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Canadian Arctic Sovereignty and Security: Historical Perspectives

Edited by P. Whitney Lackenbauer



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Cover: The Mobile Striking Force, an air-portable and airborne brigade group designed as a quick reaction force for northern operations, was an inexpensive solution to the question of how Canada could deal with an enemy lodgement in the Arctic. During training exercises, army personnel from southern Canada learned how to survive and operate in the north. In this image, taken during Exercise Bulldog II in 1954, Inuk Ranger TooToo from Churchill, Manitoba relays information to army personnel in a Penguin. DND photo PC-7066.

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Calgary Papers *in Military and Strategic Studies*

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Edited by P. Whitney Lackenbauer

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Building on “Shifting Sands”: The Canadian Armed Forces, Sovereignty and the Arctic, 1968-1972

P. Whitney Lackenbauer and Peter Kikkert

Sovereignty is not a magic word which automatically requires or justifies a certain military set-piece. It is rather the political and territorial framework within which a state exists and functions. It is not made up of, or protected by symbols, tokens or gestures.

— E.B. Wang, External Affairs, Legal Division, August 1970

The role of the Canadian Forces (CF) in asserting sovereignty is often tied to the old maxim that presence is 9/10ths of the law. Surveillance and “boots on the ground” are commonly bound up with Canada’s credibility in “defending” its sovereignty. By implication, a more robust CF presence is deemed essential to “using or losing” our Arctic. There has, however, been little to no supporting justification given to substantiate this accepted wisdom. Recent legal opinions are obviously classified and cannot be analyzed, so history helps to illuminate the issue. Discussions from the early Trudeau era on the role of the CF in protecting and maintaining sovereignty reveal that improved military capabilities do not inherently translate into stronger sovereignty claims.

In September 1969 Humble Oil sent the ice strengthened oil tanker SS *Manhattan* through the icy waters of the Northwest Passage to determine if it could be used as a shipping route for oil and gas from the Beaufort Sea. Although the ship’s owners requested Canadian cooperation and assistance, the U.S. State Department would not accept Canada’s claims to the Passage or ask for permission to transit these waters. Writing shortly after *Manhattan*’s historic journey, journalist Maxwell Cohen described the national crisis that resulted as Canadians felt “they were on the edge of another American . . . [theft] of Canadian resources and rights which had to be dealt with at once by firm governmental action.”¹ Given the grave insecurity about sovereignty the voyage caused, it would have broad implications for both Canadian-American relations and Canadian policy in the Arctic.

In the years preceding the *Manhattan's* voyage, quiet diplomacy and careful negotiations characterized Canada's approach to Arctic sovereignty. Although some historians have criticized this approach as *ad hoc* and ineffective,² Canadian policy-makers, especially those in External Affairs, adopted a careful strategy that preserved and extended Canadian sovereignty. Perhaps more importantly, as the Cold War intensified and the North became the undefended roof to the continent, these policy-makers managed to balance sovereignty concerns with the security needs of the United States. By the 1950s External Affairs had developed a sophisticated understanding of sovereignty in the North, which successfully guided the department as it laid the groundwork for the functional approach taken by Trudeau in reaction to the *Manhattan's* intrusion.³

In the previous chapter, Matthew Willis examined the government's steps to expand its Arctic jurisdiction and control through unilateral legislative action. The Canadian Armed Forces were also a lynchpin in the government's new sovereignty strategy. From 1968-72, however, the Department of National Defence (DND) struggled to articulate a role for the military in the Arctic. Defence planners rationalized Canadian Armed Forces activities around the idea of the protection of sovereignty, and insisted that a robust military presence and flying the flag were essential to preserve and strengthen Canada's legal claim in the Arctic. Surveillance and the ability to detect transits in the region no longer had a purely military purpose: they purportedly bolstered Canada's legal claims.

This emphasis concerned the Department of External Affairs, which admitted that a country must be able to enforce and control activities in its jurisdiction, but doubted whether an increase in military presence strengthened Canada's sovereignty over its Arctic. To these critics, symbolic presence was far less important than the functional contribution the military could make to the broad range of government responsibilities in the region. They emphasized that, before building a role for the armed forces, defence planners had to start with a coherent rationale for an increased level of military activity. In the end, prescient warnings that developing a military role to serve the "optical demands" of political sovereignty would be tantamount to building "on shifting sands" went unheeded.⁴ National Defence proceeded to develop a role for the CAF around the protection of sovereignty, predicated on a short-term sovereignty crisis that soon dissipated.

Commercial Interests and the Manhattan's Voyage

The search for petroleum in the Arctic Archipelago began in earnest during the Second World War, and large-scale exploration in the Queen Elizabeth Islands started in 1959. By the mid-1960s, an exploration boom drew unprecedented attention to the Beaufort Sea north of Canada and Alaska, as well as to the Mackenzie Delta and the Sverdrup Basin.⁵ Oil companies and economists began to look at the isolated Canadian Arctic as a source of untapped wealth and potential. Great riches rested underneath the ice just waiting to be exploited. Oil companies secured exploration permits, conducted geological mapping and geophysical prospecting, drilled at a few sites, and began to prepare for the possibilities of shipping oil in the Canadian Archipelago. "This has presented the first opportunities for use of part of the Northwest Passage for strictly commercial shipping," Trevor Lloyd predicted in the prominent American journal *Foreign Affairs* in 1964. "Even if oil in commercial quantities were to be discovered shortly, there might well be considerable delay before it could reach world markets as the method of transportation is still to be determined."⁶

Four years later, the discovery of massive petroleum deposits on the north slope of Alaska by the Atlantic Richfield Company suddenly and dramatically changed the situation in the Arctic. How could the estimated ten billion barrels of oil extracted from the north slope be transported thousands of kilometers to southern markets in the United States in a cost effective and expedient manner? The oil industry immediately began exploring the option of using tankers to transport oil through the Northwest Passage to east coast refineries. In 1969, Atlantic Richfield, British Petroleum, and Standard Oil laid out a plan to send an ice-strengthened vessel through the Passage, explaining that "if successful, the test could result in the establishment of a new commercial shipping route through the Arctic region with broad implications for future Arctic development and international trade."⁷

The plans for a commercial oil tanker transiting the Northwest Passage caught the Canadian government off guard. Although the Advisory Committee on Northern Development (ACND) offered an appropriate platform for interdepartmental discussions between key federal stakeholders, such as the Departments of National Defence and External Affairs, the committee met infrequently and had done little to explore the implications of the oil and gas activities. At the same time, neither the committee – nor any other arm of the government – comprehended the technological advancements that made mineral extraction and commercial navigation plausible.

Political scientist Edgar Dosman argued that the failure of the ACND to see these developments looming just over the horizon "must be counted as one of the great lost opportunities for a coherent foreign and defence policy in the North." At the 71st meeting of the ACND in December 1967, for example, the committee discussed a report that a hunt for oil was imminent in the Arctic waters. The report recommended that Canada develop a control system to regulate incoming foreign-owned ships and form an interdepartmental committee to review possible options and departmental roles. This group was never formed, however, and no regulatory actions were taken.⁸

When the S.S. *Manhattan* made its way through the Northwest Passage with its small load of oil, the nation's response was dramatic and demanded a more assertive Canadian Arctic policy. "In an era of heightened concern with Canadian sovereignty across the board, matters affecting the Arctic were drawn into the public sector and brought to high visibility," political scientist Thomas Tynan explained. "They could no longer be suitably dealt with through simply informal, or closed, diplomatic channels. A bold statement of national interest in the Arctic was needed to replace a merely quiet affirmation of it."⁹ The voyage came at a time of increasing nationalism and ecological awareness, and it aroused "concerns that Canada's manifest destiny might be lost in the North to American multinational corporations."¹⁰ Accordingly, the new prime minister faced a dilemma as he defined Canada's Northern interests within a broader national economic and political framework. Dosman asked:

What priorities would be chosen in the last great area of the country not yet possessed and exploited? Would Canada seize the opportunity now denied it in the South, to lessen Canadian dependence on the United States, to undertake a truly Canadian development of the North? Would Ottawa exercise leadership in the high Arctic to maintain national jurisdiction and to develop an internationally acceptable approach to activity in the polar area as a whole? Or would it follow the line of least resistance: foreign ownership of resources, exploitation with massive government subsidies paying only lip-service to environmental and native objections; transportation of raw materials to foreign markets; the abandonment of historic claims in the face of American diplomatic pressure?¹¹

Located on the physical and mental periphery of the nation, the Arctic Archipelago suddenly became a major point of contention in Canadian-American relations and a pivotal political arena for Trudeau's government.

The Canadian Response

As the "media-created perception" of an American challenge to Canada's sovereignty in the Arctic grew,¹² so did the indignation of the Canadian public. This caught Trudeau's government by surprise.¹³ "Apart from the general question of Canada-United States economic and cultural relations and their meaning for the future of Canadian decision-making autonomy and identity," Maxwell Cohen observed in 1970, "perhaps no other subject has so polarized the idea of the national interest as its continuing debate over Canada's Arctic claims and plans for its future."¹⁴ After the *Manhattan* made its way through the Passage many Canadians supported an activist approach to counter what they believed was an inevitable American challenge to Canadian sovereignty. The federal government felt pressured to create the means necessary to defend its territory and explicitly state its sovereignty over the Northwest Passage.¹⁵ Activists wanted the abilities of the military to be improved so that it could operate in the Arctic and enforce Canada's sovereign title. Despite the loud cries of those who supported these aggressive actions, there were others, both in the government and in the general public, who supported a gradualist approach. They looked at the quiet diplomacy of the past and saw a United States that was willing to negotiate to allay Canadian concerns. Furthermore, they did not anticipate a significant amount of shipping through the Passage. Accordingly, Canada could pursue "special status" for the Passage rather than deploying its military to the Arctic for sovereignty-fulfilling reasons. According to political scientist Franklyn Griffiths, the common gradualist opinion was that "success resides not in the commitment to pursue confrontation through to the bitter end, but in avoiding a confrontation in the first place."¹⁶

At first, the Canadian government attempted to portray the voyage of the *Manhattan* in a positive light. Prior to the voyage the oil companies requested information on conditions in the Passage, and as the tanker made its voyage a Canadian icebreaker accompanied it through Canadian waters – facts overlooked by many in the opposition and general public. Mitchell Sharp, the Canadian Secretary of State for External Affairs (SSEA), explained his frustration at this misrepresentation in the *Globe and Mail*, stating that "the Manhattan project would not have been possible without ... extensive Canadian input, consisting of preparatory studies extending for many years

over a vast area of the North.... It is wholly misleading, therefore, to portray the *Manhattan* passage as a test of Canada's sovereignty in the Arctic, the issue simply does not arise." He emphasized that this was "no time for wide-ranging assertions of sovereignty – rather Canada must concentrate on specific objectives, the most important of which is the opening up of the Canadian Arctic region for development."¹⁷

Despite the reassuring words, fears abounded – particularly after the owners of the *Manhattan* began planning a second voyage the following year to test an alternate route. Again Sharp attempted to alleviate Canadian concerns, this time in the House of Commons. When asked if the owners of the *Manhattan* had sought Canadian permission for a second voyage through the Arctic on 16 February 1970, the SSEA noted:

When ships pass through our waters, wherever these are, they do not seek the specific approval of the Canadian government. They are assumed to be on innocent passage and we do not question them. We assume that the *Manhattan*, if it is to go again, will undertake an innocent passage. Indeed the purpose of the voyage would be to find out, by way of this experiment, what conditions are like in the north. That is why we welcome it and have cooperated and given our permission in the past.

The Opposition was not convinced. Former Prime Minister John Diefenbaker interjected his views on sovereignty during parliamentary sessions, answering Sharp's statement with the cry: "What price Canadian sovereignty! Heaven help us!"¹⁸

The panic in Diefenbaker's appeal captures well the mood of Canada in the aftermath of *Manhattan*. In the press, journalists fed Canadians' angst for their country's sovereignty and stirred up a national panic. Fears of American encroachment were also palpable in the House of Commons. In March 1970, for instance, Member of Parliament Gordon Ritchie stood up and exclaimed, "more and more policies laid down at Ottawa are reducing this country to the status of a non-nation. The Americans kindly take us aside and tell us which parts of the Canadian north they intend to take over...The solution in respect to the Canadian Arctic is simple. The Canadian Arctic is Canadian. The sooner this government so informs the people of the United States, the better."¹⁹ The only solution, according to Ritchie, was strengthening the Canadian presence in the Arctic and immediately doubling the military bases there. Though the government

continued to try to alleviate concern, there was recognition that this national concern for sovereignty would not quickly dissipate. Several Cabinet ministers insisted that "ownership of Northern Canada was a very real force in the spirit of many Canadians, and these strong feelings should not be dismissed by calling them jingoism."²⁰ Faced with such a strong public outcry and incisive political criticism, the government changed its tune and prepared a response to what had become a national crisis.

Trudeau and his advisers sought an alternate solution to a vexing political problem. The ecologically delicate nature of the Arctic and the severe risks posed to the fragile environment by oil filled tankers traveling in ice filled waters now became a convenient reason to extend Canadian jurisdiction northward. In his October 1969 Throne Speech to Parliament, Trudeau explained that:

Canada regards herself as responsible to all mankind for the peculiar ecological balance that now exists so precariously in the water, ice and land areas of the Arctic Archipelago. We do not doubt for a moment that the rest of the world would find us at fault, and hold us liable, should we fail to ensure adequate protection of that environment from pollution or artificial deterioration. Canada will not permit this to happen....

Part of the heritage of this country, a part that is of increasing importance and value to us, is the purity of our water, the freshness of our air, and the extent of our living resources. For ourselves and for the world we must jealously guard these benefits. To do so is not chauvinism, it is an act of sanity in an increasingly irresponsible world. Canada will propose a policy of use of the Arctic waters which will be designed for environmental preservation..., as a contribution to the long-term and sustained development of resources for economic and social progress.²¹

The prime minister's innovative use of environmental concerns to strengthen Canadian jurisdiction in the Arctic helped to ease lingering nationalist concerns. Trudeau's government chose to cast foreign activities, especially the actions of its closest ally, as threats to Canada's territorial integrity and the fundamental right of all humans to live in a safe and healthy environment, rather than pushing the internal waters versus international strait debate.

The Canadian emphasis on the environment had strong international and moral appeal, and the government quickly adopted extraordinary meas-

ures to protect its environmental interests. In April 1970, the Liberal government introduced two bills into Parliament that heralded a new "functional" approach to Canadian sovereignty. Bill C-202, the *Arctic Waters Pollution Prevention Act* (AWPPA), created a pollution prevention zone one hundred nautical miles (115 miles or 185 km) outside the archipelago and covered the waters between the islands. This allowed Canada to regulate and control future tanker traffic through the Northwest Passage. "The Arctic Waters bill represents a constructive and functional approach to environmental preservation," Sharp asserted in the House of Commons. "It asserts only the limited jurisdiction required to achieve a specific and vital purpose." While not a formal assertion of sovereignty, Canada still claimed jurisdiction over the area.²² Bill C-203, the *Territorial Sea and Fishing Zone Act*, extended Canada's territorial sea from three to twelve miles. The new 12-mile limit in the Arctic created a Canadian controlled eastern gateway in the Northwest Passage between Young and Lowther islands in the Barrow Strait. A similar Western gateway already existed through the Prince of Wales Strait, which was covered by the traditionally-recognized three-mile limit.²³ With the enactment of Bill C-203, a ship could not even transit the Passage using the ice infested M'Clure Strait without violating Canadian regulations, because it needed to travel through Canadian territorial waters at some point. Although Canada could not deny the right of innocent passage in these territorial waters, it could temporarily suspend the right of passage if its security was challenged by a threat, even an environmental one.²⁴

In explaining the bills in the House of Commons, Trudeau argued that "the important thing is that we ... have authority to ensure that any danger to the delicate ecological balance of the Arctic to be prevented or preserved against by Canadian action.... It is not an assertion of sovereignty, it is an exercise of our desire to keep the Arctic free of pollution."²⁵ International lawyer Leonard Legault of External Affairs elaborated on the bills, stating that "Canada cannot abdicate its responsibility for the protection of its territory, and Canada cannot wait for the slow and difficult development of international law to afford that situation. Canada moreover has thoroughly tested the climate for international action against marine pollution...and has found it seriously wanting."²⁶ Parliament passed both bills unanimously.

Rather than risk a full assertion of Canadian sovereignty over the Northwest Passage, which likely would have been rejected by the United States to the detriment of the Canada's position, Trudeau's government embraced functional sovereignty: jurisdiction to regulate certain activities in Arctic waters. Because the *Arctic Waters Pollution Prevention Act* did not

assert full Canadian sovereignty, its critics alleged that the government was actually weakening Canada's sovereignty claim. Trudeau refused to concede to the "ultranationalists": his course was that of "legal moderation" with a clear focus on the popular issue of environmental protection.²⁷ After all, the prime minister explained, "to close off these Arctic waters would be as senseless as placing a barrier across the entrance to Halifax or Vancouver harbour." Instead, the government committed to actively monitor the passage to ensure safe navigation by any vessel that followed Canadian regulations and safety standards.²⁸ Canada made the dumping of wastes illegal in the newly created pollution prevention zone, established safety control zones for shipping, set personnel qualifications, stipulated navigational aids, and insisted on standards for ship hull construction.²⁹ By embracing this functional approach, the government was actually laying the groundwork to apply straight baselines to the Arctic archipelago. Indeed, as international lawyer Donald McRae observed, the legislation was a "manifestation of sovereignty" that was ultimately accepted by the international community, thus helping to consolidate Canada's authority over its archipelagic waters.³⁰

Commentators at the time noted that, if Canada was going to act unilaterally, it needed adequate enforcement capabilities to assert control over its northern waters. How would Canada enforce its laws if foreign vessels decided to mount a direct challenge? Would Canadian weakness not encourage foreign interests to challenge its jurisdiction? While the opposition parties supported the Trudeau government's initiatives, they worried about Canada's capacity to enforce these new regulations. During the parliamentary debate on the AWPPA, Robert Stanfield, the Leader of the Opposition, stated:

Having accepted the responsibility of controlling pollution in this area, and I agree that we should accept the responsibility, we must now make certain that we discharge this responsibility, I and the hon. members of this house will expect this government to prepare itself to discharge its responsibilities and, incidentally, to tell us how it intends to enforce these measures it proposes.... This is what this government is asking Parliament to define. If we accept that responsibility, than we must carry it out. We must not fail, not only because we do not want to look silly but because we have accepted a heavy responsibility.

In response to Stanfield's question of how Canada would enforce its new regulations, members of parliament mockingly cried out "through flower power" and "through Jamieson's navy," the unarmed ships of the Department of Transport.³¹ The Department of Transport performed its duties admirably in the region, but the Canadian government increasingly turned to the Canadian Armed Forces to discharge Canada's new responsibilities in its enlarged Arctic jurisdiction.

The Role of the Canadian Forces in Sovereignty Assertion

In the late 1960s, the Canadian military undertook a defence policy review that studied the possible role of the Canadian Forces in protecting and maintaining sovereignty. A 1968 paper on DND policy focused on sovereignty concerns in the North, anticipated an acceleration of interest in the area, and suggested that the military begin identifying roles in the region.³² With minimal understanding of international law, defence planners believed that persistent presence and surveillance were essential to affirm Canada's legal claims in the Arctic. Another policy paper strengthened this perception, suggesting that:

In uninhabited regions, a government should at least be able to maintain effective surveillance, if only for the purpose of asserting its authority if the need should arise. India's claim to Ladakh, never too strong in any case, has not benefited from the fact that the Chinese were able to occupy 12,000 square mile of it, and build a road across it, without the Indian Government becoming aware of what was happening for several years.

Even in areas where little direct military threat existed, the military needed to maintain some kind of presence for 'insurance' purposes and to assist in the maintenance of law and order, disaster relief, search and rescue, and the prevention of violations against Canadian territory. While there was already a government presence in the Arctic, defence planners believed that the establishment of regular patrol flights in the region could reinforce Canada's claim to sovereignty.³³ In short, surveillance was considered key to asserting sovereignty.

By the spring of 1969, Trudeau started to promote the new focus of the Canadian Forces by publicly declaring that his government's "first priority in our defence policy is the protection of Canadian sovereignty."³⁴ This was followed by Mitchell Sharp's claim that the new defence policy would be

centered on “the surveillance of our own territory and coastlines in the interests of protecting our sovereignty.”³⁵ While Lester Pearson’s government funneled the lion’s share of defence resources and attention into NATO responsibilities and United Nations peacekeeping, Trudeau adopted a ‘Canada first’ approach with particular emphasis on the North.³⁶ Although the Canadian forces had the task of defending Canada’s sovereignty, the specific nature of this role was ambiguous and doubts existed about the extent to which the government was ready to commit men and resources.³⁷

In the following years the Departments of National Defence and External Affairs attempted to define this new role for the Canadian Forces and determine the most effective way for the military to fulfill its duties. In their assessments, planners did not worry about a short-term, direct military threat to the Arctic. In fact, the military virtually disregarded the possibility of conventional forces operating against Canada in the region. Military analysts confidently asserted that the only real direct threat via the Arctic and the Canadian northland approach would come in the context of a general nuclear war. DND’s Steering Committee on the Canadian North, however, insisted that a role remained for the Canadian Forces in the Arctic because they possessed a level of capability and expertise “which can be used to advantage in furthering government objectives in the North.”³⁸ The committee’s December 1969 report also emphasized that the military needed to be able to operate efficiently in all parts of the country, regardless of the level of direct military threat. In the ensuing months, little effort was made to articulate more specifically what the military’s role would be.

While DND appeared content to plan based upon these general assumptions, officials at External Affairs noted their frustration with the ambiguous justification for increased military involvement in the Arctic. By 1970, Michael Shenstone of External Affairs’ North American Defence and NATO Division still could not grasp the actual rationale for the government’s defence policy, and recommended that defence planners begin a comprehensive assessment of the threats to the Arctic. “We are not aware of any current intelligence estimates forecasting a need for a greater level of military surveillance and capability in the North,” he explained. Public announcements, however, seemed to suggest that “the Canadian Armed Forces are moving in the direction of a significant reallocation of resources towards the North and away from other areas such as NATO Europe.”³⁹

This shift seemed illogical. The government insisted that there was no challenge to Canada’s northern lands, territorial waters, and seabed, and that the only likely challenge was to the Northwest Passage – a challenge

that would be commercial and peaceful. "At the same time, Canada's Armed Forces had been given the primary mission of protecting sovereignty," strategist Ken Eyre later explained. "Yet, by the government's own admission, the only possible challenge to Canadian claims – and that in a very specific and restricted area – was mounted not by an international rival or threat, but by the United States, Canada's closest ally and major trading partner." Given this confusion, Eyre was not surprised that both the Canadian Forces and the broader public had difficulty discerning what the military's role should actually be in the North.⁴⁰

Throughout the early 1970s, defence planners continued to wrestle with the question of the military's proper role. At a Chief of the Defence Staff (CDS) Advisory Committee meeting on 18 February 1970, questions arose as to "whether the primary purpose of CF participation in northern affairs is in the interest of sovereignty or to assist other government departments in the development and protection of the North"?⁴¹ The committee agreed that the CF had to resolve this issue before it could decide upon the types of operations, size and composition of forces, and the location of a northern headquarters. It concluded that "without a rational, long term policy the effectiveness of DND, and the Canadian Forces in particular, will be suspect." Defence planners recognized the dangers and limitations of short-term planning. "We must be careful not to allow ourselves to be drawn into programs which might be short-lived as this would bring into question the credibility of military activity and would have a disruptive effect on local economy," one report asserted.⁴² In any case, the military acknowledged how costly a large-scale, long-term role in the North would be.

"If Canada is serious about asserting its sovereignty in the Arctic, it must be prepared to pay a fantastically high price," Vice Admiral J. C. O'Brien, the commanding officer of Maritime Command, proclaimed in a March 1970 speech. He insisted that the Canadian military not take half measures in the Arctic that would only waste limited resources in pointless exercises to assert Canada's sovereignty. The admiral estimated that it would cost 2.5 billion dollars for six nuclear powered attack submarines, greatly increased air surveillance, the installation of a vast network of navigational aids, and a naval capability to escort merchant ships in the Arctic – all platforms required to ensure that the military had the minimal capability necessary to deal with potential challenges. "It's pretty obvious there's only one nation we need to worry about encroaching on our sovereignty," O'Brien noted in obvious reference to the United States. "The only way to combat it is to be there and prove you care."⁴³

Most defence planners did not share O'Brien's appetite for investing in expensive northern capabilities, instead emphasizing the importance of a military presence and surveillance to strengthen Canada's legal claims. Indeed, as plans for the North developed throughout the summer of 1970, the military became more fixated on building its role around sovereignty. Although DND plans did identify specific activities in support of the other government departments operating in the North, the real focus of planning remained on surveillance and establishing a presence. Planners considered long-range aerial patrols an ideal solution to Canada's sovereignty worries for they demonstrated a Canadian presence over an extensive area. They worried, however, that these aircraft only established a strong and visual presence when "they are on an airstrip in the North and/or can be seen by others." So they looked to the land units and ships of Mobile and Maritime Commands to contribute to this visual presence with their "exercises and visits." Still, the military sought to achieve the "more permanent aspect of presence" in the eyes of Northerners and foreign visitors. The concept for Northern operations maintained that "it will be necessary...for Commander Northern Region and his staff to engage in the personal contact type of reconnaissance and planning which demonstrate not only a military presence but also a long term interest and involvement."⁴⁴ Rather than establishing a real strategic rationale for operating in the Arctic, DND emphasized persistent presence as the main justification for an increased level of military activity in the North.

In response, international lawyers questioned whether these military contributions actually bolstered sovereignty. In April 1969, Erik Wang, who was then at Canadian Forces Headquarters but soon moved to the Defence Relations Division at External Affairs, commented that "it is difficult to see what expanded role the Canadian Armed Forces could usefully play in support of Canada's claim to sovereignty over water between the Arctic islands." Wang maintained that the present overall level of Canadian government activity in the North was adequate to protect Canadian territorial sovereignty, and did not require an increased level of CAF activity. He did not see how an expanded CAF role would strengthen Canada's legal claim to sovereignty over the Arctic waters. Sovereignty considerations, after all, were legal, economic and political. "It is not a military problem," Wang concluded. "It cannot be solved by any amount of surveillance or patrol activity in the channels by Canadian forces." There had to be a firm military rationale for the involvement of the [Canadian Forces] in the North, not "presence of the sake of presence."⁴⁵

Wang believed that the military had a role to play in the Arctic, but first it had to establish a coherent rationale for any increase in activity. He argued that the military could protect and promote "the greatest possible measure of 'political sovereignty,' which is a matter of effective control by the Canadian government over activities taking place on or over Canadian territory." This was a way to exercise authority and mobilize the resources of the government "to determine Canadian policies in the light of Canadian interests." The best way for the CAF to accomplish this type of control was in support of the other government departments operating in the North.

Wang warned that to develop any military role merely to satisfy the "optical demands" of political sovereignty "would be to build on shifting sands.... It would not be long before somebody noticed that one visit of the Governor General, accompanied by an enthusiastic press corps, can provide a sovereign presence to a remote area much more effectively and much more cheaply than 100 [Canadian Forces] surveillance overflights."⁴⁶ In July 1970 the Canadian government seemed to take this advice to heart, and invited Queen Elizabeth II to pay her first official visit to the Arctic. During her trip, the Queen was greeted by the Prime Minister and Governor General at Frobisher Bay (now Iqaluit) and visited Inuit communities all the way up to Resolute Bay. The government also organized annual trips to the Arctic for foreign diplomats stationed in Ottawa. "These trips gave foreign representatives visible demonstrations of the Canadian presence in the North," political scientist P.C. Dobell noted in 1976; "even more the diplomats' acceptance of the invitations confirmed Canada's sovereignty in the area."⁴⁷

Throughout the early 1970s the Legal Division at External Affairs continued to take issue with DND reports and policy statements that confused "the problematic enforcement of Canada's jurisdictional claims in the Arctic waters with the problem of the legal basis for those claims." Although defence planners implied that an increased military presence in the North was necessary to assert Canada's sovereignty, External Affairs argued that this did nothing to establish the "legal validity of Canada's claims" in the Arctic.⁴⁸ The DND seemed to overlook the most important question: "whether an increased level of military surveillance or patrols in the area of the archipelago waters could help to strengthen Canada's legal claim to these waters, for example, if the dispute were ever referred to arbitration in the International Court?"⁴⁹

External Affairs believed that defence planners could not answer this question because they had a fundamental misunderstanding of the situa-

tion in the Arctic and the nature of sovereignty. Basically, DND confused two separate problems facing Canada in the region. First, it needed a law enforcement capability to handle foreign and domestic activities, commercial enterprises, and the new anti-pollution legislation. Second, Canada needed to “establish or strengthen a legal basis for claims over the archipelago waters and pollution control zones.” Unfortunately, defence planners used the second need to justify increased military activity in the Arctic. The North American Defence and NATO Division at External Affairs explained to the Legal Division that:

the Forces could be moving in the direction of a substantial shift in emphasis and activities, involving a substantial re-allocation of resources, without any clear rationale, whether legal (would it strengthen our claims?), regulatory (will the RCMP, Coast-guard, etc. need more support from the Forces?), political (would Canadians somehow sleep better, or is it intended to serve as a signal to Washington of our national resolve?), military (are we, as a matter of joint defence, agreed with our allies about the threat of, for example, Soviet submarine transits in the North and about what response should be made to that threat?) or economic (should the Forces support DOT in ice reconnaissance and ice-breaking activities?)⁵⁰

Defence planners did not provide sufficient military or strategic rationale to justify the CF's expanded role in the North, and External Affairs encouraged them to formulate it more explicitly.⁵¹ Indeed, the military's obsession with *presence* was legally problematic.

In continuously emphasizing presence, the military seemed to misapply the doctrine of effective occupation. Over the previous half century, international courts had clarified that “the display of state activities required to establish ‘effective occupation’ and sovereign title need not be continuous but may be *intermittent*.”⁵² Legally, Canada did not have to furnish military forces to prove its effective presence in the Arctic; government policies had been meeting the requirements of effective occupation since the beginning of the twentieth century.⁵³ If Canada's case was as solid as legal opinions suggested, External Affairs lawyers noted that “there was no need for increased presence of military forces in the North merely for the sake of presence in order to bolster our legal claim to the real estate.”⁵⁴ Political scientist John Gellner opined:

Canada has established in the lands and the waters its claims as its own an organization capable of making Canadian laws respected. No other power has at present that capability. The people living in the area, whether permanently or temporarily, consider themselves governed by Canadian law. What physical presence there is of representatives of the state is no doubt sufficient, at least at the present stage of development of the region. It would appear, then, that challenges to Canadian sovereignty would have to be based not on the lack of 'effective occupation,' but rather on general principles of international law – or though this would be difficult to imagine – on historical rights.⁵⁵

In short, Canada already had effective occupation of the North.

The Legal Division at External Affairs consistently argued that an increase in the level of forces in the North would not legally strengthen Canada's disputed claim over the waters. Nevertheless, officials recognized that where Canada insisted on new jurisdiction in the region (ie. for pollution control) it had to be able to enforce that jurisdiction. "Law which is not or cannot be enforced may eventually cease to be law at all," one External Affairs legal advisor concluded.⁵⁶ Although the military always discussed the need to know what was happening in the region for the protection of sovereignty, E.B. Wang explained, "we would say rather that it is essential to have effective control of an area, or effective enforcement of jurisdiction, or the protection of national security."⁵⁷ Defence planners, however, remained preoccupied with the simplistic idea of a need for presence.

Throughout the planning stages, the DND suffered from an institutional confusion about sovereignty. Over time, Wang grew increasingly annoyed with the DND's unwillingness – or inability – to develop any coherent ideas about the CF's actual role in the protection of sovereignty. In late 1970 the Defence Research Analysis Establishment asked him for any relevant studies and reports on Arctic sovereignty. "It is depressing to think that after twenty months of studying what the Prime Minister meant in his reference to the role of the Forces in the protection of sovereignty (April 3 statement) DND are still at the stage of preparing a background bibliography," Wang noted acerbically. This lack of understanding hindered DND efforts to define its role in the broader context of the government's objectives for the North. Wang argued that the military's emphasis on presence was static and symbolic, and did not match the government's functional approach which sought "to define and identify where Canadian interests lay (ie. anti-pollution and

safety of navigation) and shaping policy and legislation to meet what needed to be done to protect those interests."⁵⁸

Leonard Legault, a member of the Legal Operations Division at External Affairs, noted that the draft White Paper on Defence did not even attempt a definition of sovereignty, and seemed to view the protection of sovereignty in terms "simultaneously restrictive and sweeping: restrictive in that the White Paper seems to suggest that the protection of sovereignty does not include defence against armed attack by foreign forces; sweeping, in that it also seems to suggest that sovereignty is challenged on every hand in other ways than armed attack, and that it is to these challenges that the protection of sovereignty must be directed."⁵⁹ Instead of defining sovereignty, the Paper indulged "in vague generalities and catch-words where it should be precise and concrete." External Affairs also argued that the draft confused its language in using terms like 'security control,' 'effective control' and 'effective occupation' interchangeably.⁶⁰ Legault also found it peculiar that the White Paper did not consider Canada's collective security arrangements with the U.S. as the protection of Canadian sovereignty.⁶¹ Why did the paper treat the protection of Canadian sovereignty and national defence as two mutually exclusive concepts? External Affairs viewed the primary objective of national defence as the essence of the protection of sovereignty. "While certain activities would be directed towards the one objective rather than towards the other," J.A. Beesley, the director general of Legal and Consular Affairs, noted, "many activities could and should be directed towards the attainment of both objectives, which overlap to a considerable extent."⁶²

Another troubling aspect of DND's convoluted thinking related to surveillance, and the apparent belief that it protected Canadian sovereignty. The Legal Division at External Affairs suggested that while surveillance "may well be a necessary function of sovereignty," it "could not be considered a basis for or sine que non of sovereignty in legal terms."⁶³ Surveillance might be required for the purposes of control, enforcement and protection, but the legal advisors disputed DND's idea that "he who is best informed has the best case." They insisted that "increased surveillance activities must be developed in response to specific needs and interests and not in the pious hope that the aimless overflights somehow contribute to "sovereignty."⁶⁴ In February 1971, Legault sharply criticized the sovereignty aspects of the Draft White Paper on Defence and called the emphasis on defence as solution for all of Canada's sovereignty concerns "confused and deficient."⁶⁵ He observed that the White Paper seemed "to view 'surveillance' as a sort of mystic rite rather than a functional requirement to meet well defined needs." The very

suggestion that comprehensive surveillance or an increased presence was needed to protect Canada's title unnecessarily called into doubt Canada's sovereignty over the Arctic.⁶⁶ Michael Shenstone, for instance, could not fathom why the White Paper made reference to effective occupation, with the indirect implication that Canada did not exercise it in the North outside "more settled areas."⁶⁷ Such self-critical intimations would only draw unwanted and critical attention to Canada's position, even if they had no basis in international law.

External Affairs officials were critical of defence planners' attempts to lay out a sovereignty-assertion role for the Canadian Forces in the Arctic, but most agreed with the basic assumption emanating from National Defence: that northern development called for a new and expanded role for the military.⁶⁸ External Affairs repeatedly emphasized that the military needed to embrace functional roles "in specific areas where a useful job can be performed in support of other government agencies with operational responsibilities in the North."⁶⁹ Erik Wang noted that "a pre-occupation with 'presence' for the sake of 'presence'" was inconsistent with the government's functional approach in the Arctic.⁷⁰ A military presence, surveillance, and simply having "boots on the ground" did not strengthen Canada's sovereignty in the Arctic. Indeed, emphasizing the need for these measures cast doubts about the validity of Canada's existing claims.

Implementing the Plan

Despite interdepartmental differences of opinion, defence planners maintained their focus on presence and adopted an Arctic strategy built around the premise that military activities improved sovereignty. The new motto for Canada's Arctic patrols, one journalist noted, was "to see and be seen."⁷¹ In 1970, naval vessels sailed into Arctic waters for the first time in eight years, initiating annual northern deployments or "NORPLOYs" that continued through the decade. Maritime Command began Arctic surveillance patrols using medium- and long-range patrol aircraft, performing tasks such as surveying northern airfields, examining ice conditions, monitoring wildlife and pollution, and documenting resource extraction and fishery activities. The army began regular, small unit "Viking" indoctrination patrols, as well as elaborate paratroop assault exercises in the archipelago involving the Canadian Airborne Regiment. All of these activities were short-term, as were long-range air surveillance patrols (which were often limited by weather and the lack of northern airfields) and naval activities confined to select waters only in ice-free months. To provide a permanent presence, the

Canadian Forces set up a new Northern Region headquarters in Yellowknife in May 1970, which boasted that it was responsible for “the largest single military region in the world.” To cover forty percent of Canada’s land mass, the resources at Northern Region’s direct disposal in the early 1970s consisted of a small headquarters staff, less than two hundred active Canadian Rangers in units that were resurrected after their abandonment during the 1960s, and a few hundred personnel at communications research and radar stations.⁷² These modest measures provided fodder for the opposition parties in Ottawa, who chastised the government for doing too little.⁷³

The government’s integrated northern strategy promised, in addition to maintaining Canadian sovereignty and security, to enhance the northern environment “with due consideration to economic and social development.”⁷⁴ Concurrently, the mandate of Northern Region Headquarters to “serve as a link between [the Canadian Forces] and the northern settlements in which they operate and exercise”⁷⁵ obliged military authorities to balance traditional security needs with socially and environmentally responsible programs. At a special facility near Inuvik, for instance, the military investigated communication difficulties in the Arctic, solving technical problems to the benefit of remote northern communities. National Defence cooperated with other government departments such as the Department of Indian Affairs and Northern Development, working to build remote airstrips and bridges that facilitated community access to year-round administration and health services.⁷⁶

While these initiatives were helpful, the capacity of the military to act in the North was severely hampered by a budget freeze in the early 1970s. “The Minister is willing to pay lip service to the priorities in the 1971 White Paper, but since sovereignty tasks are considered quasi-military they are deemed of secondary importance when compared to the more traditional military functions,” political scientist R.B. Byers observed in 1976. Without ice-capable ships or submarines, and with no special reconnaissance aircraft or surveillance equipment, the military could fulfill few of the functional roles that External Affairs had urged it to undertake. The Forces also had limited capability to detect and combat oil spills or any other forms of pollution. By 1972, no units had been posted to the Arctic to police the new pollution control zone.⁷⁷ The government’s failure to deliver on the bold plans hatched by Brigadier Ramsay Withers, the young commander of Northern Region Headquarters, proved in the minds of two prominent historians “that the emphasis on sovereignty in the north ... was a political *and* a military sham.”⁷⁸

Ken Eyre has observed that "the programs and projects undertaken by the military during the 1970s were traditionally symbolic but on a more intense level than heretofore attempted but still, in the final essence—symbolic."⁷⁹ This emphasis on symbolism over substance reflected the military's imprecise definition of the armed forces' roles, mission and functional tasks in the Arctic. Defence scholar Douglas Bland observed:

Sovereignty missions and national development tasks, though they did not amount to much activity in reality, heaped more demands on the defence budget. [Vice Chief of the Defence Staff] Admiral [Robert] Falls recalled that following the minister's demands, "We conducted superficial acts. We flew aircraft in the north on monthly patrols... they never made contact ... we flew in complete darkness, figuratively and literally, most of the time. We sent ships into the north and damaged their hulls, they weren't made for that type of action. It was a complete waste of time, but it satisfied the politicians." The CDS reluctantly ordered the CF to undertake these domestic missions and tried to plan for Canada's alliance commitments, but no one had any idea how these old and new tasks were to be accomplished "in the teeth of a budget freeze."⁸⁰

Army and Navy exercises had less to do with establishing a capability to operate in the North than with demonstrating "the capability to establish a presence," and it seemed less important for aircraft on long-range northern patrols to actually conduct effective surveillance than to allow the government to claim that it was conducting a rational program aimed at protecting Canadian northern interests.⁸¹ Although from the first papers about sovereignty in the North drawn up by the DND in the late 1960s planners placed an emphasis on long term planning and clear objectives, this simply did not come about. By the late 1970s the military was again retreating from the Arctic, leaving only a token presence behind.

Although public (and thus political) concern about Arctic sovereignty wound down when the resource sector moved from tankers to pipelines in the mid-1970s, the Canadian government's symbolic program appeased the public and cost little. "In some inchoate way," Eyre observed, the idea that Canada needs to have a military "presence is adequate for Canadian governments and the Canadian population at large. That presence does not imply a significant operational capability has either not dawned on the na-

tion, or, again in the absence of a northern imperative, it does not seem to matter."⁸²

Conclusions

In the end, the Canadian Armed Forces chose to build their role in the Arctic on the "shifting sands" identified by Erik Wang. In the early 1970s, defence planners failed to articulate a coherent, functional rationale for an expanded military role in the North. They retreated to the amorphous concept of the protection of sovereignty, which played to general political agendas but was not grounded in careful legal considerations or functional requirements that situated military activities in a sustainable, whole of government strategy. The absence of direct military threats to Canadian sovereignty – apart from the overarching risk of nuclear war – meant that an increase in defence activities was not warranted on military grounds. Furthermore, DND's specific responsibilities were unclear vis-à-vis the amorphous "indirect threats" to Canadian sovereignty⁸³ which analysts anticipated. Flying the flag, naval visits to northern towns, surveillance, and purporting to represent a persistent Canadian "presence" through itinerant army exercises became the military's primary Arctic responsibilities. In failing to heed the advice of External Affairs, defence planners confused the issues of control, enforcement, and protection of Canada's jurisdiction in Arctic waters with the legal basis for its claims. By extension, Canada's continuous calls for more effective occupation and comprehensive surveillance seemed to suggest that it doubted the strength of its own sovereignty position. This irony – that harping on about the need for a stronger CF presence could actually undermine the country's sovereignty position – warrants a reminder in the latest round of sovereignty crisis-reaction.

Much of the confusion stemmed from a lack of precision on what the various commentators meant by the term *sovereignty*. Erik Wang commented in a 1976 review of Edgar Dosman's book *The Arctic in Question* that "the international lawyer sometimes reads the current literature on the Canadian Arctic with a sense of uneasiness." Public discussions of the multilayered concept of sovereignty focus "on policy questions that flow *from* sovereignty, from Canada's right to exercise jurisdiction, to the exclusion of any other state, over vast areas of arctic lands and waters." Non-lawyers invest the idea of sovereignty with a range of national goals, from public opinion and a sense of emotive attachment, to pollution control, to safeguarding "strategic resources," which blurs important legal distinctions. Citing Max Huber's definition of sovereignty as "the right to exercise therein, to the exclusion of any

other state, the functions of a state," Wang concluded "that by this definition Canada's *legal* position as sovereignty over the Arctic mainland, islands, and continental shelf is unchallenged and indeed unchallengeable." These observations are worth remembering in the context of the current, often confused, debate over Arctic sovereignty. The legal status of the region is still tangled up with political, economic, and environmental issues that, in Wang's understanding, should constitute "policy issues, not legal or sovereignty issues. The distinction is between *rights* and the *manner* in which those rights are exercised."⁸⁴

Furthermore, legal advisors at External Affairs astutely observed that the military's fixation on presence and surveillance was inconsistent with the government's functional approach to sovereignty. In the case of defence, symbolism and sovereignty rhetoric trumped substance. This produced a short-term, short-lived flurry of heightened Canadian Forces activities designed to "show the flag" in the Arctic, but the absence of an appreciable sovereignty threat or clear military roles ensured that, over the long-term, there was insufficient justification for a sustained investment in northern capabilities. After Trudeau introduced his controversial new measures in the House of Commons, Walter Dinsdale (the Minister of Northern Affairs and National Resources from 1960-63) stated:

As I hear hon. Members beating their breasts with patriotic fervour and saying that we must resist any intrusion on Canada's fundamental rights in the Arctic – the Minister of National Defence said just a moment ago that we are reinforcing our military in the Arctic to the tune of some 50 personnel – I received an impression similar to that which Don Quixote created when he was tilting at windmills.⁸⁵

As the federal government again leans on the Canadian Forces to "defend" Canada's Arctic sovereignty, politicians, defence planners, scholars, and journalists should be cognizant of earlier debates that both complicated and clarified core issues. If Canada wants to situate the Canadian Forces in an integrated Northern strategy that supports security, sovereignty, and sustainable development in the region, the military's role must be clearly articulated. Is the rationale of the need for a military "presence" justified, or is it prejudicial to Canadian sovereignty? What functional roles should the Canadian Forces assume within the broader suite of government responsibilities in the Arctic? How can investments in the military support and contrib-

ute to governance and development in the region? If pithy political rhetoric like “use it or lose it” is allowed to frame the issues and justify military involvement, Canadians may not engage the substantive issues raised in earlier debates. The stakes are too high, and the circumpolar world is changing too rapidly, for the federal government to tilt at windmills or to build a military role on shifting political sands in the twenty-first century.

Notes

- Document numbers in the endnotes to this chapter refer to published versions in *The Canadian Forces and Arctic Sovereignty: Debating Roles, Interests, and Requirements, 1968-1974* ed. P.W. Lackenbauer and Peter Kikkert (Waterloo: Laurier Centre for Military Strategic and Disarmament Studies / WLU Press, 2010). This chapter is based partly upon the introduction to that collection of documents.
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- 15 Franklyn Griffiths, "Canadian Sovereignty and Arctic International Relations," in *The Arctic in Question*, ed. E.J. Dosman, (Toronto: Oxford University Press, 1976), 144.
- 16 Griffiths, "Canadian Sovereignty and Arctic International Relations," 148.
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- 18 Doc. 2-11, House of Commons *Debates*, 16 February 1970.
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- 20 Doc. 2-7, Cabinet Conclusions, "Canadian Sovereignty Over the Waters of the Arctic Archipelago," 15 October 1969.
- 21 Doc. 2-9, Extract from Prime Minister's statement in the Throne Speech, House of Commons Debates, 24 October 1969.
- 22 D.M. McRae, "Arctic waters and Canadian sovereignty," *International Journal* 38/3 (1983), 478.
- 23 R.B. Byers, "Sovereignty and Canadian Foreign Policy: The Need for Enforcement Capability," in *Arctic in Question*, 64.
- 24 Elliot-Meisel, *Arctic Diplomacy*, 142.
- 25 Quoted in David L. Larson, "United States Interests in the Arctic Region," *Ocean Development and International Law* 20 (1989), 178. Pharand explains that even foreign warships still had the right to innocent passage through these "gateways" because they were territorial and not internal waters. Donat Pharand, "Arctic Waters and the Northwest Passage: A Final Revisit," *Ocean Development and International Law* 38/1&2 (2007), 11.
- 26 Cited in Byers, "Sovereignty and Canadian Foreign Policy," 73.
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ABSTRACT: Climate change is transforming the Arctic. Questions abound about what this will mean for the Canadian Forces, for Canada's sovereignty position, for northern peoples, and for stability and security in the circumpolar world. Fortunately, Canadians have encountered and debated similar issues in the past. This volume, featuring chapters by established and emerging scholars, offers essential historical analysis on Canadian Arctic security and sovereignty policies and practices since the Second World War. The "lessons learned" lay a solid foundation for future research and historiographical debate in this dynamic field, and should inform Canadian thinking on what is necessary to protect national interests in the twenty-first-century Arctic.

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