

STATEMENT DISCOURS

SECRETARY
OF STATE
FOR EXTERNAL
AFFAIRS.

SECRÉTAIRE
D'ÉTAT AUX
AFFAIRES
EXTÉRIEURES.



STATEMENT BY

MR. W. KENNETH ROBINSON, M.P.

PARLIAMENTARY SECRETARY TO

THE MINISTER OF

NATIONAL REVENUE ON THE

GARRISON DIVERSION

OTTAWA,

MAY 8, 1984

Mr. Speaker, at the outset I would like to congratulate the Hon. Member for Selkirk-Interlake (Mr. Sargeant) on his persistence and his concern about this very important matter. I can assure him that this matter is not only a concern to him and his constituents but it is a concern to all Canadians. It has been a great irritant between Canada and the United States for a number of years.

I welcome this opportunity to respond to the Hon. Member's statement on an appropriate strategy for managing the longstanding garrison issue. The Hon. Member is advising the Government in his motion before the House to consider the advisability of taking necessary measures to ensure that no damage is caused to the Manitoba environment by the construction of Garrison project features. His recommendation in particular is that the Government continue current diplomatic action, offer legal and technical assistance to anti-Garrison citizen groups and, should these measures fail, that the Government bring the United States of America to trial at the International Court of Justice in the Hague.

I might point out to Hon. Members that this motion is substantially the same as that introduced by the Hon. Member on February 9, 1981, and debated again in the House on November 2, 1983. However, while the motion is substantially the same, the Garrison Diversion Unit we are facing in 1984 is substantially different from that which was envisaged in 1981, or so I have been advised. In response to persistent representations by the Canadian Government based on the conclusions of the International Joint Commission's 1977 report, in 1982 the United States undertook a major redesign of the full 250,000 acre project into two phases in order to proceed with the construction of only one phase, which would not affect waters flowing into Canada, while deferring indefinitely construction of phase II, which would affect waters flowing into our country. Further project revisions and technical modifications have been introduced by the United States Bureau

.../2

of Reclamation engineers over the past half year, largely as a result of the technical consultative process developed last fall by federal and Manitoba officials and agreed to by the United States at the November 21, 1983 consultations in Ottawa.

The considerable success achieved by the Canadian Government in securing project modifications and safeguards for phase I features was evident at the most recent round of consultations held on April 25 in Washington. The Hon. Member is himself aware of the very positive results achieved by the Canadian delegation through the technical consultative process, and has gone so far as to stand in the House a week ago on May 1 to portray the April consultation as "good news" and even as "a breakthrough".

I believe that the Hon. Member's statement on May 1 is a more accurate and timely reflection of the success and status of government efforts to resolve the Garrison issue than is his motion which dates back to 1981. I agree, however, with his view that the April consultations represent an important step forward rather than a complete victory. I can assure him, therefore, that the Government will indeed continue diplomatic action through the technical consultative process to the point where no Garrison feature which potentially could damage or pollute waters flowing into Canada is constructed or contemplated. That said, I see no reason at this stage for the Government to adopt additional and unproven measures when measures already in place have already proven effective to the satisfaction of federal and Manitoban representatives.

The process to which I have referred a number of times already is one that is being pursued together by federal and Manitoban officials. It has two clear objectives: first, to ensure that technical modifications and safeguards for phase one Garrison features are fully adequate; and second, to obtain clear, credible and publicly convincing assurances from the U.S. Government that phase II as planned will never be built. These two objectives are based on recommendations of the International Joint Commission's report, which is and always has been the foundation of Canada's position on the Garrison Diversion unit.

With respect to project features defined by the United States as phase I, Canada has requested technical modifications and safeguards to eliminate the risk of accidental, inter-basin biota transfer, pursuant to the following recommendations of the International Joint Commission:

If and when the Governments of Canada and the United States agree that methods have been proven that will eliminate the risk of biota transfer, or if the question of biota transfer is agreed to be no longer a matter of concern, then the construction of the Garrison Diversion Unit which will affect waters flowing into Canada may be undertaken providing the following conditions are met:

- (a) Any agreed modifications or other measures required to resolve the inter-basin biota transfer issues are incorporated into the project-

Canada is categorically opposed, as the Hon, Member knows, to those project features defined by the U.S.A. as phase II, and has requested tangible evidence from the U.S.A. that its assurances on that score are in fact credible, bearing in mind the International Joint Commission's recommendation that:

-those portions of the Garrison Diversion Unit which would affect waters flowing into Canada not be built at this time.

Canada proposed the technical-consultative mechanism to the U.S.A. side at the November 21, 1983 consultations. This was an attempt to shift management of the Garrison issue back on track towards mutually agreeable solutions, after a long period of protracted and often interrupted consultations.

Canada has always valued general assurances provided by the United States at the policy level not to construct Garrison features which would affect adversely Canadian waters, and had always welcomed the commitment of successive United States administrations to the principle of consultations. At the same time, however, the Government realized that if it was to be successful in its determination to protect Manitoba's commercial and native fishing interests and prevent the pollution of Hudson Bay drainage basin waters by foreign biota from redirected Missouri River water, then it must fashion some instrument for translating general assurances from the United States into technical assurances and have safeguards built into the specifications of Garrison engineering plans and drawings.

Further to the requirement for a bilateral mechanism at the technical level was the requirement to institutionalize bilateral consultations at the senior officials' level. Canada was seeking above all else a fail-safe mechanism for preventing a recurrence of the Lonetree Dam fait accompli, which in August

1983 had aroused deep concerns if not suspicions in the minds of many Canadians that the United States intended to proceed with construction in advance of consultations.

Against the background of these considerations, Canada presented the United States with two alternatives: either to resolve to manage jointly the Garrison issue in a manner that reflected the two nations' mutual commitments to the 1909 Boundary Waters Treaty and to recommendations of the International Joint Commission, or to allow matters to devolve along separate tracks, with the risk that the inevitable environmental and political consequences would dominate the issue, undermine Canada-U.S.A. efforts to manage our joint tenancy of North America, and make a solution to the Garrison issue even more difficult.

It was evident at the November consultations that both countries preferred the first course of action to the second. The technical-consultative mechanism they agreed to comprises a senior officials' consultative group with representatives from the Canadian, Manitoban, American, and North Dakotan Governments, and the Garrison Joint Technical Committee of technical experts from these respective Governments. The United States readily supported the establishment of a technical committee, in particular, which hopefully could move the Garrison issue from the arena of political rhetoric to the domain of disinterested professionals of impartial judgement. To ensure that the technical committee did not work in total isolation from the policy and political process, the technical committee was made accountable to the senior officials' consultative group, which would next meet in April and, as the Hon. Member knows, it did meet at that time.

The Garrison Joint Technical Committee has been mandated by the consultative group to carry out two prime functions. The first function is to examine Canada's immediate phase I technical concerns, which were communicated formally to the United States in Canada's diplomatic note 473 of October 3, 1983. These are recapitulated, item by item, in the technical committee's terms of reference. To this end, the committee is tasked with obtaining all relevant technical information, project plans, specifications, construction schedules, secondary source material and information from on-site inspections in order to assess Canada's concerns and American-proposed solutions. The second and longer term function is to act as an early warning signal to alert the federal and Manitoban Governments should it appear that phase II construction might proceed. Specifically,

this function tasks the technical committee with monitoring the plans of the United States for future development and advising the consultative group on technical considerations related to whether and how phase II might be developed outside the Hudson Bay drainage basin without damage to Canadian waters. In this respect, as with phase I concerns, the consultative group technical committee's interface provides Canada with an effective bilateral mechanism for narrowing the gap between general assurances at the policy level and actual project modifications at the technical level.

In my opening remarks I mentioned that in the May 1 statement of the Hon. Member he portrayed the April consultations as good news and a breakthrough. I would like to emphasize that the outcome of the consultations, which was very positive indeed, was no accident but was, rather, the product of a lot of hard and concentrated work by the technical committee and its task forces. In the short space of time between its establishment in January, 1984 and the April consultative group meeting, the technical committee met four times in Winnipeg, Bismarck, again in Winnipeg, and in Denver to examine those phase I technical concerns for which engineering plans were available and to monitor Bureau of Reclamation construction schedules and budget documents relative to the intentions of the United States for future development of the Garrison projects. At its first meeting in January, the technical committee established a supportive task force structure in the fisheries and biota, wildlife mitigation and engineering fields, which comprised representatives of the Canadian, Manitoban, the United States and North Dakotan Governments. Arrangements were also made to establish a fourth task force. These meetings and consultations went on endlessly and are continuing.

Hon. Members who have followed closely the Garrison debate over the past year will be familiar with the two key issues which were uppermost in the minds of the Canadian delegation as the consultations approached. The issue of whether or not the United States would construct the McClusky Canal Fish Screen had been a subject for consultation in November, with inconclusive results, and deferred to the April consultations when the report of the technical committee on the biota situation in the Missouri and Hudson Bay systems would be available. Of equal concern was the issue of the intentions of the United States regarding phase II, that is, the continued construction and the need to secure tangible evidence that assurances of the United States were credible.

The McClusky Canal Fish Screen was not included in original designs for the Garrison project, but was added shortly before 1975 in response to concerns, mainly from Canada - one can see from this that the matter has been going on for at least ten years - that diverted Missouri River water would convey undesirable fish species, fish disease, and other biota via McClusky Canal directly into the Lonetree reservoir. From there it would enter into all associated water systems of the Hudson Bay basin. However, at a bilateral technical meeting in Ottawa on July 20, 1983, the United States made available to Canada the final supplemental environment statement prepared by the Department of Interior which reported that the fish screen was no longer contemplated. Canada was told that this decision would be made final only after the consultations anticipated for the fall. This kind of thing went on.

Canada's request for construction of the fish screen was raised by the Deputy Prime Minister and Secretary of State for External Affairs (Mr. MacEachen) when he met with Secretary of State Mr. Shultz for their bilateral discussions on October 16 and 17 in Halifax. The same issue dominated the agenda at the November 21, 1983, meeting. You can see, Mr. Speaker, that this has been a matter of concern to both sides at a high level for quite some time. I suppose the cost of this project was really one of the problems, because the cost for the Fish Screen Project is \$40 million.

In April, the consultative group reapproached the question of the fish screen, this time equipped with the results of the technical committee's study of the fish and biota situation in the Missouri and Hudson Bay systems. Canada built its case for the fish screen on the technical committee's finding that there had been no significant change in the distribution of problem fish species in the Missouri and Hudson Bay systems which would cause different conclusions to be reached from those in the 1977 International Joint Commission, reinforcing its case with the technical committee's conclusion that downstream movement of rainbow smelt and other Missouri species into the Lonetree reservoir was certain without the fish screen while the fish screen, though unproven, would provide a first line of defense against any such movement.

The second major issue dominating the agenda for the April 25 consultations was the question of U.S.A. intentions regarding phase II. Canada has taken every opportunity to communicate its unequivocal opposition to phase II, and did so once again at the consultations. As anticipated, the United States repeated earlier assurances provided in diplomatic notes and at bilateral discussions that phase II would be undertaken

"only if it could be implemented consistent with the United States obligations under the Boundary Waters Treaty" and that no contracts would be let until Canada had been afforded "an opportunity to consult with the Government of the United States on specific features, and adequate assurances had been given that Canadian waters could be protected, as recommended by the IJC".

Canadians, Manitobans in particular, have always valued such assurances and appreciated the fact that the United States is proceeding with construction of only phase I features, which will not transfer Missouri water to the Hudson Bay basin and which are subject to the modifications and safeguards introduced through the technical consultative mechanism.

What the Canadian side had in mind was a study of viable alternatives to phase II construction outside the Hudson Bay draining basin which could not affect adversely waters flowing over the border into Canada. In response, the United States agreed to support and broaden initiatives to study such alternatives. This agreement is a good example of the kind of positive results which emerged from the April 25 consultations and which motivated the Hon. Member to speak as he did about the breakthrough last week.

The McClusky Canal Fish Screen and phase II were the most significant but not the only concerns addressed at the April consultative group meeting. The consultative group reviewed and concurred with 17 recommendations and conclusions submitted in the technical committee's report for resolving a substantial number of Canada's detailed engineering and wildlife mitigation concerns which had been outlined in Canada's note No. 473. For example, the consultative group agree with the technical committee recommendation that the municipal and industrial outlet from Lonetree Dam be sealed with a bulkhead/frange/steel plate structure considered technically superior to the concrete plug agreed to in November, and so on.

Canada approached the April consultations with the twin objectives of ensuring that phase I technical modifications and safeguards are fully adequate and obtaining tangible evidence that United States assurances respecting phase II are indeed credible. The United States agreement to construct the McClusky Canal Fish Screen and to support studies of alternatives to phase II marks a significant advance toward both these objectives and reinforces, in particular, the utility of the technical/consultative process as the most effective mechanism for resolving any remaining or newly-emerging concerns.

I hope my remarks will satisfy the Hon. Member to some extent and that no further motions on this subject will be necessary.