



STATEMENTS AND SPEECHES

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Address by Mr. A.D.P. Heeney, Chairman of the Canadian Section of the International Joint Commission, to the Canadian Club of Montreal, January 14, 1963

Surely, history can afford few examples of two sovereign nations having as much to do with one another as Canada and the United States. The multitude and extent of our dealings is matched by their almost endless variety. They range all the way from the great issues of war and peace to the detailed bargaining of our mutual commerce - and the care and feeding of each other's tourists. They include not only public affairs, but the thousands of daily, hourly, contacts between our citizens in virtually every department of human activity.

In addition to the normal diplomatic means for the conduct of business between the two governments, there has developed - particularly in recent years - a considerable network of "joint" Canada-United States committees and boards to deal with particular problems. So, for example, we have joint Canada-U.S. committees at cabinet level on defence, on trade and economic affairs - and a number of other bodies, similarly constituted, on various subjects, at the official and expert level. The practice of Canadians sitting down with Americans around a table to tackle problems we have in common has become a settled feature of our dealings with Uncle Sam - private as well as official.

There is no need for me to emphasize to this audience the supreme national importance of our relations with the United States. Nor should it be necessary to do more than mention what seems to me self-evident, namely, that this relationship is presently in an especially important phase.

What I do propose is to say something of one venerable (in North American terms) Canada-U.S. institution (with which I am now connected), which is concerned not usually with matters of high policy but nevertheless with an area of significance to our national future.

Origin of IJC

Among the means which the United States and Canada have devised for dealing with one another is the body known as the International Joint Commission. In the development of joint Canada-U.S. institutions, the IJC was among the earliest; it dates from 1909. It is also true to say that, by common repute, this body possesses a creditable record, over this half century, in disposing of many problems of importance to the two countries.

A Bit of History

The IJC was, in form at any rate, the outcome of British-American diplomacy - for the treaty which created it was concluded before Canada acquired full control of her own external affairs. The signatories were both celebrated in their generation: on behalf of Great Britain, James Bryce, His Majesty's scholarly Ambassador at the time and, on behalf of the United States, the then Secretary of State, Elihu Root. But the real work of the treaty, and the development of much of the original doctrine on which agreement was ultimately achieved, was contributed by a Canadian, (Sir) George Gibbons of London, Ontario. It is he who should rightfully be regarded as the father of the IJC and the chief architect of the regime over which it presides. Sir George, apparently, had no easy time with the State Department on his many visits to Washington in the course of the negotiations. The Secretary of War, Taft, he found "disposed to take a large view". But he reported, in a letter to Sir Wilfrid Laurier, that he thought Root "a shrewd American who wants all he can get without being particular about the manner of getting"! He later modified this extreme view.

The despatches and private letters which record these long, and tough - and successful - negotiations make interesting reading. Gibbons, instructed by the Government in Ottawa, carried the ball. Bryce, however, from his more exalted position, appears to have been personally interested and helpful. I note - with some measure of envy in retrospect - that, when the discussions dragged on into the intolerable Washington summers, the British Ambassador was able to direct his despatches from "Seal Harbour, Maine"!

The treaty was ultimately signed in Washington on January 11, 1909, and ratified by the two governments early in 1910. Poor Sir George, alas, failed - though by only a very short head - to become the first Canadian Chairman of the new body which had been born in his image. The Order-in-Council for his appointment was drawn and signed. But the approval of the Crown did not follow. In the interval, there had been a general election. Canada had a new Government and Mr. Chase-Casgrain of Montreal sat first in the Canadian Chair.

The Treaty and the Commission

The object of the treaty was "to prevent disputes - to settle questions - between the United States and Canada". The short title was the "Boundary Waters Treaty", for the particular problems which the governments had in mind at the time were those arising "along the common frontier". It is interesting, nevertheless, that provision was made for wider application of the treaty regime, and for broader functions for the Commission.

The IJC was an unusual international body when it was established. It still is. Not only in its composition - there are three Commissioners from each country - but, more important, in the way it operates.

The concept of the negotiators was that solutions to problems in which the two countries had differing - even opposing - interests should be sought, not by the usual bilateral negotiation, but in the joint deliberations of a permanent tribunal composed equally of Canadians and Americans. In other words, the Commissioners were to act, not as separate national delegations under instruction of their respective governments, but as a single body seeking common solutions in the joint interest - and, very important, in accordance with agreed "rules or principles".

It is on this basis that the International Joint Commission has acted over the years. Its record of accomplishment has been impressive, particularly when one considers the unparalleled expansion of both countries in its (50-year) lifetime when variations and conflicts of interest were bound to develop. In almost every case which has come before them, the Commissioners have been unanimous. There has been little tendency to divide on national lines. The faith of the two governments in the method of the treaty has been amply justified.

Notable Cases

The problems which have come before the Commission so far have all arisen along the boundary. The majority have had to do with use of the great common resource of inland waters - rivers and lakes - which stretch from Passamaquoddy Bay to Juan de Fuca Strait. They have involved questions of domestic and sanitary supply, navigation, power development and irrigation. They have varied in nature and extent from extracting the maximum benefit from small streams in dry prairie areas to multi-million dollar developments on our great rivers. Most cases have come before the Commission as agreed "references" from the two governments, upon which, after investigation, conclusions and recommendations have gone forward to Washington and Ottawa. In many others, the IJC has exercised its judicial role and ruled upon applications made and argued before it. In some instances the Commission's role, having begun as deliberative and advisory, has continued into the administrative and regulatory.

Perhaps the best known cases in recent years have been those which had to do with our two greatest rivers, the St. Lawrence and the Columbia.

The role of the Commission in relation to the vast St. Lawrence developments of the past ten years arose from the desire of Ontario and New York to develop the International Section of the river for electric-power production. Also involved, of course, was the construction of the Seaway. In addition, the Commission was directed by the two governments to study Lake Ontario levels with a view to reducing extremes of stage by appropriate regulation in the interests of all concerned - riparian owners, navigation and power.

Most of this is ancient history. The Seaway, the hydro-electric plants and related works are built and in operation. The St. Lawrence Valley above Montreal has, literally, been remade. But the Commission retains an important function in relation to levels and flows. These are regulated weekly under the Commission's scrutiny and according to a plan designed best to serve all legitimate interests - above and below the dam at Cornwall and on both sides of the boundary. Nor do we ignore, in this complicated equation, the important Canadian interest in the Port of Montreal - although the Commission's jurisdiction does not extend to the national section. It is worth noting that, in the course of the regulatory process, your great harbour has not infrequently been above the levels existing before the Seaway and power development. The Commission is meeting again this very week to review once more, in the light of our experience, this whole complicated business of regulation, to see whether we cannot devise further improvements for all concerned.

The development of the great Columbia River basin is a matter of wide current interest, and comment, in both Canada and the United States. The International Joint Commission was directly involved in various aspects of this immense and complicated problem over a period of 15 years.

The Columbia is no longer actively before the IJC - has not been since December 1959, when it recommended "principles" upon which agreement might be made. It is now being dealt with by governments directly, on the basis of the treaty negotiated in 1960 and signed at Washington by President Eisenhower and Mr. Diefenbaker on January 17, 1961.

Another case, of special interest to Quebec, is the recent reference to the Commission on a proposed Champlain Waterway. Some months ago, the two governments asked the Commission to examine and report upon the feasibility of developing the historic St. Lawrence-Lake Champlain-Hudson River route. Here our preliminary investigations are now going forward, in accord with our usual practice, through a joint board of Canadian and

American experts. They will be reporting to us on the economics as well as on the engineering aspects of such an undertaking. Following the Commission's normal procedure, we will also be conducting public hearings in the areas directly affected, in both countries. For it has been one of the features of Commission operation to give full opportunity to local interests to make their views known. Finally, in the light of such representations, and of the reports prepared by our experts, the Commission will deliberate in private and, I fully expect, will in due course formulate recommendations for submission to the two governments.

The Commission's responsibilities also extend to improving and maintaining acceptable standards of quality in boundary waters. Here, its efforts over the years have had beneficial results, for example, in greatly improving the situation in the crowded Detroit-Windsor region and in the St. Croix River Valley in N.B., in both of which pollution threatened increasing injury to important national interests on both sides of the boundary.

Conclusion

This then is one method - in one important area of our affairs - for "dealing with Uncle Sam". Over a period of more than 50 years, Canadians have had reason to be satisfied with the results. The fact that Americans have probably had equal cause for satisfaction should not sully but rather enhance that record in Canadian eyes. It contributes a desirable sanity and permanence in our relations.

The principle behind the IJC is that, given mutual goodwill (assumed, despite recurrent difficulties between Canada and the U.S.), neighbouring countries, can, and should, resolve the problems which derive from their "neighbourhood" by an objective process of joint investigation and deliberation in the joint interest. The IJC is, in fact, based upon the conviction that, working together, Canadians and Americans can arrive at common decisions and formulate joint solutions, which are sound and just and to the common advantage of their respective countries.

Whether this same principle and similar procedures could usefully be extended beyond problems of the boundary seems to me worthy of consideration, on both sides, and this especially as Canadian-United States mutual involvement, and our "dealings with Uncle Sam", increase daily, in volume, complexity and significance.