

be built, owned and controlled by the United States.

This demand led to the passage of the bill known as the Hepburn bill, by the house of representatives, in the session of 1901-2, by a vote of 302 to 2, thus demonstrating the absence of all partisanship; but the senate thought it wise to substitute a totally different measure requiring the president to proceed first upon the Panama route under the following conditions as specified in the act;—

Sec. 4. That should the President be unable to obtain for the United States a satisfactory title to the property of the New Panama Canal company and the control of the necessary territory of the Republic of Colombia, and the rights mentioned in sections one and two of this act, within a reasonable time and upon reasonable terms, then the President having first obtained for the United States perpetual control by treaty of the necessary territory from Costa Rica and Nicaragua, upon terms which he may consider reasonable, for the construction, perpetual maintenance, operation and protection of a canal connecting the Caribbean Sea with the Pacific Ocean by what is commonly known as the Nicaragua route, shall through the said Isthmian Canal Commission cause to be excavated and constructed a ship canal waterway from a point on the shore of the Caribbean sea near Greytown, by way of Lake Nicaragua, to a point near Brito on the Pacific Ocean.

Under this act therefore it became a *sine qua non* that the title should first be secured and also that perpetual control be obtained of the right of way. The practical difficulties in the way of securing these fundamental rights may best be stated by reference to the treaty stipulations made in conformity with the constitution of Colombia.

Article XXXV. of the treaty made in 1846 between the United States and New Granada (now Colombia) reads:

The government of New Granada guarantees to the government of the United States that the right of way across the Isthmus of Panama, upon any modes of communication that now exist or that may be hereafter constructed, shall be open and free to the government and citizens of the United States, etc. . . . And in order to secure to themselves the tranquil and constant enjoyment of these advantages, and as an especial compensation for the said advantages, and for the favors they have acquired by the fourth, fifth and sixth articles of this treaty, the United States guarantee positively and efficaciously to New Granada, by the present stipulation, the perfect neutrality of the before-mentioned Isthmus, with the view that the free transit from one to the other sea may not be interrupted or embarrassed in any future time while this treaty exists; and, in consequence, the United States also guarantee, in the same manner, the rights of sovereignty and property which New Granada has and possesses over the said territory.

Under this treaty the concessions

were granted to a corporation chartered by the State of New York to construct a railroad across the Isthmus, but it was "absolutely prohibited" from selling or transferring its rights to any foreign powers. The same care was exercised in the concessions granted in 1836 for a transit-way across the Isthmus, and also in the concessions for a canal, executed in 1878, to the French company.

The contract of 1850 as modified in 1867, for the Panama railroad, Art. XXVIII., provides;—

The present privilege cannot be ceded or transferred to any foreign government—that is to say, to any government existing outside of Colombian territory—under pain of forfeiture of the said privilege by the mere act of attempting or verifying such cession or transfer, which act from the present time is declared absolutely null and of no value or effect.

The contract for the canal, dated 1878, says:

Art. 21. The grantees, or those who in future may succeed them in their rights, may transfer these rights to other capitalists or financial companies, but it is absolutely prohibited to cede or mortgage them under any consideration whatever to any nation or foreign government.

When testifying before the inter-oceanic committee of the senate in reference to the proper means by which the government of the United States might acquire title to construct the canal under the Spooner act, ex-Senator Pasco, the member of the Isthmian canal commission, having charge of the investigations of these matters, stated in reply to the chairman of the committee, as follows:

The Chairman—What action, if any, is necessary on the part of the Colombian Government or the French Government to secure to this Government the perpetual control, management and ownership of this Panama route?

Mr. Pasco—I do not understand that the French Government has anything to do with the matter. It is a private corporation, and it is organized under the laws of France. The interest that the liquidator has in it is controlled by the court having jurisdiction in the matter; but the property lies in Colombia, and of course no transfer of title can be made except in accordance with the laws of Colombia and in accordance with the authority of the Colombian Government; and the concession, as I said, would make it impossible for the French company to transfer its rights without the consent of the Colombian Government. The United States can never go there at all unless the terms by which it can occupy the country and construct and carry on the canal after it is completed can be arranged with the Colombian Government. It can never be done without the consent of Colombia, and that, of course, is a matter for treaty arrangements.

The sequel has shown that Colombia was unwilling to part with her

sovereignty under the terms of the Hay-Herran treaty, which was negotiated but not ratified, and hence there was apparently no legitimate way whereby the government of the United States as such could acquire title without doing violence to the laws of nations, for which she should at least render just compensation.

Hence it would appear that private parties have been debarred from constructing a canal by the powerful opposition arrayed against all efforts, and that the rights of sovereignty have prevented the government from undertaking the work, as was evidently foreseen. It follows that the most practicable as well as the most honorable course to pursue would be to exercise the discretion vested in the chief executive of the United States and proceed to build the canal by way of the Lake of Nicaragua.

BRYAN'S IMPRESSIONS OF TOLSTOY.

Extracts from "Tolstoy, Apostle of Love—A Study by William Jennings Bryan," published in the Chicago Sunday American of February 7. This article is one of a series of foreign articles written by Mr. Bryan, now appearing in the Chicago American.

New York, Feb. 6.—Count Leo Tolstoy, the intellectual giant of Russia, the moral Titan of Europe and the world's most conspicuous exponent of the doctrine of love, is living a life of quiet retirement upon his estate near the village of Yasnaya, Poliana, about 130 miles south of Moscow.

I made a visit to the home of this peasant philosopher during my stay in Russia, driving from Tula in the early morning and arriving just after daylight. I had intended remaining only a few hours, but his welcome was so cordial that my stay was prolonged until nearly midnight. Count Tolstoy is now about 76 years old, and while he shows the advance of years he is still full of mental vigor and retains much of his physical strength.

As an illustration of the latter I might refer to the horseback ride and walk which we took together in the afternoon. The ride covered about four miles and the walk about two. When we reached the house the count said that he would take a little rest and insisted that I should do likewise.

A few minutes later, when I expressed to the count's physician, Dr. Burkenheim, the fact that he might have overtaxed his strength, the doctor smilingly assured me that the count usually took more exercise, but had purposely lessened his allowance

that day fearing that he might fatigue me.

Count Tolstoy is an impressive figure. His years have only slightly bowed his broad shoulders, and his step is still alert.

In height he is about five feet eight, his head is large and his abundant hair is not yet wholly white.

His large blue eyes are set wide apart and are shaded by heavy eyebrows.

The forehead is unusually wide and high. He wears a long, full beard that gives him a patriarchal appearance.

The mouth is large and the lips full. The nose is rather long and the nostrils are wide. The hands are muscular and the grasp bespeaks warmth of heart.

Tolstoy presents an ideal, and while he recognizes that the best of efforts is but an approach to the ideal, he does not consent to the lowering of the ideal itself or the defense of anything that aims at less than the entire realization of the ideal.

He is opposed to what he calls palliatives, and insists that we need the reformation of the individual more than the reformation of law or government.

He holds that the first thing to do is to substitute the Christian spirit for the selfish spirit.

He likens those who are trying to make piecemeal progress to persons who are trying to push cars along a track by putting their shoulders against the cars.

And the religious spirit he defines as "such a belief in God and such a feeling of responsibility to God as will manifest itself both in the worship of the Creator and in fellowship with the created."

He is not a believer in protection and regards a tariff levied upon all of the people for the benefit of some of the people as an abuse of government and immoral in principle. I found that he was an admirer of Henry George and a believer in his theory in regard to the land tax.

He is opposed to trusts. He says that the trust is a new kind of despotism and that it is a menace to modern society. He regards the power that it gives men to oppress their fellows as even more dangerous than its power to reap great profits.

He referred to some of our very rich men and declared that the possession of great wealth was objectionable, both because of its influence over its possessor and because of the power it gave him over his fellows.

I asked him what use a man could make of a great fortune, and he replied: "Let him give it away to the first person he meets. That would be better than keeping it." And then he told how a lady of fortune once asked his advice as to what she could do with her money (she derived her income from a large manufacturing establishment), and he replied that if she wanted to do good with her money she might help her workpeople to return to the country and assist them in buying and stocking their farms. "If I do that," she exclaimed in dismay, "I would not have any people to work for me and my income would disappear."

As all are more or less creatures of environment, Tolstoy's views upon religion have probably been colored somewhat by his experience with the Greek church. He has, in some instances, used arguments against the Greek church which are broad enough to apply to all church organizations. He has not always discriminated between the proper use of an organization and the abuse of the power which a large organization possesses.

While animated by a sincere desire to hasten the reign of universal brotherhood and to help the world to a realization of the truth of the central thought of Christ's teachings, he has not, I think, fully appreciated the great aid which a church organization can lend when properly directed. In the work in which Tolstoy is engaged he will find his strongest allies among church members to whom the commandment, "Thou shalt love thy neighbor as thyself," is not merely sound philosophy, but a divine command. These will work in the church, and through the church, while he stands without, raising his voice to the same God and calling men to the same kind of life.

His experience with the arbitrary methods of his own government has led him to say things that have been construed as a condemnation of all government. He has seen so much of violence and injustice done in the name of the government that it is not strange that the evils of government should impress him more than its possibilities for good. And yet those who believe that a just government is a blessing can work with him in the effort to secure such remedial measures as he asks for in his letter to "The Czar and His Assistants."

Tolstoy's career shows how despotic is the sway of the heart and how, after all, it rules the world, for while his literary achievements have been admired,

the influence which they have exerted is as nothing compared with the influence exerted by his philosophy.

People enjoy reading his character sketches, his dialogues and his descriptions of Russian life, but these do not take hold upon men like his simple presentation of the doctrine of love, exemplified in his life as clearly as it is expressed by his pen.

Many of his utterances are denied publication in Russia and when printed abroad cannot be carried across the border, and yet he has made such a powerful impression upon the world that he is himself safe from molestation.

He can say with impunity against his government and against the Greek church what would be perilous for others to say, and his very security is proof positive that in Russia thought inspired by love is, as Carlyle has declared it to be everywhere, stronger than artillery parks.

OTHER COUNTRIES HAVE EXPORT BARGAIN COUNTERS.

The American Economist, organ of the Protective Tariff league, attempts to justify the action of the protected manufacturers in selling goods to foreigners at half the prices charged at home, by declaring that this same evil practice prevails in other countries and, to some extent, even in free trade Great Britain.

When two wrongs make one right, then, and only then, can we hope to eradicate this great economic evil by pointing to the same evil in other countries. The Economist cites Germany and Great Britain. Of course Germany, being a highly protected country, sells goods to foreigners at greatly reduced prices. In all highly protected countries there are bargain counters for foreigners only.

Thus German sugar is now being sold in Germany for 6.5 cents per pound, and for export to England at 2 cents. The tariff duty on sugar imported into Germany is 4.3 cents per pound. It is this duty, and this alone, that enables the German sugar trust (Cartel) to thus discriminate against the German consumers. No such discrimination as this exists, or can exist, in Great Britain or any other low-tariff country.

The only specific instance of discrimination in England cited by the Economist is that of the Taff Vale railroad, which charges "37 cents a ton for (Welsh) coal shipped over the road, while the same kind of coal pays only 25 cents a ton when shipped to go out of the country."