

## ***The Suez Canal Issue***

*In one sense the Suez Canal incident of 1956 has ended. When all the records are available, an objective judgment will become possible. As I happened to have some part in the debates and, at one stage, in the negotiations with the Egyptian President, it seems to me useful to set out in chronological order, and without benefit of hindsight, six speeches and one letter which adequately convey my own views upon the problem as it developed.*

*My letter to President Nasser, written in Cairo and dated 7 September, 1956, was drafted by me and fully discussed with my colleagues on the Committee appointed by the London Conference. I have included it at the risk of some overlapping because, although its principal arguments were categorically rejected by President Nasser on 9 September, 1956, it remains desirable that as many people as possible should realize the essential fairness and reasonableness of the approach of the eighteen nations.*

## **‘NATIONALIZATION’ OF THE SUEZ CANAL**

*Television broadcast in London on 13 August 1956*

Colonel Nasser’s action in respect of the Suez Canal Company has created a crisis more grave than any since the Second World War ended. The leading trading nations of the world are all vitally concerned. You in Great Britain are concerned, for a threat to the Suez Canal will, if not resisted, encourage other acts of lawlessness and so reduce the economic strength of your country that the whole standard of living may be drastically reduced.

This comment excludes the effect upon Britain’s prestige and authority in the world. It is apparently not fashionable to speak of prestige. Yet the fact remains that peace in the world and the efficacy of the United Nations Charter alike require that the British Commonwealth and in particular its greatest and most experienced member, the United Kingdom, should retain power, prestige and moral influence.

So far, there may be a considerable measure of agreement. But I have been interested to observe, in both the United States and in London, a disposition in some private quarters to find legal virtues in what Nasser has done, and to accuse national leaders either of trying to deny to Egypt its so-called legal right to nationalize the Suez Canal or of prematurely dealing with a risk of stoppage which may never arise.

And thus the native hue of resolution  
Is sicklied o’er with the pale cast of thought.

Tonight I do not want to repeat what your own Prime Minister has already said on the broad nature of the issue. But I would like to discuss, very briefly, the arguments of those who honestly find themselves beset by intellectual doubts.

Not that I believe that the problem is purely or even mainly a legal one. On the contrary, it concerns great questions of international policy on which our views must, at our peril, be sensible, robust and firm.

First, a few words about the position, internationally, of the Suez Canal, a trade life-line for hundreds of millions of people not only in Europe but in the great new nations south and east of the Canal, including my own country of Australia.

The Canal was not built by Egypt. It was the product of the bold vision and engineering genius of a Frenchman, de Lesseps, and the financial resources of a company whose shareholding was and is (subject to Nasser’s recent action) international.

The then Government of Egypt granted to the company a concession, on stipulated terms, not due to expire until 1968. The Suez Canal Convention of 1888, by which Egypt was bound, contained an express recital that it was desired to establish ‘a definite system destined to guarantee at all times, and for all the powers, the full use of the Suez Maritime Canal.

The validity of the Convention and of the concession granted to the company has never been challenged by Egypt. On the contrary, the Convention was expressly upheld, only two years ago, by the Anglo-Egyptian Treaty of 1954; while as recently as June of this year the

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Egyptian Government, in its last financial agreement with the Company, acknowledged the duration and international character of the concession and of the system under which the Canal was run.

Yet on 26 July, 1956, less than two months later, Nasser signed and announced a law purporting to nationalize the Canal Company.

But 'nationalization' is only a political term. What he did, expressed precisely, was to repudiate Egypt's contractual obligations under the concession, without consultation and without agreement.

International law is not a precise body of jurisprudence. It is always in the making. But if there is one thing clear, it is that national contracts with the governments or citizens of other nations must be carried out unless there is legal excuse for the non-performance. If this were not so, all talk of International Law would become meaningless on the very threshold.

Nasser has, therefore, begun by violating the first principle of International Law. For people to conceal or excuse this violation by talking about the general power of governments to expropriate property within their own boundaries is therefore both irrelevant and absurd.

If, at any time and for any reason of real or supposed self-interest, a nation could claim that its sovereign rights entitled it to set treaties aside or violate international contracts, all talk of or reliance upon International Law would be a sham.

Let me take an important example. The Panama Canal was constructed by the United States of America on land belonging to the Republic of Panama, a perpetual lease of the land being granted to the United States for that purpose. If Nasser can validly terminate, twelve years ahead of time, a concession granted to the internationally-owned Suez Canal Company because, forsooth, he claims an unfettered right to 'nationalize' as part of Egyptian sovereignty, then Panama, equally sovereign, could, if it cared to abandon its own traditional standards of conduct, validly terminate its perpetual lease to the United States of America, take over the Panama Canal, and collect the dues!

It is little wonder that the American administration regards the Nasser action with such gravity.

A leading London journal yesterday said: 'The weakness of our legal position is that the Egyptian Government has a perfect right to nationalize the Suez Canal Company.'

I have already advanced one powerful reason for the view that this statement is based upon a misconception of the nature and significance of the actual steps taken by Nasser, and of the first principle of International Law.

But, in the time I have left, let me point out to what strange conclusions this uncritical acceptance of the so-called right to nationalize will lead.

First, it is common ground in France, the United Kingdom, the United States of America, and other nations including my own, that the forthcoming conference should aim at some new

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international arrangement ensuring the continued use of the Suez Canal as an international waterway.

Let us suppose that such an arrangement is made and agreed to, and that, under conditions which fully recognize Egyptian sovereignty and protect Egypt's legitimate financial interests, a joint authority is set up, under long or perpetual lease, to conduct and stabilize the use of the Canal and its facilities. And then suppose that, at some future date, the Egyptian Government says: "We denounce this agreement. We nationalize the operation of the Canal!" Will we once more be told that Egypt is legally correct, and that no international agreement can stand in the way of her sovereign rights? If such nonsense is the law, why have any international agreements at all?

Associating the agreement with the United Nations will make no difference. For if such agreements can validly be set aside by one nation for its own purposes, in the name of its sovereign rights within its own territory, the position will be the same whether the agreement is made in London or recorded in the archives of the United Nations in New York.

Second, there are those who, having upheld the 'right to nationalize', go on to say: 'In any case, Egypt has not yet prevented our ships from using the Canal.'

True, but what will these critics have us do if and when Egypt does? Will we not once more be told that Egypt's sovereign rights include the right to deny the use of the Canal despite any agreement to the contrary, including both the new agreement and the Convention of 1888?

You see that these so-called intellectual arguments and hesitations come down to this: that whatever Egypt does or may do, we can and must do nothing.

I do urge clear thinking on these matters.

We are about to try to deal, by negotiation, with a matter which is vital to the trade and economics of a score of nations. To leave out vital interests to the whim of one man would be suicidal.

We in Australia applaud the statement made by France, the United Kingdom, and the United States. We support the Conference. We cannot accept either the legality or the morality of what Nasser has done.

We believe that if the Canal is to serve its growing purpose and be expanded and improved for a rapidly growing traffic, its future must be assured and guaranteed on such terms as will enable future money to be invested in it with fully protected safety, and its great functions to be performed in an assured peace.