



The Forgotten Frontier A Brief History of Canada's Northern Policy

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The issue of Canadian sovereignty in the Arctic dates back to the transfer of the region from British to Canadian control, from 1870 to 1880. Canada's sparse presence in the North had always been a cause for some concern in Ottawa, particularly when foreign whalers, prospectors or traders chose to treat the land as *terra nullius*. However, the remote and inaccessible nature of the Canadian Arctic conveniently minimized the threat. It was only with the dawning of the Cold War that sovereignty became a pressing issue. The technological leaps in avionic design, the development of atomic weapons and the fundamental shift in global geopolitical rivalries suddenly forced the Canadian Arctic out of its comfortable seclusion and thrust it to the forefront of the developing Cold War standoff.

The Second World War had seen an enormous influx of American construction workers and servicemen into the Canadian North to build and man a number of wartime projects. This American presence had worried the government, yet for the sake of wartime expediency, traditional Canadian sensitivities had to be put on hold and the U.S. military was allowed to operate under only minimal restrictions. In peacetime however the American requests for airbases, weather stations and navigational sites on

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Canadian territory deeply worried Canadian policy makers.

The country's resources in the North were extremely limited and mapping of the region was incomplete and often inaccurate. Canada's claim was based primarily on British exploration, sporadic occupation and the sector principal. The sector principal assumed the use of meridians of longitude running from a state's eastern and western extremes extending to the pole. All territory bracketed by these lines (discovered or not) supposedly belonged to that state. It was a theory of very questionable standing in international law.

In 1945, actual physical control over the region was exercised by only 111 RCMP officers and men, with many large islands in the Northern Archipelago simply left abandoned.³ It was also feared that new Arctic islands could be discovered by American patrols, making an over-reliance on the right of discovery dangerous. Leaked American reports describing Canadian occupation as "meager and sporadic" and deliberating the annexation of some uninhabited Arctic islands greatly added to these concerns.⁴

By 1946 the policy that would come to characterize most Canadian activity in the North had begun to take shape. Yet,

³ Royal Canadian Mounted Police. *Annual Report*, Ottawa: Edmond Cloutier, 1945, p. 13-14.

⁴ United States, Army Air Force Headquarters, Atlantic Division; Air Transport Command, *Problems of Canada – United States Cooperation in the Arctic*, 29 October 1946, [National Archives and Records Administration (US) RG 319, Records of the Army Staff: Publication Files, 1946-51, Box 2785].

Canadian policy was never a policy in the truest sense of the word as there was never any official decision announced or settled upon by Cabinet. In fact, rather than forcing the Canadian government to clarify its position on the Arctic, the increasing American pressure had the exact opposite effect.

What emerged in the late 1940s was a policy of purposeful ambiguity. No definite claims were laid and foreign ambassadors were explicitly forbidden from raising the subject. As early as 30 May 1946, for instance, the legal division of the Department of External Affairs had already advised *against* making any direct claims. And, when the Canadian ambassador to the United States, Lester B. Pearson, requested permission to broach the subject in Washington he was expressly forbidden from doing so.⁵

The reasons for this timidity were simple. Firstly, Ottawa simply did not know how much of the Arctic it could feasibly claim and on what legal basis it could do so. Secondly, the fear which permeated External Affairs throughout most of the Cold War was that any direct claim of sovereignty to areas over which Canada exercised little or no effective control might provoke a rejection from the United States. Thus, by keeping the extent of Canadian claims uncertain, it was assumed that they were less likely to be challenged and would be easier to defend. Thirdly, the issue of cost proved a serious and lasting constraint. The tools needed to assert Canadian control over the North, and thus improve its claim to sovereignty, were extremely expensive. These costs were deemed too high and thus, rather than actively addressing the issue, it was assiduously avoided. This aversion, both to political confrontation and to the dedication of resources to the Arctic, was a pattern which would continue.

What emerged was a policy that can be best described as 'gradual acquisition.' Gradual acquisition was essentially the belief that

⁵ External Affairs Records, "Letter from Lester Pearson to H.H. Wrong," & "Letter from H.H. Wrong to D.C. Abbott," 13 June 1946. 5 June 1946, [National Archives Canada, RG 25, vol. 3347, file 7598-40C].

time was an ally which would gradually strengthen Canadian sovereignty. Imperative to this process was avoiding any challenge to Canadian claims. Successive governments felt that simply avoiding any such challenge - particularly from the United States - would count as a form of implicit recognition of Canadian ownership. And indeed, under international law that was largely correct. If this recognition could be achieved while maintaining the public perception of Canadian control and keeping even a token physical presence in the region, it was hoped that sovereignty would gradually accrue to the Canadian government as a kind of *fait accompli*.

Gradual acquisition was never a policy in the strictest sense of the word. It was more a mindset than a specific plan of action, yet it dominated government thinking from 1945 until 1985. It was a popular alternative with many Canadian governments because it was cheap, it avoided the confrontations that an active assertion of sovereignty could have entailed and, in many instances, it was not entirely ineffective.

This was the policy applied throughout the 1940s and 1950s on the joint Cold War defence projects in the Arctic. Canadian policy was never aimed at actually controlling these Northern defence projects. Instead, it was designed to do as little as possible without *appearing* to have ceded control of the Arctic to the United States.

The Canadian focus was on maintaining its *de jure* sovereignty which was protected by a series of detailed and comprehensive defence agreements. It was assumed that through these measures sovereignty would gradually accrue to Canada without the government ever having to lay a specific claim. This policy was based on one important assumption, that the United States would be willing to grant Canada the implicit recognition it required.

In large measure this policy was a success because both states were content to let the status quo remain unchanged. In particular, the United States proved willing to continually offer the implicit recognition that Canadian policy required. Throughout the 1940s and 1950s Canadian sovereignty was

secured without the nation having to invest any great amount of money into Northern defence projects or deploy a large number of soldiers or civilians to the Arctic. The Dew Line for instance remained an overwhelmingly American project, as the Department of Defence continually rejected American requests for increased Canadian participation. Yet the American government never considered challenging Canadian sovereignty since there was simply no benefit to doing so. As such, by the late 1950s Canadian control over the land had essentially become the *fait accompli*, which is what had been hoped for.

The fundamental flaw of this policy was of course that it took the initiative out of the hands of the Canadian government and placed it with the United States. The government relied on the U.S. to gradually come around to recognizing Canadian sovereignty, without giving itself the tools to encourage this recognition. So long as Washington continued to play its part, Canadian sovereignty was secure; however this was destined to last only as long as the United States perceived the *status quo* to be serving its interests.

By the late 1950s this had begun to change. While Canadian sovereignty over the land was no longer seriously questioned, the state's ownership of the Arctic waters was by no means secure. The status of the Arctic waters – meaning the water and ice within both the Arctic Archipelago and in the Arctic Ocean east of the 141st meridian of west longitude – had never been given much attention. It was only with the increased Arctic shipping brought about by the largely American defence projects that the Canadian government finally realized that its sovereignty over the area was far from secure.

Yet, there remained no concerted attempt by any administration to seriously define a claim to these waters. The policy of keeping Canada's position ambiguous continued unabated. Initially this policy proved as successful over the waters as it had been over the land. Throughout the 1940s and the 1950s the United States continued to request permission to transit the waters within the Arctic Archipelago and even regularly

referred to the Northwest Passage as “Canadian territorial waters.”⁶ While the paths of these American voyages did at times lead through Canada's internationally recognized three mile territorial sea, it is important to note that American diplomats made no distinction between that territorial sea and the areas which, in theory, they could have called international waters.

For the construction and supply of the Dew Line, the United States sent out two major convoys each year between 1955 and 1958. For each, the U.S. Navy was required to apply for a waiver from the provisions of the *Canada Shipping Act*, implying that the U.S. government recognized the authority of that act – and thus of the Canadian government – over the waters of the Archipelago. In the House of Commons, Prime Minister St. Laurent stated that he was not sure “whether we can interpret the fact that they did comply with our requirements that they obtain a waiver [...] as an admission that these are territorial waters, but if they were not territorial waters there would be no point in asking for a waiver.”⁷

By the late 1950s and early 1960s the American attitude has shifted along with global strategic realities. The Arctic was no longer as important to continental defence as the Soviets began shifting their nuclear arsenal to ICBMs. At the same time, the region had opened to submarine navigation as the *Nautilus* reached the North Pole in 1958. Now easily navigable under the ice, the Arctic gained a dramatic new strategic importance.

As such, whatever implicit recognition the U.S. had previously been willing to offer Canada's nebulous maritime claims rapidly

⁶ It seems unlikely that the United States actually recognized these waters to be ‘territorial’ in the strictest sense of the word; since international law at the time allowed for only a three miles territorial sea. However, the use of the word ‘territorial’ may simply have been a convenient way of recognizing Canadian sovereignty without having to examine the status of the waters in detail; *External Affairs Records*, “U.S. Embassy to Secretary of State for External Affairs,” 19 December 1949, [RG 25 vol. 5737, file 17.E (s)].

⁷ House of Commons, *Debates*, 6 April 1957, 22nd parliament, 5th session, 3186.

dried up. By 1963, State Department hostility had even aborted a tentative Canadian attempt to enclose the Arctic Archipelago with straight baselines. Yet, despite these ominous signs, official Ottawa remained optimistic that the U.S. would eventually come around to recognizing Canadian sovereignty over the waters without the inconvenience of having to actively assert a claim. Throughout the 1960s, despite the changing circumstances, there was no policy reevaluation. The result was largely a continuation of gradual acquisition long past the point where it could be considered a productive approach.

The dispute over the Arctic waters finally gained public prominence in 1969 when the American supertanker SS *Manhattan*, escorted by the USCG *Northwind*, sailed into the Arctic without requesting permission to test the feasibility of shipping oil through the Northwest Passage. Efforts to play down the *Manhattan's* voyage were unsuccessful and soon Canadian public opinion had risen to an unusually intense nationalist fervor based on indignation at the perceived American challenge and a fear of oil pollution.

Calls for an outright declaration of sovereignty bombarded the Trudeau government from all directions. The public, the newspapers, the opposition, and even the government's own Standing Committee on Indian and Northern Affairs all demanded that the Liberals take a strong stance in asserting Canadian sovereignty. However, making such a declaration would have proven difficult. The United States had been refusing to recognize Canadian claims to the Arctic waters for over a decade and American President Richard Nixon had made it painfully clear that his government would not accept any unilateral extension of Canada's maritime jurisdiction.

To have made an outright claim would surely have meant a political battle with the United States, economic repercussions, and possibly a challenge at the World Court. Such a claim would also have been costly to assert, as the Department of Defence feared that a great deal of money would have to be devoted to new icebreakers, aircraft and surveillance equipment.

The result was a compromise as the Trudeau government passed the Arctic Waters Pollution prevention Act (AWPPA), designed to give the government some regulatory power over vessels sailing into the Arctic. The AWPPA however was not a declaration of sovereignty, nor did the Trudeau government ever explain what Arctic waters it claimed or upon what basis it did so. Fortunately, shipping petroleum via tanker proved less economical than the construction of pipelines and the *Manhattan's* two voyages (there was a second in 1970) remained isolated incidents.

While this incident may have shocked the Canadian government into placing more emphasis on Arctic sovereignty in its defence and foreign policy statements, for all intents and purposes the issue was quickly forgotten. Very little money was dedicated to the Arctic throughout the 1970s and, while the Liberal government did hint at claiming sovereignty over the Arctic waters on a number of occasions, the matter was allowed to slip back into obscurity.⁸

This remained the case until the US Coast Guard icebreaker *Polar Sea* provided the next incident in August 1985. Like the *Manhattan* before it, the *Polar Sea* provoked a popular uproar in Canada when it moved into the Arctic without requesting transit permission. This incident provoked a revolution in Canadian policy. In January 1986 the government of Brian Mulroney declared the existence of straight baselines and enclosed the waters of the Canadian Arctic Archipelago as internal. Straight baselines were first legitimated in international law by the Norwegian government in 1951 and were an acknowledged method of enclosing archipelagic waters as internal – essentially granting a state the same form of sovereignty that it would enjoy over land.

A unique event had taken place; a firm claim to Canadian sovereignty had been made. The

⁸ House of Commons, *Debates*, 2nd session, 28th parliament, 16 April 1970, 5953; Canada, Department of National Defence, *Defence in the 70's* (Ottawa: Queen's Printers, 1971), p. 1; Statement for the Bureau of Legal Affairs (Ottawa: Queen's Printers, December 1973).

fear of an American challenge, which had intimidated Canadian governments for decades, never materialized; there was only a low key démarche, meant to ensure that America's objection was noted. In the negotiations with the US afterwards, no adequate resolution could be reached. What resulted was essentially an agreement to disagree since neither side truly wanted a conflict. Yet despite having made an official claim, the Mulroney government held back from investing significant resources into the region. In 1987 the government promised a host of new defence initiatives designed to safeguard Canadian sovereignty yet, like the Trudeau government before it, discarded most of these on the basis of cost. The planned fleet of nuclear submarines, capable of patrolling under the Arctic icecap, was scrapped as was the massive Polar Class 8 icebreaker which had been under consideration since the late 1970s.

The Arctic cooperation agreement of 1988, which specified that U.S. icebreakers request permission before entering the Arctic waters and that Canada say yes, has allowed the two states to settle back into a comfortable status quo for the past two decades. However, the twenty-first century has seen the issue of Arctic sovereignty once again come to the fore and find a place of prominence on the government's policy agenda. As with the *Manhattan* and the *Polar Sea*, the Canadian populace needed a catalyst to spark their interest. This came in the form of melting sea ice and high oil and commodity prices which has made the Arctic increasingly attractive to development.

The Harper government's reaction to these changing circumstances has been aggressive. The government has made the issue a central policy concern; promising funds for the construction of Arctic patrol craft, a deep-water port, a new science facility, an icebreaker, increased surveillance and a host of other initiatives meant to enhance Canada's ability to exercise effective control over the region.

The real test of the government's resolve however - whether it breaks ranks or falls into the pattern of history - will be measured by its willingness to carry these programs through to completion. Historically Canadian

governments have usually fallen well short of what they plan for the Arctic while consistent policies have often enjoyed notoriously short lifespans. Yet it seems unlikely that current interest in Canada's North will prove as temporary, as it has in past decades as it now seems to be based on sustainable economic and environmental trends. As such, the luxuries of inconsistency and apathy, which Canada has enjoyed for so long, can no longer be safely enjoyed. The end of the Arctic's age of splendid isolation is rapidly approaching and Canadians must be prepared to act accordingly.

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