

previous Canadian governments have not done so, does not thereby weaken our sovereignty claim.

Similarly, the establishing of a 12-mile territorial sea and the establishment of pollution control zones in these waters cannot be construed as an abandonment of the Canadian position concerning the status of these waters. I should like to quote again from the decision of the Permanent Court of Arbitration, from which I previously quoted on this issue, as follows:

Such a construction by this tribunal may not only be intrinsically inequitable, but internationally injurious, in that it would discourage conciliatory diplomatic transactions and encourage the assertion of extreme claims to their fullest extent.

I have made clear, as has the Prime Minister (Mr. Trudeau), that we will not back down one inch from our basic position on sovereignty but there is no interest on the part of the Canadian government in the exercise of chauvinism.

What then is the effect of the 12-mile limit with respect to the Northwest Passage? It is known that the United States regards the waters of the Northwest Passage beyond three miles from shore as high seas. I think I have already demonstrated the weakness of the legal basis for such an assertion. The 12-mile territorial sea is far too widely recognized for it to be ignored by any state. Indeed, a state that refuses to recognize the 12-mile territorial sea of another state is itself unilaterally opting out of a developing rule of law.

Since the 12-mile territorial sea is well established in international law, the effect of this bill on the Northwest Passage is that under any sensible view of the law Barrow Strait, as well as the Prince of Wales Strait, are subject to complete Canadian sovereignty. Whether or not those who disagree with us wish to allege that other waters are not Canadian, they cannot realistically argue any longer concerning these two bodies of water.

The question was asked whether Canada will admit a right of innocent passage through such waters, since the right of innocent passage pertains in the territorial sea but not in internal waters. There is considerable misunderstanding on some of the technical, legal questions involved here. Firstly, it is incorrect to argue that there can be no right of innocent passage in internal waters. The 1958 Geneva Convention on the Territorial Sea and Contiguous Zones makes specific provision for the right of innocent passage

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through internal waters where such waters have been established as such by means of the straight baseline system. I do not cite that rule as now applicable to these waters but merely so as to point out that the difference between the regime of internal waters, over which a state has complete sovereignty, and the regime of the territorial sea, over which a state's sovereignty is subject to the right of innocent passage, is not as clear-cut as is alleged.

There is a school of thought for example, that the status of the waters of the Arctic archipelago fall somewhere between the regime of internal waters and the regime of the territorial sea. Certainly Canada cannot accept any right of innocent passage if that right is defined as precluding the right of the coastal state to control pollution in such waters. The law may be undeveloped on this question, but if that is the case, we propose to develop it. Mr. Speaker, I hope I have said enough about the implications of this bill for the Arctic to allay any fears, real or imagined, about its effect upon our sovereignty.

**Mr. Nielsen:** Mr. Speaker, before the minister leaves that subject may I point out that he has not yet said, as he did yesterday with respect to the bill then before the House, that Canada asserts sovereignty over all waters between the 60th degree and the 141st and the North Pole.

**Mr. Sharp:** What I said is that we regard the waters between the islands as our waters, and we always have.

The fisheries provisions of this bill will provide the government with greater flexibility for completing the delimitation of Canada's exclusive fishing zones in those coastal areas where straight baselines have not so far been drawn from headland to headland. These provisions are enabling only; the creation of the proposed new Canadian fishing zones will require executive action by way of Order in Council.

Under the existing legislation Canada could not exercise exclusive fishing rights within such bodies of water as the Gulf of St. Lawrence, Bay of Fundy, Dixon Entrance, Hecate Strait and Queen Charlotte Sound. With the proposed amendment Canada could now, where appropriate, draw what might be called "fisheries closing lines" across the entrances to these bodies of water and thereby establish them as exclusive Canadian fishing zones. In this way Canada would have the