

**THE TRANS-ISTHMIAN
CANAL: A STUDY IN
AMERICAN DIPLOMATIC
HISTORY (1825-1904)**

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649165148

The Trans-Isthmian canal: a study in American diplomatic history (1825-1904) by Charles Henry Huberich

Except for use in any review, the reproduction or utilisation of this work in whole or in part in any form by any electronic, mechanical or other means, now known or hereafter invented, including xerography, photocopying and recording, or in any information storage or retrieval system, is forbidden without the permission of the publisher, Trieste Publishing Pty Ltd, PO Box 1576 Collingwood, Victoria 3066 Australia.

All rights reserved.

Edited by Trieste Publishing Pty Ltd.
Cover @ 2017

This book is sold subject to the condition that it shall not, by way of trade or otherwise, be lent, re-sold, hired out, or otherwise circulated without the publisher's prior consent in any form or binding or cover other than that in which it is published and without a similar condition including this condition being imposed on the subsequent purchaser.

www.triestepublishing.com

CHARLES HENRY HUBERICH

**THE TRANS-ISTHMIAN
CANAL: A STUDY IN
AMERICAN DIPLOMATIC
HISTORY (1825-1904)**

THE TRANS-ISTHMIAN CANAL

A STUDY IN
AMERICAN
DIPLOMATIC HISTORY
(1825-1904)

BY
CHARLES HENRY HUBERICH, D. C. L.
ADJUNCT PROFESSOR OF POLITICAL SCIENCE AND LAW
IN THE UNIVERSITY OF TEXAS

AUSTIN, TEXAS

1904

17



THE TRANS-ISTHMIAN CANAL:

A STUDY IN AMERICAN DIPLOMATIC HISTORY (1825-1904).¹

CHARLES HENRY HUBERICH, D. C. L.,

Adjunct Professor of Political Science and Law, The University of Texas.

The projected canal across the isthmus joining the two Americas, which has interested the governments of Europe since the discovery of the American continent, played no rôle in the foreign policy of the United States until after the Spanish-American colonies had achieved their independence. In 1825, Señor Antonio José Canaz, the representative of the Central American Republic at Washington, proposed to the United States that the two governments coöperate in the construction of the Nicaragua canal. Señor Canaz was assured of "the deep interest which is taken by the government of the United States in the execution of an undertaking which is so highly calculated to diffuse an extensive influence on the affair of mankind." In addition, Mr. Clay, then secretary of state, instructed the American chargé d'affaires in Central America to collect all data relative to the cost and practicability of the Nicaragua route. The subject aroused considerable interest in commercial circles, and a contract was actually entered into between the Central American Republic and some New York capitalists for the construction of the canal.²

The canal project was one of the topics to be discussed at the Panama congress in 1826. In the instructions to the American delegates to that congress the policy of the United States in reference to the canal is announced for the first time. "If the work should ever be executed," writes Secretary Clay, "so as to admit of the passage of sea vessels from ocean to ocean, the benefit of it ought not to be exclusively appropriated to any one nation, but

¹The greater part of this article was published by the writer early in 1903, in the *Revue du droit public et de la science politique*, Vol. XIX, pp. 193-213.

²Kensbey, *The Nicaragua Canal and the Monroe Doctrine*, p. 143.

81058

should be extended to all parts of the globe upon the payment of a just compensation or reasonable tolls.⁷¹

A few years later the king of the Netherlands launched his project of a canal across Central America "to be opened on the same terms to all nations."⁷² As this was entirely in accordance with the American view, no diplomatic action was taken by the United States, except that the American minister to the Netherlands was instructed to endeavor to obtain for the government or citizens of the United States a majority of the shares of stock in the enterprise, and a share in the monopoly.

On March 3, 1835, the Senate passed a resolution requesting the President to open negotiations with Central America and New Granada in order to secure "forever * * * the free and equal right of navigating such canal to all nations, on the payment of such reasonable tolls as may be established to compensate the capitalists who may engage in such undertaking and complete the work." In conformity with this resolution President Jackson appointed Mr. Charles Biddle to investigate the different routes proposed. Mr. Biddle returned to the United States in September, 1836, and from his report the President was convinced that "the probability of an early execution of any of the projects which have been set on foot for the construction of the communication alluded to is not so great as to render it expedient to open negotiation at present with any foreign government upon the subject."⁷³

On March 2, 1839, a similar resolution was adopted by the House of Representatives, which resulted in the sending of another agent to the isthmus, who reported in favor of the Nicaragua route, but did not deem it expedient to undertake the work at the moment, owing to the political situation in Central America.

The concession for "le canal Napoléon de Nicaragua" (January 8, 1845) did not call forth any discussion in the United States. But indirectly we may attribute to it the negotiations with New Granada, which resulted in the treaty of December 12, 1846. The

⁷¹Mr. Clay to Messrs. Anderson and Sargent, May 8, 1826. Wharton, *Digest of the International Law of the United States*, Vol. III, p. 1. Neither of the delegates was present at the Congress.

⁷²The concession was obtained December 18, 1830.

⁷³*Messages and Papers of the Presidents*, Vol. III, pp. 272, 273.

thirty-fifth article of this treaty provides that citizens of the United States shall enjoy all the exemptions, privileges, and immunities concerning commerce and navigation enjoyed by citizens of New Granada; and "that this equality of favors shall be made to extend to the passengers, correspondence, and merchandise of the United States, in their transit across the said territory, from one sea to the other. The government of New Granada guarantees to the government of the United States that the right of way or transit across the isthmus of Panama upon any modes of communication that now exist, or that may be hereafter constructed, shall be open and free to the government and citizens of the United States, and for the transportation of any articles of produce, manufactures, or merchandise, of lawful commerce, belonging to the citizens of the United States; that no other tolls or charges shall be levied or collected upon the citizens of the United States * * * than is, under like circumstances, collected from Granadian citizens. * * * And, in order to secure to themselves the tranquil and constant enjoyment of these advantages, and as an especial compensation for the said advantages * * * the United States guarantee, positively and efficaciously, to New Granada * * * the perfect neutrality of the before-mentioned isthmus, with the view that the free transit from the one to the other sea may not be interrupted or embarrassed in any future time while this treaty exists; and in consequence, the United States also guarantee, in the same manner, the rights of sovereignty and property which New Granada has and possesses over the said territory."¹

New
Granada

In his message to the Senate, submitting this treaty, President Polk says:²

¹Since June 10, 1848, the date of the exchange of ratifications, the treaty has been subject to twelve months' notice of termination by either party.

²*Messages and Papers of the Presidents*, Vol. IV, pp. 512, 513. The treaty was ratified without a dissenting vote, but already in the following year the Committee on Naval Affairs of the House referring to the guaranty of sovereignty says: "This is a very wide departure from our foreign policy hitherto, and its justification is only to be found in the exigency of the case, the overruling necessities of our position with reference to our territories on the Pacific."

On May 10, 1847, the government of New Granada granted to a French company the right to construct a railway across the isthmus of Panama.

“In entering into the mutual guarantees proposed by the thirty-fifth article of the treaty, neither the government of New Granada, nor that of the United States has any narrow or exclusive view. The ultimate object * * * is to secure to all nations the free and equal right of passage over the isthmus. If the United States, as the chief of the American nations, should first become a party to this guaranty, it can not be doubted—indeed it is confidently expected by the government of New Granada—that similar guarantees will be given to that republic by Great Britain and France. * * * There does not appear any other effectual means of securing to all nations the advantages of this important passage but the guaranty of great commercial powers that the isthmus shall be neutral territory. The interests of the world at stake are so important that the security of this passage between the two oceans can not be suffered to depend upon the wars and revolutions which may arise among different nations.”

X. The next important step of American diplomacy in regard to the isthmus was the conclusion of the Clayton-Bulwer treaty. Before considering the terms of this treaty, it will be necessary to notice briefly the circumstances that led to its negotiation. On the eastern coast of Central America Great Britain had assumed practically undisputed control. The Mosquito territory had been virtually controlled by Great Britain since 1830. In August, 1841, McDonald, the British superintendent of Belize, acting as regent of the infant “king” of the Mosquitos, had seized San Juan del Norte as part of the territory of Mosquitia, thus placing Great Britain in control of the eastern terminus of the proposed Nicaragua canal. The action of McDonald was not disavowed by the British government, and no attention was paid to the repeated protests of the Central American republics. On the contrary, on June 30, 1847, the British agents in Central America were instructed to communicate to the several states that Great Britain, in the exercise of her ancient protectorate over the Mosquito country,

and to have the exclusive privilege of operating such railway for a period of ninety-nine years. The French company failing to comply with the terms of the grant, the government granted a concession to an American company for the same period of time. Under this concession the Panama railway was built, and put in operation January 27, 1855.

laid claim to territory as far south as San Juan (Greytown).¹ Nicaragua was notified to evacuate San Juan by January 1, 1848. An appeal to the United States by Nicaragua was of no effect, and on the date mentioned Great Britain took possession of San Juan. In addition, Great Britain was in possession of Belize (British Honduras) and of the Bay Islands. On the western coast Great Britain had seized Tigre Island, in the Gulf of Fonseca, (October 16, 1849), thus commanding also the probable western terminus of the canal.² In a word, England was master of Central America.

The acquisition of California by the treaty of Guadalupe-Hidalgo (February 2, 1848), followed almost immediately by the discovery of gold in the new territory, and the consequent rush of population to the gold fields, brought the problem of the isthmian transit in the front rank of public attention in the United States.

Mr. Elijah Hise was appointed chargé d'affaires to the Central American states, with instructions to investigate the British claims to the Mosquito coast, and to enter into commercial treaties with the countries to which he was accredited. His instructions, however, did not extend to the securing of any rights over the transit routes. Nevertheless, with a far-sightedness greater than that of his government, Mr. Hise concluded a treaty with Nicaragua in respect to this latter object (June 21, 1849).

The Hise treaty conferred upon the United States or its citizens the exclusive right to construct a canal through Nicaragua. The United States were to be permitted to erect fortifications and to station troops along the channel. In the event of a war in which either of the parties to the treaty was involved, the canal was to be closed to all vessels of the enemy, as well as to neutrals carrying contraband of war to such enemy. During a war in which neither the United States nor Nicaragua was a belligerent, the canal was to be closed to the war vessels of the belligerents, and to neutrals carrying contraband. In time of peace the canal was to be open to all nations on equal terms. Two free cities, under the "qualified dominion" of Nicaragua, were to be established at the termini of the canal. The United States, on their part, guaranteed to "protect and defend the State of Nicaragua in the pos-

¹Travis, *The History of the Clayton-Bulwer Treaty*, pp. 36, 37, 42.

²*Ibid.*, p. 54.

session and exercise of the sovereignty and dominion" over all territory rightfully belonging to it.

The new administration of General Taylor disavowed the act of Mr. Hise, recalled him, and appointed Mr. E. G. Squier in his place. The policy of the administration was set forth in President Taylor's first annual message to Congress: "Should such a work (i. e., the trans-isthmian canal) be constructed under the common protection of all nations for equal benefits to all, it would be neither just nor expedient that any great maritime state should command the communication. * * * No such power should occupy a position that would enable it hereafter to exercise so controlling an influence over the commerce of the world, or to obstruct a highway which ought to be dedicated to the common uses of mankind."¹

Nevertheless, the administration threatened to send the Hise treaty to the Senate unless Great Britain made some concessions. In an interview with Mr. Crampton, the British minister at Washington, Mr. Clayton, secretary of state, stated his objections to the treaty and especially to the "absurd stipulation" which bound the United States to guarantee to Nicaragua the integrity of her territory. Mr. Clayton's plan was as follows: That the United States should abandon the treaty concluded by Mr. Hise, and should propose to Nicaragua, simultaneously with Her Majesty's government, another treaty by which no exclusive advantage was to be conferred on either party, and the object of which should be to guarantee the safety of a company of capitalists to whom a charter should be granted by Nicaragua on reasonable terms. Any other power acceding to the terms of the treaty was to be admitted on equal footing with the original contracting parties.²

In the meantime Mr. Squier had obtained a concession from Nicaragua for the Atlantic and Pacific Ship-Canal Company (September, 1849), and concluded a treaty with that government by the terms of which the transit routes were to be open to the United States for all lawful purposes, the United States undertaking to

¹ *Messages and Papers of the Presidents*, Vol. V, p. 16.

² Letters of Mr. Crampton to Lord Palmerston, September 15, and October 1, 1849. Senate Executive Document No. 194, 47th Congress, 1st Session, pp. 55 *et seq.*