

*Great Lakes Levels*

from the British ambassador to His Excellency the Governor General:

British Embassy,

Washington, D.C., January 9, 1925.

With reference to my dispatch No. 278 of July 17 last, I have the honour to transmit to you herewith copies of the decision of the United States Supreme Court delivered by Mr. Justice Holmes on the 5th instant affirming the decree for an injunction against the sanitary district of Chicago to prevent them diverting water from lake Michigan in excess of the 250,000 cubic feet per minute allowed by the Secretary of War.

This opinion begins by summarizing the defence of the Chicago authorities and refuses to take seriously their denial that they are at present diverting a volume of water far in excess of the allowance permitted. It then points out that the main arguments on behalf of an injunction are, firstly, the authority of the United States to remove obstructions to inter-state and foreign commerce, and, secondly—

To this I would particularly direct the attention of my hon. friend from West York (Sir Henry Drayton).

—and, secondly, the terms of the treaty of January 11, 1909, with Great Britain, which expressly forbids action affecting the natural level or flow of boundary waters without the authority of the United States or Canada and the approval of the International Joint Commission established under that treaty. It affirms the force of the act of Congress of March 3, 1899, and its application to the present case, and the authority of the Minister of War to act thereunder. It disallows the defence of the Chicago sanitary district based upon the permits already granted by the Secretary of War in regard to the diversion of this water as being too futile to need reply, and finally after commenting unfavourably on the delay which has been permitted in the legal proceedings instituted in 1913 to determine the rights of the sanitary district in this matter, grants an injunction to take effect in sixty days without prejudice to any permit the Secretary of War may issue under the authority conferred on him by the law.

This decision of the Supreme Court was not unexpected.

The despatch continues:

Meanwhile the House of Representatives has referred to a committee a measure introduced by Congressman Hull to sanction a diversion of water from lake Michigan up to 10,000 cubic feet per second and to create a nine foot channel from the lake to the gulf of Mexico. Further, the senate committee is to resume its hearings next Tuesday on Senator McCormick's resolution for a joint committee of both houses of congress to investigate the nine foot channel question. Copies of the Hull bill and the McCormick resolution are enclosed herein.

I understand that the Canadian National Advisory Committee recently met in Ottawa to prepare instructions for the guidance of the Dominion representative on the Joint Engineering Board and Your Excellency will no doubt inform me in due course what further action the Dominion government, after consideration of the present favourable decision of the Supreme court, desire me to take vis a vis the United States government in this matter.

I am sending a copy of this dispatch to His Majesty's Principal Secretary of State for Foreign Affairs.

I have the honour to be, My Lord,

Your Excellency's most obedient,

humble servant,

ESME HOWARD.

Now, that despatch—

[Mr. Mackenzie King.]

Sir HENRY DRAYTON: What further action has been taken?

Mr. MACKENZIE KING. I am coming to that. I want to make it perfectly clear that we have been acting in conjunction with the British government through the British ambassador at Washington; all parties have been duly informed; we have been taking the course which we believed to be, and which I think will prove to be, the most effective in bringing about the result desired by this country. As has been mentioned, an application was made to the United States Secretary of War to give a special permit to the Chicago sanitary district for a continuance of this diversion for a certain period. We are informed of that hearing. We immediately communicated with the government of the United States and asked that we be permitted to be represented. On the 16th of this month the following despatch was sent to the British ambassador by His Excellency the Governor General:

Information has been received by Canadian government that a hearing is to be held before the Secretary of War of the United States at Washington on February 20, upon an application from the sanitary district of Chicago, for permission to divert 10,000 cubic feet per second from the waters of lake Michigan for "sewage disposal and sanitary purposes," and also to discuss the terms of a proposed permit from the Secretary of War to the sanitary district for a lesser diversion of water for a limited terms of years, and it is the desire of the Minister of Marine and Fisheries to send Mr. William J. Stewart, chief hydrographer of his department, to be present at the hearing.

My ministers request that necessary arrangements may be made for the attendance of Mr. Stewart.

BYNG.

Necessary arrangements were made, the government of the United States cordially acquiesced in our request, and Mr. Stewart was present. As I mentioned in the House the other day when a question was asked on the point, Mr. Stewart was instructed to attend but not to participate unless he should be called upon to make some special representations. He was asked by the Secretary of War, if any investigation had been made by Canada to determine whether the lowering was due to the abstraction or to other causes. He replied that Canada had used exactly the same method of investigation as had been used for the upper lakes. An elaborate system of stream measurements had been taken, automatic gauges being used for determining the levels. Then Mr. Stewart in his report made to the minister on his return adds this paragraph:

I stated that it was Canada's earnest desire that any order he might issue would have in view the earliest possible complete stoppage of the abstraction, and that