

**MONETARY AGREEMENTS WITH  
PANAMA, HEARINGS BEFORE  
THE FINANCE COMMITTEE OF  
THE UNITED STATES SENATE**

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Monetary Agreements with Panama, Hearings before The Finance committee of the United States Senate by Various

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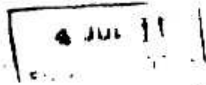
**MONETARY AGREEMENTS WITH PANAMA.**

U. S. Congress, Senate, Committee on Finance.

**HEARINGS**

BEFORE

**THE FINANCE COMMITTEE**



OF THE

**UNITED STATES SENATE.**

WASHINGTON.

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**HEARINGS BEFORE THE FINANCE COMMITTEE OF THE UNITED STATES SENATE ON THE MONETARY AGREEMENTS BETWEEN THE SECRETARY OF WAR AND THE GOVERNMENT OF PANAMA.**

WEDNESDAY, January 24, 1906.

The committee met at 10.30 o'clock a. m.

Present: Senators Aldrich (chairman), Allison, Burrows, Spooner, Penrose, Daniel, Teller, Money, Bailey, and Gorman.

Hon. William H. Taft, Secretary of War, appeared before the committee.

The CHAIRMAN. The clerk will read the resolution under which the committee is proceeding.

The clerk read as follows:

IN THE SENATE OF THE UNITED STATES, January 2, 1906.

*Resolved*, That the Finance Committee of the Senate be instructed, and it is hereby instructed, to inquire into all the facts and circumstances concerning certain monetary and exchange agreements made by the Secretary of War with the Government of Panama and others, and to report such facts and circumstances to the Senate, together with their opinion as to the authority under which said agreements were made.

Attest:

CHARLES G. BENNETT,  
Secretary.

**STATEMENT OF HON. WILLIAM H. TAFT, SECRETARY OF WAR.**

The CHAIRMAN. Mr. Secretary, we have asked you to come here to make such statements as you see fit to make in respect to this agreement.

Secretary TAFT. I should like, gentlemen, if I may, to first make a chronological statement of the facts, then to refer to the statutes and treaty giving authority, and then finally to come to the question of law which arises.

The Spooner Act, a copy of which I append as Appendix A, which directed the President to build the canal, was adopted June 28, 1902. That contemplated an agreement with the Government of Colombia. Acting, as was claimed, in accordance with that act, the treaty with Panama was negotiated, and Panama substituted for Colombia, and I assume, from the confirming acts of Congress, that it is to be construed exactly as if the Spooner Act had authorized the agreement specifically with Panama.

The Commission was appointed in March, 1904.

The CHAIRMAN. What time in March, do you remember?

Secretary TAFT. I can not tell you, except they held their first meeting March 22, 1904. The treaty was confirmed by the State on

the 23d of February, 1904. I append a copy of the treaty, marked "Appendix B."

The CHAIRMAN. You mean the treaty with Panama?

Secretary TAFT. The treaty with Panama; and my impression is that the commissioners were not appointed until after that treaty was confirmed.

Senator TELLER. When you speak of the confirmation by the Act of Congress, you mean the ratification of the treaty by the Senate?

Secretary TAFT. Yes, the ratification of the treaty and the subsequent act directing the President to take possession of the property there, passed April 28, 1904. I append a copy, marked "Appendix C."

The CHAIRMAN. What was the date of the Spooner Act?

Secretary TAFT. June 28, 1902. It may have been that the ratifications of the treaty were exchanged a little later than the time of confirmation—of course, they would have been—but the confirmation was on the 29th of March, 1904. I think the commission must have been appointed even before that, if their first meeting was held on the 22d of March, 1904.

Then the President issued instructions on the 9th of May, 1904, in which he directed the course to be taken by the Commissioners, and placed the action of the Commissioners under the general supervision of the Secretary of War. Congress that year adjourned, my recollection is, in May, but I can be corrected, if that is not so.

Senator BAILEY. It was in April, I think (April 28).

Secretary TAFT. Was it in April—the 28th of April?

Senator BAILEY. Yes.

Secretary TAFT. I remember that this order was made after Congress adjourned, and that what followed was done during a vacation. In June, 1904, I received notice that there was present, in New York, what was called a fiscal committee of the Republic of Panama, consisting of Mr. Arias and Mr. Morales, and another gentleman whose name I have forgotten. They had been sent up here by the Republic of Panama to invest the six millions of dollars out of the ten millions which had been paid before that by the Government of the United States, and that six millions was invested in mortgage securities in the city of New York at 4½ per cent interest.

Senator SPOONER. You mean that money had been paid by the United States to Panama?

Secretary TAFT. It had been paid by the United States to Panama and was being invested by this committee.

The CHAIRMAN. Do you remember what date it was that you first knew of the appointment of this commission?

Secretary TAFT. It was in June, 1904. It was quite late in June, I think. I do not remember exactly, but it was sometime in June. The committee was also authorized by their president to come and confer with me with reference to the passage of a law establishing a currency in the Isthmus. The convention, so called—I suppose it was a constitutional convention, distinguished in some way from their ordinary assembly, in that it was a body of an organizing capacity rather than merely legislative—had taken up a law establishing a currency, which had been defeated by a vote of 16 to 16.

These gentlemen were accompanied by Mr. William Nelson Cromwell, their counsel, who was at one time the counsel for the French

Panama Canal Company, and subsequently became counsel for the Republic of Panama, and especially for this committee, and negotiated their investments in New York when they invested this \$6,000,000. He came over with this committee. I had present at the time Mr. Conant, who had been the financial expert with us in the Philippines, sent out for the purpose, and whom I wished to have for consultation at the time in order to advise me as to silver monetary questions, with which I do not claim to have been very familiar.

It was represented to me by these gentlemen that if we could in any way encourage it we could secure the adoption of a currency of a form which likened itself to the currency we had in the Philippine Islands, and I was very anxious to do that. I was familiar at that time with the history of the difficulties that the old French Panama Canal Company had had in reference to their exchanges in the Isthmus. When they went there, at first the normal exchange was 105. After they had been there and increased the number of laborers to ten or fifteen thousand the exchange varied from 105 to 180, so that there was a variation of 75 points. It added greatly to the cost of construction under the De Lesseps régime and encouraged a spirit of gambling in exchange on the Isthmus and led to unions between bankers and the hoarding of the silver coin to secure a higher price. It therefore seemed to me of the utmost importance to avoid a danger of that kind.

Later on the new French Panama Canal Commission did succeed, by agreements with bankers on the Isthmus, in reducing exchange in the Colombian silver to such a point that it was not excessive. That was an agreement not unlike the one we have here. It only varied from 5 to 10 per cent, or something of that sort. With the fiscal commission I had a discussion, the report of which is here; not entirely full, I think, but still notes taken stenographically of the conferences. There were present the fiscal committee, their counsel, Mr. Cromwell, Admiral Walker, who was present as chairman of the commission, and myself. I submit the report to the committee. (See Appendix D.) I had in mind at the time the question of not usurping the treaty-making power of the Senate, and at one point in this discussion (the notes of which I tender to the committee, because everything I have is at the service of the Senate committee, and I am anxious to bring out all the facts possible), it was suggested that we go before the Secretary of State. I said no—or in substance that is what I said. You will see what I did say. I said "No; I am acting for the commission. If you went to the Secretary of State, that would involve the assumption of the treaty-making power, which we wish to avoid." I considered in this matter that it was as if the commission were merely making a financial arrangement with a view to securing a proper medium in which to pay their men.

The agreement (see Appendix E) contains in its first section an agreement by the Commission, or by me for the Commission, to make this new coin legal tender on the Isthmus by appropriate legislation. It illustrates the infirmity of human memory, but I must say that if I had been asked about that before I referred to the agreement, I should have said that I recollected distinctly striking out that clause. But it is there, gentlemen, and I suppose I must admit that I signed the letter. I have not the signed original. That is in Panama; but my office copy, unsigned, shows no striking out of the clause. I only



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have to say with respect to that that I did not carry it in my memory, having, as I say, this other impression; so that no act of the Canal Commission was ever suggested or passed attempting to do that thing, and the Republic of Panama has never asked us to take any such course. I may add that in describing the agreement to the President, in my report to him of my visit to the Isthmus, sent to Congress in December, 1904 (House Document No. 226), I made no mention of the legal-tender clause for the reason, I suppose, that in my memory it was not part of the agreement as signed. In other words, it has been treated either as if it were not in the agreement, or as if it did not mean what its words necessarily imply, and meant only that the Commission should take proper steps to give general currency to the coinage in the Zone.

The act which was passed did not accord with what was contemplated in my letter. I wrote this letter to the committee—

Senator BURROWS. What act do you refer to?

Secretary TAFT. I mean the act passed by the National Convention of Panama (see Appendix G) establishing this currency, for although it provided for the stipulated kind of currency, it did not put it into force, but left it to the President of the Republic to execute the act in his discretion. The fiscal committee had written me to say that they were in accord with my letter, but they were acting subject to confirmation. (See Appendix F.)

In the meantime there had arisen in the Republic a very distinctly hostile feeling toward the United States. It had arisen from a mistake made by the Administration. I share the responsibility of it.

Senator TELLER. You mean our Administration?

Secretary TAFT. Yes, sir; in the hurry that there was, necessarily, to organize the Zone, the mistake made was in putting in force the Dingley Act, which erected, so to speak, a tariff wall about a zone inside of another country, a zone not by the terms of the treaty removed from the sovereignty of that other country, because the treaty in effect provides that the sovereignty is not parted with. What it provides is that the United States shall exercise within that zone all the rights that it might exercise if it were a sovereign. It is a nice point, but with the Latin-American mind it is a point that is much larger and more important than it would be in the Anglo-Saxon mind; for the Latin-American mind and that of the Spanish descendant dwell on names, and, as I found out afterwards when I went down on the Isthmus, the question of titular sovereignty was of the utmost importance to them.

On our putting the Dingley act into effect there, by Executive order, although there was practically at that time no importation, the anticipated effect—anticipated by the merchants who had business there—was such that the Republic declined to carry out temporary agreements which Governor Davis when he first went there had been able to effect. One of those was the delimitation agreement, a most important agreement defining the limits of the cities of Colon and Panama, which had no boundaries. There was no Spanish, no Colombian, no Panamanian statute defining those limits, and it was necessary in order that we should live at all on the Isthmus with our neighbors that such delimitation agreement should be adopted. But in view of the change of public sentiment toward us on the Isthmus, the matter of carrying out the boundary agreement was suspended by the authorities of Panama.

We received in various ways information of the feeling of hostility against the American management, and the President thought it wise, therefore, to send me down to the Isthmus, and to see if by the presence of a Cabinet officer, indicating that the President regarded the matter as of some importance, the difficulty could not be smoothed out.

When I reached there I became convinced that the first thing to do was to revoke the order with respect to the Dingley bill, and I found a number of other troubles which I thought could be adjusted in an Executive order, with a corresponding decree on the other side complying with the conditions of the Executive order. In other words it was in substance an order on both sides by prior agreement, from which each might withdraw at any time. That order and its amendments I should be glad to call to your attention. (See Appendix H.) It is set out on page 17 of House Document 226, which is a part of the first annual report of the Isthmian Canal Commission. In the letter of transmittal the Executive order of December 3, 1904, is reported to the President, and by him to Congress. I shall come again to that order, if I may. It also occurs on page 202 of the report of the Isthmian Canal Commission of this year, Senate Document 127, Fifty-ninth Congress, first session.

Senator TELLER. You are now referring to the order that you issued by order of the President?

Secretary TAFT. Yes, sir.

Senator TELLER. As Secretary of War?

Secretary TAFT. Yes, sir; and it is through that order, really, that the provisions of this agreement have any effect at all. That agreement was made in June, but nothing was done under it, and we were obliged to get along with the Colombian silver for the comparatively few laborers we had there at that time until I went down, in December, 1904. The order was dated December 3, but was issued on the Isthmus. I cabled it up to the President and received his approval, and then issued the order from the Isthmus.

Senator ALLISON. That order is in the report of the Canal Commission for 1904, known as House Document No. 226?

Secretary TAFT. Yes, sir. I ought to say that all these Executive orders to which I refer were adopted by the Commission formally after the orders were issued.

Senator BURROWS. That is, approved by the Commission?

Secretary TAFT. Yes, sir; really adopted by them. They construed the order of the President to be a direction to adopt. The President has a right to control the action of the Commission under the Spooner Act, and the canal is to be constructed through a commission, and he subsequently appointed the Commission as the legislative body on the Isthmus so far as it had legislative power, and as the executive body over the Isthmus, subject to his control, or his control through the Secretary of War.

Senator SPOONER. And it would get whatever legislative power it might have from the act of Congress and not from the action of the President?

Secretary TAFT. Yes, sir; only that the President was authorized to designate the members of the Commission to exercise the civil and military control in the Isthmus in the manner directed by him, as the act says.

The CHAIRMAN. The act uses the term "rules and regulations."

Secretary TAFT. This is in section 2 of the act of April 28, 1904. (See Appendix C.) The first section directs the President to take possession of the territory.

Senator SPOONER. That act is not in force now?

Secretary TAFT. It expired by its terms at the close of the Fifty-eighth Congress. That is, not the first section, but the second did.

Senator SPOONER. Yes; the first section was accomplished. The things authorized by that section had been done, had they not?

Secretary TAFT. No, sir; not entirely.

Senator SPOONER. Well, no matter.

Secretary TAFT. I might say right here, because I intended to refer to it later, that the first section directs the President from time to time to occupy any lands and waters outside of said Zone which may be necessary and convenient for the construction, maintenance, operation, sanitation, and protection of the said enterprise.

Senator SPOONER. That is a right granted by the treaty?

Secretary TAFT. Yes, sir; and the power is vested in the President and the duty is imposed on him of doing that thing.

Senator TELLER. You think that is a continuing duty, notwithstanding the clause that this act should be in force only for a certain time, and that time has expired?

Secretary TAFT. Yes, sir; undoubtedly it is, because you will see that the application of that clause with reference to the close of the Fifty-eighth Congress has no application whatever to the provisions of the first section. There is no doubt that the limitation is confined to the second section.

The Executive order in its recital was made subject to the action of Congress, and at its close contained a provision like this, which I will read you:

That the operation of the order and its enforcement on the one hand, or a compliance with its conditions on the other, shall not be taken as a delimitation, definition, restriction, or restrictive construction of the rights of either party under the treaty between the United States and the Republic of Panama.

I was anxious to avoid that anything which was a mere temporary revocable order should as a construction of its terms affect that which had been provided in the treaty. I did not think that we under that order exercised all the power that the authorities of the United States might have under the treaty; and on the other hand the authorities of the Republic were anxious to avoid construction of their act as an admission of what we claimed to have, the equivalent of sovereignty on the Isthmus. So section 12, which I have read, met the views of both parties, and was put in there in order to show that this was a mere living agreement, a *modus vivendi*.

But that is what I construed to be the effect of the order issued on the one hand and the order issued on the other after negotiation and after a verbal statement that each would be satisfactory to the other. We had been sent down there to construct the canal; to expend \$150,000,000 in so doing. We had been put, so to speak, in another man's house. We were put in a zone between which and a country of 250,000 inhabitants there was no visible border at all. As I have said, there were no known boundaries to the cities of Panama and Colon excluded by the treaty from the Zone, so that the treaty and the two laws together required us to move in and assume control of a territory altogether unbounded, when the facts were looked into, by