



CANADA

STATEMENTS AND SPEECHES

INFORMATION DIVISION
DEPARTMENT OF EXTERNAL AFFAIRS
OTTAWA - CANADA

No. 70/3

CANADA LEADS THE FIGHT AGAINST POLLUTION

Part of an Address by Prime Minister the Right Honourable Pierre Elliott Trudeau to the Annual Meeting of The Canadian Press in Toronto on April 15, 1970.

...If part of our heritage is our wilderness, and if the measure of Canada is the quality of the life available to Canadians, then we must act should there be any threat to either. We must act to protect the freshness of our air and the purity of our water; we must act to conserve our living resources. If necessary, we must offer leadership to the world in these respects and withstand the cries of complaining vested interests. We have offered that leadership in the Arctic Pollution Bill introduced last week. The bill, I suggest, is a good example of Canada acting in a responsible manner in a vitally important area.

The Arctic ice-pack has been described as the most significant surface area of the globe, for it controls the temperature of much of the northern hemisphere. Its continued existence in unspoiled form is vital to all mankind. The single most imminent threat to the Arctic at this time is that of a large oil-spill. Not only are the hazards of Arctic navigation much greater than are found elsewhere, making the risk of break-up or sinking one of constant concern, but any major maritime tragedy there would have disastrous and irreversible consequences. The deleterious effects to the environment of a major oil-spill would be so much greater than those of a spill of similar size in temperate or tropical waters that the result can be said with scientific accuracy to be qualitatively different. For example, the injuries which would result cannot be measured in terms of dollars, as they can elsewhere, because the damages would not be of a temporary nature. Nor is there now known any technique or process which can control, dispel or reduce vagrant oil loose in Arctic waters. Such oil would spread immediately beneath ice many feet thick; it would congeal and block the breathing holes of the peculiar species of mammal that frequent the region; it would destroy effectively the primary source of food for Eskimos and carnivorous wildlife throughout an area of thousands of square miles; it would foul and destroy the only known nesting areas of several species of wild birds.

Because of the minute rate of hydrocarbon decomposition in frigid areas, the presence of any such oil must be regarded as permanent. The disastrous consequences which the presence would have upon the marine plankton, upon the process of oxygenation in Arctic North America, and upon other natural and vital processes of the biosphere, are incalculable in their extent.

Involved here, in short, are issues which even the more conservative of environmental scientists do not hesitate to describe as being of a magnitude which is capable of affecting the quality, and perhaps the continued existence, of human and animal life in vast regions of North America and elsewhere. These are issues of such immense importance that they demand prompt and effective action. But this huge area cannot be protected by Canada alone. Just as the Arctic environment is of benefit to many nations, so only, in the long run, will international controls be able effectively to protect it.

At the moment, there are some 20 major international agencies dealing with one or another aspect of environment protection. The United Nations is sponsoring a World Conference on the Human Environment, to be held in Stockholm in 1972. Canada is working energetically as a member of the preparatory committee for that conference and will press for the rapid introduction of a system of international environmental law to protect all vulnerable areas. But experience cautions us that we cannot sit back and assume that the present pace of development of international regulations is sufficient to prevent pollution from occurring at an early date in the Canadian Arctic. Nor need we rely on our own experience to come to such a conclusion. Mr. George Kennan, a distinguished American diplomat now a member of the faculty of Princeton University, referred to the activities of all these international agencies in an article in the current issue of Foreign Affairs. He wrote:

"...it is evident that present activities have not halted or reversed environmental deterioration. There is no reason to suppose, for example, that they will stop, or even reduce significantly at an early date, the massive spillage of oil into the high seas, now estimated at a million tons per annum and presumably steadily increasing. They will not assure the placing of reasonable limitations on the size of tankers, or the enforcement of proper rules for the operation of these and other great vessels on the oceans. They will not, as they now stand, give humanity in general any protection against the misuse and plundering of the seabed for selfish national purposes. They will not put a stop to the proliferation of oil-rigs in coastal and international waters, with all the dangers this presents for navigation and for the purity and ecological balance of the sea. They will not, except in a degree already recognized as quite unsatisfactory, protect the fish resources of the high seas from progressive destruction or depletion.... they will not assure that all uses of outer space, as well as of the polar extremities of the planet, are properly controlled in the interests of humanity as a whole."

Mr. Kennan calls for an effective international régime and he calls for it now. We join with him in that appeal. We know, however, that the international community moves slowly in the creation of new law and the construction of new apparatus. We have no reason to believe that such a régime can be expected within the next few months, or even years. But we know that Arctic shipping and Arctic mineral exploration activities are occurring now and that in the interest of Northern Canada they must be controlled and encouraged. Until such a régime exists, therefore, Canada must take steps to ensure that irreparable harm will not occur in the interim.

This is why I stated in the House of Commons last October that we were inviting the international community to join with us and to support our initiative for a new concept, an international legal régime designed to ensure to human beings the right to live in a wholesome, natural environment. I repeat now what I said at that time, that a combination of an international régime, and the exercise by the Canadian Government of its own authority in the Canadian Arctic, will go some considerable distance to ensuring that irreversible damages will not occur as a result of negligent or intentional conduct in the Arctic areas.

The biosphere is not divided into national compartments, to be policed and protected by national regulations. Yet neither is the current state of international law sufficiently developed to permit instant and effective protection for the Canadian Arctic against activities which are already under way. Our pollution legislation is without question at the outer limits of international law. We are pressing against the frontier in an effort to assist in the development of principles for the protection of every human being on this planet.

The pollution legislation is quite different from the bill proposing an extension of our territorial sea from three to 12 miles. The 100-mile zone in the pollution bill is an assertion of jurisdiction; the 12 miles is a claim of sovereignty. Fifty-seven countries now claim a territorial sea of the breadth of 12 miles or more. There is thus no novelty in 12 miles; there is no new legal concept involved. There are differences of opinion, but Canada is, nevertheless, prepared to have the territorial-sea legislation adjudicated upon by international tribunals. We are content to do so in this instance because there is a body of law and practice upon which a court can base its decision. Such is not the case, however, with the concept of pollution control. There is as yet little law, and virtually no practice, in this area.

It is for that reason that we are not prepared in this matter of vital importance to risk a setback. Make no mistake. Involved here is not simply a matter of Canada losing a case in the World Court -- that is one of the prices that we have long willingly paid as part of our adherence to an international rule of law. What is involved, rather, is the very grave risk that the World Court would find itself obliged to find that coastal states cannot take steps to prevent pollution. Such a legalistic decision would set back immeasurably the development of law in this critical area.

In short, where we have extended our sovereignty, we are prepared to go to court. On the other hand, where we are only attempting to control pollution, we will not go to court until such time as the law catches up with technology. In this respect we have acted as we have because of necessity, but also because of our awareness of the impetus given to the development of international law by individual state practice.

I consider this pollution legislation to be as exciting and as imaginative a concept as this Government has as yet undertaken. If government activities can be associated with youth and with spring, then this one is. It is not jingoist; it is not anti-American. It is positive and it is forward-looking.

Canada has been told that this pollution legislation is unacceptable because it is allegedly inconsistent with long-standing principles of freedom of navigation. Those who say this evidently regard the climatic conditions of the high Arctic as somehow similar to those close to the equator. This parallel we reject. Notwithstanding that map-makers may choose to illustrate the areas between the islands of the Canadian Arctic archipelago in the same fashion as they denote the water areas in tropical archipelagos, the physical circumstances in situ are quite disparate. Most of the Arctic channels are covered with heavy thicknesses of ice during most months of the year. This ice has presented such a barrier to navigation through the centuries that there has not yet occurred a single commercial voyage through the Northwest Passage. Only through abstract theorization can the Northwest Passage be described as an "international strait". Only by an examination conceptually removed from reality can Beaufort Sea be described as "high sea".

I suggest that it is a disservice to the development of international law to argue that important principles should be applied in circumstances which are clearly inappropriate. The law of the sea has evolved over many years, and is now to a large degree codified. Canada has taken a leading and constructive role in this process. During this lengthy evolution, however, states have never contemplated waters that are other than fluid. Only a handful of special regulations have been developed to meet special ice situations. It is our view that at the present time there is no customary law applicable to navigation in Arctic areas, and that we cannot wait for a disaster to prompt us to act. We need law now to protect coastal states from the excesses of shipping states.

Both as a stimulus to this necessary development and as a protection to all North Americans, we remain convinced that we must act immediately to legislate preventive measures for control of pollution, and we are doing so.

We have told our friends and neighbours that this Canadian step, designed to protect the Arctic waters, will not lead to anarchy; it is not a step which diminishes the international rule of law; it is not a step taken in disregard of the aspirations and interests of other members of the international community. Canadian action is instead an assertion of the importance of the environment, of the sanctity of life on this planet, of the need for the recognition of a principle of clean seas, which is in all respects as vital a principle for the world of today and tomorrow as was the principle of free seas for the world of yesterday.

For 300 years, governments have devoted themselves to the increase of state wealth: through expansion of trade, through growth of the industrial base, through welfare programs to aid and retrain the victims of society. We have conducted these worthy activities in the belief that this planet is possessed of an inexhaustible supply of fresh air and clean water, a permanent balance of flora and fauna -- an optimism born of the knowledge that nature is a force so strong it cannot be upset permanently.

We now know that this is not so. We now know that spring is not automatic. We now know that the responsibility is ours to restore and maintain the health of the biosphere. Without sunshine, without health, growth and wealth are meaningless. Every human being realizes this, but perhaps it is for Canada -- the land of space, of youth, of spring -- to take the lead, to depart from the insane course on which mankind has embarked and to return to the point where we and our children can say without hesitation "God's in his heaven - all's right with the world!"

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