GOVERNMENT OF THE CANAL ZONE

GEORGE W. GOETHALS
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THE STAFFORD LITTLE LECTURES

FOR 1915
Former Administration Building, Ancon. Now Court Building and general office for Army
GOVERNMENT
OF THE CANAL ZONE

BY
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I

The building of the Panama Canal has been written and talked about as one of the great feats of engineering, and the sanitary work by which yellow fever was banished from the Isthmus has received equal recognition. Little or nothing has been said or heard of the other coordinate branches, such as the housing and feeding of the force; the purchasing, receiving and issuing of construction supplies; the recruiting of labor, both skilled and unskilled; or the controlling of the Zone and preserving order within its limits; yet each was very necessary and important to the
attainment of the end, for the failure of any one would have crippled and delayed the completion of the canal.

The construction of the canal involved the solution of no new engineering problems—simply the application of known principles and methods which experience had shown would give satisfactory results, for the very magnitude of the work precluded trying out anything new or experimental. The task was a formidable one, therefore, because of its size, rather than because of engineering difficulties that were overcome. So, too, in regard to sanitation. With Sir Ronald Ross’ discovery of the cause of malaria, which led him to adopt means for its reduction and eradication in Egypt and India, and with Reed, Lazear and Carroll proving the theory that yellow fever is transmitted by the mosquito, and formulating rules which freed Cuba from the ravages of that dread
disease, there remained but the application of the methods followed elsewhere to secure similar results on the Isthmus with respect to these two diseases. The work in Panama developed nothing new. The housing and feeding of the force presented old problems in a new form, made more difficult, however, because of the great numbers employed and the distance from the home markets; similarly with the supply of materials so that construction might proceed unhampered. The reputation of Panama as a pesthole made the recruiting of labor a difficult undertaking, and the difficulty was increased by opposition through edicts and legislation on the part of various Governments both in Europe and the West Indies. But a novel problem in government was presented by the necessity of ruling and preserving order within the Canal Zone. While some experience had been gained in the insular
possessions, a new situation existed which had to be solved, and after various changes there was evolved a form of government which was unique, differing from any established methods of administration.

About a year ago the press announced that a civil government was to be given to the Canal Zone, from which it was assumed that something different from what had existed previously was to be established, and when an army officer was appointed Governor it seemed to be considered a cause for regret that the military was selected in lieu of the civil rule; consequently, a confusion of ideas followed—if there were any ideas on the subject—as to what is the actual status of affairs. An attempt will be made to clear up the situation by outlining the course of civil administration of the Zone through its various changes to the form of government that finally resulted and which was continued
till the Panama Canal Act was made applicable, together with the reasons which led to the adoption by Congress of the establishment that now exists.

The question of an Isthmian canal had been under consideration for years, and while an American company had begun work on a canal by the Nicaraguan route, a French company was the first to begin at Panama the construction of a trans-Isthmian canal on a scale that promised and so far as concerns the work on the Isthmus merited success. Within ten years after the organization of the French company it was forced into liquidation. This was followed by the formation of a new company, but it was difficult to obtain money, and the work carried on by it gradually narrowed down to only such as was necessary to hold the concession that had been granted by Colombia.

In the nineties the United States began
to take a more active interest in an Isthmian canal and the Congress authorized the employment of engineers to investigate first the Nicaraguan route and subsequently both this and the Panama route. In 1901 the engineers reported in favor of the Panama route provided the rights and properties of the New Panama Canal Company could be purchased for the sum of $40,000,000. Shortly thereafter, Congress, by the act approved June 28, 1902, commonly known as the Spooner Act, authorized the President to acquire from the Republic of Colombia perpetual control of a strip of land across the Isthmus of Panama not less than six miles wide, for the purpose of constructing, maintaining, operating, and protecting a canal, which was to be of sufficient depth and capacity to afford easy passage for ships of the greatest tonnage and draft then in use, or that might reasonably be anticipated,
provided the rights and property of the New Panama Canal Company could be purchased for $40,000,000. The control of the strip was to include the jurisdiction of the land so transferred as well as of the terminal ports, and the authority to make such police and sanitary rules and regulations as might be necessary to preserve order and public health. In addition, the right was to be secured to maintain and operate the Panama Railroad, which had been constructed by American capital between 1850 and 1855 under a concession from Colombia, provided the United States obtained a majority of the stock.

The same act stipulated that in case satisfactory arrangements could not be made with Colombia or the New Panama Canal Company within a reasonable time and at a reasonable cost, the President was to enter into negotiations with Costa Rica and Nicaragua for the acquisition of the
necessary territory to build a canal by the Nicaraguan route. In either case, the President was to construct the canal utilizing for this purpose the services of the Isthmian Canal Commission, a body created by the act, to consist of at least seven members, at least four of whom were to be engineers, and of these four one was to be an officer of the army and one an officer of the navy. The Commissioners were to be appointed by the President with the advice and consent of the Senate.

In compliance with this enactment, as the New Panama Canal Company was a willing seller of its rights and properties, negotiations were undertaken to secure the strip of land with the necessary control from the Republic of Colombia, and a treaty for the purpose was prepared and agreed to by the representatives of the two Powers, but it failed of ratification by the legislative body of Colombia.
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Immediately following this action on the part of the Colombian Government the Province of Panama seceded, its independence was recognized by the United States, and negotiations were entered into with the new republic for the acquisition of the strip needed for the canal, which culminated in the treaty of November 18, 1903. The ratifications of this treaty were exchanged at Washington on February 26, 1904. By its terms, the United States was granted in perpetuity the use, occupation, and control of a strip or zone of land ten miles wide, five miles on either side of the center line of the canal to be constructed, extending across the Isthmus and three marine miles from the mean low water mark into both the Caribbean Sea and the Pacific Ocean. The cities of Colon and Panama and their adjacent harbors were specifically excluded from the grant. In addition such other lands and waters
outside the strip described as might be necessary for the construction, maintenance, operation, or protection of the canal or for any of its works were transferred to the United States, together with all islands within the limits of the Zone described, as well as a group of small islands, four in number, in the Pacific. The transfer of sovereignty from the Republic of Colombia to the Republic of Panama vested in the latter all rights which the former held in the Panama Railroad Company, and these rights were transferred to the United States by a specific provision in the treaty.

In this way the United States obtained control of the Canal Zone and of the Panama Railroad. With this control, by the terms of the treaty, the jurisdiction over a number of settlements scattered along the line of the railroad, the population of which was largely Panamanian,
was transferred to the United States authorities. Under the Spooner Act the President was authorized, after the acquisition of the territory, to establish judicial tribunals in order to enforce the rules and regulations which he might deem proper and necessary to preserve order and public health. While this authority was sufficient to permit the establishment of such a form of government as the President might determine, the act of April 28, 1904, specifically provided for the government of the Canal Zone. This law stipulated that until the expiration of the Fifty-eighth Congress (March 4, 1905), unless provision for a temporary Government be sooner made by Congress, all military, civil, and judicial powers, as well as the power to make all rules and regulations necessary for the government of the Canal Zone, and all the rights, powers, and authority granted by the terms of the treaty
to the United States, were to be vested in such person or persons, and exercised in such manner, as the President might direct for the government of the Zone and for maintaining and protecting the inhabitants thereof in the free enjoyment of their liberty, property, and religion.

On March 8, 1904, the President appointed and organized the Isthmian Canal Commission. The property of the New Panama Canal Company was transferred to the United States on May 4, 1904. By letter of May 9, 1904, the President placed the canal, its construction, and all work incident thereto, under the supervision of the Secretary of War, and vested in the Isthmian Canal Commission all the governmental power in and over the Canal Zone by virtue of the authority given him by the acts of June 28, 1902, and April 28, 1904. Among the duties prescribed for the Isthmian Canal Commission he in-
Shipping held at Pedro Miguel locks because of new movement of slide in Culebra Cut. March 10, 1915
cluded the authority to "make all needful rules and regulations for the government of the Zone, and for the correct administration of the military, civil, and judicial affairs of its possessions until the close of the Fifty-eighth Congress." The instructions which the President gave to the Commission relative to the government of the Zone contained the following:

"The inhabitants of the Canal Zone are entitled to security in their persons, property, and religion, and in all their private rights and relations. They should be so informed by public announcement. The people should be disturbed as little as possible in their customs and avocations that are in harmony with principles of well ordered and decent living. . . . The laws of the land, with which the inhabitants are familiar, and which were in force on February 26, 1904, will continue in force in the Canal Zone and in other places on the Isthmus over which the United States has jurisdiction until altered or annulled . . . but there are certain great principles of
government which have been made the basis of an existence as a nation which we deem essential to the rule of law and the maintenance of order, and which shall have force in said Zone. The principles referred to may be generally stated as follows:

"That no person shall be deprived of life, liberty, or property without due process of law; that private property shall not be taken for public use without just compensation; that in all criminal prosecutions the accused shall enjoy the right of a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense; that excessive bail shall not be required nor excessive fines imposed, nor cruel or unusual punishment inflicted; that no person shall be put twice in jeopardy for the same offense, or be compelled in any criminal case to be a witness against himself; that the right to be secure against unreasonable searches and seizures shall
not be violated; that neither slavery nor involuntary servitude shall exist except as a punishment for crime; that no bill of attainder or *ex post facto* law shall be passed; that no law shall be passed abridging the freedom of speech or of the press, or of the rights of the people to peaceably assemble and petition the Government for a redress of grievances; that no law shall be made respecting the establishment of religion or prohibiting the free exercise thereof.”

The effect of the foregoing was the establishment of a bill of rights, and the power of the Commission to that extent was restricted, yet the following proviso was added:

“That the Commission shall have power to exclude from time to time from the Canal Zone and other places on the Isthmus, over which the United States has jurisdiction, persons of the following classes who were not actually domiciled within the Zone on the 26th day of February, 1904, viz.: Idiots, the insane, epileptics, paupers, criminals, professional beg-
gars, persons afflicted with loathsome or dangerous contagious diseases; those who have been convicted of felony, anarchists, those whose purpose it is to incite insurrection and others whose presence it is believed by the Commission would tend to create public disorder, endanger the public health, or in any manner impede the prosecution of the work of opening the canal; and may cause any and all such newly-arrived persons or those alien to the Zone to be expelled and deported from the territory controlled by the United States, and the Commission may defray from the canal appropriation the cost of such deportation as necessary expenses of the sanitation, the police protection of the canal route, and the preservation of good order among the inhabitants."

In other words, while certain rights were secured to the individual, the latter was not protected against invasion by the Commission, to which was given a power that could not be exercised by any judicial or executive tribunal in the United States,
New Administration Building, Balboa Heights
except within territory placed under military law. In a community where the inhabitants were liable to constant change there could exist no balance wheel in the form of public sentiment common to all settled communities, and as the work might be seriously hampered by the agitations of one or more persons, such a power was necessary for the good of the whole. Authority was given to the Commission to legislate on all subjects not inconsistent with the laws and treaties applicable to the Zone, such legislative power also to:

"... include the power to raise and appropriate revenues in said Zone; and all taxes, judicial fines, customs duties and other revenues levied and collected in said Zone by or under the authority of said Commission shall be retained, accounted for, and disbursed by said Commission for its proper purposes. The members of said Commission to the number of four or more shall constitute a legislative quorum and all rules and regulations passed and
enacted by said Commission shall have set forth as a caption that they are enacted by the Isthmian Canal Commission ‘By authority of the President of the United States’.”

A member of the Commission, Major-General George W. Davis, U. S. A., who had had previous experience in Porto Rico and in the Philippine Islands, was appointed Governor of the Canal Zone. It was made his duty to take and maintain possession of the territory including the public land together with the property, real and movable, on the Isthmus of Panama that had been acquired from the Republic of Panama, and to see that the laws were faithfully executed. The Governor was vested with the power to grant reprieves and pardons for offenses against the rules, regulations and laws in force or that might be enacted by the commission; to establish an adequate police force and, in case of an emergency, to call upon any
available military or naval force of the United States for assistance which the military commander was required to render.

The Governor of the Canal Zone reached the Isthmus on May 17, 1904, and two days later announced to the inhabitants of the land ceded by the Republic of Panama that the territory had been occupied by the United States, and that the temporary government over it and its inhabitants had been assumed by him acting for and in the name of the President of the United States. The people were also informed that the laws of the land would be continued in force except where they were found to be in conflict with certain fundamental principles of government that are embodied in the Constitution of the United States whereby specified individual rights are guaranteed. Alcaldes and other officials already in the per-
formance of official duties were instructed to continue in the discharge of their functions.

The treaty of November, 1903, while stipulating certain limits to the extent of territory transferred to the United States, failed to fix definitely the boundaries of the cities of Panama and Colon with their adjacent harbors, and in order to avoid conflict of jurisdiction, the Governor undertook to remedy this defect, with the result that on June 15, 1904, a provisional agreement was made with the authorities of the Republic of Panama setting forth the boundaries between the two Powers. Subsequently Cristobal, on the north, and La Boca (called the port of Ancon), on the south, were announced and established as the terminal ports of the Canal Zone. Colon and Cristobal are contiguous, a street separating one from the other; both front on Limon Bay, a small indentation
in the coast line. On the Pacific side, all shipping from the north and south connects with the Panama Railroad at La Boca; the great bulk of merchandise for Panama coming by way of the Pacific was and is landed on the pier at this locality.

One of the most important functions of government is the power to impose taxes, and this was one of the subjects on which the Commission was authorized to legislate, but its authority could not extend beyond the limits of the Canal Zone. Where legislation would have wider scope, as in the case of customs duties, action by the President was necessary. Consequently, and on recommendation of the Commission, the President of the United States issued an order that the territory of the Canal Zone would be open to the commerce of all friendly nations, and that all articles, goods and wares, not included in the prohibited lists, entering at the es-
established ports, would be admitted upon the payment of such customs duties and other charges as were in force at the time and place of their importation. Duties on importations of foreign merchandise into the Canal Zone were to be levied in conformity with the duties Congress had imposed upon such merchandise if imported into ports of the United States, and goods and merchandise entering the Canal Zone from ports of the United States were to be admitted on the same terms as at ports of the States of the Union. The order also directed the Governor of the Zone to make an agreement with the President of Panama by which cooperation would be secured between the customs services of the Canal Zone and the Republic of Panama, so as to prevent frauds and smuggling and to protect the revenue of both Governments. To carry out the provisions of the order, a Di-
vision of Customs and Revenues was established.

With the coming of the Americans the merchants of Colon and Panama feared that their business would be taken from them, for if free trade were established between the Canal Zone and the United States, not only would everything that was needed for the canal be admitted free of duty, but also such merchandise as might be required by the inhabitants of the Zone who had been purchasing their supplies from the dealers in the terminal cities. Competition would be impossible, as the merchants of Colon and Panama were obliged to pay the tariff imposed by the laws of their Government. The executive order confirmed their fears, and they protested vehemently against it. The order would affect also the revenues of the Republic of Panama, consequently its President would not consent to make any agree-
ment with the Governor of the Canal Zone looking to the mutual protection of the customs, but instead took up the matter with the Department of State at Washington.

It was held by the Panamanian authorities that the Republic of Panama had not transferred to the United States the absolute sovereignty of the territory; that it had reserved unto itself the cities of Panama and Colon and their adjacent harbors, and though granting to the United States the free use of these harbors, it had not authorized the Canal Zone Government to set aside a portion of them—which was what had been done when the terminal ports of the Canal Zone were established—and to exercise jurisdiction over such portions. Lacking absolute sovereignty, there could be no right or authority for the Canal Zone to maintain its own fiscal system by the establishment of customs houses, even in ports removed
Street scene Balboa Heights
from those of Panama and Colon, or to collect import duties in any part of the Zone. Objection was also entered to the use by the Zone post offices of stamps differing from those in use in the Republic of Panama; while admitting that a domestic mail service might be established within the limits of the Zone, the extension of such a service to include the forwarding of mails to foreign countries (among them the United States) was not authorized, for this right rested with the Republic of Panama, otherwise the Republic would be deprived of its postal revenues. Attention also was called to the fact that the grant was limited in that it was made for specific purposes—"the construction, maintenance, operation, sanitation and protection of said canal," and its scope could not be extended to other purposes.

The wording of the treaty is peculiar; it provides:
“Article III. 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 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.”

The Secretary of State, Mr. Hay, held that an examination and analysis of the treaty clearly showed that the claims of Panama were without foundation. If the United States were sovereign of the territory it would possess the right to regulate commerce, establish customs houses, and provide postal facilities. If it be assumed that the “rights, power and authority of sovereignty in and over the Zone” did not give absolute sovereignty, which continued
in Panama, there still remained the provision by which the United States was authorized to exercise the rights, power, and authority of sovereignty "to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power, or authority." So far as the limitations to the grants that were set up by Panama were concerned, Mr. Hay contended that the specific purposes enumerated were merely appropriate words of conveyance, and while setting forth the objects of the grant could not be considered as affecting the sovereign rights specifically accorded to the United States, otherwise the revenues derived from the Panama Railroad through its relations with commerce as well as the receipts from taxation of the property transferred to the United States must revert to the Republic of Panama, which would result in an absurd condition of affairs.
Naturally, this conclusion was not satisfactory to Panama, and the claim was then advanced that if the rights of the United States as set forth by the Secretary of State were enforced revenue which properly belonged to Panama would be lost to its treasury, and eventually the Republic would be forced into bankruptcy. With the view of ascertaining if some working agreement could be reached by which the friction that existed between the two Governments on the Isthmus might be eliminated the Secretary of War, Mr. Taft, was sent to confer with the officials of the Republic of Panama.

To the President of the Republic Mr. Taft explained his attitude by announcing that while he was not in position to give up the rights which Secretary Hay had claimed under the treaty, yet the United States had no desire to exercise any power which would not be necessary for the pur-
pose of constructing, maintaining, operating, sanitating, and protecting the canal. As the result of the several conferences that followed, an agreement was reached which was acceptable to both parties.

It was arranged that the executive order fixing the same tariff duties for the Zone as were applicable to the United States should be revoked, and it was agreed that no importations at the terminal canal ports would be permitted except as provided by the treaty, to which were to be added coal and fuel oil for sale to passing ships. Under the treaty all materials and supplies required to carry on the work were to be admitted free of duties; likewise “provisions, medicines, clothing, supplies, and other things necessary and convenient for the officers, employees, workmen, and laborers, in the service and employ of the United States, and for their families.” The agreement put a
limitation on the treaty provision by excluding from the benefits of the commissaries established by the Commission all employees and workmen who were natives of tropical countries. In this connection, however, it was stipulated that if the merchants of the Republic of Panama could not supply these laborers, the privilege of the commissaries might be extended to them, and this eventually resulted.

In return, Panama was to reduce its import tax from fifteen to ten per cent and consular fees to sixty per cent of the then existing rates. The postal differences were arranged by agreeing that the Canal Zone postal service should purchase all stamps from the Republic of Panama, paying therefor forty per cent of their face value and crossing them “Canal Zone,” while Panama agreed to reduce the rate between Panama and the United States to two cents. Separate ports were
to be maintained in the Canal Zone, but reciprocal arrangements would be effected permitting the use of the facilities of the canal ports by vessels cleared for the adjacent ports of Republic of Panama under such regulations as would not affect the complete administrative, judicial, and police jurisdiction of the two Governments over their respective ports and harbors. Complete and immediate sanitary and quarantine jurisdiction was to be secured to the Zone authorities over the harbors of Colon and Panama. Panama’s monetary system was to be put on a gold standard and so maintained, and the provisional geographical delimitations of the cities and harbors of Colon and Panama as arranged between the authorities of the Zone and the Republic of Panama were to remain in force. Citizens of the Republic of Panama residing within the Canal Zone were to have entire freedom of vot-
ing in elections held in the Republic at such points outside of the Zone as might be designated by the authorities of Panama. The United States was to construct, maintain, and conduct, a hospital either in the Canal Zone or in the territory of the Republic, at its option, for the treatment of the insane or of persons afflicted with leprosy, and the indigent sick, and to accept for treatment such persons of these classes as the Republic might request. If the hospital were located in the territory of Panama, requisite land for the purpose was to be furnished without cost to the United States, and the Republic of Panama agreed to contribute and pay to the United States a reasonable daily per capita for each patient entering upon request of the Republic of Panama, to be fixed by the Secretary of War.

This agreement, known as the *modus vivendi*, or the Taft Agreement, was to
New Administration Building and new town of Balboa in foreground
continue in force, subject to the action of the Fifty-eighth Congress, during the construction period of the canal, and it was expressly stipulated that it was “not to be taken as a delimitation, definition, restriction, or restrictive construction, of the rights of either party under the treaty between the United States and the Republic of Panama.” The effect of this agreement was to make free ports of the terminals of the canal with respect to all purchases for the canal or its employees other than laborers accustomed to the tropics. On the other hand, the inhabitants of the Zone, in contradistinction to canal employees, paid duty to the Republic of Panama on all merchandise imported direct, and no duties were paid on articles passing from the Republic of Panama to the Canal Zone and vice versa. As a consequence the Zone revenues were depleted by all customs receipts. Again, as the
civil laws within the Zone were those of Panama, the same system of taxation was made effective, and this course of necessity had to be adopted for the mutual benefit and protection of the two interests.

The Commission acting in its legislative capacity provided for the organization of the executive branch of the government, which was to consist of the Governor, Executive Secretary, Treasurer, Auditor, the Departments of Public Health, Revenues, Police, Prisons and Justice, and a Bureau of Education. The Department of Revenues consisted of the Customs Service, which was maintained to protect the interests of the Republic of Panama, the Internal Revenue Service and the Postal Service. The Department of Justice comprised a Prosecuting Attorney and three Deputy Prosecuting Attorneys. The Chief of Police, in charge of the police and prisons, was also marshal for the Supreme
Court and coroner for the Canal Zone; he was assisted by details from the police force, who acted as marshals for the Circuit Courts and performed the duties of coroner when required so to act.

With the boundaries of the Canal Zone fixed, the Commission enacted laws establishing and fixing more definitely the organization of the municipalities. The Canal Zone was subdivided into five portions for this purpose, thereby reducing by one the number of municipalities that had previously existed. The government of each municipality was administered by a Mayor, a Municipal Council of five members, a Municipal Secretary and a Municipal Treasurer, each and all of whom were appointed by the Governor of the Canal Zone subject to the approval of the Commission. The Mayor was held responsible for the execution of the laws, and presided at the meetings of the Municipal
Council, over whose action he possessed the veto power. He was charged with the regulation of the expenses and expenditures of the municipality in accordance with the budget and the accounting regulations. The Secretary kept the record of the meetings of the council and a civil register of births, marriages, and deaths, with their dates; certified to the correctness of all accounts ordered by the Council to be paid from the municipal treasury, and performed such other duties as the Municipal Council might provide or the Governor of the Canal Zone might direct. The Municipal Treasurer received, safeguarded, and disbursed all moneys paid
penditures, imposed taxes within the limits prescribed by law, and made regulations for their collection and disbursement; made appropriations for lawful and needful municipal expenditures, including the construction, repair and maintenance of buildings, sidewalks, streets, highways, and parks, and removed obstructions and encroachments thereon; provided for fire protection and water supply; had charge of the establishment of slaughter houses and markets and regulated them; inspected weights and measures used by vendors and purchasers; established and maintained schools and erected school houses; established, maintained and regulated municipal prisons; established municipal cemeteries, and performed the various other duties that properly belong to municipal affairs.

An organization was provided for a judiciary and laws passed for the exercise
of judicial powers within its territory. The judicial power was vested in a Supreme Court, three Circuit Courts and five Municipal Courts. The Supreme Court consisted of one Chief Justice and two Associate Justices. There was no appeal from the decision of the Supreme Court.

The Canal Zone was divided into three judicial circuits, each presided over by one of the Supreme Court judges. Their jurisdiction was original in all civil cases in which the subject of litigation was not capable of pecuniary estimate; all civil actions which involved the title to or possession of real property, or any interest therein, or the legality of any tax, impost or assessment; all cases in which the value of the property in controversy amounted to one hundred dollars or more; all actions in admiralty and maritime jurisdiction, irrespective of the value of the property in controversy or the amount of the de-
mand; all matters of probate, appointment of guardians, trustees, and receivers; all actions for the annulment of marriage; all cases involving the exercise of eminent domain; all criminal cases in which a penalty of more than thirty days imprisonment or a fine exceeding twenty-five dollars might be imposed; and in all such special cases and proceedings as were not otherwise provided for. Its appellate jurisdiction extended to all cases arising in the municipal and inferior courts in their respective circuits.

A Municipal Court was provided for each of the municipalities into which the Canal Zone was divided. The jurisdiction of the Municipal Courts covered the trial of misdemeanors and offenses arising within their respective municipalities in all cases where the sentence might not exceed by law thirty days imprisonment or a fine of twenty-five dollars; the trial of all
civil actions properly triable within the municipality over which exclusive jurisdiction was not given to the Circuit Courts; and all cases in which the demand, exclusive of interest, or the value of the property in controversy, amounted to less than one hundred dollars. The Municipal Judges were also given jurisdiction over actions for forcible entry into, and unlawful detainer of real estate, irrespective of the amount in controversy. It was made the duty of the Municipal Judges to investigate all felonies committed within their municipalities and to cause the arrest of the offenders and act as examining magistrates in the preliminary examinations.

Provision was made for the necessary clerks and officers of the courts. While the Chief Justice and the Associate Justices of the Supreme Court were appointed by the Commission, the Municipal Judges were appointed by the Governor.
General View of Balboa Heights and Pacific terminals. Entirely new settlement built since 1913
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The Commission also formulated and prescribed a penal code; but the civil code and those relating to commerce, mining and admiralty were the corresponding codes of the Republic of Panama. To avoid the delays incident to trials in the Panamanian Courts codes of civil and criminal procedure were adopted for the Canal Zone.

The Commission continued to act as a legislative body, modifying laws and enacting new ones to meet changing conditions, until March 4, 1905, when the Fifty-eighth Congress ended its term without providing legislation for the government of the Zone, and also failing to continue the authority granted to the President by the act of April 28, 1904. Though the Commission was deprived thereby of its legislative functions, and the Congress had failed to take them over, the President continued to govern the Canal Zone.
through executive orders, which were drafted to meet the various necessities that arose. While he was criticized for this procedure, there was no other course open if the work was to be continued. The Taft Agreement also brought forth much criticism, but Congress was fully advised concerning the matter, and adjourned without taking further action than to provide that all the laws affecting imports and entry of persons into the United States from foreign countries should apply to goods, wares, merchandise and persons coming from the Canal Zone.

For the first year of American control the organization of the government of the Canal Zone presented nothing peculiar other than that its inhabitants lacked the right of franchise. It was self-contained; the Governor or executive had certain functions independent of the legislative branch, the Commission, and the munici-
palities had charge of their own affairs subject to the approval of the Governor.

The Commission of seven imposed by the Spooner Act did not tend to secure harmony and satisfactory results, a condition which impressed the Secretary of War, for, in a report to the President, after his return from the Isthmus, he called attention to the cumbersome and unwieldy condition that resulted from the seven-headed control, and advocated such a change in the organization as would reduce this number, proposing the substitution of an executive committee of three, consisting of the Chairman, the Governor, and the Chief Engineer, as a controlling body, the other members of the Commission acting as an advisory committee. This was made effective by an executive order dated April 1, 1905, which created three executive departments, one of which was to administer and enforce the
laws. All questions, whether of government or construction, were resolved by the Executive Committee, consisting of the heads of the three departments. By this order the government of the Zone became one of executive control. The Chief Engineer and the Governor resided on the Isthmus, and the Chairman of the Commission in Washington; so that the action of the Committee in most cases was the action of two, though all decisions made were submitted to the Chairman.

This continued until November 17, 1906, when a change again was made because the organization was not working satisfactorily. The number of departments was increased, and all of them placed under the direction of the Chairman of the Commission. By this order the administration of the civil government within the Zone was placed under the General Counsel who, residing in
Police Station, Balboa
Washington, exercised the authority formerly vested in the Governor through an Executive Secretary. As a consequence this left the Chief Engineer the only member of the Commission resident on the Isthmus, and during the absence of the Chairman the Chief Engineer was to act for him in all matters which could not be referred to Washington, the action taken in each case to continue in full force until disapproved by the Chairman.

With the intimate relations existing between the construction work and the civil government, the fact that the head of the latter department was in Washington necessitating vexatious delays in handling important matters, it is not surprising that friction existed. It was asserted that the Department of Government, generally, regarded the construction of the canal as of secondary importance and seemed to consider that the main purpose and object
of the work on the Isthmus was to set up a model of American government in the heart of Central America as an object lesson to the South and Central American republics. The head of the Department of Construction and Engineering took the opposite view, and felt that everything should be subordinated to the construction of the canal, even the government. This sufficiently indicated the lack of coordination that existed.

By the resignation of some of the personnel of the Commission early in 1907 another change was made, and a very decided one. While the organization prescribed by the executive order of November 17, 1906, continued in force, the duties of the Chairman and Chief Engineer were consolidated, and subsequently the authority of the Governor or chief executive of the Canal Zone under the existing laws and executive orders
was vested in and was to be exercised by the Chairman of the Commission. The office of the Governor disappeared, and though civil matters were organized into a separate department under one of the Commissioners, all matters of importance were handled by the Chairman, or under instructions from him. All the members of the Commission were required to reside on the Isthmus, and each was placed in charge of a separate department. This was the first attempt to concentrate authority and to bring the Commissioners together as a body in close touch with the work.

At the same time important changes were made in the organization of the civil government of the Zone by the abolition of the municipalities and their various officials. The Zone was divided into four parts, each constituting an administrative district. For each district a tax collector
was appointed, the title indicating the duties of the office, and in addition he represented the former municipality in all litigation affecting municipal property within the district. The Circuit Courts were given jurisdiction over appeals from taxes levied by assessments and the three Circuit Judges were required to sit once a year as a board of equalization. The Municipal Courts gave way to the District Courts, and the number was reduced to four, conforming to the districts, but an additional judge was appointed as senior District Judge, who sat wherever required of him, and once a month presided at a conference of the District Judges for the discussion of matters of common interest pertaining to their office. Public works and improvements in the several districts were placed under a Superintendent of Public Works appointed for the Zone, and to him were assigned charge and di-
rection of slaughter houses and markets, municipal engineering work, paid for from Canal Zone funds, and such other duties of a public character relative to the various districts as might develop. The enactment of ordinances previously invested in the Municipal Councils was assigned to the Isthmian Canal Commission, but such ordinances required the approval of the Secretary of War to become effective.

The change in the organization made in April, 1907, did not entirely eliminate friction; the trouble was inherent in the seven-headed executive which the organic law imposed. Efforts had been made to secure through Congressional action the necessary modification, but without success. President Roosevelt, convinced that only through one-man control could the work be handled satisfactorily, proposed to concentrate all the authority in the Chairman of the Commission, holding him
responsible for the conduct of affairs, if the latter were willing to assume the responsibility; and issued an executive order which, while not in exact accord with the law, secured the end desired. After that date, January 8, 1908, all authority was vested in the Chairman, and though the Commission continued in existence, it exercised no executive authority, but confirmed and ratified such action of the Chairman as might be required, in addition to providing municipal ordinances. This arrangement permitted the subordination of everything, including the Panama Railroad, to the construction of the canal, and resulted in the establishment of an autocratic form of government for the Canal Zone. Laws were changed or new ones made as conditions required by no other formality than an order from the President. Some have designated it a "benevolent despotism." Because the
United States provided furnished quarters for its employees, with lights, fuel and water, free of charge, and through the commissaries supplied them with food-stuffs and clothing, as well as luxuries of various kinds, at practically cost prices, the Socialists have pointed to it as a socialistic community. Beginning with a government which might be termed political, it ended as a government by executive order, controlled by one man answerable only to the President of the United States through the Secretary of War. Such an establishment was not in accord with the principles of democracy and several attempts were made in Congress to secure a change, but without success. Conditions were peculiar, for there was but one object in view—the construction of the canal; had the franchise been introduced, the whole structure would have fallen.
With the change of the Administration in Washington, the Commission seemed to take on new life and an attempt was made to revive its authority, but the effort was not successful. While there was probably truth in the assertion made at that time that the Chairman had exceeded his authority and usurped the prerogatives of the Commission, the end not only justified the means but could have been accomplished in no other way.
II

When the original legislation authorizing the President of the United States to construct a canal was enacted, not only was the location of the canal undetermined but the conditions that would surround its construction were unknown. The Spooner Act as first drawn left the entire matter in the hands of the President, but the commission idea was interjected, and as it finally became a law this form of organization was to continue until the completion of the canal. No provision was made, however, for its operation and maintenance after it should be ready for the use of commerce. As the defects of the prescribed organization developed, Congress made attempts to correct them and also
in general terms to provide for the future; in each instance the reorganization bill which was passed by the lower house of each Congress was never enacted.

As the work advanced a stage was reached when commerce began to seek information concerning the tolls and the regulations that would be prescribed governing the passage of vessels. Furthermore, economical administration required that a definite future policy should be outlined toward which to work, so that the then existing force might be available for moulding an organization to meet the needs of operation and maintenance. Consequently, the necessity for legislation to take care of the future of the canal became apparent, and the committees of both houses of Congress having charge of canal matters undertook the consideration of the needed legislation during the winter of 1911-12. The committees separately
visited the Isthmus, examined into the existing conditions, and conducted hearings at which the views of the various canal officials were ascertained. In this way considerable data were procured, though with many men of many minds, diverging opinions were developed even in the essentials.

The Zone was granted to the United States for specific purposes—"the construction, maintenance, operation, sanitation and protection of a canal," and while everything had been subordinated to the first of these, with the end of the construction work in sight, and the protection of the canal omitted to be dealt with separately, the maintenance and operation became of paramount importance; so that the most pressing matter requiring determination was the plan of administration to be adopted for these purposes, including the government of the Canal Zone
with its judicial system. The scheme of administration was somewhat dependent upon the form of government that was to be established, and, naturally, the region that was to be controlled or governed together with the population occupying it was the leading consideration of this part of the problem.

The general conception of Panama is that it is low and marshy, but this is true only for the valleys of the lower Chagres and Rio Grande and their tributaries. In the former case the lowlands extend for a distance of about thirteen miles from the shores of Limon Bay, where the hills enclosing the valley converge and increase in height to the continental divide, where they attain an elevation of 500 to 1,000 feet above sea level, while on the Pacific side the extent of lowlands is much less. The hills are in large measure detached mounds with steep slopes; the valleys are
narrow and both are covered with dense jungle. Beyond the river bottoms, which the artificial lakes would cover completely, there is very little land suitable for agricultural purposes, except along the Pacific slope, and even here very few of the temperate zone foodstuffs can be grown.

In the early days complaint of food supplies was the rule. Until adequate cold storage could be supplied on shore and in the ships of the Panama Railroad, only canned goods and native beef could be furnished. The country could supply nothing except cattle, and these only in limited numbers; the natives were not given to tilling the soil beyond the extent of supplying their own needs in the form of a few bananas and yams, so that for furnishing foodstuffs for the negro laborers recourse was had to the West India Islands and adjacent more productive countries. Even from these sources the
demands of the commissaries and hotels which were established for the benefit of the employees could not be met, and no reliance could be placed on them, consequently the large bulk of the foodstuffs had to be shipped from the United States and European markets. Of course the complaints were not long in reaching the ears of the authorities at Washington and investigations were the order of the day. The result was always the same—criticism of existing conditions and recommendations that means be taken to supply the people of the Zone with the fruit and fresh vegetables to which they had been accustomed at home. It was difficult to carry out the recommendations until ample shipping facilities equipped for the transportation of such supplies were provided, but every effort was made to improve the conditions. An agriculturist was employed and vegetable gardens
started, seeds were procured and distributed among the natives, with the hope of getting them interested, an agricultural survey was begun, and the matter was brought to the attention of Congress which passed a law permitting the leasing of lands for agricultural purposes,—all with the hope that something might be done toward securing a supply of suitable vegetables.

For the truck gardens the most suitable lands in the vicinity of the largest settlements of canal workers were selected, and cultivated for two years, when they were abandoned. The excessive rains during eight to nine months of the year, followed by three or four months of drought, gave too much water during the greater part of the year and too little for the rest. Ants and other insects played havoc with the crops that had not rotted. The expense incurred was prohibitive, and as
the cost of the canal had been fixed by the bond issue and there was a desire to complete it within the estimates, agriculture had to be abandoned. The natives had been induced to plant the seeds distributed among them, but even in the rare cases in which the patches were looked after the crops were failures so far as securing any supply was concerned. The agricultural survey was not encouraging except in so far as showing that certain tropical fruits could be produced; and no hopes were offered which could be used as an inducement to the American farmer to take up lands, for no assurance could be given that he would be able to make a living. The survey did show, however, that if Congress would appropriate eight to ten thousand dollars per annum for experimentation in treatment of the soil, special varieties of temperate zone vegetables might be grown eventually, but that it
Street scene new town of Balboa