

By James L. Busey

# CONFLICT IN PANAMA

*U. S. role in Canal Zone is complicated  
by dispute over sovereignty, profits  
and discrimination in employment*

VIOLENT DEMONSTRATIONS against the United States are becoming a chronic problem in Panama. Panamanian politicians bear a heavy responsibility for this for they find that campaigns against the "imperialist aggressor" are always good for some votes. Thus Dr. Aquilino Boyd, an irresponsible, demagogic presidential aspirant who serves his own political ambition by fomenting demonstrations against the U.S., had an important role in the November riots that resulted in the injury of more than 100 persons. A few newspapers also have made U.S.-baiting their principal theme. The largest dailies, *Estrella de Panamá* and *El Panamá América*, with their English-language counterparts, *Star and Herald* and *Panama American*, are generally restrained. *La Hora*, a tabloid with a large circulation, frequently points an accusing finger at the United States. Two other tabloids, with smaller circulations, *El Día* and *La Nación*, consistently take a critical line, the latter being the more bitter of the two. Families that are active in politics are also heavily involved in newspaper publishing.

Organized students probably form the most vitriolic anti-U.S. element in Panama. They have led anti-U.S. demonstrations and have attempted to plant the Panamanian flag in the Canal Zone. Some attend the University of Panama, but a real hotbed of discontent is the *Instituto Nacional*—a large secondary school of boys 14-16 years old which abuts the Canal Zone boundary line on Fourth of July Avenue. These juveniles are organized within the extreme left-wing *Federación de Estudiantes de Panamá* (FEP). The FEP is dominated by such grown men as Jorge Ugarte, its president; Dr. Aquilino Boyd, and Dr. Ernesto Castellero Pimentel. Pimentel, now 41, is a professor and the author of the venomous *Panamá y los Estados Unidos* (1953), for which he was awarded a doctorate by the National Littoral University of Rosario, Argentina, during the Perón period; he obtained an MA from Johns Hopkins. The first secretary general of the FEP and press secretary of the Patriotic Youth Front, Pimentel was among the adults who led the November student riots against the U.S.

In April, 17 young malcontents caused a minor uprising in the highlands west of the Canal. For no apparent reason, the FEP issued a *comunicado* warning Zone authorities to keep out of the contest. Then it claimed that the Panamanian police were "armed with flame-throwers and artillery which are undoubtedly of U.S. manufacture." The FEP clarified its own position regarding the teapot "revolt" by "reaffirming its sympathy" with "any true organized movement which, with popular support, has as its aim the interests of the poorer classes of city and country." For about a week this "revolt" threw

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Panama into an uproar, but it was quelled. It may well have been a diversionary tactic preparatory to the landings by Cuban "revolutionists" who sought a foothold on the Isthmus three weeks later.

There is no way to measure accurately the degree of Soviet influence in the strident mob protests against the U.S. Certainly the FEP's public statements, the inordinate Cuban interest in the Isthmus, and the demonstrators' cries of "*Viva Rusia!*" "Go home gringos!" and "Down with imperialist aggression!" are symptomatic of well-known tendencies in recent anti-U. S. movements throughout the world.

It should also be noted that Latin American upper classes often include important anti-U. S. elements. Such social circles believe that workers should be put down and kept down, and that United States influence works in a contrary direction. Politicians, publishers and editors generally come from upper class backgrounds, and along with organized and noisy students, will determine the course of official Panamanian policy.

Many Panamanian complaints against the U. S. are so petty or irrational as to defy solution. Three disputes, however, are of capital importance to U. S.-Panamanian relations: (1) the "50-50 demand," (2) the discrimination charge and (3) the sovereignty issue.

Highly placed Panamanians insist that the U. S. should share 50 per cent of *gross* canal proceeds with the Republic. To understand this problem the business arrangements of the Canal must be reviewed briefly.

The 1950 Reorganization Act divided government and business operation in the Canal Zone between two theoretically separate organizations—the Canal Zone Government and the Panama Canal Company. The Governor of the Zonal Government and the president of the company are one and the same person—at the moment, Major W. E. Potter, U. S. Army. The Zonal Government is responsible for normal functions of civil administration. The Company handles the business operations of the Canal and Zone, as well as distribution of pure drinking water to the cities of Panama and Colón.

Gross revenue for the Company runs over \$80 million annually. Net revenue for 1958 was \$2.6 million. The Company payroll consumes over \$38 million. Interest paid to the U. S. Treasury for unrecovered construction costs, depreciation, supply costs, reimbursement of Zonal Government costs, defense, and annuity payments of \$1,930,000 to the Republic of Panama account for most of the remaining costs.

Critics maintain that the U. S. falsifies figures on income and expenditures; that defense costs should not be included; and that regardless of costs, the U. S. has secured inestimable advantages from the Canal, and should be willing to pay Panama half the gross proceeds—that is, about \$40 million instead of the present annual \$1.9 million.

The 50-50 demand also rests, in part, on the sur-

prising theory that the Canal has contributed nothing to the Panamanian economy, and has in fact harmed it. Both Pimentel and David Turner Morales have propounded this view. Turner Morales, especially, asserts, among other things, that the Canal transit can only stimulate an economy which is "primitive, precarious and decadent"; that people smuggle so many items from the Zone to the Republic for resale that the presence of the Canal Zone actually damages the Panamanian economy; and that the Canal has taken people from "productive labor," causing "distortion" of the economy, with a consequent unfavorable trade balance. In this view, Panama should receive 50 per cent of the gross earnings of the Canal as partial compensation for these inequities.

There is, in fact, a remarkable difference between the 1956 Panamanian import figure of \$83 million and the export figure of \$17 million. But it is precisely because of the Canal that Panama doesn't *need* to export to pay for imports. The Republic obviously earns its dollars from the Canal itself: Earnings from this source can be estimated at about \$65 million—the difference between Panamanian imports and exports.

Dr. Gustavo R. González, Panamanian agrarian economist, among others, has pointed out that were it not for the Canal, life in the Republic would not be different from that in nearby Latin American agrarian countries. These experts stress that the indirect productive influences of the Zone on the attitudes, work habits and training skills of Panama in general should not be underestimated.

Panama has received far more from the U.S. than the formal payments of \$1.9 million per year for use of the Zone. To begin with, the United States had a hand in the independence of Panama, though Panamanian critics prefer to be silent about that. Moreover, the U.S. has contributed greatly to Panama's economic progress: construction of the Panama Railroad in 1851-1855; completion of the Canal itself; the building of the Boyd-Roosevelt Highway which crosses the Republic; and, under terms of the 1955 Treaty, construction of the Balboa Bridge, which is now under way. This structure will cross the Canal a few miles south of the parallel Miraflores Bridge, at an estimated cost to the U.S. of \$20 million.

Nor has U.S. foreign aid slighted the Republic. Post-war grants-in-aid have totaled \$15 million. In addition, the U.S. is contributing two-thirds of the cost of the Panamanian sector of the Inter-American Highway—approximately \$24 million. In addition, from 1940-1957, the U.S. authorized loans of \$21.4 million for Panama. The largest part of this figure is an Export-Import Bank loan of \$12.8 million for the Panamanian contribution to construction of the Inter-American Highway.

As for the discrimination charge leveled against U.S. administration of the Canal Zone, this is certainly the

most serious in terms of this country's reputation in Panama and Latin America generally.

Today most of the earlier and more striking forms of discrimination are gone. Thus, segregation based on a "silver roll" for Panamanians and dark-skinned people generally and a "gold roll" for white United States citizens and other blonds has finally disappeared. And, since 1955, employees are no longer officially paid at the "local rate" and "U.S. rate." But despite disappearance of open inequality in the Zone, and despite an apparent adherence to the wage-equality provisions of the 1955 treaty, pay and employment discrimination do continue, in only thinly disguised forms.

At the end of 1959 there were 12,477 employees in the Canal Zone. About three-fourths of these were non-U.S. citizens. The 1955 Treaty guaranteed that Panamanians would receive pay and employment opportunities equal to those enjoyed by U.S. citizens—or so the Panamanians thought. The Memorandum of Understandings associated with the Treaty provided that the U.S. would seek legislation in conformity with the principle of equality of opportunity in employment and wages, without regard to nationality.

Despite these assurances, Zone authorities evaded enforcement of the principle. They "classified" all positions in accordance with the Understandings, but they assigned so low a pay to all jobs of Grade GS-4 and below that only Panamanians could take them. These were the jobs that had been traditionally available to Panamanians, such as messenger, general laborer, carpenter, etc. Such a system could not, of course, prevent some trained Panamanians from securing positions "above the line"—that is, above GS-4, at what used to be called officially the "U.S. rate" or earlier, the "gold roll." To reduce the number to a minimum, therefore, the U.S. authorities used the escape clause in the "equality of opportunity" agreement to apply the "security" label to a very large number of positions which by no stretch of the imagination actually involve security risk.

No issue has aroused more heat and bitterness in Panama, even among people who are normally friendly to the U.S., for there is no question that the U.S. is pursuing a policy of inequality of pay between employees on similar jobs, and is using the "security" trick to give employment preference to non-Panamanians. In fact if not in form, the U.S. is guilty of violating a treaty commitment.

It may even be true that Panamanian business circles actually fear that a wage rise in the Zone would disrupt their own exploitative labor-management relations, and that the complaints about Zonal discrimination are but another smoke screen for political ambition. But all such considerations are secondary. The fact is that the U.S. is in an untenable position, from which it must extricate itself without delay in accordance with traditional American concepts of equal rights and fair play. Happily, the

State Department has indicated that the U.S. is about to take corrective action.

**I**F THE ENDING of all discrimination in the Zone is essential to America's reputation in Latin America, the settlement of the sovereignty question is no less vital to the continued presence of the U.S. in the Panama Canal.

U.S. jurisdiction at the Panama Canal and Zone was supposedly defined by the original Hay-Bunau Varilla Treaty of 1903. Article II of that Convention granted to the United States "in perpetuity the use, occupation and control of a zone of land and land under water for the construction, maintenance, operation, sanitation and protection" of the proposed canal. Article III provided that "the Republic of Panama grants to the United States all the rights, power and authority within the Zone . . . which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority."

Thus, while the exercise of sovereign rights, power and authority were seemingly granted to the U.S., some ultimate, symbolic sovereignty was implicitly left to Panama. According to the Panamanian view, U.S. jurisdiction is not a "full and complete jurisdiction, but a delegated or limited jurisdiction." The Panamanians contend that Article III of the 1903 Convention must be read in the light of Article II, in which the grants to the U.S. were made "for the construction, maintenance, operation, sanitation and protection of said canal. . . ." Insofar as a given action does not fall under one of those five objectives, they argue, Panama should exercise jurisdiction. The Panamanians criticize the "concept of apparent sovereignty" as exercised by Washington—in establishment of ports, warehouses, tariffs, etc.

A minimum demand on which Panamanian friends and critics of the U.S. agree is that the Panamanian flag should fly in the Zone alongside the U.S. flag. Last November 9 the Panamanian National Assembly unanimously adopted a resolution to that effect. Presence of the Panamanian emblem within the Zone would be a symbolic gesture that would accord with U.S. recognition of Panama's nominal sovereignty over the area. The State Department is now studying this proposal.

The U.S. position has been that Article II of the 1903 Convention was a general statement of purpose and did not modify the unqualified grant of "all the rights, power and authority" which is described in Article III. When pressed, the U.S. has generally conceded that Panama possesses a sort of vague, ultimate sovereignty over the Zone. Thus, on November 24, Under Secretary of State Livingston R. Merchant assured Panama that it possesses a "titular" or "ultimate" sovereignty over the Zone.

The fact is that the two countries will continue to make different and equally valid interpretations of the 1903 Treaty. Even without the controversial Article II, the divided sovereignty implied in Article III imposes an impossible relationship on the two countries. Article III can be read to mean that the U.S. possesses all the "rights, power and authority" of sovereignty, and can decide for itself what flag it chooses to fly over the Zone; or that though the U.S. is granted these rights, it does not have actual sovereignty, and that therefore *only* the Panamanian flag may be hoisted in the Zone; or that the two flags should be flown side by side—one as a symbol of titular sovereignty, the other as a symbol of the "rights, power and authority" of sovereignty. A solution in conformity with the bewildering provisions of the 1903 Convention is beyond the capabilities of statesmen or the power of the human mind. Only a revision of the 1903 Convention can possibly settle this interminable issue, by placing full sovereignty *and* authority in one place.

The question of sovereignty cannot be resolved without some consideration of the Canal's role in world commerce. Though the strategic importance of the Canal to the U.S. has tended to decline during and since World War II, the same cannot be said about its commercial value. Counting the ships that fly the Panamanian and Liberian flags (which are often financed by U.S. capital), from one-third to one-half of the shipping through the Canal is of U.S. origin. U.S. flag ships alone are responsible for no less than one-fifth of the transits and tonnage through the Canal. The Canal is no less essential to the continued economic growth of South America—especially the west coast countries of Ecuador, Peru, Chile and land-locked Bolivia. Total Canal shipping affecting South America during 1957 was 12.4 million tons, or about one-fourth of the Canal's tonnage. The Canal is also a major factor in the shipping of several other countries. For example, during the second quarter of 1958, 12.4 million tons were carried through the Canal; 1.9 million were carried under the British flag; 1.2 million under the Japanese; 1.03 million under the Norwegian; and 688,000 under the West German.

Since the Canal is of such huge commercial importance to so many nations, it must remain available to all and in top operational condition. The problem of its sovereignty, then, must be resolved, and there are only three ways this can be done. Sovereign jurisdiction may be assigned to some international agency. It may be turned over in its entirety to Panama, with some foreign personnel remaining in operational and maintenance capacities as deemed appropriate by the Panamanian Government. Or, full sovereignty may be assigned to the U.S.

International administration implies either the United Nations, or the Organization of American States or some specially created international agency to control and operate the Canal. If the U.S. were to continue to run

it under international authority, the bickering would increase. If operation were to be handled by several participating powers, the service would probably deteriorate and controversy would be inevitable. In any event, the unhappiest party of all would be Panama itself.

As for nationalization, even in their wildest attacks against the U.S., Panamanians have tended to back away from any proposal that Panama should take over the huge responsibility of running the Canal. And some recent experiences indicate that Panama is not prepared for it. During the years 1953-1955 the U.S. turned over to Panama all health and sanitary authority in the cities of Colón and Panama City. In 1958 the U.S. evacuated a large area of apartment buildings in Colón which had been used and maintained by Zone personnel. The shocking deterioration which has occurred in a short time in both the sanitary services of Panama City and Colón, and in the physical conditions of the buildings, demonstrates in stark detail that Panama is in no condition to take responsibility for the operation of the Canal.

Clearly, then, the U.S. must now enter into negotiations with Panama with the object of abandoning the foggy provisions of the 1903 Convention, and of securing full and undivided U.S. sovereignty over the Canal and the Zone—or better still, propose to purchase the entire Central American half of the Republic of Panama, from the Zone's present eastern border to the Costa Rican frontier. This would leave Panama with the South American end. Panama City and Colón are in this part, and would remain with the Republic. At the Atlantic side, the Zone border could be adjusted to connect Colón by land with the Republic, with Cristobal remaining within the Zone as at present. This would solve the present difficult situation, in which the Republic is divided by the Canal Zone.

Much would depend, of course, on the diplomatic finesse with which the U.S. would undertake such negotiations. And much also would depend on the size of the proffered check. The figure need not be as large as the cost of building a Nicaraguan canal—estimated at \$4.1 billion—which is the obvious alternative and bargaining point. If long and careful negotiations with Panama are unsuccessful, the Nicaraguan plan has the huge advantage of giving the U.S. full title to a strip of territory located between two countries, instead of cutting one in half. The democratic republic of Costa Rica, to the south of Nicaragua, is among America's most dependable Latin American friends. There is no doubt that most Costa Ricans would favor a U.S.-operated canal zone along their northern frontier, which would protect them from the Nicaraguans with whom they are in frequent conflict. Of course, the U.S. should hesitate to take such a step as long as it requires negotiations with the hated Nicaraguan regime of the Somoza brothers. But negotiations with Panama will undoubtedly be protracted, and the Somoza dynasty will not last forever.

