

CANAL TOLLS AND AMERICAN HONOR

By CHARLES NAGEL

THE proposed exemption of our vessels, engaged in coastwise traffic, from the payment of Panama tolls has given rise to renewed discussion. Indeed, in the heat of the argument, even the motives of the fair-minded have been challenged. I assume that in the progress of the discussion, every possible angle of the question has been covered. But at the risk of repetition, I shall endeavor to state a position which impresses me as entirely fair, and calculated to respect the just demands of every country.

I admit that upon some other points there may be considerable doubt about the correct interpretation of the Hay-Pauncefote treaty. But I submit that most of the confusion in the discussion of the subject of tolls has arisen from a failure to make clear to ourselves the reason and the effect of the proposed exemption. In other words, it is entirely possible, as it seems to me, to provide for exemption to our shipping, without in the least denying equality of treatment, or just and reasonable charges, to foreign shipping. And this in my judgment is precisely what the law of 1912 proposed to do and actually did do.

The language of the treaty is as follows:

"The canal shall be free and open to the vessels of commerce and war of all nations, observing these rules on terms of entire equality, so that there shall be no discrimination against any such nation, or its citizens or subjects, in respect to the conditions or charges of traffic or otherwise. Such conditions and charges of traffic shall be just and equitable."

The discussion of toll exemption has generally turned upon the provision that there shall be no discrimination.

Some have contended that the United States, as the proprietary nation, is not in any respect to be classed as a nation controlled by the terms of the treaty. Others that the United States obviously is in all respects to be so included. Both of these contentions appear to me to be too broad; but in my view a further consideration is not necessary to a decision of the immediate question. Finally, some say that the coastwise service may be exempted, because we alone can regulate this service, even to the extent of excluding all foreign shipping from our harbors. Admitting the force of this argument, if it rested with the provision against discrimination alone, I can not believe that it meets the final requirement that "conditions and charges of traffic shall be just and equitable."

The answer to the immediate question of exemption, in my judgment, rests with the language just quoted. It is with respect to this language that I propose to consider the proposed exemption of our shipping. The basic facts are these: We have constructed and we are operating the canal. The ships of all nations have the right to use the canal on terms of absolute equality. We have the right to charge tolls; but these charges must be just and equitable.

How is the justness or reasonableness of a charge to be determined? Obviously, it must bear a direct relation to the initial cost of construction, the present cost of maintenance and operation, and the service rendered.

Having all these factors in mind, it must follow that in fixing the charge of any one ship, we must take into account the services rendered to all ships. The cost of construction and operation is incurred for all the shipping which is accommodated. Therefore, a just and reasonable charge for one ship is predicated upon a fair distribution of the entire cost or toll among all ships that enjoy the privilege of the canal.

To exempt some ships, and to correspondingly increase the burden of other ships, would manifestly be unfair, and would to that extent defeat the guaranty of just and equit-

able charges. It can not be fair, just, or reasonable to protect ourselves from loss by charging some ships more because we have chosen to charge other ships nothing. Such a course would signify a flagrant abandonment of the fundamental rule that the charges imposed must be predicated upon the earning power for all services rendered. In other words, we can not save ourselves by unloading upon others to whom we have guaranteed just and reasonable rates.

But this does not mean that we may not exempt our shipping from the actual payment of tolls. In saying this I do not rely upon our peculiar control of coastwise shipping. On the contrary, I contend that we may exercise any policy we please with respect to all our shipping, so long as we do not thereby increase the burden of the ships of any other nation.

In other words, for purposes of ascertaining the reasonable rate, we must assess our ships, but we are under no obligation to collect the assessment. We have the right to subsidize our ships. This is a right which many of the countries interested in this question exercise for the development of their shipping. Indeed the measures adopted by other countries may in large measure determine our course.

We therefore would clearly be within our rights if we taxed our ships at the fixed rate, collected the amounts, and by way of subsidy, promptly returned the tax. Such a course involves solely a question of domestic policy; just as we may decide whether our ships shall be served by domestic crews or shall be built by union or non-union labor. Other countries have the same privilege. All countries that allow subsidies exercise this right in some manner or measure.

Granted, then, that having collected the regular toll, we may return it or any part of it as a distinct subsidy; where is the need for collecting it at all? Why not allow it straight? Nothing but bookkeeping is involved. The

amount and character of the subsidy remains the same, whether it be allowed without payment or be returned after payment. The essential question is not what we allow our ships, but what we charge foreign ships. There can be no ground for complaint, so long as the payment of tolls by foreign ships is governed by a rule which is common to them all and which, in determining the rate, has taken into account the cost or value of services rendered to our ships. To repeat, the question is not whether our ships pay anything, but whether foreign ships are compelled to pay any part of what our ships should have paid if we had not exempted them. It must, of course, be admitted that the case is much more clear and can be more persuasively presented if the toll on our ships is collected first and is afterwards returned in its true character as a subsidy.

I am of the impression that most of the discussion and indignation were caused by assuming that exemption from tolls to our ships resulted in discrimination and in hardship to foreign shipping. I fail to see any cause for alarm about the morals of our position. The tolls fixed by our government were predicated upon the rule which I now advance. Both the Senatorial indignation and the mysterious Presidential alarm were groundless, as I think an inquiry into the methods followed by our government will show.

REINCARNATION

By VIOLET ALLEYN STOREY

Long-faded love lives on in some wee song,
And fossil ages dwell in stalwart hills—
Man finds new birth in life's unending throng;
Dead sunlight lives again in daffodils!