

Panama Canal Treaties

By Marjory Burns Shanard - 1977

Too many people have made up their minds for or against the Panama Canal treaties based on too little knowledge of the facts and issues.

The country is suddenly awash with instant experts with simplistic answers to the very complex issues involved. There are instant experts who once transited the Canal on a cruise ship, those who have had one-day briefings in Washington, Congressmen who have spent two days in Panama and the Canal Zone and those whose Uncle George was stationed in the Canal Zone during World War II.

There are some good reasons to support ratification of the treaties and some good reasons to oppose the treaties. The public really isn't hearing these. The whole ratification process has turned into one big public relations effort waged by the pros and cons. And few hard facts are emerging.

The State Department has set up "an information center," has sent kits to 3,000 newspapers and sent all Congressmen ready-made answers to questions most likely to be asked by constituents. The President has been flying in people from all over the country for briefings and has administration officials in the hustings making speeches. These are some of the efforts to swing public opinion to a more favorable view of the treaties than opinion polls have shown. At least two conservative groups are waging massive campaigns against the treaties. They are soliciting funds on a large scale to finance newspaper advertising in targeted cities and are saturating the mails with pleas to citizens to write their senators.

Even the Panamanian government has gotten into the public opinion influencing act in the U.S. It hired a U.S. public relations agency to make suggestions. One of the agency suggestions was for President Carter to form a committee of nationally prominent people favoring the treaties. This has been done. Most of this frantic public relations activity would be unnecessary if the big push to get the treaties signed and ratified as far ahead of the 1978 elections as possible had not been a foremost consideration.

But out of all this have come simplistic clichés and time-worn moralistic pronouncements. "We bought it, we paid for it and we are going to keep it" and the "U.S. took advantage of Panama in 1903 and should now make amends so all of Latin America will admire us for our fairness and largesse," and the other often-repeated arguments are not valid reasons for favoring or opposing the treaties.

The best reasons for favoring new treaties are that the present treaties put the U.S. in the position of supporting a colonial enclave which is inconsistent with our long enunciated and practiced policy opposing the former colonial enclaves of other countries and that the existing treaties are not completely satisfactory to anyone. But there is no need to breast-beat ourselves and decry the horrors we have thrust upon Panama. By and large the Panama Canal has been very good for Panama. It represents one-half of Panama's GNP. It provides Panamanians with the highest per capita income in Central America and it pumped \$243,000,000 into the Panamanian economy in 1976. Panama also receives the highest per capita of U.S. aid of any country and has 71 banks – largely because their currency is based on the U.S. dollar and thus avoided the astronomical inflation experienced by other Latin American countries. Panama's official monetary unit is the balboa but it is tied directly to the dollar. Panama does not even print paper currency but just uses U.S.

Anyone who ever heard of the Marshall Plan knows about our attempts at fairness and largesse. And our experience with AID has shown us that money does not buy us many friends.

As for the "we bought" etc. idea, the State Department has this to say: the U.S. has good title to the land originally held by the Panama Railroad. This land we bought from the French after they had purchased it from the American company that built the railroad. This constitutes approximately one third of the Canal Zone. Another approximately one third of the Canal Zone is land for which we paid damages to private owners. The remainder of the

Canal Zone is that which we gained the right to use in perpetuity under the 1903 treaty. However, at this point in time nobody knows exactly which land is which.

"In perpetuity" seems like a long time to play by the same rules and there is logic in the argument that the 1903 treaty would not say "as if sovereign" if the U.S. were sovereign.

There seem to be four basic reasons for the persisting problems between the U.S. and Panama:

(1) The U.S. has never had any sensible policy with any continuity in regard to Panama. The U.S. just reacted to events. The Panamanians would riot and kill a few Americans and the U.S. would make concessions. That taught the Panamanians something about the U.S. - and it was not respect. Many problems could probably have been avoided if the U.S. had acted voluntarily, fairly and firmly on points of controversy.

(2) Problems are inherent when land controlled by one country bisects another country. A similar situation would exist if France controlled five miles on each side of the Mississippi River and Minnesotans had to go through that French controlled land to get from St. Paul to Minneapolis.

(3) The U.S. has over the years expanded its activities in the Canal Zone to include things that are neither in the treaty or necessary. Like running commissaries. Hundreds of American businessmen and their families live in the Republic of Panama and manage to eat well without access to U.S. run commissaries.

(4) Panama just plain wants more of the action-and it is seeing developing countries all over the world getting it. And like most countries - and people--the more they get the more they want.

Having said that new treaties could be fairer and advantageous to both countries, it should be pointed out that the best reasons for opposing the treaties now under consideration are that they are sloppy and ambiguous. It seems inexplicable that treaties under negotiation since 1973 could be so sloppily drawn and signed with such last minute haste.

After Latin American heads of state were invited for the signing ceremony on September 7 and all the hoopla planned, the treaties were just barely printed in time. (The State Department would probably officially deny this but it is confirmed by an official involved in the negotiating group.)

And the related agreements were not printed at that time. The related agreements are important for they include much of the nitty-gritty important items like land and water rights.

The main Canal treaty mentions "related agreements" as determining provisions 31 times. Also, those important related agreements are executive agreements and are merely signed by the heads of state and are not subject to Senate ratification.

They not only contain some dubious provisions but contain errors. In two different places, because of omission of words, they indicate that U.S. employees of the Canal entity are exempt from U.S. taxes. The two treaties themselves comprise 15 pages. The related agreements cover 64 pages.

And in the related agreements, including implementation agreements, annexes, minutes and notes, the phrase "more precise identifications and exact boundaries shall be agreed upon as soon as practicable" appears often. This highlights the haste with which these treaties were thrown together at the last minute despite years of preliminary negotiations, and their impreciseness.

It is this same lack of precise language that has led to the controversy over whether the U.S. has the right to defend the Canal after expiration of the treaty in the year 2000 and over what expeditious passage for U.S. naval vessels means.

Brig. Gen. Omar Torrijos, the Panamanian chief of state, stopped off in Washington en route from Europe to Panama on October 14 to confer with President Carter in an attempt to clarify the ambiguities over passages and defense. After

the conference the U.S. treaty negotiator, Sol Linowitz, issued a statement. The statement indicated that Carter and Torrijos had agreed that the U.S. could defend the Canal but not interfere in the internal affairs of Panama and that U.S. naval vessels could "go to the head of the line" in transiting the Canal in times of emergency.

Torrijos was not present at the Linowitz news briefing but returned immediately to Panama. Upon arrival in Panama he announced: "I signed nothing, not even an autograph." That leaves us with no clarification and many naval experts deem priority passage for U.S. naval vessels essential.

The related agreements contain some potentially troublesome provisions. Each ship requires 52 million gallons of water to transit because of lock requirements. Water used for these transits is stored in two U.S. made lakes. Madden and Gatun) where the U.S. dammed up the Chagres River. Under the proposed treaties the U.S. retains possession of the dams while it is responsible for the operation of the Canal for the duration of the treaties. Prudence would seem to indicate that the U.S. should also retain the lakes. However, it has only the "use" of those lakes and the land between Madden Lake and the Canal through which the water flows.

The terminal ports of Balboa and Cristobal are also turned over to Panama in the agreements as soon as the treaties become effective. With the ports will go such activities as bunkering, stevedoring and repair, which are revenue producing as well as integral parts of an efficient Canal operation.

These are merely examples of many installations and facilities that the U.S. will lose control of at the same time that it remains charged with the efficient operation of the Canal until the year 2000. Most close observers of the Canal enterprise predict that it will be extremely difficult, if not impossible, for the U.S. to operate the Panama Canal for the duration of the treaties at a standard of efficiency approaching that of the last 63 years. And it should be remembered that the chief executive will be a Panamanian after 1990.

It also appears that the Canal entity will have financial problems under the terms of the new treaties. The U.S. will operate and maintain the Canal while losing some of its operations that generate revenue and at the same time paying Panama \$62 - \$72 million annually.

The Board of Directors, which oversees the operation of the Panama Canal Company, the U.S. government entity which operates the Canal under the present treaties, is charged with running the Canal at no cost to U.S. taxpayers. Because of inflation, worldwide recession, fall-off in transits at the end of the Vietnam war and the reopening of the Suez Canal, revenue decreased and the Board was forced to raise tolls approximately 50% over the past three years, the first toll increases in the history of the Canal.

A management research agency with a national reputation forecast in a survey of the sensitivity of traffic to tolls said that the Canal could raise tolls 75% before they would become counterproductive. Fifty per cent of that increase has now been used. An updated survey is underway with completion scheduled for January.

Canal management predicts that under terms of the new treaties tolls will have to be immediately increased 25% to 40%. The increase will depend mainly upon how much Alaskan oil goes through the Canal. If the projected 1.3 oil tankers transit daily, the increase could possibly be held to 25%.

However, terms of the treaty provide that Panama receive 30 cents for each Panama Canal ton transiting. This is estimated to amount to approximately \$42 million annually. Panama will also receive an annual annuity of \$10 million, plus an additional \$10 million annually for public services such as street maintenance and garbage collection.

It is difficult to determine how this \$10 million for services will balance out against the present cost of the Canal Zone government, which is abolished under the new treaties. The Canal Zone government now includes schools and hospitals, which will be transferred to military control. The new Canal entity will be relieved of that overhead, but will continue to be a U.S. expense but not one that anyone seems to be including in cost estimates

There is a further provision in the treaties giving to Panama an additional \$10 million annually if revenues exceed expenditures. There is also a provision that in the event revenues in any year do not produce a surplus sufficient to cover

this payment, the unpaid balance shall be paid from operating surpluses in future years. This seems to preclude accumulation of funds for capital improvements, the cost of which will rise with inflation.

Outside the treaties, the U.S. has also promised Panama \$345 million in various types of loans and aid over a 10 year period.

The U.S. negotiators have assured Congress that the treaties will not result in a cost to the taxpayers. That will be the hat trick of the year.

Although most Latin American countries sent representatives to the treaty signing, at least four have indicated reservations. These reservations are based on toll increases, which their economy cannot afford, but which will be necessary immediately, according to official sources. It is understandable that a country such as Ecuador, 73% of whose import-export trade is Canal- oriented, would have some ambivalence regarding the proposed treaties.

It should be noted in discussing financial concerns that, according to the State Department figures, the present day replacement costs of Canal facilities would be \$9.818 billion. Of that total, \$1.245 billion consists of military installations. Most of these facilities go to Panama in the year 2000.

The sea level canal provisions of the treaty just come under the heading of "nice to have items." A sea level canal was at one time considered both necessary and inevitable and a route parallel to the present canal in Panama was determined the most feasible location. Those determinations were based on the use of nuclear excavation methods. The nuclear ban has made costs prohibitive. Scientists are also unsure of the ecological effects of the intermingling of marine life in the Atlantic and Pacific oceans.

Furthermore, the present Panama Canal is now considered adequate at least until 2000. Contrary to views expressed by some sources, 96% of the U.S. merchant fleet and 98% of the U.S. navy vessels can transit the Canal, according to Maj. Gen. Harold Parfitt, President of the Panama Canal Company and Governor of the Canal Zone. He also states that in 1976 68% of the commercial cargo transiting the Canal either originated in the U.S. was destined for the U.S. or was inter-coastal cargo. That represents 12% of the total U.S. seaborne commerce.

Passage of the plebiscite on the treaties in Panama puts the ball squarely in the U.S. Senate court. A 67% favorable vote would be considered a landslide in the U.S. but in Panama the fact that one-third of the voters in a dictator state, where no elections or votes of this sort have been held since 1968, would vote against the government is remarkable. Especially, since the ballots were color coded so it was obvious how votes were cast. The government has predicted a 90% favorable vote. Panamanian sources say it indicates a sizeable vote from the business community, which has frequently opposed Torrijos.

Although the Torrijos government has exercised strict press censorship for years, it allowed opponents to make public statements to the press prior to the plebiscite. Panamanians are making bets on how long this easing of censorship continues.

Updated treaties seem necessary but the presently proposed treaties pose potential problems. Whether the treaties are ratified or rejected, it seems likely that the radical Panamanian student element will foment trouble. They do not like the proposed treaties because Panama does not get the Canal tomorrow but if the Senate does not ratify they will consider it an affront to their nationalistic ambitions. The Canal has always been an easy target for sabotage and always will be. Panamanians know, however, that it is their principal national asset. And Uncle Sam has always been the scapegoat when Panamanian politicians fail to solve Panamanian needs.

New treaties seem a reasonable response to the problems but the possibilities of remedying the deficiencies and ambiguities of the currently proposed treaties seem now to depend on Senate Majority Leader Robert Byrd and Minority Leader Howard Baker.

By March, when it is expected that the treaties will be voted on. hopefully, a lot of people will know a lot more about the treaties and their problems and viable solutions can be worked out. It is about time that we came to grips with this festering problem with Panama in a manner advantageous to both the U.S. and Panama.

About Marjory Burns Shanard

Marjory Burns Shanard (1914 –2006). served as the first and only woman member of the Board of Directors of the Panama Canal Company as an appointee of Presidents Nixon and Ford from 1969 until April 1977. She lived in the Republic of Panama from 1958 to 1962 when her husband John was transferred there as President of Tradax International , a subsidiary of Cargill. Inc. While living in the Republic of Panama, she was a correspondent for *Time Magazine* and feature writer for *Panama This Month*. Shanard lived in Panama at the time of the 1964 riots and remained throughout the investigations by the Organization of American States fact-finding group and wrote news stories concerning those events.

In 1936, Shanard became the first woman news reporter on the *MINNEAPOLIS STAR*. Later, when the Minneapolis Journal merged with the Minneapolis Star, she continued as the only woman reporter in the joint newsroom. She developed an interesting beat by trying out scores of occupations – clown, lion tamer, stewardess, farmer, ballerina — and then wrote about them. Her first-person accounts were engaging, funny and often insightful. She also covered society news, interviewed movie stars and occasionally wrote about fishing.

Shanard was active in the Minnesota Republican party. Her activities included multiple terms on the Republican State Central Committee before and after living in Panama and the state and Hennepin County boards of the Republican Workshop; chairwoman of Minnetonka and later Lake Minnetonka area Republican party. Shanard chaired the 1956 Republican state convention and served as coordinator for the 1956 George Mikan for Congress campaign. She attended four National Republican conventions in various capacities and served as multi-county chair for the Nixon and Ford presidential campaigns.