry H. Hall is a fiction. This fiction is composed of true facts and documents mixed with fabricated assertions and fanciful documents. It does not differ from similar productions so often read in the public press and due to imaginative journalism.

My purpose is to demonstrate this statement by documentary evidence. I think it is my duty to do it, because said fiction has gained access to congressional documentation and should not be left there unexposed.

A STANDARD SAMPLE OF MR. HALL'S FABRICATED ASSERTIONS.

Before going seriatim into the study of the elements of that imaginary story I may be allowed to exhibit a standard example of the methods employed for fabricating it. I am selecting this sample because it is the only one of Mr. Hall's statements which has been widely reported by the press.

Mr. Hall (pp. 414-415) first reproduces a cablegram of the Secretary of State, Mr. Hay, to the American consul in Panama. It reads:

WASHINGTON, November 5, 1903.

AMERICAN CONSUL GENERAL,

Panama:

I send for your information and guidance in the execution of the instructions cabled to you to-day the text of a telegram dispatched this day to the United States minister at Bogota:

"The people of the Isthmus having by an apparently unanimous movement dissolved their political connection with the Republic of Colombia and resumed their independence * * * He (the President of the United States) holds that he is bound not merely by treaty obligations but by the interest of civilization, to see that the peaceable traffic of the world across the Isthmus of Panama shall not longer be disturbed by constant succession of unnecessary and wasteful civil wars."

HAY.

Then after giving two other cablegrams referring to the appointment of Philippe Bunau-Varilla as envoy extraordinary of Panama to Washington, Mr. Hall says:

"Now I think there is a good place to point out a remarkable coincidence. We have the State Department telegraphing to its agent in Bogota on the 6th of November this dispatch, beginning:

"The people of Panama having by an apparently unanimous consent, and ending 'constant succession of unnecessary and wasteful civil wars.' The same day or rather the next morning, not from Washington, but in New York, Mr. Philippe Bunau-Varilla wrote to the State Department announcing that he was appointed as minister plenipotentiary of the Republic of Panama to the United States, and his letter reads:

"NEW YORK, November 7, 1903.

"His Excellency JOHN HAY,

Secretary of State, Washington:

"I have the privilege and honor of notifying you that * * * It (the United States) has rescued it (Panama) from the barbarism of unnecessary and wasteful civil wars to consecrate it to the destiny assigned to it by Providence, the service of humanity, and the progress of civilization.

"PHILIPPE BUNAU-VARILLA.

"There you have Bunau-Varilla using the very words unnecessary and wasteful civil wars used a few hours previously by Secretary Hay in his dispatch to the American minister at Bogota, and the coincidence is almost as remarkable as," etc.

On page 419 Mr. Hall comes back on the same point and says:

"You will recall how in that communication to the State Department Bunau-Varilla made use of the same words, 'unnecessary and wasteful civil wars,' which Mr. Hay also made use of in a confidential dispatch to the American minister in Bogota."

In a few words Mr. Hall thus demonstrates to his own satisfaction that the same hand has traced the Secretary of State's confidential dispatch and the Panama minister's notification. Therefore, according to Mr. Hall, Mr. Bunau-Varilla is a puppet of straw handled by the American Government.

Who would doubt such obvious facts brought forth by a man who describes himself as a man who "has employed whatsoever of ability he possesses" and "the experience gained in more than 20 years of active newspaper work"; who has "endeavored fairly and impartially to place the truth before the Committee on Foreign Affairs as he saw it in the documents gathered by the World"; as a man who "firmly believes that righteousness alone exalteth a nation"; as a man who thinks that "with nations even more than with individuals honesty is the best policy"; as a man who "speaks in the name of Truth, Justice, and Honor." (All quotations from p. 471, *Story of Panama*.)

Who would doubt the assertions on points of facts made by a man who insists "that he has really confined himself, as the committee is aware, solely to documents and statements that could be substantiated" (p. 461).

Evidently nobody can refuse to give credence to such a proof brought forward by such a man.

However, all that he asserts on this point is a fiction, to say the least.

Even the almighty power of Truth, Justice, and Honor can not enable Mr. Hall to substantiate that a document, which he copies on page 414 with the date November 5, 1903, has been made on the day just before another document of which he gives a copy bearing the date November 7. Even the combined efforts of Truth, Justice, and Honor can not make the miracle of placing the morning of the 7th on the day following the 5th of November. (See p. 414 date of Mr. Hay's dispatch 5th of November, and p. 415, date of Mr. Bunau-Varilla's notification 7th of November.)

The three divinities above named even associated with the 20 years of journalism of Mr. Hall will also find it difficult to enable the writer of the "Story" to substantiate that a document is confidential when it is published by all the newspapers of the United States on the day following its date and preceding that of the other document, which borrows an expression in the first one.

This is precisely the case of the message of Mr. Hay bearing the date of the 5th of November and which Mr. Hall terms confidential. All the evening newspapers of New York published on the 6th Mr. Hay's dispatch ending by "unnecessary and wasteful civil wars." All the morning newspapers of the 7th repeated it.

Now, is it possible that the so many endeavors of Mr. Hall, all the ability he possesses, all the experience he has gathered in 20 years' journalism, should have resulted in allowing his imagination to fabricate simply a fiction?

¹ Whenever I shall afterwards quote a page without further designation it must be understood that it is taken from the *Story of Panama*, hearings on the Rainey resolution before the Committee of Foreign Affairs of the House of Representatives Jan. 26 to Feb. 20, 1912.

It seems impossible, but it is so.

The simple truth is that having read in the evening papers of the 6th of November, 1903, Mr. Hay's dispatch of the 5th, I thought it courteous to employ his own expression "unnecessary and wasteful civil wars" in my communication of the day following. If it was confidential when I read it I was sharing the confidence with 80,000,000 people.

This is a very correct sample of the method by which the Story of Panama has been fabricated.

It was not unnecessary to expose this method at the start. We shall find its consequences everywhere. When a fact does not please the writer of the "story," it is either turned upside down or entirely replaced by another one. The substitute is furnished by imagination and solemnly presented as warranted by proofs and documents above the most severe suspicion.

Let us now turn to the base of the "story," that is the plea for fees made by Mr. Cromwell before the court of arbitration. Let us examine its impartiality first, its veracity afterwards.

What is the impartiality of Mr. Cromwell's plea for fees?

To judge this question it is necessary to know first for what kind of professional activities Mr. Cromwell demanded a high fee. Mr. Cromwell, besides the legal profession, practices another one. What is Mr. Cromwell's profession (outside of the legal one)? He will himself answer the question in the plea for fees. On page 96 it reads:

"In the course of a very active and very extended professional career * * * the firm Sullivan & Cromwell had found itself placed in intimate relations, susceptible of being used to advantage with men possessing influence and power * * * they (the members of the firm) have also come to know and be in a position to influence a considerable number of public men in political life * * * It is not suggested that the remuneration should be based upon this consideration alone."

Any commentary seems perfectly superfluous. Whether this clear definition of the kind of activities for which the fees are asked is in harmony with the ethics of the legal profession in America, it is not for me but for the Bar Association of New York to answer. But the question is not there. It was necessary to recall the clear definition given of Mr. Cromwell's profession by himself to understand that a plea for fees on account of such services can not possibly be impartial.

Human nature tends always to exaggerate in a man's mind the results of his efforts.

If the aim of the effort is to influence public men in political life, vanity only will lead any man to think that his influence has been greater than it really was. An active go-between will easily think he is the author of the messages he has to carry. But if he claims a fee for having exercised such influence the appetite for money adds itself to the appetite for vanity and the result is an extraordinary exaggeration of the facts presented by the claimant.

One might say that the more proper will be the methods by which the influence is exercised, the greater will be the exaggeration.

I think it is unnecessary to state that the great American citizens who had to treat this national question were infinitely above any improper consideration. Therefore, for both reasons above stated, the influence said to have been exercised over them was grossly and enormously exaggerated, if not entirely imagined by the man who wants a remuneration for it. It is the eternal story of the tail which sustains that it is wagging the dog.

A plea for fees written under these conditions of mind can not be impartial.

It is, therefore, an unfit base for writing the story of any great event.

However, if not impartial, it could keep the relation of events within the boundaries of verity. Let us examine if this is the case.

WHAT IS THE VERACITY OF MR. CROMWELL'S PLEA FOR FEES?

Suspicious were raised in the committee about a lack of veracity of Mr. Cromwell's assertions as exhibited by Mr. Hall in his presentation of extracts of the plea for fees.

On page 144 the following can be read:

"Mr. KENDALL. That is what Mr. Cromwell says in his report to these employees of his?"

"Mr. HALL. Yes, sir.

"Mr. KENDALL. He was trying to get his \$800,000 fee?"

"Mr. HALL. We must presume he was telling the truth.

"Mr. KENDALL. His purpose was to convince them how difficult it had been for him to accomplish the results he did?"

"Mr. HALL. I suppose so, sir."

It seems that contrary to Mr. Hall's opinion in a plea for fees referring to an influence supposed to have been exercised over public men in political life the presumption is an exaggeration of that supposed influence, if not much more than exaggeration. Further, on page 291, the same doubt is raised about the veracity of Mr. Cromwell's plea for fees.

"Mr. GARNER. In behalf of Mr. Hay, who is deceased, would it not be assumed that Mr. Cromwell was making statements that could not be sustained by facts in order to secure a fee from the French company? In other words, to use a harsh term, it is not possible that Mr. Cromwell is lying about the matter of what Mr. Hay did?"

"Mr. HALL. Quite possible.

"The CHAIRMAN. He certainly was trying to get a big fee."

Mr. Hall, who, as we will see later on, will attribute to Mr. Cromwell's plea for fees the value of a document under oath was evidently for a moment taken by surprise. Candidly, he admits that Mr. Cromwell may be, as Mr. Garner says, lying. This is a spontaneous and perfectly fair acknowledgement of what the document may be. If the Story of Panama is based upon such a doubtful document, what is it? But Mr. Hall will later on try to strengthen his base of action, and on page 293 the following dialogue takes place:

"Mr. KENDALL. These statements of Mr. Cromwell involving Mr. Hay, as Judge Diferderier inquires, were not under oath, they were simply incorporated in his brief filed with that board.

"Mr. HALL. This is his brief. The point I was making was not in any way, shape or form a reflection upon the late Secretary of State, but in justice to Mr. Cromwell it is inconceivable that a man of Mr. Cromwell's standing at the New York bar should in a brief presented to arbitrators in a matter of this kind make statements which he would not be ready to substantiate under oath."

The same effort of Mr. Hall to strengthen the weak authority of the base of his "story" is further renewed on page 457.

"Mr. FLOOD. The accomplishments of Mr. Cromwell in getting officials to change their position on this question are based on his own testimony?"

"Mr. HALL. On his own testimony, sir. The many assertions he makes affecting Secretary of State Hay, who is dead, and Senator Hanna, who is dead, are matters which rest on his own authority. It is improbable, of course, knowing that the company was in possession of all his correspondence and of all his accounts, that he would put forward statements he could not substantiate. Having made weekly and monthly reports to them covering a period of six years and having received their replies and acknowledgments, it is hardly to be believed that he could deliberately add into this brief anything he had not reported to the company at the time. Also, Mr. Cromwell's standing at the bar in New York is a very high one, and it would mean his disbarment if he were to present in an arbitration for remuneration for professional services facts which were not true. Of course, I have accorded the weight of testimony to Mr. Cromwell's own written assertions."

In trying to defend the shaky base of his "story" Mr. Hall thus represents Mr. Cromwell as acting under the formal and rigid supervision and checking of his employers, the company.

At this moment Mr. Hall unfortunately forgets that he has been obliged to disqualify the employers of Mr. Cromwell for the necessities of his "story." These necessities have compelled him to attribute to Mr. Cromwell a universal power in all directions. On page 328 he had said of the president of the New Panama Co.:

"The president of the Credit Lyonnais was Marius Bo, also the president of the New Panama Canal Co. and Cromwell's chief instrument in France in its manipulation."

In spite of his endeavors to "fairly and impartially place the truth before the committee" (p. 471), Mr. Hall will find some difficulties in reconciling contradictory facts. He can not very well, in spite of his solemn declaration that (p. 461) "he confines himself solely to documents and statements that could be substantiated," demonstrate that the same Bo, who is a tool in the hands of Cromwell, on page 328, becomes a severe and incorruptible comptroller on page 457.

Let us in passing say that Mr. Bo never was in his life nor ever will be president of the Credit Lyonnais. In spite of his 20 years' journalism, Mr. Hall ignores that by giving without any semblance of reason to Mr. Bo the leadership of one of the greatest banks in the world, he again allows his imagination to create a wholly erroneous and misleading fact.

Mr. Bo is in reality a director of the Credit Lyonnais; this is the true fact. It does not mean much for Mr. Hall's "story." He immediately fabricates another fact instead, and Mr. Bo, the tool of Mr. Cromwell at one place, his severe comptroller at another, is fabricated president of the great banking institution by Mr. Hall's fancy for the sake of the "story."

After having established what spontaneous suspicions of untruthfulness the plea for fees raised in the committee, let us try to look into this question of veracity.

Of course, when a man is dead, his secretary can always pretend that the secretary was dictating the letters and not his master. That is practically what the members of the committee above named suspected when they listened to Mr. Cromwell's contentions for getting a high fee. It is difficult to establish the untruthfulness of the statement as regards men who are dead. To be sure, it is most unlikely that men of the mental greatness of Hay or Hanna ever were handled like straw puppets. However, if it can be demonstrated by documental evidence that in all places where documents speak alone the plea for fees presents facts untruthfully, the hesitation will cease. The suspicions of the members of the committee will be vindicated. The lack of veracity of the offensive assertions cast on the great memories of Hay and Hanna must be then considered as established. It is indeed obvious that if the plea for fees absolutely disfigures facts when they can be reconstituted by public documents, one will be sure that the facts relating to dead men's attitudes or actions will be still more adulterated if not entirely fabricated.

In probing thus the veracity of the plea for fees we shall choose as examples a series of facts. These facts are chosen not only because they can be reconstituted by public documents, but also because they are placed at the origin of critical periods.

Thus it will be established that the lack of veracity so demonstrated is not exceptional, but systematic; that there is a very high probability that it is the spirit pervading the whole document.

The first critical period in the relations between the New Panama Canal Co. and Mr. Cromwell is the beginning of Mr. Cromwell's activities in their behalf in 1896. The second one is the entrance of the Panama Canal into the list of solutions proposed to America. This entrance entirely depended upon the success or failure of the Nicaragua bill in the session ending March 4, 1899. A third one is the period during which Mr. Cromwell was dismissed from the service of the canal company—July, 1901, to January, 1902. A fourth one is from the presentation of the Spooner bill to its adoption (January–June, 1902). A fifth one is the period from the signing of the Hay-Bunau-Varilla treaty (November, 1903) till its ratification (February, 1904).

Of course there are many other critical periods, but as the facts can not be exhibited without introducing as evidence exclusively public documents I shall leave them aside. The lack of veracity of the plea for fees will be amply established by the five examples herein stated.

FIRST DEMONSTRATION OF AN ABSOLUTE LACK OF VERACITY ON A GIVEN POINT IN MESSRS. SULLIVAN AND CROMWELL'S PLEA FOR FEES.

On page 164 the plea for fees begins the description of Mr. Cromwell's activities on behalf of the company as follows:

"Thus, when we were intrusted with the affair in January,¹ 1896, we found ourselves face to face with a general and almost unanimous opinion in the United States in favor of the Nicaragua Canal * * *. We ascertained also that * * * bills were pending in Congress before the Senate and the House with a view to the adoption of the Nicaragua route * * * and that Congress had authorized the appointment of a special commission to again survey and report on the feasibility of this route, and the commission was then engaged in this work."

Then comes a chapter entitled: "January-December, 1896. Recapitulation of work done in 1896." It contains the following sentence: "Between January and June, 1896, Mr. Cromwell and Mr. Curtis made alternative stays in Washington for the purpose. They devoted themselves actively to the case * * * had interviews with number of Senators and Representatives. * * * Mr. Cromwell also had frequent interviews with Col. Ludlow in regard to investigations by his commission and urged upon (presented to him) the superior advantages of Panama. As a result of this exposition the Ludlow commission in its subsequent (ultérieur)² report made very favorable references to the Panama route."

Further on page 165 we find another chapter entitled: "Result: There was no legislation for Nicaragua that year 1896."

¹ The word "January" which translates the word "Janvier" existing in the original text has been omitted in the translation given by Mr. Hall. I reestablish it.

² In the original text the adjective used before the word "report" is "ultérieur," which means subsequent. In the translation given by Mr. Hall it is expressed by "supplementary," which has quite a different meaning. The French word "ultérieur" is in the said translation put into parenthesis to show the hesitation about the proper use of "supplementary" by which it is wrongly translated. The real meaning of "postérieur" there, which is "subsequent," has been reestablished in the extract I give.

It begins thus: "The reports of the Senate and House committee on the subject of the Nicaragua Canal bills were favorable to those measures but the arguments we had disseminated and the opposition we had created were sufficient to form an important minority which refused to join the other members of the committee and no Nicaragua bill was passed at this session which closed in the month of June."

The following chapter of the plea for fees is entitled: "December, 1896, to March 1897. Attack and defeat of the Nicaragua legislation." It ends thus: "In spite of the vigorous and almost successful efforts of the Nicaragua party, their bills had not reached a vote when the closure of Congress came on March 4, 1897, and we can say in all justice that our constant care, our serious opposition, and our varied efforts had contributed in a somewhat considerable degree to this result."

The innocent reader of the plea for fees being under the influence of the statement laid down at the outset that the firm Sullivan & Cromwell "had come to know and be in a position to influence a considerable number of public men in political life" (p. 161) will see in the failure of the Nicaragua bills in 1896 and 1897, if thus explained, a manifestation of that "influence over public men in political life." If he neglects the moral side of such a demand he will think the remuneration asked for this influence (p. 161) is well earned.

But if he turns to the public documents he will immediately think he has been grossly deceived.

The facts presented to him are disfigured either by transposition of dates or by the elimination in the list of the events of those which really determined the consequent facts.

It is very much like the history of France written by a celebrated Jesuit, called Loriquet, and taught in certain schools after the downfall of Napoleon the First. According to the Larousse Encyclopedia, this is how Loriquet worked: "He imagined the accommodation of facts according to his fancy. He falsified truth with audacity in order to present it in a light favorable to his doctrine."

The plea for fees distinctly and clearly says that in January, 1896, when Mr. Cromwell begins his work he ascertains that the Ludlow Commission is then engaged in the work of surveying and reporting on the easibility of the Nicaragua route.

The plea for fees distinctly and clearly says that between January and June, 1896, Mr. Cromwell had frequent interviews with Col. Ludlow. It further says that as a result of this exposition the Ludlow Commission afterwards made a report with very favorable references to the Panama route.

Now let us turn to the facts. When Mr. Cromwell entered the service of the company in January, 1896, the Ludlow Commission was not surveying and reporting, as it is stated with audacity in the plea for fees. It had gone since more than two months out of existence. Its report can not have been influenced by Mr. Cromwell's interviews with Col. Ludlow, which are said by Mr. Cromwell to have taken place between January and June, 1896, because the report of this eminent Engineer officer had been signed and transmitted to the President more than two months before January, 1896.

The apparent tranquillity with which facts are falsified in the plea for fees by transportation of dates is so amazing that I do not think it sufficient to give the authority of a parliamentary document only. I shall quote two entirely independent ones.

The first one is the Senate Document No. 54, Fifty-seventh Congress, first session. It contains the report of the Isthmian Canal Commission, 1899-1901. Among the signers of this report are the former members of the Nicaragua Canal Commission, which was formed in 1897 to prosecute the explorations recommended by the Ludlow report. On page 58, under the heading "Nicaragua Canal Board," the following can be read:

"The bill * * * was approved March 2, 1895. The President appointed Lieut. Col. William Ludlow, Corps of Engineers, United States Army; Civil Engineer M. T. Endicott, United States Navy; and Alfred Noble, civil engineer. * * * The appointments were made April 25, and the members of the board proceeded early in the following month to Nicaragua, and, after their examination there, completed their work in time to make their report by the 1st of November, as required by law. This report was printed during the first session of the Fifty-fourth Congress as House Document No. 279."

This statement is final. However, as I said previously, I thought necessary to call another witness of the falsifications of dates and facts by the plea for fees on this point which I am examining now.

In the Senate Document No. 1417, Fifty-fifth Congress, third session, can be found a "Chronological statement as to the Maritime Canal Co. of Nicaragua," by Senator Morgan. On pages 8 and 9 the following can be read:

"April 25, 1895, Secretary Gresham notified Lieut. Col. William Ludlow, United States Army, Civil Engineer M. T. Endicott, and Mr. Alfred Noble that they had been appointed a board of engineers to survey and examine the Nicaragua Canal

route and to report on the same to the President on or before November 1, 1895 (H. Doc. No. 279, 54th Congress, 1st sess., p. 11):

"May 7, 1895. Board of engineers sail from Mobile for their inspection of the canal route.

"May 13, 1895. The board of engineers arrived at Greytown.

"May 21, 1895. The board of engineers left Greytown for inspection of the canal route.

"June 24, 1895. The board of engineers arrived at New York.

"October 31, 1895. The board of engineers submitted their report to the President. (H. Doc. No. 279, 54th Cong., 1st sess.)"

Nothing further is said in the chronology except for the transmission to Congress of the report which had been submitted to the President on the 31st of October previous. The board had then completed their task before the 1st of November, 1895, as the law required for the date of the report. There could be, there was no other action of the board after that.

With these two independent and corroborative documentary statements all doubt is removed. The plea for fees cynically displaces the events, so as to make appear as a consequence of Mr. Cromwell's activities what is materially anterior to their beginning.

But it does not limit itself to displace the real date of Ludlow's report; it withdraws any allusion to its contents as regards Nicaragua.

Any man will understand why, when he has read on pages 58 and 59 of the Isthmian Canal Commission's report, already quoted above (S. Doc. 54, 57th Cong., 1st sess.), the following summing up:

"The Nicaragua Canal Board found it impracticable within the time fixed in the law and with the limited means appropriated for the accomplishment of its work to make a full and thorough examination of the route and obtain the necessary data for the formation of a final project of a canal, and in the report a recommendation was included that there be further explorations and observations, so as to collect the information and data regarded as essential to the comprehension of the fundamental features of the canal problem, which should decide the final location and cost of work.

"In accordance with the views of the board there was included in the sundry civil appropriation act which was approved June 4, 1897, an appropriation to continue the surveys. * * *

The law according to which the Ludlow Board was formed (see same p. 58 of the Isthmian Canal Commission's report above quoted) "was adopted in the Senate for the purpose of ascertaining the feasibility, permanence, and cost of the construction and completion of the canal through Nicaragua." It is therefore obvious that the declaration of the board as to the necessity of further explorations for ascertaining certain essential data before answering the question made by the legislator as to the feasibility and cost absolutely paralyzed any attempt of passing the Nicaragua bill through Congress before such explorations were made.

The exhibition in the plea for fees of the conclusion arrived at by the Ludlow Board would have made obviously futile and ridiculous all the talk inserted in the plea for fees referring to the imaginary victories won by Mr. Cromwell in the battles against the defenders of the Nicaragua bill in Congress during that period. The titles which the plea for fees places upon this inflated and imaginary stuff—"Recapitulation of work done in 1896—Result no legislation for Nicaragua that year.—1896—1897. Attack and defeat of the Nicaragua legislation"—would have been obviously shown to sum up a pure fiction.

The plea for fees after disfiguring the history by materially tampering with the dates is thus shown further to disfigure it by withholding and keeping concealed the essential fact which dominates all the situation, and this fact is the opinion of the Ludlow Board as expressed in their report signed before the beginning of Mr. Cromwell's activities.

I do not think there may be found anywhere a more flagrant and obvious disfiguration of truth.

These facts demonstrate:

First. The lack of veracity of Mr. Cromwell's plea for fees when it says that in 1896, when he began his work, the Ludlow Board was then engaged in the work of surveying and preparing their report. They had made their report before November, 1895, prior to any of his activities.

Second. The lack of veracity of Mr. Cromwell's plea for fees when it withholds in his description of events the findings of said report of the Ludlow Board, and thereby conceals from the reader's eye the paralyzing action this report had on all Nicaragua legislation in 1896 and the first part of 1897 until the appropriation for new explorations were made according to its recommendations.

Third. The lack of veracity of Mr. Cromwell's plea for fees when he substitutes the imaginary cause of his efforts to the real one which is the report of the Ludlow Board.

The consequence of this demonstration is that a document found to be so absolutely deficient in veracity as to material facts registered by official documents is the most unfit base for writing the history of Panama. This opinion will be further confirmed by the other examples I shall give of this lack of veracity.

SECOND DEMONSTRATION OF AN ABSOLUTE LACK OF VERACITY ON A GIVEN POINT IN
MESSRS. SULLIVAN & CROMWELL'S PLEA FOR FEES.

In the autumn 1898 and in the winter of 1898-1899 the adoption of Nicaragua by the Congress of the United States seemed highly probable. The session, however, ended without seeing passed by the House the Nicaragua bill already voted by the Senate. Why did this extraordinary fact take place? What determined the stoppage of the Nicaragua bill in the House when nearly the unanimity of members were for a canal at Nicaragua?

Here is the explanation given by the plea for fees. On page 179 of the Story of Panama can be found the chapter of the plea for fees entitled, "A vote for Nicaragua is prevented in the House." It begins by the sentence "As a result of the support we gave to this plan, the efforts of the Nicaragua party failed, and this party seeing itself incapable despite its efforts to bring its bill to a vote, etc."

What is the force of this party which is, according to the plea for fees, incapable of bringing its bill to a vote on account of Mr. Cromwell's supposed support to another plan? The plea for fees describes this party on page 178 under the title, "The situation in the House is favorable to Nicaragua." It says: "An enthusiastic and large majority of the House was openly pledged to Nicaragua. The result of a vote in the House was absolutely certain if a vote were taken."

Who were the leaders of that Nicaragua party the plea for fees tells us on page 176 under the title "December, 1898-March 4, 1899, session of Congress." It speaks in the following terms: "Two bills were pending before Congress, one in each House, and they were backed by the official recommendation of the President in his message, and the Maritime Canal Co., with its officials and shareholders, nearly all important figures in politics, was ready in its own interests to furnish anything that might be lacking, if anything was lacking, to the zeal of the ever-active partisans of Nicaragua in Congress led by Senator Morgan in the Senate and Representative Hepburn in the House."

On page 178 the plea for fees further speaks of the two leaders of the common cause of Nicaragua: "Mr. Hepburn was the most earnest and most able champion of Nicaragua in the House, he having ability, power, and vigor on a par [in the original text, correspondant, which means corresponding] with the capable leader of this cause in the Senate, Senator Morgan."

I may be allowed to make a third quotation of the plea for fees, to show distinctly what it pretends the attitude of Representative Hepburn was and what efforts he was ready to make in association with Senator Morgan for promoting the passage of the Nicaragua bill, efforts which the plea for fees pretends to have been baffled by Mr. Cromwell's activities. On page 165 of the Story of Panama we read this passage of the plea for fees: "The chairman of this committee was Senator Morgan, whose stubbornness in favor of Nicaragua was only equaled by his continued efforts in favor of this project * * *. In the House of Representatives everything bearing upon the canal was first sent to the Committee on Interstate Commerce. The chairman of this committee was Mr. Hepburn, a man whose entire energy and every attainment was devoted to the success of the Nicaragua bill in Congress."

There we have a graphic description of the situation: Two most able leaders working for the same cause, followed by enthusiastic majorities in each House, have deposited the necessary bill. The plea for fees describes the success of the bill in the Senate on page 178 and we can read in the headline, "The Nicaragua bill is passed in the Senate almost unanimously," and further down that it was speedily passed by a vote of 48 to 6 on January 21, 1899, and was at once sent to the House.

Then we witness, according to the plea for fees, a most unique spectacle sufficiently described by the above extract. It is that of an enthusiastic and large majority in the House led by a most earnest and most able champion of Nicaragua and becoming absolutely incapable of arriving to vote the bill which has already passed the Senate. How can such an extraordinary fact take place? The plea for fees modestly answers: "It was the result of the support we gave to another plan" (p. 179), and the other plan as well as the support to it is said to be Mr. Cromwell's. If that were true, Mr. Cromwell's activities undoubtedly would justify any fees he claims for the influence which the plea for fees pretends his firm had over public men in political life. It is not

only the influence on one man, either Mr. Hay or Mr. Hanna, it is the influence over a whole body of legislators, over a majority enthusiastically devoted to the bill which Mr. Cromwell fights. In spite of the number of its members and of their enthusiasm the majority is held at bay by Mr. Cromwell's only power, according to the plea for fees.

Fortunately for the historical truth, a House of Representatives does not die as a man. It does not carry away to the grave the memory of facts. Its memory is permanent; it lies in its records.

Let us look at the records of the House on this point. What do we see in the report of February 13, 1899 (55th Cong., 3d sess., H. Rept. No. 2104), made by Mr. Hepburn and entitled: "Maritime Canal Co. of Nicaragua." We must expect to see in this document, if we believe the plea for fees, an energetic effort made by the most able leader of Nicaragua in the House in order to complete there the work done by the capable leader of Nicaragua in the Senate, whose power and vigor corresponded to his own. We must find the application of Mr. Hepburn's entire energy devoted to this Nicaragua bill in Congress. We must also find in this document a trace of the backing which Maritime Canal Co. is ready to give, according to the plea for fees, as we have seen.

This is what we must expect if the plea for fees is truthful.

We have there fair and correct occasion of testing again the veracity of the document chosen as the base of the Story of Panama by Mr. Hall. If the test fails for the third time, it shows that the so-called document is fanciful and does not deserve the slightest credence.

We find that the test fails entirely. Far from recommending the adoption of the Senate bill for Nicaragua, the report is simultaneously aggressive against the bill itself and the Maritime Canal Co. Instead of the backing of the company it deserves its ferocious enmity.

On page 3 of the report of Mr. Hepburn the following can be read:

"The Senate bill, for which your committee recommended a substitute, proposes to amend the charter of the Maritime Canal Co., and then reorganizes the company by appointment of a majority of the board of directors by the President of the United States, and then uses that corporation as its agent for constructing and operating the canal. This corporation is created by the United States. It is a creature of the Government. After creating it the Government proposes by the Senate bill to inject itself into the corporation, and thus masquerading it proposes to do a work that it is in every way capable of doing in its own proper person. For what purpose should the Government thus convert itself into a corporation? * * * It becomes a person, artificial person, and takes the position of equality with citizens. As a corporation it may be sued in its own courts and may be fined for contempt by its own judicial servants."

The report thus continues severely attacking the Senate bill and the Maritime Canal Co. of Nicaragua.

There we find the real reason of the impossibility for the Senate bill to open its way through the House.

There the bill finds a lion in the path. It is not Mr. Cromwell's support of another plan. Such an obstacle at first glance appears as unlikely as it would be dishonorable for an enthusiastic majority of any parliament, if it were true.

The real lion in the path is precisely Col. Hepburn.

His entire energy, far from being devoted to the success of the Nicaragua bill in Congress (see p. 165), as is the fictitious assertion of the plea for fees, is in reality devoted on the contrary to the annihilation in the House of the bill as the Senate sent it. He is for a Nicaragua Canal built directly by the Government when the other leader, Mr. Morgan, with his Senate followers, is for a Nicaragua Canal built by a company. The internal strife is intense. Mr. Hepburn calls a masquerade the Morgan proposition and refuses to pass such a bill through the House.

There is the insurmountable obstacle, the memory of which is engraved in the public documents, and which the Senate bill met on its way through the House.

This capital fact is carefully concealed in the plea for fees. Not only is there no trace of it, but assertions to the contrary are inserted in it. It is done with an amazing audacity, as has been found in the preceding case, where the obvious tampering of the date of Ludlow's report and a similar suppression of the findings of his report were demonstrated.

As to Mr. Cromwell's supposed idea which the plea for fees says has thwarted the efforts of Mr. Hepburn and of his enthusiastic majority (p. 180), the truth is much more simple.

In face of the deadlock created by the inimical and irreconcilable attitude of the two leaders of either faction of the Nicaragua party, something had to be done before the end of the session.

What was done was the creation of a new commission for studying for the last time all the solutions of the isthmian problem. It was in line with the letter written some months before, on the 18th of November, 1898, by the president of the New Panama Canal Co. to the President of the United States. It was in line with the thought of all the people who knew the superiority of Panama over Nicaragua. They were a very small number in those days, but the publication I had made in 1892 (Panama, P. Banau Varilla; Mason, editeur) had contributed to enlighten their minds. Among them was the eminent man who honored me by his deep and sincere friendship from 1886 till the day of his death in 1911, John Bigelow, who was termed the "grand old man of America" or "the first citizen of New York." Another was Lieut. Commander Baker, United States Navy, who was detailed at the Paris Exposition of 1900. He became my friend during the years he spent in Paris to prepare the exposition, and at the same time an enthusiastic supporter of Panama. Both these friends of mine spent the winter of 1898-99 in Washington and pressed upon those whom they met in high political circles that Panama was, contrary to the general opinion, worth being examined before selecting finally Nicaragua.

Mr. John Bigelow, who had been the ambassador to France sent by Lincoln, had in these remote days, as secretary of legation in Paris, Col. John Hay, who had been before the assassination of Lincoln the President's personal secretary. He had kept ever since the most cordial relations with his brilliant former subordinate.

On the 1st of December, 1898, when the arrival in Washington of the delegates of the New Panama Canal Co. bearing the letter of the 18th of November was announced, Mr. John Bigelow wrote me a letter, from which I extract the following:

"I have no special interest in either enterprise (Panama or Nicaragua).

"You have satisfied me that nature anticipated our old friend de Lesseps, in providing for a waterway across this continent at the Isthmus (of Panama), and nowhere else. * * *

"About two weeks ago I wrote to Mr. Hay, our Secretary of State, recommending—as he would be consulted about the President's annual message at the opening of Congress—that the President should say what he thought fit about the importance of a transcontinental waterway, but not to commit himself to the Nicaragua route until he had taken the same measures to investigate the Panama route that he had taken to investigate the Nicaraguan."

It is this idea expressed by Mr. John Bigelow to Mr. Hay before even the new Panama Canal Co. had made the first step toward the American government which matured some months afterwards. The suggestion was followed when it became visible that the session was going to end before anything could be done for Nicaragua. This paralysis was created by the Morgan and the Hepburn factions dividing the Nicaragua party as we have seen.

This gives the true explanation of the decision taken at the end of the session and which the plea for fees explains by a chapter (p. 180) entitled as follows: "We obtain the passage of a bill appointing a new commission to examine the Panama route and report thereon, as also on the other canal routes (Mar. 3, 1899), and by this means we prevent the final passage of the Nicaragua bill."

We know that the last assertion is absolutely fictitious; we know that it is due to the stubbornness of both Morgan and Hepburn. We know also that the plea for fees has carefully withheld any reference to the fight between two irreconcilable enemies and presented them as associating their common efforts for the passage of the Nicaragua bill.

No clearer adulteration of facts established by official documentation could be imagined.

These facts related with the second important point demonstrate:

First. The lack of veracity of Messrs. Sullivan and Cromwell's plea for fees when it speaks of Mr. Hepburn as of "a man whose entire energy and every attainment was devoted to the success of the Nicaragua bill in Congress" (p. 165) and conceals the real fact that he was stubbornly opposed to the passage through the House of the Nicaragua Senate bill devised by Mr. Morgan.

Second. The lack of veracity of Messrs. Sullivan and Cromwell's plea for fees when it describes, on page 176, Senator Morgan, Representative Hepburn with their respective following and the Maritime Canal of Nicaragua as working with enthusiasm for a common cause at a time when the deepest division existing between them separated their party into two warring factions. The lack of veracity consists in the deceitful system of speaking of their common aim, which was a canal at Nicaragua, and of withholding any reference to the war waging on the question of its construction. Hepburn

¹ The letter to Mr. Hay was therefore written before the letter of the President of the New Panama Canal Co. in Paris to the President of the United States in Washington.

wished a law ordering it to be made by the United States and Morgan by the Maritime Canal Co.

Third. The lack of veracity of Messrs. Sullivan and Cromwell's plea for fees when it conceals the aggressive report of Mr. Hepburn February 13, 1899, against the Morgan bill and the Maritime Canal Co. as set forth in House Report No. 2104, Fifty-fifth Congress, third session, which forms an insurmountable obstacle to the passage of the Morgan Nicaragua bill.

The lack of veracity consisting in concealing this report is explained by the fictitious claim of the plea for fees that the obstacle to the passage of the Morgan bill through the House was Mr. Cromwell's activities thus expressed: "As a result of the support we gave to this plan the efforts of the Nicaragua party failed and this party being incapable to bring its bill to a vote, etc. * * * * (p. 179).

The consequence of this demonstration is exactly the same as that of the one referring to the first point. It shows again that a document found to be so absolutely deficient in veracity as to material facts registered by official documents is the most unfit base for writing the history of Panama. This will be further confirmed by the other examples I shall give of this lack of veracity.

THIRD DEMONSTRATION OF AN ABSOLUTE LACK OF VERACITY ON A GIVEN POINT IN MESSRS. SULLIVAN & CROMWELL'S PLEA FOR FEES.

The point I am going to examine is that of Mr. Cromwell's dismissal from the company's service.

It is a good point to probe the veracity of the plea for fees. If it is truthful it will state the fact in a few words. It will exhibit how afterwards on Mr. Hanna's request he was taken back again in spite of the company's reluctance.

Let us see how the plea of fees translates the fact. On page 196 there is a heading telling the story in these terms: "July 1, 1901. January 27, 1902—Our instructions are to cease all activity." Under this heading one can read: "For the period from July 1, 1901, to January 22, 1902, we have no responsibility as during that period the company for reasons it deemed sufficient ordered the cessation of all activity in the United States and took over the management of the affair, relieving us of all responsibility during that period."

On page 198 we further see under the heading "1902—January 27, resumption of our activities," we read what follows: "The above résumé shows only too clearly that the situation of the cause of Panama at this moment was in truth dangerous and desperate. In these circumstances the company cabled to Mr. Cromwell asking him to resume his former connection and activity as general counsel of the company in charge of the matter."

Who would think after reading such a relation of events that Mr. Cromwell ever was dismissed from the service and taken back thanks to the influence of his friend Mr. Edward Simmons over Senator Hanna? The reader believes that Mr. Cromwell simply received instructions to take the attitude of silent expectation, and that the company in despair when their situation became desperate cabled him to be active again.

This is the most complete disfiguration of facts which could be produced.

In fact, Mr. Cromwell was politely dismissed from the service by the following letter:

[Translations.]

PARIS, *June 19, 1901.*

DEAR SIR: We have the honor of informing you that in the meeting of June 14 last our committees have esteemed that in the actual situation there was a necessity for the company to manage directly all their business in the United States without the employment of any intermediate agent. It has, therefore, been decided that your situation as counsel of the company in the United States would come to an end on the date of June 30 next.

We address you the thanks of the company to the care you have taken of their business.

Please, etc.

HUTIN.

There is a positive lack of veracity in translating such a letter by: Our instructions are to cease all activity.

There is an equal and obvious lack of veracity in stating also that, the situation being desperate, the company cabled to Mr. Cromwell to resume this activity which he had been, as he says, instructed to suspend.

At the end of January, 1902, for the first time the victory of Panama was dawning and rendered at last material by an extremely weighty fact. The most important

event in its American history next to its final adoption by purchase had taken place. The unanimous recommendation of the Panama route by the Isthmian Canal Commission had been made on the 18th of January, 1902.

We have learned to know how the plea for fees changes dates, and conceals important events to adjust facts to its theories, but we have not yet seen qualified as a desperate thing the most happy and felicitous victory won on the technical field. It is this victory, which might have been considered as final, which the plea for fees considers as creating such a desperate condition that the company must look for Mr. Cromwell's activities to be liberated from the terrible condition into which it has fallen.

It is equally fictitious to state that the company took the initiative of appealing to him.

After the unanimous recommendation by the commission, Senator Hanna requested me to do him the service of urging the company to take again Mr. Cromwell.

"It is not because I care at all for him," said the Senator, "but my old banker, Edward Simmons, presses me to obtain that for his friend. You know it is difficult," added the Senator, "to refuse something to a man who has been your banker for 30 years. At any rate the company wants a lawyer to discuss the legal questions of Panama. Why not Cromwell? He is one of the best lawyers in New York and knows the question when another would have much to learn."

I answered: "I have never seen Mr. Cromwell. I know he has been dismissed by the company, but I do not know why, because the company and myself never were friends and I know their affairs by their public aspect. But you are the only hope of Panama. Whatever you want should be done. Though I have no direct connection with the company, I may get friends to inform them of your desire and if they are intelligent enough to understand that they must do it, they will do it."

On leaving Senator Hanna I stopped at the Raleigh, Mr. Cromwell's hotel, for some information. He was not there. I left a card. A short time after he came to see me at the New Willard and engaged in a conversation of terrible length rather in the form of a monologue.

I asked him if he was willing to accept that his fees would be determined sovereignly by the company, supposing it would be a good recommendation.

Finally I sent, immediately after he had gone, at 2 a. m. on the 23d of January, 1902, a cablegram to Mrs. Bunau-Varilla, in Paris, requesting her to inform a certain Mr. Dolot of the wish of Senator Hanna. This Mr. Dolot was the intimate friend of an important member of the board of directors, Mr. Terrier. They refused to listen to the suggestion. Seeing no result, and Senator Hanna growing impatient, I cabled again through the same channel, on the 26th of January, requesting Mrs. Bunau-Varilla to urge again my recommendation and also to inform my brother, Maurice, proprietor of the greater part and directing editor of the *Matin*. He acted personally on the board and carried their decision the following day in favor of the reinstatement of Mr. Cromwell.

The demonstration that the reinstatement of Mr. Cromwell was not desired by, but forced upon the company, is shown by the exchange of telegrams which can be found on pages 121 and 122, between Mr. Cromwell and myself:

WASHINGTON, *January 27, 1902—10 a. m.*

CROMWELL,
*Care Sullivan & Cromwell,
49 Wall Street, New York.*

Your affair was settled this morning Paris according to my recommendation which I had to renew yesterday with great force. Felicitation.

BUNAU VARILLA.

To which Mr. Cromwell answered:

NEW YORK, *January 27, 1901.*
(Received 2.15 p. m.)

NEW WILLARD,
Washington, D. C.

Many thanks for your kind message. When will confirmation be received? * * *

WILLIAM NELSON CROMWELL.

But the lack of veracity of the plea for fees in what regards the origin of the reinstatement is also obviously demonstrated by the almost insulting condition attached to the reinstatement in the cablegram and in the letter sent by the company for that purpose.

If it had been an initiative of the company looking for a saviour in a desperate condition, as the plea of fees asserts, another form, that of a polite request, would have been chosen.

A first telegram says without further advice to Mr. Cromwell:

"You will receive through Lampre, after translation, telegram reinstating you as general counsel Compagnie nouvelle and containing instructions."

This is not the way a lawyer of high standing is treated when he is requested to assume again a case which has been taken away from him seven months before.

The other telegram still more shows the irritation and the reluctance of the company.

It is absolutely equivalent to an insult. At the third line it contains a standing condition incompatible with the dignity of a lawyer:

"You to be reinstated in your position as general counsel of Compagnie Nouvelle de Panama; rely on your cooperation to conclude matter sale property; you better than anyone can show title Compagnie Nouvelle de Panama to property and incontestible right she has to sell them. But we require most expressly that no donations be made now or later, nor promises be made to anyone whomsoever which might bind ¹ the Compagnie Nouvelle de Panama."

In order to make more precise the insulting signification of donations and promises, the company, in the letter confirming the cablegram, says (p. 122), after reciting the task she gives to the counsel: "But it must be clearly understood, and on this point we shall surely be in accord with you, that these results must be sought only by the most legitimate means; that is to say, that in no case could we recourse to methods as dangerous as they are unlawful, which consist principally in gifts or promises of whatsoever nature they may be, and that the same ² reserve must scrupulously be observed by every person acting for us or in our name."

* * * * *

The use of such a language and the mention of such an insulting condition in writing to an eminent lawyer the services of which are asked for would be inconceivable. It is so much more inconceivable when said lawyer has been four years and a half in your service. To say that clearly means: "I reinstate you, but under the condition that you will not resort to these illegal and dangerous methods, called in plainer words corruption."

That is not the language anybody uses when he asks for a service. It is the language which may be used toward a man whom you know to be pressing himself into a place and who is therefore ready to accept any language used and any condition expressed, even those which would be unacceptable for a man of some standing.

These facts clearly demonstrate:

1. The lack of veracity of the plea for fees when it translates the dismissal of Mr. Cromwell by "our instructions are to cease all activity."
2. The lack of veracity of the plea for fees, when it minimizes the importance of the event of the first order for the company, which took place before the reinstatement of Mr. Cromwell and which is the unanimous recommendation by the Isthmian Canal Commission of the Panama route, and when the plea for fees says with incredible audacity that after such a signal victory the situation is desperate.
3. The lack of veracity of the plea for fees when after depicting as a desperate condition the brilliant victory won while Mr. Cromwell is not at the service of the company, it says that the company appeals to him. The telegrams exchanged, as well as the letter sent by the company, shows that it was with great reluctance that the company yielded to the pressure I indirectly exerted upon it to meet the wishes of Senator Hanna.

The consequence of this demonstration is the same as those of the demonstrated lack of veracity in the first and second point. There we have seen the plea for fees, tampering with dates and withholding the mention of real, important facts in order to give a fictitious prominence to imaginary services. Here we see the same systematic lack of veracity simply covering a wound of vanity.

FOURTH DEMONSTRATION OF AN ABSOLUTE LACK OF VERACITY ON A GIVEN POINT IN MESSRS. SULLIVAN AND CROMWELL'S PLEA FOR FEES.

We are going to speak of the Spooner law, of its inception and consequences.

In answer to the telegram reinstating him, Mr. Cromwell sends a message to the company, which can be found on page 200.

"I acknowledge receipt of your cable of 27 reinstating me. * * * I have inspired a new bill adopting our project and leaving to the decision of the President all ques-

¹ In the translation given on page 122 "bind" is erroneously written "find."

² Same is erroneously omitted in the translation of page 122.

tions relating to titles and to the new treaty to be concluded with Colombia with discretionary power to choose the other route if the President is not successful in obtaining a satisfactory title and treaty for our route."

This is the summing up of the so-called Spooner bill.

In his first cablegram to the company, Mr. Cromwell says he has inspired it. Is it true? Do we find there a new example of the method which characterizes the plea for fees and of which I have shown striking examples? Is it a new manifestation of the method of concealing the determinant facts, of changing the dates, in order to suit a fanciful account of events?

Fortunately for the historical truth, we have the statement of Senator Spooner before the Senate on this point.

The allegation of Mr. Cromwell, though contained in a purely confidential dispatch which has been dragged to light by a succession of unforeseen events, early filtrated in the public. Senator Morgan makes in the Senate allusions to it. Mr. Spooner, if he was not the author of it, could very well have said that it resulted from an exchange of ideas with different persons. There would have been no dishonor for him to do that nor would it have minimized his right to give his name to a bill that he had introduced into the Senate. What did he say about it? We find it in the Congressional Record. (Vol. 35, No. 145, 57th Cong., 1st sess., p. 7180, first column.) We reproduce the dialogue between Senator Morgan and Senator Spooner; but for its intelligence it must be noted that the Spooner proposition being an amendment to the House bill, the Spooner bill is called there "amendment."

"Mr. SPOONER (answering to Senator Morgan). If the Senator will allow me, as he uses my name and says I will not offer the amendment, does he mean that I am not the author of it?

"Mr. MORGAN. I am satisfied the Senator wrote it.

"Mr. SPOONER. And that the Senator was the author of it.

"Mr. MORGAN. Of course.

"Mr. SPOONER. And not only wrote it but devised it."

There was no reason whatever, if Mr. Cromwell inspired the Spooner law, for Senator Spooner to disgrace himself on the floor of the Senate by emphatically stating a thing he knows to be untrue, by emphatically stating that he has devised the bill, which in a confidential telegram Mr. Cromwell says he has inspired.

Mr. Spooner never has been accused, and therefore still less convicted, of making knowingly a false statement. The preceding study of Mr. Cromwell's plea for fees demonstrates on the contrary striking lacks of veracity in the latter one's written self eulogy. There should be on that account no hesitation between the assertions of the two men. Something must be added to indicate where the truth is. Mr. Hall asserts on page 294 that Mr. Cromwell flatfootedly told he inspired the Spooner amendment and that Mr. Spooner flatfootedly denied it on the floor of the Senate.

Mr. Spooner publicly and emphatically asserted that he had devised the amendment in response to an insinuation that he had not.

Mr. Cromwell has wired in a confidential dispatch to the company that he had inspired it. This dispatch being linked with his reinstatement must be brought to light before the arbitrators. It is time for Mr. Cromwell to reassert the authorship of the bill if he fathered it. Mr. Spooner has taken a strong position in the Senate and is not dead. If Mr. Cromwell has said the truth, he is bound to be behind his statement. If he has not, he will drop it in his plea for fees. This is the test of veracity of the plea for fees on this point.

The test fails again as it has always failed wherever we have probed the veracity of this document.

In his description of his activities in this important affair, which is the introduction of the Panama Canal into the laws of the United States, here is what he says on page 202, under the heading: "We encourage the passage of a law authorizing the purchase of the Panama Canal on certain conditions * * *."

It goes without saying that, unless the Senate and the Government of the United States had fallen in 1902 into a state of incurable imbecility, there was no necessity of the encouragement of Mr. Cromwell to pass a bill embodying the final report of the Isthmian Canal Commission. This bill had to come under one form or another. The question is, Who gave it the form of the Spooner bill?

The plea for fees does not dare to repeat in its description of Mr. Cromwell's activities in that period what he has cabled to the company in Paris after the flat-footed denial of Mr. Spooner in the Senate. Here is what the plea for fees says when it comes to this particular point: "These conferences (with Senator Spooner and Senator Hanna) resulted in Senator Spooner preparing and introducing in the Senate a bill for the adoption of the Panama route."

Therefore, far from reproducing and maintaining the assertion of his telegram, the plea for fees recognizes for Mr. Spooner the paternity of the bill.

It settles the whole question; it is equivalent to a confession of guilt.

This new test of veracity shows the statements made to the company by Mr. Cromwell to have the same spirit which we find pervading every point of the plea for fees if examined with caution and method and placed next to documents as we have seen.

THE CONSEQUENCES OF THE INTRODUCTION OF THE SPOONER BILL.

I shall not follow in details the description the plea for fees gives of Mr. Cromwell's activities in that period.

It is concentrated in this heading, which we find on page 215: "Great struggle in the Senate on the occasion of the vote which was to decide the selection of Nicaragua or of Panama, our preparations to assure the adoption of the minority report favorable to Panama and our success."

It is further expressed by this modest conclusion to be read on page 218:

"Thus our long fight in the Senate has been won for Panama."

It is a proper time to remember that the fight was engaged on a technical field and that perhaps engineers and not a lawyer might have had some part to play in the demonstration of the superiority of one route over the other.

It is extremely distasteful to me to enter upon this subject, because during all the period from inception to the vote of the Spooner bill I was in America devoting my efforts and my knowledge to the victory of Panama. The documents I produced, the arguments I gave, were said to have some influence on the final result. I was qualified to speak, being the former chief engineer of the Panama Canal during the most active part of its existence, and having more published and publicly spoken about the subject than anybody living.

The plea for fees does not pronounce once my name. It acts in relation to what I did as we saw it has acted in relation to the report of Col. Ludlow of October 31, 1895, in relation with the report of Representative Hepburn of February 13, 1899.

If anything could lead me to believe I had a preponderant action in the events, it would be such silence which is even observed for the treaty of November 18, 1903, which is usually designated, except in the plea for fees, by the name of the signers, the Hay Bunau-Varilla treaty.

However, I may be mistaken. The demonstrated fact that Mr. Cromwell's plea for fees systematically withholds and conceals very important events and substitutes trifling ones for the interest of the plea for fees, does not carry the consequence that all he neglects is of importance.

In order to know which is true, I may be allowed to quote two authoritative statements. They will show if any reference to my acts has been withheld in the plea for fees because they were too important or because they were too unimportant for the plea for fees.

One is by the Sun.

This great New York paper, which had followed with a remarkable intensity and accuracy all the phases of the fight, published on the 19th of March, 1903, an article entitled the "Battle of the routes," from which I extract the following:

"The Senate's nearly unanimous vote for the canal treaty and for the canal by way of Panama may properly be placed in contrast with the previous expression of legislative sentiment as to the preferable route for the waterway.

"January 9, 1902. The Hepburn bill for a Nicaragua Canal passed the House of Representatives amid great applause by a vote of 308 to 2.

"March 17, 1903. The Colombian treaty for a Panama Canal was ratified by the Senate by a vote of 73 to 3.

"This remarkable change of policy and of national opinion indicated by these two votes has occurred within fifteen months. * * *

"Many persons, forces, influences, circumstances and accidents have contributed to the fortunate result. If we were asked to catalogue some of the principal factors we should promptly mention President Roosevelt, Secretary Hay, the Hon. Marcus Alonso Hanna, Senator Spooner's genius for doing the right thing at the right time, the monitory eruption of Montombo and the last but not least the former chief engineer of the French work on the Isthmus, Mr. Philippe Bunau-Varilla, who throughout the negotiations has typified the good sense and good faith of the Paris shareholders and has likewise illustrated in his own person a sort of resourceful energy which some people are accustomed to regard as peculiarly American."

Another statement was made by a man of considerable technical eminence, George S. Morison. He was then the greatest of American engineers and had been by far the most prominent personality in the very select body which was the Isthmian Canal Commission of 1899-1901.

In the Volume XXV, No. 1, February, 1903, of the Bulletin of the American Geographical Society can be found the text of a lecture made by George S. Morison in

December, 1902, before the same society. On page 37 the celebrated engineer expresses himself thus, speaking of Lake Bohio: "It will be a beautiful body of water and in it will be an island of about 400 acres, which I have proposed to call the Island of Bunau-Varilla in honor of the brilliant Frenchman who has never despaired of the completion of the Panama Canal and to whose untiring energy we owe much."

This what the Sun and Mr. Morison said after the battle of the routes. They were both independent and conscious witnesses. The Story of Panama (pages 120 and 593) speaks of Morison as of the friend of Cromwell. Why did he not mention his name if really his part in the success had any prominence? Why did the Sun forget the name of Cromwell among the great factors of success if it was really a factor at all? Does not the plea for fees say that Mr. Cromwell had influence on the press (p. 161)? The fact that the press was silent is extremely significant at this juncture.

I may be excused to quote an extract of a personal letter written to me from Cleveland by the intimate friend of Senator Hanna, Col. Myron T. Herrick, who afterwards became Governor of Ohio and has been recently appointed ambassador of the United States to France. It was written on the 12th of July, 1902, say 14 days after the Spooner law was approved (June 28, 1902). Here is the end of Col. Myron T. Herrick's letter to me:

"Your success in Washington gave us great delight. We spent the fourth at the Hannas and you were mentioned many times. Senator Hanna is, of course, greatly pleased with your success and spoke in the highest terms of you.

"I know that you will excuse this rather informal letter.

"Sincerely yours,

"MYRON T. HERRICK."

I take the liberty of mentioning this letter because it is much more a tribute to Hanna than to myself. This great and generous mind spoke of this historical battle he had won by his admirable will and power as of a success of his collaborator not as of a success of his own.

This allows us to size up the moral elevation of the Senator to whom America is indebted for the selection of Panama.

It is somewhat refreshing to consider it when we have been obliged to bring to light all the adulterations of truth, the tampering of dates, the falsifications of the history of the events with which the plea for fees is filled.

It gives a comforting and happy feeling to see in its true light the real moral face of Hanna after looking at it as it is represented in the plea for fees in conjunction with that of this noble type of the American citizen and thinker, John Hay. Both are depicted as stupid straw puppets either writing under the dictation of Mr. Cromwell or learning the speeches he prepares in order to repeat them in the Senate.

The facts demonstrate:

First. The lack of veracity of the plea for fees in what regards the origin of the Spooner law. It was devised by Senator Spooner and not at all inspired as Mr. Cromwell had written in a confidential telegram of which he was powerless after the emphatic statement of Spooner to confirm the contents in the description of his activities as given by the plea for fees.

Second. The lack of veracity of the plea for fees in concealing certain technical interventions of essential importance during the battle in the Senate on the Spooner bill. This lack of veracity results from the concealment of an essential fact contributing powerfully to determine the results. It is established by the testimonies of the Sun, of George S. Morison, of Senator Hanna, through Col. Myron T. Herrick, his most intimate friend.¹

This adulteration of truth through omission of facts is entirely in line with the one already demonstrated in the case of Ludlow's and Hepburn's reports, and is shown thereby to be a complete system in the plea for fees.

The consequence of this demonstration of systematic lack of veracity shows an extraordinary persistence in the disfiguration of events. It could be continued on an infinity of points but it is necessary to set a limit if we try to show the truth without too much straining the patience of the reader.

¹ Since writing this "Statement," I have received an important book in which the claim of Mr. Cromwell that he converted Senator Hanna to the cause of Panama finds its complete refutation. This book is, Marcus Alonzo Hanna—His Life and Work, by Herbert Croly.

The author expresses the opinion that the selection of Panama by the Senate "constituted the most conspicuous single illustration of Senator Hanna's personal prestige" (p. 385). The importance of his influence on that event causes the author to give a corresponding importance to the true determination of the original of his conversion.

From this history, for which "all of his (Senator Hanna's) political and business associates were asked to contribute full and careful statements covering these phases of his career with which they were familiar" (p. V), I make the following extracts (p. 3817):

"Just when Senator Hanna became convinced that the Government would be making a grave mistake, in case the Nicaraguan route was adopted, I am not sure, but a visit, which M. Philippe Bunau-Varilla

It is to be sure necessary for the dignity of the American Congress, as well as for the respect due to the memories of Hay and Hanna, to establish that the plea for fees does not deserve any credit, that it is a wholly untruthful document. But the untruthfulness is an epidemic plague. When it is diagnosed with certainty in four or five places in a document, one may be sure it is present everywhere. It is therefore superfluous to extend indefinitely the proofs of untruthfulness.

I could therefore limit myself to the demonstrations already made which establish that a document so soiled by repeated lack of veracity is unworthy of any consideration and must be exposed when it has by the fortuitous course of events reached the congressional documentation.

I shall, however, treat a fifth point where facts can be detected which are of greater moment than the ones we have seen.

They prove on the part of men in close intimacy with Mr. Cromwell attempts of the gravest nature which would be, if instigated by him, treasonable acts either from the representative of the New Panama Canal Co. or from a citizen of the United States. In stating them we sincerely wish Mr. Cromwell will clearly establish they have been done against his instructions and contrary to his will.

Before going into them I wish to say that previous to the revolution I am convinced Mr. Cromwell served sincerely the cause of Panama. He acted as a diligent messenger between the men who controlled the situation. His material activity was great, and on that account he deserved the thankfulness of all those who, for different reasons, had the victory of Panama at heart. It is to be greatly lamented that he has not been satisfied with the expression in the plea for fees of the useful but subordinate part he had to play. He forgot that in a great thing like this there is glory for all those who play a part, even if, as was the case, it is secondary. It was impossible without tampering with facts to unduly increase Mr. Cromwell's share. He had the weakness to yield to the temptation. It could not be done without such injury to facts as well as to the memory of great citizens that justice had to be done.

HOW I BECAME CONNECTED WITH AMADOR AND HOW SOME IMPORTANT FACTS RESULTED THEREFROM.

Before going into the demonstration of the lack of veracity on a fifth point I must give a short exposé of the circumstances, purely accidental, which brought me to the United States in September, 1903, and of some facts which resulted from that.

I intended to come some time in November before the opening of Congress in order to follow the development of the Panama affairs as a result of the rejection of the Hay-Herran treaty by the Senate of Colombia.

A personal question brought me there earlier.

In the course of the summer my wife and myself had had the pleasure of welcoming in our home in Paris our dear friends, Mr. John Bigelow and his daughter, Miss Bigelow. My young son was then afflicted with the hay fever. As nothing could remedy his condition, Miss Bigelow, when her sojourn with her father at our home came to an end, proposed to my wife to take the boy with her to America. She hoped that the sea voyage and the coolness of the Maine seaside resort, where she intended to go, would improve his condition. My wife with great reluctance accepted, for the sake of the health of her dear child, the first separation from him, which the friendly proposal entailed.

The condition she put to her acceptance was that she would go and join him in America not later than September. I accepted and said I would go later in November.

When September came my wife engaged accordingly staterooms for herself and her young daughter, but asked the steamship company to reserve a room in case I should decide to accompany her at the last moment.

She pressed me very much to do so. I thought that after all I could go and return immediately afterwards to settle my business and then join my family for a longer stay a couple of months later.

made to the United States early in 1901, had something to do with it. M. Bunau-Varilla had been chief engineer in charge of the work undertaken by the old French company and was peculiarly qualified both by his standing in his profession and by his practical experience in the work of construction at Panama to pass an authoritative opinion upon the comparative advantages of the two routes. He had been induced to come to the United States by a group of Cincinnati business men, whom he met by accident in Paris during the exposition of 1900, and whom he had convinced of the superiority of Panama. The visit was made for the purpose of addressing various commercial associations in the United States on behalf of Panama, and wherever he spoke he left behind him a trail of converts. Among them was Colonel Myron T. Herrick, whose interest was so much aroused that he made a point of introducing M. Bunau-Varilla to Senator Hanna. A series of interviews followed, which had much to do with Mr. Hanna's decision to make a fight on behalf of Panama. This decision had been reached by the Senator before the Canal Commission finally reported in favor of Panama."

I do state upon my word of honor, as everything which is in this paper, that no hint or indication came to me from any quarter whatever which prompted me to go then, outside of the cause I just described. When I left Paris I was convinced that I would be back within three weeks, leaving my family enjoying the delightful hospitality of the Bigelows at Highland Falls on Hudson.

Immediately after I arrived in New York, Amador, knowing of my arrival by a Mr. Lindo, to whom I had paid a flying visit during the day, twice called on me on the 23d of September, 1903, at 9 and at 9.25 p. m., at the Waldorf-Astoria. I was not there. He came back the following day and I received him. He was in a state of intense fury and despair. He told me that he and his friends on the isthmus in the course of a year had sent a man named Capt. Beers, an employee of the Panama Railroad, to see Mr. Drake, vice president of the company, and inquire through him if Mr. Cromwell could obtain for a revolution a positive support in money and in military force from the American Government. He told me that this question, which to me seemed childish, was answered encouragingly both by Mr. Drake and by Mr. Cromwell, who received Beers and promised everything to him. He further said that, in order to comprove the results of Beers's mission, and to enter into activity if they were true, his friends had delegated him to see Mr. Hay personally through Mr. Cromwell. He told me that, having thus come to carry out that plan, he had been first very cordially received by Mr. Cromwell and by Mr. Drake, who was Mr. Cromwell's confidential man in the intrigue and corresponded with Beers about it. He told me that after this excellent reception, when he was expecting to go and see Secretary Hay with Mr. Cromwell, the latter one had suddenly turned his back upon him.

He considered that as an odious betrayal, exposing himself as well as his friends to be shot and their properties to be confiscated when Colombia would know of it.

He spoke to me of the letter of Arango, the translation of which can be found on page 649, as well as on page 317, and the original on page 316.

Here is the first part of the translation of this important letter, reproduced from page 649:

PANAMA, September 14, 1903.

MY DEAR FRIEND: As to-morrow, Tuesday, the *Segurana* should arrive at Colon (sailed from New York September 8), I trust that during the day we shall receive your expected letter which will give us the explanation of your discouraging telegram: "Disappointed; await letters." Since then we have received the cable saying "Hope," and nothing more; so that we are in a position of fearful expectancy, as we are ignorant of what happened to you over there and of the reasons for the profound silence which Mr. Cromwell maintains.

Tired of so much incertitude, we decided to send the following cables to that gentleman; they are as yet unanswered, but which we trust he will give attention and reply to within two or three days:

On September 10, in cipher:

"Confidential. Regret Capt. Beers's letters and cables are not replied. Opportunity now excellent to secure success, provided United States promptly recognizes our independence under conditions with our agent there, who is fully authorized to contract for us. Should Congress¹ concede contract,² though improbable, will be through fear of our attitude. Congress¹ controlled by enemies of contract. Answer by wire in cipher through Beers. Tell our agent³ that to use all discretion possible must send his cables through Beers, not to use Brandon again.--Arango."

On the 12th of September, also in cipher:

"Our position being critical, we must have immediate answer to act promptly or abandon business."

The recommendation made to you in the first cable set out above not to use Brandon is because your cable "Disappointed" was made *quasi public* and I suspect that the other one also has been known to several persons, which doubtless comes from the cable having been known to young Brandon and by him communicated to Gustav Leeman, who must have divulged it, but be that as it may, it is better for you to communicate through Capt. Beers even using Arias's or Boyd's cipher. * * *

J. A. ARANGO.

¹ Arango speaks there of the Colombian Congress then in session at Bogota.

² Contract means here the Hay-Herran treaty.

³ Amador.

This letter showed that Mr. Cromwell was no more answering telegrams from the Isthmus and that indiscretions had been committed in the transmission of Amador's cables. Therefore he recommended the use of Capt. Beers, the confidential man on the Isthmus of both Cromwell and of the revolutionists, the same man who had first been sent to New York to obtain through Mr. Drake and Mr. Cromwell the support of the American Government. He was incensed that Mr. Cromwell had not even told him to be on his guard when Mr. Cromwell had been notified to do so by the cablegram inserted in the letter and dated September 10. He was in an indescribable state of fury to have been thus wickedly exposed, by want of a word of information from Mr. Cromwell as to the danger of seeing his communications thus made public and his friends thereby exposed to the death penalty for conspiracy.

He made it plain to me that if such a thing should take place he would consider it a duty to give up his life if necessary in order to revenge his friends on the man whose betrayal in his mind would have been the cause of their fate.

This is how I began again my connection with Amador in 1903. I had not seen him since many years. But I knew him well, he having been an employee as physician of the canal or of the railroad company when I was at the head of the Panama Canal on the Isthmus in 1886.

When he first began to tell me his lamentable story he tried to withhold the name of Cromwell. I interrupted him and said: "Why do you not name Mr. Cromwell? He is the only man in the United States who speaks as if he disposed of the Government and of the Congress. But that is only talk. It is childish to have believed it. There you are now with your imprudence."

I was, however, amazed that Mr. Cromwell, being a lawyer and the direct representative of the New Panama Canal Co., should have engaged in the whole business. It meant, if discovered, the confiscation of the whole property of the canal by Colombia.

I thought of what would be the irritation of the directors of the New Panama Canal Co. if they had suspected their representative's reprehensible action.

They were all men of high standing, directors of great banking institutions, men of weight and some men of wealth, and placing the care of their responsibility above all considerations. If the canal property had been lost by the fault of their representative they would certainly have been held materially responsible. The French law would have there recognized the gross error which entails the personal responsibility of directors. It would have been committed by them in intrusting such a responsible situation exclusively to a man capable of doing without their knowledge such an illegal and dangerous thing.

Amador saw in Cromwell's reversed attitude a betrayal of the worst nature. From the point of view of the victory of Panama and its completion by the United States, I saw in Mr. Cromwell's first encouraging the revolutionists a betrayal of his duty to his employers and in turning suddenly his back upon them, an act which was going to lead to the discovery of the conspiracy and subsequently to the confiscation by Colombia of the canal, thereby entailing the final adoption of the Nicaragua Canal by the United States according to the Spooner law.

The story of Mr. Cromwell's encouragement of the revolutionists and then of his abandoning them coldbloodedly to their fate was told in detail by Mr. José Augustin Arango in a pamphlet entitled "Datos históricos para la Independencia del Istmo." It bears the date of the 28th of November, 1905, and was published in Panama. Mr. Cromwell is designated by the words "La persona respectable (the respectable person). His name, however, is now made public by the publication in the "Story of Panama" (p. 649) of the letter sent by the same Arango to Señor Amador on September 14, 1903.

It is perfectly accurate in all the details I know except for a trifling detail. Señor Arango, on page 10 of his pamphlet, says that after having cabled the word "Disappointed" on account of the reversal of attitude of "La persona respectable" Amador cabled "Hopes" as soon as he had met me.

There is a slight confusion about the cable "Hopes." Mr. Arango had already received it when he wrote the letter of September 14, as he speaks of it there. I left France on the 16th of September only, and as I was two days before still uncertain whether I should go to the United States with my family or not his cable could not refer to me.

This cablegram had no reference to me, but people, not knowing on the Isthmus the exact date of my meeting Amador, have believed it referred to me on account of the rapid succession of events and of their superposition when seen from a distance.

In fact, the ardent hope of poor old Amador was to see Mr. Hay. He had left Panama with this aim in view. Cromwell had promised him to introduce him himself, and Amador believed victory would be near if he saw Hay. Cromwell very likely learned

that Mr. Hay would not tolerate Amador's visit, and this is why, being incapable of fulfilling his promises, he turned his back on Amador.

Some days afterward Amador requested and received from Mr. Gudger a letter of introduction for Secretary Hay. This fact became known through the inquiry of the World, and reference to it can be found there (on p. 651). The perspective of obtaining an admittance into the office of the Secretary which Cromwell had been unable to fulfill fanned the hopes of the old man, and in his joy he cabled "Hopes" to his friends.

But it was before even I decided to go to America. However, Amador, who never made use of this letter, probably did not care to show he had been sending the cablegram "Hopes" on such a slight prospect of success, and left his friends in an error which had no serious consequences.

People believed it referred to me because the date of my intervention followed closely, and this is certainly why Arango made this only slight bona fide error in writing the "Historic dates" for the "History of the Independence of the Isthmus."

I return now to the rapid sketch I purpose to make of what I knew of Mr. Cromwell's activities from the 23d of September, 1903, to the day of the ratification of the so-called Hay-Bunau-Varilla treaty by the Senate of the United States on the 23d of February, 1904.

I never saw the shadow of Mr. Cromwell during all this period until after he returned from France on the 17th of November, 1903. He came to pay me a visit on the 19th at the New Willard Hotel.¹ The treaty had been signed on the previous day, and I never saw him afterwards, except the day of the ratification of the Hay-Bunau-Varilla treaty on the 23d of February, 1904, when I met him in the lobbies of the New Willard Hotel when I was going out of the lift.

When I heard, in October, 1903, that Mr. Cromwell had left for Paris, as he was unaware of the cause of Amador's stay in the United States, I thought he was seeking on the other side of the water a protection against the threats of the infuriated man if Colombia should come to discover the conspiracy initiated with him.

Nothing surprised me more when, on the eve of the signature of the canal treaty, the delegates of the Panama Government arrived in New York on the 17th November, and conferred with Cromwell. The delegation was headed by Amador and formed by him, Mr. Boyd, and Mr. Carlos Arosemena. I could not go to New York to meet them, being too busy in Washington. They undoubtedly were very much hurt in their new dignity by my absence.

Mr. Carlos Arosemena, who immediately after became my secretary of legation and some years after minister of Panama, himself told me the reason. He said he was responsible for the reconciliation. Having been met on the wharf by Mr. Cromwell's agent, Mr. Farnham, the delegates were urged by him to wait for Mr. Cromwell, who was returning from France some hours after. Amador refused to have anything to do with Mr. Cromwell. But Mr. Arosemena placated him on the ground that a man never must be sentenced without a hearing. He added: "Do not make an enemy of Cromwell, he may greatly harm us." The meeting took place. Cromwell excused himself by saying he had been frightened by Dr. Herran, the acting minister of Colombia. The danger was passed, the passion it had created had dwindled in Amador's mind. He remained. Cromwell reconquered him. To make his conquest still more sure he kept the delegates another day.

Never had Mr. Cromwell served more happily the cause of Panama without knowing it. While he was engaged in bringing the Panama delegates back under his influence, I was at work in Washington. Amador's great concealed ambition was to sign the canal treaty, and thus transmit his name to posterity. I knew this ambition, and I feared its interference in this supremely delicate moment when the fate of the Panama Canal was hanging in the balance.

When Amador arrived with Boyd on the 18th, about 10 p. m., at Washington, the first happy news I gave the delegation was that the treaty had been signed at 6.40 p. m., and that the Republic of Panama was placed under the guaranty of the United States.

Amador nearly swooned on the platform of the station when he heard me.

The better part of his mind regained, however, the power over him. On the following day when I read the treaty, his conscience of good old physician was awakened. He only said: "There will be no more yellow fever on the Isthmus, at last," and he declared that he would sustain the treaty, which it had been his great ambition to sign.

This short sketch was necessary for the comprehension of what follows. It will enable the reader to better understand when he knows, first, that my arrival in New York was absolutely accidental on the 22d of September, 1903; second, that when I

¹ Mr. Cromwell's visit was on the 20th of November if it was not on the 19th.

arrived I had not the slightest precise hint as to a revolution being started, though the press dispatches made probable that the state of discontent on the Isthmus would burst out at the first instance; third, that Mr. Cromwell was absolutely kept in strict ignorance of what was happening between Amador and myself; fourth, that the leaders of the movement, Amador, Arango, and others, considered Mr. Cromwell as having betrayed them, as is shown by the letter of Arango of the 14th of September, 1903 (p. 649). Therefore they did not take him a second time into their confidence until he succeeded after the victory, due to other influences, in obtaining his pardon and in making his peace with them on November 17, 1903.

Mr. Cromwell was kept absolutely ignorant of everything until then. Of course, he was infinitely displeased to have been in France or on sea when these important and decisive events were being prepared. He could not say as he did under any pretense whatever of the Spooner bill that he had inspired the Hay-Bunau-Varilla treaty nor that he made the establishment of the new Republic a success.

This short sketch of events being established and the state of mind of Mr. Cromwell being known, let us see what happened with the ratification of the Hay-Bunau-Varilla treaty, and let us proceed to the

FIFTH DEMONSTRATION OF AN ABSOLUTE LACK OF VERACITY IN MESSRS. SULLIVAN AND CROMWELL'S PLEA FOR FEES, SHOWING, IF FINALLY CORROBORATED, MOST REPREHENSIBLE ACTS OF A TREASONABLE CHARACTER, COMMITTED BY MEN CLOSE TO MR. CROMWELL, WHO USED HIS NAME AS THEIR AUTHORITY.

On page 239 of the Story of Panama we can read the following sentence in the plea for fees:

"We were relied upon to devote ourselves to the ratification of the treaty between the United States and Panama as we had already done for the Hay-Herran treaty, and we devoted ourselves to this task during the six following weeks."

The plea for fees observes a delicate care in not mentioning by whom Mr. Cromwell was relied upon to obtain the ratification. Was it the ratification at Panama? The provisional government had only to depend on themselves for it. Was it the ratification by the United States? It was the matter of the Republican Senators who had approved the Hay-Bunau-Varilla treaty before it was signed on the 18th of November, 1903.

However, if Mr. Cromwell had been willing to help, he undoubtedly would have come to the Panama legation and given me information.

As I said before, I never saw him but once, and that was on the day following the signature of the treaty.

To judge the veracity of the above statement, let us look into the facts.

I had the most serious reasons to believe that Colombia was intriguing on the Isthmus to prepare a counter revolution. The best way for it was to prepare the minds there to the idea that the treaty I had signed had been made without any regard to the Panama patriotism by a foreigner.

I had to foresee the loose or fiery talk which so often brings the Spanish-Americans out of their senses when the great words of honor and patriotism are handled in order to deceive them. The only measure I could take to prevent any possible reversal of public opinion was to have the treaty ratified as rapidly as possible after its arrival and to have it returned immediately to me.

The provisional government assented to an immediate ratification.

I had only to provide for the means of transporting it back.

Unfortunately the steamer on the regular schedule of the Panama Railroad for the line Colon-New York was leaving at noon when the steamer bringing the treaty was scheduled to arrive in the morning. The time was insufficient even for reading the treaty.

Very often, for the slightest reasons, the time of departure of the steamers was postponed for a few hours.

It was usual and nothing of any importance could result from the postponement of the departure for 24 hours.

I did not doubt that a simple request to the Panama Railroad, as the owner of the steamers, would be immediately satisfied. The quasi totality of the shares of the Panama Railroad being the property of the canal company, its agents had for immediate duty toward the principal shareholder of their company as well as citizens of the United States to satisfy my demand, which was made in the interest of a ratification which it was the interest of the canal company and of the United States to help. Mr. Cromwell was then the real head of the Panama Railroad. He was the general representative in America of the canal company. The vice-president of the railroad was Mr. Drake, the confidential man of Mr. Cromwell.

On page 645 of the Story of Panama this fact known to everybody of the close and intimate relations of Mr. Drake with Mr. Cromwell is thus set forth in the compilation of facts by Earl Harding (Exhibit K):

"Judge Gudger declares that neither he nor Mr. Cromwell discussed the revolutionary situation. On the other hand Prescott was talking nothing but revolution to Vice President Drake. He knew Capt. Beers's¹ cables to Cromwell were transmitted through Drake, so he freely discussed the plans."

Though there are several and extremely grave errors in Mr. Earl Harding's compilation of facts what he says there must be believed as a fact. Very likely it is extracted from testimony and is completely in harmony with everything known and testified to under oath during the World's inquiry on the Isthmus. There is scarcely any doubt that what Mr. Drake did was with the consent of Mr. Cromwell.

For these various reasons I expected that my demand for detention of the *Yucatan*, the steamer leaving in the morning of the day of the arrival of the treaty in Colon, would be immediately satisfied. It was refused.

It was an act made so obviously with the intention of detaining the treaty unduly that it so much more raised my suspicion about a conspiracy toward the rejection of the treaty by Panama.

I immediately requested my government to ratify the treaty as soon as received and to put it into the hands of the United States consul general on the Isthmus.

I parried thus the suspected efforts toward the same movement which lost the Hay-Herran treaty in Bogota—first enthusiasm, then coldness, then hatred.

Very likely the easily inflammable matter which is public opinion in contact with tropical oratory might have put the provisional Government in an impossible state if I had let the things go.

However I was so much struck by the inadmissible attitude of the Panama Railroad that I thought necessary to keep it on record.

On the 3d of December, 1903, I sent an official letter to the Secretary of State. It denounced the strange attitude of the officers of the Panama Railroad.

It gives the text of my telegram sent from Washington on the 28th of November, 1903, at 2.45 p. m., to the president of the Panama Railroad requesting the detention of the *Yucatan* with the view of "getting back duly ratified the canal treaty." It shows how I left on the same day from Washington for New York and waited there the 29th and the first part of the 30th without receiving an answer. I reproduce hereafter a part of this letter in order to show what happened in the rest of the 30th of November and on the 1st of December:

"Having received no advice until 3 o'clock I tried several times to get Mr. Drake, vice president of the company, by telephone, but without success, and finally went to his office about 4 o'clock. To my great surprise I learned from him that not even the slightest move had been made to comply with my request. Mr. Drake tried to demonstrate to me that it was something of great difficulty, that such a decision could not be taken without the approval of a committee, whose usual date of meeting was the following day. Finally he agreed that as soon as possible he would see the president, Mr. Simmons, and Mr. Cromwell, both of whom were indisposed and remained in their houses. I expressly stated to Mr. Drake that I was ready to take officially the pledge to reimburse the company for any material losses that such delay might cause from any point of view, and to facilitate the question of delay I stated that perhaps 24 hours would be sufficient, instead of 36 hours, which I had previously determined. We finally separated with the express pledge on his part to send me a telegram to the Waldorf-Astoria the same afternoon or early in the evening as soon as the decision would be taken. I left Mr. Drake, in spite of the excessive courtesy he displayed, without the slightest doubt about the intentions of his company, and I immediately went to the next telegraph office to inform the Department of State of the situation and to request the help of the American authority in Colon. Owing to the advanced hour of the day and not knowing whether you had yet come back to Washington, Mr. Secretary, I addressed to Hon. Francis B. Loomis, Assistant Secretary of State, the following telegram at 4.10 p. m., November 30:

"I find here unexpected reluctance on the part of the Panama Railroad Co. to delay 24 hours departure of steamer *Yucatan* in order to bring back treaty duly ratified. I telegraphed my Government to employ all means available to detain ship time necessary even if Panama Railroad does not send express orders. I would respectfully request you to give similar instructions to the American authorities at Colon."

¹ Capt. Beers is an employee of the Panama Railroad who was chosen by the revolutionists to go to the United States in order to know if they could find a support there. He went to his superior officers, Drake and Cromwell.

"An hour later, fearing that my previous dispatch would seem incomplete to the State Department, I wired again to Mr. Loomis, Assistant Secretary of State, the following additional dispatch:

"I beg to inform you that the *City of Washington*, carrying treaty, is expected to arrive at Colon at 9 a. m. to-morrow (Tuesday), and that the *Yucatan* is scheduled to leave same port at noon. I requested the Panama Railroad Co., to whom these ships belong, to defer departure *Yucatan* 24 hours after arrival *City of Washington*."

"About the same time I had sent to the Minister of Foreign Affairs of the Republic of Panama the corresponding suggestions.

"I received the answer from the State Department at 9 p. m.:

"Have wired your suggestion to Admiral Walker."

"From the Panama Railroad, in spite of the express assurances given to me by Mr. Drake of sending me a message in the afternoon or early in the evening, nothing came, neither that evening nor the following morning, and only at 12.15 p. m., after the scheduled sailing time of the *Yucatan* from Colon, the following telegram was delivered for me at the Waldorf Astoria:

"NEW YORK, December 1, 1903.

"P. BUNAU-VARILLA, Minister,

"Waldorf-Astoria, New York.

"Replying to your telegram of 28th ultimo and interview with Vice President Drake yesterday, the decision has been reached that it will be inexpedient to comply with your request.

"J. EDWARD SIMMONS,

"President Panama Railroad Co."

"About half an hour after I met Mr. Drake on board the steamer *Seguranca*, where I had been to take leave of the delegation of the Panama Government. He tried to explain to me in behalf of the president of the company the signification of the word 'inexpedient.' I paid but little attention to what he had to say.

"The attitude of this company under such grave circumstances I fail to explain from any logical point of view. The interests of the Republic of Panama, as expressed by the only official authority having the right to speak in their behalf in this country, and the obvious interest of the New Panama Canal Co., of which the Panama Railroad is a property, should have led anybody, I think, to find it expedient to comply with my request.

"I do not care to allude to a third and more important kind of interest for American citizens. I have no quality to speak about it, but it seems to me that the directors of any corporation, the world over, when they have to take a decision bearing on a question of national policy, invariably guide their action after the convenience of their Government has been respectfully and tactfully consulted."

The Department of State acknowledged receipt of my letter of complaint on the 9th of December, 1903, in the following terms:

DEPARTMENT OF STATE,

Washington, December 9, 1903.

SIR: I have the honor to acknowledge receipt of your note of 3d instant stating that the Panama Railroad Co. had declined to detain the steamship *Yucatan* long enough to receive the ratification by your Government of the canal treaty.

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

FRANCIS B. LOOMIS,

Acting Secretary.

But since then the inquiry made by the World has brought out a document of capital importance. It is necessary to restrain one's indignation not to qualify it as it deserves. It explains the inconceivable attitude of the officers of the Panama Railroad, as set forth in the official letter of which I just gave extracts and which must be filed in the State Department. And this document is signed by an American citizen, who says he has the support of Mr. Cromwell.

It is a cablegram reproduced on page 428 of the Story of Panama, dated November 30, 1903, 6.10 p. m.

It must be borne in mind that, according to my letter to the State Department, my conversation with Mr. Drake took place the same day between 3 and 4.10 p. m., and that he saw me the following day and tried to explain to me that Mr. Edward Simmons had found it "inexpedient" to detain the *Yucatan*.

The cablegram is signed by Mr. Drake, who, as my letter to the State Department shows, had promised me a couple of hours before to see immediately Mr. Cromwell and to inform me in the afternoon or early in the evening of the decision taken about the detention of the *Yucatan*, requested by me on account of a great public interest.

It is addressed to Beers, his agent on the Isthmus for political questions and the former intermediary agent between Mr. Cromwell and the revolutionists; to the very same man to whom Mr. Arango recommends Mr. Amador to send his cables in his letter of September 14, 1903; to the very same man who Mr. Amador told me at his first visit had been sent to see Drake and Cromwell in order to get help to start a revolution.

This telegram, if true, entails a crushing responsibility on him who signed it and at the same time on him who is said in it to give his support to it. If this telegram is a forgery, why have not yet the two persons interested raised a cry of indignation when it was made public on the 16th of February, 1912, before a committee of Congress and printed since in the Government Printing Office?

NEW YORK, November 30, 1903—6.10 p. m.

BEERS, Panama:

Several cables urging immediate appointment of Pablo Arosemena¹ have been sent to the Junta (provisional government) since Friday. We are surprised that action has not taken place and suppose it is only because minister of the Republic of Panama is trying to disturb the Junta by cabling that there is great danger that Washington will make a trade with Reyes and withdraw warships and urge his retention because of his alleged influence with President Roosevelt and Senators. This is absolutely without foundation. Mr. Cromwell has direct assurances from President Roosevelt, Secretary Hay, Senator Hanna, and other Senators that there is not the slightest danger of this. Evidently the minister's pretense of influence is grossly exaggerated. We have the fullest support of Mr. Cromwell and his friends who have carried every victory for us for past six years. Junta evidently does not know that objection exists in Washington to the minister of Panama, because he is not a Panamanian but a foreigner, and initially has displeased influential Senators regarding character of former treaty. He is recklessly involving Republic of Panama in financial and other complications that will use up important part of indemnity. Delegates here are powerless to prevent all this, as minister of Republic of Panama uses his position of minister to go over their heads. He is sacrificing the Republic's interests and may at any moment commit Republic of Panama to portion of the debts of Colombia, same as he signed a treaty omitting many points of advantage to Republic of Panama, and which would have been granted readily, without waiting for delegates, who were to his knowledge within two hours of arrival. With discretion inform Junta and cable me immediately synopsis of situation and when will Junta appoint Pablo Arosemena. Answer to-day if possible.

DRAKE.

This denunciation, ridiculous in fact as much as perfidious in intention, would only regard me if the treaty had been ratified then. It would not be worth mentioning if I had been alone interested. But its importance is capital if we think that the treaty was to arrive on the following day in Colon, and that, owing to the refusal of detaining the *Yucatan*, it was likely to remain eight days on the Isthmus subject to criticisms and discussions.

As the telegram distinctly said that a more advantageous treaty would have been readily granted to Panama it was the most explicit incitation to respect the treaty. The odious misrepresentations as to the character of the man who had signed it on behalf of Panama, with the request for his immediate recall, was another way of rendering its ratification impossible. Had the provisional government yielded to this double pressure the treaty would undoubtedly have been rejected. Panama would have witnessed the same course of events which Bogota had with the Hay-Herran treaty.

If this telegram is not a forgery it shows an act from an officer of the Panama Railroad, an American citizen, against the acts of the American Government in a foreign country. It is a traitor's work against the interests of his employers, the New Panama Canal Co., the owners of the stock of the Panama Railroad, and a traitor's work against the interests and the policy of the United States, whose diplomatic efforts in a foreign country it tried to thwart.

If the document is true it is the demonstration of something grave. I sincerely hope that Mr. Drake will exonerate himself in demonstrating that the telegram in question is a forgery. I hope he will show that he did not send it while according to his promises he was consulting with Mr. Cromwell about the detention of the *Yucatan*. The fact in any case will remain that the *Yucatan* sailed against my pressing requests, and this one fact would be sufficient to establish the lack of veracity of the plea for fees.

It is inconceivable that Mr. Cromwell should not have been consulted on this excessively important subject by Mr. Drake, his confidential man, between the

¹ To the place of minister plenipotentiary I filled then in Washington.

arrival of my telegram on the 28th of November and the refusal of my request on the 1st of December, 1903. If Mr. Drake can not show the telegram to be a forgery it is also obvious that he did not send it without Mr. Cromwell's consent and approval.

It seems, therefore, established beyond doubt that, contrary to what the plea for fees asserts, Mr. Cromwell's activities were not exerted in favor of the ratification by Panama.

Were Mr. Cromwell's activities exerted toward the ratification of the Hay-Bunau-Varilla treaty by the United States Senate?

During the months of November, December, 1903, and January, 1904, many speeches were pronounced in the Senate in order to prevent the ratification, but not one could exhibit a fault in the Hay-Bunau-Varilla treaty against the interests of the United States.

As the enemies of the treaty seemed to be powerless to obtain the rejection of a convention, which its own fiercest adversaries proclaimed to be the best one ever offered to the Senate for ratification, a new system of warfare began.

One of the two signers was proclaimed to be an adventurer and a scoundrel, whose character was such that it was the duty of the Senate to reject the treaty on account of the supposed infamy of one of its authors.

This campaign began with an article of the World entitled "Panama revolution a stock gambler's plan to make millions," and was followed three days after by a series of scurrilous articles in the Evening Post.

The World's article appeared on Sunday, January 17, 1904, and occupied on the top of the front page six columns out of eight of the paper. It was a whole cloth fabricated story of a syndicate of which I was said to be the head in order to speculate on the difference in value of the Panama securities before and after the revolution. The hundred thousand dollars which I advanced to the new Republic after it was formed were said to have been furnished by this syndicate.

This wicked invention was mixed with very precise details about the inception of the revolution.

Fortunately for me, being devoted since many years to the resurrection of the great work of Panama and to its vindication, I had made it a law for me to avoid the interference with my efforts of anything in the form of material interests. I had subscribed in the formation of the new company \$110,000 in 1894, because it was at this time a necessity to create it in order to avoid the cancellation of the Panama concession by Colombia. I was bearer then (in 1894) of a certain number of bonds the value of which was at the time I received them less than \$15,000 and which had been transferred to me in settlement of accounts by a third party. Since 1894 I had not made for my interest¹ any single purchase of any Panama securities, either directly or indirectly, either personally or as associate with any syndicate. The same reserve had been observed by all the members of my family as far as I can know.

This strong base of my actions made me very indifferent to this abominable invention.

A curious fact struck me as well as the persons who knew about the incidents before the revolution. The details of events preceding the revolution were very precise and accurate; only one name of those mixed with it was absent; it was that of Mr. Cromwell. The lack of reference to him pointed toward the origin of this paper.

I instructed my lawyers, Messrs. Pavey & Moore, to institute legal proceedings in order to know from where the paper had come.

As the World had shown that it was not of bad faith by soon dropping the whole story, I decided to drop also the legal proceedings.

The question remained: "Who had instigated the article?" The general rumor in Washington pointed in the same direction. An officer general of the Navy, well posted in canal matters, affirmed to me that he knew the name and he pronounced it before me.

The direction from which it came is now well known. We find it on page 680 of the "Story of Panama:" "The facts were brought to the World by Jonas Whitley of

¹ I made in the fall of 1901 a purchase of \$20,000 Panama securities, but it was not for my interest.

Here is how it came. After a luncheon at the Cafe Anglais with prominent men of affairs, the question of Panama came up. In spite of the recommendation by the Isthmian Canal Commission of the Nicaragua Canal, I maintained that Panama would finally win. One of my friends, Mr. Albert Dehaynin, a witty and caustic man, said: "Bunau-Varilla is the defender of the lost cause. He is the "Kruger of Panama." This allusion to the fruitless endeavors of the President of the Transvaal piqued me. "Now, Dehaynin," I said, "you understand as a banker only figures and market quotations. I am going to buy for \$20,000 Panama bonds: you will see in a few years if I am a Kruger of Panama or not. But as I have decided not to derive any profit from my endeavors, if I am not a Kruger the profit will be either for remunerating the legal work or the employees who have faithfully served me or for paying for publicity for making the truth known. If I am a Kruger, I shall be penalized by the loss."

I acted later as I said: not 1 farthing of this went to my credit. There is still to-day \$4,000 in the hands of the bank who purchased and sold the securities: Ferdinand Meyer & Co., now S. Grunberg & Co. I intend to devote it to the publication of the real and complete History of Panama since its inception.

Mr. Cromwell's staff of press agents and the World holds a receipt for \$100 for the 'tip.'

"Mr. Whitley did not mention Mr. Cromwell as the instigator nor did he tell the most incriminating circumstances concerning the complicity of the Roosevelt administration."

This statement is made under the signature of Mr. Earl Harding, a staff correspondent of the World.

But I have another statement which confirms it.

The article of January 17 had an aim. This aim was outlined on the day following in the World by calling attention to the Senate's action expressed in these words printed in large capitals: "Action by the Senate to follow Panama exposé."

I opposed to this article only this answer: "So long as I shall not get from the World the identity of the scoundrel who furnished it this article I shall not receive anybody coming to me on behalf of the World." I maintained constantly this attitude until I received in Paris on the 18th of July, 1909, from Mr. John Douglas Lindsay, of the firm of Nicoll, Anable, Lindsay & Fuller, a letter of information from Mr. Don C. Seitz, assistant vice president of the World.

It said: "You can accept my word that the article about which you desired information came directly from the office of William Nelson Cromwell, to our editors through the medium of Jonas Whitley, his press agent, who is closely associated with Roger L. Farnham, Mr. Cromwell's general representative in such matters. Both Mr. Farnham and Mr. Whitley were employees of the World before going into the pay of Mr. Cromwell who, up to the time of his canal performances had not participated in public affairs, but was regarded as an extraordinarily keen lawyer, and statements of whom were apt to find easy credence."

These are the facts referring to this dangerous period when the fate of the great enterprise was hanging in the balance. The lack of ratification of the Hay-Bunau-Varilla treaty either by Panama or by the Senate of the United States would have on the eve of a presidential election surely meant the death of the Panama Canal and the adoption of the Nicaragua route.

Has Mr. Cromwell been the victim of a decision taken only by Mr. Drake and Mr. Simmons, against his will and consent, to refuse the detention of the *Yucatan*, so important for the certainty of the ratification? Has he inspired this decision? It is not my part to decide on this point.

Has Mr. Cromwell been the victim of an intrigue against me made by Mr. Drake alone in New York in sending the telegram of the 30th of November, 6.10 p. m., to Beers on the Isthmus, with the statement that a much better treaty would have been readily granted? Has Capt. Beers concealed from Mr. Cromwell this telegram when he came afterwards to New York and stayed for a long time near me at the New Willard, Washington, as is shown in Mr. Earl Harding's compilation of facts (p. 680)? "February 9, 1904, Capt. Beers sailed for Panama after having held his daily conferences with Mr. Cromwell where he was maintained at the New Willard Hotel at Mr. Cromwell's expense." Has Mr. Cromwell inspired this telegram to his agent, Drake?

It is not my part to decide on this point. Has Mr. Cromwell again been the victim for the third time of Mr. Jonas Whitley, his press agent, when the latter communicated to the World the offensive and wholly fabricated invention about the supposed cause of my efforts on behalf of Panama? It was plainly an effort to impress the Senate in order to obtain the rejection of the treaty on account of its supposed infamous origin. Has Mr. Cromwell been the victim of his agent, Whitley, again a third time? Or has he inspired the article?

For the third time I repeat:

It is not my part to decide on this point.

I have only to probe the veracity of the plea for fees. I mentioned the essential facts recited above with the sincere hope that Mr. Cromwell will demonstrate that he has been on three different occasions the victim of his agent or his agent the victim of a forgery in the second case.

But when these obstructions were placed in the path of the ratification, what was the duty of anybody devoting his efforts to this ratification?

It was to come and see me and to offer me his influence over the press if he had some, as Mr. Cromwell said he had, and thus help me to defeat the efforts of those who were trying to dishonor me with a view of killing the treaty.

Never once Mr. Cromwell came to see me, though he often was in Washington in the very same hotel where I lived, the New Willard, he having abandoned the Raleigh, his former hotel.

I can therefore state that there is a positive and demonstrated lack of veracity in the plea for fees when it says (p. 239 of the Story of Panama):

"We were relied upon to devote ourselves to the ratification of the treaty between the United States and Panama * * * and we devoted ourselves to this task during the six following weeks."

I shall not go any further because as I said the demonstration of the lack of veracity of the "plea for fees" if all points were examined would require a whole book.

It is unnecessary when a document is thus shown on five points, not specially chosen, to be tampering with dates and to be withholding the facts which govern the results. It is shown to be absolutely lacking in veracity.

It is therefore shown to be absolutely unfit to be taken as a basic and principal element for writing the story of a great event.

THE PERSONAL ADDITIONS OF MR. HALL TO THE FICTIONS INSERTED IN THE PLEA FOR FEES.

It is obvious that the plea for fees has had on Mr. Hall's mind a capital influence. It has conquered his whole mind. He is an obvious example of a curious kind of hypnotism which makes him believe in events that do not exist, to facts that a slight effort toward verification would instantly annihilate.

His admiration for the author of the plea for fees is without limit. Speaking of Mr. Cromwell, he says (p. 94), "The man whose masterful mind, whetted on the grindstone of corporation cunning, conceived and carried out the rape of the isthmus." On page 103: "Nothing seemed able to resist the influences combined in its favor (the Nicaragua Canal). Mr. Cromwell, however, proved himself equal to the task," etc.

We know that he is working under a delusion created by the fictions of the plea for fees. We know that Mr. Cromwell did not carry the rape of the isthmus, if there ever was such a thing. He had gone to France and abandoned the conspirators to their fate when the revolution took place without his knowledge. We know, also, that these extraordinary influences which Mr. Cromwell is said by his plea for fees to have overcome did not exist, and that Representative Hepburn, and not Mr. Cromwell, defeated the Morgan Nicaragua bill in the House.

No wonder, then, if Mr. Hall has been, in spite of his excellent intention, erring deeply in many cases. It is because he has taken to the foot of the letter the assertions of a document which deserves no credit whatever.

He thought it to be equivalent to a testimony under oath when it was just the reverse.

We are going to point out some of Mr. Hall's grave, erroneous, and misleading statements. They are taken as examples, but as we have said about the plea for fees they are not the only ones.

We have already seen him place on the 6th a document which bears and which he copied with the date of the 5th of November, 1903. We have seen him declare to be confidential a document which was published by all the papers of the United States on the evening of the 6th and on the morning of the 7th. Let us now look at some other errors of the same kind.

Point A.—On page 319, Mr. Hall asserts:

"Mr. Cromwell alone and Mr. Bunau-Varilla and Dr. Amador in company, had all made trips to Washington, and on October 15 Mr. Cromwell, all arrangements having been made, left for Paris to confer with the directors of the New Panama Canal Co."

I have already said, and I repeat, that since my arrival on the 22d of September, 1903, to New York till a day after the Hay-Bunau-Varilla treaty was signed (Nov. 18, 1903), I never saw Mr. Cromwell once. I did not see him afterwards till I met him accidentally in the lobbies of the New Willard when I was going out of the lift. It was the day of the ratification of the treaty. (Feb. 23, 1904.)

I further do state that I never went to Washington with Dr. Amador, nor that I even projected to undertake such a voyage. I believe he neither went alone nor with Mr. Cromwell. It is when he was expecting to do this trip with him that Mr. Cromwell turned his back upon him. He, of course, in that period never could meet Mr. Cromwell any more. He was then in an intense state of fury against the man who he thought had betrayed him.

To speak of a voyage in common in that period is purely a fictitious statement without any basis whatever.

Point B.—On page 324, Mr. Hall says:

"One hundred thousand dollars was telegraphed over by the Credit Lyonnais for account of the New Panama Canal Co. to Heidelbach, Ickelheimer & Co., and credited to Bunau-Varilla."

He further says, on page 327: "On October 26, three days after Mr. Cromwell's arrival in Paris, the Credit Lyonnais by cable to Heidelberg, Ickelheimer & Co., of New York, opened in favor of Bunau-Varilla a credit of \$100,000. The president of the Credit Lyonnais was Marius Bô, also president of the New Panama Canal Co. and Cromwell's chief instrument in its manipulations."

It is a material fabrication and a most misleading one to say that the New Panama Canal Co. had anything whatever to do with or even knew I had ordered to send me \$100,000 to New York, care of Heidelberg, Ickelheimer & Co.

It is most reprehensible to thus juxtapose names and to thus give color to a false and fictitious statement.

Never, as I said, was Mr. Marius Bô president of the Credit Lyonnais. The president then was Mr. Germain, the founder of that great institution. He died in 1905; his successor died since. Never for a moment was there a question of offering the presidency to Mr. Marius Bô.

The Crédit Lyonnais is an enormous banking institution with a great number of branch offices all over the country counting its clients by tens of thousands. I am one of them. It constitutes a vertiable ineptitude to establish a relation between the transfer of money I made through my banker, the Crédit Lyonnais, and the fact that Mr. Marius Bô was at the same time a director of the Crédit Lyonnais and president of the New Panama Canal Co. Every day thousands and thousands of such operations are made and none reaches the ears of the directors nor of the president of the Crédit Lyonnais.

I feel somewhat ashamed to have to state such truisms, but it is necessary to show that the spirit pervading the plea for fees is so similar to that pervading Mr. Hall's statements that it seems to be made under the same general influence. Now I must come to the facts.

When Amador had reached the decision of shaking the tyranny of Colombia I undertook, if he carried out the plan of the liberation of the Isthmus, to help the first steps of the new Republic by providing her with some money if established and as soon as established.

My first idea was to get the money from some banking house in New York for account of the new republic. After Amador had left I began to think that in doing so I would have to accept a heavy brokerage for borrowing said sum on account of the risk attached to it. I thought also that nothing would interfere, if not the bankers themselves at least some employees of theirs were to speculate on the probability of the event. I saw that I was going to engage myself in a path where calumny would be free to impute to me the responsibility of such disgusting and dishonorable speculations. I saw only one way to do away with these difficulties. It was to furnish the money myself.

Then came the question of the method how to have the money quickly at my disposal in New York. I used always when in the States for my ordinary provisions of money in New York the bank of Heidelberg, Ickelheimer & Co.

I was used, when I needed money, to telegraph for it to branch office B of the Crédit Lyonnais, and give the order to telegraph to Heidelberg, Ickelheimer & Co. to place the same sum at my disposal in New York.

I thought that they being used to these cable transfers they would transfer also without difficulty a much larger sum than those I used ordinarily.

The method of transmission once settled I had next to provide the branch office B of the Crédit Lyonnais with the necessary amount of money to cover the telegraphic transfer to New York of \$100,000.

I had then two banks holding securities in safeguard for me, the firm Balser & Co., of Brussels, and another branch office of the Crédit Lyonnais, the branch office A. S. of the Champs Élysées.

I prepared in the evening of Wednesday, the 21st of October, 1903, two cablegrams to these banks asking each of them if it could loan me immediately 250,000 francs on my securities deposited in its care, and in such case to remit it immediately to Agency B of the Credit Lyonnais, Paris.

Both these telegrams were deposited at the telegraph office at 1 o'clock a. m. Thursday, the 22d of October, 1903.

I copy them both:

[Translation.]

BALSER,

7 rue d'Arenberg, Bruxelles.

Could you make me an advance 250,000 francs (\$50,000) on the securities which you hold in deposit for me, and remit immediately money to Branch Office B, Credit Lyonnais. Answer me Waldorf-Astoria, New York.

PHILIPPE VARILLA.

[Translation.]

AGENCE (Branch Office) CREDIT LYONNAIS,
55 *Champs Elysées, Paris.*

Can you make me an advance 250,000 francs on the securities you hold in deposit for me and remit immediately money to Branch Office B, Credit Lyonnais. Answer me Waldorf-Astoria, New York.

VARILLA.

I went to bed after sending these telegrams, and the same day, October 22, 1903, I was awakened at 8 o'clock a. m. by the page bringing the first answer.

[Translation.]

PHILIPPE VARILLA,
Waldorf-Astoria, New York.

We consent advance 250,000 on securities deposited for three months, unless we agree for prolongation. We are remitting Credit Lyonnais Branch Office B.

BALSER.

OCTOBER 22, 1903—6.36 A. M.

The second came at 11.10 a. m. from the Credit Lyonnais:

[Translation.]

BUNAU-VARILLA,
Waldorf-Astoria, N. Y.

We are in accord for 250,000 francs which we transfer to your account Branch Office B. Letter follows.

CREDIONNAIS.

Nothing remained but to give the order of transfer to New York to Branch Office B. I waited three days, so that the regular exchange of letters could be made and I cabled:

AGENCE (BRANCH OFFICE) B, CREDIT LYONNAIS,
Place Bourse, Paris:

First, you must have received 500,000 francs from Balsler and from Branch Office A. S. Second, inform Heidelberg, Ickelheimer to give me against drafts emitted by me all sums I may want up to the limit of 500,000 francs, as it is done for letters credence. Third, answer me at Waldorf-Astoria, New York.

PHILIPPE BUNAU-VARILLA.

This dispatch was sent from Highland Falls on Hudson on Sunday, 25th of October, 1902, at 6.30 p. m.

The following day before noon the answer came. It is dated October 26, 11.38.

BUNAU-VARILLA, PHILIPPE,
Waldorf-Astoria, New York:

For crediting we are making necessary transfers by cable; please confirm instructions by letter.

CREDIONNAIS.

This is the whole story of the origin of the \$100,000 with which I financed the first days of the new Republic. If it had succumbed, I would have lost this money. I thought that by incurring this risk I would be protected from all blame whatever may happen. But I was mistaken. The first theory made public was that on the 17th of January, 1904, in the article brought by Mr. Jonas Whitley, Mr. Cromwell's press agent, to the World. It says that this sum was furnished by a syndicate of low speculators, of which I was the head and inspirator. The last theory as told by Mr. Hall, again of the staff of the World, is that it was given me by the New Panama Canal Co. according to the orders of Mr. Cromwell, who arrived in Paris, if Mr. Hall is truthful on this point, three days before the 26th of October. As it has been seen, my dispatches were written in the evening of the 21st and sent at 1 o'clock in the morning of the 22d of October.

Point C.—Speaking of the loan made by the Bowling Green Trust of another \$100,000, guaranteed by Mr. Cromwell's securities, Mr. Hall always confounds the dates and mixes up the whole affair. On page 461 we see, in answer to Mr. Cline, asking if Mr. Cromwell advanced some money to these parties prior to the revolution, Mr. Hall answers, after speaking, as I said in the previous point: "There was also a loan of \$100,000 from the Bowling Green Trust Co. secured, as I shall show you later, by securities deposited by Mr. Cromwell."

Also, on page 401, Mr. Hall says that the money of which Amador spoke to Gen. Tovar, on the day following the revolution, was furnished—\$100,000 by the Credit Lyonnais for the French Canal Co. and \$100,000 by the Bowling Green Trust Co.—on the securities deposited by Mr. Cromwell.

All that is pure invention, as to dates and facts. We know the history of the \$100,000, which was my own money. In repeating this same false statement about its origin, Mr. Hall does not make it less false. About the loan of the Bowling Green Trust Co., it was made after Mr. Cromwell had been able to make his reconciliation with Amador and the delegates when they arrived on the 17th of November, 1903, in New York.

The day following, the treaty giving the guarantee of the United States was signed. After that there was no risk of any great importance. Whatever was to be the fate of the ratification of the treaty, Panama could not be abandoned by the United States. If it had reverted to Colombia, it would have been peacefully done and the sums advanced would have been thus protected. It is for this reason that on November 25, and not before the revolution of the 3d of November, Amador and Boyd signed an agreement with the Bowling Green Trust Co. This is stated by Mr. Hall himself on page 427, but he does not remark it. If it was secured, as it is said, with securities deposited by Mr. Cromwell, the risk was infinitesimal then. It is a whole alteration of the truth of events to confound this loan made after the treaty was signed with money advanced at the very start of the Republic. Gen. Tovar can not have heard Amador speaking on the 4th of November of money resulting from an agreement which was signed on the 25th following. This seems obvious for anybody but not for Mr. Hall.

To displace, as Mr. Hall does, the date of this loan gives an absolutely fictitious part to Mr. Cromwell's situation when the revolution burst out.

Point D.—Mr. Hall is under the sort of hypnotic influence created by the belief in the plea for fees which seem as well as to have extended itself to Mr. Earl Harding in his so-called "statement of facts," in various important points. Mr. Hall is disposed to think Mr. Cromwell had an extraordinary power not only on men but on the future. He speaks of "Cromwellian piece of diplomacy" (p. 276); of "Hay-Cromwell instructions" (p. 289); of the "Cromwell-Hay" draft of treaty (p. 268); of the President of the Credit Lyonnais being Cromwell's chief instrument in France (p. 328); of Cromwell's masterful mind which conceived and carried out the rape of the Isthmus (p. 94). He says that Mr. Cromwell conceived and with the assistance of Mr. Roosevelt carried out the rape of the Isthmus and the establishment there of this little republic.

We have seen how Mr. Cromwell must be held as completely innocent of having carried out what Mr. Hall calls the rape of the Isthmus. It remains to show that he was also completely innocent of the conception of it.

In order to demonstrate his theory Mr. Hall, on pp. 296-297, quotes an article of the World which was published on the 14th of June, 1903, and wired from Washington in the evening of the 13th. Mr. Hall pretends the substance of this article foreseeing the revolution was brought to the World by Mr. Roger L. Farnham, the press agent of Mr. Cromwell, after a long conference at the White House between the latter gentleman and Mr. Roosevelt.

Mr. Hall sees there the undeniable proof that the 13th of June, 1903, was the day of the famous conception in Mr. Cromwell's masterful mind of the Panama revolution. Mr. Hall in his enthusiasm for Mr. Cromwell's master mind not only gives him the credit of the conception but also of the supernatural foresight of deciding then that the revolution would take place on the 3d of November following. Of course all of that is pure fiction.

At noon in Paris on the 13th of June, 1903, a cablegram was forwarded by me to President Marroquin in Bogota via New York. It was then 7 o'clock a. m. in New York. The message therefore passed over the American wires between seven and eight in the morning of the 13th of June.

It was made public by the Sun of June 27, 1903. Though I had not requested its publication I did not make a mystery of it. I copy it from the Sun:

PARIS, June 13, 1903.

MARROQUIN. *President Republic, Bogota:*

Be to submit respectfully following:

1. One must admit as a fundamental principle the only person that may build the Panama Canal now is the United States, and that neither European Governments nor private financiers would dare to fight either against the Monroe doctrine or American treasury for building Panama Canal, in case Americans return to Nicaragua, if Congress (Colombian) does not ratify treaty.

2. It results from this evident principle that failure of ratification only opens two ways:

Either construction of Nicaragua Canal and absolute loss to Colombia of the incalculable advantages resulting from construction on her territory of the great artery of

universal commerce, or construction of Panama Canal after secession and declaration of independence of the Isthmus of Panama under protection of the United States, as it has happened with Cuba.

3. I hope that your elevated patriotic policy will save your country from the two precipices where would perish either the prosperity or the integrity of Colombia and whither would lead the advices of blinded people or of evildoers who wish to reject treaty or to modify it, which would amount to the same thing.

PHILIPPE BUNAU-VARILLA.

As I said, I made no mystery of this cablegram, which I sent in clear language. It is a striking thing that having passed through the United States in the morning of the 13th an article was prepared exactly on the same line by Mr. Cromwell on the evening of the same day.

It may have been telegraphed from Paris by some person who knew of it; it may have filtered through the infidelity of some employee of the telegraph company when it passed through the United States.

There may be only a simple coincidence. At any rate, whatever may be the reality, the facts show that the paternity of the conception can not be attributed to the masterful mind of Mr. Hall's hero.

I had already at the end of the preceding year made a very forcible allusion to the secession in another cable to President Marroquin. It was then in order to break Mr. Concha's resistance to a canal treaty. A few days after sending this message to President Marroquin Mr. Concha left the legation of Colombia and was substituted by Mr. Herran, who signed the Hay-Herran treaty.

Here is the text of this important cablegram sent to President Marroquin by me on November 23, 1902, at 8.50 a. m., from New York:

MARROQUIN, *President Republic, Bogota:*

Extremely perilous situation justifies my submitting following considerations:

Suspension of signature of treaty Panama Canal on the eve of meeting of Congress has only three issues equally damaging for the vital interest of Colombia.

Either the final selection of Nicaragua as the Spooner law orders;

Or the loss of all the way conquered and indefinite prorogation if at the end of next February, when actual Congress ends, everything is not voted and settled;

Or the creation of international events of the highest gravity, of which might result that the canal be made at Panama against Colombia instead of being made with her amicably.

Only hope is decisive radical action of the supreme Government of Republic.

BUNAU-VARILLA,
Waldorf-Astoria.

If the conception of the Panama revolution can be found anywhere, it is in this telegram sent one year minus 20 days before it burst out. It was not at all by Mr. Cromwell on the evening of the 13th of June, 1903.

But the knowledge of all these facts is in possession of all those who were personally interested. It has found its vivid expression in the cablegram which President Obaldia sent me when his predecessor Amador died, after having been the founder and the first president of the new Republic.

I had sent the following telegram from Paris to Mr. Obaldia, the president of the Panama Republic, on May 3, 1909:

“OBALDIA, *President Republic Panama:*

“At the moment of the death of your illustrious predecessor I wish to express to your Excellency how much I share the sorrow of the Republic which Amador has so much contributed to establish. His name will remain forever associated with the work of the free union of the two great oceans of the earth, a thing which, if it had not been for the foundation of the Republic of Panama, would have remained a mere chimera.

“My mind goes back with emotion to the tragic instant of September, 1903, when Amador betrayed and abandoned came to entrust to me his despair and when we have undertaken together the liberation of the Isthmus which was the basis of the realization of the ‘Straits of Panama.’

“His heroic patriotism led to successful issue the revolution of the 3d of November. The murder of oppression has unchained progress.

“BUNAU-VARILLA.”

I received on May 13, 1909, the noble expression of the sentiments of the people of Panama by the President of their Republic. It was published by the Paris Herald of May 15, 1909. It reads:

PHILIPPE BUNAU-VARILLA, *Paris*:

I am thankful for the share you take in the grief caused by the death of President Amador. The remembrances you recall have deeply moved the public sentiment. It is a page of our history. Our people will keep forever engraved your fruitful services and put in preeminent place the name of Amador and your own. The national gratitude gives them the title of Benefactors of Panama.

OBALDIA.

These sentiments based on facts intimately known on the Panama side may be put next to a similar expression of sentiments based on facts known on the American side. On May 12, 1904, say more than two months after I had ceased to be minister at Washington and I had returned to my home in Paris, Secretary Hay wrote me:

"It is not often given to any man to render such a service to two countries and to the civilized world as you have done."

Such public manifestations very easily break the threads of the spiders of fiction.

The impartial man easily finds where the truth is in spite of the efforts of imagination excited by fanciful theories.

Point É.—Mr. Hall seems to take a special pleasure in giving me a perfectly fictitious part as to my relations with the New Panama Canal Co. He calls me, on page 423: "The French Panama Canal minister." On page 317, he represents me as summoned in haste from Paris in order to comfort Mr. Amador.

Mr. Hall says: "Just in time for Mr. Cromwell * * * to cable to Paris and have Bunau-Varilla take the first steamer across." Mr. Hall adds: "Unfortunately I do not have the cable that I believe Mr. Cromwell sent to the New Panama Canal Co. to have Bunau-Varilla sent over here, but that cable is also among the archives of the New Panama Canal Co., which are the property of the United States and which are still in France, kept in the vaults there."

This is the most injurious statement for me. The dispatch which Mr. Hall only believes to exist but the place of which he distinctly knows with precision is in line with his other fictitious assertions. It has the same degree of veracity as his assertion that a document published on the 6th of November in all the newspapers is confidential. It has the same degree of veracity as his assertion that Marius Bô was President of the Credit Lyonnais when he never was. It has the same degree of veracity as his assertion that on the 4th of November, 1903, Amador had spoken of money advanced by the Bowling Green Trust Co., when the agreement with that trust company was made on the 25th following. It has the same degree of veracity as the statement that the New Panama Canal Co. sent me \$100,000 for financing the revolution, when by the documents reproduced I have shown this sum to have been sent from my own money without anybody's cooperation.

I say and repeat that my position toward the New Panama Canal Co. has always been inimical, because I strongly blamed their weak policy which has led to the loss of the Panama Canal. There was neither cordiality nor any relation between us.

CONCLUSION.

After showing that the Story of Panama is based upon a document, Mr. Cromwell's plea for fees, entirely devoid of veracity, I have shown the additions of Mr. Hall to be strictly in conformity with the spirit of the plea for fees, so that they seem to be written by the same hand.

It would be without end if I were to show all the imaginary facts told by Mr. Hall. The statement he attributes falsely to me, according to which I have said to Mr. Don C. Seitz that Mr. Cromwell had made a contribution of \$60,000 to the election fund in 1900, is also a pure fiction (p. 112). I never thought, and therefore never said, such a thing. In 1902 when Mr. Cromwell came to see me for his reinstatement, I asked him if there was an account pending with the company. "No," said he, "only a trifling matter of one or two thousand dollars. That's all."

If he had a claim of such magnitude he would have told me then.

It would be tiresome to follow every error into the labyrinth of imaginary statements of Mr. Hall. It would also be below my disdain to castigate some personal misstatements about myself. It might lead to the belief that I am writing this in a personal intention. A scurrilous attack more or less does not trouble me.

It is a penalty men have to pay when they work for great things. My compensation is to have brought back Panama to life. It is a sufficient reward for me and it makes me forget the powerless attacks directed against me in this long struggle for truth.

We must set a limit to such a study, and say in conclusion that the statements of Mr. Hall on all the important points must be considered as having the same value as the plea for fees.

Therefore the basic and principal element of the Story of Panama, as told by Mr. Hall, the plea for fees, as well as his personal additions, form a whole which is entirely devoid of the stable foundation in truth necessary for writing the Story of Panama. The whole thing brought before the Committee on Foreign Affairs must be considered as a fiction. This fiction is formed by true facts associated with wholly imaginary ones, the mass being combined with adulterated accounts of events so as to fit the fancy of the writer. It is entirely unworthy of the hospitality it has received in the congressional documentation.

P. BUNAU-VARILLA.

PARIS, *March 29, 1912.*
53 Avenue d'Iéna.

By direction of the chairman, the following letter is included in the record:

PAVEY & MOORE,
ATTORNEYS AND COUNSELLORS AT LAW,
New York, February 21, 1913.

HON. HENRY D. FLOOD,
Chairman of the Committee on Foreign Affairs,
House of Representatives, Washington, D. C.

DEAR SIR: In my testimony before the Committee on Foreign Affairs on February 19, 1913, in reference to the revolution in Panama, I stated that at the request of your former chairman, Mr. Sulzer, I had made efforts by correspondence and by personal interviews with Mr. Philippe Bunau-Varilla in Paris in September to arrange for his appearance before the committee as a witness, and that he had been unable to come to this country for that purpose. You can imagine the surprise with which I learned upon my return to New York that Mr. Bunau-Varilla had arrived in New York on the morning of the 19th about 10 o'clock, and that at the very time I was testifying in Washington he was seeking me in New York. This coincidence was due to the following circumstances:

Mr. Bunau-Varilla left Paris on the 21st of January for Mexico, where he has large interests in petroleum lands. He had no intention of coming to New York, and I did not know that he was going to Mexico. Before he arrived in Mexico the revolution had broken out and he considered it unsafe to enter that country. He went to Los Angeles to meet some of his associates in the petroleum enterprise and waited there in the hope that order in Mexico would be sufficiently restored for him to carry out his project of visiting their property in Mexico. The continued disturbance in Mexico made any such trip dangerous and impossible. Before leaving Paris he had made definite engagements which compelled him to be there at the end of February. He remained in Los Angeles until he had just time to catch the Steamship *Provence*, which sailed from New York on the 20th of this month. His decision to come through New York on his return was taken at the last moment.

I did not know that he was in this country. He did not know the question of Panama was still under investigation by the committee. There had been no communication between him and me on that subject since our last interview in Paris in September, when he had given a definite decision that he would not be able to come to this country this winter.

It had been agreed between us that I should endeavor to secure the correction of the fundamental error which ran through the entire investigation. That fundamental error was that the New Panama Canal Company and Mr. Cromwell were the sole source of all activity in regard to the Panama Canal in this country prior to its adoption by the United States. It was desirable that it should clearly appear on the records of your investigation that the activity of Mr. Bunau-Varilla in the matter was wholly independent of the initiative of Mr. Cromwell or the New Panama Canal Company. With that point made clear, there can be a correct determination as to where the responsibility for the revolution in Panama rests.

It was impossible for Mr. Bunau-Varilla to delay his departure for Paris, and he is of the opinion that my testimony has corrected the fundamental error which has colored the previous presentation of facts. If Mr. Rainey wishes further details as to the participation of Mr. Bunau-Varilla in the accomplishment of the independence of Panama, Mr. Bunau-Varilla will furnish him as complete information as possible on all such questions.

Mr. Bunau-Varilla begged me to express to the committee his regret that due to my lack of knowledge of his movements and his lack of knowledge of the continuance of the investigation, that I should have been put in the position of testifying to his inability to come to this country when he was actually in the country.

Mr. Prentice joins with me in this expression of our regret that by reason of our lack of information as to Mr. Bunau-Varilla's whereabouts the committee may have received an incorrect impression. In order that our position on this point may be made clear on the record, we respectfully request that this letter be printed as part of my testimony.

I have the honor to be, yours, very truly,

FRANK D. PAVEY.

THE STORY OF PANAMA.

No. 1.

HEARINGS ON THE RAINEY RESOLUTION
BEFORE THE COMMITTEE ON FOREIGN AFFAIRS
OF THE HOUSE OF REPRESENTATIVES.

JANUARY 26 AND FEBRUARY 9, 1912.

THE STORY OF PANAMA.

COMMITTEE ON FOREIGN AFFAIRS,
HOUSE OF REPRESENTATIVES,
January 26, 1912.

MR. SULZER (chairman). Gentlemen of the committee, we will take up this morning Mr. Rainey's resolution relating to Panama.

The resolution reads as follows:

[H. Res. 32. Sixty-second Congress, first session.]

Whereas a former President of the United States has declared that he "took" Panama from the Republic of Colombia without consulting Congress; and

Whereas the Republic of Colombia has ever since petitioned this country to submit to The Hague tribunal the legal and equitable question whether such taking was in accordance with or in violation of the treaty then existing between the two countries, and also whether such taking was in accordance with or in violation of the well-established principles of the law of nations; and

Whereas the Government of the United States professes its desire to submit all international controversies to arbitration and has conducted treaties with many other nations agreeing to submit all legal questions to arbitration, but has steadily refused arbitration to the Republic of Colombia: Therefore be it

Resolved, That the Committee on Foreign Affairs of the House of Representatives be, and the same hereby is, directed to inquire into the same; send for books, papers, and documents; summon witnesses; take testimony; and report the same, with its opinion and conclusions thereon, to this House with all convenient speed.

MR. RAINEY, you can proceed.

MR. RAINEY. Mr. Chairman, the hearing the committee has so kindly accorded me is on House resolution 32, of the first session of the present Congress, which I introduced on the 16th day of last April.

At the present time before this committee it is my purpose to make out, if I can, a prima facie case, and I think when we get through presenting the evidence to the committee you will agree that we have made out something more than a prima facie case.

Now, in the first place, it might be important for the committee to know just what the propositions of Colombia are in this matter in order to show you the things Colombia could not ask for under her own proposition.

On October 21, 1905, the Colombian minister at Washington presented to our State Department a recapitulation of the events which preceded the alleged revolution on the Isthmus of Panama and asked for arbitration, and in a subsequent note on April 6, 1906, he had this to say in a letter to our State Department:

I note the fact that in your communication (Secretary Root's) it is stated for the first time on behalf of your Government that the United States espoused the cause of Panama, the language being:

"Nor are we willing to permit any arbitrator to determine the political policy of the United States in following its sense of right and justice by espousing the cause of

this weak people against the stronger Government of Colombia, which had so long held them in lawful subjection."

I must say that the question between Colombia and the United States is not whether Panama was justly entitled to assert independence, but whether the United States was under obligation by treaty or by principles of international law, not to do the things which it is admitted were done by the United States after the declaration of Panama's independence was made.

If the acts of the United States were lawful and right this loss must fall upon Colombia. If, on the other hand, this loss was wrongfully occasioned by acts of the United States done in violation of the provisions of the treaty by which the United States has obligated itself or in violation of principles of international law to which the United States has assented, then the United States is lawfully bound to compensate Colombia for the damage thus done to her.

In order to facilitate a decision by the Government of the United States in case it can not yet see that it is lawfully bound to compensate Colombia, I propose, on behalf of Colombia, that the United States and Colombia forthwith enter into a convention for the purpose of securing an impartial judgment upon the following strictly legal questions:

1. Did the treaty of 1846 obligate the United States to maintain the sovereignty of Colombia over the Isthmus of Panama against menace or attack from any foreign power and against internal disturbances that might jeopardize said sovereignty?
2. Did the treaty of 1846 obligate the United States to refrain from taking steps which would hinder Colombia in maintaining her sovereignty over Panama by suppressing rebellion, revolution, secession, or internal disorder?
3. Did the treaty of 1846 grant to the United States the right to take those steps which it is admitted were taken by the United States to prevent the landing of troops in Panama and the suppression of the rebellion?
4. Did the treaty of 1846 leave the United States free lawfully to take the steps which it is admitted by the United States were taken as regards Panama?
5. Did these acts of the United States which it is admitted were taken prevent Colombia from taking the steps necessary to suppress the rebellion and to maintain her sovereignty over the Isthmus?
6. Were the admitted acts of the United States in respect to Panama in violation of principles of international law which have been recognized by the United States as binding upon nations in their dealings with each other?
7. What damage, if any, has been occasioned to Colombia by acts of the United States, which are admitted by the United States, and which may be adjudged as having been in violation of obligations imposed upon the United States by the treaty of 1846 or by principles of international law to which the United States has assented?

The CHAIRMAN. The treaty of 1846 was in force at the time of the establishment of the Panama Republic?

Mr. RAINEY. Yes, sir. It was in force at the time, and the treaty of 1846 contained the provision which I will read now to the committee. The committee is familiar, of course, with these things and with much of the evidence which I propose to produce this morning. What I now want to do, in order to assist the committee, is to assemble the available evidence on this question so that it may be presented together. Now, it exists in a great many different places and it is a difficult matter to find it.

The treaty of 1846 contained this provision:

The United States guarantees positively and efficaciously to New Granada, by the present stipulation, the perfect neutrality of the before-mentioned Isthmus, with the view that the free transit from one to the other sea may not be interrupted or embarrassed in any future time while this treaty exists; and in consequence, the United States also guarantees in the same manner the rights of sovereignty and property which New Granada has and possesses over said territory.

That the treaty which was in full force on the 3d day of November, 1903, when the revolution occurred. Two days afterwards our State Department directed our representative on the Isthmus to enter into relations with the Republic of Panama. On the 18th day of November—less than two weeks—about two weeks after the revolution on

the Isthmus, we entered into a treaty with Panama, the very first section of which reads as follows:

The United States guarantees and will maintain the independence of the Republic of Panama.

There was in force on the 3d day of November and on the 18th day of November, between the United States and New Granada, now Colombia, a treaty by which the United States guaranteed to Colombia the rights of sovereignty and of property which Colombia had on the Isthmus of Panama. Without the consent of Colombia and against her protest, and she has been protesting ever since, the United States at the same time with this treaty in full force guaranteed to the new Republic of Panama its independence as against the sovereignty of Colombia, which we guaranteed to protect.

Mr. SHARP. What date did the United States guarantee the independence of the Republic of Panama?

Mr. RAINEY. The treaty was concluded on the 18th day of November, 1903. It was ratified by the Senate on the 23d day of February, 1904. It was ratified by the President on the 25th day of February, 1904; ratifications were exchanged on the same day; and it was proclaimed on the 26th day of February, 1904.

Mr. SHARP. In regard to the protests to which you referred a moment ago, of the United States of Colombia against the United States recognition of the Republic of Panama, how recently have those formal protests been made?

Mr. RAINEY. They have been continued until the present moment.

Mr. SHARP. In what form?

Mr. RAINEY. Various letters between the representatives of Colombia and our State Department and, last of all, perhaps, a protest of the representative of Colombia here against the speech made by President Roosevelt out on the Pacific coast in which he admitted that he "took Panama"; and he said in effect there were two courses for him to pursue, either to do as had been done—I am not quoting him exactly—or submit a state document to Congress, which Congress would be debating yet. But he said, "I took the Isthmus, and while the debate goes on now the work on the canal goes on also." The letter I have mentioned is a most vigorous protest made by Colombia against the taking of the Isthmus.

Mr. SHARP. What date was that—not to be exact, but within the past year?

Mr. RAINEY. Yes, sir; within the past year. It was, I think, last April.

Mr. SHARP. Now further. What remedy or reparation——

Mr. RAINEY. I might also say with reference to the present minister from Colombia, who has been here only a short time, that one of his first acts was to protest again to the State Department, again asking for an arbitration of this question.

Mr. SHARP. The Republic of Panama has now been in existence and for many years recognized by this country, which, of course, doesn't make it all right; I don't claim that it does, but having been inexistence for a number of years, having formed a Government and exercised governmental functions, what remedy or reparation at this time does the United States of Colombia expect to secure, either by the adoption of this resolution or any other form of procedure?

MR. RAINEY. Certainly not the return of her territory. Certainly not the abandonment of any of our property on the zone. Colombia is still demanding that we submit the matter to arbitration with a view of ascertaining whether there has been a violation of the law of nations, and if there has been such violation, then the question comes up as to how much damages she is entitled to receive.

MR. SHARP. For which a money compensation ought to settle?

MR. RAINEY. A money compensation is all. That is all we can do.

MR. SHARP. I thought so, at this time.

MR. RAINEY. It is so late. The Republic of Panama has been recognized by many of the great nations of the world. We can not destroy that recognition if we want to do so. The question can only be a question of indemnity.

MR. SHARP. The Government of Panama is recognized everywhere now? No nation is withholding recognition on account of the question of its establishment?

MR. RAINEY. No, sir; not at all. They are all recognizing the independence of Panama. There is no question about it now. It is established forever. The only nation that could ever interfere with it would be this Nation itself, if we ever should conclude to annex Panama. I hope we never will.

MR. SHARP. Perhaps I ought to keep this in mind. What, if any, consideration or reparation has ever been made by the United States Government to the United States of Colombia for recognizing or aiding in the establishment of this independence of Panama?

MR. RAINEY. None whatever except that a little over a year ago three treaties were negotiated here in this country. Under our contract with Panama, we were to pay her \$10,000,000 for her relinquishment of her sovereignty on the Canal Zone, and then we agreed to pay her—

MR. SHARP. Pay who?

MR. RAINEY. Panama. We agreed to pay her, commencing in 1913, \$250,000 a year, and there is still in controversy the question as to the ownership of certain of the Panama Canal shares of the French company in Paris amounting to a considerable sum of money. The treaties we negotiated here between this country and Panama, between this country and Colombia, and between Colombia and Panama provide that, commencing with 1913, if I remember now, we should pay, not to Panama but to Colombia, for a term of years this \$250,000 rental; and these treaties also provided for the payment to Colombia of \$10,000,000 by the United States upon relinquishment by that country of her rights of sovereignty over certain little islands.

MR. KENDALL. What was that proposition? I understand the terms of it. Was it a bill introduced?

MR. RAINEY. No, sir; three treaties were negotiated by the United States by which our State Department virtually conceded the claims of Colombia and endeavored to satisfy them by making this arrangement between the three nations; the \$250,000 per year that we commence to pay Panama in 1913 under these proposed treaties was to be paid, not to Panama but to Colombia.

MR. CLINE. Did Colombia participate in that agreement?

MR. RAINEY. Her representative here did, and the representative of the Republic of Panama participated, and we participated in these

treaties here; they were immediately afterwards ratified by Panama. I think Colombia refused to ratify them.

Mr. KENDALL. The Colombian Government disavowed it?

Mr. RAINEY. They refused to ratify the treaties. Panama is the only one of the three Governments that ratified the treaties. The refusal of Colombia to ratify led to a period of nonaction in our Senate.

Mr. FOSTER. Will you permit just a suggestion? First, while the original arrangement was that we were to begin in 1913 to pay \$250,000, under the new arrangement we began earlier than that. We have already appropriated \$500,000 and last year, as long as the money had not been taken, we didn't appropriate the money.

Second, that the \$250,000, was the arrangement between Panama and Colombia for the amount that Panama really owed Colombia as her part of the national debt, and so on.

Mr. RAINEY. You are right about that—and the \$250,000 is the rental we agreed to pay Panama per year for the use by us of the Canal Zone.

Mr. FOSTER. Between us and Panama?

Mr. RAINEY. Yes.

Mr. FOSTER. And we agreed to pay it over to Colombia instead of pay it to Panama?

Mr. RAINEY. Yes.

Mr. FOSTER. And Panama agreed to that because of her share of the outstanding national debt?

Mr. RAINEY. Yes; that was the consideration.

Mr. KENDALL. That was in discharge of obligations existing between Panama and Colombia?

Mr. RAINEY. Yes, sir.

Mr. CLINE. In satisfaction of any damages?

Mr. RAINEY. The willingness of our State Department to enter into those treaties shows that this department recognized Colombia's claims, although we do not admit it in these treaties. The origin of the \$250,000 proposition is this: The Panama Railway & Steamship Co., a New Jersey corporation, agreed to pay Colombia \$250,000 rental a year for a right of way across the Isthmus of Panama, and they continued that payment until the independence of Panama. At the time when the independence occurred and for some 13 years prior to that time the Panama Canal Co., first the old and then the new company, owned a controlling interest in the railroad, and these French companies paid the rental.

Now we own the railroad, and this amount heretofore paid as rental for the railroad right of way we are paying now to Panama as rental for the Canal Zone, and by these three treaties we were to pay it, not to Panama, but to Colombia.

Mr. SHARP. The ostensible purpose, and perhaps the sole purpose, in this Government recognizing the independence of Panama against the protests of the United States of Colombia was to facilitate the building and construction of this canal, was it not; so as to secure rights to cross the Isthmus and go ahead and build the canal?

Mr. RAINEY. I think that was it; yes, sir.

Mr. KENDALL. The acknowledgment of the independence occurred on the 18th of November by this Government?

Mr. RAINEY. Yes, sir.

Mr. KENDALL. Recognition, I mean?

Mr. RAINEY. No; the recognition of Panama occurred immediately after the revolution.

Mr. KENDALL. That was the 4th, then?

Mr. RAINEY. Yes, sir; or perhaps it was the 6th when our State Department cabled to our representative to recognize the de facto government. The 6th day of November we commenced to recognize the representatives of the new Panama Republic.

Mr. KENDALL. Prior to that time for a number of years there had been negotiations between the United States and Colombia looking to Colombia relinquishing a strip across there for canal purposes?

Mr. RAINEY. That, among other things. Yes, sir.

Mr. KENDALL. Do you remember the amount of money we had tendered her for the surrender of her sovereignty there?

Mr. RAINEY. I think we tendered \$10,000,000; something like that.

Mr. KENDALL. \$20,000,000 at one time?

Mr. RAINEY. Perhaps we did.

Mr. KENDALL. Colombia refused?

Mr. RAINEY. No; Colombia at no time demanded larger payments from the United States. That is an impression that has been spread abroad in this country, but you will find when this evidence is all in that at no time did Colombia expect the United States to pay more than \$40,000,000 for the canal. What she was claiming was a larger interest herself in the \$40,000,000, or any amount that we were going to pay the French companies. In 1904 the charter she had given the French company, and all legal extensions of it, expired. This charter provided that the General Assembly of Colombia must approve any act of the President of Colombia in extending the charter. This charter expired in 1904, and the President of Colombia extended it himself, without any authority from the General Assembly, for 10 years. The position of Colombia was that in 1904 all this property would revert to Colombia. She has always denied the legality of the extension made after 1904 by the President of Colombia, and her position was that, in view of the fact that by its very terms the contract would soon expire, and when it did expire all the work the French company had done on the Isthmus would revert to her, that she ought to get a share of the \$40,000,000, the consideration we proposed to pay the French companies. There was at no time any demand on her part that the United States increase its expenditures. As far back as 1869 a treaty was proposed between this country and Colombia by which Colombia agreed to everything we wanted her to agree to in the matter of a canal across the Isthmus. That treaty we never ratified.

Mr. CLINE. Is it your contention that the United States exercised undue haste in the recognition of the Republic of Panama before its status was established and that President Roosevelt did so for the purpose of promoting and handling the Panama Canal?

Mr. RAINEY. It is my contention that the representatives of this Government made possible the revolution on the Isthmus of Panama. That had it not been for the interference of this Government a successful revolution could not possibly have occurred, and I contend that this Government violated the treaty of 1846. I will be able to produce evidence to show that the declaration of independence which