unless stopped. The answer also denies that the abstraction of water substantially in excess of 250,000 cubic feet per minute will lower the levels of the Lakes and Rivers concerned or create an obstruction to the navigable capacity of those waters. It goes into the details of the construction of the channel; the expenses incurred; and the importance of it to the health of the inhabitants of Chicago, both for the removal of their sewage and avoiding the infection of their source of drinking water in Lake Michigan which had been a serious evil before. It shows the value of the channel for the great scheme of navigation that we have mentioned; recites acts of Congress and of officers of the United States alleged to authorize what has been done, and to estop the United States from its present course, and finally takes the bull by the horns and denies the right of the United States to determine the amount of water that should flow through the channel or the manner of the flow.

This brief summary of the pleadings is enough to show the gravity and importance of the case. It concerns the expenditure of great sums and the welfare of millions of men. But cost and importance, while they add to the solemnity of our duty, do not increase the difficulty of decision except as they induce argument upon matters that with less mighty interests no one would venture to dispute. The law is clear, and when it is known the material facts are few.

This is not a controversy between equals. The United States is asserting its sovereign power to regulate commerce and to control the navigable waters within its jurisdiction. It has a standing in this suit not only to remove obstruction to interstate and foreign commerce, the main ground, which we will deal with last, but also to carry out treaty obligations to a foreign power bordering upon some of the Lakes concerned, and, it may be, also on the footing of an ultimate sovereign interest in the Lakes. The Attorney General by virtue of his office may bring this proceeding and no statute is necessary to authorize the suit. *United States* v. *San Jacinto Tin Co.*, 125 U. S. 273. With regard to the second ground, the Treaty of January 11, 1909, with Great Britain, expressly provides against uses "affecting the natural level or flow of boundary waters" without the authority of the United States or the Dominion of Canada within their respective jurisdictions and the approval of the International Joint Commission agreed upon therein. As to its ultimate interest in the Lakes the reasons seem to be stronger than those that have established a similar standing for a state, as the interests of the nation are more important than those of any state. *Re Debs*, 158 U. S. 564, 584, 585, 599. *Georgia* v. *Tennessee Copper Co.*, 206 U. S. 230. *Hudson County Water Co.* v. *McCarter*, 209 U.S. 349, 355. *Marshall Dental Manufacturing Co.* v. *Iowa*, 226 U. S. 460, 462.

The main ground is the authority of the United States to remove obstructions to interstate and foreign commerce. There is no question that this power is superior to that of the States to provide for the welfare or necessities of their inhabitants. In matters where the States may act the action of Congress overrides what they have done:. *Monongahela Bridge Co.* v. *United States*, 216 U.S. 177. *Second Employers' Liability Cases*, 223 U. S. 1, 53. But in matters where the national importance is imminent and direct even where Congress has been silent the States may not act at all. *Kansas City Southern Ry. C.* v. *Kaw Valley Drainage District*, 233 U. S. 75, 79. Evidence is sufficient, if evidence is necessary, to show that a withdrawal of water on the scale directed by the statute of Illinois threatens and will affect the level of the Lakes, and that is a matter which cannot be done without the consent of the United States, even were there no international covenant in the case.

But the defendant says that the United States has given its assent to all that has been done and that it is estopped to take the position that it now takes. A state cannot estop itself by grant or contract from the

exercise of the police power. *Texas & New Orleans R.R. Co.* v. *Miller*, 221 U. S. 408, 414. *Atlantic Coast Line RR. Co.* v. *Goldsboro*, 232 U. S. 548, 558. *Denver & Rio Grande RR. Co.* v. *Denver*, 250 U.S. 241, 244. It would seem a strong thing to say that the United States is subject to narrower restrictions in matters of national and international concern. At least it is true that no such result would be reached if a strict construction of the Government's act would avoid it. This statement was made and illustrated in a case where it was held that an order of the Secretary of War under the Act of March 3, 1899, c. 425, the same Act in question here, directing an alteration in a bridge must be obeyed, and obeyed without compensation, although the bridge had been built in strict accord with an Act of Congress declaring that if so built it should be a lawful structure. *Louisville Bridge Co.* v. *United States*, 242 U. S. 409, 417. *Greenleaf Johnson Lumber Co.* v. *Garrison*, 237 U.S. 251. It only remains to consider what the United States has done. And it will be as well to bear in mind when considering it that this suit is not for the purpose of doing away with the channel, which the United States, we have no doubt, would be most unwilling to see closed, but solely for the purpose of limiting the amount of water to be taken through it from Lake Michigan.

The defendant in the first place refers to two Acts of Congress: one of March 30, 1822, 3 Stat. 659, which became ineffectual because its conditions were not complied with, and another of March 2, 1827, c. 51, 4 Stat. 234, referred to, whether hastily or not, in *Missouri* v. *Illinois*, 200 U. S. 496, 526, as an Act in pursuance of which Illinois brought Chicago into the Mississippi watershed. The Act granted land to Illinois in aid of a canal to be opened by the State for the purpose of uniting the waters of the Illinois River with those of Lake Michigan, but if it has any bearing on the present case it certainly vested no irrevocable discretion in the State with regard to the amount of water to be withdrawn from the Lake. It said nothing on that subject. We repeat that we assume that the United States desires to see the canal maintained and therefore pass by as immaterial all evidence of its having fostered the work. Even if it had approved the very size and shape of the channel by act of Congress it would not have compromised its right to control the amount of water to be drawn from Lake Michigan. It seems that a less amount than now passes through the canal would suffice for the connection which the United States has wished to establish and maintain.

In an appropriation Act of March 3, 1899, c. 425, § 10; 30 Stat. 1121, 1151; Congress provided "That the creation of any obstruction not affirmatively authorized by Congress, to the navigable capacity of any of the waters of the United States is hereby prohibited; . . . and it shall not be lawful to excavate or fill, or in any manner to alter or modify the course, location, condition, or capacity of, any port, roadstead, haven, harbour, canal, lake, harbour of refuge, or inclosure within the limits of any breakwater, or of the channel of any navigable water of the United States, unless the work has been recommended by the Chief of Engineers and authorized by the Secretary of War prior to beginning the same." By § 12 violation of the law is made a misdemeanor and punished, and the removal of prohibited structures may be enforced by injunction of the proper Court of the United States in a suit under the direction of the Attorney General. This statute repeatedly has been held to be constitutional in respect of the power given to the Secretary of War. *Louisville Bridge Co.* v. *United States*, 242 U. S. 409, 424. It is a broad expression of policy in unmistakable terms, advancing upon an earlier Act of September 19, 1890, c. 907, § 10; 26 Stat. 426, 454, which forbade obstruction to navigable capacity 'not authorized by law,' and which had been held