

(5) a fair proportion of the dues should be allotted to development;

(6) in case of disputes, unresolved affairs between the Suez Canal Company and the Egyptian Government should be settled by arbitration with suitable terms of reference and suitable provisions for the payment of sums found to be due.¹²

We then have a very lengthy document, a unilateral Declaration by Egypt to the Secretary-General of the United Nations, on the date of April 24, 1957. In this declaration, Egypt declares that:

It remains the unaltered policy and firm purpose of the Government of Egypt to respect the terms and the spirit of the Constantinople Convention of 1888 and the rights and obligations arising therefrom. The Government of Egypt will continue to respect, observe and implement them.¹³

It also states that they want "To afford and maintain free and uninterrupted navigation for all nations within the limits of and in accordance with the provisions of the Constantinople Convention of 1888."¹⁴ This contemplates the Canal Code, forbids discrimination, provides procedure for handling complaints, and states that this declaration is an international instrument to be deposited and registered with the Secretariat of the United Nations.

Well, this completes then my brief presentation of the documentary survey of the Suez Canal.

The Case for International Control

John G. Laylin

The Suez Canal being at the crossroads of power politics, the problems involved would be complex enough even if the United Arab Republic and Israel were friendly. Their enmity and economic dependence on others, who are themselves in competition, compound the complexity to the *n*th degree. Without a settlement supported by the great powers no form of control—national or international—can be other than a temporary expedient. With a settlement sup-

¹² 1109.

¹³ 1123.

¹⁴ 1124.

ported by Egypt and Israel and the dominant powers, the form of control would become less important but for the fact that control of the Canal by any single country could, even under the most favorable circumstances, become intolerable to others. It follows that the prospect of continuing exclusive national control of the Suez Canal could be the stumbling block to the needed underlying settlement.

In contrast, the prospect of international control could promote solution of the primary problems of the Middle East. This then is my thesis: that the promise of international control of the operation of the Suez Canal would promote reconciliation of the hereditary rivalries between the neighboring peoples and the competing interests of the great powers. Such reconciliation would in turn make international control workable and make it a force for maintaining peace and promoting prosperity in the area.

In the late 1940's, while the Greek case was before the Security Council and later the General Assembly, I acted as legal counsel to the Greek Mission to the United Nations. On a number of occasions, Gromyko and Vyshinski took positions at odds with what would have strengthened their case. I could not understand the reason for their action unless it was dictated by some extraneous consideration. Discussing the matter with an American statesman, I advanced the theory that the positions taken were dictated by domestic politics; and then advanced the generalization that 30% of the difficulties in international relations were caused by domestic politics.

"No, John, you're wrong."

"Well, in my limited experience that has been, I think, the case."

"No, John, you're wrong. The percentage is not 30, it is 99."

Domestic politics certainly contributed to the failure of the Suez Conference in August 1956. The Egyptian abrogation of the franchise of the Suez Canal Company had put Anthony Eden in a most awkward position with his own party. A strong element had opposed the treaty of 1954 under which British troops were withdrawn. A group of conservatives were said to have won a commitment that if Egypt interfered in any way in the Company's operations, the British Government would take military measures. Mr. Eden felt he had to do so and he did put British troops on the alert. Mr. Selwyn Lloyd, speaking as the Chief Delegate for the United Kingdom, accused Nasser of having announced that the Canal

would be operated with only Egyptian interests in mind. The British press called Nasser a Little Hitler.

Similarly, the Premier of France felt his political future required harsh words designed to discredit Nasser; and Christian Pineau, Chief Delegate for France, went out of his way to describe Nasser as a dictator toward whom France had "shown extraordinary patience . . . despite his interventions in the Algerian problem."

The United States failed, in my opinion, to set an example which would have made it easier for Nasser to accept the recommendations of 18 of the 22 nations attending the Suez Conference. Our Chief Delegate, John Foster Dulles, played a leading role in proposing international control of Suez but declined to act on the suggestion that we should accept for the Panama Canal what we were proposing for the Suez Canal.

Nasser was, of course, whipping up public opinion in Egypt to counter the personal attacks from abroad. When he declined to agree to the proposed international regime, the reason he gave was that Egyptian public opinion would not tolerate it. He described the proposed plan as "a form of collective colonialism."

Since August 1956 there has been progress. In October of that year Egypt supported a Security Council resolution setting forth six requirements for any settlement of the Suez question. A most important one was the following: "The operation of the Canal should be insulated from the politics of any country." Complete insulation of the Canal from the politics of every country is a goal that is impossible of attainment, but it is an agreed goal. The form of operation that most nearly approaches that agreed goal is the most appropriate. A standard has been established by which to measure which is better—national or international control.

Another step forward since 1956 is the agreement by the negotiators for Panama and the United States to accept bilateral control of the existing Panama Canal. If the proposed treaty is signed and ratified by the United States, that action will set a precedent that will make it easier for Egypt to share with others responsibility for keeping the Suez Canal as much as possible out of domestic and world politics.

A compelling reason for the decision of the policy makers in our Government to share control of the Panama Canal has been to insulate it as much as possible from Panamanian politics. Exclusive control of the Panama Canal by the United States has inflamed the

politics of the Republic of Panama. The aspirants to political office feel they must outdo one another in denouncing administration by the United States of the Canal Zone. One has to visit the Zone for only a day and see the contrast between the neat and prosperous Zone and the adjoining crowded areas in Panama City to understand how easy it is to whip up sentiment against exclusive American control.

Experience at Suez has demonstrated in a different way that exclusive control by the territorial sovereign is not conducive to insulating the Canal from domestic politics. National control has made that Canal the football of international politics as well.

In 1954, when the Security Council called on Egypt to permit the passage through the Canal of Israeli vessels, the Foreign Minister sought to justify the denial, saying "that public opinion in Egypt was strong against allowing Israeli ships through the Canal, and that even the use of Egyptian troops might not be enough to insure passage."

The existence of exclusive control can furthermore be an embarrassment to any government even when it wants to keep a canal insulated from its domestic and foreign politics. Rival political parties are bound to goad the party in office into using the power it has over such canal as a bargaining weapon. Ostensibly friendly neighbors are apt to do the same. The irresponsible governments of Syria and Algeria are said to have pushed Nasser into going further than he wanted to go to keep leadership in the Arab world. His power to drive Israel to desperate measures by threatening to cut off all access to the Red Sea had, he felt, to be exercised. The result has been disastrous for his country.

If national control is not conducive to insulation from politics, will international control be any better? The answer lies, I think, in the kind of international control that is adopted.

The governing body must be so constituted that responsibility as well as authority is concentrated. Professor Baxter in his admirable book entitled *The Law of International Waterways* mentions a variety of structures which might be considered. One, which he quickly dismisses, is a body responsible to the General Assembly of the United Nations. This of course would be folly—even with the General Assembly constituted as it was before its recent packing with unstable and splintering newborn nations. There is something to be said, by the way, for Eric Severeid's comment that they should have been given the vote only after reaching twenty-one.

The structure I have in mind would be a separate international juridical entity established by a multilateral convention to which the territorial sovereign or sovereigns and the principal users of the Canal are parties. Its structure would be comparable to that of the World Bank and, like the Bank, it could be called a specialized agency of the United Nations.

There would be—as contemplated in the proposed Panama Canal treaty—a single Director General responsible for carrying out the provisions of the multilateral treaty and rules laid down in conformity with that treaty by a Board of Directors elected by the parties to the treaty who subscribed to stock in the company. As with the World Bank, each stockholder would have a voice in the choice of a single director, the smaller stockholders joining together as they do in the Bank. The territorial sovereign would be assured of one and perhaps more directors, the largest users would each have one and various geographical areas not otherwise represented would each have one.

So far as possible, the persons to serve on the Governing Board would be insulated from politics and the Director General would have to owe his loyalty exclusively to the international corporation and the governing convention.

The convention would provide for authority to operate the Canal and to administer an area to be defined bordering the Canal and perhaps the course of the fresh-water feeder canals. The World Court would have compulsory jurisdiction to settle any complaint by the United Arab Republic or any other party to the convention that the Governing Board or the Director General was acting contrary to the convention.

The question of securing the Canal from land or sea attack must be faced, difficult as it is. Professor Baxter discounts the value of a guarantee of neutrality by the principal powers, but for what it is worth, such a guarantee should, I believe, be included in the convention. Day-to-day policing should be by a special force responsible to the Director General but made up as much as possible—as the staff generally should be—of Egyptians, as at present.

We come now to the feasibility of an international regime.

Today, no; next year, perhaps; sometime, yes. Forces already at work will some day convince the Egyptians that such an arrangement is to their interest.

The Canal does not enjoy the monopoly it once did. For

passenger travel and no small amount of freight, the air has taken its place. The lack of confidence in the continuous availability of the Canal has led to other means of transporting the oil that constitutes its principal traffic. The possibility of another closure after 1956 led to the building of very large tankers. Some of these can round Cape of Good Hope more economically than they could pass through the Canal, assuming it were deep enough to take them. Israel is reported to be building a pipeline from the Gulf of Aqaba to the Mediterranean through which oil can be pumped at commercially competitive costs. Lybia is capable of supplying oil in quantities such as to reduce significantly dependence upon oil formerly passing through the Canal.

The economic loss to Egypt from playing politics with the Canal has been and continues to be disastrous. The Egyptian people cannot be expected to put up indefinitely with a government that refuses to accept the advantages open to it.

The subscriptions to the stock of the Canal Corporation would, in my view, be substantial and would in large part be paid over to Egypt together with the Canal tolls not required to maintain and improve the Canal. It might be possible for Egypt to borrow from the World Bank enough to free it from dependence on the Soviet Union. This could be done on the security of the subscriptions pledged by the member governments as well as the tolls. The aggregate of the subscriptions would be large enough to help Egypt to free itself from its present fiscal bondage, yet the cost to the subscribing governments would be reasonable when measured against the cost to them of wars and threatened wars in the Middle East.

Of course, the agreement of more countries than Egypt would be necessary to establish international control. In the long run it is to be hoped that the Soviet Union and the Western Nations will see that it is to their separate interests to phase out their rivalries in the Middle East. The prospect of international control of the Suez Canal, as I suggested at the beginning, could well help them to accommodate their interests and thus promote the settlement of the underlying issues tormenting the Middle East.