Discussion after the Speeches of William G. Deeks, Neil W. Zundel, Roger Phillips, and Robert L. McNeill

Discussion

Follow this and additional works at: https://scholarlycommons.law.case.edu/cuslj

Part of the Transnational Law Commons

Recommended Citation
Available at: https://scholarlycommons.law.case.edu/cuslj/vol17/iss1/19

This Speech is brought to you for free and open access by the Student Journals at Case Western Reserve University School of Law Scholarly Commons. It has been accepted for inclusion in Canada-United States Law Journal by an authorized administrator of Case Western Reserve University School of Law Scholarly Commons.
Discussion after the speeches of William G. Deeks, Neil W. Zundel, Roger Phillips, Robert L. McNeill

JOHN R. MULLEN: All of the panelists have tried to present some very practical experiences to you as we address legally in our continuing session today the possibilities of a new regime. I think it is important for our negotiators and our trade attorneys to understand the real life experiences of the business community so that alternate regimes can be fashioned and shaped in a way that can facilitate the great promise of the Free Trade Agreement.

DOUGLAS E. ROSENTHAL: I have a question for Mr. Zundel. If one way of stating what the objective of the Free Trade Agreement is, as in Roger Phillips' terms to make trade between Canada and the United States like trade between Chicago and New York, would you feel differently about, "if it isn't broke, then don't fix it. If you could be satisfied that there would be opportunities for the members of your organization to do real fabrication across the border in Canada on an equal access basis? If you had that access, would you be willing to give that access to Canadian fabricators even if the cost of your getting that access and their getting access into the United States was sometimes, as Roger hypothesized it, that each of you would have to be technically dumping to effectively complete in the other's market?

NEIL W. ZUNDEL: The answer to that question is yes. I myself felt that it was. The level of profitability of the fabricators in the united States if that is a measure of dumping, we would be guilty of dumping everything you sent to Canada. We just do not enjoy that measure of profitability in the dumping law. Our primary concern about the agreement, and it may be premature, is that we are not sure that all of the provincial non-tariff barriers can be taken care of as we feel that they should be taken care of, as against doing business in the forty-eight contiguous states in this country.

DOUGLAS E. ROSENTHAL: However, you would be open to pursuing the goal that the border goal—

NEIL W. ZUNDEL: Absolutely. As far as I am concerned, the technology in fabricating structural steel is no greater or no worse than between a good fabricator in the United States and a good fabricator in Canada.

In some cases in countries we have visited, we found that with Taiwan and Korea fabricators they were not nearly up to speed in terms of the productivity of the fabricators in our country. The difference, of course, was substantial labor cost. We Americans feel that we know more than anybody else, we can do it better than anybody else, yet in
searching for a new high tech, hands-off operating continuous rolling mill to roll aluminum, we felt that we had state of the art technology when it was taking us six or seven minutes to take one coil off the mill and put it on another one. Then we went around the world visiting facilities that had truly state of the art equipment, that was going through that same roll change in only forty-nine seconds. That offers a great deal of productivity.

So I think that there are circumstances where technology, quality, whether perceived or real, exists in the commerce outside of the United States and I think that competition then drives us as people in commerce in this country to get ourselves up to speed. I do not disagree with that at all. I do not see that in the fabricated structural steel business.

IVAN FELTHAM: Why should the Canadian government accord this issue high priority on the agenda of numerous issues between the two countries that have to be resolved for various reasons? Do you have any comments about problems, as seen from the Canadian export point of view, which tend to be anecdotal? My other question, which is the heart of the first one, is, what broad scope quantification is there within the Canadian industrial community about the effect of the continuation of U.S. anti-dumping laws on actual and potential exports from the United States which would result in a sufficiently important issue to make a high priority on this agenda between the two governments, which are dealing with acid rain and environmental issues and other things that are obviously important?

ROGER PHILLIPS: One of the things that does not come at this kind of discussion very clearly is, how the existing structure influences what people do. There would be a lot more anti-dumping cases taken against U.S. imports to Canada if certain industries did not feel that by doing so they would get slapped down even harder. I can give you a case in point. My company produces tubular products for the oil and gas drilling and exploration industries. We were unable to convince our competitors in Canada to get together with us to create enough weight to bring a case against the United States dumping these products in our country. They said if we do that, they will be down our throat with another case right away, so we will just sit in the weeds. We were able to convince people to get the work done, and we told our lawyers to be ready within twenty-four hours of the United States taking a case out against Canada to file ours. Of course, lawyers never believe you, so I think in the end of three days after the United States did indeed take on Canada, but we did respond with the case. The court found that U.S. producers were dumping these products in Canada. However, I tell you this to give you an example of where we could have gone several years ago before, but people were afraid of what the retributions from the U.S. industry might be, so they were not prepared to go ahead with it. I have another situation in Canada right now, for competitive reasons I cannot give you the details, where, again, we are being frustrated in our ability to
get enough people in our domestic industry together to take a case out against the United States, so there is a lot of that.

Because we are ten percent the size of the United States, there is a lot that happens that people do not see. With all due respect, we draw our trade negotiators from fields where they have had little business experience and they are not sensitive to these kinds of under currents. As you quite rightly pointed out, the politics do not make these things a big issue, so what in point of fact happens is what has happened with my company where since the first of January 1989, which was the day the Free Trade Agreement came into effect, our company has gone from zero production in the United States to over twenty percent of our products being produced in the United States. Five new establishments have been purchased, so you can say the impact of the Free Trade Agreement of our business has been zilch. It has not increased activity in Canada. This time we have empty plants as a matter of fact in our system. We grew about twenty-five million dollars worth of assets earlier this year and we bought ones in the United States. That does not upset our people in Ottawa, but those figures that I gave you about employment do not seem to upset anyone, either. As I said in less than twelve months, employment in the manufacturing sector in Canada went down four and one half percent, long before our recession, probably eighty-eight percent of what it was. Those numbers do not seem to get anyone interested, either. So, what is happening, in effect is, as time goes on, more and more businesses are going to move elsewhere and when they do finally decide it is a problem, they are not going to be able to correct it. That is the reason why they should put it on the top of their agenda.

The Ontario Municipal Employees Association just wants the money for their pension fund, and they do not care whether my company makes it in the United States or in Canada. So, we just keep on making money, thank you very much, but it will not be for the interest of Canada, it will be ours.

JOHN R. MULLEN: Tony Halliday, do you want to add anything to that?

A.L. HALLIDAY: I will make a very general comment. It is a situation of some difficulty for me because I do not live in the United States. We really do not have an official position on the issue as a whole, and it has been intriguing for me to listen, and I look forward to the next session as well as to the nature of this discussion.

Concerning the GATT trade negotiations and my own business experience, unfortunately it is not true and sometimes you would like to rectify that. I think we do understand the problem there, that it has come up more acutely in the area of countervailing because many Canadians, I think, take the view that subsidies are just as prevalent in the United States as they are in Canada. And the next step is then, the trade negotiators to not get out there and show their countervailing cases against the United States, which would remind the U.S. producers that
they do have an interest in bringing about by getting a grip on Canadian countervailing.

And this case put it to me and others in parliament, well, the outcome is that countervailing law is triggered by private companies and the private companies may well have their own reasons, and there are reasons out there which really prevent them from the very aggressive users of countervail. I will certainly take his word that those kind of restraints exist in the anti-dumping.

JOHN R. MULLEN: I know there may be other questions, but we want to keep the program moving. I thank my panelists for their participation and your generosity to them.