

**THE OBLIGATIONS OF THE UNITED  
STATES AS TO PANAMA CANAL  
TOLLS: SPEECH OF HON. ELIHU ROOT  
OF NEW YORK IN THE SENATE OF THE  
UNITED STATES JANUARY 21, 1913**

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The Obligations of the United States as to Panama Canal Tolls: Speech of Hon. Elihu Root of New York in the senate of the united states January 21, 1913 by Elihu Root

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SPEECH

OF

HON. ELIHU ROOT

OF NEW YORK

IN THE

SENATE OF THE UNITED STATES

JANUARY 21, 1913



WASHINGTON  
1913

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SPEECH  
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HON. ELIHU ROOT.

PANAMA CANAL TOLLS.

Mr. ROOT. Mr. President, in the late days of last summer, after nearly nine months of continuous session, Congress enacted, in the bill to provide for the administration of the Panama Canal, a provision making a discrimination between the tolls to be charged upon foreign vessels and the tolls to be charged upon American vessels engaged in coastwise trade. We all must realize, as we look back, that when that provision was adopted the Members of both Houses were much exhausted; our minds were not working with their full vigor; we were weary physically and mentally. Such discussion as there was to empty seats. In neither House of Congress, during the period that this provision was under discussion, could there be found more than a scant dozen or two of Members. The provision has been the cause of great regret to a multitude of our fellow citizens, whose good opinion we all desire and whose leadership of opinion in the country makes their approval of the course of our Congress an important element in maintaining that confidence in government which is so essential to its success. The provision has caused a painful impression throughout the world that the United States has departed from its often-announced rule of equality of opportunity in the use of the Panama Canal, and is seeking a special advantage for itself in what is believed to be a violation of the obligations of a treaty. Mr. President, that opinion of the civilized world is something which we may not lightly disregard. "A decent respect to the opinions of mankind" was one of the motives stated for the people of these colonies in the great Declaration of American Independence.

The effect of the provision has thus been doubly unfortunate, and I ask the Senate to listen to me while I endeavor to state the situation in which we find ourselves; to state the case which is made against the action that we have taken, in order that I may present to the Senate the question whether we should not either submit to an impartial tribunal the question whether we are right; so that if we are right, we may be vindicated in the eyes of all the world, or whether we should not, by a repeal of the provision, retire from the position which we have taken.

In the year 1850, Mr. President, there were two great powers in possession of the North American Continent to the north of the Rio Grande. The United States had but just come to its full stature. By the Webster-Ashburton treaty of 1842 our northeastern boundary had been settled, leaving to Great Britain that tremendous stretch of sea-coast including Nova Scotia, New Brunswick, Newfoundland, Labrador, and the shores of the Gulf of St. Lawrence, now forming the Province of Quebec. In 1846 the Oregon boundary had been settled, assuring to the United States a title to that vast region which now constitutes the States of Washington, Oregon, and Idaho. In 1848 the treaty of Guadalupe-Hidalgo had given to us that great empire wrested from Mexico as a result of the Mexican War, which now spreads along the coast of the Pacific as the State of California and the great region between California and Texas.

Inspired by the manifest requirements of this new empire, the United States turned its attention to the possibility of realizing the dream of centuries and connecting its two coasts—its old coast upon the Atlantic and its new coast upon the Pacific—by a ship canal through the Isthmus; but when it turned its attention in that direction it found the other empire holding the place of advantage. Great Britain had also her coast upon the Atlantic and her coast upon the Pacific, to be joined by a canal. Further than that, Great Britain was a Caribbean power. She had Bermuda and the Bahamas; she had Jamaica and Trinidad; she had the Windward Islands and the Leeward Islands; she had British Guiana and British Honduras; she had, moreover, a protectorate over the Mosquito coast, a

great stretch of territory upon the eastern shore of Central America which included the river San Juan and the valley and harbor of San Juan de Nicaragua, or Greytown. All men's minds then were concentrated upon the Nicaragua Canal route, as they were until after the treaty of 1901 was made.

And thus when the United States turned its attention toward joining these two coasts by a canal through the Isthmus it found Great Britain in possession of the eastern end of the route which men generally believed would be the most available route for the canal. Accordingly, the United States sought a treaty with Great Britain by which Great Britain should renounce the advantage which she had and admit the United States to equal participation with her in the control and the protection of a canal across the Isthmus. From that came the Clayton-Bulwer treaty.

Let me repeat that this treaty was sought not by England but by the United States. Mr. Clayton, who was Secretary of State at the time, sent our minister to France, Mr. Rives, to London for the purpose of urging upon Lord Palmerston the making of the treaty. The treaty was made by Great Britain as a concession to the urgent demands of the United States.

I should have said, in speaking about the urgency with which the United States sought the Clayton-Bulwer treaty, that there were two treaties made with Nicaragua, one by Mr. Heis and one by Mr. Squire, both representatives of the United States. Each gave, so far as Nicaragua could, great powers to the United States in regard to the construction of a canal, but they were made without authorization from the United States, and they were not approved by the Government of the United States and were never sent to the Senate. Mr. Clayton, however, held those treaties in abeyance as a means of inducing Great Britain to enter into the Clayton-Bulwer treaty. He held them practically as a whip over the British negotiators, and having accomplished the purpose they were thrown into the waste basket.

By that treaty Great Britain agreed with the United States that neither Government should "ever obtain or maintain for



itself any exclusive control over the ship canal"; that neither would "make use of any protection" which either afforded to a canal "or any alliance which either" might have "with any State or people for the purpose of erecting or maintaining any fortifications, or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America, or of assuming or exercising dominion over the same," and that neither would "take advantage of any intimacy, or use any alliance, connection, or influence that either" might "possess with any State or Government through whose territory the said canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the citizens or subjects of the one, any rights or advantages in regard to commerce or navigation through the said canal which shall not be offered on the same terms to the citizens or subjects of the other."

You will observe, Mr. President, that under these provisions the United States gave up nothing that it then had. Its obligations were entirely looking to the future; and Great Britain gave up its rights under the protectorate over the Mosquito coast, gave up its rights to what was supposed to be the eastern terminus of the canal. And, let me say without recurring to it again, under this treaty, after much discussion which ensued as to the meaning of its terms, Great Britain did surrender her rights to the Mosquito coast, so that the position of the United States and Great Britain became a position of absolute equality. Under this treaty also both parties agreed that each should "enter into treaty stipulations with such of the Central American States as they" might "deem advisable for the purpose"—I now quote the words of the treaty—"for the purpose of more effectually carrying out the great design of this convention, namely, that of constructing and maintaining the said canal as a ship communication between the two oceans for the benefit of mankind, on equal terms to all, and of protecting the same."

That declaration, Mr. President, is the cornerstone of the rights of the United States upon the Isthmus of Panama, rights having their origin in a solemn declaration that there should be constructed and maintained a ship canal "between the two oceans for the benefit of mankind, on equal terms to all."

In the eighth article of that treaty the parties agreed:

The Governments of the United States and Great Britain having not only desired, in entering into this convention, to accomplish a particular object, but also to establish a general principle, they hereby agree to extend their protection, by treaty stipulations, to any other practicable communications, whether by canal or railway, across the Isthmus which connects North and South America, and especially to the Inter-oceanic communications, should the same prove to be practicable, whether by canal or railway, which are now proposed to be established by the way of Tehuantepec or Panama. In granting, however, their joint protection to any such canals or railways as are by this article specified, it is always understood by the United States and Great Britain that the parties constructing or owning the same shall impose no other charges or conditions of traffic thereupon than the aforesaid Governments shall approve of as just and equitable; and that the same canals or railways, being open to the citizens and subjects of the United States and Great Britain on equal terms, shall also be open on like terms to the citizens and subjects of every other State which is willing to grant thereto such protection as the United States and Great Britain engage to afford.

There, Mr. President, is the explicit agreement for equality of treatment to the citizens of the United States and to the citizens of Great Britain in any canal, wherever it may be constructed, across the Isthmus. That was the fundamental principle embodied in the treaty of 1850. And we are not without an authoritative construction as to the scope and requirements of an agreement of that description, because we have another treaty with Great Britain—a treaty which formed one of the great landmarks in the diplomatic history of the world, and one of the great steps in the progress of civilization—the treaty of Washington of 1871, under which the Alabama claims were submitted to arbitration. Under that treaty there were provisions for the use of the American canals along the waterway of the Great Lakes, and the Canadian canals along the same line of communication, upon equal terms to the citizens of the two countries.

Some years after the treaty, Canada undertook to do something quite similar to what we have undertaken to do in this law about the Panama Canal. It provided that while nominally a toll of 20 cents a ton should be charged upon the merchandise both of Canada and of the United States there should be a rebate of 18 cents for all merchandise which went to Montreal or beyond, leaving a toll of but 2 cents a ton for that merchandise.

The United States objected; and I beg your indulgence while I read from the message of President Cleveland upon that subject, sent to the Congress August 23, 1888. He says:

By article 27 of the treaty of 1871 provision was made to secure to the citizens of the United States the use of the Welland, St. Lawrence, and other canals in the Dominion of Canada on terms of equality with the inhabitants of the Dominion, and to also secure to the subjects of Great Britain the use of the St. Clair Flats Canal on terms of equality with the inhabitants of the United States.

The equality with the inhabitants of the Dominion which we were promised in the use of the canals of Canada did not secure to us freedom from tolls in their navigation, but we had a right to expect that we, being Americans and interested in American commerce, would be no more burdened in regard to the same than Canadians engaged in their own trade; and the whole spirit of the concession made was, or should have been, that merchandise and property transported to an American market through these canals should not be enhanced in its cost by tolls many times higher than such as were carried to an adjoining Canadian market. All our citizens, producers and consumers as well as vessel owners, were to enjoy the equality promised.

And yet evidence has for some time been before the Congress, furnished by the Secretary of the Treasury, showing that while the tolls charged in the first instance are the same to all, such vessels and cargoes as are destined to certain Canadian ports—

Their coastwise trade—

are allowed a refund of nearly the entire tolls, while those bound for American ports are not allowed any such advantage.

To promise equality and then in practice make it conditional upon our vessels doing Canadian business instead of their own, is to fulfill a promise with the shadow of performance.

Upon the representations of the United States embodying that view, Canada retired from the position which she had taken, rescinded the provision for differential tolls, and put American trade going to American markets on the same basis of tolls as Canadian trade going to Canadian markets. She did not base her action upon any idea that there was no competition between trade to American ports and trade to Canadian ports, but she recognized the law of equality in good faith and honor; and to this day that law is being accorded to us and by each great Nation to the other.

I have said, Mr. President, that the Clayton-Bulwer treaty was sought by us. In seeking it we declared to Great Britain what it was that we sought. I ask the Senate to listen to the declaration that we made to induce Great Britain to enter into that treaty—to listen to it because it is the declaration by which we are in honor bound as truly as if it were signed and sealed.