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## Discussion Following the Remarks of Mr. Colson and Mr. Mcrae

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## DISCUSSION FOLLOWING THE REMARKS OF MR. COLSON AND MR. MCRAE

QUESTION, MR. KING: What was the role of arbiters in this dispute where you have a lot of different personalities and different groups involved?

ANSWER, MR. MCRAE: Arbiters were useful, I thought, in doing a couple of things. One was that they tried a model stakeholder negotiation.

Arbiters were instrumental in getting the two governments to recognize they had to keep trying to settle the dispute. Arbiters were instrumental in getting the two governments to realize that they had to make political commitments to settle the dispute.

They said a couple of important things about the U.S. having to recognize more fish coming to Canada, and Canada had to reduce its demands. Those were important, politically, on both sides of the border. My feeling about that role also is tampered by the fact also that what we did is we got the people who had to manage and implement the agreement on both sides of the boarder, sit down and talk to each other, those were the key people who had to resolve it in a very complex issue. These are matters where people are involved in the science of Chinook will sit down and speak with their computers in methods or ways we have no way of understanding. It was these people that needed to develop the spirit of cooperation and realize they had same common goals in mind.

QUESTION, CONFERENCE PARTICIPANT: I have two questions. One is just factual. How are the salmon that return to the rivers that start in British Columbia and run through Alaska treated? Which country gets the salmon and which country gets to claim that as originating salmon? My second question is for Mr. McRae. What are your final thoughts concerning this dispute?

ANSWER, MR. COLSON: I can answer the first question. One of the wonderful rivers here that we did not talk about here is the Yukon, which is also part of the Pacific Salmon Treaty. It is one of the most fantastic rivers in the world. It starts there in northern British Columbia, and it runs for two thousand kilometers, about one thousand two hundred miles, up into the Yukon, and across the top of Alaska into the Bering Sea. The river is full of fish; there are Chum Salmon and Chinook Salmon that spawn in British Columbia. These fish go up their Yukon. They are six-year fish. They are in the river about three months making their way up through one fishery after another fishery to get up to their spawning grounds.

To answer your question, what we had in the treaty, and I do not know where it ended up in the final stages, but what we were supposed to do was to deem a particular part of the catch in each country as being of U.S. or Canadian origin. These fish were going to be counted in a percentage wise sort of basis.

ANSWER, MR. McRAE: To follow up on that, we set up sort of a trans-boundary panel, which had not existed before, because it was recognized dealing with those trans-boundary rivers was more difficult. There is not a large catch taken from the trans-boundary river, in river, although there is quite a large catch on the Alaskan side, and what we did is we negotiated shares on those rivers. Canada gets a certain percentage stock by stock. In some cases, it is a rolling share, depending on abundance, the amounts negotiated for both parties.

My final thought concerning the salmon dispute is that Canadians have to realize that we are just another lobby group in Washington. Our effectiveness depends on how effectively we are prepared to get in there and lobby Congress. If we think that we can deal with the U.S. on all issues simply as the government of Canada and the government of the U.S., then we are de-luding ourselves. I think the Pacific Salmon negotiation was an example where it made no sense to treat this as a Canada/U.S. issue.

COMMENT, MR. HERMAN: This is not really a fisheries issue, nonetheless, it merits some discussion, and that is that the boundary line for Dixon entrance between Canada and the U.S. has never been resolved. It might come as a shock to people here, that these two countries have co-existed for centuries and have not resolved a boundary line in the twenty-first century. I wonder if you can comment where matters stand in terms of the Dixon entrance. I gather that it did not have a bearing on the settlement of the fisheries issue, but can either of you comment on where matters stand or is it going to left in abeyance and unresolved hoping that there are no boundary related problems arising?

COMMENT, MR. COLSON: I would note that it is not just the Dixon entrance; it is also over the straight of Juan De Fuca. We do not have an agreed boundary offshore there. We have an agreed boundary that was straight that was done many, many years ago and we have not agreed on our boundary in the Arctic. That dispute is of substantial area, substantial geographic area in dispute offshore in the Arctic. I cannot tell you where they stand. My guess is they stand with nobody doing anything about it right now.

I think we all hoped that after the Gulf of Maine case because, when we were confronting these issues in the 1970's and early 1980's, these were all linked in sort of theological terms about the way boundaries were down.

When we finally got the court decision I had hoped that Canada and the U.S. would sit down and cut reasonable deals and get these boundaries out of the way.

That never happened, partly, I think, because Canada got wrapped up immediately in the St. Pierre loan matter, so your team of people that knew boundaries sort of disappeared over on that issue for a while; and then time passed, and people lost interest in the issue. But my guess, Dixon entrance is not a fish management; it is a law enforcement management. It is a heavily fished area; and there have been a few tense moments out there from time to time, not so much between our law enforcement and fisherman, it is fishermen to fishermen. They are not really a big problem or any real problem off Juan De Fuca, but the place that we are going to hear more about in the boundary dispute in the Arctic as we think more about oil and gas issues, that is going to come to the center.

We did not solve it when we had a chance to do it, when the issues were simple. Now, they are going to get tougher because of the economics of how that resolution plays out and are going to be monumental.

MS. DALLMEYER: You talked about the fact that you were able to do this negotiation as if it were not a negotiation. You were talking about the dispute as a scientific investigation and were able to craft an agreement.

From what experience I have had with fishery disputes, the people who are actually out there fishing themselves often look at fishery managers with great suspicion, if not outright contempt. They think they know more about the fish than the scientists do. I know you had a short period of time for the implementation to play out. How is it actually being accepted in the field by the people who have to fish for a living or who fish as recreational fishing?

ANSWER, MR. McRAE: I think it is actually different in the Pacific Salmon experience because under the agreement, under the original Pacific Salmon Treaty, each area was managed by the panel; and the panel was made up by fisheries managers and people involved in the industry. So they worked together. That meant there was a fairly high degree of acceptance and recognition between the managers and the fishers, because they recognized they were depending upon their information to get the allocation or get the amounts that they wanted each year. I do not think that has been so much a problem. I am not respecting either side's fishery management was a real problem.

I thought the problem was allocation, once you get over the allocation problem and both sides are able to cooperate much more, I think it is working well because they had the practice of cooperating together.

ANSWER, MR. COLSON: I think the salmon are different than the kinds of fish management problems we have run into in the U.S. regional

counsel deal with because everybody can see if the salmon stocks been knocked in the head and there is not any doubt about it; and people have got to take measures and fisherman will be the first to do that and they have been able to look at the predictive runs and cycles. There is not as much debate about things as there is about how do we rebuild a snapper stock that has been over-fished and the scientists are telling us we need twenty-five years of no fishing on that.

We do not get into that same kind of stuff in salmon management. You have got an annual run cycle; each year is going to be different. People know what went out into the ocean four years ago. They pretty well know things with a lot more certainty than they know in the kind of fish management we get into in our coastal species.

QUESTION, MR. PICKER: Given that British Columbia was marginalized, have they managed to be brought into the fold following the conclusion on the negotiations on the Pacific Salmon Treaty?

ANSWER, MR. McRAE: Part of British Columbia's position resulted from the then Premier, who we know is now being charged with various things and is no longer Premier of British Columbia, and I think that the new government or the government, the Premier that replaced him has a somewhat different attitude towards it. The province was asserting a role it did not have. When you get into the commission and onto the panels, yes, the provincial representative appointed, they were always cooperative within the Pacific Salmon Commission. It was more the highly publicized commission where the province was taking a position, and I think the result of that political position was putting very unreasonable strains on some of the provincial representatives who had to show up and go back and deal with us and then go back and deal with their political masters.

QUESTION, MICHAEL ROBINSON: Just a small observation, not entirely cynical, this seems to illustrate to me, anyway, that there is liable to be a revival of the Cascadian movement here, because we have British Columbia, not only marginalized, but booted right out of the process; and, in fact, Washington and Oregon and Alaska running the show from the U.S. perspective. I hope this does not mean that there is going to be a revival of Cascadia separation.

ANSWER, MR. McRAE: I think you have to talk to the industry, rather than to provincial government on this. That is not the attitude of the fishing industry. The fishing industry is very happy with the result it seems. The real problem is whether the stocks are going to survive. I think that it was really the result of the politics of the government of that time that was the problem.

The other perspective, which became more and more involved in the process, was the environmental perspective. In fact, selected a member of the Pacific Salmon Commission who came from an environmental background, because he said there is a different interest. We are not just involved with the salmon for the purposes of harvesting; and I think if I characterized it as a province being excluded, that is not what, in fact happened. It was provincial government at the time and, certainly, that government had no support from the environmental movement on that issue; and had, ultimately, at the end of the day, not a lot of support from the industry, I think.

QUESTION, CONFERENCE PARTICIPANT: I wanted to follow up, Professor McRae, about the usefulness of having the envoys in the process, comments on the envoys that you made.

Recently, the federal government was thinking that the envoys process is used in Pacific Salmon dispute was a very useful thing to do in suggesting that, perhaps, in terms of the softwood lumber dispute envoys might play a positive role. Now, it seems to me in softwood lumber, you are dealing with an issue where you have a U.S. industry that is making a rational economic decision for them, that is to seek some restrictions on trade; and U.S. federal government is placed in the position of accepting any properly filed position towards that end.

You made some comments about the role of the envoys in Pacific Salmon making people think about the way in which the situation could be resolved, and the kind of situation we have in lumber, do you see a translation of value to an envoy process from your experience in Pacific Salmon?

ANSWER, MR. COLSON: I have seen a lot of special envoys come and go along with the State Department; and from time to time, they were very useful in a particular process; and a lot of times they were a disaster. Sometimes they were a disaster because they were the person who they were.

Sometimes these guys get appointed simply because they know the President. They get involved, they get picked and they are high profile. They cannot work with people and they cannot figure the issue out. Sometimes they do not really work well.

Other times they work very well.

I think that one of the criteria you have got to figure out if you are going to go down the road is how much energy do they have to devote to the kind of job you see in front of them, because you are talking about a person who is some kind of a superstar; they have got some other life that they lead. They may be very happy to come and fly around the world for a week and talk to this and that and the other guy. But then they are going to go back and do whatever they are going to do.

If they do not have enough time and energy to commit; and, really, in some cases, resources, some help someplace, they do not, it ends up sort of not working as well, even if they are really great people. That's just a general comment on envoys.

COMMENT, MR. McRAE: I do not have anything to add to that.

COMMENT, MR. COLSON: Thank you very much.