

could not have existed as a practical question at the period of the treaty of '83, but is one of subsequent and modern origin. We have desired to show that it could not exist as a practical question until the country of the lakes came to be inhabited and civilized, and to teem with a commerce seeking its natural channel in this ocean-outlet. That period has now come, and with a rapidity far beyond the conceptions of our ancestors. The spirit of enterprise and adventure, which at an early day in our history sent the American pioneer to the foot of the Alleghanies, has carried his descendants far over and beyond this barrier, and planted their habitations on the shores of those great lakes upon whose waters they now ask to be borne in their downward passage to the ocean.

Having thus briefly noticed the origin and history of our claim, we come next to a consideration of the arguments upon which it rests.

Nature plainly points to the ocean as a field of enterprise for the whole world, and international law recognises it as property to be enjoyed in common by all nations. While nature has thus provided the world with a common highway, she has been lavish in also providing for inland nations lesser highways or means of access to it, such as inlets and rivers. The right of all nations jointly to navigate the ocean may well be deduced from the fact that it is the common reservoir formed by a union of the lesser highways or rivers, which, to a certain degree, are recognised as the property of the contiguous nations through whose territories they pass, to the extent of their contiguity. This property is justly qualified by the claim of upper and inland nations to the right of passage to and from the ocean; and this right of ingress and egress asserts but little more than the national right of using and following a national qualified property until it reaches the ocean or common reservoir, where all stand upon equal footing.

A nation may well assert control over a river flowing in its whole length through its own territories. So, too, by analogy, may a nation assert control over the sources or upper parts of a river, so far as they lie within its boundaries. Such right interferes with the interests of no nation below in seeking passage to and from its mouth, and prosecuting its trade and commerce upon the ocean. But is it not a very different case, when a nation, by discovery, settlement, or conquest, takes possession of the mouth of a great ocean-outlet, which, it may be, extends inland for thousands of miles, washes and fertilizes the soil of various climates and countries, and is the only natural highway of many nations equally sovereign with that which may chance to own the soil contiguous to its mouth? What process of reasoning, or what plea of convenience or necessity, in such case, can concentrate in the lower nation a sovereignty which overrides and absorbs all sovereignties above, or give to the lower sovereignty a greater right of navigation than that which belongs to the upper? The language of the protocol referred to in the letter of Mr. Rush, when minister to England, to Mr. Adams, the American Secretary of State, dated August 12, 1823, well confirms the preceding view:

"It has sometimes been said that the possession by one nation of both the shores of a river at its mouth gives the right of obstructing the navigation of it to the people of other nations living on the banks above; but it remains to be shown upon what satisfactory grounds the assumption by the nation below of exclusive jurisdiction over a river thus situated can be placed. The common right to navigate it is, on the other hand, a right