

The Debate over the Panama Canal Treaties
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The Panama Canal Treaties can be described as one of the most controversial pieces of legislation in American history. The public and Congress did not agree with President Carter's view that ceding control of the canal to Panama was in the best interest of the United States. The American people were proud that the United States had overcome many hardships to build the canal and viewed the signing of the treaties as another blow to American prestige. President Carter realized that convincing the Senate to ratify the treaties was going to be difficult because of the public's opposition; nevertheless, he continued to promote the treaties as essential to creating a new partnership with Panama and other Latin American countries (Duncan 1995, 2775). President Carter ignored the American people because he believed, "We needed to correct an injustice" (Strong 1991, 272). Essentially, the President wanted to decolonize Panama in order to improve relations with other Latin American countries.

Carter was also concerned that if the United States did not take negotiations seriously with Panama, communist or terrorist groups would be more likely to attack the canal. Hence, the Carter administration was determined to formulate a treaty that would benefit both nations. Secretary of State Cyrus Vance suggested in 1977 that the treaties symbolized Carter's emphasis on preventive diplomacy: "These treaties are, above all, a triumph for the principle of peaceful and constructive settlement of disputes between nations. That is a principle we seek to apply in all aspects of American foreign policy" (Skidmore 1993, 479).

The Carter administration's good intentions were not immediately accepted by Congress or the American people who were adamant in their

belief that, "We built it, we paid for it, and it's ours!" (Strong 1991, 271) Most of the hard core opposition to the treaties was expressed by conservative Republicans who believed the national security interests of the United States would be greatly affected by turning the canal over to the Panamanians. Even though Carter was aware of this anti-treaty sentiment, he risked his reputation on the treaties and endured the second longest Senate debate in history. Many presidential scholars perceived President Carter as weak and timid in managing his congressional relations, but he exhibited none of those characteristics during the canal treaty debates. Instead, President Carter focused on building a legislative coalition in support of his unpopular foreign policy initiative. It is difficult to deny that President Carter was a skillful and flexible political improviser because he did attract support for the ratification of the treaties. However, one can argue that the President sacrificed too much time and energy negotiating with Congress and ignored other pressing domestic and foreign policy issues.

This paper will examine the roles of the four participants in the canal debate: the Senate's role in trying to derail treaty ratification; the House's reluctant role in approving implementation legislation; the tactics utilized by the administration to win support from the Senate; and the role of interest groups. By examining these participants' positions, it will become apparent why Carter's "victory" over Congress was not as impressive as it initially appeared. It is true that the ratification and implementation of the treaties were the highlight of the Carter administration, but President Carter was unable to capitalize on the victory. Instead, the energy and time invested in winning ratification of the treaties hindered the remaining years of his presidency, exposed

weaknesses in the liberal coalition, and created an unstable political environment in Panama.

When the United States and Panama signed the original Panama Canal Treaty in 1903, the Panamanian government was not involved in the negotiations with the United States. Their spokesman was a Frenchman by the name of Bunau-Varilla who negotiated the treaty and virtually granted American sovereignty in the Canal Zone (Strong 1991, 269). When Panamanian officials finally read the text of the treaty, they did not want to sign it. However, Bunau-Varilla blackmailed the Panamanian government into signing the treaty (Strong 1991, 270). He told Panamanian officials that the United States would renege on the promise to protect the newly independent country from their Latin American neighbors. The Panamanian government soon discovered that it was not receiving an equal share of the revenues generated from the canal. This discovery promoted anti-American sentiment throughout the country.

Panama initiated discussions with the United States in regards to creating a new treaty, but civil unrest in Panama broke off serious negotiations until 1974. In 1974, Henry Kissinger and the Panamanian Foreign Minister Juan Tack agreed to end United States sovereignty in the Canal Zone. The Kissinger-Tack agreement became the basic framework for the treaty negotiations of 1977. These negotiations established two separate treaties: the Panama Canal Treaty and the Permanent Neutrality Treaty (See Appendix A). Both treaties were approved for ratification in the Senate by an identical margin of 68-32; just barely gaining the two-thirds majority. The House passed implementation legislation in 1979 which became known as the Panama Canal Act.

President Carter studied the history of the Panama Canal treaties

and concluded that the treaties needed to be revised. The American people and Congress were hesitant to meddle with a system that was advantageous to the United States and voiced their concerns about losing control of the canal. After the embarrassment of Vietnam, the American people wanted to preserve relics from the United States' glory days. The Canal was a symbol of everything the United States once displayed: power and prestige. The canal was an emotional issue with many Americans and their attitudes influenced Congress' hesitancy to commit to the treaties.

While debate over the merits of the treaties attracted attention in the United States, the treaty negotiations between General Torrijos (the Panamanian dictator) and the White House were near completion. In September of 1977, President Carter and General Torrijos signed the Panama Canal Treaty and Permanent Neutrality Treaty. President Carter was not directly involved in the official negotiations with Panama; however, the President would soon experience the difficulties of dealing with his own legislative body in trying to win support for the treaties.

Treaty opponents in the Senate were convinced that the executive branch was assaulting their right to be involved in the treaty making process. Treaty opponents were confident that they could capture the interest of the House by arguing that the House as well as the Senate had to approve any agreement to turn the canal over to the Panamanians (Congress and the Nation 1978, 56). They based their argument on Article IV, Section 3 of the Constitution which states that Congress--both houses--has the right to regulate and dispose of federal property. Most legal experts believed that the language in the Constitution giving the Senate treaty ratification power was sufficiently clear to make the Senate, and not the Congress as a whole, the legislative body that would

decide the canal case (Strong 1991, 277). Sixty members of the House filed suit in federal court challenging President Carter's authority to enter into the Panama Canal Treaties. The U.S. Circuit Court concluded that Congress' power to dispose of U.S. property was not exclusive, and therefore did not preclude the President from using his treaty power to convey U.S. property in the Canal Zone to the Panamanian government (Congress and the Nation 1976, 56). The House members who filed the suit appealed to the Supreme Court, but their appeal was rejected. The House members remained bitter over what they perceived as an assault on their legitimate right to be involved in the treaty process.

The Senate's role in the formulation and approval of treaties stems from Article II, Section 2 of the Constitution which states that the President "shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided that two-thirds of Senators present concur" (Congressional Research Service Library of Congress 1979, 3). Since 1789, the Senate has approved without modification over 70% of the 1,585 treaties submitted by the president. According to the State Department, the canal pacts have been the only controversial bilateral agreements involving cession of jurisdiction over a U.S. territory considered vital to national interests (Teague 1978, 54). The Senate's opposition to the treaties can be attributed to public influence and their concern over certain faults that existed in the text of the treaties. The Senate deemed the Panama Canal Treaty and the Permanent Neutrality Treaty controversial because of flaws in the text that explained the foreign policy and national security issues. Both Democrats and Republicans in the Senate realized that if they ignored their constituents' opposition to the treaties, they would be committing political suicide in

the upcoming elections. The Senate followed public opinion polls very closely and according to a Gallop Poll conducted in August 1978, over 47% of the American public opposed ratification of the treaties (Duncan 1995, 2776).

With this information in mind, the Senate embarked upon a long and heated debate on whether to approve ratification of the treaties. The Senate debate was the second longest in United States history and lasted from February 8 until April 18, 1978. No other business was discussed in the Senate from the opening session in January until the approval of the second treaty in mid-April. The Senate also used the Committee of Whole for the first time in fifty years to consider the treaties article by article.

President Carter knew in September of 1977 that it was going to be difficult to garner support from Congress and specifically the Senate. In February of 1978, President Carter addressed the nation and explained the the treaties. He tried to convince the public that the United States was only renting the land in the Canal Zone and that it was never granted sovereignty in the territory. The President also related to the public that it would require 100,000 to 200,000 troops to defend the canal if attacked; therefore, it would be in the United States' best interest to create a continuing partnership with Panama. By creating this partnership, the United States could legitimately go into Panama and defend the Canal because it would have the consent of the Panamanian government. Essentially, President Carter was trying to stress the importance of not getting involved in another "Vietnam" where the United States fought a war without the consent of the Vietnamese government.

President Carter realized that he needed to build a legislative coalition in support of his foreign policy initiative if he wanted to remain

in a good position to check Congress (Strong 1991, 282). President Carter received support from Senate majority leader Robert Byrd and Senate minority leader Howard Baker in January of 1978 which gave him the foundation for his legislative coalition. He was able to expand this coalition by utilizing the following techniques: 1) Carter created an extensive public liaison effort that was conducted by knowledgeable officials in the State Department and the White House; 2) He formulated the Organization of the Committee of Americans for the Canal Treaties to publicize support of major political figures such as former president Ford, John Wayne, and Henry Kissinger to increase bipartisan support; 3) The President went on television to do fireside chats that would emphasize the importance of treaties to American foreign and defense policy; 4) Carter also initiated direct negotiations with individual senators (Jones 1988, 158).

The extent to which Carter became personally involved with the Senate was unprecedented. None of President Carter's predecessors had ever invested so much time and energy into lobbying the Senate and the American public on any legislative issue. Carter was so involved in lobbying that he even maintained a notebook on his desk with information about each member of the Senate. The President massaged egos, traded votes, and promised favors in order to get the extra votes needed for ratification. The administration was intent on doing anything that would preserve the legitimacy of the treaties because Carter believed they were crucial to the interests of the United States.

While President Carter lobbied the Senate for votes, conservative leaders in the Senate went on the offensive and attacked the credibility of the Panamanian government and General Torrijos. Conservative treaty

opponents were not above insulting the Panamanians as often as possible in order to provoke them into doing something rash. (Bendahman, McDonald 1986, 36). Senate Republicans claimed that General Torrijos and his family were involved in drug dealing. Furthermore, conservatives implied there was a Torrijos-Cuba-Moscow connection that would result in the construction of Soviet military installations in the Canal Zone. General Torrijos heard every word that was said about his life over the radio because the Senate debates were translated into Spanish. Needless to say, Torrijos was upset by these accusations and destroyed numerous transistor radios out of frustration.

The majority of Torrijos' anger could be directed toward the "Panama Canal Truth Squad" which was a group of conservative senators and congressmen led by Senator Paul Laxalt (Nevada) and Representative Philip Crane (Illinois). This coalition of twenty conservative lawmakers embarked upon a five-day, eight-city campaign to inform undecided senators' states of the hidden dangers of the treaties. Specifically, the senators argued that the national security and economic interests of the United States would be jeopardized by giving away the canal to Panama. The senators worried that the Canal would be in shambles without American expertise. Also, they believed there was a chance for Soviet/Cuban influence to penetrate Panama and spread to other Latin American countries.

When the conservative senators were unable to bait the Panamanian government into committing any foolish acts, focus shifted back to the Senate floor where it was decided the Senate would first review the Permanent Neutrality Treaty. Republican senators were not happy with the provisions outlined in the treaty and proposed numerous amendments

dubbed "killer" amendments that would have required reopening negotiations with Panama.

One of the senators who attacked the Permanent Neutrality Treaty immediately was Senator Dennis De Concini; a first term Democrat from Arizona. De Concini was worried about the United States' right to defend the canal if it was closed by external or internal forces (Strong 1991, 280). Senator De Concini proposed a controversial reservation (an understanding as opposed to an amendment) that stated the United States had the independent right "to take such steps as it deems necessary, including the use of military force in Panama, to reopen the Canal" (Skidmore 1993, 487). The De Concini reservation angered General Torrijos who had the assurance of President Carter that there would be no major changes in the treaty's provisions. President Carter realized that Torrijos could revoke his endorsement of the treaties and therefore quickly set up a meeting with Torrijos. The treaty's text was clarified and a statement was issued which read that both Panama and the United States, "shall have the right to act against any aggression or threat directed against the canal"(Duncan 1995, 2776). Conservative leaders in the Senate saw the clarification of the treaty's language as proof that the treaty needed to be amended.

President Carter diffused the problem with Torrijos, but he was still worried about the De Concini reservation and tried to persuade the Senator to drop it. The power of the presidency prevented De Concini from giving up his proposal because he was now the center of attention. Every time the Senator met with Carter, it became more difficult for him to relent on the language he proposed (Strong 1991, 284).

President Carter was forced to agree to Senator De Concini's

insistence that the treaties clearly state the protection of United States' interests. The Permanent Neutrality Treaty became more acceptable to many senators because of the De Concini reservation. In fact, some of the undecided senators voted to ratify the treaties because they could claim they helped strengthen them (Skidmore 1993, 488).

After all of the fighting and lobbying conducted by both the President and Senate, the Permanent Neutrality treaty was finally ratified on March 16, 1978, by a 68-32 vote. The Panama Canal Treaty was ratified one month later by the same vote of 68-32.

President Carter was relieved that his treaties had been accepted, but he still had to contend with the House. The major dispute between the President and House was over the kind of organization that would run the Panama Canal. Originally, the Canal was operated by a government corporation known as the Panama Canal Company. The Carter administration wanted the new commission to be a government corporation as well. The House did not want the Panama Canal Commission to be established as a government corporation because it would be protected from congressional oversight and would operate independently. The House wanted to make the commission an appropriated-funds agency in which every cent collected in tolls would go to the U.S. Treasury. Every cent that the commission spent would be in accordance with specific authorization and appropriations from the House. In effect, the House wanted to control every aspect of the Panama Canal for the next 20 years. The House was finally persuaded to implement the legislation and President Carter signed the Panama Canal Act in 1979.

Robert Skidmore, the author of "Jimmy Carter and the Panama Canal Treaties," contends that most scholars have concluded that the "impact of

interest groups on foreign policy is slight at best" (Skidmore 1993, 493). However, the extensive mobilization of interest groups in the Panama Canal debates raise important questions about the validity of this thesis. The Panama Canal Treaties emerged as the first test of liberal and conservative coalitions' strength because early battles between liberal and conservative forces over arms control and détente presented inconclusive results (Skidmore 1993, 478). Carter won ratification of the Canal treaties, but his victory exposed the weaknesses of the liberal interest group networks. Therefore, the Administration's victory can not be attributed to liberal coalitions, but rather to the political skills of the President. Even though conservatives were defeated in their campaign against the treaties, they started to attract attention for their ideals and goals. These conservative groups ensured that the Carter victory would give him little momentum in further legislative debates.

The American Conservative Union, The Conservative Caucus, Young Americans for Freedom, and many other groups became influential in the fight against the treaties. These groups became active because they were highly organized, well endowed, and concentrated on influencing public opinion. The groups used the Panama Canal Treaty debates as a means for voicing their real goals. Ultimately, conservatives wanted to regain control of the nation's foreign policy agenda. They wanted to defeat the treaties and challenge the legitimacy of Carter's foreign policy world view. The conservatives argued that American resources were not in decline and that the U.S. still maintained vital interests in other parts of the world.

The conservative groups banded together, and instead of focusing on bargaining with the administration, they relied on Populist grass roots to

make their voice heard. They utilized massive direct mailing and paid advertising to place public pressure on the Senate to reject the canal treaties. Senator Baker received over 22,000 letters on the issue with only 500 in support of the treaties (Skidmore 1993, 483).

The Carter administration did not have solid interest group support or any patriotic/ideological messages that could attract the public's attention. The support the administration did have was weak and did not conform to the administration's goals. Many church groups supported the treaties on moral grounds and stressed that America should feel guilty about mistreating the Panamanians (Skidmore 1993, 484). This strategy was very unpopular with the American people who were annoyed at being portrayed as the villain once again in the affairs of a third world nation. The Carter administration did not adhere to this view and tried to distance itself from the religious organizations who proposed this line of reasoning against the treaties.

The administration could not even rely on the Democratic National Committee because the committee refused to support the treaties. In October 1977, Carter appealed to the committee to "help him win over Congressional and public support" (Skidmore 1993, 485). The committee responded by passing a resolution to support treaty negotiation, but the members did not directly state they would endorse the treaties.

President Carter utilized his political skills to gain approval of the treaties because he did not have a strong liberal network to come to his defense. The conservative interest groups developed into clever opponents who squashed many of President Carter's policy proposals. President Carter not only had to deal with the conservative interest groups, but also the large workload that he ignored during the treaty debates.

In President Carter's memoirs, he discusses the serious nationwide coal strike, energy legislation, SALT negotiations, and several other issues that were left unattended on his desk. In March 1978, President Carter confessed in his diary that, "It's hard to concentrate on anything except Panama" (Carter 1982, 171). President Carter was so focused on winning approval in the Senate that when he finally accomplished it, he was disappointed to learn that it did not make him more popular at home.

Gaddis Smith acknowledged that Carter's victory saved him from disaster abroad, but "gained him no credit at home" (Skidmore 1993, 490). President Carter's bargaining with a few individual senators gave him the votes to win ratification of the treaties, but it did not help him build a bloc of support with the Senate (Skidmore 1993, 490). If anything, it made him more vulnerable because the President gave out too many IOUs to senators and other political leaders to attain precious votes. By using all of his political cards early, Carter weakened his ability to succeed in future legislative contests. For example, Senator Baker had voted to ratify the Canal Treaties in 1978, but he opposed Carter's SALT II treaty in 1979. Senator Baker was not so willing to help the President in his future legislative battles because he needed to regain favor with other Senate Republicans. Many Republican senators who voted for the treaties in 1978 followed the lead of Senator Baker by voting against Carter's legislative proposals. The senators voted against the legislation because they wanted to reestablish good relations with the Republican party leaders (Skidmore 1993, 490).

Democratic seats in the Senate were also reduced because of the President's desire to ratify the treaties. In the 1978 and 1980 senatorial elections, 20 out of 68 senators who voted for ratification did not return

to Washington.

The Panama Canal Treaties also created an unstable political environment in Panama which directly affected the United States. When Torrijos was killed in 1981, Panama was left without a solid leader who would follow the treaty guidelines. When Noriega came to power in Panama shortly after Torrijos' death, the United States carefully watched the political climate in Panama. Noriega annoyed the U.S. because he encouraged trade with Cuba and denounced U.S. military bases in the Canal (Giving up the Canal 1990). The military base in Panama was very important because it was the headquarters for all military operations in South and Central America. The United States was fearful of turning the Canal over to Noriega and decided to take action against Panama. In late 1987, the United States imposed economic sanctions on Panama which President Reagan believed would force General Noriega out of office (Giving up the Canal 1990)._x However, when the sanctions did not force Noriega out of office, the United States resorted to military action.

In December of 1989, the United States invaded Panama and arrested General Noriega. After the General was arrested, it became possible to discuss rationally the future of the Canal. The Carter administration was in such a hurry to rework the treaties that it ignored important details. For example, one of the details that the administration failed to negotiate was if the canal would be passed to local political control or be run by an independent agency (Jorden 1984, 715)? The confusion surrounding the Canal made it difficult to attract skilled employees and customers. Furthermore, the isolation of Panama during the Noriega dictatorship resulted in a deterioration of the Canal. American canal workers were no longer satisfied with their living or working conditions which prompted

many of them to leave the country.

When one thinks about all the treaties that the United States has negotiated in the foreign policy domain, it is difficult to understand why the Panama Canal Treaties attracted so much attention. One explanation for the controversy surrounding the treaties is the idea that the American people and Congress were reluctant to cede control of an American relic. The wounds from the Vietnam conflict were still fresh in the hearts of the people, and they believed that President Carter was giving in to the demands of another third world nation. Congress was hesitant to go against its constituents' opinions, but it did not want to embarrass the President in front of the world by rejecting the treaties. Hence, after a long Senate debate and serious lobbying by the Carter administration, the treaties were approved for ratification in March and April 1978.

President Carter won support in Congress by constructing a temporary legislative coalition which enabled him to become directly involved with individual senators. The President demonstrated that he could be a flexible political improviser by compromising on the De Concini reservation and persuading a reluctant Panama to accept the changes. In this regard, the President was successful in winning approval for the treaties. However, the time that he invested in lobbying Congress for support of his treaties seriously affected the remaining years of his presidency. The President was unable to generate blocs of support in Congress for his foreign policy programs and lost credibility with the American people. Furthermore, President Carter's pursuit for ratification of the treaties revealed his party to be disjointed and weak. Conservative interest groups took advantage of the fractured liberal coalition and became a vibrant organization that would be the main force behind

Reagan's 1980 presidential victory.

Even though Carter won this legislative battle, he lost the ideological war because the political momentum shifted to the conservative coalitions leaving the Democratic party devoid of power for much of the 1980s.

APPENDIX A

Major Treaty Provisions

Panama Canal Treaty

Granted the United States rights to regulate canal shipping and to manage, operate, maintain, improve, protect and defend the waterway until Dec. 31, 1999, when Panama would assume total responsibility and control of canal activity and property.

Stated that Panama would participate increasingly in the management, protection and defense of the canal during the life of the treaty.

Established a Panama Canal Commission to operate and manage the waterway and to employ a U.S. citizen as its administrator until Jan. 1, 1990, when a Panamanian would assume the position.

Provided that Panamanian laws would apply in areas available for use by the United States, except during the 30-month transition period when U.S. criminal and civil laws would apply concurrently with Panama's in those areas of U.S. operations.

Permanent Neutrality Treaty

Stated that Panama declares the canal shall be permanently neutral and that it shall remain secure and open to peaceful transit by vessels of all nations on terms of equality in times of peace and war.

Stated that the United States and Panama "agree to maintain the regime of neutrality established by this treaty."

Provided that U.S. and Panamanian vessels of war and auxiliary ships be "entitled to transit the canal expeditiously."

Source: Congress and The Nation, Vol. V, 1978, 56-57.

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