

would not forfeit the respect of their fellows. I pass over that narrow phase of the international law which nations must obey, comprised within the particular treaty involved in this case, for it is only begging the question to declare that we must acknowledge the obligation of the Hay-Pauncefote treaty. Such a position leaves open to debate the proper interpretation of the language of that treaty. The same obligation of obedience which a law-abiding nation owes to the law of nations, as fixed in solemn contract between two of them, is due also to the interpretation of that contract settled by the unanimous judgment and decree of the nations of the world. For as a great writer on international law has said, the great body of that law—

"Is founded on the tacit or implied consent of nations as deduced from their intercourse with each other; in order to determine whether any particular act is sanctioned or forbidden by this law, we must inquire whether it has been approved or disapproved by civilized nations generally, or at least by the particular nations which are affected in any way by the act. (Halleck's International Law, Vol. I, p. 55.)

"In the language of another authority (Hall on International Law, 12):

"If the legal value of national acts is not to be estimated with reference to a divine or natural law, and if treaties are mere evidences of national will, not necessarily more important and occasionally, from being the result of a temporary exigency, less important than some unilateral acts, it remains to be asked whether all indications of national opinion with reference to international law, are to be considered of an equal weight, except in so far as their significance is determined by attendant circumstances, and whether, therefore, authority will attach to them in proportion to their number and to the length of time during which they have been repeated. Subject to two important qualifications this may be said to be the case. The first qualification is that unanimous opinion of recent growth is a better foundation of law than long practice on the part of some only of the body of civilized states."

"The law of nations will interpret a treaty as effectively for all purposes as it will protect a treaty which needs no interpretation. The executive, in constant and close touch with the nations of the world, has declared that—

"What ever may be our own differences of opinion concerning this much-debated measure, its meaning is not debated outside the United States. Everywhere else the language of the treaty is given but one interpretation, and that interpretation precludes the exemption."

"This unanimous judgment of the nations with respect to the meaning of the language of the treaty constitutes a decree which we can not disobey without taking the law into our own hands. If every great power is of opinion that we have violated our treaty obligations, may we with honor claim that the judgment of a contracting party shall prevail against that of all the rest? We can not do so without violating the desire, which has been shared on both sides of the Atlantic since the foundation of this republic, to preserve the integrity, to uphold the dignity, and to vindicate the majesty of international law, 'A law whose existence and application,' in the words of Daniel Webster, 'is as advantageous to states as the existence of private law to the citizens of a country.' Or to quote from another great American—Chancellor Kent:

"The faithful observance of which is essential to national character and to the happiness of mankind; a necessity not the less urgent because it is based upon the principle that different nations ought to do each other as much good in peace and as little harm in war as possible without injury to their other interests."

"Neither party platforms nor trade considerations, relied on so strongly by the gentleman from Alabama, should serve us from the path where 'all the honor lies.' I am as great a stickler as any man for the faithful observance of every promise in the party's platform. But changing conditions may sometimes make other considerations more important. The continued peace between this republic and our neighbors, for instance, is of more vital concern to our people than the preservation of a plank in the Baltimore platform. Besides, the circumstances of the adoption of that plank were such as to weaken its force, to put it mildly. The democratic members of the interstate and foreign commerce committee of the house of representatives had reported against the exemption. On the floor it went into the bill by the vote of a minority of the democrats cooperating with a

large body of republicans. If there was to be a party policy on the question, it was thus determined by a majority of the people's representatives against the exemption. In the Baltimore convention, however, the subcommittee of the resolutions committee wrote approval of the exemption into the platform as a sort of indorsement of the legislative record of one of its members.

"Without debate, necessarily without much consideration, between sunset and sunrise of the last night of a nerve-racking and body-wearing convention, this comparatively minor feature of the platform was adopted. On all the great issues, of course, the platform is binding. On questions of party principle, it must prevail, for it is a solemn covenant with the people. But upon the nonpolitical matters of policy, the judgment of the party's representatives in congress may be considered of equal weight, certainly so far as the action of the congress itself is concerned.

"I have found no member of the committee on resolutions of that convention who can recall having heard any discussion in the committee room or elsewhere of the very important fact that a majority of democrats of the house voted against the measure when it passed. The committee was led to believe—so prominent members have told me—that they were indorsing what the congress had done, assuming that the democratic majority had shown its support as it must accept the responsibility for everything which had passed the house. I think that democrats, properly anxious that platform obligations should be faithfully kept, may well agree with the words of Mr. Bryan, who was a member of the committee which framed that platform and whose advocacy of the strict performance of every platform pledge has never wavered, when he says in a letter to me:

"There is an important distinction between a platform pledge on a domestic question, which is under the control of the country, and a platform pledge on a foreign question where our country must act jointly with others. In this case, no matter what the individual opinion of democrats may be; no matter how desirable they may think free tolls to be, they are not at liberty to do just as they please, because they must consider (first) our treaty obligations and (second) the international effect of free tolls."

"Shall trade advantages, as urged by the gentleman from Alabama, lead us to refuse to follow the president? Surely we are not ready to embark upon a policy of laying up wealth by violation of law. Trade is not greater than honor nor profit than fair dealing. Who would have us build up our merchant marine, like a gypsy horse trader, by acknowledging no code of honor nor rule of law under which men and nations must live. Commerce and trade are much to be desired on the part of a nation. The balance in our favor looks comfortable in the books. But the pirate's swag in the long run brings him no joy. As for me, I would not agree that all the trade of all the nations on the earth nor all the wealth of this nation piled on that of every other could compensate, in the great scheme of the world's advance toward its divinely arranged destiny, for the lives of the countless of God's creatures who would be sacrificed if our friendly relations with the nations should be changed into armed conflict. Wars for trade are as repellent to our present-day civilization as wars for conquest. The greed for commerce, like the desire for conquest, is no argument to sustain a position which might result in serious international complications. War for honor may be justified, but peace with honor is what we crave.

"If it be true that 'peace hath her victories no less renowned than wars'; if it be true that the president leads the treaty-making power as he commands the armed forces of the nation, let us pause in the day's occupation of supplying armament for his possible use in time of war at untold cost to the American people and furnish to him as a leader in the world movement for peace and good will this armor of a nation's untarnished honor and unbroken faith. Then will this great nation go forward, unshackled by suspicion, unhampered by distrust; able to command, because it has earned the confidence, the respect, the good will of all the world; able to win, because it will deserve the manifold victories of peace everlasting.

CONGRESSMAN SIMS' SPEECH

Speech of Hon. T. W. Sims of Tennessee, in the house of representatives, March 27, 1914:

"Mr. Speaker, I hope to discuss this bill in a

dispassionate manner, and do not desire to gain any votes if we can not convince the judgment of reasonable, fair-minded men that we are right.

"Mr. Speaker, it is my earnest belief that considerations of national honor and good faith demand the speedy consideration and passage of this bill, and that the Panama canal shall remain for all time open to the vessels of commerce of all nations on terms of entire equality, and that such vessels of commerce owned by citizens of the United States were intended to receive no preferential treatment, and that any variation from this construction of the treaty of 1901 is a plain violation of both the letter and spirit of that treaty.

"A treaty is simply a contract or agreement between nations as between private individuals, and the intention of the parties to the contract is the true rule of construction. In the present contentions as to the Hay-Pauncefote and Panama treaties the contracting parties, as it were, are both living and subscribing witnesses are not all dead, and the events leading to the making of these treaties are so recent as to remain fresh in the minds of all men.

"The Hay-Pauncefote treaty was made at our solicitation in order to enable us to construct an isthmian canal ourselves, directly, or by way of aiding a corporation or private company to construct and operate same.

"Mr. Speaker, at the time of making the Hay-Pauncefote treaty we did not own or exercise sovereignty over one square foot of land in Central America, nor did we at that time contemplate the ownership or the exercise of sovereignty over one square inch of territory in any country through which a transisthmian canal could be constructed. But to show conclusively that we had no purpose of any other than 'equal treatment' for the vessels of all nations, even if we should ever at any time become the sovereign of the country through which the canal might be constructed, it was specifically provided in the treaty that no change of sovereignty of the country through which the canal might be constructed should alter or change the terms of the treaty. When a sovereignty in part did come about by which the negotiating of the Panama treaty became necessary, almost in the same day that the Hay-Pauncefote treaty was concluded, when no doubt could exist between the governments of the United States and the newborn republic of Panama as to the meaning and application of the terms and stipulations of the Hay-Pauncefote treaty, it was made subject to all the provisions and conditions of that treaty.

"Whether it was wise or unwise to have made these treaties, or any one of them, is a question that does not arise in this controversy. The only question to be considered is, Did we make these contracts; and if so, what are our obligations under them?"

"If Great Britain knew that we did not intend that our coastwise shipping was to be included in and covered by the 'equal treatment' provision of the treaty, and did not complain at the time, she would now be estopped from contending otherwise; but, on the other hand, if we had reason to believe that England understood the terms 'all nations' to include the United States and its citizens, and we did not disclose to her that in case we became sovereign over the country through which the canal should be constructed that vessels owned by citizens of the United States should be free from toll charges for use of the canal, we can not now in good faith insist on such a construction of the treaty.

"Mr. Speaker, to my mind it is inconceivable that if those engaged in the coastwise shipping of the United States at the time the Hay-Pauncefote treaty was negotiated understood that their ships were not included in the 'equal treatment' terms of the treaty and were not subject to toll charges by reason of that provision, that they remained silent for more than nine years.

"The very fact that the coastwise shipping interests of the country made no claim of this kind pending the negotiation of the treaty, or subsequent thereto, is the highest circumstantial evidence that they did not so understand the terms of the treaty themselves. But it is still more remarkable that upon the negotiation of the treaty of Panama, by which the United States, for the purposes of construction and operation of the canal, became the sovereign of the canal zone territory, that our domestic shipping interests did not immediately proclaim to the world that by the terms of the Panama treaty preferential treatment was accorded them in the adjustment of toll charges. But, so far as I now recall, I never heard that any such claim