SENATE.

TUESDAY, *May 26, 1914.*

The Senate met at 11 o'clock a. m.

The Chaplain, Rev. Forrest J. Prettyman, D. D., offered the following prayer:

Almighty God, Thou dost not confine Thyself in the revelations of Thyself to the forms of human speech. Thou hast not been discovered by the unassisted human intellect. Thou art more to us than a reasonable deduction. Thou dost speak to the hearts of men. Thy revelations have come to us in forms of mercy, and of love, and of patience, and of long suffering. Thou art still our God as Thou hast been the God of our fathers, and we lift not only our minds to Thee but our hearts. We pray that our whole life may be under the control of the will of God and in all our speech and action may we set forth the presence and power of Thy spirit in our lives. For Christ's sake. Amen.

NAMING A PRESIDING OFFICER.

The Secretary (James M. Baker) read the following communication:

PRESIDENT PRO TEMPORE, UNITED STATES SENATE,
Washington, May 26, 1914.

To the Senate:

Being temporarily absent from the Senate I appoint Hon. GILBERT M. HITCHCOCK, a Senator from the State of Nebraska, to perform the duties of the Chair during my absence.

JAMES P. CLARKE,
President pro tempore.

Mr. HITCHCOCK thereupon took the chair as Presiding Officer for the day and directed that the Journal of yesterday's proceedings be read.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. STONE and by unanimous consent, the further reading was dispensed with, and the Journal was approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2860) providing a temporary method of conducting the nomination and election of United States Senators.

The message also transmitted to the Senate resolutions of the House on the death of Hon. WILLIAM O. BRADLEY, late a Senator from the State of Kentucky.

The message further announced that the Speaker of the House had appointed Mr. JOHNSON of Kentucky, Mr. STANLEY, Mr. SHERLEY, Mr. HELM, Mr. THOMAS, Mr. CANTRILL, Mr. FIELDS, Mr. ROUSE, Mr. BARKLEY, Mr. LANGLEY, Mr. AUSTIN, Mr. KAHN, Mr. GREEN of Iowa, Mr. J. M. C. SMITH, Mr. SWITZER, and Mr. JOHNSON of Washington the committee on the part of the House to attend the funeral of the deceased Senator.

PANAMA CANAL TOLLS.

Mr. LANE. Mr. President, I should like to announce that on Friday next at any time that is proper I should like to make an address on the tolls question.

Mr. WEEKS. Mr. President, I wish to announce that on Friday, May 29, at the close of the morning business and following the remarks of the Senator from Oregon [Mr. LANE], I shall address the Senate briefly on the Panama Canal tolls repeal bill.

DONIPHAN'S EXPEDITION INTO MEXICO.

Mr. STONE. Mr. President, I have in my hand a very beautifully written and interesting account of the celebrated expedition led by Gen. Doniphan from Missouri into New Mexico and on to Chihuahua, old Mexico, and other points during the Mexican War. It is not very long, but is out of print. It was written by Mr. John T. Hughes, a member of the celebrated regiment or brigade led by Gen. Doniphan. I ask that it may be printed as a public document of the Senate.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Missouri?

Mr. NORRIS. Before that is acted upon, I think we ought to have a quorum present. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Chamberlain	Hitchcock	Lee, Md.
Bankhead	Clapp	Johnson	McLean
Brady	Clark, Wyo.	Jones	Martin, Va.
Bristow	Crawford	Kenyon	Nelson
Bryan	Culberson	Kern	Norris
Burton	Gallinger	La Follette	O'Gorman
Catron	Gronna	Lane	Page
Perkins	Simmons	Sutherland	Vardaman
Pittman	Smith, S. C.	Swanson	Weeks
Ransdell	Stephenson	Thompson	White
Shafroth	Sterling	Thornton	Williams
Sheppard	Stone	Tillman	Works

Mr. SHAFROTH. I desire to announce the unavoidable absence of my colleague [Mr. THOMAS] and to state that he is paired with the senior Senator from New York [Mr. ROOT].

Mr. CLARK of Wyoming. My colleague [Mr. WARREN] is unavoidably absent on business of the Senate.

Mr. JOHNSON. The Senator from Georgia [Mr. WEST] is necessarily absent on important business. I make this announcement for the day.

Mr. SHEPPARD. I wish to announce the unavoidable absence of the Senator from West Virginia [Mr. CHILTON] and his pair with the Senator from New Mexico [Mr. FALL].

Mr. KERN. I desire to announce the unavoidable absence on business of the Senate of the Senator from Kentucky [Mr. JAMES], the senior Senator from New Jersey [Mr. MARTINE], the Senator from Arizona [Mr. SMITH], and the Senator from North Carolina [Mr. OVERMAN].

Mr. GALLINGER. I announce the unavoidable absence of the Senator from Utah [Mr. SMOOT] on business of the Senate.

The PRESIDING OFFICER. Forty-eight Senators have answered to their names. A quorum of the Senate is present. The Senator from Missouri asks unanimous consent for the publication of a certain document, the title of which he will state.

Mr. STONE. It is entitled "Doniphan's Expedition." It is historical, of course. It is an account of Gen. Doniphan's expedition during the Mexican War in what is now New Mexico and on into Chihuahua, Durango, and other parts of Mexico, where he joined his forces with those of the American Army.

Mr. GALLINGER. I will ask the Senator was it an expedition during the War with Mexico, more than half a century ago?

Mr. STONE. Yes.

Mr. CATRON. Doniphan's expedition.

Mr. GALLINGER. Doniphan's expedition?

Mr. STONE. Doniphan. It is a beautifully written book, by John T. Hughes, who was an officer of the regiment. The book is out of print. It contains 144 pages.

Mr. GALLINGER. Was it printed by the Government, I will ask the Senator?

Mr. STONE. It was not. It was written by Mr. Hughes and printed a good long while ago. I was looking for the date. I do not find it on the title page.

Mr. GALLINGER. We have been in the habit recently of referring such matters as a rule to the Committee on Printing, and as a member of that committee I would suggest to the Senator if it goes there I will exert myself to have it reported out at an early day.

Mr. STONE. Of course, if it is desired to have it referred I will not press for immediate action.

Mr. GALLINGER. I think that is the better procedure.

Mr. STONE. Very well.

The PRESIDING OFFICER. The matter will be referred to the Committee on Printing.

Mr. STONE. I trust the book will not get lost. It will not be possible to replace it.

Mr. GALLINGER. We will try to take care of it, I will say to the Senator.

The PRESIDING OFFICER. The presentation of petitions and memorials is in order.

PETITIONS AND MEMORIALS.

Mr. GRONNA. I have a letter from Rev. C. F. Strutz, secretary of the Dakota Conference of the Evangelical Association, which I ask to have read.

There being no objection, the letter was read and referred to the Committee on the Judiciary, as follows:

ZION EVANGELICAL CHURCH,
803 Sixth Avenue SE., Aberdeen, S. Dak., May 16, 1914.

Hon. A. J. GRONNA, *Washington, D. C.*

ESTEEMED SIR: On the above date the following resolution was unanimously adopted by the Dakota Conference of the Evangelical Association at its thirty-first annual session, held at Kidder, S. Dak., May 14 to 17, 1914. Said conference embraces North and South Dakota and a section of Montana and represents about 40,000 German-Americans:

"Resolution.

"*Resolved*, That this conference is in favor of the passage of the Sheppard-Hobson resolution now before Congress for a constitutional amendment prohibiting the manufacture and sale of alcoholic beverages, and we call upon our Senators and Representatives in Congress to use their influence to secure its early adoption."

We German-Americans are not all in favor of license and "personal liberty," but resent the effort that is being made by the liquor interests to create the impression that the German-Americans are the unanimous champions of the liquor traffic. We regard such an insinuation a gross insult to a large number of our best citizens and emphatically enter protest.

Hoping that the above resolution will receive due attention at your hands, I beg to remain,

Yours, for happy homes and a sober citizenship.

C. F. STRUTZ,
Secretary of Dakota Conference.

Mr. GRONNA presented a petition of sundry citizens of Bartlett, N. Dak., praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which was referred to the Committee on the Judiciary.

Mr. JOHNSON presented a memorial of Local Union No. 69, International Brotherhood of Stationary Firemen, of Millinocket, Me., remonstrating against the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which was referred to the Committee on the Judiciary.

He also presented a petition of the Baptist Christian Endeavor Society and a petition of the Win One Bible Class, of Millinocket, Me., praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which was referred to the Committee on the Judiciary.

Mr. PITTMAN presented memorials of sundry citizens of Nevada, remonstrating against the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

Mr. SHIVELY presented memorials of C. B. Brazier, William H. Dickmeyer, G. A. Ankenbruck, and 115 other citizens of Fort Wayne and Indianapolis, in the State of Indiana, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

Mr. JONES presented memorials of sundry citizens of Renton, Newport, Spokane, Tacoma, Vancouver, Bellingham, King County, Seattle, Enumclaw, Everett, North Yakima, Aberdeen, Pasco, and Okanogan, all in the State of Washington, remonstrating against the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

He also presented petitions of sundry citizens of Spokane, Opportunity, and Aberdeen, all in the State of Washington, praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

Mr. ROOT presented petitions of sundry citizens of New York, praying for national recognition of the services rendered by Dr. Frederick A. Cook in the discovery of the North Pole, which were referred to the Committee on the Library.

He also presented a petition of the National Woman's Christian Temperance Union, of New York City, N. Y., praying for the enactment of legislation to provide for Federal censorship of motion pictures, which was referred to the Committee on Education and Labor.

Mr. TILLMAN presented a memorial of sundry citizens of Laurins, S. C., remonstrating against the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which was referred to the Committee on the Judiciary.

Mr. McLEAN presented the memorial of Dr. Ernest R. Pike and sundry other citizens of East Woodstock, Conn., remonstrating against the passage of the so-called antinarcotic bill, which was ordered to lie on the table.

He also presented a petition of the Connecticut State Association of Letter Carriers, by John L. Counihan, of Norwich, Conn., secretary, praying for the enactment of legislation providing for the retirement of superannuated civil-service employees, which was referred to the Committee on Civil Service and Retrenchment.

Mr. WEEKS presented memorials of sundry citizens of Lynn, Fair Haven, New Bedford, Springfield, Boston, Holyoke, Roxbury, Worcester, Lowell, Westport, Roslindale, Dedham, Cambridge, Dracut, Randolph, and Newton, all in the State of Massachusetts, remonstrating against the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

He also presented petitions of the Federation of Churches of Braintree and of sundry citizens of Lee and Fitchburg, all in the State of Massachusetts, praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

Mr. PAGE presented a petition of sundry citizens of Charlotte, Vt., praying for national prohibition, which was referred to the Committee on the Judiciary.

Mr. KERN presented memorials of sundry citizens of Fort Wayne, Ind., remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

Mr. O'GORMAN presented memorials of sundry citizens of New York City, Buffalo, Jamestown, Albany, Schenectady, Syracuse, Brooklyn, and Ithaca, all in the State of New York, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

He also presented memorials of the United Irish-American Societies of New York City; of Abraham Lincoln Branch, American Continental League, of Cohoes; and of Admiral Stewart Branch, American Continental League, of New York City, all in the State of New York, remonstrating against an appropriation for the celebration of the so-called "One hundred years of peace among English-speaking peoples," which were referred to the Committee on Foreign Relations.

Mr. McLEAN presented memorials of sundry citizens of Bridgeport, Southport, East Haven, Westville, Waterbury, New Haven, Hartford, Meriden, Milford, North Branford, Wilson, Hartford, New Britain, and East Hartford, all in the State of Connecticut, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

He also presented a petition of the Equal Franchise League, of Bedding, and a petition of sundry citizens of Moodus, in the State of Connecticut, praying for the adoption of an amendment to the Constitution to grant equal suffrage to women, which were ordered to lie on the table.

He also presented a petition of the Connecticut Piano Dealers' Association, praying for the enactment of legislation to prevent discrimination in prices and to provide for publicity of such prices, which was referred to the Committee on the Judiciary.

He also presented a memorial of the Connecticut State Association of Letter Carriers, remonstrating against the enactment of legislation authorizing the closing of first and second class post offices on Sunday, which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of the Common Council of Stamford, Conn., praying for the enactment of legislation to provide pensions for civil-service employees, which was referred to the Committee on Civil Service and Retrenchment.

Mr. BRANDEGEE presented petitions of the Young Men's Christian Association of Connecticut, and of sundry citizens of Eastford, Conn., praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented a memorial of sundry citizens of Norwalk, Conn., remonstrating against national prohibition, which was referred to the Committee on the Judiciary.

Mr. CRAWFORD presented memorials of sundry citizens of Dell Rapids, Sioux Falls, and Rapid City, all in the State of South Dakota, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

He also presented a petition of sundry citizens of McCook County, S. Dak., praying for national prohibition, which was referred to the Committee on the Judiciary.

Mr. SHEPPARD presented memorials of sundry citizens of Dallas, Waco, San Antonio, Runge, Galveston, Houston, Fort Worth, and Fort Bent, all in the State of Texas, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

He also presented a petition of sundry citizens of Hillsboro, Tex., praying for national prohibition, which was referred to the Committee on the Judiciary.

NATIONAL PROHIBITION.

Mr. SHEPPARD. I send to the desk a resolution adopted by the Southern Baptist Convention at Nashville, Tenn., May 14, which I ask may be read.

The Secretary read as follows:

Resolved, That we, the Southern Baptist Convention, representing the white Baptists of the South, numbering more than two and a half millions, in annual session assembled on this the 14th day of May, 1914, in the city of Nashville, Tenn., do hereby heartily and unanimously favor national constitutional prohibition and will do all within our power to secure the adoption of an amendment to the Constitution forever prohibiting the sale, manufacture for sale, importation for sale, exportation or transportation for sale of intoxicating liquors for beverage purposes, or foods containing alcohol, in accordance with the joint resolution introduced in the United States Congress by Congressman RICHMOND PEARSON HOBSON and Senator MORRIS SHEPPARD.

Mr. SUTHERLAND. Mr. President, I should like to ask the Senator from Texas a question. It has been reported in the newspapers during the last few days that the joint resolution which was prepared and introduced by the Senator in this body and by Representative HOBSON in the other House had been abandoned in the House for at least this session. Can the Senator give us any information about the matter?

Mr. SHEPPARD. I do not think the report is true; in fact, I am sure it is not true. The proposed constitutional amendment has not been abandoned.

Mr. SUTHERLAND. Has it been abandoned for this session?

Mr. SHEPPARD. If it has been, I know nothing of any such action having been taken or contemplated.

Mr. SUTHERLAND. Then, does the Senator from Texas understand that it is not to be pressed in the other House at this session?

Mr. SHEPPARD. I do not so understand.

Mr. SUTHERLAND. The Senator from Texas, then, understands that it will be pressed in the other House?

Mr. SHEPPARD. So far as I know, it will be pressed in the House, and I know that I desire to press it in the Senate, and intend to do so.

The PRESIDING OFFICER. The resolution will be referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES.

Mr. SWANSON, from the Committee on Public Buildings and Grounds, to which was referred the bill (S. 5570) to increase the appropriation for the erection of an immigration station at Baltimore, Md., reported it with an amendment and submitted a report (No. 552) thereon.

He also, from the same committee, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

A bill (H. R. 3988) for the purchase of a building and lot as a mine rescue station at McAlester, Okla. (Rept. No. 553);

A bill (H. R. 14242) to increase the limit of cost for the erection and completion of the United States Federal building at Harrisburg, Pa. (Rept. No. 554);

A bill (H. R. 11254) to increase the limit of cost for the erection and completion of the United States post-office building at Mandan, N. Dak. (Rept. No. 555); and

A bill (H. R. 11747) to increase the limit of cost for the purchase of a site and the construction of a public building in Memphis, Tenn. (Rept. No. 556).

Mr. SWANSON, from the Committee on the Library, to which was referred the concurrent resolution (S. Con. Res. 22) authorizing the appointment of a committee of Congress to attend the unveiling of a monument to President John Tyler at Richmond, Va., asked to be discharged from its further consideration and that it be referred to the Committee to Audit and Control the Contingent Expenses of the Senate, which was agreed to.

Mr. REED, from the Committee on Manufactures, to which was referred the bill (H. R. 14330) to prohibit the importation and entry of goods, wares, and merchandise made in whole or in part by convict, pauper, or detained labor, or made in whole or in part from materials which have been made in whole or in part or in any manner manipulated by convict or prison labor, reported it without amendment and submitted a report (No. 557) thereon.

BILLS AND JOINT RESOLUTION INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. GALLINGER:

A bill (S. 5660) granting an increase of pension to James E. S. Pray (with accompanying papers); to the Committee on Pensions.

By Mr. CHAMBERLAIN:

A bill (S. 5662) providing for the collection of tolls from vessels passing through the canals at St. Marys Falls, and for other purposes; to the Committee on Commerce.

By Mr. BRADY:

A bill (S. 5663) appropriating the sum of $100,000 for the construction of a system of wagon roads on the Coeur d'Alene Indian Reservation, in Kootenai County, Idaho, and providing the manner in which said appropriation shall be expended; to the Committee on Indian Affairs.

By Mr. JONES:

A bill (S. 5664) relating to use of mails in effecting fire insurance, and for other purposes; to the Committee on Post Offices and Post Roads.

By Mr. SWANSON:

A bill (S. 5665) to authorize the use of the property of the United States at Mount Weather, near Bluemont, Va., as a summer White House; to the Committee on Public Buildings and Grounds.

A bill (S. 5666) for the relief of Lucy A. Hughson, administratrix;

A bill (S. 5667) for the relief of Dr. S. W. Hobson; and

A bill (S. 5668) for the relief of the estate of Martin Matthew, deceased; to the Committee on Claims.

By Mr. PERKINS:

A bill (S. 5669) for the relief of the retired officers of the Navy who were retired for physical disability incident to the service when due for promotion to the next higher grade; to the Committee on Naval Affairs.

By Mr. LA FOLLETTE:

A bill (S. 5670) to authorize the Secretary of the Interior to establish the town site of Odanah, Wis., on the La Pointe or Bad River Reservation, and for other purposes; to the Committee on Indian Affairs.

By Mr. McLEAN:

A bill (S. 5671) granting an increase of pension to Walter H. Hutchinson (with accompanying papers); and

A bill (S. 5672) granting an increase of pension to Harriet M. Marks (with accompanying papers); to the Committee on Pensions.

By Mr. PITTMAN:

A bill (S. 5673) to amend an act entitled "An act to protect the locators in good faith of oil and gas lands who shall have effected an actual discovery of oil or gas on the public lands of the United States, or their successors in interest," approved March 2, 1911; to the Committee on Public Lands.

By Mr. JONES:

A bill (S. 5674) confirming the title of Hannah Robinson to certain lands and authorizing and directing the issuance of patent therefor; to the Committee on Indian Affairs.

By Mr. THORNTON:

A joint resolution (S. J. Res. 150) providing for the taking for purposes of illustration of 30 specimens of Pribilof Islands fur seal from the collection of the United States National Museum; to the Committee on Fisheries.

MARINE HOSPITAL RESERVATION, CLEVELAND, OHIO.

Mr. BURTON. I introduce a bill which I desire to have properly referred. It is for the sale of a portion of the ground belonging to the Marine Hospital at Cleveland, Ohio. I am not sure to what committee the bill should be referred—whether to the Committee on Public Lands or to the Committee on Public Buildings and Grounds.

The PRESIDING OFFICER. The bill will be read by title.

The bill (S. 5661) to provide for the sale of a portion of the United States Marine Hospital Reservation at Cleveland, Ohio, was read twice by title.

Mr. SWANSON. Such bills when they appertain to naval lands usually go to the Naval Committee and when they appertain to military lands to the Military Committee. Is this reservation under the jurisdiction of the Navy Department or of the War Department, I will ask the Senator from Ohio?

Mr. BURTON. The marine hospital is under the jurisdiction of the Treasury Department.

Mr. SWANSON. In that case I think the bill should be referred to the Committee on Public Buildings and Grounds.

The PRESIDING OFFICER. Without objection, the bill will be referred to the Committee on Public Buildings and Grounds.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. JONES submitted two amendments intended to be proposed by him to the river and harbor appropriation bill, which were referred to the Committee on Commerce and ordered to be printed.

He also submitted an amendment ratifying the conveyance by John Teopil and his wife, Susan, to John Robinson, of the west half of the southwest quarter of section 26, township 18 north, range 18 east, of the Willamette meridian, Washington, and so forth, intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. O'GORMAN submitted an amendment intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

ASSISTANT CLERK TO COMMITTEE ON NAVAL AFFAIRS.

Mr. TILLMAN submitted the following resolution (S. Res. 377), which was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Committee on Naval Affairs be, and it is hereby, authorized to continue the employment of an assistant clerk at $1,440 per annum, to be paid from "miscellaneous items" of the contingent fund of the Senate, until July 1, 1914.

INTERNATIONAL TRIBUNAL OF ARBITRATION.

Mr. SUTHERLAND. I submit a resolution (S. Res. 376), which I ask to have read and referred to the Committee on Foreign Relations.

The resolution (S. Res. 376) was read and referred to the Committee on Foreign Relations, as follows:

Whereas on the 4th day of April, 1908, there was concluded between the United States and Great Britain a convention to continue for the period of five years thereafter by which it was agreed among other things as follows:

ARTICLE 1.

Differences which may arise of a legal nature or relating to the interpretation of treaties existing between the two contracting parties, and which it may not have been possible to settle by diplomacy, shall be referred to the Permanent Court of Arbitration established at The Hague by the convention of the 29th of July, 1899, provided, nevertheless, that they do not affect the vital interests, the independence, or the honor of the two contracting States and do not concern the interests of third parties.

ARTICLE 2.

In each individual case the high contracting parties before appealing to the Permanent Court of Arbitration shall conclude a special agreement defining clearly the matter in dispute, the scope of the powers of the arbitrators, and the periods to be fixed for the formation of the arbitral tribunal and the several stages of the procedure. It is understood that such special agreements on the part of the United States will be made by the President of the United States, by and with the advice and consent of the Senate thereof; His Majesty's Government reserving the right before concluding a special agreement in any matter affecting the interests of a self-governing Dominion of the British Empire to obtain the concurrence therein of the Government of that Dominion;

Such agreements shall be binding only when confirmed by the two Governments by an exchange of notes; and

Whereas on the 21st day of February, 1914, the said convention was by the high contracting parties renewed for a further period of five years thereafter; and

Whereas by the convention concluded at the Second International Peace Conference, held at The Hague in 1907, to which convention the United States and Great Britain were both parties, it was agreed among other things that—

"In questions of a legal nature, and especially in the interpretation or application of international conventions, arbitration is recognized by the contracting parties as the most effective and at the same time the most equitable means of settling disputes which diplomacy has failed to settle"; and

Whereas it was further provided in the said convention that—

"The permanent court is competent for all arbitration cases, unless the parties agree to institute a special tribunal"; and

Whereas a dispute now exists between the United States and Great Britain as to the interpretation of certain provisions of the Hay-Pauncefote treaty, concluded between the United States and Great Britain on the 18th day of November, 1901, respecting the authority of the United States to relieve, in whole or in part, the ships of commerce of its citizens from the payment of tolls which may be exacted from the ships of commerce or of war of other nations or the citizens of other nations for the use of the Panama Canal:

Resolved, That the President be, and he hereby is, requested to open diplomatic negotiations with the Government of Great Britain with a view to the conclusion of a special agreement between the United States and Great Britain for the appointment of an impartial international tribunal of arbitration and for the submission to and the determination by such tribunal of such dispute.

RATES ON SUGAR.

Mr. RANSDELL submitted the following resolution (S. Res. 375), which was read, considered by unanimous consent, and agreed to:

Resolved, That the Interstate Commerce Commission be, and it hereby is, requested to transmit to the Senate the transcript of testimony taken before the commission in the matter of application of R. H. Countiss, agent, in behalf of transcontinental carriers, for relief under the provisions of the fourth section, with respect to rates on sugar from points in California and other States to Chicago, Ill., now pending before the commission.

COMMITTEE SERVICE.

On motion of Mr. KERN, it was

Ordered, That FRANCIS S. WHITE, junior Senator from Alabama, be appointed chairman of the Committee on Revolutionary Claims, to fill the vacancy occasioned by the death of Senator Bradley.

AGRICULTURAL APPROPRIATIONS—CONFEREE.

Mr. CHAMBERLAIN. Mr. President, the other day I was appointed one of the conferees on the Agricultural appropriation bill, but I find that my duties with the Commerce Committee in the consideration of the river and harbor bill are taking up all of my time. I therefore ask to be relieved from further service as one of the conferees on the part of the Senate.

The PRESIDING OFFICER. Without objection, the Senator from Oregon will be excused from further service, and the Chair appoints the Senator from South Carolina [Mr. SMITH] to fill the vacancy.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. Latta, executive clerk, announced that the President had, on May 25, 1914, approved and signed the following acts:

S. 65. An act to amend an act entitled "An act providing that the State of Wyoming be permitted to relinquish to the United States certain lands heretofore selected and to select other lands from the public domain in lieu thereof," approved April 12, 1910;

S. 1243. An act directing the issuance of patent to John Russell; and

S. 5289. An act to provide for warning signals on vessels working on wrecks or engaged in dredging or other submarine work, and to amend section 2 of the act approved June 7, 1897, entitled "An act to adopt regulations for preventing collisions upon certain harbors, rivers, and inland waters of the United States."

INTERNATIONAL CONGRESS ON NEUROLOGY (H. DOC. NO. 997).

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was read and, with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed:

To the Senate and House of Representatives:

In view of a provision contained in the deficiency act of March 4, 1913, that "hereafter the Executive shall not extend or accept any invitation to participate in any international congress, conference, or like event without first having specific authority of law," I transmit herewith, for the consideration of the Congress and for its determination whether it will authorize the acceptance of the invitation and the appropriation necessary to defray the expenses incident thereto, a report from the Secretary of State, with accompanying papers, being an invitation from the Government of Switzerland to that of the United States to send delegates to an International Congress on Neurology, Psychiatry, and Psychology, to be held at Berne, Switzerland, from September 7 to September 12, 1914, and a letter from the Department of the Interior showing the views of that department with regard to the proposed congress and recommending an appropriation of not to exceed $500 to defray the expenses of participation by the Government of the United States.

WOODROW WILSON.

THE WHITE HOUSE, *May 26, 1914.*

SIXTH INTERNATIONAL DENTAL CONGRESS (H. DOC. NO. 998).

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was read and, with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed:

To the Senate and House of Representatives:

In view of a provision contained in the deficiency act approved March 4, 1913, that "hereafter the Executive shall not extend or accept any invitation to participate in any international congress, conference, or like event without first having specific authority of law," I transmit herewith for the consideration of the Congress and for its determination whether it will authorize the acceptance of the invitation a report from the Secretary of State, with accompanying papers, being an invitation from the British Government to that of the United States to send delegates to the Sixth International Dental Congress, to be held at London from August 3 to 8, 1914, and a letter from the Department of the Interior showing the favor with which that department views the proposed gathering.

WOODROW WILSON.

THE WHITE HOUSE, *May 26, 1914.*

POST-OFFICE EMPLOYEES.

The PRESIDING OFFICER. The Chair lays before the Senate a resolution coming over from a previous day, which will be read.

The Secretary read the resolution (S. Res. 373) submitted by Mr. JONES on the 23d instant, as follows:

Resolved, That the Postmaster General be directed to transmit to the Senate the following information:

1. The names, ages, and length of service of those employees in the department in the District of Columbia and in the post office in Washington City who served in any war of the United States and who have been demoted, discharged, or resignations called for since March 4, 1914.

2. The rating of efficiency of each of such employees on March 4, 1914, and the rating with which they were credited at the date of demotion, discharge, or when resignation was called for.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

THE CALENDAR.

The PRESIDING OFFICER. Morning business is closed.

Mr. GALLINGER. Mr. President, I rise for the purpose of appealing to the Senate to devote the time from now until 1 o'clock to the consideration of the calendar. There never has been a time in my experience here when we have had one-half as many bills accumulated on the calendar as we have now. There are between two and three hundred bills and resolutions, and we could dispose of a good many of them before the morning hour closes if we were permitted to take up the calendar.

Mr. GRONNA. Mr. President——

The PRESIDING OFFICER. The calendar under Rule VIII is in order.

Mr. GRONNA. Mr. President, I was about to ask unanimous consent to take up a certain bill on the calendar; but since the

Senator from New Hampshire [Mr. GALLINGER] has asked to take up the calendar, I shall forego the request. I hope we may reach the bill in the regular order.

The PRESIDING OFFICER. The calendar under Rule VIII is in order. Is it the wish of the Senator from New Hampshire to proceed to the consideration of the first bill on the calendar?

Mr. GALLINGER. Mr. President——

Mr. JONES. Mr. President, I simply desire to say that I had given notice that I should submit some remarks on yesterday; and the junior Senator from Louisiana [Mr. RANSDELL] was to speak to-day. He understands that I am to come in ahead of him. I have no objection personally to going on with the calendar, but I do not know just how he will feel about delaying his speech in that way.

The PRESIDING OFFICER. The Chair understands that the request is to proceed with the calendar only until 1 o'clock.

Mr. JONES. Yes; and I have no objection to that myself; but the Senator from Louisiana understands that he is to come in to-day right after the conclusion of my address. He may not like to be delayed as long as this course would delay him.

Mr. KERN. Mr. President, may I ask the Senator whether there is any difficulty about both speeches being made between the hours of 1 and 6 o'clock?

Mr. JONES. I do not know. I shall take probably about two hours or two hours and a half. I understand the remarks of the Senator from Louisiana are to be at least that long. As I said, it makes no difference to me; but he and I had that understanding about my coming in, and I do not know whether he would like to be delayed so long as that.

Mr. KERN. I will ascertain later.

The PRESIDING OFFICER. The Chair understands three Senators have given notices for to-day. The calendar under Rule VIII is in order at this time.

The first business on the calendar was the bill (S. 1240) to establish the legislative reference bureau of the Library of Congress.

Mr. GALLINGER. I ask that the bill may go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 655) authorizing the Secretary of the Interior to survey the lands of the abandoned Fort Assiniboine Military Reservation and open the same to settlement was announced as next in order.

Mr. CLARK of Wyoming. Mr. President, that bill was put over, I think, and the following joint resolution, at the request of the Senator from Utah [Mr. SMOOT], the last time the calendar was under consideration. Neither of the Senators from Montana is here. I do not want to object to the consideration of the bill, but I call attention to that fact. I think under the circumstances this bill and the following one had better be passed over.

The PRESIDING OFFICER. The bill will be passed over.

The joint resolution (S. J. Res. 41) authorizing the Secretary of the Interior to sell or lease certain public lands to the Republic Coal Co., a corporation, was announced as next in order.

Mr. GALLINGER. I ask that the joint resolution be passed over.

The PRESIDING OFFICER. It will be passed over.

The bill (S. 2242) making it unlawful for any Member of Congress to serve on or solicit funds for any political committee, club, or organization was announced as next in order.

Mr. BURTON. I ask that that bill may go over.

The PRESIDING OFFICER. The bill will be passed over.

RIGHT OF WAY NEAR ENGLE, N. MEX.

The bill (S. 3112) to authorize the Secretary of the Interior to acquire certain right of way near Engle, N. Mex., was considered as in Committee of the Whole.

The PRESIDING OFFICER. The bill has been twice read in full.

The bill had been reported from the Committee on Public Lands with amendments, on page 1, line 8, after the word "Dam," to strike out "and as the consideration for such conveyance there shall be continuously furnished to said railway company from the water impounded above Elephant Butte Dam, now under construction by the Reclamation Service" and insert "and as the consideration for such conveyance the railway company shall be permitted to take from the water impounded above Elephant Butte Dam, now under construction by the Reclamation Service," and, on page 2, line 8, after the word "month," to insert the following proviso: "*Provided*, That neither the United States nor its successors in interest shall be held liable for or obligated to supply the water hereinbefore described, but in the event that the United States or its successors in interest shall abandon the use of the land upon which the said Atchison, Topeka & Santa Fe Railway has its said right of way for a reservoir site as herein contemplated, said right of way so far as the same may be conveyed to the United States hereunder shall revert to the said railway company," so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and is hereby, authorized to receive on behalf of the United States from the Atchison, Topeka & Santa Fe Railway Co. the conveyance of so much of said company's pipe-line right of way from a point near Engle, N. Mex., to the Rio Grande River as will be flooded by the Elephant Butte Dam; and as the consideration for such conveyance the railway company shall be permitted to take from the water impounded above Elephant Butte Dam, now under construction by the Reclamation Service, and which will flood such right of way, such quantity of water as the Secretary of the Interior may find to be necessary for the operation of said company's railway, but not exceeding 30,000,000 gallons of water per month: *Provided*, That neither the United States nor its successors in interest shall be held liable for or obligated to supply the water hereinbefore described, but in the event that the United States or its successors in interest shall abandon the use of the land upon which the said Atchison, Topeka & Santa Fe Railway has its said right of way for a reservoir site as herein contemplated, said right of way so far as the same may be conveyed to the United States hereunder shall revert to the said railway company.

The amendments were agreed to.

Mr. REED. Mr. President, who introduced the bill?

The PRESIDING OFFICER. The bill was introduced by the junior Senator from New Mexico [Mr. CATRON], and reported from the Committee on Public Lands.

Mr. REED. I have here a note that was handed me, stating that the senior Senator from Colorado [Mr. THOMAS] is interested in the bill and desires to have it go over until his return.

Mr. CATRON. I will state that the senior Senator from Colorado [Mr. THOMAS] has agreed with me to waive his objection and let the bill go through. His colleague will inform the Senator from Missouri that that is the fact.

Mr. REED. Just one moment. Mr. President——

Mr. CATRON. Unless the Senator has changed his course, that was his agreement with me. I do not know what he may have done in the last few days.

Mr. REED. In view of the request that has been made of me, although I dislike very much to delay the matter under the statement of the Senator from New Mexico, I feel that I ought to ask to have the bill go over for one day until I can ascertain whether the senior Senator from Colorado has changed his mind since he saw the Senator from New Mexico.

Mr. CATRON. The chances are about a thousand to one that we will not get at it any more if it goes over for a day.

Mr. REED. Oh, there will be another opportunity.

The PRESIDING OFFICER. The bill will be passed over.

Mr. KERN. Mr. President, the junior Senator from Louisiana [Mr. RANSDELL] was not in the Chamber when the calendar was taken up. I learn from him that he will be seriously inconvenienced if not permitted to go on with his speech within reasonable bounds. Therefore I ask unanimous consent that the proceedings under the calendar be suspended.

Mr. GALLINGER. Mr. President, I have no interest in a single bill on the calendar, and I have no desire to urge its consideration. I regret that the Senate has permitted the calendar to become so voluminous as it is. Under the circumstances, I think the request that the unfinished business should be laid before the Senate is a proper one; and hence I shall not insist upon considering the calendar.

Mr. SHIVELY. Mr. President, inasmuch as this notice has been given, I agree that the Senator from Louisiana should be permitted to go forward now and make his speech, but I venture the hope that immediately after the conclusion of his speech we may return to the calendar.

Mr. O'GORMAN. Mr. President, that can not very well be done, because three Senators have given notice of an intention to address the Senate to-day. I do not think an effort should be made to take up the time of the Senate to-day with the consideration of the general calendar. I am sure the Senator from New Hampshire would not have made the request if he had been aware that three speeches were to be made to-day.

Mr. GALLINGER. I certainly would not have made it, and I very gladly concur in the suggestion of the Senator from Indiana.

Mr. SHIVELY. I was unaware of it, too; but I do not think anyone will contend that there has been a disposition to consume time unduly on the calendar.

Mr. REED. Mr. President, a moment ago I asked to have Senate bill 3112 laid over until to-morrow. I withdraw the objection, and am willing that it shall be considered now. I have seen the colleague of Senator THOMAS.

Mr. CATRON. I ask that the consideration of the bill may be resumed.

Mr. ASHURST. Mr. President, of course I shall not object to the request for unanimous consent which has been made by

the distinguished Senator from Indiana; but I must say that before I can give unanimous consent I shall ask the Senate to consider a couple of bills that I have reported, and which have been on the calendar for some time. The calendar must be reached sooner or later.

Mr. GALLINGER. Mr. President, the bill in which the Senator from New Mexico is interested was before the Senate, and the objection has been withdrawn, so it ought to be considered.

Mr. CATRON. I ask that it be now taken up.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 3112) to authorize the Secretary of the Interior to acquire certain right of way near Engle, N. Mex.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ORDER OF BUSINESS.

Mr. SWANSON. Mr. President, the junior Senator from Indiana [Mr. KERN] has asked unanimous consent that the further consideration of the calendar be dispensed with and that we proceed with the speeches of which notice have been given for to-day. I note that notices have been given for Thursday. Friday has been left vacant so far as any notice to address the Senate is concerned. It would seem to me that we ought to have an understanding that next Friday—for which no notice has been given, as I understand—the calendar will be taken up and considered.

The PRESIDING OFFICER. The Chair will state that two notices have since been given for Friday.

Mr. SWANSON. Has any notice been given for Saturday?

The PRESIDING OFFICER. Not so far as the Chair has heard.

Mr. SWANSON. I think, then, it would be well for the Senate to have an understanding that next Saturday we will take up the calendar. The congestion of the calendar is very great.

Mr. KENYON. Saturday will be Memorial Day.

Mr. KERN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Virginia yield to the Senator from Indiana?

Mr. SWANSON. I do.

Mr. KERN. I suggest to the Senator that there is a general sentiment that the calendar ought to be taken up, and I think there will be no trouble about taking it up at the very first opportunity.

Mr. SWANSON. The opportunity is generally dispensed with by notices being given. I think the calendar is a very important matter. Every Senator has bills on it, and I will ask an understanding that next Monday we shall take up the calendar and devote the entire day to its consideration.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Indiana [Mr. KERN] that further proceedings under the calendar be dispensed with, and that the unfinished business be laid before the Senate?

Mr. GRONNA. Mr. President, unless we can have an understanding that at some time in the near future we will take up the calendar, I must object. There are hundreds of bills pending before the Senate that ought to be passed, and unless we can fix a day when the business of the Senate will be taken up, much as I dislike to do so, I must object.

The PRESIDING OFFICER. An objection is heard.

Mr. KENYON. I will ask the Senator from Indiana why we should not take up the calendar at evening sessions and get through with it.

Mr. KERN. I should be very glad to do that.

PANAMA CANAL TOLLS.

Mr. O'GORMAN. I move that the Senate proceed to the consideration of the unfinished business, the Panama Canal bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14385) to amend section 5 of an act to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation of the Canal Zone, approved August 24, 1912.

Mr. JONES. Mr. President—

We favor the exemption of American ships engaged in coastwise trade passing through the Panama Canal. We also favor legislation forbidding the use of the Panama Canal by ships owned or controlled by railroad carriers engaged in transportation competitive with the canal.

That is a provision from the national Democratic platform, 1912.

Our platform is not molasses to catch flies. It means business. It means what it says. It is the utterance of earnest, honest men, who intend to do business along those lines, and who are not waiting to see whether they can catch votes with those promises before they determine whether they are going to act upon them or not.

That is an extract from a speech delivered during the campaign of 1912 by the then candidate for the Presidency, Mr. Wilson.

A party that violates its platform pledges is unworthy, and deserves the scorn of honest men. * * * When my party acts, whether its actions be right or wrong, so long as I remain a member thereof, I shall steadfastly support its platform demands.

That is an extract from a speech made by Representative HENRY, chairman of the Committee on Rules of the House of Representatives, one of the leaders of his party in that body.

If a man after election finds that his platform contains something which he can not honestly support, what ought he to do? * * * He should resign and let the people select a man to do what they would have him do. * * * A platform is binding upon every honest man.

That is an extract from a speech delivered by Hon. William J. Bryan, Secretary of State under the present administration.

Mr. President, Congress is confronted with the most amazing proposition that has been presented since the foundation of the Government. The repeal of a law is demanded that has not yet gone into effect and which was indorsed by practically every one who sought the suffrage of the people in the last election. Those who declared when the law was passed that our action was well within our treaty rights are now arguing most strenuously that we violated our treaty obligations. Others who voted to exempt our coastwise ships from the payment of tolls after weeks of discussion, and with no suggestion that such exemption was a subsidy, now vociferously condemn such action as a vicious subsidy to a hated monopoly. With Huertaan ingenuity reasons of the most diverse kind are sought and given to sustain the claim of England and discredit our own rights. When driven from one position another is taken inconsistent with the former until we are so bewildered with the kaleidoscopic changes of views and inconsistent positions that we do not know whether one who is for repeal this minute may not be against it the next. I am reminded of a verse like this:

It wriggled and twisted and turned about
Until the beholder was left in doubt.
Whether the snake that made the track
Was going south or coming back.

That we have not violated any treaty obligation by the exemption of our coastwise ships is so plain to me that I can not comprehend how anyone can take a different position. Those on the other side may look at this situation in the same way. In what I say, however, I want it distinctly understood that I do not question the intelligence, the motive, the sincerity, or the patriotism of anyone who does not agree with me, and however strong may be the language used by me it does not apply to the individual in any way, but simply expresses feebly how the action taken or proposed appears to me. As simply and as plainly as possible I am going to try to express my views on a question that I consider of the most far-reaching importance economically and as involving the very independence and sovereignty of the Nation itself, conceding to those who differ from me the same devotion to justice and national honor that I claim for myself. If my language should seem strong, it is not so strong as I feel or as I would like to use.

I would say nothing to wound or grieve the President. His is the most trying position in the Republic. Upon his action, his word, his decision, may depend the happiness of our people, the prosperity of the Nation, and the lives of its citizens. As that tremendous responsibility bears down upon him and he realizes his own weakness and his own fallibility it is no wonder that the burden seems more than he can bear. He should have the sympathy, aid, and assistance of every one of us, and he will get it if he will take it. I know he wants to do what is right; I know he is striving with all his power to promote the welfare of the people; I know he is patriotic, but I also know that he is not infallible and that his life's work has not been such as to fit him for wise action and a safe decision upon many of the problems that he must meet. I want it understood by him and by all that I impute to him the sincerest motives and the loftiest purposes, although I may condemn in unmeasured terms the action his judgment may have led him to take or recommend. The consequences of unwise action may be disastrous, and yet the motives be the purest and highest.

We own a strip of territory 10 miles wide across the Isthmus of Panama. We bought it from the Republic of Panama and paid for it out of the Treasury of the United States. All sovereignty over it was expressly granted to us forever. Through it and entirely within it we have constructed the Panama Canal to connect the waters of the Atlantic and the Pacific and furnish a great water highway for the ships of the world. It has cost us practically $400,000,000. It will cost us from $10,000,000 to $20,000,000 a year to maintain and operate it. We also are obligated to protect, maintain, and defend it.

This canal is ours and entirely within our territory. This is conceded by all.

Two years ago, preparatory to the opening and use of this great canal, Congress, after the most careful consideration and full discussion, passed a law under which the vessels of the United States engaged in the coastwise trade are permitted to pass through the canal without the payment of tolls. Every phase of the question—foreign, economic, and political—was discussed and weighed before we passed it. Our action was deliberate and open. The President approved the act and filed a strong statement upholding the legal right to enact it. Practically everybody accepted it as a wise policy.

It is true that some of those who opposed the passage of this law urged its repeal from time to time, but they were not taken seriously. An election was held subsequent to the passage of the act. No issue was made against it. In fact all parties declared themselves for it, and all the leading candidates for the presidency declared publicly in favor of it. No one thought for a moment that the representatives of the people who had been elected upon the express approval of the action of Congress in passing this law would so far forget their representative capacity as to violate their professions, forget their promises, and defy the almost unanimous wish of the people and vote for the repeal of this law without giving the people an opportunity to say whether they desired this done or not.

The President of the United States, notwithstanding his professions in the campaign, notwithstanding the unequivocal declaration in his party platform, has solemnly asked Congress to repeal this law. Why? The people have a right to know why, and we, their representatives, should tell them why, and why we vote for its repeal if we so vote. The very principle of representative government is at stake. If those selected to represent and legislate for the people deliberately repudiate the issues upon which they were selected, then representative government is a farce.

Under the circumstances it would seem that anyone urging the repeal of this law should present strong and weighty reasons for such action. In asking Congress to repeal a law which it had passed and which he had approved, we have a right to expect that the President would state fully and clearly the reasons which impelled him to change his mind and ask us to retrace our steps so deliberately taken. Has he done so? The people have great confidence in the President, and so have I. They believe him to be honest, sincere, and patriotic; so do I. They do not believe him to be infallible; nor do I. They will follow him when he is right; so will I. They will forsake him when he is wrong, and so will I, except that when he is face to face with an enemy of our country, and then I will be with him, right or wrong. We expected, and the people expected, the reason for this action to be given in his message. What does he say?

He says, "in my judgment, very fully considered and maturely formed, that exemption constitutes a mistaken economic policy from every point of view." That is all on that ground. No reason is given, no fact is stated to show why it is wrong. Should we not have the reasons and the considerations that led him to a conclusion directly opposed to his public declarations to the people when soliciting their support? He declared it then to be economically wise, and gave good reasons for that judgment. Surely, the people are entitled to his reasons for his change of view if we, as their representatives, are not.

Then he says this exemption "is, moreover, in plain contravention of the treaty with Great Britain." That is a strong statement from one who took a directly opposite position only a year ago. He was mistaken then, or he is mistaken now, and the very fact that he has taken both positions refutes the statement that it is a plain violation of the treaty, because we must assume that he was sincere in taking the other position as we must assume that he is sincere now. If it is now so plainly contrary to the terms of that treaty, would it not have been fair and just for him to point out how he came to take the opposite position before and wherein it is so plain now? With all due respect, I think so. The mere dictum of President Wilson is no more convincing than the contrary position of candidate Wilson.

I have come to state to you a fact and a situation.

Then he says:

Whatever may be our differences of opinion concerning this much-debated measure, its meaning is not debated outside the United States. Everywhere else the language of the treaty is given but one interpretation, and that interpretation precludes the exemption I am asking you to repeal.

This is an amazing statement in view of the actual facts. If made by anyone other than the President of the United States, it would be most severely characterized. The President does not state a fact when he says the meaning of this treaty is not debated outside the United States, and that its language is given but one interpretation and that against us. Not only in other countries but in England itself, where self-interest would naturally incline the people against us and our contention, this question has been debated and men of high character and great ability have dared to declare that our action is not contrary to the treaty.

Mr. C. A. Hereshoff, a noted English writer on international law, says:

There is no evasion of the rule of equality where all foreign vessels are subject to the same duties and liabilities under similar circumstances. The treaty could never have been intended to prevent the Federal Government from arranging and regulating its domestic and coastwise commerce and in the use and enjoyment of its own property as it saw fit. No such restriction could have been in view in adopting "as the basis for neutralization" a rule that the canal should be free and open to vessels of commerce and of war of all nations on terms of entire equality. It would be absurd for the United States to solemnly declare that its own vessels of war might openly and freely navigate its own landlocked waterways and enjoy the privileges that belong to the Nation as a sovereign power in the use of its own territory. The use of the words "vessels of war" shows plainly that the word "vessel" as used refers only and exclusively to those of all nations other than those of the United States, and that the word "nations" was restricted to foreign nations; that is to say, nations foreign to the United States.

Edward S. Cox-Sinclair, in the London Law Review of November, 1912, closes a carefully written article as follows:

To sum up, it is reasonably arguable:
(a) That the United States can support its action on the precise words of the material articles of the treaty; that its case is strengthened by reference to the preamble and context; and that its case is difficult to challenge on the ground of general justice.
(b) There is no international obligation to submit the construction of its legislative act to any process or arbitration.
(c) That any aggrieved party has an appropriate and impartial and a competent tribunal in the Supreme Court of the United States.

Mr. Butte, the German jurist, said:

From the standpoint of abstract justice the pretension of Great Britain that she should be put on the same footing as respected the use and enjoyment of the Panama Canal as the United States seems presumptuous.

Count Reventlow, the noted German authority, says:

That the United States had a right to construe the treaty as Taft did can not be doubted.

Certain Italian deputies, of the Italian Government, are quoted as follows:

The Duke de Cesaro:

As a matter of strict justice, no nation, treaties or no treaties, has a right to exact the repeal of the exempting clause as long as the United States does not oppose the granting of a subsidy by a European Government to its ships using the canal.
On the other hand, no European nation could prevent the United States from granting a subsidy equal to the yearly total of canal tolls it pays to each company. From my viewpoint, the attitude of a nation exacting such a repeal is inexplicable.

Enrico Bonnaro said:

Italy considers the exemption clause as purely of an internal character. For this reason is not interested in its repeal. Besides, Italy considers the chief duty of any nation is to develop its own marine.

Mr. Timascheff, Russian minister of trade, is quoted as saying:

I consider the repeal of the clause in question to be most unfair to the people of the United States, considering the fact that they have furnished the money for the undertaking for the purpose of getting their own merchandise through the canal for their greatest benefit.

Then the President says that in all other countries a construction different from ours is given. Why do not they quote those of other countries who question our position? I have looked in vain for such quotations. It is significant that none are disclosed.

The President then says:

The large thing to do is the only thing we can afford to do—a voluntary withdrawal from a position everywhere questioned and misunderstood.

Our position is not everywhere questioned; it is not everywhere misunderstood. Those nations interested are great, powerful, and intelligent. They claim their rights and more, and they expect us to claim ours. They know that they look at this matter from their standpoint, and they expect us to look at it from our standpoint. If they can get more than they are entitled to they will take it; and if they think we are giving it to them to get their good will, or from fear or servility, they will secretly despise us, and look about to see where they can exact something else from us. The "large thing" for us to do is to stand firmly for our rights and the rights of our citizens; and our right to do so will not be questioned or misunderstood anywhere, but our action in doing so will command regard and respect.

Again, he says:

We ought to reverse our action without raising the question whether we were right or wrong, and so once more deserve our reputation for generosity and the redemption of every obligation without quibble or hesitation.

This is an amazing declaration. We never acquired a reputation for generosity by giving up our rights, but by adhering firmly to them and conceding to others their rights. No nation can secure the respect of other nations by confessing that it is wrong when it believes it is right. The interest of the Nation in this case is the interest of its citizens, and the nation that gives away the rights of its citizens in order to secure a reputation for generosity will secure nothing but the contempt and ridicule of other nations and peoples and be pointed to with scorn and jeers. A reputation bought at such a price is too dear for a self-respecting people to pay, even at the behest of a President whose honesty of purpose, purity of motive, and ardent patriotism no one will question.

He concludes this most remarkable message with a request for the passage of this bill—"I ask this of you"—and a confession of his inability to deal with some unknown and mysterious "matters of even greater delicacy and nearer consequence * * * I shall not know how to deal with other matters * * * if you do not grant it to me in ungrudging measure." That is all. What are these matters of "greater delicacy and nearer consequence"? We can not find out. That side of the Chamber does not know. The Speaker of the House of Representatives, and a Democrat who should be in the confidence of the President, says he does not know what they are. The Senator from Missouri, chairman of the Committee on Foreign Relations of the Senate, does not know of any such delicate matters—and if there were any he surely would know of them. In fact, he says there are none. The Senator from Georgia [Mr. SMITH], said to be the spokesman of the administration on this floor, does not know. The honorable Secretary of State gave out a long statement a short time ago supporting this repeal proposition, but in it he did not refer to or even hint at any of these delicate matters. He knows of none, and if there were any surely he would know of them. We are entitled to know of these matters of nearer consequence, if any there be. We have to do with foreign relations. We would be glad to aid the President with advice and counsel and any other proper assistance that we could give. Surely if he had good reasons, he would acquaint us with them. Surely he would give them to his party associates and leaders, anyway. He has not.

The only conclusion that we can come to, that we are forced to, is that there are no such matters. A study of this message forces one to the conclusion—the only charitable one that can be reached—that the President believes his word, his request, his demand, is enough, and all he deems necessary is to say to Congress, "Repeal this law simply because I want it done," and why he has reversed himself and why he wants it done is left to speculation, in which we must not indulge if we would preserve our respect for and confidence in the wisdom of the President. The Democratic majority refuses to call for any information, and none of the resolutions introduced for that purpose have been reported one way or another.

We are urged to repeal this law on the ground of national honor. The high moral sense of the people is appealed to. Senators beat their breasts, lift their eyes to high heaven, and with outstretched hands appeal for the preservation of the national honor. They know the scrupulous regard the American people have for their honor. They are most jealous of it and would sacrifice all to maintain and uphold it, and hence it is sought to secure strength or support for this proposition by appealing for the preservation of the national honor. By their vehemence our friends confess that their cause is without merit. What right have they to assume that we are not just as jealous of the national honor as they? What right have they to intimate that because we do not believe as they do that we are regardless of our country's honor? Why do they call us hypocrites and Pharisees because their views are not followed? Why are we charged with insincerity and injustice because our views do not accord with theirs? Why do they insinuate that we are not following our honest convictions when we vote against repeal? Why do they intimate that we are controlled by railroad prejudices? Why do they charge that our action is based on our hatred of some country or people rather than upon honest conviction? Away with these vulpine insinuations and intimations. Let your cause rest or fall upon its merits. We are as patriotic as you are. We are as jealous of our country's honor as you are. We are as true to our honest convictions as you are. We would have our country maintain its obligations at whatever cost, and you have no right to arrogate to yourselves all devotion to the fulfillment of our treaty obligations.

You would maintain the national honor by an unconditional surrender; we would maintain it by insisting upon what we believe to be clearly our rights. You would maintain it by granting demands without considering whether they are right or wrong, so as to acquire a reputation for generosity; we would maintain it by a wise and firm insistence upon our own rights while generously dealing with others and giving to them all that they are entitled to in law or equity. You would maintain our honor by granting the unwarranted and unjust demands of foreigners, regardless of the promises you have made to our own people; we would maintain it by complying with all reasonable demands consistent with keeping faith with our own people. You resolve every doubt and seek every reason against our own people; we frankly confess that we seek every possible reason in support of our own citizens and resolve every doubt in favor of our own country. This is not discreditable; it is not dishonorable; it is not repudiation. Agreements with nations are to be kept, regardless of consequences; but covenants with our own people should also be held sacred and their rights maintained.

What is it that we are asked to do? It is an astounding act. I doubt if the people have fully grasped its significance; and when they do, there will such a wave of indignation sweep over the land that those who have proposed it will be literally overwhelmed. We are asked to confess that we deliberately violated a solemn treaty obligation. We are asked to acknowledge that the Congress of the United States and the President of the United States were so regardless of the national honor that they boldly, knowingly, and deliberately passed a law that is in "plain contravention" of a solemn treaty with a friendly nation. To uphold the Nation's honor we are asked to confess its dishonor. What could be more humiliating? What could be more dishonorable. What action on our part could more discredit us among the nations of the earth? What sort of a reputation would that give us? Do this thing, and we will merit the scorn and ridicule of every self-respecting people. If it was not in plain contravention of our treaty, we should not convict ourselves of dishonoring the Nation by repealing a law asserting the Nation's rights and maintaining our sovereignty over our own property and our domestic trade.

I have received a few letters—a very few—from people in my State urging the repeal of this law on the ground that it is in violation of the Hay-Pauncefote treaty, and in every case they put it upon the ground that it violates the plain terms of that treaty. I am satisfied they have not studied it. They have simply taken some of the words of the treaty that are quoted by those who favor the repeal and who take certain words from the context and give them the meaning which they have when standing alone, and from this argue that the treaty has been violated. That we have not violated a treaty by this legislation ought to be reasonably certain from the character and ability of those who have sustained our right to pass it. Our right to pass this legislation without violating any treaty is sustained by Theodore Roosevelt, a President of the United States, and a man of scrupulous honor, wide learning, and lofty patriotism; by William H. Taft, a President of the United States, and a lawyer of the greatest ability and a man of wide diplomatic experience; by Woodrow Wilson, a candidate for President of the United States on the Democratic ticket, and a man of the highest character and a scholar of great learning; by Richard Olney, former Secretary of State and a lawyer of great ability and a man of much learning and wide experience; by Philander C. Knox, a United States Senator, former Attorney General, and Secretary of State, and a lawyer of splendid ability; by the House of Representatives; by the Senate of the United States by a vote of 44 to 11; by every Democratic Senator that voted upon the proposition; by the Democratic convention, in which were many of the present Democratic Senators and the present Secretary of State, William J. Bryan; by the Progressive Party in its platform; by the Republican Party through its leaders; by 13,000,000 American voters; by international lawyers of England, Germany, and other countries of world-wide reputation for learning and ability. This array of character, learning, ability, and patriotism ought to convince anyone that there must be some basis for the claim that we have the right to make this exemption, and that in doing so we do not violate any treaty and have not dishonored ourselves.

What more is needed? We could safely stop right here and let the matter rest.

The Hay-Pauncefote treaty does not apply to the Panama Canal; it was never intended to apply to it, because its construction was not contemplated and there was no thought of the con-

struction of a canal through territory belonging to the United States when the treaty was entered into by the two Governments. Conditions under which the Panama Canal was constructed are wholly different from the conditions existing at the time of the making of the treaty and of those contemplated by the treaty. While it was thought that the United States might construct the canal itself, there was no thought that it would be constructed through its own territory, but the whole thought was that it would be built through the territory of another jurisdiction under lease or some concession in the nature of a lease.

Admitting for the sake of argument that England had some rights under the Clayton-Bulwer treaty that formed a consideration for the Hay-Pauncefote treaty, she had no rights that could form the basis of a consideration for affecting the Panama Canal, because the Clayton-Bulwer treaty did not in any way affect or have in mind the territory traversed by the Panama Canal. The Clayton-Bulwer treaty did not by any possible construction affect any territory or country except Nicaragua, Costa Rica, the Mosquito Coast, and Central America; and there is no reason whatever for contending that the Hay-Pauncefote treaty covered any territory beyond that included in the Clayton-Bulwer treaty. Panama was no part of Central America. It was a part of Colombia, and Colombia is and was a part of South America, and always has been so regarded. French parties had attempted to construct this canal. They had concessions, and no one knew but that they would eventually build the canal. This was the situation contemplated by the Hay-Pauncefote treaty. That situation was entirely changed in the canal that was built. No route was secured or taken in Nicaragua, Costa Rica, the Mosquito Coast, or in any part of Central America, but the United States bought the rights of the French company and its property.

Panama seceded from Colombia and sold to the United States a strip of her territory 10 miles wide across the Isthmus of Panama and transferred to it all of her sovereignty over the same forever, and through that territory the United States built this canal. We are entirely within our rights and within the policy followed by Great Britain herself in insisting that by reason of the wholly changed conditions the Hay-Pauncefote treaty does not and can not be made to apply to the Panama Canal. Suppose when we acquired the Panama strip we had acquired the entire territory from the southern boundary of the United States to the southern limits of the Panama Canal Zone and our sovereignty had been extended over this whole territory: is there anyone who with reason could contend that we could not then have constructed a canal wherever we pleased, free from the control of Great Britain? And yet our control of the territory through which it would pass would have been no more secure under those circumstances than it is now.

England invoked this rule in her own defense when she was accused by the European powers with violation of the neutrality provisions of the Suez Canal convention. In a convention of the powers a protest was made against the action of Great Britain, and Lord Pauncefote, the joint author of the Hay Pauncefote treaty, stated the position of Great Britain as follows:

> That Egypt having become British territory since the construction of the canal and the agreement between the powers, Great Britain could not be bound by the neutrality provisions adopted, so far as they affected Egypt, because it was a recognized principle of international law that treaties are only operative so long as the basic or fundamental conditions upon which they are based continue, and that in the event of a fundamental change, such as a change of sovereignty of the soil, any nation which is a party to such treaty could honorably contend that it was inoperative as to her newly acquired territory.

Apply this language to the conditions with which we are now concerned and England has no basis for her claim.

If Great Britain could make such a claim regarding the Suez, how does it happen that we lose our "reputation for generosity" for making this claim with much greater reason?

We are not legally or morally bound under the Hay-Pauncefote treaty to observe its stipulations, even if it can by any possible stretch of the imagination be conceived to embrace this canal, because the treaty-making power was without jurisdiction to limit, restrict, or affect the use of this canal and the territory through which it passes. Not only the canal but the territory through which it passes is the property and territory of the United States. This treaty purports to limit and affect not only our use of the canal itself but it purports to restrict, limit, and affect our use of the territory through which it passes, which Great Britain herself concedes to be our territory. The Constitution of the United States, which should control us in our action rather than the demands of any foreign country, and which should be recognized as controlling the action and authority of the respective branches of the Government, expressly provides:

> The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.

This is a specific and definite grant to Congress—not the treaty-making power—and no branch of the Government can invade that authority, and if it attempted to do it such attempt would be void and of no obligatory force. If it can be held that the Hay-Pauncefote treaty is applicable to the Panama Canal and Zone, it must be assumed that it was entered into by both parties with the full knowledge of this constitutional provision, and Great Britain clearly understood that any stipulations in this treaty could not "affect" the property of the United States without the action of Congress itself and that Congress was under no obligation, legal or moral, to pass the rules and regulations agreed upon by the treaty-making power, the same being beyond its jurisdiction. The treaty is not self-executing. Congress must act and Congress is free to act as it may deem wise and beneficial. This was known to Great Britain, too, and to all nations, and neither she nor they can complain if Congress acts within its powers.

Tucker, in his work on the Constitution, says:

> In favor of the extreme claim of power for the President and Senate it has been urged that a contract between the United States and a foreign nation must be conclusive against all departments of the Government, because it is a contract; but the answer to this contention is obvious and conclusive. It involves the petitio principii by assuming that the contract is complete though it trenches upon the power of the other departments of the Government without their consent. And if it be further urged that foreign nations know no party in the contract on the part of the United States except the President and Senate the answer is equally conclusive that if our Constitution requires the consent of the departments to a treaty of the nature referred to the foreign nation is bound to take notice of that fact, and can not claim a completed obligation in the absence of the consent of the other departments. The maxim upon this subject is familiar: Qui cum alio contrahit vel est, vel debet esse, non ignarus conditionis ejus. And if it be further urged that this is too refined a doctrine to regulate our delicate relations with foreign powers the answer is that the treaty-making power of the Crown of Great Britain, where it involves a concession of the clear and absolute power of Parliament, has never been recognized as valid by the English Government and has never been enforced. The Queen may make a treaty to pay $10,000,000 to the French Government, but unless Parliament appropriates the money the treaty will be ineffectual. * * * We may suggest a further limitation: A treaty can not compel any department of the Government to do what the Constitution submits to its exclusive and absolute will. * * * We have seen from the Constitution that all bills for raising revenue shall originate in the House of Representatives, to which the Senate may or may not assent, and the President may veto; but if the President and Senate have the power to regulate the system of taxation and revenue by treaty without the consent of Congress then the House of Representatives, which, by the terms of the Constitution, is made the originating body for such bills, without whose primal action the President and Senate can have no voice whatever in the matter, is to be excluded from any consent to the terms of the treaty of the President and Senate, who, by the constitutional method, are not entitled to act at all until the House of Representatives has inaugurated a bill. * * * These results demonstrate the fatal disturbance of the equilibrium of the Constitution which would arise from any such construction as would give the President and Senate the right by treaty with a foreign power to regulate the internal concerns of the country.

Congress has acted. It has made the rules which it deemed wise for the use of our property. We did not believe we were violating any treaty obligation when we passed that legislation and we do not think so now. We are asked, however, to repeal that legislation, and the question is presented in such a way that if we do repeal it the world will take our act to be a confession that we have been guilty of deliberately violating our treaty obligations and a confession that we can not hereafter repeal this repealing act if we find it to have been unwise. Our duty is plain, our course clear. If in his message the President had not declared that our act was in violation of our treaty obligations, and that all nations so regarded it, but had asked for its repeal on economic grounds and because it would be wise to do it on account of our peculiar diplomatic relations, we could have acted then without putting ourselves in a position to foreclose future action, but the issue is now a far greater and more far-reaching one. The real issue now is not what ought we to do, but what must we do. If the exemption is a violation of the legal obligations of a treaty, we must repeal it. That ends it. If we have shackeled ourselves for all time to come, we must bear our chains and meekly submit to be dragged in the dust of England's commercial chariot, because of the incompetence and stupidity of our own diplomats and statesmen.

Mr. President, the very unwisdom of the course we are asked to follow is enough in itself to raise a doubt as to its necessity, and I should resolve such doubt in favor of our own people and our own interest. The wise course, the just course, and the patriotic course is to allow the action taken by a preceding Congress and approved by our President to stand. Let us give the world to understand that these were wise and just men and that we are not going to brand them as faithless to our treaty obligations. Let us affirm their assertion of our right to deal with our own property as we see fit, and then in the future we can determine upon its merits whether it is economically wise to maintain this policy or not. To admit our lack of power now makes us subservient forever to England's shipping power

and the transcontinental railroads, to assert and maintain it preserves to us the power to do in the future whatever may be found to be wise.

No man knows what conditions will come from the completion of this great enterprise. It will change the currents of the world's commerce. It has practically lifted continents from their places and put them thousands of miles nearer the sources of supply and demand. New highways of trade will be evolved and new problems of tremendous import and far-reaching consequence will arise to be solved. It will be little short of folly and criminal neglect if we do not preserve for our people the right to deal with this great commercial agency and these great and important questions so far as they relate to our domestic trade as to them may seem wise. We can not excuse ourselves by shifting the responsibility to the President and accepting his word as to what is best to be done. The responsibility of legislation is ours. We can not escape it, we can not shift it, and we will be held responsible for our action by those who have intrusted us with power but who will have the opportunity in the near future to withhold that power from us and send those here who will truly represent them upon this great legislative matter.

Let us now discuss the Hay-Pauncefote treaty itself, assuming that it is applicable to the Panama Canal, and see whether by any reasonable construction we have violated its letter or spirit in passing the law we are asked to repeal.

I can not hope to present this matter so clearly or so conclusively as others have done, but I am going to try to show in my feeble way from the Hay-Pauncefote treaty itself and the circumstances surrounding it that our right to make this exemption is perfectly clear and unquestionable; in fact, that to do otherwise is discrimination against us.

The Hay-Pauncefote treaty with England was entered into in 1901. To my mind there is no ambiguity in this treaty when its terms are construed in the light of the conditions surrounding its framing and acceptance and in the object to be attained.

For almost a century a canal connecting the Atlantic with the Pacific had been the dream of the maritime world. When it was deemed probable there was no thought of its being built by other than private enterprise, energy, and capital. In 1850 the Clayton-Bulwer treaty was entered into between England and the United States. I shall not go into the reasons for this treaty. They are wholly immaterial and are interesting only as matters of history. That is not the treaty to be construed, and it is to be considered only so far as it may throw light upon the Hay-Pauncefote treaty. Under this treaty neither Great Britain nor the United States could build this canal, but they were to give their support and protection on equal terms to any third party that might build it.

Years passed. No canal was built. Every effort failed. It became evident that no canal would be built without the aid and assistance of the United States. It had even entered the minds of many that this canal, if built at all, would have to be built by the United States itself. While England's conduct had clearly nullified and made obsolete the Clayton-Bulwer treaty, and while she had abandoned it—all of which has been so clearly shown by the late lamented senior Senator from Kentucky [Mr. Bradley] in one of the most comprehensive, eloquent, and masterly speeches ever delivered in the United States Senate—the United States did not insist upon taking a course consistent with this view, but in an orderly way proceeded to negotiate a new treaty under which it could build this canal either directly or by lending its support, credit, and assistance. England wanted the canal built. She was really more interested than anyone else. Hers would be the greatest benefit arising from its construction. It gives her a direct route to and from Australia and her island possessions. It gives her a shorter route to large world markets to which her ships will carry the products of her looms, mills, and factories. In case of war, requiring her navies to pass through the canal, she will have access to it upon equal terms with any other nation unless she should be at war with us. Her great colony to the north of us will be specially favored and her products will be given a new market in our seaport cities. More than half of the world's shipping flies her flag, her ships plow every sea and enter every harbor, and the benefit to her people and her interests is incalculable.

The Hay-Pauncefote treaty was made in 1901. Theodore Roosevelt was President and John Hay was Secretary of State, two men whose intelligence and patriotism can not be questioned and whose approval is a guaranty that American interests and rights were fully protected and whose fame will be dimmed and patriotism slurred if this legislation is passed.

The Hay-Pauncefote treaty, if applicable at all, must be construed in the light of present conditions, even if they were not contemplated when the treaty was entered into. If not it does not apply at all. As a matter of fact, there was no thought of the United States owning the territory through which the canal would pass. Provision was made for a change of sovereignty, but that evidently had reference to a change to some power other than the United States and after the canal was constructed, and had in mind the common changes of Government in the Central American countries. The territory does belong to the United States. It is the sovereign of the territory. This is conceded by England. Lord Grey says:

> Now that the United States has become the practical sovereign—

And so forth.

He also admits that the treaty must be construed in the light of this relation when he says, continuing:

> His Majesty's Government do not question its title to exercise belligerent rights for its protection.

This because of its subsequently acquired sovereignty.

Furthermore, this treaty must be construed upon the basis of the sovereignty and ownership of the United States of the canal and Canal Zone and the limits of the Constitution upon the treaty-making power, or else it can not apply at all. Those who insist that the treaty applies to the present conditions must do so with full knowledge of the limits upon the treaty-making power of the United States, and that Constitution, as I have already said, expressly provides that Congress—not the treaty-making power—shall have power to dispose of and make all rules and regulations affecting the property of the United States. The treaty-making power could not enter into any agreement disposing of or limiting the sovereignty of the United States in any of its then property or in any to be thereafter acquired, and it could not make any rules or regulations respecting it that would be binding legally or morally on the United States, and if any such action was or has been taken it would not become binding until ratified and carried into effect by the Congress.

Congress has expressly negatived the idea that we have disposed of or given up any of our authority and sovereignty over this canal and has asserted its authority to take such action as it deems wise over our own domestic trade. Even if it was intended that the treaty should affect our domestic trade Congress has refused to ratify that intention as it had a perfect right to do and England can not complain, because she accepted the treaty with full knowledge of the constitutional limitation.

Let us construe, then, briefly and simply the treaty affecting this canal and by which our obligations must be measured and determined in the light of the changed conditions and on the basis of our ownership and sovereignty over the canal and Canal Zone.

The preamble to this treaty is often referred to, but it is no part of the treaty in any sense whatever. It is a mere recital of what it is desired shall be accomplished by and under the treaty and does not in any way control or affect the terms or articles of the agreement, except as it may throw light upon the purposes to be accomplished. Three purposes are expressed in this preamble. The desire to facilitate the construction of a canal connecting the Atlantic and the Pacific, the removal of any objection that might arise under and by virtue of the Clayton-Bulwer treaty, and the construction of this canal under the auspices of the United States without impairing the "general principle" of neutralization established in article 8 of the Clayton-Bulwer treaty and then follows the treaty by the terms of which these purposes are to be attained. This is the treaty we are to construe, and we are to gather its meaning from its terms and not from outside understandings or conditions which apply to another treaty alone.

Article 1 of the treaty, and the first agreed stipulation in it, says:

> The high contracting parties agree that the present treaty shall supersede the aforementioned convention of the 19th April, 1850.

Nothing ambiguous, nothing uncertain about that. The Clayton-Bulwer treaty is abrogated, set aside, wiped out, done away with, and is not to be considered at all in determining the rights of the parties under the present treaty. Even article 8 is not excepted or carried into the present treaty, notwithstanding this is claimed by some. The Hay-Pauncefote treaty measures our rights and obligations, and not the treaty of 1850. The rights of Great Britain and other nations are to be determined by this treaty and by no other, and while a consideration of the Clayton-Bulwer treaty, the facts that led up to it, and its continuance or its abrogation may be of great historical interest, they do not fix or determine the obligations of the United States nor the rights of Great Britain, and much of the learned discussions that we have had is really not applicable at all.

The second article of the treaty is an agreement or stipulation binding upon both parties to the effect that the canal may be constructed under the auspices of the United States either di-

rectly or indirectly and subject to the provisions of "the present treaty"—mark you, not the provisions of the Clayton-Bulwer treaty—"the said Government shall have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal."

Mr. O'GORMAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from New York?

Mr. O'GORMAN. I suggest the absence of a quorum.

Mr. JONES. I do not wish the Senator to suggest the absence of a quorum.

Mr. O'GORMAN. The Senator does not mind if I yield to my own wishes in the matter, I hope?

Mr. JONES. I do not think I can prevent the Senator from doing so.

The PRESIDING OFFICER. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Crawford	Martin, Va.	Smith, S. C.
Bankhead	Dillingham	O'Gorman	Stephenson
Brady	Gallinger	Page	Sutherland
Brandegee	Hitchcock	Perkins	Thompson
Bristow	Johnson	Pittman	Thornton
Bryan	Jones	Ransdell	Tillman
Burton	Kern	Reed	Vardaman
Catron	Lane	Shafroth	Walsh
Chamberlain	Lee, Md.	Sheppard	Williams
Chilton	Lewis	Shively	
Clark, Wyo.	McLean	Simmons	

Mr. SHAFROTH. I desire to announce the unavoidable absence of my colleague [Mr. THOMAS], and to state that he is paired with the senior Senator from New York [Mr. ROOT].

Mr. KERN. I desire to announce the absence of the following named Senators, who are out of the city in attendance on the funeral of the late Senator from Kentucky, Mr. BRADLEY: The Senator from Kentucky [Mr. JAMES], the Senator from New Jersey [Mr. MARTINE], the Senator from North Carolina [Mr. OVERMAN], and the Senator from Arizona [Mr. SMITH]. I also desire to announce that the junior Senator from New Jersey [Mr. HUGHES] is absent on official business. This announcement may stand for the day.

The PRESIDING OFFICER. Forty-two Senators have answered to their names. A quorum is not present. The Secretary will call the names of the absent Senators.

The Secretary called the names of absent Senators, and Mr. WHITE answered to his name.

Mr. JONES. I desire to announce that my colleague [Mr. POINDEXTER] is out of the city on business of the Senate; also that the junior Senator from Michigan [Mr. TOWNSEND] is necessarily absent.

Mr. LODGE and Mr. LA FOLLETTE entered the Chamber and answered to their names.

Mr. KERN. I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

Mr. ROBINSON, Mr. MCCUMBER, and Mr. NORRIS entered the Chamber and answered to their names.

The PRESIDING OFFICER. Forty-eight Senators have answered to their names. A quorum of the Senate is present.

Mr. KERN. I move that the order directing the Sergeant at Arms to request the attendance of absent Senators be vacated.

The motion was agreed to.

ELECTION OF SENATORS.

Mr. WALSH submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2800) providing a temporary method of conducting the nomination and election of United States Senators, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 1, 2, and 4, and agree to the same.

That the House recede from its amendment numbered 3.

T. J. WALSH,
ATLEE POMERENE,
WM. S. KENYON,
Managers on the part of the Senate.

W. W. RUCKER.
R. F. BROUSSARD,
W. D. B. AINEY,
Managers on the part of the House.

Mr. WALSH. I move that the conference report be adopted.

Mr. SHAFROTH. Mr. President, I wish the Senator from Montana would explain the features of the report.

Mr. WALSH. The changes are very simple.

Amendment No. 3 need not be adverted to, because the House has receded from it.

The House inserts as amendment No. 1 the words "not heretofore made," so that the act will not apply to nominations of candidates which have been heretofore made. It appears that in one or two States nominations have already been made. It is not intended to disturb those.

The next change is a mere verbal one. The words "the case of" are taken out in line 10, page 2.

Mr. SHAFROTH. I will ask the Senator whether, under the bill as it is now proposed to be passed, there is any such thing as a convention for the purpose of nominating candidates for the office?

Mr. WALSH. That is all regulated by the State statutes. If the State officers are nominated by convention, the Senators are nominated in the same way.

Mr. SHAFROTH. This bill applies only in the event of vacancies, as I understand.

Mr. WALSH. No.

Mr. SHAFROTH. Is it to apply in the case of nominations of candidates coming up regularly?

Mr. WALSH. Yes; regularly.

Mr. SHAFROTH. What is the mode of procedure prescribed by the bill?

Mr. WALSH. Just that which is prescribed by the State statutes, if there are any, for the nomination and election of State officers. The United States Senators will be nominated and elected in exactly the same way.

The last amendment, numbered 4, provides:

That this act shall expire by limitation at the end of three years from the date of its approval.

There would seem to be no particular reason for this amendment, but it was insisted upon by some Members of the House; and for the purpose of expediting the passage of the act the Senate conferees decided to acquiesce in that insistence, believing that the act will have subserved its purpose within the time mentioned, anyway.

Mr. SUTHERLAND. Mr. President, section 1 of this bill is clearly permanent in its character. It reads:

That at the regular election held in any State next preceding the expiration of the term for which any Senator was elected to represent such State in Congress, at which election a Representative to Congress is regularly by law to be chosen, a United States Senator from said State shall be elected by the people for the term commencing on the 4th day of March next thereafter.

We have a provision in the law with reference to the election of Members of the House of Representatives which fixes a uniform time for the holding of elections, and of course there ought to be a law of the United States fixing a uniform time for the election of Senators, and I can not understand upon what theory the fourth amendment proposed by the House should have been accepted. It applies to the entire act:

SEC. 3. That this act shall expire by limitation at the end of three years from the date of its approval.

I would have no objection if that were limited to what follows section 1. Section 1 is permanent, and if it should expire at the end of three years, that section or something like it ought to be reenacted by Congress.

Mr. WALSH. The suggestion made by the Senator from Utah is entirely pertinent and the observation quite appropriate. The Senator knows the character of opposition which was made to the bill in this body. It was likely to be asserted with such vigor in the other branch that the passage of the bill would be imperiled, and the conferees felt that it would be wiser that we should accede to what seemed to be the necessities of the case and secure a speedy passage of the act, depending upon future legislation to take care of the point to which the Senator adverts. Of course, the first section is permanent in its character, and some legislation of that kind ought to be in force, but I apprehend that there will be no difficulty in taking care of that when the time comes.

Mr. SUTHERLAND. Can the Senator tell us whether, if the Senate should disagree to the fourth amendment and send the bill back to conference, there would be any likelihood of the House conferees receding?

Mr. WALSH. I dare say we might propose an amendment to it to the effect that the provisions of section 2 only should so expire, in the hope that that perhaps would be acceptable, but the conferees did not think it advisable to delay the matter.

Mr. JONES. Mr. President, I suggest that the consideration of this conference report is likely to take some little time, and I think it would be better that it should go over. The Senator

from Louisiana [Mr. RANSDELL] is very anxious to take the floor and proceed with his speech.

Mr. SUTHERLAND. I think it will take only a moment longer. I suggest to the Senator from Montana that it is quite worth the while to send the bill back to conference with the understanding that the Senate will accept an amendment modified as the Senator suggests; that is, making it apply to the portion of the bill following section 1.

Mr. WALSH. If the Senator from Utah really feels that we ought to make the effort. I shall be very glad to have the Senate conferees undertake to accomplish the change, although my own idea about it is that we had better accept the conference report as it stands and take care of the situation at a later time.

Mr. SUTHERLAND. I hope the Senator from Montana will not do that, because the first section is permanent, as the Senator himself thinks. We ought to deal with it now rather than postpone it to a time at the end of three years. Unless the Senator from Montana objects. I will move that the Senate further insist upon its disagreement to the fourth amendment and request a further conference.

Mr. WALSH. With instructions to endeavor to limit the effect of amendment 4 to section 2?

Mr. SUTHERLAND. Yes.

Mr. WALSH. Very well; I will be glad to have the bill go back to conference and make a further effort.

The PRESIDING OFFICER. The Senator from Montana withdraws his motion for the adoption of the conference report and the Senator from Utah submits a motion.

Mr. SUTHERLAND. I move that the Senate disagree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill; further insist on its disagreement to the amendments of the House; ask a further conference with the Senate on the disagreeing votes of the two Houses thereon, the conferees on the part of the Senate to be appointed by the Chair.

The PRESIDING OFFICER. The question is on agreeing to the motion made by the Senator from Utah.

Mr. STONE. I should like to inquire of the chairman of the committee having this matter in charge if there is likelihood of much delay in the further conference? It is very important that the bill should be disposed of at this session.

Mr. WALSH. I may say to the Senator from Missouri that I hope to be able to submit a further report by to-morrow.

Mr. STONE. Very well.

The PRESIDING OFFICER. The question is on agreeing to the motion made by the Senator from Utah.

The motion was agreed to; and the Presiding Officer appointed Mr. WALSH, Mr. POMERENE, and Mr. KENYON conferees on the part of the Senate at the further conference.

PANAMA CANAL TOLLS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14385) to amend section 5 of an act to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation of the Canal Zone, approved August 24, 1912.

Mr. JONES. The provision which I have just read fixes the status of the United States. It takes it apart from the other nations of the earth and places it in a position by itself. It establishes its status as the owner of the canal, and this article also eliminates Great Britain entirely from any connection with the canal that is to be constructed under this treaty. She has no control over it, no obligation toward it, no liability for its protection, operation, maintenance, or use. If the United States should construct such canal directly, she would be the owner of it and should enjoy all the rights incident to such ownership, and her right to provide for its regulation and management was made exclusive. If rights incident to ownership did not mean that she could use it as an owner and treat her own in its use as she pleased, what does it mean? What sort of ownership is that which gives you no rights of ownership?

The only other article in the treaty which is of the nature of an agreement between the parties is article 4, by which—

> It is agreed that no change of territorial sovereignty or of international relations of the country or countries traversed by the before-mentioned canal shall affect the general principle of neutralization or the obligation of the high contracting parties under the present treaty.

Note that the general principle of neutralization referred to in this article does not make mention of the principle of neutralization established in article 8 of the Clayton-Bulwer treaty, but seems to refer to the general principle of neutralization as generally understood in international law, and it is also significant that care is taken to confine the application to the obligations under "the present treaty."

These are substantially all of the terms of the treaty involving the two parties to it. The remaining article is not in the nature of an agreement between the two parties, but it is a statement upon the part of one of them, the owner of the canal, as to how the canal shall be managed and used; it is a statement of the rules adopted solely by one of the parties, the owner, for the use of the canal by all nations that would observe such rules. It provides for the neutralization of the canal and its use so as not to impair the "general principle" referred to in the preamble and embodied in article 8 of the Clayton-Bulwer treaty, and, when construed as I construe it, does exactly what that article provided for; and for the purpose of comparison and as aiding in a clear understanding of this article 3, I give here briefly the provisions of said article 8.

ARTICLE 8.

> 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 stipulation, to any other practicable communications, whether by canal or railway, across the isthmus which connects North and South America, and especially to the interoceanic 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.

Under this article Great Britain and the United States agree to extend their protection by treaty stipulation to any other practicable communications by canal or railway across Central America. As a consideration for their joint protection the parties owning or constructing the canal or railway should impose no charges except those approved as just and reasonable by them. The canals or railways were to be open on equal terms to citizens of Great Britain and the United States because both Governments were under equal obligations toward the owners of such canals or railways, and this is an important point to remember. The canals and railways were also to be open to the citizens of other countries upon the same terms as to the citizens of Great Britain and the United States if such countries were willing to grant equal protection to such canals or railways. In other words, equal rights and privileges in any such canal or railway were accorded to all who incurred equal obligations. The general principle of article 8 and all through the Clayton-Bulwer treaty affecting the use of any canal or railway that might be constructed under it was that equal treatment went with equal obligation. That is provided for in article 3 of the present treaty, and that "general principle" is carried out only by permitting the exemption which it is sought to repeal. Nowhere in the Clayton-Bulwer treaty is there any limitation on the owner and builder of the canal. He is free to act as he sees fit. He could treat his own ships as he desired. The only restriction was that those nations giving aid and affording protection would insist on equal treatment, the one with the other, and that the charges to them should be just and reasonable.

We are now prepared to interpret article 3 of the Hay-Pauncefote treaty in the light of conditions as they exist and the terms of this treaty as they are. Private ownership in the canal is out of consideration. The United States is the party that has built it. The United States is the sole and undisputed owner not only of the canal but of the territory through which it passes. Neither Great Britain nor any other power has or can have any control over the canal or of the charges for its use. Neither Great Britain nor any other power is or can be under any obligation toward the canal. In fact, England insisted that she should be free from all responsibility. It must be protected, maintained, operated, controlled, and managed by the United States alone. Under the "general principle" of the Clayton-Bulwer treaty only the nations affording protection to the canal secured any special rights. Therefore the nations now under no obligations and affording no protection are entitled to no special consideration. Under that "general principle," if no protection was afforded the owner, he could treat all nations alike, because all were on the same basis. He could use his property as he saw fit.

If Nicaragua had built the canal and Great Britain and the United States had given it their protection under the Clayton-Bulwer treaty, would anyone contend that Nicaragua could not treat her own ships as she saw fit? Surely not. The United States has stepped into the place of Nicaragua, and if section 8 of the Clayton-Bulwer treaty is brought into the Hay-Pauncefote treaty, it does not apply to the owner of the territory through which the canal passes, and Great Britain's concession

that our ownership changes the status as to five of the rules surely concedes also the other one, even though it may work to the injury of some British interest.

It is strange that Great Britain concedes everything that can be conceded without doing her or her interests any harm, and that she insists upon everyting that is of benefit to her no matter how injurious to the United States, and it is stranger still that there are those who hunt for reasons to sustain her claims and refute our own. The United States purchased the rights of the French company for $40,000,000, acquired the land from Panama for $10,000,000 and a large annual payment, and has spent $400,000,000 in the construction of the canal. She will spend millions for its fortification in order to protect it against all nations, including herself, if the construction our friends give to the treaty is correct. She must maintain, operate, and defend it, and bear every obligation and discharge every responsibility toward it through all time. No other nation has done a thing toward it or will do a thing except use it. The United States must pay $15,000,000 or more a year for its maintenance, and if the charges collected for the service rendered do not pay this, it will be her loss and the loss of the people of the United States. Under the Clayton-Bulwer treaty there were no restrictions and no limitations on the owner of the canal. He could use it as he pleased. If he had the protection and support of Great Britain and the United States, they expected equal treatment, not the treatment the owner might accord to himself or his own ships or the ships of his citizens, but equal treatment between themselves and reasonable charges, and only other nations assuming equal obligations were to have equal treatment. Now, the United States being in a position never contemplated by either of these treaties, being the owner of the canal and the territory through which it passes, has all the rights and privileges of the owner under the Clayton-Bulwer treaty, and is under no obligations other than to extend to all nations using her canal and observing the rules which she herself has prescribed, in order to secure equal treatment and reasonable charges in and for the use of a canal toward which they have not contributed a cent, and toward which they are under no obligation to afford any protection. Under the Clayton-Bulwer treaty the nations getting benefits had to bear expense and obligations; here they get the benefits without any expense or obligation, and yet they complain.

England's whole course in connection with this canal has been outrageous, despicable, and dishonorable. She had no just claim in the first instance as a basis for the Clayton-Bulwer treaty. She violated and utterly disregarded that treaty when made, and it should have been abrogated long ago. Now, regardless of the changed conditions, she has the effrontery to claim that while the fact of sovereignty does not relieve us from the obligation and expense of protecting the canal it does release us from the observance of the five rules, but does not release us from the first one, under which her benefits are the same and our position made more humiliating and helpless. It is all right for the change of ownership to relieve her in the case of the Suez Canal, but it is a breach of faith to insist that a like change shall relieve us. She is an adept in the art of diplomatic bluffing, and it looks as if she were going to win out with us. She does not care what her reputation for generosity is so long as she can reap commercial advantage and promote her shipping interests. Insistence for her citizens of every claim they make does not make an outcast of England, but increases her influence and commands respect. Neither Great Britain nor any other nation can afford or is under any obligation to afford any protection to this canal, and therefore the United States is acting exactly within this "general principle" when it affords its own citizens the use of this canal on such terms as it sees fit and gives to the citizens of all other nations equal treatment, the one with the other. Furthermore, as the owner of the canal, there is no limitation on its power to treat with its own under the "general principle" referred to.

Under the treaty itself and under the existing conditions the United States stands in front of its canal upon its own territory facing the nations of the world and says to them, "Here is my canal, built by me in my own territory. I will maintain, operate, and protect it. You are under no obligations toward it. You have no responsibility for its protection and are put to no expense for its construction. I shall treat you all alike in its use, and to insure equal treatment I am going to adopt certain rules to govern its use by all those observing such rules. If you want to use it, observe these rules or stay out." This is the viewpoint from which article 3 must be interpreted, and when so interpreted it is reasonable and clear, and every provision and rule of it can be given its literal meaning.

Article 3 starts out as follows, and this is always omitted by those who are contending that we have dishonored ourselves by deliberately violating the "plain" terms of our treaty; and yet no correct interpretation can be given by omitting these words and giving them due consideration:

> The United States adopts as the basis of the neutralization of such ship canal the following rules.

That is to say, the United States adopts the rules, not the United States and Great Britain, but the United States alone, the owner of the canal. These rules are to be looked to entirely for the neutralization and the carrying out of the "general principle" referred to in the preamble. We do not go to article 8 of the Clayton-Bulwer treaty to determine what to do, but these rules contained in "the present treaty" control and guide us.

This rule fixes the status of other nations; and as article 2 fixed the status of the United States, takes her from among the other nations of the earth, and places her in a position by herself, so article 3 fixes the status of the other nations of the earth and puts them in a class by themselves as the users of the canal under certain rules which they must observe which have been made and fixed and promulgated by the owner of the canal.

They square exactly with said article 8 only when construed as we construe them. Here is the first rule adopted by the United States governing the use of its property:

> The canal shall be free and open to the vessels of commerce and war of all nations observing these rules on terms of entire equality, so that there shall be no discrimination against any such nation or its citizens or subjects in respect of the conditions or charges of traffic or otherwise. Such conditions and charges of traffic shall be just and equitable.

This is the rule which we are charged with violating. What is the basis for this charge? The words "all nations" are quoted, and we are asked, "Do they not include the United States?" and the answer is, "Of course they do." And this is the means by which the people are deceived and by which they are led to believe that their nation has dishonored itself. I received a letter a few days ago from a good citizen of my State, and a most intelligent one, in which he said:

> There is really no doubt about the meaning of the treaty. It is very plain English. If treaties are made to be carried out, let us carry out this one. Do not let the honor of the United States be touched by saving a few dollars. We gave our word to pay off the money borrowed during the Revolution. We did so. Let us maintain the same standard.

I venture to say that he had not read all this rule. He had read some statement or editorial saying that rule 1 of article 3 said the vessels of "all nations" should pay just and equitable charges and, of course, he could not understand how these words would not include the United States.

In fact, he sent me, along with his letter, a clipping from a paper quoting an editorial from the St. Louis Republic. This editorial illustrates the method pursued by many of those who advocate the repeal of this law. The editorial starts out in this way:

> Nothing could be simpler than this canal-tolls question. Here is what we promised:
> "The canal shall be free and open, in time of war as in time of peace, to the vessels of commerce and war of all nations, on terms of entire equality, so that there shall be no discrimination against any nation, or its citizens or subjects, in respect of the conditions or charges of traffic or otherwise."

The trouble with this quotation is that it is not correct. There has been left out the important clause "observing these rules." This editorial goes on to say we need no diplomatic correspondence, we do not need any international lawyers, we do not need any outside interpretation to determine what this provision means; yet in this very quotation it leaves out one of the very important provisions of the rule and thereby changes the very meaning of it. Was the editor of the Republic ignorant of this important clause, or did he omit it deliberately?

I have here also, bearing on the same method of presenting the matter to the people, and showing why it is that the people are really deceived in regard to this matter, an editorial from the Boston Herald, in which it says, after suggesting that there is a strong sentiment in favor of exempting our own ships:

> How can this preference be given? The readiest answer is, Simply put no tolls on American ships; pass them through free, and levy charges only on the foreigners. From this easy expedient the United States is debarred by the Hay-Pauncefote treaty, which provides that the canal shall be "free and open to the vessels of commerce and of war of all nations," "on terms of entire equality, so that there shall be no discrimination against any such nation, or its citizens or subjects, in respect to the conditions or charges of traffic or otherwise."

Leaving out again the important phrase, the qualifying clause, "observing these rules."

The rule is not made for the United States; it is made by the United States. It is made not to govern it in the use of its canal, but to govern it in its treatment of other nations in their use of the canal. The canal is not open and free to the vessels of all nations, but it is free and open to the "vessels of all nations observing these rules." It is absurd to suppose that the

United States would make rules to govern itself in the use of its own. It could use its own as it saw fit. It would be subject to no rules of its own making. It could use its own one day in one way and the next day in some other way. It could charge its citizens one rate one day and another rate the next, and no one could prevent it. If this rule applies to the United States, suppose it should violate it? What punishment would it inflict upon itself? Would it exclude its ships from the use of the canal? If so, for how long? Suppose it should persist in violating this rule, would it declare war against itself and send one fleet out against the other? Suppose it provides that its coastwise ships shall pay $1.25 a ton on going through the canal and that its ships in the foreign trade shall pay $5 per ton on going through, what steps would it take to prevent such manifest inequality? It is absolutely and ridiculously absurd to say that this rule was made for the United States by the United States, and, if possible, it is more manifestly absurd as we examine and analyze further the terms of this rule.

In this connection I want to call attention to a suggestion that has come to me from one of my correspondents. He says:

> Under this article the United States adopts certain rules that are to be observed by other countries. How is the United States going to ascertain whether other countries are going to observe the rules or not? Is it going to wait until some exigency arises where the rule is actually violated or not violated, observed or not observed, or is the United States going to prescribe some way by which nations, before they begin the use of this canal, shall indicate to the United States that they expect to observe these rules?

Now, that is a reasonable suggestion. It seems to me that it will be reasonable and proper and necessary that the United States shall say to the nations of the earth, "Those of you that signify in a certain way that you are going to observe these rules may pass through the canal on certain conditions."

Now, if the United States does that, will it be required to go through the idle formality of notifying itself that it expects to observe rules that it has made for the use of its own canal?

What is the purpose of this particular rule? It is to carry out the "general principle" mentioned in the preamble; that is, to insure that all nations with equal responsibilities shall have equal treatment. This, as I have said, exempts the United States from its operation, because the entire burden is on the United States. The rule is made for all those nations who have no burdens in connection with the canal.

The canal is to be free and open to what? To the "vessels of commerce." These words, standing alone and taken in their literal meaning, would, of course, include vessels in the domestic or coastwise trade as well as vessels in the foreign trade, but when used in a treaty must be understood to refer to commerce between the two countries and as dealing with foreign relations and foreign trade alone. Each nation would be presumed to reserve to itself, as they always have done, the regulation of its domestic trade, and unless it should be otherwise expressly provided it must be presumed that this expression referred entirely to vessels of foreign commerce. This is common sense. This has been the holding of the Supreme Court of the United States in the case of Olsen against Smith, in One hundred and ninety-fifth Supreme Court Reports, so often quoted in this debate. The court says:

> Nor is there merit in the contention that as the vessel in question was a British vessel coming from a foreign port, the State laws concerning pilotage are in conflict with the treaty between Great Britain and the United States, providing that "no higher or other duties or charges shall be imposed in any ports of the United States on British vessels than those payable in the same ports by vessels of the United States." Neither the exemption of coastwise steam vessels from pilotage resulting from the law of the United States nor any lawful exemption of coastwise vessels created by the State law concerns vessels in the foreign trade, and therefore any such exemptions do not operate to produce a discrimination against British vessels engaged in foreign trade and in favor of vessels of the United States in such trade. In substance the proposition but asserts that because by the law of the United States steam vessels in the coastwise trade have been exempt from pilotage regulations, therefore there is no power to subject vessels in foreign trade to pilotage regulations, even although such regulations apply, without discrimination, to all vessels engaged in such foreign trade, whether domestic or foreign.

It is attempted to avoid the force of this decision by suggesting for the first time that trade from port to port through the canal is not coastwise trade, on account of the distance necessary to go. The statute defining coastwise trade does not limit it by distance, but declares that trade from port to port is coastwise trade. That was the law at the time of the treaty. That was fully understood by all. Only the extreme exigencies of the case developed this idea in the great mind of the honored Senator from New York, and it simply illustrates the straits to which our friends who advocate this repeal are reduced in finding something to support and justify their position.

This has been the holding of Great Britain itself for more than three-quarters of a century. Letters are read from Mr. Choate and Mr. White stating that it was understood that coastwise as well as other vessels were included, but they do not say that the matter was discussed at all, and surely our representatives in making this treaty would not abandon or overturn a domestic policy that we had followed since the foundation of the Government without some discussion. To assume any such action would impute to them grave, even criminal, neglect of the interests of their country, and it is a humiliating confession that they make now. How or why did they have such understanding if it was not discussed at all? and it certainly was not discussed, or they would say so. "Vessels of commerce and war." Vessels of war mean battleships, cruisers, torpedo boats, and so forth, the property of the Nation itself, its instrument of defense and of offense, and not the property of individuals. They are put on exactly the same basis as vessels of commerce, and no amount of quibbling can construe it otherwise. Whose "vessels of commerce and war"? All nations'? No; but the vessels of commerce and war of "all nations observing these rules." These last three words are often omitted by those who insist that the United States is bound by this rule. Why are they omitted? Through ignorance, carelessness, or for the deliberate purpose of deception? They are essential to a correct understanding of the rule. They show that the United States is not included, because it would be senseless for the United States to require itself to observe any rules adopted by itself for the use of its own property. It can use its own as it sees fit, and needs no rules to govern it in the use of its own. No owner ever makes rules for the government of himself in the use of his own. It would be a stupid thing to do. He could change any rule that did not suit at any time.

If John Smith should put up a sign on a gate to a road through his farm saying "all persons paying 25 cents may pass through here," would anyone be so simple or so foolish, if you please, as to contend that John Smith would have to pay that sum whenever he used the road? Of course not. If the editor of the Washington Herald would declare that "all persons reading my paper shall pay 1 cent," would he contend that when he took a copy from the press that he would have to pay himself a penny? And so when the owner of property prescribes rules for its use those rules are never understood as applying to himself, but to others, and there is no reason in following a different rule of construction here. If we do follow a different rule, it leads to improbable, absurd, ridiculous, indefensible, and preposterous results. A battleship is a vessel of war and must pay tolls just the same as a vessel of commerce; and if we charge tolls on a battleship of England, then if this rule applies to the owner of the canal, to the United States, the maker of the rules, we must pay to ourselves tolls on our battleship when it goes through. What can be more absurd? It is so absurd that our friends on the other side, some of them, say it is foolish to contend that we must pay for our battleships. If the rule does not apply in one instance to the United States, how or with what reason can you say that it applies in another? When you make this concession you concede the whole contention. Vessels of commerce and vessels of war are treated exactly alike if language means anything at all. Is it conceivable that the Government of the United States has been guilty of such monumental folly as to purchase territory and build in it a canal at a cost of $400,000,000, and then can not use it for its own vessels, its own warships, without the payment of tolls? To confess this is to confess our inability to protect our own interests and to show that we need a guardian to protect us from our own stupidity. But this is not all. This rule provides that these vessels shall use the canal "on terms of entire equality, so"—note this—"that there shall be no discrimination against any such nation or its citizens or subjects in respect of the conditions or charges of traffic"—again note this—"or otherwise." If "such nation" includes the United States, then if you charge its vessels tolls there is a discrimination against it, because it will not only have to pay the same tolls as other nations, but it has all the burdens and responsibilities of protecting and defending the canal from which other nations are free. In other words, this rule is violated if tolls are charged the United States.

Again, it also provides that there shall be no discrimination against the citizens or subjects of such nation in any way. This provision is violated if you impose tolls upon the vessels of the citizens of the United States, because they have furnished the money for the building of the canal, and they must furnish the money to protect and defend it; and if, in addition to this, they must pay the same tolls as other people, they must bear a greater burden than the people of any other nation. Thus it is that to apply this rule to the United States makes it absolutely ridiculous, indefensible, and wholly unenforceable, while to take it in a reasonable way, as a rule prescribed by the owner of a

great property to govern its use by all nations observing it, brings about absolute equality of treatment to such nations and fulfills to the letter that "general principle" which permeated the Clayton-Bulwer treaty and which it is declared in the preamble to this treaty is not to be impaired, and which would be impaired by any other construction. I assert most positively that only by exempting the United States from the observance of these rules do you comply with the "general principle" of equality which is insisted upon. "The charges must be just and reasonable." Does this apply to the United States, to the owner? Is it possible that the United States must protect itself against itself? Why would it impose upon itself unjust and inequitable charges?

The remaining five rules clearly relate to the neutralization of the canal, and by no twisted reasoning can be made to apply to the United States; and yet, if anyone insists that rule 1 applies to the United States, they can not avoid the consequences of applying the other rules to the United States. All the rules are in one article and must be applied alike or the whole treaty fails.

Rule 2 says that the canal shall never be blockaded, and so forth. No nation ever blockades its own ports, and why should the United States say that it shall never blockade its own property? Suppose it should do so, would it send out another fleet to drive away the blockading fleet in order that the Nation might keep faith with itself and observe this rule? You say, "How absurd!" And yet you can not escape the absurdity if you contend that the rule applies to the United States; and if you say it does not, then you must admit that none of the rules apply to the United States.

Under rule 3, if we are at war with another power, if the rule applies to us, as it surely does not, any war vessel of ours in the canal, in addition to paying tolls under rule 1, could not take on any more provisions or stores than might be strictly necessary and it would have to hasten through just as rapidly as possible. No matter if we are in our own territory, under our own flag, and within our own sovereignty, we must hurry through and go out upon the high seas as if the canal and territory about it were alien country. Is it possible to take a position more disgracefully humiliating than this? And yet this must be the position of those who insist that these rules apply to the United States. Is not this giving up a sovereign right to say that our own ships can not stay within the limits of our own territory as long as we want them to?

Again, if we are at war, we can not under rule 4, if it applies to us, embark or land troops, munitions of war, or warlike materials in the canal, except in case of accidental hindrance, and then we must proceed on our way as rapidly as possible. It is idle to suppose that a self-respecting people will tolerate such a construction when they are fully advised. We can not stop in our own canal; we can not land our troops on our own soil! The people of this country will never assent to such a contention.

But these are not all the humiliating things we are required to do by those who include the United States in "all nations." Rule 5 says that its provisions shall apply to the waters within 3 marine leagues of either end of the canal, and if we are at war our battleships shall not stay in these waters for more than 24 hours at any one time, but we must hoist anchor and leave our own territory. If a battleship of our enemy has left we can not follow for 24 hours. If an enemy's fleet is out in front and one of our warships has arrived it must hasten on through and go out of its own territory and away from its own flag to certain destruction. The application of these rules to the United States would place us in a humiliating, cowardly, pusillanimous, and intolerable situation.

Rule 6 is absolutely silly and asinine as applied to the United States, and would be a fit product only of a lunatic asylum. It would prohibit us if at war from attacking or injuring the canal or any of the works in connection with it. If any rule is needed to prevent us from attacking and injuring our own property, then, indeed, the sooner we turn our affairs over to England or some other power the better it will be for us, if not for mankind. These last five rules are so manifestly absurd when applied to the United States and lead to such ridiculous conclusions that it is generally conceded that they do not apply to the United States because of her ownership and sovereignty, but when this is conceded rule 1 falls, because it is a universal rule of treaty construction that if a part falls it all falls.

Mr. President, I have analyzed this treaty from the standpoint of present conditions and the present situation. I do not question the judgment, ability, sincerity, integrity, or patriotism of those who do not agree with my construction when I say that to my mind any construction that requires us to charge tolls on our vessels on going through this canal is senseless, absurd, foolish, unpatriotic, and un-American, and in "plain contravention" of the terms of the treaty itself. When I say that I simply express but feebly how it appears to me. However, we do not need to depend upon our construction to defend our action. Great Britain herself, through her representative, has practically admitted that we have the right under the treaty to do what we have done when he says in the letter of A. Mitchell Innes, under date of July 8, 1912:

> As to the proposal that exemption shall be given to vessels engaged in the coastwise trade, a more difficult question arises. If the trade should be so regulated as to make it certain that only bona fide coastwise traffic, which is reserved for United States vessels, would be benefited by this exemption, it may be that no objection could be taken.

Why need we quibble and finesse to find some way to show that we have violated a treaty when the other party practically admits that we have not and that we are within our rights in what we have done? We have by law confined this exemption to our coastwise vessels only, and it will be time enough for Great Britain to complain when that law is violated and the vessels exempted are not confining themselves strictly to the coastwise trade. I think the suggestion that we would not enforce our laws was an actual and gratuitous insult, and it should have been resented. It should not be overlooked that the distinction regarding the coastwise trade made by the learned Senator from New York never occurred to the British representatives. If it had, they would surely have suggested it.

Mr. President, I want to call attention at this point to what appears to me to be the real situation with reference to the contention of Great Britain. They have practically admitted in their note to this Government that if we confined our exemptions strictly to the coastwise trade, they could make no objection. If we do that, they have no cause of complaint; if we fail to do it, then arises any cause of complaint they may have which could then be submitted to any tribunal that the two Governments might agree upon or to the court, or in some other way than by our absolutely repealing the law which they in effect concede, if we confine it to this strict purpose, we had a perfect right to pass. Why are we falling over ourselves to undo something which in fact they admit we had a right to do, but which they fear we may not really carry out.

Mr. President, we have the right to do what we have done. No contract has been broken, no obligation violated. The Nation's honor has not been impaired. Its sovereignty has been upheld and its rights maintained. To repeal this law now and under the circumstances is to confess ourselves dishonored in the eyes of the world and cowardly. Did we think we were right when we made this exemption? Surely. Did we not then consider everything that is presented now? What new light has been thrown upon any point? Why do Senators confess by their votes now that they voted ignorantly then or deliberately dishonored their country and their people? Both votes can not be right. The people will demand an explanation. It is noble to confess a fault and repair a wrong; it is ignoble to admit a fault when faultless or to surrender a right through fear. Good will purchased through humiliating concessions is not lasting and will soon be followed by contempt and aggression.

The President asks us to do "the large thing" by granting the demands of England whether "right or wrong." That course would dishonor the Nation, humiliate our people, barter our sovereignty, and bring upon us the just contempt of the world. I know the President meant well, but neither men nor nations can act on that theory and maintain their own self-respect or the respect of others. A firm and just insistence by the Nation upon its rights will cultivate good will, command esteem, and promote peace.

But we are doing "the large thing" by England and the world now. We are doing more for her and more for the nations of the earth than any people have done for others since the "morning stars sang together." We have completed the most stupendous work since the world's creation at tremendous cost in money, toil, and human life. We are going to protect and maintain it and permit the nations of the earth to use it without asking them to repay the cost of its construction. In fixing the charges for its use we take into account our coastwise trade going through it and fix the charge on foreign ships upon exactly the same basis as if we charged such ships for going through. We do not expect for many years to receive from the charges fixed the cost of operation and maintenance. Whatever we do not receive is simply a gift to them. Then we further do "the large thing." We do not exempt our ships in the foreign trade, as we have a perfect right to do and as we ought to do, but we charge them exactly the same rate that we charge to other ships. England should be the last nation on earth to complain at our action in exempting our coastwise ships. She will get the great, the large benefits from this canal.

Her ships will reap the benefit of this great work, and that she is complaining now and insisting upon more favors shows how tenaciously and persistently she looks after the rights and interests of her citizens. While I am amazed at her effrontery, I can not help but admire her devotion to the complaints and demands of her subjects. Yes; we are now doing "the large thing" in heaping measure and neither honor nor right call upon us to do more.

Does the President think that if we grant this demand it will end England's claims? Surely not; and yet I fear he does. If so, he is greatly mistaken. She has given us fair warning, and I want the people of the country to know what to expect if this humiliating surrender is completed. They will then know how to gauge the devotion of their selected representatives to their welfare and interests. Sir Edward Grey, in his note of November 14, 1912, says:

> Animated by an earnest desire to avoid points which might in any way prove embarrassing to the United States, His Majesty's Government have confined their objections within the narrowest possible limits.

What points has England not presented that would embarrass us? How considerate! What magnanimity! Objections confined to the narrowest limits! Grant this demand, and we may expect another. What is our wise course? Stand upon our just rights, and let her other demands be presented for such consideration as they deserve, unembarrassed by the concession of this unjust demand.

There is another instance of England interpreting a provision in her own interests that is enlightening, in view of the contention by her and her friends regarding the treaty under consideration. In the Panama Canal act there is a provision under which railroad and trust owned and controlled ships can not use the Panama Canal. That provision was inserted to insure the use of this great waterway in the interest of the people, and on the assumption that we could do so not only because we had a right to as the owner of the canal, but also because it was a provision without discrimination, and a just and proper restriction. What does England say about this provision? In the letter of Sir Edward Grey, he says:

> His Majesty's Government do not read this section of the act as applying to or affecting British ships, and they therefore do not feel justified in making any observations upon it. They assume that it applies only to vessels flying the flag of the United States, and that it is aimed at practices which concern only the internal trade of the United States.

Note that they concede that railroad-owned ships may pass through the canal in the internal trade of the United States, notwithstanding the view of the Senator from New York. It never occurred to them that railroad-owned ships passing from one port on the Atlantic to another port on the Pacific were not engaged in the coastwise trade, and they concede that we can prohibit our railroad-owned ships from going through the canal from one port to another on the ground that it affects internal trade. If we can prohibit ships from passing through the canal because it relates to an internal matter, then we can permit them to go through upon any terms that we may deem wise, just, and proper.

Legislation that prevents the use of the canal by American ships is not objected to because it relates to the internal trade of the United States, but legislation relieving our ships from some burdens, even though affecting only our internal trade, is objected to if by any possibility English ships, by reason of their geographical location and situation, may be at a disadvantage. But this is not all, and here is the secret to this whole trouble and the activity of England: "If this view is mistaken and the provisions are intended to apply under any circumstances to British vessels, they must reserve their right to examine the matter further and to raise such contentions as may seem justified." No suggestion of giving up anything to get a reputation for generosity. That is not England's way. In other words, England contends that we have the power to exclude our own railroad, trust controlled ships from our canal, but Canadian Pacific Railroad owned ships—that is what "under any circumstances" means—must be permitted to use the same. If we repeal our toll-exemption law and thereby admit the control of England over our own canal, she will then insist upon the ships of the Canadian Pacific Railroad being permitted to go through, and we can not help ourselves, because, "right or wrong," we will have to grant the request in order to do "the large thing" and to preserve "our reputation for generosity." Then our own transcontinental railroads will come to Congress and say, "Is it fair, is it just, is it American fair play to exclude us from the use of our own canal and permit our foreign rivals to use it?" What answer can be made to such a plea? Talk about "insidious lobbies"! In deep and devious ways it has hidden itself behind the representatives of Great Britain, and our honest, patriotic President, unfamiliar with the mainsprings of England's diplomacy, has failed to discover it, and has been unwittingly led into a course that is wholly unjustifiable and un-American and which will lead to the sacrifice of American interests and American sovereignty. The American people were much gratified at the action of the last administration in insuring the use of this canal for the benefit of the people, and they will surely hold to a strict account any administration that turns it over to the use and control of the railroads, and especially without a struggle. That is what repeal means now. That is the real issue. That is what England is after, and that is what the American people will not permit when they have a chance to express themselves upon it.

We are told by some who ought to know better that the ships that would be benefited by this exemption are railroad or trust owned ships, and this is urged as a reason for its repeal. The Commercial Appeal, of Memphis, says, referring to our coastwise law:

> Under this privilege the seacoast ships long ago formed themselves into a trust and became part of the railroad transportation system. It will be seen that more than 90 per cent of the tonnage of the seacoast ships that would benefit by free tolls through the canal either belong to the railroads or are in a shipping consolidation.

The editor of this paper—and this editorial is quoted with apparent favor by others—either deliberately tries to deceive his reading public or else he is woefully ignorant. If he had read the law signed by a Republican President, he would find that these very ships, ships owned by the railroads and ships owned or controlled by a trust, not only can not use the canal free but they can not use it at all. If the contention of Great Britain, which is really the contention of the railroad-owned ships, is sustained, this class of ships will use the canal and it will not make any difference to them what the tolls are; they will be powerful enough not only to throttle all competition but they will simply pass on to the public whatever tolls they have to pay, and the very thing this editor condemns will come about by the policy he advocates. Furthermore, if Canada's railroad-owned ships go through the canal and we exclude our own, then we violate the rule we have laid down by discriminating against our own ships and our own citizens. What are we going to do about it? Is it possible that we can not exclude our own railroad and trust owned ships from our own canal if we want to do it and think it best? Is it possible that we have bargained away that right? If you repeal this law, you can not consistently shut them out without violating rule 1. These ships belong to our citizens. If rule 1 applies to us, we can not exclude them, because that would be discrimination.

I contend that rule 1, as I say, does not apply to us, and that we can shut out our own railroad-owned and trust-controlled ships. Is it possible this argument is presented, this movement inaugurated, by the wise, sagacious, keen minds behind the railroads for the very purpose of putting us into a position where they can say to us, by and by, "You have decided that rule 1 applies to you and your own citizens, therefore you can not shut us out, because that would be a discrimination against us and your own citizens and your own interests"? There would be no answer to such a suggestion if we decide that rule 1 applies to us.

It is urged that as all the people have contributed to the construction of the canal those directly using it should contribute toward its maintenance. That would be true if they would eventually bear the burden, unless a greater benefit is received by allowing them to pass through free. To determine this we should not lose sight of one of the great purposes of this canal. The people desired to build this canal not for glory but for benefits. They feel that it is a great defensive agency in time of war and a great protective agency in time of peace—a protection against extortion by the railroads. You read the debates in Congress from the beginning of the agitation for the building of this canal and you will find that it was urged as a competitor of the railroads in the interest of the people, and you will find it charged from time to time that the greatest agency in opposition to the building of any canal was the railroads. Why? Because they knew that a free and untrammeled waterway would be a sure and efficient regulator of transcontinental rates and insure to the people reasonable charges not only in the canal but over the railroads for the transportation of their products and goods. They opposed it, they delayed it, they put it off on one excuse and another just as long as possible. It was finally entered upon, and the people began to feel that they were going to have water competition to perfect and complete the imperfect regulation of the Interstate Commerce Commission. It began to appear as if the railroads had lost out, but they are resourceful. They are powerful. They have the best and the keenest minds in the country to advise and direct. Finding they

could not prevent the building of the canal and threatened with being prohibited from using it in such a way as to throttle competition, they opposed by every means in their power the legislation prohibiting railroad-owned ships from using it. The proposition for no toll charge was pending at the same time, but this did not worry them. There was no talk of subsidy then. They bent every energy to defeat Congress in its attempt to preserve the canal for independent competition. They failed. Then they directed their efforts toward placing every burden upon the use of the canal they could. They wanted to weaken it; to destroy its efficiency.

They know that every burden placed upon it diminishes its effectiveness as a competitor just to that extent. They know that every charge placed upon the shipping using the canal diminishes its competitive power to that extent and allows them to keep their rates at a higher level. So the plausible argument is presented that as the whole people have paid for the canal those who use it should contribute to the Treasury for its maintenance. This sounds well, but how will it work? These ships will pay the tolls to the Government, of course. Then what will they do? They will charge them up as operating expenses and collect from their customers, and their customers will collect from their customers, the people, and the people who were to receive such wonderful benefits pay the bill. Water transportation rates are kept up by just the amount of the tolls, because they are an absolutely fixed and definite charge for all. Do not the people pay the labor charge, the operating expenses? Surely. Then how do they hope to escape a charge for tolls? Surely there is no magic in the word "tolls" by which they escape. This is not all. Not only do those who transport by water pay more by reason of the tolls, but those who transport by the railroads also have to pay more, and where $1 goes into the Treasury for the relief of the people $3 are taken from their pockets in increased transportation charges. In other words, when you charge tolls to avoid giving ships a subsidy you give a far greater subsidy to the railroads. It is said, however, that these tolls will be paid out of the profits. There are no profits until operating expenses and fixed charges are paid. They will no more be taken out of the profits than will the wages of the sailors. If a vessel owner taking his ship from Seattle to New York has to pay $19,000 on passing through the canal, is there anyone so simple as to think that he will not include that sum in the fixing of his rates? Of course he will, because every other ship has to do the same thing. This plea to get money from these ships for the Treasury will result in taking it from the people and in further mulcting them by higher railroad rates. Of course, the railroads want that. We are here to look after the interest of the people. To impose tolls is not in the people's interest even if any considerable number think so, and their ultimate interest should be our highest aim.

What will be the result if we do not charge tolls? What benefits will accrue? We will get lower water rates and, in my judgment, lower and more steady rail rates. Of course the ships that use the canal will get all they can. That is natural. If there are not enough to do the business their rates will be high. This will attract others. New and more ships will be built, and with more ships will come lower rates, just as have come more railroads and lower rates. Ships will more surely come, however, because there is a track free for all, and it is inevitable that the charges will be brought down to a basis of fair profit after deducting the fixed charges, and those rates must be lower less the fixed charges. This, it seems to me, is in accord with common sense and business experience.

This exemption is objected to because our coastwise ships have a monopoly of the coastwise trade. They have, and they have had it from the foundation of the Government, and we have given it to them because we have thought it the best and the wisest policy and of the greatest benefit to the people. I believe in it. It has given to us the only merchant marine that we have, and it is the only policy that will keep that merchant marine for us. It has a monopoly of that trade, but that trade is so great that it will sustain such a large merchant marine that the competition within it is or would be sufficient to keep the rates down if the shipping can be kept out of control of the railroads. We placed a provision in the canal act under which power is given to the Interstate Commerce Commission to destroy this control, and I hope that it will be done. If this shipping is in a combination we have a law under which it can be dissolved. Unless you are prepared to abandon our coastwise policy, then you can not oppose this exemption, because that policy should be uniform throughout all of our coastwise trade. If the trade between New York and Galveston is to be confined to coastwise ships and permitted to enter harbors which we have improved and pass through canals which we have constructed without the payment of tolls, why may not the ships carrying the coastwise trade between Galveston and San Diego, San Francisco, Tacoma, and Seattle enter our harbors and pass through our canals free of tolls?

We of the Pacific coast have thought that we are a part of the United States. We have been doing our part toward the maintenance of the Sault Ste. Marie Canal that the products of Iowa, Minnesota, the Dakotas, Illinois, and Missouri might have the great benefit of water transportation to the markets on the Atlantic. We have not urged that you should pay tolls. Do you think it fair that you should have this benefit from a canal built with the money of all the people and then deny to us the benefits of a free canal for our trade and our products? You can not afford to do it even if you have the power to do it. This Government rests upon justice and fair treatment, and injustice and unfairness will not long be tolerated. You can not maintain a coastwise policy that applies in one way to one section of the country and in another way to another section.

Some say that free tolls is not of general benefit, but affects the trade of particular sections. This is a narrow view to take, and if applied impartially would stop all development under Government encouragement. This may help the Pacific coast more directly than any other part of the country, but our prosperity means greater prosperity for other sections, and especially to the Middle West. We purchase great quantities of the products of Nebraska, Kansas, Iowa, Missouri, and other States. If we are prosperous, we buy more, and that benefits the people of those States. If we are not prosperous, you suffer.

In 1908 the people of the State of Washington bought the following amounts of farm products from the States named:

Nebraska	$6,375,000
Wisconsin	9,850,000
North and South Dakota	500,000
Iowa	4,060,000
Kansas	2,475,000
Minnesota	5,800,000
Ohio	5,000,000
Indiana	4,000,000
Illinois	8,750,000

All of these farm products we may, and I hope some day will, raise in our own territory. I have no doubt but that our purchases to-day, with an increased population, are far greater than they were in 1908. If we raise these farm products, or if we are unable to buy by reason of lack of prosperity, and cut off this market from your people, it certainly will affect you greatly. This simply illustrates how one section of the country depends upon another, how the prosperity of one section depends upon the prosperity of another section, and how a benefit that comes to one section can benefit another section.

The Soo Canal is no direct benefit to us. We would be better off, so far as our wheat is concerned, if your wheat had to pay tolls, but we do not ask that unless you are going to insist on putting a burden on our coastwise trade through a Government canal. If it is fair for us, it would be fair for you. Would you support a proposition to impose tolls on the ships going through the Soo so that the Treasury might be reimbursed? If the ships alone would pay, why not do it?

But a great light has burst upon the vision of many. Their eyes have been opened, and they see a great octopus, which many of them took to their arms most innocently two years ago. This exemption is a terrible subsidy. What must the people think of many of their Representatives who, selected because of their learning and wisdom, and many of them because they have been denouncing octopuses for many years, and who seem to be able to spy one out on the slightest provocation, innocently took this most terrible of all and fastened it upon the people? Not only that, but when they were assembled for the purpose of telling the people what they favored they gleefully and clearly indorsed this hideous thing and then went out into the campaign and sought to be selected to represent the people, and as one thing commending them to the people they pointed to this great act of theirs, and not until they were elected to office were their eyes opened to what they had imposed upon the people. Their eyes are opened now, or they think they are. They are mistaken. The railroads have thrown dust in their eyes, and they do not know it. They are honest and sincere in their belief, I grant it, but that they are ignorant and mistaken we have good reason to believe. They have confessed that at one time they did not recognize the octopus, and they are likely to be mistaken again. That platform that was such a sacred compact with the people has turned to be nothing but "molasses to catch flies."

Mr. President, if this is a subsidy, then every man on this floor is in favor of a subsidy and has often voted for it. We spend millions of dollars every year to maintain waterways that have cost us over $700,000,000 for improvement, and yet we

permit our ships to use these improved waterways without charge, and no one cries "subsidy." On the contrary, some of those who cry "subsidy" the loudest most zealously seek these subsidies. It is just as much a subsidy to exempt ships from the payment of the expense of maintaining the Soo Canal, the Celilo Canal, the locks on the Ohio, and our other waterways as it is to exempt our ships passing through the Panama Canal. You may quibble and differentiate all you will, but you can not alter the fact. We spend hundreds of thousands of dollars every year for lighthouses, life-saving stations, beacons, and other aids to navigation, and thousands of dollars for their maintenance, and make no charge on account of them. If this is not a subsidy, then the exemption it is sought to repeal is not a subsidy. These expenditures benefit especially the navigation companies. It is proposed to spend millions of dollars in aid of road improvement—largely for the benefit of autoists—and our friends will be strongly in favor of it. Will they propose to establish tollgates along the highways so improved and maintained, in order that the Treasury may be reimbursed? Of course not; and yet not to do so is to grant a subsidy to those who use these roads if this exemption is a subsidy. In the agricultural appropriation bill which we just lately passed you spend for the farming industry millions of dollars, and not a cent of it will come back to the Treasury. Millions of this money will go to particular lines of agricultural work and be of no direct benefit to any other. This is a direct subsidy paid out of the Treasury to a particular industry, especially if your contention with reference to it is correct. You expect nothing to come back to the Treasury. It is a subsidy pure and simple. You vote for it and cry for more. Your Postmaster General says that our Government is paying $50,000,000 a year more for carrying second-class mail than it receives. If this canal exemption is a subsidy, then this exemption to the distributers of second-class mail matter is a subsidy. I saw an editorial the other day in a magazine of a great publishing company denouncing this exemption as a subsidy, and yet that same company gets its magazines carried at hundreds of thousands of dollars less than cost. That is a subsidy if this exemption is. You do not seem to be falling over yourselves to stop this subsidy.

The New York World sneeringly says that you might as well ask that your letter be carried free as to ask that ships go through the canal free, and yet it does not object to the subsidy it receives through our postal laws. There is a great movement on foot now to carry a letter for 1 cent, and there may come a time in the no distant future when we may carry letters free, not as a subsidy, but for the general good.

Last year this Government paid out over $600,000 for delivering country newspapers free. Are those who so viciously denounce this exemption as a subsidy taking any steps against this latter subsidy? I hear of none. Are any of the papers that denounce exemption urging on Congress to pass a law requiring them to pay the full cost of carrying and delivering their publications? Not at all. You provided in your tariff bill—you Democrats—that the shipping industry should be favored above other industries and the material for the building of ships should come in free of duty. If this exemption is a subsidy, then this exemption from duty is a subsidy. Your tariff bill also contained a provision giving a rebate of 5 per cent in the duties on goods imported in American ships. If this exemption is a subsidy, then this rebate is a subsidy. Ah, gentlemen, you have been reveling in subsidies, if this exemption is a subsidy, so much and so long that you do not know one when you see it.

But these are not subsidies. They are aids to industry or the release of burdens on business in the interest of the people and for the general welfare. No government can be carried on without them. Different communities receive different benefits and bear lesser burdens and the aggregate results are productive of happiness and prosperity. So it is with this exemption. It is not a subsidy in any sense of the word. No shipowner is paid a single cent out of the Treasury. That is not disputed. He gets no direct benefit. Whatever benefit he gets comes from the use of the canal without having to pay, just as the other interests above referred to get the benefit of the money spent in their behalf without paying. They will act in exactly the same way, too. Does the owner of the country paper that is delivered free determine what the cost of delivery is and charge that up to his patrons? Certainly not. He pays no attention to the cost of delivery, but serves his patrons the best he can, and if he has a competitor his charges are based upon his actual expenses and the people served get the benefit of the free delivery.

When freights are fixed for carrying products through the Soo, do the shipowners figure what the Government pays for maintenance or what they should pay in tolls and add it to their charges? Certainly not. They think nothing of it. They fix their charges without taking that into consideration at all and through competition the people served get the benefit from such exemption. So it will be with the shipping through the canal. In fixing their charges they will not take into account anything except their expenses. The exemption will not be thought of. If competition is sharp, the people will benefit by the exemption in lower rates, and that is what we want and that is the justification for this exemption in addition to the absolute right which the people of one section and industry have to equal treatment with other sections and the same industry.

To impose tolls on the ships is more certainly a subsidy to the railroads than is exempting ships from tolls a subsidy to them. Put tolls on the ship, and, as I have already said, the people will pay such tolls, and in addition the railroads will keep their rates higher, and this means a greater burden on the people.

Why are some people so afraid of benefiting, or subsidizing, if you please, our own shipping when they seem to care nothing for subsidizing foreign shipping? The four hundred millions spent in building the canal is certainly a subsidy to foreign shipping and foreign industries. Our shipping in the foreign trade will get no benefit, because we have none; none to speak of. No one urges such charges as will repay our people the money it has cost to build the canal. In fact, for many years we will be out many millions of dollars each year for repairs, maintenance, interest, and operating charges that we will never get. That is a subsidy to foreign shipping. It is strange to me that we cheerfully and without criticism give to foreigners what we condemn as vicious for our own. If I have favors and encouragement to bestow, I prefer home interests to foreign interests.

They talk of combinations and trusts in the domestic shipping, but what of the trusts and combinations in foreign shipping? The Alexander report to the House of Representatives shows that practically all of the foreign lines are in trusts and controlled by agreements.

Here, Mr. President, I wish to read, so that it may be in the RECORD, a paragraph from this report on page 415 under the title "Recommendations relating to water carriers engaged in the foreign trade." It is a report made by a committee of the House of Representatives which spent a great deal of time investigating the conditions of foreign shipping:

> The facts contained in the foregoing report show that it is the almost universal practice for steamship lines engaging in the American foreign trade to operate, both on the inbound and outbound voyages, under the terms of written agreements, conference arrangements, or gentlemen's understandings which have for their principal purpose the regulation of competition through either (1) the fixing or regulation of rates; (2) the apportionment of traffic by allotting the ports of sailing, restricting the number of sailings, or limiting the volume of freight which certain lines may carry; (3) the pooling of earnings from all or a portion of the traffic; or (4) meeting the competition of nonconference lines. Eighty such agreements or understandings, involving practically all the regular steamship lines operating on nearly every American foreign trade route, are described in the foregoing report.

Oh, Mr. President, while we are so fearful of giving a benefit to some home trust or home combination let us be careful that we do not confer a greater benefit upon foreign trusts and foreign combinations. It is strange that our friends seem to be so friendly to foreign interests, trusts, and combinations; they do not hesitate to assist them. If we must aid a trust, I prefer to aid a domestic trust rather than a foreign trust every time.

Mr. President, the real question is not, should we impose tolls upon our coastwise ships on going through the Panama Canal, but must we do it? Must we tax our people whether we deem it wise or not? If, under the circumstances surrounding us now, we repeal the law which we deliberately passed, we say to the world—and the world will so understand our action—that we admit that we violated a treaty and that hereafter we must impose this toll. We can not repeal this act and again exempt our ships without stultifying ourselves and bringing upon us the contempt of all the world. If we find that it is economically injurious, there is no remedy. We are helpless. For all time to come our people are taxed, whether they will or no, for the benefit of the Canadian Pacific and the Tehuantepec Railways and the transcontinental lines of our own country. Must we, a free and independent people, tax our internal trade and continue that tax forever whether we deem it wise or not? Must we tax our ships going through our canal, built through our own territory, carrying our own trade, no matter how injurious or undesirable it may be? If we must, then we are not sovereign of our own. We have ceased to be an independent, free-acting people. What we have secured and maintained by war we have lost in peace.

Mr. President, if this exemption is illegal, if we must impose the same tolls on our ships that we do on others, then we never

can relieve ourselves from this tax. If our contention is correct, and if we maintain our position and assert our right, either to impose or to relieve our ships from this tax, as we see fit, then at any time hereafter when we consider it wise to do so we can impose such tax as we please upon our coastwise shipping. The supreme issue to be determined at the close of this debate is whether or not we can act as we deem wise and best, now and in the future, or whether we must bind ourselves and our people with a perpetual tax upon our coastwise shipping through the Panama Canal.

Some propose that if we find this injurious we can repay directly to our shipping what they have to pay as tolls. Not if we must get England's consent, and that is what we would have to do. She gives us fair warning in her note that she would hold this in violation of the spirit of the treaty, and, while admitting that as a general proposition we have a right to do as other nations do and subsidize our shipping, she will contend that under the Hay-Pauncefote treaty we can not favor the particular ships going through the canal.

I want the Senate to note this, because it seems to me that many of those who have discussed this proposition heretofore have overlooked the fact that England does not concede our right to repay by direct subsidy the charges that we may impose upon ships going through the Panama Canal.

In the Innes note, after admitting our general right to subsidize our shipping, he says:

> But there is a great distinction between a general subsidy, either to shipping at large or to shipping engaged in any given trade, and a subsidy calculated particularly with reference to the amount of user of the canal by the subsidized lines or vessels. If such a subsidy were granted it would not, in the opinion of His Majesty's Government, be in accordance with the obligations of the treaty.

In other words, Senators, if we endeavor to repay to our ships that pass through the Panama Canal the tolls which we impose upon them by reason of our treaty, Great Britain will say, "You are violating the spirit of the obligation of that treaty, and you have no right to do it," notwithstanding the fact that England, France, Germany, Spain, and every other nation on the face of the earth that may use this canal, except ourselves, subsidize their own ships, and there is nothing in the treaty to prevent their paying a direct subsidy with reference to this canal; yet Great Britain contends that we have so bound ourselves that we can not even repay as a subsidy the charges collected from our ships in going through the canal. She will pay hers, other nations will pay theirs, but we can not, because we have bound ourselves not to do it.

This is substantially confirmed in Sir Edward Grey's note, which I think I will read so that it may be in the RECORD:

> If the United States exempt certain classes of ships from the payment of tolls the result would be a form of subsidy to those vessels which His Majesty's Government consider the United States are debarred by the Hay-Pauncefote treaty from making.

There you have it. Wriggle, twist, squirm as we may, England would hold us as in a vise. We are bound hand and foot as far as our dealings with our own ships going through our canal are concerned. Does anyone doubt if we go to remitting our tolls that England will object and claim that it is in violation of the treaty? And if we admit now that we can not exempt them, will we not have to admit that repaying them is simply a subterfuge and unworthy of a civilized nation? If we have no right to exempt them, England's contention is correct. It is more dishonorable to attempt to do something indirectly rather than directly, and I can not appreciate that high sense of honor that vehemently contends that we can not exempt our shipping but does not blush at the suggestion to take the money with one hand and pay it back with the other.

Much is attempted to be made out of the fact that what is known as the Bard amendment was voted down by a vote of 43 to 27 when the treaty was pending for ratification. That amendment expressly provided that our coastwise trade should be exempt from tolls. Practically every Senator who was then in the Senate states that this was done in the belief that such amendment was unnecessary. This contention is in accord with reason, judgment, and patriotism. No attention is paid to subsequent construction of the treaty provisions. The contention that we have the right to make this exemption has since been sustained by the great majority of our great lawyers, statesmen, and diplomats. Two years ago the Senate construed the treaty in the same way and by a vote of 44 to 11, after free and open discussion, decided that we had this right and not a single Democrat voted against it. That action of the Senate should set at rest any doubt as to the meaning of the vote on the Bard amendment.

The Panama Canal act, which it is sought to amend, was one of the most important acts of a long list of those enacted during the last Republican administration in the interest of the people. In addition to providing for the government of the Canal Zone it contained some of the most far-reaching and progressive provisions for the control of railroad and water transportation for the people's benefit that have ever been placed upon the statute books. It extended the powers of the Interstate Commerce Commission far beyond anything that had been dreamed of, by giving it the power (1) to establish physical connection between rail and water carriers, (2) to establish through routes and maximum joint rates over rail and water routes, (3) to establish maximum proportional rates by rail to and from the ports to which the traffic is brought or from which it is taken by the water carrier, and (4) to require any railway company entering into an arrangement with any water carrier for the transportation and handling of business from any port to any other port in the United States, or to any foreign country, to enter into any similar arrangement with all water carriers from that port.

In order to meet certain problems and conditions that had arisen from the apparent control of water competitors by certain railroad lines, and to prevent such control, we empowered the commission to divest the railroad companies of all such control, whether by ownership or otherwise, where the same appeared to be injurious to the people, and in order to insure the freedom of the Panama Canal from such railroad control and to guarantee its effectiveness as an untrammeled water competitor of the railroads, we absolutely prohibited the use of that canal by ships owned, operated, or controlled by the railroads. For the purpose of further insuring the use of this canal by free, independent, and competitive water lines and shipping, we prohibited the use of the canal to trust owned or controlled ships. So far as legislation could do we provided for a canal to be used wholly and exclusively for the benefit of and in the interest of the public. In view of the provisions, what must we say of those claims and assertions made by those favoring this repeal, that this exemption will be and is solely in the interest of trust and railroad owned and controlled ships? Such statements are made ignorantly or with the deliberate purpose to deceive, and are inspired by that insidious lobby that the President has failed to discover.

The provision prohibiting the use of the canal by railroad-owned ships was strenuously opposed by the railroads, and very naturally so. They not only wanted to use this canal with their money-making agencies in connection with their roads, thereby converting it from a canal into a railroad for all practical purposes, but they knew that if their ships were excluded the result would be the construction of independent ships and the establishment of independent shipping lines for this trade and the establishment of real competitive water transportation. They knew that there would be such competition among these new ships and lines that rates would be reduced to the lowest possible limit, and that they would have to meet this competition on goods that could be transported by water as well as by rail. This would benefit the people of the whole country. They failed. Congress excluded railroad ships. It offered an encouragement to the building of new ships by exempting them from the payment of tolls and extending to this internal waterway the same rights and privileges that we have extended to all other waterways. The people rejoiced. They believed that their hopes had been realized and that the most perfect agency possible for the just regulation of transcontinental rates had been provided. It remains to be seen whether these hopes are to be blasted under the leadership of those who rejoiced with the people in their rejoicing and who would never have been intrusted with power if the people had thought or known that this legislation would be largely nullified and, to all intents and purposes, a subsidy given to the railroads. To impose tolls is a discrimination in favor of the railroads, disguise it as you will, and especially in favor of the Canadian Pacific and the Tehuantepec.

Mr. President, the Democratic Party may have the power now to say that one section of the country shall have the benefits of a certain system and that another section shall be denied those benefits. It may have the power to apply one law to one section and another law on the same subject to another section, but the American people are a just people, and they will not long intrust with power those who would perpetuate such outrageous injustice.

The people of the Pacific coast have for many years paid tribute to the transcontinental railroads. They have for many years been urging an isthmian canal. They expected one that would bring relief from the burdens they have so long borne, not one that would fix those burdens in perpetuity. They feel, and feel intensely, that the repeal of this law will be a glaring and unjustifiable discrimination against them and their industries. They for years have been paying their share toward the improvement of our harbors and waterways un-

grudgingly, without expecting or receiving any very great direct benefits. They have contributed their part toward the construction of the Panama Canal, and they had a right to expect that they would receive some benefits from it not received by those who have contributed nothing toward its construction They feel that they have a right to equal treatment in a domestic waterway that will be of benefit to them just as the great interests tributary to the Soo Canal get free benefits from it, and they can not characterize too severely those who would be so jealous of the claimed rights of the citizens and interests of a foreign power and directly discriminate against its own. They would not complain if they thought our treaty obligations require this sacrifice on their part, but they insist they do not; and they further insist that there should at least be no weak, abject, unconditional surrender to demands of such great consequence.

We produce great quantities of fruit, fish, hay, grain, and lumber. We want to bring them to the great markets of the East. They want them. The long distance we have to come to reach those markets should be a sufficient handicap in favor of similar products on the Atlantic coast, but it seems not; and it is now proposed to impose upon our products at the Panama Canal what is equivalent to a tariff upon the products of one section of our common country on their being brought into another section of that country. What reason is given? The ships that use the canal should pay part of the cost of running it. In this case they say the ships will pay and the consumers will not have to pay any increase by reason of such charge. They took a tariff of $1.25 per thousand off of the Canadian lumber coming into this country, because, they said, the consumer had to pay it, and to take it off would relieve him.

Now, they would put on what is equal to about $1.50 per thousand on American lumber when it enters an American canal and say that the consumer will not have to pay it. The course of reasoning that leads to the conclusion that if you place $1.25 per thousand upon the lumber of the foreigner the consumer will have to pay it, and yet if you place $1.50 upon the lumber of the domestic producer the consumer will not have to pay it is strange, mysterious, and beyond me. In the case of the foreigner you take a tax off to afford relief to the American consumer, while in the case of our own people you put a tax on for the benefit of the consumer.

The people of the Pacific coast already are at a great disadvantage in the matter of shipping facilities with our neighbors to the north. Their products are substantially the same as ours. They want to get the same markets that we seek. They can carry their products to our markets in foreign ships of any flag, with any kind of crew working under any sort of conditions. We can send our products to our markets only in American ships, with crews as provided by law and working under conditions prescribed by our laws, conditions which we would not change. The result is that our foreign neighbors can get their lumber into the Atlantic markets at about $3 per thousand less than we can, and other products in proportion. Impose tolls on us for passage through our canal and you perpetuate this disadvantage.

I want to call the attention of the Senate to the views of some of our people across the line as to the effect of the repeal of this exemption law upon their industries. I have here an extract from the Vancouver (British Columbia) Province, a newspaper, in which they say:

British Columbia lumbermen, hoping to invade the New York market and that of Buenos Aires, are looking forward to the great pageant parade to be held here on June 12 as a means of bringing their lumber wares to the attention of the Atlantic coast and South American buyers. Mr. Harry G. Hayes, who has been appointed by the lumbermen to take charge of their parade at the time of the pageant, pointed out this morning that following the opening of the Panama Canal there was no reason why British Columbia should not capture a large share of the lumber trade of the east coast.

At the present time Washington mills competing against the southern yellow pine interests manage to dispose of a large quantity of Douglas fir every year on the Atlantic coast, selling both in New York and Buenos Aires by cargo as well as shipping overland by car to points in the Eastern States. Although at the present time the British Columbia mills do practically no cargo shipping at all to the east coast and sell comparatively few carloads to the eastern American towns, Mr. Hayes believes that as soon as the canal is opened for commercial business the mill owners of this Province will be placed in a splendid strategical position from a trade point of view.

BRITISH SHIPS CHEAPER.

British bottoms are cheaper on charter than American boats, he points out, and Seattle and Tacoma can not, under American maritime regulations, use British bottoms for carrying shipments to New York. This will mean that Vancouver can ship cargoes to New York cheaper than Washington cities will be able to do through the canal.

* * * * * * *

The net result will be, he points out, that both British Columbia and Washington shippers will be aided by cheaper transportation, and through their ability to use British bottoms the lumbermen of this Province will have an extra advantage over their fellow shippers of Douglas fir in Washington State.

Then I have here a copy of a letter written by the Home Securities Corporation, limited real estate, timber, timber loans, and investment securities, 503-504 Yorkshire Building, Vancouver, British Columbia, March 25, 1914, addressed to George H. Holt, 431 South Dearborn Street, Chicago, Ill. I will read one paragraph of this letter:

If the act providing for the exemption from Panama Canal tolls of American coastwise vessels is repealed, it will be possible to deliver British Columbia timber to the Atlantic seaboard several dollars per thousand cheaper than United States Pacific coast lumber products, due to the lower rate at which foreign ships can carry lumber as compared to American ships, which under present laws are required to carry freight from any American port to any other American port.

Mr. President, we of the Pacific coast had no right to expect such treatment. I protest against it. It is unfair, unjust, discriminatory, and un-American, and contrary to that policy which we have followed for more than 100 years without serious question.

Mr. President, much self-congratulation is indulged in by our Democratic friends over the record they think they have made. They are telling the people of what wonderful things they have accomplished during the year and a half that they have been in control. I do not blame them for getting all they can out of anything they have done, nor are they to be censured for trying to make the country believe that they have made a great record of achievement and constructive legislation. In my judgment the record could not be much worse than it is. Congress has been in continuous session more than a year. What has been done? A tariff law has been passed under which the great prosperity turned over by the Republicans has been checked and in many industries destroyed. Going works have been halted, new enterprises have been abandoned, business is depressed everywhere, labor has lost employment, mills have closed, and the damage inflicted upon the country and its enterprises through Democratic policies is the first we have had since the last Democratic administration turned over to the Republican Party a bankrupt Treasury and a prostrated country. Imports of foreign production are increasing, while exports of American products are decreasing, and with all this none of the promised benefits have come to our people. Wherever the cost of living has been reduced, if at all, it has been done at the expense of and to the injury of some American industry, and generally the American farmer. What its ultimate results will be no one can tell, but there is every indication that the results that have always followed a revenue tariff law will come from this one and that the country will pay in bitter experience for its change in governmental policies.

A currency law has been passed which it is hoped will be an improvement upon the previous system, but the indications are that it will develop into a great political machine, and if it does the disaster that will come to the country will be beyond measure.

The Alaska railroad bill, which I most heartily approve, has been passed, and it is the only measure of any importance that has been enacted that, in my judgment, deserves commendation and will reflect credit on the administration.

These are the only bills of any special importance that have been passed after 14 months of continuous session.

Mr. President, I wish to call the attention of the Senate and of the country to the fact that since the 1st of January, while in continuous session, only one legislative act of any considerable importance—the Alaska railroad bill—has been placed upon the statute books by this administration.

This is the record of accomplishment, but it is not the whole record. The civil-service system has been attacked at every opportunity, and provisions of law have been enacted striking down this most efficient system of government. Wherever possible the spoils system has been followed to the detriment of the public service. More planks of the Democratic platform have been repudiated than have been fulfilled. The main effort seems to be to repudiate rather than to fulfill, and notwithstanding the promises of that platform it apparently has been a means of getting in on rather than to be followed.

The promise of economy has been wholly disregarded and appropriations have been made far in excess of any previous administration by many millions of dollars. Offices have been increased, not reduced. None of the unnecessary offices denounced in the platform and on the stump have been abolished, but new ones have been created. Appointments have been made in Alaska and the District of Columbia of nonresidents as if no declaration against such a policy had ever been made.

Every effort is now being put forth and every influence exerted to repeal the toll-exemption law, which was especially commended in the platform and by its candidates while on the stump, and the result will be the nullification of the main provisions of the Panama act inserted for the protection of the people by the Republican Party.

You have signed a treaty with Colombia apologizing for a prompt, wise, statesmanlike, and fully justifiable act in the interest of the world's progress, and you have agreed to pay to her $25,000,000 of blackmail money and have given her ships rights in our canal which you claim can not be given our own. Thank God such a treaty can not be ratified except by a two-thirds vote of the Senate, and the people will not elect a Senate that will ratify such an infamous bargain.

Conditions in Mexico are going from bad to worse. We are in Mexico over a dispute between this Government and a puny individual, and we can not come out until order and stable government are brought to that distracted, chaotic, and bandit-ridden nation. Every day's delay now, in my judgment, means the loss of many precious lives and the expenditure of millions of treasure. The more prompt and energetic the action now the fewer lives will be lost and the less expenditure incurred. We are the laughing stock of the nations and a jeer and a byword in diplomacy, not so much because of our legislation but by reason of the incompetence and inexperience of our executive officers.

That is your record. You may be satisfied with it. From a political standpoint I am, but I wish it were better for the people who must suffer.

Gentlemen, make the most of your opportunity. Your power will soon cease. The great majority of the people will not allow the minority to rule very long, especially when it rules by policies so strongly opposed by the majority. In 1916 the majority will be together not only in principle but in the voting booths of the country. They will be together for principles rather than following men. Those who believe in the maintenance of the civil service; those who believe in legislation for the benefit, health, and comfort of children, women, and labor and the general improvement of social conditions; those who believe in the necessity for a protective tariff system for the prosperity of the country, the encouragement of labor, and the development of our industries; those who believe in the uniform application of our laws to every section of the country; those who believe in a firm, just, and dignified attitude toward all nations and who insist that this Government must and will do as it deems wise and best with its own property, its own territory, and its own domestic concerns will act, talk, and vote together under the leadership of that man who will best represent and exemplify the demands and sentiments of the people, and there can be no doubt of the result. The Democratic Party will be overthrown and the party under which this country has prospered as no other nation on the face of the earth, under which every great statute on the books to-day for the benefit and uplift of our people has been enacted, and under whose leadership the honor of the Nation has been upheld and the respect and esteem of the world secured will be reinstated, and the Republican Party will be continued in control until the people must again learn by sad experience.

Mr. President, the request of the President to repeal this law is the most amazing, unwarranted, audacious, humiliating, and un-American demand ever made of an independent coordinate legislative body of self-governing people. Amazing because made unexpectedly and without any demand or sentiment whatever from our own people; unwarranted because the alleged and supposed facts upon which it is based do not exist, other countries have not protested, England asked arbitration and not repeal, and no matters of delicate or nearer consequence exist that depend upon its repeal; audacious because contrary to party declarations, public professions, and the almost unanimous verdict of the people, and made upon the legislative body without reason or argument, but as a request or demand; humiliating because it requires a confession of the deliberate violation of a treaty and the spoliation of a nation's honor by the Congress and the President; and un-American because it involves an unconditional and inexcusable surrender of the rights of the American people and the sovereignty of the Nation. If we heed the demand of the President, we will, in the opinion of the world, confess that we have no right under the treaty to pass such legislation, and we surrender, so far as we can, for all time our right to do so. We may do this thing, but the American people will not have their rights foreclosed in this way. They approved this legislation. We propose to repeal it without their request and without their consent and against their will. We have no moral right to do it. We do not here represent ourselves; we do not here represent the Executive; we are the representatives of the people. The rights and powers that we have are their rights and powers, not ours. They expect us to uphold their rights rather than seek to give them a reputation for generosity at the expense of their vital interests. This question does affect their vital interests and the patriotic sentiment of the country. If party platforms and campaign pledges are repudiated and this law repealed without giving the people an opportunity to express their views upon an issue that has never been submitted to them, we will have to answer in the forum where the people's voice and will must be heard and heeded.

Repeal this law and the Democratic Party must answer for it before every constituency in the land. Repeal this law now and the people will reaffirm their right of control over their own property and their own territory and their right to determine the treatment that shall be accorded their domestic trade, and I want to warn the nations of the world that the people will again write this exemption upon the statute books. They will settle this question, and they will settle it right. Nations are moved largely by the same influences and impulses that affect individuals, and act very much in the same way. They represent the aggregate natures and dispositions of their individual citizenship. The individual who cringes before another and yields his rights uncontendingly, in the hope of securing good will and favor, loses his rights, secures the contempt of his aggressor, and becomes a prey to the selfishness of his neighbors. Yielding our rights and the rights of our citizens at the behest of England without contest, without even protesting, sacrificing the interest of our citizens to secure her approbation, abandoning our domestic policy to secure her assistance, only lessens her good opinion of us and makes us the laughing stock of nations both weak and strong and the victim of their covetousness and cupidity. Instead of securing a reputation for generosity, we will be regarded as weak, servile, and fawning. Help, assistance, and a reputation for generosity bought at such a price are a weakness. National respect is secured by the firm insistence upon the rights of your Nation and your citizens no less than by the scrupulous observance of treaty obligations, and if this Nation has lost the respect and confidence of the nations of the earth it is by reason of a weak, uncertain, vacillating policy in our treatment of foreign problems, and not by our disregard of treaty stipulations. England to-day commands the respect and admiration of the world because of the protection she affords her citizens and the tenacity with which she insists upon their rights. We might profit by her example.

The Senator from Connecticut [Mr. MCLEAN] in a most interesting speech urges that we repeal the law and arbitrate the question at issue. This is a strange position. If we repeal the law there is nothing to arbitrate. England has secured all she wants. We have given up all we have. Even if a moot case could be presented to a board of arbitration, but little attention would be given our claim in view of our open confession that we have no right to make the exemption. It would be like going into court having solemnly acknowledged your cause to be unjust and the result would be the same. This question ought not to be made the football of American politics. This law should stand as it is until our rights are passed upon by some tribunal in which we have confidence. Unless we are to insist upon our clear rights, provision should be made for testing this question before the Supreme Court of the United States, a tribunal whose decision all would cheerfully accept as final. Or let us request the Executive to submit a proposal for arbitration before a tribunal in whose verdict we would have confidence. This would not be difficult. A treaty modeled after that submitted by the last administration would result in a fair and a just verdict. We asked England to arbitrate. She said she was willing to arbitrate. Why did not this administration take that course? This is left to speculation and conjecture.

Here I want to read an extract from the letter of the British minister bearing upon this particular point. Here is a letter from Sir Edward Grey in which he says:

> But they recognize that many persons of note in the United States, whose opinions are entitled to great weight, hold that the provisions of the act do not infringe the conventional obligations by which the United States is bound, and under these circumstances they desire to state their perfect readiness to submit the question to arbitration if the Government of the United States would prefer to take this course.

Then he made a suggestion that is significant, especially in view of the action taken by this administration. Those who think that to repeal this law would not commit us absolutely and forever to the fact that the passage was a violation of the treaty should note this language by Sir Edward Grey:

> A reference to arbitration would be rendered unnecessary if the Government of the United States should be prepared to take such steps as would remove the objections to the act which His Majesty's Government have stated.

In other words, if we would repeal the law, then there would be no reason for arbitration further. Now, what did our Government say about arbitration? What was the suggestion made before this administration came into power? Here is what Secretary Knox said:

> If it should be found as a result of such examination—

That is, an examination into the facts, about which some question seems to have been raised—

If it should be found as a result of such an examination on the part of Great Britain that a difference of opinion exists between the two Governments on any of the important questions of fact involved in this discussion, then a situation will have arisen which, in the opinion of this Government, could with advantage be dealt with by referring the controversy to a commission of inquiry for examination and report in the manner provided for in the unratified arbitration treaty of August 3, 1911, between the United States and Great Britain.

In other words, both Governments before this administration had come into power had committed themselves as being willing to arbitrate this question. Why is it that this administration proposes not to arbitrate but to surrender absolutely and without question on a question of such great importance to us and our domestic policy if it is not willing to insist upon what the vast majority of our people believe we are clearly entitled to?

Repeal this law now and the people will rewrite it and insist upon it until it is accepted by all, or some such method followed to determine our rights. This is the only way to maintain our dignity before the world and preserve our self-respect and honor. The abject confession, the self-abasement, and self-degredation which is now asked of us is more than any nation or people can grant, and the American people will not tolerate it on the part of its representatives. Honor can not be maintained by dishonor; rights can not be preserved by surrender.

Mr. President, glowing eulogies of John Hay have been uttered during this debate by those seeking the repeal of this law. He deserves all that can be said of him. He was one of our greatest statesmen and a most loyal patriot. While firm for the fulfillment of our national obligations and devoted to peace, he was intensely American. To repeal this law for the reason that we had no right to pass it would, in my judgment, reflect upon his intelligence, question his patriotism, and sully his fame. He would not be hunting reasons and relying on quibbles to destroy the Americanism of this great enterprise. He has spoken. His own words show his attitude toward this canal. They refute the suggestions of those who would use his great fame and high character to bolster up a theory that would deprive us of a fair, just, reasonable, and American control of this richest American heritage. In transmitting the treaty to Congress he said—and these words present the whole case of the Republic, and before them all quibbles and fine-spun theories and far-fetched reasoning vanish like frost before the rising sun:

The whole theory of the treaty is that the canal is to be an entirely American canal. The enormous cost of constructing it is to be borne by the United States alone. When constructed, it is exclusively the property of the United States, and is to be managed and controlled and defended by it.

I have here an article dealing with the purely legal question of our right under the Hay-Pauncefote treaty to exempt our coastwise ships from the payment of tolls, prepared by former United States Judge George Donworth, a lawyer of Seattle and one of the leading lawyers of our State. I ask that it may be printed as a part of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

The matter referred to is as follows:

IS THE STATUTE EXEMPTING THE COASTWISE VESSELS FROM PAYMENT OF TOLLS FOR THE USE OF THE PANAMA CANAL IN VIOLATION OF THE HAY-PAUNCEFOTE TREATY?

[Memorandum by George Donworth, of Seattle, Wash.]

Probably no section of the country will suffer more than the State of Washington from the proposed repeal of the statute exempting coastwise vessels from payment of tolls for the use of the Panama Canal. Our great product, lumber, should be allowed to reach the markets of the East without unnecessary burdens, and we feel that not only as to this product, but as to all other articles of commerce between this State and the markets of the East, the canal, built by American genius and American money, should be utilized as far as possible for the benefit of the American people.

Some advocates of the repeal take the position that the tolls exemption violates the Hay-Pauncefote treaty, and must be abandoned from the standpoint of national honor, while others frankly admit that the treaty permits the exemption, but favor a repeal on other grounds of policy.

There is so much at stake in both phases of the question that it is to be hoped those who take the latter view will at least not vote for an outright repeal without embodying in the repealing statute a positive declaration of the right of the United States to restore the exemption whenever it sees fit. In view of the President's message and the legal argument on the construction of the treaty made by most of his supporters, the passage of the repealing act without some such reservation will forever estop us not only on the question of free tolls, but on the question of the right to use the Canal Zone as a base in time of war, as hereinafter pointed out.

In article 2 of the treaty it is agreed that the canal may be constructed directly by the Government of the United States, and that this Government, subject to the provisions of the treaty, "shall have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal."

Article 3 begins with the statement that "the United States adopts" certain rules. It is to be noted in the outset that the effect of this language is to recognize the canal as the property of the United States, and that this Government "adopts" certain rules for its regulation. The language does not say that Great Britain and the United States jointly adopt any rules. The canal is recognized as belonging to the United States, with all the incidents of such ownership, subject to the provisions of the treaty, one of the provisions being that this Government adopts certain regulations. These regulations should therefore be construed in the same manner as regulations adopted by any nation regarding its own property are construed. The general recognition of the canal as the property of the United States, with all incidental rights resulting therefrom, applies to all questions. That is to say, the presumption on all questions is in favor of the right of the United States to legislate as it sees fit, and such legislation is valid unless it contravenes some one of the rules which by the terms of the treaty "the United States adopts."

The argument of our opponents is based upon subdivision 1 of article 3, which states that "the canal shall be free and open to the vessels of commerce and of war of all nations observing these rules on terms of entire equality, so that there shall be no discrimination against any such nation or its citizens or subjects in respect of the conditions or charges and traffic or otherwise."

The treaty speaks for itself that the restriction as to terms of equality is "so that there shall be no discrimination against any such nation." The prevention of discrimination is the gist of the provision. That was the object to be attained. Great Britain has no right to complain of anything under this clause which does not amount to a discrimination. As her vessels are barred in any event from the coasting trade, no exemption freeing from tolls our vessels while engaged in the coasting trade can possibly violate this provision.

The argument of our opponents on this point proves too much. If we admit their argument as valid, we must allow Great Britain to dictate many other changes in our local laws. For instance, the existing treaty of commerce and navigation with Great Britain, that of 1815, provides in the second article that "no higher or other duties or charges shall be imposed in any of the ports of the United States on British vessels than those payable in the same ports by vessels of the United States; nor in the ports of any of His Britannic Majesty's territories in Europe on the vessels of the United States than shall be payable in the same ports on British vessels." (See Compilation of Treaties in force 1904, p. 309.)

The language of this clause is much clearer than the language of the Hay-Pauncefote treaty, in that the 1815 treaty expressly refers to vessels of the United States instead of vessels of all nations. Nevertheless, United States vessels engaged in the coasting trade are exempt from the payment of State pilotage charges. A British vessel arriving at the port of New York is subject to pilotage charges. So is an American vessel arriving there from a foreign port. But an American vessel engaged in the coastwise trade—that is, arriving from an American port, even Porto Rico or Hawaii—is free from these charges. (Huus v. New York & Porto Rico S. S. Co., 182 U. S., 392.)

The Supreme Court distinctly holds that there is no just ground for the claim of discrimination in regulations which favor our coastwise shipping as against other shipping, notwithstanding the treaty of 1815. (Olsen v. Smith, 195 U. S., 332.)

No nation, so far as known, has ever protested against this discrimination in favor of the coasting trade. In many other respects the coasting trade is favored by our statutes. In fact, the favoring of the coasting trade by statute has been so uniformly a part of the policy of the United States since the foundation of the Government that it would be difficult to enumerate all the instances of such favoring. The clause of the 1815 treaty above quoted is far stronger in support of the right of the British vessels to exemption from pilotage charges in the port of New York than is the disputed clause in the Hay-Pauncefote treaty in support of the claim of impropriety of free toll's for coasting vessels in the canal.

A treaty should be so interpreted as to give effect to the object designed; and for that purpose all of its provisions must be examined in the light of attendant and surrounding circumstances. (Roes v. McIntyre, 140 U. S., 453.)

Now, the attendant and surrounding circumstances in the making of the Hay-Pauncefote treaty include the historical attitude which the United States had always taken with reference to its coastwise trade. The circumstances also include the fact that the only consideration which Great Britain furnished for our engagements in the Hay-Pauncefote treaty was the annulment of the Clayton-Bulwer treaty, the canal itself being built entirely by funds contributed by the American people. Another circumstance to be borne in mind is the definite position which the American Government had declared and pursued for years with reference to such a canal. For instance, in the message of President Hayes to Congress, March 18, 1880, he said:

"An interoceanic canal across the American Isthmus will essentially change the geographical relations between the Atlantic and Pacific coasts of the United States and between the United States and the rest of the world. It would be the great ocean thoroughfare between our Atlantic and our Pacific shores and virtually a part of the coast line of the United States. Our merely commercial interest in it is greater than that of all other countries, while its relation to our power and prosperity as a nation, to our means of defense, our unity, peace, and safety are matters of paramount concern to the people of the United States. No other great power would under similar circumstances fail to assert a rightful control over a work so closely and vitally affecting its interest and welfare." (Messages and Papers of the Presidents, vol. 7, p. 586.)

It is inconceivable that America should have surrendered for no definite consideration except the abrogation of a defunct treaty the rights and interests so clearly pointed out by President Hayes or that Great Britain should ever have thought so.

Discrimination being the only thing covenanted against, there can be no just ground for claiming a violation of the treaty by a regulation which imposes no tolls on vessels engaged in a class of trade which is prohibited on any terms whatever to the ships of Great Britain and other foreign countries.

What is the real ground of Great Britain's complaint? The real grounds are:

First. The Canadian Pacific Railway, which wants to reduce the effect of the competition of the canal to a minimum; and

Second. The commercial ambitions of the citizens of British Columbia, who feel that in their commercial rivalry with the cities of our Pacific coast they have much to gain and nothing to lose by burdening as much as possible the coastwise traffic of those cities.

As to the railroad, no one, I suppose, will for a moment claim that it is entitled to be heard in the matter. In fact, it keeps in the back-

ground. It has no direct interest in the question of discrimination in toll charges for ships passing through the canal. Its indirect interest is the same as that of the American transcontinental railroads. The interest of both is in favor of making the canal a failure. No argument from the point of view of those whose interest is inimical to the success of the canal deserves any consideration whatever. The treaty must be presumed to have intended that the canal should be a success, not a failure.

The citizens of British Columbia will gain much by imposing the burden of tolls upon American vessels using the canal in the coastwise trade, but the advantage which they will derive is merely the advantage which any competitor gets from handicapping his rival. Of course the proposed enactment would not reduce the charges on ships bound to or from British Columbia by one penny. It would merely add burdens to American ships doing business with Washington, Oregon, and California. The British Columbia lumbermen, by reason of being able to use foreign bottoms, will be able to transport their lumber to ports in the Atlantic States at a much lower rate than the Puget Sound lumbermen, and if this handicap is not in part counterbalanced by free tolls, the British Columbia lumbermen will have an advantage that will be insuperable. It is no answer to say that if they have this natural advantage they are entitled to retain it in the use of the canal. No natural advantage that they have will be in the slightest degree interfered with by the tolls exemption on our coastwise ships. The charges on their ships are a constant factor in either case. To admit that the treaty prevents us from encouraging our own shipping in a line of business not open to them is to convict the President and Senate who approved and ratified this treaty of stupidity. It should be axiomatic that as the citizens of British Columbia have no right to engage in the coasting trade, they are not concerned legally in any question affecting the tolls on American vessels so engaged any more than they are concerned in any other condition prescribed for the conduct of the coasting trade.

The situation in a nutshell is that the foreign competitor (the British Columbia lumberman) having no interest in the coasting trade or the tolls charged therefor, asks the United States to raise the cost of conducting the coasting trade so that he, the foreign competitor, may take away the trade from his American rival.

If the lumbermen of New Brunswick and Nova Scotia should protest under the treaty of 1815 against admitting lumber-laden vessels from the State of Maine to enter the port of New York without paying pilotage charges, they would have a far stronger case legally and morally than the British Columbia lumbermen have as to the canal tolls.

The fact that citizens of the United States can by means of coasting vessels transport goods under specially favorable conditions from one port to another in the United States has never been considered a discrimination against a foreign port which by means of foreign vessels ships or desires to ship the same class of goods to the same American port. Is Nova Scotia discriminated against because our vessels engaged in the coasting trade can carry coal from Philadelphia to the Boston market, whereas different laws apply to like shipments from Nova Scotia to Boston? Does the treaty of 1815, above quoted, require us to give the same rights to ships arriving from a foreign port as to ships arriving from one of our own ports? By no means. There can be no such thing as discrimination unless the party claiming to be injured has the right to do the thing concerning which the alleged advantage is conferred. If there is any discrimination at all, it goes back to the original prohibition against foreign ships engaging in the coasting trade. If that prohibition stands, all the rest is mere detail, a variation in degree and not in kind.

In construing statutes aimed to prevent discrimination the principle above suggested is invariably applied. For instance, the national banking act, United States Revised Statutes, section 5219, prohibits the taxation of the shares of national banks at any higher rate than other moneyed capital in the hands of individuals. From the beginning the Supreme Court has held that although the word "discrimination" does not occur in the statute, the obvious intention of Congress was to prevent the States from discriminating in matters of taxation against national bank shares. Consequently, that court has frequently held that it is immaterial what rate of taxation is imposed by the States on moneyed capital that does not come into competition with national banks. The expression "other moneyed capital," though general in terms, is restricted by the obvious purpose of the statute to moneyed capital which is in competition with that invested in national banks.

"The result seems to be that the term 'moneyed capital' as used in the Federal statutes does not include capital which does not come into competition with the business of national banks, and that exemptions from taxation, however large, such as deposits in savings banks or of moneys belonging to charitable institutions, which are exempted for reasons of public policy, and not as an unfriendly discrimination as against investments in national banks, can not be regarded as forbidden by the Federal statute." First National Bank *v.* Chapman (173 U. S., 205, p. 214); also First National Bank of Aberdeen *v.* Chehalis County (166 U. S., 440); National Bank of Commerce *v.* Seattle (166 U. S., 463); Commercial National Bank *v.* Chambers (182 U. S., 556).

Some of our opponents urge that the exemption of coastwise shipping from payment of tolls amounts to a discrimination because it increases the burden of all other ships not so exempted. This is an a priori statement of a purely dogmatic character, as it can not be known at present whether the aggregate amount of all tolls at the rate imposed will or can reimburse the United States for the cost of operation and a fair interest on the investment. The best-informed opinion seems to indicate that the canal will be operated at a loss, even though tolls be levied on all ships of every character passing through it. Whether such will be the case or not can be positively determined only by experience. After the lapse of a reasonable time it will be possible to demonstrate whether an equitable distribution of the entire cost of operation and interest upon all ships would have resulted in a lower rate of tolls than that imposed upon British and other foreign shipping. If experience shows that the entire receipts of the canal plus an amount equal to the remitted tolls on coastwise vessels would still be less than the operating expense plus interest, no nation can truthfully say that it has been overcharged. If the United States sees fit to operate the canal at a loss, no one can claim to be injured if it makes that loss greater by exempting certain of its shipping with which foreign nations do not compete

If, on the other hand, experience should prove that a fair return on the investment and the operating cost are more than equaled by the toll receipts plus the potential receipts remitted on coastwise vessels, then for the first time will the British and foreign shipowners have the right to complain. If that situation arises, the United States Government will certainly deal equitably and fairly with the situation in exact accordance with the treaty, though even then it will not be known how many coastwise ships would have used the canal if tolls had to be paid.

The Supreme Court has frequently refused to hold a rate or charge invalid for the reason that it may prove to be in excess of the amount needed for raising a certain revenue.

In Patapsco Guano Co. *v.* Board of Agriculture (171 U. S., 345), where the validity of an inspection charge levied under State authority was attacked on the ground that the charge was excessive (State inspection fees being limited by the Federal Constitution to the amount required for the enforcement of the State inspection laws), the court said (p. 354): "If the receipts are found to average largely more than enough to pay the expenses, the presumption would be that the legislature would moderate the charge." The same opinion quotes from the case of Neilson *v.* Garza (2 Woods, 287), and approves the language of Mr. Justice Bradley in that case, as follows:

"How the question whether a duty is excessive or not is to be decided may be doubtful. As that question is passed upon by the State legislature when the duty is imposed, it would hardly be seemly to submit it to the consideration of a jury in every case that arises. This might give rise to great diversity of judgment, the result of which would be to make the law constitutional one day and in one case and unconstitutional another day in another case. As the article of the Constitution which prescribes the limit goes on to provide that all such laws shall be subject to the revision and control of Congress, it seems to me that Congress is the proper tribunal to decide the question whether a charge or duty is or is not excessive. If, therefore, the fee allowed in this case by the State law is to be regarded as in effect an impost or duty on imports and exports, still, if the law is really an inspection law, the duty must stand until Congress shall see fit to alter it. Then we are brought back to the question whether the law is really an inspection law. If it is, we can not interfere with it on account of supposed excessiveness of fees."

Under the treaty the United States is to fix the tolls and charges, and the presumption is—in fact, it is a certainty—that if experience, the only guide, proves them to be excessive, they will be promptly and adequately reduced and due reparation made to any injured party.

In Knoxville *v.* Knoxville Water Co. (212 U. S., 1), where the water company was asking the court to enjoin the enforcement of a municipal ordinance fixing water rates, the court said:

"Where the case rests, as it does here, not upon the observation of the actual operation under the ordinance, but upon speculations as to its effect, based upon the operations of a prior fiscal year, we will not guess whether the substantial return certain to be earned would lack something of the return which would save the effect of the ordinance from confiscation. It is enough that the whole case leaves us in grave doubt. The valuation of the property was an estimate, and is greatly disputed. The expense account was not agreed upon. The ordinance had not actually been put into operation; the inferences were based upon the operations of the preceding year; and the conclusion of the court below rested upon that most unsatisfactory evidence, the testimony of expert witnesses employed by the parties. * * * If hereafter it shall appear, under the actual operation of the ordinance, that the returns allowed by it operates as a confiscation of property, nothing in this judgment will prevent another application to the courts."

In Willcox *v.* Gas Co. (212 U. S., 19), where the Consolidated Gas Co. of New York was attacking the validity of a statute reducing gas rates in the city of New York, the court said:

"Upon a careful consideration of the case before us we are of opinion that the complainant has failed to sustain the burden cast upon it of showing beyond any just or fair doubt that the acts of the Legislature of the State of New York are in fact confiscatory. It may possibly be, however, that a practical experience of the effect of the acts by actual operation under them might prevent the complainant from obtaining a fair return, as already described, and in that event complainant ought to have the opportunity of again presenting its case to the court."

It is clear, therefore, that where the contention is that charges are too high, as claimed in the Patapsco case, or that they are too low, as claimed in the gas and water cases hereinbefore cited, the Supreme Court of the United States recognizes that experience is the only guide to relief, and that in all doubtful cases interested parties must await the actual results before applying to the courts for a change. No doubt the same principle is recognized and applied in the courts of Great Britain.

If this is the rule applied in ordinary cases to public-service corporations where the experience of similar corporations throws much light upon the probable earnings and expense, how much stronger is the reason for applying the rule to the greatest improvement ever undertaken by man, where all calculations as to expenses and earnings must be problematical and conjectural.

Suppose an act be now passed enabling anyone who claims that the tolls-exemption statute has caused him damage by taking away or impairing a right secured by the Hay-Pauncefote treaty to bring suit for damages against the United States in the Court of Claims, with the right of appeal by either party to the Supreme Court; could any such damages be recovered? Let those who answer this question affirmatively consent to put it to the test. If we must show our good faith by concession while Great Britain shows hers by insistence, the passage of such an act should certainly cover the ground. We believe we are right, and, the matter being one of domestic policy, we adhere to our course until shown to be wrong. In the meantime, if anyone suffers by our act, we will indemnify him.

All that has been said so far holds true, whether or not the expression "any nation" in article 3 of the Hay-Pauncefote treaty includes the United States, since the exemption of coastwise shipping does not amount to a discrimination as to other nations, all of them being prohibited from engaging on any terms in the coastwise trade. When it comes, however, to the question of the meaning of those provisions of article 3 which relate to war and naval operations, involving the highly important question of the national defense, it becomes necessary to consider whether "any nation" includes our own. The canal is owned by the United States. The Canal Zone is ours also, so far as concerns all the world, this Nation having all rights of sovereignty and government therein. The treaty, therefore, is to be construed like any other treaty granting rights to other nations. It in terms states that this Government possesses all rights growing out of the construction and ownership of the canal, with the added qualification that these rights are "subject to the provisions" of the treaty. There can be no doubt that this means that this Nation possesses every right which it has not parted with, just as is the case with the rights of government exercised in our domestic national territory. How can it be fairly claimed in such circumstances the nation possessing all governmental and sovereign rights "adopting" certain rules meant to refer to itself by the expression "any nation"? It must not be forgotten that it is the United States

which "adopts" the rules, not the United States and Great Britain jointly. The selection of this unusual form of language indicates a purpose, and full effect must be given to it.

It can not be conceded that the United States is required by the treaty to grant the same rights to a belligerent with whom it may be at war as it exercises for itself. If we concede that "any nation" includes the United States, the canal, instead of being an aid to our national defense, will become a detriment.

Paragraph 5 of article 3 practically defines the canal as including the waters within 3 marine miles of either end, substantially the entire width of the Canal Zone. Is it possible that in case we have war with a foreign nation, say, with an ally of Great Britain, that the latter country may insist that we refrain from all military and naval operations in the Canal Zone not permitted to our enemy; that we may police the canal, but must police it impartially for our enemy and for ourselves?

In the treaty of 1903 between the United States and Panama, by which the concession for the canal is granted, it is provided in article 25 that Panama will sell or lease to the United States lands adequate and necessary for naval or coaling stations on the Pacific and Caribbean coasts of the Republic, but this is declared to be "for the better performance of the engagements of this convention, and to the end of the efficient protection of the canal and the preservation of its neutrality." Article 23 of the same treaty permits to the United States certain military and naval operations, but this right also is to be granted "for the safety or protection of the canal."

Now, if we admit that "any nation" in the Hay-Pauncefote treaty includes the United States, what are we going to do when we are involved in war with a foreign power, possibly an ally of Great Britain? Must we then neutralize the Canal Zone and permit it to be exposed to the treacherous act of our enemy because of the construction now placed by Great Britain upon the expression "any nation"? Must we escort our enemy's battleships and torpedo boats and submarines on their errand of destruction against our ships and our harbors?

If this Government is required, in answering these questions, to take the altruistic and broad view, at the same time conceding to other nations the right to take the selfish and narrow view, how can we hope to have the treaty interpreted justly in times of stress and bitterness such as prevail during a great war?

This position is in no way weakened by the second sentence of paragraph 2 of article 3 of the treaty, stating that the United States shall be at liberty to maintain military police along the canal to protect it against lawlessness and disorder. This sentence was inserted by this Government to avoid the claim that the sentence immediately preceding would prohibit the fortification of the canal. The two sentences in paragraph 2 of article 3 are to be read together, and the second is merely inserted to avoid an improper interpretation of the first. Both sentences are subject to the general declaration in article 2 that the United States Government shall have and enjoy all rights arising from the ownership and control of the canal except as otherwise provided in the treaty.

It is said that the good faith of this Nation is now in question by reason of its exemption of coastwise shipping from payment of tolls. Is our international reputation for good faith to be improved by admitting the charge of bad faith? We have in this country a tribunal that enjoys as high a reputation as any tribunal on earth for the settlement of controversies. Our Constitution and system of government make it the final arbiter of disputed questions concerning the interpretation of Constitution, treaties, and statutes. Our good faith can be abundantly shown by enacting such legislation as will permit any person, alien or citizen, who feels himself aggrieved by the free-tolls provision, to begin and maintain a suit in our courts, with the right of appeal to our highest tribunal. We should not submit to foreign arbitration any question affecting the terms on which our coastwise trade, in which foreigners are not interested, shall be carried on. By parity of reasoning we should not surrender our just convictions and our settled policy on this subject under threat of the accusation of bad faith.

To repeal the tolls exemption under existing circumstances can not fail to amount to an interpretation of the treaty by the political department of the Government. Such interpretation will be forever binding upon the courts. (Latimer *v.* Poteet, 14 Pet., 4.)

In considering this vitally important question we must not overlook the fact that the statesmen of Great Britain have invariably looked with a biased eye upon the carrying trade of the world. It is unnecessary to refer to the British navigation laws prior to the Revolution, which were a potent cause of the difficulties between Great Britain and the Colonies. After independence was established the statutes of Great Britain continued to be framed so as to secure, as far as possible, a monopoly of the shipping of the world for British owners.

An extremely interesting historical review of the British and American navigation laws is found in the opinion of Mr. Justice Wayne, in Oldfield *v.* Marriott (10 How., 146). The eminent justice there says that the freedom now accorded to the shipping of the different nations in foreign ports throughout the world is due to the initiative of the United States, which forced from a reluctant British Government changes in the navigation laws of that country. The principle of reciprocal rights between shipping of the different nations was not adopted by Great Britain until the initiative of the United States forced her to do so. This reciprocity has never been extended to the coasting trade, and if the pending statute repealing free tolls on coastwise American shipping is enacted, it will be the first time that a purely domestic policy of this country has been changed at the dictation of a foreign power.

The British statesmen of a century ago—as pointed out by Mr. Justice Wayne, supra—did not like the new policy which the United States then adopted. This Nation, however, did not deem that fact of sufficient importance to induce it to recede from a course that seemed to it right and proper. Neither our self-respect nor the respect of other nations was lost by adhering to an American policy.

It is not necessary in the slightest to question the good faith of the British ministry in the present difference of opinion. They are actuated, however, by a point of view which is the growth of many centuries, a point of view which regards the sea as the special sphere of the British nation, and can not understand how any people can do anything on the sea on terms not entirely satisfactory to that nation. Its statesmen treat as immaterial the overwhelming circumstance that this canal has been built by another people, who have exclusively furnished for the achievement their own genius, their own money, and their own statesmanship. If there is a narrow view, all the traditions of the past should not be disregarded in the endeavor to ascertain where it is found.

Mr. JONES. I have refrained from taking up the matter of shipping development and the steps that Great Britain has especially taken to promote her foreign shipping on every occasion, but I have here an address delivered by Mr. A. R. Smith, an expert on shipping and shipping laws, which I also ask to make a part of my remarks.

The PRESIDING OFFICER. Without objection, it will be so ordered.

The matter referred to is as follows:

MR. SMITH'S ADDRESS.

What possible interest has an organization of business men in the city of Lawrence, in the State of Massachusetts, in the subject of our merchant marine? Would you say a sentimental interest, only? During the first half of the past century and a quarter the name and the fame of Massachusetts extended to the uttermost ends of the earth. The incomparable ships built in its shipyards were both the envy and despair of foreign rivals. They and the flag that they carried commanded respect in every port of the known world. As a Massachusetts man I spent several years afloat in different parts of the world in American ships. The history of the golden era of the American ship—long before my time—warms my blood and arouses my pride. But, like a bucket of cold water dashed in my face, comes the realization that Massachusetts men are not to-day summoned to the launching or the sailing of a matchless clipper ship; but, on the contrary, they are invited to the obsequies of the remnant of what remains of a once powerful and prosperous industry. In that industry Massachusetts led all other States, and the records of its ships are unequaled in the annals of history—they outranked anything that ever sailed the seas. They shed imperishable renown upon the United States, those magnificent clippers of a bygone era.

Your immediate and pressing interest in the American merchant marine lies in this: Our manufacturers have outstripped production; our people do not and can not consume all we make. We must find and hold and develop foreign markets that will absorb our surplus, or else mills and factories must shut down and hundreds of thousands of skilled men will be compelled to seek employment in trades in which they are unskilled. We can not depend upon the iron-hand copper-fastened foreign shipping trust to find and hold and develop markets for us. We must have our own ships—there is no escaping it.

Eighteen years ago I had reason to believe that the Senators and Representatives in Congress from Massachusetts would lead in restoring American ships to the seas, but during the intervening years I have bitterly realized that "hope deferred maketh the heart sick."

Just 18 years ago the Massachusetts Republican State convention made this declaration in the platform it adopted in the spring of that year:

"We have always given protection to our shipbuilders. In late years we have neglected to protect our shipowners. We believe the time has come to return to the policy of Washington and Hamilton, which, by discriminating duties in favor of American bottoms, secured 90 per cent of our carrying trade to American ships, and which if now restored would again revive our shipping and cause American freights to be paid to Americans."

That Massachusetts declaration led to the adoption of this similar declaration in the platform adopted in 1896 by the Republican national convention at St. Louis:

"We favor restoring the early American policy of discriminating duties for the upbuilding of our merchant marine and the protection of our shipping in the foreign carrying trade, so that American ships—the product of American labor, employed in American shipyards, sailing under the Stars and Stripes, and manned, officered, and owned by Americans—may regain the carrying of our foreign commerce."

And in his letter accepting his party's nomination for the Presidency the late President McKinley indorsed that declaration in this unqualified and ringing statement:

"The policy of discriminating duties in favor of our shipping which prevailed in the early years of our history should be again promptly adopted by Congress and vigorously supported until our prestige and supremacy on the seas is fully attained. We should no longer contribute directly or indirectly to the maintenance of the colossal marine of foreign countries, but provide an efficient and complete marine of our own. Now that the American Navy is assuming a position commensurate with our importance as a nation, a policy I am glad to observe the Republican platform strongly indorses, we must supplement it with a merchant marine that will give us the advantages in both our coastwise and foreign trade that we ought naturally and properly to enjoy. It should be at once a matter of public policy and national pride to repossess this immense and prosperous trade."

The Republican Party has never repudiated, but it has always evaded, that pledge. Foreign shipping interests are strong and influential—American shipping interests are weak and impotent. Foreign Governments will resent any legislation that would permanently restore American ships to foreign trade. It is not regarded as "worth while" to risk arousing foreign resentment. Then the alleged difficulties in the way of terminating existing trade treaties are too many, although each such treaty in express terms provides for the honorable withdrawal of either party to it; and it is further alleged that "the dangers of retaliation" are so great as to discourage the undertaking. Many of the most influential of our forefathers opposed the principle of discriminating duties, which they nevertheless adopted to serve the people's interests. Republicans, at least, profess to believe in the principle of discriminating in favor of American products that are subject to foreign competition. Our land industries are powerful and influential enough to secure Republican adherence to that principle, an influence that our maritime interests lack, and which may therefore be safely disregarded.

Since those stirring statements I have quoted were so valiantly uttered the tonnage of ships entering our seaports from ports from foreign countries has more than doubled, and the value of our foreign commerce is two and one-half times as great as 1896. For every additional ton of American shipping that has entered 18 foreign tons have entered.

And the protection of American shipbuilders alleged in the opening sentence of the Massachusetts discriminating duty declaration was nothing, in fact, but a hollow sham. It was based upon the denial of American registry to foreign-built American-owned vessels. In the Panama Canal act of August 24, 1912, the right of American register is granted to foreign-built American-owned ships, and in the 20 months that law has been in operation not one foreign ship has been placed under American register, which proves that American register possesses

no value in our foreign trade. It had a value when our laws, both in import duties and in tonnage dues, favored ships under American register, laws that were suspended more than 60 years ago. Then our shipbuilders were protected. But with the suspension of those discriminatory laws the protection ceased. Foreign ships now enjoy every privilege under our laws in American foreign trade that American ships enjoy. And foreign ships are free from the fatal disadvantages that ships under American register are subject to in foreign trade. Naturally, in such circumstances, the American owner of a foreign ship under a foreign flag keeps her there.

For 50 years a certain class of Americans have contended that the solution of the American shipping problem would be found in the free admission of foreign vessels to American register—that if American citizens were permitted to buy ships wherever they could be bought most cheaply, regardless of where they were built, there would be so large an accession of cheaper-built foreign ships to our registry as to give them the carriage of the larger part of our foreign commerce. That beautiful theory has "taken the count" since the Panama Canal act was passed.

The advocates of "free ships" have been so dumfounded and so deeply chagrined at the utter failure of their "cure-all" remedy for the ills suffered by American shipping that they actually propose to retrieve themselves by throwing open the domestic trade of the United States to foreign vessels. This will be the crowning infamy in the long list of legislation that has driven American ships from foreign trade—to destroy the last remnant of American maritime interests, shipbuilding and shipowning, by turning our domestic carrying over to ships built by foreign shipbuilders.

One time there was a humane Dutchman who noted that his more pretentious neighbors had had the tails of their dogs cut off. It was the fashion to have tailless dogs. Now, this Dutchman wanted to be in the fashion, but he didn't want to hurt his dog—he didn't want to hurt it any more than was necessary to give the dog the badge of aristocracy, to make his mongrel fashionable. And so, in the goodness of his heart and in order not to inflict too much pain upon his dog, he cut off his tail an inch at a time, so as not to hurt it too much. Now, that is the humane manner by which Congress proposes to go about the destruction of American shipping in domestic trade—an inch at a time "won't hurt so much." My idea of the way the thing will be done is this: First, foreign-built American-owned vessels will be admitted to what is called "the coast-to-coast trade"; that is to say, the trade between the Atlantic and Pacific coasts of the United States. Next, foreign-built American-owned vessels will be admitted to the trade between the United States and Alaska, and Hawaii and Porto Rico; and finally the whole coast trade of the United States will be thrown open to foreign-built American-owned ships. As soon as that policy begins, our people will cease to have any vessels built in the United States. Our shipyards will go into bankruptcy, and such warships and Government vessels as are hereafter required may, for a time, be built in such of our navy yards as may be adapted for such work. Presently all Government vessels that are not war vessels will be built abroad, because foreigners will build them more cheaply than American builders, and finally we will either give up the idea of having any more warships or an American Navy or else the enticements of greater cheapness of foreign construction will induce our Government to have its warships built abroad, like Turkey and China have theirs built.

After that it will only be a short step to the admission of foreign vessels under foreign flags to any part of our domestic carrying. The question will be properly asked, Why not, if it is right to permit foreign vessels to engage in it? The idea is that foreign ships do our foreign carrying more cheaply than our ships could do it, and that, therefore, it is economically advantageous for us to let foreigners do it. This is not the real reason foreign ships do our foreign carrying, but it is the popular belief. If it accurately stated the case, however, and it should transpire that foreign ships could do our domestic carrying more cheaply than our American ships could do it, why should not the same reasons for allowing foreign ships to do our foreign carrying suffice for allowing them to do our domestic carrying?

That is precisely what we are coming to. It is intended that *eventually* ships built in foreign countries, of foreign materials, by foreign workmen, owned, officered, and manned by aliens, shall do our domestic carrying.

Of course this will probably be done gradually on the theory that it won't hurt so much as if done all at once. We shall end up by being fashionable, even if we get at it only an inch at a time.

During the many years that foreign ships—chiefly British—have been engaged in driving American ships out of foreign trade, our domestic carrying, this suddenly discovered "monopoly," was being permitted to do it all with American ships. The foreign ship was busy getting possession of our foreign trade, and its owner was not working to secure our domestic carrying. But of late years the foreigner has gone as far as he seems able to do in our foreign carrying, but he isn't content to remain satisfied at that—not at all. He now aspires to do our domestic carrying, and he is very likely to succeed. I think you are entitled to some proof that this danger is imminent, and the proof is really so abundant that one is perplexed as to which he will choose. Our present commissioner of navigation was appointed to that office by President Cleveland 21 years ago, and long acquaintance with him enables me to say, and I am pleased to say, that he is a man of exceptional ability and attainments. In his annual report of three years ago—1911—he discusses the Panama Canal tolls question a great deal more fully than I have any idea of doing to-night, and he takes this position: That foreign nations will probably reimburse their ships for the tolls they pay in passing through the Panama Canal, and that if tolls are levied upon American vessels and not repaid to them by the Government, American ships will achieve the very unique distinction, in time, of being the only ships that use the Panama Canal that themselves pay for using it. With that explanation I want to quote a little from his 1911 report to the Secretary of Commerce, as follows:

"If they are named as the sole American direct contributor to the cost of the canal, the conclusion will be inevitable that Congress has decided definitely for some years to come that shipping must shift for itself, regardless of consideration which may be shown to other industries, for a tariff can not be framed without intentional or unintentional favors.

"The present statutory reservation of the coasting trade between Atlantic and Pacific ports to American vessels will not alone suffice to create the shipping needed for the coasting trade through the canal, for that reservation could not be regarded as longer secure in the face of a decision by Congress to select American navigation alone to bear the direct burden of supporting a canal military in its first great purpose and for the general welfare in its second. Only the most venturesome capital would trust itself to shipbuilding and shipowning for canal purposes. This hesitation is already noticeable, compared with foreign preparations for the use of the canal. If it shall continue, the canal will be opened to business confronted with insufficient American shipping to carry any large volume of miscellaneous trade between our Atlantic and Pacific coasts, except between New York and San Francisco and Hawaii. Unless American ships from the time the canal is open to trade are forthcoming in adequate numbers to carry on satisfactorily the trade between numerous ports on the two coasts, a demand wellnigh unanswerable will arise from both coasts for the admission of foreign-built ships to this trade, either under their own flags or under the American flag by registry.

"A deliberate conclusion to tax directly American shipping for the canal points to an ultimate surrender of shipbuilding. Already confined almost wholly to our own coasts, American shipping under the taxing proposition will have a diminishing share in canal trade as it now has in foreign trade."

The Commissioner of Navigation said a great deal more, equally pertinent, but this serves to give some of his argument. You can understand very clearly that, even although for nearly a century our laws reserved the carrying between American ports to American vessels, and although for 20 months it has been declared that American coastwise vessels may pass through the canal free of tolls, that if there is serious danger of cheaper foreign vessels being admitted to the carrying between our coasts, and if tolls are to be charged after all, those radical changes would tend to seriously upset whatever calculations shipowners might make based upon existing law. And that is precisely the position American shipowners are placed in. Existing law invites them to build for the canal for domestic trade. But if they do build for domestic trade, depending upon a continuance of existing law, and the law is radically changed to their injury, it might actually ruin them. And if they hesitate to build enough vessels because of these threatening dangers, and it should transpire that more traffic should offer than there were domestic vessels available in which to carry it, the very dangers that are dreaded would be likely to encompass them—a case of being damned if they do and damned if they don't.

Quite a number of bills are pending in Congress to admit foreign vessels to our coastwise trade, some more drastic than others, and there is a growing sentiment in Congress to destroy the "monopoly" now enjoyed by American vessels in our domestic trade. The second act of the First Congress in 1789 imposed a tax of 50 cents a ton on foreign vessels engaging in our domestic trade for every time they entered an American port, and 6 cents a ton once a year on American vessels in coastwise trade. That drove foreign vessels out of our domestic trade. But in 1817 it was provided by law that foreign vessels should not carry cargoes between American ports. No one now alive is in any way even remotely responsible for those early laws, sanctioned by Washington and Hamilton, Madison and Jefferson, which gave to American vessels this "monopoly," first, by discrimination by law, and later by direct prohibition by law as regards foreign vessels. Since then, for Americans to engage in our domestic trade they have been compelled to have their vessels built in the United States at a cost considerably higher than they would pay if the ships were built abroad, and the cost of running ships in our domestic trade under the American flag is very much higher than the cost of running foreign vessels under foreign flags. You will be able to see, therefore, how a change in the laws would admit much cheaper foreign vessels to our coast trade, vessels much more cheaply operated than our vessels, would affect ours.

About a year ago Chairman ALEXANDER, of the Committee on Merchant Marine and Fisheries of the House of Representatives, said to me: "The admission of foreign-built vessels to the coastwise trade of the United States I regard as the most imminent danger now confronting the maritime interests of the United States." We had been talking about the failure of the free-ship provision of the Panama Canal act, and he had told me that he had been personally assured by a member of the leading American shipbuilders that they did not object to the admission of foreign vessels to American registry for foreign trade. I was greatly amazed, and I said so, and I asked him how he explained it. His reply to that was that when a man is confronted with the immediate necessity of a major operation he is but little concerned with the possible danger of a minor operation only remotely possible. What he meant by that was this: For a dozen or more years American shipbuilders have ceased to build ships for foreign trade, except in the rarest instances. All the ships built for our foreign trade, in fact, are foreign built, and run under foreign flags. So the American shipbuilder figures that he will not be seriously hurt by being positively barred from the building of ships for foreign trade when he is already barred, to all intents and purposes, from building for that trade. But his existence as a shipbuilder rests upon his being able to build for domestic trade. If foreign vessels are admitted to that, the effect will be to put our shipyards out of business, except for the flimsiest and smallest kind of vessels, vessels that can not be transported across seas. And it is precisely that danger that a year ago the chairman of the committee of the House of Representatives to whom maritime matters are referred told me he believed was the most imminent danger that confronts American maritime interests.

If Chairman ALEXANDER was right a year ago, the time for the blow to fall upon our shipbuilders is just that much closer at hand than it then was. Every straw that was capable of indicating which way the wind was blowing with respect to the sanctity of our domestic shipping has indicated its violations through the admission of foreign-built vessels; all of the tendencies of the times and all of the indications in and about Congress point unerringly that way. It is one of the things that is "on the cards."

The scenery has all been painted, the settings are all made, and the stage is almost ready for the curtain to rise. The actors have all carefully memorized their parts and they are now ready to act them. For a hundred and twenty-two years almost no objection has been made to the reservation of our domestic carrying for American vessels. There has been no charge during those 122 years that it is a "monopoly"; but during the past 2 years it has suddenly been discovered that the vessels engaged in our domestic carrying constitute a "monopoly." Is it not somewhat singular that it is only during the past two years that we have become aware that this is a "monopoly"? As the time draws near for its destruction we shall learn more and more clearly, what we have been too dull to realize for a century and a quarter, that not only is our domestic shipping a "monopoly," but it is an odious, a grasping, greedy, insufferable "monopoly." Adjectives will multiply until we regard this "monopoly" with horror. We have been told that its agents have haunted the halls of Congress, attempting to shape legislation, but there is no proof. Presently no one will want proof; everyone will want this "monopoly" crushed. Then we shall learn, in fact we are already learning, that the only effective way to crush it is to admit foreign vessels to compete with it. If you want to destroy a thing, discredit it. Owners of ships in domestic trade are charged with seeking to obtain by stealth a "subsidy" that they could never openly

obtain. Exemption from tolls is now popularly defined as "a masked subsidy," a "disguised subsidy." Since the foundation of the Government Congress has appropriated $791,000,000 for river and harbor improvements, for construction of canals and locks, and no vessel has even been taxed a dollar for using them. It is not yet charged that the vessels that use our improved rivers and harbors, our canals and locks are "subsidized." If necessary, though, to sustain the growing belief that exemption from Panama Canal tolls is a "subsidy," why exemption from tolls for using our other rivers and harbors, locks and canals will be also called a subsidy. The free use of highways made at public expense and bridges built at public expense we shall soon learn give a subsidy to those that use them when they are exempted from tolls. The ruthless purpose is to discredit our domestic ships, because the time is ripe to destroy them.

CONFLICTING VIEWS.

It doesn't matter that shipowners have never asked for exemptions from tolls at Panama in either coastwise or foreign trade; they must be charged with "secretly plotting and scheming to secure exemptions," which means subsidy. Our weak, impoverished, unorganized, vacillating, and divided shipping interests must be held up to public view as a monstrous thing, stuffed and coated with money, and greedily and insatiably seeking more. The people must believe that it is a dangerous "monopoly" seeking a "bald, naked, shameless subsidy"—nothing else will fill the bill.

After that picture of our domestic shipping interests has been held up to public gaze long enough and the people are thus able to see for themselves that this is a "monopoly seeking a subsidy" and that therefore there no longer is doubt of it, that will be the time to introduce St. George, the dragon slayer, and quite willing, you may be sure, George will be to slay this unspeakable monster. If a new "monopoly" grows up in place of the old one, and it happens to be a British monopoly, our domestic carrying may then forever feed and fatten it, because then things will be as they should be—as it is now intended they shall be.

In a speech delivered in the United States Senate only last week by Senator TOWNSEND of Michigan, he saw the handwriting on the wall, and read it aright. He said:

"The only shipping monopoly is that which is engaged in our foreign trade, floated in foreign bottoms, flying foreign flags, and over which our Government has no control. The only merchant marine of which our country can boast is that engaged in our domestic commerce, and some Senators would destroy that by admitting to our coastwise traffic, without let or hindrance, the merchantmen of England and of other countries, and that policy will soon be urged by foreign sympathizers after the pending action is taken; indeed, it is now urged by some. What is our coastwise merchant marine to which free passage of the canal is now given? It is the fleet of boats built, owned, and operated in the United States and under laws enacted by Congress. They must be built in American yards according to regulations assuring healthful, sanitary conditions. They must be manned by American seamen, who are paid American wages. Such of them as are suitable can be secured by the United States in case of war. They furnish competition with the railroads, and thereby do more to secure reasonable transportation rates than all the efforts of railroad commissions, State or national. When the canal tolls bill was before the Senate Committee on Interoceanic Canals it was shown by competent witnesses that the wages paid to employees on boats flying the American flag was 4 to 10 times the wages paid on foreign boats. It was further shown that combinations clearly in restraint of trade existed among foreign ship companies and that none existed among American shipowners."

Just a fortnight ago I had the pleasure of addressing the Haverhill Board of Trade on this subject, and I pointed out to them what the conduct of our foreign commerce involved in dollars and cents. There are 7,000,000 tons of ships, worth $500,000,000, now doing our foreign carrying. The ordinary life of a modern ship is computed at 20 years; so, during the next 20 years existing tonnage will be replaced by 7,000,000 tons of new ships, costing $500,000,000; and if our foreign commerce increases as rapidly in the next 20 years as it has in the past 20 years, another 7,000,000 tons, worth $500,000,000 additional, or 14,000,000 tons of ships, worth a billion dollars will be engaged in our foreign carrying. To-day the ships in our foreign trade earn $350,000,000 in freights, passengers, mails, and express; insurance on cargoes and hulls costs $125,000,000 more; and the exchange on the money used in buying our $4,278,000,000 worth of foreign commerce probably costs $50,000,000—say that the conduct of our foreign commerce now costs $500,000,000 annually, and that 20 years from now it will cost a billion of dollars a year, or an average of $750,000,000 a year, a total of $15,000,000,000 in 20 years.

Fifteen billions of dollars! That is what the conduct of our foreign commerce is likely to cost the United States in the next 20 years. If we owned the ships that did our foreign carrying, that $15,000,000,000 would be paid to us, and remain in the United States. We would have the 14,000,000 tons of ships and the $15,000,000,000 at the end of 20 years. If foreigners own the ships, they will receive the $15,000,000,000, so that at the end of 20 years we shall own neither the 14,000,000 tons of ships nor the $15,000,000,000. Our foreign commerce will have enriched our foreign rivals and we shall be $15,000,000,000 poorer than we need be. In time of war perhaps a considerable portion of the foreign tonnage will be used against the United States—our present commercial rivals will grow rich in times of peace and be fortified in merchant ships, trained and experienced seamen, for the national defense in time of war, while we shall remain weak upon the seas. This is why foreign nations pay their merchant ships in subsidies, subventions, bounties on navigation and construction, naval-reserve retainers, and in other ways upwards of $50,000,000 a year largely to capture and to hold our foreign carrying.

But what is $50,000,000 a year to the nations whose ships earn $450,000,000 a year for the shipowners, insurance companies, and bankers of those nations? And all the while those nations have, as a reserve in time of need, those merchant ships and their officers and men to draw upon for the national defense. You see, that $50,000,000 a year in subsidies, subventions, bounties, and the like, constitute an insurance to the nations that pay it.

So much for our foreign trade. And now as to our domestic trade. The United States Census Bureau only occasionally takes a census of the total tonnage of vessels in the United States and we have an undocumented tonnage of vessels that average 600 tons each not mentioned in the annual statistics of our documented tonnage, and by documented I mean the vessels that are recorded at our customhouses. The two last censuses that disclosed the total tonnage in the United States were taken in 1889 and in 1906, respectively. In 1906 there were 37,321 vessels, of 12,893,429 gross tons, valued at $507,973,121, with a gross income of $294,854,532, employing 140,029 men, to whom were paid $71,636,521. These vessels carried 265,545,804 tons of freight and 366,825,663 passengers. There was a great increase over 1899. Applying to the 20 years succeeding 1906 the same percentage of growth as during the preceding 17 years, the merchant marine of the United States in 1926, documented and undocumented, would be over 21,000,000 tons, valued at $863,600,000, whose annual earnings would amount to $589,709,064. It is the vast domestic shipping of the United States to-day that gives this country second rank among maritime nations, as we have a bare million tons of ships in foreign trade, and these will disappear rapidly, probably, and be replaced with foreign ships.

Let me tell you that the only reason we have a shipping in foreign trade even worth speaking of is because of an ocean mail subsidy act, passed in 1891, and so weak and inconsequential in operation as not to have been repealed. And yet, during the 22 years that preceded its enactment, there was no increase in our steam tonnage in foreign trade, while during the succeeding 22 years American steam tonnage in foreign trade increased three and one-half fold, from 200,000 tons to nearly 700,000 tons. When the existing ocean mail act is repealed our steam shipping will disappear from foreign trade.

Do you think that the foreign shipping interests, that exert such a powerful influence at Washington, will permit that ocean mail act, that gives a modicum of encouragement to American shipping in foreign trade, to much longer remain upon our statutes? Do you think that the foreign shipping interests that have decreed the destruction of our domestic shipping will allow anything to remain upon our statutes that in the least degree helps to sustain our tonnage in foreign trade? No, no; it is on the cards to destroy American shipping in foreign and in domestic trade, root and branch. It is a shipping that too strongly menaces the maritime supremacy of the nations that covet the carrying that it now does, and let me tell you how.

I have spoken of the time-honored policy under which the domestic carrying of the United States has been reserved for American ships—from the time of Washington and Adams, Jefferson and Madison. Each time the United States has acquired new territory, like Louisiana, Florida, Texas, California, Alaska, Hawaii, and Porto Rico, the domestic navigation laws have been extended to the trade between the United States and these new possessions. Three times our domestic navigation laws were extended to the trade with the Philippines, and three times it was postponed, the last indefinitely. But in respect to all other trade between the United States and its possessions, contiguous or noncontiguous, its carrying is confined by our navigation laws to American vessels.

When our navigation laws were extended to our trade with Alaska, Hawaii, and Porto Rico it necessitated the building of precisely the same kind of ocean-going vessels as are built for foreign trade for this new domestic trade. This was disquieting enough to the foreign maritime nations that had almost completely driven our ships out of foreign trade—to find us coming back, as it were, into possession of ocean-going ships, for domestic carrying. It created uneasiness, because a menace to foreign shipping domination was growing up here. The number of vessels engaged in our domestic trade—the enrolled vessels of the United States—have increased but about 2 per cent since the Spanish-American War, but their tonnage has increased 75 per cent, and this is as true of our vessels on the Great Lakes as of those on the coasts. Now, with the opening of the Panama Canal, the opportunity for the building of large numbers of additional ocean-going ships in the United States for the carriage of our coast-to-coast trade has very greatly increased. If unchecked, this can have but one result—we shall presently begin the building of ocean-going ships for foreign trade again. What before was an annoyance now becomes an actual menace to the foreign shipping intrenched in our foreign carrying. Do you wonder that the foreign shipping interests, so influential at the seat of our Government, have determined that now is the time to destroy American shipping in all trades, before it realizes the danger that confronts it, before it can prepare to fend off the assault?

ARGUMENTS THAT CONTRADICT.

And this explains all of the dreadful and horrible things that we have so recently learned regarding our domestic shipping—that it is a monopoly, and that it is seeking a subsidy through tolls exemption at Panama. We are learning, too, that there will be no appreciable reduction in freight rates through the Panama Canal between our Atlantic and Pacific coasts. We are told that the remission of $125,000 a year in tolls on a 5,000-ton ship making 10 round trips through the canal would not affect freight rates a particle—that it would only enrich the shipowner just that much more. The whole theory of economics is upset to sustain the ridiculous and illogical position of those who can not and will not see any benefit to American domestic commerce through the opening and use of the Panama Canal, who insist that they see in it merely a means for further enriching the monopoly that now controls our domestic carrying—that is to say, American vessels. We are told that it will be the policy of the ships that run between the Atlantic and Pacific ports of the United States to merely cut the transcontinental rail rates sufficient to fill their ships with cargoes—no more.

Then we shall be told that the only way to break this monopoly will be to admit foreign vessels to competition with domestic vessels in this coast trade, because foreign ships will be able to carry cargoes for so much less than American ships will do it. You might think that there was a high moral standard that owners of foreign ships live up to that American owners of ships ignore. If American ships will not substantially reduce their freight rates between the coast, what assurance have we that foreign ships will do so? If it is the practice of all carriers, whether rail or water, to tax commerce "all that the traffic will bear," how will the admission of foreign vessels to our coast-to-coast trade remedy matters one particle?

It is pointed out that foreign ships can carry so much more cheaply than American ships do that the cheaper foreign ships will capture all of the lumber trade between the two coasts. That is to say, it will be British Columbia lumber, and not Washington, Oregon, and California lumber, that will be brought to our eastern markets; that foreign ships will be able to carry from British Columbia to ports of the United States, and by barring them from carrying between Washington, Oregon, and California ports and eastern ports of the United States there will be no new business for the Pacific coast.

One might think that owners of American vessels were vampires, that would suck the last drop of blood from the people of the United States, and that owners of foreign vessels are angels of light who could under no circumstances whatever be persuaded to take any advantage of American shippers; that the sole hope of American shippers lies in the admission of foreign vessels to our coast-to-coast trade; that despair will seize upon our shippers if our coastwise navigation laws are not changed; that shippers will derive no benefits from the opening of the Panama Canal unless foreign vessels are admitted to the coast-to-coast trade. The unspeakable villainy contemplated by the

monopolistic domestic vessel owners is only equaled by the unimpeachable honor and integrity of foreign vessel owners. It is actually to such depths of depraved and ridiculous reasoning that the implacable enemies of American shipping are willing to descend, in the belief that the American people will be completely humbugged by them.

We have given up almost all of our foreign carrying to foreign vessels, and what have they done to it? So monopolistic has been their methods that for three years the Federal courts of the United States have been taking evidence presented by our Department of Justice against foreign vessel owners whom our Government charges with violating the antitrust laws of the United States, and which these foreign vessel owners claim they are not amenable to. And the Committee on the Merchant Marine and Fisheries of the House of Representatives spent two years in investigating the foreign rings, pools, combines, and conferences that control foreign carrying, not alone of the United States, but of the world. And it is to these ruthless violators of our antitrust laws, these combines, pools, rings, and conferences of foreign shipowners, that we are asked to turn over our domestic carrying to save it from our domestic "monopoly."

This is the way Senator WESLEY L. JONES, of Washington, in a speech last September in the Senate of the United States, described the foreign shipping monopoly that now controls the foreign carrying of the United States and seeks to gain control of the domestic carrying of the United States as well:

"Trusts, combinations, pools, and conferences have been established, and through these rates are controlled, territory distributed, and business apportioned. Certain lines are given a certain territory; a certain number of ships are allotted to certain ports and the number of voyages limited, and they dare not exceed them under severe penalties arbitrarily but effectively enforced; freight rates are fixed and uniform; passenger receipts are pooled and distributed according to definite agreements; shippers are restricted to certain lines and certain ships on penalty of not being able to secure any shipping facilities whatever; rebates are given on condition that shippers will use no other lines; discriminations are practiced toward certain interests, and especially toward great combinations and powerful interests like the Standard Oil, the Steel Trust, and the International Harvester Trust; 'fighting ships' are maintained for the sole purpose of crushing and driving out of business any independent lines of ships; and the development of the markets and trade of their respective countries is very naturally favored as against our own."

That is what now controls our foreign carrying; it is to that combination that we must at present look to seek out foreign markets for our increasing surplus of manufactures; it is upon such ships, so controlled and dominated, that we must depend to hold these foreign markets for our exports; and it is to those ships and combinations and pools that we must look for the enlargement of the foreign markets of the United States, so that as our surplus products increase we shall be sure of a foreign market for their absorption.

Don't you think we would better depend upon ships of our own to search out and to find and to hold and to develop foreign markets for the growing surplus products of the United States, rather than to trust-controlled foreign ships that deny that our Federal courts have any jurisdiction over them, ships that may at will abandon our trade and leave us without the means of carrying our exports to foreign markets?

And don't you think that before we turn over our domestic carrying to such a graceless and merciless combination of foreign ships we had better pause? Have the foreign ships deserved the foreign carrying of the United States that we have allowed them to absorb? Does the record they have made in foreign trade justify our turning over to them our foreign carrying?

We need merchant ships of our own, their experienced and trained masters, officers, and seamen, as a resource of defense, a secondary reserve for our Navy—we need them for cruisers, troop ships, colliers, ammunition ships, hospital ships, repair ships, dispatch boats, and for a great variety of uses in time of war—they and the trained and experienced men that navigate them. Other nations are paying $50,000,000 a year to make sure that they shall have merchant ships, their masters, officers, and seamen, whenever they require them. Is there any nation that is more exposed to invasion from sea, more exposed to attack from the sea, than the United States? Not one. Our foreign commerce ranks third among the nations of the world, and our domestic commerce far surpasses that of any other nation. Shall we not hold our domestic commerce for our own ships, as we have always held it? Is the policy that we have steadfastly and unwaveringly held to in respect to our domestic carrying to be given up now? And is it to be given up to foreign ships that are absolutely and completely controlled by a world-encircling monopoly such as I have described? Are we to pay for the building of 14,000,000 tons of foreign ships in the next 20 years, and pay them $15,000,000,000 for the conduct of our foreign commerce, and remain weak upon the sea, where we need to be strong, for the national defense? I ask you to very seriously think it all over.

Mr. JONES. I also submit a letter written to me by Mr. A. R. Smith, as follows:

THE CITIZENS' NEW YORK HARBOR IMPROVEMENT COMMITTEE,
New York, April 18, 1914.

Hon. WESLEY L. JONES,
United States Senate, Washington, D. C.

MY DEAR SENATOR: Ever since in 1854 Great Britain ostensibly threw open her coastwise carrying to the ships "of all the world" her people have covetously, greedily, intently kept their eyes fixed upon the coastwise carrying of the United States. They intend to have it, and they are likely to have it. They thought the United States would at once follow their magnanimous (?) example 60 years ago and throw open its coastwise carrying to the ships of "all the world," when translated into understandable English intended to mean British shipping. In the course of 60 years foreign shipping has captured a fraction of 1 per cent—only a fraction of 1 per cent—of British coastwise carrying. That Britons regard as ample justification for their capturing all but a fraction of 1 per cent of the coastwise carrying of the United States, and there are not a few Americans (?) who share that view.

So far nothing has interrupted the steady growth of the domestic shipping of the United States along the coasts and upon the Great Lakes. By the time the new Welland Canal is completed our domestic carrying will have been thrown open to foreign—merely another name for British—carrying, and foreign—that is to say, British—shipping will supersede American shipping upon the Great Lakes, just as it has in foreign trade. By that time foreign—British—shipping will have absorbed the great bulk of our coast carrying. What Britons started out to accomplish 60 years ago they are likely to succeed in accomplishing before the final adjournment of the Sixty-third Congress.

Have you noticed that since the Frye "ship-subsidy bill," otherwise known as the ocean mail act, of 1891, went into effect that the average proportion of the foreign commerce of the United States carried in American vessels has been just 10 per cent—no more? That seems to be, but it is not as far as foreign (British) shipping is able to go in driving American ships out of foreign trade. Because, when the full iniquity of that "subsidy" act of 1891 dawns upon the minds of the antisubsidists in and out of Congress, and it is realized that the "honor" of the Democratic administration is involved in its "repeal," since that party is so resolutely opposed to all subsidies, it must be manifest to you that the Frye subsidy bill of 1891 will follow the inexorable course of everything mundane and walk the plank. Then the remaining 10 per cent of American foreign carrying, so long and so audaciously—indeed, so iniquitously—enjoyed by American ships, will follow the other 90 per cent, and foreign shipping will then have considerately "relieved" American ships of any further concern or interest in American foreign carrying. Having, however, reached a sort of a "check" 20 years ago in the delightful pastime of chasing American ships from foreign carrying, the insatiable appetites of Britons were but whetted to undertake the overthrow of an odious and detestable "monopoly"—that engaged in the coastwise carrying of the United States. At that time the people of the United States did not realize, indeed, they were quite unconscious of, the "monopoly" in domestic carrying they had coddled and preserved by law since 1817; in fact, since 1789. The "monopoly" which George Washington, Thomas Jefferson, James Madison, and Alexander Hamilton all thought it desirable to create—the reservation of our domestic carrying for domestic carriers—and which has remained, in fact, almost a century and a quarter unnoticed and unopposed, it is now proposed to destroy. And it is "on the cards" to have its destruction play directly into the astute but insatiable British maw, a maw that but grows greedier upon what it feeds. The first step in the direction of destroying this "monopoly", this odious and iniquitous monopoly, is to discredit it in the minds of the American people. That accomplished, its destruction merely awaits the pleasure of the executioner.

The Spanish-American War for a time interrupted the plans of driving American vessels out of our domestic carrying. Indeed, the United States even went so far as to "extend" the coastwise laws of the United States to its trade with Alaska, Hawaii, and Porto Rico. But when it was similarly proposed to "extend" the coastwise laws to the trade with the Philippine Islands, and even provided for two or three times, each time the time for such "extension" going into effect was "postponed," the last time indefinitely. Thus our trade with the Philippines, contrary to the trade of the United States with all of its other noncontiguous possessions, is not "coastwise," but, on the contrary, it is foreign; that is to say, British.

The extension of the coastwise trade of the United States to its overseas possessions necessitated the building in the United States of ocean-going ships for its carriage, the building, in the United States, of precisely the same type of vessel that is used in foreign carrying. Now, when Great Britain reached what she had regarded as the end of the building of ocean-going vessels in the United States, for the United States to resume the building of ocean-going vessels for domestic carrying was a piece of impertinence as insulting as it was alarming to "the mistress of the seas." Why, if that should be tolerated, the first thing we knew ocean-going ships would be building in the United States for foreign trade, and Great Britain would have her work to do all over again—that of driving American ships out of foreign trade.

Perhaps you may not have noticed that you would have to go back to 1886—think of it, 1886—a matter of 27 years, to find a year when the tonnage of American vessels in foreign trade was as great as it was in 1913. Do you think Great Britain intends to tamely submit to that? If you do think so, it only goes to show that you don't know Great Britain.

And if you want to find a year when American ships in foreign trade carried as valuable a part of the foreign trade of the United States as it did in 1913, why you have to go back to the year 1861—a matter of 52 years. Now, you know it is "straws that show which way the wind blows." This development has been insidious, and it is probable that that Frye ocean mail "subsidy" act of 1891 is the real cause of it. Should you longer wonder at the fate of the Frye ocean mail "subsidy" act of 1891? The eyes of the world are being opened to the fact that the United States is in the grasp of a hideous coastwise "monopoly," and an ocean mail "subsidy." Can the antisubsidy administration and its virtuous followers in Congress too quickly purge the United States of these iniquities? Well, I should say not. Watch them. If they loiter at all in accomplishing the work, why there is Great Britain, and her good friends in the United States, always ready and willing to stimulate their efforts by the mention of "monopoly," which will cause the raising of one foot, and then "subsidy," which would cause the raising of the other, and thus progress will be assured.

I don't suppose that you have noticed, either, that the "enrolled" tonnage of the United States—the substantial vessels in domestic trade—which was very little greater in 1898, the year of the Spanish-American War, than it was in 1865, has almost doubled in the years that have succeeded 1898? Well, it is so. Mind, I didn't say that the number of vessels had doubled, because they have increased only 2 per cent, but the tonnage has increased about 80 per cent. You see what that means, don't you? It means that the 80 per cent increase in the tonnage of our domestic, or, rather, our "enrolled," vessels has been largely due to the necessities of the trade of the United States with its noncontiguous possessions. It may surprise you to know that that same trade of the United States to-day, with its noncontiguous possessions, has only been exceeded in value a half a dozen times during all of the years that preceded 1843.

And then along comes this Panama Canal, again requiring—who knows how many—ocean-going "domestic" vessels for its conduct. If Great Britain was incensed before, she is outraged now, and clearly her partisans, in and out of the United States, show it. She and they are justly indignant. The situation is intolerable. Just to think, when Great Britain had succeeded in driving American ocean-going ships off the seas, that they should sneak into existence through "domestic carrying." What a travesty on "domestic carrying." Of course such domestic ships are a "monopoly," and of course they are seeking a "subsidy" in the way of exemption from Panama Canal tolls. Of course they are disgraceful. Isn't it plain that the suspicions of the American people have been pretty thoroughly aroused regarding this "domestic monopoly"? What wonder, then, that Members of Congress are daily introducing bills for the admission of foreign—that is to say, British—vessels to our domestic carrying? Is it not about time to apply the

"snickersnee" to the throat of this monstrous "monopoly," lest it grow to proportions that Great Britain wot not of?

You see, it is this way: By insisting that our coastwise vessels pay tolls for passing through the Panama Canal Great Britain realizes, even if we do not, that it will have a tendency to increase freight rates between the coasts. The people on both coasts—very gently, but insidiously, assisted—are beginning to realize that freight rates between the coasts will not be as low as they had anticipated, and the more tolls can be made to put them up the better for the scheme working overtime just now. Now, what is the best way to make freight rates between the coasts as low as it is possible to make them? Government regulation of our coastwise carrying? Not at all. The establishment of a Government-owned line of ocean-going steamships precisely adapted to the needs of our coast-to-coast trade? Possibly. But the "sure" way to get the rates to the minimum and to keep them there, of course, and the only sure way, is to admit foreign—which means British—ships to the trade. There would be no doubt of it then. Now, that is what we are going to be told more and more as the days go by and as the free-ships-in-coastwise-trade bills increase in Congress. You see, if foreign vessels can be admitted to the trade between the coasts, then the strongest argument for exempting coastwise vessels from tolls will have been destroyed. Then it would be a discrimination in favor of such foreign (as well as American) vessels as engaged in coastwise trade, a discrimination not to be permitted as to American, however tolerable it may be as regards Panama or Colombia, vessels.

So it must be clear to you that before this domestic Frankenstein is permitted to grow to any larger "monopolistic" proportions we shall have to call upon "St." George to kill the "dragon" by putting his ships into the trade. While that would be the end of the maritime interests of the United States—lock, stock, and barrel—it would also be the end of the "monopoly" this country has harbored lo these 124 years.

Just in passing it might be proper to remark that Great Britain will not care who writes our Declarations of Independence, so long as she with her ships is permitted to do our carrying, foreign and domestic. If it grows into a "monopoly" under the "red ensign," won't it be a holy one?

Respectfully, yours, A. R. SMITH.

Mr. RANSDELL. Mr. President, few questions have arisen upon which there has been such a diversity of opinion as the Panama tolls problem. At the same time scarcely any question in our political history has been so fully and widely discussed. On both sides are arrayed men of national reputation, and it must be acknowledged that the Hay-Pauncefote treaty admits of honest differences of opinion. However, before proceeding with my argument, I wish to lay down a proposition of law indorsed by eminent jurists of international reputation and confirmed by the statement of one of our ex-Secretaries of State. It is an admitted fact that the United States exercises actual sovereignty over the Canal Zone, which we acquired by virtue of our treaty with Panama in 1903. The Supreme Court of the United States, in Wilson *v.* Shaw (204 U. S., 33), decided that the sovereignty of the United States over the Canal Zone is the same as over any other part of the United States, and this same concession was made by Great Britain in her second note of protest.

SOVEREIGNTY CAN NOT BE LIMITED BY IMPLICATION.

It is an unquestioned legal principle that any provision of a treaty aiming to restrict the sovereign right of a nation must be clear and explicit, and any nation desiring to interpret a treaty so as to limit the sovereign attributes of another nation must prove its case beyond possibility of doubt. The sovereign rights of a free and independent State are not to be curtailed by any forced, doubtful, or even plausible interpretation of a disputed clause of a convention between nations, but the limitations to be imposed must be clearly and unequivocally authorized in the most positive manner by the treaty in question. In this connection let me quote from Mr. J. Hannis Taylor, who states, in his great work on International Law, page 397:

"As it will not be presumed that any State desires to divest itself of its sovereignty, its property, or its right of self-preservation, no such result can be established by implication. It must be clearly expressed."

The eminent British jurist, Mr. William Edward Hall, whose work marks an epoch in the development of international law in England, says in his book on this subject, page 166:

"If a dispute occurs between a territorial sovereign and a foreign power as to the extent or nature of rights enjoyed by the latter within the territory of the former, the presumption is against the foreign State, and upon it the burden lies of proving its claim beyond doubt or question."

ENGLAND'S CONTENTION A DEROGATION OF OUR SOVEREIGNTY.

Let us apply this well-established principle to the Panama tolls dispute. By denying our right to exempt our own vessels from tolls England and those who advocate her view are endeavoring to limit the sovereign rights of the United States over our own American vessels passing through an American canal dug through American territory at an enormous cost in money and the sacrifice of hundreds of American lives. It follows, then, logically that if England wishes to curtail our rights she can not base her contentions upon a disputed clause of the Hay-Pauncefote treaty which has been so variously interpreted by men of the highest character and great learning both here and in Europe, but she must prove her case beyond cavil or question. I can not emphasize this point too strongly. According to the principles enunciated by the most eminent American and British authorities on international law, the burden of the proof lies upon England and those who take her view, since she is attempting to restrict the sovereign rights of the United States. If England has acquired any rights by the Hay-Pauncefote treaty in derogation of our sovereignty, those rights must be clearly and unambiguously expressed, else the presumption is that they do not exist.

This idea is so well expressed by Mr. Philander C. Knox, Secretary of State under President Taft, in a statement published in the Washington Post on May 11, that I can not refrain from quoting his exact words:

"The principle of international law governing a claim in derogation of sovereignty being that no treaty can be taken to restrict the exercise or rights of sovereignty unless effected in a clear and distinct manner:

"First, let us look at the facts. The United States paid to Panama $10,000,000 for the zone itself; we have agreed to pay to Panama a yearly annuity of $250,000 forever; we paid to the French Panama Canal Co. $40,000,000 for its rights in the Isthmus; we are building the canal at a total expenditure of about $400,000,000; we alone are to meet the $25,000,000 which it appears to be now proposed to pay Colombia; we alone are expending untold millions necessary to fortify and protect the canal so that some belligerent, eager to secure the resulting advantage, may not destroy it; we alone are bearing the risk of losing all this investment as the result of some natural cataclysm, such as an earthquake, against which no human agency can secure us; we alone have stood for whatever of criticism has come from the manner of acquiring the Canal Zone—a criticism encouraged and fostered by the very class which now seeks to turn over to Europe as a gratuity the benefits of our action; we alone have put the lives of the flower of our Army engineers and of thousands of American citizens through all the hazards and dangers of fatal tropic maladies; and, finally, no other country has shared and does not propose to share one penny of this expenditure or any phase of any risk connected with our stupendous undertaking. Surely upon these facts there arises no necessary implication that Great Britain is entitled to the benefits of this colossal work on the same and identical terms as we, the owners, the builders, the operators, the protectors, and the insurers of the canal, or that she shall dictate how we shall treat matters of purely local national trade and commerce, or that we shall be denied the very rights in respect to our domestic commerce which she herself claims and exercises and which every other nation in the world possesses."

I now quote the Hay-Pauncefote treaty in full and invite its careful perusal:

HAY-PAUNCEFOTE TREATY.

"The United States of America and His Majesty Edward the Seventh, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, and Emperor of India, being desirous to facilitate the construction of a ship canal to connect the Atlantic and Pacific Oceans, by whatever route may be considered expedient, and to that end to remove any objection which may arise out of the convention of the 19th April, 1850, commonly called the Clayton-Bulwer treaty, to the construction of such canal under the auspices of the Government of the United States, without impairing the 'general principle' of neutralization established in article 8 of that convention, have for that purpose appointed as their plenipotentiaries:

"The President of the United States, John Hay, Secretary of State of the United States of America;

"And His Majesty Edward the Seventh, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, and Emperor of India, the Right Hon. Lord Pauncefote, G. C. B., G. C. M. G., His Majesty's Ambassador Extraordinary and Plenipotentiary to the United States;

"Who, having communicated to each other their full powers, which were found to be in due and proper form, have agreed upon the following articles:

"ARTICLE 1.

"The high contracting parties agree that the present treaty shall supersede the aforementioned convention of the 19th April, 1850.

"ARTICLE 2.

"It is agreed that the canal may be constructed under the auspices of the Government of the United States either directly at its own cost, or by gift or loan of money to individuals or corporations, or through subscription to or purchase of stock or shares, and that, subject to the provisions of the present treaty,

the said Government shall have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal.

"ARTICLE 3.

"The United States adopts, as the basis of the neutralization of such ship canal, the following rules, substantially as embodied in the convention of Constantinople, signed the 28th October, 1888, for the free navigation of the Suez Canal, that is to say:

"1. The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules, on terms of entire equality, so that there shall be no discrimination against any such nation, or its citizens or subjects, in respect of the conditions or charges of traffic or otherwise. Such conditions and charges of traffic shall be just and equitable.

"2. The canal shall never be blockaded, nor shall any right of war be exercised nor any act of hostility be committed within it. The United States, however, shall be at liberty to maintain such military police along the canal as may be necessary to protect it against lawlessness and disorder.

"3. Vessels of war of a belligerent shall not revictual nor take any stores in the canal except so far as may be strictly necessary; and the transit of such vessels through the canal shall be effected with the least possible delay in accordance with the regulations in force, and with only such intermission as may result from the necessities of the service.

"Prizes shall be in all respects subject to the same rules as vessels of war of the belligerents.

"4. No belligerent shall embark or disembark troops, munitions of war, or warlike materials in the canal, except in case of accidental hindrance in the transit, and in such case the transit shall be resumed with all possible dispatch.

"5. The provisions of this article shall apply to waters adjacent to the canal, within 3 marine miles of either end. Vessels of war of a belligerent shall not remain in such waters longer than 24 hours at any one time, except in case of distress, and in such case shall depart as soon as possible; but a vessel of war of one belligerent shall not depart within 24 hours from the departure of a vessel of war of the other belligerent.

"6. The plant, establishment, buildings, and all works necessary to the construction, maintenance, and operation of the canal shall be deemed to be part thereof, for the purposes of this treaty, and in time of war, as in time of peace, shall enjoy complete immunity from attack or injury by belligerents and from acts calculated to impair their usefulness as part of the canal.

"ARTICLE 4.

"It is agreed that no change of territorial sovereignty or of international relations of the country or countries traversed by the before-mentioned canal shall affect the general principle of neutralization or the obligation of the high contracting parties under the present treaty.

"ARTICLE 5.

"The present treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty; and the ratifications shall be exchanged at Washington or at London at the earliest possible time within six months from the date hereof.

"In faith whereof the respective plenipotentiaries have signed this treaty and hereunto affixed their seals.

"Done in duplicate at Washington, the 18th day of November, in the year of our Lord one thousand nine hundred and one.

"JOHN HAY. [SEAL.]
"PAUNCEFOTE. [SEAL.]"

One of the principal debatable points in paragraph 1, article 3, of the treaty is the phrase "vessels of commerce and of war."

It has been asserted by gentlemen favoring the repeal of the tolls exemption for our coastwise vessels that the expression "vessels of commerce" included all vessels of the United States, both those engaged in foreign and domestic commerce. Such is not my opinion.

OUR COASTWISE COMMERCE ALWAYS FOSTERED.

Coasting trade in maritime law is defined as "commerce and navigation between different places along the coast of the United States, as distinguished from commerce with ports in foreign countries." And "vessels plying coastwise are those which are engaged in the domestic trade, or plying between port and port of the United States, as contradistinguished from those engaged in the foreign trade, or plying between a port of the United States and a port of a foreign country."

Ever since the close of the Revolutionary War our American coastwise shipping has been especially favored. While for some years after the war foreign vessels were not absolutely excluded from our domestic traffic, this was merely for the sake of convenience, in order to give our own ships time to become naturalized, as it were, and to get out American papers, since before the war they were registered as British vessels. Even at that time, however, heavy duties were exacted from foreign ships that should engage in our coastwise trade, and, practically speaking, it was restricted to American vessels.

In 1817 a law was passed prohibiting any but American ships from engaging in the coastwise trade. The law has been religiously observed since its enactment nearly 100 years ago. Under the terms of this statute no foreign vessel has ever been allowed to carry any merchandise or other commodities from one American port to another; and though our once large marine engaged in the foreign trade has constantly diminished, until now only 9 per cent of our foreign commerce is carried in ships floating the Stars and Stripes, and the flag of the Union is rarely seen in the foreign ports, except on one of our naval vessels or the pleasure yacht of some millionaire, we have developed a splendid fleet of coastwise vessels, which ply our rivers and canals, the Great Lakes, the Atlantic, the Gulf, and the Pacific, moving enormous volumes of freight.

Later we enacted section 158 of our navigation laws, which reads in part as follows:

"No vessel belonging to any citizen of the United States, trading from one port within the United States to another port within the United States, or employed in the bank, whale, or other fisheries, shall be subject to tonnage tax or duty if such vessel be licensed, registered, or enrolled."

By this we specifically exempted our coastwise traffic from all tonnage charges in our ports, while our foreign commerce and the commerce of other nations must pay a tonnage tax of 2 to 6 cents per ton.

In 31 treaties of commerce and navigation made with foreign countries between 1825 and 1887 we have made special mention of our coasting trade, since it is a universally prevailing custom among nations to distinguish between vessels of a nation and vessels of a nation engaged in foreign commerce. It will thus be seen that not only have we made special and favorable provisions for our coastwise traffic in our maritime laws, but in treaties with foreign nations we have also treated it separately. The presumption is, therefore, that coastwise vessels were not included in the Hay-Pauncefote treaty, because no mention of them was made, and that the expression "vessels of commerce" did not include our domestic vessels.

FAMOUS COURT DECISION.

In proof of this I submit the decision of the Supreme Court in the well-known case of Olsen *v.* Smith (195 U. S., 332).

The second article of the treaty of commerce and navigation of 1815 with Great Britain is as follows:

"No higher or other duties or charges shall be imposed in any of the ports of the United States on British vessels than those payable in the same ports by vessels of the United States, nor in the ports of His Britannic Majesty's territories in Europe on the vessels of the United States than shall be payable in the same ports on British vessels."

Surely the expressions "British vessels" and "vessels of the United States" are as comprehensive and sweeping as "vessels of commerce" in the Hay-Pauncefote treaty. It happened that at this time there was a Texas statute, article 3801 of the Revised Statutes, which provided that, among others, "all vessels of 75 tons and under, owned and licensed for the coasting trade in any part of the United States, when arriving from or departing to any port in the State of Texas" should be exempt from compulsory pilotage charges. Article 3800, however, provided that all vessels not exempted, which, of course, included vessels of the United States engaged in foreign commerce and vessels of foreign nations, should be forced to pay a pilotage charge on entering or departing from any port of Texas. In other words, the statute exempted our coasting trade from certain pilotage charges, but imposed these charges upon foreign vessels. It was contended by a British captain that this statute was in direct violation of our treaty of 1815 with Great Britain, and the case went to the Supreme Court of the United States.

There Mr. Justice White, now Chief Justice, delivered in part the following opinion:

"Nor is there merit in the contention that as the vessel in question was a British vessel coming from a foreign port the State laws concerning pilotage are in conflict with a treaty between Great Britain and the United States providing that no higher or other duties or charges shall be imposed in any of the ports of the United States on British vessels than those payable in the same ports by vessels of the United States. Neither the exemption of coastwise steam vessels from pilotage resulting from the law of the United States nor any lawful

exemption of coastwise vessels created by State law concerns vessels in the foreign trade, and therefore any such exemption does not operate to produce a discrimination against British vessels engaged in such trade. In substance the proposition but asserts that because by the law of the United States steam vessels in the coastwise trade have been exempt from pilotage regulations, therefore there is no power to subject vessels in foreign trade to pilotage regulations, even although such regulations apply without discrimination to all vessels in such foreign trade, whether domestic or foreign." (Olsen *v.* Smith, 195 U. S., 344.)

This decision was rendered on November 28, 1904, and Great Britain has given tacit consent to this interpretation of "vessels of the United States" and "British vessels," since during the 10 years now elapsed she has not protested against the judgment of the Supreme Court. If, then, coastwise shipping is not included in the expressions "vessels of the United States" and "British vessels," how can it logically be said to be included in the much-disputed phrase "vessels of commerce"?

The essence of the decision of the Supreme Court is the fact that "such exemption does not operate to produce a discrimination against British vessels engaged in such trade."

Since, by law, American vessels are the only vessels that can engage in our coastwise traffic it is hard to see how we are discriminating against anyone in exempting them from tolls. Discrimination necessarily implies some one that is discriminated against, and since none but American vessels can engage in our domestic traffic, who is it that is discriminated against?

By the terms of the statute of the United States that I have already quoted American coastwise traffic has been exempted from tonnage charges for nearly 100 years, while a charge of 2 to 6 cents per ton is imposed upon all other vessels, including English ships. Great Britain has never asserted that this was a discrimination or that it violated the treaty of 1815.

ROOSEVELT SAYS TOLLS EXEMPTION NOT DISCRIMINATION.

Ex-President Roosevelt says, in a letter to The Outlook under date of January 18, 1913:

"I believe that the position of the United States is proper as regards this coastwise traffic. I think that we have the right to free bona fide coastwise traffic from tolls. I think that this does not interfere with the rights of any other nation, because no ships but our own can engage in coastwise traffic, so that there is no discrimination against other ships when we relieve the coastwise traffic from tolls. I believe that the only damage that would be done is the damage to the Canadian Pacific Railway."

He might have added, "and some railways in the United States."

"Moreover, I do not think that it sits well on the representatives of any foreign nation, even upon those of a power with which we are, and I hope and believe will always remain, on such good terms as Great Britain, to make any plea in reference to what we do with our own coastwise traffic, because we are benefiting the whole world by our action at Panama, and are doing this where every dollar of expense is paid by ourselves. In all history I do not believe you can find another instance where as great and expensive a work as the Panama Canal, undertaken not by a private corporation but by a nation, has ever been as generously put at the service of all the nations of mankind."

To summarize then: From the universal practice of our Nation as exemplified in our maritime laws for nearly 100 years, and in our treaties of commerce with foreign nations, and from the fiat of the Supreme Court of the United States, it is evident that the expressions "vessels of commerce" and "vessels of coastwise trade" do not include each other, that they are not synonymous, and that they each have a distinct meaning of their own. It follows, then, that "vessels of commerce" in the Hay-Pauncefote treaty did not include our coastwise vessels, and that therefore we are at liberty to exempt them from tolls if we so desire. As a clinching argument let me quote the language of Great Britain in her note to our State Department of July 8, 1912:

"As to the proposal that exemption shall be given to vessels engaged in the coastwise trade, a more difficult question arises. If the trade should be so regulated as to make it certain that only bona fide coastwise traffic, which is reserved for United States vessels, would be benefited by this exemption, it may be that no objection could be taken."

CONSTRUCTION OF SENATORS WHO RATIFIED TREATY.

In order to arrive at the meaning of the language of the treaty as construed by the Senate, one of the necessary parties to it at the time of its ratification, let us consider the facts in regard to the Bard amendment, offered when the first draft of the Hay-Pauncefote treaty was being considered by the Senate in 1900. In order to prevent any doubt on the subject of our coastwise traffic, Senator Bard proposed the following:

"The United States reserves the right in the regulation and management of the canal to discriminate in respect of the charges of traffic in favor of vessels of its own citizens engaged in the coastwise trade."

This amendment was defeated by a vote of 43 to 27. The proponents of repeal insist that this vote favors their construction, as it seems to make square issue on the point in controversy, but an analysis of the opinions of the Senators who participated in the treaty debates shows exactly the contrary. And the views of Mr. Roosevelt and these Senators must be accepted as the correct American construction of the treaty at the time of its ratification, for they were its joint authors and makers.

Senator LODGE, acting chairman of the Foreign Relations Committee, who had charge of the treaty during the illness of the chairman, Senator Davis, and who is now advocating the repeal of the tolls on economic and other grounds, said in the Senate on July 17, 1912:

"Mr. LODGE. * * * The question of canal tolls has arisen in connection with representations made by the Government of Great Britain in regard to our rights in fixing tolls. It so happened that I was in London when the second Hay-Pauncefote treaty was made, and, although the draft was sent from this country, that treaty was really made in London and should properly be called the Lansdowne-Choate treaty. I mention this merely to show that I had some familiarity with the formulation as well as the ratification of that treaty. When the treaty was submitted by the President to the Senate it so happened that I had charge of it and reported it to the Senate.

"The second Hay-Pauncefote treaty, as Senators will remember, embodied in substance the amendments which the Senate had made to the first Hay-Pauncefote treaty. England had refused to accept those amendments, and then the second treaty was made embodying in principle all for which the Senate had contended.

"When I reported that treaty my own impression was that it left the United States in complete control of the tolls upon its own vessels. I did not suppose then that there was any limitation put upon our right to charge such tolls as we pleased upon our own vessels, or that we were included in the phrase 'all nations.'"

And on the 20th of July, 1912, he continued:

"Mr. LODGE. While I am on my feet, if the Senator will allow me, there is one other thing I should like to say. I said in my remarks a few days ago that my personal view was that we had the right to exempt American vessels from tolls. I did not go into the matter. I took a somewhat active part in the two Hay-Pauncefote treaties, as they are called. I voted against the Bard amendment. I voted against it in the belief that it was unnecessary; that the right to fix tolls, if we built the canal or it was built under our auspices, was undoubted. I know that was the view taken by the then Senator from Minnesota, Mr. Davis, who was at that time chairman of the committee. I certainly so stated on the floor. * * * I had that same view in regard to this treaty. I was familiar with the work that was done upon it in London at the time when it was concluded there and finally agreed to, and I was very familiar with it here. Although, as the Senator from Georgia correctly said, the question was not raised at that time, I personally have never had any doubt that the matter of fixing the tolls must necessarily be within our jurisdiction; and when I referred to our going to The Hague as useless I did not mean because our case was not a good one. I meant because in the nature of things we could by no possibility have a disinterested tribunal at The Hague. It would be for the interest of every other nation involved to prevent our fixing the tolls according to our own wishes.

"Mr. POMERENE. Mr. President——

"The PRESIDENT pro tempore. Does the Senator from South Carolina yield to the Senator from Ohio?

"Mr. SMITH of South Carolina. I yield.

"Mr. POMERENE. The Senator from Massachusetts has just expressed a reason for his vote against what was known as the Bard amendment. Can the Senator inform us as to whether that was the general sentiment prevailing at that time among the Senators?

"Mr. LODGE. I can only say, Mr. President, that that was the view of the chairman of the Committee on Foreign Relations, and it was my view; and, while I may be mistaken, I think on that vote the majority of the Senate followed the Committee on Foreign Relations."

The same idea expressed by Senator Lodge is affirmed by Senators Foraker, Butler, Perkins, Bard, Scott, Wellington,

Clapp, Turner, Dubois, Deboe, Kearns, Towne, Mason, Beveridge, Gallinger, Warren, Dillingham, and Burrows, 19 in all, who are a unit in the support of our right of exemption.

From the CONGRESSIONAL RECORD of July 17, 1912, I quote the following:

"Mr. CLAPP. In answer to the suggestions of the Senator from Vermont [Mr. PAGE], I will say that I think it was quite generally understood then that the reason for voting down the proposition to authorize the fortification in express terms was that under the treaty we had the right to fortify without that particular provision. I know I was here at the time, although I do not recall all of the speeches. But while some of us voted insisting in some instances that these things should be explicit and in others voting with the majority upon the ground that they were covered anyhow, I believe, both with reference to the coastwise trade and especially with reference to the question of fortification, that many of the votes cast against those express provisions were cast upon the theory that without them we nevertheless had the right to do them.

"Mr. O'GORMAN. That the provisions were unnecessary?

"Mr. CLAPP. Yes; that they were unnecessary."

During the recent debate on the Panama tolls a number of Senators who voted on the Bard amendment have expressed themselves concerning the construction they placed upon it, as follows:

Hon. Thomas R. Bard (ex-Senator from California):

"When my amendment was under consideration *it was generally conceded* by Senators that even without that specific provision the rules of the treaty would not prevent our Government from treating the canal as part of our coast line, and consequently could not be construed as a restriction of our interstate commerce, forbidding the discrimination in charges for tolls in favor of our coastwise trade, and this conviction contributed to the defeat of the amendment."

Hon. Albert J. Beveridge (ex-Senator from Indiana):

"When the first Hay-Pauncefote treaty was under discussion several Senators gave as reasons for voting against Senator Bard's amendment that it was unnecessary, because under the treaty, even as it then stood, we had a perfect right to exempt our coastwise shipping from payment of tolls.

"I voted for Senator Bard's amendment, not because I had any doubt upon the subject, but because the fullest possible American rights over the canal could not be stated too strongly for me.

"When the second Hay-Pauncefote treaty came up for consideration, so unanimous was the opinion of Senators that under the treaty our right over tolls was undoubted that Senator Bard did not even propose or offer his amendment again. Instead, he himself voted for the resolution advising the ratification of the treaty without amendment, which carried almost unanimously. This second Hay-Pauncefote treaty is the one now under consideration.

"From my recollection of the matter, I think it certain that the Senate would not have advised ratification if it had been seriously contended that the treaty denied us the right to favor our own coastwise vessels."

Hon. Fred T. Dubois (ex-Senator from Idaho):

"I was a Member of the Senate at the time of the ratification of the Hay-Pauncefote treaty and voted for its ratification. I recall the consideration of the treaty and the debate, and I entertained no doubt as to the meaning of the treaty. I did not myself, and I do not believe that my colleagues, generaly speaking, understood that this treaty in any way deprived the United States of the right to favor its coastwise trade or deprive it of what I consider the sovereign power to deal with its domestic commerce. In my opinion, had any such view prevailed the treaty would have been rejected."

Hon. Charles A. Towne (ex-Senator from Minnesota):

"I remember distinctly my own feeling about the matter at the time, which was that we retained under the treaty full sovereignty over the canal and over the incidents of its ownership and control, including the right to fortify and police it and to regulate its use by vessels of commerce, subject only to the condition that all other nations should be treated alike; and that this was the general understanding."

Hon. Thomas Kearns (ex-Senator from Utah):

"I am in thorough accord with the views of Senators Lodge, Bard, Clapp, Perkins, Davis, and others, and, was I fortunate enough to be a Member of the Senate at the present time, I would certainly support the idea of favoring our coastwise trade. I think it is a piece of imposition on the part of Great Britain to attempt to dictate what, if anything, we should charge for canal tolls to our own war vessels, transports, or coastwise ships. We built the canal with our money. We have a right to protect our own property and to use it for our own convenience, and I do not think we should be bound otherwise by any treaty obligations, except to give all foreign nations fair and just treatment, without discrimination, as one against the other."

PERSONAL LETTERS TO ACTORS IN DRAMA.

I wrote personal letters to all the Senators who voted on the Bard amendment who are living and had not expressed themselves, and, with the exception of two, those who replied said, in substance, that as they understood the treaty at the time it was before the Senate for ratification the United States had a perfect right to regulate its coastwise traffic as it saw fit, and that the idea conveyed by the Bard amendment in express terms was implied in the language of the treaty as finally adopted. Several of them stated in unequivocal language that such was the general understanding, and that the treaty would not have been ratified if it had been understood otherwise. I quote briefly from these letters as follows:

Ex-Senator Julius C. Burrows, of Michigan:

"At the time the Hay-Pauncefote treaty was under consideration in the Senate and as finally ratified it was my understanding and belief that under it the United States would have the right to exempt its coastwise vessels from the imposition of all tolls. Without such exemption, express or implied, the treaty could never have been ratified."

Ex-Senator Marion Butler, of North Carolina:

"The treaty would never have been ratified if there had been any doubt about our right, not only to exempt our coastwise vessels from paying tolls, but also to do anything and everything with reference to the canal that we saw fit, so long as we permitted other nations observing the rules laid down to use it on terms that were equal and fair to all. * * * It was also emphasized that the privilege which we granted to all nations to use the canal was a conditional privilege and limited to their compliance to these conditions, and that, therefore, we reserved the right to enforce these conditions or rules against other nations, and that there was no one else to enforce them but us, the builder and owner of the canal."

Senator J. H. GALLINGER, of New Hampshire:

"When the so-called Bard amendment was before the Senate I voted against it specifically and absolutely on the ground that I believed it to be unnecessary, holding to the view that under the treaty as it stood we had an absolute right to exempt our coastwise trade from the payment of tolls. No other construction could properly be put upon the treaty unless we reached the conclusion that the Panama Canal is not an American waterway."

Senator W. P. DILLINGHAM, of Vermont:

"Replying to your note of inquiry as to my attitude toward the amendment offered by Mr. Bard to the Hay-Pauncefote treaty proposing to specifically exempt our coastwise vessels from the payment of tolls, permit me to say that it was urged by most of those who participated in the debates that the proper construction of the treaty rendered the adoption of such an amendment unnecessary. I inclined to that opinion, and as the adoption of the amendment would have resulted in an undesirable postponement of the ratification of the treaty, I voted against it."

Ex-Senator George Turner, of Washington:

"The spokesman of the Foreign Relations Committee assured the Senators when the Hay-Pauncefote treaty was under consideration that that treaty plainly implied what the Bard amendment explicitly provided, and hence that the Bard amendment was unnecessary. My recollection is that I accepted that view as correct, but voted for the Bard amendment out of excess of caution and to foreclose any possible contention on the subject. * * * Some Senators were more apprehensive than others of specious but untenable contentions to be put forth by Great Britain in the future, and that apprehension was the occasion of the Bard amendment and of the support it received in the Senate."

Ex-Senator William E. Mason, of Illinois:

"I voted for the Bard amendment allowing coastwise trade, because when I first took up the question I thought it ought to go into the treaty, but upon examination of the question I became convinced that our coastwise and interstate business was not properly a subject to be managed by treaty, but that under the Constitution Congress alone could make laws regarding interstate commerce. And when, a year later, the matter came up the amendment was not even offered, as I remember it, because it was stated definitely, not once but many times, in executive session, that the question of the management of our coastwise trade was a matter for the people to determine on in the future."

Ex-Senator William J. Deboe, of Kentucky:

"I voted against said (Bard) amendment because I believed the United States had the authority and right to fortify and

regulate tolls of the canal without the amendment to the treaty. This was the general view of Senators at that time, and even by many who voted for the amendment. It was fully discussed by Senators in secret session. It was stated frequently that if the United States constructed the canal at its own expense it should have the authority and right to regulate tolls."

Ex-Senator G. L. Wellington, of Maryland:

"I voted against the amendment solely for the reason that I considered it entirely superfluous, being firmly of the opinion that the treaty plainly provided for the exemption of our coastwise vessels from the payment of tolls; that the Bard amendment was merely a repetition of what had already been set out in the treaty itself. I could not conceive for a moment that anything else was intended; if I had, I certainly would have voted against the ratification of the treaty. * * * I am convinced that this was the feeling of those who voted for the ratification of the treaty—not only those who voted for it, but those at the head of our Government at that time."

Senator GEORGE C. PERKINS, of California:

"Senator Davis, chairman of the Committee on Foreign Affairs, claimed that the treaty in no way interfered with our vested rights in regard to the coastwise shipping of the United States, and that the Bard amendment merely conveyed in explicit language, as you state in your letter, what was already plainly implied. At the time of the ratification of the Hay-Pauncefote treaty it was decided that it was unnecessary to so definitely set forth in regard to the exemption of coastwise vessels, and it was conceded by everyone that we had a perfect right to exempt our coastwise vessels from the payment of tolls if we desired to do so."

Ex-Senator J. B. Foraker, of Ohio:

"I remember clearly how I viewed the Bard amendment and why I voted against it. There were two grounds for my objection. The first, that the United States, being the owner of the canal, with all the rights of ownership, would have authority to do with respect to her own vessels in the matter of tolls whatever she might see fit to do. Therefore it was unnecessary to amend the treaty to authorize our Government to exempt from tolls any class of our vessels. * * * The second ground was that to specify that coastwise vessels might be exempted was to impliedly stipulate that vessels engaged in foreign commerce could not be exempted. * * * I did not at the time when the treaty was ratified regard the provision found in article 3, to the effect that the vessels of 'all nations' should be allowed to use the canal on terms of entire equality, as a limitation on the power of the United States."

Senator FRANCIS E. WARREN, of Wyoming:

"The amendment proposed by Mr. Bard * * * was rejected because it was held by a substantial majority of the Senate that the treaty itself did not contravene or restrict the right of the United States to regulate and manage the canal in the matter of charges for traffic in favor of coastwise vessels."

Ex-Senator Nathan B. Scott, of West Virginia:

"I voted against this (Bard) amendment because I thought under the terms of this treaty we had the right to exempt our coastwise vessels if we so desired. I thought the Bard amendment superfluous."

NO MORAL QUESTION INVOLVED.

These opinions from the actors in the drama, from the men who helped to make the Hay-Pauncefote treaty, who certainly must have understood what they were doing when they ratified it, show clearly that our coastwise commerce was not included, nor intended to be included, in the words "vessels of commerce." Every one of these men, and especially Senator LODGE, agree in thinking that the United States has a perfect right to legislate in regard to her coastwise vessels as she sees fit, although Senator LODGE, and perhaps some of the other gentlemen, may, on economic or other grounds merely, believe it unwise to give free passage through the canal to these vessels.

The much-mooted proposition that we have no moral right to exempt our coastwise shipping from tolls does not appeal to these Senators and ex-Senators who helped to make the Hay-Pauncefote treaty and without whose ratification it would never have existed. Moreover, a great many other eminent Americans agree with them and deny most emphatically that there is any moral question involved. Does anyone believe that such men as CHAMP CLARK, OSCAR UNDERWOOD, JAMES R. MANN, and VICTOR MURDOCK, who have been the unquestioned leaders of their respective parties in the House of Representatives for many years, and whose qualifications as honorable men none can deny, would have voted and labored hard against repeal if it involved moral turpitude and the violation of national honor?

Is it conceivable that Senator STONE, chairman of the Foreign Relations Committee, and an earnest advocate of repeal, would have stated in his recent speech in the Senate: "I was fully convinced in my own mind that the United States had the right under the very terms of the treaty itself, and without violating either the letter or spirit of that convention, to allow our coastwise vessels to pass through the canal free of tolls. * * * That was my conviction in 1912, and it is my conviction to-day," if there was any moral turpitude involved?

If we have no right to do it, would Senator O'GORMAN, whose stainless life and great reputation as a jurist of New York's highest court for many years has been an honor to his countrymen, favor anything which is a national dishonor? If we had no moral right to pass the exemption act in 1912, it is passing strange that a large number of the ablest and best men in the Senate and House are opposing repeal with all their might. Such a thought is monstrous. None of these men could be induced to do a dishonorable thing, and if we are morally bound by the treaty not to exempt our coastwise vessels from the payment of tolls, then it is dishonorable in us to exempt them.

Moreover, the only two living ex-Presidents of the United States, Roosevelt and Taft, are both opposed to the repeal of the tolls-exemption act, and both strongly of the opinion that we are not precluded by the terms of the Hay-Pauncefote treaty from handling our domestic commerce in our own way. Mr. Taft in his annual message to Congress, December, 1912, said:

"After full examination of the Hay-Pauncefote treaty and of the treaty which preceded it, I feel confident that the exemption of the coastwise vessels of the United States from tolls and the imposition of tolls on the vessels of all nations engaged in the foreign trade is not a violation of the Hay-Pauncefote treaty."

And last, but not least, no Democrat ought to say that our grand old party in its last national platform, which appealed so strongly to the American people that they swept us into complete power in government, would have solemnly declared in favor of "exemption from tolls of American ships engaged in coastwise trade passing through the Panama Canal" if there were anything dishonorable or contrary to moral right in such a doctrine.

"ALL NATIONS" DOES NOT INCLUDE UNITED STATES.

Without attempting to enter upon a full and detailed discussion of the subject, I wish to call attention to certain facts in regard to the interpretation of the words "all nations observing these rules." At the very outset there is an obvious and necessary distinction to be drawn between the first Hay-Pauncefote treaty, that was submitted to the Senate February 9, 1900, and the second revised draft, that was finally ratified November 18, 1901. The first Hay-Pauncefote treaty provided for a joint protectorate to be exercised by the United States and Great Britain over the canal, by which they guaranteed to preserve and maintain a "general principle" of neutralization and adopt certain rules as the basis of such neutrality, which all other powers were to be invited to adhere to.

In the second Hay-Pauncefote treaty the idea is completely changed. In this treaty the United States alone, without Great Britain, "adopts" certain rules, upon the observance of which the use of the canal shall be dependent. Upon examining the treaty from the viewpoint of common sense, it seems logical that when a nation which by the terms of the convention "shall have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal," "adopts," lays down, makes certain rules in regard to the neutralization and use of its own canal, that there is a presumption that these rules do not apply to itself, but were intended for all other nations. A careful examination of these six rules which are quoted above in article 3 of the treaty seem to preclude the idea that the United States is included in the term "all nations."

If "all nations" means all nations, including the United States, then we have bound ourselves not to use the canal if we commit an act of war in it; that our vessels of war shall not revictual in it, and can not remain under the protection of the fortifications we have erected at a cost of $14,000,000; that we shall not embark or disembark our own troops; that we can not replenish the magazines of our battleships with powder and shot and shell to fight the battles of our Nation; that if our ships are hard pressed by a victorious enemy they shall not remain in the canal, but shall be compelled to leave within 24 hours, and that the day after the departure of our defeated squadron the fleet of the enemy shall steam unmolested by our frowning fortifications, past the yawning mouths of our cannon, through an American canal, under the protection of the American flag, to resume the pursuit of American vessels, or it may be to ravage with fire and sword the coasts of our great Republic. Such a thought is preposterous.

In answer to this objection Great Britain says through Sir Edward Grey:

"Now that the United States has become practical sovereign of the canal, His Majesty's Government does not question its title to exercise belligerent rights for its protection."

In other words, because we have secured sovereignty over the Canal Zone by virtue of our treaty with Panama, Great Britain contends that five of these rules—the five relating to belligerency—no longer apply to the United States, but that the first one remains in full force.

This is a distinction founded upon self-interest. It has no basis in fact. If it is a derogation of our sovereignty not to be able to exercise belligerent rights over the canal, then it is equally as much an invasion of our sovereign rights to say that we shall not treat our own vessels using the canal just as we see fit. If the last five rules do not apply to the United States, then it can not be said that the first one does apply. To say that we shall not pass our own vessels through the canal free of tolls is a clear derogation of our sovereignty. In my judgment it is evident that the expression "all nations" in rule 1 does not apply to the United States.

There is another reason that I wish to advance in support of the contention. If we assume for the sake of argument that "all nations" embraces the United States, then the sentence found at the end of rule 1, "Such conditions and charges of traffic shall be just and equitable," is useless and almost meaningless. If our own ships and those of foreign nations were to be on a par in regard to the conditions and charges of traffic, would there have been any necessity to demand that such conditions and charges should be just and equitable? If the United States had been compelled by the terms of the treaty to impose identical tolls on our own vessels and those of foreign nations, would there have been any danger of her demanding from our own and foreign ships an excessive, exorbitant, or unjust charge? Would we have imposed any charges that would not have been just and equitable to our own citizens?

As soon as we admit, however, that "all nations" means all nations except the United States, the expression becomes perfectly reasonable and intelligible. Its purpose was to prevent us from discriminating between the other nations using the canal, such as between England and France, or France and Germany, and so forth.

A TREATY CAN NOT AFFECT COASTWISE COMMERCE.

Mr. President, I now wish to present a phase of this question which has not yet been fully discussed during the debates on this bill. It goes to the very root of the question, and I invite the careful attention of the Senate and especially of its constitutional lawyers to my proposition.

It is contended by most, though not all, of the advocates of the bill under consideration that we are in honor bound to repeal the exemption clause of the Panama tolls act of 1912, because we pledged ourselves in the Hay-Pauncefote treaty to treat all commerce through the canal alike, and that if it is a hard bargain we must stand by it; that the laws of good morals and fair dealing between man and man and nation and nation compel us to comply with our solemn contract obligation.

Granting for the sake of argument that the contentions of the friends of repeal are true; granting that the framers of the Hay-Pauncefote treaty did intend to include the United States in the expression "all nations," which, of course, I do not admit; granting that the purpose of the Hay-Pauncefote treaty was that the vessels of other nations should enjoy perfect equality and identical treatment with the foreign and coastwise vessels of the United States; granting all this, I repeat for the purpose of argument only, I still contend that this treaty did not bind the United States, in so far as our coastwise commerce is concerned. In the argument here presented I shall assume that the claims of the opposition are correct, that the United States is included in the term "all nations," and that our coastwise commerce was intended to be regulated. Upon this hypothesis I shall argue.

Article I, section 8, of the Constitution provides, among other things, that Congress shall have power "to regulate commerce with foreign nations and among the several States and with the Indian tribes." Article II, section 2, provides that the President "shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur" (and a treaty is a compact or agreement between the rulers of two or more sovereign and independent nations). It appears from a casual reading of these two sections that the power to regulate commerce between the United States and foreign nations is, at least to some extent, concurrent between Congress and the Executive assisted by the Senate. It also appears that the right to regulate commerce among the several States, commonly designated as interstate commerce, is vested solely in the lawmaking power composed of the House of Representatives and the Senate. It is unnecessary for the purpose of this argument to discuss fully how far the President can make a treaty with a foreign country to regulate our trade relations and other matters of interest to the United States and the other treaty-making nation, and it will be readily admitted that a treaty between the United States and Great Britain for the regulation of foreign commerce passing through the Panama Canal is within the treaty-making power; that so far as the Hay-Pauncefote treaty sought to regulate the commerce of Great Britain in its use of the canal, and to guarantee that its use should be on terms of exact neutrality and equality with that accorded to all other foreign nations, it was valid, because the President under the Constitution, with the assistance of the Senate, had the required authority so to contract on those points.

There is not a single word in the Constitution which gives to the President any power whatsoever to affect, control, or regulate commerce between the various States of the Union either by treaty or otherwise, that right being plainly and specifically granted to Congress by the aforesaid section 8. It must be presumed, therefore, that the President and the Senate, well knowing they had no right to contract in relation to domestic commerce, did not attempt to do so when making the Hay-Pauncefote treaty, and that it relates solely to foreign commerce.

ENGLAND HAS NO INTEREST IN OUR INTERSTATE AFFAIRS.

The slightest consideration of this subject will show how illogical it would be for a foreign nation to become a party to our purely domestic affairs. What concern has England with the regulation and control of movements of freight, or police or quarantine regulations, by rail or water or otherwise between New York and Chicago, for instance, or St. Louis and Memphis, or Birmingham and New Orleans, or Portland and San Francisco, all of which are internal, interstate, and domestic? If the President should attempt by treaty with England to control trade, police, or quarantine relations between any of those interior points, it would at once appear that England was entirely without interest, and it would seem absurd for her to attempt to participate in a contract in which she had not the slighest concern. If that be true as to trade between these points, does not the same reasoning apply to the purely domestic traffic along our coast, as Boston to New York, Philadelphia to Baltimore, Charleston to Savannah, Pensacola to New Orleans, New York to Galveston, Charleston to San Juan, P. R., Norfolk to San Francisco, Portland to Honolulu, or Seattle to Sitka, Alaska, all of which is just as much a domestic affair, though conducted in ships, as in the case of rail communications cited above, for the coastwise laws prohibit any foreign country from carrying or handling any of our coastwise commerce, and England can no more engage in traffic by ships between these ports than in railroad movements between the interior points.

ROOT'S ATTEMPT TO DIFFERENTIATE BETWEEN KINDS OF COASTWISE TRADE.

The distinguished Senator from New York in his very able address to the Senate on the 21st admitted in substance that the Hay-Pauncefote treaty did not include "real coastwise trade," and says: "I should not question the right to treat that in a different way from the great over-sea trade that goes through that canal." He attempts to draw a distinction between what he designates as coastwise trade and the great over-sea commerce. Let me quote his exact words:

"Now, sir, I do not doubt that coastwise trade, real coastwise trade, is a special kind of trade, standing by itself, quite unlike the great over-seas trade. All countries, as a rule, treat their coastwise trade with special favor; they charge reduced rates for the privileges it has in their ports; and if any such real coastwise trade, any of the trade that has been known to the laws and treaties and navigators and traders time out of mind as coastwise trade, or cabotage, were to pass through the Panama Canal, I should not question the right to treat that in a different way from the great over-seas trade that goes through that canal. But, Mr. President, the real gist of this discrimination is not the discrimination between coastwise trade, properly so called, and other trade. No real coastwise trade will go through that canal. It is a thousand miles and more away from our coast. The trade that goes through it will be real over-seas trade, carried on by great ships, making long voyages—in its nature the exact antithesis to real coastwise trade.

"The trouble with this discrimination is the kind of trade which is included in this statute. The great over-seas trade, the trade from New York to San Francisco; from Portland, Me., to Seattle; from Philadelphia to Hawaii; from Baltimore to Alaska, in great ships plowing two oceans, great over-seas trade, although beginning and ending in American ports, is included by our statute under the term 'coastwise' and has the benefit of this discrimination."

This statement when analyzed is found to be about as indefinite as that of Mr. A. Mitchell Innes, chargé de affaires for Great Britain, who said, in his note of July 8, 1912, addressed to the Secretary of State:

"As to the proposal that exemption shall be given to vessels engaged in the coastwise trade, a more difficult question arises. If the trade should be so regulated as to make it certain that only bona fide coastwise traffic which is reserved for United States vessels would be benefited by this exemption, it may be that no objection could be taken."

COASTWISE COMMERCE MEANS ALL TRADING BETWEEN UNITED STATES PORTS.

I fail to see the force or logic in these statements of Senator Root and Mr. Innes. By admitting that "real coastwise trade" through the canal is entitled to "special favor" Mr. Root acknowledges the crux of the contention and admits his case out of court. We are either entitled to exempt all of our coastwise traffic or none. It is most unreasonable to say that a vessel plying from New York to New Orleans could pass through the canal free because of its coastwise character or could receive other favors, but that a vessel from New York to San Francisco must pay tolls and be treated as a foreign vessel. When American vessels are chartered and licensed for coasting trade no reservation is made as to what ports they shall enter, except that they be ports of the United States as contemplated by our navigation laws.

By coastwise commerce we mean the movement of freight or passengers by water from one port of the United States to another port of the United States which is by law strictly confined to vessels of the United States. Whether the distance be 500 miles, as from Boston to New York, or 1,900 miles, as from Philadelphia to Galveston, or 4,657 miles, as from New Orleans to San Francisco, it is still coastwise commerce, and the same principle applicable to one attaches to the other.

COASTING LAWS VERY EXPLICIT.

Section 4347, Revised Statutes of the United States, reads: "No merchandise shall be transported by water, under penalty of forfeiture thereof, from one port of the United States to another port of the United States, either directly or by a foreign port, or for any part of the voyage, in any other vessel than a vessel of the United States."

Black's Law Dictionary defines "Vessels 'plying coastwise' as those which are engaged in the domestic trade, or plying between port and port in the United States, as contradistinguished from those engaged in foreign trade, or plying between a port of the United States and a port of a foreign country."

The leading case on this subject is that of *Huus v.* New York & Porto Rico Steamship Co. (182 U. S., 392), from which I quote:

"The words 'coasting trade,' as distinguishing this class of vessels, seem to have been selected because at that time all the domestic commerce of the country was either interior commerce or coastwise between ports upon the Atlantic or Pacific coasts, or upon islands so near thereto and belonging to the several States as properly to constitute a part of the coast. Strictly speaking, Porto Rico is not such an island, as it is not only situated some hundreds of miles from the nearest port on the Atlantic coast, but had never belonged to the United States or any of the States composing the Union. At the same time trade with that island is properly a part of the domestic trade of the country since the treaty of annexation, and is so recognized by the Porto Rican or Foraker Act. By section 9 the Commissioner of Navigation is required to 'make such regulations * * * as he may deem expedient for the nationalization of all vessels owned by the inhabitants of Porto Rico on April 11, 1899 * * * and for the admission of the same to all the benefits of the coasting trade of the United States; and the coasting trade between Porto Rico and the United States shall be regulated in accordance with the provisions of law applicable to such trade between any two great coasting districts of the United States.' By this act it was evidently intended not only to nationalize all Porto Rican vessels as vessels of the United States and to admit them to the benefits of their coasting trade, but to place Porto Rico substantially upon the coast of the United States, and vessels engaged in trade between that island and the continent as engaged in the coasting trade. This was the view taken by the executive officers of the Government in issuing an enrollment and license to the *Ponce*, to be employed in carrying on the coasting trade, instead of treating her as a vessel engaged in foreign trade.

"That the words 'coasting trade' are not intended to be strictly limited to trade between ports in adjoining districts is also evident from Revised Statutes, section 4358, wherein it is enacted that 'the coasting trade between the territory ceded to the United States by the Emperor of Russia and any other portion of the United States shall be regulated in accordance with the provisions of law applicable to such trade between any two great districts.' * * * A provision similar to that for the admission of the Territory of Alaska was also adopted in the act to provide a government for the Territory of Hawaii (31 Stat., 141, sec. 98), which provides that all vessels carrying Hawaiian registers on August 12, 1888, and owned by citizens of the United States or citizens of Hawaii 'shall be entitled to be registered as American vessels, * * * and the coasting trade between the islands aforesaid and any other portion of the United States shall be regulated in accordance with the provisions of law applicable to such trade between any two great coasting districts.'"

COASTWISE SHIPPING IS INTERSTATE COMMERCE.

If it was the intention of the framers of the Hay-Pauncefote treaty to include in its terms our coastwise commerce taken in its broad, general sense of traffic in American vessels from one American port to any other American port, a construction which I do not admit, then it was beyond the power and authority of the President and the Senate to include such a provision, and to that extent the treaty was null and void ab initio.

Interstate commerce is defined by the courts in many cases as "transportation of freight and passengers from one State to another, or through more than one State, either by land or water." The law books and law reports are literally filled with cases in which the courts have settled, beyond question, that Congress is vested with exclusive power over interstate commerce. "Interstate commerce by sea is of a national character within the exclusive power of Congress" (122 U. S., 326). "The right of intercourse between State and State is not created by the Federal Constitution, but was found to be existing by that instrument which gave to Congress the power to regulate it." (9 Wheaton, 1.)

Indeed, it may be said that the necessity for proper regulation of interstate commerce was the principal cause which led to the convention which gave us our present immortal Constitution, and the court was entirely correct in saying that the right of interstate commerce preceded the Constitution.

TREATY-MAKING POWER LIMITED.

Jefferson's Manual of Parliamentary Practice (N. Y., 1876) page 110, says:

"To what subject the treaty-making power extends has not been defined in detail by the Constitution, nor are we entirely agreed among ourselves. (1) It is admitted that it must concern the foreign nations, party to the contract, or it would be a mere nullity, res inter alias acta. (2) By the general power to make treaties the Constitution must have intended to comprehend only those objects which are usually regulated by treaty and can not be otherwise regulated. (3) It must have meant to except out of these the rights reserved to the States, for surely the President and Senate can not do by treaty what the whole Government is interdicted from doing in any way, and (4) also to except those subjects of legislation in which it gave a participation to the House of Representatives."

It is clear and undisputed that the House of Representatives must participate in legislation on interstate commerce, and beyond question matters relating to it come under the exception stated in clause 4.

In construing the Constitution we must consider its provisions collectively and thereby determine if any of its expressed clauses are modified by other clauses or implications. In this instance the power of Congress to regulate foreign commerce is modified by the treaty-making power, but there is no modification of the exclusive power of Congress to regulate interstate commerce.

Story, Cooley, Pomeroy, and others state that the treaty-making power is not supreme in its right to destroy the powers of Congress. Pomeroy says in his work on Constitutional Law, page 567:

"But I think it is equally certain that a treaty would be a mere nullity which should attempt to deprive Congress or the judiciary or the President of any general powers which are granted to them by the Constitution. The President can not by a treaty change the form of government or abridge the general functions created by the organic law."

An excerpt from Wharton's International Law Digest, volume 1, page 36, section 131a, is quoted in John Bassett Moore's Digest of International Law, volume 5, page 170, which reads as follows:

"That a treaty can not invade the constitutional prerogatives of the legislature is thus illustrated by a German author who has given to the subject a degree of elaborate and extended exposition which it has received from no writer in our tongue. 'Congress has under the Constitution the right to lay taxes and imposts as well as to regulate foreign trade, but the Presi-

dent and the Senate, if the "treaty-making power" be regarded as absolute, would be able to evade this limitation by adopting treaties which would compel Congress to destroy its whole tariff system. According to the Constitution, Congress has the right to determine questions of naturalization, of patents, and of copyrights. Yet, according to the view here contested, the President and Senate, by a treaty, could on these important questions utterly destroy the legislative capacity of the House of Representatives. The Constitution gives Congress the control of the Army. Participation from this control would be snatched from the House of Representatives by a treaty with a foreign power by which the United States would bind itself to keep in the field an army of a particular size. The Constitution gives Congress the right of declaring war. This right would be illusory if the President and Senate could by a treaty launch the country into a foreign war. The power of borrowing money on the credit of the United States resides in Congress. This power would cease to exist if the President and the Senate could by treaty bind the country to the borrowing of foreign funds. By the Constitution, "no money shall be drawn from the Treasury but in consequence of appropriations made by law"; but this limitation would cease to exist if by a treaty the United States could be bound to pay money to a foreign power. * * * Congress would cease to be the lawmaking power, as is prescribed by the Constitution. The lawmaking power would be the President and the Senate. Such a condition would become the more dangerous from the fact that treaties so adopted, being in this particular hypothesis superior to legislation, would continue in force until superseded by other treaties. Not only, therefore, would a Congress consisting of two Houses be made to give way to an oligarchy of President and Senate, but the decrees of this oligarchy when once made could only be changed by concurrence of President and of senatorial majority of two-thirds.'"

HOUSE OF REPRESENTATIVES MUST PARTICIPATE IN INTERSTATE MATTERS.

Mr. President, this makes a wonderfully clear statement of the proposition. If the President and the Senate in making the Hay-Pauncefote treaty took control of our coastwise commerce, as is contended by the proponents of this measure, then the House of Representatives, whose Members are subject to recall at much shorter intervals than the Executive or the Senate, and to that extent may well be said to recognize with corresponding readiness the demands of the people, was deprived of any participation in one of the most important matters of legislation and statesmanship ever enacted since the birth of our Republic.

The Panama Canal was not built by treaty but by act of Congress. The statute authorizing it originated in the House of Representatives, which has annually for 10 years originated the vast appropriations necessary to carry on the giant work. The House of Representatives may be justly proud of its participation in all canal legislation, and be jealous of its prerogatives; and I am surprised that we have had so little protest against this attempt on the part of the Executive and the Senate to deprive the House of one of its most cherished and important powers, the right to participate, as it has done since the formation of the Government, in all matters relating to our domestic commerce.

The following paragraph is quoted from Mr. Henry St. George Tucker's article in the North American Review of April last on the treaty-making power:

"In 1814 the treaty of Ghent, carrying provisions as to duties on goods imported from Great Britain, was transmitted by Mr. Madison, as President, to Congress, recommending to them to pass the needed legislation. President Grant followed the same precedent during his term, and in July, 1867, by vote of 113 to 43, the House asserted its prerogatives again. A similar question arose in the Ashburton treaty for the settlement of the northeastern boundaries between Maine and the British possessions, and Mr. Webster deemed it prudent to gain the consent of Maine and Massachusetts to the settlement. These instances—and there have been many others which could be cited—are sufficient to show that the treaty-making power is not supreme in the sense claimed by many of its advocates, but that, like all other powers enumerated in the Constitution, it must not be used for the destruction of others, but in mutual cooperation with all powers equally supreme in their spheres. Each must be used for the development of the Constitution in its true spirit and interest; it must work out its own destiny in accordance with the maxim Sic utere tuo ut non alienum laedas."

WE HAVE MORAL RIGHT TO EXEMPT OUR COASTWISE SHIPS FROM TOLLS.

Mr. President, I have demonstrated beyond any reasonable doubt that if the makers of the Hay-Pauncefote treaty intended to include our coastwise commerce in its provisions they were exceeding their authority and hence it is a nullity in that respect; that the opponents of repeal are not violating any solemn contract, as has been alleged so often during this debate, but are standing by their just and legal rights; that the House of Representatives, a coordinate and coequal branch of our legislative system, was not a party to this treaty and is not bound by it; and that until Congress has acted in a constitutional manner we have a perfect right, legal and moral, without the slightest violation of any plighted faith or obligation of any kind, to exempt our coastwise commerce from the payment of tolls through the Panama Canal.

COASTWISE EXEMPTION ECONOMICALLY WISE.

Having shown that we have the right on our side, that we can without violating any principle make this exemption, the question arises, Is it wise and proper to do so entirely regardless of the treaty? I contend we should exempt these ships from tolls, that we should treat our own coastwise commerce through the canal just exactly as we treat that on our internal waters, which is also coastwise commerce. Why should there be one rule for the interior commerce on our canals, rivers, and lakes and another for that on the Atlantic, the Gulf, the canal, and the Pacific?

We will have expended on the Panama Canal for its purchase, construction, fortification, maintenance, and so forth, by the time it is completed, about $400,000,000, and for the purposes of this argument I assume its cost to be that amount. As good husbandmen it behooves us, if possible, so to use this costly property as to give a reasonable interest on the amount invested, and gradually secure the return of the principal, though it matters little if the principal ever be repaid, provided a fair interest is obtained. In determining our profits from the canal, we must consider two separate and distinct things—military and commercial.

MILITARY VALUE OF CANAL.

The canal would not have been constructed but for the necessity of concentrating our Navy, separated as are our Atlantic and Pacific coasts by 12,000 miles of sea around Cape Horn. It was practically impossible to mobilize the navy of one ocean into the other, and if we were to become really effective as a naval power it was imperative either to construct a canal at the Isthmus, thereby permitting the passage of our war vessels from ocean to ocean, or to build and maintain two separate and distinct navies at enormous cost, almost double the cost of one effective navy when the Panama Canal is completed. We had a graphic and most exciting instance of the necessity of this canal during our struggle with Spain in 1898, when the battleship *Oregon* made its wonderful voyage from San Francisco around Cape Horn, passing from the breezes of California through the fiery blasts of the Equator on to the frozen regions to the south, where the decks were covered deep with snow, thence northward, again across the Equator, and on with never-ending speed to participate in the glorious Battle of Santiago. For days the people of America held their breath in suspense and deepest anxiety for the fate of this great ship, and though it made the voyage safely and bore a gallant part in the battle everyone felt that the strain was too much, the danger too great, ever to be undergone again, and that we must provide for a quick, safe passage for our vessels across the Isthmus.

When men speak of the cold economic argument in this case they must not forget that one of the most important reasons, if not the controlling one, for constructing the canal was not commercial, but military, and in arriving at a just appreciation of the economic benefits to be derived from it we must not forget to credit it with the enormous military advantages as well as the great financial saving resulting from a very much smaller and infinitely less expensive but much more efficient Navy. A single first-class battleship costs about fifteen millions, and one of our highest military authorities recently said that the destruction of the canal, from a military viewpoint, would be more injurious to us than the loss of 20 battleships, representing $250,000,000 to $300,000,000 of actual cost. Therefore it is fair to say that the military advantages of the canal, calculated purely in dollars and cents, are equivalent to the cost of constructing 20 battleships, $300,000,000, plus the cost of maintaining them, which is estimated by the Navy Department at about $900,000 per annum for each ship, $18,000,000 for the fleet, and an amortization fund sufficient to replace them as they become useless. In other words, this military advantage will easily amount to between twenty and thirty millions a year. But not alone this. By practically doubling the efficiency of our Navy the canal will be a measure of the most terrific effectiveness in the preservation of peace. The better we are prepared for war the less chance is there of any nation attacking us. Hence it is quite possible that in the

future the canal may be the means of preventing us from being involved in a costly and bloody war.

CANAL A PAYING INVESTMENT.

The commercial benefits are approached from an entirely different angle.

According to the report of Prof. Emory Johnson on the Panama Canal Traffic and Tolls, page 208, the estimated coast-to-coast American shipping through the canal in 1915 will be 1,000,000 tons, and in 1925, 2,000,000 tons. American shipping carrying foreign commerce of the United States in 1915 is estimated at 720,000 tons, and in 1925 at 1,500,000 tons. Foreign shipping carrying commerce of the United States and foreign countries in 1915 will be 8,780,000 tons, and in 1925, 13,850,000 tons, or a total commerce in 1915 of 10,500,000 tons, and in 1925 of 17,000,000 tons. If no tolls are exacted on the coastwise shipping of the United States this would give a revenue of $11,400,000 in 1915 and $18,000,000 in 1925. It is the estimate of Prof. Johnson and also of Col. Goethals, builder of the canal (see hearings before House Committee on Interstate and Foreign Commerce in 1912, p. 411)—and I ask especial attention to this statement, because such an erroneous impression has grown up about the cost of maintaining and operating this canal in the military establishment—that the total cost of operating and maintaining the canal will be $4,000,000 per annum, to which is to be added the annual rental of $250,000 to Panama and about $950,000 a year for upkeep of the military establishment at the canal, which gives us a total annual expense for operation, maintenance, rental, and military establishment of $5,200,000. This is a very different sum from twenty-five to thirty million dollars annual expense, as many people have been saying. If we deduct this from $11,400,000 gross revenue in 1915, it leaves a surplus of $6,200,000 to be applied as interest on the cost of the canal, estimated at $400,000,000. In 1925 the gross earning, assuming that our coastwise vessels pass through free, will amount to $18,000,000. Deducting from this $5,200,000 for annual expenses, as above stated, we have net earnings of $12,800,000. Let us deduct from this $12,000,000, or 3 per cent on the $400,000,000 invested, and it leaves a balance of $800,000 to be applied to the sinking fund. These figures clearly show that during the very first year, without any charge whatsoever for our coastwise vessels, the earnings of the canal will pay all expenses connected with it and over 1 per cent interest on its cost, and that at the end of 10 years from the time of its opening it will be paying every cent of the annual cost of maintenance, plus 3 per cent interest, plus $800,000 to be applied to the retirement of the construction bonds. If we can be guided by the experience of the Suez Canal we may expect after 10 years from the completion of the canal to be paying out of the tolls collected on foreign commerce all costs of operation, maintenance, rental, and military upkeep, plus 3 per cent on the capital invested, plus a large annual amortization fund. It will be seen, therefore, if no economic credit be given to the military side of this case, the advantages of which are hard to calculate in money, though amounting to between twenty and thirty millions a year, as shown above, and none to the enormous saving in freight of at least $100,000,000 a year on transcontinental railroad rates, as appears later, the canal will pay handsomely as a purely commercial business proposition, even if all our coastwise vessels be permitted to use it free of tolls.

THERE IS NO COASTWISE MONOPOLY.

The statement has been repeatedly made on the floor of the Senate and elsewhere that our coastwise vessels are controlled by a shipping trust. The Alexander Report on Steamship Agreements and Affiliations has been quoted to the effect that 92 per cent to 94 per cent of our coastwise vessels are controlled by the railroads and two large shipping consolidations. The eloquent Senator from Georgia [Mr. SMITH] on April 24, CONGRESSIONAL RECORD, page 7760, stated, referring to this report, that "the names of all the companies and the agreements between the companies are printed, and the final conclusion is reached that, barring those ships controlled by the railroads, practically all the balance of the vessels engaged in coastwise transportation are controlled by two corporations."

It is inconceivable how this very able and usually accurate statesman has fallen into such egregious error and allowed his imagination to play such fanciful pranks with cold facts. He and others have sought to give the impression that the general public would receive no benefit from free tolls to our coastwise vessels, because they are so dominated by trust combines that there would be no legitimate competition; that the traffic would be charged every cent it could possibly bear, regardless of whether there were tolls or not; and that if tolls were remitted it would merely be an additional bonus to the already plethoric purses of the shipping octopuses.

I did not believe that these statements and the inferences therefrom were correct, but felt that the gentlemen who made them had fallen into honest error. I therefore gave the matter very careful study and investigation, and personally conferred with Dr. S. S. Huebner, who prepared the Alexander report, and Mr. George T. Chamberlain, Commissioner of Navigation.

In the Alexander report, page 369, in the chapter on steamship company affiliations on the Atlantic and Gulf coasts, we find this statement:

"On this leading water highway of American commerce practically all the large regular steamship lines are either controlled by railroads or are subsidiaries of one of two large shipping consolidations—the Eastern Steamship Corporation and the Atlantic, Gulf & West Indies Steamship Lines. * * * The steamers of the railroad-controlled lines, combined with those of the Eastern Steamship Corporation and the Atlantic, Gulf & West Indies Steamship Lines, number 199, or 84.7 per cent of the above-mentioned total for the 28 lines, and represent 516,055 gross tons, or 93.9 per cent of the foregoing total gross tonnage."

This appears to be the origin of the assertion that our coastwise traffic is controlled by a shipping trust. At the very outset it is to be noted that this statement applies merely to the regular lines on our Atlantic and Gulf coasts and not to those on the Pacific coast. It can not therefore be applied to our entire coastwise shipping. On page 347 of the Alexander report Dr. Huebner says:

"Important independent steamship lines make a more prominent showing in the Pacific coast trade than in any other division of our coastwise or inland commerce, and, aside from the Alaskan and Hawaiian trades, no important consolidations of water carriers seem to exist. Unlike the situation in the Atlantic and Great Lakes trade, the railroads control only two important lines."

I took up with Dr. Huebner in person his statement regarding the domination of 94 per cent of the regular lines on the Atlantic and Gulf coasts by the railroads and two shipping combinations, and he told me that his assertion had been misquoted and misinterpreted on the floor of the Senate. It referred merely to the *regular lines* on the Atlantic and Gulf coasts and not to the enormous number of *tramp steamers and other vessels* not in the regular lines.

According to the report of the Commissioner of Navigation for 1913, page 164, the total number of enrolled coastwise vessels on the Atlantic and Gulf coasts, including regular lines, tramp steamers, and so forth, was 8,389, their gross tonnage being 3,053,339 tons. Of the 8,389 vessels only *235* belong to the regular lines, and of the 3,053,339 total tonnage only *516,821* tons is comprised by these regular lines. Consequently, the tonnage of the regular lines constitutes only 18 per cent, or less than one-fifth, of the total tonnage, and of this one-fifth Dr. Huebner says 93.9 per cent, or 516,055 tons out of a total of 3,053,339 tons, is railroad or trust controlled. So much for the Atlantic and Gulf coasts.

Let us now examine conditions on the Pacific coast. The Report of the Commissioner of Navigation for 1913, page 164, states that the total number of enrolled coastwise vessels on the Pacific coast, including regular lines, tramps, and all other ships, is 1,264, totaling 591,644 tons. According to the Alexander report, page 405, out of these 1,264 vessels 106 are owned by the regular lines, and of the 591,644 gross tons 350,512 tons belong to the regular lines. The question immediately arises, What per cent of the regular lines on the Pacific coast is railroad or trust controlled? On page 405 of the Alexander report we find that of the 350,512 gross tonnage of the regular lines only 172,670 tons, or 49 per cent of the total line tonnage, is dominated by the railroads or shipping combinations. Therefore the tonnage of the regular lines constitutes 59 per cent, or about three-fifths, of the total Pacific-coast tonnage, and of this three-fifths Dr. Huebner says 49 per cent is railroad or trust controlled.

To summarize, then, the total enrolled coastwise tonnage of the Atlantic, Pacific, and Gulf coasts is 3,644,983 gross tons. Of this the regular lines make up 900,333 tons, which is not quite 25 per cent, or about one-fourth, of the total tonnage. According to Dr. Huebner, of these 900,333 tons comprised in all the regular lines combined, 688,725 tons, or about 76 per cent, are railroad or trust controlled. Therefore, of our entire enrolled coastwise tonnage of the Atlantic, Pacific, and Gulf coasts, amounting to 3,644,983 tons, 688,725 tons in all are railroad or trust controlled, or only 19 per cent of the whole. This is quite different from saying that practically our entire coast-

wise traffic is dominated by railroads and shipping combinations. The remaining 81 per cent is independent, free to engage in legitimate competition for the business of the coasts and the canal, and the result must be very active efforts to secure commerce and very cheap freights.

FEW TRUST-CONTROLLED VESSELS WILL USE THE CANAL.

There is another phase of the question to be considered. The gentlemen who make the assertion that practically all our coastwise shipping is trust-controlled appear to take it for granted that as soon as the Panama Canal is completed all of our coastwise vessels will use the canal; that the regular lines will abandon their established routes where they are making money for the sole purpose of going through the canal.

Beginning with page 58 of part 3 of the recent hearings before the Committee on Interoceanic Canals, there is inserted a table prepared by Mr. Chamberlain, Commissioner of Navigation, entitled "Probable canal steamers," which gives a list of steamers that will probably use the canal. I discussed this table with Mr. Chamberlain, and at my request he wrote me, giving the reasons why certain vessels would use the canal and why those plying on established routes on the Atlantic and Pacific Oceans would not use it. From this letter I quote:

"I think it quite unlikely that any considerable number of the steamship lines covered in the pages you mention (pp. 62–68) would abandon their present well-established routes to venture into the canal trade. For this reason the table I prepared under the direction of the Interoceanic Canals Committee was divided into two parts. The first (pp. 58–61) includes vessels which, in some instances are not unlikely to use the canal, if not regularly, at least on occasional voyages."

In the main, Dr. Huebner concurred with Mr. Chamberlain in believing that these ships would probably use the canal, and that those on well-established routes on the Atlantic and Pacific coasts would not use it. The ships now in use on the Atlantic, Pacific, and Gulf coasts, which include regular lines, tramps, and so forth, that will probably use the canal total 470,000 gross tons. According to Dr. Huebner and Mr. Chamberlain, the trust-controlled vessels likely to use the canal aggregate 167,000 tons, or about one-third of the whole.

The trust-controlled vessels are those of the Standard Oil Co. and its subsidiaries, the Girard Trust Co., and another small company operating miscellaneous cargo steamers. Dr. Huebner stated positively that the Atlantic & Pacific Steamship Co. (Grace Line) and the American-Hawaiian Steamship Co. were not dominated by the shipping combination, and in proof thereof referred to pages 184–187 and 363–365 of the Alexander report. The steamers of the Isthmian Canal Commission and the Panama Railroad Co. are Government owned. In regard to the miscellaneous cargo steamers or tramps, which Dr. Huebner had not investigated, Mr. Chamberlain expressed the opinion that none of them were trust controlled, with the exception of the Girard Trust Co. and another small line. To summarize, then, of the probable canal steamers, totaling 470,000 tons, 303,000 tons are independent and 167,000 trust controlled—two-thirds independent and one-third dominated by a combination. Plainly the statement that 94 per cent of our coastwise shipping is trust controlled has no basis in fact.

There is another point that I wish to bring out in this connection. Section 11 of the Panama Canal act of 1912 excludes from use of the canal all vessels in which railroads have any interest, and also the vessels of any company doing business in violation of the Sherman antitrust law. This will no doubt make the figures much more favorable than those given above, for surely many of the trust-controlled vessels in our coastwise trade are owned or controlled by railroads, which fact would exclude them from the use of the canal. Moreover, if they are not connected in any way with railroads, but engage in a combine or trust in restraint of trade, that, too, would exclude them from the canal. Omitting these railroad vessels and such as belong to objectionable trusts, it will be seen that only a very small per cent of the shipping which can actually use the canal will belong to a trust.

FREE ROADWAY MEANS INDEPENDENT COMMERCE.

As a general proposition it may be asserted that any transportation agency which is open and free to every citizen of the Republic, which is conducted over a free roadway, be it land or water, and which gives equal facilities at the terminals to everyone, can not possibly be a monopoly. How can there be a monopoly of freight carrying on a public road, where the peasant with his pushcart can compete with the farmer in his two-horse wagon, who in turn competes with the great auto truck, each on terms of absolute equality, so far as the right to use the road is concerned? How can there be a combine on our great rivers, improved at the expense of the National Government, owned and controlled by it, where the poorest man in his little canoe floats as free as the millionaire in his gilded yacht? How can there be a monopoly on the great Pacific, on our own American Canal, on the Gulf, and in the broad Atlantic, where everyone has the same right to compete for trade in a small or large way, as his means allow, and to receive fair and equal treatment in the harbors along our coast? It is perfectly clear that on a railroad, where the roadbed is owned by a single corporation, which controls it and can prevent its use by anyone, a monopoly is entirely feasible, for how can there be any competition if only one person or company is allowed to use the line? But the situation is entirely different with our highways and waterways, where I again say that monopolies are practically impossible. If I am wrong, however, and there be the vicious monopoly which haunts the dreams of many Senators, the way to control it is not by exacting tolls, but by strict enforcement, through the Interstate Commerce Commission, of the law prohibiting the use of the canal to railroad or trust-controlled vessels.

FREE ROADWAYS AND WATERWAYS NOT A SUBSIDY.

It is said that the exemption from tolls of our coastwise traffic through the canal would be a subsidy. I deny the charge. But if a subsidy, it is a justifiable and proper one. All subsidies are not bad. Subsidy is defined to be "a grant of money made by government in the aid of the promoters of any enterprise, work, or improvement in which the Government is to participate or which is considered a proper subject for State aid because likely to be of benefit to the public." It is estimated that the National Government, together with the States, counties, and municipalities has expended upward of a thousand million dollars in the construction of railroads through boundless forests, over marshy wastes, across vast expanses of desert, over great mountains, with the result that every portion of the Union is connected, that a marvelous growth has taken place in many sections inhabited by wild beasts and wilder men that could never have been developed without the aid of the iron horse, and the whole Nation has vastly increased in wealth and population in consequence thereof. Most of this aid was given many years ago, when we were young in years, comparatively few in number, when the necessity for public aid was imperative; and it was dictated by constructive statesmanship of the highest order. My own State of Louisiana was so impressed with the wisdom of increasing its railroad facilities in order to develop its waste places and splendid resources that on two separate occasions during the past 16 years constitutional provisions were adopted which exempted from all forms of taxation for a period of 10 years any new railroad or part thereof, constructed within a certain time, and great impetus was given thereby to railroad building. I believe that these expenditures, bonuses, and exemptions for railroads were in the main wise and beneficial. I am convinced that but for this aid and the consequent expansion of railroads our great Republic, now the marvel of the world, would still be in its infancy; and while there were some scandals in connection with railroad grants, bond issues, and so forth, the benefits far exceeded the evils that arose therefrom.

I have shown that there is no controlling monopoly, nor can there be any, in the coastwise trade through the Panama Canal. Can the friends of repeal and its chief beneficiaries—the transcontinental railroads both in the United States and Canada—show that there is no monopoly in the railroad transportation business? I assert without fear of contradiction that the railroads now control this business and regulate it very largely to suit themselves. I assert that whenever a toll of $1.20 per ton is imposed upon coastwise trade passing through the canal that freight charges will be increased by just that amount, not only on the comparatively small volume actually carried through the canal, but also on the vast business of the transcontinental railroads, many times as great as that through the canal. If we appear in our national bookkeeping to have earned $1.20 per ton, or $1,200,000 on the 1,000,000 tons of coastwise traffic, which it is estimated will pass through the canal next year, the American people will pay the coastwise vessels an increased freight rate for this 1,000,000 tons amounting to $1,200,000, and an increased freight rate to the transcontinental railroads fully ten times as much, or $12,000,000. Hence, where does the benefit come to us? We place in one pocket $1,200,000 collected in tolls from our coastwise ships, and we pay out of the other pocket in increased freight charges to the ships and the railroads $13,200,000, being losers thereby to the extent of $12,000,000.

FREE USE OF PANAMA CANAL NOT A SUBSIDY.

Continuing the subject of subsidy, let me suggest that the States and Nation expended last year on good roads $207,000,000; that there is a great good-road movement going on all over the Union which will probably do more to enhance the value of the Nation's property, to make people more satisfied with

farm life, and to cheapen the cost of living than anything within recent years. It is a relic of past ages to charge tolls on good roads, though I believe it is still done to a slight extent in some localities, and surely no one considers it a subsidy to permit the free use of good roads.

The Empire State of New York is now expending on its roads $100,000,000 and on its canal system $127,000,000, aggregating $227,000,000—more than one-half the total cost of the Panama Canal. This vast expenditure by a single State is made to benefit transportation not only for its own people but for the Nation, for the improvement of its great Erie Canal will cheapen freight very materially to and from the entire middle section of our country. No charge whatsoever will be made on these magnificent roads and canals. They will be as free as the wind that blows to every citizen. Can it be said that this is a subsidy? Can it be fairly argued that New York should expend $227,000,000 out of its own unaided resources to assist transportation, and yet the great Union can not extend the slight aid of free passage to our coastwise vessels through the Nation's ditch for the same purpose? The thought is unworthy of us.

Since the birth of our Republic we have spent $705,019,693 to improve all the Nation's waterways, with the idea that it was necessary to facilitate the movement of freight by water and to cheapen and regulate railroad rates. Most of these expenditures have been very effective, and the wisdom of our waterway policy is generally acknowledged. We have never charged tolls for the use of our harbors, rivers, and canals, and if any Congressman should propose such a thing he would be ridiculed into the shades of private life. There is no better settled and established policy of the Government than that we must improve every worthy watercourse in the Union the development of which is justified by the needs of commerce, that the expense thereof must be borne by the Nation, and that the waters must be open and free to all. Is this a subsidy? I do not so understand it; but if it be a subsidy, then surely it is a good subsidy.

We have expended over a hundred millions on the harbors and connecting channels of the Great Lakes, especially the Sault Ste. Marie and the Detroit River. These Lakes are international waters bordering foreign lands, just as do the great oceans. The Soo connects these foreign waters just as the Panama does the Atlantic and Pacific. There is a colossal commerce through the Soo. In 1913 it amounted to 57,000,000 net registered tons as compared with 18,000,000 tons through the famous Suez Canal—more than three times as great as the commerce through the Suez. Do we charge any tolls on this international canal at the Soo? Certainly not. And why? Because we have always believed it wise and proper to give the freest use of our improved waters to our commerce and not to put any obstacle or hindrance whatsoever in its way. If we are to charge tolls at Panama, there is the same reason for charging them at the Soo and on our other improved waters—just exactly the same, and it is impossible to differentiate between them. The Ohio and Mississippi have been and are now being improved, at a cost largely more than a hundred millions. Would the people who use these rivers consent to see tolls charged on their commerce? We are just completing the improvement of the Black Warrior, leading to the famous coal fields of Alabama, and providing for the delivery of its coal to Gulf ports, to the Panama Canal, to the world, at prices lower, perhaps, than any other coal in the Republic. Shall we charge tolls on the Black Warrior? Would it not prevent the very purpose of that great improvement? Shall the people of New Orleans, who are at this moment buying their coal from the Black Warrior fields at 75 cents per ton cheaper than ever before because of the canal line leading directly from the heart of the coal fields to the city, be required to pay tolls and be deprived of the benefit of that cheap coal? Perish the thought. And yet, if we must pay tolls through Panama, why not tolls on the Black Warrior, on the Mississippi, on the Ohio, on the Soo? Will New York also in self-defense be compelled to charge tolls on its canal? Let me again repeat that I can not draw the distinction between free roads and free waterways in the interior of the Union and a free waterway through Panama, a part of the Union, for the servants of the Union, and I do not believe anyone else can do so logically.

FOREIGN NATIONS PAY SUBSIDIES ON THEIR SUEZ CANAL COMMERCE.

For years it has been a well-established practice among many of the leading commercial nations to subsidize their ships passing through the Suez Canal. These subsidies were made either directly or indirectly for the purpose of paying the tolls, and sometimes were less, sometimes equal to, and often more than the toll charge. On page 15 of the report of the Commissioner of Navigation for 1911 we find some significant and pertinent information. In 1909 Russia appropriated $3,344,750 for the express purpose of paying the tolls of the merchant steamships of the Russian volunteer fleet through the Suez Canal. As the tonnage of that fleet in 1909 was 130,200 net tons, the Government grant was equal to $2.57 per net ton, or more than sufficient to pay not only the canal charges on the ship, but also on every man, woman, or child on board. The fleet of the British, Peninsular & Oriental Steamship Co., the largest using the Suez Canal, paid in tolls in 1910 £357,989, of which England paid by means of subsidies £297,143, or $1,435,200, about $1.15 per ton. Germany subsidized its principal line, the North German Lloyd, to the extent of $1,385,160 for its mail steamers to Asia and Australia passing through the Suez Canal. In 1910 this grant sufficed to pay all the tolls of that company and to leave a handsome margin of profit. Japan paid a subsidy of $1,336,947 to the Nippon Yussen Kaisha Steamship Co., whose steamers used the canal. In 1908 the largest French line using the Suez Canal, the Messageries Maritimes, was paid by the national Government the colossal subsidy of $2,145,232. In one year Austria paid out of her treasury all the tolls on a number of her steamers for 42 voyages through the Suez Canal besides giving them a subsidy of 4,700,000 crowns, or $854,100. Sweden in three years gave its ships using the Suez Canal 1,850,000 crowns, or $495,800, to pay the tolls on her vessels. Without further details it may be said that several other nations have given material subsidies to their vessels using the Suez Canal, and unless the position of these nations be entirely changed, which seems improbable, they will extend similar subsidies to their shipping through the Panama Canal. Already evidences of this fact exist.

In 1909 Spain passed a law authorizing an annual subsidy of $285,000 to a Spanish steamship line from Cadiz to the Canaries, Porto Rico, and Cuba, "thence through the Panama Canal to ports that the Government shall deem necessary." The Daily Consular Report of May 1, 1914, states that a measure has been introduced in the lower house of the Japanese Diet, proposing an annual grant of from $718,307 to $875,447 to the Nippon Yusen Kaisha Co., whose fleet will be the largest Japanese line using the canal. The Daily Consular Report of April 13, 1914, gives the information that a movement has begun in France to have one of the French lines through the Panama Canal subsidized.

It may be safely predicted that the other great maritime nations of the world will do likewise. What a position, then, will the United States be in with its maritime rivals paying the tolls for their vessels through the Panama Canal, or at least a very large percentage of the tolls, and we exacting the same rate from our vessels enjoyed by the foreign ships, and doing nothing to help them bear the burden! We are already in the humiliating position of having 91 per cent of our foreign commerce carried in ships bearing the flags of other nations and only 9 per cent in our own vessels. Shall we legislate in this bill to further reduce this American tonnage in American ships? Shall we discourage the American marine by enacting a law which we know in advance will be used by our rivals to crush us? For my part, not only would I exempt coastwise vessels from the payment of tolls, but also all other vessels flying the American flag and carrying foreign commerce, for I believe that we have the power under the terms of the Hay-Pauncefote treaty to regulate our foreign commerce through the canal in exactly the same manner that we regulate and control our vessels of war.

ECONOMIC ADVANTAGES OF WATER TRANSPORTATION.

I shall endeavor to show that the American people are interested in a direct personal way in the free passage of coastwise commerce through the canal. In order to do this let me give some examples of comparative freights by rail and water on existing traffic.

In this connection I wish to call attention to the map hanging on the wall, and suggest to you that if St. Louis be taken as a center and a 40 per cent rate be adopted, you will find that the red line which marks the area included within the 40-cent rate follows very closely the Mississippi River and the Ohio River. It is a graphic illustration of the effect of waterways, for just as soon as you leave the river the rates go up and go up very materially.

A study of the rates on railroads leading out of St. Louis affords striking evidence of the effect of waterways. Havana, Ill., is 159 miles from St. Louis, and Poplar Bluff, Mo., 169 miles distant, but Havana is on the Illinois River and has a first-class rate of 36.1 cents per 100 pounds, while Poplar Bluff is an inland town and has to pay 52 cents. The distance to Poplar Bluff is only 10 miles greater; the rate is more than 44 per cent higher.

Springfield, Mo., is 239 miles from St. Louis, while the distance to St. Paul is 593 miles. Springfield, Mo., being inland, pays 62 cents, while St. Paul, being on the Mississippi River, pays only 1 cent more—63 cents—for the greater distance. If the rate to Springfield, Mo., were the same per mile as the rate to St. Paul, Springfield would pay only 25 cents per 100 pounds instead of 62 cents. Vice versa, if the rate per mile to St. Paul were the same as to Springfield, Mo., the rate would be $1.54 instead of 63 cents.

Mexico, Mo., is 116 miles from St. Louis; Cincinnati, Ohio, is 339 miles. Cincinnati is on the Ohio River and boats can ply between St. Louis and that city, so the railroad rate on commodities of the first class to Cincinnati is 41 cents, while that to Mexico, Mo., is 43 cents. Cincinnati is almost three times as far away and has a rate of 2 cents per 100 pounds less than the town to which the steamboats can not run.

These rates were compiled by the Interstate Commerce Commission from the railway tariffs on file, and the distances were taken from the official railway guide.

The rate on salt by the carload from Portland, Oreg., to The Dalles on the Columbia River, the head of navigation, a distance of 88 miles, was $1.50 per ton after the locks were open on the river between these two points, while to Umatilla, 100 miles behind, the rate was $10 per ton. A dollar and a half per ton for 88 miles with water competition; $8.70 per ton without competition.

The general manager of the principal foreign steamship line entering Boston recently stated that freight rates caused by the largest steamships being used as a result of the deeper channel are about 50 per cent less than they were some 15 or 20 years ago when very much smaller steamers were engaged in the trade. This saving of one-half of the cost of ocean transportation at a great port like Boston, resulting from the deepening of the channel to a depth of 35 feet at a cost of about $6,000,000, is of vital importance to the entire Nation. It benefits the wheat grower of the Middle West, the cotton planter of the South, and everyone who imports or exports articles of commerce.

ENORMOUS SAVING BY SOO CANAL.

The total freight through the Soo Canal for 1913 was 79,718,344 tons, carried an average haul of 820 miles, at a cost of $44,380,865, the average rate of transportation per ton per mile being 0.68 mill.

According to the report of the Interstate Commerce Commission on statistics of United States railways for the year ending June 30, 1911, the latest year for which complete figures are available, the average rate per ton per mile received by the railways was 7.57 mills, or eleven times the water rate through the Soo. Preliminary statements for the year ending June 30, 1912, indicate that there was no material change in the ton-mile rate. This exceeds the Soo Canal rate by 6.89 mills, and if the freight which was carried through the Soo had been carried an equal distance by rail at the average railway rate for the years 1911 and 1912, it would have cost $455,128,688.70 more than was actually paid for its transportation by water.

It has been objected that this is not a proper comparison for the reason that a larger proportion of the freight handled by water consists of iron ore, coal, lumber, and other raw material than does freight carried by rail. There is some truth in this contention.

The Virginian Railway—and I am glad to see the Senators from Virginia in front of me—starting from a point near Charleston in the coal-mining regions of West Virginia and running thence to Norfolk, was built at an enormous expense with heavy cuts and fills and many tunnels in order to secure low grades and easy curves and consequent economy of operation. Its freight consists very largely of coal. In fact, it is probable that the proportion of low-grade freight on the Virginian Railway is greater than it is at the Soo, and its rate, which was 3.61 mills per ton per mile for the year ending June 30, 1911, is the lowest in the United States. Even if carried at this rate, which is more than five times the Soo rate, the freight of Lake Superior would have cost $191,419,000 more than was paid for its carriage by water.

There is a very large commerce of about 12,000,000 tons on the Ohio, which is now being canalized so as to give it a minimum depth of 9 feet throughout its entire length. When this improvement is completed coal on the Ohio and Mississippi south of Cairo can be conveyed at a cost of 0.4 mills per ton per mile, or 5 per cent of the average railroad rate, or 11 per cent of the lowest railroad rate. All heavy commodities will move at about the same rate. My authority for this statement is Col. William L. Sibert, member of the Panama Canal Commission and one of the most accomplished engineers on earth.

It appears from the foregoing, therefore, that the public derives incalculable benefit from the cheaper commerce carried by our improved waterways. No one can say what this really amounts to every year, but if the saving on the Soo alone in one year—bear in mind, Senators, the Soo carries only a portion of the Great Lakes commerce—is $191,000,000 as compared with the rate on the Virginia Railway, the cheapest in America, and four hundred and fifty-five millions as compared with the average railroad rates, it is fair to say that the annual reduction and saving due to these improved waters is considerably more than the entire seven hundred and five millions expended upon their improvement during our national life.

FREE PANAMA CANAL MEANS DOLLARS TO EVERY CITIZEN.

The same argument applicable to internal waterways generally applies to the Panama Canal. We should receive similar benefits and an enormous saving in our annual freight bill. If traffic on the Great Lakes, on the Columbia, on the Ohio, on the Mississippi, on the Black Warrior, and in great ports like that of Boston can be carried so very cheap compared with rail, there is no reason why they can not be carried at like rates through Panama, and beyond question they will be. The reduction in our national freight bills between the two coasts is bound to be very great whether we exact a toll charge or not, just as it would be very great on the Soo if we had to pay a toll, for instance, of 50 cents per ton on the commerce passing through it. But if the Government had exacted 50 cents per ton freight charge on the traffic through the Soo last year, it would have amounted to nearly $40,000,000, or practically as much again as the total freight charge paid by this commerce, which, as shown above, was $44,380,865. If this charge of 50 cents per ton had been added to the Soo freight, the rate instead of being 0.68 mill per ton mile would have been about 1.31 mills, nearly twice as much, and the American people, while collecting forty millions in tolls, would have paid out that amount in increased freight charges. The same thing would be true at Panama. A large number of vessels, many of them independent and operating on a competitive basis, will engage in our coastwise commerce through the canal, as I have fully explained heretofore. These vessels will be satisfied with reasonable returns on their investments, and in making their rates they will be compelled to add any toll that is exacted. It follows, therefore, that if no tolls be required, the freight will be less by just that amount.

The companies operating coastwise vessels will not be able to add to their profit the amount of the tolls exemption, because each company will need the advantage of every possible cent of lower freight rates to meet the rates of competing vessels. When the canal is opened there will be a tremendous increase of the number of our coastwise vessels, and each ship will be anxious to carry freight to its full capacity. Since there is no shipping trust, as I have demonstrated, the competition between the tramps and the regular lines, between company and company, between ship and ship, will be very keen, for all of them will be anxious to carry more and more freight, and by seizing every opportunity to develop and increase their traffic as much as possible. They will, therefore, offer every inducement to draw freight to them, and the best inducement is a low freight rate. Hence the consumers of the country will receive the benefit.

As a concrete instance, let us take lumber, a commodity which exists in very large quantities on the Pacific coast, and is becoming scarce along the Atlantic seaboard. The evidence of Mr. Ransom, a lumberman of Portland, Oreg., before the Committee on Interoceanic Canals, page 505 of the hearings, was that the present railroad rate from the northern Pacific coast to the Atlantic terminals, such as Boston or New York, is 75 cents per hundred pounds, which is approximately $24 per thousand feet on rough lumber, and less on the lighter grades. He states that the water rate through the canal will be 30 cents per hundred pounds, or $9.60 per thousand feet. His testimony is corroborated by Mr. Skinner, of San Francisco, who is also in the lumber business, and who states, on page 808 of the hearings, that his company now "have an offer of tonnage in cargo capacity of $9 a thousand feet from Puget Sound to New York or the east coast of Pennsylvania, if tolls are not assessed. If they are, the tolls are to be added to it." He also states that "at the same time a 30-cent rate was offered to St. Louis and Mississippi River common points, as against a 55-cent rate by rail. The rate to Mississippi River points, however, was made contingent on the establishment of a line with free tolls." There was a difference of opinion as to what amount a thousand feet of average lumber would pay with the tolls at $1.20 per net ton, and Mr. Teal, of Portland, Oreg., who is one of the ablest and purest men in the Nation, testifying

before the Interoceanic Canals Committee, page 929 of the hearings, estimates that it would be about 6 cents per hundred pounds, or $1.66 per thousand feet, which, I believe, is correct. This evidence proves that in any event there will be a net saving in freight from the Pacific to the Atlantic of from $12 to $15 per thousand feet, which is certainly a very material item; and if the tolls are collected this saving would be reduced by $1.66 per thousand feet; hence the consumer of lumber is interested in this question to the extent of $1.66 on every thousand feet of lumber he uses. How would this apply to a citizen of Washington desiring to construct a house in which 20,000 feet of lumber would be required? If there be free tolls, he could get his lumber at a reduction of $1.66 on each thousand feet, or $33.20 less than if tolls are charged. This is quite a saving to the citizen, and, though lumber has been used as an illustration, the same would apply to the innumerable articles exchanged in the course of trade between the two sections of our country, and a proper benefit would be derived on every one of them.

LOUISIANA'S VITAL INTEREST.

Mr. President, when the country was stirred with talk about an Isthmian Canal and all political parties indorsed the idea and speakers upon the hustings and in legislative halls made the welkin ring with the glory and pride of the great enterprise, no portion of our land was more enthused in its favor than the Mississippi Valley and the Gulf coast. The canal will benefit greatly every part of the Republic; but if one place more than another is to be aided by it, that place is the city of New Orleans, situated on the Mississippi River with its 16,000 miles of navigable waters, at the gateway to the Gulf. New Orleans will soon be connected by water with all the rivers of Texas, Louisiana, Mississippi, Alabama, and Florida by intercoastal canals running east and west from it and now in process of construction. New Orleans is not only the greatest waterway center in the Union but has exceptional railroad facilities, and beyond question it is destined to be the great mart of commerce for the interior section of the Republic in its relations with the Pacific coast of South and North America and the Orient. Not only is New Orleans intensely interested in this canal and everything that tends to make it great and useful, but all the cities of the Mississippi's imperial valley have the same interest. Prof. Emory Johnson says that 65 per cent of the westbound Pacific coast traffic originates in this valley. I thought when this measure was introduced, so fraught with friendship for railways and indifference if not active antagonism to the greatest artificial waterway on earth, that southern Senators and Representatives would be the very first to oppose it, would be the strongest advocates of our coastwise trade, and the most determined foes of repeal. It has been a great surprise and sorrow to me to find so many of them, aye, sir, the big majority, giving their voices to the support of a measure which I think is not only unpatriotic but seriously hurtful to the country, especially to the South. Mr. President, I have no alternative proposition to suggest. I believe that the law of 1912 should stand. It is right; it is wise; it is honorable. I feel as deep a sense of obligation to maintain the national honor as I do for my personal honor, but no question of honor or morality is involved. So many good men differ from me, however, that I would be perfectly willing to let this question be settled either by a national board of arbitration or, better, by the Supreme Court of the United States. I can never consent to repeal, for I consider it a relinquishment of one of our sovereign prerogatives at the behest of a foreign power, and that no obligation in law or morals requires me to yield.

Mr. SHIVELY. Mr. President——

Mr. WILLIAMS. I ask for the regular order, which is the unfinished business before the Senate.

Mr. SHIVELY. I hope the Senator from Mississippi will yield to me to prefer a request, which will take but a moment.

Mr. O'GORMAN. I ask that the unfinished business be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. That requires unanimous consent, and I object.

Mr. O'GORMAN. Then, I move that the unfinished business be temporarily laid aside.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New York.

The motion was agreed to.

ADDRESS BY PRESIDENT WILSON.

Mr. SHIVELY. I have a copy of the address of President Wilson delivered at the unveiling of the statue to the memory of Commodore John Barry, at Washington, D. C., Saturday, May 16, 1914. I ask that the address may be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The address is as follows:

ADDRESS OF PRESIDENT WILSON AT THE UNVEILING OF THE STATUE TO THE MEMORY OF COMMODORE JOHN BARRY.

Mr. Secretary, ladies, and gentlemen, I esteem it a privilege to be present on this interesting occasion, and I am very much tempted to anticipate some part of what the orators of the day will say about the character of the great man whose memory we celebrate. If I were to attempt an historical address, I might, however, be led too far afield. I am going to take the liberty, therefore, of drawing a few inferences from the significance of this occasion.

I think that we can never be present at a ceremony of this kind, which carries our thought back to the great Revolution, by means of which our Government was set up, without feeling that it is an occasion of reminder, of renewal, of refreshment, when we turn our thoughts again to the great issues which were presented to the little Nation which then asserted its independence to the world; to which it spoke both in eloquent representations of its cause and in the sound of arms, and ask ourselves what it was that these men fought for. No one can turn to the career of Commodore Barry without feeling a touch of the enthusiasm with which he devoted an originating mind to the great cause which he intended to serve, and it behooves us, living in this age when no man can question the power of the Nation, when no man would dare to doubt its right and its determination to act for itself, to ask what it was that filled the hearts of these men when they set the Nation up.

For patriotism, ladies and gentlemen, is in my mind not merely a sentiment. There is a certain effervescence, I suppose, which ought to be permitted to those who allow their hearts to speak in the celebration of the glory and majesty of their country, but the country can have no glory and no majesty unless there be a deep principle and conviction back of the enthusiasm. Patriotism is a principle, not a mere sentiment. No man can be a true patriot who does not feel himself shot through and through with a deep ardor for what his country stands for, what its existence means, what its purpose is declared to be in its history and in its policy. I recall those solemn lines of the poet Tennyson in which he tries to give voice to his conception of what it is that stirs within a nation: "Some sense of duty, something of a faith, some reverence for the laws ourselves have made, some patient force to change them when we will, some civic manhood firm against the crowd;" steadfastness, clearness of purpose, courage, persistency, and that uprightness which comes from the clear thinking of men who wish to serve not themselves, but their fellow men.

What does the United States stand for, then, that our hearts should be stirred by the memory of the men who set her Constitution up? John Barry fought, like every other man in the Revolution, in order that America might be free to make her own life without interruption or disturbance from any other quarter. You can sum the whole thing up in that, that America had a right to her own self-determined life; and what are our corollaries from that? You do not have to go back to stir your thoughts again with the issues of the Revolution. Some of the issues of the Revolution were not the cause of it, but merely the occasion for it. There are just as vital things stirring now that concern the existence of the Nation as were stirring then, and every man who worthily stands in this presence should examine himself and see whether he has the full conception of what it means that America should live her own life. Washington saw it when he wrote his farewell address. It was not merely because of passing and transient circumstances that Washington said that we must keep free from entangling alliances. It was because he saw that no country had yet set its face in the same direction in which America had set her face. We can not form alliances with those who are not going our way; and in our might and majesty and in the confidence and definiteness of our own purpose we need not and we should not form alliances with any nation in the world. Those who are right, those who study their consciences in determining their policies, those who hold their honor higher than their advantage, do not need alliances. You need alliances when you are not strong, and you are weak only when you are not true to yourself. You are weak only when you are in the wrong; you are weak only when you are afraid to do the right; you are weak only when you doubt your cause and the majesty of a nation's might asserted.

There is another corollary. John Barry was an Irishman, but his heart crossed the Atlantic with him. He did not leave it in Ireland. And the test of all of us—for all of us had our origins on the other side of the sea—is whether we will assist in enabling America to live her separate and independent life, retaining our ancient affections, indeed, but determining everything that we do by the interests that exist on this side of the sea. Some Americans need hyphens in their names, because only part of them has come over; but when the whole man has come over, heart and thought and all, the hyphen drops of its own weight out of his name. This man was not an Irish-American; he was an Irishman who became an American. I venture to say if he voted he voted with regard to the questions as they looked on this side of the water and not as they affected the other side; and that is my infallible test of a genuine American, that when he votes or when he acts or when he fights his heart and his thought are centered nowhere but in the emotions and the purposes and the policies of the United States.

This man illustrates for me all the splendid strength which we brought into this country by the magnet of freedom. Men have been drawn to this country by the same thing that has made us love this country—by the opportunity to live their own lives and to think their own thoughts and to let their whole natures expand with the expansion of a free and mighty Nation. We have brought out of the stocks of all the world all the best impulses, and have appropriated them and Americanized them and translated them into the glory and majesty of a great country.

So, ladies and gentlemen, when we go out from this presence we ought to take this idea with us that we, too, are devoted to the purpose of enabling America to live her own life, to be the justest, the most progressive, the most honorable, the most enlightened Nation in the world. Any man that touches our honor is our enemy. Any man who stands in the way of the kind of progress which makes for human freedom can not call himself our friend. Any man who does not feel behind him the whole push and rush and compulsion that filled men's hearts in the time of the Revolution is no American. No man who thinks first of himself and afte.wards of his country can call himself a" American. America must be enriched by us. We must not live upon her; she must live by means of us.

I, for one, come to this shrine to renew the impulses of American democracy. I would be ashamed of myself if I went away from this place without realizing again that every bit of self-seeking must be purged from our individual consciences, and that we must be great, if we would be great at all, in the light and illumination of the example of men who gave everything that they were and everything that they had to the glory and honor of America.

EXECUTIVE SESSION.

Mr. SHIVELY. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 8 minutes spent in executive session the doors were reopened, and (at 5 o'clock and 43 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, May 27, 1914, at 11 o'clock a. m.

NOMINATIONS.

Executive nominations received by the Senate May 26, 1914.

ENVOY EXTRAORDINARY AND MINISTER PLENIPOTENTIARY.

John L. Caldwell, of Fort Scott, Kans., to be envoy extraordinary and minister plenipotentiary of the United States of America to Persia, vice Charles W. Russell, resigned.

SECRETARY OF EMBASSY.

Post Wheeler, of Washington, lately secretary of the embassy at Rome, to be secretary of the embassy of the United States of America at Tokyo, Japan, vice Arthur Bailly-Blanchard, nominated to be envoy extraordinary and minister plenipotentiary to Haiti.

APPOINTMENTS IN THE ARMY.

MEDICAL CORPS OF THE ARMY.

The following-named first lieutenants of the Medical Reserve Corps for appointment as first lieutenants of the Medical Corps of the Army of the United States:

Charles Lewis Gandy, from May 6, 1914, vice First Lieut. Robert H. Gantt, who died June 10, 1911.

Alexander Watson Williams, from May 7, 1914, vice Capt. Reuben B. Miller, promoted June 22, 1911.

Louis Hopewell Bauer, from May 8, 1914, vice Capt. Charles A. Ragan, promoted July 14, 1911.

William Washington Vaughan, from May 9, 1914, vice Capt. Henry B. McIntyre, resigned January 10, 1912.

John Berwick Anderson, from May 10, 1914, vice First Lieut. Thomas J. Leary, resigned March 13, 1912.

Eide Frederick Thode, from May 11, 1914, vice Capt. William R. Eastman, promoted April 12, 1912.

Walter Paul Davenport, from May 12, 1914, vice Capt. James F. Hall, promoted April 13, 1912.

Harry Neal Kerns, from May 13, 1914, vice First Lieut. Rozier C. Bayly, honorably discharged May 16, 1912.

Robert Henry Wilds, from May 14, 1914, vice First Lieut. Morris H. Boerner, who declined his commission June 20, 1912.

Austin James Canning, from May 15, 1914, vice Capt. Raymond F. Metcalfe, promoted August 6, 1912.

Lanphear Wesley Webb, jr., from May 16, 1914, vice Capt. Edwin W. Rich, promoted August 7, 1912.

John Henry Hedley Scudder, from May 17, 1914, vice Capt. Robert L. Richards, resigned September 20, 1912.

Wilson Carlisle von Kessler, from May 18, 1914, vice First Lieut. Robert W. Holmes, resigned October 6, 1912.

John Murdoch Pratt, from May 19, 1914, vice Capt. Perry L. Boyer, promoted December 7, 1912.

Coleridge Livingstone Beaven, from May 20, 1914, vice First Lieut. Owen C. Fisk, retired from active service February 1, 1913.

William Guy Guthrie, from May 21, 1914, vice First Lieut. Harry B. Etter, resigned March 29, 1913.

PROMOTIONS IN THE ARMY.

COAST ARTILLERY CORPS.

First Lieut. Albert H. Barkley, Coast Artillery Corps, to be captain from May 21, 1914, vice Capt. Richard P. Winslow, who died May 20, 1914.

Second Lieut. Joseph F. Cottrell, Coast Artillery Corps, to be first lieutenant from May 21, 1914, vice First Lieut. Albert H. Barkley, promoted.

PROMOTIONS AND APPOINTMENTS IN THE NAVY.

The following-named assistant surgeons in the Navy to be passed assistant surgeons in the Navy:

James G. Omelvena,

Jasper V. Howard, and

Lester L. Pratt.

Asst. Surg. Clarence C. Kress to be a passed assistant surgeon in the Navy, from the 5th day of October, 1913.

Eueidas K. Scott, a citizen of Oregon, to be an assistant surgeon in the Medical Reserve Corps of the Navy, from the 15th day of May, 1914.

Richard C. Reed, a citizen of South Carolina, to be an assistant paymaster in the Navy, from the 15th day of January, 1914.

Asst. Naval Constructor Paul H. Fretz to be a naval constructor in the Navy, from the 30th day of April, 1914.

John J. Brady, a citizen of New York, to be a chaplain in the Navy, from the 12th day of May, 1914.

POSTMASTERS.

MASSACHUSETTS.

John O'Hearne to be postmaster at Taunton, Mass., in place of William E. Dunbar. Incumbent's commission expired March 31, 1914.

NEW HAMPSHIRE.

Benjamin F. Roberts to be postmaster at Meredith, N. H., in place of James F. Estes, resigned.

PENNSYLVANIA.

Cornelius P. Reing to be postmaster at Mahanoy City, Pa., in place of David M. Graham, resigned.

VIRGINIA.

C. H. Willoughby to be postmaster at Jonesville, Va., in place of Joseph E. Graham, resigned.

CONFIRMATIONS.

Executive nominations confirmed by the Senate May 26, 1914.

APPOINTMENT IN THE ARMY.

INFANTRY.

Joseph L. Donovan to be captain.

POSTMASTERS.

KANSAS.

Edgar G. Forrester, Wamego.

Louis A. Hamner, Belpre.

MICHIGAN.

Edgar W. Farley, Yale.

Patrick Kearns, Vulcan.

NORTH CAROLINA.

James A. Harrington, Ayden.
John R. Rankin, Gastonia.
Watson Winslow, Hertford.

PENNSYLVANIA.

James A. Cooper, Brockwayville.
Bernard J. Rountree, Haverford.
Lewis A. Snyder, Fullerton.

TEXAS.

George D. Armistead, San Antonio.

WISCONSIN.

Charles Donohue, New Richmond.
Charles Howard, Frederic.
James W. Moore, Watertown.
Noel Nash, Two Rivers.
John E. O'Keefe, Portage.
Alexander Richardson, Evansville.
Owen Sullivan, Hurley.

WITHDRAWAL.

Executive nomination withdrawn May 26, 1914.

W. A. Waddell to be postmaster at Cottonwood Falls, in the State of Kansas.

HOUSE OF REPRESENTATIVES.

TUESDAY, *May 26, 1914.*

The House met at 11 o'clock a. m.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

We thank Thee, our Father in heaven, that under the dispensation of Thy providence the conditions prevailing among all classes of our people are better than ever before; that our system of education reaches a larger number and is better calculated to fit men for greater usefulness than ever before; that society is more solidified and has taken a higher moral standard than ever before; that the Bible has a stronger, deeper place in the hearts of men than ever before; that religion is saner and more diversified than ever before; that fatherhood and brotherhood are more potent because the Christ spirit is come into more hearts than ever before.

Continue Thy holy influence until all shall come into Thy nearer presence; for Thine is the kingdom, and the power, and the glory forever. Amen.

The Journal of the proceedings of yesterday was read and approved.

SIXTH INTERNATIONAL COMMERCIAL CONGRESS.

Mr. HARRISON. Mr. Speaker, I ask unanimous consent for the present consideration of House joint resolution 264, authorizing the President to accept an invitation to participate in the Sixth International Congress of Chambers of Commerce and Commercial and Industrial Associations.

The SPEAKER. The gentleman from Mississippi asks unanimous consent for the present consideration of a joint resolution which the Clerk will report.

The Clerk read as follows:

Resolved, etc., That the President be, and he is hereby, authorized to accept an invitation extended by the Government of the French Republic to the Government of the United States to participate by delegates in the Sixth International Congress of Chambers of Commerce and Commercial and Industrial Associations, to be held at Paris from the 8th to the 10th of June, 1914; and the sum of $2,000, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to defray the expenses of participation by the United States.

With the following committee amendment:

Page 1, line 9, after the word "fourteen," strike out the semicolon and the words "and the sum of $2,000, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to defray the expenses of participation by the United States," and insert a colon and the words "*Provided*, That no appropriation shall be granted for expenses of delegates or for other expenses incurred in connection with the said conference."

The SPEAKER. Is there objection to the present consideration of the joint resolution? It seems to the Chair that if this resolution is going to be passed at all it should be passed now, as the time is short.

There was no objection.

Mr. HARRISON. I ask unanimous consent that the resolution may be considered in the House as in Committee of the Whole.

The SPEAKER. The gentleman asks unanimous consent to consider the joint resolution in the House as in Committee of the Whole. Is there objection?

There was no objection.

The committee amendment was agreed to.

The joint resolution as amended was ordered to be engrossed and read a third time, and was accordingly read the third time and passed.

On motion of Mr. HARRISON, a motion to reconsider the last vote was laid on the table.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Tulley, one of its clerks, announced that the Senate had passed with amendments bill (H. R. 13679) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1915, asked a conference with the House on the bill and amendments, and had appointed Mr. GORE, Mr. CHAMBERLAIN, and Mr. WARREN as the conferees on the part of the Senate.

ANTITRUST LEGISLATION.

The SPEAKER. The unfinished business is H. R. 15657. The House will resolve itself automatically into the Committee of the Whole House on the state of the Union, with the gentleman from Tennessee [BYRNS] in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, and for other purposes, and other bills embraced in the special order of the House.

Mr. KELLY of Pennsylvania. Mr. Chairman, I yield 40 minutes to the gentleman from Michigan [Mr. MACDONALD].

The CHAIRMAN. The gentleman from Michigan is recognized for 40 minutes.

Mr. MACDONALD. Mr. Chairman, while I do not consider that this bill is framed to meet the trust problems at the proper angle, nor do I consider that the bill is provided with teeth to attack this enemy with the results designed to be accomplished by the Progressive bills, still, with what I consider certain necessary amendments, I am inclined to support this bill, because I believe it does take a step in the direction of accomplishing something toward settling our trust problems.

My Progressive colleagues who have spoken in this debate have ably pointed out the difference between the present Democratic program and the Progressive program, and I shall not dwell on that point. There are certain amendments that I think ought to be made to this bill. Some, I believe, will be made, and we shall probably hear them discussed at great length under the five-minute rule.

But the thing that impresses me particularly in this bill, and the thing that I find constantly coming up in every matter that vitally concerns us in our governmental problems, is the thing that overshadows everything else. That is the evidence found here of the immediate struggle that is going on between these great combinations of organized capital and the people. In this bill, try to conceal it as we may, we all know in our hearts that there is one important, great outstanding feature. That is the question as to whether this law shall be directed against the combinations of capital that it was designed to be directed against, or whether it shall be shifted, partially at least, and turned against the very people whom it was designed to protect. [Applause.]

A great deal of discussion has been going on pro and con for 24 years in regard to what class of people this antitrust legislation was directed against. The proposition is so simple that it seems absolutely ridiculous to think that there should be any doubt about it. The men who framed the first legislation of this kind that was put upon the statute books, the Sherman law, had no doubt as to whom this legislation was directed against, and they also, as shown by the debates at that time, were farsighted enough to realize that these great combinations against whom this legislation was directed would be shrewd enough, as they always are, immediately to turn the legislative guns that were trained upon them against the very people themselves.

Senator Sherman, the nominal author of the so-called Sherman law, at least had no doubt as to this question, and in the debate in the Senate, on March 24, 1890, Senator Sherman said:

Now, let us look at it. The bill as reported contains three or four simple propositions which relate only to contracts, combinations, agreements made with a view and designed to carry out a certain purpose which the laws of all the States and of every civilized community declare to be unlawful. It does not interfere in the slightest degree with voluntary associations made to affect public opinion to advance the interests of a particular trade or occupation. It does not interfere with the Farmers' Alliance at all, because that is an association of farmers to advance their interests and to improve the growth and manner of production of their crops and to secure intelligent growth and to introduce new methods. No organizations in this country can be more beneficial in their character than farmers' alliances and farmers' associations. They are not business combinations. They do not deal with contracts, agreements, and so forth. They have no connection with them. And so the combinations of workingmen to promote their interests, promote their welfare, and increase their pay, if you please, to