

THE FREE NAVIGATION OF THE RIVER ST. LAWRENCE.

It is the object of this paper to investigate the claim so persistently brought forward by the United States to the right of free navigation of the River St. Lawrence, to determine its validity, and to suggest, if possible, a mode in which it can be quieted for ever.

President Grant, in his Message to Congress, delivered on the 5th Nov. 1870, thus drew the attention of his countrymen to the subject:

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A like unfriendly disposition has been manifested on the part of Canada in the maintenance of a claim of right to exclude the citizens of the United States from the navigation of the St. Lawrence. This river constitutes a natural outlet to the ocean for eight States with an aggregate population of about 17,600,000 inhabitants, and with an aggregate tonnage of 661,367 tons upon the waters which discharge into it. The foreign commerce of our ports on these waters is open to British competition, and the major part of it is done in British bottoms. If the American steamer be excluded from this natural avenue to the ocean, the monopoly of the direct commerce of the Lake ports with the Atlantic would be in foreign hands, their vessels on transatlantic voyages having an access to our lake ports which would be denied to American vessels on similar voyages. To state such a proposition is to refute its justice. During the administration of Mr. John Quincy Adams, Mr. Clay unquestionably demonstrated the natural right of the citizens of the United States to the navigation of this river, claiming that the act of the Congress of Vienna in opening the Rhine and other rivers to all nations showed the judgment of European jurists and statesmen that the inhabitants of a country through which a navigable river passed have a natural right to enjoy the navigation thereof as far as the sea, even though passing through the territory of another power. This right does not exclude the co-equal right of the sovereign possessing the territory through which the river debouches into the sea to make such regulations relative to the policy of the navigation as may be reasonably necessary, but these regulations should be framed in a liberal spirit of comity, and should not impose needless burdens upon the commerce which has the right of transit. It has been found in practice more advantageous to arrange these regulations by mutual agreement. The United States are ready to make any reasonable arrangement as to the police of the St. Lawrence which may be suggested by Great Britain. If the claim made by Mr. Clay was just when the population of the States bordering on the shores of the lake was only 3,400,000, it now derives greater force and equity from the increased population, wealth, production, and tonnage of the States on the Canadian frontier. Since Mr. Clay advanced his argument on behalf of our right, the principles for which he contended have been frequently and by various nations recognized by law, and by treaty extended to several other great rivers. By the treaty concluded at Mayence in 1831, the Rhine was declared free from the point where it is first navigable into the sea. By the convention between Spain and Portugal, concluded in 1835, the navigation of the Douro, throughout

its whole extent, was made free for the subjects of both countries. In 1853, the Argentine Confederation, by treaty threw open the free navigation of the Paran and Uruguay rivers to the merchant vessels of all nations. In 1856, the Crimean war was closed by a treaty which provided for the free navigation of the Danube. In 1853, Bolivia, by treaty, declared that it regarded the Rivers Amazon and La Plata, in accordance with the fixed principles of national law, as highways or channels opened by nature for the commerce of all nations. In 1859, the Paraguay was made free by treaty, and in December, 1866, the Emperor of Brazil, by Imperial decree, declared the Amazon to be open to the frontier of Brazil to the merchant ships of all nations. The greatest living British authority on this subject, while asserting the abstract right of the British claim, says it seems difficult to deny that Great Britain may ground her refusal upon strict law; but it is equally difficult to deny, first, that in so doing she exercises a law harsh in the extreme, and secondly, that her conduct with respect to the navigation of the St. Lawrence is in glaring and discreditable inconsistency with her conduct with respect to the navigation of the Mississippi. On the ground that she possessed a small domain in which the Mississippi took its rise, she insisted on the right to navigate the entire volume of its waters. On the ground that she possessed both banks of the St. Lawrence, where it disembogues itself into the sea, she denies to the United States the right of navigation, though about one-half of the waters of Lakes Ontario, Erie, Huron, and Superior, and the whole of Lake Michigan, through which the river flows, are the property of the United States. The whole nation is interested in securing cheap transportation from the agricultural States of the west to the Atlantic seaboard, to the citizens of those States. It secures a greater return for their labour to the inhabitants of the seaboard. It offers cheaper food to the nation, an increase in the annual surplus of wealth. It is hoped that the Government of Great Britain will see the justice of abandoning the narrow and inconsistent claim to which the Canadian Provinces have urged their adherence."

Wheaton, in his "Elements of International Law," gives a statement of the controversy on the subject in the following words:

"The claim of the people of the United States of a right to navigate the St. Lawrence to and from the sea, was, in 1826, the subject of discussion between the American and British governments.

"On the part of the United States Government, this right is rested on the same grounds of natural right and obvious necessity which had formerly been urged in respect to the river Mississippi. The dispute between different European powers respecting the navigation of the Scheldt, in 1784, was also referred to in the correspondence on this subject; and the case of that river was distinguished from that of the St. Lawrence by its peculiar circumstances. Among others, it is known to have been alleged by the Dutch, that the whole course of the two branches of this river which passes within the dominions of