

Elihu Root, *The Ethics of the Panama Question*, 1904

This document comes from a speech that Elihu Root delivered at the Union League Club of Chicago in February 1904 about U.S. action in Panama, shortly after he had stepped down as U.S. President Theodore Roosevelt's Secretary of War to return to his law practice. The following year, in 1905, Roosevelt appointed him Secretary of State.

On the 3d of November, 1903 the people of Panama revolted against the Government of Columbia, and proclaimed their independence. On the 13th of November the United States recognized the independence of the Republic of Panama, by receiving a minister from the new Government, and at the opening of the regular session of Congress in December the President asked the consent of the Senate to a treaty negotiated between our Secretary of State, Mr. Hay, and the minister of Panama, Mr. Varilla, providing for the construction by the United States of a ship canal across the Isthmus, to be kept by us open, neutral, and free upon equal terms for the use of all mankind. After long and exhaustive discussion that treaty is about to be confirmed. In the meantime the Senate by a great majority has approved the recognition of independence by confirming the nomination of William I. Buchanan as minister from the United States to Panama. The revolutionary leaders have submitted their action to the people of Panama, who have, by a popular vote, given it their unanimous approval, and have elected a constitutional convention, framed and adopted a constitution, chosen a president and Congress, and established a republican government according to the forms which find their model in the constitutions of our own country. In the meantime, also, many other governments have followed the United States in receiving the new republic into the family of nations. On the 18th of November, five days after our recognition, France recognized the Republic of Panama; on the 22d China; on the 27th Austria; on the 30th Germany; and following them Denmark, Russia, Sweden and Norway, Belgium, Nicaragua, Peru, Cuba, Great Britain, Italy, Switzerland, Costa Rica, Japan, Guatemala, Netherlands, Venezuela, Portugal, in the order named.

The independence of Panama, the grant to the United States of the right to construct the canal across the Isthmus, and the assumption by the United States of the duty to construct the canal and to maintain it for the equal benefit of mankind, are accomplished facts. Nothing can do away with them, unless it be some future war of conquest waged against the liberties of Panama, and at the same time against the rights of the United States held in trust for the commerce of the world.

The conduct of the United States Government in recognizing the independence of Panama, in making the treaty, and in exercising police power over territory traversed by the Panama Railroad and the partly constructed canal, during the period of the revolution, has been severely criticized by some of our own citizens, who have said, in substance, that in this business our Government has violated the rules of international law, has been grasping and unfair, and has, by the exercise of brute force, trampled down the rights of a weaker nation, in violation of those principles of justice which should control the conduct of nations as of men.

In considering these charges we may well thrust aside as carrying no weight of authority the expressions of those who, while they condemn the conduct of our Government, are in favor of the treaty. They curiously reverse the divine rule, and seem to hate the sinner while they love the sin; and their adverse

criticism may fairly be ascribed to the exigencies of the pending presidential campaign. Some of them may be sincere, but upon that question they naturally invite the comment made upon Lady Macbeth, that "she might be a lady, but she did not show it by her conduct."

We need not pay very much heed, either, to that class of temperamental and perennial faultfinders whom we have and always will have with us, as an incident of free institutions, who are against every government of which they do not personally form a part, and in whose eyes everything done by others is wrong. This class of our citizens, with slight changes in personnel, would have condemned any course of conduct by our Government, whatever it was, and their condemnation of the particular course followed merely announces their existence.

Nevertheless, there remain good and sincere men and women who have thought our course to be wrong, and many others, whose character and patriotism entitle them to the highest respect, are troubled in spirit. They would be glad to be sure that our country is not justly chargeable with dishonorable conduct. May the time never come when such men and women are wanting, or are constrained to remain silent, in America. May the time never come when the conscience of America shall cease to apply the rules of upright conduct to national as well as to personal life; when our Government feels absolved from the obligation to answer in that forum for conformity to the rules of right or when material advantage shall be held to excuse injustice. For if such a time ever does come the beginning of the end of our free institutions will have come also.

I wish to present some of the fundamental facts bearing upon the question of right in the Panama business, although they have been stated already better than I can state them, with the hope that they may thus reach the attention of some of the good and sincere citizens who are troubled about the matter.

I am not going to discuss technical rules or precedents or questions whether what was done should have been done a little earlier or a little latter, but the broad question whether the thing we have done was just and fair.

It frequently happens in affairs of government that most important rights are created, modified, or practically destroyed by gradual processes, and by the indirect effect of events; and that only an intimate knowledge of the process enables one to realize the change until some practical question arises which requires everyone interested to study the subject. If the typical New Zealander, ignorant of our political history, were to read our Constitution and laws, he would suppose that a presidential elector in the United States is entitled to exercise freedom of choice in his vote for President, and he would be quite certain that we were guilty of gross injustice in the treatment which we should certainly accord to an elector who voted for anyone but the candidate of his own party. In forming this judgment, he would be misled by the form and appearance of things which he found upon the statute book, and would misjudge a people who were acting in accordance with the substance and reality of things as they knew them to be. In the same way, they are in error who assume that the relations of Colombia to the other nations of the earth as regards the Isthmus of Panama were, in truth, of unqualified sovereignty and right of domestic control

according to her own will, governed and protected by the rules of international law, which describe the attributes of complete sovereignty; that the relations of Colombia to the people of Panama were, in truth, those appearing in the written instrument called the Constitution of Colombia; or that the rights and duties of the United States in regard to the Isthmus were confined to the simple duty of aiding Colombia to maintain her control over the Isthmus, and the simple right to ask from Colombia privileges which that country was entitled to grant or withhold at her own pleasure.

The stupendous fact that has dominated the history and must control the future of the Isthmus of Panama is the possibility of communication between the two oceans. It is possible for human hands to pierce the narrow 40 miles of solid earth which separate the Caribbean from the Bay of Panama, to realize the dreams of the early navigators, to make the pathway to the Orient they vainly sought, to relieve commerce from the toils and perils of its 9,000 miles of navigation around Cape Horn through stormy seas and along dangerous coasts with its constant burden of wasted effort and shipwreck and loss of life, and to push forward by a mighty impulse that intercommunication between the distant nations of the earth which is doing away with misunderstanding, with race prejudice and bigotry, with ignorance of human rights and opportunity for oppression, and making all the world kin.

Throughout the centuries since Philip II sat upon the throne of Spain, merchants and statesmen and humanitarians and the intelligent masses of the civilized world have looked forward to this consummation with just anticipations of benefit to mankind. No savage tribes who happened to dwell upon the Isthmus would have been permitted to bar this pathway of civilization. By the universal practice and consent of mankind they would have been swept aside without hesitation. No Spanish sovereign could, by discovery or conquest or occupation, preempt for himself the exclusive use of this little spot upon the surface of the earth dedicated by nature to the use of all mankind. No civil society organized upon the ruins of Spanish dominion could justly arrogate to itself over this tract of land sovereignty unqualified by the world's easement and all the rights necessary to make that easement effective. The formal rules of international law are but declarations of what is just and right in the generality of cases. But where the application of such a general rule would impair the just rights or imperil the existence of neighboring States or would unduly threaten the peace of a continent or would injuriously affect the general interests of mankind, it has always been the practice of civilized nations to deny the application of the formal rule and compel conformity to the principles of justice upon which all rules depend. The Danubian principalities and Greece and Crete, and Egypt, the passage of the Dardanelles, and the neutralization of the Black Sea are familiar examples of limitations in derogation of those general rules of international law which describe the sovereignty of nations.

The Monroe doctrine itself upon which we stand so firmly is an assertion of our right for our own interest to interfere with the action of every other nation in those parts of this hemisphere where others are sovereign and where we have no sovereignty or claim of sovereignty, and to say if you do thus and so, even by the consent of the sovereign, we shall regard it as an unfriendly act because it will affect us injuriously. It is said that the Monroe doctrine is not a rule of international law. It is not a rule at all. It is an assertion of right under the universal rule that all sovereignty is held subject to limitations in its exercise arising from the just interests of nations.

By the rules of right and justice universally recognized among men and which are the law of nations, the sovereignty of Colombia over the Isthmus of Panama was qualified and limited by the right of the other civilized nations of the earth to have the canal constructed across the Isthmus and to have it maintained for their free and unobstructed passage.

Elihu Root, *The Panama Canal and our Relations with Colombia* (Washington: Government Printing Office, 1914).

