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SPEECH  
OF  
HON. J. B. FORAKER  
BEFORE THE  
Richland County Lincoln Association  
AT  
MANSFIELD, OHIO  
FEBRUARY 12, 1914

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After some remarks having a local application, including a kind mention of the late Senator Sherman, whose home was at Mansfield, Senator Foraker said:

The purpose of celebrating Lincoln Day is to pay tribute to the memory of that remarkable man and to draw from the lessons of his life inspiration, and rules for our guidance, with respect to the duties of the present and the future.

I can remember when only his party followers, and not all of them thought him great. That was true not only when he was elected President of the United States, but at the very time when he was giving to the country some of the most signal services he rendered.

Now he is conceded not only by all classes of citizens, but by all the peoples, of every class, throughout all the world, to be one of the greatest men of all time; and this estimate is just, whether measured by his achievements, as they appear in the light of subsequent history, or whether measured by

what he in fact was as a man, a citizen, a patriot, a statesman, and a chief executive.

Had he never been President we probably never would have known, certainly not in their full measure, his wonderful powers of mind, or his still more wonderful temperament, patience, moral courage, sympathy and self control.

The experiences to which he was subjected brought all these qualities forth as the night brings out the stars.

When he was elected President we knew him only as a man who had passed from the humblest to the highest station in our American life so quickly and with so little test of his intellectual endowment, and with so limited an experience in public affairs, that there was wide spread apprehension even among his friends, that he would not prove equal to the usual duties of the office.

When, therefore, immediately following his election the war clouds began to gather, apprehension changed to fear, and became well nigh universal that he would prove wholly inadequate to the emergencies that were arising.

It is almost impossible for even those who lived through those exciting days to recall their anxieties, or to realize what perplexing situations were precipitated, one after another, by the on-rushing tide of untoward and unprecedented events.

There had never before occurred anything like what was then transpiring. Therefore, no one preceding him had blazed a way in which he could walk to meet the troubles he must overcome.

The powers of our government, then but little developed beyond the express provisions of the Constitution, had never been put to any serious test; and in large measure those which he was soon to be compelled to exercise were disputed by many, and distrusted by nearly all his countrymen.

When we today, in the light of subsequent developments, recall the Civil War, and his part in it, we are apt to think of only a great struggle, resulting in the preservation of the Union, and the abolition of slavery; and that while successfully directed, yet, after all, his duty was plain, and that

*W. A. Steele*  
*Apr 2, 1914*

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probably any other reasonably well equipped man would have ordered out the troops as he did, and achieved the same general results.

We do not appreciate his work until we recall that he not only had to fight enemies but also resist friends. First, there were the four border Slave States of Delaware, Maryland, Kentucky, and Missouri, that did not secede, but which stood "trembling in the balance" during the first year of the War, prevented from joining their sister States in rebellion, as the more radical portion of their population almost unitedly desired they should do, by the former Whigs, who, although pro-slavery in sentiment, yet preferred the old Union to the new Slave oligarchy.

Inconsiderate or premature action on the part of the Administration would surely have lost to the Union cause the great moral force of these States remaining loyal, and *e converso* would certainly have given to the Southern Confederacy an added strength that would probably have secured for it a recognition of belligerency, if not of independence, at the hands of England, France, and other nations of Europe.

A mistake in dealing with these States or the questions affecting them would probably have been fatal.

History establishes that Mr. Lincoln saw more clearly than any member of his Cabinet, than any member of Congress, than any of the leading newspaper men of the country; more clearly in short than anybody else, not only the necessity of so directing the Government as to prevent the secession of these border States, but of, at the same time, holding to his loyal support tens of thousands of men in the States of the North who were willing to do all in their power to save the Union but who, at the same time, would have peremptorily refused to do anything to destroy slavery in the States where it already existed.

It was most difficult to determine from time to time how far he could go in aggressive defense of the Union without driving the border States into rebellion. Most unexpectedly he

was confronted by a similar difficulty among some of his own leading Party followers, who, seeing one State after another seceding, and preparing for and threatening War, suddenly broke out in a loud demand that if necessary to prevent bloodshed he should consent to disunion, and thus bring shipwreck to his administration, even before it was inaugurated, and at the same time shipwreck to all the hopes and aspirations centered in our experiment of liberty and free, popular self government.

Perhaps, no newspapers had done more than William Lloyd Garrison's "Liberator," the leading abolition organ of the time, the New York Tribune, edited by Horace Greeley, and the Albany Evening Journal, Thurlow Weed's paper, to arouse sentiment against slavery, and bring about the formation of the Republican Party, and the election of Mr. Lincoln. These editors above most men of their time, had responsibility for what had come to pass.

On this account Mr. Lincoln had every right to expect from them recognition of his leadership and an earnest and loyal support of his Administration; so long, at least, as nothing was done, or attempted by him, in conflict with the principles he and they had advocated; but rather they seemed to think he was their creation and it was their right and duty to map out and direct and control his policies.

Therefore, even before South Carolina, the first of the Confederate States to secede, had acted, these papers, with numerous others of minor importance, which they influenced, seeing the storm that was rising, and that War was inevitable, if coercion should be attempted, commenced a campaign of compromise, conciliation and flat surrender, that now seems almost incredible.

They made embarrassing haste to enter upon their self-assumed task of taking Mr. Lincoln and his administration in charge.

The extent and character of this panic and demoralization is now almost unbelievable, but some measure of its nature and intensity may be gathered from a glance at the columns



of the Tribune, which from day to day teemed with such sentiments as "that if the cotton States shall decide that they can do better out of the Union than in it, we insist on letting them go in peace;" that while the "Tribune" denied the right of nullification, yet it did admit that "to withdraw from the Union is quite another matter;" that "when a considerable section of our Union shall deliberately resolve to go out, we shall resist all coercive measures designed to keep them in;" that he was "adverse to the employment of military force to fasten one section of our Confederacy to the other;" and that "if eight States, having five millions of people, choose to separate from us, they cannot be permanently withheld from so doing by federal cannon."

"If the Cotton States choose to form an independent nation they have a clear, moral right to do so;" and that if "the great body of the Southern people" become alienated from the Union, and wish to "escape from it, we will do our best to forward their views."

The other papers mentioned were even worse; but enough has been quoted to show how the leading newspapers instead of waiting for the leader to speak, were taking the situation into their own hands, and to the full measure of their influence, making his task impossible.

He listened to all, considered all, but remained both silent, and steadfast. He refused to be either frightened or forced to speak prematurely.

He knew that his time had not yet come to speak with authority, and he preferred not to speak at all until he could speak as the Chief Executive of the Nation.

### **THE FIRST INAUGURAL.**

He realized, however, that in his inaugural he would be expected to set forth an intelligent policy with respect to the great questions at issue. He did not disappoint this expectation. He met it squarely, and comprehensively; and yet, so simply and naturally that his whole policy could be stated in

a sentence, and be universally understood. In brief, clear and direct language he set forth that he deemed it his first and paramount duty and purpose to save the Union; and that he did not consider himself authorized to interfere with slavery in the States where it already existed, and that he had no purpose of doing anything of the kind, unless compelled to do so to save the Union.

At the same time, without mentioning them, he explicitly but calmly answered the "peace at any price" demands. "The Union of these States is perpetual." \* \* \* "No State upon its own mere motion can lawfully get out of the Union." \* \* \* "I shall take care, as the Constitution itself expressly enjoins me, that the laws of the Union be faithfully executed in all the States." \* \* \* "I shall do all in my power to hold, occupy, and possess the property and places belonging to the country, and to collect the duties and imposts."

He closed by making to the people of the seceding States this vain appeal: "We are not enemies, but friends. We must not be enemies. Though passion may have strained, it must not break our bonds of affection."

Throughout, his address was wise, kind and forgiving, yet full of serious import. The South saw in it a fixed determination to prevent the consummation of their conspiracy. To the North it brought a restoration of confidence and hope by making it clear that at last there was at the head of the Government a man of clear conception, full knowledge, self-reliant character, and unalterable purpose, who refused to be stampeded by either friends or enemies.

It would be impossible to make clearer than he himself made it the policy to be pursued, but if comment be permitted it may be said that foreseeing war, and determining in advance of that calamity the position our Government should assume he sought to confine the approaching struggle to the preservation of the Union, and thus eliminate the fears of all who, friendly to slavery, were yet ready to stand with him on a Union platform, if, in doing so, they would not be required to assist in the destruction of that institution.

At the same time that he thus sought to quiet the pro-slavery Union men, he gave warning that he would save the Union at any cost, even the destruction of slavery; that, as he afterward felicitously said, he would "save the Union with slavery, if he could; without slavery, if he must." He thus laid down as his platform two simple, yet comprehensive propositions; one absolute, and the other conditional. The preservation of the Union at all hazards; the destruction of slavery, if necessary to the accomplishment of the primary purpose.

He thus gave himself chart and compass for all the tempestuous seas through which he was to sail; for these two propositions embrace all there was of both purpose and policy; all the rest was detail. Thus he paved the way, broad and clear, for the whole, long, bloody march to Emancipation and Appomattox.

The thousand and one harrassing and distressing questions with which he had to contend as to when and how this, that, or the other thing should be done; the raising of armies, the appointment of Generals, their field operations, the placating of disappointed and dissatisfied friends, were but the attendant circumstances, trials and tribulations of execution, in which work he never faltered.

The War quickly came. Ft. Sumter was fired upon, and that fired all patriotic hearts. "Peace at any price" advocates either became coercionists, or ceased to obtrude their unpopular views. Instead of "all for peace" at any price, all were for war "at any cost," no matter what.

Mr. Lincoln's trouble for the next year was to hold back the march of events until the Armies could be organized and made effective, and until public sentiment, enlightened and educated, could be relied upon to sustain the blow at slavery, which he early foresaw was inevitable.

As time passed the sentiment in favor of destroying slavery grew stronger and stronger. At the same time it became clearer and clearer to Mr. Lincoln that sooner or later such action would become necessary.

## EMANCIPATION.

As early as July 22, 1862, he laid before his cabinet in confidence his purpose to issue a Proclamation of Emancipation and a general draft of what he proposed to say.

It was favorably considered, but it was thought best to defer issuing it until some victory had been won for the Union Army so that it might not look like a despairing alternative and thus probably do more harm than good.

The time came, according to this program, when the Battle of Antietam had been fought, and won, in September of that year; but in the meanwhile the most ardent of Mr. Lincoln's supporters became more and more impatient, insistent, and fault-finding, because he did not take the step upon which, without their knowledge, he had already determined.

In this emergency Mr. Greely knew exactly what should be done. He had ceased preaching "peace at any price," and, going to the opposite extreme, had become the exponent of the most radical thought of the hour.

He printed in the New York Tribune what he called "The Appeal of Twenty Millions of Americans."

He had these "twenty millions," by the language he employed, call upon Abraham Lincoln as their public servant and representative to discharge his official and imperative duty with respect to Emancipation in accordance with the terms of the Confiscation Act, which Congress had passed.

Mr. Lincoln made immediate answer in language worthy of reproduction in its entirety, but for present purposes it is impossible to do more than quote briefly, and this I do only to show how clearly he still had in mind his policy as announced in his Inaugural, and how unfalteringly and intelligently he was pursuing it.

He said among other things:

"I would save the Union. I would save it in the shortest way under the Constitution. The sooner that National authority can be restored, the nearer the Union will be the 'Union as it was.' If there be

those who would not save the Union unless they could at the same time save slavery, I do not agree with them. If there be those who would not save the Union unless they could at the same time destroy slavery, I do not agree with them. My paramount object in this struggle is to save the Union, and is not either to save or destroy slavery. If I could save the Union without freeing any slave, I would do it; and if I could save it by freeing all the slaves, I would do it; and if I could save it by freeing some and leaving others alone, I would also do that. What I do about slavery, and the colored race I do because I believe it helps to save the Union; and what I forbear, I forbear because I do not believe it would help to save the Union. I shall do less whenever I shall believe what I am doing hurts the cause; and I shall do more whenever I shall believe doing more will help the cause. I shall try to correct errors when shown to be errors, and I shall adopt new views so far as they shall appear to be true views. I have here stated my purpose according to my view of official duty, and I intend no modification of my oft expressed personal wish that all men everywhere could be free."

This letter read everywhere had a quieting effect upon the dissatisfied. It showed his sympathies were all against slavery, and that he was but awaiting events.

A few weeks later the Battle of Antietam was fought and won. In accordance with the program agreed upon at the Cabinet meeting in July he then issued the Proclamation. Thus that great step was delayed until it was plain to all that either it or the Union must perish; until every man who placed the salvation of the Union above the preservation of slavery could see and fully realize that such a step could no longer be averted or postponed.

Generally speaking, the Army was pleased with the Proclamation, and, apparently, judging from the newspapers, there was a favorable response throughout the North; but when the elections of October, only a month later, were held they

disclosed a most disappointing political situation. Indiana, Ohio, New York, and even Pennsylvania went Democratic, by large majorities.

This was everywhere regarded as a condemnation of the Administration, and particularly of Emancipation.

Mr. Lincoln was made the subject of all kinds of criticism, abuse, defamation and denunciation. These attacks upon him were accompanied with loud and offensive demands that he recall his proclamation and undo what had been done.

But when he sent his message to Congress in December he again showed that he had clearly in mind his policy as outlined in his inaugural, and that it was still his unwavering purpose to pursue it to the end.

After reviewing the whole situation in kind and temperate language he concluded his message as follows :

“I shall not attempt to retract or modify the Emancipation Proclamation; nor shall I return to slavery any person who is free by the terms of that Proclamation; or by any of the Acts of Congress.”

For months following the Armies in the field met with disappointment and doubtful and indifferent results.

Finally, however, a great change was wrought in the military situation. It was wrought in a day. On the fourth day of July, 1863, Grant captured Vicksburg, and Meade defeated Lee at Gettysburg.

These two great victories marked the turning point of the struggle, but this fact was not then realized, and so there were more dark days and more bitter discouragements to follow.

The burdens and bereavements of the War had become so heavy, and distressing that it took more than these great victories to turn public sentiment from pessimism to optimism. Dissatisfaction was general and daily found expression.

All over the country what were called “Union Mass Meet-

ings" were held at which disheartening and criticising resolutions were passed. In this way enlistments were retarded, and incalculable harm was done.

Such a meeting was held in August, 1863, at Springfield, Ill. That being Mr. Lincoln's home he was invited to be present. To show how patiently and intelligently, steadfastly and hopefully, through good report and bad report, he was still adhering to the platform he had adopted at the beginning, I quote briefly from the answer he gave to this invitation:

\* \* \* "There are those who are dissatisfied with me. To such I would say: You desire peace, and you blame me that we do not have it. But how can we attain it? There are but three conceivable ways. First, to suppress the Rebellion by force of arms. This I am trying to do. Are you for it? If you are, so far we are agreed. If you are not for it; a second way is to give up the Union. I am against this. Are you for it? If you are, you should say so plainly. If you are not for force, nor yet for dissolution, there remains only some imaginable compromise. I do not believe any compromise embracing the maintenance of the Union is now possible." \* \* \* "You dislike the Emancipation Proclamation, and perhaps would have it retracted. You say it is unconstitutional. I think differently. \* \* \* But the Proclamation as law, either is valid, or it is not valid. If it is not valid it needs no retraction. If it is valid, it cannot be retracted any more than the dead can be brought to life. \* \* \*

\* You say you will not fight to free Negroes. Some of them seem willing to fight for you; but no matter. Fight you, then, exclusively, to save the Union. I issued the Proclamation on purpose to aid you in saving the Union. Whenever you shall have conquered all resistance to the Union, if I shall urge you to continue fighting, it will be an apt time then to declare that you will not fight to free Negroes. I thought that in your struggle for the Union to whatever extent the Negro should cease help-

ing the enemy to that extent it weakened the enemy in his resistance to you. Do you think differently? I thought that whatever Negroes can be got to do as soldiers, leaves just so much less for white soldiers to do in saving the Union. Does it appear otherwise to you? But, Negroes, like other people, act upon motives. Why should they do anything for us, if we will do nothing for them? If they stake their lives for us they must be prompted by the strongest motives, even the promise of freedom. And the promise being made must be kept." \* \*

Finally the last year of the War came and the last campaigns were entered upon. Grant commenced hewing his way through the wilderness and Sherman started upon his great campaign against Atlanta. Both Armies were winning victories, and making progress, but the chorus of dissatisfaction continued. The fault-finders had a new subject of complaint: Grant was sacrificing too many lives; he was making the war too bloody; he was a "butcher and a brute." He must be stopped; and so again the cry was raised for "peace at any price," and that Mr. Lincoln should inaugurate negotiations therefor.

Horace Greely, a veritable Job's Comforter, again came to the front with suggestions, advice, remonstrance and command.

He wrote to Mr. Lincoln, among other things: "Our bleeding, bankrupt, almost dying, country longs for peace; shudders at the prospect of fresh conscriptions, of further wholesale devastations and of new rivers of human blood."

It was Presidential year. Mr. Lincoln had been renominated. He needed and deserved encouragement, but in August, 1864, in the very midst of the political contest, and when the War was the bloodiest, and most serious, but yet progressing, according to the judgment of all careful, thoughtful men, to a successful issue, Mr. Greely wrote to Mr. Lincoln:

"Nine-tenths of the whole American people, North and South, are anxious for peace—peace on almost



any terms—and utterly sick of human slaughter and devastation. I know that, to the general eye, it now seems that the rebels are anxious to negotiate, and that we repulse their advances. I know that if this impression be not removed we shall be beaten out of sight next November.” \* \* \* “I firmly believe were the election to take place tomorrow the Democratic majority in this State, and Pennsylvania, would amount to a hundred thousand, and that we should lose Connecticut also.” \* \* \* “I beg you, implore you, to inaugurate or invite proposals for peace forthwith.”

Finally it was suggested that another Convention should be held for the purpose of nominating another candidate to take the place of Lincoln on the Republican Union ticket.

Mr. Greely had views upon this proposition also. He was never without views, and seemingly always anxious to express them; especially when they would do most harm. He gave the public the benefit of them through the columns of the Tribune. One of his utterances was, and there were many like it: “Mr. Lincoln is already beaten. He cannot be elected, and we must have another ticket to save us from utter overthrow.”

These expressions of public sentiment were not only showered upon Mr. Lincoln but General Grant was also flooded with them. He got a great deal of advice that did not come to him from official sources.

It was at this time that Mr. Lincoln sent to General Grant a telegram, which in the light of all these circumstances, has an important historic significance, as showing how unmoved he was by the hysteria that surrounded him. The telegram was not made public at that time, but it is found in the official records of the War. Its language indicates the complete understanding between him and General Grant, and their mutual confidence in each other. Mr. Lincoln said in this dispatch: “\* \* \* Hold on with a bull dog grip and chew and choke as much as possible.”

In the meanwhile Grant was hammering away, "Chewing and choking."

It is impossible to over-estimate how much we owe to these two men—Lincoln and Grant—for our salvation. The hour was never so dark that either faltered for one second in the prosecution of the great purpose to which they were committed of saving our Union and institutions from overthrow and destruction.

Neither one of them ever thought of such folly as attempting to undo Emancipation, or to retrace any of the important steps that had been taken.

### **THE DARKEST DAY.**

Light was close at hand, but what was perhaps the darkest day was yet to come.

It was the 29th day of August, 1864. On that day the Democratic National Convention met in Chicago and there nominated George B. McClellan for the Presidency on a platform written by Clement L. Vallandigham of Ohio, which declared that the war was a "failure," and demanded an "immediate cessation of hostilities."

This nomination and this platform excited terror in even the stoutest Union hearts.

McClellan and his followers were correspondingly elated with anticipated victory in November. Their rejoicing was, however, of short duration.

Three days later, the country was electrified by the publication of a telegram from Sherman announcing that "Atlanta is ours, and fairly won."

This in itself was enough to destroy the Chicago platform, but there was more to come, and lots of it.

Almost simultaneously Sheridan commenced his remarkable campaign in the Shenandoah Valley, and one great victory after another was heralded, until on the 19th day of October he made his famous ride "from Winchester town twenty miles away," and turned a tide of disaster into one of the most inspiring victories of the War.

The whole country was aroused. Pessimism gave way to optimism and all along the line there was a new infusion of courage, spirit and determination.

The words that were to have insured Democratic victory became words of crucifixion, because day by day more and more it became manifest that the war was not a failure, and that a demand for an immediate cessation of hostilities was but treason itself.

Greely and all his colleagues in criticism stopped their ill-considered advice.

The protest against Grant's mode of warfare paled and faded away altogether. Nobody any longer talked of peace, but all urged a vigorous prosecution of the war.

Grant, Sherman, Sheridan, Meade and Thomas, and all the great fighting Generals at once became heroes—not a "bloody butcher" among them.

The end was soon reached. The Union was saved. Slavery was abolished, and in due time the Constitution was amended to correspond with all that had been accomplished.

Thus was fulfilled to the letter the promises and pledges that constituted the intelligent, wise, far-reaching, patriotic policy announced by Mr. Lincoln in his inaugural address.

He did not live to see the end. In the very moment of his triumph he was stricken down; but he lived long enough to see his work was to be crowned with success, and long enough to teach a lesson of incalculable worth to mankind of the necessity for patience and devotion to duty in the execution of even the wisest and best of purposes.

He lived through his most trying and exasperating experiences, without once, so far as history records, losing his temper, or losing his courage.

His State papers are remarkable specimens of logic, persuasion, and good English. They are consistent and harmonious throughout. They are all on a high and dignified plane. They are all free from unnecessary verbiage, and manifestly free from all attempt, even the slightest, to speak beyond the requirements of the occasion, or to speak in any kind of

language, except only that which was the simplest, plainest, most direct, and most natural.

Almost all his utterances are classical.

The short speech, only two or three paragraphs, made by him to his fellow townsmen of Springfield, Ill., when he bade them goodbye, as he started to Washington to assume the duties of the Presidency; his letter to Mrs. Bixby, the mother of five sons killed in battle; and his Gettysburg speech will forever hold the very highest rank among the gems of English literature.

We do well to remember and honor such a man. We do well to study his character, both public and private, and to invite a like study upon the part of the young men who are in their day and generation to control the government, and determine the destinies of our people, and our institutions.

He had such kindness of heart, such breadth of consideration and charity in his judgment of men; such ever present and all commanding human sympathy united with such wonderful intellectual force, such powers of analysis and argument, that he well deserved the high place he holds in history.

### **LINCOLN, PRODUCT OF OLD-TIME METHODS.**

And yet this wonderful man was chosen not only to the Presidency but also to the other offices he filled in the old fashioned way, and in the old fashioned time, when political parties fiercely contended for supremacy, and in preparation therefor held delegate conventions where they discussed and adopted platforms, and then nominated candidates to represent them and their principles. He belonged to that time when parties printed, and used at the elections, tickets on which the names of their candidates were placed under Party names and Party emblems; and at a time when such a thing as a short ballot was never mentioned nor even thought of as necessary to the intelligent exercise of the right of suffrage; and, good as he was, and great as he was, he did not stand alone in that respect.

On the contrary, all the greatest and most illustrious names in American history are those of men chosen by the people to represent the people, and act for the people in the self-same way. Webster, Sumner, Giddings, Sherman, Thurman, Tilden, and in that still more remote day, Jefferson, Madison, Jackson, and their respective associates in public life were all brought forward and commissioned for the public service in that same manner.

No one had then learned that the Recall, or the Initiative, or the Referendum was necessary under our form of Government. Neither had anybody yet found it necessary to resort to Commissions as agencies in the administration of our Government. Now all these ideas are familiar.

It may be that some of the new reform notions touching these matters will ultimately work improvements, but as yet, where such so-called reforms are in the fullest operation, nothing has been accomplished in either the selection of men, or in the enactment of laws, to justify such an expectation.

So too, it may be said, that from the beginning of our Government until long after Mr. Lincoln's day it was a maxim with all political parties "that people was best governed that was least governed."

It may be confidently asserted that he lived and died in that belief.

It has now, however, apparently become a maxim that that people is best governed that is most governed.

At any rate for the last decade we have been passing rapidly from government according to general principles to government by specific regulation for every detail of every conceivable business, habit or practice, with which we are concerned.

No session of the Legislature, or of the Congress, seems willing to adjourn any more until it has enacted hundreds, and in many cases even thousands, of new statutes; as though in the mere making of new laws a panacea could be found for all our ills.

As a part of this program, we have been made familiar with Government by almost innumerable Commissions and Official Boards and Bureaus of one kind and another.

These agencies have been so greatly multiplied here in Ohio that both their number and the public expense incurred by them and on their account, have grown almost beyond knowledge; certainly beyond common knowledge. We now have a Printing Commission, a Dairy and Food Commission, a Fish and Game Commission, a Public Utilities Commission, an Industrial Commission, a Rural Credits Commission, a Public Highways Commission, a Civil Service Commission, and a Tax Commission. In addition we have Boards of one kind and another, almost without limit. The Board of Administration, the Board of Arbitration, the Board of Health, the Board of Pardons, the Board of Public Works, the Board of Medical Registration, the Board of Pharmacy, the Board of Boiler Rules and the Liquor Licensing Board, together with the Bureau of Vital Statistics, the Building and Loan Bureau, the Bureau of Inspection and Supervision of Public Offices; and perhaps others that I do not now recall. All have been created by statutes that are in full force and effect, with not only their long list of high salaried members, but also with their almost unending payroll of subordinates. They all hold their positions under the authority or supervision of the Governor, not, of course, for the purpose of creating a political machine, as has been charged, but because the people, who are supposed to be capable, on the one hand, of enacting intelligently the most important and complicated legislation, are yet, on the other hand, according to some of the propositions advanced, incapable of electing, as heretofore, our Road Supervisors, our Tax Assessors, and our District School Directors, all of whom, under this new order of things, must be appointed by the Governor, or by those whom he appoints, or by somebody else.

All of these Boards and Commissions and Bureaus have important duties to perform, but there was a time when we

got along without their help and with quite as satisfactory results as those we have today; and much more economically.

For some reason the tax rate for State purposes has almost doubled as compared with what it was only recently; largely due, as it has been stated upon apparently good authority, to the fact that appropriations are made for the work of these several Boards and agencies in lump sums to be distributed as they may respectively decide, instead of item by item, as was the practice in that elder time, from which it appears to be the chief labor of the so-called progressive spirit of today to carry us as far as possible.

If there were nothing more to be said against this innovation than the increased expenses of our Government on account of it, it would be sufficient to admonish us to make haste slowly in the creation of any more commissions or boards, or bureaus; but there is more than the increased expense to be urged in objection.

In this way the functions of Government have been so multiplied, and thousands of minor officials have been so intruded into the affairs of the people, that freedom of action has been almost lost, and it is no uncommon thing to hear of the most law abiding of our citizens finding themselves ensnared in the meshes of laws, of the existence of which they had no knowledge until charged with their violation.

It would be fortunate if a halt could be called upon this practice of multiplying laws for the regulations of the minor details of life, and business. But the spirit that prompts such legislation is not content to deal with Statutes. It seeks to lay hold upon the permanent pillars of our Institutions.

Our Constitutions, State and National, which were by our fathers properly confined to broad declarations of principle to guide us in legislation are being re-written, not in concise language expressing basic ideas, as Constitutions should be written, but practically in statutory form, with tedious specifications and details that deter and hinder appropriate legislation on the one hand, and on the other hand are tending to revolutionize and destroy representative government, and

thus carry us backward to the failures of the pure Democracies of antiquity.

All this has been done under a pretense of progress.

No one would knowingly oppose the upward and forward march of mankind, but "as all that glitters is not gold", so, too, mere movement is not necessarily progress. It depends upon the further question in which direction are you going, backward or forward? Going backward can not be going forward; neither can it be progress; but especially in our case it is only folly and a crime against good government.

Many of these so-called reforms have been fastened upon us in Ohio. Here, as elsewhere, they are proving irksome, troublesome, inefficient, and in many respects wholly unnecessary.

It is some satisfaction to be able to recall that all this work has been done by a small minority of the qualified electors of our State.

It was by a small minority that our late Constitutional Convention was authorized; and by a small minority that its work was adopted. Minority Rule is rarely satisfactory. It is always un-American; but there is always one consolation with respect to it, and that is, that when the majority become aroused they can undo what has been done.

It is to be hoped that in time the majority of the people of Ohio will realize what their neglect has permitted, and that as a result, in the discharge of their duties of citizenship, they will restore to us, without blot or blemish, the government which our fathers gave us, and which experience has proved to be the most successful free, popular government the world has ever known.

### **EXECUTIVE ENCROACHMENT.**

But there is more to be noticed and criticised in the tendency of the times than this undue attempt to enact a statute for each specific complaint some one may happen to make; more than the creation of Commissions, and Boards and



Bureaus, almost without limit, to execute such laws; and more than the increase of taxation to support and enforce such measures and such agencies. I refer particularly to executive encroachment upon the legislative department of our Government.

Our several departments were intended to be separate, independent and co-ordinate. Neither has a right to infringe upon the scope of duty and authority of either of the others. The legislative bodies are supposed to directly represent the people, and to put into the form of law whatever they, as the people's representatives, may approve. The judiciary is the independent interpreter of the laws, constitutional and statutory, that the people may make, and as such the protector of the people's rights. The primary purpose of the executive is to execute and enforce the laws the people, through their representatives may enact. The Executive has the additional right and privilege of recommending from time to time such legislation as he may deem appropriate and for the best interests of the people, and he has the additional right and duty of vetoing such legislation as he does not approve; but with the sole exception of recommendation and veto, he has no power except only to execute.

He is in no sense whatever a Ruler and has no right or authority to use patronage, either to bestow it or to deny it, for the purpose of enforcing legislative action that he may desire, or to prevent action he does not approve.

During the recent years, however, the practice has grown of the President and the Governor bringing forward legislative propositions which they not only recommend, but demand, and of which they actively try to force the enactment. In this behalf there has been a use and a misusè of the power of patronage, and the exercise of the executive influence, never practiced in the earlier day of the Republic, or of this Commonwealth, which has been acquiesced in because "no harm was done."

I do not speak of this in any partisan way because the practice has been resorted to by the Executives of both par-

ties; but it needs no argument to support the proposition that such action is dangerous and inconsistent with the theory of our Government.

President Roosevelt, President Taft, and President Wilson have all resorted with good intentions, of course, to this practice.

### THE PANAMA CANAL.

I mention this because just now it is being announced in the newspapers, in telegrams from Washington, that the President has decided that the Act passed by the last Congress, discriminating in favor of American vessels engaged in the coast-wise trade, with respect to tolls to be collected for passing through the Panama Canal, must be repealed, on the ground that it is inconsistent with the provisions of the Treaty with Great Britain, under which that Canal was constructed. Judging by what President Wilson did to secure the enactment of a tariff law, in accordance with his ideas, and a currency act satisfactory to himself it may be feared, if not presumed, that in like manner he will undertake to force this legislation.

I had something to do with the ratification of the Hay-Pauncefote Treaty. I know that, so far as some of the Senators were concerned, it was never intended that the United States should be deprived by any of its provisions of the right and power to discriminate in the matter of tolls in favor of American vessels, if we should at any time desire to do so; either those engaged in the coast-wise trade or those engaged in foreign commerce; for the "equality" provision does not apply to the United States, and therefore not to our vessels of any class, either domestic, foreign or war; and I am clear in my recollection that a majority of the Senators, who ratified that treaty at that time, shared this view.

Without regard to what individual Senators may have thought, and looking only to a proper construction of the language employed in the Treaty, President Taft was right when he concluded that, as a question of power, the United

States Government had an unquestioned right, under the Treaty, to make the discrimination with respect to our vessels engaged in our coast-wise trade, that was made by the act President Wilson is asking Congress to repeal, and that there was no violation whatever of our Treaty stipulation in making such discrimination.

The basis of the claim that we have no right to discriminate in favor of our own vessels is the provision found in the third article of the treaty that the canal shall be open to the "vessels of commerce and war of *all nations* observing the rules" which we are to prescribe for the government of the canal "on terms of entire equality," etc.

If this were all that is found in the Treaty applicable to the question there would not, of course, be any room for argument. The British claim that we had cut ourselves off from power to discriminate with respect to our own Canal would be conclusive; but happily there are other provisions of this same article that must be considered in this connection.

In the first place, it is provided that the United States Government, constructing the canal at its cost, "should have and enjoy," subject to the provisions of the Treaty, "all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal". If this means anything at all it means that we, building the canal and paying for the canal without any co-partnership with anybody and without any help from anybody, were to have all the rights incident to ownership, which would include the right to make such use of the canal as we might see fit, unless by some other provision we deprived ourselves of that right. There is no other such restrictive provision.

But it is further provided in the same article that "the canal shall never be blockaded, nor shall any right of war be exercised, nor shall any act of hostility be committed within it."

If we are prohibited from discriminating as to tolls, we are also, of necessity, prohibited by this provision from blockading the canal or exercising any right of war or any act of hostility in the canal; and this is technically true, although our

enemy, in case of war, might seek to fight us there and even to destroy the canal.

But it is still further provided in this same article that "vessels of war of a belligerent shall not revictual nor take any stores in the canal except so far as may be strictly necessary." If we should get into a war with Japan or Germany or any other nation except Great Britain, we would find ourselves prohibited by this provision, if the contention be true that we are included among the "all nations," and that we have no power to favor our own vessels, from taking on food supplies or stores of any kind in the canal.

It is also further provided in this same article that "no belligerent shall embark or disembark troops, munitions of war, or warlike materials in the canal."

This would prohibit us from supplying the fortifications which we are now placing there with ammunition and guns to be used in the protection of our property against a nation, other than Great Britain, with whom we might engage in war. I say "other than Great Britain" because Great Britain is the only party with us to the treaty and in case of war with her the treaty would be suspended during the war. But it would not be suspended if we should be at war with Japan, Germany, France or any other nation.

It is further provided in this same article that all these provisions "shall apply to waters adjacent to the canal, within three marine miles of either end," and that "vessels of war of a belligerent shall not remain in such waters longer than 24 hours at any one time," etc.

In short, if the contention be true that we have deprived ourselves of the power to discriminate in favor of our ships as to tolls, we have also deprived ourselves of the right in time of war with any nation on earth, except only Great Britain, to maintain our forts and supply them with ammunition and guns or to commit any act of hostility or act of war within the canal or to allow one of our warships to remain within the contiguous waters at either terminus of the canal longer than 24 hours.

Carried to its logical and ultimate result, a violation by us of any of these prohibitions or restrictions would forfeit our right to use the canal on any terms whatever.

The result would be that at a cost of more than four hundred millions of dollars, without any help from anybody, and without any co-partnership with anybody, we have constructed this great work and bound ourselves to forever maintain and operate it, at our sole expense, without any right or power to show the slightest favor to any of our vessels of war or commerce, either coast-wise or of foreign commerce.

Stated in another way we are to be the sole bearers of the great burdens that must be borne without any benefit that does not accrue to every other nation, whose vessels may have occasion to use the canal.

In all this I am speaking of the question of "power" and not the question of "policy." It may be wise for us, as a mere matter of policy, to practice such altruism. But the treaty does not require it, and it would be most unwise to concede it.

All these provisions are natural and proper when applied to nations that are not parties to the Treaty and have no interest in the canal except such as we allow, and no responsibility or expense on account of the maintenance or operation of the canal, but they are little short of imbecilic if applied to the United States. I do not believe any Senator who voted to ratify the Treaty had any such understanding of the language employed. I know I did not. In addition I have a personal recollection with respect to this matter that confirms the construction for which I contend.

As an evidence that I am not speaking in any partisan way simply that I may oppose the view now taken by President Wilson, I take the liberty of stating that as long ago as August 4, 1912, I had occasion to write a letter on this subject in which, although there somewhat imperfectly stated, I expressed the same general views and the same conclusions I am now announcing.

There was the same kind of objection when our government determined to fortify the Canal, but that objection was so completely answered upon not only reason and the record,

but also, out of the mouths of official representatives of Great Britain that our contention was finally established.

To have conceded then that we were wrong, for the sake of avoiding controversy, would have been a surrender, if not a betrayal of the rights of the United States.

To yield to the objection now made will be equally a surrender, if not betrayal of most important rights.

At the expense of repeating; the Panama Canal was constructed by the United States without co-partnership with anybody, and primarily in the interest of the United States having regard to both our National defense and our National Commerce.

Whether it be good policy or bad policy to now assert our right to discriminate in favor of our own shipping may be a debatable question, but the right having been asserted should not be abandoned.

I sincerely hope, therefore, that President Wilson will not undertake to use the influence of his great office in any way, except by recommendation, to secure the repeal of a law, which in my judgment, was clearly within the right of Congress to enact without any violation of any treaty or other obligation.

This is not a partisan question. Nothing connected with the construction of the Panama Canal has been partisan. Democrats and Republicans alike supported the Treaty that was finally enacted before the Canal was authorized; and Democrats and Republicans alike participated in the legislation necessary to carry out that great work; and Democrats and Republicans alike, forgetting party divisions and remembering only the interest of America, should stand together for the preservation of our right to carry out the great purpose of constructing and so operating the Canal as to promote American Interests of every kind and nature.

If the representatives of the people are allowed to act upon their own judgment, and are not overslaughed by executive influence their action will be accepted without complaint; but if on the contrary, they be driven to deny our control of

the canal to the extent involved in the question now raised an injury will result that it would be hard to overestimate, and permanent acquiescence need not be expected.

Congress should treat the recommendation of the President with regard to this matter as, according to the theory of our government, it should treat every other recommendation made by our Chief executive—with the highest respect and most careful consideration, but, nevertheless, Congress should remember that Presidents are not always right; they sometimes make mistakes. It should, therefore, feel free to discharge its responsibilities according to its own judgment, and if it shall find, as I am sure it can and should that the Act complained of was within the power reserved to our government, it should not sacrifice or compromise that power. They should in such event unhesitatingly refuse to comply with the President's recommendation as other Congresses have refused to follow Presidential recommendations in hundreds of other cases.

Thus our rights will be maintained and the wisdom of our fathers in providing the checks and balances that distinguish our form of Government will have another vindication of the most important character and the most striking value.

## APPENDIX

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### HAY-PAUNCEFOTE TREATY.

The United States of America and His Majesty Edward the Seventh of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, and Emperor of India, being desirous to facilitate the construction of a ship canal to connect the Atlantic and Pacific Oceans, by whatever route may be considered expedient, and to that end to remove any objection which may arise out of the Convention of the 19th April, 1850, commonly called the Clayton-Bulwer Treaty, to the construction of such canal under the auspices of the Government of the United States, without impairing the "general principle" of neutralization established in Article VIII of that Convention, have for that purpose appointed as their Plenipotentiaries:

The President of the United States, John Hay, Secretary of State of the United States of America;

And His Majesty Edward the Seventh, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, and Emperor of India, the Right Honourable Lord Pauncefote, G. C. B., G. C. M. G., His Majesty's Ambassador Extraordinary and Plenipotentiary to the United States;

Who, having communicated to each other their full powers, which were found to be in due and proper form, have agreed upon the following Articles:

#### ARTICLE I.

The high contracting parties agree that the present treaty shall supersede the aforementioned convention of the 19th April, 1850.

#### ARTICLE II.

It is agreed that the canal may be constructed under the auspices of the Government of the United States either directly at its own cost, or by gift or loan of money to individuals or corporations, or through subscription to or purchase of stock or shares, and that, subject to the provisions of the present treaty, the said Government shall have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal.

#### ARTICLE III.

The United States adopts, as the basis of the neutralization of such ship canal, the following rules, substantially as embodied in the Convention of Constantinople, signed the 28th October, 1888, for the free navigation of the Suez Canal, that is to say:

1. The canal shall be free and open to the vessels of commerce and of 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 of the conditions or charges of traffic or otherwise. Such conditions and charges of traffic shall be just and equitable.

The canal shall never be blockaded, nor shall any right of war be exercised nor any act of hostility be committed within it. The United States, however, shall be at liberty to maintain such military police along the canal as may be necessary to protect it against lawlessness and disorder.

3. Vessels of war of a belligerent shall not revictual nor take any stores in the canal except so far as may be strictly necessary; and the transit of such vessels through the canal shall be effected with the least possible delay in accordance with the Regulations in force, and with only such intermission as may result from the necessities of the service.

Prizes shall be in all respects subject to the same rules as vessels of war of the belligerents.

4. No belligerent shall embark or disembark troops, munitions of war, or warlike materials in the canal, except in case of accidental hindrance of the transit, and in such case the transit shall be resumed with all possible dispatch.

5. The provisions of this article shall apply to waters adjacent to the canal, within three marine miles of either end. Vessels of war of a belligerent shall not remain in such waters longer than twenty-four hours at any one time, except in case of distress, and in such case shall depart as soon as possible; but a vessel of war of one belligerent shall not depart within twenty-four hours from the departure of a vessel of war of the other belligerent.

6. The plant, establishments, buildings, and all works necessary to the construction, maintenance, and operation of the canal shall be deemed to be part thereof, for the purposes of this treaty, and in time of war, as in time of peace, shall enjoy complete immunity from attack or injury by belligerents, and from acts calculated to impair their usefulness as part of the canal.

#### ARTICLE IV.

It is agreed that no change of territorial sovereignty or of international relations of the country or countries traversed by the before-mentioned canal shall affect the general principle of neutralization or the obligation of the high contracting parties under the present treaty.

#### ARTICLE V.

The present treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty; and the ratifications shall be exchanged at Washington or at London at the earliest possible time within six months from the date hereof.

In faith whereof the respective plenipotentiaries have signed this treaty and hereunto affixed their seals.

Done in duplicate at Washington, the 18th day of November, in the year of our Lord one thousand nine hundred and one.

JOHN HAY. [SEAL.]  
PAUNCFOTE. [SEAL.]

THE POWER OF THE UNITED STATES TO DISCRIMINATE IN  
FAVOR OF AMERICAN VESSELS IN THE COLLECTION  
OF TOLLS FOR PASSING THROUGH THE  
PANAMA CANAL.

LETTER FROM

HON. J. B. FORAKER

TO

MR. S. L. LATSHAW, OF TOLEDO, OHIO.

*(As published in the Toledo Times of August 13, 1912.)*

EDITOR OF THE TIMES:

Being interested in the question of allowing American vessels to pass through the Panama Canal free, I wrote former Senator J. B. Foraker for his opinion. His reply has just been received, and I believe it is of sufficient interest to *Times* readers to be printed.—S. L. LATSHAW, 2801 Monroe St.

The following is a letter from Mr. Foraker:

SOUTH POLAND, ME., August 4, 1912.

MR. S. L. LATSHAW,  
Toledo, Ohio.

Dear Sir:—Your letter of July 23d, asking for my opinion as to the power of the United States to discriminate as to tolls in favor of vessels belonging to our citizens, passing through the Panama Canal, has reached me here.

That question is now being debated in the United States Senate. The newspaper reports of the speeches that have been made are rather meager, and I have no documents to which I can refer to refresh my recollection as to many important facts.

I hesitate, in view of these conditions, to take exception to anything so able a lawyer and Senator as Mr. Root has seen fit to say, but I am quite sure he has taken a widely different view of the effect of the language employed in the Hay-Pauncefote treaty from that which should have been given it. The language referred to is the provision that the vessels of commerce and of war of all nations shall have a right to use the canal on terms of equality.

Of course, if this language stood alone, it would admit of the construction Great Britain has put on it in making the contention she is now making, and Mr. Root would be right in taking the position I understand he has taken; but this language does not stand alone. Taking into consideration the context, it seems perfectly clear to me now, as it did when I voted to ratify the treaty, that this restriction and others of a similar character found in that treaty did not apply to the United States, because the United States was to be the owner of the canal and was proposing to build it with our own money, without any help from anybody, and because all obligations of a co-partnership character created by the Clayton-Bulwer treaty had been abrogated by the abrogation of that treaty, and

because it would be absurd to apply to the United States a number of the restrictions to which I refer, all of which would be applicable to the United States, if the one relied upon by Great Britain be applicable.

For instance, one of the provisions is: That a warship of a belligerent shall not remain in the waters contiguous to either terminus of the canal longer than twenty-four hours. I am not quoting the language, but only the effect of it.

It would certainly be absurd to apply this provision to the United States, since the result might be that one of our battleships passing from one coast to the other would have not only to hurry through the canal to the waters contiguous, but also emerge therefrom within the limited time mentioned, although there might be a half-dozen warships of the enemy lying in wait to capture or destroy her the moment she made her appearance. According to my recollection this very question (of right to discriminate in favor of our own ships) was raised by an amendment offered to the treaty, which amendment was voted down overwhelmingly, because it was thought unnecessary to specify that a provision of such a character did not apply to us who were building the canal, and were to have with respect to it the usual rights of ownership and all the rights of regulation.\*

Without going over everything in tedious detail, there are other restrictions found in the treaty to support this view, along with a general but specific provision, as just indicated, that our government shall have all the rights incidental to the construction and ownership of the canal, as well as the exclusive right of providing for its regulation and management.

The provisions giving rise to this contention were adopted from the convention of Constantinople, providing for the neutralization of the Suez Canal. The Suez Canal was constructed and is owned by a private corporation, although Great Britain controls it by ownership of a majority of its stock.

The restrictions under consideration now were never regarded as applicable to the Suez Canal Company. Of course, that company is not a nation and does not own any ships of war, although it may own vessels of commerce, but the reason these restrictions were never held applicable to the Suez Canal Company were not because it lacked ownership of vessels of war or vessels of commerce, but only because it would be inconsistent with the rights of ownership to give that convention any such construction. The United States holds the same relation to the stipulations under consideration that the Suez Canal Company holds to the same stipulation in the Constantinople convention.

The subject is one of great importance. It was necessary that it should be considered by the Senate in executive session, where no record is made or kept of the debates that are held. For that reason everyone who participated in those debates must rely upon his own recollection as to what occurred, and must submit to the rules that govern the construction of legal documents as to what is approved.

According to both of these guides, I am clearly of the opinion that whatever may be a wise *policy*, about which I have no occasion to speak in answering your letter, there can not be any question about the *power* of our government to discriminate as to tolls in favor of the American owned ships passing through the Panama Canal, and I should regard it as a great misfortune, if our government should hesitate to stand firmly and uncompromisingly by this proposition.

If our government does not have this right, but is under obligation to give to our ships only such rights and privileges as she gives to all others, then surely it is in order to ask what we are building the canal for? Is it possible that we are spending three or four hundred millions of dollars,

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\* And for the further reason that to exempt one class of ships would imply that other classes were not exempt.

and obligating ourselves to fortify, and maintain in successful operation, this majestic work after it has been completed, without any special advantage to ourselves, but merely for the common benefit of all the sea-going nations of the world, among which nations we are one of the least? There is a preposterous absurdity in such a conclusion, and I should feel deeply mortified to think that I had favored and supported a measure that was capable of such a construction.

I would be glad to say much more that comes to mind in answering your polite inquiry, but I feel I have said enough to satisfy you as to the opinions I entertain, and to give you the grounds upon which they rest. To deal with the subject fully would require me to go far beyond the limitations of a letter.

I think it well to add, however, that we are not, in my opinion, bound by any treaty to arbitrate any such question at the Hague or elsewhere. All such questions are specifically excepted from the general operation of all our compulsory treaties of arbitration.

Yours very truly,

J. B. FORAKER.







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