

GOVERNMENT



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# PRESS RELEASE

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The Department of External Affairs announced today that the Canadian Government has communicated to the State Department its desire to have consultations with the United States Government with a view to establishing or selecting an appropriate tribunal before which claims against the Canadian Government, based on damage alleged to have resulted from high waters in Lake Ontario caused by the Gut Dam in the International Section of the St. Lawrence River, may be heard and disposed of. This announcement was made following enquiries as to the purpose behind the "suggestion" filed by the Canadian Ambassador to the United States in the action of Dorothy Oster and Arthur Oster, against Canada, in the United States District Court for the Northern District of New York. In his suggestion, the Ambassador asserts that, under long recognized principles of international law, the domestic courts of the United States have no jurisdiction to entertain a claim against a foreign sovereignty such as Canada.

Officials of the Canadian Government point out that many claims are being put forward alleging damage resulting from high water levels said to have been caused by Gut Dam. They state that the Canadian Government is quite prepared to have these claims heard and to have the question whether Canada is under any liability determined by an appropriate tribunal. They point out, however, that the Government of Canada takes the view that it would be inappropriate to have these claims dealt with separately in individual actions in a variety of different courts in the United States. The purpose of the proposed consultations with the United States Government is to establish an appropriate procedure for dealing with and disposing of all claims as expeditiously and as fairly as possible.

The officials also state that the most recent engineering information indicates that Gut Dam, which was built in the years 1903 and 1904 to eliminate cross currents from one of the channels of the River, has had little, if any, effect on the levels of waters in Lake Ontario. Dredging has taken place in other channels of the River, and the flow may have been increased in these channels more than it has been interrupted by Gut Dam. Moreover, they state that experience in similar cases has demonstrated that where a partial obstruction such as Gut Dam is placed in a river, the river tends to scour out the remaining channels and to compensate for the obstruction.

The officials state that one of the major questions for any tribunal established to consider claims would be whether, in fact, any damage has been caused by reason of Gut Dam.

Following approval by the International Joint Commission recently of the construction of the proposed power works in the International Section of the St. Lawrence River, the Canadian Government immediately commenced the removal of Gut Dam. The removal of the dam was to take place in any event in the course of the construction of the power works. The action of the Canadian Government, in commencing its immediate removal, is to advance the date of removal in recognition of the concern felt on all sides as to any possible effect that Gut Dam might have had on water levels. Officials point out, however, that the view of the Canadian Government is that it has had little, if any, effect on these water levels.