

You will of course be aware of the fact that the most recent, and perhaps the most important, precedents are the Trade Agreements negotiated with the United States, particularly by this country. They are fundamentally international agreements based upon legislative authority.

This matter is regarded as urgent, and I hope that you will let me have an opinion or memorandum for submission to the Prime Minister and for tabling in the House of Commons.

Yours sincerely,

N. A. ROBERTSON,  
*Acting Under-Secretary of State  
for External Affairs.*

The Deputy Minister of Justice,  
Ottawa, Canada.

(NOTE:—The memoranda and notes referred to in the third paragraph of the above letter were tentative in character and were designed for preliminary consideration. The memorandum for the Secretary of State for External Affairs was revised and is set forth as Document No. 3 in this series. The notes and memorandum from the Legal Adviser of the State Department were embodied in the memorandum which is set forth as document No. 4 (a) in this series.)

No. 2.

*Letter from the Deputy Minister of Justice to the Acting Under-Secretary of State for External Affairs, March 11, 1941.*

DEPARTMENT OF JUSTICE,

OTTAWA, March 11, 1941.

JR. 5551-41

DEAR SIR,—I have given consideration to the matters raised in your letter of the 28th ultimo, in connection with the St. Lawrence waterway development.

I am disposed to agree with Mr. R. B. Hanson's contention that procedure by agreement in this matter would not be justified by the provisions of the Boundary Waters Treaty of 1909.

Whether or not an agreement based upon legislation would be effective from the point of view of protection of Canadian interests is a matter upon which it is difficult for a Canadian lawyer to give a satisfactory opinion. Canada is entitled to have the contract ratified in a manner or by a method which the United States will regard as binding. It is generally understood that a treaty ratified in accordance with the United States Constitution is binding upon the United States and before proceeding to enter into an agreement based upon legislation, I suggest that this Government should ask for an official opinion from the law officers of the United States as to whether the proposed procedure will be regarded in the United States as binding upon that country. I suggest that this opinion be secured, if possible, from the Attorney General of the United States.

Yours very truly,

W. STUART EDWARDS,  
*Deputy Minister.*

N. A. Robertson, Esq.,  
Acting Under-Secretary of State  
for External Affairs,  
Ottawa.