

## I. LEGAL OPINIONS

*Correspondence setting forth legal opinions, from the Legal Adviser of the Department of External Affairs, and the Deputy Minister of Justice, and the Legal Adviser of the State Department, and the Attorney General of the United States of America, with regard to the validity of an Agreement based upon the Legislative Authority of Congress.*

- No. 1. Letter from the Acting Under-Secretary of State for External Affairs to the Deputy Minister of Justice, February 28, 1941.
- No. 2. Letter from the Deputy Minister of Justice to the Acting Under-Secretary of State for External Affairs, March 11, 1941.
- No. 3. Memorandum by the Legal Adviser of the Department of External Affairs, March 12, 1941.
- No. 4. Formal opinions by legal authorities in the United States.
  - (a) Memorandum by the Legal Adviser of the State Department, Washington, March 13, 1941.
  - (b) Letter from the State Department, Washington, transmitting Legal Adviser's memorandum to the Attorney General of the United States, March 13, 1941.
  - (c) Letter from the Attorney General of the United States to the Secretary of State of the United States, March 14, 1941.

### No. 1.

*Letter from the Acting Under-Secretary of State for External Affairs to the Deputy Minister of Justice, February 28, 1941.*

DEPARTMENT OF EXTERNAL AFFAIRS, CANADA,

OTTAWA, February 28, 1941.

DEAR SIR,—In the House of Commons Debates Vol. 29, No. 27, February 24, 1941, the Leader of the Opposition raised the question as to whether in the St. Lawrence negotiations the ultimate contract with the United States should take the form of a Treaty or an Agreement. He asked whether the opinion of the Department of Justice had been taken on this phase of the question and, if so, he wanted to have it tabled.

The Prime Minister suggested that the Department of Justice had been looking into this question and he undertook to make available an opinion from the Department regarding the legal point raised by Mr. Hanson.

I am enclosing a copy of a memorandum prepared for the Secretary of State for External Affairs, discussing this question and also the annexed series of notes attached to a memorandum from the Legal Adviser of the State Department, to Mr. Berle, dated February 10, 1939, setting forth the views held by the Legal Advisers of the State Department.

Mr. Hanson's point was confined to the rather narrow question as to whether procedure by agreement would be justified by the Boundary Waters Treaty. I think that I am justified in assuming, however, that both Mr. Hanson and the Prime Minister would desire to have a discussion of the more general question as to whether an agreement based upon legislation would have legal validity and would be effective from the point of view of the protection of Canadian interests.