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Work of the Waterways Commission.

BY MR. GEORGE C. GIBBONS, K.C., LONDON.

ADDRESSING the Canadian Club upon the foregoing subject Mr. George C. Gibbons, K.C., of London, chairman of the Canadian section of the International Waterways Commission, said:

Mr. President and Gentlemen of the Canadian Club of Toronto,—That it is an exceeding great honor to have the privilege of addressing this Club, I fully recognize. Yet I also recognize that it is not myself that has caused you to come here this afternoon in such large numbers, but the interest you take in the great work in which it has been my good fortune to take a part.

To begin, then, at the beginning. In 1902 the United States Congress passed an Act requesting the President to invite the Government of Great Britain to co-operate in forming an International Commission composed of three members from the United States and three from Canada who would investigate the conditions and uses of the boundary waters between the two countries. The commission was asked to report upon the maintenance of suitable levels, upon the effect of diverting the natural flow of streams, and to offer suggestions to regulate the same.

It was also expressly authorized to consider the advisability of locating a dam at the outlet of Lake Erie, with a view toward determining whether it would benefit navigation.

The Canadian section of the commission was appointed in 1904. The importance of maintaining the level of Lake Erie was emphasized, as it meant the maintenance of a great natural highway from Lake Superior to the sea—a result more to be desired than the support of railway systems. Cheap transportation means large boats and deep draughts. When the Chicago drainage system, which diverted 10,000 cubic feet of water per second from Lake Michigan, was first carried, there was little opposition to the proposal. The result of that diversion was to lower the level of Lake Erie 4 or 5 inches, which meant a loss of \$1,000,000 a year to the earning capacity of the navigation interests. The formation of a com-

mission was urged upon the United States Government by the Lake Carriers' Association and other interests, which insisted upon the maintenance of the lake levels. The Canadian section held that fixed principles must be enunciated, governing the use of all boundary waters, which were independent. There could be no diversion from one portion of the waterways system without injury to the whole, and neither country had any right of ownership in running waters.

The commission took the ground that it would be unwise to deal individually with isolated cases. The members at the outset agreed upon governing the principles. They took the ground that the paramount right to the waters was for domestic and sanitary purposes; that the main service must be navigation, and that no demands for power or other commercial purposes must be permitted to injure navigation, and that where the waters could be diverted, each country was entitled to half the diversion.

The principles were, accordingly, adopted in the following order of precedence: First, domestic or sanitary uses; secondly, navigation requirements, including service for navigation canals; and, thirdly, power development, where the diversions could be permitted without detriment to the principle that each country was entitled to the use of one-half the surplus waters so available.

This was especially important to Canada as the demand for power in the United States is greater than ours. If one-half of the power was not reserved for Canada, five-sixths of the flow everywhere would be diverted across the border to meet the demand, and as the Canadian call increased we would find ourselves tied up with contracts and vested interests.

When we came to Niagara we found a new situation. There was no principle of protection of navigation below the crest of the falls. But we found something else. We found the American had a real, earnest desire to preserve scenic Niagara. There is no humbug about that. Here was one spot where commercialism should not be rampant. It was found that Canada could take considerably more water on her side than the United States could on theirs without interfering with its scenic grandeur. Canada was accordingly given the right to use the larger volume. There are two peoples interested in Niagara. The adoption of a policy of grab here and grab there means no arrangement, and the country which says destroy Niagara without regard to our neighbors will make a mistake. Our American confreres acted with eminent fairness.

The treaty is for six years. I hope it will last for eternity. And nothing is settled permanently that is not settled right.

At Niagara the necessity of some joint control and regulation was manifest. Numerous charters had been granted on the New York State side of the river, involving large withdrawals, some of which, if they had been permitted, would have interfered seriously with the level of Lake Erie. On the Canadian side also, in addition to the three companies acting under leases from the Ontario Park Commission, a charter had been granted by the Dominion Government to one company which sought to divert water by using the Chippewa River as a conduit. This would have created a new Niagara by a canal having an outlet near St. David's.

Another company sought to divert water directly from Lake Erie to the escarpment near Jordan. The use of 10,000 cubic feet per second by the latter company would have meant the lowering of the level of Lake Erie by six inches. The three corporations whose works were already largely constructed, and which took their water below the crest of the rapids on the Canadian side, would have been permitted under their charters to develop 400,000 cubic feet per second. The two corporations already in existence on the New York State side would have developed about 300,000 cubic feet per second.

Taking water below the crest of the rapids would have no material effect upon the level of Lake Erie. Therefore, but for the desire to preserve the scenic effect of the Falls, there was no reason why all the water below the crest should not be used for power purposes.

The commission, as I have said, agreed upon the principle of equal diversion everywhere, including Niagara Falls, and that any attempt to divide the waters upon the principle of natural flow would result in confusion. In the case of the St. Mary's River, by way of illustration, the Americans claimed the larger flow, but there the conditions vary, and it would again depend upon the particular point where the diversion was made in determining the portion to which each country was entitled. At Niagara if the water were diverted by way of the Chippewa River on the Canadian side it would never reach the falls. On the other hand, as the charter of one of the American companies sought, had a canal been built from a point on their shore above the crest of the rapids, the larger share of the flow at that point would have been diverted to their side. As the only diversions that could be permitted without injury to the lake level were below the crest of the

rapids, and as we could divert more there without injury to the scenic effect of the falls, we were permitted to develop 36,000 cubic feet per second; New York State was permitted to develop only 20,000 cubic feet per second. We never claimed as a matter of principle that we were entitled to a diversion of more than one-half anywhere. The condition at Niagara created the exception to the general rule.

The experts advised us not to develop more than 55,000 cubic feet per second, or a quarter of the flow of the river. Accordingly, the Americans reduced the quantity to be taken on their side to 18,500 cubic feet per second, so as to enable us to take the larger quantity to which, it was decided, we were entitled, and which was referred by the three companies already in operation on the Canadian side under the terms of their charters. The development authorized on our side already provided for 400,000 horse-power, which is at least five times the present demand.

The time may come when in accordance with Lord Kelvin's prophecy, Niagara will be sacrificed to the commercial use of its water, but that time has not come. Neither country can destroy the picturesqueness of the Falls without the other's consent. The opinion in the United States is, at present, overwhelmingly in favor of its preservation.

The commission, however, recommend that further development should be permitted below the falls of 20,000 cubic feet per second on either side. Development there would be much more expensive, but would provide additional power to meet our demands for many years. Our mistake was in permitting development in excess of our demand. We have now an over abundance. Further development until we have used up that which we have available means further export.

The treaty, if made, will be terminable at the end of six years. The effort of the commission from the beginning has been to deal with any question submitted to it in a spirit of fair play. We have not sought nor desired to gain any advantage anywhere, and have been quite content to maintain our right to an equal use of these waters, upon definite fixed principles of uniform application.

The commission realized the serious import of its responsibility. It was a joint body, appointed to deal with a joint property, and with flowing waters which belonged to no country. The commissioners—every one of them—realizing the important character of their trust, resolved as a matter of principle to play the game absolutely honestly. There was

no Smart Aleck business about this commission. The Canadian members believed that if we got from our larger neighbor equal rights, we got all we were entitled to, all we hoped for, all we expected. We knew, too, that if our colleagues found the Canadian members playing the game honestly, making no claims to which we were not honestly entitled, they would meet us in the same spirit—and justice would be done to all.

The commission on both sides carried out this policy. We sought for truth; we believe that we found it. The commission was unanimous on the terms of the treaty—that it was absolutely fair, absolutely honest, absolutely righteous.

Let us remember this—that a great mistake has been made. Canada should never have permitted the power generated on her Niagara shores to be exported. Those responsible for it did not see far enough into the future. It would be, to my mind, insane to permit further generation for export until we have reached the full use of what we have.

The commission was half Canadian and half American, and I am inclined to view it as a sign of the times that Canada is taking her place in the arena of international negotiation. It is of the greatest interest to the mother country that we should respect ourselves and take care of our material interests. Why should the mother country have her larger interests endangered by trivial matters, important though they are to us? I look forward to the time when the various parts of the empire will carry out their own obligations, when sectional questions will be taken out of the sphere of international complications.

There is much of earnest in the jesting description by Mr. Elihu Root of the present procedure. Under it some pirate, backed by his Senator and members of Congress, submits an *ex parte* complaint. A letter is then written to the British Ambassador, who, after he has found out where the place is—(laughter)—and a few other necessary details, writes to the Colonial Office. The latter probably know less than the Ambassador, and sets its officials to investigate where and what it is all about. Then the subject matter travels to the Governor-General, who is the most prompt and efficient intermediary of all. He immediately hands it to the Government at Ottawa. Here comes the longest delay of all. It is never known what department it belongs to. In about three to six months, if fortunate—(renewed laughter)—it is determined whether the complaint goes to the Minister of Marine, Public

Works, or Interior. Having found the right Minister, the latter corresponds with the member for the district or constituency concerned. He looks up the pirate on the other side of the case and secures from him an *ex parte* statement of defence, probably as far from the truth as the original complaint. A venomous reply is prepared, of course it must be a little sassier than the first. (Renewed laughter.) It again is transmitted to the Colonial Office and thence to the Ambassador. "If," said Mr. Root, "we have the good luck to start the communication when we are early in office, it may get back to us before we leave at the end of our four-year term, but the chances are fifty to one that we are out of office or dead before it gets back."

And yet it is from silly troubles like these that wars are created.

The time has come when, strong in her affection for the Mother Land, the daughter should assume the position of mistress in her own house. I hope for the appointment of a permanent board, representing both countries, which would not be composed of a collection of partisan arbitrators. We can't live decently together if we don't play fair. We must have respect for each other's honesty. Such a procedure would surely remove almost every difficulty that can be conceived. It would be more effectual than contributing to the British navy.

By assuming the attitude of dignity and responsibility Canada will take her place in the new nationhood and render great service to the Mother Country, herself and the world.