

IN THE NATIONAL INTEREST

Canadian Foreign Policy and the Department of Foreign Affairs and International Trade, 1909-2009

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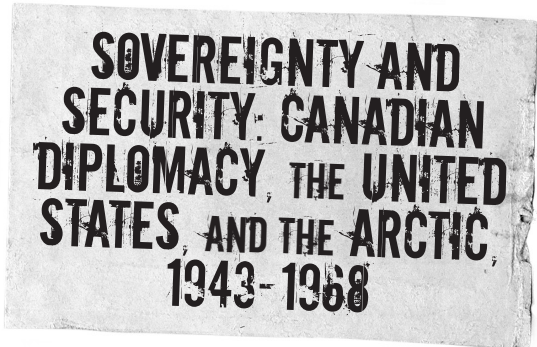
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**SOVEREIGNTY AND
SECURITY: CANADIAN
DIPLOMACY, THE UNITED
STATES, AND THE ARCTIC
1943-1968**

P. Whitney Lackenbauer
and Peter Kikkert

By the spring of 1946 the spectre of a Soviet threat to North America loomed large in the minds of American officials, who warily cast their eyes over polar projection maps and saw an undefended attic to the continent. Ambitious defence plans for the Arctic began to flow onto the desks of Canadian officials, evoking grave concerns in the Department of External Affairs about Canada's sovereignty in the region. Lester B. Pearson, then ambassador to the United States, believed that these defence projects offered Canada an opportunity "to secure from the United States Government public recognition of our sovereignty of the total area of our northern coasts, based on the sector principle."¹ Canada's longstanding but officially unstated sector claim to all of the lands (and eventually waters) between 60° and 141° west longitude up to the North Pole offered the simplest solution to consolidating its opaque Arctic claims.² Although Pearson was confident that he could attain from his American counterparts formal recognition on this basis, he was overly optimistic.

Unwilling to push the United States into a position where they had to disagree with Canada's claims, Hume Wrong, the acting under-secretary of state for external affairs, advised Pearson to avoid any formal attempt to secure American recognition. Not only would its Antarctic interests keep the United States from accepting the sector theory, Wrong astutely noted, but any such attempt might prompt Washington to challenge Canada's claims.³ "For a good many years now we have proceeded without difficulty on the assumption that our sovereignty was not challenged," Wrong observed. "A declaration of this sort would revive discussion of an issue which may in practice turn out to have been closed."⁴ While Pearson had been willing to lay all of Canada's cards on the table in the hopes of attaining the optimum desired outcome, Wrong embraced a modest diplomacy that sought to shape a more sustainable, if less dramatic, solution to Canada's sovereignty worries.

The historical literature is divided along similar lines. One recent commentator has asserted that Canada should have embraced Pearson's approach in the postwar years and pressed for formal United States recognition of Canadian sovereignty in return for Canada's cooperation in the northern defence projects.⁵ Historian Shelagh Grant has suggested that Canada actually sacrificed its sovereignty to ensure American security.⁶ Such conclusions distort the context of decision-making and the nature of bilateral negotiations regarding the Arctic. Scholars David Bercuson and Elizabeth Elliot-Meisel have emphasized the cooperation, respect, and open dialogue that characterized the defence relationship after 1946 and argue that Ottawa successfully safeguarded Canada's sovereignty and effectively contributed to continental security.⁷ This paper concurs with their assessment based upon a fresh appraisal of the archival record, much of it recently declassified.

Canadian policy-makers, particularly in the Department of External Affairs, did an admirable job of balancing Canadian sovereignty interests with the security needs of the United States from the early Cold War to the eve of the *Manhattan* voyage in 1969. Although Canada did not get its way on every issue, an underlying spirit of mutual respect allowed Canada to preserve – and indeed strengthen – its sovereignty while accommodating its American ally insofar as its national interests allowed. This approach secured United States acquiescence to Canadian territorial

sovereignty claims, despite America's rejection of the sector principle. When the emphasis shifted to maritime issues in the 1950s, the legal issues proved more intractable, but a functional approach, predicated on "agreeing to disagree" over the status of the waters of the Arctic archipelago, maintained a cooperative bilateral relationship. Rather than seeing Canadian decision-making in the 1940s and 1950s as failing to secure American acquiescence to Canada's future claim to the Northwest Passage, a more positive appraisal might recognize how careful diplomacy helped to position Canada so that it could implement a functional approach under Prime Minister Pierre Trudeau in the early 1970s and declare straight baselines under Prime Minister Brian Mulroney in 1985. While postwar diplomatic actions appear *ad hoc*, reactionary, and tentative, they were appropriately suited to a complex situation. Officials at External Affairs acknowledged Canada's limitations but managed in steering a prudent and practical course to lay the groundwork for future assertions of Canadian jurisdiction and sovereignty in the Arctic.

The modern Canadian sovereignty debate began during the Second World War. After the Japanese attack on Pearl Harbor on 7 December 1941, the Canadian Northwest became an important strategic link to Alaska. The United States undertook a number of massive defence projects in northern Canada, including a system of airfields called the Northwest Staging Route, an oil pipeline, and the Alaska Highway. As Washington's stake in the northwest steadily grew, the Canadian government, including the Department of External Affairs, remained as uninterested in protecting the sovereignty of the region as it had been prior to the war.

Although Liberal Prime Minister William Lyon Mackenzie King allowed the Americans onto Canadian soil with few constraints, he was always suspicious of their intentions. Worrisome reports from Malcolm MacDonald, the British high commissioner who visited the defence projects in 1943 and was alarmed at the scale of American activities, spurred the prime minister to reassert control in the Canadian North.⁸ To ensure greater control over American activities and protect Canadian sovereignty, the government appointed a special commissioner, Brigadier-General W.W. Foster, to oversee the various American defence projects in the Northwest.⁹ As the war drew to a close, Canada increased its control over the North by securing full ownership of all permanent facilities on its

territory by purchasing them from the United States. The Americans also agreed that, before they began any project on or over Canadian territory, it had to be approved by the Canadian government.¹⁰ By 1945 most Americans had left Canadian territory and the Northwest was more secure than ever.

While it is easy to condemn the government for its reactive approach to protecting Canadian sovereignty in the North during the war, it is also understandable. In the midst of a global war and suffering from a lack of experienced personnel, External Affairs had to prioritize its areas of focus. In the early years of the war, with the European theatre the overriding national preoccupation, officials did not look to the Canadian North for obvious reasons. Neither did the department plan for the difficult sovereignty issues that arose during the war, which compelled it to deal with these problems in a reactive manner. As the war progressed, however, External Affairs grew in size and sophistication and began to handle complex problems effectively, including the situation in the North.¹¹ The steep wartime learning curve paid off, and the defence negotiations of the early Cold War proved that Canadian diplomats were both attentive and responsive to potential sovereignty encroachments.

Shortly after the defeat of the Axis powers, the wartime relationship between the Western allies and the Soviet Union began to dissolve. Canada's undesirable strategic position, sandwiched between two opposing superpowers, meant that "Canada could not stay out of a third World War if 11,999,999 of her 12,000,000 citizens wanted to remain neutral," to quote Louis St. Laurent's memorable phrase.¹² Canada had become the potential frontline of the next global conflict. "The dilemma," military historian David Bercuson has argued, was simple: "how could Canada help protect the continent against the Soviet Union – a job Ottawa agreed needed doing – while, at the same time, it protected the Canadian north against the United States?"¹³

In early May 1946, the United States proposed the establishment of a chain of weather stations in the Canadian Arctic. Despite American assurances that Canada's sovereignty would not be threatened, Canadian officials believed that American acceptance of the sector principle was the ideal way to protect Canada's interests.¹⁴ Global interests, however, made it impossible for the Americans to formally accept Canadian sovereignty in

the region by sanctioning the sector principle, which was also used by the Soviet Union to claim a large section of the Arctic and by several nations to claim vast portions of the Antarctic.¹⁵ Accepting Canada's claims would have strengthened the positions of these nations to the detriment of Washington's strategic interests.¹⁶ Had Canada insisted on a formal recognition of its sovereignty, its position would have been dramatically weakened by the inevitable American rejection.

Officials in the Department of External Affairs advised against asking Washington for a formal assurance that Canada's sovereignty would not be threatened lest this indicate "that we entertain some doubts as to our claims in the Arctic."¹⁷ Instead, they set to work creating guidelines for the weather station program that would best enforce Canada's claims to the Arctic. Acknowledging American assurances that Canadian sovereignty would not be threatened, the department suggested that the venture be approved as a joint project so long as all permanent rights to any installations were retained by Canada, the majority of personnel would be Canadian, and the projects would be under Canadian command.¹⁸ This approach was consistent with the steps taken during the final years of the war to gain control of the defence projects in the Northwest. Using these proven methods, Canadian officials hoped to consolidate their country's sovereignty in the Arctic.

Although the same guidelines were laid out in a report by Chief of the General Staff Major General D.C. Spry and accepted by the Cabinet Defence Committee, King decided to deny the American request for 1946. Acknowledging the American tendency to act swiftly and with little concern for Canada's needs when threatened, the prime minister hoped the United States would pause to evaluate Canada's difficult position. On 2 July, Ottawa informed Washington that the program had not been rejected – only deferred for the purposes of further study.¹⁹ This prime ministerial-directed policy of delaying decisions on continental defence, slowing the whole process until the complex situation could be sorted out beneficially for Canada, was a cautious but prudent one. Bold, aggressive moves (particularly ones that would have entailed significant Canadian defence expenditures) would have been out of step with the cooperative defence relationship then taking shape.²⁰

In early 1947, after careful negotiations, the two countries accepted a set of formal guidelines regulating continental defence, effectively assuring Ottawa that the United States had no desire to violate Canadian sovereignty claims in the North.²¹ In mid-February, the prime minister announced the general principles governing Canada–United States defence cooperation in the House of Commons. “As an underlying principle,” King explained, “all cooperative arrangements will be without impairment of the control of either country over all activities in its territory.”²² There was no mention of the sector principle; the wording of the agreement avoided such controversial language. This omission, however, did not concern the Canadians. Canada had explicit assurance that its terrestrial sovereignty in the Arctic would not be threatened.

Despite gaining solid assurances protecting Canadian sovereignty over the Arctic, External Affairs maintained a level of persistent concern about American activities in the region. The government carefully monitored all American activities in the region to ensure that nothing was done that could be perceived as a lack of Canadian control. When American aircraft attached to Operation Polaris, a project originally established to study the challenges related to Arctic flying, began carrying out regular reconnaissance flights and engaging in aerial photography in the Arctic in 1947, the Canadian member of the Permanent Joint Board on Defence (PJBD) argued that the Americans had strayed from the initial aims of the project and forced an apology.²³ The following year, when United States ships used the Fury and Hecla Straits without first notifying Ottawa and securing the necessary approvals,²⁴ External Affairs immediately complained to the State Department to set the matter right.²⁵ In the most effective assertion of Canada’s *de facto* control of the region, savvy diplomats at External Affairs forced the Americans to adhere to the Game Laws of the Arctic Preserve, the Scientists and Explorers Ordinance, and the Archaeological Sites Ordinance. Before Americans could hunt in the Arctic, for example, they had to seek the approval of External Affairs or the Department of Mines and Resources.²⁶ Interestingly, the original creators of the Arctic Game Preserve, especially the former under-secretary of state for external affairs, O.D. Skelton, had hoped it would prove of distinct value as an assertion of Canadian sovereignty in the North.²⁷ During the early Cold War, the Arctic Preserve fulfilled this purpose.

The Distant Early Warning (DEW) Line

The decision to build a Distant Early Warning (DEW) Line across Canada's Arctic in the 1950s posed a series of more serious sovereignty questions. As early as 1946, Canadian and American authorities had begun to consider the possibility of building a radar chain in the Arctic to give warning of any Soviet attack. In June 1954 the Canada–United States Military Studies Group urged that a radar network be built stretching more than eight thousand kilometres from Alaska to Baffin Island, to provide warning of an incoming Soviet attack. By extending military outposts northward, defence planners sought to achieve strategic defence in depth.²⁸

Prime Minister Louis St. Laurent's government, already stretched thin honouring its NATO commitments in Europe and the UN police action in Korea, could not afford the kind of defence installations required to satisfy its superpower ally. The Americans would have to pay for and build the high Arctic radar network, even if three-quarters of the installation stretched across Canadian territory. But Canada did not write a blank cheque, despite the claims of some critics. Ralph Campney, the minister of national defence, explained the government's logic to the Cabinet Defence Committee on 20 January 1955: "If a substantial contribution to the operation and maintenance of the line were to be made once it had been completed and was in operation, it would not, in my view, be necessary to participate in the construction and installation phase, other than to ensure that Canadian interests were protected in the ways outlined in the proposed agreement."²⁹ Cabinet endorsed the decision on 26 January 1955 and sought a formal agreement with the United States.

Canadian negotiators reached an advantageous agreement with the Americans. Washington bore the full cost of construction but subcontracted to Canadian companies and hired Canadian civilian technicians and support staff. Canada retained title to all sites in its northland and insisted upon the right to inspect work and to approve any change of plans. Royal Canadian Mounted Police Constables and Northern Service Officers were stationed at several sites to regulate relations with the Inuit and to oversee game laws. Moreover, the United States agreed to share geological, hydrographical, and other scientific data obtained during the construction and operation phases and agreed that Canadian government

ships and aircraft could use landing facilities at beaches and airstrips. Concurrently, the United States was prohibited from using the airstrips for any activity other than DEW Line support without Canadian consent. "The list of conditions read like a litany of Canadian sovereignty sensitivities and desire for control," historian Alexander Herd notes.³⁰ All told, it was a small coup for Canadian sovereignty: the Americans officially acknowledged that all of the islands in the Far North explicitly belonged to Canada. "As a result of the DEW Line Agreements," strategist R.J. Sutherland explained, "Canada secured what the United States had up to that time assiduously endeavoured to avoid, namely, an explicit recognition of Canadian claims to the exercise of sovereignty in the Far North."³¹

Although journalists and politicians on the opposition benches continued to voice concerns about sovereignty after the radar network was completed in 1957, federal officials reached mutually satisfactory solutions in Washington showing that the Americans respected Canada's insecurities about sovereignty.³² Indeed, the DEW Line contributed more to Canadian sovereignty in the North than it detracted from it. It was run in the spirit of partnership, the Royal Canadian Air Force took over the management of Canadian sections of the line in 1959, and it did not drive Canada into bankruptcy. "The capital costs of those DEW-Line stations in Canada was approximately \$350 million," Clive Baxter of the *Financial Post* noted on 23 February 1963. "This was paid for entirely by the U.S. but in almost every case, construction and transportation contracts went to Canadian firms giving northern development the biggest shot in the arm it ever had." The benefits did not end there. He reported that the Americans paid \$25–28 million annually to operate the DEW Line, with most of the money flowing into Canada. "Some 96% of the civilians employed on the line (there are only a handful of military men) are Canadians. Food supplies and airlift are bought from Canadian suppliers." During the construction phase, the DEW Line agreement required contractors to "give preference to qualified Canadian labour" and this continued during the operation phase. The employment of both Inuit and southern Canadian men, who represented 97 per cent of the personnel along the Canadian section of the line by 1963, may have helped to entrench Canada's claims to "effective occupation" of its arctic.³³ In short, historian Michael Evans aptly concluded, the agreement "allowed the United States to build and operate the DEW

Line ... [and] protected the sovereignty of the Canadian government while offering financial subsidies to the Canadian economy and contributing to the development of the Canadian frontier.”³⁴

Sober assessment of the operational phase of the DEW Line should have allayed any continuing concerns about American intentions or threats to Canada’s Arctic sovereignty. International lawyer Eric Wang, a legal adviser at National Defence, visited the line in May 1969 and concluded that Canadian sovereignty had been strengthened rather than weakened as a result of the DEW Line’s existence. Touring the Canadian section of the radar network, he came away convinced that reports about the insensitivities of the Americans on the DEW Line “and the inferences they carry about Canadian sovereignty in the North, are very misleading.”³⁵ American behaviour was both accommodating and appropriate, and Wang concluded that both countries’ interests in the radar network were compatible and mutually beneficial. In his assessment, anecdotal evidence of sovereignty encroachments and bilateral friction had been overblown:

American policy towards the DEW Line appears to be based on a desire to accommodate themselves as harmoniously and as constructively as possible into the Canadian setting which they have to operate.... Perhaps it may be possible to detect some sour notes by diligent searching. I wonder, however, whether any such problems would weigh very heavily against the important benefits which accrue to Canada from this project in the development of the North, not to speak of its essential contribution to our security. Indeed we might be tempted to congratulate ourselves (with a nod to *Professor [James] Eayrs*) for enjoying a “free ride” at least in this area of our defense activities on our own soil, without any unpleasant side effects.³⁶

Scholars should turn to environmental and socio-cultural legacies of the DEW Line, not alleged sovereignty erosion, if they wish to challenge Wang’s claim that the effects of this continental defence megaproject were overwhelmingly benign. Canadian diplomats and defence officials did not sell out vital national interests – they secured them through quiet diplomacy, a functional approach, and a process that was “cordial, respectful, and mutually beneficial.”³⁷

The Arctic Archipelago and Maritime Claims

After the conclusion of the DEW Line agreement in 1955, the federal government's primary *de jure* sovereignty concerns shifted from the mainland and archipelagic islands to the water (ice) between and around the islands. The unique geography of the Canadian Arctic made it an interesting and complicated case. Its symmetrical, unitary appearance – “practically a solid land mass intersected by a number of relatively narrow channels of water” – distinguished it from other archipelagos around the world, a British diplomatic document stated in 1958.³⁸ That same year, External Affairs' legal expert Gilles Sicotte wrote that the properties of Canada's Arctic waters made them even more unique. They were not open to navigation without extensive Canadian assistance, their ice cover was completely indistinguishable from land for most of the year, and the sea ice was lived on and moved over. The Arctic archipelago was physically, geographically, and economically tied to the mainland.³⁹ But as late as the 1950s senior Canadian officials admitted that Canada had not clearly formulated its position with regard to sovereignty over the waters of the Arctic basin and the channels between its Arctic islands, both from “narrow national” and “international” points of view.⁴⁰ This clarification would take decades to realize.

While postwar military activities bolstered Canada's legal claims to the mainland and islands of the archipelago, the Arctic waters were an entirely different story. By agreement, American vessels that supplied the DEW Line applied for and received Canadian waivers under the *Canada Shipping Act* before they proceeded.⁴¹ Captain T.C. Pullen, serving as the commanding officer of HMCS *Labrador* at the time, was appointed a U.S. Navy task group commander and reported to a U.S. Navy admiral during the 1957 sealift. One of his jobs was to ensure that three United States coast guard ships got safely through the Northwest Passage. “In those days, Canadians did not react as they would now to foreign encroachment in their Arctic waters,” he reminisced thirty years later; “but they had no cause. Great care was taken by the United States to respect Canadian interests. The joint security interest in the DEW line provided a shared incentive to devise arrangements that would avoid injury to either national position.”⁴² Indeed, journalists heralded Canada's supply efforts as a “big

gain for sovereignty” in that it “immeasurably strengthens our claim to the waters between the islands.”⁴³ The simple fact that these vessels would have to pass through Canadian coastal waters to supply DEW Line stations on Canadian land made this a relatively uncontroversial arrangement that did not call into question the extent of Canada’s maritime claims.

How far did Canada’s territorial waters extend? The question reached the House of Commons on 5 April 1957, and External Affairs lawyer Jim Nutt explained that the seaward boundary of the internal and contiguous water boundaries of the Archipelago remained unclear. “Lancaster and Viscount Melville Sounds constitute the main waterway through the Arctic Archipelago and are approximately 70 miles wide at the eastern entrance and 100 at the western entrance,” he noted. “The establishment and recognition of the territoriality of these waters would seem to be tantamount, at least by implication, to the establishment and recognition of a claim to all the internal waters of the Archipelago.”⁴⁴ So what waters did Canada actually claim? Senior government officials in Ottawa scrambled to find out. In the mid-1950s, the government requested copies of the original British title documents to the Arctic Islands and began to study its rights to the waters in the archipelago.⁴⁵

Before Canada formulated an official position, it had to ponder national goals and the international implications of claiming the waters and ice, as well as the underlying seabed and air space above. “In addition to any advantages,” observed Gordon Robertson, deputy minister of northern affairs and natural resources and chairman of the Advisory Committee on Northern Development, “sovereignty would imply certain obligations including the provision of such services as aids to sea and air navigation, the provision of any necessary local administration, and the enforcement of law” – in other words, the expenditure of public money. In response, the Soviet Union might either reject the claim or use it as a pretext to assert sovereignty over an even larger sector north of its mainland, and other countries would likely refuse to recognize a Canadian claim.⁴⁶ Indeed, reporters recognized that “the Russians would like nothing better than to stir up a row between Uncle Sam and Canada over who owns the Arctic ice and sea on our side of the North Pole.”⁴⁷

Canadian diplomats recognized that pushing for clarity and trying to secure American and other countries’ acquiescence to Canadian claims was

not a straightforward matter. As the Legal Division reported to the acting under-secretary on 23 February 1954, a formal solicitation carried “an implication that we may have some doubts regarding our sovereignty in the absence of formal recognition by foreign states.”⁴⁸ Another departmental memorandum noted that it was almost a “certainty that the United States would not concede such a claim and that the world at large would not acquiesce in it. It would therefore seem preferable not to raise the problem now and to implicitly reserve our position in granting permission for the U.S. to carry out work in Canadian territorial waters.” It made more sense for Canada to reach agreements with Washington on “the unstated assumption that ‘territorial waters’ in that area means whatever we may consider to be Canadian territorial waters, whereas the U.S. does likewise.”⁴⁹ Provoking protests from foreign countries would hardly serve Canada’s national interests, and the longer Canada exercised authority the stronger its claims would become.

Canada could not pretend to exist in a vacuum, its sovereignty issues divorced from broader geostrategic considerations. Claiming a twelve-mile territorial sea, for example, would place Canada in conflict with British challenges to the Soviet Union regarding fishing rights up to a three-mile limit.⁵⁰ As a member of the Commonwealth and fellow North Atlantic Treaty Organization (NATO) ally, Canada was not anxious to undermine Britain’s position. In addition, transits of the Northwest Passage by U.S. Navy submarines demonstrated the great strategic importance of the Arctic to Canada’s closest defence partner. The Arctic Ocean, covered by a dense and noisy ice pack, sheltered submarines from aerial surveillance and sonar detection – important considerations with the introduction of submarine-launched ballistic missiles (SLBMs). Commander James F. Calvert of the submarine, USS *Skate*, told public audiences that the United States could “best hold its world leadership by gaining superiority in the Arctic,” and that the Arctic waters would soon become an “entirely nuclear sub-ocean.” While this was not official policy, it indicated to Canadian officials that the American government would take “ever increasing interest” in the region.⁵¹

What imperative was there for Canada to act unilaterally and adopt straight baselines to close off its Arctic waters, in advance of international law, and with little regard for its allies’ interests? In 1958, the International Conference on the Law of the Sea adopted Article 4 of the Convention

on Territorial Waters which provided for a straight baseline system to delimit its territorial sea. This, in conjunction with the International Court of Justice (ICJ) decision in the *Anglo-Norwegian Fisheries Case* (1951), might apply to the waters of the channels between the islands of the Canadian Arctic Archipelago – but not to the Polar Basin lying north of Canadian land territories. Canada had insisted during the deliberations that the baselines not be limited to twenty-four miles, given that bridging the straits between the Arctic islands would require “much longer baselines than that – the longest across Viscount Melville Sound would be about 200 miles.” Such legal ambiguity meant that boldness would not necessarily serve in Canada’s best interests.⁵² In 1959 Gordon Robertson presciently speculated that in the future the discovery of resources in the archipelago, the closing of the Panama Canal or the development of an open polar sea, might raise the stakes and incline Canada to act unilaterally.⁵³ Robertson’s analysis was sound and remains as pertinent today as it was in 1959. It was, of course, inherently speculative, and to cajole allies on the basis of hypothetical threats to national sovereignty rooted in questionable legal claims to water (rather than physical security threats) would be unrealistic and difficult.

By the late 1950s, External Affairs saw “little advantage and numerous disadvantages to the assertion by Canada of the claim to the waters of the [Polar Basin lying north of the Canadian mainland], at least at the present time” because “it would undoubtedly stir up international controversy.” International law did not justify it, and the conditions in the region made such a claim “next to impossible to enforce.” By contrast, it saw a strong case for asserting Canadian sovereignty over the waters between the Arctic islands. The “main stumbling block” would be the United States, which would presumably insist upon “free navigation” through the Northwest Passage. “However, it is not impossible perhaps that quiet negotiations with the United States leading to the granting of special privileges in ... these waters might achieve reluctant acquiescence from them.” In conclusion, Under-Secretary of State for External Affairs Norman Robertson, who had recently returned to Ottawa after a stint as ambassador in Washington, “thought that it would be in no nation’s interest to invite an international wrangle, comparable perhaps to the one now going on concerning the Antarctic, by laying controversial claims to the waters and ice of the Arctic Basin.”⁵⁴

In the 1960s, Lester Pearson's Liberal government continued to officially endorse a three-mile territorial sea, but it also announced its intention to expand its control beyond those limits by unilaterally creating a nine-mile fishing zone adjacent to its three-mile territorial sea. Although the government introduced legislation to this effect and instituted an exclusive fishing zone based upon straight baselines along the east and west coasts, it retreated from making any moves to do the same in the Arctic. The government knew that the United States would object if Canada made any internal waters claim or declared straight baselines, but it hoped that the Americans might support an extension of Canada's claim to Arctic waters for reasons of defence and national security. The United States, however, reacted sharply, fearing any move in the Arctic could set a dangerous precedent. The Canadian government thus retreated from its plans, and Canada did not officially issue any geographical co-ordinates to delineate its claim to baselines in the Arctic for another twenty-three years.⁵⁵

Conclusions

Was this policy of caution, predicated on the uncertain status of Canada's possible internal waters claims in international law and the views of its allies, a failure? Commentators who suggest that Canada *should* have secured its claims more effectively, given that Canada *could* have acted differently, and that this *would* have yielded a stronger Canadian claim today, are practising "what if" history.⁵⁶ We must weigh our judgments on the basis of the relationships that existed at the time, prevailing norms of international law, and cost-benefit analyses of possible courses of action.

Our reading of the evidence suggests that Canada's cautious and gradualist strategy, avoiding internecine battles with our American allies over controversial legal issues like the sector principle, allowed the country to perfect its terrestrial sovereignty in the postwar period. External Affairs officials were well aware of the implications of their decisions, kept American indiscretions in perspective without succumbing to popular alarmism, and devised a modest strategy for expanding and entrenching Canada's claims. There is no indication that Washington was prepared to accept the sector principle in the postwar period, which undergirded much of Canada's

confused stance on its possible maritime claims until the 1950s. Indeed, historian Gordon W. Smith, writing in the mid-1960s, found it “difficult to understand why Canadian authorities have continued to trifle with the sector principle, and it is even more difficult to understand why attempts have been made, as indicated by various official decrees, pronouncements, and maps, to try to apply it to regions other than land.”⁵⁷

While international law evolved to include the possibility of straight baselines, any Canadian case would have been precarious in the 1950s and 1960s. “Under general international law and particularly the decision of the International Court of Justice in the Anglo-Norwegian Fisheries Judgment, a case could be made for treating the Arctic Archipelago as a whole with the mainland and measuring the territorial sea from straight base lines drawn about the coastline of the outer circumference of the Archipelago,” a March 1959 legal appraisal concluded. Yet “the insufficiency of evidence of a longstanding and unequivocal [Canadian] intention to assert sovereignty over these waters,” particularly vis-à-vis foreign states, would bring close scrutiny.⁵⁸ Instead, quiet diplomacy allowed Canada to avoid alienating its allies and circumpolar neighbours, to contribute to continental defence, and to lay the groundwork for the functional approach initiated under Trudeau in the wake of the *Manhattan* voyages and the straight baselines invoked by Mulroney’s Conservatives in the wake of the *Polar Sea*.

Franklyn Griffiths and other commentators continue to suggest that a functional Canadian approach to managing and controlling its internal waters, based on “agreeing to disagree” with the Americans on the legal status of the Northwest Passage, remains a feasible and realistic option. They usually turn to the 1988 Cooperation Agreement on icebreaker transits as evidence of bilateral willingness to forge a working compromise by avoiding core legal entanglements.⁵⁹ They might also look earlier, to the first two decades of the Cold War when Canada and the United States found space to coexist in the name of continental defence without prejudice to their respective legal positions. The United States acknowledged that the Arctic Archipelago belonged to Canada without validating the Canadian sector principle. Canada was more vague on its claims to the Arctic waters, but based upon the available evidence (which is avowedly partial) it avoided placing the United States in a position where it had to formally challenge Canada’s sovereignty claims. Slowly establishing rights to Arctic waters

without provoking foreign legal protests, *The Financial Post* explained in October 1958, was a prudent course. If all went well, “About 1980 we can say: ‘Of course this is a Canadian territorial sea. Everyone has acknowledged this for 20 years.’”⁶⁰ Rather than seeing Canadian decision-making as a failure to secure its claim to the Northwest Passage in the 1960s, a more positive appraisal might recognize how careful diplomacy helped to position Canada so that it could implement a functional approach under Trudeau and declare straight baselines under Mulroney.

NOTES

- 1 Ambassador in the United States to Acting Under-Secretary of State for External Affairs (USSEA), 5 June 1946, in *Documents on Canadian External Relations (DCER)*, vol. 13: 1946, ed. Norman Hillmer and Donald Page (Ottawa: Minister of Supply and Services, 1993), 1565–66.
- 2 On the sector principle, see Donat Pharand, *Canada's Arctic Waters in International Law* (Cambridge: Cambridge University Press, 1988), 3–87.
- 3 H.H. Wrong to A.D.P. Heeney, 8 June 1946, Department of External Affairs Records (DEAR), vol. 3347, file 9061-A-40, part 1, Library and Archives Canada (LAC).
- 4 H.H. Wrong to D.C. Abbot, 13 June 1946, DEAR, vol. 3347, file 9061-A-40, part 1, LAC.
- 5 Adam Lajeunesse, “Lock, Stock, and Icebergs? Defining Canadian Sovereignty from Mackenzie King to Stephen Harper,” CMSS Occasional Paper No. 1 (Calgary: Centre for Military and Strategic Studies, 2007), 6–7; Adam Lajeunesse, “The True North as Long as It's Free: The Canadian Policy Deficit 1945–1985” (MA thesis, University of Calgary, 2007), 42, 59–60.
- 6 Shelagh Grant, *Sovereignty or Security? Government Policy in the Canadian North, 1936–1950* (Vancouver: UBC Press, 1988).
- 7 Elizabeth Elliot-Meisel, *Arctic Diplomacy: Canada and the United States in the Northwest Passage* (New York: Peter Lang, 1998); David Bercuson, “Continental Defence and Arctic Sovereignty, 1945–1950: Solving the Canadian Dilemma,” in *The Cold War and Defence*, ed. Keith Neilson and Ronald Haycock (New York: Praeger, 1990), 153–70.
- 8 Elliot-Meisel, *Arctic Diplomacy*, 43.
- 9 Stanley Dziuban, *Military Relations Between the United States and Canada 1939–1945* (Washington: Office of the Chief of Military History, 1959), 138. Several scholars have speculated that the United States Government had a diabolical agenda for the Canadian North. See Grant, *Sovereignty or Security*, 185; Donald Creighton, *The Forked Road: Canada, 1939–1957* (Toronto: McClelland & Stewart, 1976), 74. The American response to these Canadian initiatives, if one avoids the lure of the “conspiratorial view” of history, was not a cause for concern but cautious optimism. They were actually encouraged by the involvement of Brigadier-General Foster in defence planning.
- 10 Whitney Lackenbauer, “Right and Honourable: Mackenzie King, Canadian-American Bilateral Relations, and Canadian Sovereignty in the Northwest, 1943–1948,” in *Mackenzie King: Citizenship and Community*, ed. J. English, K. McLaughlin, and W. Lackenbauer (Toronto: Robin Brass Studio, 2002), 154.
- 11 Elliot-Meisel, *Arctic Diplomacy*, 56.
- 12 Lt. Colonel Bernd Horn, “Gateway to Invasion or the Curse of Geography? The Canadian Arctic and the Question of Security, 1939–1999,” in *Forging a Nation: Perspectives on the Canadian Military Experience*, ed. Bernd Horn (St. Catharines: Vanwell Publishing, 2002), 318.
- 13 Bercuson, “Continental Defence and Arctic Sovereignty,” 155.
- 14 Memorandum from Head, Third Political Division Legal Division, 1 January 1946, in Donald Page, ed., *DCER*, vol. 12, 1946 (Ottawa: Minister of Supply and Services, 1977); L.B. Pearson to H.H. Wrong, 18 June 1946, DEAR, 86-87/159, box 41, file 9057-C-40, pt. 4, LAC.
- 15 Gordon Smith defined the sector principle as: “Each state with a continental Arctic coastline automatically falls heir to all islands lying between this coastline and the North Pole, which are enclosed by longitudinal lines drawn from the eastern and western extremities of the same coastline to the Pole.” The Canadians used the Sector Principle to support their claims in the Arctic, despite its dubious veracity in

- international law. See Gordon W. Smith, "Sovereignty in the North: The Canadian Aspect of an International Problem," in *The Arctic Frontier*, ed. R.St.J. Macdonald (Toronto: University of Toronto Press, 1966).
- 16 A close contemporary parallel to this is the position of the United States on the Northwest Passage. If the Americans accept Canada's position on the passage and allow it to be treated as Canadian internal waters, a precedent would be set for more strategically important straits throughout the world. Strategic and political implications make it unlikely that the United States will accept the Northwest Passage as Canadian internal waters, just as similar considerations kept the United States from accepting the sector principle in 1946. See Ken Coates, Whitney Lackenbauer, William Morrison, and Greg Poelzer, *Arctic Front: Defending Canada in the Far North* (Toronto: Thomas Allen, 2008), 83.
 - 17 Note for Mr. Wrong: Proposed Arctic Weather Station Programme, 27 May 1946, DEAR, vol. 3346, file 9061-A-40C, pt. 1, LAC.
 - 18 Memorandum for Cabinet Defence Committee, "United States Proposals for an Arctic Weather Station Programme," from External Affairs, 30 May 1946, DEAR, vol. 3346, file 9061-A-40C, pt. 1, LAC.
 - 19 "Memorandum – United States Proposals for Weather Stations in the Arctic," 4 July 1946, DEAR, vol. 3346, file 9061-A-40C, pt. 1, LAC.
 - 20 On this era, see Joseph T. Jockel, "The Canada–United States Military Co-operation Committee and Continental Air Defence, 1946," *Canadian Historical Review* 64, no. 3 (1983): 352–77; and David Bercuson, *True Patriot: The Life of Brooke Claxton, 1898–1960* (Toronto: University of Toronto Press, 1993), 153–74.
 - 21 Bercuson, "Continental Defence and Arctic Sovereignty," 161. By March 1947 the Cabinet approved the construction of Arctic weather stations and three Long Range Aid to Navigation (LORAN) posts, adopting the parameters suggested by External Affairs. Although External Affairs has been praised for its use of the functional principle in international politics, it also applied the principle to the new defence projects in the North, insisting that as soon as qualified Canadian personnel could be trained they would replace the Americans. L.B. Pearson to Ray Atherton, 22 December 1947; D.M Johnson to Mr Rae, 25 April 1947, DEAR, vol. 3841, file 9061-A-40, pt. 2, LAC. Eventually functionalism would also be applied to Arctic re-supply missions, with the Canadians gradually assuming more responsibility for northern air lifts and building an icebreaker to assist in naval expeditions.
 - 22 House of Commons, *Debates*, 12 February 1947.
 - 23 Secretary of the American Section, PJBD, to Secretary of the Canadian Section, PJBD, 23 December 1947, in *DCER*, vol. 14: 1947, ed. Norman Hillmer and Donald Page (Ottawa: Minister of Supply and Services, 1994), 1523.
 - 24 D.M Johnson to Mr. Magaan, 13 October 1948, DEAR, vol. 3841, file 9061-G-40, LAC.
 - 25 Maagan to William P. Snow, 11 October 1948, DEAR, vol. 3841, file 9061-G-40, LAC.
 - 26 See, for example, John P. Kelsall to Lewis, 31 August 1948, RG 85, vol. 302, file 1009-5, vol. 1, LAC.
 - 27 O.D. Skelton, USSEA, to O.S. Finnie, Director Northwest Territories and Yukon Branch, Department of the Interior, 2 September 1926, DEAR, vol. 4252, file 9057-40, pt. 2, LAC.
 - 28 The concept and diplomatic negotiations that led to the postwar radar networks are well covered in Joseph Jockel, *No Boundaries Upstairs: Canada, the United States, and the Origins of North American Air Defence, 1945–1958* (Vancouver: UBC Press, 1987).
 - 29 Minister of National Defence, Memorandum to the Cabinet Defence Committee in *DCER*, vol. 21: 1955, ed. Greg Donaghy (Ottawa: Canada Communication Group, 1999), 756–57.

- 30 Alexander W.G. Herd, "As Practicable: Canada–United States Continental Air Defense Cooperation 1953–1954" (MA thesis, Kansas State University, 2005), 86.
- 31 R.J. Sutherland, "The Strategic Significance of the Canadian Arctic," in *The Arctic Frontier*, 271.
- 32 James Eayrs, "Problems of Canadian–American Relations," in *Canada in World Affairs October 1955 to June 1957*, ed. James Eayrs (Toronto: Oxford University Press, 1959), 151.
- 33 John Nicholas Harris, "National Defence and Northern Development: The Establishment of the DEW Line in the Canadian North" (MA thesis, Simon Fraser University, 1980), 160.
- 34 Michael William Evans, "The Establishment of the Distant Early Warning Line, 1952–1957: A Study of Continental Defense Policymaking" (MA thesis, Bowling Green University, 1995), 72.
- 35 E.B. Wang, "The Dew Line and Canadian Sovereignty," 26 May 1969, DEAR, file 27-10-2-2, pt. 1, LAC.
- 36 Italics in the original. E.B. Wang, "The Dew Line and Canadian Sovereignty," 26 May 1969, DEAR, file 27-10-2-2, pt. 1, LAC.
- 37 Evans, "Establishment of the DEW Line," 76.
- 38 W.G. Lamarque to G. Sicotte, 5 March 1958, DEAR, vol. 7118, file 9057-40, pt. 9.2, LAC. Donat Pharand calculates that, in Canada's case, the close link between land and sea necessary to draw straight baselines is very strong. The sea to land ratio is 0.822 to 1, much better than the 3.5 to 1 ratio for the Norwegian Archipelago upon which the original legal decision was based. Furthermore, he notes that "the quasi-permanency of the ice over the enclosed waters bolsters the physical unity between land and sea." Pharand, "The Arctic Waters and the Northwest Passage," 18.
- 39 G. Sicotte to W.G. Lamarque, 14 April 1958, DEAR, vol. 7118, file 9057-40, pt. 9.2, LAC.
- 40 G.W. Rowley, Memorandum for the Advisory Committee on Northern Development, "Canadian Sovereignty in the Arctic Basin and the Channels Lying Between the Islands of the Arctic Archipelago," 16 September 1958, DEAR, vol. 7118, file 9057-40, pt. 9.2, LAC.
- 41 J.M. Leeming, "HMCS Labrador and the Canadian Arctic," in *RCN in Retrospect*, ed. James A. Boutillier (Vancouver: UBC Press, 1982), 286–307; Louis St. Laurent, House of Commons *Debates*, 6 April 1957, excerpted in "Public Statements regarding Arctic Sovereignty," c. June 1960, copy on DEAR, vol. 7118, file 9057-40, LAC.
- 42 T.C. Pullen, "What Price Canadian Sovereignty?" *U.S. Naval Institute Proceedings* 113 (September 1987): 68.
- 43 Leslie Wilson, "Canada Supplying Arctic: Big Gain for Sovereignty," *Financial Post*, 27 September 1958.
- 44 J.S. Nutt, Memorandum for File: Arctic Territorial Waters, 9 April 1957, DEAR, vol. 6510, file 9057-40, pt. 6.2, LAC.
- 45 R.G. Robertson to Jules Leger, 8 March 1955; M.H. Wershof to R.G. Robertson, 3 March 1955, DEAR, vol. 6510, file 9057-40, pt. 5.1, LAC.
- 46 R.G. Robertson, draft letter, c. fall 1958, DEAR, vol. 6510, file 9057-40, pt. 7, LAC.
- 47 "Arctic Sovereignty: Canada Ownership of Polar Islands Tacitly Recognized," *Montreal Star*, 8 August 1958.
- 48 Legal Division to Acting Under-Secretary of State for External Affairs (USSEA), 23 February 1954, DEAR, vol. 6297, file 9057-40, pt. 4.2, LAC.
- 49 Memorandum for file 50,0370-40, "U.S. Request for Permission to Make Submarine Installations off Cape Dyer, Baffin Island in connection with the BMEWS Cable to Thule," 29 July 1958, DEAR, vol. 6510, file 9057-40, pt. 7.1, LAC. Since no study on the status of the Arctic waters (particularly those in the archipelago) had been completed, G. Sicotte noted on 30 April 1956 that "no formal action should be taken regarding possible

- Canadian claims to waters in the Arctic at the present time." He recommended that no department, however, take any action which could compromise an eventual Canadian internal waters claim. "For present purposes," he noted, "these waters might be taken as those lying within a line commencing at Resolution Island, south east of Baffin Island and running from headland to headland in a rough triangle north to the top of Ellesmere Island and thence south west to Banks Island and the Arctic coast of Canada." G. Sicotte for the USSEA to Canadian Embassy, Copenhagen, Denmark, 30 April 1956, DEAR, vol. 6510, file 9057-40, pt. 6.2, LAC.
- 50 Soviet Section, Arthur Ford, noted in an April 1955 memo (NS.1521/15, USSR. 178/55), DEAR, vol. 6510, file 9057-40, pt. 6.1, LAC.
- 51 Washington to External Affairs, 10 October 1958, DEAR, vol. 6510, file 9057-40, pt. 7.1, LAC.
- 52 R.G. Robertson to USSEA, 30 October 1958, DEAR, vol. 7118, file 9057-40, pt. 8, LAC.
- 53 R.G. Robertson to USSEA, "Arctic Sovereignty," 3 July 1959, DEAR, vol. 6510, file 9057-40, pt. 6.2, LAC.
- 54 USSEA to R.G. Robertson, 17 December 1958, DEAR, vol. 7118, file 9057-40, pt. 8, LAC. General Charles Foulkes, the Chairman, Chiefs of Staff, also raised concerns about foreign "sector" claims that could deny Canada "freedom of passage by sea to parts of our northland and Arctic reconnaissance would be very limited." Draft, Foulkes to Chairman, Advisory Committee on Northern Development, 12 December 1958, DEAR, vol. 7118, file 9057-40, pt. 8, LAC.
- 55 Territorial Sea and Fishing Zones Act, 22, 1964-65 S.C. 153 (1964); Margaret W. Morris, "Boundary Problems Relating to the Sovereignty of the Canadian Arctic," in *Canada's Changing North*, ed. William C. Wonders (Toronto: McClelland & Stewart, 1971), 322; Smith, "Sovereignty in the North," 236-37; and Elliot-Meisel, *Arctic Diplomacy*, 140.
- 56 See, for example, Lajeunesse, "The True North as Long as It's Free," 60.
- 57 Smith, "Sovereignty in the North," 226.
- 58 J.S. Nutt, "Status of the Waters of the Canadian Arctic Archipelago," 9 March 1959, DEAR, vol. 7118, file 9057-40, pt. 8, LAC.
- 59 On 11 January 1988, External Affairs Minister Joe Clark and United States Secretary of State George Shultz announced an agreement on Arctic Co-operation that was carefully framed to avoid prejudicing the legal claims of both sides. The United States agreed to seek Canadian consent before its icebreakers navigated in what Canada considered to be its internal waters, based on the principle that these were scientific missions of mutual benefit to both countries. See Christopher Kirkey, "Smoothing Troubled Waters: The 1988 Canada-United States Arctic Co-operation Agreement," *International Journal* 50 (1995): 408-26, and David L. Larson, "United States Interests in the Arctic Region," *Ocean Development and International Law* 20 (1989): 183-84.
- 60 "Do We Own Water and Ice around Arctic Islands?," *Financial Post*, 10 October 1959.