January 2003

The Defense of North America: NORAD and NORTHCOM - Introduction

Henry T. King Jr.

Follow this and additional works at: https://scholarlycommons.law.case.edu/cuslj

Recommended Citation
Available at: https://scholarlycommons.law.case.edu/cuslj/vol29/iss1/38

This Speech is brought to you for free and open access by the Student Journals at Case Western Reserve University School of Law Scholarly Commons. It has been accepted for inclusion in Canada-United States Law Journal by an authorized administrator of Case Western Reserve University School of Law Scholarly Commons.
THE DEFENSE OF NORTH AMERICA:
NORAD AND NORTHCOM

Jack David
U.S. Speaker

Professor King, thank you very much for inviting me to speak about North American defense. As some of you know, I am principally from Northwest Connecticut these days, secondarily from New York City. When I was invited here to speak, I promptly did a bit of research about the name of this institution, Case Western Reserve. I learned about the 1967 merger of Case Institute of Technology and Western Reserve University. It was the Western Reserve part that intrigued me. What I learned was very interesting.

The term Western Reserve was used to describe the portion of the Ohio territory in its northeast corner that Congress in 1786 gave to the State of Connecticut in return for Connecticut ceding to the United States claims it had to the rest of Ohio territory. Connecticut, in 1795, sold the Western Reserve to the Connecticut Land Company and used the money for public education in Connecticut. The Land Company hired a man named Cleveland to divide Connecticut's former reserve into towns. So in a remote historical sense, my home state, Connecticut, is connected to this University. While Case Western Reserve University does not look or feel like Connecticut, I have certainly been made to feel very welcome and comfortable since my arrival on Thursday. For this hospitality, I am very thankful to my host, Dr. King, and to the Board of Canada-United States Law Institute here at Case Western Reserve Law School.

Jack David is the United States Chairman of the Permanent Joint Board of Defense, Canada-U.S. Prior to his appointment he ran a highly successful litigation and regulatory practice in New York City, where he served as chairman of the board for the Association of the Bar for the city of New York. Mr. David career also includes a number of key activities in the area of human rights. He has served as a delegate to a working group of the U.N. Human Rights Commission, was the director for the International League of Human Rights, and is a co-founder of the Lawyers Committee for Human Rights. He holds a bachelor's degree from Rutgers University and a law degree from Columbia University.

On Sept. 13, 1786, by Deed of Cession, Connecticut relinquished all land east of the Cuyahoga River except for the Western Reserve. This section of land started at the Pennsylvania-Ohio line and extended 120 miles westward to the present Seneca and Sandusky County lines. It was bordered on the north by Lake Erie and on the south by the parallel of the 41st degree North Latitude. History of Ohio's 88 County Names, OHIO CLERK OF COURTS ASSOC., available at www.occaohio.com/Summerconfer/88map.htm

255
I am very pleased to be with you today to share with you my thoughts on the very important subject of the defense of North America. At the outset, I must emphasize that what is said today are my personal thoughts. The views I express will not be and should not be taken as the views of the United States. The Board of which I am United States Chairman, the Permanent Joint Board on Defense, Canada-United States, is an advisory board. It has no executive authority or function. It does not make policy. The views I express will be my own, and nothing but my own. For the members of the media who are here, please note that any remarks attributed to me should be accompanied by this disclaimer.

HISTORY OF NORTH AMERICAN DEFENSE

North America was not always as safe and secure an environment as it has been in our lifetimes. It was a battleground for most of the 18th Century. Settlers of what are now Canada and the United States and their descendants faced dangers from conflict with Indian tribes, as well as from violence incident to the operations of British and French forces that were extensions of ongoing conflict in Europe. It was only after 1763, when the British succeeded in driving the French out of their colonial possessions in North America, that North American residents became secure from having their homeland be a battleground on which European conflict was fought. This security was short lived.

The American colonies fought Britain for independence, the new United States fought Britain again in the War of 1812, and the U.S. fought a bloody Civil War with itself in the first half of the 1860's. Since the 1860's, however, we have been fortunate that our homeland was not again a battleground for the rest of the 19th Century and all of the 20th Century. After 1865, the years after the conclusion of the Civil War, and Canada's confederation in 1867, Canada and the United States became closer and closer as a result of trade, communication, and common interests and concerns. But defense of the continent they share was not a principal concern either of Canada or the United States until well after the end of the First World War. Both countries in those years felt well protected by the vast oceans that separated them from the bloody battleground of Europe. And the First World War did not involve a threat to their territory, although Canadians lived with the daily battlefield losses suffered by their heroic soldiers in that war.

Development of Canada-United States Defense Cooperation

The perception that North America was secure because of the oceans changed in the late 1930's, even while the people of both countries
overwhelmingly denied that Nazi Germany was a threat to them. Some U.S. and Canadian leaders new better. History shows that President Franklin Roosevelt and Prime Minister Mackenzie King recognized early on that Hitler threatened the Americas. After FDR, in 1936, lent his personal prestige to a pact between the United States and Latin American countries to convert the unilateral Monroe Doctrine to a multinational pact to protect the Americas from the looming threats from Europe and the Far East, he issued a declaration of solidarity with Canada. That was in August, 1938.

By September 1939, Great Britain and Canada were at war with Germany. The Permanent Joint Board on Defense (PJBD), Canada/United States, was created in 1940. The PJBD, the Board that I serve as United States Chairman, together with the Canadian Chairman who is a distinguished member of Parliament, was created because Roosevelt and Mackenzie King concluded that the vast oceans on which reliance for defense had for so long been justified, might no longer be sufficient to protect the homeland, given Hitler’s ambition and Germany’s growing ability to project power.

They saw an imminent threat to the safety of Canadians and Americans. They anticipated a day in the near future when safety could not be assured by the domestic law enforcement, immigration and other civilian authorities of the two countries alone; a day when the military forces of both countries might have to engage enemies within their homeland. When the PJBD was created in August of 1940, the battle of Britain was raging. A favorable outcome was less than a 50/50 prospect. Prime Minister King, who already was then at war, and President Roosevelt, who was covertly supporting Great Britain and Canada in the war against Nazi Germany, knew from secret intelligence that the Nazi Germany intended to invade Britain in mid-September. They thought there was a very good chance that a Nazi invasion of North America would follow within the year.

Ogdensburg Declaration

They met in Ogdensburg, New York, and “discussed the mutual problems of defense in relation to the safety of Canada and the United States.” The memorandum from which I just quoted and they issued after a long night of discussion created the PJBD. The memorandum charged the PJBD, whose members were to consist mostly of members of the military of the two countries, with studying, “sea, land and air problems including

---

personnel and material,” and considering, “in the broad sense, the defense of the north half of the western hemisphere.” The objective was to give the President and the Prime Minister advice about how to coordinate defense policy and planning between the two nations.

The very first task undertaken by the PJBD was to identify the places on the northeast coast of North America that Nazi Germany would likely use as a stepping stone to a land invasion and devise plans for U.S. and Canadian forces to prevent any such effort and to defeat it if it occurred. The United States had 15 million men and women in uniform at the height of World War II; Canada had more than a million. At the height of the war, the United States was devoting roughly half of its gross national product to the war effort. We fought and gave our lives and our treasure to preserve the way we in North America live, to liberate those who had been conquered by the SS, and to prevent our homeland from becoming a battleground. As President Roosevelt said in a radio address the evening of D-day, “For these men are lately drawn from the ways of peace. They fight not for the lust of conquest. They fight to liberate. They fight to let justice arise and tolerance and good will among all thy people.”

Although, the allies succeeded in World War II, the possibility that the United States and Canadian territory might once more become a battleground did not end. The Soviet Union quickly emerged as a clear major threat. Its conduct in Europe after the war, its statements, its espionage within North America, its explosion of an atomic bomb, and its generally hostile stance were extremely worrisome. By the mid 1950’s, the United States and Canada both were concerned that Soviet Union’s new jet powered, long-range bombers could reach North America with nuclear weapons. This was a subject of study and discussion at meetings between officials of the two countries. The two countries also discussed the Soviet threat to North America and the vulnerabilities of North America at PJBD meetings.

North American Air Defense Command

In the years that followed, these discussions led the United States and Canada to take actions to bolster our defenses against foreign attack by air. In 1958, Canada and the United States created a binational command, the North American, later aerospace, the North American Air Defense Command (NORAD), to defend against bombers that might attack North America.  

4 Franklin D. Roosevelt, D-Day Prayer, (June 6, 1944), available at www.fdrlibrary.marist.edu/odddayp.html
The two countries also collaborated in developing capabilities to provide as early warning as possible of any such bombers invading North American airspace. The permanent and pine tree ground control intercept radar systems and the distant early warning line were early defense systems jointly established and operated to provide NORAD with early warning of possible attack by air. These defense systems have contributed to protect North America from attack by bombers coming from afar.

NORAD is a binational command. This is a truly extraordinary defense arrangement, unlike any other defense arrangement either country has. Both U.S. and Canadian military personnel staff NORAD. The staff is totally binational, meaning that U.S. and Canadian personnel work together in one chain of command with authority determined strictly by rank, regardless of whether the uniform is American or Canadian. Command headquarters are in Colorado Springs, Colorado. By agreement, the Commander and Deputy Commander must not be from the same country. The current Commander of NORAD is an American, General Ed Eberhardt; and the Deputy Commander is a Canadian, Lieutenant General Ken Pennie. NORAD’s top priority is to provide aerospace warning and control of North American airspace. NORAD has performed this mission by tracking objects and by scrambling U.S. and Canadian fighter aircraft the militaries of the two countries make available to NORAD.

Prior to September 11, 2001, NORAD focused on threats from the air originating outside North America. NORAD tracked more than two and a half million non-North American originating flights per year. On September 11th, at a time when a Canadian Major General was in charge of the NORAD Command Center, deep within Cheyenne Mountain’s 1,800 feet of granite, an attack originated from within North America. As a result of what happened that day, NORAD’s mission was expanded to look for threats from the air originating from inside North America, as well as from outside the continent. This mission has entailed very close collaboration with U.S. and Canadian civilian agencies to detect, identify, and classify all aircraft within North American airspace.

Since the September 11th attacks, NORAD has defended North American airspace through Operation Noble Eagle, in which armed fighters fly irregular combat air patrols to identify and intercept suspect aircraft. NORAD has flown more than 29,000 combat air patrol sorties and there have been more than 1,000 intercepts in this period. As you can see, NORAD now provides a very robust defense against threats from the air in this new environment where threats may originate either at home or abroad.

It is important to remember that although NORAD was created to defend Americans and Canadians in their homeland from attack by airplanes launched from abroad, it was not tasked with defending us from attack by ballistic missiles. This is true even though NORAD’s mission now includes
tracking missile launches and objects in space. Indeed, the 1968 Canada-United States agreement renewing NORAD explicitly stated that Canada's signing the renewal was not to be taken as Canada's agreement to participate in any such systems the United States might research or develop to defend against offensive ballistic missiles. Of course, the United States in the 1972 Anti-Ballistic Missile Treaty with the Soviet Union agreed to severe restrictions on research, development, and deployment of such defenses, restrictions that continued until U.S. withdrawal from the Treaty effective in June of 2002.

It is also important to note that over the years, Canada and the United States have had no NORAD type relationship respecting maritime and land defense. It was only last year that the two governments signed an agreement to establish a group within NORAD to develop plans for coordinating maritime and land defense of North America, as well as for coordinating military support of civilian agencies. I hope that this planning group will provide a model for a NORAD of the 21st Century.

CHANGES IN U.S. MILITARY

Not long after the euphoria of our World War II victory subsided, the U.S. realized that Soviet ambitions and hostility combined with the limited capabilities of friends and allies in the free world meant that the United States would have to maintain a robust military with a worldwide presence. We took steps to enable us to do this. We separated our Air Force from our Army, and gave the new United States Air Force its own mission. We created a Department of Defense to house the Navy, Army, Air Force, and Marines and to coordinate the operations of the four services, as well as to serve the President as principal advisor on defense matters. We adopted a policy of forward deployment; keeping a large number of forces and amounts of equipment stationed overseas in locations close to the sources of threats to the United States and to our friends and allies. We invested in technology and developed and deployed the very best and most effective aircraft, ships, submarines, tanks, and surveillance equipment. We did this and continue to do this at enormous cost.

---

In 1947, the United States Military Services were organized into regional combatant commands, each of which had a Commander in Chief or CINC, as he used to be called. The U.S. Military Services today are organized into regional combatant commands, as well as functional commands. The commanders, formerly CINCS, are all four Star Generals. Since 1986, the United States commands have been joint, more supportive of one another and, therefore, more effective collectively.

Each of the regional combatant Commanders has responsibility for all war fighting and other military activity within his region subject to approval of his overall plan and request for forces and equipment from Washington. Until last year, the regions for which the U.S. assigned combatant Commanders were all offshore covering most of the planet outside North America. Last year, these commands were redefined.

North American Northern Command

For the first time, a combatant command was established for North America. While the establishment of a North American combatant command had been under discussion for some years, the September 11th attacks of our homeland accelerated that discussion. That command known as Northern Command or NORTHCOM, has responsibility for all military activities necessary to deter, prevent, and defeat threats to the United States homeland from the air, land, and sea. The geographic area for which NORTHCOM is responsible includes the continental United States, Canada, Mexico, and the 500 miles of water off the shores of the continent.

General Ed Eberhardt, the Commander of NORAD, has been dual added to command NORTHCOM, as well. NORTHCOM is just like each of the other combatant commands the United States maintains. It has responsibility for all military activities necessary to deter, prevent, and defeat threats to the United States from the air, land, and sea within its geographic area. NORTHCOM has few permanently assigned forces. When mission requirements dictate, NORTHCOM requests forces from the Secretary of Defense. If the request is approved, forces are assigned to NORTHCOM by the United States Joint Forces Command, one of the functional commands into which the U.S. military is divided.

A principal part of the NORTHCOM mission is to provide military assistance to U.S. civilian agencies when directed to do so by the President or the Secretary of Defense. Another is to develop plans for land and maritime defense of the continental United States. NORTHCOM also provides command and control of U.S. consequence management forces that would respond to chemical, biological, radiological, nuclear, and high yield explosive events. Finally, it is tasked with supporting Federal, State, and local counter drug law enforcement agencies.
Implicit in what I have already said is that Canada, too, recognized the post World War II threat posed to our homeland by the Soviet Union’s possession of nuclear weapons and long range bombers. It also recognized the Soviet threat internationally, particularly to Europe. Recognition of the former, led Canada to join the United States in NORAD. Recognition of the latter, as well as the desire to be of influence globally, led Canada to become a charter member of NATO in 1949.\(^9\)

Canada maintained a modest, not robust, military capability during the cold war years. After the end of the cold war, each of the western countries sought a peace dividend. The premise seems to have been that the threats to the homeland had disappeared. The premise prevailed even as threats to peace elsewhere required military intervention time and again. Manpower and military expenditures were reduced sharply in the United States and in Canada, even as the remaining military personnel and equipment were asked to do more. While the United States military started off the 1990’s with a robust base and continued to invest some significant degree in research, development, repair, replacement, and training, Canadian forces started off the 1990’s from a weaker base. Canada did not make significant investments in its future, even as it asked more of the Canadian forces. In my view, the need to address a perilous threat to North America exists today as much as it existed at the time the PJBD was created in 1940. Although, the nature of the threat is different today than it was then.

Terrorists operate on U.S. and Canadian soil. Terrorists and rogue states can do battle on our soil from afar and within. Missiles and weapons of mass destruction are or soon will be part of their arsenals. There is a need to strengthen our military ability to deter, prevent and defeat those with a demonstrated will and ability to make our homeland a battleground.

1994 White Paper on Defense

While the United States since September 11\(^{th}\) has taken significant steps to do this, Canada has not. Nine years ago, Canada adopted a 1994 Defense White Paper.\(^10\) This official statement of defense and foreign policy was to serve as the guide for defense policy and expenditures, and is still Canada’s official policy. It states “Canada continues to have a vital interest in doing its part to defend freedom and democracy,” and concludes that, “The

---


maintenance of multipurpose combat capable forces is in the national interest." Essentially, the 1994 White Paper promised that Canada would equip its armed forces to participate on the world stage as a middle level power. However, it also said that the threat environment allowed and other Canadian priorities required substantial reductions in the size of Canadian forces and expenditures.

After the 1994 Defense White Paper, Canada reduced the size of its forces, as the White Paper promised it would, and very sharply cut its defense expenditures.\(^\text{11}\) Although, over the last three years it has restored a portion of the cuts. As a consequence of its reductions, recruitment fell sharply. The average age of Canadian forces is 10 years greater than that of the U.S. forces. Also, Canada allowed much of its Army and Air Force equipment to fall into a state of disrepair. Additionally, Canada has not acquired new equipment that in many cases is necessary to operate in tandem technologically with the U.S. Nor has Canada acquired the air or sea lift capability necessary to take its forces where they sometimes are ordered to operate in Canada's vital interest. In short, Canada's government has undermined its continued policy of maintaining "a multipurpose combat capable force." The Canadian forces have a shortage of personnel sufficiently trained to operate and maintain some of their equipment and insufficient funds to remedy this. Moreover, the Canadian forces are overextended.

Last November, the Canadian Senate Committee on National Security reported that the Canadian forces are in a severe state of disrepair and need "a respite" from its manifold overseas responsibilities giving it time to recruit, time to train, time to rethink its optimal role in the modern theater of warfare. It concluded that the current defense budget was insufficient to sustain the Canadian forces. Canada's defense budget in the fiscal year that ended March 31\(^\text{1}\), was $12.4 billion dollars, including the supplement. As a percentage of gross national product, Canada spends less on defense than any NATO members, except Luxembourg and Iceland. Remember, Iceland does not have a military. Canada, in February, announced its 2003 budget that provides an increase of 800 million Canadian dollars per year for defense. The government says that this increase, which begins this month, will address Canada's military sustainability gap and stabilize the Canadian forces. But this amount, although a step in the right direction, is far less than

the parliamentary committees and outside experts estimate is necessary to achieve these goals.

Notwithstanding insufficient financial support, Canadian forces have made important contributions to North American defense. Canada's Navy is uniquely interoperable with the U.S. Navy. No other Navy can operate as seamlessly with the U.S. In that respect, it is exemplary. Canadian ships and personnel play a leading role in a U.S. led task force of 20 ships in the Persian Gulf right now. The Princess Patricia’s Light Infantry Battle Group contributed significantly to Operation Enduring Freedom in Afghanistan, as did Canadian naval forces and air support forces. Moreover, Canada's military has played a special role in the world giving necessary to support the peacekeeping operations in Africa, in the Middle East, and in Bosnia. Canada also recently announced it would play a substantial role in the international security assistance force in Afghanistan by supplying two consecutive tours of 1,500 troops.

But a shortage of government financial support has increasingly limited the ability of Canadian forces to share the defense and security burden. For example, the Princess Patricia’s Battle Group had to be withdrawn from Afghanistan after only six months. Similarly, a substantial part of the Canadian naval forces that sailed with the U.S. ships in Operation Enduring Freedom had to be withdrawn before the mission was complete. Canada had appropriated insufficient resources to replace the forces and the ships at the conclusion of their tour. Another illustration of resource insufficiency limiting Canadian forces is that Canada does not have the lift to transport the 1,500 Canadian forces soon to join the international security assistance force in Afghanistan, to sustain them while they are there, or even to bring them home. It will need the help of others to do that. Canada's Resource Star Forces are impeded in their ability to operate within North America, as well. For example, in November, Canada's Commander of Atlantic Naval Forces said that because of a lack of resources, he would have to cut back substantially on his fleet's fishery patrols, cancel a joint forces exercise, withdraw from a multinational exercise, and cancel all mechanical mine sweeping, domestic readiness, and advanced combat readiness.

As I mentioned earlier, a three star Canadian General is the Deputy Commander of NORAD. He is leading the NORAD planning group that will be figuring out how to best achieve binational land, maritime, and civil support cooperation between the United States and Canada. But the Canadian force's capacity to contribute to implementing and hope for coordinated maritime and land defense in support of civilian agencies, as well as their capacity to contribute to NORAD is casting doubt because of the absence of support from the government. For example, in the event of a chemical, biological, or nuclear high yield attack on North America that overwhelms U.S. national and state resources Canada’s national capabilities for
consequence management and civil support are small and provincial capabilities are virtually nonexistent.

Canadian government leaders should do more to address modern threats to our homeland and to prevent North America from becoming a battleground again. Canada needs to make policy changes, as well as to increase the level of financial support for Canadian forces. I can give you several examples. First, Canada’s current policy would prohibit it from establishing or participating in a missile defense system providing a space capability to destroy a missile heading from North Korea to Vancouver or Seattle. Second, Canada today is without an information operations policy that would allow it to contribute to allied computer attack missions. Third, although significant Canadian forces were busy in the Persian Gulf operating in the war on terrorism and quietly giving indirect support to the U.S. led coalition, Canadian government leaders were disappointing busy at home criticizing the U.S. for its leadership in Iraq. Numerous organized groups of Canadian citizens have decried the extent to which the government has starved Canadian forces of financial support. Parliament’s Committee on Foreign Affairs and International Trade issued a detailed report that Minister Graham referred to the other day. This report urged the government to dramatically increase defense expenditures, but the government has not been responsive to this recommendation.

I note that the threats to North America are different today than they were in 1940, but the fact that the threats to North American security then and now are different obscures a more important point. The point relevant to the subject of our meeting this afternoon, the defense of North America, is that the Prime Minister in 1940 viewed the threat to North American security as great. He saw that North America likely would shortly become a battleground in which forces from abroad would imperil the safety and the security of Americans and Canadians. The case seems to be very different today. The United States, at least on September 11th, and earlier than that for some of us, perceived the threat of attack on North America to be growing at an alarming rate. North America was, in fact, made a battleground on 9-11.

In the post 9-11 world, many of us in the United States believe that our families, our homes, and our friends risk attack by an implacable, stealthy enemy every day. The source of this threat in my eyes, and in the eyes of many of my fellow Americans, are terrorists groups unconstrained by moral principal and often energized by purported religious beliefs, state sponsors of terrorism that have no moral constraints on their own conduct, and the

---

12 For an Extra 130 Bucks... Update on Canada’s Military Financial Crisis – A View From The Bottom Up, CANADIAN PARLIAMENT, STANDING SENATE COMMITTEE ON NATIONAL SECURITY AND DEFENCE, NOV. 2002, available at www.parl.gc.ca/37/2/parlbus/commbus/senate/com-e/defe-e/rep-e/rep02nov02-e.htm
increasing availability to weapons of mass destruction and delivery systems from despicable governments like Saddam Hussein’s. Canada does not speak or act as if it perceives these developments to be threats imperiling the safety of Canadian citizens, their families and friends.

The 1994 Defense White Paper, which promised defense reductions despite also promising that Canada would have a robust military, was premised on the assumption that North America was a safe haven. The paper noted, “the dramatically reduced threat of global war.” It anticipated a future where only “pockets of chaos and instability would threaten international peace and security,” and flatly asserted “today’s conflicts are far from our shores.” There is little indication from defense expenditures or Canadian defense policy that Canadian government has changed this view. Indeed, Canada’s Transport Minister in February said that there is “no discernible information that there is a pending security threat in Canada;” an expression echoing those previously and since made by other ministers.

With this denial of the new threat environment, Canadian government leaders see no need to take additional steps to provide Canadian forces with greater resources and other support for the defense of Canadian citizens much less for the defense of North America. I hope it will not take a calamity to persuade the government that Canadians also confront a greater threat today. I hope the government of Canada comes to agree that the threat of vicious terrorists and evil leaders of rogue states with weapons of mass destruction warrants prescribing a serious major role for Canadian forces in overcoming the threat and warrants appropriating the resources Canadian forces will need to play such a robust role.

When the government of Canada sufficiently recognizes the perilous threat to North America that exists today, I am confident that it will enable its forces to play a more robust role in the defense of North America. The details of what the government prescribes that role to be, whether the role is “multipurpose combat capable forces” with global reach, or more limited niche roles coordinated with U.S. forces is less important than that the Canadian forces be sufficiently supported in playing the robust role assigned by the government. In the meanwhile, I am confident that the United States intends to use all of its economic, political, and military power to deter, prevent, and if necessary defeat those who would make our homeland a battleground in the 21st Century. The battleground must not be in North America. We intend to take the battle to those who have made it so and we

---


appreciate the help Canada has provided, and hopefully will provide. Thank you for your attention.