

Don't Give Up the Canal!

by Congressman Helen Chenoweth-Hage

There are some who for varying reasons would appease Red China. They are blind to history's clear lesson. For history teaches with unmistakable emphasis that appeasement but begets new and bloodier war. It points to no single instance where the end has justified that means — where appeasement has led to more than a sham peace. Like blackmail, it lays the basis for new and successively greater demands, until, as in blackmail, violence becomes the only other alternative. Why, my soldiers asked of me, surrender military advantages to an enemy in the field? I could not answer.

The words above were spoken by General Douglas MacArthur in his famous "Old Soldiers Never Die" farewell address to a joint session of Congress, on April 19, 1951. His warning, tragically, was ignored by the appeasement artists in the Truman administration and its allies in the national media. And their successive appeasements did indeed beget new and bloodier war, with 110,000 American soldiers ultimately paying the price with their lives in Korea and Vietnam.

A profound respect for the rule of law compels a rejection of the supposed basis for the Canal turnover, the 1977 Carter-Torrijos treaties.

In that same speech, General MacArthur also remarked on the magnificent courage of the Korean people and noted: "Their last words to me were 'don't scuttle the Pacific.'" Today, another great military leader, Admiral Thomas H. Moorer, former Chairman Joint Chiefs of Staff, warns us that the ongoing "scuttling of the Pacific" has now reached to our very doorstep. He has repeatedly pointed out that the People's Republic of China (PRC) is aggressively pursuing a naval strategy for de facto control of the world's key maritime choke points, the most vital of which is the Panama Canal. Incredibly, we are poised to surrender this extraordinary asset, this great military advantage, to Red China.

With MacArthur's soldiers we must ask: "Why surrender military advantages to an enemy in the field?" Did we say "enemy"? It is not the U.S. but Red China that has chosen that term. Its Janus-faced Communist leaders flash toothy Cheshire grins with one face, while simultaneously targeting us as "Enemy Number One" in their official military doctrine and training. It is amazing to me that the administration and members of Congress can claim to see no evidence of a PRC threat to our Canal in Panama in the impending turnover. As the "Chinagate" scandals have shown, Beijing uses a host of commercial enterprises — front companies — to carry out military and espionage operations. Now, through its front company, Hutchison Whampoa, it intends



to capture our most critical seaway.

What amazes even more is that we are being told we must follow this suicidal course to uphold the "rule of law." But it is precisely a profound respect for the rule of law that compels a rejection of the supposed basis for the Canal turnover, the 1977 Carter-Torrijos treaties, which have been properly and repeatedly labeled a "massive fraud."

In fact, because so many of the features of the Carter-Torrijos treaties were illegal and unconstitutional, *those treaties were never ratified*. Yes, that is true; the Carter-Torrijos treaties are null and void, as eminent legal authorities attested in

hearings before the Senate's Subcommittee on Separation of Powers in June 1983. One of the most important points was stated succinctly by Dr. Charles Breecher, a U.S. negotiator on many treaties: "First, the Panama Canal treaties have not, I repeat, been ratified in international law, and they therefore did not go into effect ... and are not in effect now. The reason is very simple.... [T]he United States and Panama did not agree to the same text of the treaties."

Dr. Breecher was referring most especially to the fact that Panamanian dictator Omar Torrijos had rejected the U.S. Senate's "DeConcini Reservation" to the treaties, which recognized the United States' right to intervene militarily to guarantee the neutrality of the Canal. Our Senate refused to ratify the treaties without this guarantee. Torrijos countered with his own reservation, which is completely at odds with ours.

The "Restatement of the United States Foreign Relations Law" declares unambiguously that if the other state has made a reservation, then "Senate consent to the acceptance of the reservation is required." Likewise, Article 20.2 of the 1969 Vienna Convention on the Law of Treaties states that "a reservation requires acceptance by all the parties." That never happened, thus, there was never "a meeting of the minds," the most fundamental requirement for a treaty to come into legal effect. The 1903 Hay-Bunau-Varilla Treaty, granting the U.S. full sovereignty over *our* Canal *in perpetuity*, therefore, remains in effect. *That is the law.*

The Carter-Torrijos treaties are rendered null and void on other serious points as well, but it is superfluous to go further. These facts have been public since at least 1983, but each time an effort has been made to address this matter, Congress has closed its eyes and pretended that all is well. In view of the very real threat to our Canal from the PRC, continued willful blindness amounts to congressional complicity in this fraud and the endangerment of our national security. For this reason I have introduced House Joint Resolution 77, The Panama and America Security Act. ■

Representative Chenoweth-Hage's (R-ID) resolution appears on pages 21-22.

Building America's Modern Marvel

The chronicle of the construction of the Panama Canal is a tale of tragedy, triumph, the fulfillment of a 400-year-old dream, and the ascendance of America to a world power.

by Michael E. Telzrow

Much has been written about the building of the Panama Canal. Yet no matter how many times it is told it never loses its sense of grandeur. British historian James Bryce called the Canal "the greatest liberty Man has ever taken with nature." Without a doubt it is one of the most compelling chapters in the history of mankind.

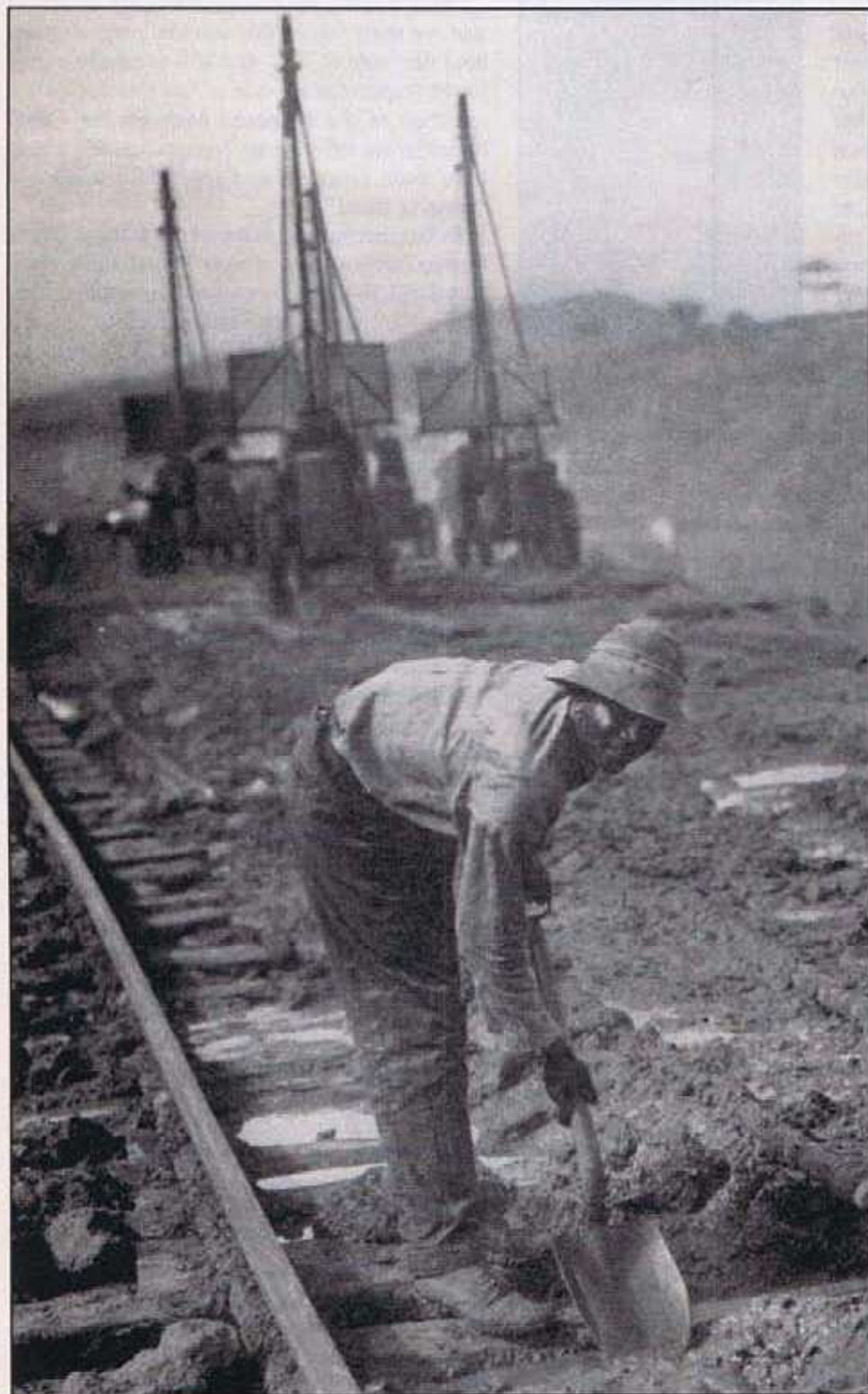
Ever since Vasco Nuñez de Balboa stood on the shores of Panama in 1513 and claimed the Pacific for Spain, men have dreamed of an isthmian canal. Not long after Balboa's discovery of the Pacific, the Spanish monarchy ordered a survey of Panama in order to investigate the possibility of building a canal. But the realities of 16th century technology and politics precluded any serious attempt at actual construction. It would take another 300 years and the construction of a Panamanian railroad before a canal would be seriously reconsidered.

An Isthmian Railroad

During the mid-19th century, both England and France entertained the idea of building a cross-isthmian railroad but neither could muster the capital and ambition to make the attempt. The United States displayed little interest in such an endeavor until the acquisition of Oregon and California subsequent to the war with Mexico. Both regions were virtually inaccessible to the population centers east of the Mississippi. An individual wishing to make the trip to California or Oregon had a choice of three routes. He could undertake the perilous overland trip, or suffer the long and dangerous voyage around Cape Horn, or opt for a trek across the Isthmus of Panama followed by a relatively short voyage to San Francisco.

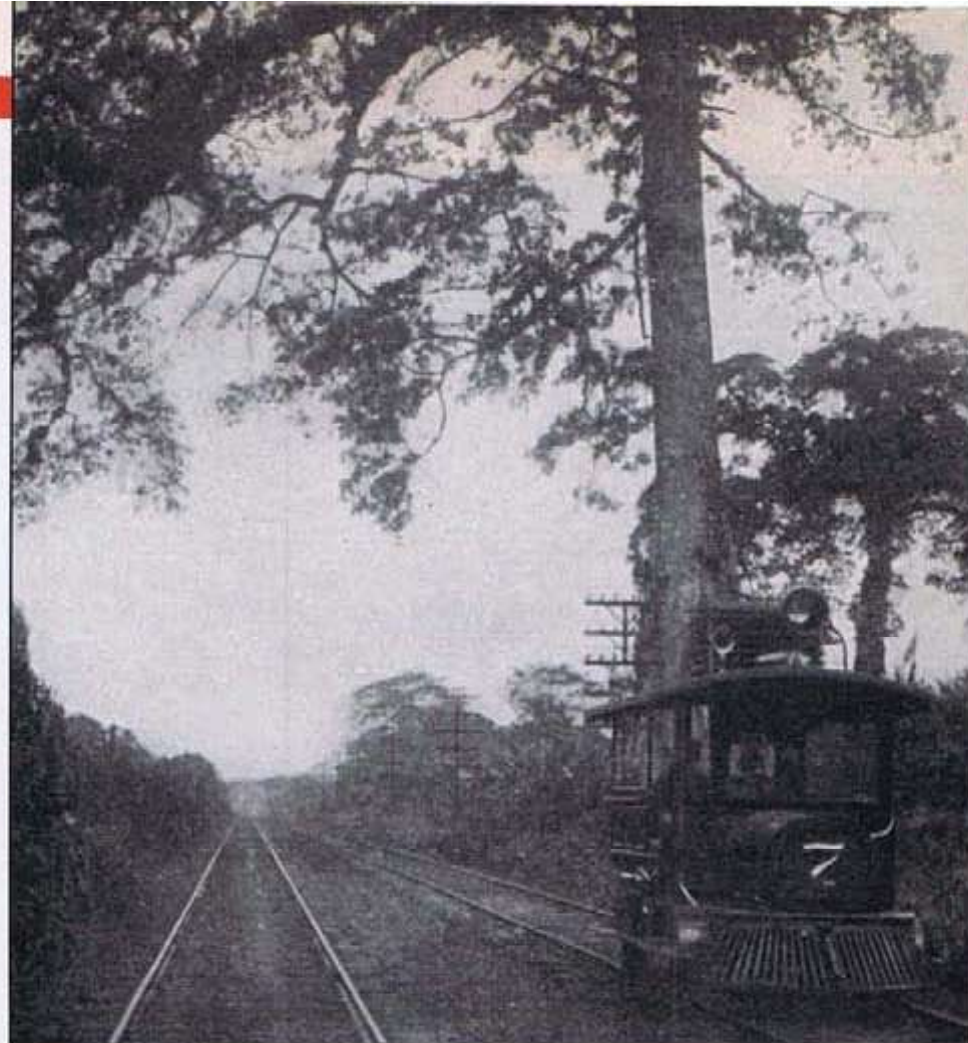
Despite the claims of advertisements at

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the time, in the mid-19th century, one did not just stroll across the Isthmus. Travelers arriving in Panama were soon acquainted with the realities of poor food, yellow fever, and malaria as well as the threat of theft and murder. Nevertheless, multitudes of "forty-niners" descended upon the Isthmus of Panama in hopes of a shorter route to California's gold fields. At about the same time the United States Post Office was examining ways to transport the ever growing volume of mail to the West Coast. In response, Congress authorized contracts for the establishment of two lines of mail steamships — one from New York and New Orleans to Panama, and the other from the Pacific side of the Isthmus to California and Oregon. In addition, the ships carried passengers bound for the gold fields.

Before long, the inevitable occurred. The "leisurely" 50-mile hike through the jungles of Panama led to an enormous bottleneck of man and mail. Tropical diseases, thieves, and the lack of efficient transportation were to blame. The answer of course, at least for the latter two, was the construction of a trans-isthmian railroad. William H. Aspinwall (the man who had secured contracts for the steamship lines) and associates John L. Stephens and Henry Chauncey entered into a contract with the government of New Granada for the exclusive rights in constructing and administering a rail line across the Isthmus of Panama.



The contract gave Aspinwall's company rights of operation for a term of 49 years from the date of completion. This massive undertaking was begun under the guidance of engineers John C. Trautwine and Colonel George M. Totten. Each man boldly predicted that the railroad could be completed in six months at a cost of approxi-

The Panama Railroad (above): Later to be described as "two streaks of rust and a right of way," it was profitable but could not meet the demand for cross-isthmian transport, demonstrating the need for a canal. Yet the railroad would prove indispensable in the construction of the canal. "The Panama Railroad," commented American engineer John F. Stevens in 1905, "is very largely a creature of the canal and the construction of the latter in the absence of the Railroad would be practically impossible."



Workman's Quarters (left): During the early stages of the American canal effort, living conditions were wretched. Writing to his mother, engineer Charles L. Carroll complained: "Everyone is afflicted with running sores. We are compelled to sleep in an old shed, six to a room. Rain water is drunk rather than river water, because it is purer. The meals would sicken a dog...." To keep workers in the face of such conditions, wages for canal work were as much as 50% higher than for similar work back home.

The French Attempt: Led by Ferdinand de Lesseps, the builder of the Suez Canal, the French undertook to build the Panama Canal without the necessary understanding of and respect for conditions in the tropics. This worker (facing page) gamely wields his shovel against one tropical nuisance: the ever-present mud.



Major William C. Gorgas (above right), led the American effort to eradicate disease and improve sanitation. Initially hampered by lack of funding, his perseverance led to success, paving the way for the canal.

Improved Sanitation (top): Here, workers install better sewers in an effort to improve living conditions in the Canal Zone.

Spraying Mosquito Oil (above): Mosquito larvae live underwater but must breathe at the surface. Spraying oil on the water prevents their reaching the surface, asphyxiating them. Under Gorgas, spraying with oil and poison greatly reduced mosquito-borne diseases like yellow fever and malaria.

mately \$1 million.

Totten and Trautwine's bold claim was made without the benefit of knowledge of the area. Each was completely unaware of the characteristics of the tropics. They had not accounted for the seasonal rains that turned roads to mud or the devastating nature of malaria and yellow fever. While serving as Regimental Quartermaster of the 4th Infantry, a young Ulysses S. Grant commented that "the horrors of the road in the rainy season are beyond description."

Disease and the rainy season coupled with crippling supply problems insured a never-ending logistical nightmare. The obstacles encountered in a country devoid of resources simply boggle the modern mind. Almost every type of supply including food had to be imported from thousands of miles away, and this prior to the advent of refrigeration in the age of sail-power.

Disease in particular took a heavy toll, with yellow fever and cholera the prime

killers. In the end, an estimated 6,000 men perished in the effort to lay track across the Isthmus.

Despite Totten and Trautwine's lofty predictions, only seven miles of track had been laid after 20 months, a clear testament to the conditions encountered. Still, the men continued to work under Totten's energetic command. He simply would not be denied, and the railroad was finally completed five years after the start of construction. On January 27, 1855, Totten himself drove the last spike, finally opening what was to become the lifeline of later canal projects.

The editor of the *Aspinwall Courier* summed up the sentiments of many Americans when he wrote:

To the United States belongs the honor of this work. From its inception to its consummation, it is purely American. American genius conceived the plan; American science pronounced it practicable; American capital has furnished the sinews; and American energy has prosecuted the gigantic enterprise to its completion in spite of the most formidable difficulties.

The French Attempt

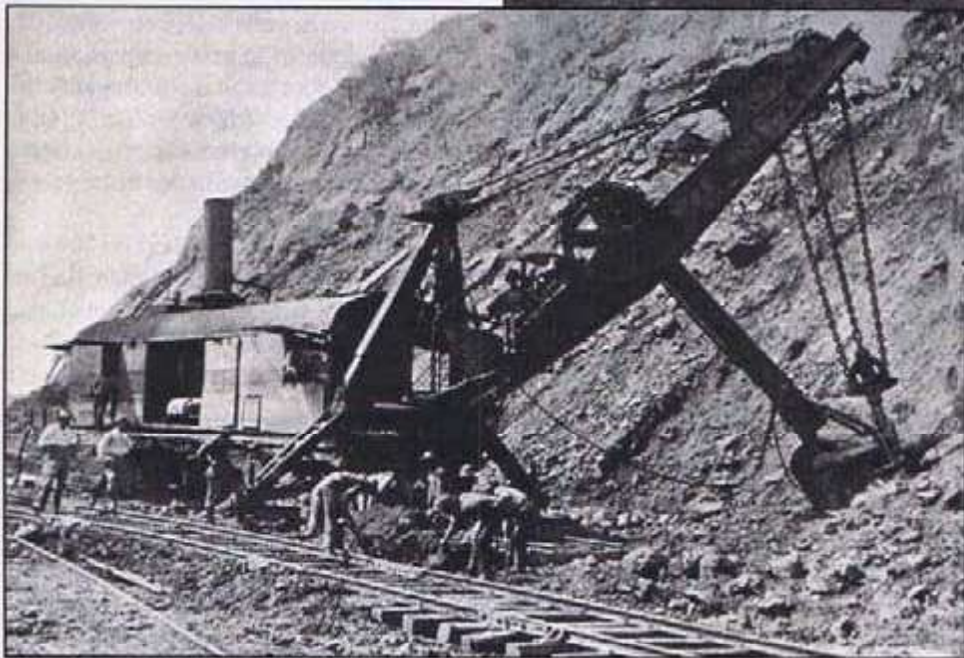
The completion of the Panama Railroad gave rise to a renewed interest in a trans-isthmian canal. Even before the start of construction many Americans were predicting that the railroad would eventually be found insufficient to meet the needs of commerce. They were right. But it was not the Americans who would make the first attempt at constructing a canal.

In 1879, the French under Ferdinand de Lesseps began to seriously consider the construction of a canal. After winning a concession from Colombia, de Lesseps turned his attention to raising money and gathering a canal workforce. Although not an engineer, he had overseen the successful construction of the Suez Canal in Egypt and was fortified by a sense of supreme confidence. Success was considered certain.

Excavation began in 1882, but progress was slow. Like the American railroad builders before them, the French were woefully ignorant of the nature of Panama's geology, climate, and diseases. Surveying was difficult and flooding was a constant threat. It was not uncommon for

John F. Stevens (below right): Appointed in 1905, Stevens got the canal effort on track by emphasizing the importance of Major Gorgas' sanitation efforts, improving the railroad, and acquiring better equipment.

Steam Shovels (below): Stevens knew the importance of technology and employed it at the canal, making great use of the steam shovel to facilitate excavation. Along with dynamite, steam shovels were used to carve a nine-mile-long trench through the Continental Divide (**right**). In total, 96 million cubic yards of rock were removed from the Culebra Cut.



streams and rivers to rise 20 or more feet above their banks in as many hours. The thick jungle undergrowth made movement of heavy surveying equipment virtually impossible as well.

During the rainy season, yellow fever exacted an enormous toll, taking 1,230 lives in 1884. Faced with appalling mortality rates, canal workers deserted by the hundreds and the search for labor became a bitter trial. The chief engineer, Jules Dingler, tried to inspire confidence among the workers by declaring on his arrival that he would "show the world only the drunk and dissipated will die here of yellow fever." Dingler's bravado was unwarranted. He would lose a son, daughter, son-in-law, and wife to yellow fever before succumbing himself.

But the primary threat to success was de Lesseps' overconfidence and his obstinate adherence to the idea of a sea-level canal.

Despite a warning from the renowned French engineer Adolphe de Lépiny, de Lesseps clung to the idea of a sea-level canal with the tenacity of a tiger. But it was not to be. The geography of Panama would not permit it. The Chagres River and the Culebra Cut emerged as insurmountable obstacles for the French. Labor shortages, corrupt subcontractors, the failure to standardize equipment, and the ever-present pall of malaria and yellow fever finally finished de Lesseps. In 1888, the company went into bankruptcy. The hero of the Suez had failed.

America Takes Over

Most Americans were quietly relieved that the French had failed. Americans may have admired de Lesseps but the thought of a foreign presence in the Western Hemisphere was universally unacceptable.

The Spanish American War heightened

American interest in a canal. On March 19, 1898, the battleship *U.S.S. Oregon* made way from San Francisco en route to the Caribbean in anticipation of hostilities with Spain. Her 13,000-mile transit around the southern tip of South America consumed 60 days. By the time she reached Key West, the war was over. Nothing illustrated the military need for a canal more than this voyage. Navy officers imbued with Alfred Thayer Mahan's doctrine of a strong, blue-water navy immediately called for a canal under the protection of the United States. The addition of de facto colonies in Puerto Rico and the Philippines further highlighted the need for a canal.

Initial interest centered on a Nicaraguan canal, but a series of events starting in 1902 led to the independence of Panama and the signing of the Hay-Bunau-Varilla Treaty. The terms of the treaty ceded to the United States, in perpetuity, a section of central Panama 10 miles wide where the Canal would be built. It also conferred the right



Colonel George W. Goethals (above):

Replaced Stevens as chief engineer in 1907. Goethals reorganized the construction effort into three regions. Under his watch, the pace of excavation increased to the point that 4 million cubic yards were excavated in the single month of March 1909.

Dredging (top): Construction of the man-made canyon at Culebra Cut required 24-hour dredging. Such work was hampered by frequent landslides. In all, 26 landslides deposited an additional 25 million cubic yards of earth and rock in the Cut.

Lock Gates (right): Forty-six of these massive lock gates were installed, each having two leaves. Each leaf is 65 feet wide and 7 feet thick, weighing between 300 and 600 tons. Actuated by specially designed machinery (**facing page, top**) with a 34,000-lb drive wheel, the gates could be opened or closed in two minutes.

to acquire more land if needed and to use troops to protect United States interests in the area. Finally, the U.S. paid the new country \$10 million and agreed to pay an annual fee of \$250,000.

Construction began in early summer 1904. When American crews arrived on the scene they found a canal project approximately two-fifths completed. The ghosts of failure were everywhere. Colon was nothing more than a shantytown. Equipment rusted and rotted in the tropical heat and humidity, and more than 25,000 workers lay buried along the canal route, victims of dreaded tropical diseases. Still, the new arrivals were the beneficiaries of the knowledge gleaned from the failure of others.

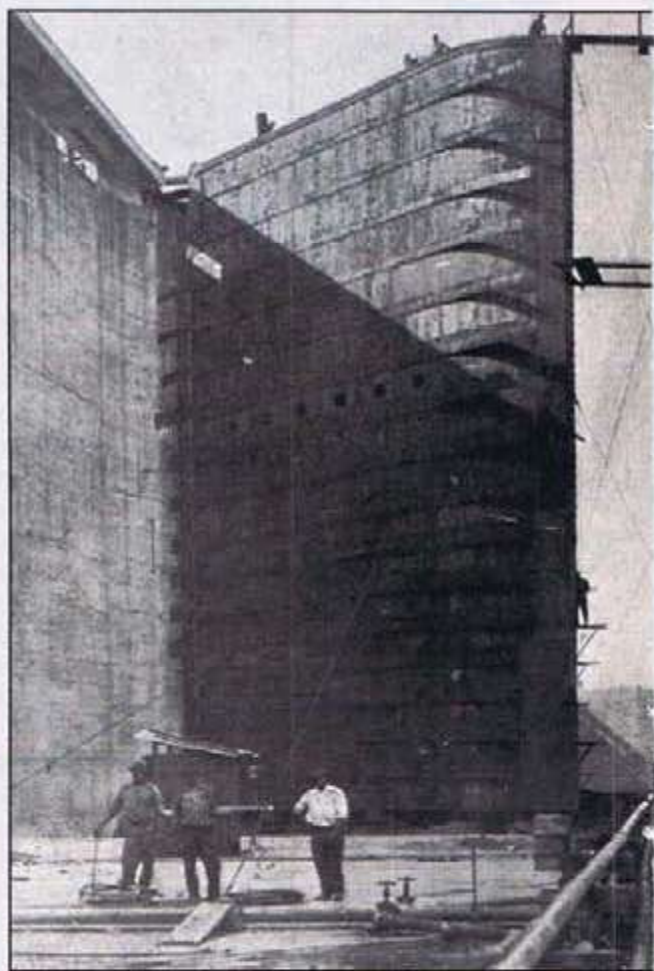
French survey maps were readily available and generally regarded as very accurate. Despite the general deterioration of equipment a surprising amount had been sensibly mothballed. The railroad was also still intact, although it needed some repair and the addition of new track to make it effective. Disease remained a constant threat, but the medical community was beginning to make the connection between mosquitoes and the pathogens they carried.

Even armed with these advantages, virtually nothing was accomplished within the first 15

months. Like the French before them, the Army and Navy Canal Commission failed to adequately lay the groundwork for a successful operation. Its failure to eradicate disease and to set up a workable commissary and transportation system encouraged confusion and panic.

The problem lay in the makeup of the Army and Navy Commission. It was too cumbersome, and duties were never clearly defined. Furthermore, the chairman of the Commission, Admiral John G. Walker, was more concerned with saving money than in building a canal. His inordinate thriftiness had particularly unfortunate repercussions in the struggle to improve sanitation and curb disease. As a result of this frugality, senior medical officer Major William C. Gorgas was unable to pursue sanitation efforts. This situation undoubtedly led to the yellow fever epidemic of late 1904.

The first case was reported on November 24th and by December a panic had set in among the workers. In retrospect, this panic was out of proportion to the seriousness of the situation as only 246 cases were



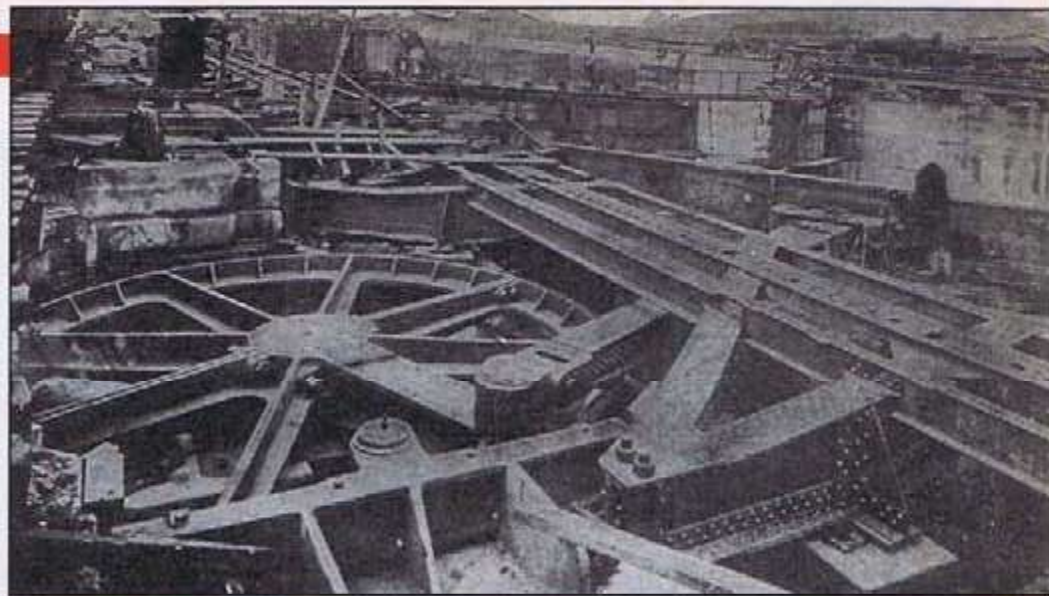
reported that winter. Nevertheless, it was an avoidable situation made possible by the ignorance and bureaucracy inherent in the Commission.

The Army and Navy Commission's bungling did little to inspire the average worker. As late as 1905 the Commission had not decided on whether to build a sea level or lock canal. Thousands of disillusioned workers left the Zone in disgust.

President Roosevelt finally asked the Army and Navy Commission to resign. It was clear that the Canal would never be dug under such an administration and he appointed the Second Isthmian Commission, with John F. Wallace as chief engineer.

Wallace, though, did not last long. His sudden resignation hardly inspired confidence in the canal workers. A new state of panic and despair set in as the rainy season approached. It seemed that the Canal would never be dug.

It took the perseverance of Major Gorgas and the direction of chief engineers John F. Stevens and Colonel George W. Goethals to realize the dream of a canal.



Gorgas, in particular, never gave up his effort to eradicate the mosquito-borne diseases that had plagued the workers on the isthmus.

Stevens took over during the summer of 1905 and immediately set out to reorganize the whole operation. The seriousness of the public health issue became apparent to Stevens almost immediately. His comments at a subsequent government hearing tell of the fear that gripped the minds of canal workers upon his arrival: "employees were scared out of their boots, afraid of yellow fever, and afraid of everything."

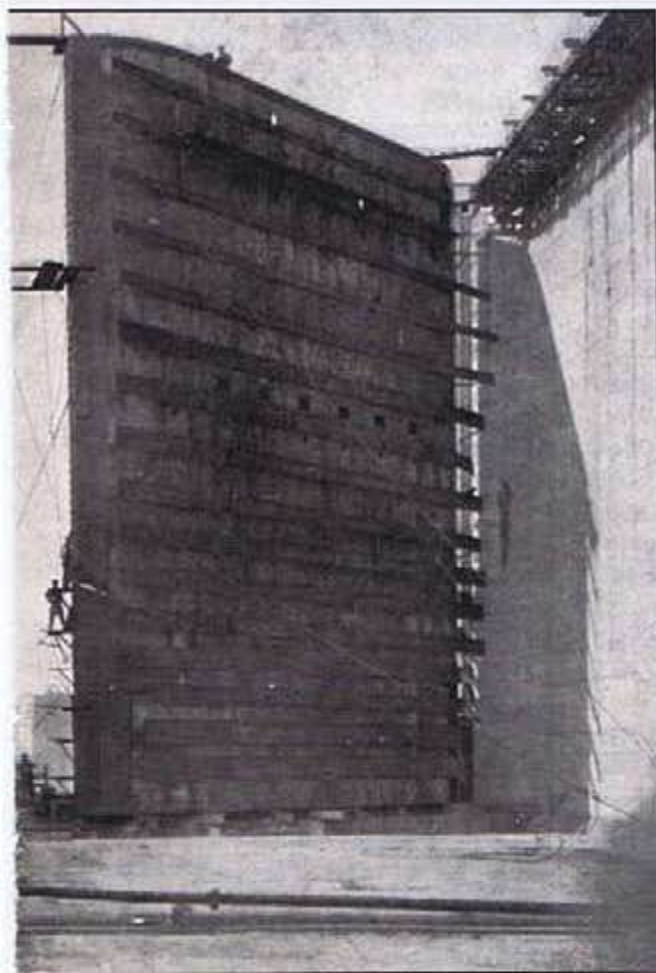
Gorgas was delighted when Stevens made it known that improving public health was to be a priority. No longer did Gorgas have to fight the ignorance of the old Commission. Funds were made available, and he immediately set out to rid the Zone of malaria and yellow fever. Relying on the work of Cuban doctor Carlos Findlay, Gorgas waged an all-out war on the *Aedes Calopus* mosquito, carrier of yellow fever.

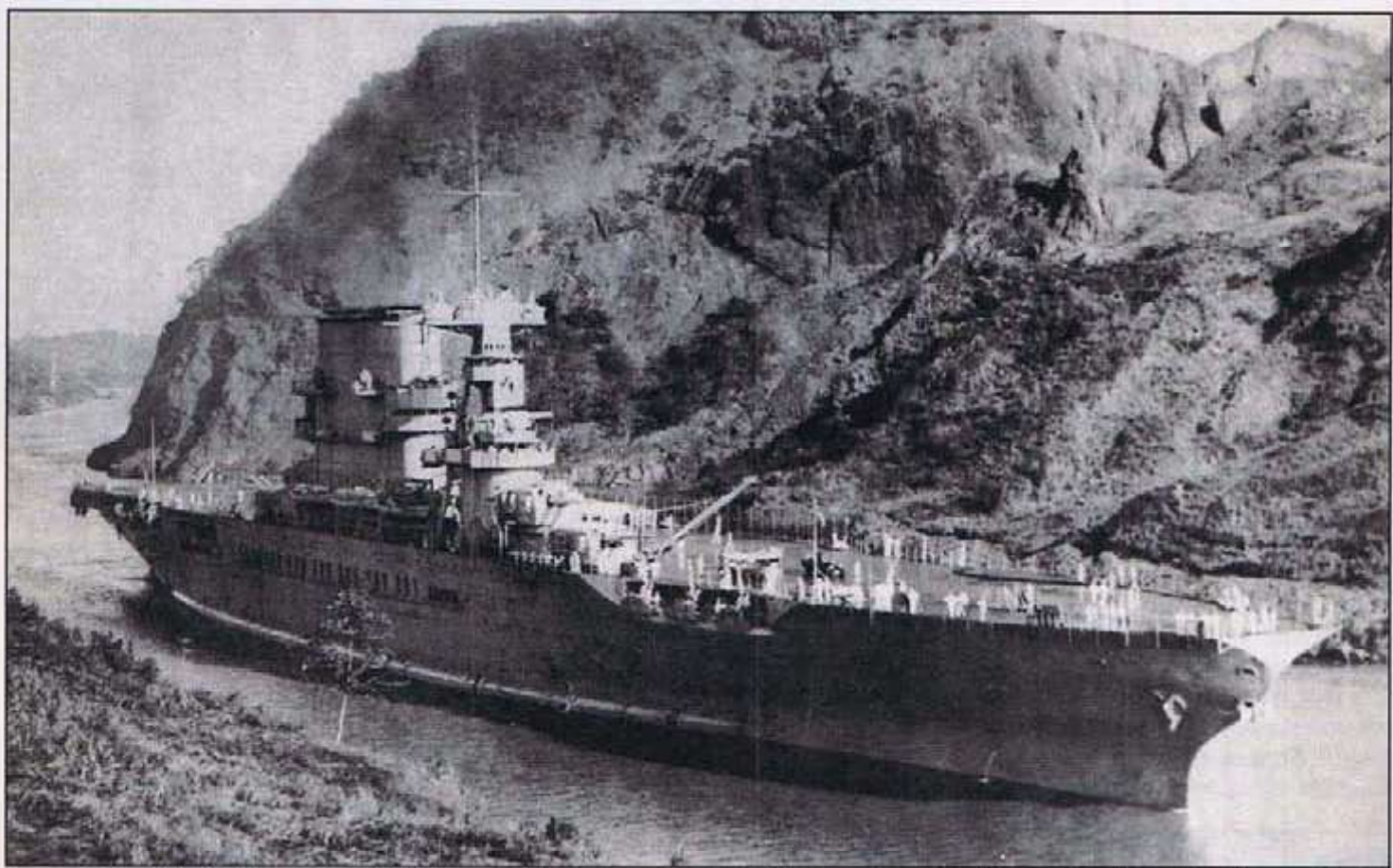
Yellow fever was the scourge of the Canal Zone and progress on the canal would remain slow as long as it remained a threat. Gorgas, now adequately funded, instituted a comprehensive program of eradication that included the use of fumigants and mosquito nets, and the elimination of uncovered standing water. The eradication of the disease-carrying mosquito seemed an impossible task in a region where one canal worker described "mosquitoes so

thick that I have seen them put out a lighted candle with their burnt bodies." Gorgas' program was immediately successful despite the enormity of the problem. In 1907, no cases of yellow fever were reported. The majority of the offending insects were exterminated, and more importantly, the use of mosquito nets became commonplace. By 1913, mosquito-borne disease had been substantially curbed.

Stevens continued with a reorganization of the living quarters and commissary. The workforce had to be adequately housed and fed if the project was to enjoy any success. Under the supervision of Jackson Smith, the commissary and living quarters were improved to a level not previously seen. Housing and feeding 40,000 employees was no simple task. Smith supervised a first-class subsistence depot at Cristobal that included cold storage and an ice cream factory. Canal employees could expect to live in comfort rather than the squalor that had typified earlier efforts.

Stevens was also successful in obtaining adequate transport and equipment. He standardized the equipment; he knew that the railroad was the key to success and he set about adding and improving track. By doing so he was able to do what the French could not. Stevens knew that the French were unable to effectively remove dirt and rock from the Culebra Cut, and poorly located dumps contributed to frequent slides in that area. The solution was to deposit the waste well away from the excavation, and the railroad was the key. The work in and around the Cut required the removal of more than 232 million cubic yards of soil. Only the existence of an effective rail system could insure the success of such an endeavor. Stevens devised a simple but flexi-





Commercial and Strategic Importance: 13,000 commercial vessels carrying 190 million tons of cargo transit the canal each year. Not to be overlooked is the Canal's vital strategic importance. Admiral Thomas Moorer (Ret.) notes that the "Panama Canal has played a crucial role in World Wars I and II, the Korean War, Vietnam, Desert Storm...." At the peak of the Vietnam War in 1968, for example, 1,500 U.S. Government ships passed through the Canal.

ble system of track that allowed the American effort to succeed in an area that perplexed the French.

Stevens also worked to improve the project's other equipment. Unlike his predecessors, Stevens concentrated on acquiring improved equipment. This included the acquisition of steam shovels, devices, though now largely obsolete, which made possible the efficient removal of massive quantities of earth. This technology, relatively new at the time, was of immense importance to the eventual success of the canal effort. Indeed, in breaking the continental divide, the steam shovel was used in 90 percent of the dry excavation.

In many ways Stevens' last contribution to the canal effort was his most important. It involved the debate over whether to build a sea-level canal or high-level lock canal. After initial plans for a sea-level canal, Stevens was able to persuade the Commission to accept the idea of a Canal with locks. The Canal would be a high-level

bridge of water connected by locks and sea approaches. Lépinay would have approved, for the plan was essentially the same one the Frenchman had unsuccessfully championed in 1879. Finally, after 27 years of failure, success appeared imminent.

In 1907, Stevens unexpectedly resigned and was succeeded by Army engineer George W. Goethals. Stevens' resignation might have caused problems among the canal workers, but Goethals was wise enough to minimize change. This pleased the rank and file and work continued without a hitch. Goethals concentrated on excavation, sometimes moving more in one day than some of his predecessors had moved in a month.

Goethals divided the construction into three regions: the Atlantic Division, the Central Division, and the Pacific Division. The Central Division had the toughest job. It was there that they battled the Continental Divide at Culebra Cut. Engineers and construction teams dealt with four geological faults and five different types of

rock in the Cut. The immensity of the job is difficult to imagine. It was a monumental task that required 24-hour dredging.

The Canal was finally opened in August 1914, less than two weeks after the outbreak of World War I in Europe. The massive undertaking had taken the American-led workforce ten years to complete at a cost of \$387 million. It was the largest and most expensive engineering project ever attempted by the United States government. Everything about the project was gigantic. The canal locks were the largest ever built, and at the time Gatún Dam was the largest earthen dam in the world.

The Panama Canal emerged from the tangled Panamanian jungle as proof of America's ascendancy. The engineering, logistical, and health problems that had plagued the early canal builders failed to stymie the American effort. The realization of a 400-year dream signaled the beginning of a new era — an era of unsurpassed progress with the United States at the helm. ■

Saying No to Usurpation

Rep. Helen Chenoweth-Hage's resolution serves notice that the 1977 Carter-Torrijos treaties are null and void.

There is a silver lining with regard to the impending Panama Canal giveaway, and that is that the 1977 Carter-Torrijos treaties "justifying" this action were never legally ratified. It is no exaggeration to state that President Clinton, in his attempts to consummate the transfer, is engaging in usurpation. In our system of government, however, usurpation is possible only so long as the people and their elected representatives are willing to tolerate it.

On November 9th, Representative Helen Chenoweth-Hage (R-ID) introduced a resolution (House Joint Resolution 77) serving notice that the 1977 treaties are null and void and that the earlier 1903 treaty is still in effect. The full text of Mrs. Chenoweth-Hage's resolution follows:

Notifying the Government of Panama of the nullity of the Carter-Torrijos treaties and recognizing the validity of the Hay-Bunau-Varilla Treaty with respect to control of the Panama Canal Zone.

Whereas the United States Canal in Panama, linking the Pacific and Atlantic Oceans, is one of the most strategically important naval choke points in the world, essential to our national defense and vital to our economic well-being;

Whereas occupation, damage, or destruction of this crucial waterway by a hostile power — whether an unfriendly Panamanian government, terrorist organization, or other foreign government — could be calamitous to the United States in time of war and disastrous to our economy even in time of peace;

Whereas the Republic of Panama does not have an army, navy, air force, or other military or police capability adequate for the defense of such a strategic asset;

Whereas the communist government of the People's Republic of China has been pursuing an aggressive expansionist agenda in Panama, the Caribbean, and Latin America, while, at the same time carrying out a concerted and much-publicized cam-

paign of bribery and espionage reaching to the highest offices of the United States;

Whereas Hutchison Whampoa, a front company for the People's Liberation Army of China, utilizing corrupt practices, has acquired leases giving it control of the ports of Cristobal and Balboa at the Atlantic and Pacific ends of the Panama Canal, positioning the People's Republic of China for de facto control of the Canal;

Whereas the People's Republic of China, through its agent, Hutchison Whampoa, is also in the process of taking over the Rodman Naval Station and other military facilities being abandoned by the United States, and has the exclusive authority to hire the pilots who control all traffic through the Canal;

Whereas the People's Republic of China, a totalitarian regime, refers to the United States in its military literature and official Communist Party statements as its "main enemy" and has aligned itself with other communist regimes and terrorist states avowedly hostile to the United States;

Whereas China expert Dr. Michael Pillsbury of the National Defense University testified to the Senate Select Committee on Intelligence in September 1997 that the Chinese military officials have written extensively of their nation's intention "to defeat the United States";

Whereas in spite of these manifest dangers, the Government of the United States is pursuing a policy of transferring possession, ownership, and control of the Panama Canal and Canal Zone, which includes the United States military bases, to the Government of Panama, in accordance with the 1977 Carter-Torrijos treaties, which were never legally ratified by either the United States or Panama;

Whereas in their respective instruments of ratification, the United States and Panama did not agree to the same text of the



The Canal and Canal Zone are still U.S. territory under Hay-Bunau-Varilla Treaty, which remains legally binding.

treaties, and, in fact, each party stipulated to conditions that are in fundamental conflict with, and mutually exclusive of, the demands of the other;

Whereas one of the most basic and universally accepted principles of international law concerning treaties holds that the parties must agree to the same written text, or there is no "meeting of the minds" and, thus no treaty;

Whereas Article 20.2 of the 1969 Vienna Convention on the Law of Treaties states unequivocally that "a reservation requires acceptance by all the parties"; and whereas the "Restatement of the United States Foreign Relations Law" declares unambiguously that "If the other state has made a reservation ... the Senate ... will take it fully into account in acting on the treaty," and, moreover, that "Senate consent to the acceptance of the reservation is required";

Whereas ratification of the Carter-Torrijos treaties by the United States Senate was contingent upon the DeConcini Reservation in the United States version guaranteeing the United States the right to use military force, with or without Panama's consent, to keep the Canal open;

Whereas the United States Senate was not informed that the President of the United States had secretly agreed with the regime of Omar Torrijos in Panama not to include the essential DeConcini Reservation in Panama's text version; and, moreover, that the President of the United States

added further to this illegal and unconstitutional action by secretly accepting Panama's counter-reservation, which explicitly repudiates the DeConcini Reservation and subjects United States right of military intervention to "principles of mutual respect and cooperation";

Whereas these discrepancies in the treaty texts involve the most substantive and fundamental contradictions imaginable affecting matters of the most serious import to both the United States and Panama, and, thus, render the ratifications by both parties invalid, null, and void;

Whereas additional serious violations of legal norms and the Constitutions of both the United States and Panama also render the Carter-Torrijos treaties of transfer and neutrality null and void, and, therefore, of no legal standing;

Whereas therefore, the original Hay-Bunau-Varilla Treaty of 1903 between the United States and Panama — under which the United States legally purchased the Canal Zone territory from Colombia, Panama, and private landowners, and then,

at great cost, built the Panama Canal, which has proved to be an enormous boon to the whole world — remains legally in force;

Whereas the 1903 Treaty between the United States and Panama grants the United States full sovereign rights over the Panama Canal and Canal Zone "in perpetuity", and the United States Supreme Court has ruled (1907) that the Canal Zone is indeed United States territory;

Whereas even the terms of the invalid Carter-Torrijos Neutrality Treaty have been violated, rendering that treaty doubly void, in that Article V of the Neutrality Treaty specifies use of defense sites by Panama only, but Panama is leasing defense sites to a partner of the merchant marine arm of China's People's Liberation Army (Hutchison Whampoa);

Whereas the President of the United States, in defiance of both law and the national security and economic interests of the United States, has proceeded, and is proceeding, with the complete transfer of this vital, sovereign territory of the United States to Panama;

Whereas this transfer process is proceeding toward imminent completion on December 31, 1999; and

Whereas treaties are legislative acts and, as officially noted in Jefferson's Manual and Rules of the House of Representatives, "Treaties being declared equally with the laws of the United States, to be the supreme law of the land, it is understood that an act of the legislature alone can declare them infringed and rescinded": Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That notice is given to the Government of Panama of the decree of nullity of the 1997 Carter-Torrijos treaties, and, further, that the United States recognizes the Hay-Bunau-Varilla Treaty of 1903 has never been voided and remains legally binding. ■

We encourage readers to contact their own congressman in support of H.J. Res. 77, even if Congress is not in session. The address for any member of the House is: (Representative's name), House Office Building, Washington, D.C. 20415.

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