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## CONTENTS

International Law and Politics .....	1
Loan for Jamaican Schools .....	3
Food-Labeling Meet in Ottawa .....	3
Territorial Bank of Cuba .....	3
NORAD Award to Coast Guard .....	3

Airport Moving Sidewalk .....	4
Stratford Season Flourishes .....	4
Labrador Fisheries Surveyed .....	4
Tulip Named for EXPO .....	4
Imports and Exports .....	5
Forest Fires .....	5

## INTERNATIONAL LAW AND POLITICS

*Prime Minister L.B. Pearson recently addressed the American Bar Association in Montreal. The following is a partial text of his remarks:*

...Over the week-end I was glancing at the reports of your 1913 convention. In many ways it seemed like the record of a far distant age....

In those earlier proceedings, there was much talk of the bonds of friendship between the English-speaking nations; of the undefended border between our own two countries and our 100 years of peace....

There was also much optimism expressed at your 1913 meeting about the prospects for peace in the world. Mr. Kellogg, in his Presidential address, spoke hopefully of the "principles of international law which, in the science of modern governments, are taking the place of war in the settlement of disputes".

Your guest of honour from England that year was Lord Haldane, the Lord Chancellor. He took as his subject, "The Higher Nationality", which was to embrace all humanity.

"There is apparent", he said, "a tendency to seek for a higher standard of ideals in international relations. The barbarism which once looked to conquest and the waging of successful war as the main object of statesmanship seems as though it were passing away. There have been established rules of international law which already govern the conduct of war itself...with the result that the cruelties of war have been lessened."

...The dreary and tragic years of failure and futility followed. We lapsed back into international anarchy and frustration. There was no law between nations that could save us from the consequences of our political failures as men. Never, indeed, has the interaction between law and politics been more

tragically demonstrated than in those years between the wars - unless it was in the period after the Second War.

### SOUTH WEST AFRICA

I should like to mention one recent and significant illustration of this interaction. It is found in the judgment - unexpected at least to a layman - on South West Africa by the International Court of Justice. After nearly six years of the most complicated legal arguments, the Court had to decide the case - though not the substance of it - by resorting to the extra tie-breaking vote given by its President, Sir Percy Spender of Australia. As you know, the World Court, without giving judgment on the substantive points at issue, ruled that Ethiopia and Liberia, acting as members of the former League of Nations, had not established any legal right or interest in their complaints against South Africa's administration of South West Africa. Yet the Court had already declared in 1962, again by a narrow majority, that it *had* the necessary jurisdiction to hear the case. This adds to the difficulty of appreciating the narrow procedural point on which the decision was based. Indeed, one distinguished Canadian professor of law has said that the decision "would baffle the intellectual ingenuity of a medieval scholar".

The judges who voted not to take cognizance of the merits of the case did so for what seemed to them to have been sound technical reasons without regard to any other considerations. The judges who dissented were concerned by the political consequences of failure to deal with the case itself on technical grounds which seemed to them to be insubstantial.

#### UNFORTUNATE RESULTS POSSIBLE

The Court's inability to come to grips with the merits of the South West Africa case may, in the long run, have unhappy consequences from the point of view of the progressive development of the rule of law in the international field, which is so vital for the future well-being of the world community.

The Court's decision shows that the international legal system will have to evolve much farther if the rule of law in international conduct is to become the reliable instrument for regulating relations between states which it has become in governing the conduct of individuals within states.

The absence of any international legislative body, such as Parliament or Congress, with the task of prescribing universally-accepted principles and norms of behaviour for the international community, has been for a long time commonly regarded as the first obstacle which would have to be overcome before the rule of law could be relied upon to play internationally the role which it fulfils domestically.

In spite of this handicap, however, progress has been made in the last decades in the field of the progressive definition and codification of the rules and principles of international law.

One can now visualize with a greater degree of confidence the day when it will no longer be possible for countries confronted with an international problem or dispute to ask in good faith: "What is the law?" It will then be more important than ever to have adequate answers to the two closely-related questions: "Who is to apply the law?" and "Who is to enforce it?"

In answering the first of these two questions, the extension of the compulsory jurisdiction of the International Court to more countries, and to more subjects, will, of course, be all-important. The fact that the decision of the World Court in the South West Africa case may have the unfortunate effect of slowing down this progress cannot but be a matter of deep concern.

#### ENFORCING LAW OF NATIONS

The second question concerns law enforcement in the international field. The international community has neither found it possible nor advisable as yet to make use of the enforcement provisions contained in the Charter of the UN. We can, however, take some encouragement from the fact that a peace-keeping role has, more than once in the last ten years, been entrusted by the UN to international police forces in various regions of the world. Canada has played, and has every intention of continuing to play, a very active part in supporting, organizing and extending these peace-keeping functions of the UN as an essential step toward the peaceful settlement of international disputes....

The decision on South West Africa is an illustration of the dilemma which a judge must face - certainly in an International Court - when this happens.

The reaction of this decision in a large part of the world already has been one of anger and resentment; of charges that the World Court has now shown itself to be a white man's tribunal, dispensing white man's law at the expense of black man's justice.

Therefore, it will be argued, however wrongly, that direct political action, or even force, must now replace reliance on legal processes. This reaction will lessen the possibility of the Court being able to construct a legal foundation for international progress. In the result, law and progress will both suffer.

The reaction to domestic legal decisions which seem to many to be out of harmony with, and to ignore contemporary social and political developments can, of course, be equally damaging and dangerous - even though such decisions have not only traditional respect behind them but the force necessary to ensure their observance.

At a period when mass power, mass opinion, mass emotion and, at times, mass prejudice tend to dominate democracy, when legal procedures and traditions seem to be weakening in the face of these mass pressures which too often are directed to selfish and immediate gain rather than ultimate and general good, any widening of the gap between law and politics in the evolution of society will harm the law even more than politics. In the long run, it can lead to anarchy or tyranny by weakening the rule of law on which responsible freedom and ordered progress can alone securely be based. The demagogue or dictator can undermine peace and order internationally and nationally by exploiting political processes and popular emotions. He can also unwittingly be assisted in this evil purpose by an extreme traditionalist interpretation of the law which makes it seem remote from social, political and technological change.

There is, of course, the danger that law, wrongly influenced by political pressure, could become the plaything of politicians. On the other hand, law too far removed from political and social realities, either in its making or in its interpretation, can become lifeless and even obstructive to progress....

There must be freedom from the wrong pressures on the one hand and from domination by dead procedures and precedents on the other. Precedent may strengthen legal certainty but it can also hold back healthy social progress. It was Lord Denning who ventured to point out to the law lords in London a few years ago that "the doctrine of precedent does not compel your lordships to follow the wrong path until you fall over the edge of the cliff". Their lordships, I note, a few weeks ago decided to remove this danger by indicating their intention to depart in the future from legal precedents in the decisions they make, when they consider this desirable.

#### LEGAL FLEXIBILITY

As a politician, I stress the desirability of a certain legal flexibility (I recognize fully the danger in the use of that word) in order to strengthen, not to weaken, respect for the law and legal processes at a time when that respect seems to be diminishing.

Adaptation to change is often essential to directing and controlling it so that it will not explode into violence. Rigidity has often been the handmaiden of revolution and subversion.

If we fail to make necessary adjustments in our thinking about politics, economics, law and philosophy at a time when movement and change are so swift and bewildering, then we are in for serious

(Continued on P. 5)

## LOAN FOR JAMAICAN SCHOOLS

The Secretary of State for External Affairs, Mr. Paul Martin, and the acting Prime Minister of Jamaica, Mr. Donald B. Sangster, recently signed a loan agreement which will make \$600,000 available for the expansion of the Jamaican school system.

The interest-free loan will be used for the purchase of Canadian equipment and services in the construction of about 40 small pre-fabricated primary schools and teacherages in rural areas. Each school will accommodate between 100 and 200 children.

This is the third such loan to be signed with Jamaica under the special development loan programme administered by the External Aid Office. The first two agreements, made in September 1965, provided funds for the construction of a new bridge across the Johnson River and for services in connection with a low-cost housing project near Kingston.

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## FOOD-LABELLING MEET IN OTTAWA

A committee of the United Nations Codex Alimentarius Commission, the Codex Committee on Food Labelling, met recently in Ottawa. Delegates and observers from 11 nations convened in the West Block on Parliament Hill to study specific problems assigned to the Committee by its parent body. As its name implies, the Committee is concerned with international agreement on a uniform system of food labelling.

Recalling the failure of past efforts to set up a uniform labelling programme, Dr. S.C. Barry, Canada's Deputy Minister of Agriculture, said the Committee provided a vehicle by which this might be accomplished. "If there are any prospects of getting together on this important matter, this is the type of organization to get it done", Dr. Barry told the delegates. Food labelling was one area, he added, in which "it should be possible to make progress and see our way clear to sort out our difficulties".

## FORMATION OF CCFL

The Codex Alimentarius Commission, jointly sponsored by the UN Food and Agriculture Organization and World Health Organization, was established in 1962. Meeting in Geneva two years ago, it accepted Canada's offer to assume responsibility for the Committee on Food Labelling, which met for the first time last year.

The nations represented at the meeting included, besides Canada, Australia, Belgium, Britain, Denmark, the Federal Republic of Germany, Israel, the Netherlands, Poland, Switzerland and the United States.

The objectives of the Codex Commission are to promote and strengthen international trade in raw, semi-processed and processed foods, to promote fair trade practices, to ensure that consumers in any country of the world are supplied with safe, wholesome food of acceptable quality, and to ensure that all foods are properly labelled and presented so that all elements of fraud and deception are removed.

## TERRITORIAL BANK OF CUBA

On May 6, the Department of External Affairs drew attention to an official announcement by the Ministry of Foreign Affairs of Cuba, dated March 15, giving notice of the liquidation of the Territorial Bank of Cuba. On August 9, the Department called attention to a second Cuban announcement dated June 15, concerning the liquidation of the Territorial Bank, giving notice that the deadline, which had been June 15, for the submission of claims against the Bank, had been extended for 90 days to September 12, 1966, after which any legal action would be considered to have lapsed and all rights the claimants might have would be regarded as waived.

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## NORAD AWARD TO COAST GUARD

Captain George S. Burdock of the ice-breaking cable-repair ship CCGS *John Cabot*, recently received a special award from the North American Air Defence Command in a ceremony on board his ship in the Port of Montreal. The award, called the "Shield of Freedom", was presented by NORAD in recognition of services rendered by Captain Burdock to the United States Government when he and his crew repaired, under extremely adverse conditions, an Arctic submarine cable.

Transport Minister J.W. Pickersgill was represented at the ceremony by Mr. John Turner, Minister without Portfolio. The U.S. Consul General in Montreal, Richard H. Hawkins, was in attendance, as well as the Assistant Deputy Minister, Marine, G.W. Stead, the Director of Marine Operations of the Department of Transport, A.H.G. Storrs, and the president of the Canadian Overseas Telecommunication Corporation, D.F. Bowie. The presentation was made by Mr. Turner. The incident that won Captain Burdock his award occurred in November 1965. A break in a submarine cable southwest of Thule, Greenland, in Baffin Bay, had been reported and the *John Cabot* was called on to repair it. The Coast Guard had never had to carry out such work in the Arctic so late in the year.

The cable-repair ship arrived at the scene of the break early in November and its crew set to work. Current-driven ice and violent winds made the job extremely difficult. On November 5, however, one end of the broken cable was raised. The ice again got the upper hand, and it was decided to abandon the work temporarily and to call for ice-breaker assistance. "We had buoys fixed to the ends of the cable," Captain Burdock later stated, "but they were torn away by the ice".

Answering the call of the cable-repair ship, the Canadian Coast Guard ice-breaker *d'Iberville* and the American ice-breaker *Westwind* headed north.

When work could be resumed, it took the crew of the *John Cabot* only 12 hours to repair the break. The *d'Iberville* and the *Westwind*, using football tactics, pushed aside the floating ice masses while the work continued, most of the time by the light of projectors because the Arctic night, in winter, lasts

almost 24 hours a day.

When the work was finished, the three vessels headed south without delay, for ice was already covering 90 per cent of the more remote passages of Baffin Bay. Twice during the return voyage they had to cope with hurricane force winds. Captain Burdock related that they experienced gales up to 90 miles an hour in Davis Strait.

For the *John Cabot* the trip was only its second into the high Arctic. In August of the same year, its crew had repaired a broken cable in the same area.

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### AIRPORT MOVING SIDEWALK

The first of four speedwalk passenger conveyors for Montreal International Airport recently started operation as the incoming section of the international tunnel went into motion.

The 450-foot moving sidewalk helps passengers arriving from overseas to move quickly from the aeroquay to the immigration, health and customs facilities in the main terminal building. It travels at 120 feet a minute, or one-and-a-half miles an hour, about half the average walking speed, so that a passenger walking on the belt takes little more than a minute to pass through the 500-foot tunnel.

The three other speedwalks in the \$800,000 contract are expected to be completed this autumn. They include one in the departures section of the international tunnel and two 475-foot units in the domestic tunnel. The latter will be the longest moving sidewalks in any airport in the world.

The conveyer-belt of the first installation is 43 inches wide, with a grooved carrying surface of neoprene rubber. It is steel-reinforced to ensure lateral rigidity and is carried on closely-spaced rollers under the edges.

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### STRATFORD SEASON FLOURISHES

Halfway through its 1966 season, the Stratford Festival box-office sales have passed \$1 million — only three days behind last year's all-time record pace. This includes tickets sold for the first nine weeks and advance sales for the remaining nine weeks of the Festival which ends October 8.

Now at the peak of attendance for the three Shakespearean plays, *Henry V*, *Henry VI*, and *Twelfth Night*, the Festival also has two contemporary plays running, *The Last of the Tsars*, and *The Dance of Death*, besides the opera, *Don Giovanni*. Five of the eight Sunday concerts and three of the six Saturday morning chamber music concerts have been presented.

### OPERA AND DRAMA

The Stratford opera and drama workshops, which were inaugurated last season and have broadened their scope considerably this year, were created to give actors a knowledge of music and musical techniques

as applied to the stage and to coach opera singers in acting techniques.

More than 40 members of the acting and opera companies are participating in the workshop programmes, which end this month with a private presentation by members of the workshops in the Avon Theatre. Works to be presented include the opera, *Trouble in Tahiti* by Leonard Bernstein, as well as excerpts from *Aria Da Capo*, a short opera by Raymond Pannell, and works by Berg, Henze and Foss. The drama workshop will present *Family Album*, a Noel Coward one-act play and a condensation of *Spoon River Anthology*.

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### LABRADOR FISHERIES SURVEYED

Recommendations for the further development of the fisheries of Labrador are under study by the federal Department of Fisheries and the Department of Fisheries of Newfoundland. They are contained in the report of a survey of Labrador coastal communities commissioned by the two departments.

The report, the result of a two-month investigation of the fisheries along the Labrador coast, has been submitted to Fisheries Ministers H.J. Robichaud in Ottawa and C. Max Lane in St. John's. In a joint statement, the ministers said that the recommendations would receive careful study. Those that promised to make a contribution to the fisheries-development programme would be implemented as soon as possible, either as part of the joint federal-provincial programme or as separate federal or provincial projects.

### CONTENTS OF REPORT

The survey, which took the team to every community from Blanc Sablon at the Quebec border to Nain on the north coast of Labrador, and included Hamilton Inlet and Lake Melville, was carried out primarily to establish fishery-development objectives toward which the federal and provincial governments might move during the next ten years. The report projects trends that may be anticipated on the basis of changes that may take place in the fisheries of Newfoundland and Labrador. It not only envisages the extent to which the traditional fisheries of the region might be further encouraged, but outlines the advantages that might accrue to fishermen by enabling them to obtain better types of boat and more efficient fishing-gear and equipment.

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### TULIP NAMED FOR EXPO

The Netherlands has named its newest and most vivid tulip in honour of Expo '67. Quantities of "Expo '67" tulips will be shipped to Montreal this summer, to be planted on the site of the Exhibition in time for the opening next year. The flower is a brilliant red and has a 26-inch stem. It took 20 years of cross breeding to produce.

## IMPORTS AND EXPORTS

Canadian commodity imports in June are estimated at \$899,200,000, an increase of 13.2 per cent over the \$794,700,000 recorded in the corresponding month last year. Exports for the month were worth \$856 million, up 16.1 per cent from \$737,200,000 a year earlier. The resulting import balance was \$43,200,000 compared to \$57,500,000 a year earlier. In the first half of this year imports rose 16.9 per cent to \$4,759,800,000 from \$4,070,200,000 a year ago, and exports 19.1 per cent to \$4,786,600,000 from \$4,018,600,000. The export balance for the period was \$26,800,000, in contrast to an import balance of \$51,600,000 a year earlier.

### UNITED STATES

Imports from the United States in June increased 17.7 per cent to \$658,800,000 from \$559,800,000 in the corresponding month last year, while exports to that country advanced 22.4 per cent to \$548,300,000 from \$448,000,000. In the January-June period imports from the U.S. rose 20.1 per cent to \$3,503,800,000 from \$2,916,400,000, and exports 25.2 per cent to \$2,952,600,000 from \$2,358,600,000. The import balance was little changed in the month at \$110,600,000 versus \$111,800,000, and also in the six months at \$551,200,000 versus \$557,800,000.

### BRITAIN

Purchases from Britain in June totalled \$49 million, an increase of 1.7 per cent from \$48,200,000 in the same month last year, while the month's exports declined 10.5 per cent to \$88,900,000 from \$99,300,000. In the January-June period imports from Britain increased 9.0 per cent to \$316,900,000 from \$290,600,000, while exports declined 2.9 per cent to \$554,400,000 from \$571,200,000. The resulting export balance was smaller this year, standing at \$39,900,000 in June versus \$51,100,000, and at \$237,600,000 in the half-year period versus \$280,600,000.

### COMMONWEALTH COUNTRIES

Commodity purchases from other Commonwealth and preferential-rate countries in June were worth \$41,500,000, up 11.6 per cent from \$37,100,000 a year ago, bringing the six-month total to \$169,600,000, larger by 7.3 per cent than last year's \$158,100,000. Exports to the group in June were valued at \$33,900,000 down 25.4 per cent from \$45,400,000, while the half-year value fell 9.4 per cent to \$230,600,000 from \$254,600,000. There was an import balance of \$7,600,000 in June in contrast to an export balance of \$8,300,000 a year earlier, while the half-year trade yielded an export balance of \$61 million this year against \$96,600,000 last year.

### OTHER COUNTRIES

Imports from all other countries together were up slightly in the month to \$150 million from \$149,500,000 in the same month last year, while the half-year value rose 9.1 per cent to \$769,500,000 from \$705,100,000. The month's exports to the group increased 28.0 per cent to \$185 million from

\$144,500,000, placing the half-year value at \$1,049,000,000, up 25.7 per cent from \$834,200,000. There was an export balance of \$35,100,000 in June versus an import balance of \$5,100,000 in the same month last year, while the six-month trade resulted in an export balance of \$279,400,000 against \$129,100,000 a year ago.

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## FOREST FIRES

Department of Forestry estimates indicate that fire damage to Canada's forests during June was nearly three times as high as in the same month of 1965. Some 215,000 acres were hit in June by 1,275 fires, compared to 75,000 acres damaged by 1,457 fires in the same month in 1965.

The June 1966 estimates include 158 fires in the Yukon and Northwest Territories, involving some 73,000 acres. During the same month last year, the amount was much lower in this area with only 19 fires damaging 107 acres.

The seasonal estimated total across Canada to the end of June now stands at 244,000 acres damaged by 2,962 fires. This is a marked increase over last year's acreage figures for the same period when 132,000 acres were damaged by 3,490 fires.

Up to the end of May this year, 1,687 fires have swept 29,000 acres.

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## INTERNATIONAL LAW AND POLITICS

(Continued from P. 2)

trouble. But we will not be able to make these adjustments successfully if we assume that they will be easy, automatic or self-controlling....

The tendency is increasing to place the achievement of a desirable political goal - civil rights, fundamental freedoms, social justice - above the processes of the law as an essential instrument to its achievement; to insist that if the law appears to be lagging behind social need, then militant power can be used outside the law. This is a form of subversion far more dangerous than that spawned by any ideology. It can destroy all hope of ordered progress. Moreover, its demoralizing process is greatly assisted by the fact that today the media of communication and propaganda and incitement can be used by the fanatic and the demagogue with infinitely greater and quicker effect than ever before in history.

### NATIONAL RESPONSIBILITY FIRST

The effect of all this extends beyond national boundaries. If we cannot ensure that the law remains a steadying and cohesive force in our own society, how can we possibly expect to bring about a situation between states which will enable us to find that moral and political and economic equivalent for war which is now essential for survival?

If we weaken in our respect for law at home, how can we ever hope to substitute law for force as the determinant of peaceful relations between peoples? What possible hope is there for the acceptance of controversial decisions of a world court or the controversial resolutions of a United Nations, if decisions of our own courts, including the highest in the land, are challenged, mocked, and even rejected by sections of public opinion?

The strengthening of the rule of law *within* states is, in short, essential both for the health of society and for the establishment of a rule of law between states....

National governments must one day accept the same limitations on their power and authority and for the same reasons: peace and order and progress. They must free themselves "from the disastrous conviction", as Barbara Ward puts it, "that the hierarchy of responsibility ends at the level of national responsibility...(that) Below may be law... All above is force."

UN TO LEAD THE WAY

A first timid step has been made away from this conviction and toward the acceptance of world law and authority in the work of the United Nations. Its assemblies have tried, by discussion and decision, to develop moral force as a basis for international law and as a deterrent to national aggression. Even more significant, the United Nations, as I have already mentioned, has used international police forces to

stop or contain or prevent armed conflict between nations.

These steps are encouraging as far as they go, but they don't go very far. Indeed, the power of the United Nations to act for all people is almost a mockery alongside the power of great states to act for their own people and against others. Yet a beginning has been made.

If it were not for our national blinkers, our national prides and prejudices, we would seize on these first feeble achievements of the United Nations in law making and peace keeping as an exciting and challenging point of departure in the achievement of the only security we can possibly get against nuclear annihilation: collective security based on collective action, and on collective international policy. We should bend every effort to achieve this objective but we remain more concerned with other matters that seem to be more important than mere survival.

I conclude by re-affirming these two goals that we should seek to reach.

The first is a law for all humanity, based on justice and an accepted standard of behaviour, produced and protected by a world organization, with international force behind international law....

The second goal is to make national law stronger in the respect it earns and achieves, and in the justice it ensures; stronger by a process of evolution which keeps it in harmony with a changing society; stronger by the wisdom of its legislative creation, the integrity of its administration and by its fearless and impartial enforcement....

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