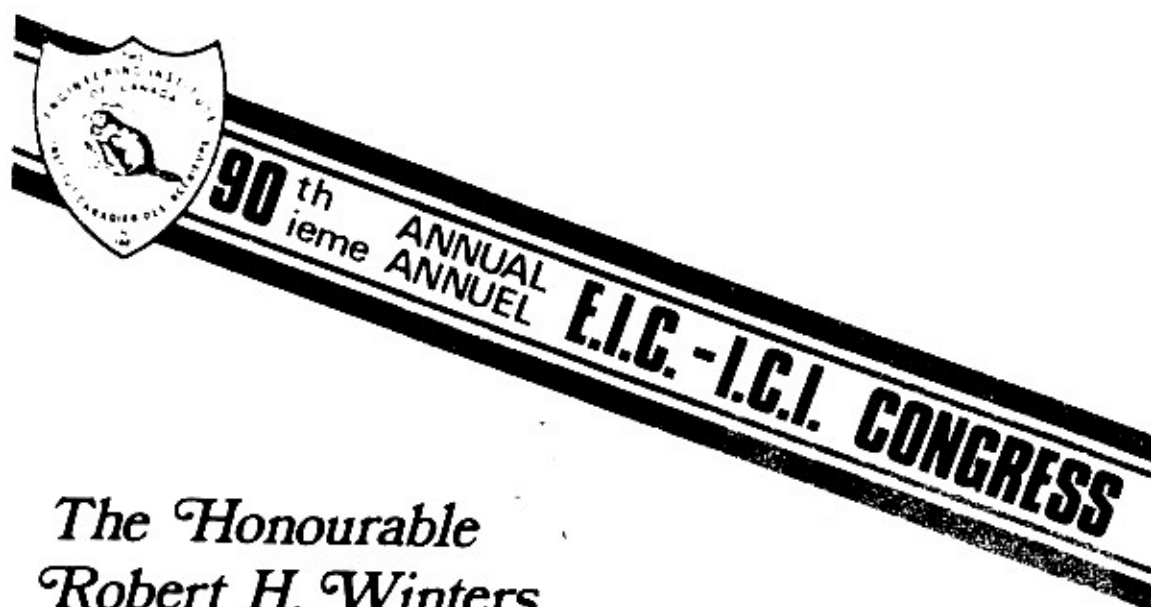




*The Scientific, Engineering and
Management Aspects of a 200 Mile
Economic Control Zone for Canada*



*The Honourable
Robert H. Winters*

Memorial Lecture Series

HOTEL NOVA SCOTIAN

OCT. 7-8, 1976

NOVA SCOTIA TECHNICAL COLLEGE

HALIFAX, N.S.

Keynote Address

Canada and the 200 Mile Economic Control Zone

by J. A. Beesley

*Assistant Undersecretary and Legal Advisor, Department of External Affairs
Canada.*

The Law of the Sea Conference is producing a radical transformation of the traditional rules of law relating to the seas. For over 300 years the law of the sea was based on two simple concepts, the principle of state sovereignty and the principle of the freedom of the high seas. Since the time of Grotius, the international community has agreed that coastal states may assert full sovereignty over a narrow marginal belt of the sea adjacent to the coast. Everything else beyond was considered to be high seas subject to complete freedom of navigation, fisheries, and other uses including those for military purposes.

During the past two decades, this rather simplistic approach, viable and effective for its times, is no longer adequate in the light of new technology and new uses of the sea which have permitted freedom of fishing to become a licence to overfish, and freedom of navigation to become a licence to pollute. Even the basic doctrine of flag state jurisdiction whereby only the state of registry of a vessel would have any jurisdiction over it anywhere on the high seas has been questioned, and the suggestion made that flag state jurisdiction should carry with it flag state responsibility. Demands have been made particularly by developing countries for a new basis for allocation of resources which would enable the less powerful states, as well as the major maritime powers, to harness the living resources of the sea, to ensure sovereign rights over the non-living resources of the sea adjacent to coastal states, and to establish necessary rights and duties to enable coastal states to preserve the marine environment near their shores.

These pressures have resulted in the creation of the concept of the economic zone pursuant to which coastal states would have sovereign rights over the living resources of the sea up to a distance of 200 miles from shore and sovereign rights over the resources of the continental shelf to a distance of 200 miles or to the edge of the continental margin whichever is greater, together with specific forms of jurisdiction to enable the coastal state to take action to preserve the marine environment and to ensure the orderly conduct of scientific research within the economic zones. Side by side with the development of the concept of the economic zone has been the emergence of widespread agreement on a 12 mile territorial sea coupled with a widespread recognition of a need to develop new rules with respect to passage through international straits which would be enfolded by a 12 mile territorial sea. These rights of passage would provide for more freedom of navigation than has previously existed in international straits. For example, submarines would no longer be required to navigate on the surface. The other major new concept which has emerged out of the Law of the Sea Conference is that of the common heritage of mankind. It is now generally agreed that there is an area of the seabed beyond national jurisdiction which should be reserved for exclusively peaceful purposes for the common heritage of mankind. While difficulties are still

being encountered with respect to the nature of the legal regime to be applied to the international seabed area and the powers and functions of the international authority which would manage the area, the concept itself is now in the process of evolving into a new principle of international law.

These new concepts and new approaches to the Law of the Sea have implications for all states, land locked as well as coastal. They are of particular interest to Canada, a country with the longest coastline in the world, including over 52,000 islands. It is for this reason that Canada has played such an active role in the Law of the Sea Conference and the preparations for it. The practical consequences for Canada and for the Canadian people are enormous. Though great benefits may be derived, new commitments are also required. These questions warrant serious consideration and study by organizations such as the Engineering Institute of Canada.