

Lincoln and Douglas. The volume is a hodgepodge of recollections of interesting men. To realize its extent one has but to look over the list of illustrations, comprising portraits, among others, of Tilden, Hoar, Blaine, Garfield, Banks, Morrison, Springer, Randall, Stephens, Lamar, Cox, McKinley, Lincoln, Johnson, Grant, Seymour, Douglas, Evarts, Trumbull, Vilas, and Bryan. Mr. Stevenson has many stories to tell about these men. One gets a little different idea about some. The book is of value, therefore, in humanizing a number of personages who may have been regarded too much in a purely political light, and in showing us a number of statesmen who were perhaps quite as well worth knowing for their kindly humor as for their professional and political attainments. The volume is noteworthy because of Mr. Stevenson's incumbency of the Vice-Presidency from 1893 to 1897. Five Vice-Presidents have, upon the death of the President, succeeded to the Presidency. These Vice-Presidents were Tyler, Fillmore, Johnson, Arthur, and Roosevelt. Mr. Stevenson says that the Vice-President of the United States is the presiding officer "of the most august legislative assembly known to men. In the event of an equal division in the Senate he gives the deciding vote. This vote, many times in our history, has been one of deep significance." (A. C. McClurg & Co., Chicago. \$2.75.)

Washington Irving's "Legends of the Alhambra," which Prescott described as "a beautiful Spanish sketch-book," and which is as characteristic of the sympathetic imagination, pictorial quality, and flowing sentiment of Irving as any other of his books, has been republished in a handsome quarto, with full-page illustrations by George Hood, and with decorations, both architectural and characteristic, filling the broad spaces of the

pages. The full-page work both in color and design happily reproduces the Oriental spirit. There is an introduction by Mr. H. W. Mabie. (The J. B. Lippincott Company, Philadelphia. \$2.50.)

Among the new novels lately published and not already mentioned here there are at least five that one ought not to miss, though for different reasons: Maarten Maartens's "The Price of Lis Doris" (D. Appleton & Co., New York, \$1.50), because it is the story of a great love sacrifice, and because it has wit and unusual characters, is a curiously interesting picture of Dutch life, and combines keen satire and high idealism; Mr. Henry Newbold's "The New June" (E. P. Dutton & Co., New York, \$1.50), because it is the work of a scholar and romancer who too elaborately but with real imagination shows how in the reign of Richard II two vitally hostile political and religious elements strove for mastery with effects that still last; Mr. Phillpotts's "The Haven" (John Lane Company, New York, \$1.50), because it is a close, thoughtful study of universal human nature as it appears in the humble life of Devon fisher folk—although it should be added that in action and motive the novel is not on a par with "The Secret Woman" or "The Three Brothers;" Meredith Nicholson's "The Lords of High Decision" (Doubleday, Page & Co., New York, \$1.50), because it is a capital presentation of a big capital-and-labor city, Pittsburgh, with strong characters, good and bad, foolish and wise, and because, more than any other story of its class we know, it lets the facts do their own preaching and abstains from boring industrial arguments; finally, Mr. W. W. Jacobs's "Sailors' Knots" (Charles Scribner's Sons, New York, \$1.50), because it has many a slyly humorous turn and is jolly without being "comic."

LETTERS TO THE OUTLOOK

THE CORPORATION TAX: A REJOINDER

In his answer (printed in The Outlook of January 1) to my article (which appeared in The Outlook of November 20) on the Federal Corporation Tax Mr. Bayne takes the position that it is not a franchise tax but "merely a tax on the doing of business." In other words, he disagrees with President Taft, who said in his Message recommending the tax to Congress that it is "upon the privilege of doing business as an artificial entity and the freedom from a general partnership liability enjoyed by those who own the stock." Was President Taft mistaken? The Supreme Court has taken the same view of the nature of similar taxes imposed by States. As Professor Goodnow points out in the "Columbia Law Review" for December, the Court "has in a number of cases upheld a State tax on the dividends or

amount of business of domestic corporations as a *corporate franchise tax*."¹

Mr. Bayne, however, contends that even if the tax is a franchise tax, nevertheless it is within the power of Congress; "that the Constitutional barrier of State sovereignty is raised only against taxation by Congress which directly impedes the exercise by the States or by their agencies of the States' strictly governmental functions."

Even so, Mr. Bayne seems to me to concede that the tax is unconstitutional so far as intra-State public service corporations are concerned. To provide means of transit and intercommunication for its citizens and troops has commonly been regarded as a governmental function of a State. In the exercise of that function Rome built her

¹ Citing 6 Wall., 594; id., 611; id., 632; 134 U.S., 594

roads and New York her Erie Canal. The State may exercise that function without private co-operation, or it may (and in this age of railways usually does) exercise it by conferring appropriate corporate franchises on individuals and leaving them to do the rest, subject to State supervision. Surely a tax on such franchises would seem to impede the exercise by the States of a governmental function.

Turning to the franchises of private business corporations, I cannot agree with Mr. Bayne that he "has found a number of decisions recognizing the right of Congress to tax the exercise of such privileges." All but three of the cases he cites will be found, on examination, to involve taxes on *business*, not on franchises. The three cases in question are the Veazie Bank case,¹ the Federal Inheritance Tax case,² and the South Carolina Dispensary case.³ The Veazie Bank case was discussed in my former article.

In the Knowlton case the Court discusses and overrules the contention that Congress cannot impose an inheritance tax because inheritances are regulated by State law. At first blush the case may seem to recognize a right in Congress to tax a privilege conferred by a State, but on closer analysis it will be found that this question was not really involved. An inheritance tax falls on the *transmission*.

The transmission, or transfer, is not a privilege granted by a State, but necessarily results from the fact of death. A man dies and his property perforce passes from him. That is the transmission. The State does not originate it, but merely prescribes the channels in which it shall flow. This right of regulation is not the subject of the tax.

The South Carolina Dispensary case does not seem to me to touch the question at all. The tax upheld in that case was a tax on the business of selling liquor. The right to sell liquor is not a franchise granted by the State any more than the right to sell boots, though the State, in the exercise of the police power, may regulate the business or even take it over altogether and conduct it through agents of the State. South Carolina has done this, and the question in the case was as to the right of Congress to tax a State agency. The question of the right to tax a franchise or privilege from the State was not involved.

It is worthy of note that in both these cases the Court lays great stress on the historical argument, *i.e.*, that the power of Congress to impose the taxes in question had been conceded from the foundation of the Government and frequently exercised. The Federal Corporation Tax, on the contrary, is an innovation of the year 1909.

Mr. Bayne argues in effect that to concede that a corporation is taxable by Congress on its business concedes everything; that its right to do business is as much a privilege

from the State as its franchise of corporate capacity. This argument seems to me to involve a misconception. When A, B, and C incorporate a dry goods business, they do not obtain from the State the right to sell dry goods. That right was theirs already. What the State, in the exercise of its sovereign power, confers on them is the privilege of corporate capacity and freedom from a general partnership liability. Because they are taxable on the business it by no means follows that they are taxable by Congress on the privilege. CHARLES W. PIERSON.

New York.

FROM CHICAGO TO THE GULF

In your issue of November 13 Mr. Arthur Hale discusses the proposed fourteen-foot channel from Lake Michigan to the Gulf of Mexico, and says that "it will not be used for freight to Europe." One reason given is that "there is already a fourteen-foot channel from Chicago to Montreal, which makes a shorter and better route to Europe" than via New Orleans.

Before accepting this statement as wholly correct, consideration should be given to the fact that over one thousand miles of the Southern route is open to navigation the entire year, and two hundred miles more between St. Louis and Cairo is free from obstruction by ice an average of twenty out of forty-three years, and has never been closed more than fifty-nine days in any one year. The reach from Chicago to St. Louis is often open in midwinter, and under the worst conditions is closed by ice for only a relatively short period of time. The Northern route by the Lakes and Montreal is closed by ice about five months each year, which materially limits its usefulness.

Again, Mr. Hale says: "Of course the lake portion of the present route is superior to any canal that can be built." This much is granted, but it must not be forgotten that the Chicago-Montreal route has quite as many miles of canal navigation as the proposed route from the Lakes to the Gulf. In the first-named route there are 73 miles of canal proper, with 48 locks; the other route requires 9 locks in 63 miles of canal; the remainder of the 1,625 miles being preferably open river navigation.

The most remarkable statement, however, is that the channel will not be used for freight destined to European ports. The reasons for this view are not given. The port of New Orleans is already third in the value of its imports and exports, being exceeded only by New York and Boston; and Galveston, another Gulf port, stands fourth on the list. The volume of traffic at the Gulf ports is increasing far more rapidly than is the case with the Atlantic ports, and it is altogether probable that one of the Gulf ports will stand second on the list in the near future. The North-and-South railway lines of the Mississippi Valley are carrying a very large volume of export grain, cotton, and other commodities *en route* to European coun-

¹ 8 Wall., 533.

² Knowlton vs. Moore, 178 U. S., 41.

³ South Carolina vs. United States, 199 U. S., 437.

tries. These lines have already experienced conditions when their facilities were wholly inadequate to meet the requirements, and with the comparatively undeveloped condition of the territory they attempt to serve. This, coupled with the decided advantage of water transportation in point of economy, justifies the belief that a suitable Lakes-to-the-Gulf waterway will not only carry a large volume of our surplus products destined to European and other foreign ports, but will prove to be National and not local in its benefits.

By all means give due consideration to every phase of the question in estimating the value to the Nation of a Lakes-to-the-Gulf waterway.

St. Louis, Missouri.

J. A. OCKERSON.

OSCAR STRAUS AND THE AMERICAN POLICY IN TURKEY

When Mr. Oscar Straus was appointed Ambassador by President Taft to represent the United States Government at the Court of Othman, it was supposed by many persons familiar with Turkish and American affairs that the State Department intended to inaugurate a militant and progressive policy in Turkey. The following passage from the annual Message of the President to Congress justifies this conjecture: "The quick transition of the Government of the Ottoman Empire from one of retrograde tendencies to a constitutional government with a parliament and with progressive modern policies of reform and public improvement is one of the important phenomena of our times. . . . In that quarter the prestige of the United States has spread widely through the peaceful influence of American schools, universities, and missionaries. There is every reason why we should obtain a greater share of the commerce of the Near East, since the conditions are more favorable now than ever before."

But in order to "obtain a greater share of the commerce," or, in other words, to expand American National and private business in Turkey, it is necessary to inspire the Turks with respect toward American religious and educational institutions and the rights of American citizens. The European Powers have always succeeded in securing full reparation for the wrongs inflicted upon their citizens in the Turkish Empire, while the claims of the American Government accruing from similar causes have been entirely disregarded with impunity. For instance, the indemnity imposed upon Turkey by the United States for the loss of life and property of its citizens in the massacres of 1895 and 1896 still remains unpaid, and the deaths of two valiant American missionaries, Mr. Maurer and Mr. Rogers, who were slain during the recent reactionary outbreak in the Province of Adana, are unavenged. The prestige and the interest of the American Government

require an immediate settlement of its standing claims against Turkey. The deaths of its citizens must be avenged and the wrongs inflicted upon them must be redressed.

It is not only detrimental to the commercial interests of the United States, but also an affront to its humanitarian spirit, that Christian students of American schools in Turkey should be slaughtered and the missionaries should perish while trying to protect them. These chronic massacres must cease; otherwise the religious and educational institutions of America, the only bright spot in the dark history of Turkey, will be wiped out and the life-work of self-sacrificing American philanthropists be annihilated.

There is also the question of naturalization. The United States Government has for nearly thirty years been trying to conclude some sort of a naturalization treaty with Turkey, but in vain. Turkey has maintained the most ancient custom in Europe, and flatly denied the right of any Ottoman subject to renounce his nationality. In 1868 Congress declared that "the right of expatriation is a natural and inherent right of all people, indispensable to the enjoyment of the rights of life, liberty, and the pursuit of happiness," and the increasing educational and commercial interests of America make the negotiation of such a treaty with Turkey imperative.

It was with a keen foresight on the part of President Taft that the task of safeguarding the American interests in Turkey was intrusted to Mr. Straus, who, being a Jew, cannot be suspected by the Christian Powers or accused by the Turkish Government of undue zeal in his effort to ascertain the racial, commercial, and religious oppression of the Christian element in Turkey. The result of his investigation into the wrongs endured by American citizens will be accepted as impartial by the whole civilized world.

Mr. Straus has already given ample evidence of his ability to safeguard the interests of the United States unwaveringly during his two previous terms as Minister to Turkey—first under President Cleveland, and later under President McKinley. Until 1887, when he first went to Turkey, the interests of the American citizens were not adequately protected. American missionaries in Turkey practically had to rely upon the representatives of Great Britain and France for assistance in carrying on their evangelical and educational work. And it was through the protection of the representatives of these two countries that the existence of a Protestant community was made possible in the Turkish Empire. Mr. Straus showed himself a different type of statesman—honest, sagacious, energetic, and uncompromising. He never fell under any moral obligation by accepting presents either from the Sultan or his menials. By his incorruptible character Mr. Straus rehabilitated the honor of American statesmanship, so debased by some of his easy-going predecessors. While he

was Minister at Constantinople the American missionaries not only enjoyed full protection of their rights, but also succeeded in securing more charters for churches and schools from the Sultan than they had ever had before. It must be remarked, in passing, that charters for Christian churches are granted very reluctantly in Turkey, where the Moslem law does not recognize any church separate from the State.

In a recent despatch from Constantinople to the State Department Mr. Straus called the attention of the American public to the deplorable condition of the Armenian survivors in the massacre-stricken district of Cilicia. By this his first official act Mr. Straus has proved that he not only will safeguard the interests of America, but will also uphold the cause of humanity.

ARSHAG D. MAHDESIAN
(Editor of "Armenia and Ardziv").

CANADA AND THE UNITED STATES

In response to an inquiry in a private letter, a prominent journalist of Toronto has written the following very interesting comments on the possibility and desirability of reciprocal trade relations between Canada and the United States:

You ask me about Canadian opinion on free trade within the continent. If we had never erected tariff barriers along the boundary, no one would dream of putting them there. But they are there, and their existence for so many years has resulted in the building up of many industries the existence of which depends upon the continued maintenance of tariff barriers. These interests are powerful politically—to a large extent they control the press. In any event, they would offer strong opposition to any movement for free trade. To pull the bars down at once would result in great loss and not a little distress. Were I in supreme control myself, I would lower the duties, not all at once, but gradually.

The whole question of our trade relations with you was threshed out very thoroughly in 1891. The Liberals were then bitterly opposed by the manufacturing interests and were prepared to go a long distance in the direction of continental free trade, but we had no assurance that you were ready to reciprocate, and we failed of success by a narrow margin. If we could have shown our people that Liberal success meant continental free trade, I am convinced that we would have won. Even when we did win in 1896 on another issue, we appointed a commission to negotiate with you. We were prepared to go a long, long way, but your commissioners told us that your Senate would give us very little, and the negotiations resulted in nothing. Then we looked elsewhere. Have you thought of what free trade between the two countries would mean? With free trade between us there would have to be a common tariff against the rest

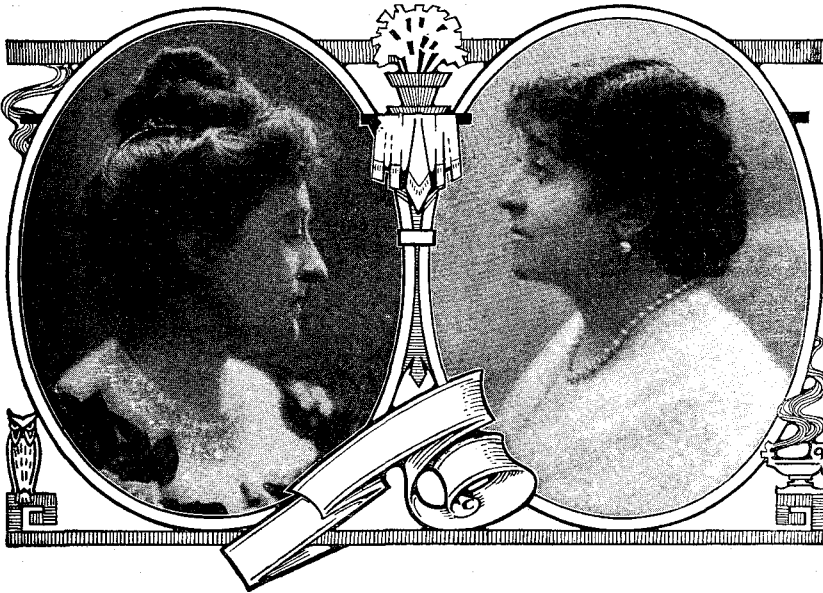
of the world. If, for instance, our tariff on European goods were lower than yours, these goods would pour through Canada into the United States and we should get more than our share of customs receipts, while you would be practically subject to a tariff which you did not make. Such a state of things could be remedied only by our having a common tariff against the outside world and a pooling of customs receipts, with a distribution of the same on the basis of population or some such basis. But who would make such a tariff? Certainly not Canada! The result would probably be that we should be under a tariff made by you. Naturally, if we got so far as to have a common tariff, an agitation would at once arise for representation in the tariff-making body, or, in other words, political union. But the great practical objection to a commercial union with you is this: An additional market of 90,000,000 would result in our manufacturers having to change their methods of business—having to specialize. Machinery suitable for existing trade would not suit under the changed conditions. New machinery would have to be put in, new connections would have to be secured. Yet, notwithstanding all this outlay, the element of permanence would be lacking. If such an arrangement were made either by concurrent legislation or by treaty, it would be only for a term of years. At the end of that time it might be terminated. Our manufacturers would lose nine-tenths of their customers, and their machinery and plant would, to a large extent, be useless; while, at the worst, your manufacturers would lose only one-tenth of their trade. Do you wonder that our people rather shrink from an arrangement which might have such a result? Political union would be far preferable. It would give permanency.

The line to be taken, in my humble opinion, is clear, and the decision rests with you. Our tariff on your products is far lower than your tariff on ours. Lower that tariff until we are more nearly on an equality. Your advances will, I feel sure, be met on this side. Whatever may be the ultimate result, there is no doubt of this: that it will make for more liberal trade relations, and that our commerce, which for some years past has flowed east and west, will move north and south in increasing volume. Such action on your part would seem to me reasonable, statesmanlike, and feasible, and the obvious course at the present time.

By the way, keep your eye on the Canadian West. Mr. Sifton, former Minister of the Interior, and one of our ablest public men, told a friend of mine the other day that in less than ten years 5,000,000 Americans will have taken up their homes there. Would not a policy that would assure liberal trade relations between the United States and these people be worthy of the highest statesmanship?

G.

Toronto, Canada.



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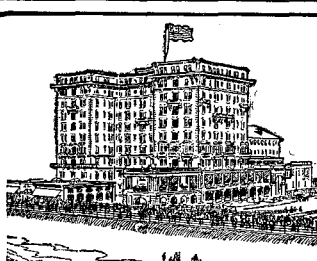
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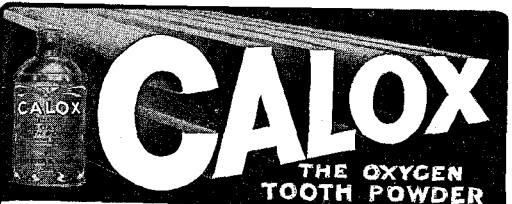
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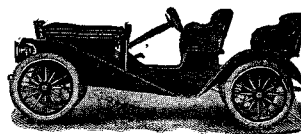
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