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Everett Cataldo

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THE CANADIAN-U.S. ACID RAIN CONTROVERSY: THE FINAL STAGES

Everett Cataldo Department of Political Science Cleveland State University

Introduction

A bilateral accord with the United States to curb acid rain was a top priority for Canada from 1978-1990. Successive Canadian governments fought hard to move the United States toward an agreement on reducing acidic emissions, and Canada went ahead with its own domestic control program in 1985 as an inducement for the United States to reciprocate.

Both nations enacted strong clean air regulations during the 1970's, but in the United States concerns about energy shortages, lagging industrial productivity and potential regional economic hardships impaired any further progress from being made throughout the 1980s. Similar concerns were evident in Canada, but were not strong enough to block action, and Canada led the way in 1985 by enacting and implementing a new acid rain control program aimed at reducing acid gas emissions 50 percent from 1980 base levels by the year 1994.¹

Attempts on Capitol Hill in the 1980s to renew the U.S. Clean Air Act were blocked by the Reagan administration and powerful members of Congress, particuliarly Representative John Dingell of Michigan and Senator Robert Byrd of West Virginia, protecting the interests of their automobile manufacturing and coal mining constituents. But on July 21, 1989, President Bush submitted detailed acid rain proposals to Congress as part of a comprehensive overhaul of U.S. clean air regulations. Congress finally passed a set of detailed ammendments to the Clean Air Act, including acid rain controls, on October 27, 1990, and the President signed the new legislation into law on November 15, 1990.²

A number of factors contributed to the policy shift in the United States. Ronald Reagan was no longer President. The environment was an important issue in the 1988 presidential election, and both candidates made commitments to take action to clean up the environment. Senator Byrd's successor as Senate majority leader, George Mitchell of Maine, was the Senate's leading proponent of clean air legislation. Public opinion seemed to favor stronger environmental controls. The Clean Air Act was last amended in 1977, and, as policy cycles go, was overdue for major revision.

Given these compelling domestic factors, it would not appear necessary to seek other explanations for the reemergence of clean air as a priority issue on the U.S. domestic policy agenda. In contrast to Canada, however, acid rain was not the most serious air pollution problem in the United States. It was of regional importance in parts of the east and New England, but nationally it was eclipsed by more serious problems of urban smog and airborne toxic pollution.³ In fact, the main problem with acid rain coming from the United States was its devastating impact on the Canadian environment. In addition, acid

rain was always a dicey political issue in the United States, pitting regional interests against one another, and raising the spector of potentially high and disproportionate cleanup costs for electric power customers and coal mining interests in the nation's industrial heartland. From a purely domestic standpoint, the United States could have passed respectable and less politically controversial clean air legislation in the 1980s by dealing mainly with urban smog and toxic pollution. But intense pressure from Canada kept acid rain on the U.S. policy agenda during the 1980s, and seems to have contributed to the strong provisions against acid rain that were incorporated into the 1990 renewal of the U.S. Clean Air Act.

Canada's Advocacy Diplomacy

In the conduct of international relations, nations normally depend on persuasion as the primary instrument for achieving their goals. Exhortation, inducements, or example are various forms of persuasion that may be used. Canada used the term "advocacy diplomacy" to describe its efforts to persuade the United States to strengthen domestic controls over sulfur dioxide and nitrous oxide emissions, the two main precursors of acidic depositions (rain, snow, fog or dry precipitation). For twelve years, Liberal and Conservative governments pleaded with the United States to sign a bilateral agreement with Canada on the reduction of acidic emissions, and pressed the U.S. government to pass domestic legislation reducing sulfur dioxide emissions by 10 million tons. Such actions would have clearly benefitted Canada inasmuch as 50 percent of the acid deposition falling there originated from U.S. emissions carried by prevailing winds across the border.⁴ The main sources of the sulfur dioxide emissions affecting Canada were the more than 100 electric power plants in the Ohio Valley which burn inexpensive, high sulfur coal from local mines.⁵ Reducing their output of sulfur dioxide gases would help solve Canada's acid rain problems, but at the cost of higher rates for electricity and a further economic downturn in the region's already troubled coal industry. In light of the potentially high costs on the U.S. side for benefits on the Canadian side, what is surprising is not that Canada had to labor long and hard for its acid rain goals, but that the U.S. finally agreed to them.

The first shot in the acid rain battle was fired in 1978 when the U.S. Senate passed a resolution protesting the plans of Ontario Hydro, the provincial electric utility, to build a coal — fired plant in Atikokan, Ontario. The basis for the protest was potential acid rain damage to the boundary waters and lakes in Minnesota. Consistent with its claim that much of the acid rain falling on Canada originated in the United States, Canada responded to the Senate resolution by proposing that the two nations negotiate a bilateral accord for solving the transboundary problems of acid rain by reducing emmissions on both sides of the border. Thus began Canada's long, uphill struggle with the U.S. on this issue.⁶

In advocating its position, Canada employed all of the ordinary diplomatic measures, and some that were out of the ordinary, as well. At the highest levels of the Canadian government, officials made it clear that if the United States wanted to maintain good relations with its neighbor to the North, it would have to recognize the importance of the acid rain issue to Canada and agree to help in solving the problem, particularly acute for Canada due to the greater vulnerability of its soils and surface waters to acid damage.

That the relationship between the nations became strained in the 1980s demonstrated Canadian sensitivity on this issue, and the difficulty the U.S. had in making a satisfactory policy response.⁷ For Canadians, acid rain became the acid test of how well they were doing in their relations with the U.S.

An acid rain agreement was a top policy priority of the Canadian government under three successive Prime Ministers, with Prime Minister Mulroney, in particular, investing considerable political capital by making an acid rain accord an important objective of his personal diplomacy with Presidents Reagan and Bush. Canadian Ministers of External Affairs consistently raised the issue in official meetings with the U.S. Secretary of State and other diplomatic personnel. Environmental Ministers were high profile proponents of the Canadian viewpoint. Accurately reflecting Canadian frustration and anger over U.S. refusal to negotiate, John Roberts, Minister of the Environment in the Trudeau government, accused the United States of committing "environmental aggression" against Canada.⁸

Canada did not rely on diplomacy alone to advance its case. In the early 1980s it began to intervene more actively in the U.S. political process. The Canadian Embassy became involved in monitoring the policy process in the executive and legislative branches of government. The Canadian Ambassador to the U.S. made public speeches and statements on behalf of Canada's cause. Canadian officials testified before Congressional committees. Canadian consulates throughout the United States were mobilized. Policy makers, opinion leaders, and journalists were invited to Canada for tours of areas affected by acid rain. Publicity campaigns were organized to sway U.S. opinion through printed and audio-visual materials, speaking appearances by Canadian scientists and politicians, and billboards aimed at U.S. tourists on Canadian highways. Canada even took the unusual step of joining legal proceedings in cases involving pollution standards and transboundary emission flows. The Canadian Coalition on Acid Rain, a citizens's group subsidized by public funds and private contributions, established a Washington office, registered as a lobbying organization, and joined U.S. environmental groups in grass-roots campaigns on the acid rain issue. At the less visible bureaucratic level, a good deal of activity was also generated. Through the Department of External Affairs and the Ministry of the Environment, a variety of institutional contacts were maintained between U.S. and Canadian negotiators and scientists.9

The early results of these efforts seemed to range from disappointing to potentially counterproductive. The first bilateral discussions between the U.S. and Canada resulted in the establishment of the Bilateral Research Consultation Group whose purposes were to coordinate scientific research, exchange information on acid rain, and offer advice for policy purposes. In July 1979, a formal announcement was made that the U.S. and Canada would work toward a cooperative agreement to improve transboundary air quality. For the Canadians, that meant a formal accord or treaty incorporating new regulations for further emission reductions. For the U.S., it turned out to mean something else. During this period, the Carter administration proposed new energy policies for the U.S. which called for the conversion of power plants from foreign oil to domestic coal, and increased reliance on coal as a source of energy in the U.S. Since these proposals would result in an

increase of sulfur dioxide emissions, they were basically incompatible with tougher standards against acid rain. It is doubtful that the Carter administration, its sympathies toward Canada and the environment notwithstanding, would have placed an acid rain treaty ahead of trying to uncouple U.S. industry from dependence on costly and externally controlled sources of energy. When the U.S. and Canada signed the 1980 Memorandum of Intent Concerning Transboundary Air Pollution, the United States would commit itself only to doing whatever it could to reduce transborder emissions under existing laws (emphasis added). There would be no new treaty under which the U.S. would be obligated to a new round of regulations on smokestack emissions.

Canadian disappointment with the U.S. was openly expressed, one official reportedly saying, "We made the tactical error of telling them what they were doing to us. We found out they were not particularly interested in what they were doing to us." ¹¹ Worse yet from Canada's perspective, its motives were being openly questioned as a thinly veiled disguise to exploit Canadian energy resources at the expense of U.S. companies, and to expand sales of Canadian hydro-electric power into the U.S. market.

When the Reagan administration came to power, with its pro-industry and anti-regulation ideology, there was even less inclination in Washington to impose a new round of emission reductions on an industrial economy in deepening recession. Neveretheless, Canada continued to press its case. Upon the election of his Conservative government in 1984, Prime Minister Brian Mulroney declared that an acid rain accord with the U.S. would be one of the top priorities of his new government. While Canada's policy objective remained unchanged, the angry rhetoric of the Trudeau era was replaced by greater emphasis on personal diplomacy by Prime Minister Mulroney and his cabinet ministers, and, eventually, by the passage of a Canadian program to control its domestic sources of acid rain which, it was hoped, would serve as a persuasive example for the United States to do likewise.¹²

The best the Reagan administration would do, however, was to agree to the appointment of special envoys representing the United States and Canada to examine the acid rain problem and to make recommendations. Their report, issued in 1986, acknowledged that acid rain was a serious transboundary problem, but fell far short of making the sort of recommendations for which Canadians had hoped. There were no recommendations for specific reductions of U.S. emissions, but there was a recommendation to start an accelerated \$5 billion clean coal technology program in the U.S. This recommendation, of no immediate value to Canada, had the enthusiastic support of the U.S. coal industry and was the only concrete action related to the acid rain issue that the Reagan administration ever took.

After eight years of considerable effort to change U.S. policy, Canada appeared to have little to show. Absolutely no new efforts to reduce air pollution in the U.S. had reached the books since the Clean Air Act was revised in 1977, and timetables for achieving some of the standards established by those revisions had been missed. Scientific research, discussions and negotiations between the U.S. and Canada continued, but the two official bilateral documents that had been produced—The Memorandum of Intent and the Report of the Special Envoys—contained no new commitments from the U.S. to reduce emissions. Canada

appeared scoreless while the U.S. appeared to be racking-up points by successfully delaying or obstructing any real progress in the battle against acid rain.

However, some tactical lessons were learned. Canada had joined the growing list of nations that were developing skills at playing the game of pressure group politics in the United States. Canada had learned that if it wanted to move U.S. policy, it should forget about angrily insisting on its rights as a sovereign nation, and proceed to behave like any other organized interest group, working Capitol Hill and the executive branch for allies, taking advantage of well-placed contacts in government, influencing public opinion, joining up with domestic environmental interest groups, and making its case with hard evidence and persuasive analysis. This approach may not produce quick results, but it holds the issue on the discussion agenda while waiting for the right combination of circumstances to move it to the action stage. From the President on down, the Reagan administration could not avoid being confronted with the acid rain issue in both official and informal contacts with representatives of the Canadian government, and had to take the time and effort to fashion a response even if the intention was to deflect and delay. Eventually the Reagan administration would be history, and Canada could press its case with a different, and hopefully, more sympathetic group of players in Washington.

In contrast to the earlier strident oratory and accusatory charges, the more sophisticated interest group approach, coupled with Canada's willingness to enact its own program, finally seemed to be producing more satisfactory results. On an official visit to Ottawa in 1987, President Reagan responded to a personal appeal from Prime Minister Mulroney by telling the Canadian Parliament that he would consider the Prime Minister's proposal for a bilateral acid rain accord. 14 Negotiations ensued, but were soon stalemated when Canadian negotiators refused to accept a U.S. proposal for an agreement which omitted specific targets and timetables for reducing emissions. 15 Ignoring this setback, and looking, perhaps, to the post-Reagan era, Prime Minister Mulroney, addressing a joint session of Congress in April 1988, called on Congress and the administration to conclude an acid rain accord with Canada. The Prime Minister presented an eight-point outline for an agreement, and President Reagan instructed Secretary of State George Schultz to give Mulroney's proposal priority in discussions with Joe Clark, Canada's Minister of External Affairs. 16 But these were the twilight months of the Reagan administration, and nothing of substance materialized before it left Washington. On a visit to Canada soon after assuming office, however, President Bush signaled a new dawn on the issue by declaring that it was his desire to sign an acid rain accord with Canada.

Several months later, on July 21, 1989, the Bush administration sent Congress a set of proposed revisions to the Clean Air Act, including targets and timetables for reducing sulfur dioxide emissions, the primary contributors to acid rain. These proposed reductions were virtually identical to what Canada insisted would be necessary on the U.S. side to bring acid rain down to environmentally tolerable levels in Canada. Since 1980, Canada had been advocating a 50 percent reduction of U.S. sulfur dioxide emissions (approximately 10 million tons) over a ten year period. Consistent with its own regulations, Canada also proposed that U.S. emissions be capped at 10 million tons once the 50 percent reduction

was achieved. The first draft of the administration's proposals contained a figure of 8 million tons in reductions over ten years, and omitted a cap on subsequent emissions, hardly satisfactory from the Canadian point of view. By the time the proposals were officially sent to Capitol Hill, the figure for reducing emissions had grown to 10 million tons by the year 2,000, and a cap on subsequent emissions was inserted at the last minute.¹⁷ These provisions squared exactly with the Canadian demands.

This about-face by the Bush administration from its predecessor's policy and its acid rain proposals to Congress coincided with Canada's determination to press the issue, and its clear-cut insistence on meaningful reductions of harmful emissions from U.S. sources. In November of 1988, Ontario Province initiated legal action aimed at forcing the U.S. Environmental Protection Agency to order acid rain controls in the Midwest. The basis for the suit was a provision in the Clean Air Act mandating a cutback in domestic pollution if it demonstrably harmed another country. Unlike earlier attempts to invoke this provision, this time the Canadian government joined the provincial appeal.¹⁸ Canadian officials announced that Prime Minister Mulroney would urge President Bush to agree to a bilateral acid rain accord when they met in Ottawa on February 9, 1989.19 At the same time, Ontario Premier David Peterson suggested that Canada should request a 10 million ton reduction in U.S. emissions, and that a domestic abatement program in the U.S. was as important as a bilateral agreement.²⁰ Other Canadian officials and citizen action groups joined the chorus calling for a U.S. program, and, for the first time, U.S. officials responded to the demand for a treaty by saying that they wanted it preceded by new domestic regulations in the U.S. to curb acidic emissions. Shortly before Bush's visit to Canada, Ambassador Derek Burney handed out a statement at the White House indicating that he was under orders to secure from the U.S. a timetable for reducing its acid rain pollutants across the border. Calling acid rain "The one anomaly in our otherwise remarkable record," Burney said "an important part of my instructions from the Prime Minister is to elicit effective action by the United States to bring about specific reductions of transborder flows of acid rain pollutants within a fixed time."21 Burney reiterated Canada's "firm priority" to also seek a bilateral accord to support that commitment. In March 1989, the new Canadian Minister of the Environment, Lucien Bouchard, presented Canada's acid rain agenda to U.S. officials when he met with his counterpart in the administration, William Reilly, Administrator of the Environmental Protecton Agency, and, on Capitol Hill, with George Mitchell, the Senate's Majority leader and foremost proponent of acid rain legislation. 22 This agenda included the Canadian demand for a ten million ton reduction in U.S. emissions over ten years and a cap on subsequent emissions. By the time Prime Minister Mulroney made an official trip to Washington in May, the Bush Administration had announced its intention to submit acid rain legislation to Congress. Draft proposals were released in June, and formally submitted to Congress one month later. Stating that the administration was "very conscious" of Canada's concerns and "very determined" to rectify the problem, EPA Administrator Reilly made the most frank admission yet heard from a U.S. official when he said that "we have tried to ensure that the United States ceases inflicting this excessive acid depostion on our neighbor . . . I think we have met Canada's needs and goals with the proposal."23 Canada had waited 12 years

for such an admission and promise. While it took Congress well over a year to pass clean air legislation, the Bush administration's acid rain proposals emerged virtually intact in the final version of the legislation.

Canada's Efforts Evaluated

Just how much of what has been described here can be directly attributed to Canadian influence? The shift in U.S. policy coincided with Canadian diplomatic and political efforts, but coincidence differs considerably from causation or direct influence. The timing and direction of events suggest something greater than mere coincidence. This case represents the reversal of a genuine imbalance or "asymmetry" in the U.S-Canadian relationship under which the U.S. had enjoyed the benefits of burning inexpensive but dirty fuels, while passing the pollution costs across the border to Canada. U.S. sulfur dioxide emissions were ten times greater than Canada's; transboundary pollution flows from the U.S. to Canada were four times greater than those from Canada to the U.S.; Canadian waters and soils contain fewer buffers against acidification and were therefore more vulnerable to acid damage; estimated clean-up costs were billions of dollars higher-for the U.S. than Canada, yet Canada's environment would benefit far more from reduced U.S. emissions.²⁴ Yet despite this tremendous imbalance and the tendency for nations to act for their own benefit and not other's, Canada was able to reverse the situation by persuading the United States to accept its definition of the acid rain problem and the Canadian formula for solving it.

Throughout the 1980s, Canada, alone, was responsible for acid rain being on the U.S. policy agenda. The Reagan administration's official policy was to wait until the National Acid Precipitation Assessment Program was completed in 1990 before taking any action—in other words, to pass the problem on to the next administration.²⁵ Without pressure from Canada, the Reagan administration would have ignored acid rain completely, and the scientific dialogue and negotiations with Canada that were a necessary prerequisite to U.S. policy formulation would not have occured. Quite possibly, therefore, acid rain might not have become a centerpiece of the Bush administration's clean air initiatives in 1989 had it not been for Canadian initiative in forcing the issue through the Reagan administration's road blocks.

Shortly after the Bush clean air proposals were released, Senator Mitchell was invited to Canada as part of a high profile effort to energize the Canadian public and to mobilize Canada's key U.S. supporters for the final push for legislative action in the United States. Stating that U.S. policy was not predicated "exclusively on the needs and wants of Canadians," Senator Mitchell indicated that much hard work remained to be done in order to insure passage of acid rain legislation. What Senator Mitchell said, in essence, was that Canada's interests, its "needs and wants" would have to compete in the U.S. legislative arena with the "needs and wants" of contending regional interests in the U.S. who would not surrender their advantages without a good fight. Interestingly, though, Senator Mitchell was implying that Canadian interests had indeed earned a place at the bargaining table, and he was urging Canada to continue to press its case in the U.S. political pro-

cess as a player with high stakes in the outcome of the legislative struggle. That Canada was fully aware of this and ready to play was evidenced by Environment Minister Lucien Bouchard's announcement on the day the Bush administration's clean air proposals were released that the Canadian Ambassador to the U.S. would begin to lobby immediately to make sure Congress passed the President's proposals. Ambassador Burney acknowledged that "this is going to be a difficult debate in Congress," and said that "our job is going to be to encourage as many supporters as we can find in the Senate and in the House to ensure that the legislation that emerges in the end is consistent with the objectives we have set and what we think is necessary to get rid of this problem." 28

In October 1989, 12 Canadian MPs (six Conservatives, four Liberals and two from the NDP) visited Capitol Hill to meet with members of Congress involved in writing acid rain legislation. According to reports, the meetings focused on Canada's good will efforts toward the U.S. by cutting its own emmissions since 1985, and Canadian hopes that the U.S. would now reciprocate. The Canadian delegation also stressed their nation's hope that the U.S. legislation would ensure the reduction of sulfur dioxide emissions by at least 10 million tons by the year 2,000 and contain a cap on emissions thereafter.²⁹

Ensuring the inclusion of these provisions in acid rain legislation then became the primary focus of Canada's lobbying efforts. When the administration seemed ready to settle for less stringent emission controls, Canadian representatives (mainly the Ambassador and other diplomatic personnel from the Canadian Embassy) urged administration policy makers to choose the more demanding standards suggested by Canada.³⁰ By supporting those policy makers in the administration who preferred the tougher standards, Canada was able to help in tilting the scales of policy formulation toward the 10 ton, 10-year, emissions cap formula. Among the persuaded seems to have been William Riley, the U.S. EPA Administrator, who apparently meant to be taken seriously when he said that "we have tried to ensure that the United States ceases inflicting this excessive acid deposition on our neighbor ... I think we have met Canada's needs and goals with the proposal" (emphasis added).³¹ Indeed, Canada's needs and goals had been met precisely by the administration's proposals, and those needs and goals were supported by Congress without change throughout the long struggle that culminated in the enacment of specific acid rain regulations for the first time in the history of U.S. clean air legislation. Prime Minister Mulroney could justifiably claim that "hard work pays off," when he took credit for Canada's role in persuading the United States to reverse its official policy, and thereby, reverse the long-standing imbalance in the relationship on the acid rain issue.

"Proving" influence relationships in case studies on policy is somewhat difficult. In this case, however, the evidence for Canadian influence seems quite strong. Canada will be the net beneficiary of U.S. acid rain policy, which, itself, is based on the formulation that Canada successfully advocated in its lobbying efforts in the administration and Congress. The administration and Congressional bill-drafting committees could have chosen alternative formulations or chosen to emphasize other important domestic air pollution problems. Yet, at real costs to U.S. interests and markets, the Canadian formulation was adopted, and acid rain was emphasized just as much as urban smog and toxic air pollution in the

new amendments to the Clean Air Act. It seems reasonably clear that restoring good bilateral relations by resolving the acid rain dispute became an important objective of U.S. policy makers. The only way to do it, however, was to yield to Canadian pressure and concede to Canada's position on the issue. In other words, Canada was successful in persuing a strategy that resulted in the United States adopting a policy that imposed costs on domestic political interests in order to yield benefits to Canada for the sake of the bilateral relationship. It is highly improbable that the United States would have done this on its own inasmuch as it might not have been such an important issue in the absence of Canada's efforts. When one nation appears to be successful in making another do something it otherwise would not do, it is reasonable to conclude that it was a case of political influence.

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