Primer: The American Canal
The Case for Revisiting the Panama Canal Treaties

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Introduction

As President Donald Trump reminded the world just days before Christmas 2024, the Panama Canal remains a critical piece of infrastructure for American national defense and prosperity. In a detailed post on Truth Social the evening of December 21, President Trump summarized the canal's present and historical value for the United States, concluding,

> The United States has a vested interest in the secure, efficient, and reliable operation of the Panama Canal, and that was always understood. We would and will NEVER let it fall in the wrong hands! It was not given for the benefit of others, but merely as a token of cooperation with us and Panama. If the principles, both moral and legal, of this magnanimous gesture of giving are not followed, then we will demand that the Panama Canal be returned to us, in full, and without question. To the Officials of Panama, please be guided accordingly![1]

With his reference to "the wrong hands," the president was clearly referring to Chinese hands. Chinese corporations with ties to the Chinese Communist Party (CCP) play the largest role in the operations of the Panama Canal after the Panamanian government. Of course, even cursory consideration of that official relationship calls into question Panamanian sovereignty. And it raises the question of the direction in which the power in that relationship actually flows—that is, who is playing patron to whom in a commercial arrangement between the enormous China and the tiny Panama.

In his second inaugural address, President Trump confirmed his commitment to revisiting the status of the Panama Canal in light of China's ascendency, saying, "China is operating the Panama Canal. And we didn't give it to China. We gave it to Panama, and we're taking it back."[2]

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[1] Donald J. Trump (@realDonaldTrump), Truth Social (Dec. 21, 2024, 6:16 PM), https://truthsocial.com/@realDonaldTrump/posts/113693358988761213.
[2] President Donald Trump, "The Inaugural Address," The White House, Jan. 20, 2025, https://www.whitehouse.gov/remarks/2025/01/the-inaugural-address/.

Nearly three-quarters of all transits of the Panama Canal go to or from a U.S. port, meaning the United States uses the canal more than any other country.[3]

This report argues that the Panama Canal treaties that transferred control of the canal to the Panamanians were clearly contrary to the American national interest. What was an open question of political prudence in the 1970s—whether such a transfer would be good or bad for America—has now become a matter of the historical record, which has spoken for the latter. The question of what to do about that reality today returns the matter to the realm of prudence and politics. At minimum, however, Americans' representatives must conclude that reopening the question of how the canal should be governed is not a flight of romantic nationalist fancy but an urgent and practical need. The status quo is unsustainable.

A Brief History of the Canal Treaties

Panama's history as an independent nation is integrally bound up with the canal and the United States. Indeed, it was the prospect of an American canal that prompted the Theodore Roosevelt administration to support Panamanian independence from Columbia, putting more weight behind his interpretation of the Monroe Doctrine.[4] Roosevelt insisted over the course of his political career that not only would the United States object to European empires expanding their colonies in the Western Hemisphere—as the Monroe Doctrine had asserted—but it was the United States' role to be an active great power in the New World.[5] Almost immediately following Panama's essentially bloodless revolution, the United States and Panama entered the Treaty of 1903, which licensed the United States to supervise completion of the canal begun by the French and to assume control "in perpetuity" of its operations and of a Canal Zone as "if it were sovereign" of those territories and waters.[6]

As the Panamanian regime solidified, dissatisfaction with the treaty's arrangements quickly emerged, and the relationship was modified and amended on multiple occasions in favor of Panama's sovereignty. Eventually, calls for a full renegotiation won out in both countries, and on September 7, 1977, President Jimmy Carter and the Panamanian dictator Brigadier General Omar Torrijos signed two new canal treaties, which began the process of transferring full ownership of the canal to Panama by January 1, 2000.[7]

With assorted amendments, conditions, and reservations, the Senate gave advice and consent to the treaties in March and April of 1979. The first of the two treaties, in which the United States retained primary responsibility for the operation and defense of the canal until the end of the

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[3] Leticia Chacon, "U.S.-Panama Security Cooperation," Congressional Research Service, Nov. 21, 2024, 2.
[4] Jeffery C. Stearns, "The Panama Canal Treaties: Ratification or Nationalization?," Cal. W. Int'l L. J., 1978, Vol. 8: No. 2, Article 9, 1–2, n. 3.
[5] James Holmes, "The Trump Corollary to the Monroe Doctrine," *The National Interest*, Jan. 1, 2025.
[6] Convention with the Republic of Panama for the Construction of a Ship Canal to Connect the Waters of the Atlantic and Pacific Oceans, Nov. 18, 1903, 38 Stat. 2234 (1903-05), T.S. No. 431.
[7] Stearns, *supra*, at 4.

millennium, led to the creation of the Panama Canal Commission.[8] The second, generally referred to as the Neutrality Treaty, committed both the United States and Panama to the maintenance of a neutral canal regime, open to the ships of all nations.

Some observers have suggested that Panama did not affirm all of these conditions on the treaties, including the DeConcini clarification of the Neutrality Treaty, which explicitly allowed the use of military force in case of the canal's closure or disruption.[9] Defenders of the treaties, however, say Panama did affirm those clarifications and amendments and that cooperation since then demonstrates a shared right to the independent use of military action to enforce canal neutrality in perpetuity. On December 31, 1999, the United States formally handed over control of the canal and primary responsibility for its operations and defense to Panama.[10] All U.S. military and government personnel withdrew from the Canal Zone as the Panamanians assumed control of its facilities.

The Canal and Geopolitics

Fortunately for the prospect of a constructive public policy debate, the national interest in the Panama Canal is clear. America's needs regarding the canal represent an incontrovertible consensus and are clearly reflected in the terms of the treaties. Global commercial shipping must, on a neutral basis, have reliable use of the canal, and the U.S. Navy must have ready and priority access to transit via the canal. America's prosperity and national defense both depend heavily on the responsible and effective maintenance of the Panama Canal, and controversy surrounding the United States' relationship with canal operations has always been about how best to pursue these two priorities.

Thus the debate today remains largely the same as when the canal treaties were signed in the 1970s and executed in 1999. But today's observers can see the consequences of one course of action.

The global foreign policy situation, which conditions these considerations, also has changed. Panama was not going to be a Soviet satellite during the Cold War, and moves in that direction would hardly have been allowed by the treaty's terms as then understood. But now Panama is functionally a Chinese satellite, a development that was clear even in 1999. In November of that year, then-president of Panama Pérez Balladares was caught in a scandal related to the illegal sale of visas to Chinese nationals attempting to enter the United States by way of Panama.[11]

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[8] Mark P. Sullivan, "Panama: Political and Economic Conditions and U.S. Relations Through 2012," Congressional Research Service, Nov. 27, 2012, 22.
[9] *Id.*
[10] *Id.* at 13.
[11] *Id.* at 4.

Panama's significant political relationship with the People's Republic of China (PRC) began quietly, in January 1997, when in anticipation of the handover from the United States it contracted with a Hong Kong company, Hutchison-Whampoa (now CK Hutchison Holdings) for operation of the canal's primary ports: Cristóbal in the Atlantic and Balboa in the Pacific.[12] Hong Kong reverted from the United Kingdom to the PRC that summer. In 2021, Panama extended its contract with the Hutchison company for twenty-five more years.[13] It is something of an irony, then—considering China's nearly universal control of all those functions today—that one of the major points of resentment by the Panamanians leading to the canal treaties was the United States' dominance of virtually all commercial enterprises and deepwater port facilities related to the canal's operations.

Of course, since 2000, the inescapable reality of the danger of this relationship with China has become clear as Americans finally wake up to the fact that China is a peer competitor. Panama was the first Latin American country to join the CCP's Belt and Road Initiative (BRI); it signed on in November 2017.[14] The BRI is a global infrastructure investment program focused on developing transportation, trade, and manufacturing networks to China's advantage. This material alignment followed just months after Panama ended diplomatic recognition of the Republic of China (Taiwan) in favor of recognizing the CCP-led PRC's One China principle.[15]

PRC-aligned companies now dominate critical sections of the canal, especially the symbolically significant real estate around the entrances. They also control critical operations and major infrastructure, including the construction of a fourth canal bridge, the leading Panamanian convention center, and a major cruise ship terminal.[16] The increasing involvement of Chinese entities in Panama is especially concerning because the PRC is the only country with a permanent seat on the U.N. Security Council, and the only country with major investments and interests in the canal, that has not formally committed to the multilateral Protocol to the Treaty on Permanent Neutrality, which affirms the canal's neutrality regime.[17]

The Canal and the Law

The historical record and global security context present a change from the circumstances of the Panama Canal treaties and add warrant to a serious reconsideration of the arrangement. But concerns with the lawful status of the treaties themselves have been present from their creation and unfortunately have been glossed over and neglected.

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[12] Alongso Illueca, "China's Influence in Panama: A Case Study," Expediente Abierto, 18.
[13] *Id*.
[14] Leticia Chacon, "Panama: Country Overview and U.S. Relations," Congressional Research Service, Dec. 17, 2024, 2.
[15] Illueca, *supra*, at 8.
[16] *Id.* at 12.
[17] *Id.* at 15.

As mentioned above, both treaties underwent a long series of amendments, clarifications, and qualifications prior to ratification by the U.S. Senate. It remains unclear whether the documents ratified by the Panamanians and America's representatives were in fact reconciled—that is, whether they approved the same treaties. An editorial in the *Chicago Tribune* from October of 1999, hoping to arrest the completion of the canal's handoff, articulated four straightforward reasons to doubt or at least question the legal validity of the treaties:

- Panama and the United States did not sign the same document.
- Article IV of the Constitution requires both houses of Congress to dispose of territory and property; this was bypassed when the Senate and the White House transferred the Canal Zone alone, excluding the House of Representatives.
- Treaties, like laws, must be repealed by both houses of Congress; repeal of the 1903 treaty was not voted on by the House of Representatives; therefore the original treaty remains in force.
- Panama's constitution requires that country's president to sign treaties; the president of Panama at that time, Demetrio Lakas, did not sign the treaty; a Panamanian Communist military general, Omar Torrijos, did.[18]

Upon closer examination, the fourth reason outlined by the *Chicago Tribune* carries serious legal merit under the law of nations. This law is "no other than the *law of nature applied* to nations,"[19] and throughout the centuries it has consistently supplied a "rule of decision in cases" involving "matters of state or other affairs between two nations."[20] America's founding generation understood that through application of the law of nations "alone all controversies between nation and nation can be determined"[21] based on the universal consensus that it "forms a part of the common law of every civilized country,"[22] including "the law of the land" of the United States that "[t]he Executive is charged with the execution of all laws" under its Constitution.[23]

Under the law of nations, a treaty between two or more nations is valid only "if there be no defect in the manner in which it has been concluded," which requires, *inter alia*, that there be

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[18] "Save U.S. Access to Panama Canal," *Chicago Tribune*, October 2, 1999, https://www.chicagotribune.com/1999/10/02/save-us-access-to-panama-canal/.
[19] Emer de Vattel, The Law of Nations: Or, Principles of the Law of Nature, Applied to the Conduct and Affairs of Nations and Sovereigns, Pr. § 6 (1758) (emphasis in original).
[20] *Barbuit's Case*, 25 Eng. Rep. 777, 777–78 (Ch. 1737) (Talbot, L.C.).
[21] *Charge to the Grand Jury for the District of South Carolina* (May 12, 1794) (Iredell, J.), *in* Gazette of the United States (Philadelphia 1794); *see also* 4 William Blackstone, Commentaries on the Laws of England *66 (1769) (explaining the applicability of the law of nations "to decide all disputes, to regulate all ceremonies and civilities, and to insure the observance of justice and good faith in that intercourse which must frequently occur between two or more independent states").
[22] William Rawle, A View of the Constitution of the United States of America 108 (Philadelphia 2d ed. 1829); *see also* 4 William Blackstone, Commentaries on the Laws of England *66–*67 (1769) (observing that the law of nations has reached "universal consent among the civilized inhabitants of the world" because it derives "from those principles of natural justice in which all the learned of every nation agree"); *Thirty Hogsheads of Sugar v. Boyle*, 13 U.S. (9 Cranch) 191, 198 (1815) (Marshall, C.J.) ("The law of nations is the great source from which we derive those rules, respecting belligerent and neutral rights, which are recognized by all civilized and commercial states throughout Europe and America").
[23] Alexander Hamilton, *Pacificus No. I* (June 29, 1793) (explaining that under the Constitution, "Our Treaties and the laws of Nations form a part of the law of the land," and that "The Executive is charged with the execution of all laws, the laws of Nations as well as the Municipal law").

"sufficient power" vested in the contracting parties.[24] Under this requirement of valid treaty formation, "If a public person, an embassador [*sic*], or a general of an army, exceeding the bounds of his commission, concludes a treaty or a convention without orders from the sovereign, or without being authorised to do it by virtue of his office, the treaty is null, as being made without sufficient powers."[25] Furthermore, the treaty cannot be rendered valid *ex post facto* "without the express or tacit ratification" of the head of state who *does* have sufficient power to bind the respective sovereignty to a treaty.[26] When conducting this assessment, "it is the fundamental laws of each state that we must learn where resides the authority that is capable of contracting with validity in the name of the state."[27]

For purposes of assessing the authority to contract with binding validity in the name of the Republic of Panama at the time of the 1977 Carter–Torrijos treaties, the applicable fundamental law is the Panama Constitution of 1972. According to this fundamental law, which was in effect when the Carter–Torrijos treaties were purportedly entered into, the power "to enter into international treaties and agreements" on behalf of the Republic of Panama, including that of signing any treaties "with respect to the Panama Canal, its adjacent zone, and the protection of the said Canal," must be "exercised by the President of the Republic alone."[28] In 1977, this would have been Demetrio Lakas, who by law held the office of the president of Panama. Despite vesting a whole host of governmental powers in Brigadier General Omar Torrijos as "Maximum Leader of the Panamanian Revolution," the Panama Constitution of 1972 did not confer upon Torrijos any residual grant of the Panamanian president's otherwise exclusive, plenary power to bind the Republic of Panama to an international treaty or agreement with another nation.[29]

Yet it was General Torrijos, rather than President Lakas, who signed and thereby purported to bind the Republic of Panama to the Panama Canal treaties with the United States. Moreover, former Chairman of the Joint Chiefs of Staff Admiral Thomas Moorer testified under oath in 1998 and again in 1999 that Lakas never signed or otherwise endorsed the Panama Canal treaties with the United States that Torrijos purported to enter the Republic of Panama into.[30] Far from any express or tacit ratification of the actions taken by Torrijos without official sovereign authorization under Panama's fundamental law, Lakas later said that he "specifically would not

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[24] 2 Vattel, ch. XII, § 157.
[25] *Id.* ch. XIV, § 208.
[26] *Id.*; *id.* ch. XII, § 154.
[27] *Id.*
[28] Panama Const. tit. VI, art. 141 (1972); *id.*, tit. XIII, art. 274.
[29] *See id.* tit. XIII, art. 277.
[30] *See The Financial and Commercial Impact of the Panama Canal Treaty: Hearings Before the Subcomm. on Domestic & International Monetary Policy of the H. Comm. on Banking & Financial Services*, 106th Cong. 64–65 (1999) ("[T]he Panama constitution states that the president of Panama must sign all treaties. I have talked to Mr. Lakas himself, who was president at that time, and he has told me twice he never signed anything. So, for all practical purposes, the Carter Treaty is illegal to start off with"); *The Panama Canal and United States Interests: Hearing Before the S. Comm. on Foreign Relations*, 105th Cong. 60 (1998) ("It is a serious misrepresentation to say that the Canal Treaty was adopted. . . . For example, President Lakas of Panama was required to sign it and did not do so. I knew him and hunted with him").

sign [the Panama Canal treaties] because . . . of the intentions of the now departed dictators [of Panama] and their drug lord friends with regard to it," according to Moorer's sworn testimony.[31]

Accordingly, under the law of nations, the Panama Canal treaties are likely void *ab initio*—i.e., each purported 1977 agreement between the United States and the Republic of Panama respecting the Panama Canal Zone was null "from the inception" and thus "has at no time had any legal validity"[32] as a binding treaty—due to fatal defects in the formation of each agreement that fail the requirement of "sufficient power" for forming a valid treaty.[33]

Notwithstanding the foregoing findings, in present negotiations with the Panamanians, it may be less practical as a matter of strategic diplomacy to lead from the bargaining position that the canal treaties are void from their inception. The United States may find less amicable counterparts at the other end of the negotiating table since, after all, both Panama and the United States, as well as the nations of the multilateral Protocol to the Neutrality Treaty, have behaved as if the treaties have been in force for nearly half a century. As Secretary of State Marco Rubio continues to engage with the Panamanians, the United States' position is therefore more likely to remain that the present operating conditions of the canal represent a violation of the Neutrality Treaty that essentially militarizes the canal in China's favor rather than maintaining a Panamanian-guaranteed neutrality regime.[34] Since the Panamanians, left to their own devices, have failed to enforce the neutrality of the canal, then on the very terms of the canal treaties and the DeConcini clarification, construed together in light of historical developments and of principles of natural equity,[35] it is clear that the United States is vested with both the right *and* the duty by contract to *guarantee* that neutrality for the common advantage of both parties.[36]

This bargaining position would supply the United States with a lawful basis to dispatch our armed forces into a temporary occupation of the Panama Canal Zone in order to meaningfully enforce the agreed-upon neutrality regime pursuant to the DeConcini clarification.[37] Any such temporary military occupation, however, would just be that: a temporary military occupation. This is doubtless a prudent strategy to get the United States involved, and indeed reassert its rightful commanding position, in the geopolitical affairs surrounding the Panama Canal. But it would not fulfill the president's inaugural promise to the American people to repossess the Panama Canal Zone as the rightful sovereign territory of the United States.[38]

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[31] *Id.*
[32] *Black's Law Dictionary* 6 (6th ed. 1990).
[33] *See* 2 Vattel, ch. XII, § 157.
[34] Nahal Toosi and Robbie Gramer, "Rubio is Heading to Panama," *Politico*, Jan. 22, 2025, https://www.politico.com/news/2025/01/22/marco-rubio-panama-00200137.
[35] *Cf.* 2 Vattel, ch. XVII, § 301 ("The voice of equity, and the general rule of contracts, require that the conditions between the parties should be equal. We are not to presume, without very strong reasons, that one of the contracting parties intended to favour the other to his own prejudice; but there is no danger in extending what is for the common advantage").
[36] *Cf. id.* ("If, therefore, it happens that the contracting parties have not made known their will with sufficient clearness, and with all the necessary precision, it is certainly more conformable to equity to seek for that will in the sense most favourable to equality and the common advantage, than to suppose it in the contrary sense").
[37] *See supra* notes 7–10 and accompanying text.
[38] *See supra* note 2 and accompanying text.

Conversely, the United States—Secretary Rubio and President Trump in particular—could change its bargaining position to the more aggressive, albeit meritorious, assertion that the Panama Canal treaties *are* void from their inception and therefore lack any legal efficacy. This position would assert a lawful basis not merely for a nonpossessory, time- and circumstance-limited occupation of the Panama Canal Zone but full repossession of the Panama Canal Zone as the rightful sovereign territory of the United States—just as President Trump promised in his inaugural address. After all, according to the law of nations, a sovereignty whose head of state (here the president of the United States) "treated with a public person not furnished with sufficient powers" and "execute[d] the agreement on his side" without proper ratification by a sufficient power on the other side, though perhaps guilty of "imprudence" and "egregious error," is nonetheless entitled to the restitution of any property conveyed to the other sovereignty in the course of mistakenly executing a void treaty.[39]

As applied to the Carter–Torrijos treaties, since the president of the United States has given up "part of his property," (that is, the Panama Canal Zone) pursuant to a purported agreement with Panama's military dictator "not furnished with sufficient powers" to contract with validity on behalf of the Republic of Panama, the Republic of Panama is therefore "not justifiable in taking advantage of his [the president's] folly, and retaining possession of what he has so given" on behalf of the United States.[40] Rather, the Republic of Panama is "undoubtedly bound to restore" to the United States the Panama Canal Zone it mistakenly received pursuant to a void treaty.[41] "To act otherwise," the law of nations posits, "would be enriching" the Republic of Panama "with another's property, and retaining that property without having any title to it."[42]

The Framers of our Constitution understood the law of nations as forming part of the laws of the United States and,[43] by vesting in the president alone the constitutional obligation to "take Care that the Laws be faithfully executed,"[44] consequently vested in the president the constitutional obligation to faithfully execute the law of nations.[45] Therefore, the case can be made that President Trump possesses not only the right but the *duty* under our Constitution to execute the law of nations so as to both assert that the Panama Canal treaties are void and take care that the

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[39] 2 Vattel, ch. XIV, § 212.
[40] *Id.*
[41] *Id.*
[42] *Id.*
[43] *See supra* notes 19–21 and accompanying text.
[44] U.S. Const. art. II, § 3.
[45] *See, e.g.*, George Washington, *Proclamation of Neutrality* (Apr. 22, 1793), *in* 32 Writings of George Washington 430 (J. Fitzpatrick ed. 1939) (threatening "to cause prosecutions to be instituted against all persons, who shall, within the cognizance of the Courts of the United States, violate the law of nations"); Hamilton, *Pacificus No. I* ("The Executive is charged with the execution of all laws, the laws of Nations as well as the Municipal law, which recognises and adopts those laws"); *id.* ("While therefore the Legislature can alone declare war, can alone actually transfer the nation from a state of Peace to a state of War—it belongs to the 'Executive Power,' to do whatever else the laws of Nations cooperating with the Treaties of the Country enjoin, in the intercourse of the UStates with foreign Powers"); James Madison, *"Helvidius" Number 2* (Aug. 31, 1793) (agreeing with Hamilton that the Take Care Clause charges the president to faithfully execute the law of nations); The Federalist No. 3, at 15 (J. Cooke ed. 1961) (John Jay) (explaining that "under the national Government, treaties and articles of treaties, as well as the laws of nations, will always be expounded in one sense").

Republic of Panama restores the Panama Canal Zone to the United States as its rightful sovereign owner and possessor.[46]

Each bargaining position articulated above naturally carries its own set of pros and cons and a risk–reward ratio. Whichever path the United States elects to take regarding the Carter–Torrijos treaties in order to reclaim her right to a dominant posture and commanding vantage point in the geopolitical affairs of the Panama Canal, it is ultimately up to President Trump, as the "sole organ of the nation in its external relations, and its sole representative with foreign nations,"[47] to assess these alternatives and to make that determination conclusively on behalf of the United States and the American people.

Conclusion

At the time of their apparent ratification, the Panama Canal treaties were thought to solve two primary problems. The character of these conversations is made colorfully clear in a *Firing Line* debate between William F. Buckley Jr. and Ronald Reagan—along with a whole host of recognizable figures—on the question of ratifying the Carter–Torrijos treaties.[48] In a period of rapid decolonization around the world, spurred in large part by the global ideological battles of the Cold War, direct American ownership and administration of the Canal Zone was thought by some to be inconsistent with the values of national self-determination that America so vigorously promoted elsewhere in the world.

A vocal faction of Panamanians also continued to make their displeasure with the arrangement inescapable, and growing anti-American sentiment led to a number of diplomatically and militarily difficult incidents in Panama, which seemed to assure the existence of future problems for maintaining reliable access to the canal for the U.S. Navy. Advocates of the treaties believed that by making such drastic concessions to the dictatorial Panamanian regime, the United States would improve relations with the Republic of Panama to minimize the risk of potential sabotage or terrorism that could shut down the canal.

The record of the quarter century of Panamanian control of the canal, however, suggests that this perspective was too optimistic. Far from buttressing the neutrality of the canal and eliminating potential risks for the blockage of the United States' naval access, the *de facto* transfer of the Canal Zone and canal operations to CCP-affiliated shipping corporations increases the opportunity for America's biggest foe to cut off the *vena cava* of American naval readiness and control global trade in the Western Hemisphere. In a period of great power competition with a

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[46] *Cf. The Schooner Peggy*, 5 U.S. (1 Cranch) 103, 109 (1801) (Marshall, C.J.) (affirming that under the Constitution and general law, "the execution of a contract between nations is to be demanded from, and, in the general, superintended by the executive of each nation").
[47] 10 Annals of Cong. 595, 613 (1800) (statement of Rep. John Marshall).
[48] A Firing Line Debate: Resolved: That the Senate Should Ratify the Proposed Panama Canal Treaties, January 13, 1978, Firing Line broadcast records, Hoover Institution Library & Archives, https://digitalcollections.hoover.org/objects/6488/a-firing-line-debate-resolved-that-the-senate-should-ratif.

peer rival, and a fellow commercial power at that, control of the geopolitically vital Canal Zone by that same rival cannot be fairly characterized as a satisfactory or equitable arrangement for the United States, however the Panamanians may see it. But from the perspective of our national interest it is nothing short of a disaster.

As Admiral Thomas Moorer forewarned in his 1999 testimony before the House Committee on Banking and Financial Services,

> Not only are we turning over control of the Canal, but we are providing a launching point for missiles against the United States. If you read the paper this morning, you will see that on the headlines the Chinese are now preparing a series of launching points aimed at Taiwan. If we get involved in a Taiwan operation or for that matter, with the North Koreans into South Korea, putting our forces in jeopardy, well, then the Panama Canal will play a very important part.[49]

Thus, far from being a problem or a blight on the American national character, a sprinkle of gunboat diplomacy may be precisely what the situation calls for. Indeed, taking the long view of a world mired in what could be not inaccurately described as a new Cold War, the possibility of using U.S. Navy vessels to force others to respect the United States' prerogative of first use of the Panama Canal appears to be not a matter of whether but of when. In the case of a prospective open conflict with the PRC, the Panama Canal would serve as a critical battleground. And if, in the case of diplomatic conflict with the Panamanians in reforming the canal's operations, China moves to entrench itself deeper in the Panama Canal Zone, America's leaders would realize that these fears were not unfounded—a realization that would unfortunately come too late. It would be better for all interested parties, save perhaps our adversaries in the East, if such a naval intervention could be avoided through renewed negotiations regarding the possession and operation of the canal in connection with the status of the treaties—before we are forced to endure the consequences of this unsustainable status quo.

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[49] *The Financial and Commercial Impact of the Panama Canal Treaty: Hearings Before the Subcomm. on Domestic & International Monetary Policy of the H. Comm. on Banking & Financial Services*, 106th Cong. 57 (1999).