

rebate of a large portion of the canal tolls, on condition that grain of certain classes, viz.: wheat, Indian corn, pease, barley, rye, oats, flax-seed and buckwheat, to be carried to Montreal for foreign shipment, and shipped accordingly; as respects all other freights passing through the canals there is no rebate, whatever may be its destination.

If, therefore, a Canadian vessel brings grain to Montreal for foreign shipment, subject to rebate, it obtains the rebate. If it lands it short of Montreal, at any port either on the Canadian or American side, it obtains no rebate. In consequence of the request of Great Britain to allow to vessels of the United States the use of the Canadian canals on terms of equality with the inhabitants of the Dominion, United States vessels carrying the prescribed classes of grain are entitled to rebate on reaching Montreal exactly on the same terms as Canadian vessels. And, in like manner, if they land their cargo at any port short of Montreal, either on the Canadian or American side, they obtain no rebate. In this respect, therefore, the vessels of the two countries are in exactly the same position, and they use the canals on exactly the same terms.

It is alleged that the Canadian rule creates discrimination between the two nationalities, on the ground that permission is given to vessels of both nationalities to tranship cargoes destined to Montreal at an intermediate Canadian port, without forfeiting the claim to rebate, while vessels of neither nationality can receive rebate if their cargoes are transhipped at an American port. Strictly speaking, this creates no inequality in the use of the canals, though it undoubtedly does discriminate against the United States ports as points of transhipment. The United States vessel may obtain its rebate precisely as a Canadian vessel can, by transhipping its cargo (if transhipment is necessary) at a Canadian port. And, on the other hand, neither Canadian nor United States vessels can obtain a rebate if they tranship at a United States port.

Under the provisions of the order in council, it is plain that Canada allows the use of her canals both to her own vessels and to those of the United States upon such conditions as to influence a certain class of the traffic to pass down the St. Lawrence to Montreal, but in the inducement thus held out it makes no distinction, as respects the payment for the use of its canals, between the vessels of the United States and its own. In this respect it is contended that, in favouring their national route, Canada does so on precisely the same conditions with regard to both nations. The only stipulation in the treaty is, that the United States citizens shall use Canadian canals on terms of equality with the people of the Dominion; and this equality is preserved by the imposition of the same conditions and the granting of the same privileges, with the same restriction to vessels of both nationalities.

By the 30th article of the treaty of Washington, it was agreed that British subjects might carry in British vessels, without payment of duty, goods, wares, or merchandise, from one port or place within the territory of the United States upon the St. Lawrence, the great lakes and the rivers connecting the same, to another port or place within the aforesaid territory of the United States; provided that a portion of such transhipment should be made through Canada by land carriage, and in bond. And a privilege exactly corresponding, *mutatis mutandis*, was by the same article, granted to the citizens of the United States, with respect to goods, wares or merchandise, carried from one point in Canada, across the territory of the United States, to another point in Canada. By the same article it was agreed that the United States might suspend the right of carrying, so granted to British subjects, in case the dominion of Canada should at any time deprive the citizens of the United States of the use of the canals in the Dominion, on terms of equality with Canadians. In the authorized protocol to the conference between the British and United States high commissioners, with regard to the 30th article of the Washington treaty, it is stated as follows:—

“That they desired and it was agreed, that the transhipment arrangement should be made dependent upon the non-existence of discriminating tolls or regulations of the Canadian canals, and also upon the abolition of the New Brunswick export duty on American lumber intended for the United States.”