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## CANADIAN RIGHTS IN THE ERIE CANAL.

On October 26 the United States Supreme Court affirmed a constitutional principle which puts the Erie Canal under national control if Congress sees fit to assert it.

In the case of a debt claim against the owner of a canalboat the Court, overruling the New York Court of Appeals, holds that the action is within the maritime jurisdiction of the federal judiciary and not within the jurisdiction of the State tribunals.

The Court bases this decision on the principle that under the constitution the Erie Canal is to be classed with navigable waters of the United States, and a canalboat with ships or vessels navigating such waters. "The only distinction between canals and other navigable waters," says Justice Brown in the opinion of the majority, "is that they are rendered navigable by artificial means and sometimes, though by no means always, are wholly within the limits of a particular state. He adds:

"We fail to see, however, that this creates any distinction in principle. Canals, though frequently within the limits of a single state, generally connect waters lying outside the state. In this case the Erie Canal, though wholly within the state of New York, is a great highway of commerce between ports in different states and foreign countries, and it is navigable by vessels which also traverse the waters of the Hudson River."

This adds another to the long line of opinions in which the Supreme Court of the United States interpreting the commerce clause of the constitution and the maritime jurisdiction of the federal courts, has steadily enlarged the scope of national power. Until about a half century ago federal admiralty jurisdiction in the United States was held to be limited to tidewater, but it has since then been extended to take in not only all navigable rivers and lakes connected in any way with the ocean, but also canals, such as the Erie, lying wholly within the boundaries of a state and made by the state. The result is that a vast range of inland waterways formerly supposed to be within the domain of state sovereignty are now held to be under national control.

The decision does not, it is true, involve the ownership of the Erie Canal, which still remains in the State where it has always been.

The interest of Canada in this decision is whether Canadian vessels are to be allowed passage through the canal, being under the supreme jurisdiction of the United States, the same

## THE CANADIAN MANUFACTURER

Reaches all the Blast Furnaces, Iron and Steel Works, Rolling Mills, Manufacturers of Iron and Wood-Working Machinery, Steam Engines and Boilers, Pumping and Mining Machinery, Electric Machinery, Textile, Pulp and Paper Mill Machinery, Water Power Plants, Cement, Sewer Pipe and Terra Cotta Works, Dealers in Steam Fitters' and Plumbers' Supplies, and all Hardware Merchants in Canada.

as United States vessels are now allowed passage through Canadian canals. There is an immense amount of shipping, principally of lumber, from Hull and Ottawa, on the Ottawa river, and from other Canadian points, through the New York State canals, done entirely and exclusively in United States vessels, and in which no Canadian vessel is allowed to participate, the contention of the New York State authorities being that they had a right to deny to foreign vessels the use of the state canals.

It would seem that heretofore the United States Government have accepted this view, for in the Treaty of Washington of 1871, Clause XXVII., dealing with the question of the rights of passage to one country through the canals of the other country, it is provided as follows:

The Government of Her Britannic Majesty engages to urge upon the Government of the Dominion of Canada to secure to the citizens of the United States the use of the Welland, St. Lawrence and other canals in the Dominion on terms of equality with the inhabitants of the Dominion; and the Government of the United States engages that the subjects of Her Britannic Majesty shall enjoy the use of the St. Clair Flats Canal on terms of equality with the inhabitants of the United States, and further engages to urge upon the State Governments to secure the subjects of Her Britannic Majesty the use of the several state canals connected with the navigation of the lakes or rivers traversed by or contiguous to the boundary line between the possessions of the High Contracting Parties, on terms of equality with the inhabitants of the United States.

The efforts of the United States Government to induce the government of the State of New York to accord to Canadian vessels the same use of the Erie Canal as is accorded to American vessels were never successful, and from the time of the making of that treaty in 1871 until now Canadian vessels have been denied the use of the New York canals.

It is now in order for the Dominion Government to bring this matter to the attention of the United States Government, and no doubt, in the light of the October 26 decision of the Supreme Court of the United States, the treaty right of Canadian vessels to the use of the New York canals will be promptly and cheerfully accorded.

## TARIFF PREFERENCE FOR SOUTH AFRICA.

According to an Ottawa despatch the Dominion Government have decided to offer the tariff preference of 33 1/3 per cent. to the colonies in the South Africa Customs Union in