

Report on the
EVENTS IN PANAMA

January 9-12, 1964

**Prepared by the
Investigating Committee
appointed by the
International Commission of Jurists**

International Commission of Jurists
Geneva, Switzerland

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International Commission
of Jurists (ICJ)
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INTRODUCTORY NOTE

The International Commission of Jurists was requested by the National Bar Association of Panama to investigate a number of complaints of infringements of Articles 3, 5 and 20 of the Universal Declaration of Human Rights by the United States of America on the 9th, 10th, 11th and 12th of January 1964 in Panama.

The Commission appointed an Investigating Committee consisting of three well-known jurists to undertake the investigation:

Professor A. D. Belinfante of Amsterdam University (Netherlands);

Judge Gustaf Petré (Sweden);

Mr. Navroz Vakil, practising lawyer, Bombay (India).

The Commission now presents the unanimous findings and Report of the Investigating Committee. The methods and procedure adopted by the Investigating Committee are dealt with in the Report.

Quite apart from the importance of the issues involved in themselves, the Report marks one of the first occasions on which the provisions of Articles 3, 5, 13 (1) and 20 of the Universal Declaration of Human Rights have been invoked and construed authoritatively. While Article 13 (1) was not originally invoked, it is also considered in the Report.

In this connection it will be noted that the Investigating Committee relied in part on the provisions of Article 3 to construe both it and Article 5. In reaching its conclusions the Investigating Committee considered the relevant provisions of the European Convention on Human Rights and of the Inter-American Draft Convention on Human Rights. The construction placed by the Investigating Committee on Articles 3, 5 and 20 (1) of the Universal Declaration and the consideration given to the three great instruments referred to will be of considerable interest to jurists all over the world and should constitute a major contribution to the evolution of a practical jurisprudence in this field.

The Commission is indebted to the Governments of the Republic of Panama and of the United States of America, as well as to all those who assisted the Investigating Committee in its difficult work, for their assistance and cooperation. This cooperation provides a good example of a reasoned approach, based on legal rules, to a difficult international problem.

The Commission is under a debt of gratitude to the members of the Investigating Committee for their willingness to undertake this difficult mission and for the care and trouble which they took in the preparation of their Report. The Commission shares their hope that the work they have carried out will contribute to the growth of understanding, cooperation and amity between the two countries and their peoples; that the members of the Investigating Committee have contributed to this constructive objective will be their only reward.

The Report is presented as an impartial and objective assessment of the issues involved.

Seán MacBride
Secretary-General

REPORT ON THE EVENTS IN PANAMA

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PART I

The Constitution of the Investigating Committee and its Work

1. On January 21, 1964, Dr. Jorge E. Illueca, President of the National Bar Association of Panama, in a letter addressed to Mr. Fernando Fournier, Member of the International Commission of Jurists, charged the military and police forces of the United States of America, stationed in the Panama Canal Zone, with violations of human rights on January 9, 10 and 11, 1964, in the cities of Panama and Colon. He requested the Commission to investigate the charges.

2. The letter charged the military and police forces of the United States of America with violations of Articles 3, 5 and 20 of the Universal Declaration of Human Rights of the United Nations. The allegations under the relevant Articles were:

Article 3: Everyone has the right to life, liberty and security of person.

The troops and police of the Government of the United States of America, stationed at the Zone of the Panama Canal, violated this right when opening fire on the defenseless Panamanian civil population, in both the cities of Panama and Colon, resulting in 15 deaths. In causing these deaths, the military and police forces of North America used .38 calibre, Smith & Wesson Special, and 7 mm., 7.62 mm. projectiles.

Article 5: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

The North American military and police stationed in the Panama Canal Zone violated this right against the Panamanian civil population, in both the cities of Panama and Colon, by shooting at the Panamanian Civil population. The North American troops used .38 calibre projectiles, Smith & Wesson Special, 7 mm., 7.62 mm. 410 and bayonets.

Article 20(1): Everyone has the right of freedom of peaceful assembly and association.

On the 9th, 10th and 11th January, 1964, the Panamanian population made a peaceful use of this right in their own territory and the North American military and police fired small arms and teargas shells for the purpose of preventing the free use of such a right.

3. The Commission appointed a team of three observers to act as an Investigating Committee: Professor A. D. Belinfante, of the Netherlands; Judge Gustaf Petrén, of Sweden; and Mr. Navroz Vakil, of India. The Committee met on February 28, 1964, in Geneva and left for Panama on March 1, 1964. The Governments of the Republic of Panama and the United States of America gave their full assistance to the Investigating Committee.

4. The parties appearing before the Investigating Committee were represented as hereunder:

Republic of Panama:

Dr. Eloy BENEDETTI
Legal Adviser to the Ministry of External Affairs

United States of America:

Mr. Joseph A. CALIFANO
General Counsel to the Department of the Army
(Chief of the delegation and spokesman)

Mr. Sterling J. COTTRELL
Deputy Assistant Secretary of State for Inter-American Affairs

Mr. John F. WOLF
United States Government Attorney

Mr. Dwight McKABNEY
Assistant General Counsel to the Panama Canal Company

Mr. Robert K. DONLAN
Attorney to the Civil Division of the United States
Department of Justice

The National Bar Association of Panama

Dr. Jorge E. ILLUECA
(Chief of the delegation and spokesman)

Dr. Eduardo VALDEZ

Dr. Diógenes A. AROSEMENA, G.
Lic. Rodrigo AROSEMENA
Lic. Carlos BOLÍVAR PEDRESCHI
Lic. Guillermo MÁRQUEZ BRICEÑO
Lic. Ricardo A. RODRÍGUEZ

5. The Investigating Committee was graciously received by the President of the Republic of Panama, His Excellency Roberto F. Chiari, and the Foreign Minister of Panama, His Excellency Dr. Galileo Solís, as also by the Governor of the Canal Zone, Major-General Robert J. Fleming Jr., and by General Andrew P. O'Meara, Commander-in-Chief, United States Army Southern Command.

6. Immediately after its arrival, the Investigating Committee had several meetings with the representatives of both sides separately in order to secure agreement on the procedure to be followed. Although diplomatic relations between the Republic of Panama and the United States of America were severed at the time, the Committee insisted that in order to fulfil its task it was essential that both parties should be present at all the proceedings. The Investigating Committee adopted the following rules of procedure:

1. The official languages of the proceedings will be Spanish and English.
2. The Panamanian Bar Association will be requested to present a statement with each point of reference.
3. As soon as the Committee has received the statement of the Panama Bar Association, it will be submitted to the United States' representatives for a statement from their side.
4. The Committee will consider the two statements in order to ascertain the issues in dispute. This will be done at a meeting with both parties present.
At this meeting the evidence proposed on all disputed issues will be stated. For that reason the parties should be prepared to indicate the evidence available to them on these issues.
5. The hearing of such evidence that the Committee judges necessary and relevant will then take place. All evidence will be heard in the presence of both parties.

6. Each party should be represented at the meetings by *one* spokesman assisted by other persons, drawn from a list given to the Committee not exceeding six persons. The list of each party will be furnished to the other.
7. The terms of reference of the Investigation were agreed by the parties to include an enquiry into the following issues:
 1. The death of fifteen persons during the events of January 9, 10 and 11, 1964, in Panama and Colon. Alleged violation of Article 3 of the Universal Declaration of Human Rights.
 2. The shooting from the Canal Zone into the territory of Panama during January 9, 10 and 11, 1964. Alleged violation of Article 5 of the Universal Declaration of Human Rights.
 3. The dissolution of a Panamanian students' assembly in the Canal Zone on the afternoon of January 9, 1964. Alleged violation of Article 20 of the Universal Declaration of Human Rights.
 4. The alleged improper blockade of the Bridge in Panama and of the Corridor of Colon, during the events of January 9, 10 and 11, 1964.
8. The third issue above was later enlarged to cover the same field as that covered in the corresponding charge in the letter of January 21 quoted above. In addition to these four issues, it was agreed by the parties that written statements would be received covering allegations of inequality of treatment in the Canal Zone.
9. The Chairmanship at the hearings rotated between the members of the Investigating Committee.

Lic. Rodrigo Oreamuno of Costa Rica acted as Secretary and as Interpreter to the Committee; Mrs. Angela Fahlberg acted as Administrative Secretary.

The hearings lasted for approximately 100 hours, during the course of which 26 witnesses were examined by the Committee. The parties were also given the opportunity of questioning the witnesses. A larger number of documents were tendered in evidence; all documents presented by one side were communicated to the other. The Investigating Committee heard arguments by the representatives of both sides. The proceedings were tape recorded.

The Investigating Committee, accompanied by the representatives of the parties, visited Colon on March 12 from 9 a.m. to 12 noon and a number of relevant places in Panama City as well as in the Canal Zone, on March 13 from 9 a.m. to 11 a.m.

The Mission left Panama on March 14, 1964.

PART II

Introduction

10. The history of the relations between the Republic of Panama and the United States is, in large measure, the history of the isthmus-canal of Panama. This history started even before the Republic of Panama came into existence, as soon as plans for the construction of a canal began to take form. It is not necessary to relate in detail the disaster of the French attempt to construct a canal, which ended in the abandonment of these plans at the end of the nineteenth century. The United States of America started where the French company left off, and concluded in 1903 a treaty with Colombia, in which this Republic granted to the United States the right to construct a canal and to acquire a zone of land on both sides thereof in the Colombian province of Panama. Panama, at the time, was part of the Republic of Colombia. This treaty, called the Hay-Herran Treaty of 1903, was not ratified by Colombia. Then, on November 3, 1903, the Colombian province of Panama proclaimed its independence. The young Republic of Panama, recognized by the United States of America on November 13, 1903, reached an agreement with the latter about the construction of a canal, the Hay-Bunau Varilla Convention of November 18, 1903. This treaty is still in force and forms the base of the relations between Panama and the United States.

11. Article 2 of the treaty begins as follows: "The Republic of Panama grants 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 said Canal of the width of ten miles extending to the distance of five miles on each side of the center line of the route of the Canal to be constructed..."

12. Article 3 that follows reads: "The Republic of Panama grants to the United States all the rights, power and authority within the zone mentioned and described in Article II of this agreement and within the limits of all auxiliary lands and waters mentioned and

described in the said Article II 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.”

13. On the basis of this Convention a special territory on either side of the Canal, comprising about 650 square miles from the Atlantic to the Pacific, was created; it divided the territory of the Republic of Panama in two parts. The Canal was opened to traffic in 1914. The Canal has been of the utmost importance for the development of the economy of the Republic of Panama. It is in reality the mainspring of the economy of the Republic of Panama, as, apart from the direct revenues from the Canal, the presence of the Canal yields indirectly a substantial income from numerous other sources. On the other hand, the provisions of the Convention have given rise to controversy in regard to questions of sovereignty between the two Governments almost from the beginning (i.e., from 1903) to the present day. It is not the purpose of this Report to propose solutions to the problems of interpretation of the 1903 Convention and the rights flowing from such interpretation. The Committee, however, considers it necessary to enunciate clearly the two interpretations placed by the parties on the clauses of the Convention quoted above.

14. The Republic of Panama and the Panamanian Bar Association maintain that the interpretation of these clauses must be limited and governed by the overall purpose and requirement of the Convention, namely, the construction, maintenance, operation, sanitation and protection of the Canal. According to this Convention the sovereignty granted under the two clauses referred to above would be strictly limited to the aforesaid overall purpose and object. This interpretation was raised as early as 1904, when the Government of Panama claimed the right to control all ports, even in the Canal Zone, and purported to deny the right of the United States to establish custom houses and a postal service, on the ground that the latter were not connected with the construction etc. of the Canal. The United States, on the other hand, maintains that the Convention grants to the United States the exclusive control of and jurisdiction in the Canal Zone to the entire exclusion of the exercise therein by the Republic of Panama of any use, occupation, jurisdiction, rights, power or authority.

15. The executive power in the Canal Zone is exercised by the Governor, who is appointed by the President of the United States.

The Canal Zone government is under the supervision of the Secretary of the Army of the United States. The Governor is at the same time Director of the Panama Canal Company, a body corporate owned by the United States; the Company runs the Canal. The legislative power in the Canal Zone is exercised by the United States Congress and the judicial power is exercised by a District Court forming part of the United States Federal Court System. The United States have established in the Canal Zone a settlement of American citizens employed in the Canal Zone administration or by the Canal Company, who with dependants amount to about 16,000 persons. In addition, there are residing in the Zone non-American citizens (chiefly Panamanians) also so employed. The entire civilian population, consisting of approximately 27,300 persons (1964), constitutes a separate community which is in no way subject to the jurisdiction or administration of the Republic of Panama. Furthermore, the military forces of the United States of America in the Zone with their families consist of about 20,000 persons augmenting the figure of the population of the Zone to about 47,000 in all.

16. The issue of the interpretation of the Convention of 1903 is, therefore, not an abstract problem but of great practical importance. Modifications in the 1903 treaty were made in 1936, 1942, 1947 and 1955. The main problem, however, remains unresolved; indeed it is this problem that gave rise to the subject matter of the current difficulties. The Panamanians desire recognition of the titular sovereignty of Panama in the Canal Zone; hence the raising of the Panamanian flag together with the United States flag in the Canal Zone has assumed considerable importance as a symbol of titular sovereignty.

17. The flag issue was one of the main causes of the violent disturbances in Panama of November 1959. On September 7, 1960, President Eisenhower took the "voluntary and unilateral decision" to fly the Panamanian flag together with the United States flag on Shaler Triangle, a square in Panama City, which forms part of the territory of the Zone. This step, however, did not satisfy the Panamanian aspirations, based on their interpretation of the Convention.

18. On June 13, 1962, Presidents Kennedy and Chiari issued a joint communiqué stating that they had agreed that "their representatives will arrange for the flying of Panamanian flags in an appropriate way in the Canal Zone". Both flags were flown since

October 12, 1962, at the Bridge of the Americas (Thatcher Ferry Bridge), and since the end of that month at the Administration Buildings at Balboa Heights (Panama City) and Cristobal (Colon). In the meantime, the Joint Commission, created by the two governments in pursuance of the communiqué of Presidents Kennedy and Chiari dated June 13, 1962, reached an agreement on January 10, 1963. Under this agreement both flags were to be flown on land in the Canal Zone wherever the flag of the United States was flown by civilian authorities. This agreement, however, was not immediately executed. According to the United States, the delay in the implementation of the agreement was mainly due to the United States authorities awaiting a judicial decision on the constitutionality of the "dual-flags" accord. The time for an appeal against the decision, which was given on July 8, 1963, and which dismissed the complaints, expired on September 27, 1963, without an appeal having been filed.

19. It was only at this time that the Governor of the Canal Zone took action on the footing of the agreement. But he did not implement the agreement in such a way that the Panama flag was to be flown alongside the United States flag at every place where the United States flag had been flown, on January 10, 1963. Instead, the Governor selected seventeen spots where both flags were to be displayed. In other places, where the United States flag hitherto used to be flown, it was taken down by the Governor's orders on December 30, 1963. Especially with regard to schools, the Governor ordered that, though in front of the building no United States flag was to be flown, it was "in accordance with law and customs requiring the United States flag to be displayed in or near schools", for the United States flag to continue to be displayed in classrooms or elsewhere within the schools as at present.

20. This method of implementing the agreement between the two Presidents satisfied neither the Panamanian population nor the American inhabitants of the Canal Zone. The Panamanians were resentful that the Panamanian flag was not hoisted alongside the United States flag at all the places where the United States flag had been previously flown on land by the civilian authorities. The Americans in the Zone, on the other hand, did not easily accept the removal of their flag from the front of the schools where, according to American custom, it was usually flown.

21. When, after Christmas Holidays, schools in the Zone reopened on January 2, 1964, the United States flag, which used to fly in front of Balboa High School, in the part of the Zone nearest to Panama

City, was no longer there; some four to five hundred students of the school sent a protest to President Johnson. On January 7, 1964, before classes had started, a number of students succeeded in raising the United States flag, notwithstanding the fact that the halyards on the pole had been locked. The Canal Zone Government and school authorities lowered the flag the same morning; subsequently on the same morning, at the end of the first class period, the flag was again hoisted by the students. This time a group of students posted themselves around the flag-pole in order to prevent the authorities from lowering the flag. After school, about 25 students remained on watch all night and were supplied with food and blankets by sympathizers. In the evening the flag was lowered and next morning it was raised again by the students. The school and civil authorities did not intervene. The Governor of the Canal Zone, however, issued a statement on January 8, 1964, in which he requested the cooperation of all United States citizens in honouring their country's commitments regardless of their personal beliefs. The next day, January 9, 1964, the Governor broadcast a new statement on the flag issue. He then left the Zone for the United States in the afternoon of the same day.

PART III

Flag Incident of January 9, 1964

22. As soon as the news about the Balboa High School flag incidents spread in Panama City, students of the Panamanian National Institute planned counteraction. On January 8, 1964, a Panamanian student-leader, Mr. Guillermo Guevara Pas, along with two other Panamanian students, went to the Balboa High School, saw the Principal and asked him questions about the flag. The Headmaster referred him to the Panama Canal Information Officer, Mr. Baldwin, with whom he then talked. Mr. Guevara Pas did not announce to the Principal or to Mr. Baldwin that he and his co-students planned a demonstration before the Balboa High School on the next day.

23. On the next day, January 9, 1964, after classes at about 4.45 p.m., a group of approximately 200 students left the Panamanian National Institute and marched into the Canal Zone by Gorgas Road. They carried a Panamanian flag, the banner of their organization, and placards. This march appears to have been very carefully prepared and did not appear to have been a spontaneous movement by the students. The flag they were carrying was that of the Panamanian National Institute; the Headmaster of the Institute gave them the flag for the purpose of a demonstration in front of the Balboa High School, without ascertaining whether the students had the permission of the School or the Canal Zone authorities to make the demonstration. The students were accompanied by photographers and film operators and before they had returned to the territory of the Republic of Panama, the news of their demonstration had spread among the population and a crowd was already waiting for their return in the streets near the frontier of the Canal Zone. The fact that a delegation of the students was received, immediately after their return, by the President of the Republic of Panama suggests that the Panamanian authorities may have had prior knowledge of the students' demonstration. In any case, the Ministry of External Affairs was informed by the students of their proposed demonstration before they took off.

24. It is beyond doubt that the march of the students, dressed in uniform, into the Canal Zone commenced in a peaceful and orderly manner. However, the students carried placards advising Governor Fleming to go home and claiming exclusive sovereignty over the Canal Zone for Panama.

25. Having passed the Administration Building of the Zone, the students were stopped by the head of the Canal Zone police in the Balboa District, Captain Gaddis Wall. He asked them their plans and the student already mentioned, Mr. Guillermo Guevara Pas, told him that they intended to display the Panamanian flag at the flagpole of the Balboa High School and to sing their national anthem there. Captain Wall, speaking in English to the group of students through an interpreter, refused to let the procession approach the flagpole in front of the school, but proposed that a delegation of five students should display the Panamanian flag at the foot of the flagpole by holding it in their hands and sing the national anthem; they would not be allowed to hoist the flag on the flagpole. The rest of the students were required to remain on the opposite side of Gorgona Road, separated by the police from the American students and adults, and from the delegation with the flag.

26. In making his proposal, Captain Wall assured the students that their delegation would have complete protection and that they need not worry about their safety. The Panamanian students then had a discussion as to whether they would accept the proposal made by Captain Wall or not. After about 45 minutes deliberation among themselves, Mr. Guevara Pas informed Captain Wall that they were willing to accept his proposition. Accordingly, five students, four holding the flag and one the banner, crossed Gorgona Road and followed Captain Wall towards the School. A sixth student carrying a placard saying that Panama alone was sovereign in the Canal Zone joined the group that was accompanied by some policemen.

27. Having regard to the fact that interpreters had to be used, the general state of agitation of those concerned, and the length of the argument, the possibility cannot be excluded that the students had misunderstood Captain Wall's proposal; they may have understood it to mean that they had permission to hoist the Panamanian flag alongside the United States flag on the flagpole, rather than a mere display of the flag by holding it in their hands at the foot of the pole.

28. When the six students with Captain Wall arrived at the low hedge which surrounds the flagpole, some of the students started arguing and insisting that the Panamanian flag must be raised on the flagpole alongside the United States flag that was already flying. The flagpole had two sets of string which could have permitted the hoisting of two flags, but, according to Captain Wall, he had received orders to refuse to permit the hoisting of the Panamanian flag. After a few minutes of heated discussion, the group of six students, surrounded by a police cordon, proceeded over the hedge to the flagpole.

29. In the meantime, some 400 to 500 American students and adults had gathered in front of the school. A ring of American students surrounded the base of the flagpole inside the hedge. The Americans did not, in the words of Captain Wall, "behave entirely as I had hoped they would". The Balboa School students, as well as the adults, appear to have expressed their protest against the Panamanian demonstration somewhat vigorously. As the Panamanian students approached the flagpole, the crowd of Balboa School students and adults started to sing the United States national anthem. This appears to have worsened the situation. At this stage, the Panamanian delegation was completely surrounded by the Americans.

30. Captain Wall, who had negotiated with the Panamanian students, did not at this time seriously try to calm the American students and adults. There is no indication that he, or any other person in authority, present, or near-by, tried to persuade the Americans to behave quietly when the Panamanian flag was displayed. Nor did anybody explain to them that the demonstration was directed against the flying of the American flag *alone* in front of the Balboa High School, contrary to the agreements between the two governments and contrary to the orders of the Governor of the Canal Zone.

31. Somewhere at about this stage, Captain Wall made a decision to cancel the Panamanian students' demonstration. He asked the Panamanian students to withdraw but they insisted on displaying the flag and singing their national anthem. The Panamanian students accused Captain Wall of not keeping his word and refused to withdraw. The main group of Panamanian students were still on the other side of Gorgona Road, separated from the delegation of six students by a line of police. Captain Wall ordered the police, who had followed the delegation, to hold their batons

in front and physically to move the six Panamanian students back to the main group. The police then moved forward, urging the delegation to go to the other side of Gorgona Road. American students, also within the area which was surrounded by the hedge around the flagpole, mixed with the police and a crowd was formed, with the Panamanian students in the centre. The Panamanian students, who were bearing the Panamanian flag, were exposed to considerable stress, especially when two of them stumbled over the hedge and when, some 25 feet further, some fell a second time. At a certain stage in the general melée the Panamanian flag was torn. It was not proved that the flag was torn on purpose by American adults or students, nor was it proved that the flag was slightly torn before the six students proceeded to the flagpole with Captain Wall. It is quite likely that the flag, made of silk, was not able to resist the stress and strain of the occasion.

32. The delegation of Panamanian students was forced back by the police equipped with special riot-control batons until they were with the main body of the Panamanian students behind the police line on the other side of Gorgona Road. It is doubtful that the police used their batons only by holding the batons in both hands in front of them to push the Panamanian delegation back. Some of the policemen seem to have used their batons in a more aggressive manner against the retreating Panamanian students. As soon as the other students, who had thus far been waiting on the other side of the road for the displaying of their flag, saw their fellow students being forced back by the police, they started shouting and otherwise demonstrating their dissatisfaction. Some stones were thrown at the police line and one hit a policeman's helmet and caused him a slight wound through his helmet.

33. The retreat of the 200 demonstrating Panamanian students then started at a rather quick tempo. Patrol cars of the police followed them. The cancelling of the demonstration, the retreat with a torn flag, the hostile behaviour of the Americans in front of the Balboa High School, as well as during the retreat of the students, and the lack of any effective attempt by the police to quieten the American students and adults, had apparently caused a certain panic and resentment among the Panamanian students. The procession split up into two groups, the smaller one returning along Roosevelt Avenue to the Curundu area, and the second and bigger one following Gorgas Road, the same way back as the students had come, to 4th of July Avenue. On their way back to Panama City the students following Gorgas Road caused con-

siderable damage. They rolled garbage cans on the road, according to them, in order to slow down the patrol cars that followed them. They smashed windows and street lights. Just before leaving the Zone, they smashed the traffic-control lights in Kennedy Avenue. It was mentioned that, when the students had arrived at the Episcopal Cathedral of St. Luke, two reports were heard which could have been caused by gun-shots. However, there was no further evidence on this matter.

34. The main group of students left the Zone at 6.45 to 7 p.m. and went to the National Institute on the Panamanian side of 4th of July Avenue.

PART IV

Disturbances in Panama City

35. As mentioned, somehow, even before the Panamanian students reached the Panamanian Border, the news of the flag incidents and of the torn flag had, as vividly expressed by some of the witnesses, "spread like wildfire through the City of Panama", and a large crowd had already gathered in Calle G, which is adjacent to 4th of July Avenue, at about 6.30 p.m. At this time the crowd that had gathered ran into several hundreds.

36. When the Panamanian students crossed from the Canal Zone into the Republic of Panama between 6.45 and 7.00 p.m., a series of acts of violence had already taken place. A number of cars had been turned over and burnt on 4th of July Avenue in the neighbourhood of the National Institute.

37. The crowd grew rapidly and within about half an hour there were several thousand people all along the border extending from the Balboa Road entrance to the Ancon railway station. The violence of the crowd increased; there were repeated attempts at several points all along the border to enter the Canal Zone territory with the object not only of planting Panamanian flags but also of setting fire to property and otherwise threatening public safety.

38. In the meantime, repeated attempts were made by the Canal Zone authorities to call to their aid the Guardia Nacional of Panama to take effective measures to control the violent crowd. Between 6.30 and 8.30 p.m., 7 or 8 telephone calls were made by the American authorities but no effective action was taken by the Guardia Nacional. On the contrary, the Guardia Nacional was purposely kept away from the trouble-spots in the City of Panama until early on January 13.

39. At the beginning, the Canal Zone Police Force of the Balboa district, which comprises a maximum of approximately 80 men, tried to hold back the violent crowd along the nearly two kilometres long border by using most of the tear-gas available to them, and

later, when faced by a growing and attacking crowd, by raising their police revolvers. In view of the size of the mob and the small police force available to the Canal Zone Authorities, at about 8.00 p.m., the acting Governor of the Zone, Lieutenant Governor Parker, called on the Commanding Officer of the United States forces, General O'Meara. He reported to him that he was unable to hold the position much longer and to maintain law and order with the help of the Police and requested military assistance from the U.S. armed forces in the Canal Zone. Immediately, General O'Meara gave such assistance.

40. In an attempt to assuage the crowds, General O'Meara sent out a small aeroplane relaying appeals over a loud-speaker in both Spanish and English, enjoining residents on both sides of the border to return to their homes. It does appear that the aeroplane flew not only over the Canal Zone territory but also over a part of the adjacent territory of the Republic of Panama. In view of the purpose of the flight, this can hardly be treated as a serious incursion of the air space of the Panamanian Republic. On the other hand, there was no evidence before us that any attempts were made by the authorities of the Panamanian Republic to assuage, calm or otherwise control the crowds. Indeed, on the contrary, from the materials made available, it would appear that statements made through the radio and the television were of an inflammatory nature. Incendiary bombs, or "Molotov Cocktails", were used during the rioting. These must have been made for this purpose. When, where and by whom they were made was not disclosed to the Investigating Committee. The fact that these were made and used would indicate some degree of premeditation and planning.

41. The Investigating Committee treats below the events as they occurred in different areas of the limits between the Republic of Panama and the Canal Zone.

42. Between 7.00 to 7.30 p.m. on January 9, part of the crowd had moved into the neighbourhood of the Ancon railway station and the Ancon laundry. At the point where Frangipani Street intersects Roosevelt Avenue, the crowd started to attack passing cars, to turn them over and to set them on fire. An attempt was also made to set the laundry on fire by pushing a car on fire into it, and by using "Molotov Cocktails". Another part of the crowd forced its way into the railway station and set about destroying the station and its contents. A small group of policemen under a sergeant endeavoured to control this situation. In

order to prevent the crowd from entering the residential areas behind the laundry, the police took up a position immediately behind the laundry and the railway station. A small theatre between the laundry and the residential area was evacuated. From this position, the police, by using tear-gas, started to drive the crowd back. When the situation seemed to be more difficult to control, the sergeant ordered his men to use their pistols. The pistol fire was directed over the heads of the crowd and into the ground in front of the crowd, but a part of the fire seems to have been directed into the crowd.

43. At about 7.45 p.m., a student of the National Institute, Ascanio Arosamena, aged 20, was hit by a bullet from a police revolver; it entered his shoulder, penetrated the thorax and resulted in the death of the student. Other persons appear also to have been injured by the pistol fire on the same occasion. The firing itself, however, forced the crowd back. It has been alleged that during this time civilians from the Canal Zone were seen using firearms along with the police. The Investigating Committee, however, had no evidence before it either to support or contradict this allegation.

44. The fire in the Ancon laundry was extinguished within a short time. A few minutes before 9.00 p.m. the United States Army took over, relieving the Canal Zone police in this area. Subsequently, it would appear that there were no further incidents in this particular area.

45. After 7.00 p.m., not far from the National Institute and further west from the Institute along 4th of July Avenue, the crowds turned over and burned cars, threw rocks into the Canal Zone territory and caused other damage. They also attacked an iron fence on the slope along the Avenue protecting the Canal Zone. They succeeded in tearing down the fence at approximately 9.00 p.m. Within minutes, the milling crowd surged into the Canal Zone territory at a point near the residence of Federal District Judge Crowe. The slope at this point is rather steep. The few policemen who were stationed there held the crowd back by throwing tear-gas bombs into the crowd. The crowd attacking the Judge's house was armed with rocks and "Molotov Cocktails"; several "Molotov Cocktails" hit the Judge's house which, being an old wooden house, was set on fire in several places. The crowd surged higher up the slope and reached the Judge's house. At this stage the police drove the crowd back by firing

shots, with shot-guns, over the heads of the crowd. It does not appear that anyone was injured by these shots. The police, with the help of the Canal Zone fire brigade, successfully put out the fire. An inspection of the house established that it had been fired at.

46. At about 9.30 p.m., the United States Army took over the protection of this area and no further incidents occurred. It is noteworthy that the Judge and his family abandoned the house the following morning.

47. On the evening of January 9, at about 8.00 p.m., a large crowd, of probably over a thousand persons, made a concerted effort to enter the Canal Zone from the region of El Chorrillo in Panama by Balboa Road. It would appear that some one hundred or more people succeeded in entering the Canal Zone approximately 700 yards on Balboa Road. From this point, the crowd was driven back by the Canal Zone police, in the first instance by tear-gas and, when the police appear to have run out of tear-gas, by revolver fire. It would appear that the use of firearms was the only method by which, at this stage, the limited number of policemen present could prevent the crowd from forcing its way into the Canal Zone. It would also appear to the Investigating Committee that the revolver fire was not entirely directed over the heads of the crowd or into the ground in front of the crowd, but that some of it was directed into the crowd causing casualties.

48. A young boy, Estanislao Orobio, 18 years old, was fatally wounded at some stage during the night of January 9 to 10 in this area. It is alleged that he was the victim of the Canal Zone police revolver fire in this area on the evening of the 9th, when he, along with other companions, was carrying a Panamanian flag. The Investigating Committee is not entirely satisfied with the evidence put forward with regard to the circumstances of the death of this boy. There is some confusion as to the time when he was wounded—he died on January 11—and as to the type of firearm which caused the injuries. Under the circumstances, the Committee finds it difficult to decide whether he was the victim of the Canal Zone Police revolver fire or of subsequent shooting by the United States Army, or wounded in some other way.

49. At about 10.30 p.m. on January 9, the U.S. Army took over the protection of this area. No further incidents were reported.

50. The area of greatest violence and damage appears to have been the central part of the border line in the district of Shaler

Triangle, the Legislative Palace and the Pan American Building on the Panama side, and the Hotel Tivoli on the Canal Zone side. When the Panamanian students were returning from their demonstration outside the Balboa High School, at about 7.00 p.m. on January 9, they were joined by a large crowd; together the students and the crowd started to destroy the traffic lights and street lights on 4th of July Avenue. At the time when the first acts of violence started, there was still quite a heavy late afternoon traffic on the avenue, and the crowd threw rocks at passing cars. The Canal Zone Police found it hard to control and to protect the traffic. Shortly after 7.00 p.m., the normal stream of traffic appeared to have ceased and the street was filled by a milling, agitated crowd. The Canal Zone police gave up trying to control the traffic and took up a position on the other side of 4th of July Avenue, on the slope just within the Canal Zone territory, behind the dividing fence, in order to prevent the crowd from climbing the hill and coming over the fence.

51. Between 7.30 to 8.00 p.m., a large crowd assembled in President Kennedy Avenue and concentrated near the Pan American Building; it was estimated to run into several thousand people. Later, the crowd not only turned over and set fire to cars and broke street lights, but also started to break through doors and windows, and generally to loot and destroy shops and property in Panama City. Sections of the crowd directed their wrecking activities to shops in parts of Panama City along 4th of July Avenue and other streets close to it. Windows were smashed and doors were forced open. The rioting lasted late into the night and the crowd set on fire the Pan American Building, which burned out. Six persons—possibly looters—seem to have been trapped in the building, where their dead bodies were found next morning.

52. The Hotel Tivoli is an old wooden house, situated behind the iron fence that runs along 4th of July Avenue. Part of the crowd approached the Hotel on several occasions on the evening of January 9 and started throwing "Molotov Cocktails" and rocks against this building, which at the time was occupied by a number of guests, among them women and children. The Canal Zone Police drove the crowd back by using tear-gas and appeared to have controlled the situation until about 8.30 p.m., when the United States Army took over control of this area.

53. The United States troops took up a position along Kennedy Avenue from the Mary Knoll Convent to the Hotel Tivoli and

from the Hotel Tivoli down to the Ancon laundry. The troops used armoured personnel cars. The troops deployed appear to have succeeded in containing the crowd and preventing it from penetrating further into the Canal Zone by using large quantities of tear-gas.

54. Later in the evening, about 10.00 to 10.30 p.m., the United States troops in the vicinity of the Hotel Tivoli were fired on from the Panamanian side, from different directions and from what appears to have been a variety of firearms. A good part of the fire appeared to come from the Pan American Building and from the Legislative Palace in the Republic of Panama. From the time the United States Army took over the command of the Canal Zone, General O'Meara appears to have given clear orders to the troops not to fire and not to use any firearms. Following repeated requests, when the fire from the Panamanian territory grew in volume and effectiveness, the General in command gave orders, at about 10.50 p.m. on January 9, to return the fire by shotgun fire, and to direct the fire against the men firing from the Panamanian side, in order to quell the snipers. The shotgun fire was limited to the use of No. 4 - No. 7/1½ bird shot.

55. The Hotel Tivoli and surrounding area appear to have been the main target for the firing from the Panamanian side during these days. The bullets recovered established that the weapons used from the Panamanian side included rifles, long and short revolvers and .38 automatics (9 mm.). On the Hotel Tivoli, the marks of no less than 465 bullets were found. It would appear that the calibres used there were .22 to .45 (5.5 mm. to 11.35 mm.) and that .22 calibre bullets predominated. There was evidence also that there were intermittent bursts of automatic or semi-automatic fire coming from the Panamanian side from about 12.30 a.m. until the early hours of the morning of the 10th. It should be mentioned that, in Panama City, looters forced their way into the shop of a dealer in firearms and looted weapons and ammunition.

56. A select team of United States Army marksmen under a sergeant was ordered to take up position in the Hotel Tivoli late in the evening of January 9. General O'Meara made at least two requests, through the appropriate Panamanian Authorities, for action by the Panamanian Authorities to stop the firing which was being directed against the Canal Zone from the Republic of Panama. No action having been taken by the Panamanian Author-

ities, through the Guardia Nacional or otherwise, General O'Meara issued orders after midnight on January 10, that the team of U.S. Army marksmen could use .30 calibre rifle fire to stop the snipers. At this stage four U.S. soldiers had been wounded, making a total of six casualties on the U.S. side. One soldier and one civilian had been wounded earlier.

57. The rifle firing by the U.S. Army marksmen from the Hotel Tivoli commenced on the morning of the 10th at about 12.30 a.m., and continued until 2.00 to 3.00 a.m. the same day. It started again about 10.00 a.m. on the morning of the 10th, and continued until about 2.00 p.m. It was resumed again from 7.10 to 7.15 p.m. on the same evening. It is estimated that some 400 to 500 bullets were fired by the United States forces. An examination of the Legislative Building showed that bullets had penetrated through the walls. Throughout this period U.S. troops also used shotguns intermittently.

58. It was alleged that the United States Army used armoured tanks, but the Investigating Committee is satisfied from evidence before it that armoured personnel carriers using caterpillar tracks instead of wheels were mistaken for tanks. There was no evidence of any firing from tanks or armoured personnel carriers.

59. In the area indicated above, in consequence of the fire from the Panamanian side, 10 soldiers of the United States Army were injured. On the Panamanian side the casualties appear to have been greater. A scrutiny of the records of St. Thomas's Hospital showed that a total of 95 injured persons were brought to this hospital. Of these, 18 were fatal; six of these appear to have died when trapped in the fire of the Pan American Building. Of the remaining twelve fatal casualties, in only six cases were the particulars presented to the Committee sufficient to enable an investigation into the circumstances of their deaths. These cases are dealt with later. As for the remaining six fatal cases, it is quite conceivable that, in view of the well directed high velocity rifle fire of the U.S. Army against snipers, some of them were snipers killed by U.S. Army fire, though the records of their deaths were not brought to the notice of the Investigating Committee. Under these circumstances the Investigating Committee found it impossible to establish with certainty the exact number of casualties on the Panamanian side caused by U.S. Army fire. Furthermore, Panamanians fired on each other, on different occasions, for different reasons. It seems also probable that shop-keepers and others used weapons in order to stop looting and to protect their property.

60. Among the six cases presented to the Investigating Committee, two have already been dealt with. The other four cases are the following.

61. An old fruiterer, Rogelio Lara, was killed by a rifle bullet on the evening of January 9, between 9.00-10.00 p.m., while lying or resting in the Avenida Central. It seems unlikely that this old man was killed by an American rifleman, because the evidence indicates that the death was not caused by a high velocity bullet such as used by the United States marksmen. At the time the man was hit there seems to have been no American fire in this area.

62. Another man, Rodolfo Sanchez, aged 33, sitting in a car near the Casa Müller, was shot and killed shortly before noon of January 10. This would appear to have been caused by a .30 calibre rifle, such as was used by the United States marksmen. It is proved that the marksmen were shooting in this direction at this particular time.

63. A young girl, Rosa Elena Landecho, aged 11 was the unfortunate victim of a rifle bullet at about noon on January 10, when she was on the balcony of the flat of her family in the house No. 1 Calle M. In all probability, she was shot by a bullet from a marksman directed against a sniper in the same building. This conjecture is born out by the Committee's on-the-spot visit which indicated a spray of rifle bullets on this building. The medical evidence shows that it was not totally impossible, even if it were unlikely, that this girl was killed by a .30 calibre bullet such as used by the marksmen.

64. A taxi-driver, Victor Garibaldo, aged 29, died on the morning of January 10 from a wound inflicted by a .30 calibre rifle. He appears to have been somewhere close to the Legislative Palace, which was the area from which there was considerable firing from the Panamanian side, and was probably shot by a marksman's bullet.

65. During January 10-11, the crowd appears to have diminished greatly, but still about a thousand people moved to and fro in the streets. There was clear evidence that, on January 10 and 11, at several points a mob endeavoured to force an entry into the Canal Zone with the apparent purpose of destroying life and property. Shooting from the Panamanian side continued from January 11 to January 12. On the afternoon of January 10, the United States

troops ceased to return the fire from the Panamanian side by rifle-fire, except for a very short period of some minutes during the evening. As a result of orders given by General O'Meara, the Panamanian fire was not returned by the United States Army afterwards. By the early morning of January 13, the Guardia Nacional appeared, took the situation in hand and restored order in the streets neighbouring the Canal Zone in the City of Panama. The Investigating Committee feels satisfied that, if the Guardia Nacional had taken charge of the situation early on the evening of the 9th or soon thereafter, the violence and the damage to property and the tragic casualties would not, in all probability, have taken place.

PART V

Disturbances in Colon

66. The news of the disturbances and violence in Panama City and on the border area between Panama City and the Canal Zone, spread rapidly to other parts of Panama including Cristobal-Colon. In addition, the radio broadcasts from Panama City created a tense atmosphere in Colon.

67. At about 9.00 p.m. on the evening of January 9, a crowd of approximately 1,000 to 1,500 people entered from Colon into the Cristobal area in the Canal Zone and proceeded down Roosevelt Avenue to the Panama Canal Administration Building in Cristobal. There was a reasonably peaceful demonstration, and the Mayor of Colon was present at the time of the demonstration. Some leaders of the crowd insisted on hoisting the Panamanian flag on the flagpoles in the Administration Building in Cristobal. In the daytime, the Panamanian flag was normally hoisted at this place alongside and with the U.S. flag, but at this time in the evening both flags were usually lowered for the night. The Panamanian flag was, however, now raised again on its flagpole and flown without objection and the crowd was permitted to sing the Panamanian national anthem. After this ceremony the flag was lowered again by the demonstrators. It is noteworthy that the Canal Zone Authorities, including the local Chief of Police, Captain Howard, handled the crowds tactfully and with persuasion and restraint.

68. The demonstration over, the crowd returned to Colon. As the crowd moved away from Cristobal, however, certain elements in the crowd damaged a car that was parked in Cristobal by smashing its windows. In Colon the crowd then moved towards the American Consulate.

69. A little later the same evening, at about 9.45 p.m., a crowd of several thousand people started new demonstrations, a part of the crowd marching along Balboa Avenue into the Canal Zone between the Masonic Temple and the old Commissary. In the beginning, Captain Howard, who was in charge of the police in

Cristobal, appears to have successfully stopped the crowd some 10 yards inside the Canal Zone and dissuaded them from coming further forward on Balboa Road into the Canal Zone, by addressing them in Spanish. At about the same time, another crowd on the other side of the Masonic Temple in Bolivar Avenue started resorting to violence. They threw rocks and other objects, breaking windows of the Y.M.C.A. building and of the Masonic Temple. The tempo of violence appears to have increased rather quickly; the Canal Zone police, being outnumbered by the large crowds, called for U.S. Army assistance.

70. At about 10.30 p.m., troops of the United States Army took control of the situation in Cristobal and in the area around the Masonic Temple, the Y.M.C.A. and the old Commissary. The United States troops arrived in battle uniform and helmets, guns held forward with fixed bayonets, and approached the crowd that had gathered on Balboa Avenue from the Colon side. By this time the crowd appears to have been very excited. Despite Captain Howard's attempts to persuade them to disperse and move away, a small, determined group on Balboa Avenue remained defiant, heading further towards Cristobal. The soldiers appear to have come right up to the small group standing their ground on Balboa Avenue; they stopped there in an attempt to make a show of force to persuade the crowd to move away. It is quite conceivable that this led to the Panamanians grabbing the bayonets and guns, thus starting a scuffle. In any event, it is clear beyond doubt that, at this time, severe rioting continued in the immediate neighbourhood in the Masonic Temple and the Y.M.C.A., in the course of which two buildings were seriously damaged. Windows of shops were smashed open, and looting seems to have taken place.

71. At about 10.45 p.m., the crowd having been pushed back into the Republic of Panama, the officer commanding the U.S. troops posted soldiers all along the border between the Republic of Panama and the Canal Zone, in 11th Street and Bolívar Avenue, in order to seal off the Canal Zone. At about this time, one of the U.S. officers in charge of a platoon inadvertently led a small number of his men in Bolívar Avenue over the line forming the border between the Canal Zone and the Republic of Panama to a point which was a few yards within the Republic of Panama. This error appears to have been corrected within a matter of minutes by a superior officer.

72. The crowd opposite the soldiers became violent and at about 11.45 p.m. one of the U.S. soldiers was wounded by a shot. A little

later, shortly after midnight, a U.S. soldier was killed by a bullet fired from the crowd at a soldier standing on duty. Up to this time the U.S. soldiers stood without any protection and used only tear-gas to disperse the crowd and prevent it from entering the Canal Zone. In view of the casualties suffered, the soldiers were moved back into the Y.M.C.A. building, the Masonic Temple and the old Commissary, just inside the Canal Zone, to afford them protection.

73. Early on the morning of the 10th, two more U.S. soldiers were shot dead by bullets fired from the Canal Zone, and nine others were wounded. Through the night and early morning, the violence appears to have continued; it reached a new peak at 10.00 a.m., when "Molotov Cocktails" thrown against the Y.M.C.A. building at last set it on fire and burned it down. The Masonic Temple and the old Commissary were also attacked with rocks and "Molotov Cocktails". The old Commissary was set on fire at noon the next day, the 11th, and was also burned down.

74. From the evening of the 9th and through the days and nights of the 10th, 11th and 12th, the American troops were kept under fire from different points in the Republic of Panama. It was only on the afternoon of the 11th, at about 2.45 p.m., that General O'Meara gave permission to the local commander to use shotguns in order to counter the firing from the Republic of Panama. By this time, three U.S. soldiers had been killed and twelve had been wounded by the fire from the Panamanian side.

75. In the early hours of the morning of the 12th, about 2.00 a.m., a jeep of the Guardia Nacional was driven up 11th Street heading west, towards the harbour. It got entangled in some barbed wire at the corner of 11th Street and Balboa Avenue and came to a halt. The car had its headlamps on facing towards the harbour; otherwise the area was in complete darkness, the street lights having been shot out. A sergeant of the Guardia named Celestino Villareta, 43 years old, sitting next to the driver in the jeep, was shot dead at this moment by a bullet. It is clear that the jeep received fire from two sides: shotgun fire from behind the top of the Masonic Temple by the United States troops and rifle fire in the front from the direction of the harbour; if from inside or outside the Canal Zone was not clarified. At no time did the United States troops use bullet fire in Colon and the wound that caused the death of the Guardia Sergeant clearly was caused by a bullet. This bullet must have come either from a rifle fired by a United States soldier

against orders or from some unknown sniper. It was established that after the jeep had been fired on, the U.S. Colonel in charge was requested over the telephone by an officer of the Guardia to order the United States troops to stop firing while an ambulance was being sent to pick up the body of the Guardia Sergeant, and another man who was wounded in the jeep. The Colonel agreed to this and gave specific orders to his men to withhold fire when the ambulance approached the jeep. Nevertheless, fire appears to have been opened on the ambulance from the same direction—the harbour—by an unidentified person.

76. A six-month old infant, Maritza Avila Alabarea, was reported to have died in Colon as a consequence of the effects of tear-gas. Though the Investigating Committee requested evidence with regard to this unfortunate death, none was made available. It was therefore impossible for the Committee to reach any conclusion regarding the circumstance under which the child died.

77. Although the United States troops used shotguns to counter the fire from the Panamanian side from some time on the afternoon of January 11 until the morning of the 13th, no evidence was submitted to the Investigating Committee of any deaths having been caused by shotgun fire. Thirteen persons, however, were reported to have been wounded or injured by shotgun fire in Colon.

78. The Investigating Committee was satisfied on the evidence that, from time to time, the U.S. Army and police officials of the Canal Zone were in communication with the officials of the Guardia, who appear to have cooperated and endeavoured, within their limits, to restore order. Curiously, it was also proved that the Guardia were totally disarmed during these difficult days; the Guardia are usually equipped with pistols and batons. No explanation was given as to why the Guardia were ordered not to carry their usual arms during these days.

79. Nevertheless, the Guardia brought the situation completely under control on the morning of the 13th; this coincided with similar effective action taken by the Guardia in Panama City.

PART VI

Restrictions in Colon Corridor and on the Bridge

80. The City of Colon, which is under Panamanian jurisdiction, is on all sides surrounded by the Canal Zone. However, the Trans-Isthmian Highway leading from Panama City to Colon is under Panamanian jurisdiction, forming in part a Corridor approximately four miles long running from the Canal Zone border, nearby to the town of Kativa, to the City of Colon. It was alleged that the United States authorities through their armed forces, blocked and closed the Colon Corridor.

81. In December 1963, the Panamanian authorities closed the Corridor to vehicular traffic in view of reconstruction work on the road within the Corridor. All the normal traffic to Colon therefore passed, not through the Corridor, but through another road in the Canal Zone territory, Randolph Road and Bolívar Highway.

82. On the night of January 9, after the disturbances started and the United States armed forces had taken over control, a check-point was established on the Bolívar Highway, within the Canal Zone, to prevent armed infiltration into the Zone. The purpose of this check-point was to search suspects and to ensure that no one entered the area with weapons; very few people were stopped and some were found with weapons — they were prevented from passing this checkpoint. No vehicular traffic bearing supplies or goods was prevented from passing this check-point by the United States forces; there was no evidence that any governmental official or other responsible persons were stopped from passing the check-point.

83. On January 10, in the early hours of the morning, the United States forces established an additional check-point at the end of the Colon Corridor where it enters Central Avenue within the Canal Zone limit, partly inside Panamanian territory. The purpose of this check-point was also restricted to preventing persons entering with weapons and it only screened pedestrian traffic, as the road was closed to vehicular traffic. No person appears to

have been stopped from passing this check-point. It was established that, before this check-point was established outside the Colon Corridor, the United States military authorities had asked the Guardia Nacional to establish a similar check-point in order to screen the traffic. On the afternoon of the 11th, at 2.45 p.m., this check-point was taken over by the Guardia Nacional. Soon after the United States armed forces had established its check-point on the evening of the 10th at the end of the Colon Corridor, certain private individuals (probably Panamanians) set up a check-point further up on Bolivar Highway in the Canal Zone, so that, all traffic coming from Colon reaching the United States Army check-point necessarily had to go through this private check-point where the traffic was halted and searched. The Canal Zone authorities appear to have exercised restraint in not interfering with this check-point, which was within the Canal Zone.

84. The Bridge of the Americas (Thatcher Ferry Bridge), after the outbreak of the disturbances on the evening of January 9, was put under strict control by the armed forces of the United States. During night-time, for the three nights beginning on January 9, all traffic was completely closed except for official and what was described as "emergency" traffic, such as, the Guardia Nacional, doctors, nurses, blood supplies, etc. Subject to a check and inspection, the bridge was open to all traffic during the daytime from the early morning of January 10. The bridge is situated within the Canal Zone and was constructed and is owned by the United States. It is admitted that the bridge is under the exclusive jurisdiction and control of the United States. The Republic of Panama has complete and free right of way over the bridge, as it has over all public roads of the Canal Zone, by virtue of the provisions of the Convention of 1903.

PART VII

Conclusions

A. *General*

85. In the course of our work a number of problems of international law have arisen, such as, the interpretation of the Convention of 1903, other Conventions between the United States and the Republic of Panama, legal aspects of shooting from one territory into another, violations of national territory, the right of peaceful assembly of citizens of one territory in another territory, and a number of other questions involving the interpretation or definition of particular international and/or municipal laws which might be applicable to the situation. We do not think it is our function to deal with or decide these problems.

86. The issues to be decided by us depend on questions of fact and on the proper interpretation of the Universal Declaration of Human Rights, and its implications. We have endeavoured in the conclusions reached to construe the relevant Articles of the Universal Declaration of Human Rights in accordance with the accepted principles relating to such Articles, the principles of natural justice, the generally recognized concepts of the Rule of Law, and good common sense. In doing so we have also carefully considered the relevant Articles of the European Convention on Human Rights, of the Inter-American Draft Convention on Human Rights, as well as the relevant provisions contained in national constitutions.

B. *Article 3 of the Universal Declaration of Human Rights*

87. Article 3 of the Universal Declaration of Human Rights provides that:

“Everyone has the right to life, liberty and security of person.”

88. The allegation we were asked to investigate was that the United States had violated this Article. On the facts proved before us, we are unable to come to this conclusion.

89. Undoubtedly there was, as a result of the firing by the United States armed forces, a tragic loss of life on the Panamanian side. It must be recognized that in all civilized communities such an absolute right, as is enshrined in Article 3, would not exclude certain necessary and reasonable exceptions. Thus, it would not be a contravention of Article 3 to deprive a person of life, liberty and security of person in order to prevent injury to other persons from unlawful violence and in order to quell a riot or violent disturbance, provided, however, that the force used was not more than that absolutely necessary. The necessary minimum force may include the use of firearms.

90. The tempo and violence of the disturbances were such that there is little doubt that they held out a real threat to life and security, which could only be met by strong measures. In these circumstances the Canal Zone Authorities and the United States military forces were entitled to use force. Nevertheless, we entertained some doubts as to whether the force used, at some stages, was not in excess of the minimum absolutely necessary. In particular the following caused us concern:

1. In regard to the shooting by the Canal Zone police with revolvers during the early part of the evening of January 9, we are concerned with the following matters:
 - (a) While the Canal Zone Police had exhausted the greater part of the tear-gas available to them, it was established that they did not try to obtain additional supplies.
 - (b) No attempt appears to have been made to use water jets to calm down and control the crowd.
 - (c) It also appears that, while orders were given to shoot over the heads of people or into the ground in front of the crowd, people in the crowd were struck by bullets which did not appear to be "ricochet" bullets.
2. A large number of bullets (approximately 400-500) were fired by United States Army trained marksmen using high velocity rifles. In a residential and densely populated area such extensive use of high fire-power is a disturbing feature.
3. The exercise and show of force by United States Army personnel by marching in full battle kit right up to a crowd in Colon, with guns mounted with bayonets drawn in a position of attack.

91. While these matters have caused us concern we have to take into account *all* the surrounding circumstances and in particular the following:

Revolver Fire (See [1] above)

- (a) The comparatively small number of Canal Zone Police (75-80).
- (b) The large dimensions and violent temper of the crowds.
- (c) The deliberate and extensive use of incendiaries ("Molotov Cocktails").
- (d) The failure of the Panamanian authorities and of the Guardia Nacional to take effective steps to control the crowd and maintain order within the territory of the Republic of Panama.

Rifle Fire (See [2] above)

- (a) The heavy firing from the Panamanian side, by a variety of weapons, running into hundreds of bullets (estimated close to 1,000).
- (b) The fact that the United States Army did not order firing by rifles until it had sustained several casualties as a result of the firing from the Panamanian territory.
- (c) The failure of the Panamanian authorities and of the Guardia Nacional to remove snipers and other elements using firearms within Panamanian territory directed against the Canal Zone.

Use of Bayonets (See [3] above)

- (a) A large and threatening crowd had gathered and a section of the crowd had started causing destruction and damage.
- (b) The show of force could have been considered an effective means of dispersing the crowd.
- (c) The failure of the Guardia Nacional to maintain order, to disperse the crowd and to prevent unlawful acts of violence.

92. Considering all the above surrounding circumstances, and in particular the grave acts of violence and the threat to life and security involved, we have come to the conclusion that, even if the force used by the Canal Zone Authorities and the United States Army may have been at certain stages somewhat in excess

of what was absolutely necessary at the time, the force used seems to have been justified; taking into account such rapidly moving, critical, and violent conditions, it is impossible to lay down a fine distinguishing line of what should have been the absolute minimum necessary.

93. We regret deeply that the Panamanian authorities made no attempt during the critical early hours, as well as for almost three days thereafter, to curb and control the violent activities of the milling crowds. On the contrary, there is considerable evidence to indicate that broadcasts over radio, television and loud-speakers, newspapers, and other means were adopted to incite and misinform the Panamanian public without any action by the Panamanian authorities to curtail or moderate such activities.

C. *Article 5 of the Universal Declaration of Human Rights*

94. Article 5 of the Universal Declaration of Human Rights provides that:

“ No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”

95. The allegation we were asked to investigate under this heading was that the United States had violated this Article by reason of the action of the Canal Zone Police and of the United States armed forces in shooting at the Panamanian civil population. As set out in detail in Part II, the occasions when shooting was resorted to by the Canal Zone police or United States Army were: (1) revolver fire by Canal Zone police to prevent the crowds from surging forward and coming further into the Canal Zone, when it was patent that the purpose of these crowds was to commit unlawful acts of violence; (2) rifle shots by trained marksmen of the United States Army to silence the snipers on the Panamanian side and thus to prevent further casualties to the United States armed personnel as well as civilians; (3) firing of bird-shot to repel violent crowds from forcing an entry into the Canal Zone and also to silence snipers; and (4) shooting in order to put out the street lights.

96. We doubt if this Article was intended to deal with situations such as those under review. Article 5 appears to us to have been intended to deal with cases of persons who have already lost their liberty, or who are being subjected to endemic ill-treatment, rather than to deal with a temporary, emergency situation.

97. However, even if this be incorrect, it appears to us that the issues involved here are identical to those already dealt with in regard to the allegation of a violation of Article 3. Accordingly, on the basis of the same reasoning adopted by us in regard to our previous conclusion we do not accept the allegation that the United States violated Article 5.

D. *Article 20 of the Universal Declaration of Human Rights*

98. The allegation of the National Bar Association of Panama under this head was of a breach by the United States of Article 20 of the Universal Declaration of Human Rights. However, we take it that the allegation is in fact limited to Sub-Article (1) of Article 20; Sub-Article (2) does not seem to have any relevance to the matters under investigation.

99. Article 20(1) provides that:

“Everyone has the right to freedom of peaceful assembly and association.”

100. It is universally accepted that such an absolute right as is granted by Article 20(1) must necessarily be curtailed in even the freest and most democratic society to meet the interests of national security, or public safety, or for the prevention of disorder, violence or crime, or for the protection of rights and freedoms of others.

101. We would here refer to the Inter-American Draft Convention on Human Rights, Article 12 whereof provides:

“The right of peaceful assembly, without arms, is recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and necessary in a democratic society in the interest of national security, public safety or public order, or for the protection of public health or morals, or of the rights and freedom of others.”

102. Similar provisions delimiting the right of free assembly are contained in most national constitutions, including the Constitution of Panama.

103. The facts and background with regard to the flag incident and the demonstration by the students of the National Institute of Panama on the afternoon of January 9 at the Balboa High School in the Canal Zone have been set out in some detail in Part I.

104. In view of the turn events took, we are unable to come to a conclusion that there was a violation of the right of assembly

as guaranteed in Article 20(1), for the reason that the Canal Zone police were entitled to use force and disperse the assembly to prevent disorder and an outbreak of violence.

105. We cannot, however, help feeling that the Canal Zone authorities, and in particular the Canal Zone police, could have handled the situation with greater foresight. The Panamanian students having been permitted to stage their demonstration and march into the compound of the Balboa School, and the police captain having assured the safe conduct of the small group of Panamanian students who were to carry out their flag demonstration and sing the Panamanian national anthem, we think that the Panamanian students should have been better protected, and that the provocative acts of the United States students and citizens should have been more firmly handled. It was particularly unfortunate that physical force, by the use of batons on the Panamanian students who had been previously assured safe conduct, was not avoided.

106. We would also observe that it is patent that under the charged atmosphere of the area, the flag had become a special symbol for the Panamanians as well as the citizens of the United States, particularly the students. In this atmosphere, and in the light of the accord reached in June 1962 between Presidents Kennedy and Chiari, we find it difficult to understand why the Canal Zone authorities, including the Balboa School authorities, did not take firmer and stronger action to implement the flag agreement with regard to their own students.

107. With regard to the allegation that the right of assembly was violated on January 9, 10 and 11 by reason of the actions of the Canal Zone police and of the United States armed forces in firing small arms and in using tear-gas for the purpose of preventing such right of assembly inside the Republic of Panama, we do not accept that there was any such violation because the crowds against whom such measures were taken were not peaceful but were violent and posed an immediate threat to public safety.

E. *Article 13(1) of the Universal Declaration of Human Rights*

108. Sub-Article (1) of Article 13 of the Universal Declaration of Human Rights provides that:

“Everyone has the right to freedom of movement and residence within the borders of each state.”

109. The Panamanian allegation of "blockade" implies that by reason of the control exercised by the United States Army over the Colon Corridor and the Bridge of the Americas (Thatcher Ferry Bridge) Article 13(1) of the Universal Declaration was violated. We do not find this allegation proved.

110. Insofar as the Colon Corridor is concerned, it was proved that in the early hours of the morning of January 10, the United States armed forces established a check-point at the end of the Colon Corridor where it enters Central Avenue within the Canal Zone limit. The purpose of this check-point was to ensure that persons in possession of weapons and firearms did not go through, and it would appear that no person was stopped from passing the check-point. The establishment of such a check-point in itself does not, in our opinion, constitute an infringement of freedom of movement as guaranteed by Article 13(1) of the Universal Declaration of Human Rights.

111. For some time at night all traffic over the Bridge of the Americas (Thatcher Ferry Bridge) appears to have been completely closed except for some official traffic. There was also imposed at both ends of the Bridge a check and inspection to screen the traffic. This does constitute a restriction on the free movement of traffic. The closing of traffic at night caused inconvenience and even hardship in respect of commercial traffic carrying supplies and commodities transported at night, such as milk, etc. In view, however, of all the surrounding circumstances, particularly the importance of ensuring the security and safety of the Bridge and of the traffic over it, we are of the opinion that this restriction was in the nature of control during an emergency and was such as did not amount to an infringement of the right of freedom of movement contemplated by Article 13(1).

F. *Inequality of Treatment*

112. Regarding the alleged inequality of treatment in the Canal Zone, we are unable, on the basis of the limited materials placed before us, to reach a specific conclusion. We feel, however, that we should convey certain clear impressions we have formed.

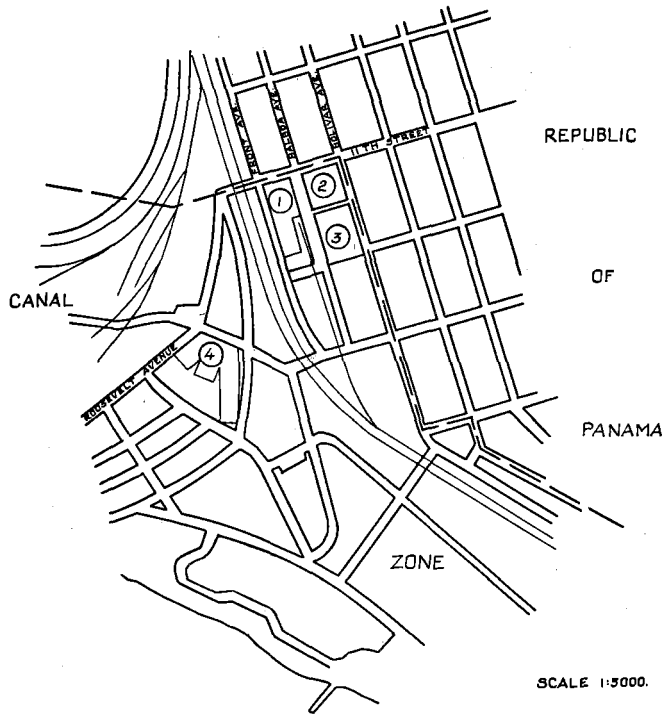
113. Since the construction of the Canal, separate communities have lived on two sides of what is known as the Canal Zone Border. On the one side United States citizens in the Canal Zone, and on the other Panamanians in the Republic of Panama. Over

the years it has given rise to a divergency in the way of life, in the economy, and in the outlook of the two peoples living in close proximity and yet in virtual isolation from each other. It is unfortunate that the United States citizens who have lived all their lives in the Canal Zone, and, perhaps more particularly, the second and third generation United States citizens who were born and raised in the Canal Zone, have developed a particular state of mind not conducive to the promotion of happier relations between them and the people of Panama. Indeed, on the contrary, this particular state of mind has resulted in building up resentment over the decades which has found expression in the type of unbalanced attitudes on both sides such as on the subject of flying their respective flags, as was demonstrated during the unfortunate days covered by this report, and also for some considerable time previously. The passage of time, instead of assuaging these conflicting tendencies, appears to have aggravated them. Tension and resentment have increased in a vicious circle and have not been improved by certain reactions of the Panamanians.

114. We cannot help feeling that the United States, having regard to the special situation it occupies in the world, and with its resources and ideals, should reflect upon these sad facts and take effective steps to make possible a reorientation and change in the outlook and thinking of the people living in the Canal Zone. Undoubtedly this is a difficult and uphill task but it would yield rich dividends in healthier relations with the people of Panama. The Government of Panama and the life and economy of Panama is in many ways so closely tied to the Panama Canal that it would not be out of place to suggest that the Panamanian Government and Panamanian people should also reflect upon the facts as they appear to impartial observers and should exercise tolerance, moderation and understanding in their relations with the United States and Canal Zone authorities.

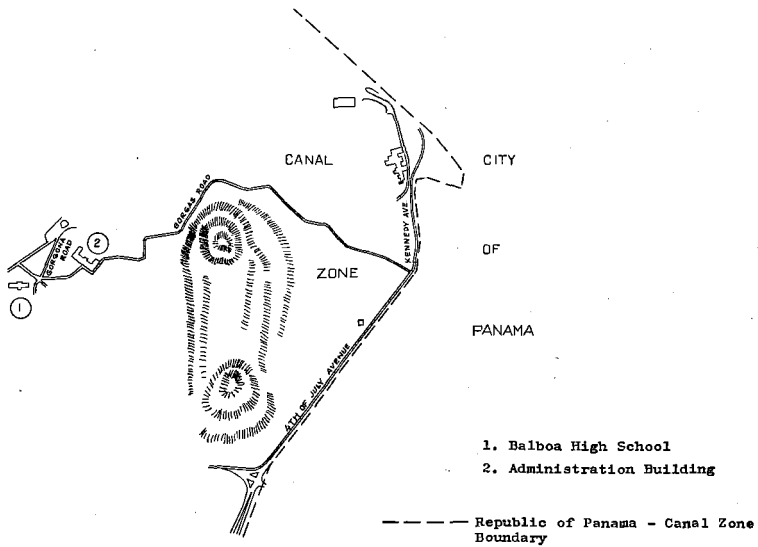
115. In conclusion we express the fervent hope that in some small measure our work will contribute to the growth of understanding, cooperation and amity between the two countries and their peoples, so that they may move forward in the furtherance of their mutual vital interests.

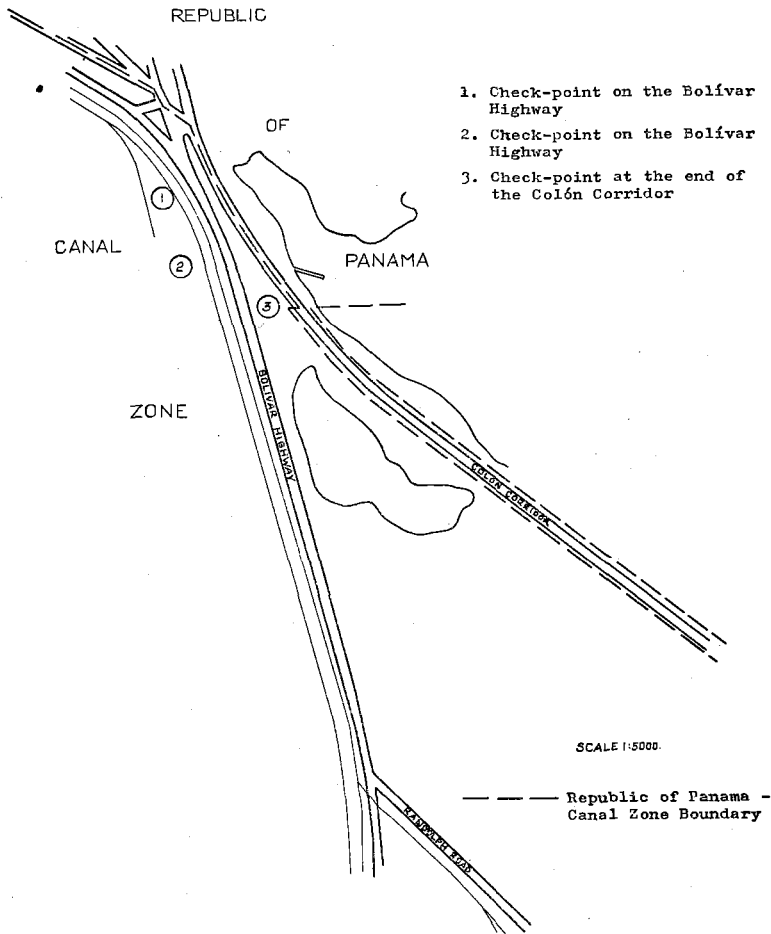
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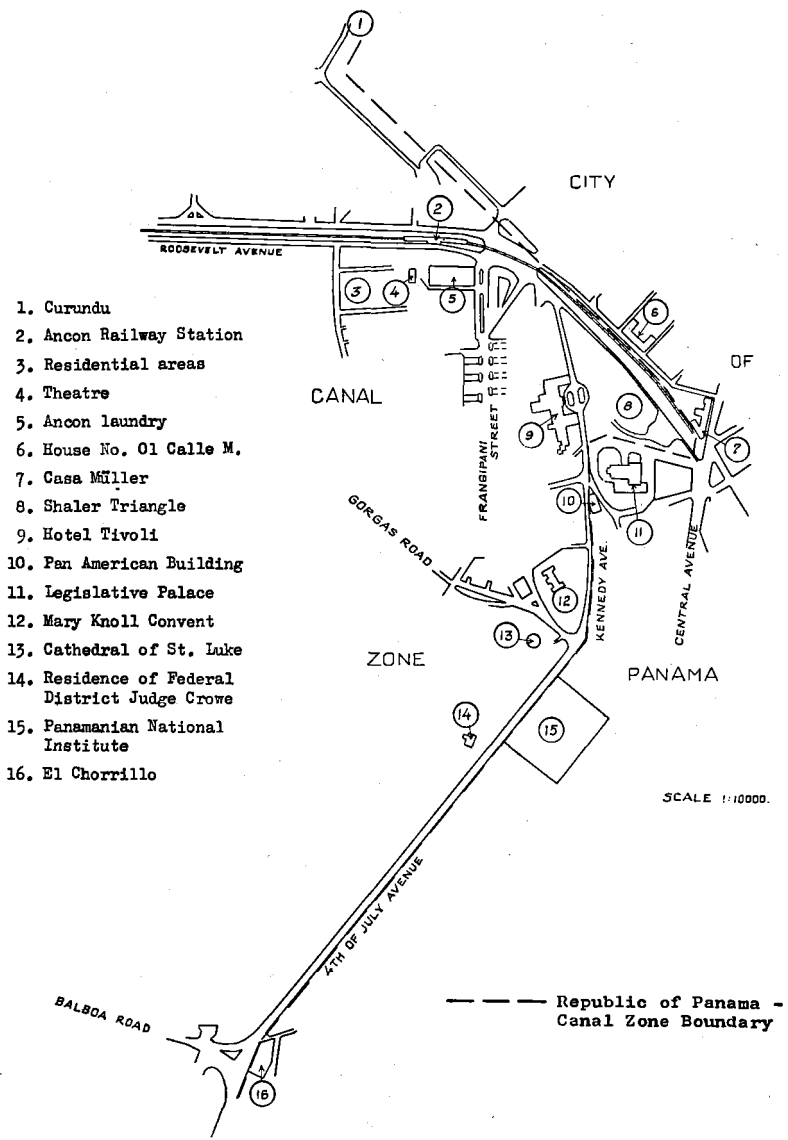


1. Commissary
2. Masonic Temple
3. Y.M.C.A. Building
4. Panama Canal Administration Building

----- Republic of Panama - Canal Zone Boundary







1. Curundu
2. Ancon Railway Station
3. Residential areas
4. Theatre
5. Ancon laundry
6. House No. 01 Calle M.
7. Casa Miller
8. Shaler Triangle
9. Hotel Tivoli
10. Pan American Building
11. Legislative Palace
12. Mary Knoll Convent
13. Cathedral of St. Luke
14. Residence of Federal District Judge Crowe
15. Panamanian National Institute
16. El Chorrillo

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