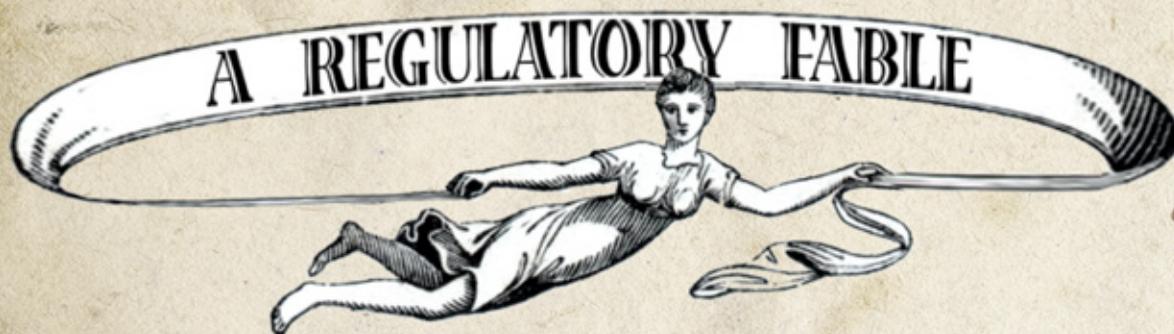


How the Panama Canal was built



Alan Moran

Ferdinand de Lesseps, having masterminded the building of the Suez Canal, set out to build the even more ambitious Panama Canal.

It was a highly risky venture, traversing seasonal, tumescent rivers and a huge mountain range. There was no ready supply of skilled labour nearby and all the equipment would have to be shipped half-way across the world to an area where tropical disease took a major toll of the locals' lives and would be even more threatening to those with no natural immunity to it.

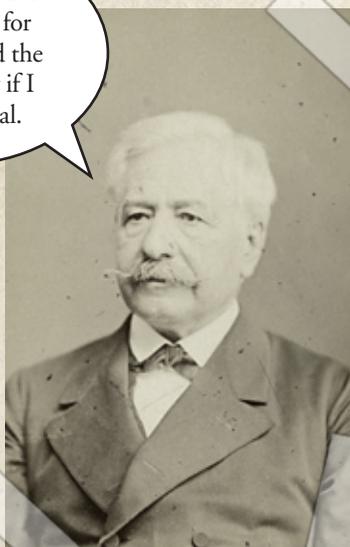
Having raised the funds, he then consulted the Australian Competition and Consumer Commission (ACCC) to ensure that the project would at least have a smooth regulatory passage.

The ACCC Regulator discussed with him the legislative environment, particularly Part IIIA of the *Trade Practices Act*. This, The Regulator said, had reinvigorated the

use of infrastructure by bringing under regulatory oversight instances where it was 'uneconomical to develop' something to provide the same services. He explained that this had extended such oversight from the previous, more limiting level, which only permitted oversight to facilities that were 'impractical to duplicate'. It had also allowed the transfer of such facilities from government to private ownership where they were generally run more efficiently.

The Regulator told him how the ACCC and its sister agency, the National Competition Council, had presided over an unprecedented upsurge in infrastructure development. Although there had been no canals lately, there had been extensive development in rail, in ports, in gas pipelines, in grain silos and in the new branch of telegraphy. Indeed, The Regulator said that, without astute and sympathetic regulators such as himself, the private sector would not have the

I think it would be valuable for investors and the community if I built a canal.



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confidence to build these risky ventures, since it was the regulators who ensured that the returns were fair and attractive.

With regard to the Panama Canal project, The Regulator said, 'An excellent idea, M. de Lesseps, and once it is built we will ensure that we allow you a price that fully covers your costs and allows a good profit'.

As a former diplomat, M. de Lesseps was reassured by the support of such a prominent man, who himself had been a merchant banker and was said to have the ear of the highest echelons of government. There was, however, a nagging concern in the back of his mind when he recalled the resistance he had met from the three backers who had put up the funding for the project, who were not looking at the expenditure to promote the greater good of mankind, but to maximise profits.

His backers, though, were not the stereotypical ruthless top-hatted capitalists. The backers had earlier explained to M. de Lesseps that the money was, in the main, not their own. It belonged to a whole host of people, most of whom were not well-off, but who had entrusted it to themselves to build a

comfortable nest egg for their retirements.

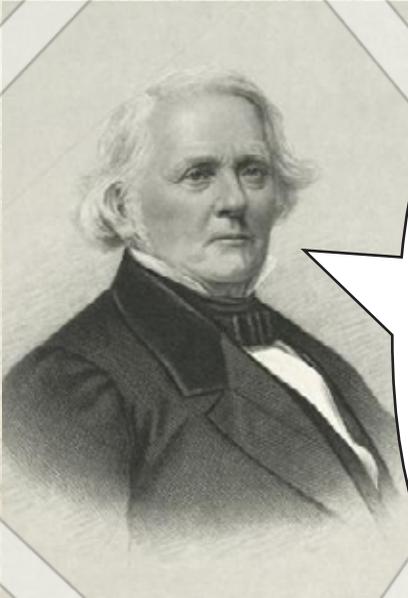
These three backers also had a deep mistrust of governments, which they had seen time and again interfere with profitable opportunities. Indeed, governments seemed only to be held in check by the fear that, if they went too far, financiers and talented people would seek to invest their resources and skills in other countries.

And as a diplomat who had acquired some engineering skills, M. de Lesseps himself wondered what it was that the regulator brought to the table that actually assisted in the wealth-creation process.

'Ah', said The Regulator, 'I understand your concerns and those of your backers. In allowing a price and access condition to your canal on fair and reasonable terms, we give an assurance that it will be profitable'. Relieved, M. de Lesseps went back to his three backers with the good news.

His three backers complimented M. de Lesseps on his track record in major projects and said that this was why they were in for the long haul. But they still had some misgivings.

The first backer worried that:



In spite of your proven skills, M. de Lesseps, this is a project that has a considerable capacity to fail. The river which much of the Canal traverses might prove too swift, the mountains might not be levelled and too many workers might find themselves up to their necks in alligators. In this latter respect, those pesky folk from occupational health and safety are already complaining about the workers' death toll from yellow fever and some even want to introduce personal liabilities on directors with criminal penalties; it is rumoured that The Regulator himself is sympathetic to such moves.

Have you considered the opposition from environmentalists? Many resist trees being chopped down and are busy looking to find an obscure species unique to the area which they could claim was being threatened, a matter that, under international treaties, would stop the project in its tracks. There is little likelihood of a unique species, but I have heard that some environmentalists are seeking to stop the project by claims of the existence of some 'unique ecological communities' that would be disturbed; others, I hear, are arguing that the construction of an artificial water barrier between the two Americas would have long term deleterious consequences in preventing the same species from interbreeding from the north and south.

The second backer had some further qualms:

How sure are we that your economist's projections of the volume of traffic from the east to west coast of North America are accurate? In those respects I am mindful of the competition from railroads and we have even heard of new inventions—the motor car and the airplane—that some futurists are predicting will take a great deal of the passenger business.

While these downside risks do not dissuade me from investing, I wonder if we could get some more assurances from The Regulator about the regulations he intends to put in place. In this respect, a crucial issue is price. For me, the ideal price for the facility is one that is just a little below the savings that are made from avoiding the hazardous 18,000-mile trip around Cape Horn. At that price, the users are better off and so are we, the investors, and perhaps in the future we could experiment with some further price reductions to stimulate the volume of trade and to counter competition.



The third backer was quite conservative with his investments:

Call me greedy if you wish, but the people who have entrusted money with me get quite vexed when they lose it, and I could name colleagues who have lost their fortunes as a result of losing money on behalf of clients. We are in a business that has a lot of commercial risk. Inevitably some projects fail and those that are successful need to more than recoup the losses.

It is like the mining industry or the music publishing business. For every successful hole drilled or every hit piece of sheet music, there are ten that fail to make the grade. We have to count on making a lot of money on the successes.



Armed with these thoughts, M. de Lesseps again approached The Regulator to argue that the project not be subject to regulatory control. The Regulator, however, said that he could not offer such prior assurances and was in fact surprised that the backers would want such high returns in any case.

He said, 'I would consider reducing the level of oversight if another couple of canals along exactly the same route were to be built. That way, I can be certain that the level of competition, for which the ACCC is a proxy, would work as it does in many other industries'.

But, he added, 'The canals must be parallel and must each serve similar customers and suppliers'.

Even so, he suggested that M. de Lesseps proceed. He said that if he did not do so, there were many others who would—and without requiring additional assurances. He named a consortium of international canal financiers who had been active issuing press releases. He also added, 'You know it is by no means certain that the canal is actually the best use of the nation's scarce resources, especially in view of the rapid advances in horse strength that is improving overland travel, the impending invention of the airplane, the new telegraph system which is reducing the need for travel, and the rail systems snaking their ways across North America'.

He went on to say that some of these services also constituted essential facilities and he would be looking to ensure that they gave fair access to all users on fair price terms.

M. de Lesseps then began to wonder, in view of such competitive pressures, why The Regulator was so insistent on requiring the facility be regulated. The Regulator responded that the alternatives comprised a different sort of competition from that of parallel canals, and reiterated that he should not worry because the ACCC was jam-packed with some of the nation's brightest and they would ensure his firm would be well treated.

Two of M. de Lesseps' backers were somewhat encouraged to learn that the other cross-continental facilities would also be regulated—this measure would place constraints on the competition.

However, the more conservative backer was less relieved, seeing the moves as an across-the-board restraint on innovative services that would 'drive the entire country to the dogs'.

Epilogue

Eventually M. de Lesseps' company ran out of money. The international canal financiers never appeared to take his place. It was the US government itself, under the bellicose President Theodore Roosevelt, that corrected this 'market failure' and built the canal.

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