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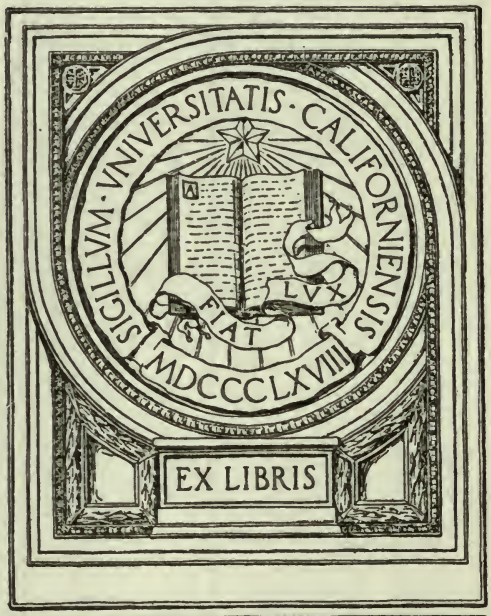

Garay, Narciso

MANIFESTO TO THE NATION

by the Executive Power of the Republic of Panama

on the 24th. of August 1921

AND

NOTE OF PROTEST

to the Secretary of State of the United States of America

by the

SECRETARY OF FOREIGN RELATIONS OF PANAMA

on Special Mission to the Washington Government

on the 24th. of August 1921

PANAMA
Imprenta Nacional
1921

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Panama (Republic) Presidente, 1920-1924
" (Porras)

MANIFESTO TO THE NATION

by the Executive Power of the Republic of Panama

on the 24th. of August 1921

CONSULADO GENERAL de PANAMA
SAN FRANCISCO

AND

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MANIFESTO TO NATION

When in the month of February last, Costa Rica invaded our national territory, treacherously and without any previous immediate diplomatic antecedent but a mission of cordiality and fraternity headed by a Plenipotentiary, the Republic of Panama, unarmed but full of dignity, responded to a man to repel the invader, and in three actions punished Costa Rica's audacity, reduced her to impotency and after that, magnanimously took care of her wounded, entertained her prisoners and gave them all their liberty.

The United States of America offered its services as mediator in the conflict and with this mediation accepted by Panama, hostilities were suspended and diplomatic negotiations started. The National Government, represented in Washington by the Secretary of Government and Justice, made numerous energetic representations before the American chancellery to demostrate how unjust was the attitude of Costa Rica not only from a legal point of view but also in view of the unjustified military invasion, which was not preceded by a threat, a notification, a reclamation or even a demand, after six years of silence from the date of the last notes exchanged after Panama proclaimed that the White Award was null and void.

Panama officially declared in October, 1914, inmediately after the White Award was announced, that this award was worthless, inasmuch as the mediator, called upon to interpret the Loubet Award, instead declared it void

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and non-existent. And this juridical propositon is not the fruit of blind patriotism, but clearly the consequence of principles of international law. This is the reason why we have seen it supported also with their great scientific prestige by such eminent jurists as the Cuban professor Dr. Antonio S. Bustamante, the Chilean professor Ricardo Montaner Bello and the reputed American lawyers William Nelson Cromwell, Edward Bruce Hill and William J. Dulles.

However, the United States Government acting as mediator was not conviced by this and in its note of May 2, 1921, which had the character of an ultimatum, notified the Government of the Republic that the boundary question with Costa Rica should be settled in conformity with the White Award; that Panama should immediately proceed to transfer to Costa Rica the jurisdiction over the region occupied on the Pacific side in accordance with the statu quo, and that if this was not carried out within a reasonable time "the Government of the United States would be obliged *to proceed as should be necessary* for the purpose of assuring the appropiate transfer of the exercise of jurisdiction."

The question was then assuming another phase, because the mediator government not-only took unto itself the right to decide upon the validity of an award to which that Government had not been a party or judge, but it also assumed the role of executor of an international sentence because in its opinion it was correct, and threatened us with coercive measures for its execution, leaving us to the torture of uncertainty, as the American Government never declared what those measures of coercion which it intended taking against Panama would be.

"In view of these circumstances the National Government decided to make a supreme diplomatic effort to obtain an honorable and satisfactory solution of the double conflict which the attitude of the United States Government created namely the boundary controversy with

Costa Rica, and the differences with the United States owing to the rights which that country attributed to itself for the purpose of compelling us to accept against our wish and award juridically ineffective.

To carry out this effort the Government decided to send the Secretary of Foreign Affairs on a special mission to Washington, and also decided to send to South America four plenipotentiary missions accredited to the Republics of Argentina, Brazil, Chile and Peru, the four Latin American powers who have embassies in Washington.

The object of these missions was to make known to the peoples of those sister countries the principles and reasons which served as a basis for the attitude assumed by Panama in this emergency, which was not the attitude of a country revolting against the principle of arbitration as interested and malevolent propaganda sought to demonstrate, but on the contrary, was of a nation that proclaimed precisely the principles of that juridical institution which safeguards weak peoples. In sending these missions the Government also sought to obtain that the four Latin American powers, through their embassies in Washington, should use their good offices as they thought best to help in the task entrusted to our illustrious countrymen who made all possible efforts to carry out their missions and in general the results obtained were satisfactory and corresponded in a greater or lesser degree to the hopes of the Government.

In Washington the Secretary of Foreing Affairs begun his task by presenting a concise but complete summary of the arguments with which Panama justified its attitude, but failed to convince the American State Department. Encouraged by the same Department to enter into direct negotiations with the representative of Costa Rica, he initiated conferences with the latter with the object of reaching a direct agreement, but bery soon it was seen that Costa Rica did not show a sincere desire to reach an honorable arrangement but wished the imposition of its

extreme pretentions; in the opinion of Costa Rica the settlements did not have any other purpose than to carry out the necessary measures for the execution of the award repudiated by us. Consequently it was necessary to abandon all hope of reaching a direct agreement with Costa Rica and the negotiations were ended.

As the United States by assuming the rights of executors of the White Award created a diplomatic conflict with Panama that could only be solved through peaceful arbitration or by means of force, Panama invited the United States to submit the controversy existing between the two countries to the Permanent Court of Justice of The Hague. But the United States refused this arbitration, declaring that they were not a party in the conflict.

Panama then, in view of the fact that Costa Rica is a member of the League of Nations and that she has signed the Arbitration Convention of The Hague, invited her to submit the present difficulty to the civilized means of arbitration, but Costa Rica, on one hand fearing to submit to arbitration a case in which justice would undoubtedly have been adverse to her and on the other hand encouraged by the firm attitude of the United States upholding the White Award as the only possible solution of the question, also refused arbitration.

In a note of August 5 the Government of the United States transmitted to the Secretary of Government, in charge of the portfolio of Foreing Affairs, the demand made by the Government of Costa Rica that the President of Panama appoint a member of the boundary commission provided for in the Anderson Porras Convention, for the purpose of carrying out the demarcation of the international frontier from Point Burica to Cerro Pando. The Secretary in charge of the Chancellery replied that the White Award being null Costa Rica's demand was unrighteous, and that consequently Panama proclaimed once more its right to continue exercising jurisdiction over the territory occupied in conformity with the *statu quo* pen-

ding the settlement of boundary dispute in a manner juridically effective and resulting from the sovereign will of the two interested nations.

On the 19th of the present month a new note of the State Department, transmitted by the American Minister, declared that in view of the fact that the reasonable time mentioned in its note of May 2 had elapsed and Panama had not taken the measures demanded therein, the Government of the United States did not feel itself compelled to suggest to the Government of Costa Rica that it delay further the taking of jurisdiction over the territory which was adjudged to that country by the Loubet Award. At the same time Panama was notified that Costa Rica would immediately proceed to take possession of said territory.

The Government of Panama considered that it was its duty to assume the same lofty attitude which it showed when the armed conflict broke out for the first time, more so in view of the fact the note was not conclusive regarding the United States giving Costa Rica military support to carry out its aspirations. Consequently the Secretary of Government and Foreign Affairs, during a conference with the American Minister, expressed to the latter the desire and decision of Panama to oppose by force the announced taking possession of the disputed territory by Cost Rica. The Secretary added that he desired a definite statement on the question as the United States had declared in the month of April that they would not permit hostilities between Panama and Costa Rica and because Panama did not wish to put herself in the stupid position of provoking an armed conflict with the United States. Pending the receipt of a reply, the Government immediately gave orders to have everything prepared for an armed defense of the nation's honor if necessary.

The reply of the American Government arrived on the 23rd and in this reply we were unmistakably and definitely informed that the United States would not permit the renewal of hostilities against Costa Rica for the purpose of

opposing the taking over of jurisdiction by the latter. This statement was supported by official information from Washington announcing the dispatch from Philadelphia, aboard the battleship Pennsylvania, of a strong detachment of marines with complete equipment, who were reported to be coming to the Isthmus ostensibly for the purpose of supporting the attitude of the United States. In view of these facts which reveal that the conflict has been settled by force, and not being in a position to resist in any way the immense military, naval, economic and poltical powers of the United States of America, Panama finds itself unable to resist by the force of arms the offense made by Costa Rica, and as it considers that it is useless to sacrifice the few representatives of our national sovereignty who are in the village of Coto and thinks it is equally unnecessary to expose to the outrages of the invader the Panama flag that has flown there victoriously over our enemies when we could fight with them, has resolved to abandon the village before the entrance of Costarican troops there supported by the powerful nation whose help she has had in this conflict.

The Government is conscious that it has made all efforts, presented all arguments, used all means, put into play all resources, has suffered the pains and made all sacrifices possible to obtain a satisfactory solution of this crisis. But nothing has been able to change the inflexible attitude of the United States and the only satisfaction of the Government has been to witness the magnificent spirit of nationalism, the bravery and uprightness which the Panama people has made evident during the entire conflict.

Panama protests before the world against the act of force which has been perpetrated against her and reserves the right to occupy in the form and time it considers opportune the territories which were adjudged to her by the Loubet Award, as well as to make effective the rights resulting from the unprecedented act through which Costa

Rica has violated the *statu quo* existing between the two countries, has violated the rules and practices used among civilized peoples, has violated the pact of the League of Nations, and finally, has violated the spirit of solidarity and brotherhood which should exist among the Latin-American countries.

Panama, August 24, 1921.

The President of the Republic,

BELISARIO PORRAS.

The Secretary of Government and Justice in charge of the Ministry of Foreign Affairs,

RICARDO J. ALFARO.

The Secretary of Treasury,

EUSEBIO A. MORALES.

The Secretary of Public Instruction,

JEPTHA B. DUNCAN.

The Secretary of Public Works,

MANUEL QUINTERO V.

NOTE OF PROTEST

Washington, D. C., August 24th 1921.

Excellency:

I have the honor to acknowledge receipt of Your Excellency's important communications dated the 18th and 23rd instant.

In the first note Your Excellency transcribes the text of the dispatch that His Excellency the United States Minister in Panama was instructed to communicate to my Government on the 18th instant, a propos of the decision of the United States Government not to interpose any longer their friendly mediation between Panama and Costa Rica in order to suggest that Costa Rica delay longer her assuming jurisdiction over the territory on the Pacific adjudged to her by a portion of the Award rendered by the President of France on September 11th, 1900. That communication has been given publicity in diferent newspapers of this Capital and its contents are known all the world over.

In the second note Your Excellency transcribes the text of the reply given by the United States Government to the explanation requested by my Government in connection with the precedent communication as to whether it should understand that the Government of the United States was to withdraw from the conflict and to let Panama free to settle by force the issue with Costa Rica, or if, on the contrary, that Government was not to permit the renewal of hostilities between Panama and Costa Rica. That reply is also already known to the public, and it would be superfluous to reproduce it here.

Simultaneously with tnose dispatches, it is publicly known that Your Excellency's Government has sent to Panama a marine battallion with the avowed purpose of maintaining itself in readiness to land on the territory in dispute in case Panama tries to defend herself against the spoliation to be consumated against her, thus imposing upon her, by coercive means, the peremptory order the United States Government has imparted her to accept against her will the southern half of the Loubet Award without previous demarcation and without it being previously resolved by an impartial and competent tribunal whether the Republic is or is not bound to comply in a fragmentary manner with an arbitral award which since the first moment it was rendered, she was ready, and she is still ready, to fulfill as a whole.

In view of the communications above referred to, and of the display of force which backs them, my Government has decided to withdraw its authorities fron the territory in dispute and to sever the telephonic communication existing between the towns of Coto and Progreso. In notifying Your Excellency of this decision, which reasons of force majeure impose on my Government, Your Excellency will kindly allow me to go into a few pertinent considerations.

The Special Mission that His Excellency the President of the Republic of Panama entrusted me before Your Excellency's Government, has been mainly a Mission of friendship, peace and Panamericanism. Since the first time Your Excellency kindly received me, I made it known to Your Excellency that the difficult situation through which the relations between our two countries are passing was the best suited field wherein those sentiments of continental goodwill and solidarity could be displayed and used for a fruitful work. I tried my best to convey to Your Excellency's mind the certitude that a violent solution of the legal differences pending between Panama and Costa Rica would perhaps have more untoward consequences

for the United States than for Panama, as the sight of the weak oppressed never fails to arise simpathy in generous hearts and noble souls, while the harsh gesture of the strong stirs up aversion and hatefulness. I caused Your Excellency to see that countries so intimately united as ours should live in a athmosphere of cordiality and mutual understanding, and that to submit my country to an imposition in a boundary litigation to which the United States was not a party, would be an infringement against the sovereignity and dignity of Panama which that country, friendly to the United States, would never forget. My earnest appeals to moderation, to the use of peaceful and legal means to solve the conflict: arbitration, direct negociation, mediation of impartial and desinterested powers of this continent, etc., were inspired in the most sincere and well meaning purpose to preserve for this great North American Democracy the simpathy and goodwill of a people whose loyalty to the United States has been many times put to a test. Almost all of these and other reasons destined to make it clear that a solution based on force would be contrary to the aims of Central American pacification sought by the United States Government, because it would sow the seed of an inexhaustible hate between the two bordering countries, were stated in the Memorandum which I had the honor to submit to Your Excellency last June. But Your Excellency has remained inaccessible to these peaceful suggestions and has chosen to precipitate the crisis by casting the weight of the military or naval power of the United States to bent on the side of Costa Rica against Panama.

Time is the best judge of men and nations. It will say whether or not the conciliatory and friendly means recommended by this Mission responded to a clear notion of the true nature of the conflict as well as to the eagerness for peace, tranquility and labor which makes itself felt in that region of the Isthmus.

In the face of the unequivocal attitude taken by the Department of State of the United States, Panama is com-

pelled to bow to her cruel fate, but in her weakness itself, she finds sufficient energy to appeal to Heaven against the injustice and the violence to which she is at present submitted, and to declare that as long as Panamanian hearts beat in the world, she will keep open the deep wound inflicted to her dignity and pride, and that she will look eagerly to the future, longing for that redeeming justice which is today denied her, but that shall arrive for her some day through the inexorable design of God.

The acts which the Government of Costa Rica shall execute under protection of the Government of the United States, will be unable to destroy or weaken the right of Panama to continue in possession of the Panamanian territory of the *statu quo* boundary until the legal objections formulated against the validity of the White Award are examined and adjudged wright or wrong by an impartial and desinterested tribunal; and the acts which are to take place in the territory in dispute on the Pacific, show that in the present condition of the world, force still rules the relations between States, and rights of countries are only valid in direct proportion to the number of rifles, machine-guns and cannons which they can dispose of to back them up.

The United States Government assuming powers which have not been granted them neither by the Canal Treaty nor by the Laws or the Constitution of Panama, has acted in this conflict as a judicial tribunal, and has decided, whitout being asked to do so, that the exceptions claimed by Panama against the validity of the White Award are baseless.

The United States Government interpreting the Canal Treaty at their will and in an extensive manner, and prescinding of the right of the other contracting party to have a word in the construction of the Treaty to which she is a signatory, assings boundaries to the Republic of Panama whitout her consent or intervention.

Finally, the United States Government, taking a step of the most serious consequences for the future of the

cause of arbitration, has constituted itself as International Executive with power to compell other sovereignties to the fullfilment of arbitral awards.

My Government considers these facts as so many excesses of power that deeply affect the independence and sovereignty of the Panamanian Nation, and in the most formal and solemn manner it protest against them to Your Excellency's Government.

Notwithstanding the accomplished facts and the natural disappointment they have created in the mind of this Mission, its confidence in the spirit of justice animating the people of the United States, remains unshaken; its profound faith in this respect would not have weakened for a moment even if from the midst of this great democracy voices had not sprung, as they have already sprung, to express their simpathy with the cause of Panama. Those voices will grow more and more loudible, forming later on the currents of public opinion and determining at last the reparation that my country foresees in a moreless distant future.

On leaving the United States territory, allow me, Excellency, to convey to you once more my appreciation of your courtesies and deferences during the discharge of my Mission, and to reiterate to Your Excellency the assurances of my highest and most distinguished consideration,

NARCISO GARAY.

To His Excellency,

CHARLES EVANS HUGHES,
Secretary of State of the United States.

Washington, D. C.

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