

could be no discrimination in their favour. A preference for American shipping could only apply where it was placed in competition with foreign shipping.

3. That the Panama canal being owned by the United States was merely an extension of the coast line of the United States and therefore came under coastwise traffic.

4. That to impose a toll upon domestic commerce would be a tax upon United States shipping and detrimental to a very important branch of domestic commerce.

5. That as it was desirable to establish competition between transcontinental railways carrying freight from east to west and vice versa it was necessary that the shipping engaged in a similar trade should be relieved from all charges that would be likely to increase the cost of freight and shipping between the two coasts.

Let me briefly consider these arguments in detail. Was it intended by the Hay-Pauncefote treaty that the coastwise traffic of the United States should be treated the same as traffic of 'all nations'? Senator Lodge claimed that there was no distinction between coastwise and foreign traffic. Then, if there was no distinction, there should be no discrimination, for the Hay-Pauncefote treaty clearly states that vessels of 'all nations' should be considered on terms of 'entire equality.' And here it is important to notice that, when the first Hay-Pauncefote treaty was before the Senate in 1900, it was moved by Senator Bard, of California, that

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

This amendment was rejected on the ground that it was unnecessary, inasmuch as foreign vessels could not engage in coasting trade according to the coasting laws of the United States. But, is that what the amendment means? It says 'the United States reserves the right to discriminate in respect to vessels of its own citizens engaged in the coastwise trade.' By the rejection of the amendment, that right was not reserved and, if not reserved, it must have remained subject to the Hay-Pauncefote treaty, and, if so, it is beyond

the power of Congress to remove it from the treaty, as, by the constitution of the United States, the terms of the treaty are not subject to amendment by legislation.

But this amendment has another aspect. It was admitted on the floor of the Senate that, if it had been adopted and incorporated into the second treaty, the British government would have rejected the treaty on that account. Are we justified, therefore, in assuming that its exclusion was intentional in order that Congress, when it came to legislate in the matter of tolls, would not, unless by the direct terms of the treaty, be restrained from taking the course finally decided upon? If it was the intention of the United States Senate to exclude coastwise traffic from the treaty, the time to say so was when the treaty was being negotiated and not ten years later.

Again, if the Senate was justified, under the treaty, in relieving the coastwise traffic of the United States from tolls, would it not necessarily follow that a similar privilege should be extended to the coastwise traffic of Canada? Both countries are in precisely the same position, as was admitted in the Senate, in regard to traffic between their eastern and western coast. The treaty says that the vessels of 'all nations' were to be permitted the use of the canal on terms of 'entire equality and without discrimination.' If the treaty allows the coastwise traffic of the United States to be free, it certainly should allow a similar privilege to Canadian coastwise traffic, and that right should be insisted upon by the government of Canada in the strongest terms.

Nor does the fact that American coastwise traffic is absolutely free from competition strengthen the argument in favour of relieving American coasting vessels from tolls in the canal. Canadian coasting traffic is precisely in a similar position and it should be treated with equal consideration.

The claim that, as the United States owned the canal, and, by virtue of that ownership or sovereignty, as urged by Mr. Cummins, of Iowa, the canal became part of the coastline of the United States, does not, in my opinion, place the canal in the

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